



MEMORANDUM

CSFRA, Community Development Department

DATE: September 16, 2019

TO: Rental Housing Committee

FROM: Anky van Deursen, CSFRA Program Manager
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SUBJECT: Rental Housing Committee Input for Potential City-Initiated 2020 Ballot Measure to Amend the Community Stabilization and Fair Rent Act

RECOMMENDATION

Provide input regarding potential amendments to the Community Stabilization and Fair Rent Act discussed at the September 4, 2019 CSFRA Ad Hoc Subcommittee meeting for the City Council to consider for a potential City-initiated 2020 ballot measure.

BACKGROUND

In November 2016, the voters approved the Community Stabilization and Fair Rent Act (CSFRA) as a Charter amendment. The CSFRA went into effect December 23, 2016. The CSFRA enacted rent stabilization and just-cause termination protections for multi-family rental units constructed prior to 1995 and just-cause termination protections for multi-family units constructed between 1995 and the effective date of the CSFRA on December 23, 2016.

On November 27, 2018, the City Council accepted the Certificate of Sufficiency of “The Mountain View Homeowner, Renter, and Taxpayer Protection Initiative” (2020 Initiative). The 2020 Initiative was put forth by John Inks and Bryan Danforth to modify the CSFRA. The Council has the option to place this initiative on either the March 3, 2020 or November 3, 2020 ballot.

On May 21, 2019, the City Council adopted its Fiscal Year 2019-21 Major Goals and associated work plan items. One of the work plan items is: “Hold a Study Session to explore modifications to CSFRA for the 2020 election.” On June 25, 2019, the Council

approved formation of the CSFRA Ad Hoc Subcommittee (Subcommittee) to facilitate this process.

Since its formation, the Subcommittee has held three meetings to discuss potential CSFRA amendments for a City-initiated ballot amendment. The Subcommittee has discussed a number of areas they were interested in and received various input from the Rental Housing Committee (RHC), stakeholders, and the public. The RHC held a Special Meeting on August 12, 2019 to provide input on certain Subcommittee topics as well as other general areas (see Attachment 1).

ANALYSIS

At the Subcommittee's third meeting held on September 4, 2019, it became clear that many of the issues were focused on two key areas: (1) the nature of the relationship between the RHC and Council/City; and (2) establishing a separate petition process for certain capital improvements (see Attachment 2). At that meeting, the Subcommittee recommended additional input from the RHC on these topics.

- *The relationship between the RHC and the City.*

The Subcommittee's intent is for the City Council to have some level of oversight over certain RHC decisions. Subcommittee members expressed interest in overseeing RHC decisions that involve units, persons, City general funds, pass-through of costs, and suspending the CSFRA. At this time, it is unclear whether or how the Council will narrow these broad topics to specific oversight authority, but Subcommittee members recently indicated that oversight should only occur on those RHC decisions that are high-level, key decisions that affect all tenants in those specified areas.

Staff anticipates that the Subcommittee and full Council will continue discussing the relationship between the RHC and City, as well as options for potential City Council oversight of the RHC, as discussed in the September 17, 2019 City Council Report (see Attachment 3).

In addition to the overarching concepts described above, Subcommittee members expressed specific interest in exploring alteration of the following issues related to the RHC and its authority:

- Allowing non-Mountain View residents to serve on the RHC (requiring amendment of CSFRA Section 1709(a)). Other City advisory committees also have a Mountain View residency requirement (Charter Section 900).
- Requiring City Council approval of any RHC decision to suspend the CSFRA based on the vacancy rate.

Question No. 1: Should Council have limited oversight in specified areas, with the RHC as an advisory body subject to the same City policies that govern other advisory bodies?

Question No. 2: Does the RHC have any further input on the specific areas that Council should have oversight of, and should all RHC decisions in those areas be forwarded for Council review/ratification?

Question No. 3: Should the Charter language be clear but general about the areas of Council oversight with detailed procedures/regulations to be developed outside the Charter?

- *Separate petition process for certain capital improvements.*

The Subcommittee indicated that landlords should be able to offset the costs of certain capital improvements through a separate petition process and discussed which capital improvements to consider for possible inclusion in a separate petition process. The Subcommittee contemplated a separate petition process for capital improvements that is unrelated to the fair return concept and indicated that the following types of improvements should be considered for a separate petition process:

- Capital improvements “necessary to bring the Property into compliance or maintain compliance with applicable local codes affecting health and safety,” as currently stated in the CSFRA;
- Improvements related to environmental sustainability; and
- Improvements to extend the useful life of the building, such as roof, window, or plumbing replacement.

In addition to the discussing the types of eligible improvements, the Subcommittee discussed guiding principles to inform the separate petition process. Specifically, the Subcommittee indicated that qualifying capital improvements:

- Must benefit the tenant;
- Would lead in a reduction of costs to the tenants;
 - This pertains more for environmentally sustainable improvements.
- Items that would bring the building up to code; and
- Luxury improvements would not qualify.

In review of other jurisdictions with rent stabilization that allow for improvements that extend the life of the building, the qualifications to be eligible varied from jurisdiction to jurisdiction. However, some of the more common guidelines include:

- Materially adds value to the property;
- Appreciably prolongs the useful life or adapts the property to a new use;
- Primarily benefits the tenant rather than the owner; and
- Prolongs the useful life to more than one-plus years.

The Subcommittee thinks it is appropriate for the RHC to design such a separate petition process, subject to review by City Council. Amendments to the CSFRA would be needed to allow for the separate petition process. Accordingly, the RHC may wish to discuss or provide feedback regarding potentially important features or aspects of a separate petition process to include in any amendment of the CSFRA, such as:

- Amount or percentage of total capital improvement costs that a landlord could recoup;
- Amount or percentage that capital improvement costs may impact individual tenant rents (e.g., annual general adjustments plus capital improvements costs cannot result in an annual rent increase greater than 10 percent, capital

improvement costs cannot account for more than a specified dollar or percentage threshold, etc.);

- Amortization schedule for specified improvements (i.e., number of years over which a landlord can recoup eligible capital improvement costs); and
- Other.

Question No. 4: Does the RHC have any input or additional parameters/qualifications it would like to add to consider eligibility for those improvements?

- *Annual General Adjustment of Rent*

The Subcommittee deliberated on a possible change of how to determine the Annual General Adjustment of rent. The CSFRA sets the Annual General Adjustment of rent at 100 percent of inflation. The majority of rent-stabilized cities use inflation as a basis by which to determine allowable rent adjustments, and most of those cities set the allowable increase at less than 100 percent of CPI. There are some local cities that do employ a flat rate.

FISCAL IMPACT

Providing recommendations to the Council and its Subcommittee does not have any fiscal impact for the RHC.

PUBLIC NOTICING – Agenda posting.

AVD-TW-DMT-JDB/DJ/6/RHC
895-09-16-19M-2

- Attachments:
1. August 12, 2019 RHC Memo
 2. September 4, 2019 CSFRA Subcommittee Memo
 3. September 17, 2019 City Council Staff Report
 4. Overview Capital Improvements in Rent-Stabilized Jurisdictions