

Item 7.2

Landlord & Tenant Provisions



Presented by:

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Simon Silva, Deputy City Attorney

Photo taken by
Chula Vista resident Adrian Mora

Council Referral

- September 14th Council Referral, to address:
 - Substantial remodel;
 - Removal from rental market (“Ellis Act”);
 - Harassment/Retaliation; and
 - City remedies & enforcement.
- Staff goals, ensure:
 - Stakeholder involvement; and
 - Identification of any resources needed.

Chula Vista, CA

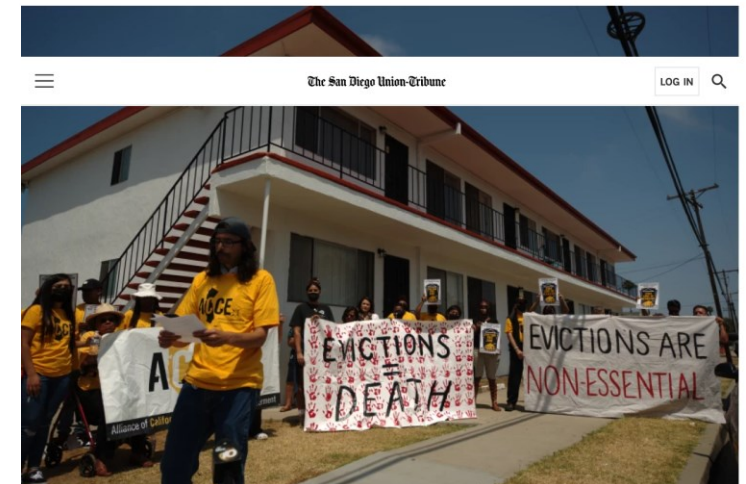
Chula Vista tenants fearing eviction despite county ban

