

**CITY COUNCIL MEETING
TUESDAY, FEBRUARY 19, 2019**

**DOCUMENTS RECEIVED
AFTER PUBLISHED AGENDA**

ITEM #12 WS-19-012

**UPDATE ON EFFORTS RELATED TO THE CITY'S
RESIDENTIAL RENT STABILIZATION
ORDINANCE AND PROVIDE DIRECTION ON
POTENTIAL AMENDMENTS TO THE
RESIDENTIAL RENT STABILIZATION
ORDINANCE**

GARY DOTSON

Gordon Dotson Properties

531 Berry Avenue, Hayward, CA, 94544

February 14, 2019

City of Hayward
777 "B" Street
Hayward, CA 94541

02/15/19 11:14 CLK

Topic: Rental Housing

Mayor and City Council Members of the City of Hayward:

Gordon Dotson Properties has enjoyed residing, developing and owning single-family rental homes and multi-family residential housing (including apartments), in the City of Hayward since 1950. Through the years, we have gone through many phases of different City requirements, costs, fees, etc., including Rent Control and the additional expenses, paperwork and time in the decontrolling of such units, "though we have always" had a very good record with the City of Hayward for keeping affordable and properly well maintained units. We do not rent anything we ourselves would not want to rent and live in.

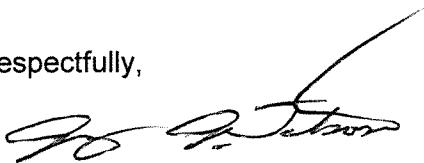
Now it has yet again come to our attention that you, our elected representatives for the City of Hayward, may be considering to re-impose Rent Control, along with other possible restrictions, demands, fees and programs "?" which would result in additional high cost and loss of revenue to the property investors and Owners of the City of Hayward. Once more, this seems to be placing the one-sided Tenant demands over the developers, investors, and property Owners, who pay the property taxes, etc., and of those who desire to present good quality, well-maintained housing for those who wish to live in Hayward. It seems Hayward should look towards properties that are not maintained properly and then the competitive market will control itself. "We can not rent for more than the market will allow".

As a very long time resident and Owner of properties in the City of Hayward, it seems there must be other avenues Hayward could take without penalizing property Owners who take pride in their units and present affordable housing in Hayward. We all know affordable housing is necessary, but Rent Control is not the answer and never has been! Rent Control just seems to encourage many investors/Owners not to maintain properties or decide to sell.

Unfortunately, with the rising expenses that all businesses, including the rental businesses, are experiencing today, with a reinstatement of Rent Control and additional restrictions, fees, etc., that would go into effect, many including ourselves, "after 69 years of providing housing in Hayward" may be forced to re-establish in some other city than Hayward.

The purposed Rent Control, added costs, conditions, fees and etc., imposed in attempting to resolve various housing problems, will only hinder the housing problem. Please consider other methods than what is being presented, thus benefiting both Tenants and the tax paying property Owners of Hayward who do provide affordable and well maintained housing in the City of Hayward.

Respectfully,



Gary Dotson of Gordon Dotson Properties
(510) 537-1276

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BILL MULGREW

From: Bill Mulgrew <>
Sent: Friday, February 15, 2019 4:32 PM
To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>
Cc: Kelly McAdoo <Kelly.McAdoo@hayward-ca.gov>; Jennifer Ott <Jennifer.Ott@hayward-ca.gov>; Christina Morales <Christina.Morales@hayward-ca.gov>
Subject: Thoughts for Housing Work Session

Dear Mayor Halliday and Honorable Council,

Attached are thoughts and input from The Rental Housing Association of Southern Alameda County regarding the issues and ideas Staff has outlined in their report for the housing work session.

We appreciate your consideration and wish you a pleasant and restful President's Day Weekend.

Bill Mulgrew
Vice President of Public Affairs
Rental Housing Association

The Rental Housing Association does not make any representation or warranty any advice as to its legal effect. Our services are not intended to serve as a replacement for professional legal advice. Consult with an attorney when making important decisions that could impact your business or rental properties



February 15, 2019

Mayor Barbara Halliday and Council Members
Hayward City Hall
777 "B" Street
Hayward, CA 94541

Sent via email

Dear Mayor Halliday and Honorable Council,

Regarding the work session Staff Report, we are in full support of the goal to strengthen and enhance communication between all parties. Direct conversation, conciliation and mediation have proven very effective in other cities, and we look forward to working with Staff to apply them in Hayward.

- We support mandatory, non-binding mediation for increases over a threshold of 5% plus CPI. Similar programs are working effectively nearby. The Union City Annual Rent Review Ordinance Report made the point that landlords see the threshold as a cap and stay under it. This is the desired effect.
 - Avg. rent increases over the last 2 years in Fremont and Union City have been 2.1% and 2.5% respectively. Inflation was 2.13% and 2.44%. There is a correlation between lower rents and non-binding mediation.
- Binding arbitration is rent control under the Costa-Hawkins Act. We are concerned that recontrolling units that are decontrolled will cause an exodus of ownership and stifle in-place investment, just exacerbating the issues that are being addressed.
- As the report indicates, the unique economic vulnerability of owners of 1-4 unit properties dictate that they be exempt from both Rent Stabilization and Eviction Protections.
- We support the recommendation to evaluate tenant protections using a Landlord's Code of Ethics and believe the inclusion of Source of Income consideration when coupled with appropriate incentives would be beneficial.
- To help renters enjoy more security, we propose extending notice periods for rent increases and terminations by 30 days beyond CA standards and propose mandatory offering of a 12-month lease at move in and renewal.
- We ask that more consideration be given to solutions within the city's control, like administering a fund to carry a temporarily distressed renter through a tough time (County Funding?).

Don't let Hayward's message to housing providers be "This is a great time to sell." We look forward to continued work together for sustainable and equitable housing policy in Hayward.

