

**STAY HOUSED LOS ANGELES:
SAFEGUARDING TENANTS’ RIGHTS BEYOND RENT CONTROL**

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ABSTRACT

How is it that people become unhoused? One answer is: by getting evicted. In 2020, the COVID-19 pandemic wreaked havoc on the United States's ongoing affordable housing crisis but also gave way to substantial reforms aimed at preventing homelessness and protecting tenant rights. Then in 2024, as rent, eviction rates, and homelessness continued to rise, SCOTUS issued a ruling effectively criminalizing homelessness.

Los Angeles, the nation's second-largest city, consistently ranks amongst the least affordable housing markets and has one of the highest eviction rates. How do we keep L.A. housed? This note examines the evolving tenant protection frameworks of Los Angeles and Berlin—both large, left-leaning, majority-renter cities with comparable housing policies. It traces L.A. and Berlin's rent control policies, which offered limited and often inconsistent protections.

Although both cities have experienced similar housing policy changes and challenges, Berlin boasts significantly lower eviction rates than Los Angeles. By analyzing Berlin's model of people-driven activism, in contrast to Los Angeles's funding-centric advocacy, the Note contemplates the strengths and limitations of each approach. Berlin's tenant movements have influenced policies like the "Rent Price Brake" and the "Rent Cap," while Los Angeles's ongoing housing crisis has fueled tenant advocacy efforts, leading to measures like the "Just Cause Ordinance" and the "Tenant Right to Counsel Ordinance."

Finally, the comparative analysis explores the efficacy of current tenant protection measures and contemplates nuanced approaches to safeguarding tenants' rights in Los Angeles. Concluding that while policy advancements mark significant progress, broader systemic changes are necessary.

I. INTRODUCTION

Globally, rental housing has become a means for financial investment by institutional landlords;¹ the financialization of housing² is a significant contributor to the United States' ongoing affordable housing crisis.³ Los Angeles, California (L.A.) is the second largest city in the United States and often ranks among the least affordable housing markets in the country—it currently ranks as the fourth most

¹ Desiree Fields & Sabina Uffer, *The financialisation of rental housing: A comparative analysis of New York City and Berlin*, 53(7) URB. STUD. J. 1486, 1489 (2016).

² Here, I use the term "financialization of housing" to mean the practice of treating housing as an investment and tool for accumulating wealth, rather than a fundamental human right. *Financialization of housing*, UNHUM. RTS. OFF. HIGH COMM'R, <https://www.ohchr.org/en/special-procedures/sr-housing/financialization-housing> (last visited Oct. 11, 2024).

³ See Andrew Aurand et al., *Out of Reach: The High Cost of Housing*, NAT'L LOW INCOME HOUSING COAL. 1, 2 (2021), https://nlhc.org/sites/default/files/oor/2021/out-of-reach_2021.pdf.

expensive city in the world.⁴ Los Angeles has been in a housing crisis for the past several decades⁵—one does not need to be a housing expert to notice the scarcity of affordable housing options; a drive down most major streets in L.A. exposes the income disparities and astounding amount of unhoused folks in the city.



The median salary in L.A. is \$56,769 (\$4,730 monthly),⁶ and the median monthly rent is \$3,515,⁷ yet landlords still expect rent to amount to no more than 30% of the tenant’s income,⁸ leaving Angelenos looking to stay housed in an impossible position. Throughout the COVID-19 pandemic (“pandemic”), I saw my own neighbors unable to pay their rent and resort to living out of their vehicles or building makeshift encampments at our local park. Even when a person is able to find housing in L.A., it can be hard to keep it. I myself lived in an unpermitted

⁴ Rosalie Ray, Paul Ong & Silvia Jimenez, *Impacts of the Widening Divide: Los Angeles at the Forefront of the Rent Burden Crisis 2* (2014), https://knowledge.luskin.ucla.edu/wp-content/uploads/2018/01/Impacts-of-the-Widening-Divide-Los-Angeles-Renters-Ziman_2014-08W.pdf; ECONOMIST INTELLIGENCE UNIT, *WORLDWIDE COST OF LIVING 2022: HOW SOARING INFLATION HAS AFFECTED PRICES GLOBALLY 2* (2022).

⁵ Leonard M. Pitt, *Los Angeles*, BRITANNICA, <https://www.britannica.com/place/los-angeles-california> (last visited Oct. 12, 2024); Michael Kimmelman, *Los Angeles Has a Housing Crisis. Can Design Help?*, N.Y. TIMES (Jun. 22, 2021), <https://www.nytimes.com/2021/06/22/arts/design/los-angeles-housing-crisis.html>.

⁶ Ivandzhelin, *What’s the Average Salary in Los Angeles?*, HOUSING ANYWHERE (Sept. 24, 2024), <https://housinganywhere.com/los-angeles--united-states/average-salary-in-los-angeles>.

⁷ Marc Sternfield, *Rent Prices in California’s Largest Cities are Down, Except Here*, KTLA (Jan. 26, 2024, 8:24 AM), <https://ktla.com/news/california/rent-prices-are-down-in-californias-largest-cities-except-one/>.

⁸ *The Landlord’s Guide to Rent to Income Ratio*, AAOA, <https://www.american-apartment-owners-association.org/property-management/rent-to-income-ratio/> (last visited Oct. 10, 2024).

garage for several years before my landlord filed an unlawful eviction against me after I complained about the uninhabitable living conditions. These experiences are not unique; they are frequent occurrences in the lives of Angelenos, driven by an unethical housing framework and a disregard for tenants' rights.



A starting point for strategizing mitigation efforts is by asking: *How do people become unhoused?* One answer to this question is eviction proceedings.⁹ The United States has the highest rate of eviction proceedings amongst the Organization for Economic Cooperation and Development's member countries, while several of the European member countries report far fewer evictions.¹⁰ While the pandemic further exacerbated the affordable housing crisis and rising eviction rates,¹¹ even before the onset of COVID-19, over 3.6 million evictions were filed annually in the U.S., underscoring a longstanding crisis within the rental housing system.¹² Although a variety of approaches to protecting tenant rights have emerged in California, eviction rates continue to rise in Los Angeles.¹³ In 2017, landlords in Los Angeles County filed 50,000 eviction suits amidst the statewide housing crisis.¹⁴ Between 2010 and 2018, landlords filed 505,924 eviction lawsuits in Los Angeles County, averaging approximately 63,241 eviction proceedings per year

⁹ See generally Kathryn A. Sabbeth, *Eviction Courts*, 18 U. ST. THOMAS L.J. 359 (2022).

¹⁰ ORG. FOR ECON. COOPERATION AND DEV., HC3.3 EVICTIONS 3, <https://www.oecd.org/els/family/hc3-3-evictions.pdf> (database updated Apr. 2024) [hereinafter OECD].

¹¹ See Jaboa Lake, *The Pandemic Has Exacerbated Housing Instability for Renters of Color*, CTR. FOR AM. PROGRESS (Oct. 30, 2020), <https://www.americanprogress.org/article/pandemic-exacerbated-housing-instability-renters-color/>.

¹² NATIONAL COALITION FOR A CIVIL RIGHT TO COUNSEL, THE RIGHT TO COUNSEL FOR TENANTS: ENACTED LEGISLATION 1, https://civilrighttocounsel.org/uploaded_files/283/rtc_enacted_legislation_in_eviction_proceedings_final.pdf (last updated Oct. 2024) [hereinafter THE RIGHT TO COUNSEL FOR TENANTS].

¹³ See discussion *infra* Section V.A.1.

¹⁴ See Noah Grynberg & Tyler Anderson, *Op-Ed: California Eviction Law is Pushing Working Families out of Their Neighborhoods or Worse—onto the Streets*, L.A. TIMES (Mar. 23, 2018), <https://www.latimes.com/opinion/livable-city/la-oe-grynberg-anderson-eviction-housing-california-20180323-story.html>.

during that period.¹⁵ The Los Angeles Housing Department received 77,049 eviction notices from February to December 2023, not including unreported evictions.¹⁶ In an effort to mitigate the effects of the pandemic, Los Angeles passed the Just Cause Ordinance effective January 27, 2023.¹⁷

Several parallels exist between Los Angeles, California, and Berlin, Germany.¹⁸ Both are majority-renter cities¹⁹ and have comparable population sizes,²⁰ yet Berlin boasts one of the lowest eviction rates amongst large, developed cities.²¹ The private rental markets in the United States and Germany are shaped by regulations that govern the landlord-tenant relationship, such as rent control and just cause evictions.²² The failure of housing supply to meet rising demands is one of the main reasons why rental regulation is necessary; when demand surges, rental rates often escalate far beyond the fair market value.²³ In such situations, landlords generate excessive profits, leading to political pressure to level the playing field and prevent tenants from facing significant disadvantages.²⁴ Rental legislation typically seeks to establish a fair equilibrium between landlords and tenants, aiming to offer tenants increased security of tenure without driving landlords away.²⁵

¹⁵ See Jenna Chandler, *New Report Underscores Link Between ‘Shocking’ Number of Evictions, Homelessness*, CURBED LA (Jun. 10, 2019) <https://la.curbed.com/2019/6/10/18659841>.

¹⁶ LA CITY CONTROLLER, EVICTION NOTICES (FEBRUARY-DECEMBER 2023), <https://controller.lacity.gov/landings/evictions> (last visited Nov. 13, 2024) [hereinafter EVICTION NOTICES].

¹⁷ See generally L.A. MUN. CODE § 165 (2024).

¹⁸ See discussion *infra* Section II.A.

¹⁹ Sixty-three percent of households in Los Angeles and eighty-three percent of households in Berlin rent. *Your 2020 Census Guide for Renters*, LA CITY CENSUS, https://census.lacity.gov/sites/g/files/wph1201/f/english%20faqs%20hard%20to%20count%20populations_final%20updated_06.pdf (last visited Aug. 30, 2024) [hereinafter *Your 2020 Census Guide*]; Carolin Schmidt, *Strong Tenant Protections and Subsidies Support Germany’s Majority-Renter Housing Market*, BROOKINGS (Apr. 20, 2021), <https://www.brookings.edu/articles/germany-rental-housing-markets/>.

²⁰ *Quick Facts Los Angeles County, California*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/losangelescalitycalifornia,ca#> (last visited Oct. 6, 2024) [hereinafter *Quick Facts*]; *Population register statistics December 31, 2022 Berlin*, OFF. FOR STAT. BERLIN-BRANDENBURG, <https://www.statistik-berlin-brandenburg.de/bevoelkerung/zensus#> (last visited Aug. 30, 2024).

²¹ See OECD, *supra* note 10.

²² See Jenny Schuetz & Sarah Crump, *What the US can learn from rental housing markets across the globe*, BROOKINGS (Apr. 20, 2021), <https://www.brookings.edu/articles/intro-rental-housing-markets/>; Schmidt, *supra* note 19.

²³ Christine Whitehead & Peter Williams, *Assessing the evidence of rent control from an international perspective*, LSE LONDON 8 (Oct. 2018), <https://www.lse.ac.uk/business/consulting/assets/documents/assessing-the-evidence-on-rent-control-from-an-international-perspective.pdf>.

²⁴ See *Protect Tenants, Prevent Homelessness*, NAT’L LAW CTR. ON HOMELESSNESS & POVERTY 7 (2018), <https://homelesslaw.org/wp-content/uploads/2018/10/protecttenants2018.pdf> (last visited Aug. 30, 2024).

