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Sent: Monday, August 22, 2022 4:41 PM
To: Rental Housing Committee <RHC@mountainview.gov>
Subject: Rental Housing Committee Meeting Agenda August 22, 2022

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Dear RHC and RHC Staff:

These comments are submitted in connection with the Agenda for the August 22, 2022 meeting.

Regarding 7.2 Study Session Compliance and Enforcement Mechanisms, we support full compliance with CSFRA. The issue is how best to increase compliance.

We support a solution that targets the specific unit at issue and a reasonable time for the housing provider to respond and to cure the alleged non-compliance. While we recognize some housing providers may be non-compliant for a variety of reasons, there may be instances of non-compliance not caused by the housing provider. Consequently, we recommend a solution that recognizes the potential for administrative, technical, or payment issues where the housing provider is not at fault. In other words, any compliance enforcement must include a reasonable opportunity for the housing provider to remedy the non-compliance immediately or contact the RHC for assistance if the remedy is due to circumstances beyond the housing provider's control (e.g., an administrative or technical error on the part of RHC, portal issues, etc.).

Option No. 1 appears to be a proposal for RHC staff to send a letter to *all residents* of a housing provider who is allegedly non-compliant. Option 1 appears to make no distinction about the type of alleged non-compliance or whether the alleged non-compliance pertains to a single unit within a multi-unit housing development. There appears to be no recourse for the housing provider to cure, to respond or to attempt to correct any mistakes made by RHC staff or any mechanism for RHC Staff to correct a mistake or to do a follow up letter to all those who received the initial letter that the housing provider is later in compliance. Moreover, why would residents of units where the housing provider is fully compliant need to receive a letter that one of the units in the complex is allegedly non-compliant? Finally, what is the increased administrative burden for staff? Will more staff be hired? What additional administrative costs are imposed, not to mention environmental costs, in mailing written letters to all residents?

If this enforcement option is selected where all residents are notified of a housing providers non-compliance, we recommend that housing providers be first afforded an opportunity to correct before potentially inaccurate information is provided to a tenant. For example, we had an instance last year where a property was erroneously listed as subject to CSFRA, when in fact it had been previously exempted by the RHC administrator. As the due date approached, we contacted the administrator and it was resolved shortly after the initial deadline. We believe this type of situation shouldn't needlessly involve the tenant. Consequently, we instead recommend that the RHC continue to send an initial non-compliance letter to *ONLY* the housing provider and owner, providing the housing provider an opportunity to rectify the non-compliance and/or resolve any issues in conjunction with the RHC prior to taking the next step of informing the tenant if needed.

Option No. 2 suffers the same shortcomings (other than the environmental aspect as letters won't be mailed) regarding no ability for housing provider to respond or to cure, no correction mechanism so that mistakes are corrected or the housing provider coming into compliance are reported consistent with the original communication about alleged non-compliance. In addition, what are the costs associated with additional software (the budget is already in excess of \$130,000). What assurances are there that the website will function correctly or be up to date? Will RFI's be obtained from software providers? As discussed more specifically in the following paragraph, there are practical and ongoing challenges with the current registration software. We believe the housing provider should be afforded the opportunity to respond before any violation is posted on the website.

Any discussion re registration compliance must address the specific issues that have been raised with respect to the registration software, which poses substantial problems for housing provider compliance. Please see my May 24, 2022 email to Vice Chair Ramos and following emails to RHC Staff on this point. We continue to be hopeful that these issues will be addressed, and the latest communication from RHC Staff is that these issues will be discussed/addressed in the end of August or September meeting, and so far we have not received any substantive response to the specific matters raised – we would welcome the opportunity to work collaboratively with RHC Staff and the software provider on this point.

Regarding Agenda Item 7.4, to amend hearing procedures. A review of CSFRA as approved by voters and the regulations adopted by the RHC provides **no authority** for the Committee chair and a law firm to conduct any portion of the Hearing process. Both pre-hearing and hearing issues are conducted by a "Hearing Officer". (See 1711(a) "A Hearing Officer appointed by the Committee shall conduct a hearing to act upon a Petition." Note the word "shall" – this is mandatory.) The Hearing Officer conducts the pre-hearing process, including developing the record, not the Committee. (See 1711(d)) RHC's authority lies in hearing appeals not in the pre-hearing or hearing process. (See 1711(j)) Finally, all petition hearings are open to the public, so closed door sessions by Committee chair and a law firm re evidence submitted or claims raised by petitions are not authorized by CSFRA. (See CSFRA 1711(e) "all hearings shall be open to the public") The regulations (Chapter 5 re Hearing Procedure) similarly authorize the Hearing Officer to conduct the hearing, resolve the issues raised by petition, hear the evidence etc., covering all aspects of the petition process, including pre-hearing and submittal of evidence. (See Chapter 5, Regulations, Hearing Officer will conduct an administrative Hearing....a Hearing shall involve the parties to the Petition at issue presenting evidence to the Hearing Officer.."; Section C, titled "Notice and Pre-Hearing Procedures," which are conducted by Hearing Officer not Committee chair and a law firm.) Moreover, the regulations require a Hearing Officer to have certain qualifications including a JD or similar degree, membership in the California State Bar, experience as a judge, commissioner etc., among other things. The proposed amendment does not address this issue – how will the Committee Chair now or in the future satisfy these requirements. (See Chapter 5, Regulations, Section B.1. and B.2.)

Thank you,
Tessa

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