



**DATE:** March 25, 2014

**CATEGORY:** New Business

**DEPT.:** Community Development

**TITLE:** **Potential Tenant Relocation Assistance Ordinance Amendments**

### **RECOMMENDATION**

1. Discuss potential amendments to the Tenant Relocation Assistance Ordinance and choose preferred options.
2. Direct staff to prepare an amended ordinance based on those preferred options.
3. Refer the preferred amendments to the Environmental Planning Commission for their recommendation as required by Chapter 36 of the City Code.

### **PURPOSE**

At the Council's January 21, 2014 meeting, Councilmembers requested staff to explore possible changes to the City's Tenant Relocation Assistance Ordinance to provide more assistance to displaced tenants in Mountain View. The purpose of this report is to provide options and analysis for amending the Tenant Relocation Assistance Ordinance in order to receive Council's direction on preferred options. The Council's preferred options would then have to go to the Environmental Planning Commission (EPC) because the Tenant Relocation Assistance Ordinance is part of the Zoning Code and amendments require EPC recommendations. After the EPC review and recommendation, staff would return with a draft ordinance for Council action.

### **BACKGROUND**

The Council adopted a Tenant Relocation Assistance Ordinance on February 9, 2010 that provided relocation assistance to tenants who were displaced due to demolition of rental units, condominium conversions, renovations, and a change of use to non-residential purposes. The ordinance evolved out of an adopted 2007 Relocation Assistance Policy in response to displacement of very low-income tenants at the former Summerhill Apartments on the corner of Whisman Road and Evandale Avenue. For

the Summerhill Apartments, approximately \$127,016 in Below-Market-Rate (BMR) funds were used for relocation assistance to 33 households since there was no policy in place at that time that required landlords to pay assistance. The policy and subsequent ordinance requires that relocation assistance be paid by the landlord. The EPC provided recommendations to Council on the ordinance provisions.

When tenants are displaced from their apartments in a manner that is unanticipated and involuntary, an especially difficult burden is placed on low-income households who may not have the financial resources for moving expenses, first and last month's rent for replacement housing, and required deposits. This can be even more challenging when vacancy levels are low and rents are high, which is the current situation in Mountain View. Displacement is even harder for low-income families with children in school, persons with disabilities, and seniors on fixed incomes. Mountain View's housing market has changed significantly with the strong economy, and displaced residents will now find it very hard to find replacement housing in Mountain View.

## **ANALYSIS**

### **Current Ordinance Provisions**

The current ordinance (refer to Attachment 1) requires landlords to provide the following relocation assistance to households that earn less than 50 percent of the area median income (AMI) when four or more rental units are removed.

- Full refund of a tenant's security deposit, except for funds that may be necessary to repair tenant's damage to property in units that will be reoccupied prior to undergoing renovation or demolition;
- A 60-day subscription to a rental agency; and
- The cash equivalent of two months' rent, based on the monthly rent for that unit.

Special-circumstances households are paid an additional \$2,154, which is adjusted annually based on increases in the Consumer Price Index (CPI) for the San Francisco Bay Area. A special-circumstances household is defined as having at least one person that is either over 62 years of age, handicapped, disabled, or a legally dependent minor child (less than 18 years of age).

The total amount of relocation assistance is paid to the eligible household with a valid lease or rental agreement with the landlord. Assistance is paid per unit and is not paid to any persons who are subletting from the person(s) holding the lease or rental agreement.

The landlord must provide at least a 90 days' notice to vacate. The landlord also must hire a third-party relocation consultant to assist in providing information to tenants, required noticing, interviews with tenants to determine household size and income, and verification that relocation assistance has been paid to eligible households. All relocation assistance must be paid prior to the date to vacate the unit or issuance of any City permits that would cause removal of the rental unit.

### **Relocation Assistance in Other Cities**

Six cities that have relocation assistance requirements were surveyed in 2007 when the Relocation Assistance Policy was adopted. Five of those cities were resurveyed and their current relocation assistance requirements are shown in Attachment 2. San Diego was not included in Attachment 2 since its relocation assistance only applies to condominium conversions, whereas the other ordinances apply to any loss of rental units, including redevelopment or renovations. Four of the five cities have rent control ordinances. Most of those cities have substantially raised the amounts of relocation assistance to displaced tenants. Assistance ranges from a low of \$7,600 to a high of \$16,950 per household. Since 2007, the assistance amounts nearly tripled in several cities, doubled in one, increased 17 percent in another city, and the increase in the last city without rent control is not known because it was tied to market rate rent increases.

