

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Barbara P. Allen at 1:30 p.m. on February 6, 2001 in Room 245-N of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
Nancy Kirkwood, Committee Secretary

Conferees appearing before the committee: Jonathan Small, National Multi Housing Council
Sam Alpert, Executive Dir.- Heartland Apt Assoc.
Ron Nolan, Nolan Real Estate Services, Inc.
Clark Lindstrom, Apartment Association of Greater Wichita
Karen France, Dir. Of Gov. Relations/ KS Ass. Of Realtors
Sandy Jacquot, Legal counsel of Kansas Municipalities
Martha New Smith, Executive Director of Kansas
Manufactured Housing Association

Others attending: See attached list.

Hearing on SB 89 - Enacting the anti-rent control act

Jonathan Small, representing the National Multi Housing Council, testified in support of **SB 89** which would prevent any local unit of government from controlling the amount of rent charged for leasing private residential or commercial property. Mr. Small emphasized the difficulties caused by rent control and suggested that the best way to eliminate a housing shortage and to keep rents under control is to increase the supply of rental housing units. (Attachment 1)

Sam Alpert, Heartland Apartment Association, testified before the Committee in support of **SB 89** as outlined in his written testimony. (Attachment 2)

Ron Nolan, Nolan Real Estate Services, testified in support of **SB 89**. Mr. Nolan made reference to two examples of his real estate in his testimony, and noted that the ability to raise rent is the most critical factor in redevelopment of apartment communities like the examples he gave. (Attachment 3)

Clark Lindstrom, representing the Apartment Association of Greater Wichita, testified before the Committee in support of **SB 89** as outlined in his written testimony. (Attachment 4)

Karen France, Dir. Of Gov. Relations/ KS Assn. Of Realtors, introduced Bill Yanek, KAR Public Policy Coordinator, who testified before the Committee in support of **SB 89** and used New York as an example of a city which suffered negative impacts of rent control policies. (Attachment 5)

Martha Smith, Kansas Manufactured Housing Association, testified before Committee in support of **SB 89** as outlined in her written testimony. (Attachment 6)

Sandra Jacquot, League of Kansas Municipalities, testified before Committee in opposition of **SB 89** as outlined in her written testimony. (Attachment 7)

There being no others wishing to testify on **SB 89**, Chairperson Allen closed the hearing.

CONTINUATION SHEET

February 6, 2001

Ken Wilke gave a brief overview on the drafts drawn up regarding the reporting of lobbyist gifts as requested by committee. One of the drafts has language changes; page 2, exempt from the reporting requirements any gift with a fair market value of \$25 or less.

The second draft basically follows the current relative to the hospitality and remove the reporting of gifts that have been provided to all members of the legislature, all member of the house, all member of the political caucus, all member of party caucus of either house.

On a motion by Senator O'Connor to amend the first draft to reflect "has a value of \$25 or less", Senator Gooch seconded the motion. The motion carried.

SB 125 - technical clean up amendments to election laws.

Ken Wilke, Office of the Revisor of Statutes stated there were a couple of technical errors, page 4 line 17 the word "is" should read "if" after "or", and, on page 7 line 26 the line should be deleted.

Senator O'Connor made a motion to amend SB 125 and pass out favorably. Senator Schmidt seconded the motion. The motion carried.

SB 47 - consideration of objections in election controversies

Senator Clark made a motion to pass out SB 47 favorably. Senator Jackson seconded the motion. The motion carried.

SB 114 - campaign contributions; use of to reimbursement of governor's spouse under certain circumstances.

Senator Clark made a motion to amend SB 114 line 22 remove governor and replace with office holder's and every line that says governor replace with office holder. Senator O'Connor seconded the motion. A division requested the vote was 6 Yeas and 3 Nays. The motion carried.

On the amended SB 114 Senator O'Connor made a motion to correct the title on line 10 and strike the ".". Senator Clark seconded the motion. The motion carried.

Senator Clark made a motion to pass SB 114 as amended, seconded by Senator O'Connor. The motion carried.

SB 107 - petition sufficiency; duty of county or district attorney

Senator Clark distributed a balloon with the changes he had requested from the Revisor (Attachment 8).

Senator Clark made a motion to move the amendment as proposed. Senator O'Connor seconded the motion. The motion carried.

Senator Clark made a motion to pass SB 107 as amended, seconded by Senator O'Connor. The motion carried.

The meeting adjourned at 2:30 p.m.

The next meeting is scheduled for February 7, 2001.

**Testimony of Jonathan Small
Consultant to
National Multi Housing Council**

**Before the Senate Elections/Local Government Committee
Senate Bill 89
February 6, 2001**

Madam Chair and Members:

My name is Jonathan Small. I represent the National Multi Housing Council, an organization that represents many firms located around the country, including several located in Kansas, that own, manage, operate and lend funds for multi housing facilities.

Many of you ask why a rent control preemption bill is needed in Kansas at this time? In our view, this is the best time to favorably consider such legislation. Housing starts we are told are down around the country, including Kansas, and vacancy rates are generally moving downward. "Rent control preemption" is necessary during this period of economic change to help assure a steady supply of affordable housing to Kansas' residents.

Enactment of SB 89 will send a very positive message to the investment community that the State of Kansas encourages construction of, and investment in, rental housing. This will help attract housing investment capital to our state and attract further investment in your communities. This is especially important during a period of expected change to our national economy when funding for new construction may not be readily available and the investment community searches for safe investment opportunities. Therefore, by enacting SB 89, you will (i) encourage new housing construction and investment in Kansas' communities, (ii) help assure that Kansas in general will not experience a shortage in housing and (iii) help guarantee affordable housing to all citizens, both wealthy and poor.

