

CITY OF MOUNTAIN VIEW

**ENVIRONMENTAL PLANNING COMMISSION
STAFF REPORT
APRIL 15, 2020**

5. PUBLIC HEARINGS

5.1 Public Hearing to Consider Modifications to the Tenant Relocation Assistance Ordinance to Enhance Assistance to Displaced Households

RECOMMENDATION

That the Environmental Planning Commission (EPC) Adopt a Resolution Recommending the City Council Adopt an Ordinance Amending Article XIII of Chapter 36 of the Mountain View City Code Related to Tenant Relocation Assistance, to include the following modifications:

1. Increase the income eligibility for TRAO, adjusted by household size, by an additional \$5,000.
2. Increase the amount of additional relocation assistance for special-circumstance households from \$3,000 to \$5,000.
3. Require enhanced assistance by a relocation agency in searching for replacement housing.
4. Require County recording of Notice of Ellis Act/TRAO Requirements.
5. Add language specifying if tenants are eligible for relocation benefits under State or Federal law, tenant's relocation benefits shall be consistent with whichever law provides the greatest level of benefit.

PUBLIC NOTIFICATION

The Commission's agenda is advertised on Channel 26, and the agenda and this report appear on the City's Internet webpage. Interested stakeholders were notified of this meeting.

ENVIRONMENTAL REVIEW

Amendments to the Tenant Relocation Assistance Ordinance are exempt from the California Environmental Quality Act (CEQA) as it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3) (the “common-sense” exemption)).

BACKGROUND

In Fiscal Year 2018-19, several residential projects went through the entitlement process that included demolishing older apartments covered under the Community Stabilization and Fair Rent Act (CSFRA) and redeveloping the sites with ownership units. A number of low-income households were displaced as a result of the redeveloped project. During project entitlement hearings, Council discussed various ways to respond to the displacement of tenants in those projects but also discussed longer-term options, such as modifying the City’s TRAO. Project 1.1 (“Hold a Study Session on displacement and no net loss; develop a work plan for any desired follow-up actions”) was included as part of the Fiscal Year 2019-21 Council Major Goals Work Plan.

On October 29, 2019 the City Council conducted a Study Session to discuss potential strategies and options for responding to displacement. At the meeting, Council unanimously supported five key principles, which are as follows:

1. Multi-Pronged and Integrated Strategy;
2. Broad-Based Strategy;
3. Collaborative/Multi-Sectoral Approach;
4. Tenant-Focused; and
5. Unit- and Place-Based.

In addition, the Council supported a six-pronged displacement response strategy, including modification of the TRAO. The displacement strategy includes evaluation of the following strategies:

1. An acquisition/preservation program;

2. A displacement mitigation program;
3. A “landlord-rental set-aside” program to assist with relocation options;
4. A tenant selection preference for displaced tenants;
5. Modification of the TRAO; and
6. Potential modifications to the City Code or other regulatory/policy documents.

Council also directed staff to bring back the TRAO modifications ahead of the other displacement response strategies and to review the enhanced relocation benefits provided by developers as part of last year’s various redevelopment projects as mentioned above for potential TRAO modifications.

On January 1, 2020, Senate Bill 330 (SB 330) went into effect, which provides (among other obligations) relocation requirements for projects that include the demolition of certain existing rental housing units, including units covered by the CSFRA, units subject to affordable housing covenants, units occupied by very low- and low-income households and units subject to an Ellis Act eviction in the last 10 years. SB 330 is complex, and staff has been evaluating the legislation, developing a process to implement the legislation, and determining how the bill interacts with and potentially impacts modification of the TRAO.

At its February 4, 2020 meeting, during the Council Goal Work Plan Update item, Council directed staff to bring forth several specific TRAO modifications as follows:

1. Landlord will waive tenants’ obligation to provide 30-day move-out notice;
2. Second 50 percent TRAO payment upon submittal of documentation securing a replacement rental (not after move out);
3. Enhanced assistance by AutoTemp to assist in search for housing;
4. Area median income (AMI) eligibility increased by \$5,000; and
5. Special circumstances households receive an additional \$5,000.

