

Residential Rent Stabilization Threshold Analysis

City of Hayward
Homelessness-Housing Task Force

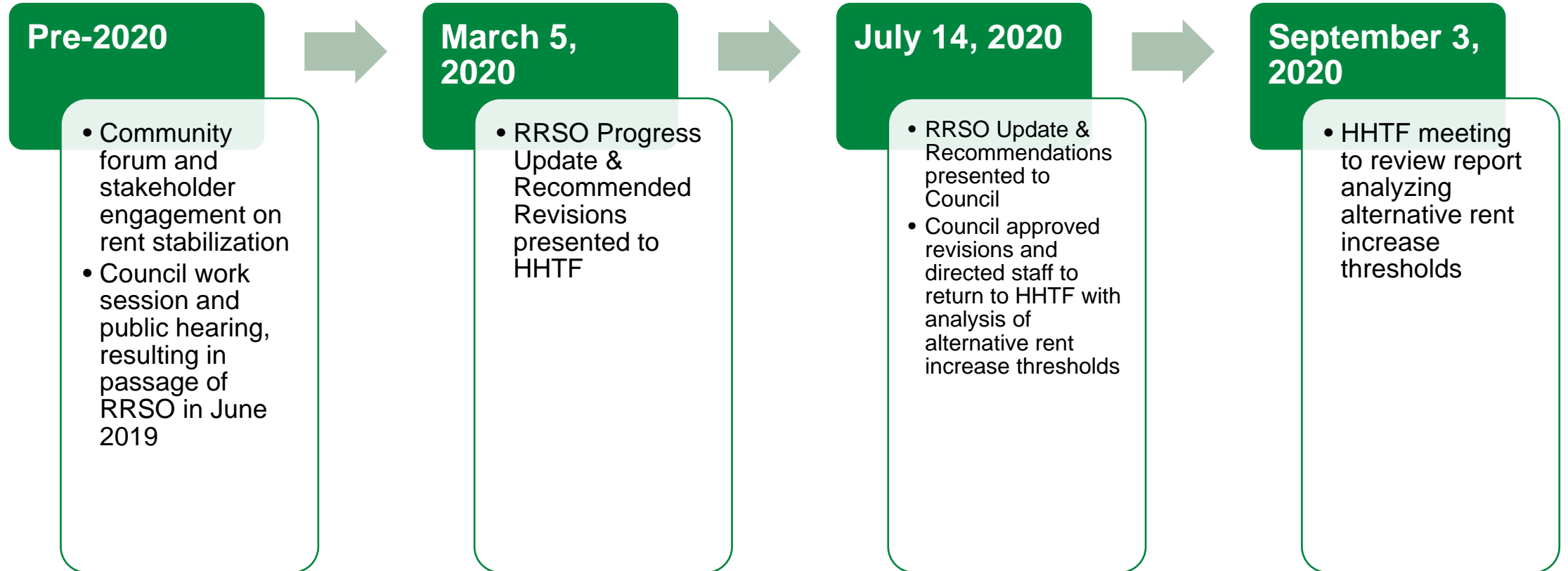
Amy Cole-Bloom, PhD | Management Analyst
Christina Morales | Housing Division Manager

Overview



Background

Timeline



RRSO Purpose

- Hayward's RRSO:
 - Provides rental relief to tenants as allowed under State law
 - Establishes a mediation and arbitration program to reduce displacement
 - Encourages investment in new residential rental property
 - Assures landlords receive a fair return on their property and sufficient rental income to cover operational costs



Current Rent Increase Threshold

- For Covered Rental Units, rent increases:
 - Can only be imposed once every 12 months
 - Can be no more than 5% of the existing monthly rent absent other justifications allowable under the RRSO.
 - Are subject to the RRSO's rent dispute resolution process if they exceed 5%, meaning that tenants can petition a rent increase more than 5% to initiate a review of the increase
- There are additional circumstances in which higher rent increases for covered units are allowed

