

**IN THE CIRCUIT COURT FOR THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA**

FLORIDA ASSOCIATION OF REALTORS,
a not-for-profit corporation d/b/a
FLORIDA REALTORS; and
FLORIDA APARTMENT ASSOCIATION,
INC., a not-for-profit corporation,

Plaintiffs,

v.

Case No:
Division:

ORANGE COUNTY, FLORIDA, and
BILL COWLES, in his official capacity
as Orange County Supervisor of Elections,

Defendants.

_____ /

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
AND FOR WRIT OF QUO WARRANTO

Plaintiffs Florida Association of Realtors, a not-for-profit corporation d/b/a Florida Realtors (“Florida Realtors”) and Florida Apartment Association, Inc. (“FAA”), a not-for-profit corporation, file this complaint challenging the validity of Orange County Ordinance 2022-29 (the “Rent-Control Ordinance” or “Ordinance”) against Defendants Orange County and Bill Cowles, in his official capacity as Orange County Supervisor of Elections.

Nature of the Action

Under Florida law, local governments are generally prohibited from adopting ordinances that would have the effect of imposing rent control. § 125.0103(2), Fla. Stat. A narrow statutory exception authorizes limited rent-control ordinances only upon approval of both the local governing body and the voters, and only where “necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the general public.” *Id.*

In any court action challenging the validity of a rent control ordinance, the burden of proof rests upon the party seeking to have the measure upheld. § 125.0103(6), Fla. Stat.

The Rent-Control Ordinance fails to satisfy this stringent legal standard and therefore violates both section 125.0103 of the Florida Statutes, and Article VIII, section 1(g), of the Florida Constitution. This Court should declare the Ordinance invalid and enjoin its operation.

Jurisdiction, Parties, and Venue

1. This Court has jurisdiction over this matter under article V, section 5(b) of the Florida Constitution and section 26.012 of the Florida Statutes. Venue is proper in Orange County under section 47.011 of the Florida Statutes. Plaintiffs' action for declaratory and injunctive relief is authorized under sections 86.011 and 26.012(3) of the Florida Statutes. This Court has the power to issue writs of quo warranto under article V, section 5(b) of the Florida Constitution.

2. Plaintiff Florida Realtors is a 501(c)(6) trade association headquartered in Orlando whose 225,000 members include residential and commercial agents and brokers, appraisers, real estate counselors, property managers, and other real estate specialists. The mission of Florida Realtors is to support the American dream of homeownership, build strong communities and shape public policy on real property issues. To achieve its goals, Florida Realtors engages in extensive education and advocacy efforts both directly through its staff and in alliance with its local and regional Realtor associations and boards on issues affecting the real estate community and property owners in Florida. Orange County's adoption of the Rent-Control Ordinance has required Florida Realtors to divert its time, staff, and other resources and focus away from its other policy priorities toward efforts to educate and respond to concerns from its members confronted with the adoption of an invalid rent-control measure. Florida Realtors also

brings these claims on behalf of its members, a substantial number of whom will be adversely affected by the Rent-Control Ordinance. The relief requested in this lawsuit—declaratory and injunctive relief and a writ of quo warranto—is of a type appropriate for a trade association to receive on behalf of its members.

3. Plaintiff Florida Apartment Association, Inc. is a 501(c)(6) trade association headquartered in Orlando. The mission of FAA is to represent and advocate the interests of the Florida multifamily rental housing industry. FAA represents a diverse array of apartment property types, amounting to nearly three-quarters of all apartment communities in Florida. To achieve its goals, FAA engages in legislative monitoring and advocacy efforts at the state and local level both directly through its staff and in alliance with its local affiliates on issues impacting the multifamily rental housing industry. Orange County’s adoption of the Rent-Control Ordinance has required FAA to divert its time, staff, and other resources and focus away from its other policy priorities toward efforts to address the adoption of an invalid rent-control measure. FAA also brings these claims on behalf of its members, a substantial number of whom will be adversely affected by the Rent-Control Ordinance. The relief requested in this lawsuit—declaratory and injunctive relief and a writ of quo warranto—is of a type appropriate for a trade association to receive on behalf of its members.

4. Defendant Orange County is a political subdivision of the State of Florida and a charter county governed by a seven-member Board of County Commissioners. Art. VIII, § 1, Fla. Const.; § 7.48, Fla. Stat. The Orange County Board of County Commissioners has the power to enact county ordinances “not inconsistent with general law.” Art. VIII, § 1(g), Fla. Const.

5. Defendant Bill Cowles is the Supervisor of Elections for Orange County and is named as a defendant in his official capacity. Supervisor Cowles is responsible for preparing the

ballots for, and otherwise administering, the referendum election on the Rent-Control Ordinance called for November 2022.

6. All conditions precedent to the filing of this action have been performed or waived.

Common Factual Allegations

A. Statutory Restrictions on Rent Control

7. For more than four decades, Florida law has imposed significant restrictions on the authority of local governments to adopt ordinances that would have the effect of imposing rent control. Under section 125.0103(2) of the Florida Statutes, “No law, ordinance, rule, or other measure which would have the effect of imposing controls on rents shall be adopted or maintained in effect except as provided herein and unless it is found and determined, as hereinafter provided, that such controls are necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the general public.”

8. Florida law entirely exempts certain categories of rental properties from the application of any rent-control ordinance. No rent controls may be imposed on rents for:

- any accommodation used or offered for residential purposes as a seasonal or tourist unit;
- any accommodation used or offered for residential purposes as a second housing unit; or
- dwelling units located in “luxury apartment buildings,” defined as buildings “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.”

§ 125.0103(4), Fla. Stat.

9. A local government seeking to adopt a rent-control ordinance must secure two separate approvals. First, the measure must be “duly adopted by the governing body of such entity of local government, after notice and public hearing, in accordance with all applicable

provisions of the Florida and United States Constitutions, the charter or charters governing such entity of local government, this section, and any other applicable laws.” § 125.0103(5)(a), Fla. Stat. Second, the measure must be “approved by the voters” at a referendum election. § 125.0103(5)(c), Fla. Stat.

10. All rent-control ordinances must be time-limited. They “shall terminate and expire within 1 year” and “shall not be extended or renewed except by the adoption of a new measure meeting all the requirements” required for the original adoption of the rent-control ordinance. § 125.0103(3), Fla. Stat.

11. Finally, rent control is authorized only where the governing body of the local government makes and recites 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.” § 125.0103(5)(b), Fla. Stat. The local government’s findings and recitations adopted in the ordinance are not accorded any presumptive evidentiary effect. *Id.*

12. In any court action brought to challenge the validity of rent control adopted under section 125.0103, the party seeking to have the measure upheld bears the ultimate burden to prove: 1) the “existence in fact” of a “grave housing emergency” constituting a “serious menace to the general public”; and 2) that the rent-control ordinance is “necessary and proper to eliminate such grave housing emergency.” § 125.0103(6), Fla. Stat.

B. Orange County’s Adoption of the Rent-Control Ordinance

1. County Attorney’s Memorandum Addresses Statutory Restrictions on Rent-Control and Applicable Precedents.

13. On March 8, 2022, Orange County Commissioner Emily Bonilla submitted a memorandum and report to the Orange County Mayor and County Commissioners regarding a

proposed rent-control ordinance to be discussed at the Board's meeting on April 5, 2022. At the request of Mayor Jerry Demings, and in preparation for the Board's discussion, the County Attorney for Orange County prepared a memorandum addressing Florida's statutory restrictions on rent-control measures and relevant judicial precedents. A copy of the County Attorney's Memorandum is attached as Exhibit A.

14. The County Attorney's Memorandum identified the conditions and restrictions imposed on local governments that seek to adopt rent-control measures under the "grave housing emergency" exception. Exh. A at 3. In addition to discussing the procedural restrictions, the County Attorney's Memorandum analyzed the statutory term "grave housing emergency" and traced its origin to the United States Supreme Court's decision in *Edgar A. Levy Leasing Co. v. Siegel*, 258 U.S. 242 (1922). Exh. A at 4-5.

15. The County Attorney's Memorandum also examined the history of litigation in Florida over the City of Miami Beach's attempts to impose rent control in the 1960s and 1970s—actions that immediately preceded the adoption of section 125.0103. Exh. A at 5-6.

16. Based upon a review of these authorities, the County Attorney's Memorandum concluded that it was "unlikely that a shortage of housing, increase in the cost of living, or an inflationary spiral alone are enough to establish 'a housing emergency so grave as to constitute a serious menace to the general public.'" Exh. A at 6-7. *See also id.* at 7 (quoting Florida Supreme Court holding "emergency" is "narrowly defined").

17. Instead, the County Attorney's Memorandum stated that a rent-control ordinance in Orange County would "likely need to contain findings and recitations that are more similar to the *Levy* case":

That there was a very great shortage in dwelling house accommodations in the cities of the state to which the acts apply; that this condition was causing

widespread distress; that extortion in most oppressive forms was flagrant in rent profiteering; that, for the purpose of increasing rents, legal process was being abused and eviction was being resorted to as never before; and that unreasonable and extortionate increases of rent had frequently resulted in two or more families being obliged to occupy an apartment adequate only for one family, with a consequent overcrowding, which was resulting in insanitary conditions, disease, immorality, discomfort, and widespread social discontent.

Exh. A at 7 (quoting *Levy*, 258 U.S. at 246). Stated differently, the findings must establish both the “grave housing emergency” **and** “the effect that the emergency is having on the general public” such as “widespread distress, extortion, flagrant rent profiteering, abuse of the legal process, overcrowding resulting in insanitary conditions and disease, etc.” Exh. A at 7-8.

18. Not only would Orange County need to recite these findings in a rent-control ordinance, the County Attorney’s Memorandum advised that Orange County would need evidence to **prove** the existence in fact of a grave housing emergency in the event of a legal challenge. Exh. A at 8. Orange County would also need evidence to **prove** that its rent-control ordinance “is necessary and proper to eliminate said grave housing emergency.” *Id.*

19. Finally, the County Attorney’s Memorandum noted that there was “no apparent record of any local governments in Florida imposing rent controls pursuant to [section 125.0103] since the Statute went into effect on May 21, 1977. Exh. A at 9.

2. Orange County Retains Consultants to Evaluate Local Housing Conditions and Effectiveness of Rent-Control Measures.

20. Following discussion at a meeting on April 5, 2022, Orange County’s Board of County Commissioners instructed staff to retain a consultant to evaluate housing costs and the effectiveness of rent-control measures. Orange County retained a consulting group, The Community Solutions Group of GAI Consultants, Inc. (“GAI”) to evaluate and document local housing conditions to determine whether they rise to the level of an emergency, to estimate the number of units that could be affected by rent-control measures, and to comment on the likely

effectiveness of those measures if implemented. A copy of the Orange County Rent Stabilization Analysis produced by GAI in May 2022 (the “GAI Report”) is attached as Exhibit B.

21. The GAI Report ultimately concluded that the issues driving housing costs in Orange County were “deeply structural and a product of regional and national market influences, likely beyond the control of local regulation.” Exh. B at 3. The issues stemmed mostly from “inadequate housing production over years which a temporary rent ceiling would do little to correct.” *Id.* The GAI Report found that, rather than eliminating a grave housing emergency, rent-control measures consistent with section 125.0103 “may impede the objective of speeding overall housing deliveries as well as create a number of unintended consequences.” *Id.*

22. As to each of the GAI Report’s major findings on the specific issues evaluated, Orange County’s retained consultants reached conclusions inconsistent with the existence-in-fact of a grave housing emergency that would be eliminated by the adoption of a rent-control ordinance. *See* Exh. B at 4-5 (addressing market and social metrics as to evidence of an “emergency”); Exh. B at 5-6 (addressing whether proposed rent-control measures would eliminate the conditions associated with the source of the emergency); Exh. B at 6-7 (addressing likely consequences of rent control measures).

3. Orange County Adopts Rent-Control Ordinance Notwithstanding Statutory Restrictions and GAI Report’s Findings.

23. At a meeting on June 7, 2022, the Orange County Board of County Commissioners was presented with the findings of the GAI Report. Following lengthy discussion, the issue was tabled for further deliberation at a special session.

24. On June 23, 2022, the Board convened in special session and directed staff to begin drafting a rent-control ordinance. The Board reached consensus on the remaining issues

needed to create a full draft rent-control ordinance at a subsequent meeting held on July 26, 2022.

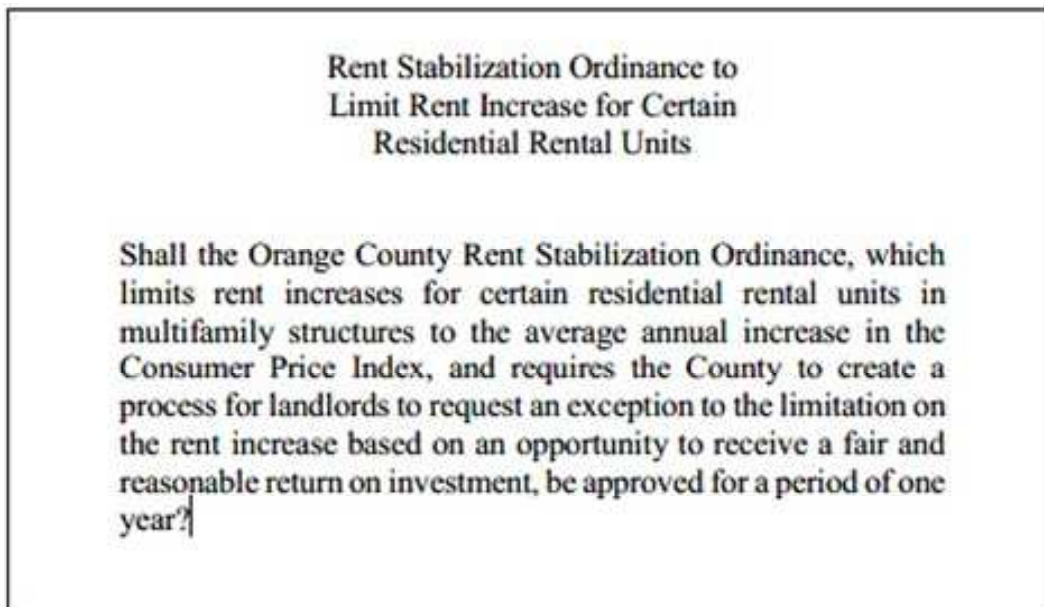
25. The Orange County Board of County Commissioners met again on August 9, 2022. By a margin of 4-3, the Board voted to adopt the Rent-Control Ordinance and to place a referendum on approval before the voters at the November 2022 General Election. A copy of the Rent-Control Ordinance is attached as Exhibit C.

26. The Rent-Control Ordinance has the “effect of imposing controls on rents.” § 125.0103(2), Fla. Stat. Specifically, the Ordinance provides that “[n]o landlord shall demand, charge, or accept from a tenant a rent increase for a residential rental unit more than once in a 12-month period.” Exh. C at 7 (Section 25-384(a)). The Ordinance also provides that “[n]o landlord shall demand, charge, or accept from any tenant a rent increase that is in excess of the existing rent multiplied by the Consumer Price Index for any residential rental unit except as otherwise allowed under Section 25-388 of this Ordinance.” Exh. C at 7 (Section 25-384(b)).

27. A landlord violating the Rent-Control Ordinance is subject to a variety of penalties, including civil citations and fines imposed by the County’s code enforcement board of up to \$15,000 per violation or \$5,000 per day and prosecution resulting in imprisonment in the county jail for a term of up to 60 days. Exh. C at 11 (Section 25-390). The Rent-Control Ordinance also creates a private right of action authorizing any tenant aggrieved by a landlord’s alleged noncompliance to file suit in a court of competent jurisdiction and to recover “actual and punitive damages, reasonable attorney’s fees, interest, costs, or other relief, upon a finding that a violation of this ordinance has occurred or is about to occur.” *Id.*

28. The Rent-Control Ordinance calls a referendum election to be held at the November 2022 General Election to determine whether the Ordinance will be approved by the

voters. Exh. C at 12. Ballots to be used in the referendum election must contain the following ballot statement:



29. The Rent-Control Ordinance includes two sets of findings purportedly establishing the existence-in-fact of a housing emergency in Orange County so grave as to constitute a serious menace to the general public, and that the Rent-Control Ordinance is necessary and proper to eliminate the grave housing emergency. The first set of findings are set out in a series of conclusory recitals that are incorporated by reference:

- WHEREAS, there are approximately 584,000 total housing units in Orange County of which 230,000 are occupied by renters, and according to the 2020 census, Orange County has seen an approximate 25% increase in population since 2010—from approximately 1.15 million people to approximately 1.43 million people; and
- WHEREAS, there is a shortage of dwelling houses and apartments in Orange County, Florida needed to house the current and growing population; and
- WHEREAS, because of the current shortage of housing, the vacancy rate for housing is low; and
- WHEREAS, tenants displaced as a result of their inability to pay increasing rents must relocate, but are unable to find decent, safe, and sanitary housing at affordable rent levels; and

- WHEREAS, some tenants attempt to pay the requested rent increases, but as a consequence must expend less on other necessities of life; and
- WHEREAS, this situation has had a detrimental effect on a substantial number of renters in Orange County creating hardships on senior citizens, persons on fixed incomes, and low and moderate-income households; and
- WHEREAS, a housing emergency so grave as to constitute a serious menace to the general public exists in fact in Orange County; and
- WHEREAS, it is necessary and proper to regulate rents to eliminate such grave housing emergency.

Exh. C at 1-2.

30. The second set of findings purportedly complying with section 125.0103(5)(b) are set out in Section 25-381 of the Rent-Control Ordinance, entitled “Legislative Findings and Purpose.” These findings include:

- There is a shortage, scarcity, and insufficient supply of dwelling houses and apartments in Orange County, Florida. Relative to population, national production of housing units has declined from approximately 0.82 homes per person in the 1970s to approximately 0.45 homes per person in 2019. In Orange County, there is a shortage of as many as 26,500 housing units relative to the County’s need; and
- According to the 2020 census, Orange County has seen an approximate 25% increase in population since 2010—from approximately 1.15 million people to approximately 1.43 million people; and
- There are approximately 584,000 total housing units in Orange County, of which 230,000 are occupied by renters; and
- The shortage of housing is further evidenced by the low vacancy rate for rental properties in Orange County which reached 5.2% in 2021—the lowest on record since at least the year 2000; and
- Inflation, housing prices, and rental rates in Orange County are increasing, accelerating, and spiraling. The Consumer Price Index for All Urban Consumers in the South was 9.2% from May 2021 to May 2022. The median existing home sales price in Orange County was \$275,000 in May 2020 and \$392,500 in May 2022, which represents a 43% increase. Asking rent per unit in the County was \$1,357 in 2020 and \$1,697 in 2021 which represents a 25% year-over-year increase—the highest increase since 2006 when it was 6.7%; and
- The housing conditions have resulted in widespread distress among Orange County

residents. It is estimated that 80.3% of households earning at or below the Average Median Income (AMI) in Orange County are considered “cost burdened” which the U.S. Department of Housing and Urban Development defines to include households who pay more than thirty-percent (30%) of their income for housing and may have difficulty affording necessities such as food, clothing, transportation, and medical care; and

- The widespread distress in housing conditions is further evidenced as Orange County residents were awarded more funds from the State of Florida’s Emergency Rental Assistance Program 1 (“Emergency Program”) than any other county in the state. The Emergency Program has since ended while the County’s housing conditions continue to worsen; and
- Orange County was in a housing crisis prior to the COVID-19 pandemic. In May 2018, Central Florida’s interjurisdictional Regional Affordable Housing Initiative said, “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.” The housing crisis has worsened since the COVID-19 pandemic; and
- Tenancies are being terminated and eviction rates are increasing. For the first half of 2022, there have been 6,970 eviction case filings, which is a 70.1% increase over the same period in 2021; and
- The findings made and recited in this ordinance establish the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public; and
- The Orange County Board of County Commissioners finds that this grave housing emergency cannot be dealt with effectively by the ordinary operations of the private rental housing market. In jurisdictions in Florida comparable to Orange County that do not have rent stabilization measures in place, rent increases continue to spiral. For example, in Hillsborough County, Duval County, and Broward County, the year-over-year asking rent has increased by over 20%; and
- Jurisdictions with rent stabilization measures in effect and otherwise comparable to Orange County have been successful in protecting tenants by establishing limits on rent increases while still providing landlords with a fair and reasonable return on their investment. For example, in California, Alameda County and Sacramento County contain rent control measures and have limited their year-over-year asking rent increases to approximately 5%-10% despite low vacancy rates; and
- The Board finds that a rent stabilization measure is necessary and proper to eliminate the County’s housing emergency which is so grave as to constitute a serious menace to the general public.

Exh. C at 2-5.

C. The Rent-Control Ordinance fails to satisfy the requirements of section 125.0103 and is therefore invalid.

31. First, the Rent-Control Ordinance fails to establish the existence-in-fact of a “housing emergency so grave as to constitute a serious menace to the general public.” Several of the findings contained in the Ordinance establish no baseline against which a “grave housing emergency” could be measured. *See, e.g.*, Section 25-381(d) (acknowledging approximately 25% increase in the total population of Orange County from 2010 to 2020), Section 25-381(e) (finding approximately 584,000 total housing units in Orange County, of which 230,000 are occupied by renters). The Ordinance fails to explain why these numbers demonstrate a “grave housing emergency” or what different numbers would indicate the absence of a housing emergency.

32. The Rent-Control Ordinance also ignores relevant evidence tending to refute the significance of its findings. For example, the Ordinance focuses on a “70.1% increase” in eviction rates for the first half of 2022 as compared to the first half of 2021 (Section 25-381(k))—but fails to acknowledge the existence of the federal moratorium on evictions during the pandemic that existed throughout the entire first half of 2021.

33. Contrary to the advice provided in the County Attorney’s Memorandum, the Ordinance’s finding of a “grave housing emergency” appears to be premised entirely on statistics addressing vacancy rates, rising rents, a shortage of housing, an increase in the cost of living, and “spiraling inflation.” *Cf* Exh. A at 6-8 *with* Exh. C at 2-5. These findings alone are insufficient to establish a “grave housing emergency” under Florida Supreme Court precedent, as explained in the County Attorney’s Memorandum. Exh. C at 6-8. Orange County cannot satisfy its evidentiary burden of proof.

34. But even if these findings could establish a “grave housing emergency,” the Ordinance contains no findings demonstrating a “serious menace to the general public” as required by section 125.0103(5)(b), Florida Statutes. As noted in the County Attorney’s Memorandum, a rent-control ordinance must include findings addressing the housing emergency’s impact on the health, safety, and welfare of the general public such as “overcrowding” resulting in “insanitary conditions” and “disease.” Exh. A at 7-8. Orange County did not include these findings in the Ordinance and cannot satisfy its evidentiary burden of proof.

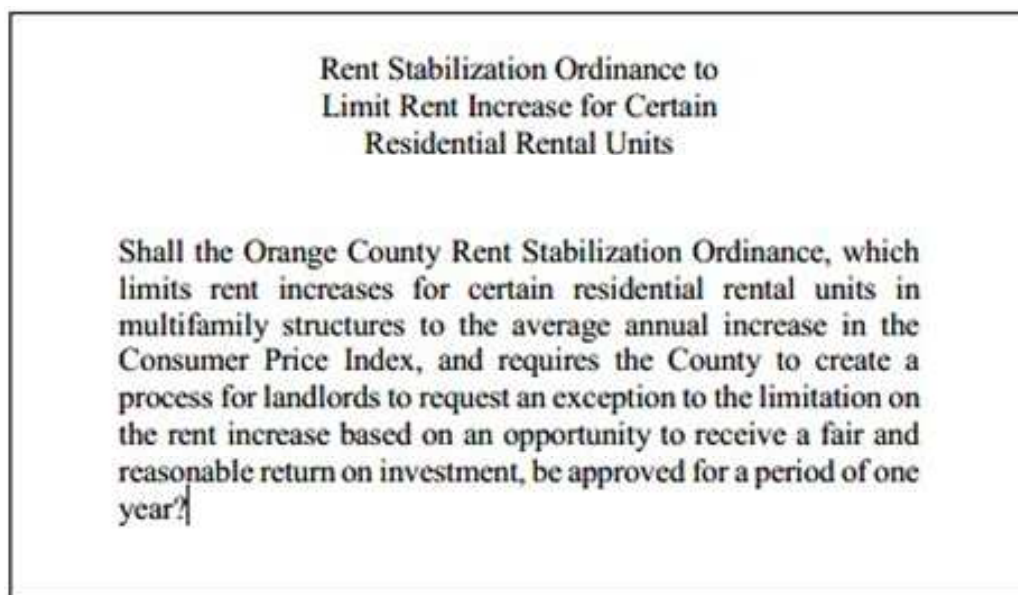
35. Finally, the Rent-Control Ordinance’s findings fail to establish that rent control is “necessary and proper” to “eliminate” the grave housing emergency in Orange County as required by section 125.0103(5)(b). As explained at length in the GAI Report, Orange County’s increased housing costs are “likely beyond the control of local regulation” and stemmed mostly from “inadequate housing production over years which a temporary rent ceiling would do little to correct.” Exh. B. at 3. The GAI Report commissioned by Orange County found that, rather than eliminating a grave housing emergency, rent-control measures consistent with section 125.0103 “may impede the objective of speeding overall housing deliveries as well as create a number of unintended consequences.” *Id.*

36. On this point, the Ordinance’s findings are limited to a conclusory allegation that a “rent stabilization measure is necessary and proper to eliminate the County’s housing emergency which is so grave as to constitute a serious menace to the general public.” Section 25-381(o). Orange County did not include any specific factual findings on this point in the Ordinance and cannot satisfy its evidentiary burden of proof.

D. The Rent-Control Ordinance’s ballot statement violates section 101.161 and is therefore invalid.

37. The ballot statement specified in the Rent-Control Ordinance is affirmatively misleading and fails to fairly inform voters of the chief purpose of the proposal in clear and unambiguous language.

38. As described above, the Rent-Control Ordinance requires the following ballot statement to be provided to voters at the November 2022 referendum election:



39. This ballot statement omits any reference to other aspects of the Rent-Control Ordinance that may be significant to voters: separate limitations on rent increases in Section 25-384; the open-ended delegation of authority to Orange County’s Planning, Environmental, and Development Services Department to administer the Ordinance’s rental-unit registration process in Section 25-387; and the Ordinance’s enforcement and penalty provisions including the potential assessment of punitive damages, attorney-fee shifting, civil penalties, and imprisonment in the county jail in Section 25-390.

40. A ballot title and summary must be accurate. The ballot statement provided for the voters in the Rent-Control Ordinance contains omissions and affirmative misstatements that render it defective under section 101.161, Florida Statutes.

**Count 1: Declaratory Judgment – Invalidity of Ordinance
(against all Defendants)**

41. The allegations in paragraphs 1 through 40 are incorporated by reference.

42. The allegations in this Complaint demonstrate a bona fide actual, present, and practical need for a declaration by this Court that the Rent-Control Ordinance is facially invalid under section 125.0103 of the Florida Statutes and Article VIII, § 1(g) of the Florida Constitution.

43. In the absence of the declaratory relief sought in this action, Plaintiffs and their members would be placed in doubt or uncertainty as to their rights with respect to the Rent-Control Ordinance.

44. The statutory requirement that any rent-control measure be approved by the voters at a referendum election also implicates precedent favoring the prompt resolution of election-related disputes “before the ballots [are] cast and results announced.” *Republican Party of Miami-Dade Cnty. v. Davis*, 18 So. 3d 1112, 1118 (Fla. 3d DCA 2009).

