



STAFF REPORT

To the Honorable Mayor and City Council
From the City Manager

DATE: October 28, 2019

SUBJECT

Discussion of impacts in Redwood City of California State Assembly Bill 1482 (AB 1482) and consideration of an urgency ordinance providing interim rent stabilization and just cause eviction protections to tenants

RECOMMENDATION

Discuss local adoption of provisions of AB 1482 and:

1. Direct staff to inform Redwood City tenants of legal resources to help them address any disputes with their landlords, and
2. Direct staff to inform property owners and landlords of rental property of their obligations under AB 1482 and any locally-established ordinances, and
3. Consider adoption, by a vote of at least six City Councilmembers, of an urgency ordinance to implement a “just cause” Eviction Protection Ordinance that would immediately provide (a) just cause eviction protections to Redwood City tenants similar to those provided by AB 1482 statewide effective January 1, 2020 and/or (b) Rent Stabilization requirement via rental rate limitations for Redwood City rental property owners immediately similar to the requirement established by AB 1482 statewide effective January 1, 2020.

STRATEGIC INITIATIVE

Housing

BACKGROUND

California State Assembly Bill 1482

On September 11, 2019, California State Assembly Bill 1482 (AB 1482) passed the Legislature. On October 8, 2019, the Governor signed the bill into law. AB 1482 is set to limit annual rent increases across the state

to 5 percent plus cost of living inflation, or 10 percent, whichever is lower. The bill will also prohibit an owner from terminating a tenancy without just cause if the tenant has lived in a unit for 12 months or more. After AB 1482 becomes effective, the prohibitions on eviction without just cause will go into effect on January 1, 2020 and if rents were increased after March 15, 2019, the rent on January 1, 2020 is reduced to the rent as of March 15, 2019 plus the maximum increase allowed by AB 1482.

AB 1482 implements two concurrent protections on applicable units: (1) a cap on rent increases and (2) just cause eviction protection, which includes providing a one-month rent payment for relocation assistance when a landlord terminates a lease through no fault of the tenant. The relocation payment is paid without regard to a tenant's income or other characteristics. A discussion on each of these provisions follows.

Rent Cap

AB 1482 introduces a cap on rent increases that would allow a landlord to raise the rents by 5% per year plus the percentage change in the cost of living, or 10%, whichever is lower. The increase is tied to annual April/April Bay Area Consumer Price Index (CPI). To provide historical context, staff researched the annual April CPI percentage change for the last four years. In 2018, 2017, 2016, and 2015, the CPI increase was approximately 3.2%, 3.8%, 2.7%, and 2.4%, respectively.

The April 2019 Bay Area CPI increase was 4.0%, which would result in a maximum rent increase of 9.0% once AB 1482 becomes effective.

Just Cause Eviction Protection

AB 1482 includes just cause eviction protections for tenants if they have lived in a unit for 12 months or more. Just cause eviction protection would require a landlord to have a valid reason for terminating a tenancy. Some examples of just cause include non-payment of rent, violation of a lease term, and nuisance.

The just cause eviction protections only apply to tenants who have resided in a unit for 12 months or more: AB 1482 does not apply to tenants who have been residing in the unit for less than 12 months.

Range of Applicable Units

Under AB 1482 certain housing units are not subject to provisions in the law.

The just cause protections and the rent cap limitations do not apply to units:

- Issued a certificate of occupancy in the previous 15 years
- Dormitories owned by an educational institution
- Affordable housing restricted by a deed covenant, regulatory agreement or other recorded document
- Single family homes or condominiums provided the owner is not a real estate investment trust, a corporation, or a limited liability company where at least one member is a corporation, so long as

the tenants are given notice of the exemption as required by the statute that the just cause protections do not apply to the tenant

- Duplexes where the owner occupied one of the units as the owner's principal residents at the commencement of the tenancy and continues to occupy the property

In addition to the unit types listed above, the following units are exempt from the just cause protections only:

