



DATE: March 5, 2019
TO: Mayor and City Council
FROM: City Manager
SUBJECT: Adoption of Emergency Ordinance Requiring Just Cause for Tenant Evictions for All Rental Units within the City

RECOMMENDATION

That the City Council:

1. Adopts an emergency Ordinance of the City Council of the City of Hayward requiring just cause for tenant evictions for all rental units within the City (Attachment II); and
2. Adopts an emergency Ordinance repealing Section 19 of the City of Hayward Residential Rent Stabilization Ordinance (RRSO) (Attachment III).

SUMMARY

On February 26, 2019¹, the City Council directed staff to return with an emergency ordinance to prevent no cause evictions that are likely a result of the proposed modifications to the RRSO discussed at the February 19, 2019 City Council meeting. A Just Cause for Eviction Ordinance provides tenants a defense against no cause evictions and establishes what constitutes justified evictions. The just causes required for eviction identified under the proposed ordinance are the same as the justifications for eviction under the RRSO. However, the proposed emergency ordinance would extend eviction for cause protections to units that are currently exempt under the RRSO.

Additionally, if the proposed Just Cause for Eviction Ordinance is adopted, Section 19 of the RRSO (Eviction for Cause) would need to be deleted to avoid conflicts.

Enactment of an emergency ordinance would require at least five affirmative votes from the City Council. If only four Council members vote for the proposed ordinance, then adoption would occur at the next City Council meeting and the ordinance would go into effect 30 days after adoption.

¹ February 19, 2019 Staff Report and Attachments:

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

BACKGROUND

Hayward, like other cities in the Bay Area, is experiencing rising housing prices, severe housing instability for its most vulnerable populations, displacement of existing residents of all incomes, and increasing homelessness. The increase in Hayward's and the Bay Area's population, absent a corresponding increase in housing units, has caused rents and prices to rise as supply has failed to meet demand. As a result, approximately 55% of Hayward renters experience a cost burden as they spend over 30% of their household income on rent. Between 2013 and 2017, rents increased in the City by 46% while the median income of renters only increased 25%. While low income renters are the most impacted by rising rents and lack of available rental housing, all Hayward renters are experiencing the impacts of a tight rental market. Additionally, renter-occupied units are disproportionately comprised of African-American and Hispanic households compared to all occupied units, which raises concerns that the risk of potential displacement is greater for certain racial and ethnic populations.

On February 19, 2019, the City Council convened a work session that defined the parameters for an approach to amend the RRSO. Based on preliminary Council direction during the work session, staff will be returning to Council for consideration of the following key actions:

- Development of a 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;
- Extension of eviction for cause protections to all residential rental properties, including single family homes and condominiums (subject of this staff report);
- Requirement that landlords file rent increase notices and eviction notices with the City to obtain accurate data about rental housing activity;
- Creation of provisions to protect Section 8 voucher holders from discrimination;
- Exploration with the Housing and Homelessness task force various retaliation provisions and relocation assistance options; and
- Consideration of elimination of the vacancy decontrol provisions (Section 8) of the RRSO, based on a pending report from Management Partners.

Subsequently, on February 26, 2019, Council directed staff to return with an emergency ordinance to the full Council to prevent no cause evictions out of concern that the proposed modifications to the RRSO will cause reactionary evictions that will destabilize the community. Additionally, Councilmember Wahab requested Council support for a moratorium on any rent increases for a period of 13 months. The majority of Council recommended that this potential moratorium be reviewed by the Housing and Homelessness task force during a future task force meeting.

DISCUSSION

Adoption of the Just Cause for Eviction Ordinance would increase the number of units covered by eviction for cause protections to all rental units in the City of Hayward. Additionally, as an

emergency ordinance, it will prevent no cause evictions initiated as a result of Council direction to modify the RRSO. Expanding eviction for cause protections based on Council direction would add protection to units built after July 1, 1979, all single family homes and condominiums, and units where the property owner owns four units or less. Just cause provisions currently protect approximately 14,900 units and the proposed changes would protect all 22,237 rental units in the City with the exception of hotels and motels, hospitals, transitional housing, skilled nursing facilities, and shared housing.

