



# CITY COUNCIL STAFF REPORT



**April 12, 2022**

## ITEM TITLE

Tenant Protections: Update on Residential Housing Provider and Tenant Discussions and Direct the City Manager or Designee to Enter into an Agreement with CSA San Diego County to Provide Fair Housing and Landlord/Tenant Ombudsman Services

**Report Number:** 22-0037

**Location:** No specific geographic location

**Department:** Development Services

**Environmental Notice:** The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act ("CEQA") State Guidelines and Title 24 of the Federal Code of Regulations; therefore, pursuant to State Guidelines Section 15060(c)(3) and Federal Guidelines Part 58.34(a)(2) & (3) no environmental review is required. Notwithstanding the foregoing, the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of CEQA and Part 58.34 (a)(2) & (3) of the National Environmental Policy Act ("NEPA").

## Recommended Action

Adopt a resolution approving an agreement with CSA San Diego County for fair housing and landlord/tenant related services, with a maximum contract period of ~~five~~two years for a not to exceed amount of ~~\$500,000~~80,000.

## 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. Throughout the drafting process, staff has asked stakeholders for additional data to better guide the development of the Draft Tenant Protection Ordinance, particularly in addressing those areas that are leaving tenants vulnerable within the City of Chula Vista. Without more specific data, it is difficult to assess and balance the needs of all parties without potential

substantial impacts to smaller landlords and/or City resources. As a result, staff does not have a Draft Tenant Protection Ordinance ready for consideration as several key issues have not been worked out between the various stakeholders. At this time, after several months of stakeholder input and discussion, staff believe the next step forward would be to renew and expand upon existing work through CSA San Diego County (“CSA”) to enable additional data collection and outreach services related to fair housing and landlord/tenant ombudsman activities to track trends and tenant needs to inform future policy decisions.

## **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. Under NEPA, the activity is exempt pursuant to Title 24, Part 58.34(a)(2)&(3) of the Code of Federal Regulations and pursuant to the U.S. Department of Housing & Urban Development Environmental Guidelines. Thus, no further environmental review is necessary at this time. Although environmental review is not necessary at this time, once a project(s) has been approved, environmental review will be required and a CEQA/NEPA determination completed prior to initiation of any related project activity.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

On December 8, 2021, the Housing Advisory Commission (“HAC”) was provided with an introduction to the concept of adopting tenant protections for the City of Chula Vista. On January 31, 2022, the HAC held a second meeting and provided input into a draft “Residential Landlord and Tenant Ordinance” (the “Draft Ordinance”), resulting in direction for staff to continue working with stakeholders and return to the Commission.

## **DISCUSSION**

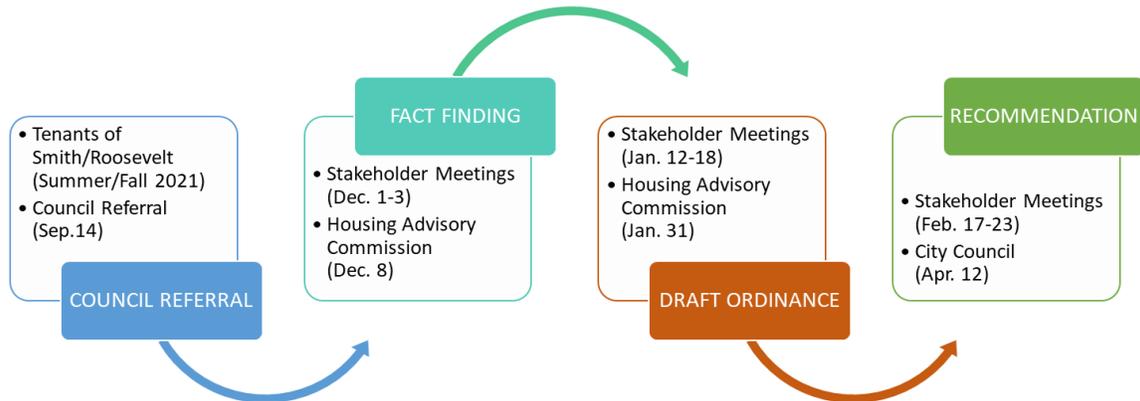
### **Council Referral Regarding Tenant Protection Provisions**

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
- 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.

