

NATIONAL DEFENSE ADVISORY COMMISSION
CONSUMER DIVISION

MAINTENANCE OF FAIR RENTS
DURING THE EMERGENCY

This report is designed to assist states and localities where the defense program may bring serious rent problems to formulate a careful and constructive approach to the difficult problem of rent protection.

In issuing the report, the Consumer Division of the National Defense Advisory Commission is not recommending a general policy of rent control. Rent control is recognized as undesirable from the point of view of both landlord and tenant and should therefore be resorted to only when new construction is not sufficiently rapid and extensive to meet the need and where local communities can find no other means to check a disastrous rise in rents. More efficient use of existing housing facilities, consistent with the maintenance of standards, and improvement of transportation to extend the commuting area within which available housing may be used should be undertaken before resorting to regulation. Even where some measures to maintain fair rents are necessary, cooperation of landlords, where this can be made effective, is preferable to legislation.

There are, however, certain communities where military establishments or the expansion of production for military purposes have brought so great an influx of people that legal machinery may be necessary in order to protect consumers until an adequate volume of new housing is provided. The following report sets forth principles which may be applied if and when any community finds legal steps necessary to meet its situation.

Model state and local legislation is being prepared on the basis of this report and will be available to the states and localities which may find it wise to adopt such measures.

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This bulletin is issued as a part of the Consumer Protection Program of the Advisory Commission to the Council of National Defense. The term "consumer", as employed by the President in setting up the Consumer Division of the National Defense Commission, is used in its broad sense to refer to the general problems of real income and living standards, including such things as consumer buying, security, welfare, nutrition and housing.

FOREWORD

The rent which consumers pay for shelter normally amounts to between a fifth and a quarter of their expenditure. Exorbitant rents make serious inroads into consumer incomes, and rent increases are major factors in increasing living costs.

Of all the major items in the consumer budget, rent is the one most likely to rise in certain localities under the impact of the defense program. The market for housing is local. Any congestion arising from the influx of many new people into a community falls directly on the limited supply of houses in the particular community. Surplus supplies of housing in one locality cannot be shipped to another; neither can the supply of housing be immediately increased, for it takes some time to construct new housing.

The remedy for the shortage of housing lies in the provision of an adequate supply of permanent or temporary housing rather than the regulation of the rent of existing dwellings. In the interim before an adequate supply of new houses can be built, however, steps to maintain fair rent levels may be necessary in order to protect consumers. This report indicates the sound principles in terms of which such steps may be taken.

In securing the preparation of this report, the Consumer Division has followed the procedure adopted in all the activities of the Defense Commission, that of working through existing agencies. The National Association of Housing Officials, constituted as it is of housing officials familiar with the problems of communities throughout the country, was the logical agency to which to turn for a study and report on the problem of rent control. The Association generously cooperated and set up the following committee to prepare the report:

Chairman: Edward Weinfeld, New York State Commissioner of Housing.
 Secretary: Russel H. Allen, Executive Secretary, Hartford Connecticut Housing Authority.
Charles Abrams, Lawyer, Housing Consultant, and Writer, New York,
Harold S. Buttenheim, President, Citizens' Housing Council, New York City.
Earle S. Draper, Assistant Administrator, Federal Housing Administration, Washington, D. C.
Mrs. Edith B. Drellich, Research Associate in Law, Citizens' Housing Council of New York.
George Edwards, Director-Secretary, Detroit Michigan Housing Commission.
Charles P. Gillen, Chairman, Newark New Jersey Housing Authority; member, National Executive Committee of Housing Authorities.
William H. Husband, Member, Federal Home Loan Bank Board, Wash., D. C.
David R. Krooth, Director of the Legal Division, USHA, Washington, D.C.
Donald Robinson, Director, Toledo Ohio Metropolitan Housing Authority.
Walter E. Stanton, Executive Secretary, Indiana State Housing Board.
Joseph P. Tufts, Executive Director, Pittsburgh Pennsylvania Housing Association.
William P. Yoerg, Director, Holyoke Massachusetts Housing Authority.

