

Residential Rent Stabilization and Tenant Protection Ordinance Update

A summary of implementation progress and recommendations for
revisions to promote clarity and align with State law

March 5, 2020
Housing Division

Agenda

Background

Implementation Progress

- Tenant and Landlord Petitions
- Rent Increase and Termination Notices
- Rental Housing Database
- Implementation Lessons Learned

Analysis of the Tenant Protection Act

- Just Cause and Relocation Assistance
- Rent Increase Limitations
- Applicability

Recommended RRSO Revisions

Background

Hayward RRSO Recap

- Mandatory mediation with binding arbitration for Covered Rental Units
- Just Cause for Eviction protections
- Protection against retaliation and discrimination for income source (e.g., Section 8)
- Requirements for noticing
- Requirements for providing notices to City

AB 1482: Tenant Protection Act

- Rent Increase Cap
 - 5% plus percentage change in CPI or 10%, whichever is lower
 - Similar exemptions to RRSO, except includes owner-occupied duplexes
 - Covers units more than 15 years old
- Just Cause for Eviction and Relocation Assistance
 - Similar “at fault” and “no fault” reasons for just cause to the RRSO
 - Provides for relocation assistance paid by owner to tenant for any no fault eviction

Implementation Progress

Implementation Summary

Staff created...

- Plain language summary
- Compliance guide for landlords
- Forms and templates to support compliance
- Infographics, fact sheets, and flowcharts illustrating the new processes and summarizing key points
- Systems for collecting and storing notices

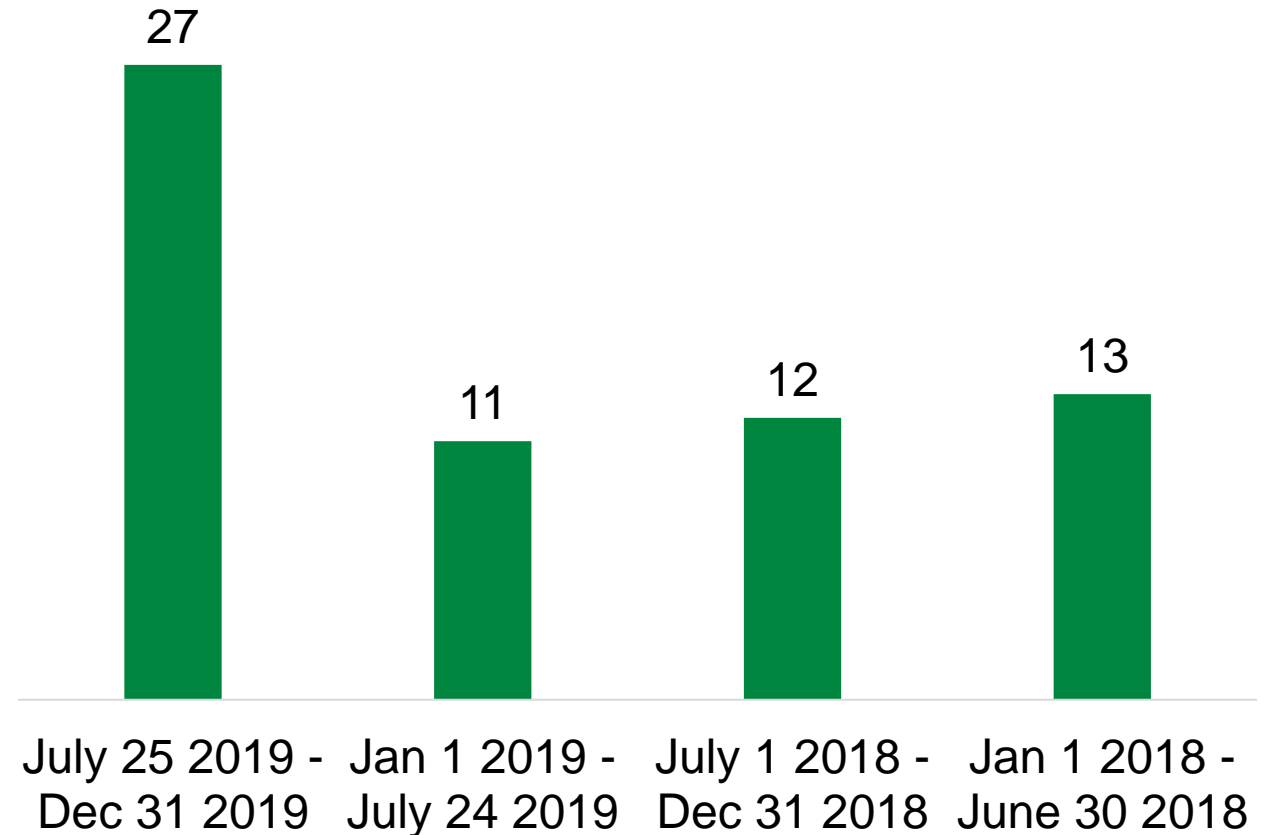
Staff provided...

