



**DATE:** July 14, 2016

**CATEGORY:** Items Initiated by Council

**DEPT.:** City Council

**TITLE:** **Consideration of a Council-Initiated Rent Regulation Ballot Measure for the November 2016 Election**

### **RECOMMENDATION**

Provide clear and specific direction to staff to draft a Council-sponsored measure for the ballot to be brought back for Council consideration on August 9, 2016 that would provide substantive protection to Mountain View renters. Based on the outcome of the election, this makes the possibility of avoiding a Charter amendment and the associated unintended consequences much more likely. Our goal should be to provide a balanced system of renter and landlord protections to help support a healthy rental market in the City of Mountain View.

If putting a Council-initiated measure on the ballot is not possible, the recommendation is to direct staff to draft an ordinance for introduction on August 9, 2016 that includes binding arbitration, just-cause eviction, and a trigger provision similar to *The Community Stabilization and Fair Rent Act*.

### **BACKGROUND**

- A. Many members of our community reported dire situations caused by high rents which have led to serious displacement. This displacement has caused/is causing serious social and economic problems for many members of the Mountain View community and is reducing the diversity of our community. Displacement also causes environmental issues as low-wage workers are forced to live further away and commute to their jobs in Mountain View.
- B. City Council considered and adopted several measures to alleviate the situation:
  - 1. Right-to-Lease Ordinance—Adopted December 8, 2015; effective January 7, 2016 (Attachment 1)

2. Rental Housing Dispute Resolution Ordinance—Adopted April 26, 2016; effective May 26, 2016 (Attachment 2)
  3. Tenant Relocation Assistance Ordinance—Amended June 24, 2014, Effective July 24, 2014 (Attachment 3)
- C. Tenants organized into the Tenants Coalition and developed a comprehensive rent regulation ordinance. This ballot measure is called *The Community Stabilization and Fair Rent Act* (Attachment 4). Signatures to place this measure on the ballot have been submitted to the City Clerk and are now being counted by the County Registrar of Voters. More signatures than required were obtained, and while it has yet to be determined whether there will be sufficient verified signatures for the Council to certify this measure, there is a strong possibility that the measure will qualify for the November ballot. In anticipation of this, the City Council has scheduled a Special Meeting for August 9 to take the necessary actions to place the measure on the ballot for the November election. The ballot measure is an amendment to the Mountain View City Charter, and as such can only be modified or amended by a majority vote of the Mountain View electorate.

### Purpose of Meeting

The intent of this meeting is to determine whether the City Council wishes to provide the voters with an alternative ballot measure that is not a Charter amendment, or pass an ordinance that provides strong renter protections immediately. If so, Council must provide staff specific direction for the preparation of an alternative to be acted upon at the August 9, 2016 Special Meeting, which is the last opportunity to put something on the ballot. Our goal should be to provide a balanced system of renter and landlord protections to help support a healthy rental market in the City of Mountain View.

The question to consider is whether to place an alternative measure on the ballot that would address the rental crisis in Mountain View, but would not be a Charter amendment, or introduce a rent regulation ordinance on August 9. These alternatives would allow the City Council to correct errors or unintended consequences by a vote of the City Council rather than by holding an election. This would allow unintended consequences to be resolved much more quickly and with less expense, benefitting the City, renters, and landlords.

Now that *The Community Stabilization and Fair Rent Act* ballot measure has been drafted, circulated, and awaiting signature verification and Council certification for the

November ballot, there is a short window of opportunity for the City Council to take any action the Council majority sees fit in light of changed circumstances.

### Voting Logistics

The proposed Charter amendment states in Section 1717 that this Article supersedes any ordinance passed by the City Council covering the area of rents or evictions. It further states that in the event there is an alternative measure on the ballot and both are adopted by a majority, the Tenants Coalition measure would take effect if it received more votes than the other. In the event the alternative receives more votes, it would take effect, but anything in the Tenants Coalition measure that is not inconsistent with the prevailing measure would also become law.

With two measures on the ballot, voters could vote yes for both, just one, or neither. However, it is not one or the other. Both could pass, giving rise to the issue of which supersedes the other. A Charter amendment trumps an ordinance. If the Charter amendment passes, it will become the law in Mountain View even if a ballot measure written as an ordinance with similar content got a higher percentage approval.

### ANALYSIS

- A. *The Community Stabilization and Fair Rent Act* is a comprehensive and complex Charter amendment which will have significant impacts on the City administration and possibly the budget in Mountain View. As a Charter amendment, it can only be amended by a public vote which is a costly and time-consuming process.

As we have already seen with the Right-to-Lease Ordinance, any legislation, especially something as complex as this proposed ballot measure, is likely to have unintended consequences which will become apparent only after implementation. Furthermore, this proposed measure, if adopted, could only be changed if the City Council places amendments on the ballot at a future regularly scheduled election, at significant cost and delay to the community. Additionally, there is always the possibility that litigation will arise challenging the measure if it is passed. While not a measure proposed by the City, it will be the City's responsibility to defend any such litigation to the conclusion of the litigation, again, at significant cost to the taxpayers. The City Council would not be able to suspend the amendment to avoid litigation or to settle the lawsuit and could only seek to have the measure amended at a future regularly scheduled election.