Hayward Renters

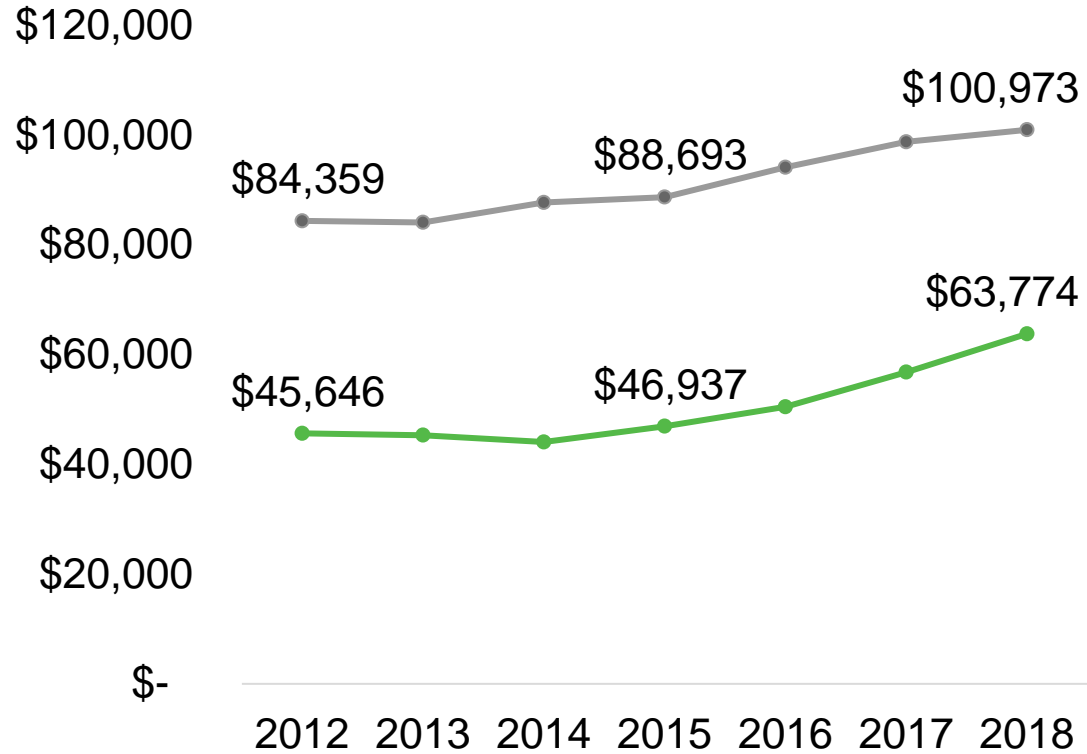
Summary

Hayward renters are...

- More likely to be African American/Black or Hispanic/Latino, which are the two racial and ethnic groups in Hayward with the lowest annual median income (AMI)
- Making less money than homeowners, though renters' income is increasing at a faster rate than homeowners' income
- More likely to be housing cost burdened, spending 30% or more of their income on rent