- One-on-one technical assistance
- Outreach and education
- Translation of materials and interpretation services at workshops, mediation, and arbitration hearings

Tenant and Landlord Petitions

There were more tenant petitions received from July 25 to December 31, 2019, than the entire year prior

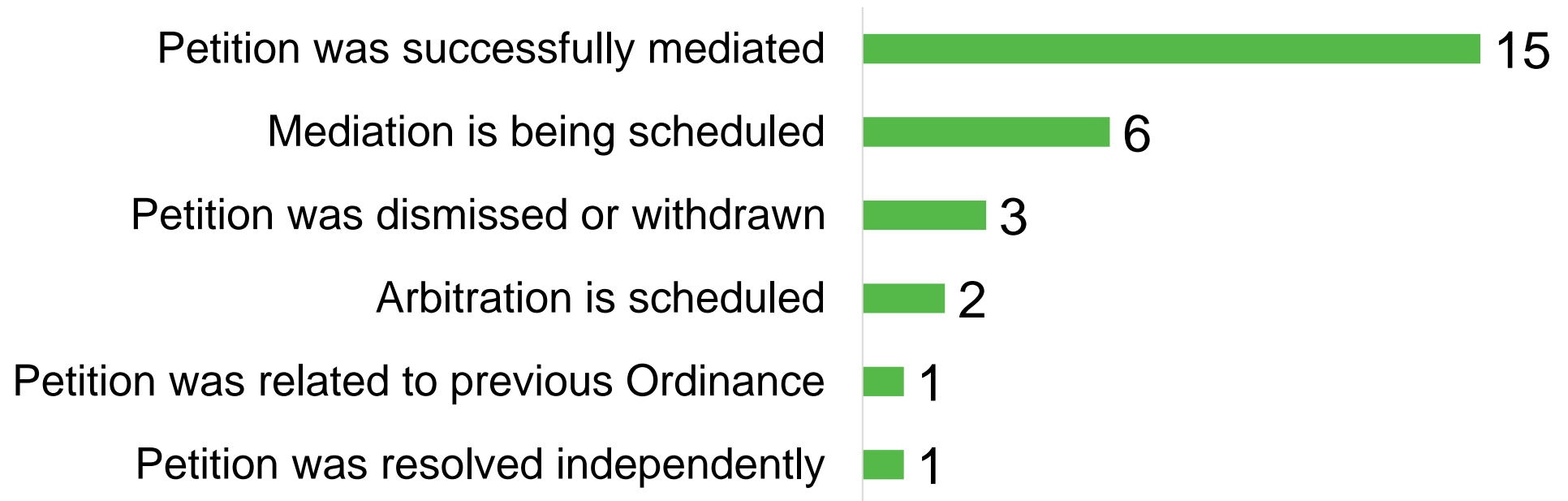
Number of Petitions Received



Petition Outcomes

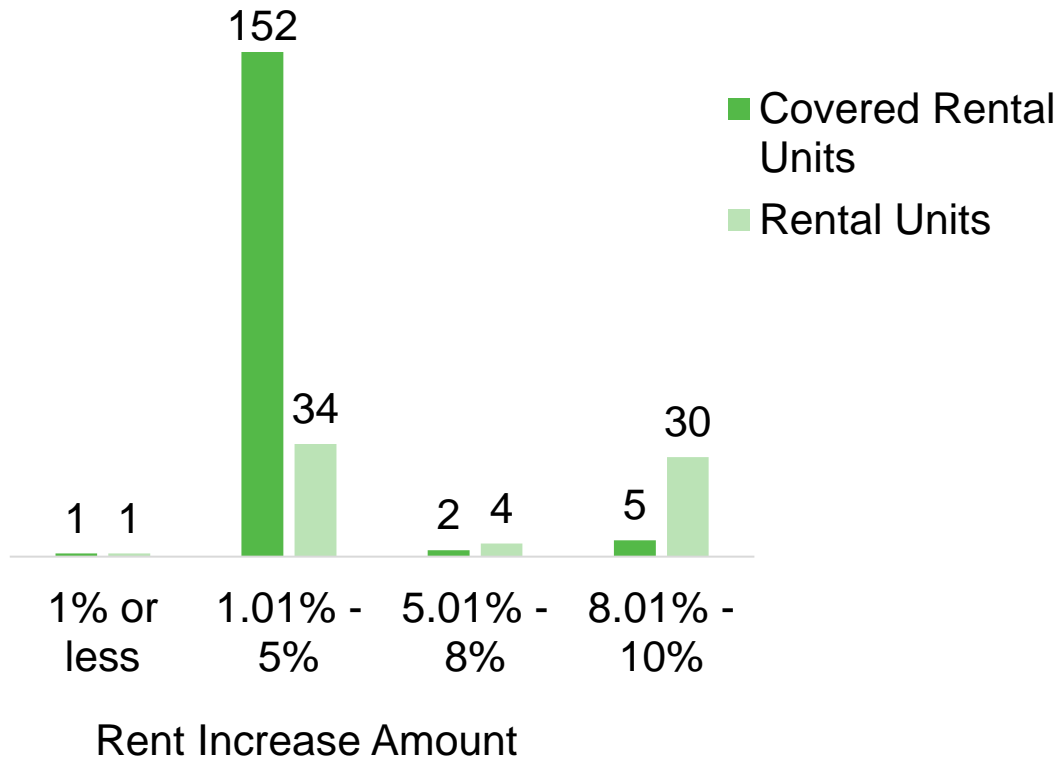
The majority of petitions were mediated successfully or are currently being scheduled for mediation.

