Cities 49 (2015) 121–133

Contents lists available at ScienceDirect

Cities

journal homepage: www.elsevier.com/locate/cities

Forty years of rent control: Reexamining New Jersey's moderate local policies after the great recession

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ARTICLE INFO

Article history:
Received 30 January 2015
Received in revised form 3 August 2015
Accepted 6 August 2015
Available online 14 August 2015

Keywords:
Housing policy
Affordable housing
Rental housing
Rent control
Foreclosures

ABSTRACT

This study replicates, using 2010 Census data, and extends past work on moderately rent-controlled municipalities in New Jersey, which began policies to stabilize rents while allowing landlords modest returns in the 1970s. Our approach compares controlled and non-controlled communities over 10,000 persons; and regresses rental housing characteristics (rent and quality/quantity) on two measures of rent control: nominal (1/0) and ordinal (an index of policy diversity/strength). Because the decade 2000–2010 was unique due to the housing bubble and recession, we expand previous analyses by introducing two additional dependent variables: changes in property values, which may be affected by restrictions on rents; and foreclosure rates, a problem affecting investors and a proxy for abandonment. We find that these 40-year-old policies do not exert any statistically-significant effects on their communities' housing markets once other factors are controlled—a finding which has implications for affordable housing and advocacy in New Jersey and beyond.

1. Introduction

Rent control—diverse sets of restrictions on landlords' abilities to raise tenants' rent payments—has existed in some form since ancient Rome, making it one of the oldest housing regulations still practiced today (Keating, Teitz, & Skaburskis, 1998). These laws regulate the rental housing market with the intent of ensuring the availability of affordable housing for community members with low or moderate incomes and tenant stabilization. Several states and numerous communities in the United States adopted state or municipal rent control laws or ordinances during the twentieth century. Most notably, communities in the state of New Jersey embraced *moderate* rent controls, which attempt to stabilize annual rent increases for tenants while ensuring landlords receive "fair" returns on their investments, in the 1970s (Baar, 1998).

Despite its moderate nature, rent control in New Jersey was never without controversy as policymakers, analysts, and the public debated its virtues and vices. Advocates argue that, in some markets, rent control policies are a necessity to ensure affordability, tenant stabilization, and the rights of tenants. Critics, including many economists, free-market supporters, and landlords, counter that these policies—even in mild forms—create inefficiencies in the rental housing market and have adverse effects on the quantity and quality of rental housing. This controversy has continued into the twenty-first century as several communities and states still debate the adoption, modification, or elimination of rent controls—in general or for specific submarkets like nursing or mobile homes (Davidson, 2013; Haddon, 2011; Tatian, 2013). Rents rose rapidly during the housing boom of the early and mid-2000s but fell in many localities during the Great Recession. The aftermath of the 2008 housing market crash caused some New Jersey communities, motivated by fears that rent controls were holding back the recoveries of their local real estate markets, to revisit this debate. An example is the November, 2012 referendum in the city of Hoboken which would have eliminated rent control for smaller properties. This referendum was rejected by voters twice (due to a repeat attempt after voter displacements from Hurricane Sandy) by very small margins (Brenzel, 2014). Cities and voters may be influenced to support rent control by a desire to ensure affordability in a rental market glutted with new renters who lost their homes during or after the crash (Tatian, 2013).

This paper updates four decades of research on rent control ordinances in New Jersey communities to today's climate by

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http://dx.doi.org/10.1016/j.cities.2015.08.001
0264-2751/

replicating and expanding past analyses with 2010 U.S. Census data (for examples, see past studies by Gilderbloom and colleagues: Gilderbloom, 1983; Gilderbloom & Markham, 1996; Gilderbloom & Ye, 2007). New Jersey, a national leader in tenants' rights since the 1960s, is an excellent case study of the effects of moderate rent controls because so many (over 100) of its municipal governments have adopted these controls (Baar, 1998). While not completely ideal, New Jersey is the best available laboratory for examining the impacts of rent control. We replicate the design and methods of the most recent New Jersey-based study by Gilderbloom and Ye (2007) with 2010 Census data by using a technique approximating a natural experiment (Babbie, 2014) to compare controlled and non-controlled municipalities over 10,000 persons; and regressing rental housing characteristics on two measures of rent control: nominal (yes/no) and an ordinal scale of legal strictness capturing the wide diversity of ordinances in the state. Rental housing characteristics include five measures of rent, unit quality, and quantity of stock. The past decade is unique because it covers the national housing bubble, the 2007–2008 economic crash and housing crisis, and the recovery period (Ambrosius, Gilderbloom, & Hanka, 2010). We extend the previous models and respond to current debates in New Jersey by introducing two additional dependent variables: (a) changes in property values, which may be adversely affected by restrictions on rents and (b) foreclosure rates, a problem affecting investors and a proxy for abandonment, which may increase or decrease in rent-controlled cities depending on the logic applied.

