

ITEM #2

Affordable Housing Ordinance Feasibility Study
Preliminary Findings and Policy Recommendations



Hayward Affordable Housing Ordinance

City of Hayward Homelessness-Housing Task Force
September 28, 2022



Purpose of Today's Meeting

- Review findings and preliminary recommendations from the Affordable Housing Ordinance (AHO) policy analysis
- Discuss and provide direction on refining the AHO policy recommendations

Agenda

- Introduction:
 - Purpose, process, and goals of the AHO study
- Overview of affordable housing development and feasibility
- Policy and production comparison to “peer” cities
- Feasibility analysis:
 - Existing AHO Policy
 - Alternative Policy Scenarios
- Recommendations
- Discussion/Feedback and Next Steps on AHO

Introduction

AHO Study Goals and Process

- Initial AHO – Created in 2003
 - Updated in 2017
 - Increased in-lieu fees
 - Applied the AHO to smaller projects
 - Increased flexibility for means of compliance
- Current Update
 - Goals
 - Establish new AHO inclusionary housing requirements and in-lieu fees
 - Ensure AHO maximizes production of affordable housing
 - Process
 - Analyze impacts of AHO on feasibility of different project types/tenures
 - Identify and assess policy alternatives
 - Determine preferred policy alternative
 - Calculate affordability gap to establish in-lieu fee

Project Timeline

- Market research and developer interviews – Completed
- Peer cities policies and production research – Completed
- Initial TAC meeting – Completed (September 14th)
- Testing preliminary AHO policy alternatives – Completed
- Preliminary policy recommendations – Completed
- Homelessness-Housing Task Force meeting – Today
- Community workshop (October, date TBD)
- Refinement and testing of alternative AHO policy alternatives (October)
- Establishment of corresponding in-lieu fees (October)
- Second TAC Meeting – (November, date TBD)
- Final recommendations and report (December)
- Planning Commission and City Council hearings

Technical Advisory Committee (TAC)

- Purpose: Provide feedback on market conditions, housing needs, development prototypes, and analysis assumptions/results
- Members include market rate and affordable housing developers with recent projects in Hayward

TAC Members:

- Kate Blessing-Kawamura, Associate Director of Real Estate, Eden Housing
- Stephen Clark, VP of Market Rate & Student Housing, Amcal Housing
- Avery Jones, Forward Planner, D.R. Horton
- Derrick Larson, Senior Development Manager, Dollinger Properties
- Kristin Pollot, Planning & Entitlement Manager, Taylor Morrison

Overview of Financial Feasibility and Affordable Housing Production Tools

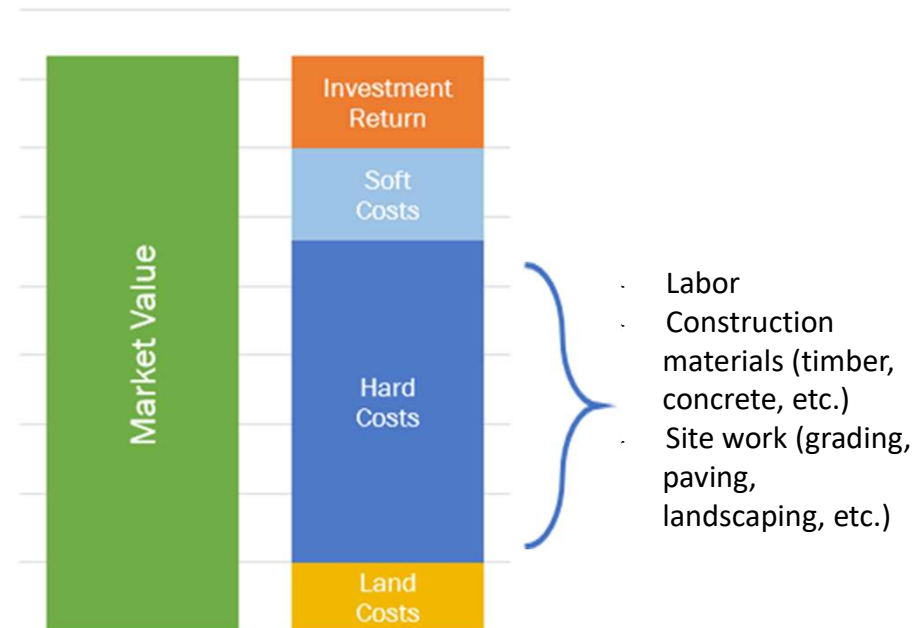
What is Financial Feasibility?

- Development projects are **financially feasible** when revenues exceed project costs and investment return
- Developers only build when projects “pencil” (are financially feasible)
- Costs and revenues are dynamic
 - Several factors are beyond control of a city



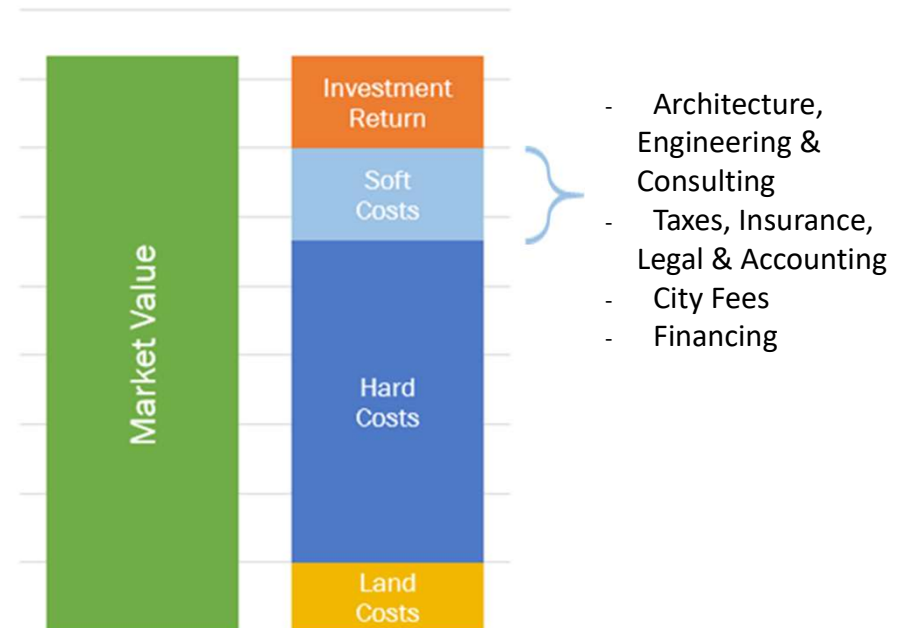
Project Costs: Hard Costs

- Hard costs are the **largest of project costs** and are associated with **physical construction**
- Includes construction of the building, parking, and other site improvements
- Construction material and labor costs have been increasing
- Construction costs vary by building type
- Construction costs are “**regional**”



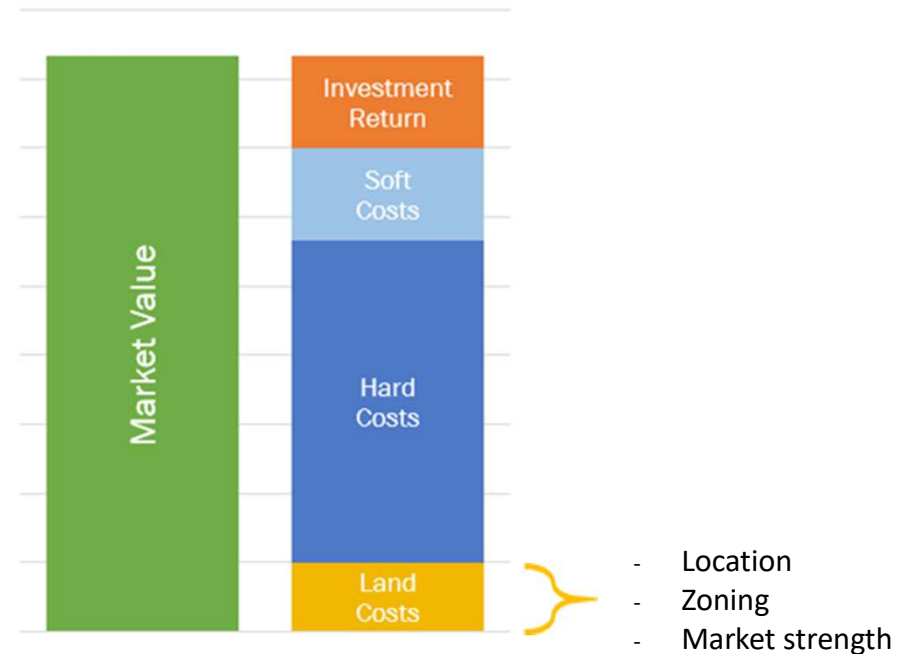
Project Costs: Soft Costs

- Soft costs are typically the next largest project costs
- Soft costs include costs associated with **design, implementation, and fees**



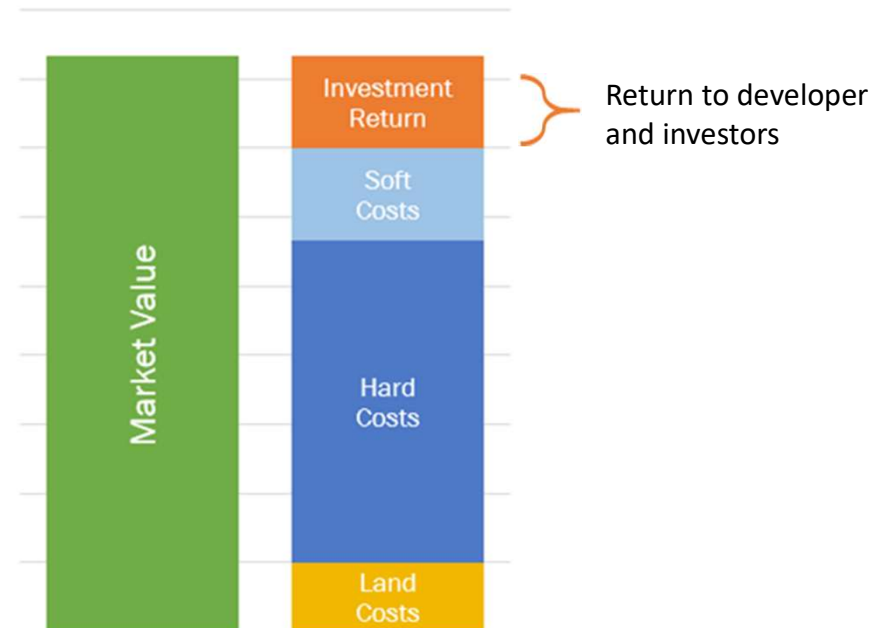
Project Costs: Land Costs

- Land costs are much more variable than other development costs
- Land costs vary depending on:
 - Location & zoning
 - Market strength
 - Infrastructure
 - Condition of the land (need for remediation, etc.)
- Land costs are “residual”
 - Value is based on what developers can afford to pay while delivering a feasible project within the site’s constraints and opportunities
 - Non-residential developers can potentially outbid housing developers



