



CITY *of* CALABASAS
CITY COUNCIL AGENDA REPORT

DATE: JANUARY 14, 2021

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: THOMAS BARTLETT, A.I.C.P., CITY PLANNER

SUBJECT: DISCUSSION OF RENT STABILIZATION OPTIONS FOR RENTAL HOUSING PROPERTIES IN CALABASAS

MEETING DATE: JANUARY 27, 2021

SUMMARY RECOMMENDATION:

Staff recommends that the City Council discuss available options for a rent stabilization policy or ordinance. To assist with the discussion, staff has assembled the information in this report.

BACKGROUND:

Rent stabilization (also referred to as rent control) is a program and process administered by a governmental agency restricting the amount or rate of rent increases for rental apartments and/or mobile home communities within the agency's jurisdiction. Where rent stabilization programs are not in place, the rental amounts and rates of rent increases are determined by the market forces of supply, demand, and competition among and between various rental housing properties serving a particular area and providing similar types and qualities of housing. Meanwhile, AB 1482, which went into effect January 2020, limits annual increases to five percent plus inflation and requires just cause for eviction. However, it is unclear how the State (much less local cities and counties) would enforce this statutory requirement.

Rent Stabilization programs are rare. In California, only 31 cities (approximately 6% of the 482 cities in the State) and only two counties (3.5% of 58 counties in the State) have enacted and maintain rent stabilization laws governing rentals of apartments, mobile homes, or both. Below is a listing of the California cities and counties with rent stabilization programs.

| Rent Stabilization for Apartments | |
|--|---|
| Berkeley | Palm Springs |
| Beverly Hills | San Francisco |
| East Palo Alto | San Jose |
| Hayward | Santa Monica |
| Los Angeles (City of) | Thousand Oaks [<i>Pre-1988 tenancies</i>] |
| Los Gatos | West Hollywood |
| Oakland | |

| Rent Stabilization for Mobile Home Communities | |
|---|-------------------------------------|
| Calistoga | Redlands |
| Concord | Rohnert Park |
| Cotati | Santa Cruz County (Unincorp. Areas) |
| Escondido | San Jose |
| Fontana | San Juan Capistrano |
| Grover Beach | Santa Rosa |
| Malibu | Sonoma County |
| Milpitas | Thousand Oaks |
| Morgan Hill | Union City |
| Novato | Windsor |
| Pleasanton | Yucaipa |

The State of California has set some limits on the power of a local government to regulate rents. In 1995, the California legislature passed the Costa-Hawkins Rental Housing Act (AB 1164). Among other things, Costa-Hawkins allows property owners to set rental rates as they wish when there is a change in unit vacancy (known as “vacancy decontrol”). In addition, Costa-Hawkins prohibits interfering in a property owner’s ability to set rents for any unit (to include any single-family home or condominium) that received a certificate of occupancy after February 1, 1995. Subsequently, the State Legislature in 2019 passed the Tenant Protection Act (AB 1482), which was signed by the governor and took effect on January 1, 2020. Applicable to all jurisdictions across the state, the Tenant Protection Act is designed to prevent “egregious” rent hikes. The Tenant Protection Act applies to

all housing located in the State of California (although there are some specified exceptions, including mobile homes^a), and generally provides for the following:

- Created an annual statewide rent increase cap of 5% plus Consumer Price Index (CPI) or 10% (whichever is lower) on all rental housing, with specified exemptions.
- Exempted units already subject to a local rent control ordinance that restricts annual rent increases to an amount less 5% plus CPI.
- Requires just cause for a landlord to terminate a tenancy and relocation assistance (generally one month's rent) for no-fault evictions.
- Prohibits a tenant from waiving their rights to these protections. Any agreement to do so by the tenant is considered void as contrary to public policy.
- The Act will expire on January 1, 2030 (unless extended).

Existing Deed Restricted Affordable Housing

The state Tenant Protection Act exempts existing deed-restricted affordable housing units, such as units approved via a density bonus and restricted to rent levels affordable to persons at a very low income level as defined by the state, from the Act's rent increase limits. Staff has briefly evaluated the question of whether the City could impose its own rent stabilization law, if enacted, to further limit rent increases for deed-restricted affordable units, and has concluded that state law preempts the City from further limiting deed-restricted affordable units' rent, if those units exist under the density bonus statutes. This is because the state Density Bonus law dictates that the rent for affordable units, approved under that law, shall be the rates set by the state housing law for that applicable unit type, e.g. very-low or low income. (See Government Code § 65915, subd. (c)(1)(B); § 50053.) Similar, for those deed-restricted affordable units that exist by a bond covenant, the bond covenants are existing contracts that set the specific rent rates for those units, preempting further limits by the City. The City might be able to impose such limits through the emergency powers, for the duration of the

