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Details
File #: 2015-2210
Type: Regular Agenda Item
Body: [City Council](#)
On agenda: 11/4/2015
Title: Recommendation to Receive a Report Analyzing the Impact of Rising Rents on Alameda Residents; Public Hearing to Consider Additional Tenant Protections and Provide Direction to Staff about Policies to Pursue regarding Enhanced Mediation/Rent Stabilization, Just Cause Eviction Protection and/or Relocation Benefits, the Composition of the Rent Review Advisory Committee (RRAC), and the Use of Boomerang Funds to Expand the City's Supply of Permanent Affordable Housing; and Consider Adoption of Urgency Ordinance Imposing within the City of Alameda a Temporary (65 Day) Moratorium on Certain Residential Rent Increases and on Evictions from All Residential Rental Units Except for Just Cause Eviction for the Immediate Preservation of Peace, Health or Safety. [Requires four affirmative votes] (City Manager 2110)
Attachments: [1. Exhibit 1 - Alameda Rent Study](#), [2. Exhibit 2 - Other Data Received](#), [3. Exhibit 3 - Sample of Bay Area Cities with Rent Control/Composition of Rent Boards](#), [4. Exhibit 4 - Policy Arguments Regarding Rent Stabilization, Just Cause Evictions, Relocation Benefits](#), [5. External Correspondence](#), [6. Urgency Ordinance](#)

Text

Title

Recommendation to Receive a Report Analyzing the Impact of Rising Rents on Alameda Residents;

Public Hearing to Consider Additional Tenant Protections and Provide Direction to Staff about Policies to Pursue regarding Enhanced Mediation/Rent Stabilization, Just Cause Eviction Protection and/or Relocation Benefits, the Composition of the Rent Review Advisory Committee (RRAC), and the Use of Boomerang Funds to Expand the City's Supply of Permanent Affordable Housing; and

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Body

To: Honorable Mayor and Members of the City Council

From: Elizabeth D. Warmerdam, Interim City Manager

Re: Receive a report analyzing the impact of rising rents on Alameda residents; conduct a public hearing and provide direction to staff about policies to pursue regarding enhanced mediation/rent stabilization, just cause eviction protection, and/or relocation benefits, and the composition of the RRAC; direction is also requested regarding consideration of the use of Boomerang funds to expand the City's supply of permanent affordable housing; and consider adopting an Urgency Ordinance for the immediate preservation of the public peace, health or safety enacting a temporary moratorium on rental increases and/or evictions without just cause

BACKGROUND

In September 2014, at the request of property owners and tenants, in lieu of establishing a task force to study the impacts of rising rents on Alameda residents, the City Council endorsed a community engagement process that was led by Mr. Jeff Cambra. Mr. Cambra worked with both property owner and tenant representatives to develop a series of recommendations to strengthen the City's rent review process. That effort resulted in consensus on six points that were presented to the City Council in January of this year. In response to the six points on which consensus was achieved, the City Council adopted two ordinances. Both ordinances were effective on October 1, 2015.

One ordinance strengthens the City's rent review process in two ways. First, the ordinance requires notice of the City's Rent Review Advisory Committee (RRAC) and its mediation program when a property owner provides a tenant with a rent increase notice. Failure to properly notice a tenant of the availability of the RRAC process renders the noticed increase null and void. Second, if a tenant files a Rent Increase Complaint (RIC) form with the RRAC, the property owner's participation in the process is mandatory. Failure on the part of the property owner to participate in the RRAC process renders the rent increase null and void. Violation of the ordinance can be used as evidence in a defense of an unlawful detainer action. The second ordinance codifies the RRAC's rules and regulations in the Alameda Municipal Code (AMC).

In addition to adopting the two ordinances to strengthen the City's rent review process, in May 2015, the City Council authorized staff to retain a consultant to analyze the City's rental market. The City retained BAE Urban Economics (BAE) to prepare a City of Alameda Rent Study (Exhibit 1). The report's findings are discussed below.

Over the last 12 months, vacancies in rental units continue to be very low and rents continue to increase. As a result, some residents have requested the City Council to do more to protect renters. Suggestions have ranged from adopting a moratorium on rent increases and no cause evictions - and then adopting strict rent control regulations that would limit rent increases and require only "just cause" evictions - to adopting other tenant protections (but short of rent control), such as mandating that the RRAC hear rent increases above a certain percentage, or providing relocation benefits for no cause evictions. As a result of residents' concerns regarding the impacts of rising rents and low vacancy rates, at its October 6, 2015 meeting, the City Council requested that a special meeting be scheduled to discuss these critical issues.

