



AGENDA REPORT

Meeting Date: October 11, 2018

Item Number: C-1

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development
Helen Morales, Deputy Director of Rent Stabilization

Subject: PRESENTATION OF FINAL HR&A ADVISORS, INC REPORT;
FEEDBACK RECEIVED AT FACILITATED DIALOGUE SESSIONS;
AND DISCUSSION OF POSSIBLE AMENDMENTS TO THE RENT
STABILIZATION ORDINANCE

Attachments:

1. HR&A Advisors Inc. Final Issue Papers and Policy Packages
2. Habitability Final Issue Paper
3. Public Comments from Facilitated Sessions
4. Revenue Costs Specialists, LLC Fee Study

RECOMMENDATION

Staff recommends that City Council receive and review the final issue papers and policy packages from consultant HR&A Advisors, Inc. (HR&A), the habitability final issue paper and public comments from the facilitated sessions.

Staff requests direction from City Council on possible amendment changes to the Rent Stabilization Ordinance (RSO) as well as consideration of the fee study for costs associated with the implementation and administration of the RSO and the other outstanding RSO issues.

INTRODUCTION

This report includes final issue papers prepared by consultant HR&A in response to questions raised by City Council and the public and incorporates public feedback from the three facilitated discussions held on each issue paper. At this meeting, HR&A will present a summary of modifications made to the original report along with possible RSO

amendments based on policy packages which provide plausible options for consideration. A final issue paper on habitability prepared by staff is also included.

Staff has also included a program fee study conducted by Revenue and Costs Specialists, LLC (RCS) for the costs associated with the implementation and administration of the RSO in its current configuration.

BACKGROUND

The current rent stabilization ordinance, which became effective on May 5, 2017, requires registration of all multi-family rental units in the City and establishes provisions for protection of Chapter 6 tenants including limiting the maximum allowable annual rental increase to either 3% or the Consumer Price Index (CPI), whichever is greater. The ordinance establishes relocation fees for no cause evictions of Chapter 6 tenants and also increases the relocation fees for Chapter 5 tenants, so the amounts of the relocation fees are the same. In addition, the ordinance establishes an application procedure by which the owners of Chapter 6 units can apply to the City to increase rents by an additional amount above the maximum allowable rent increase.

City Council expressed the need for more input to determine if the ordinance needed further modification. In order to solicit stakeholder input, a total of seven facilitated dialogue sessions were led in summer 2017 by Professor Sukhsimranjit Singh. Additional issues beyond the approved amendments were raised by housing providers and tenants, which included questions of habitability and no cause evictions.

At the City Council meeting of September 5, 2017, City Council directed staff to contract with an economic consultant to address additional issues and questions. On November 21, 2017, the City Council approved an agreement with HR&A to provide additional information on questions posed by City Council regarding the amended Rent Stabilization Ordinance.

On August 7, 2018, HR&A submitted a preliminary draft report and provided a summary to City Council. HR&A first provided an overview of the 14 rent stabilization ordinances in California and their requirements for comparison in a Data Brief. HR&A also addressed the questions raised by City Council in issue papers that discuss the following seven topic areas:

- Should the Ordinance exempt four or fewer units?
- Should housing providers be allowed to “bank rent increases” or defer all or part of an allowable rent increase to a subsequent year?
- Should Chapter 6 no-cause evictions be reconsidered?
- What is the effect of the Ellis Act on the Rent Stabilization Ordinance?
- Should relocation fees be required or revised?
- Should the rent adjustment application processes be revised?
- Should the provisions that govern the amount of the maximum allowable rent increase be revised?

DISCUSSION

Facilitated Discussion Sessions

Staff conducted three facilitated sessions where HR&A presented seven issue papers, and staff presented an issue paper on habitability. The sessions were live-streamed and made available on the City's webpage. Both tenants and housing providers were afforded an opportunity to provide oral public comment or to provide written comments on comment cards covering each specific issue. The public was informed at the last facilitated session, which also was posted on the website, of the September 21, 2018 deadline to submit written comments. Staff collected and tabulated the comments and provided a summary of the comments for each issue (Attachment 4).

