



Housing Advisory Commission

April 19, 2022

Item No. 6.2

ITEM TITLE:

Ordinance: Consideration of Establishing Residential Landlord and Tenant Provisions

Location: No specific geographic location

Recommended Action: Commission provide an advisory recommendation to City Council on approving a Residential Landlord and Tenant Ordinance.

SUMMARY

With the expiration of California's COVID-19 related eviction moratorium in September 2021, several tenants' rights groups began advocating for stronger tenant protections by local governments across the state. In response to reports of tenant harassment and some evictions within Chula Vista, the Alliance of Californians for Community Empowerment ("ACCE") approached the City of Chula Vista requesting consideration of a local ordinance that would be more restrictive than existing State tenant protections, resulting in a City Council referral on September 14, 2021. The Housing Advisory Commission previously reviewed related item on December 8, 2021 and January 31, 2022.

Tonight's action presents a draft ordinance that is responsive to the City Council referral and provides an opportunity for final input prior to City Council action.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with CEQA and NEPA. The activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because the proposal consists of a reporting action, is not for a site-specific project(s) and will not result in a direct or indirect physical change in the environmental. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA.

DISCUSSION

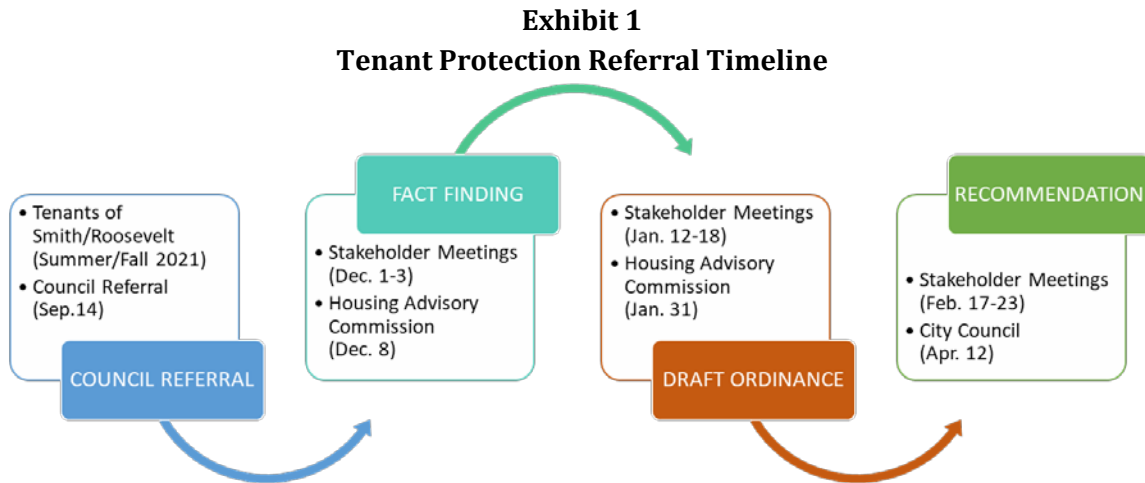
Council Referral Regarding Tenant Protection Provisions

During the September 14, 2021 City Council meeting, after several months of public comments regarding the eviction of tenants at two properties within the City of Chula Vista and requests by ACCE, the City Council made a referral to staff to review and address the following key areas of tenant protection law:

- Substantial rehabilitation;
- Removal from rental market;
- Harassment/Retaliation; and

- City Remedies & Enforcement.

Staff developed a process for addressing the referral as reflected in Exhibit 1 and began due diligence to prepare a Draft Ordinance.