All the cities surveyed provide extra assistance to households with special circumstances in addition to the basic assistance. For most of those cities, that amount has also increased, but not by as much. For special-circumstances households, the extra assistance ranges from \$2,500 to \$8,950 per household.

None of these cities have income limitations for eligibility, although several cities provide extra assistance for households earning less the 80 percent AMI.

In Santa Clara County, no other city has a tenant relocation assistance ordinance with the same scope as Mountain View's ordinance. Two cities do have some relocation assistance requirements with condominium conversions or in their downtown redevelopment area. The City of Santa Clara requires that moving expenses be paid and that families with children in school and seniors have the opportunity to stay in their converted unit for up to five years. Morgan Hill also has some relocation

assistance requirements for displaced tenants in their former redevelopment area, but it is unclear how these function after the dissolution of the redevelopment district. Their ordinance focuses on the demolition of single-family homes and requires one affordable replacement unit in a new residential project and temporary relocation assistance to a displaced tenant during the construction phase.

## Recommended Amendment Options

### General Assistance/Rent Calculations

The City's relocation assistance now is calculated as twice the monthly rent of the unit where tenants are living. Generally, these rents have been well below the median rent for similar sized units, because properties that are prime for redevelopment often have older units with low rents. Most of the cities surveyed use assistance amounts that are not tied to rent. Only Santa Barbara bases assistance on the median rent in the City. The benefit of this approach is that assistance amounts will adjust automatically with changes in average market-rate rents. If the median rent was used for Mountain View relocation assistance, in the majority of cases, it would result in more assistance to displaced tenants.

The Council has the option to change the amount of assistance based on median rents for different sized apartments and/or to increase the number of months' rent provided to displaced tenants. Table 2 shows median rents in Mountain View in the 4th Quarter of 2013 and the amounts based on up to four months' rent.

**Table 2 – Median Monthly Rent Options**

	Median Rent <sup>1</sup>	2 X Rent	3 X Rent	4 X Rent
Studio	\$1,660	\$3,320	\$4,980	\$6,640
1 Bedroom/1 Bath	\$2,170	\$4,330	\$6,500	\$8,670
2 Bedroom/1 Bath	\$2,320	\$4,630	\$6,950	\$9,260
2 Bedroom/2 Baths	\$2,980	\$5,960	\$8,940	\$11,920
3 Bedroom/2 Baths	\$3,430	\$6,850	\$10,280	\$13,710

1. Real Facts, City of Mountain View Rent Trends, 4th Quarter 2013.

Recommendation: Base assistance on the median market-rate rent for the size of the tenant's apartment and provide **three times** the monthly median rent to displaced tenants. This increase would help tenants pay moving costs plus first month's rent and deposits.

*Other Assistance Options:*

- Base assistance on a flat amount for everyone regardless of unit size or market rents;
- Increase assistance for tenants who have lived in their units for more than five years or other length of tenancy; and
- Make no changes to the general relocation assistance calculations.

Income Limits

Since the Tenant Relocation Assistance Ordinance was adopted in 2010, there have been six projects subject to the ordinance. A total of 94 units have been demolished and 17 households have been eligible for relocation assistance. Most displaced tenants have not qualified for assistance because they earn more than 50 percent AMI. At 50 percent AMI, a two-person household paying 30 percent of their income for rent can afford an apartment renting for \$1,014 per month. The median rent for a one-bedroom apartment in Mountain View is now \$2,167. It is likely that most people who are able to still rent in Mountain View are earning over 50 percent AMI or paying an extremely high percentage of their income for rent. The 50 percent AMI income restriction has significantly limited the number of households assisted by the City's ordinance.

When the original Relocation Assistance Policy was adopted by Council in 2007, there were no income limits on eligible households. Under the policy, everyone was eligible for assistance if the majority of tenants in an apartment project were very low income (less than 50 percent AMI). When the ordinance was adopted, the Council considered the options to limit eligibility at the 50 percent or 80 percent income level and a majority voted for the 50 percent level. Now that the City has more experience with how the ordinance is working, the Council may want to reconsider the income limitations.

