



DATE: March 2, 2023

TO: Homelessness-Housing Task Force

FROM: Assistant City Manager

SUBJECT: Informational Report on Rent Stabilization Administration Fee Increase

RECOMMENDATION

That the Homelessness-Housing Task Force (HHTF) receives and reviews this staff report proposing an increase to the annual rent stabilization administration fee, which is necessary to meet the Rent Stabilization and Tenant Protection Ordinance (RRSO) requirement that the costs of administering the RRSO be reimbursed in full through the imposition of the annual fee.

SUMMARY

Hayward City Council adopted the Residential Rent Stabilization and Tenant Protection Ordinance (RRSO) in July 2019. The RRSO includes Section 12-1.17, which establishes that the costs of administering the RRSO shall be reimbursed in full through the imposition of a rent stabilization fee, paid annually with an amount recommended to Council by the City Manager and Housing Division. When the RRSO was adopted, Council authorized fees of \$40 per Covered Rental Unit and \$19 per Rental Unit. Covered Rental Units have a higher per unit fee because they are covered under the rent increase threshold and rent dispute resolution provisions of the RRSO, which requires additional staff and consultant work to administer. Owners of Covered Rental Units may pass through half the cost of the fee to the tenants. Owners of Rental Units are not restricted by the City's RRSO on increases that may cover the cost of the fee, though they may be subject to a State rent increase threshold.

The annual fee has not been increased since it was established in July 2019. The fee was developed based on best estimates for the number of Covered Rental Units and Rental Units in the City and the anticipated costs of implementing the RRSO. Since then, City Council adopted the Tenant Relocation Assistance Ordinance (TRAO) without an increase in fees to cover administrative costs. In recent years, administrative expenses have exceeded collected revenues. Staff has not recommended fee increases since FY 2020 due to increased economic constraints experienced by tenants and property owners during the peak of the COVID-19 pandemic. Other non-restricted housing funds were used to offset the RRSO and TRAO administration costs; however, it is no longer feasible to use other revenue funds to offset expenses.

Staff proposes increases to both the Covered Rental Unit and Rental Unit fees to account for the following administration expenses, which have substantially increased since the RRSO was adopted:

- Increase staffing capacity: City staff are currently allocating hours to the Rent Stabilization Fund that significantly exceed the planned allocation due to the substantial demand on staff time for implementing the RRSO and TRAO. By increasing staffing from 2.78 FTE to 4.0 FTE, the City will be able to meet the full administrative obligation of the RRSO and TRAO.
- Increase consultant capacity: The City contracts with the non-profit Project Sentinel to manage the rent dispute resolution process, develop implementation resources and tools, and provide outreach and education support to Hayward community members. They have not increased their rates in several years and the City has seen an increase in petitions of nearly 50% from the first year of implementation to the most recent fiscal year. Increasing the contract with Project Sentinel will account for inflation and increased petition volume.
- Increase marketing efforts: Through participation in the national 18-month Eviction Prevention Learning Lab, staff identified several opportunities for improving information accessibility, particularly for Hayward community members who are most challenging to reach by traditional means. By increasing the budget for marketing efforts, the City will better meet the obligation to advise tenants and landlords of their rights and responsibilities under the RRSO and TRAO.

Staff is not requesting an increase to the Mobile Home Space Rent Ordinance fee because the level of services is relatively unchanged. Based on analysis of the above expenses and current budget projections, staff recommends the following increases:

	Proposed Fee Increase		
	MH	RU	CRU
FEE PER UNIT	\$5	\$32	\$66
INCREASE FROM FY 19 FEE	\$0	\$13	\$26
PERCENT TOTAL INCREASE	0%	68%	65%
<i>TOTAL PROJECTED REVENUE</i>	<i>\$1,034,823</i>		

Legend: MH = Mobile Home Unit; RU = Rental Unit; CRU = Covered Rental Unit

BACKGROUND

In July 2019, City Council adopted the Rent Stabilization and Tenant Protection Ordinance (RRSO; Ordinance No. 19-12).¹ Section 12-1.17 of the RRSO establishes that the costs of administering the RRSO shall be reimbursed in full through the imposition of a rent stabilization fee, paid annually with an amount recommended to Council by the City Manager and Housing Division. At the time of adoption, the following fees were established:

¹ June 18, 2019, City Council Meeting Agenda and Materials:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=3985848&GUID=52D1B678-D6BB-401A-AB3C-8990885C0CDD&Options=&Search=>

Description	FY 19-20 Rates
Annual Fee per Covered Rental Unit	\$40
Annual Fee per Rental Unit	\$19

Covered Rental Units are those covered by the rent increase threshold provision of the RRSO. The fee is greater than Rental Units, which are not covered by the rent increase threshold, because additional resources are required to administer the rent review process. Owners of Covered Rental Units may pass through half the cost of the fee to the tenants. Owners of Rental Units are not restricted by the City’s RRSO on increases that may cover the cost of the fee, though they may be subject to a State rent increase threshold. The above fee amounts were calculated in FY 2020 using the following key assumptions:

- Staffing and supplies and services expenses that cannot explicitly be attributed to administration of the Rent Review Program for Covered Rental Units were distributed proportionally by rental unit based on the proportion of Covered Rental Units (43%) and Rental Units (57%) at the time of the calculation.
- Supplies and services directly related to administering the Rent Review Program for Covered Rental Units (such as the costs of specific marketing activities and the contract for the mediation and arbitration consultant, Project Sentinel) were distributed 95% to Covered Rental Units and 5% to Rental Units, as a small proportion of the consultant’s education activities benefit tenants and landlords for both unit types.

In July 2020, City Council adopted the Tenant Relocation Assistance Ordinance (TRAO; Ordinance No. 20-15). The TRAO created requirements for permanent and temporary relocation assistance that apply to almost all units in Hayward. Since adoption, there have been 29 relocation cases and 22 (76%) of them have been due to a Code Enforcement Notice of Violation. Administering this ordinance requires substantial communication with landlords and tenants, as well as collaboration and coordination with Code Enforcement, the Fire Department, and the City Attorney’s Office. Staff have also had to draft and revise Regulations for the Ordinance (per Section 12-2.14) and manage the Emergency Relocation Assistance Fund, funded through the American Rescue Plan Act. The City uses these funds to provide emergency payments to qualifying tenants displaced from their homes due to natural disaster. The funds are also available for instances when landlords do not pay required relocation assistance within the timeline established in the TRAO and TRAO Regulations. The funds allow the City to pay the tenant directly and recover the costs from the landlord. The TRAO does not include imposition of additional administrative fees.

DISCUSSION

The rent stabilization fee has not been increased since adoption of the new RRSO in July 2019 and in recent fiscal years, administrative expenses have exceeded collected revenues. In 2019, fees were calculated based on the best available estimates for the number of Covered Rental Units and Rental Units in Hayward and the costs of administering the RRSO. Since then, City Council adopted the TRAO without an increase in fees to cover administrative

costs. After three years of implementation expenses, there is additional data to better understand the staff and consultant time and resources required to implement both the RRSO and TRAO.

Staff has not recommended fee increases since FY 2020 due to increased economic constraints experienced by tenants and property owners during the peak of the COVID-19 pandemic. During that time, staff identified other funds that could offset RRSO and TRAO administrative costs; however, as expenses rise across all Housing Division funds and other eligible fund balances are depleted, it is no longer feasible to use other revenue funds to offset expenses incurred through administration of the RRSO and TRAO.

Staff's analysis of the current fee and the need to increase it considers the following factors:

- **Increase in staffing requirements:** Currently, the Housing Division has 2.78 FTE working on the administration of the RRSO, as outlined below. Since implementation of the RRSO and the subsequent adoption of the TRAO, each of the partially funded positions spends at least 50% of their time administering these programs.
 - Housing Division Manager: .35 FTE
 - Management Analyst: .23 FTE
 - Senior Secretary: .20 FTE
 - Senior Secretary: 1.0 FTE
 - Community Programs Specialist: 1.0 FTE
- **Increase in consultant expenses:** The City contracts with the non-profit Project Sentinel to manage the mediation and arbitration process for Covered Rental Units submitting petitions for review of rent. Project Sentinel also develops and delivers outreach presentations and creates templates and resources with City staff. Project Sentinel has not increased their rates in several years and the City has seen an increase in petitions of nearly 50% from the first year of implementation to the most recent fiscal year, likely due to a number of factors including improved outreach and inflation pressures.
- **Increase in marketing and outreach expenses:** Through participation in the Eviction Prevention Learning Lab, staff identified several outreach and marketing activities that can improve communication and education with tenants and landlords, with specific focus on reaching those who are the hardest to reach. Investing in these resources can improve accessibility and increase awareness of the RRSO and TRAO for tenants and landlords with the goal of preventing unnecessary evictions and displacement.

