

**CITY OF MOUNTAIN VIEW****ENVIRONMENTAL PLANNING COMMISSION****STAFF REPORT****WEDNESDAY, MAY 7, 2014****5. Public Hearing****5.2 Amendments to the Tenant Relocation Assistance Ordinance****RECOMMENDATION**

That the Environmental Planning Commission (EPC) review and make recommendations to Council on the draft Tenant Relocation Assistance Ordinance Amendments shown in Exhibit 1.

**PUBLIC NOTIFICATION**

The Commission's agenda is advertised on Channel 26, and the agenda and this report appear on the City's Internet web page. 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).

**PURPOSE AND SUGGESTED MEETING PROCEDURE**

The purpose of this meeting is for the EPC to review the draft amendments and make recommendations to Council on these proposed changes. Staff recommends the following meeting procedures:

1. Staff presentation;
2. Questions and requests for clarification from Commissioners about the staff report and ordinance amendments;
3. Public comment;

4. Commission discussion; and
5. Commission recommendation on draft amendments.

## **BACKGROUND**

In 2010, 58 percent of the City's housing was renter-occupied. A number of low rent apartments were being lost to renovation and redevelopment, resulting in the displacement of many low- and very low-income households. In response, the City Council adopted a Tenant Relocation Assistance Ordinance on February 9, 2010. The ordinance provides relocation assistance to tenants who are displaced due to demolitions, condominium conversions, renovations, and similar activities that require tenants to vacate their apartments. Rents have increased substantially since 2010, making it even more difficult for displaced tenants to find replacement housing. The median rent in Mountain View in the first quarter of 2014 was \$2,412 per month, which was a 12.4 percent increase from last year.

At their January 21, 2014 meeting, the Council wanted to explore possible changes to the Tenant Relocation Assistance Ordinance to provide more assistance to displaced tenants in Mountain View. They asked that this be agendized for a future meeting.

At the March 25, 2014 Council meeting, some options for increasing assistance were brought to Council to get their input on the type of increases they were contemplating. The Council's preferred options have been incorporated into the attached draft amendments and the March 25<sup>th</sup> Council report is also attached (Exhibit 2). The Tenant Relocation Assistance Ordinance is part of the Zoning Code, so the EPC made recommendations to Council when the original ordinance was adopted in 2010. The amendments also are being brought to the EPC for your recommendation to Council on these changes. After EPC action, the recommended amendments will be brought to Council for a final decision at their June 17<sup>th</sup> meeting.

## **ANALYSIS**

### **Current Ordinance Provisions**

The current ordinance requires landlords to provide the following relocation assistance to households that earn less than 50 percent of the area median income (AMI) when a landlord's actions result in the removal of four or more rental units.

- 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;
- The cash equivalent of two months' rent, based on the monthly rent for that unit; and
- 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-day notice to vacate to tenants. The landlord also must hire a third-party relocation assistance specialist to provide 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.

### **Amendments Supported by Council**

There are five possible amendments presented in the March 25<sup>th</sup> Council report. On a 6-1 vote, the Council supported all five of the following amendments.

1. Provide displaced tenants the cash equivalent of three months median market rate rent for a similar apartment instead of two months of the tenant's current rent;
2. Raise the maximum eligible income level from 50 percent of the average median income (AMI) to 80 percent AMI, based on U. S. Department of Housing and Urban Development (HUD) income levels for Santa Clara County;
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 specialist instead of the landlord.

## 1. General Assistance/Rental Calculations

Properties that are prime for redevelopment and renovation often have older units, less amenities and low rents. These rents can be well below the median rent for similar sized units in Mountain View. When tenants are displaced from their apartments, an especially difficult burden is placed on low- and very 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. Using three month's rent times the median market rate rent to calculate assistance will provide more funds for these households to secure a new apartment. The difference in assistance is shown in Table 1.