45. It is adverse and antagonistic to the public interest and to the interests of the Plaintiffs and their members to allow the Rent-Control Ordinance to be placed on the ballot or enforced by Orange County where the Ordinance is unlawful and invalid.

46. The adverse and antagonistic interests are all before this Court by proper process and the relief sought is not merely a request for legal advice or an advisory opinion.

**Count 2: Permanent Injunctive Relief – Invalidity of Ordinance
(against all Defendants)**

47. The allegations in paragraphs 1 through 40 are incorporated by reference.

48. This is a claim for permanent injunctive relief to require:

1) Defendant Bill Cowles, as Orange County Supervisor of Elections, and all others acting in concert with him, to refrain from: conducting the Referendum Election called in Section 3 of Ordinance 2022-29; including the Rent-Control Ordinance on any ballots that are printed for the November 2022 General Election; or tabulating, reporting, or certifying any votes cast for the Rent-Control Ordinance at the November 2022 General Election, on the basis that the Rent-Control Ordinance is facially invalid under section 125.0103 of the Florida Statutes and Article VIII, § 1(g) of the Florida Constitution; and

2) Defendant Orange County, and all others acting in concert with it, to refrain from enforcement of the Rent-Control Ordinance on the basis that the Rent-Control Ordinance is facially invalid under section 125.0103 of the Florida Statutes and Article VIII, § 1(g) of the Florida Constitution.

49. Plaintiffs and their members have a clear legal right to the relief requested. Florida law prohibits local governments from adopting ordinances that would have the effect of imposing rent control except under narrow circumstances not present here. The Rent-Control Ordinance's findings fail to establish "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." § 125.0103, Fla. Stat. The Rent-Control Ordinance is therefore invalid.

50. Plaintiffs and their members face a likelihood of irreparable harm if this Court does not grant the relief sought and allows the Rent-Control Ordinance to appear on the ballot and to be enforced notwithstanding its invalidity.

51. Plaintiffs and their members have no adequate remedy at law to address the harm described in this Complaint, as their injuries cannot be adequately remedied through money damages against Defendants.

52. The public interest strongly favors the entry of a permanent injunction and the resolution of this dispute to prevent the holding of a referendum election or the enforcement of an invalid rent-control measure.

**Count 3: Declaratory Judgment – Invalid Ballot Statement
(against all Defendants)**

53. The allegations in paragraphs 1 through 40 are incorporated by reference.

54. The allegations in this Complaint demonstrate a bona fide actual, present, and practical need for a declaration by this Court that the ballot statement for the Rent-Control Ordinance fails to comply with section 101.161 of the Florida Statutes.

55. In the absence of the declaratory relief sought in this action, Plaintiffs and their members would be placed in doubt or uncertainty as to their rights with respect to the Rent-Control Ordinance.

56. The statutory requirement that any rent-control measure be approved by the voters at a referendum election also implicates precedent favoring the prompt resolution of election-related disputes “before the ballots [are] cast and results announced.” *Republican Party of Miami-Dade Cnty. v. Davis*, 18 So. 3d 1112, 1118 (Fla. 3d DCA 2009).

57. It is adverse and antagonistic to the public interest and to the interests of the Plaintiffs and their members to allow the Rent-Control Ordinance to be placed on the ballot when its ballot statement violates section 101.161 of the Florida Statutes.

58. The adverse and antagonistic interests are all before this Court by proper process and the relief sought is not merely a request for legal advice or an advisory opinion.

**Count 4: Permanent Injunctive Relief – Invalid Ballot Statement
(against Supervisor of Elections)**

59. The allegations in paragraphs 1 through 40 are incorporated by reference.

60. This is a claim for permanent injunctive relief to require Defendant Bill Cowles, as Orange County Supervisor of Elections, and all others acting in concert with him, to refrain from: conducting the Referendum Election called in Section 3 of Ordinance 2022-29; including the Rent-Control Ordinance on any ballots that are printed for the November 2022 General Election; or tabulating, reporting, or certifying any votes cast for the Rent-Control Ordinance at the November 2022 General Election, on the basis that the ballot statement for the Rent-Control Ordinance violates section 101.161 of the Florida Statutes.

61. Plaintiffs and their members have a clear legal right to the relief requested. Florida law provides for the invalidation of ballot proposals whose ballot statements fail to comply with the clarity requirements of section 101.161. The ballot statement for the Rent-Control Ordinance is not accurate, is affirmatively misleading, and fails to fairly inform voters of the chief purpose of the proposal in clear and unambiguous language.

62. Plaintiffs and their members face a likelihood of irreparable harm if this Court does not grant the relief sought and allows the Rent-Control Ordinance to appear on the ballot notwithstanding the invalidity of its ballot statement.

63. Plaintiffs and their members have no adequate remedy at law to address the harm described in this Complaint, as their injuries cannot be adequately remedied through money damages against Defendants.

64. The public interest strongly favors the entry of a permanent injunction and the resolution of this dispute to prevent the holding of a referendum election on a measure whose ballot statement violates section 101.161, Florida Statutes.

**Count 5: Quo Warranto
(against Orange County)**

65. The allegations in paragraphs 1 through 40 are incorporated by reference.

66. This is a claim for a writ of quo warranto to determine that Orange County has improperly exercised its powers derived from the State of Florida by adopting the Rent-Control Ordinance.

67. Orange County lacks the authority to enact county ordinances inconsistent with general law. § 125.01(a), Fla. Stat.; Art. VIII, § 1(g), Fla. Const. Section 125.0103(2)-(6) of the Florida Statutes is a general law limiting the authority of local governments, such as Orange County, to enact ordinances that would have the effect of imposing controls on rents.

68. Orange County exceeded its authority derived from the State of Florida by adopting the Rent-Control Ordinance, as its findings fail to establish “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.” § 125.0103(5)(b), Fla. Stat.

69. Orange County’s failure to act in strict accordance with the requirements of Florida law makes it appropriate for this Court to issue a writ of quo warranto.

70. The requested writ of quo warranto is also consistent with the public interest in ensuring that local governments comply with laws adopted by the Florida Legislature limiting the circumstances under which they can adopt local ordinances.

RELIEF SOUGHT

Wherefore, Plaintiffs requests that this Court:

a. Enter a declaratory judgment that the Rent-Control Ordinance is facially invalid under section 125.0103 of the Florida Statutes and Article VIII, § 1(g) of the Florida Constitution

because the Ordinance’s findings fail to establish “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”;

b. Enter a declaratory judgment that the ballot statement for the Rent-Control Ordinance is defective and fails to satisfy the clarity requirements of section 101.161 because it is affirmatively misleading and fails to clearly and unambiguously advise voters of the chief purpose of the proposal.

c. Issue a permanent injunction requiring Defendant Orange County to refrain from enforcing the Rent-Control Ordinance and Defendant Cowles and those acting in concert with him from conducting a referendum election called in Section 3 of Ordinance 2022-29; including the Ordinance on any ballots printed for the November 2022 General Election; or tabulating, reporting, or certifying any votes cast for the Rent-Control Ordinance at the November 2022 General Election, on the basis that the Rent-Control Ordinance is facially invalid under section 125.0103 of the Florida Statutes and Article VIII, § 1(g) of the Florida Constitution.

d. Issue a permanent injunction requiring Defendant Cowles and all others acting in concert with him, to refrain from: conducting the Referendum Election called in Section 3 of Ordinance 2022-29; including the Rent-Control Ordinance on any ballots that are printed for the November 2022 General Election; or tabulating, reporting, or certifying any votes cast for the Rent-Control Ordinance at the November 2022 General Election, on the basis that the ballot statement for the Rent-Control Ordinance violates section 101.161 of the Florida Statutes

e. Issue a writ of quo warranto determining that Orange County has exceeded its authority derived from the State of Florida by adopting the Rent-Control Ordinance and that the Ordinance is therefore facially invalid.

f. Grant such other or further relief the Court deems appropriate, including but not limited to an award of attorney's fees under section 57.112, Florida Statutes, and costs.

Respectfully submitted,

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EXHIBIT A



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To: Mayor Jerry L. Demings

From: Jeffrey J. Newton, County Attorney
Dylan Schott, Assistant County Attorney

Date: March 29, 2022

Subject: Board Discussion on April 5, 2022 regarding Rent Stabilization

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MEMORANDUM

At your request and in preparation for the Board's discussion on April 5, 2022, please consider this Memorandum which provides background, legal issues and analysis regarding rent stabilization.

Background:

On June 23, 2020, the Orange County Board of County Commissioners ("**Board**" or "**BCC**") discussed a report from Commissioner Emily Bonilla regarding a proposed referendum for a one-year rent freeze. According to the Clerk's minutes of that meeting, a motion was made by Commissioner Bonilla, seconded by Commissioner Gomez Cordero, to schedule a public hearing for July 7, 2020 regarding proposed referendum language for a one-year rent freeze and for the Board to vote to place the referendum on the ballot. The motion failed by a vote of 2 to 5.

On March 8, 2022, Commissioner Bonilla submitted a memorandum and report to the Orange County Mayor and County Commissioners regarding a proposed rent stabilization ordinance to be discussed at the Board's meeting on April 5, 2022. This memorandum discusses several issues that have been raised in preparation for the meeting on April 5, 2022.

Issues:

- I. Whether Florida courts have interpreted either of the following provisions as used in Section 125.0103, Florida Statutes (the "**Statute**"):
 - A. "A housing emergency so grave as to constitute a serious menace to the general public;" or
 - B. "Luxury apartment buildings."
- II. Whether any local governments in Florida have imposed rent controls pursuant to the Statute.
- III. Whether a charter county can adopt an ordinance requiring residential landlords to provide tenants with sixty (60) days' notice before increasing rental rates by

more than five-percent (5%), and, if so, whether the charter county is required to satisfy any specific criteria or make any specific findings before adopting said ordinance.

Short Answers:

- I. No, Florida courts have not interpreted either provision of the Statute, and therefore it is unclear how either provision would be interpreted or applied today.
 - A. Certain federal and state court opinions on housing emergencies and rent controls can provide insight into how a court may interpret the Board's statutory requirement to make findings establishing the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public and findings that such rent controls are necessary and proper to eliminate said grave housing emergency.

It is unlikely that findings of an increase in the cost of living or inflation alone will be sufficient to meet the requirements of the Statute. Instead, the Board would likely need findings of a housing shortage, rising rents, increased demand, etc. **and** findings describing the impact of these conditions on the general public's health, safety, and welfare in order to meet the Statute's requirements. Further, the Board would likely need findings to establish that its rent control ordinance is necessary to eliminate the grave housing emergency. In the event of a legal challenge, the County will have the burden of proving the aforementioned findings.
 - B. The Statute defines "luxury apartment building" as 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. A court could adjust this statutory definition for inflation and otherwise apply the Statute as written. According to the United States Bureau of Labor Statistics, \$250 in January 1977 has the same buying power as \$1,212.46 in February 2022. Under this interpretation, the County would be prohibited from imposing rent controls on apartment buildings where the aggregate rent due on a monthly basis from all dwelling units exceeds \$1,212.46.
- II. No, there is no apparent record of any local governments in Florida imposing rent controls pursuant to the Statute. However, Miami-Dade County is scheduled to consider a resolution on April 5, 2022 directing the Mayor or designee to conduct a study to determine if a housing emergency currently exists in Miami-Dade County that is so grave as to constitute a serious menace to the general public and that stabilizing rents to remain affordable is necessary and proper to eliminate such grave housing emergency.
- III. Likely yes, a charter county can likely adopt an ordinance requiring residential landlords to provide tenants with sixty (60) days' notice before increasing rental rates more than five-percent (5%). Charter counties have broad authority to adopt ordinances, and it is unlikely that a court would find said ordinance has

been preempted to the state or conflicts with state statute. There are no apparent requirements for a charter county to satisfy any specific criteria or

make any specific findings before adopting such an ordinance beyond those recitations and findings generally made as a matter of practice. On February 24, 2022, the City of Tampa passed a motion directing staff to develop an ordinance that would require landlords to give notice before raising rents, and on March 15, 2022, Miami-Dade County adopted a similar ordinance.

Discussion:

I. The Statute's Grave Housing Emergency and Luxury Apartment Building Provisions.

Generally, local governments are prohibited from adopting ordinances that would have the effect of imposing controls on rents. Fla. Stat. § 125.0103(2). However, the Statute creates an exception for rent controls that are necessary and proper to eliminate an existing **housing emergency which is so grave as to constitute a serious menace to the general public**. See *id.* (emphasis added). The Statute includes several conditions and restrictions on local governments that adopt rent control measures pursuant to this grave housing emergency exception:

- (1) The ordinance shall terminate and expire within 1 year and shall not be extended or renewed except by the adoption of a new ordinance meeting all of the requirements of the Statute;
- (2) Notwithstanding any other provision of the Statute, no rent controls shall be imposed on rents for the following:
 - (a) Any accommodation used or offered for residential purposes as a seasonal or tourist unit;
 - (b) Any accommodation used or offered for residential purposes as a second housing unit; or
 - (c) **On rents for dwelling units located in luxury apartment buildings;**
- (3) The ordinance must be duly adopted by the local government's governing body after notice and public hearing and in accordance with applicable laws;
- (4) The governing body must make and recite in the ordinance 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;
- (5) The ordinance must be approved by the voters within the local government; and
- (6) In any court action brought to challenge the validity of the rent control ordinance, the evidentiary effect of any findings or recitations required by the Statute shall be limited to imposing upon any party challenging the validity of the ordinance

the burden of going forward with the evidence, and the burden of proof (that is, the risk of nonpersuasion) shall rest upon any party seeking to have the measure upheld.

See Fla. Stat. § 125.0103(3)-(6) (emphasis added).

A. Grave Housing Emergency.

The Statute requires a governing body to make and recite in its ordinance its findings establishing the existence in fact of a "...housing emergency so grave as to constitute a serious menace to the general public..." Fla. Stat. § 125.0103(5)(b). Additionally, the governing body is required to make and recite its findings establishing that such rent controls are "...necessary and proper to eliminate such grave housing emergency." *Id.* Florida courts have not interpreted these provisions of the Statute, and therefore it is unclear what findings and recitations are sufficient to meet the Statute's requirements. *Id.* However, certain federal and state court opinions on rent control laws adopted pursuant to housing emergencies can provide some insight into the issue.

The aforementioned language from the Statute likely stems from the 1922 U.S. Supreme Court case *Edgar A. Levy Leasing Co. v. Siegel*, 258 U.S. 242 (1922), in which the Court considered the constitutional validity of rent control laws passed by the State of New York in 1920. In *Levy*, the Court affirmed the judgements of the state court which held that the rent control laws were a constitutional and valid exercise of the state's police power. *Id.* at 244-50. The Court reasoned that the rent control laws were enacted as emergency statutes and therefore invoked the state's police powers. *See id.* at 245. The Court said:

The warrant for this legislative resort to the police power was the conviction on the part of the state legislators that there existed in the larger cities of the state **a social emergency**, caused by an insufficient supply of dwelling houses and apartments, **so grave that it constituted a serious menace to the health, morality, comfort, and even to the peace of a large part of the people of the state.**

Id. (emphasis added). The Court reasoned that the New York Legislature did not depend on the knowledge of its members but instead relied on reports prepared by committees "of the best intelligence" that had conducted "elaborate and thorough" investigations on housing conditions in the cities of the state for almost two years before the rent control laws were enacted. *See id.* These committees found:

That there was a very great shortage in dwelling house accommodations in the cities of the state to which the acts apply; that this condition was causing widespread distress; that extortion in most oppressive forms was flagrant in rent profiteering; that, for the purpose of increasing rents, legal process was being abused and eviction was being resorted to as never before; and that unreasonable and extortionate increases of rent had frequently resulted in two or more families being obliged to occupy an apartment adequate only for one family, with a consequent overcrowding, which was resulting in insanitary conditions, disease, immorality, discomfort, and widespread social discontent.

Id. at 246. Accordingly, the Court ruled that the emergency declared by the New York Legislature did in fact exist when the rent control laws were passed. *See id.*

Subsequently, in the 1960s and 1970s, the City of Miami Beach took several actions to impose emergency rent controls before the Statute went into effect. The City's actions were litigated and resulted in several opinions from the Supreme Court of Florida and Florida's Third District Court of Appeals. While these court opinions may not necessarily be relevant for any future rent control ordinances adopted by Orange County (since the court opinions analyzed municipal actions that were taken prior to the adoption of the Statute), they can provide insight into what findings a local government must make to establish a housing emergency.

In 1969, the City of Miami Beach enacted an ordinance to regulate rents after making a determination that an inflationary spiral and a housing shortage existed in the City. *City of Miami Beach v. Fleetwood Hotel, Inc.*, 261 So. 2d 801, 802 (Fla. 1972). The City stated that it acted with the intent and purpose of protecting its residents from exorbitant rates. *Id.* In holding that the City's ordinance was invalid, the Supreme Court of Florida cited several cases from the Supreme Court of the United States, including the *Levy* case discussed above. *Id.* at 804. The Court ruled that "emergency" has been narrowly defined and 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. *Id.*

In 1974, the City of Miami Beach passed Ordinance No. 74-2018 imposing rent control measures. In *Lifschitz v. City of Miami Beach*, 339 So. 2d 232, 234 (Fla. 3d DCA 1976), the Third District Court of Appeals considered whether the City's ordinance was void because "in fact no emergency existed." The Court affirmed the trial court's finding that due to the unusual character of Miami Beach, as demonstrated by the evidence, there did exist at the time of the passage of the ordinance and thereafter until the time of the final hearing, appropriate and sufficient circumstances, conditions and factors to justify its enactment. *Id.* at 234-35. The Court looked at the preamble of the ordinance which read, in part:

WHEREAS, a grave and serious public emergency exists with respect to the housing of a substantial number of citizens of Miami Beach; and

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. (emphasis added). The Court reasoned that a scarcity of housing, accelerating rents, and a constant influx of people seeking housing in the area was ample evidence as to the factors creating a housing emergency. *Id.* at 235. The Court ruled that the ordinance was presumptively valid and the question of the existence of an emergency at the time of its passage rested in the judgment and discretion of the city council. *Id.*

The City of Miami Beach's Ordinance No. 74-2018, as discussed in the *Lifschitz* case above, expired in 1976, so in 1977 the City of Miami Beach adopted Resolution No. 77-15314 providing a new rent control measure (known as proposed Ordinance No. 77-2093) to be placed before the electorate of the City in a referendum on June 7, 1977. See *City of Miami Beach v. Frankel*, 363 So. 2d 555, 556 (Fla. 1978). However, on May 21, 1977, approximately two weeks before the referendum was scheduled for a vote, the Statute and all of its conditions and requirements went into effect. See *id.* The Supreme Court of Florida reviewed the City's proposed ordinance and held

that the proposed ordinance was out of harmony with the Statute in several respects, and to that extent would have been a void enactment. *Id.* The proposed ordinance contained several clauses in its preamble finding: (1) a grave and serious housing emergency, (2) a vacancy rate below 5 percent, (3) a shortage of vacant land available for new construction, (4) an inflationary spiral that resulted in a shortage of housing, (5) an elderly population with fixed incomes, and (6) rising rents. See Proposed Ordinance No. 77-2093, City of Miami Beach. Despite the City's findings and recitations in proposed Ordinance No. 77-2093, the Court ruled that the City did not meet the Statute's requirements including the requirement that "a local government, in enacting a rent control measure, must make findings and recite them in the enactment, of a housing emergency so grave as to constitute a serious menace to the general public." See *Frankel*, 363 So. 2d at 557.

Today, it is unclear what findings and recitations are sufficient to establish the existence in fact of "a housing emergency so grave as to constitute a serious menace to the general public" due to the lack of attempted rent control laws in Florida since the Statute went into effect and because the Statute has not been interpreted by the courts. While the Third District Court of Appeals found that recitations made by the City of Miami Beach in Ordinance No. 74-2018 regarding a scarcity of housing, accelerating rents, and a constant influx of people was enough to establish "a housing emergency," this was before the Statute was enacted to explicitly require "a housing emergency so grave as to constitute a serious menace to the general public." *Lifschitz* 339 So. 2d at 235; Fla. Stat. § 125.0103(5)(b). When the Supreme Court of Florida did apply the Statute's standard to the City of Miami Beach's proposed Ordinance No. 77-2093, the Court found that the proposed ordinance did not meet the Statute's requirements, including the requirement to make findings of a housing emergency so grave as to constitute a serious menace to the general public, despite the fact that the City's proposed ordinance contained several clauses in the preamble finding: (1) a grave and serious housing emergency, (2) a vacancy rate below 5 percent, (3) a shortage of vacant land available for new construction, (4) an inflationary spiral that resulted in a shortage of housing, (5) an elderly population with fixed incomes, and (6) rising rents. See *Frankel*, 363 So. 2d at 557; see Proposed Ordinance No. 77-2093, City of Miami Beach. Thus, it is unlikely that a shortage of housing, increase in the cost of living, or an inflationary

spiral alone are enough to establish “a housing emergency so grave as to constitute a serious menace to the general public.” See *id.*; see also *Fleetwood Hotel*, 261 So. 2d at 804 (ruling that “emergency” is narrowly defined and that an increase in the cost of living, or “an inflationary spiral,” alone is not a justification for rent control legislation).

Instead, any rent control ordinance in Orange County will likely need to contain findings and recitations that are more similar to the *Levy* case than the *Frankel* case, as discussed above, in order to establish “a housing emergency so grave as to constitute a serious menace to the general public.” In *Levy*, the New York Legislature relied on the following findings when it enacted its emergency rent control laws:

That there was a very great shortage in dwelling house accommodations in the cities of the state to which the acts apply; that this condition was causing widespread distress; that extortion in most oppressive forms was flagrant in rent profiteering; that, for the purpose of increasing rents, legal process was being abused and eviction was being resorted to as never before; and that unreasonable and extortionate increases of rent had frequently resulted in two or more families being obliged to occupy an apartment adequate only for one family, with a consequent overcrowding, which was resulting in insanitary conditions, disease, immorality, discomfort, and widespread social discontent.

Levy Leasing Co., 258 U.S. at 246. And the Supreme Court of the United States said that, based on these findings, the Legislature correctly believed that there was “...a **social emergency**, caused by an insufficient supply of dwelling houses and apartments, **so grave that it constituted a serious menace to the health, morality, comfort, and even to the peace of a large part of the people of the state.**” See *id.* (emphasis added). Thus, findings and recitations related to the residential rental market causing widespread distress, extortion, flagrant rent profiteering, abuse of the legal process, increased eviction rates, and overcrowding among the public are more likely to establish the Statute’s requisite grave housing emergency than findings and recitations related to an increase of the cost of living or an inflationary spiral alone. *Id.*; *Fleetwood Hotel*, 261 So. 2d at 804.

However, this is not to say that a shortage of housing or increase in rents cannot be the basis for a grave housing emergency. In fact, a “great shortage of dwelling house accommodations” was the basis for the New York rent control laws that were upheld by the U.S. Supreme Court. *Levy Leasing Co.*, 258 U.S. at 246. But rather, the findings made by the County in any rent control ordinance likely need to establish the grave housing emergency **and** the effect that the emergency is having on the general public. The findings need to describe how the grave housing emergency “constitutes a serious menace to the general public.” Fla. Stat. § 125.0103(5)(b). This is the primary distinction between New York’s findings and the findings made by the City of Miami Beach—both jurisdictions suffered from a housing shortage, but New York elaborated on how the shortage was a serious menace to the public by describing the shortage’s impact on the health, morality, comfort, and peace of the public. *Levy Leasing Co.*, 258 U.S. at 246. For example, New York found that the housing emergency had caused multiple families to share one apartment leading to overcrowding which resulted in “insanitary conditions, disease, immorality, discomfort, and widespread social discontent.” *Id.* Whereas the City of Miami Beach merely recited statistics related to shortages and increased prices to

establish the housing emergency. See Proposed Ordinance No. 77-2093, City of Miami Beach. Thus, any rent control ordinance adopted by the Board will likely need to make findings establishing a grave housing emergency (e.g. shortage of housing, accelerating rents, increased demand, etc.) **and** how said emergency constitutes a serious menace to the general public by describing the emergency's impact on the health, safety, and welfare of the general public (e.g. widespread distress, extortion, flagrant rent profiteering, abuse of the legal process, overcrowding resulting in insanitary conditions and disease, etc.).

Additionally, in the event of a legal challenge to any rent control ordinance adopted by Orange County, a court will likely consider how the Board made its findings because the findings have to establish the existence of a grave housing emergency **in fact**. See Fla. Stat. § 125.0103(5)(b) (emphasis added). While the Third District Court of Appeals found that the City of Miami Beach's recitations in Ordinance No. 74-2018 were sufficient to establish a housing emergency, the Court was applying the rule that the City's ordinance was presumptively valid and that the question of the existence of an emergency at the time of the ordinance's passage rested in the judgment and discretion of the City Council. See *Lifschitz* 339 So. 2d at 235. However, under the current Statute, Orange County will likely have the burden of proving the existence of a grave housing emergency and proving that its rent control ordinance is necessary and proper to eliminate said grave housing emergency. See Fla. Stat. § 125.0103(6). Thus, despite the Third DCA's ruling in *Lifschitz*, it is unlikely that recitations of a housing emergency made in the discretion of the Board alone will be sufficient to meet the Statute's requirements—Orange County will need evidence to prove its findings establishing the existence in fact of a grave housing emergency.

B. Luxury Apartment Buildings.

The Statute states that no controls shall be imposed on rents for dwelling units located in luxury apartment buildings. Fla. Stat. § 125.0103(4). The Statute defines a "luxury apartment building" as "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." *Id.*

It is unclear how a court would interpret or apply this provision of the Statute today because this provision has not been interpreted by a court before. A court could find that the Florida Legislature intended for the \$250 statutory amount to be adjusted for inflation and otherwise apply the Statute as written. According to the United States Bureau of Labor Statistics, \$250 in January 1977 has the same buying power as \$1,212.46 in February 2022. Under this interpretation, any rent control ordinance adopted by the County would be prohibited from imposing controls on rents for luxury apartment buildings, i.e. buildings where the aggregate rent due on a monthly basis exceeds \$1,212.46.

Alternatively, a court could read the Statute narrowly and find that it only applies to apartment buildings that were in existence on January 1, 1977 and whose aggregate rent due on a monthly basis from all dwelling units exceeds \$250. Under this interpretation, the County would be prohibited from imposing rent controls on luxury apartment buildings in existence on January 1, 1977, but otherwise unrestricted from imposing rent controls on apartment buildings constructed after January 1, 1977, except

for the remaining conditions and restrictions contained in the Statute. Ultimately, it is not clear how a court would interpret or apply this provision of the Statute.

II. Rent Controls by other Local Governments.

There is no apparent record of any local governments in Florida imposing rent controls pursuant to the Statute since the Statute went into effect on May 21, 1977. However, Miami-Dade County is scheduled to consider a resolution on April 5, 2022 to direct the Mayor or designee to conduct a study to determine if a housing emergency currently exists in Miami-Dade County that is so grave as to constitute a serious menace to the general public and that stabilizing rents to remain affordable is necessary and proper to eliminate such grave housing emergency. On February 24, 2022, the City of Tampa passed a motion declaring a critical housing crisis and directed staff to meet with the community and report back to the City Council on May 26, 2022 with ideas to solve the housing problem. The City of St. Petersburg's Housing, Land Use, and Transportation Committee considered a motion to declare a housing emergency on February 10, 2022, but the motion failed.