- Transient and tourist hotel occupancies
- Housing in nonprofit hospitals, religious facilities, extended care facility, license care facility for the elderly or an adult residential facility
- Housing where the tenant shares bathroom or kitchen facilities with the owner and the housing is the owner's principal residence
- Owner-occupied homes where the owner rents no more than 2 units or bedrooms, including accessory dwelling units
- Rental units covered by a local just cause ordinance if the ordinance was adopted on or before September 1, 2019, or rental units covered by a local ordinance adopted after September 1, 2019 that is more protective than the provisions of AB 1482.

AB 1482 Enforcement

Regarding enforcement of the provisions of AB 1482 the law is unclear and does not specify how enforcement is to occur. It is assumed that tenants will need to enforce the law by way of a private cause of action (enforce by civil action). City staff are not equipped at this time to lead enforcement of these provisions, however, the City partners with Community Legal Services and the Legal Aid Society of San Mateo County and both organizations have confirmed they can provide legal resources and referral services for tenants, regardless of income.

AB 1482 Legal Challenge

On October 15, 2019, an anti-rent control group filed a lawsuit in U.S. District Court against California Governor Gavin Newsom and the City of Long Beach. The lawsuit, filed by attorney Paul Beard of Alston & Bird, argues that AB 1482 violates the Takings Clause in the California Constitution, as well as the Fourth, Fifth and Fourteenth Amendments of the U.S. Constitution. Other legal challenges to AB 1482 are rumored as well.

Recently Adopted Rent Control, Rent Stabilization or Tenant Assistance Programs

Over the past several months, several local jurisdictions in California have enacted rent control, rent stabilization or tenant assistance programs. It is staff's understanding that these actions followed substantial public discussion. These jurisdictions include Culver City, Inglewood, Long Beach, Milpitas, Vallejo and unincorporated Los Angeles County. At the time of the writing of this report, no California City had adopted an urgency ordinance adopting all provisions included in AB 1482. Some agencies, such as Daly City, are considering urgency ordinances to implement just cause eviction provisions.

Urgency Ordinance

In order to enact an urgency ordinance, the City Council needs to declare that there is a current and immediate threat to the public peace, health, and safety. Having a verifiable factual basis for this declaration will help position the City to survive a legal challenge. In Redwood City an urgency ordinance needs a 4/5 vote for City Council approval (six affirmative votes) and would go into effect immediately.

Current Statewide Tenant Legal Protections

Tenants currently have some statewide legal protections in regards to rent increases or no cause evictions, although, many tenants are not aware of their rights, may not have legal counsel or may not feel comfortable challenging their landlord. For example, regarding notices of termination without cause (no fault evictions), California law gives exact requirements to end a tenancy. If a tenant has lived in the rental unit for over one year and is on a month-to-month lease, then the landlord must give the tenant a written 60-day notice to end the tenancy. The notice must inform the tenant that the tenancy will expire at the end of the notice period and the tenant must move out of the rental unit by that time. The only way a landlord can legally evict a tenant in California is by going through the courts and winning an eviction lawsuit, also known as an unlawful detainer suit. Even after winning the eviction lawsuit, the landlord must use a sheriff to actually perform the eviction. California law has made it illegal for the landlord to personally remove the tenant from the rental unit.

As described further below, the City Council may choose to adopt interim measures by an urgency ordinance in an effort to provide additional support for tenants until the statewide AB1482 provisions go into effect on January 1, 2020. Should the Council do so, it is important that tenants are aware of their rights and feel comfortable asserting them.

Redwood City Renter Protection Measures

On March 26, 2018, the City Council adopted two Renter Protection Ordinances: Minimum Lease Terms and Relocation Assistance. Both Ordinances went into effect on January 1, 2019. The Minimum Lease Term Ordinance requires landlords to offer a minimum one-year lease term to provide more stability for tenants by protecting them against rent increases for the duration of the lease period. The Relocation Assistance Ordinance includes a number of components requiring landlords to provide relocation assistance to lower income tenants, defined as households earning eighty percent (80%) or less of the Area Median Income ("AMI").