Finally, this is an excellent time to enact SB 89 because, during a real housing shortage, local governments will undergo considerable pressure to take some action to respond to a perceived crisis. Such reactive policy pressure often makes it difficult to enact a measured response. I want to emphasize that SB 89 would not prohibit the implementation of rent control laws. Rather it would require that such laws be enacted at the state level, after full consideration by the Kansas Legislature and its committees, in order to allow and require consideration of the statewide implications of proceeding with such a legislative response.

Many other states have already enacted rent control preemption statutes. In fact, 34 states, including Missouri, Colorado, Oklahoma and Iowa to name a few, have enacted rent control preemption laws in recent years and others are considering such laws at this time.

The difficulties caused by rent control have long been well documented and accepted by economists and housing experts across the country. Many nationally respected studies conducted over the past twenty years have established that rent control is an ineffective and usually counter-productive housing policy and that such laws simply do not accomplish their objectives. These studies have documented the fact, and experience continues to demonstrate, that rent control laws usually reduce the supply of housing during a time of shortage, cause the deterioration of existing housing stock, a reduction in property tax revenues and help moderate and upper income households at the expense of the poor and needy. There is considerable anecdotal evidence regarding the abuses and discrimination that result from such laws.

The goals of rent control have often been described as an effort to provide for adequate and decent housing for the residents of a community and to assure that people that survive on low and moderate incomes can continue to afford to live in their homes. We agree that that should be the goal. However, rent control laws have consistently demonstrated that they have just the opposite effect. In a recent survey of the American Economic Association, 98% of the economists polled agreed that “a ceiling on rents reduces the quality and quantity of housing available.” The best way to eliminate a housing shortage and to keep rents under control is to increase the supply of rental housing units not implement rent control.

I have attached a report entitled “The High Cost of Rent Control” which is illustrative of many similar studies describing the economic and social problems that result from such laws. To briefly summarize the findings of this report:

1. Rent control inhibits new construction.
2. Rent control leads to the deterioration and elimination of existing housing stock.
3. Rent control causes a reduction in property tax revenues.
4. The poor suffer the most under rent control and bear the brunt of its ill effects.
5. Rent control often creates homelessness.
6. Substantial administrative costs are incurred in regulating such programs.
7. Rent control laws reduce tenant mobility.

Now is the time to enact a preemption statute. On behalf of the National Multi Housing Council, I strongly encourage you to favorably recommend SB 89.

Jonathan Small
800 SW Jackson Ave. Ste 808
Topeka, KS 66612
(785) 234-3686

Attachment A

The High Cost of Rent Control

That rent control is an ineffective and often counterproductive housing policy is no longer open to serious question. The profound economic and social consequences of government intervention in the nation's housing markets have been documented in study after study, over the past twenty-five years. In response to this hard-earned experience, states and local jurisdictions from Massachusetts to California have banned or greatly constrained rent control. Nevertheless, a number of communities around the country continue to impose rent controls, usually with the stated goal of preserving affordable housing for low- and middle-income families. Rent control does not advance this important goal. To the contrary, in many communities rent control has actually reduced both the quality and quantity of available housing.

Role of Rents in a Market Economy

Too often, those who advocate rent regulation have ignored the basic laws of economics that govern the housing markets — treating privately-owned, operated and developed rental housing as if it was a “public utility.” In so doing, they harm not only housing providers, but also, in the long-run, the consumers they intend to serve.

Rents serve two functions essential to the efficient operation of housing markets:

- they compensate providers of existing housing units and developers of new units for the cost of providing shelter to consumers; and
- they provide the economic incentives needed to attract new investment in rental housing, as well as to maintain existing housing stock. In this respect, housing is no different from other commodities, such as food and clothing — the amount producers supply is directly related to the prevailing market price.

This second function is particularly important in evaluating the economic implications of rent control. In an unregulated market, a housing shortage — the reason usually cited for imposing rent control — will be addressed in a two-step process. In the short-term, rents on the margin will rise as consumers compete for available units. Over time, these higher rents will encourage new investment in rental housing — through new construction, rehabilitation, and conversion of buildings from nonresidential to residential use — until the shortage of housing has been eliminated. *Without the increased rents required to attract new investment, new housing construction would be sharply limited and there would be no long-term solution to the housing shortage.* Conversely, a fall in rents sends the message to the market that there is no room for new investments.

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When a community artificially restrains rents by adopting rent control, it sends the market what may be a false message. It tells builders not to make new investments and it tells current providers to reduce their investments in existing housing. Under such circumstances, *rent control has the perverse consequence of reducing, rather than expanding, the supply of housing in time of shortage.*

Three additional factors must be considered in the economic implications of rent control. First, the longer rent control remains in place, the more substantial the gap between controlled rents and true market rents is likely to be. Second, the costs of rent controls are not confined to the political boundaries of those communities that adopt them, but often impose significant costs throughout regional housing markets. Third, while the distortions induced by rent controls depend on their stringency, any application of rent control leads to inequities and inefficiencies in the housing market.

Harm Caused by Rent Control

Economists are virtually unanimous in their condemnation of rent control. In a survey of economists of the American Economic Association, fully 93 percent agreed that "a ceiling on rents reduces the quality and quantity of housing available."¹ Economists generally point to six principal objections to rent control:

1. Inhibition of New Construction

By forcing rents below the market price, rent control reduces the profitability of rental housing, directing investment capital out of the rental market and into other more profitable markets. Construction declines and existing rental housing is converted to other uses.