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MAINTENANCE OF FAIR RENTS DURING THE EMERGENCYIntroduction

Among the numerous problems that arise out of a national defense program, housing, military and civilian, stands out as one of the more serious. Housing for civilians includes, in addition to new construction, the maintenance of existing housing in a manner most likely to aid the program and to prevent general hardship. The phase dealing with existing housing is the one with which this report is primarily concerned.

The inadequacy of suitable dwellings, which is generally conceded to exist, primarily in the low-income brackets, is aggravated by population movements to defense industry centers and migration to cities and regions where business activities and opportunities appear to multiply rapidly during the period of extended military preparation.

While it is usually desirable and economically sound to meet such inadequacy by new construction, certain deterrents render complete reliance upon this sole means impracticable during and immediately after a national emergency. These deterrents are: (1) The time element: it is scarcely probable that construction can be got under way and geared to keep pace with the rapidly accelerating need in all localities. (2) The element of risk: builders and financial institutions are not likely to venture into enterprises for which a permanent demand is not manifest. They know from experience that although some migrants who have been drawn to centers where industrial activity has expanded due to the defense program, many will return to former residences when employment ceases. (3) Danger of high costs and unavailability of materials and labor: a national defense program places a premium on certain construction materials and labor. (4) Better investment opportunities in fields other than housing.

It is reasonable to assume that these deterrents will operate to prevent construction of new housing in sufficient volume or with sufficient rapidity to take up immediate shortages in all localities during this national emergency. Past experience has shown that extortionate rent rises and threatened evictions characterize such shortages. To prevent a housing emergency from developing out of such circumstances, it is necessary to contemplate and accept a temporary expedient to bridge the gap left by inadequacy of construction.

The solution indicated is some method of maintaining rents of existing dwellings at levels which are not unconscionably high and which at the same time do not unreasonably affect the return on existing realty investment. Such a solution should, however, be applied only where clearly necessary. There are many communities in which a need for additional housing will arise very slowly, if at all, and some in which it will never arise. Moreover, the usual interaction of supply and demand should not be interfered with by regulation of rents unless a shortage or impending shortage of accommodations is actually accompanied by a threat of unreasonable rent rises.

It is indisputable that housing conditions affect the nation's ability to produce defense necessities. No matter how well equipped mechanically, the defense program must suffer if the industrial man power required cannot be housed within reasonable proximity to industrial centers at reasonable rents. Furthermore, if a lesson is to be taken from past experiences, shortages and their ill effects do not remain confined to the immediate areas wherein they first appear but spread far beyond, endangering the welfare of the public at large.

With the idea of suggesting a procedure necessary for meeting emergencies as they arise, this report attempts to do two things:

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is essential for ensuring transparency and accountability in the organization's operations.

2. The second part of the document outlines the various methods and tools used to collect and analyze data. It highlights the need for consistent data collection procedures and the use of advanced analytical techniques to derive meaningful insights from the data.

3. The third part of the document focuses on the role of technology in data management and analysis. It discusses how modern software solutions can streamline data collection, storage, and processing, thereby improving efficiency and accuracy.

4. The fourth part of the document addresses the challenges associated with data management, such as data quality, security, and privacy. It provides strategies to mitigate these risks and ensure that the data remains reliable and secure throughout its lifecycle.

5. The fifth part of the document discusses the importance of data governance and the role of a data governance committee. It outlines the key principles of data governance, including data quality, data security, and data privacy, and provides guidance on how to implement an effective data governance framework.

6. The sixth part of the document discusses the role of data in decision-making and the importance of data-driven insights. It highlights how data can be used to identify trends, opportunities, and risks, and to inform strategic decisions at the organizational level.

7. The seventh part of the document discusses the importance of data literacy and the need for ongoing training and development. It emphasizes that all employees should have a basic understanding of data and be able to use data to make informed decisions in their work.

