

They work for the government,
not for riches.
Their tool is rent control;
their motive, helping tenants.
But they're turning Berkeley
into a genteel slum.

Berkeley's Radical Slumlords

Beverly Potter pulled into her Berkeley, California, driveway one afternoon in August 1985 to find a strange woman parked there. To Potter's great bewilderment, the woman called her by name and identified herself as a Humane Department officer. "She said something about dogs jumping out of windows with no fur. I was dumbfounded," recalls Potter.

The Humane officer apparently intended to cite Potter for cruelty to animals but backed off when it became clear that Potter knew nothing of the dog in question. It turned out to be one of two dogs belonging to a "short-term guest" of one of the tenants in the four-unit apartment building that Potter and her husband own next door to their house.

That is when Beverly Potter's troubles began. For the next 22 months, she was lost in the Twilight Zone of Berkeley rent control—a world where logic often seems topsy-turvy and justice nonexistent. Policies justified in the name of progressivism made innocent victims of Potter, her neighbors, and her law-abiding tenants. They also took four apartments off the Berkeley rental market—one permanently—and thus exacerbated a decades-old shortage. Potter's story is one of many, but its very extremity illustrates the bizarre effects of Berkeley's rent control.

The Humane officer showed up after Potter's neighbor, Jeanne-Cybele Bantowsky, called the department in a panic. Bantowsky later recalled watching in horror

as what looked like "an over-grown rodent" or "a survivor of a nuclear holocaust" climbed onto the apartment's window ledge.

"The wretched thing looked as if its intention was to jump, as if that were better than remaining in that second-floor room," she said. Finally, the creature lunged off the ledge. Bantowsky ran to its aid and found, to her relief, that it had survived.

Approaching closer, she saw that the dog had open sores and "scabs all over his body. His skin was dry and cracked with dried blood in patches and no hair to speak of."

Since no one appeared home in the apartment building, Bantowsky bundled the dog up in a towel and took him to the local Humane Society. The veterinarian on duty informed her that the dog was suffering from sarcoptic mange, a parasitic skin disease that is extremely contagious to humans and other animals if direct contact is made. The mange also afflicts the suffering animal with what one Berkeley animal-control official describes as "a very strong odor which is unpleasant to anyone's sensibilities." The dog was, in short, a health hazard.

The evening after learning about her tenant's guest and his dogs, Potter went to see her. She reminded her of the terms of their written rental agreement, which allowed two cats to live in the apartment but prohibited any other pets. It also specified that no guest could stay longer than three nights.

According to Potter's neighbors and other tenants, the tenant's friend had been living in the building for weeks, along with the dogs, both of which suffered from mange. The animals had been locked inside the one-bedroom apartment day and night, and the stench from their waste and disease was beginning to permeate the entire building.

After begging Potter not to throw him out immediately, the tenant's friend agreed to leave within a week. And the tenant herself promised to clean up the mess and then let Potter inspect the apartment.

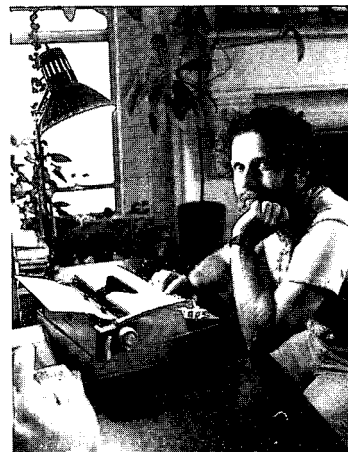
But things soon went from bad to worse. Potter and her other tenants began to find dog droppings in the building's common stairway and wrapped dog feces, treatment rags, and fouled dog bedding in the bushes. When a week had passed, the "guest" simply locked his two sick animals in the car he had parked in the driveway that Potter's house shares with the apartment building. "This was not what I had in mind," she says dryly. "I had in mind those dogs *gone*."

On August 31, Potter sent her tenant an official 30-day notice to vacate the apartment. It enumerated six blatant violations of the rental agreement and noted that Potter had discussed them with the tenant and her friend two weeks earlier.

There the matter should have ended. But this is Berkeley.

The tenant complained to the Rent Stabilization Board. And on September 13, the board notified Potter that her eviction action was invalid because her property was "not completely registered." Potter, it

by Jeff Rikkenbach



"What I see," says activist Marty Schiffenbauer "is a lot of tenants fixing up their homes, knowing they have the security of being able to stay." But the rent-control law he wrote wouldn't let Beverly Potter evict the illegal tenant who had left his previous home looking like this.



seemed, had failed to fill out Registration Form item I-F. This perplexed her, since when she looked at her own copy of the form, Potter found that she had completed item I-F.

Items I-C and I-D asked for the name and address of the rental property's owner, Baystar Investment Group. Items I-E and I-F asked for the name and address of the

property manager. Since Potter is Baystar and is also the building's manager, she had merely written the word "same" when asked, in item I-F, for the address of the property manager. But the rent bureaucracy decided that this answer constituted a failure to register her rental property.