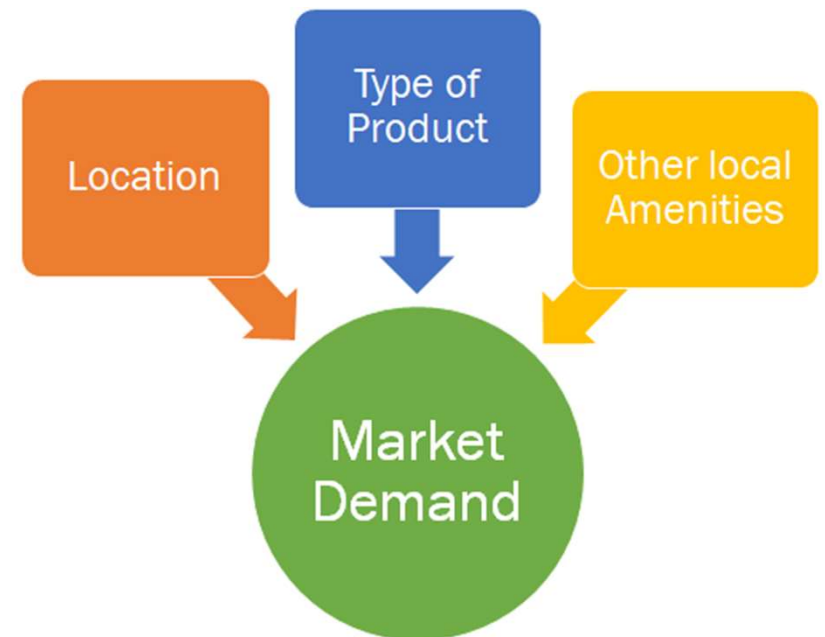
Project Costs: Investment Return

- Developers decide to build projects based on the investment return
- Developers cannot attract necessary project funding if investment return is not competitive
- Required investment return varies based on project risks
 - Greater certainty reduces risk



Market Demand and Potential Revenue

- Market demand sets the “price” that buyers and renters are willing or able to pay
 - This price is very local
- Demand is based on many factors including:
 - Location
 - Type of product
 - Other amenities in the area



Policies & Incentives Can Impact Financial Feasibility

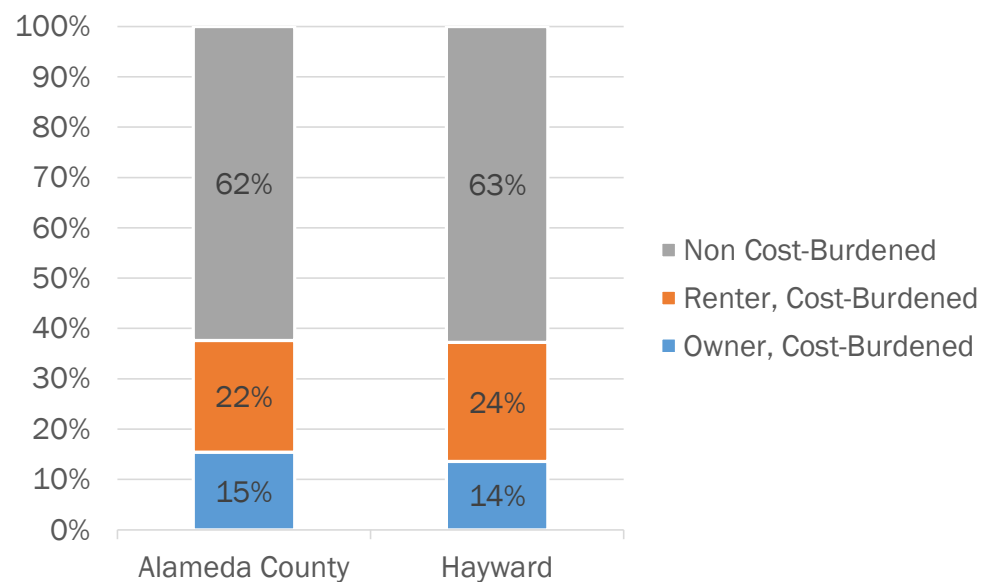
- Policies and incentives can make projects **more or less feasible** while not impacting unit affordability
- Example Policy Levers
 - Parking ratios
 - Density controls (FAR, height, etc.)
- Example Incentives
 - Reducing city fee requirements (reduces fee soft costs)
 - Density bonus (*potentially* increases value, but not always)
 - Streamlining of approvals (reduces financing/holding soft costs; greater certainty may also reduce investment return requirement)



What Residents Can Afford Varies by Income

- Housing costs are considered affordable when they are 30% or less of household income
- Households are considered cost-burdened if they are paying more than 30% of their income

Share of Cost Burdened Households by Tenure, 2019



Source: American Community Survey, 1-YR, 2011; Strategic Economics, 2022.

What is “Affordable Housing”?

- Affordable housing refers to units with deed-restrictions limited to households earning certain incomes
- Affordable housing units target households within select income categories, which are based on area median income (AMI) of a region

HCD Income Limits (Current AHO)

Income Category	AMI Level
Extremely Low-Income	0% to 30%
Very Low-Income	31% to 50%
Low-Income	51% to 76.8%
Moderate-Income	76.9% to 120%
Above Moderate-Income	>120%

TCAC Income Limits (LIHTC)

Income Category	AMI Level
Extremely Low-Income	0% to 30%
Very Low-Income	31% to 50%
Low-Income	51% to 80%
Moderate-Income	81% to 100%
Above Moderate-Income	>100%

Affordable Rents and Sales Prices

- Rents and sales prices are typically regulated to below-market rates (BMR) so that households pay no more than 30% of the targeted income level

Maximum Affordable Rent, Hayward (Effective 2022)

Bedroom Size	Studio	1-BR	2-BR	3-BR
Very Low	\$1,249	\$1,428	\$1,606	\$1,785
Low	\$1,499	\$1,714	\$1,928	\$2,142
Moderate	\$2,749	\$3,142	\$3,534	\$3,927

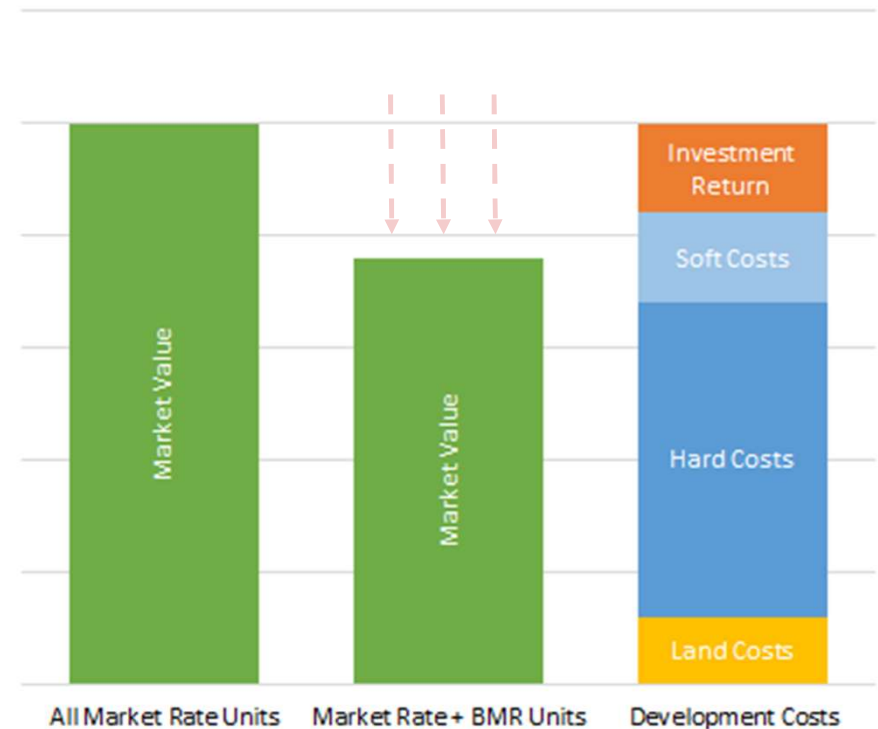
Sources: Alameda County Housing Authority, 2022; U.S. Department of Housing and Urban Development, 2022; Strategic Economics, 2022.

Notes:

Describes maximum monthly rent, including all fees for housing services and a utility allowance. The maximum monthly cost for each unit type is associated with households that have one more person than bedroom. (Ex: Maximum costs for studios are associated with affordability for one-person households; One-bedroom costs are associated with 2-person households; Two-bedroom costs are associated with 3-person households).

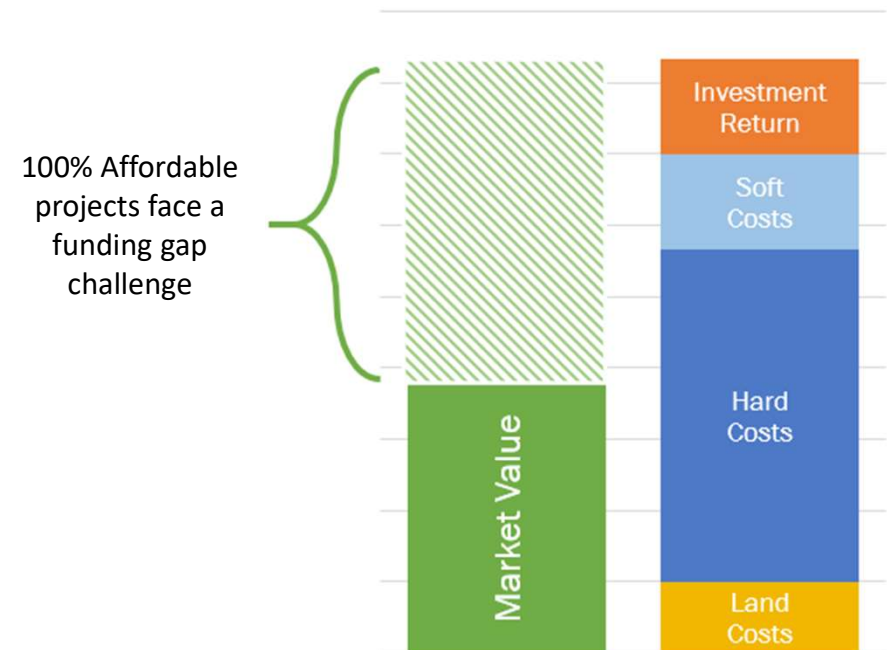
Affordable Housing Production: Inclusionary Housing