### Exhibit 1 Tenant Protection Referral Timeline



#### Fact Finding

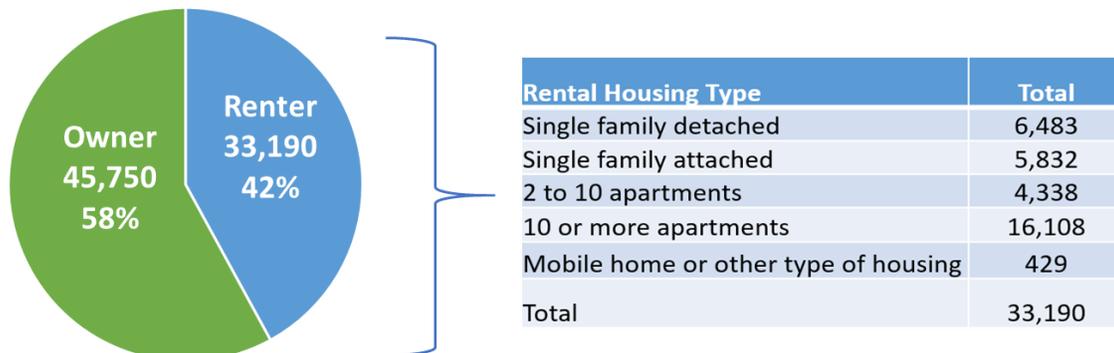
##### Rental Housing Stock in Chula Vista

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. Requires 120-day notices for residents or 365-days 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 have yet been involved. No other jurisdictions with the San Diego region reported current efforts on 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 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
<b>Total Clients Served</b>	260		275		257		792
<b>Call Issue</b>	<b>Calls</b>	<b>% of total</b>	<b>Calls</b>	<b>% of total</b>	<b>Calls</b>	<b>% of total</b>	<b>TOTAL/AVERAGE%</b>
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 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.

### **Conclusion & Recommendation**

#### Council Referral

Throughout the drafting process, staff has asked stakeholders for additional data to better guide the development of the Draft Ordinance, particularly in addressing those areas that are leaving tenants vulnerable within the City of Chula Vista. Without more specific data, it is difficult to assess and balance the needs of all parties without potential substantial impacts to smaller landlords and/or City resources. Examples of potential impacts are provided below.

- **Type of Units** - Tenants have contended that regulations should apply to all housing types. The City does not currently proactively inspect small rentals of 1-2 units; however, Code Enforcement does proactively inspect multi-family dwellings (3 or more units), and hotels/motels through the State of California Health & Safety Code 17961, in conjunction with the Uniform Building Code, as adopted by the Chula Vista Municipal Code. This requires local jurisdictions to enforce rules and regulations pertaining to the maintenance, sanitation, ventilation, use or occupancy and inspections of such complexes once every three to five years.

If the Draft Ordinance relating to termination of tenancy was to include all housing types, greater staff resources would be needed to educate and enforce the new regulations. However, since staff is already proactively engaged with complexes of 3 or more units, resources would moderately be impacted as staff could more easily engage with owners. The Draft Ordinance currently does not include greater noticing and relocation requirements for 1-2-unit complexes and instead defaults to state law. The Draft Ordinance does include enhanced notice and relocation assistance for complexes of 3 or more units.

- **Substantial Rehabilitation** – Stakeholders agree that a clearer definition of substantial rehabilitation would be beneficial for both housing providers and tenants. However, tenants would like provisions that would never allow termination of tenancy on the basis of a substantial rehabilitation and instead allow tenants to return to the property once the rehabilitation is complete under their existing lease terms and rental rates. While staff recognizes that displaced tenants may have difficulty finding comparable units within the San Diego region, promoting revitalization of aging and deteriorating housing stock and allowing a return on investment to the owner is still necessary in some instances. Balancing the need to provide quality housing and the need to protect tenants is challenging, and staff has therefore drafted a compromise to allow substantial rehabilitation and provide relocation assistance to tenants that would enable them to have funds for a security deposit and first month’s rent for a comparable unit in the same area of Chula Vista, reference Attachment No. 4 for additional details.

