ATTACHMENT A

City of Palo Alto
City Manager's Report

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
ORDINANCE NO. 4728

ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO ADDING CHAPTER 9.72 TO TITLE 9 [PUBLIC PEACE, MORALS AND SAFETY] OF THE PALO ALTO MUNICIPAL CODE RELATING TO MANDATORY RESPONSE TO REQUEST FOR DISCUSSION OF DISPUTES BETWEEN LANDLORDS AND TENANTS

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Chapter 9.72 is hereby added to Title 9 [Public Peace, Morals And Safety] of the Palo Alto Municipal Code to read as follows:

CHAPTER 9.72
MANDATORY RESPONSE TO REQUEST FOR DISCUSSION OF DISPUTES BETWEEN LANDLORDS AND TENANTS

9.72.010 Purposes and Findings. The City Council finds and declares as follows:

(a) There is an imbalance between the supply of and demand for rental housing in the City of Palo Alto. The imbalance is the result of both a shortage of rental housing and overwhelming market demand.

(b) The imbalance between supply and demand creates an imbalance of bargaining power between landlords and tenants.

(c) As a result of these market and bargaining power imbalances, Palo Alto tenants may be unwilling or unable to assert their legal rights and other concerns to their landlords.

(d) Communication between landlords and tenants is impaired as a result. Moreover, the Palo Alto rental housing market is less responsive to the needs of tenants because "customer service" is not needed to attract and retain tenants.

(e) These impacts are detrimental to the health, safety and general welfare of Palo Alto and the surrounding region because the stability, security and quality of housing opportunities are reduced.
(f) These impacts can be reduced by improving communications between landlords and tenants through a fair and reliable process for the conciliation and mediation of disputes.

(g) Because effective communication must be "two-way," it is essential that all affected parties be required to participate in mediated dispute resolution.

(h) In order to further assure improved communications it is necessary to protect the parties to mediation from retaliation for exercising the rights afforded by this chapter.

(i) The City Council recognizes that it is important to monitor and improve the processes established in this chapter on a periodic basis.

9.72.020 Mandatory Discussion of Rental Housing Disputes.

All persons (landlords and tenants) residing in, owning, or managing residential rental property to which this chapter applies shall participate in the conciliation and mediation of rental housing disputes as provided in this chapter. The definitions applicable to this chapter appear in Section 9.72.080.

9.72.030 Applicability.

This chapter shall apply to residential rental property as follows:

(a) Any residential rental property containing two or more dwelling units, except two-unit residential rental property in which one of the units is owner-occupied or

(b) Any residential rental property that is owned by a person or legal entity that owns two or more residential rental properties within the City.

9.72.040 Dispute Resolution Process.

(a) Any tenant or landlord may request mandatory discussion of rental housing disputes by filing a written request for dispute resolution within 21 days of learning the facts that give rise to the dispute. The request must be filed
with the City's Facilitation Administrator, and must provide enough factual information to outline the basic issue or issues being raised.

(b) Within 7 days of receiving a written request for dispute resolution, the Facilitation Administrator will notify both tenant and landlord that a case has been opened and will provide a copy of the request to the responding party. The Facilitation Administrator will also initiate a conciliation process, to be undertaken by the Facilitation Administrator, other City staff, or a Mediator, before mediation is scheduled.

(c) The Facilitation Administrator will not open dispute resolution, or will order dispute resolution closed, when it is clear from the written request that there is no substantial factual basis for the dispute, or when the dispute involves the actions or behavior of persons, or conditions, that are not within the control or responsibility of the parties; or when the dispute is frivolous, malicious or vexatious; or when further proceedings are not, in the sole judgment of the Facilitation Administrator, likely to be productive. Both parties will be notified of the Facilitation Administrator's action and shall have access to the case summary forms used by the Facilitation Administrator, which will not contain any confidential communications from the parties. The Facilitation Administrator will also order dispute resolution closed if the parties agree to engage a mediator of their own choice, so long as the party who requests the mediator agrees in writing to bear all costs related to that service.