²⁵ Marietta Haffner, Marja Elsinga & Joris Hoekstra, *Rent Regulation: The Balance between Private Landlords and Tenants in Six European Countries*, 8 EUR. J. OF HOUS. POL’Y 217, 218 (2008); Whitehead & Williams, *supra* note 23, at 4.

Whether an eviction complaint is legally justified or not, the stakes are often high. Merely having an eviction filed against you—regardless of the outcome—reduces housing opportunities and can wreak havoc on a person’s life.²⁶ My own landlord in L.A. filed a retaliatory eviction against me. My landlord’s attorney unethically pushed forward with the eviction despite my insistence that it was retaliatory, and I was owed relocation fees. I was unable to afford the \$5,000 retainer that most defense attorneys required and was left with no choice but to represent myself. It was a stressor that hung over me during my entire first year of law school, one which only ended after I won the trial, and my landlord was ordered to pay the relocation fees I was owed. This, too, is not a unique occurrence; I have seen countless retaliatory evictions filed and fought during my decade working as a paralegal in Los Angeles.

Part of the issue here is the expedited nature of eviction proceedings: a landlord can file a retaliatory eviction complaint against a tenant at any moment, and once served, a tenant has just five days to preserve their legal rights and avoid having a default judgment entered against them.²⁷ With a default judgment for eviction, a tenant can find themselves unhoused in under 30 days.²⁸ Answering a civil complaint of any kind is a complex and costly process that most average tenants are unfamiliar with, and this complexity is further exacerbated by the quick turnaround time built into eviction cases. It is a process that systemically favors the property owner’s rights to the detriment of the tenant’s rights.

Summary eviction proceedings are the order of the day. Default judgments in eviction proceedings are obtained in machinegun rapidity, since the indigent cannot afford counsel to defend. Housing laws often have a built-in bias against the poor. Slumlords have a tight hold on the Nation.²⁹

Evicted tenants do not just lose their housing; they are also often met with legal ramifications, physical and mental health issues, child custody disputes, loss of employment, and loss of property, notwithstanding the fact that a judgment for eviction remains on a tenant’s record for years.³⁰ On the more severe end of consequences, those unhoused by eviction also become more susceptible to incarceration.³¹ These repercussions are far from evenly distributed, with Black female renters experiencing eviction at double the rate of their White counterparts.³² “Tenant representation decreases the likelihood and overall impact of these

²⁶ THE RIGHT TO COUNSEL FOR TENANTS, *supra* note 12, at 1.

²⁷ *Ask for Trial Date or Default Judgment, California Courts Self-Help Guide*, JUD. BRANCH OF CAL., <https://selfhelp.courts.ca.gov/eviction-landlord/ask-for-judgment> (last visited Oct. 5, 2024).

²⁸ *See id.*

²⁹ *See* MATTHEW DESMOND, *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY* 105–109 (Amanda Cook ed., 2016) (ebook).

³⁰ *See* MATTHEW DESMOND, *supra* note 29.

³¹ *See id.* at 102.

³² *Id.*; *see also* Lake, *supra* note 11.

consequences.”³³ Despite these high stakes, unlawful detainer³⁴ actions in several municipalities throughout the United States are subject to summary procedures for evictions—a system that primarily benefits landlords at the cost of tenants’ rights.³⁵

This analysis scrutinizes Los Angeles’ tenant protection framework—with the recently enacted Just Cause Ordinance in mind—and compares it to Berlin’s private rental market, while simultaneously contemplating nuanced approaches to safeguarding tenants’ rights and asking: *How do we improve Los Angeles’s tenant protection framework, safeguard tenant’s rights, and keep L.A. housed?* The following aspects are discussed in this Note: an overview of rental legislation, the tenant protection framework in Germany, tenant protection measures in California, a comparison of the respective frameworks, and recommendations for safeguarding Angeleno tenants’ rights.

II. BACKGROUND

A. Why Compare Los Angeles to Berlin?

Los Angeles, California and Berlin, Germany exhibit several similarities.³⁶ They share comparable population sizes—Los Angeles with 3.89 million residents³⁷ as of 2020, and Berlin boasting 3.87 million as of 2023.³⁸ They stand as the largest metropolises within economically influential regions: California and Germany.³⁹ Germany has experienced the most extensive privatization of public housing globally since the early 1990s, with over 3 million units denationalized.⁴⁰ California serves as the capital of tech, while Berlin is emerging as a key European hub for tech start-ups and is witnessing substantial real estate investments.⁴¹ Los

³³ THE RIGHT TO COUNSEL FOR TENANTS, *supra* note 12, at 1.

³⁴ An unlawful detainer, also known as an eviction lawsuit, is a summary proceeding to determine the right to possession of real property. *Unlawful Detainer*, LEGAL INFO. INST., https://www.law.cornell.edu/wex/unlawful_detainer (last visited Oct. 6, 2024). Unlawful detainer and eviction will be used interchangeably throughout this paper.

³⁵ See Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers’ Impact*, 80 AM. SOCIO. REV. 909, 925 (2015); Sabbeth, *supra* note 9, at 384.

³⁶ Notably though, Berlin is classified as both a city and one of the sixteen German states. See *Government and Administration*, BUS. LOCATION CTR., <https://www.businesslocationcenter.de/en/business-location/berlin-at-a-glance/political-system> (last visited Oct. 12, 2024).

³⁷ *Quick Facts*, *supra* note 20.

³⁸ *Statistics: Berlin’s population continues to grow*, OFF. WEBSITE OF BERLIN (Sep. 1, 2023), <https://www.berlin.de/en/news/8425887-5559700-statistics-berlins-population-continues-.en.html>.

³⁹ *Id.*; See generally *Quick Facts*, *supra* note 20.

⁴⁰ Manuel B. Aalbers, *Financial geography II: Financial geographies of housing and real estate*, 43 PROGRESS IN HUM. GEOGRAPHY 376, 378 (2019).

⁴¹ See Bruce Katz & Julie Wagner, *The Rise of Innovation Districts: A New Geography of Innovation in America*, BROOKINGS (May 2014), <https://www.brookings.edu/wp-content/upl>

Angeles and Berlin represent a more general family of cities: large, left-leaning, majority renter, with rich activist histories.⁴²

Housing policies in Los Angeles and Berlin have undergone remarkably similar transformations since 2008.⁴³ Polls indicate that over the past decade, housing has emerged as the most pivotal political issue for the public in these cities.⁴⁴ In 2020, 81% of Angelinos expressed that protecting tenants is either extremely important or a major priority.⁴⁵ Similarly, in Berlin, 51% of residents polled in 2019 expressed concerns about being unable to afford rent and facing displacement.⁴⁶ By 2021, 47% of Berliners identified rising rents as their primary concern.⁴⁷ These cities not only share parallel housing policy trajectories but also account for a disproportionately significant share of social movements, resources allocated by interest groups, media attention, and overall political activity.⁴⁸

Los Angeles and Berlin are both majority renter cities; sixty-three percent of Los Angeles households⁴⁹ and eighty-five percent of Berlin households are renter-occupied.⁵⁰ As of 2018, Berlin had approximately 1.95 million rental

oads/2016/07/innovationdistricts1.pdf; TOBIAS KOLLMANN ET AL., DEUTSCHER STARTUP MONITOR 2017, KPMG (2017).

⁴² Kenton Card, *From the streets to the statehouse: how tenant movements affect housing policy in Los Angeles and Berlin*, 39 HOUS. STUD., 1395, 1396. (2022).

⁴³ *Id.* at 1409.

⁴⁴ Benjamin Oreskes, Doug Smith & David Lauter, *95% of Voters Say Homelessness is L.A.'s Biggest Problem, Times Poll Finds. 'You Can't Escape It'*, L.A. TIMES (Nov. 14, 2019, 6:41 AM) <https://www.latimes.com/california/story/2019-11-14/homeless-housing-poll-opinion>; *New Housing Poll Reveals That Angelenos Support More Housing Citywide & Support Tenant Protections*, L.A. CITY PLAN. <https://planning.lacity.org/blog/new-housing-poll-reveals-angelenos-support-more-housing-citywide-support-tenant-protections> (last visited Oct. 7, 2024).

⁴⁵ *Housing Element 2021-2029: The Plan to House LA*, L.A. CITY PLAN. 7 https://planning.lacity.org/odocument/7c72a22f-3395-4ea9-88c1-ce9b419acf92/appendix_0.1_-_outreach_summaries.pdf (last visited Oct. 7, 2024).

⁴⁶ *Exklusive Forsa-Umfrage: Jeder zweite Berliner hat Angst vor steigenden Mietkosten [Exclusive Forsa survey: Every Second Berliner is Afraid of Rising Rental Costs]*, BERLINER ZEITUNG (Mar. 1, 2019, 11:22 AM) <https://www.berliner-zeitung.de/mensch-metropole/exklusive-forsa-umfrage-jeder-zweite-berliner-hat-angst-vor-steigenden-mietkosten-li.21378>.

⁴⁷ Joachim Fahrún, *Berlin trend: Mieten sind für die Berliner größtes Problem [Berlin trend: Rents are the biggest problem for Berliners]*, BERLINER MORGENPOST (June 18, 2021, 6:00 PM) <https://www.morgenpost.de/berlin/article232574739/Berlin-Trend-Mieten-sind-fuer-die-Berliner-groesstes-Problem.html>.

⁴⁸ See Card, *supra* note 42, at 1396.

⁴⁹ *Your 2020 Census Guide*, *supra* note 19.

⁵⁰ Maria Martinez & Riham Alkousaa, *Berlin's renters face more misery as housing crisis deepens*, REUTERS (Nov. 16, 2023 4:24 AM), <https://www.reuters.com/world/europe/berlins-renters-face-more-misery-housing-crisis-deepens-2023-11-16/#:~:text=About%2085%25%20of%20Berliners%20rent,t%20always%20been%20like%20this.>

apartments.⁵¹ As of 2020, Los Angeles had a housing stock comprising a total of over 1.37 million rental units.⁵²

While diverse strategies at the state and local levels have been implemented to safeguard tenant rights, both metropolises have experienced an ongoing surge in rental prices, leading to adverse consequences for tenants.⁵³ With an estimated 6,000 evictions per year,⁵⁴ Berlin boasts a significantly lower eviction rate than Los Angeles.⁵⁵ Further, Germany has one of the lowest eviction rates amongst OECD countries,⁵⁶ and as of 2021, had a 0.3% eviction rate.⁵⁷ In comparison, Los Angeles saw over 77,049 eviction notices served on tenants in 2023 alone.⁵⁸

B. About Rental Regulation

The regulation of rental markets often sparks conflicts between tenant and landlord organizations. Housing policies, influenced by movements and interest groups, serve as the foundation for rental regulations.⁵⁹ Tenants advocate for their rights and help combat widespread housing unaffordability through the strategic use of organizational unity, unwavering commitment, and numerical strength through volunteers and large protests.⁶⁰ Key components of a contemporary tenant movement include mass organization, engagement in rent strikes, confrontations regarding evictions, active political participation, and legal actions.⁶¹

Recent regulations pertain to the private rental housing market, specifically addressing housing owned by private landlords without government subsidies.⁶² Private rental housing constitutes the largest segment of units occupied

⁵¹ *Berlin Property Market Report 2020*, ZIBEL (Dec. 10, 2020), <https://zibel.net/berlin/#:~:text=At%20the%20end%20of%202018,apartments%20in%20Berlin%20are%20rented.>

⁵² *Pre-Certified Local Housing Data*, SCAG, (Apr. 2021), <https://scag.ca.gov/sites/main/files/file-attachments/los-angeles-he-0421.pdf>.

