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Rent control: 10 years later

After a decade, rent control in East Palo Alto still stirs passions.

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Some problems at the apartment complex at 2000 Cooley Ave. have been corrected, helping residents, from left, Feliz Flores, Josephina Aguilar and Jesus Godinez.



William Webster, a member of the Rent Stabilization Board, believes rent control is essential for the well-being of the city's low-income residents.

RENT CONTROL: 10 years later

**After a decade,
rent control
in East
Palo Alto
still stirs
passions**

by Don Kazak
photographs by Margaret Kaye

For Esther Hartwell, it was the garbage that prompted her to take action.

Shortly after her apartment complex at 2000 Cooley Ave. was sold in 1988, the new owner cut down on expenses by reducing garbage collection.

In addition, the property was being managed by neglect. "He let things go to pot," Hartwell said of the new owner. "He changed the rental agreements, there was no management, and it got really dangerous here" because of drug dealers.

She turned to the East Palo Alto Rent Stabilization Board, filing petitions against her landlord requesting action under the city's rent control law.

For Hartwell and the other tenants of the Cooley Avenue building, life is better these days. They still have the same landlord, but there's now an apartment manager who keeps an eye on things and makes sure the garbage doesn't pile up.

A little over a decade ago, Hartwell would not have had the help of the rent board. "It's really worked for the benefit of us and the tenants here," Hartwell said. "Things aren't perfect, but they're better."

Landlords tell a different story.

Richard Herndon of Palo Alto owns the 33-unit Pepper Tree Apartments near the old Ravenswood High School. His building will be torn down to make way for the Gateway 101 redevelopment project. He'll be compensated for his land and building and his tenants will be relocated.

That means that Herndon, who built the apartment building 30 years ago, will be getting out of the landlord business. How does he feel about that? "Break out the champagne," he said.

"It's an absolute nightmare," Herndon said of the rent ordinance. "This is the

plague of a lifetime."

In addition to not allowing rents over and above the consumer price index, the law has made it difficult to get rid of problem tenants and wasn't written as well as it could have been, Herndon and other landlords say.

"I had a drug dealer as a tenant, who was twice arrested," Herndon said. The tenant was represented by the East Palo Alto Community Law Project in the case against his eviction.

"They don't care whether the man is a menace to society or not," said Herndon. "The county Health Department, rent board and law project all work together in this."

The rent law, he said, makes it difficult for him to control who is living in his building. "I would not do this again for anything," he said.

With the overwhelming support of its residents, the city of East Palo Alto in 1984 became one of the smallest cities in California to have a strict rent control law.