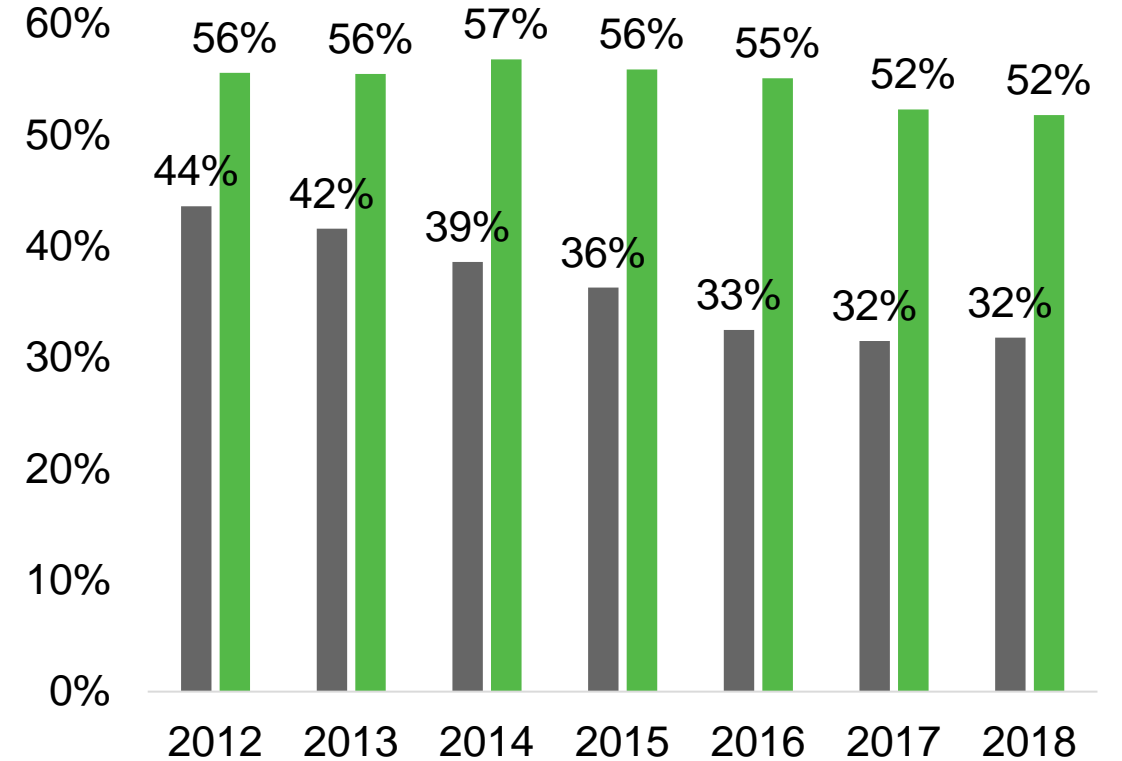
Income & Housing Cost Burden

Annual Median Income of Renter- and Owner-Occupied Households



- Owner-occupied Households Median Income
- Renter-Occupied Households Median Income

Percent of Owner- and Renter-Occupied Households with Housing Cost Burden



- Owner-Occupied Households with 30%+ Housing Cost Burden
- Renter-Occupied Households with 30%+ Housing Cost Burden

Stabilizing Rent Increases

Rent Increase Stabilization Overview

- Maintain affordable housing by preventing unpredictable spikes in rent
- Contemporary rent stabilization policies typically include
 - Tenant protections
 - Provisions to address impacts on rental housing supply
- Staff analyzed four potential rent increase thresholds:
 - Fixed increase
 - Increase tied to an economic index
 - Consumer Price Index (CPI)
 - Annual Adjustment Factors (AAF)
 - Annual Median Income (AMI)

The RRSO's Fair Return Standard

- **Purpose:** Assure landlords 1) a Fair Return on their property and 2) rental income sufficient to cover the increasing cost of repairs, maintenance, insurance, employee services, additional amenities, and other costs of operation
- **Standard:** Annual net operating income must increase at least as much as CPI increases
- **Petition:** If net operating income is less than the percent increase in CPI, landlords can petition for a rent increase greater than 5%

Fixed Thresholds

- Current approach in Hayward
 - Average 4.7% increase in rent for Covered Rental Units in Hayward since RRSO implemented
 - National metrics for rental housing costs show 4.7% average annual increase 2010-2018

Strengths	Challenges
<ul style="list-style-type: none">• Predictability• Consistent with long-term market-rate return• Aligns with Hayward’s fair return standard• Simple to understand and interpret	<ul style="list-style-type: none">• May out-pace income growth of tenants over time• Is not a tool to reduce housing cost burden

Economic Indices: CPI

- Consumer Price Index (CPI)
 - Widely used measure of inflation that captures many of the costs associated with operating apartments
 - Has increased 2.6% per year since 2001

Strengths	Challenges
<ul style="list-style-type: none">• May mitigate cost burden over time• Aligns with Hayward's fair return standard• Likely to capture increase in cost of many apartment operating expenses• With existing RRSO provisions, landlords can request higher rent increase if operating costs increase at a higher rate than rents	<ul style="list-style-type: none">• Can be difficult to interpret• If only a fraction of CPI is used, it will likely not result in landlords making a fair return• If the rate of operating costs exceeds the rate of increase in CPI, the landlord will have to petition for a fair return

