



## Rent control forum renews movement, but economists urge caution



Mayor Robert Jackson talks with William Scott co-chair of the Montclair Housing Committee at a forum on rent stabilization held last Thursday, April 11.

KELLY NICHOLAIDES/ FOR MONTCLAIR LOCAL

## **BY KELLY NICHOLAIDES**

*for Montclair Local*

Testimonials about soaring rents, tenants' rights questions, the effects of gentrification and a renewed push for rent control in Montclair dominated discussion at a Universal Rent Control Forum on April 11. More than 150 residents packed the event at Charles H. Bullock School, which was hosted by the Montclair NAACP, the Montclair Housing Commission and the Fourth Ward Collaborative. The residents expressed fears about rapid high-end housing development construction driving up market rate rent in Montclair's older housing stock. Of the township's 39,000 residents, 42 percent are renters. Many are organizing to convince the town to enact rent control — a move that failed to gather enough support through three rent stabilization initiatives spanning 30 years.

A Montclair resident told the crowd his new lease includes a rent increase from \$1,475 to \$3,600, and overall his rent has increased 52 percent in just six years. Mitch Kahn of the New Jersey Tenants Organization advised the tenant that he could offer to negotiate a reasonable increase through the local Landlord/Tenant Committee or go to court, where a judge could deem any increase of 10 percent or more as "unconscionable."

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## **NEGATIVE GENTRIFICATION**

"The increasing outcry from residents is pointing to a factor of rent increasing faster than their paychecks. New landlords are purchasing buildings and raising the rent with no regard for residents who are in the same apartments for years and who get unconscionable amounts in rent increases. Some residents say they are being forced out due to what they feel is negative gentrification," said Councilwoman Renee Baskerville, the forum moderator.

If rent stabilization is enacted in Montclair, it must be part of a collaborative discussion with property owners, Baskerville noted. More than 100 New Jersey municipalities have some form of rent control/stabilization. It varies widely in detail and mostly applies to housing built before 1974.

Montclair has some of the oldest overall housing stock in the United States. The web site NeighborhoodScout.com notes that 59.8 percent of Montclair housing was built in or before 1939; 24.7 percent from 1940 to 1969; 11.9 percent from 1970-1999; and 3.6 percent since 2000. The highest appreciating Montclair neighborhoods since 2000 are Claremont Avenue and Forest Street, Pine Street and Highland Avenue; Elm Street and Orange Road; Orange and Brooklawn roads, Maple and Bloomfield avenues, Montclair Heights, Valley Road and Copper Avenue; and Upper Montclair overall.

Over the past two decades, Montclair has welcomed developers who build luxury units and incorporate up to

20 percent, but mostly 10 percent, set aside for affordable housing. Tenants receive federal subsidies for these units and must meet income guidelines. Those units would be exempt from municipal rent control law.

In 1979, a rent control plan was voted down by Montclair residents, 62 percent to 38. A housing survey conducted about 30 years ago after the Bay Street Station was built in 1981 and the area was becoming gentrified suggested that rent stabilization be investigated. A special referendum failed again in 1986. In 2004, a recommendation was pulled from the 2004 Montclair Affordable Housing Strategy Plan. The panel of speakers provided historical insight and feedback.

“In the 1980s, landlords got together to talk about rent control and why it’s not good for Montclair, so it was voted down. Now we’re in the same place and the rents are high,” said Montclair realtor Kathryn Allen-Curry. “Rent stabilization is when a unit becomes vacant and the property owner can increase rent to the current market rate. Sometimes it’s good to increase rent so the property value doesn’t go down. However, you get one chance to increase it every year.. You can keep any future increase to one to three percent a year.”

Montclair Housing Commission co-chair William Scott said more tenants are finding it difficult to find modest rents in Montclair, and the ones that do have modest rents are seeing them rise and therefore are leaving.

“We need both sides of the equation: The 20 percent set aside and regulation on rent increases,” Scott said. “A tenant coalition should bring the issue to the current administration and to individuals running for election if we make rent stabilization as the number one issue facing Montclair.”

Property owners can calculate rent increases using a formula like inflation, the Consumer Price Index, and economic hardships, and improvements.

“A legal mechanism can control escalation of rent so the landlord can’t get whatever they want. In Montclair, 7 percent [increase] may be considered unconscionable. Generally, unconscionable is around 10 percent. We need rent control to stop the rapid escalation of rent,” Kahn said.

Attorney Baye Adofo-Wilson, who builds housing in African American communities, said a lot of towns have scoffed at mixed-income housing. “They’re less diverse over time. There’s an impact from gentrification in Montclair, which has a rich African American history and culture,” Adofo-Wilson said.

The effects are felt harder in the Fourth Ward and its African American community.