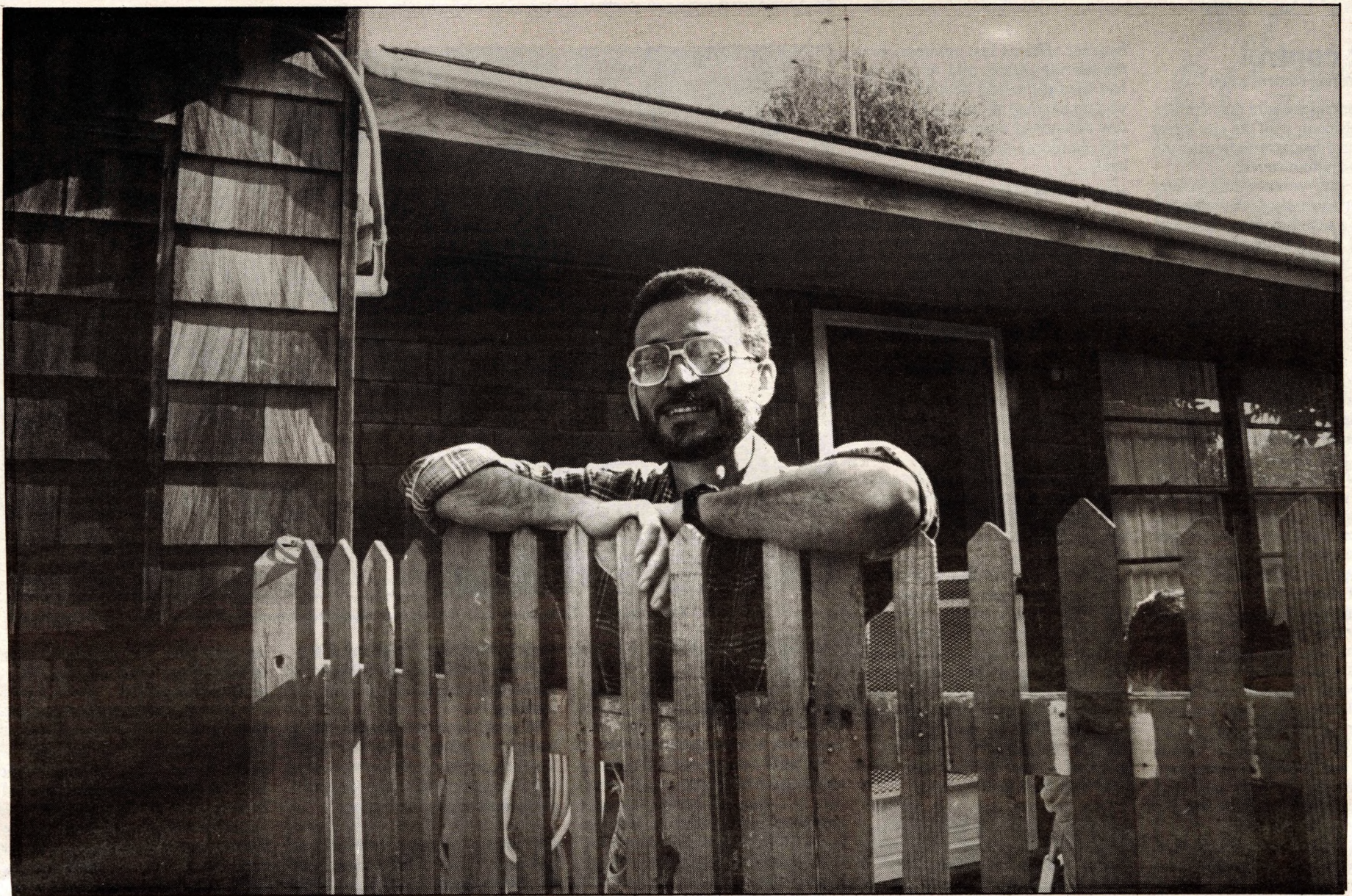
According to the Tri-County Apartment Association, the cities of Los Altos, San Jose, Pacifica, Milpitas, Gilroy and Morgan Hill all have ordinances regulating mobile home rents. Los Gatos has a law that restricts rent increases to no more than 5 percent a year. And San Jose limits rent increases to 8 percent a year for units built before 1979.

But no city in San Mateo or Santa Clara county comes close to the restrictions East Palo Alto has covering 2,700 rental housing units in the city.

The East Palo Alto ordinance:

- Limits annual rent increases to inflation. As a result, rent increases have averaged 3 percent for the past five years.

- Maintains limits on rent even after a unit is vacated—something that San Francisco's rent control ordinance doesn't do,



Fred Kiani, who owns an apartment building on Euclid Avenue, thinks rent control needs to be changed if it is to work for everyone in East Palo Alto.

but Berkeley's does.

● Requires just-cause evictions.

To property owners, nothing the city has done in the past 10 years of cityhood has been more destructive in the long run than approving rent control.

But to East Palo Alto renters, nothing the city has done has been as important. The result has been help in maintaining the median monthly rents at around \$530, according to 1990 census figures. For 1993, median rents were \$585.

(By comparison, the census data show the median monthly rent in Palo Alto in 1990 was \$851. No more recent figures were available.)

Ten years later, has the law helped or hurt the city?

Neither East Palo Alto nor San Mateo County keeps figures on foreclosures, vacancies or changes in residence. But what statistics exist suggest that rent control has in fact protected East Palo Alto's low-income tenants, which is what the law was intended to do.

The 1990 census showed that the number of rental apartments has increased since rent control was enacted, which deflates the most popular landlord argument that rent control reduces the number of units available to renters.

The city had 3,564 rental units in 1980. The rent control law was passed in 1984. As of 1990, the city had 4,053 rental units, an increase of 14 percent. (Most of the increase is a result of existing housing that was converted to rental units, since few new apartment units have been built.)

