

A night-time photograph of Hayward City Hall, a large, modern building with a prominent glass entrance and a central fountain. The building is illuminated, and the surrounding area is lit with streetlights. The text is overlaid on the top half of the image.

Homelessness-Housing Task Force Recommended Amendments to the Residential Rent Stabilization Ordinance (RRSO)

Christina Morales, Housing Division Manager | Thursday, April 18, 2019

Presentation Focus

- Seek Homelessness-Housing Task Force (HHTF) feedback regarding detailed recommendations related to potential amendments to the Residential Rent Stabilization Ordinance (RRSO) which are based on:
 - Direction provided by City Council at the February 19, 2019 meeting; and
 - Culmination of input over past two years, including feedback from April 6, 2019 Community Open House and related online surveys

Presentation Purpose

- Staff is seeking feedback on more detailed recommendations regarding:
 - Creation of a mandatory mediation with binding arbitration program
 - Addition of provisions to protect Section 8 voucher holders from discrimination
 - Addition of requirements for landlords to file rent increase and eviction notices with the City
 - Creation of tenant retaliation provisions
 - Potential addition of a tenant relocation assistance program

Presentation Purpose *(cont.)*

- Additional Key Themes from Community Open House
- Analysis of Prior Stakeholder Recommendations
- Next Steps on:
 - Vacancy Decontrol
 - Rent Stabilization Database

Background



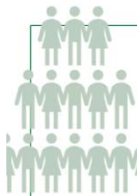
City Council Work Session

- **Jan 31, 2017** – Review affordability strategies and resources in Hayward and Alameda County



Focus Groups

- **Oct 5-6, 2018**
- **Oct 12-13, 2018**



Stakeholder Meetings

- **Jan 10, 2018**
- **Jan 17, 2018**



City Council Work Session

- **Feb 19, 2019** – Defined parameters for approach to amend City of Hayward RRSO



Follow-up City Council Work Sessions

- **Feb 6, 2018**
- **Mar 27, 2018**



Legislation

- **Mar 5, 2019** – Extend eviction for cause protections to all residential rental properties including single family homes and condominiums



Legislation

- **May 29, 2018** – Moratorium on vacancy decontrol provisions

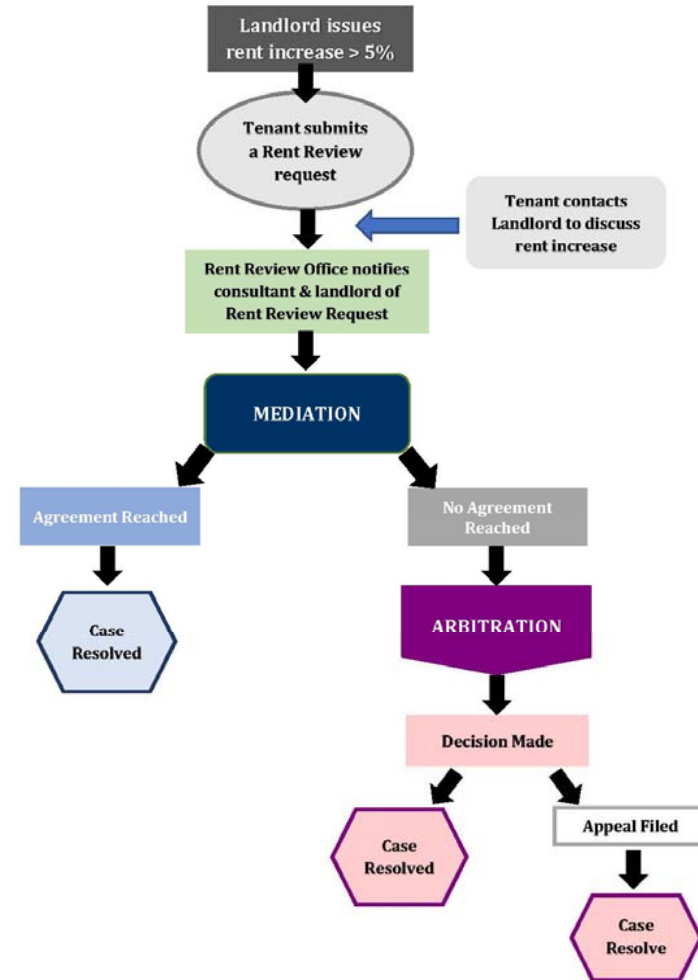


Community Open House

- **Apr 6, 2019** – solicit public feedback on proposed policy changes and provide the public an opportunity to have an open dialogue with staff