Table 1. Relocation Assistance Comparison

	Monthly Rent <sup>1</sup>	Rent X	Total Assistance
Amendment	\$2,306	3	\$6,918
Existing Ordinance	\$1,600	2	\$3,200
Difference	\$706		\$3,718

1. Based on 2 Bedroom/1 Bath unit, typical rents at a 22-unit apartment currently being renovated and 1<sup>st</sup> quarter rents in Mountain View, RealFacts, 2014.

## 2. 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, about 18 percent of the households. Most displaced tenants have not qualified for assistance because they earn more than 50 percent AMI. Even people who earn up to 80 percent AMI would have a hard time paying median rents in Mountain View as shown in Table 2.

Table 2 – 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 (HUD) 2013 household income levels.

Table 2 was included in the March 25 report as Table 3. There was some confusion at the Council meeting about this table, so more explanation is being provided in this report. HUD incomes are used to set affordable rents and vary according to household size – the larger the household, the higher the incomes at both the 50 percent and 80 percent AMI levels (refer to Exhibit 3). In addition, different sized households can occupy the same sized apartment depending on the household composition. For example, a two-bedroom apartment can be rented by a two person household, a three person household, or a four person household. Each of these households would have different HUD incomes, so the affordable rent would also be different for each household size. An affordable rent would be calculated for a two bedroom unit by taking the average affordable rent for the three household sizes, which are the rents shown in the table.

To understand the impact of using the 80 percent maximum income levels, staff looked at a 22-unit apartment that is in the process of undergoing renovation and compliance with the relocation ordinance. The relocation assistance specialist has determined the eligibility of these households based on incomes and household sizes. Four households among the 14 occupied apartments were eligible for assistance under the 50 percent AMI limit in the existing ordinance. With an 80 percent AMI limit, another four households would have been eligible for assistance. An 80 percent income level would have doubled the number of households that would have received assistance.

This apartment has small, older, one and two bedroom units, with two bedroom units renting for \$1,600 per month, well below median market rate rents. It would be expected that fewer people would be eligible for relocation assistance, under either income level, in newer apartments with higher rents. However, this example does provide some insight into the possible impacts of the maximum income change.

### 3. Special Circumstances Households

The City's existing ordinance gives households with 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 of the surveyed cities provide more assistance to these households. The amendment would provide \$3,000 to special circumstances households, which would be adjusted annually based on increases in the Consumer Price Index for this area. Table 3 shows the total possible relocation assistance for special circumstances households under the proposed amendments.

Table 3 – Total Assistance for Special Circumstances Households

	Market Rate Median Rent	3 Months Market Rate Rent	Addition Assistance	Total Assistance
Studio	\$1,660	\$4,980	\$3,000	\$7,980
1 Bd/1 Bath	\$2,170	\$6,510	\$3,000	\$9,510
2 Bd/1 Bath	\$2,320	\$6,960	\$3,000	\$9,960
2 Bd/2 Baths	\$2,980	\$8,940	\$3,000	\$11,940
3 Bd/2 Baths	\$3,430	\$10,290	\$3,000	\$13,290

1. Based on 1<sup>st</sup> quarter rents in Mountain View, RealFacts, 2014.

### 4. Timing of Assistance Payments

The current ordinance requires relocation assistance be paid to tenants prior to the date to vacate and issuance of any City permits for the project. Some households may need to leave before the date to vacate in order to secure replacement housing. In this tight housing market, displaced tenants often cannot wait until the last month to find and secure replacement housing. The amendment considered by the City Council would require payment of relocation assistance within 15 days of an eligible household's request to receive payment, but in no case later than the date to vacate.

At a stakeholders meeting on the draft amendments, there was a concern that tenants would not have enough incentive to continue paying their rent if they were given all their relocation funds early in the 90-day notice period. Under the current ordinance and proposed amendments, tenants who do not pay their rent are not eligible for relocation assistance, but once the relocation funds are given, these funds might be difficult to get back.