This agenda report summarizes the report prepared by BAE and provides an overview of rent control and other tenant protections and describes the legal authority, and limitations, of local governments to adopt such measures. It concludes with various policy options that the City Council may consider. Staff has also prepared a draft urgency ordinance that would put a temporary moratorium in place prohibiting rent increases or evictions without just cause for the Council's consideration. As drafted, the moratorium would be in effect for no more than 65 days to allow time for staff to draft tenant protections/rent stabilization/just cause eviction regulations as directed by Council. If the City Council provides direction this evening, staff would endeavor to return to the Council with proposals on which to act at its December 15 meeting. However, staff may need additional time and would therefore, at the latest, return the item for further discussion at the January 5, 2016 meeting.

DISCUSSION

City of Alameda Rent Study

BAE prepared its report using relevant published and unpublished data sources, including the US Census for 2000 and 2010, the American Community Survey, and the Alameda County property tax rolls. There are some inconsistencies between the data sources due to methodology and when the data was collected. However, when taken together, the various data sources provide a composite picture of rental housing trends in Alameda.

These trends include:

Population pressure on limited rental housing supply. Population in Alameda County has grown significantly in the last 15 years, increasing by 6.1%. In that same time frame, the County's overall population increased by 10.4%. The increase in the number of rental units, however, has not kept pace with population growth. Indeed, for

many years Measure A has limited multifamily construction. The effects of this supply constraint can be seen when measured as a ratio of new multifamily construction for the past 15 years compared to population. Alameda has built just 1.49 multifamily units per 1,000 population compared to 20.96 multifamily units per 1,000 population throughout the Bay Area. This has contributed significantly to Alameda's inability to house its growing renter population.

Not surprisingly, the City's rental units are almost fully occupied. Alameda has had consistently lower rental vacancy rates compared to many other jurisdictions in the East Bay. In 2013, for example, Alameda showed an extremely low rental vacancy rate of 1.4%, compared to an overall County rate of 3.8%. During the third quarter of 2015, the City's largest apartment buildings (with 50+ units) had a vacancy rate of 2.7%, which, when compared to vacancy rates throughout the County, is the seventh lowest vacancy rate among the 13 cities. In addition, Alameda County has the lowest vacancy rate among the inner five Bay Area counties.

Rapid rise in residential rents. The median rent in the City has increased by 54% during the 13-year period between 2000 and 2013 (average annual increase of 4.15%), and in that same time frame, the median rent Countywide increased 56% (average annual increase of 4.31%). Between 2010-2013, the County's median rent increased 15% (average annual increase of 5%) and Alameda's median rent increased 12% (average annual increase of 4%). More particularly, for Alameda's 20 rental properties with 50 units or more, rents have increased by 52% in the four years between 2011 and 2015 (average annual increase of 13%). Based on data for apartment buildings with 50+ units, which comprise 17% of the City's rental housing stock, Alameda has the eighth highest average rent among the 13 cities in Alameda County, at \$2,225 per month.

It should be noted that while there is data documenting a significant increase in rents over the last four years for buildings with 50+ units, there is no corresponding reliable data for buildings with fewer than 50 units. The majority of Alameda-based housing providers own much smaller properties. Based on staff conversations with these owners, and previous testimony at City Council meetings, a number of these owners follow best management practices including regular increases, increases of less than 10%, providing advanced notice of rent increases when possible, etc.

Renters' household income has not kept pace with the rapid rise in rents. Between 2000 and 2013, median household income for those that rent in Alameda increased by 29% but rents increased by 54% during the same period. In comparison, household income for homeowners increased by 52% over the same period. On average, households that own (or are purchasing) their homes have more than double the incomes of renters and their incomes have grown at a faster rate than renters.

Increased rent burden has affected all household types, but has more acutely impacted the elderly and non-family households. The BAE study found that in 2012, 2,975 very low-income rental households, or 19% of all Alameda rental households, have a "severe" housing cost burden, meaning that their housing costs exceed 50% of their income. The elderly (aged 62 and older) comprise 610 of these very low-income, severely cost-burdened households.

Alameda has a greater share of long-time renters than the County average. Approximately 52.5% of renter households moved to their current Alameda address before 2010, of which over 13% have been at their current address since 1999 (Countywide, the average is 40.5%).