Mediation & Binding Arbitration Program

Proposed Mediation and Binding Arbitration Process



Mediation & Binding Arbitration Program

Overview of Amendments to Legislation

Recommendation

- A. Mediation process with binding arbitration
- B. 5% rent increase (including all charges) threshold
- C. Applies to all pre-1979 units except single family homes and condominiums consistent with State law

The Reasons Why

1. 5% threshold is a compromise between tenant and landlord groups
2. Easier to identify units covered under the ordinance and will provide protection to ~9,500 units

Mediation & Binding Arbitration Program

Update Ordinance Language

Additional Recommendations

- D.** Update outdated language in ordinance
- E.** Simplify mediation/arbitration process for tenants and to address current mediation standards to improve effectiveness

The Details

1. Move tenant requirement to make good faith effort to discuss rent increase with landlord until after tenant has filed petition
2. Eliminate requirement that 25% of all affected tenants must sign a petition if a property has 10+ units
3. Revise role of mediator to be consistent with current practices
4. Address scheduling time frames and required response times

Mediation & Binding Arbitration Program

Allowable Increases > 5%

Additional Recommendations

- F.** Clarify under what circumstances a landlord can issue a rent increase above 5%
- G.** Eliminate debt services as a justification for increasing rent (incorporated into capital improvement costs)

The Details

1. Capital improvement costs, includes seismic retrofit and cost financing of capital improvement costs
2. Unavoidable increases in maintenance and operating expenses
3. Rent increases from previous years that were not applied, subject to limitations (banking)
4. Rent increases necessary to meet constitutional fair return requirements

Mediation & Binding Arbitration Program

April 6th Public Comments

- Some community members who voiced support for the potential policy thought the recommended 5% threshold was fair but wanted more information on how the City determined the threshold amount
- Five general themes in opposition to the potential policy:
 1. Detrimental to future real estate development
 2. Infringes on property owner's rights
 3. Punishes landlords who keep rents below market
 4. Landlords would not be able to increase rents to offset rising costs
 5. Tenants do not understand a landlord's responsibilities and reasons for rent increases

Income Discrimination Protections for Recipients of Rental Assistance



Voucher holders receive a subsidy from the U.S. Department of Housing and Urban Development (HUD) that covers the difference between a tenant's required rental payment and the fair market rents.



Federal law does not prohibit landlords from rejecting applicants that receive rental subsidies.



Local governments have enacted laws that prohibit discrimination based on sources of income used to qualify for a housing unit.

Income Discrimination Protections for Recipients of Rental Assistance

This prohibition **WOULD NOT**:

- Impact landlords' ability to charge market rent for their units
- Prevent a landlord from rejecting an applicant based on other factors such as rental or credit history

This prohibition **WOULD**:

- Prevent a landlord from rejecting an applicant because of the housing choice voucher
- Prevent a landlord from stating in advertisements that tenants who receive rental assistance are not welcome to apply for a housing unit

Income Discrimination Protections for Recipients of Rental Assistance

Overview of Amendments to Legislation

Recommendations

- A. Include a provision in the RRSO to prevent income discrimination

The Details

1. Define sources of income to include lawful sources of income and rental assistance, homeless or security deposit assistance, or housing subsidy programs
2. Require that finance and income standards include all sources of income to qualify an individual for rental housing
3. Prevent discriminatory practices based on sources of income such as immediate dismissal of application

Filing Rent Increase Notices and Notices of Termination of Tenancy



Require landlords to file notices with the City which will allow the City to collect data related to rent increase and reason for potential evictions.



More data will help the City identify and address rental housing issues more effectively, as well as propose potential solutions to address these issues.



