



MEMORANDUM

Community Development Department

DATE: August 19, 2019

TO: Community Stabilization and Fair Rent Act Council Ad-Hoc Subcommittee

FROM: Tim Wong, Housing and Neighborhood Services Manager

SUBJECT: **Potential City-Initiated 2020 Ballot Measure to Amend the Community Stabilization and Fair Rent Act**

RECOMMENDATION

That the Community Stabilization and Fair Rent Act Council Ad-Hoc Subcommittee:

1. Review recommendations from the Rental Housing Committee;
2. Receive input from the public and stakeholders regarding potential amendments to the Community Stabilization and Fair Rent Act; and
3. Provide additional direction to staff regarding potential Community Stabilization and Fair Rent Act amendments for staff to evaluate.

BACKGROUND

In November 2016, the voters approved the Community Stabilization and Fair Rent Act (CSFRA) as a Charter amendment, which went into effect December 23, 2016. The CSFRA enacted stabilization of rents to multi-family residential 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 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 Council Ad-Hoc Subcommittee (Subcommittee) to facilitate this process.

July 23, 2019 CSFRA First Subcommittee Meeting

On July 23, 2019, the Subcommittee met for the first time to consider potential amendments to the CSFRA and approved a timeline in anticipation of meeting the March 2020 ballot deadline. At the meeting, the Subcommittee was asked to provide initial input on the areas of the CSFRA it would like to see modified or add to and/or to provide any other general policy direction or issues. Staff also provided a number of potential amendment areas. Some common topics that the Subcommittee was interested in considering include:

- The relationship between the Rental Housing Committee (RHC) and the City Council (including finances).
- Clarity regarding mobile home parks rent stabilization (either covered by CSFRA or not).
- Exploring a streamlined petition process, particularly for seismic retrofits or other pass-through costs.
- Modifying the CSFRA to make it sustainable and workable, with some flexibility.

The July 23, 2019 staff report is included as Attachment 1.

Prior to more comprehensive deliberations about potential amendments, the Subcommittee wanted to hear from the RHC, stakeholders, and the general public.

ANALYSIS

The purpose of this meeting is to provide a summary of RHC input, to hear from any stakeholders who wish to provide input into the process, and for the Subcommittee to provide additional direction regarding which potential CSFRA amendments to begin evaluating. Opportunity for stakeholder input will be provided during this second Subcommittee meeting after staff’s presentation. Given the condensed timeframe, this is the only session planned specifically for stakeholder input, but there will be several

additional public meetings on this topic. The more specific and focused the stakeholder input, the more helpful it will be to the Subcommittee.

August 12 Rental Housing Committee Meeting

The RHC held a special meeting on August 12, 2019 to provide its feedback about potential CSFRA amendments (staff report is included as Attachment 2). At the meeting, the RHC was requested to provide input on the Subcommittee's four common topics in addition to any other potential changes to the CSFRA it recommends the Subcommittee to consider. The RHC provided the following input:

1. *Relationship Between the RHC and the City*

In general, the RHC wanted to maintain the current nature of the relationship where the RHC works independently of the City. Some members wanted clear distinction or rules to limit City involvement. Below are the comments of the Committee members.

- There needs a clear distinction between the RHC and Council.
- Wary of Council manipulation.
- The Council appoints RHC members, so there is some relationship.
- Clear-cut rules between RHC and Council.
- RHC need to be independent of City Council and not subordinate.
- Need more communication with the Council. Only two or three letters from Council a year. Perhaps a quarterly report can be prepared for the Council so the Council understands the RHC's functions and achievements.
- Nothing wrong that requires an amendment.

2. *Mobile Home Parks*

The RHC was divided as to whether to include mobile homes within the CSFRA. A majority felt that a separate ordinance specifically for mobile home rent stabilization was more suitable than incorporating mobile home parks as an amendment in the CSFRA. Although the RHC had previously explored coverage

of mobile homes under the CSFRA and chose not to include it, if the Council were to pursue mobile home rent stabilization, the RHC would be open to share its work regarding mobile homes from the CSFRA legal team. Specific comments included:

- The CSFRA is a work-in-progress and should include mobile homes.
- Why create a separate structure when the CSFRA structure is already in place?
- CSFRA is not the right place for mobile home rent stabilization.
- Should be a separate ordinance.
- Mobile homes should be included in the CSFRA.
- Leaving it with the Council is too risky politically.
- Too many nuances with mobile homes to be able to adapt to the CSFRA.
- It would be overreaching if the CSFRA covered mobile homes.
- Too much nuance to include mobile homes.
- The CSFRA would be too blunt an instrument to cover mobile homes.