III. Ordinance Requiring Notice before Increasing Rental Payments.

A charter county can likely adopt an ordinance requiring residential landlords to provide tenants with sixty (60) days' notice before increasing rental rates by more than five-percent (5%) ("**Proposed Ordinance**"). Charter counties have broad authority to enact county ordinances that are not inconsistent with general law. See Fla. Const. Art. VIII, § 1(g). There are two ways that a county ordinance can be inconsistent with general law and therefore unconstitutional: (1) a county cannot legislate in a field if the subject area has been preempted to the state, and (2) a county cannot enact an ordinance that directly conflicts with a state statute. See generally *Phantom of Brevard, Inc. v. Brevard Cty.*, 3 So. 3d 309, 314 (Fla. 2008).

Florida law recognizes both express preemption and implied preemption. *D'Agastino v. City of Miami*, 220 So. 3d 410, 421 (Fla. 2017). Express preemption requires a specific legislative statement—it cannot be implied or inferred—and the preemption of a field is accomplished by clear language. *Id.* Implied preemption occurs when the state legislative scheme is so pervasive as to virtually evidence an intent to preempt the particular area or field of operation, and where strong public policy reasons exist for finding such an area or field to be preempted by the Legislature. *Id.* Chapter 83, Part II, Florida Statutes, commonly known as the "Florida Residential Landlord and Tenant Act" (the "**Act**") applies to the rental of residential dwelling units and sets forth the rights and duties of landlords and tenants.

In Florida Attorney General Advisory Legal Opinion 94-41 ("**AGO 94-41**"), the City of Miami Beach asked whether it could adopt an ordinance to extend the notice provisions in Section 83.57, Florida Statutes, for the termination of residential tenancies without specific duration from 15 days' notice (as required by the Act) to a longer duration. The Attorney General opined that local governments may enact local legislation extending the notice requirements for the termination of a tenancy without a specific duration to supplement the provisions in Section 83.57, Florida Statutes. In reaching its opinion, the Attorney General reasoned that the Act does not contain any express preemption, local governments have broad home rule powers, an ordinance extending the notice of

termination requirement would be supplemental to the Act, and landlords could comply with said ordinance without violating the Act. Therefore, it was the Attorney General's opinion that a local government ordinance extending the termination notice requirements for certain tenancies would not be inconsistent with general law.

The Act does not expressly preempt the field of residential landlord and tenant relationships to the state, so it is unlikely that a court would find the Proposed Ordinance inconsistent with general law due to express preemption. Further, it is unlikely that the Act impliedly preempts the particular area of notification requirements for increases to rental rates because the Act does not contain any regulations related to said notifications, so it is also unlikely that a court would find the Proposed Ordinance inconsistent with general law due to an implied preemption of this particular notice area. Additionally, it is unlikely that the Act impliedly preempts the entire field of residential landlord and tenant relationships to the state. While the Act does set forth rights and duties of residential landlords and tenants, it is not the only legislation that regulates the field. For example, Miami-Dade County, City of Miami, and City of Miami Beach have all extended the length of the notice required for landlords to terminate residential tenancies without a specific duration in which the rent is payable on a monthly basis from 15 days' notice (as required by the Act) to 30 or 60 days. See Miami-Dade County Code § 17-03; City of Miami Code § 47-1; City of Miami Beach Code § 58-386; and Fla. Stat. § 83.57(3). Thus, it is unlikely that the Act is "so pervasive" as to evidence the state's intent to occupy the field of residential landlord and tenant relations when several other local governments in the state have passed laws regulating the field.

In extending the aforementioned termination notice requirements, Miami-Dade County, City of Miami, and City of Miami Beach relied on AGO 94-41. The Attorney General did not find that the Act impliedly preempts local governments from regulating within the field of residential landlords and tenants. Instead, the Attorney General's Office found the opposite when it opined that the City of Miami Beach could enact local legislation extending the notice requirements. While opinions from the Attorney General's Office are not binding on the courts, they can be persuasive. Thus, it is unlikely that a court will find that the Proposed Ordinance is impliedly preempted or that the Act impliedly preempts the field of residential landlord and tenant law to the state because local governments have a history of imposing additional regulations on residential landlords and tenants supplemental to those set forth in the Act and in accordance with an opinion from the Attorney General's Office.

Further, the Act does not provide specific notification requirements for landlords seeking to increase rental rates. Therefore, it is unlikely that the Proposed Ordinance would conflict with the Act since it would not require a residential landlord to violate the Act in order to comply with the Proposed Ordinance. See *Jordan Chapel Freewill Baptist Church v. Dade County*, 334 So. 2d 661, 664 (Fla. 3d DCA 1976) (ruling that legislative provisions are in conflict if, in order to comply with one provision, a violation of the other is required). Instead, the Proposed Ordinance could likely exist in concurrence with the Act. See *id.* at 664-65. Thus, it is unlikely that a court will find that the Proposed Ordinance is inconsistent with general law due to a direct conflict with the Act.

There are no apparent requirements for the County to satisfy any specific criteria or make any specific findings before adopting the Proposed Ordinance beyond those recitations and findings the County generally makes as a matter of practice when

adopting ordinances.

Additionally, other local governments in Florida have taken actions to require landlords to give tenants written notice prior to increasing the rental rate. On March 15, 2022, Miami-Dade County adopted Ordinance No. 22-30 requiring residential landlords that propose to increase the rental rate by more than five percent to provide 60 days written fair notice to the tenant. On February 24, 2022, the City of Tampa passed a motion directing staff to develop an ordinance that would require landlords to give six months' notice before raising rents and to present the ordinance to the City Council on April 21, 2022. Similarly, Orange County can likely adopt an ordinance that requires residential landlords to provide tenants with sixty (60) days' written notice before the landlord increases the rental rate by more than five-percent (5%).

On the other hand, a person could challenge the Proposed Ordinance in court and argue that the Act impliedly preempts the field of residential landlord and tenant law to the state and therefore prohibits the County from requiring residential landlords to provide tenants with written notice of rental increases. The Act provides wide-ranging requirements on residential leases and the rights and obligations of each party to those leases. As a matter of public policy, a court could find that it would be beneficial to have a consistent set of rules throughout the state to which landlords and tenants are required to abide. Moreover, the Proposed Ordinance seeks to establish a wholly new regulation (notice of increased rents) whereas the ordinances passed by Miami-Dade County, City of Miami, and City of Miami Beach pursuant to AGO 94-41 merely supplemented regulations that already existed in the Act (notice of termination). A court could find that a local government is permitted to supplement regulations already contained in the Act, but impliedly preempted by the state from creating new regulations related to residential landlords and tenants. Thus, a court could find that the Proposed Ordinance is inconsistent with the Act due to the Act being so pervasive as to evidence the state's intent to impliedly preempt the field of residential landlord and tenant relations to the state.

Conclusion:

In summary, the Statute's provisions requiring findings of "a housing emergency so grave as to constitute a serious menace to the general public" and "luxury apartment building" have not been interpreted by the courts. Thus, it is unclear how either provision will be interpreted or applied today. However, past federal and state court opinions on housing emergencies and rental controls indicate that findings of an increased cost of living or inflationary spiral alone are not sufficient to establish a housing emergency. Instead, the Board would likely need findings of a housing shortage, rising rents, increased demand, etc. **and** findings describing the impact of these conditions on the general public's health, safety, and welfare in order to meet the Statute's requirements. Further, the Board would likely need findings to establish that its rent control ordinance is necessary to eliminate the grave housing emergency. In the event of a legal challenge, the County will likely have the burden of proving the aforementioned findings.

There is no apparent record of any local governments in Florida imposing rent controls pursuant to the Statute. However, Miami-Dade County is scheduled to consider a resolution on April 5, 2022 directing the Mayor or designee to conduct a study to determine if a housing emergency currently exists in Miami-Dade County that is so

grave as to constitute a serious menace to the general public and that stabilizing rents to remain affordable is necessary and proper to eliminate such grave housing emergency.

Finally, the County can likely adopt an ordinance that requires residential landlords to provide tenants with sixty (60) days' written notice before the landlord increases the rental rate by more than five-percent (5%). There are no apparent requirements for the County to satisfy any specific criteria or make any specific findings before adopting the Proposed Ordinance beyond those recitations and findings generally made as a matter of practice. On March 15, 2022, Miami-Dade County adopted Ordinance No. 22-30 requiring residential landlords that propose to increase the rental rate by more than five percent to provide 60 days written fair notice to the tenant. On February 24, 2022, the City of Tampa passed a motion directing staff to develop an ordinance that would require landlords to give six months' notice before raising rents and to present the ordinance to the City Council on April 21, 2022. However, a person could argue that the Act impliedly preempts the County from adopting the Proposed Ordinance.

c.: Byron W. Brooks, AICP, County Administrator

EXHIBIT B

ORANGE COUNTY
**RENT
STABILIZATION
ANALYSIS**

MAY 2022



ORANGE COUNTY RENT STABILIZATION ANALYSIS

MAY 2022

GAI's Community Solutions Group (CSG) is a cross-functional team of professionals that helps create sustainable, livable places. We plan and design public spaces, sculpt landscapes and parks, reimagine streets and roads, and provide the regulatory and economic insight necessary to bring projects to life.

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INTRODUCTION

On April 5, 2022, Orange County's Board of County Commissioners ("BCC"), authorized staff to explore a number of issues associated with the jurisdiction's overall housing costs. The action followed a presentation about rising rents and related financial concerns within Orange County ("County") that may have triggered a housing emergency warranting intervention by the BCC.

The BCC's involvement and authority to declare an emergency are allowable under certain conditions described in Section 125.0103 of the Florida Statutes ("Section 125.0103"). Section 125.0103 also instructs that those conditions must gravely impact the welfare of those residing in the jurisdiction taking action. Acknowledging that such situations may exist, the statute expressly requires that any law, ordinance, rule, or other measure which has the effect of imposing controls on rents (a) shall terminate and expire within 1 year, (b) no controls shall be imposed...on seasonal or tourist unit, as a second housing unit, or on rents for dwelling units located in luxury apartment buildings, and (c) is necessary and proper to eliminate such grave housing emergency. Any official actions would subsequently be approved by the voters in such municipality, county, or other entity of local government.

While no official action was taken related to a declaration of emergency, certain information was shared and discussed. The Community Solutions Group of GAI Consultants, Inc. ("GAI" or "CSG") was retained to evaluate

and confirm the data presented and, where necessary, provide additional perspective about housing conditions as well as the resulting impacts should rent stabilization measure(s) be adopted. At this time, a rent ceiling limit and advance notice of rental increases have been proposed as potential rent stabilization measure(s).

In particular, GAI was charged with documenting local housing conditions to see if they rise to the level of emergency, estimating the number of units that could be affected by rent stabilization measure(s), and commenting on the likely effectiveness of such rent stabilization measure(s) if implemented.

Toward those ends, GAI completed several research and analytical tasks. These included a compilation and analysis of pertinent housing market data, a compilation and analysis of selected social welfare indicators, a review of academic literature addressing similar rent control or stabilization strategies, and a review of existing rent control programs and their reported outcomes in other jurisdictions. That body of work is described in this report.

The progress and findings of this analysis have been monitored by Orange County's legal counsel. It is expressly understood that these observations or comments must be considered in tandem with interpretations of the applicable statutory provisions made by Orange County's legal counsel.

HOW TO READ THIS REPORT

The report's major findings are provided on the following pages. This summary consists of answers to four overarching questions about the need and potential effectiveness of the proposed rent stabilization measure(s). Those pages are then followed by nine sections containing detailed analysis related to these overarching questions. Each of these nine sections also contains a discrete summary. Taken together, these multiple summaries are a synopsis of the full report. The appendix at the end of this report provides further information and/or detail.



MAJOR FINDINGS

On balance, there are several pressing housing concerns, and many Orange County residents are heavily burdened by rental costs. In some cases, these burdens well exceed standard measures of income allocated to housing, certainly among the least affluent. Existing state law permits limited interventionist strategies to deal with these burdens as an emergency action.

Legal limitations notwithstanding, the issues driving these costs are deeply structural and a product of regional and national market influences, likely beyond the control of local regulation. Most stem from inadequate housing production over years which a temporary rent ceiling would do little to correct. If implemented, as generally described in Section 125.0103, rent stabilization measure(s) may impede

the objective of speeding overall housing deliveries as well as create a number of unintended consequences.

The focus on rents, virtually to the exclusion of other housing issues, overlooks the complexity of the current housing crisis and diverts attention away from the importance of a well-funded, continuing, and comprehensive strategic approach.

In the immediate term, a policy encouraging advance notice of rental increases is not inappropriate. More directly, procedures for delivery of funds from the Emergency Rental Assistance Program ("ERAP") provided to Orange County may be enhanced to assure timely and effectively support for the most heavily burdened households.

QUESTION 1: DO OBSERVED MARKET CONDITIONS OR SOCIAL INDICATORS SIGNAL AN EMERGENCY AS ARTICULATED IN SECTION 125.0103?

Both market and social metrics that would evidence an emergency are mixed.

- The market conditions largely reflect trends that have been emerging for years. Both rents and operating costs are increasing. The indicators observed are beyond the ability of local policy makers to influence meaningfully if at all.
- Social indicators offered as evidence remain relatively unchanged.

The trajectories underlying the market conditions in particular have been a matter of concern for some period of time affecting many areas of this country.

They are certainly not unique to Orange County nor the State of Florida. The trends in housing costs targeted are not sudden and unexpected but structural and deeply embedded in the marketplace.

Specific to rental housing and the burden of rental costs that are the focus of attention in the proposed rent stabilization measure(s), the occupancy rate in 132,080 multi-family units tracked by CoStar is in excess of 94% as of year-end 2021. Even as rents are increasing, occupancy in the targeted properties is stable or increasing.

Figure 1. Summary of Orange County For-Rent Properties Performance

Year	Inventory Units	Occupancy	Inventory Avg SF	Asking Rent Per Unit	Asking Rent Y-O-Y % Change
2021	132,080	94.8%	958	\$1,697	25.0%
2020	126,059	90.9%	957	\$1,357	-2.0%
2019	121,425	91.9%	957	\$1,384	2.2%
2018	115,887	92.8%	956	\$1,353	3.5%
2017	110,132	94.6%	953	\$1,308	5.8%
2016	105,534	94.1%	949	\$1,237	3.8%
2015	102,718	93.8%	948	\$1,191	5.7%
2014	98,779	93.9%	947	\$1,127	3.2%
2013	94,890	92.8%	946	\$1,092	3.0%
2012	91,647	93.7%	942	\$1,061	2.4%
2011	91,349	92.2%	942	\$1,035	1.7%
2010	90,929	91.4%	942	\$1,018	0.3%
2009	90,158	90.1%	939	\$1,014	-3.8%
2008	88,657	88.5%	938	\$1,054	-1.3%
2007	83,860	90.0%	928	\$1,068	0.8%
2006	81,612	92.7%	922	\$1,059	6.7%
2005	80,592	94.2%	920	\$993	4.9%
2004	78,801	93.1%	918	\$946	0.6%
2003	76,385	92.0%	910	\$941	-2.0%
2002	74,789	93.1%	907	\$960	-1.0%
2001	70,512	94.4%	896	\$970	3.1%
2000	69,743	94.5%	894	\$941	

Source: Costar, GAI Consultants. Note: (1) This figure excludes (a) units classified as affordable under various state or federal guidelines and already subject to rent controls and/or income restrictions, (b) units within the vacation and/or military market segments, (c) residential condominiums and co-ops. This figure includes all units as reported by CoStar, regardless of whether a rental rate is published for the units.

Anecdotal reports to the contrary, many of the compelling and deeply personal examples of distress are being, or could be, addressed by

various state and federal resources available to Orange County through ERAP for that purpose. Today, the County, through its housing and

emergency services departments, has several million dollars of such aid available. Some of that money remains uncommitted.

Regarding the County's obligations to respond to general social or welfare needs, the following suggest existing means of economic or social support are functioning as they are intended.

- Eviction filings in 2022 appear to have taken an upward movement since 2021 when such legal actions were substantively restricted for several months following the start of the COVID-19 Pandemic. The newer figures are comparable to filings reported from 2015 to 2019. Depending upon the years used for comparison, there may be a numerical decline in related filings. When charted against population, the number of filings would be almost immeasurable.
- Similarly, while homelessness is a compelling social concern, claims that rising rents are

increasing homelessness and straining available resources are not discernible in the data. Homelessness is a distinct social issue not exclusively the result of financial distress.

- Clearly, there is a pattern of sharply growing rents nationwide and it might be inferred some companies have realized greater benefits from this increased income. It might then also be presumed some companies have individually positioned themselves to take advantage of housing shortages. Given context, it doesn't appear to be the business strategy of any single company or housing provider to implement rent increases beyond their competitors. While this report does not explicitly address profiteering as a condition prevalent in the rental market, there may be legal options that may be useful to mitigate those concerns unrelated to the proposed rent control ceiling.

QUESTION 2: WILL THE RENT STABILIZATION MEASURE(S) PROPOSED ELIMINATE THE CONDITIONS ASSOCIATED WITH THE SOURCE OF THE EMERGENCY?

A fully informed answer to this question is dependent upon the position of legal counsel and centers on the substantive meaning of the word eliminate. From a practical standpoint, it seems unlikely that the market or social conditions as they are documented herein can be entirely eliminated in the period of time prescribed. However, working in the context of other housing program or measures, there might be relief for specific households.

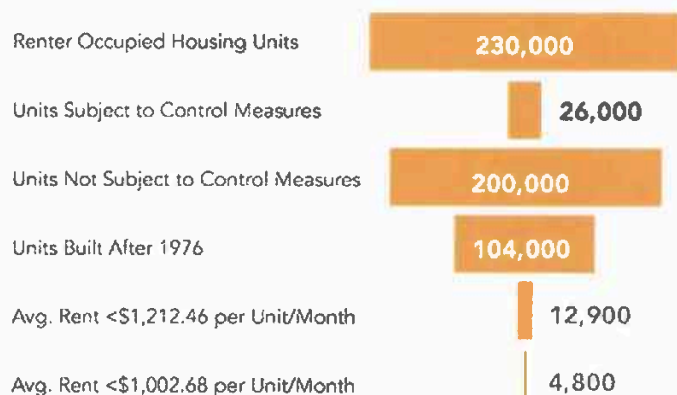
For the most part, the housing market conditions targeted by the proposal are deeply structural and well beyond the ability to correct through local legislative action. The most obvious issue is that the potentially affected inventory may simply be too small to have a broad impact, certainly over the very narrow time allowed by statute. This analysis indicates the rent stabilization measure(s) could be legally applied to only a discrete segment of units comprising the problem.

Today, there are about **584,000** total housing units in the County with only approximately **230,000** units of various types occupied by renters, based on 2021 estimates produced by ESRI. Of this latter group, approximately **26,000** units are already subject to controls due to the application of income or rent limits associated with a local, state or federal housing program, as reported by CoStar for year-end 2021. Others are smaller multifamily properties outside the limitations suggested by proposed rent stabilization measure(s).

Of the remaining, roughly **200,000** units, only a specific group of units would be in accord with the pricing restrictions imposed by Section 125.0103. Those pricing restrictions, adopted into the 1977 legislation, applies only to units priced at less than \$250 per month per unit. The \$250 threshold does not specifically include adjustments for elapsed time or type of unit.

- Based on year built and average rent per unit, it is estimated that no more than **104,000** units are likely targets for rent stabilization measure(s). This full count may be achieved only under the most optimistic interpretation of the cost and date parameters defined in Section 125.0103.
- Under a more cautious reading of these rent and date parameters, that number falls to between roughly **4,800** and **12,900** units.

Figure 2. Characteristics of Orange County Rental Housing Units



Source: US Census Bureau; ESRI, CoStar; GAI Consultants, Inc.

Although the rent stabilization measure(s) could deter rent spikes in this particularly discrete group of units, it is likely to generate several unintended consequences that dampen any immediate gains. As well, Section 125.0103 would require the proposed rent stabilization measure to terminate and expire within 1 year. If that is construed to mean a single calendar year, only a portion of the above units would be subject to controls as leases or renewals are executed over the course of that year.

As for the identified social indicators – including evictions, homelessness, and others identified in the broader public discussion about the rent stabilization proposal – they are only indirectly associated with personal financial issues. In any case, based on prior data points, the indicators seem relatively unchanged from year to year so, it seems unlikely that the social conditions would be materially improved, certainly not eliminated, by the proposed rent stabilization measure(s).

QUESTION 3: WHAT ARE THE LIKELY CONSEQUENCES OF THE PROPOSED STABILIZATION ACTION?

Experience and research where rent controls of some kind exist offer modest hope of slowing rising rents in very limited circumstances, but they would also create unintended consequences, not just for Orange County but for all of the local governments within its boundaries.

The beneficial results which have been reported generally occurred in established programs with complex algorithms for setting rents and enforcement procedures. Offsetting those advantages, research also concludes there are reasonable expectations of unexpected consequences or costs stemming from lowered maintenance, reduced

mobility of the most vulnerable populations, concentrations of those populations, inventory lost through conversions, and aggressive decoupling of basic rents from other utilities or services which together comprise occupancy costs. There are reasons to expect similar outcomes locally where there has been spreading suburbanization and continuing competition between and among the many jurisdictions that represent the regional marketplace.

Research has not proven conclusively that rent stabilization measure(s) directly reduce the delivery of new units. Whatever the actual impact, in the present case, newer

units would enter the market at price points beyond the level controlled by statute, and many could locate outside of Orange County. Should rent stabilization measure(s) slow deliveries, it would deter strategies to build more housing inventory which is a major need today.

To the degree that the proposed rent stabilization measure(s) offers benefits, these are likely to be realized only with a basic administrative framework or process to implement across the number of identified units. Given the statutorily limited time frame for action, any substantive means to advance the concept are operationally handicapped. Even a temporarily constructed framework

has costs. Without an administrative structure, there are reasonable concerns about achievable goals, accountability, and overall effectiveness.

While there may be some departures from the interpretation of certain information presented here, the data does not evidence that proposed rent stabilization measure(s) are a tool well matched to the market conditions documented and the price or functional limits allowed by existing law. The benefits are likely substantively offset by any indirect costs and unintended consequences. In combination, it is not reasonably foreseeable that a temporary strategy will eliminate any emergency which might exist.

QUESTION 4: WHAT THEN ARE THE IMPLICATIONS TO THE HOUSING CHALLENGES AND PROBLEM AT HAND?

The needs are large, and the solutions are complex.

Research supports the position that an effective approach to contain housing costs requires a comprehensive strategy and infrastructure to target the housing burdens or deficiencies of the most adversely impacted populations. These populations reside primarily in rental housing, as targeted by the proposed rent stabilization measure(s), but also include housing planned for owner occupancy, the segment which still dominates the larger market.

If ad hoc solutions are warranted, it is reasonable to focus on existing channels and relief programs such as those already in place and enthusiastically embraced through the Regional Affordable Housing Initiative ("RAHI"), Housing for All ("HFA") and similar initiatives. Money and resources immediately directed to those channels and resources would respond to articulated goals within an

operating framework of multi-jurisdictional cooperation.

Among the existing tools most applicable to the current problem are federal dollars allocated to the State of Florida and to Orange County as part of the ERAP. In the initial round, approximately \$33,000,000 was made available for local housing support. Another \$16,000,000 is available to be available later this year. Use of those dollars may be re-prioritized to benefit renter households most at risk of evictions or homelessness.

While requiring formal notice in advance of a rental increase is not a focus of this current work, it may be a viable policy with some benefits to owners and renters. Renters would have an opportunity to explore alternative housing options or solutions while property owners could use the advanced notice period to test prevailing trends of the marketplace.

SECTION I: CONTEXT AND MARKET TRENDS CREATING THE CURRENT CONDITIONS

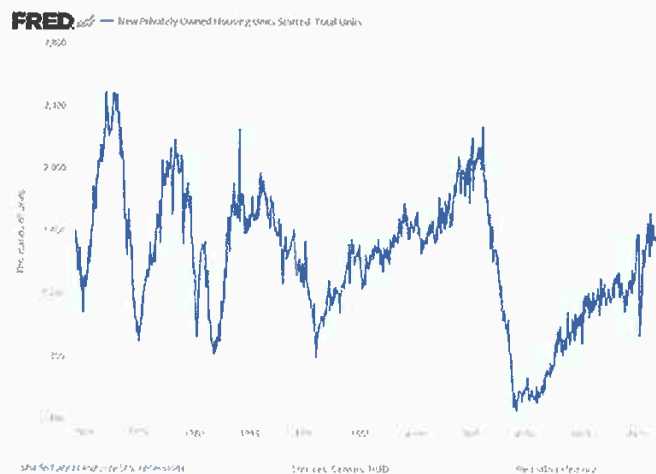
KEY TAKEAWAYS

1. Nationally overall housing production has been slowing for several years, falling well behind the pace of activity in many other decades with less population growth. The nation could be as many as 4,000,000 housing units short of the inventory to sustain normal sales and leasing activity.
 2. The slowing trend was exacerbated by the recession.
 - Decline discouraged new development and initiated a short term housing sell off.
 - During the recession, smaller home companies and trades people abandoned the housing industry, creating concentrations among some housing producers.
 - Both the rental and ownership segments have been able to focus on higher price points.
 - Many homes over leveraged and foreclosed, forcing owners into rentals.
 - Recession effectively forced many households that would be owners to shift their housing preferences boosting the normal need and demands for rentals.
 - Volume of multi-family activity failed to fill the gaps.
 3. During the early stages of the COVID-19 Pandemic, there was not really pressure to produce more housing because mobility was limited for many.
 - To the degree there were regional market opportunities, production remained sluggish because of existing labor issues and were then further stalled by logistic issues.
 - Both the shortage of labor and materials aligned to substantively drive up the cost of those units being produced.
 - Those in the market both during the early stages of the COVID-19 Pandemic and in the months and years that followed have been competing for a significantly restricted supply of both rental and ownership housing, greatly increasing prices.
 4. In the case of Orlando specifically, the reduced activity of Disney, Universal and related retail, and entertainment sectors, brought tremendous economic disruption going into the COVID-19 Pandemic and through the subsequent recovery periods. The abrupt and beneficial recovery of those businesses to pre-recession levels has brought additional pressures to the market, increasing competition for the housing inventory that is available.
 5. Almost certainly, across the nation, those with the least incomes have been the most adversely affected by all of the above.
- Whatever the housing situation in Florida, it is largely influenced by broader industry trends and activity occurring nationwide. Initially these conditions were periodic or fluctuating. Now they are structural.

Without specifically addressing future growth, changing household preferences, or periodic market imbalances, housing production has been steadily declining relative to changes in total population from year to year. In the nation's most productive year, housing deliveries reached about 2,000,000 housing units. In other years, the figures have been quite different.

During the 1970s approximately 1,600,000 housing units, both multi-family and single family, were started per year nationally. Relative to the national population change of that decade about, 0.82 homes per person were in process. In successive decades, planned production hovered at some 1,300,000- 1,500,000 units per year except in the wake of the recession when it plunged to 554,000 units. Following that low point, production then slowly began to climb, hitting a new peak of almost 1,300,000 units in 2019. While that level of production was comparable to earlier periods, it amounted to only 0.45 units relative to the change in population.

