Montgomery Planning

BILL 15-23: LANDLORD-TENANT RELATIONS – ANTI RENT GOUGING PROTECTIONS

Description

The purpose of Bill 15-23 is to prevent rent-gouging in the County. In general, annual rent increases in excess of a local annual Consumer Price Index plus eight percent would be prohibited.

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SUMMARY

- Bill 15-23 would:
  - Establish protections against rent increases above a threshold for certain rental units.
  - Set the base rental amount for certain rental units.
  - Provide exemptions from rental increase restrictions for certain units.
  - Permit rental increases in order to fund certain capital improvements.
  - Require landlords to submit annual reports regarding rents.
  - Generally, amend County law concerning rents and landlord-tenant relations.

BILL INFORMATION

Sponsor

Councilmember Fani-González, Council Vice-President Friedson, and Councilmembers Albornoz, Balcombe, Katz, and Luedtke

Review Basis

Chapter 29, Landlord-Tenant Relations

Public Hearing

3/27/2023

Introduction Date

3/7/2023

Planning Division

Countywide Planning & Policy

Planning Board Information

MCPB
Item No. 9

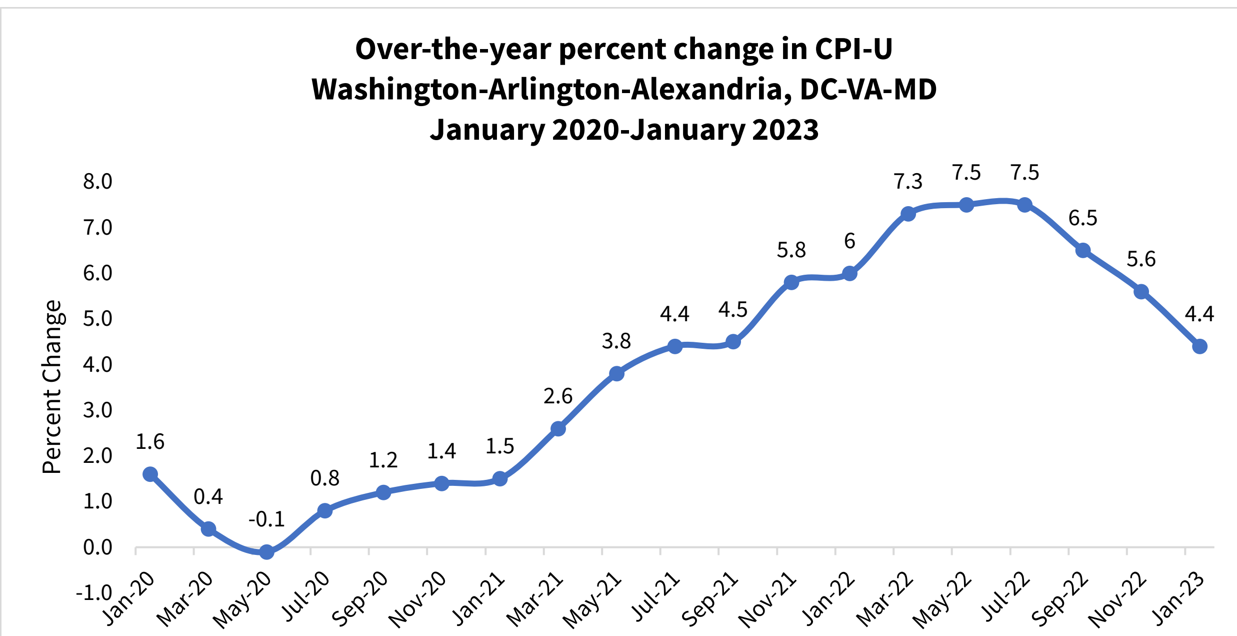
BILL 15-23: LANDLORD-TENANT RELATIONS – ANTI-RENT GOUGING PROTECTIONS

BILL 15-23 OVERVIEW

Bill 15-23 was introduced by Sponsors Councilmember Fani-González, Council Vice-President Friedson, and Councilmembers Albornoz, Balcombe, Katz, and Luedtke on March 7, 2023. The bill aims to prevent rent-gouging in the county. In general, annual increases in excess of the sum of the local annual CPI-U plus eight percent would be prohibited.

Under Bill 15-23, the Director of the Department of Housing and Community Affairs would annually publish a "rent increase allowance." This rent increase allowance would equal the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Area, published by the U.S. Bureau of Labor Statistics, plus 8 percent.

The January 2023 update of the CPI-U[1] was posted mid-February. Given that the bill requires the rent increase allowance to be set by July 1 and the six-week lag in reporting the data, staff imagines either the March or May rate would be used to calculate the rate. In 2022, the local March 2022 CPI-U was 7.3 percent, and the May 2022 CPI-U was 7.5 percent. However, the CPI-U most recently was 4.4 percent in January 2023.



Source: Bureau of Labor Statistics

[1] https://www.bls.gov/regions/mid-atlantic/news-release/consumerpriceindex_washingtondc.htm

Certain types of rental units and facilities would be exempt from this regulation. In particular, the following would be exempt:

(1) A unit that has been offered for rent for less than 15 years
(2) A unit in a licensed facility, the primary purpose of which is the diagnosis, cure, mitigation, and treatment of illnesses
(3) A unit in a facility owned or leased by an organization exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code if the primary purpose of the organization is to provide temporary shelter for qualified clients
(4) An owner-occupied group house
(5) A religious facility, including a church, synagogue, parsonage, rectory, convent, and parish home
(6) A transient lodging facility subject to Chapter 54
(7) A school dormitory
(8) A licensed assisted living facility or nursing home
(9) A building originally designed and constructed to contain only 2 dwelling units, one of which the owner currently occupies as a principal residence
(10) An accessory dwelling unit
(11) A unit subject to a regulatory agreement with a governmental agency that restricts occupancy of the unit to low- and moderate-income tenants
(12) A single-family home
(13) A condominium owned by an individual

For units subject to the rent allowance increase, there are certain instances where the landlord would be permitted to exceed the allowance including cases of undue financial hardship, and to fund certain capital improvements. The Director of DHCA would grant and administer the exemptions, which would be limited in duration to one year, unless renewed. An exemption to allow a surcharge to fund capital improvements would be subject to certain limitations, including:

(1) The surcharge is limited to an amount necessary to cover the costs of capital improvements to the regulated unit, excluding the costs of ordinary repair and maintenance.
(2) The surcharge does not take effect until after the capital improvements are completed.
(3) If the capital improvements are building-wide, the surcharge is prorated over 24 months.
(4) If the capital improvements apply only to certain regulated rental units and are not building-wide, the surcharge is prorated over 12 months.
(5) The surcharge ends once the costs of the capital improvements have been recovered by the landlord.

PREVIOUS LEGISLATION

Montgomery County (excluding the municipality of Takoma Park) does not have rent control or rent stabilization. The County Executive publishes the Voluntary Rent Guidelines (VRG), which provide recommended percentages for rent increases, based on the housing component of the Consumer Price Index for All Urban Consumers (CPI-U) for the local Washington-Arlington-Alexandria area.

While Montgomery County has no rent stabilization or rent control policy currently, the issue has been studied and discussed frequently over the past few years. During the COVID-19 emergency legislation was enacted to address rent increases during the span of the pandemic.

- Expedited Bill 18-20 - Landlord-Tenant Relations - Rent Stabilization During Emergencies was introduced on April 14, 2020 and enacted by the Council on April 24, 2020. The law prohibited a landlord from increasing rent during a catastrophic emergency (i.e., the COVID-19 emergency declared by Governor Hogan) or providing notice of a rent increase above the Voluntary Rent Guidelines until 30 days after the emergency expires. Under this Act, the temporary rent stabilization law was sunset on November 15, 2021, 121 days after the Governor declared the emergency had expired.

- Bill 52-20 - Protections Against Rent Gouging Near Transit was introduced on December 8, 2020. The bill had a public hearing but is still pending with no work session scheduled in the immediate future. The bill aimed to set standards regarding rents charged within 1 mile of rail transit stations, and within ½ mile of bus rapid transit stations. Rents within these areas would be required to comply with Voluntary Rent Guidelines published by the Department of Housing and Community Affairs (DHCA) under Chapter 29. In its comments on the bill to the Council, the previous Planning Board noted they strongly disapproved of the bill due to the potential impact on housing supply (Attachment 2).

- Expedited Bill 30-21, Landlord-Tennant Relations – Restrictions Following Emergencies-Extended Limitations was introduced on July 13, 2021. Bill 30-21 was enacted by the Council on November 9, 2021, to extend the limitation for a rent increase that was already provided for in Expedited Bill 18-20. The law continued the limitation on rent increases and extended the timeframe from 90 days to 1 year after the expiration of the emergency, which would extend until May 15, 2022. In addition, it prohibited landlords from charging late fees that accrued during the emergency. The rent increase restriction following the COVID-19 emergency is now expired and is no longer in effect.

- Expedited Bill 22-22, Landlord-Tenant Relations – Limitations on Rent Increases was introduced on July 12, 2022. Expedited Bill 22-22 sought to temporarily limit rent increases to no more than 4.4 percent for up to six months. This bill had a committee work session on October 24, 2022 but received no vote. Instead, the Council added a project to the Office of Legislative Oversight's work program to study rent regulations.