Studies have shown, for example, that the total number of rental units in Cambridge and Brookline, Massachusetts, fell by 8 percent and 12 percent respectively in the 1980s, following imposition of stringent rent controls. Rental inventories in most nearby communities rose during that period.² Similarly, in California the total supply of rental units dropped 14 percent in Berkeley and 8 percent in Santa Monica between 1978 and 1990, even though the rental supply

¹R.M. Alston, J.R. Kearl, and M.B. Vaughan, "Is There a Consensus Among Economists in the 1990s?" *American Economic Review*, May 1992, 82, 203-9. The criticism of rent control is so universally shared by economists that rent control often is cited by textbook writers as a paradigm of the harm governmental interference can have on the operation of a competitive market. See, for example, P. Samuelson and W. Nordhaus, *Economics* p. 79 (14th edition, 1992).

²R. Goetze, *Rent Control: Affordable Housing for the Privileged, Not the Poor*. Report prepared for the Small Property Owners Association of Cambridge, 1994.

rose in most nearby cities.³ And in the United Kingdom, which has imposed rent control since the Second World War, the share of all housing provided through privately owned rental units dropped from 53 percent in 1950 to less than 8 percent in 1986, reflecting the flight of investment from the regulated market.⁴

2. Deterioration of Existing Housing

By reducing the return on investments in rental housing, rent control also can lead to a drop in the quality and quantity of existing rental stock. This may take the form of condominium and cooperative conversions or, in some cases, abandonment of unprofitable property. It can also lead to a deterioration of the quality of housing stock as providers faced with declining revenues may be forced to substantially reduce maintenance and repair of existing housing.

A study by the Rand Corporation of Los Angeles' rent control law found that 63 percent of the benefit to consumers of lowered rents was offset by a loss in available housing due to deterioration and other forms of disinvestment.⁵ Studies of rent control in New York and Boston similarly found marked differences between rent-controlled and other units in housing quality and the level of expenditures on maintenance and repair.⁶

3. Reduced Property Tax Revenues

Rent control also reduces the market value of controlled rental property, both in absolute terms and relative to the increase in property values in unregulated markets. The tax implications of this reduction can be significant, as taxable assessed rental property values decline relative to unregulated property. A study of rent control in New York City calculated the loss in taxable assessed property values attributable to rent control at approximately \$4 billion in the late 1980s.⁷ These distorted assessments cost the city an estimated \$370 million annually in property

³St. John and Associates, *Rent Control in Perspective — Impacts on Citizens and Housing in Berkeley and Santa Monica Twelve Years Later*. (Berkeley: Pacific Legal Foundation, 1993).

⁴R.N. Chubb, *Position Paper: United Kingdom*. Report UP/L(87)28 (Paris: Organization for Economic Cooperation and Development, 1987).

⁵C.P. Rydell, et al., *The Impact of Rent Control on the Los Angeles Housing Market*. Report N-1747-LA (Santa Monica: The Rand Corporation, 1981).

⁶U.S. Bureau of the Census, Housing Division, 1987 *New York City Housing and Vacancy Survey, Series IA*; M. Lett, *Rent Control: Concepts, Realities, and Mechanisms* (Center for Urban Policy Research, Rutgers University, 1976).

⁷Peat Marwick, *A Financial Analysis of Rent Regulation in New York City: Costs and Opportunities* (1988).

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tax revenues. The city of Berkeley, California, also estimates a significant loss in its tax revenue because of rent control.⁸

4. Substantial Administrative Costs

The administrative costs of rent control can be substantial, often outweighing any short-term benefits of rent regulation. Rent controls require the creation of elaborate bureaucratic systems. Rental property must be registered; detailed information on the rental property must be collected; and elaborate systems for determining rents and hearing complaints and appeals must be established. The associated costs in dollars and time fall not only on providers, but also on consumers and municipal authorities. For example, in Santa Monica, the Rent Control Board in 1996 had a budget of more than \$4 million a year to control rents on only 28,000 apartments.⁹

5. Reduced Consumer Mobility

The primary beneficiaries of rent control are those consumers lucky enough to find themselves in a rent-controlled unit. But even these consumers pay a price. Consumer "mobility" is substantially reduced by the reluctance of many consumers to part with the rent control subsidy. A recent study in New York City found that rent control tripled the expected duration of residence.¹⁰ Consumers who would otherwise move to smaller or larger homes or closer to their jobs do not do so because they do not want to lose the subsidy. This loss of mobility can be particularly costly to families whose job opportunities are geographically or otherwise limited and who may have to travel long distances to reach those jobs available to them. And for the community at large — including nearby communities that have not themselves imposed rent control — reduced consumer mobility can mean increased traffic congestion and demand for city services, among other costs. Because of these spillover effects, rent control is an issue for state and regional policy as well as for local governance.

6. Consumer Entry Costs

The short-term benefits of rent control also are limited by often significant entry costs that must be paid by those in search of rental housing. In many rent-controlled communities, prospective consumers must pay substantial finder's fees to obtain a rental unit, due to the scarcity of available housing. And in some communities, a "gray-market" in rental housing has

⁸Community Development Department, City of Berkeley, *Rent Control in the City of Berkeley, 1978 to 1994: A Background Report for Updating the City of Berkeley's General Plan Housing Element*. Berkeley, 1994.

⁹Santa Monica Rent Control Board, Administration Memorandum, February 14, 1996.

¹⁰R. Ault et. al., "The Effect of Long-Term Rent Control on Tenant Mobility," *Journal of Urban Economics* 35 (1994): 140-158.

developed in which units are passed among friends or family members, or new consumers may be required to pay "key money" or to make other payments to current consumers or providers to obtain housing. Poor families, single consumers, and young people entering the market are especially hard-hit by these costs.

Social Implications of Rent Control

In addition to the substantial economic costs associated with rent control, the decision whether to regulate rents raises difficult questions of social policy:

1. The Substantial Costs of Rent Control Fall Most Heavily on the Poor

The costs of rent control fall disproportionately on the poor. As described earlier, these costs include (a) an often substantial drop in the quality of existing rental housing, and (b) substantially reduced access to new housing.

