



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

May 22, 2018

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, California 94903

SUBJECT: Status update on housing policy initiatives.

Dear Board Members:

RECOMMENDATIONS:

1. Receive staff updates on implementation of:
 - a) The Rental Housing Dispute Resolution ("mandatory mediation") program;
 - b) The potential enhancement of Multi-Unit Housing Inspections to improve code compliance; and
 - c) Webpage development to promote and facilitate creation of accessory dwelling units.
2. Approve a resolution clarifying the Junior Accessory Dwelling Unit (JADU) fee waiver program.

SUMMARY:

On December 5, 2017, the Board of Supervisors received a progress report on a set of policy options identified in the work plan to preserve housing affordability and prevent displacement. The programs discussed below are intended to implement a number of those policy options.

BACKGROUND:

As reflected by a vacancy rate¹ of 2.8%, Marin's rental housing market continues to be extremely tight. A healthy rental market typically has vacancy rates between six and seven percent², more than double Marin's current vacancy rate. Another indicator of an imbalanced rental market is the number of families who are rent burdened,³ which is defined as households paying more than 30% of their income for rent and utilities. Rent-burdened families spend such a large portion of their income on rent, that they often experience financial strain in meeting other basic living needs. Approximately 36% of renter households in unincorporated Marin pay more than 40% of their income on rent.⁴ More than one in every four households who rent spend upwards of 50% of their income on housing costs.⁵

¹ U.S. Census Bureau (2015). *Vacancy Status, 2011-2015 American Community Survey 5-year estimates*. (Countywide data.)

² Kasulis, K. (April 20, 2016). *How Vacancy Rate Points to an Unaffordable Housing Market*. *Ruggles Media*.

³ U.S. Census Bureau (2015). *Gross Rent as a Percentage of Household Income in the Past 12 Months, 2011-2015 American Community Survey 5-year estimates*. (Countywide data.)

⁴ *Ibid.*

⁵ *Ibid.*

In response to the challenges that low- and moderate-income tenants face in Marin's rental market, the Board of Supervisors has sought ways to stabilize communities and prevent displacement through a series of actions including those discussed below.

DISCUSSION:

Rental Housing Dispute Resolution Ordinance

The Rental Housing Dispute Resolution Ordinance – commonly referred to as “mandatory mediation” – was adopted by your Board on December 12, 2017 and went into effect on January 11, 2018. Mediation is a process in which a neutral third party facilitates the negotiation of a mutually acceptable resolution to a dispute between two parties. Mandatory mediation is distinguished by a requirement for both parties to participate in good faith for the entirety of the mediation process, even if the landlord and tenant do not settle their dispute.

The District Attorney's (DA) Consumer Protection Unit conducts mediations mandated by the Rental Housing Dispute Resolution ordinance on behalf of the Community Development Agency (CDA or “Agency”). Consumer Protection Unit staff continue to work closely with CDA in the refinement of procedures and forms. They have been valuable partners in launching and implementing this program.

In January 2018, CDA notified landlords of their rights and responsibilities under the Rental Housing Dispute Resolution ordinance. Because the County does not have the ability to generate a comprehensive list of rental units, staff relied upon multiple sources to develop its outreach program. To legally lease living accommodations in the unincorporated County, every individual and business is required to maintain a business license with the Department of Finance. Licensed owners of a rental property received an informational mailer containing a summary of the ordinance, a list of frequently asked questions, staff contact information, and the agency web site address to obtain additional information. The agency also sent mailers to property owners registered with the Environmental Health Services (EHS) Multi-unit Housing Inspection Program who were identified as operating properties in the unincorporated County. Through these efforts, staff discovered that many owners do not maintain a business license and do not participate in the Multi-Unit Housing Inspection program. In response, staff expanded the purview of its notification process to include properties identified on the County Assessor records as having more than one residential unit. Agency staff also coordinated with the Marin Rental Property Association (MRPA) and the Marin Association of Realtors (MAR) to notice housing providers.

On February 1, 2018, CDA launched a new webpage dedicated to the Rental Housing Dispute Resolution program. The webpage provides a tool for tenants to look up whether they reside in the county or city, a program summary, the Notice of Tenant Rights, program application forms, the enabling ordinance and associated implementing guidelines, and contact information for both CDA staff and the DA's Consumer Protection Unit. All documents are provided in English, Spanish, and Vietnamese. The webpage may be found at www.marincounty.org/rental-dispute-resolution.

As of May 15, 2018, the Consumer Protection Unit had received 6 applications for mediation services in addition to numerous calls and information requests that did not result in a formal application. The Consumer Protection Unit reports that every tenant who has called to inquire about the County's mandatory mediation services has

expressed concern that participation in the program could result in an eviction. Some applicants have chosen not to apply for that reason.

