

Y4
D 63/2
R 29/7
1036
9314
D 63/2
R 29/7

RENT CONTROL ACT OF 1973

GOVERNMENT DOCUMENTS

Storage

OCT 1 1973

THE LIBRARY
KANSAS STATE UNIVERSITY

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC HEALTH,
EDUCATION, WELFARE, AND SAFETY

OF THE

COMMITTEE ON
THE DISTRICT OF COLUMBIA
UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 4771

TO AUTHORIZE THE DISTRICT OF COLUMBIA COUNCIL TO
REGULATE AND STABILIZE RENTS IN THE
DISTRICT OF COLUMBIA

JULY 24, 1973

Printed for the use of the
Committee on the District of Columbia



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1973

20-596 O

KSU LIBRARIES



00611900 972603 ✓

COMMITTEE ON THE DISTRICT OF COLUMBIA

THOMAS F. EAGLETON, Missouri, *Chairman*

DANIEL K. INOUE, Hawaii
ADLAI E. STEVENSON III, Illinois
JOHN V. TUNNEY, California

CHARLES McC. MATHIAS, Jr., Maryland
DEWEY F. BARTLETT, Oklahoma
PETE V. DOMENICI, New Mexico

ROBERT HARRIS, *Staff Director and Counsel*
ANDREW E. MANATOS, *Associate Staff Director*
COLBERT I. KING, *Minority Staff Director*

SUBCOMMITTEE ON PUBLIC HEALTH, EDUCATION, WELFARE, AND SAFETY

JOHN V. TUNNEY, California, *Chairman*

ADLAI E. STEVENSON III, Illinois

CHARLES McC. MATHIAS, Jr., Maryland

(II)



CONTENTS

BILL

| | Page |
|----------------------------|------|
| H.R. 4771..... | 2 |
| Letter of transmittal..... | 10 |
| Proposed legislation..... | 14 |

WITNESSES

| | |
|--|----|
| Banks, James G., assistant to the Mayor for housing programs..... | 21 |
| Goldstein, Nathan, Office of Public Programs..... | 21 |
| Greenlee, David L., Residential Property Management Committee, Wash- ington Board of Realtors..... | 24 |
| Hahn, Gilbert, Jr., former chairman, District of Columbia Council..... | 32 |
| Prepared statement and attachments..... | 35 |
| Kuemmerling, Ted, Office of the Corporation Counsel..... | 21 |
| O'Neil, John T., ex-vice president, Building Owners and Managers Association..... | 58 |
| Prepared statement and attachments..... | 62 |
| Stumberg, Robert, District of Columbia Public Interest Research Group, Inc. | 68 |
| District of Columbia rent change survey..... | 81 |
| Prepared statement..... | 69 |
| Tucker, Sterling, vice chairman, District of Columbia Council, and chair- man, Housing and Urban Development Committee..... | 19 |
| Withers, Ernest, president, Washington Area Federation of Tenants Associations..... | 28 |

SUMMARY OF TESTIMONY

| | |
|--|--------|
| Abandonment of housing..... | 58 |
| Adequacy of housing inventory..... | 26 |
| Balanced rent commission..... | 88 |
| Capital investment..... | 31, 58 |
| City bill..... | 21 |
| City surveys indicate serious escalation of rents..... | 20 |
| Control gouging..... | 32 |
| Cost increases..... | 27 |
| Council supports rent control legislation..... | 19 |
| DCPIRG position on rent control..... | 90 |
| Differences between city bill and H.R. 4771..... | 19 |
| Drying up of capital..... | 26 |
| Drying up of capital investment..... | 29 |
| Drying up of housing stock..... | 27 |
| Dry-up investment in housing stock..... | 33 |
| Duration of program..... | 23 |
| Economic squeeze play..... | 78 |
| Effects of rent control..... | 25 |
| Election versus appointment of chairman..... | 22 |
| Funding..... | 23, 88 |
| Hahn approach..... | 90 |
| Housing production..... | 58 |
| Information access..... | 88 |

IV

| | Page |
|--|--------|
| Landlord abandonment..... | 25 |
| Landlord-tenant suits..... | 60 |
| Legal authority..... | 20 |
| Limit on rent increases..... | 61 |
| Membership of commission..... | 22 |
| Need for rent control..... | 28 |
| Need for public hearings..... | 79 |
| Production of rental stock..... | 59 |
| Proposed changes in bill..... | 29 |
| Protection against loss or suspension of services..... | 23 |
| Rates of increase..... | 60 |
| Reduction in assessment..... | 25 |
| Rental industry experiences..... | 58 |
| Rent control complex and risky..... | 79 |
| Rent control habit forming..... | 26 |
| Rent control needed..... | 33 |
| Rent increase survey..... | 80 |
| Rent survey..... | 30 |
| Resolution..... | 33, 34 |
| Rising costs..... | 60 |
| Statistical analysis..... | 60 |
| Statistical data..... | 31 |
| Statistical surveys..... | 78 |
| Surveys..... | 34 |
| Termination date..... | 89 |
| Utility cost increases..... | 79 |
| Views of District government..... | 21 |

RENT CONTROL ACT OF 1973

TUESDAY, JULY 24, 1973

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC HEALTH,
EDUCATION, WELFARE, AND SAFETY,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 6226, Dirksen Senate Office Building, Senator John V. Tunney (chairman of the subcommittee) presiding.

Present: Senator Tunney.

Also present: Andrew E. Manatos, associate staff director; and Colbert I. King, minority staff director.

Senator TUNNEY. This morning's hearing before the Subcommittee on Public Health, Education, Welfare, and Safety of the Senate Committee on the District of Columbia is for the purpose of taking testimony regarding H.R. 4771, the Rent Control Act of 1973.

On January 11, 1973, Federal rent controls were terminated. Since that time many jurisdictions across the country have reviewed their rental increase situation and considered the imposition of rent controls. These hearings are being held because the District of Columbia does not yet have home rule and the Mayor-City Council government does not feel that it has the authority to control rental rates.

Rent control, if imposed, would not be new to the District of Columbia. During the 2d session of the 65th Congress in May of 1918, rents were frozen in the District of Columbia. This control continued, in modified form, until 1925.

The 1st session of the 77th Congress, in December of 1941, also saw fit to institute a program of controlling rents in the District of Columbia. This control lasted for 12 years until July of 1953.

The bill before us today was introduced by Congressman Walter Fauntroy on February 27 of this year. When introduced, his bill called for a rent freeze at the rates that existed on January 11, 1973. For 2 years it would allow landlords to increase rents at a rate of 2.5 percent per year and would also allow a 1.5 percent increase per month to cover capital improvements made to the property. Another provision of the bill would require landlords to reduce rents if the tenants experienced a reduction in service.

This bill was substantially amended in the House of Representatives and as it appears before us today would give the District of Columbia City Council the authority to regulate rents after it held public hearings to study the problem. It also creates a District of Columbia Housing Rent Commission to review complaints and enforce regulations.

I now place in the record a copy of H.R. 4771, the District of Columbia Rent Control Act of 1973; a letter of transmittal from Mayor Walter Washington; and a copy of the proposed legislation from the District of Columbia government.

[The material referred to follows:]

93^D CONGRESS
1ST SESSION

H. R. 4771

IN THE SENATE OF THE UNITED STATES

JUNE 12, 1973

Read twice and referred to the Committee on the District of Columbia

AN ACT

To authorize the District of Columbia Council to regulate and stabilize rents in the District of Columbia.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "District of Columbia Rent
4 Control Act of 1973".

DEFINITIONS

5
6 SEC. 2. As used in this Act—

7 (a) The term "rent" means the entire amount of
8 money, money's worth, bonus, benefit, or gratuity de-
9 manded, received, or charged by the lessor or landlord
10 to a lessee or tenant as a condition of occupancy and
11 use of a residence and its related facilities including,

II

1 but not limited to, charges for parking and utilities and
2 the use of recreational facilities if provided.

3 (b) The term "residence" means a room, apart-
4 ment, efficiency, group of rooms, or a single family
5 dwelling or other residence rented, leased or offered
6 for rent or lease for dwelling purposes as a unit in a
7 structure used or which may be used as a dwelling
8 place located in the District of Columbia. This term
9 shall not include any room or space rented, leased, or
10 offered for rent or lease which is located in a hotel, mo-
11 tel, or other unit used for transient occupancy.

12 (c) The term "landlord" means an owner, lessor,
13 sublessor, assign, or other person receiving or entitled
14 to receive the rents or benefits thereof for the use or
15 occupancy of any residence as herein defined and it
16 shall also mean the agent of the foregoing.

17 (d) The term "tenant" means a tenant, subtenant,
18 lessee, sublessee, or other person entitled to the posses-
19 sion or to the use or the occupancy or the benefits thereof
20 of any residence as herein defined.

21 (e) The term "Council" means the District of
22 Columbia Council established under Reorganization
23 Plan Numbered 3 of 1967.

24 (f) The term "person" means an individual, corpo-
25 ration, partnership, association, joint venture, or any

1 organized group of individuals or the legal successor or
2 assigns or representatives of the foregoing.

3 POWERS OF THE DISTRICT OF COLUMBIA COUNCIL

4 SEC. 3. (a) Within sixty calendar days after the date
5 of enactment of this Act, and thereafter at such times as
6 the Council deems necessary, the Council shall hold public
7 hearings to determine whether a situation exists in the Dis-
8 trict of Columbia by reason of the shortage of leased or
9 rental residences which is causing serious overcrowding or
10 increasing rents which are contrary to the public health,
11 safety, and general welfare of the tenants and the District
12 of Columbia. If the Council makes such a determination then
13 the Council is authorized to adopt such rules as it determines
14 necessary and appropriate to regulate and stabilize rents in
15 the District of Columbia, including rules regarding retaliatory
16 action specifically prohibited under section 5 of this Act.
17 Such rules may be terminated at any time by a majority
18 yote of the Council.

19 (b) With respect to any hearing held under this section,
20 the Council shall afford interested persons an opportunity to
21 participate in such a hearing through submission of written
22 data, views, and arguments, with an opportunity to present
23 oral testimony. The record and findings made in such hear-
24 ings shall be the basis for the adoption of such rules by the
25 Council.

THE COMMISSION

1
2 SEC. 4. (a) In the event the Council adopts rules under
3 section 3 to stabilize and regulate rents, the Council is author-
4 ized to establish a temporary District of Columbia Housing
5 Rent Commission (hereinafter referred to as the "Com-
6 mission") for the District of Columbia to carry out and
7 enforce such rules. Such Commission shall terminate on
8 the forty-fifth day after the date of termination of the rules
9 adopted by the Council under section 3. Such Commission
10 shall be composed of nine members, appointed by the Com-
11 missioner of the District of Columbia with the advice and
12 consent of the Council. No more than two members appointed
13 to the Commission shall be appointed from among persons
14 who are representative of the interests of the landlords in
15 the District of Columbia. No more than two members shall
16 be appointed from among persons who are representative
17 of the interests of tenants in the District of Columbia. All
18 members of the Commission shall be residents of the District
19 of Columbia. Each member shall serve until the termination
20 of the Commission, or for one year, whichever is shorter.
21 The members shall select a chairman of the Commission from
22 among the members of the Commission.

23 (b) Each member of the Commission shall be paid com-
24 pensation of \$50 per day while performing duties under
25 this Act, except that no compensation under this Act shall be

1 paid to an employee of the government of the District of
2 Columbia or of the United States.

3 (c) The Commission shall have power to adopt, promul-
4 gate, amend, or rescind such rules or orders as it may deem
5 and find to be necessary or proper to effectuate the purposes
6 of this Act. In addition, the Commission shall employ such
7 personnel or consultants, including legal counsel, as are
8 necessary, at such rates of compensation as may be fixed
9 by the Commissioner of the District of Columbia. Upon the
10 request of the Chairman of the Commission, each department
11 of the District of Columbia is authorized to furnish such
12 assistance or information as may be necessary for the Com-
13 mission to effectively carry out this Act.

14 (d) In addition the Commission shall be authorized to—

15 (1) receive and review complaints by tenants in the
16 District of Columbia with respect to any violation of the
17 rules of the Council adopted under section 3, or of any
18 rule or order of the Commission with respect to the en-
19 forcement and the administration of such rules; and

20 (2) in cases where operation of the rules adopted by
21 the Council would cause serious financial hardship to a
22 landlord, grant exemptions therefrom upon application of
23 any landlord claiming such hardship, except no exemp-
24 tions shall be granted until after notice of a hearing with
25 respect to the application for such an exemption shall

1 have been published and the tenants of the affected resi-
2 dence shall have been afforded an opportunity to submit
3 relevant evidence to the Commission in connection with
4 such application.

5 RETALIATORY ACTION

6 SEC. 5. No landlord shall take any retaliatory action
7 against any tenant who exercises any right conferred upon
8 him by this Act or by any rule or order issued pursuant
9 thereto. For purposes of this subsection, retaliatory action
10 shall include, but not be limited to, any action or proceed-
11 ing to recover possession of a residence or action which would
12 increase rent, decrease services, increase the obligations of
13 a tenant, or bring an undue or unusual inconvenience, viola-
14 tion of privacy, harrassment, or reduction in the quality or
15 quantity of service or be any form of threat or coercion.

16 JUDICIAL REVIEW

17 SEC. 6. (a) Any person or class of persons aggrieved
18 by any decision of the Commission, or by any failure on
19 the part of the Commission to act, may seek judicial review
20 of such decision or failure by filing a petition for review in
21 the Superior Court of the District of Columbia. The Com-
22 mission on its own initiative, may commence a civil action to

1 enforce the rules of the Council or of the Commission. Such
2 an action brought by the Commission shall be brought in the
3 Superior Court of the District of Columbia.

4 (b) The Superior Court, in issuing any order in any
5 action brought under this section, shall award costs of
6 litigation (including a reasonable attorney and witness fee)
7 to any successful plaintiff.

8 CRIMINAL PENALTIES

9 SEC. 7. Any person who willfully violates any provision
10 of this Act, or any rule promulgated by the Council under
11 section 3, or any rule or order of the Commission, shall be
12 fined not more than \$5,000 for each such violation.

13 TERMINATION

14 SEC. 8. The provisions of this Act, and all rules, orders,
15 and requirements thereunder, shall terminate at the end of
16 the one-year period beginning on the date of enactment of
17 this Act, except that as to offenses committed, or rights or
18 liabilities incurred, prior to such expiration date, the pro-
19 visions of this Act, and such rules, orders, and requirements,
20 shall be treated as still remaining in force for the purpose
21 of sustaining any proper suit, action, or prosecution with
22 respect to any such right, liability, or offense.



THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20004

WALTER E. WASHINGTON
Mayor-Commissioner

July 24, 1973

Honorable Thomas F. Eagleton
Chairman
Committee on the District of Columbia
United States Senate
Washington, D. C.

Dear Mr. Chairman:

The Government of the District of Columbia has for report H.R. 4771, a bill "To authorize the District of Columbia Council to regulate and stabilize rents in the District of Columbia", as passed by the House of Representatives on June 11, 1973.

The objective of the bill is to require the District of Columbia Council, within 60 days after the date of enactment, to hold public hearings to determine whether there is in the District a shortage of leased or rental residential housing which so affects the public health, safety, and general welfare that regulation and stabilization of rents may be necessary and appropriate. If after a public hearing, the Council makes a finding that control of rents is necessary and appropriate, it is authorized to adopt such rules as it determines will accomplish this purpose, but such rules shall automatically expire one year after enactment, unless the rules are terminated earlier by a majority vote of the Council.

H.R. 4771 provides that a Housing Rent Commission, composed of nine members appointed by the Commissioner of the District of Columbia, with the advice and consent of the Council, shall carry out and enforce

such rent control rules. The Housing Commission shall have general authority to administer the rent control rules, to receive and review tenant complaints, and to grant exemptions from the rules for landlords where financial hardship can be demonstrated. The bill further proscribes any retaliatory action by landlords against any tenants who invoke the provisions of the Act or any rules or orders issued pursuant thereto. Certain civil remedies are authorized, and criminal penalties of a fine of not more than \$5,000 for each violation of any rule or order of the Commission are prescribed.

While the District Government favors the enactment of a rent control law for the District of Columbia, it would prefer that such a law authorize the Commissioner to administer rent control regulations. Incorporating such a provision and attached to this report is a draft bill "To provide for the regulation of maximum rents and rental services in the District of Columbia", which we recommend for the Committee's consideration.