^a AB 1482 and its tenant protections do not apply to mobile homes and mobile home parks and specifically excludes mobile home parks by limiting application to "owners" of "residential rental property" only. (Cal. Civ. Code § 1947.12, subd. (g)(1) [""Owner" and "residential real property" shall have the same meaning as those terms are defined in Section 1954.51."]; Cal. Civ. Code, § 1954.51, subd. (b) [""Owner" includes any person, acting as principal or through an agent, having the right to offer residential real property for rent, and includes a predecessor in interest to the owner, except that this term does not include the owner or operator of a mobilehome park, or the owner of a mobilehome or his or her agent."].)

pandemic-related emergency, and can evaluate that option further if desired by the City Council.

Mobile Homes

The Mobile Home Residency Law^b does not regulate how much rent can be charged or increased for mobile home tenants. However, state law does require a 90-day advance written notice to mobile home space tenants before a rent increase for all rental agreements. Under new State law (Assembly Bill 2782, which took effect January 1, 2021 and will last until January 1, 2025 unless extended, but applying retroactively to certain leases), leases signed before February 13, 2020 and lasting more than one year are exempt from any local rent control ordinance now in existence or enacted in the future, if certain specified conditions are met.^c For leases signed on or after February 13, 2020, under AB 2782, any such waiver of the protections of any local rent control ordinance will be invalid and preempted by statute.^d Subject to potential court confirmation for any given lease, the new law's preemption of local rent control protection waivers in a long-term lease signed on or after February 13, 2020 does not automatically invalidate the lease itself, as the remainder of the lease would remain enforceable, minus the preempted provisions.^e Under the law, a city may enact a mobile home space rent stabilization law, subject to the following state-required exceptions: 1) if a mobile home space within a mobile home park is not the principal residence of the homeowner and the homeowner has not rented the mobile home to another party, it shall be exempt; 2) new construction shall be exempt; and 3) rental agreements in excess of 12 months entered into before February 13, 2020 and meeting certain other conditions would be exempt. In adopting a mobile home rent stabilization law, a city would need to adopt defined limits on rent increases, create a hearing process (to include a decision-making commission or board) to allow mobile home park owners to apply for variances or exceptions, ensure that the stabilized rent rates still provide mobile home park owners a reasonable rate of return on their documented investments into the park, and can create an ombudsperson for mobile home tenants to seek redress under the ordinance.

Rent Stabilization Options for Apartments and Similar Residential Tenancies

Rent stabilization is a local regulation set by city ordinance, within the limits of the Costa-Hawkins Act.^f The Costa-Hawkins Act allows a City to enact a rent control ordinance applicable to apartments and multi-family housing (but not single-family

^b Civil Code § 798 et seq.

^c Civil Code § 798.17.

^d Civil Code section 798.17, as amended by Assembly Bill 2782, § 2, to take effect on January 1, 2021, with retroactive effect back to February 13, 2020.

^e Civil Code, §§ 798.19 and 798.77.