The first facilitated session was held on August 15, 2018 and covered the following issues: Relocation fees; No-Cause Evictions; Ellis Act Implications; and Habitability Standards. There were approximately 68 members of the public in attendance at this session.

The second facilitated session was held on August 26, 2018 and focused on the following issues: Banking of Annual General Adjustments; Exemption of properties with 4 units or less; and the Rent Increase Application Process. There were approximately 44 members of the public in attendance at this session.

The third facilitated session was held on September 16, 2018 and focused on the Maximum Allowable Annual Rent Increase. There were approximately 59 members of the public in attendance at this session.

HR&A Final Report and Cross-Cutting Policy Packages

In addition to presentation of the final versions of the Data Brief and seven topic-specific issues papers, HR&A offered alternative cross-cutting policy packages to assist City Council in considering the range of plausible policy options, as outlined in detail in their Memorandum (Attachment 1). These policy packages do not represent recommendations by HR&A or staff, but are intended only to facilitate City Council discussion. The following is a summary of those alternative cross-cutting policy packages.

Policy Option #1. No Further RSO Amendments at This Time.

Defer making any changes to the RSO based on the rationale that: 1) RSO Amendments only took place in 2017, and there is a need for more data; 2) November 6, 2018 election on the repeal of Costa-Hawkins needs to be settled; many housing providers and tenants advocated for no change.

In considering the range of policy options, under this policy option: 1) housing providers with 2-4 units would remain subject to the ordinance; 2) banking of rent increases would continue to be limited to Chapter 5; 3) the current requirements for payment of relocation fees would remain for both Chapter 5 and Chapter 6; 4) the current Rent Increase Application Process ensuring a "fair return" would continue, and all decisions would continue to be made by a hearing officer; 5) No-Cause evictions would continue to remain only for Chapter 6 units; 6) existing limitations would continue for Chapter 5 unit rent increases, which is the lesser of the change in CPI or 8%, and for Chapter 6 unit rent

increases, which is the greater of 3% or the Change in CPI; and 7) the Ellis Act would continue to only be applicable to Chapter 5 units.

Policy Option #2. New RSO Amendments that Would Provide More Financial Flexibility for Housing Providers

Housing providers have asserted that the RSO is burdensome and needs to be amended to allow them flexibility so that they can earn a financial return to maintain their buildings at an appropriate level.

Based on the foregoing rationale, the following represents the range of policy options: 1) exempt buildings with 2-4 units; 2) permit the banking of unused rent increases for both Chapter 5 and Chapter 6 tenants with a cap on the total percentage (e.g. a total of 7%); 3) align relocation fee amounts to the type of unit being vacated and the types of tenants being evicted; suggestions include: tenant financial circumstances; duration of tenancy; types of evictions; 4) create a uniform process in line with Chapter 6; 5) Chapter 6 tenants would remain subject to No-Cause Evictions with relocation fees; 6) maximum allowable rent increases would be a straight annual percentage increase (e.g. 5%) for both Chapter 5 and Chapter 6 units with pass-throughs as provided for in Chapter 5; 7) no Ellis Act Changes.

Policy Option #3. New RSO Amendments that Would Provide More Protections for Renters

To meet the concerns addressed by the tenants, this approach provides more protections for renters.

In considering the range of policy options, under this policy option: 1) no changes to the property exemptions; 2-4 units would remain subject to the Ordinance; 2) no change to banking of unused rent increases; banking will remain in the limited sense to Chapter 5 only; 3) relocation fee requirements will remain the same; however there would be an additional triennial update with CPI adjustments in between; 4) establish a uniform rent increase application process for both Chapters 5 and 6, and add provisions for habitability requirements and for a mediation board; 5) Eliminate No-Just Cause eviction throughout the Beverly Hills rental market, not just RSO properties, and develop a new Just-Cause eviction process for Chapter 6 tenants; 6) Change the 100% formula of the CPI to 75% of the CPI with no floor, ceiling or fixed percentage; and 7) add Ellis Act provisions for Chapter 6 tenants.