3. *Streamlined Petition Process*

In general, the RHC was supportive of a streamlined petition process for certain mandatory capital improvement expenses. While some Committee members felt that the current maintenance of net operating income (MNOI) petition process itself could be further streamlined because of the amount of documentation involved, most felt the need for a streamlined process for capital expenses, such as soft-story retrofit costs. They would like to see examples of other jurisdictions' processes. Specific comments included:

- Would like to know more about different streamlined processes.
- Existing petition process is cumbersome.

- Absolutely support streamlined petition process. Maybe no need to use a Hearing Officer.
 - Any costs for mandatory capital improvements can already be requested for reimbursement through the current MNOI process. If a streamlined petition process is proposed, any pass-through costs allowed should have a sunset clause and not be permanent.
 - Wants to let the Council know that the existing MNOI petition process has been constantly improved and streamlined over time.
 - Streamline the current MNOI petition process instead of a separate streamlined petition process. State the need for the rent increase instead of substantiating the need and provide supporting documentation only when requested.
 - Streamlined process for mandatory capital improvement costs, such as safety items.
 - Pass-through allowance should make the landlord whole but should not be at the long-term expense of the tenant.
 - Process a streamlined petition like an audit process where documentation is provided upon request and not needed to substantiate the request.
 - Instead of a CSFRA amendment creating a streamlined process, amend language in CSFRA to allow the RHC to develop a streamline process.
4. *Modifying the CSFRA to Make it Sustainable, Workable, With Some Flexibility*

The RHC would like to recommend amendments that give the RHC the ability to address more implementation issues in the CSFRA. In the discussion about creating a streamlined petition process, it should be noted that the RHC currently has the ability to create a streamlined petition process. However, because of the current CSFRA language, a proposed streamlined petition process could only be structured in a specific way. A CSFRA amendment addressing the streamlined petition process would allow the RHC to explore other options.

The RHC was also asked if it had any other input in addition to the Subcommittee's above or in response to the staff-generated list of potential administrative items. The RHC provided the following additional input:

a. *Revise the Single-Family Dwelling/Duplex Exemption Definition*

All RHC members are in favor of amending the CSFRA to state that CSFRA requirements apply when three or more units are on a parcel/property. Currently, single-family dwellings (SFD) and duplexes are exempt from CSFRA requirements, but staff has encountered properties where there are multiple duplexes on one parcel. As it is written, all the duplexes on the property are exempt from the CSFRA. Another example is a single-family home that adds a detached accessory dwelling unit (ADU). Because of the CSFRA language, by adding the ADU, the ADU would be exempt, but the SFD now falls under the CSFRA. Amending the exemption definition by limiting the number of units on a single parcel would close this loophole while meeting the intent and spirit of the CSFRA in protecting single-family homes and duplexes.

b. *Compliance and Monitoring*

The RHC members would like to recommend a mandatory registry with annual registration requirements of rental property and basic information on a per-unit basis. The CSFRA team has developed a central database to better manage all the units covered under the CSFRA. However, registering on the database is voluntary. As of now, only 8 percent of Mountain View landlords have registered. By requiring landlords to submit basic information, staff can better assess the effectiveness of the program.

c. *Annual Fee Pass-Through*

The CSFRA requires that landlords pay a per-unit annual fee for the administration of the CSFRA. A majority of Committee members would like to recommend some kind of sharing of the annual rental housing fees between landlords and tenants. They would like to recommend an amendment to allow a pass-through for the fee and give the RHC discretion to determine the percentage of the pass-through to the tenant. A minority of Committee members did not favor any pass-through of annual rental housing fees since this would increase destabilization of tenants in the community.

Provide Further Direction on Initial Topics

Staff would like to obtain additional direction on each of the four general topics the Subcommittee identified at its first meeting in order to start the evaluation process. Staff has provided some questions to better understand Subcommittee direction for these topics.