The reasons for the District's preference in this matter are evident. H.R. 4771 will remain in effect for one year only after enactment, yet it provides for the appointment of a nine-member, independent Housing Rent Commission. With only a one-year life span such a Commission must organize quickly to become effective, and staff support for such a large body would necessarily include numerous employees. Coordination, organization, and operating efficiency of such a nine-member body with a sizable staff would be difficult, if not impossible, in the short term.

If, however, the Commissioner of the District of Columbia were authorized to administer rent control regulations, appropriate experienced personnel and staff could be drawn rapidly from agencies already operating within the District Government. Only a few additional employees would be added, if necessary, for the short-term needs. When Congress last enacted rent control legislation for the District, it provided for a single "Administrator of Rent Control". [See:

"The District of Columbia Emergency Rent Act of 1941" (55 Stat. 791; D.C. Code, sec. 45-1606).]

Section 4 of H.R. 4771 provides that the nine-member Housing Rent Commission select its own chairman from among its members. The members of the Commission are to be appointed by the Commissioner of the District of Columbia with the advice and consent of the Council. The Commissioner who would select each candidate for the nine-member Housing Rent Commission would choose each on the basis of the candidate's personal qualifications for the post. The Commissioner would normally, therefore, know which of the nine candidates is best qualified to serve as chairman of the body. The nine members of the Housing Rent Commission, who would be under a Congressional mandate to organize fairly quickly, may or may not know during the initial organizational period of the qualifications of each other to serve as their chairman. For this reason we recommend, should the Committee not accept our recommendation that the Commissioner be authorized to administer rent control in the District, that H.R. 4771 be amended to authorize the Commissioner of the District of Columbia to select the chairman of the Housing Rent Commission.

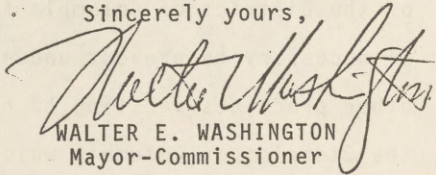
While rent control is ordinarily only an emergency measure, the emergency necessitating control of rents may last for more than one year. H.R. 4771 provides that at the end of one year the provisions of the Act and all rules, orders, and requirements thereunder shall terminate. Thus, the Housing Rent Commission and its employees and staff will be disbanded at the end of that period. The prior rent control program for the District of Columbia was enacted in 1941 and extended until 1953. The District Government, therefore, recommends that H.R. 4771 be amended to provide the Council with authority to extend rent control in the District for an additional one-year period if, after public hearing, it determines that continuation of the regulation and stabilization of rents is necessary and appropriate for public health, safety, and general welfare of its citizens.

H.R. 4771 does not authorize an appropriation of funds to carry out the purposes of the bill and we recommend that a provision to this effect be added to the bill.

For the reasons set forth herein, the District Government recommends that favorable consideration be given to the purview of the attached draft bill "To provide for the regulation of maximum rents and rental services in the District of Columbia" in lieu of H.R. 4771, or, alternatively, that the provisions of H.R. 4771 be amended to incorporate the recommendations set out in this report.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely yours,



WALTER E. WASHINGTON
Mayor-Commissioner

Attachment

A BILL

To provide for the regulation of maximum rents and rental services in the District of Columbia.

1 BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That this Act may be cited as the "District of Columbia Rent Control Act".

2
3
4
5 Sec. 2. It is the purpose of this Act to enable the District of Columbia Council and the Commissioner of the District of Columbia to take such action as may be necessary to prevent undue rent increases and any other practices relating to housing accommodations in the District of Columbia which may tend to increase the cost of living or adversely affect the stabilization of rents and rental services.

6
7
8
9
10
11
12
13 Sec. 3. The District of Columbia Council (hereinafter, "Council") is authorized to adopt and revise such rules and regulations as it determines are necessary to carry out the purposes of this Act whenever it finds, after notice and a public hearing, that —

14
15
16
17
18 (1) an emergency exists in the District of Columbia by reason of the acute shortage of leased or rental rooms, apartments, houses,

19
20

1 and other dwellings, resulting in increased
2 rents and serious overcrowding and causing
3 severe threats to the public health, safety,
4 and welfare; and

5 (2) unless rents and rental services
6 for these leased or rental dwellings are
7 regulated and controlled, unreasonable, un-
8 just, and exorbitant rents and rental agree-
9 ments will cause disruptive and abnormal
10 conditions in the leased or rental dwelling
11 market, which will produce serious threats
12 to the orderly functioning of the housing
13 market and the economy of the District of
14 Columbia.

15 Sec. 4. In the formulation of any regulations
16 under this Act, the Council shall afford interested
17 persons a right to participate in the formulation of
18 such regulations through submission of written data,
19 views, and arguments with the opportunity to present
20 oral testimony and argument at a hearing called es-
21 pecially therefor. The record and findings made in
22 the proceedings held pursuant to this section shall
23 be the basis for the adoption of such regulations by
24 the Council.

1 Sec. 5. The Council may impose in any regulation
2 penalties of a fine not in excess of \$1,000 or impri-
3 sonment not in excess of 90 days, or both, for the
4 willful violation of any rule, regulation, or order
5 prescribed or issued pursuant to this Act; and may
6 provide that if such violation is a continuing one,
7 each day of such violation shall constitute a sepa-
8 rate offense.

9 Sec. 6. The Commissioner of the District of
10 Columbia (hereinafter, "Commissioner") shall take
11 such action as may be necessary to provide a rent
12 control program for the District of Columbia and
13 shall administer and enforce the regulations pre-
14 scribed by the Council under section 3 of this Act.
15 For the purpose of carrying out his duties under this
16 Act, the Commissioner may —

17 (1) delegate the performance of such
18 duties to an agency of the government of
19 the District of Columbia designated or es-
20 tablished by him;

21 (2) issue such orders and standards as
22 may be necessary to administer the regulations
23 prescribed by the Council under this Act and
24 enforce such orders by all appropriate adminis-
25 trative and judicial proceedings, including

1 injunctive relief;

2 (3) hold hearings where necessary re-
3 lating to the administration of this Act;
4 and

5 (4) take any other action which may be
6 necessary to carry out his duties under this
7 Act.

8 Sec. 7. (a) Any aggrieved person or class of
9 persons may commence a civil action against any person
10 who is alleged to have violated any rule, regulation,
11 or order issued pursuant to this Act in the Superior
12 Court of the District of Columbia to require compliance
13 therewith. The Court, in issuing any order in an action
14 brought pursuant to this section, shall award costs of
15 litigation (including reasonable attorney and witness
16 fees) to any successful plaintiff or plaintiff-inter-
17 venor.

18 (b) Whenever in the judgment of the Commissioner
19 any person has engaged or is about to engage in any
20 acts or practices which constitute or will constitute
21 a violation of any rule, regulation, or order issued
22 pursuant to this Act, he may make application to the
23 Superior Court of the District of Columbia for an

1 order enforcing compliance therewith, and upon a pro-
2 per showing a permanent or temporary injunction, re-
3 straining order, or other order shall be granted
4 without bond.

5 Sec. 8. Any regulation adopted pursuant to the
6 authority of this Act shall terminate one year after
7 the date of its adoption unless the Council shall
8 find, after public hearing, that the conditions set
9 forth in section 3 of this Act continue to exist and
10 require the continuation of such regulation. Any such
11 extension shall be valid for one additional year. As
12 to offenses committed, or rights or liabilities in-
13 curred, prior to such termination date, the provisions
14 of the regulation and all orders and requirements issued
15 thereunder, shall be treated as still remaining in force
16 for the purpose of sustaining any suit, action, or pro-
17 secution with respect to any such right, liability, or
18 offense.

19 Sec. 9. There is hereby authorized to be appro-
20 priated out of money in the Treasury to the credit of
21 the District of Columbia not otherwise appropriated
22 such funds as may be necessary to carry out the pur-
23 poses of this Act.

Senator TUNNEY. Let us begin this morning's testimony with Mr. Sterling Tucker, Vice Chairman of the District of Columbia City Council.

Mr. Tucker, will you please take a seat before the microphone?

STATEMENT OF STERLING TUCKER, VICE CHAIRMAN, DISTRICT OF COLUMBIA COUNCIL, AND CHAIRMAN, HOUSING AND URBAN DEVELOPMENT COMMITTEE

Mr. TUCKER. Senator Tunney: I am Sterling Tucker, Vice Chairman of the District of Columbia Council and Chairman of the Council's Housing and Urban Development Committee. I appreciate the opportunity to appear before you on the bill to regulate maximum rents to be charged by landlords in the District of Columbia—H.R. 4771.

COUNCIL SUPPORTS RENT CONTROL LEGISLATION

The City Council supports legislation that would empower the City Government to adopt local rent control whenever the economic and social conditions warrant. The Mayor's office, jointly with the Council, has prepared a draft of a rent control authorization bill that we feel will give us the authority to prevent excessive increases in the District of Columbia. A copy of that bill has been entered in the record.¹

Let me make our position clear: We are asking the Congress to delegate to the local government both the power to impose rent control and the decision whether or not to impose such controls. We are not asking you to impose rent control for us. Give us the tools, and we will make that decision.

DIFFERENCES BETWEEN CITY BILL AND H.R. 4771

Our bill differs from H.R. 4771 in three major areas: The first is that the Council would be authorized to extend the life of the rent control regulations after 1 year if it finds, after public hearing, that the conditions set forth in the Act continue to exist. This difference is important because the Council rent regulations under H.R. 4771 could not become effective until 2 or 3 months after congressional enactment. This timeframe, combined with developing administrative procedure, would mean that the controls could be effective for substantially less than a whole year. It seems unlikely, from past experience, that conditions will have changed sufficiently in a few short months for the controls to be lifted.

The second point is that H.R. 4771 requires the appointment of a nine-member Commission to administer any rent regulations passed by the District of Columbia Council. The city government draft leaves the decision of developing a mechanism to carry out and enforce such rules to the Mayor and the Council. We would prefer to have this flexibility although we might use the procedure in the House bill.

¹ See p. 14.

The final point concerns funding for the administration of the rent control regulations. H.R. 4771 does not appropriate these funds.

Should the Senate approve H.R. 4771 in its present form we request that authorization for enactment of rules by the Commission—section 4(c), lines 3–6, page 13—should be made clearer. We assume that the Commission is authorized to adopt rules of procedure for its own operations, while the Council adopts the actual substantive regulations. This is not clear in the House bill.

While the Council prefers the text of the draft rent control bill prepared by the Mayor and the Council, we do support rent control legislation in the District as expressed in H.R. 4771 and would support its adoption as a second alternative.

CITY SURVEYS INDICATE SERIOUS ESCALATION OF RENTS

I urge you to recommend a rent control bill to the Senate as soon as possible. Our surveys indicate a very serious escalation of rents in certain parts of the city, particularly in Anacostia, which has the largest tenant population of any area of the city. Some of these rent increases are undoubtedly due to cost increases borne by the owner but others are clearly an effort to expand profit margins at the expense of a captive market. As you know, the shortage of decent housing at moderate rents has reached crisis proportions in this metropolitan area.

You may ask: If the problem of rents is so severe, why hasn't the District government taken some action? My answer is that internal discussions of this issue have resulted in a Corporation Counsel opinion that the District lacks authority to impose rent controls under existing law.

LEGAL AUTHORITY

Several months ago I explored the possibility of Council action to impose a rent freeze using our general police power authority. It became clear from our discussions that this action would run counter to Corporation Counsel's opinion, giving opponents an immediate tool in court to enjoin our action.

Several times in the past we have resolved doubts concerning our legal authority in favor of taking action. We have been sustained more often than we have been enjoined. In the case of rent control, however, I believe that a negative court ruling would cause so much confusion for tenants and landlords that the risk was not and is not worth taking.

We have had numerous discussions with housing industry representatives on voluntary compliance with an annual 6-percent rent increase limit. This has not served to hold back excessive increases, or cutbacks in service, particularly in Anacostia. Therefore, we are before you today requesting swift congressional action to give us the power to handle the rent problem.

The entire City Council has unanimously endorsed this position.

I hope that these comments will be helpful. I would be glad to answer any questions you might have.

Senator TUNNEY. Thank you for your remarks.

Our next speaker will be Mr. James G. Banks, Mayor Washington's Assistant for Housing Programs.

STATEMENT OF JAMES G. BANKS, ASSISTANT TO THE MAYOR FOR HOUSING PROGRAMS, ACCOMPANIED BY TED KUEMMERLING, OFFICE OF THE CORPORATION COUNSEL; AND NATHAN GOLDSTEIN, OFFICE OF PUBLIC PROGRAMS

Mr. BANKS. Mr. Chairman, I am also accompanied by Mr. Nathan Goldstein of the Office of Public Programs.

Mr. Chairman, I am James G. Banks, Mayor Washington's Assistant for Housing Programs.

VIEWS OF DISTRICT GOVERNMENT

Mayor Washington has requested that I appear before this subcommittee, in his behalf, to present the views of the District Government on H.R. 4771, a bill to authorize the District of Columbia Council to regulate and stabilize rents in the District of Columbia.

I would like to say at the outset that we appreciate greatly the time and effort that have been expended by individual members and by appropriate committees of the Congress in seeking to protect the tenant population of the District from the ravaging effects of inflation and possible exorbitant or unjustified rent increases in a tight housing and money market.

We especially appreciate the step taken by the House of Representatives in approving a delegation of authority to the District of Columbia Council to determine the need for rent control and, depending upon its determination, "to adopt such rules as it deems appropriate to regulate and stabilize rents in the District of Columbia." This we see as a most significant contribution to the continuing struggle for home rule by a preponderance of the District's residents.

CITY BILL

While we are here to comment specifically on H.R. 4771, the bill before this subcommittee, we would like to direct your attention to the draft rent control legislation which Mayor Washington submitted to Congressman Mazzoli of the House District Committee on May 23, 1973. As you strive to come up with the best possible rent control legislation, we urge you to give careful consideration to provisions of that draft bill, which, I may add, represents the unified position of the Mayor and Council.¹

We are, of course, in complete agreement with H.R. 4771 respecting the general objective of rent control and the delegation of power to the Council to make the ultimate determination following required public hearings.

We would point out that the District government's draft bill provides that "the Commissioner shall take such action as may be necessary to provide a rent control program for the District of Columbia

¹ See p. 14.

and shall administer and enforce the regulations prescribed by the Council * * * ." The Commissioner is further empowered to delegate the carrying out of such duties "to an agency of the District of Columbia designated or established by him."

The provision in our draft, then, is at variance with H.R. 4771, which calls for the establishment of a temporary nine-member Housing Rent Commission to carry out and enforce such regulations. H.R. 4771 further empowers this Commission to issue such rules or orders as it deems necessary to carry out the purposes of the legislation and the rules adopted by the District of Columbia Council.

MEMBERSHIP OF COMMISSION

It is our view, Mr. Chairman, that the establishment of a nine-member Commission, including landlord and tenant representatives, and its administration of a rent control program, may prove to be a rather cumbersome and time-consuming undertaking for an operation which may last only 1 year.

As the Commission's powers are described in H.R. 4771, there appears to be too much room for potential conflict between such a Rent Commission and the Council, on the one hand, and between the Rent Commission and District departments which may be asked to provide assistance.

Following World War II, rent control in the District of Columbia was handled by an administrator and a small staff. This program proved to be a workable one. We believe the objectives of a rent control program of limited duration, such as is now proposed, could be carried out in a similar manner.

ELECTION VERSUS APPOINTMENT OF CHAIRMAN

H.R. 4771 further provides that the Chairman of the Housing Rent Commission should be elected from among its nine members. If your subcommittee favors the Housing Rent Commission, it is our view that the chairman should be specifically designated by the Mayor and confirmed by the District of Columbia Council because that person should be one who has proven leadership abilities and who will be able to work cooperatively with all elements of the District government and the citizenry.

Senator TUNNEY. Does the House bill provide for that?

Mr. BANKS. That is what I am saying, sir.

Senator TUNNEY. That H.R. 4771 does give the Mayor the power to—

Mr. BANKS. Oh, no; he does not have the power. We have suggested that.

Senator TUNNEY. A change in the bill?

Mr. BANKS. The House bill, as I understand it, provides that the Chairman be elected.