Economic Indices: AAF

- Annual Adjustment Factors (AAF)
 - Established by HUD based on CPI data and used for subsidized, non-profit housing assistance payment programs
 - Not used for HUD's programs with market-rate property subsidies

Strengths	Challenges
<ul style="list-style-type: none">• Would likely mitigate housing cost burden for renters	<ul style="list-style-type: none">• Designed for non-profit housing, therefore it is unlikely to provide a fair return for landlords as required in the RRSO and State Constitution

Economic Indices: AMI

- Annual Median Income (AMI)
 - Commonly used HUD metric of income by household size in an area
 - Includes renters and homeowners

Strengths	Challenges
<ul style="list-style-type: none">• Directly related to income• Aligns with Hayward's fair return standard• Clear to understand and interpret	<ul style="list-style-type: none">• Reflects income but does not factor in cost of living or housing cost burden• Would maintain cost burden as rent would continue to consume income gains

Economic Indices: Floor & Ceiling Provisions

- Some jurisdictions that use an economic index also implement an increase floor (minimum) and ceiling (maximum)
 - If the index does not meet the floor threshold, then landlords may increase the floor value
 - If the index exceeds the ceiling threshold, then landlords may not increase beyond the ceiling
- If the taskforce recommends changing the threshold to CPI, staff recommend also applying the following:
 - Rent Increase Floor of 2%
 - Rent Increase Ceiling of 5%

Conclusion & Next Steps

Two Options for Consideration

Maintain the current threshold as a fixed percentage at 5%

- Maintains the City's current stabilization rates
- Provides an approximation of long-term market appreciation
- Promotes clarity and predictability for both landlords and tenants
- Avoids confusion related to frequent policy changes

Implement a new threshold using 100% of the annual change in the CPI All Items metric, with a ceiling (5%) and floor (2%)

- Will likely mitigate affordability concerns over time by allowing tenants to realize economic gains
- Landlords will still likely receive a fair return as defined in RRSO
- Landlords are guaranteed a fair return through the petition process if their increase in net operating income is less than the percent change of CPI

Next Steps

Should the HHTF recommend moving forward with any changes to the RRSO, staff propose the following schedule:

1. **October/November 2020**: First and second readings of revised RRSO at City Council
2. **January 2021**: Revised RRSO effective date

