

# We Shall Not Be Moved: Advocacy and Policy in a Rapidly Changing Boston

by

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B.A. Anthropology  
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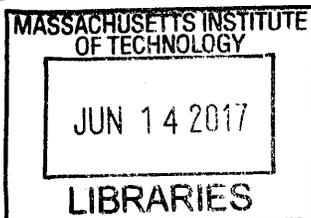
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## Abstract

The ability to access affordable, stable, and good quality housing has become an increasing concern for policymakers, community advocates, and activists in growing urban metros across the United States. In Boston, population growth and rising housing costs have spurred new development of luxury housing and renovation of existing residential buildings, putting pressure on existing neighborhood tenants and homeowners. As a response to these phenomena, perceived as contributing to a displacement and eviction crisis in Boston, organizations within the Right to the City Alliance proposed legislation that they felt would “slow down” the processes leading to eviction of tenants in larger buildings and former homeowners in their foreclosed properties. The Jim Brooks Community Stabilization Act, formerly the Just Cause Eviction Ordinance, if implemented, would ensure residents are notified of their rights in eviction proceedings and allow them to be evicted only for certain “just causes.”

Since 2014, advocates have been working to get this legislation drafted and passed in the Boston City Council. This research seeks to understand why and how advocates proposed this act and what barriers it faces in implementation. I argue that despite gaining support from the Mayor’s Office and being an intentionally mild bill, opposition from large and small property owners and the real estate industry has shaped the conversation around the act, leading to both confusion and resistance to its passing. In this case study, I discuss the difficulties of drafting and passing progressive housing policy in increasingly unaffordable urban areas and the need for a broader conversation about the right to housing for residents.

Thesis Advisor: Justin Steil, Assistant Professor

Reader: Ingrid Gould Ellen, Visiting Professor

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## Introduction

*“Poverty was a relationship, I thought, involving poor and rich people alike. To understand poverty, I needed to understand that relationship. That sent me searching for a process that bound poor and rich people together in mutual dependence and struggle. Eviction was such a process.”*

**Desmond 2016: 317**

### ***Housing and Eviction***

In early 2016, Matthew Desmond released his groundbreaking book, *Evicted*, which chronicles the day-to-day experiences of low-income renters and property owners he lived alongside of in Milwaukee, Wisconsin. His empathetic approach to documenting the severity of housing instability reveals the interconnectedness of eviction and poverty, forcing the reader to re-conceptualize their ideas of the “deserving” and “undeserving” poor. He weaves in a conversation on systemic racism and cycles of poverty, showing African American renters, and particularly black women with children, as repeatedly facing discrimination in securing stable housing. His narrative, intimate work shows the perspectives of both renters and landlords in a variety of mentally and emotionally challenging circumstances. Maintaining a relatively impartial gaze throughout the book, it is only at the end that he explicitly mentions the exploitation of the renting poor by their landlords. He poses the question, “do we believe that the right to a decent home is part of what it means to be an American?” (Desmond 2016: 300).

His book comes at the height of an affordability crisis throughout the United States. A 2015 Joint Center for Housing Studies of Harvard University report found that the percentage of US households in rental units is at its highest level since the 1960s. A 2016 National Low Income Housing Coalition study found that in no state in the US can a renter making minimum wage afford a two-bedroom apartment

under HUD's Fair Market Rent classification. Given this current landscape, attention to and protections for tenants, particularly the most vulnerable, including those who are low-income, disabled, and/or have children, needs to be a priority for urban areas.

Housing, whether owned, leased, or rented, plays an intrinsic role in how people experience their daily lives. Where housing is located is of great importance: neighborhoods are where social networks are made; determines, usually, where children will be sent to school; and shapes access to services, employment, transportation, and resources within the city. The quality of housing and neighborhoods plays a significant role in residents' ability to access economic opportunity and maintain good health. In the United States, where housing is not a right, housing is bought, sold, and rented as a commodity on the market. However, due to its fixed characteristics, including its size, location, and services it provides, housing, usually an immobile and inflexible object, is not like other commodities in that it isn't adaptable to one's changing economic, social, and personal situations (Stone 1993).

The ability to access affordable, stable, and good quality housing has become an increasing concern for policymakers, community advocates, and activists. Declining federal assistance for affordable housing, rising housing costs, and the failure of wages to keep up with rising costs have all contributed to the lack of affordable housing in our nation's cities (Desmond and Kimbro 2015). In Boston, housing affordability issues have become particularly acute in recent years, despite being considered a city with a long history of community organizing and tenant protections (Desmond et al. 2015).

As policymakers and some developers are working on figuring out how to deliver more affordable housing, some community groups are looking at the housing

stock already available, planning ways to preserve existing affordable housing and protect those who live in it. One such organization is City Life/Vida Urbana, which has been working in the City of Boston for over 40 years. They, alongside other Boston-based organizations, successfully launched a major campaign in 2007 to help homeowners retain their homes while facing foreclosure and to provide protections for tenants living in foreclosed properties. In the past few years, their attention has focused sharply on tenants' rights in Boston, particularly due to the increasing unaffordability of the rental housing market of that city. Since 2014, they've worked on proposing and drafting policy solutions to protect tenants, particularly those facing eviction from large real estate companies in Boston.

In 2014-2015, along with other organizations, they developed and proposed a Just Cause Eviction Ordinance to the Boston City Council. Due to issues of clarity and a "mediation" portion that some critics felt sounded like rent control, they worked to rewrite it. In 2016, they proposed the Jim Brooks Community Stabilization Act, a draft that retains some of the initial language with a few significant changes. Since beginning the process in mid 2014, they, along with other proponent and opponent groups, have discussed affordability in Boston, presented potential solutions, and argued for and against specific portions of the acts over four City Council hearings in 2014, 2015, 2016, and 2017. At the time of writing in May 2017, the City Council had yet to vote on the act.

In the research I am presenting here, I have sought to understand the reasons why the act was seen as necessary by advocate groups and why it faces barriers to enactment.

## ***Research, Motivations, and Methods***

In addressing the topic of housing, eviction, and displacement in Boston, I began by questioning two things: why are community groups advocating for comprehensive policies on eviction? What is the relationship between private investment and eviction? I began an initial literature review into the impact of eviction and displacement on low-income tenants and how that might fit into a larger narrative of private investment in Boston. I conducted eight interviews with one City Councilor, one State Senator, three community advocates, one tenants' rights lawyer, and two City of Boston staff members. In addition, I attended five community meetings that addressed the issue of affordable housing from both the supply side and tenants right side. In order to understand the political conversation surrounding the issues, I watched three City Council hearings from 2015, 2016, and 2017.

Based on my experiences during the research process, I arrived at three key research questions:

1. Why are community groups advocating for the Jim Brooks Community Stabilization Act?
2. What key public, private, and community stakeholders are involved in the conversation around displacement, eviction, and policy in Boston? How do these stakeholders shape the conversation around tenant protection, property rights, and the role of government?
3. What are the barriers to the implementation of just cause eviction in Boston?

## ***Contextualizing the Issue***

In Chapter 1, I briefly discuss the demographic, political, and activist context of Boston. I present information on housing affordability in the city and argue that

the Boston has become increasingly unaffordable for many renters. Within this context, I present an argument for why housing stability is important for many renters, particularly low-income one, in maintaining community and social relationships. In Chapter 2, I discuss the advocacy and political responses to affordability in Boston. I present the history of the Jim Brooks Community Stabilization Act and introduce the City Council hearings that have occurred since its proposal. In Chapter 3, I transition into an analysis of the qualitative data I collected. Relying on interviews and the City Council hearings, I present arguments for and against key pieces of the Jim Brooks Act. I analyze the claims that opponents and proponents raise in light of theories on rent control and property rights. I separate the analysis into four areas that the act addresses: notification of rights; data collection; just cause eviction, and property rights. In Chapter 4, I introduce my analysis on the barriers to implementation of the act. In this chapter, I introduce the “City as a Growth Machine” framework to understand cities as spaces of capital investment, discuss gentrification as being a “collective social action” to change cities, and the limitations of advocacy groups.

In my Discussion, I bring in a few reflections on racial inequity with regard to the potential impact of the Jim Brooks Act. I argue that Boston has indeed become unstable for many renters and homeowners alike. In my Conclusion, I reflect on the research process and on the role of planners within political processes, arguing that planners are well-suited to engage in the proposing of acts and should see drafting and advocating for policy as an extension of community work.

# **Chapter 1: Boston Context and Housing Stability**

In this chapter, I present a brief overview of Boston, touching on demographics, housing affordability, politics, and activism. In discussing housing affordability in Boston, I present an argument on the importance of housing stability and how housing instability can be harmful to many, particularly for low-income populations. I then briefly discuss activism around housing rights in Boston and then introduce the

## ***1.1 Demographics and Housing***

Since 1980, Boston has steadily grown from a population of around 563,000 residents to a city of over 650,000 as of the 2011-2015 American Community Survey (ACS). The residents are spread throughout the 23 neighborhoods defined by the city. As of 2011-2015 ACS, the city was 45.5% white, 22.7% Black/African American, 18.8% Hispanic, and 9.3% Asian. As of this survey, the per capita income was \$35,728 and, with 256,294 households in the city, the median household income was \$56,768. The survey showed 278,521 total housing units with 34.3% of them owner occupied and 65.7% of them renter occupied with a vacancy rate of 8% (BPDA Research Division 2016). In the following pages, Figure 1 shows the racial make-up by neighborhood in the City of Boston, Figure 2 shows the owner occupancy and renter occupancy by neighborhood. Figure 3 is a neighborhood map of Boston, Figure 4 a racial density map of Boston, and Figure 5 and neighborhood income map of Boston.

## ***1.2 Housing Affordability in Boston***

As a city with a large renter population, rental housing affordability has received attention by many advocate organizations. A Furman Center Report (2015), which

outlines the changing landscape around housing affordability in 11 of the U.S.'s largest cities, found that the Boston's renter population grew 22.6% from 2006-2013 with 60% of the population living in rental housing in 2013. From 2006-2013, the report also found that as the rental population increased nearly 23%, the number of rental housing units increased by only 15% from 2006-2013, showing a disparity in the availability of supply of rental units. During the same period, the median renter household's income grew from \$34,934 to \$40,065, a 15% increase. In 2013, the report found that Boston renters who had moved into their housing within five years paid a median rent of \$1,400 while the average renter in the same neighborhood paid a median rent of \$840 (Capperis et al. 2015). This snapshot of Boston's affordable housing shows a widening gap of available affordable rental units in a growing city as well as the difficulties low-income and wage-restricted renters face if they must change residences.

As both the renter population and the cost of rental housing have increased, there has been a sizeable change in home prices. In 2013, Daniel Hartley released a report with the Federal Bank of Cleveland. In the report, Daniel Hartley used the change in home prices as a determinant of gentrification by looking at tracts that went from the bottom half of the distribution to the top half from 2000-2007. Under this classification, he found that 61 percent of these tracts gentrified in Boston, while 26 percent of the total number of tracts did. Boston was found to have the highest share of tracts gentrify in the country by six percentage points. Furthermore, the report showed that "[i]n Boston, the gentrifying neighborhoods represented about a fourth of the entire city's population" (Ibid) showing the extent of the impact throughout the city.

	<b>Total Population</b>	<b>White Alone</b>	<b>%</b>	<b>Black/African- American</b>	<b>%</b>	<b>Hispanic</b>	<b>%</b>	<b>Asian alone</b>	<b>%</b>	<b>Other Races</b>	<b>%</b>
Boston	650,281	295,886	45.5%	147,603	22.7%	122,317	18.8%	60,164	9.3%	24,311	3.7%
Allston	19,761	11,318	57.3%	1,147	5.8%	3,191	16.1%	3,328	16.8%	777	3.9%
Back Bay	17,577	13,432	76.4%	811	4.6%	1,427	8.1%	1,606	9.1%	301	1.7%
Beacon Hill	9,305	8,118	87.2%	109	1.2%	386	4.1%	539	5.8%	153	1.6%
Brighton	47,768	31,946	66.9%	1,951	4.1%	4,983	10.4%	7,328	15.3%	1,560	3.3%
Charlestown	18,058	12,575	69.6%	1,557	8.6%	1,980	11.0%	1,578	8.7%	368	2.0%
Dorchester	124,489	27,479	22.1%	54,952	44.1%	20,330	16.3%	13,207	10.6%	8,521	6.8%
Downtown	16,903	9,506	56.2%	637	3.8%	1,061	6.3%	5,191	30.7%	508	3.0%
East Boston	44,989	14,400	32.0%	1,065	2.4%	26,063	57.9%	1,613	3.6%	1,848	4.1%
Fenway	32,210	19,777	61.4%	1,617	5.0%	3,689	11.5%	6,015	18.7%	1,112	3.5%
Harbor Islands	329	122	37.1%	118	35.9%	65	19.8%	0	0.0%	24	7.3%
Hyde Park	35,585	9,226	25.9%	16,055	45.1%	8,375	23.5%	746	2.1%	1,183	3.3%
Jamaica Plain	39,240	21,291	54.3%	4,552	11.6%	9,979	25.4%	2,165	5.5%	1,253	3.2%
Longwood	5,233	3,739	71.5%	305	5.8%	468	8.9%	582	11.1%	139	2.7%
Mattapan	24,268	1,488	6.1%	17,891	73.7%	3,863	15.9%	568	2.3%	458	1.9%
Mission Hill	16,700	7,787	46.6%	2,743	16.4%	3,039	18.2%	2,768	16.6%	363	2.2%
North End	9,107	8,270	90.8%	41	0.5%	327	3.6%	286	3.1%	183	2.0%
Roslindale	28,644	14,617	51.0%	6,048	21.1%	6,483	22.6%	505	1.8%	991	3.5%
Roxbury	51,252	5,576	10.9%	27,188	53.0%	14,848	29.0%	1,616	3.2%	2,024	3.9%
South Boston	35,660	27,712	77.7%	1,837	5.2%	3,742	10.5%	1,616	4.5%	753	2.1%
South Boston Waterfront	2,862	2,410	84.2%	44	1.5%	27	0.9%	295	10.3%	86	3.0%
South End	31,601	17,425	55.1%	3,722	11.8%	4,359	13.8%	5,184	16.4%	911	2.9%
West End	5,945	3,616	60.8%	319	5.4%	711	12.0%	1,114	18.7%	185	3.1%
West Roxbury	32,795	24,056	73.4%	2,894	8.8%	2,921	8.9%	2,314	7.1%	610	1.9%

**Figure 1: Race in Boston by Neighborhood**

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Table adapted from BPDA's *Boston in Context: Neighbors from the 2011-2015 American Community Survey*

	<b>Total Housing Units</b>	<b>Total Occupied</b>	<b>% of Total Units</b>	<b>Owner Occupied</b>	<b>% of O. Occupied</b>	<b>Renter Occupied</b>	<b>% R. Occupied</b>
Boston	278,521	256,294	92.0%	87,958	34.3%	168,336	65.7%
Allston	7,206	6,347	88.1%	639	10.1%	5,708	89.9%
Back Bay	11,425	9,900	86.7%	3,292	33.3%	6,608	66.7%
Beacon Hill	5,935	5,423	91.4%	1,768	32.6%	3,655	67.4%
Brighton	22,837	20,588	90.2%	4,627	22.5%	15,961	77.5%
Charlestown	9,113	8,457	92.8%	3,618	42.8%	4,839	57.2%
Dorchester	47,349	43,292	91.4%	14,667	33.9%	28,625	66.1%
Downtown	8,489	7,198	84.8%	2,001	27.8%	5,197	72.2%
East Boston	16,936	15,820	93.4%	4,444	28.1%	11,376	71.9%
Fenway	12,232	11,101	90.8%	1,220	11.0%	9,881	89.0%
Harbor Islands	0	0	0.0%	0	0.0%	0	0.0%
Hyde Park	13,020	12,344	94.8%	7,423	60.1%	4,921	39.9%
Jamaica Plain	16,550	15,853	95.8%	7,212	45.5%	8,641	54.5%
Longwood	311	286	92.0%	61	21.3%	225	78.7%
Mattapan	9,579	8,599	89.8%	3,145	36.6%	5,454	63.4%
Mission Hill	6,565	6,153	93.7%	714	11.6%	5,439	88.4%
North End	5,683	5,344	94.0%	1,475	27.6%	3,869	72.4%
Roslindale	11,682	11,107	95.1%	6,178	55.6%	4,929	44.4%
Roxbury	20,668	18,877	91.3%	3,507	18.6%	15,370	81.4%
South Boston	16,960	16,028	94.5%	5,891	36.8%	10,137	63.2%
SB Waterfront	1,585	1,421	89.7%	678	47.7%	743	52.3%
South End	16,939	15,778	93.1%	6,216	39.4%	9,562	60.6%
West End	3,416	3,011	88.1%	669	22.2%	2,342	77.8%
West Roxbury	14,041	13,367	95.2%	8,513	63.7%	4,854	36.3%

**Figure 2: Housing Tenure**

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Table adapted from BPDA's *Boston in Context: Neighborhoods from the 2011-2015 American Community Survey*

