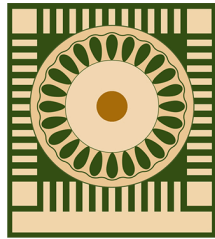


CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Wednesday, September 28, 2022

6:00 PM

Remote Participation

Homelessness-Housing Task Force

COVID-19 Notice: Consistent with Assembly Bill 361/Gov Code 54953(e)(2)(B), the Homelessness-Housing Task Force meeting includes teleconference participation by all Task Force members and the public.

Please note that we are now using the Zoom Webinar platform to conduct meetings and receive live public comment.

How to watch the meeting from home:

YouTube Live stream: <https://www.youtube.com/user/cityofhayward>

How to submit written Public Comment:

Send an email to irene.perez@hayward-ca.gov by 3:00 p.m. the day of the meeting. Please identify the Agenda Item Number in the subject line of your email. Emails will be compiled into one file, distributed to the Task Force and City staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda. Written comments received after 3:00 p.m. that address an item on the agenda will still be included as part of the record.

How to provide live Public Comments during the meeting:

Please click the link below to join the webinar:

<https://hayward.zoom.us/j/87528345328?pwd=cJl6YXd2TlVlVnRVQlZGLOp3UEhEdz09>

Webinar ID: 875 2834 5328

Password: HHTF-0928

Or join by phone:

US: +1 669 900 6833 or +1 646 931 3860

Webinar ID: 875 2834 5328

Password: 01275455

A Guide to attend virtual meetings is provided at this link: <https://bit.ly/3jmaUxa>

CALL TO ORDER

ROLL CALL

PUBLIC COMMENTS:

APPROVAL OF MINUTES

- 1 [MIN 22-113](#) Minutes of the Homelessness-Housing Task Force Meeting on
June 29, 2022

Attachments: [Attachment I Draft Minutes 06/29/22](#)

WORK SESSION

- 2 [WS 22-031](#) Affordable Housing Ordinance Feasibility Study Preliminary
Findings and Policy Recommendations

Attachments: [Attachment I Staff Report](#)
[Attachment II Affordable Housing Ordinance Presentation](#)

REPORTS/ACTION ITEMS

- 3 [RPT 22-090](#) Implementation Update on the Residential Rent Stabilization
and Tenant Protection Ordinance

Attachments: [Attachment I Staff Report](#)

FUTURE AGENDA ITEMS

TENTATIVE SCHEDULE

December 1, 2022

- Review Proposed Tax-Defaulted/Foreclosed Property Program

March 2, 2023

- Discuss Future Agenda Items

TASK FORCE MEMBER/STAFF ANNOUNCEMENTS AND REFERRALS

ADJOURNMENT



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: MIN 22-113

DATE: September 28, 2022

TO: Homelessness-Housing Task Force

FROM: Assistant City Manager

SUBJECT

Minutes of the Homelessness-Housing Task Force Meeting on June 29, 2022

RECOMMENDATION

That the Task Force approves the minutes of the meeting on June 29, 2022.

ATTACHMENTS

Attachment I Draft Minutes 06/28/2022



**MINUTES OF THE HOMELESSNESS-HOUSING TASK FORCE MEETING
REMOTE PARTICIPATION
Wednesday June 29, 2022, 6:00 p.m.**

CALL TO ORDER

The Homelessness-Housing Task Force meeting was called to order by Council Member Lamnin at 6:00 p.m. The meeting was conducted consistent with Assembly Bill 361/Gov Code 54953(e)(2)(B). The Task Force meeting includes teleconference participation by all Task Force members and the public.

ROLL CALL

Present:

Council Member Salinas
Council Member Wahab
Council Member Lamnin

Absent: None

OTHER PARTICIPANTS

Kelly McAdoo, City Manager; Christina Morales, Housing Division Manager; Dustin Claussen, Acting Assistant City Manager; Sara Buizer, DSD Deputy Director/Acting DSD Director; Jeremy Lochirco, Planning Manager; Lorraine Weiss, Consultant; Farhad Mortazavi, Consultant; Nick Tabari, Audio Visual Specialist; Tia Traut, Administrative Secretary.

PUBLIC COMMENTS

There were none.

APPROVAL OF MINUTES

1. Minutes of the Homelessness-Housing Task Force Meeting on March 3, 2022.

It was moved by Council Member Salinas, seconded by Council Member Wahab, and carried unanimously, to approve the minutes of the Homelessness-Housing Task Force meeting on March 3, 2022.

WORK SESSION

2. Density Bonus Update: Review and Discuss the Updates to the City's Density Bonus Ordinance for Compliance with State Density Bonus Laws

**MINUTES OF THE HOMELESSNESS-HOUSING TASK FORCE MEETING
REMOTE PARTICIPATION
Wednesday June 29, 2022 6:00 p.m.**

Planning Manager Lochirco provided a PowerPoint presentation on the Density Bonus Ordinance Update. The purpose of the presentation as to review recommendations contained in the staff report and provide feedback on proposals to; leverage density bonus to meet the needs of specific target populations, leverage density bonus to increasing onsite affordable housing, and establish pre-defined incentives to reduce development costs.

Council Member Lamnin opened the public comments section at 7:23 p.m.

The following individuals spoke during public comments:

Ro Aguilar

Council Member Lamnin closed the public comments section at 7:29 p.m.

Council Members Salinas, Wahab and Lamnin provided comments on the potential modifications to the Density Bonus. They identified priorities for exceeding the State Density Bonus Law.

FUTURE AGENDA ITEMS

TENTATIVE SCHEDULE

September 1, 2022 – TBD (This date will be changed to later in the month)

- Affordable Housing Ordinance Preliminary Analysis
- Status Report for the Residential Rent Stabilization and Tenant Protection Ordinance (RRSO) & Tenant Relocation Assistance Ordinance (TRAO)

December 1, 2022

- Review Proposed Tax-Defaulted/Foreclosed Property Program

Council Member Lamnin proposed a placeholder for the first meeting in 2023 to work on agenda setting for the task force for the upcoming year.

TASK FORCE MEMBERS/STAFF ANNOUNCEMENTS AND REFERRALS

ADJOURNMENT

Council Member Lamnin adjourned the meeting at 7:35 p.m.



File #: WS 22-031

DATE: September 28, 2022

TO: Homelessness-Housing Task Force

FROM: Assistant City Manager

SUBJECT

Affordable Housing Ordinance Feasibility Study Preliminary Findings and Policy Recommendations

RECOMMENDATION

That the Homelessness-Housing Task Force (HHTF) reviews and provides comments on the Affordable Housing Ordinance (AHO) Feasibility Study preliminary findings and recommendations.

SUMMARY

In early 2020, with the intention of increasing the supply of affordable housing, Council directed staff to evaluate the existing Affordable Housing Ordinance (AHO) as part of the adoption of the “Preserve, Protect, Produce Housing for All” Priority in the Strategic Road Map and the Incentives to Housing Production work plan. On March 3, 2022, the HHTF reviewed the outcomes and performance of the existing AHO and provided direction to staff regarding the goals and target populations to be served by any future revisions to the AHO. In consideration of the goals established by the HHTF and in order to ensure economic feasibility of any proposed changes to the City’s AHO, the City contracted with Strategic Economics Inc to conduct a feasibility study. The purpose of the report is to discuss the preliminary findings and recommendations of the feasibility study

The preliminary findings indicate that there is some capacity for increasing affordable housing requirements for ownership housing project types. However, most rental housing types are infeasible with or without City affordable housing requirements. Preliminary recommendations include:

- *For-sale single-family homes and townhomes:* Increase inclusionary requirement to 12% of the units targeting moderate income households and maintain current 7.5% of units for high density condominiums.
- *Rental housing products:* Suspend or reduce affordable housing requirements.
- *Small projects.* Readily accept in-lieu fee payments for small projects (20 units or less)

File #: WS 22-031

Supporting analysis of these finding will be discussed in greater detail at the HHTF meeting.

ATTACHMENTS

Attachment I	Staff Report Affordable Housing Ordinance Recommendations
Attachment II	Affordable Housing Ordinance Presentation



DATE: September 28, 2022

TO: Homelessness-Housing Task Force

FROM: Assistant City Manager

SUBJECT: Affordable Housing Ordinance Feasibility Study Preliminary Findings and Policy Recommendations

RECOMMENDATION

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- *Small projects.* Readily accept in-lieu fee payments for small projects (20 units or less)

Supporting analysis of these finding will be discussed in greater detail at the HHTF meeting.

BACKGROUND

The AHO was adopted in 2003 to address the need for affordable housing that is created by the development of market rate housing. On November 28, 2017, the Council adopted amendments to the AHO based on feedback from a variety of stakeholders, including the following major revisions:

- Extending applicability of the AHO from projects consisting of 20 units or more to projects that consist of 2 units or more;
- Increasing the affordable housing in-lieu fee from \$3-\$5 per habitable square foot to \$15-\$18, depending on project density, to encourage on-site inclusion of affordable housing;
- Increasing the on-site affordable housing requirement for ownership housing from 7.5% to 10% of the units targeting moderate income while retaining the lower requirement 7.5% of units for high density ownership projects due to concern over feasibility;
- Reducing the on-site rental housing requirement option from 7.5% to 6% of the units in order to require units for both low-and very-low-income households;
- Allowing a reduced fee for projects less than nine units in order not to disincentivize the development of small-scale infill projects; and
- Allowing the developer to choose their method of compliance, including the following options:
 - on-site affordable units
 - off-site affordable units
 - paying an affordable housing in-lieu fee
 - proposing alternate plans.

On March 3, 2022, the HHTF reviewed the outcomes and performance of the existing AHO and provided directions to staff regarding the goals and target populations to be served by any future revisions to the AHO. The following goals were identified:

- Help most vulnerable renters and home purchasers by maximizing the effectiveness of the AHO;
- Make Hayward one of the most affordable cities by building higher density mixed income housing as fast as possible with an emphasis of helping students and senior;
- Provide down payment assistance; and

- Find a model that will create ownership housing that meets the needs of community that is at risk of displacement and being barred from homeownership.

State Law and Inclusionary Housing

Effective January 1, 2018, AB 1505 reaffirmed the authority of local governments to include rental units within inclusionary ordinance requirements, as well as added a limited California Department of Housing and Community Development (HCD) review of inclusionary ordinances, under certain circumstances. One of the key provisions includes requiring local jurisdictions to conduct economic feasibility studies to demonstrate that an inclusionary ordinance does not unduly constrain the production of housing. Based on this State legislation, if the City requires 15 percent of the total number of units to be rented by households at or below 80 percent of the Area Median Income (AMI), it will trigger HCD review of the AHO and preparation of a feasibility analysis. Due to potential scrutiny by HCD and the City’s intention to increase the supply of affordable housing, staff recommends that any increase to the City’s affordable housing requirements include preparation of a feasibility analysis to document and ensure that any modifications to the AHO requirements will not unduly constrain or halt the production of housing.

Housing Element and Regional Housing Needs Allocation Compliance

Local jurisdictions report progress annually on meeting their Regional Housing Needs Allocation (RHNA) goals. **Table 1** demonstrates progress made toward meeting Hayward’s RHNA goals for the period between 2015-2023 as of the last report year (2021) and estimates potential compliance by including approved projects and projects pending approval. Permits to construct the units must be issued in order to count toward the City’s RHNA goals. The City already exceeded its goal for above moderate income units.

Table 1. 2023 RHNA Goal Progress in the City of Hayward

Income Category	Unit Goal	Reported 2021		Approved		Pending Approval		Estimated Compliance		Estimated Deficiency	
		Units	% of Goal	Units	% of Goal	Units	% of Goal	Units	% of Goal	Units	% of Goal
Very low	851	168	20%	251	29%	145	17%	461	54%	390	46%
Low	480	174	36%	315	66%	84	18%	552	115%	0	0
Moderate	608	128	21%	95	16%	43	7%	210	35%	398	65%
Above Moderate	1981	2171								0	0

In consideration of the goals established by the HHTF and in order to ensure economic feasibility of any proposed changes to the City’s AHO, the City contracted with Strategic Economics Inc to conduct a feasibility study. The purpose of the report is to discuss the preliminary findings and recommendations of the feasibility study.

DISCUSSION

Development projects are feasible when revenues exceed project costs and investment return. Housing is only built by the private sector when the projects are financially feasible. However, costs and revenues are dynamic. While many of the factors are beyond the City's control, adding additional costs to a development can affect the feasibility. During the presentation, Strategic Economics will provide a robust explanation of project feasibility. The following information summarizes some of the main findings of the feasibility analysis and recommendations which will be reviewed in more detail by Strategic Economics at the HHTF meeting. The full presentation is provided in Attachment II.

Comparison of Local Jurisdictions

As part of the feasibility study, Strategic Economics conducted a survey of affordable housing requirements in comparable jurisdictions including Concord, El Cerrito, Fremont, Newark, Richmond, San Leandro, and Union City. While Hayward had lower inclusionary housing requirements than other comparable jurisdictions, Hayward produced more inclusionary units than most of the other jurisdiction with exception of Fremont. Hayward has permitted 49 inclusionary units between 2018 and 2021 compared to 122 in Fremont, five in Concord and zero in the remaining jurisdictions. Hayward's low affordable housing requirement has resulted in relatively high production.

Additionally, the review of comparable cities also documents that cities are producing more affordable housing units through subsidized 100% affordable housing projects than through their inclusionary housing policies. Richmond's ordinance defaults to collection of in-lieu fees and has permitted 335 very low-income units and 81 low-income over the last four years. While there is no data on the source of funds used in the City of Richmond, based on funding data available from Hayward and Fremont, affordable housing trust funds are a primary source of local funding for affordable housing.

While 100% affordable housing projects have been creating housing opportunities for very low- and low-income households across jurisdictions, inclusionary housing requirements were responsible for producing moderate income housing. Shifting away from moderate income requirements would eliminate or reduce the primary means of delivering these units.

Lastly, Hayward and Fremont have the lowest threshold for applying the affordable housing requirements at two units. This means that the affordable housing requirements apply to duplexes, two single family homes on one lot, or a single-family home with an accessory dwelling unit. These projects have the option of pay reduced fees under the AHO, the applicability of the ordinance at such a low threshold is atypical compared to other jurisdictions.