Sincerely,

Bill Mulgrew

William R. Mulgrew
Vice President, Public Affairs

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GINNY DEMARTINI

From: Ginny DeMartini <>
Sent: Friday, February 15, 2019 4:11 PM
To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>
Subject: City Council Meeting February 19 - Rent Stabilization Ordinance

Dear Mayor and Councilmembers,

According to HUD reports in 2017, an \$80,000 salary in the Bay Area is considered low-income. Imagine, if you are a family trying to survive on a minimum wage salary, or even double that. That is what many of our Hayward residents are trying to do and not end up on the streets.

I applaud the council's effort to create a rent stabilization ordinance for our city, which is sorely needed, and appreciate the staff report for the February 19 Council meeting to discuss city options. For myself, I support the following:

- Keeping a longer term moratorium on vacancy decontrol until you see what the next housing downturn will bring. In the recession, landlords increased the rents way beyond the usual, as so many people lost homes and all of a sudden became renters. This had a huge effect on families and the city, and that is when Hayward no longer was a reasonable place (pricewise) to live for working class people.
- Having a Just Cause Eviction Provision should be for **all** renters. No eviction should be done without a reason and if there is no wrong doing by a tenant but something unforeseen, it should go on record, as should a bad tenant.
- Like the past recession, landlords should not make huge profits off a downturn that is affecting the city but even in good financial times, a rent increase should be fair. A 3-5% threshold on

annual regular rent increases is reasonable. If they want more, they should have to come to the city and show why with documentation. All multi-unit complexes should be included. All rent increases (beyond the accepted percentage) and evictions should be filed with the city and be on record.

- A tenant and landlord should both have access to a mediation process which must have binding authority to mean anything.
- ECHO Housing should be expanded and revitalized to continue their work of identifying rental discrimination (including Section 8 voucher holders). They should be able to assist a landlord or tenant on their rights in the face of any unfair practices, possibly having some pro-bono lawyers that can consult with people that need it on an appointment basis.
- Lastly, the city should provide or engage with an outside agency to assist in relocating any tenants evicted by a no fault eviction if they are having difficulty finding a place and a landlord should have to give a reasonable time frame to move out.

Thank you.

*Ginny DeMartini
Hayward Area Democratic Club and Hayward Resident*

ITEM #9 CONS 19-064

**APPROVAL OF FINAL MAP TRACT 8319
(GADING I), ASSOCIATED WITH THE
PREVIOUSLY APPROVED VESTING TENTATIVE
TRACT MAP AND DEVELOPMENT OF 20 SINGLE
FAMILY HOMES ON A 1.75-ACRE SITE
LOCATED AT 25906 GADING ROAD; BLUE
MOUNTAIN COMMUNITIES
(APPLICANT/OWNER)**

MEMO



DATE: February 19, 2019

TO: Mayor and City Council

FROM: City Manager

THROUGH: Development Services Director

SUBJECT Approval of Final Map Tract 8319 (Gading I), Associated with the Previously Approved Vesting Tentative Tract Map and Development of 20 Single Family Homes on a 1.75-Acre Site Located at 25906 Gading Road; Blue Mountain Communities (Applicant/Owner)

RECOMMENDATION

That Council accepts the amendment to agenda item #9, CONS 19-064, regarding a typo in the Staff Report. The proposed revision to paragraph 3 of the Background section is as follows:

On July 5, 2016, Council approved the Vesting Tentative Tract Map and other discretionary approvals to subdivide the properties and build 20 detached single-family homes. The Vesting Tentative Map expires on July 5, 2019.

Recommended by: Laura Simpson, Development Services Director

Approved by:

Kelly McAdoo, City Manager

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LACEI AMODEI

From: Lacey Amodei <>
Sent: Tuesday, February 19, 2019 4:57 PM
To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>
Subject: Working Session on Potential Amendments to the RRSO

February 19, 2019

Re: Working Session on Potential Amendments to the RRSO

Dear Mayor Halliday and Council Members Lamnin, Márquez, Mendall, Salinas, Wahab, and Zermeno:

I am a member of the Hayward Collective, a Hayward resident, and tenant. My position as a Hayward Collective Member has already been submitted; however, I have two additional items I would like to submit as part of the record.

1. More Thorough Information Should be Gathered Regarding City of Richmond's Rent Stabilization Program. Particularly to Understand how that Model Facilitates Landlord Tenant Communication.

Because the staff report mentioned Richmond's Rent Stabilization program specifically, I reached out to that office today to gather more information. I was able to speak with the Executive Director who shared with me some information on the services the program provides. I learned that the program has multiple features aimed to both educate and facilitate communication including: housing counselors, optional mediation, a robust educational/outreach component, and courtesy informational letters sent by the office when there may be issues of non-compliance. The Richmond petition hearing process is in fact coupled with the option to mediate which enhances the quality of communications between landlords and tenants. I further learned that in Richmond, because there is a well-staffed housing counseling unit, both tenants and landlords are more capable of asserting their rights and complying with the law. This is a brief summary of what I learned but this would not have been apparent in reading the staff reports conclusory assertion that such a program does not foster communication.

It may be that there are more nuanced reasons for the staff report's rejection, but this is an indication that more information is needed so that the public conversation can be fully informed. The Executive Director further shared with me that he would be happy to speak at a future meeting upon an invitation to discuss Richmond's program.

2. The Hayward Collective Has Conducted Surveys of Hayward Renters: Contrary to Staff Reports Assertion that Removal of Rent Control Incentivizes Investment, Survey Respondents Report Habitability Issues in Units not Under Rent Control.

The Collective has been collecting surveys from Hayward Residents. We look forward to sharing our findings with the community when we reach a significant sample size. We currently have received around 50 responses. I can share with you on an anecdotal level that many respondents report being in non-rent-controlled units and having great difficulty requesting landlords to make basic repairs or to respond to habitability issues. It seems it is not at all clear that removing rent control units results habitable, safe, and clean unit for renters.

I hope the City will do its best to insure this is a meaningful and informed conversation.