Policy Option #4. Providing More Balance

This approach attempts to balance both the concerns addressed by tenants and housing providers by providing a degree of flexibility to housing providers while extending additional protections to tenants.

In consideration of the range of policy options, under this policy option: 1) exemptions would be provided for duplexes and triplexes only, with the requirement that a person owning at least 50% of the property reside on-site; 2) allowance for Chapter 6 banking with a cap; however no change to Chapter 5 and add a 5 month notice period; 3) maintain the same basic fee requirements and add a triennial update with CPI adjustments in between and some limits for a minimum length of tenant tenure; 4) establish a uniform

rent increase application process for both Chapters 5 and 6 and add provisions for habitability requirements and for a mediation board in the rent increase process where tenants can challenge rents; 5) establish new Just-Cause eviction protections for Chapter 6 tenants; 6) change the maximum allowable rent increase to match Chapter 6 and allow pass-throughs as provided for in Chapter 5 with a cumulative cap on annual rent increases of 7%; 7) add Ellis Act protections for Chapter 6; 8) add a luxury rent exemption that could be set by unit size (i.e. number of bedrooms) and updated annually, based on an upper-level percentile of rents, a multiple of median rent, or some other formula; and 9) add an exemption for units not occupied year-round by the tenants.

Habitability Cross-Cutting Policy Package

In an effort to assist City Council to consider the range of policy options regarding habitability, staff offers the following Policy Package options:

Policy Package #1. No Policy Change

This policy package would allow for the current enforcement of habitability through its current complaint-based enforcement and maintain the level of standards consistent with current local and State housing laws.

In consideration of the range of policy options, under this policy option: Inspections would continue to be complaint based; habitability standards would remain the same, which are complaints tied to state codes and local ordinances; and housing providers and tenants would remain eligible for the City's sponsored Mediation services through a contract with Loyola Law School and its Loyola Center for Conflict Resolution.

Policy Package #2. Creation of a Self-Certification Inspection program and a Mediation Board.

Housing providers stated that they would not be adverse to some form of inspection of their properties; however, they preferred a self-certification process whereby they or their staff could conduct the inspection. They also voiced their approval of a mediation board to hear disputes with tenants and to resolve issues that relate to difficult tenants.

In consideration of the range of policy options, under this policy option: the City would establish an annual self-certification process reported to the City on an annual basis and verified by the tenant; and create a mediation board comprised of both housing providers and tenants to mediate habitability complaints.

Policy Package #3. Create an annual proactive City inspection program for habitability standards; establish a required time frame for replacement of carpets, window coverings and paint; create a mediation board, and allow for a reduction in rent if habitability violations exist.

Tenants voiced their concerns relative to substandard conditions. They expressed an interest in an annual inspection by City housing inspectors. They also voiced their interest in establishing a time frame requirement for replacements of carpets, window coverings and paint and a need for a mediation board.

In consideration of the range of policy options, under this policy option: the City would establish a proactive City inspection program; establish required time frames for replacement of floor, window coverings, and paint; and establish a mediation board comprised of both housing providers and tenants to address habitability standards.

Policy Option #4. Establish an Annual Self Certification Process and Create a Mediation Board.

Housing providers and tenants expressed a need for some form of inspection process and the need for a mediation board to address conflicts.

In consideration of the range of policy options, under this policy option: the City would establish an annual self-certification process; and create a mediation board comprised of both housing providers and tenants to resolve disputes.

Additional Issues for Consideration:

The following additional issues were brought forward as specific issues either through the facilitated sessions, requests made by City Council or identified by staff:

- 1) Annual Rent Registration
- 2) Creation of a Board/Commission
- 3) Creation of a Qualified Status
- 4) Seismic Pass-through
- 5) Mills Act Provisions
- 6) Fee Analysis

Although the focus of the facilitated sessions have been on the eight issues identified in HR&A's Issue papers and the staff report on habitability, staff requests direction on the following other issues that were identified as listed above.