Poor families suffer a marked decline in existing housing as the quality of existing housing falls in response to reduced maintenance expenditures. The middle class can move out; for many reasons, poorer families lack this option.

Poor families also are at substantial disadvantages when it comes to finding new housing. In a tight market, there may be more people looking for housing than available rental units, thereby giving housing providers substantial discretion in choosing among competing potential consumers. In an unregulated market, this consumer selection process will be governed by the level of rents. However, by restricting rent levels rent control causes housing providers to turn to other factors, such as income and credit history, to choose among competing consumers. These factors tend to bias the selection process against low-income families, particularly female-headed, single-parent households.

2. Higher Income Households Benefit Most from Rent Controls

Rent control is most often justified as an anti-poverty strategy. Yet, there is strong evidence that higher income households - not the poor - are the principal beneficiaries of most rent control laws. For example, a study of rent control in New York City found that rent-controlled households with incomes greater than \$75,000 received nearly twice the average subsidy of rent-controlled households with incomes below \$10,000.¹¹ Another study concluded that rent control had the greatest effect on rents in Manhattan, the borough with the highest

¹¹Citizens Budget Commission, *Reforming Residential Rent Regulations*, New York City, 1991.

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average income.¹² Similarly, a study of rent control in Berkeley and Santa Monica found that the beneficiaries of controls in those communities are "predominantly white, well-educated, young, professionally employed and affluent," and that rent control had substantially increased the disposable income of these tenants while "exacerbating" the problems of low-income families.¹³ And in Cambridge, Massachusetts, residents of rent-controlled housing had higher incomes and higher status occupations on average than other residents of the city, including homeowners.¹⁴

3. Rent Control Promotes Housing Discrimination

By eliminating rents as the basis of choosing among a pool of potential consumers, rent control opens the door to discrimination based on other factors. As noted earlier, rent control forces housing providers to look to income and credit history in choosing among competing consumers, factors which sharply bias the selection process against poor and young consumers. In some cases, consumer selection decisions also may be based on a potential consumer's race, sex, family size or other improper or unlawful factors. This may occur notwithstanding the rigorous enforcement of Fair Housing laws.

The reduction in housing caused by rent control also can slow the process of racial and economic integration of many communities, by limiting the opportunities of certain classes of consumers to reside in rent-controlled communities. In fact, in many middle class communities rent control has raised a relatively impenetrable barrier to economic and racial integration.

4. Rent Controls Unfairly Tax Rental Housing Providers and Other Real Estate Providers

Rent controls are designed to supplement consumer income at the expense of rental property providers — by holding below market levels the permissible rate of return on rental property investment. There is substantial evidence that such transfers are highly inefficient. For example, one study concluded that housing consumers gained in benefits only 52 percent of what housing providers lost.¹⁵ This is due, in part, to the tendency of consumers in rent-controlled units to "hoard" housing and to be over-housed, a tendency that further exacerbates the underlying housing shortage.

¹²H. Pollakowski, *An Examination of Subsidies Generated by Rent Stabilization in New York City* (Cambridge: Joint Center for Housing Studies of Harvard University, 1989).

¹³R. Devine, *Who Benefits from Rent Controls?* (Oakland: Center for Community Change, 1986).

¹⁴Goetze, *Rent Control*.

¹⁵E. Olsen, "An Econometric Model of Rent Control," *Journal of Political Economy* (Nov.-Dec. 1972):1081-1100.

But more importantly, such income transfers pose fundamental questions of fairness. Why should the uniquely public burden of providing subsidized housing to the poor and middle class be borne solely by providers of rental housing? Given both the inefficiency and unfairness of the rent control "tax," we should rely on broader, more equitable means of subsidizing poor families.

The fairness issue, as well as many of the other arguments against rent control, apply to commercial real estate as well. Controls on rents of retail, office, or industrial space deter construction, diminish the quality of existing structures, and unfairly transfer income from the property owner to the business occupying the rental space.

5. Effective Alternatives to Rent Control Exist

The answer to the problem of scarce housing and rising rents is increased housing supply — not rent control-induced disinvestment. One way of stimulating the supply of affordable housing is through direct financial assistance to needy renters, whose increased purchasing power will lead to expansion of the quantity and quality of housing in the local market. This "demand-side" strategy is already in place through proven Federal and state programs. In addition, targeted programs to subsidize the construction or rehabilitation of affordable housing can be an effective complement to direct renter assistance. More generally, removal of inappropriate regulatory barriers to housing construction promotes housing affordability for both renters and home owners.

Conclusion

Economists have long considered rent control a failed housing policy. As Dr. Anthony Downs, a leading economist and nationally-recognized expert on housing policy, concluded in a recent report on rent controls, other than during wartime, the economic and social costs of rent control "almost always outweigh any perceived short-term benefits they provide."¹⁶ He also found that rent controls are both "unfair to owners of rental units and damaging to some of the very low income renters they are supposed to protect." Given this fact, reliance on rent-control as a solution to the problem of housing affordability cannot be justified.

¹⁶A. Downs, *A Reevaluation of Residential Rent Controls* (Urban Land Institute, 1996).

