

DRAFT MEMORANDUM

To: Honorable Mayor and City Council, City of Beverly Hills
From: HR&A Advisors, Inc.
Date: July 26, 2018
Re: Relocation Requirements and Fees in the Beverly Hills Rent Stabilization Context

The City of Beverly Hills (the “City” or “Beverly Hills”) retained HR&A Advisors, Inc. (“HR&A”) to provide independent research and analysis about seven policy issues related to recently enacted changes to the City’s Rent Stabilization Ordinance (the “RSO”).¹ This Issue Paper addresses whether, and if so how, the City Council might consider amending the RSO to adjust the circumstances under which relocation fees are due to tenants, and the relocation fee amounts.

The Issue Paper begins with a general statement about the issue, describes the City’s current relocation fee regulations, summarizes positions about this issue that have been mentioned in public discussions about the RSO, and describes how this issue is addressed by 13 other California cities with rent regulation, based on a review of their ordinances and regulations and through discussions with several city representatives. Based on the information provided on this topic, the Issue Paper concludes with a set of plausible policy options for City Council, City staff, and public consideration.

Statement of the Issue

Following adoption of the RSO Amendments, the City Council and City stakeholders are evaluating the RSO requirements on relocation fees, a form of assistance for Chapter 5 and Chapter 6 Tenants facing certain evictions. The City requires housing providers to pay relocation fees for certain types of evictions in which the tenant is not culpable, including “no-cause” evictions and certain “no-fault” evictions specified by Chapter 5 and Chapter 6. These terms are defined for use in this analysis as follows:

- “No-cause” evictions are involuntary terminations of tenancies for which no reason for eviction is stated by the housing provider.²
- In contrast, “just-cause” evictions are involuntary terminations of tenancies for reasons established under California Code of Civil Procedure³ or the terms of the RSO. Just-cause evictions include both “at-fault” evictions and “no-fault” evictions.

¹ Ordinance Number 17-O-2729, adopted in April of 2017 (the “RSO Amendments”). The City’s Rent Stabilization Ordinance (the “RSO”) regulations are included in Beverly Hills Municipal Code (“BHMC”) Title 4, Chapter 5 (“Chapter 5”) and Chapter 6 (“Chapter 6”). Tenants residing in RSO units subject to regulation under Chapter 5 are hereinafter referred to as “Chapter 5 Tenants;” and Tenants residing in RSO units subject to regulation under Chapter 6 are hereinafter referred to as “Chapter 6 Tenants.”

² No-cause evictions are prohibited for Chapter 5 Tenants, and Chapter 6 generally does not address no-cause evictions in detail, other than requiring housing providers to pay relocation fees to evicted tenants and requiring housing providers to file a copy of the eviction notice with the City.

³ Calif. Code of Civil Procedure, Sec. 1161.

- “At-fault” evictions are evictions for which the tenant is culpable and a specific reason is provided (e.g., failure to pay rent, maintenance of a nuisance, illegal uses, failure to execute lease, refusal to provide unit access, or unapproved subtenants).⁴ The RSO does not require relocation fees for any type of at-fault eviction.
- “No-fault” evictions are evictions for which the tenant is not culpable and a specific reason is provided (e.g., a decision by owners to move themselves and/or an immediate family member into a given rental unit, the withdrawal of units from the rental market pursuant to the Ellis Act,⁵ conversion of apartment units to condominiums, or relocation necessitated by building renovation or demolition.)⁶

Prior to the RSO Amendments, the City required relocation fees only for certain types of no-fault Chapter 5 Tenant evictions, including use of the rental unit by a housing provider, demolition or condominium conversions, major remodeling, and Ellis Act withdrawals. Additionally, relocation fee amounts varied by duration of tenancy, and did not increase annually by any inflation factor.

The City did not previously require relocation fees for Chapter 6 Tenant evictions. Among the more significant changes enacted by the RSO Amendments was a new requirement that housing providers pay relocation fees for specified categories of no-fault evictions and no-cause evictions to Chapter 6 Tenants. The RSO Amendments also added identical schedules of relocation fees to both Chapter 5 and Chapter 6 that are adjusted annually based on annual percentage increase in the Consumer Price Index (“CPI”).