New York City rent control activist Peter Harrison said New York City is on its third fight over rent control. “Soaring rent is a national crisis. The rent burden and displacement gentrification put rent control at a national level. New York City is well known rent control, but only half the units are under rent control or rent stabilization. Tenants aren’t organized too well. We’re sort of on offense now though with nine bills in Albany for rent control laws. What’s happening in Montclair is the same across the country,” Harrison said.

[READ: Renters fight back on large rent increases](#)

[READ: Survey asks if rent control should be implemented in Montclair](#)

He noted that it's rare in New York City to see less than a 10 percent metric on the Rent Guidelines Board. "It's still a fight every year. Inclusionary housing and rent control will not solve the [housing] crisis in Montclair, but they will protect tenants before they end up on a waiting list for affordable housing. Rent control will slow down the rapid escalation of rent in Montclair," Harrison said.

Montclair resident and urban planner Peg Seip noted that residents who pay more than 30 percent of their income on housing are "housing cost burdened" or living in "sheltered poverty." She noted that she serves dinner to many of these residents at houses of worship every week.

"We have eight percent, or around 3,000 Montclair residents who live below the poverty level; 8,000 are at great risk of displacement and 'sheltered poverty'," Seip said. "They are desperate and in unhealthy situations. They include families, students, and recent graduates. These are the actual faces of housing poverty."

The fair-market rent for a two-bedroom in Essex County is \$1,465, according to the Department of Housing and Urban Development. The household would need a combined income of \$58,000 in order to make the housing affordable. In Montclair, 39 percent or more of renters pay 30 percent or more of their income toward rent, according to the Census. In addition, more than 3,000 applicants are on a waiting list for affordable housing in Montclair, which has 793 affordable housing units, according to Deirdre Malloy, co-chair of the Housing Commission.

However, only 129 are under the town's Housing Trust Fund, which entitles Montclair residents and workers to have first preference, though prospective tenants must still apply and go through the administrative qualifying process. Interested individuals and families may do so via the township website, or through the state affordable housing administrator's website, [www.affordablehomesnewjersey.com](http://www.affordablehomesnewjersey.com).

The more than 650 remaining units are open to all, since they were built through public money under the state's affordable housing program. More affordable housing is set to be constructed by developers at Seymour Street and Lackawanna Plaza as part of large, privately funded redevelopment plans. Those units will include affordable housing set-asides for Montclair residents to receive first preference.

After the meeting, Mayor Robert Jackson said Montclair is one of the most economically and racially diverse towns in Essex County, and this year's municipal budget comes with no property tax increase. He noted that his view on rent control is evolving.

"In the past, I've expressed some reservations on rent control. Some people view it as a panacea. The council needs a mechanism to deal with increasing rents. We keep hearing these horror stories, so we have to act," said Jackson who recently attended a Landlord/ Tenant Committee hearing where 35 long-term tenants from Montclair Gardens were protesting the new landlord's increases ranging from 10 to 18 percent with tacked-on pet and parking fees.

Where the Landlord/Tenant Housing Committee used to hear one or two tenant complaints filed a month, they are now hearing up to six, said Scott.

## PROPERTY TAX CONTROL

Critics say rent control would only be viable with property tax control. They maintain that rent control discourages property owners from making improvements, leads to blighted neighborhoods, property sales and conversions of rentals into owner-occupied coops or condo units.

“Controls provide strong incentives to convert rental units to other uses. These market responses shift the incidents of rent control’s costs forward to tenants, over time. It is theoretically possible to design a rent control regime which does not discourage maintenance and starts with a pricing scheme which rewards maintenance and new construction,,” writes Stephan Malpezzi in the 2017 blog post “Taking the long view on New Jersey’s housing affordability”of the for the Rutgers Business School Center for Real Estate. “It is theoretically possible to design a rent control regime which does not discourage maintenance and starts with a pricing scheme which rewards maintenance and new construction.”

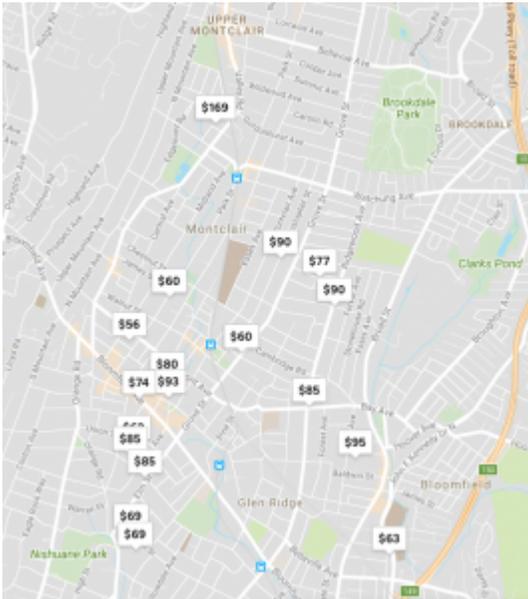
Dr. Edmond Berisha, Assistant Professor of Economics at Montclair State University, said the free market does a good job determining housing prices. “Rent increases mean demand for housing is high, driving up the price. One way to lower rent is to increase the supply of housing and create incentives to build. Rent control directly interferes with the market, bringing the price below market and that’s where the problem arises. Landlords lose rent revenue so there’s no incentive for investment in units, which depreciate. That creates a negative spillover in the entire neighborhood,” Berisha said.