Short-term rentals (such as AirBnB) are not removing units from the rental market. BAE's research determined that as of September 1, 2015, there are approximately 100 active AirBnB hosts in Alameda, covering all room types (entire homes, apartment units, private rooms, and shared rooms). This represents less than 0.3% of the City's housing stock. Approximately 80% of the hosts have only one listing and the typical host earned \$3,800 per year from the rental. On average, Alameda's hosts have visitors 44 days a year. Jurisdictions that have regulated the maximum number of days that a host may offer a unit/room, such as San Francisco, have typically capped the number of stays at 90 days a year.

Affordable housing construction, preservation and expansion. In addition to analyzing the City's rental market, BAE researched four policy options for expanding the City's supply of affordable housing as requested by the City Council at its May 5, 2015 meeting. These options include:

- Explore ways to increase the number of affordable rental units in the existing housing stock through a State Tax Code Section 236 exemption
- Explore the possibility of waiving the City's share of the transfer tax (upon the sale of property) in exchange for holding rents at a certain level for a specific group of renters
- Expand programs that use dedicated City funds for forgivable loans to landlords buying rental property in exchange for holding rents at a certain level for a certain group of renters or constructing new affordable housing
- Convert market rate units to affordable housing using Federal and State low-income housing tax credits (LIHTC)

Pages 40-45 of the Report provide more detailed information about the options outlined above. To utilize Section 236 of the State tax code, a private owner would have to transfer ownership of his/her rental property to an eligible non-profit or charitable entity to take advantage of the tax exemption. Therefore, this program has limited applicability for for-profit owners. BAE concluded that waiving the transfer tax in exchange for controlling rents may work in the short term but would not create enough of an incentive for landlords to permanently restrict unit affordability. Instead, staff recommends that the City Council consider earmarking a percentage of the former redevelopment funds for a Housing Trust Fund to leverage construction of permanent new affordable housing. This concept is discussed later in this report.

The City also has a program in place, funded through the Community Development Block Grant (CDBG) program, to provide low-interest loans (2% amortized over seven years) to property owners with 51% low-income tenants (up to 80% of median income) who renovate their buildings and agree to keep rents affordable to the low-income tenants during the course of the loan period. Staff would recommend retention of this program rather than initiating a General Fund-funded forgivable loan program.

It should be noted that the City has a commercial linkage fee (the Affordable Housing Unit/Fee (AHUF)) and an Inclusionary Zoning program that, taken together, generate funds to expand the City's supply of affordable housing as well as construct new affordable housing units.

Lastly, the Housing Authority is constantly monitoring the real estate market for privately held property that it could acquire and convert, through the LIHTC and/or other programs, to permanent affordable housing. While this is very difficult in a strong market, a weaker market could present opportunities to create more affordable housing with this approach.

BAE's report provides key data that documents that the City has an extremely tight rental market (rapidly rising rents and a low vacancy rate) and that, on average, tenants' incomes are not keeping up with rent increases. Nearly 25% of Alameda renters earned less than \$25,000 annually in 2013, and almost 19% of Alameda renters are seniors. At the same time, there has been very little new housing production in Alameda. Tenant demographics, a tight rental market and the lack of housing production have created a perfect storm that has impacted many Alameda residents who have faced large rent increases, 30- or 60-day termination of tenancy notices, or are living with the fear that they could be the next recipient of a large rent increase or termination notice.

While the balance of the staff report addresses possible tenant protection measures that the City Council may want to consider, there is one policy initiative aimed at increasing affordable rental housing production that City Council could consider and that is earmarking "Boomerang Funds" to build permanent affordable housing.

Boomerang Funds are those monies that previously went to the Community Improvement Commission (CIC), the City's former redevelopment agency, that are now flowing to the City's General Fund as a result of the dissolution of redevelopment in the state. Redevelopment dissolution legislation provides that former tax increment funds that are not needed for enforceable obligations flow to the taxing entities. The City is a taxing entity and receives a portion of these residual funds. It is projected that over the next 10 years, the City's General Fund will receive approximately \$16 million in Boomerang Funds.

