



To: Mayor Jerry Demings
-AND-
County Commissioners

From: Commissioner Emily Bonilla, District 5

Date: March 8, 2022

Subject: Commissioner's Report April 5, 2022 on the Rent Stabilization Ordinance

I wish to discuss this Commissioner's Report on Rent Stabilization Ordinance to place on the ballot for the 2022 General Election on April 5, 2022.

Action Requested: Move item forward through the process to get the item on the ballot.

Included items with this memo to also be included in the agenda book:

- Evidence-Based Policy Making for Rent Stabilization Ordinance

/s/

Commissioner Emily Bonilla

Cc: Byron W. Brooks, County Administrator
Cheryl Gillespie, Supervisor, Agenda Development
County Attorney's Office

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Evidence-Based Policy Making for Rent Stabilization Ordinance

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The Problem

For several years Orange County Government has acknowledged that we are in an affordable housing crisis. Both Mayor Demings¹ and his predecessor Mayor Jacobs² commissioned panels of community experts to address the affordable housing issues faced by our residents. Six years since the first report, the situation is only getting worse, and residents are desperate for any kind of relief. Over the last three months, rents are averaging a year over year increase of 29.22%.³ Constituents are writing elected officials about the extreme hardships they are facing after receiving rent increase notifications of anywhere from \$200 to \$800 per month. The dramatic rise of rents on the residents of Orange County is creating a housing emergency so grave as to constitute a serious menace to the public justifying the need for action.⁴

These extreme rises in rent are resulting in undue financial distress, an increase in evictions, and homelessness at a time which is critically important for the safety of Orange County residents.⁵ The CDC reports that a lack of housing contributes to poor physical and mental health outcomes.⁶ Rising rents also contribute to the financial instability of families and individuals holding them back from economic recovery, which can have a negative impact the overall economy. The industry gold standard for Rent to Income (RTI) ratio is widely accepted as 30%, and in December of 2021 we saw that exceed 40% here in Orange County.⁷



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https://www.orangecountyfl.net/Portals/0/Library/Neighbors-Housing/docs/BKT_19.10_Housing_for_all_report_A DA_compliant_120419.pdf

²https://www.orangecountyfl.net/Portals/0/Library/Board%20of%20County%20Commissioners/docs/Regional%20Affordable%20Housing%20Executive%20Summary%20Report%202005-2018-Final_web-Cert-CERT.pdf

³ <https://www.apartmentlist.com/research/category/data-rent-estimates>

4

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0166 /Sections/0166.043.html

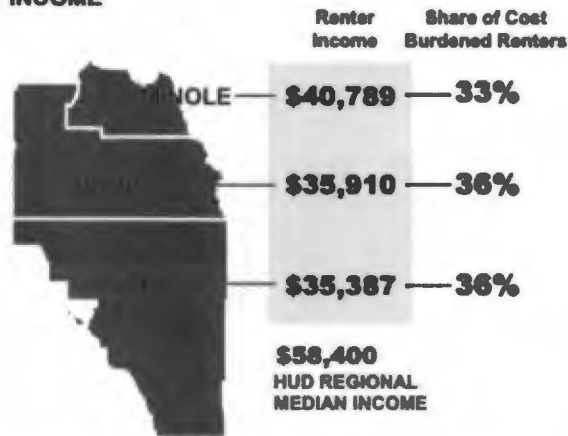
⁵ <https://myorangeclerk.com/>

⁶ <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>

⁷ <https://fred.stlouisfed.org/series/MHIFL12095A052NCEN>

Data and Research

RENTER MEDIAN HOUSEHOLD FIGURES COMPARED WITH HUD REGIONAL MEDIAN INCOME



Source: U.S. Census Bureau; American Community Survey (2016); GAI Consultants, Inc.

In April 2019, Mayor Jerry Demings acknowledged the growing affordable housing issue, and launched the Housing for All Task Force to prioritize short and long-term solutions to address the housing crisis in Orange County. In November 2019, the housing for all task force prepared its 10 Year Action Plan.¹⁰ On March 24, 2020, the Orange County BCC approved an ordinance for a housing trust fund codified as Article VIII, Chapter 2 with the goal to “create and preserve affordable rental and ownership housing for moderate-income, low-income, and very-low

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<https://www.ocfl.net/Portals/0/Library/Board%20of%20Affordable%20Housing%20Executive%20Summary%20Revised%20Affordable%20housing%20executive%20summary>

⁹ <https://fred.stlouisfed.org/series/MHIFL12095A052NCEN>

¹⁰

https://www.orangecountyfl.net/Portals/0/Library/Neighborhood_ADA_compliant_120419.pdf

In May 2018, Central Florida's inter-jurisdictional Regional Affordable Housing Initiative (RAHI) explained that the rising cost and lack of available affordable housing was at a crisis in our community.⁸ The report recognized that National and regional home prices and rents were pushing well above historic limits when compared to income and affordability. The report further identified that the situation had passed the point of concern and is now a crisis. At that time, the American Community Survey (2016) reports 230,344 Central Florida households carry housing costs exceeding 30% of their incomes. In December of 2021 that exceeded 40% here in Orange County.⁹

Measures and Outcomes:



6,500

certified affordable units will be produced by 2030

- \$10 million will be obtained in initial funding, with a 10 percent incremental increase per year for a total of \$160 million over a period of 10 years.
- Up to 6,500 certified affordable units will be produced by 2030 as a result of this committed local funding.