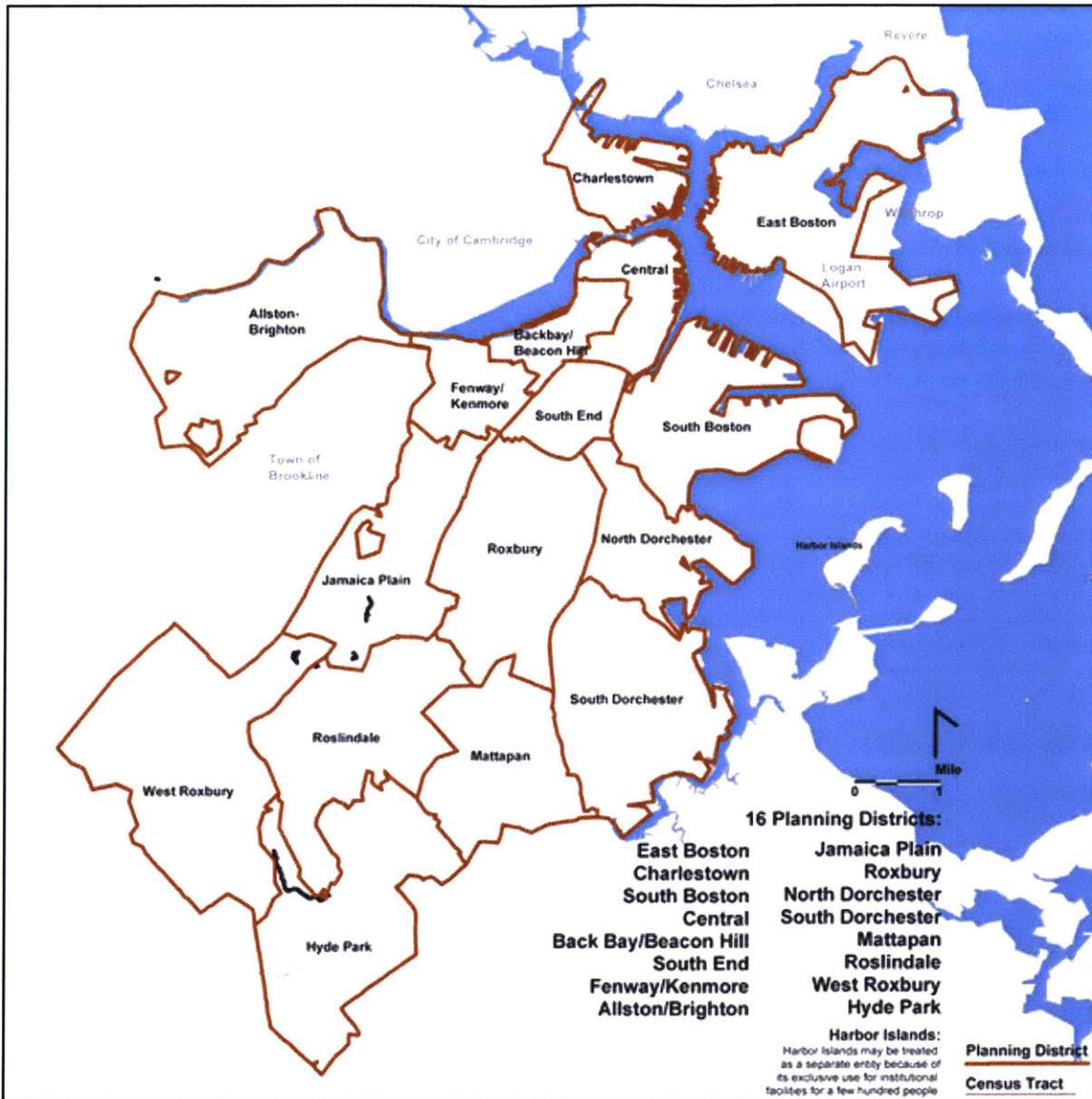


Figure 3: Neighborhoods in Boston

© Boston Studies Bound

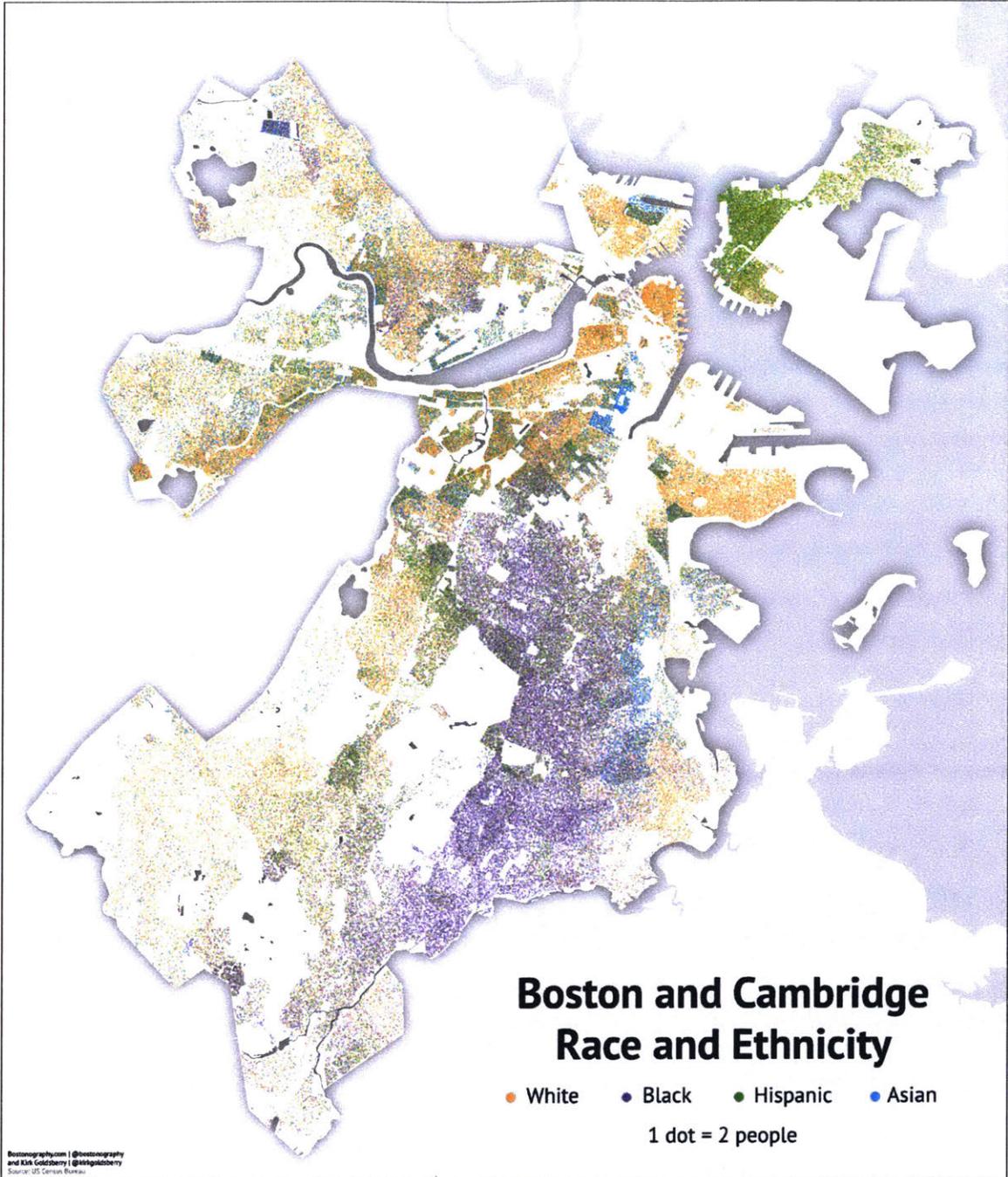
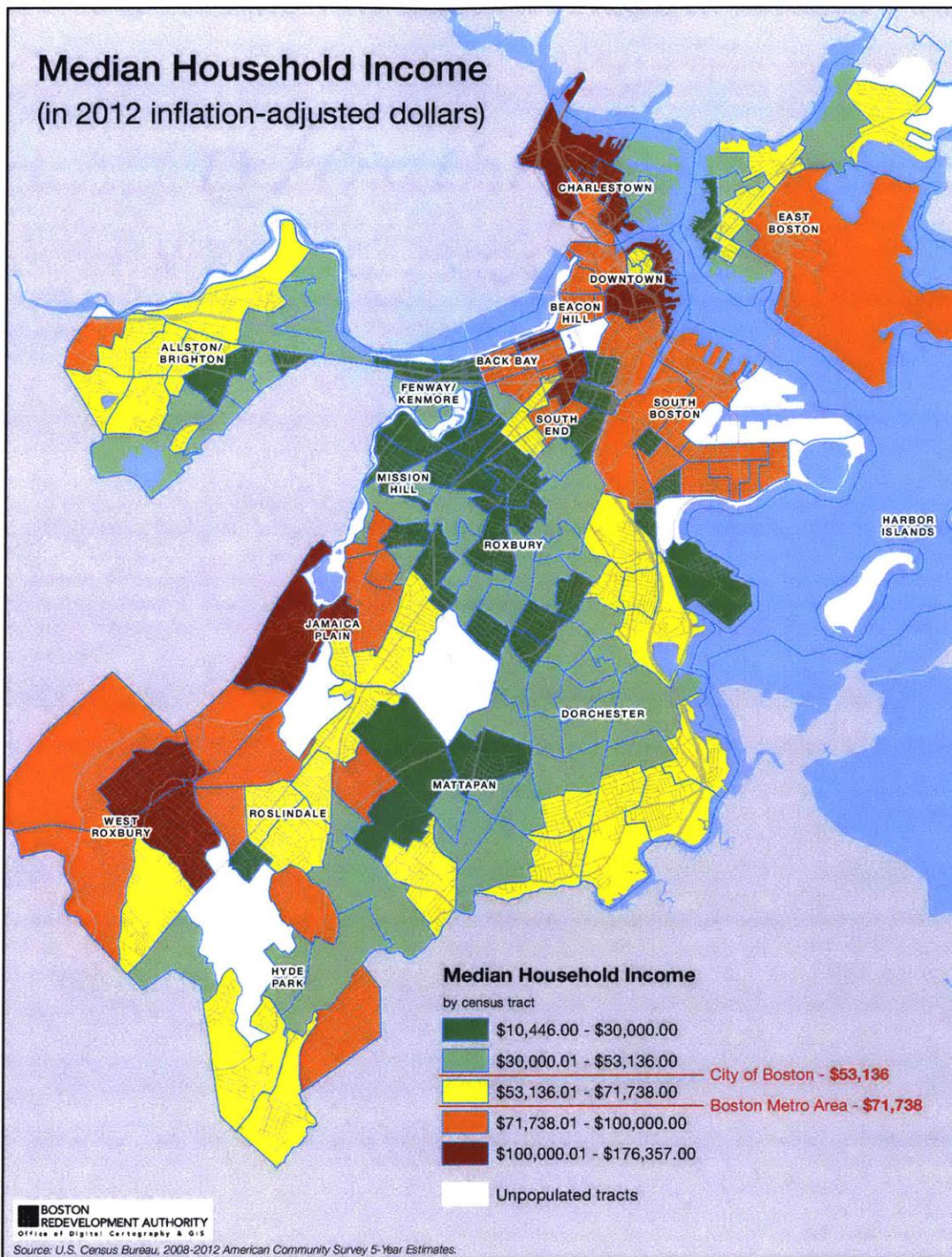


Figure 4: Boston and Cambridge Race and Ethnicity

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**Figure 5: Boston Median Household Income 2012**

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As most people rely on wages to cover housing costs, the housing market is intrinsically linked to the labor market (Stone 1993) and as average rents have risen, wages have not increased in a way that would narrow the gap between affordable and unaffordable units for minimum wage earners. Even though the Massachusetts minimum hourly wage is one of the highest in the country at \$11.00, housing costs continue to be inaccessible. In Boston, the Fair Market Rent (FMR) for housing in 2016 was \$1,261 for a one-bedroom, \$1,567 for a two-bedroom, \$1,945 for a three-bedroom, and \$2,148 for a four-bedroom (HUD 2016). Thus, a single person earning a full-time minimum wage, making about \$20,000 a year before taxes, would spend nearly 75% of their income on housing in a one-bedroom apartment rented at FMR. Of course, not every property owner or landlord rents at FMR nor does every single tenant rent a one-bedroom apartment, but the discrepancy is still apparent.

### ***1.3 Housing Insecurity***

Despite the importance of housing, particularly for the United States' urban poor, nationally, "poor renting families are facing the worst affordable housing crisis in several generations" (Desmond and Kimbro 2015: 295). Housing is intrinsically linked to poverty; Desmond (2015) writes that currently, "the majority of poor renting families in America devote over half their income to housing; almost a quarter dedicate more than 70%" (16). In the U.S., households that pay more than 30% of their income on rent are considered cost burdened and those that pay more than 50% severely cost-burdened. By allocating this much of their income on housing, low-income families are left with less to spend on food, clothing, childcare, and other necessary expenses. While that is the official metric used, Stone (1993) argues that in many ways, there are considerable issues with this classification, as households differ widely in composition and access to resources and there is no

standard provided for how much households should spend on other necessary items. Thus, in cities with higher food or childcare costs, for example, expending even 30 percent of income on housing could be extremely cost burdensome.

Access to affordable housing has implications for the economic and social stability of all households, especially those in vulnerable populations. An inability to access or afford housing can lead to eviction, “doubling up,” and/or homelessness at an economic, personal, and social cost to both individuals and the city (Desmond 2016, Skobba and Goetz 2014). Furthermore, housing affordability impacts certain populations differently because of housing discrimination. People of color, single women, particularly those with children, LGBT populations, immigrants and/or non-English speakers, and the elderly face additional obstacles in attaining housing due to their identities (Stone 1993).

Upon leaving their homes after an eviction or forced/voluntary displacement, many households do not immediately seek emergency shelters and will instead find help from their social networks and at times move in temporarily or permanently with close friends or family members. Among low-income populations, “social capital garnered through persistent social interactions with family, friends, and neighbours is more beneficial to the poor as a substitute for human and economic capital” (Skobba and Goetz 2014: 4). These networks provide a crucial support system that low-income populations rely on. However, given that these relationships are based in trust and reciprocity, those ties can become stretched thin in times of real economic or personal need, putting populations at risk of exclusion by their most necessary networks.

When people need to rely on their social networks for housing, which brings people together intimately, the process of “doubling up” can have the unintended consequence of actually eroding that important social capital as networks lose the

ability or will to help out, particularly for people who need continued assistance (Skobba and Goetz 2014, Desmond 2016). Skobba and Goetz “argue that the constant, mutual exposure of doubling up actually erodes social capital by burning social ties with the friends and family who provide informal housing assistance” (2). This, in turn, produces “erodent social capital” in which “its use actually reduces its utility.” In situations of housing instability, the process of relying on friends or family, in essence, one’s community, for assistance can strain those social bonds that could provide support in the most vulnerable of moments. In evictions, then, people may thus find themselves losing both their material items and social support, leading to what Purser (2016) “conceptualize[s] as a circle of dispossession, reproduced both materially and ideologically” (395).

Low-income renters move more than other renters. In a study of Milwaukee renters, Desmond et al. (2015) argue that in past studies, residential movement among low-income families has been associated with voluntary moves and upward mobility through the “residential attainment perspective.” Stepping away from this classification, they propose a “residential instability model” that shows that “many moves undertaken by low-income families in fact are involuntary and harmful, especially in the case of forced displacement” (229). Desmond et al. 2015 and Desmond and Kimbro (2015) argue that residential instability can lead to a difficulty in attaining “psychological stability,” “school stability,” and “community stability” (296). Desmond et al. 2015 report that one in five renter households in the United States allocate half of its income to housing. The impact of residential instability is twofold, “[t]he lack of affordable housing not only contributes to high rates of forced displacement among the involuntary mobile, it also prevents the immobile from leaving resource-deprived and dangerous neighborhoods” (254).

Andrés Del Castillo, an organizer with CLVU, in his testimony at the 2015 City Council hearing stated,

“safety, stability, and security are a matter of affordability. They’re a matter of whether you can buy into safety, whether you can buy into security, and if you don’t have the money to buy that safety then you’re subjected to living in riskier and riskier environments, you’re subjected to not having a good park for your kids to go to or adequate resources for the school departments. And that’s what we’re telling our community.”

While mobility is cited above as leading to instability, in studying the effects of school changes and mobility on delinquency in youth, DeLuca et al. (2009) found that while mobile students were observed to show delinquency and substance use, those students were also more likely to have come from more disadvantaged households of lower incomes and lower education levels, which was more significant than the mobility itself. In revisiting their work, DeLuca et al. (2012) found, similarly, that mobile students are more likely to dropout of high school, but this is also related to a host of risk factors, such as family background, more residential mobility, and issues at school. Thus, while mobility may be psychologically stressful, due to forced eviction, divorce, etc., household characteristics and previous behavior are considerably more significant.

The act of an eviction, particularly if residents have limited alternative housing options, can push tenants into a confused and fearful state (Desmond and Kimbro 2015) as well as into one that is embarrassing and carried out in public. In her study on evictions in Baltimore, Purser recounts speaking with both landlords and the low-income day laborers carrying out evictions who alluded to dealing with “the worst of the worst” (403) in eviction proceedings, in a way filling some sort of self-fulfilling prophecy about tenants deserving the eviction they receive. This way of showing tenants as “irresponsible” makes it easier “for property owners and managers to justify an act about which they nearly all admitted to feeling some

sense of discomfort” (403). By categorizing evictees as culpable, an evictor can mentally remove him/herself from the act of forcibly removing someone from their home. Within the context of assuming an evictee is someone is “the worst of the worst” and perhaps liable to be a “repeat offender,” it becomes worrisome that tenant-screening is readily available to landlords. In 2013, Massachusetts Housing Court, “[a]fter years of lobbying from rental housing groups,” made all Summary Process, Small Claims, Civil and Supplementary Process cases available to the public through an online search engine (Vetstein 2013). The “mark” of an eviction can thus prevent tenants from being able to access good, affordable housing in the future, leading them to seek housing in emergency shelters, with family and friends, or even in unsafe situations. As home prices, rental units, and the population of renters increase, renters may face increasing difficulty in accessing suitable and affordable housing.

The above research serves to provide a frame of reference for and an understanding of the very real vulnerabilities faced by low-income populations with regard to housing insecurity. With that in mind, policy that stabilizes tenancies and/or provides more protections from eviction for tenants takes on a new importance.

#### ***1.4 Activism around Housing Rights in Boston***

Boston has a long history of activism related to housing and property rights. In the 1960s, activists organized against urban renewal and highway expansion into neighborhoods, both of which razed, or had the potential to raze, entire neighborhoods, successfully pushing the state to place a moratorium on new highway construction in 1970. In 1969-70, activists from Boston and Cambridge, cities with some of the highest rents in the country, successfully advocated for the

passage of a rent control ordinance. A state law was necessary, however, to enable towns and cities to set their own rent terms, and tenant advocates succeeded in passing a statewide enabling law in 1970 for cities and towns with populations over 50,000. After 1974, Boston transitioned into a vacancy decontrol system. The law also established a board that regulated rents; included a set of laws that limited condominium conversions; and extended tenant protections, including just cause eviction for tenants (Sims 2006). Despite originally being a four-year proposal, rent control extended until a state referendum overturned it in 1994.

In 1994, Massachusetts voters voted to end rent control statewide, even as a majority of residents in Cambridge, Brookline, and Boston, three cities with both strong rent control laws and large populations of renters, voted against its repeal (Autor et al. 2014, Sims 2006). Many politicians, including then Boston Mayor Thomas Menino and then Cambridge Mayor Ken Reeves, had been in favor of keeping the law. The Small Property Owners Association (SPOA), an organization that continues to champion strongly for the interests of individual property owners, was instrumental in gaining its repeal (Sims 2006).

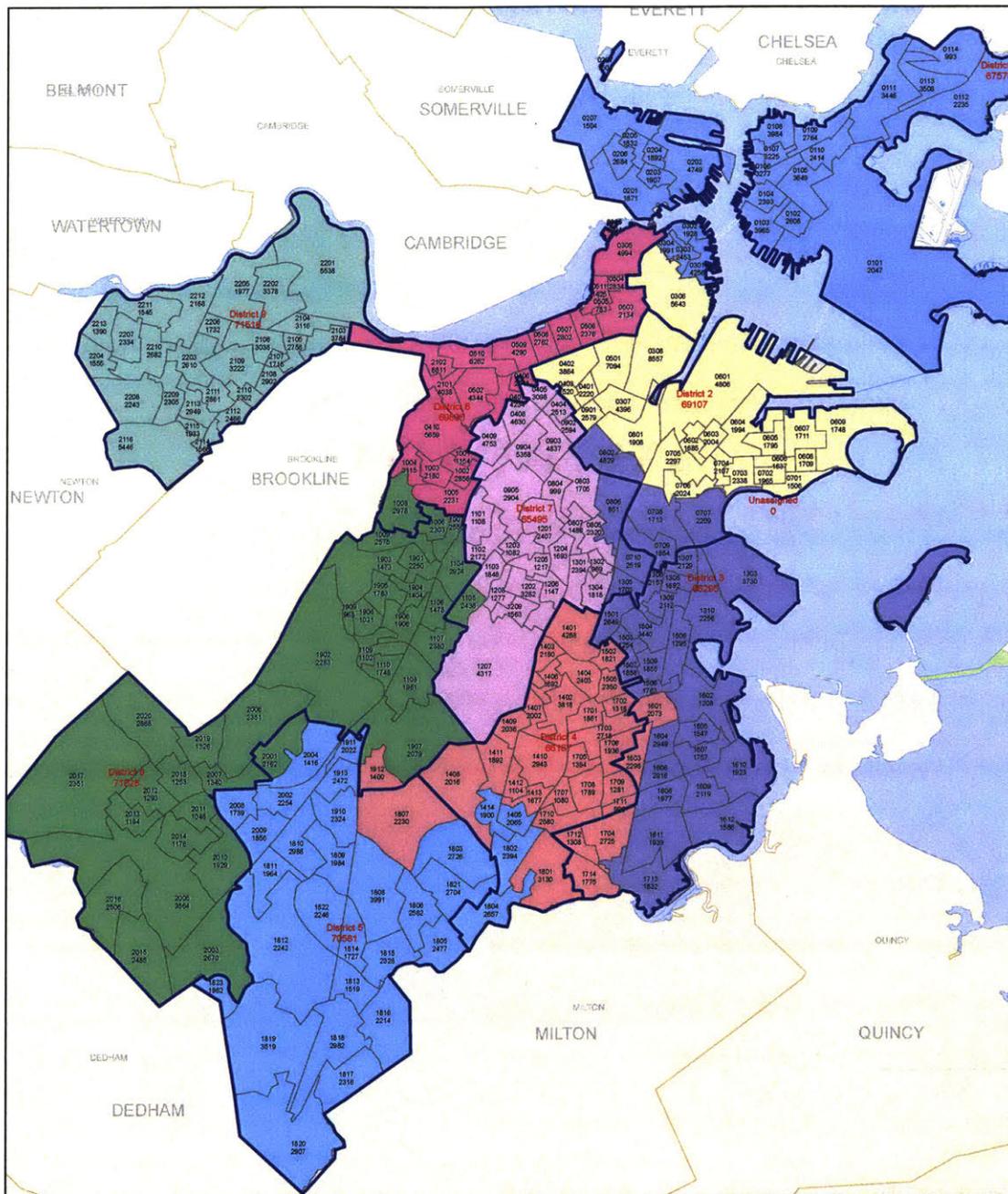
In 2002-2004, the Boston Tenants Coalition, with the support of then Mayor Thomas Menino, unsuccessfully advocated for the Boston Community Stabilization Act, an act that proposed to give tenants the right to appeal large rent increases. Despite legislative setbacks, tenant advocacy organizations, including City Life / Vida Urbana, continued to work on the ground with tenants, particularly in the years following during the foreclosure crisis. In that time, CLVU was particularly concerned with the rights of tenants and former homeowners in foreclosed properties. In 2010, An Act Relative to Mortgage Foreclosures was passed in Massachusetts, which provides protections, including just cause eviction, for tenants in these properties.