ANALYSIS

This Analysis Section provides a summary of the key TRAO requirements currently in place, SB 330 relocation requirements, how TRAO and SB 330 interact, and the recommended TRAO modifications based on this analysis. It is important to understand how TRAO and SB 330 interact, as potential modifications to the TRAO might not be needed, because: (1) SB 330 provides additional relocation benefits that are not included in the TRAO that will be applicable to units covered by SB 330; and (2) some SB 330 requirements may overlap with current TRAO requirements, but the level of those SB 330 benefits, particularly the amount of the relocation payment, is significantly higher than both the current TRAO requirement and any potential TRAO enhancements that had been initially contemplated, therefore obviating the need to modify the TRAO in those areas. However, State law does not cover displacements resulting from a property owner taking the property off the rent market (“Ellis Act” evictions), whereas the TRAO would continue to provide benefits to low-income tenants for such evictions.

Finally, note that SB 330 is newly enacted State legislation. Staff has undertaken comprehensive analysis to understand as much about SB 330 and its requirements and implication as possible. However, as noted above, SB 330 is complex, and there may be various situations or unique circumstances, including how it interacts with TRAO, that arise in the future that cannot be anticipated now. That said, based on current understanding, staff believes that the recommended TRAO modifications identified below, working in concert with SB 330, provides a comprehensive set of enhancements to more effectively mitigate the impacts of tenant displacement.

Key TRAO Provisions

The TRAO currently has the following key provisions:

1. **Eligibility**: A residential household qualifies for TRAO benefits if they vacate a rental unit covered under the CSFRA or three or more rental units on a parcel for those rental units that are not covered by the CSFRA within a one-year period after notice from the landlord as the result of or to enable any of seven actions, such as demolition of the property, rehabilitation of the building, condominium conversion, etc.
2. **Income Requirement**: Annual household income must not exceed 120 percent of the median household income for Santa Clara County as adjusted for household size.

3. Relocation Assistance/Provisions:

- a. Security Deposit Refund: A full refund of a tenant's security deposit except for funds that may be necessary to repair tenant's damage to property in rental units that will be reoccupied prior to undergoing renovation or demolition.
- b. Subscription Agency: The TRAO requires the developer to provide a 60-day subscription to a rental agency.
- c. The cash equivalent of three months' rent based on the median monthly rent for a similar-sized unit with the same number of bedrooms and bathrooms.
- d. An additional \$3,000 per rental unit for special-circumstance households, adjusted annually for inflation based on the Consumer Price Index for the San Francisco Bay Area (2019: \$3,497). Special-circumstance households are defined as eligible households with at least one person 62 years of age or older, disabled or handicapped, or with one or more minor children under eighteen years of age who are legally dependent.

Key SB 330 Relocation Provisions

Shortly after staff began its review of potential TRAO modifications based on Council input from the October 2019 Study Session, SB 330 went into effect (on January 1, 2020). SB 330 includes various requirements for residential projects that demolish existing rental units, including requirements to replace those units and to provide relocation assistance. This report focuses only on SB 330's relocation assistance provisions, with the key components as follows:

1. Eligibility: Tenants are eligible for relocation assistance if they are displaced from "protected units," defined as units that are: (1) deed-restricted; (2) covered by rent stabilization; (3) occupied by low- or very low-income households in the last five years; or (4) have been removed from the rental market via the Ellis Act in the past 10 years.
2. Income Requirement: If a tenant is displaced from a deed-restricted or rent-stabilized unit, there is no income requirement. However, if a tenant is displaced from a unit that is not deed-restricted or under a rent-stabilization program, they would only qualify for relocation assistance if they are low- or very low-income.