Next Steps and Timeline:

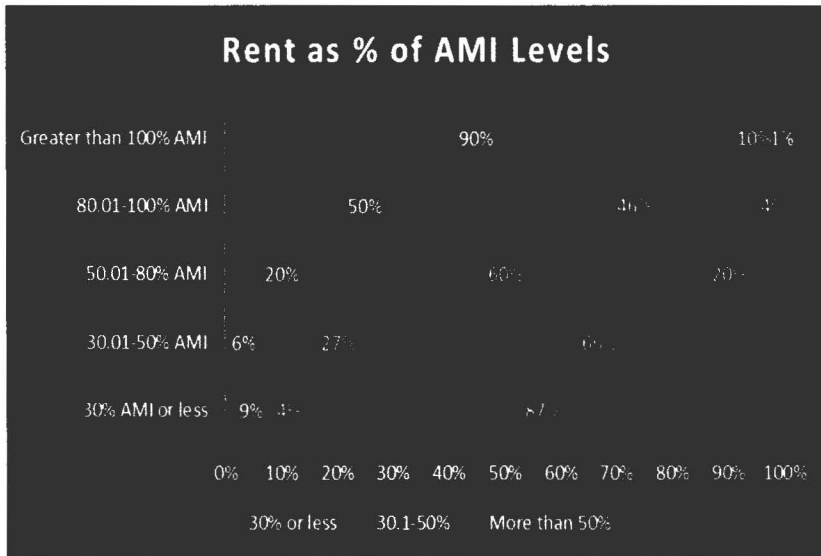
- Present the final recommendation for establishment of a local Housing Trust Fund to the Board of County Commissioners by December 31, 2019.
- Include the amount of annual contribution as part of an annual budgeting process.
- Formalize the local Housing Trust Fund framework and administrative guidelines.

Implementing Agency:

Orange County Housing and Community Development Division

income persons and households in Orange County.”

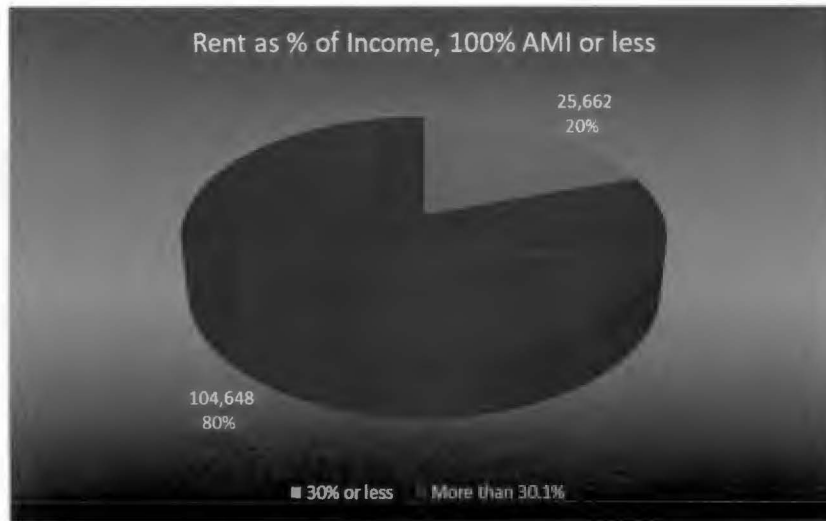
According to the Shimberg Center for Housing Studies at the University of Florida, the **Average Median Income (AMI) for renter households in our area is \$42,045.**¹¹ They have found that **46,327 households earning less than 50% of (AMI) are spending over 50% of their income on housing costs.**



What does this mean in practical terms? In the Greater Orlando area, **Retail Salespersons** represent the largest segment of workers. On average, they earn **\$11.82/hour**, meaning a full-time employee would have to work over **145 hours or 18 days** to cover the average rent consuming over **84% of their wages**. Another large portion of our workforce, **Servers**, make some of the lowest wages averaging just **\$9.69/hour**. A full-time server would have to work **178 hours or 22 days** to cover the average apartment rent exceeding **102% of their monthly wages**, making independent living impossible.

In Orange County households earning at or under 100% AMI, a staggering **80.31% of residents are spending above the widely accepted industry standard 30% RTI ratio.**

¹¹ <http://filhousingdata.shimberg.ufl.edu/affordability/results?nid=4800>



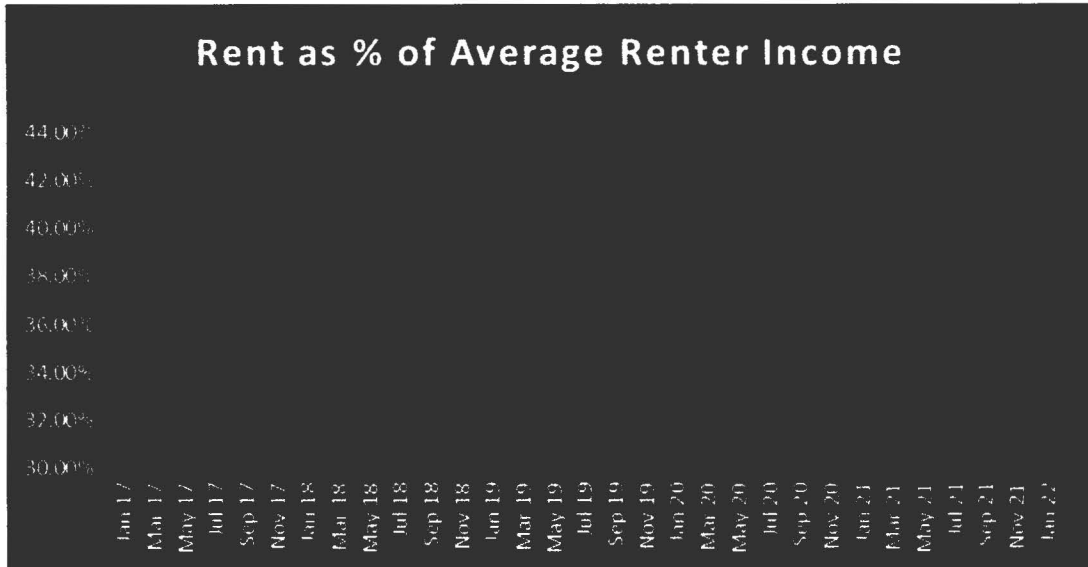
In March and April of 2020, the federal government and a growing number of cities and states acted to protect people from becoming homeless by preventing evictions by implementing moratoriums on processing eviction actions.¹²



When the RTI ratio for all renters in Orange County are considered, we observed a correction because of the pandemic. However, they have since returned to near pre-pandemic and historically high levels.