(d) The Facilitation Administrator will promptly assign the request to a mediator who will contact all relevant parties to conciliate and mediate the dispute. The Facilitation Administrator shall have the authority to combine different disputes or different parties in the interest of efficiently addressing the disputes, provided that any party may, for reasons of confidentiality or otherwise, opt out of a combined mediation involving more than one tenant or landlord by notifying the Facilitation Administrator. All communications between the Facilitation Administrator and the parties as well as between the mediator or conciliator and the parties shall be confidential and subject to the confidentiality guarantees set forth in California Evidence Code sections 703.5 and 1115-1128, as they may be amended or superseded. The mediator assigned to the case will promptly investigate and if necessary disclose any conflict of interest or potential conflict of interest to the parties as soon as the conflict or potential conflict becomes
known to the mediator. At the time of disclosure, the parties will have the option of waiving any such conflict as long as the waiver is in writing. The City shall not be obligated to incur any financial obligation in order to assign a mediator. A mediator will not be assigned if there are not qualified volunteers available without cost to the City or parties.

(e) No mediation will be scheduled until at least 14 days after the parties are notified in order to allow time for conciliation efforts before mediation. Unless all parties agree in writing to waive the time limit, the initial mediation session will be conducted within 28 days of the date the written request for dispute resolution is filed. The landlord’s business location shall be considered so that the mediation will be scheduled at a reasonably convenient time taking into account the distance that the landlord must travel to attend the mediation.

(f) If a mediation session is held, the mediator shall provide the parties with an opening statement explaining the nature of the process and the ground rules. Thereafter the mediator will determine the manner and course of the session, including whether to meet with the parties in caucus, provided that the general guiding principle will always be to provide the parties with a full opportunity to air the concerns giving rise to the dispute.

(g) The landlords and/or tenants involved in the dispute shall be obligated to personally appear at a mediation session scheduled by a mediator. All parties must participate in the mediation session until completion of the mediator’s opening statement. All parties appearing must have the legal authority to resolve disputes arising under this chapter. Participation in mediation shall be voluntary in all respects after the opening statement. The Mediator may, with the consent of all parties, schedule additional sessions as needed.

(h) No party shall be obligated to reach any specific agreement, or to reach any agreement at all, as a result of participating in conciliation or mediation communications. If an agreement is reached, it will be stated in writing by the mediator or by the parties. Any such agreement shall be confidential and will not be enforceable or usable for any purpose outside the dispute resolution process, unless all signatories agree that the document can be disclosed or used in other proceedings.
9.72.050 Property Registration.

(a) The landlord of each residential rental property within the City shall register the unit or units with the City, regardless of whether the residential rental property is listed in section 9.72.030. The registration shall include the name and mailing address of the owner or owners of the property, as well as the name, mailing address and contact telephone number of the person having the legal authority to effectively resolve disputes arising under this chapter.

(b) For the sole purpose of reimbursing the City of Palo Alto for the reasonable costs of maintaining property registration records and related administrative systems, the owner or manager of each residential rental unit to which this chapter applies shall pay a fee in an amount to be set by the Palo Alto City Council.

9.72.060 Retaliation Prohibited.

No landlord or tenant who has been a party to conciliation and mediation of rental housing disputes pursuant to this chapter may undertake or cause any type of retaliatory act or omission against another party as a result of the other party having invoked or participated in the dispute resolution process. The Facilitation Administrator upon request shall review an act or omission, including a notice of eviction or an unlawful detainer action, which occurs within six months of the party’s participation in conciliation and mediation of rental housing disputes, unless the eviction or action is the result of the unjustified failure or refusal to pay rent. In the event that the Facilitation Administrator concludes that there is sufficient evidence to investigate an act or omission of retaliation under this provision, the relevant facts will be referred to the city attorney for appropriate remedial action.

9.72.070 Notice of Tenant’s Rights.

(a) Every rental agreement, lease, or other written document evidencing or changing the terms of tenancy for a Residential Rental Property to which this chapter applies shall include or be accompanied by the following: A notice summarizing the rights afforded by this chapter, including but not limited to the protection against retaliation; and the name, address and telephone number of the Facilitation Administrator. The Facilitation Administrator shall prepare and publish acceptable notification language, including the name, address
and phone number of the City’s Facilitation Administrator. The notification shall be capitalized text at least 14 points in size and shall state:

"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."

