



MEMORANDUM

CSFRA, Community Development Department

DATE: September 11, 2017

TO: Rental Housing Committee (RHC)

FROM: Anky van Deursen, Associate Planner
Wayne Chen, Acting Assistant Director of Community Development

SUBJECT: CSFRA Fee Methodology and Program

RECOMMENDATION

That the Rental Housing Committee (RHC) provide input on the fee methodology and program for the Community Stabilization and Fair Rent Act (CSFRA). Input from the RHC will be used to inform the development of a CSFRA fee program, which will be brought to the Committee for consideration as part of the Fiscal Year 2017-18 Budget process.

BACKGROUND

The RHC is tasked by the CSFRA to adopt and collect Rental Housing fees sufficient to support the implementation of the CSFRA. Section 1709(j)(1) stipulates that a Rental Housing Fee shall be paid by all landlords on an annual basis. The Rental Housing Fee amount shall be set to ensure full funding of reasonable and necessary expenses.

The Rental Housing Fee is the sole identified source of revenue to cover the cost for the CSFRA program. The estimated cost of implementing the CSFRA will be reflected in the program's annual budget. The RHC will consider the Fiscal Year 2017-18 Budget at an upcoming meeting. The Rental Housing fees will be based off of the annual budgets.

The provisions of the CSFRA result in two types of rental units subject to the CSFRA. One set of rental units is subject to the entire CSFRA, including the Annual General Adjustment (AGA), the fair return process, and just cause ("Fully Covered Units"). These include rental units with a certificate of initial occupancy before February 1, 1995, eligible for rent stabilization controls under the Costa Hawkins Rental Housing Act. Tenants in this group receive rent protections, and landlords are provided with oversight on how rent adjustments may be made and a fair return on their property investments protected. The second, smaller set of rental units is subject to only the just-

cause provisions of the CSFRA ("Partially Covered Units"). These include rentals with a certificate of initial occupancy between February 1, 1995 and the effective date of the CSFRA.

According to Section 1709(j)(1), the amount of the set Rental Housing Fee(s) may differ between rental units subject to the entirety of this Article and those that are partially exempt. Because there is a distinction between the two types of rental units subject to the CSFRA and the CSFRA provides the ability to set different fee levels, the purpose of this meeting is for the RHC to provide input regarding the methodology to be used to calculate the fees for rental units subject to the CSFRA. Based on the desired methodology of the RHC, staff will bring back proposed fee levels at a future RHC meeting.

Additionally, on June 8, 2017, the RHC received a staff presentation on the Hearing Officer structure as well as the possibility of charging a petition fee for petitions filed. The RHC did not provide input on the issue of petition fees at that meeting, so this item is being brought back to the RHC at this time for further consideration.

ANALYSIS

Estimated Number of Fully Covered and Partially Covered Rental Units

In order to establish fee levels for CSFRA, it is important to know the number of Fully Covered Units and Partially Covered Units subject to the CSFRA. Using the Santa Clara County tax assessor's records, there is an estimated total of 16,788 Fully and Partially Covered Rental Units in the City of Mountain View, 14,770 of which have a certificate of initial occupancy before February 1995 and are, therefore, subject to the full CSFRA regulations, including rent stabilization ("Fully Covered Units"). There are also 2,018 multi-family units that received a certificate of initial occupancy between February 1995 and the effective date of the CSFRA and are, therefore, only subject to the Just Cause for Eviction section of the CSFRA ("Partially Covered Units"). This estimate may change in accordance with the determination of the Effective Date of the CSFRA.

Options for Setting the Rental Housing Fee

The RHC may wish to consider the following options for determining a methodology for setting a Rental Housing Fee:

- a. Set the same fee for both Fully and Partially Covered Units.*

This methodology would treat Fully and Partially Covered Units the same and establish the same fee for both types of covered units under the CSFRA that would recover the cost of the program. To ensure full funding of the CSFRA program, the Rental Housing fees for a total of 16,788 covered multi-family rental units would amount to the Fiscal Year 2017-18 Budget divided by the total amount of units. This calculation is simple and easy to implement.

- b. Set a different fee level for Fully and Partially Covered Units based on a cost-allocation method.*

The second option for calculating the Rental Housing Fee is to base it on the type and level of services provided for the Fully and Partially Covered Units. Because the entire CSFRA applies to Fully Covered Units, it may be expected that the resources of the program will be used more often and more intensively by landlords and tenants of Fully Covered Units and more than by those of Partially Covered Units, which are subject only to the just-cause provisions of the CSFRA. As a result, a cost-allocation methodology may be more desirable when determining fee levels for the two different types of units under the CSFRA.

However, a cost-allocation methodology would be more complex and time intensive to determine the appropriate fee levels annually. Should the RHC adopt this alternative, staff would need to develop the cost-allocation methodology and bring the proposed fee levels to the RHC for consideration at an upcoming meeting. For the RHC's consideration here, staff makes the initial following distinctions in types of services, including, but may not be limited to:

- a. General Outreach and Education:* Part of the workload covers the general outreach and education in the community. These services are provided for both Fully and Partially Covered Units.
- b. Just Cause for Eviction and Tenant Relocation Assistance:* Another part of the services provided is related to monitoring received copies of termination notices as stipulated in Section 1705(g) and initiate the tenant relocation eligibility

determination process, if applicable. These services are provided for both Fully and Partially Covered Units.

- c. ***Annual Rent Increase and Individual Petitions:*** This part of the services covers the annual allowed rent increase stipulations as well as the process to submit petitions for individual rent adjustments. Staff foresees that the majority of work will be related to rent increase and petition services. These services are provided to Fully Covered Units only.

This methodology is based on the current assumption that certain expenses are incurred on general outreach and education in the community as well as monitoring of termination notice filing and tenant relocation assistance requirements; however, the majority of the expenses cover rent-related issues, from answering rent-control-related questions, to adjudicating rent disputes and processing fair return and unlawful rent and reduction in services petitions. As the CSFRA gains more experience in the coming year, the estimated fees for each service may be adapted appropriately. This calculation is a little more complex but allocates costs to each of the groups.

QUESTIONS

- Does the Rental Housing Committee wish to adopt the same CSFRA Rental Housing Fee level for both the Fully and Partially Covered Units, or establish two fee levels using a cost-allocation methodology?
- Does the RHC have additional input for staff to consider regarding the fee methodology?

Petition Fees

At the RHC meeting on June 8, 2017, the RHC discussed the Hearing Officers structure and the potential to charge a petition filing/processing fee ("petition fee") to be paid for by the petitioner that would be separate and distinct from the annual per-unit Rental Housing Fee. The RHC did not provide input on the concept of a petition fee, so staff is bringing this concept back for the RHC's input at this time. Staff has conducted some preliminary analyses regarding potential petition fee levels and case studies of other jurisdictions.

Based on the analyses, staff recommends that if the RHC wishes to charge a separate petition fee for petitions filed, such a fee be nominal and not full cost recovery. A full cost-recovery petition fee could be prohibitive in cost for the petitioner and could vary significantly depending upon the nature of the petition. Additionally, some rent-

stabilization cities do charge a petition application fee but are nominal in nature. A nominal petition fee would solely be applied to offsetting certain costs associated with the petition process, such as initial intake or covering some of the cost of the hearing process, but not all of the petition costs.

If the RHC wishes to consider a nominal petition fee for petitions filed in addition to the requisite CSFRA per-unit annual Rental Housing Fee, staff would conduct some additional analyses and bring back recommendations for a petition fee schedule for the RHC's consideration as part of the budget process. Alternatively, the RHC could defer further analysis of a petition fee and allow the petition process to be adopted and fully implemented first before further assessing the need for a petition fee.

QUESTIONS

- Does the RHC wish to consider a nominal petition fee for petitions filed or to defer consideration of a petition fee until the CSFRA has been fully implemented, so that the RHC has an opportunity to better assess the need for a petition fee?
- Does the RHC have additional input for staff to consider regarding the concept of a petition fee?

FISCAL IMPACT

The annual Rental Housing Fee(s) needs to be sufficient to support the implementation of the CSFRA. The CSFRA budget and fee program should be set to ensure full funding of reasonable and necessary expenses. The methodology of determining the fee does not change the fiscal impact to the CSFRA program or the City. Staff will use the methodology as decided upon by the RHC in a proposal for adoption of Rental Housing fees as part of the CSFRA budget process.

PUBLIC NOTICING – Agenda posting.

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