

BARHA/BOLO Questionnaire

Responses from Councilmember and Mayoral Candidate Bob Yates
September 1, 2023

Q1: With housing affordability an ever-increasing challenge across Colorado, rent control has come up in discussions. This is evidenced by this year's proposal at the state legislature. Have you researched the topic of rent control? If so, do you think that it is something that makes sense for Boulder?

Yes, I have researched the topic of rent control and I do not think it makes sense for Boulder, regardless of whether the state ever lifts its preemption. I have lived in New York City, and I have first-hand experience that rent control does not serve its intended purpose of keeping housing costs affordable. While rent control may sound appealing on its surface to low-income renters, it invariably causes many unintended consequences, including the following:

- Developers are less inclined to build new rental units due to an artificially-constrained return on investment. This results in less rental housing, not more.
- Those property owners who hold existing rental units may be economically motivated to convert them to condos. This results in less rental housing, not more.
- With a lower return on investment, an owner of rental units may have fewer funds with which to maintain properties to acceptable standards, decreasing values, causing health and safety risks, and adversely affecting the well-being of tenants.
- Tenants mobility is impaired, with both those needing to downsize and upsize trapped in rent-controlled apartments, unable to make moves that natural economic markets favor.
- Landlords and tenants alike will be incentivized to engage in schemes to get around rent control rules. For example, landlords may be motivated to not renew leases with perfectly good tenants in order to raise rents, and tenants may be motivated to “sell” apartment keys to preserve rental rates to successor tenants that the landlord is unaware of.

The forgoing is simply a sampling of reasons why rent control is a bad idea. There have been scores of economic studies on why rent control hurts both landlords and tenants and is a general drag on the local economy. For these reasons, and many more, Boulder should not adopt a rent control system, even if the state eventually permits it. As mayor (and as a retired real estate lawyer), I will oppose any rent control system in Boulder, and I will encourage my city council colleagues to do likewise.

Q2: Who is responsible for tenant behavior whether good or bad? The tenant, the police, the university (if student), the landlord? How is responsibility determined? How can you ensure that any remedies are fair to all involved?

That certainly depends on what “bad behavior” occurs. For example, the responsibility for keeping noise down is certainly that of the noise-maker, which is typically the tenant. Keeping the area clean around a rental property is a matter of the lease terms between the landlord and the tenant. In an MDU the landlord will often take on this responsibility. In the rental of a single-

family unit, the lease often provides that the responsibility lies with the tenant. Likewise for other neighbor-affecting responsibilities, like mowing and sidewalk snow removal. The city cannot possibly know the lease terms between landlord and tenants, and will look to both parties to ensure that the property is maintained in a clean and safe condition, with no material adverse impacts on neighbors.

Q3: With the passage of HB23-1255 that prohibits growth caps, thus repealing the growth cap in Boulder, how do you intend to support both staff and citizens in streamlining the building process?

HB23-1255 does not affect Boulder, as any historic growth caps under Boulder law have never been triggered. Aside from that, HB23-1255 does not affect Boulder's development process. Housing additions in Boulder have been very steady over the last two decades, with an average of 200-300 new housing units added each year. This is not expected to change. However, recent staffing shortages that affect nearly every industry have also affected the city of Boulder, with staffing in the city's Planning Department down significantly following the pandemic. This has caused slow processing of site reviews and building permits over the last two years. This labor shortage is gradually easing, and we are finding turnaround times in Boulder's land use approval processes reverting back to normal.

Q4: Just recently there was a bill introduced in the legislature entitled HB23-1171 Just Cause Eviction. If passed it would have prohibited the landlords ability to "Non – renew" a tenant. A non-renewal is simply the landlord not offering the tenant the ability to renew at the end of a lease term. Notice is given. This bill did not pass. We would like to hear your thoughts on the ability of a landlord to "non-renew"?

A lease is a contract between two consenting parties. At the end of the term of a contract, either party typically has the right to end the contract, unless there is a clause giving one party the unilateral option to extend the term. I would be opposed to any state law that alters this fundamental right of parties to negotiate contract terms, as they see fit. This is black-letter law that has existed for centuries in the Western world. While I might be sympathetic to a law that requires certain advance notice of non-renewal (say 60 or 90 days), given the fact that a lease involves housing, I do not believe that a landlord should ever be deprived of the right to not renew a lease contract, for any reason (other than protected class discrimination), or for no reason. As mayor (and as a retired real estate lawyer), I would oppose any attempt to change this fundamental principle of contract law.