- Inclusionary housing programs typically require or offer incentives for providing **on-site affordable units**
- **Benefits**
 - Developer-funded source of affordable housing
 - Income thresholds are set locally
- **Challenges**
 - Inclusionary units generate lower than market rate rents and reduce value and financial feasibility of projects, especially when low- and very-low income units are included



Affordable Housing Production: Tax Credit Projects

- Deed-restricted tax credit projects typically include **100% affordable units**
- These projects often target extremely low, very low, and low-income households
- **Benefits**
 - Projects can leverage many funding sources, including in-lieu fees
 - Achieves a greater number of affordable units at deeper affordability levels compared to inclusionary units
 - Public financing is less sensitive to market conditions and financial feasibility issues
- **Challenges**
 - Limited/competitive resources for filling funding gap
 - Some outside funding sources require local match dollars
 - Does not provide housing options for moderate income people

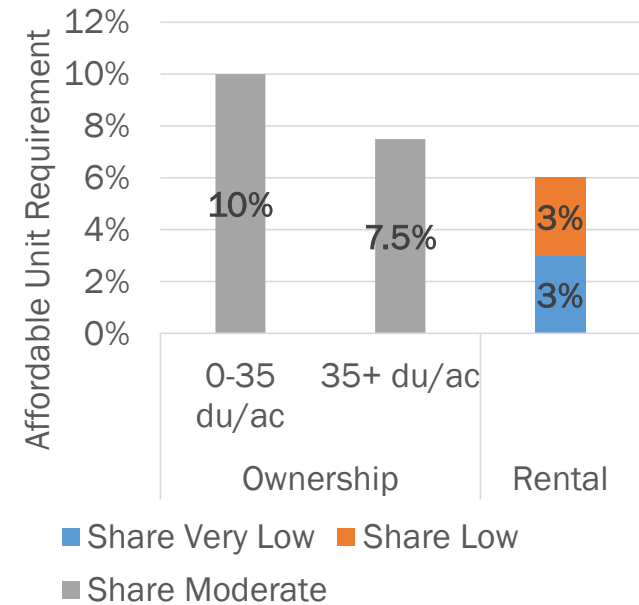


“Peer City” Comparison: Inclusionary Requirements and Affordable Housing Production

Current Hayward AHO Policy

- Affordable Unit Set-Aside Requirements
 - Rental – 6%
 - Ownership:
 - More than 35 dwelling units / acre – 7.5%
 - Less than 35 dwelling units /acre – 10%
- Affordability Target
 - Rental:
 - Very Low Income – 50% of affordable units
 - Low Income – 50% of affordable units
 - Ownership: Moderate Income – 100% of affordable units

Current AHO Inclusionary Housing Requirement
(% of total project units)



Current Hayward AHO Policy

- Minimum Size Threshold – 2 units
- Alternative Means of Compliance
 - In-Lieu Fees
 - Rental - \$21.64 per habitable square foot
 - Ownership:
 - More than 35 du/ac – \$17.85 per habitable square foot
 - Less than 35 du/ac – \$21.64 per habitable square foot
 - Off-site construction of affordable units (if approved)
 - Alternate proposal for compliance (if approved)

“Peer City” Policies

	Set-Aside Requirement by Project Size		Minimum Size Threshold	Affordability Target		Date Enacted
	Rental	For-Sale		Rental	For-Sale	
Hayward	All projects: 6%	Projects > 35 du/ac: 7.5% Projects < 35 du/ac: 10%	2 units	Very-low and low-income	Moderate-income	2017
Concord	Either 10 percent at low income, or six percent at very low income	Either 10 percent at moderate income, or six percent at low income	5 units or more for all residential projects	Very-low, low and moderate income	Low and Moderate-income	2021
El Cerrito	10% of units	12% of units	Rental or Combo Rental/Sale: 9 units For Sale only: 10 units	Very-low and low-income	Moderate-income	2018
Fremont	All projects: 10%	15% of units: 5% or more to moderate income households. 10% or more to low income households.	2 units	Very-low and low-income	Low and Moderate-income	2021
Newark	(Impact fee only)	(Impact fee only)				
Richmond	In-lieu fee is default. Developer can provide on-site units. No % specified.	One of the following: Moderate: 17% Low Income: 15% Very Low Income: 10%	10 units	Very low, low, and moderate income	Very low, low, and moderate income	2020
San Leandro	Roughly 15% - rounded to the nearest unit.	Roughly 15% - rounded to the nearest unit	4 for rental, 2 for ownership	Very-low and low-income	Low and Moderate-income	2006
Union City	All projects: 15%	All projects: 15%	7	Very-low and low-income	Low and Moderate-income	2018

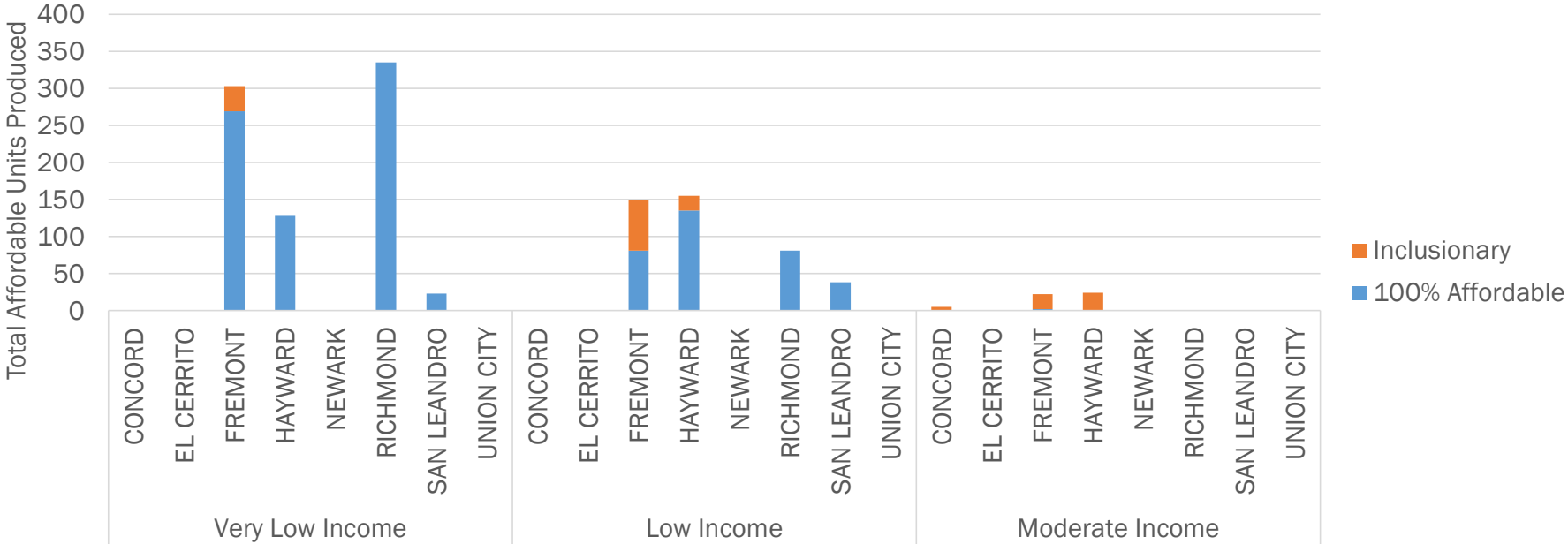
Source: Municipal Ordinances, 2022; Strategic Economics, 2021.

Comparison of AHO to Peer City Policies

- Hayward applies inclusionary requirements to relatively small projects
 - Only Fremont and Hayward universally apply inclusionary requirements to two-unit projects (versus four to ten in other communities)
- Hayward's required set aside (inclusionary percentage) is lower than other communities
 - 6% in Hayward, versus 10% to 15% in other communities
 - Newark and Richmond prefer fee payments
- Hayward's targeted income levels are typical

Inclusionary housing constitutes a small share of overall deed-restricted unit production, but Hayward is relatively successful in delivering inclusionary units

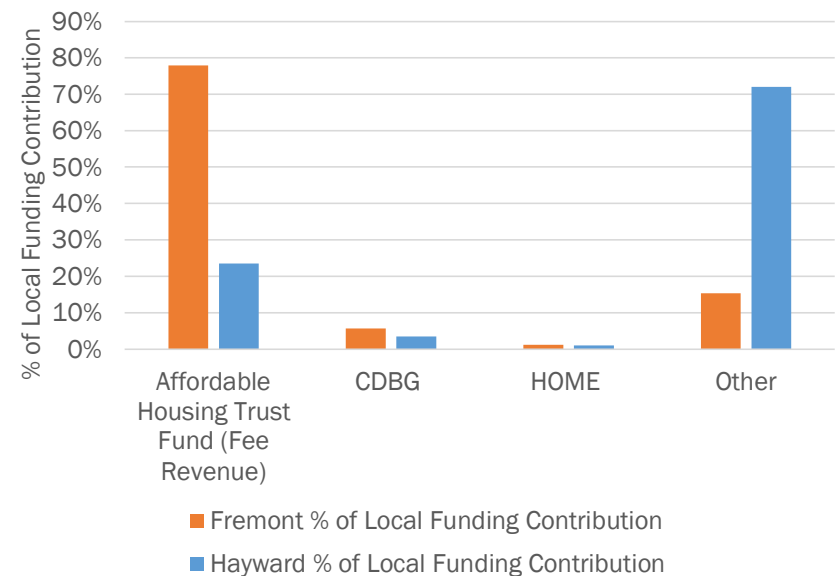
“Peer City” Deed-Restricted Housing Permits by Delivery Method, 2018-2021



In-lieu fee revenue is a major source of local funding for 100% affordable housing projects

- Fee revenue is Hayward's second-largest and Fremont's largest source of local funding for affordable housing projects
- Hayward's largest "Other" sources were Alameda County Measure A1 bond revenue and public land contributions

Share of Local Funding by Source for Proposed and Entitled Affordable Housing Projects, 2015-2023

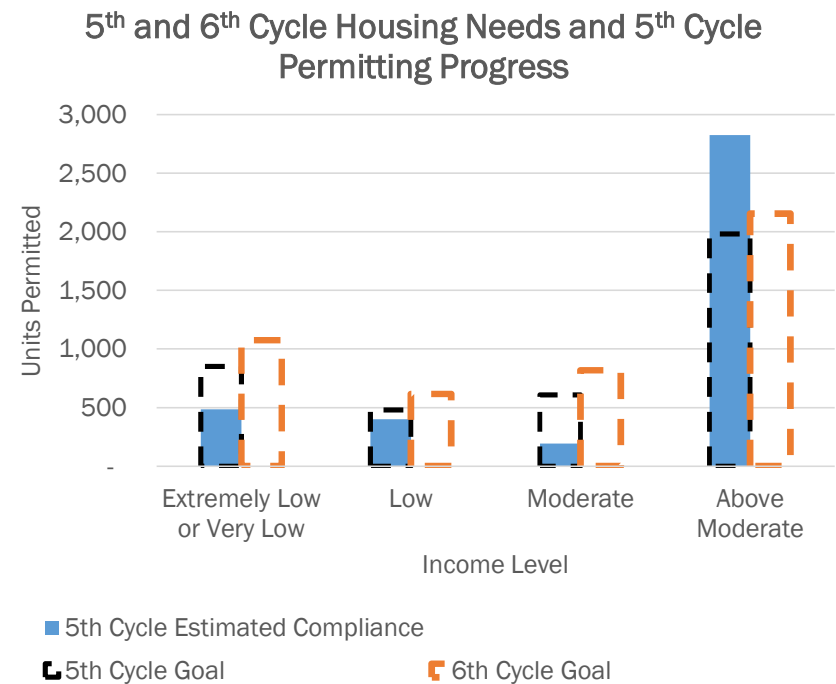


"Other" includes public land contributions, Alameda County Measure A1 revenues, and property tax "boomerang" funds from the dissolution of redevelopment agencies.