(b) The notification shall be provided in English, Spanish, Chinese and Russian in the translated form prepared and published by the Facilitation Administrator.

(c) Failure to provide this notification shall result in an automatic extension of the 21 day time limit for filing a written request for dispute resolution pursuant to section 9.72.040(a). The automatic extension shall remain in effect until 21 days after written notification is provided by the landlord.

(d) Failure to provide the notification shall be punishable pursuant to Palo Alto Municipal Code section 1.08.010 only if the landlord has been given written notification from the City that informs the landlord of its obligations pursuant to this section. The written notification to the landlord may be provided by any reliable means of communication, but shall be deemed received if sent via certified mail, postage prepaid, return receipt requested. The written notification may be in the form of a copy of this chapter. Copies of this chapter shall be provided to any Palo Alto landlord or tenant without cost upon request.

9.72.080 Definitions.

For the purpose of this chapter, the following terms are defined as follows:

(a) "Conciliation" means a confidential telephone call or other contacts by a mediator or the Facilitation Administrator with a landlord and tenant for the purpose of resolving a rental housing dispute.
(b) "Facilitation Administrator" means the person or entity responsible for the routine case intake, mediator assignment and other administrative duties of the dispute resolution process established by this chapter.

(c) "Landlord" means the owner or property manager exercising effective control over the terms and conditions of the tenancy of a residential rental property, including a person with such control delegated through a durable power of attorney.

(d) "Mediation" means a meeting in which landlord and tenant have the opportunity to communicate with a mediator and each other in a face-to-face setting at a neutral location in order to resolve a rental housing dispute under ground rules designed to protect the confidentiality and neutrality of the communications.

(e) "Mediator" means a person who is certified to have completed at least 40 hours of basic mediation training with subsequent advanced training, and who has also participated as a mediator or co-mediator in at least 10 mediations conducted under the auspices of a recognized community or commercial mediation program, and who has agreed (in a form acceptable to the Facilitation Administrator) to a statement of mediation ethics and principles, including an acknowledgement of the duty to disclose any conflicts of interest in any specific case.

(f) "Rental Housing Dispute" means a fact-based grievance raised by any tenant, owner, or property manager regarding the occupancy or use of rental property limited to rental rate increases, deposits, repairs and maintenance, utilities, occupants, parking and storage facilities, privacy, quiet enjoyment, or use of common areas.

(g) "Residential Rental Property" means any housing structure occupied as a dwelling or offered for rent or lease as a dwelling, whether attached, detached, single or multiple-family.

(h) "Tenant" means the person or entity entitled to occupy a residential rental property at the time that the rental housing dispute arises.
9.72.090 Penalties.

(a) Violations of this chapter shall be punishable as infractions pursuant to Palo Alto Municipal Code section 1.08.010.

SECTION 2. The City Manager is directed to return to the City Council in approximately 12 months with a status report on the implementation of this Ordinance. The status report shall be provided no more than 14 months after the effective date of this Ordinance. The status report should include any recommendations for amendment of the scope of issues defined as Rental Housing Disputes.

SECTION 3. Any fees imposed pursuant to this Ordinance shall be for the purpose of cost recovery only and shall not exceed the cost of providing any services. This section is declaratory of existing law.

SECTION 4. The Council finds that this ordinance is exempt from the provisions of the California Environmental Quality Act because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.
SECTION 5. This ordinance shall be effective on the third day of January, 2002.