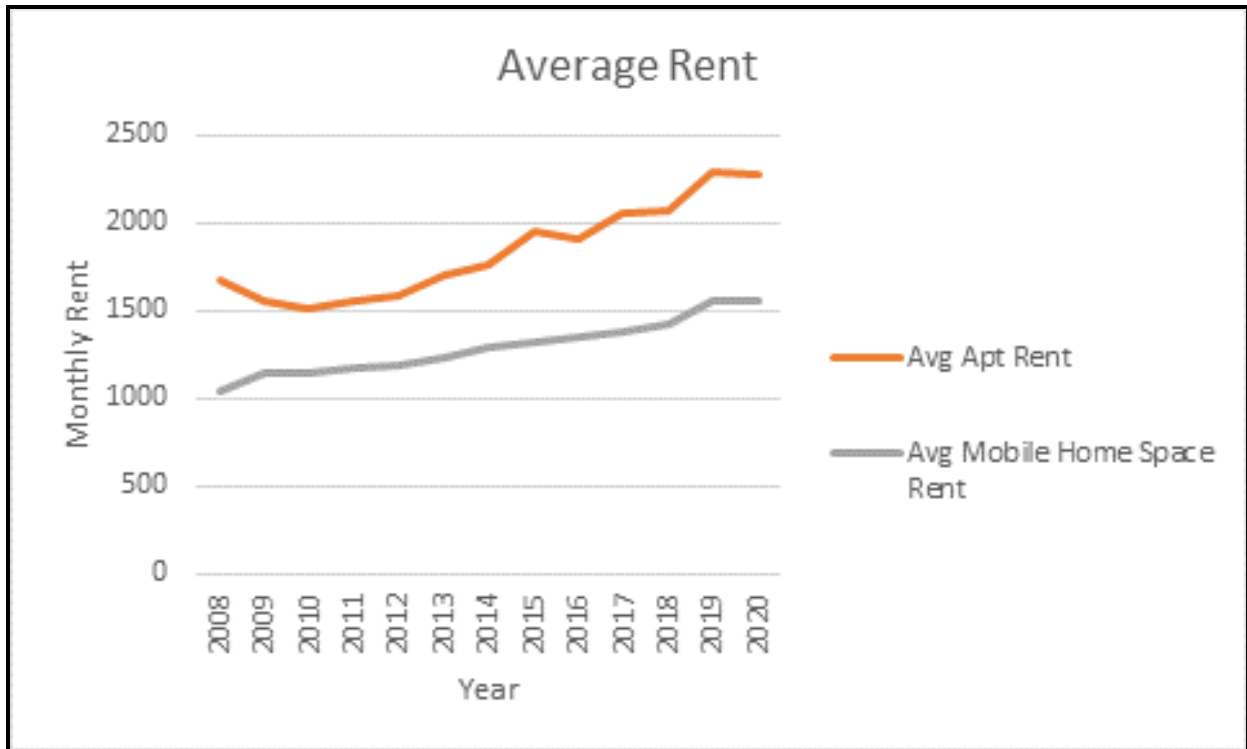
^f Civil Code, § 1954.50, et seq.

homes or condominiums) which were approved for occupancy prior to February 1, 1995. Effectively, this means that rent control, if adopted by the City, would apply to only multi-family housing first occupied before February 1, 1995; any property constructed and approved for occupancy after February 1, 1995 would not be subject to rent control. Under the limits of the Costa Hawkins Act, a new city rent stabilization ordinance can limit only the amount of rent increases year to year during each tenancy in units first occupied before February 1, 1995. Upon any vacancy, a landlord can charge to a new tenant any amount that the market will bear, subject to certain exceptions.⁹ Unless the Costa Hawkins Act is repealed or amended (see the discussion of Proposition 21 later in this report), the city cannot limit the initial rental rate for each new tenancy. If desired, staff can bring forward a further discussion of options to adopt a rent stabilization ordinance, within the current limits of the Costa Hawkins Act, as it applies now.

Presently in Calabasas no rent stabilization policies have been adopted or programs implemented. However, Calabasas does administer a Rental Registration Program, which allows the City to monitor rent amounts and rates of increase on a yearly basis for the various apartment communities located in the City, as well as for the city's lone mobile home park (Calabasas Mobile Estates) and any other properties where six or more of the housing units are owned by the same person or entity.

Since the inception of the City's Rental Registration Program in 2004, staff in the Community Development Department have tracked and reported annually on the average monthly rent amounts and the average rates of rent increases from prior years for six local apartment communities, Calabasas Village Mobile Home Estates, and two other (small-scale) rental property owners. The chart below summarizes the overall local rental housing market trends documented via the City's Rental Registration Program during this timeframe.

⁹ Civil Code, § 1954.53.



Average rents for apartment units increased by an average of 36% over the 12-year timeframe, while average rents for mobile home spaces increased by an average of 49%.

Meanwhile, as staff has been conducting background research in support of the General Plan Housing Element Update, the following information has come to light regarding the City’s current rental housing market. As of June, 2020, local apartment rents averaged \$2,100 for a 1-bedroom unit, \$2,600 for a 2-bedroom unit, and \$3,100 for a 3-bedroom unit. These average rents exceed moderate income affordability. Also, local complexes were averaging an exceptionally low 4% rental vacancy rate, which is below ideal for tenant mobility and competitive pricing. As a result, 62% of renters face overpayment (>30% income spent on rent); and 41% face severe overpayment (>50% income spent on rent)

EXISTING AFFORDABLE HOUSING POLICIES AND PROGRAMS IN CALABASAS

In addition to the Rental Registration Program already discussed, the City employs a number of other policies and programs geared toward increasing and maintaining the availability of affordable housing in Calabasas.