The census also shows that East Palo Alto tenants in 1990 had lived in their apartments significantly longer than tenants had in 1980.

In 1980, 54 percent of East Palo Alto's tenants had lived in their apartments less than 16 months. By 1990, that number was down to 39 percent. Conversely, the num-

ber of people who reported living in their units for more than five years grew from 15 percent in 1980 to 23 percent in 1990.

At the same time, rent control has given tenants a place to go for recourse with their housing problems.

Glen Moore and his family were continually battling backed-up plumbing, rodent infestation and leaky ceilings at their Clarke Street apartment building. They complained. Moore kept waiting, paying his rent on time and, he said, believing his landlord's promises.

But he finally got fed up and moved out, he said. He took his case to the city's Rent Stabilization Board and small claims court and won in both venues. The landlord has since appealed, but for now Moore and his family have \$3,500 due them in rental overcharges.

"Without rent stabilization, people would be in trouble," Moore said. "It would be a done deal. What rights would we have?"

But while the toll of rent control remains in question, the current status of East Palo Alto's rental housing stock is not.

Many complexes are ailing due to a clear lack of attention. Problems like those suffered by Moore and his family are rampant. Vacancies, something rent control is ideally supposed to keep down, are widespread. Foreclosures abound.

One 21-unit apartment complex at 340 E. O'Keefe St. had to be closed down twice in less than a year by the county Health Department—once for flooding and another time for stopped-up sewage. The property was sold in foreclosure in 1993.

Property owners say there was a spate of foreclosures in the early 1990s, especially among run-down apartment complexes located on the west side of Bayshore Freeway.

Fred Kiani, a member of the rent board and owner of an apartment building, said, according to his figures, there were 20

apartment building foreclosures in 1993 alone.

At the same time, the number of vacant apartments is up. The 1990 census put the city's rental vacancy rate at just 5.4 percent. But others say the vacancy rate may now be as high as 35 percent, particularly west of Bayshore.

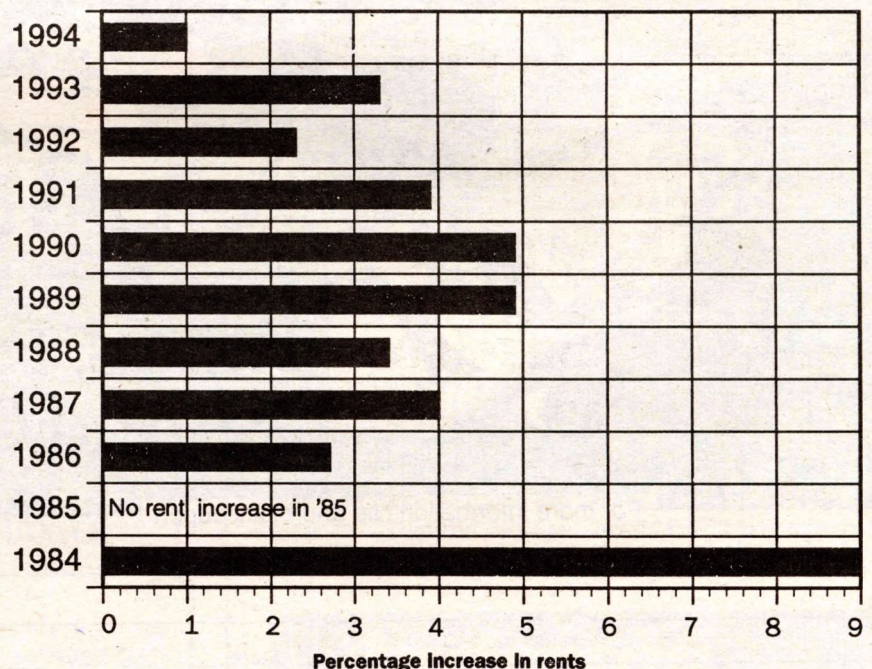
Some officials say the problems with vacancies and foreclosures in the area west of Bayshore has had more to do with an increase in violence in the early 1990s and the units' location next to the commercial strip that was going to be transformed by developer Joaquin DeMonet several years ago.

The DeMonet office tower project ran into protracted legal problems and, after several years of lawsuits and negotiations, slipped into oblivion. But, city officials say, some investors wanted to get in on what looking like a possible economic windfall and bought some apartment buildings, waiting for the boom that never came.