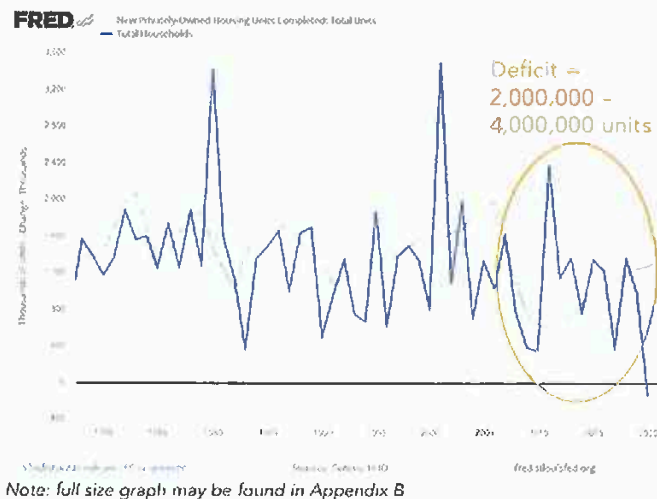
Figure 3. Housing Unit Starts



To the degree, there were inventory overhangs leading up to the recession, those were largely absorbed over the next few years. Based on consistent deliveries of about 1,300,000 housing units per year, the nation would be short some 2,000,000 to 4,000,000 units today depending on the severity of that excess inventory.

This condition is illustrated by the graphics below from the federal reserve where households tower over deliveries.

Figure 4. Housing Unit Complete & Total Households



Given almost 50 years of production history, the supply of housing has simply not kept pace with demand generated by normal population growth, certainly not a pace sufficient to catch up to prior shortfalls. When the need for various housing types, size, locations and price points are matched to the total output, falling deliveries create an obvious market impact. These impacts would be especially evident in Florida, other high growth states, and Orange County which was itself very badly damaged in the recession.

Causes for the fluctuations in market activity are numerous but center primarily on the recession itself which grossly altered the ownership market segments. That period of disruption pushed ripples out for many years. For more than five decades, about 60% of housing has been single family, roughly matching the share of owners to renters. As a result of the recession and a slow recovery, that market segment effectively vanished for six years.

Moving past the period dominated by the recession, builders who left the market found it difficult to regain momentum, losing

workers, committed lots, and access to credit. While employment is now increasing in the homebuilding sector, it is still under-supplied with labor, particularly skilled trades people. Many smaller companies have simply disappeared or consolidated.

The changes and challenges impacting the homebuilding industry caused many companies to redefine the boundaries between lot development and home construction. Lot development is now largely a separate business activity.

Prior to the recession, the largest homebuilders had maintained both lot and housing inventories. Because these companies owned the lots, they were also forced to keep building homes to absorb them. Now they build at a measured pace to match foreseeable housing demand to their construction capacity. Given a controlled pace of demand, they are also free to focus on higher price points.

Immediately after the recession, many displaced homeowners became renters crowding that market segment. In subsequent years, prospective owners, unable to qualify for increasingly higher price homes, have also come to compete with traditional renters. In some cases, a small segment of displaced owners has yet to escape the financial burdens of the recession fully and remain renters. Over a period of about ten years, the impacts of the recession lingered vastly increasing demand for, and interest in, rental housing.

The COVID-19 Pandemic inserted another influence on the market by disrupting material logistics and the form of housing constructed. Some observers suggest, there has been movement from high-cost areas to lower cost areas with Florida being a preferred location. This movement has driven demand in ownership housing. As that demand has grown, there have been spillovers into the rental market. Although housing deliveries are improving, cumulative shortfalls and delays generate higher prices whether intended for sale or for rent.

At least for the foreseeable future, the nation's housing market and its growing prices have become a structural condition.

Figure 5. Housing Unit Starts 5+ Units, Total Households, & Housing Units Completed



SECTION II: EFFECTIVE MARKET CONDITIONS TODAY IN ORANGE COUNTY

KEY TAKEAWAYS

1. Annual housing production in Orange County has badly lagged need. Estimates of development suggest that reduced production over a period of many years may have resulted in a shortage of at least 9,300 units, possibly as many as 26,500 units.
2. There are approximately 230,000 renter-occupied households in Orange County.
3. The burdens of renter households, in particular in Orange County, were reported in multiple studies done by Orange County staff over a period of several years.
4. These households have various attributes and allocate various sums of money toward rent but there are only modest differences location to location.
5. The patterns and trends observed in Orange County are very similar to those observed in several comparable settings also challenged by deep structural conditions.
6. In particular, rents and population are rising at a greater pace than housing production.
7. It is not apparent that in California, where there are forms of rent controls, that conditions are different.

Over the same period tracked nationally, housing market conditions at the state and local level have ebbed and flowed. Much like those conditions at a higher level, conditions across the state and community now appear to be deeply structural and have taken many years to rise to the present level of concern.

Nationally permits or starts average about 1,300,000 units per year. The graph below represents Florida in this context.

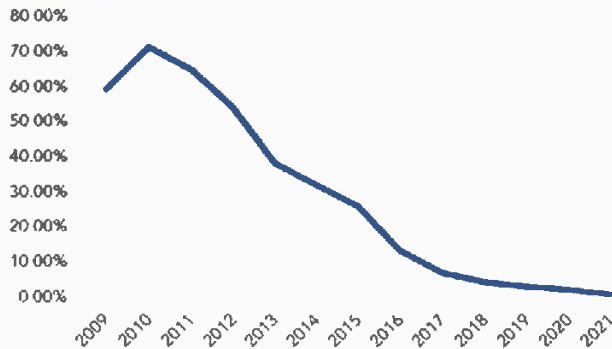
Prior to the recession, the state produced in excess of about 14,000 units in single-unit structures per year, falling to well below 4,000 in 2009. Today, production at the state level is on track to hit about 13,000 units according to estimates of the Federal Reserve. Orange County and other large metropolitan counties have contributed most of this production.

Figure 6. Housing Units by Building Permit, 1-Unit Structures



As a result of those lagging activity from 2009-2015, much of the overbuilding and deleterious financial conditions wrought by the recession have disappeared locally. Those conditions peaked in 2010 when bank owned and short sales represented almost 80% of the transactions. Now that the excess inventory has been absorbed, a more modest pace of housing deliveries has generally continued.

Figure 7. Orange County Percentage of Sales – Bank Owned and Short Sales



Source: Orlando Regional Realtor Association.

Although the new housing inventory is seen as the means to accommodate growth, the market for existing homes represents the dominant segment of transactions. Both the new and existing segments are experiencing price increases well beyond historical levels and supplies of either kinds of property are very tight.

Data for the last fifty years for Orange County shows a few peaking periods of permit and construction activity with the latest experienced just prior to the recession. Recent years barely exceed production of the 1970's and are well off the peak of the boom period. The trends in both single and multi-family production in Orange County match the national trajectory described earlier and lag population growth.

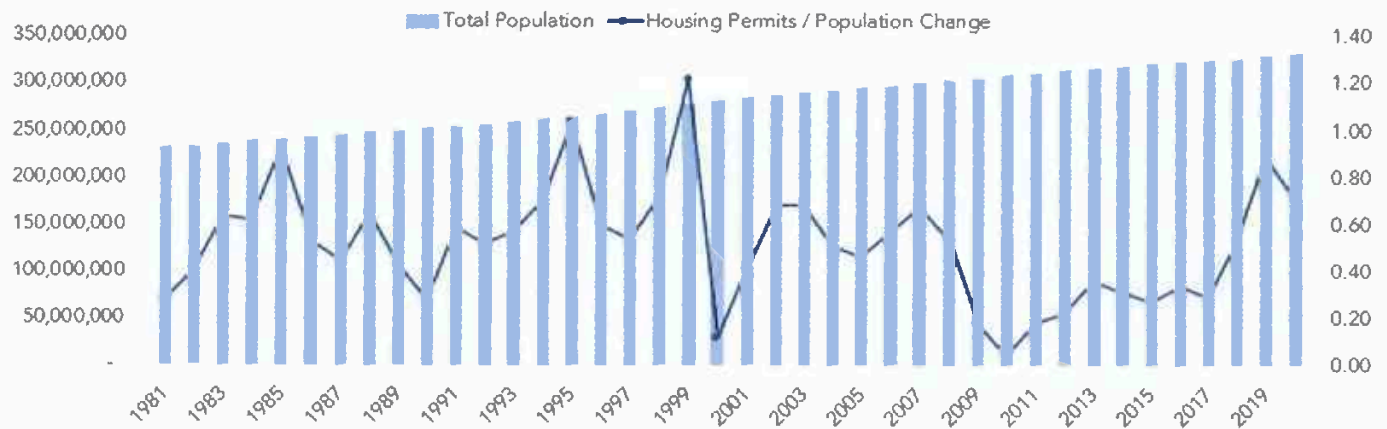
The subsequent declines of new inventory from 2008 -2021 in Orange County also follow national trends, exacerbating the shortfall. The cumulative deficiency of needed units simply cannot be satisfied at the rate of production. Locally, there would appear to be a deficit ranging from a minimum of 9,300 units to a high of about 26,500 units as the result of the observed drops in activity over just the last few years. In Florida and Orange County, housing population relative to population changes has moved steadily downward.

Figure 8. Historic Population Change & Residential Housing Permits

10-Year Period	USA			Florida			Orange County		
	Population Change	Residential Housing Permits	Avg. Permits/Population Change	Population Change	Residential Housing Permits	Avg. Permits/Population Change	Population Change	Residential Housing Permits	Avg. Permits/Population Change
1980–1989	20,249,451	14,921,000	0.67	2,745,148	1,726,136	0.57	179,634	104,176	0.55
1990–1999	28,822,345	13,715,000	0.48	2,173,318	1,263,408	0.65	166,705	102,235	0.67
2000–2009	27,759,417	15,364,000	0.56	3,398,692	1,666,605	0.54	274,262	110,076	0.48
2010–2019	22,757,350	9,933,000	0.45	2,967,801	964,288	0.33	301,984	87,017	0.34

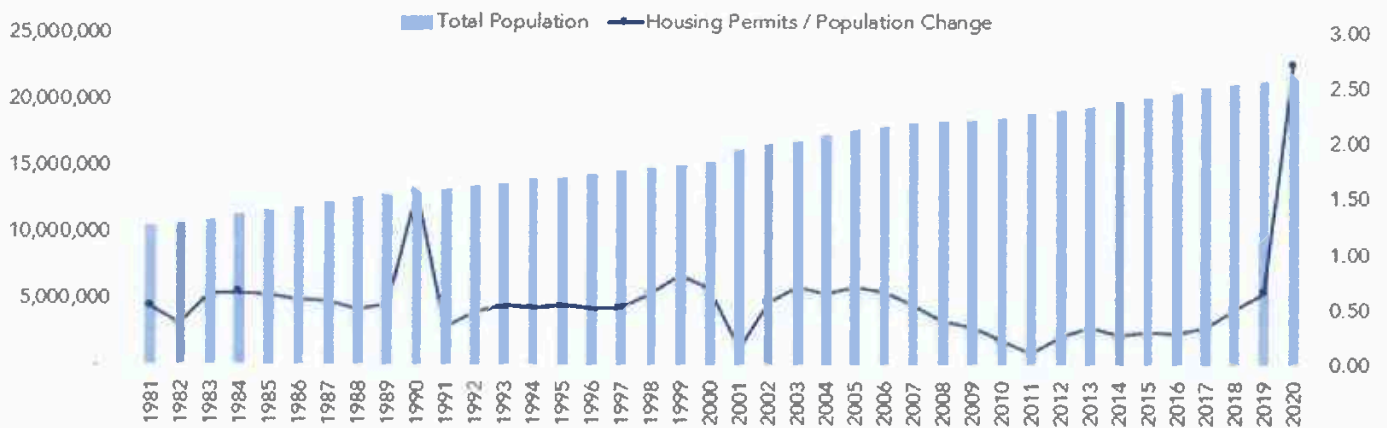
Source: HUD-SOCDS; GAI Consultants.

Figure 9. USA Population Growth vs. Housing Permits



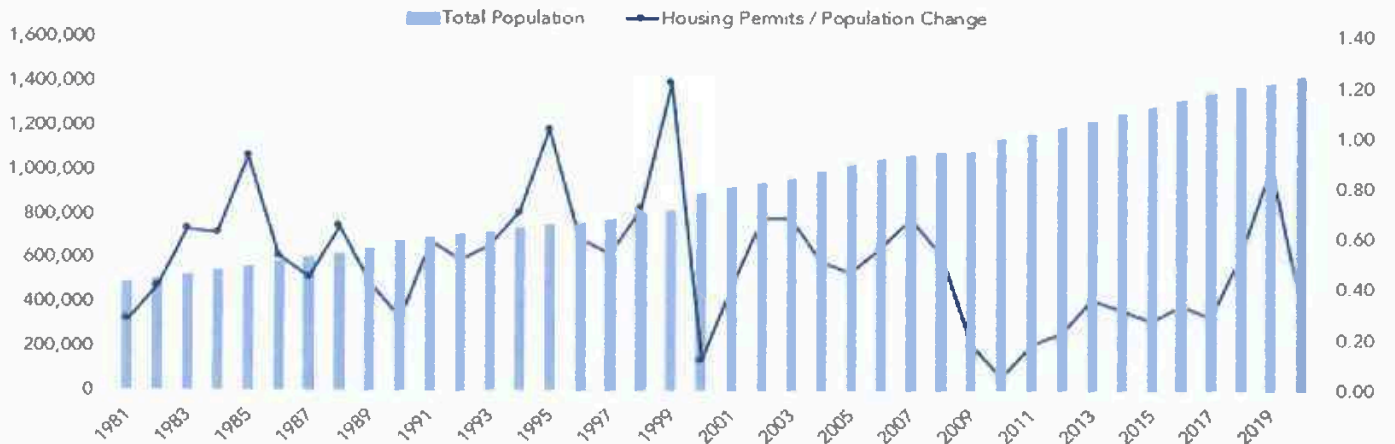
Source: HUD-SOCDS; US Census Bureau; ESRI; GAI Consultants.

Figure 10. Florida Population Growth vs. Housing Permits



Source: HUD-SOCDS; US Census Bureau; ESRI; GAI Consultants.

Figure 11. Orange County Population Growth vs. Housing Permits



Source: HUD-SOCDS; US Census Bureau; ESRI; GAI Consultants.

Figure 12. Florida Single Family vs. Mutli-Family Units, 1980–2020

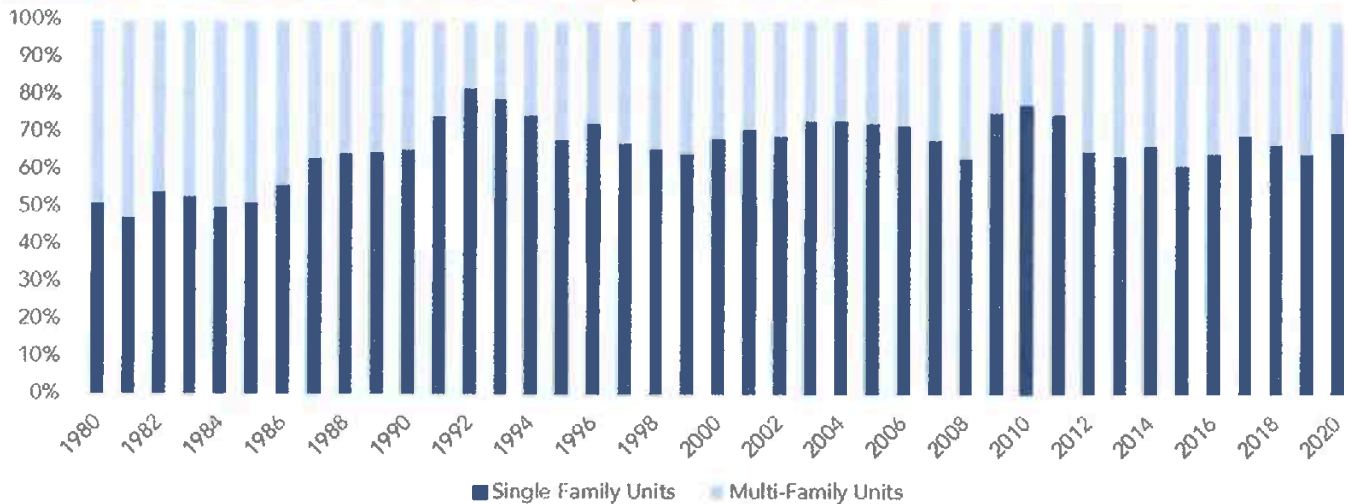
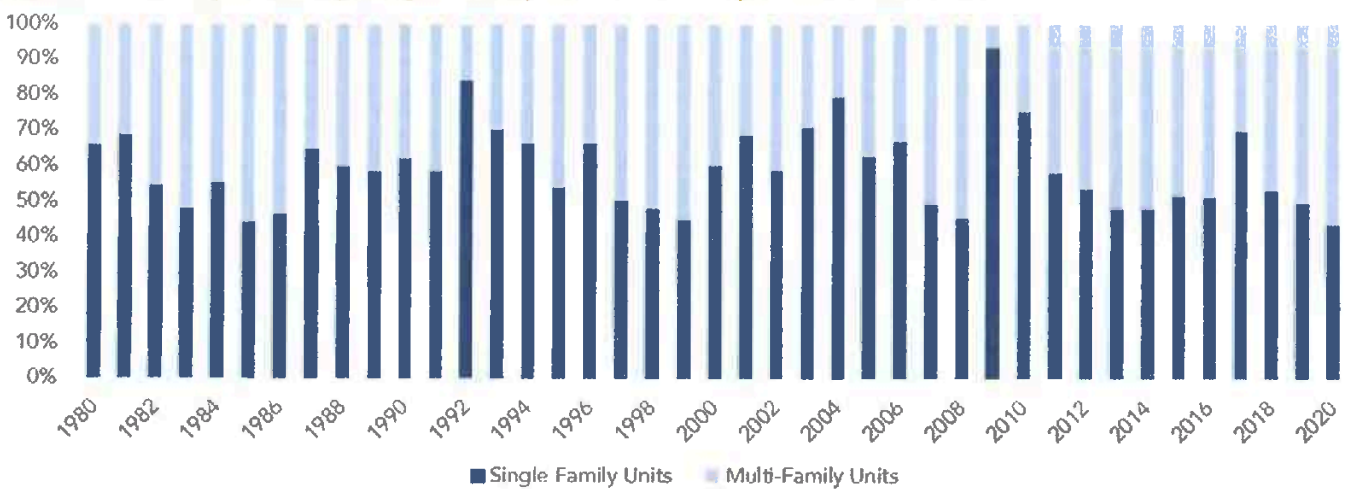


Figure 13. Orange County Single Family vs Multi-Family Units, 1980–2020



While there are limitations in the data provided by Orange County's Multiple Listing Service (MLS), it does offer some perspective on the numbers of transactions and the growing prices over the last the last few years.

These growing prices are generally commensurate with the reduced number of new home deliveries which then place further stress on the existing segments as more buyers compete for a smaller number of homes.

This empirical, although highly anecdotal, competition for owner occupancy spills over to the rental market. As prospective buyers are crowded out or priced out of ownership opportunities, they shift their demand to rental properties. These collective actions and movement, not an isolated marketing strategy, then drive up prices in the rental segment.

The rental segment is comprised of centrally controlled, and professionally managed apartment properties, but it also includes single-family homes, condominiums and many small multifamily properties. While the proposed rent stabilization measure(s) generally targets highly visible rental apartments, they are but one layer among several that contribute to rising rents with the remainder not easily controlled or regulated by the proposed rent stabilization measure(s).

For example, property insurance rates in Florida are among the highest in the United States, affecting renters, owners, and commercial property owners. For commercial properties rates will continue to increase in 2022 having already increased in 2021 some 10-15%. In concert with higher utility costs and the growing costs of other line items, operating performance is impacted, affecting some properties more so than others.

To the degree that larger owners are visible in the marketplace, they become strongly associated with concerns about rising rents generally. At least two major property groups, Camden Property Trust and Blue Rock Residential, have been identified as corporate owners with unusually high rents

and a disproportionate influence on rental conditions locally. The Orlando holdings represent just a small part of each company's portfolio, 13% and 6% respectively, and their rents appear to be in line with similarly oriented and aged properties in the area.

Figure 14. Orange County Average Single Family Home Sales Prices (1990-2021)



Source: Shimmerberg Center for Housing Studies; GAI Consultants, Inc.

Given these and like (mis)impressions, about local market conditions, it is worth comparing housing prices, incomes, and cost burdens in Orange County with other high growth areas. Some of these other locations or metropolitan areas have been named in general interest publications and the media but without consistency, uniformity or ties to other measures to give further context or understanding. Here, other counties of approximately the same size and rates of growth are compared.

In comparing this group of communities, each with a central city of significant size, it is striking how similar many of the indicators or measures are. The following observations in particular are notable:

- Orange County and most other comparable counties within Florida are facing the same rent, cost, and delivery issues faced by other rapidly growing communities.

- These deeply imbedded structural conditions have been emerging since at least the year 2000, affecting some areas more adversely than other. However, overall each area is affected the same way.
- In California where rent control measures are in widely place, it is striking that the trajectories are not obviously any different than those in areas without rent control measures.
- Across all communities there have been sharply increasing populations with additional production, but production has been inadequate to keep pace with population growth.
- In all communities, percentage of renters as a share of total households is increasing. Simultaneously, rents in each of these communities are also increasing. In the last year (2020-2021) rents have increased at rates in excess of 20%, though historically increases have remained below 5% and in individual years may have declined.
- It is not surprising that both Camden Property Trust and Blue Rock Residential operate properties in several of these markets, all characterized by high growth and demand.

Figure 15a. Summary of Comparables, Out-of-State

	Alameda County, CA²	Sacramento County, CA²	Travis County, TX	Wake County, NC	Fulton County, GA
	Oakland	Sacramento	Austin	Raleigh	Atlanta
2021 Population	1,646,826	1,546,011	1,336,453	1,141,511	1,089,583
2021 Population Density (Per Sq. Mi.)	2,228	1,603	1,350	1,367	2,069
2021 Housing Units	622,168	588,359	567,565	468,682	504,554
2021 Median Household Income	\$105,545	\$72,309	\$83,370	\$84,089	\$78,787
2010-21 Population CAGR ¹	0.77%	0.77%	2.39%	2.13%	1.51%
2010-21 Housing Unit CAGR ¹	0.54%	0.46%	2.09%	1.91%	1.18%

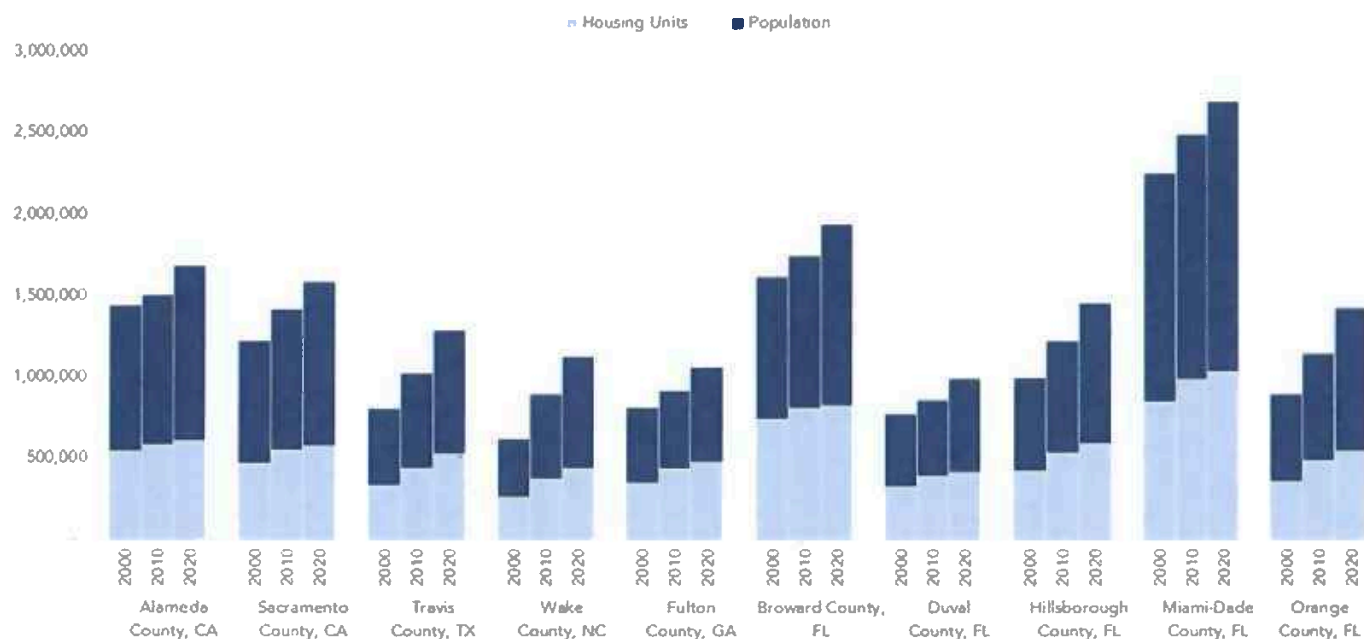
Source: U.S. Census Bureau; GAI Consultants. Notes: (1) CAGR represents compound annual growth rate. (2) Counties with Rent Control Measures.

Figure 15b. Summary of Comparables, In-State

	Broward County, FL	Duval County, FL	Hillsborough County, FL	Miami-Dade County, FL	Orange County, FL
	Ft. Lauderdale	Jacksonville	Tampa	Miami	Orlando
2021 Population	1,898,911	986,181	1,496,221	2,745,677	1,418,813
2021 Population Density (Per Sq. Mi.)	1,570	1,294	1,467	1,447	1,571
2021 Housing Units	855,670	433,783	625,636	1,074,660	583,752
2021 Median Household Income	\$60,691	\$57,549	\$60,643	\$54,681	\$62,593
2010-21 Population CAGR ¹	0.74%	1.18%	1.76%	0.85%	1.92%
2010-21 Housing Unit CAGR ¹	0.45%	0.91%	1.28%	0.67%	1.50%

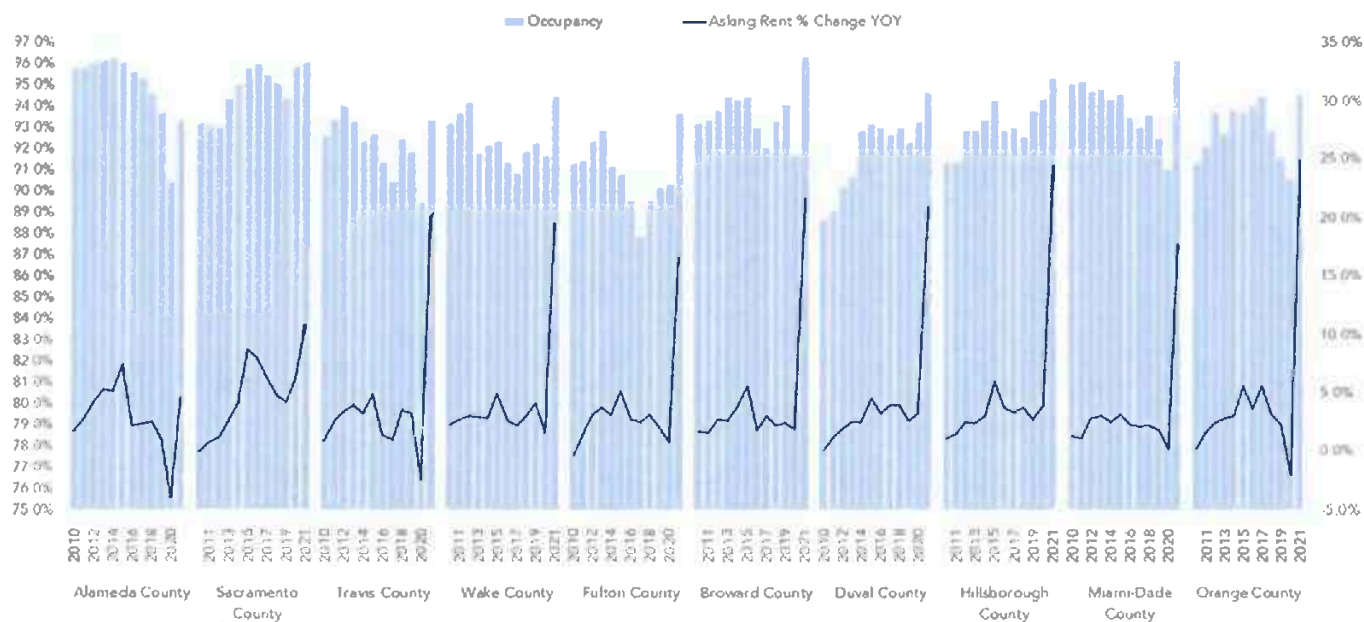
Source: U.S. Census Bureau; GAI Consultants. Note: (1) CAGR represents compound annual growth rate.