 saurav sarkar 2021-07-24

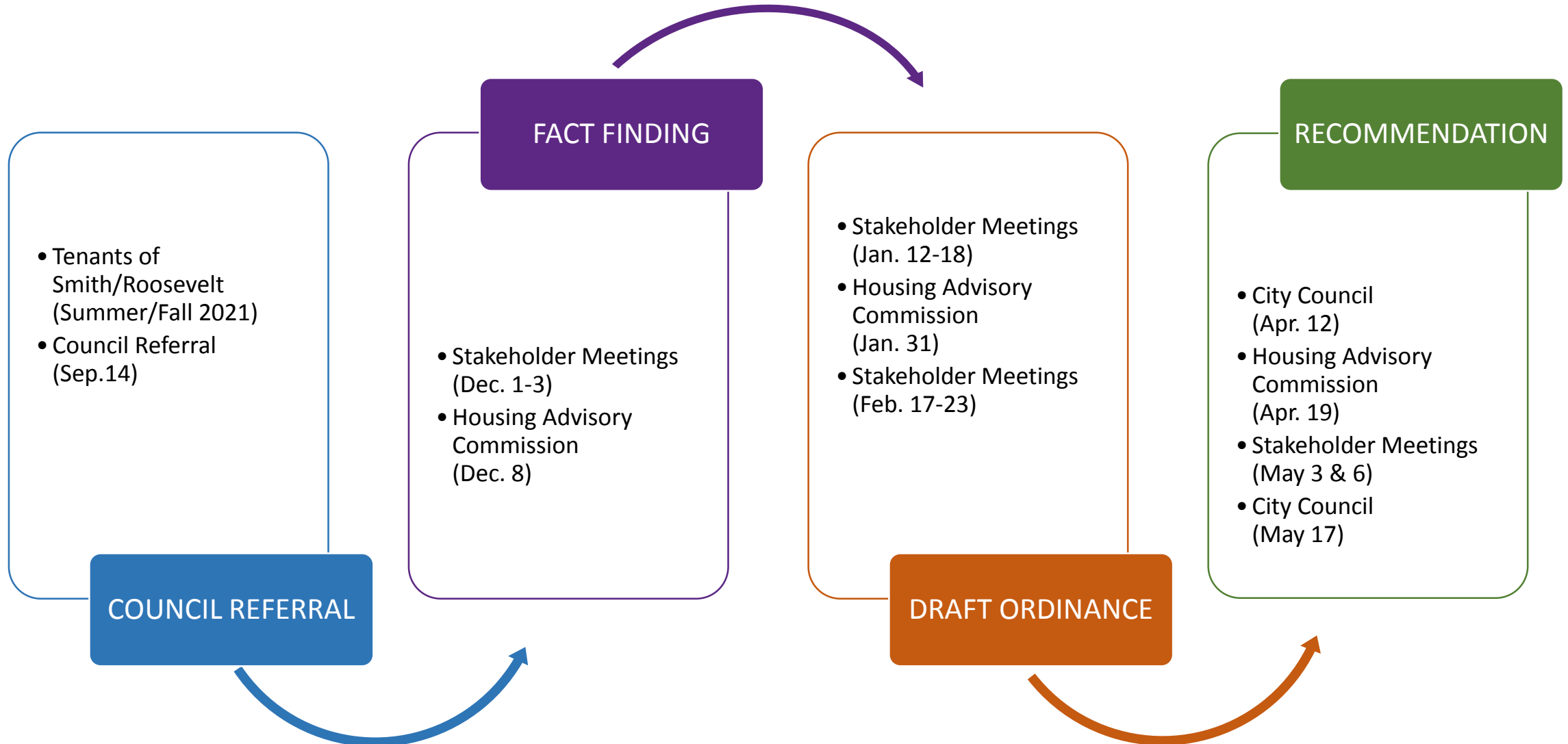


CHULA VISTA

Chula Vista tenants facing eviction despite county ban



Process for Responding



Stakeholder Input

Stakeholder	Concept / Fact Finding	Draft Ordinance (1)	Draft Ordinance (2)	Final Ordinance
Alliance of Californians for Community Empowerment (ACCE)	12/1/21	1/13/22	2/23/22	5/3/22 & 5/6/22
Building Industry Association (BIA)			2/1/22	
California Apartment Association (CAA)	12/3/21	1/12/22	2/17/22	5/3/22 & 5/6/22
Chula Vista Chamber of Commerce Policy Committee			2/23/22	
Pacific Southwest Association of Realtors (PSAR)	12/1/21	1/13/22	2/17/22	5/3/22 & 5/6/22
San Diego Association of Realtors (SDAR)		1/18/22	2/17/22	5/3/22 & 5/6/22
Southern California Rental Housing Association (SCRHA)	12/2/21	1/12/22	2/17/22	5/3/22 & 5/6/22
Western Manufactured Housing Communities (WMA)		1/18/22		5/3/22
Housing Advisory Commission (HAC)	12/8/21	1/31/22	4/19/22	

Additional Fact Finding

Exhibit 2

CSA Calls Related to Termination of Tenancy and Retaliation June 2018- December 2021