⁵³ See discussion *infra* Section V; Kenneth Bar et al, *Equitable Rent: Rent Stabilization Standards in the City of Los Angeles*, ECONOMIC ROUNDTABLE 1, 2 (Sep. 2024), <https://s3.documentcloud.org/documents/25140397/equitable-rent-economic-roundtable-report-final.pdf>; see Martinez & Alkousaa, *supra* note 50; see generally Card, *supra* note 42.

⁵⁴ Kenton Card, *Multi-Ethnic Tenant Movements in Los Angeles and Berlin*, AMERICAN-GERMAN INST. (Dec. 19, 2017), https://americangerman.institute/publication/multi-ethnic-tenant-movements-in-los-angeles-and-berlin/#_edn16.

⁵⁵ See EVICTION NOTICES, *supra* note 16.

⁵⁶ See OECD, *supra* note 10, Figure HC3.3.1 at 3.

⁵⁷ OECD, *supra* note 10, at 3.

⁵⁸ EVICTION NOTICES, *supra* note 16.

⁵⁹ See generally, Jamila Michener & Mallory SoRelle, *Politics, power, and precarity: how tenant organizations transform local political life*, NAT'L LIBR. OF MED. 31 (2023).

⁶⁰ See *Protesting for affordable housing: Activists fighting for tenants rights*, ACTIVIST HANDBOOK (Apr. 15, 2023), <https://activisthandbook.org/campaigns/housing>.

⁶¹ Allan David Heskin, *The history of tenants in the United States, struggle and ideology*, 5 INT'L J. OF URB. AND REG'L. RSCH. 178, 186 (1981).

⁶² Card, *supra* note 42, at 1397.

by low-income residents when compared to subsidized or state-owned units.⁶³ Despite this, the prevailing neoliberal economic framework,⁶⁴ which has shaped governance strategies globally for the past four decades, universally discourages price controls on private rental housing, particularly measures that involve freezing rents or implementing vacancy control (a form of restriction on rental prices).⁶⁵ Under vacancy control, when a unit is vacated, it still maintains certain constraints on price adjustments.⁶⁶ Conversely, vacancy decontrol incentivizes landlords to displace current tenants by allowing them to increase rent to market rates or remove units from regulation once they become vacant.⁶⁷ Vacancy decontrol encourages landlords to favor tenants who are more transient and typically have higher incomes.⁶⁸

Rental legislation is designed to address social disparities and inequities by protecting disadvantaged and vulnerable tenants who might find it challenging to enter the property market or maintain a tenancy amid rising rents.⁶⁹ Rent regulations can take different forms depending on their intended purpose.⁷⁰ In general, there are three levels of regulations that govern the landlord-tenant relationship: (1) overarching laws, including contract laws, (2) specific regulations that outline permissible rent amounts set by landlords, and (3) rent control.⁷¹ All three levels of regulations are covered in Berlin and Los Angeles.⁷²

1. Rent Control

A further distinction is made around rent control: first-generation (hard) rent control refers to freezing nominal rents, and second-generation (soft) rent control refers to regulations governing rent increases, conversion, maintenance,

⁶³ Schmidt, *supra* note 19; see *Assisted Housing: National and Local*, OFF. OF POL'Y DEV. & RSCH., <https://www.huduser.gov/portal/datasets/assths.html> (last visited Oct. 8, 2024).

⁶⁴ Here, I use the term “neoliberal economic framework” to refer to “market-oriented reform policies such as ‘eliminating price controls, deregulating capital markets, lowering trade barriers’ and reducing, especially through privatization and austerity, state influence in the economy.” Taylor C. Boas & Jordan Gans-Morse, *Neoliberalism: From New Liberal Philosophy to Anti-Liberal Slogan*, 44 *STUD. IN COMPAR. INT’L DEV.*, 137, 143 (2009).

⁶⁵ Tom Slater, *From displacements to rent control and housing justice*, 42 *URB. GEOGRAPHY* 701, 703-712 (2021).

⁶⁶ See *Rent Control and Vacancy Decontrol*, LEGAL MATCH, <https://www.legalmatch.com/law-library/article/rent-control-and-vacancy-decontrol.html> (last visited Oct. 12, 2024) [hereinafter *Rent Control and Vacancy Decontrol*].

⁶⁷ Christina Plerhoples Stacy et al, *Rent Control*, *URBAN INST.* 1, 2 (July 2021), <https://www.urban.org/sites/default/files/2023-08/Rent%20Control%20Key%20Policy%20Components%20and%20Their%20Equity%20Implications.pdf>.

⁶⁸ *Id.*

⁶⁹ Haffner et al., *supra* note 25, at 218–19.

⁷⁰ Philip Stoop & Chrizell Stoop, *Rent Control Measures in the Private Rental Market: A Comparative Analysis of South Africa and Germany*, 85 *THRHR* 472, 478 (2022).

⁷¹ *Id.* at 477.

⁷² See discussion *infra* Section IV.A; see discussion *infra* Section IV.B.1.

landlord-tenant relations, and related aspects.⁷³ Alternatively, some scholars recognize six main types of rent control:

[1] weak transaction cost-related rent regulation aimed at protecting a current tenant against liability for the payment of rent amounts exceeding the market rent amount; [2] strong transaction cost-related rent regulation aimed at protecting current tenants against increases, not in relation to market rent, but in relation to a cost price increase including a reasonable return; [3] regulation of all types of rental contracts and increases with the cost price and a reasonable return as reference points; [4] protecting all tenants against all types of increases; [5] monopoly-related rent regulation aimed at protecting all tenants against having to pay rent that is higher than the market price; [6] smoothing changes in market rent where rent regulations are related to overshooting and aim to protect tenants from temporary peaks in rent.⁷⁴

Rent control regulations aim to offer protection without being pro-tenant or pro-landlord and contribute to the stability of rental arrangements.⁷⁵ Ensuring tenant protections can be beneficial for landlords as well; when tenants have clear expectations, such as longer tenancies and predictable rent increases, they are less inclined to move.⁷⁶ Long-term occupancy and tenure security are mutually beneficial for both landlords and tenants.⁷⁷

Oftentimes, rental legislation meant to increase tenant protections does not have the desired effect because the system that eviction courts are based upon as a whole functions to protect property owners' rights first.⁷⁸ "The procedural laws of eviction are designed to make eviction quick and cheap, through relatively small filing fees, short timetables between complaints and trials, and the minimal role of discovery and other more expensive features of ordinary civil litigation."⁷⁹ Moreover, judges regularly resist enforcing ordinances that protect tenants while faithfully enforcing laws that support judgments for landlords, even when landlords have little to no evidence or have not met the burden of proof.⁸⁰

⁷³ Richard Arnott, *Time for Revisionism on Rent Control?*, 9 J. ECON. PERSP. 99, 100–02 (1995).

⁷⁴ Stoop & Stoop, *supra* note 70, at 477; see also Haffner et al., *supra* note 25, at 220–22.

⁷⁵ Wendy Wilson, *Private Rented Housing: The Rent Control Debate*, HOUSE OF COMMONS LIBR. 16–17 (Oct. 27, 2022), <https://researchbriefings.files.parliament.uk/documents/sn06760/sn06760.pdf>.

⁷⁶ Haffner et al., *supra* note 25, at 222.

⁷⁷ *Id.*

⁷⁸ Sabbeth, *supra* note 9, at 384.

⁷⁹ *Id.* at 384–385.

⁸⁰ *Id.* at 384.

III. STATE AND NATIONAL-LEVEL RENTAL REFORMS

Both Germany and California have enacted reforms in private rental housing markets throughout the last two decades—introducing measures against rent gouging and enhancing tenant rights.⁸¹ These concessions appear to have had little impact on slowing the upward trajectory of rents and the ensuing precarious housing conditions.⁸² California witnessed a greater number of policy conflicts during the specified period compared to the federal level of Germany, and the policy disputes in California had a more significant influence on policy conflicts at the local level in Los Angeles.⁸³ Throughout the 2000s in California and Germany, political parties embraced the neoliberalization of private rental housing; however, these same parties eventually endorsed modest rent regulations.⁸⁴

A. History of Germany's Landlord-Tenant Laws

A strong renter protection framework is a key element of German federal legislation.⁸⁵ Germany faced a severe housing shortage following World War I.⁸⁶ Despite the implementation of robust tenant protection laws and housing control regulations, where the administration had the authority to validate rental contract terminations and control rent hikes, housing supply remained scarce.⁸⁷ In 1936, the Law of Price Freezes (*Preisstoppgesetz*) was introduced, prohibiting rent increases.⁸⁸

Following the destruction of approximately 20% of Germany's housing supply during World War II, the urgent need to address the massive housing shortage led to the establishment of subsidized housing in the postwar era.⁸⁹ Private and non-profit builders were given federal subsidies to construct new housing and were required to rent out these units to low-income households.⁹⁰ In the 1960s, the housing market began to recover when authorities realized that a balance needed to be struck between the free market and housing protections.⁹¹ In 1974, the Rent

⁸¹ See discussion *infra* Section III.A.1–2; see discussion *infra* Section III.B.1–2.

⁸² Asfaq Khan, Christian E. Weller, Lily Roberts & Michela Zonta, *The Rental Housing Crisis Is a Supply Problem That Needs Supply Solutions*, CTR. FOR AM. PROGRESS (Aug. 22, 2022), <https://www.americanprogress.org/article/the-rental-housing-crisis-is-a-supply-problem-that-needs-supply-solutions/>.

⁸³ Card, *supra* note 42, at 13.

⁸⁴ *Id.*

⁸⁵ Schmidt, *supra* note 19.

⁸⁶ Wolfgang Wurmnest, *Germany*, EUROPEAN UNIV. INST., 5, <https://www.eui.eu/documents/departmentscentres/law/researchteaching/researchthemes/europeanprivatelaw/tenancylawproject/tenancylawgermany.pdf>.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Schmidt, *supra* note 19.

⁹⁰ *Id.*

⁹¹ Stoop & Stoop, *supra* note 70, at 482.

Control Act (*Miethahegesetz*) was established to restrict landlords' ability to raise rents above the customary level for a specific area.⁹² Sections 556–556(c) regulate rent agreements, and sections 557–561 regulate rent amounts.⁹³

The impact of these housing policies is still evident today: over 54% of Germans live in rental housing, and approximately 83% of households in Berlin rent.⁹⁴ The private rental sector comprises approximately 90% of Germany's total rental market.⁹⁵ Germany's low homeownership rate stems from its preference for an affordable, efficient rental market rather than extensive homeownership subsidies.⁹⁶ In Germany, renting is not considered inferior to owning a property; this is due to the robust security and stability that tenants enjoy.⁹⁷ Historically, Germany offered subsidies for both renters and homeowners through tax breaks and social housing, but these efforts failed to create a "nation of homeowners" similar to the U.S.⁹⁸ Despite the failure of these homeownership policies, Germany now has a well-functioning rental market, which could offer guidance to U.S. policymakers on how to provide balanced support to both homeowners and renters.⁹⁹

1. Twenty-First Century Reforms

In 2001, the German tenancy law underwent further reforms through the introduction of the Tenancy Law Reform Act (*Mietrechtsreformgesetz*).¹⁰⁰ Lease contracts can be established for a specific or indefinite duration; both can be terminated with proper notice.¹⁰¹ If a rental agreement exceeding one year is not documented in writing, it remains valid indefinitely, but termination of the lease is permissible after the initial one-year period.¹⁰² In cases of an unlimited lease, termination can occur through regular notice without the need for a specific reason.¹⁰³ The standard notice period for termination is three months, although certain exceptions might apply.¹⁰⁴ The German Civil Law allows for immediate

⁹² Wurmnest, *supra* note 86, at 6.