INTRODUCED: November 13, 2001

PASSED: December 3, 2001

AYES: BEECHAM, BURCH, EAKINS, KLEINBERG, LYTLE, OJAKIAN, WHEELER

NOES:

ABSENT: FAZZINO, MOSSAR

ABSTENTIONS:

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

VICE Mayor

APPROVED:

City Manager

Director of Community Services

Director of Administrative Services
APPENDIX A – Proposed Language for Amended
Ordinance

Notice of Tenant’s Rights

(a) Every rental agreement, lease, or other written document evidencing or changing the
terms of tenancy for a Residential Rental Property to which this chapter applies shall
include the following: A notice summarizing the rights afforded by this chapter,
including not limited to the protection against retaliation; and the name, address and
telephone number of the Facilitation Administrator. The Facilitation Administrator
shall prepare and publish acceptable notification language, including the name,
address and telephone number of the Facilitation Administrator. The notification
shall be in capitalized text at least 14 points in size and shall state:

‘THE PALO ALTO MUNICIPAL CODE GIVES YOU THE RIGHT TO ENGAGE
IN MEDIATION AND CONCILIATION SERVICES IN DISPUTES BETWEEN
LANDLORD AND TENANT. YOU MUST REQUEST DISPUTE RESOLUTION
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 PALOALTO MUNICIPAL CODE PROTECTS YOU FROM RETALIATION
FOR EXERCISING YOUR RIGHT TO SEEK DISPUTE RESOLUTION
SERVICES PURSUANT TO THE MUNICIPAL CODE.

(b) The notification shall be provided in English, Spanish, Chinese and Russian in the
translated form prepared and published by the Facilitation Administrator.

(c) Failure to provide this notification shall result in an automatic extension of the 21-
day time limit for filing a written request for dispute resolution pursuant to section
9.72.0404(a). The automatic extension shall remain in effect until 21 days after
written notification is provided by the landlord.

(d) Failure of a landlord to comply with the notice provisions described above shall
render any rental increase notice void and unenforceable and shall provide the tenant
with a defense in any legal action brought by the landlord to collect rent in whole or
in part based on the amount of the rental increase, including any unlawful detainer
action based on failure to pay rent which includes an unenforceable rental increase
amount as a basis for all or part of the unpaid rent alleged in that action. The failure
to comply with the notice provisions will be cured only after the proper written
Notice of Tenant’s Rights, along with a new rental increase notice, has been properly
served on the tenant.
NOT YET APPROVED

ORDINANCE NO. __________
ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO
AMENDING SECTION 9.72.070 OF CHAPTER 9.72 [MANDATORY
RESPONSE TO REQUEST FOR DISCUSSION OF DISPUTES
BETWEEN LANDLORD AND TENANT] OF TITLE 9 OF THE
PALO ALTO MUNICIPAL CODE TO VOID RENT INCREASES
GIVEN WITHOUT NOTICE OF THE RIGHT TO MEDIATION

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as
follows:

(a) The public interest requires that periodic revision of the Municipal Code is
necessary in order to make revisions that are consistent with public policy.

(b) Project Sentinel, the Facilitation Administrator for the City’s Landlord
Tenant mediation program, found that the City’s program is effective and highly rated by users,
but that it is underutilized in comparison to cities with similar programs.

(c) Project Sentinel has recommended revisions to help promote greater use of
the program and the City’s Human Relations Commission and Policy and Services Committee
have reviewed and agreed with the recommendations.

SECTION 2. Section 9.72.070 of Chapter 9.72 [Mandatory Response to Request
for Discussion of Disputes Between Landlord and Tenant] of Title 9 is hereby amended to read
as follows:

9.72.070 Notice of tenant’s rights.

(a) Every rental agreement, lease, or other written document evidencing or changing the
terms of tenancy for a residential rental property to which this chapter applies shall include or be
accompanied by the following: A notice summarizing the rights afforded by this chapter,
including but not limited to the protection against retaliation; and the name, address and
telephone number of the facilitation administrator. The facilitation administrator shall prepare
and publish acceptable notification language, including the name, address and phone number of
the city’s facilitation administrator. The notification shall be capitalized text at least fourteen
points in size and shall state:

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.

(b) The notification shall be provided in English, Spanish, Chinese and Russian in the
translated form prepared and published by the facilitation administrator.
(c) Failure to provide this notification shall result in an automatic extension of the twenty-one-day time limit for filing a written request for dispute resolution pursuant to Section 9.72.040(a). The automatic extension shall remain in effect until twenty-one days after written notification is provided by the landlord.