Gritting her teeth, Potter completed item I-F to the board's satisfaction and reevicted

her tenant. On October 25, the board informed her that her latest eviction action was invalid because the rent she had been charging her tenant "appears to be illegally high." Potter demanded to know on what basis this determination had been made, since she had made every possible effort to comply with the law. On November 19, the rent board responded that "a mistake was

made by this office" and that "further review of the file indicates that the rent does not appear to be illegally high."

By this time, the nightmare in Apartment C at 2308 Haste Street had gone on unabated for more than three months. The other tenants in the building, tired of complaining, had moved out. The troublemaking tenant herself had frustrated Potter's every attempt to inspect the apartment and determine the exact extent of the damage to her property. On October 7, the tenant notified Potter in writing that "I am having the lock on my apartment door rekeyed...and do not wish to give you the key at this time."

"By law," she wrote on October 31, "I am not required to allow you access to my apartment for the purpose of inspections....As there are no agreed-upon repairs to be made in this apartment, I will not allow you access."

Potter finally got her uncooperative tenant out of the building in mid-January of this year, more than five months after making her first attempt at eviction. Even then, she got her property back only after buying off her tenant for \$2,000 and eight months of unpaid rent. Otherwise, things might have gone on much longer, and the sight Potter beheld when she recovered her rental unit might have been much worse.

Inside Apartment C, Potter found trash, dog droppings, and "places where [they] had painted over the dog excrement on the floor and on the walls." But her ordeal was not yet over. Now that her building was empty, she decided to take the opportunity not only to repair the damage her tenant and the dogs had done but also to make some general improvements.

"We tried to fix up the building," she says. "We went in, we put in new carpets and new floors, we repaired or replaced all the light fixtures, we put in new sinks, we upgraded."

Then she and her husband attended special classes offered by the Rent Stabilization Board to learn the proper method of obtaining an Individual Rent Adjustment. These adjustments are supposedly granted by the board to landlords who incur unusual operating expenses by, for example, improving their buildings. Since Potter and her husband no longer had any tenants, they assumed that the rent board wouldn't object to their proposed rent hikes. They therefore filed a "fast track petition," which the board says it will approve or disallow within 30 days.

Instead, the board took 45 days to get around to Potter's case. Ultimately, her rents were rolled back, not increased. Based on a technicality dating back to previous owners, the rent board decided that her registration had not been "perfected" until 1985. That meant she hadn't been legally

entitled to the annual rent increase granted in January 1985 to all landlords in the city—this despite the notification she had received in November 1985 stating that her rents did "not appear to be illegally high."

Potter applied for a rehearing. Finally, on June 18—seven months after she had filed her "fast track petition"—the board granted modest rental increases on her three

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studio units. The one-bedroom apartment where the dogs once lived now has a legal rent \$100 less than its smaller neighbors. It stands empty, too cheap to be rented, and will remain unoccupied unless Potter can sell the building to a landlord who will live in the larger apartment.

While awaiting the board's decision, Potter couldn't rent her apartments. Under Berkeley's rent law, a landlord who does so without knowing the legal rent runs the risk of later being ordered to refund every cent he has collected. Except for two temporary tenants who stayed two months each, no one lived in Potter's building for half a year.

"The stupidest thing we ever did," says Potter, with weariness but not resignation in her voice, "was to believe the rent board's literature and make an application in good faith to try to get our lawful increases."

Beverly Potter's story is not unique in Berkeley these days. Senator Nicholas Petris, who represents Berkeley and part of adjacent Oakland in the California legislature, says his office has received "hundreds" of letters from landlords telling stories of the same general type. What sets Potter apart from them is her willingness to talk. Most Berkeley landlords, Petris's aide Felice Tannenbaum told me, are afraid to discuss their experiences with reporters, fearing reprisals from angry tenants or even rent officials themselves. It is difficult to verify that such acts of revenge have really taken place. But the fear is there. And it is real.

The town of Berkeley, California, was created by government fiat in 1864 as the site for the first campus of the newly created University of California. It was named after George Berkeley, Bishop of Cloyne (1685-1753), who pronounced his name BARK-ley, not BERK-ley, and who was known in his day as an advocate of radical ideas. The most notorious of these was the doctrine that "to be is to be perceived"—that a thing that no one is aware of simply does not exist.

At first glance, George Berkeley may seem to hold little sway in the town that bears his name. Even in this intellectual haven, most residents have probably never heard of, much less read the works of, the Bishop of Cloyne.

Nevertheless, the Berkeley of today is a fitting memorial to the long-dead clergyman. For starters, Berkeley's many radicals call their doctrine "idealism," which is just what George Berkeley called his. And there is abundant evidence to suggest that today's Berkeley radicals also agree with the bishop that "to be is to be perceived." They ignore the victims of rent control, then declare that they do not exist.

