

CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Thursday, March 5, 2020

6:00 PM

Conference Room 2A

Homelessness-Housing Task Force

CALL TO ORDER

ROLL CALL

PUBLIC COMMENTS

The Public Comment section provides an opportunity to address the Task Force on items not listed on the agenda as well as items on the agenda. The Task Force welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Task Force is prohibited by State law from discussing items not listed on the agenda, any comments on items not on the agenda will be taken under consideration without Task Force discussion and may be referred to staff.

APPROVAL OF MINUTES

1. [MIN 20-022](#) Minutes of the Homelessness-Housing Task Force Meeting on December 9, 2019

Attachments: [Attachment I Draft Minutes 12/09/19](#)

REPORTS/ACTION ITEMS

2. [RPT 20-034](#) Progress Report on and Recommendations for Revisions to the Residential Rent Stabilization and Tenant Protection Ordinance

Attachments: [Attachment I Staff Report](#)
[Attachment II Marketing, Resources, and Tools](#)
[Attachment III Tenant Protection Act and RRSO Comparison](#)

INFORMATIONAL ITEMS

Informational Item regarding Hayward Resident/Employee Preference on Market Rate Housing on City Owned Land. Oral Report Only.

FUTURE AGENDA ITEMS

TENTATIVE SCHEDULE

JUNE 4, 2020

1. Hayward's Homelessness Strategic Plan (possibly September)
 - Workforce Development Pathways
2. Affordable Ownership Models – Informational Item
 - Below Market Rate
 - Land Trust
 - Down payment Assistance
 - Tenant Right of First Refusal

SEPTEMBER 3, 2020

1. Criteria/Priorities for Next NOFA (if sufficient funding is available)
 - Hayward Specific Area Median Income or Income Targeting Reflecting Specific Needs of Hayward Residents
 - Potential for Hayward Down payment Assistance Program

TASK FORCE MEMBER/STAFF ANNOUNCEMENTS AND REFERRALS

ADJOURNMENT

PLEASE TAKE NOTICE

Childcare services will be provided at this meeting.



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File #: MIN 20-022

DATE: March 5, 2020

TO: Homelessness-Housing Task Force

FROM: Deputy City Manager

SUBJECT

Minutes of the Homelessness-Housing Task Force Meeting on December 9, 2019

RECOMMENDATION

That the Task Force approves the minutes of the meeting on December 9, 2019.

ATTACHMENTS

Attachment I Draft Minutes 12/09/2019



MINUTES OF THE HOMELESSNESS-HOUSING TASK FORCE MEETING

Monday, December 9, 2019, 6:00 p.m.

Conference Room 2A

777 B Street, Hayward, CA 94541

CALL TO ORDER

Council Member Lamnin called the meeting to order at 6:00 p.m. Council Member Lamnin announced that Council Member Wahab would be participating via teleconference from The Edgewater Hotel in Seattle, Washington.

ROLL CALL

Present: Council Member Lamnin
Council Member Salinas
Council Member Wahab
Absent: None

OTHERS IN ATTENDANCE

Jennifer Ott, Deputy City Manager; Christina Morales, Housing Division Manager; Jane Kim, Housing Specialist and Evelyn Olivera, Senior Secretary

PUBLIC COMMENTS

The following individual spoke during public comments:

Sandra Frost, Hayward resident

APPROVAL OF MINUTES

1. Minutes of the Homelessness-Housing Task Force Meeting on October 22, 2019

It was moved by Council Member Salinas, seconded by Council Member Lamnin, and carried unanimously, to approve the minutes of the Homelessness-Housing Task Force meeting on October 22, 2019.

REPORTS/ACTION ITEMS

2. Proposed Workplan to Incentivize Housing Production in the City of Hayward

Deputy City Manager Ott announced the report and introduced Housing Manager Morales who provided a PowerPoint presentation on the Proposed Workplan to Incentivize Housing Production in Hayward. The presentation focused on the background information

MINUTES OF THE HOMELESSNESS-HOUSING TASK FORCE MEETING
Monday, December 9, 2019, 6:00 p.m.
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on the development of the plan; the objective; the review of the housing production strategies; and the proposed workplan.

Housing Manager Morales introduced Ms. Meea Kang, Council of Infill Builders Director and Senior Vice President of Related Company. Ms. Kang provided a PowerPoint presentation on Accelerating Infill in Hayward.

Council Member Lamnin opened the public comments section at 7:49 p.m.

The following individual spoke during public comments:

Victor Arellano, Hayward resident

Council Member Lamnin closed the public comments section at 7:52 p.m.

It was moved by Council Member Salinas, seconded by Council Member Lamnin, and carried unanimously, to approve the staff recommendation that the Task Force recommends Council approval of the proposed workplan to incentivize housing production in the City of Hayward with the addition of an item to the workplan to reduce cost and time to develop accessory dwelling units by providing pre-approved plans and forwarding the plan as revised to Council for approval.

FUTURE AGENDA ITEMS

TENTATIVE SCHEDULE

MARCH 5, 2020

1. Residential Rent Stabilization 6-month Update
 - Ordinance Implementation Status Report
 - Recommended Ordinance Clean-up Revisions
 - Relocation Assistance
 - Leisure Terrace Follow-up
 - Expanded Role of Mediation and Arbitration
2. Hayward Resident/Employee Preference on Market Rate Housing on City Owned Land – Informational Item

JUNE 4, 2020

1. Hayward's Homelessness Strategic Plan (possibly September)
 - Workforce Development Pathways
2. Affordable Ownership Models – Informational Item
 - Below Market Rate
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MINUTES OF THE HOMELESSNESS-HOUSING TASK FORCE MEETING
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TASK FORCE MEMBER/STAFF ANNOUNCEMENTS AND REFERRALS

There were none.

ADJOURNMENT

Council Member Lamnin adjourned the meeting at 8:16 p.m.



CITY OF HAYWARD

Hayward City Hall
777 B Street
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File #: RPT 20-034

DATE: March 5, 2020

TO: Homelessness-Housing Task Force

FROM: Deputy City Manager

SUBJECT

Progress Report on and Recommendations for Revisions to the Residential Rent Stabilization and Tenant Protection Ordinance

RECOMMENDATION

That the Homelessness-Housing Task Force (HHTF) reviews and discusses this report on the implementation progress of the Residential Rent Stabilization and Tenant Protection Ordinance (RRSO) and considers a recommendation to Council regarding the need to clarify language, align the RRSO with State law, and address specific policy issues previously raised by the HHTF and Council.