Feasibility Analysis

Strategic Economics conducted a feasibility analysis on six housing prototypes which include single family homes, townhomes, small multifamily rental, stacked flats rental, five-story rental with wraparound parking, and five-story rental with podium parking. For the most part, the results of the analysis varied based on tenure.

For-sale single-family homes and townhomes: The feasibility analysis demonstrates that single family development and townhome development to be feasible under current market conditions including the existing affordable housing requirements with some additional capacity for inclusionary requirements.

Rental Housing Development. For the most part, none of the rental housing prototypes analyzed are feasible with current affordable housing requirements except for small multifamily developments located in areas of the City that charge the highest rents. Higher-density rental products are infeasible even without affordable housing requirements. Overall, there is little capacity for inclusionary requirements in rental housing products.

Preliminary Recommendations

Based on the survey of comparable jurisdictions and findings feasibility analysis, Strategic Economics identified the following recommendations:

For-sale single-family homes and townhomes

1. Increase inclusionary requirement to 12% of project units maintaining moderate income targeting. This level of affordable housing requirements accounts for submarket variations and future market changes that could affect the viability developing single-family homes and town homes.
2. Maintain the current lower inclusionary requirement of 7.5% for denser ownership projects, such as condominiums.

Rental housing products

1. Suspend or significantly reduce inclusionary and in-lieu fee requirements for all rental products. Alternatively, temporarily adopt a significantly reduced in-lieu fee option to ensure that feasible lower density projects contribute to affordable housing.
2. Adopt relatively lower inclusionary requirements and in-lieu fees for projects above 40 dwelling units per acre. Higher-density projects are consistently infeasible, especially “wrap” and “podium” products.
3. Additionally, explore incentives to enhance the feasibility of rental housing such as reduced parking requirements, increased allowable density, impact fee waivers

Smaller projects (20 units or less)

1. Address inclusionary administration challenges by readily accepting in-lieu fee payments for smaller projects (20 or fewer units, depending on final inclusionary requirement)

ECONOMIC IMPACT

Additionally, social research indicates that access to affordable housing can improve education outcomes, increase health and wellbeing, boost economic activity, and lower the costs for state and local governments to provide emergency housing, mental health crisis services, emergency medical care, and other services to assist the homeless or families and individuals with a housing crisis. The rent for affordable housing is relative to income levels versus market prices which reduces rent burden. This increases available income to pay for other basic needs or save for other financial goals such as furthering education or homeownership. Stabilizing housing costs can be the first step to creating opportunities for personal economic advancement.

FISCAL IMPACT

There is no fiscal impact to the General Fund associated with this item.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Preserve, Protect, & Produce Housing. Specifically, this item relates to the implementation of the following project:

Project 5, Part 5.b: Evaluate the Affordable Housing Ordinance and hold a work session to discuss potential revisions.

PUBLIC CONTACT

Staff engaged different community stakeholders through both the displacement study and the Let's House Hayward! Strategic Plan process. Through the displacement study, HR&A Advisors interviewed local developers and service providers to gain a more qualitative understanding of displacement trends and housing needs. Through the Let's House Hayward! planning process, staff and the consultant Homebase held virtual forums and interviews with individuals with lived experience of homelessness, homeless services providers, members of the business community, City staff, and other Hayward residents. Feedback ranged widely and is still being integrated, but initial findings demonstrate that community members broadly favored efforts to prevent displacement and to increase affordable housing development for the City's most vulnerable residents.

Additionally, staff received extensive feedback from current tenants and property owners during the 2018 Residential Rent Stabilization and Tenant Protection Ordinance outreach process. Tenant feedback focused on housing affordability and safety, while landlords and

realtors discussed the needs to increase supply of both affordable and market rate housing in Hayward.

On September 14, 2022, Strategic Economics met with developers review assumptions, prototypes and preliminary findings. The developers that participated verified the feasibility results and noted AHO challenges and opportunities. They noted that marketing and administering the inclusionary units is a challenge especially for small property owners. Production of affordable housing could be enhanced by:

- Waiving impact fees for affordable units/projects
- Maintaining a continuous stream of public funding for assisting affordable housing projects (including in-lieu fee revenue)
- Ministerial approval for affordable projects
- Aligning the inclusionary unit affordability levels with TCAC
- Public-private partnerships for affordable and mixed-income projects

The next phase of this project will include community outreach and additional conversations with developers.

NEXT STEPS

The following are the next steps for the project.

- Community workshop to discuss preliminary recommendations with HHTF feedback incorporated (October, date TBD)
- Refinement and testing of alternative AHO policy recommendations (October)
- Establishment of corresponding in-lieu fees (October)
- Second TAC Meeting – (November, date TBD)
- Final recommendations and report (first draft in December)
- Planning Commission and City Council Hearing

Prepared by: Christina Morales, Housing Division Manager

Recommended by: Jennifer Ott, Assistant City Manager

Approved by:



Kelly McAdoo, City Manager



Hayward Affordable Housing Ordinance

City of Hayward Homelessness-Housing Task Force
September 28, 2022



Purpose of Today's Meeting

- Review findings and preliminary recommendations from the Affordable Housing Ordinance (AHO) policy analysis
- Discuss and provide direction on refining the AHO policy recommendations

Agenda

- Introduction:
 - Purpose, process, and goals of the AHO study
- Overview of affordable housing development and feasibility
- Policy and production comparison to “peer” cities
- Feasibility analysis:
 - Existing AHO Policy
 - Alternative Policy Scenarios
- Recommendations
- Discussion/Feedback and Next Steps on AHO

Introduction

AHO Study Goals and Process

- Initial AHO – Created in 2003
 - Updated in 2017
 - Increased in-lieu fees
 - Applied the AHO to smaller projects
 - Increased flexibility for means of compliance
- Current Update
 - Goals
 - Establish new AHO inclusionary housing requirements and in-lieu fees
 - Ensure AHO maximizes production of affordable housing
 - Process
 - Analyze impacts of AHO on feasibility of different project types/tenures
 - Identify and assess policy alternatives
 - Determine preferred policy alternative
 - Calculate affordability gap to establish in-lieu fee

Project Timeline

- Market research and developer interviews – Completed
- Peer cities policies and production research – Completed
- Initial TAC meeting – Completed (September 14th)
- Testing preliminary AHO policy alternatives – Completed
- Preliminary policy recommendations – Completed
- Homelessness-Housing Task Force meeting – Today
- Community workshop (October, date TBD)
- Refinement and testing of alternative AHO policy alternatives (October)
- Establishment of corresponding in-lieu fees (October)
- Second TAC Meeting – (November, date TBD)
- Final recommendations and report (December)
- Planning Commission and City Council hearings

Technical Advisory Committee (TAC)

- Purpose: Provide feedback on market conditions, housing needs, development prototypes, and analysis assumptions/results
- Members include market rate and affordable housing developers with recent projects in Hayward

TAC Members:

- Kate Blessing-Kawamura, Associate Director of Real Estate, Eden Housing
- Stephen Clark, VP of Market Rate & Student Housing, Amcal Housing
- Avery Jones, Forward Planner, D.R. Horton
- Derrick Larson, Senior Development Manager, Dollinger Properties
- Kristin Pollot, Planning & Entitlement Manager, Taylor Morrison

Overview of Financial Feasibility and Affordable Housing Production Tools

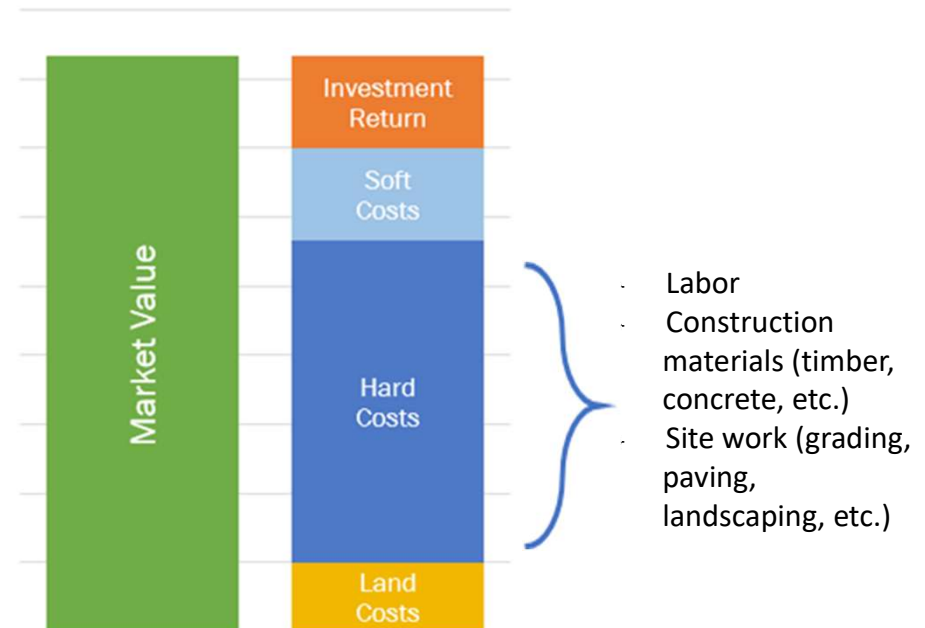
What is Financial Feasibility?

- Development projects are **financially feasible** when revenues exceed project costs and investment return
- Developers only build when projects “pencil” (are financially feasible)
- Costs and revenues are dynamic
 - Several factors are beyond control of a city



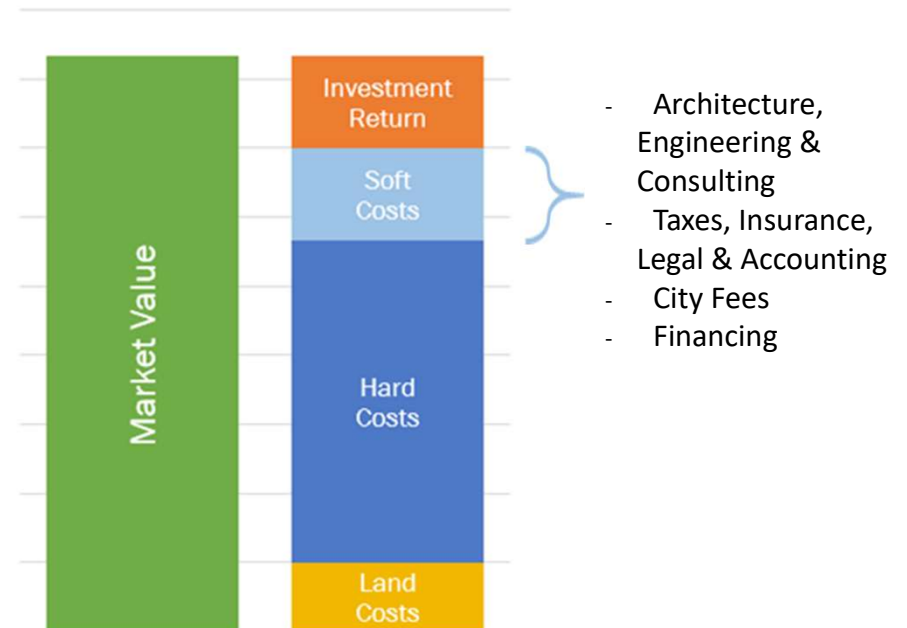
Project Costs: Hard Costs

- Hard costs are the **largest** of project costs and are associated with **physical construction**
- Includes construction of the building, parking, and other site improvements
- Construction material and labor costs have been increasing
- Construction costs vary by building type
- Construction costs are “**regional**”



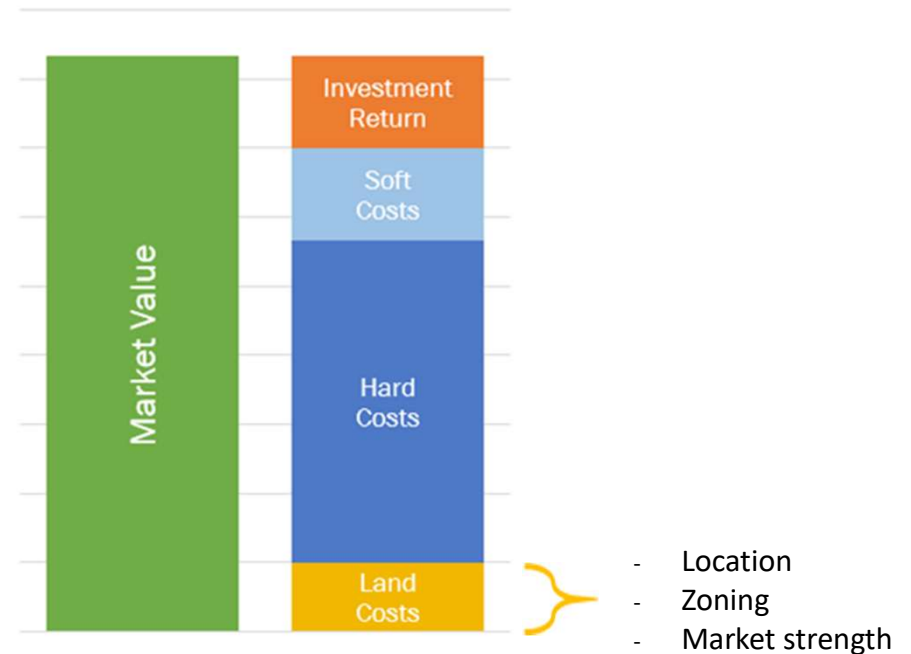
Project Costs: Soft Costs

- Soft costs are typically the next largest project costs
- Soft costs include costs associated with **design, implementation, and fees**



Project Costs: Land Costs

- Land costs are much more variable than other development costs
- Land costs vary depending on:
 - Location & zoning
 - Market strength
 - Infrastructure
 - Condition of the land (need for remediation, etc.)
- Land costs are “residual”
 - Value is based on what developers can afford to pay while delivering a feasible project within the site’s constraints and opportunities
 - Non-residential developers can potentially outbid housing developers



