



MEMORANDUM

CSFRA, Community Development Department

DATE: August 12, 2019

TO: Rental Housing Committee

FROM: Anky van Deursen, CSFRA Program Manager
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Karen M. Tiedemann, Special Counsel to the Rental Housing Committee
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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 or other general policy priorities or issues for the Council CSFRA Subcommittee (Subcommittee) 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 of multi-family rental units constructed prior to 1995 and just-cause termination protections for multi-family units constructed prior to the effective date of the CSFRA.

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. The full text of the initiative is in Attachment 1.

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 24, 2019, the RHC discussed the City's Council's intent to establish a CSFRA subcommittee and, subsequently, submitted a letter to Council requesting to be part of the process to provide input.

On June 25, 2019, the Council approved formation of the Council CSFRA Subcommittee (Subcommittee) to facilitate this process. The Subcommittee held its first meeting on July 23, 2019 (see Attachment 2).

ANALYSIS

Summary of 2020 Initiative Key Amendments

Attachment 3 provides a comparison of the CSFRA and the amendments proposed by the 2020 Initiative. The following is a list of its key amendments:

- Income eligibility requirement for rent stabilization provisions (i.e. limit rent increases only for households with incomes less than or equal to 100% of the area median income (AMI).
- Suspension based on 3% vacancy rate.
- Modification to lower tenant relocation assistance eligibility to 100% AMI.
- Modification to remove "Notice to Cease" requirement for just-cause termination for criminal activities.
- Restriction on use of City funds.
- Maximum rental housing fee of \$100 (increasing each year based on annual CPI change).
- Allow all capital improvements to be taken into account in the petition process.
- Establish a Rental Housing Dispute Resolution Program (RHDRP) during suspension of the CSFRA.

Potential City Initiated Charter Amendment

In its first meeting on July 23, 2019, the Subcommittee provided initial, high-level input on the issues to explore, as follows:

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

The Subcommittee identified clarifying the relationship between the RHC and the City as one area to assess. Section 1709(k) stipulates that the RHC shall be an *integral* part of the government of the City, but shall exercise its powers and duties under the CSFRA *independent* from the City Council, City Manager, and City Attorney. Section 1709(j) states that the RHC shall finance its reasonable and necessary expenses, including engaging staff as necessary, to ensure implementation of the CSFRA and is also empowered to request and receive funding when and if necessary. The CSFRA does not provide further details and these sections have caused interpretation challenges. For example, in the implementation of the CSFRA, a challenge occurred in how to provide staffing for the CSFRA administration. Currently city employees, who are an integral part of the City operations, staff the CSFRA program but it was unclear whether such staff should be utilizing City infrastructure and human resource processes. As another example, RHC members are appointed by the council but there is no clarity on whether appointments and removals are handled similarly to those of other commissions within the City.

Question 1: Does the RHC have any input or other issues to clarify with respect to the relationship between the RHC, staff, and the City?

2. *Mobile Home Parks*

One of Council's goals is to examine and potentially develop regulations, consistent with the Mobile Home Residency Law, for mobile home park residents. The CSFRA does not expressly address mobile homes. In 2018, the RHC adopted Resolution 11 (2018) finding that the CSFRA did not apply to mobile homes or mobile home spaces. A lawsuit was filed, and the court agreed with the RHC that the CSFRA is ambiguous as to whether mobile homes and mobile home lots are covered: "Because the CSFRA is ambiguous, it was within the RHC's discretion to determine whether or not the CSFRA applies. While reasonable minds can differ about the wisdom of the RHC's decision, the court must uphold the RHC's decision because it is reasonable." The tenants are appealing the decision.

Question 2: Does the RHC have any additional input to address rent stabilization for mobile homes?

3. *Streamlined petition process.*

The Subcommittee identified evaluation of incorporating a streamlined petition process. This discussion is related in part to City Council's desire to implement a soft story retrofit program: because most soft story buildings are apartments covered by the CSFRA, there has been discussion about how a retrofit program would interact with the requirements of CSFRA. On June 24, the RHC discussed options for a streamlined petition process for the proposed mandatory soft story retrofits.

Question 3: Does the RHC have any specific input regarding a streamlined petition process?

4. *Other*

The Subcommittee provided some cursory thoughts that reflect elements of guiding principles, such as having a CSFRA that is sustainable, is high level, has electoral viability, is easy to understand and implement, and has prescriptive language. Additional discussion would be needed to flesh out these concepts.