Fact Finding

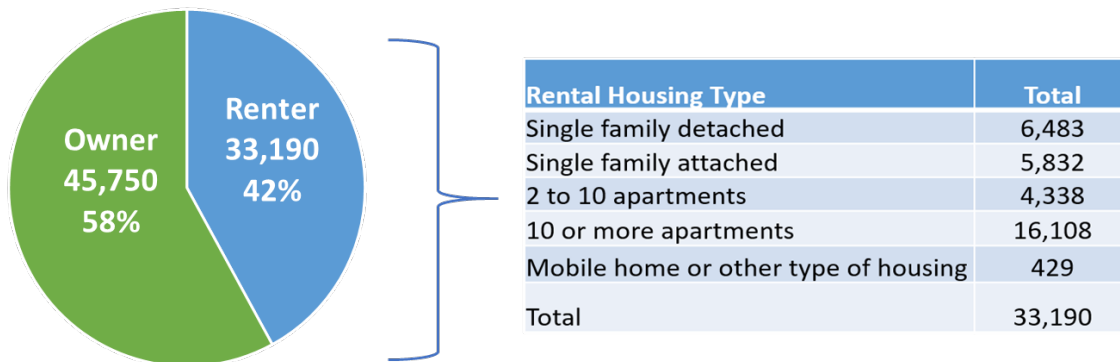
Rental Housing Stock in Chula Vista

In 2019, over 33,000 housing units were tenant occupied, equating to 42% of the city’s housing stock, as shown in Exhibit 2. Nearly half of these (48.5%) were provided in complexes with 10 or more units.

**Exhibit 2
Rental Housing in Chula Vista**

78,940 Housing Units (2019)

33,190 Rental Units (2019)



Source: 2021-2029 Chula Vista Housing Element, U.S. Census Bureau American Community Survey (2019)

According to the 2019 U.S. Census Bureau American Community Survey, 48% of the City of Chula Vista’s housing stock was over 40 years of age. In the past five years, according to City building records, less than 70 multi-family market rate properties have undergone substantial rehabilitation (major structural or electrical improvements) which may have required tenants to vacate while work was completed. While it is unknown whether any of these resulted in evictions to tenants, the City of Chula Vista recognizes that the aging housing stock will necessitate additional renovations and substantial rehabilitation in the near future, particularly in the western part of the city.

State Tenant Protections

Housing provider/landlord and tenant rights around termination of tenancy in the City of Chula Vista currently rely on existing California state laws provided below:

- **The Ellis Act (1985)** allows landlords to remove units from the rental market. The act requires 120-day notices for residents or 365-days' notice for elderly and disabled residents in rent control jurisdictions that adopt specified regulations. It also allows local jurisdictions to enact more measures to mitigate the impacts on withdrawal of rental units from the market.
- **Civil Code 1942.5 (1988)** prohibits retaliatory evictions.
- **Assembly Bill 1482 ("AB 1482") California Tenant Protection Act (2019)** established Civil Code Section 1946.2 prohibiting evictions without legally defined reasons ("just cause"). It also established Civil Code Section 1947.12 which prohibits increasing rent more than the Consumer Price Index ("CPI") plus five percent (up to a maximum of ten percent).

In California, over thirty (30) jurisdictions have adopted local ordinances providing tenant protections above and beyond state requirements, approximately nine (9) of which are in non-rent-controlled cities. These ordinances are primarily focused in three areas: 1) **Just Cause** ordinances defining more specific regulations for sanctioned evictions including displacement requirements, tenant relocation assistance, and a tenant's first right of refusal for rental units reintroduced to the market in addition to those specified in Civil Code 1946.2; 2) Additional **Ellis Act** provisions requiring longer noticing periods and greater relocation assistance; and 3) **Anti-Harassment** ordinances that further define what can be considered inappropriate retaliation from landlords and specify behaviors that are considered tenant harassment. Local tenant protection ordinances vary widely across the state and can have major financial ramifications for both landlords and tenants. Example ordinances are summarized in a comparison matrix provided as Attachment No. 1.