3. Relocation Assistance/Provisions:

- a. Tenants in protected units are entitled to relocation advisory services, actual and reasonable moving expenses, and a replacement housing payment up to 42 months of the differential between current and market rent of a comparable unit.
- b. Eligible tenants are entitled to a right of first refusal to rent or buy a comparable unit in the new development at an affordable rent or affordable housing cost.

TRAO and SB 330 Applicability

There are approximately 20,000 rental units in the City of Mountain View, composed of CSFRA, non-CSFRA, and affordable rental units. As shown above, the TRAO and SB 330 each have its own eligibility requirements that must be met to qualify for relocation benefits. However, in general, both the TRAO and SB 330 would apply to essentially all of the 20,000 rental units. Again, each project's relocation requirements will depend on the specifics of the project.

In an initial analysis, there may be a situation where SB 330 requirements do not apply while the TRAO requirements are still required. As stated, SB 330 covers protected units that are deed-restricted, rent-stabilized, occupied by low- and very low-income households in the past five years, and were withdrawn from the rental market through the Ellis Act in the past 10 years.

There are approximately 17,000 protected units covered under SB 330. As mentioned, TRAO covers households that earn up to 120 percent AMI, while SB 330 applies to very low- and low-income households. So, the TRAO would still apply to those households earning between 80 percent and 120 percent AMI displaced from nonprotected units.

TRAO and SB 330 Implementation/Interaction

Because the City has the TRAO and must implement SB 330, each residential project must be evaluated through the requirements of both programs. Therefore, it is possible that a project might have a mix of relocation obligations from both programs, but where SB 330 requirements overlap with the TRAO, the stricter requirement(s) will prevail. The specific combination of obligations will depend on the specifics of the project.

One implementation difference between TRAO and SB 330 is how each determines the amount of relocation assistance. Currently, TRAO requires the equivalent of three months' median rent of a comparable unit be paid to the displaced household, while SB 330 requires up to 42 months of the differential between tenant and market rent of a comparable unit. Administratively, the calculation of three months' rent is straightforward, while determining the differential is slightly more complex. For reference, staff has done some analysis using current projects in the development pipeline, comparing the full rent approach and differential rent approach. Staff found that three months' full rent is essentially the equivalent of a 12-month rental differential. A past project offered up six months of full rent and using that time frame, it would be the approximate equivalent of 24 months of rent differential.

Proposed TRAO Modifications

At its February 4, 2020 meeting, during the Council Goal Work Plan Update item, the Council directed staff to bring forth the following TRAO modifications:

1. *Increase the income eligibility for TRAO, adjusted by household size, by an additional \$5,000*

Currently, the TRAO includes households earning up to 120 percent AMI as eligible for TRAO benefits. In past projects, there were households that slightly exceeded the maximum income limits for 120 percent AMI households, therefore making them ineligible by a few thousand dollars. The consideration is to include an additional \$5,000 buffer to the 120 percent AMI maximum income limit. For example, if a 120 percent AMI household exceeded the 120 percent AMI maximum income limit by less than \$5,000, the household could still be eligible for TRAO benefits.

For reference, below are the 120 percent AMI maximum income limits for Santa Clara County as adjusted by household size.

| Household Size | 1 | 2 | 3 | 4 | 5 | 6 |
|-----------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| 120% AMI | \$110,400 | \$126,150 | \$141,950 | \$157,700 | \$170,300 | \$182,950 |

2. *Increase the amount of relocation assistance to special-circumstance households from \$3,000 to \$5,000*

The current TRAO provides special-circumstance households \$3,000 in relocation assistance in addition to the three months' rental assistance. This

modification would provide special-circumstance households an additional \$5,000 (instead of \$3,000).