It took over two years of extensive community engagement, including numerous community meetings, working with the City's Housing and Human Concerns Committee and City staff work to bring these two Renter Protection Ordinances forward for City Council approval. The multiple steps allowing significant community engagement and feedback provided opportunities for all stakeholders and the public to weigh in on the policies. City staff is aware of community concerns that the measures have not helped as many people as hoped, and City staff intends to come back to the Council in spring 2020 with a factual analysis of the impact and recommendations to modify our measures if appropriate. As with other major housing

policy initiatives, staff had expected to conduct community engagement associated with any proposed modifications to these ordinances.

ANALYSIS

Redwood City Impacts

Since the passage of AB 1482 the City has received several inquiries from landlords, property managers and tenants regarding the impacts of AB 1482 in Redwood City. City staff has received three calls from property managers upset with the new state law and stating that they will be increasing rents in advance of January 1, 2020 when the law goes into effect because their current rents are significantly under market and AB 1482 will restrict their ability to catch up to the market in the future.

The City Council and staff also has received tenant testimonials that some landlords are significantly increasing rents prior to the end of 2019, in what appears to be an attempt to evict tenants during a brief window ahead of the January 1, 2020 effective date of AB 1482. These are summarized in Attachment A. The City Council and staff have also been notified that some landlords are increasing security deposits and newly requiring tenants to pay for utilities, actions which present a burden for tenants. Rent increases of 12% and 32% have been documented. AB 1482 will require that rent increases not exceed 10% for tenants who have occupied a property for more than 12 months and be linked to annual increases in CPI plus 5%. For Redwood City, the 2019 increase is 9%.

Additionally, the City has received complaints of 60 day no cause eviction notices that have been sent to tenants. This would evict tenants prior to January 1, 2020. Current state law allows landlords to evict renters without just cause, as long as a two-month notice is given.

Due to the increased number of expressed concerns, and the potential unintended consequence of landlords/property owners acting to significantly increase rents or remove tenants before the new protections are effective, staff has drafted an Urgency Ordinance including two interim measures (just cause eviction protections and rent stabilization protections) that the City Council may wish to consider. If adopted by a vote of at least 6 Councilmembers, the Urgency Ordinance would be in effect immediately and through December 31, 2019, with AB 1482 going into effect statewide on January 1, 2020.

Under typical circumstances, the City Council directs staff to conduct research and engage in robust community engagement initiatives to receive input from stakeholders and the public on proposed policies. Because the reports of adverse impacts on tenants have only surfaced since Governor Newsom signed AB 1482 into state law, there has not been time to conduct substantial research or engagement with tenants or property owners and landlords. This increases the possibility that adopting of one or more interim measures may have unintended consequences or may ultimately be ineffective. Any risk is mitigated, to some extent, by the fact that the proposed ordinances only would be in place through December 31, 2019.

At a minimum, staff recommends communicating with Redwood City tenants that legal resources are available to them as they navigate changes in their lease terms which may present hardships. Providing legal counsel can help tenants advocate more effectively for themselves. Staff also recommends communicating with property owners and landlords of their obligations under AB 1482 and any locally-

established ordinances. These activities are described further below and can be accomplished within existing resources.

Staff also prepared an Urgency Ordinance with two interim measures for the Council's consideration. One (provided in Exhibit A of the Urgency Ordinance) would implement in Redwood City a "just cause" eviction requirement similar to the requirement established in AB 1482.

The second interim measure (provided in Exhibit B of the Urgency Ordinance) would implement in Redwood City rent stabilization provisions similar to those rent caps established in AB 1482.