Source: City of Hayward, 2022; City of Fremont 2022; Strategic Economics, 2022.

Hayward is falling behind its goals for producing very low income and moderate-income housing

- Hayward has only produced 32% of its moderate-income goal and 57% of its extremely or very low-income goal
- Inclusionary housing typically delivers low- and moderate-income housing units
- In-lieu fee and other revenues are necessary for producing extremely and very low-income housing



Implications of “Peer Cities” for Current AHO

- Hayward’s relatively low inclusionary requirement produced a relatively high number of affordable low- and moderate-income housing units
- Need to reconsider application of inclusionary requirements to two-unit projects
- Shifting away from moderate income requirements would eliminate the primary means of delivering these units
- An in-lieu fee option would support development of 100% affordable projects

Feasibility Analysis of Existing and Alternative AHO Policies

Development Prototypes

Prototype Characteristics	Units	Single Family Development	Townhomes	Small Multifamily	Stacked Flats	5-Story Wrap	5-Story Podium (TOD)
Parcel Square Feet	square feet	217,800	217,800	21,780	65,340	174,240	108,900
Building Characteristics							
Number of Stories	floors	2	3	3	4	5	5
Number of Units	dwelling units (du)	44	106	20	74	300	159
Gross Retail Area	square feet					7,500	
Residential Density	du/acre	9	21	40	49	75	62
Average Unit Size	square feet	2,580	1,695	950	900	800	900
Parking							
Parking Format		In-unit	In-unit	Surface	Podium + Surface	Wrap	Podium
Residential Parking Ratio	spaces/unit	2.0	2.0	1.5	1.5	1.5	1.33
Retail Parking Spaces	parking spaces	-	-	-	-	17	-

Development Prototype Images

Single-Family



Townhomes



Small Multifamily



Source: City of Hayward, 2022. Project renderings completed by D.R. Horton, KTGy, and LANDARC. Projects are shown as examples of what the prototype could look like, but do not reflect the exact prototypes.

Development Prototype Images

Stacked Flats



5-Story Wrap



5-Story Podium (TOD)



Source: City of Hayward, 2022. Project renderings completed by Taylor Morrison, Humphreys & Partners Architects, and BDE Architecture. Projects are shown as examples of what the prototype could look like, but do not reflect the exact prototypes.

Hayward Housing Submarket Tiers

Tiers

- Tier One Submarkets
- Tier Two Submarkets
- Tier Three Submarkets

Rents and Prices by Tier

Tier One

Rental: \$3.60 per SF
 Single Family: \$600 per SF
 Townhomes: \$530 per SF

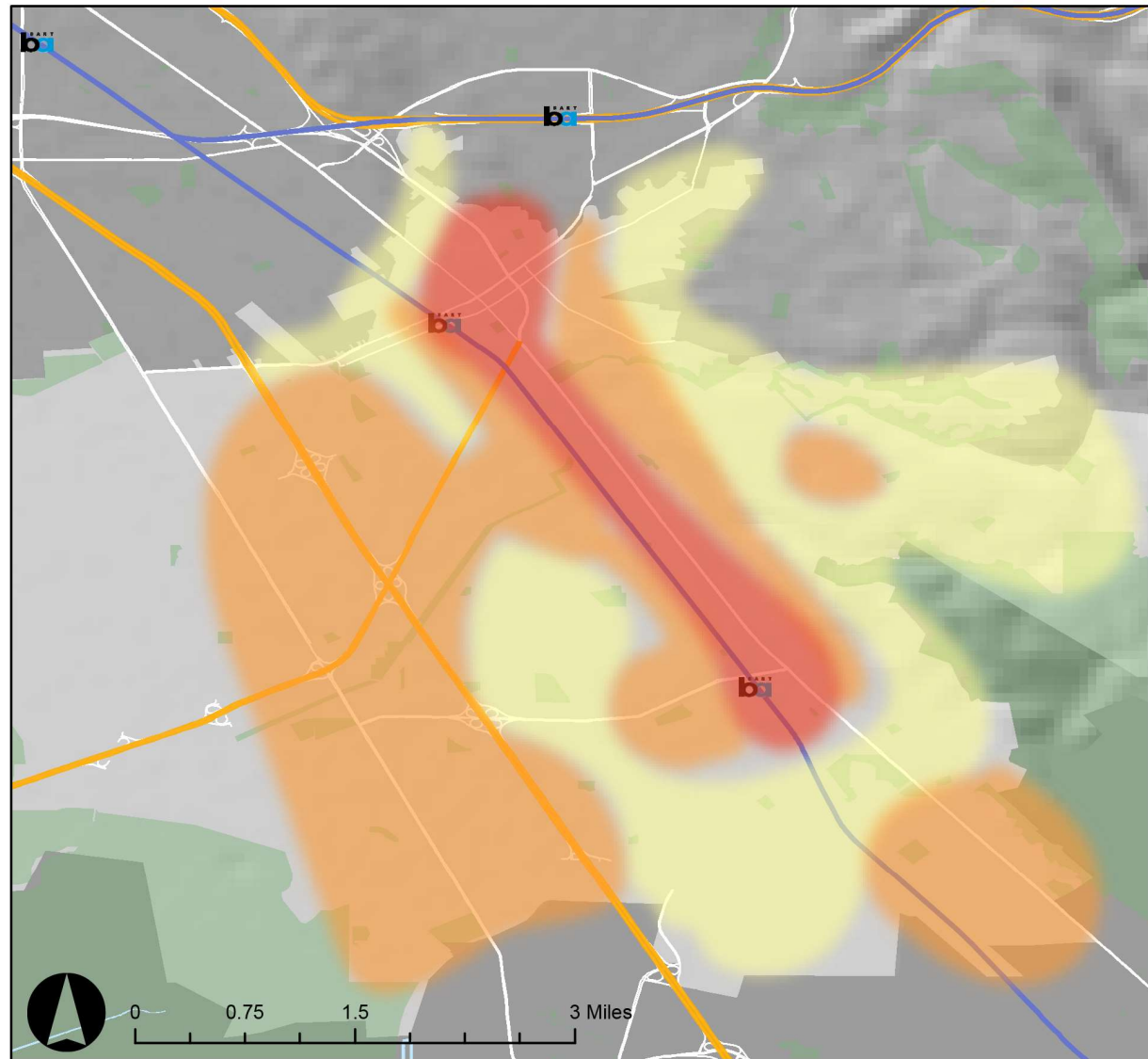
Tier Two

Rental: \$3.10 per SF
 Single Family: \$525 per SF
 Townhomes: \$480 per SF

Tier Three

Rental: \$2.85 per SF
 Single Family: \$475 per SF
 Townhomes: \$450 per SF

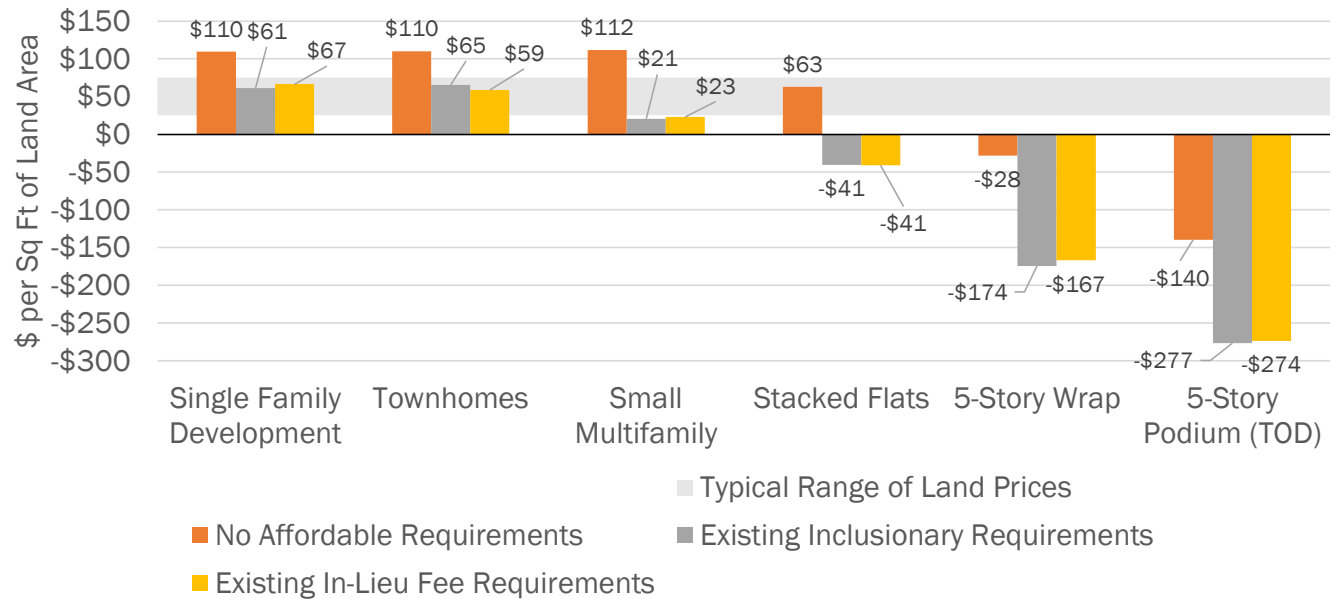
Sources: CoStar, 2022; Redfin, 2022;
 Strategic Economics 2022.