"There was a time when there was a lot of buying and selling of apartment units for profit," said City Council member Bill Vines. "This group (of owners) got caught in that milieu and lost a lot of dollars."

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Annual Rent Increases



Source: East Palo Alto Rent Stabilization Program

Rent control

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But landlords claim that a primary problem with the city's rent control law is in how it is enforced and administered.

When city voters adopted rent control in April 1984, they also established a seven-member Rent Stabilization Board to oversee and administer the ordinance. The board, selected by the City Council, is composed of three tenants, two landlords and two homeowners.

But operation of the rent board has been almost as controversial as the rent control law itself.

Kenneth Averall, who owns the Creekside Trailer Lodge, a small mobile home park, says he went before the rent board last year for what's called a capital improvement petition. According to the city's rent law, a landlord can make capital improvements—put on a new roof, put in new carpets—and pass those costs through to the tenants.

Averall charges \$175 a month for modest mobile home spaces, the lowest prices around. Under the city's rent law, he's been able to raise rents a few dollars a year.

But Averall, who had been doing his own landscaping and maintenance work at the trailer park for 20 years, says he developed health problems and needed to hire a gardener to do the work. To pass that cost through the tenants, he filed a petition with the rent board.

Averall said the board staff gave him the petition, he paid a \$600 fee, filled it out and took it to a hearing by one of the rent board's three

hearing officers last summer. But the hearing officer told Averall he had filed the wrong petition. There was no hearing, Averall said, just a few minutes of discussion. And the city wouldn't give him his \$600 back.

"East Palo Alto's affordable housing stock is not in good shape...But it wasn't before rent control, either."

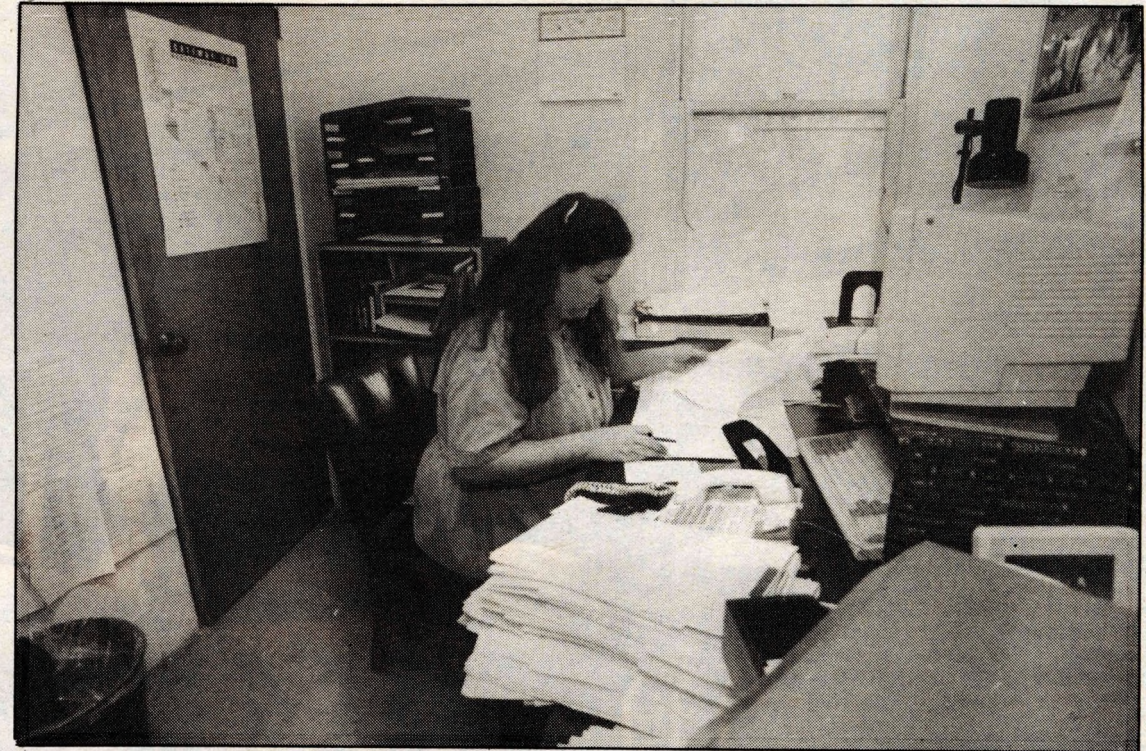
—*Jeanne Merino*
Attorney at the East Palo Alto
Community Law Project

"They just don't listen," he said. "They gave me the wrong information and then I didn't really get a hearing. Why am I being treated like dirt?"