Data derived from these notices may result in the City adopting new or updated policies and/or investing funds in programs to help address rental housing issues in the City.

Filing Rent Increase & Eviction Notices

Overview of Amendments to Legislation

Recommendations

- Amend RRSO and Just Cause for Tenant Eviction Ordinance to require landlords to file notices with the City

The Details

- Staff will work with City Attorney's Office to ensure private property rights are not violated
- Staff will identify cost effective and efficient ways to file rent increase notices

Filing Rent Increase & Eviction Notices

April 6th Public Comments

- Community participants voiced support for the proposed policy but did not specify a reason for the support
- Three general themes in opposition to the potential policy:
 - Detrimental to future real estate development
 - Infringes on property owner's rights
 - Implementation would be expensive and cause rents to increase

Tenant Retaliation Protections



Provides tenants with legal rights if they are harassed or retaliated against by landlords



Provides civil remedies to tenants if the policy is violated



Retaliation protections provided by local governments provide more specificity regarding the types of bad business practices that are considered harassment.

Tenant Retaliation Protections

Overview of Amendments to Legislation

Recommendations

- A. Adopt a tenant retaliation policy that would specifically define harassment and provide tenants protection from bad landlord conduct
- B. Add financial penalties similar to other jurisdictions of \$1,000

Proposed Retaliation Provisions

1. Reduce, interrupt, or withhold any services or amenities
2. Fail to perform repairs and maintenance
3. Fail to exercise due diligence in completing repairs and maintenance
4. Disrupt, reduce, or withhold service to rental units
5. Use lies, threats, or violence to make a tenant vacate a rental unit, including threats regarding immigration status
6. Fail to accept or acknowledge receipt of a tenant's lawful rent
7. Interfere with tenant's right to privacy
8. Interfere with tenant's right to quiet use and enjoyment of a rental housing unit

Tenant Retaliation Protections

Updates to Administration

Additional Recommendations

- A. Promote California Apartment Association Code of Ethics and Code for Equal Housing Opportunity

The Reasons Why

- Help foster good relationships between tenants and landlords
- City would promote:
 - i. On City's website
 - ii. In workshops hosted by City

Tenant Retaliation Protections

April 6th Public Comments

- Community participants supported the proposed policy but some were concerned that their specific issue was not addressed
- Community participants who opposed the proposed policy felt that State law was sufficient to protect tenants

Tenant Relocation Assistance Program



- Due to strong opposition, staff requests more feedback from HHTF before finalizing recommendation.
- A potential program is presented for discussion purposes.

Tenant Relocation Assistance

April 6th Public Comments

Supported

- Tenants voiced support for the program but had the following concerns:
 - No enforcement mechanism to ensure landlords followed through on the reason that justified the eviction
 - Proposed assistance amount not enough due to high cost of replacement housing

Opposed

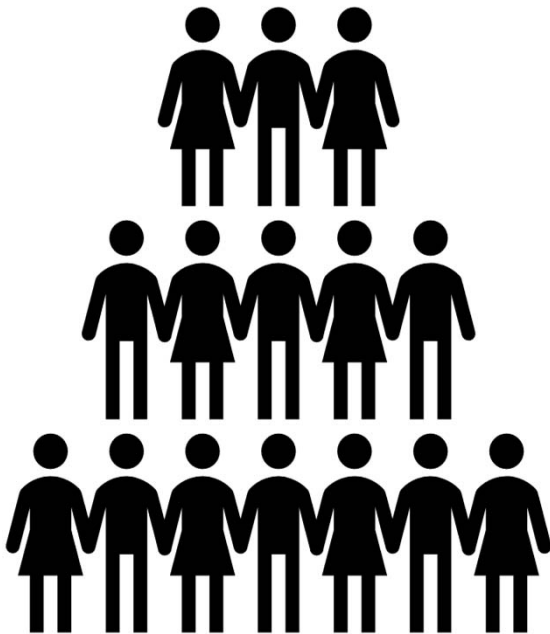
- Landlords voiced substantial opposition against this program and had the following concerns:
 - Landlords should not be responsible for relocation assistance even no fault evictions
 - Penalizes landlords who maintain their rents below market prices
 - Policy is one-sided in favor of the tenants