Senator TUNNEY. And your feeling is that the Mayor ought to be able to make that appointment.

Could you just explain that a little bit further as to why the Mayor should be able to do that? I am not in disagreement with the proposition; I would just like to know why the Mayor feels that is necessary.

Mr. BANKS. Mr. Chairman, we believe, because of the peculiar status of the District of Columbia within the metropolitan area, the highly competitive relationship with surrounding jurisdictions for development, that the imposition of rent control has got to be done very sensitively and with some dispatch, and we would hate to see the issue of rent controls embroiled in arguments about who is going to be Chairman, or to have the leadership of men unable to properly represent the city and understand the city problems.

We think the Mayor would be better able to select a person with that kind of qualification than might the Commission itself.

Senator TUNNEY. I see. That would be similar to what you would have in the executive branch of the Federal Government where the President is able to appoint his Cabinet officials or his special designees, with the confirmation of the Senate.

Mr. BANKS. Mr. Chairman, it is similar to the President's designation of the Chairman of the City Council.

Senator TUNNEY. Thank you. Please proceed.

PROTECTION AGAINST LOSS OR SUSPENSION OF SERVICES

Mr. BANKS. I would like to point out that while H.R. 4771 is titled "A Bill To Authorize the District of Columbia Council To Regulate and Stabilize Rents in the District of Columbia," the District government's draft is titled "A Bill To Provide for the Regulation of Maximum Rents and Rental Services in the District of Columbia." The chief difference is the addition of the words "rental services" in our title and in several places in the body of the bill. This addition was made because of our concern that tenants should be protected against arbitrary reductions or suspensions of services by landlords, as well as against illegal rent increases.

The District government has no objection to those provisions of H.R. 4771 which deal with retaliatory action, section 5; judicial review, section 6; and criminal penalties, section 7.

DURATION OF PROGRAM

Section 8 of H.R. 4771 provides for termination of all provisions of the bill 1 year from the date of enactment. This means that the District government would have to come back to the Congress for legislative authority to continue the rent control program if extension is found desirable. We commend to this subcommittee the language in the District's draft bill which gives the Council discretionary authority to extend rent control regulations for an additional year.

FUNDING

H.R. 4771 provides no authorization for financing a rent control program despite the fact that it requires per diem compensation for members of a nine-member Housing Rent Commission and for "such personnel or consultants, including legal counsel, as are necessary, at such rates of compensation as may be fixed by the Commissioner of the District of Columbia."

Further, each District government department is authorized by H.R. 4771 "to furnish such assistance or information as may be necessary for the Commission to effectively carry out this act." The nature or degree of the assistance is not defined. Does this mean personnel? If so, what kind and in what numbers?

Section 9 of the District government's draft bill provides that "there is hereby authorized to be appropriated out of money in the Treasury to the credit of the District of Columbia not otherwise appropriated such funds as may be necessary to carry out the purpose of this act." It is our recommendation that this language be incorporated in any rent control bill for the District approved by the Congress.

This completes my prepared statement, Mr. Chairman. I shall be happy to answer any questions you may have.

Senator TUNNEY. Thank you very much.

Could you tell us why it is that the House bill left out any provision for an authorization of appropriations to carry out the purposes of the act?

Mr. BANKS. I am sorry, I do not have the answer to that question. I did not hear, nor has it been reported to me, a discussion by the House of this issue. I presume, as has been the case with some past bill, that the committee feels that we can absorb the cost; but I assure you that—

Senator TUNNEY. Well, I do not think that you can.

What if we put in a specific figure of \$75,000—would that be adequate?

Mr. BANKS. I think it would be adequate to start with, but again, it depends on what the nature of the bill is. We have not reached—if the Commission is to be paid the deemed rate, it depends on what the deemed rate is in the projected time being consumed.

I think, as far as the staff is concerned, \$75,000 would probably cover the staff; but I am not sure that it would cover the Commission's cost.

Senator TUNNEY. One of the things the Congress does not like in recent years is to open its authorizations or appropriations; so if we put \$100,000 in for this coming year, would that be adequate?

Mr. BANKS. I think that would be a comfortable figure to start with.

Senator TUNNEY. Thank you very much.

Is Mr. David Greenlee here?

Mr. GREENLEE. Yes; I am here.

Senator TUNNEY. Would you come forward, please?

STATEMENT OF DAVID L. GREENLEE, CHAIRMAN, RESIDENTIAL PROPERTY MANAGEMENT COMMITTEE, WASHINGTON BOARD OF REALTORS

Mr. GREENLEE. Mr. Chairman, my name is David L. Greenlee, and I am chairman of the Residential Property Management Committee of the Washington Board of Realtors. I am also president of the Greater Metropolitan Washington Chapter of the Institute of Real Estate Management, an institute of the National Association of Real Estate Boards.

I am a certified property manager, and I have been directly involved in property management in the Washington area for more than 25 years. I am here today representing the Washington Board of Realtors.

EFFECTS OF RENT CONTROL

East coast, west coast, North, or South, Washington, D.C., or New York City, the effects of rent control are the same:

(1) Rent control discourages the supply of housing. The investor puts his money where the return will be the highest.

(2) Maintenance suffers.

(3) Abandonment increases.

(4) Tax burden is increased.

(5) Values decline. A few tenants benefit, but over the long haul, many more suffer.

New York City is an outstanding example of where these results have occurred. All costs increased, all wages increased, taxes and interest rates increased, rents stood still, and housing stock has diminished.

When rent control went into effect in New York City, labor received 61 cents per hour. Today it receives \$3.21 per hour. The tax rate was \$2.89; last year it was \$6.51 plus per \$100. Fuel oil cost 9 cents per gallon in 1943; today it is 14.09 cents per gallon.

LANDLORD ABANDONMENT

None of us want the abandonment and decay that could remove more housing units from the housing stock than the residential construction industry can replace. In New York City there has been landlord abandonment of 15,000 to 20,000 units per year average between 1965 and 1970. One of the major reasons for the decline of rental income in these buildings is rents have not kept pace with the rising costs of adequate maintenance and minimum services.

The abandonment in New York City was not of 100-year-old frame-construction buildings in traditional ghetto areas; it was abandonment of good, solidly constructed brick and masonry properties, some less than 50 years old, in what were substantial wage-earner neighborhoods.

These rent control buildings were destroyed by financial starvation. They stand as battered hulks of rent control in New York City.

REDUCTION IN ASSESSMENT

The assessment in New York City for the tax year 1973-74 which began July 1, 1973, shows that over 42,000 properties have been reassessed below the assessment levied for the year 1972-73. These properties were reduced \$825.4 million in value, a record which leads to loss of \$50 million in tax collections per year. The new tax increase in New York City is forcing other buildings on their way to 1973 and 1974 abandonment. They will shortly join others which passed out of the viable housing stock because of income failure. We have not been able to find a record of a profitable building which was abandoned.

ADEQUACY OF HOUSING INVENTORY

I have heard complaints that there is not enough interest in the city of Washington from developers and investors participating in the construction of new rental units. Rent control, I am sure you will agree, will further deter construction of new units.

The way to keep rents from increasing excessively is to insure an adequacy of housing inventory. This inventory can best be increased by building new buildings and upgrading and maintaining the buildings that you have. Rent control is disparaging to both aims. It discourages new construction, and it prevents maintenance of existing structures.

In New York City, rent control was intended for a short period, but it just does not work that way. It is an end to multiple residential construction, effective restriction to refinancing, and in short, less housing.

In studies made by management associations in the Metropolitan area of Washington, the average monthly increase was not greater than 5.27 percent. This is far below the scare figures produced by the media.

RENT CONTROL HABIT-FORMING

Rent control is habit-forming, like morphine: Both appear to act immediately; both give temporary relief from a painful condition, whether real or imaginary; both create an aura that all is going well; however, both depress conditions, both deal only with symptoms, both become a habit, both hide reality, and with both, ultimately the patient dies.

It has to be obvious to the members of this committee that if the Cost of Living Council and the executive branch thought rent control necessary, it would have been included in the recent Executive order freeze and phase IV controls.

Thank you.

ADEQUACY OF HOUSING INVENTORY

Senator TUNNEY. Mr. Greenlee, for the first 5 years you were involved in property management, from 1948 to 1953, Washington had a program of rent control. Did this discourage the supply of housing, cause abandonment to increase; did property values decline?

Mr. GREENLEE. No; I think, though, that plainly the FHA 608 program, in full swing at that time, was adding to housing stock. As you are well aware, there were a number of windfall properties involved in it also.

Senator TUNNEY. Do you think conditions are very different today?

Mr. GREENLEE. Yes; I do. I think that the FHA program basically provides for more lower income housing than moderate-income housing. Most people are looking not for moderate-income housing, they are looking for luxury, semi-luxury housing.

DRYING UP OF CAPITAL

Senator TUNNEY. In my earlier questions I expressed some concern about the drying up of capital when you have rent controls, because people do tend to want to put their capital in those areas of investment

where it is going to pay a higher profit, particularly where you have controls and expenses go up, which discourages investment in new housing stock.

Do you feel that a program of rent controls at this particular time would seriously curtail investments in new housing stock?

Mr. GREENLEE. Not only do I feel that way, but the Washington Board of Realtors feels that way, the mortgage bankers I have spoken to also feel that way. We also feel that if this bill is passed, there is no question that the District of Columbia Council will put in rent control.

Senator TUNNEY. Why would they do that?

Mr. GREENLEE. There are a lot more voters among the tenants than there are among the landlords. It is as simple as that.

In addition, both the Washington Board of Realtors and the District Management Association have set up and requested that the tenants who have received a specific increase to call them.

We received some calls; we have received a total of six calls, and those six have all been satisfactorily handled by our board.

Senator TUNNEY. One of the things that occurs to me is that the City Council in Washington at the present time is not elected—it is appointed by the President.

What makes you so sure that those voters want rent controls that the City Council would propose?

Mr. GREENLEE. My personal point of view is, they are all striving to place themselves at least in a normal situation.

Senator TUNNEY. Would you please create a hypothetical four-family flat in Southeast Washington that cost the hypothetical landlord \$20,000 to buy; would you tell us what rents he is charging, what costs that money is covering, and how much is his profit?

Mr. GREENLEE. I am afraid I am not a good one to ask, because I have been out of the smaller types of buildings for some time. The smallest building I have been involved with in the past few years has been—

COST INCREASES

Senator TUNNEY. What type of cost increases can the landlord experience in the next year?

Mr. GREENLEE. Utility increases: If I am not mistaken, there is one on the books for electricity, I believe, coming up, if it has not already existed in the past.

Wages: Right now an increase in the Minimum Wage Law has gone into effect, and I believe that is \$2.25 an hour—above the National Minimum Wage Law.

The cost of all services is tending to increase because of the cost of labor.

DRYING UP OF HOUSING STOCK

Senator TUNNEY. How much is the housing stock increasing in the District of Columbia?

Mr. GREENLEE. I do not know, sir.

Senator TUNNEY. Is there anyone who could give us that information?

MR. GREENLEE. I doubt if anyone in the industry could do that, because they work more with the metropolitan area than the District alone.

Senator TUNNEY. Apparently someone can—Mr. O'Neil, you are going to be testifying—fine, we will ask Mr. O'Neil.

But you are saying there is no question in your mind, from your experience in this field as the person who is the chairman of the Residential Property Management Committee, the conversations you had with the mortgage bankers, that the housing stock would dry up in the District of Columbia?

MR. GREENLEE. I think there is a tendency already toward some drying up.

Senator TUNNEY. Thank you, Mr. Greenlee. I appreciate your being with us today.

Our next witness is Mr. Ernest Withers, president of the Washington Area Federation of Tenant Associations.

STATEMENT OF ERNEST WITHERS, PRESIDENT, WASHINGTON AREA FEDERATION OF TENANTS ASSOCIATIONS

MR. WITHERS. Mr. Chairman, my name is Ernest Withers. I am president of the Washington Area Federation of Tenants Associations, commonly known as WAFTA.

The federation is composed of 150 tenant groups from throughout the metropolitan Washington area. Our membership ranges the gamut of income levels, race, creed, and local geography. We have further linkages with similar tenant associations throughout the country through our affiliation with the National Tenants Organization.

WAFTA commends the House of Representatives for its passage of H.R. 4771, which provides enabling powers to the government of the District of Columbia to impose rent controls when those controls are found necessary. The overall need for such measures we reiterate at this time:

NEED FOR RENT CONTROL

1. The epidemic rise in rents in the Washington area that came with phase 3;
2. The hitherto nonrelief provided tenants of the District by their government, partly due to the rationalization that such powers did not exist with the District Government;
3. That voluntary controls are not adequate remedies largely because of the governmental vacuum that exists in the District of Columbia;
4. That sharp rent increases most adversely affect the large concentration of low income, fixed income, and aged citizens who live in the District, and probably more than it affects the more affluent suburban areas.

The Fauntroy bill as passed by the House is a significant step in the right direction. However, WAFTA offers the following changes to the House version:

PROPOSED CHANGES IN BILL

1. The factor of time as provided in section 8 should be revised to allow for 1-year period of enforcement of any rules adopted under section 3 by the City Council and enforced by the District of Columbia Housing Rent Commission. As it is now provided, the period of effect of such rules as may be adopted could potentially be far less than a year, thereby rendering any effective controls meaningless due to shortness of duration.

2. The composition of the Commission with respect to tenant and landlord representatives be increased from two per interest groups to three each. This we feel would provide more meaningful representation of these two basic interest groups involved.

3. The provision of support staff as outlined in section 4(c) is too vague as to the kind of personnel that would be available to the Commission to carry out its functions. We support strongly the concept of the Commission but we see that if it is not given clear and substantial day-to-day working staff, its potential for doing an effective job is curtailed.

4. As it is presently written, the bill has no specific provision for funding and funding level. Closely tied into the concern for staff is the need for some level of revenue to support the effectuation of the purposes of this act and specifically the creation of the Commission.

WAFTA proposes that a spending level of \$300,000 be included in the provision with respect to direct staffing, consultants, legal counsel, research, and so forth. The overall meaningful and effective function of an enforcement entity could not proceed without this provision.

5. The power given to the Commission with regard to information gathering and subsequent enforcement of rulings based on findings is not made clear. In that regard the Commission should:

First of all, (a) be granted subpoena powers as to records and data available from the landlord interests that may be subject to review; (b) be granted the authority to administer oaths to any and all who appear before it; and (c) be granted powers to issue cease and desist orders and/or be empowered to go to court to seek enjoinders and restitution against violators in enforcement of findings against violators of rules set forth by the City Council.

I close by again calling for the swift enactment of this legislation. WAFTA takes the position that the rent-paying citizens of the District of Columbia are just as entitled to protection against landlord abuses in rent increases while their levels of services steadily decline as are fellow tenants in surrounding jurisdictions of Maryland and Virginia whose local and State governments have seen the need for rent control law and responded to the urgings of their constituents and passed such legislation. We petition the Congress to do likewise for the citizens of the Federal City.

DRYING UP OF CAPITAL INVESTMENT

Senator TUNNEY. I would like you to comment, if you would, with respect to the testimony you heard of Mr. Greenlee that if we allow this legislation to pass and if there is rent control in the District of

Columbia, it would dry up the capital investment needed to continue to improve the housing stock in the District of Columbia to increase the number of family units being produced. Do you feel that this would occur, and if not, why not, and if so, what do you think the result will be insofar as the ability of the District of Columbia to get adequate housing in a few years?

Mr. WITHERS. First of all, Mr. Chairman, I am not an economist or a realtor, and I couldn't speak with great expertise on certain points, but I have been into passages of this legislation. I have been asked this question before and I will try to answer it.

I always look at the fact that they point out that New York is an example of failure under rent control, and I do know that there are positions taken by other competent people that are expert in the field that it does not necessarily follow that rent control caused the decrease in housing stock in New York.

There are other cities that have had rent control, and those who do not have rent control experience the same kind of problem—the drying up of housing stock. Now, most of the metropolitan areas in the country are complaining of the same thing, and they do not have rent control. So I do not believe that rent control is the culprit that members of the housing industry would have us believe.

I do believe that our concern as tenants is the tremendous effect that rent increases have had upon the tenants in this jurisdiction. Washington has been, more than any other section of the country with the exception of possibly northern New Jersey, and from the tenant point of view, their economic interest, I think, is just as important. The fact that they cannot possibly beat some of the costs being put upon them by the industry, I think that consideration must also be made as far as the economic point of view is concerned.

