

## **DRAFT - REPORT TO CITY COUNCIL ON RENT REVIEW BOARD FEASIBILITY**

### EXECUTIVE SUMMARY (to be drafted)

#### INTRODUCTION

In 2015 the Social and Economic Justice Commission and the City Council became increasingly aware of the accelerated rate at which rents were increasing within the City of Albany and the Bay Area in general. They were informed through word of mouth and news articles related to efforts by cities such as Richmond to address these concerns. In response to this an initiative to “Promote Rent Review and Affordable Housing” was proposed by the Commission for its 2015 Work Plan and then later approved by the City Council. The initiative has since been included and approved for the Commission’s 2016 Work Plan. A rent review subcommittee was formed to address this initiative.

The Commission began a fact finding effort to define the problem and how to address it. Representatives from various organizations spoke at the Commission meetings. This included representatives from the Eden Council for Hope and Opportunity (ECHO) and the City of Berkeley’s Rent Stabilization Program. Eden Council for Hope and Opportunity is a non-profit housing counseling organization funded by a Community Development Block Grant, the U.S. Department of Housing and Urban Development and various municipalities including Albany. Services available to Albany include Fair Housing Services, Fair Housing Education and Tenant/Landlord Services.

The representative from ECHO reported on Landlord/Tenant counseling provided for and trends in Alameda County for the fourth quarter period of 2014-2015. During this period evictions, repairs, and rent increase were the most common inquiries received and addressed. The staff handled a total of 54 rent increase inquiries. Although there is a perception of economic growth many of their clients are forced to work part time jobs and/or have been forced to receive public assistance, forcing them to move out of their homes due to rent increases.

Berkeley’s Rent Stabilization Board is composed of nine elected commissioners who enact regulations, hear petition appeals and administers the program to carry out Berkeley’s Rent Stabilization and Eviction for Good Cause Ordinance. The representative from this Board spoke about the history of rent control including the three periods during which Albany had rent control, housing affordability, and the purpose of the Berkeley Program and its structure.

Regional activities in response to the accelerating rent increases were compiled by the commission’s rent review subcommittee. In the state of California at least 20 cities have some form of a rent review program. There are at least four cities (Burlingame, San Mateo, Richmond, and Mountain View) that have rent review ordinances on their November 2016 ballot. Several cities have strengthened already existing rent review programs (Alameda, San Jose and San Leandro) and other cities have begun talking about implementing some kind of rent review (Healdsburg, Lafayette, Santa Rosa, Pacifica and San Mateo).

At the April 7 S&EJC meeting a motion carried to have a rent review discussion with members of the public. The discussion was scheduled for the June meeting so that Jeff Bond, Albany's Community Development Director, could attend. Mr. Bond was to report on the background of Albany's affordable housing program and how the Albany's General Plan addresses this topic through its Housing Element.

#### RESEARCH DONE BY COMMISSION

The first of a series of S&EJC meetings regarding the feasibility of creating a rent review board as outlined in the Housing Element in Albany's General Plan was held June 7. The purpose of the meeting was to provide the public and the Commission with background information on existing policies, state regulations related to rental housing and rent review programs in other cities. The meeting was also intended to give the public an opportunity to discuss the recent acceleration in rent increases and respond to the feasibility of creating a rent review board.

#### Staff Report – Rent Review Board Feasibility

All cities and counties in the Bay Area are required by state law to have within their General Plan, a Housing Element that includes the City's policies for housing production, conservation, and affordability. The Housing Element includes goals, policies, and action programs to conserve existing housing, produce new housing, provide housing for persons with special needs, and ensure equal access to housing by all residents. The contents of the Element include a needs assessment, a site inventory, an evaluation of constraints, and an evaluation of progress on implementing the Element.

One of the requirements for the Housing Element is that it shows that Albany is able to meet its "fair share" of the region's housing need for the next eight years calculated by the Association of Bay Area Governments through a process called the Regional Housing Needs Allocation (RHNA). For the current planning period (2015-2023), the RHNA for Albany is 335 units.

The sixth chapter (Housing Goals, Policies, and Actions) presents the City's official housing policies organized under five broad goals which address: Conservation of existing housing; Production of new housing; Special needs housing; Reducing housing constraints, and Equal access and enforcement of fair housing laws. On page 6-41, Program 5.E established a policy to consider the feasibility of creating a Rent Review Board to mediate instances of rapid rent increases. See attachment 1. Based on Program 5.E exploration of such a Board would commence in 2018.

#### Assessment of Housing Needs and Income

Chart 3-5 of the Housing Element whose data was sourced from the US Census, American Community Survey, 2007-2010, indicates the annual income characteristics of Albany's households. The median household income was estimated at \$72,479, which was lower than the regional median of \$92,300. Approximately 18% of Albany's households earned less than \$25,000 a year. Many of the lower income households are students, seniors, and single persons living alone. Approximately 8.5% of the City's population lived below the poverty line. Many residents receive some type of assistance and spend a majority of their income on housing.

A household is considered to be overpaying for housing if it spends more than 30% of its gross income on housing. Approximately 55% of Albany's renters are above this threshold. Almost 48% of Albany renters spend more than 35% of their income on housing. For lower income households this means there is less money remaining for food, health care and transportation. Lower income households are more likely to overpay for housing. All renters with incomes under \$35,000 are considered to be overpaying.

Recent reports regarding the increase in housing costs in Albany and the Bay Area support the need to commence this effort to explore the feasibility of a rent review program for Albany prior to 2018. Based on information provided by the Alameda County Community Development Agency the rents in Albany and Alameda County have increased since 2011 by 39%. The 2011 median Albany rent was approximately \$2275. In 2015 it was \$3100. In addition, incomes in the County, as a whole, are not keeping up with rents. The average asking rent in Alameda County in 2015 was \$2204. Its estimated Alameda County renters would need to earn \$7,547 a month or \$90,564 per year to afford this.

### Feedback from the Public

Feedback from the public from the June 7 meeting and related email correspondences further support expediting this effort. Altogether there were 15 speakers, 12 tenants or tenant representatives and three landlords. Of the tenants or representatives who spoke, several addressed personal experiences indicating rent increases as high as 40%, concerns about a possible disruption to school age children, choosing between paying the rent or buying food, and a general sense of anxiety. There were 6 comments specific to rent review. Three were basically in favor of rent review while 3 questioned its effectiveness. Two speakers indicated that a binding resolution would be necessary. One questioned the effectiveness of a non-binding agreement. Two speakers were in favor of rent control. At least three speakers remarked that the condition of the property needed to be considered under a review process.

Of the three landlords who spoke, two were in favor of rent review. One was concerned it would lead to rent control. Two of the landlords felt they were reasonable or set the rent low for their tenants in spite of their upkeep and tax expenses.

We also received email comments from one homeowner, five additional tenants, one concerned resident, and one additional landlord. The home owner supports the formation of a Rent Review Board as a first step in addressing affordable housing. These tenants' concerns were similar to those who spoke at the meeting. There is an overall concern about the possibility of or actual rent increases. One tenant experienced a 59% increase in their rent. There is a general concern about their children's lives being disrupted. One tenant experienced a 30% increase and will have to relocate themselves and their school age children outside of Albany. Another tenant reported that as a result of the remodel of her building her rent was doubled and she and 14 other tenants had to move. She said the remodel was approved by Albany's "Planning Department."

Tenants are also fearful that they will be retaliated against if they complain about needed repairs. Two tenants fear rent increases with the end of their lease or nonrenewal of their lease. They support just cause eviction and just cause non-renewal of leases. Two tenants stated that rent increases should be

addressed through some type of formal mechanism but question the effectiveness of a non-binding agreement reached through rent review. The concerned resident indicated she supports a rent review program that administers binding agreements which consider the tenants, the landlords and the communities' needs.

The landlord who provided a comment through email stated their house would be removed from the rental market if some type of process were put in place to address rents that was based on the opinion that they were motivated by undue profit.

### Overview of State Laws Relevant to Residential Rentals

Based on information provided by California's Department of Consumer Affairs, whether a landlord can raise a tenant's rent depends on whether they have a lease or a rental agreement. If a lease is in place the rent cannot be increased during the term of the lease unless otherwise allowed by the lease. If a tenant has a periodic agreement the landlord can increase the rent unless the agreement does not allow it. The landlord must provide advanced written notice indicating how much the rent is increased and when it will take effect. If the rent increase is 10% or less of the rent charged at any time during the last 12 month period the landlord must provide at least a 30 day notice before the increase takes effect. A 60 day notice is required if the increase is greater than 10%.

A landlord's notice of rent increase must be in writing. The landlord may deliver a notice of rent increase either in person or through the mail. If mailed the landlord must give the tenant an additional 5 days notice. The rent increase can be made effective at any time in the month if proper advance notice is given and is prorated for that time period. A rent increase cannot discriminate against a tenant or retaliate against the tenant for exercising their right as a tenant.

Other California laws which regulate rental housing include the Ellis Act and the Costa-Hawkins Rental Housing Act. The Ellis Act was adopted by the California State Legislature in 1985. It states that landlords have the unconditional right to evict tenants to go out of business. For an Ellis Act eviction, the landlord must remove all of the units in the building from the rental market. The landlord cannot single out one tenant who, for example, is paying low rent. The Ellis Act is included in the just causes for evictions under the California Rent Ordinance. Municipalities can regulate the Ellis Act eviction process to some extent. Typically the property is restricted from use as rental property for a period of time and is required to go back under rent control when it does.

In 1995, the California Legislature passed the Costa-Hawkins Rental Housing Act. This law cleared the way for owners in rent control communities to establish initial rental rates when there was a change in occupancy at a dwelling unit known as vacancy decontrol. The act established a number of basic rules: (1) housing constructed after 1995 must be exempt from local rent control laws, (2) new housing that was already exempt from a local rent control law in place before February 1, 1995, must remain exempt, (3) single family homes and condominiums must be exempt, and (4) property owners must have the ability to establish their own rental rates when dwelling units change tenancy. Exceptions to this may include owner termination of a tenancy or circumstances in which a dwelling was cited as substandard.

A phase in program was established for single-family homes and condominiums. Other provisions allow the ability of local communities to enforce eviction rules, set conditions under which a sub lessee may be covered by rent control, protect tenants upon renewal of lease and require a 90-Day notice when an owner terminates a government contract.

#### Alternatives to Rent Program

- Provide direct subsidies to people who need help paying rent. ECHO administers a rental assistance program for the cities of San Leandro, Livermore and Pleasanton. It pays for delinquent rent and security deposits for those who qualify.
- DO NOTHING

#### Suggested Goals of a Rent Program for Albany

Provide stability and security for tenants (get rid of the guillotine effect in which people feel that their housing can be taken away at any time)

Provide a place for housing providers and tenants to work out disputes.

Give housing providers a fair rate of return on investment.

Maintain a diverse and cohesive community with economic stability.

Provide clear guidelines for tenant and housing providers.

Be cost effective.

Be accountable to the housing providers, tenants and public.