Figure 16. Comparison Counties: Population and Housing Unit Growth (2000–2020)



Source: US Census Bureau; ESRI; GAI Consultants.

Figure 17. Comparison Counties: Asking Rent/Unit vs. Occupancy (2010–2021)



Source: CoStar; GAI Consultants.

Note: full size graph may be found in Appendix B

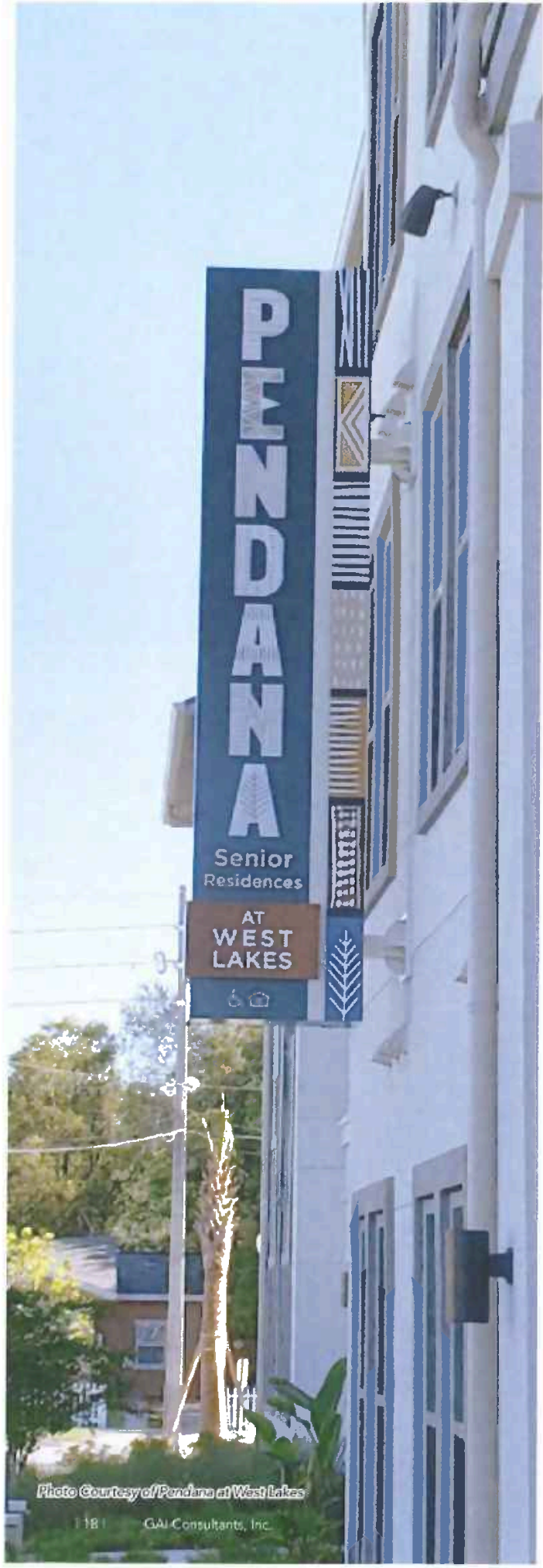
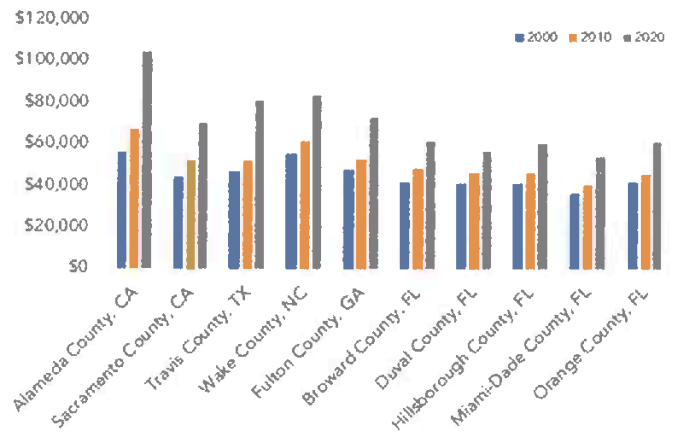


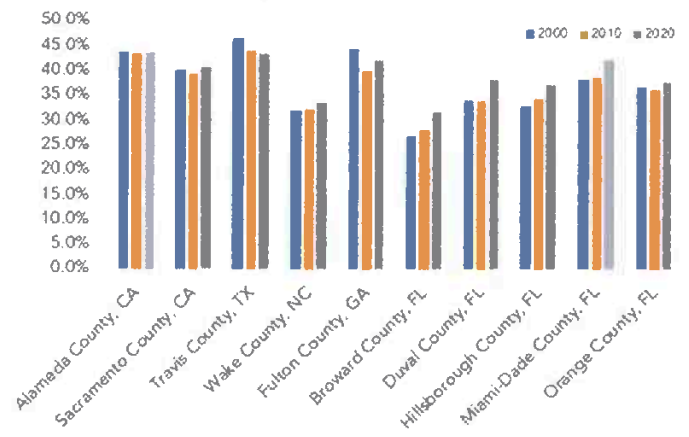
Photo Courtesy of Pendana at West Lakes

Figure 18. Comparison Counties: Median Household Income (2000–2020)



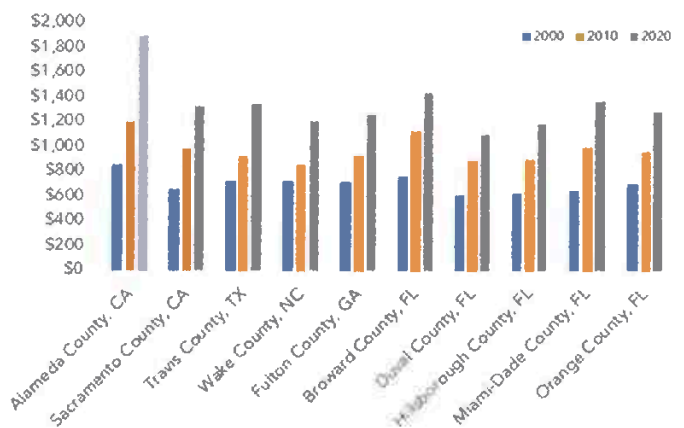
Source: U.S. Census Bureau; GAI Consultants.

Figure 19. Comparison Counties: % Renter Occupied Housing (2000–2020)



Source: U.S. Census Bureau; GAI Consultants.

Figure 20. Comparison Counties: Median Gross Rent (2020–2020)



Source: U.S. Census Bureau; GAI Consultants.

SECTION III: MARKET CONDITIONS AS REFLECTED IN A NUMBER OF SOCIAL WELFARE INDICATORS

KEY TAKEAWAYS

1. The social challenges wrought by evictions, homelessness and unstable school populations are troubling and properly the subject of concern.
2. That said, none of these indicators show a sustained and upward trend and, in cases, have gone both up and down in the context of many varied conditions. Generally speaking, the absolute numbers for all indicators have remained about the same. If compared to population, the conditions would reflect an almost immeasurable change.
3. The financial resources of individual families and persons have ebbed and flowed in the context of diverse economic conditions both good and bad. Whatever the (1) numbers of persons affected and (2) the severity of those so affected, it is far less than clear that the conditions stem from spiking rents.

It would be a mistake to dismiss the many reports and stories about families in obvious economic distress and the implications of that distress. The bigger questions for the immediate concern are whether these events are more than occasional, widespread, and beyond some community standards or measures. The indicators suggest recent conditions today are not materially different than in prior years or periods.

With the housing and financial situations so widely covered in the media, it is instinctive that a variety of social indicators would also be adversely affected. Despite the anecdotal incidents, data identifying (1) metrics

deemed to track social conditions or (2) resources to mount interventionist strategies offer evidence that many family situations are being managed within the existing framework. In some cases, depending upon the point of reference, the actual numbers of filed cases or persons so effected have declined or remained about the same.

Beginning with evictions, the recorded filings in Orange County are up in 2022. During the first quarter of 2022, there were more than 3,100 filings associated with evictions. That compares with more than 2,300 filed with the court in 2021 in the same period when, given legal constraints, it would have been more difficult to remove a resident from possession. Over the course of the year, about 49-50% of those filings might result in an actual notice to vacate the property.

Figure 21. Orange County Evictions

Historical Yearly Breakdown	Evictions Filed with Orange County Clerk of Courts
2009	13,161
2010	12,738
2011	13,194
2012	13,085
2013	12,580
2014	12,074
2015	11,267
2016	11,287
2017	10,700
2018	10,321
2019	11,086
2020	6,896
2021	8,752

Source: Orange County, GAI Consultants.

Figure 22. Writ of Possession 2021–2022 Monthly Breakdown

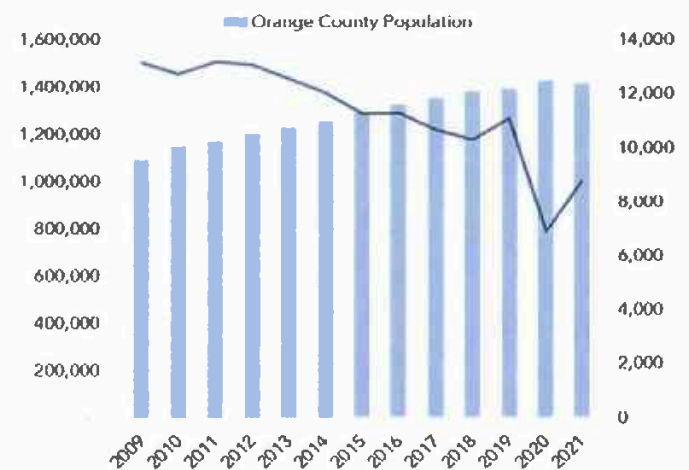
Writ of Possession 2021-2022 Monthly Breakdown	Evictions filed with Orange County Clerk of Courts	# of Writs	% Served
2021			
January	860	332	39%
February	748	388	52%
March	751	423	56%
April	619	319	52%
May	503	300	60%
June	617	392	64%
July	641	279	44%
August	697	419	60%
September	784	464	59%
October	883	482	55%
November	773	454	59%
December	876	318	36%
2021 Totals	8,752	4,570	52%
2022			
January	1,063	496	47%
February	1,094	477	44%
March	1,024	619	60%
2022 Totals To-Date	3,181	1,592	50%

Source: Orange County; GAI Consultants

Because legislation or rules related to the COVID-19 Pandemic limited efforts to evict any resident from property, comparisons with 2020 or 2021 are probably misleading. Eviction related filings peaked in the years immediately following the recession, staying above 12,000 from 2009 to 2014, then staying at about 10,000-11,000 from 2015 to 2019 with relative consistency until COVID-19 Pandemic controls altered the trajectory. At the pace of the last few months, the numbers would be up moderately but not dissimilar to those recorded prior to pandemic constraints and almost identical to figures from 2019.

Whatever the number, neither filings nor actual evictions address reasons for action. The reasons may be associated with a variety of issues including property damage, pets, criminal activity, and non-payment as well as some combination of factors. Although financial resources strained by spiking rents could be a factor in some cases, it is absolutely not correct to conclude that those rents are the primary cause. Certainly, it would be a mistake to conclude, they are the only cause.

Figure 23. Evictions Filed w/ Orange County Clerk of Courts



Source: Orange County; GAI Consultants.



Photo Courtesy of Multi-Housing News

Each year, typically in January, ("Point in Time" or "PIT"), social providers make an estimate of the population in a homeless condition. Effectively, it is a crude census of that population but it is a reasonably consistent effort to capture the problem at a point in time.

For the years PIT data has been made available, the homeless population appears to have peaked during the recession at almost 58,000 people, intuitively in concert with other data from that timeframe. For the most part, the number of homeless has steadily trended downward. To the current problem, during the 2021 count, the number of homeless was estimated at 1,162 people in Orange County and 21,141 statewide. These are both drops from 2020 when the figures

were 1,401 and 27,679 people for Orange County and the state of Florida respectively.

	Florida	Orange County
2009	57,687	1,279
2010	57,751	1,494
2011	56,771	2,872
2012	54,972	2,281
2013	43,455	2,937
2014	41,335	1,701
2015	35,964	1,396
2016	33,502	1,228
2017	32,109	1,522
2018	29,717	1,539
2019	28,590	1,544
2020	27,679	1,401
2021	21,141	1,162

Source: Orange County; GAI Consultants

The Homeless Information Management System ("HIMS") also maintains a count of people in and out of homelessness in a specific year. These counts are tabulated differently than PIT counts and do not reconcile fully to that dataset.

The HIMS tabulates movements into homelessness with the data recorded to avoid duplicates. Because of the way these records are organized, they may be a more reliable indicator of homelessness.

Using these counts, the homeless figure peaked in 2019 at about 5,003 people, dropped to 3,587 people in 2020 and grew again to 4,317 people in 2021. The latest

numbers are down from both 2017 and 2018. Pre-COVID, during COVID, and post COVID, these counts have remained relatively the same. Among children, the counts are virtually unchanged.

	Florida	Orange County
	Homeless Individuals	Homeless Households with Children
2017	4,434	1,368
2018	4,922	1,472
2019	5,003	1,212
2020	3,587	974
2021	4,317	1,362

Source: Orange County; GAI Consultants

Like eviction records, neither dataset tracking the homeless population addresses identifiable or significant causes. The causes are many and well documented in academic and empirical studies. While housing costs are likely a factor in some cases, it is incorrect to conclude they are the primary cause of homelessness, and it is absolutely an error to conclude, they are the only cause.

The concern about students being displaced from their stable living arrangements is also not a new phenomenon. All school districts in Florida, file an annual report on these conditions as part of the McKinney Vento program. The information identifies school age children who have experienced homelessness over the course of the year. Though counts reflect a significant decline over the last 4-years, counts were highly impacted by conditions occurring beyond the control of Orange County Public Schools ("OCPS"). These conditions include Hurricane Maria which struck Puerto Rico during the 2017/2018 school year displacing student from Puerto Rico to school districts throughout Florida, and the COVID-19 Pandemic which resulted in substantial undercounting in the 2019/2020 and 2020/2021 school years due to expanded

virtual education options. The 2018/2019 school year counts were not significantly influenced by outside forces and reflect the norm more typically observed by OCPS and are consistent with current school year counts to-date of 5,634 students Even with student homelessness within the Orange County School district expected to return to pre-COVID-19 Pandemic levels for the 2021/2022 school year, it is not a condition easily traced to rising rents.

Orange County Public Schools

School Year	Homeless Students
2017/2018	9,692
2018/2019	6,116
2019/2020	4,774
2020/2021	3,914

Source: Orange County Public Schools

SECTION IV: ORANGE COUNTY'S RESPONSE TO THIS SET OF MARKET OR SOCIAL CONDITIONS

KEY TAKEAWAYS

1. As early as 2016 Mayor Jacobs started the Regional Affordable Housing Initiative ("RAHI") drawing on the resources of multiple jurisdictions.
2. Mayor Demings and his contemporary BCC members launched Housing for All ("HFA") to implement much of that strategy.
3. In the wake of both, the County adopted measures to support a range of affordable and attainable housing product.
4. For its part the County has been involved with actions or production associated with more than 2,000 units since 2021, a major increase in affordable deliveries over the last several years and a significant share of production without regard to the segment served.
5. For the short term, emergency dollars have been available to address renter needs. Those efforts are being complemented by others including Universal Studios and possibly Disney who could also move into affordable and attainable housing in a very visible way.

6. All of these efforts individually and collectively focus on very narrow segments of the larger market which are still producing fewer units than they have historically.

The housing challenges so evident today, as a result of the attention centered on sharply increasing rents, are not new.

These challenges have been a growing and visible concern for several years and were a topic given priority by Orange County leadership, beginning in 2016 under Mayor Teresa Jacobs. At that time, the various market issues, production costs and barriers, lag in housing deliveries, burden of personal resources allocated to housing of all kinds, and appropriate or viable roles for Orange County and nearby governments [City of Orlando, Seminole County, Osceola County] were the subjects of extensive analysis and policy deliberation. The findings of this early effort were compiled into the RAHI and formally adopted by the BCC at the time it was published.

Mayor Demings and all the current members of the BCC retained housing as a major policy priority adopting HFA. The HFA initiative provided goals and a comprehensive strategy that included regulatory solutions and, in particular, allocated funds specifically to advance those goals. If financial resources are a measure of political commitment, the creation of the County's Housing Trust Fund ("HTF") is significant because it has allowed the County to partner and facilitate in a number of housing projects or activities that might otherwise have been impossible.

The impact of the HTF on local activity can be gleaned from the data below which is an inventory of all Affordable Housing (rent or income controlled) provided or retained since 2016. The role of the HTF is evident in deliveries over the last 1-2 years is evident, contributing to the planning and construction of more than 2,000 units over the next 18 (estimated) months. In prior periods, without the fund, Affordable Housing deliveries were a fraction of that figure.

In the near term, Orange County has authority to distribute many millions of dollars in direct rental payments to households and property owners overwhelmed by COVID. This program, while an obvious nod to short term needs, also illustrates the inherent difficulty in assuring access on an ad hoc basis.

While it is premature to ascertain exactly how County funds or County leadership will support lower cost housing in the future, there have been significant positive actions to this end. Universal Studios plans to develop about 1,000 units of affordable/attainable housing. Disney has also announced plans for several thousand units. Orange County has its own plans for the International Drive Community Redevelopment Area ("I-Drive CRA"), which combined with other activity will add significantly to the affordable/attainable housing inventory. The I-Drive CRA Redevelopment Plan identifies \$22.5 Million for affordable/attainable housing within I-Drive Catalytic Sites and references need to encourage/induce production of 1,600 such units throughout the I-Drive CRA. In addition These are substantial numbers in the context of a market that has historically been slow to respond to the affordable segment.

Viewed in the context of the older RAHI and the newer HFA, all of these units are rationally counted as part of the many housing goals targeted by the County. At least for the foreseeable future, Orange County has orchestrated a very aggressive and comprehensive strategy.



Photo Courtesy of Orlando Weekly

Figure 24. Rental Affordable Housing Developments

Development Name	Year Achieved	Housing Programs	Total Units
Goldenrod Pointe	2016	Housing Credits 4%;Local Bonds	70
Quest Village	2016	Housing Credits 9%;Legislative Appropriation;SAIL	48
Brixton Landing	2016	Housing Credits 9%	80
Buchanan Bay	2016	WD Bonds	228
Vista Pines	2017	Housing Credits 4%;Local Bonds	238
Wellington Park	2017	Housing Credits 9%	120
Westwood Park	2017	WD Bonds	178
Landon Pointe	2017	WD Bonds	276
Citrus Square	2017	WD Bonds	87
Forest Edge	2017	HOME	43
Pendana At West Lakes	2018	Housing Credits 9%;SAIL	200
Concord Court At Creative Village	2018	DVF;Housing Credits 9%;SAIL	116
Amelia Court at Creative Village II	2018	Housing Credits 9%	105
Lake Weston Point	2018	WD Bonds	240
Village On Mercy	2019	DVF;Housing Credits 9%;SAIL	166
Parramore Oaks	2019	Housing Credits 9%	120
Willow Key	2019	WD Bonds	384
Chapel Trace	2019	WD Bonds	312
Emerald Villas II	2020	Extremely Low Income;Housing Credits 4%;SAIL;State Bonds	96
Pendana At West Lakes Senior Residences	2020	Housing Credits 9%	120
Baptist Terrace	2020	WD Bonds	197
Jernigan Gardens	2020	WD Bonds	256
Madison Landing	2021	Housing Credits 9%	110
Dunwoodie Place	2021	WD Bonds	172
Plymouth Senior Apartments	Closing	HTF	96
Mill Creek Apartments	Closing	WD Bonds	312
Fairlawn Village	Under Construction	Extremely Low Income;Housing Credits 4%;National Housing Trust Fund (NHTF);SAIL;State Bonds	116
Hawthorne Park	Under Construction	Housing Credits 9%	120
Durham Place	Under Construction	Extremely Low Income;Housing Credits 9%;National Housing Trust Fund (NHTF);SAIL	102
Parramore Oaks II	Under Construction	Community Development Block Grant - Disaster Recovery (CDBG DR);Housing Credits 4%;State Bonds	91
Enclave at Lake Shadow	Under Construction	Housing Credits 9%	96
Fern Grove	Under Construction	Extremely Low Income;Housing Credits 4%;National Housing Trust Fund (NHTF);SAIL;State Bonds	138
Madison Landing II	Under Construction	Housing Credits 9%	86
Barnett Villas	Under Construction	HTF; Housing Credits 4%; Local Bonds	156
Emerald Villas III	Under Construction	HTF; Housing Credits 4%; Local Bonds	90
Southwick Commons	Under Construction	HTF; Extremely Low Income;Housing Credits 4%;National Housing Trust Fund (NHTF);SAIL	195
Whispering Oaks	Under Construction	HTF; SAIL; Housing Credits 4%; Local Bonds	192
Sandpiper Glen	Under Construction	WD Bonds	288
Beacon at Creative Village	Under Construction	Housing Credits 9%	79

Source: Orange County; GAI Consultants.

Figure 25. For-Sale Affordable Housing Development

Development Name	Year Achieved	Housing Programs	Total Units
Habitat for Humanity Greater Orlando and Osceola County, Inc.	Under Construction	HTF	5
Habitat for Humanity of Seminole County and Greater Apopka, Florida, Inc.	Under Construction	HTF	6
Homes in Partnership, Inc.	Under Construction	HTF	6
Central Florida Regional Housing Trust	Under Construction	HTF	4
Future Leaders Community Development Corporation, Inc.	Under Construction	HTF	5
Hannibal Square Community Land Trust, Inc.	Under Construction	HTF	11
Hannibal Square Community Land Trust, Inc.	Under Construction	HTF	24
Silver Pines Pointe	Completed	-	35
Arbor Bend	Completed	CDBG	34
Juniper Bend	Completed	CDBG	10

Source: Orange County; GAI Consultants.

SECTION V: APPLICABLE STATE LEGISLATION

KEY TAKEAWAYS

1. The State's legislation allows local governments to impose controls on rents during certain grave housing emergencies.
2. Required to make recitations and findings establishing the existence in fact of said grave housing emergency.
3. Provides for exemptions of certain units and provides a definition of luxury apartment building.
4. At the time of the legislation, that definition identified luxury units as those priced at monthly rents exceeding \$250 (1977) although there is no express prohibition to make an adjustment to current dollars.
5. Commissioner Bonilla's suggested approach would apply any potential rent stabilization measure(s) only to those properties with 4 or more units.
6. Must make and recite findings that such rent controls are necessary and proper to eliminate the grave housing emergency.
7. The proposed rent stabilization measure(s) might last longer than a year based on a cycle of renewed leases or other considerations.

The following passages are extracted from Section 125.0103 with *emphasis* on the substantive dimensions, issues, or considerations addressed in the current analysis.

(2) No law, ordinance, rule, or other measure which would have the effect of imposing controls on rents *shall be adopted or maintained in effect except as provided herein* and unless it is found and determined, as hereinafter provided, that such controls are necessary and proper to *eliminate an existing housing emergency* which is so grave as to constitute a serious menace to the general public.

(3) Any law, ordinance, rule, or other measure which has the effect of imposing *controls on rents shall terminate and expire within 1 year* and shall not be extended or renewed except by the adoption of a new

measure meeting all the requirements of this section.

(4) Notwithstanding any other provisions of this section, no controls shall be imposed on rents for any 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.*

(5) No municipality, county, or other entity of local government shall adopt or maintain in effect any law, ordinance, rule, or other measure which would have the effect of imposing controls on rents unless:

(a) Such measure is duly adopted by the governing body of such entity of local government, after notice and public hearing, in accordance with all applicable provisions of the Florida and United States Constitutions, the charter or charters governing such entity of local government, this section, and any other applicable laws.

(b) *Such governing body makes and recites 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.*

(c) Such measure is approved by the voters in such municipality, county, or other entity of local government.

(6) In any court action brought to challenge the validity of rent control imposed pursuant to the provisions of this section, the evidentiary effect of any findings or recitations required by subsection (5) 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 (that is, the risk of non-persuasion)

shall rest upon any party seeking to have the measure upheld.

(7) Notwithstanding any other provisions of this section, municipalities, counties, or other entities of local government may adopt and maintain in effect any law, ordinance, rule, or other measure which is adopted for the purposes of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

GAI has worked with Orange County's legal counsel to ascertain the legal significance of these highlighted passages in terms of our data collection and analysis. However, legal guidance in applicable cases is limited and invites debate.

KEY ISSUES

- The Statute speaks to a housing emergency, and the governing body makes recitations and findings related to the emergency.
- The Statute is intended to provide temporary relief, but it is not clear if the year specified is a true calendar year beginning with adoption or a period of a lease which is often a year or more. If the latter, any emergency measure could extend the period of coverage to as much as two or more calendar years in accordance with individual lease renewals.
- The Statute provides for exemptions of certain units and provides a definition of luxury apartment units.
- The state allows for certain exemptions and exclusions based on the nature of the unit or its rents. Among those exclusions are so called luxury apartment units. These units are those where the aggregate rent exceeds \$250.
- Because a specific date is inserted in the statute, it can be reasoned that legislation only targets those units in existence on January 1, 1977.
- BCC must make and recite findings that the proposed rent stabilizations measure is necessary and proper to eliminate the grave housing emergency.

SECTION VI: CONDITIONS AND THEIR CONNECTION TO STATE LEGISLATION

KEY TAKEAWAYS

- 1 Multiple scenarios were considered. These scenarios relate to the identified average rent and the kinds of properties with four or more units
- 2 They do not include properties already subject to certain income or rental exclusions.
- 3 There are approximately 230,000 renter-occupied households in Orange County.
- 4 Without regard to the cap, there are approximately 158,000 multi-family rental units (market priced and assisted in some way) that would meet the size criteria, accommodating some share of these households.
- 5 Because Section 125.0103 is subject to some interpretation, we prepared multiple scenarios for analysis. Only one scenario is likely to generate a substantive response in the larger market. The other scenarios seem small relative to the conditions necessary to eliminate any emergency.