- Bill 16-23, Landlord-Tenant Relations – Rent Stabilization (The H.O.M.E. Act) was introduced on March 7, 2023, with a public hearing scheduled for March 28, 2023. Under Bill 16-23, the maximum allowance for a rent increase would be up to 3 percent or the rental component of the Consumer Price Index (CPI) percentage, whichever is lower.

REGIONAL COMPARISON

See below for a comparison of regional rent regulations.

	Maximum Rent Increase	**Limit on Increase for Vacant Units**	**New Rental Units Exemption**	**Small Building Exemptions**
Bill 15-23	8% plus local annual CPI-U.	None.	15 years	Single family homes and buildings with two units, one of which is owner occupied.
Bill 16-23	3% or rental component of local annual CPI-U, whichever is lower.	Yes. Up to 30% above rent charged when unit was occupied.	10 years	Buildings with two units, one of which is owner occupied.
Prince George's[2]	3%	None.	5 years	None.
Takoma Park	Percentage increase in the CPI from March in the preceding year to March in the current year.	Yes. The rent for vacant rental units may be increased up to the banked rent and the annual rent stabilization allowance.	5 years	Single family homes and buildings with 2 units, one of which is owner occupied.
Mount Rainer	60% of CPI	Yes. 60% of the CPI multiplied by the rent that could have been charged had the unit been occupied in the preceding year.	15 years	2 or fewer units.
Washington, DC	2% with annual CPI-W	Yes. Up to 30% above rent charged when unit was occupied.	Units built after 1975 are exempt.	Persons who own 4 or fewer rental units.

[2] Sunsets after one year.

BILL 15-23 ANALYSIS

ABOUT RENT REGULATIONS

As summarized in the Montgomery County Preservation of Affordable Housing Study, rent regulations refer to a broad suite of policies, often referred to under the umbrella terms "rent control" or "rent stabilization." These rent regulations aim to limit the rents that private landlords may charge tenants. There is significant variation in program design related to the applicable properties, the level of oversight in rent setting, and the permitted level of rent increase. The effectiveness of rent regulation is the subject of significant debate among economists and housing practitioners, with proponents focusing on resident stability and skeptics asserting that negative consequences on housing production and other adverse effects outweigh any benefits.

An effective rent regulation is one that limits the ability of property owners to increase the rent on an existing property beyond what is necessary to maintain the property and without disincentivizing investment in existing properties or discouraging development of new housing. Balancing the limits on increasing rents with the need for private investment in housing is the central tension of rent regulation policies.

Anti-rent-gouging laws are a subset of rent regulations, where anti-gouging laws aim to prevent excessive rent increases, which are often at an unconscionable price for the tenant. Anti-rent gouging laws often set the rent cap at a rate well above the rate of inflation, often with a constant percentage on top of the rate of inflation. These laws attempt to stop the bad actors that attempt to raise the rents too high, but generally allow rent increases that exceed the market's typical rent growth.

The Montgomery County Preservation of Affordable Housing Study laid out five key considerations that any rent regulation policy will need to balance:

1. **Market Strength**: The strength of the existing multifamily rental market will determine whether rent stabilization may be viable. This can be determined through three indicators: net absorption—the number of new units that are being rented out annually; new multifamily starts—the number of new projects beginning annually; and stabilized property resale volume—the velocity of existing property sales. If the market is weak with low growth, such a policy may do more harm than good.
2. **Properties Covered**: Targeting is vital for a successful rent stabilization policy. If rent stabilization policies include new construction, they often stymie new development. Instead, rent stabilization should target properties with the highest rates of rent increase, often older and smaller properties.
3. **Rent Increase Cap**: The rent increase cap must be set to an amount that targets potential rent gouging without reducing investment. In Oregon and California, these caps were set at inflation plus 7 and 5 percent, respectively, far exceeding any regular rent increase or

the pace of inflation. The appropriate cap should be set based on the strength of Montgomery County's multifamily real estate market to ensure continued investment.

4. **Property Investment Exemptions**: A common drawback to rent stabilization is that it disincentivizes owners to properly upkeep their properties and make larger capital expenditures as required. Montgomery County needs to ensure that the cap allows for these investments to be recouped and incentivizes maintenance of safe and habitable apartments, and that the County continues to require a minimum level of upkeep through enforcement of building codes.
5. **Market Expectations**: Real estate markets are sensitive to market expectations—if there is a perception that rents will be further regulated or that regulations are temporary, landlords will adjust their actions accordingly. Any proposed rent regulations should be enacted swiftly, and property owners should be given confidence that the rules will remain consistent in the short-term.

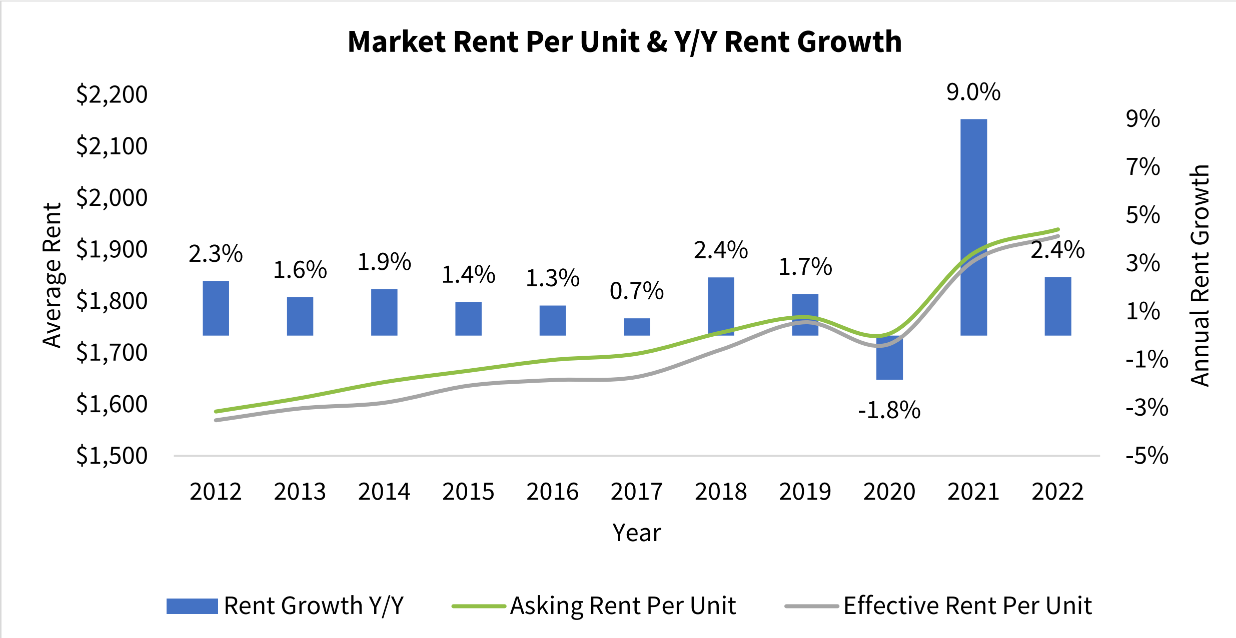
In Planning staff's opinion, Bill 15-23 appropriately weighs these considerations when setting a cap that balances both the need to ensure housing production is not stymied, and the need to stop the few bad actors that are gouging tenants' rents to inappropriate levels. Staff, however, has a few recommendations on the bill.

RENT ANALYSIS

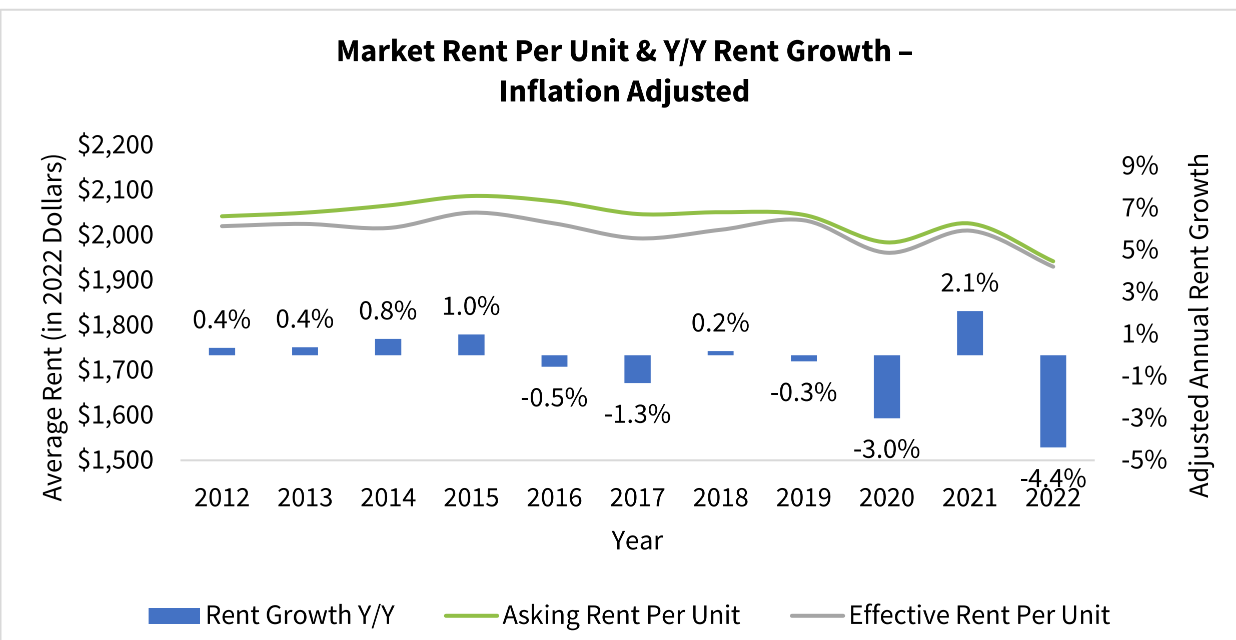
Bill 15-23 sets the rent cap at eight percent plus the local annual CPI-U. To determine the appropriateness of the cap, Planning staff evaluated market rents and year over year rent growth (rent growth is the year over year change in the rent charged) with CoStar[3] data. The following chart shows average rent growth in the county, plotted against both the average asking rent and the average effective rent. Effective rent being the rent charged after concessions are taken out. Concessions could include a free month's rent or reduced rent.