¹²

<https://www.marketplace.org/2020/03/18/growing-number-of-cities-states-halting-evictions-because-of-coronavirus/>



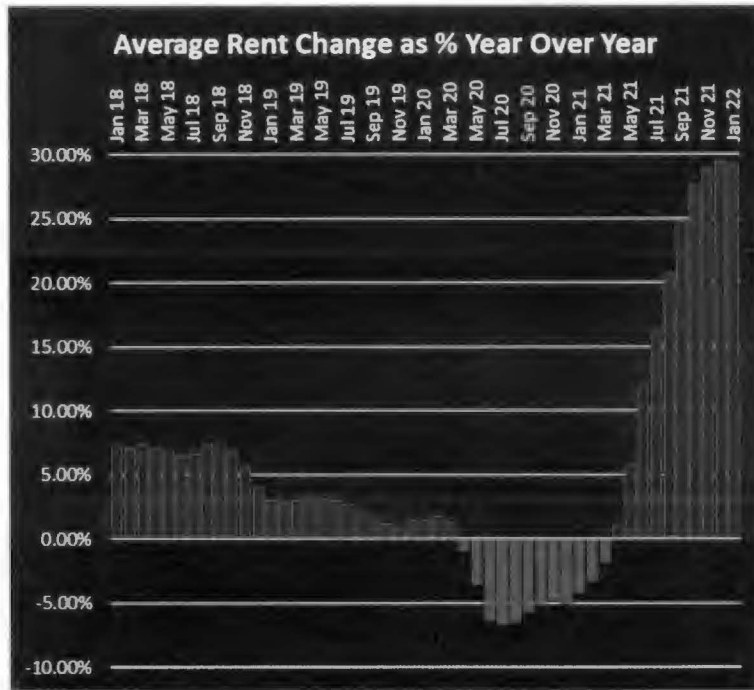
On June 23, 2020, Commissioner Emily Bonilla requested a board discussion around placing a rental control mechanism on the ballot. Multiple property management companies sent agents to issue public comment against the proposed ballot initiative. Nearly all of them included verbiage which mimicked the following statement issued by **Chip Tatum, CEO** for the **Apartment Association of Greater Orlando (AAGO)**, “rents in Orange County...are forecasted to continue to decline through the end of the year. **The recovery period is expected to be more than 2 years.**” He continued “AAGO reached out to key housing providers throughout the region. Nearly all advised that **they had stopped increasing rents for their properties and did not anticipate that to change for the foreseeable future.**”¹³

Despite these assurances from multiple industry experts, rents started skyrocketing less than a year later. The Board of County Commissioners were misled into believing that rental rates would take at least 30 months to recover, when in fact they reached a nearly 30% year over year increase in just a few short months.¹⁴

¹³

<https://occompt.legistar.com/View.ashx?M=AO&ID=91955&GUID=3e028213-f445-469f-bf87-5fc439713143&N=UH-VibGJlIFNwZWFrZXIlgQ2FyZHMgJiBTaGVldHM%3d>

¹⁴ <https://www.apartmentlist.com/research/category/data-rent-estimates>



The Female, Black, and Hispanic residents of Orange County are disproportionately bearing the brunt of these rental rate increases. Historically Florida’s women and minority workers earn less than their White male counterparts.¹⁵ As a result, any increase in rental expenses are having a greater impact on their finances. The Legal Aid Society of Orange County reported between January 2020 and December 2021 that **40% of their clients facing eviction were Black or African American**, while their Hispanic clients constituted over 20% of their eviction cases.¹⁶

Median Annual Earnings and the Gender Earnings Ratio by Race and Ethnicity, Florida, 2016

	Median Annual Earnings for Women Employed Full-Time, Year-Round	Median Annual Earnings for Men Employed Full-Time, Year-Round	Earnings Ratio Between Women and White Men Employed Full-Time, Year-Round
White	\$40,505	\$50,631	80.0%
Hispanic	\$29,878	\$32,442	59.0%
Black	\$30,415	\$32,442	60.1%
Asian/Pacific Islander	\$37,467	\$49,453	74.0%
Native American	\$34,470	\$36,454	68.1%
Other Race or Two or More Races	\$35,442	\$41,211	70.0%
All Women and Men	\$35,000	\$40,000	All Women to All Men 87.5%

Notes: Median earnings for the past 12 months are for those aged 16 and older working full-time, year-round and who had earnings. Data for all women and men are from 2016; data by race and ethnicity are calculated using three years of data (2014-2016). Racial groups are non-Hispanic.

Source: IWPR analysis of American Community Survey microdata (Integrated Public Use Microdata Series, Version 6.0).

¹⁵ <http://statusofwomendata.org/wp-content/uploads/2018/06/R533-Florida-Employment-Earnings.pdf>

¹⁶ <https://www.mynews13.com/fl/orlando/news/2021/12/28/rising-central-florida-rent-hits-minorities-the-most>

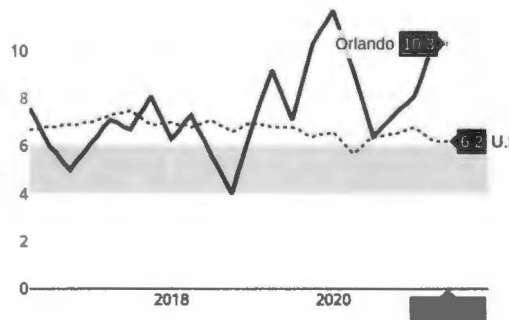
According to the Orange County Clerk of Courts, eviction filings have been steadily increasing since the United States Supreme Court struck down the eviction moratorium in August of 2021.¹⁷ As a result, more renters are being forced back into the rental market facing the prospects of dramatically higher rents, leaving Orange County, or in the worst cases homelessness.¹⁸



Comparing vacancy rates with rental trends, it shows that rent will continue to increase even if there is an increase in inventory. For example, in 2017, the vacancy rate in Orlando, Florida was 6.1%; followed by 6.3% in 2018, 6.9% in 2019.¹⁹ As of 2021, the vacancy rate in Orlando is measuring over 10% with the national average being 6.2%.²⁰

Rental Vacancy

10.3% +3.0% YoY



¹⁷ <https://www.npr.org/2021/08/26/1024668578/court-blocks-biden-cdc-evictions-moratorium>

¹⁸ <https://myorangeclerk.com>

¹⁹ <https://managecasa.com/articles/us-rental-occupancy-rates/>

²⁰ <https://www.millionacres.com/market/florida/orlando/>

Historical data indicates that rents will continue to increase in the future. **Based on information from Apartment List’s Rentonomics report,²¹ Year-to-Year rental rates from 2016 to 2020 as indicated by the table below, the rental trend indicates that rents dipped slightly in 2021, however, they have increased dramatically since that time. The Zumper National Rent Report²² provided statistics for 2021 and 2022.**