Only single-family homes and townhomes are consistently feasible under the current AHO requirements

- Single-family homes and townhomes can support current AHO requirements
- Smaller rental projects are largely infeasible under current AHO requirements
- Higher-density rental projects are infeasible even without the AHO requirements

Financial Feasibility Findings – Tier 2 Submarket Residual Land Value

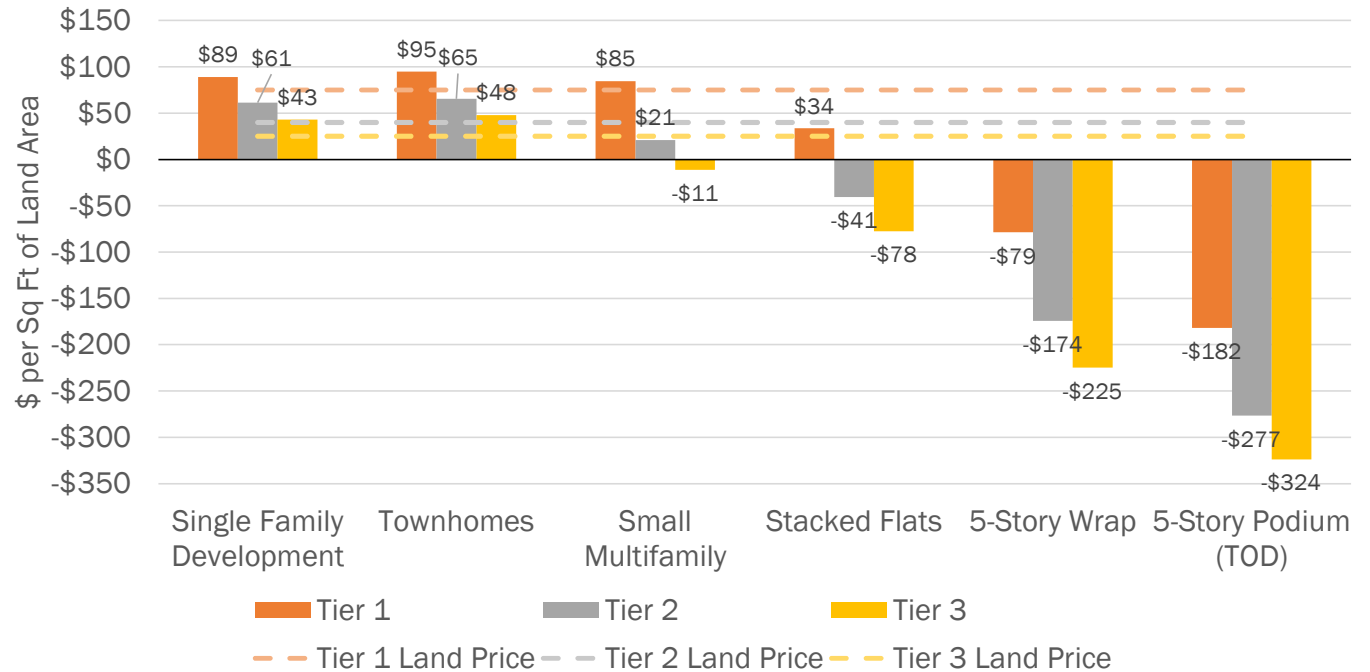


Notes:

Prototypes are considered feasible if residual land value exceeds the assumed land price for its respective scenario. Each submarket is assumed to command higher rents and sales prices but is also associated with higher land prices.

Feasibility findings are largely consistent across the market “tiers”

- “Small multifamily” projects can support current inclusionary requirements at “Tier 1” values only
- Otherwise, only single-family homes and townhomes are feasible, across all market tiers



Notes:

Prototypes are considered feasible if residual land value exceeds the assumed land price for its respective scenario. Each submarket is assumed to command higher rents and sales prices but is also associated with higher land prices.

Implications of Feasibility for Current AHO

- For-sale single-family homes and townhomes can support additional inclusionary requirements
- Higher-density rental products have little to no capacity to support inclusionary requirements or in-lieu fees, even at existing rates
- Suggested responses:
 - Higher inclusionary percentages for ownership
 - Deeper affordability levels for ownership
 - Decreased requirements for rental

The TAC verified the feasibility results and noted AHO challenges/opportunities

- Feasibility analysis findings matched TAC members' understanding of Hayward development market conditions
- Marketing and administering inclusionary units is a challenge—especially for small property owners
- Production of affordable housing could be enhanced via:
 - Waiving impact fees for affordable units/projects
 - Maintaining a continuous stream of public funding for assisting affordable housing projects (including in-lieu fee revenue)
 - Ministerial approval for affordable projects
 - Aligning the inclusionary unit affordability levels with TCAC
 - Public-private partnerships for affordable and mixed-income projects

Alternative AHO Tests:

Ownership Products

Testing Increased Requirements to Determine Maximum Supportable Inclusionary Percentage

- Current AHO:
 - 7.5%-10% of units at moderate income
- Alt O-1: Higher Inclusionary %, all Low Income
- Alt O-2: Higher Inclusionary %, all Moderate Income
- Alt O-3: Higher Inclusionary %, Low/Mod Income 50/50 split

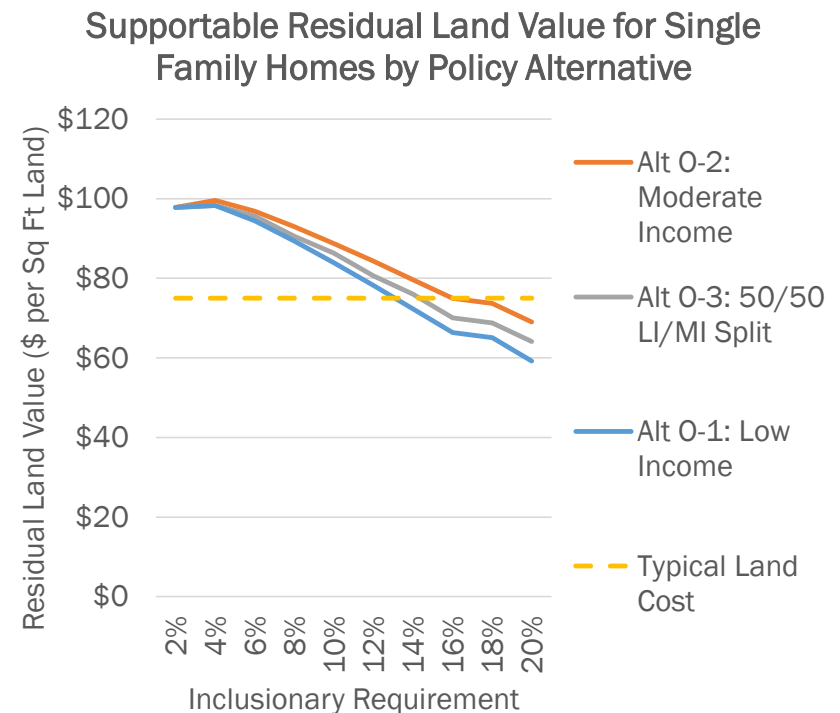
Rental Products

Testing Impacts of Reduced Requirements on Timing of Development Feasibility

- Current AHO:
 - 3% of units at very low income
 - 3% of units at low income
- Alt R-1: Same Inclusionary, Moderate Income
 - 6% of units at moderate income
- Alt R-2: Reduced Inclusionary, Low/Mod Income
 - 1.5% low income
 - 1.5% moderate income
- Alt R-3: Halve the In-Lieu Fee
 - \$10.82 per habitable square foot

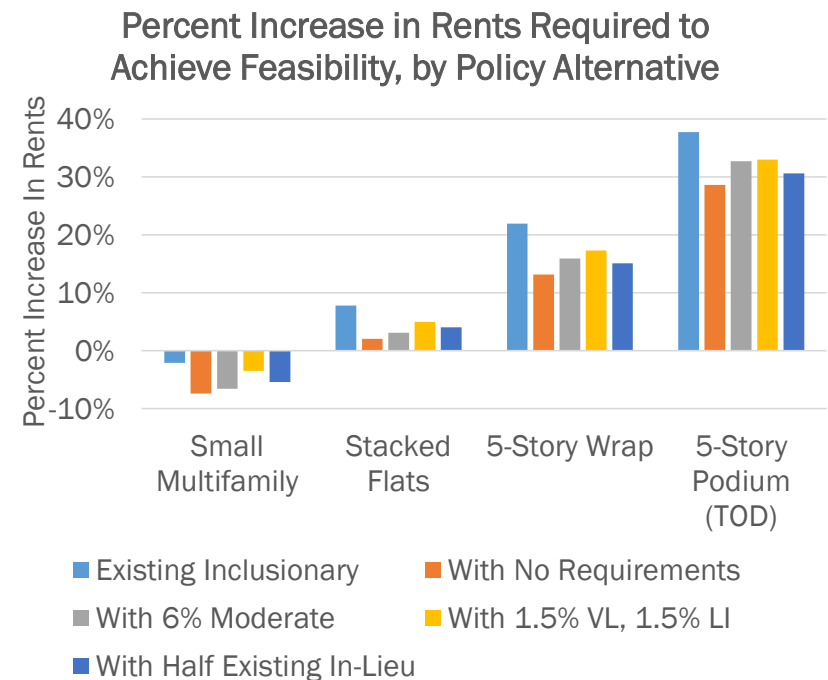
Single-family homes and townhomes can support increased inclusionary requirements, varying by affordability level

- Tested maximum supportable requirements under three affordability levels
- Single-family homes and townhomes can support maximum requirements of:
 - 12.5% inclusionary at low-income
 - 16% inclusionary at moderate-income
 - 15% inclusionary at 50/50 low- and moderate-income
- Inclusionary requirements should be set **lower than the maximum level** to account for submarket variations and future market changes
 - Achievable prices and rents are not consistent across the City
 - Construction costs and prices/rents shift over time



Different requirements will impact the timing of feasibility for rental projects

- Tested percent changes in rents required to support different reduced requirements
- Reduced requirements will reduce the time before rental projects become feasible to build
- Adjusting the impact fee allows for a more nuanced approach to mitigate impacts on feasibility
- “Small multifamily” projects are sometimes currently feasible, but difficult to develop for other reasons



Recommendations: For Sale Housing

- Increase inclusionary requirement to approximately 12%
 - Ownership projects can support maximum requirements of between 12.5% and 16%, depending on affordability level
 - The maximum should not be targeted, in order to account for submarket conditions and housing market shifts
- Target moderate income households
 - These households can more readily absorb maintenance costs and HOA dues
 - If low-income households are included, then the purchase price calculation should incorporate an adjustment for maintenance/HOA costs
- Maintain the current lower inclusionary requirement (7.5%) for denser ownership products
 - Higher-density condominium products are less likely to be feasible, and are unlikely to support any increases in requirements

Recommendations: Rental Housing

- Consider suspending or significantly reducing inclusionary and in-lieu fee requirements for all rental products
 - Alternatively, temporarily adopt a significantly reduced in-lieu fee option
- Adopt relatively lower inclusionary requirements and in-lieu fees for projects above 40 dwelling units per acre
 - Higher-density projects are consistently infeasible, especially “wrap” and “podium” products
- Explore incentives to enhance the feasibility of rental housing
 - I.e., reduced parking requirements, increased allowable density, impact fee waivers

Recommendations: Project Size

- Address inclusionary administration challenges by readily accepting in-lieu fee payments for smaller projects (20 or fewer units, depending on final inclusionary requirement)
 - Administering a single inclusionary unit requires significant expense by owner/developer
 - In-lieu fee revenue could be leveraged to produce more affordable units at deeper levels of affordability

Questions and Reactions?