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Signatories

American Seniors Housing Association
California Apartment Association
California Housing Council
Community Housing Improvement Program
Institute of Real Estate Management
Manufactured Housing Institute
National Apartment Association
National Association of Home Builders
National Association of Realtors
National Multi Housing Council
Real Estate Board of New York
Rent Stabilization Association of New York City
Rental Housing Association, Greater Boston Real Estate Board

Attachment B

Rent Control Status by State

States with Rent Control	States that Preempt Rent Control	States with No Rent Control/No Preemption
California District of Columbia Maryland ¹ New Jersey New York	Alabama Arizona Arkansas ✓ Colorado Connecticut Florida Georgia Idaho Illinois Indiana ✓ Iowa Kentucky Louisiana Massachusetts Michigan Minnesota Mississippi ✓ Missouri New Hampshire New Mexico North Carolina North Dakota ✓ Oklahoma Oregon South Carolina South Dakota Tennessee Texas Utah Vermont Virginia Washington Wisconsin Wyoming	Alaska Delaware Hawaii ✓ Kansas Maine Montana ✓ Nebraska Nevada Ohio Pennsylvania Rhode Island West Virginia

¹ Only in one town (Takoma Park)



Samuel V. Alpert
Executive Director

February 6, 2001

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Director

Nancy Smith
Apartment Credit Services
(Vendor Advisory Member)
Director

Re: Testimony in support of SB 89.....Elections and Local Government

Madam Chair and members of the committee:

My name is Sam Alpert and I am speaking on behalf of the Heartland Apartment Association, which directly represents public policy interests of providers of well over 20,000 apartment units throughout Kansas. I am here today as a conferee in support of SB 89.

Those of us concerned with housing policy spend a great deal of time and energy trying to determine how best to provide “affordable” housing opportunities to the public. Policy makers have come to realize that a diverse, high quality housing inventory constitutes one of the basic amenities required to attract new business and the related employment potential that our communities compete for on a daily basis.

Within this context, I submit to you that “affordability” is relative to all income levels, available housing stock, and the overall development climate. This is to say that without a competitive development environment, it is extremely difficult to maintain an inventory of high quality housing necessary to attract the kind of economic activity that several of the state’s local communities are currently seeking.

As you know, there are numerous economic development incentives and subsidies designed to promote the production of housing, particularly within second and third tier markets where no new housing would be generated **but for** these incentives. I believe it is fair to say that if rent controls were to be enacted within these markets, community reinvestment would be sharply curtailed, if not precluded entirely.

In addition to discouraging redevelopment and attraction of investment capital, the imposition of rent controls would eventually adversely impact local and state tax rolls, as taxable assessed values decline relative to unregulated properties. To the extent that rent controls are able to gain wide spread acceptance, the state of Kansas’s taxing jurisdictions stand to lose tens of millions of dollars in property tax revenues. The tax base implications of rent controls have been well-documented in places such as New York City and Berkeley, California.

Last, but not least, there seems to be a perception among the public that if

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Attachment 2

an apartment rents for \$500.00 per month, the landlord doles out \$100.00 worth of service to the tenant and puts \$400.00 in his pocket. With very few exceptions, this couldn't be farther from the truth. As is the case with most hard assets, an apartment unit and its various components (i.e. carpet, appliances, bathroom fixtures, roof, parking lot, etc.) have finite useful lives, after which a significant capital infusion is required to begin a new life cycle. Even with a best practices preventive maintenance program in place, one can anticipate that within any given 15 year period a number of major capital outlays will be required in excess of routine day to day operations expenditures. Rent controls preclude any opportunity for an owner to project asset management planning, which if implemented, would fund capital reserves to meet these requirements over time. The ultimate result is an owner's inability to keep pace with a property in general decline due to deferred maintenance and much needed capital replacement, which over time translates to sub-standard housing conditions and property devaluation on the tax rolls.

In summary, while we remain generally optimistic about the immediate future for the economy, a significant downturn could set the stage for the adoption of rent controls in a number of Kansas communities. Once enacted anywhere in the state, creating a precedent, we have started down an extremely slippery slope. With the adoption of SB 89, Kansas would join 34 other progressive states in pre-empting the enactment of rent controls at the local level without regard to the state's economic stability and long term health.

We strongly urge your support in this regard and we thank you for your consideration.

HEARTLAND APARTMENT ASSOCIATION


Samuel V. Alpert
Executive Director

Ronald C. Nolan
Nolan Real Estate Services, Inc.
KC Venture Group, L.L.C.
10551 Barkley, Suite #400
Overland Park, Kansas 66212

Biography

Ron Nolan has been a fixture in the Kansas City Real Estate industry for over twenty-five years. During this time, Nolan earned a reputation of consistency, honesty and integrity. His brokerage firm, Nolan Associates was very active throughout the seventies housing dozens of agents. In the early eighties, Nolan formed a number of syndications featuring multifamily residential housing, all of which are still in existence today. Unsatisfied with the quality of property management at the time, Nolan began managing his syndications. Within months he was obtaining third-party contracts.

By the mid-eighties, Nolan added hospitality management to his array of services. It was at this time that Nolan began his association with many local and regional financial institutions in an advisory role. Banks and Savings and Loan Associations sought the counsel and management expertise of Nolan for their REO and troubled credits. These associations naturally evolved to contracting with the Resolution Trust Corporation (RTC). Nolan was responsible for engineering the disposition of over three hundred real estate assets representing a book value of over \$300,000,000 during its four-year tenure with these RTC asset management contracts. Nolan's proficiency in asset management was acknowledged by the RTC with one of its few awards for outstanding performance.

Following the successful relationship with the RTC, Nolan, recognizing an opportunity, shifted the emphasis away from third party fee management to acquisitions combined with management. It was at this time that he developed the team and concept in place today. The core business of the firm is a focus on value-added acquisitions through its investment affiliate, KC Venture Group, L.L.C. Assets consist primarily of multi-family residential properties. By leveraging rent increases caused by enhanced product and service levels the group is able to spend considerable funds renovating and upgrading properties.