8. The eighth part of the document discusses the importance of data ethics and the need to ensure that data is used responsibly and in accordance with applicable laws and regulations. It provides guidance on how to develop a data ethics framework and how to ensure that the organization's data practices are transparent and accountable.

9. The ninth part of the document discusses the importance of data sharing and the need to establish clear policies and procedures for data sharing. It highlights the benefits of data sharing for collaboration and innovation, and provides guidance on how to ensure that data is shared securely and in accordance with applicable laws and regulations.

10. The tenth part of the document discusses the importance of data archiving and the need to ensure that data is preserved for the long term. It highlights the challenges associated with data archiving, such as data format obsolescence and data corruption, and provides guidance on how to develop an effective data archiving strategy.

(1) To examine and evaluate the methods for regulating rents which have been employed heretofore in similar situations; and (2) to consider the problems inherent in such regulation and to establish principles upon which measures ought to be based henceforth if some form of regulation is deemed necessary.

Appraisal of Past Experience

For the duration of the World War, the development of an untenable housing situation was checked to a moderate degree in some jurisdictions through informal measures such as threats of publicity upon profiteering landlords, tax increases based on increased incomes, the establishment of landlord-tenant mediation boards, etc. Not infrequently it was with cooperation of local real estate boards that the effectiveness of these and similar measures was obtained. But the housing emergency survived the war emergency. Its peak came in the years immediately following the war, emphasizing the failure of new construction to keep pace with demand. The disappearance of some of the war time building deterrents did not encourage immediate resumption of residential construction. With the moral and patriotic compulsions of the war period no longer operating, legislation was found necessary in order effectively to carry on the regulation required to cope with the housing emergency.

Such legislation had certain general characteristics: The laws were passed hurriedly. There was no time for adequate consideration of proper means and methods. There was no machinery -- and obviously no time to set up such machinery -- for determining exactly where the need for regulation existed. Dramatic presentations of isolated hardships often served to force passage of measures which were general in their application, affecting groups of houses where need for regulation might not have been indicated had a careful study been made. On the other

hand, serious hardship in some sections or classes of houses was allowed to continue unabated simply because complaint was not general. The establishment as a "fair rent" that rent which existed at some prior fixed date was often unsatisfactory, since the date chosen was generally one year before the declaration of the emergency regardless of the fact that rents at that time may have already become oppressive. Frequently laws were passed empowering the courts to determine fair rent. But these laws contained no standards to guide the courts nor provisions to assure effective and fair dealing with both parties. As a result, decisions were based on whatever evidence a particular judge deem admissible. Termination of regulation was fixed by date in the control law - generally at the end of a year. Discontinuance before that date required repeal, and dependence upon legislative action often resulted in unjust postponement of the repeal. Nor was the administrative machinery for determining the cessation of an emergency any more adequate than the machinery for declaring its existence.

From the foregoing it is clear, generally speaking, that the regulatory methods heretofore employed fall short of accomplishing fully the desired end. They lacked comprehensive and well thought out plans and principles. Although they resulted in some good, their numerous inequities left much to be desired. With well worked out principles and standards, however, rent regulation could be made a truly effective emergency instrument, broad enough in its benefits to warrant the use of the power it requires.

In order to avoid a repetition of those errors that came as a direct result of having to act quickly after the effects of the emergency has been felt, it would be well for legislators and other interested citizens to give serious thought to the sanest and surest

way to meet such a situation; if possible to draft and pass a measure that would apply in the event of an emergency. The remainder of this report sets forth the principles which should be embodied in such a measure. In considering any measures, however, it must always be borne in mind that successful regulation will depend largely on the enlightenment and wisdom of those entrusted with its administration.

How Fair Rents Should Be Effected

Voluntary cooperation by private groups and interested public agencies would be helpful to the smooth and effective administration of a fair rents program and ought to be encouraged. However, uniformity of standards and remedial provisions as well as continuity of effort are of paramount importance to a successful program. Therefore, the procedure to be followed should be the object of legislation and not left to the uncertainties of informal methods.