Other Housing Division Activities

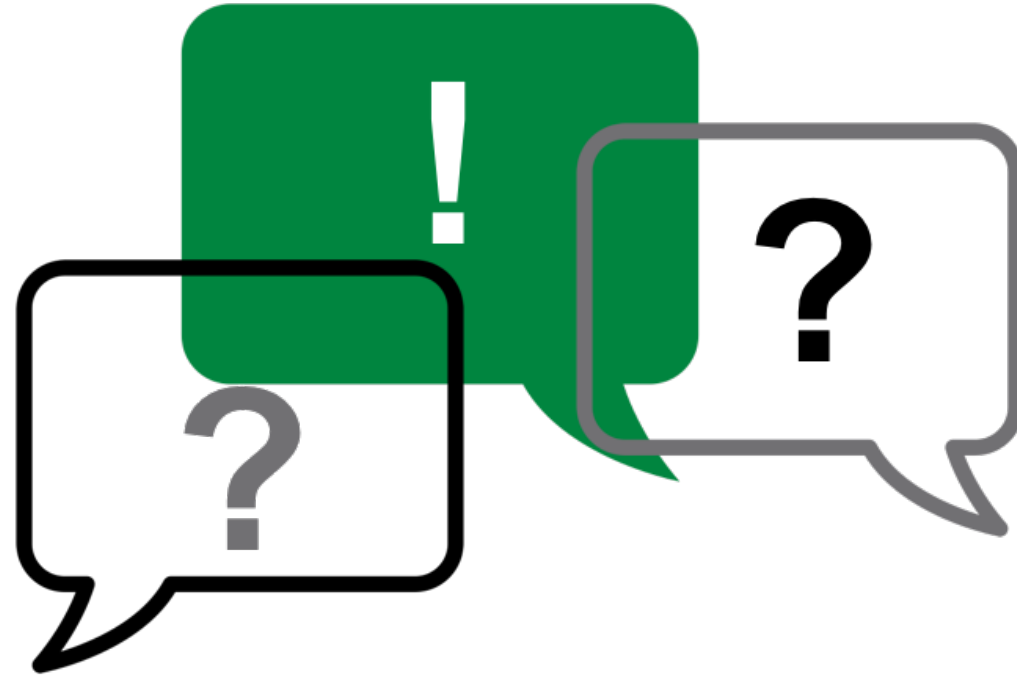
Current activities

- Implementing workplan to incentivize housing production
- Identification of funding priorities for affordable housing funds
- Administration of the Affordable Housing Ordinance
- Administration of existing homeownership loans and affordable units
- Administration of HOME funding
- Administration of the RRSO
- Administration of the new Tenant Relocation Assistance Ordinance
- Displacement study to comply with Measure A1 requirements
- COVID-19 response
 - Rent relief
 - Expanded mediation services
 - Eviction moratorium

Impacts of Changing Priorities

- Adds responsibility of drafting RRSO threshold amendment
- Requires re-education of stakeholders and development of resources
- Has delayed identification of affordable housing funding priorities until March 2021
- Reduces capacity to monitor and respond to evolving COVID-19 related housing impacts

