



# City of Santa Rosa Rent Stabilization Study

Research to Date, Program Elements, Program  
Options, and Observations

January 26, 2016

Steven Bocian, Management Partners  
Christine Butterfield, Management Partners

Management  
Partners



# Meeting Purpose

- Inform the City Council and public about project work to date
- Provide a summary of existing tenant protection programs reviewed by the City Council Subcommittee
- Provide a summary of three program options identified by the City Council Subcommittee
- Allow for public comment
- Receive direction regarding additional research
- Potentially identify a program option for further study

# Purpose of Study

- City is exploring programs related to affordable housing
- As part of the process, the Council has heard concerns about low vacancy rates, escalating rental costs, gentrification, tenant evictions and displacement
- To evaluate alternatives, the City entered into an agreement with Management Partners to expand the City Council's knowledge of
  - Rent Mediation and Arbitration
  - Just Cause for Eviction
  - Rent Stabilization

# Study Process to Date

- City Council Subcommittee
  - Chris Coursey, Councilmember
  - Julie Combs, Councilmember
  - Tom Schwedhelm, Vice Mayor
- Three Subcommittee meetings that included City staff and members of the public

# Project Status

- **Step 1**— Completed project understanding, identification of survey cities, and general information gathering
- **Step 2**— Addressed processes, high-level cost summary based on communities surveyed, presentation of three program options and outcomes
- **Step 3** — Present material at January 26, 2016 City Council workshop and subsequent meetings

# Project Approach

- Research based primarily on program data from cities with long standing programs
  - **Rent Mediation/Arbitration**— Campbell, Fremont, Gardena, San Leandro, Los Gatos
  - **Just Cause for Eviction** —Glendale, San Diego and Oakland
  - **Rent Stabilization** —Berkeley, East Palo Alto, Hayward, Santa Monica and West Hollywood

# Subcommittee Goals/Interests

- Would adoption of a program balance tenant/landlord rights?
- Would adoption of a program stabilize tenancy and preserve the community's inventory of rental housing units?
- How would, and could, the City measure program success?

# Definitions

- **Rent Mediation/Arbitration** — A voluntary or mandatory program whereby a third party meets with tenants and landlords in an attempt to reach a mutually satisfactory solution regarding a proposed rent increase.
- **Just Cause for Eviction** — A city law establishing specific criteria upon which a property owner may evict a tenant.
- **Rent Stabilization** — A city law establishing a maximum allowable annual rent increase for lease renewals excluding apartment units with a Certificate of Occupancy after February 1, 1995, single family homes, and condominiums.

# Rent Mediation/Arbitration

# Rent Mediation/Arbitration

## Surveyed Cities

Cities	Conciliation/ Mediation	Non-Binding Fact Finding	Binding Arbitration	Population	Total Housing Units
Campbell	Yes	Yes	No	40,000	16,950
Fremont	Yes	Yes	Yes*	224,000	73,900
Gardena	Yes	No	Yes	60,000	21,500
Los Gatos	Yes	No	Yes	30,000	12,630
San Leandro	Yes	Yes	No	88,000	31,865
Santa Rosa				173,071	66,605

*\*Included only if violation of a private agreement between a renter and landlord*

# Rent Mediation/Arbitration

- Enacted to address concern with escalating rents, shortage of rental units, and low vacancy rates.
- Provides a vehicle for addressing disputes between landlords and tenants in areas related to rent increases and service modifications.
- All programs implemented by City ordinance; some similarities but many unique features

# Rent Mediation/Arbitration (continued)

- All include mandatory participation. Failure to participate voids/approves rent increase in four cities.
- Applies to rental properties; two are limited to three or more units.
- Programs generally exclude transient and governmental housing.

# Rent Mediation/Arbitration (continued)

- Requirements to initiate a petition include:
  - Rent increases in excess of a predetermined amount (typically, 5%/10%)
  - Dollar amount of increase/ CPI Index
  - Tenants must be current with rent payments and not be in lease default (Two communities)
  - Los Gatos requires 25% of tenants to sign petition
- Requires tenant *right to know* notification provisions with rent increase notice and/occupancy
- Rent increase noticing consistent with state law (*30 days for 10% or less and 60 days for 10%+*) (Fremont encourages 90 days)

# Rent Mediation/Arbitration (continued)

- City not party to mediation/arbitration agreements, but agreements are binding between parties.
- Typically include no retaliation provisions, some with penalties.
- Could have power of subpoena (relates to non-retaliation provisions).
- Two programs stay rent increase until completion of process; one requires rent deposit based on timelines.

# Rent Mediation/Arbitration (continued)

- Drafted to imply burden of proof on landlord.
- San Leandro provides for appeal to the City Council.
- May be a defense during eviction proceedings for failure to pay rent.

# Rent Mediation/Arbitration (continued)

- Designed to be an incremental process
- **Conciliation** - Limited intervention involving communication between tenant and landlord
- **Mediation** - Requested by either party no attorneys or third parties, detailed criteria for submittals, confidential, employ standards of reasonableness including, previous increases, market rates, operating costs, etc.

# Rent Mediation/Arbitration (continued)

- **Fact Finding** - Decision in the form of a recommendation, standards of reasonableness
- **Arbitrations** -Binding, City appoints arbitrator, allows legal counsel, cost split between parties, any imposed rent increase subject to Cost-Hawkins Act (excludes single-family and condos with CO after February 1, 1995), rarely used in a city without rent stabilization

# Rent Mediation/Arbitration

## Utilization of a City Commission

City	Commission	Membership	Frequency
Campbell	Fact Finding Committee	Five members	Meets as needed
Fremont	No Commission/ City Manager may form Fact Finding Panel	Fifteen members	As determined by City Manager
Gardena	Rent Mediation Board	Fifteen members	Meets monthly
Los Gatos	No Commission		
San Leandro	Rent Review Board	Five members	Meets monthly

# Rent Mediation/Arbitration Usage and Costs

## Annual Usage and Cost Data\*

City	Administration	Total	Mediation	Arbitration	Cost
Campbell	Project Sentinel	124	10	0	\$54,000
Fremont	Project Sentinel	59	7	0	\$15,000
Gardena	City	8	5	0	\$ 9,500
Los Gatos	Project Sentinel	57	7	0	\$34,000
San Leandro	ECHO Housing	14	2	0	\$25,000

*\*Based on most recent information, generally 2014-15*

# Rent Mediation/Arbitration Advantages

- Creates an outlet to settle rent-related disputes
- Provides tenants with increased voice in process
- May help in tracking rent-related issues to help City address rent-related concerns
- Provides for increased notification process
- Could delay rent increase while going through the process
- Defense for tenants during eviction

# Rent Mediation/Arbitration Disadvantages

- Arbitration subject to Costa-Hawkins; limits overall effectiveness
- Limited utilization of actual mediation process
- Overall impact is difficult to determine
- No data showing lower rents overall or increased length of tenancy
- Some processes are cumbersome
- No best practices, would need to be customized
- Advantages over a voluntary notification and rent dispute program is uncertain

# Just Cause for Eviction

# Just Cause For Eviction

- Enacted to address housing shortage, tenant stability, concern for lower income households, threats of eviction
- Expands tenant eviction rights included in state law
- Requires eviction notice stating reason for eviction that exceeds state requirements (30-day to 60-day)
- No direct City involvement, civil matter between tenant and landlord (Oakland has Rent Board and City Attorney may intervene)

# Just Cause For Eviction (continued)

- Includes retaliation/anti-harassment provisions
- Relocation assistance (Glendale and Oakland)
- Affirmative defense provisions
- Part of an overall rent stabilization program

# Just Cause For Eviction

## Examples of Reasons For Eviction

- Nonpayment of rent
- Continued denial of unit access
- Owner's desire to remove unit from market
- Disorderly conduct or destruction of property
- Disorderly conduct destroying tenant's peace and quiet
- Unlawful drugs or use of unit for illegal purposes

# Just Cause For Eviction

## Examples of Reasons For Eviction (continued)

- Destruction of property
- Allow owner/relative occupancy
- Member of a protected class
- Smoking in violation of requirements
- Refusal to renew lease
- Ellis Act provisions

# Just Cause For Eviction Advantages

- Establishes eviction requirements for 30-day and 60-day evictions
- Increases noticing requirements (Oakland)
- Shift the burden of proof from tenant to landlord
- Use as a defense for evictions
- Minimal program administration
- Promotes stability in the rental housing market
- Potential for financial relocation assistance

# Just Cause For Eviction Disadvantages

- Overall impact of standalone programs have not been determined through our work to date
- Pressure from property managers/owners regarding autonomy in managing properties
- Most often linked to rent stabilization programs
- Have not yet identified data indicating these programs create property management issues or significant results for tenant

# Rent Stabilization

# Rent Stabilization

- Rent stabilization in California
  - Costa Hawkins exempts properties
    - a) certificate occupancy after February 1, 1996
    - b) single-family and condo tenancy after January 1, 1996
    - c) properties exempt on or before February 1, 1996
  - Ellis Act allows landlords to remove units from rental system (1985)
  - Communities surveyed with programs include Berkeley, East Palo Alto, Hayward, Santa Monica, West Hollywood

# Rent Stabilization (continued)

## Surveyed Cities

Jurisdiction	Population	Rental Units	Vacancy Rate	Rent Controlled	30% + Income*
Berkeley	118,780	25,285	3.1%	19,000	55%
East Palo Alto	29,137	4,308	n/a	2,325	72%
Hayward	152,889	22,650	1.1%	11,200**	61%
Santa Monica	93,283	32,951	0.1%	28,069	51%
West Hollywood	35,825	16,547	n/a	15,681	54%
Santa Rosa	173,071	18,808	1%	13,386	47%

\* Residents paying 30% or more of income toward rent

\*\* Staff reported 3,000 units in 2015

# Rent Stabilization (continued)

## General Components

- Programs funded through registration/administration and enforcement fees (50% passed on to tenant)
- Created to protect tenants from unwarranted rent increases and arbitrary, discriminatory, or retaliatory evictions
- Due Process: Petition Process and Hearing Examiner
- Housing quality and housing services (owner/landlord compliance)
- Inclusion of just cause eviction, anti-harassment, and tenant/landlord counseling and mediation

# Rent Stabilization (continued)

## Public outreach and training

- Rent control exemptions: Hospitals, Motels, Government funded with affordability covenants, Single Family
- Subleasing tied to lease agreement
- Optional program suspension - 5% vacancy rate
- Other related programs (condo conversion, rental business license fees, relocation assistance, inclusionary housing programs, Ellis Act notice processes, etc.)

# Rent Stabilization Governance and Cost

Jurisdiction	Governance	Staff and Cost
<b>Berkeley</b>	9-member elected Board	20.75 FTE/ \$3,911,005
<b>East Palo Alto</b>	7-member Board appointed by the City Council	2 FTE/\$637,370
<b>Hayward</b>	No Board or Commission	2 FTE * /unreported (i.e., personnel, supplies and Project Sentinel contract)
<b>Santa Monica</b>	5-member elected Board	25.80 FTE/\$4,408,252
<b>West Hollywood</b>	7-member Commission appointed by the City Council	12 FTE/\$2,190,927 (FY2014-2015)  \$5,634,443 FY2013 Housing Trust Fund Payment included

\*Staff also assume other responsibilities

# Rent Stabilization Advantages

- Mechanism to identify and engage landlords and tenants, including education programs
- Stabilize rent increases and population
- Provides an incentive for tenants to remain in stabilized units
- Units comply with code (habitability)
- Established process to address landlord/tenant disputes
- Facilitate rental housing reinvestment
- Track controlled units

# Rent Stabilization Disadvantages

- Affordable housing gap persists for residents at or below Area Median Income (AMI)
- Neutral affect on vacancy rates in the short-run
- Threat of reduction in rental units in the long-run through increased condominium conversion
- Vacancy decontrol prohibits comprehensive application to all rental units (only units built before 1995 can be “controlled”)

# Program Options

# Program Options Background

## Context

- Potentially one tactic in an overall affordable housing strategy
- Subcommittee requested an assessment of these interests:
  - Balance of landlord/tenant rights
  - Stabilization of tenants in housing and preservation of existing rental housing inventory
  - Measures for effectiveness

