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May 31, 2017

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: Housing Committee

Dear Honorable Members:

**REPORT BACK RELATIVE TO POSSIBLE ZONING CODE CHANGES TO
STRENGTHEN ENFORCEMENT OF THE RENT STABILIZATION ORDINANCE AND
ELLIS ACT PROVISIONS (COUNCIL FILES 14-0268-S4, 14-0268-S5, 15-0600-S36
and 15-0728)**

SUMMARY

In response to several Council Motions (CFs 14-0268-S4, 14-0268-S5, 15-0600-S36 and 15-0728), the Housing + Community Investment Department (HCIDLA) issued a report dated April 15, 2016 that reviewed current Rent Stabilization Ordinance (RSO) and Ellis Act provisions with the aim to strengthen their monitoring and enforcement. The HCIDLA report recommended several specific amendments to the RSO Ellis provisions.

Issues raised by the Council motions that were determined to pertain to the zoning code, land use or development policies, were left aside for a subsequent report. Since that time, discussions have taken place between HCIDLA and the Departments of City Planning (DCP), Building and Safety (DBS), and the City Attorney to address these zoning related items. This report includes analysis on those planning and zoning code issues, as listed below, along with a number of other related issues pertaining to preserving the City's rent-stabilized housing stock. Where appropriate, the report also includes recommended actions to address the identified concerns. The issues discussed in this report include:

1. The feasibility of withholding the issuance of demolition permits for RSO units until all discretionary and ministerial permits for new construction on the property are formally issued.
2. The feasibility of monitoring rental vacancy rates at the Community Plan Area (CPA) level and adopting a moratorium on condominium conversions in CPAs with vacancy rates below five percent as provided in LAMC 12.95.2.

3. Adoption of an annual cap on demolitions of RSO units based on an appropriate percentage of the RSO housing stock.
4. Adapting the concept of AB 2222, which calls for density bonus projects to replace pre-existing affordable units on a one-to-one basis, for City use, including its use for such projects that seek zone changes, receive government subsidies or remove RSO or other affordable units, and mandate on-site replacement.
5. Reviewing the impact the Small-Lot Subdivision ordinance is having on RSO units when they are replaced by multiple single-family homes that subsequently are re-occupied, and identifying mechanisms to preserve RSO status or other affordability, minimizing use of the ordinance to evade Ellis Act re-use restrictions.
6. Disallowing conversion of RSO residential rental properties, removed from the rental market through Ellis, to hotels. Under existing state law, it is allowable to remove a property from the rental housing market, which includes conversion to a hotel.

ANALYSIS

During recent decades, the loss of existing rent-stabilized housing has been a significant issue in Los Angeles. The City's Housing Element of the General Plan contains several housing preservation policies and strategies and the DCP is committed to fully exploring additional strategies that will help the City maintain and expand its vital stock of rent-stabilized affordable housing. Each of the Council Motion topics are discussed individually below.

1. *The feasibility of withholding the issuance of demolition permits for RSO units until all discretionary and ministerial permits for new construction on the property are formally issued.*

This proposal (contained in CF 15-0728) aims to prevent the issuance of demolition permits until it is known whether a proposed development project on the site has been approved. There are many unknowns in the development process and the intent is to delay demolitions until the proposed replacement project has been approved.

Today, the City has a limited number of means available to delay or restrict an existing multi-family residential (apartment) project from being demolished. If the existing apartment is subject to the RSO the developer is required to first file and comply with procedures established by HCIDLA. Once the HCIDLA process has been completed, or if the apartment is not an RSO property, the developer must either sign an affidavit provided by the DBS stating that the demolition is not intended to lead to a future development project, or, alternatively the developer must obtain planning approvals to redevelop the site. The affidavit requirement was introduced by the DBS in July 2016. Finally, LAMC Section 91.106.4.1 allows DBS to withhold a demolition permit in certain cases, including when the purpose of the demolition is to construct a condominium, stock cooperative or community apartment project.

In situations where the developer acknowledges that a future project is planned, then the demolition of the existing apartment may be delayed until the project entitlement and its environmental analysis is completed. In other instances, projects that sign the affidavit stating that no future development project is planned may then demolish the building. In these instances the result is that buildings are being demolished (including possible tenant evictions of occupied units) without evidence of a next step strategy for the site.

To address these concerns, the City Council could establish regulations whereby demolition permits are withheld until either planning approvals for a new project or building permits for a new by-right project have been obtained.

Recommendation:

- Instruct the DCP to work with the Office of City Attorney, HCIDLA and the DBS to develop an ordinance to prevent the issuance of demolition permits of multi-family residential projects until either required entitlements and plans have been approved or building permits for a new project have been obtained.