3. *Enhanced assistance by a relocation agency in searching for replacement housing*

The TRAO allows for a 60-day subscription to a rental agency. During its deliberation, the Council also wanted to include enhanced assistance by a relocation agency to help with any housing search. Therefore, staff recommends that the following language be added for enhanced assistance:

- a. Unlimited access to a subscription service to a rental agency until the time of move out; and
 - b. Include the services of a relocation agency with extended advisory and personalized replacement housing assistance based on a household's preferences, housing budget, preferred location, and other requirements and providing up to five rounds of referrals through analysis of available rental housing, including Internet listings, contact with property management companies, available affordable housing options, including wait-list opportunities, and other leads on housing.
4. *Payment of the rental assistance based on evidence of secured housing instead of after vacating the unit*

The current TRAO process requires that 50 percent of the calculated rental assistance be paid at the approval of the tenant relocation assistance application and the remaining 50 percent be paid to the tenant after vacating the unit.

This administrative modification would allow the tenant to collect the remaining 50 percent when they provide verification of secured housing instead of after vacating the unit. This way, the tenant has access to the funds earlier to use for the deposit for the new rental unit. Note that this modification would be made in the program procedures as opposed to inclusion in the Ordinance itself.

In addition to the Council directed TRAO modifications, staff would also like to propose the following TRAO modifications.

5. *County recording of notice of TRAO requirements*

In order to notify future owners of the TRAO obligations for an owner of a property that withdrew from the rental market under the Ellis Act to a successor interest, it is recommended to add a requirement in the TRAO that a summary memorandum of these TRAO constraints be recorded with the County Recorder when a unit is withdrawn under the Ellis Act. The memorandum shall summarize the obligations of the owner and any successor in interest related to the property, including the tenant right to return, the tenant relocation assistance requirements, and the City's CSFRA. The County recording requirements are part of the Ellis Act, and staff recommends that it be duplicated with TRAO requirements.

6. *Add general language specifying that the stricter of TRAO or State law shall prevail*

As mentioned, SB 330 is a new and complex law, and it would be difficult to anticipate all of the different possible scenarios in which SB 330 and TRAO would apply. Therefore, staff recommends that general language be added to the TRAO specifying that the stricter of the TRAO or SB 330 requirements shall prevail where appropriate.

7. *Waive tenant's obligation to provide 30-day move-out notice*

Finally, one of the Council's directions from the February 2020 meeting was to allow landlords to waive tenant's obligation to provide a 30-day move-out notice. The purpose of this modification was to help provide maximum flexibility to the tenant so that they could avoid potentially paying two rents for the current unit and the future rental unit. However, State law requires that tenants provide landlords a 30-day move-out notice for month-to-month leases, and a local ordinance cannot conflict with State law. Therefore, this modification has not been included in the draft ordinance, and staff instead recommends that this modification be placed in the TRAO Administrative Guidelines as a suggested option for the landlord's consideration.

NEXT STEPS

While it appears that the SB 330 tenant relocation requirements overlap with (and exceed) the City's TRAO requirements in many areas, since SB 330 is a new law, staff

is still researching the full extent of the relationship of SB 330 with TRAO and the City's displacement strategy overall. As staff continues its research, additional modifications may be brought to the EPC and City Council as part of potential overall displacement strategies.

The EPC's recommendation will be forwarded to the City Council along with a draft ordinance.

CONCLUSION

Staff's analysis is that SB 330, combined with a modified TRAO as recommended above, provides a comprehensive suite of relocation benefits that would significantly enhance the ability to mitigate the impacts of tenant displacement. As such, staff believes that modification of the TRAO as part of the overall displacement response strategy is complete pending Council approval of these modifications, and no further TRAO modifications will be needed at this time. However, if additional opportunities to modify the TRAO are identified later, the TRAO could be modified again in the future.

Staff recommends the EPC recommend the City Council approve the modifications to the TRAO as proposed.

ALTERNATIVES

1. Recommend approval of the TRAO modifications with revised language.
2. Recommend that the Council not adopt the TRAO modifications.

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TW/6/CDD
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Exhibit: 1. Draft Resolution