SUMMARY

The purpose of this report is to:

1. Summarize implementation progress of the RRSO, including inquiries to the Rent Review Office, marketing and outreach efforts, and the petition and noticing processes;
2. Discuss the applicability of State Assembly Bill 1482 to the City of Hayward, and
3. Outline specific potential revisions to the RRSO that will clarify existing language, align with State law, and address key policy issues identified by the HHTF and Council.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Marketing, Resources, and Tools
Attachment III	Tenant Protection Act and RRSO Comparison



DATE: March 5, 2020

TO: Homelessness-Housing Task Force

FROM: Deputy City Manager

SUBJECT: Progress Report on and Recommendations for Revisions to the Residential Rent Stabilization and Tenant Protection Ordinance

RECOMMENDATION

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SUMMARY

The purpose of this report is to:

1. Summarize implementation progress of the RRSO, including inquiries to the Rent Review Office, marketing and outreach efforts, and the petition and noticing processes;
2. Discuss the applicability of State Assembly Bill 1482 to the City of Hayward, and
3. Outline specific potential revisions to the RRSO that will clarify existing language, align with State law, and address key policy issues identified by the HHTF and Council.

BACKGROUND

The City of Hayward's New Residential Rent Stabilization Ordinance (RRSO)

On June 18, 2019,¹ the City Council approved the introduction of a new RRSO to mitigate displacement of Hayward residents. The City of Hayward and the Rent Review Office conducted a comprehensive and community inclusive process, including specific direction provided by the City Council on February 19, 2019,² a community workshop on April 6, 2019, and numerous subsequent HHTF meetings, to develop the RRSO. The key components of the RRSO include:

¹June 18, 2019 Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=3985848&GUID=52D1B678-D6BB-401A-AB3C-8990885C0CDD&Options=&Search=>

² February 19, 2019 Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=3863371&GUID=E3FF2A1F-D770-463F-ACC2-8EBEFC711CF3>

- Mandatory mediation program with binding arbitration that would be available to tenants upon rent increases greater than five percent and applicable to all pre-1979 units except single family homes and condominiums consistent with State law;
- Provisions to protect Section 8 voucher holders from discrimination;
- Requirements that landlords file rent increase notices and eviction notices with the City for the purposes of obtaining accurate data about rental housing activity;
- Tenant retaliation protection provisions; and
- Reincorporation of the Just Cause for Tenant Evictions into the ordinance.

Based on recommendations from the HHTF, the following provisions were considered but excluded from the new RRSO:

- Permanent (improvement) vacancy decontrol provisions; and
- Tenant relocation assistance provisions.³

Council subsequently passed an Emergency Ordinance establishing a temporary moratorium on rent increases exceeding 5% of current rent on June 25, 2019.⁴ The moratorium was in effect until the RRSO became law on July 25, 2019.

In July 2019, the City of Hayward extended its contract with Project Sentinel, a non-profit organization that assists individuals in resolving housing disputes to administer the tenant and landlord rent increase dispute resolution process, including mediation and arbitration services, as well as to provide educational workshops for tenants and landlords. Since then, the Rent Review Office has engaged in several outreach activities, fielded hundreds of inquiries, and worked closely with Project Sentinel to implement the new provisions of the RRSO.

Assembly Bill 1482

California Assembly Bill 1482, known as the Tenant Protection Act (TPA) went into effect on January 1, 2020.⁵ The TPA establishes a state-wide rent increase cap of 5% plus annual increases to the consumer price index (CPI), just cause for eviction protections, and relocation assistance for no-fault terminations. Key components of the new TPA include:

- **Rent Increase Cap:** Until January 1, 2030, within a 12-month period an owner may not increase the total rent more than 5% plus the percentage change in the cost of living or 10%, whichever is lower. The cap applies to any pre-2005 unit and applies to all residential rental units not covered by a local ordinance. It does not apply to housing already restricted by an agreement with another government agency, dormitories, housing restricted by a public entity that restricts annual rent increases in the rental rate to an amount less than that provided in the TPA, single family homes

³ While not included in the RRSO, tenant relocation assistance was delegated to the HHTF for further discussion and consideration at a later time.

⁴ June 25, 2019 Staff Report and Attachments:

<https://hayward.legistar.com/MeetingDetail.aspx?ID=695618&GUID=673F14D1-72B7-44A7-832A-C56ADAE68B1A&Options=info&Search=>

⁵ Assembly Bill No. 1482, Tenant Protection Act of 2019:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1482

(single unit properties) except those owned by a real estate or investment corporation, and owner-occupied duplexes.

- **Just Cause for Eviction and Relocation Assistance:** The TPA includes protections for just cause for evictions, stipulating the allowable reasons for a landlord to evict a tenant. Allowable reasons include several “at fault” reasons that are considered the fault of the tenant (e.g., failure to pay rent or breach of a material term of the lease) and several “no fault” reasons that are not the fault of the tenant but still an allowable reason for an eviction (e.g., the owner, spouse, child, parent, grandparent intend to occupy the unit, or the owner is withdrawing the unit from the rental market). This section of the TPA also includes provisions for relocation assistance, which must be paid by the owner to the tenant when an owner issues a no-fault termination. The owner is required to notify the tenant of their right to relocation assistance of either a direct payment of one month’s rent or waiver of the final month’s rent. This does not apply to hotels/motels; nonprofit hospitals, residential, or extended care facilities; dormitories; housing where tenants share a bathroom or kitchen with the owner; single-family owner-occupied residences; owner-occupied duplexes; and alienable and separate residential real property owned by a real estate or investment corporation.

Analysis of the applicability of the TPA versus the RRSO is included under the discussion section of this report.

DISCUSSION

The following discussion focuses on three main areas: 1) implementation progress, which discusses staff efforts implementing the RRSO since it was enacted on July 25, 2019; 2) the Tenant Protection Act and its applicability to Hayward residents; and 3) recommended revisions, which discusses potential revisions to clarify language in sections that have caused confusion for landlords and tenants, to better align State law, and to address key policy issues identified by the HHTF and staff.

Implementation Progress

Throughout the implementation process, Rent Review Office staff have focused on developing materials, resources, and tools to improve understanding and facilitate compliance for tenants, landlords, advocacy groups, and real estate professionals. The wide-ranging efforts to create awareness and support compliance include:

- Development of a plain-language summary of the RRSO
- Development of a compliance guide for landlords to help them understand their rights and responsibilities under the new RRSO
- Development of forms and templates to help landlords comply with noticing requirements of the RRSO
- Revision of existing forms to conform with the new RRSO
- Development of infographics to illustrate new, potentially complex processes
- Provision of regular and ongoing landlord and tenant education workshops
- Provision of one-on-one technical assistance to landlords, tenants, and industry professionals

- Engagement in ongoing marketing and outreach to spread the word about the RRSO
- Translation of all but two⁶ materials into Spanish and traditional Chinese
- Creation of a system to collect and store Rent Increase Notices and Tenancy Termination Notices.

Attachment II to this report provides more detail regarding these efforts, including review of the marketing and outreach efforts designed to increase education and awareness of the RRSO. The following subsections provide information regarding activity related to the RRSO including: the petition process; rent increase and termination notices received by the Rent Review Office; and the lessons learned from implementation to date.