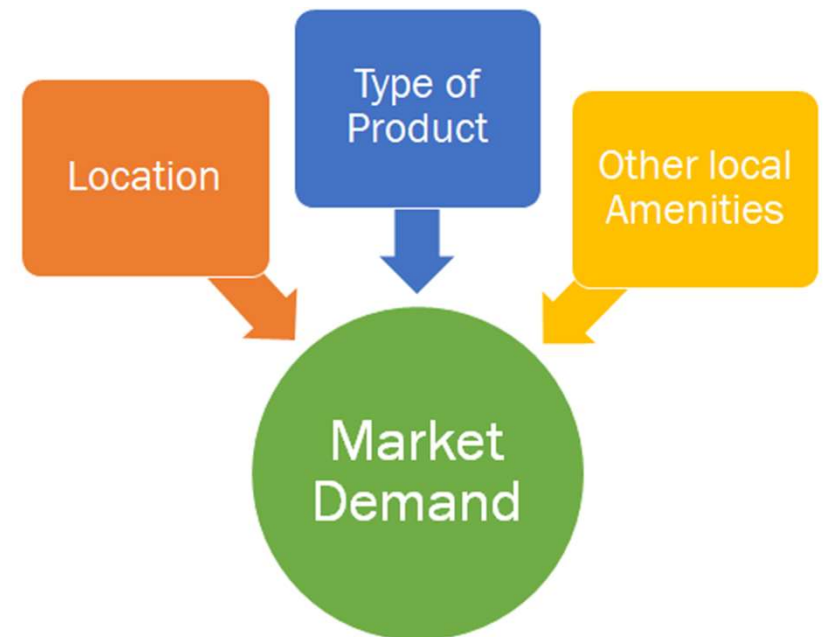
Project Costs: Investment Return

- Developers decide to build projects based on the investment return
- Developers cannot attract necessary project funding if investment return is not competitive
- Required investment return varies based on project risks
 - Greater certainty reduces risk



Market Demand and Potential Revenue

- Market demand sets the “price” that buyers and renters are willing or able to pay
 - This price is very local
- Demand is based on many factors including:
 - Location
 - Type of product
 - Other amenities in the area



Policies & Incentives Can Impact Financial Feasibility

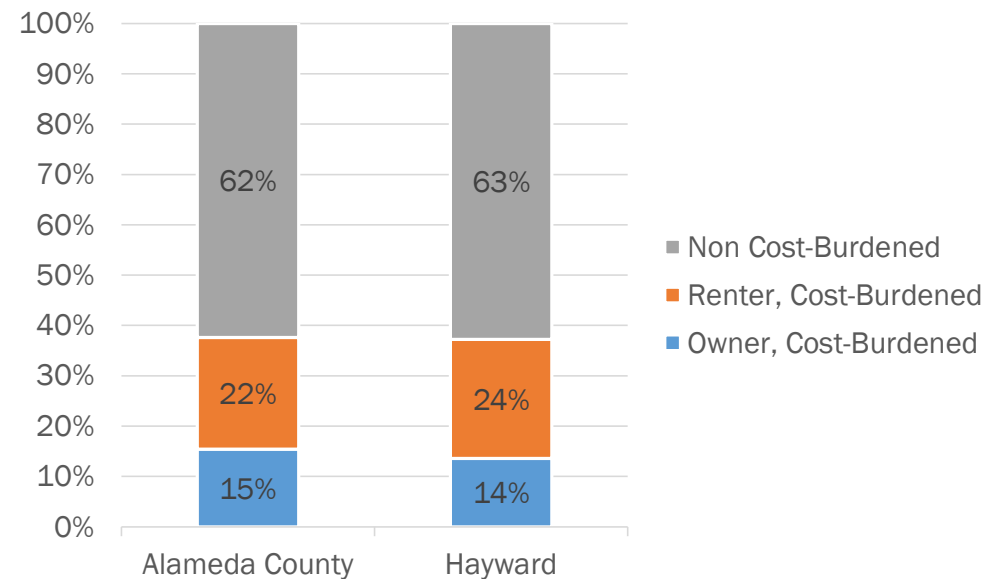
- Policies and incentives can make projects **more or less feasible** while not impacting unit affordability
- Example Policy Levers
 - Parking ratios
 - Density controls (FAR, height, etc.)
- Example Incentives
 - Reducing city fee requirements (reduces fee soft costs)
 - Density bonus (*potentially* increases value, but not always)
 - Streamlining of approvals (reduces financing/holding soft costs; greater certainty may also reduce investment return requirement)



What Residents Can Afford Varies by Income

- Housing costs are considered affordable when they are 30% or less of household income
- Households are considered cost-burdened if they are paying more than 30% of their income

Share of Cost Burdened Households by Tenure, 2019



Source: American Community Survey, 1-YR, 2011; Strategic Economics, 2022.

What is “Affordable Housing”?

- Affordable housing refers to units with deed-restrictions limited to households earning certain incomes
- Affordable housing units target households within select income categories, which are based on area median income (AMI) of a region

HCD Income Limits (Current AHO)

Income Category	AMI Level
Extremely Low-Income	0% to 30%
Very Low-Income	31% to 50%
Low-Income	51% to 76.8%
Moderate-Income	76.9% to 120%
Above Moderate-Income	>120%

TCAC Income Limits (LIHTC)

Income Category	AMI Level
Extremely Low-Income	0% to 30%
Very Low-Income	31% to 50%
Low-Income	51% to 80%
Moderate-Income	81% to 100%
Above Moderate-Income	>100%

Affordable Rents and Sales Prices

- Rents and sales prices are typically regulated to below-market rates (BMR) so that households pay no more than 30% of the targeted income level

Maximum Affordable Rent, Hayward (Effective 2022)

Bedroom Size	Studio	1-BR	2-BR	3-BR
Very Low	\$1,249	\$1,428	\$1,606	\$1,785
Low	\$1,499	\$1,714	\$1,928	\$2,142
Moderate	\$2,749	\$3,142	\$3,534	\$3,927

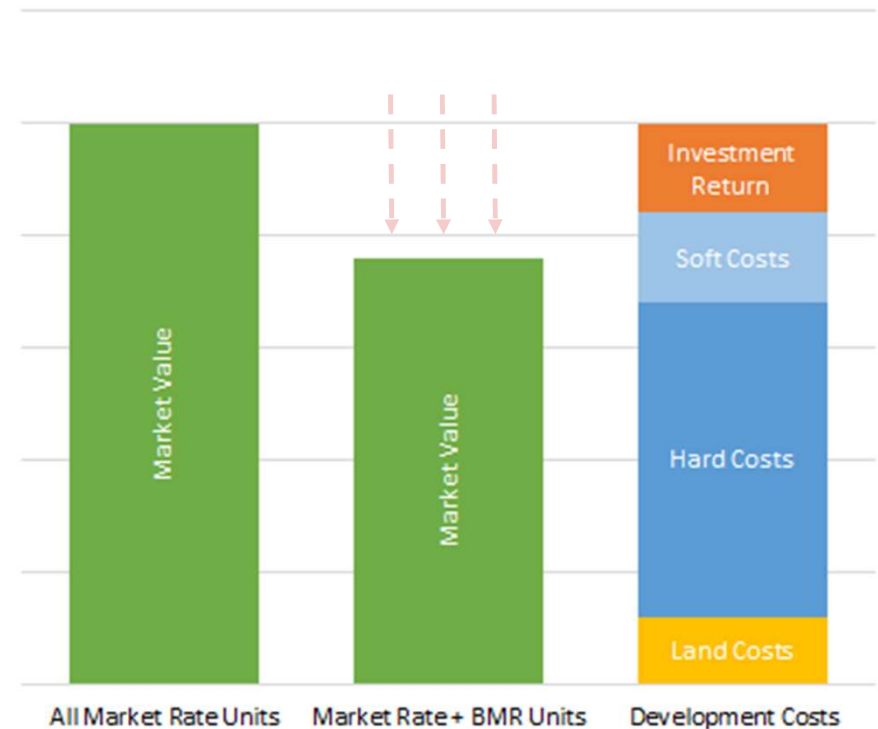
Sources: Alameda County Housing Authority, 2022; U.S. Department of Housing and Urban Development, 2022; Strategic Economics, 2022.

Notes:

Describes maximum monthly rent, including all fees for housing services and a utility allowance. The maximum monthly cost for each unit type is associated with households that have one more person than bedroom. (Ex: Maximum costs for studios are associated with affordability for one-person households; One-bedroom costs are associated with 2-person households; Two-bedroom costs are associated with 3-person households).

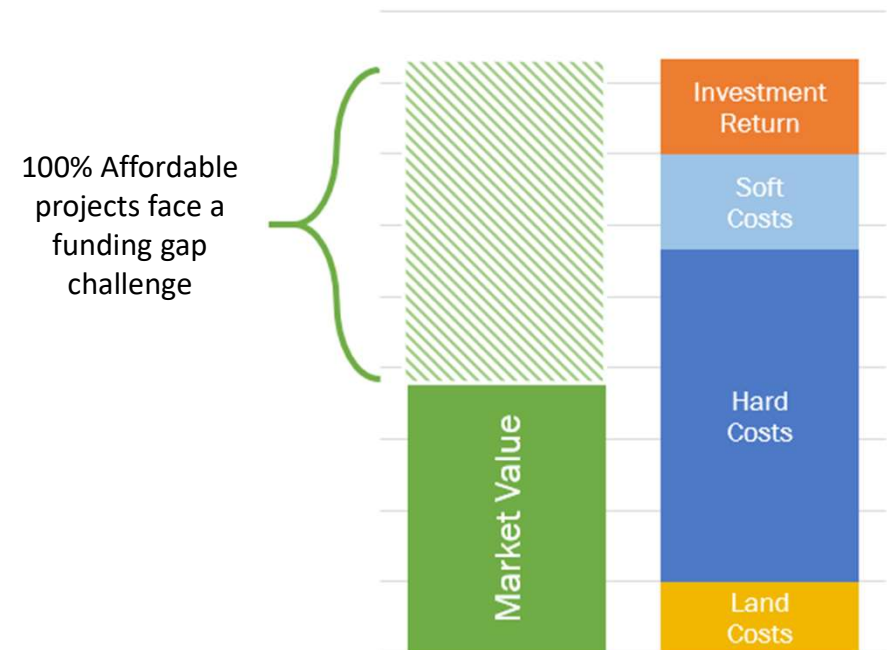
Affordable Housing Production: Inclusionary Housing

- Inclusionary housing programs typically require or offer incentives for providing **on-site affordable units**
- **Benefits**
 - Developer-funded source of affordable housing
 - Income thresholds are set locally
- **Challenges**
 - Inclusionary units generate lower than market rate rents and reduce value and financial feasibility of projects, especially when low- and very-low income units are included



Affordable Housing Production: Tax Credit Projects

- Deed-restricted tax credit projects typically include **100% affordable units**
- These projects often target extremely low, very low, and low-income households
- **Benefits**
 - Projects can leverage many funding sources, including in-lieu fees
 - Achieves a greater number of affordable units at deeper affordability levels compared to inclusionary units
 - Public financing is less sensitive to market conditions and financial feasibility issues
- **Challenges**
 - Limited/competitive resources for filling funding gap
 - Some outside funding sources require local match dollars
 - Does not provide housing options for moderate income people

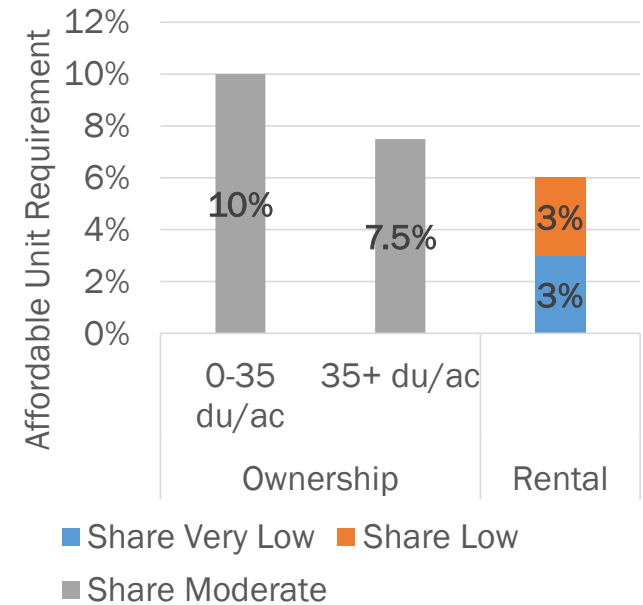


“Peer City” Comparison: Inclusionary Requirements and Affordable Housing Production

Current Hayward AHO Policy

- Affordable Unit Set-Aside Requirements
 - Rental – 6%
 - Ownership:
 - More than 35 dwelling units / acre – 7.5%
 - Less than 35 dwelling units /acre – 10%
- Affordability Target
 - Rental:
 - Very Low Income – 50% of affordable units
 - Low Income – 50% of affordable units
 - Ownership: Moderate Income – 100% of affordable units

Current AHO Inclusionary Housing Requirement
(% of total project units)



Current Hayward AHO Policy

- Minimum Size Threshold – 2 units
- Alternative Means of Compliance
 - In-Lieu Fees
 - Rental - \$21.64 per habitable square foot
 - Ownership:
 - More than 35 du/ac – \$17.85 per habitable square foot
 - Less than 35 du/ac – \$21.64 per habitable square foot
 - Off-site construction of affordable units (if approved)
 - Alternate proposal for compliance (if approved)

“Peer City” Policies

	Set-Aside Requirement by Project Size		Minimum Size Threshold	Affordability Target		Date Enacted
	Rental	For-Sale		Rental	For-Sale	
Hayward	All projects: 6%	Projects > 35 du/ac: 7.5% Projects < 35 du/ac: 10%	2 units	Very-low and low-income	Moderate-income	2017
Concord	Either 10 percent at low income, or six percent at very low income	Either 10 percent at moderate income, or six percent at low income	5 units or more for all residential projects	Very-low, low and moderate income	Low and Moderate-income	2021
El Cerrito	10% of units	12% of units	Rental or Combo Rental/Sale: 9 units For Sale only: 10 units	Very-low and low-income	Moderate-income	2018
Fremont	All projects: 10%	15% of units: 5% or more to moderate income households. 10% or more to low income households.	2 units	Very-low and low-income	Low and Moderate-income	2021
Newark	(Impact fee only)	(Impact fee only)				
Richmond	In-lieu fee is default. Developer can provide on-site units. No % specified.	One of the following: Moderate: 17% Low Income: 15% Very Low Income: 10%	10 units	Very low, low, and moderate income	Very low, low, and moderate income	2020
San Leandro	Roughly 15% - rounded to the nearest unit.	Roughly 15% - rounded to the nearest unit	4 for rental, 2 for ownership	Very-low and low-income	Low and Moderate-income	2006
Union City	All projects: 15%	All projects: 15%	7	Very-low and low-income	Low and Moderate-income	2018