Another problem had to do with the city's parcel tax, first passed in 1989. This was a cost imposed by the city that the landlords weren't allowed to pass on to their tenants. The actual parcel tax law said the cost could be "passed through," but the city's rent control ordinance was never modified to enable that to happen. Property owners have protested because for more than five years they have paid the cost.

"It's tough to deal with the bureaucracy," said Tod Spieker, who has owned a 20-unit apartment complex in East Palo Alto since 1981.

One continuing argument against rent control is that it discourages in-



Jeanne Merino of the East Palo Alto Community Law Project has represented tenants in their disputes with landlords.

vestment in new buildings. But that is the one flexible aspect of East Palo Alto's ordinance. New apartment buildings are exempt. Still, only a handful of new units have been built in the city since 1984.

Property owners say it is because no financial institution wants to invest in a community that has rent control. "The stigma of rent control is what is hurting investment, which is sorely needed in East Palo Alto," Spieker said.

"The landlord has to pay the

bank," Kiani said. "If you don't allow enough income for the landlord, the landlord can eventually lose the building."

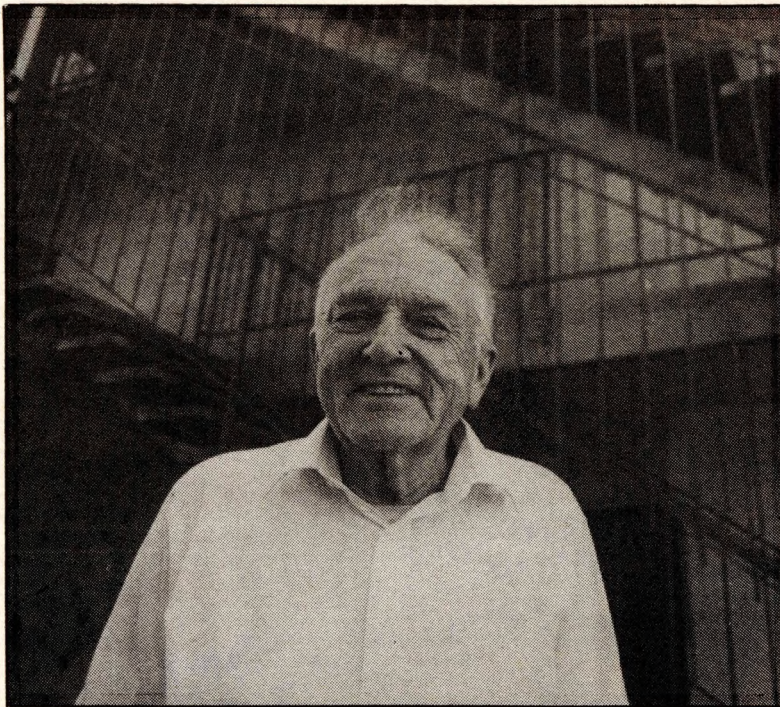
"I could have given my building back to my lender a long time ago," Spieker said. "I could do that today, but I have a moral commitment to my tenants and to my lender."

Few would claim, however, that the majority of property owners have maintained a high moral commitment to tenants. While many

say they have been prevented from raising rents, some evidence suggests the contrary.

Although rent increases are tightly controlled, they have been allowed every year for the past 10 years. Since 1984, the city's rent law has allowed a cumulative total increase of 39.4 percent in rents.

As for rent control's contribution to the deterioration of apartment buildings, tenants say that has more to do with landlord's unwillingness to work with the system and put



Richard Herndon owns the Pepper Tree Apartments on East Bayshore Road, which will be torn down for the Gateway redevelopment project. Herndon is critical of the city's rent control law and rent board.

money back into their buildings.