There is a long history of requiring compensation for involuntary tenant evictions associated with governmental actions under federal⁷ and state⁸ law, and while these laws are not applicable to the RSO, this general type of relocation assistance requirement was extended to certain categories of private eviction actions with the enactment of local rent regulations and other tenant protection ordinances adopted in many California jurisdictions since the late 1970s. In general, relocation assistance requirements seek to balance two competing objectives: (1) compensating tenants for replacement housing costs associated with involuntary, no-fault evictions, including out-of-pocket moving costs and for the foregone financial benefit of remaining in a regulated unit, as compared with a replacement market-rate unit; and (2) protecting the housing provider’s ownership rights, which include the right to self-occupy a unit, maintain and improve their property and/or go out of the rental business either through demolition or conversion to non-residential uses.⁹

During a series of professionally-facilitated dialogue sessions between Beverly Hills housing providers and tenants living in buildings subject to the RSO, following adoption of the RSO Amendments, tenants articulated several positions regarding the RSO Amendment relocation assistance payment changes, including the following:

⁴ Beverly Hills Municipal Code (“BHMC”), Title 4, Chapter 5, Article 5, Section 4-5-501 through Section 4-5-508.

⁵ BHMC, Title 4, Chapter 5, Article 5, Sec. 4-5-513. The Ellis Act is the subject of a separate HR&A Issue Paper.

⁶ BHMC, Title 4, Chapter 5, Article 5, Sec. 4-5-509; Sec. 4-5-511; and Sec. 4-5-512; and Chapter 6, Sec. 4-6-9.

⁷ Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the Housing and Community Development Act of 1974, as amended.

⁸ California Uniform Relocation and Assistance and Real Property Acquisition Act of 1969, as amended.

⁹ Hamilton, Rabinovitz & Alschuler, *The 1994 Los Angeles Rental Housing Study: Technical Report on Issues and Policy Options*, prepared for the City of Los Angeles Housing Dept., Dec. 1994, at p. 287-288.

- The amount of relocation fees should be adjusted annually at the same amount as the allowed annual rent increase (i.e., the greater of three percent or the applicable CPI), rather than based on only on annual changes in the CPI;
- Relocation fees should be paid by the housing provider at the time he or she notifies the City of an involuntary termination;
- In addition to the relocation fee structure for permanent evictions, a relocation fee structure should be established for temporary evictions on a per-diem basis;
- Relocation fees should reflect estimated actual costs households will incur to relocate;
- Relocation fees should extend compensation to households in 3-bedroom apartments;
- Relocation fees should be increased for protected classes of tenants to \$3,000, and an additional \$1,500 should be awarded for each additional member of any protected tenant class; and
- Relocation fees should include lost wages and other accountable costs.¹⁰

Housing providers in Beverly Hills articulated the need to have adequate safeguards and limits to protect both tenants and housing providers. Housing providers positions on relocation fees included the following:

- The amount of the relocation fee should be limited to two times the current monthly rent, as opposed to three times;
- There should be a limit to the number of times an individual tenant can receive relocation fees, for example, one time every five years;
- Relocation assistance eligibility should be based on tenant financial means; there should be an income cap on tenant eligibility for relocation assistance; and
- The City should accumulate data regarding the frequency of housing providers' relocation fee payments.¹¹

Beverly Hills Context

Under the RSO Amendments, housing providers in Beverly Hills are required to pay relocation fees to Chapter 5 and Chapter 6 Tenants under circumstances specified in each Chapter, but these circumstances differ based on the type of involuntary termination of tenancy. Chapter 6 requires relocation fees for all no-fault and no-cause evictions, and Chapter 5 requires relocation fees specifically for evictions for dwelling use by a housing provider, demolition or condominium conversion, major remodeling, and Ellis Act withdrawals. The different circumstances under which Chapter 5 and Chapter 6 Tenants receive relocation fees are based primarily on the different eviction protections for Chapter 5 and Chapter 6; therefore, changes to the relocation fee requirements would need to be based on changes to the eviction protections for each chapter.

Chapters 5 and 6 refer to the same schedule of relocation fees based on the number of bedrooms in the unit from which a tenant is evicted and whether there is a senior citizen, disabled person, or minor present in the evicted household, as shown in Figure 1.¹² These fee amounts are adjusted annually based on the percentage increase in the CPI for Los Angeles-Riverside-Orange County area.

¹⁰ Tenants Positions, Relocation Fees, Beverly Hills Renters Alliance, <http://bhrentersalliance.org/wp-content/uploads/2017/09/RELOCATION-FEES-2017-8-31.pdf>

¹¹ Beverly Hills City Council Agenda Report, September 5, 2017.