In What Manner Should An Emergency Be Ascertained?

The worst effects of a housing emergency can be forestalled if plans for meeting the contingencies are laid well in advance. In order to accomplish this, machinery should be set up to ascertain whether there exists a shortage of housing that may bring with it extortionate rent rises. There should be a state administrative agency responsible for bringing together or securing the necessary factual information on any locality. Its method of operation would be to secure data on a particular area, and perhaps the neighboring sections, at the earliest manifestation of a shortage in such area and to secure or conduct check-up surveys thereafter. Continuing state-wide surveys are not considered necessary or advisable because: (1) There will be many communities which have no problem requiring investigation. (2) In some localities housing agencies, such as local housing authorities, may be adequately equipped to

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4. The fourth part of the document addresses the challenges associated with data collection and analysis. It identifies common issues such as data quality, data integration, and data security, and provides strategies to overcome these challenges.

5. The fifth part of the document discusses the importance of data governance and the role of data stewards. It emphasizes the need for clear policies and procedures to govern the use of data and the importance of assigning responsibility for data quality and security.

6. The sixth part of the document discusses the importance of data literacy and the need for training and education. It highlights the benefits of data literacy for individuals and organizations and provides recommendations for developing data literacy programs.

7. The seventh part of the document discusses the importance of data ethics and the need for responsible data use. It highlights the potential risks of data misuse and provides guidelines for ensuring ethical data practices.

8. The eighth part of the document discusses the importance of data sharing and the need for interoperable data systems. It highlights the benefits of data sharing for research and innovation and provides recommendations for developing data sharing frameworks.

9. The ninth part of the document discusses the importance of data visualization and the need for effective data communication. It highlights the benefits of data visualization for understanding complex data and provides recommendations for developing effective data visualizations.

10. The tenth part of the document discusses the importance of data archiving and the need for long-term data preservation. It highlights the risks of data loss and provides recommendations for developing data archiving strategies.

conduct surveys for their communities, subject to standards set up by the state body. These surveys could be made available to the state agency.

What Circumstances Should Constitute a Housing Emergency?

This question has two aspects. The first is numerical. When there is an acute shortage of habitable dwellings in any particular class, rental group, or area¹, accompanied by a trend toward unreasonable rent increases, an emergency exists in such class, group, or area. What is "habitable" must be left to local standards. The vacancy ratio at which hardship would result in a particular community or group of dwellings should be determined by the state agency, provided that such vacancy ratio does not exceed a maximum fixed by the legislature in the statute². One community might experience no inconvenience at three per cent vacancies, while another might find six or seven per cent too low - allowing no reasonable margin of choice in dwellings within certain rental brackets, causing doubling up of families, etc. Much depends on the nature of the dwellings in a community and the living habits of its people.

The second aspect has to do with locale. Previously, housing shortages were seldom recognized as emergencies unless the complained-of situation was general throughout a municipality. It is nevertheless true that within a municipality there may be a decided shortage of dwellings at a certain rent level or in a particular area. To recognize

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1. Surveys that do not recognize the existence of various categories cannot possibly give an accurate or useful picture. For example, a census report of 7 per cent vacancies for New York City that includes vacancies in seasonal dwellings and averages the surpluses in some types of dwellings with the exceedingly few vacancies in other does nothing more than confuse those whose purpose it is to study the housing situation.
 2. Five per cent vacancies is the figure generally conceded to be the norm for most communities. See Edith Elmer Wood's Introduction to Housing - p. 182.

that shortages need not necessarily be general and to provide machinery that may apply restrictions to particular rental groups or areas of houses will tend not only to give protection where and when it is most needed but will avoid the practice of automatically regulating other groups that do not require such a measure.³

Should A Fair Rents Law Allow Exemptions of Particular Classes of Dwellings

New Construction

In order to avoid the risk of accentuating a housing shortage by an all-inclusive fair rents law that might discourage new building, new construction should be exempted from restrictions. The exemption date should be set sufficiently far back so that the discussion or introduction of a rent control bill will not affect the construction of new building before passage of the act⁴.