The most limiting quantitative issues are associated with the number of units potentially affected by the proposed rent stabilization measure(s). The count of those units is subject to some interpretation. Effectively, there are various interpretations that increase or decrease the pool of units to be controlled. Those interpretations focus on the date the legislation was enacted and the explicit rent stated in the statute.

- Scenario 1: All units held to the \$250 maximum stated in the statute. Only units renting for less than that figure would be subject to controls. Today, virtually no rental units are available at that price. Significance: No units are available or subject to controls.
- Scenario 2: The rent stated in the statute is adjusted to reflect either a price inflator or to reflect a share of income allocated to rents consistent with the burden implied in the statute adopted in 1977. In the case of the former, only units *renting for less than \$1,212.46* would be subject to controls. In the case of the latter, only units *renting for less than \$1,002.68* would be subject to controls. That figure is the equivalent of no more than 20% of the median income. Significance: A range of some **4,800** units to **12,900** units is available or subject to controls. The lower end of the range strictly ties rents to income without consideration of time.
- Scenario 3: For units in existence on January 1, 1977, the cap is held to the \$250 maximum stated in the statute. No caps on units established after January 1, 1977, because none are indicated. Significance: Approximately **103,900** units are available or subject to controls.

Each of the potential interpretations are summarized by year and presented in the table on the following page.

Figure 26. Units by Year Built

Rent/Unit	Units by Year Built		
	<1977	1977+	All
<\$250			
>\$250	19,814	103,854	123,668
<\$1,002.68	2,846	1,960	4,806
>\$1,002.68	16,968	101,630	118,598
<\$1,212.46	7,035	5,852	12,887
>\$1,212.46	12,687	97,738	110,425
All	25,419	106,235	131,654

Source: CoStar, GAI Consultants. Note: Affordable Units Excluded

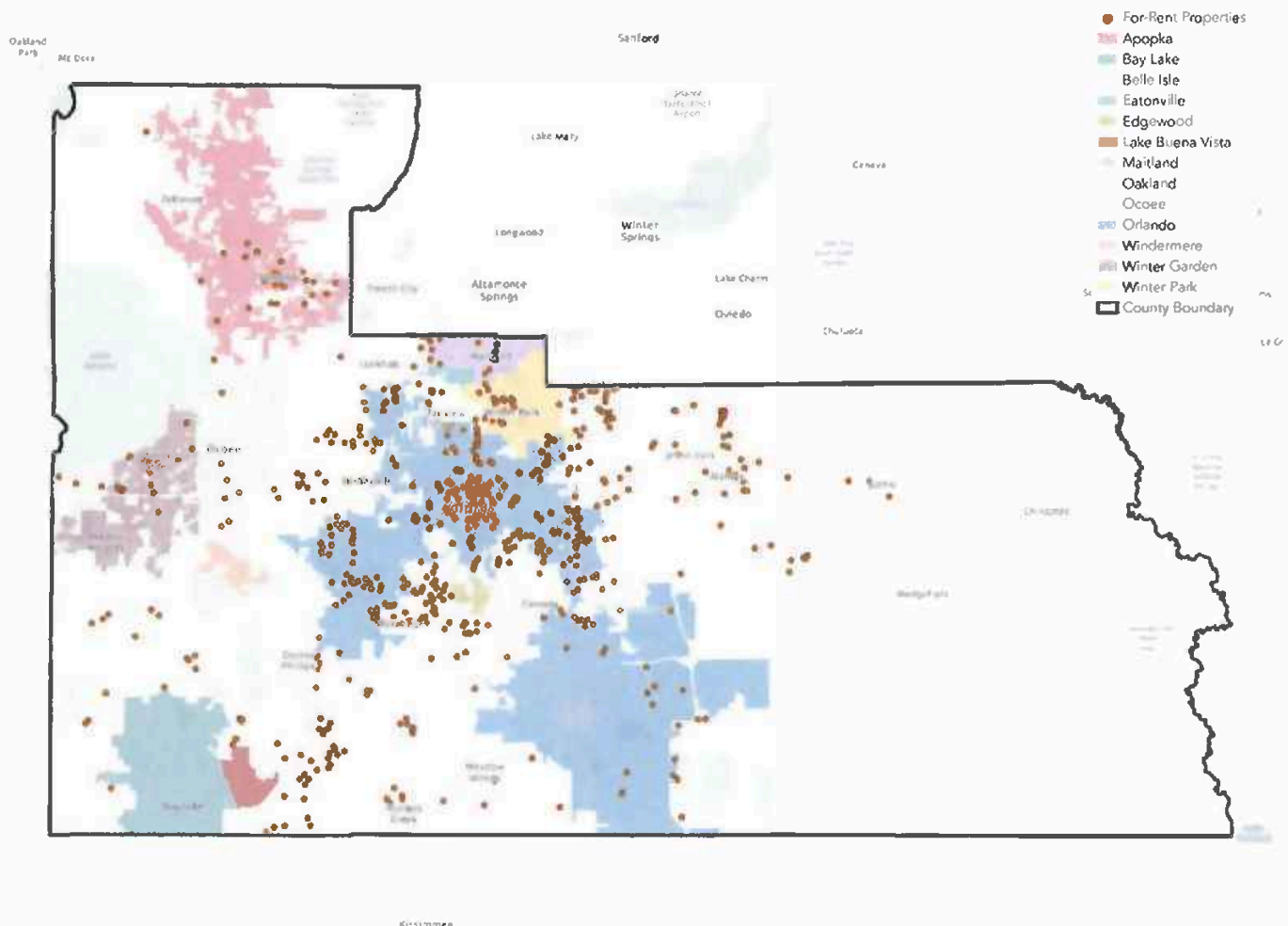
Scenario 2 as a middle course, is useful and plausible for planning purposes. But, like the other scenarios, it is a legally, untested position.

Anywhere within the range of Scenario 2, the number of units relative to the total inventory of rental units is small, topping off at 5.6%. Whatever the number, the market share of the affected market is so small that it would be challenging to reason that the affected inventory mitigates an emergency across a substantively of broader community.

As the proposal has been drafted, whatever the higher costs of operations stemming from utilities, insurance, taxes, or other rising costs, these would entirely or almost entirely be carried by the property owner.

Figure 27 below reflects the distribution of properties containing all 131,654 units described in Figure 26 as they relate to the various incorporated jurisdictions within Orange County.

Figure 27. Location of Rental Properties in Orange County, Florida



SECTION VII: IMPLICATIONS OF RENT STABILIZATION MEASURE(S) WHERE THEY HAVE BEEN STUDIED AND RESEARCHED

KEY TAKEAWAYS

1. The academic literature is altogether in concert with empirical observations about the consequences experienced in settings where formal rent control measures have been adopted.
2. The major benefit reported is the obvious one: dampening effects of rents on a discrete pool of units. Whatever the significance and magnitude of this benefit, it is a product of well-developed control systems, and it disappears rapidly.
3. These effects stem from programs in effect for years with elaborate design, regulations, and administrative controls
4. They have shown some very short term effects, notably on certain properties and certain rents with the effects receding rapidly.
5. Many more costs, both direct and indirect are reported with the primary ones centered on lowered inventory, declining maintenance, less competitiveness based on quality of maintenance, and potential disinvestment in neighborhoods.
6. The benefits of controlled rent seem to be experienced primarily by better informed, more mobile, and more affluent households.
7. A comprehensive approach is needed to address rising housing costs, but a rental cap alone is among the least effective.

Much has been written about the nature and effects of various rent containment efforts over the last twenty years but only some of it arising from analysis subject to peer review.

For purposes of this report, peer review materials were studied extensively. By definition, these materials largely exclude the occasional, anecdotal, and often biased observations of groups aligned with certain interest or positions. For the most part, only key findings developed in the last fifteen years were considered. This period coincides with the external conditions impacting the immediate term generally but in several cases includes the last recession as a major contextual influence. Collectively, this and other information substantively shapes the broader analysis.

Not surprisingly, the information available centers on programs in Massachusetts, California, New York and Washington DC which adopted a form of rent control of various kinds in the wake of World War II. Oregon adopted a rent control measure in 2019 but effectively the statute targeted Portland. Nominally all center on the control of rent within certain prescribed limits but without exception the legislation adopted is comprised more than simply rent caps. All legislation draws upon a range of tools to manage costs, violations, and opportunities to make adjustments. These programs are complex, involving an extensive administrative structure to manage the rental ceiling itself. To date, those findings speaking to positive effects are mixed at best.

The most compelling argument is that they inject a social or human dimension into economic policy. However, there are no sweeping findings suggesting the broad

efficacy of rent control implemented through thoughtfully developed processes. Certainly, there is no research to support a single year stay as the basis for longer terms results. In the main, the benefit of existing programs are evidently very short term, vanishing almost immediately. Those benefits that can be established then generate a variety of extremal consequences, mostly in terms of maintenance declines and dampening inventories in some classes of property that might undermine the social dimensions. For the persons involved in the cited research, a combination of direct construction assistance to induce supply and direct supports to targeted populations appear to be a more efficient strategy. Neither, by itself, is likely to have the desired effects of creating adequate housing options to match the needs of targeted populations.

While not capturing all of the newest publications, various subjects pertinent to the present conversation have been addressed in the several documents accessed. These subjects include the impacts on spiking rents which is the central issue in the proposed ordinance as well as a variety of related or spillover effects that may be less pivotal. The latter subjects include homelessness, the ideological dimensions of rent controls, ties to certain racial or income attributes, household stability, declining housing deliveries, and the eroding quality of the rental inventory.

Sims (2006) takes advantage of rent controls ending in Massachusetts to conclude that state's program had little effect on the construction of new housing but encouraged owners to shift units away from their status as rental properties, offsetting gains in inventory. Rents appear to have abated substantially over the longer term from 1985 -1998 and may have influenced rent setting on units otherwise not subject to direct controls. He reports that rent control led to deterioration in the quality of rental units and is associated with lower rent turnover.

Autor, Palmer, and Patac (2015) also take a look at Massachusetts but focus on the period subsequent the removal of controls. They believe the inventory described by Sims was indeed lower than it may have been otherwise, noting the surge in activity following the end of rent controls. They also point to renters leaving the areas or neighborhoods where rent controls may have been most pronounced while indicating that larger neighborhood investments were then feasible in the period after controls ended.

According to Sommer and others (2013), rising interest rates generate effects for ownership and rental housing that must be explored together because production for both is constrained. For the former, home prices may fall from increased interest rates but those declines do not make ownership units more affordable given the higher costs of mortgage loans. Until they do become more affordable, they drive households into rental units initiating heightened demand for that kind of product forcing those prices upward.

German researchers (Briedenbach, Eilers and Fries, 2022) reflect on the experience of rent controls in their country. Understanding the housing dynamics in Europe likely lack the attributes of markets in the United States, they have done a careful study of new shocks created by rent controls there. Noting that impacts were immediate, they also point out the pricing advantages vanish entirely within 10-16 months of implementation with the effects primarily benefiting more affluent households. Like Sims (2006), they find a deterioration in quality of the rental inventory. Ultimately they conclude rent controls are "a short lived and incomplete answer to the problems of rising rental rates...rent control cannot be the single solution..."

Another European analysis focuses on Oslo Oust (2017) and his notion that rent controls limit rent information because outreach mechanism are not needed. He concludes that one irony of forced rent structure is that

rental seeking is more difficult. In his research, he asserts locational choice is limited and often pushes prospective renters away from locations more accessible to their jobs and social connections.

California has had rental controls for several years but the focus of legislation changed in 2019 with laws capping rents statewide based on a combination of inflation and profitability. Diamond, McQuade and Qian (2019) explore housing controls in San Francisco, among the highest cost housing markets in the United States. Like Autor, Patac, and Palmer (2015), they offer perspective on such controls as quality of life matters as well as additional information on their impacts to the housing inventory. Generally, they report the benefit to households who are able to more consistently lower their movements from one unit or neighborhood to another increasing their social capital. These effects are more likely to be experienced by racial minorities who might otherwise be displaced.

In that context, Autor, Patac, and Palmer suggest that landlords and property owners seek better real estate investments, including the conversion of rentals to ownership properties. While they believe a large supply of housing may have simply not been constructed, they estimate conversions reduced the inventory by 15%. It is an oddity of the potential gains and losses that inequity and gentrification appear to have increased: as costs are controlled in certain areas, (1) lower income families are locked in place while (2) higher income households have freedom of movement to neighborhoods with amenities and physical improvements. To the degree that renters in place may gain advantages and would likely vote affirmatively for such controls, their votes push out new renters with no voice. Votes for rent control, they observe, "appear to be an inefficient way to set rent control policies".

Unfortunately, peer reviewed research offers little insight into the relationship between homelessness and rent controls. Other than

anecdotal, there is little detailed information on this subject.

The absence of such investigation may itself suggest the paucity of basic foundations on which to develop a working hypothesis. Rather than avoiding the subject entirely, we did query more generalized publications and articles. Not surprisingly, rent burden is associated with potential homeless issues but it has not been separated from other influences.

The following points have been (re)tested in some detail, are worth emphasizing, and should substantively influence the broader conversation.

- Rent controls in place largely arise from very carefully crafted legislation.
- Whatever the significance and magnitude of stable rent, it is a product of well-developed control systems, and it disappears rapidly.
- The benefits of controlled rent seem to be experienced primarily by better informed, more mobile, and more affluent households.
- To the degree there are other benefits, they too occur in the context of well-developed control systems that are not feasibly crafted or deployed in one year.
- A single year seems a virtual impossibility to achieve goals.
- Many costs are reported with the primary ones centered on lowered inventory, declining maintenance, less competitiveness based on quality of maintenance, and potential disinvestment in neighborhoods.
- There is almost no indication that homelessness would be resolved other than in the most particular instances.

A comprehensive approach is needed to address rising housing costs, but a rental cap alone is among the least effective.

SECTION VIII: RENT STABILIZATION MEASURES IN OTHER STATES COMPARED WITH RESEARCH OBSERVATIONS

KEY TAKEAWAYS

1. There are several existing programs providing various forms of rental relief but these are substantially different than the nominal strategy proposed for Orange County and permitted by Florida law.
2. In these other settings, rental caps per se are just a very small part of a much more elaborate price control strategy.
3. The fuller strategy reflects adjustments in excess of inflation, costs for insurance, cost for taxes, and costs for utilities. Section 125.0103 is effectively silent on what comprises rent. These programs have taken years to organize.
4. These programs also require an extensive bureaucracy and infrastructure to routinely analyze, administer, report, and enforce. That comprehensive approach is not a part of the strategy envisioned here.
5. The limited time frame makes it virtually impossible to create a minimally supportive framework.
6. As with most social and economic measures, there are claims from both supporting and opposing groups. Modest rent containment appears to be a real observable benefit for certain populations, possibly achieved without total market disruption.
7. With some limitations, these specific observations are confirmed in the extensive body of controlled, peer-reviewed academic research.
8. Where benefits might be experienced, the effort requires substantial intervention, not nominal rent ceilings.
9. The information gleaned from existing programs here largely supports the conclusion that any advantages gained may be mitigated or offset by the disadvantages.

What follows is a brief discussion of rent regulations occurring in other settings. It would be a mistake to describe our description of these programs as comprehensive. However, these empirical observations provide added perspective on the proposed rent stabilization measure(s) in Orange County, especially in the context of the research already described in Section VII.

While controls in New York date to housing shortages after WWII, the evolution of these programs in several locations is more typically associated with the higher-than-average housing costs which have existed in these settings over a later, but still extended, period. Whatever the current Florida situation, those costs were far greater in relative and absolute terms, evolving into a structural condition. Effectively, the programs created were intended as long-term approaches to a seemingly permanent problem.

Like Florida, the private market never addressed low-income housing adequately in these settings with a history of substantial housing need. As direct federal resources for housing declined and were replaced by tax credits, the housing needs in many of these states or municipalities were further undermined generating calls for rental relief. While other programs exist in these settings, unlike Florida they do not have the equivalent of the Sadowski fund to support housing.

As of 2022, approximately 200 municipalities across the United States have a form of rent regulation. Most are located in California. The programs in New York, Los Angeles, and San Francisco are among the program most often cited or analyzed. It is estimated that in 1995 10-15 percent of the housing inventory in the United States was subject to such controls.

Oregon and California have recently created or modified programs that operate at the state level to assure some uniformity in controls and regulations across all municipalities. We are not well informed on the means by which existing municipal program will be brought into conformance with state systems or if they must comply. Given the intervening recession and COVID-19 Pandemic periods in which these launched, they are of less value for benchmarking. As well, it would be wholly speculative to explore the implications for local variations already operational when the state programs were implemented.

Massachusetts, however, had a very elaborate program abandoned in 1989. In our literature review, the Massachusetts experience is documented in fairly extensive controlled research and case studies across multiple time periods.

Elsewhere in the developed world [G-7 countries such as Canada and Norway for example] there are also rent control programs. These are not described here but, like other programs, they have been the subject of extensive research and investigation.

Rent regulation programs profiled take many forms. What is common among them is that they are complex and have a number of institutional dimensions. In that mix of rules or controls, the actual ceilings imposed on rents is one factor among many. How these various dimensions combine functionally as a strategy appears to be a substantive departure from what might be possible in Orange County.

The programs profiled vary by how they calculate cap rent increases. Most of them tie the cap to the Consumer Price Index (CPI), a widely used measure of inflation. The most restrictive programs set the cap at a percentage of the CPI, while more lenient programs set the cap at the CPI plus an additional percentage point increase. The wide range is illustrated by Berkeley, California, where rents are capped at 65% of the CPI, and the state of Oregon, which allows rent increases at the CPI plus 7%.

Importantly, many of the programs consider added costs that can impact the ceiling. That is, several incorporate a specific and detailed process for exceptions and appeals, permitting the owners to pass through costs for a range of items which have a direct bearing on total costs and impact subsequent investment returns. The more common are allowances for major capital improvements, utilities increase, and property tax hikes. Some programs allow owners to appeal on the basis of a "right to reasonable return," which granting the owner a base return from the property. Even if exceptions are applicable, the programs nevertheless limit the total increase that an owner is allowed.

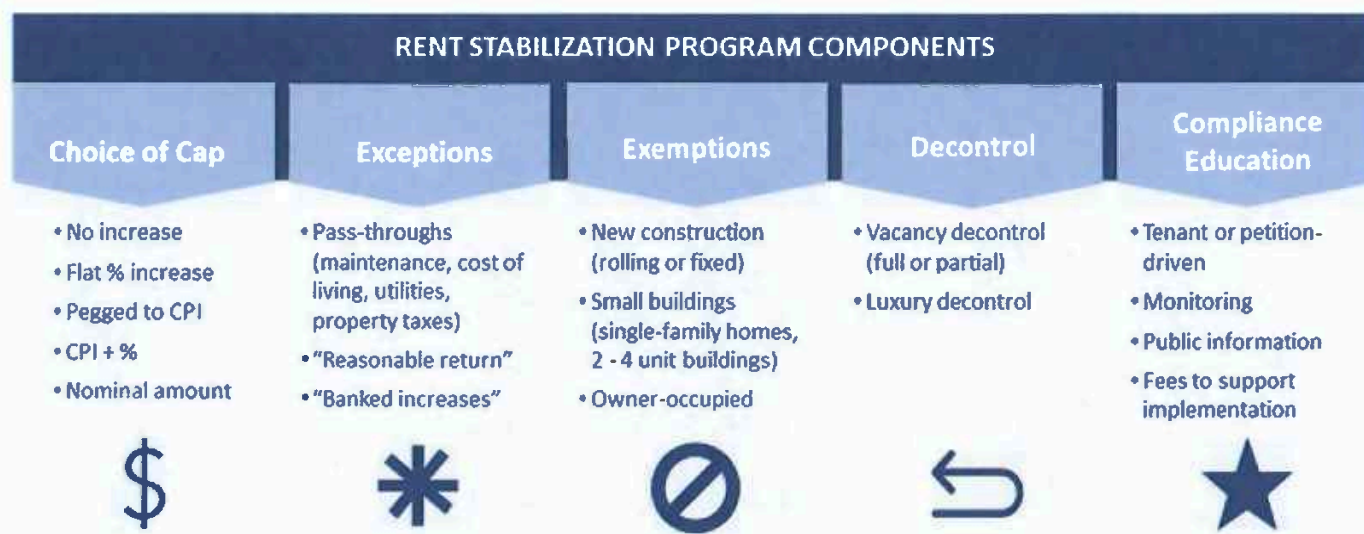
The above notwithstanding, various exemptions to rent caps exist. The most common is an exemption for new construction. Some programs also exempt small (less than four units) buildings, either across the board or when owner-occupied. Effectively, "new units" already enjoy a cost and timing advantage.

The temporary nature of a lease provides opportunities in several cases to escape the controls by triggering a reset of rents for new occupants. Not atypically, such programs allow a landlord to return the rent to market level when a tenant vacates the unit. The maximum advantages of avoiding such growing rents would likely be realized by those residents staying in place. In that case, household stability is improved, maintenance might decline, and mobility is restricted.

Programs vary by how compliance is monitored and how disputes are handled. Approaches are widespread among the many programs in existence. Some programs require tenants to initiate complaints and challenges while others establish more proactive implementation compliance programs.

Some include extensive educational and training programs. The various dimensions of these several tools or strategies and their interaction are nicely illustrated in a report prepared by researchers in Minnesota.

Figure 28. Rent Stabilization Program Components



The comments, support and criticisms about these programs generally reflect strong positions of industry or trade groups and civic or consumer advocates. The broad observations associated with these rent control strategies may include some thoughtful evidence but clearly they need to be unpacked and evaluated in terms of their constituency. Many comments are simply opinions or anecdotes.

Below are several key points relevant to the rent stabilization measure(s) being considered.

- Some groups and analysts indicate that rent regulations have been effective at achieving two of their primary goals for at least a period of time: maintaining below-market rent levels and moderating price appreciation. That observation is almost certainly correct but applies to

a small segment of the rental inventory while overlooking other issues. Generally, places with stronger rent control programs [more elaborate or with fully developed infrastructure] have had greater success in preventing large price appreciation than weaker programs. That success is not evenly experienced across units of all ages and condition.

- There is some agreement by these same observers that rent regulation can increase housing stability for those who live in regulated units. The benefit of stability, according to others, is offset by imposing limits on mobility and access to alternatives.
- The impact on new construction is widely debated. New units have been added to all locations where rent controls have

been imposed. Where new housing deliveries enter the market, they are driven by localized economic cycles, credit markets and informed actors. It is likely that some housing has been discouraged, especially in those setting with marginally supportive economic conditions. To be sure, rent controls are only one variable in determining a feasible implementation strategy. Knowledgeable developers will navigate their way through the controls and leverage the higher price points possible with new housing. Clearly some developers do.

- To the above point, many jurisdictions with rent stabilization specifically exclude new construction from controls, either in perpetuity or for a set period of time. This gives new rental deliveries an inherent strategic and pricing advantage that doesn't extend to all competing properties. New rental housing in these circumstances is actually boosted by controls but thwart the underlying objectives that otherwise seek to contain prices.
- While controls do not necessarily close the market to new units, critics claim that rent regulations are related to an overall reduction in rental units. The reductions occur as owners respond to rent regulation by removing units from the rental market via condominium conversion, demolition, or other means.
- The evidence that rent regulations cause a reduction in housing quality is mixed. Some advocates suggest the regulations raise the standards for all properties. This position is sustained, in part, by allowances supporting major capital improvements. These major improvement, however, are to be distinguished from aesthetic upkeep which may suffer.
- Even at the most casual level of observation, there is ongoing debate whether the majority of benefits from rent stabilization go to the neediest households.

- Despite objectives to the contrary, there appear to be a lack of consistent regulations related to the enforcement of compliance such that all reported experiences are conjectural. Some systems rely purely on responding to tenant complaints, basically a reactive system. Others are structured around detailed monitoring, evaluation, education and proactive enforcement policies.
- The substantively more functional programs appear to be directly related to the financial commitment to support the rent controls and the broader social objectives intended. A number of the smaller municipalities in California rely on ad hoc mechanisms while Oregon's newer statewide program would be part of the latter.
- New York City illustrates the complexity of the infrastructure necessary to support an elaborate rent control program. The city maintains a Rent Guidelines Board. This Board meets regularly and annually. It is charged with producing a detailed document related to rents, housing markets, and trends to stay current and provide a transparent and effective data to support the most current factors that guide rent calibrations. In a recent study, it was determined that New York's program had resulted in a 7.8 percent decline in net operating income ("NOI") between 2019 and 2020, even before taking inflation into account.

In sum, rent control programs in the United States have generally developed over time, are highly evolved, and are deeply entrenched in their respective economic and political settings. The benefits that do exist appear to be highly localized and subject to contradictory interpretation. For the most part, as elaborated upon in the literature review, the claims for benefits inadequately address the conditions and externalities caused by the controls.

SECTION IX:

IMPLICATIONS OF THIS ANALYSIS OR INFORMATION FOR RENT STABILIZATION MEASURE(S) AND/OR OTHER STRATEGIES

KEY TAKEAWAYS

1. Context shaping the need for the current rent stabilization measure(s) proposed:
 - The conditions being experienced took many years to advance to their present state.
 - The conditions have long been tracked and extend from a series of phenomena being experienced nationwide.
 - The conditions reported are substantially real but may be moderately exaggerated and are well out of context.
 - Without ignoring the obvious plight of any one family or person, however, many indicators may not be an accurate gauge of the conditions described and in some cases may be declining.
 - Where Orange County sits in comparison with other settings, it is one of several high growth regions exposed to many pressures beyond its singular ability to control.
 - Regardless, the present conditions are not a problem centered strictly on affordable and attainable housing. They extend across a broad spectrum.
 - Because the condition is largely structural and nationwide, an effort focused excessively on capping rents is probably not an effective solution and will likely distract attention from other programs thoughtfully designed to address the issue.
2. Local solutions which have responded:
 - Orange County is among those jurisdictions that have noted the problems and taken an active role within the affordable housing market to address the situation, looking longer term.
 - The County has already provided or been directly associated with over 2,000 units. Even with those programs formed or being formed, they address a very narrow segment of the market place. Programs must be considered that have broadly wider impacts.
3. Strategy and relevance of the proposed rent stabilization measure(s):
 - There are many external factors that would be ignored by rent stabilization measure(s).
 - The focus only on rent ignores a litany of other housing issues and expenses which are only partially captured in "lease" cost.
 - These issues and expenses are structural conditions in need of long terms and thoughtfully implemented solutions.
 - Where rent controls have been imposed, results are mixed although it is obvious housing supply continues to be delivered at some level.
 - Because the present conditions stem from a multiplicity of structural factors,

a one year solution centered exclusively on rent will almost certainly not eliminate the conditions reported.

- At the very least, because rent stabilization measure(s) are focused on rents of a certain date, property owners are likely to be motivated to implement rent increases in advance of an effective date.
 - Could open the door to shorter lease terms.
4. Scale of impacts locally should rent stabilization measure(s) advance:
- May result in legal challenges.
 - Orange County is acting for all of the jurisdictions within its own boundaries, all with their own set of needs and circumstances.
 - In Scenario 3, an estimated 103,900 units could be affected for a period of time that conforms to the date of the lease.
 - Optimistically, that term would allow the affected household to experience a period of rent relief over the full term of the lease, not just the balance of a calendar year following adoption.
 - Applying Scenario 1 generates no units.
 - Applying Scenario 2, an estimated 4,800 units to 12,900 units could be affected for the balance of a calendar year following adoption.
 - In either case, the number of units impacted appears relatively and absolutely too small to meaningfully influence the “emergency” as it has been declared.
5. Other local options:
- Some increasing rental costs might be absorbed by federal funds allocated to the state and Orange County expressly for housing relief.