Sincerely,

Lacei Amodei

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ALICIA LAWRENCE

From: "Alicia Lawrence" <>

To: "List-Mayor-Council" <List-Mayor-Council@hayward-ca.gov>

Cc: "The Hayward Collective" <>

Subject: THC Response to City of Hayward Staff Report for February 19th

Dear Mayor Halliday and Council,

The Hayward Collective (THC) submits the attached letter for your consideration and review prior to Tuesday evening's council meeting.

Thank you.

Sincerely,
Alicia G. Lawrence

--

Alicia G. Lawrence
The Hayward Collective, Housing Committee



February 18, 2019

RE: Update on Efforts Related to the City's Residential Rent Stabilization Ordinance and Provide Direction on Potential Amendments to the Residential Rent Stabilization Ordinance

Dear Mayor Halliday and City Council Members,

Following our January 28th meeting with Deputy City Manager Jennifer Ott and Housing Manager Christina Morales, we received a revised proposal of what was under consideration. We were affirming in our response, but also firm in our expectations that the most units that we can legally cover on any given point be covered.

Now that we have reviewed the Staff Report, we are dismayed by the following:

- Staff is making only one recommendation.
- There is mischaracterization of our support for Arbitration. We support Binding Arbitration AND a stronger Rent Control program. It is not an "either/or" proposition for us, but rather a "yes/and."
- There is gross mischaracterization of the Berkeley, Oakland, and Richmond rent control programs. The idea that those rent control programs don't "improve communication" completely misses the fact that any time a tenant feels empowered by a process that centers them, communication will be improved because tenants will more readily come to the table. We fundamentally disagree with rejection of those programs as models to consider. The City of Hayward does not have a strong rent control program. Those cities do. And while it is important to consider the cost of implementing a stronger program, we need to bring some perspective to this and understand that everything is going to be more expensive than Hayward's current program which apparently costs less than 25 cents per unit per month.
- The characterization that there are three interest groups deserving equal consideration (Landlords, Realtors, and Tenants) fails to account for the current and historic power imbalances that have kept Communities of Color out of homeownership by Realtors, conscious and unconscious racism practiced by Landlords, and unlimited power ascribed to landlord groups by poorly crafted and frequently non-existent policies.
- That staff considers what amounts to landlords not wanting to do paperwork ("unintended lack of compliance") as reason enough to not recommend a policy, but yet would also like to "incentivize compliance" for another policy recommendation. Compliance is compliance. There is no reasonable basis for CHOOSING to incentive compliance for one policy and then CHOOSING to not recommend another policy for fear of compliance.
- That actual legislative action won't be realized until late 2019.

In addition to our point-by-point recommendations (as detailed on page 3 of this document), we would also like to emphasize the need for an **Emergency Extension of the Rent Control Provisions** to all units legally permissible. Staff has repeatedly said they don't recommend such an action because there is no pending legislation. All these conversations are pending legislation. You need to prevent further displacement while these issues continue to be discussed. And since we have been making this request for a year now, staff has



had more than sufficient time to conclude what “legally permissible” includes, so that point should be no hindrance whatsoever.

Our expectation is the City Council and Staff realize that Landlords and Realtors have long been given too much consideration on these matters; consideration that continues to be detrimental to tenants and the stability for our community. Your search for a “middle ground” will only continue to harm tenants and displace community members.

Sincerely,
The Hayward Collective

*For your consideration, you will also find the following attached to this letter:
Attachment I - Our original February 5, 2018 proposal
Attachment II - Our follow-up July 24, 2018 proposal*



Point-by-Point Recommendations

Binding Arbitration (page 4)

- We support Binding Arbitration AND a stronger Rent Control program that includes the formation of a Rent Board (with a composition akin to Richmond's Rent Board).
- There is a constitutional right to fair return and the current ordinance already has provisions allowing for >5%; so we need clarification and a public conversation on why there needs to be further discussion on protecting "a landlord's right to a fair return."

Rent Threshold (page 6)

- We support a rent threshold tied to the Consumer Price Index (typically in the 1-3% range) that means tenants in units covered by the amended ordinance will have a clear and predictable annual rent increase cap.
- Year over year increases that permit the outpacing of CPI will only lead to families experiencing financial distress down the line.

Applicable Rental Units (page 6)

- We support "No Exemption of 2-4 Unit Complexes."
- Oakland has recently passed an emergency moratorium on rent increases to owner-occupied duplexes and triplexes, and we know we eventually see the compression of what our neighbors to the north experience. Why would we allow ourselves to get behind on this point when we can get ahead of it now?

Vacancy Decontrol Process (page 7)

- We support "Remove Decontrol Process" in order to prevent further deregulation.

Eviction for Cause (page 7)

- We support "Expand Eviction for Cause", and within that option we support "to all rental units in the City, including single-family homes."

Other Tenant Protections (page 8)

- We support a prohibition from discriminating against households with Section 8 vouchers
- We support the staff recommendation that you consider "a relocation assistance provision in an amended RRSO for no-fault evictions similar to surrounding jurisdictions at three times fair market rent and reviewing and considering additional tenant protections against retaliatory evictions."
- We feel a landlord code of conduct is redundant to a strong ordinance with fines and clearly stated consequences for violations.

Address Clarity and Transparency/Language Clean Up in the RRSO (page 9)

- We support a requirement for filing eviction notices for ALL units with the City
- We support a requirement for filing rent increases for ALL units with the City

February 5, 2018

Re: Issues Facing Hayward Tenants

Dear Mayor Halliday and Council Members Lamnin, Zermeño, Peixoto, Mendall, Marquez, and Salinas:

We, as members of the Hayward and East Bay communities, are writing to you in advance of the February 6, 2018 City Council meeting to voice our concerns about the current housing crisis and provide suggestions. We view safe, affordable housing as a basic human right. It is clear that the current displacement crisis in the Bay Area is negatively impacting Hayward tenants, who in our view are extremely vulnerable to displacement under current Hayward law.

