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April 5, 2017

Los Angeles City Council-Housing Committee
Los Angeles City Hall, Room 1060
200 N. Spring St.
Los Angeles, CA 90012

Date: 4-5-17

Submitted in Hsg Committee

Council File No: 14-0268-S5

Item No.: 1

Deputy: Public

Re: Item #1 (CF 14-0268-S5)

Dear Honorable members of the Housing Committee,

I have been encouraged by the responsiveness of the city council with respect to the concerns raised regarding the implementation of the Ellis Act and its consequence and impact on our affordable housing stock, as evidenced by the four separate motions that originate this council file.

While the draft ordinance before you today is a step in the right direction in strengthening the Rent Stabilization Ordinance and addresses the relocation waiver loophole that I have fought to change, it still does not address the biggest issue with the Ellis Act and that is enforcement of its existing provisions.

Currently, HCIDLA's investigative threshold is so high, the department is unable to take consequential action in cases of abuse of the process and illegal re-tenanting. We have continuously witnessed this failure and egregious abuse of existing re-rental provisions under the Ellis Act, either through the use of Airbnb/short-term rentals or by other means of circumvention such as re-occupying of buildings with people by justifying that they are not paying rent. Whether the latter is in fact true or not, it is clearly meant to circumvent the intent of the Ellis Act's re-rental provisions.

In many of the airbnb cases, upon investigation, the property owner can just stop airbnb'ing during the investigation, become "compliant", and HCID is then satisfied that the problem has been resolved, even though the infraction constitutes failing to follow the law under Ellis. After the investigation is closed, the property owner can get away with going right back to airbnb'ing, with no consequence.

Whether HCID has been unable to take action because the department is under-resourced or because their investigative protocol requires them to "witness" the infraction or a combination of both, it is critical that the department further investigate a means to correct this fundamental flaw for there to be teeth in the enforcement of the Ellis Act.

The following are 3 recommendations I have for further evaluation and consideration by the relevant departments with respect to this item:

1. **ENFORCEMENT:** While City Planning and LADBS's report on this item is still-withstanding, I would like to recommend that amongst other suggested enforcement mechanisms, that there be a critical evaluation of the city's permitting process in granting and revoking certificates of occupancy (COO). If the COO of a building could be revoked

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when it is taken out of use or during a change of use, this would go a long way in curbing re-occupancy (regardless of reason) and circumvention of the Ellis Act.

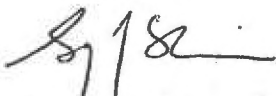
2. RIGHT OF RETURN: Opportunity for displaced tenants to have guaranteed right of return to new construction. This would diminish the impact of demand and the disparate impact of gentrification caused by displacement.

3. EXTENSION OF ELLIS RE-RENTAL PROVISIONS TO 10 YEARS: Extension of the 5 year right of return to 10 years which is already provided in the Ellis law in section 7060.2(c):

"A public entity which has acted pursuant to this section, may require by statute or ordinance, or by regulation as specified in Section 7060.5, that an owner who offers accommodations again for rent or lease within a period not exceeding 10 years from the date on which they are withdrawn, and which are subject to this subdivision, shall first offer the unit to the tenant or lessee displaced from that unit by the withdrawal, if that tenant or lessee requests the offer in writing within 30 days after the owner has notified the public entity of an intention to offer the accommodations again for residential rent or lease pursuant to a requirement adopted by the public entity under subdivision (c) of Section 7060.4. The owner of the accommodations shall be liable to any tenant or lessee who was displaced by that action for failure to comply with this paragraph, for punitive damages in an amount which does not exceed the contract rent for six months."

Thank you for your diligence and consideration of these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sylvie Shain', written over a horizontal line.

Sylvie Shain

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April 5, 2017

To: Housing Committee
Councilmember Cedillo
Councilmember Koretz
Councilmember Huizar
Councilmember Price
Councilmember Harris-Dawson

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Submitted in Hsg Committee
Council File No: 14-0268-55
Item No.: 1
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Honorable Committee Members,

At this moment I can send you to dozens of properties where long-term rent-controlled tenancies are being withdrawn and hundreds of people are facing eviction, scrambling to put a roof over the heads of their families. This has reached epidemic proportions, creating chaos in our communities and directly exacerbating the homeless problem.

Meanwhile, developers are skirting the law set forth in the Ellis Act and re-renting apartments on Airbnb while waiting for other units to become vacant. I just learned of a case where a renter was not allowed to extend her tenancy, she was not old enough to qualify for the extra time. Even though other tenants did qualify and the property could not be completely vacant for a year, the developer, who intends to demolish the buildings, made this woman move out in order to Airbnb that apartment. This is happening every day. They know they are breaking the law, but they also know that no one is monitoring this situation.

So you need to get this right, you need to fix this problem the right way. While this motion today is a step in the right direction, it falls far short of what is needed. There must be a further recommendation by this committee to put in place the tools for much greater enforcement when units are illegally re-rented.

There must be a right-of-return mechanism for such instances, and this right of return should be extended from the current 5 years to 10.

There should be a requirement that the City must notify the tenant when an owner has filed a notice of intent to re-rent.

The Ellis Act has proven to be a mistake, a massive incentive for speculative developers to destroy historic buildings, uproot people's lives and ravage our communities. We need proper monitoring and enforcement of the Ellis Act while we work in Sacramento to have it overturned.

Thanks for your consideration in this very urgent matter,
Carol Cetrone
Silver Lake Heritage Trust
Silver Lake Neighborhood Council Planning and Land Use Committee

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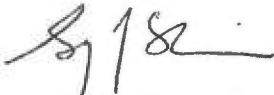
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Sincerely,



Sylvie Shain

Proposed LA City Reforms to Limit the Impact of Conversions and Demolitions and Protect Affordable and/or Rent Stabilized Housing

In order to effectively protect LA's housing stock and ensure the health and safety of our communities, the City must more extensively regulate both condominium conversions and demolitions of existing multi-family housing, so as not to incentivize the use of one method in place of the more regulated one.

Regulations on Condo Conversions

Current regulations include:

The City may approve a tentative map or preliminary map for a residential conversion UNLESS:

1. The vacancy rate of the planning area in which the property is located is five percent or less (enforcement of this regulation uncertain/inconsistent)
2. The cumulative effect on the rental housing market in the planning area of successive residential conversions is significant. A finding of significant cumulative effect shall be based on five enumerated factors (12.95.2 – F.6)

Proposed changes include:

Create an annual limitation on the number of permissible condominium conversions citywide and create a lottery system to wait list and prioritize applicants.¹ The allowance must also be limited by appropriately sized sub-geography(ies) to decentralize conversions, including options such as:

- Annual limit of XX units per Community Plan Area
- Annual limit of XX units per zip code
- Annual limit of XX units within 1 mile of a transit station (train or rapid bus)
- Applicant placed on a waitlist if more than XX units have been approved for removal in the last year within a 1 mile radius of the proposed conversion.

Regulations on Demolitions

Current regulations include:

When the applicant states that the purpose for demolition is to construct condos, the Planning Department may withhold a demo permit until the maps have been approved (91.106).

Proposed changes include:

1. Create an annual allowance for the number of multi-family residential demolitions citywide, and per sub-geography (e.g. options above).²When limit is met, applicants to be placed on waiting list for following year(s).
2. To minimize the harmful impacts of vacant lots, an applicant shall obtain all necessary building permits for the new building prior to receiving a Demolition Permit.

Timing of Ellis Evictions Related to Demolitions and Conversions

Proposed change: To the extent allowed by law (further legal analysis is needed), the final approval of a demolition or conversion should be the date that the Ellis eviction process is allowed to be initiated.

¹ The Ellis Act explicitly states that it is "not intended to...interfere with local governmental authority over land use, including regulation of the conversion of existing housing to condominiums..." Cal. Gov. Code 7060.7(a). Cities across California have enacted annual allowances on condominium conversions similar to what is proposed above. A table with several examples is attached.

² The Ellis Act also explicitly states that it is "not intended to...preempt local or municipal environmental or land use regulations, procedures, or controls that govern the demolition and redevelopment of residential property." Cal. Gov. Code 7060.7(b).

In addition to more extensively regulating demolitions and conversions, the City must also ensure that property owners are using the Ellis Act or other similar policies for their intended purpose. To this end, the City must more effectively regulate returns to the rental business and disincentivize utilizing Ellis Act evictions without intent and approval to leave the rental business.

Regulations on Returning to Rental Business

Current regulations include:

If a building containing a rental unit that was the subject of an Ellis Act eviction is demolished and rental units are constructed on the same property and offered for rent or lease within five years, the owner may establish the initial rental rate for the newly constructed rental units, but the provisions of the Rent Stabilization Ordinance shall apply to the newly constructed rental units. However, an exemption of the newly constructed units from the RSO is available if an owner replaces the number of demolished rental units with an equal number of affordable housing units, not to exceed 20% of the total number of newly constructed rental units (Government Code 7060.2(d); LAMC 151.28).