### **1.5 Politics**

Boston is served by 13 city councilors, of which nine represent specific districts of the city and four are at-large and represent the entire city. Councilors serve a two-year term. As of May 2017, the councilors were:

- At-Large: Michelle Wu, City Council President, elected November 2013
- At-Large: Michael Flaherty, in office 2000-2010; re-elected November 2013
- At-Large: Annissa Essaibi-George, elected November 2015
- At-Large: Ayanna Pressley, elected November 2009
- District 1: Salvatore LaMattina, elected 2006
- District 2: Bill Linehan, elected May 2007
- District 3: Frank Baker, elected 2011
- District 4: Andrea Campbell, elected 2015
- District 5: Timothy McCarthy, elected 2013
- District 6: Matt O'Malley, elected November 2010
- District 7: Tito Jackson, elected March 2011
- District 8: Josh Zakim, elected November 2013
- District 9: Mark Ciommo, elected 2007

On the following page, Figure 5 shows the City Council districts spatially.



**City of Boston**  
**City Council Approved Map 2012**

0 2,200 4,400 Feet  
 N November 2012



**Figure 6: City of Boston City Council Map**

© City of Boston

## ***1.6 Election of Marty Walsh and Imagine Boston***

In 2013, the longest serving Boston mayor, Thomas Menino, announced he would not seek a sixth term. Marty Walsh, then the state representative of the 13<sup>th</sup> Suffolk District in Dorchester, won the mayoral election in 2013. In May 2015, he announced Imagine Boston 2030, the first citywide master plan since the General Plan for Boston of 1965. Introduced as a two-year process of plan drafting and community engagement, the goals of Imagine Boston are to physically redevelop the city to prepare for both population and economic growth. The plan calls for 53,000 new units of housing by 2030, many of which lie along corridors designated for rezoning and redevelopment by the city. The introduction of these corridors for planning sparked protest among residents, particularly in the JP/Rox (Jamaica Plain / Roxbury) plan, who saw the plan as not being for them, but rather for future residents. Despite shutting down meetings and arguing for higher affordability rates, the plan passed in March of 2017 (Clauss 2017).

Despite controversy around the implementation of Imagine Boston, the language of the 2017 draft reflects some of the desires of community residents. The draft devotes an entire two pages to “Boston’s Antidisplacement Approach,” which highlights the Office of Housing Stability, which I’ll discuss in the next chapter, as the first in the country and states that

“the City is developing an antidisplacement approach that combines strategies to increase affordable housing opportunities with policies to reduce residential and commercial eviction, support homeownership, address transportation costs, and facilitate economic well-being” (Imagine Boston 2017).

## ***Conclusion***

In this chapter, I sought to present a brief overview of the demographic and political context of Boston. I also argued that eviction and

residential instability can have harmful consequences for people economically, socially, and psychologically. I ended by describing the political moment of Boston in Spring 2017, with a new master plan, a mayor who claims to support anti-displacement work, and activists who will continue to advocate for tenants rights. In the following chapter, I introduce efforts by community advocacy groups to present policy solutions to complex issues.

## **Chapter 2: A Policy Approach to Housing Insecurity**

*“The general court finds and declares that a serious public emergency exists with respect to housing in the City of Boston and in particular the displacement of tenants of rental housing through no-fault evictions.”*

### **Section 1. Declaration of Emergency The Jim Brooks Community Stabilization Act**

In this chapter, I present the history behind the introduction of the Jim Brooks Community Stabilization and discuss both the advocate and political response to changes in housing affordability. I consider Boston Mayor Marty Walsh’s State of the City addresses to understand his platform on affordable housing. I then introduce the four City Council hearings that have addressed these issues and discuss how the act has changed due to feedback within these hearings.

#### **2.1 Why a Community Stabilization Act?**

In the summer of 2014, members, employees, and organizers associated with the Right to the City Alliance in Boston gathered during a retreat to discuss what they saw as not only a housing affordability crisis, but a displacement crisis in the city of Boston. They structured their conversation around these issues because of the Federal Reserve Bank of Cleveland report released in November 2013, which I discussed in the last chapter. The intent of the participants at the retreat, Steve Meacham, Organizing Coordinator at City Life/Vida Urbana (CLVU), explains, was to come up with potential policy solutions that would benefit renters in rapidly gentrifying Boston neighborhoods. As he remarks, “we imagined something that would hopefully be something easy to pass because it would be a very mild bill” to address the issues because it was clear that “emergency anti-displacement legislation was called for,” and although he admits, “the obvious intervention is rent

control,” they were at least hoping to bring back the just cause ordinance that had been part of Massachusetts rent control law.

Lisa Owens, Executive Director of CLVU, recalls that at the retreat, once they “decided to take on the just cause eviction campaign, [their] first hurdle was getting the city to admit that displacement was a problem and elevating this crisis.” At the time of their retreat, she said, the city had been framing the crisis as a supply problem that could be remedied by the provision of both affordable and market rate housing. Lisa disagreed with this conceptualization of the crisis, saying that they “pushed back very forcibly” on that subject. As I mentioned in the last chapter, anti-displacement work has now been incorporated into the mayor’s platform, as evidenced through the Imagine Boston work. However, when the mayor first came into office, he advocated for the building of more affordable housing.

CLVU and the other Right to the City Alliance member organizations are advocates for housing rights with a long history in the City of Boston. CLVU, founded in 1973, is one of the oldest organizations to be a part of the Right to the City Alliance (Katiya et al. 2013). CLVU conceptualizes of community development as one in which the rights of both tenants and homeowners are valued and fought for in an effort to transform society into one that is socially, racially, and economically just. They work empowering and developing community leaders and “by building class power through direct action, coalition building, education and advocacy” (CLVU 2017). They represent part of a movement for human rights to land and housing that is at once global and established in local communities.

They hold organizing meetings every Tuesday night in Jamaica Plain, Wednesday night in East Boston, and every other Wednesday in the nearby city of Brockton, south of Boston. Their meetings act as spaces for community and resilience building. In them, CLVU organizers invite new attendees to speak up

about their experiences with property owners, vowing to pledge their support. After asking residents if they're ready and willing to fight to stay in their homes, the organizers encourage the group to respond: "We'll fight with you!" CLVU wields their "sword and shield" strategy, where the sword represents the direct actions taken by members, such as protests, and the shield represents the protection CLVU can provide, such as legal aid and advocacy (Katiya et al. 2013). At meetings, for example, attendees facing eviction can speak with volunteers from Harvard Law School. The meetings are, thus, at once supportive environments for residents and spaces in which political organizing can occur.

While the organization's history is based in advocating for tenant rights, CLVU's work was instrumental in assisting homeowners facing foreclosure starting in 2007. Their work in homeowner assistance during the foreclosure crisis was well documented and earned national attention as a model. Steve emphasizes that CLVU will work with anybody who comes seeking their services. He says that if a tenant were to call to ask about their rights, he'd gladly oblige. If that same tenant's landlord were to call, he'd do the same. In contrast, "the other side," he says, the small investors and larger developers who oppose the Jim Brooks Act, is "trying to ideologically say 'all owners are the same,' while we're trying to ideologically say 'all residents are the same' whether they're homeowners or tenants." Likewise, he supports the small landlords, saying that CLVU has "always made a distinction between owner occupants and large owners and the other side never does." Here, he draws a distinction between their work and the work, for example, of SPOA, the Small Property Owners Association, which has been one of the most vocal critics of CLVU. He highlights the fact that during the foreclosure crisis, CLVU helped thousands of homeowners stay in their homes and these homeowners are a part of their base now. In contrast, he claims, SPOA didn't do that for them.

From their extensive work with homeowners and tenants, CLVU staff identified displacement stemming from housing instability and eviction as issues where government intervention could be instrumental in keeping people in their homes. CLVU collects data at every weekly meeting by maintaining a thorough database of all the households they work with, assigning each household a case manager, and keeping track of their addresses, moves, landlords, etc. And, as Lisa says, their “data suggest that this problem is growing and without a solution this city is going to reach a tipping point and we’re not going to be able to come back from it and policy isn’t going to be able to stop it.”

## ***2.2 Political Responses***

In Mayor Marty Walsh’s first State of the City address, on January 13, 2015, he spoke of affordable housing in a supply side argument by saying that the city is “making \$20 million available for affordable housing,” (Walsh 2015) encouraging universities to build more dorms, and using city-owned parcels to build affordable housing as part of the Housing Plan created in October 2014. In his State of the City address on January 19, 2016, Walsh discussed affordable housing at a bit more length as both an issue of supply and as one that demands public intervention to assist homeowners and tenants. He praised the city’s success in creating more than 1,000 units of affordable housing in 2015, a record for the city (Walsh 2016) and announced the intent to create the Office of Housing Stability (OHS). This new office, he continues, has the purpose of “help[ing] people stay in their communities” (Walsh 2016) by working with tenants, landlords, and developers.

By the end of that summer, Lydia Edwards, a young lawyer who had worked at Greater Boston Legal Services, was appointed Deputy Director of the OHS. Kate Brady, a lawyer, has been a consultant with the Department for Neighborhood

Development since April of 2016 and worked launching the office. She explains how the OHS was started with the intention of having a centralized office to work specifically on issues of displacement. Since its inception, the OHS has worked directly with tenants, landlords, and property owners in a variety of capacities, including by opening its office late on Thursday nights for walk-in sessions and providing mediation services for housing disputes. Office staff also participate in community meetings, draft policy, and collect data.

In the fall of 2016, the OHS recommended seven policy proposals to the Mayor's Office. On January 13, 2017, Mayor Walsh officially announced the Anti-Displacement Legislative Agenda and incorporated two of the OHS's seven proposals: An Act Relative to Zoning in the City of Boston and the Jim Brooks Community Stabilization Act, the latter of which was advocate-drafted (Brady 2017), principally by CLVU, Right to the City member organizations, and the lawyers they work with. During his State of the City address on January 17 of that year, Mayor Walsh reiterated his commitment to both investing in affordable housing and protecting residents from displacement, mentioning affordable housing five times, saying that the city is "preparing historic investments in affordable housing" (Walsh 2017). He remarks on displacement for the first time in his State of the City addresses when he briefly mentions the filing of these five bills that makes up the anti-displacement package. He finishes the State of the City by declaring, "I will fight for good jobs, public schools, and affordable housing, for racial justice and equal rights" (Walsh 2017).

The legislative package of five acts addresses themes of affordability, homelessness, and zoning. The acts of the Anti-Displacement Legislation are, as follows:

1. An Act to Promote Homelessness Prevention in Mass., which would guarantee the right to legal representation in eviction proceedings in Massachusetts.
2. An Act Relative to Zoning in the City of Boston, which would codify the city's Inclusionary Zoning Policy (IDP) into law.
3. The Jim Brooks Community Stabilization Act, which would include just cause eviction for tenants and former homeowners in their foreclosed unit and broader requirements for landlords in eviction proceedings.
4. An Act Regarding Right of First Refusal in the Event of Foreclosure and Short Sales, which would allow tenants and/or NGOs the ability to purchase a property in foreclosure before it re-enters the private market.
5. An Act Regarding State Income Tax Credit for Renting Unsubsidized Properties at Below Market Rents, which would incentivize landlords to provide below market rents by providing them with a \$1,500 income tax credit.

The two acts that were proposed by the OHS are the only home rule petitions of the package, requiring a vote by Boston City Council first before they are voted upon by the State Legislature. The Jim Brooks Community Stabilization Act, originally proposed as a Just Cause Eviction Ordinance in 2015, has, as of May 2017, been the only act of the five that has been granted a hearing.

### ***2.3 City Council Hearings***

During the summer retreat of 2014, the advocates began to brainstorm a draft of a Just Cause Eviction Ordinance and organize around it. Tito Jackson, the City Councilor who represents Roxbury and parts of Dorchester, the South End, and the Fenway, was the first councilor to show support and help organize a City Council hearing. The act and conversations around displacement have now been discussed

at four separate City Council hearings since the fall of 2014: at the Committee on Housing's Hearing to discuss Displacement, Community Stability, and Neighborhood Prevention on October 20, 2014; at the Committee on Housing's Hearing on displacement, community stability, and neighborhood preservation on April 7, 2015; at the Committee on Housing and Community Development's Hearing to review "Just Cause" Evictions in the City of Boston on March 14, 2016; and at the Committee on Government Operations' Petition for a Special Law re: The Jim Brooks Stabilization Act on March 6, 2017. The hearings have amounted to over 16 hours of discussion.

While the October 2014 hearing had more of an exploratory nature to it, the April 2015 hearing was called to discuss potential solutions. In that first hearing, tenants gave "eloquent testimony about, you know, how rampant displacement is," Steve recalls in spring 2017 as multiple City Councilors spoke housing in terms of being a right for all city residents. Not many landlords showed up, however, except for a few representatives from City Realty, a real estate company that has reportedly carried out building clear-outs throughout the Boston Metropolitan Region. At the hearing, Councilor Tito Jackson shamed the company's actions publically, a moment that Steve sees as a crucial turning point in which they were able to negotiate favorable terms with the City Realty tenants CLVU was working with, particularly with some Section 8 voucher holders. Although the current situation of those properties is unclear, he maintains that, "in terms of the agreement, it's still a model," showing a moment of success for the advocacy group.

After this initial hearing that energized the advocacy groups campaigning against displacement, Councilor Jackson called for the April 7, 2015 hearing with local advocacy and stakeholder groups to brainstorm solutions to the problem of

displacement. City Councilors Jackson, O'Malley, Baker, Zakim, and, later, Yancey<sup>1</sup> and Pressley, were present. The councilors expressed a need to do something about what Councilor O'Malley described as a problem of “unscrupulous landlords” in Boston who are taking advantage of the city and its residents. During the hearing, the councilors made it clear that they believed this to be an issue and believed they needed to act. Councilor Jackson opened saying,

“ladies and gentlemen, we have a problem and we have an urgency in that problem. We need and value a city that has every economic tier [...] Boston should lead in this space and we should lead in determining how we do development without displacement. We value not only the dollars that the developers as well as tax dollars that are created, but we value the neighbors, the neighborhoods, the communities and many of these communities are actually revitalized because of the people who actually live in them”

Councilor O'Malley continued, “we are seeing unprecedented development throughout every corner, through every street, every block of the City of Boston and we want to make sure that we have real diversity, economic diversity, cultural and racial diversity.” Councilor Zakim, who represents Mission Hill, a neighborhood of many college students, reflected on landlords “taking advantage” of student areas, commenting that there’s a need for “more student housing on campus and not in the neighborhoods.” He shows confidence in the development of solutions because “Mayor Walsh has been a great champion on this issue.” Councilor Baker finished the comments by expressing his excitement to work with city officials and advocates on finding solutions.

After their remarks, the councilors played a then-recent six-minute video on displacement and foreclosure in Boston made by City Life / Vida Urbana. The video

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<sup>1</sup> Charles Yancey had been the City Council for District 4 for 30 years, until he was voted out and replaced by Andrea Campbell in the fall of 2014.

<sup>2</sup> HomeStart provides assistance to families and individuals facing homelessness in the Greater

includes testimony from renters and former homeowners in their foreclosed properties in Boston and calls for stopping evictions in the city. Included in the video are direct quotes from Councilors Tito Jackson, Matt O'Malley, Frank Baker, and Ayanna Pressley from the October 20, 2014 hearing on working with community members to find solutions, on predatory landlords are being ones "who raise rents rapidly and without any warning," (O'Malley), on the doubling of rents, and on residents deserving a right to the city, respectively. Following the short video, advocate groups and city officials engaged with their material on panels, discussing solutions from just cause eviction to community land trusts to linkage fees. At the end of the hearing, then-Councilor Yancey stated, "I believe the City Council is in a unique position not just to raise these issues and have hearings like this but to come up with real solutions." Furthermore, the City Council, he said, has "the ability to initiate and to try to change public policy so that we recognize that all human beings have a right, not a privilege, to decent housing. We're not there yet, we have a lot of work to do."

During this hearing, the City Councilors were active participants, listening intently, and showing their willingness and eagerness to work with advocate groups on creating equitable solutions to the perceived affordable housing crisis. Councilors asked specific questions on the workability of certain proposals and committed to staying engaged going forward. In the following months, advocacy groups would work to prepare a just cause eviction proposal.

#### ***2.4 Jim Brooks Community Stabilization Act***

In the months following the spring 2015 hearing, advocacy groups worked to draft a Just Cause Eviction Ordinance. The ordinance (see Appendix) drafted in September 2015 outlined the foreclosure crisis of 2006-2012, "profit-driven

development,” “cuts in government spending for housing,” and “corporate non-resident and speculator landlords” as factors in the rise of rent increases and displacement across Boston’s neighborhoods. The ordinance cites developments and situations in low-income Roxbury, largely immigrant Chinatown, and largely Latino immigrant East Boston as examples of the changing landscape.

In this first ordinance, certain rental units were exempted: health care facilities; in nonprofit facilities for formally homeless individuals or individuals in treatment; in residential properties in which the owner shares kitchen and bathroom facilities with their tenant; property owned by a Boston resident who owns four or less units and is an owner occupant of one of them; and university or college dorms.

In this iteration, the act would have prohibited property owners from evicting a tenant except on the basis of nine “grounds” for evicting: the tenant continues “to substantially violate a material term of the tenancy;” “the tenant [...] has refused after written request or demand by the landlord to execute a written extension or renewal thereof for a further term of like duration and under such terms which are materially the same as in the previous agreement;” the tenant has inflicted “substantial damage” to the property; the tenant continues to disrupt the “peace and quiet” of the other tenants; the tenant has used the unit for illegal purposes; the tenant hasn’t granted access to the unit to the landlord; the tenant has “habitually and without legal justification failed to pay rent;” the landlord wishes to recover the property to move in or to use for a relative; and “the owner seeks a no fault eviction after completion of the mediation program or after a tenant fails to request mediation.”

The mediation program, which would’ve been established under this ordinance, would’ve required landlords who sent a no fault notice to quit, a notice of

rent increase (of more than 5%), and/or a notice of lease expiration to enter into a “no fault mediation process” with their tenant. All copies of notices in these cases would’ve been sent to Boston’s Rental Housing Resource Center and would’ve been accessible to tenant advocacy groups. The tenant would then have been referred to services, including tenants’ advocacy organizations, and would’ve been able to request mediation services. In hearings, as I will discuss in the next chapter, opponents of the act believe this component, absent from the later iteration, is unnecessary and burdensome due to the availability of mediation services at housing court and, furthermore, seems too similar to rent control, which most opponents strongly oppose.

In mid 2016, the act was rewritten and renamed the Jim Brooks Community Stabilization Act, named for late housing advocate and Dorchester resident Jim Brooks. The initial wording of the first iteration was rewritten in this draft, declaring it explicitly as “an emergency law” responding to the rental housing crisis of no-fault evictions in order to “to defend, preserve, and promote the stability of housing and neighborhoods in the City of Boston.” This new act, while retaining some of the language and intent of the first iteration and still including just cause eviction, is refocused on an emphasis on improving access to information for tenants and former homeowners in their foreclosed properties who are facing eviction and/or are at risk of displacement.

In this draft, the act exempts the properties mentioned above in the first iteration with a couple of changes. The exemptions now also include all rental units in public housing and LIHTC housing—these units already fall under just cause eviction in state or federal laws—except those in which a tenant uses a voucher or subsidy. A significant change is which landlords are exempt. In the newer iteration, all rental units in any property in which the owner is “a natural person,” lives in

Massachusetts, and owns six or fewer units, “including any unit owned by any entity in which the owner of record has a legal or beneficial interest” is exempt. For exempted properties, this last amendment is significant. Advocates of the act say it was changed to specifically target owners of large buildings who have less of a community presence while proponents argue that there are many small, local property owners who own more than six units.

This newer draft also outlines nine “good causes” for eviction, some of which are similar to the initial grounds: failure to pay rent by tenant; violation of “an obligation or covenant of his or her tenancy not inconsistent with Chapter 93A of the General Laws;” destruction of property, excessive nuisance, or “substantial damage to the rental unit or housing accommodation or [...] substantial inference with the comfort, safety or enjoyment of the landlord or other occupants;” usage of unit for illegal purposes; refusal to sign new lease agreement by tenant, “after written demand by the landlord;” refusal of entrance to property owner or for inspection purposes; presence of unapproved subtenant in unit; recovery of unit for self or familial purposes by landlord; and refusal to pay a reasonable rent by former homeowners to the foreclosing owner. While the mediation and rent increase notification portion of the older iteration are gone, this writing would require processes that would notify tenants of their rights and provide them with resources in eviction proceedings.