While the examples above and other issues identified in Attachment No. 4 were still the subject of dispute between stakeholders, there were several areas agreed upon during the outreach process including:

- The need for better data collection;
- Education; and
- Alternative dispute resolution models.

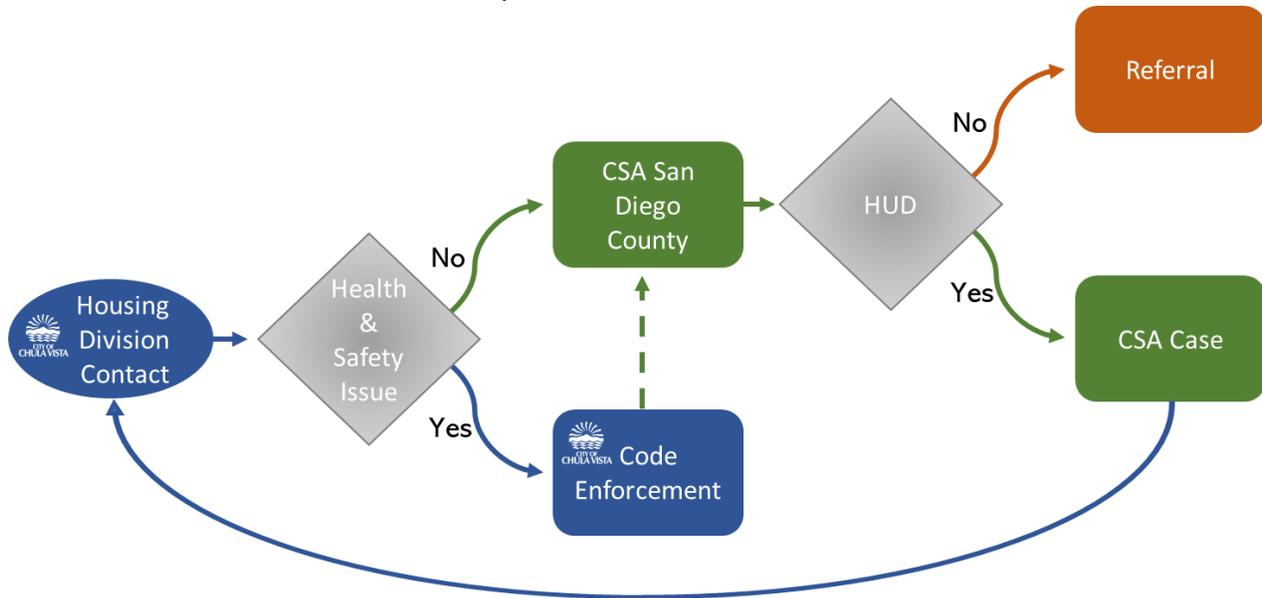
Although substantial progress has been made in identifying both issues of concern and agreement between housing provider and tenant groups, there remains a lack of substantive data about how, why and where termination of tenancies occur in Chula Vista. Staff is recommending that such data be obtained in order to design an ordinance that more accurately addresses and is responsive to the issues that actually affect residents in Chula Vista.

#### CSA San Diego County Agreement Recommendation

CSA has served as the City’s Fair Housing Administrator since July 2013, providing services including: advocacy, outreach and education; technical training opportunities for members of the housing provider, lender and insurance industries; maintenance of a fair housing discrimination investigative, intake and enforcement processes; collaborations and/or linkages with other entities which further strengthen fair housing activities in accordance with U.S. Department of Housing and Urban Development (“HUD”) Equal Opportunity and Fair Housing Criteria, 24 CFR 570.904. CSA currently maintains a contract until June 30, 2022.

In addition, CSA’s contract includes provisions to provide ombudsman services to tenants and landlords. Exhibit 3 provides the typical process followed when the City receives a concern from a constituent.

