



DATE: July 14, 2020

TO: Mayor & City Council

FROM: Deputy City Manager

SUBJECT: Residential Rent Stabilization and Tenant Protections: (1) Introduce an Ordinance Amending Chapter 12, Article 1 of the Hayward Municipal Code Relating to Residential Rent Stabilization and Tenant Protections; (2) Introduce an Ordinance Adding Chapter 12 Article 2 of the Hayward Municipal Code Related to Tenant Relocation Assistance; (3) Adopt a Resolution Authorizing Amendment to Resolution 20-060 City of Hayward Fiscal Year 2021 Master Fee Schedule to Establish an Amount of Relocation Assistance; and (4) Provide a Progress Report on Implementation of Residential Rent Stabilization and Tenant Protection Ordinance

RECOMMENDATION

That the Council:

1. Introduces an Ordinance (Attachment II) amending Chapter 12, Article 1 of the Hayward Municipal Code Relating to Residential Rent Stabilization and Tenant Protections;
2. Introduces an Ordinance (Attachment III) adding Chapter 12, Article 2 to the Hayward Municipal Code Relating to Tenant Relocation Assistance, and
3. Adopts a Resolution (Attachment IV) authorizing an amendment to Resolution 20-060, the resolution for the City of Hayward Fiscal Year 2021 Master Fee Schedule associated with the administration of the Ordinance governing Permanent and Temporary Relocation Assistance.

SUMMARY

This item provides an update on the first six months of implementation of the City's Residential Rent Stabilization and Tenant Protection Ordinance (RRSO) and presents recommendations for amending the ordinance in order to clarify language, align with State Law, and address key policy issues identified by the Homeless Housing Task Force (HHTF) and City Council. On March 5, 2020, the HHTF received an update from staff on the implementation of the RRSO and the impact of the State's Tenant Protection Act (TPA), which became effective on January 1, 2020, as well as discussed several recommendations for related revisions to the RRSO. The recommendations in this report reflect those reviewed and

supported by the HHTF. **Table 1** summarizes recommended Council actions related to rent stabilization and tenant relocation assistance.

This item provides an update on the first six months of implementation of the City’s Residential Rent Stabilization and Tenant Protection Ordinance (RRSO) and presents recommendations for amending the ordinance in order to clarify language, align with State Law, and address key policy issues identified by the Homeless Housing Task Force (HHTF) and City Council. On March 5, 2020, the HHTF received an update from staff on the implementation of the RRSO and the impact of the State’s Tenant Protection Act (TPA), which became effective on January 1, 2020, as well as discussed several recommendations for related revisions to the RRSO. The recommendations in this report reflect those reviewed and supported by the HHTF. **Table 1** summarizes recommended Council actions related to rent stabilization and tenant relocation assistance.

Table 1. Recommended Action and RRSO Revisions

No.	Recommended Council Action	Corresponding Recommended Revision
1.	Introduce an Ordinance amending the RRSO (Chapter 12, Article 1 of the Hayward Municipal Code)	<p>Clarify language in the RRSO based on implementation experience. See Attachment V for all recommendations.</p> <p>Align RRSO with State Law by including reference to the TPA.</p> <p>Eliminate the exemption for Affordable Housing Conversion Projects from Just Cause for Eviction per recommendation by HHTF in response to Council’s direction to evaluate.</p>
2.	Introduce an Ordinance adding Article 2 to Chapter 12 of the Hayward Municipal Code to create the Tenant Relocation Assistance Ordinance	<p>Align RRSO with State Law by providing the same permanent relocation assistance established in the TPA.</p> <p>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 to address specific policy issues identified by Council and for evaluation by the HHTF.</p>

No.	Recommended Council Action	Corresponding Recommended Revision
3.	Adopt a Resolution authorizing an amendment to the City’s Master Fee Schedule to include relocation assistance payments made by landlords to tenants	Establish the amount of relocation assistance to be provided by the landlord to comply with the Temporary Relocation Assistance Ordinance.

BACKGROUND

The City of Hayward’s New RRSO

On June 18, 2019,¹ the City Council approved 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 Homelessness-Housing Task Force (HHTF) meetings, to develop the RRSO. The key components of the RRSO include:

- 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 to obtain 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

¹June 18, 2019 City Council Staff Report and Attachments:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=3985848&GUID=52D1B678-D6BB-401A-AB3C-8990885C0CDD&Options=&Search=>

² February 19, 2019 City Council Staff Report and Attachments:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=3863371&GUID=E3FF2A1F-D770-463F-ACC2-8EBEFC711CF3>

- 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 increase 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 (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

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 City Council 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.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1482

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.