Even the blindest radicals admit that Berkeley suffers from a major shortage of rental housing. And one of the first things I learned when I visited the San Francisco Bay Area myself is that the shortage existed long before rent control. Local government had seen to that. By interfering in the housing market, it had enabled Berkeley landlords to charge higher rents than a genuinely free market would have tolerated. In effect, local government created the conditions that eventually made rent control seem reasonable to a majority of Berkeley voters.

It all began in the 1960s, a period of rapid population growth for Berkeley and the entire Bay Area. The sudden coming-to-college-age of the oldest baby boomers led to a sudden and dramatic increase in the local student population. At the same time, thousands of other young people headed for the Bay Area, drawn by its role as a major center—perhaps the major center—of the new youth culture.

All this, on top of the region's normal growth, created an enormous increase in the demand for housing. During the mid-'60s, Berkeley experienced what pro-rent-control activist Marty Schiffenbauer calls "a short period when there was a whole lot of construction." During this period, it was possible to find an apartment in Berkeley at a reasonable price. But, as Schiffenbauer says, "people complained about that. [The developers] were tearing down old houses



No vacancy: At the low legal rent, Potter and her husband won't accept any new tenants in the renovated one-bedroom apartment. Below, Potter points out the second-story window from which the dog jumped.



and putting up these ticky-tackies in the neighborhoods."

So the residents of Berkeley "put a stop to it finally in '73. They passed what was called a Neighborhood Preservation Ordinance." And that, says Schiffenbauer, "pretty much eliminated construction of any rental housing" in the city.

Nor was—or is—the Neighborhood Preservation Ordinance the only disincentive to building new rental housing in Berkeley. "Anti-condo-conversion ordinances, anti-change-of-use provisions, rezoning, down-zoning." Berkeley landlord Martin Overstreet ticks the interferences in the housing market off on his fingers. He speaks emphatically but very softly, so softly it's almost difficult to hear him, and he radiates a kind of contained intensity, as though he'd explode if he didn't keep himself constantly under restraint.

All this government tinkering, he says, makes it "economically ridiculous to contemplate" investing in new rental housing. To make matters worse, Berkeley requires 25 percent of the units in new apartment complexes to be low-income, low-rent apartments. With construction costs running \$60 to \$90 for "pretty ticky-tacky stuff," Overstreet says, no developer can afford to meet that requirement.

So the supply of new rental housing was cut off and the population was steadily growing. Rents on available apartments had no place to go but up. Since tenants make up more than 60 percent of the city's population, rent control became a viable political issue.

It first appeared in 1972, as a local ballot initiative proposed by a coalition of New Leftists. The initiative passed narrowly that June but was immediately challenged in court. Four years later it was ruled unconstitutional by the California Supreme Court, which held that its "inexcusably burdensome" procedures for obtaining rent adjustments constituted a denial of due process to property owners. In the same case, *Birkenfeld v. Berkeley*, the court ruled, however, that rent control is not in itself unconstitutional as long as it permits landlords a "fair return" (a phrase the court left undefined) on their investments.

Then, in June 1978, came California's Proposition 13. This famous statewide ballot initiative slashed property taxes by one-half to two-thirds. As its principal sponsor, Howard Jarvis, campaigned for the proposition across the state, he argued that tenants should support it because lower tax bills for landlords would mean lower rents for tenants. Tenants bought the argument, sup-

porting Proposition 13 by a substantial margin.

After the measure passed, though, most landlords did not reduce rents. It isn't clear, of course, that anyone should have expected them to. Supply and demand, not just costs, determine how much an owner will charge for an apartment. And property taxes are only one of the many costs that owners have to shoulder. Doubtless, all else being equal, the savings landlords experienced as a result of Prop 13 would have been passed along to tenants eventually, in the form of smaller and less frequent rent increases than what they otherwise would have experienced.

Thousands of tenants believed, however, that they had been promised rent cuts. And when they didn't get them, they felt betrayed. Thus it was that late in 1978 and early in 1979, laws imposing various government controls on rents were enacted in a number of California cities, mostly places where tenants outnumbered property owners.

In Berkeley, the first law enacted was the local ballot initiative Measure I, which passed in November 1978. It rolled rents back to the level of June 6, 1978 (when Prop 13 passed), barred retaliatory evictions, and imposed a rent reduction equal to 80 percent of landlords' Prop 13 savings.

Before Measure I could expire, Berkeley's city council enacted a rent law that included most of the same provisions and added a five-percent ceiling on annual rent increases. This ordinance was superseded in June 1980 by Measure D, a ballot initiative

cold, hard cash. "The current law is an irresistible lure to larceny," former rent-board head Doris Maslach told *California Business* magazine last year.