Tenant and Landlord Petitions

The new RRSO expanded the mediation and arbitration process to more Covered Rental Units. The process is initiated by a petition, either from a tenant or a landlord. To support the petition process and make it as easy as possible for tenants and landlords to understand and comply with the RRSO, staff created several petition forms for tenants and landlords (see Attachment II).

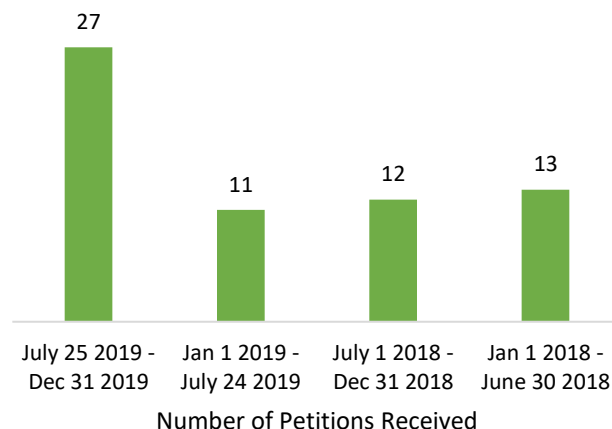
Petitions Received

From July 25, 2019, through December 2019, the Housing Division received 27 petitions, all from Tenants. This is more than double the number of petitions received in each of the three six-month periods prior to the new RRSO, as shown in **Figure 1**.

Petition Outcomes

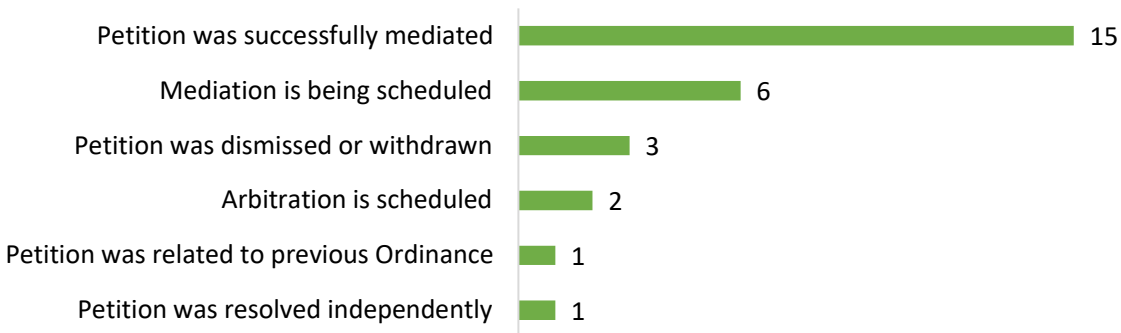
Figure 2 on the following page describes the outcomes of each petition received since the new RRSO went into effect, as of mid-January 2020. Just over half (15) were mediated successfully. Six petitions are being scheduled for mediation and two were not resolved in mediation and are moving forward for arbitration. Five did not move onto the mediation or arbitration process because they were either withdrawn by the tenant, dismissed by the Rent Review Office, resolved independently by the parties involved, or related to the previous ordinance.

Figure 1. Petitions Received since January 2018



⁶ These materials were being finalized in English at the time of this report and will be translated as soon as they are completed.

Figure 2. Tenant Petition Outcomes, as of January 2020



Of the petitions submitted, only two were submitted outside of the 30-day window for petitions to be filed, suggesting that the majority tenants who know about the petition process are submitting their petitions in compliance with the RRSO. While no landlord petitions were submitted in the first six months of implementation, staff have talked with several Landlords to explain the process and address questions, and Project Sentinel has delivered two Landlord workshops focused on the petition process.⁷

Rent Increase and Termination Notices

The RRSO requires that Landlords provide the Rent Review Office with copies of all rent increase and termination notices. Collecting such information will enable the Rent Review Office to identify trends in Hayward's rental environment that were previously unclear without reliable data.

To make it as easy as possible for landlords to comply with this component of the RRSO, staff developed several forms for noticing that meet all the noticing requirements of the RRSO, including a template form to use whenever a landlord increases rent (see Attachment II).

Since the RRSO was passed through December 2019, the Rent Review Office received and documented 489 rent increase notices and 75 termination notices. In some instances, landlords provided incomplete information. For increases with adequate information regarding the amount increased and the type of unit (i.e., covered or not covered; n = 230), the average rent increase amount was 4.4% of monthly rent for covered rental units and 6.4% for rental units.⁸ Figure 3 below shows the distribution of rent increase amounts from July 25, 2019 to the end of 2019 for each type of unit. Most landlords who have submitted rent increases have used the form created by the Rent Review Office. As shown in Figure 4, the majority of eviction notices for either a failure to pay rent or to pay utilities. Only a small

⁷ Due to restrictions in the RRSO, eligible capital improvement pass-through projects must have been completed after July 25, 2019; therefore, there have been few projects eligible for a pass-through. Additionally, the RRSO establishes calendar year 2018 as the baseline year for calculating fair return pass-throughs; therefore, January 2020 is the first eligible year for considering a fair return pass-through and no petitions have been submitted.

⁸ Once Phase II of the Rental Housing Database is completed, this data will be analyzed separately for Covered Rental Units and Rental Units.

proportion (5%) of eviction notices were for a no-fault cause, such as owner or family move-in.

Figure 3. Rent Increase Amounts for July 25 – December 31, 2019

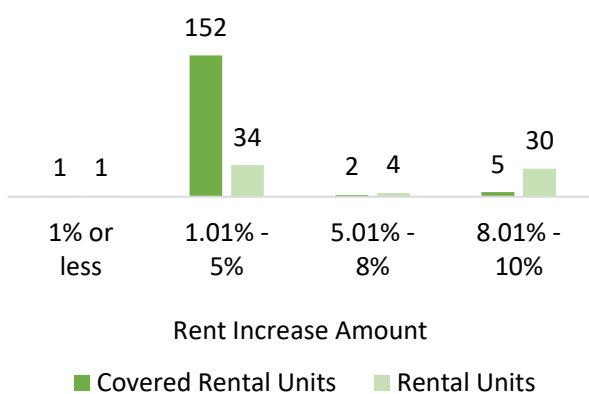
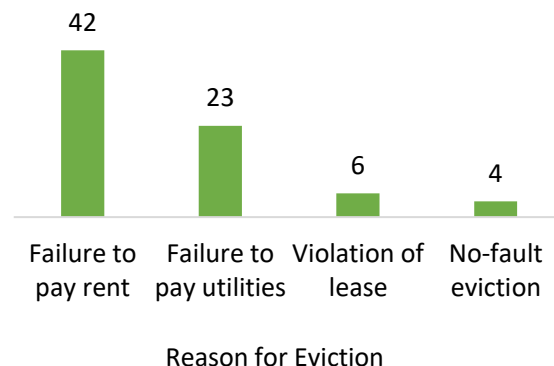


Figure 4. Reasons for Eviction for July 25 – December 31, 2019



Rental Housing Database

The Rent Review Office began implementation of the first phase of the Rental Housing Database. The rent review fee billing process enabled staff to identify inconsistencies and conflicting data on rental properties in the City, resulting in over 3,800 edits made to GIS records and the addition of 676 units that were previously not in the City's GIS records. Once the billing process was completed, staff began uploading records for all rental housing units into the online Knack platform database. While doing so, staff identified if each unit was covered under the residential rent increase threshold, which will enable both tenants and landlords to search the database and determine what components of the RRSO apply to their units.