RENT SURVEY

Senator TUNNEY. The statistical systems group presented to Mr. Gilbert, the Executive Director of the Office of Planning and Management of the District of Columbia, surveyed rents in the District of Columbia during the first quarter of 1973. The survey found: 39 percent of the units—no increase; 26 percent of the units—less than 5 percent increase; 29 percent—between 5 and 10 percent increase; and 6 percent—more than 10 percent increase.

How well do you think this survey represents the rental increase picture in Washington for the first quarter of 1973?

Mr. WITHERS. Would you repeat that slowly, please?

Senator TUNNEY. Yes; 39 percent—

Mr. WITHERS. What is the source?

Senator TUNNEY. Oh, this is the Statistical Systems Group, presented to Mr. Ben Gilbert, the Executive Director of the Office of Planning and Management of the District, a survey of rents in the District of Columbia during the first quarter of 1973.

Mr. WITHERS. I think there was a survey that was conducted by an agency of the Government, and we had the opportunity to talk to the Mayor on it, and I think the Mayor himself admitted that the survey had too many holes in it to really be an adequate picture.

As a matter of fact, as a result of that meeting, we concluded that there was really no adequate survey as of yet as to what the situation was, except that we had a tremendous number of all kinds of rent increases, and the real picture had not yet been decided, except that the Office of Corporation Counsel and the Internal Revenue Service had decided there was a real problem in the District.

CAPITAL INVESTMENT

Senator TUNNEY. Two things very deeply concern me and are disturbing: One is rent gouging by landlords when there is a shortage of housing stock—taking advantage of that and increasing rents substantially. The other thing, of course, that concerns me is that by clamping on controls, you eliminate the desire for investors to put their money into new housing stock. They feel they can get a better rate of return buying Government bonds, which I understand are now paying 8½ percent, which is a pretty good rate of return on Government issues.

Would you want to take the chance of putting money into the mortgage market if you can get 8½ percent on Government bonds? Naturally, the Federal Government backs it up.

I am worried about the increase in population in the District of Columbia, and I am worried about the renovation of existing housing stock. Whether, by putting on rent controls, that you are going to dry up those capital resources to provide the new housing and the renovation of existing housing to benefit the citizens who are living in the District now and those who will be moving in. I recognize there is a very delicate balance. I have been a renter, at times, here in the District of Columbia as well as elsewhere. I am not now—I own my own home in the District. But it is a very delicate balance that any decisionmaker would have to weigh.

STATISTICAL DATA

I just would not want to take action in a way that would be detrimental to the long-term best interests of the residents of the District, and I wonder if it is possible for the committee to get better statistical data as to what the situation is in the District before we act on the legislation.

If, in fact, 75 percent of the housing stock in the first quarter of 1973 has less than a 5-percent increase in rental with 39 percent demonstrating no increase, it would indicate that at least a substantial majority of the housing units did not have rent gouging. It was 6 percent that had more than 10-percent increase—perhaps you could say that was gouging of 6 percent of the people.

But you indicate that you feel this was not an adequate survey. That the Mayor indicated to you that he did not feel that it was an adequate survey. That would throw a doubt on conclusions we could make from the information presented to the District government by the Office of Planning and Management.

Do you have any comment?

Mr. WITHERS. Well, first of all, I hope that a bit of statistical insight will be given to you by my very good friend who will be coming from the Public Interest Research Group, Mr. Stumberg. The language there will be so much better.

CONTROL GOUGING

I do have a concern that what we term "rent control" here is not necessarily the same kind that has been experienced in New York. The prime example, and the flexibility this bill will allow, if you look at it as it was when it was first introduced to the House—there is a lot of flexibility here—and if the provision in fact does its work, it will take into account the fact that we are trying to control gouging, as such. There have been cases in the District, and there should be some kind of relief given for that.

But rent control, if it comes to the District, should not be the kind that is detrimental to the District. But in the long run we feel some kind of control should be made available. The City Council should be given the power to deal with that situation when it may arise. As a matter of fact, we are convinced that the first round of such increases that took place immediately after the beginning of phase 3, that there seems to be an indication—of course, it has not been gaged yet—but we have indications that there will be a second round of increases, and they will follow the inception of phase 4. There are no limitations or restrictions on this at all. I think that the incidences of such gouging will significantly increase, and the District of Columbia citizens should have some kind of protection against that.

Senator TUNNEY. Mr. Withers, have you done any surveys yourself, or has your group done any surveys?

Mr. WITHERS. Our group has done what we could with the limited resources we have. I think we will be working with the Public Interest Research Group that Mr. Stumberg represents, in making an attempt to cooperate with the City Council and the city government to come up with adequate surveys.

Senator TUNNEY. If you have any information, any data, will you make it available to the committee?

Mr. WITHERS. All data we have will be made available.

Senator TUNNEY. Thank you very much. We appreciate your testimony.

Our next witness will be the Honorable Gilbert Hahn, Jr., former Chairman of the District of Columbia City Council.

Welcome, Mr. Hahn.

STATEMENT OF GILBERT HAHN, JR., FORMER CHAIRMAN, DISTRICT OF COLUMBIA COUNCIL

Mr. HAHN. Good morning, Mr. Chairman. Thank you for inviting me.

I have a statement in writing that is brief, and I have attached to it some exhibits.

Basically, Mr. Chairman, my position is that the District is the only major jurisdiction that does not have some form of rent control.

Both Congress and the city government, specifically the City Council, have the power to act on rent control.

H.R. 4771 is an important step in Congress delegating this power, but it has three important defects which I have listed in my testimony, and two important points in favor of it.

RESOLUTION

My view is it would be sounder in the long run if a joint resolution were adopted, urging the Council to begin at once to hear the question of the need of rent control and encouraging the Council to commence immediately with regulations; and expressing congressional view that the Council does have the power.

The rent control problem is that the need is obvious, and no action has been taken.

In April, I prepared and filed with the City Council a comprehensive rent control regulation which is attached to the material that you have—a brief of my opinion sustaining the Council's power.

I received back at that time a letter saying that while they did not doubt the power of the Council to take this action, they were quite certain in April that they would get quick congressional action.

Three months have now gone by, and now I am afraid that the House, having acted, the Council, for fear of offending the Congress, will not take any action at all.

In our view the problem continues to get worse.

What I hope is of some interest to the committee—I have attached some correspondence with me listing two sample letters which were sent out by Stuart A. Bernstein & Co. It is interesting to compare the one in March of 1972, which is specific and gives reasons as to why the rent went up \$5, to the one in January of 1973, which is general in nature, gives no reason and puts the rent up on the same apartment \$25.

In our view, Council action is preferable to H.R. 4771, and H.R. 4771, if it should be enacted immediately, would in my opinion be better than taking no action. A resolution, in my opinion, would be quickest.

RENT CONTROL NEEDED

Senator TUNNEY. Mr. Hahn, there is no question in your mind that a rent control law is needed?

Mr. HAHN. I believe it is needed. The evidence that I have accumulated is that the strong white and black middle class, which is the basic residential population of this city, will continue to move out of the city unless protected by rent control regulation.

DRY UP INVESTMENT IN HOUSING STOCK

Senator TUNNEY. What about the argument raised by Mr. Greenlee and, I assume, by others who have testified before us that the rent control law will dry up the investment in housing stock?

Mr. HAHN. There is no doubt that that argument has been made; and there is something in it. But I believe that in today's real estate world there are other factors that are far more important—such

as the lack of ability to get sewer hookups, the higher cost of money that is shutting down the building industry. Under those circumstances, I think the absolutely best policy is a rent control program that will balance out these other factors.

SURVEYS

Senator TUNNEY. Has your group, the Washington Public Interest Organization, done any surveys?

Mr. HAHN. We have had correspondence, such as that that I have attached, where people are interesting themselves in the announcements we have made about rent control and have written to us for help. We have written, as indicated in my correspondence, to some of the landlords. We got hundreds of communications from people following the case on the real estate tax. Both of these sets of calls and correspondence indicate to me, although it was not a scientific survey, the great concern by people with this problem. Compared to food prices—this comes as almost an equal problem. I can only rely on my impressions. The answer to your question is: We have not taken a survey—but I believe that to be the case.

RESOLUTION

Senator TUNNEY. What would the resolution that you suggest do for us that H.R. 4771 would not do?

Mr. HAHN. First of all, it would get to the problem quicker. After H.R. 4771 is adopted and signed, a period of not more than 60 days would have to go by, during which the Council would act on the first step, which is whether or not rent control is needed. A resolution, if it could be adopted right away, would enable the Council to start at once.

Second, as is indicated in my testimony, and I understand from Vice Chairman Tucker's also, because of the cumbersome steps involved in H.R. 4771, only a few months would be left of actual rent control by the time the three major steps took place, and there would be a need for extending the power. Resolution would avoid that problem.

Third, I think not only in this area but many other areas, and I have believed this for 4 years, the city and the City Council already possess enormous powers, a great deal of what may result in impeding home rule in my view, already exists in the city government. It will be important to get past this step so that just transferring fiscal power and power to elect a mayor and council might be as much as will be needed.

Senator TUNNEY. Thank you very much, Mr. Hahn. We certainly appreciate your coming.

Mr. HAHN. Thank you for inviting me here, Mr. Chairman.

Senator TUNNEY. Your entire statement and attachments will be made a part of the record.

[The material referred to follows:]



A Washington Public Interest Organization

700 COLORADO BUILDING • WASHINGTON, D. C. 20005

GILBERT HAHN, JR.
CHAIRMAN

FOR INFORMATION CALL
ALMA HARRIS 783-3344

STATEMENT OF GILBERT HAHN, JR. ON RENT CONTROL IN THE DISTRICT OF COLUMBIA

The District of Columbia is the only major jurisdiction in the Washington Metropolitan area which does not have some form of rent controls. We continue to be alarmed by the sharp rent increases in the city since the lifting of Phase II controls.

Both Congress and the City Government, specifically the City Council, have the power to act on rent control.

H.R. 4771, which was passed by the House on June 11, 1973, is an important step forward in delegating power for rent control to the City Council. It has these important defects:

1. It is limited to one year; and there will be the need to secure an extension.
2. The machinery is cumbersome, first requiring a Council hearing to determine need, then Council regulations, then the appointment of a Commission, and then Commission regulations. The City, which needs immediate relief, may get the relief, slowly and perhaps for only a few months, if the power is not extended.
3. It is inconsistent with the creation of local government in that the Council ought to act on its own responsibility when it can.

What is to be said in favor of the Bill, H.R. 4771, is this:

1. If granted by Congress, the power is clear and not in dispute;
2. Some, if inadequate, rent control would be started.

It would, in our view, be better in the long run, if a joint resolution were adopted, urging the Council to begin, at once, to hear the question of the need of rent control, and encouraging the Council to commence immediately with regulations; and expressing Congressional view that the Council does have the power.

The problem is that the need has been obvious but no action has been taken.



A Washington Public Interest Organization

700 COLORADO BUILDING • WASHINGTON, D. C. 20005

GILBERT HAHN, JR.
CHAIRMAN

FOR INFORMATION CALL:
ALMA HARRIS 783-3344

-2-

On April 23, 1973, I filed with the City Council, as a citizen petition, a rent control regulation for the District of Columbia and asked that hearings be held. The regulation and a brief sustaining the Council's power are attached.

I received a letter from Vice-Chairman Tucker and the Secretary to the Council. Mr. Tucker said he tended to agree that the authority to institute rent control was in the Council, but that he preferred to wait because the matter was before Congress and he felt certain of quick action.

On May 21, 1973, I called again for Council hearings because a month had gone by and nothing had happened. Vice-Chairman Tucker had by now also called for hearings.

On June 11, 1973, the House acted on H.R. 4771.

On July 24, 1973, now three months have gone by and no rent control is effective.

The House, having acted, it appears the Council fears offending the Congress and won't take action which it could take on the assumption that Congress would act quickly.

In our view the problem continues to get worse.

I have attached some correspondence typical of the kind that has come to me. It's particular interest lies in the difference between the March 28, 1972 notice of rent increase and the January 29, 1973 notice. In one case a clear and computed \$5.00 increase is given. In the other, just a straight \$25.00 increase with no explanation.

In our view, Council action is preferable to H.R. 4771.

April 23, 1973

Honorable Sterling Tucker
Vice Chairman
D. C. City Council
District Building
14th & E Streets, N. W.
Washington, D. C. 20004

Dear Vice Chairman:

Under the City Council rules, as a citizen, I petition the City Council to consider the enclosed regulation to regulate rents in the District of Columbia under the police power of the City delegated to the City by Congress and transferred to the City Council under Re-organization Plan No. 3.

I ask for prompt hearings and early action on the regulation.

As you are aware, both Congress and the City Council have the power to pass rent controls. This regulation is proposed against the possibility that Congress will not give the city the rent control power that you are requesting.

Kindest personal regards,

Gilbert Hahn, Jr.

GH:z

cc: Honorable Walter Washington
Honorable John Nevis



GOVERNMENT OF THE DISTRICT OF COLUMBIA

CITY COUNCIL

WASHINGTON, D.C. 20004

JOHN A. NEVIUS
Chairman
STERLING TUCKER
Vice Chairman
STANLEY J. ANDERSON
ROCKWOOD H. FOSTER
TEDSON J. MEYERS
REV. JERRY A. MOORE, JR.
MARJORIE H. PARKER
DR. HENRY S. ROBINSON, JR.
REV. CARLTON W. VEAZEY
Council Members

May 1, 1973

Mr. Gilbert Hahn, Jr., Chairman
Give a damn
700 Colorado Building
Washington, D. C. 20005

Dear Gil:

The letter of April 24, 1973, from Vice Chairman Sterling Tucker to you, sets forth the manner in which your petition for Council regulation would be handled. The Council at its Committee of the Whole meeting on Monday, April 30, 1973, adopted the Vice Chairman's position as a Council position on this matter. Accordingly, we are proceeding on the course described therein.

With regards,

EDWARD B. WEBB, JR.
Secretary to the Council

Enclosure

cc: Chairman John A. Nevius
Vice Chairman Sterling Tucker
Mr. Robert S. Moore



GOVERNMENT OF THE DISTRICT OF COLUMBIA

CITY COUNCIL

WASHINGTON, D. C. 20004

JOHN A. NEVIUS
Chairman
STERLING THICKEP
Vice Chairman
STANLEY J. ANDERSON
ROCKWOOD H. FOSTER
TEDSON J. MEYERS
REV. JERRY A. HOORE, JR.
MARJORIE M. PARKER
DR. HENRY S. RODINSON, JR.
REV. CARLTON W. VEAZEY
Council Members

April 24, 1973

Gilbert Hahn, Jr., Esq.
Chairman, "Give a damn"
700 Colorado Building
Washington, D. C. 20005

Dear Gil:

I have your letter of April 23, and enclosures, including your proposed rent control regulation for the District of Columbia. As I commented to the press, I tend to agree with your view that there is presently authority in the Government of the District of Columbia to institute rent control measures. This view, however, is not shared by the Corporation Counsel nor by some of my colleagues on the Council and staff. The Council has made the decision, therefore, to pursue the route of securing congressional authority for such purpose.

Since the climate in the District Committee seems favorable towards granting such authority, I am disposed, at this time, to pursue this course. By so doing, the question of authority then will be clear and we avoid the litigation which rent control measures imposed by the Council in the absence of clear authority would provoke.

Were the matter not currently before the Congress and under favorable consideration, I would be highly disposed to action by the Council under presumed authority as you propose.

Gilbert Hahn, Jr. Esq.

- 2 -

Further, we have achieved a good understanding relationship with the House District Committee around the whole question of Council authority. The Committee has indicated a desire, first, in helping to determine authority which is currently ours, and secondly, to provide authority we need to act in matters of purely local responsibility. Given this relationship, there is a real opportunity over the next several months to achieve for the city more authority to act in its own behalf and to clarify areas where question of authority is unclear. Meanwhile, I do feel it necessary for the Mayor and the Council to determine the scope and nature of the problem of rent increases so as to be able to act intelligently and expeditiously in this matter, as the authority is clearly available to us.

I do appreciate the efforts that "Give a damn" is making around the rent control question and assure you that the matter is not being shelved, just being placed within the framework of the procedures previously agreed by the Council as outlined above.