The Just Cause for Eviction Ordinance provides tenants a defense against no cause evictions and establishes what constitutes justified evictions. The just causes required for eviction identified under the proposed ordinance are the same as the justifications for eviction under the RRSO. There are fifteen justifications for eviction including:

1. The tenant has not paid their rent.
2. The tenant has continued to ignore terms of the lease.
3. The tenant has substantially damaged the property and will not agree to repair or pay for repairs.
4. The tenant refused to sign a new lease that is identical to the old one (when the old one expires).
5. The tenant has continued to bother other tenants and neighbors after being told to stop.
6. The tenant will not let the landlord into the building, even with written notice.
7. The landlord wants to perform repairs to the unit to meet the City's building standards that cannot be completed with the tenant living there. The owner must obtain permits from the City. Once work is complete, the tenant must be offered the unit first.
8. The landlord wants to demolish the unit.
9. The landlord wants to move into the unit or wants to allow certain family members to move in. These family members include the landlord's spouse, domestic partner, child, spouse's child, parent, sibling, grandparent, or grandchild. This is not allowed if there is a similar unit on the property that is vacant and available.
10. The landlord wants to move into the unit and the lease allows this.
11. The tenant is convicted of using the rental unit for any illegal purpose.
12. The tenant has used or allowed the use of the unit for the manufacture, sale, distribution, possession, or use of illegal drugs.
13. The tenant has continued to break the rules of the property.
14. The landlord fires the tenant, and housing was part of the employee's pay.
15. The tenant has threatened to kill or hurt any person on the premises. A report must be filed with the Hayward Police Department.

Under the new ordinance, landlords would be required to notify tenants of the existence of the Just Cause for Eviction Ordinance upon leasing a unit, rent increase, or serving and a notice to terminate tenancy.

Additionally, if the proposed Just Cause for Tenant Eviction Ordinance is adopted, Section 19 of the RRSO (Eviction for Cause) would need to be deleted to avoid conflicts.

Enactment of an emergency ordinance would require at least five affirmative votes from Council. If only four Council members vote for the proposed ordinance, then adoption would occur at the next City Council meeting and the ordinance would go into effect 30 days after adoption.

FISCAL IMPACT

City staff is conducting a fiscal impact analysis on the budget impacts of administering and enforcing all the proposed amendments to the RRSO that resulted from the February 19, 2019 work session, including the expansion of the just cause provisions to all rental units in the City. The enactment of this emergency ordinance expanding just cause provisions to all rental units will likely increase costs associated with administering the RRSO due to educational efforts and an increase in call volumes from affected landlords and tenants. Given the emergency nature of the proposed Just Case for Eviction Ordinance, this fiscal analysis is not yet complete. However, costs associated with the RRSO are recovered through the Rent Review Administration Fee. Consequently, the amount of the fee will also be updated to cover these expenses. The fee is paid by the landlord and half of the fee can be passed through to the tenant. As outlined in the Next Steps section below, the staff report scheduled for April regarding the mediation program with binding arbitration will provide an estimated budget for the program.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work, and play for all. This item supports the following goal and objectives:

Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing opportunities and resources.

Objective 1: Centralize and expand housing services.

Objective 3: Conserve and improve the existing housing stock.

PUBLIC CONTACT

In January 2018, staff hosted meetings with tenants, landlords, representatives of community-based organizations, and advocates to listen to these stakeholders' perspectives on housing issues. Additionally, staff conducted an online survey to provide an alternate mechanism for participation in the housing discussion. Analysis of the results of the survey were included in the February 6, 2018² staff report. On February 26, 2018, staff hosted a subsequent listening

² February 6, 2018 Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=3335549&GUID=DDD8866E-BAEB-44BF-8EBB-2F716A750170&Options=&Search=>

session to hear the stakeholders' feedback on Council supported affordable rental housing strategies. In October 2018, staff conducted four tenant focus groups. From December 2018 through February 2019, staff met with community stakeholders affiliated with landlords, realtors, and tenants to develop potential amendments to the RRSO to address issues of rent stabilization more comprehensively in the City.

NEXT STEPS

Staff continues to work on proposed amendments to the RRSO and anticipates on returning to Council with draft legislation based on the following timeline:

Topic	Timeline
Housing and Homelessness Task Force Meeting	March 21, 2019
Mediation with Binding Arbitration Program	April 2019
Evaluation of Vacancy Decontrol Process	May 2019
Additional Proposed Tenant Protections	June 2019

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Recommended by: Jennifer Ott, Deputy City Manager

Approved by:



Kelly McAdoo, City Manager