



DATE: January 24, 2017

CATEGORY: Public Hearing

DEPT.: Community Development

TITLE: **Community Stabilization and Fair Rent Act Rental Housing Committee Candidate Interview Process**

RECOMMENDATION

Determine the selection process, discuss the potential release of application details, and interview applicants for the Rental Housing Committee who will be responsible for the implementation and enforcement of the Community Stabilization and Fair Rent Act.

BACKGROUND

On November 8, 2016, the residents of the City of Mountain View voted to adopt Measure V, also known as the Community Stabilization and Fair Rent Act (“CSFRA”), to regulate rent increases and to require just cause for evictions . The CSFRA was scheduled to become effective on December 23, 2016.

The CSFRA calls for the appointment of a Rental Housing Committee (RHC), which is charged with establishing the rules and regulations necessary to implement the CSFRA, hear petitions, and establish the annual general rent adjustment. City staff has continued the work they began in November to implement the CSFRA, including preparation for interviewing candidates for the RHC. On November 21, 2016, the City of Mountain View opened a 30-day application period for the RHC. A public notice was published in the *Mountain View Voice*. By the close of the application period on December 20, 2016, the City had received 22 applications.

On December 21, 2016, the City was served with a lawsuit challenging the CSFRA and the City’s Just Cause Eviction Urgency Ordinance. The plaintiff, the California Apartments Association (CAA), also filed a request for a Temporary Restraining Order (“TRO”) to prevent the CSFRA from taking effect on December 23, 2016. On December 22, 2016, the court issued an order, staying the effective date of the CSFRA, meaning the CSFRA did not go into effect on December 23, 2016. This order will be effective until at least February 3, 2017, and this date could be extended if the CAA files a motion for a preliminary injunction by that date. During this time, the Rental Housing Dispute

Resolution Program and the Just Cause Eviction Urgency Ordinance adopted by Council remain in effect. While the TRO remains in effect, the City Council cannot appoint the RHC.

The purpose of this evening's meeting is to interview the applicants and provide further direction to staff regarding the selection process. No appointments will be made at this meeting.

Staff has provided a recommended process for the interviews. The City has established appointment processes for its advisory boards but does not have a formalized process to select members of the RHC. While the CSFRA requires the City Council to appoint members to the RHC at a publicly noticed meeting, it does not provide any guidance or contain any requirements regarding the selection process. The City Council can modify the process to include additional evaluation opportunities if it so desires.

The City Council may also wish to discuss whether other portions of the applications for the RHC should be made available to the public in addition to the names of the applicants and the statements the applicants provided under penalty of perjury regarding their real estate holdings.

ANALYSIS

Roles and Responsibilities of Members of the Rental Housing Committee ("RHC")

The RHC is responsible for the implementation, administration, and enforcement of the CSFRA. This section of the report summarizes the Committee's roles and responsibilities, and the requirements and composition of the Committee. The language of the CSFRA may be found at the following mountainview.gov website link: [Community Stabilization and Fair Rent Act](#)

Section 1700 of CSFRA states the purpose of the Act is: "[t]o promote neighborhood and community stability, healthy housing, and affordability for renters by controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring Landlords a fair and reasonable return on their investment and guaranteeing fair protections for renters, homeowners, and businesses."

Section 1709(a) of the CSFRA tasks the City Council with appointing five members and one alternate member to the RHC. In summary, the primary duties of the RHC include:

- Setting rents at fair and equitable levels to achieve the purposes of the CSFRA;
- Establishing rules and regulations for administration and enforcement;
- Determining the Annual General Adjustment of rents;
- Appointing Hearing Officers to conduct hearings on Petitions for Individual Rent Adjustments;
- Adjudicating petitions for individual rent adjustments;
- Holding public appeal hearings;
- Establishing a budget for the reasonable and necessary implementation of the CSFRA;
- Establishing a rental housing fee;
- Administering the withdrawal process for the removal of rental housing units from the market;
- Publicizing the rights and responsibilities of landlords and tenants;
- Establishing a schedule of penalties for noncompliance; and
- Pursuing civil remedies and intervening in litigation, subject to the approval of the City Council.

Requirements and Composition of the RHC

Per Section 1709 of the CSFRA:

- The Rental Housing Committee is comprised of five members and one alternate member.
- ALL members are required to be residents of the City of Mountain View.

- NO MORE THAN two members can own/manage rental property or be realtors/developers.
- Initial appointment: three members with four-year terms, two members and an alternate member with two-year terms.
- The committee is an integral part of the City government but shall exercise its powers and duties independently from City Council, City Manager, and City Attorney, except by request of the Committee.

INTERVIEWING AND APPOINTING THE RENTAL HOUSING COMMITTEE

One of the first steps of the implementation of the CSFRA is to appoint the RHC. The City has initiated that process and received 22 applications during the open application period. One applicant was disqualified because he was not a Mountain View resident. Two applicants withdrew. The Council will interview the remaining 19 candidates. The City Council has the option of modifying the application process and may incorporate additional assessments into the process, such as a second interview or supplemental questions. The appointment of members of the RHC cannot take place while the restraining order is in effect; however, the City Council may continue the interview process and provide direction to staff to return to the City Council at a public meeting if/when the CSFRA is in effect to complete the appointment process.