Sincerely,

STERLING TUCKER
Vice Chairman

cc: Mayor Walter E. Washington
John A. Nevius, Chairman, City Council
James G. Banks, Assistant to the Mayor
for Housing Programs
Edward B. Webb, Jr. Secretary, City Council



A Washington Public Interest Organization

700 COLORADO BUILDING • WASHINGTON, D. C. 20005

GILBERT HAHN, JR.
CHAIRMAN

FOR INFORMATION CALL
ALMA HARRIS 783-3344

April 23, 1973

"GIVE A DAMN" PROPOSES RENT CONTROLS FOR THE DISTRICT OF COLUMBIA

Gilbert Hahn, Jr., Chairman of "Give A Damn" today made a citizen introduction of a proposed city regulation imposing Rent Controls in the District of Columbia, before the City Council, with the following statement:

"The City Council has the power to impose rent controls, using its police powers.

"This power was reinforced on Wednesday, when the U. S. Court of Appeals affirmed the City Council's power to enact regulations under its police powers. This was the case supporting the City Council's \$5.00 a ton tax on solid waste disposal.

"Congress can foreclose the City Council's power by acting or forbidding the Council to act.

"However, if Congress doesn't act, the City Council should and we have proposed a regulation for this purpose.

"The District is the only major jurisdiction in the Washington Region which does not have some form of rent controls. We are most alarmed by the sharp rent increases in the City since the lifting of Phase II controls. The other local governments have responded to this by imposing controls or establishing landlord-tenant agreements. It is time for the City Council to do the same.

"This is especially so since most of our citizens are renters. Washington should not be the only non-rent control jurisdiction in the area.

"Our regulation would:

--freeze all rents at current levels and limit increases to actual improvements, maintenance or tax increases.

--apply to all rental units in D.C. including single family dwellings.

--require that any exceptions made be done by a uniform set of regulations proposed by the Mayor and approved by the Council.

--forbid retaliatory actions by landlords.

"I believe that the City Council should hold immediate hearings on this matter, and enact this regulation."

A RENT CONTROL REGULATION FOR THE DISTRICT OF COLUMBIA
UNDER THE AUTHORITY OF THE POLICE POWERS SUBMITTED BY
GILBERT HAHN, JR., AS A CITIZEN BY CITIZEN PETITION

Whereas, the District of Columbia Council finds that since the expiration of Phase II controls, rents within the District of Columbia have risen dramatically and have exacerbated the chronic problem of rental housing shortages within the District of Columbia, and

Whereas, the District of Columbia is the only major jurisdiction in the Washington Metropolitan Area which lacks rent controls or lacks a major landlord tenant agreement on rent raises, and

Whereas, because of this lack of local controls the residents of the District of Columbia may be subjected to rental increases as a means of landlords deferring costs in suburban jurisdictions, and

Whereas, it is deemed necessary to preserve the health, welfare and public safety of the District of Columbia by assuring its residents of adequate, safe and reasonably affordable shelter.

NOW, THEREFORE, BE IT ENACTED by the District of Columbia Council that:

Section 1. Definitions. "Commissioner" shall mean the Commissioner of the District of Columbia or his designated agent.

"Council" shall mean the District of Columbia Council.

"Dwelling" shall mean all residential dwelling units within the District of Columbia including single

family residential dwelling units, which are occupied on a leased or other rental basis, except where such dwelling units are owned and operated on a non-profit basis by the District of Columbia Government or the Government of the United States, or except where such dwelling unit if a hotel, motel, or tourist home which is rented on a day to day basis, or except where rental rates for a dwelling unit are otherwise established by law.

"Rent" shall mean the entire amount charged by a lessor to the lessee as a condition of occupancy and for the use of related facilities, including, but not limited to, charges for parking and use of recreational facilities.

Section 2. Rent Control. No lessor, from the effective date of this regulation, may charge any lessee a rent which exceeds the highest past rental charge, based on a monthly computation, previously charged for the same dwelling, at any time 30 days prior to the enactment of this regulation, except with the following allowable additions:

The actual amount of any increase in tax, fee or service charge levied by the District of Columbia or the United States, and an annual pro rated share of any necessary capital improvements after the beginning of the preceding period of occupancy (and not previously charged to the lessee as established by the Consumer's Rules or orders) and allocable to that residence, and any reasonable increased costs of services and materials necessary to maintain customary maintenance of the dwelling, or as is required by law.

Section 3. New Units on the Market. In the case of any dwelling not leased for occupancy at any time during a forty-eight month period immediately preceding the entering into a lease of or implied contract for occupancy of such residence during a low-vacancy period, the rent charged during the term of occupancy provided in such lease or implied contract shall not exceed the reasonable market rental value of the dwelling, and the rent charged during subsequent terms of occupancy shall be subject to the provisions of this section.

Section 4. Exceptions. In cases where operation of this regulation would cause serious financial hardship to any class of lessors, exceptions thereof may be granted by the Commissioner provided that in doing so he establishes uniform rules of exceptions. Such rules of exceptions shall be submitted to the Council within 30 days of the enactment of this regulation and shall take effect only upon resolution of the Council.

Section 5. Prohibitions of Retaliatory Actions. No lessor shall take retaliatory action as defined by the Housing Code of the District of Columbia against any lessee who exercises any rights conferred upon him by this regulation or rules issued pursuant to it. Neither shall any lessor reduce services customarily heretofore provided by him to a lessee, in consequence of the provisions of this regulation.

Section 6. Duties of the Commissioner. The Commissioner shall take such administrative actions and issue such rules,

except as is provided for in Section 4 of this regulation, as he deems necessary to carry out the provisions of the regulation.

Section 7. Applicability. This regulation shall be applicable to all dwellings within the District of Columbia notwithstanding any lease or implied contract for occupancy of a dwelling to the contrary.

Section 8. Penalties. Any person convicted of violating any portion of this regulation shall be fined not more than \$300 or imprisoned for not more than 10 days or both such fine and imprisonment.

Section 9. Other Rights. This regulation shall supersede all other regulations with respect to the establishment of rents within the District of Columbia but shall not reduce the rights and remedies available to parties with respect to matters regulated by the Housing Code of the District of Columbia.

Section 10. This regulation shall take effect immediately upon enactment.

A BRIEF IN SUPPORT OF THE CITY COUNCIL'S AUTHORITY TO
ADOPT RENT CONTROL REGULATIONS UNDER THE POLICE POWER

The power of the District of Columbia to establish if it so chooses by regulation a ceiling for rents that may be charged by a landlord, stems from the nature of the District Government as a municipal corporation, and from the particular subject matter concerned.

The Council was delegated by Reorganization Plan No. 3 of 1967, the police and other regulatory powers of the government of the District of Columbia. That police power rests upon two Acts of Congress which established the municipal corporation and which empowered the former Board of Commissioners to enact police regulations.

The Act of 1871 abolished the former Government of the District of Columbia and stated that "the District of Columbia," . . . "is constituted a body corporate for municipal purposes, and may. . . exercise all other powers of a municipal corporation not inconsistent with the Constitution and laws of the United States. . ." D.C. Code §1-102 (Emphasis added.) In 1878 the Congress adopted the present Organic Act for the District and provided that "the District of Columbia shall remain and continue a municipal corporation. . ." D. C. Code p.1x.

In 1892 the Congress further provided that the "Commissioners of the District of Columbia are hereby authorized to and empowered to make and enforce all such reasonable and usual police regulations. . . , as they may deem necessary for the protection of lives, limbs, health, comfort and quiet of all persons and the protection of all property within the District of Columbia." D.C. Code §1-226.

It should be noted that the corporation of the District was established at the same time as a Territorial form of government was enacted for the District. Congress gave the city all the powers of a municipal corporation and additionally the power of a territorial government with

regard to the District. This latter power -- which was repealed -- granted the District the right to legislate on District matters even in conflict with Congressional actions. This is commonly referred to as "Home Rule". However, this is not the same sort of "Home Rule" power that states normally grant to their local governments. The usual grant of power by a state stipulates that the local government may act on any issue of local concern, but may not conflict with the actions of the legislature. It is this "Home Rule" relationship which exists with regard to the District.

This is substantiated by a number of cases within the District. In the case of John R. Thompson v. District of Columbia, the Supreme Court upheld public accommodations regulation of the District of Columbia as an exercise of the local police power. "A municipal ordinance or police regulation is peculiarly applicable to the inhabitants of a particular place; in other words it is local in character." 97 L.ed 1480)

Additionally, the U. S. Court of Appeals for the District of Columbia in a challenge to the District's Gun Registration Regulations held that the District Government could legislate with regard to local matters as long as that legislation was not in conflict with the Constitution or Acts of Congress. "The important consideration, we think, is not whether the legislature and municipality have both entered the same field, but whether in doing so they have clashed. (Emphasis added.) Statutory and local regulation may coexist in identical areas although the latter, not inconsistently with the former, exacts additional requirements, or imposes additional penalties. The test of concurrent authority, . . . , is the absence of conflict with legislative will. As the court declared in French v. District of Columbia, where '[t]he subject is

peculiarly within the scope of the [expressly delegated] police powers of the municipality, the exercise of authority ought not to be questioned unless clearly inconsistent with the expressed will of Congress." (Maryland and District of Columbia Rifle and Pistol Association v. Walter E. Washington, 442 F.2d 123.)

In the same case the court also noted the fact that the District Government under its police and other regulatory powers exercised considerable authority: "Section 1-227 [of the D. C. Code] thus joins Sections 1-224 and 1-226, and many others as well, in the vast network of the District's regulatory powers." (Id.)

It is clearly established then that the District of Columbia Government may regulate over matters of local concern. The only restrictions being that the subject matter must be local and that there not be any conflict with the Constitution or Acts of Congress.

The question then becomes one of is Rent Control such an issue? The answer to that question is supplied by the practically identical question with respect to the powers of the City of Baltimore in Heubeck v. City of Baltimore (107 A.2d 99).

After the expiration of federal rent controls, and after the expiration of a state statute specifically granting to the city of Baltimore the right to enact rent control, the city's rental control ordinance was challenged as illegal.

The Maryland State Supreme Court, however, upheld the city's power to act. "The City of Baltimore has the power to enact rent control legislation, even in the absence of an enabling act, provided such legislation is not in conflict with the Constitution of the State or any Public General Law thereof."

". . . Limitations upon the power of the City to enact local laws or ordinances, including the exercise of its police power, appear to be clear and unmistakable. If a local law or ordinance conflicts in any manner with the Constitution or a Public General Law, then the local law or ordinance is invalid." (Id.)

Thus the City of Baltimore and the District of Columbia are both municipal corporations which, subject to the restraint of the local nature of the question, and the restraint of not being able to conflict with constitutional or statutory acts, may legislate on local issues such as Rent Control.

This action may take place even though a District of Columbia Rent Control Law was once enacted by Congress, under the police power. That particular legislation (D.C. Code 45-1601 et seq.) has expired, and it contained no provision forbidding further legislation by the city. Kahn v. Wall, 62 A2d 862.

If the city did act under its current powers the Congress could without question repeal any or all of the Council's regulation. The Congress could also simply forbid the Council to act. But following the example of the Gun Registration case, the fact that Congress has legislated previously in the District on Rent Control does not mean that there is a bar to the Council taking a similar action.

There is no doctrine of law or statute which precludes Council action.

May 16, 1973

Mr. Samuel J. Kushner
Executive Vice President
Stuart A. Bernstein & Co.
2121 P Street, N. W.
Washington, D. C. 20037

Dear Mr. Kushner:

Mr. S. S. Kalsi has written to me about the rent increase notice he received from you January 29, 1973. I call attention to the fact that your March 28, 1972 letter raising rents, clearly and fairly shows a 2-1/2% increase from \$160.00 to \$165.00. On the other hand, the January 29, 1973 letter is more than 2-1/2% and no other explanation is given.

I would appreciate a reply from you since Mr. Kalsi has called this situation to our attention.

Very truly yours,

Gilbert Hahn, Jr.

GH:z

cc: Mr. S. S. Kalsi
bc: Mr. Onkar N. Sharma
Mr. Laxmi N. Misra

APARTMENT 45
1316 NEW HAMPSHIRE AVE, N.W.
WASHINGTON, D.C. 20036

May 9, 1973.

Hon. Gilbert Hahn, Jr.,
700 Colorado Building,
Washington, D.C. 20004.

Hon. Chairman,

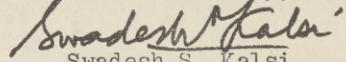
EXCESSIVE RENT RAISES

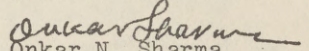
We would like to draw your attention to excessive rent raises that we are subject to within last one year. The two raises we are being subject to come to about 20%.

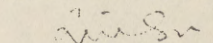
We would like to register our protest for these unreasonable raises. Is there anything that your office can do to stop this kind of profiteering within the District of Columbia, e.g., in the form of legislative limit on the raises to restrained increases and roll back of excessive raises.

We enclose xerox copies of two letters from our landlord, Stuart A. Bernstein & Co., evidencing these raises. We have protested to the landlord about the increase but as yet no action has ensued in relief.

Yours sincerely,


Swadesh S. Kalsi


Onkar N. Sharma


Laxmi N. Misra

ENCL/



STUART A. BERNSTEIN & CO.

2121 P STREET, N.W. • WASHINGTON, D. C. 20037 • 202/223-2400
REAL ESTATE: DEVELOPMENT • CONSTRUCTION • MANAGEMENT

March 28, 1972

Mr. S. S. Kalsi
Apartment 45
1316 New Hampshire NW
Washington, D. C.

*Performed April. to pay
to May 1
rent. check for Apr. 1972 amount
160.00*

Dear S. S. Kalsi:

For the past year our operating expenses including utilities and real estate taxes have continued to rise steadily. We now find it necessary to increase your rent.

In accordance with paragraph 301.502 RENT STABILIZATION REGULATIONS issued by the Price Commission on December 30, 1971, you are hereby notified that your monthly rental is increased effective May 1, 1972.

As directed by the above referenced regulation, the following is furnished for your information:

| | |
|--|-----------|
| a. Base Rent (Current Rent) | \$ 160.00 |
| b. Allowable Increase 2½% of Base Rent | \$ 4.00 |
| c. Pro-Rata Share of Real Estate Taxes | \$.722 |
| d. Total Increase to Nearest Dollar | |
| NEW RENT | \$ 165.00 |
| OLD RENT | \$ 160.00 |
| TOTAL INCREASE | \$ 5.00 |

You have the right to examine the documentation which supports this proposed rent increase in order to satisfy yourself that the proposed rent increase is in accordance with the rent regulations prescribed by the Price Commission.

This documentation is located at 2121 P Street, N. W., and may be inspected upon request between the hours of 9:00 A.M. through 5:00 P.M., on Monday through Friday.

Su

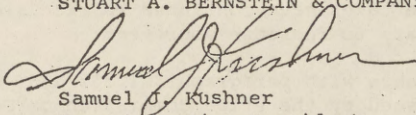
If you do not understand the basis for this increase or believe that the increase is not allowable under rent regulations of the Price Commission, advise us and we will arrange a suitable meeting time with you at a location convenient to your residence to discuss the proposed increase and explain its justification.

It is hereby declared under the penalties of perjury that the foregoing statements and facts are true to the best of our knowledge and belief; and that the increase in your rent is not in violation of the Economic Stabilization Regulations.

Kindly acknowledge receipt of this communication by completing the endorsement below and return to this office.

Very truly yours,

STUART A. BERNSTEIN & COMPANY



Samuel S. Kushner
Executive Vice President

SJK:bb

Encl.:

(Addendum)

TO: Stuart A. Bernstein & Company
2121 P Street, N. W.
Washington, D. C., 20037

Dear Mr. Kushner:

Receipt is hereby acknowledged of this communication dated

Tenant

Address

Apt. #



STUART A. BERNSTEIN & CO.

2121 P STREET, N.W. • WASHINGTON, D. C. 20037 • 202/223-2400
REAL ESTATE: DEVELOPMENT • CONSTRUCTION • MANAGEMENT

January 29, 1973

Mr. S. S. Kalsi
Apt. #45
1316 New Hampshire Avenue, N.W.
Washington, D.C.

Dear Mr. Kalsi:

It has always been our policy to keep the rental in the Hampshire House as reasonable as possible, even though our operating expenses have steadily increased.

