



Berlin Government Proposes Rent Cap for Residential Space

Implementation of the rent cap could have a significant negative impact on returns for investors in Berlin residential investments—will it be challenged?

Over the past decade, Berlin has experienced a significant rent increase for residential space. The Berlin government has now adopted a position paper summarizing a proposal on a rent cap to stop this rent increase. Draft legislation is scheduled to be publicly available by mid-October 2019. If the rent cap is implemented, investors in Berlin residential investments could experience a significant negative impact on their returns.

Impact of the Rent Cap

For five-year period beginning on June 18, 2019, an increase of rents for apartments on the nonregulated rental market will not be permitted. The government reserves the right to extend the term if sufficient affordable residential space is not available after the expiration of this initial term.

An upper limit for rents—a rent ceiling—will be introduced. On existing rentals, neither the rent amount under the previous contract nor the rent ceiling can be exceeded. Newly built residential space will not be subject to the rent cap. It is likely that, following the first rental of a newly built flat, the rent cap will apply to any subsequent rentals.

Where a residential space has been modernized, landlords are entitled to increase the gross rent by up to €0.50 per month per square meter, but they have an obligation to notify the relevant authority of the increase. A higher increase is permitted only with the approval of the authority, which will be granted in case of "economic hardships for landlords." It is currently unclear which scenarios could qualify for higher rent increases.

Tenants have a right to demand a review of the rent by the authorities. If the rent exceeds the permitted thresholds, it will be lowered to the permitted level. Where there is a breach of the regulations, the authorities may impose fines of up to €500,000 per landlord.

Reactions and Outlook

The Berlin government expects that the rent cap will help to cool down what commentators argue is an overheated market for rented residential space in Berlin. However, critics say that this regulation will not create more residential space but will discourage investors and make the situation even worse.

The first reaction of the Landlords Association was an appeal to increase the rent before June 18, 2019, in order to achieve the maximum possible rent. It is expected that the rent cap act will be reviewed by the constitutional court. Commentators have expressed mixed views as to whether the legislation is in line with constitutional laws, so its legality is likely to be challenged.



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