Next Steps

- Market research and developer interviews – Completed
- Peer cities policies and production research – Completed
- Initial TAC meeting – Completed (September 14th)
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ITEM #3

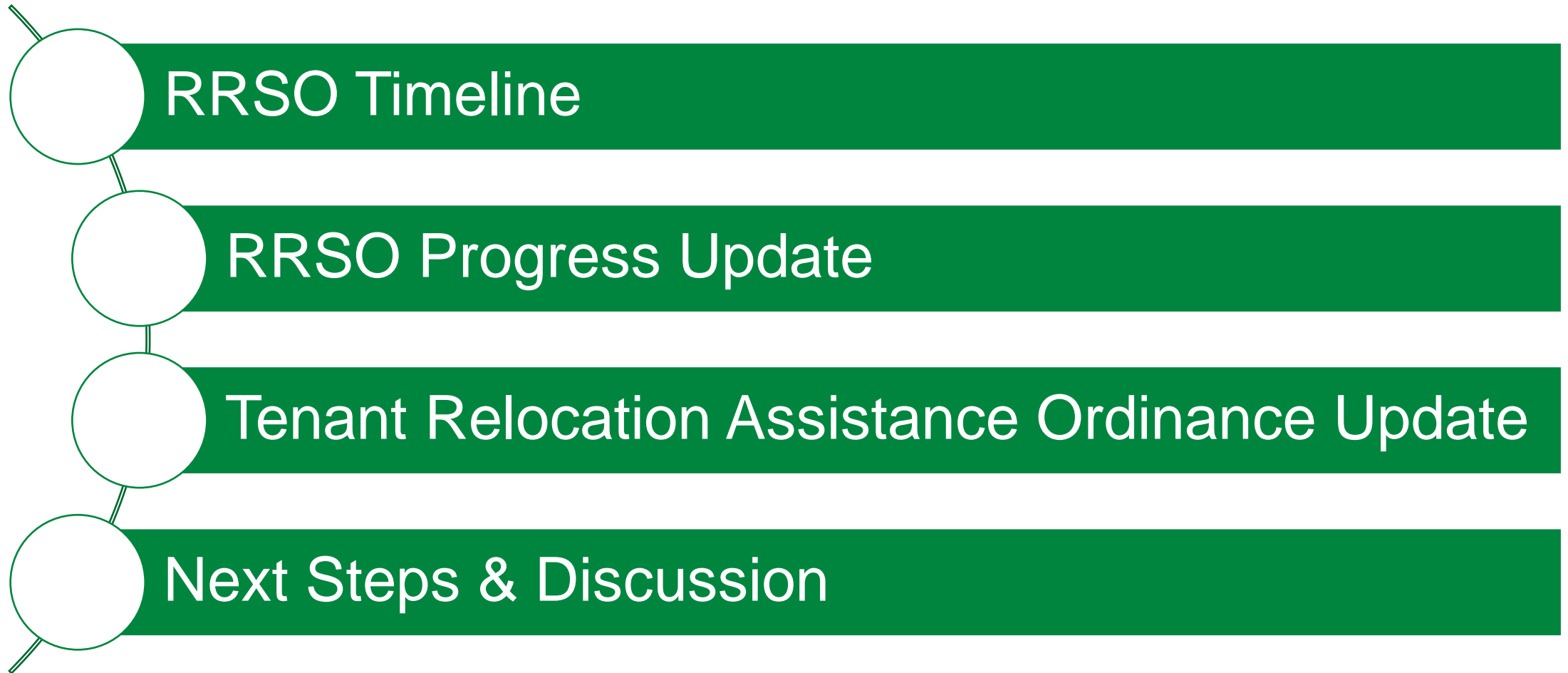
Implementation Update on the Residential Rent
Stabilization and Tenant Protection Ordinance



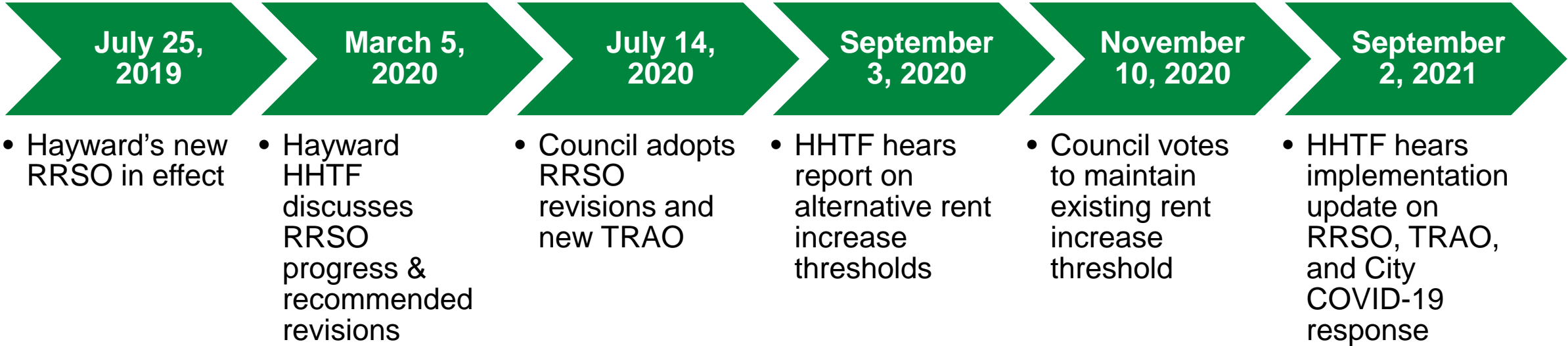
Implementation Update on the Residential Rent Stabilization and Tenant Protection Ordinance

September 28, 2022 | Homelessness-Housing Task Force
Amy Cole-Bloom, Management Analyst

