

Memo to: Glenn Domenick

From: Ron Simoncini  
Bloomfield Property Owners Association

Re: Discussion on Rental Housing Issues in Bloomfield

Date: October 5, 2014

## **Background**

Thanks for meeting with me and Mr. St. Hilaire to discuss rent control issues in Bloomfield. I have spent the intervening time considering the issues that were discussed at the meeting and putting together the beginnings of study that would need to be done to establish the market and maintenance conditions of rental housing and whether rent control would be an appropriate remedy.

## **Base Concerns**

The question of whether Bloomfield needs rent control to resolve the affordability and conditions problems that some tenants have claimed requires not just discussion, but research and development of information. If we are to examine rent control as a prospective regime in Bloomfield, there are any number of issues that would have to be established as fact prior to a discussion of the objectives of the township. We would propose the setting of an agenda that includes studying the actual conditions for renters in Bloomfield rather than acting on the assertions of well-meaning advocates for tenants.

Affordability The easily accessible data suggests that, like anywhere, some tenants have budget challenges, but that rent control is not an indicated solution.

- 1) Listed apartments are affordable. Craigslist listings show that most 1-bedroom apartments rent for between \$800 and \$1000 and most two bedrooms from \$950-\$1200. At the highest rent, a family with the county median income of \$55,023 can rent within the HUD standard for affordably.
- 2) Comparisons to neighboring municipalities. Bloomfield also should study nearby municipalities to see Bloomfield's comparative average rents and the impacts of rent control on: municipal government with legal and administrative costs; property values and their resultant tax generation; and property conditions. Glen Ridge and Montclair do not have rent control. East Orange and Newark do. A recent study of the impacts of a new rent control ordinance in Newark show that the City will deprive itself of more than \$25 million in annual improvements to apartments as a result of restrictions in the law, which is similar to that proposed for Bloomfield; and also will reduce ratables.
- 3) Rent control does not resolve affordability. While it is true that tenants with lower incomes are under pressure to find affordable housing due to cut-backs in Federal program such as Section 8, no existing tenant or new tenant will get relief

from current rents under a newly enacted rent control ordinance. Rent control has been studied substantially, and no economic analysis has ever come to the conclusion that those in need of affordable housing benefit from rent control. In fact, studies have shown that by limiting the mobility of tenants who cannot afford to give up their under-market rents, rent control constricts availability of apartments and forces households to stay in apartments that are either larger or smaller than their needs. Other impacts, such as extending commuting times, are also noted.

- 4) Housing costs are relative. An NPR article, cited by Trish Comstock, claimed that half of income from lower and moderate income households go to rent. A truthful examination of this requires a look at disposable and discretionary incomes in New Jersey, where wages are higher than other parts of the country and where it is typical to spend more of the household budget on housing in every income category. Bloomfield's poverty rate was 7.1% while the state's was 12.5%. Covering 100% of Bloomfield's renters when average incomes support current rents seems an unnecessary disruption of the market and risk to the housing stock, especially given that assistance is available through other means to the 7.1% of residents fall below the poverty line.

Conditions Rent control ordinances only govern conditions to the extent that increases are not levied on apartments not in compliance with the law. This issue has been misconstrued by tenant advocates in Bloomfield who claim that a proposed new ordinance promises improved conditions. In fact, a high-performing inspection department in Bloomfield already responds to conditions issues in Bloomfield, obviating the creation of any new authority in a rent control ordinance. Tenant complaints concerning conditions would not be considered unless there is a capital improvement calculation, and despite there being perhaps 500 tenants under rent control in Bloomfield already, there are zero such cases in Bloomfield.

#### Consequences to Bloomfield

The bureaucracy created to maintain a census of rents, assure compliance with annual increase limits and sustain new inspection and conformance requirements that already exist elsewhere in the Bloomfield code will be massively expensive;

Property tax collection from multi-family buildings will be transferred to single-family homeowners;

Property tax collection will be reduced as a result of tax appeals stemming from devaluation of rent-controlled properties;

Job losses will occur as a result of reduced renovation and maintenance spending;

A recent study on rent control in Newark has been included for review by Bloomfield officials. The rent control contemplated in Bloomfield is similar to that which was enacted in Newark and would make it the most heavily regulated rental environment in New Jersey. While the impacts would be proportional, the study is meaningful for its

comprehensiveness and academic standards. The central issue here is that no such controversy over rent control exists in the progressive neighbors of Montclair and Glen Ridge, but the rent control in East Orange and Newark has had devastating consequences on the housing stock and fiscal health of those cities. Bloomfield has great local examples that prove out the research on rent control over the 80 years since the noted economics Assar Lindbeck proclaimed “next to bombing, rent control seems in many cases to be the most efficient technique so far known for destroying cities.”