A couple options were discussed at the stakeholders meeting to address this concern. The City of San Francisco's ordinance gives tenants half the assistance within 15 days of receiving a request and the other half when the tenant vacates the unit. Another option discussed would give tenants half the assistance on request and the other half would be paid after the tenant had paid their last month's rent. This approach may not avoid situations where tenants do not pay rent, especially if they leave early in the 90-day notice period. Given the proposed increases in relocation assistance, half of this increase will probably be sufficient for most households to secure new apartments. The option of half upon request and remaining half when vacating should work for tenants to secure apartments and help assure landlords that rents will be paid. This is the approach contained in the draft amendments. If less relocation assistance is provided to tenants, the other option may be more appropriate.

## 5. Relocation Assistance Consultant

The current ordinance requires the landlord to hire a third party relocation assistance specialist or agency. Staff has met with several tenant groups who were being displaced from their apartments. Many of these tenants expressed their concern that the relocation assistance specialist is hired by the landlord and is not impartial. This concern is heightened because the specialist must ask them for personal financial information to determine eligibility for assistance. Tenants want more assurance about the confidentiality of their financial information and how it will be used.

The amendment would have the landlord pay for the relocation specialist, but have the City hire and manage the specialist. 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. This change should create an easier process for both landlords and tenants, since tenants may be more likely to cooperate with a relocation assistance specialist hired by the City.

## **Other Ordinance Amendments**

Draft amendments to the Tenant Relocation Assistance Ordinance are shown in ~~strikeout~~ and underlined text in the attached ordinance. Text with a double underline or ~~strikeout~~ has not been changed but has been moved to a different location in the ordinance. In addition to the five amendments supported by Council, staff made other minor changes based on experience implementing the ordinance, which are also shown in ~~strikeout~~ and underlined text. These changes are intended to clarify the definitions and the procedures.

## **Relocation Assistance in Other Cities**

Not many California cities have relocation assistance ordinances and most cities that do, also have rent control. In Santa Clara County, no other city has a tenant relocation assistance ordinance with the same scope as Mountain View's ordinance. Two cities have limited relocation assistance requirements for condominium conversions or in their downtown redevelopment area. Five cities with relocation assistance ordinances were surveyed in 2010 and surveyed again this year, as shown in Exhibit 4. Most of those cities have substantially raised the amounts of relocation assistance to displaced tenants since they were first surveyed. Maximum total assistance under these programs ranges from a low of \$16,100 to a high of \$19,500 per household. None of the surveyed cities have household income limits on eligibility.

With the draft amendments, the maximum assistance for a special circumstances household would be \$13,290 when they are displaced from a three bedroom apartment and \$11,940 for a two bedroom apartment. The amendments would bring the assistance level in Mountain View closer to assistance provided in the five surveyed cities.

## **Assistance to Persons Subletting Units**

One of the issues raised at the March 25<sup>th</sup> Council meeting was whether relocation assistance should be given to all income eligible tenants who are displaced from a rental unit, rather than just the household on the lease. The existing ordinance and amended draft provide assistance to the person or household with a valid lease or rental agreement (written or oral) with the landlord. This can include someone who is legally subletting an apartment with the landlord's consent. Persons or households living in an apartment without the landlord's consent would not be eligible for assistance.

None of the cities surveyed provide rental assistance to persons who do not have a lease or rental agreement with the landlord. One reason may be that it is difficult to determine who is actually living in an apartment without a written or oral record. San Francisco provides \$5,261 in assistance to each tenant up to a maximum of \$15,783, but the tenants must have a valid lease or rental agreement.

There are situations where people rent a room or space from the person with the lease or rental agreement without the landlord's consent. There may also be multiple households within an apartment, but only one household on the lease. For these people not on the lease, being displaced can be equally disruptive and financially difficult. The Council requested that the Commission consider this issue and whether to recommend that some assistance be provided to all income eligible tenants.



Staff would recommend that only households or persons with a valid lease or rental agreement be eligible for rental assistance, as specified in the draft amendments. From experience with displaced households, it is difficult to determine who is actually living in an apartment if they do not have an agreement or other documentation, such as utility bills in their name. The person on the lease still would be able to share the relocation assistance with others in the apartment if this were appropriate.