The current Council has been made aware, starting in November 2016, of numerous stories of tenants who are being priced out of Hayward and facing displacement due to no fault of their own. In many cases these tenants also face serious intimidation and harassment from landlords who are pressuring them to leave in the interest of making a higher profit. Moreover, according to state and U.S. Bureau Statistics and as noted in a recent *East Bay Times* article, almost half of housing in Hayward consists of rental units, and at least 57.3 percent of Hayward renters spend over 30 percent of their income on housing.

The current situation is unsustainable. We urge you to act now to prevent this crisis from worsening. We believe our suggestions, set forth below, will enable you to protect Hayward tenants in a manner that is fair to landlords, while continuing to engage in further community dialogue while you consider longer-term solutions:

- 1. Remove “Vacancy Decontrol” (Section 8) from Hayward’s Residential Rent Stabilization Ordinance (pgs. 16-20)**
 - a. The “vacancy decontrol” provision in current law allows landlords to remove units from rent control protections. City staff has stated in public meetings that the original number of rent-controlled units in the City of Hayward was 20,000. Additionally, according to a presentation by city staff at a community meeting on January 10, 2018, there are currently only approximately 1,000 rent-controlled units. Thus, this provision has caused the number of rent-controlled units in Hayward to dwindle from 20,000 to approximately 1,000. This leaves tenants vulnerable to massive rent increases they cannot possibly pay. It unfairly strips low- and middle-income tenants of their rights and places them in an extremely precarious situation.
 - b. This provision serves no purpose other than to undermine rent control and affordable housing.

2. **Enact an emergency moratorium on rent increases on units whose rents can be regulated under state law and on no cause evictions, either for a period of 12 months or until the next election in November 2018**
 - a. Massive rent increases in Hayward are leaving tenants vulnerable to eviction and displacement from the Bay Area.
 - b. We have heard stories from and about numerous tenants who have received notices of termination of tenancy providing no reasons for evicting them. In many situations, such tenants feel terrified and intimidated, and end up leaving. Such tenants are vulnerable to homelessness and/or displacement from the Bay Area.

3. **As an alternative to a moratorium on no cause evictions, amend the “Eviction for Cause” (Section 19, at page 27) of the Residential Rent Stabilization Ordinance as follows:**
 - a. (a) **Cause for Eviction.** “No landlord shall be entitled to **evict a tenant** ~~recover possession of a rental unit covered by the terms of this ordinance~~ unless the landlord shows the existence of one of the following grounds.”
 - i. We propose this amendment as a simple method of ensuring that Hayward tenants are not vulnerable to being evicted for no reason whatsoever; good tenants who respect their neighbors, pay rent, and contribute to the community should be protected from displacement.

Thank you for reading this letter and considering our suggestions. We are extremely concerned about the effect of the housing crisis on our community. We urge you to act now to protect Hayward’s most vulnerable residents and to help preserve our vibrant community.

Sincerely,

Diego Aldana, Hayward community member and member of the Hayward Collective
Angela Andrews, Keep Hayward Clean and Green Chair
Crystal Araujo, J.D., former Vice Chair of City of Hayward’s Community Services Commission
Hilaria Barajas, Hayward community member, member of the Hayward Collective
Ray Bonilla Jr., City of Hayward Planning Commissioner
Sheila Burks, Hayward resident and Anti-Discrimination Task Force Member
Monzella Curtis, Hayward community member and member of the Hayward Collective
César Delgadillo, Hayward resident and member of The Hayward Collective
Ginny DeMartini, Hayward resident and AD20 Vice Chair, Alameda County Democratic Party
Heather Enders, former City of Hayward Planning Commissioner
Marcus Harris, Hayward resident and member of The Hayward Collective
Antonio Isais, Chair of City of Hayward’s Community Services Commission
Alicia G. Lawrence, Hayward resident and member of the The Hayward Collective
Bishop J.W. Macklin, Glad Tidings Church, Hayward
Rosaura Figueroa Mendoza, Hayward resident, member of The Hayward Collective, Anti-Discrimination Task Force member

ATTACHMENT I

The Rev. Dr. Arlene K. Nehring, Senior Minister, Eden United Church of Christ, Hayward

Karen Norell, Hayward resident

Aaron Ortiz, Chief Executive Officer of La Familia Counseling Service

Ramon Rios-Parada, Hayward resident and member of The Hayward Collective

Tim Romano-Pugh, Hayward resident, Keep Hayward Clean and Green Task force member

Denize Sanchez, Hayward resident and member of The Hayward Collective

Annette Sanders-Montgomery, Hayward resident

Ysenia Sepulveda, Hayward resident and member of The Hayward Collective

Veronica Solorio, Hayward resident and Anti-Discrimination Task Force member

Maricris Vlassidis, Hayward resident

John Wichman, Community Member of Hayward

Vander Williams, Hayward resident and member of The Hayward Collective

Sarah M. Winfield, Hayward resident and Centro Legal de la Raza Staff Attorney (Tenants' Rights Program)

Alliance of Californians for Community Empowerment (ACCE) Action

Centro Legal de la Raza

East Bay Housing Organizations

The Hayward Collective

Urban Habitat



**CENTRO LEGAL
DE LA RAZA**





ATTACHMENT II

July 24, 2018

Dear Mayor Halliday and City Council Members,

We thank you for the unanimous vote on May 29th to enact the emergency 18 months moratorium on the vacancy decontrol process, and the emergency ordinance to clarify the applicability of the Just Cause provisions of the Rental Stabilization Ordinance (RSO). Both votes are a step in the right direction.

That being said, there is more that can be done to protect tenants in Hayward.

We continue to request that the City of Hayward move to recontrol the decontrolled units and make the moratorium on decontrol permanent. The ordinance was crafted for the landlord community; not the tenants. It was crafted to be obsolete. In fact, at the May 29th meeting Tom Silva even volunteered the fact that he was part of the crafting of this ordinance. We understand this conversation around recontrol may be lengthy, so in the interim, while you consider concrete policy changes such as recontrol and permanent removal of the "decontrol" provision - we request a moratorium on rent increases for all decontrolled units. We propose the moratorium mirror the stipulations of the current Rental Stabilization Ordinance, which means landlords will still be able to raise their rents 5%; however we ask that any unit that has experienced an increase over 5% in the previous 12-months not be permitted to raise their rent during the moratorium.