Public Housing already involves rent limitations and, therefore, should be exempt.

The consensus of the Committee is that The statute itself should contain no mandatory exemptions of specific rental groups. In determining classes to which rent laws shall apply in various localities, the state agency might give careful consideration to excluding from those dwelling units occupied by groups in the higher rent-paying brackets, whose incomes are sufficient to protect their bargaining power even in times of emergency rentals.

3. Cooperation between control agencies and national and local defense councils will be most valuable in this regard. The councils will undoubtedly be apprised very clearly of the location of defense industries and will be in a position to pass on information concerning the amount and kind of housing to be required in any such locality.

4. The Committee submits that a reasonable exemption under many circumstances would be one that applied to buildings, plans for which had been filed within one year prior to the legislative session at which a fair rent bill was passed.

When and How Should Rent Regulations Be Terminated?

It is desirable that release from rent regulation be effected as speedily as possible once the emergency has passed. For this reason withdrawal of application of the law should not be dependent upon legislative action. The state agency suggested above should keep close watch of rent-controlled housing with a view to reducing or removing regulations as soon as conditions improve. Its methods of functioning in this regard and the manner in which it would make its findings known and effective are matters of administration. However, it is important to remember that a sudden and complete lifting of restrictions as soon as there is an apparent pool of vacancies might cause confusion and hardship and might even result in a new emergency condition. To obviate this possibility, a period of decontrol to precede complete freedom from regulation is suggested ⁵. During this period, restrictions against rent rises might be relaxed after a certain degree of improvement in conditions is noticed. This would permit a gradual resumption of the normal landlord-tenant relationship and avoid the likelihood of such economic shocks as were experienced after the World War.

What Agencies Should Be Made Responsible for the Administration of a Fair Rent Program?

Rentals and vacancy ratios in particular localities do, of course, reflect national economic movements. This accounts for parallel trends in different areas. Nevertheless, housing conditions and combinations

5. There are various possible methods of decontrol. In England where controlled classes were set up on the basis of amount of rent charged, decontrol was achieved by removing from control one class at a time as new construction for such particular class was seen to eliminate the shortage. Nor did this decontrol affect a whole class at a time necessarily. The usual arrangement was that when a particular dwelling in that class was vacated, it was no longer subject to control.

of economic factors vary so widely throughout the country that rent problems are, in the main, local in nature. Therefore, laws involving rents, and problems arising therefrom, are the immediate concern of states and their municipalities. Their respective functions should be as follows:

State - A state agency should have the right:

- (1) To make surveys and findings of fact from time to time and to classify groups of dwellings on reasonable bases;
- (2) To carry on investigations and conduct hearings with the power to subpoena evidence;
- (3) To recommend legislation from time to time;
- (4) To require and receive reports from local agencies;
- (5) To prescribe uniform rules and procedures for local agencies;
- (6) To pass upon questions of procedure certified to by local agencies;
- (7) To act as a Board of Review to hear and determine appeals from determinations made by local agencies.

Local - Once the fact is established that an emergency exists for certain rental groups in a community, the administration of problems arising thereunder and the determination of issues between landlords and tenants should be left to a local fair rents agency⁶, (possibly a board or commission) appointed by the mayor or other chief executive of the local government and not to the courts except on appeal, if any, from rulings of the administrative body⁷.

6. The law should provide for local "agency or agencies" since in large cities several such bodies may be necessary.

7. Experience during the World War showed that regular courts were not adapted to handling the problems of administration involved in an emergency rent control program.