Florida has shown to have one of the highest rent spikes, with an average one-bedroom apartment in downtown Orlando increasing 37.3% year-over-year, far above the 22.6% national average and a typical 5% yearly increase.²³

Month/Year	Median 1BR	Median 2BR	M/M Rent Change	Y/Y rent change
June 2016	\$1,050	\$1,200	1.5%	7.6%
February 2017	\$1,120	\$1,290	1.5%	2.5%
February 2018	\$1,040	\$1,240	0.7%	7.4%
February 2019	\$1,062	\$1,272	0.0%	3.1%
February 2020	\$1,081	\$1,295	0.0%	1.7%
January 2021	\$1,317	\$1,423	1.6%	-0.8%
January 2022	\$1,639	\$1,900	0.0%	27.60%

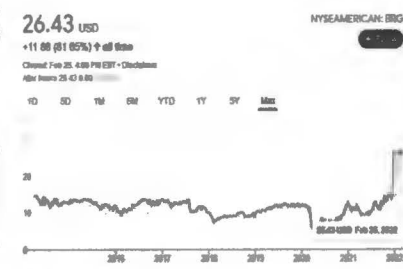
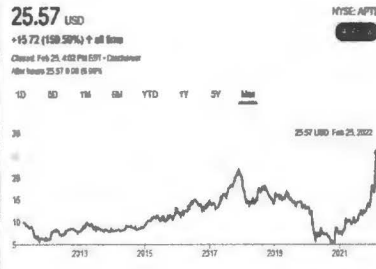
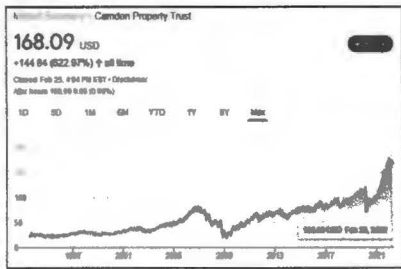
Publicly traded Real Estate Investment Trust (REIT) such as Camden Property Trust (NYSE: CPT), Preferred Apartment Communities, Inc. (NYSE: APTS), and Blue Rock Residential Growth REIT, Inc. (NYSE: BRG), all own numerous rental communities across Orange County. They are some of the highest performing REITs so far in 2022.²⁴ These companies’ stocks are trading at historic highs and are reporting net profit margin year over year increases of 525.92%, 424.91%, and 1,295.43% respectively.

²¹ <https://www.apartmentlist.com/rentonomics/march-2020-rent-report/>

²² <https://www.zumper.com/blog/rental-price-data/>

²³ <https://www.rent.com/research/average-rent-price-report/>

²⁴ <https://www.nerdwallet.com/article/investing/reit-investing>



Stock prices as of closing Friday, February 25, 2022

In regards to one of the Orange County REITs, investors.com wrote²⁵:

"Our customer base is really, really in good shape," Camden Property Trust (CPT) CEO Richard Campo told analysts on an Oct. 29 earnings call. **"Number one, they're employed; number two, they have massive savings as a result of the pandemic."**

That cash cushion has encouraged people who lived with their parents or roommates during the pandemic to find their own place. Because of all those factors, **"you really have almost three years of demand hitting the market in 2021,"** Campo said.

For another Orange County REIT, Nasdaq.com wrote²⁶:

Residential REITs delivered more than 58% in total returns last year, **led by the almost 160% total return by Preferred Apartment Communities (NYSE: APTS).** The driving factor was a tight housing market, which drove up occupancy levels and rental rates for apartments and single-family rental homes.

In addition to the following, Nasdaq.com also wrote:

Likewise, rental residential real estate will continue to benefit from pandemic-driving tailwinds. Apartment rents are growing at double-digit rates in major coastal gateway cities as workers return to their urban offices, driving demand for apartments in those cities. Similarly, apartment demand in fast-growing Sun Belt cities remains robust as more people move for jobs, warmer weather, and fewer restrictions. That demand is driving double-digit rent growth across the region. **As a result, apartment REITs expect to deliver double-digit income growth this year, which should help drive their stock prices higher.**

Stakeholders

Tenants: Rising rents and inflation directly affects residents' ability to pay their rent and other living expenses. Federal and County resources are not enough to help everyone fend off

²⁵ <https://www.investors.com/news/reit-stocks-keep-movin-on-up-as-apartment-rents-surge-after-covid-crash/>

²⁶ <https://www.nasdaq.com/articles/reits-grew-over-40-in-2021.-will-that-trend-continue>

evictions and homelessness due to rising rents. Evictions and homelessness places them more at risk for longterm financial instability. The proposed solution will provide them with stability in their housing costs and enable them to better plan for financial recovery. Based on feedback received from both constituents and residents submitting public comment, there appears to be widespread need for the Orange County Board of County Commissioners to address the skyrocketing rent in our community.

Single Family Rentals (SFR) - 23% of all Single Family Homes and 39% of all rental properties in the Orlando Area.²⁷

“Mom and Pop” Single Family Home Rental Landlords (90-95% of the SFR market):

This category of landlords most likely has a mortgage on the home(s) they rent. They typically run small margins and depend on the monthly rent to pay the mortgage and losing this income could mean defaulting on their mortgage. These landlords have a closer relationship with their tenants and are more willing to work with them on their rent payments. Based upon public comment and feedback from constituents, they have demonstrated that rent controls would place an undue burden on their small operations.

Securitized and Publicly Traded Single-Family Home Rental Corporations (5-10% of the SFR market): This category of landlords do not have mortgages and are funded by investors and publicly traded stocks. They don't have a strong relationship with their tenants and are usually managed by staff or a management company. Unless given directives from the corporate office, staff will not deviate from their policies regarding rent payment collections. It is assumed that these corporations will not be in support of the proposed solution because they must answer to their stockholders and can spread their profits throughout all the properties they own across the nation or region. While Orange County was hit hardest economically due to its dependence on tourism, the corporations can leverage their losses by forcing evictions and raising rents at their properties across the nation to protect their profit margins. These types of properties are 8% more likely than small landlords to file eviction notices.²⁸

Multi-Family Rentals - 61% of all rental properties in the Orlando Area.