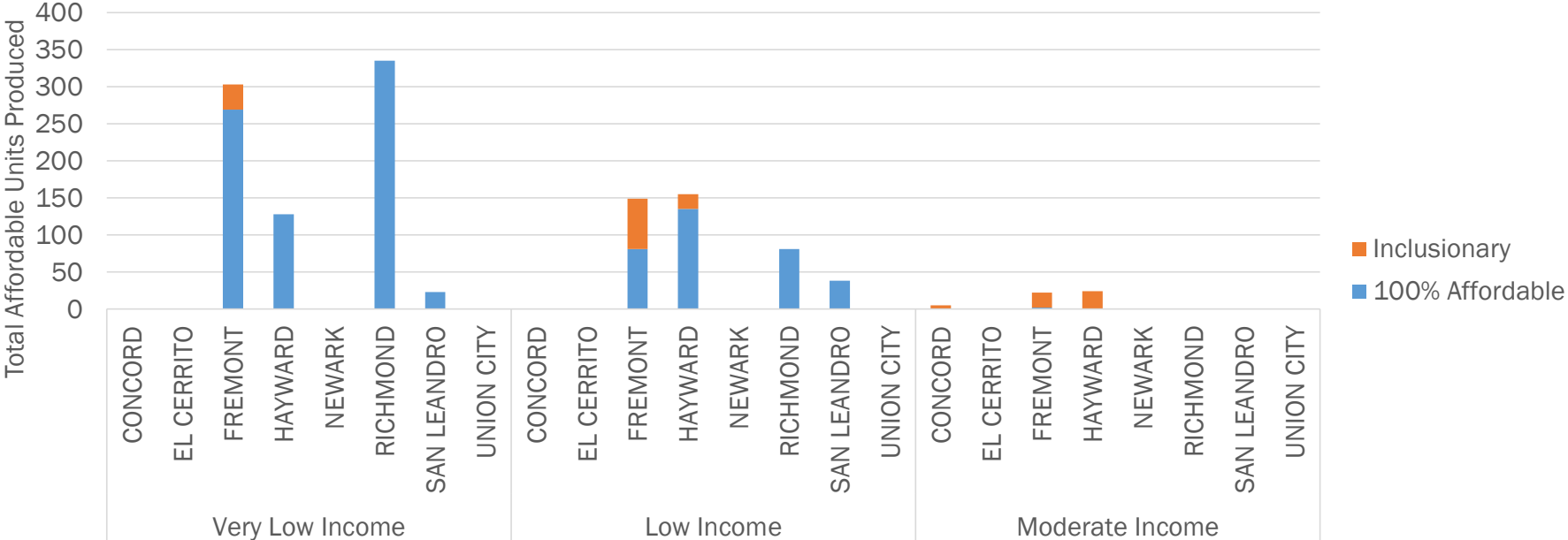
Source: Municipal Ordinances, 2022; Strategic Economics, 2021.

Comparison of AHO to Peer City Policies

- Hayward applies inclusionary requirements to relatively small projects
 - Only Fremont and Hayward universally apply inclusionary requirements to two-unit projects (versus four to ten in other communities)
- Hayward's required set aside (inclusionary percentage) is lower than other communities
 - 6% in Hayward, versus 10% to 15% in other communities
 - Newark and Richmond prefer fee payments
- Hayward's targeted income levels are typical

Inclusionary housing constitutes a small share of overall deed-restricted unit production, but Hayward is relatively successful in delivering inclusionary units

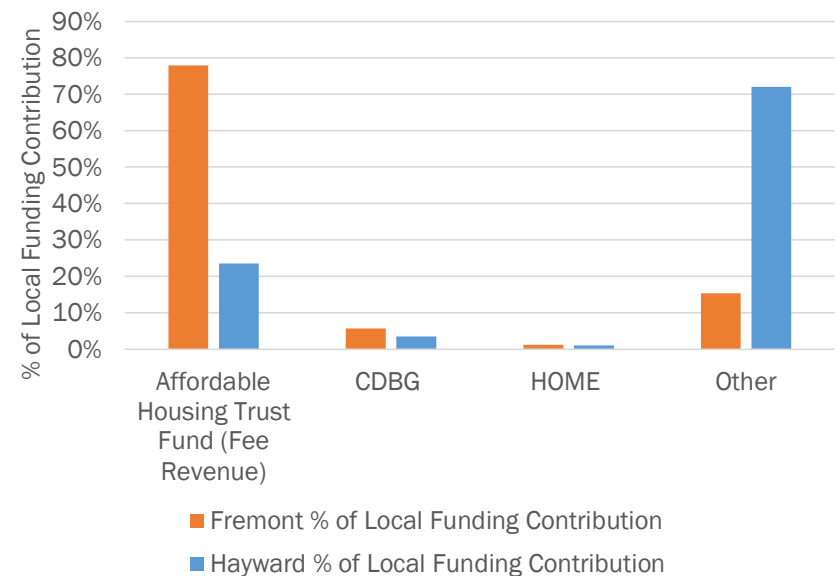
“Peer City” Deed-Restricted Housing Permits by Delivery Method, 2018-2021



In-lieu fee revenue is a major source of local funding for 100% affordable housing projects

- Fee revenue is Hayward's second-largest and Fremont's largest source of local funding for affordable housing projects
- Hayward's largest "Other" sources were Alameda County Measure A1 bond revenue and public land contributions

Share of Local Funding by Source for Proposed and Entitled Affordable Housing Projects, 2015-2023

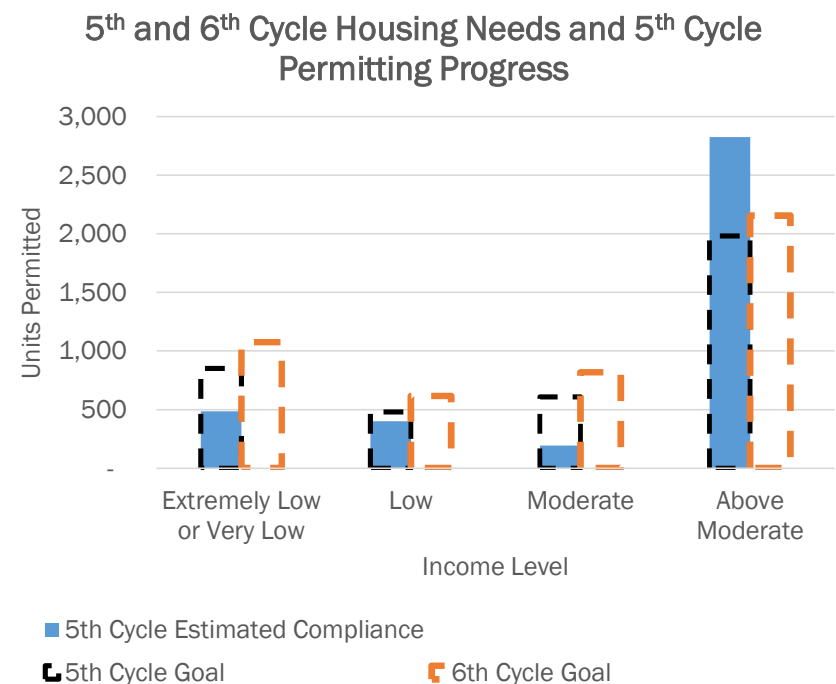


"Other" includes public land contributions, Alameda County Measure A1 revenues, and property tax "boomerang" funds from the dissolution of redevelopment agencies.

Source: City of Hayward, 2022; City of Fremont 2022; Strategic Economics, 2022.

Hayward is falling behind its goals for producing very low income and moderate-income housing

- Hayward has only produced 32% of its moderate-income goal and 57% of its extremely or very low-income goal
- Inclusionary housing typically delivers low- and moderate-income housing units
- In-lieu fee and other revenues are necessary for producing extremely and very low-income housing



Implications of “Peer Cities” for Current AHO

- Hayward’s relatively low inclusionary requirement produced a relatively high number of affordable low- and moderate-income housing units
- Need to reconsider application of inclusionary requirements to two-unit projects
- Shifting away from moderate income requirements would eliminate the primary means of delivering these units
- An in-lieu fee option would support development of 100% affordable projects

Feasibility Analysis of Existing and Alternative AHO Policies

Development Prototypes

Prototype Characteristics	Units	Single Family Development	Townhomes	Small Multifamily	Stacked Flats	5-Story Wrap	5-Story Podium (TOD)
Parcel Square Feet	square feet	217,800	217,800	21,780	65,340	174,240	108,900
Building Characteristics							
Number of Stories	floors	2	3	3	4	5	5
Number of Units	dwelling units (du)	44	106	20	74	300	159
Gross Retail Area	square feet					7,500	
Residential Density	du/acre	9	21	40	49	75	62
Average Unit Size	square feet	2,580	1,695	950	900	800	900
Parking							
Parking Format		In-unit	In-unit	Surface	Podium + Surface	Wrap	Podium
Residential Parking Ratio	spaces/unit	2.0	2.0	1.5	1.5	1.5	1.33
Retail Parking Spaces	parking spaces	-	-	-	-	17	-

Development Prototype Images

Single-Family



Townhomes



Small Multifamily



Source: City of Hayward, 2022. Project renderings completed by D.R. Horton, KTGy, and LANDARC. Projects are shown as examples of what the prototype could look like, but do not reflect the exact prototypes.

Development Prototype Images

Stacked Flats



5-Story Wrap



5-Story Podium (TOD)



Source: City of Hayward, 2022. Project renderings completed by Taylor Morrison, Humphreys & Partners Architects, and BDE Architecture. Projects are shown as examples of what the prototype could look like, but do not reflect the exact prototypes.