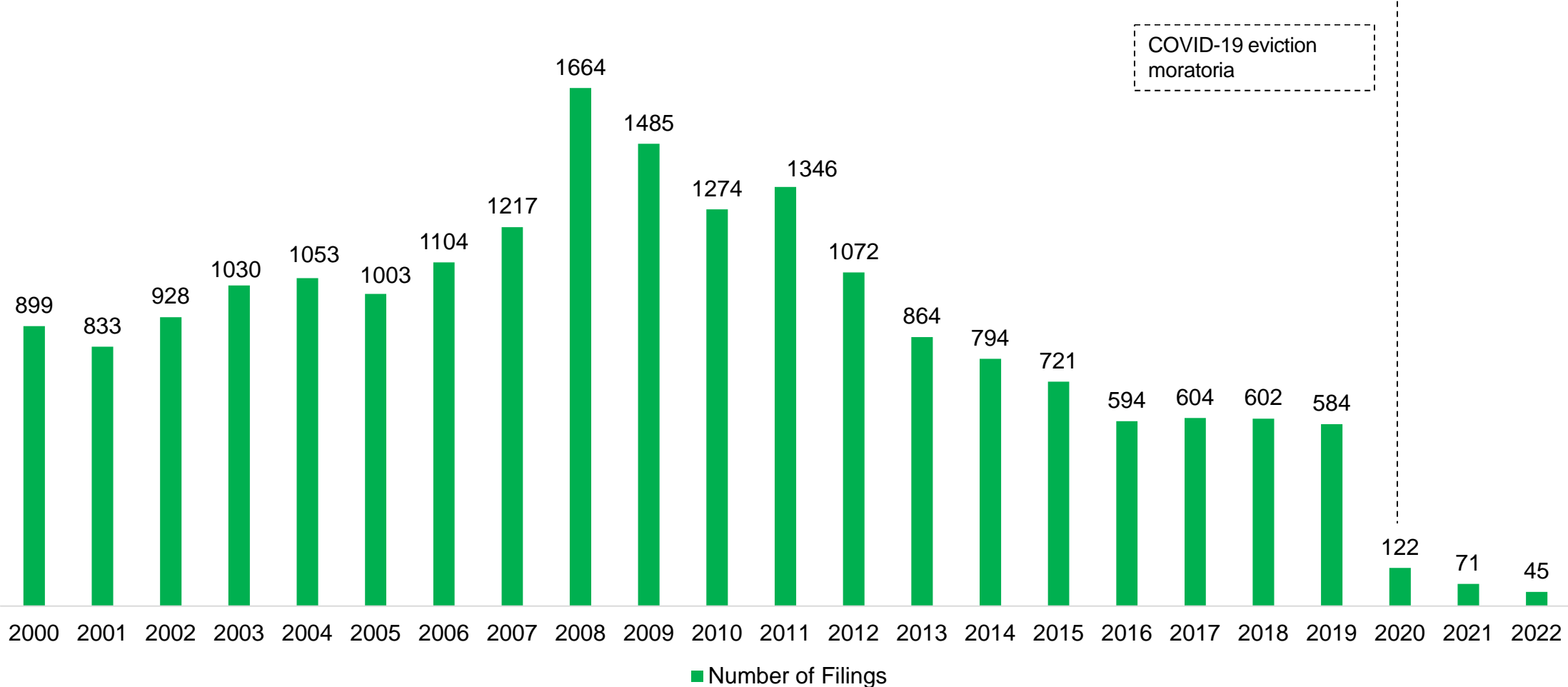
Agenda



RRSO Timeline

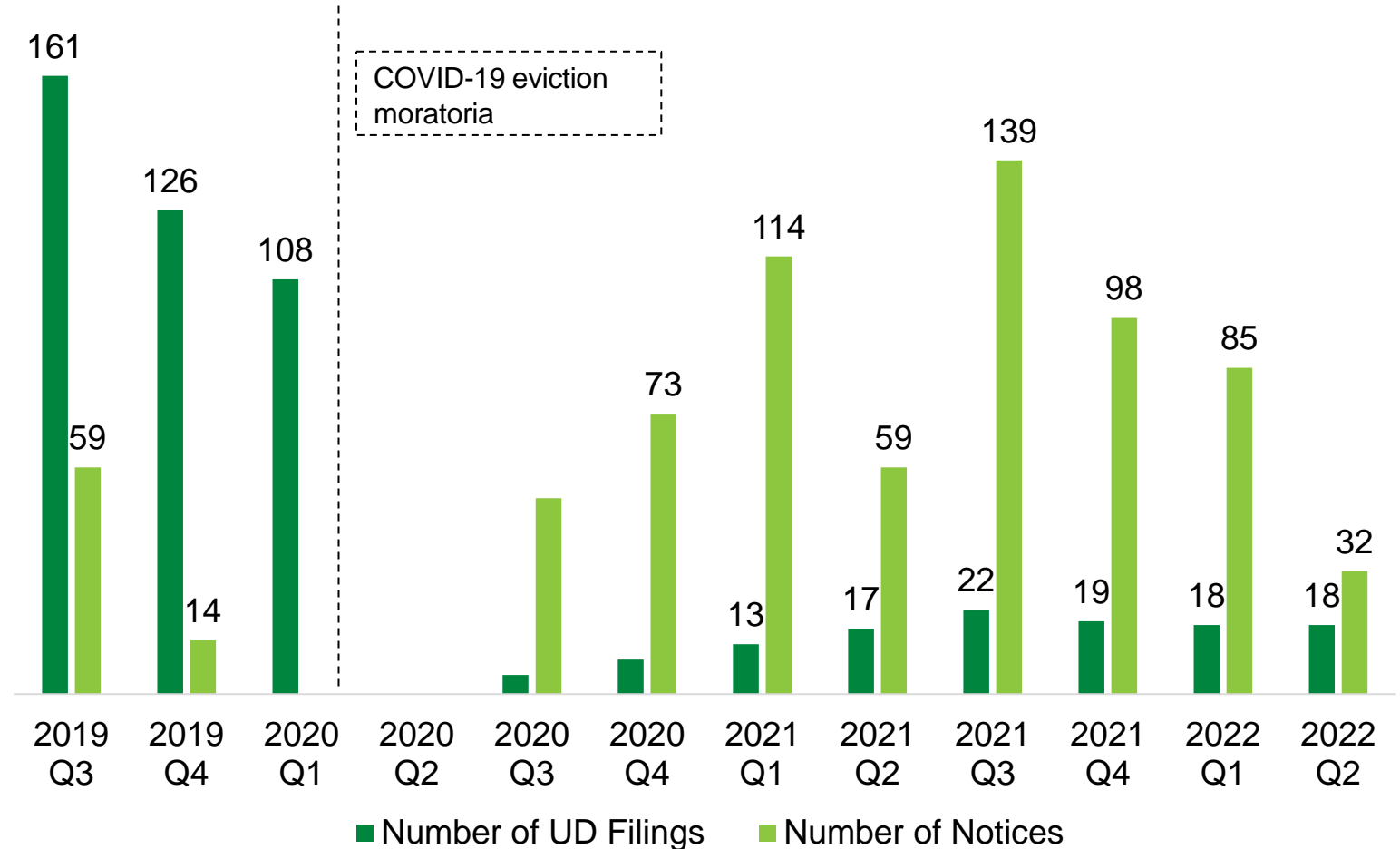


Only 121 unlawful detainers filed since first eviction moratorium

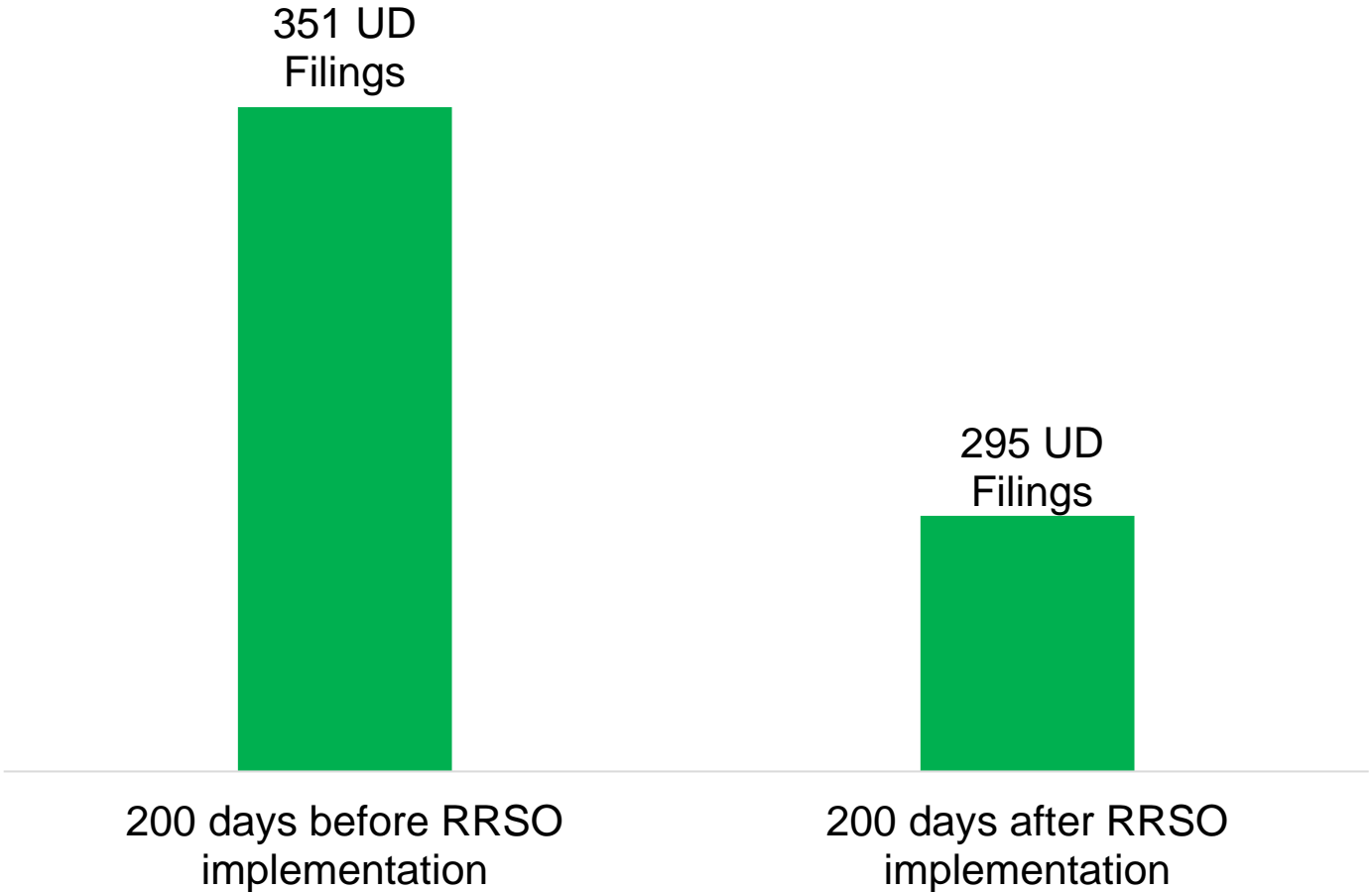


Trends in notice submissions align with changes in State law

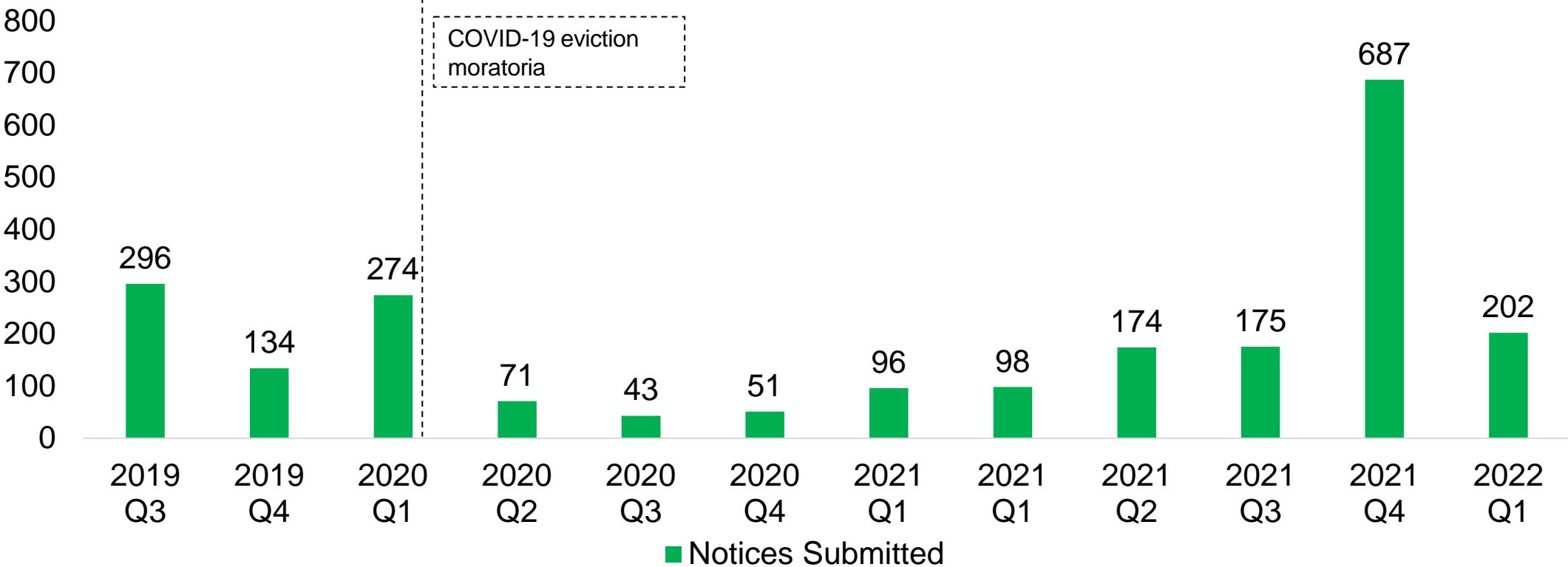
- 772 notices received through June 2022
 - Before pandemic protections, 86% were for a failure to pay rent or utilities
 - With pandemic protections, 95% were for a failure to pay rent or utilities