- In conjunction with more aggressive distribution or a re-prioritization of these relief dollars, a County policy embracing advanced notice of rent increases seems a reasonable action. Notice would also serve the resident and property owner well for planning purposes. The cost of such a policy action would be nominal for a property owner compared to a rent ceiling.

Certainly, the anecdotal information identifies people and classes of renters in particular who are facing very difficult economic circumstances. Rents are spiking and their rate of increase is especially burdensome to the least affluent populations. That said, the patterns and character of that burden have not been materially changed in the last several years despite the pandemic and its wounds to the economy.

By almost every measure or indicator, housing and social conditions are no more adverse than they have been in years. Nonetheless, they are, getting out-sized attention.

While we have not been retained to outline an alternative narrative or strategy, we believe many of the tools, resources or programs presently exist, and they require heightened support and energy to assure their effectiveness. What seems certain is that the current discussion has raised awareness of several related issues needing continued, not ad hoc, attention.

While proposed rent stabilization measure(s) focus on a narrow and discrete area, the problem is substantively greater than the solution offered or legally allowed. If a visible response is deemed necessary to rally greater support to the bigger issue, more aggressive distribution of federal relief funds and formal notice in advance of a rental increase, may be practical options.

Funds stemming from ERAP are not yet fully distributed locally and may be a source of some financial relief which ostensibly ties to the issues targeted by the rent stabilization proposal.

While requiring formal notice in advance of a rental increase is not a focus of this current work, it is a policy option that has been voiced. Obvious harms from formal notice are not envisioned since the burden primarily involves reporting or paperwork which might coincide with a new lease. While notice procedures are not free of added costs, they

would be nominal compared to a rent ceiling. Notice would also serve the resident and property owner well for planning purposes. Renters would have an opportunity to explore alternative housing options or solutions while property owners could use the advanced notice period to test prevailing trends of the marketplace.



Photo Courtesy of MAA Parkside

APPENDIX A:

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APPENDIX B: DETAILED DATA TABLES

Figure B.1: Multi-Family Rental Unit Trends

	Alameda County, CA				Sacramento County, CA			
	Oakland				Sacramento			
	Inventory Units	Occupancy	Asking Rent Per Unit	Asking Rent % Change (Year over Year)	Inventory Units	Occupancy	Asking Rent Per Unit	Asking Rent % Change (Year over Year)
2021	99,675	93.4%	\$2,323	4.7%	96,638	96.1%	\$1,657	10.8%
2020	96,289	90.5%	\$2,219	-3.8%	95,820	96.0%	\$1,495	6.4%
2019	92,824	93.7%	\$2,306	1.1%	94,501	94.4%	\$1,405	4.4%
2018	89,797	94.6%	\$2,280	2.6%	93,413	95.2%	\$1,346	4.9%
2017	87,684	95.3%	\$2,222	2.4%	92,292	95.5%	\$1,283	6.5%
2016	86,571	95.6%	\$2,171	2.3%	91,698	96.0%	\$1,204	8.1%
2015	85,414	96.1%	\$2,121	7.5%	91,580	95.8%	\$1,114	8.8%
2014	84,601	96.4%	\$1,973	5.3%	91,535	95.1%	\$1,024	4.3%
2013	83,578	96.2%	\$1,874	5.4%	91,360	94.4%	\$982	2.7%
2012	83,023	96.1%	\$1,777	4.4%	91,276	93.0%	\$955	1.3%
2011	82,880	95.9%	\$1,703	2.9%	91,276	93.1%	\$943	0.9%
2010	82,565	95.8%	\$1,655	1.8%	91,276	93.2%	\$934	0.1%
2009	82,118	94.6%	\$1,626	-7.0%	91,268	92.0%	\$934	-4.6%
2008	81,377	95.2%	\$1,748	1.3%	90,993	93.0%	\$979	0.2%
2007	80,147	96.1%	\$1,725	5.3%	90,597	93.8%	\$977	1.9%
2006	79,482	95.7%	\$1,639	4.1%	90,217	93.3%	\$959	2.6%
2005	78,420	95.8%	\$1,574	0.9%	88,834	93.1%	\$934	1.5%
2004	78,118	94.6%	\$1,561	-1.3%	87,396	91.8%	\$920	0.4%
2003	77,587	94.8%	\$1,581	-2.9%	85,563	92.4%	\$917	0.7%
2002	77,022	94.8%	\$1,628	-2.5%	84,087	93.7%	\$910	2.7%
2001	76,310	95.4%	\$1,670	1.5%	82,285	94.7%	\$886	7.1%
2000	75,718	97.1%	\$1,645	-	81,478	96.2%	\$827	-

Source: CoStar, GAI Consultants, Inc.

Figure B.1: Multi-Family Rental Unit Trends (Continued)

	Travis County, TX				Wake County, NC			
	Austin				Raleigh			
	Inventory Units	Occupancy	Asking Rent Per Unit	Asking Rent % Change (Year over Year)	Inventory Units	Occupancy	Asking Rent Per Unit	Asking Rent % Change (Year over Year)
2021	189,395	93.4%	\$1,626	20.1%	105,562	94.5%	\$1,495	19.5%
2020	180,244	89.5%	\$1,353	-2.3%	102,919	91.7%	\$1,252	1.7%
2019	172,050	91.9%	\$1,386	3.4%	98,068	92.3%	\$1,230	4.3%
2018	164,825	92.5%	\$1,340	3.7%	94,864	91.9%	\$1,180	3.2%
2017	159,795	90.5%	\$1,293	1.1%	90,935	90.9%	\$1,143	2.3%
2016	152,916	91.4%	\$1,279	1.5%	87,863	91.4%	\$1,117	2.7%
2015	145,594	92.7%	\$1,260	5.0%	83,785	92.4%	\$1,088	5.1%
2014	139,066	92.4%	\$1,200	3.4%	80,923	92.2%	\$1,035	3.0%
2013	132,388	93.3%	\$1,160	4.1%	77,278	91.8%	\$1,004	3.1%
2012	126,399	94.1%	\$1,115	3.6%	72,235	94.2%	\$974	3.2%
2011	123,656	93.4%	\$1,076	2.7%	71,620	93.7%	\$944	2.9%
2010	123,254	92.6%	\$1,048	1.0%	71,179	93.2%	\$918	2.4%
2009	121,898	90.5%	\$1,037	-4.4%	69,789	91.1%	\$896	-3.4%
2008	119,428	91.3%	\$1,085	0.8%	66,539	90.4%	\$928	0.3%
2007	112,363	93.7%	\$1,076	4.5%	64,405	90.7%	\$925	3.3%
2006	109,887	93.7%	\$1,030	3.6%	60,310	92.9%	\$895	3.5%
2005	108,401	92.6%	\$994	1.7%	59,596	93.5%	\$865	0.7%
2004	107,312	90.6%	\$977	-0.6%	58,654	92.1%	\$859	-0.9%
2003	105,967	89.3%	\$984	-3.0%	57,537	92.2%	\$866	-2.7%
2002	103,158	88.3%	\$1,013	-0.2%	56,403	95.8%	\$890	-5.6%
2001	99,219	88.7%	\$1,016	5.5%	54,946	96.7%	\$943	0.4%
2000	91,132	93.3%	\$963	-	51,556	95.4%	\$939	-

Source: CoStar, GAI Consultants, Inc.

Figure B.1: Multi-Family Rental Unit Trends (Continued)

	Fulton County, GA				Broward County, FL			
	Atlanta				Ft. Lauderdale			
	Inventory Units	Occupancy	Asking Rent Per Unit	Asking Rent % Change (Year over Year)	Inventory Units	Occupancy	Asking Rent Per Unit	Asking Rent % Change (Year over Year)
2021	157,142	93.7%	\$1,764	16.7%	105,409	96.4%	\$2,108	21.7%
2020	154,438	90.4%	\$1,512	0.9%	102,815	91.7%	\$1,732	2.0%
2019	148,498	90.2%	\$1,499	2.1%	96,284	94.1%	\$1,699	2.5%
2018	143,219	89.6%	\$1,468	3.3%	94,485	93.3%	\$1,658	2.3%
2017	138,378	87.9%	\$1,420	2.6%	92,100	92.1%	\$1,620	3.2%
2016	129,742	89.6%	\$1,385	2.8%	88,104	93.0%	\$1,570	1.9%
2015	124,913	90.8%	\$1,347	5.3%	84,813	94.5%	\$1,541	5.7%
2014	119,426	91.2%	\$1,279	3.3%	82,664	94.3%	\$1,457	3.9%
2013	114,943	92.9%	\$1,238	3.9%	79,041	94.5%	\$1,402	2.7%
2012	112,866	92.4%	\$1,192	3.3%	77,209	93.8%	\$1,365	2.8%
2011	112,277	91.5%	\$1,154	1.6%	76,232	93.4%	\$1,327	1.7%
2010	111,412	91.4%	\$1,136	-0.2%	76,232	93.2%	\$1,305	1.8%
2009	109,431	90.6%	\$1,138	-3.4%	75,132	92.2%	\$1,282	-4.2%
2008	106,837	89.8%	\$1,177	-1.4%	73,559	92.1%	\$1,338	-3.7%
2007	99,701	90.5%	\$1,194	2.0%	73,475	92.5%	\$1,390	0.4%
2006	96,943	91.9%	\$1,170	1.9%	72,941	94.3%	\$1,386	6.8%
2005	96,082	91.6%	\$1,148	0.1%	72,941	95.2%	\$1,297	6.2%
2004	91,992	90.7%	\$1,147	-3.4%	72,906	94.1%	\$1,222	2.0%
2003	89,867	90.5%	\$1,188	-5.8%	71,509	94.2%	\$1,198	0.6%
2002	87,880	91.6%	\$1,261	-1.2%	71,049	94.3%	\$1,190	2.3%
2001	84,843	93.3%	\$1,276	3.8%	70,057	94.5%	\$1,164	2.2%
2000	80,178	95.6%	\$1,229	-	68,977	94.5%	\$1,139	-

Source: CoStar, GAI Consultants, Inc.

Figure B.1: Multi-Family Rental Unit Trends (Continued)

	Duval County, FL				Hillsborough County, FL			
	Jacksonville				Tampa			
	Inventory Units	Occupancy	Asking Rent Per Unit	Asking Rent % Change (Year over Year)	Inventory Units	Occupancy	Asking Rent Per Unit	Asking Rent % Change (Year over Year)
2021	86,506	94.7%	\$1,398	20.9%	118,718	95.4%	\$1,690	24.4%
2020	83,507	93.3%	\$1,157	3.4%	114,497	94.4%	\$1,358	4.1%
2019	80,413	92.3%	\$1,119	2.7%	112,007	93.8%	\$1,305	2.8%
2018	77,739	93.0%	\$1,089	4.1%	109,949	92.6%	\$1,269	3.9%
2017	76,492	92.7%	\$1,046	4.1%	105,722	93.0%	\$1,221	3.5%
2016	73,960	93.0%	\$1,005	3.4%	102,692	92.9%	\$1,180	3.9%
2015	72,362	93.2%	\$972	4.7%	100,555	94.3%	\$1,135	6.1%
2014	70,183	92.9%	\$929	2.6%	98,704	93.4%	\$1,069	3.2%
2013	69,903	90.7%	\$905	2.6%	96,215	92.9%	\$1,036	2.5%
2012	67,539	90.2%	\$882	2.0%	94,478	92.9%	\$1,010	2.6%
2011	67,023	89.1%	\$864	1.3%	93,452	91.4%	\$984	1.6%
2010	66,903	88.7%	\$853	0.2%	92,804	91.4%	\$969	1.2%
2009	66,543	87.3%	\$852	-3.3%	92,508	90.5%	\$957	-2.4%
2008	64,554	86.6%	\$880	-2.3%	89,863	90.8%	\$981	-1.1%
2007	62,549	87.3%	\$901	1.4%	88,133	91.3%	\$992	2.2%
2006	59,956	89.6%	\$889	4.4%	86,224	94.0%	\$970	5.7%
2005	58,829	90.3%	\$851	2.8%	85,642	94.1%	\$918	4.3%
2004	58,529	89.2%	\$828	2.3%	84,291	92.7%	\$880	1.3%
2003	58,110	89.6%	\$809	1.4%	84,233	91.7%	\$869	0.0%
2002	57,870	91.1%	\$798	0.7%	83,349	91.1%	\$869	0.0%
2001	56,750	92.6%	\$792	2.5%	81,515	90.4%	\$869	2.6%
2000	55,372	91.5%	\$773	-	78,371	91.7%	\$847	-

Source: CoStar, GAI Consultants, Inc.

Figure B.1: Multi-Family Rental Unit Trends (Continued)

	Miami-Dade County, FL				Orange County, FL			
	Miami				Orlando			
	Inventory Units	Occupancy	Asking Rent Per Unit	Asking Rent % Change (Year over Year)	Inventory Units	Occupancy	Asking Rent Per Unit	Asking Rent % Change (Year over Year)
2021	128,239	96.2%	\$2,040	17.8%	123,582	94.6%	\$1,697	25.0%
2020	121,773	91.0%	\$1,732	0.3%	117,576	90.6%	\$1,357	-1.9%
2019	113,399	92.5%	\$1,728	1.9%	113,027	91.6%	\$1,384	2.3%
2018	106,002	93.6%	\$1,696	2.3%	107,490	92.8%	\$1,353	3.4%
2017	100,736	93.0%	\$1,658	2.2%	102,010	94.5%	\$1,308	5.7%
2016	96,702	93.5%	\$1,623	2.4%	97,589	94.0%	\$1,237	3.8%
2015	89,935	94.6%	\$1,584	3.3%	94,773	93.7%	\$1,191	5.7%
2014	86,026	94.3%	\$1,534	2.6%	90,836	93.8%	\$1,127	3.2%
2013	82,895	94.8%	\$1,495	3.2%	86,956	92.7%	\$1,092	3.0%
2012	80,439	94.7%	\$1,448	3.0%	83,724	93.7%	\$1,061	2.5%
2011	79,646	95.2%	\$1,406	1.2%	83,426	92.1%	\$1,035	1.7%
2010	78,773	95.1%	\$1,390	1.4%	83,006	91.3%	\$1,018	0.3%
2009	78,159	94.5%	\$1,371	-3.8%	82,235	90.0%	\$1,014	-3.8%
2008	76,820	93.7%	\$1,425	-3.9%	80,746	88.3%	\$1,054	-1.3%
2007	75,794	95.1%	\$1,483	2.4%	75,949	89.9%	\$1,068	0.8%
2006	74,863	96.7%	\$1,448	6.8%	73,703	92.6%	\$1,059	6.7%
2005	74,815	96.8%	\$1,356	4.8%	72,686	94.0%	\$993	4.9%
2004	74,666	94.9%	\$1,293	1.2%	70,912	92.9%	\$946	0.6%
2003	73,798	94.6%	\$1,278	0.6%	68,531	91.8%	\$941	-2.0%
2002	72,767	95.9%	\$1,271	1.5%	66,966	92.9%	\$960	-1.0%
2001	72,761	95.0%	\$1,252	3.1%	62,690	94.2%	\$970	3.1%
2000	71,905	93.0%	\$1,214	-	61,921	94.3%	\$941	-

Source: CoStar, GAI Consultants, Inc.

Figure B.3: Residential Building Permits and Population Change

USA				
Period	Total Population	Pop Change (YOY)	Housing Permits / Population Change	All Res. Building Permits
1980	229,476,354			1,292,000
1981	231,636,058	2,159,704	0.50	1,084,000
1982	233,821,844	2,185,786	0.49	1,063,000
1983	236,030,238	2,208,394	0.77	1,703,000
1984	238,256,844	2,226,606	0.79	1,749,000
1985	240,499,825	2,242,981	0.78	1,741,000
1986	242,763,148	2,263,323	0.80	1,805,000
1987	245,052,789	2,289,641	0.71	1,620,000
1988	247,372,264	2,319,475	0.64	1,488,000
1989	249,725,805	2,353,541	0.58	1,376,000
ALL		20,249,451	0.74	14,921,000
1990	252,120,309	2,394,504	0.50	1,193,000
1991	254,539,370	2,419,061	0.42	1,014,000
1992	256,990,613	2,451,243	0.49	1,200,000
1993	259,532,129	2,541,516	0.51	1,288,000
1994	262,241,196	2,709,067	0.54	1,457,000
1995	265,163,745	2,922,549	0.46	1,354,000
1996	268,335,003	3,171,258	0.47	1,477,000
1997	271,713,635	3,378,632	0.44	1,474,000
1998	275,175,301	3,461,666	0.47	1,617,000
1999	278,548,150	3,372,849	0.49	1,641,000
ALL		28,822,345	0.48	13,715,000
2000	281,710,909	3,162,759	0.50	1,569,000
2001	284,607,993	2,897,084	0.55	1,602,000
2002	287,279,318	2,671,325	0.64	1,705,000
2003	289,815,562	2,536,244	0.73	1,848,000
2004	292,354,658	2,539,096	0.77	1,956,000
2005	294,993,511	2,638,853	0.78	2,068,000
2006	297,758,969	2,765,458	0.65	1,801,000
2007	300,608,429	2,849,460	0.48	1,355,000
2008	303,486,012	2,877,583	0.31	906,000
2009	306,307,567	2,821,555	0.20	554,000
ALL		27,759,417	0.55	15,364,000
2010	309,011,475	2,703,908	0.22	587,000
2011	311,584,047	2,572,572	0.24	609,000
2012	314,043,885	2,459,838	0.32	780,000
2013	316,400,538	2,356,653	0.39	925,000
2014	318,673,411	2,272,873	0.44	1,003,000
2015	320,878,310	2,204,899	0.50	1,112,000
2016	323,015,995	2,137,685	0.55	1,174,000
2017	325,084,756	2,068,761	0.58	1,203,000
2018	327,096,265	2,011,509	0.62	1,250,000
2019	329,064,917	1,968,652	0.66	1,290,000
ALL		22,757,350	0.44	9,933,000
2020	331,002,651	1,937,734	0.71	1,379,000

Source: HUD SOCDs, US Census Bureau, ESRI, GAI Consultants, Inc.

Figure B.3: Residential Building Permits and Population Change (Continued)

FLORIDA				
Period	Total Population	Pop Change (YOY)	Housing Permits / Population Change	All Res. Building Permits
1980	10,192,778	-	-	173,742
1981	10,471,407	278,629	0.52	145,860
1982	10,749,845	278,438	0.37	103,629
1983	11,039,921	290,076	0.65	188,302
1984	11,351,122	311,201	0.66	203,934
1985	11,667,504	316,382	0.64	201,873
1986	11,997,290	329,786	0.59	194,933
1987	12,306,396	309,106	0.58	178,206
1988	12,637,709	331,313	0.52	170,639
1989	12,937,926	300,217	0.55	165,018
ALL		2,745,148	0.63	1,726,136
1990	13,018,365	80,439	1.57	126,384
1991	13,289,497	271,132	0.35	95,374
1992	13,504,775	215,278	0.47	102,059
1993	13,713,593	208,818	0.55	115,133
1994	13,961,798	248,205	0.52	128,602
1995	14,185,403	223,605	0.55	122,903
1996	14,426,911	241,508	0.52	125,020
1997	14,683,350	256,439	0.52	134,200
1998	14,908,230	224,880	0.66	148,715
1999	15,111,244	203,014	0.81	165,018
ALL		2,173,318	0.58	1,263,408
2000	15,332,382	221,138	0.70	155,269
2001	16,350,988	1,018,606	0.16	167,035
2002	16,675,166	324,178	0.57	185,431
2003	16,974,177	299,011	0.71	213,567
2004	17,366,358	392,181	0.65	255,893
2005	17,773,291	406,933	0.71	287,250
2006	18,076,361	303,070	0.67	203,238
2007	18,262,096	185,735	0.55	102,551
2008	18,410,241	148,145	0.41	61,042
2009	18,509,936	99,695	0.35	35,329
ALL		3,398,692	0.49	1,666,605
2010	18,678,049	168,113	0.23	38,679
2011	19,053,237	375,188	0.11	42,360
2012	19,297,822	244,585	0.26	64,810
2013	19,545,621	247,799	0.35	86,752
2014	19,845,911	300,290	0.28	84,075
2015	20,209,042	363,131	0.30	109,924
2016	20,613,477	404,435	0.29	116,240
2017	20,963,613	350,136	0.35	122,719
2018	21,244,317	280,704	0.51	144,427
2019	21,477,737	233,420	0.66	154,302
ALL		2,967,801	0.32	964,288
2020	21,538,187	60,450	2.71	164,074

Source: HUD SOCDS, US Census Bureau, ESRI, GAI Consultants, Inc.

Figure B.3: Residential Building Permits and Population Change (Continued)

ORANGE COUNTY				
Period	Total Population	Pop Change (YOY)	Housing Permits / Population Change	All Res. Building Permits
1980	470,867	-	-	6,639
1981	489,347	18,480	0.28	5,184
1982	505,072	15,725	0.41	6,506
1983	524,197	19,125	0.64	12,234
1984	543,276	19,079	0.62	11,920
1985	561,549	18,273	0.93	16,994
1986	583,092	21,543	0.53	11,500
1987	604,449	21,357	0.45	9,564
1988	621,831	17,382	0.65	11,298
1989	650,501	28,670	0.43	12,337
ALL		179,634	0.58	104,176
1990	684,473	33,972	0.28	9,647
1991	699,668	15,195	0.59	8,987
1992	712,932	13,264	0.52	6,887
1993	727,375	14,443	0.57	8,275
1994	740,376	13,001	0.71	9,176
1995	749,729	9,353	1.04	9,684
1996	764,053	14,324	0.61	8,679
1997	785,097	21,044	0.54	11,444
1998	804,489	19,392	0.72	13,956
1999	817,206	12,717	1.22	15,500
ALL		166,705	0.61	102,235
2000	902,423	85,217	0.12	10,239
2001	928,176	25,753	0.42	10,738
2002	948,123	19,947	0.69	13,667
2003	968,460	20,337	0.69	13,950
2004	996,922	28,462	0.51	14,628
2005	1,033,937	37,015	0.47	17,220
2006	1,058,922	24,985	0.57	14,146
2007	1,070,900	11,978	0.68	8,163
2008	1,080,825	9,925	0.54	5,396
2009	1,091,468	10,643	0.18	1,929
ALL		274,262	0.40	110,076
2010	1,148,593	57,125	0.05	2,880
2011	1,170,579	21,986	0.19	4,083
2012	1,202,498	31,919	0.23	7,232
2013	1,227,435	24,937	0.36	9,033
2014	1,256,606	29,171	0.32	9,246
2015	1,291,301	34,695	0.28	9,606
2016	1,326,516	35,215	0.34	11,952
2017	1,355,921	29,405	0.29	8,637
2018	1,381,540	25,619	0.54	13,757
2019	1,393,452	11,912	0.89	10,591
ALL		301,984	0.29	87,017
2020	1,429,908	36,456	0.33	12,196

Source: HUD SOCDS, US Census Bureau, ESRI, GAI Consultants, Inc.