If the EPC wants to provide some assistance to all eligible tenants, staff recommends that this not be tied to market rate rents. A cash payment somewhere around \$1,000 or \$2,000 would be one option and this amount could be adjusted annually based on increases in the CPI for this area.

## **PUBLIC PARTICIPATION**

In addition to the March 25<sup>th</sup> Council meeting, outreach meetings were held on April 23<sup>rd</sup> and 25<sup>th</sup> to get input on the draft amendments. Developers, Tri-County Apartment Association, Silicon Valley Association of Realtors (SILVAR), property owners, affordable housing advocates, the League of Women Voters and interested individuals were invited to the meetings. Only three people attended these meetings, but the discussion was beneficial. The following changes were made to the draft amendments based on comments at the meeting and from stakeholders that provided comments via email.

- Section 36.38.20.c. Procedures for Assistance Payment. This section was changed to require half of the relocation assistance to be paid after determination of eligibility and within 15 days of a tenant's request and the remaining half paid when an eligible tenant vacates the unit.
- Section 36.38.35.a. Alternate Mitigation. This section was changed to include the provision of permanent replacement rental units for displaced tenants as an example of options that could be an alternate to the relocation assistance required by the Tenant Relocation Assistance Ordinance.
- Section 36.38.05.c.1. Definitions. This section was changed to delete "or rental agreement" in the exclusions to the defining an eligible household, because many rental agreements are month-to-month and including this phrase could make most household ineligible for relocation assistance.
- There were also corrections made of miscellaneous typographical errors and inconsistencies based on public input.

Participants at the outreach meeting also made the following comments.

- Using a company like RealFacts to determine the median market rate rents is likely to result in higher median rents than if all apartments were surveyed, because RealFacts surveys larger apartment complexes.

Response: The City can work with RealFacts or a similar company to customize a survey that includes smaller apartment complexes.

- The median market rate rent should be based on the number of people in the unit rather than the size of the unit. Section 8 standards could be used, which bases apartment size on two people per bedroom plus one additional person, who may need to sleep in a living area.

Response: Section 8 standards are maximum occupancies and do not take into account the composition of a household, which is considered for Below Market Rate (BMR) Units and most subsidized housing units. For example, a four person household could be a household with a single parent, two teenage children of the opposite sex and a grandparent. This four person household would have difficulty living in a two bedroom apartment. Using household size to determine relocation assistance would be more difficult to administer and may be unfair to some households who, for instance, have home occupations that need an extra room or children in college that need a room during the summer. It also could result in more relocation assistance being given to households where there is overcrowding in an apartment.

- Increases in relocation assistance will have a negative effect on landlords, especially owners of smaller apartments, and will reduce their property value. The ordinance will make it harder for low-income households to live in Mountain View.

Response: The City's Housing Impact Fee and Rental Housing Impact Fee do not seem to have negatively affected property values and development activity in Mountain View. However, it is possible that the increase in required relocation assistance would have more effect on owners of small apartments, who are often individual investors, rather than corporate investors. The current ordinance does not apply to less than four rental units, such as single-family homes, duplexes and triplexes. The EPC could recommend amendments that would also exempt fourplexes, which also tend to have individual investors, or set an even higher exemption threshold for small apartments.

## NEXT STEPS

After the EPC makes recommendations on the amendments to the Tenant Relocation Assistance Ordinance, the recommendation will be considered by the City Council at a June 17<sup>th</sup> public hearing. If adopted by Council, there will be a second reading of the ordinance on June 24<sup>th</sup> and the ordinance would become effective 30 days after the second reading.

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Exhibits: Exhibit 1 – Draft Ordinance Amendments  
Exhibit 2 – March 25, 2014 Council Report  
Exhibit 3 – HUD 2014 Income Levels  
Exhibit 4 – Relocation Assistance in Other Cities