⁹³ Bürgerliches Gesetzbuch [BGB] [Civil Code], § 556–556(c), [https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p2297\(Ger.\)](https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p2297(Ger.)); *id.* at § 557–561.

⁹⁴ Schmidt, *supra* note 19.

⁹⁵ See generally Wurmnest, *supra* note 86, at 13.

⁹⁶ Alexander Reisenbichler, *A Failed Nation of Homeowners: Why Germany Eliminated Large-Scale Subsidies for Homeowners*, AMERICAN-GERMAN INST. (Apr. 18, 2016), <https://americangerman.institute/publication/a-failed-nation-of-homeowners/>.

⁹⁷ See Wendy Wilson, *Private Rented Housing: The Rent Control Debate*, HOUSE OF COMMONS LIBR., (Oct. 27, 2022), <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06760#fullreport>.

⁹⁸ Reisenbichler, *supra* note 96.

⁹⁹ *Id.*

¹⁰⁰ Wurmnest, *supra* note 86, at 6; Bürgerliches Gesetzbuch, *supra* note 93, at § 557.

¹⁰¹ Bürgerliches Gesetzbuch, *supra* note 93, at § 542.

¹⁰² Stoop & Stoop, *supra* note 70 at 483; Bürgerliches Gesetzbuch, *supra* note 93, at § 550.

¹⁰³ Bürgerliches Gesetzbuch, *supra* note 93, at § 543.

¹⁰⁴ *Id.* at § 573.

termination based on a significant breach of contract, typically a violation of a crucial contractual obligation by the other party.¹⁰⁵ Written documentation is beneficial for lease contracts lasting longer than a year.¹⁰⁶ In the mid-2000s, Germany prioritized rental subsidies, and federal subsidies for homeownership were largely eliminated.¹⁰⁷ The German federal states (Länder) directed housing funds toward rental housing to meet regional needs and managed housing policies locally.¹⁰⁸

2. Recent Rent Control Reforms

In recent years, there have been multiple reforms to German tenancy laws.¹⁰⁹ In 2015, there were revisions made to the tenancy law, followed by further updates at the end of 2019.¹¹⁰ The fundamental aspects of the 2001 law remained largely unchanged, apart from the introduction of a new rent pricing system for specific rental housing hotspots.¹¹¹

On April 21, 2015, Germany implemented a temporary rent control measure known as rental price brake (*Mietpreisbremse*), enforceable for a period of five years.¹¹² This regulation is specifically applicable to certain high-demand areas and restricts the rent increases on new lease agreements for previously rented properties in these areas.¹¹³ Initially, the rental price brake was limited to a few German cities, but it now encompasses over 300 cities and municipalities.¹¹⁴

On January 1, 2019, the rental price brakes were tightened and revised to streamline the regulations.¹¹⁵ The 2019 amendments strengthened the law by capping renovation-related price increases at eight percent.¹¹⁶ Previously, tenants were required to substantiate complaints about exceeding rental limits by referring to local comparative rents, but now, tenants can file a written complaint to the landlord without specifying the exact noncompliance.¹¹⁷ Landlords are obligated to provide specific information crucial for rent calculation to the tenant, and failure to disclose this information prohibits the landlord from factoring pre-rent or

¹⁰⁵ See Bürgerliches Gesetzbuch, *supra* note 93, at § 556–556(c); *id.* at § 557–561.

¹⁰⁶ Stoop & Stoop, *supra* note 70, at 483.

¹⁰⁷ Reisenbichler, *supra* note 96.

¹⁰⁸ *Id.*

¹⁰⁹ Max Frehner, *Rent control simply explained: This applies in your region*, DEUTSCHE HANDWERKS ZEITUNG (Aug. 28, 2023), <https://www.deutsche-handwerks-zeitung.de/mietpreise-einfach-erklart-das-gilt-seit-2020-160821/>.

¹¹⁰ Stoop & Stoop, *supra* note 70, at 485.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ Stoop & Stoop, *supra* note 70, at 485.

¹¹⁶ *Id.* at 486.

¹¹⁷ *Id.*

modernizations into the new lease agreement's rent calculation.¹¹⁸ This disclosure ensures tenants have clarity regarding rent calculation.¹¹⁹

The German Parliament, in collaboration with the Institute for Economic Research (*Deutscher Institut für Wirtschaftsforschung Berlin eV*), assessed the rental controls, and their findings indicated that the 2015 legislation successfully curbed rental hikes.¹²⁰ In the recently regulated market for flats constructed before 2014, there has been an 11% decline in rental prices in comparison to the still-unregulated market for newer buildings.¹²¹ In October 2019, the rental price brake was extended until December 31, 2025.¹²² The extension was aimed at streamlining tenant-landlord relations and enhancing the affordability of rental housing by preventing rent hikes and exempting new constructions (after October 1, 2014) or major renovations.¹²³

B. History of California's Landlord-Tenant Laws

California has permitted local rent regulation since 1976, when its Supreme Court ruled that the state did not exclusively regulate rent control, allowing local jurisdictions to implement their own rent control measures.¹²⁴ Despite the 1976 ruling, California faces ongoing challenges in balancing the need for affordable housing for its residents with promoting economic growth in the real estate sector.¹²⁵ Before 1995, local governments held the power to limit rent increases and enforce vacancy control laws.¹²⁶ Under vacancy control, when a controlled unit changes tenants, the rent remains under rent control and cannot be increased.¹²⁷

In 1995, the Legislature enacted the Costa-Hawkins Rental Housing Act (Costa-Hawkins), which curtailed the ability of local governments to enforce stringent rent control regulations in response to landlords' increasing dissatisfaction with restrictions on local rent hikes.¹²⁸ The Act marked a significant shift by

¹¹⁸ Bürgerliches Gesetzbuch, *supra* note 93, at § 556(g).

¹¹⁹ Stoop & Stoop, *supra* note 70, at 486.

¹²⁰ *Id.* at 487.

¹²¹ Scott Sumner, *The Cultural Impact of Rent Control*, ECONLIB (Mar. 29, 2021), <https://www.econlib.org/the-cultural-impact-of-rent-control/>.

¹²² Frehner, *supra* note 109.

¹²³ *See generally id.*

¹²⁴ Birkenfeld v. City of Berkeley, 550 P.2d 1001, 1006 (Cal. 1976).

¹²⁵ Mac Taylor, *California's High Housing Costs Causes and Consequences*, LEGIS. ANALYST'S OFF. (Mar. 17, 2015), <https://homeforallsmc.org/wp-content/uploads/2017/05/ho-using-costs.pdf>.

¹²⁶ Sofia Schersei, *Knock Knock... Who's There? California's First Statewide Rent Cap and Eviction Tenant Protection Law*, 52 U. PAC. L. REV. 283, 286 (2021).

¹²⁷ *Id.*

¹²⁸ *What is Costa-Hawkins?*, COSTA-HAWKINS.COM, <http://costa-hawkins.com/what-is-costa-hawkins/> (last visited Oct. 13, 2024).

introducing three key provisions:¹²⁹ (1) landlords gained the ability to set the rent of a residential rental unit at the prevailing market rate once a tenant vacated the property, a practice known as vacancy decontrol,¹³⁰ (2) it prohibited cities from imposing rent caps on rental units constructed after February 1995, while existing rent laws before 1995 remained unaffected; and (3) condominiums and single-family homes were exempt from rent control limitations.¹³¹ Costa-Hawkins, while not overturning local ordinances, diminishes the effectiveness of some local rent controls and restricts local governments from expanding them.¹³² The limitations imposed by Costa-Hawkins include the prohibition of vacancy control, rent controls on housing constructed after 1995, rent control on single-family homes, and constraints on altering the dates to which controls can be applied.¹³³

In 1991, Los Angeles implemented a specific plan for emerging housing development projects, which required affordable housing mandates for mixed-use projects with ten or more rental units.¹³⁴ The Costa-Hawkins Act sparked a constitutional and legislative clash between the housing industry and local governments.¹³⁵ In *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles*, Palmer claimed that Los Angeles's affordable housing mandates contradicted the Act.¹³⁶ The California Second District Court of Appeal ruled in Palmer's favor, prohibiting local governments from enforcing affordable housing requirements as a condition for development.¹³⁷ Following the *Palmer* decision, several local governments either rescinded their affordable housing mandates or ceased their enforcement.¹³⁸

1. Twenty-First Century Reforms

In 2008, the tenant movement gained momentum across the state, marked by the establishment of a statewide coalition called Tenants Together, the formation of tenant unions in various cities, and the emergence of rent strikes.¹³⁹ Starting in

¹²⁹ Elijah Chiland & Jenna Chandler, *Costa Hawkins: the California Law Renters Want Repealed, Explained*, L.A. CURBED (Apr. 29, 2020), <https://la.curbed.com/2018/1/12/16883276/rent-control-california-costa-hawkins-explained>.

¹³⁰ *Rent Control and Vacancy Decontrol*, *supra* note 66.

¹³¹ Chiland & Chandler, *supra* note 129.

¹³² See Daniel M. Yukelson, *Under Attack Again: Costa-Hawkins - What is It and Why Should You Care?*, APARTMENT ASS'N OF GREATER L.A. (Jan. 11, 2023), <https://members.aagla.org/news/under-attack-again-costa-hawkins---what-is-it-and-why-should-you-care>.

¹³³ *Limits on Local Rent Control: A General Overview of California's Costa-Hawkins Rental Housing Act*, C.A. APARTMENT ASS'N (Aug. 2024), <https://caanet.org/91263.kbd1>.

¹³⁴ *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles*, 175 Cal.App.4th 1396, 1399 (Cal.App. 2 Dist., 2009).

¹³⁵ See *id.* at 1411.

¹³⁶ *Id.* at 1410.

¹³⁷ *Id.* at 1411.

¹³⁸ Schersei, *supra* note 126, at 287.

¹³⁹ See generally TENANTS TOGETHER, <https://www.tenantstogether.org/> (last visited Oct. 11, 2024).