In all cases for which the exemption doesn’t apply, landlords or foreclosing owners seeking to evict tenants would be required to send any notice to quit to the then newly created City of Boston’s Office of Housing Stability (OHS) within two days of sending it to the tenant. Upon receiving the notification, the OHS would respond within five days by sending the tenants and/or former homeowners a “City Rights Notice,” a notice of their rights as such along with contact information for

tenants' rights organizations, and by recording all City Termination Notices and City Rights Notices for a period of five years, although all documentation will be kept confidential.

From the initial discussion of the proposal to 2017, the act has changed substantially, but its intention has remained nearly the same: require landlords for have a reason for eviction and ensure tenants know their rights and have access to resources in eviction proceedings. While the newer iteration of the act is tighter, clearer, and affects fewer property owners with fewer restrictions, there are still many barriers to its enactment in City Council.

### ***Conclusion***

In this chapter, I discussed the history of the Jim Brooks Community Stabilization Act, showing its evolution from a mildly strict to a mild act that would protect tenants in eviction proceedings. I also examine the Boston Mayor's views on affordable housing and displacement by looking at his State of the City addresses and his decision to create the Office of Housing Stability. In the next chapter, I discuss the advocacy in the City Council hearings, the campaigns and other organizing efforts by both opponent and proponent sides that have lead to a division among councilors on whether or not this act is necessary.

## Chapter 3: Advocacy

*“Capitalist cities are not only sites for strategies of capital accumulation; they are also arenas in which the conflicts and contradictions associated with historically and geographically specific accumulation strategies are expressed and fought out. As such, capitalist cities have long served as spaces for envisioning, and indeed mobilizing towards, alternatives to capitalism itself, its associated process of profit-driven urbanization and its relentless commodification and re-commodification of urban spaces.”*

**Brenner et al. 2009**

As mentioned in the last chapter, since 2014, the Boston City Council has called for four hearings on displacement, housing affordability, and on solutions to the former two. The first hearing, in October 2014, was an initial exploration into the problem of displacement in Boston. At the time, Mayor Marty Walsh was in his first months as mayor and had not yet publicly or explicitly discussed the issue.

The 2015 hearing, as discussed in the last chapter, was used as an opportunity for local stakeholder groups to voice their opinions on possible solutions to affordable housing issues within the city. The next two hearings in 2016 and 2017 focused on the Just Cause Eviction Ordinance and the later iteration of it, the Jim Brooks Community Stabilization Act. In the 2016 hearing, while the most recent iteration had been the Just Cause Eviction Ordinance of September 2015, which opponent groups were very against, the advocate groups had not yet drafted a new proposal, leading to some confusion over what the new draft would look like. In this chapter, I analyze the hearings, drawing on testifiers' words and ideologies to understand the strategy of the proponent and opponents and the barriers to implementation of this act.

During the hearings, proponent and opponent sides gave clear testimony about their vision for the city, waging ideology about gentrification and displacement, the rights of tenants and homeowners, and private and public

provision of affordable housing. In the hearings, representatives from CLVU, DND and OHS staff, the Small Property Owners' Association (SPOA), homeowners, real estate lawyers, and developers, among others, testified. At the end of each hearing, public testimony was given. The arguments for and against the two acts centered on the main specifics of the legislation, including data collection, notification of rights, just cause eviction, property rights, and, more broadly, on assumptions about landlords and tenants. While the majority of testimonies did acknowledge affordability and/or displacement as issues within the city, those who contributed, particularly those in opposition to the act, provided a variety of other solutions they found to be more applicable, which I will discuss where applicable during my analysis.

### ***3.1 Advocacy and Strategy***

Both sides have developed coalitions with likeminded organizations and people for and against this act. They've leveraged political, legal, professional, and educational resources and knowledge in the hearings, brought brochures and other materials to hearings, and mailed information to city residents.

On the proponent side, representatives from CLVU, DND and the OHS, and Greater Boston Legal Services regularly testify. In other hearings, a wide range of supporters have testified, including: representatives from CDCs, from Dudley Neighbors Inc., from the Chinese Progressive Association (CPA), from the Greater Boston Labor Council AFLCIO arm, and from the Fair Housing Center for Greater Boston; professors from local universities; and local homeowners and tenants. The diversity of opinions presents arguments for the enactment of the act from different angles, from arguing eviction is harmful to public health, to the negative impact rising housing costs have had on union members, to appeals to respect for existing

community members. In the public testimony part of the hearings, a single woman with three children testifies on her experience leaving emergency shelter and not being able to find stable housing that will accept her voucher. A local landlord of Dorchester admits she is “horrified” by the testimony, says she wants property owners in her community who, like her, are local and invested in it. A resident invites the councilors to visit him in his building, owned by a large real estate company, where, despite a brochure at the hearing claiming the contrary, maintenance and repairs have not been completed.

On the opponent side, representatives from SPOA and developers regularly testify. At all of the hearings, Skip Schloming from SPOA testified. Other testifiers include: representatives from local large developers; from the Greater Boston Real Estate Board; and local housing law attorneys participated in panel discussions. While those on the panels did not necessarily represent a diversity of professional background or opinions, many of those in opposition to the act who testified in the public forum came from a more diverse background and identified themselves as such. A property owner in Allston, whose buildings have been in her family for years, is worried that this act will make things more time-consuming for small, local landlords. She believes this could potentially lead to a situation in which only larger landlords, who have no stake in the community, will be able to operate in Boston. Another property owner says he gets offers in the mail every week offering to buy his home and, if acts such as this one are passed, he might consider taking them up on the offer. Both these landlords claim to provide fair rents to their tenants, but insinuate that other property owners may not do the same.

Along with representing a diversity of opinion and background, both sides rely on language that evokes imagery and on stories to substantiate their claims. In the 2015 hearing, Maria Cristiano Blanco, testifying as a CLVU community organizer

said, “displacement is a crisis. It’s an assault on our community and we’re not going to take it lying down.” Her words, which evoke images of physical struggle, seem to be used to both represent the vigor of the proponent side, but also emotion. In that hearing, other CLVU staff employed other language to evoke images and emotions in those listening. Andrés Del Castillo, during the public testimony portion of the hearing, said many tenants in Boston were “one slip on ice away” from displacement, literally. He continues by saying “Bostonians are an endangered species at this point,” given that the majority of working class people in Boston are no longer able to afford to live here. Lisa Owens, in this same hearing, says, “there’s also a really important message of hope here [...] at the height of this hearing over 300 people who live in Boston [...] have come in support of stopping the hemorrhaging,” but they can’t do it without leadership on the City Council “because we can’t even stop the bleeding without the Council passing just cause eviction. That’s first and we need it now.”

On the opponent side, a long-time property owner in Dorchester who works with homeless adults appeals to the councilors by telling his story about how he was almost foreclosed on due to reckless tenants who, despite damaging his property and missing rent payments, he was unable to evict, forcing him to fall back on his mortgage payments. He talks about doors being kicked in at his property, adults loitering outside, and his many unsuccessful attempts at evicting problem tenants. In another testimony, a property owner compares this act to rent control, saying “it is said that rent control destroys a city worse than bombing. If you pass any of these proposals you can kiss goodbye to Boston’s historical wood frame housing.”

These tactics of attracting attention with stories and images are used throughout the hearings by both opponents and proponents of the act in an effort to

convince the City Councilors, and the public, that their perception of the situation is the one to be followed.

### ***3.2 Data Collection Challenges***

Community organizations and city officials have worked to find ways to track eviction and displacement to understand both why and where they occur, who is most impacted, and what impact it has on them. In the 2016 hearing, Sheila Dillon, Chief of Housing and Director of Neighborhood Development at Boston's Department of Neighborhood Development (DND) says that the city needs "research on the issue which is in short supply, we don't have good information about who's getting evicted and where evictions are happening." Later in the hearing, she says,

"we need better data one, so we can design better policies and programs and two, so we can track where this is happening the most, what neighborhoods, what buildings, what's the profile of people being evicted so we can put safeguards in place for them, is it financial resources, etc. We need data to create programs and respond effectively."

In this hearing, she expresses her optimism about the potential for the then newly created Office of Housing Stability to provide essential services to tenants, including improved case management, eviction prevention assistance, and emergency services.

Community advocacy groups working to track eviction and displacement have faced barriers in the data collection process. Homefries Matthews, communications coordinator for CLVU, works with the Boston Displacement Mapping Project, a group of volunteers who convey displacement and risk visually. They use both quantitative and qualitative data to tell stories of tenants resisting displacement around the city. Initially, they had hoped to emulate the work of the Urban Displacement project in San Francisco. Homefries explains, "San Francisco is

kind of ahead of us in both capitalist destruction and city intervention, so it's interesting kind of looking at them, it's sort of like peering into the future of Boston" (Matthews 2017). However, the group quickly realized the barriers they would face in this process because

"without a rent board here [in Boston], there's no data to visualize essentially. At least not the millions of pins on a map of people who have been evicted, which is what we were hopefully thinking we would do. We thought 'oh, we'll make this really dramatic map and then everyone will freak out and then they'll pass really great laws and everything will be great.'"

Boston and San Francisco, while perhaps comparable in terms of private investment and housing costs, have evolved different policies with regard to tenants' rights. San Francisco has both rent control (for properties constructed after 1979, subsidized housing, among others) and just cause eviction for those in rent-controlled units. Under the 16 reasons for just cause, at least seven of them, including conversion of unit to a condo, move-in of the landlord, or removal of unit from the housing stock, provide tenants with the right to relocation payments (San Francisco Tenants Union). In eviction proceedings, landlords have to attach a Rent Board form, available in six languages, to the notice notifying tenants of the responsibilities in eviction proceedings and supplying the Rent Board's contact information. The Rent Board administers the regulations and data in the city and produces an annual eviction report that details all of the evictions and the causes for them in the city. In contrast, in Boston, cases need to be searched through the state courts website ([www.masscourts.org](http://www.masscourts.org)) by type of court, division, and location. While searching for a specific individual is possible, providing the opportunity for landlords to screen tenants, searching for types of evictions or for whether an eviction was actually carried out is not.

In the Boston Housing Court Data Report (2016), prepared by HomeStart<sup>2</sup>, Dudley Street Neighborhood Initiative<sup>3</sup>, and Project Hope<sup>4</sup>, supported financially by Boston's DND, the group analyzed data from eviction cases brought to the Boston Housing Court in 2006, 2010, 2011, and 2014. Looking at amount of eviction cases, the executions of evictions, the names of the cases, and whether or not the tenant had Section 8 or were in subsidized housing. They found that while the rate of execution decreased, "only about 7% of the tenants brought to Boston Housing Court received some type of legal assistance" and "the rate of execution was about 9% lower for these tenants compared with tenants who received no legal assistance" (5). While as of 2014, executions of eviction seemed to be declining, there has been an increase in the percentage of evictions filed by private landlords, who accounted for 39% of evictions in 2014.

The data collection process for this research was extremely challenging; the organizations had to go through the paper dockets manually, not through the Mass Court online system. Due to the lack of descriptive indicators within the data, the report itself doesn't provide any critical information on the reasons for evictions nor on who is getting evicted, including at times the ability to determine presence or type of a rental subsidy and whether or not a tenant had actually been evicted as a result of the process. In cases of ambiguity, HomeStart relied on the coder's best judgment to determine presence of a rental subsidy based on monthly rent and

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<sup>2</sup> HomeStart provides assistance to families and individuals facing homelessness in the Greater Boston region since 1994 by working to both prevent homelessness and helping people get into permanent housing

<sup>3</sup> DSNI is a community land trust located in the historically divested neighborhood of Roxbury. Founded in 1984, DSNI has been instrumental in preserving affordability and stability in the community, particular for their homeowners.

<sup>4</sup> Project Hope provides a wide range of services to low-income women with children to assist them in the process of moving out of poverty.

building location and, in cases in which an execution was issued, they assumed an eviction had been carried out. Beyond these challenges, certain demographic information, such as household size and household income, was unavailable.

Homefries, although not involved directly in the research, laments the tedious process of data collection because what they were really hoping to gain was information on evictions carried out no fault and, basically, “how many of these people were actually thrown out for profit.” Given how dynamic the market is, she says that the picture in 2017 could be much different from 2014. The number of evictions, for example, is decreasing, but they can’t ascertain why. Homefries explains that they need good data collection to really tell the story and, “it basically, to me, all speaks to the need for the city to do what the Jim Brooks Act would do, which is to require landlords to report to the city when they’re evicting people. So without that, there’s really no picture.”

While the work of this group of organizations has been of the most extensive in collecting data on evictions, other entities and institutions have and are currently performing their own analysis. Amelia Najjar, a Research and Development Analyst at DND, is developing a methodology to ascertain at-risk populations in Boston. She echoes many of the same challenges Homefries mentioned, especially with regards to collecting rental data. For that data, her department purchases datasets from two sources that complement each other, Rental Beast and MLS. The Metropolitan Area Planning Council (MAPC) in Massachusetts also maintains a rental listing database using information from Craigslist. She is currently working on a displacement risk analysis map for the City of Boston, modeling off work Seattle is doing with their Mayor’s Task Force. She hopes the map will inform the department’s work internationally by focusing resources in particular areas of the city, finding opportunities for education and engagement in those areas, particularly with

notifying residents of their rights, and identifying “special planning areas” where they could do more research and promote policies that would support at-risk residents in those areas.

In an older, but relevant, report prepared by the Massachusetts Law Reform Institute in 2005, the researchers looked at “how fast courts are processing eviction cases,” “to what extent parties are represented by lawyers,” and “what the outcomes are” (1) in 559 eviction cases in January 2005. In Boston Housing Court, they looked at data from January 2005 by every 10<sup>th</sup> residential summary process eviction case filed, noting that 468 cases were filed in that same month. They also looked at data from the Housing and District Courts of Cambridge, Quincy, Chelsea, Lynn, Worcester, and Northeast. Although the report is limited by its short time frame, in Boston Housing Court, they found that landlords were represented by an attorney 85 percent of the time, while tenants 7 percent. The landlord was awarded possession 74 percent of the time, the tenant 0 percent, and a dismissal was awarded 24 percent of the time. Also in Boston, the duration of the cases was 1-16 days 89 percent of the time. Their report shows that landlords are significantly benefitted in eviction proceedings and that, despite landlords’ complaints about time, most cases do not end up tied up in court.

Despite both city staff and community organizations highlighting improved data collection as a need for providing services to tenants, Jeffrey Turk, partner of law firm Turk and Quijano, and Stuart Schrier, an attorney from Dorchester, disagree that the data is difficult to collect. Schrier, testifying at the 2017 hearing, said that the data is already easily available at housing court. Turk, in the 2016 hearing, expressed similarly,

“the data’s at the Boston Housing Court. If you want to know the number of evictions there, I found out. It’s there. If you want to know how many causes vs. non-payment cases, I found out. It’s there. If you want to know the average amount of time it takes to evict a tenant, go

down there, they keep that information. And they also keep the number of mediations they have and the success rate of that”

Without the name of the tenant or owner, however, it is not easy to get information from Boston Housing Court. Furthermore, it requires capacity on the part of the city and community organizations to be able to collect that data. But, more importantly, as Sheila Dillon mentioned in the 2017 hearing, the current system only allows the city to “get [the data] in bulk, not in real time.”

In contrast, under the Jim Brooks Act, by requiring non-exempt landlords to have a just cause for eviction, the reason would appear in the court dockets in eviction proceedings. By requiring landlords to submit a notice to quit to the city, the city would be able to file that information immediately. In Sheila Dillon’s words at the 2017 hearing, “it’s data, but it’s also to help people in real time.” Proponents for this act believe that this is an essential piece of assessing why evictions are occurring in the city. During the 2017 hearing, Lauren Song of the Greater Boston Legal Services says that they’re “trying to prevent corporate clear out of buildings by faceless entities” and, by having the data available, they’ll be able to track the worst offenders and use the data to inform housing policies and services. Lydia Edwards comments that they need the data to inform their displacement risk analysis for the city and to determine where to leverage resources.

### ***3.3 Notification of Rights***

While the notification of rights element is generally accepted by proponents and opponents, there is disagreement on the implementation of it. If the current iteration of the act were to pass, landlords would have to send a copy of the notice to quit they send to their tenants to the OHS. The OHS would then have to follow up with the tenant within five days with “a notice of basic housing rights and resources, including a list of tenants’ rights organizations with their contact information.” In

the hearings, the majority of those who testified were in support of the idea of the notification and data collection aims of the bills, despite some doubting the capacity of the office to process the information.

Stuart Schrier, for example, is not against notifying tenants of their rights, but says that in his experience, despite what others have said, most tenants do not vacate upon receiving a notice to quit, implying that the sending of rights may not have the intended effect. He advocates, instead, “what would be the problem with preparing a nice one-page document and saying, if you rent an apartment in the City of Boston, attach this notice that will give the tenant their basic rights.” He is against getting the OHS involved, however, particularly because he believes it violates the Fair Debt Collection Act by disclosing private information about notices. Jeffrey Turk, an expert on landlord tenant law, also challenges the legality of the law, as he sees it as changing the freedom to contract that parties have a right to enter into. He believes it will have a “chaotic effect” on the rental housing market and will make it harder for landlords to enforce their contracts.

Lauren Song, of Greater Boston Legal Services, on the other hand, testifies at the 2017 hearing and says that most of the tenants who come to them don’t know their rights and many leave their buildings before an eviction proceeding can begin without realizing that only a judge can evict them. Many come seeking services too late in the process and, thus, are unable to defend their case in housing court. In the 2016 hearing, Matt Nichols of GBLS said,

“this displacement is neither necessary nor inevitable. In cases where we get involved early, families that get no fault eviction notices often end up with leases staying in place in their homes. A just cause ordinance that requires landlords and banks to have a reason to evict and that ensures homeowners and tenants get information about their rights would meaningfully address the surging needs of our clients.”

Lisa Owens, in the 2017 hearing, says she believes that the “difference between stable housing and displacement can come down to whether that person knows their rights” and their options in eviction proceedings. In the 2016 hearing, she said something similar in that,

“when you know your rights and exercise your rights, you have a better outcome. The outcome could be you have more time to look for a new place, the outcome could be that you actually negotiate a scenario that is a win-win for you and your landlord, or the outcome could be that you win damages in court because your landlord wasn’t keeping your apartment up to code. There are a number of positive outcomes but if you don’t know your rights, if you don’t exercise your rights, you will not get the benefit”

In that hearing, Gilbert Winn, a developer with Winn Co. properties, spoke on what he perceived as a changing focus of the act from just cause eviction in the September 2015 draft to what the proponents seem to be advocating for now, remarking, “the ordinance should not be called just cause eviction, it should be called let’s make sure everyone knows their legal rights ordinance.” Sarah Matthuson, agreeing, refers to the September 2015 draft by saying that in

“the first pass of this ordinance, the details were pretty wide-sweeping and so we’re really in the dark about the details now and so it’s hard to comment. The idea of protecting renters that don’t have enough information in a building that’s being cleared out seems like something we should be able to get behind but we can’t respond, we can’t predict without seeing.”

Steve, however, sees a silver lining in this, saying, “the thing that [the real estate companies] hate the most is the sharing of notices to quit because that’s what would inform people of their rights [...] “but, that’s not what they attack because how are you going to attack that” (Meacham 2017).

The lack of a new draft at the 2016 hearing presents a huge impediment to a productive conversation on the potential impacts of the act. Without seeing it,

opponents are unable to agree or disagree, only speculate, leading to an extension of the process.

### ***3.4 Just Cause Eviction and Rent Control***

As mentioned in Chapter 2, Boston's form of rent control, vacancy decontrol, was repealed in 1994. While no city councilor or proponent of this act advocated for the return of rent control, during the hearings, the majority of opponents brought it up, insinuating that this act is, or would turn into, rent control. Councilor O'Malley, in 2016, stated that "this is not rent control, this is more about protections." While proponents argue that some form of regulation of housing stock is necessary to provide and preserve affordable housing, opponents argue that rent control artificially devalues residential property, constricts development, including of affordable housing, and degrades the housing stock, effectively contradicting the intent of the act.

At the 2017 hearing, Councilor Baker, who represents most of Dorchester and parts of the South End and South Boston, said, "I remember rent control, I remember what my neighborhood looked like under rent control." His concern, under rent control, was property owners' inability to cover their mortgage with their tenants' rents. While he commends the OHS and would vote for the notification and bill of rights piece, he fears middle class buyers who won't understand the "lawyer speak" present in the Jim Brooks Act won't want to buy properties in fear of excessive red tape.