Based on current budget projects and analysis, staff recommends increasing the annual fee to account for the above increases in expenses, which will meet the obligation under Section 12-1.17 to reimburse the full cost of administration of the ordinance through the annual fee. Staff does not recommend making any changes to the fee for administering the Mobile Home Space Rent Stabilization Ordinance (MRSO) because the level of service is relatively unchanged. Specifically, the proposed fee increase for the RRSO is based on the following assumptions:

- **Staffing changes:** Adjust the FTE allocations to accurately reflect staff time spent administering the RRSO and TRAO.
 - Housing Division Manager: .50 FTE (increase of .15 FTE)
 - Management Analyst: 1.0 FTE (increase of .77 FTE)
 - Senior Secretary: .50 FTE (increase of .30 FTE)
 - Senior Secretary: 1.0 FTE (no change)
 - Community Programs Specialist: 1.0 FTE (no change)
- **Consultant contract change:** Negotiate new rates with Project Sentinel to adjust for inflation and account for an increased volume of petitions.
- **Marketing and outreach changes:** Increase the supplies and services budget for marketing expenses to improve accessibility and increase awareness of the RRSO and TRAO.

Additionally, as with calculations made for the fee in 2019, the proposed fee increase proportionally distributes expenses that cannot explicitly be attributed to administration of the Rent Review Program based on the most recent proportion of Covered Rental Units and Rental Units. Expenses directly related to administering the Rent Review Program for Covered Rental Units are distributed 95% to Covered Rental Units and 5% to Rental Units. Finally, the proposed rate increases account for the rate of unpaid fees from previous fiscal years.

The following fee increases were calculated based on the above assumptions and scenarios:

	Proposed Fee Increase		
	MH	RU	CRU
FEE PER UNIT	\$5	\$32	\$66
INCREASE FROM FY 19 FEE	\$0	\$13	\$26
PERCENT TOTAL INCREASE	0%	68%	65%
TOTAL PROJECTED REVENUE	\$1,034,823		

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When the fee was adopted in FY 2020, staff conducted benchmarking research using FY 2019 data to compare the administrative fees of comparable jurisdictions with similar programs. Staff revisited this research as part of the fee increase analysis and, on average, fees in the comparable jurisdictions increased about 30%. Attachment II has more detailed information on the benchmarking research.

ECONOMIC IMPACT

There will be an economic impact to landlords and tenants with this fee increase, as the annual fee for both Covered Rental Units and Rental Units will increase. Tenants will likely experience some impact, as under the RRSO, owners of Covered Rental Units may pass

through half the cost of the annual fee to tenants. Owners of Rental Units are not restricted by the City's RRSO on increases that may cover the cost of the fee, though they may be subject to a State rent increase threshold.

FISCAL IMPACT

Revenue generated by the current fee implemented in FY 2020 is not sufficient to cover existing expenses incurred in administering the RRSO and TRAO. Staff anticipates that revenue generated by the proposed fee change included in this staff report will offset the costs of administering the program. There is no anticipated impact to the General Fund.

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

The City engaged in substantial public contact when revising the RRSO in 2019. For additional information on that process, see attachments for the June 18, 2019 Council Meeting.² Staff will provide mailed notification to all property owners of the fee increase once finalized and with sufficient notice before the FY 2024 invoices are mailed.

NEXT STEPS

Staff will integrate HHTF input into a legislative business item for Council in March. The proposed fee increase will take effect for FY 2023-2024. Prior to mailing out FY 2024 invoices, staff will mail a notification of fee increase to all property owners. Staff will include an update on the annual billing process at the September HHTF meeting.

Prepared by: Amy Cole-Bloom, Management Analyst II

Recommended by: Dustin Claussen, Assistant City Manager
Christina Morales, Housing Division Manager

²June 18, 2019, City Council Meeting Agenda and Materials:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=3985848&GUID=52D1B678-D6BB-401A-AB3C-8990885C0CDD&Options=&Search=>

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal flourish extending to the right.

Kelly McAdoo, City Manager