2. *The feasibility of monitoring rental vacancy rates at the Community Plan Area level and adopting a moratorium on condominium conversions in CPA's with vacancy rates below five percent as provided in LAMC 12.95.2.*

LAMC 12.95.2 F.6 allows the Advisory Agency (the entity that approves or disapproves the tentative or parcel map for a subdivision project) to deny an application for a condominium conversion if it believes the effect of the conversion will significantly worsen the rental housing market in the area. In particular, the section states that a condominium conversion may be denied when the following findings are made:

- (1) the vacancy rate for the planning area in which the property is located is five percent or less, and
- (2) the cumulative effect of the rental housing market in the planning area of successive residential or residential to commercial/industrial conversion projects (past, present and future) is significant. A finding of significant cumulative effect shall be based on the following factors:
 - (a) in the case of residential conversion projects only, the number of tenants who are willing and able to purchase a unit in the building;
 - (b) the number of units in the existing residential building prior to conversion;
 - (c) the number of units which would be eliminated in case conversion occurred in order to satisfy Municipal Code parking requirements;
 - (d) the adequacy of the relocation assistance plan proposed by the subdivider; and
 - (e) any other factors pertinent to the determination.

One challenge facing staff in evaluating condominium conversion projects is the availability of adequate vacancy rate data, which is required to make the five percent vacancy determination in LAMC section 12.95.2 F.6(1). The ordinance specifies that the vacancy rate shall refer to current vacancy rates for multiple-family dwelling units as published by the DCP in its *Semi-Annual Population Estimate and Housing Inventory*, or

other estimates or surveys satisfactory to the Advisory Agency. However, the Department of Water and Power (DWP) discontinued its online reporting of vacancy rates by planning area in 2013, which resulted in the inability of the DCP to provide vacancy rate estimates by planning area.

The DCP has very recently been provided update vacancy figures based on residential meter files from the DWP. However, based on conversations with DWP, it appears the current data is not yet a reliable indicator of vacancy rates given some changes in methodology and data collection that have occurred. DWP staff indicated it may be another year before the issues can be resolved. As a result, DCP staff has identified alternative vacancy data sources such as the United States Postal Service (USPS), CoStar, and the American Community Survey (ACS). However, each data source has limitations. The Housing Policy Unit will work with the DCP's Demographic Research Unit and the Advisory Agency to evaluate these and other potential data sources, and devise a protocol to ensure the latest and best possible information available is used in making vacancy rate determinations.

Evaluating the five factors listed in subsection F.6(2) pertaining to the cumulative effect on the rental housing market has also been challenging. In a 2006 staff report, the DCP reported that this provision "requires technical assistance that is beyond the capacity of existing staff resources" and recommended use of an economic consultant. Improved data collection and inter-Departmental coordination can help improve the ability to fully understand potential impacts. Staff may request that applicants provide the incomes of current tenants and the anticipated sales prices of the converted condominiums, both of which are beneficial for the findings in subsection F.6.(2)(a) above. DCP staff will work with HCIDLA to obtain the number of RSO evictions, demolitions, and conversions in the planning area. Finally, the Housing Policy Unit in the DCP will work with the Advisory Agency to provide guidance on how to best evaluate cumulative impacts on rental markets and develop model criteria.

The DCP has seen a significant reduction in condo conversion applications compared to the prior development boom from 2005-2007 (437 cases during that period and only 40 cases from 2014-2016). A moratorium on condominium conversions at this time may not be justified in light of this lower activity level. The DCP seeks to ensure it has all the tools and expertise it needs to consistently and transparently evaluate the cumulative impact of condo conversions on local rental markets pursuant to this code section.

Recommendations:

- Instruct the DCP to work with DWP to provide accurate multi-family vacancy rates by planning area.
- Instruct the DCP to evaluate potential alternative vacancy data sources, and devise a protocol to ensure the latest and best information available is used in making vacancy rate determinations.
- Instruct the DCP to identify a mechanism to obtain additional information from project condominium conversion applicants and work with HCIDLA to more readily share information needed for evaluating cumulative impacts of condominium projects on rental markets under this provision.

- Instruct the DCP to provide staff guidance on how to best evaluate cumulative impacts on rental markets and develop model criteria.