Hayward Housing Submarket Tiers

Tiers

- Tier One Submarkets
- Tier Two Submarkets
- Tier Three Submarkets

Rents and Prices by Tier

Tier One

Rental: \$3.60 per SF
 Single Family: \$600 per SF
 Townhomes: \$530 per SF

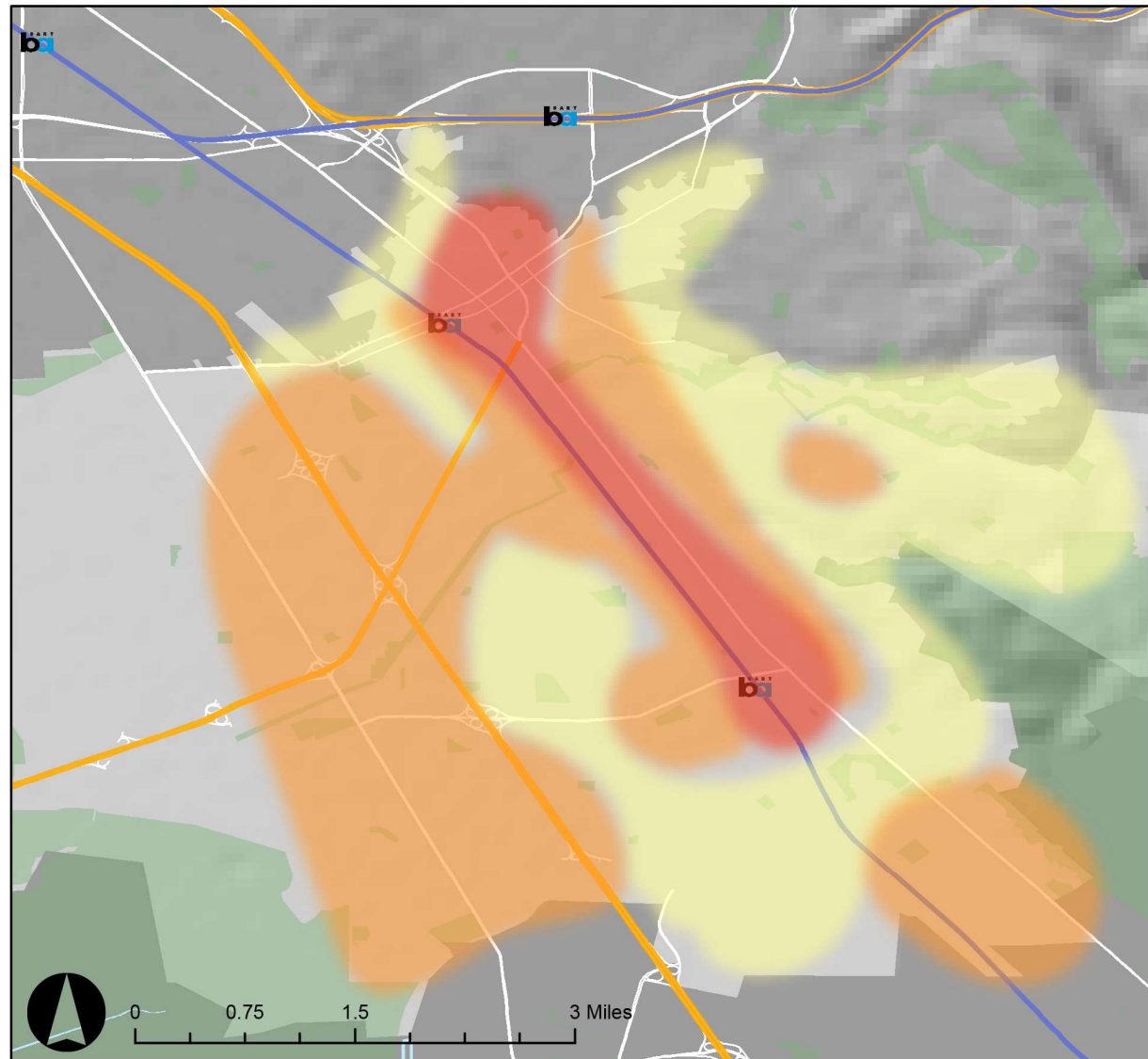
Tier Two

Rental: \$3.10 per SF
 Single Family: \$525 per SF
 Townhomes: \$480 per SF

Tier Three

Rental: \$2.85 per SF
 Single Family: \$475 per SF
 Townhomes: \$450 per SF

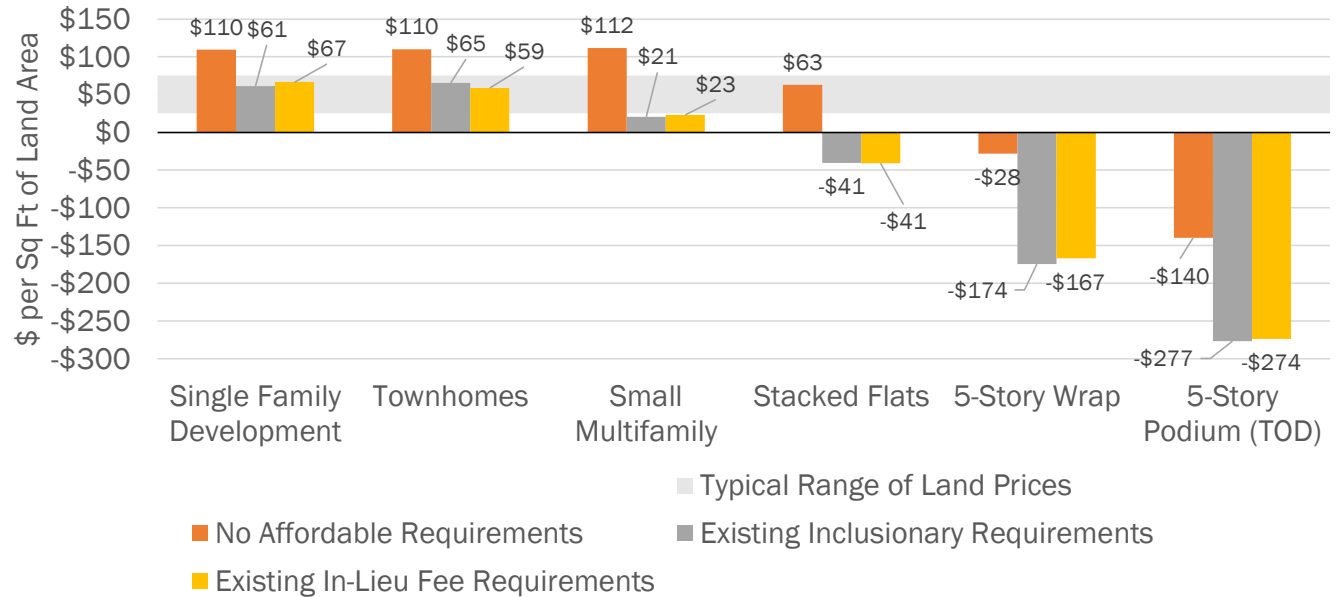
Sources: CoStar, 2022; Redfin, 2022;
 Strategic Economics 2022.



Only single-family homes and townhomes are consistently feasible under the current AHO requirements

- Single-family homes and townhomes can support current AHO requirements
- Smaller rental projects are largely infeasible under current AHO requirements
- Higher-density rental projects are infeasible even without the AHO requirements

Financial Feasibility Findings – Tier 2 Submarket Residual Land Value

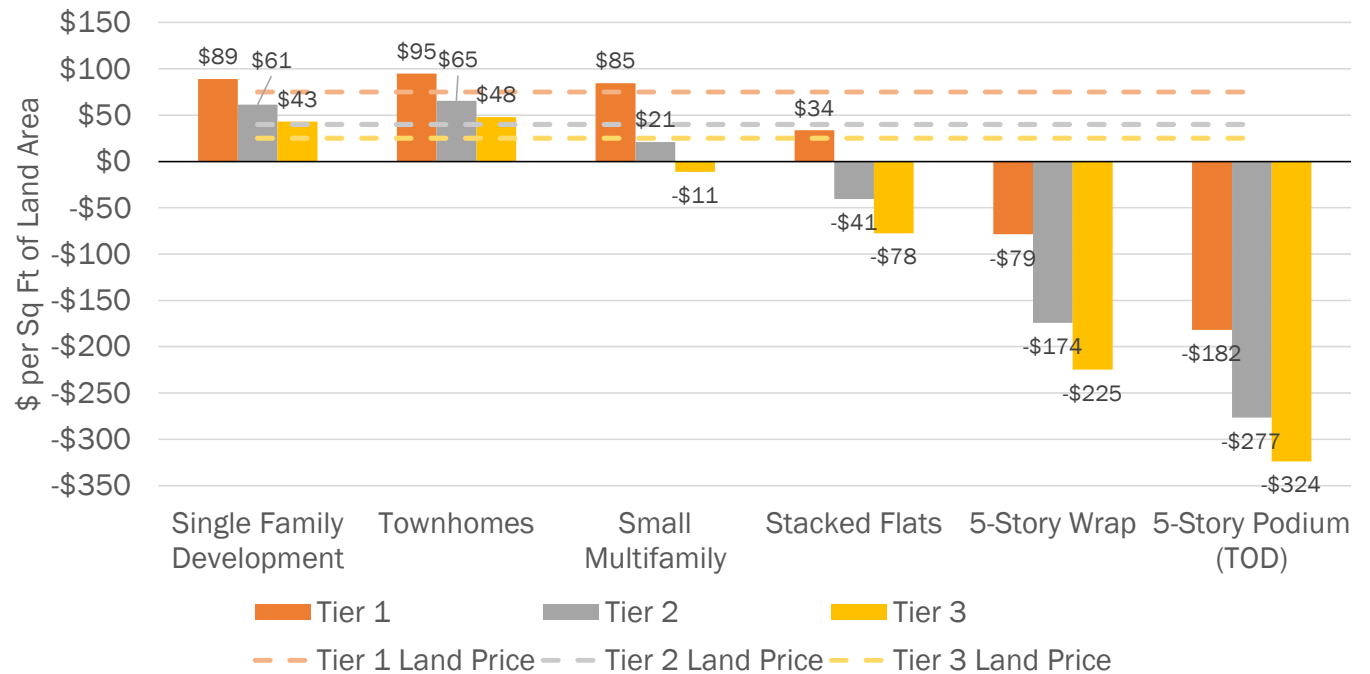


Notes:

Prototypes are considered feasible if residual land value exceeds the assumed land price for its respective scenario. Each submarket is assumed to command higher rents and sales prices but is also associated with higher land prices.

Feasibility findings are largely consistent across the market “tiers”

- “Small multifamily” projects can support current inclusionary requirements at “Tier 1” values only
- Otherwise, only single-family homes and townhomes are feasible, across all market tiers



Notes:

Prototypes are considered feasible if residual land value exceeds the assumed land price for its respective scenario. Each submarket is assumed to command higher rents and sales prices but is also associated with higher land prices.

Implications of Feasibility for Current AHO

- For-sale single-family homes and townhomes can support additional inclusionary requirements
- Higher-density rental products have little to no capacity to support inclusionary requirements or in-lieu fees, even at existing rates
- Suggested responses:
 - Higher inclusionary percentages for ownership
 - Deeper affordability levels for ownership
 - Decreased requirements for rental

The TAC verified the feasibility results and noted AHO challenges/opportunities

- Feasibility analysis findings matched TAC members' understanding of Hayward development market conditions
- Marketing and administering inclusionary units is a challenge—especially for small property owners
- Production of affordable housing could be enhanced via:
 - Waiving impact fees for affordable units/projects
 - Maintaining a continuous stream of public funding for assisting affordable housing projects (including in-lieu fee revenue)
 - Ministerial approval for affordable projects
 - Aligning the inclusionary unit affordability levels with TCAC
 - Public-private partnerships for affordable and mixed-income projects

Alternative AHO Tests:

Ownership Products

Testing Increased Requirements to Determine Maximum Supportable Inclusionary Percentage

- Current AHO:
 - 7.5%-10% of units at moderate income
- Alt O-1: Higher Inclusionary %, all Low Income
- Alt O-2: Higher Inclusionary %, all Moderate Income
- Alt O-3: Higher Inclusionary %, Low/Mod Income 50/50 split

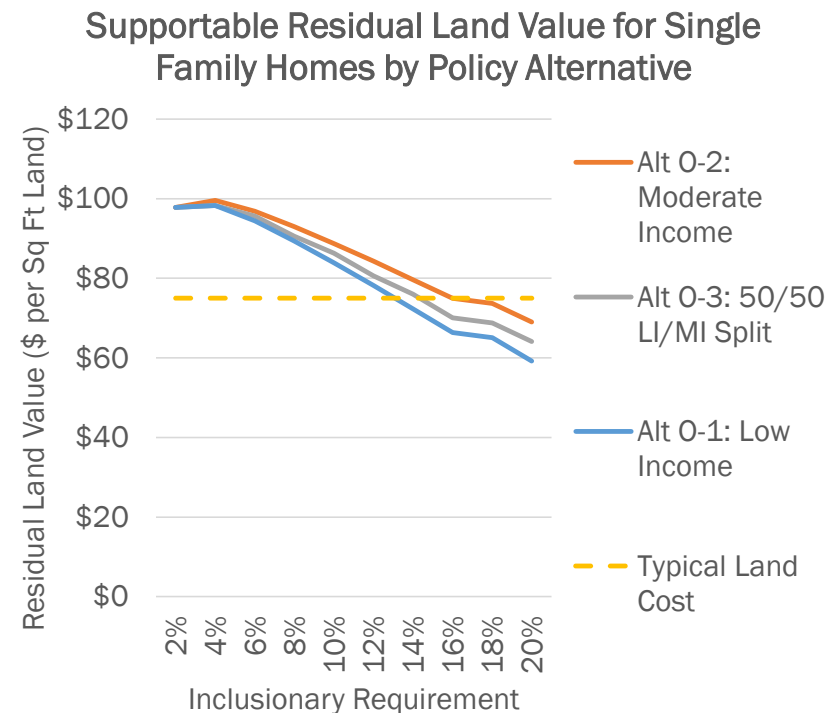
Rental Products

Testing Impacts of Reduced Requirements on Timing of Development Feasibility

- Current AHO:
 - 3% of units at very low income
 - 3% of units at low income
- Alt R-1: Same Inclusionary, Moderate Income
 - 6% of units at moderate income
- Alt R-2: Reduced Inclusionary, Low/Mod Income
 - 1.5% low income
 - 1.5% moderate income
- Alt R-3: Halve the In-Lieu Fee
 - \$10.82 per habitable square foot

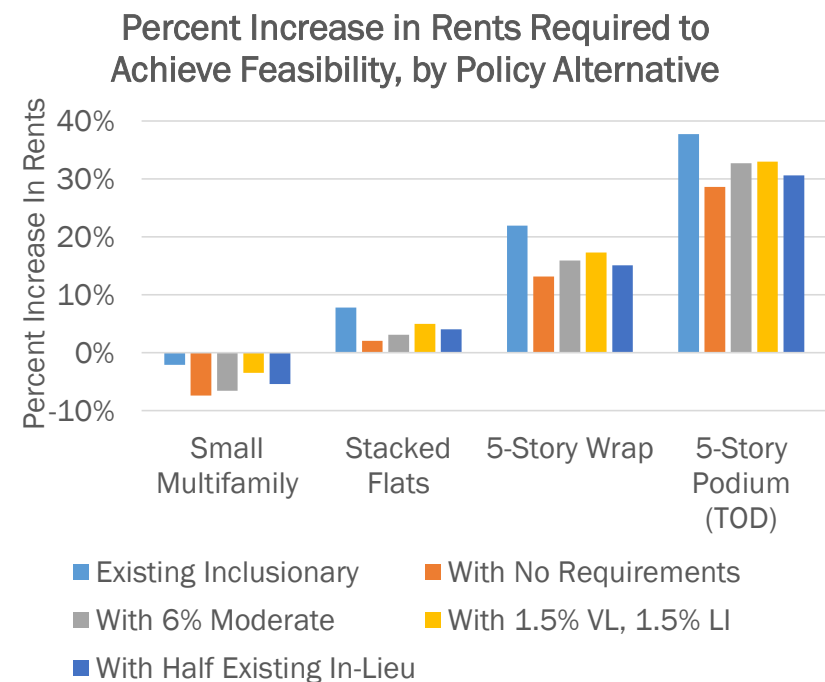
Single-family homes and townhomes can support increased inclusionary requirements, varying by affordability level

- Tested maximum supportable requirements under three affordability levels
- Single-family homes and townhomes can support maximum requirements of:
 - 12.5% inclusionary at low-income
 - 16% inclusionary at moderate-income
 - 15% inclusionary at 50/50 low- and moderate-income
- Inclusionary requirements should be set **lower than the maximum level** to account for submarket variations and future market changes
 - Achievable prices and rents are not consistent across the City
 - Construction costs and prices/rents shift over time



Different requirements will impact the timing of feasibility for rental projects

- Tested percent changes in rents required to support different reduced requirements
- Reduced requirements will reduce the time before rental projects become feasible to build
- Adjusting the impact fee allows for a more nuanced approach to mitigate impacts on feasibility
- “Small multifamily” projects are sometimes currently feasible, but difficult to develop for other reasons



Recommendations: For Sale Housing

- Increase inclusionary requirement to approximately 12%
 - Ownership projects can support maximum requirements of between 12.5% and 16%, depending on affordability level
 - The maximum should not be targeted, in order to account for submarket conditions and housing market shifts
- Target moderate income households
 - These households can more readily absorb maintenance costs and HOA dues
 - If low-income households are included, then the purchase price calculation should incorporate an adjustment for maintenance/HOA costs
- Maintain the current lower inclusionary requirement (7.5%) for denser ownership products
 - Higher-density condominium products are less likely to be feasible, and are unlikely to support any increases in requirements

Recommendations: Rental Housing

- Consider suspending or significantly reducing inclusionary and in-lieu fee requirements for all rental products
 - Alternatively, temporarily adopt a significantly reduced in-lieu fee option
- Adopt relatively lower inclusionary requirements and in-lieu fees for projects above 40 dwelling units per acre
 - Higher-density projects are consistently infeasible, especially “wrap” and “podium” products
- Explore incentives to enhance the feasibility of rental housing
 - I.e., reduced parking requirements, increased allowable density, impact fee waivers

Recommendations: Project Size

- Address inclusionary administration challenges by readily accepting in-lieu fee payments for smaller projects (20 or fewer units, depending on final inclusionary requirement)
 - Administering a single inclusionary unit requires significant expense by owner/developer
 - In-lieu fee revenue could be leveraged to produce more affordable units at deeper levels of affordability

Questions and Reactions?