Full analysis of the applicability of the TPA compared to the City of Hayward's RRSO is included in Attachment VI.

Homelessness-Housing Task Force Review

On March 5, 2020, the HHTF met to receive a report on the implementation progress of the RRSO and to hear staff's recommendations for revisions to the RRSO.⁶ Task Force members supported recommendations for revisions to the RRSO presented in this report.

COVID-19 & Rental Assistance

Since the HHTF met on March 5, 2020, many Hayward residents have experienced significant physical and economic hardship from the COVID-19 pandemic. In response, the City of Hayward has allocated \$600,000 of its emergency CARES Act Community Development Block Grant (CDBG) and \$388,000 of its HOME Investment Partnership funding to a Rental Housing Relief Program, which provides one-time payments of up to \$2,500 to eligible low-income Hayward residents to help bridge the gap between what residents can pay and their actual rent, reducing the risk of displacement of the city's most vulnerable residents and offsetting revenue loss for landlords who need to continue providing housing services. The staff report for Consent Item 20-337 from the Hayward City Council meeting on July 7, 2020, includes a more detailed description of this program and initial outcomes data.

Staff have re-evaluated the recommendations made in March, prior to the Governor's state of emergency and statewide Shelter-in-Place Order, and determined that it is still appropriate to move forward with the recommendations as presented at the HHTF meeting on March 5, 2020.

DISCUSSION

The following discussion provides a summary of recommended revisions that have been vetted by the HHTF and an update on the implementation of the RRSO since it was enacted on July 25, 2019. The revisions are intended to clarify language in sections that have caused confusion for landlords and tenants, to better align with the Tenant Protection Act (see Attachment VI), and to address key policy issues identified by the HHTF and staff.

Recommended RRSO Revisions

Following the first six months of implementation, staff integrated 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 were presented to the

⁶ March 5, 2020, Homelessness-Housing Task Force Staff Report and Attachments: <https://hayward.legistar.com/MeetingDetail.aspx?ID=761368&GUID=EC9B416A-5F1C-4574-9AD6-081EBEF9729A&Options=&Search=>

HHTF on March 5, 2020, and 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 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 the new policy to stabilize over an extended period of time prior to making substantial changes. Attachment V summarizes the potential revisions and staff's recommendations for addressing the potential revisions. Revisions to the actual language of the RRSO is included in Attachment II.

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, this update 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.*
- **Update language regarding mediation.** The City’s mediation consultant identified outdated language regarding mediation that does not reflect the current generally accepted practices for mediation. A mediator facilitates a discussion between the parties and is educated on the applicable laws, however, they do not consider evidence or make decisions. Additionally, the section is revised to clarify that a potential remedy to a dispute could be a rent reduction which may be appropriate when housing services are decreased. *Staff recommends updating language regarding mediation.*

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.**⁷ 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 and policies are in response to specific policy issues, that were delegated to the HHTF for review related to displacement caused by the conversion of market rate housing to affordable housing and habitability concerns related to property rehabilitation of occupied housing. During the October 22, 2019, Task Force meeting⁸, the HHTF discussed relocation assistance and the exemption of Affordable Housing Conversion Projects from just cause provisions as a measure to address the issues. The following policy recommendations were supported by the HHTF:

- **Eliminate 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.
- **Adopt an ordinance to provide Temporary Relocation Assistance to address Task Force concerns regarding habitability during renovations.**⁹ 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

⁷ Staff recommends that Council adopt a Resolution amending the Master Fee Schedule to include this payment, which will be made by landlords to tenants.

⁸ October 22, 2019, Homelessness-Housing Task Force Meeting Staff Report and Materials: <https://hayward.legistar.com/MeetingDetail.aspx?ID=723938&GUID=D10A57BF-852D-44BE-A6EA-D6525F126044&Options=info&Search=>

⁹ Staff recommends that Council adopt a Resolution amending the Master Fee Schedule to include this payment, which will be made by landlords to tenants.