The following policies from the 2030 General Plan Housing Element pertain to affordable housing:

- **Policy V-1** Preserve the character, scale and quality of established residential neighborhoods.
- **Policy V-2** Offer rehabilitation and home improvement assistance to low and moderate income households, seniors and the disabled.
- **Policy V-4** Undertake proactive steps to preserve existing assisted rental housing at-risk of conversion to market rents.
- **Policy V-5** Encourage retention of Calabasas Village Mobile Estates as mobile home park use to provide a relatively affordable form of housing, and maintain permanent mobile home park zoning.
- **Policy V-6** To the extent financially feasible, provide limited rental assistance to extremely low and lower income, senior, and disabled tenants to address increasing rents in the community. Maintain a rent database to track changes in the local rental market.
- **Policy V-7** Maintain the City's condominium conversion ordinance to preserve the City's existing rental housing stock.
- **Policy V-8** Provide site opportunities for development of housing that respond to the diverse housing needs of Calabasas residents and workforce in terms of density, location and cost.
- **Policy V-9** Provide opportunities for multi-family housing and mixed use development consistent with the City's regional housing needs requirement (RHNA), as mandated by the State.
- **Policy V-10** Provide for the development of second units in existing single-family neighborhoods to provide additional opportunities for rental housing which conforms to the development standards within the underlying zone.
- **Policy V-12** Continue to require new housing development to set-aside a portion of units for lower and moderate income households through the Inclusionary Housing Ordinance. Only if that is not economically feasible, allow for payment of an in-lieu fee, but this is considered the less desirable alternative.
- **Policy V-13** Support the provision of affordable housing to employees in Calabasas through the Commercial/Industrial Development Impact Fee Program.
- **Policy V-14** Provide financial and/or regulatory incentives to facilitate the development of affordable housing.

- **Policy V-15** Encourage affordable housing units to be dispersed throughout a project, and not grouped together in a single area.
- **Policy V-17** Offer regulatory incentives and concessions, including density bonuses, to offset or reduce the costs of developing affordable housing.
- **Policy V-20** Address the special housing needs of persons with disabilities through provision of supportive housing, homeowner accessibility grants, zoning for group housing, reasonable accommodation procedures and encouraging universal design.
- **Policy V-21** Support the development and maintenance of affordable senior rental and ownership housing and supportive services to facilitate maximum independence and the ability of seniors to remain in their homes and/or in the community.

Meanwhile, Table V-5 from the 2030 General Plan Housing Element summarizes the City’s various housing programs, which implement the adopted policies (see Attachment A).

RENT STABILIZATION EFFORTS IN NEARBY JURISDICTIONS

Most local jurisdictions augment the supply of affordable housing using many of the same programs employed by Calabasas (e.g., Inclusionary Housing, Density Bonus, Affordable Housing Trusts, etc.). Some cities also employ additional affordable housing strategies and programs, such as operation of a local housing agency (or participation in a multi-jurisdictional agency), and two jurisdictions utilize in at least some manner of rent stabilization.

The table below summarizes the types of affordable housing assistance (programs) offered by the cities of Agoura Hills, Westlake Village, Thousand Oaks, Malibu, and Camarillo, as compared with Calabasas.

| CITY | AFFORDABLE HOUSING PROGRAMS OFFERED | | | | | | |
|------------------|-------------------------------------|---------------|------------|-------------------|-------------------|----------------|--------------------|
| | Inclusionary Housing | Density Bonus | Trust Fund | Register & Report | Rental Assistance | Housing Agency | Rent Stabilization |
| Calabasas | X | X | X | X | X | | |
| Agoura Hills | X | X | X | X | | | |
| Westlake Village | X | X | X | X | | | |
| Camarillo | X | X | X | X | | | |
| Thousand Oaks | X | X | X | X | X | X | X |
| Malibu | X | X | X | | | | X |

Locally, rent stabilization programs have been established and are administered in only the Cities of Thousand Oaks (for mobile home communities and for pre-1988 apartment tenancies) and Malibu (for only mobile home communities).

In the City of Thousand Oaks rent amounts and allowable rent increases for more than 1,100 total dwelling units are established by a Rent Adjustment Commission. These dwelling units are scattered across 26 different apartment and mobile home complexes throughout the city. However, it is important to note that Thousand Oaks is thirty years older than the City of Calabasas, and the City operated a redevelopment agency (RDA) for quite a long time. The Thousand Oaks Redevelopment Agency was empowered to acquire, hold and sell land, obtain funding via grants, loans, and taxes (primarily tax increment financing), and to own and manage housing either solely or in partnership with other entities. Moreover, RDAs accomplished a lot of affordable housing for cities because they could leverage their land holdings to obtain or assist with financing. However, on February 1, 2012 (by legislative act -- AB 126) all redevelopment agencies in California were dissolved, including the Thousand Oaks Redevelopment Agency. Subsequently, the City of Thousand Oaks elected to retain all housing assets and functions of the former RDA. Fourteen of the complexes with at least some of the units governed by the City's rent control requirements were previously assets of the now defunct Thousand Oaks RDA.