The main challenge in developing the database is, in instances where one property has some units that are covered ("Covered Rental Units") under the residential rent increase threshold and others that are not covered ("Rental Units"), staff currently do not have the ability to identify which units are specifically covered and which are not. For example, if a landlord has a property with ten covered rental units, but two are occupied by Section 8 tenants (therefore exempting them from the threshold), staff currently cannot determine which specific units on the property are covered rental units and which are rental units. In the next billing cycle, staff will prompt landlords to specify which units are covered and which are not for any given property.

Implementation Lessons Learned

Throughout the implementation process, staff have solicited feedback from landlords, tenants, Project Sentinel, and other City staff. This feedback has already been incorporated into revising the existing petition forms and outreach materials, and to streamline processes for scheduling mediation and arbitration hearings. Administration of the rent review fee enabled the Rent Review Office to clean a substantial amount of data, which had the added benefit of

helping the Planning Division update their data as well. Feedback regarding the rent review fee administration (e.g., clarifying language in the invoice letter and providing clearer guidance on required documentation for declaring exemptions) has been documented and will be incorporated into the billing process for FY21.

Analysis of the Tenant Protection Act

The Tenant Protection Act (TPA) includes provisions for a rent increase limit, just cause eviction, and tenant relocation assistance. Staff from the Rent Review Office have met with the City Attorney's Office to discuss the ways in which the TPA may apply to Hayward, given that the City's RRSO was enacted before the TPA. The TPA and RRSO each address just cause for eviction and rent increase limits; however, only the TPA addresses relocation assistance for no fault eviction. Attachment III provides a table with a detailed comparison of how the TPA and RRSO address each of these sections.

Just Cause and Relocation Assistance

The TPA just cause provisions and tenant relocation do not apply to property "subject to a local ordinance requiring just cause for termination adopted on or before September 1, 2019" and sunsets on January 1, 2030.⁹ Therefore, the City Attorney's Office and Housing Division staff's interpretation is that Hayward's RRSO just cause provisions takes precedence over the TPA just cause provisions and Hayward residents are not eligible for relocation assistance under the State law.

Rent Increase Limitations

The TPA's rent increase limitations do not apply to properties that have local rent control ordinances where the rent increase is below the threshold established in the TPA. However, the TPA may provide rent increase relief to some tenants who do not currently have protection under the RRSO due to Costa Hawkins. Rent Review Office staff estimate that approximately 6,300 rental units currently not covered under the RRSO's rent increase threshold are now covered under the TPA's rent increase limit.¹⁰ With some exemptions (see **Error! Reference source not found.**), the TPA will provide a rent increase limit for properties built between 1979 and 2005. Properties not covered under the RRSO's residential rent increase threshold may be subject to State law.

Applicability of the Tenant Protection Act

As of mid-February, the State has not produced additional interpretation guidelines or resources to further clarify the TPA. As City staff cannot provide legal advice or further interpret State law for residents, Rent Review Office staff have encouraged landlords and tenants with in-depth legal questions to consult an attorney and have provided legal resources to help them identify available options for doing so.

⁹ Assembly Bill No. 1482, Tenant Protection Act of 2019, Legislative Counsel's Digest: https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1482

¹⁰ Estimates are based on American Community Survey 2011-2015 5-Year Estimates Tenure by Year Structure Built data.

Staff have analyzed the legislation in consultation with the City Attorney's Office and have determined that revisions to the RRSO are necessary to both ensure Hayward residents are provided with the same protections afforded other Californians under the new State law and provide clarity for the application of the TPA in Hayward. With some exceptions (see Attachment III), all residential units are covered under the RRSO's just cause protections, which are similar to those established by the TPA; however, the TPA links no-fault evictions to relocation assistance, which is not provided for in the City's RRSO. Therefore, tenants in units covered by the RRSO are currently not entitled to the same relocation benefits provided to tenants living in units covered by the TPA. Additionally, as the RRSO provides for banked rent increases and pass-throughs for capital improvements or fair return up to 10%, it is possible that rent increases allowable under the RRSO could exceed the rent cap established by the TPA (i.e., 5% plus the percentage change in the cost of living or 10%, whichever is lower). The TPA states in section 1947.12(d)(3) that housing subject to rent controls restricting increases to an amount less than the TPA's cap is exempt from the TPA cap. Increases in Hayward that reach the RRSO's 10% threshold could possibly exceed the TPA's cap, thus making those increases subject to the TPA. Currently, the RRSO has no language addressing this ambiguity and does not give local arbitrators the resources to resolve disputes that may involve the TPA's cap.

Recommended RRSO Revisions

Following the first six months of implementation, staff received feedback from the community, City Council, and the HHTF along with staff's on-the-ground experience to identify some potential revisions to the RRSO. These recommended revisions are intended to a) add clarity to the RRSO, b) align the RRSO with new state tenant protection legislation, and c) respond to key policy issues identified by the HHTF or continued from earlier work sessions.

The following recommendations take into consideration the investment made to date in education and outreach to ensure tenants and landlords understand their rights under the new RRSO, staff capacity to implement changes, feedback from landlord and tenant stakeholders, and the need to allow new policy to stabilize over an extended period of time prior to making substantial changes. Table 1 at the conclusion of this section summarizes the potential revisions and staff's recommendations for addressing the potential revisions.

