

REQUEST

The Alameda Rental Housing Community Discussion Group requests the City Council to direct staff to evaluate the six provisions currently being commented on by the general public and tenant and housing provider interests.

BACKGROUND

On September 16, 2014, the City Council voted to allow tenants and housing providers to engage in a community based discussion on rental housing issues facilitated by Jeff Cambra. The objective of the community-based discussion as presented to the City Council was described as follows:

Given the complexity of rental housing issues, the broad impacts of any proposed solution or solutions on a diverse stakeholder group, and the emotional connection a person has to their residence regardless of their status as a renter, it is suggested that an interest based community discussion made up of stakeholder groups would serve to bring those directly affected by the issues relating to rental housing together in a joint and cooperative effort to:

- identify the issues that both renters and landlords experience as part of the tenancy,
- prioritize the issues under a scheme developed by the stakeholders, and
- work collaboratively to develop solutions to the prioritized issues drawing on their own experiences, research, and resources available from other jurisdictions and organizations.

DISCUSSION

The Alameda Rental Housing Community Discussion Project (Project) involved the organization of the City's tenants and housing providers into two general point of view (POV) groups and further dividing each POV into several stakeholder interests for the purpose of identifying issues each POV group was experiencing.

Based on individual meetings with the tenant and housing provider community, each POV group identified what they believed were the stakeholder interests.

Tenant POV Stakeholders

Senior residents, persons with disabilities, low income and moderate income individuals, families, tenants with "model" housing providers, and tenants that experience questionable management practices unrelated to rent increases.

Housing Provider Stakeholders

Owners of specific types of residential property were considered stakeholders within the housing provider POV. The property types included owners of single family homes/condos/townhouses; Victorian conversions, duplexes to 4 unit buildings, 5 to 15 unit buildings, 16 to 99 unit buildings, and complexes with 100 or more units. Rental Housing Management companies are also stakeholders.

The project experienced difficulty in filling all the stakeholder groups on each POV group with representatives for a number of reasons. Within the Tenant POV group, due to the absence of any significant pre-existing organizational structure for tenant interests, it was difficult to contact tenants that would be able to represent the interests of each stakeholder group. Additionally, many potential tenant stakeholder candidates were reluctant to participate in any public meeting for fear of being recognized by their housing provider and having their rents raised or tenancies terminated.

“There is a reason renters are not going to show their faces in public - it is because they do not want their landlord or representatives from the handful of large property rental agencies to see them in public speaking out about their fear of a rent hike or eviction.” The Alamedan, November 13, 2014 *Renters offer their stories at community forum*, Comment by C.

“Tenants won't speak up at Jeff Cambra's public meetings because they don't want to rock the boat in this crazy market and have no protections. I invited 5 friends, 2 who have landlords who raised their rents raised 25%+ this year and all were afraid to come to the meeting. As I quote a friend, ‘I really want to come, but I'm afraid my landlord may be there and I don't want any problems.’” Alameda Renters Coalition Facebook, November 19, 2014, Treated as confidential comment.

These situations are being addressed by the formation of the Alameda Renters Coalition – Facebook group that started in September of 2014 and currently has 367 members. Renewed Hope’s Tenant Committee has also seen an increase in attendance further expanding the available pool of possible representatives. At this time, these two groups have assumed the role of stakeholder for the Tenant POV group.

The same lack of an existing organizational structure has left a number of stakeholder positions empty in the Housing Providers POV group. The three public meetings have generated a larger group of housing providers who have become increasingly involved in the discussion. The City’s rental housing management companies have also provided information and comments.

The Project scheduled three public meetings. The first meeting was a tenant focused event where tenants were allowed to present their concerns to the public. Renewed Hope read comments that were received with requests to remain anonymous. Comments ranged from specific examples of tenants experiencing significant rent increases to examples of maintenance issues and fear of being priced out of the rental market in Alameda due to raising rents.

The second meeting was a housing provider focused meeting where individual property owners described the types of expenses they were facing and that these expenses were increasing due to increased government regulation and voter approved taxes. Owners and managers of the larger properties indicated that their 8 to 10 year return figures were very

low and at least one housing provider indicated that their practice was to take reasonable rent increases annually.

Based on the two public meetings and several individual tenant and housing provider meetings, the most pressing issues involved the need for an accurate and reliable data collection point to identify individual situations where a small number of housing providers were noticing significant rent increases and developing a method for informing tenants of their ability to have a rent increase case heard by the Rent Review Advisory Committee. The project focused its activity on identifying ways to address these two issues.

The third meeting held on January 7, 2014 involved the presentation of six discussion points that originated in the public meetings and were reinforced in individual tenant and housing provider POV group meetings. A smaller focus group consisting of both tenant and landlord interests vetted the six provisions before being distributed to the larger POV groups and the public. These six points should *not* be considered recommendations to the City Council. The stakeholders are only now commenting on each of them. A more accurate summary of the comments and the views of the stakeholders might be available at the January 20, 2015 City Council meeting.