Table 3 illustrates the maximum rents affordable to households earning 50 percent and 80 percent AMI compared to market-rate rents for comparable units.

Table 3 – Affordable Rents for 50% and 80% AMI

	Maximum Household Size	Affordable Rent at 50% AMI <sup>1</sup>	Affordable Rent at 80% AMI <sup>1</sup>	Market Rate Median Rent
Studio	1 Person	\$887	\$1,314	\$1,660
1 Bd/1 Bath	1-2 Persons	\$950	\$1,407	\$2,170
2 Bd/1 Bath	2-4 Persons	\$1,140	\$1,689	\$2,320
2 Bd/2 Baths	2-4 Persons	\$1,140	\$1,689	\$2,980
3 Bd/2 Baths	3-6 Persons	\$1,311	\$1,942	\$3,430

1. Based on the average affordable rent for the range of household sizes and U. S. Department of Housing and Urban Development 2013 household income levels.

The table illustrates that even at the 80 percent income level, affordable rents are well below the median market-rate rents and it still may be difficult to find a comparable replacement apartment.

*Recommendation:* Use 80 percent AMI as the maximum household income to be eligible for tenant relocation assistance. This will result in more households being eligible for assistance.

*Other Income Level Options:*

- Provide assistance to all displaced tenants;
- Provide assistance to all displaced tenants, but more assistance to tenants earning less than 50 percent or 80 percent AMI; and
- Make no changes to the income eligibility level.

Special-Circumstances Households

The City’s existing ordinance gives households that include at least one person who is a minor child, senior, handicapped, or disabled an additional \$2,154 in assistance. For these households, displacement and finding replacement housing is particularly difficult, so all the surveyed cities provide more assistance for these households. Of the five cities surveyed, three cities provided between \$2,500 and \$3,500 extra for special-circumstances households. Los Angeles provides up to \$8,950 in additional funds.

Recommendation: If the Council increases the level of general relocation assistance, it is recommended that special-circumstances assistance be increased to \$3,000 and adjusted annually according to increases in the CPI for this area.

*Other Special-Circumstances Options:*

- Provide more than \$3,000 for relocation assistance for special-circumstances; and
- Make no changes to the amount of assistance for special-circumstances households.

Timing of Assistance Payments

The current ordinance requires relocation assistance be paid to tenants prior to the date to vacate and any permits being issued by the City. The current ordinance does not provide for situations where tenants want to leave before the date to vacate in order to secure replacement housing. In this tight housing market, displaced tenants cannot wait until the last month to find and secure replacement housing. It is important that they have access to relocation assistance when they need it to pay for new housing.

Recommendation: Add a provision that would require payment of relocation assistance within 15 days after the landlord receives a tenant's request for assistance but in no case later than the date to vacate.

*Other Payment Options:*

- Require payment be made in a longer or lesser amount of time; and
- Make no changes to the timing of assistance payments.

Relocation Assistance Consultant

The current ordinance requires the landlord to hire a relocation assistance consultant or agency. Staff has met with several tenant groups who are facing displacement and have expressed their concern that the relocation consultant is hired by the landlord. They feel that the relocation consultants are not impartial because they are hired by the landlord and are less likely to be sympathetic to their situation. This concern is heightened because the consultant must ask for personal financial information from these tenants to determine income eligibility for assistance. Tenants want more assurance about the confidentiality of that information and how it will be used.

*Recommendation:* Amend the ordinance to have the landlord pay for the relocation consultants, but have the City hire and manage the consultants. This would be similar to the standard practice of developers paying for environmental and parking consultants for their projects, but the consultants are hired and managed by staff to help assure the public of an impartial analysis.

*Other Consultant Selection Options:*

- Use the City's affordable housing funds to pay for the relocation consultant if eligible incomes are not more than 120 percent AMI; and
- Make no change to the landlord hiring the relocation assistance consultant.

## **Other Options**

### 1. Priority for Subsidized Units

At the Council's January 21 meeting, one of the options the Council wanted to consider is whether it is possible to give displaced tenants first priority for the City's affordable, subsidized apartments. Staff surveyed four owners of subsidized housing in Mountain View concerning this question and found that it would be difficult to implement this option. Most were concerned that it would violate Fair Housing laws. They noted that the U.S. Department of Housing and Urban Development (HUD) in particular is quite clear that priority is only allowed if the displacement is due to government taking or natural disaster. Another potential problem is that the units for lower income levels, such as 30 percent or 40 percent AMI, hardly turn over, so it could be a long wait before a displaced tenant could move into a unit.