The 6 applications resulted in the following outcomes:

- Three applicants were deemed eligible for program participation.
 - One mediation resulted in a landlord-tenant agreement whereby the most recent 10% rent increase went into effect and the tenant received a 2-year lease.
 - One mediation did not yield a concession; the subject rent increase was maintained in full.
 - One mediation requested by the landlord is underway; no resolution has been reached.
- Three applicants were deemed ineligible for services because the rent increases occurred prior to the effective date of the ordinance (two applicants) or because the applicant's home is located outside of the County's jurisdiction (one applicant).

Applicants deemed ineligible for the Rental Housing Dispute Resolution program are referred to the Consumer Protection Unit's voluntary mediation program, and some tenants have pursued that service. In general, the Consumer Protection Unit has found that the program has been an effective way for landlords and tenants to learn about rights and responsibilities and to hear about each other's situations. For example, a tenant was able to gain a deeper understanding of the new property owner's costs of operating a residential rental business in Marin, while a landlord learned about the real impacts of a rent increase on a family's budget. Anecdotally, staff has also heard that some landlords have reduced or otherwise limited rent increases to 5% or less, to avoid participating in the Rental Housing Dispute Resolution program.

The Community Development Agency has received information requests from several cities and towns that are considering adoption of the Rental Housing Dispute Resolution Ordinance. Expansion of the program to incorporated jurisdictions would provide increased consistency for tenants and landlords. The Consumer Protection Unit has expressed a willingness to consider providing rental housing dispute resolution services to Marin cities and towns with the stipulation that jurisdictions adopt a standard ordinance and program. In advance of expansion, staff is exploring ways of simplifying the ordinance and developing improved rental data. Both of the following issues are appropriate topics for the Board of Supervisors Housing Subcommittee to consider before considering modifications to the ordinance:

1. Removal of a provision allowing valuations of housing services in eligibility calculations. While the Consumer Protection Unit has found that housing services are regularly discussed in mediations, no applications have relied upon a reduction of services to establish their program eligibility. Due to challenges assessing the value of a service in a way that results in a fair, transparent, and consistent schedule and to simplify the eligibility determinations, staff recommends that this provision be eliminated and for eligibility to be determined solely based on monetary rent increases.
2. Addition of a provision to facilitate the collection of rental data from housing providers through periodic reporting of rent adjustments and lease terminations. This provision would respond to interest from the Board of Supervisors, landlord and tenant communities, and municipalities in developing more accurate and timely data to inform housing policy decisions.

Potential Enhancement of Multi-Unit Housing Inspection Program

The Agency's Environmental Health Services (EHS) Division manages the Multi-Unit Housing Inspection Program. Through this program, EHS inspect units within the unincorporated county and the various cities and towns, excepting the cities of San Rafael and Novato, which have retained authority for separate inspection and compliance programs carried out by their respective staffs. As the program is currently established, EHS biennially inspects multi-family properties containing three or more units for compliance with State housing law. There are approximately 8,675 rental units registered for participation in this compulsory program, however, staff experience indicates that some pertinent properties are not registered in this program and therefore do not receive the required inspections. Agency staff are working to develop a report to identify unregistered properties.

EHS staff notify landlords in writing approximately 2 weeks prior to the inspection and requests that they or their property manager attend the inspection and provide advanced notice to the tenants. Staff typically inspect the interior of approximately 20% - 25% of units within a building, although additional units may be inspected if systematic problems (e.g., leaky roofs, mold, broken windows, etc.) are found. Staff generally respond to tenant complaints within 24-48 hours after the tenant makes a formal complaint directly to their landlord if the alleged code violation is not addressed.

County staff finds that most reported code violations are corrected by landlords in a timely manner. However, the number and severity of unreported code violations is unknown due to the lack of complaints to the County and cities.

Staff has identified four basic opportunities to enhance the Multi-Unit Housing Inspection program:

1. Creation of a performance-based inspection schedule. Rental buildings with two or more major code violations within a 12-month period and buildings with violations that are not corrected within a timeline set by staff would be moved from a biennial to an annual inspection schedule. The additional inspections and increased cost of associated inspection fees may incentivize landlords to avoid or reduce the number of major violations and correct them in a timely manner, both of which benefit the health and well-being of tenants.

The City of Novato is exploring a similar approach. At present, it conducts annual inspections on a sample of units, but is considering moving buildings with a good compliance record to a biennial or triennial inspection schedule.

2. Inspecting all rental housing units (for buildings with 3 or more units) similar to the City of San Rafael. San Rafael currently has two full time staff assigned to conduct inspections of the 8,000 units within their jurisdiction on a 5-year schedule. The major distinction of San Rafael's program is the inspection of all rental units within their database rather than a sample in each building.