# Program Options Background

## Context (Contd.)

- Further analysis related to Santa Rosa's housing needs assessment to identify which option or hybrid, would provide a "best fit," (i.e., what are the specific problems, solutions and overall desired outcomes?)
- Cost and staffing information is based on survey cities. These options do not reflect an analysis of Santa Rosa's financial policies or resources.
- Public engagement process would help define program direction and parameters

# Program Options

- Overview of three conceptual programs
  - *Option 1 — Mandatory Rent Mediation and Just Cause for Eviction (JCE)*
  - *Option 2 — “Soft” Rent Stabilization*
  - *Option 3 — Rent Stabilization*
- Guide (key elements) for development of an ordinance and program administration
- Santa Rosa housing needs assessment and public engagement necessary to define option with “best fit,” (i.e., what are the specific problems, solutions and what are the City’s goals?)

# Option 1 — Rent Mediation/ Just Cause For Eviction

- Mediation available to tenants experiencing an annual rent increase above a identified amount (Budget assumes 10%)
- Applies to multi-family units in excess of three units, with exemptions. (Could include single family and condominiums.)
- Includes notification requirements, no retaliation provision
- Administered by local non-profit organization
- Typically includes a city commission/committee

# Option 1 — Rent Mediation/ Just Cause For Eviction (continued)

- Landlord participation required
- Relocation payment and one year lease incentive
- 0.4 FTE assigned for program management
- Annual rough cost estimate \$20,000  
(Involvement could grow depending on City involvement, number of cases, and rent increase trigger.)
- May be two separate programs/ordinances
- Similar to San Leandro and Glendale model

# Option 2 – “Soft” Rent Stabilization

- Rental properties with five or more units, with exemptions
- Subject to Costa-Hawkins requirements
- Maximum rent increase of 5%
- No tracking of units
- Full cost recovery through City fee

## Option 2 – “Soft” Rent Stabilization (Continued)

- Allows for units to be removed when a unit is voluntarily vacated and completion of property improvements
- Administered by City staff and local non-profit organization
- 0.20 to 0.50 of two FTE
- Annual rough cost estimate \$27,900
- Similar to City of Hayward

# Option 3 – Rent Stabilization

- Requirement to register and track eligible units
- Independent rent board
- Subject to Costa-Hawkins requirements
- Maximum allowable rent increases linked to a percentage of a CPI index
- Includes a range of housing programs such as due process with hearing examiner, housing quality standards, JCE, anti-harassment, public outreach and training

## Option 3 – Rent Stabilization (Continued)

- Full cost recovery through City fee
- Administered by rent board staff
- 21.1 FTEs to manage and operate program
- Annual rough cost estimate \$3.7 million
- Similar to City of Berkeley

# Option 1 — Rent Mediation and JCE Advantages

- Effective vehicle to address rent-related grievances
- Promotes tenant stability
- Improves landlord/tenant communications
- Contains retaliation provisions
- Potentially contains relocation provisions
- Minimal administration expense using non-profit organization
- Many program alternatives and models available to address basic program intent
- May reduce no cause evictions

# Option 1 — Rent Mediation and JCE Disadvantages

- Will not address affordable housing concerns but would be important component of an overall strategy
- No available data on impact of tenant displacement

# Option 2 – “Soft” Rent Stabilization Advantages

- Stabilizes rent increases
- Requires code compliance
- Attracts rental housing stock investment
- Method to address landlord/tenant disputes
- Facilitates fair return on investment
- Minimal administrative cost and no independent rent board

# Option 2 – “Soft” Rent Stabilization Disadvantages

- Affordable housing gap exists
- Neutral on vacancy rates
- Rent stabilization could be short term

# Option 3 – Rent Stabilization Advantages

- Registration of units
- Methods to identify, inform and engage landlords and tenants
- Reasonable and predictable rent adjustments
- Code compliance
- Dispute resolution process
- Incentivizes tenant to remain in units

# Option 3 – Rent Stabilization Disadvantages

- Affordable housing gap persists
- Neutral on vacancy rates
- Administrative structure
- Potential for reduced number of units through Ellis Act
- Costa-Hawking limits overall impacts