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. Tenants will have the opportunity to choose to receive relocation payments and will not be obligated to pay rent if they choose to not receive temporary relocation payments. If work is not completed within 120 days,¹⁰ landlords are required to make rent differential payments (i.e., the difference between the rent the tenant paid at the time of displacement and the fair market rent) to tenants and tenants will not be required to pay rent while receiving rent differential payments. Attachment VII provides a summary and Attachment III provides the full language of the Tenant Relocation Assistance Ordinance. Based on a benchmarking review of comparable local cities, staff recommend establishing a per diem relocation cost for extended stay hotel/motel which includes kitchenette and pet boarding costs, if applicable. *Staff recommends that Council pass the Resolution in Attachment IV to adopt the per diem rates listed in Error! Reference source not found.. Per HHTF request, doing so will allow the rates to be updated periodically via Resolution.*

Table 2. Recommended Temporary Relocation Payments

Per Diem Category	Amount	Payment Term
Hotel or Motel	\$161	Per day per household
Meal Expenses	\$32	Per day per person
Laundry	\$1	Per day per household
Pet Accommodations	Cat - \$31 Dog - \$56	Per day per animal

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.¹¹ 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 that the City currently pays to provide accessible services to Hayward residents. Since the HHTF met in March, Council has approved an expansion to existing mediation services to support landlords and tenants in negotiating repayment plans for individuals financially impacted by COVID-19. *Staff recommends maintaining existing mediation services at the*

¹⁰ In the case of work being done due to a governmental agency’s order to vacate or if a tenant vacates due to health or safety conditions, tenants are to receive rent differential payments after 60 days of displacement.

¹¹ June 18, 2019, Hayward City Council Meeting Staff Report and Materials:
<https://hayward.legistar.com/MeetingDetail.aspx?ID=695617&GUID=CADE769E-CF9E-496E-9D23-D589F1BAC64E&Options=info&Search=>

expanded level to continue providing both rent stabilization mediation and arbitration services, as well as repayment plan negotiation services for those impacted by COVID-19.

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 materials into Spanish and traditional Chinese
- Creation of a system to collect, store, and query Rent Increase Notices and Tenancy Termination Notices

Attachment VIII 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.

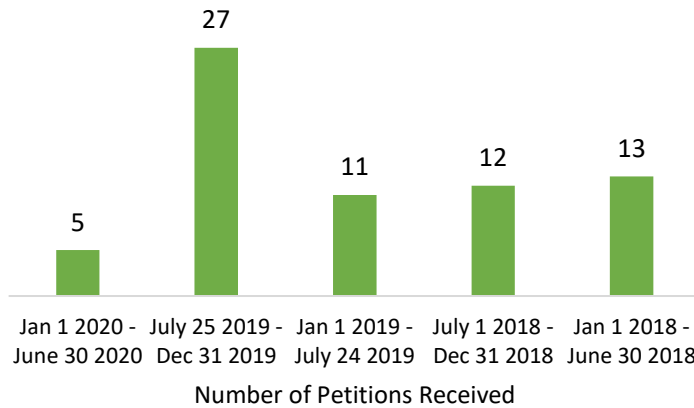
Tenant and Landlord Petitions

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.

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**. Since January 1, 2020, the frequency of petition submissions has reduced significantly, likely due to a lack of rent increases from landlords during the COVID-19 pandemic.

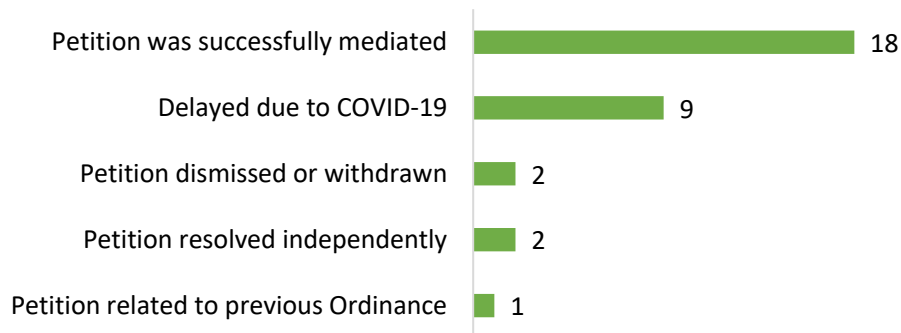
Figure 1. Petitions Received since January 2018



Petition Outcomes

Figure 2 presents the outcomes of each petition received since the new RRSO went into effect, through the end of June 2020. While about a fourth of the petitions are delayed due to COVID-19 and social distancing restrictions, the majority have been successfully mediated. Per request of the HHTF, staff have also started tracking the reasons for dismissed or withdrawn petitions. While no landlord petitions have been submitted, 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.

Figure 2. Tenant Petition Outcomes, as of June 2020



Of the petitions submitted, only two were submitted outside of the 30-day window for petitions to be filed, suggesting that the majority of tenants who know about the petition process are submitting their petitions in compliance with the RRSO.