The Federal Rent Control Regulations limited rent increases to two and one-half (2-1/2%) percent of the base rent. The aforementioned increase was far below the increases experienced over the past three (3) years.

Due to the increased operating expenses including utilities, real estate taxes, refuse collection, water and sewerage charges, we now find it necessary to increase your monthly rental. Commencing March 1, 1973, your new monthly rental will be \$ 190.00. All other terms and conditions of your monthly lease will remain unchanged.

We do hope that you will understand the necessity for the above action. With your cooperation we will continue to maintain the high standard of the building.

Kindly sign the attached sheet which indicates your agreement to remain on as a tenant at the new rental and return same to your Resident Manager or to our office.

Please note that the new rental is a great deal less than the monthly rental in other buildings for comparable apartments.

Sincerely yours,

STUART A. BERNSTEIN & CO.

Samuel J. Kushner
Samuel J. Kushner
Exec. Vice President

\$25.00
715%



A Washington Public Interest Organization

700 COLORADO BUILDING • WASHINGTON, D. C. 20005

GILBERT HAHN, JR.
CHAIRMAN

May 21, 1973

FOR INFORMATION CALL:
ALMA HARRIS 783-3344

GIVE A DAMN CALLS FOR RENT HEARINGS

Gilbert Hahn, Jr., Chairman of the Give A Damn today issued the following statement:

"I again call on the City Council to open hearings on rising rents in the District.

"A month ago Give A Damn sent a citizen petition to the Council asking that it enact a rent control regulation. We supplied a draft regulation and a legal brief explaining the Council's existing power to act.

"Since that time the Council replied that even though it may have the power it preferred to wait for Congress to grant it the authority to act. Now Vice-Chairman Tucker has called for hearings. We support and applaud this action.

"To date there has been no Congressional action which would lead us to believe that rent control authority will not be enacted in time to grant adequate relief to the public.

"Instead, this issue has been permitted to drag on without any decision or direction by the city government. We believe that the city is failing to act out of fear of adverse Congressional reaction, and an unwillingness to explore a controversial subject.

"It is our opinion that the Council should not use Congressional inaction or fear of offending Congress as an excuse for not doing its work. The Council should hold hearings to determine just what the current situation is. And it should provide rent control if warranted."

APARTMENT 45
1316 NEW HAMPSHIRE AVE, N.W.
WASHINGTON, D.C. 20036

July 21, 1973.

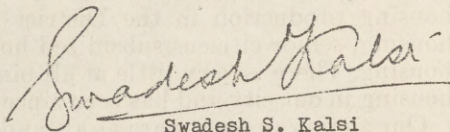
Gilbert Hahn, Jr., Esq.,
Chairman,
Give a Damn,
700 Colorado Building,
Washington, D.C. 20005.

Dear Mr. Hahn,

Just a note to inform you that since you wrote to my landlord on May 16, 1973, on the matter of excessive rent raise, there has been no action on his part. I wonder if anything else can be done?

Have a glorious summer.

Yours sincerely,



Swadesh S. Kalsi

Senator TUNNEY. Mr. John T. O'Neil, ex-vice president of the Building Owners & Managers Association.

STATEMENT OF JOHN T. O'NEIL, EX-VICE PRESIDENT, BUILDING OWNERS & MANAGERS ASSOCIATION

Mr. O'NEIL. Good morning, Senator. Thank you for inviting us here.

You will see in the opening paragraph of our statement that we represent a substantial portion of the rental industry in the Metropolitan Washington area in the District of Columbia.

RENTAL INDUSTRY EXPERIENCES

We have also provided you with an exhibit, a pie dollar distribution chart, to show the kind of experiences the rental industry has been having in the last 6 or 7 years, whereof we refer to the operating cost increase. Using the same progress on a 6-year basis instead of 11½ cents on the rent dollar, the return and the cash flow in 1971 we were taking less than 3 cents on the rental dollar, which will explain some of the phenomena of the interest of the industry to get out of the rental business and convert to condominiums and sell out.

HOUSING PRODUCTION

It also explains some of the significant factors in the lack of any housing production in the District of Columbia other than public housing, senior citizens subsidized housing, and luxury condominium housing. There is very little at all being produced in the way of rental housing in our city and has been since 1968.

Our zoning processes are at a standstill, not giving any approval of projects. There are entire areas of the city—15th Street, where the lenders will not lend money even at this time without rent control.

CAPITAL INVESTMENT

We are faced with sewer moratoriums. We have a substantial drying up of the mortgage market as an actual consequence of high interest rates. The investors in rental properties today can make more money anywhere else but in apartment operations, including savings and loan deposits in passbook accounts, they can make more money.

There is no question that the mortgage interests will not lend money where the ability to repay capital is jeopardized. It is a common fact that any lender in the United States—large insurance companies, small savings and loan—will tell you the same thing.

If you control income and do not control costs, then the obvious consequence is sooner or later a disaster.

ABANDONMENT OF HOUSING

The situation in the District of Columbia is critical. We have some 15,000 abandoned housing units at the present time, most of them structurally sound, most of them owned by the Federal Government or one of its agencies.

Senator TUNNEY. Why were they abandoned?

Mr. O'NEIL. Because they could not make it.

Senator TUNNEY. Why?

Mr. O'NEIL. The cost of maintenance, the cost of fuel oil, the cost of labor, and rent losses.

Senator TUNNEY. Why couldn't they increase the rents to cover the increased costs?

Mr. O'NEIL. Market forces in the District of Columbia essentially control the amount of rent that people can pay in entire sections of the city. You just simply cannot raise the rents whenever you feel like it, because the people who live in certain sections of the city can only pay so much rent; so if you raise an apartment \$150 from \$100, there are not very many takers to speak of.

Senator TUNNEY. What you are suggesting is, if we put rent control laws on the books of the District, that we will have significantly more abandoned properties?

Mr. O'NEIL. I think we will have a significantly increased rate of abandoned properties.

Another phenomenon which has hit our marketplace in the last few years: Fully 20 percent of existing housing rental stock is under consideration for conversion to condominiums at this time—regardless of rent control. If rent control is added, it will only add impetus to the whole movement of labor-rental operations. It is not profitable any more.

PRODUCTION OF RENTAL STOCK

Senator TUNNEY. How much new rental stock is being built at the present time?

Mr. O'NEIL. In the city?

Senator TUNNEY. Yes.

Mr. O'NEIL. None; other than public subsidized housing or luxury high-rise condominiums.

Senator TUNNEY. Do you anticipate any increase in the investment in rental stock?

Mr. O'NEIL. There is some significant advantage to the city with some recent happenings: the National Business Center being funded, the Convention Center underway, the subway system. There are some good forces in the future that will probably result in a substantial redevelopment of the area east of 15th Street and the CBD district.

However, there are assemblies going on there now; people are trying to put together blocks, squares, to be in position, perhaps 4 years from now or 5 years from now, to come into the marketplace for development. But an act like this, combined with all the other problems that we have in the District of Columbia or anywhere else in the marketplace, for example—it is not any different—we are just going to compound the problem and restrict the growth of redevelopment.

You cannot even borrow money to rehabilitate a building in the District of Columbia today. You decide, for example, as a landlord, that you would like to rehabilitate a building and put in a new boiler, a new roof, redecorate and fix up, but you cannot borrow money in the District of Columbia for entire sections of the city. This situation will not get any better by adding restrictive covenants on the ability to produce income on investment property.

RATES OF INCREASE

And in looking at some of the rates of increase—for example, the average rental rate in the inner city is \$122 a month; a 10 percent increase on \$122 a month is not rent gouging—it amounts to \$12.

On a \$100 rental, a 10 percent increase is not a substantial gouging situation.

We have listed our increases in operating costs on the first page. The first seven items there, in 1972, those are absolute increases in operating costs that occurred in 1972 under Federal rent control, which allowed for the most part a 2½ percent rent increase because approximately 80 percent of the District's tenants are on month-to-month tenancies and are so governed.

STATISTICAL ANALYSIS

Senator TUNNEY. Where did this statistical analysis come from that you list on page 1: 60 percent increase in fuel oil, 40 percent increase in labor costs?

Mr. O'NEIL. Our association, for 25 years, has been monitoring the operating costs of office buildings and apartment buildings in the Metropolitan Washington area. Our members submit data on confidential reports each year which are fed into a computer and run anywhere from 100 to 150 buildings through our report each year on apartments—both high-rise and garden.

We also survey approximately 60 office buildings every year in the District of Columbia, and we produce these reports each year. This is a summary and capsulization. We would be happy to provide you with full reports.

Senator TUNNEY. Are you satisfied that these buildings that are surveyed are representative of the entire rental housing stock of the District?

LANDLORD-TENANT SUITS

Mr. O'NEIL. We do not get as many inner city buildings reported as we would like, simply because there are distortions that enter into a report. Inner city property costs more to maintain, there is a higher rent loss, and a bad debt loss factor. There are 120,000 landlord-tenant suits filed every year for nonpayment of rent in the District.

Senator TUNNEY. How many?

Mr. O'NEIL. 120,000. This should give you some indication of the kinds of problems that anyone, who is stuck with an inner city property, is faced with today.

And the tenants in the Northwest section of the city, in the luxury high-rise buildings of moderately high rent, are all of sufficient income to bear the expense of going on.

RISING COSTS

We are the middleman. We are faced with a 22 percent increase in electrical costs this year. We will face a 15 percent increase in fuel oil costs this year. Our costs to handle solid waste has gone through the roof. The District of Columbia decided to give us a \$5-per-ton dumping charge, which added 60 percent to the cost of handling solid waste.

The assessor visits us every 3 years and raises the assessed rate of every building. If you rehabilitate the building, you are penalized, even if you do it with your own money.

If you are going to put on rent control, then control the assessor, and control the Minimum Wage Board, which just raised our rates to \$2.25 an hour from \$1.60 an hour for apartment building industry employees—a 40 percent increase in 1 year in labor costs alone.

LIMIT ON RENT INCREASES

There is no way that you can survive in the apartment industry with this kind of set of circumstances with substantial increases every year. We have urged our industry to limit increases to 6 percent, and we believe that our voluntariness is evident in the market report that you have before you.

Senator TUNNEY. Is that 6 percent a year?

Mr. O'NEIL. Yes; 6 percent per year on incumbent tenants, and our voluntary agreement with most of the local jurisdictions is that there is no control on vacant units. As they become vacant, they can be raised the market rate.

Senator TUNNEY. Thank you very much, Mr. O'Neil. I think we would like to have some of the back data that you said you would make available to us.

Mr. O'NEIL. We would be very happy to submit them. We can give you 5 years or 10 years of studies if you want them.

Senator TUNNEY. Thank you very much. We appreciate it. Your complete statement, with attachments, will be entered in the record. [The statement, with attachments referred to, follow:]

STATEMENT ON DISTRICT OF COLUMBIA RENT CONTROL

My name is John T. O'Neill, I am the Executive Vice President of the Building Owners and Managers Association of Washington, D. C.

Our Association founded in the nations capitol in 1933 represents thirty - two million square feet of office space and 225 thousand apartment units in its' membership.

BOMA has been monitoring apartment income and operation expenses for many years in the Washington market place. We are the only apartment association that gathers statistical data on the cost of operating buildings which we are pleased to present here today. Several major points that need to be emphasized are:

1. The apartment industry has just come through 16 months of rigid federal rent controls, which failed to allow adequate rent increases to meet operating cost increases.
2. In 1972, during federal rent controls, our industry experienced the highest percentage of operating cost increases in the history of the apartment business. A list of cost increases is detailed below:
 1. 60% increase in fuel oil
 2. 42% increase in sewer and water costs
 3. 21% increase in electric costs
 4. 10% increase in natural gas
 5. 50 to 70% increase in solid waste disposal costs
 6. 10% increase in property tax costs
 7. 40% increase in labor costs

3. These significant factors also forecast major difficulties for apartment operators:

1. Declining cash flow returns (less than 5 cents)
2. Hostile environment - Landlord-tenant legislation
3. Planning and zoning agencies - non functioning

4. Control of rents without control of costs, can only be disastrous, resulting in deterioration and decline of housing stock, and of real estate values. New York City's thirty years of rent control has had fantastic results: 700,000 abandoned apartment units, no new housing starts in many boroughs, and this important fact: Tenants in New York City pay 250% more for uncontrolled units than tenants in Washington D. C. pay for the same apartment unit.

In Cambridge, Massachusetts, two years of local rent control has had a negative effect on real estate values, a decline in City population of 50,000, the property tax rate has been increased twice because of the drop in taxable base values, and foreclosures on small apartment owners have increased significantly.

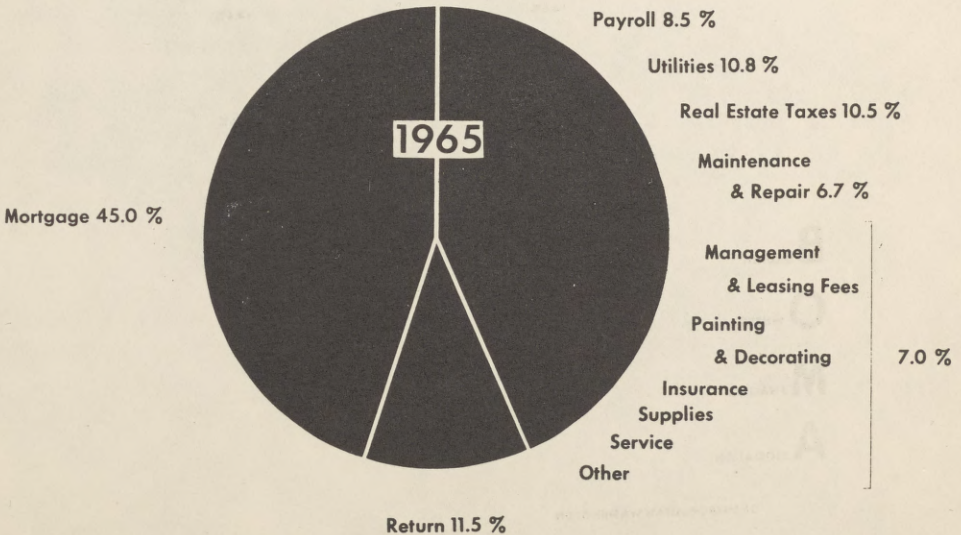
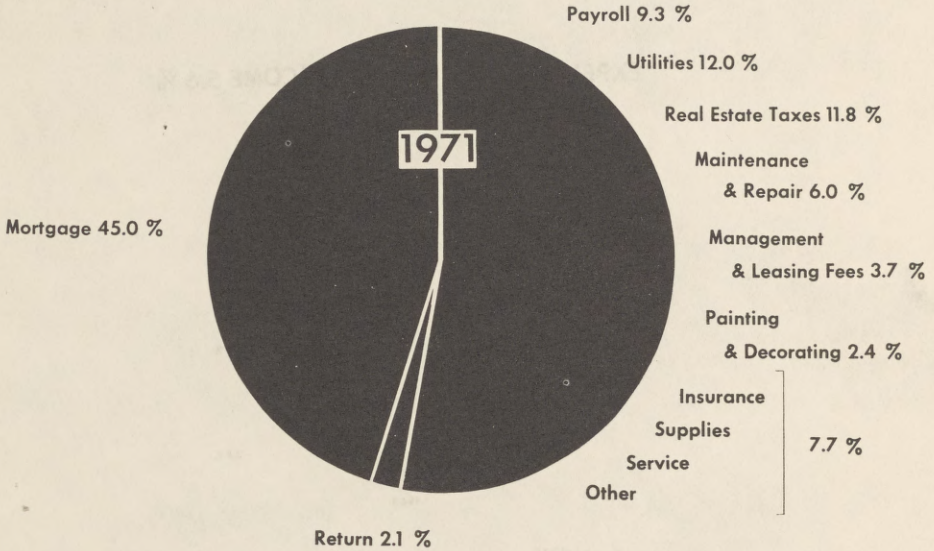
5. BOMA has advertised in the newspapers and on television, that tenants experiencing excessive rent increases should contact our association for assistance. To date we have received 81 complaints regarding rent increases, 75 of these being from one project.

Therefore, we feel that the number of complaints received, indicate that the overwhelming majority of the District's 125,000 apartment units, are receiving reasonable increases and that rent controls are not necessary. Our Association will continue to mediate rent increases on behalf of the District tenants.