**Exhibit 3  
Tenant/Landlord Referral Process**



As depicted, all tenant/landlord issues that are not considered a health and safety related concern and fall under civil codes are referred to CSA. Once CSA assesses the issue, they will either provide additional services through the HUD defined processes and open a CSA case or refer the constituent to appropriate resources that may be able to assist with the relevant civil law. CSA cases are reported back to the City, however referrals are not currently tracked or outcomes evaluated.

On March 12, 2021, an RFQ (RFQ Q13-20-21) was issued for agencies interested in providing housing related services on behalf of the City. Although 101 parties downloaded a copy of the RFQ through the City’s Planet Bids, eight (8) agencies submitted proposals for housing related services (one from CSA specific to fair housing services) by the deadline. Proposal evaluations were completed in accordance with the applicable provisions of the Chula Vista Municipal Code including policies, procedures, and guidelines contained in the Chula Vista Municipal Code Section 2.56.110.

CSA is a HUD approved nonprofit housing counseling agency that has 50 years of experience as advocates for equality, diversity, inclusion, civil rights and fair housing. Since 2015, CSA has maintained a local office at 1653 Albany Ave, Chula Vista, 91911. They have contracted with a number of San Diego County jurisdictions for similar services including San Diego County and the Cities of La Mesa, Santee, and National City.

The City has historically maintained a contract with CSA through Community Development Block Grant (“CDBG”) funding as part of the annual federal entitlement fund process, tonight’s action would direct the City Manager or designee to enter into a contract with CSA for an initial year one contract for \$~~100,000~~40,000 beginning July 1, 2022 to expand the scope of services in order to address issues that have been described above, and enables the City Manager or designee to exercise up to ~~4-1~~ one-year extensions, for an amount not to exceed \$~~500,000~~80,000 over the ~~five-two~~ year contract period, using the identified funding sources and providing the following services:

- ~~1. Community Development Block Grant (“CDBG”), \$60,000 - Annual Fair Housing services in compliance with HUD.~~

2.1. Chula Vista Housing Authority Funds (“CVHA”), \$20,000 – Expansion of services to meet obligations to affirmatively further fair housing (“AFFH”) in the Adopted 2021-2029 Housing Element. Services will include targeted information and resource events to affirmatively further fair housing and additional educational events on fair housing and tenant/landlord laws.

3.2. Local Early Action Planning (“LEAP”), \$20,000 - Assist in Housing Element implementation outreach, including: creation of a data collection dashboard (including reporting and evaluating outcomes of referrals), resident focus groups, citywide surveying and various educational/informational events. LEAP funds were previously approved through Council Resolution 2020-150 on June 23, 2020. The additional data and public input will inform the implementation of the Housing Element goals and guide future tenant/landlord related policy.

### Rental Assistance

With the closure of the Chula Vista Emergency Rental Assistance Program (“CVERAP”) on March 31, 2022, concerns have been raised about the vulnerability of those that have not applied for rental assistance programs. In addition to recent action by City Council to approve additional funding to the CVERAP on March 22, 2022, SBCS Corporation (“SBCS”) maintains a contract through June 30, 2022, approved by Council on May 12, 2020 via Resolution No. 2020-098 to provide Tenant Based Rental Assistance through HOME Investment Partnership Act (“HOME”) funds. The City and SBCS are confident that in partnership we will continue to ensure tenants facing termination of tenancy for non-payment of rent are provided resources within our community.

### **DECISION-MAKER CONFLICT**

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

Councilmember McCann may, however, have a conflict of interest given his ownership interest in rental property and property management business. Otherwise, Staff is not independently aware, and has not been informed by any other City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

### **CURRENT-YEAR FISCAL IMPACT**

There is no current year fiscal impact to the General Fund as a result of this action.

### **ONGOING FISCAL IMPACT**

There is no anticipated ongoing fiscal impact to the General Fund as a result of this action. The initial ~~\$100,000~~ \$40,000 for the CSA agreement will be funded through ~~CDBG, CVHA~~ Chula Vista Housing Funds and LEAP funds and budgeted as part of the FY 2022/2023 budget. If the agreement is extended, additional funds will be budgeted in future years as part of the regular budget process.

### **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. Two-Party Agreement with CSA San Diego County

*Staff Contact: Stacey Kurz, Housing Manager  
Tiffany Allen, Director of Development Services*