2017, California embarked on a push to regulate private rental housing; the state's approach involved grassroots initiatives and state-level interventions to address issues related to rent control and tenant rights.¹⁴⁰ In 2017, the California Legislature passed AB 1505¹⁴¹ to overturn *Palmer* and restore the power to local governments to impose affordable housing requirements on developers.¹⁴² AB 1505 empowered local governments to mandate developers to allocate a portion of new developments for affordable housing aimed at low-income households.¹⁴³

In 2017, the AIDS Healthcare Foundation initiated substantial financial support for pro-renter advocacy efforts and established the Housing Is a Human Right group in Los Angeles.¹⁴⁴ The foundation formed a coalition and provided funding for signature gatherers throughout the state with the aim of promoting a pro-renter referendum known as Proposition 10.¹⁴⁵ Proposed in 2018, the objective of Proposition 10 was to repeal the Costa-Hawkins Rental Housing Act and provide opportunities for local jurisdictions to implement and extend controls.¹⁴⁶ Although Proposition 10 itself wouldn't have expanded rent control, it would have allowed cities and counties to enact vacancy control and apply rent controls to newer

¹⁴⁰ Irvin Dawid, *Rent Control Advocates Turn to California's Initiative Process after Bill Fails*, PLANETIZEN (Oct. 27, 2017, 9:00 AM), <https://www.planetizen.com/news/2017/10/95506-rent-control-advocates-turn-californias-initiative-process-after-bill-fails>.

¹⁴¹ See CAL. GOV'T CODE § 65850.01.

¹⁴² Schersei, *supra* note 126, at 287.

¹⁴³ Erin Phalon et al., *Inside CA Legislature's Housing Package: The "Palmer Fix" Inclusionary Housing Legislation*, COX, CASTLE & NICHOLSON LLP (Nov. 2, 2017), <https://landuse.coxcastle.com/inside-ca-legislatures-housing-package-palmer-fix/>.

¹⁴⁴ *Housing is a Human Right and Healthy Housing Foundation Reach New Milestone, Urgently Serving Tenants and the Unhoused for Five Years*, HOUSING IS A HUM. RIGHT (Dec. 15, 2022), <https://www.housingisahumanright.org/housing-is-a-human-right-and-healthy-housing-foundation-reach-new-milestone-urgently-serving-tenants-and-the-unhoused-for-five-years/>.

¹⁴⁵ Patrick Range McDonald, *Housing Is A Human Right Delivers More Than 800,000 Signatures for Rent Control Initiative*, HOUSING IS A HUM. RIGHT (May 31, 2023), <https://www.housingisahumanright.org/housing-is-a-human-right-delivers-more-than-800000-signatures-for-rent-control-initiative/>.

¹⁴⁶ *Proposition 10 - Expands Local Governments' Authority to Enact Rent Control on Residential Property. Initiative Statute*, CAL. SEC'Y STATE, <https://www.sos.ca.gov/campaign-lobbying/cal-access-resources/measure-contributions/2018-ballot-measure-contribution-totals/17-0041-expands-local-governments-authority-enact-rentcontrol-residential-property-initiative-statute> (last visited Oct. 11, 2024); Sara Kimberlin et al., *Understanding Proposition 10* CAL. BUDGET & POL'Y CTR. (Oct. 2018), <https://calbudgetcenter.org/resource/s/understanding-proposition-10/>.

buildings and single-family homes.¹⁴⁷ Despite 60% of general support for rent controls among polled Californians in 2017,¹⁴⁸ Proposition 10 faced fierce opposition and was ultimately defeated.¹⁴⁹

Although Proposition 10 did not pass, it prompted the introduction of AB 1506 (a one-line law seeking to repeal the Costa-Hawkins Rental Housing Act), sparked mass protests, garnered local and national news attention, and increased awareness among the public and politicians regarding Costa-Hawkins.¹⁵⁰ On January 11, 2018, AB 1506 failed to secure enough votes and consequently died in committee.¹⁵¹ In 2020, a similar effort was led by the AIDS Healthcare Foundation with Proposition 21, which again aimed to repeal Costa-Hawkins with modifications, exempting new and recently constructed buildings and applying only to structures over 15 years old.¹⁵² Proposition 21 failed, despite endorsements from the Democratic Party, various prominent California politicians, and support from tenant movement organizations across the state.¹⁵³

2. Recent Rent Control Reforms

In 2019, advocates reached a compromise on an anti-rent gouging policy, resulting in AB 1482, advocating for a reduction in the ceiling on rent increases.¹⁵⁴ Governor Newsom supported AB 1482, which proposed to limit landlords' ability to implement yearly rent increases by more than 5% plus the Consumer Price Index

¹⁴⁷ Kimberlin et al., *supra* note 146; Zach Wong, *Proposition 10: Expand Local Authority to Enact Rent Control*, ROSE INST. STATE AND LOC. GOV'T, CLAREMONT MCKENNA COLLEGE, <https://roseinstitute.org/proposition-10-expand-local-authority-to-enact-rent-control/> (last visited Oct. 11, 2024).

¹⁴⁸ Mark DiCamillo, *Half Say Housing Affordability an 'Extremely Serious' Problem in Their Area: Majority Have Considered Moving Because of High Housing Costs, 25% out of State*, UNIV. CAL., BERKELEY: INST. GOV'T STUDIES 1, 1 (2017).

¹⁴⁹ Liam Dillon, *Voters reject Proposition 10, halting effort to expand rent control across the state*, L.A. TIMES (Nov. 6, 2018 11:45 PM), <https://www.latimes.com/politics/la-pol-ca-proposition-10-rent-control-20181106-story.html>.

¹⁵⁰ Card, *supra* note 42, at 1409.

¹⁵¹ Mike Nemeth, *CAA, allies derail AB 1506, the bill to repeal Costa-Hawkins*, CAL. APARTMENT ASS'N (Jan. 11, 2018), <https://caanet.org/caa-allies-derail-ab-1506-bill-repeal-costa-hawkins/>.

¹⁵² *Proposition 21*, CAL. SEC'Y STATE, <https://www.sos.ca.gov/campaign-lobbying/cal-access-resources/measure-contributions/2020-ballot-measure-contribution-totals/proposition-21-expands-local-governments-authority-enact-rent-control-residential-property-initiative-statute> (last visited Oct. 11, 2024).

¹⁵³ Kayla Leong, *The Failure of California's Proposition 21 and Its Implications for Housing Instability During the COVID-19 Pandemic*, COLUM. POL. REV. (May 2, 2021), <https://www.cpreview.org/blog/2021/5/the-failure-of-californias-proposition-21-and-its-implications-for-housing-instability-during-the-covid-19-pandemic>.

¹⁵⁴ See Patrick Range McDonald, *Update: AB 1482, an 'Anti-Rent Gouging' Law, Fails California Tenants*, HOUSING IS A HUM. RIGHT (Aug. 3, 2022), <https://www.housingisahumanright.org/ab-1482-an-anti-rent-gouging-law-fails-california-tenants/>.

or 10%, whichever is lower.¹⁵⁵ The legislation included just cause eviction protections for tenants, narrowing the conditions under which landlords could evict tenants without cause.¹⁵⁶ AB 1482 applies to properties over 15 years old, with exemptions for single-family home rentals (unless owned by certain entities), and it is set to sunset in 2029.¹⁵⁷

AB 1482 became law on January 1, 2020, and Chapter 597 came into effect.¹⁵⁸ It is an attempt to tackle the state's affordable housing crisis and a significant shift in housing policy since the Costa-Hawkins Rental Housing Act.¹⁵⁹ The law safeguards nearly fifteen million Californians by implementing a rent cap and protects against unjustified evictions by prohibiting landlords from evicting tenants without just cause,¹⁶⁰ all while maintaining landlords' ability to earn a fair return on their investments.¹⁶¹ Prior to Chapter 597, landlords had the power to refuse to renew a lease without providing any cause or specific reason; the rent cap protects low-rent units from escalating rental costs, especially in communities lacking local rent regulations.¹⁶²

Just cause protection becomes applicable once a tenant has lawfully occupied a residential unit for a continuous period of twelve months.¹⁶³ Just cause evictions are categorized into two types: at-fault and no-fault.¹⁶⁴ An at-fault just cause eviction arises when a tenant fails to pay rent, breaches the rental agreement, engages in disruptive behavior, or commits a crime on the property.¹⁶⁵ A no-fault just cause eviction occurs if a landlord decides to make the property their primary residence or undertakes significant demolition or remodeling efforts; in this case, the landlord is obligated to provide the tenant with relocation assistance or waive one month's rent.¹⁶⁶ Relocation fees are beneficial to tenants, as they alleviate the financial strain on tenants who have been displaced.¹⁶⁷

¹⁵⁵ McDonald, *supra* note 154; Leg. 1482, 2019 Assemb. (Cal. 2019).

¹⁵⁶ Card, *supra* note 42, at 1408.

¹⁵⁷ *Id.*

¹⁵⁸ See generally Mike Nemeth, *Governor Signs AB 1482, Enacts Statewide Rent Cap*, CAL. APARTMENT ASS'N (Oct. 7, 2019), <https://caanet.org/newsom-signs-ab1482/>.

¹⁵⁹ Schersei, *supra* note 126, at 285–286.

¹⁶⁰ CAL. CIV. CODE § 1946.2 (2019); CAL. CIV. CODE § 1947.12 (2019); CAL. CIV. CODE § 1947.13 (2019); Liam Dillon, *California will limit rent increases under bill signed by Gov. Gavin Newsom*, L.A. TIMES (Oct. 8, 2019), <https://www.latimes.com/california/story/2019-10-08/california-rent-cap-tenant-protections-signed>; Schersei, *supra* note 126, at 286.

¹⁶¹ Schersei, *supra* note 126, at 285.

¹⁶² Matt Levin, *Big Rent Hikes are About to Be Illegal in California*, CAL. MATTERS (Sept. 11, 2019), <https://calmatters.org/housing/2019/09/big-rent-hikes-illegal-in-california-heres-what-to-know/>; *Curbing Runaway Rents: Assessing the Impact of a Rent Cap in California*, TERNER CTR. FOR HOUS. INNOVATION (July 2019), http://turnercenter.berkeley.edu/uploads/curbing_runaway_rents_policy_brief_july_2019.pdf.

¹⁶³ CAL. CIV. CODE, *supra* note 160, § 1946.2.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ Levin, *supra* note 162.

California stands as one of only two states in the country to implement a statewide rent cap.¹⁶⁸ While it marks an important step in addressing the affordable housing crisis, the bill falls short of offering comprehensive protection to tenants.¹⁶⁹ The Costa-Hawkins Act remains in force and Chapter 597 does not prohibit vacancy decontrol, allowing landlords to significantly increase rent for new tenants in units that fall under rent caps.¹⁷⁰ California requires more assertive and robust laws to effectively combat the affordable housing challenge.¹⁷¹

IV. COMPARISON OF CITY-LEVEL RENTAL REGULATIONS

A. Protecting Tenants in Berlin

According to housing experts, Berlin has undergone a series of urban and housing market reforms, which can be categorized into three policy phases.¹⁷² The first phase, occurring between 1990 and the 2000s, involved neoliberal restructuring.¹⁷³ Between 1990 and 2005, much of Berlin's public housing was privatized; the city sold hundreds of thousands of public apartments to investors at low prices, leading to a high concentration of housing ownership.¹⁷⁴ Berlin's rental market is now dominated by investment companies, with more than 20% of rental units linked to the stock market.¹⁷⁵

The second phase, starting in 2009, marked the rise of people's referendums and tenant empowerment.¹⁷⁶ In the 2010s, referendums became a regular tool for ordinary people to exert influence and bring about policy changes in Berlin.¹⁷⁷ In 2015, influenced by new tenant movement organizations like Kotti & Co., the Rent Referendum (*Mietenvolksentscheid*) was launched to reform social

¹⁶⁸ See Lauren Dake, *Rent Control Is Now the Law in Oregon*, OR. PUB. BROADCASTING (Feb. 28, 2019), <https://www.opb.org/news/article/oregon-rent-control-law-signed>.