Language Clarifications

The following revisions will clarify components of the RRSO that have caused confusion among tenants and landlords and will conform to staff's interpretation of the RRSO:

- **Clarify that motels/hotels and hospitals and long-term care facilities are exempt from the RRSO.** Currently, these properties are listed as exemptions in all sections of the RRSO that impose regulatory restrictions, but not sections that impose administrative requirements. *Staff recommends placing the exemption in the definition of a "rental unit" to clarify that they are exempt from all provisions of the RRSO.*
- **Clarify when banked rent accruals and capital improvement pass-throughs start**
 - Some Landlords have asked for additional clarity about when they may start aggregating banked rent. Some landlords expected that banked increases from the previous ten years could be recovered; however, the banking provisions

under the current RRSO do not take effect until the effective date of the Ordinance. Using Calendar Year 2018 as the initial year, as is done for calculating fair return, will clarify this confusion. *Staff recommends that the banking provision initial year be consistent with the fair return initial year.*

- While the effective date of the RRSO establishes the date that completed capital improvements can be passed through to tenants, the lack of explicit statement has caused confusion. Some landlords expected to pass through costs of an improvement that happened before the RRSO was passed. *Staff recommends amending the RRSO to explicitly state that only capital improvement projects that were completed after the effective date of the RRSO are eligible for the capital improvement pass-through.*
- **Clarify Noticing Requirements for Landlords**
 - The language regarding when Landlords are required to provide tenants with a copy of the RRSO is currently ambiguous and can be clarified further. Landlords are only required to provide a copy of the RRSO or the summary developed by the Rent Review Office when entering into a new tenancy. They do not have to provide a copy with lease renewals, unless the RRSO has changed substantially. *Staff recommends clarifying this requirement in the RRSO to state that Landlords only need to provide a copy of the RRSO or summary for new tenancies.*
 - The Rent Review Office has received feedback that the requirement to provide a paper copy of the tenant petition with each rent increase notice creates a substantial administrative and financial burden. Staff have also observed that landlords often provide outdated versions of the petition, causing tenants to have to re-submit their petition with the correct form. To reduce the burden on landlords and increase the likelihood that tenants receive the correct form, *staff recommends removing the requirement to provide the paper petition and adjusting noticing requirements to specify that landlords must tell tenants, in writing, that tenants have a right to file a petition, that they have 30 days from the increase to file, and where to find a copy of the petition (i.e., the Rent Review Office website or office).*
- **Clarify that tenants can petition the Rent Review Office for any violation of the Residential Rent Increase Threshold Section.** Through feedback from tenants and landlords, staff learned that there is some ambiguity over whether tenants can petition limitations on fees. *Staff recommends adding a statement to the Petition Process section (12-1.05 (g)) specifying that any violation of the Residential Rent Increase Threshold Section (12-1.05) can be petitioned.*
- **Correct substantive typo related to fair return rent increases.** Change the CPI for comparison year in the Standards of Review Section from 285.550 to 289.896. *Staff recommends making this change in the CPI figure to resolve a typo that mistakenly included the annual CPI instead of the monthly CPI for December 2018.*

Alignment with State Law

The following revisions will bring the City's RRSO into closer alignment with the State's Tenant Protection Act (TPA, AB 1482) by resolving inconsistencies between the RRSO and the TPA and ensuring Hayward residents have maximum protections:

- **Address ambiguity and resolve inefficiency created by the TPA rent cap and the applicability of local rent control.** Per section 1947.12(d)(3), housing subject to rent or price controls that restrict annual increases in the rental rate to an amount less than that provided in the TPA is exempt from the rent cap. Both banked rent increases and capital improvement rent increases allowed for in the RRSO could possibly exceed the rent cap established in the TPA, making it subject to the TPA's cap. By referencing the TPA rent cap in the RRSO, disputes regarding rent increases could be resolved by the City's rent dispute process. *Staff recommends including reference to the TPA rent cap to ensure that all rent disputes related to covered units can be resolved through the City's Rent Review process.*
- **Ensure that Hayward residents have equal protections as other residents in the state by providing relocation assistance consistent with the TPA.** When the RRSO was being deliberated, the topic of relocation assistance was delegated to the HHTF for further review. The State's TPA requires landlords to provide one month's rent (or to waive the last month's rent) for any no-fault eviction. Staff do not recommend providing relocation assistance beyond what is currently provided via State law as further expansion of relocation assistance would require extensive re-education for landlords and tenants, which would create additional burden on residents that could reduce their willingness to engage with staff to understand and comply with new changes. Current and immediate efforts should focus on synthesizing State law and the RRSO to reduce confusion for Hayward residents and to promote compliance with both, to the extent that the City has the authority to enforce compliance. *Staff recommends mirroring the State's relocation assistance policy for tenants displaced through no-fault just cause terminations in order to better align the City's RRSO with State law and provide Hayward residents the same protection as other California residents.*

Specific Policy Issues

The following revisions are in response to specific policy issues identified by staff and the HHTF that emerged since the RRSO was enacted. During the October 22, 2019, Task Force meeting¹¹, the HHTF discussed relocation assistance (which was previously delegated to the HHTF from Council) and the exemption of Affordable Housing Conversion Projects from just cause provisions. In response to those discussions, staff prepared the following recommendations for revisions:

- **Address Task Force concerns about the exemption for Affordable Housing Conversion Projects from the Just Cause for Eviction provisions.** During discussion of the Leisure Terrace conversion project, the HHTF reached consensus on removing the exemption for affordable housing conversion projects from the just cause for eviction provisions. Removing this exemption is intended to prevent displacement related to the conversion of a property from market rate to affordable. *Staff recommends implementing the HHTF directive to remove the exemption for Affordable Housing Conversion Projects from the just cause provisions.*

¹¹ October 22, 2019, Homelessness-Housing Task Force Meeting:
<https://hayward.legistar.com/MeetingDetail.aspx?ID=723938&GUID=D10A57BF-852D-44BE-A6EA-D6525F126044&Options=info&Search=>

- **Address Task Force concerns regarding habitability during renovations by providing Temporary Relocation Assistance.** During the October 22 HHTF meeting and through communications with the Rent Review Office, tenants have expressed repeated concerns regarding the habitability of their units while the property undergoes renovation. Temporary relocation assistance will define the landlord's obligation to a tenant if the unit becomes temporarily uninhabitable due to substantial repairs, including a major remodel, or if a governmental agency orders a tenant to vacate or a tenant chooses to vacate due to health or safety concerns. Health or safety concerns refer to conditions that would reasonably affect the health and/or safety of the tenant were they to remain in the unit while the conditions exist. To be eligible for temporary relocation assistance, the conditions must not have been caused by a natural disaster (e.g., fire, flooding) unless those events were caused by human action or inaction (e.g., fire due to property owner's neglect), or caused by the tenant or their invited guests. Based on a benchmarking review of comparable local cities, *staff recommends establishing a per diem relocation cost for extended stay hotel/motel which includes kitchenette and pet boarding costs if applicable. Staff estimates that per diem hotel/motel costs will be between \$150 and \$175 for hotel/motel and pet boarding will be between \$30 and \$50.*

Other Topics Evaluated

- **Maintain current mediation services for Covered Rental Units.** During the June 18, 2019 Council meeting, Council directed staff to explore expansion of mediation services to cover all Hayward residents, regardless of the covered status of units.¹² Staff evaluated options for expanding existing mediation services beyond those provided in the RRSO for Covered Rental Units and determined that, to remain in line with State law and to maintain reasonable rent review fees, we should continue referring community members to existing fair housing and legal resources for which the City currently pays in order to provide accessible services to Hayward residents.