(d) Failure of a landlord to comply with the notice provisions described above or in a form which provides substantially the same information shall render any rental increase notice invalid and unenforceable, and shall provide the tenant with a defense in any legal action brought by the landlord to collect rent in whole or in part based upon the amount of the rental increase, including any unlawful detainer action based on failure to pay rent which includes an unenforceable rental increase amount as a basis for all or part of the unpaid rent alleged in that action. The failure to comply with the notice provisions will be cured only after the proper written notice of Tenant’s Rights, along with a new rental increase notice, has been properly served on the tenant.

SECTION 3. The Council finds that amending the landlord/tenant mediation ordinance does not meet the definition of a project under the California Environmental Quality Act pursuant to California Public Resources Code section 21065, and therefore no environmental assessment is necessary.

SECTION 4. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED: 

PASSED: 

AYES: 

NOES: 

ABSENT: 

ABSTENTIONS: 

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Mayor

APPROVED:

City Manager

Director of Community Services Dept.

Director of Administrative Services
RED-LINE VERSION

ORDINANCE NO._____
ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO
AMENDING SECTION 9.72.070 OF CHAPTER 9.72 [MANDATORY
RESPONSE TO REQUEST FOR DISCUSSION OF DISPUTES
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GIVEN WITHOUT NOTICE OF THE RIGHT TO MEDIATION

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

(a) The public interest requires that periodic revision of the Municipal Code is necessary in order to make revisions that are consistent with public policy.

(b) Project Sentinel, the Facilitation Administrator for the City's Landlord Tenant mediation program, found that the City's program is effective and highly rated by users, but that it is underutilized in comparison to cities with similar programs.

(c) Project Sentinel has recommended revisions to help promote greater use of the program and the City's Human Relations Commission and Policy and Services Committee have reviewed and agreed with the recommendations.

SECTION 2. Section 9.72.070 of Chapter 9.72 [Mandatory Response to Request for Discussion of Disputes Between Landlord and Tenant] of Title 9 is hereby amended to read as follows:

9.72.070 Notice of tenant's rights.

(a) Every rental agreement, lease, or other written document evidencing or changing the terms of tenancy for a residential rental property to which this chapter applies shall include or be accompanied by the following: A notice summarizing the rights afforded by this chapter, including but not limited to the protection against retaliation; and the name, address and telephone number of the facilitation administrator. The facilitation administrator shall prepare and publish acceptable notification language, including the name, address and phone number of the city's facilitation administrator. The notification shall be capitalized text at least fourteen points in size and shall state:

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.

(b) The notification shall be provided in English, Spanish, Chinese and Russian in the translated form prepared and published by the facilitation administrator.
(c) Failure to provide this notification shall result in an automatic extension of the twenty-one-day time limit for filing a written request for dispute resolution pursuant to Section 9.72.040(a). The automatic extension shall remain in effect until twenty-one days after written notification is provided by the landlord.

(d) Failure of a landlord to comply with the notice provisions described above or in a form which provides substantially the same information shall render any rental increase notice invalid and unenforceable, and shall provide the tenant with a defense in any legal action brought by the landlord to collect rent in whole or in part based upon the amount of the rental increase, including any unlawful detainer action based on failure to pay rent which includes an unenforceable rental increase amount as a basis for all or part of the unpaid rent alleged in that action. The failure to comply with the notice provisions will be cured only after the proper written notice of Tenant’s Rights, along with a new rental increase notice, has been properly served on the tenant. Failure to provide the notification shall be punishable pursuant to Palo Alto Municipal Code Section 1.08.010 only if the landlord has been given written notification from the city that informs the landlord of its obligations pursuant to this section. The written notification to the landlord may be provided by any reliable means of communication, but shall be deemed received if sent via certified mail, postage prepaid, return receipt requested. The written notification may be in the form of a copy of this chapter. Copies of this chapter shall be provided to any Palo Alto landlord or tenant without cost upon request.