Project Example 1

Oxford Commons Apartments
8400 West 108th Terrace
Overland Park, Kansas

The Oxford Commons Apartments located at 8400 West 108th Terrace in Overland Park, Kansas represents a typical acquisition for KC Venture Group (KCVG). The 232-unit property is located in Johnson County adjacent to Corporate Woods, the premier suburban office park in the Kansas City Metro area. An owner-operator was managing the property and rents were below market. The unit interiors were dated and the physical

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Attachment 3

plant showed many signs of deferred maintenance. Landscaping was sparse, overgrown and unkempt. Tenant profile was very weak and a majority of the residents were on a month-to-month basis.

Oxford Commons Apartments was purchased for \$6,100,000 (\$26,293/Unit) on March 31, 1994. Renovation efforts commenced immediately. Interiors were redone with new floor and window coverings, new appliances and paint. Common hallways were painted, recarpeted and new light fixtures were installed. A new color scheme was introduced on the exterior. Landscaping was enhanced. In the process, almost the entire tenancy was turned and the tenant profile was upgraded.

This is fairly typical of the type of project KCVG and Nolan Real Estate Services, Inc. tackle. It features substantial additional capital investment in a property that has been poorly owned, under capitalized and has substantial deferred maintenance. These efforts have paid social dividends as well.

Project Example 2

The Boulevard Apartments (Formerly Roe Village)
5405 Skyline Drive
Roeland Park, Kansas

The Roe Village Apartments consist of a total of 410 one bedroom one bath, two bedroom one bath, two bedroom town-homes and three bedroom one bath apartments in 31 two story buildings on approximately 30.66 acres in Johnson County, Kansas within the City limits of Roeland Park, Kansas.

Roe Associates L.L.C. purchased the Roe Village Apartment Complex in the City of Roeland Park, Kansas on August 15, 1997. The purchase price of the property was \$9,000,000. Since the purchase, the developer improved the property through an extensive renovation at a final cost \$6,900,000. The property has been renamed the Boulevard Apartments.

The Development and Retention Council of Northeast Johnson County awarded their Redevelopment award to KCVG for its renovation of the Boulevard Apartments in Roeland Park, Kansas. This renovation expended over \$15,000 per unit in renovation alone to transform a dilapidated, crime riddled housing project into the cornerstone of redevelopment efforts for this small Kansas municipality.

Further away the City Council of Tempe, Arizona presented KCVG and Nolan Real Estate Services, Inc. with an unsolicited award of appreciation for its renovation of the Las Casitas Apartments in Tempe. This project removed a criminal element while virtually single-handedly transforming the neighborhood.

Conclusion

The ability to raise rent is the most critical factor in redevelopment of apartment communities like the ones noted here. If the rent could not be increased on these projects they would not have been completed. The housing would have fallen into further disrepair and the tenant profile continued to diminish. Clearly, increased rent rates are the fuel that runs the engine of redevelopment and allows the housing stock of Kansas to continue it's improvement life cycle.

The Peterson Companies
10000 West 75th Street
Shawnee Mission
Kansas 66204
913/384-3800

TESTIMONY BY

Peterson

Clark Lindstrom, CPM [Certified Property Manager]
Regional Property Manager, The Peterson Companies
Legislative Chairperson for the Wichita Chapter of the National Association of Realtors
Institute of Real Estate Management and the Apartment Association of Greater Wichita

BEFORE THE KANSAS SENATE ELECTIONS/LOCAL GOVERNMENT COMMITTEE

February 6, 2001

Senate Chairperson Allen and Members of the Senate Elections/Local Government Committee, my name is Clark Lindstrom. I live at 138 N. Prescott Court, Wichita, Kansas. I am here today to speak in favor and support of Senate Bill No. 89.

I am here representing The Peterson Companies, a Kansas Company, based in Shawnee Mission, Ks., which owns, developed, and manages 3,533 apartment homes, located throughout the State, in the Kansas City, Kansas metro area, Wichita, Topeka, Lawrence, and Emporia. I am also here representing the Apartment Association of Greater Wichita; whose members manage at least one third of the over 35,000 rental units in the City, as well as the Certified Property Manager members of the National Association of Realtors Institute of Real Estate Management, Wichita Chapter #65.

This simple, *but important* piece of legislation prevents government control of rents. We, as professional property owners and managers, believe that a property owner has the right to strive for rents that will encourage investment in existing properties and new construction. We support the availability of affordable housing for all Kansas citizens. We believe that multifamily properties should be allowed to produce sufficient income to accommodate the service needs of residents. We also defend the right of Kansans to own property free of unreasonable controls.

Rent Control preemption favors the economic well being of Kansas. The experience within the real estate management profession in States and Municipalities that have mistakenly established rent controls is that the impact of rent control changes the community's real estate investment attitude from growth to an attitude of no growth or development and economic malaise. In recent years, The Peterson Companies have invested 3.5 million dollars into the rehab of two apartment communities in Wichita and purchased 5 more apartment communities. Without a doubt, had rent controls been established, that investment of time and money would not have occurred. We are presently developing plans for a 2 million dollar renovation of Cedar Ridge Apartments, a 312 unit apartment community located in the southwest corner of Topeka, sometime in the near future. Again, these plans and improvements can only be considered if there are reasonable projections to increase income, thereby increasing value and helping to secure financing for this venture.

Rent controls create problems more serious than those they are intended to solve. Rent control threatens the traditional rights of citizens and significantly effects the housing inventory by hastening the deterioration or loss of existing rental housing. Rent controls, in effect, lower the value of multi-family property, which lowers the community's tax base, causes a disproportionate shift of the tax burden to other real estate; especially single family homes, and potentially could limit municipal services. The expense of complying with rent control laws and regulations inevitably increases the cost of housing to the renter. The expense of enforcing rent control adds to the cost of local government.