Despite these assertions, opponents to the act believe it is simply a stepping-stone to more stringent rent regulation policies. In the 2017 hearing, Sarah Matthuson of Avalon Bay Communities sees it as a "window" to rent control that could be a deterrent to build more housing. In the same hearing, Gilbert Winn refers

to the act as a “Trojan Horse” that is simply paving the way for future rent control and scaring the landlord community. The evidence he points to is the inclusion of language such as “reasonable rent” in the act. Stuart Schrier, also mentioned this language as problematic and a way to rent control. The “reasonable rent” portion actually refers to the ninth good cause of the act, which specifically concerns “foreclosing owner[s] seek[ing] to recover possession from a former homeowner who refuses to pay a reasonable rent.” This “good cause” was included in the act specifically to close a loophole in a 2010 law, mentioned in Chapter 1 of this document, that allows tenants, but not former homeowners, to pay FMR to a foreclosing owner post foreclosure. Their arguments point to the importance of clarity in the act, something many have found lacking in the various iterations.

At the 2017 hearing, Stuart Schrier displayed photos of boarded up two families and triple-deckers in Boston from the 1980s, explaining that the divestment in the city in those years was the product of rent control and, “that’s what this law will cause again in Boston.” If this act passes, he, “as a lawyer, will try to find ways to help [his] clients get around it in any way possible” likely by including large yearly rent increases in the lease itself to avoid having to go to court to settle on a higher rent year-to-year. Similarly, Skip Schloming, in the same hearing, comments that when units are voluntarily vacated, landlords will raise the rents high in fear they will be unable to while a tenant occupies the unit. Both contend this will be an unintended consequence of the act. Despite these worries, nonpayment of rent is a good cause for eviction under the Jim Brooks Act and there are no restrictions for rent increases at the end of a lease term.

Skip Schloming and SPOA have been instrumental in leading the fight against rent control in the region. In an article appearing in the Harvard Crimson in 1996, his wife, Lenore Schloming, also of SPOA, welcomed the end of rent control, saying

she was “‘overjoyed’ by rent control’s death because she felt the policy had protected citizens who should not qualify for assistance,” continuing, “‘under 10 percent of rent-control tenants are actually poor,’” and “‘they’d better stop asking me to fund [tenants]’ [...] ‘I just don’t think there are that many [poor] people’” (Fung 1996). In the 2015 hearing, Skip Schloming argued similarly, saying that in rent control, wealthier, whiter people took the controlled units, which had the unintended consequence of the ordinance not serving those who would most benefit. In both the 2016 and 2017 hearings, Schloming remarks that there is a “deception” in just cause eviction; in his view, it’s “rent control by a different name.” In the 2016 hearing, Councilor Baker pushed back on this, telling Schloming, “you had sent out quite a bit of information on telling your constituents to have us vote no on an ordinance, so to me, that’s deceptive because there’s no ordinance here [...] I had an awful lot of people yelling at me that I’m trying to bring back rent control, not that case.”

In the 2016 hearing, Schloming cites the 2015 draft of the act as evidence, stating, “it had a rent control component, it was called mediation.” He refers to the portion of that draft that said “the general welfare of all citizens of Boston would be enhanced by a no fault eviction mediation process” and the mediation portion of the eight and ninth grounds for just cause eviction, which would’ve allowed tenants to request mediation if they do not accept rent increases of more than 5%. In this hearing, he uses this as evidence of how tenants’ rights organizations will use just cause eviction as a way to reintroduce rent control as,

“the goal is to keep rents low, it’s not just to give information and have the rents be what they would’ve been and their tactics will be the same. There will be threats, in the extreme, of rent withholding, the ‘free rent trick’ of rent strikes of all of owners’ tenants. And so the owner will be faced in many cases with the choice of a costly prolonged battle with many possibly even all his tenants, or her tenants, or keep to very modest rent increases. So we would still have

a version of rent control here. And if you don't believe me on their tactics, you should take a look at the handout.<sup>5</sup>"

He then argues that by keeping rents low, improvements to housing will decline, new construction will slow down, which will negatively impact construction jobs, and property values will decrease which will negatively affect single family homeowners.

These visual images of rent control as boarded up, abandoned properties, as a good landlord with the misfortune of renting to a bad tenant, and of just cause eviction as a Trojan horse leading to rent control have an ability to conjure certain fear in people, particularly property owners. And not without reason, as there are few economists who believe rent control is an effective policy that solves the problems of affordable housing in cities. Autor et al. (2014) analyzed the "housing market spillover" in Cambridge by taking the assessed and transactional values of housing between 1988-2005 to understand the indirect and direct impact the end of rent control in 1995 had on both decontrolled and never-controlled properties. They found that decontrolling residential properties in Cambridge lead to a \$2 billion increase in the value of the overall housing stock. Furthermore, they found that "rent-controlled properties were valued at a substantial discount relative to never-controlled properties and that rent decontrol eliminated a substantial part of this differential, raising the assess values of these properties by approximately 13-24 percent" (Ibid: 703). While rent decontrol cannot explain all of the investment in properties, they "conclude that decontrol led to changes in the attributes of

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<sup>5</sup> Here, he is referring to a handout he brought to the hearing, which explained the story of two brothers who has been unsuccessful in evicting tenants as the value on their property allegedly decreased in value due to similar tactics.

Cambridge residents and the production of other localized amenities that made Cambridge a more desirable place to live” (Ibid: 403).

In Sims’ study (2007) on the socioeconomic conditions in rent controlled cities, he found that in rent controlled cities in Massachusetts, “[o]nly 26% of rent controlled apartments were occupied by renters in the bottom quartile of the housing income distribution, while 30% of units were occupied by tenants in the top half of this distribution” (148). Moreover, he found that “Hispanic and African-American minority groups were similarly underrepresented in rent controlled housing, comprising on 12% or [sic] the rent controlled population but one quarter of the cities with rent control” (148). Thus, the fear of property owners that rent control will either devalue or limit the increase of value of their property is not unwarranted and, additionally, the hope that low-income and/or vulnerable populations will be the principal beneficiaries of rent control is not completely substantiated.

The Schlomings also argue that the private market is the market best suited to supply low-cost housing and would do that, “if the costs of providing rental housing were not artificially pushed up by a host of government regulations,” which he argued in the 2015 hearing. In contrast, government provision of affordable housing is expensive and only serves a small amount of the tenants who need it. He calls for city sponsored “mobile tenant vouchers [...] similar to federal Section 8 vouchers.” He believes regulations has led to higher costs and advocates for fewer and less stringent housing inspections. He advocates for “working to improve the private rental housing market in terms of more sensible laws and zoning regulations,” which includes easing parking requirements, allowing rooming housing, and allow for accessory dwelling units. Basing his argument on the work of

Milton Friedman, he says, “private ownership is much more cost effective in supplying low-cost high quality housing.”

While rent control is problematic for the reasons discussed above, the argument that rent control caused and would cause complete deterioration in Boston distracts from the adverse impacts rising housing costs, gentrification, and racism have disproportionately had on low-income populations, particularly those of color. A 2015 study by the Federal Reserve Bank of Boston, *The Color of Wealth in Boston*, found that “accrual of wealth is vastly unequal when race is taken into account,” (3) and, in the Boston Metropolitan Statistical Area (MSA), they found that whites were far more likely to have ownership over assets, including liquid assets, stocks, and retirement funds, than their nonwhite counterparts. In the Boston MSA, while 79% of whites are homeowners, only 48.7% of Caribbean blacks are and less than 40% of each U.S. born blacks, Cape Verdeans, Puerto Ricans, and Dominicans are. In terms of net worth, white households far exceed nonwhite households with a household median net worth of \$247,500. Caribbean blacks were reported with a median household income of \$12,000, U.S. born blacks with \$8, Puerto Ricans with \$3,020, and Dominicans with \$0. This stark disparity in wealth accumulation by people of color in the Boston region highlights the risks people of color can face when facing eviction or rising housing costs. In the maps presented in Chapter 1, this inequality is represented visually, showing that the majority of the low-income tracts in the city are also in areas with the highest populations of people of color.

Schrier, in 2017, after mentioning the boarded-up properties, remarks that he’s sorry when he goes to housing court and sees that the majority of people there are people of color. Councilor Tito Jackson, partially in direct response to these two comments, contends that rent control is not the problem, encouraging those present to look at San Francisco and New York City, two cities in which the ordinance exists.

He takes on the issue of rent increases directly, saying, “we’re finding \$200 pushes someone out of their residency.” Others suggest that rent increases may be a tactic to change, or “flip,” a neighborhood. Bob Terrell, in the 2015 hearing, had told the story of a building in East Boston that had been bought by an investor. The tenants, who were predominantly Latino, we’re given a rent increase and told to pay \$1,800 a month. When the majority of those tenants left, the company rented the apartments to non-Latino tenants, charging them \$1,200. He says, “in the fair housing world, we have a name for that, it’s called ‘blockbusting’ and much of this predatory development reminds us of the blockbusting that went on in the 60s and 70s.” Regardless of economic arguments of the failure of rent control, the issue has racial implications that bring up questions of equity and values in the housing market.

Robert Shapiro, a tenants’ rights law based in Jamaica Plain, talks of rent control in necessary and almost emergency tones. “We need to have our system back,” he says, the “only solution to the problem is rent control.” He deflects any argument against rent control, arguing that it “takes speculation out of the housing market,” which, he argues, keeps property values down so they’re affordable to homeowners. Rent control has become, however, “politically unfeasible” and viewed as socialism, echoing a piece of the frustration found in “[t]he suggestion that the commodification of housing itself is a human rights violation, or that protecting the right to housing requires giving power to affected communities, is unspeakable in the liberal rights framework” (Hoover 1097). Rental properties serve a function, Shapiro continues, because not everyone can be a homeowner at the same time in a city. Thus, rent control stabilizes properties for tenants and “unless tax dollars are subsidizing affordable housing” in a very big way, you need to stabilize rents. The only drawback to rent control, in his view, is that can keep people “renters for life,”

whereas they might have sought out homeownership. However, he also sees homeownership as a form of rent control, except that the landlord is more likely to be a multinational financial institution than a neighbor. He wonders sometimes if all those homeowners who had been given predatory loans would've been better off in rent-controlled apartments all those years.

Despite City Councilors not voicing support for rent control, they question the ability of this act to actually help tenants avoid displacement by specifically mentioning that landlords can raise the rents between leases and that would be a just cause eviction. Councilor Zakim expressed concern over “the illusionary nature of some of the protection, if someone can just say, ‘Your rent was \$1,800 last month, I’ll make it \$4,500 a month,’ and someone is having a hard time paying it and that’s a just cause for eviction.” Furthermore, others see the bill as not serving the most vulnerable residents. In the spring of 2017, Councilor At-Large Essaibi-George agrees with the majority of the bill, but feels it needs to include public housing units under the Boston Housing Authority (BHA) and units controlled by non-profit developers as those property owners together, she says, are the largest landlords and largest evictors in the city. Her biggest concern is the:

“omission of public housing and the BHA and some of our larger non-profit property owners because if you live in subsidized housing and you are evicted for any reason, for any cause, you are not allowed to access the emergency shelter system for twelve months, so I have a real concern for why we’re not including them. If we’re going to hold private property owners accountable, for certain just causes than I feel it’s important for us to also hold our subsidized property owners the same”

She continues, “do we want to become a city that is young individuals and even young couples with one child and disposable income or do we want to make sure we’re a city where families can actually afford to remain?” While the ability for any one policy to cover the needs of all would be an ambitious

goal, she points to the very real limitations of this act to provide protections to the cities most vulnerable residents.

The conversation on rent control shows a very clear divide not only in perceptions of what rent control would do and who it would assist, but also in values associated with the renting poor and in the right to private property. Purser (2016) reflects on Ananya Roy's concept of the American "paradigm of propertied citizenship" which values the rights of those with property over those without. "Under this prevailing paradigm," Purser continues, "the homeless are excluded from citizenship and rendered marginal in discourse and practice" (407-8). Thus, given a consequence of eviction can easily be homelessness, evictees can be seen as "undeserving" of rights, and thus deserving of exclusion. Schrier, in his argument against rent control in 2017, adamantly states, "you have to live where you can afford to live and that's true for everybody." A small property owner who speaks as part of the public testimony in 2016 states, similarly, "if you can't afford it, I'm sorry to say, you have to live within your means."

### ***3.5 Property Rights***

The conversation of amending housing policy raised questions of property rights for many. Proponents say everyone has right to housing and to the city, but opponents say owners of property have a right to do what they please with their property and there shouldn't be excessive government regulations placed on their properties. Furthermore, they argue that tenants already have protections and this act could be ineffectual in having the desired impact.

Many opponents see the act as infringing on the rights of property owners by expecting them to provide and pay for affordable housing, which new developers will likely not agree with. Sarah Matthuson comments in the 2016 hearing,

“if you look around, we’re in an exciting time in this city, people are moving back to the city, GE is moving into the city, it’s a vibrant city, and now we’re funding the cost of community development issues off the rights of property owners. And if it’s not this, it’s CPA, it’s linkage, it’s inclusionary zoning, you will reach a point where those differences between investing in a new development that may bring with it 50, 60, 100 income qualified apartment homes, those developers may say, ‘hey, you know what, I’m going to go over there instead,’ because it’s going to be more attractive to do business in a different city”

Jeffrey Turk has worked in housing law for 25 years and believes there are currently plenty of protections for tenants in Massachusetts in eviction cases. Furthermore, he says tenants already have a right to mediation and professional, impartial mediators are available in Boston Housing Court (BHC). At BHC, there are tables of people giving free legal advice. In the 2016 hearing, he mentions that eviction can take a long time and “during entire process, rent stays the same.” He remarks,

“to evict a tenant without fault, and sometimes with fault, can take a year to two years to evict someone without fault and I’ve yet to see a judge in housing court kick out a tenant, an elderly, disabled, or low income tenant on the street the judges will keep them for as long as it takes to find them other housing”

This act, he believes, “would make it harder, if not impossible, to evict” a problem tenant. An ordinance like the one drafted in September 2015 would simply “create redundancy and bureaucracy” that will have to be paid for. It will disadvantage landlords who need to evict problem tenants, potentially leading to landlords to not want to provide good, affordable housing. He ends, “this is an issue, but it’s a societal issue, it’s not a landlords’ issue. I think everybody on this committee agrees that something needs to be done, but to impose that burden on the landlords is not the way to go.” With this act, Gilbert Winn agrees, “we’re not treating our landlords fairly if this were to pass.”

Not only would this act limit property owners' rights, opponents argue, it has the possibility to constrict development in the future, which could negatively impact incoming tax revenue for the city. Sarah Matthuson says in 2016,

“limiting property owners' rights will, in the long run, reduce the production of housing in the City of Boston. When we start to constrain how a property owner can, what they can charge, what they can do to their property, how they can manage their expenses, you will start to create a situation that will reduce the production of housing in the long term, which will work against your goals. The reason that is, first of all, real estate's a very capital intensive business. [...] It takes capital and there's a return. Even a medium sized owner would need to get a loan and they need to be able to have cash flow to substantiate.”

A property owner in East Boston, who claims to have lost her job over trying to evict a tenant, speaks during the public testimony portion of the 2016 hearing against the act. She feels the act is “unfair to property owners because we're losing control over our own property. Our property is personal property not government property, it's not public housing.” Furthermore, she believes that tenants are “going to use the system to prolong the process” of eviction if tenants are notified of their rights, leading to a situation in which landlords will be unable to retain control over their properties. In the same hearing, another East Boston landlord believes this act is part of an agenda to decrease eviction and displacement through “trying to have private individuals bear a lot of the financial burden that exists when it is expected that rent is significantly lower than what the market allows.”

If landlords shouldn't bear the financial burden, should tenants? Despite perhaps not owning property, community residents and public investment have played an integral role in crafting the desirability of many of Boston's neighborhoods. Jackson, in the 2017 hearing, returns to the issues of equity, saying that it is a necessary piece, especially when, he believe, “landlords should be thankful,” for the contributions of residents of these once neglected neighborhoods,

such as Roxbury where he grew up, who were instrumental in making those places safe and attractive for developers. The residents have done that through organizing, but also through supplying the tax dollars that have funded public works projects that are making Boston a better place to live. In the 2015 hearing, he remarks,

“how do we change the trend? Because the trend right now is also unsustainable for workers in the community and if we don’t have workers [...] all of the great industries that we have here, they will leave. And that will actually mean that our housing market would go down and that would be bad for homeowners.”

Gail Latimore, executive director of Codman Square Community

Development Corporation in Dorchester, talks of changes in her neighborhood, where the black community has decreased while the white population has doubled. In this neighborhood, they had organized to get stations built along the Fairmount Corridor, a commuter rail line that used to pass through and now stops in Dorchester, Mattapan, and Hyde Park. With the new public investment in transit access, the area has become more attractive to new residents. Her CDC performed a survey with long-time Dorchester and Roxbury residents who, despite many having stable, good-paying jobs, were displaced to farther suburbs and had to take costly and longer commuter rail transit into the city. She reflects, “how ironic that we fought so hard with our residents to get affordable trains into our neighborhood on the Fairmount Line and now folks are being priced out.”

On the point of the transit development, Jackson supporting Gail’s comment, says,

“those folks that now have trains going past their houses, I’m sorry, *had* trains going past their houses and now at least the train actually stops, right, they actually are people who have invested in that public infrastructure through their tax dollars and now they’re being driven out.”

## ***Conclusion***

In this chapter, I presented some of the main arguments for and against the Jim Brooks Community Stabilization Act. The arguments display an ideological gap among those who testified, showing competing views on public and private provision of housing and on the rights of tenants and landlords. The City Councilors, the moderators of these discussions, seemed, in 2015, more open and willing to engage with solutions to the affordability crisis, but, as the years have passed, there has been very little to no change in who supports the bill among them.

The opponents' strongest argument at the hearings was the one against rent control, which, given that this act is not rent control, should actually weaken their argument. However, by using images of rent control, which many property owners fear, the opponent side was able to divert the conversation, forcing the City Councilors and proponents to engage with them on that issue. The conversation about rent control also lends itself into one about property rights, which lead to testimonies about problem tenants and the potential for property owners to be unable to retain control over their properties.

In contrast, the proponents' strongest argument was the notification of rights element in the act. In many ways, it would be a success for the proponents to at least get that piece passed. However, as the mildest element of the proposed act, passing just that can hardly be considered a big victory. The bigger victory, perhaps, for the proponents was getting the support of Mayor Walsh. While many of the advocate groups have organized against pieces of the Imagine Boston plan, the inclusion of the anti-displacement language could hopefully shape future political conversations.

## Chapter 4: Barriers to Implementation

*With increased interest in community organizing since 2008 comes increased scrutiny of its limits as well as its potential. [...] Can mass mobilizations succeed without grassroots constituents or organizations? On the other hand, can local work contribute to challenging contemporary urban disenfranchisement and building oppositional power beyond the grassroots at the state, national, and even global level? And what type of local activism and organizing at what larger scales actually challenges the structural causes of contemporary inequalities?*

**Katiya et al. 2013: 158**

In this chapter, I argue that both a turn to privatization and a need for capital investment has led to an acceptance of gentrification as a tool for urban development, which lessens the value of any restriction on growth. This discussion serves to show the competing ideologies of property owners' rights and tenants' rights.

### **4.1 Disinvestment and the Neoliberal City**

Since the 1970s, federal policy towards housing has favored shifting federal funds to programs that support developers and renters in the private market. The Housing and Community Development Act of 1974 established a variety of programs, including a housing voucher system, which supported low-income renters in the private rental market through public subsidy (Owens 2015). Other programs have provided public support of affordable housing provision in the private market. Since 1986 the politically popular Low Income Housing Tax Credit (LIHTC) has allocated tax credits to private developers who provide income-restricted housing units within larger developments. The rents, however, are determined by assessing affordability based on a percentage of the neighboring households' area median income (AMI), which can still produce rents that are

inaccessible by many low-income tenants (Scott 871). From 1987 to 2016, LIHTC in Massachusetts has produced or preserved 45,000 rental units (MA DHCD 2016).