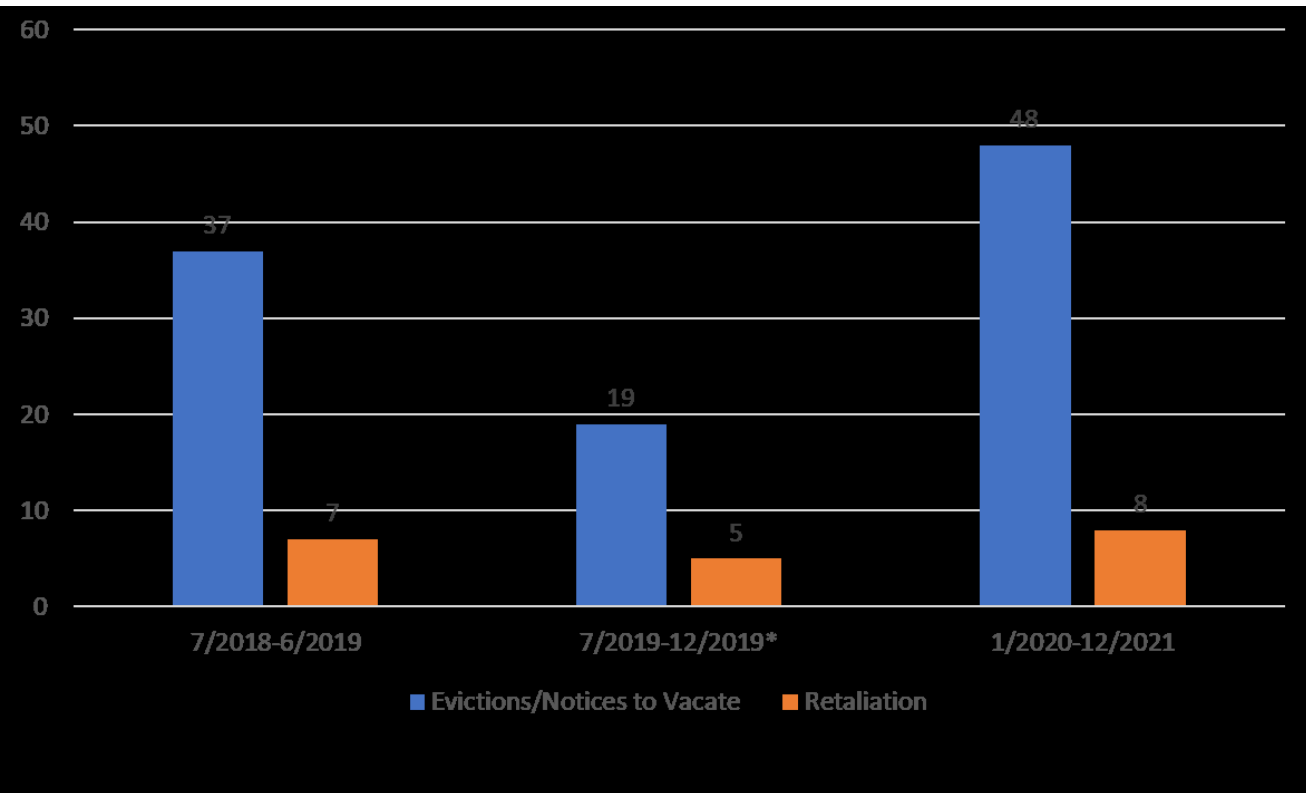


Table 2
San Diego County Sheriff's Department Executed Evictions

		2021			2022		
		October	November	December	January	February	March
# of San Diego County Region Evictions		51	40	65	86	95	118
# of Chula Vista Evictions	91902		1				
	91910	1			3	1	4
	91911		1	1	4	2	4
	91913			1			2
	91914						
	91915						3
	TOTAL	1	1	2	7	3	13
% of Chula Vista Evictions		1.96%	5.00%	3.08%	8.14%	3.16%	11.02%

Existing Law

Ellis Act (Government Code 7060)

- Adopted in 1985.
- Provides property owners with the ability to “go out of the rental business”.
- Rent control jurisdictions have explicit additional Ellis Act provisions.



For Sale

Existing Law

Anti-Harassment (Civil Code 1942.5)

- Adopted in 1988.
- Prohibits retaliatory evictions according to specific behaviors.
- Establishes a timeline of 180 days following specific tenant behaviors during which evictions can be considered retaliatory.
- Allows retaliatory eviction cases to be settled in court.
- Prohibits reporting or threatening to report tenant immigration status.