Multi-family or Apartment Complex Owners: This category of landlords do not have mortgages and are funded by investors or commercial loans. They don't have a strong relationship with their tenants and are usually managed by staff or a management company. Unless given directives from the building owners or investors, staff will not deviate from their policies regarding rent payment collections. **Despite assurances to the contrary, this category of landlords has raised rental rates significantly over the last 12 months.**

Securitized and Publicly Traded Apartment Complex Corporations: This category of landlords do not have mortgages and are funded by investors and publicly traded stocks. They don't have a

²⁷ <https://learn.roofstock.com/blog/single-family-rental-investing-markets>

²⁸

<https://www.atlantafed.org/-/media/documents/community-development/publications/discussion-papers/2016/04-corporate-landlords-institutional-investors-and-displacement-2016-12-21.pdf>

strong relationship with their tenants and are usually managed by staff or a management company. Unless given directives from corporate offices, staff will not deviate from their policies regarding rent payment collections. These corporations can leverage their losses by forcing evictions and raising rents at their properties across the nation to protect their profit margins. Based on their own investor reports, these corporations continue to post strong returns for their investors. **Despite assurances to the contrary, this category of landlords has raised rental rates significantly over the last 12 months.**

Orange County Businesses: Orange County Businesses are struggling to find employees following the COVID-19 pandemic. The unprecedented hike in rent is resulting in a demand for higher wages by employees likely contributing to the worker shortage. Rising rents are also contributing to the lack of loyalty to the company because they are forced to move and change jobs in an area with lower rents. By helping residents of Orange County find financial stability with their rent it will help allow the local economy to recover faster. This could contribute to a reduction in the demand for higher wages, thereby benefitting businesses looking to fill vacant positions.

Orange County Voters: Orange County Voters will be the ones making the decision on whether to accept the proposed solution. The proposed solution is a referendum that needs to be on the ballot for voters to vote on. **The Board of County Commissioners should let the residents of Orange County decide for themselves if they need relief from the increases in rent.**

Orange County Board of County Commissioners: The Board will have the final decision to place the proposed item on the ballot or not. Placing the item on the ballot will allow residents of Orange County to decide if this solution that will give them relief. **Several of the Board members have expressed their concern for their constituents and their financial and physical health. By revisiting this issue after witnessing such dramatic increases in rent, we hope that a majority of the Board will support moving this proposal forward.**

Benefit Analysis to Stakeholders

How will this proposed solution benefit Orange County tax revenues and both the landlord and the renters

- This proposed solution will limit rent increases on properties with 4 dwelling units or more to no more than 5%, or the 12-month average of the Consumer Price Index (CPI) as calculated by the United States Department of Labor's Bureau of Labor Statistics, whichever is lower.
- Orange County renters will benefit from this solution as they can appropriately budget and plan for anticipated rent changes.
- Landlords will benefit from this solution because tenants who can budget for rent which are able to remain in place will continue paying rent.
- If the Landlords can continue collecting rent, they will not have to experience deficiencies in revenue because of vacancies, which solidifies their ability to maximize their earnings and pay taxes. This in turn increases revenue for the County.

- By implementing a rent control mechanism, consumers will have more spending money. In turn, the local economy (businesses) will do better because consumers will have more money to spend on good and services instead of increases in rent.
- If businesses are doing better, they will have increased revenue, which allows them to maximize their revenue, potentially create more jobs, and pay their taxes. This in turn increases revenue for the County.

Evidence-Based Strategy

Background

However, affordable housing has been a historical issue in Orange County prior to the pandemic. Both Mayor Demings²⁹ and his predecessor Mayor Jacobs³⁰ commissioned panels of community experts to address the affordable housing issues faced by our residents. Six years since the first report, the situation is only getting worse, and our residents are desperate for any kind of relief. Commissioner Emily Bonilla attempted to address rent controls in 2020 and the community was able to provide their input at the BCC meeting. The board heard from many renters about the hardships they were already facing, and also heard from smaller landlords about concerns of an undue burden such controls would place on them.³¹ With the onset of the COVID-19 pandemic in 2020, the county did observe a temporary relief in rising rents for the residents of Orange County. However, after a brief decline, and despite assurances from the industry to the contrary, the average rent in Orange County has skyrocketed.³²

Did past reforms/solutions to this problem improve the conditions of marginalized communities (e.g. Latinos, immigrants, children)?

Although there are no past reforms, the immediate response to the rental crisis has been the Orange County Rental Assistance Program. This program has been overwhelmed. The Assistance Program does not provide a long term solution to the problem.

Best Practices and Other Jurisdictions' Examples

In this document we will only focus on the Rent Freeze Referendum. A review of how other jurisdictions have implemented a Rent Freeze are as follows:

²⁹

https://www.orangecountyfl.net/Portals/0/Library/Neighbors-Housing/docs/BKT_19.10_Housing_for_all_report_A DA_compliant_120419.pdf

³⁰https://www.orangecountyfl.net/Portals/0/Library/Board%20of%20County%20Commissioners/docs/Regional%20Affordable%20Housing%20Executive%20Summary%20Report%202005-2018-Final_web-Cert-CERT.pdf

³¹

<https://occompt.legistar.com/View.ashx?M=AO&ID=91955&GUID=3e028213-f445-469f-bf87-5fc439713143&N=UH VibGljIFNwZWFrZXIqQ2FyZHMgJiBTaGVldHM%3d>

³² Ibid.