Rent control works. We know it works otherwise landlords would have pulled out en masse from Berkeley and Santa Monica - two cities with the most robust, tenant-friendly rent control ordinances. It is also important to note that both cities (whose ordinances preceded Costa Hawkins) exempted new construction. So developers' concerns around rent control are moot.

Further, one-third of our tenant community is without Just Cause protections. As mentioned by Veronica Solorio during the May 29th meeting, Hayward's Just Cause provisions are more favorable towards landlords than the provisions in neighboring cities. Those exhaustive provisions were good enough in 1979, and they are plenty favorable to landlords now.

In the vein of rent control and just cause for eviction being effective tools for stabilizing and building tenant-friendly communities; we ask that you redefine 'rental unit' in the ordinance to include all housing, except for any exemptions required by state law. This would expand the rent increase and just cause for eviction provisions to more units in

Mission

The Hayward Collective is a womxn, people of color, LGBTIQ+-led organization. We aim to build a community of accountability, equity, health and social justice through fluid stacktivism, art, advocacy, and self-care.



ATTACHMENT II

Hayward and create even greater stability for tenants who have made Hayward their home. Our specific suggestion is the following:

(l) **"Rental Unit"** Any residential dwelling unit, other than a mobilehome unit, and all housing services provided with such unit that is located in the City of Hayward and used or occupied by the payment of rent ~~, provided that such residential dwelling unit is one of at least five (5) residential dwelling units, whether located on the same or different parcels of land within the City, which are under common ownership . . .~~¹

(3) Dwelling units located in a structure for which a certificate of occupancy is first issued after July 1, 1979. ~~This applies only to rent increases under Section 3 of this Ordinance. This does not apply to Eviction for Cause under Section 19 of this Ordinance.~~

In summary, we propose 4 items:

- 1. Moratorium on rent increases with provisions that mirror existing RSO**
- 2. Redefine "rental unit" for the purposes of**
 - a. Expanding Just Cause to all tenants in Hayward**
 - b. Expanding rent control to cover as many units as possible**
- 3. Recontrol the decontrolled units**
- 4. Remove Section 8 ("decontrol") from the Ordinance altogether**

We look forward to working with you to make Hayward a tenant-friendly community.

Sincerely,
The Hayward Collective

¹ Please note this change will not violate Costa Hawkins because the rent increase section itself contains an exemption for single family homes and condos.

Mission

The Hayward Collective is a womxn, people of color, LGBTIQ+-led organization. We aim to build a community of accountability, equity, health and social justice through fluid stackivism, art, advocacy, and self-care.

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CAROL HARTMAN

Roxanne Epstein

From: Miriam Lens
Sent: Tuesday, February 19, 2019 6:50 AM
To: Roxanne Epstein; Michael Wolny; Amber Billoups
Cc: Denise Chan
Subject: Fwd: Rent Control

Good morning,
Please add to LF and the website and print for the binder and my folder.
Thank you
Miriam

Sent from my iPhone

Begin forwarded message:

From: CAROL HARTMAN <chartman1346@sbcglobal.net>
Date: February 15, 2019 at 7:15:02 PM PST
To: list-mayor-council@hayward-ca.gov
Subject: Rent Control

I can't attend Tuesday night meeting, but wanted to put in my two cents. I have worked long and hard all my life and the rent I receive now is my retirement. I have always maintained my property to receive the best rent possible. How would you feel if you were in my situation and possibly have a tenant control you-if you evict for just cause and go to court, than have to also pay for their attorney fees! You are taking my rights away from me!
Carol Hartman

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ZACHARIAH OQUENDA

From: Zachariah Oquenda <>
Date: February 15, 2019 at 7:28:09 PM PST
To: Hayward City Council Email <List-Mayor-Council@hayward-ca.gov>
Subject: Public Comment re: Feb. 19th Council Meeting - RRSO and tenant protections

Dear Mayor and City Council,

I hope this email finds you well. Attached to this email is a very brief, friendly letter I'd like to submit as public comment related to the Work Session item on the RRSO and tenant protections. Have a great weekend.

Thanks for your consideration and your service to the community.

Best wishes,

Zachariah

Zachariah Oquenda
Pronouns: he/him/his
J.D. / Master of Public Policy (MPP)

Candidate
University of California, Berkeley,
School of Law / Goldman School of Public
Policy

"When we give cheerfully and accept gratefully, everyone is blessed."
— Maya Angelou

PUBLIC COMMENT

DATE: February 19, 2018

TO: Mayor and City Council

FROM: Zachariah Oquenda (Community Services Commissioner)

SUBJECT: WS 19-012: Council efforts related to Hayward's RRSO and other tenant protections

Dear Mayor and City Council:

In the upcoming February 19th meeting, Council will provide direction on what to do with the Residential Rent Stabilization Ordinance. In addition to direction on the RRSO, staff also asked Council to provide direction on additional options for protecting tenants. Below are a few additional policies City Council might be interested in considering.

Online Rental Registry Database:

One policy that Council might consider directing staff to research is an Online Rental Registry Database. A rental registry could aid in strengthening the long-term position of the City Council to address the affordable housing crisis by consolidating data on Hayward rental units, which improves monitoring for compliance and enforcement of current laws. Such a database could serve as a complaint tool as well as a way to more easily track problem landlords and tenants.

Tenant Protection Ordinance:

Another policy Council might consider directing staff to investigate is a Tenant Protection Ordinance (TPO), a short example of which is attached to this letter. At prior meetings on the RRSO and affordable housing policy, the Council expressed support for tailored proposals that could punish uniquely "Bad-Actor Landlords" and deter them from taking advantage of Hayward residents. Tenant protection ordinances are a great option for addressing the symptoms of the affordable housing crisis while avoiding any market distorting effects—unlike rent control. TPOs generally serve as an empowerment tool and require few resources from the city. Through creating an express prohibition on clearly defined “harassing” behavior, TPOs call out bad behavior and give private legal recourse for tenants to pursue. That is, tenants with the assistance of privately obtained legal counsel (often free legal aid) are empowered through city law to seek damages for prohibited harassing behavior. This has the practical benefit of preventing displacement while upholding the broader values to which the City aspires.