Existing Law

Tenant Protection Act (AB-1482)

- Effective January 1, 2020.
- Defines “just cause”
- Legal reason for termination of tenancy
- Identifies exempt property types & length of tenancy
- Requires noticing of inclusion or exemption
- No-fault 12 month tenancy or more:
 - 60 day noticing on termination
 - 1 month (existing rent) rental assistance

At-Fault Just Cause	No-Fault Just Cause
Non-payment of rent	Removal from rental market
Non-compliance with lease terms	Demolition of property
Nuisance	Substantial rehabilitation
Commit Waste	Government order
Criminal activity	Owner or family move-in
Illegal subletting	
Refusal of entry to landlord	
Using premises for unlawful activity	
Failure to vacate after employment	
Failure to deliver possession	

- Rent control = 5% + CPI (max 10%)

Limitations on Application

CVMC
9.65.110

Exception, not included in City ordinance:

- Exemption for housing built within the last 15 years.
- Exempted housing types which models AB-1482:
 - Hotel;
 - Rentals of 30 days or less;
 - Medical facilities and care facilities;
 - Residential Property or Dormitories owned by the City;
 - Shared housing (“roommate” of owner);
 - Single-family, where Owner occupies & rents or leases no more than two units or bedrooms, including, an accessory dwelling unit or a junior accessory dwelling unit;
 - Duplex where Owner occupies one unit;
 - Residential Rental Unit alienable separate from the title to any other dwelling unit that is not owned by a business entity;
 - Deed restricted affordable housing; or
 - Homeowner or Tenant of a mobilehome.

Applies to:

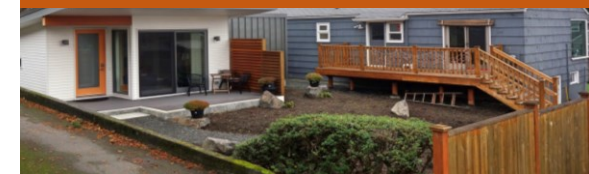
Housing of Any Age



Complexes with 3 or more Units



Single-family + ADU both Tenant Occupied



Duplex both Tenant Occupied



Harassment/ Retaliation

CVMC
9.65.090

1. Fail to provide housing services required;
2. Fail to perform repairs and maintenance required;
3. Fail to exercise due diligence in completing repairs and maintenance;
4. Abuse the Owner's right of access into a Residential Rental Unit;
5. Abuse the Tenant with words which are offensive and inherently likely to provoke an immediate violent reaction;
6. Influence or attempt to influence a Tenant to vacate a rental housing unit through fraud, intimidation or coercion;
7. Threaten the Tenant, by word or gesture, with physical harm;
8. Violate any law that prohibits discrimination;
9. Take action to terminate any based upon facts that the Owner has no reasonable cause to believe to be true or upon a legal theory that is untenable under the facts known to the Owner;
10. Interfere with a Tenant's right to quiet use and enjoyment;
11. Refuse to acknowledge receipt of a Tenant's lawful rent payment;
12. Interfere with a Tenant's right to privacy.

Applies
to:

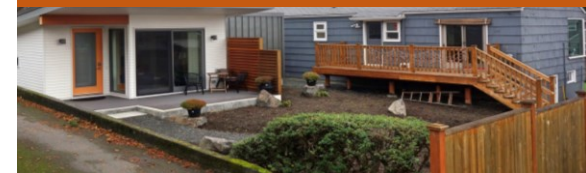
Complexes of Any Age



Complexes with 3 or more Units



Single-family + ADU both Tenant
Occupied



Duplex both Tenant Occupied



Enforcement & Remedies

CVMC
9.65.100

- City Enforcement
 - Alternative Remedies - mediation
 - Criminal - up to \$1,000 and/or 6 months imprisonment
 - Civil – up to \$5,000 per violation
 - Administrative Citation - City Attorney or an Enforcement Officer may issue
 - Right to issue Subpoenas
- Private Remedies
 - Civil - \$2,000-5,000 per violation

Applies
to:

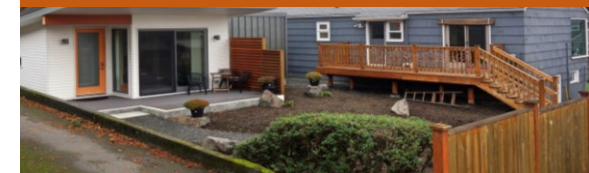
Complexes of Any Age



Complexes with 3 or more Units



Single-family + ADU both Tenant Occupied



Duplex both Tenant Occupied



Definitions

CVMC
9.65.030

G. “Long Term Tenancy” means the continuous and lawful occupation of a Residential Rental Unit for 12 months or more by a Tenant.