Tenant Petition Outcomes

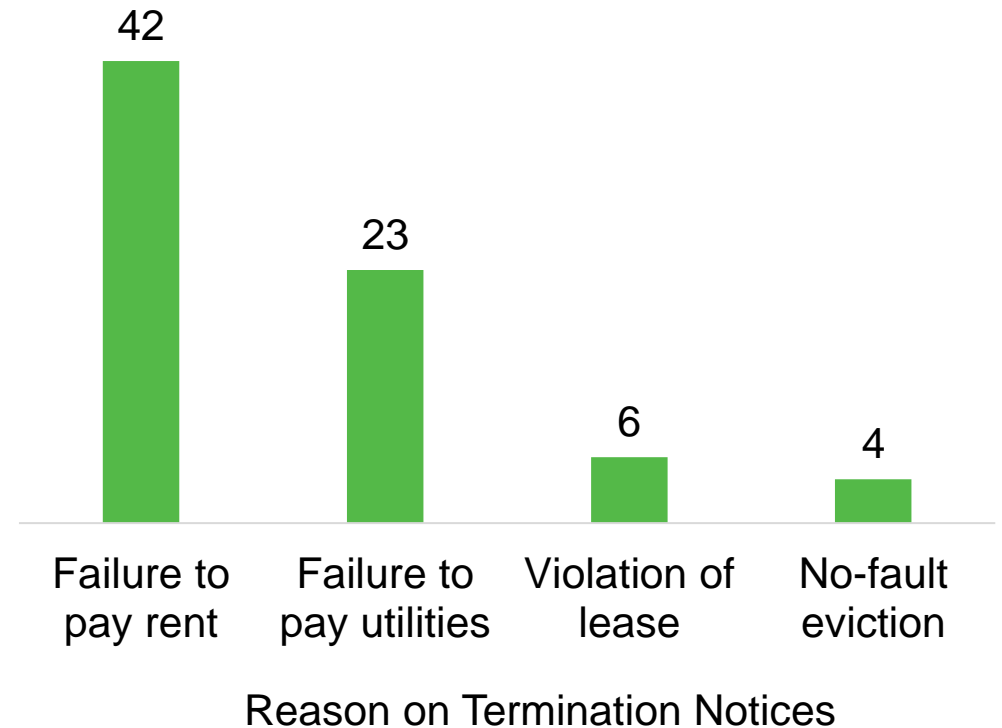


Rent Increase and Termination Notices

Rent Increase Amounts



Reasons on Termination Notices



Rental Housing Database

- Billing process successes
 - Data cleaning & QA of over 3,800 properties and addition of 676 units
 - Back-end of database built and internal pilot tests are being completed
- Database development challenges
 - Multi-unit properties with Covered & Rental Units