### **Existing and Proposed Rent Control Ordinance**

Old Ordinance. Bloomfield’s rent control ordinance was discontinued in 1994, extending benefits to tenants in perpetuity. It is thought that perhaps 500 of the more than 12,000 rental units in Bloomfield remain covered by rent control. The fact that so few tenants remain under rent control is symptomatic of a healthy market – it means that tenants had mobility and altered their housing choices despite that they may have left apartments with discounts to market rents.

At the time of its abolition, the rent control ordinance permitted 4% rental increases on a 12-months cycle and offered vacancy decontrol with the apartments recontrolled for the next tenant. Increases on garages were included in the Ordinance; rent roll-reporting was required to a rent board; tax increase pass-throughs were allowed (with 75% of tax reductions through appeals returned to the tenant); and hardship increases were available (required by state law). There is mention of eliminating the fuel oil surcharge if the heat is converted from oil, but there is no mention of a fuel oil surcharge being allowed in the ordinance. In the town code, the ordinance is amended in 1994 to eliminate rent control except for existing tenants and then to limit increases to 3.5% for them but at vacancy to be “forever decontrolled.” There also was the adoption of a capital improvement surcharge at the discretion of the rent leveling board – very loosely defined. Bloomfield also required that the unit be rented within 60 days of vacancy or provide notice to the rent leveling board (an anti-warehousing provision to discourage conversion). A rent control advisory board is also mentioned but seems to have not been convened in many years.

Proposed Ordinance. Numerous aspects of the proposed law, including the conditions components mentioned above, are ungovernable. Those that particularly stand out relate to the earning of vacancy decontrol standards based on compliance with building codes, as mentioned above. The proposed ordinance also outlines increases for annual rents and rents on vacant apartments that will create, and not resolve, significant maintenance issues. Reduced cash flow to buildings will limit what can be allocated to updating the aging housing stock occupied by most Bloomfield residents. Currently, annual increases on existing residents in Bloomfield are thought to be modest. We have provided a report that shows the difficulty of establishing fair annual increases, especially in a municipality where allowed increases likely will be higher than existing increase rates. The health of the Bloomfield market has been driven by vacancy decontrol. Vacancies motivate apartment owners to create common amenities consistent with the expectations of new tenants. Without the ability to improve apartments that are brought up to market rents for

new tenants, those tenants will go elsewhere and Bloomfield will be deprived of the ratables that come with higher rents. Existing tenants also will lose.

### **Existing Prevailing Law**

*The anti-eviction act* is the strongest law of its type in the United States. It not only protects tenants from arbitrary eviction, it provides additional processes to assure their capacity to overcome short-term economic hardship;

*DCA five-year inspection* assures habitability conditions;

*Bloomfield certificate of occupancy inspection* assures conditions when tenancy turns over;

*Unconscionable rent increases* DCA regulation that has been upheld by the courts to be used by tenants who receive significant rent increases.

*Criminal harassment.* Penalties for landlords are fines and up to five year prison sentences.

The notion that tenant issues run deeper than are expressed because tenants are intimidated does not hold water. These laws and the regulatory performance of the DCA and Bloomfield inspectors would reveal such issues; and any widespread intimidation would result in at least one court case or complaint, none of which have been revealed in our research. However, as we have in many other areas of this report, we encourage research into the matter.

### **Alternatives To Rent Control**

Our initial research shows that:

- a) most owners do not egregiously increase rents on existing tenants;
- b) one or two owners do; and that they also are responsible for conditions complaints as a result of cutting back maintenance staff and/or disregard for customer satisfaction;

No alternatives to rent control have been heard by the council and might provide a solution to the problems tenants have identified without causing the significant disruption and harm to tenants, property owners and the municipality that enacting rent control would. We believe that the original rent control ordinance was terminated for a reason, and that it succeeded: Bloomfield's housing stock is well kept and the municipality has more than \$400 million in new residential construction projects right now – more than any other small city in New Jersey. We believe that rent control would reverse many benefits Bloomfield has come to take for granted, in particular the equitable distribution of property taxes and the perception of the Township as a progressive, affordable location with a mix of housing types. And we believe that there are many other prospective solutions to the problem identified at some properties by some tenants without lumping in property owners whose values are consistent with the tenancy's objectives.

### **Initial Dialogue**

Tenant advocates recently distributed several documents to justify the enactment of a rent control ordinance distributed to the Mayor and Council. These materials reference some facts and conditions that are not in dispute; but also build their argument on misapplied information and/or logic that cannot be allowed to settle in as “fact.” We begin by a brief analysis of the initial tenant premises in order to develop a legitimate basis for the dialogue.

#### St. Hilaire Report and Council Meeting Presentation

On September 19 Simoncini met with Glenn Domenick, Community Development Director of Bloomfield, and Stephen St. Hilaire, a homeowner in Bloomfield who supplied a paper to Mayor concerning the reasons to adopt a rent control ordinance.