I. “Residential Rental Complex” containing three or more Residential Rental Units rented or owned by the same Owner.

Applies
to:

Long Term Tenancy
12 or more Months



Residential Rental Complex
3 or more Units



K. “Substantial Remodel” if:

- (1) system is being replaced or substantially modified;
- (2) improvements \$40 or more per square foot;
- (3) permit is required; and
- (4) necessary to be vacant for more than sixty (60) days.

Cosmetic improvements do not qualify as replacement or substantial modification.





HUD Small Area Fair Market Rent (“SAFMR”)

UPDATED

REVISED Table 4

U.S. Department of Housing and Urban Development Small Area Fair Market Rent (2022)

San Diego County, CA Advisory Small Area FMRs By Unit Bedrooms					
ZIP Code	Efficiency	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom
91902	\$1,850	\$2,040	\$2,620	\$3,640	\$4,450
91910	\$1,430	\$1,580	\$2,030	\$2,820	\$3,450
91911	\$1,440	\$1,600	\$2,050	\$2,850	\$3,490
91913	\$2,110	\$2,340	\$3,000	\$4,170	\$5,100
91914	\$2,360	\$2,610	\$3,350	\$4,650	\$5,700
91915	\$2,360	\$2,610	\$3,350	\$4,650	\$5,700
City Average	\$1,925	\$2,130	\$2,733	\$3,797	\$4,648
Regional Average	\$1,628	\$1,802	\$2,311	\$3,210	\$3,927

2-bedroom range
for 1 month
\$2,050 - \$3,350

Occupation, Government or Court Order

CVMC
9.65.050

- Notice
 - Occupation
 - 60 days
 - Government/Court Order
 - 60 days
- Relocation
 - Occupation
 - 1 month SAFMR
 - 2 months SAFMR for elderly or disabled
 - Government/Court Order
 - 2 month SAFMR
 - 3 months SAFMR for elderly or disabled

Applies
to:

Residential Rental Complex
3 or more Units



Complexes of Any Age



Long Term Tenancy
12 or more Months



Withdrawal from Market

CVMC
9.65.060

- Applicability
 - Does not apply if owner occupation, selling or converting to another use
- Notice
 - 60 days
- Relocation
 - 2 months SAFMR
 - 3 months SAFMR if elderly or disabled
- If returned to Rental Market within 2 years
 - First Right of Refusal
 - Tenant must provide forwarding address
 - Property owner shall be liable for six (6) month's SAFMR

Applies
to:

Residential Rental Complex
3 or more Units



Complexes of Any Age



Long Term Tenancy
12 or more Months



Demolition

CVMC
9.65.070

- Notice
 - 60 days
- Relocation
 - 2 months SAFMR
 - 3 months SAFMR if elderly or disabled
- First Right of Refusal
 - Within 5 years
 - Tenant must provide forwarding address

Applies
to:

Residential Rental Complex
3 or more Units



Complexes of Any Age



Long Term Tenancy
12 or more Months



Substantial Remodel

CVMC
9.65.080

- Defined in CVMC 9.65.030.K
- Notice
 - 60 days
- Relocation
 - 2 months SAFMR
 - 3 months SAFMR if elderly or disabled
- First Right of Refusal
 - Within 2 years
 - Tenant must provide forwarding address

Applies
to:

Residential Rental Complex
3 or more Units



Complexes of Any Age

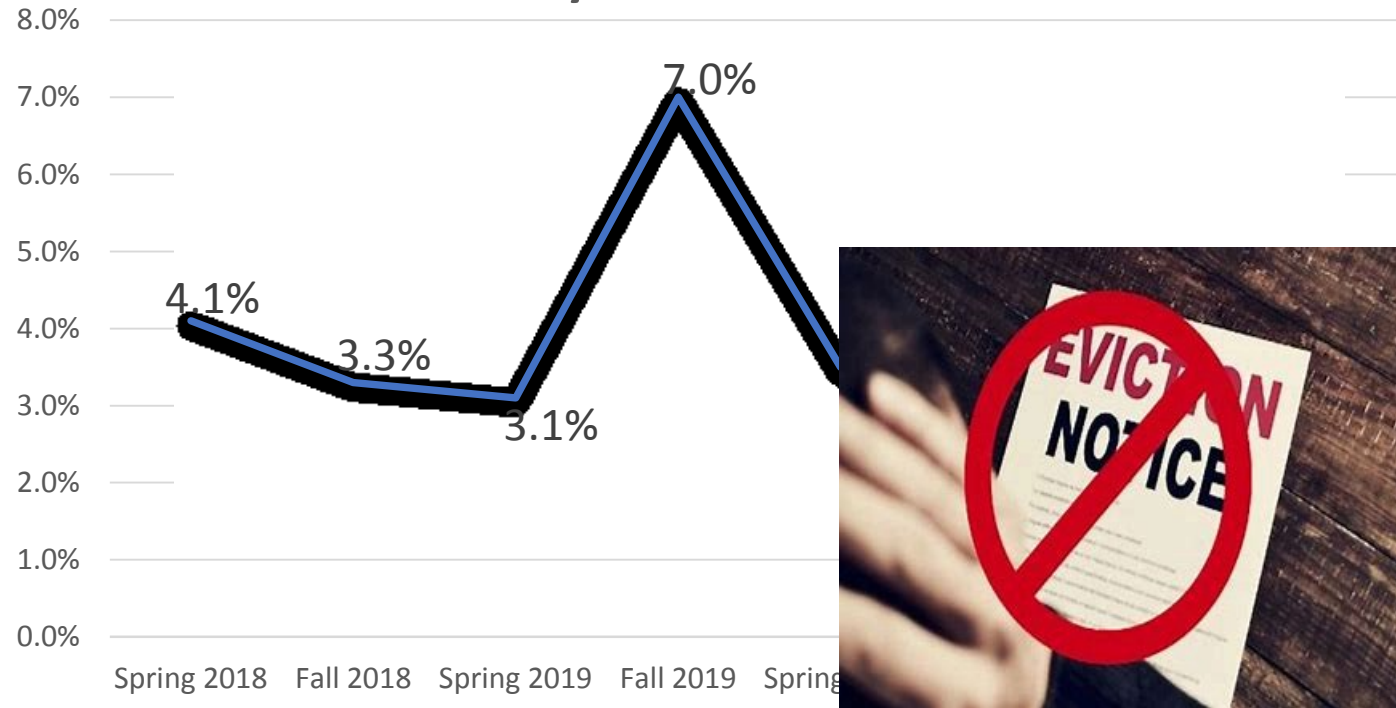


Long Term Tenancy
12 or more Months

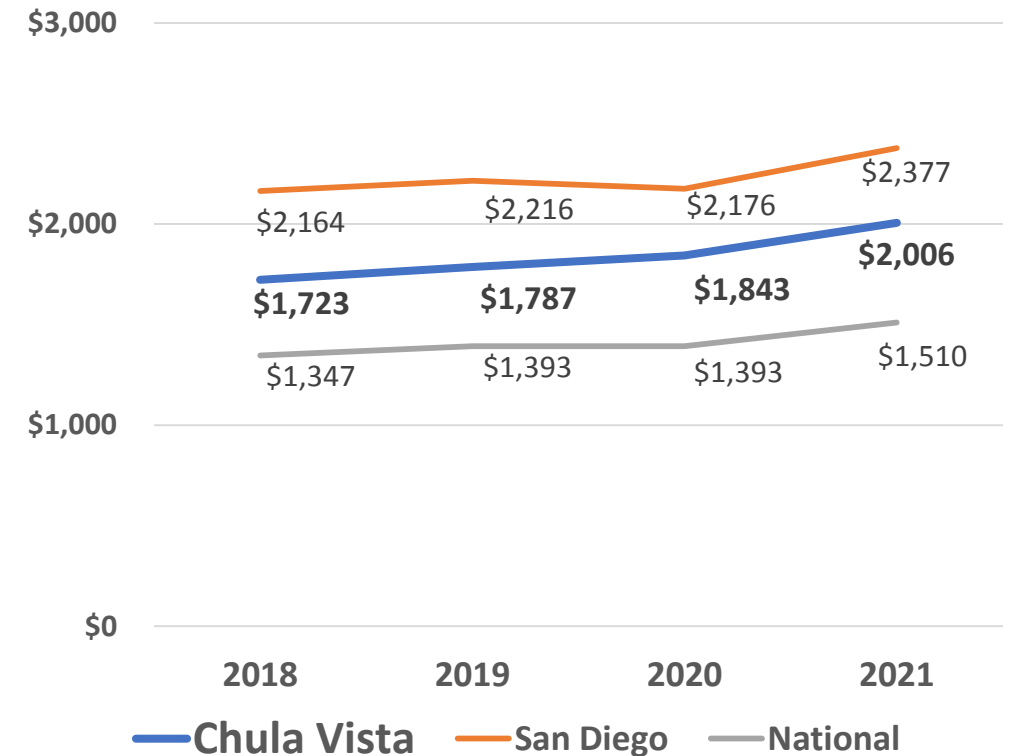


Current Market

Vacancy Rate in Chula Vista



Average Rental Rates



Proposed Law AB-2713

- Occupation
 - Intent to occupy by the owner or the owner's spouse, domestic partner, children, grandchildren, parents, or grandparents for at least 3 consecutive years.
 - Prohibit an owner from terminating a tenancy if the same owner or relative already occupies a unit or if there is a vacancy on the residential real property.
 - "Owner" has at least a 51% recorded ownership.
- Withdrawal from Market
 - Criteria for land use change or converting to owner-occupancy
 - Notice of intent to withdraw provided 180 days before serving the notice to terminate the tenancy.
- Demolish or Substantially Remodel
 - Require owner to obtain permits before issuing a notice to terminate a tenancy.
- Rent Control
 - Make unenforceable any lease exceeding limits in existing law.