SECTION 3. The Council finds that amending the landlord/tenant mediation ordinance does not meet the definition of a project under the California Environmental Quality Act pursuant to California Public Resources Code section 21065, and therefore no environmental assessment is necessary.

SECTION 4. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Mayor

APPROVED:

City Manager

Director of Community Services Dept.

Director of Administrative Services
CORRECTIONS BY: ____________________________

HUMAN RELATIONS COMMISSION
Thursday, April 10, 2008
Council Conference Room
Palo Alto Civic Center
250 Hamilton Avenue
7:00 PM

ROLL CALL: Commissioners Present: Atito, Bacchetti, Blum, Khan, Mendoza, Mora, Savage
Council Liaison: Peter Drekmeier  Staff: Kathy Espinoza-Howard

ORAL COMMUNICATIONS:
Mr. John Abraham spoke about demographic data and compared traffic stops, citation, and arrests for
different ethnic groups. He concluded that African Americans get stopped more than any other ethnic
group. The data appears to be contradictory.

APPROVAL OF MINUTES:
None

AGENDA CHANGES, REQUESTS, and DELETIONS:
Agenda item #2 was moved to be agenda item #1.

BUSINESS

1. DISCUSSION OF HRC INVOLVEMENT IN CITY COUNCIL PRIORITIES

Councilmember Drekmeier was asked to give an update of the City Council’s work on setting their
priorities. He spoke briefly about each of the priorities and some of the recent surveys that have been
carried out.

Commissioner Bacchetti provided a summary of his view of the City Council’s discussion of the priority
level of civic engagement. He reported that it was a complicated and rich discussion. There were times when
the line between policy and management became blurred. Basically, the City Council has asked staff to
continue to work out the details and the implementation. There will be more discussions throughout the
year.

Commissioner Mora asked how the HRC can be of further assistance. Councilmember Drekmeier said
that more things would come through HRC, and for the HRC to send a proposal to City Council or
having a discussion with Council might lead to a colleagues memo. He suggested that the HRC look for
opportunities to give input to the City Council.

Commissioner Blum suggested that the HRC continue to work on the idea of how to bring groups
together and participate in civic engagement because the City Council has a lot on its plate.

Councilmember Drekmeier also commented that there has been a growing concern about self-
segregation among the growing Asian population. Currently the City of Palo Alto is 20% Asian. He
suggested that the HRC look into ways to get this population more engaged in the community.

Commissioner Mora said that there are a lot of best practices already developed and recommended using
some of these methods.

Staff Liaison Kathy Espinoza-Howard commented on the Juneteenth Celebration because it brings a
diverse group of people together.

Councilmember Drekmeier reported on the recent dedication of King’s Plaza. He suggested that there be
an annual Martin Luther King Day celebration and that the HRC could co-sponsor and participate in this
event.

The current HRC civic engagement sub-committee will continue to think of ideas to work on this effort.

2. DISCUSSION OF RESOLUTION CALLING FOR STATE OF CALIFORNIA TO PASS
A UNIVERSAL HEALTH CARE BILL

Ms. Lois Salow, a 42 year resident of Palo Alto spoke to the commissioners about Senate Bill 840;
which will provide Medicare for everybody. She explained briefly the need for the bill. She said that
Insurance Companies takes 1/3 of the profits. The Bill was passed by State Legislature but vetoed by
Governor Schwartzenegger. Her organization wants to pass the word to the public so that when it goes
before the Governor again he will know that there are many people supporting it. Research has shown
that this bill would save the state a lot of money and would also cover medications. The bill is currently
in the State Assembly and will be going to Appropriations Committee next. The City of Palo Alto
provides health care benefits to its employees and would stand to save a lot of money if this bill was
passed. This bill would also benefit businesses especially those who do not provide insurance to its
employees. She asked the HRC for a letter of support from the City Council and asked for the HRC’s
help. She provided handouts.

Commissioner Blum commented that the HRC needs to decide if this resolution falls within the
resolution guidelines that the HRC has decided upon. Also he said that he is a big fan of the bill.