¹² June 18, 2019, Hayward City Council Meeting:
<https://hayward.legistar.com/MeetingDetail.aspx?ID=695617&GUID=CADE769E-CF9E-496E-9D23-D589F1BAC64E&Options=info&Search=>

Table 1. Summary of Potential Revisions and Staff Recommendations

Reason for Revision	Potential Revision	Staff Recommendation
Clarify language and conform to interpretation	Exempt motels/hotels and hospitals and long-term care facilities from the definition of a “rental unit.”	Accept revisions
	Clarify that the banking provision has an initial year of 2018 to reduce confusion and align with the fair return provision.	
	Clarify that capital improvement projects that were started and completed before the RRSO went into effect on July 25, 2019, are not eligible for the capital improvement pass-through.	
	Clarify that the requirement for Landlords to provide a copy of the RRSO only applies to new tenancies.	
	Remove the requirement that landlords must provide a paper copy of the Tenant Petition with every increase notice.	
	Change the rent increase noticing requirements to include that landlords must notice tenants, in writing, of their right to file a petition, that they have 30 days from the increase to file it, and where they can find a copy of the petition.	
	Clarify that tenants can petition the Rent Review Office for any violation of the Residential Rent Increase Threshold Section.	
	Change the CPI for comparison year in the Standards of Review Section from 285.550 to 289.896.	
Align RRSO with State Law	Include reference to the State’s Tenant Protection Act in the Residential Rent Increase Threshold section.	Reference AB 1482 in RRSO Section 12-1.05
	Provide the same relocation assistance established in the State’s Tenant Protection Act.	Replicate the State’s relocation assistance policy
Address specific policy issues	Remove the exemption for Affordable Housing Conversion Projects from Just Cause for Eviction.	Remove Affordable Housing Conversion exemption from RRSO Section 12-1.13(a)

Reason for Revision	Potential Revision	Staff Recommendation
	Add Temporary Relocation Assistance for tenants temporarily displaced from their units for significant repairs related to code compliance, major remodel, or substantially damaging events, such as a fire or flood.	Establish per diem temporary relocation assistance for significant repairs
Address other outstanding topics	Maintain current mediation services for Covered Rental Units.	Do not expand current mediation services

ECONOMIC IMPACT

There is an expected economic impact to landlords who may be required to pay temporary or permanent relocation assistance.

FISCAL IMPACT

The recommended revisions will not have any fiscal impact on the City's budget.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Present, Protect, & Produce Housing. Specifically, this item relates to the implementation of the following projects:

Project 7, Parts 7a: Provide 6-month update on the implementation of the Rent Stabilization Ordinance and recommend amendments

PUBLIC CONTACT

Prior to the March 5, 2020, HHTF meeting, staff reached out to landlord, tenant, and realtor stakeholder groups to notify them of the recommended revisions. Staff sent the flyer included as Attachment II and answered questions from stakeholders to provide further clarification. Staff also plans to solicit additional community feedback following the HHTF meeting and before any subsequent reporting to Council. Staff has received feedback in opposition of the following modifications:

Applying the TPA rent cap to banking and capital improvement passthrough increases

One housing provider advocacy group has an alternate interpretation of the TPA. Under their interpretation, if a local government has valid rent control, it is essentially more restrictive than the TPA and the local rent control would supersede the state law. There is concern that further restrictions would disincentivize landlords from improving their properties. However, these variations in interpretation are the reason staff proposes the modification to improve clarity.

Tenant Relocation Assistance

Permanent: Many realtors have voiced concerns about relocation assistance, noting that they anticipate many property owners will sell their investment properties rather than continue to rent them in Hayward. It was also noted that there has been an increase in sales of investment property from July 2019 through February 2020 and expect that this trend will continue. In consideration of the trend, relocation assistance will mitigate the cost of relocation or possibly discourage reactive measures that may displace tenants.

Temporary Relocation: One housing provider advocacy group is concerned that the proposed temporary relocation assistance will make the landlord responsible for tenant caused damage that makes the unit uninhabitable. Staff has refined the description of this proposed policy to exclude displacement caused by the tenant or their invited guests.

NEXT STEPS

Staff will continue to monitor implementation of the RRSO, identifying additional opportunities to improve processes, forms, and outreach strategies.

Upcoming Outreach. Landlord and tenant workshops are scheduled through April, with focus on Maintenance and Repairs, Fair Housing, and Inspections. The March Tenant workshop will take place at Weekes Library Branch to reach community members who may not be able to attend City Hall meetings. Staff will collect feedback from attendees to identify other useful topics for future workshops. Additionally, the Housing Division hired a new Program Specialist who brings expertise in community outreach and will build out the existing outreach plan.

Rent Review Database Development. The Rent Review Office will continue adding to Phase I of the database and will begin Phase II, which will focus on adding all completed and open petition processes to the database. Based on the information collected, the City can evaluate the volume of petitions, the nature of the petitions, at what stage the petitions are being resolved, the outcomes of the petitions, and the effectiveness of the process. While detailed information regarding each petition would not be available to the public, generalized statistical information will be available through reports. This phase will also include creating a repository for community members to lodge complaints related to rental housing. Tenants will be able to submit complaints online or by contacting staff. The City will not intervene in the complaints, but will notify the landlord that a complaint was received. Like the Better Business Bureau or Yelp, landlords can respond to a tenant's complaint, but resolution of the issue will be left to the tenant and landlord. This component of the database will enable the City to track rental housing issues not covered by the RRSO and collect information.

Fiscal Year 20/21 Rent Review Fee Administration. Staff have aggregated feedback on the initial billing process for FY20 and will apply that feedback to improve administration of the Rent Review Fee for FY21. Staff will begin the billing process for FY21 in July 2020.

If recommended by the HHTF, staff will request Council approval of revisions to the RRSO on April 7, 2020.

Prepared by: Amy Cole, Management Analyst I

Recommended by: Jennifer Ott, Deputy City Manager
Christina Morales, Housing Division Manager

Approved by:



Kelly McAdoo, City Manager

Efforts to Disseminate Information about the New Residential Rent Stabilization and Tenant Protection Ordinance

Throughout the implementation process, Rent Review Office staff have focused on developing materials, resources, and tools to improve understanding and facilitate compliance for tenants, landlords, advocacy groups, and real estate professionals.

Marketing and Outreach

Since the Ordinance was enacted in July 2019, staff have relied on several different marketing and outreach strategies to get the word out to community members about the RRSO. The outreach approach integrated grassroots efforts with innovative online tools to be as comprehensive as possible in reaching tenants, landlords, and advocates across the City.