Take the case that attorney Bruce Reeves cites as a particularly outrageous instance

for two and a half years," he says. "So what is the rationale behind what the rent law says, in that kind of circumstance?"

Landlord Martin Overstreet says rent control pushes owners to avoid tenants with kids. "I know how destructive they are and so does every landlord."



that set detailed rules for evictions and created a rent board to set maximum rents.

Two years later, Measure D was amended by popular vote to allow the board to impose more-severe penalties on landlords and to bring previously exempt three-unit and four-unit buildings under rent control. Today, the only apartments in Berkeley that are exempt from rent control are duplexes in which one of the two units is owner-occupied.

Owners of all other rental properties are required to register them annually with the rent board and pay a fee of \$60 per unit. These fees foot the bill for the rent board's annual operations.

Each January, after holding at least two public hearings, the rent board decides whether rents in Berkeley should change. It also hears applications from landlords who believe extraordinary circumstances entitle them to larger rent increases and tenants who believe they deserve rent decreases because they have been illegally overcharged or their housing services have been reduced.

By usually favoring tenants, Berkeley's rent control encourages them to take advantage of their landlords, who are usually unsophisticated small owners, not big developers. (With 150 rental units, Martin Overstreet's company is one of Berkeley's three largest landlords.) Even when satisfied with their apartments and rents, tenants find it hard to resist the potential of

of landlord abuse. "I've got a tenant," he says, meaning a tenant of one of his many landlord clients, "whom I just bought out of a property for a second time. She rented the property knowing full well what (Berkeley) rent control was and what the rent should have been. The landlord probably should have known that her single-family dwelling was subject to rent control, but she didn't really consider it."

Landlord and tenant "bargained for the place," he recounts, "both of them understanding full well that this was the real value of the property." But a few years later, the landlord decided it was time to sell the place and evict the tenant, and "the tenant was all of a sudden very shocked."

"She said, 'Gee, you mean I have to leave? Well then, I guess I'll just have to go talk to the rent-control people, because you're charging me too much.' We just bought this young lady off for \$10,000."

As the case proceeded, Reeves realized that he "had bought this same woman out once before." A secretary in a law office, the tenant "knew full well what she was getting into," he says. "It was only when the rental relationship was finished that she decided she wanted her money back. And she was legally entitled to it."

Reeves sighs and looks out the window of his office in a refurbished Victorian house on picturesque Alameda Island, about 15 minutes by car from downtown Berkeley. He sounds tired, or maybe disgusted.

"She agreed to pay what was being asked and said she was satisfied and lived there

The rationale, of course, is that rent control helps tenants, especially poorer ones, afford decent housing. But Berkeley's laws actually victimize tenants, not just landlords, and often benefit affluent professionals at the expense of poor people.

One of the principal aims of rent control's advocates, notes Martin Overstreet, "is to maintain the economically diverse, the culturally, the racially diverse community." But, he observes, the effect is just the opposite. "An owner can no longer compete with other owners in the marketplace on the basis of rent. He or she can't control anything about the rental property *except* really to whom they rent. When the unit becomes vacant, who are they going to rent to?"

"You tell me, if you're an owner in this position and you've got yuppies with BMWs applying for your apartments, who are gainfully employed in downtown Oakland or San Francisco in the noble professions, and you've got students without visible assets or income, and then you've got single mothers with young children—I've got a two-and-a-half-year-old, and I know how destructive they are and so does every landlord in Berkeley—and then you've got minorities with no good employment records, limited education, no assets, no credit references. Who's going to get that apartment? The same old yuppie couple with the BMW and the bank accounts and the attachable assets and credit references and the gainful, steady, reliable employment. That's who's going to get it, and that's who's getting it."

Even some leftists are beginning to notice that rent control hasn't helped poor people. Earlier this year, the Center for Community Change, an Oakland-based organization that provides housing aid to low-income tenants, released a study entitled "Who Benefits from Rent Control?" It concludes that the principal beneficiaries have been middle-class people who could afford market rents and now spend their money on such luxuries as gourmet food and stereos. And it declares that rent control, notably in Santa Monica and Berkeley, has driven away landlords and cut off new construction. All, it notes, without protecting the "elderly, poor, or minorities from unreasonable rents."

Thanks to rent control, however, even BMW owners looking for places near Chez Panisse have a tough time finding apartments in Berkeley. Stroll the streets and you'll see notices posted on telephone poles offering hefty rewards for anyone who can find the advertiser an apartment—just about

any apartment, even one that's a bit on the shabby side, as so many are these days. Rental units are simply disappearing.

But rent-control supporters like Marty Schiftenbauer, co-author of the Berkeley law, don't see the victims. And if they don't see them, they don't exist. As Bishop Berkeley put it, to be is to be perceived.