Regardless of one's view of rent regulation, a Charter amendment, such as this, may not be in the best interest of the City of Mountain View, nor its residents, as currently structured. There are other legislative methods which are less extreme, but still serve the goal of rent relief without requiring another vote of the people to correct mistakes in the legislation, changes in circumstance, or simply to improve the intent of the law. Absent taking action to direct staff to prepare an alternative, Mountain View voters will be left with no choice but to either adopt this Charter amendment, which is complex and cannot be changed except by subsequent Charter amendments adopted by public vote, or reject the measure and provide no relief to renters beyond the current laws.

- B. If the City Council wishes to provide the voters with an alternative to *The Community Stabilization and Fair Rent Act*, there are several options:
1. Direct staff to prepare a ballot measure that is similar to the currently proposed measure, but make it an ordinance rather than a Charter amendment. As such, it could be modified by the City Council if it included express text granting Council amendment powers. It would be possible to condition such Council modifications on a super majority vote, if so desired. Likewise, a condition could be added that would prevent modification for a minimum of two years (or some other period of time). Another consideration would be to leave out the rent roll-back provision.
  2. Direct staff to prepare an alternate ballot measure based on the City Attorney's original Rental Housing Dispute Resolution Program, of which only part was adopted by City Council. Council could direct staff to include binding arbitration as was originally proposed, and could stipulate that some measure of just-cause eviction protection be included to ensure tenants are protected. Should Council wish to pursue this alternative, Council would also have to specify a rent increase that would trigger mandatory mediation and subsequent binding arbitration. The current trigger is 7.2 percent. Direction to staff on issues of aggregating permissible increases over two years, what happens if market rates decrease, and the like, should also be specified so that the measure is ready to adopt on August 9 as there will be no time to make further modifications. Again, express text granting Council amendment powers would have to be included so it could be amended without a vote of the electorate.
  3. The City Council could also consider introducing a new ordinance on August 9 in either of the forms discussed above that would go into effect 30

days after second reading, which would likely take place after the summer recess but well before the November election. This would provide immediate relief in the rental market. If *The Community Stabilization and Fair Rent Act* qualifies for the ballot as expected, it would still be on the November ballot. If it passes, as a Charter amendment, it would override the ordinance. If it fails, the ordinance would remain in force.

- C. Implications to the City—while it is uncertain how much staff and financing would be needed to implement these programs, it is clear that additional staff and funding will be required. Experience in East Palo Alto, Santa Monica, and West Hollywood with programs similar to *The Community Stabilization and Fair Rent Act* indicate Mountain View could need as many as 7 to 10 additional personnel. Based on the experience of other communities, a fee of about \$170 per unit would be needed to recover those administrative costs. It was previously estimated that implementing the Rental Housing Dispute Resolution Ordinance with binding arbitration would cost about \$110,000 per year and require a fee of approximately \$5 to \$8 per unit.
- D. Attachment 5 shows a comparison of many of these alternatives.

#### Council Questions

- 1. Does the Council want to place an alternative measure on the ballot?
- 2.a. If so, does Council want to have an ordinance version of *The Community Stabilization and Fair Rent Act*, including language that describes this measure as intended to be substantially the same as the Charter amendment version, and also includes language that the City Council would not make nonadministrative changes to the ordinance until it had been implemented for two years? Should the roll-back component be included?
- 2.b. Does Council want the binding arbitration version of the March 15, 2016 Rental Housing Dispute Resolution Ordinance? If so, would the trigger match the one in *The Community Stabilization and Fair Rent Act* or remain at 7.2 percent or something in between? In addition, would Council support adding a just-cause eviction provision to the ordinance?
- 3. Alternatively, rather than placing an alternative measure on the ballot, does Council wish to direct staff to draft an ordinance in either of the forms discussed

for approval at the August 9 meeting? The second reading would take place in the fall but before the election.

### **FISCAL IMPACT**

If Council directs staff to prepare a ballot measure, the estimated cost will be included in staff's report to Council on August 9. As a point of reference, placing *The Community Stabilization and Fair Rent Act* on the ballot is estimated to cost \$58,000.

### **ALTERNATIVES**

Possible alternatives to consider include:

1. Fashioning a ballot measure based on the March 15, 2016 proposed version of the Rental Housing Dispute Resolution Ordinance (Attachment 6), including the binding arbitration component and possibly adding language about just-cause eviction protection. Establish a more protective trigger than the 7.2 percent. *The Community Stabilization and Fair Rent Act* stipulates rent increases to be based on the Consumer Price Index (CPI) in the range of 2 percent to 5 percent.
2. Creating an "ordinance" version of the Tenants Coalition's ballot measure that would be put on the November ballot but could be amended without a vote of the citizens.
3. Introduction of a rent regulation ordinance August 9 at the Special Meeting that would take effect under normal rules following a second reading.

## **PUBLIC NOTICING**

Agenda posting, courtesy notice to interested stakeholders who provided contact information at previous meetings, use of social media, and an online ad in the *Mountain View Voice*.

Prepared by:

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- Attachments:
1. [Right-to-Lease Ordinance – adopted December 8, 2015 and in force](#)
  2. [Rental Housing Dispute Resolution Ordinance – adopted April 26, 2016](#)
  3. [Tenant Relocation Assistance Ordinance – amended June 24, 2014](#)
  4. *The Community Stabilization and Fair Rent Act* Proposed for November Ballot
  5. Comparison of Attributes of Various Rent Stabilization Efforts Under Consideration
  6. Rental Housing Dispute Resolution Ordinance with Binding Arbitration – from March 15, 2016 Council Meeting