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 that meet all the noticing

requirements of the RRSO, including a template form to use whenever a landlord increases rent.

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 = 568), the average rent increase amount was 4.7% of monthly rent for covered rental units and 6.0% for rental units. Figure 3 below shows the distribution of rent increase amounts from July 25, 2019 to June 30, 2020 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 termination notices received by the Rent Review Office with enough information to determine the reason (n = 86) were for either a failure to pay rent or to pay utilities. Only a small 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 – June 30, 2020

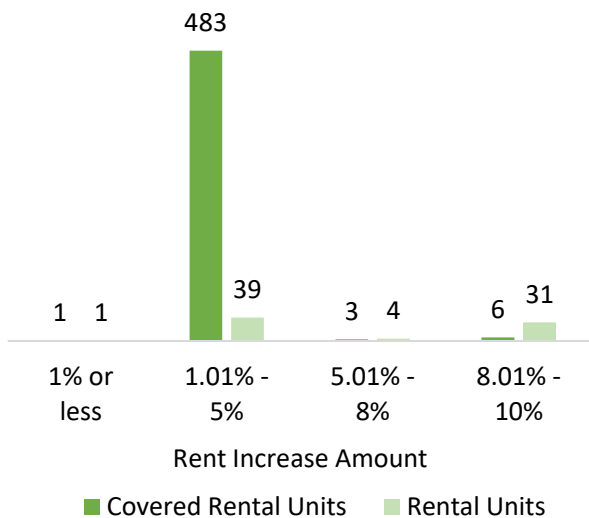
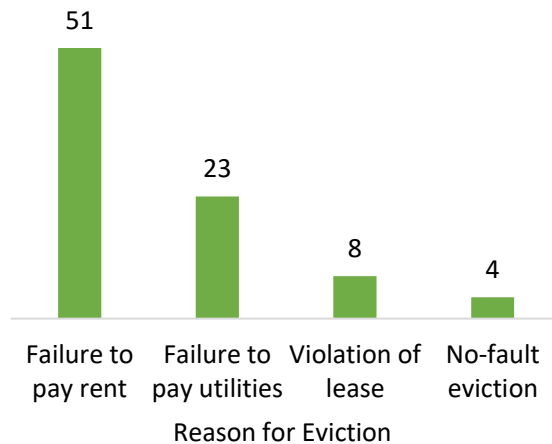


Figure 4. Reasons for Termination for July 25 – June 30, 2020



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 making exempting them from the threshold), staff currently cannot determine which specific units on the property (e.g., Apartment 1) 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 has solicited feedback from landlords, tenants, Project Sentinel, and other City staff. This feedback has already been incorporated to revise 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.

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 have no fiscal impact on the City’s General Fund.

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, Part 7a:	Provide 6-month update on the implementation of the Rent Stabilization Ordinance and recommend amendments
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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 a comprehensive outreach flyer and answered questions from stakeholders to provide further clarification. Staff has received feedback regarding the implementation of the RRSO and the recommended revisions:

- **Accessibility of materials:** One tenant advocacy group requested that staff include statements in Spanish and Chinese on English forms informing residents of the availability of those forms in other languages. Staff agrees that this would improve outreach and is in the process of making those adjustments to our forms.
- **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. A tenant advocacy group has requested that the City make the relocation assistance permanent (unlike the TPA, which has a sunset date).
 - 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.
- **Additional Analysis of the Residential Rent Increase Threshold:** A tenant advocacy group has asked for additional analysis of the impact of the residential rent increase threshold, expressing concern that allowing increases in excess of 5% will, over time, lead to renters paying substantial portions of their income on rent.

NEXT STEPS

RRSO Revisions

If Council chooses to move forward with revisions to the RRSO and adoption of a new Relocation Assistance Ordinance, there will be a second reading at the next Council meeting. If passed, the amended RRSO and new Relocation Payment Ordinance will be effective 30 days after the adoption. Staff will move forward with outreach to landlords and tenants to ensure they are aware of the new changes. Staff will use successful strategies from the previous education and outreach efforts to update landlords and tenants.

RRSO Implementation

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

Upcoming Outreach. Staff are in the process of developing online workshops for landlords and tenants to provide more education about COVID-19-related resources and the City's eviction moratorium.

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. Due to the financial impacts of COVID-19 on landlords and tenants, staff has decided to delay the FY21 billing process from July to September 2020.

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