"East Palo Alto's affordable housing stock is not in good shape," said Jeanne Merino, an attorney at the East Palo Alto Community Law Project. "But it wasn't before rent control, either."

Besides the annual rent increases, landlords can file capital improvement petitions and income adjustment petitions. The surprising fact is that the rent board has approved all of the landlord petitions it has received since 1984.

"All petitions have been granted," said Gloria Williams, the acting director of the rent program for the city. (Kenneth Averall's case mentioned earlier doesn't count because, according to the rent program, he filed the wrong petition.)

The number of landlord petitions for rent increases has declined, though. There were 16 capital improvement petitions in 1988, but only five in 1989, she said, and a low number in subsequent years.

"The landlord community is fa-

How rent control works

East Palo Alto's rent control law requires all owners of five or more rental units in the city to register them with the city every July 1.

The city's Rent Stabilization Board, appointed by the City Council, oversees the program, which has two staff members. The rent board has three positions for tenants, two for landlords and two for homeowners.

The city's rent law allows landlords to raise rents once a year, based on the increase in the Bay Area consumer price index. The 1994 increase of 1 percent was the lowest annual increase since 1985.

In addition, both landlords and tenants may petition the rent board for rent adjustments.

The median rent for all units in East Palo Alto was \$585 in 1993, up from \$530 in 1990.

Landlords can petition for rent increases based on capital improvements they intend to make. If the capital improvement petition is approved, landlords can pass the cost of the improvement on to the tenants. Fifteen or 20 such petitions used to be filed per year, although that number has decreased in recent years.

Landlords can also petition for rent increases based on income adjustments, called a net operating income petition, if they can show they have had a loss of income.

Tenants may file petitions for rent decreases for one of three reasons: a reduction in services provided by the landlord, problems which put their apartments in violation of habitability standards or violation of the rent increase limit set by the rent board.

William Webster, a member of the Rent Stabilization Board, said tenant petitions also have been down in recent years.

Landlord and tenant petitions are subject to a hearing by one of three hearing examiners hired by the rent board. Those decisions may be appealed to a panel composed of part of the rent board itself. ■

—Don Kazak

tigued in dealing with the bureaucracy of the rent board," Kiani explains. "They've been humiliated, so they don't try."

William Webster, who bought his own condo in 1990, is today a member of the city's Rent Stabilization Board and is convinced the law was necessary to bring some finan-

cial stability to the lives of the city's lower-income tenants who, by definition, do not have a lot of housing choices.

"Shelter cost is everyone's greatest expense," he said. "And it's hard to become a homeowner in California. It's the privilege of the lucky

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Tenants can cause headaches for landlords, too. This is the mess that tenants evicted from an East O'Keefe Street building left behind.

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and the few."

In addition to stabilizing rents, the law also prohibits arbitrary evictions.

Tenants can file petitions with the rent board asking that problems in their apartments be taken care of. But, Merino said, standard practice for some landlords is to challenge any petition by intimidation. Merino usually warns tenants that landlords "will try to evict you if you complain."

More than that, it can take the rent board a long time to hear petitions. "It's been taking more than a year, so tenants saw it wasn't a very effective way to solve problems," Merino said.

There were 91 petitions filed with the board in 1991, but only 34 in 1992 and 33 in 1993.

"We inherited problems from the previous rent board," William Webster said.

"They were a wrecking crew. They tried to sabotage it from within. The rent board tended to make the process frustrating for people."

But Webster says many problems with the board have been addressed.

"Many people are condemned to tenancy," said Webster. "They have no options. You need to stabilize the economic futures of people if you want to stabilize a community."

It took a while, but someone finally sorted through 1980 and 1990 census data and begin to reach some conclusions about what has happened in East Palo Alto since

rent control was passed.

That data was analyzed last spring for Lenny Goldberg & Associates, a Sacramento firm that represents the cities of West Hollywood and Berkeley in the rent control battles in the state Legislature. Every year, the landlord groups sponsor legislation that, if passed, would preempt all local rent control laws. The landlord groups narrowly failed last year.

The report, after examining other housing data, made some broad

"The stigma of rent control is what is hurting investment, which is sorely needed in East Palo Alto."

—Tod Spieker

conclusions: "It is clear that rent control has not solved all the housing problems of quality and affordability suffered by the tenants of this low-income minority community. At the same time, it is also clear that rent control has not caused these problems . . ."