Tenant Relocation Assistance

April 6th Public Comments

Staff also received the following suggestions from the public:

- Allow tenants additional time to relocate rather than money
- Add exemptions for:
 - Natural disasters
 - Sale of the rental unit
 - Single family residences
 - Landlord hardship
 - Units that charge less than the fair market rents



Potential Tenant Relocation Assistance Program

Overview

A. Tenants would be eligible for relocation assistance for both temporary and permanent relocations related to evictions that are due to **no fault of the tenant**. These reasons would include:

1. Owner move-in
2. Withdrawal of a unit from the rental market
3. Permanent displacement caused by a government determination of substandard housing
4. Displacement caused by the conversion of a market rate housing of 100% affordable housing
5. Large rent increases
6. Temporary displacement due to rental unit improvements

Tenant Relocation Assistance Framework for a Potential Program

Potential Program

- B.** Relocation benefit at 3x the fair market rents (FMR) as established by the U.S. Department of Housing and Urban Development (HUD)
- C.** Provide additional assistance to at risk populations

The Reasons Why

1. Not based on tenant's current rent because assistance is intended to help tenants find replacement housing in the rental market
2. Proposed payment approximate cost of paying deposit, first and last month's rent, and moving costs

	Efficiency	1 BDRM	2 BDRMS	3 BDRMS	4 BDRMS
2019 FMR	\$1,409	\$1,706	\$2,126	\$2,925	\$3,587
Relocation Payments	\$4,227	\$5,118	\$6,378	\$8,775	\$10,761
Relocation Payments for At Risk Populations	\$5,636	\$6,824	\$8,504	\$11,700	\$14,348

Tenant Relocation Assistance Protections

What Other Jurisdictions Are Doing

Relocation Payments

- **Alameda** – requires relocation payment equivalent to 4x the actual rent plus a relocation benefit
- **San Leandro, Oakland, and Richmond** – require a defined payment based on unit size ranging from \$3,646 to \$7,345 for a one bedroom or \$7,000 to \$15,279 for a three bedroom
- **Berkeley** – has a single relocation payment amount of \$15,585 regardless of unit size

Tenant Relocation Assistance Protections

What Other Jurisdictions Are Doing

Owner Move-in

- **Oakland and Richmond** – reduced relocation benefits for owner move-in
- **Berkeley** – prohibits owner move-in during the school year

Tenant Relocation Assistance Program



- Based on substantial opposition, concerns, and questions regarding the tenant relocation assistance program, staff is not recommending this program at this time
- Staff is seeking additional feedback on a proposed program from the HHTF before finalizing a recommendation

Vacancy
Decontrol
(Section 8 of
the RRSO)



MAY 29, 2018
– CITY
COUNCIL
ADOPTED
MORATORIUM
ON VACANCY
DECONTROL



HIRED
CONSULTANT,
MANAGEMENT
PARTNERS, TO
REVIEW THE
VACANCY
DECONTROL
PROCESS



**FEBRUARY 19,
2019** – CC
EXPRESSED
SUPPORT FOR
ELIMINATING
VACANCY
DECONTROL
BUT ALSO
SUPPORT FOR
WAITING FOR
FINDINGS
FROM
CONSULTANT



MANAGEMENT
PARTNERS
REPORT TO BE
COMPLETED IN
MAY 2019

Vacancy Decontrol



- Staff will make a recommendation to the HHTF on this topic after receipt of the full report from Management Partners in early May

Additional Major Themes from Community Open House

A. Both landlords and tenants expressed the need for more information on tenant and landlord rights and responsibilities and further education on the proposed policies

- 1** Provide more information on the City's website
- 2** Provide educational trainings and workshops
- 3** Provide information in various languages to reach a wider range of tenants and landlords

Analysis of Prior Stakeholder Recommendations

Landlord Proposed Solutions

- A. Requiring extended noticing periods

- B. Suspending rent increases where there are open maintenance issues as identified by code enforcement; and