Prior to its dissolution, redevelopment was the second largest source of affordable housing funding in the State behind the Federal government. The State has yet to identify a funding source (such as a Statewide affordable housing trust fund) to replace the loss of these funds. As a result, many local jurisdictions have created a dedicated funding source for affordable housing by earmarking a percentage of Boomerang Funds for affordable housing. Alameda County has created an Affordable Housing Trust Fund, funded with Boomerang Funds, as have several other jurisdictions in Alameda County and throughout the Bay Area. The City has already benefitted from the County's program as it has received funding from the County for the Stargell Commons project, a 32-unit affordable housing project at Alameda Landing, set to begin construction in December 2015.

Further analysis of the use of Boomerang Funds is necessary but could be a resource for the production of affordable housing.

Other Data Sources

A reflection of the importance of the issue of rising rents and its impact on Alameda residents is the number of local efforts that have been initiated to quantify the rental housing market. Staff has included several of these in Exhibit 2. One of the first efforts was the survey conducted by Renewed Hope (attached as part of Exhibit 2). The Alameda Renters Coalition (ARC) also had a petition on change.org <https://www.change.org/p/mayor-trish-hererra-spencer-alameda-city-council-members-an-emergency-moratorium-on-rent-increases-and-no-fault-evictions-in-alameda-ca>. The Alameda Association of Realtors (AAOR) analyzed RRAC cases over the last ten years to measure its success. Housing Authority staff has also prepared a detailed analysis of recent RRAC activity (attached as part of Exhibit 2). Based on this data, in the past, the RRAC mediation process has been largely successful for those who have utilized it. However, the recent heightened awareness of the RRAC and the efforts of private individuals resolving the most egregious cases, has led to a number of cases being resolved before they reach the RRAC (see attached memo from Jeff Cambra (attached as part of Exhibit 2)).

Council member Daysog previously prepared a PowerPoint presentation on the City's rental market and, for the November 4 meeting, prepared a memo (attached as part of Exhibit 2) analyzing a range of tenant protection measures. There has been extensive conversation on a number of local blogs and several bloggers have weighed in with data and analysis. While it is not possible to capture all of the on-going and evolving debate about the local rental market and its impacts on tenants, staff hopes that the additional data provided is useful to the City Council and the community.

Overview of Tenant Protection Measures

In the intervening time since BAE initiated its work in May 2015, the City Council has requested staff to provide a broader scope of possible rent assistance and stabilization policies for its consideration. Staff has analyzed various policy options to protect tenants from rapidly increasing rents, including programs to further strengthen the City's mediation program and rent stabilization. Other tenant protections such as requiring relocation benefits and adopting a just cause eviction ordinance are also examined.

Rent Mediation (Rent Review Advisory Committee - RRAC)

A number of cities, including Alameda, have rent mediation programs. These programs have often been in place for a number of years and rely on conciliation and mediation to resolve rent disputes. While some programs may require a property owner to participate in the mediation process, they do not render binding decisions regarding the rent to be charged or the amount of the rent increase.

As described above, the City recently modified and strengthened its rent mediation process, requiring that landlords provide notice to tenants of the RRAC process when there is a rent increase and that landlords participate in the mediation process. As noted in the BAE report, a high percentage of rental property owners live locally in the Bay Area, which may help ensure the success of the RRAC's process to settle rental disputes. Enhanced monitoring of the rental market and community education could improve the effectiveness of the City's rent review program. Under this approach, the City could expand its community education efforts to inform tenants and landlords of their rights and noticing requirements regarding rent increases. Given that the new ordinance went into effect only recently, the City may want to monitor the effectiveness of the RRAC process under the new regulatory structure. If it does not achieve the policy objectives that are desired by the City Council, then the Council could move towards a stronger regulatory approach.

On the other hand, there are a number of potential ways to further enhance the rent review process at this time including:

- limiting rent increases to no more than once every 12 months;
- mandating property owner participation in the RRAC process for any rent increase over a certain amount (i.e. tenant does not have to file a complaint to activate the process);
- expanding the role of the RRAC to hear/mediate termination notices (in addition to rent increases);
- hiring an ombudsperson to guide tenants through the more complex RRAC process; and
- funding third party mediation efforts to resolve rent disputes before such disputes are considered by the RRAC.

Rent Stabilization/Control

As of July 2015, there are 14 cities in California that have some form of rent control. There are a number of jurisdictions that are currently considering adopting rent stabilization or increasing the stringency of existing measures. Rent stabilization programs address the following points: the type of housing subject to rent control, the limits on, and procedure for, setting or raising rents, and eviction controls.