In closing, I refer your attention to these charts which indicate the various categories of expense and the percentage of the dollar spent for each item of cost. The significant point here is the amount of cash flow after all expenses and mortgage payments are deducted from each dollar of income. This amount of cash flow is not enough to attract investors and explains the interest in conversion of condominiums. It also explains the increasing rate of abandonment in the District of Columbia's apartment properties.

JOHN T. O'NEILL
Executive Vice President
Building Owners & Managers Association
1511 K Street, N. W.
Washington, D. C. 20005

THE RENTAL DOLLAR

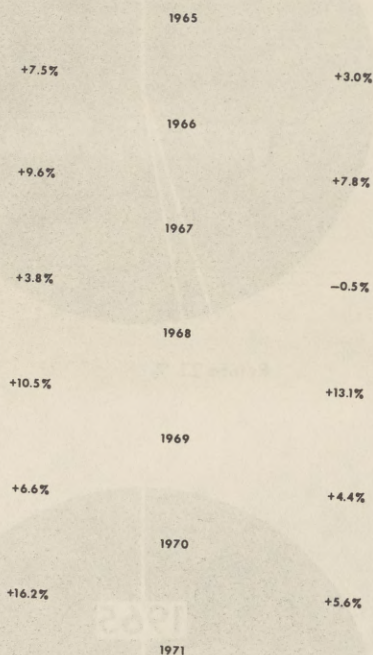


EXPENSE VS INCOME

AVERAGE ANNUAL INCREASE

EXPENSE 9.0 %

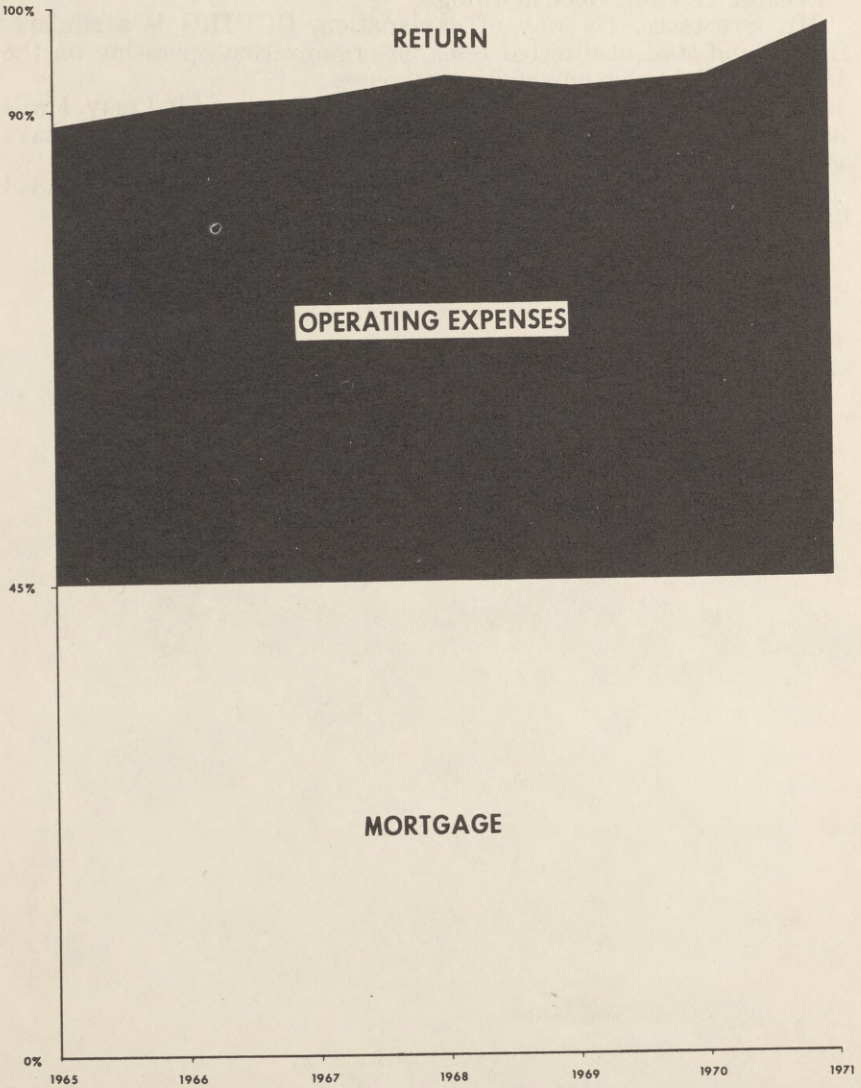
INCOME 5.6 %



BUILDING
OWNERS &
MANAGERS
ASSOCIATION

OF METROPOLITAN WASHINGTON

RETURN



prepared by
Tyson, Belzer & Assoc.

Senator TUNNEY. Mr. Robert Stumberg, the D.C. Public Interest Research Group, Inc.

**STATEMENT OF ROBERT STUMBERG, DISTRICT OF COLUMBIA
PUBLIC INTEREST RESEARCH GROUP, INC.**

Mr. STUMBERG. Good morning, Mr. Chairman.

Senator TUNNEY. Good morning.

Mr. STUMBERG. By way of explanation, DCPIRG is a student-funded and student-directed research organization operating on the District of Columbia universities campuses.

I have been informed that time has grown short, and if I may, I will just direct those portions of my testimony to the questions you have asked the other witnesses.

Senator TUNNEY. Fine. Your prepared statement will be included in the record as if read.

[The prepared statement follows:]

Mr. Chairman and Members of the Subcommittee:

My name is Robert Stumberg; I am Chairman of the District of Columbia Public Interest Research Group, Inc. (DCPIRG). DCPIRG is a non-profit research and advocacy organization which is funded and directed by university students in the District of Columbia. The main thrust of DCPIRG is to engage students in work for meaningful social change. Our research projects are coordinated by a professional staff and directed toward priorities of the resident D.C. community.

At this juncture, DCPIRG is organizing citizen's task forces in major issue areas, including the rental housing crisis. Few issues in this age of serial crises are as threatening to the average citizen as the prospect of losing control of one's own home. The housing crisis is a "real life" crisis---it threatens our national security in a most literal sense.

Magnitude of the Problem

Surveys reported by the Cost of Living Council and the Advance Mortgage Corporation document the District as one of the nation's tightest apartment markets. A "conservatively biased" survey conducted by D.C. Government (which

excluded some 40% of the rental market from its sample) still revealed that, 65% of Washington tenant households had rent increases within the first quarter of 1973 alone. The critical statistic is the reported vacancy percentage: it is approximately 5.6% nationally, but below 2% for Washington. When units in transition and unfit structures are accounted for, there is actually a housing "deficit."

When rent increases are attributable to a high demand/low supply situation (as opposed to only building costs), the elderly and poor on fixed incomes are the hardest hit. Rents are driven up not only by inflationary pressures on management costs, but by competition among tenants themselves for available units. Those unable to compete for even sub-standard housing are simply without homes. The city's emergency facilities are overflowing . . . the waiting line for family-size units in public housing exceeds 1,200 (a wait of seven years) . . . and the landlord-tenant court has been besieged with over 15,000 pleas for help within the past twelve months.

It is painfully clear that this squeeze play of rising costs on the one hand and rent-jacking demand on the other is plaguing the poor---especially families. Without governmental intervention, the pressure will mount.

DCPIRG recognizes the need of landlords to recoup costs and a return on their investment. The shortage will otherwise become worse. But the lack of any constraints on inefficient management and demand-related windfall profits is inhumane. DCPIRG supports the imposition of rent controls as a measure . . .

- 1) of short-range relief for those now on the verge being economically squeezed out of decent housing and
- 2) to stimulate long range policy endeavors to stabilize the housing market.

We recognize that rent control is a complex and risky device. Management interests claim they have a lot to lose by rent control. But without it, tenants are already losing. I shall direct, therefore, DCPIRG's specific support and criticism of H.R. 4771 which is now before this committee.

§ 3 (a) The Need for Public Hearings

The provision for mandatory public hearings within 60 days of enactment must be retained. Such hearings with concrete objectives will serve to catalyze the information gathering needed by the District Council to pinpoint the problems, much less set policy. The data submitted to date has been more than useless; it has been misleading.

As an illustration, during the House testimony, the Building Owners and Managers Association (BOMA) claimed substantial increases in utility costs among justifications of rent increases after Phase II. Presumably, this was based on the increases in utility rates. But when DCPIRG calculated rate increases for volume/economy consumption, BOMA struck out three times out of four with grossly inflated figures. If there were sophisticated externalities which we overlooked, PIRG eagerly stands ready to be corrected.

Utility Cost Increases Since 1970

| | <u>Percentage Increases</u> | |
|-------------------|-------------------------------------|---------------------------|
| | <u>BOMA Figures¹</u> | <u>DCPIRG Figures</u> |
| Fuel Oil Costs | 60% | 16% ² |
| Sewer and Water | 42% | 13.2% ³ |
| Electricity Costs | 21% | 13.3% ⁴ |
| Natural Gas Costs | <u>10%</u> | <u>10%</u> |

¹ as presented to the D.C. Committee of the House

² median percentage calculated by consulting various fuel dealers

³ calculated from rate change quoted by D.C. Dept. of Environmental Services

⁴ percentage rate increase plus 2% increases in taxes quoted by PEPCO

⁵ range of 7% to 10% calculated from WGL Rate Schedules

In addition, there was no indication as to the percentage of operating costs constituted by utilities or the

degree to which these costs were passed through. Even had the information been correct, it would have been meaningless. BOMA also submitted a printout of cost differentials for high-rise buildings. The material was, however, two years old and calculated before the Federal controls which were under discussion.

Another example of bad information was the rent increase survey which had a total of six major oversights which worked to underestimate the true extent of increases and exclude poor people from the survey.

Hopefully, Mr. Chairman, this opportunity for the various interest groups to sit down eye to eye and challenge and defend their positions before the public will for once generate accurate information on such a crucial problem. Our organization is conducting research now in anticipation of those hearings.

§ 4 (a) The Importance of a Balanced Commission

The necessity for a Rent Commission which is balanced and fair cannot be served by existing provisions. With five unpredictable positions being appointed, it is hard to imagine a balanced panel. We believe that the interests of both landlords and tenants would be served by requiring four positions

for each respective group.

§ 4 (d) The Importance of the Committee Staff

Upon adoption of Council regulations, the Commission can act as an enforcer in its own right, it can inform tenants, it can reevaluate and even make changes in policy. The attendant staff work for any one of these activities will be significant: case investigations, information collecting and information dissemination. Without strong staff support, any Rent Commission will exist on paper only. And further, if H.R. 4771 passes in its present form, it will be just that.

I am referring to the fact that there are no funding authorization provisions in the present bill. We believe that without Congressional funding, the Commission will die on the vine. The budget of the D.C. Government, as I am sure your committee is aware, is set purposefully lean by Congress. At this late date in the fiscal planning process for 1974, the money would have to be taken away from someone to whom it has already been committed. This is not likely to happen. I would hope this committee does not plan to starve a potentially successful and needed program by denying it funding for essential staff positions.

§ 4 (c) Essential Information Powers

The present act devotes two toothless sentences to information access. Every piece of rent control legislation we compared, including Massachusetts, New York, Connecticut, New Jersey, Pennsylvania and previous D.C. law, recognized the importance of obtaining information. Perhaps the best suited language is in the D.C. Code, § 45-1607 as amended in 1951 (the section to be repealed by this law):

§ 45-1607. Obtaining information

(a) The Administrator may make such studies and investigations, and obtain or require the furnishing of such information under oath or affirmation or otherwise, as he deems necessary or proper to assist him in prescribing any regulation or order under this chapter, or in the administration and enforcement of this chapter, and regulations and orders thereunder. For such purposes the Administrator may administer oaths and affirmations; may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documents at any designated place; may require persons to permit the inspection and copying of documents, and the inspection of housing accommodations; and may, by regulation or order, require the making and keeping of records and other documents. No person shall be excused from complying with any requirement under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (U.S.C., 1934 edition, title 49, sec. 46), shall apply with respect to any individual who specifically claims such privilege. In the event of contumacy or refusal to obey any such subpoena or requirement under this section, the Administrator may make application to the United States District Court for the District of Columbia for an order requiring obedience thereto. Thereupon the court, with or without notice and hearing, as it in its discretion may decide, shall make such order as is proper and may punish as a contempt any failure to comply with such order.

Every rent control program enacted for the District since 1919 has had such provisions for powers of subpoena and inspection. It is curious that this bill does not.

§ 7 Enforcement Provisions

In addition to criminal enforcement provisions, this act should take heed of the remedies at law and equity availed by similar enabling statutes in the previously mentioned states. Violators of rent control regulations should incur civil liability and tenants should be able to sue to rescind the lease or for liquidated damages of double the amount by which the rent paid exceeded the applicable rent ceiling.

In the case of a violation involving services, suit should be empowered for double the estimated value of the services refused. The Superior Court should also have equity jurisdiction to restrain by injunction any violation of commission rules in an action brought by aggrieved tenants. The purpose of such a panoply of remedies is to encourage citizen participation in enforcement so as to lessen the load on the Commission staff.

§ 8 Termination

We believe that it is logically inconsistent to conceive an act in response to an emergency situation and then to gillotine its impact with an artificial cut-off date. For one thing, if landlords know when termination is likely,

they can simply wait and then recoup their back profits. This has the effect of an economic time bomb: it only postpones and perhaps complicates the problem. This was graphically demonstrated in suburban Maryland and Virginia after Phase II when rent increases shot as high as 40%.

A more sensible approach would be for the Commission to have a self-regulated phasing out in the event of 1) alleviation of crisis conditions or 2) demonstrative ineffectiveness of the program. It was on this basis that regulations were challenged in Philadelphia. The court found that a rise in the vacancy rate from 1.3% to 3.4% was sufficient indication of alleviated conditions after five years of controls. Whatever the appropriate level or measure, it could be mandated for the Commission.

Furthermore, if and when the commission should terminate operations, the structure should not be dissolved. Rather a minimal staff should remain to monitor market development and recommend policy guidelines the the District Council.

I appreciate the opportunity to inform the Committee of our views. DCPIRG urges the delegation of rent control authority. Of course, the present bill would be better than nothing; but consider that a bill establishing an understaffed and weak Commission can possibly create more confusion than it controls.

Thank You. . .

Mr. STUMBERG. Thank you very much.

My name is Robert Stumberg; I am chairman of the District of Columbia Public Interest Research Group, Inc., DCPIRG. DCPIRG is a nonprofit research and advocacy organization which is funded and directed by university students in the District of Columbia. The main thrust of DCPIRG is to engage students in work for meaningful social change. Our research projects are coordinated by a professional staff and directed toward priorities of the resident District of Columbia community.

At this juncture, DCPIRG is organizing citizens' task forces in major issue areas, including the rental housing crisis. Few issues in this age of serial crises are as threatening to the average citizen as the prospect of losing control of one's own home. The housing crisis is a "real life" crisis—it threatens our national security in a most literal sense.

STATISTICAL SURVEYS

Surveys reported by the Cost-of-Living Council and the Advance Mortgage Corporation document the District as one of the Nation's tightest apartment markets. A conservatively biased survey conducted by the District of Columbia government, which excluded some 40 percent of the rental market from its sample, still revealed that 65 percent of Washington tenant households had rent increases within the first quarter of 1973 alone. The critical statistic is the reported vacancy percentage: It is approximately 5.6 percent nationally, but below 2 percent for Washington. When units in transition and unfit structures are accounted for, there is actually a housing deficit.

ECONOMIC SQUEEZE PLAY

When rent increases are attributable to a high demand/low supply situation, as opposed to only building and management costs, the elderly and poor on fixed incomes are the hardest hit. Rents are driven up not only by inflationary pressures on management costs, but also by competition among tenants themselves for available units. Those unable to compete for even substandard housing are simply without homes.

The city's emergency facilities are overflowing. The waiting line for family-size units in public housing exceeds 1,200—a wait of 7 years.

The landlord-tenant court has been besieged with over 15,000 requests for help within the past 12 months.

It is painfully clear that there is an economic squeeze play of rising costs on the one hand and rent-jacking demand on the other that is plaguing the poor, especially families; so we feel that without governmental intervention, the pressure will continue to increase.