Commissioner Mora commented that she has been following this bill and was disappointed that it had
been vetoed and that there was not enough votes to override the veto. She recommended that some
changes need to be made to the wording of the sample resolution before she could support it. She
recommended adding “whereas statements” that include the need for this health care bill.

Commissioner’s Mendoza, Blum, Khan, and Bacchetti spoke about their various concerns and
commented that they might not be in favor of supporting this resolution because of its political nature;
however they offered her suggestions on how to proceed.
Councilmember Drekmeier suggested that Ms. Salow speak to individual council members because they can endorse the resolution as individuals.

Commissioner Blum suggested that Ms. Salow come back again to the HRC with a resolution stating that the HRC supports Single Payer Universal Health Care coverage in California, without reference to a particular bill, because that would take the political aspect out of this, without passing it on to City Council. He also asked for copies of resolutions from other cities.

3. CONSIDERATION FOR POSSIBLE AMENDMENT TO THE MANDATORY RESPONSE PROGRAM ORDINANCE

Mr. Eichner presented proposed language to amend the ordinance and cited other cities; the City of Campbell and the Town of Los Gatos that have similar language in their ordinances that voids any rental increase when the landlord is out of compliance with their ordinance. 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.

The HRC took testimony from Ms. Kirsten Carr from the California Apartment Association, Tri-County. She stated that the position of the Tri-County Apartment Association was to request a delay 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.

There ensued a lengthy discussion among the HRC Commissioners regarding Tri-County Apartment Association’s request for more time, the 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 amendment to the ordinance.

Commissioner Shauna Mora moved to approve Project Sentinel’s appendix A-Proposed Language for Amended Ordinance with the inclusion of edits offered by Commissioner Jeff Blum, who seconded the motion. There was a lengthy discussion. The Chairperson asked for the Commissioners to vote. The motion failed with three commissioners voting in favor and three opposing the motion.

More discussion ensued. Commissioner Mora stated that there will be many opportunities for all parties; in favor or opposed to the amendment of the ordinance, to testify and make their case as the recommendation is reviewed by the City Council’s Policy and Services Committee and by the City Council.

Commissioner Khan stated that if the goal is to increase landlord registration, promote and encourage the use of the Palo Alto Mediation Program by landlords and tenants then she could support an amended motion that contained a Communication Plan along with the proposed amended ordinance 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 targeting the registered landlords about the ordinance
A 90 day grace period for all landlords to register and comply with the ordinance

Commissioner Khan offered an amended motion to support the amendment to the ordinance as stated in Project Sentinel’s Appendix A: Proposed Language for Amended Ordinance with the afore mentioned communication plan. Commissioner Blum seconded the motion. There was further discussion and clarification regarding the motion. The motion passed with four commissioners in favor and two opposed.

4. REPORTS FROM COMMITTEES
None

5. REPORTS FROM OFFICIALS:
A. Commissioner Reports:
Commissioner Bacchetti announced that he will be out of town and unable to attend the next two meetings, he apologized.

B. Council Buddy Reports:
Commissioner Bacchetti reported that he met with Councilmember John Barton and had a useful discussion. Councilmember Barton told him that he thought the HRC could be helpful regarding the civic engagement priority.

C. Council Liaison Report:
Councilmember Drekmeier reported on the BMR program and said that the City Council voted to give owners, moving forward, 100% of CPI, which then was changed to AMI (Average Median Income).

D. Staff Liaison Report:
Kathy Espinoza-Howard discussed the CMR regarding changes to reporting demographic data by the Palo Alto Police Department. She explained that it was decided by staff that the information in the CMR is an administrative issue which went to City Council in April as an informational CMR and required no action by City Council.

Ms. Howard asked the commissioners for help in getting the word out to the disabled community the importance for representation at meetings with her and county personnel in order for their issues to be heard. She has attended recent meetings and no one has attended who can speak on behalf of the disabled community, even though she has left messages with people who have had complaints in the past.
ANNOUNCEMENTS

None

CALL FOR AGENDA ITEMS
Factors for Considering HRC resolution
Discussion about resolution in support of a Universal Single Payer Health Care Bill

ADJOURNMENT
The meeting adjourned at 9:50pm