The refocusing of public subsidy to private service provision signified a change in both national and local politics to a privatization model in an increasingly globalized world. Cities increasingly became places that “needed to re-attract capital investment in an extremely competitive global economy” because “indeed, inter-urban competition in an economic landscape decidedly tilted in capital’s favor due to capital’s tremendous mobility dictates that cities have little choice but to adopt the neoliberal policies so favorable to business” (Anderson 2015: 425-6). In this time period, a turn to neoliberalism altered the prevailing concepts of public and private services as well as state regulation. The framework encourages private capital development within “strong private property rights, free markets, and free trade” (Harvey 2005). With the free market guiding, “state interventions in markets (once created) must be kept to a bare minimum” (Ibid 2005) as any public regulations could artificially constrict the market.

#### ***4.2 Public and Private Reinvestment in Boston***

Under the assumption that neoliberalism facilitates spaces in which individual rights trump collective rights and competition for capital investment is key, cities can be understood within the “City as a Growth Machine” (Molotch 1976) framework. Molotch argues, “the political and economic essence of virtually any given locality, in the present American context, is growth” (309-10). Cities, as well as communities, compete with each other for spatial investment of capital. Anderson (2015) argues that viewing anti-homeless laws within this framework “highlights the integral relationship between public space, identity and capitalism—capturing urban space as a site of political contestation and class struggle, a terrain produced

by and producing capitalism's inequalities" (410). Within this framework, a capitalist society can rationalize the exclusion of those who do not fit into the economic, political, and social order that is actively sought.

As private capital is invested in cities, "the scarcity of developmental resources means that government becomes the arena in which land-use interest groups compete for public money and attempt to mold those decisions which will determine the land-use outcomes" (Molotch 312). Thus, government both creates environments that are favorable to development to attract private capital while simultaneously the role of government is to pass regulations within the urban sphere, leaving space for tension between government, the private sector, and the community. In talking of the politics that guides the developmental process, "this is the kind of politics we must talk about at the local level: it is the politics of distribution, and land is the crucial (but not the only) variable in this system" (Molotch Ibid: 313-4). Thus, the conflict over urban land and what to do with it becomes extremely localized, with community groups vying over say in what happens in their neighborhoods.

The dispute over who has right to the land is played out through the phenomenon of "gentrification," a process by which wealthier, and usually whiter, residents move into lower-income urban neighborhoods, many of which have experienced periods of disinvestment (Slater 2010; Bierbaum et al. 2015; Freeman and Schuetz 2016). Smith (1996) contends that gentrification happens under "some form of *collective social action* at the neighborhood level" (65) usually among both private and public actors. These neighborhoods, it is crucial to mention, are now receiving reinvestment from the same institutions that previously disinvested from them, which had provided the environment for a "revaluation" of the market (Smith Ibid: 65). Gentrification, thus, can be seen as a tool for increasing capital investment

and tax revenue in cities. As an intentional political strategy or not, “as long as U.S. housing policy bows to—indeed, even participants in—the free-market economy of housing, gentrification will persist” (Ponder 2016: 367).

Seeing gentrification as a process of deliberate social action to attract public and private investment into cities leads to a conceptualization of master plans and, indeed, Imagine Boston, as actual plans for identification of sites for economic growth and for capital investment and not necessarily for the improvement of public space and neighborhoods in which people are currently living. In discussing the function of developers in 2017, Steve says that it is “part of their business plan, collectively, to flip a neighborhood,” flipping in this case referring to intentionally working to change a neighborhoods from a low or moderate income one to one that will attract investment. And, given that many people of color and working class people are those currently living in those neighborhoods, there is a “strong class and racial dimension to flipping a neighborhood.” Thus, as he said in the 2017 hearing, the resistance of residents against corporations and banks developing in their neighborhoods is a “fundamental issue of equity and a fundamental issue of racial justice.”

As Steve talks, he mixes his views on tenants’ rights with reflections on Marxism, libertarianism, and capitalism. He expresses very real frustration with the city, but his frustration is built out of compassion and empathy for all people. He sees what the city is doing now as a certain type of “schizophrenia” in which politicians pledge support for neighborhood stability as subsidies for large developments are given. He continues:

“in my opinion, [it] has to do with the fact that if tenants are informed of their existing rights they’ll organize and so they don’t want to see that, you know, and that organization, and a kind of self-assertion, will undermine real estate profits slightly and they don’t want that, but maybe most important of all, if just cause eviction were passed then in

some way the city is saying there are two competing values in real estate. One is maximum profit for the investor and the other is anti-displacement and affordable housing. And these are equal but competing priorities. And they don't want that. They want an understanding that the only legitimate priority is profit. And anything other than profit maximization is a subsidy. That's an ideological point that we completely reject as immoral but that they feel is essential to hang on to in my opinion."

Skip Schloming doesn't quite deny that that's what landlords are fearful of. In the 2017 hearing, he labels the tenant organizations as "partisan" and with "agendas." As one of the biggest and most vocal critics to the act, SPOA is also very clearly a partisan organization. In the 2015 hearing, Skip references Milton Friedman to reinforce his argument, openly setting his agenda and his ideology as one tied to rationality, choice, and the private market. At its core, his ideology is about rights for property owners and a relaxation of regulation.

#### ***4.3 Advocacy and Capacity***

From the words of the proponents and opponents, the barriers to the implementation of the Jim Brooks Community Stabilization Act are about ideology between whose rights matter more: landlords or tenants. However, the barriers are also the capacity of small organizations to advocate effectively for policy, and the will of politicians to pass acts. Many opponents to the act believe that the city should instead be focusing on building more affordable housing and, indeed, that is part of the city's goals in Imagine Boston.

While some advocacy group members have larger ideas about the future of a decommodified housing stock, developers are advocating for immediate goals. Steve, believing the bill to be too mild, is saying that not only do tenants have rights and should know them, but also that the provision of housing should transcend profit maximization. He echoes the sentiment that, "[r]ather than idealizing the market

and providing endless subsidies and bailouts to private capital, public policy must transcend the limits of the market and truly serve social purposes” (Stone 1993: 192). However, this ideology is in direct contrast with the competing views of those in opposition to the bill who, as shown in the previous chapter, advocate for property rights. In the 2017 hearing, Richard from the Greater Boston Real Estate Board, who thinks that this act “doesn’t seem fair” and that the “burden shouldn’t fall solely on the landlords,” argues that this is a public good we all want, so we just need to find taxpayer dollars to pay for it.

Given the difficulties faced by advocacy groups in enactment, in the spring of 2017, Steve says they’ve already thought of ways to at least get part of the act through. They’re thinking,

“one thing we could do is out of the three pieces of the law, one is protection for homeowners, one is just cause for tenants, and one is sharing notices to quit, we could just pull the just cause for tenants. I mean and even though symbolically it’s important and even though it does in fact, in places like East Boston, slow down the speculative drive a little bit.”

By calling the act “symbolic,” Steve is seemingly referencing his argument, quoted in Chapter 3, that by passing just cause eviction, the city would legitimize “two competing values in real estate,” profit maximization on one hand and anti-displacement work and the provision of affordable housing on the other. While the act in actuality doesn’t comprehensively solve either issue, it is representative of an ideological struggle to affirm tenants’ rights through a legal and political process.

In contrast, developers argue that increasing the attractiveness of building affordable housing by increasing the potential for profit is the better way to address the issue. Gilbert Winn in 2016 argues that the city should give displaced families special privileges to be rehoused in their neighborhoods and require more tax money for affordable housing. In the 2017 hearing, he says,

“the solution for making sure that people aren’t displaced by higher rents is money and there isn’t enough affordable housing money in the City of Boston and there needs to be a coalition of both private and public and nonprofit people to get together and seek resources that aren’t just for new construction or affordable housing but are also for middle income workers who are now displaced out of places like East Boston and Charlestown by overly high rents. It’s money. The answer is, I’ve been in this business a long time, I think I know a lot about it, there’s no other solution other than money. We need public support for this.”

The developers’ arguments for more affordable housing already complement the city’s plans for developing over 50,000 units of housing by 2030 with 9,000 of them affordable. With that ambitious goal in mind, the city needs to maintain the city as an attractive place for housing developers. Thus, when in 2016 Gilbert Winn says, “the problem of saying that it’s not just cause when somebody can’t afford the rent, I believe is actually telling everyone in the outside world that there’s actually no just cause for doing business in Boston. And that is not a good thing,” implying that a mild act could make building in Boston unattractive, could be worrying to a city that is attracting capital investment. A Globe article from December 2016 mentioned Mayor Walsh’s intentions to promote tenant protections as perhaps putting him in an interesting position as,

“The mayor’s approach faces fierce opposition from the same landlord groups and developers that Walsh is pushing to build more housing, which he says is needed to tackle Boston’s high cost of living. City officials say they’re trying to walk a fine line with the plan, protecting renters from displacement without squelching new development. And they acknowledge their plan, which will need votes from both the City Council and state Legislature, has a tough path to approval” (Logan 2016).

Thus, although the mayor has openly supported this package of legislation, it is unclear how vocally he will continue to advocate for it if opposition increases.

Furthermore, developers claim they've been left out of the process of co-creating solutions. Gilbert Winn affirms, "this is one of the best cities in America for affordable housing. We have people who work together, the advocates, the legal counsel, the public bodies, and the private landlords actually do talk to each other," but, he later says,

"I think there's a lot of confusion as to what this ordinance, or potential ordinance, is all about. A lot of that confusion is because it keeps changing, a lot of that confusion is that the Greater Boston Real Estate Board, which I'm wearing that hat today, although I can't help but wear my other hat as well, is we've not received any phone calls to have meetings on this [...] please give us a call, let's go meet. Let's create an ordinance that actually helps instead of hurts"

Winn, perhaps, is being genuine here. In the Boston Housing Court Data Report, it was reported that between 2010 and 2014, Project Hope worked with subsidized tenants who, while living in Winn Residential properties, fell behind on rent. In 2011, Winn Residential had the highest eviction execution rate at 38%, in 2014, that rate had dropped to 23%.

#### ***4.4 Real Estate Interests***

The proponents of the act claim that the City Councilors are interested in increasing tax revenue in the city and are more interested in maintaining Boston as an attractive city for development. To assess real estate donations to City Councilors, I searched in the Massachusetts Office of Campaign and Political Finance. For each councilor, I searched for "real estate" and "realtor" under "Occupation" and "Employer." After combining both datasets, I removed any duplicates. I did not make any distinction between employees of large or small real estate companies. Given not every donor provides an employer or occupation, this is not a complete assessment.

City Councilor	District	Year Elected	Total Donations	Total Real Estate Donations
Michelle Wu	At-Large	2013	\$747,505	\$51,031
Michael Flaherty	At-Large	2000-2010 (in office); 2013	\$3,923,600	\$248,565
Annissa Essaibi-George	At-Large	2015	\$296,104	\$20,870
Ayanna Pressley	At-Large	2009	\$897,429	\$25,819
Salvatore LaMattina	1	2006	\$660,020	\$47,800
Bill Linehan	2	2007	\$648,127	\$105,083
Frank Baker	3	2011	\$444,550	\$33,900
Andrea Campbell	4	2015	\$330,130	\$17,150
Timothy McCarthy	5	2013	\$263,766	\$9,100
Matt O'Malley	6	2010	\$586,404	\$38,463
Tito Jackson	7	2011	\$871,054	\$65,460
Josh Zakim	8	2013	\$724,703	\$122,646
Mark Ciommo	9	2007	\$417,779	\$41,840

**Figure 7: Real Estate Donations to Boston City Councilors**

*Data taken from the Massachusetts Office of Campaign and Political Finance*

Looking at this very basic data, besides the outlier of Michael Flaherty, who has served the most total years as City Councilor and made an unsuccessful bid for mayor in 2009, and Josh Zakim, most City Councilors have not received more than \$10,000 a year from contributors who work in real estate.

### **Conclusion**

Coalition growing is essential for the passage of any policy. However, with a diversity of stakeholder interests, the ability to pass even a mild act can be daunting. The task of drafting and redrafting legislation can constrain the capacity of small advocate groups, even with support from partner organizations and entities, especially when faced with a sophisticated and knowledgeable opponent side.

## Chapter 5: Discussion

*“It is likely that a right to decent, affordable housing can be advanced only if coalitions are established [...] Alliances also must be made across class and race lines, revealing the housing system’s inability to provide for the basic needs of an ever-growing portion of the population, connecting the problems of the poor with the problems of the middle class and the problems of homeowners with the problems of renters.”*

**Hartman 2006[1998]: 185**

I framed this research around issues of affordability and neighborhood stability because as I initially approached this topic, I saw the need for thoughtful policy that would keep people in their homes. However, as I continued to research, it was impossible to miss another layer: racial inequity. In the hearings, few people of color testified against the Jim Brooks Community Stabilization Act. In contrast, the “for” side was represented by a wide diversity of people: they were from different neighborhoods in the city, they were homeowners, renters, immigrants, non-English speakers. Likewise, the City Council is split on the act almost completely by race and gender, with seven of the eight white, male councilors being against the act, while the other six councilors, including all of the women councilors, are for it.

The testimony of the “for” side was personal, urgent. The testimony against the implementation of the act was also urgent; the act was spoken of in terms of chaos, of a return of disinvestment and squalor, of threats against landlords. What they describe seems akin to what many tenants actually face in Boston today. Recently, in East Boston, a building was cleared out when a wall fell down (Nobles 2015); in Chinatown, an apartment that, admittedly, was in very poor condition, got bought and gutted while the two sisters living there were put up in a hotel in Quincy, where they lived from at least February 2015-March 2016 (Gershon 2016); as has been shown, due to data issues, Boston doesn’t know how many evictions are

actually happening (Logan 2016); in Dorchester, Steve recounts seeing two men at housing court fighting eviction from a recently purchased property that had been a sober house; and countless more places in the city. The residents in these cases are mostly worried about their abilities to return to their homes. As I showed in Chapter 1, it's expensive to find new housing in Boston. Now, those opposed to this act might argue that this was the case of a "few bad landlords," but I would argue back that those affected were not simply a "few bad tenants." There are new cases every week at CLVU meetings, many involving people who don't know their rights. By reformatting this as something tangible and urgent, it could take on a new form of,

"[s]eeing the issue of low-quality housing and lack of affordable housing as a human rights violation changes the narrative from one focused on individual failure and poverty to one where the exploitative and often illegal practices of landlords are ignored by city, state and federal authorities whose primary focus is encouraging and maintaining the real estate market as a key driver of the economy. It also raises doubts about the argument against economic and social rights that claims they are too expensive, as governments at multiple levels use public funds to provide tax incentives to middle-class homeowners and to support 'redevelopment' projects" (Hoover 2015: 1099).

Thus, the conversation is about racial equity as much as it is about neighborhood instability. This is an extension of the continued inability of both the private and public market to provide "adequate housing" to people of color and low-income people in cities. In many ways, it relates to Bob Terrell who, in the 2015 hearing, explained,

"we now have large scale institutional players in our marketplace. This isn't the gentrification of the 70s and 80s where someone just buys a three family house for half a million dollars on your block. This is major institutional investors coming in. First, the predatory lenders through their equity stripping and their predatory loans that brought us the foreclosure crisis. Then, we have a group of predatory developers following them who then buy up those properties and displace thousands of residents through the City of Boston."

In a Globe article on April 17, 2017, Katie Johnson reported on the racial disparity in mortgage lending in Massachusetts. Using a report from the Massachusetts Community & Banking Council, she reports that in Boston, “[i]n 2015, black households received 41 percent of all the home-purchase loans in Mattapan, but none in the Back Bay, Beacon Hill, the North End, Allston, the Fenway, Mission Hill, or the South Boston Seaport area. [...] Latino borrowers received 21 percent of the loans in Hyde Park, but none in the Fenway, the North End, Mission Hill, or the Seaport” (Johnson 2017). This research shows more than just racism or intentional segregation, as was shown in the Color of Wealth report, people of color are much more likely to have fewer resources to pay a down payment, making certain neighborhoods and communities far from reach in homeownership. Johnson speaks with Naomi Cordova, a black woman and mother with a full-time, well paying job who found herself only able to secure a loan on a home in Brockton, where she originally didn’t want to move and plans to leave when and if she can. Another woman, citing fears of racism, decided to stay in Latino-heavy Lynn, where she feels most comfortable. Citing an MAPC study, Johnson writes, “[t]he average white family earning \$78,000 a year in metro Boston lives in a neighborhood where the median household income is \$72,400 a year, while the average black household earning \$78,000 a year lives in an area where the median in \$51,100 a year” (Ibid).

Discrimination in housing is unlikely to end any time soon, however, given the racial history in the United States. Massey (2005), echoing Lieberman (1985), explains, “[i]f an older discriminatory mechanism based explicitly on race becomes impossible to sustain, whites will substitute new ones that are more subtly associated with race.” (148) “Racial discrimination is a moving target” (149), he explains, and will not rely on simple regulations; instead, “under these circumstance, ending racial discrimination in U.S. housing markets is likely to require a sustained

and dedicated effort over a prolonged period of time” (149). Given this, I argue that it’s time to take a right to housing approach in this country.

Bob Terrell of the Fair Housing Center of Greater Boston brought up the history of predatory lending in Boston that he sees as linked to predatory developing in the city today. He ends by commenting, “if housing is indeed a democratic right, a human right, then we have to take some of this housing off the speculative market and protect folks in our neighborhoods.”

### ***Political Promise?***

In early 2017, City Council Tito Jackson announced his candidacy for Mayor of Boston. As a councilor, Jackson has been well-liked in his district for advocating for the most vulnerable of his constituents. However, outside of Roxbury and perhaps Mattapan, Dorchester, and Jamaica Plain, he is relatively unknown and unlikely to win in November of 2017. As has been shown in this thesis, Jackson stands up publicly for tenants, approves of more regulation of real estate, and wants public investment to favor community residents. Mayor Walsh, on the other hand, offered a package to GE to incentivize the company’s move to the city. The package includes almost \$145 million in tax breaks and state grants and will create 800 jobs as well as provide community benefits (McCambridge 2016). At the same time, he’s created the Office of Housing Stability, proposed the Anti-Displacement Package, and, as mentioned at the beginning of this document, pledged to fight for affordable housing and racial justice in his 2017 State of the City address.

If there truly is resistance to Mayor Walsh, as evidenced by opposition to Imagine Boston and to development projects such as GE, why isn’t support for Jackson, or another vocally progressive candidate, more widespread? David Bernstein, a longtime political writer in Boston, points to the city experiencing

positive trends in reduction of crime and unemployment and “sure, not every neighborhood is experiencing the boom times equally—something Walsh concedes he’d like to make more progress on—but there aren’t enough people being left behind to fuel a large opposition.” In his Boston Magazine article from January 2017, Bernstein argues that as a former labor leader and state representative, Walsh has forged a balance between politics and labor through relationship building and policy. After his election, he hired some of his former mayoral contenders to his cabinet. As mayor, he both supported building construction, which will likely benefit union workers, and anti-displacement policies, to show his support for neighborhood stability. Both City Councilors Linehan and Flaherty have already voiced their support for his re-election bid.

The upcoming 2017 election will show whether residents do indeed still have faith in this balanced mayor. In 2013, Mayor Walsh carried much of Roxbury, Dorchester, and Mattapan and most of the black and Latino vote in the city. He’s hired more people of color to city positions, including two of his former mayoral contenders. Some are not convinced, however, that the Mayor is truly on the side of the people. In the spring of 2017, Lisa Owens, while saying that getting the mayor to support the Jim Brooks Act was “a major victory,” she believes he could do more. She explains,

“he likes to position himself as the racial justice mayor, taking on the cloak as the mayor for the neighborhoods but with a racial justice twist and to have a bunch of racial justice activists say no, you’re not, the major issue affecting people of color in this city you’re not doing anything about it.”

Too much attention to issues facing people of color, however, could alienate his white working class base, particularly those from unions who backed him in 2013. Thus, the balancing act is twofold: maintaining political support from both

these bases while simultaneously attracting investment into the city that could threaten these bases.

At the 2016 hearing, at least three labor representatives testified in support of the Jim Brooks Act. Rich Rogers, principal officer of the Greater Boston Labor Council, the AFLCIO arm in the region, says their executive board unanimously supports the act, seeing it as providing protection for the “tens of thousands of Boston union members [who] are tenants [...] subject to displacement from their homes and communities.” He continues,

“now I don’t pretend to be a housing expert, but I do understand how power works. From my 35 years in the labor movement, I’ve had a front seat to the economic changes that have devastated the middle class and created pretty much an oligarchy in this country and I know how powerful the real estate industry is in this city and I’ve been on the losing end of this chamber eight or ten years ago when we tried to fight for tenants rights. But I am a little puzzled at how fierce the resistance is. I haven’t been involved in crafting ordinances, but the proponents have already made major concessions before we even have a document so I’m hoping the City Council can find a way to move this proposal forward and find some type of protection for tenants. Housing markets are just like economic markets, they need government to intervene to provide protections that market forces are designed to ignore. This is a great example of how labor, elected officials, community groups, we can work together to make Boston a better city.”