I, and the real estate professionals I represent, urge you to consider and vote favorably for the passage of Senate Bill 89. Thank you for the opportunity to express our views and position on this legislation. I am available for questions now or I can be contacted at: (316) 682-4903 during the day.



TO: SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE
FROM: BILL YANEK, KAR PUBLIC POLICY COORDINATOR
DATE: FEBRUARY 6, 2000
SUBJECT: SB 89 RENT CONTROL

Thank you for the opportunity to present testimony regarding SB 89. The Kansas Association of REALTORS® supports the concepts in this proposal. We believe that local governments should not be allowed to use price controls on rental housing.

A vivid example of the negative impacts of rent control policies can be seen in New York where the unavailability of affordable housing continues to be a problem even though New York has had forms of rent control since World War II. Additionally, in New York and across the country, rent control policies that take away the incentives to improve and maintain properties have created the blighted neighborhoods that rent controls claim to prevent.

By the late 1990's, the Mayor of New York City, the Governor of New York, and even the New York Times were advocating the opposition to rent control policies. In 1997, New York passed a rent control reform act that will eventually end rent control in New York State.

While proponents of rent control statutes claim that such statutes protect consumers from extreme rent fluctuations in tight housing markets, rent control as a policy initiative is a costly, inefficient, and ultimately ineffective method to protect consumers. Once rent control statutes are in place, landlords gain control of the housing allocation process. When landlords control the housing allocation process, tenants are negatively impacted. Free market forces allow tenants to select housing using their own cost benefit criteria. However, under rent control statutes, landlords control the tenant selection process and will have a tendency to select those tenants with very low risk. This ultimately favors friends and connections and will constrain the supply of available housing to the ordinary tenant.

Economically, rent control laws will ultimately depress future total return on current property investment and reduce future investment in housing. Rent control will ultimately increase the landlord's cost of doing business and decrease the amount of investment in housing units.

Rent control statutes affect the location of new construction by forcing providers of housing services to consider whether to provide their services in locations with regulation that threatens profitability.

We respectfully request your favorable consideration of this legislation.

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214 SW 6th St., Suite 206
Topeka, KS 66603-3719
785-357-5256
785-357-5257 fax
kmha@cjnetworks.com

TESTIMONY

Before

THE SENATE

ELECTION AND LOCAL GOVERNMENT COMMITTEE

TO: Senator Barbara Allen, Chairwoman
And Members of the Committee

FROM: Martha Neu Smith
Executive Director

DATE: February 6, 2001

RE: Senate Bill 89

Madam Chairwoman and members of the Committee, my name is Martha Neu Smith and I am the Executive Director of Kansas Manufactured Housing Association (KMHA) and I appreciate the opportunity to comment. KMHA is a statewide trade association representing all facets of the manufactured housing industry (i.e. manufacturers, retailers, community owners, suppliers, finance and insurance companies and transporters).

I am here today to voice KMHA's support of SB 89. Currently over 30 states have realized the negative impact that rent control can have on their housing needs and have passed laws similar to SB 89.

The vast majority of States have accurately and wisely concluded that rent control creates an overwhelming negative consequence for their local governments and communities. Basically, this negative impact can be divided into three general categories: economic costs, legal costs, and cost to the community.

Most economists agree that rent control is a form of price fixing that increases housing shortages and drastically diminishes the quality of rental housing. To demonstrate the impact of rent control we can look at California's housing supply statistics. Prior to rent control, from 1970 to 1975 the number of manufactured home spaces increased 32.6%. From 1975 to 1980 when rent control began the

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2-6-01
Attachment 6

increase dropped to 8.37%; and from 1980 to 1985 when rent control became entrenched, California only saw a 0.6% increase.

It has also been noted that rent control reduces the quality of rental housing. In rent control communities, owners of rent-controlled housing are often financially prevented from increasing the quality of the housing they provide because it would increase costs but not revenues. As years go by and fixed costs continue to rise, but rents stagnate, owners seek to reduce expenses, which often leads to a decline in the quality of living conditions within the rental community.

The legal costs of rent control are also very important to consider. Rent control has a long and somewhat up and down history in the courts, but no matter what the outcome of any particular case, local governments in today's tight financial times would have to bear the additional high costs of rent control litigation.

Citizens living in communities where rent control has been enacted are also negatively impacted even if they are not living in rent-controlled housing. Experience has shown that the community will experience: *housing shortages* due to keeping prices artificially low; *disinvestments*, real estate investors and developers shy away from communities that have enacted rent control; *deterioration*- properties deteriorate when owners are prevented from recapturing improvement costs and *increased taxes or reduced city services*. When the local government authorizes rent control, it is authorizing an expensive subsidy program. This subsidy carries a significant cost in the form of the annual administrative cost for the local government. This can range from a few thousand dollars for smaller communities to thousands of dollars for larger communities. Not to mention if local assessors are accurately appraising units where rent is capped at a level that is below market rent, these lower assessments will cause a decline in total assessed property value.

In summary, rent control changes the basic structure of the housing market in the sense that it shifts the responsibility of providing affordable housing to one segment of society – landlords. Rent control is a detriment in promoting quality housing alternatives. To provide decent affordable housing, we need an environment that encourages new capital in the market; rent control merely chases it away.

I would encourage you to support SB 89, and thank you for the opportunity to comment.



League of Kansas Municipalities

TO: Senate Elections and Local Government Committee
FROM: Sandra Jacquot, Director of Law/Legal Counsel
DATE: February 6, 2001
RE: Opposition to SB 89

First, I want to thank the Committee for allowing the League of Kansas Municipalities to testify in opposition to SB 89. This bill would totally usurp the ability of cities and other local units of government to legislate in the area of residential and commercial housing rent control. While I do not know of any cities in Kansas regulating in this area, municipalities should have the ability to adopt ordinances to meet the needs of the local community.