Next Steps

- Market research and developer interviews – Completed
- Peer cities policies and production research – Completed
- Initial TAC meeting – Completed (September 14th)
- Testing preliminary AHO policy alternatives – Completed
- Preliminary policy recommendations – Completed
- Homelessness-Housing Task Force meeting – Today
- Community workshop (October, date TBD)
- Refinement and testing of alternative AHO policy alternatives (October)
- Establishment of corresponding in-lieu fees (October)
- Second TAC Meeting – (November, date TBD)
- Final recommendations and report (December)
- Planning Commission and City Council hearings



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: RPT 22-090

DATE: September 28, 2022

TO: Homelessness-Housing Task Force

FROM: Assistant City Manager

SUBJECT

Implementation Update on the Residential Rent Stabilization and Tenant Protection Ordinance

RECOMMENDATION

That the Homelessness-Housing Task Force (HHTF) review and discuss this report on the implementation progress of the Residential Rent Stabilization and Tenant Protection Ordinance.

SUMMARY

The Council approved the Residential Rent Stabilization and Tenant Protection Ordinance (RRSO) in June 2019, greatly expanding the number of rental units in Hayward covered by the new 5% annual rent increase threshold and creating additional protections, such as just cause eviction and prohibitions against harassing or discriminating against tenants. Additionally, in July 2020, Council adopted the Tenant Relocation Assistance Ordinance (TRAO), to ensure Hayward residents had the same protections that were afforded under the State Tenant Protection Act.

This report provides an informational update on the RRSO following three years of implementation, as well as the TRAO following two years of implementation which includes data on petitions for review of rent, as well as rent increase and termination notices, and relocation assistance cases. This report also includes a new analysis of evictions in Hayward, using unlawful detainer data from the Superior Court of Alameda County. Importantly, local and state eviction moratoria have been in place for the majority of the RRSO's implementation. Beginning with the City of Hayward residential eviction moratorium in March 2020 through to the time of this report writing, evictions have been restricted by either City, State, or County authority.

Given the unique nature of the majority of the RRSO implementation, staff does not recommend making any new changes to the RRSO beyond what Council already authorized in July 2020. Staff does recommend including revisions to the TRAO, to streamline implementation and improve compliance, as a project under Council's Preserve, Protect, and Produce Housing for All priority area of the Strategic Roadmap.

File #: RPT 22-090

ATTACHMENTS

Attachment I Staff Report



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FROM: Assistant City Manager

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BACKGROUND

RRSO Implementation

On June 18, 2019,¹ the Council approved the introduction of a new RRSO to improve housing stability for Hayward tenants. Staff and community partners conducted a comprehensive and community inclusive process, including specific direction provided by the Council on February 19, 2019,² a community workshop on April 6, 2019, and numerous subsequent HHTF meetings, to develop the RRSO. The key components of the RRSO passed in June and made effective on July 25, 2019, include:

- Mandatory mediation program with binding arbitration that would be available to tenants upon rent increases greater than five percent and applicable to all pre-1979 units except single family homes and condominiums consistent with State law;
- Provisions to protect Section 8 voucher holders from discrimination;
- Requirements that landlords file rent increase notices and eviction notices with the City to obtain data about rental housing activity;
- Tenant retaliation protection provisions; and
- Just Cause for tenant evictions.

On March 5, 2020,³ staff provided the HHTF with a progress report on RRSO implementation and made recommendations for revising the RRSO based on changes to State law and an analysis of implementation challenges. Task Force members supported recommendations for revisions to the RRSO presented in that report and, on July 14, 2020,⁴ Council voted to adopt amendments to the RRSO and the addition of the Tenant Relocation Assistance Ordinance (TRAO; Chapter 12, Article 2 of the Hayward Municipal Code).

Rent Increase Threshold

In July 2020, Council directed staff to analyze alternative lower rent stabilization thresholds for HHTF consideration, which staff presented to the HHTF in September 2020. Following public comment and discussion, the HHTF voted two to one to recommend lowering the threshold from a fixed 5% to 100% of the annual change in the area Consumer Price Index (CPI), with a

¹June 18, 2019 City Council Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=3985848&GUID=52D1B678-D6BB-401A-AB3C-8990885C0CDD&Options=&Search=>

²February 19, 2019, City Council Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=3863371&GUID=E3FF2A1F-D770-463F-ACC2-8EBEFC711CF3>

³March 5, 2020, Homelessness-Housing Task Force Staff Report and Materials:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4344677&GUID=B0C788EE-6B8B-4B62-9006-2DA3C426E0B8&Options=&Search=>

⁴July 14, 2020, City Council Staff Report and Materials:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4590663&GUID=ADB12ECB-15EB-4DB2-B096-5A6D9877359A&Options=&Search=>

ceiling of 5% and a floor of 2%.⁵ In November 2020, Council voted to maintain existing rent increase threshold.⁶

COVID-19 Response

In response to COVID-19, the City of Hayward instituted several renter protections intended to mitigate housing instability caused by the pandemic. These protections included:

- **Rent Relief Program:** The Council authorized a total of more than \$1.7 million in HOME Investment Partnership Program (HOME) and emergency Community Development Block Grant (CDBG) funds for an emergency rent relief program, providing up to \$5,000 in direct rent payments to landlords on behalf of almost 700 tenant households.
- **Expanded Mediation:** The Council authorized the expansion of the City's agreement with Project Sentinel to provide a free mediation program to support landlords and tenants negotiating repayment plans when tenants are unable to pay rent due to the pandemic. Both landlords and tenants were eligible for the program.
- **Local Eviction Moratorium:** Before the State moratorium was enacted in August 2020, the Council adopted an emergency ordinance establishing a temporary moratorium on evictions for non-payment of rent caused by the COVID-19 pandemic or for no-fault evictions. Council extended the moratorium until it was superseded by State law.
- **Tenant Relocation Assistance Fund:** The Council adopted a resolution approving the City's federal stimulus expenditure plan for American Rescue Plan Act funds, including contributing \$250,000 to a relocation assistance fund for tenants displaced due to Code Enforcement action. This fund allows the City to make payments directly to tenants and recover the costs from landlords when landlords do not make assistance payments required by the TRA0. It also allows the City to make emergency relocation payments to income-eligible tenants displaced by a natural disaster.⁷

DISCUSSION

This discussion section provides an overview of the RRSO implementation progress, including the following areas of implementation:⁸

- Analysis of unlawful detainer filings and termination notices;
- Analysis of rent increase notices submitted as required by the RRSO;
- Analysis of petitions submitted as part of the rent review process;

⁵ September 3, 2020, HHTF Staff Report and Materials:

<https://hayward.legistar.com/MeetingDetail.aspx?ID=761370&GUID=D60C2C6C-E382-4800-8A69-32CE0765CB8F&Options=info|&Search=>

⁶ November 10, 2020 City Council Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4688319&GUID=8277676F-F530-499A-AD98-9D6E574A3FAF&Options=&Search=>

⁷ July 13, 2021, City Council Staff Report and Materials:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=5028015&GUID=E0215022-6A47-486F-81C4-9BFB2583AE10&Options=&Search=>

⁸ The staff report from the July 2020 RRSO update includes a comprehensive list of all resources and materials created to help tenants and landlords comply with the RRSO, as well as a discussion of the revisions made to the RRSO after its first year of implementation.

- Discussion of participation in the Eviction Prevention Learning Lab; and
- Discussion of Tenant Relocation Assistance Ordinance implementation.

It is important to note that, while the RRSO has been in effect in Hayward for three years, the majority of that time has been during the COVID-19 pandemic and corresponding local, state, and federal eviction moratoria. As such, it is difficult to measure the RRSO’s progress in meeting its goals of reducing displacement and to make comparisons between rent increase data submitted to the City’s Rent Review Office and market trends.

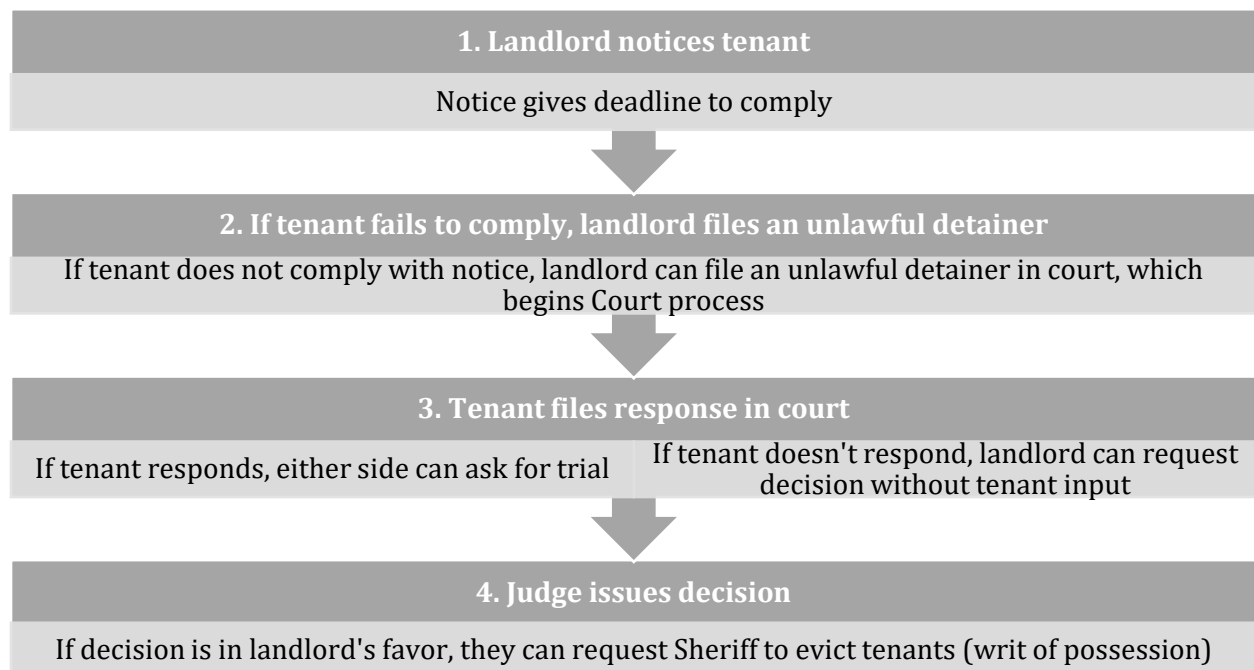
Hayward Eviction Landscape

Superior Court of Alameda County Unlawful Detainer Data

In California, evictions follow the process outlined in Figure 1 below. Notably, the City of Hayward does not enforce evictions and does not provide legal advice to landlords or tenants regarding the eviction process. The City does have contracts with local non-profits to provide legal services to tenants and Hayward tenants may also access the Alameda County AC Secure program for legal resources.

Hayward’s RRSO requires an eviction to be based on one of 16 just cause reasons for an eviction. The just cause must be listed on the termination notice, which must also be provided to the City’s Rent Review Office. If a tenant does not comply with a lawful notice, the landlord may choose to file an unlawful detainer with the Superior Court of Alameda County. Tenants then have a brief window to respond and either party can request a trial. If the tenant does not respond, the landlord can request a decision from the judge without the tenant’s input. If the judge decides in favor of the landlord, the landlord can request a writ of possession, which is executed by the Sheriff’s Office to remove the tenant from the property.

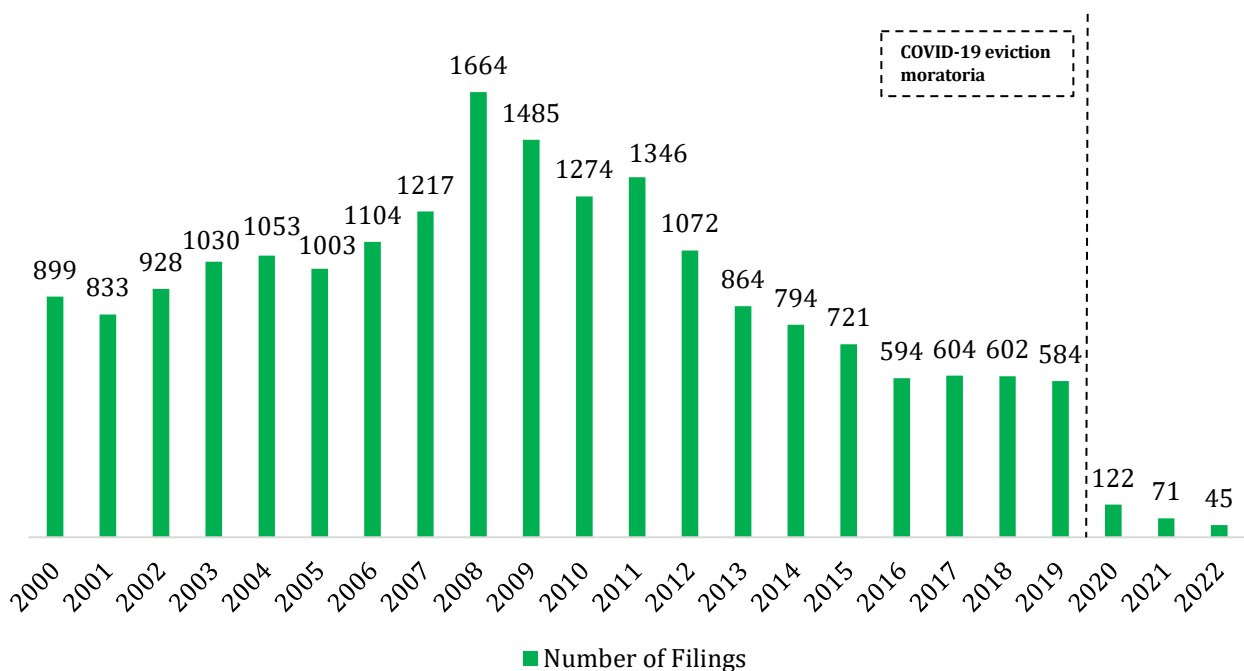
Figure 1. Summary of the California Eviction Process



Since the Summer of 2021, staff has requested unlawful detainer (UD) data from the Superior Court of Alameda County and has compiled data from January 2000 through July 2022. While State privacy law prevents the Court from providing the address or party names in an unlawful detainer case, the Court was able to provide city, zip code, filing date, disposition (outcome) date, disposition type, and if a writ of possession was filed and satisfied for unlawful detainers in Alameda County. The UD data has some limitations, including that there is no direct indicator of if a filing was for a commercial eviction and there is no information on if a tenant left the property or reached a resolution with the landlord outside of the court process prior to the writ of possession stage. Despite these limitations, the UD data illustrates trends in eviction filings and tenant response.

