



DATE: June 25, 2019

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Adoption of Emergency Ordinance Establishing a Temporary Moratorium on Rent Increases Exceeding Five Percent of Current Rent on All Pre-1979 Units Except Single Family Homes and Condominiums.

RECOMMENDATION

That the City Council adopts an interim emergency ordinance (Attachment II) establishing a temporary moratorium on certain residential rent increases not to exceed five percent applicable to all pre-1979 units except single family homes and condominiums in the City of Hayward until the new Rent Stabilization Ordinance goes into effect on July 25, 2019.

SUMMARY

On June 18, 2019¹, the City Council approved the introduction of a new Residential Rent Stabilization and Tenant Protection Ordinance (RRSO) to mitigate displacement of Hayward residents. In order to prevent unreasonable and excessive rent increases caused by the approval of the new RRSO, City Council directed staff to return with an emergency ordinance to limit rent increases to 5% on all pre-1979 units except single family homes and condominiums between the date of any adopted emergency moratorium and the date the new RRSO will become effective, which is anticipated to be July 25, 2019.

If approved, during the temporary moratorium, no Landlord shall serve or give a rent increase that, on a cumulative basis over the 12 months preceding the effective date of the emergency ordinance, exceeds a five percent annual increase. The provision would be applicable to all pre-1979 units except single family homes and condominiums consistent with State law. This moratorium shall not apply to any rent increase which, after proper notice to the Tenant, took effect prior to the effective date of this emergency ordinance.

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

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

after adoption, which would be after the anticipated July 25, 2019 effective date of the new RRSO.

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. Per the most recent point-in-time count, the number of people who experience homelessness increased by 43% from 2017 to 2019.² Additionally, renter-occupied units are disproportionately comprised of African-American and Latino households compared to all occupied units, which raises concerns that the risk of potential displacement is greater for certain racial and ethnic populations within the City.

On June 18, 2019, the City Council approved the introduction of a new Residential Rent Stabilization and Tenant Protection Ordinance to mitigate displacement of Hayward residents. In order to prevent unreasonable and excessive rent increases caused by the approval of the new RRSO in the period before it goes into effect, City Council directed staff to return with an emergency ordinance to limit rent increases to 5% on all pre-1979 units except single family homes and condominiums between the date of any adopted emergency moratorium and the date the new RRSO will become effective, which is anticipated to be July 25, 2019.

DISCUSSION

Under the new RRSO, rent increases on all pre-1979 units except single family homes and condominiums above 5% of the tenant's current rent could be subject to mediation or review by an arbitrator. Rent increases above 5% of the tenants' current rent are allowed: 1) to cover the cost of capital improvements (subject to limitations); 2) to increase rents for years that the landlord did not take a rent increase (subject to limitations); and 3) to ensure a landlord's right to a fair return on their investment. After adoption of the new RRSO, a landlord will have to justify a rent increase above 5% of the tenant's current rent. These provisions will apply to all pre-1979 units except single family homes and condominiums consistent with State law.

There is concern that some landlords may impose large rent increases prior to the effective date of the new RRSO, which is anticipated to be July 25, 2019. Since February 2019, when discussions about revisions to the new RRSO began, the Rent Review Office received 43 inquiries regarding rent increases. Rent increases ranged from 8% to 58%. The average rent

²2019 EveryOne Counts! Homeless Point-in-Time Count

<http://everyonehome.org/wp-content/uploads/2019/05/FAQ-2019-EveryOne-Counts-County-Numbers-Release.pdf>

increase was 23%. These large rent increases contribute to displacement of Hayward residents, homelessness, and overcrowding.

The proposed emergency ordinance establishes a temporary moratorium from the date of any adopted emergency moratorium until the effective date of the new RRSO, which is anticipated to be July 25, 2019 . During the temporary moratorium, no Landlord shall serve or give a rent increase that, on a cumulative basis over the 12 months preceding the effective date of this ordinance, exceeds a five percent annual increase. The provision would be applicable to all pre-1979 units except single family homes and condominiums consistent with State law. This moratorium shall not apply to any rent increase which, after proper notice to the Tenant, took effect prior to the effective date of this ordinance.

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, which would be after the anticipated July 25, 2019 effective date of the new RRSO.

FISCAL IMPACT

There is no fiscal impact associated with this agenda item.

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

The potential enactment of this emergency ordinance was discussed at the June 18, 2019 City Council hearing.

NEXT STEPS

If the proposed emergency ordinance is approved, staff will send a notice regarding approval of the emergency ordinance to all rental property owners by July 5, 2019 and notice the approval consistent with the requirements in the Municipal Code.

Prepared by: Christina Morales, Housing Division Manager

Recommended by: Jennifer Ott, Deputy City Manager

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager