

**CITY OF ALBANY
SOCIAL AND ECONOMIC JUSTICE COMMISSION
STAFF REPORT**

Agenda Date: June 7, 2016

SUBJECT: Rent Review Board Feasibility

REPORT BY: Jeff Bond, Community Development Director

BACKGROUND ON CITY OF ALBANY AFFORDABLE HOUSING PROGRAM

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 (Attachment 1). 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 sites inventory, an evaluation of constraints, and an evaluation of progress on implementing the previous 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. The "fair share" is calculated by the Association of Bay Area Governments (ABAG) through a process called the Regional Housing Needs Allocation (RHNA). A RHNA assignment is given to each Bay Area city and county using a formula that considers population size, land area, vacant land, employment growth, proximity to public transit, environmental constraints, and similar factors. 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 as follows:

**Program 5.E: Rent Review Board Feasibility. Evaluate the feasibility of creating a rent review board to mediate instances of rapid rent increases.
Description**

Several cities in Alameda County, including Alameda, Fremont, and San Leandro have established rent review or rent mediation boards. Rent review is different from rent control in that the focus is on mediation rather than administration of annual limits on rent increases. Multi-family tenants facing steep increases in rents (for example, more than 10 percent or multiple increases in a single year) may present their case to an appointed board of citizens, who include tenant representatives and landlord representatives.

The program is based on the use of mediation and non-binding arbitration to work jointly to respond to complaints. It provides a neutral setting for discussing such complaints. This action would explore the feasibility of such a program in Albany, taking into consideration input from tenants, landlords, owners, and City officials.

Responsible Parties: Community Development Director

Timing: 2018

Funding: General Fund

Implements: Policy 5.1, 5.3, 5.6

DISCUSSION OF RENT REVIEW POLICIES AND PROGRAMS

State law establishes the basic landlord tenant legal requirements and procedures (Attachment 2). In addition to state law, “rent review” programs have been established in several nearby Alameda County cities. The information from Alameda, San Leandro, and Fremont is attached (Attachment 3-5). In summary:

City	Brief Summary of Requirement
California Civil Code Requirement Applicable to All Cities	<ul style="list-style-type: none"> • 30 days’ notice from landlord to tenant of rent increases of 10% or less • 60 days’ notice from landlord to tenant of rent increases of more than 10%
Fremont	<ul style="list-style-type: none"> • Applicable to all rental housing • Requires landlord to give notice of availability of 3-step dispute resolution process • Rent increase not enforceable if notice not given
San Leandro	<ul style="list-style-type: none"> • If rent increase greater than 10%, more than \$75, or more than one increase in 12 months, then tenant has 15 days to request City Rent Review Board recommendation. • Rent increase not enforcement if landlord fails to appear at hearing • Recommendations of City Rent Review Board not binding
Alameda	<ul style="list-style-type: none"> • One rent increase allowed per year • Notice to City required for rent increases greater than 5% • For pre-1995 multifamily housing units, if either landlord or tenant disagrees with Rent Review Advisory Committee recommendation, either party may file petition for binding decision by neutral hearing officer. • For rent increases less than 5%, tenant may request review by Rent Review Advisory Committee

Comparison with Rent Control Policies and Programs

There is an important distinction between rent review and rent control. Rent review mandates that landlords and tenants participate in a mediation if rent increase criteria are met. In most cities, the outcome of the mediation is not binding. By contrast, rent control regulations place legally enforceable limits on the amount of a landlord can increase rents on an existing tenant. Under state law, upon vacancy, landlord can increase rents without regulation. In addition, per state law, rent control is limited to multi-family housing constructed before 1995.

FISCAL IMPACTS

The introduction of a rent review program will have an impact on City administrative costs. The cost of the program depends on the number of rental increase cases that would be reviewed by the City and the procedural steps associated with each case. Staff work would include fielding inquiries, collecting information and preparing an analysis of each case, and provide support to a rent review board, including preparing notices and agendas. Because these rental disputes are contentious, budget for legal services also will be required. Upon completion of a rent review case, follow-up support for tenants and landlords may be required.

NEXT STEPS

This Study Session is intended to provide the Commission background information on existing City housing policies, state regulations related to rental housing, and rent review programs in other cities. Staff would recommend that the Commission have a preliminary discussion on the pros and cons of a rent review program, and provide direction to staff on additional information that will be useful to the analysis of the policy options. If at a future meeting the Commission reaches a preliminary consensus on direction, staff suggests that an update be provided to the City Council. At that time, the Council could provide direction regarding their interest in pursuing a rent review program, including public outreach efforts associated with further consideration.

ATTACHMENTS

1. 2015-2023 Housing Element
2. California Department of Consumer Affairs Rent Increase Information
3. City of Fremont
4. City of San Leandro
5. City of Alameda