Figure 1: Chapter 5 and Chapter 6 Relocation Fees, 2018

Unit Type	Base Relocation Fee ("Eligible Tenants")¹	Relocation Fees for Household with a Senior Citizen, Disabled Person, and/or a Minor ("Qualified Tenants")
Studio	\$6,193	\$8,193
One Bedroom	\$9,148	\$11,148
Two+ Bedrooms	\$12,394	\$14,394

Source: BHMC Title 4, Chapter 5, Sec. 4-6-9; and Chapter 6, Sec. 4-5-605.

Comparison with Other California Cities with Rent Regulation

Including Beverly Hills, 11 of 14 (i.e. 79%) California cities with residential rent regulation programs require some form of relocation assistance for tenants who experience no-fault evictions, as shown in Figure 2.

Notably, only Mountain View restricts tenant eligibility for relocation assistance based on household income. Relocation fees are available to all tenant households subject to that city's rent regulation system whose income does not exceed 120 percent of the median household income for the County as adjusted for household size according to the United States Department of Housing and Urban Development.

¹² In Chapter 5, a tenant is a "senior" if he or she is over 62 years, a "minor" if he or she is less than 18 years old, and "disabled" if receiving benefits from a federal, state, or local government, or from a private entity due to a permanent disability that prevents the person from engaging in regular, full time employment. Chapter 6 utilizes the same definitions for minor and disabled, but does not include a definition for a senior.

Figure 2: Summary of California Rent Stabilization Programs with Relocation Fee Requirements for No-Fault Evictions, 2018

City	Requires Relocation Fees
Beverly Hills	✓
Berkeley	✓
East Palo Alto	✓
Hayward	
Los Angeles	✓
Los Gatos	
Mountain View ¹	✓
Oakland	✓
Palm Springs	
Richmond	✓
San Jose	✓
San Francisco	✓
Santa Monica	✓
West Hollywood	✓
Percentage	79%

¹ Limits eligibility for relocation assistance to households that earn 120% or less of the applicable Area Median Income.

Source: HR&A Advisors, Inc. and the individual cities

Relocation Fee Variables

As shown Figure 3, like Beverly Hills, the relocation fee requirements in most of these cities vary based on tenant types and the number of bedrooms in a unit from which a tenant is evicted, and adjust relocation fee amounts based on annual CPI changes. A minority of these cities vary relocation fee amounts based on type of eviction, duration of tenancy, or the nature of apartment building ownership. In summary:

- All 10 of the other cities in California that require relocation fees provide some difference in fees for “Eligible Tenants” (i.e. all tenants eligible to receive relocation assistance) versus “Qualified Tenants” (i.e. generally refers to senior citizens, disabled people, or tenant households with minors, but sometimes also includes tenants of specified low-income levels);
- All the other cities adjust relocation fees annually by changes in the applicable CPI;
- A majority (64%) of cities, including Beverly Hills, differentiate fee amounts by the number of bedrooms in a unit;
- Just over one-third (36%) of cities, not including Beverly Hills, vary relocation fee amounts by type of eviction, and typically do so by differing fees between temporary and permanent relocation. Richmond also provides a separate fee schedule for evictions due to owner move-in and San Francisco provides a separate fee schedule for evictions due to the Ellis Act;
- A few (27%) cities vary the amount of relocation fees by duration of tenancy; and
- One city (Los Angeles) has differing relocation fees based on the nature of property ownership, with one schedule for housing providers who own no more than four residential units and a single-

family home (defined as “Mom and Pop Landlords”) and a different schedule for owners of buildings with more than four units.¹³

Figure 3: Relocation Fee Amount Variables, 2018

City	Number of Bedrooms in Unit	Qualified vs. Eligible Tenants	Type of Eviction	Duration of Tenancy	Nature of Ownership	Adjusted by CPI
Beverly Hills Chapter 5	✓	✓				✓
Beverly Hills Chapter 6	✓	✓				✓
Berkeley		✓	✓			✓
East Palo Alto ¹		✓		✓		✓
Los Angeles		✓		✓	✓	✓
Mountain View ²	✓	✓				✓
Oakland	✓	✓				✓
Richmond	✓	✓	✓			✓
San Jose	✓	✓				✓
San Francisco		✓	✓			✓
Santa Monica	✓	✓	✓			✓
West Hollywood	✓	✓				✓
Percentage	64%	100%	36%	18%	9%	100%

¹ In addition to a base relocation fee, tenant's duration of tenancy, and whether the tenant is qualified or eligible, East Palo Alto also requires the owner to pay actual moving costs up to \$2,500.