Federal Participation

For the reason mentioned in the opening paragraph of this section, direct intervention by the federal government in the administration of a fair rents program is not recommended. However, in view of the fact that several agencies of the federal government, such as the Bureau of the Census, the Bureau of Labor Statistics, the National Defense Advisory Commission, the United States Housing Authority, the Federal Housing Administration, and others, have developed satisfactory techniques for studies and acceptable standards for dwellings, it is suggested that the legislation provide for cooperation between the state agencies and these federal agencies so that the facilities of the latter may be enlisted.

What Provisions Should Be Made For Appeals from Decisions of Local Fair Rents Agencies?

Although the handling of rent disputes by local rent control bodies in the first instance will undoubtedly help to prevent overcrowding court dockets with rent cases, the right to appeal from judgments of such agencies must be provided. As previously suggested, initial appeals should be taken to the state agency or a board set up as a part thereof. Further recourse to the appropriate appellate tribunals existing in the state should then be allowed.

How Should the Rent To be Charged During an Emergency Be Determined?

After establishing that certain dwellings fall within a class requiring regulation, the most important thing to determine is what the maximum rent for that class should be. On this point it is virtually impossible to arrive at a formula that is at all scientific ⁸.

8. Many sources have been consulted on the question of establishing a basic rent date. None of these was able to supply a formula that

The rent to be allowed must necessarily be based upon a rent or rents that prevailed at an earlier date. To be as fair as possible the rent chosen should be one not so close to the emergency that it may have been tinged by it. The rent charged even a year before an emergency is declared may already represent a decided increase induced by a trend toward diminishing vacancies. It would be better not to specify a basic date in the law itself but rather to provide for a procedure whereby the state agency would ascertain, through hearing or otherwise, the date at which the rents charged and the number of vacancies present in a particular group of dwellings most closely approximated a normal condition for the group. It would then designate the rent charged for a dwelling at such date as the maximum rent that may be charged for that dwelling for the duration of an emergency. However, during a national emergency such as the period of the present defense program, when prices of commodities required in the maintenance and operation of relaty may rise, it is reasonable to allow the state agency to include in the maximum rent a fixed percentage representing an increase in operating costs of the property over the costs involved at the so-called normal period⁹.

(8 cont'd).

would be generally acceptable. A suggestion that the basic rent date should derive from an average of several years before the emergency was discarded as presenting too many practical difficulties such as ascertaining the veracity of statements regarding former rents, the value to be placed on dwellings unoccupied during any part of the period for which an average is sought, special considerations for low rentals to particular tenants, etc. Nevertheless, such an average might be given some consideration as a guide for reaching a "Normal" rent.

9. It should be pointed out that, other things being equal, rents may decrease as buildings advance in age and depreciate. This factor might be considered in arriving at the percentage of increase to be allowed over a rent charged at some previous date.

Some Provision should be included in the law to apply in cases where, because of substantial improvements to a building or other similar considerations, a proportionate increase over the maximum rent as described above would be justified.

A Fair Rents Law and Existing Laws

While a fair rents law will for the most part protect tenants with leases, changes will be required in existing landlord-tenant laws for the protection of tenants whose leases have expired or who rent from month to month. Summary evictions, for example, will have to be dealt with in the light of the emergency. In certain cases, where a tribunal is satisfied that the facts presented justify an eviction, removal should be permitted upon due notice. (In such instances it may be desirable that a longer period of notice be provided than is fixed under present laws.) These would include cases in which a landlord desires to convert a dwelling building to other uses, to make extensive alterations, to demolish such building for the purpose and with the intent of erecting a new building in its place, or to use the building or dwelling for himself or his family. Provisions should be enacted permitting courts, in times of stress, to grant extended stays where circumstances warrant and requiring disputed rents to be deposited with a local agency or court pending a hearing.

What Penalties and Prohibitions Should Attach to Rent Regulation

Finally, in order to secure the enforcement of a fair rents law, measures to meet violations must be provided. The extent and nature of penalties attached to such violations will necessarily be determined by the laws and practices of particular jurisdictions.