Thank you for your consideration and your service to the City of Hayward.

Sincerely,

Zachariah Oquenda
Hayward Community Services Commissioner

ATTACHMENT

Tenant Protection Ordinance

Hold bad actor landlords accountable and punish retaliatory/predatory behavior.

The Tenant Protection Ordinance¹ (“TPO”) provides tenants legal recourse if they are harassed by their property owner. The TPO is meant to deter harassment by property owners. The TPO provides civil remedies for violations (below).

Prohibited Behavior. The TPO defines harassment as the owner doing one of the following in bad faith:

1. Threaten to or interrupt, terminate, or fail to provide housing services.
2. Fail to perform repairs and maintenance.
3. Failing to perform due diligence when completing repairs. For example, not minimizing exposure to noise, dust, lead paint, mold, asbestos, or other building materials with potentially harmful health impacts.
4. Abuse the Owner’s right of access to the rental unit.
5. Remove personal property, furnishings, or any other items without the prior written consent of the tenant.
6. Intimidate or threaten to report the tenant to U.S. Immigration and Customs Enforcement (ICE).
7. Offer payments to a Tenant to vacate more than once in six (6) months.
8. Attempt to coerce a Tenant to vacate with offer(s) of payments to vacate in addition to threats or intimidation.
9. Threaten the tenant, by word or gesture, with physical harm.
10. Substantially and directly interfere with a Tenant’s right to quiet use and enjoyment of the rental unit.
11. Refuse to accept or acknowledge receipt of a Tenant’s lawful rent payment.
12. Refuse to cash a rent check for over thirty (30) days unless a written receipt for payment has been provided to the Tenant.
13. Interfere with a Tenant’s right to privacy.
14. Request information that violates a Tenant’s right to privacy.
15. Commit repeated acts to substantially interfere with or disturb the comfort, repose, peace or quiet of any tenant.
16. Remove a housing service for the purpose of causing the Tenant to vacate the rental unit.

Notice of Tenant’s Rights. The TPO requires owners to post a notice of the TPO in rental units located in a building with an interior common area.

Tenant Gives Notice to Landlord. Before a Tenant may file a violation of the TPO, the Tenant must first notify the Owner of the problem. The tenant must allow fifteen (15) days for the owner to correct the problem. The owner can notify the tenant that the repairs will take more than fifteen (15) days. In this case, the owner must provide a reasonable time period for completion. If

¹ This attachment is a summary of Oakland’s Tenant Protection Ordinance.

the repair takes more than fifteen (15) days, the tenant may file if the owner does not take steps to start addressing the problem. The tenant may also file if the owner does not follow through to complete the repairs with reasonable diligence.

Tenant Remedies. Tenant Remedies shall be as follows:

1. Injunctive relief, damages, or both enforced by private right of action of aggrieved Tenant or fair representative in class action (also make enforceable by the City Attorney in outrageous cases)
2. As much as treble damages or punitive damages (for a deterrence effect)
3. Attorney's Fees. Tenants get if they win. Landlords get only upon a showing that Tenant brought complaint devoid of merit and with bad faith. City Attorney (if acting to prosecute Landlord) recover all costs of investigation and fees.

ITEM #12 WS-19-012

**UPDATE ON EFFORTS RELATED TO THE CITY'S
RESIDENTIAL RENT STABILIZATION
ORDINANCE AND PROVIDE DIRECTION ON
POTENTIAL AMENDMENTS TO THE
RESIDENTIAL RENT STABILIZATION
ORDINANCE**

REBECA MENDOZA



From: Rebeca Mendoza <>

Sent: Thursday, February 14, 2019 8:11 PM

To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>

Subject: I am opposed to possible changes of City ordinances affecting rental property.

City Council Members:

I have just learned that the City is considering making changes to ordinances affecting rental properties in Hayward. I am unable to attend the Council meeting on February 19, but want to voice my concerns.

As I understand the changes proposed, I believe that they are unreasonable and onerous to rental property owners, such that I would think about selling my properties, which would result in three single family homes coming off the rental market.

More specifically, the proposed changes, such as binding arbitration on previously decontrolled units, increased fees, pay for possibly months for tenant relocation fees, and paying for free legal representation of tenants, to name a few, are just not good long-term actions. As noted above, it will discourage ownership of rental properties.

Instead, the Council should encourage owners to improve and invest in properties so more are available. In addition, policies or ordinances that are overly tilted to tenants and costly in time, money and headaches for property owners will have the opposite effect in the long term by reducing rental properties available, and making those available more costly as a greater return will be sought for the problems caused by such possible changes.

Thank you for reading and considering my concerns.

Sincerely, Rebeca Mendoza

ITEM #12 WS-19-012

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LENETT ALBARRAN

From: Lennett Albarran <>
Sent: Tuesday, February 19, 2019 11:39 AM
To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>
Subject: Writing AGAINST Hayward's Rent Stabilization Ordinance

To the Mayor and City Council Member for the City of Hayward,

I am a landlord of a single rental residence in Hayward. I have had this rental since 2004. I am writing to protest the changes to Hayward's Rent Stabilization Ordinance.

As a landlord of one rental unit it is important to me to keep my property to the highest standards. I don't just want this for market value but to provide a clean, updated, well maintained home for my tenants. This type of maintenance is not cheap. Since obtaining this property in 2004 I have invested nearly \$100,000 in improving this 70-year-old property. These improvements not only increased the appearance but also made the home more efficient and safer for tenants.