² Mountain View's relocation fees vary case by case. A housing provider is required to provide a full refund of a tenant's security deposit, a 60-day subscription to a rental agency, the cash equivalent of three months' rent, based on the average monthly rent for a similarly-sized unit in Mountain View, and an additional \$3,000 per unit if the household has Qualified Tenants.

Source: HR&A Advisors, Inc. and the individual cities

Definition of “Qualified” Tenants

Although all California cities that require relocation assistance for no-fault evictions differentiate fee amounts for “qualified” tenants versus “eligible” tenants, the definition of qualified tenant varies by city. All cities include senior, disabled, and minor tenants in their definition of a qualified tenant, but some cities (36%) also include lower-income tenants in this definition, as shown in Figure 4.¹⁴

Furthermore, among the eight cities that do not define lower-income tenants as Qualified Tenants, two cities (Los Angeles and West Hollywood), have separate fee amounts for lower-income tenants, defined as tenants whose household income is 80% of the Area Median Income (AMI) or less. West Hollywood, for example,

¹³ City of Los Angeles Relocation Information. <http://hcidla.lacity.org/Relocation-Assistance>

¹⁴ In the cities of Berkeley, East Palo Alto, Oakland, and San Jose, a “lower-income” tenant is as defined by Health & Safety Code Section 50079.5.

has a flat fee for low-income tenants regardless other factors, such as the number of bedrooms in the unit. The fee amount for low-income tenants is \$21,517, about 33% higher than the fee amount for non-low-income tenants residing in 3+ bedroom units.

Figure 4: Definition of Qualified Tenants, 2018

City	Does Not Include Lower-Income Tenants	Includes Lower-Income Tenants
Beverly Hills	✓	
Berkeley		✓
East Palo Alto		✓
Los Angeles	✓	
Mountain View	✓	
Oakland		✓
Richmond	✓	
San Jose		✓
San Francisco	✓	
Santa Monica	✓	
West Hollywood	✓	
Percentage	64%	36%

Source: HR&A Advisors, Inc. and the individual cities

Relocation Fee Calculation

When updating the relocation fee amounts under the RSO Amendments, Beverly Hills based its fee calculation on methods employed by Los Angeles, Santa Monica, and West Hollywood, which incorporate local moving costs, potential differences in rents incurred by moving out of a regulated unit, and other start-up costs experienced when moving to a new residence. Accordingly, City staff included three factors in its calculation of relocation fees for the RSO Amendments: average local moving expenses, utility start-up costs, and three months of average monthly rents by type of unit, to account for first and last month's rent and a security deposit.¹⁵

Berkeley uses a similar fee calculation formula, but includes the cost of one month of storage space, and does not include utility costs.¹⁶ Mountain View's relocation fee amounts include the cost of a 60-day subscription to a rental agency, in addition to the equivalent of three months median market rent for a similarly sized unit and a full refund of a tenant's security deposit.

¹⁵ Beverly Hills City Council Agenda Report, February 21, 2017, Item G-2; http://beverlyhills.granicus.com/Viewer.php?view_id=49&clip_id=5472&meta_id=322948

¹⁶ City of Berkeley Request for Relocation Payment from Property Owner; [https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/ReolcationPaymentRequest_30daysOrMore%202018\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/ReolcationPaymentRequest_30daysOrMore%202018(1).pdf)

Relocation Fee Amount Comparisons

As shown in Figure 5, the City’s adopted relocation fee amounts are roughly aligned with those in West Hollywood, which is located immediately adjacent to Beverly Hills and has a similar housing market, utility start-up costs, and moving costs. Fees in both Beverly Hills and West Hollywood are lower than in Santa Monica, due primarily to a larger difference between rent-stabilized rents and market-rate rents in that city.

Figure 5: Relocation Fee Amounts of Nearby Cities with Comparable Housing Markets, 2017

Beverly Hills		West Hollywood		Santa Monica	
<i>Eligible</i>		<i>Eligible</i>		<i>Eligible</i>	
Studio	\$6,193	Studio	\$6,455	Studio	\$8,650
1 Bed	\$9,148	1 Bed	\$9,114	1 Bed	\$13,300
2+ Beds	\$12,394	2 Beds	\$12,277	2+ Beds	\$18,050
		3+ beds	\$16,202		
<i>Qualified</i>		<i>Qualified</i>	\$17,087	<i>Qualified</i>	
Studio	\$8,193	<i>Lower-Income</i>	\$21,517	Studio	\$16,359
1 Bed	\$11,148			1 Bed	\$15,350
2+ Beds	\$14,394			2+ Beds	\$20,750

Source: Beverly Hills City Council Agenda Report, February 21, 2017.