Outreach efforts included:

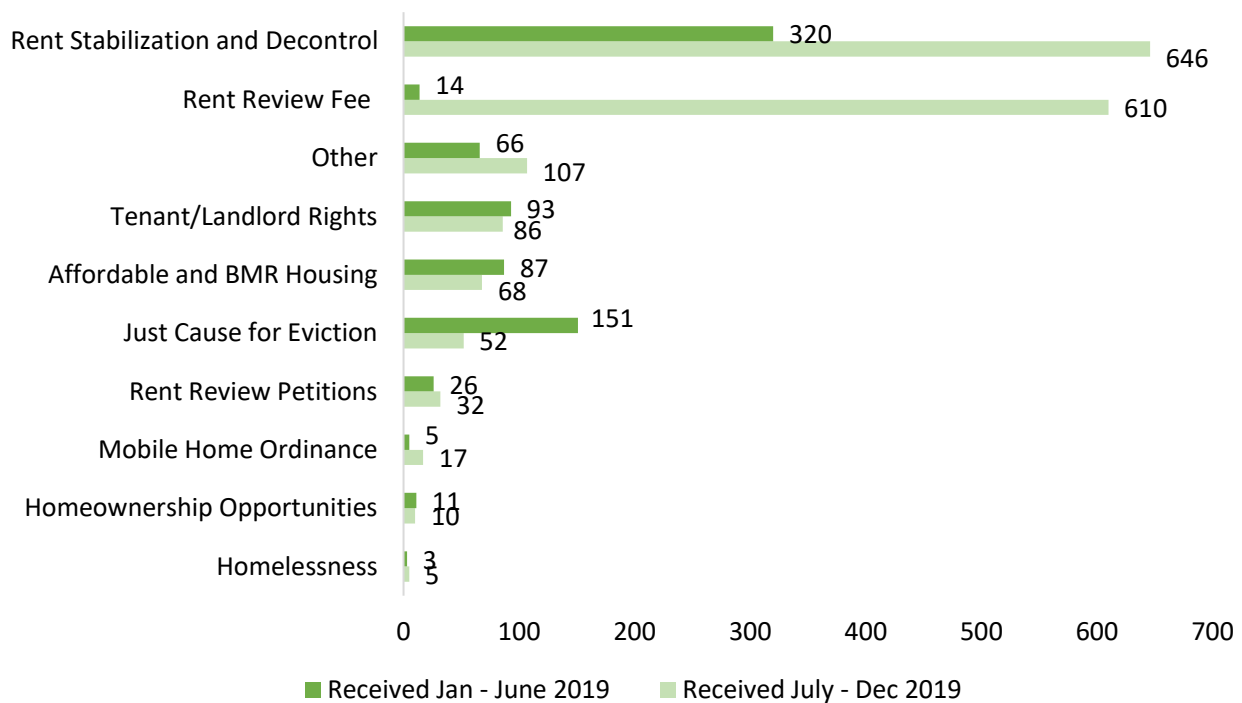
- *Initial landlord outreach mail:* Following Council's vote to pass the RRSO, staff sent a letter to the owners of 6,180 identified rental properties informing them about the new RRSO, noticing requirements, and contact information for the Rent Review Office if they had additional questions.
- *Outreach to Community-Based Organizations:* Staff distributed flyers and resources (described in detail in the following section) to over 40 stakeholder groups. They also offered to attend various meetings to provide in-person overviews of the RRSO and address stakeholders' questions and concerns.
- *Stakeholder email communication:* Staff used MailChimp for ongoing communication with a growing listserv of interested parties. Emails were sent with updates, new forms, and to promote workshops and other educational events.
- *Announcement in Stack newsletter:* The City of Hayward has an active distribution list of 71,825 individuals who receive the Stack newsletter. Through the Stack, staff have sent updates about the RRSO, including outreach about workshops and education opportunities as well as contact information for the Rent Review Office for individuals to reach out with specific questions or feedback.
- *Social media communication:* Along with email communication and the Stack, information with links to additional resources were shared on all of the City's social media outlets.
- *Press release and news media coverage:* The City of Hayward's Community and Media Relations Division prepared and distributed a press release to local news and media outlets which led to news media coverage in print and television to help increase education and awareness of the new RRSO when it was enacted.
- *Targeted marketing:* Staff contracted a marketing vendor to implement GeoFence technology at five locations throughout Hayward. With GeoFence, the vendor enables a geographic boundary that engages individuals with online advertisements for the RRSO and Housing Division's website when they pass through the boundary with location services enabled on their mobile devices. Through this process, we can drive Hayward residents who may not have convenient access to City Hall to our website where they can learn more about the RRSO and their rights as Landlords and Tenants. After two months of the campaign, the rate of individuals who see the advertisement and click on it has been twice the rate expected by the vendor.

Education and Technical Assistance

Staff provided education and technical assistance to tenants, landlords, real estate industry professionals, and tenant/landlord advocacy groups to help them understand their rights and responsibilities under the RRSO. Key to this effort were monthly workshops, delivered in collaboration with Project Sentinel to provide an overview of the RRSO as well as focus on special topics identified by staff through interactions with the Hayward community as needing additional education and support. Staff also partnered with ECHO Housing for Fair Housing workshops for tenants and landlords. Presentation slides were posted to the website and emailed to attendees.

Throughout 2019, staff tracked and categorized all individual inquiries made to the Housing Division. As expected, the number of inquiries received from July to December 2019 was more than double the number received in the first half of the year (prior to the enactment of the new RRSO). Eight out of ten inquiries from July through December were about rent stabilization or the rent review fee, as shown below in **Figure 1**.¹ Upon administering the updated rent review fee in November 2019, staff had the opportunity to interact with many of Hayward's landlords. Through these interactions, staff educated landlords about the new RRSO, such as their noticing responsibilities to tenants and the City and provided resources in-person and electronically.

Figure 1. Comparison of 2019 Housing Division Inquiries



¹ Inquiry totals may reflect multiple interactions with one community member.

Resources and Materials

Staff placed significant focus and effort on making sure tenants and landlords had the resources and tools necessary to understand their rights and responsibilities under the new RRSO. Staff started by creating a plain language summary of the RRSO along with topic-specific fact sheets. They also created documents to facilitate the petition process, including petition forms for landlords and tenants, flowcharts, infographics, and detailed worksheets to help landlords calculate potential pass-throughs. Tenants can use the City's petition form to petition a potentially unlawful rent increase, as well as other violations of the RRSO. Landlords can petition for passing through capital improvement costs or for a fair return. Staff also created documents to promote and facilitate compliance for landlords, including public notice and acknowledgement of receipt forms and an increase notice form. **Table 1** lists all the materials and resources developed to help landlords and tenants understand their rights and responsibilities, along with the intended audience for each document and its available languages. All of the materials are available on the [City's Website](#).

