

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER


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Council District: All

To: The Mayor
The Council

From:  Miguel A. Santana, City Administrative Officer 

Reference: Housing and Community Investment Department Transmittal dated February 26, 2016; Received by the City Administrative Officer on March 15, 2016; Additional Information Received on May 12, 2016

Subject: **REPORT BACK REGARDING THE ADOPTION OF A TENANT BUYOUT AGREEMENT PROGRAM FOR RENT STABILIZATION ORDINANCE PROPERTIES**

SUMMARY

On October 7, 2015, the Housing Committee instructed the Housing and Community Investment Department (HCID) to report back on the feasibility of implementing a program similar to the City of Santa Monica's tenant buyout agreement ordinance, based on a May 21, 2015 instruction from the Budget & Finance Committee in conjunction with the review of HCID's 2015-16 budget (C.F. 15-0600-S34). The HCID now requests various Mayor and Council authorizations to amend the Rent Stabilization Ordinance (RSO), the Los Angeles Municipal Code Chapter XV Administration and Enforcement, in order to prevent tenants from entering into buyout agreements without a full understanding of their rights. The HCID states that creating a Tenant Buyout Notification Program (Program) would increase tenant protections by promoting full disclosure of tenants' rights, assist in the negotiation of a fair buyout agreement and dissuade landlords from attempting to circumvent the RSO's limits on the grounds for eviction and the obligation to provide relocation assistance for no-fault evictions. The HCID also requests: 1) resolution authority and funding for two new positions, including one Housing Investigator I and one Senior Administrative Clerk, for the Rent Stabilization Division to handle the increased customer service inquiries, records requests under the California Public Records Act and tenant complaint investigations; and, 2) funding to enhance the department's database for the development of a new system module to record and track all buyout agreements.

This Office recommends approval of HCID's request to work with the Office of the City Attorney to amend the Los Angeles Municipal Code for the creation of the new Program. While this Office supports the need for additional staffing for this Program, it may be premature to add the requested resources before the Mayor and Council have approved the Ordinance and the new

Program. We recommend that the HCID report back to the Mayor and Council once the Program is approved on the financing costs to implement the new Program, incorporating these requests for additional staffing and new system module as well as any necessary RSO rental registration fee increases.

BACKGROUND

The Council adopted the RSO in May 1979 to safeguard tenants from excessive rent increases while providing landlords with just and reasonable returns from their rental units. The RSO limits the reasons for eviction of tenants from RSO-regulated properties and provides relocation assistance to tenants evicted for “no-fault” reasons. The no-fault eviction reasons allowed under the RSO include: to move in a family member or resident manager, to comply with a government agency order to vacate the rental unit, or to demolish or permanently remove the rental unit from the rental market. The current relocation assistance amounts due to tenants evicted from RSO units for no-fault reasons currently range from \$7,550 to \$19,500, depending on a tenant’s income, age, length of tenancy, family and disability status. Landlords who seek to conduct a no-fault eviction must file a landlord declaration with HCID under penalty of perjury, identifying the current tenant, rent and the reason for eviction allowed under the RSO. The RSO does not currently include a Program to monitor voluntary vacancies which may involve a cash buyout offer in exchange for tenants vacating their rental units. Unlike no-fault evictions, these buyouts are unregulated and can enable landlords to circumvent many of the restrictions that apply when a landlord executes a no-fault eviction.

Santa Monica’s Tenant Buyout Agreement Ordinance

In April 2015, the City of Santa Monica amended their tenant harassment ordinance to adopt provisions similar to those adopted by San Francisco in October 2014, which attempt to promote fairness in buyout negotiations and agreements. Before making a buyout offer, a landlord is required to give a tenant a written disclosure of the tenant’s rights, which include: the right not to enter into a buyout agreement, to consult with an attorney and/or the Rent Control Board prior to signing the agreement, and to cancel the agreement within 30 days. The regulation provides that any agreement not meeting all of the required elements is unenforceable and may be rescinded by the tenant at any time. In addition, all buyout agreements must be filed with the City’s Rent Control Board.