Comparing Jurisdictions - Rent Freeze Implemented Prior to COVID-19

	Orange County FL.	Curry County, Oregon	Josephine County, Oregon	Jefferson County, WA
<u>Action Taken</u>	No Action Taken	2019: Emergency Housing Declaration	2017: Declared a Housing Emergency	2017: State of Emergency due to housing situation
<u>Cost burdened renter households (before/after action taken)</u>	40%	35%	40%/38%	33%/30%
Renter wages vs. Rental Prices ****	<p>Renters need to earn \$31.68 per hour - 3.7 times the state minimum wage & 1.7 times the average renter's wage - to afford a 2-bedroom housing unit at fair market value.</p> <p>Renters need to work 93 hours at the current minimum wage to afford a 1-bedroom housing unit.</p>	<p>Renters need to earn \$20.25 per hour - 1.6 times the average renter's wage - to afford a 2-bedroom housing unit at fair market value.</p> <p>Renters need to work 55 hours at minimum wage to afford a 1-bedroom housing unit and 52 hours at the average renter's wage to afford a 1-bedroom housing unit.</p>	<p>Renters need to earn \$18.37 per hour - 1.6 times the average renter's wage - to afford a 2-bedroom housing unit at fair market value.</p> <p>Renters need to work 49 hours at minimum wage to afford a 1-bedroom housing unit and 47 hours at the average renter's wage to afford a 1-bedroom housing unit.</p>	<p>Renters need to earn \$19.42 per hour - 2.0 times the average renter's wage - to afford a 2-bedroom housing unit at fair market value.</p> <p>Renters need to work 49 hours at minimum wage to afford a 1-bedroom housing unit and 59 hours at the average renter's wage to afford a 1-bedroom housing unit.</p>
Population Growth Rate	0.84%	0.56%	0.38%	1.45%

*Florida Dept of Economic Opportunity

****Federal Reserve Bank of St. Louis (FRED)**

HUD defines a cost burdened renter household as one that pays 30% or more of income on gross rent.

https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2020.pdf

******National Low Income Housing Coalition's Out of Reach Report, 2019, 2021 for Orange and Curry counties**

<https://reports.nlihc.org/>

<https://worldpopulationreview.com/>

Pros and Cons of Rent Control

Based on Case Studies, "many of the criticisms of rent regulations are ill-founded on both theoretical and empirical grounds"³³ based on first generation programs that existed in the 1950's. More sophisticated second generation programs that are "well-designed rent regulations can improve the economic security of tenants and, at the same time, have a beneficial effect on the market's efficiency" and must be taken on a case-by-case basis.

Overall, rent control helps tenants because it provides insurance against rent increases, potentially limiting displacement. For example, if long-term tenants have developed neighborhood-specific capital, such as a network of friends and family, proximity to a job, or children enrolled in local schools, then tenants face large risks from rent appreciation. In contrast, individuals who have little connection to any specific area can easily insure themselves against local rental price appreciation by moving to a cheaper location. Those invested in the local community are not able to use this type of "self-insurance" as easily, since they must give up some or all of their neighborhood specific capital. Rent control can provide these tenants with this type of insurance.³⁴ On the other hand, although rent control prevents displacement of incumbent renters in the short run, if not done with an overall comprehensive plan, in the long run, the lost rental housing supply likely drove up market rents in the long run, ultimately undermining the goals of the law.³⁵

Pros	Cons
Rent control policies have been effective at shielding tenants from evictions and sudden rent increases, particularly the lower-income	In order to get around rent control, investors may convert rental properties to ownership properties to make a profit. Lost rental housing

³³ https://www.gov.mb.ca/cca/pubs/rental_report.pdf

³⁴ ***[What does economic evidence tell us about the effects of rent control?](#)**

³⁵ ****<https://web.stanford.edu/~diamondr/DMQ.pdf>**

and older tenants who are at a high risk of becoming homeless.**	supply likely drives up market rents in the long run.**
Rent control prevents displacement of incumbent renters in the short run.** Therefore, rental control helps tenants because it provides insurance against rent increases, potentially limiting displacement.*	Investors may teardown properties to start over again and raise rents. In the long-run decreasing affordability, fueling gentrification, and creating negative externalities in the surrounding neighborhood.**
Rent control appears to help affordability in the short run.**	
If planned right, rent control creates investment in new rental units at higher rates so that when a short term rent control ends, it can create a more competitive rental market in the long term. ³⁶	

Case Law and Legal Analysis of a Rent Stabilization Ordinance

I. This board has the authority to implement a 1 year rent freeze when it finds a housing emergency exists.

Based on a finding of the existence of an emergency, rent control legislation in Florida has been enacted on the local level. *Muss v. City of Miami Beach*, 339 So. 2d 236 (Fla. 3d DCA 1976); *Lifschitz v. City of Miami Beach*, 339 So. 2d 232 (Fla. 3d DCA 1976); *City of Miami Beach v. Forte Towers, Inc.*, 305 So. 2d 764 (Fla. 1974).

Such legislation is properly authorized under the police power of the State and its political subdivisions. *DBPR v. Nat'l Manufactured Housing Federation, Inc.*, 370 So. 2d 1132 (Fla. 1979); *City of Miami Beach v. Forte Towers, Inc.*, 305 So. 2d 764 (Fla. 1974).

To be justified, such [rent control] regulations must be reasonable and in the interest of the public welfare since they necessarily impinge on the right to contract and the right to pursue a lawful business; *DBPR v. Nat'l Manufactured Housing Federation, Inc.*, 370 So. 2d 1132 (Fla. 1979).

³⁶ https://www.gov.mb.ca/cca/pubs/rental_report.pdf

A proposed city rent control ordinance must comply with the statutory requirement that an ordinance is required to recite a finding establishing the existence of a housing emergency so grave as to constitute a serious menace to the general public, and such controls are necessary and proper to eliminate such grave housing emergency. § 125.0103(5)(b).

II. When a totality of circumstances show that a housing emergency exists then a properly drafted municipal rent stabilization ordinance is upheld.

In *Lifschitz v. City of Miami Beach*, the Florida Supreme Court upheld the City of Miami's municipal rent ordinance finding that the existence of an emergency at the time of its passage rested in the judgment and discretion of the city council. *Glackman v. City of Miami*, 51 So.2d 294 (Fla.1951); *State v. City of Miami Beach*, 234 So.2d 103 (Fla.1970). The Court further found that there was ample evidence as to the factors creating a housing emergency, for example, a **scarcity of housing, accelerating rents and a constant influx of people seeking housing in the area.**

The *Lifschitz* case followed a litany of cases in the City of Miami to control the rental market that came before the Florida Supreme Court and failed. In 1972, *Miami Beach v. Fleetwood Hotel, Inc.*, 261 So. 2d 801 (Fla. 1972), the law was struck down on three grounds: (1) there was no emergency to justify its existence; (2) Florida municipalities do not have the power to adopt rent controls under home rule powers; and (3) the ordinance included an illegal delegation of legislative authority without appropriate guidelines to the rent control administrator.