As has been noted in previous staff reports, the State of California governs the parameters within which local jurisdictions can adopt rent control programs. The state law is often referred to as Costa-Hawkins (its formal name is the Costa-Hawkins Rental Housing Act) and it imposes the following limitations on rent control regulations:

1. Housing constructed on or after February 1, 1995, is exempt from local ordinances;
2. Single family homes and condominiums, or other units where title is held separately are exempt from local ordinances; and
3. Once an existing tenant vacates a unit, local ordinances cannot regulate the initial rate at which a housing provider offers the unit.

Based on the limitations imposed by Costa-Hawkins, BAE estimates that approximately 11,872 units, or 71% of the City's rental housing stock, could be subject to a rent control ordinance. Units that would be excluded include single-family homes and condominiums (24% of the City's rental housing stock), multi-family units constructed after 1995, and government-owned or government-regulated units (see page 31 of the BAE report).

Consistent with Costa-Hawkins, rent control can be applied as follows:

1. When an in-place tenant moves out the rent can be adjusted to market-rate; thereafter the annual limit for a rent increase could be imposed (decontrol/re-control); or
2. Rent increases are controlled only for the current renter when the regulation is adopted but the rent can be adjusted when the tenant vacates and, when the unit is reoccupied, the housing provider can determine not only the initial rent but future increases as well. In other words, rent control is provided for current renters only (at the time the regulation is adopted), but does not apply to future tenants (permanent decontrol).

Existing rent stabilization ordinances permit certain "automatic" rent increases that do not require prior local government approval. These increases typically include: 1) annual or periodic increases, 2) increases to reflect certain "pass through" landlord operating costs or registration fees and 3) increases to market rate upon a unit vacancy.

A key facet of rent control is the amount of the allowable annual rent increase for in-place tenants. For example, in San Jose, rent increases are limited to 8% a year, or 21%, if the rent has not been increased in the prior 24 months. Several other jurisdictions also use a flat percentage. Often, however, the percentage annual rent increase is tied to a formula, such as a Consumer Price Index (CPI) for a particular region, or a percentage of that CPI. (Sometimes these allowable increases are referred to "cost

of living' increases.) Exhibit 3 is a table that shows the range of allowable annual rent increases for a variety of jurisdictions (along with other information about each jurisdiction's rent stabilization program).

So long as the formula allows a housing provider a fair return on investment, these formulae have been upheld by the courts. Such formulae often include provisions that allow the housing provider to apply for a rent increase to recover the cost of significant capital improvements, as opposed to ordinary repairs and maintenance. These costs, plus interest, are spread out over a number of years and collected from the tenants.

Rent increases to recoup the cost of significant capital improvements, or ensure a fair rate of return on investment, as opposed to the automatic rent increases, require local government approval following a procedure that allows a housing provider to petition for additional rent. Generally, the procedure involves an evidentiary hearing before a board or a hearing officer who renders a decision as to whether the increase is necessary in order for the housing provider to receive a fair return on investment. That decision may be a final one (subject to judicial review) or, in some jurisdictions, the decision is advisory and the elected officials make the final decision, subject to judicial review. The courts have vested great discretion in how a local agency makes a determination regarding whether or not an increase is necessary for a property owner to receive a fair return on investment.

Administration of Rent Control Ordinances

As might be expected from the above summary, administration of a rent control ordinance can involve significant costs. For example, either a rent board or agency staff, or some combination of the two, is necessary in order to discharge the variety of functions that must be carried out, such as establishing the amount of automatic rent adjustments, responding to and investigating complaints, establishing a procedure to adjudicate those instances where the housing provider petitions for an additional rent increase, conducting studies and issuing reports. There are also costs associated with processing the fair return or capital improvement recovery petitions. If the City undertakes enforcement of the ordinance, there will be costs involved in that endeavor as well. Costs can be recovered by affected housing providers paying the administrative costs associated with the program.

The administrative costs vary considerably among Bay Area cities, depending upon the complexity of the program and whether it is structured to be passively or vigorously enforced. Exhibit 3 is a sampling of cities in the Bay Area with rent control, showing a wide range of budget and funding options. In all of the cities, a portion of the administrative fee charged to the property owner is allowed to be passed onto the tenant. Any administration fee would be in addition to the City's business license tax, which is \$20 per unit.