Figure 2 shows the total number of UD filings per year since January 2000, excluding filings determined by the Court to be most likely commercial evictions. Filings peaked during the 2008-2009 recession and were level beginning in 2016, averaging just under 600 filings a year in the four years prior to the COVID-19 pandemic.

Figure 2. Annual Unlawful Detainer Filings: January 1, 2000 – June 30, 2022



Local or state eviction moratoria were in place from March 2020 through June 2022. The City's local moratorium expired in September 2020, superseded by State law. State eviction protections concluded in June 2022; however, Alameda County's moratorium is still in effect. The County moratorium prohibits most evictions, except for those required to comply with health and safety violations and Ellis Act evictions. Key take-aways from the UD data during the pandemic include:

- Of the 122 UD filings in 2020, 89% (n=108) occurred prior to March 24, 2020, when the City passed a temporary moratorium on residential evictions.
- Following enactment of the first local moratorium through June 2022, there were 121 total UD filings in Hayward.

- 18% (n=22) of UD filings since the first moratorium resulted in a judgment and the majority of those were a default judgment, meaning the tenant did not respond to the filing.
- Of those resulting in a judgment, less than half (41%, n=9) had a satisfied writ of possession, meaning the tenants were evicted from the property by the Sheriff's Office

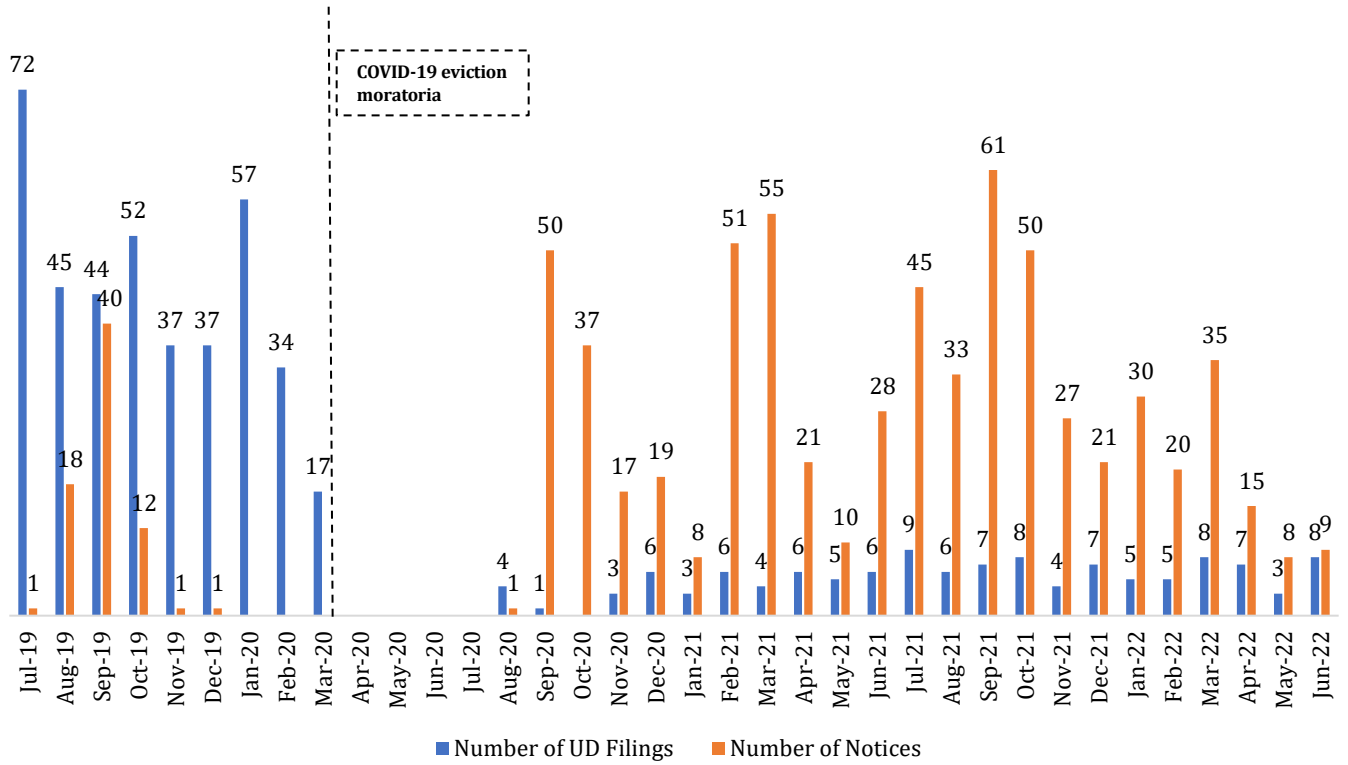
Comparing Termination Notices and Unlawful Detainer Data

The RRSO requires that landlords provide the Rent Review Office with copies of all rent increase and termination notices. Collecting such information enables staff to identify trends in Hayward's rental environment that were previously unclear without reliable data. As discussed in previous updates, there are important limitations to when analyzing and interpreting termination notice data submitted by landlords. It is likely that not all landlords are complying with the requirement to provide copies of notices to the Rent Review Office, so existing data may under-represent eviction notices.

The addition of UD filing data from the Court allows for comparisons between the volume of notices to terminate tenancy with actual UD filings. Notably, not all termination notices result in a UD filing. Often tenants pay rent late, resolve the issue with the landlord, or they may move out prior to the landlord filing a UD with the Court. Since the beginning of the RRSO, the City has received 772 termination notices. While pandemic eviction protections were in place, 95% of the notices received were for a failure to pay rent or utilities. In the period before the pandemic (i.e., July 2019 through March 2020), 86% of notices submitted to the Rent Review Office were for failure to pay rent or utilities.

As shown in Figure 3, prior to the onset of the pandemic and corresponding eviction moratoria, the number of UD filings was greater than the number of termination notices submitted to the Rent Review Office. However, landlords continued to file notices to terminate tenancy, despite existing moratoria on evictions during the pandemic. The significant increase in termination submissions to the City may be due to several factors, including increased outreach by the Rent Review Office during the pandemic, changes to state law that required serving the tenant with a 15 day notice of termination of tenancy related to non-payment of rent, and improved compliance as landlords paid closer attention to local requirements when trying to evict tenants during the pandemic.

Figure 3. Comparing Termination Notices with Unlawful Detainer Filings since July 2019

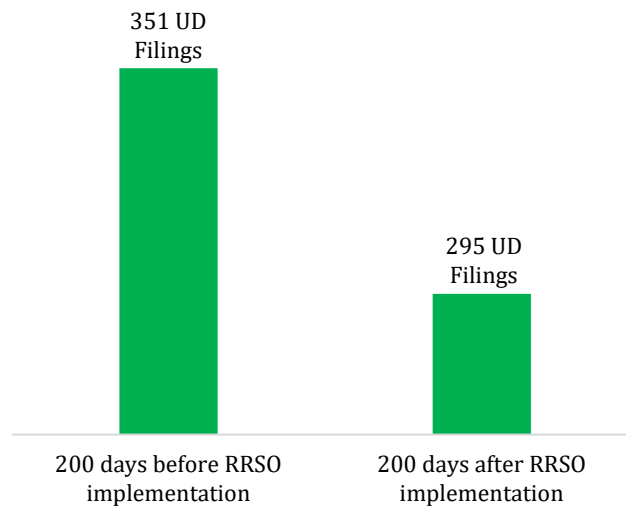


Unlawful Detainer Filings Before and After the RRSO

Key objectives of the RRSO include stabilizing and creating more predictable rent increases and establishing just cause reasons for eviction to prevent unfair, discriminatory, or retaliatory evictions. Access to UD filing data from the Court allows for more reliable analysis of potential impacts of the RRSO.

While pandemic eviction protections make such analysis more challenging, comparison of equal time periods before and after the RRSO implementation and before the onset of the pandemic, shows a 15% reduction in UD filings following the implementation of the RRSO (see Figure 4).

Figure 4. UD Filings before and after RRSO Implementation



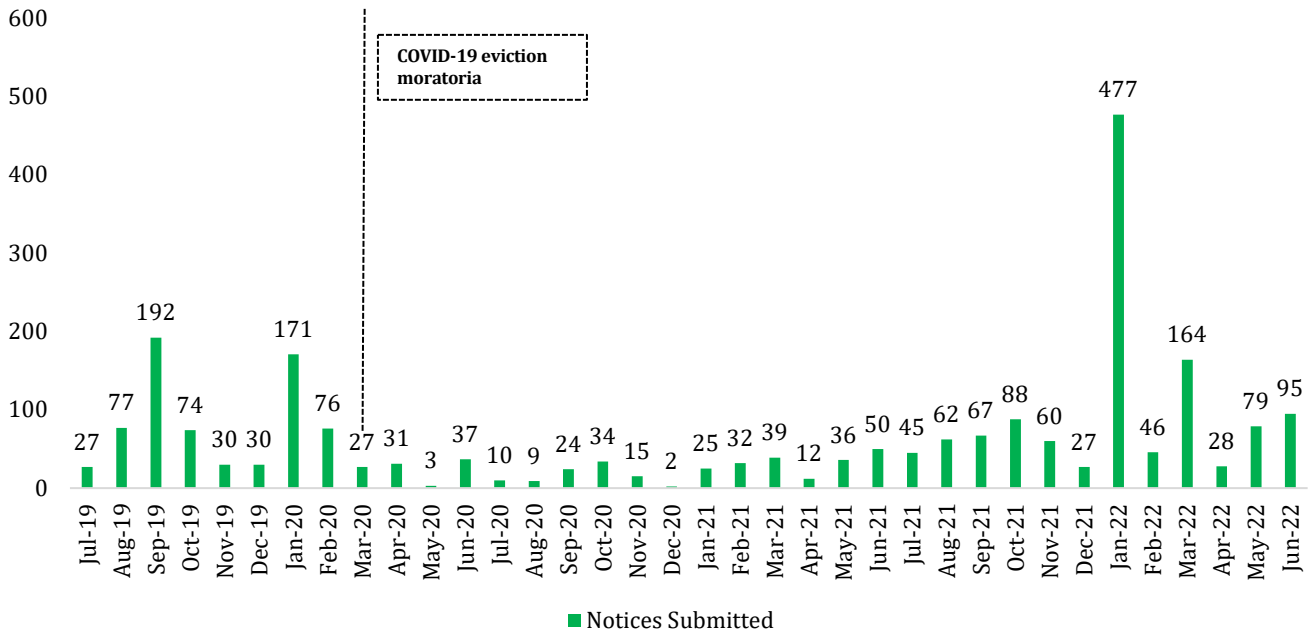
Rent Increase Notices Submitted to the Rent Review Office

As with termination notices, landlords are required to provide copies of any rent increase notices to the Rent Review Office. The RRSO relies on landlords to self-report, therefore a compliance rate cannot be determined and the following analysis may not fully reflect all rent increase trends in Hayward. Additionally, while there were no rent increase freezes in place in Hayward or Alameda County during the pandemic, many landlords may have opted not to increase rents for tenants who were already struggling to pay.

Since the RRSO was passed in July 2019 through June 2022, the Rent Review Office has received 2,667 rent increase notices. Of those notices received, 86% had enough information to determine the amount of the rent increase. Notices were dropped from the analysis if they did not have an actual rent increase, if there was not sufficient address information to determine if the unit was a covered rental unit (i.e., those subject to the RRSO's rent increase threshold), or if the landlord provided multiple options depending on the length of the lease renewal. For rent increase notices that had sufficient information, the average rent increase amount was 4.7% for covered rental units and 5.2% for rental units.

The median number of rent increase notices submitted to the Rent Review Office during the pandemic was 35. There was a substantial spike in increase notices in January 2022, as shown in Figure 5. During that month, seven owners submitted over 30 increases for large properties, accounting for 76% of the increases submitted in January 2022. This is similar to trends in other high-volume months, like September 2019 and January 2020, where a few owners of larger properties submitted the majority of the increase notices.

Figure 5. Rent Increase Notices Received from July 2019 to June 2021

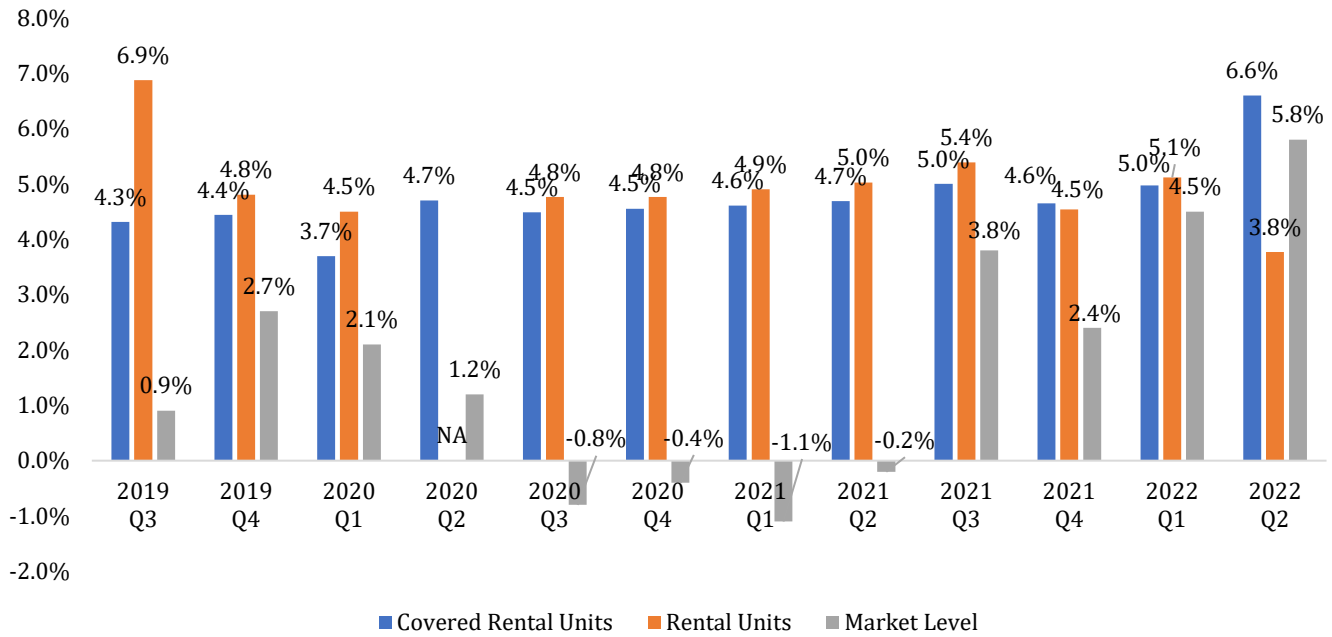


Data from the CoStar real estate database provides some insights into the Hayward rental market by surveying effective rent on new leases in multi-family rental properties.⁹ When compared to the rent increase information shared with the Rent Review Office, market-level data show lower average effective rents during most of the pandemic, as shown in Figure 6. However, market rents rose notably beginning in the second half of 2021. With the exception of the most recent two quarters, market rents were still below rent increases submitted to the Rent Review Office. It is important to note that available data on multi-family effective rent changes does not capture existing leases or changes to those agreements over time, which includes potential substantial rent increases for individual households. While market prices for multi-family properties show decreases, not all tenants necessarily experience the relief of market rent depreciation.