As a landlord that respects the tenant, I make every effort to consider the tenant before any rent increase. If I have a tenant that adds to the neighborhood by keeping the property clean, debris free and without disturbance to my valued neighbors I respect that effort in the rent. As a single-family home owner, I have the option to NOT raise the rent if a tenant is a good tenant. If the City of Hayward implements Hayward's Rent Stabilization Ordinance, I will no longer have the option to NOT raise the rent due to added fees, lack of ability to raise rent to market value upon rental vacancy and overall projected costs from the city.

My annual costs for owning this property increases annually between taxes, insurance and maintenance. Annually my fixed expenses are \$10,000. (Property taxes, property and renter's insurance, and City of Hayward rental inspection fee) This does not include the initial cost of the property. If additional costs for owning and renting this property continues, I will no longer provide a rental property that is desperately needed in this community.

I ask the City of Hayward to reject Hayward's Rent Stabilization Ordinance they are considering. If they must place controls place them on large corporate property owners. Let us small, one to two

property owners alone. We provide this community with much needed housing and with additional costs and controls it will make it financially unfeasible to be a landlord in the City of Hayward.

Thank you in advance for your consideration of my point of view,

Lennett Albarran

ITEM #12 WS-19-012

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ALBERT PROIETTI

Begin forwarded message:

From: ALBERT PROIETTI <>
Date: February 19, 2019 at 1:31:48 PM PST
To:
Subject: Tonight/hayward city council

To whom it may concern:

Hayward rental housing regs are becoming prohibited. I urge you to keep eviction process as is, so it doesn't apply to 1-4 units.

Al Proietti

ITEM #12 WS-19-012

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MEMO FROM CITY MANAGER



DATE: February 19, 2019

TO: Mayor and City Council

FROM: City Manager

THROUGH: Deputy City Manager

SUBJECT Update on Efforts Related to the City’s Residential Rent Stabilization Ordinance and Provide Direction on Potential Amendments to the Residential Rent Stabilization Ordinance

RECOMMENDATION

That Council accepts the amendment to agenda item WS 19-012, regarding an update on efforts related to the City’s Residential Rent Stabilization Ordinance. The staff report provided for the work session cites statistics from the City of Fremont mid-year report on their Rent Review Program (non-binding mediation program). Subsequently, the City of Fremont completed their annual report. Table 1 cites updated statistics in annual report.

Table 1: City of Fremont Rent Review Report Statistical Changes

	Annual Report
Average pre-rent review increase	11.5%
Average post-rent review increase	8.7%
Reduction in average rent increase	2.8%
Satisfaction with the program	65%

The report does not distinguish between tenant satisfaction and landlord’s satisfaction with the program. 20 out of 86 parties responded. However, 14 out of 20 respondents were tenants and 7 respondents were either indifferent or dissatisfied. Other findings pertinent to Hayward’s discussion of residential rent stabilization include:

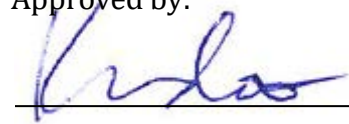
- 23% of tenants withdrew their application for rent review out of fear of retaliation;
- One of the top responses on how to improve the process was to make the mediation binding;
- 71% of landlords stated that the reason for a rent increase above 5% was to bring the unit up to market rent. (Tenants noted that this reason did not provide enough detail to explain the reason for the rent increase);

- Landlord representatives had limited authority which slowed negotiations and discouraged the tenants from continuing the process.

The new report from the City of Fremont provides additional insight regarding the effectiveness of a mandatory mediation program without binding arbitration. However, staff's assessment is unchanged. There is uncertain evidence to indicate whether non-binding mediation helps tenants attain a sustainable rent or discourages landlords from imposing excessive rent increases. The full report can be found [here](#).

Recommended by: Jennifer Ott, Deputy City Manager

Approved by:



Kelly McAdoo, City Manager

ITEM #12 WS-19-012

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EMAIL FROM GAY OSTARELLO

-----Original Message-----

From: Gay Ostarello <>

Sent: Tuesday, February 19, 2019 3:47 PM

To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>

Subject: Rentals in Hayward

Mayor and Council members

I've been a renter in Hayward as well as a landlord managing my own rental property at one time or another. I urge you to be careful what you wish for.

The proposed regulations under discussion will not provide more nor affordable rental units. In fact, I believe they will reduce the available rentals. Owners of single houses or duplexes or triplexes invest a substantial amount of money to buy the property. For a number of years, there may even be a negative cash flow. Upkeep is expensive, and one tenant with a sledgehammer can do enough damage to set the owner back many thousands of dollars. The regulations under discussion only make it more difficult to be a landlord. If I still wanted to invest in rental properties, these regs would certainly dissuade me. I'd look for a more owner friendly a city.

Sincerely

Gay Ostarello

Sent from my iPhone

ITEM #12 WS-19-012

**UPDATE ON EFFORTS RELATED TO THE CITY'S
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EMAIL FROM SARAH WINFIELD

From: Sarah M. Winfield <>
Sent: Tuesday, February 19, 2019 3:30 PM
To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>
Subject: Letter to Council

Good afternoon,

Attached please find a letter from Centro Legal de la Raza regarding tonight's working session on potential amendments to the RRSO.

Best,



Sarah M. Winfield | *Staff Attorney, Tenants' Rights Program*
Centro Legal de la Raza | 3022 International Blvd, Suite 410, Oakland, CA 94601
Office: (510) 437-1554 | Direct: (510) 274-2408 | Fax: (510) 437-9164



Attachments area



Centro Legal de la Raza

*Working for Justice
Strengthening Community
Since 1969*

February 19, 2019

RE: Working Session on Potential Amendments to the RRSO and Response to Staff Report

Dear Mayor Halliday and Council Members Lamnin, Márquez, Mendall, Salinas, Wahab, and Zermeño:

I write on behalf of Centro Legal de la Raza (“Centro Legal”) to respond to the recommendations city staff presented for tonight’s working session on potential amendments to the Residential Rent Stabilization Ordinance.