Currently, there are no provisions in the City's existing agreements with subsidized housing owners to allow a preference for displaced tenants. Some of the legal agreements on the City's 11 subsidized apartment developments would need to be amended to allow a preference for displaced tenants. Many of these subsidized projects have multiple agreements with their different funding sources. Some of these funding sources, such as HUD, are not likely to allow this preference. This option would require significant staff resources and it is unclear if the changes would be accepted by the funding agencies.

In addition, most of the City's subsidized developments have hundreds of households on the wait list who have been waiting for an affordable unit for many

years. These households may also be in distress due to increasing rents and also at risk of having to leave Mountain View.

## 2. Assistance Similar to State Relocation Requirements

One option that has been suggested is to amend the City's local ordinance to be consistent with relocation provided to the 819 North Rengstorff Avenue affordable studio project. Relocation assistance for that project was required by California Relocation Assistance Law. When City funds are involved with projects that result in the displacement of existing tenants, State law has very specific requirements for tenant relocation assistance. This assistance is much more substantial than the City's existing ordinance or with any of the changes that are suggested in this report. State relocation law is complicated, but the basic requirements include the following:

- Tenants are given the difference between their current rent or 30 percent of their income, whichever is less, and the rent for replacement housing for 42 months.
- Tenants receive assistance for actual moving expenses or a fixed sum based on the size of their current unit that ranges from \$1,100 for a three-room unit to \$1,570 for a five-room apartment.

For the two recent Notice of Funding Availability (NOFA) projects, BMR Housing funds were used for the relocation assistance payments since this was part of the project cost. At the 819 North Rengstorff Avenue project, there were 12 displaced households. Because the rents were so low for these units and household sizes large, the rent differential for replacement units and total amount of relocation assistance per household was high. The assistance per household ranged from \$15,300 to \$65,000. One household received less than \$15,300 because they had a Section 8 voucher that kept their replacement housing differential very low. The total amount of assistance given to these 12 households was \$468,062 for an average of about \$39,000 per household.

For market-rate projects subject to the City's ordinance, not State law, the landlord is responsible for paying relocation assistance. Who actually pays relocation assistance depends on the purchase agreement between the property owner and developer. In some cases, developers have made it a condition of the property sale that all tenants need to vacate prior to the transfer of ownership to the developer and the property owner pays relocation assistance.

## **FISCAL IMPACT**

There would be no fiscal impact to the City with the recommended changes, since the landlord provides the relocation assistance. If the Council is interested in using the City's affordable housing funds to hire relocation consultants, the annual costs could be \$10,000 to \$40,000, depending on development activity and the size of the redeveloped apartments.

## **CONCLUSION**

The City Council has requested an opportunity to consider amendments to the Tenant Relocation Assistance Ordinance that could potentially increase the amount of assistance to displaced tenants. Staff recommends five amendments to the City's Tenant Relocation Assistance Ordinance:

1. Use market-rate rents to calculate basic assistance, rather than the tenant's current rent, and provide three months' rent instead of two months' rent to displaced tenants;
2. Raise the maximum eligible income level from 50 percent AMI to 80 percent AMI;
3. Increase the assistance for special-circumstances households from \$2,154 to \$3,000;
4. Require relocation assistance be provided within 15 days of receiving a request; and
5. Have the City hire and manage the relocation assistance consultant.

The Tenant Relocation Assistance Ordinance will be amended to incorporate the Council's preferred options and considered by the EPC. The EPC's recommendation and a proposed ordinance will then be brought back for Council action before the summer break.

## **ALTERNATIVES**

Alternatives for each of the recommended amendments are contained in those sections. In addition to those alternatives, the Council has the following options:

1. Make no changes to the Tenant Relocation Assistance Ordinance.
2. Request additional information for consideration by the EPC and Council.

**PUBLIC NOTICING**

The meeting agenda and Council report have been posted on the City's website and announced on Channel 26 cable television. Notices have been sent to affordable housing advocates and developers, market-rate developers, tenants affected by displacement, Tri-County Apartment Association, and other interested parties.

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- Attachments: 1. Current Tenant Relocation Assistance Ordinance  
2. Table 1 – Other Cities' Relocation Assistance