If a rental unit that was removed from rental housing use under Ellis is offered for rent or lease during the five-year period after the Notice of Intent to Withdraw is filed or within the five-year period after the accommodations are withdrawn, then the accommodations shall be offered and rented or leased at the lawful rent in effect at the time of the eviction, plus annual adjustments. (Government Code 7060.2(a); LAMC 151.26)

Proposed changes include:

1. When owners return to the rental business on the site of units removed pursuant to the Ellis Act and local regulations within 5 years, whether demolished or re-rented in original building, to the extent allowed by law:
 - a. All units that were previously rent stabilized are governed by the City's rent stabilization ordinance
 - b. All original or replacement units are rented or leased at the lawful rent in effect at the time of the eviction, plus annual adjustments
 - c. An exemption of the newly constructed units from the RSO is available if an owner replaces the number of demolished rental units with an equal number of affordable housing units, set at the affordability levels corresponding with rents at the time of removal, no matter the percent of the total project units
 - d. A fine is imposed on property owners for applying for removal under false pretenses. In addition, the landlord shall be liable to any tenant who was displaced from the property for three times the amount of actual damages, exemplary damages, equitable relief, and attorney's fees. [This is an excerpt from the current LARSO provisions, in Section 151.09, pertaining to bad faith use of the owner move-in evictions. Recommend adapting and applying to Ellis bad faith, as it specifies and amplifies penalties. The mandatory attorney fees helps incentivize legal assistance for enforcement.]
2. Increase the amount of time that a landlord has to offer an evicted tenant the right to return if a unit goes back on the market to 10 years.

Enforcement of current policies and regulations

We have identified several changes in policy and practice to improve monitoring and enforcement for further discussion. At this time, we want to highlight two of these:

1. Establish regular follow-up inspections and monitoring of every approved Ellis application for at least 5 years to determine that legal requirements and application statements have been complied with
2. Direct the City Attorney to actively investigate and prosecute cases of fraudulent use of Ellis and/or denial of guaranteed tenant rights

Regulations and Practices for Enforcement of Approved Removals

Proposed Changes Include:

3. Enact zoning provisions and land use standards to ensure that new development results in a net gain of affordable housing (applied in each affordable category including extremely low, very low and low-income) and no reductions in RSO units and/or units occupied by lower income households (applied by affordable category).
4. Appropriate funds for eviction defense (similar to Mayor and Board of Supervisors of San Francisco)
5. Find/appropriate/leverage funds to assist tenant cooperatives, community land trusts or other non-profit entities to buy Ellis-threatened buildings in order to preserve them as rent-stabilized affordable housing, including pilot projects in sustainable, cooperative housing

Regulations and Practices for Enforcement of Tenant Rights during Application and/or Approval or Removal of Units

Proposed changes include:

1. Additional and clearer information for affected tenants from or mandated by HCID
 - a. Include non-confidential parts of landlord Ellis filing in information packet to tenants
 - b. Info sheet (and website page) explaining what Ellis is, what its impact is, the fact that you have certain assured rights as a tenant and may have more if you get help/advice
 - c. Explain what Paragon is and does, and what you have to do, or get additional help to do
 - d. Explain the difference between seeking Qualified/Eligible status and seeking an extension of your tenancy. In particular explain the difference between determination of disability for Qualified status (higher relo) and for extension, and the kinds of documentation necessary to establish each (emphasize that it's minimal for the latter)
2. More assistance for affected tenants and/or clear info on how to get it
 - a. Increased responsiveness by HCID staff after Ellis notification; Ellis hotline, e.g. ?
 - b. Clear, non-conflicting answers to key questions by HCID staff and contractors
 - c. Frequently updated resource list and active referrals (if requested) to community advocacy and legal assistance organizations

Administrative Changes

Proposed changes include:

1. Clear information for City officials, policy makers, stakeholders and public
 - a. Maintain public, searchable database of all Ellis filings since 7/1/2014 (or earlier!)
 - b. Report quarterly summaries of numbers of RSO units removed due to Ellis Act Removal, and total number of condo conversions; submit annual reports to City Council and Mayor, including impact on affordable/RSO units per ZIP Code, Council District, etc.; units Ellis'd within two years of new ownership; multiple uses of Ellis by particular landlords/developers;
2. Have HCID's current system investigate complaints of landlord abuse, misuse, suspected misuse, etc. of Ellis filings and the rights of tenants under such filings. Inform both landlords and tenants that such complaints may be made easily (online, by phone, in person) and will be dealt with rapidly, and/or a plan developed for longer-term follow-up. Refer serious or repeated violations to City Attorney.
3. Other modifications to RSO Ellis-related provisions to strengthen enforcement and compliance:

- a. In regard to right of return of evicted tenants in the event of return to rental business, an owner who filed for removal under Ellis and then sold the building within five years should be required to notify the former tenants who filed for right of return, provide new owner's name, address and phone number, and make an affirmative written statement to HCID that the new owner has been provided copies of tenants' requests for right of first refusal.
- b. Penalty should be imposed for landlords seeking removals who fail to file HCID Form E-5 (notification of tenants requesting extension of tenancy) on timely basis. At present, HCID acknowledges that the 60-day deadline for doing so has no penalty and is therefore not actually enforced by HCID.
- c. All provisions of Ellis that provide for tenants' and/or the City seeking damages for failing to follow Ellis/RSO provisions in re-rental of units should be amended to include mandatory award of attorney fees and costs should the plaintiffs prevail.

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