

TO: HONORABLE CITY COUNCIL

ATTN: POLICY AND SERVICES COMMITTEE

FROM: CITY MANAGER DEPARTMENT: COMMUNITY SERVICES

DATE: JULY 8, 2008 CMR: 297:08

SUBJECT: HUMAN RELATIONS COMMISSION RECOMMENDATION TO AMEND PALO ALTO MUNICIPAL CODE CHAPTER 9.72 (MANDATORY RESPONSE TO REQUEST FOR DISCUSSION OF DISPUTES BETWEEN LANDLORDS AND TENANTS) TO VOID RENT INCREASES GIVEN WITHOUT REQUIRED NOTICE OF THE TENANT'S RIGHTS TO MEDIATION

RECOMMENDATION

Staff is forwarding the City of Palo Alto's Human Relations Commission (HRC) request that the Policy and Services Committee review and recommend that Council amend Chapter 9.72 of the Municipal Code, which requires mandatory discussion of disputes between landlords and tenants, to add language that would void increases in rents when a rental agreement, lease, or other written document that changes the term of tenancy for a residential rental property is not accompanied by the notice required by section 9.72.070 of tenant's rights to mediation services. The HRC also recommends a Communication Plan be implemented upon approval of the amended ordinance by the City Council.

BACKGROUND

The City Council, at its October 15, 2001 meeting, passed the Mandatory Response Ordinance, which provides a neutral forum for discussing rental housing disputes, including but not limited to, rent increases. The ordinance amended the Rental Stabilization Ordinance to require landlords or property managers who own or manage two or more rental units to register with the City's Human Services Division. It also requires landlords and property managers to provide written notification to tenants about their rights to conciliation and mediation services on the rental agreement, lease or other written document that changes the term of tenancy for a residential rental property. A copy of the ordinance is attached (Attachment A). Specifically, the notice provision of the ordinance requires that Palo Alto landlords include the following language in rental agreements and any written notices given to the tenant:

'The Palo Alto Municipal Code gives you the right to mediation of disputes between landlord and tenant. You must request mediation within 21 days of learning about the facts that created the dispute. Contact the City of Palo Alto's facilitation administrator [name, address and phone] for

further information. The Palo Alto Municipal Code protects you from retaliation for exercising your right to mediation.'

A landlord's failure to provide this notice is currently addressed in section 9.72.070(d), which specifies that failure to provide notice of the right to request mediation may be punishable as an infraction under Palo Alto Municipal Code section 1.08.010.

DISCUSSION

The Human Relations Commission, at its April 10, 2008 meeting, reviewed and discussed a report drafted and presented by Mr. Martin Eichner, Director of Dispute Resolutions, with Project Sentinel entitled, "Further Report to the HRC Regarding Amending the Mandatory Response Ordinance". The report described the activity level for cases raised under Chapter 9.72 during the past seven years, which included 162 cases opened, 114 cases resolved through conciliation or mediation and a 70.3 percent success rate for resolving cases. Excellent satisfaction from both tenants and landlords who participated in the sessions was reported. A large majority of participants have said that they would recommend the program to others. Despite the high quality of the program and given the City's population and the number of rentals, Mr. Eichner concluded the program has been underutilized in Palo Alto, with only 30 cases in 2005, 29 cases in 2006 and 27 cases in 2007:

Compared with the City of Campbell, which has 5,300 rental units and has opened 215 cases in the past three years, Palo Alto has approximately 6,000 rental units but has only had 86 opened cases in the same period. Project Sentinel concluded that the major reason for the underutilization of the Palo Alto Program is due to the failure of Palo Alto landlords and property managers to comply with the notice provisions of the ordinance by registering and including the Notice of Tenant's Rights. This conclusion was based on a review of rental agreements collected by Project Sentinel in mandatory response cases occurring over the past few years. In all the rental agreements collected, the notice language was omitted.

Mr. Eichner presented proposed language to amend the ordinance and cited other cities, including the City of Campbell and the Town of Los Gatos that have language in their ordinances that voids any rental increase when the landlord is out of compliance with the respective ordinances. Mr. Eichner also stated that the administrative cost for the City of Campbell and the Town of Los Gatos to administer the sanctions to their ordinances were minimal because landlords were eager to comply to avoid the rental sanctions.

Ms. Kirsten Carr from the California Apartment Association, Tri-County requested a delay on behalf of that Association until the HRC's May meeting in order to provide time for the Tri-County Apartment Association to investigate the situation with its members. She stated that the association was uninformed that its Palo Alto members were out of compliance with the Palo Alto ordinance.

A lengthy discussion among the HRC Commissioners regarding that request followed, and several members of the HRC articulated a need for more communication on the part of the City of Palo Alto regarding the ordinance to "Mom and Pop" and mid-level landlords and the wording of the proposed amendment to the ordinance.

Commissioner Shauna Mora moved to approve Project Sentinel’s Appendix A- Proposed Language for Amended Ordinance (Attachment B) with the inclusion of edits offered by Commissioner Jeff Blum, who seconded the motion. After a lengthy discussion, the motion failed with three commissioners voting in favor and three opposing the motion.

Commissioner Khan stated that she could support an amended motion for the proposed ordinance amendment that contained a communication plan for conveying the requirements of the ordinance to landlords that had the following elements:

- ❖ Communication using e-mail, website, or other means targeting “Mom and Pop” and mid-level landlords encouraging them to register and educating them about the ordinance
- ❖ Similar notification about the ordinance targeting landlords already registered
- ❖ A 90-day grace period for all landlords to register and comply with the ordinance

The motion to recommend approval of the amendment along with the communication plan passed with four commissioners in favor and two opposed.

BOARD/COMMISSION REVIEW AND RECOMMENDATION

The HRC recommends revising language to Chapter 9.72 that voids increases in rents when notice of a rent increase is not accompanied by the notice of tenant’s rights to mediation services. The HRC also recommends a Communication Plan to advise landlords of the ordinance requirements be implemented when the amended ordinance is approved by the City Council.

RESOURCE IMPACT

Based on experience of other cities with similar provisions, the resource impact is minimal.

ATTACHMENTS

Attachment A: Palo Alto Municipal Code Chapter 9.72 (Mandatory Response to Request for Discussion of Disputes Between Landlords and Tenants)

Attachment B: Project Sentinel’s Appendix A: Proposed Language for Amended Ordinance

PREPARED BY: _____

KATHY ESPINOZA-HOWARD
Division Manager, Cubberley Center & Human Services

DEPARTMENT HEAD: _____

RICHARD JAMES
Director of Community Services

CITY MANAGER APPROVAL: _____

STEVE EMSLIE/ KELLY MORARIU
Deputy City Managers