While this approach would significantly expand the number of rental units inspected periodically, the frequency of inspections would change from once every two years to once every five years. However, buildings with repeat code violations or violations not addressed in a timely manner could be inspected more frequently.

Expanding the number of rental units inspected would require increasing the agency's staff resources as well as inspection fees paid by property owners to cover the cost of additional staff.

3. A hybrid approach involving inspections of all rental units within problem buildings. Under this approach, inspection of all rental units could be conducted within buildings where major violations are found and/or when multiple tenant complaints are received by the County. Buildings with good track records for compliance would be remain on a biennial inspection cycle.

Similar to first option described above, the hybrid approach would incentivize landlords to avoid or reduce the number of major violations. Additionally, the annual/biennial frequency of inspections, coupled with expanding the number of units inspected in buildings with multiple violations or increased complaints, may produce more timely maintenance and inspection results than the five-year inspection frequency. The impact to Agency staffing levels would not be as significant as the second option.

4. Increasing educational materials to tenants and landlords regarding the importance of rental unit maintenance and tenant rights. County staff recently posted additional information on the [EHS webpage](#), including referral information for Legal Aid of Marin, Fair Housing Advocates of Northern California, the DA's Consumer Protection Unit, and Marin-Sonoma Vector Control; educational materials on mold, lead-based paint, carbon monoxide, and tenant and landlord rights and responsibilities; and a letter template to help tenants notify their landlords of problems. These efforts could be continued and enhanced in the future contingent on having sufficient staff resources.

Staff recommends the above options be further vetted by the Board Housing Subcommittee and the County Administrator's Office, particularly regarding budget and staff implications associated with the proposed expansion of the number of rental units inspected periodically.

Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU)

Marin's cities and towns have joined the County in encouraging and facilitating ADUs and JADUs as one way to increase housing stock and encourage rentals. The County is promoting ADUs and JADUs by:

1. In March 2017, the County amended its Development Code to implement state law and to allow property owners to maintain one JADU and one ADU on the same property. The units are typically differentiated by their food preparation amenities; an ADU has a full kitchen while a JADU contains a wet bar. Development of a JADU also requires an owner-occupant to reside on the property.
2. In December 2017, your Board approved building and planning fee waivers of up to \$1,500 for JADU permits when a homeowner converts an existing bedroom to a small independent living space. Since this waiver was established, CDA has approved 3 applications for fee waivers totaling \$4,500 of the initial \$25,000 general fund program allocation. The Agency proposes minor amendments to Resolution No. 2017-132, which delegates authority to the CDA Director to waive building and planning fees for JADUs. The

amendments clarify the period that a homeowner would refrain from using a JADU as a short-term rental to be one year from the Certification of Occupancy, align the definition of short-term rentals with other County policies, and require property owners who violate the terms of their waiver agreement to refund the County.

- 3. Creation of a website to promote and facilitate the development of accessory residential structures. The webpage will provide an overview of ADUs and JADUs, and provide links to helpful resources, a summary of typical benefits, links to the pages of other jurisdictions paired with a tool for tenants to look up whether they reside in the county or city, a checklist of things to consider, and an overview of the development process. Staff anticipates completion of the website by early July 2018.

CONCLUSION:

To increase effectiveness of the Rental Housing Dispute Resolution program and other housing initiatives, increased outreach and education is needed. Staff intends to continue to work with our partners in the cities, towns, landlord community and with tenants and advocates to increase awareness of these programs and other resources. Staff will also continue working with the Board Housing Subcommittee to identify a preferred approach to enhancing the County’s Multi-Unit Housing Inspection Program as well as possible changes to the Rental Housing Dispute Resolution program.

FISCAL/STAFFING IMPACT:

To date, the DA’s Office and CDA have implemented and administered the Rental Housing Dispute Resolution Program within existing staffing and monetary resources. Participants do not pay a fee for services. If the volume of requests increases to exceed current capacities, staff will work with the County Administrator’s Office to develop potential program funding opportunities for consideration by your Board. If cities and towns choose to expand the dispute resolution program to their jurisdictions, the Consumer Protection Unit would likely require additional staffing. Staff would collaborate with the CAO and those jurisdictions to develop a cost-sharing agreement.

The fiscal and staffing impacts of changing the County’s Multi-Unit Housing Inspection Program will be evaluated in conjunction with further work conducted through the Board Housing Subcommittee.

REVIEWED BY:

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|--|---|
| <input type="checkbox"/> Auditor Controller | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

Respectfully submitted,



Leelee Thomas
Planning Manager



Brian C. Crawford
Director

ATTACHMENTS:

- 1. Amendment to a resolution delegating authority to waive building and planning fees for Junior Accessory Dwelling Units.