The six discussion points are:

Discussion Point #1: Failure to participate in the hearing process in good faith.

This discussion point would require a tenant or housing provider who is unable to attend the hearing to send a responsible party to attend the hearing and represent him/her/it. The representative of a tenant or housing provider who attends a meeting of the RRAC without any authority to reasonably consider proposals presented during the mediation process would be considered to not be participating in good faith and this would constitute a violation.

Discussion Point #2: Participation in the hearing process required.

This discussion point would require both the tenant and landlord to attend a RRAC hearing.

If the *housing provider* fails to appear or have a responsible party appear at the hearing without good cause, the rent increase would be void.

If a *tenant* fails to appear before the Committee without good cause, or if both the tenant and housing provider fail to appear without good cause, the Committee will dismiss the case, and the tenant will be barred from subsequently challenging such increase before the Committee.

The requirement to participate and the associated penalties for failure to participate applies to all parties and all subsequent hearings resulting from the original request for hearing.

Discussion Point #3: Requires that notice of option to participate in a hearing be given in writing with any notice of rent increase over a specific defined percentage.

This discussion point would require the housing provider to provide notice of the availability of the City's rent review procedure with each rent increase over a certain percentage.

The notice would need to be in writing, provide the name, address and phone number of the housing provider, and be personally delivered to the tenant or mailed to the tenant at the address of the tenant's rental unit by first class mail, postage pre-paid.

SUGGESTED TEXT OF NOTICE.

NOTICE: Under Civil Code Section 827(b) a housing provider must provide a tenant with thirty (30) days notice prior to a rent increase of ten percent (10%) or less and sixty (60) days notice of a rent increase of greater than ten percent (10%).

Under Title X, Chapter XX of the Alameda Municipal Code, a housing provider must at the same time provide this notice of the City's rent review procedure before demanding or accepting any increase in rent. If you have received notice of a rent increase that will increase your rent more than X percent (X%) above the rent you paid last month or the rent increase follows one or more prior rent increases within the past twelve months, you may request the Alameda Rent Review Advisory Committee to review the increase. Before filing a request for review, you should contact the owner or manager of your rental unit to discuss a rent increase.

A request for rent review must be made in writing within ten (10) days of your receiving notice of the rent increase (*or post marked no later than 10(7??) days after receipt of the rent increase notice if the request is being mailed*). You must submit a copy of the Notice of Increase at the same time you submit the Hearing Request. If you request review of the rent increase, you and your housing provider will be required to appear before the Committee for a hearing on your rent dispute. After hearing from you and your housing provider, the Committee will make a non-binding recommendation for resolution of the rent dispute. To request review of your rent increase, please contact the Committee through the Alameda Housing Authority, 701 Atlantic Avenue, Alameda, CA 94501 or by calling (510) 747-4300. Under Civil Code Section 1942.5, it is illegal for a housing provider to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

Discussion Point #4: Retaliation Prohibited

This discussion point restates California state law, which provides that it is illegal for a housing provider to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights. Filing an unlawful detainer action (eviction) against a tenant based solely on the action of the tenant for exercising his or her rights under this section within six months of a hearing shall be considered a retaliatory eviction. An unlawful detainer

action based solely on the failure to pay a current rent obligation or material violations of a written agreement (lease) will not be presumed to be retaliatory.

Discussion Point #5: Requirement on postponing effective date of the increase in order to complete the hearing process:

The vast majority of the members of the joint committee agreed to a new approach to #5, which said that the joint group wanted to have the City look into an expedited hearing process so that the amount of the rent increase would not accrue during the pendency of the mediation hearing. The Alameda Housing Authority and the Rent Review Advisory Committee will be directly involved in any discussions regarding an expedited hearing process.

Discussion Point #6: Hearing participation requirement based on an amount or percentage of increase.

This discussion point would require a minimum percentage of a rent increase before a tenant or a housing provider could submit an application for a mediation hearing.

While the six discussion points were the result of presentations at the public meetings and grass roots discussions in the POV groups, it is interesting to note that a number of cities have added provisions to their municipal codes to implement these same six discussion points. The City of San Leandro and the City of Fremont have extensive provisions providing for a non-binding mediation process to resolve tenant/landlord issues. Other jurisdictions that provide non-binding mediation services include the City of San Jose, City of Santa Barbara, City of Goleta, City of Carpinteria, the unincorporated areas of Alameda and Santa Barbara Counties.

In order to develop these discussion points further, it is requested that the City Council direct staff to evaluate the work done to date and report back to the City Council.

Respectfully submitted,

Jeff Cambra, Community Facilitator