Questions and Discussion

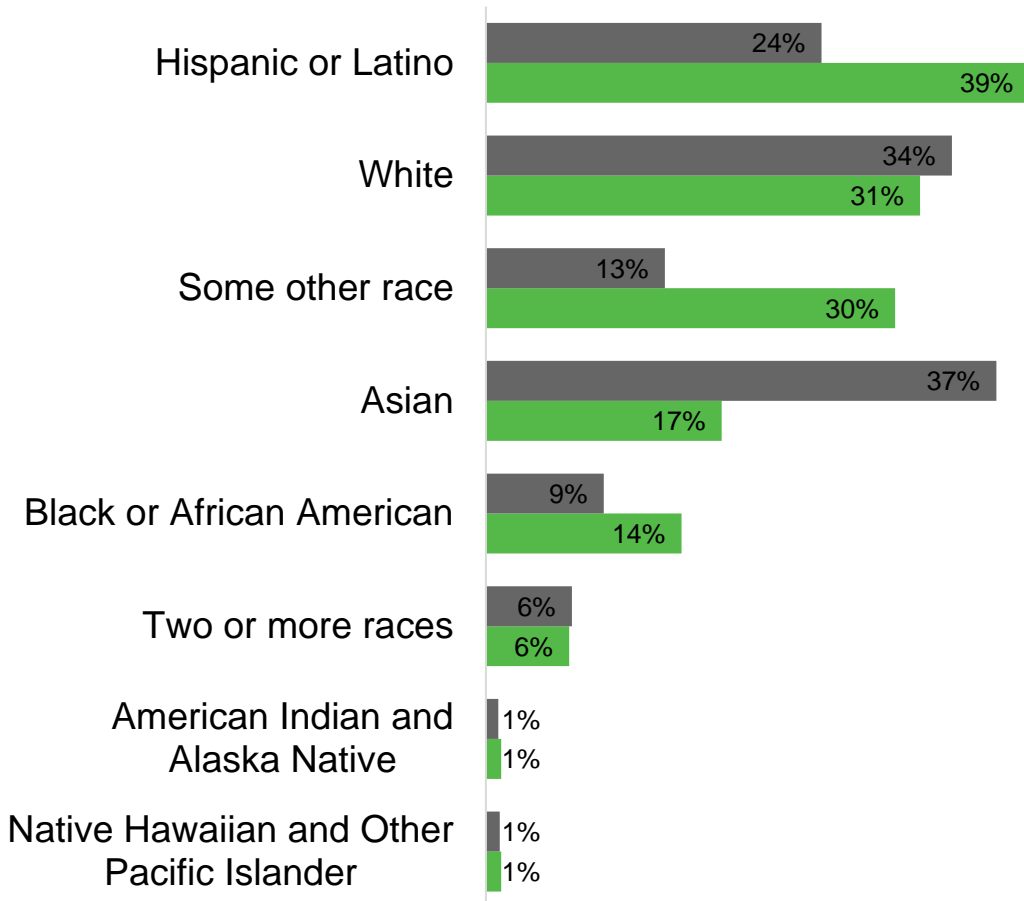


Appendix A

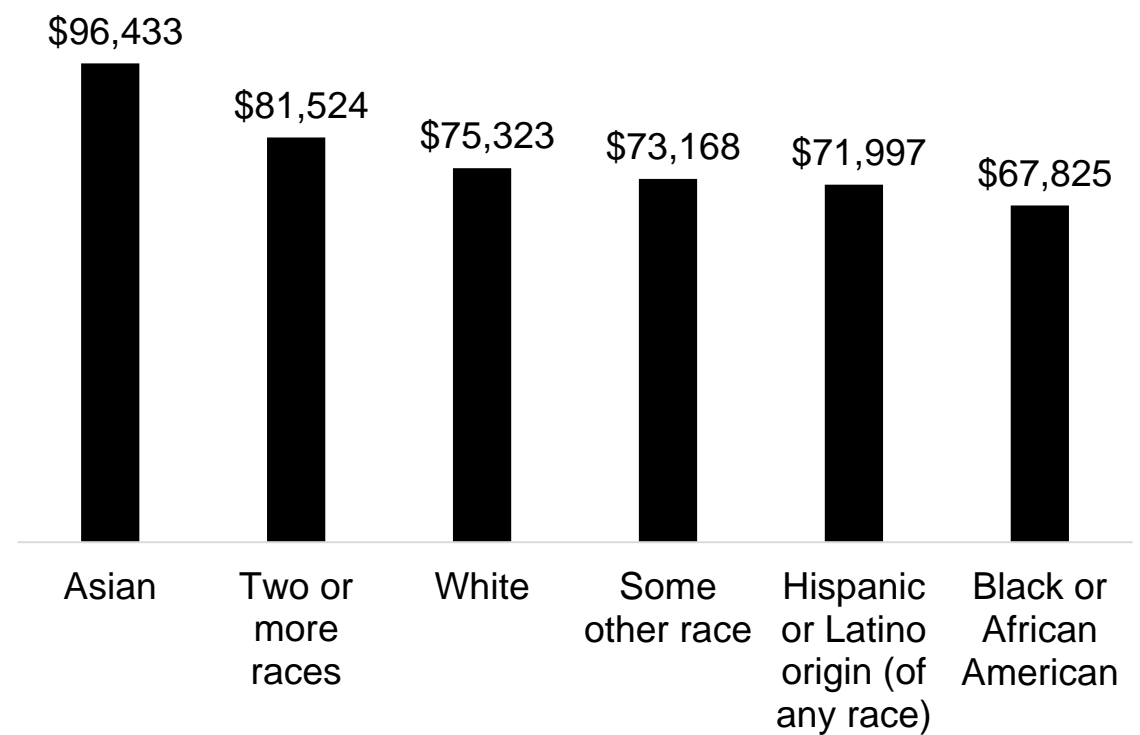
Hayward Renters demographics charts

Race and Ethnicity of Renter- and Owner-Occupied Households

■ Owner-Occupied Household (N = 25,690)
 ■ Renter-Occupied Household (N = 23,175)