Most cities rent-control laws provide for vacancy or sale decontrol—an owner can raise the rent on a unit that has been voluntarily vacated or sold. Not so in Berkeley. As Michael St. John, a consultant to Berkeley property owners, told me: "The rent law has it that the rent sticks with the building through ownerships and through tenants. There's no vacancy decontrol. There's no sale decontrol. There's *no* decontrol. After a while, as years go on and inflation continues and the rent becomes super-low...that's it—economically speaking, you can't rent those units anymore. It's not economically feasible to rent them. You have to sell them."

But to whom? Is anybody interested in buying rental units in Berkeley with rent control in effect? In fact, according to landlord Martin Overstreet, "it's a very depressed, flat market." Landlords who are able to sell must accept below-free-market prices. Most just stick it out and gamble that Berkeley's rent-control law will be shot down in the near future, either by the courts or by the legislature.

The situation is better for owners of smaller buildings—thanks to buyers eager to become homeowners at artificially low prices and willing to circumvent the city's ordinance against condominium conversion. "The market is popping for owner-occupants," says St. John. "Middle-class people love to live in Berkeley in formerly rented places—nice brown shingle houses or little apartment buildings where three people get together, form an agreement, and live there." Some buyers are parents of university students who can't find rental housing in Berkeley's tight market.

Even some rental units within larger buildings are now being sold this way, according to St. John. "A market is developing in rental units that never used to be here before," he says. "Pieces of buildings are being sold, in a partnership sense. It's cumbersome and it's awkward, and the city of Berkeley says it's against public policy, but it happens nevertheless."

In fact, the city of Berkeley considers multiple owner-occupancy of apartment buildings flatly against the law. Manuela Albuquerque, who took over as city attorney last spring, has issued an opinion concluding that any attempt by two or more joint owners

to move into an apartment building they have purchased violates the city's 1980 condo-conversion statute. The law bans the conversion of apartments to condominiums as long as the rental vacancy rate citywide is under five percent. It's currently three percent. But groups of owner-occupants are still taking over former rental housing.

How many rental units has Berkeley lost because of rent control? Nobody knows, really. Nobody will know until the 1990 census figures come out. But there are some early indications.

One survey conducted three years ago by the Berkeley Board of Realtors turned up 700 individual cases in which owners admitted that they had sold their rental property to owner-occupants specifically because of rent control. But landlord Overstreet notes that most property owners are reluctant to acknowledge that rent control was their reason for selling, even if in fact it was. They don't want the attendant publicity. They don't want to be portrayed in public as hard-hearted beasts who don't care if people have to sleep in doorways. So Overstreet regards the 700 figure as conservative. His own estimate is about three times the official result.

For his part, consultant St. John figures that since 1978 Berkeley has lost 300 to 500 units a year because of rent control—2,100

check for compliance with local codes, has seen a substantial portion of the town's buildings up close. His verdict? "It's my professional belief that buildings in Berkeley are rotting from within. It took 20 years for massive deterioration to show up in New York under rent control. We've had seven years so far here in Berkeley."

From his shabby, rent-controlled apartment a few blocks from the university, Marty Schiftenbauer claims he doesn't see deteriorating housing. And if he doesn't see it, it doesn't exist. To be is to be perceived.

"What I see is a lot of tenants fixing up their homes, knowing they have the security of being able to stay in their apartment. So they say, 'I'll paint it. I'll spend some money on the place.' " Even when this is true, however, it means that tenants have assumed responsibilities once held by landlords—in effect, a rent increase.

As long as official rent levels rise more slowly than costs, something has to give. "Anyone who drives through Berkeley," says Martin Overstreet, "can see that it's beginning to acquire the flavor of a Third World country. Buildings are looking shabbier and shabbier, as owners are forced to neglect them. The rent board maintains that its annual adjustments over the past six years have been sufficient to offset increased operating expenses, not including debt service.



"Buildings in Berkeley are rotting from within," says consultant Michael St. John.