# Subcommittee Interests

Interest	Option 1	Option 2	Option 3
<p><b><i>Balances Tenant/Landlord Rights</i></b></p>	<ul style="list-style-type: none"> <li>• Yes</li> <li>• Dispute resolution process</li> <li>• JCE</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> <li>• More certainty in rent increases</li> <li>• JCE</li> <li>• Establishes a decontrol process</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> <li>• Outreach program</li> <li>• More certainty in rent increases</li> <li>• JCE</li> <li>• Some maintain it shifts balance to tenants</li> </ul>
<p><b><i>Stabilization of Tenants in Housing and Preservation of Rental Housing Inventory</i></b></p>	<ul style="list-style-type: none"> <li>• Mediation has limited impact</li> <li>• JCE</li> </ul>	<ul style="list-style-type: none"> <li>• Predicable rent increases</li> <li>• JCE</li> <li>• Incentivizes capital improvements</li> <li>• Costa-Hawkins and Ellis Acts limitations</li> </ul>	<ul style="list-style-type: none"> <li>• Significant stabilization for rent related causes</li> <li>• JCE</li> <li>• Wide range of programs</li> <li>• Costa-Hawkins and Ellis Acts limitations</li> </ul>

# Subcommittee Interests

Interest	Option 1	Option 2	Option 3
<b><i>Measures for Success</i></b>	<ul style="list-style-type: none"> <li>• Tenant contacts</li> <li>• Dispute requests filed</li> <li>• Mediation results</li> <li>• Tenant evictions would not be tracked</li> </ul>	<ul style="list-style-type: none"> <li>• Tenant contacts</li> <li>• Dispute requests filed</li> <li>• Mediation and arbitration results</li> <li>• Compare market rents vs. stabilized increases</li> <li>• Track capital improvements</li> </ul>	<ul style="list-style-type: none"> <li>• Tenant contacts</li> <li>• Dispute requests filed</li> <li>• Mediation and arbitration results</li> <li>• Track unit occupancy-tenure to analyze relocations, evictions, disputes</li> <li>• Compare market rents vs. stabilized rents</li> <li>• Overall program compliance</li> </ul>

# Cost and Fee Information

Category	Option 1	Option 2	Option 3
<b><i>Annual Cost Estimate based on Survey Data</i></b>	\$20,000*	\$27,900	\$3.7 million
<b><i>City Staffing</i></b>	0.4 of 1 FTE	Between 0.2 and 0.5 of 2 FTE	21.1 FTE
<b><i>City Fee for Eligible Units</i></b>	No Fee	\$2.08/ unit	\$281/unit

Cost, staffing and fee information is developed based on survey data. It does not take into account City financial policies, available resources, availability of nonprofit resources, existing need or anticipated demands.

\*Assumes a rent increase trigger at the higher end near 10%. A lower trigger would increase cost.

# Additional Research Information

- During eight months in 2014, a total of 70% of East Palo Alto clients facing evictions obtained agreement to remain in place through “pay and stay agreements.” This compares to 14% through the San Mateo County. (Community Legal Services in East Palo Alto)
- Displacement research contacts consistently expressed that successful programs offer both just cause for eviction protections and rent stabilization provisions. They reported that the combination of these provisions lead to balancing the relationship between tenants and landlords.

# Additional Research Information (continued)

- Tracking tenant movement is complex. It is unlikely that that data are available indicating the specific impacts of specific programs such as rent control/stabilization.
- The limited number of rent control programs makes it difficult to quantify data, even if they were available.
- General sense is that rent stabilization and just cause for eviction may slow down turnover rates for certain residents

# Future Decisions/ Considerations

- Overall program purpose and goals?
- Program elements to be included: units covered, identification of nonprofit's role, City involvement, key indicators (i.e., amount of allowable rent increase), relocation expenses, etc.
- Method of adoption (City ordinance, municipal election)
- Community outreach

# Next Steps

## **Based on this presentation**

- What is missing?
- Is there a specific program that resonates and warrants additional research, including more detailed implementation and annual operating costs?
- Provide a “buffet” of program elements for preferred option
- Legal/Financial analysis
- Focus for next City Council meeting

# Study Session

## Discussion and Questions



# City of Santa Rosa

## Rent Stabilization Study

Research to Date, Program Elements, Program  
Options, and Observations

[Sbocian@managementpartners.com](mailto:Sbocian@managementpartners.com)

(408) 437-5400

Management  
Partners