Table 1. RRSO Fact Sheets, Summaries, Petitions, and Compliance Documents created by Staff for RRSO Implementation

	Audience		Translations		
	Landlords	Tenants	English	Spanish	Traditional Chinese
Fact Sheets and Summaries					
RRSO Summary	X	X	X	X	X
Landlord Compliance Guide	Under Review				
Rent Review Fact Sheet	X	X	X	X	X
Just Cause for Eviction Fact Sheet	X	X	X	X	X
Tenant Harassment and Retaliation Protection Fact Sheet	X	X	X	X	X
Prohibition of Discrimination Related to Sources of Income Fact Sheet	X	X	X	X	X
Mediation and Arbitration Fact Sheet	X	X	X	X	X
Petition Process					
Landlord Petition Flowchart	X		X	X	X
Tenant Petition Flowchart		X	X	X	X
Tenant Petition Process Infographic	X	X	X	X	X
Landlord Petition	X		X		
Landlord Capital Improvement Schedule A	X		X		
Landlord Fair Return Schedule	Under Review				
Tenant Petition		X	X		

	Audience		Translations		
	Landlords	Tenants	English	Spanish	Traditional Chinese
Compliance					
Notice to Tenants Acknowledgement of Receipt	X		X	X	X
Public Notice to Tenants	X		X	X	X
Rent Increase Notice	X		X	X	X

Comparison of the Tenant Protection Act and City of Hayward's RRSO

Provision	Tenant Protection Act	City of Hayward's RRSO
Rent Increase Limit		
<i>Limit</i>	<p>Until January 1, 2030, an owner is prohibited from increasing, within a 12-month period, the total rent of a unit more than 5% plus the percentage change in the cost of living, or 10% whichever is lower.</p> <ul style="list-style-type: none"> • Owners cannot increase the rent more than two times during a 12-month period • Owner is still able to establish the initial rent for a new tenancy, and the limitation on increases applies after that initial rate has been established. • Tenant may not enter a sublease that results in the total rent exceeding the allowable rental rate authorized. 	<p>A rent increase, including any increase of Housing Services, for any unit covered by the increase threshold that exceeds the five percent (5%) Rent Increase Threshold within a twelve (12) month period, may be challenged by a tenant and subject to the mediation/arbitration section of the ordinance.</p> <ul style="list-style-type: none"> • Prohibits more than one increase in a 12- month period. • Owner is still able to establish the initial rent for a new tenancy after lawful eviction, voluntary vacancy. Rent threshold limitations apply thereafter.
<i>Applicability</i>	<p>Limit only applies to residential rental units built more than 15 years ago.</p> <p>Limit applies to all residential rental units not covered by local rent control legislation.</p>	<p>Only applies to pre-1979 residential rental units.</p>
<i>Exemptions</i>	<p>The following units are exempt:</p> <ul style="list-style-type: none"> • Housing restricted by deed, regulatory restriction in agreement with government agency (affordable housing) • Dormitories • Housing restricted by a public agency's police power consistent with Costa Hawkins that restricts annual increases in the rental rate to an amount less than that provided by the TPA • Housing that has been issued a COO in the last 15 years 	<p>The following units are exempt:</p> <ul style="list-style-type: none"> • Mobile home units • Hospital, extended care facility • Dormitory/educational housing • Motels, hotels, tourists' houses, rooming house • Rental units in a nonprofit cooperative occupied and controlled by majority of residents • Rental Units controlled or regulated by another governmental agency during the specified contractual term • Rental Units with COO after July 1, 1979.

Provision	Tenant Protection Act	City of Hayward's RRSO
	<ul style="list-style-type: none"> • Single family house provided owner is not a real estate investment group/LLC/Corp. • Owner occupied duplex 	<ul style="list-style-type: none"> • Rental units in lawful compliance with Hayward's ADU reg. • Single family homes (alienable separate) • Condos sold separately by a Subdivider
Just Cause for Eviction		
<i>Reasons for Just Cause</i>	<p>The owner of a residential unit cannot terminate tenancy if the tenant has lawfully occupied the residence for 12 months, unless just cause. Just Cause reasons include:</p> <ul style="list-style-type: none"> • Default in payment of rent • Breach of material term of lease • Maintaining, committing or permeating the presence of a nuisance • Committing waste • Tenant refused to execute a new lease with similar provisions that do not violate this legislation (rent limitations) • Criminal Activity on the residential property • Assigning or subletting in violation of lease • Tenant refusal to allow owner access to unit • Using unit for unlawful purpose • Tenant fails to deliver the premises after providing written notice of intent to vacate. • Owner, spouse, child, parent, grandparent intend to occupy the unit. For a lease after 1/1/2020, there must be a term in the lease to allow owner unilateral decision to do so. • Withdrawal of unit from the rental market • Intent to demolish or substantially remodel unit 	<p>Just Cause reasons include:</p> <ul style="list-style-type: none"> • Tenant failed to pay rent • Tenant violated and continues after notice to cease, to violate a material term of the lease • Tenant caused or allowed substantial damage to the premises • Tenant refused to agree to a new rental agreement that is substantially identical to prior lease and not inconsistent with local/ca/us law • Tenant destroy peace and enjoyment of other tenants- after notice to cease • Tenant refused to allow landlord access -after notice to cease • LL seeks to undertake substantial repair in compliance with H&S codes • LL seeks to remove unit from market and demolish • LL seeks to recover possession for his or his family member's occupancy • Tenant used rental unit for illegal purpose and convicted • Tenant rental unit for illegal drug manufacture, sale, distribution • LL terminated tenant's employment, where tenant employment was express condition of tenancy • Tenant threatened verbally or in writing to commit a crime that would result in death or GBI to LL/Tenants/Guests

Provision	Tenant Protection Act	City of Hayward's RRSO
<i>Exemptions</i>	<p>The following units are exempt from Just Cause provisions:</p> <ul style="list-style-type: none"> • Transient and tourist hotel occupancy • Nonprofit hospital, religious facility extended care, licenses residential care for elderly • Dormitories • Housing accommodations wherein tenant shares bathroom or kitchen with owner • Single-family owner-occupied residences • Duplex where owner occupies one unit as principal residence • Housing issued Cert. of Occupancy after 2005 • Residential real property that is alienable and separate as long as the owner is not a real estate investment trust, LLC, or Corporation and for any lease entered into after July 1, 2020 the tenants have been provided notice in the agreement 	<p>The following units are exempt from Just Cause provisions:</p> <ul style="list-style-type: none"> • Mobile home units • Hospital, extended care facility • Dormitory/educational housing • Motels, hotels, tourists' houses, rooming house • Rental units in a nonprofit cooperative occupied and controlled by majority of residents • Drug and alcohol treatment facilities • Nonprofit facility structured to help homeless • Rental units where the owner of record occupies a unit in the same property as a principal place of residence • Certain Affordable housing acquisition and rehab projects
<i>Failure to Give Notice</i>	The owner's failure to comply with the notice provisions render the termination void.	The owner's failure to give notice shall be a defense for any action for possession of a rental unit covered by this ordinance.
Relocation Assistance		
	<p>When the owner issues a no-fault termination of the tenant, the owner is required to notify the tenant of their right to relocation assistance</p> <p>The owner is required to pay relocation assistance as a direct payment of one month's rent or as waiver of the final month's rent</p>	No relocation assistance required
Recourse		
	Tenants may pursue claims of unlawful rent increases or evictions through the court system.	Tenants may petition the Rent Review Office for any violation of the RRSO.