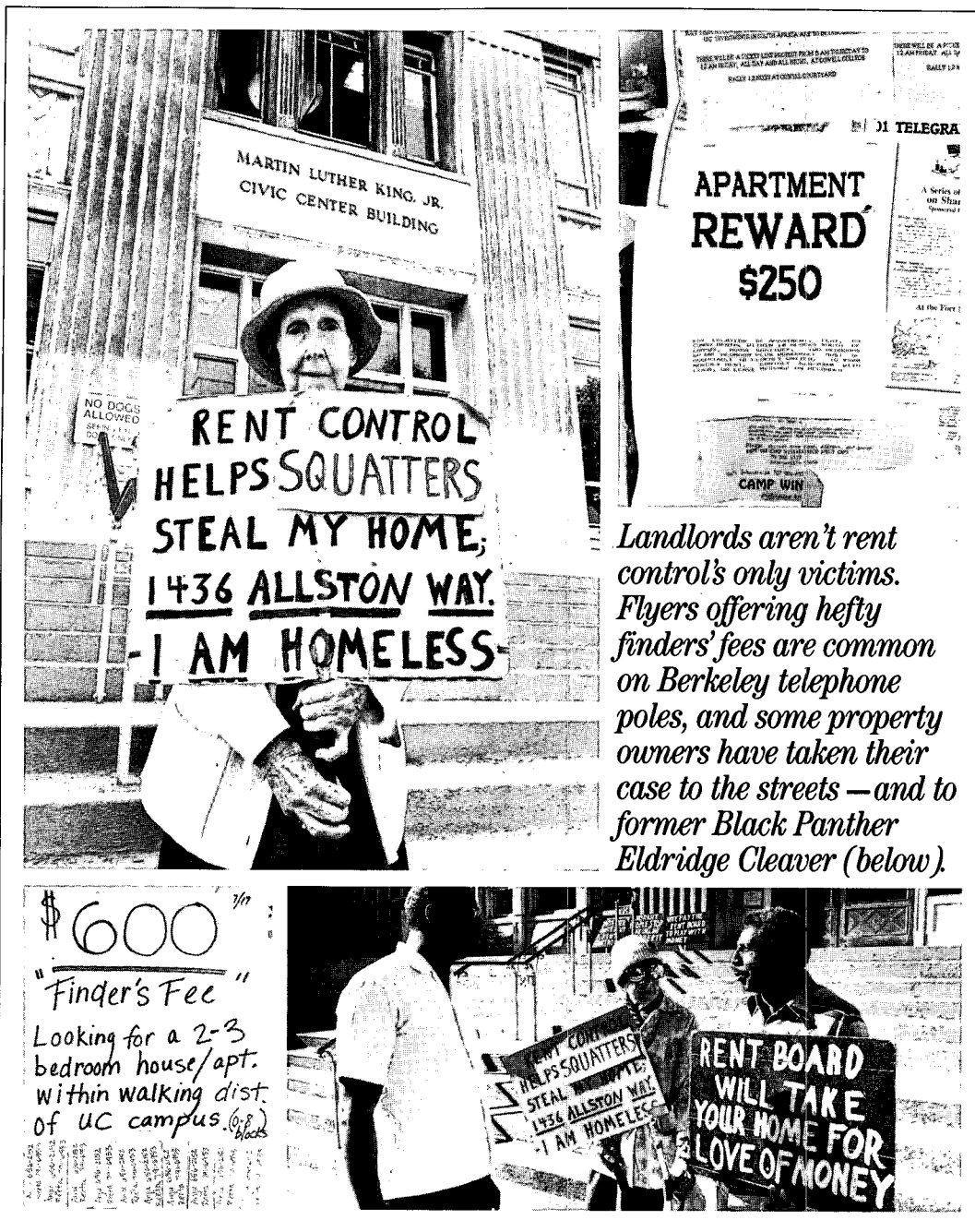
to 3,500 units as of the end of last year. "And the rate of loss is accelerating," he says. Since Berkeley had some 23,000 rental units in the 1980 census, if either St. John or the Board of Realtors is right, between 9 percent and 15 percent of the city's rental housing stock has disappeared as a result of rent control.

And the units that remain are no longer being maintained so well. St. John, who often inspects clients' rental buildings to

Well, that's hogwash."

This year, he says with disgust, "we got a glorious 3 percent, the year before that 2 percent, the year before that a 0 percent increase, in the context of about 5 percent inflation. The year before that we got 4.75 percent, in the context of 8 or 9 percent inflation."

Overstreet says his partnership isn't yet losing money on its own buildings because he raised the rents in anticipation of rent



Landlords aren't rent control's only victims. Flyers offering hefty finders' fees are common on Berkeley telephone poles, and some property owners have taken their case to the streets — and to former Black Panther Eldridge Cleaver (below).

\$600
"Finder's Fee"
Looking for a 2-3
bedroom house/apt.
within walking dist.
of UC campus (68)
black

control just before it took effect, because he has "cut way back on maintenance," and because he has stopped undertaking improvements altogether. But he says he will begin losing money within two to four years if the rent board continues to grant the meager annual increases that have characterized the past several years.

To abolish rent control, whether in Berkeley or in any of the dozen other California communities that have enacted it in the past decade, opponents have three

possible routes. There are the courts. There is the state legislature. And there is the initiative process.

The courts seem to offer little hope to any but the most mindlessly and incurably optimistic. Hundreds of lawsuits have been filed against rent-control laws over the years. Three hundred lawsuits have been filed against the law in Santa Monica alone; yet that law, which strongly resembles the one in Berkeley, has emerged for the most part unscathed from all that litigation. The current Berkeley law, too, has survived every court test to which it has been subjected.

Most recently, in late February of this year, it was upheld by the US Supreme Court, which refused to buy the argument that rent control is a type of price fixing forbidden by federal antitrust laws. Only liberal Justice William Brennan dissented from the ruling. The judiciary has made it clear that it considers rent control a legitimate type of government activity.