- B. Requiring mandatory leases

Analysis

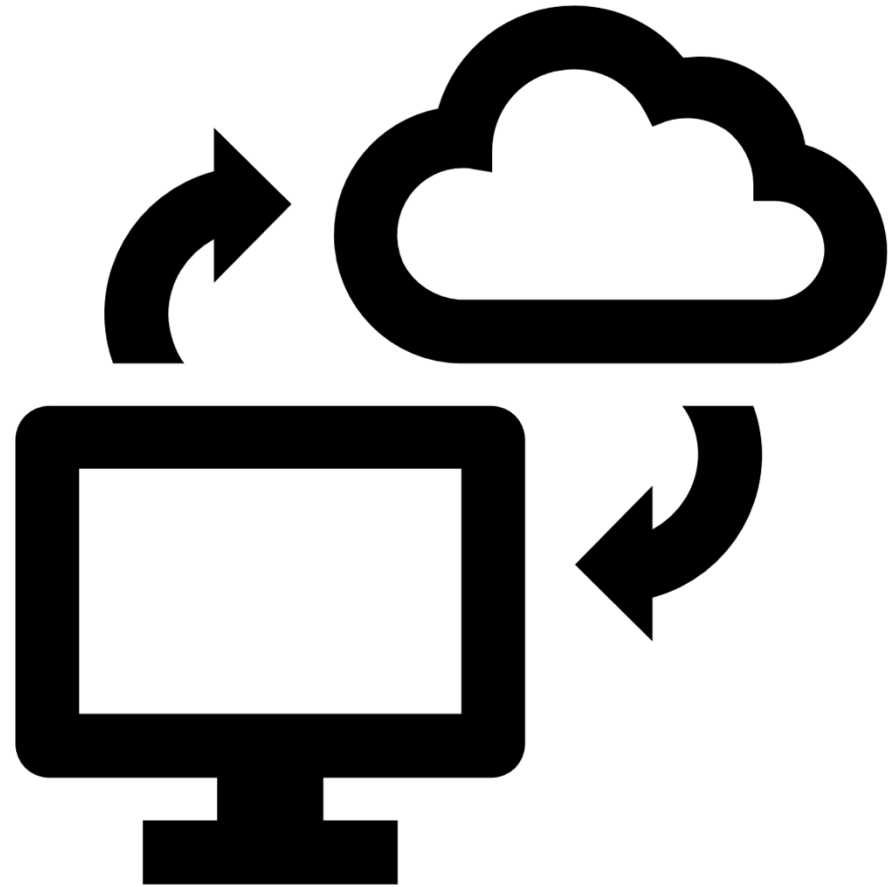
- 1 The City cannot require longer noticing periods because noticing periods are set by State law

- 1 Incorporated into the mediation/arbitration program if a property has open maintenance issues as identified by code enforcement
- 2 The City does not have the authority to suspend rent increases on units not subject to the provisions of the mediation/arbitration program

- 1 Staff continues to research the policies of other jurisdictions that required mandatory leases at application and renewal

Rental Housing Database

Currently under
development



Rental Housing Database

Anticipated Project Implementation

Phase I

- Create a database that will:
 - analyze public records to identify units that are covered by the ordinance
 - Identify units with decontrol applications on file
 - Manage petition workflow
- Staff anticipates implementation later this year

Phase II

- Staff will continue to refine, improve, and expand the database with information:
 - Not readily available in public records
 - Obtained and provided by property owners

Rental Housing Database



- Staff will provide a report regarding the database to the HHTF at the May meeting and requests feedback on how else to improve and expand development of a second phase of the database.

Next Steps Timeline

Meeting	Topic	Date
Homelessness-Housing Task Force	<ul style="list-style-type: none">• Rent Stabilization Database• Moratorium on Vacancy Decontrol Recommendations	May 2019 (TBD) @ 6:00 pm
City Council	<ul style="list-style-type: none">• Proposed Rent Stabilization Legislation to Amend RRSO	May 21, 2019 @ 7:00 pm

Questions