Figure B.2: Multi-Family Rental Units Asking Rent/Unit and Occupancy Trends

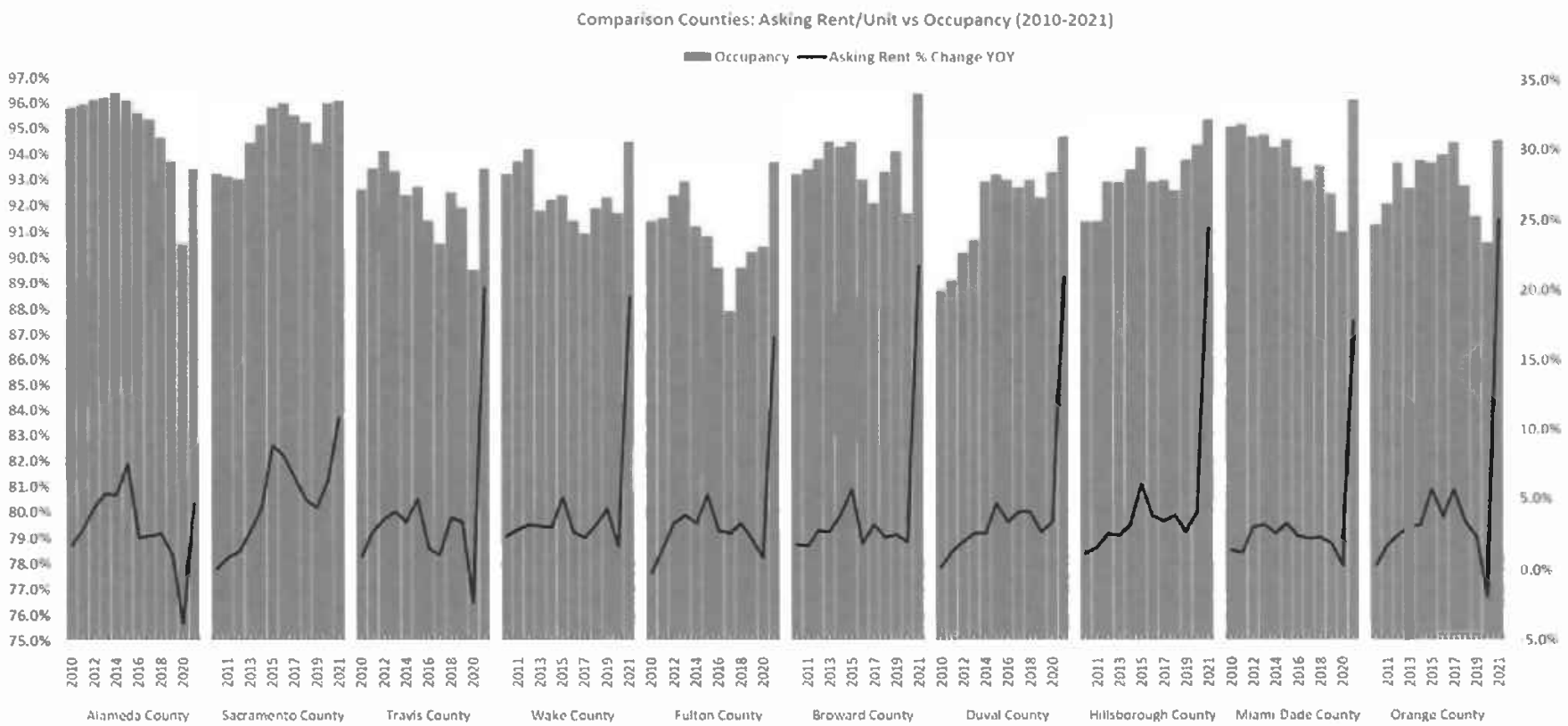
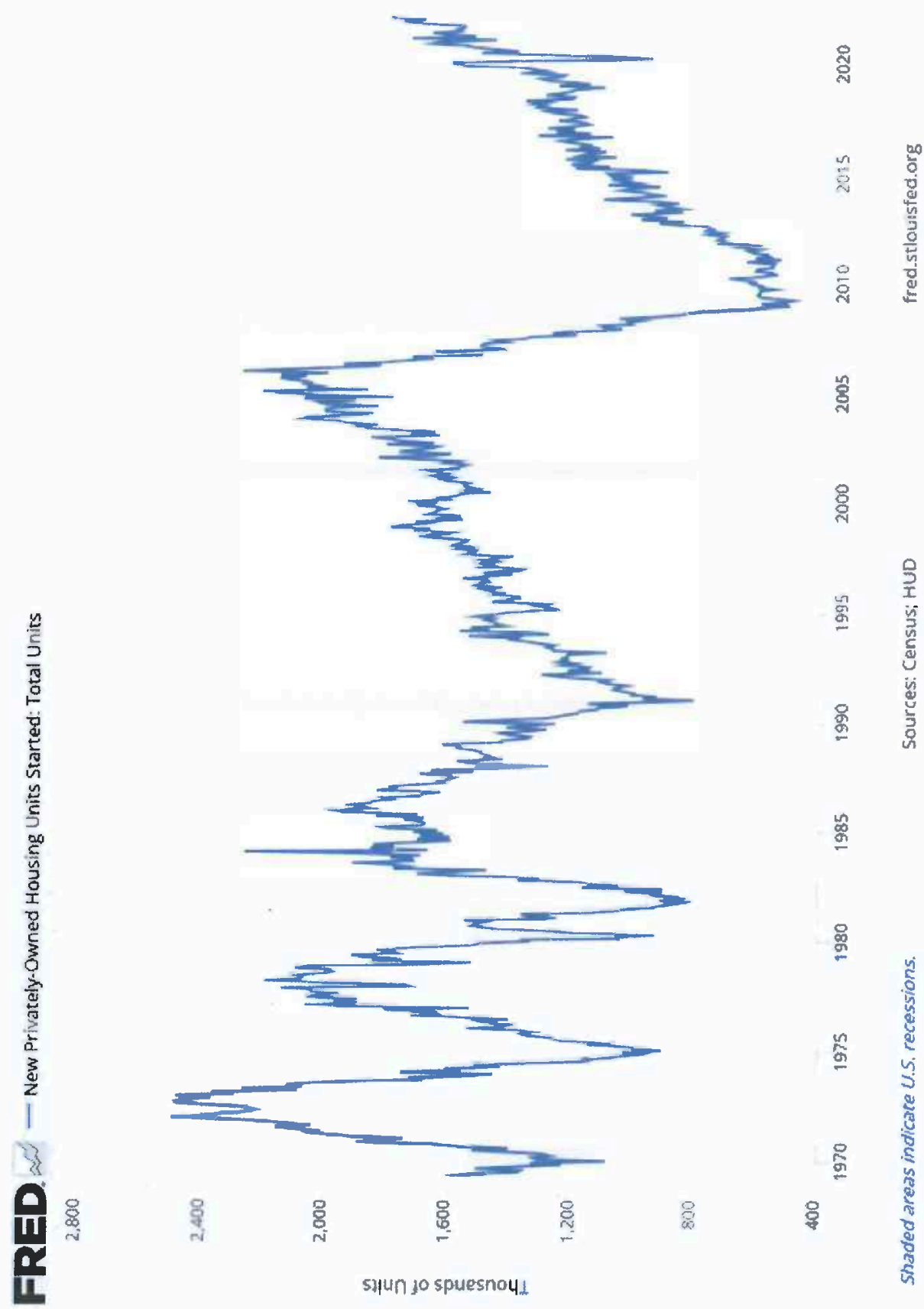
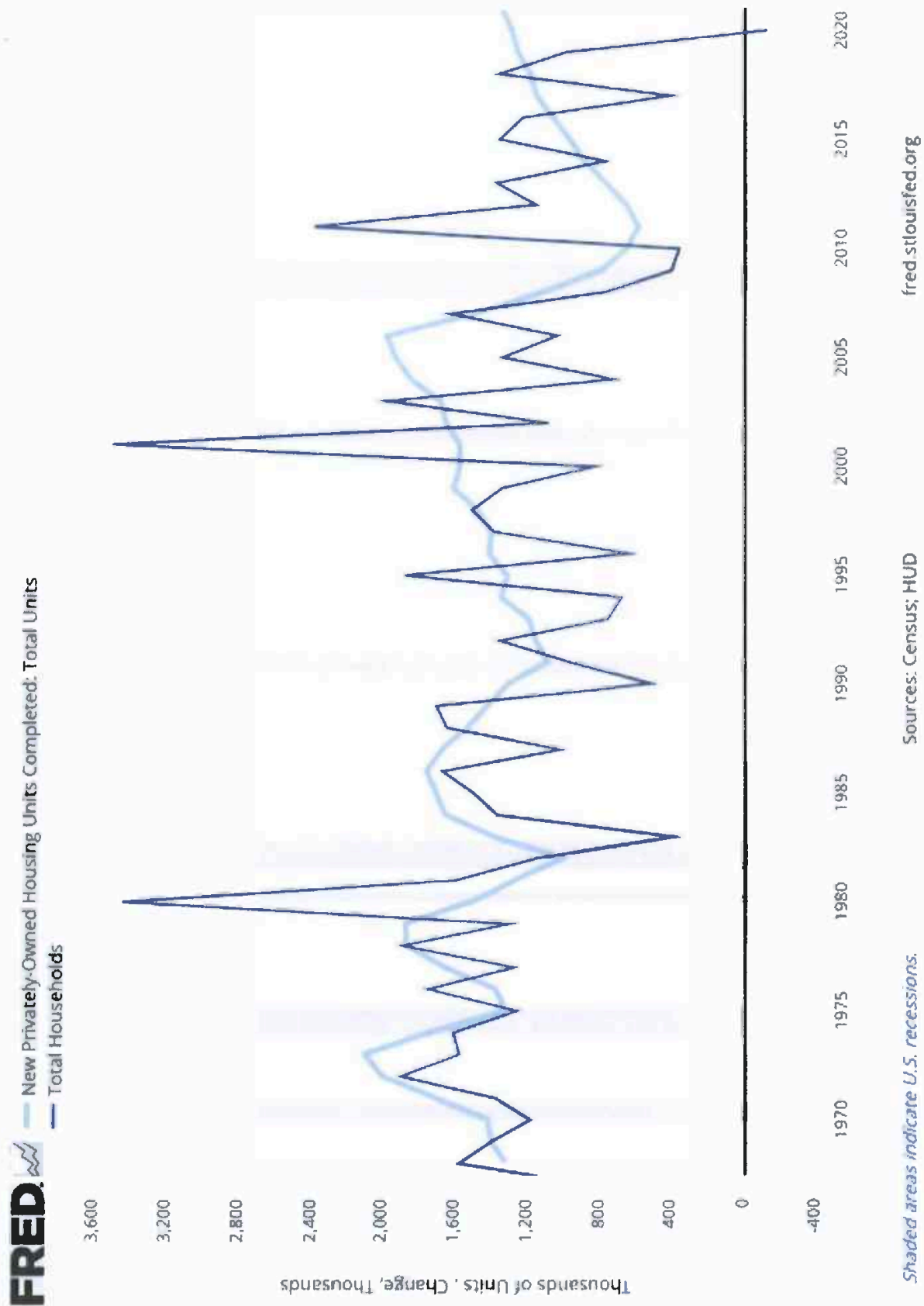


Figure B.4: New Housing Starts (USA)



Source: HUD, US Census Bureau, Federal Reserve (FRED)I, GAI Consultants, Inc.

Figure B.5: Housing Units Completed Compared to Total Households (USA)



Source: HUD, US Census Bureau, Federal Reserve (FRED)®, GAI Consultants, Inc.

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BCC Mtg. Date: August 9, 2022

ORDINANCE NO. 2022-29

AN ORDINANCE RELATED TO RENT STABILIZATION IN ORANGE COUNTY; ENACTING A NEW ARTICLE XIII, DIVISION 2 OF THE ORANGE COUNTY CODE OF ORDINANCES ("CODE"), SECTION 25-380 THROUGH SECTION 25-449; PROVIDING A SHORT TITLE AND LEGISLATIVE FINDINGS AND PURPOSE; LIMITING RENT INCREASES FOR CERTAIN RENTAL UNITS IN MULTIFAMILY STRUCTURES FOR A PERIOD OF ONE (1) YEAR; REQUIRING CERTAIN RESIDENTIAL LANDLORDS TO SUBMIT A RENTAL UNIT REGISTRATION STATEMENT; PROVIDING PENALTIES FOR VIOLATION; CALLING FOR A REFERENDUM; PROVIDING BALLOT LANGUAGE; REQUIRING PUBLIC NOTICE OF SUCH REFERENDUM; PROVIDING THAT THE RENT STABILIZATION ORDINANCE WILL TAKE EFFECT ONLY UPON APPROVAL BY THE ELECTORATE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there are approximately 584,000 total housing units in Orange County of which 230,000 are occupied by renters, and according to the 2020 census, Orange County has seen an approximate 25% increase in population since 2010—from approximately 1.15 million people to approximately 1.43 million people; and

WHEREAS, there is a shortage of dwelling houses and apartments in Orange County, Florida needed to house the current and growing population; and

WHEREAS, because of the current shortage of housing, the vacancy rate for housing is low; and

WHEREAS, tenants displaced as a result of their inability to pay increasing rents must relocate, but are unable to find decent, safe, and sanitary housing at affordable rent levels; and

WHEREAS, some tenants attempt to pay the requested rent increases, but as a consequence must expend less on other necessities of life; and

WHEREAS, this situation has had a detrimental effect on a substantial number of renters in Orange County creating hardships on senior citizens, persons on fixed incomes, and low and moderate-income households; and

WHEREAS, a housing emergency so grave as to constitute a serious menace to the general public exists in fact in Orange County; and

STATE OF FLORIDA, COUNTY OF ORANGE
I HEREBY CERTIFY this is a copy of a document
approved by the BCC on AUG 09 2022
PHIL DIAMOND, COUNTY COMPTROLLER
By [Signature] Date AUG 12 2022
Deputy Clerk



WHEREAS, it is necessary and proper to regulate rents to eliminate such grave housing emergency.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Recitals. The recitals set forth above are hereby adopted and incorporated into the body of this ordinance as if fully set forth herein.

Section 2. Enactment of New Chapter 25, Article XIII, Division 2. A new Rent Stabilization Ordinance, to be codified at Chapter 25, Article XIII, Division 2 of the Code, Section 25-380 through Section 25-449, is hereby enacted to read as follows:

**CHAPTER 25. LICENSES, TAXATION AND
MISCELLANEOUS BUSINESS REGULATIONS**

* * *

ARTICLE XIII. RESIDENTIAL TENANCIES

* * *

DIVISION 2. RENT STABILIZATION

Section 25-380. Short Title and Scope.

This division shall be known and may be cited to as the “Rent Stabilization Ordinance.” The Rent Stabilization Ordinance shall be effective in both the incorporated and unincorporated areas within Orange County, except that this ordinance will not be effective within those incorporated areas that have enacted a duly adopted ordinance exempting such incorporated area from this ordinance.

Section 25-381. Legislative Findings and Purpose.

(a) Section 125.0103, Florida Statutes (the “Statute”), provides that ordinances which would have the effect of imposing controls on rents may be adopted when it is found and determined that such controls are necessary and proper to eliminate an existing

housing emergency which is so grave as to constitute a serious menace to the general public; and

- (b) The Statute authorizes a county to duly adopt an ordinance which would have the effect of imposing controls on rents when the governing body makes and recites in such ordinance 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; and
- (c) There is a shortage, scarcity, and insufficient supply of dwelling houses and apartments in Orange County, Florida. Relative to population, national production of housing units has declined from approximately 0.82 homes per person in the 1970s to approximately 0.45 homes per person in 2019. In Orange County, there is a shortage of as many as 26,500 housing units relative to the County's need; and
- (d) According to the 2020 census, Orange County has seen an approximate 25% increase in population since 2010—from approximately 1.15 million people to approximately 1.43 million people; and
- (e) There are approximately 584,000 total housing units in Orange County, of which 230,000 are occupied by renters; and
- (f) The shortage of housing is further evidenced by the low vacancy rate for rental properties in Orange County which reached 5.2% in 2021—the lowest on record since at least the year 2000; and
- (g) Inflation, housing prices, and rental rates in Orange County are increasing, accelerating, and spiraling. The Consumer Price Index for All Urban Consumers in the South was 9.2% from May 2021 to May 2022. The median existing home sales price in Orange County was \$275,000 in May 2020 and \$392,500 in May 2022, which represents a 43% increase. Asking rent per unit in the County was \$1,357 in 2020 and \$1,697 in 2021 which represents a 25% year-over-year increase—the highest increase since 2006 when it was 6.7%; and
- (h) The housing conditions have resulted in widespread distress among Orange County residents. It is estimated that 80.3% of households earning at or below the Average Median Income (AMI) in Orange County are considered “cost burdened” which

the U.S. Department of Housing and Urban Development defines to include households who pay more than thirty-percent (30%) of their income for housing and may have difficulty affording necessities such as food, clothing, transportation, and medical care; and

- (i) The widespread distress in housing conditions is further evidenced as Orange County residents were awarded more funds from the State of Florida's Emergency Rental Assistance Program 1 ("Emergency Program") than any other county in the state. The Emergency Program has since ended while the County's housing conditions continue to worsen; and
- (j) Orange County was in a housing crisis prior to the COVID-19 pandemic. In May 2018, Central Florida's interjurisdictional Regional Affordable Housing Initiative said, "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." The housing crisis has worsened since the COVID-19 pandemic; and
- (k) Tenancies are being terminated and eviction rates are increasing. For the first half of 2022, there have been 6,970 eviction case filings, which is a 70.1% increase over the same period in 2021; and
- (l) The findings made and recited in this ordinance establish the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public; and
- (m) The Orange County Board of County Commissioners finds that this grave housing emergency cannot be dealt with effectively by the ordinary operations of the private rental housing market. In jurisdictions in Florida comparable to Orange County that do not have rent stabilization measures in place, rent increases continue to spiral. For example, in Hillsborough County, Duval County, and Broward County, the year-over-year asking rent has increased by over 20%; and
- (n) Jurisdictions with rent stabilization measures in effect and otherwise comparable to Orange County have been successful in protecting tenants by establishing limits on rent increases while still providing landlords with a fair and reasonable return on their investment. For example, in California, Alameda County and Sacramento County contain rent control measures

and have limited their year-over-year asking rent increases to approximately 5%-10% despite low vacancy rates; and

- (o) The Board finds that a rent stabilization measure is necessary and proper to eliminate the County's housing emergency which is so grave as to constitute a serious menace to the general public.

The purpose of this Rent Stabilization Ordinance is to provide stability and certainty for tenants in the rental market, as necessary and proper to eliminate the grave housing emergency, while also providing landlords with the opportunity to receive a fair and reasonable return on their investment.

Section 25-382. Authority.

Pursuant to Section 125.0103, Florida Statutes, the Orange County Board of County Commissioners is authorized to adopt this necessary and proper Rent Stabilization Ordinance to eliminate the existing housing emergency which is so grave as to constitute a serious menace to the general public.

Section 25-383. Definitions.

For the purposes of this Rent Stabilization Ordinance, the following definitions shall apply:

- (a) *Board* or *BCC* shall mean the Board of County Commissioners of Orange County, Florida.
- (b) *Change of occupancy* shall mean a change in the occupation of the rental unit from one tenant to another tenant.
- (c) *Consumer Price Index* or *CPI* shall mean the most recent 12-month average percentage change in the Consumer Price Index for All Urban Consumers, South Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, which, by way of example, was 9.8% from June 2021 to June 2022.
- (d) *County* shall mean Orange County, Florida.
- (e) *Department* shall mean Orange County's Planning, Environmental and Development Services Department (or such successor division or department designated by the County).

(f) *Dwelling unit* shall mean:

- (1) A structure or part of a structure that is rented for use as a home, residence, or sleeping place by one person or by two or more persons who maintain a common household.
- (2) A mobile home rented by a tenant.
- (3) A structure or part of a structure that is furnished, with or without rent, as an incident of employment for use as a home, residence, or sleeping place by one or more persons.

(g) *Grave housing emergency* shall mean the housing emergency so grave as to constitute a serious menace to the general public as found to exist in the County by the Board as recited in this Rent Stabilization Ordinance in accordance with Section 125.0103, Florida Statutes.

(h) *Housing services* shall include, but are not limited to, maintaining roofs, windows, doors, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and capable of resisting normal forces and loads, and maintaining the plumbing in reasonable working condition, and ensuring that screens are installed in a reasonable condition, and any other benefit, privilege, or facility connected with the use or occupancy of any rental unit pursuant to applicable state and local law, building, housing, and health codes, and rental agreements, and, by way of example, mail, vehicle parking spaces, storage, and use of common areas and/or recreational facilities and all other amenities held out for use by tenants.

(i) *Landlord* shall mean the owner or lessor of a residential rental unit.

(j) *Ordinance* shall mean the Rent Stabilization Ordinance.

(k) *Rent* shall mean the periodic payments due the landlord from the tenant for occupancy under a rental agreement and any other payments due the landlord from the tenant as may be designated as rent in a written rental agreement. Rent shall include fees required by the landlord for a tenant's access to and use of mandatory housing services. Rent does not include user fees for housing services that may be utilized at the option of the tenant or utility charges for those rental units that are billed separately.

- (l) *Rental Agreement* shall mean any written agreement, including amendments or addenda, or oral agreement for a duration of less than 1 year, providing for use and occupancy of premises.
- (m) *Residential rental unit* or *rental unit* shall mean any dwelling unit, or portion of a dwelling unit, that is located in a multifamily structure containing a total of four (4) or more dwelling units that are rented or otherwise made available for rent for residential use or occupancy, together with all housing services connected with the use or occupancy of such property.
- (n) *State* shall mean the State of Florida.
- (o) *Tenancy* shall mean the right of entitlement of a tenant to use or occupy a residential rental unit under the terms of a rental agreement.
- (p) *Tenant* shall mean any person entitled to occupy a residential rental unit under a rental agreement.

Section 25-384. Limitations on rent increases.

- (a) No landlord shall demand, charge, or accept from a tenant a rent increase for a residential rental unit more than once in a 12-month period.
- (b) No landlord shall demand, charge, or accept from a tenant a rent increase that is in excess of the existing rent multiplied by the Consumer Price Index for any residential rental unit except as otherwise allowed under section 25-388 of this ordinance.

Section 25-385. Minimum housing services.

No landlord shall refuse to provide any housing services that were agreed upon by the landlord and tenant as of this ordinance's effective date.

Section 25-386. Vacancy.

This ordinance's limitations on rent increases shall apply regardless of change of occupancy in a residential rental unit except as otherwise allowed under section 25-388 of this ordinance.

Section 25-387. Rental unit registration statement.

- (a) At the Department's request, a landlord shall submit a registration statement to the Department with information related to the landlord's residential rental units to ensure compliance with this ordinance. The landlord shall submit the registration statement within a timeframe specified by the Department and on forms approved by the Department.
- (b) The Department may require a landlord to submit the following information as part of the registration statement required by this section:
 - (1) Current and previous rental amounts charged for one or more residential rental units, and the date of the last rent increase for said rental unit(s);
 - (2) The name, address, and telephone number of the landlord for each applicable residential rental unit(s);
 - (3) The name and mailing address of applicable tenants or rental units including any building or unit identification number or other description, as applicable;
 - (4) A description of the housing services provided by the landlord to each applicable tenant or for each applicable rental unit;
 - (5) Move-in and vacancy dates for each applicable tenant or applicable rental unit; and
 - (6) Any other relevant information requested by the Department which may include, but is not limited to, rental agreements and other supporting documentation evidencing the accuracy of the information contained in the landlord's registration statement.
- (c) Landlords shall retain copies of all rental agreements and other supporting documentation necessary to comply with this section for a minimum period of two (2) years.
- (d) Landlords shall submit corrections to a registration statement to the Department within ten (10) days of discovering any errors in the information contained in the registration statement.

- (e) Failure to submit a complete, timely, and accurate registration statement, or corrections to a registration statement, in accordance with this section shall be considered a violation of this ordinance and subject to the penalties contained in section 25-390 of this ordinance.

Section 25-388. Fair and reasonable return on investment.

- (a) The Board shall adopt a resolution with rules establishing a process by which landlords can request exceptions to the limitations on rent increases based on the opportunity to receive a fair and reasonable return on investment. Rationale for deviations from the limitation on rent increases must consider the following factors:
 - (1) Increases or decreases in property taxes;
 - (2) Unavoidable increases or any decreases in maintenance and operating expenses;
 - (3) The cost of planned or completed capital improvements to the rental unit (as distinguished from ordinary repair, replacement and maintenance) where such capital improvements are necessary to bring the property into compliance or maintain compliance with applicable building, housing, or health codes, and where such capital improvement costs are properly amortized over the life of the improvement;
 - (4) Increases or decreases in the number of tenants occupying the rental unit, living space, furniture, furnishings, equipment, or other housing services provided, or occupancy rules;
 - (5) Substantial deterioration of the rental unit other than as a result of normal wear and tear;
 - (6) Inability of the landlord to provide adequate housing services, or to comply substantially with applicable state and local laws, building, housing, or health codes, or the rental agreement; and
 - (7) The pattern of recent rent increases or decreases.

- (b) It is the intent of this ordinance that exceptions to the limitations on rent increases be made only when the landlord demonstrates that such adjustments are necessary to provide the landlord with a fair and reasonable return on investment.
- (c) The County will not grant an exception to the limitations on rent increases for any residential rental unit where the landlord has failed to bring the rental unit into compliance with applicable state and local laws and building, housing, and health codes.

Section 25-389. Exemptions.

This Rent Stabilization Ordinance shall not apply to any residential rental units expressly exempt pursuant to any provision of state or federal law, and such units shall be exempt from the provisions of this ordinance. The following units are also specifically exempt from this ordinance:

- (a) Rental units used or offered for residential purposes as a seasonal or tourist unit pursuant to Section 125.0103(4), Florida Statutes, which include units located in a hotel, motel, or other similar establishment where units are rented primarily to transient guests;
- (b) Units used or offered for residential purposes as a second housing unit pursuant to Section 125.0103(4), Florida Statutes, which include accessory dwelling units;
- (c) Rentals units located in a luxury apartment building pursuant to Section 125.0103(4), Florida Statutes, which, for the purposes of this section, shall mean 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;
- (d) Dwelling units located in a single-family home, townhome, condominium, or mobile home, and mobile home lot rents as preempted by Chapter 723, Florida Statutes;
- (e) Rental units that a governmental agency or authority owns, operates, or otherwise manages;
- (f) Dwelling units located in a cooperative apartment occupied by a holder of a proprietary lease;

- (g) Dwelling units located in a disability facility, hospital, nursing home, assisted care community, or other health care facility licensed under Chapter 393, 395, 400, or 429, Florida Statutes;
- (h) Rental units for which the landlord receives federal, state, or local housing subsidies including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f);
- (i) Rental units that are currently under rent control by virtue of local, state or federal housing subsidy; and
- (j) New rental units that have received a Certificate of Occupancy on or after the effective date of this ordinance.

Section 25-390. Enforcement, penalties, and prohibitions.

- (a) *Enforcement.* This ordinance may be enforced by code enforcement officers, including county and municipal code enforcement officers, and any law enforcement agency having jurisdiction of the area within which the rental unit at issue is located pursuant to Section 125.69 and Chapter 162, Florida Statutes, or any applicable municipal code enforcement provision.
- (b) *Penalties for violation.*
 - (1) Violations of this ordinance may be prosecuted in the same manner as misdemeanors and result in a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a term not exceeding sixty (60) days, or by both such fine and imprisonment, in accordance with Section 125.69, Florida Statutes, and Section 1-9 of the Orange County Code.
 - (2) Notwithstanding any other provision of this ordinance, the county may impose civil fines through its code enforcement board or special magistrate or issue civil citations through its code enforcement citation program for violations of this ordinance. Such fines or citations shall be enforced in amounts as provided for and authorized by Chapter 162, Florida Statutes, and Chapter 11, Orange County Code.
 - i. Fines imposed by the code enforcement board or special magistrate may be for amounts not to exceed one

thousand dollars (\$1,000) per day for a first violation and five thousand dollars (\$5,000) per day for a repeat violation. However, if the code enforcement board or special magistrate finds a violation to be irreparable or irreversible in nature, it may impose a fine not to exceed fifteen thousand dollars (\$15,000) per violation.

- ii. Citations issued pursuant to the county's code enforcement citation program for violations of this ordinance shall be classified as a Class III violation and subject to a fine as provided in Section 11-67 of the Orange County Code.

(c) *Private right of action.*

- (1) Any tenant aggrieved by a landlord's noncompliance with this ordinance may seek relief in a court of competent jurisdiction provided that such action is filed within two (2) years of the alleged violation.
- (2) In a private civil action filed under this ordinance, the court may issue an order prohibiting the unlawful practice and providing affirmative relief from the effects of the practice, including equitable relief, temporary restraining order, actual and punitive damages, reasonable attorney's fees, interest, costs, or other relief, upon a finding that a violation of this ordinance has occurred or is about to occur.

- (d) *Prohibition of waiver.* Any lease provision which waives or purports to waive any right, benefit, or entitlement created in this ordinance shall be deemed void and of no lawful force or effect.

Sections 25-391 – 25-449. Reserved.

Section 3. Referendum Called. A referendum election is hereby called and ordered to be held in Orange County at the time of the next general election to be held on November 8, 2022, to determine whether the Rent Stabilization Ordinance is approved by the voters.

Section 4. Notice of Referendum. Pursuant to Section 100.342, Florida Statutes, a Notice of Referendum shall be published twice in the *Orlando Sentinel*, a newspaper of general

circulation in the County. The publications shall occur once in the fifth week and once in the third week prior to the week which includes November 8, 2022.

Section 5. Official Ballot. Ballots to be used in the referendum shall contain a statement of the description of the proposed issue in substantially the following form:

Rent Stabilization Ordinance to
Limit Rent Increase for Certain
Residential Rental Units

Shall the Orange County Rent Stabilization Ordinance, which limits rent increases for certain residential rental units in multifamily structures to the average annual increase in the Consumer Price Index, and requires the County to create a process for landlords to request an exception to the limitation on the rent increase based on an opportunity to receive a fair and reasonable return on investment, be approved for a period of one year?

Section 6. Spanish Translation. The above ballot question shall additionally appear on the ballot in Spanish and the County Attorney and Supervisor of Elections are requested to authorize, and directed to prepare, an accurate Spanish translation to be included on the ballot.

Section 7. Payment of Referendum Expenses. The Board authorizes the payment of lawful expenses associated with conducting the referendum, as well as the cost of providing information as permitted by Section 106.113, Florida Statutes. The Orange County Comptroller is hereby authorized and directed to disburse the funds necessary to pay such expenses.

Section 8. Repeal of Laws in Conflict. All local laws and ordinances in conflict with any provision of this ordinance are hereby repealed to the extent of such conflict.

Section 9. Severability. If any section, subsection, sentence, clause, or provision of this ordinance or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect any other provision or application of this ordinance, and to this end the provisions of this ordinance are declared severable.

Section 10. Effective Date. This ordinance shall take effect pursuant to general law. However, Section 2 of this ordinance, Rent Stabilization Ordinance, shall take effect only if and when approved by a majority of the voters voting in the referendum called by the Board of County Commissioners of Orange County, Florida in Section 3 of this ordinance. In accordance with Section 125.0103(3), Florida Statutes, the Rent Stabilization Ordinance approved pursuant to this ordinance shall terminate and expire one (1) year after this ordinance's effective date and shall not be extended or renewed except by the adoption of a new ordinance meeting all the requirements of Florida Statutes.

ADOPTED THIS 9 DAY OF August, 2022.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Katie Smith*
Deputy Clerk