In February 2022, staff surveyed seven of the jurisdictions that have or are in process of adopting additional protections and are most similar to the City of Chula Vista (size of the jurisdiction and does not have rent control), reference Attachment No. 2 for a full summary. The survey asked these jurisdictions: (1) resources devoted to implementation of the ordinance; (2) the impact to rental units being remodeled or demolished; and (3) impacts to the number of fair housing complaints. Most of these jurisdictions had passed their ordinance within the last year or two, with Glendale's 2019 ordinance being the oldest. Because of the recent implementation of these ordinances, and their concurrence with AB-1482 and COVID-19 emergency orders, there is not enough available data to fully measure their impacts. Additionally, City of Long Beach recently had their ordinance approved in February 2022. Long Beach's ordinance was passed after a lengthy stakeholder process with their City Council approving an ordinance that closely resembles state laws.

Locally, the City of San Diego has indicated that Council District 9 is currently drafting an ordinance; however, no outreach to stakeholders, citywide staff or the city attorney's office has been conducted. No other jurisdictions with the San Diego region reported current efforts on permanent local tenant protections.

Termination of Tenancy and Evictions in the City of Chula Vista

Due to the short time frame between adoption of AB-1482 and the institution of COVID-19 pandemic-related eviction moratoriums, the true impacts of AB-1482 are relatively unknown. Tenant advocates are concerned that without additional local protections for known gaps in state law, tenants could remain susceptible to no cause/fault evictions.

According to the City of Chula Vista’s Fair Housing Administrator, CSA, between July 2015 and June 2018, nearly 800 calls from Chula Vista residents were received. Of those, approximately 30% were related to notices to vacate or evictions. Another 8% reported some type of discrimination, harassment or retaliation and 22% on average indicated that they had rental issues that were related to but not limited to rental increases, illegal entry, quiet enjoyment, and property or lease issues, as summarized in Table 1.

Data related to calls from 2019-2021 were not considered in this analysis due to changes in the CSA contract, reporting software and pandemic related issues. During the 2015-2018 period, on average 264 calls were received annually, which equates to less than 1% of all renters in the City (264 out of 33,190). While this is not a significant percent of renters, there may be various reasons including landlords/tenants not having rental concerns or tenants not understanding their rights or being aware of the services and resources available through CSA.

Table 1
CSA San Diego Tenant/Landlord Calls (Fiscal Years 2015-2018)

	2015-2016		2016-2017		2017-2018		TOTAL FOR PERIOD
Total Clients Served	260		275		257		792
Call Issue	Calls	% of total	Calls	% of total	Calls	% of total	TOTAL/AVERAGE%
Discrimination	9	3%	9	3%	6	2%	24/3%
Notice to Vacate	77	30%	76	28%	62	24%	215/27%
Evictions	5	2%	10	4%	12	5%	27/3%
Harassment	6	2%	8	3%	20	8%	34/4%
Retaliation	3	1%	0	0%	1	0%	4/1%
Rental Issues	49	19%	61	22%	67	26%	177/22%
All other Issues	111	43%	111	40%	89	35%	311/39%

Stakeholder Outreach

In addition to the HAC meetings on December 8, 2021, and January 31, 2022, the following groups met with City staff between December 2021 and February 2022 to provide feedback on concepts and the Draft Ordinance:

- Alliance of Californians for Community Empowerment (ACCE)
- California Apartment Association (CAA)
- Chula Vista Chamber of Commerce Policy Committee
- Pacific Southwest Association of Realtors (PSAR)
- San Diego Association of Realtors (SDAR)
- Southern California Rental Housing Association (SCRHA)
- Western Manufactured Housing Communities Association (WMA)

Attachment No. 3 provides a summary of the stakeholder meetings and input received. The feedback is divided into the following categories:

- Need for a local ordinance;
- Comments specific to the concepts presented in December 2021;
- Alternative means to address tenant protection;
- A Draft Ordinance as presented in early January 2022;
- Comments from the Housing Advisory Commission; and
- Comments on a final draft as presented to stakeholders in late February 2022.

Draft Ordinance

The Draft Ordinance created by staff in response to the City Council referral underwent substantial revisions as the result of stakeholder input and was presented to the HAC on January 31, 2022, with the intent to be presented to Council in early March. The HAC indicated that they wanted staff to continue working with stakeholders to refine the ordinance, look at alternative dispute resolution models, concentrate on affordable housing production and return to the HAC prior to moving forward to Council. As a result of the HAC meeting, a final round of stakeholder meetings was held in late February in which all stakeholders (resident and housing provider representatives) requested that staff hold off on taking the Draft Ordinance forward.