On one end of the spectrum is the City of Hayward, which contracts out its mediation and arbitration services and is a complaint-based system. The cost of the program is determined by the number of cases, initiated by the tenant, of what a tenant considers an unfair rent increases beyond what is allowed in the ordinance. With a relatively low number of annual cases, the program is modest in size, with the cost shared by the city's general fund (80%) and a fee assessed the following year on rental units (20%). Hayward's General Fund cost is approximately \$25,000, with last year's fee set at \$1.41 per rental unit.

On the other end of the spectrum is the City of Berkeley, where the onus is on the property owner to register and certify initial rent amounts and receive approval from the Rent Stabilization Board to increase the rent above the permitted rate due to capital improvements and/or other allowed justifications. Berkeley's program requires intensive public education and outreach (partially due to Berkeley's large student population) and data collection. Berkeley has an annual landlord registration fee (last year, \$213 per unit) and an annual budget of \$4 million.

The City of Richmond, which recently adopted a rent control measure (the measure is currently on hold due to a referendum petition to set aside the measure), hired a management consultant firm to help define the program's possible organizational structure and the staffing level needed. Richmond also contracted with another firm to verify the number of applicable units and to determine cost of the program and the associated annual per unit fee. Those studies have not yet been completed.

The following cities have rent stabilization measures less restrictive than rent control, most of which are funded through the city's general fund:

- Campbell (mediation only)
- Fremont (mediation only)
- Gardena (mediation only)
- San Diego (mediation only)
- San Leandro (non-binding review and mediation only)
- Thousand Oaks (only pre-1988 tenancies)

Exhibit 3 also includes a chart showing the composition of various rent boards. This information is provided to assist the City Council in providing direction about the composition of the RRAC. At the City Council's October 20 meeting, it was recommended that the currently seated members be re-appointed for either a two-year or four-year term consistent with the recently adopted ordinance regarding RRAC governance. At that time, the Council postponed a decision on the RRAC composition until the November 4 meeting.

Just Cause Eviction Protection

In addition to the type of housing subject to rent control and the limits on, and procedures for, setting or raising rents discussed above, rent stabilization ordinances may include eviction controls. Because property owners are allowed to set the initial rent at the beginning of a tenancy, rent stabilization without eviction controls can create an incentive for property owners to terminate existing tenancies in order to raise rents. These eviction controls are often referred to as "just cause" evictions.

As the name implies, just cause evictions limit housing providers from evicting tenants except for good cause. Unlike rent control ordinances, Costa-Hawkins does not apply to eviction protections. Therefore, the range of rental housing units to which just cause eviction regulations can apply is broader than those to which rent control provisions apply. There are also jurisdictions that have just cause eviction protections but do not have rent stabilization programs.

Under just cause evictions, a housing provider may evict a tenant only for reasons that are specifically set forth in the ordinance, such as failing to pay the rent, violating a material term of the lease and not correcting that violation, committing or allowing a nuisance, unreasonably interfering with the comfort, safety or peaceful enjoyment of the property by others, committing or allowing an illegal use of the property, etc. Other reasons for a just cause eviction not necessarily related to the payment of rent or the tenant's use (or misuse) of the property include evicting the tenant because the housing provider or a family member intends to occupy the unit, the unit is needed for a resident manager or the housing provider intends to substantially renovate the unit.

With this type of ordinance, typically the housing provider is required to satisfy special notice requirements such as identifying the grounds for eviction and the facts that support it. While just cause eviction protection does not prevent unregulated rent increases, it does protect a tenant from being evicted solely to increase the rent or to avoid requirements such as the City of Alameda's rent review process.

Relocation Benefits

Another tenant protection is a relocation assistance payment when a tenant is evicted without cause. Some of these payments are tied to particular events, such as when a housing provider evicts a tenant when the housing provider or the provider's family member intends to occupy the unit or when the housing provider intends to remove the unit from the rental housing market (called an "Ellis Act" eviction). Sometimes the payments are tied to the length of time that a tenant has occupied the unit or the status of the tenant (e.g., disabled, households with dependent children, household income, etc.). Other jurisdictions require relocation payments regardless of the tenant's particular circumstances.

The amount of the relocation assistance varies among the jurisdictions. Some tie the amount to one or more months' rent for an equivalent unit in the area; some provide a flat fee; some provide both. In addition to cash, some jurisdictions require the property owner to pay for the tenant's subscription to a relocation services for a set period of

time. Similar to just cause eviction protections, a requirement to pay relocation benefits is not covered by Costa-Hawkins. Therefore, relocation benefits can be applied to a broader range of units than rent stabilization protections.