Implementation of one or both of these interim measures could provide new protections to Redwood City tenants two months ahead of the effective date of AB 1482. They also would require immediate reprioritization of staff time, could require additional short term staff resources, and could subject the City to legal challenge which would need to be defended. These are discussed further below.

Informing Redwood City Tenants and Property Owners/Landlords of Resources and Obligations Related to AB 1482

The City's communications team is already planning communications to inform the community about the new state renter provisions in AB 1482 beginning on January 1, 2020. As many tenants and property owners/landlords may not be aware of the provisions of AB 1482, and given the level of complaints of excessive rent increases and evictions of Redwood City tenants, City staff recommend an immediate communication, outreach and education initiative to tenants and landlords. This would include mailed letters to all apartment owners in Redwood City notifying property owners/landlords of the provisions of 1482, and communicating to all residents in the upcoming fall print newsletter mailed to all households. Staff would also convey information through the City's social media platforms, the City's 17 Neighborhood Associations and connect with regional and local landlord and tenant stakeholder groups and organizations and ask them to share information. Communication materials will be translated into Spanish. City staff will also establish a dedicated City email address for landlords and tenants to submit questions that can be answered by City staff or directed to appropriate resources.

Should the City Council adopt one or both of the proposed interim measures by the Urgency Ordinance, this information would be communicated as well.

City Urgency Ordinance to Provide for Just Cause Eviction

The City Council may consider the introduction and adoption of the Urgency Ordinance to provide that residential landlords within the City of Redwood City may only terminate a tenancy for just cause, unless the property is otherwise exempted from this requirement. Examples of "just cause" under the ordinance would include breach of the lease including failure to pay rent, engaging in criminal activity or other nuisances on the property, a decision by the landlord to take the unit off the rental market or rent the unit to a family member, and other similar circumstances.

Typically, just cause eviction is implemented alongside some form of rent stabilization or rent control. AB 1482 provides just cause eviction protection to all units except those excluded from the bill (examples are

single family homes unless owned by corporations or REITs, subsidized units and units built in the last 15 years).

Prior to approval of AB 1482, most cities that have adopted a rent stabilization or rent control ordinances have also adopted provisions for just cause eviction protections, such as the cities of Berkeley, Hayward, Mountain View, Oakland, Richmond, San Jose, East Palo Alto, Alameda, and San Francisco. Although AB 1482 will go into effect on January 1, 2020, after hearing public testimony at the October 14, 2019 City Council meeting and receiving subsequent statements of excessive rent increases in Redwood City, the City Council may desire to prohibit evictions without just cause sooner than January 1, 2020. City staff has prepared an ordinance consistent with AB 1482 to prohibit eviction without just cause and the ordinance would be effective October 29, 2019 through December 31, 2019. This could help prevent displacement of tenants.

The draft Urgency Ordinance provides for enforcement by way of a private cause of action (enforce by civil action). The proposed ordinance also provides for a one-month relocation assistance payment for any tenant who is evicted for no fault of their own, regardless of the tenant's income, similar to the provisions in AB 1482. The City's current tenant protection ordinance provides for a three month relocation assistance payment for tenants who meet income requirements. The proposed Urgency Ordinance states that, should an issue arise where a tenant would receive more benefits under the City's existing ordinance instead of the proposed Urgency Ordinance, then the ordinance most advantageous to the tenant would govern.

City Urgency Ordinance to Provide for Local Rent Stabilization

In order to reduce potential economic evictions between now and January 1, 2020 when AB 1482 goes into effect, City staff has drafted rent stabilization measures in the Urgency Ordinance in Attachment B that would set rent caps on increases October 29, 2019 through December 31, 2019. The rent stabilization ordinance would establish a 9.0% maximum rent cap. This maximum was established by using the Bay Area CPI (4.0%) for April 1, 2019 plus 5%. This is similar to the provisions in AB 1482, however, the proposed ordinance is retroactive for two months, instead of being retroactive for ten months, as is the case for AB 1482. The legislative process that led to AB 1482 allowed for substantial discussion among stakeholders. Adopting an urgency ordinance does not provide for that same opportunity. Staff recognizes that recent steep rate increases may result in significant hardships for tenants, and recommends that the City inform these tenants of legal services available to them.

