

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2024 Legislative Session

Reference No.:	CB-097-2024
Draft No.:	1
Committee:	COMMITTEE OF THE WHOLE
Date:	10/22/2024
Action:	FAVORABLE

REPORT: Committee Vote: Favorable, 8-1-1 (In favor: Council Members Blegay, Burroughs, Dernoga, Fisher, Harrison, Hawkins, Olson, Oriadha, and Watson) (Abstain: Council Member Fisher) (Opposition: Chair Ivey)

The County Council convened as the Committee of the Whole on October 8, 2024, to consider CB-097-2024. The Committee of the Whole also convened on October 22, 2024, to discuss CB-097-2024. The PHED Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. As presented on September 24, 2024, Draft-1 amends the Prince George's County Code to prevent landlords exempt from rent stabilization regulations from raising rents excessively by capping annual increases at fifteen percent.

The Budget and Policy Analysis Division provided a fiscal and policy note stating that the enactment of CB-097-2024 will not have an adverse fiscal impact. DPIE is unlikely to require increased staff or an increased workload.

The indirect fiscal impact is mixed. The legislation will be favorable in reducing resident displacement and creating greater housing affordability for middle—to low-income renters. On the other hand, it may reduce incentives for landlords and developers and could impact the overall housing quality.

The hard cap on increases may incentivize landlords to routinely raise rents more than they otherwise would to hedge against a potential need for a significant rise to cover extraordinary one-time capital costs.

There were also several questions listed in the memorandum for Council consideration.

1. Does the 15% cap sufficiently align with the current rent growth trends?
2. Will this cap encourage or incentivize landlords to raise rent above the region's current rent growth averages?
3. Is there a risk of the 15% becoming the new floor?
4. Should additional guidelines be established for special cases requiring a significant rent increase?

CB-097-2024 (DR-2) Report

Council Member Oriadha, the bill sponsor, stated that the proposed legislation is one of the amendments she requested before enacting the Permanent Rent Stabilization and Protection Act of 2024. There was an agreement to create a separate bill to address the large gap in comparison to neighboring jurisdictions because the Prince George's County Rent Stabilization Act exempted units built after 2000. This legislation is to protect those tenants from rent gouging. There was a rental increase of 20 and 50 percent overnight. Council Member Oriadha requested a favorable recommendation on the legislation.

Vice Chair Harrison asked the Administration how long it would take them to provide bill input. Ms. Sakinda Skinner, County Council Liaison with the County Executive's Office, stated she would need to speak with numerous staff members because there is a question on whether the legislation deals with rent capping or rent gouging. Ms. Skinner explained she would work expeditiously to assist with cleaning up the legislation to ensure there are no legal impediments to the enactment of the bill.

Council Member Oriadha was amenable to working with the Administration if the legislation was placed on the October 15 Committee of Whole.

On a motion of Council Member Oriadha, seconded by Vice Chair Harrison, the Committee of the Whole voted 8-0-1 to hold the bill.

On October 22, 2024, the County Council, sitting as the Committee of the Whole, convened again to discuss CB-097-2024.

Council Member Oriadha, the bill sponsor, stated that after the Permanent Rent Stabilization and Protection Act of 2024 was enacted, there was a discussion that additional legislation would be presented to cap the annual rent increase for landlords exempt from rent stabilization.

Ms. Dinora Hernandez from the Office of Law submitted a memorandum, which is listed below.

The Office of Law has reviewed the above-referenced bill as it was presented on September 24, 2024, and finds it to be in proper legislative form. The Office of Law finds that this bill, as drafted, raises the following possible legal impediments that could subject the bill to legal challenges:

1. Takings Clause (Fifth Amendment) The U.S. Constitution's Takings Clause prohibits the government from taking private property for public use without just compensation. Rent control laws that are excessively restrictive might be challenged as an unconstitutional "taking" if they significantly interfere with a property owner's ability to earn a reasonable return on their investment. However, courts have upheld rent control laws in the past, provided they allow landlords to receive a "fair return" on their property. Exemptions (like those for new construction or substantial improvements) help ensure that rent caps do not become too burdensome and violate this clause.

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2. Due Process Clause (Fourteenth Amendment) Rent control laws must also satisfy the requirements of the Due Process Clause. This means they must rationally relate to a legitimate government interest, such as preventing excessive rent increases or addressing housing affordability. If a rent cap were imposed to include those that are exempt, it might be challenged as overly broad or arbitrary. A law imposing a rent cap on all units that are exempt might face greater scrutiny under this clause, as it could be seen as denying landlords reasonable flexibility, especially in cases like new construction or substantial renovations where costs justify higher rents.
3. State Constitutional Concerns Maryland's state constitution also contains provisions that could impact a rent cap law. For example, economic regulations (including rent control) generally need to balance the public good with private property rights under Maryland law. Imposing a rent cap on all exempt units might be seen as failing to balance these interests, which could lead to legal challenges under state constitutional provisions on due process or takings.
4. Precedents Maryland courts and courts across the U.S. have typically upheld rent control measures when they include mechanisms that allow landlords to adjust rents in certain situations (e.g., for reasonable returns, new buildings, or renovations). If a rent cap law in Maryland lacked these kinds of exemptions, it might face challenges from landlords as being too rigid or confiscatory.

Conclusion

Enacting this legislation could face legal challenges. Most rent control laws include exemptions to avoid violating constitutional protections for property owners. This bill imposes a cap on all properties that qualify for an exemption, which the courts in Maryland would heavily scrutinize.

Vice Chair Harrison asked if the legislation could be challenged in court. Ms. Hernandez stated yes.

Ms. Skinner stated that the Administration echoes the opinion of the Office of Law. The Administration is opposed to the legislation. Ms. Skinner explained that CB-097-2024 was not a product or recommendation from the Rent Stabilization Workgroup.

Chair Ivey stated she has concerns regarding the message being sent by the proposed bill. On the one hand, we wanted to protect the most vulnerable, which was done with the enactment of the Permanent Rent Stabilization and Protection Act of 2024, but at the same time, we want to encourage the development of housing that makes it more affordable. The concern is that the legislation could have the opposite effect.

Council Member Oriadha explained that the amendment was negotiated during discussions of rent stabilization. The proposed legislation did come up when the Rent Stabilization Workgroup met. The fifteen percent was a recommendation presented by the Apartment and Office Building Association of Metropolitan Washington (AOBA).

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Chair Ivey motioned to hold the bill Council Member Oriadha offered a substitute amendment to move favorably on CB-097-2024. On the motion of Council Member Oriadha, seconded by Council Member Blegay, the vote failed 5-2-2.

Chair Ivey motioned to hold the bill. On motion of Chair Ivey, and second Vice Chair Harrison, the vote failed 4-5.

On motion of Council Member Oriadha, seconded by Council Member Blegay, the County Council sitting as the Committee of the Whole voted 8-1-1 favorably on CB-97-2024.