Policy Options for the City Council to Consider

As has been noted, rising rents and low vacancy rates are a challenge for communities throughout the Bay Area. San Mateo County staff prepared a September 2015 report that included an exhibit that briefly summarizes the key characteristics of rent control, just cause eviction protection and relocation benefits and the policy arguments that are most commonly put forward by those for and against these measures. Staff believes that this policy argument document (Exhibit 4) provides useful background information as the Council considers policy options it may want to pursue.

Based on the tenant protection measures summarized above, staff has prepared several options for enhancing tenant protections for the Council's consideration.

Tenant Protections that do not Rise to the Level of Rent Control or Just Cause Eviction

Short of rent control and/or just cause eviction, there are a number of options for the City Council to consider.

- One option is for the Council to give the new Rent Review Ordinance a chance to work.

That is, as tenants receive rent increases and are advised that there is a RRAC that can hear any disputes, there is a belief that the most egregious rent increases will be successfully mediated through the RRAC process. Therefore, the Council could wait for a few months to determine if that process will be successful in addressing the rent increases that are occurring in the community.

- Another option is to revise the Ordinance based on feedback received from the community about additional measures to encourage tenants to avail themselves of the mediation process.

It has been suggested that the City designate an ombudsperson who would be available to assist tenants in the process. If a tenant were advised in the notice about the availability of a "navigator" who could assist them through the process and accompany them to RRAC hearings, more tenants may be willing to engage in the current system, leading to more settlements. In addition, the current ordinance requires that tenants submit a complaint form within seven days of a notice of rent increase. It has been suggested that the time to submit the form be extended, for example, to 15 days.

- The City's Rent Review Ordinance could be revised to limit any rent increase to no more than once a year and/or to require the RRAC to hear all rent increases over a certain percentage (8-10%) or where the rent increases exceeded some percentage (say 25%) over the past three years.

Limiting rent increases to once a year could eliminate the potential of multiple rent increases for tenants without leases. Requiring a mandatory hearing for annual increases over a certain amount could serve as a disincentive to raising rents at a rate that would trigger such a hearing.

- Give RRAC advisory jurisdiction over "no cause" evictions.

Concerns have been raised that in lieu of complying with the new Rent Review Ordinance, property owners are serving tenants with 30-day or 60-day eviction notices. To discourage this work-around of the City's rent review process, the Ordinance could be revised to give the RRAC advisory jurisdiction not only over rent increases but also over no cause evictions. Because the RRAC has only advisory powers, it would not be able to prevent or prohibit a particular eviction but it might be able to persuade the housing provider to provide more time or to provide some relocation assistance.

- Require vacated units to be in compliance with building code requirements before being re-rented.

Earlier this year, the Alameda Renter Coalition (ARC) asked the City to look at a program to require, following a tenant's vacating a unit, the housing provider to have the unit inspected to be certain that it complies with all building code requirements and satisfies health and safety standards. Unless and until the unit came into compliance, the housing provider could not re-rent the unit. This would not provide any particular protection to an existing tenant but presumably could have the effect of improving, over time, the overall quality of rental housing stock in the City.

- Increase the business license tax for owners of rental units.

Some members of the community have proposed revising the business license tax on housing providers so that the tax is based on the rents received. Currently, the City's business license is \$20 per unit for residential rental property. Increasing the license tax could generate funds to pay for an enhanced mediation program but the increased tax would be subject to voter approval.

Rent Stabilization/Just Cause Eviction/Relocation Benefits

Council may want to consider other rent stabilization options, just cause evictions, and/or relocation benefits. If that is Council's direction, staff will need to draft enabling legislation that would put in place some form of rent control, just cause eviction, and/or relocation benefits as has been discussed in this staff report.

Accordingly, so that staff carries out Council direction, set forth below are items that could be included in such an Ordinance(s).

