



December 2, 2020

Dear Chair Milkowsky and members of the Rent Stabilization Commission:

I would like to comment on the relocation fee item continued from the November meeting. I hope you will take my comments into consideration as you discuss any change to the current relocation fee.

As noted in the HR&A memo titled, 'Relocation requirements and fees in the Beverly Hills rent stabilization context,' the relocation fee is intended to compensate tenants: 1) for expenses associated with securing replacement housing after an involuntary no-fault eviction; and 2) for "forgoing the financial benefit of remaining in a regulated unit, as compared with a replacement market-rate unit." The latter reflects the material value inherent in a rent-stabilized tenancy.

The matter of replacement housing expenses should include move-in costs and moving-related expenses, of course, but also costs incurred by uprooting the household. There is value to home and stability. The latter aspect of the fee presumes a tenancy has value. That is true more than ever today as rental housing costs rise. Compensating for the foregone benefit of the rent-regulated tenancy must also presume the material benefit that accrues to the landlord.

Alas there is nothing simple about the relocation fee. And that is why we see rent-stabilized cities establish the fee at amounts that vary. But I see no disagreement among those cities as to the need for the fee. Our city should retain the fee.

I want to add my suggestions about some other aspects of the fee in the hope that it stimulates a lively commission discussion!

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*1. Structure the fee to reflect the real-world cost of replacement housing.*

We live in an expensive housing market and the relocation fee should reflect that. The city contracts with industry market analyst Costar. I suggest the city pull the rental market data to understand market pricing today (or perhaps pre-pandemic) so that however the commission decides to structure the fee it would accurately reflect the cost of housing in our subregion.

A related note: the commission last week suggested that the pandemic has negatively affected asking rents. Landlords may know best, but prevailing evidence suggests that may not be the case. Industry studies show that asking rents are holding fast in the segment of the market (class C) that predominates in Beverly Hills.

Anecdotally speaking, I look around my neighborhood and see units standing vacant for many months (both before and during the pandemic). I suspect some landlords have not reduced their asking rent. Data would be helpful to understand where the market was before the pandemic and to suggest where the market may trend in the years ahead. That should help this commission establish the appropriate relocation fee.

The relocation fee should also be enough to cover both anticipated and unexpected costs of moving house. Anticipated costs include the deposit and first month's rent, moving expense, and utility setup. Unanticipated costs could include utility charges not paid today, new school expenses, additional commuting costs or any other expense that would be incurred but not paid now.

*2. The relocation fee should be periodically adjusted to reflect actual costs.*

The relocation fee should be regularly updated to reflect the actual cost of replacement housing. That means not merely incrementing it upward or downward with the change in consumer costs (a 'set it and forget it' approach that is easy for staff but would shortchange relocated tenants in a hotter rental market). Everybody could agree on a periodic review – perhaps every three years -- of the fee schedule in light of prevailing rents in the city.

*3. The fee should reflect the full spectrum of unit sizes from studio to (at least) 3-bedroom.*

The relocation fee schedule should include a 3-bedroom tier for several reasons. Larger units cost more to rent. That means the difference to the tenant between the cost of current housing and the cost of her replacement housing will be proportionately greater than tenants moving between units with lower rents. This goes back to point #2 in the HR&A memo titled, 'Relocation requirements and fees in the Beverly Hills rent stabilization context.' (The memo is included in the November staff report.) The relocation fee should compensate for that relatively greater loss to the tenant and material benefit of the vacancy as enjoyed by the landlord.

Also, larger units are more likely to be occupied by a household with children in the schools. For these households a larger unit is not a discretionary expense; it is a necessity. Our relocation fee schedule should not shortchange these families who will find it challenging to locate replacement housing at a price close to the unit they are vacating. Those families are effectively captive to the Beverly Hills rental housing market because they have children in the schools.

And second, Beverly Hills presents the relocating household with constraints unique to Beverly Hills compared with the larger region. Our rental housing market in the city is relatively small. And the December staff report shows that the 3-bedroom category is smaller still – just 2.5% of all rent-stabilized units.

We also have a preponderance of older prewar structures. Small units are characteristic of the era. Fitting a 3-child family into a small 2-bedroom unit is not practical. Why send that family in search of market-rate replacement housing with a 2-bedroom relocation fee?

(Just today in fact I spoke with a family that is relocating from a rent-stabilized unit under a voluntary buyout. They gave their notice then were surprised to find they could no longer afford a comparable unit in Beverly Hills. One challenge was supply: there were not many comparable units available, the parent said, and most were far too small. The other obstacle was price: 3-bedroom units and even generously-sized 2-bedroom units are asking \$4,000. "These units have been available for months but the landlords are not lowering their price," she said. The family is moving to a neighboring city into temporary accommodations while their search in the city continues.)

*4. Place the relocation fee into escrow at the landlord's expense.*

Today a tenant waits until the unit is vacated before she receives the relocation fee. We know that some landlords have not paid the fee in timely fashion. These situations can be avoided by placing the fee into escrow. The cost should be negligible compared to the material benefit to the landlord from the vacant unit.

Indeed there is already a provision in the rent stabilization ordinance for placing the relocation fee into escrow under some circumstances. I don't understand the relevant section 4-6-9(D)(1) but there it is. Moreover, placing the fee into escrow is obligated pursuant to relocation for major remodeling or condominium conversion. So why not make it a rule to *always* place the relocation fee into escrow?

Finally, escrow would allow the tenant to draw on the funds prior to vacancy for allowed expenses such as first month's rent, security deposit and utility charges. That seems only fair because we are talking about an involuntary termination and often the greatest challenge to the tenant who must find replacement housing is simply having the resources to secure it. (Santa Monica offers a model to emulate in this regard.)

*5. Establish a temporary relocation fee.*

The rent stabilization office should mandate a temporary *per diem* relocation fee available to the tenant when work unrelated to major remodeling must be performed at the unit. Why a *per diem* fee? Because it could eliminate a headache often associated with the temporary accommodations. Today the tenant is due replacement housing that is comparable to the current unit. For example that could include cooking facilities. Also the accommodation must be located in Beverly Hills. Finding agreement between the tenant and landlord on acceptable temporary replacement housing can be contentious.

A temporary relocation fee paid in advance to the tenant *at the tenant's option* could make the process easier. It puts the responsibility on to the tenant to find replacement housing and thus relieve the landlord of having to meet the tenant's expectations and the city's requirements. Alternately the tenant could forgo the *per diem* and be relocated as today.

*6. Be more generous with the senior/disabled/student supplement.*

The additional relocation fee supplement acknowledges the additional burden of relocating a household that includes an occupant from a protected class. Today that fee is \$2,000 regardless of how many occupants may fall into a protected class (e.g., two children or a child plus a senior). Raise the supplemental fee to \$3,000 and mandate an additional 50% (\$1,500) fee apply for each additional member of any protected tenant class.

There is no rationale for these figures, admittedly; comparison cities are more precise about defining the protected tenant class than the basis for calculating the supplement.

*7. Incorporate into the ordinance an enforceable penalty for nonpayment*

This was briefly addressed by staff in November, but I want to repeat that our rent stabilization ordinance does not specify a specific penalty when the landlord pays a relocation fee late or not at all. Like many violations of the ordinance, there is only a civil remedy available to the tenant (see subsection 4-6-12 (D) 'Civil Remedies).

What is better is to recommend to city council to specify a fine for late payment or nonpayment of relocation fees. Why force a tenant into small claims court to avail herself of a civil remedy or, alternately, have the city drag the recalcitrant landlord into an administrative process simply to recover the fee? Put teeth behind the requirement with a fine.

Sincerely,

Mark Elliot