This is not to say that the judiciary necessarily favors rent control. The words of the California Supreme Court in the 1976 *Birkenfeld* case seem representative of judicial opinion on the matter. Rent con-

trols, said the majority opinion, "discourage construction or improvement of rental units, exacerbate any rental housing shortage, and so adversely affect the community at large. [But] such considerations go to the wisdom of rent controls and not to their constitutionality."

What about the state legislature? Every year for the past decade, property owners have attracted sponsors for bills to loosen rent control. But only the first one, proposed in 1976, has passed. It was vetoed by then-governor Jerry Brown. Since then, several anti-rent-control bills have passed the lower house of the legislature, where landlord lobbyists have the most influence. But not one of those bills has made it out of committee in the state Senate.

Dan Walters, the highly respected political columnist of the *Sacramento Bee*, contends that this state of affairs has been engineered deliberately by Senate President Pro Tem David Roberti of Hollywood, "whose own district is heavily populated by renters and where pro-rent control sentiment approaches the fervor of religious conviction."

"Roberti annually arranges, therefore, for the anti-rent control bill to be sent to the Senate Judiciary Committee, which is dominated by liberal Democrats such as himself, unlikely to interfere with rent control laws. And there the bill has annually resided until dying of old age."

One of the legislature's most outspoken critics of the Berkeley rent control law has been state Senator Nicholas Petris. A long-time liberal who has often supported rent control in the past, he says the way the Berkeley law is enforced is arbitrary and dictatorial. Rent officials there, he says, have it in for landlords and want to "drive them out of business."

And, as Petris sees it, "people who do that are not liberals. They are no better than any kind of totalitarian government. There are landlords who live in fear." In Berkeley today, he says, "the oppressed are the landlords, and I'm fighting for them like I fought for the tenants."

Those are fighting words, no doubt about it. But Petris's bark turns out to be considerably worse than his bite. The two anti-rent-control bills he sponsored in the legislature's last session were models of mildness. One would have modified Berkeley's rent law to prevent landlords from being severely penalized for "minor procedural errors or omissions." The other provided that, when the legal rent on a unit is in dispute, the tenant would pay into an escrow account, instead of paying no rent at all—the current practice in Berkeley. Neither bill passed.

Petris's office says that he'll withdraw

his support from even these minor reforms if Berkeley rent officials can convince him that they've become less arbitrary and capricious in their enforcement practices. That seems unlikely. But this is still pretty weak stuff from a man who criticizes the Berkeley law so vociferously—and who is himself one of those victimized landlords. Petris owns 20 units in Berkeley and has had a few run-ins with the rent board.

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What about the initiative process? Is there any chance the voters of Berkeley will realize their folly and support a ballot initiative to deregulate rents? At present, it doesn't seem likely. As columnist Walters points out, someone who passes for a moderate in Berkeley would be considered a flaming liberal anywhere else. Even Berkeley's severest critics of rent control, men like attorney Bruce Reeves and landlord consultant Michael St. John, are careful to explain that they don't oppose control in all cases. They merely oppose the unduly harsh, unduly restrictive version of it now in effect in their city. With enemies like that, rent control doesn't need any friends.

On the other hand, Martin Overstreet says he believes the city government in Berkeley has become so bizarre, so extreme, since 1984 that even the staunchly left-wing Berkeley electorate is going through what he calls "a process of reeducation." This process, he says, will ultimately lead citizens to recognize the error of their ways.

It was in 1984 that Berkeley Citizens Action (BCA), which Dan Walters calls "the most radical of the city's political splinter groups," won a majority on the city council.

The BCA-dominated city council is led by Mayor Gus Newport, who logs thousands of miles a year spreading Berkeley's social gospel in the United States and in Third World capitals. He has dubbed one of his talks "The People's Republic of Berkeley." Walters reports that "when US troops invaded Grenada, one of the documents they discovered was a report on a trip to the Bay Area by Grenadian officials that included a praiseful account of their visit with 'Comrade Gus Newport.'"

Meanwhile, the city council has done its best to eviscerate the one marginally anti-rent-control law that made it through the legislature last year. The so-called Ellis bill permits landlords to take their units off the market and go out of the business, regardless of local "just cause" eviction regulations.