¹⁶⁹ See Chiland & Chandler, *supra* note 129.

¹⁷⁰ Georgia Kromrei & Dennis Lynch, *Here's Why Landlords Don't Hate California's Rent Control Bill*, REAL DEAL L.A. (Sept. 25, 2019), <https://therealdeal.com/la/2019/09/24/heres-why-landlords-dont-hatecalifornias-rent-control-bill/>; *Rent Control and Vacancy Decontrol*, *supra* note 66.

¹⁷¹ See *Housing Is a Human Right Criticizes Insufficient AB 1482 Rent-Gouging Bill*, HOUS. IS A HUM. RIGHT (Oct. 8, 2019), <https://www.housinghumanright.org/housing-is-a-human-right-criticizes-insufficient-ab-1482>.

¹⁷² Card, *supra* note 42, at 1411–1412.

¹⁷³ MATTHIAS BERNT, BRITTA GRELL & ANDREJ HOLM, *THE BERLIN READER: A COMPENDIUM ON URBAN CHANGE AND ACTIVISM* 12 (2013).

¹⁷⁴ Jana Perković, *The fight for stable homes during Berlin's rental crisis*, ASSEMBLE PAPERS (Mar. 8, 2022), <https://assemblepapers.com.au/2022/03/08/behind-the-great-housing-crisis-of-berlin/>.

¹⁷⁵ *Id.*

¹⁷⁶ Dieter Rink & Lisa Vollmer, *Mietenwahnsinn stoppen!* [*Stop rental madness*], 32 FORSCHUNGSJOURNAL SOZIALE BEWEGUNGEN [Research Journal of Social Movements] 337, 342 (2019).

¹⁷⁷ See *id.*

housing.¹⁷⁸ The referendum prompted the introduction of the Law on Realignment of Social Housing (*Gesetz über die Neuausrichtung der sozialen Wohnraumversorgung*) in 2015, reforming the management of social housing.¹⁷⁹ On April 21, 2015, in response to increasing tenant mobilizations, the Grand Coalition in Berlin enacted a five-year Rent Price Brake.¹⁸⁰ This legislation enabled states to identify constrained housing markets using criteria such as rents, population, and vacancy rates for the implementation of measures against excessive rent increases.¹⁸¹ The Rent Price Brake capped price hikes at 10% above the local Rent Price Index, taking into account factors such as building age and neighborhood amenities.¹⁸²

The third phase, beginning in 2016, saw active collaboration between tenant movements and the governing coalition, with the governing coalition implementing several policies in response to escalating tenant power.¹⁸³ These included regulations on Short-Term Rentals, Milieu Protections, the Right to First Refusal, and the Rent Cap.¹⁸⁴ Berlin led internationally in 2016 by imposing strict regulations on Short-Term Rentals, which were eased in 2018 after a court ruling.¹⁸⁵

In 2019, the Expropriate Deutsche Wohnen & Co. (Deutsche Wohnen & Co. Enteignen) began a referendum campaign aimed at countering the severe rental crisis fueled by private investment and rapid rent hikes.¹⁸⁶ The referendum targeted for-profit firms owning 3,000 or more units; it aimed to expropriate these landlords in Berlin and transfer ownership to the city.¹⁸⁷ In 2020, the city attempted measures like a five-year Rent Cap, catalyzed by the governing coalition's response to pressure "from the streets."¹⁸⁸ However, it was later struck down by the courts, causing immediate financial strain for tenants who had to repay "shadow rents."¹⁸⁹ Despite the freeze, it fueled support for expropriation, with large protests erupting after the court decision.¹⁹⁰

Meanwhile, the Expropriate Deutsche Wohnen & Co. initiative gained widespread grassroots support, leading to a successful vote in September 2021; Berliners voted by a 56.4% majority to expropriate large housing companies,

¹⁷⁸ See generally Rink & Vollmer, *supra* note 176, at 337.

¹⁷⁹ Card, *supra* note 42, at 1412.

¹⁸⁰ *Id.* at 1409.

¹⁸¹ *Id.* at 1409.

¹⁸² *Id.*

¹⁸³ *Id.* at 1412.

¹⁸⁴ See generally Luisa Beck, *Berlin had some of the world's most restrictive rules for airbnb rentals. Now it's loosening up.*, WASH. POST (Mar. 28, 2018), https://www.washingtonpost.com/world/europe/berlin-had-some-of-the-worlds-most-restrictive-rules-for-airbnb-rentals-now-its-loosening-up/2018/03/27/e3acda90-2603-11e8-a227-fd2b009466bc_story.html.

¹⁸⁵ *Id.*

¹⁸⁶ Perković, *supra* note 174.

¹⁸⁷ *Id.*

¹⁸⁸ Rink & Vollmer, *supra* note 176, at 347.

¹⁸⁹ Perković, *supra* note 174.

¹⁹⁰ *Id.*

potentially bringing 240,000 apartments into public ownership.¹⁹¹ The measure reflected a response to soaring rents and market pressures that have displaced locals and intensified housing insecurity.¹⁹² The momentum for the successful passage of the Expropriate Deutsche Wohnen & Co. referendum may have been influenced by the Rent Cap, despite the court's overturning.¹⁹³

B. Protecting Tenants in Los Angeles

1. Legal Landscape Pre-Just Cause Ordinance

Historically, eviction laws and procedures in Los Angeles have protected landlords.¹⁹⁴ Since its enactment in 1978, Los Angeles has experienced both successful and unsuccessful reforms to its Rent Stabilization Ordinance (RSO).¹⁹⁵ The RSO limits yearly rent increases on multifamily units built before October 1, 1978.¹⁹⁶ In 2010, the Economic Roundtable produced a city-funded report highlighting tenant hardships, leading to the introduction of a “Suspension of Rent Increases” bill in 2010.¹⁹⁷

Over the past decade, activists and advocates in Los Angeles intensified their involvement in politics surrounding housing unaffordability and homelessness.¹⁹⁸ Local voters engaged in multiple referendums, triggering three consecutive waves of reforms in rental housing policies.¹⁹⁹ These measures included actions related to rent stabilization, regulations concerning short-term rentals, and the proactive enforcement of policies like eminent domain and other regulations designed to tackle issues in the rental housing market.²⁰⁰

¹⁹¹ Perković, *supra* note 174.

¹⁹² *Id.*

¹⁹³ Rink & Vollmer, *supra* note 176, at 347.

¹⁹⁴ See David Wagner, *In Eviction Court, Most LA Landlords Have Lawyers And Most Renters Don't*, LAIST: S. CAL. PUB. RADIO (May 30, 2023 5:00 AM), <https://laist.com/news/housing-homelessness/los-angeles-eviction-court-rent-county-tenant-landlord-attorney-stanley-mosk-dennis-block>; see also Vanessa Rancaño, *California Landlords Can Evict Renters for Repairs, A New Bill Could Limit That*, KQED INC. (Apr. 3, 2023), <https://www.kqed.org/news/11945257/california-landlords-can-evict-renters-for-repairs-a-new-bill-could-limit-that>; see generally, Alisa Belinkoff Katz, *People Are Simply Unable to Pay the Rent: What History Tells Us About Rent Control in Los Angeles*, UCLA LUSKIN CTR. FOR HIST. AND POL'Y 17 (Oct. 2018).

¹⁹⁵ Card, *supra* note 42, at 1410.

¹⁹⁶ *Id.*

¹⁹⁷ See Daniel Flaming et al., *Economic Study of the Rent Stabilization Ordinance and the Los Angeles Housing Market*, ECON. ROUNDTABLE 262–263 (2009).

¹⁹⁸ See Jaime Lowe, *Los Angeles Goes to War With Itself Over Homelessness*, N.Y. TIMES MAG. (Jul. 13, 2021), <https://www.nytimes.com/2021/07/13/magazine/los-angeles-homelessness.html>; DESMOND *supra* note 29, at 16.

¹⁹⁹ Card, *supra* note 42, at 1410.

²⁰⁰ *Id.*

In 2016, the City Council passed a “Tenant Buyout Ordinance” requiring landlords to disclose tenant rights and document buyout attempts.²⁰¹ In 2018, the Renters’ Right to Counsel Coalition-LA advocated for legal aid for tenants, resulting in the Eviction Defense Program, but the allocated funds were significantly lower than comparable programs in other cities.²⁰² The same year, Los Angeles implemented regulations on short-term rentals facilitated by online platforms, addressing the impact on the private rental housing market.²⁰³ Despite initial challenges and fines, the reforms did not entirely curb the expansion of new short-term rentals.²⁰⁴ Since 2019, city councilors have explored using eminent domain to purchase housing units, signaling a proactive government intervention in the housing system.²⁰⁵ Tenant activism, such as the Hillside Villa Tenants Association, played a crucial role in pressuring the City Council to advance the use of eminent domain.²⁰⁶

In 2020, following AB 1482, the Los Angeles City Council enacted a Temporary Eviction Moratorium and emergency renters’ relief program to protect renters living in a regulatory grey zone.²⁰⁷ Councilmember Bonin introduced the Homes Guarantee LA platform, collaborating with local tenant movement organizations.²⁰⁸ The platform proposed reforms, including restricting rent increases to 60% of inflation, requiring landlords to disclose ownership, and supporting the repeal of federal limits on new public housing.²⁰⁹ AB 1482, the RSO, and the Tenant Protection Act of 2019 (TPA) were enacted to protect renters from excessive rent increases and arbitrary evictions, but they only apply to a small portion of Los Angeles households, and hundreds of thousands of renters are left unprotected.²¹⁰

2. 2023 Just Cause Ordinance

Article 5 of the Los Angeles Municipal Code, also known as the “Just Cause for Eviction Ordinance of the City of Los Angeles,” went into effect on January 27, 2023, and is the latest ordinance that aims at filling the RSO’s gaps and protecting tenants’ rights throughout Los Angeles.²¹¹ The Just Cause Ordinance not only overrides but also extends beyond the current just cause protections provided

²⁰¹ Card, *supra* note 42, at 1410.

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ *Id.* at 1411.

²⁰⁶ Card, *supra* note 42, at 1411.

²⁰⁷ *Id.* at 1410.

²⁰⁸ *Id.* at 1411.

²⁰⁹ *Id.*

²¹⁰ L.A. MUN. CODE, *supra* note 17.