Proposed Amendments to the Rent Stabilization Ordinance

The HCID states that the proposed RSO provisions would require landlords to provide tenants with a statement of their RSO rights and allow tenants to rescind a buyout agreement within a specified time after signing such an agreement. This would provide tenants sufficient time to consult with an attorney, tenants’ organization or the HCID staff. The HCID recommends the following amendments to the RSO in order to ensure tenant protections with respect to buyout agreements:

- Create a definition for a buyout agreement and buyout offer, in consultation with the Office of the City Attorney, similar to the following:
 - Buyout agreement – An agreement where a landlord pays a tenant money or other consideration to vacate a rental housing unit.
 - Buyout offer – An offer by a landlord to pay a tenant money or other consideration to vacate a rental housing unit.
- Require that landlords provide tenants with a written disclosure notice of the tenant's rights under the RSO with regard to eviction and relocation assistance in a format prescribed by the Rent Adjustment Commission, including contact information for the HCID landlord/tenant hotline.
- Allow tenants to rescind buyout agreements for any reason for up to 30 days after the agreements are fully executed.
- Further provide that agreements that do not satisfy the stipulated requirements may be rescinded by the tenant at any time.
- Require that landlords file copies of all buyout agreements with HCID's Rent Stabilization Division.
- Provide tenants with an affirmative defense to an unlawful detainer and a civil remedy for actual damages and civil penalties against landlords who fail to comply with the buyout agreement regulations.

Rent Stabilization Trust Fund

The HCID states that the implementation of the educational and enforcement measures in the proposed amendments would require enhancing the existing RSO complaint processing system, as well as hiring the appropriate HCID staff. The HCID estimates the cost for the development and integration of systems for a tenant buyout monitoring and investigations module to be \$60,000 and the two new positions to be \$281,536, for a total first year cost of \$341,536. The HCID estimates the annual ongoing cost to be approximately \$281,536 for the two staff positions, which includes salaries (\$140,629), benefits and overhead (\$140,907). The HCID states that all costs (salary, expense, related costs) would be funded from the Rent Stabilization Trust Fund (RSTF).

In 2011, the HCID conducted the last RSO fee analysis, which was completed by its budget and administrative team. The RSO fees fund the RSTF, which support all the RSO programs. Under the provisions of the RSO, registration fees are split 50 percent/50 percent between landlords and tenants. The RSO fees are set based on projections of program costs. The HCID states that the current fees are sufficient to fund the programs for several years. Therefore, a yearly fee increase is not required. The HCID states that the proposed amendments to the RSO would likely require a fee analysis to increase the annual RSO rental unit registration fee. However, the HCID does not project the need for another fee analysis until approximately 2019, depending on staffing and fee collections. The HCID would report back at a later date on any impact that the creation of the new Program would have to the annual RSO rental unit registration fee.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

- 1) Instruct the General Manager, Housing and Community Investment Department (HCID) or designee, to:
 - a) Work with the Office of the City Attorney to amend the Los Angeles Municipal Code pursuant to the recommendations discussed in this report;
 - b) Report back to the Mayor and Council on the financing and staffing requirements and costs to implement the new Tenant Buyout Notification Program, including any necessary Rent Stabilization Ordinance (RSO) rental registration fee increases once the RSO amendment is approved; and,
 - c) Prepare Controller instructions and any necessary technical adjustments consistent with the Mayor and City Council action, subject to approval of the City Administrative Officer, and authorize the Controller to implement the instructions; and,
- 2) Instructs the Rent Adjustment Commission (RAC) to adopt rules and/or amend existing RAC regulations to effectuate the changes relative to language proposed in the RSO amendment and adopted by the City Council.

FISCAL IMPACT STATEMENT

There is no impact to the General Fund. The costs for a Tenant Buyout Notification Program (Program) would be funded from the Rent Stabilization Trust Fund. The Housing and Community Investment Department would report back at a later date on any impact that the creation of a new Program, if approved, would have to the annual Rent Stabilization Ordinance rental unit registration fee. As such, the recommendations in this report comply with City Financial Policies in that the recommendations only include amendments to the Los Angeles Municipal Code for the proposed creation of a new Program.

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