DCPIRG recognizes the need of landlords to recoup a profit and to meet their costs, and we recognize that if they do not, the shortage will be worse. But the lack of any constraints at all on either inefficient management on the one hand and demand-related windfall profits on the other, is inhumane. So DCPIRG supports the imposition of rent controls as a measure. For one reason: Of short-range relief for those now on the verge of being economically squeezed out of decent hous-

ing; and for another reason: To stimulate long-range policy endeavors to stabilize the housing market.

RENT CONTROL COMPLEX AND RISKY

We recognize that rent control is a complex and risky device. Management interests claim they have a lot to lose by rent control. But without it, tenants are already losing. I shall direct, therefore, DCPIRG's specific support and criticism of H.R. 4771 which is now before this committee.

NEED FOR PUBLIC HEARINGS

Now, regarding the need for the District of Columbia to enact its own rent control law, the hearings represented by H.R. 4771, we feel that the provision for mandatory public hearings within 60 days of enactment must be retained in the bill. Such hearings, with concrete objectives, will serve to catalyze the information gathering needed by the District Council to pinpoint the problems, much less set policy. The data submitted to date has been more than useless; it has been misleading.

As an illustration: During the House testimony on this bill, the Building Owners and Managers Association, represented by Mr. O'Neil, claimed substantial increases in utility costs among its justifications of rent increases after phase II. Presumably, this was based on the increases in utility rates. But when DCPIRG calculated rate increases, and especially increases for volume/economy consumption, BOMA struck out three times out of four with grossly inflated figures. If there were sophisticated externalities which explain their figures as opposed to ours, we will gladly take heed.

UTILITY COST INCREASES

Utility cost increases since 1970, in percentages, are as follows:

Fuel oil costs.—BOMA figures, 60 percent, as presented to the District of Columbia Committee of the House; DCPIRG figures, 16 percent, median percentage calculated by consulting various fuel dealers.

Sewer and water.—BOMA figures, 42 percent; DCPIRG figures, 13.2 percent, calculated from rate change quoted by the District of Columbia Department of Environmental Services.

Electricity costs.—BOMA figures, 21 percent; DCPIRG figures, 13.3 percent, percentage rate increase plus 2 percent increases in taxes quoted by Pepco.

Natural gas costs.—BOMA figures, 10 percent; DCPIRG figures, 10 percent.

In addition, there was no indication as to the percentage of operating costs constituted by utilities or the overall costs which these were to pass through. And even had the information been correct, it would perhaps have been meaningless because we did not know what percentage of the operating costs the utilities actually reflected.

BOMA also submitted a printout of cost differentials for high-rise buildings. The material, however, was 2 years old and calculated before the Federal controls which were under discussion.

RENT INCREASE SURVEY

Another example of bad information was the rent increase survey, mentioned earlier in the hearings, by the Statistical Systems Group. This survey had a total of six major oversights, all of which worked to underestimate the true extent of increases and exclude poor people from the survey.

We have prepared a detailed analysis of that survey which shows that it is practically useless for your purposes, and I will submit that. Senator TUNNEY. It will be made part of the record.
[The information follows:]

MEMORANDUM

TO: Eracat Withers, Executive Board, W.A.F.T.A.

FROM: Robert Stumberg
Kathy Gannett

DATE: May 30, 1973

RE: Requested Information Concerning 1) Methodological Critique of D.C. Rent Increase Survey, 2) Utility Cost Increases, 3) Analysis of Rent Increase Complaints

D.C. Rent Change Survey

The survey of rent changes in the District of Columbia for the first quarter of calendar year 1973 was conducted by the Statistical Systems Group (SSG) of the D.C. Executive Office of Planning and Management. Under Messrs. Mindlin and Levy, there was apparently a bona fide effort--under limited resources--to get rent increase information soon enough to be useful. It is our considered opinion, however, that notwithstanding the good effort, the "mayor's study" doesn't say as much as it does say.

The SSG memorandum to the Director of Planning and Management is a straight forward account of many of the survey's limitations. But each limitation raises questions which were not addressed. We shall attempt to provide some useful insight ^{to how} as these limitations reflect upon the utility of the survey.

1. Movers were excluded.

The findings do not include changes which were made when vacancies occurred. This is significant only if it is assumed that rents are raised most often and to a greater extent "between" tenants. But given the high-demand/low-supply housing market, this is probably a valid assumption.

Because they were "movers", 22% of the tenants contacted were removed from the random sample. If it is assumed that rents go up the highest between tenants, then the survey cuts off some of the highest increases in the city. Whether or not rent control might apply for tenants who move to different units, such increases certainly effect the overall housing market. If rents for apartment openings are rising rapidly, a tenant's economic freedom of movement will be impacted if rent on the present dwelling is raised. In other words, tenants are "locked-in" to their rent increases because every available alternative is even higher for an equivalent unity

What this means for purposes of the survey is this: Exclusion of rent changes for movers is a conservative bias designed into the sample. The increase in D.C. housing costs is undoubtedly higher than this study would indicate. As to how much higher, we cannot say without the data.

If the sample is accurate, 1/5 of the city's apartment stock was transferred during the 1st quarter of CY 1973. We suggest that a policy study that excludes 1/5 of the (likely) higher rent increases is not very meaningful.

A final note on the moving rate is that it is highest in Anacostia, 28.3%, as opposed to 14.3% for the Northwest area and 24.4% for the central area of the survey. This means that the conservative bias is stronger for poorer areas of the city. That is, more likely rent increases were excluded from the Anacostia sample than from the N.W. sample.

2. Phones were required.

The sample excluded households with no or unlisted phones. As regards not having a phone, this excludes those who cannot afford them--a sample bias which would exclude some poor people. Since phones are almost universal these days, this bias is probably not strong at all. (Nonetheless, we harken back to the phone survey that predicted Dewey over Truman---because the poorer Democratic voters did not have phones then).

3. No service inquiry.

The survey did not include any "refined" probe of changed services. Although there were minimal questions about utilities, parking, and swimming pools, not even these were reported on the tables or in the newspaper account. Certainly, it would make a difference as to rent increases as to whether utilities were included in the rent. This bias would underplay the increase for units where utilities are separate.

More importantly, our own research indicates that service cutbacks can have just as great an impact as rent increases. This is perhaps the most serious factor of which the survey does not take account. This is not a sample bias, but a survey design bias---one which would minimize the reported increase of housing costs.

4. Small structures excluded.

The survey excluded rental units in structures having two or less such units. We are not sure of the significance of this; it could exclude family homes, middle to upper income townhouses, or communes. There is possibly a liberal bias here in the case excluding high-rent townhouses (many of which are found in the N.W. area).

5. Public and federal assistance excluded.

Public housing and Federally assisted rental housing ("221 D3" and "236") was not considered within the scope of the survey. We take issue with this. If rent increases affect tenants over and above their supplement, they should be a legitimate part of the sample. On the other hand, even if the subsidy were to absorb any increase, the taxpayers are footing that bill. Either way, this data should be of concern.

6. Statistical significance.

The sample size was not 904 as intimated in the POst account, but 497, the number of completed interviews. This represents a rather large "recall" rate of 45%. When broken down into the absolute sample sizes for each area, it yields 165 for N.W., 180 for central D.C., and 152 for Anacostis. These samples are adequate but not strong.

The overall confidence level is 67%, or as S.S.G. says, predictions of rent increases based on the survey will be accurate two out of three times. This is a weak confidence level. "Academic" surveys are rarely given credence at this level.

7. General Remarks

7. General Remarks.

The sample is not statistically strong and there are serious biases which minimize the picture of overall rent increases---especially in poor neighborhoods.

This critique can be useful in the following ways:

- a) Any inference to the effect of reducing the importance of rent increases and their impact, especially in poor neighborhoods, can be legitimately attacked on the grounds that the "mayor's study" is too weak to support any "laissez-faire" policy.
- b) Any inferences to the effect that the data supports the need for government intervention can be defended on the basis that, although the survey is weak, almost all of its biases (weaknesses) are conservative. It understates the magnitude of rent increase problems.
- c) The survey's deficiencies in reporting changes in services, adjusting for utilities in the final figures, subsidized housing exclusion, and exclusion of rent increases for tenants who move should be noted as important considerations for further policy research.

Utility Cost Increases Since 1970

| | <u>Percentage Increases</u> | |
|-----------------------|-------------------------------------|---------------------------|
| | <u>BOMA Figures¹</u> | <u>DCPIRG Figures</u> |
| Fuel Oil Costs | 60% | 16% ² |
| Sewer and Water Costs | 42% | 13.2% ³ |
| Electricity Costs | 21% | 13.3% ⁴ |
| Natural Gas Costs | 10% | 10% ⁵ |

¹as presented to the D.C. Committee of the House

²median percentage calculated by consulting various fuel dealers

³calculated from rate changes quoted by D.C. Dept. of Environmental Services

⁴percentage rate increase plus 2% increases in taxes quoted by PEPCO

⁵range of 7% to 10% calculated from WGL Gov Rate schedules

Analysis of Rent Increase Complaints

According to the D.C. Rent Increase Survey, over 6 percent of the D.C. households had increases of 30% or more and over 33 percent had increases between 5 and 10 percent. In an effort to ascertain some detail as to these tenant complaints, DCPIRG conducted its own limited phone survey. The list called was secured from WAFTA. Most of the tenants belonged to tenant associations; most had increases of over 5 percent; and most lived in the central area of the city ("central" Northwest, to be exact).

About twenty indepth interviews were conducted. The following conclusions are drawn by DCPIRG interviewers:

1) Basic services such as maintenance, resident managers, watchmen, trash removal, cleaning (of public areas), etc. are often cited as deteriorating over the past few years. In order to increase their return, landlords (or their management agents) can not only raise rent, they can spend less on the property. A cut in services is equivalent to a raise in rent in terms of what the tenants are getting for their dollar.

This is very important for any type of governmental intervention. Only to impose a statutory rent ceiling upon any class of apartment owners or dwellers could result in service cuts not covered by the rent control. To be effective, some review mechanism on the local government level is necessary to weigh not only the rent side of the coin, but the service side as well.

The process of cutting services is well advanced in many buildings.... it has apparently spread to entire neighborhoods wherein a "blight" effect sets in. One tenant aptly termed the process when he analogized to the

nickel candy bar: the price stays the same, but the product keeps getting smaller and smaller.

2) Leaseholds are prevalently for a monthly period. But this was not the rule about three years ago. Apparently, what has happened, is that around 1971, many large management firms simply refused to renew leases and offered only monthly terms. This, of course, gives the management greater flexibility in raising rents. Some tenants reported recently winning back longer term agreements, but this was only after a rent strike.

Mr. STUMBERG. So hopefully, Mr. Chairman, this opportunity for the various interest groups to sit down eye-to-eye and challenge each other's figures and defend their positions before the public will for once generate accurate information on such a crucial problem. Our organization is conducting research now in anticipation of those hearings.

BALANCED RENT COMMISSION

The necessity for a Rent Commission which is balanced and fair cannot be served by existing provisions. With five unpredictable positions being appointed, it is hard to imagine a balanced panel. We believe that the interests of both landlords and tenants would be served by requiring four positions for each respective group.

Another point of importance is the appointing of the Commission staff, and this has been reflected by your questions as to the budget involved with this Commission. I think it is silly to bat around figures of \$75,000 or \$100,000, when you are really talking about what are the staff needs of the Commission.

Upon the adoption of Council regulations, the Commission can act as an enforcer in its own right; it can inform tenants in the new regulation; and it can reevaluate and even make changes in policy. The attendant staff work for any one of these activities will be significant: case investigations, information collecting, and information dissemination, so that without strong staff support, any Rent Commission will exist only on paper. And further, if H.R. 4771 passes in its present form, it will be just that—a Commission in ink.

FUNDING

I am referring to the fact that there are no funding authorization provisions in the present bill. We believe that without congressional funding, the Commission will die on the vine. The budget of the District of Columbia government, as I am sure your committee is aware, is set purposefully lean. To take away any money now from other provisions of the District budget, at this late date in the fiscal planning for 1974, will obviously create problems for the District of Columbia. So you are guaranteeing a relatively ineffective Commission by not including budget authorizations in this bill. I would hope this committee does not plan to starve a potentially successful and needed program by denying it funding for essential staff positions.

INFORMATION ACCESS

Now, other parts of my testimony are extraneous to your questions, but are nonetheless important. For one thing, essential information powers are not included in H.R. 4771 as written.

The present act devotes two toothless sentences to information access. Every piece of rent control legislation we compared—including Massachusetts, New York, Connecticut, New Jersey, Pennsylvania, and previous D.C. law—recognized the importance of obtaining information. Perhaps the best suited language is in the D.C. Code, para-

graph 45-1607, as amended in 1951, the section to be repealed by this law:

(a) The Administrator may make such studies and investigations, and obtain or require the furnishing of such information under oath or affirmation or otherwise, as he deems necessary or proper to assist him in prescribing any regulation or order under this chapter, or in the administration and enforcement of this chapter, and regulations and orders thereunder. For such purposes the Administrator may administer oaths and affirmations; may require, by subpoena or otherwise, the attendance and the testimony of witnesses and the production of documents at any designated place; may require persons to permit the inspection and copying of documents, and the inspection of housing accommodations; and may, by regulation or order, require the making and keeping of records and other documents. No person shall be excused from complying with any requirement under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893—U.S.C., 1934 edition, title 49, sec. 46—shall apply with respect to any individual who specifically claims such privilege. In the event of contumacy or refusal to obey any such subpoena or requirement under this section, the Administrator may make application to the United States District Court for the District of Columbia for an order requiring obedience thereto. Thereupon the court, with or without notice and hearing, as it in its discretion may decide, shall make such order as is proper and may punish as a contempt any failure to comply with such order.

We recite three issues to you with respect to legislation written since 1919 that had much stronger provisions, such as the power of subpoena, the legal power to conduct investigations of housing units—things like this.

We have looked over the kind of enabling legislation around the country and we have found that this is by far the weakest bill in any category regarding the ability to get information; likewise, it only mentions criminal enforcement provisions. We feel that the bill should also include that civil justice should also be provided.

TERMINATION DATE

Finally, there is an important point to be made on the termination date. We believe that it is logically inconsistent to conceive an act in response to an emergency situation and then to guillotine its impact with an artificial cutoff date. For one thing, if landlords know when termination is likely, they can simply wait and then recoup their back profits. This has the effect of an economic time bomb. It only postpones and perhaps complicates the problem. This was graphically demonstrated, by the way, in suburban Maryland and Virginia after phase II when rent increases shot as high as 40 percent.

A more sensible approach would be for the Commission to have a self-regulated phasing out in the event of: (1) alleviation of crisis conditions; or (2), demonstrative ineffectiveness of the program. It was on this basis that regulations were challenged in Philadelphia. The court found that a rise in the vacancy rate from 1.3 percent to 3.4 percent was sufficient indication of alleviated conditions after 5 years of controls. Whatever the appropriate level or measure, it could be mandated for the Commission.

Furthermore, if and when the Commission should terminate operations, the structure should not be dissolved. Rather, a minimal staff

should remain to monitor market development and recommend policy guidelines to the District Council.

DCPIRG POSITION ON RENT CONTROL

I appreciate the opportunity to inform the committee of our views. DCPIRG urges the delegation of rent control authority. Of course, the present bill would be better than nothing; but consider that a bill establishing an understaffed and weak commission can possibly create more confusion than it controls.

Thank you.

Senator TUNNEY. We have about 5 minutes, so if you could capsule your answer to this question: You heard Mr. Hahn testify?

HAHN APPROACH

Mr. STUMBERG. Yes, I did.

Senator TUNNEY. Do you think his approach is a correct one to this problem?

Mr. STUMBERG. As I understand his approach, basically he feels the Government now has the authority and the resolution confirming that authority that the Government could commence hearings immediately.

Senator TUNNEY. Do you feel that is right?

Mr. STUMBERG. I feel it is an acceptable approach.

The point is that there is an emergency situation.

Senator TUNNEY. There is no question in my mind that you are very well informed on the subject. I wish we had the opportunity to delve into it a little further with you.

We may have some questions which we would like to make part of this hearing.

Thank you very much.

The hearings will be adjourned at this time, and if the Chair feels more testimony is needed, we will reconvene the hearings, and we will hold the record open, at any rate, for 10 days, so that people may submit statements that they want included.

At this point we adjourn the hearing.

[Whereupon, the hearing was adjourned at 11:05 a.m.]

○