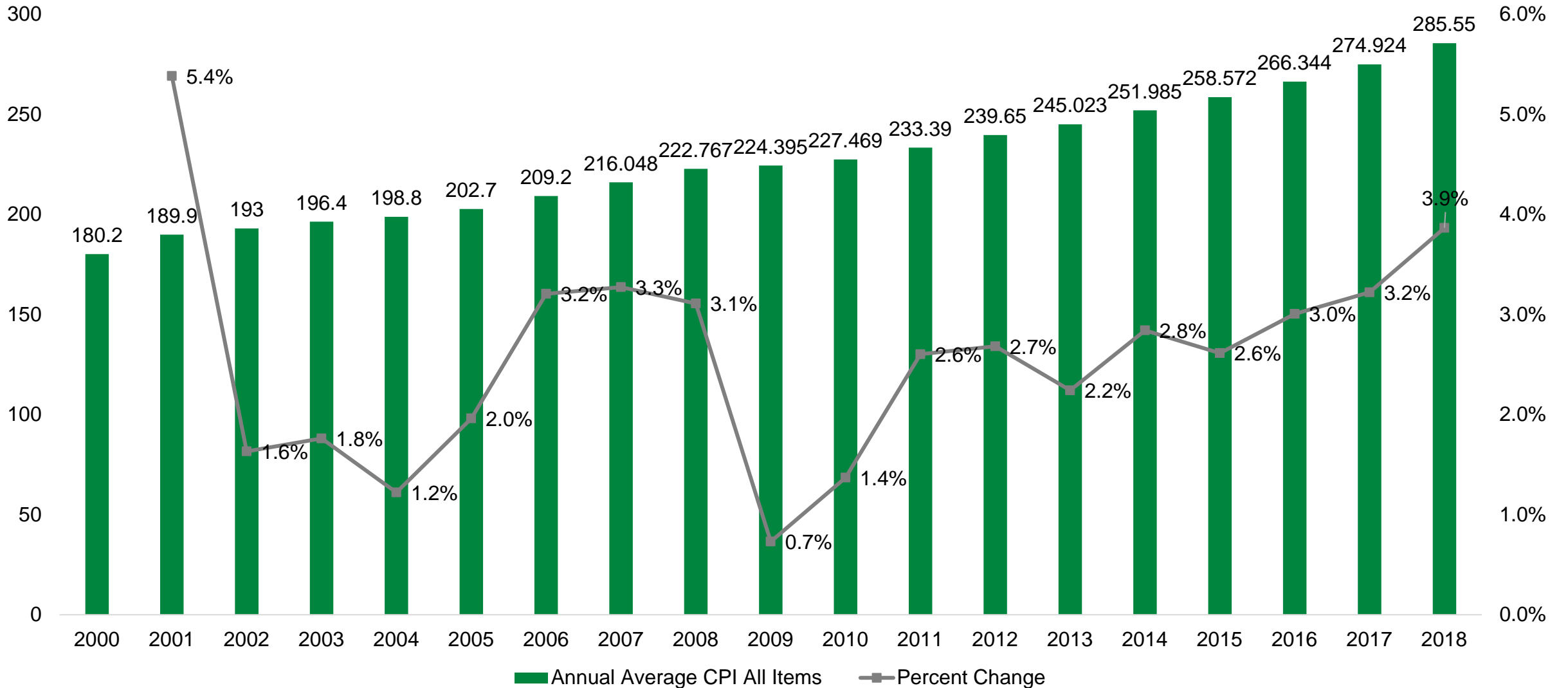
Annual Median Income of Hayward Residents by Race/Ethnicity (N = 48,865)



Appendix B

CPI Change Over Time

Percentage Change in CPI Over Time



A photograph of Hayward City Hall, a large, multi-story building with a prominent circular glass entrance. The building is light-colored with many windows. In the foreground, there is a paved plaza and a street with a few cars. The sky is blue with scattered white clouds. A large, semi-transparent white box with black text is overlaid on the top half of the image.