In the ensuing discussion, St. St. Hilaire declined to be part of a “negotiation” and instead espoused his view of the values that should be adopted in Bloomfield relative to housing affordability, which included that rent control should be adopted. He also denied to be counted as a tenant advocate or a supporter of the proposed ordinance, as he was not involved in its drafting. Upon requesting the “report” that Mr. St. Hilaire submitted to the Mayor and Council I was told that it was not something he would make available to me because it is not consistent with Mr. Hilaire’s participation in the work group. This paper was cited by Ms. Comstock as being critical to the Council understanding rent control. I would formally request a copy of the document.

On a substantive level, Mr. St. Hilaire He points out the flaws in Section 8 and the deficiencies in the Christie Administration as justifications for rent control. Mr. Hilaire consistently refers to “Helmely,” a court decision from the 1970s, as a place of comfort for landlords because it provides “due process” and says that owners can always apply for a hardship if rents are insufficient to cover operating expenses. Further, he asserts that if the situation gets really tough, they can use their “economic power” to facilitate change and derive additional support from elected officials and regulatory bodies. We would hold that a decision like Helmely is the opposite of what Mr. St. Hilaire claims. If anything it distorts the relationship between what is correct for the upkeep of the property and what is rational business behavior under rent control by discouraging any investment except that which provides the minimum acceptable standard of maintenance. No matter how well intended the owner and how committed to the property he might be, the inevitable destruction of his cash flow as a result of rental increases not keeping up with costs of operation (including taxes, insurance, fuel and labor costs that all exceed the pace of CPI inflation) results in under-maintained properties. For authoritative studies on this matter, please see Anthony Downs On Rent Control, published by the Brookings Institute and funded by a cross-section of housing organizations representing government, consumers and property owners.

When I confronted (perhaps too pointedly) the potential for massive municipal costs to manage and provide legal services related to rent control and the “tax appeal spiral” consequences of devaluing the rental real estate and transferring the tax obligation to single family homeowners, Mr. Hilaire claimed that Bloomfield residents should be eager

to pitch in because some day they might need to be pitched in for, including Mr. Hilaire, who described his own situation as potentially requiring inexpensive housing when he is ready to sell his single family home and would look for an affordable rental. Although I do believe that his ideological point of view is valuable and worthy of consideration as the Bloomfield Council contemplates a level of subsidy it believes is appropriate to create for tenant, because he offered no locally developed or plausibly referenced economic data to support the contentions made therein, I do not count Mr. St. Hilaire's appearance at the meeting as having any objective value if our mission is to:

- discover the true conditions of the market;
- identify specific problems that are within our capacity to resolve;
- and model workable solutions that are equitable throughout the community;

### Other Appearances and Correspondence

Trish Comstock appeared at a Council Meeting and later wrote to the Star Ledger, expressing a number of positions in rent control that, similar to Mr. St. Hilaire's presentation, are not compatible with the facts:

*"20 years of rent hikes/soaring rents."* All tenants, like Ms. Comstock, who were in residence in 1994 are covered for life under Bloomfield's rent control ordinance. Rents in 1994 should be compared to rents today for those units; and sample other units in those buildings to determine whether increases in units are egregious.

*"Ongoing economic crisis."* New Jersey's economy is on the upswing. A recent study in Newark demonstrated that rent control provisions can reduce employment as a result of discouraging improvements to apartments and other maintenance impacts. A realistic analysis of prospective impacts from rent control will show that jobs losses will result; and that annual increases for existing tenants are modest. Thus an economic challenges, on balance, will be exacerbated by additional rent control. The unemployment rate is 7.3% in Bloomfield, higher than 6.5% for New Jersey and 5.9% nationally, but much lower than the 8.5% rate for Essex County.

*"Political backlash/requested elimination of landlord representation."* "Take from apartment owners, do not give them a chance to be heard, or I won't vote for you." Not the stuff of a productive, responsible or mature dialogue.

*"Homelessness at record levels."* There are 12,000 homeless in New Jersey as of last year, the lowest level in at least five years, according to HUD.

*"State law guarantees profits to landlords."* State law only guarantees a fair rate of return to property owners under rent control. No Bloomfield property owner is guaranteed a fair rate.

### Include other groups

We believe representatives of other entities should be involved in the dialogue about rent control. The North Central New Jersey Realtors Association, whose officer Dennis

DeCarlo sits on the New Jersey Association of Realtors Legislative Committee, expressed an interest to be heard at a Council Meeting, along with NJAR representatives. Brian Aloia, Township Attorney, was critical of the proposed ordinance and would have a legal perspective on applicability and administration issues. The Chairman of Rent Leveling Board was not consulted, and he has years of experience to draw from in assessing the needs of rent control. Councilman Lopez also expressed himself on the law and representatives a prospectively important voice.

## **Conclusion**

Rent control introduces more problems and resolves none of the issues that have been identified by tenant advocates.

Bloomfield has specific issues it should examine related to conditions and annual rent increases for certain populations (seniors, handicapped and impoverished) and it needs a plan to do so that is based on research and thoughtfulness.

Apartment owners would like to participate in a dialogue that is constructive and produces benefits for Bloomfield.