Annual Rent Registration

City Council first established the registration of RSO units through City Council Resolution No. 17-0-2725, repealed and amended by Resolution No. 17-0-2729, which was effective May 5, 2017. The first annual registration period began on July 24, 2017 and remained open until all properties were registered. Of the 1,098 properties that were identified and required to register with the city, only one duplex property remained non-compliant.

An annual rent registry is critical to the enforcement of the Rent Stabilization Ordinance. Annual registration provides for the collection of ongoing and changing information on all approximate 7,700 rental units. That information include rents charged, rent increases, vacancies, evictions and lengths of tenancies that provides the City with a tool for the enforcement of the RSO requirements, including illegal rent increases, changes in occupancy, no cause evictions and the overall changing rental unit conditions specific to the City of Beverly Hills.

The continual annual rent registration process provides a tool and data to identify and support policy decisions for City Council in establishing permanent regulations and any

necessary updates for changing conditions thereby allowing for local control. By way of example, the 2017 registration data provided HR&A critical information for their analysis of the RSO allowing them the ability to provide policy options to the City Council.

The RSO currently requires registration by housing providers upon receipt of written notice from the City to do so. Staff requests direction by City Council to move forward with issuing a notice to require the 2018 registration and an amendment to the RSO to require annual registration by housing providers.

Creation of a Mediation Board/ or Commission

Both Tenants and Housing providers have discussed the creation of a rent board/commission to deal with habitability issues and rent adjustment application process. Tenants claim that their units have habitability issues and seek a board/commission to ascertain the extent of habitability issues and obtain a corresponding rent reduction. Housing providers claim that they experience difficulties with bad tenants and nuisance issues that are difficult to prove in court and state that a board/commission could assist to deal with these issues. Another housing provider's comment suggested the creation of a rent board/commission to work as an additional step in due process to review decisions made by a hearing officer.

Rental issues are currently addressed on a complaint basis whether from tenants, property owners, or management companies. Complaints typically include disputes regarding rent increases; pass-through amounts, vacancy termination notices, general notices, tenant's rights and habitability standards complaints. Complaints are addressed by the Rent Stabilization staff through a complaint intake process where allegations of violations are reviewed and determinations made. Some complaints are referred to Code Enforcement for additional investigations and citation process. In 2015, Council directed the Human Relations Commission (HRC) to address tenant/landlord issues, other complaints may also be heard by the HRC as part of their Tenant/Landlord Forum

Staff requests City Council direction on the establishment of a rent board/commission along with defined tasks and authority for such a rent board/commission in the administration of the rent stabilization ordinance. The City Council could consider as an initial step establishing a mediation board to address habitability disputes and other disputes between housing providers and their tenants.

Creation of a Qualified Status

Many tenants came forward at the facilitated discussions to voice their opinion on the affordability of their rental units. Many claimed that rent increases cause an undue hardship and they are not otherwise able to make ends meet. HR&A data reflects that on average, studios pay the least amount of rent at \$1,389 per month while the average rent for four or more bedrooms is \$4,936, with an average rental amount for Chapter 6 tenants at \$2,427, which is more than double a Chapter 5 average of \$1,017. Chapter 5 tenants, however claim that with fixed incomes they are experiencing difficulty making rental payments.

The HR&A data brief reflects that, although household incomes in Beverly Hills are generally higher than in nearby cities and the County, over half of the City's renter households are rent burdened, paying more that 30% of their gross income to housing.

Nearly 30% of the City’s renter households are severely rent burdened, paying more than half of their income to housing costs. Tenants and housing providers have voiced their opinion for the City to assist in meeting the needs of those households experiencing financial difficulties.

Currently, the only provision in the RSO for a qualified status is for the payment of relocation fees. The RSO provides an additional \$2,000 in relocation fees for tenants that are Senior Citizens (Age 62 or over), disabled or a minor.

The City Council may consider surveying the City’s renter population to identify any other qualified status that it may create and incorporate into the RSO. Staff requests City Council direction relative to establishing criteria to identify those in need and to identify a *qualified* class and any implications that the qualified status may have relative to the RSO provisions. If this is an area that Council wishes to implement, then there will be a need to develop parameters on how the assistance is provided, whether the assistance includes the City and if so what is the budget for such a program and how that should be funded.