On average, the county has experienced average rent growth of 2.1 percent per year since 2012. There are two notable outliers to this trend. In 2020, the county experienced declining rent growth in the wake of the pandemic, where the average rent in the county declined by nearly 2 percent. In 2021, however, there was a huge rebound – the county recorded its highest rent growth on record at an average of 9 percent rent growth. By 2022, the strong rent growth experienced in 2021 subsided, and rent growth largely moved back in line with past trends at 2.4 percent. While it is too early to glean any trends for 2023 data, rent growth appears to be in line with 2022 trends through March, where average rent growth has returned to pre-pandemic levels.

[3] The market rents reported by CoStar represent current asking rents of available rents. These data **does not** include in-place or renewal rents.



Staff also considered rent growth adjusted for inflation. While the reality is that many renters did not have incomes that rose as fast as the rate of inflation, we are operating in a high inflationary market where property owners are experiencing rising costs too. After adjusting for inflation, rent growth in the county has been very modest. Since 2012, after adjusting for inflation (CoStar uses the CPI-U), rent growth, on average has been -0.5 percent. This means that rent growth in the county has generally not kept up with the rate of inflation.



RENT CAP

If the average rent growth is low in the county already, why do we need to establish a rent cap at a rate well above inflation, as proposed in Bill 15-23? Planning staff believes that a higher cap does a couple of things. First, it stops the few bad actors that set rent increases so high that the increases are unattainable for renters. Secondly, the Montgomery County housing market does not operate in a vacuum. The county has seen declining housing production, and builders may choose to build elsewhere in the region if the cap is set too low to provide enough flexibility to respond to changing market conditions. Rent growth is an important part of financing and the housing production equation. Rising costs of labor and construction, as well as rising interest rates, have made it harder for new development projects to pencil out. Setting a high cap provides flexibility to secure necessary financing and the ability to recoup development costs in a timely fashion.

While staff supports the recommendation of Bill 15-23 to set a rent cap at the local annual CPI-U plus a fixed percent, Planning staff believes the fixed portion could be set slightly lower than the proposed 8 percent, to allow more predictability for tenants, while still providing enough flexibility to respond to market conditions without hindering housing production.

In Oregon, landlords cannot raise the rent more than seven percent plus inflation, and in California rents are not allowed to be raised more than five percent plus inflation (but never allowed to go above ten percent). Staff believes that Oregon and California could be potential models for the county's anti-rent gouging law.

Staff recommends setting the base in the 5-7 percent range, plus the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington Arlington-Alexandria Area.

EXEMPTIONS

Planning staff noted the fifteen exemptions allowed in Bill 15-24 in the Overview section. Staff wants to highlight three exemptions that they believe are an important component of any rent regulation and propose one potential addition.

The first exemption is "a unit that has been offered for rent for less than 15 years." Staff reads this to believe that new rental developments are exempt for fifteen years, which allows for properties to recoup costs. It is important to have an adequate exemption policy to ensure that new construction can recoup costs in the first 15 years. **Planning staff supports the 15-year new development exemption.**

The second exemption noted by staff is for "a unit subject to a regulatory agreement with a governmental agency that restricts occupancy of the unit to low- and moderate-income tenants." Flexibility with obtaining financing and loans is especially difficult for affordable housing providers, who often have to obtain multiple sources of financing to finance a project. While both the Housing Opportunities Commission (HOC) and affordable units in the county's Moderately Priced Dwelling Unit (MPDU) program generally do not raise rents above the county's Voluntary Rent Guidelines. Most affordable housing programs have built in guidelines for rent increases already, or at least guidelines for the maximum rent that can be charged. Exempting these units and other affordable units from the regulations helps ensure that investment in affordable housing is not hindered. **Planning staff supports the exemption for units occupied by low-and-moderate income tenants.**

For units subject to the rent allowance increase in Bill 15-23, there are certain instances where the landlord would be permitted to exceed the allowance including cases of undue financial hardship, and to fund certain capital improvements. These exemptions would be subject to approval by the director of DHCA. **Planning staff supports the financial hardship exemption.**

Staff also believes that there should be a consideration for a different treatment for small multifamily buildings, which often have higher capital maintenance costs due to the lack of economies of scale. While the bill allows landlords to apply for an exemption due to hardship, it may be appropriate to allow a broader exemption for smaller buildings with less than 10 units. **Planning staff recommends an exemption for small buildings with less than 10 units.**

CONCLUSION

Planning staff supports the intent of Bill 15-23 to prevent rent-gouging in the county. Staff believes that the fixed portion of the cap could be lowered to 5-7 percent, plus the local annual CPI-U, without hindering the needed housing production. Staff also believes that an exemption for small apartment buildings should also be explored, given their higher costs of maintenance.

ATTACHMENTS / LINKS

1) Bill 15-23
2) Planning Board Memo on Bill 52-20
3) CoStar Rent Analysis

Montgomery County Council

Committee: PHP
Committee Review: At a future date
Staff: Christine Wellons, Senior Legislative Attorney
Purpose: To introduce agenda item – no vote expected

AGENDA ITEM #1A
March 7, 2023
Introduction

SUBJECT

Bill 15-23, Landlord-Tenant Relations -Anti Rent Gouging Protections

Lead Sponsors: Councilmember Fani-González, Council Vice-President Friedson, and Councilmembers Albornoz, Balcombe, Katz, and Luedtke

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; to introduce and item

DESCRIPTION/ISSUE

Bill 15-23 would:

(1) establish protections against rent increases above a threshold for certain rental units;
(2) set the base rental amount for certain rental units;
(3) provide exemptions from rental increase restrictions for certain units;
(4) permit certain rental increases to fund capital improvements;
(5) require landlords to submit annual reports regarding rents; and
(6) generally amend County law concerning rents and landlord-tenant relations.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

Staff Report	Pages 1-2
Bill 15-23	© 1

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Agenda Item #1A
March 7, 2023
Introduction

M E M O R A N D U M

March 2, 2023

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Bill 15-23, Landlord-Tenant Relations – Ant-Rent Gouging Protections

PURPOSE: Introduction – no Council votes required

Bill 15-23, Landlord-Tenant Relations – Ant-Rent Gouging Protections, sponsored by Lead Sponsors Councilmember Fani-González, Council Vice-President Friedson, and Councilmembers Albornoz, Balcombe, Katz, and Luedtke, is scheduled for introduction on March 7, 2023. A public hearing is tentatively scheduled for March 28, and a Planning, Housing, and Parks (PHP) Committee worksession will be scheduled for a future date.

Bill 15-23 would:

(1) establish protections against rent increases above a threshold for certain rental units;
(2) set the base rental amount for certain rental units;
(3) provide exemptions from rental increase restrictions for certain units;
(4) permit certain rental increases to fund capital improvements;
(5) require landlords to submit annual reports regarding rents; and
(6) generally amend County law concerning rents and landlord-tenant relations.

BACKGROUND

The purpose of Bill 15-23 would be to prevent rent-gouging in the County. In general, annual rent increases in excess of the sum of local annual CPI-U plus 8 percent would be prohibited.

BILL SPECIFICS

Under Bill 15-23, the Director of the Department of Housing and Community Affairs (DHCA) annually would publish a "rent increase allowance" – which would consist of 8 percent of existing rent, plus the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Area, published by the U.S. Bureau of Labor Statistics.

In general, annual rent increases for rental units in the County would be limited to the "rent increase allowance." Certain types of rental units and facilities would be exempt from this limitation. In particular, the following would be exempt:

(1) a unit that has been offered for rent for less than 15 years;
(2) a unit in a licensed facility, the primary purpose of which is the diagnosis, cure, mitigation and treatment of illnesses;
(3) a unit in a facility owned or leased by an organization exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code if the primary purpose of the organization is to provide temporary shelter for qualified clients;
(4) an owner-occupied group house;
(5) a religious facility, including a church, synagogue, parsonage, rectory, convent, and parish home;
(6) a transient lodging facility subject to Chapter 54;
(7) a school dormitory;
(8) a licensed assisted living facility or nursing home;
(9) a building originally designed and constructed to contain only 2 dwelling units, one of which the owner currently occupies as a principal residence;
(10) an accessory dwelling unit;
(12) a unit subject to a regulatory agreement with a governmental agency that restricts occupancy of the unit to low and moderate income tenants;
(13) a single-family home; and
(14) a condominium owned by an individual.

For units subject to the rent allowance increase, a landlord would be permitted to exceed the allowance in certain circumstances, including in cases of undue financial hardship to the landlord, and in order to fund certain capital improvements. Through regulations, the Director of DHCA would grant and administer these exemptions, which would be limited in duration.