²¹¹ *Id.*

by the state's AB 1482.²¹² The primary purpose of the ordinance is to reduce the number of arbitrary eviction proceedings.²¹³ The Just Cause Ordinance was also partly enacted in response to concerns about potential increases in evictions following the end of COVID-19-related restrictions.²¹⁴

The Just Cause Ordinance aims to provide additional tenant protections by "limiting the reasons for termination of a residential tenancy" and requiring higher relocation assistance amounts to renters city-wide.²¹⁵ Section 165 amends Article 5 to Chapter XVI of the Los Angeles Municipal Code to create a "just cause" requirement for unlawful detainer actions throughout Los Angeles.²¹⁶ The ordinance states that "[a] landlord shall not terminate a tenancy unless it is based upon" just cause and goes on to define and determine how and when just cause is established.²¹⁷

The Just Cause Ordinance applies to most units in the city that are not already regulated by the city's Rent Stabilization Ordinance.²¹⁸ The new policy mandates specific reasons for eviction, and certain aspects diverge significantly from AB 1482.²¹⁹ This includes variations in the amount of relocation assistance required in some cases and a reduction in the maximum vetting period before the law becomes applicable, now set at a maximum of six months but potentially earlier based on tenancy terms.²²⁰ "This law applies to properties built in the previous 15 years and to single-family homes."²²¹ Landlords must pay relocation assistance for no-fault evictions, varying based on tenant qualifications and income.²²² Payments must be made within 15 days from the date of eviction notice.²²³

Since the original ordinance took effect, two additional provisions have been added as of March 27, 2023: (1) a rental debt threshold and (2) a rent relocation trigger.²²⁴ Ordinance No. 187763 restricts landlords' ability to bring unlawful detainer actions until tenants surpass a threshold amount of unpaid rent.²²⁵ A tenant can only face eviction for nonpayment of rent if their total rental debt exceeds a specified monetary threshold, equivalent to one month of fair market rent for the Los Angeles-Long Beach-Glendale Area (FMR), set annually by the United States

²¹² Mallery Homewood, *CAA publishes compliance docs for new L.A. 'just cause' law, relocation requirements*, CAL. APARTMENT ASS'N (Mar. 6, 2023), <https://caanet.org/caa-publishes-compliance-docs-for-new-l-a-just-cause-law-relocation-requirements/>.

²¹³ L.A. MUN. CODE, *supra* note 17.

²¹⁴ *See Los Angeles's Last Remaining COVID-19 Eviction Protections to Expire on February 1*, NAT'L LOW INCOME HOUS. COAL. (Jan. 16, 2024), <https://nlihc.org/resource/los-angeles-last-remaining-covid-19-eviction-protections-expire-february-1>.

²¹⁵ L.A. MUN. CODE, *supra* note 17.

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ Homewood, *supra* note 212.

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.*

²²² L.A. MUN. CODE, *supra* note 17.

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

Department of Housing and Urban Development (HUD).²²⁶ This threshold will also apply to RSO units from the same date.²²⁷ Ordinance No. 187764 requires landlords to pay relocation assistance to tenants who elect to relinquish their tenancy following a proposed rental increase that exceeds certain limits.²²⁸ Landlords must provide relocation assistance to tenants choosing to move after receiving a rent increase surpassing the Consumer Price Index (CPI) plus 5%.²²⁹ Landlords must provide relocation assistance if a tenant decides to move out after receiving a rent increase beyond a specified amount.²³⁰ These protections remain in effect despite several legal challenges from the Apartment Association of Greater Los Angeles.²³¹

3. Pushback

On March 3, 2023, the Apartment Association of Los Angeles County filed suit against the City of Los Angeles, contesting the legality of the Just Cause Ordinance.²³² The Apartment Association's argument primarily revolved around the assertion that the Relocation Assistance portion of the ordinance interferes with landlords' rights granted under the Costa-Hawkins Act by imposing substantial relocation benefits on landlords who increase rents beyond a specified limit.²³³ They claim this deterrence undermines the purpose of Costa-Hawkins, which is to restrict rent control.²³⁴ On January 17, 2024, the court rejected the Apartment Association's arguments and found that the ordinance does not directly regulate rents, but rather imposes costs on landlords in certain circumstances, particularly when they increase rents above a specified threshold.²³⁵

The court noted that the Just Cause Ordinance attempts to deter landlords from imposing large rent increases that could lead to tenant displacement or at least mitigate the effects of such evictions.²³⁶ Despite the potential deterrent effect on rent increases, the court determined that the ordinance does not directly conflict

²²⁶ Homewood, *supra* note 212.

²²⁷ *Id.*

²²⁸ L.A. MUN. CODE, *supra* note 17.

²²⁹ Homewood, *supra* note 212.

²³⁰ *Id.*

²³¹ Apartment Ass'n of Los Angeles Cnty., Inc. v. City of Los Angeles, No. 23STCP00720, (Superior Court of County of Los Angeles Jan. 17, 2024); Apartment Ass'n of Los Angeles Cnty., Inc. v. City of Los Angeles, 500 F. Supp. 3d 1088 (C.D. Cal. 2020), *aff'd*, 10 F.4th 905 (9th Cir. 2021).

²³² *Apartment Association of Greater L.A. Lawsuits Against the City of Los Angeles*, APARTMENT ASS'N OF GREATER L.A., <https://aagla.org/legalfund/> (last visited Oct. 12, 2024).

²³³ Petitioner's Reply to City's and Intervenor's Opposition Briefs at 5-6, Apartment Ass'n of Los Angeles Cnty., Inc. v. City of Los Angeles, No. 23STCP00720, <https://publiccounsel.org/wp-content/uploads/2023/11/Petitioners-Reply-Brief-002.pdf>.

²³⁴ *Id.*

²³⁵ Apartment Ass'n of Los Angeles Cnty., Inc. v. City of Los Angeles, No. 23STCP00720, (Superior Court of County of Los Angeles Jan. 17, 2024), at 7, https://publiccounsel.org/wp-content/uploads/2024/01/apart-assoc-of-la-county-v-city-of-la_2024-01-17_decision.pdf.

²³⁶ *Id.* at 8.

with Costa-Hawkins provisions, as it does not impose caps on rental rates.²³⁷ Furthermore, the court found that the ordinance falls within the city's authority to regulate grounds for eviction.²³⁸

4. Results

A tenant defendant in an eviction action will typically list several affirmative defenses in their answer to an unlawful detainer complaint.²³⁹ This makes it difficult to determine what exact effects the Just Cause Ordinance has had on protecting tenants' rights in Los Angeles.

Landlord advocates suggest that the eviction process has become burdensome, leading them to explore alternative means to encourage tenants to vacate.²⁴⁰ Landlords often negotiate with tenants outside of court, offering incentives such as forgiven rent or cash to expedite the departure process.²⁴¹

a. Eviction Rates

2023 brought significant changes for both Angelino tenants and landlords. The expiration of pandemic-era eviction moratoriums mandated tenants to pay rent, including those still financially impacted by COVID-19.²⁴² As pandemic-era moratoriums expired, there was a steep increase in eviction cases across Los Angeles County.²⁴³ Approximately 43,000 eviction filings were recorded through November, with projections indicating a year-end total exceeding 46,000 cases,²⁴⁴ marking a substantial rise compared to the previous year and surpassing any annual figures since 2016.²⁴⁵

Notably, the surge in eviction cases did not reach the levels anticipated by some tenant advocates—some experts attribute this to the implementation of permanent tenant protections that took effect as the moratoriums lapsed, like the Just Cause Ordinance, which prevents landlords from evicting tenants for owing less than one month's fair market rent.²⁴⁶ Although the numbers are lower than predicted, Kyle Nelson, a senior policy and research analyst for the nonprofit

²³⁷ *Apartment Ass'n of Los Angeles Cnty.*, *supra* note 235, at 7.

²³⁸ *Id.* at 7–8.

²³⁹ See generally *Unlawful Detainer Answer: How-To Guide*, LEGAL AID FOUND. L.A. (Aug. 2022), <https://lafla.org/wp-content/uploads/2022/08/unlawful-detainer-answer-how-to-guide-english.pdf>.

²⁴⁰ Paloma Esquivel, *L.A. eviction cases rose significantly this year. But it's not all bad news for renters*, L.A. TIMES (Dec. 28, 2023), <https://www.latimes.com/california/story/2023-12-28/los-angeles-evictions-2024> (last visited Aug. 31, 2024).

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ Esquivel, *supra* note 240.

²⁴⁶ *Id.*

advocacy group Strategic Actions for a Just Economy, stresses that tens of thousands of tenants still face eviction annually.²⁴⁷

b. Fair Market Rent

Landlords still issue eviction notices for amounts below the fair market limit, prompting concerns about tenants' vulnerability.²⁴⁸ The Just Cause Ordinance contains a provision where a landlord can evict a tenant only if the amount due exceeds one month of fair market rent for the Los Angeles metro area, yet 12,200 eviction notices were filed in which the amount of rent owed was below the Fair Market Rent (FMR) Limit.²⁴⁹

Despite the results, challenges persist, and continued efforts are required to keep tenants housed.

C. What Can Los Angeles Learn from Berlin's Approaches?

Despite distinct historical and political economic backgrounds, Los Angeles and Berlin experienced analogous phases of swift transformations in rental housing policies.²⁵⁰ There were four remarkably similar features exhibited: (1) Local policies displayed a progressive inclination, while regional policies tended to be more moderate; (2) Policies transitioned from defensive measures (e.g., anti-gentrification) to offensive strategies (e.g., price controls); (3) There was a shift from particularistic approaches (e.g., affordable housing funding, anti-development) to more universal regulations (e.g., expanded tenants' rights); (4) Collectively, these developments marked a breakthrough, signaling a departure from the neoliberal approach to housing markets.²⁵¹

In Los Angeles, the AIDS Healthcare Foundation (AHF) played a crucial role by contributing over 64 million dollars to fund referendums, influencing policy episodes across states.²⁵² In Berlin, Expropriate DW & Co. reported only 45 thousand euros in contributions for gathering signatures.²⁵³ Berlin's tenant movements had a significant advantage in terms of large union memberships, volunteer networks, and mass protests with over 20 thousand participants.²⁵⁴ In Los Angeles, AHF's allyship translated into funding for referendums, but the scale of mobilization was comparatively lower.²⁵⁵ The influence of money power in Los Angeles drove policy episodes, whereas people power in Berlin, demonstrated

²⁴⁷ Esquivel, *supra* note 240.

²⁴⁸ *Id.*

²⁴⁹ EVICTION NOTICES, *supra* note 16.

²⁵⁰ Card, *supra* note 42, at 1396.

²⁵¹ *Id.*

²⁵² *Id.* at 1407.

²⁵³ *Id.* at 1415

²⁵⁴ *Id.*

²⁵⁵ Card, *supra* note 42, at 1413–1414.

through volunteer networks and large-scale protests, played a crucial role in influencing policy outcomes.²⁵⁶

In both locations, progressive reforms occurred at the city level, while moderate reforms were implemented at the state and regional levels.²⁵⁷ Both cities saw a shift from defensive to offensive policies, with a move from addressing symptoms to addressing root causes.²⁵⁸

V. CONCLUSION

A. Moving Forward: Securing Tenants' Rights in Los Angeles

1. Eviction Defense Network

Eviction Defense Network (EDN) is a non-profit organization dedicated to defending tenants' rights and bridging the access to justice gap for families facing eviction in Los Angeles County.²⁵⁹ Eviction Defense Network's primary funding comes from the City and County of Los Angeles and is supplemented by donations from other supporters.²⁶⁰ Eviction Defense Network supports tenants facing eviction through very limited representation at court appearances.²⁶¹ The Tenant Empowerment Program primarily supports tenants whom Eviction Defense Network cannot directly represent due to capacity constraints.²⁶² The program consists of workshops and classes where tenants can learn about the law, the eviction process, and how to represent themselves.²⁶³ The Tenant Empowerment Program boasts a remarkable 99% success rate among its graduates.²⁶⁴

Without Eviction Defense Network's assistance, tenants who are unable to secure private representation would be left to appear in court without representation and likely unprepared, leading to a 99% rate of losing their homes and facing eviction records and debts to former landlords.²⁶⁵ Between 2003 and 2020, Eviction Defense Network's model successfully reduced the access to justice gap from 98% to 88%.²⁶⁶ Amid the COVID-19 pandemic, the Eviction Defense Network collaborated with partners in the Los Angeles County Right to Counsel Coalition to establish the Stay Housed L.A. program.²⁶⁷

²⁵⁶ Card, *supra* note 42, at 1415.