15% reduction in UD filings following RRSO

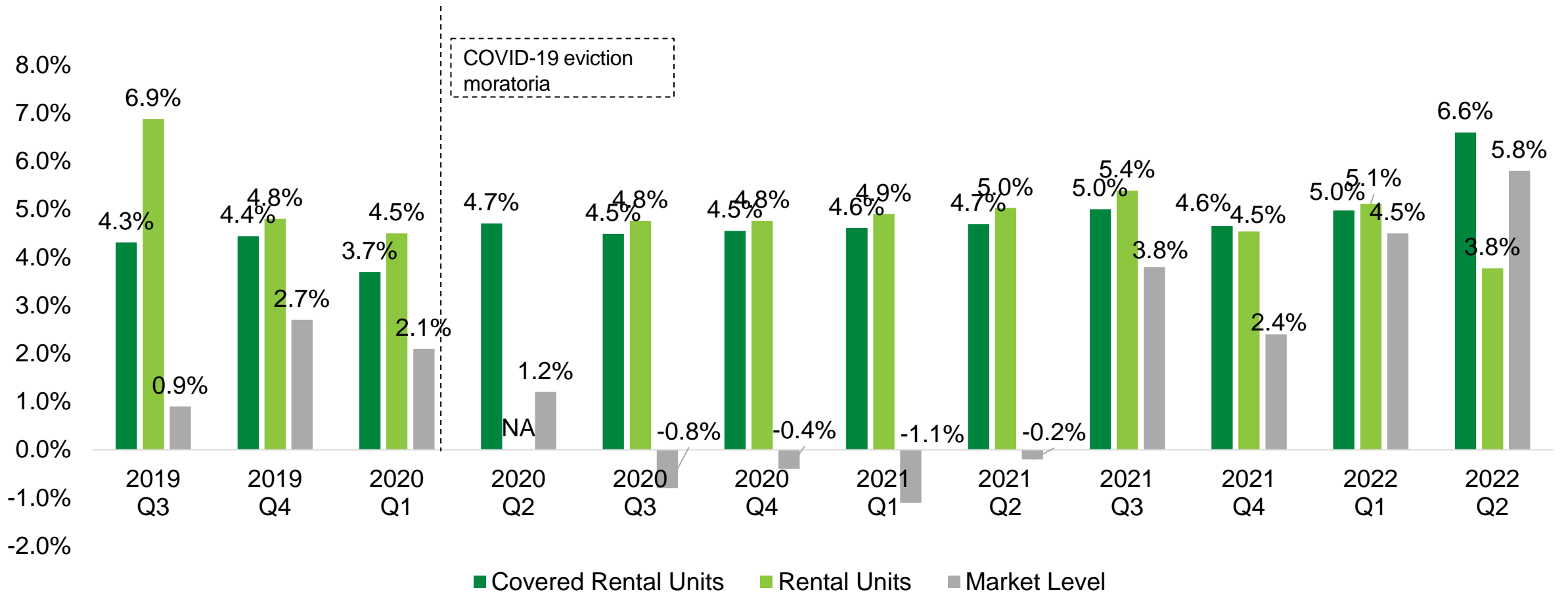


Spikes in the number of rent increases related to large properties submitting several notices at once



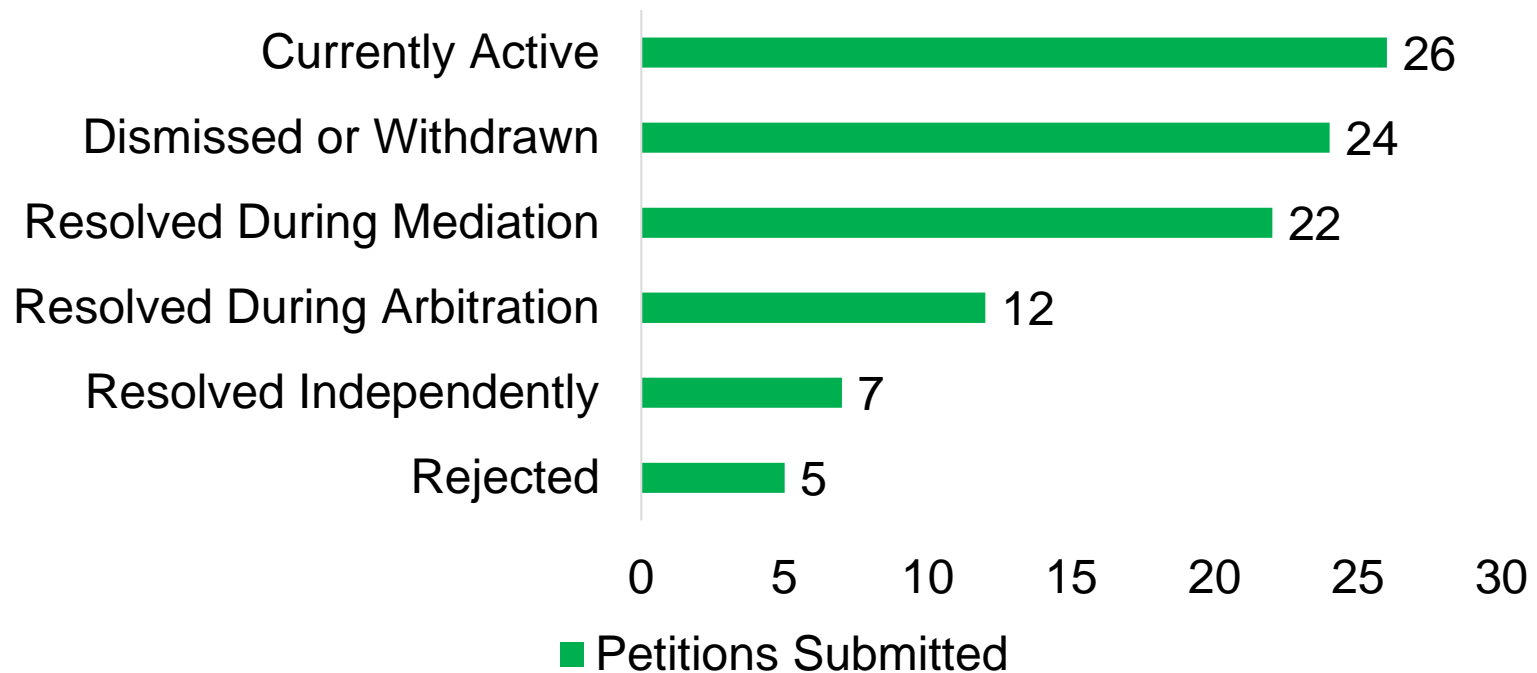
Covered rental units averaged lower increases

- Lower market-level average effective rent during the pandemic, with an increase in second half of 2021
- Banked increases lead to average increase over the threshold as allowed under the RRSO

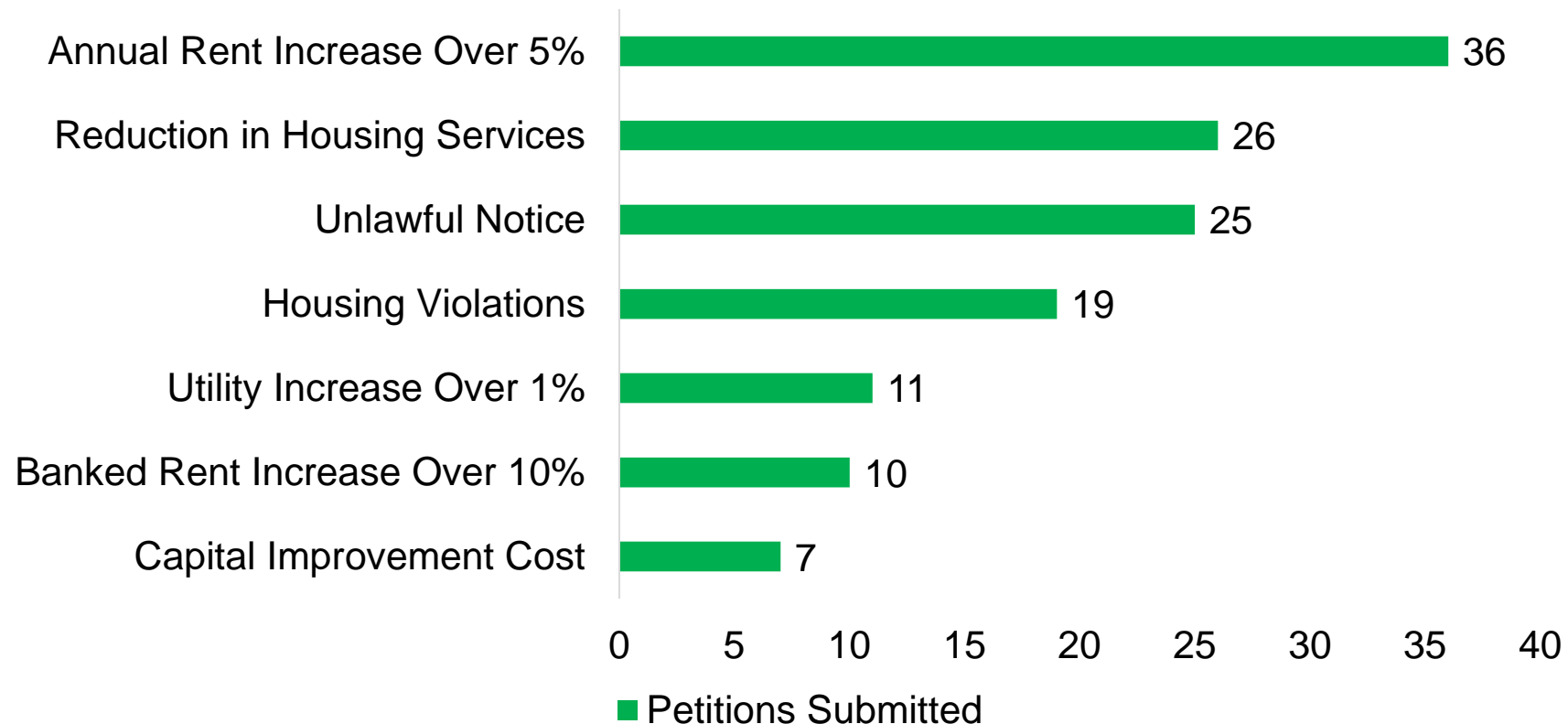


Most petitions are resolved prior to or during mediation

- 96 petitions received since enactment of the new RRSO



Most petitions were for an annual increase over 5%, a reduction in housing services, or an unlawful notice



Tenant Relocation Assistance Ordinance

- 20 relocation cases through September 2022, most initiated through a Code Enforcement Notice of Violation and often corresponding Notice to Vacate for tenants
- Established Tenant Relocation Assistance Fund
 - Payments to low-income tenants in the event of natural disasters
 - Payments on behalf of non-compliant landlords
- Implementation challenges
 - Volume of variables required to determine amount of assistance owed + varying scenarios with different compliance timelines
 - Staff recommend using the City Strategic Roadmap planning process to discuss adding the TRAO revisions as an additional project under Preserve, Protect, and Produce Housing for All priority area.

New changes to public contact options to increase and improve access

- Staffing Permit Counter: 9am-1pm, Mon-Thurs
- Book in-person or phone meetings with staff online
- Eviction Prevention Learning Lab resources for website updates



Questions and Discussion