1. *The Relationship Between the RHC and the City Council (Including Finances)*
 - a. Based on the RHC input to maintain its independent nature, does the Subcommittee want to maintain the current relationship?
 - b. Would the Subcommittee like the City to have a more active role with regard to the CSFRA? If so, what type of role would that be? Would the Council want greater oversight or direct involvement in the implementation of the CSFRA? Are there any specific areas of the CSFRA in which the Subcommittee would like to explore a more active role?
 - c. Are there any areas of the relationship that the Subcommittee would like to clarify or address?
2. *Mobile Home Parks Rent Stabilization*
 - a. Does the Subcommittee wish to clarify that mobile homes explicitly are or are not covered in the CSFRA, while pursuing a separate Council goal to explore the issue? If the Subcommittee, and subsequently the Council, recommends that mobile homes be addressed in the CSFRA, then the separate Council goal of mobile home park rent stabilization would need to occur in parallel with the CSFRA ballot initiative. For a March 2020 initiative, this would mean that analysis for and drafting of mobile home rent stabilization language would need to occur right away and could be a substantial workload. For a November 2020 ballot initiative, or if the Subcommittee/Council would like to see mobile homes separate from the CSFRA, then that would provide additional time to analyze/develop provisions for mobile home rent stabilization.
3. *Explore a Streamlined Petition Process*
 - a. What types of capital improvement costs would be eligible for a streamlined petition process? For example, should eligible costs be related to only those

- costs that are mandatory per building code or City requirements? Or does the Subcommittee also wish to consider certain nonmandatory costs, such as capital improvement costs, to upkeep the property to a certain level or for other improvements, such as for sustainability (e.g., solar panels), that could provide certain benefits but are not required by State or local regulations?
- b. What parameters should be considered for a streamlined petition process? For example, does the Subcommittee have input on the percentage of capital improvement costs that can be passed through (amortization periods) (i.e., the number of years that costs are spread over), should the pass-through expire once the amortization period has been reached (sunset), should there be a maximum allowable rent increase for any pass-through, etc.?
4. *Modify the CSFRA to Make it Sustainable and Workable, With Flexible Language*
- a. Could the Subcommittee provide additional detail regarding what is meant by “sustainable” and/or “workable”?
- b. Would the Subcommittee like to make this a guiding principle as staff evaluates any potential amendments?
- c. Are there specific areas of the CSFRA that need to be revised to achieve these higher-level goals?
- d. Does the Subcommittee want to explore making the CSFRA an ordinance instead of a Charter amendment or allowing it to be amended by a supermajority of the Council?
- e. Would the Subcommittee support amending the CSFRA to provide the RHC with additional decision-making flexibility?

FISCAL IMPACT

The Fiscal Year 2019-20 Adopted Budget includes \$20,000 for the exploration of changes to the CSFRA. The budget does not include funds for placing a measure on the ballot.

The Subcommittee requested a cost estimate for a March 2020 election versus adding a measure to the November 2020 election for four Council seats. The estimate from the Santa Clara County Registrar of Voters (ROV) for a special election in March 2020 for one measure is approximately \$132,000, with a cost of \$62,000 for each additional

measure. Adding one measure to the City's November 2020 election would cost approximately \$60,000 per measure in addition to the estimated base cost of approximately \$110,000 for the officeholder election (this does not include the cost of candidate statements).

The ROV estimates are based on a six-page measure (text of the measure, impartial analysis, arguments and rebuttal arguments); the costs will increase depending on the number of pages used in the County Voter Information Guide.

The Subcommittee also asked about the ability to include other, non-CSFRA Charter amendments on the same ballot and the cost of doing so. This is legally permissible because charter cities are not subject to the "single-subject" rule, which generally requires ballot measures to contain only one subject. The cost implications would be approximately \$6,300 (November election) to \$6,900 (March election) for each additional page of measure text included in the Voter Information Guide..

PUBLIC NOTICING

Agenda posting. Sent to RHC, 2020 Initiative sponsors, and public speakers from the July 23, 2019 CSFRA Subcommittee meeting who provided an e-mail address.

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Attachments: 1. July 23, 2019 CSFRA Subcommittee Report
2. August 12, 2019 RHC Report