It is also notable that the average rent increase for a covered rental unit from April through June 2022 was above the 5% threshold for covered units. The average exceeded the threshold in that quarter because 60% of the increases submitted to the Rent Review Office included banked rental increases. In other words, landlords that did not apply a rent increase in 2021 used that increase along with the allowable annual increase for 2022, exceeding the threshold as permitted under the RRSO and driving the quarterly average up to 6.6%,

⁹ Effective rents refer to the actual rent after factoring in concessions or other discounts.

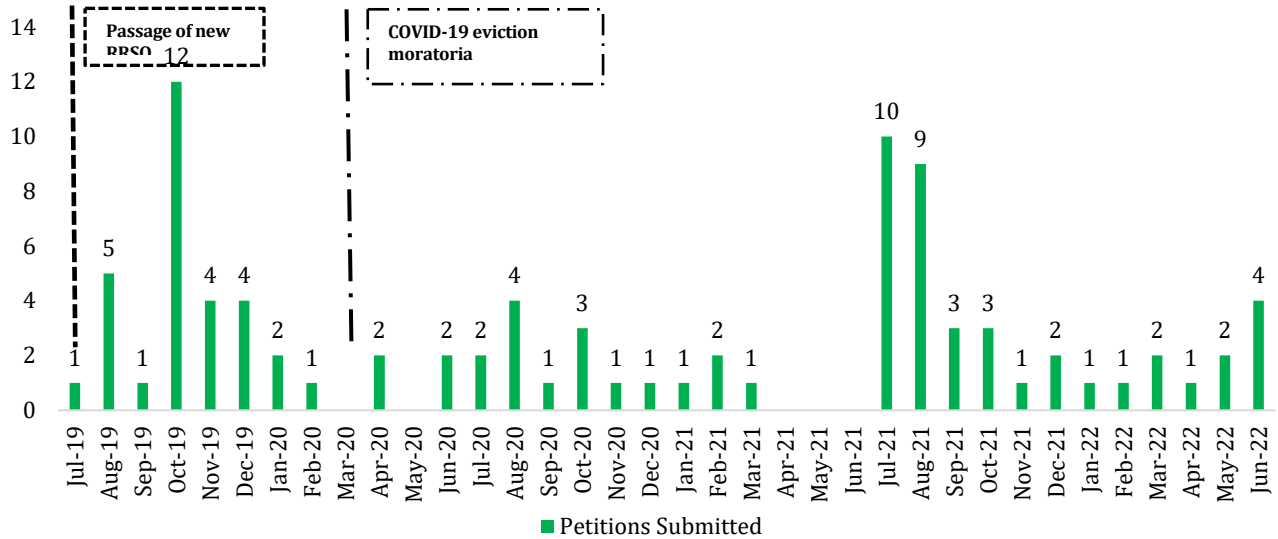
Figure 6. Comparison of Average Rent Increases Submitted to the Rent Review Office and Average Multi-Family Market Rents from July 2019 through June 2022, by Quarter



Tenant and Landlord Petitions

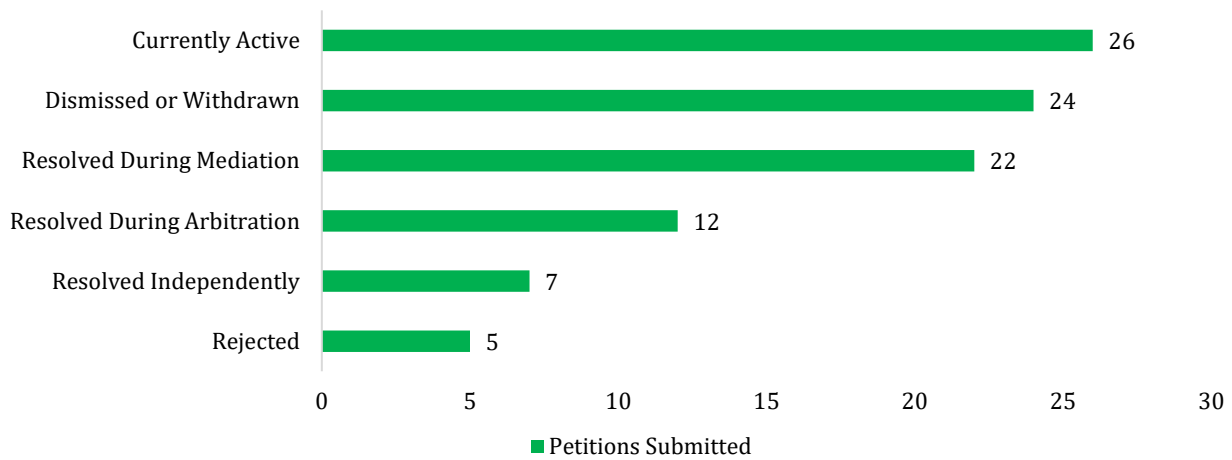
The RRSO’s rent dispute resolution process is initiated by a petition, either from a tenant or a landlord. As shown in Figure 7, the number of petitions submitted by tenants was highest during the first six months after the RRSO was revised in July 2019, which is when access to the mediation and arbitration process was expanded to more units. In the months following the Governor’s declaration of a state emergency and local emergency orders due to COVID-19, the number of petitions remained low with an average of 1 petition per month through June 2021. Since the last HHTF update, petitions spiked in July and August 2021. Of the 19 petitions in July and August 2021, 13 were from mobile home residents petitioning for a review of rent due to a decrease in housing services. The average petitions received since August 2021 was two per month.

Figure 7. RRSO Petitions Received since July 2019 through June 2022



Since the last HHTF update, the Rent Review Office has received 46 new petitions bringing the total received as of June 2022 to 96 petitions. Of those 46 new petitions, 42 were submitted by tenants and four were submitted by landlords. Figure 8 describes the outcomes of every petition received as of June 2022. The majority are currently active, meaning they are either being reviewed or scheduled for mediation or arbitration hearings. Out of 96 petitions, 34 have been resolved during mediation or arbitration and seven have been resolved outside of the resolution process. Additionally, 29 petitions were dismissed, withdrawn by the petitioner, or rejected after the review process. Those that were rejected were due to timeliness issues or were submitted for reasons that were not allowable reasons under the RRSO.

Figure 8. Tenant Petition Outcomes, as of June 2022



Under the RRSO, tenants can submit a rent review petition for any of the following reasons:

- Unlawful Notice: Landlord did not properly notify tenants of rent increase, banked increase, or increase in government utility service cost per the RRSO’s noticing requirements
- Annual Rent Increase Over 5%: Increase is over the allowable annual Rent Increase Threshold of 5% of the tenant’s current rent
- Banked Rent Increase Over 10%: Banked rent increase is above the allowable Banked Rent Increase Threshold of 10% of the tenant’s current rent
- Utility Increase Over 1%: Utility increase is above 1% of tenant’s current rent
- Reduction in Housing Services: Tenant is reporting a reduction of Housing Services (e.g. lighting, heat, water, laundry facilities, elevator services, common recreational services, etc.) that have not been restored or remediated
- Housing Violations: Property has uncured health, safety, fire, building violations or repairs
- Capital Improvement Cost: A Capital Improvement Pass-Through cost that is unlawful or has been calculated incorrectly

Additionally, landlords may submit petitions for the following reasons:

- Fair Return: An increase in rent above the threshold in an amount necessary to obtain a fair return on investment
- Capital Improvement: To set the proper amount of a capital improvement pass-through

Figure 9 describes the types of petitions the Rent Review Office has received. Petitioners can select one or more petition types when submitting their rent review application. As shown below most petitioners (36) have submitted rent review applications for receiving rent increases that are above the 5% annual threshold. The second most frequent petitions were for reduction of housing services, the majority of which were received after June 2021 after the Governor terminated the executive order that put into place the Stay-at-Home Order and social distancing restrictions on June 15, 2021.

Figure 9. Tenant Petition Types, as of June 2022



Eviction Prevention Learning Lab Participation

For the past year, the City has been participating in the Eviction Prevention Learning Lab (EPLL).¹⁰ The EPLL is a national peer-to-peer network focused on eviction prevention strategies, providing cities and their partners with access to best practices, policies, and tools for preventing eviction. It is facilitated by the National League of Cities and the Stanford Legal Design Lab. The City focused on the learning areas of 1) Tenant and Landlord Education and 2) Communication, Outreach, and Engagement. To date, staff have worked on refining outreach strategies, including integrating text messaging. Staff are also in the process of improving website accessibility and search optimization.

Through participation in the EPLL, the City was also selected as a pilot site for the development of the Foreclosure and Eviction Analysis Tool (FEAT).¹¹ Participation in the pilot led the City to request and obtain the UD data reported on in prior sections of this report. Current data from the County only provides zip code level geographic detail due to State privacy restrictions. Staff continue to work with the FEAT team to determine the best ways to apply the tool to the available data.

Tenant Relocation Assistance Ordinance Implementation

Alongside the amendments to the RRSO approved in July 2020, Council also adopted Chapter 12, Article 2 of the Hayward Municipal Code, titled the Tenant Relocation Assistance Ordinance (TRAO). The TRAO creates permanent and temporary relocation assistance requirements for landlords to pay under certain circumstances when a tenant becomes displaced from their unit. Landlords are required to pay permanent relocation assistance when there is a no-fault just cause eviction. Temporary relocation assistance is required when landlords must complete substantial repairs that would temporarily displace the tenants, or when a government order is issued for health and safety issues. Since its implementation, staff have created a number of resources to facilitate compliance with the TRAO, including a summary and several noticing forms.

Since July 2020, staff have reviewed relocation cases at 20 properties, the majority of which have been initiated through a Code Enforcement inspection that has found the unit to be in violation of health and safety code. Staff from Housing and Code Enforcement work closely to share information on these cases and to communicate with the tenants. In many cases, landlords are either unwilling or unable to make the required relocation assistance payments. This trend was present after the first year of implementation, so staff requested authorization to establish the Tenant Emergency Relocation Assistance Fund, which Council authorized as part of the expenditure plan for the American Rescue Plan Act.¹² These funds allow staff to make relocation payments on behalf of non-compliant landlords, then recover the payment from the landlord through a special assessment. The funds are also available to make emergency payments to low-income tenants displaced from their homes due to a natural disaster. Through

¹⁰ For more information: <https://www.nlc.org/initiative/2021-eviction-prevention-learning-lab/>

¹¹ For more information: <https://www.newamerica.org/future-land-housing/blog/introducing-the-foreclosure-and-eviction-analysis-tool-feat/>

¹² July 13, 2021, City Council Staff Report and Materials:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=5028015&GUID=E0215022-6A47-486F-81C4-9BFB2583AE10&Options=&Search=>

June 2022, staff processed \$107,262 in emergency payments for tenants displaced due to natural disaster.

Additionally, implementation of the TRAO has been challenging due to the volume of unknown variables that need to be established to determine the amount of assistance owed to tenants and the varying scenarios that establish compliance deadlines. Staff has developed resource materials and has been providing technical assistance to stakeholders but recommends that the City consider simplifying the legislation to improve clarity and increase compliance. Staff intend to use the City Strategic Roadmap planning process to discuss adding the TRAO revisions as an additional project under Council's Preserve, Protect, and Produce Housing for All priority area.

ECONOMIC IMPACT

This report is an informational update on the implementation progress of the RRSO. It does not propose any substantial legislative changes that would create any new or differing economic impact.

FISCAL IMPACT

This informational update does not propose any changes or additions that would create a fiscal impact to the City's General Fund. The RRSO does include an administration fee, the revenue for which supports the implementation of the ordinance. This includes staff expenses, as well as education and outreach activities to ensure landlords and tenants are aware of their rights and responsibilities.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Present, Protect, & Produce Housing. Specifically, this item relates to the implementation of the following projects:

Project 7, Parts 7b: Monitor the implementation of the Rent Stabilization Ordinance and prepare a statistical report

PUBLIC CONTACT

Since it was passed in July 2019, the City has conducted several education and outreach workshops and received many inquiries regarding the RRSO. Despite COVID-19 restrictions, staff have held monthly remote and more recently hybrid workshops. Staff also attend resource fairs with faith-based and education partners.

In 2022, the Housing Division made changes to its walk-in and appointment-based communication with community members. First, the Division implemented the Microsoft Bookings feature, enabling community members to make an appointment online for either a phone or in-person meeting with staff in English or Spanish. Additionally, the Housing Division has started staffing the Permit Center. Co-location of Housing Services with Development Services and closer proximity to the Revenue Division is helping to streamline communication

for community members who previously often had to go to multiple floors within City Hall to resolve an issue. Now, Housing Division staff are present at the Permit Center during its Monday through Friday, 9:00 to 1:00 open hours and are available for walk-in meetings on the fourth floor during the hours the Permit Center is closed.

NEXT STEPS

Staff will continue monthly outreach activities and will continue to monitor implementation of the RRSO, identifying additional opportunities to improve processes, forms, and outreach strategies. Staff will return with another annual update to the Task Force in September 2023.

Prepared by: Amy Cole-Bloom, Management Analyst II
Irene Perez, Senior Secretary

Recommended by: Jennifer Ott, Assistant City Manager
Christina Morales, Housing Division Manager

Approved by:



Kelly McAdoo, City Manager