In 1973, the city passed a new law after the state legislature expanded home rule powers to include the power to adopt rent control. The new law was struck down on the basis that it set confiscatory rent guidelines. *Miami Beach v. Forte Towers, Inc.*, 305 So. 2d 764 (Fla. 1974) (holding: local government has the power to implement rent control through home rule, but the ordinance failed to pass muster on constitutional grounds).

In 1974, a third ordinance was adopted and upheld by the trial court in *Abenson v. Miami Beach*, No. 75-7868 (Dade County, Fla. Cir. Ct. 11th Dist., Jan. 1976).

By the time the *Lifschitz* case was presented to the Court, the City had learned from the prior cases, and was able to implement an ordinance that properly addressed the housing emergency, but still enforced the necessary rights of action of Landlords and tenants. The Court further found that the preamble in the ordinance clearly demonstrated the City's decision that an emergency existed. The preamble states,

"WHEREAS, the deterioration and demolition of existing housing; an insufficient supply of new housing; the inhibition upon the construction of new housing resulting from the operation of the Florida Pollution Control Act, other environmental protection laws, and an insufficient supply of financing; and the existing economic inflationary spiral have resulted in a substantial and critical

shortage of safe, decent and reasonably priced housing accommodations as evidenced by the low vacancy rates prevailing in the City; and

'WHEREAS, this emergency cannot be dealt with effectively by the ordinary operations of the private rental housing market, and unless residential rents are regulated, such emergency and the inflationary pressures therefrom will produce a serious threat to the public health, safety and general welfare of the citizens of Miami Beach, Florida;”

Id. at 234, 235; see also City of Miami Ordinance 74-2018

The case law further specifies that an increase in the cost of living (an inflationary spiral) alone is not a justification for rent control legislation which limits the amount of rent which a tenant may be required to pay. *City of Miami Beach v. Fleetwood Hotel, Inc.*, 261 So. 2d 801 (Fla. 1972).

The type of emergency which would be a viable basis for such legislation may also include some, but not all, of the following factors:

- a. an acute shortage of safe, sanitary and adequate low cost rental housing accommodations.
- b. the majority of residents are senior citizens on subsistence level pensions and cannot afford the existing rents for the available housing.
- c. rents are increasing at an inflationary spiral whereas the income of the residents remains fixed.
- d. the population increases daily due to an influx of tourists and [omitted] refugees.
- e. a scarcity of housing,
- f. accelerating rents and
- g. a constant influx of people seeking housing in the area.

See *City of Miami Beach v. Fleetwood Hotel, Inc.*, 261 So.2d 801 (Fla. 1972). Justice Ervin (dissenting); *Lifschitz v. City of Miami Beach*, 339 So.2d 232 (Fla. App. 1976)(ordinance upheld).

III. Prior to COVID-19 Orange County was in a housing crisis.

Prior to COVID-19, Orange County had been experiencing a marked influx of population. Orange County’s population is at approximately 1.4 million, and, prior to COVID-19, was growing by a net 1,000 new residents each week, which equates to 50,000 net new residents a year.³⁷ The influx in population also included a number of families from Puerto Rico who were

³⁷ *Orange County FL Fiscal Year 2019 - 2020 Budget, Prologue*
<https://www.orangecountyfl.net/Portals/0/resource%20library/open%20government/FY%202020%20Adopted%20Budget%20for%20web%20-%20CERT.pdf>

escaping from devastation from Hurricane Irma in 2017, and a majority of these migrant families have remained in Orange County since that time.

The rental housing market has not been able to keep up with the increase in population—especially in our multi-family rental market. According to the 2018 U.S. Department of Housing and Urban Development Comprehensive Housing Market Analysis³⁸, the rental housing market in Orange County has seen a steady decline in vacancy rates since 2010. In 2018, rates were estimated at 7.3 percent, down from 13.1 percent in 2010. Approximately 62 percent of renter households live in multifamily buildings, typically apartments, and 34 percent of renter households lived in single-family homes (2016 American Community Survey [ACS] 1-year data). Strong demand for apartment units due to increased net in-migration has contributed to rent growth and declining vacancy rates since the early 2010s. Even with a wave of apartment completions during 2016 - 2017 that totaled 4,575 units, the highest number since 2002, apartment market conditions are tight. The apartment vacancy rate during the fourth quarter of 2017 was 3.9 percent, down from 4.6 percent a year earlier (MPF Research). Although many apartments are in lease up, the number of apartments offering concessions has declined, and rent growth has strengthened. Based on these numbers Orange County lacks decent and reasonably priced housing accommodations as evidenced by the low vacancy rates prevailing in the County.

To make matters worse, if our residents cannot afford an apartment, they have very little alternative housing to choose from. According to the Regional Affordable Housing Initiative (RAHI) May 2018 Report, Orange County has a lack of diversified affordable housing, which our Housing for All task force has defined as the “missing middle.” This means that the inventory we do have is not affordable, and rental costs in Orange County continue to rise as indicated by the numbers provided on page 6 of this report.

Not only has our rental supply market been drying up, our most vulnerable residents are not earning enough wages to afford the supply that is available. As you can see from the chart above on pages 11 - 12, based on the 2021 National Low Income Housing Coalition's Out of Reach Report, Renters need to earn \$31.68 per hour - 3.7 times the state minimum wage & 1.7 times the average renter's wage - to afford a 2-bedroom housing unit at fair market value. Renters need to work 93 hours at the current minimum wage to afford a 1-bedroom housing unit.

IV. The housing crisis in Orange County, Florida has been exacerbated raising the housing crisis to a housing emergency such that a rent stabilization ordinance is necessary

³⁸ <https://www.huduser.gov/portal/publications/pdf/OrlandoFL-comp.pdf>

Based on the information in Section III, we see that at least 3 of the factors constituting a housing emergency per the *Lifschitz* case are present—i.e (1) scarcity of housing, (2) accelerating rents and, (3) a constant influx of people seeking housing in the area.

Cost Benefit Analysis

Cost of implementing solution	Cost of doing nothing
Advertising Public Hearing and costs of placing the item on the ballot	Might see a spike in evictions, homelessness, need for government assistance leading to loss in county tax revenues due to falling property values and consumer spending.

Social Equity Analysis

Social impact of implementing solution	Social impact of doing nothing
The residents can feel more secure with rent freeze safeguard in place, which will allow them to recover from the economic effects of COVID-19 faster.	Might see a spike in evictions, homelessness, need for government assistance.