Seismic Surcharge Pass-through

City Council is currently reviewing the adoption of a Seismic Ordinance requiring owners to retrofit properties identified by the City, which includes multi-family properties that are subject to the RSO. As a result of possible pass-throughs that may be determined through the mandatory seismic retrofit ordinance, staff requests direction on pass-through considerations to both Chapter 5 and Chapter 6 Tenants and for the associated seismic retrofit requirements including timelines as to how and when the costs can be passed through with any dollar amount limitations or caps.

The following represents how other cities with RSO ordinances have provided for pass-through for seismic retrofit:

TABLE 5	
Pass-Through Comparison	
Jurisdiction	Retrofit Cost Sharing by Tenants
Los Angeles	Pass through 50% of retrofit costs to tenants with maximum of \$38/month for a period not to exceed 10 years
Santa Monica	The Rent Board is currently considering allowing a pass through for a portion of costs
West Hollywood	The Rent Commission recommended to City Council to allow pass through of 50% of retrofit costs with a maximum of \$38/month for 10 years
Beverly Hills	Allowed for Chapter 5 Tenants Not allowed for Chapter 6 Tenants

Mills Act Overview:

At the August 7, 2018 meeting, Vice Mayor Mirisch suggested that perhaps use of the Mills Act could offset costs for multifamily housing providers. The Mills Act Contract is an agreement between the City and the owner of a locally designated historic resource based on California Government Code, Article 12, and Sections 50280-50290 (Mills Act). This state law, established in 1976, provides for a property tax reduction for owners of qualifying historic properties who agree to comply with certain preservation restrictions and use the property tax savings to help offset the costs to restore, rehabilitate, and maintain their historic resource according to the Secretary of the Interior's Standards and the California Historical Building Code. In Beverly Hills, the Cultural Heritage Commission previews, and the City Council approve, all Mills Act contracts. Once executed, the contract is recorded on the property and leads to the review and reassessment of the property by the County Tax Assessor the following year.

Currently a property value limit of 7.5 million dollars or below is placed on all applications for Mills Act Contracts granted in the City. The Cultural Heritage Commission and the City Council may override this set valuation limit, and applications would be reviewed on a case-by-case basis. The pilot Mills Act program also limits the number of contracts executed each year to three (3) and limits the amount of revenue losses to the City each year and over the life of the pilot program.

The Mills Act pilot program in Beverly Hills is scheduled to expire at the end of next year (2019) and consideration of a permanent program will be brought forward for consideration by the Cultural Heritage Commission and the City Council. As the review process for applications is competitive, a new requirement for an adopted program could give preference or priority status to multi-family buildings. The Mills Act has the ability to be tailor-fit for communities and this may be an option for a newly established permanent program.

Such options for consideration could include:

- Property Value limits can be two-tiered with a cap valuation for single-family and a higher cap for multi-family and commercial properties.
- Locally designated historic multi-family buildings (**which are also granted a Mills Act Contract) could be exempt from rent stabilization maximum rent increases. An exemption might be subject to approval of the Cultural Heritage Commission and Council and may only exempt a property owner from regulating rental increases, but not necessarily other aspects of the rent control ordinance, e.g. eviction procedures and associated relocation fees, etc.
- The City could also encourage the establishment of multi-family historic districts by offering Mills Act contracts to all contributors to the district and not necessarily only buildings that have been individually designated. The cities of Long Beach and Anaheim have such provisions in their Mills Act eligibility requirements.

Fee Analysis

On August, 8, 2017, Management Partners presented a report dated July 18, 2017, that estimated additional staffing of 8.65 full time equivalent positions in order to implement and administer the new provisions of the amended RSO. Management Partners provided estimated costs for FY 2018-2019 of \$1,649,200. Council requested staff to study alternate staffing proposals to reduce overall costs.