The Status of the RHC Applications

In keeping with Council Policy K-2 and practice in recent years, the City has disclosed only the names of the applicants and the statements they were required to provide pursuant to the CSFRA. The CSFRA requires the application to include a statement under penalty of perjury of the applicant's interests and dealings in real property, including, but not limited to, ownership, trusteeship, sale, or management of real property during the three years immediately prior to the application. The CSFRA mandates disclosure of the Statement, but not the entire contents of the applications. Under the deliberative process privilege, the remaining portions of the applications are exempt from disclosure as upheld in *Wilson v. Superior Court* (1996) 51 Cal. App. 4th 1136.

The deliberative process exemption is designed to protect the decision-making process of public officials and legislative bodies. In the context of applications for public advisory bodies, courts have interpreted the exemption as serving two main purposes: to encourage applicants to be forthcoming in providing information on their

applications without fear the information will be disseminated publicly beyond the decision makers; and to allow decision makers the ability to candidly evaluate candidates. The City Council is the holder of the deliberative process privilege, and it may be waived only by a majority of the City Council.

In the event the Council decides to waive the privilege, additional portions of the application could be made available to any member of the public who requests copies. However, portions of the applications would still need to be redacted in order to protect the personal privacy interests of applicants. For example, on Page 1 of the applications, the applicant's home address, residential phone number, employer's name, and employer's address would be redacted. The criminal history section is also private information and would be redacted. In addition, case-by-case redactions may be required to protect personal information from disclosure.

Council is asked to provide direction to staff on whether or not to alter current practice and release additional information from the applications. If it chooses to do so, staff suggests all applicants be notified first.

Interview of the RHC Candidates

Interviews for the RHC candidates are scheduled for January 24, 2017, from 5:30 p.m. to 10:00 p.m. in the Plaza Conference Room at City Hall. This process will be audio recorded. Staff has outlined a recommended interview process:

- Ten pairs of candidates. Two candidates will be interviewed at the same time. Pairing and order of candidates were randomly drawn by the City Clerk.
- Each pair session is scheduled for 20 minutes.
- Each candidate will be asked the same questions with a time limit of three minutes for each answer.
- The City Councilmembers will first individually evaluate the candidates on their relevant experience, understanding of the roles and responsibilities of the RHC, and ability to implement and administer the CSFRA.
- Following the interviews, staff suggests the City Council create an overall ranking of the applicants and determine the next steps. The City Council could choose 8 to 10 candidates to continue in the selection process. This could involve a second interview or responding to supplemental questions. Alternatively, the Council

could select 6 candidates for appointment and direct staff to agendize the appointment at a future public meeting in the event the CSFRA becomes effective.

Potential Interview Questions

Staff has drafted several questions for Council's consideration. Before the interviews start, staff recommends Council discuss these, or any others they have in mind, and pick two to three for use during the interviews. It is important that all applicants are asked the same questions and the number of questions is limited, due to time constraints. Here are some potential questions:

- Briefly describe why you are interested in this position and how your education, experience, and/or background make you a qualified candidate.
- What are three key skills a member of this Committee should possess and why? Briefly describe a situation in which you have used one or more of these skills.
- Please describe your approach to group decision making, including how you work through complex issues where there are diverse points of view.
- Describe your understanding of the CSFRA and the key duties of the RHC.
- What do you see as the key areas of consideration to effectively implement the CSFRA?

The following is the schedule for the January 24 interviews:

<u>5:30 p.m.</u>	<u>Orientation and discussion of application release</u>	
<u>6:00 p.m.</u>	<u>Start Interviews</u>	
6:00 p.m.	Tom Means	Barbara Kuang
6:20 p.m.	Emily Ramos	Edward Tico
6:40 p.m.	Vera Szepesi	James Leonard
7:00 p.m.	Robin Booth	Maria Diaz
7:20 p.m.	Steven Hochstadt	Evan Ortiz
<u>7:40 p.m.</u>	<u>Break</u>	
8:00 p.m.	Frances Johnson	Joan MacDonald
8:20 p.m.	WITHDRAWN	Julian Pardo de Zela
8:40 p.m.	Patrick Moore	Fred Kiani
9:00 p.m.	Gene Lee	Angel Santuario
9:20 p.m.	Matthew Grunewald	Philip Marechal
<u>9:40 pm</u>	<u>Selection of top candidates and discussion of next steps</u>	

NEXT STEPS

Because the TRO is in effect, the City Council will interview the applicants but will not appoint RHC members at this meeting. Once the interviews are completed, the City Council will rank the candidates and determine next steps in the appointment process. The City Council could choose to direct staff to bring the appointment of the RHC members back on a future agenda item if/when the CSFRA becomes effective. Alternatively, the City Council may wish to incorporate additional assessment of the candidates into the process, such as a second interview for a smaller pool of applicants or a supplemental questionnaire. The City Council could also provide other direction to staff.

FISCAL IMPACT

There are no fiscal impacts as a result of the proposed Council interviews for the RHC. Costs associated with the RHC are to be funded by fees set by the Committee.

ALTERNATIVES – Provide other directions for the interview process.

PUBLIC NOTICING

The meeting agenda and Council report have been posted on the City's web page and announced on Channel 26 and cable television.

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