## Conclusion

In this thesis, I sought to understand the challenges of drafting, defending, and enacting the Jim Brooks Community Stabilization Act in Boston. In increasingly unaffordable urban areas, it is crucial for planners to understand the complexities of proposing and enacting laws on the local level. Planners, coming from an interdisciplinary field with a focus on community engagement, are equipped with tools that facilitate their understanding varying viewpoints in political processes. Thus, planners working in cities have much to gain from engaging with coalitions in political processes to balance conversations and potentially be intermediaries between conflict viewpoints.

As a planner seeking to understand the difficulties of passing even mild bills, I wanted to understand how opposing sides approached the conversation and how they interacted with each other. I wanted empathize with tenants facing eviction, with homeowners facing foreclosure, and with landlords seeking to balance good maintenance of their properties alongside providing affordable rents. I sought to understand how the larger real estate community defended their viewpoints in front of the city and advocate groups. In addition, I sought to understand how long-time Bostonians, many of who are faced with understanding what a changing city means, internalize and manage the changes taking place. Boston is a relatively small city and, as became apparent in the hearings, many intimately know each other. For example, in the 2015 hearing, a woman from South Boston, speaking on her inability to afford to stay in the neighborhood, testified against the luxury development in the neighborhood “that has taken choice away from the residents who want to continue living there.” In her moving testimony, she appeals directly to City Councilors. “Councilman Flaherty,” she continues, “you and I went to St. Bridget’s together,” as

she demands he stand up for long-time residents by opposing luxury developments, specifically one that, at the time, had been proposed for a community building.

For me, this thesis is also personal. I grew up in Jamaica Plain fortunate enough to have a financially stable upbringing in a single-family home. Nevertheless, I have also witnessed the changes: businesses closing their doors due to rising rents; friends leaving the city or moving back in with their parents; competition for jobs; low-income residents and immigrants being pushed further from economic centers; and, also, improved safety on streets and on public transportation; and better amenities. I do, however, always reflect on who these improvements are being made for and how much longer some residents will be able to benefit from them.

This research has questioned the future of advocacy in Boston and whether small community groups will be able to grow grassroots political power within a context in which influential stakeholders have political and economic advantages. Within each moment of conflict, however, is an opportunity for growth, coalition building, and change. The City of Boston, by enacting these five pieces of legislation, could legitimize that stabilization within growth is, in fact, possible.

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# Appendix



**Offered by Councillors [ . . . ]**

## **CITY OF BOSTON IN CITY COUNCIL**

### **HOME RULE PETITION**

WHEREAS, Boston has increasingly become an unaffordable and economically unequal city where low and moderate-income families and communities of color are rent burdened and facing displacement.

WHEREAS, The recent foreclosure crisis had a devastating impact on rental housing in Boston. From 2006-2012, at least 1,300 Boston families were foreclosed on, most of who were displaced and pushed into the rental market; over 4,600 residential properties changed hands through foreclosure.

WHEREAS, Corporate, non-resident and speculator landlords are purchasing homes in our communities, evicting current residents and raising rents to attract wealthier tenants.

WHEREAS, Cuts in government spending for housing has added pressure to the private rental market. The Boston Housing Authority has a waitlist of 40,000 households for 15,000 units while budget cuts eliminated 1,500 rental subsidies last year.

WHEREAS, Profit-driven development has taken place without regard to those who currently call Boston home. For example, in East Boston, the Boston Redevelopment Authority has approved over 1,000 units of luxury development. The resulting pressures cause rent increases at an average of 30 percent per year. At this rate, only one in ten current residents in East Boston, the majority of whom are Latino, will be able to stay in this largely Latino immigrant neighborhood.

WHEREAS, Rents and costs of living have risen while incomes have remained stagnant. For example, in Roxbury, the average rent for a one-bedroom is over \$1,400 a month. A household would need an annual income of over \$55,000 to afford this rent without being “rent burdened,” that is paying over one-third of their income for housing. But median income in Roxbury, a majority Black and Latino neighborhood, is \$32,000 a year.

WHEREAS, Developers have changed the landscape of the city, displacing residents. For example, in Chinatown, over 2000 units of luxury units have been built in and around a traditionally low income, Chinese immigrant community. These luxury units are not affordable for the long-term residents of Chinatown.

WHEREAS, Increased rents disproportionately impact individuals discriminated against due to their age, disability, status as linguistic or national minorities, sexual orientation, gender identity, and gender expression.

WHEREAS, The City of Boston is facing an affordable housing emergency.

*ORDERED*, That a petition to the General Court, accompanied by a bill for a special law relating to the City of Boston to be filed with an attested copy of this order be, and hereby is, approved under Clause 1 of Section 8 of Article II, as amended, of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

**PETITION FOR A SPECIAL LAW RE:**

**JUST CAUSE EVICTIONS ON CERTAIN RESIDENTIAL PROPERTY IN THE CITY OF BOSTON**

## Article I - Just Cause for Eviction Ordinance

### Preamble:

WHEREAS, the deferred operation of this act would tend to defeat its purpose, which is to protect forthwith the citizens and neighborhoods of Boston, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

### 1.00 - Just Cause for Eviction Introductory Clauses.

WHEREAS, Boston has increasingly become an unaffordable and economically unequal city where low and moderate income families and communities of color are rent burdened and facing displacement, and

WHEREAS, the recent foreclosure crisis had a devastating impact on rental housing in Boston. From 2006-2012, at least 1,300 Boston families were foreclosed on, most of who were displaced and pushed into the rental market; over 4,600 residential properties changed hands through foreclosure.

WHEREAS, corporate, non-resident and speculator landlords are purchasing homes in our communities, evicting current residents and raising rents to attract wealthier tenants, and

WHEREAS, cuts in government spending for housing has added pressure to the private rental market. The Boston Housing Authority has a waitlist of 40,000 households for 15,000 units while budget cuts eliminate 1,500 rental subsidies last year, and

WHEREAS, profit-driven development has taken place without regard to those who currently call Boston home. For example, in East Boston, the Boston Redevelopment Authority has approved over 1,000 units of luxury development. The resulting pressures cause rent increases at an average of 30 percent per year. At this rate, only one in ten current residents in East Boston, the majority of whom are Latino, will be able to stay in this largely Latino immigrant neighborhood, and

WHEREAS, rents and costs of living have risen while incomes have remained stagnant. For example, in Roxbury, the average rent for a one-bedroom is over \$1,400 a month. A household would need an annual income over \$55,000 to afford this rent without being “rent burdened,” that is paying over one-third of their income for housing. But median income in Roxbury, a majority Black and Latino neighborhood, is \$32,000 a year, and

WHEREAS, developers have changed the landscape of the city, displacing residents. For example, in Chinatown, over 2000 units of luxury units have been built in and around a traditionally low income, Chinese immigrant community. These luxury units are not affordable for the long-term residents of Chinatown. These luxury units are not affordable for the long-term residents of Chinatown, and

WHEREAS, the Commonwealth of Massachusetts and the City of Boston seeks to expand affordable housing in Boston, and

WHEREAS, the right to occupancy of safe, decent, and sanitary housing is a human right, and

WHEREAS, the City of Boston's prolonged affordable housing crisis disproportionately impacts low income and working class households, senior citizens, people of color, and people with disabilities, and thereby increases homelessness and crime, harms neighborhood stability and cohesion, and damages business prospects for small businesses, and

WHEREAS, the Mayor, Martin J. Walsh, has emphasized maintaining affordable housing as a central aim of his administration, and

WHEREAS, Boston's real estate market is pushing low income families out of Boston, using no fault evictions, and

WHEREAS, the absence of a local law prohibiting a landlord from evicting a tenant without cause is a significant barrier to maintaining affordable housing in the city of Boston, and

WHEREAS, residential tenants, who constitute approximately 67 percent of the residents of Boston, would suffer great and serious hardship if forced to move from their homes, and

WHEREAS, basic fairness requires that a landlord must not terminate the tenancy of a residential tenant without good, just, non-arbitrary, and non-discriminatory reasons, and

WHEREAS, the cause eviction protections enacted in municipal jurisdictions across the country, including New Jersey, Berkeley, Hayward, Oakland, and San Francisco in California, and Seattle in Washington, have aided community stability and reduced urban problems associated with arbitrary disruption of stable households, and

WHEREAS, the general welfare of all citizens of Boston would be enhanced by a no fault eviction mediation process,

Therefore, the city of Boston hereby enacts this ordinance, prohibiting a landlord from terminating a tenancy without cause.

## 2 - Title.

This ordinance shall be known as the Just Cause for Eviction Ordinance.

## 3 - Purpose.

The purpose of this chapter is to defend and nurture the stability of housing and neighborhoods in the city of Boston by protecting tenants against arbitrary, unreasonable, discriminatory, or retaliatory evictions, thereby maintaining diversity in Boston neighborhoods and communities while recognizing the rights of rental property owners. This chapter is intended to address housing problems in the City of Boston so as to preserve the public health, safety, and welfare, and to advance the housing policies of the city with regard to low and fixed income persons, people of color, students, and those needing special protections pursuant to M.G.L. c. 151B, § 4.

## 4 - Definitions.

"Child/Parent" means a child/parent relationship in which a child is either a parent's biological child or adopted child, provided that such relationship was established prior to

the child's eighteenth (18) birthday and at least one year prior to the attempted eviction. At the time of attempted eviction, a child of an owner of record must be over the age of eighteen (18) or be emancipated.

“Entity” a business organization, or any other kind of organization including, without limitation, a corporation, partnership, trust, limited liability corporation, limited liability partnership, joint venture, sole proprietorship or any other category of organization and any employee, agent, servant or other representative of such entity.

“Grandchild” means a grandparent/child relationship in which a grandchild is either a grandparent’s biological grandchild or adopted grandchild, provided that such relationship was established prior to the child’s eighteenth (18) birthday and at least one year prior to the attempted eviction, a grandchild of an owner of record must be over the age of eighteen (18) or be emancipated.

"Health Facility" means any facility, place or building that is organized, maintained, and operated for the diagnosis, care, and treatment of human illness, physical or mental, including convalescence and rehabilitation, and including care during and after pregnancy, or for any one or more of these purposes.

“Housing accommodation” means a building or structure, or part thereof or land appurtenant thereto, and any other real or personal property used, rented or offered for rent for living or dwelling purposes, together with all services connected with the use or occupancy of such property.

“Housing authority” a public body politic and corporate created pursuant to M.G.L. c. 121B, §3.

"Landlord" means an owner of record, or lessor or sublessor of an owner of record, or any other person or entity entitled either to receive rent for the use or occupancy of any rental unit or to maintain an action for possession of a rental unit, or an agent, including, but not limited to, any person who manages, controls, and/or customarily accept rent on behalf of the owner, representative, or successor of any of the foregoing.

“Mediator” means an individual, or organization, that is a Boston city mediator or a city-approved mediator.

“Mediation completion certificate” means a certificate verifying the landlord’s good faith participation in a City-sponsored mediation.

"Mediation program or mediation" means the mediation program established in the City of Boston pursuant to this ordinance and described in § 6 A.9 (a-h).

“Notice of Lease Expiration” is a notice required by § 6 mandating that landlords provide tenants with expiring leases notice of mediation rights thirty (30) days or one rental period, whichever is longer, prior to expiration of the lease.

“Owner of record” means an entity that holds title in any capacity, directly or indirectly, without limitation, whether in its own name, as trustee or as beneficiary, to a housing accommodation.

"Property" means a parcel of real property, located in the City of Boston that is assessed and taxed as an undivided whole.

“Qualified relative” means the owner of record's spouse, domestic partner, child, parent, grandparent, or grandchild.

"Rent" means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in connection with, the use or occupancy of rental units and housing services. Such consideration shall include, but not be limited to, monies and fair value of goods or services rendered to or for the benefit of the landlord under the rental agreement, or in exchange for a rental unit or housing services of any kind.

"Rental Agreement" means an agreement, oral, written, or implied, between a landlord and a tenant for the use and/or occupancy of a rental unit.

"Rental Housing Resource Center" means the city of Boston's Rental Housing Resource Center.

“Rent increase” means any notice from the owner of record to increase the monthly rental amount, or provision of any new lease that has higher rental payments than the previous lease, as long as the increase in the monthly rental amount is greater than a 5 percent increase.

"Rental Unit" (aka Unit, aka Premises) means any unit in any real property, regardless of zoning status, including the land appurtenant thereto, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes), together with all housing services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the tenant.

"Skilled Nursing Facility" means a health facility or a distinct part of a hospital that provides, at a minimum, skilled nursing care and supportive care to patients whose primary medical need is the availability of skilled nursing care on an extended basis. Such facility must provide twenty-four (24) hour inpatient care, an activity program, and medical, nursing, dietary, pharmaceutical services. Additionally, the facility must provide effective arrangements, confirmed in writing, through which services required by the patients but not regularly provided within the facility can be obtained promptly when needed.

"Tenant" means any renter, tenant, subtenant, lessee, or sublessee of a rental unit, or any group of renters, tenants, subtenants, lessees, sublessees of a rental unit, or any other person entitled to the use or occupancy of such rental unit, or any successor of any of the foregoing.

"Tenants' Advocacy Organization" means any tenants union or similar organization.

“Subsidized housing” means any housing subsidized by the federal or state government, whether through a housing authority or subsidy program, as defined in the applicable federal or state statute, whether operated by any public agency or any nonprofit or limited dividend organization.

## 5- Applicability.

The provisions of this chapter shall apply to all rental units in whole or in part, including where a notice to quit any such rental unit has been served as of the effective date of this chapter but where any such rental unit has not yet been vacated or an summary

process judgment has not been issued as of the effective date of this chapter and at the expiration of the lease term. However, Section 6 [6] and Section 7(A)-(E) [7(A) through 7(E)] of the chapter [Article I] shall not apply to the following types of rental units:

- A. Rental units in any hospital, skilled nursing facility, or health facility.
- B. Rental units in a nonprofit facility that has the primary purpose of providing short term treatment, assistance, or therapy for alcohol, drug, or other substance abuse and the housing is provided incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- C. Rental units in a nonprofit facility which provides a structured living environment that has the primary purpose of helping homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is restricted to a limited and specific period of time of not more than twenty-four (24) months and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- D. Rental units in a residential property where the owner of record occupies a unit in the same property as his or her principal residence and regularly shares in the use of kitchen or bath facilities with the tenants of such rental units. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the Commonwealth of Massachusetts.
- E. Any rental unit where the owner of record is a Boston Resident who owns four or less units and occupies one of those units.
- F. A unit that is held in trust on behalf of a developmentally disabled individual who permanently occupies the unit, or a unit that is permanently occupied by a developmentally disabled parent, sibling, child, or grandparent of the owner of that unit.
- G. Any rental unit that is owned or managed by a college or university for the express purpose of housing undergraduate or graduate students.

#### 6 - Cause Required for Eviction.

- A. No landlord shall endeavor to recover possession, issue a notice terminating tenancy, or recover possession of a rental unit in the City of Boston unless the landlord is able to prove the existence of one of the following grounds:
  - 1. The tenant has continued, after written notice to cease, to substantially violate a material term of the tenancy other than the obligation to surrender possession on proper notice as required by law.
  - 2. The tenant, who had an oral or written agreement with the landlord which has terminated, has refused after written request or demand by the landlord to execute a written extension or renewal thereof for a further term of like duration and under such terms which are materially the same as in the previous agreement; provided,

that such terms do not conflict with any of the provisions of this chapter. [Article I Just Cause Eviction Legislation].

3. The tenant has willfully caused substantial damage to the premises beyond normal wear and tear and, after written notice, has refused to cease damaging the premises, or has refused to either make satisfactory correction or to pay the reasonable costs of repairing such damage over a reasonable period of time.
4. The tenant has continued, following written notice to cease to be so disorderly as to destroy the peace and quiet of other tenants at the property.
5. The tenant has used the rental unit or the common areas of the premises for an illegal purpose including the manufacture, sale, or use of illegal drugs.
6. The tenant has, after written notice to cease, continued to deny landlord access to the unit as required by state law.
7. The tenant has, after written notice to cease, habitually and without legal justification failed to pay rent which is due and owing.
8. The owner of record seeks in good faith, to recover possession for his or her own use and occupancy as his or her principal residence, or for the use and occupancy as a principal residence by qualified relatives.
  - a. Where the owner of record recovers possession under this Subsection 6(A)(8) [6 A.8], and where continuous occupancy for the purpose of recovery by the owner of record or qualified relatives is less than thirty-six (36) months, such recovery of the residential unit shall be a presumed violation of this chapter.
  - b. The owner of record may not recover possession pursuant to this subsection more than once in any thirty-six (36) month period,
  - c. The owner of record or a qualified relative must move into the unit within three (3) months of the tenant's vacation of the premises.
  - d. A landlord may not recover possession of a unit from a tenant under Subsection 6(A)(8) [6 A.8], if the landlord has or receives notice, any time before recovery of possession, that any tenant in the rental unit:
    - i. Has been residing in the unit for five (5) years or more; and
      - (a) Is sixty (60) years of age or older; or
      - (b) Is a disabled tenant as defined in M.G.L c. 151B, s. 4, subsections 6,7 and 7A; or
      - (c) Has a child in K-12 education and the owner of record seeks to terminate tenancy during the school year.
    - ii. Has been residing in the unit for five (5) years or more, and is a catastrophically ill tenant, defined as a person who is disabled as defined by Subsection (d)(i)(b) [M.G.L c. 151B, s. 4, subsections 6,7 and 7A]] and who suffers from a life threatening illness as certified by his or her primary care physician.

- e. The provisions of Subsection (d) [6 A.8.d] above shall not apply where the landlord's qualified relative who will move into the unit is 60 years of age or older, disabled or catastrophically ill as defined by Subsection (d) [6 A.10.d], and where every rental unit owned by the landlord is occupied by a tenant otherwise protected from eviction by Subsection (d) [6 A.8.d].
  - f. Once a landlord has successfully recovered possession of a rental unit pursuant to Subsection 6(A)(8) [6 A.8], no other current landlords may recover possession of any other rental unit in the building under Subsection 6(A)(8) [6 A.8]. Only one specific unit per building may undergo a Subsection 6(A)(8) [6 A.8] eviction. Any future evictions taking place in the same building under Subsection 6(A)(8) [6 A.8] must be of that same unit, provided that a landlord may commence eviction proceedings, claiming that disability or other similar hardship prevents him or her from occupying a unit that was previously the subject of a Subsection 6(A)(8) [6 A.8] eviction.
  - g. A notice terminating tenancy under this Subsection must contain the notice requirements necessary in M.G.L. Chapter 186 Sections 10-13 as well as the following:
    - i A listing of all property owned by the intended owner and future occupant(s).
    - ii The address of the real property, if any, on which the intended future occupant(s) claims a homeowner's property tax exemption.
    - iii A statement informing the tenant, if they are being evicted for failure to accept a rent increase, that they have a right to request mediation with a city mediator, or a city approved mediator, and that a list of community advocates, who could advocate on behalf of a tenant, during mediation, is available from the Rental Housing Resource Center. After completing mediation, if the tenant and landlord fail to agree on a rent increase, a mediator will provide the landlord and the tenant with a mediation completion certificate.
9. The owner seeks a no fault eviction after completion of the mediation program or after a tenant fails to request mediation. The no fault mediation process shall proceed as following:
- a. If a landlord sends any of the following notices to a tenant, this section applies:
    - i No fault notice to quit.
    - ii Notice of rent increase.
    - iii Notice of lease expiration.
  - b. A landlord intending to not renew a lease must send a notice of lease expiration to a tenant thirty (30) days or one rental period prior to expiration of the lease period, whichever is greater.