In general, landlords have contended from the beginning of the process that local regulations beyond state law are not necessary because a substantial/pervasive problem has not been identified and we have not yet seen what impacts AB-1486 will have on the rental industry, due to pandemic moratoriums on evictions. Resident advocates have contended that without some key elements being included in a local ordinance we are leaving tenants vulnerable to no-fault evictions. Attachment No. 4 highlights the remaining key areas of disagreement, comparing current state law to the proposed Chula Vista Draft Ordinance and stakeholder recommendations.

On April 12, 2022 City Council approved an expansion of services contract with CSA San Diego to provide additional data collection and outreach/education to assist in future policy decisions around this topic. At that meeting staff was also directed to bring forward the Draft Ordinance to Council without further delay.

The ordinance as presented tonight, in Attachment No. 5, incorporates input received by all stakeholders, provides track changes since the version from January 31st, and addresses the following main areas:

- Just Cause/No-Fault Evictions
 - Consistent with Civil Code Section 1946.2 for rentals with 1 or 2 units;
 - Applicable to complexes with 3 units or more:
 - Increased noticing requirements of 120 days or 365 days for elderly/disabled;
 - Relocation assistance equivalent to 2 months of the U.S. Department of Housing and Urban Development Small Area Fair Market Rent (“HUD SAFMR”) for the zip code of the unit, reference Attachment No. 6 for current rates;
 - First right of refusal for new residential units; and
 - Additional tenant protections that are not prohibited by any other provision of law.
- Ellis Act/Removal from Rental Market Evictions
 - Consistent with state law for rentals with 1 or 2 units;
 - Applicable to complexes with 3 units or more:
 - Noticing consistent with state law of 120 days or 365 days for elderly/disabled; and
 - Relocation assistance equivalent to 2 months of the HUD SAFMR at time of noticing.

- Anti-Harassment/Retaliation
 - Refines harassment and retaliation behaviors and the term “quiet use and enjoyment”; and
 - Provides mechanisms for resolution.
- Remedies and City Enforcement
 - Specifies civil damages and City authority.

Conclusion

Staff has held over 15 stakeholder meetings throughout the process including two public meetings through the Housing Advisory Commission, in addition to the City Council meeting on April 12th where public testimony was heard in relation to the expansion of services with CSA. The goal has continually been to bring forward a draft ordinance to be responsive to the original council referral to address no-fault evictions related to substantial rehabilitation; removal from rental market; harassment/retaliation; and City remedies and enforcement, for no-fault evictions.

The Draft Ordinance as presented in Attachment No. 5 provides tools to clarify state law and provide additional protections for Chula Vista tenants will balancing other stakeholder and City resource concerns. Considerations in this process have included providing residents with additional protections for no-fault evictions, minimally impacting small landlords (“mom and pops”), defining substantial rehabilitation, allowing properties within the city to revitalize as needed due to age while providing resources for tenants to be able to move to a similar unit through longer noticing and additional relocation benefits, and addressing unintentional impacts throughout the process.

Commission and public input into tonight’s Draft Ordinance will provide the final outreach prior to Council action. The item is currently scheduled to be heard by City Council on May 3rd.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the Housing Advisory Commissioner do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov’t Code § 87100, et seq.).

Staff is not independently aware and has not been informed by any Housing Advisory Commission Commissioner, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

ATTACHMENTS

1. Comparison of Local Tenant Protection Regulations
2. Tenant Protection Survey of Similar Jurisdictions
3. Summary of Stakeholder Input December 2021 – February 2022
4. Policy Recommendation Comparison
5. Draft Residential Landlord/Tenant Ordinance
6. HUD Small Area Fair Market Rent for Chula Vista

Staff Contact: Stacey Kurz, Housing Manager