An exemption for hardship would last for one year, unless renewed due to ongoing financial hardship to the landlord. An exemption to allow a surcharge to fund capital improvements would be subject to certain limitations, including:

(1) the surcharge is limited to an amount necessary to cover the costs of capital improvements to the regulated unit, excluding the costs of ordinary repair and maintenance;
(2) the surcharge does not take effect until after the capital improvements are completed;
(3) if the capital improvements are building-wide, the surcharge is prorated over 24 months;
(4) if the capital improvements apply only to certain regulated rental units and are not building-wide, the surcharge is prorated over 12 months; and
(5) the surcharge ends once the costs of the capital improvements have been recovered by the landlord.

<u>This packet contains</u>:	<u>Circle #</u>
Bill 15-23	1

Bill No. 15-23
Concerning: Landlord-Tenant Relations – Anti-Rent Gouging Protections
Revised: 03/02/2023 Draft No. 4
Introduced: March 7, 2023
Expires: December 7, 2026
Enacted:
Executive:
Effective: See Sec. 2
Sunset Date: None
Ch. ____, Laws of Mont. Co. ____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmember Fani-González, Council Vice-President Friedson, and Councilmembers Albornoz, Balcombe, Katz, and Luedtke

AN ACT to:
(1) establish protections against rent increases above a threshold for certain rental units;
(2) set the base rental amount for certain rental units;
(3) provide exemptions from rental increase restrictions for certain units;
(4) permit certain rental increases to fund capital improvements;
(5) require landlords to submit annual reports regarding rents; and
(6) generally amend County law concerning rents and landlord-tenant relations.

By adding
Montgomery County Code
Chapter 29, Landlord-Tenant Relations
Sections 29-56, 29-57, 29-58, 29-59, and 29-60

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Article VI is renamed and Sections 29-56, 29-57, 29-58, 29-59, and 29-60 are added as follows:

Article VI. Central Data Collection, [and] Rent Guidelines, and Anti-Rent Gouging Protections.

* * *

29-56. [Reserved.] Anti-rent gouging – definitions.

Definitions. In Sections 29-56 through 29-60, the following terms have the meanings indicated:

Base rent means rent charged for a regulated rental unit under a lease, exclusive of any rental discounts, incentives, concessions, or credits that are:

(1) offered by the landlord;

(2) accepted by the tenant; and

(3) itemized in the lease separate from the rent.

CPI-U means the Consumer Price Index for All Urban Consumers for the Washington-Arlington-Alexandria Area, published by the U.S. Bureau of Labor Statistics.

Regulated rental unit or *regulated unit* means a rental unit that is not exempted under Section 29-59.

29-57. [Reserved.] Annual rent increase allowance.

(a) *Annual rent increase allowance*. The Director annually must calculate a rent increase allowance for regulated rental units equal to the CPI-U plus 8 percent.

(b) *Publication*. The Director must publish the annual rent increase allowance in the County Register and on the County website.

(c) *Duration*. A rent increase allowance under subsection (a) remains in effect for a 12-month period, beginning July 1st of each year and ending on June 30th of the following year.

29-58. [Reserved.] Rent increases – in general; limited surcharges for capital improvements.

(a) *In general*. Upon a lease renewal, a landlord must not increase the rent of a regulated rental unit to an amount greater than:

(1) the base rent; plus

(2) the rent increase allowance under Section 29-57.

(b) *Limited surcharge for capital improvements*. The Director must grant a landlord's application to add a surcharge to the amount permitted under subsection (a) if, in accordance with Method (2) regulations, the Director determines:

(1) the surcharge is limited to an amount necessary to cover the costs of capital improvements to the regulated unit, excluding the costs of ordinary repair and maintenance;

(2) the surcharge does not take effect until after the capital improvements are completed;

(3) if the capital improvements are building-wide, the surcharge is prorated over 24 months;

(4) if the capital improvements apply only to certain regulated rental units and are not building-wide, the surcharge is prorated over 12 months; and

(5) the surcharge ends once the costs of the capital improvements have been recovered by the landlord.

29-59. [Reserved.] Exempt rental units.

(a) *Exemptions*. The requirements of Section 29-58 do not apply to:

(1) a unit that has been offered for rent for less than 15 years;

(2) a unit in a licensed facility, the primary purpose of which is the diagnosis, cure, mitigation and treatment of illnesses;

(3) a unit in a facility owned or leased by an organization exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code if the primary purpose of the organization is to provide temporary shelter for qualified clients;

(4) an owner-occupied group house;

(5) a religious facility, including a church, synagogue, parsonage, rectory, convent, and parish home;

(6) a transient lodging facility subject to Chapter 54;

(7) a school dormitory;

(8) a licensed assisted living facility or nursing home;

(9) a building originally designed and constructed to contain only 2 dwelling units, one of which the owner currently occupies as a principal residence;

(10) an accessory dwelling unit;

(12) a unit subject to a regulatory agreement with a governmental agency that restricts occupancy of the unit to low and moderate income tenants;

(13) a single-family home; and

(14) a condominium owned by an individual.

(b) *Exemptions for hardship.* The Director must grant to a landlord an exemption from the requirements of Section 29-58 for a unit if, in accordance with Method (2) regulations, the Director determines that the requirements would cause undue financial hardship to the landlord.

(c) *Expiration of exemption.*

(1) An exemption under subsection (a) expires when the conditions entitling the unit or facility to an exemption cease to exist.

(2) An exemption for hardship under subsection (b) expires 1 year after the exemption is granted.

(d) *Renewability of hardship exemption.* The Director must renew annually an exemption granted under subsection (b) if, in accordance with Method (2) regulations, the Director determines that the requirements of Section 29-58 would continue to cause an undue financial hardship to the landlord.

29-60. [Reserved.] Annual reporting requirements.

(a) On or before September 30th of each year, a landlord must submit to the Department a report for the preceding 12-month period, beginning July 1st and ending on June 30th, regarding regulated rental units, rents, and notices of rent increases.

(b) The landlord must submit the report in the form and manner prescribed by the Director under Method (2) regulations.

[29-56] 29-61 - 29-65. Reserved.

Sec. 2. Effective Date. This Act must take effect 6 months after it becomes law.

Sec. 3. Regulations. No later than 3 months after the effective date of this Act, the Department must submit to the County Register proposed Method (2) regulations required under the Act.

MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

February 10, 2021

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Bill No. 52-20

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Bill 52-20 – Protections Against Rent Gouging Near Transit at its regular meeting on February 4, 2021. By a vote of 5:0, the Planning Board strongly disapproves of Bill 52-20 as written. As introduced Bill 52-20 would limit rent increases in rental housing units within a 1-mile (Red Line and Purple Line) and ½-mile (Bus Rapid Transit) transit buffer.

The Planning Board offers the following comments for the County Council to consider as it deliberates Bill 52-20:

- The Planning Board agrees that the shortage of affordable housing is a crisis and is a major priority that must be addressed through a variety of tools and policies. However, the Board believes Bill 52-20 will have a negative impact on the supply of housing, including disincentivizing construction of new rental housing, thereby hampering the county's ability to provide affordable housing.
- The Planning Board believes that there are more effective ways to address the affordable housing shortage–including increasing the supply of housing, addressing the high cost of construction, and providing a living wage.
- The proposed rent regulation will have unintended negative consequences on the supply of housing that could further constrain the broader housing market and stymie new development and would result in higher rental market prices, outweighing the potential benefits.
- The benefits of rent regulations enjoyed by residents in regulated units will be offset by the negative effects on the uncontrolled units.
- Rent regulation laws can contribute to deteriorated housing quality by creating disincentives for landlords to maintain their properties. The Planning Board feels strongly that it is imperative that the county maintain a supply of healthy, quality housing.

Planning staff completed analysis on rents in Montgomery County and the Red Line and Purple Line transit corridors from 2000-2020. Based on this analysis, the Planning Board believes the Bill 52-20 will have a limited impact preventing rent gouging in Montgomery County, but will likely have negative impacts on the health of the rental market. Market-wide rents have not increased rapidly in

Montgomery County in the two focus geographies over the last two decades to suggest the need for a rent regulation. While rents were 40% higher countywide in 2019 than they were in 2000, this is a 1.78% annualized pace over 20 years, which is much less than the annualized 3.37% increase in the Consumer Price Index (CPI). This rate of rent increase is also less than the roughly 2% annual minimum rent increase that developers hope for when evaluating real estate opportunities in order for revenue to outpace the long-run rate of inflation.

While the Planning Board does not believe that Bill 52-20 will be an effective mechanism to meet the county's affordable housing needs, the Council is encouraged to work collaboratively with the Planning Board to address the affordable housing crisis through other strategies and tools.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, February 4, 2021.