Stakeholder Positions



Housing Providers



Tenants



Type of Housing

Length of Tenancy

Breaches in Lease Terms

Ellis Act Provisions

Allowing Substantial Remodel

First Right of Refusal

Noticing

Relocation

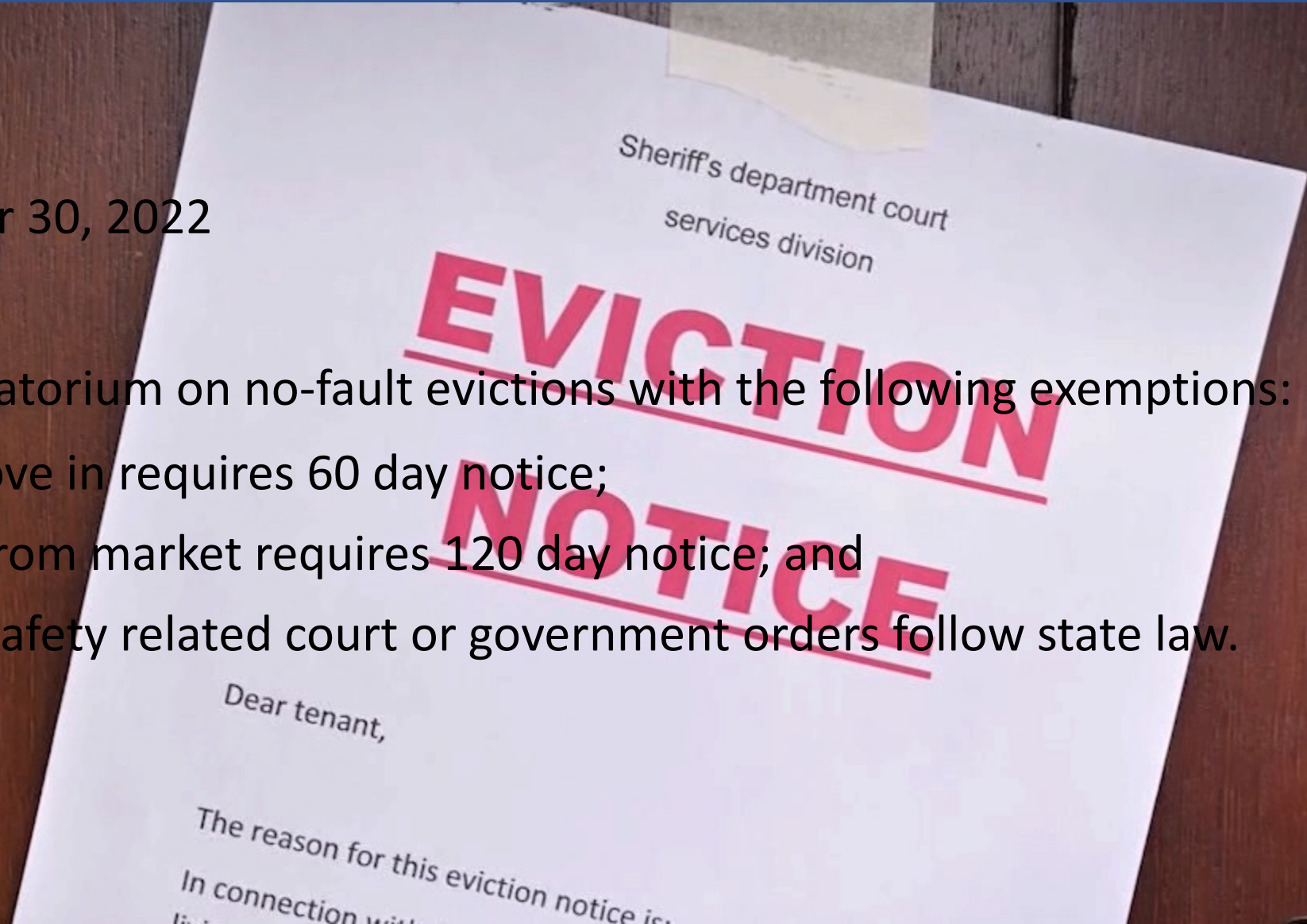
Conclusion

Council Referral:

- Substantial Remodel – Defines substantial remodel and provides additional relocation assistance.
- Removal from Rental Market – Provides additional relocation assistance and penalties for returning to market within 2 years.
- Harassment/Retaliation – Provides 12 additional provisions, including quiet use & enjoyment.
- City Remedies & Enforcement – Defines criminal and civil penalties. Provides City provisions to intervene.

Emergency Moratorium

- Until September 30, 2022
- Temporary moratorium on no-fault evictions with the following exemptions:
 - Owner move in requires 60 day notice;
 - Removal from market requires 120 day notice; and
 - Health & safety related court or government orders follow state law.



Item 7.2 Staff Recommendation

ORDINANCE A
Adopt CVMC 9.65 to provide permanent “Residential
Landlord & Tenant Provisions”

OR

ORDINANCE B
Enact an Emergency Ordinance for a Temporary Moratorium
on No-Fault Evictions