Analysis of the Tenant Protection Act

Rent Increase Limit

Provision	TPA	RRSO
Limit	<ul style="list-style-type: none"> • Sunsets 1/1/30 • Cap = 5% plus % change in CPI or 10% • No more than 2 increases in 12 months 	<ul style="list-style-type: none"> • No sunset • Cap = 5% with provisions for including banked rent, or capital improvement or fair return pass-through up to 10% • No more than 1 increase in 12 months
Applicability	<ul style="list-style-type: none"> • Applies to rental units built more than 15 years ago • Applies to all rental units not covered by local ordinance 	<ul style="list-style-type: none"> • Applies to rental units built before July 1m 1979
Exemptions	<ul style="list-style-type: none"> • Exemptions that differ from RRSO: <ul style="list-style-type: none"> • Owner-occupied duplexes • Housing issued COO in the last 15 years • Housing subject to local control where the increase rate is less than the TPA. 	<ul style="list-style-type: none"> • Exemptions that differ from TPA: <ul style="list-style-type: none"> • Hospital, extended care facility • Motels, hotels, tourists' houses, rooming house • Rental units in a nonprofit cooperative occupied and controlled by majority of residents • Mobile Home units

Just Cause for Eviction

Provision	TPA	RRSO
Applicability	<ul style="list-style-type: none"> Covers units built more than 15 years ago Tenant must live in unit for 12 months to apply 	<ul style="list-style-type: none"> Covers all rental units (not just those built before 1979) No restrictions on how long tenant has lived in unit to apply
Reasons for Just Cause	<ul style="list-style-type: none"> Similar “at fault” reasons Similar “no fault” reasons 	<ul style="list-style-type: none"> Similar “at fault” reasons, with explicit inclusion of destroying peace and enjoyment of other tenants Similar “no fault” reasons
Exemptions	<ul style="list-style-type: none"> Exemptions that differ from RRSO: <ul style="list-style-type: none"> Owner-occupied duplexes Housing issued COO in the last 15 years 	<ul style="list-style-type: none"> Exemptions that differ from TPA: <ul style="list-style-type: none"> Mobile Home units Certain affordable housing acquisition and rehabilitation projects
Failure to Give Notice	<ul style="list-style-type: none"> The owner’s failure to comply with the notice provisions render the termination void. 	<ul style="list-style-type: none"> 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

TPA

- 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
- 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

RRSO

- No relocation assistance required

Recourse

TPA

- Tenants may pursue claims of unlawful rent increases or evictions through the court system.

RRSO

- Tenants may petition the Rent Review Office for any violation of the RRSO.

Recommended RRSO Revisions

Language Clarifications

Change Needed

Recommendation

Clarify that motels/hotels and hospitals and long-term care facilities are exempt from the RRSO.

Place 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

Make the banking provision initial year be consistent with the fair return initial year.

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.

Language Clarifications

Change Needed

Recommendation

Clarify Noticing Requirements for Landlords

Clarify requirement in the RRSO to state that Landlords only need to provide a copy of the RRSO or summary for new tenancies

Remove the requirement to provide the paper petition and adjust 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

Add 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 figure to resolve a typo that mistakenly included the annual CPI instead of the monthly CPI for December 2018

Alignment with State Law

Change Needed

Address ambiguity and resolve inefficiency created by the TPA rent cap and the applicability of local rent control

Ensure that Hayward residents have equal protections as other residents in the state by providing relocation assistance consistent with the TPA

Recommendation

Reference the TPA rent cap to ensure that all rent disputes related to covered units can be resolved through the City's Rent Review process.

Mirror 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

Change Needed

Address Task Force concerns about the exemption for Affordable Housing Conversion Projects from the Just Cause for Eviction provisions

Address Task Force concerns regarding habitability during renovations by providing Temporary Relocation Assistance

Recommendation

Implement the HHTF directive to remove the exemption for Affordable Housing Conversion Projects from the just cause provisions

Add Temporary Relocation Assistance for tenants temporarily displaced from their units for substantial repairs or if a governmental agency orders a tenant to vacate or a tenant chooses to vacate due to health or safety concerns

Other Topics

- Staff recommend maintaining current mediation services for Covered Rental Units

Stakeholder Feedback

Alternative interpretation of TPA

- Housing providers interpret the TPA to mean that if a local government has valid rent control, it supersedes State law. They are concerned that further restrictions will disincentivize property improvement.

Tenant Relocation Assistance

- Real estate investors are concerned permanent assistance will lead to sale of investment properties and loss of rental units
- Housing providers were concerned that temporary assistance program may lead to landlords being responsible for damage caused by tenants. In response, staff clarified the language to exclude damage caused by tenants or their invited guests.

Next Steps

- Recommend City Council approval in April/May
- Continued outreach and education
- Continued development of the Rental Housing Database
- Fiscal Year 20/21 Rent Review Fee administration



Questions and Discussion