3. *Adoption of an annual cap on demolitions of RSO units based on an appropriate percentage of the RSO housing stock.*

An annual cap on demolitions of RSO units, as suggested by the Koretz/ O'Farrell Motion (CF 15-0728), would prevent or delay demolition permits when a certain threshold is met. An annual cap would apply regardless of other considerations, such as whether the project resulted in a net gain in affordable housing units, etc. As a result, new housing production could be limited (or delayed) during certain years. Benefits from preserving rent stabilized units must be weighed against the importance of increasing the supply of new housing units during a time of extremely low vacancy. It is also important to understand that, while demolitions could possibly be delayed under an annual cap, they will eventually occur because the City cannot lawfully prevent a landlord from exiting the rental market under the Ellis Act unit removal process.

4. *Adapting the concept of AB 2222, which calls for density bonus projects to replace pre-existing affordable units on a one-to-one basis, for City use, including its use for such projects that seek zone changes, receive government subsidies or remove RSO or other affordable units, and mandate on-site replacement.*

AB 2222 (2014) requires the one-to-one replacement of units inhabited by low-income households or subject to the RSO as part of a density bonus project. The Koretz/O-Farrell Motion (CF 15-0728) seeks to expand this policy to other types of projects. This policy was partially adopted as part of Measure JJJ in November 2016 and is now standard for all housing projects of 10 or more units that utilize density bonus, general plan amendments, zone changes, and height district changes. The DCP has identified a few additional entitlement tools in the regulatory framework for projects that are able to obtain significant increases in density through other entitlements, without affordable housing protections.

The DCP recommends continuing to pursue affordable housing replacement provision for projects that seek significant increases in density or other zoning relief. Such a requirement is believed to be permitted under the Costa-Hawkins Act because such projects receive direct assistance from the City.

Recommendation:

- Direct the DCP to implement the housing replacement provisions of Measure JJJ and pursue additional one-to-one affordable housing replacement provisions for projects that obtain additional density through alternative entitlement pathways such as certain conditional use permits, eldercare facilities and public benefit procedures. This could be included as part of the Value Capture policy, currently being considered by the City Council (CF 14-1325 S-1).

5. *Review the impact the Small-Lot Subdivision ordinance is having on RSO units when they are replaced by multiple single-family homes that subsequently are renter-*

occupied, and identify mechanisms to preserve RSO status or other affordability, minimizing use of the ordinance to evade Ellis Act re-use restrictions.

The purpose of the Small-Lot Subdivision Ordinance is to provide more affordable for-sale housing options by permitting small lot developments in the form of detached townhouses on lots zoned for multifamily development. The ordinance has proven to be a popular way to redevelop properties in certain areas of the City. However, the loss of RSO units as a result of some small lot projects has raised concerns.

According to information provided by HCIDLA, there have been a total of 29 small lot subdivision projects that resulted in the loss of RSO units from 2010 through 2014. This compares to a total of 123 small lot projects that were approved during the same time period, which included a total of 1,243 new units. The DCP has only recently begun tracking the loss of units by project type so the extent of the impact on the number of units demolished cannot currently be ascertained. The DCP can report back on the impacts of the small lot program in more detail when sufficient information becomes available.

Because small lots projects typically consist of individual for-sale housing units on a single lot, they are normally not subject to any RSO housing replacement provisions of LAMC Section 151.28.

Recommendation:

- Direct the DCP to report back in more detail on impact the Small-Lot Subdivision ordinance is having on RSO units when more information becomes available.
6. *Disallowing conversion of RSO residential rental properties, removed from the rental market through Ellis, to hotels. Under existing law, it is allowable to remove a property from the rental housing market in order to convert it to a hotel.*

The Ellis Act allows for property owners to withdraw from the rental market and convert their properties to other uses such as a hotel. As such, the City may have limited authority to restrict this type of conversion and subsequent withdrawal from the long-term rental market.

Additional regulatory attention could be focused on addressing the short-term rental of residences. Short-term rentals are not presently allowed in the City, outside of two exceptions – Bed and Breakfasts and Transient Occupancy Residential Structures – both of which typically require a Conditional Use Permit.

In June 2016, the City Planning Commission approved a draft Home Sharing Ordinance (HSO), which would legalize the rental of one's own home for specified periods. The proposed ordinance also specifically prohibits buildings subject to the RSO from being used for short term rentals and disallows any residential use from being converted to a Transient Occupancy Residential Structure (a use that permits short-term rentals in units that have kitchens, therefore making them distinct from hotels). The HSO is currently pending before the Planning Land Use and Management Committee (PLUM).

Housing Committee

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CONCLUSION

If you have any questions, please contact Matthew Glesne of the Department of City Planning at (213)978-2666 or matthew.glesne@lacity.org.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

A handwritten signature in blue ink, appearing to read "Kevin J. Keller". The signature is fluid and cursive, with a long horizontal stroke at the end.

KEVIN J. KELLER, AICP
Deputy Director