Proposed Referendum and Legislation

Recitals & Findings

The governing body must make and recite in such measure its findings establishing the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public and that such controls are necessary and proper to eliminate such grave housing emergency. In any court action brought to challenge the validity of rent control imposed, the evidentiary effect of any findings or recitations shall be limited to imposing upon any party challenging the validity of such measure the burden of going forward with the evidence, and the burden of proof shall rest upon any party seeking to have the measure upheld.

Resolution

WHEREAS, Florida Statute § 125.0103 and Orange County Charter § 207 grants such legislative and charter authority to the counties of the State of Florida, which authority has been held to include the authority to enact rent control legislation; and

WHEREAS, a grave and serious public emergency exists with respect to the housing of a substantial number of residents in Orange County; and

WHEREAS, the scarcity of housing; accelerating rents; constant influx of people seeking housing in the area; rents increasing at an inflationary spiral; income of the residents remaining fixed or below the necessary amount to afford housing; decent and reasonably priced housing accommodations as evidenced by the low vacancy rates prevailing in the County; and

WHEREAS, Residents of Orange County are now facing extreme hardships exacerbated by the unprecedented increase in rent rates; and

WHEREAS, Multi-family or Apartment complexes comprise 61% of all rental properties in Orange County and have on average raised monthly rents 27.6% since 2021; and

WHEREAS, Prior to the COVID-19 pandemic Orange County was already in a "housing crisis". In May 2018, Central Florida's inter-jurisdictional Regional Affordable Housing Initiative (RANI) stated "National and regional home prices and rents are pushing well above historic limits when compared to income and affordability. The situation has passed the point of concern and is now a crisis". In 2019, Mayor Demings and the Orange County Housing for All 10-Year Action Plan continues to describe Orange County as being in a "housing crisis".; and

WHEREAS, In 2018, according to the Federal Reserve, 40 percent of Americans do not have cash on hand to cover an unexpected expense of \$400³⁹;

³⁹

<https://www.federalreserve.gov/publications/2019-economic-well-being-of-us-households-in-2018-dealing-with-unexpected-expenses.htm>

WHEREAS, Prior to this crisis, many residents were already living paycheck to paycheck in precarious economic circumstances. In 2016, 47 percent of Orange County, Florida's families struggled to pay their bills and keep their heads above the fiscal waters;⁴⁰

WHEREAS, According to the Shimberg Center for Housing Studies at the University of Florida dated May 2019, prior to the COVID-19 pandemic the Orange County had over 223,433 renter households. Of the overall renter households approximately 67,432 were housing cost burdened, and extremely low income residents (earning less than 30 percent of Adjusted Median Income (AMI)) make up 30.8% percent of households facing severe housing cost burdens countywide.⁴¹

WHEREAS, Historical data indicates that rents will continue to increase in the future.⁴²

WHEREAS, Studies have shown that short term rent-control policies have been effective at enhancing "the security of tenure by preventing "economic evictions."⁴³; and

Legislative Action

NOW, THEREFORE, BE IT RESOLVED BY THE ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS, that this Board:

Section 1. Adopts by referendum and incorporates as fully set forth in this Section the recitals and findings contained in the Preamble to this Resolution; and

Section 2. Finds that a housing emergency exists which is so grave as to constitute a serious menace to the general public; and

Section 3. Finds that rent stabilization measures preventing rent increases on residential properties, excluding those described in Section 4 below, are necessary and proper to eliminate the existing housing emergency which is so grave as to constitute a serious menace to the general public; and

Section 4. Pursuant to Florida Statutes 125.0103(4), such rent stabilization measures shall not apply to an accommodation used or offered for residential purposes as a seasonal or tourist unit, as a second housing unit, or on rents for dwelling units located in luxury apartment buildings. For the purposes of this section, a luxury apartment building is one wherein on January 1, 1977, the aggregate rent due on a monthly basis from all dwelling units as stated in leases or rent lists existing on that date divided by the number of dwelling units exceeds \$250; and

⁴⁰

https://www.uwof.org/sites/uwof.org/files/2018%20FL%20ALICE%20REPORT%20AND%20CO%20PAGE%20S_0.pdf

⁴¹ <http://flhousingdata.shimberg.ufl.edu/2019-rental-market-study.pdf>

⁴² <https://managecasa.com/articles/us-rental-occupancy-rates/>

⁴³ https://www.gov.mb.ca/cca/pubs/rental_report.pdf

Section 5. [exemption of increase that will allow for no more than 5% or the 12-month average of the Consumer Price Index (CPI) as calculated by the United States Department of Labor's Bureau of Labor Statistics, whichever is lower]

Section 6: [fine enforcement]

Section 7. Defines residential properties, for the purposes of this resolution, as any building containing four or more residential rental units in which said units are occupied or intended to be occupied by one or more individuals as a residence, to include both those with written leases and those with month-to-month and week-to-week tenancies; and

Section 6. If approved by the qualified electors of Orange County pursuant to Florida Statutes 125.0103(5)(c), rent stabilization, as described in Section 3, shall be effective on November 21, 2022, and expire on November 20, 2023; and

Section 7. Rent stabilization shall be effective for no more than one year unless extended or renewed by adoption of a new measure by this body and the qualified electors of Orange County, as provided by Florida Statutes 125.0103(3); and

Section 8. Overcharges. A tenant who has paid rent in excess of the rent authorized under this Ordinance shall have a right to recover such overcharge, and where such overcharge is willful and intentional, the tenant shall be entitled to institute an appropriate action in a court of competent jurisdiction for double the amount of such overcharge. The prevailing party shall be entitled to recover reasonable attorney' s fees. Such action must be brought within two (2) years from the date of the overcharge.; and

Section 9. Severability / Constitutionality / Read to conform

Language to Add to the Ballot

Ballot Title: RENT CONTROL TO REDUCE THE HOUSING EMERGENCY SO GRAVE AS TO CONSTITUTE A SERIOUS MENACE TO THE GENERAL PUBLIC

"Should residential rent increases, excluding those described in Florida Statutes 125.0103(4), be limited to 5% or the 12-month average of the CPI, whichever is lower, for one year, in order to eliminate the current housing emergency, which is so grave as to constitute a serious menace to the general public?"