Casey Anderson
Chair

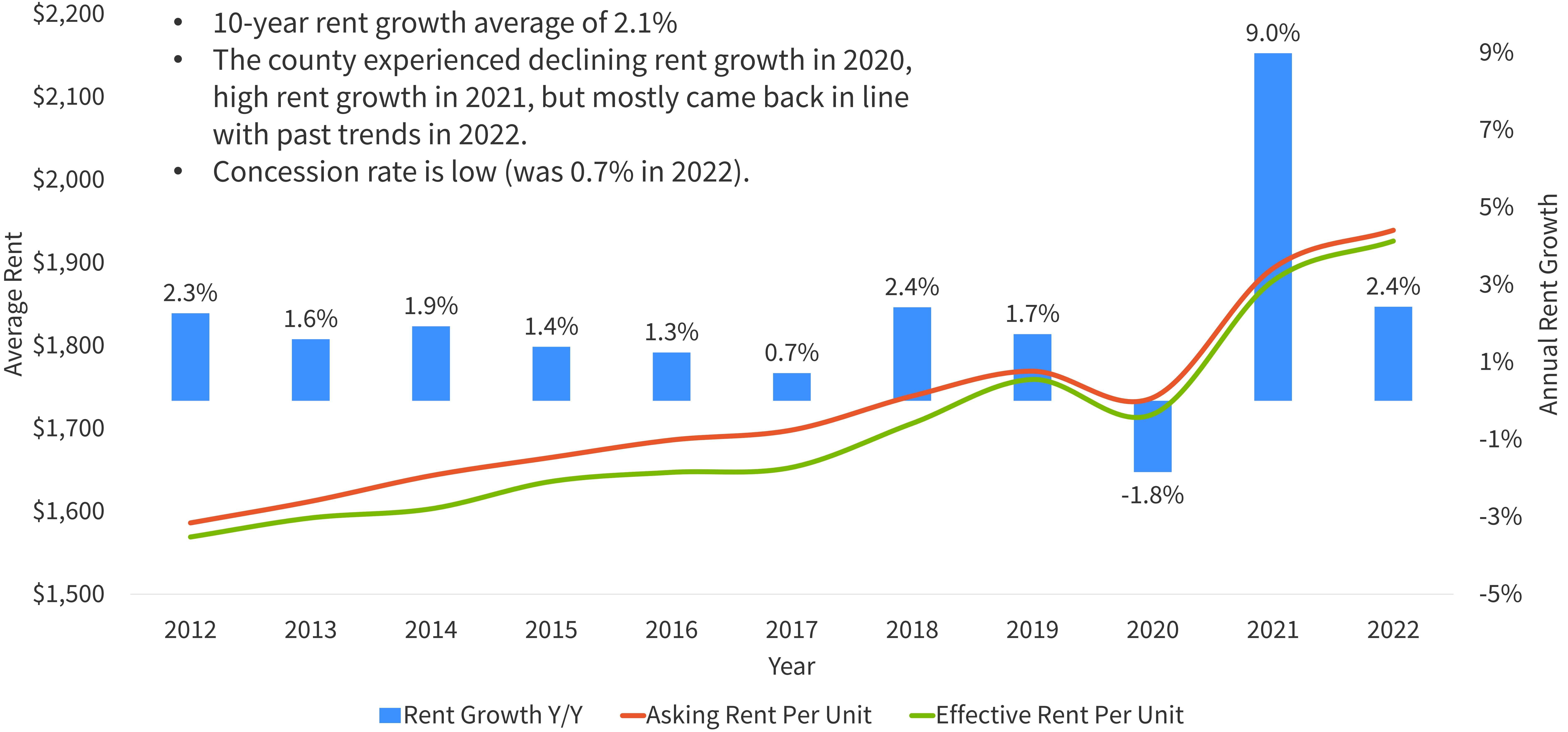
CA:LG:aj

About CoStar Rent Data

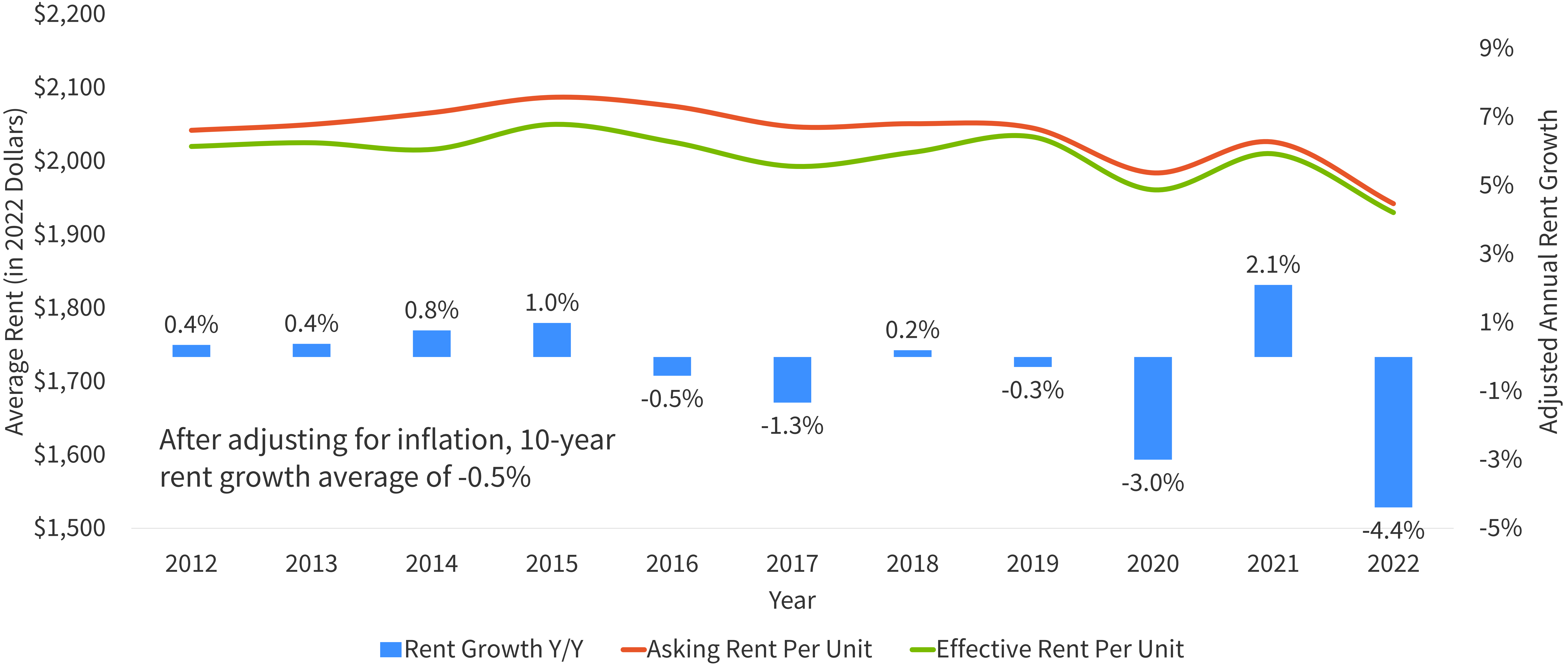
- The data on the subsequent slides come from CoStar, which provides data and analytics on real estate markets.
- The market rents reported by CoStar represent **current** asking rents of **available units**.
- This data **does not** include in-place/renewal rents.
- What this means:
  - If an existing tenant receives a rent renewal with an increase and accepts that increase, that information **is not** included in what CoStar reports
  - If an existing tenant receives a rent renewal and chooses to vacate, the current asking rent for a new lease for that unit **is** included in the rent information CoStar reports.
- Additionally, CoStar tries to capture any specials or concessions, but they only focus on free months or reduced rents.
- CoStar data speaks to market trends and not necessarily the experience of every renter.

Market Rent Per Unit & Y/Y Rent Growth

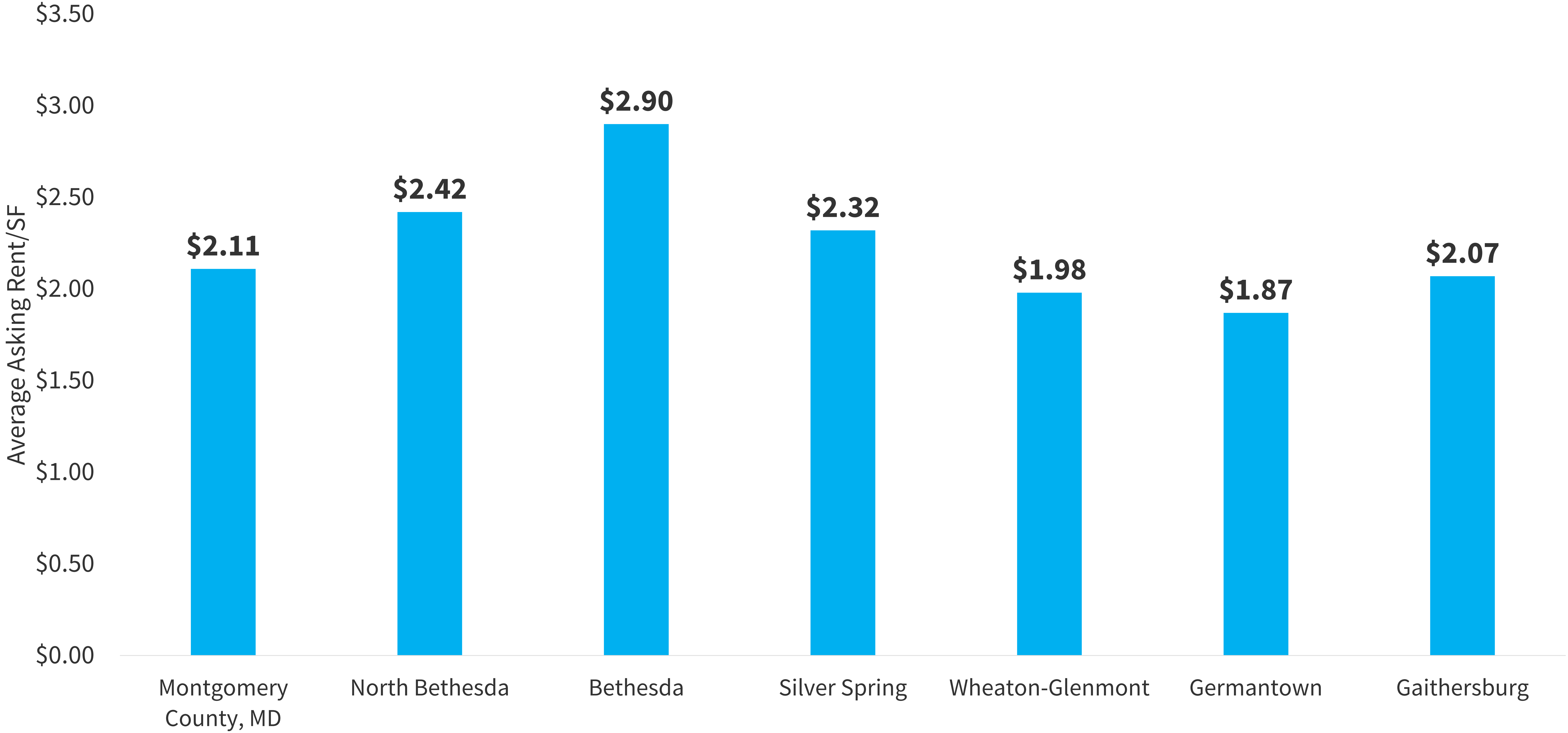
- 10-year rent growth average of 2.1%
- The county experienced declining rent growth in 2020, high rent growth in 2021, but mostly came back in line with past trends in 2022.
- Concession rate is low (was 0.7% in 2022).