In addition to the initial input above, the Subcommittee seeks the Rental Housing Committee's input on identification of potential amendments and/or additions to the CSFRA. The 2020 Initiative proposes several amendments beyond the topics noted above, and there may be other issues that that the Rental Housing Committee would like the Subcommittee and Council to consider. Additionally, the Rental Housing Committee may wish to recommend certain clarifications that help improve administration and add clarity to certain parts of the program that currently require some interpretation to administer.

Question 4: Does the RHC have any additional input about potential amendments or general policy priorities or issues?

Other Issues for RHC Consideration

Staff identified the following key items reflecting areas where clarification could improve ease of administration or modifications that could resolve current administrative issues:

- *Lack of clarify regarding exemptions for rentals shorter than 30 days, retirement residences, and corporate housing*

The CSFRA is unclear about rentals less than 30 days. In Section 1703 the CSFRA fully exempts rental units in hotels, motels, inns, tourist homes and rooming and boarding houses which are rented primarily to transient guests for a period of fewer than thirty days as defined in Mountain View City Code section 33.1(d). The CSFRA equally exempts rental units in any medical care facility or non-profit home for the aged. It does not expressly address short term rentals less than 30 days. It currently does not expressly exempt retirement residences unless they are a non-profit. This has led to litigation. The CSFRA also does not expressly address corporate housing, whereby corporations lease a block of rental units for a longer period of time to temporarily house visiting employees.

- *Applicability of exemptions for single family homes & duplexes*

Section 1704 of the CSFRA provides for exemptions for single family homes, companion units, and duplexes. The way it is written leads to confusing results. A

single family home is exempt when it is the only unit on a *legal parcel or property*. (CC §1954.52(a)(3)(A)). The CSFRA also exempts accessory dwelling units (ADUs). This means, when an ADU is added to a legal parcel with one single family home, the ADU is exempt but the single-family home may no longer qualify for the exemption because there are two units on a single legal parcel. This may create a disincentive for single family homeowners to add ADU's.

The CSFRA also exempts duplexes. A duplex is defined as *a single structure* with fewer than three dwelling units being used as residential housing (MV City Code 36.60.11). The duplex exemption has two significant impacts. First, a single family home with an attached ADU qualifies as a duplex, and so the home and ADU are both exempt. However, if the single family home adds a separate ADU that is not attached to the building (i.e. both units are not in a single structure), then the ADU is exempt but the single family home is subject to the CSFRA.

Second, the duplex exemption does not discuss how many duplex buildings can be on the same legal parcel. This results in exemptions for properties that contain more than one duplex on a single legal parcel; in Mountain View there are properties that contain up to 20 duplexes on one parcel. Thus, the duplex definition provides exemption for some properties with up to 40 units, even though the CSFRA otherwise covers properties with three or more units in one building.

It is unclear if the CSFRA intended to subject a single family home to the program as soon as a structure is added to the property. It is also unclear if the CSFRA intended to exempt multiple duplexes on a single property. This lack of clarity has resulted in staff time spent on trying to interpret the intent, which has led to administrative complexities.

- *Monitoring & Compliance*

The Rental Housing Committee decided it was important to develop a centralized data management system supporting the different types of information necessary to support the regulations, ensuring data integrity, improve staff efficiency, and prevent errors caused by missing or misidentified information received from the public, as well as monitoring compliance with the program. Staff together with a third party vendor, have completed the majority of work on this project, enabling landlords to provide information online about their rental properties and to submit required notices to the Rental Housing Committee. Staff provides monthly data updates to the Rental Housing Committee (see Attachment 4), but it lacks specific information regarding covered rental housing properties. Currently it is optional for rental housing providers to provide rental property information and to date only 8% of Mountain View landlords have registered. Adopting a mandatory registration requirement would assist in properly and accurately assessing the effectiveness of

the program, and allow capturing and analyzing data and compliance of all covered rental housing properties in the City of Mountain View.

Question 5: Does the RHC wish to provide input to the Subcommittee regarding any of the staff identified issues?

Process and Timeline

The Council has the option of placing the Initiative and a City measure on either the March 2020 or November 2020 ballot. The Subcommittee is interested in a process to aim for the March 2020 date with a deadline of December 6, 2019 to submit its City ballot measure.

FISCAL IMPACT

Providing recommendations to the Council CSFRA Subcommittee does not have any fiscal impact for the RHC. Attachment 3 discusses possible impacts in case the 2020 Initiative is adopted.

PUBLIC NOTICING – Agenda posting.

- Attachments:
1. The Mountain View Homeowner, Renter, and Taxpayer Protection Initiative (2020 Initiative)
 2. July 23, 2019 Memo to Council CSFRA Subcommittee
 3. Comparison of CSFRA and Initiative
 4. CSFRA Activity Report FY1819, June 2019.
 5. June 30, 2019 Rental Housing Committee Letter to Council