- c. Landlords shall simultaneously send a copy of all notices listed in Subsection 9(a) to the Rental Housing Resource Center. These notices shall be accessible to tenant advocacy groups.
  - d. When presented with a notice listed under Subsection 9(a), tenants may file a request for a City-Sponsored, or City approved, mediation, which shall take place no later than thirty (30) days after being requested.
  - e. The tenant's request shall prompt referral, from the rental housing resource center, to a language appropriate tenants' advocacy organization.
  - f. If requesting a mediation, the tenant must provide written notice to the landlord of such request within the thirty (30) day period of the no fault notice to quit.
  - g. Landlords, or their authorized agent, must mediate with individual tenants over the rental increase, or, if the individual belongs to a tenants' advocacy organization, with the organization. Agreement is voluntary.
  - h. If agreement is reached during mediation, then the mediator may provide assistance in creating a record of the rental contract if desired by the parties involved.
  - i. If no agreement is reached following service of a no fault notice to quit, then the landlord shall receive a mediation completion certificate, and only then may proceed with a no fault eviction in compliance with procedure established in all applicable Massachusetts and municipal ordinances for landlord tenant disputes including, but not limited to, MGL c. 239, MGL c. 121B,s.32 MGL c. 121B, s.32 MGL c. 139, s.19 MGL c. 184, s.18 MGL 186, MGL c. 186, s.13 MGL c. 186, s.13A MGL c. 186, s.14.
  - j. The landlord must file the original mediation completion certificate with the summons and complaint in order to proceed with a no fault eviction.
- B. The following additional provisions shall apply to a landlord who seeks to recover a rental unit pursuant to Subsection 6(A) [6 A]:
- 1. The burden of proof shall be on the landlord in any eviction action to which this order is applicable to prove compliance with Section 6 [6].
  - 2. A landlord shall not endeavor to recover possession of a rental unit unless at least one of the grounds enumerated in Subsection 6(A) [6 A] above is stated in the notice and that ground is the landlord's dominant motive for recovering possession and the landlord acts in good faith in seeking to recover possession.
  - 3. Where a landlord seeks to evict a tenant under a cause ground, she or he must do so according to procedure established in all applicable Massachusetts and municipal ordinances for landlord tenant disputes including, but not limited to, MGL c. 239, MGL c. 121B,s.32 MGL c. 121B, s.32 MGL c. 139, s.19 MGL c. 184, s.18 MGL 186, MGL c. 186, s.13 MGL c. 186, s.13A MGL c. 186, s.14.

4. Subsection 6(B)(3) [6 B.3] shall not be construed to obviate the need for a notice terminating tenancy to be stated in the alternative where so required under all application Massachusetts and Municipal Ordinances for landlord tenant disputes.

#### 7 - Remedies.

- A. Remedies for violation of mediation requirement in no fault evictions as described in Subsection 6(9) (a-j)
  1. Failure by the landlord to simultaneously send a copy of a no fault notice to quit to the Rental Housing Resource Center shall constitute grounds for dismissal.
  2. Failure by the landlord to inform a tenant about his or her right to request mediation in a no fault notice to quit shall constitute grounds for dismissal.
  3. If mediation was requested by a tenant, failure by the landlord to obtain a mediation certificate, prior to the commencement of a no fault eviction action shall constitute grounds for dismissal.
  4. A tenant who prevails in an action brought by a landlord, for possession of the premises, where the landlord failed to obtain a mediation certificate prior to the commencement of a no fault eviction, shall be entitled to recover actual damages or three months rent, whichever is greater, costs, and reasonable attorney's fees.
  5. An owner of record who evicts a tenant in violation of this chapter or any ordinance or by-law adopted pursuant to this chapter shall be punished by a fine of not less than \$1,000 to be paid to the City of Boston. Each such illegal eviction shall constitute a separate offense.
  6. The remedies available in this section shall be in addition to any other existing remedies, which may be available to the tenant.
- B. Authorization of Corporate Counsel to enforce the Ordinance. Corporate Counsel shall have the authority to enforce provisions of this ordinance; to bring actions for injunctive relief on behalf of the city, or on behalf of tenants seeking compliance by landlords with the ordinance.
- C. It shall be unlawful for a landlord or any other person who willfully assists the landlord to endeavor to recover possession or to evict a tenant except as provided in Subsection 6(A) [6 A].

#### 8 – Exemption for subsidized housing

Housing authorities and landlords operating subsidized housing are exempt from this chapter and its application for the express purpose of avoiding federal preemption.

#### 9 - Non-waiverability.

The provisions of this chapter may not be waived and any term of any lease, contract, or other agreement which purports to waive or limit a tenant's substantive or procedural rights under this ordinance are contrary to public policy, unenforceable, and void.

#### 10 - Partial invalidity.

If any provision of this chapter or application thereof is held to be invalid, this invalidity shall not affect other provisions or applications of this chapter which can be

given effect without the invalid provisions or applications, and to this end the provisions and applications of this chapter are severable.

# **CITY OF BOSTON**

## **IN CITY COUNCIL**

**ORDERED:** That a petition to the General Court, accompanied by a bill for a special law relating to the City of Boston to be filed with an attested copy of this order be, and hereby is, approved under Clause One (1) of Section Eight (8) of Article Two (2), as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

### **PETITION FOR A SPECIAL LAW RE: THE JIM BROOKS STABILIZATION ACT**

#### **SECTION 1. DECLARATION OF EMERGENCY.**

The general court finds and declares that a serious public emergency exists with respect to housing in the City of Boston and in particular the displacement of tenants of rental housing through no-fault evictions and declares that deferred operation of this Act would tend to defeat its purpose, which is to protect forthwith the citizens and neighborhoods of Boston, and therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

#### **SECTION 2. PURPOSE.**

The purpose of this law is to defend, preserve, and promote the stability of housing and neighborhoods in the City of Boston and maintain diversity in Boston neighborhoods and communities by protecting residential tenants and former homeowners living in their homes post-foreclosure, against arbitrary, unreasonable, discriminatory, or retaliatory evictions, and by making sure that tenants and former homeowners are aware of their rights under state law. It is intended to address housing problems in the City of Boston so as to preserve the public health, safety, and welfare, and to advance the housing policies of the City with regard to low and moderate income persons and families and people of color, and those needing special protections or who fall under a protected category under G.L. c. 151B, including but not limited to national minorities, linguistic minorities, families with children or that include persons who are elderly or have disabilities, or persons who are gender non-conforming, gender expressive, lesbian, gay, bisexual, transgendered, or queer.

### **SECTION 3. DEFINITIONS.**

“Applicable Laws” means all controlling applicable federal, state and local statutes, regulations and ordinances and administrative rules and orders that have the effect of law, as well as all applicable final, non-appealable judicial opinions.

“Child/Parent” means a child/parent relationship in which a child is either a parent’s biological child, adopted child or child under legal guardianship, provided that such relationship was established at least one year prior to the attempted eviction. At the time of attempted eviction pursuant to Subsection 5(A)(8), a child of an owner of record must be over the age of eighteen (18) or be legally emancipated.

“Entity” means a business organization, or any other kind of organization including, without limitation, a corporation, partnership, trust, limited liability corporation, limited liability partnership, joint venture, sole proprietorship, development or project, or any other category of organization and any employee, agent, servant or other representative of such entity, to the extent not inconsistent with or prohibited by Applicable Laws.

“Former Homeowner” means any natural person or group of natural persons who, prior to foreclosure of a housing accommodation, had been the title owner or owners of such housing accommodation, or who has a legal or beneficial interest in the housing accommodation by dissolution of marriage, separation agreement, survivorship, devise, or intestate succession, and who at the time of foreclosure actually occupied such housing accommodation as a resident or residents.

“Foreclosing Owner” means any natural person or entity that holds title in any capacity, directly or indirectly, without limitation, whether in its own name, as trustee or as beneficiary, to a housing accommodation that has been foreclosed upon and either: (1) held or owned a mortgage or other security interest in the housing accommodation at any point prior to the foreclosure of the housing accommodation or is the subsidiary, parent, trustee, or agent thereof; or (2) is an institutional mortgagee that acquires or holds title to the housing accommodation within 3 years of the filing of a foreclosure deed on the housing accommodation; or (3) is the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

“Grandchild” means a grandparent/child relationship in which a grandchild is either a grandparent’s biological grandchild or adopted grandchild or grandchild under legal guardianship, provided that such relationship was established prior to the child’s eighteenth birthday and at least one year prior to the attempted eviction. At the time of attempted eviction pursuant to Subsection 5(A)(8), the grandchild of an owner of record must be over the age of eighteen (18) or be legally emancipated.

“Health Facility” means any facility, place or building that is organized, maintained, and operated for the diagnosis, care, and treatment of human illness, physical or mental, including convalescence and rehabilitation, and including care during and after pregnancy, or for any one or more of these purposes.

“Housing accommodation” means a building or structure, or part thereof or land appurtenant thereto, and any other real or personal property used, rented or offered for rent for living or dwelling purposes, together with all services connected with the use or occupancy of such property, in the City of Boston.

“Landlord” means an owner of record, or lessor or sublessor of an owner of record, or any other person, project, housing development, or other entity entitled either to receive rent for the use or occupancy of any rental unit or to maintain an action for possession of a rental unit, or an agent, representative, successor, or assignee of any of the foregoing.

“Lease nonrenewal notice” means any notice sent by a landlord to a tenant under a lease to rent a rental unit stating that the tenant’s lease will not be renewed or that tenant must vacate the rental unit subsequent to the expiration of the lease.

“Notice of fixed term lease expiration” means, in the case of a written lease with a fixed term, a written notice given at least one full month prior to the date that the fixed term will end reminding the tenant of the date when the fixed term expires.

“Notice to quit” means any written notice sent by a landlord or a foreclosing owner to a tenant or former homeowner of a residential rental unit or housing accommodation seeking to terminate the tenant’s tenancy or the former homeowner’s occupancy of such rental unit or housing accommodation.

“Office of Housing Stability” means the office of the City of Boston created in 2016 in order to address the problem of displacement in the city, and/or any subsequent or successor office or entity similarly empowered and/or with like purpose or responsibility, or if no such office exists the city office or entity with the closest corresponding such purpose or responsibility.

“Owner of record” means an entity that holds legal or beneficial title in any capacity, directly or indirectly, without limitation, whether in its own name, as trustee or as beneficiary, to a residential rental unit or housing accommodation.

“Property” or “Real Property” means a parcel of land, along with all fixtures, structures and improvements thereupon, located in the City of Boston that is assessed and taxed as an undivided whole.

“Reasonable Rent” means, in the case of a former homeowner occupying a housing accommodation after foreclosure thereof, the Fair Market Rent as established by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. § 1437f(o), as it exists or may be amended, for a unit of comparable size in the individual or small area in which the housing accommodation is located, or as otherwise agreed to by the parties.

“Rent” means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in connection with, the use or occupancy of rental units and housing accommodations. Such consideration shall include, but not be limited to, moneys and fair value of goods or services rendered to or for the benefit of the landlord or foreclosing owner under a rental agreement, or in exchange for a rental unit or housing accommodation of any kind.

“Rental Agreement” means an agreement, oral, written, or implied, between a landlord and a tenant, or between a foreclosing owner and a former homeowner, for the use and/or occupancy of a rental unit or housing accommodation.

“Rental Unit” (a.k.a. “Unit,” aka “Premises”) means any unit in any real property in the City of Boston, regardless of zoning status, including the land appurtenant thereto, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes), together with all housing services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the tenant.

“Skilled Nursing Facility” means a health facility or a distinct part of a hospital that provides, at a minimum, skilled nursing care and supportive care to patients whose primary medical need is the availability of skilled nursing care on an extended basis. Such facility must provide twenty-four (24) hour inpatient care, an activity program, and medical, nursing, dietary, pharmaceutical services. Additionally, the facility must provide effective arrangements, confirmed in writing, through which services required by the patients but not regularly provided within the facility can be obtained promptly when needed.

“Tenant” means any renter, tenant, subtenant, lessee, or sublessee of a rental unit, or any group of renters, tenants, subtenants, lessees, sublessees of a rental unit, or any other person entitled to the use or occupancy of such rental unit, or any successor of any of the foregoing.

“Tenants’ Rights Organization” means any unincorporated or incorporated association, nonprofit, or City of Boston department or office which provides housing assistance or tenants’ rights advocacy or foreclosure prevention and post-foreclosure assistance to homeowners or former homeowners.

#### **SECTION 4 - APPLICABILITY.**

The provisions of this chapter shall apply to all rental units and housing accommodations in the City of Boston, in whole or in part, including where a notice to quit, lease nonrenewal notice, and/or notice of fixed term lease expiration has been served or should have been served on the tenant or former homeowner of any such rental unit or housing accommodation as of the effective date of this Act, but where any such rental unit or housing accommodation has not yet been vacated or a summary process judgment has not been issued as of the effective date of this Act. However, Section 5 and Section 6 of this Act shall not apply to the following types of units:

- A. Rental units in any hospital, skilled nursing facility, or health facility.
- B. Rental units in a nonprofit facility that has the primary purpose of providing short term treatment, assistance, or therapy for alcohol, drug, or other substance abuse and the housing is provided incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- C. Rental units in a nonprofit facility which provides a structured living environment that has the primary purpose of helping homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is restricted to a limited and specific period of time of not more than

twenty-four (24) months and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.

- D. Rental units in a residential property where the owner of record occupies a unit in the same property as his or her principal residence and regularly shares in the use of kitchen or bath facilities with the tenants of such rental units. For purposes of this Subsection 4(D), the term owner of record shall not include any person who claims a real estate property tax exemption on any other residential real property in the State of Massachusetts.
- E. Rental units in public housing and Low Income Housing Tax Credit multifamily housing that are already subject to just cause eviction restrictions under applicable state or federal laws, except private rental units occupied under a tenant-based rental assistance voucher with tenant-based vouchers or subsidies.
- F. Any residential property where the owner of record is a natural person who owns six (6) or fewer residential rental units, including any unit owned by any entity in which the owner of record has a legal or beneficial interest, and the owner of record resides in the Commonwealth of Massachusetts.
- G. A unit that is held in trust on behalf of a developmentally disabled individual who permanently occupies the unit, or a unit that is permanently occupied by a developmentally disabled parent, sibling, child, or grandparent of the owner of that unit.
- H. Any rental unit that is owned or managed by a college or university for the express purpose of housing undergraduate students.

#### **SECTION 5. GOOD CAUSE REQUIRED FOR EVICTION.**

- A. No landlord or foreclosing owner may recover possession of a residential rental unit or housing accommodation in the City of Boston, in any proceeding pursuant to Chapter 239 of the General Laws or otherwise, unless the court finds that:
  - 1. the tenant has failed to pay the rent to which the landlord is entitled, in which case a landlord is entitled to bring a nonpayment of rent action under applicable state law;
  - 2. the tenant has violated an obligation or covenant of his or her tenancy not inconsistent with Chapter 93A of the General Laws, or this Act, or the regulations issued pursuant thereto, other than the obligation to surrender possession upon proper legal notice, and the tenant has failed to cure such violation after having received valid written notice thereof from the landlord;
  - 3. the tenant or former homeowner has committed or permitted to exist a nuisance in or caused substantial damage to the rental unit or housing accommodation, or has created a substantial interference with the comfort, safety or enjoyment of the landlord or other occupants of the same or any adjacent accommodations;
  - 4. the tenant or former homeowner has used or permitted the rental unit or housing accommodation to be used for any illegal purposes;

5. the tenant under a written lease or rental agreement (either written or oral), has refused, after written demand by the landlord, to execute an extension or renewal of the lease or rental agreement on such terms that are not inconsistent with or do not violate any provision of Chapter 93A of the General Laws, or of this Act, which ground shall be treated as no-fault under applicable state law;
  6. the tenant or former homeowner has refused the landlord or foreclosing owner reasonable access to the rental unit or housing accommodation for the purpose of making necessary repairs or improvements required by the laws of the Commonwealth or any political subdivision thereof, or for the purpose of inspection as permitted or required by such tenant's rental agreement or by law, or for the purpose of showing the rental unit or housing accommodation to any prospective purchaser or mortgagee;
  7. the person holding at the end of a lease term is a subtenant not approved by the landlord;
  8. the landlord or foreclosing owner seeks in good faith to recover possession of a unit which is a rental unit for his or her own use and occupancy or for the use of occupancy by his or her spouse, children, grandchildren, great grandchildren, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law, which ground shall be treated as no-fault under applicable state law (any such eviction shall also be subject to any additional restrictions or provisions applicable if it is a condominium/cooperative conversion eviction within the meaning of St. 1983, c. 527, as amended, and such local legislation as the City of Boston has adopted regarding condominium/cooperative conversion evictions); or
  9. the foreclosing owner seeks to recover possession from a former homeowner who refuses to pay a reasonable rent requested in writing by the foreclosing owner.
- B. Any notice to quit, lease nonrenewal letter, or notice of fixed term lease expiration sent pursuant to Section 5 of this Act (collectively, "City Termination Notice") must be sent to the City of Boston's Office of Housing Stability within two (2) days after the notice to quit or lease nonrenewal notice and/or notice of fixed lease expiration is served on the tenant or former homeowner, and also filed with the court before the service of any summons and complaint commencing a proceeding to recover possession of any rental unit or housing accommodation pursuant to G.L. c. 239. A landlord or foreclosing owner who fails to comply with this Subsection 5(B) shall not be entitled to recover possession in any proceeding for summary process.
1. Within five (5) days of receipt of any notice pursuant to Subsection 5(B), the City of Boston shall mail to all tenants and former homeowners identified on any City Termination Notice, a notice of basic housing rights and resources, including a list of tenants' rights organizations with their contact information ("City Rights Notice").
  2. The City of Boston shall keep a record of the receipt of all City Termination Notices and the sending of all City Rights Notices including, *inter alia*, when

such notices were received and sent, and the means of transmission (e.g. mail, hand delivery, fax, or electronic mail).

3. The City of Boston shall keep all City Termination Notices received from landlords or foreclosing owners pursuant to this Subsection 5(B) for a minimum of five (5) years.
- C. The following additional provisions shall apply to a landlord or foreclosing owner who seeks to recover a rental unit or housing accommodation pursuant to Section 5:
1. The evicting landlord or foreclosing owner shall bear the burden of proof in any applicable summary process action to establish compliance with the conditions set forth Subsection 5(A).
  2. A landlord or foreclosing owner shall not initiate any action to recover possession of a residential rental unit or housing accommodation unless at least one of the good cause grounds enumerated above in Subsection 5(A) above is stated in the City Termination Notice, and that stated ground is the primary basis for seeking to recover possession; and the landlord or foreclosing owner acts in good faith in initiating any action to recover possession.
  3. Nothing in this Act shall be construed to relieve the landlord or foreclosing owner seeking possession under a good cause ground under Subsection 5(A) from the obligations, requirements, and prohibitions set forth in all Applicable Laws, including but not limited to G.L. c. 239; G.L. c. 139, s.19; G.L. c. 184, s.18; G.L. c. 186; and G.L. c. 93A.
- D. Nothing in this Act shall be construed to relieve, limit or constrain in any way the obligations and rights available to tenants and former and current homeowners under all Applicable Laws, including but not limited to G.L. c. 239, G.L. c. 93A, and G.L. c. 186.

## **SECTION 6. REMEDIES.**

- A. Remedies if a non-exempt landlord or foreclosing owner proceeds with any legal action to recover possession of a residential premises located in the City of Boston in violation of Subsection 5(A) and/or Subsection 5(B) shall include the following:
1. Failure to state a good cause ground for eviction specified in Subsection 5(A) shall constitute grounds for dismissal of the action.
  2. Failure to file timely with the City of Boston a City Termination Notice shall constitute grounds for dismissal of the action.
  3. Failure by a non-exempt landlord or foreclosing owner to comply with Subsection 5(A) or Subsection 5(B) shall entitle the tenant or former homeowner to all actual and punitive damages, costs of suit, and reasonable attorney's fees and expenses in connection with efforts to interpret or enforce the terms, conditions, and applications of this ordinance.

4. The remedies available in this Section 6 shall not preclude or be construed to be exclusive, but may be cumulative with any other existing remedies, which may be available to the tenant or former homeowner.

**SECTION 7. CONFIDENTIALITY.**

City Rights Notices and City Termination Notices shall not be subject to the mandatory disclosure provision of the Public Records Law.

**SECTION 8. NON-WAIVABILITY.**

The provisions of this Act may not be waived, and any term of any lease, contract, or other agreement which purports to waive or limit a tenant's or former homeowner's substantive or procedural rights under this ordinance are contrary to public policy, unenforceable, and void, unless and to the extent permitted by Applicable Laws.

**SECTION 9. PARTIAL INVALIDITY.**

If any provision of this Act or application thereof is held to be invalid or in conflict with Applicable Laws, this invalidity or conflict shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions and applications of this Act are severable.

**SECTION 10.**

This act shall take effect upon its passage.

I HEREBY CERTIFY THAT  
THE FOREGOING, IF PASSED IN  
THE ABOVE FORM, WILL BE IN  
ACCORDANCE WITH LAW.  
BY Eugene L. O'Flaherty  
EUGENE L. O'FLAHERTY *EO*  
CORPORATION COUNSEL

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BY \_\_\_\_\_ Signature redacted  
EUGENE L. O'FLAHERTY   
CORPORATION COUNSEL