Hayward residents first came to council regarding the housing crisis in November 2016, over two years ago. Since then, as you know, the housing crisis and displacement have rapidly worsened. While implementing some proposed changes may prove time-consuming, there are three concrete actions staff have suggested that council can and should take quickly: expanding the number of units covered by the RRSO’s mediation and binding arbitration provisions regarding rent increases, expanding just cause for eviction to all residential rental units in Hayward, and removing the vacancy decontrol process from the ordinance entirely. With that said, I will set forth below responses to the proposals in the staff report.

I. Strengthen and Enhance Communication via a Mediation and Binding Arbitration Process

Centro Legal’s understanding is that staff proposes to extend the current rent protections and related mediation and binding arbitration processes to all units built before 1979, except for single-family homes and owner-occupied duplexes, triplexes, and quadraplexes.

Centro Legal cannot support a mediation program. While improved communication is an honorable value, it has not been a relevant factor in creating housing stability. Additionally, even a 5% annual rent increase, which the current RRSO contemplates, would be unsustainable for most households. Therefore, council should consider using the consumer price index rather than the flat 5% rate. Landlords have a constitutional right to a fair return -- that is, to a profit -- and therefore have the right to petition for greater rent increases as necessary. Thus, implementation of rent protections based on the consumer price index would not harm landlords.

Additionally, even small landlords who live in duplexes, triplexes, and quadraplexes are business people and must conduct themselves accordingly. Council should reject the proposed exemption of owner-occupied duplexes, triplexes, and quadraplexes. This type

of exemption is ripe for abuse. The City of Oakland, for example, just placed a moratorium on a similar type of loophole (for owner-occupied duplexes and triplexes) because of this problem.

In sum, Centro Legal supports expanding existing rent control protections to as many units as legally possible and changing the 5% threshold to consumer price index. Centro Legal does not support a mediation program.

II. Vacancy Decontrol Process

Of the three options staff presented, Centro Legal supports removing the deregulation process from the RRSO entirely. This provision has caused Hayward to hemorrhage units with rent protections. Similar provisions in other jurisdictions have also proved ripe for abuse and are on their way out. Oakland city council, for example, unanimously voted to place a moratorium on a similar loophole called substantial rehabilitation, then later unanimously directed staff to draft language to remove it permanently.

III. Eviction for Cause

Of the options staff presented, Centro Legal supports expanding just cause for eviction to all rental units in Hayward. This basic provision is necessary to protect vulnerable populations from arbitrary evictions. Without it, tenants can be evicted for no reason whatsoever, and landlords will be incentivized to arbitrarily evict those tenants who have rent protections to circumvent the law. Moreover, while retaliatory eviction is illegal under state law, it is almost impossible to enforce that protection when defending a tenant without just cause for eviction in an unlawful detainer action. As the staff report notes, fear of retaliation for requesting repairs was a common theme in the tenant focus groups the city held.

In deciding how to move forward on this issue, council should consider that the eviction process is already stacked against tenants. For example, a tenant can be locked out by the sheriff in a matter of days if she does not answer an unlawful detainer complaint within five days of receiving it. Additionally, unlawful detainers are summary proceedings, meaning they typically go to trial within one to two months.

IV. Other Tenant Protections

Centro Legal strongly supports a prohibition on discrimination against Section 8 voucher holders and suggests that any such provision include consequences/penalties for such discrimination. Centro Legal also supports relocation assistance for tenants facing no-fault evictions. While Centro Legal is not in theory opposed to a landlord code of conduct, it is important to note that the focus should be on developing a strong rent control and just cause for eviction ordinance, which is the most effective code of conduct possible.

V. **Address Clarity and Transparency/Language Clean Up in the RRSO**

Centro Legal agrees that resolving ambiguous or unclear language in the RRSO would be helpful and looks forward to learning more about which specific provisions staff has in mind. Centro Legal supports requiring landlords to file eviction and rent increase notices with the city. The more data the city has when addressing the housing crisis, the better.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah McCracken". The signature is fluid and cursive, with a large initial "S" and a long, sweeping tail.

Sarah McCracken
Staff Attorney, Tenants' Rights Program

AGENDA QUESTIONS & ANSWERS

Items 12 and 13

AGENDA QUESTIONS & ANSWERS

MEETING DATE: February 19, 2019

Item # 12: [WS-19-012](#) Update on Efforts Related to the City’s Residential Rent Stabilization Ordinance and Provide Direction on Potential Amendments to the Residential Rent Stabilization Ordinance (Report from City Manager McAdoo)

For the Rental Housing item, has there been any exploration of a “no-net loss” policy approach for the city? (Ex: page 39 or <http://www.21elements.com/documents-mainmenu-3/displacement/890-draft-displacement-report-4-20-17/file>)

The City has not set “no net loss” targets but some existing policies are consistent with facilitating development and preserving affordable units. The City’s affordable housing ordinance provides dedicated funding for affordable housing preservation and construction. Rent stabilization and Eviction for Cause is currently under discussion. Additionally, the City has supported the preservation of affordable housing by facilitating the refinance and recapitalization of affordable housing projects within the City’s affordable housing portfolio. New requirements under state law will require that Cities apply no net loss policies to sites listed in the housing element. Lastly, staff is preparing a report on reducing barriers to development that will provide further information on using public land for mix-income housing. Implementation of any strategy typically requires an accurate inventory of affordable units and/or of homes occupied by low-income households and identification of what types of units are at risk of loss.

Item # 13: [PH 19-010](#) Public TEFRA Hearing as Required by the Internal Revenue Code of 1986, and Adoption of a Resolution Approving the Issuance by California Public Finance Authority of Multifamily Housing Revenue Bonds to Finance the Acquisition, Rehabilitation of Leisure Terrace Apartments (Report from Deputy City Manager Ott)

For the Tefra/Leisure Terrace Item, was there an opportunity or mechanism for the current residents to buy the complex?

The purchase of Leisure Terrace was a private transaction and the City was not involved in the transaction. The 68-unit building was sold together with other properties owned by the previous owner. It is presumed that the tenants were not given the option to purchase.