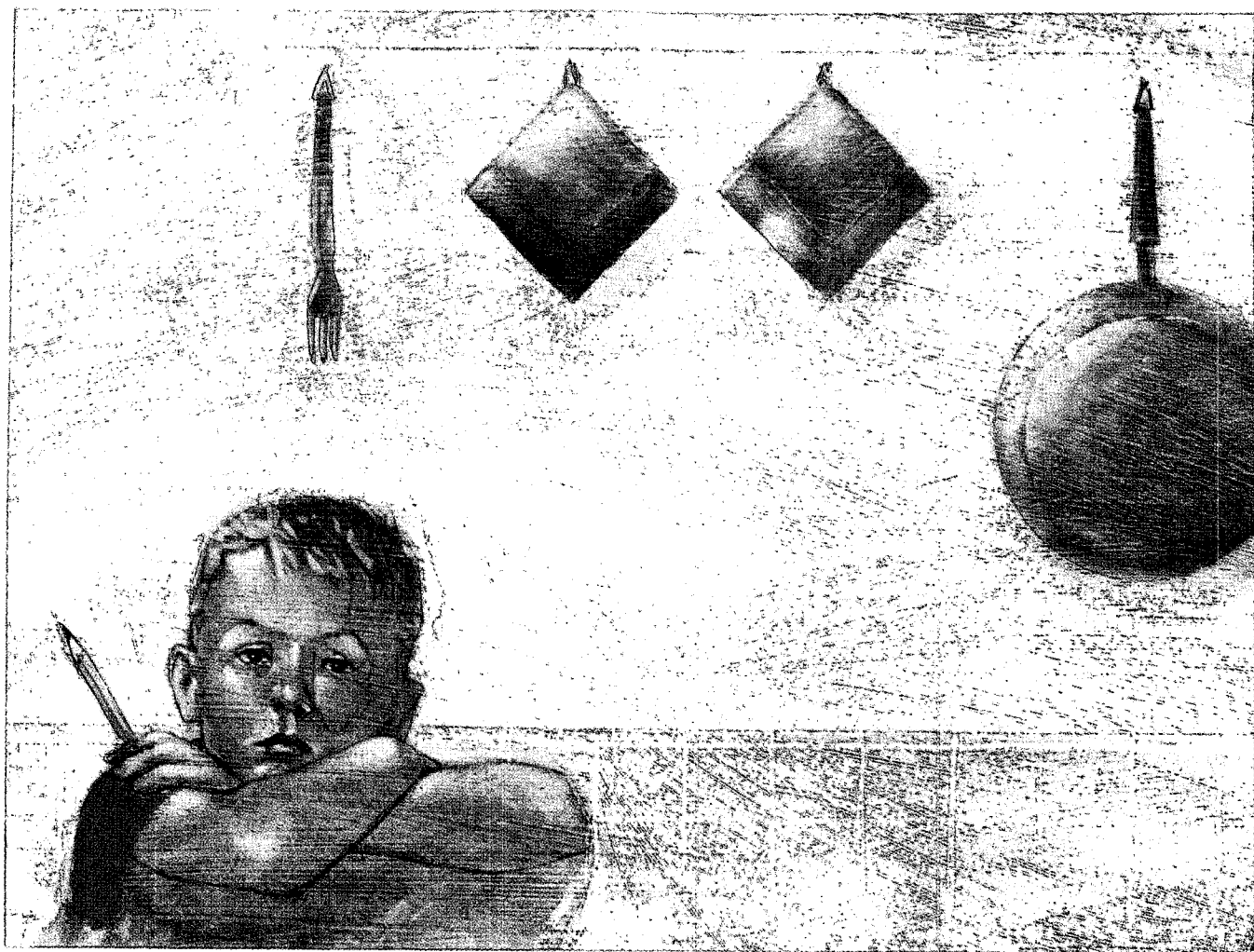
Early in June—a month before the law took effect—the Berkeley City Council passed an ordinance that requires landlords to give tenants at least six months' notice before withdrawing from the market. More recently, it passed another law requiring landlords to pay tenants "relocation expenses" of \$4,500 per apartment before they can recapture their property under the Ellis bill. In such a political climate, rent control seems as permanent as death and taxes.

But even if Berkeley's citizens woke up tomorrow as Reagan Republicans, rent control would probably survive. Despite all the evidence that it victimizes tenants and would-be tenants along with property owners, the biggest factor mitigating against any popular movement against rent control is the fact that nearly two-thirds of Berkeley's residents are tenants. Rent controls are seldom adopted except in cities where tenants are in the majority and, once in place, they are almost never repealed. Focusing only on the short-term, direct effects, few tenants will vote to increase their own rents.

And there the matter would seem to rest. As the Swedish economist Assar Lindbeck wrote in 1971, "Next to bombing, rent control seems in many cases to be the most efficient technique so far known for destroying cities."

But, so far as Berkeley tenants and activists are concerned, if you don't see something, then it doesn't exist. For in Berkeley, to be is to be perceived. □

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Home Sweet School

The education of a home-schooling family.

Monday through Friday mornings bring turmoil to most families with school-age children, but the Kolesnik household remains calm. No cries of "Hurry up and get dressed!" or "Get your books—here comes the bus!" echo through the house. Instead, 11-year-old Jason comes downstairs, leisurely eats his breakfast, and starts les-

by Michael Kolesnik