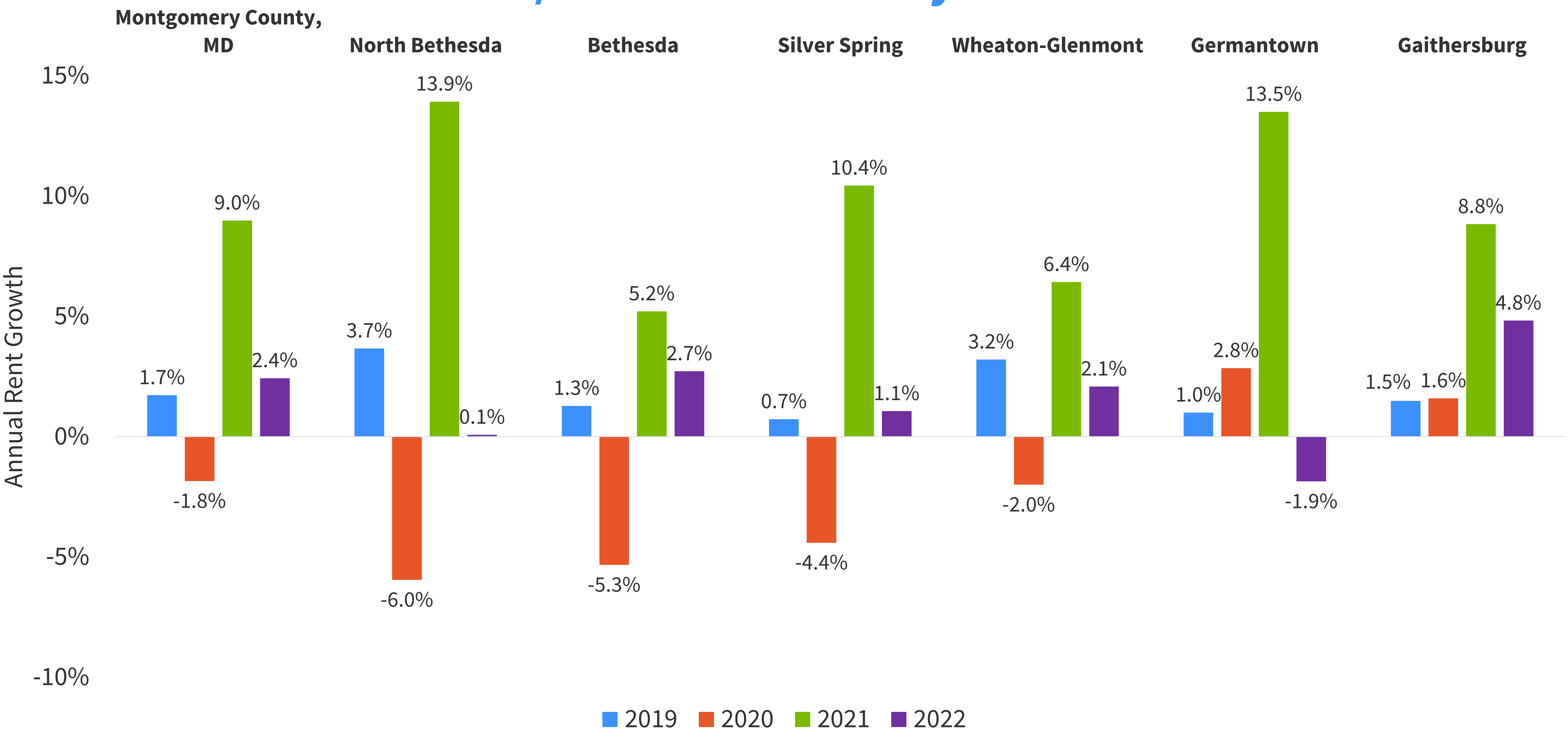
Market Rent Per Unit & Y/Y Rent Growth – Inflation Adjusted



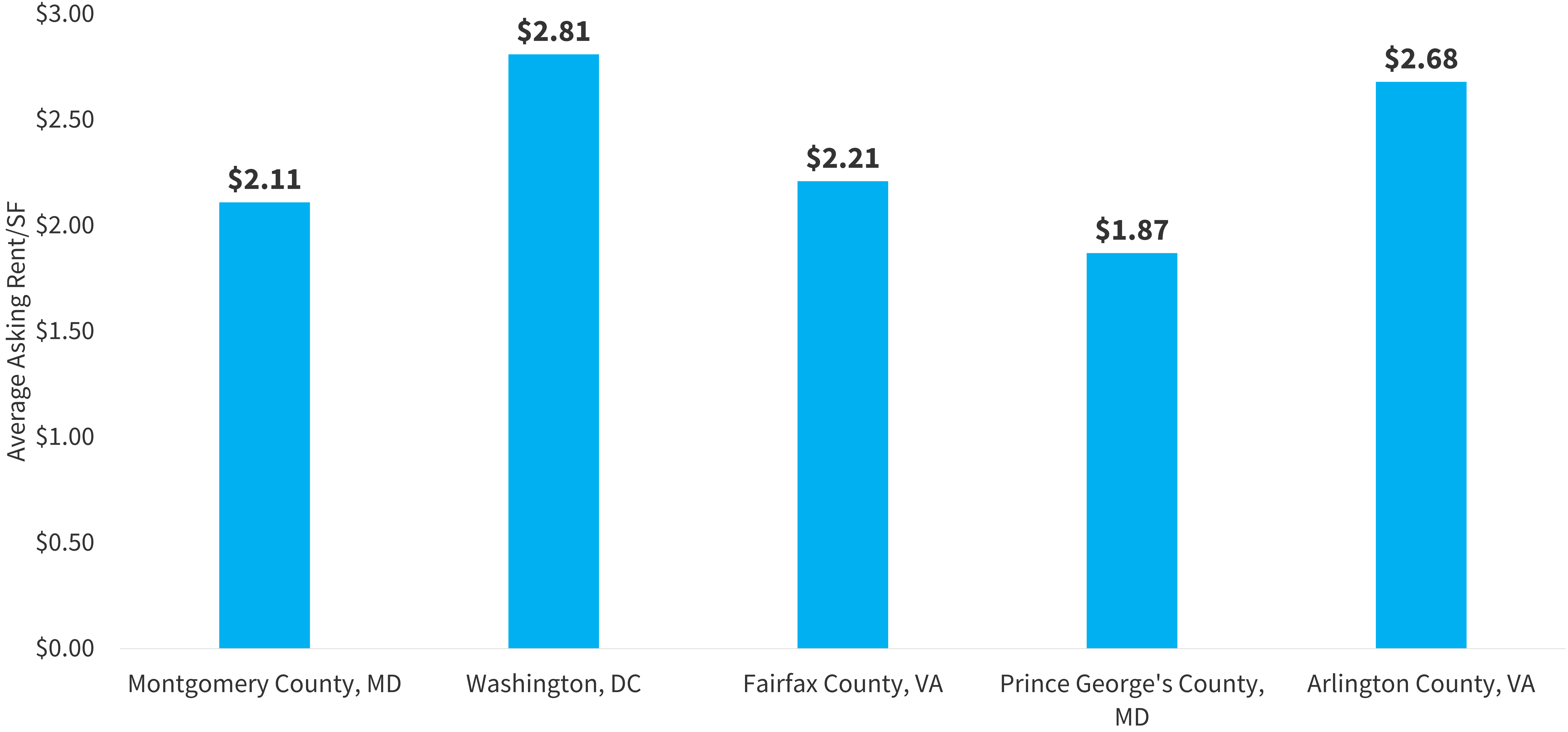
Average Asking Rent/SF by Submarket (2022)