2. Background and literature review

Rent control has been a hotly debated regulation in the U.S. for nearly 75 years (Fogelson, 2013; Gilderbloom, 1981; Gilderbloom & Appelbaum, 1988; Glaeser & Luttmer, 2003). This literature review concisely reviews the evolution of rent control, findings from previous studies of rent control's effects, and the nature of rent control ordinances in New Jersey.

2.1. Evolution of rent control in the U.S.

Rent control policies in the U.S. arose during World Wars I and II as the result of states of national emergency, including fears of housing shortages in cities important to the war efforts (Keating et al., 1998). When a building boom eased the post-war national housing shortages, landlords challenged the constitutionality of rent control laws. By the 1950s, most cities abandoned rent control with the exception of a few localities in the state of New York. During the 1970s and early 1980s, there was a renewal of rent control ordinances in U.S. cities in New Jersey, Massachusetts, Maryland, Virginia, Florida, California, and the District of Columbia. Most states reacted to these laws by passing legislation to eliminate rent control or to make it a less aggressive policy. This backlash by states, and the individuality of each locality adopting rent control, created variations in approaches with different levels of strength. By 2000, over 200 localities in the U.S. had some form of rent regulation with about half of these located in New Jersey (Gilderbloom, 2008).

The literature on rent control identifies two distinct waves or generations (Arnott, 1995; Olsen, 1998). The first wave's (1940–1950) laws focused on ensuring affordability and preventing profiteering. This form of rent control put a restrictive freeze, or price ceiling, on nominal rents. After the housing boom of the late 1940s and early 1950s, the first generation of rent control was largely abandoned except for in New York—but even New York eventually phased out these more restrictive policies. The second wave (1970–present) differed from the first in that it embraced more-flexible, "moderate"—and in some cases *symbolic*—controls. This form of rent control allows modest but regular rent increases while governing conversion, maintenance, and the relationship between landlord and tenant (Gilderbloom & Ye, 2007).

During this second wave, over 100 communities in New Jersey adopted this moderate form of rent control. As inflation rates soared in the mid-1970s, a number of these communities adopted provisions that limit the annual increase in rents to a portion of the increase in the Consumer Price Index (CPI) or as a flat percentage (Baar, 1998; Gilderbloom, 1981). Most of the ordinances enacted during this wave are administered by nonelected local rent control boards that attempt to balance the voices of landlords and tenants (Baar & Keating, 1981). The remainder of this section concisely discusses some specific attributes of rent control laws and the challenges they have faced in the courtroom.

Federal, state and local rent controls in the U.S. were first justified as "temporary measures" but later became permanent in progressive cities on the East and West coasts (Keating et al., 1998). Many of these so-called temporary measures put in place in the 1970s and 1980s still exist in large California cities, Washington, D.C., and roughly 100 New Jersey cities—with only Miami, Boston, and Cambridge ending them. Where adopted, the legality of rent control has been repeatedly challenged in the courts both on constitutional and other grounds (Keating, 1998a, 1998b). While the majority of rent control laws are authorized and regulated at the state level, states like New Jersey allow local governments to determine the type of controls, if any, to adopt. Typically only a part of the rental stock is actually subject to rent (and eviction) controls. For example, smaller buildings are often exempt from rent control laws, as well as new construction built after the adoption of controls. Legislation usually contains provisions satisfying constitutional requirements guaranteeing landlords a "fair return on investment."

In *Block v. Hirsh* (1921), the U.S. Supreme Court upheld in a 5–4 decision, the constitutionality of the first U.S. rent control laws enacted in Washington, D.C. and New York City which had rental housing shortages during WWI. The Court based its decision on its recognition of the existence of a rental housing emergency and the temporary nature of these regulatory laws. In the subsequent decision *Chastleton v. Sinclair* (1924), the federal courts reserved the right to determine whether or not such an emergency still existed to justify the continuation of rent control. Rent control in both cities ended in the 1920s as the housing shortage lessened. Shortly after the U.S. entered WWII, the federal government imposed for the first time federal rent controls in select metropolitan areas where war production might have been affected by housing shortages for needed workers. The U.S. Supreme Court upheld this move under the constitutional war powers held by the president (*Bowles v. Willingham*, 1944). Federal rent control was eventually terminated with the easing of the post-wartime housing shortage.

Despite the discontinuation of federal rent controls, some states continued to use them for a while but soon only New York State continued rent control in some of its localities, notably New York City. New York required periodic renewal of these local rent controls with a finding that the housing emergency continued to exist. Landlords challenged the New York rent control laws on numerous occasions in the 1950s and 1960s, claiming that rent control denied them a fair return and that the emergency justifying continuation of controls had ended. Overall, their claims were rejected in the courts (Baar & Keating, 1975; Keating, 1998a, 1998b).

At the end of the 1960s and early 1970s, the combination of tenant organizing and economic conditions led to the adoption of the second wave rent controls in several states: California, Massachusetts, New Jersey, and the District of Columbia. In 1972,