Rent Stabilization:

- Vacancy Decontrol/Re-control or Permanent Decontrol
- If vacancy decontrol/re-control, automatic flat percentage increase, CPI increase, or percentage of CPI increase
- Return on investment and other types of petitions -- Hearing Officer and/or separate Board (elected or appointed)
- Will decisions of the Hearing Officer/Board be advisory to the City Council or final
- Complaint-based or registration required
- Funding mechanism for the program -- fee based

Just Cause Eviction Ordinance:

- With or without rent stabilization
- Cover all units or restrict to those covered under Costa-Hawkins
- No cause evictions mediated by RRAC or no cause evictions prohibited
- City to enforce or reliance on court system as a defense against an unlawful detainer
- Funding mechanism for the program -- fee based or funded from General Fund

Relocation Assistance:

- For everyone or tie it to length of tenancy or income or special needs status of tenant
- Amount of assistance tied to rent, flat amount or both
- Cover all units or restrict to those covered under Costa-Hawkins

- Enforcement mechanism - what is the recourse if the property owner does not pay the required relocation benefits
- Funding mechanism for the program -- fee based or funded from the General Fund

Urgency Ordinance

Notwithstanding these broad concepts, there are many nuances as to how ordinances of this type may be crafted. To that end, the City Council could consider adopting an urgency ordinance enacting a moratorium on rent increases (as well as notices of rent increases) and/or evictions except for just cause. Such an urgency ordinance must be supported by findings that amply demonstrate there is an urgent need for the immediate preservation of the public peace, health or safety of Alameda residents. An urgency ordinance may be adopted at the Council's November 4 special meeting but would require a 4/5 vote.

Staff has prepared an ordinance that sets forth the necessary finding for its urgency, i.e., it would take effect immediately upon its adoption and last no more than 65 days unless further extended by the City Council. As drafted, it would immediately prohibit property owners from increasing rents, from issuing notices of increased rents, and from evicting tenants except for cause as set forth in the Ordinance. City Council could adopt the Ordinance as drafted or could adopt just those portions that the Council feels are necessary immediately (e.g., prohibiting rent increases but not no cause eviction or vice versa). The urgency ordinance would give staff sufficient time to prepare the enabling legislation to enact the policy direction provided.

If the Council decides to give direction to staff to proceed with legislation for enhanced mediation and/or relocation benefits only, it is not necessary to adopt an urgency ordinance. The urgency ordinance is required, however, in the event the Council wants to move forward with rent stabilization and/or just cause eviction protections to preclude property owners from raising rents or evicting tenants for no cause in anticipation of forthcoming legislation to regulate rents and evictions.

FINANCIAL IMPACT

There could be an impact to the City's General Fund depending on which policy options the City Council wants to pursue. The discussion above (and Exhibit 3) outlines the varied cost of implementing a rent stabilization program depending on the program. Most jurisdictions require a rent stabilization fee to be paid to fund the program (in whole or in part). Once staff has received direction from the Council, it will return with specific information on the possible impact to the General Fund.

It should be noted that the RRAC currently does not receive any General Fund monies. It was previously agreed that the Housing Authority would monitor its costs associated with the recently amended rent review process and provide a report to City Council next year regarding the cost of implementing the program.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

Adopting programs to address the impact of rising rents and low vacancy rates on Alameda residents is consistent with the City's Housing Element and a number of Housing Element policies aimed at encouraging housing affordable to a range of household incomes, promoting diverse housing types, and providing a jobs/housing balance in the community. Depending on Council direction, there will likely be amendments to the Municipal Code.

ENVIRONMENTAL REVIEW

Any action the City Council takes in response to this staff report is exempt from the California Environmental Quality Act (CEQA) pursuant to the following, each a separate and independent basis: CEQA Guideline Section 15183 (action consistent with the General Plan); Section 15378; and Section 15061 (b)(3) [no significant environmental impact].

RECOMMENDATION

It is recommended that the City Council:

1. Receive a report analyzing the impact of rising rents on Alameda residents.
2. Conduct a public hearing and provide direction to staff about policies to pursue regarding enhanced mediation/rent stabilization, just cause eviction protection, and/or relocation benefits, and the composition of the RRAC. Direction is also requested regarding consideration of the use of Boomerang funds to expand the City's supply of permanent affordable housing.
3. Consider passage of an urgency ordinance for the immediate preservation of the public peace, health or safety enacting a temporary moratorium on rental increases and/or evictions without just cause to provide the time necessary for staff to return to Council with the requested ordinances.

Respectfully submitted,
Debbie Potter, Community Development Director
Janet C. Kern, City Attorney

Financial Impact section reviewed,
Elena Adair, Finance Director

Exhibits:

1. City of Alameda Rent Study
2. Other Data Received
3. Sample of Bay Area Cities with Rent Control/Composition of Rent Boards
4. Policy Arguments Regarding Rent Stabilization, Just Cause Evictions, Relocation Benefits