Policy Options

Based on the foregoing information and data calculations, HR&A suggests that there are at least three plausible policy options that the City Council, City staff, and the public could consider when determining how to treat relocation fees in the RSO:

- 1. No Policy Change:** In this case, the City would continue its relocation fee requirements as they exist currently, both in terms of the eviction categories for which relocation fees are required (including different application of the requirements to Chapter 5 versus Chapter 6 Tenants), and the amounts of the fees.
 - Advantages to housing providers:** There would be little or no advantages to housing providers.
 - Disadvantages to housing providers:** Housing providers would continue to be required to pay relocation fees for no-fault evictions, including higher fees for evicted households in which a senior citizen, disabled person, or minor live. There would be no opportunity for reduced relocation fees in future years, should fee components decline over time (e.g., reductions in rents or moving and utility start-up costs).
 - Advantages to tenants:** The existence of relocation fees may discourage housing providers from carrying out no-cause and no-fault evictions. But for those that do occur, tenants would continue to be compensated. Evicted households containing a senior citizen, disabled person, or minor, as well as tenants in units with more bedrooms, would continue to be compensated with a higher fee.
 - Disadvantages to tenants:** There would be little or no disadvantages to tenants.

Administrative Considerations: This option maintains current requirements, and therefore would not require any additional City staff time or other resources.

- 2. Alter Fee Amounts to Account for Additional Criteria:** The City could add further variation in required relocation fee amounts to attempt to proportionally align fee amounts with the types of units and buildings being vacated, and the types of tenants being evicted, based on one or more specific criteria used by other cities with rent regulation, possibly including:
- a. Tenant financial circumstances (e.g., fees could be stratified based on household income, with higher fees paid to lower income tenants like in West Hollywood);
 - b. Duration of tenancy (e.g., fees could differ based on how long a tenant has occupied a unit); and/or
 - c. Type of evictions (e.g., fees could differ based on the circumstances under which tenancy is terminated, including potentially creating a separate fee structure for temporary repairs as a modest per diem payment for up to 30 days).
- **Advantages to housing providers:** Varying the relocation fee further by specific tenant and eviction characteristics could benefit housing providers by more closely aligning relocation fees with actual relocation expenses.
 - **Disadvantages to housing providers:** A more complex relocation fee system could involve more management time and could result in higher fees for some tenant categories.
 - **Advantages to tenants:** Varying relocation fees by detailing the criteria further by nature of eviction and type of tenant could allow tenants subject to all types of evictions to receive payments better aligned with household circumstances, type of eviction, and moving expenses.
 - **Disadvantages to tenants:** Changes to the relocation fee regime may incentivize housing providers to prefer certain tenants over others. For example, if housing providers are required to provide higher relocation fees for long-term, low-income tenants, they may instead seek higher earning tenants who are more likely to move voluntarily.

Administrative Considerations: This option would require additional City staff time or other resources to research and prepare new fee schedules, and draft and assist in enacting the required RSO amendments. There may also be additional costs associated with monitoring and enforcing a more complex fee schedule, and mediating any related disputes.

- 3. Eliminate Relocation Requirements and Fees:** In this case, the City would remove its relocation fee provision for Chapter 5 and/or Chapter 6 Tenants.
- **Advantages to housing providers:** Housing providers would be able to conduct no-cause and no-fault evictions without paying any relocation fees, and more readily take advantage of vacancy decontrol.
 - **Disadvantages to housing providers:** There are little to no direct disadvantages to housing providers, but removal of the fees after they were enacted by the RSO Amendments could result in new housing provider-tenant tensions and conflict.
 - **Advantages to tenants:** There are no advantages to tenants.
 - **Disadvantages to tenants:** Absent some alternative form of tenant protections from no-fault evictions, this could encourage more no-fault evictions and potentially cause increased

housing instability and dislocation for tenants, particularly under a combination of RSO Amendment rent increases and continuation of vacancy decontrol.

Administrative Considerations: This option would require modest additional City staff time or other resources to draft and assist in enacting the required RSO amendments. There may also be some cost savings because City staff would no longer have to monitor or enforce the relocation requirements and fees, or update the fees annually. However, any cost savings may be offset by the need for increased staff response to address tenant concerns.