At the September 5, 2017 Council Meeting, staff informed Council that they would return with a fee analysis at a subsequent meeting at which time they would provide information on resources needed as part of the ongoing annual operations. On May 21, 2018, staff published a Request for Proposal (No. 18-45) to conduct a comprehensive fee study so as to determine appropriate program fees in order to recover all program costs associated with services provided by the Rent Stabilization program. Revenue Costs Specialists, LLC (RCS) was selected to complete the fee study. RCS has provided fee and costing services since 1980. All RCS Principals have prior city experience and work exclusively with local government agencies. Combined, RCS principals have over 65 years of knowledge in cost allocation plans and fee studies and served over 250 municipalities. The City previously contracted with RCS in 2007 to conduct its citywide User Fee Update. On or about June 27, 2018, the City entered into a contract with RCS to prepare a comprehensive fee study for the Rent Stabilization Program. RCS was tasked with, among other things, to develop a fully burdened hourly rate for each program employee, including salaries and benefits, miscellaneous operating service and supply costs, overhead costs form the interval service charges, debt services, and other direct costs. Additionally, RCS's scope of work included the preparation of a rent stabilization fee survey to compare proposed fees with those charged by other comparable agencies.

RCS worked with staff to conduct a fee study for the program costs related to the implementation of the Rent Stabilization Ordinance. RCS has recommended a total of 6 full-time positions including: 1 Deputy Director of Rent Stabilization; 1 Management Analyst; 2 Customer Service Representatives; 1 Secretary; and 1 Code Enforcement Officer. RCS estimated the total costs to be \$1,370,600 for an average fee of \$178 annually per unit. A copy of the RSC final report on the fee study has been provided for your review in Attachment 6. The staffing recommendation made by RCS is based on existing provisions of the RSO and time required to perform the administrative functions of the Program.

Currently, the City assesses two annual charges on rental units. The first is an annual Rent Control Administration fee of \$54 per unit. This fee is intended to recover costs associated with administration and enforcement of the provisions of the original rent stabilization ordinances (also known as Chapter 5 and 6), including investigation of complaints, record research, preparation of cases, and attorney fees.

The second charge is an annual business tax that is unrelated to rent control. The City requires any person conducting business in the city to obtain a registration certificate and pay an annual business tax. Persons renting or leasing residential property are required to pay an annual gross receipts tax for each one thousand dollars of gross receipts. The tax revenues collected are for the benefit of the entire City and may be used for any City purpose.

These two, previously existing, charges do not cover the work to implement the current RSO program and, therefore, the additional fees for the RSO program, as identified in the

RCS fee study, are necessary to cover the program costs necessary to implement the current RSO. Adjusting for these additional work items, would increase the Rent Control Administration fee from \$54 per unit to \$178.00 per unit.

Staff wishes to point out that if the City Council chooses to implement some of the additional policy options that are discussed in this report, such as the addition of a mediation board, a proactive City inspection program, or the ability for tenants to apply to the City to have their rents decreased, due to habitability issues, this will require additional staff and a corresponding requirement for additional fees, which will need to be evaluated by RCS.

Staff requests that City Council provides direction on the fee study provided by RCS for the costs of program implementation and ongoing annual operations and whether additional costs for proposed programs should be evaluated.

NOTIFICATION

Staff conducted three facilitated session on August 15, 26, and September 16, 2018 where HR&A presented reports on the seven policy issues identified. Notice for the August 7th, 2018 meeting and the facilitated dialogue sessions was sent to all housing providers and tenants on July 27, 2018, and published in both newspapers; on July 26, 2018 and again on August 1st and August 2nd; as well as on the City's website.

Notice regarding the two Special City Council meetings was provided by mail on October 1, 2018 and by email on September 27, 2018 and posted on the City's website on that same date. Notice was also published in both newspapers.

FISCAL IMPACT

As this item is for introduction of information, there is no fiscal impact at this time.

RECOMMENDATION

Staff recommends that City Council receive and review the final issue papers and policy packages from consultant HR&A Advisors, Inc. (HR&A), the habitability final issue paper and public comments from the facilitated sessions.

Staff requests direction from City Council on possible amendment changes to the Rent Stabilization Ordinance (RSO) as well as consideration of other outstanding RSO issues including the fee study for costs associated with the implementation and administration of the RSO.

Susan Healy Keene, AICP

Approved By