²⁵⁷ *Id.* at 1416.

²⁵⁸ *Id.* at 1413–1414.

²⁵⁹ *About Us*, EVICTION DEF. NETWORK, <https://edn.la/about-us/> (last visited Oct. 10, 2024) [hereinafter EDN].

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ EDN, *supra* note 259.

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ *Id.*

2. Stay Housed L.A.

To achieve housing justice in a majority-renter city like Los Angeles, “we must ensure that renters have the resources to assert their rights when facing the loss of their homes.”²⁶⁸ In 2020, in a collaborative effort among the city, county, and local service providers, \$2 million in Measure H Funds, along with additional investments from the County and philanthropy, were used to launch Stay Housed L.A. (SHLA).²⁶⁹ Stay Housed L.A. is a comprehensive eviction defense program that offers a range of vital services, including short-term rental assistance and legal aid, to prevent residents from losing their homes.²⁷⁰

Stay Housed L.A. has significantly increased access to legal advice and services for renters facing eviction.²⁷¹ The County’s Department of Consumer and Business Affairs estimates that this year alone over 15,000 residents in unincorporated communities and cities outside Los Angeles will seek assistance from Stay Housed L.A.²⁷² Nevertheless, Stay Housed L.A.’s capacity to assist residents is outpaced by the increasing demand for homelessness prevention services, and a substantial gap remains between court-filed cases and the number of tenants able to access legal assistance.²⁷³

3. Right to Counsel

Preventing homelessness begins with stabilizing housing and preventing illegal displacement.²⁷⁴ Despite the high interests at stake, nationally, on average, only four percent of tenants facing eviction manage to obtain legal representation, whereas a striking 83% of landlords have legal representation.²⁷⁵ This leads to high eviction rates that disproportionately affect marginalized communities.²⁷⁶ Evictions have severe consequences, including loss of housing stability, negative impacts on health, and economic hardship, and disproportionately impact Black, Hispanic, disabled, and LGBTQ renters.²⁷⁷ A right to counsel in eviction cases can help tenants retain their homes and protect their credit, leading to broader community

²⁶⁸ Holly Mitchell, *Los Angeles County to Establish Right to Counsel Ordinance Providing Guaranteed Legal Representation to Residents at Risk of Becoming Unhoused*, L.A. CNTY. (Jul. 11, 2023), <https://mitchell.lacounty.gov/right-to-counsel-ordinance/>.

²⁶⁹ *Id.*; Esquivel, *supra* note 240.

²⁷⁰ Mitchell, *supra* note 268.

²⁷¹ Esquivel, *supra* note 240.

²⁷² Mitchell, *supra* note 268.

²⁷³ *Id.*; Esquivel, *supra* note 240.

²⁷⁴ *Who We Are*, RIGHT TO COUNS. COAL., <https://rtcla.org/who-we-are/#:~:text=what%20we%20believe,representation%20and%20emergency%20rental%20assistance> (last visited Oct. 13, 2024).

²⁷⁵ THE RIGHT TO COUNSEL FOR TENANTS, *supra* note 12, at 1.

²⁷⁶ Heidi Schultheis et al., *A Right to Counsel Is a Right to a Fighting Chance: The Importance of Legal Representation in Eviction Proceedings*, CTR. FOR AM. PROGRESS (Oct. 2, 2019), <https://www.americanprogress.org/article/right-counsel-right-fighting-chance/>.

²⁷⁷ *Id.*

benefits by reducing homelessness and preserving affordable housing.²⁷⁸ Studies indicate that providing legal representation can save millions by reducing shelter costs, protecting affordable units, and preventing homelessness.²⁷⁹

Recently, the right-to-counsel movement has been gaining momentum in recognition of the interests at stake, disparities in legal representation, unequal landlord-tenant power dynamics, and racial equity considerations.²⁸⁰ The movement is led by community organizers, like the Right to Counsel NYC Coalition and the Democratic Socialists of America, with assistance from the National Coalition for a Civil Right to Counsel.²⁸¹ In the United States, over the past four years alone, 17 cities, five states, and two counties have instituted a right to counsel for tenants facing eviction.²⁸²

Nationally, reports on the right to counsel from various cities have consistently found that access to legal representation leads to over “90% of tenants avoiding disruptive displacement.”²⁸³ In California, a study revealed that tenants who were fully represented remained in their homes three times more often than those with limited or no legal assistance.²⁸⁴ Furthermore, fully represented tenants were afforded twice as much time to move when relocation was necessary.²⁸⁵ Cities like New York City, San Francisco, and Newark have implemented the right-to-counsel laws, showing positive outcomes in reducing eviction rates and associated social costs.²⁸⁶ In San Francisco, 59% of tenants who had legal counsel were able to remain in their homes, and among the 30% who did not, 70% secured favorable settlements.²⁸⁷

The Right to Counsel Coalition, comprised of various stakeholders, was established in June 2018 with the goal of advocating for Renters’ Right to Counsel in Los Angeles.²⁸⁸ The Right to Counsel initiative aims to correct power imbalances in court, provide cost savings, and address racial disparities in evictions.²⁸⁹ This right includes provisions for legal representation, eviction prevention services, and emergency rental assistance for tenants facing eviction.²⁹⁰ The coalition stresses that a right to counsel is a civil right, essential for preserving housing, promoting community stability, and preventing homelessness.²⁹¹ Over the past five years, the coalition has collaborated to formulate a comprehensive Right to Counsel Proposal for both the City and County of Los Angeles.²⁹² It addresses the broken housing

²⁷⁸ Schultheis, *supra* note 276.

²⁷⁹ *Id.*

²⁸⁰ THE RIGHT TO COUNSEL FOR TENANTS, *supra* note 12, at 2.

²⁸¹ *Id.* at 1.

²⁸² *Id.* at 2.

²⁸³ *Id.*

²⁸⁴ *Id.* at 1.

²⁸⁵ THE RIGHT TO COUNSEL FOR TENANTS, *supra* note 12, at 1.

²⁸⁶ Schultheis, *supra* note 276.

²⁸⁷ *Id.*

²⁸⁸ *Who We Are*, *supra* note 274.

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.*

system, racial equity concerns, and the need for restructuring to ensure access to safe and affordable housing.²⁹³

An indication that efforts to protect tenants' rights in Los Angeles may be working is that as of 2023, 10% of tenants facing eviction in the County have legal representation,²⁹⁴ 6% higher than the national average²⁹⁵ and there has been an increase from 3.6% in 2019.²⁹⁶ The percentage of represented landlords has also risen from 88% in 2019²⁹⁷ to 90% in 2023.²⁹⁸

On July 11, 2023, in recognition of the high stakes and in an effort to address inequalities, the L.A. County Board of Supervisors unanimously passed a motion, authored by Supervisors Holly J. Mitchell and Hilda L. Solis, to establish a Right to Counsel ordinance.²⁹⁹ This initiative, integrated into the Stay Housed L.A. program, aims to provide universal access to legal representation.³⁰⁰ "Legal representation is often unaffordable and inaccessible for many working people, especially when hit with an eviction notice. Right to Counsel allows us to remove these barriers and helps thousands of residents maintain their housing," stated Supervisor Mitchell, representing the Second District.³⁰¹ "No one, absolutely no one, should ever have to face eviction without the opportunity to be legally represented. Having a right to counsel will help level the playing field for tenants in court with landlords," added Supervisor Solis, representing the First District.³⁰²

Sasha Harnden, Senior Public Policy Advocate at the Inner-City Law Center, and a member of the L.A. Right to Counsel Coalition, applauds "the leadership of Supervisors for their work on supporting tenants and [the] Right to Counsel"³⁰³ and is shocked at the ordinance's overwhelmingly positive reception.³⁰⁴ The Right to Counsel ordinance is considered an essential component of Los Angeles' homelessness mitigation strategy and paves the way for universal access to legal aid—a fundamental resource that every Angeleno should have.³⁰⁵

The motion directs the L.A. County Department of Consumer and Business Affairs, County Counsel, and other relevant County departments to formulate eligibility criteria, secure sustainable funding sources, and draft an ordinance.³⁰⁶ If passed, the ordinance would provide legal representation at no cost

²⁹³ *Who We Are*, *supra* note 274.

²⁹⁴ Mitchell, *supra* note 268.

²⁹⁵ THE RIGHT TO COUNSEL FOR TENANTS, *supra* note 12, at 1.

²⁹⁶ STOUT, *Cost-Benefit Analysis of Providing a Right to Counsel to Tenants in Eviction Proceedings*, L.A. RIGHT TO COUNS. COAL. 23 (Dec. 10, 2019), <https://info.stout.com/hubfs/PDF/Eviction-Reports-Articles-Cities-States/Los%20Angeles%20Eviction%20RTC%20Report12-10-19.pdf>.

²⁹⁷ *Id.*

²⁹⁸ Mitchell, *supra* note 268.

²⁹⁹ *Id.*

³⁰⁰ *Id.*

³⁰¹ *Id.*

³⁰² *Id.*

³⁰³ See Mitchell, *supra* note 268.

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ *Id.*

to qualifying “tenants facing eviction in unincorporated communities.”³⁰⁷ To expand the reach of eviction protections provided by SHLA, the motion also calls for the County’s Chief Executive Office to allocate \$5,000,000 to supplement SHLA’s budget.³⁰⁸ Additionally, the Department of Business and Consumer Affairs will collaborate with cities throughout the county to develop funding models, enabling SHLA to expand its services swiftly.³⁰⁹

On July 16, 2024, the L.A. County Board of Supervisors unanimously passed the Tenant Right to Counsel Ordinance, ensuring free legal representation for eligible tenants facing eviction in unincorporated L.A. County starting January 2025.³¹⁰ The ordinance expands on the existing Stay Housed LA program; it requires landlords to inform tenants about the program in multiple languages and display notices on rental properties.³¹¹ The initiative, supported by 25 community-based organizations, aims to reduce evictions, prevent homelessness, and create a more equitable community.³¹² Stay Housed LA anticipates assisting over 15,000 tenants this fiscal year alone.³¹³

However, the Right to Counsel will bring along new challenges. It will be challenging to find enough attorneys to meet the demand, at least within the first several years.³¹⁴ Policy changes alone cannot solve the housing crisis. Both Berlin’s and Los Angeles’s housing crises require a complete societal shift to protect tenants’ rights and ensure folks stay housed. Housing must stop being treated as a commodity to be invested in and needs to be seen as a human right.

³⁰⁷ Mitchell, *supra* note 268.

³⁰⁸ *Id.*

³⁰⁹ *Id.*

³¹⁰ Board of Supervisors Unanimously Approves Tenant Right to Counsel Ordinance, L.A. CNTY. CONSUMER & BUS. AFFS. (July 16, 2024), <https://dcba.lacounty.gov/newsroom/board-of-supervisors-unanimously-approves-tenant-right-to-counsel-ordinance/>.

³¹¹ *Id.*

³¹² *Id.*

³¹³ *Id.*

³¹⁴ Mitchell, *supra* note 268; Esquivel, *supra* note 240.