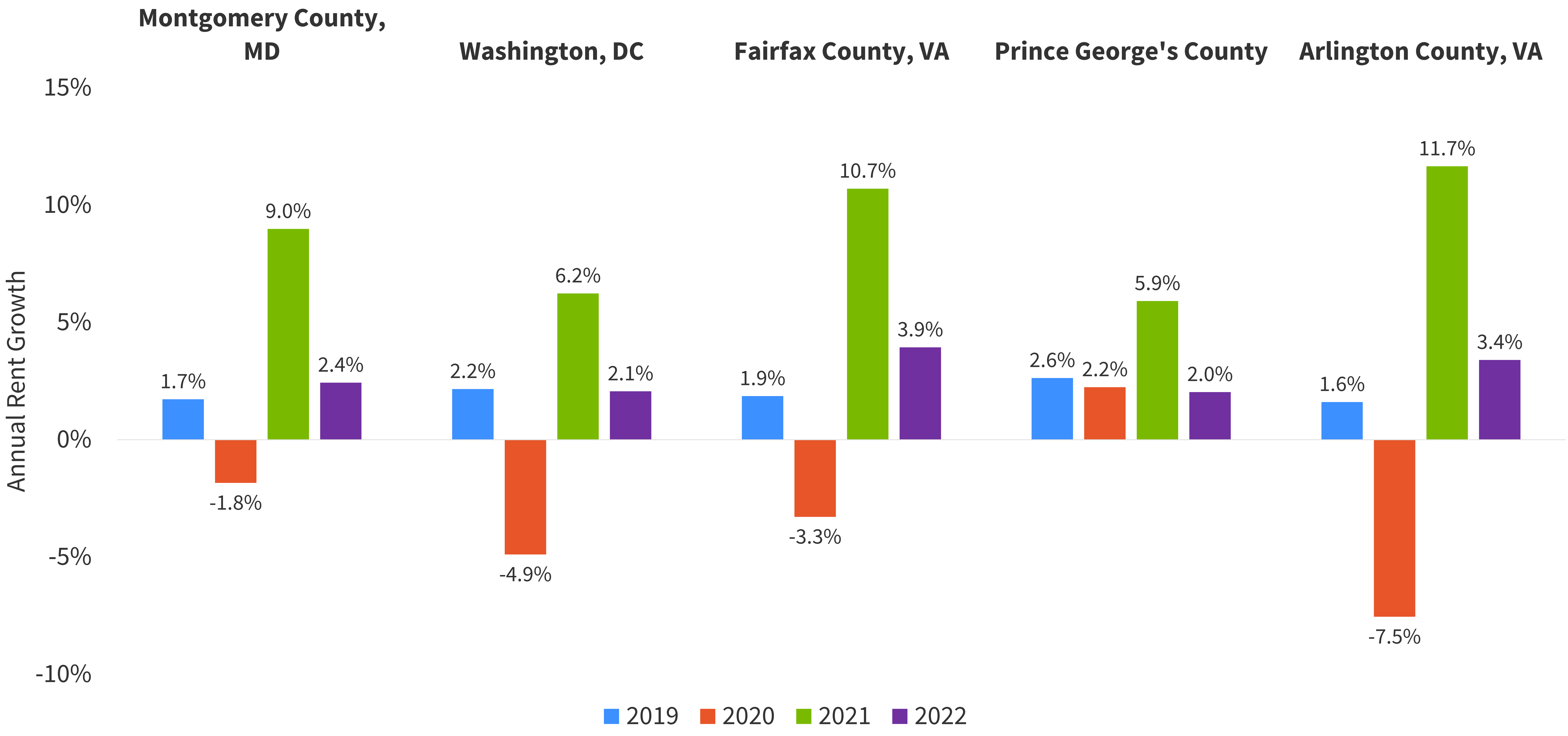
Y/Y Rent Growth by Submarket



Average Asking Rent/SF by Jurisdiction (2022)