To date, staff is not aware of any other cities adopting an urgency ordinance for rent stabilization.

To implement rent stabilization for a two month period would be a significant unplanned activity for staff. It would mean that other housing-related initiatives such as conducting verifications of below market rate units and administering a request for proposals process for relocation assistance firms would have to be deferred until January.

The draft rent stabilization measures in the Urgency Ordinance are compliant with the Costa-Hawkins Act and apply to all housing units allowed under that Act. Given the short timeframe, staff has not had time to determine what proportion of rental property in Redwood City would be affected by the proposed

ordinance. Owners of exempt units would be permitted to raise the rent without being subject to the statewide cap.

The Urgency Ordinance must be passed by a 4/5 vote of the City Council (6 votes) and would take effect immediately. Findings for an urgency ordinance need to be made for the immediate preservation of the public peace, health, or safety, and such findings are incorporated in the ordinance. If at least six Councilmembers vote to pass an urgency ordinance on October 28, 2019, it would take effect immediately, and stay in effect through December 31, 2019.

FISCAL IMPACT

Communicating with residents, tenants and property owners does not require any additional resources. However, should the City Council adopt the Urgency Ordinance, it is likely that additional staff time would be required to implement and support this effort. This would require immediately de-prioritizing other housing-related initiatives such as conducting verifications of below market rate units and administering a request for proposals process for relocation assistance firms and potentially would require additional short term staff with an estimated cost of \$25,000. The Housing Division is comprised of 2.5 full time equivalent positions, and currently only 1 of those positions is filled, so supporting implementation of these ordinances would have a significant impact. Staff currently are interviewing candidates for the Housing Leadership Manager position, with the hope that that position may be filled by mid-December following the reference checking process and allowing the candidate to give notice at their current employer. The other .5 FTE is for a planner to support housing initiatives and the timeline for filling this position is likely early 2020.

Finally, the City could expect legal challenges to the adoption of these ordinances which could require expenditures for legal defense.

ENVIRONMENTAL REVIEW

This activity is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) in that the City Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment. The ordinance would apply residential tenant protection measures to existing residential units in Redwood City, which is solely an administrative process resulting in no physical changes to the environment.

PUBLIC NOTICE

Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting

ALTERNATIVES

The City Council may choose not to direct staff to conduct communication efforts to tenants and to property owners and landlords.

The City Council may choose to adopt, by a vote of at least six City Councilmembers, an urgency ordinance to implement a “just cause” Eviction Protection Ordinance that would immediately provide (a) just cause eviction protections to Redwood City tenants similar to those provided by AB 1482 statewide effective January 1, 2020 and (b) Rent Stabilization requirement via rental rate limitations for Redwood City rental property owners immediately similar to the requirement established by AB 1482 statewide effective January 1, 2020.

The City Council may choose to adopt, by a vote of at least six City Councilmembers, an urgency ordinance to implement only a “just cause” Eviction Protection Ordinance (provided in Exhibit A of the Urgency Ordinance) that would immediately provide just cause eviction protections to Redwood City tenants similar to those provided by AB 1482 statewide effective January 1, 2020.

The City Council may choose to adopt, by a vote of at least six City Councilmembers, an urgency ordinance to implement only a Rent Stabilization requirement (provided in Exhibit B of the Urgency Ordinance) via rental rate limitations for Redwood City rental property owners immediately similar to the requirement established by AB 1482 statewide effective January 1, 2020.

The City Council may choose to take no action at this time, or provide alternate direction to staff.

ATTACHMENTS

Attachment A - Summary of Tenant Communications to City

Attachment B - Urgency Ordinance

Attachment C - Letter from California State Assemblymember David Chiu

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