The report also noted that, according to the rent board, "Since the recession of the 1990s, they claim, most landlords have not taken the full (rent) increases they are allowed by law because tenants in the community could not afford payment at that level."

"There is finally some basis of comparison," Goldberg said. "In East Palo Alto, the data is particularly compelling. The law protects



Firefighters had to tear a hole in the corridor ceiling in the building at 340 East O'Keefe St. in late 1993 to get at a leaky roof. The water leak and damage forced the evacuation of the tenants for about a month.

tenants and the affordable housing stock."

Goldberg is quick to add, however: "No one on our side argues that rent control is a panacea for housing problems. It's a protection for when there are gentrification pressures."

Gentrification is exactly what some East Palo Alto officials have feared ever since incorporation—the fear of making the city so attractive that it would drive up rents and drive out existing tenants. But the economic boom everyone in East Palo Alto has been waiting for since incorporation hasn't happened.

With two commercial redevelopment projects waiting to be built and a significant reduction in the city's violent crime rates, new pressures for gentrification may be ahead.

Pressure also continues from the California Apartment Association in Sacramento which is still determined to get legislation passed that would make moot all rent control laws in the state. "We'll continue to address the problems of radical rent control," said Tom Bannon of the association. "The issue will get resolved, one way or another, in the Legislature or the courts."

One possible area for change in East Palo Alto is vacancy decontrol—allowing rents to revert to market rate when apartments become vacant. This would be something East Palo Alto landlords would undoubtedly favor.

Merino says she is against vacancy decontrol. "People of color, poor people and single moms tend to

move around more and they would be the ones hurt by vacancy decontrol," she said.

Because of the way the city's ordinance was adopted and modified, the City Council doesn't have the final say on changes in the law. The voters do.

"It's not a Council issue. It's a community issue," said Council member Vines.

But the Council could sponsor a ballot initiative modifying the ordinance.

Mayor Rose Jacobs Gibson said the issue of rent control came up at the recent Council retreat weekend in January. "There have been some concerns raised," Gibson said. "It is an issue."

"I don't know how efficiently (the law) is working," said Vice Mayor Sharifa Wilson. "Some buildings are falling apart, and we should be monitoring the condition of the buildings."

Wilson is a supporter of the ordinance, but she knows it hasn't always been fair to the landlords. One example, she said, is that tenants can withhold rent when they petition to have the landlord fix something. The way the law is written, the tenants don't have to pay rent for the one, two or three months it takes to get something fixed. The landlords simply never get that rent. "That's not fair, either," she said.

"For me, it's been 10 years since the ordinance was in place," Wilson added. "We've learned something in 10 years. A study needs to be done, but the recommendations

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Population and Housing Unit changes in East Palo Alto, 1980-1990

Item	1980	1990	change
Population	18,191	23,451	+29%
People in poverty	3,064	4,072	+33%
Median monthly rent	\$258	\$530	+86%
Rental units	3,564	4,053	+14%
People per rental unit	1.75	2.39	
Rental vacancies	4.50%	5.41%	

Source: United States Census Bureau

Tenant Stability in East Palo Alto

Length of residence	1980	1990
Under 16 months	54%	39%
16 months to 5 years	31%	38%
More than 5 years	15%	23%

Source: Lenny Goldberg & Associates

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must come from the rent board, not just from the landlords."

Kiani, who was a tenant for most of his life before buying his apartment building, is hopeful that the ordinance can be improved.

"There are ways that rent control can be beneficial to the community, or it can be detrimental to the community," Kiani said. "Tenants have rights. You can't double their rents in a year. At the same time, the landlord needs to get his income.

"I think the Council should consider some changes to create a happy medium. It's a delicate balance.

There are too many foreclosures now, so property values drop and tax revenues (for the city) drop."

Wilson says the city, with 10 years experience, may be able to improve the rent control ordinance. But 10 years of history also means that there is a lot of anger and a lot of entrenched positions. There is also a question of how much confidence landlords and tenants have in the rent board to be fair and non-political.

Those attitudes may be difficult for everyone concerned to move beyond.

"If rent control is to stay," Kiani said, "it has to change its looks, change its clothes, and take a shower." ■