The negative spillover also decreases mobility, he noted.

“There’s less incentive to leave and it creates less opportunity for new residents to come in. “If you go up two miles from a market rate unit and impose rent control, property values can go down on the market rate units. Property owners can justify rent increases with investments, repairs, inflation and CPI.”

Watch the forum below.

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## Short-term rentals now taxed as hotels



An Airbnb map showing residents that rent out rooms in their Montclair homes.  
 COURTESY AIRBNB

**By Jaimie Julia Winters**

[winters@montclairlocal.news](mailto:winters@montclairlocal.news)

Over 300 Montclairites open their homes to short-term renters through sites such as Airbnb, FlipKey or hometogo. While about a dozen towns throughout New Jersey have regulated or altogether banned short-term rentals under local boarding house laws, Montclair does not regulate them, said Deputy Mayor Sean Spiller.

“They would be considered a commercial use and meet the state definition of hotel. As such, I do not believe they would not be permitted in residential zones,” said Spiller.

But a visit to Airbnb.com and hometogo.com show hundreds of homes in residential areas of Montclair that are available for overnight guests. Renters pay on average \$76 a night to rent a room in Montclair through Airbnb. Entire homes with a pool go as high as \$2,256 a night.

Towns that ban the rentals, such as Fort Lee and Closter, cited noise and parking issues with residents renting to overnight stays. No notable noise incidents pertaining to short-term rentals in Montclair have been reported, said Lt. David O’Dowd of the Montclair Police Department .

In June, Westfield passed an ordinance regulating short-term rentals there. Residents are limited to renting no more than 60 days per a year, two bedrooms and four guests, if not renting the entire house. There must be an in-town property manager available at all times and information must be posted in the rental unit such as

phone numbers for police, fire and code enforcement officer; the name and number of the property manager; location and number of available parking spaces available; and trash and recycling pick-up days. And finally, no commercial or social events will be conducted by the renter. "Short-term rental use shall be conducted in a manner that does not materially disrupt or adversely affect the town," the ordinance reads.

Rutherford considered banning the rentals last year, then tabled regulating the short-term rentals after residents said they counted on the income to stay in their homes and spoke against such an ordinance.

According to Airbnb New Jersey has about 8,100 hosts with each host averaging \$7,300 a year for renting out a spare room. Hosts can make as much as \$2,584 in Montclair. Airbnb covers insurance for hosts in the case of property damage or if a guest gets hurt. It takes out three percent as a service fee.

A law signed by Gov. Phil Murphy in June will now put short-term rentals at the same level of hotels and motels when it comes to taxes. Beginning in October, short-term renters will have a 6.625 percent sales tax and 5 percent hotel tax tacked onto their bill.

Currently, the state imposes the sales and use tax and the hotel and motel occupancy fee on hotel and motel rooms. The current law also authorizes municipalities to impose various taxes and fees, on the rent for each occupancy of a room or rooms in a hotel in those municipalities. However, there is no tax or fee imposed on short-term rentals.

"Our laws need to be updated to keep up with changes brought about by new technology," said Assemblywoman Annette Quijano Quijano, the bill's sponsor. "The fact that taxes are not paid for stays at locations rented through sites like Airbnb but are applied to stays in hotels is an unfair advantage that hurts the hospitality industry and takes funding away from municipalities for important programs. This bill levels the playing field and provides tax fairness for the entire hospitality industry in New Jersey."

Bill sponsor Assemblyman Raj Mukherji said although online lodging marketplaces have allowed thousands in New Jersey to make extra income and have provided Garden State tourists with another lodging option, the current system gives them an unfair advantage.

"Rather than penalizing the choice to stay in a hotel or motel, the state should ensure that everyone pays the same taxes for lodging," said Mukherji.

Accommodations listed with a real estate agent or real estate broker licensed by the New Jersey Real Estate Commission and all permanent residential rentals would be exempt under the new law.

The bill also exempts charitable, non-profit organizations from collecting the taxes and fees when providing transient accommodations in furtherance of the non-profit's mission.