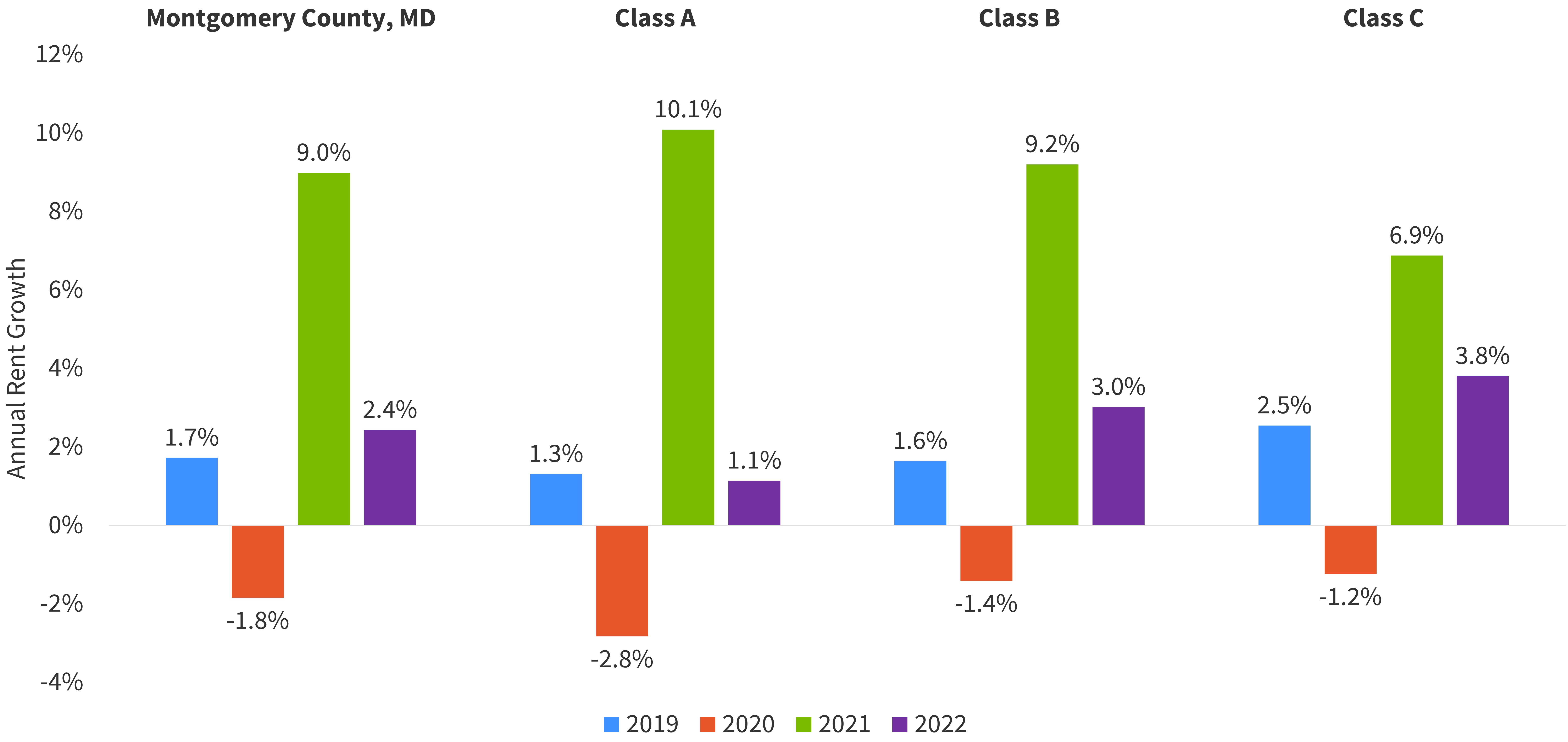


Y/Y Rent Growth by Submarket

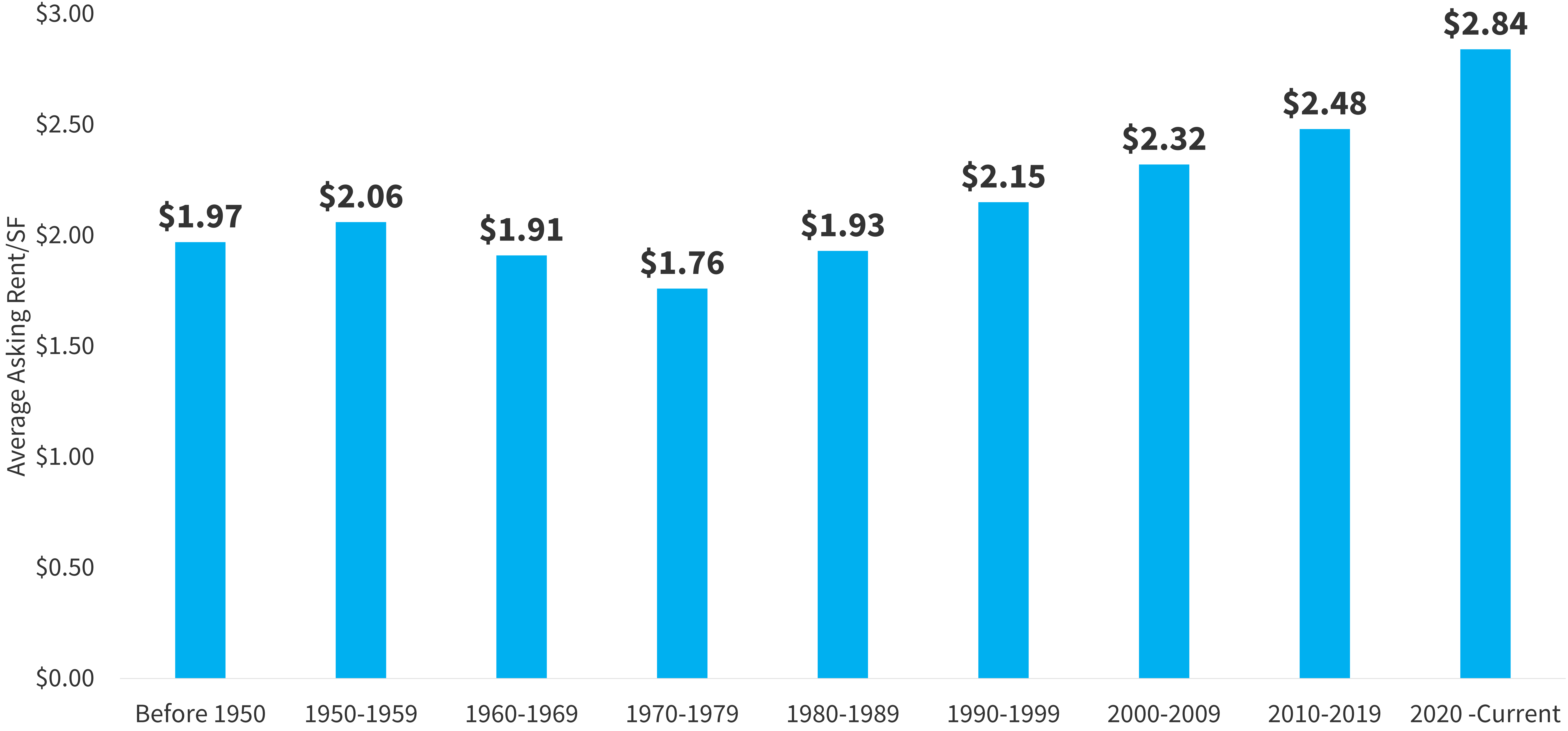


Average Asking Rent/SF by Building Class (2022)

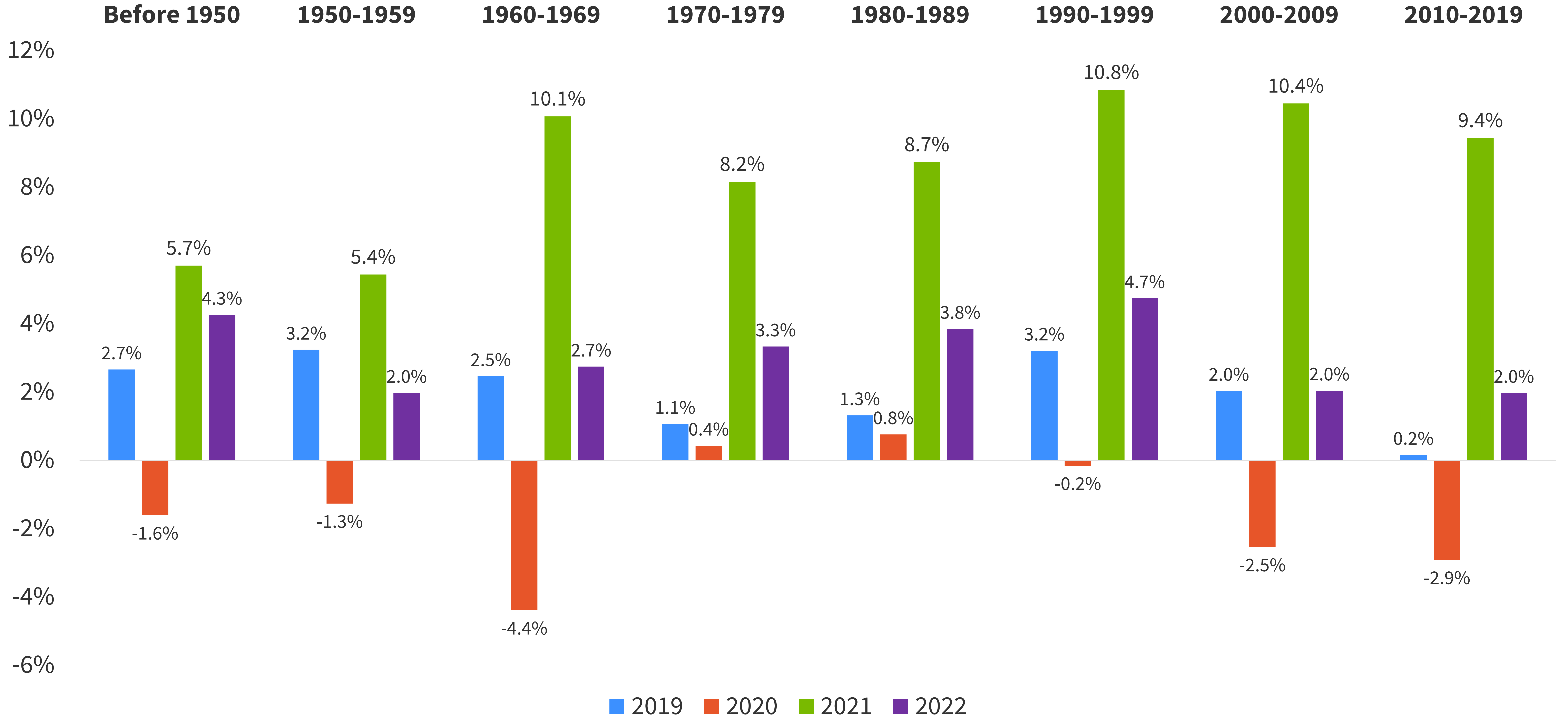
Y/Y Rent Growth by Building Class



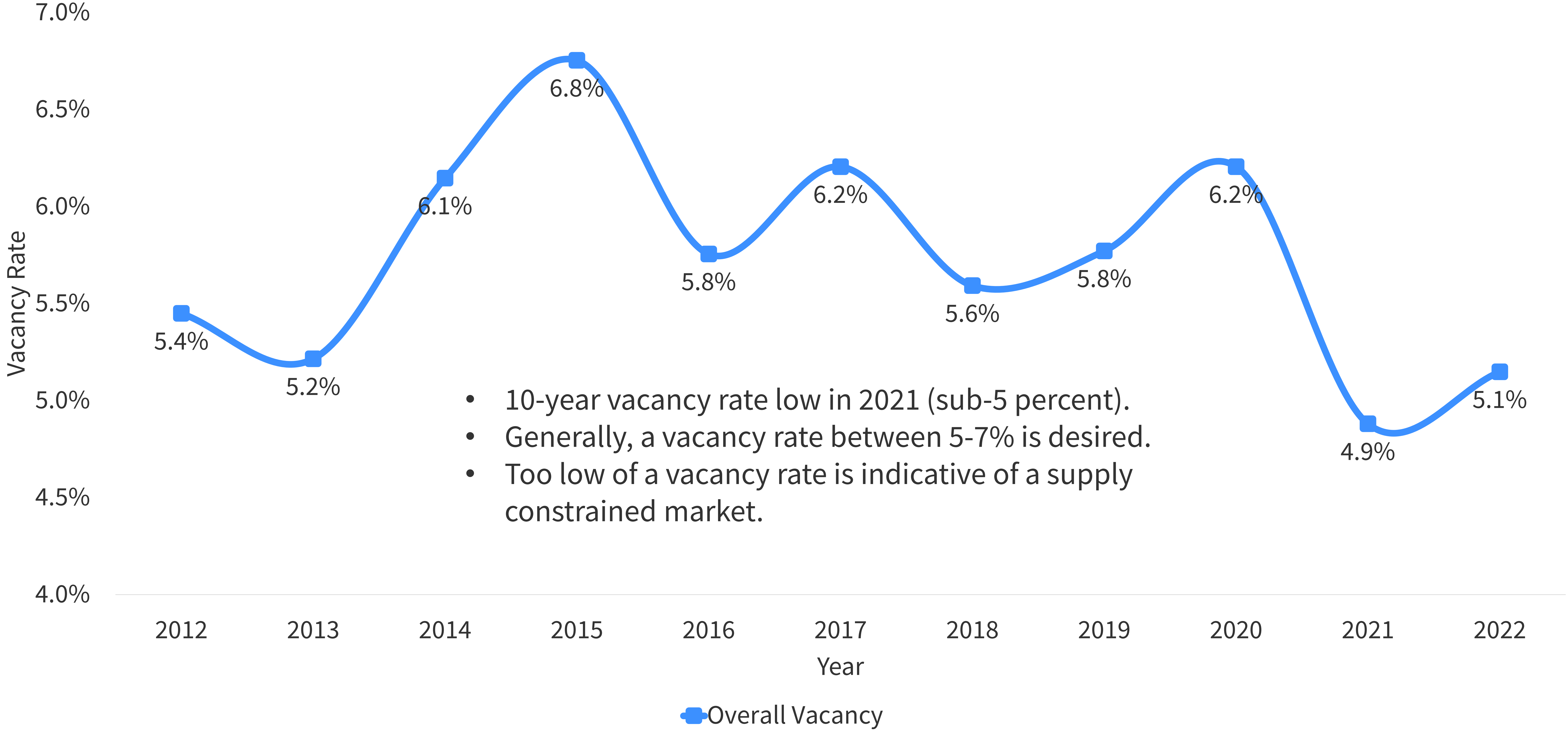
Average Asking Rent/SF by Year Built (2022)



Rent Growth by Year Built



Vacancy Rate



- 10-year vacancy rate low in 2021 (sub-5 percent).
- Generally, a vacancy rate between 5-7% is desired.
- Too low of a vacancy rate is indicative of a supply constrained market.