Emerging Housing Impacts of COVID-19

**September 3, 2020 | Homeless Housing Taskforce
Christina Morales, Housing Division Manager**

Housing Topics Being Monitored

- Evictions
- Impacts on landlords
- Foreclosures
- Impacts on affordable housing

New Legislation (AB 3088)

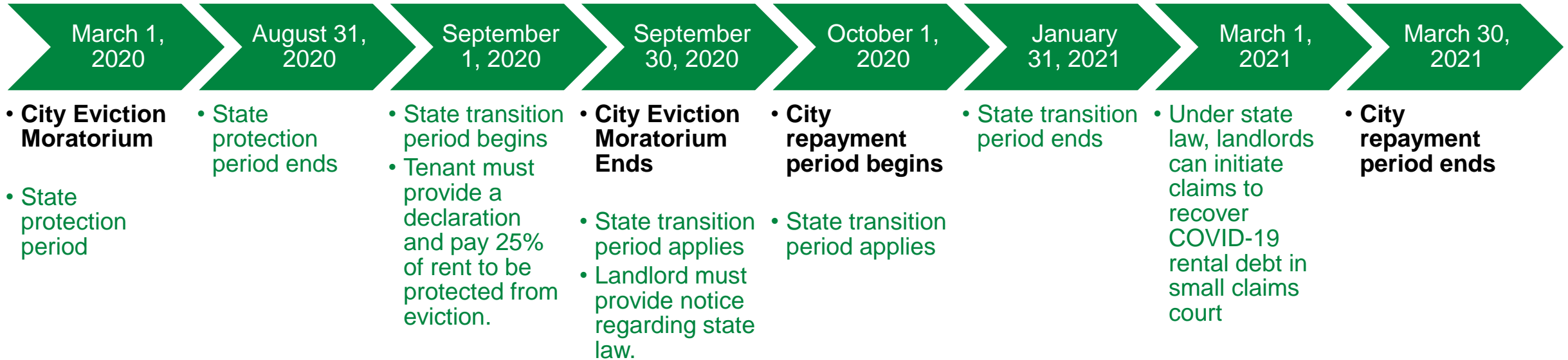
- Creates Tenant Relief Act of 2020
 - Prohibits evictions related to COVID-19 rental debt
 - Requires tenant to pay 25% of their rent obligation from September 1, 2020 - January 31, 2021 (Transition Period)
 - Allows landlords to recover COVID-19 rental debt in small claims court starting March 1, 2021
- Establishes COVID-19 Small Landlord and Homeowner Relief Act
 - Requires mortgage servicer to follow federal guidance regarding borrower's options following COVID-19 related forbearance
 - Applies to owner occupied properties and tenant occupied properties owned by small landlords (no more than 3 up to 4 units each)
- Allows damages for retaliation for COVID-19 Rental Debt
- Extends Tenant Relief Act to mobile homeowners
- Anticipating longer term solutions from the state in addition to this legislation

Local Implications of AB 3088

- Hayward's Eviction Moratorium will continue to be in effect until September 30, 2020
- AB 3088 prohibits extension of local eviction moratoria on residential rental property
- Residential tenants will have protection under state law once the City's moratorium expires until January 31, 2020 if tenants:
 - Provide landlord with declaration of COVID-19-related financial distress
 - Pay 25% of rent before
- Staff is still evaluating all the potential implications with the City Attorney's Office

Local Implications of AB 3088

Timeline



Continuing Concerns Related to Housing Stability

Tenants:

- Reduction of unemployment benefits
- Eviction related to failure to comply with Tenant Relief Act
- Judgments against tenants in small claims court may affect their ability to secure housing in the future

Landlords:

- Recovery for landlords will be slow
- Collection of past due rent through small claims court may be difficult
- Slow recovery may effect ability to get a loan modification if needed

Homeowners:

- Information from loan servicers can be unclear to homeowners
- Some homeowners may not qualify for loan modifications and face large lump sum payments after the forbearance period lapses

Supporting the Community

- Anticipating federal financial assistance for landlords and tenants
- Working with Project Sentinel to educate community on AB 3088
- Continuing to provide mediation services to negotiate repayment of past due rent to help landlords and tenants avoid small claims court.
- If funding becomes available, consider establishing a loan program for homeowners/small landlord owners who:
 - Do not qualify for loan modification
 - Can sustain mortgage payment if past due payments are addressed
 - Meet income eligibility requirements (TBD)

Questions and Discussion