This proposed legislation is a classic example of a one size fits all approach to government. What may be appropriate for one city might not be appropriate for another. It is conceivable that conditions in the housing industry in one community might be an argument for the imposition of rent control. A blanket prohibition is ill advised and presumes that local government officials should not be making decisions that affect their own community. It further presumes that any imposition of rent control, no matter what circumstances exist, is bad. This is simply not good public policy or good government. If rent control ever becomes an issue in Kansas, the League would be willing to sit down and discuss the issue. Until then, this bill is merely a solution looking for a problem. We would strongly urge the Committee to reject SB 89.

Once again, I would like to thank the Committee for the opportunity to appear and testify in opposition to SB 89.

SENATE BILL No. 107

By Committee on Elections and Local Government

1-24

9 AN ACT concerning elections; relating to petitions; amending K.S.A. 25-
10 3601 and 25-3602 and repealing the existing sections.

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 25-3601 is hereby amended to read as follows: 25-
13 3601. ~~When under the laws of this state (a) Subject to the provisions of~~
14 ~~subsection (d), if a petition is required or authorized as a part of the~~
15 ~~procedure applicable to the state as a whole or any legislative election~~
16 ~~district or to any county, city, school district or other municipality, or part~~
17 ~~thereof, the provisions of this act K.S.A. 25-3601, et seq., and amendments~~
18 ~~thereto, shall apply, except as is otherwise specifically provided in the~~
19 ~~statute providing for such petition.~~ The sufficiency of each signature and
20 the number thereof on any such petition shall be determined in accord-
21 ance with the provisions of K.S.A. 25-3601 to 25-3607, inclusive, and
22 amendments thereto by the county election officer or such other official
23 as designated in the applicable statute. ~~Before any petition other than a~~
24 ~~recall petition as described in K.S.A. 25-4301 et seq. and amendments~~
25 ~~thereto, requesting an election in any political or taxing subdivision of the~~
26 ~~state is circulated, a copy thereof containing the question to be submitted~~
27 ~~shall be filed in the office of the county attorney of the county or district~~
28 ~~attorney of the district in which all or the greater portion of the political~~
29 ~~or taxing subdivision is located for an opinion as to the legality of the form~~
30 ~~of such question. The county or district attorney shall within five calendar~~
31 ~~days following the receipt of such question furnish a written opinion as~~
32 ~~to the legality of the form of the question submitted. There shall be a~~
33 ~~rebuttable presumption that the form of any question approved by the~~
34 ~~county or district attorney complies with the requirements of this act.~~

35
36 (b) Any person challenging the validity of the form of a question shall
37 have the burden of ~~providing~~ that the form of the question is invalid.

38 (c) The form of any question in a petition requesting an election on
39 or protesting an ordinance, or resolution adopted by the governing body
40 of any county, city, school district or other municipality shall be presumed
41 to be valid and in compliance with the requirements of K.S.A. 25-3601,
42 et seq., and amendments thereto, if such petition states the title, number
43 and exact language of the ordinance or resolution and the title of such

proving in the district court

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1 petition states:

2 "Shall the following ordinance or resolution become effective?"

3 (d) When any statute makes specific provisions concerning matters
4 that other statute imposes specific requirements which are different from
5 the requirements imposed by K.S.A. 25-3601 et seq. and amendments
6 thereto also has requirements which are different therefrom, the provi-
7 sions of the specific statute shall control. The county election officer or
8 other official with whom the petition is required to be filed in accordance
9 with the applicable statute shall give to persons requesting information
10 regarding the filing of petitions a copy of K.S.A. 25-620 and article 36 of
11 chapter 25 of the Kansas Statutes Annotated, and amendments thereto.

12 Sec. 2. K.S.A. 25-3602 is hereby amended to read as follows: 25-
13 3602. (a) Each petition shall consist of one or more documents pertaining
14 to a single issue or proposition under one distinctive title. The documents
15 shall be filed with the county election officer or other official, if another
16 official is designated in the applicable statutes. The filing shall be made
17 at one time all in one group. Later or successive filings of documents
18 relating to the same issue or proposition shall be deemed to be separate
19 petitions and not a part of any earlier or later filing.

20 (b) ~~Each petition shall~~, Unless otherwise specifically required, each
21 petition shall: (1) State the question which petitioners seek to bring to an
22 election in the form of a question as it should appear upon the ballot in
23 accordance with the requirements of K.S.A. 25-620 and K.S.A. 25-3601,
24 and amendments thereto;

25 (2) name the taxing subdivision or other political subdivision in which
26 an election is sought to be held;

27 (3) contain the following recital above the spaces provided for sig-
28 natures: "I have personally signed this petition. I am a registered elector
29 of the state of Kansas and of

30 _____
31 (here insert name of political or taxing subdivision)
32 and my residence address is correctly written after my name."

33 The recital shall be followed by blank spaces for the signature, resi-
34 dence address and date of signing for each person signing the petition.

35 When petitioners are required by law to possess qualifications in ad-
36 dition to being registered electors, the form of the petition shall be
37 amended to contain a recital specifying the additional qualifications re-
38 quired and stating that the petitioners possess the qualifications; and

39 (4) contain the following recital, at the end of each set of documents
40 arried by each circulator: "I am the circulator of this petition. I have
41 personally witnessed the signing of the petition by each person whose
42 name appears thereon. I am a resident and a registered elector of the
43 state of Kansas and of

(e) Any action challenging the validity of the form
of a question in a petition shall be filed within 20
days after such petition has been filed.

IN district Ct.