Thousand Oaks also is a participant in the Area Housing Authority of Ventura County, which administers subsidized housing programs in the City of Thousand Oaks, such as Section 8 vouchers/certificates, public housing and the city's Tenant Based Rental Assistance Program. Another unique affordable housing resource in Thousand Oaks is Many Mansions, a not-for-profit agency which owns and manages affordable apartments within the city and provides housing counseling and advice on tenant/landlord issues (www.manymansions.org).

The City of Malibu maintains a mobile home park rent control program (regulations adopted by ordinance, and the program is administered through the office of the City Manager). The program regulates maximum allowable rents and limits rent increases for three mobile home communities. As an outcome of Malibu's most recent Housing Element (5th RHNA cycle), the City established an Affordable Housing Overlay that allows multi-family or mixed-use development by-right at a density of 20 units/acre for projects which include affordable housing. The city also has recently initiated an affordable housing trust fund.

No rental stabilization program is in place in the City of Agoura Hills. Although, like Thousand Oaks, the City of Agoura Hills had operated a redevelopment agency for a short period of time. The Agoura Hills RDA had begun work on two different affordable housing projects before the State took action in 2012 to dissolve RDAs.

However, unlike Thousand Oaks, the City of Agoura Hills did not assume the agency's role, and the planned affordable housing projects were never constructed. Agoura Hills otherwise offers the same range of affordable housing incentives and assistance as Calabasas, except for rental assistance.

FEDERAL, STATE, AND COUNTY REGULATION OF EVICTIONS DURING THE PANDEMIC

AB 3088

The State has enacted AB 3088^h which bars eviction of residential renters for payments they missed from March, when the COVID-19 pandemic first struck, through August 31. From September through Jan. 31, if renters come up with 25% of the rent they owe, they will also be protected from eviction. Renters can pay that 25% at any time before Jan. 31, 2021.

AB 3088 does not bar all evictions however, as landlords will be able to proceed with eviction cases for certain lawful causes — meaning a basis for eviction that is permissible under federal, state law, or local law — other than non-payment of rent or other charges under the rental agreement. From October 5, 2020, a landlord will be able to proceed with an eviction case if the grounds for the eviction is nonpayment of rent or other charges. However, the landlord must serve a notice giving the tenant a 15 business-day window in which to make one of the following choices: pay the demanded amount, vacate the premises, or return a declaration to the landlord, signed under penalty of perjury, indicating that the tenant cannot pay the demanded amount because of a COVID-19 related financial hardship (as defined in the bill as hardship directly related to an COVID-19 impact such as loss of income). A tenant can then not be evicted for COVID-19 rental debt accrued between March 1, 2020 and August 31, 2020. A tenant may also not be evicted for COVID-19 rental debt accrued between September 1, 2020 and January 31, 2021—if the tenant pays 25% of the rent and other charges due during this period before this period ends. However, a tenant may be required by the landlord to submit a new declaration form for each rental payment that comes due between September 1, 2020 and January 31, 2021.

From February 1, 2021, landlords will be able to proceed with eviction cases under pre-COVID laws against those tenants who had a COVID-19 related financial hardship but failed to pay 25% of their rent between September 1, 2020 and January 31, 2021, as well as any tenant who fails to timely pay their rent going forwards. The bill prevents any renewal, modification, or adoption, between August 19, 2020 and January 31, 2021, of any local ordinance (at county or city level) meant to prevent evictions in response to COVID-19. Existing ordinances will

^h Cal Civ. Code § 798 et seq.

continue to apply until they expire. If a local ordinance gives tenants a period in which to pay off an unpaid rental balance, that period must begin at least by March 1, 2021 and has to end no later than March 31, 2022. These required repayment periods apply within the City, by virtue of the County's limited evictions moratorium.

CDC Moratorium

The federal Centers for Disease Control (CDC) have issued a public agency order ("Order") to temporarily halt residential evictions. Under the Order, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which the order applies during the effective period of the Order. The effective period began on September 4, 2020 and was set to expire on December 31, 2020 but was extended until January 31, 2021 by Congress in its December 2020 Consolidated Appropriations Act. The Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in the Order.

The Order applies to individual renters who expect to earn less than \$99,000 this year on their own or less than \$198,000 if they file jointly. It also applies to any renter who did not report income in 2019 or received a stimulus check earlier this year. To qualify, tenants must file sworn declarations that eviction would leave them homeless or force them into "close quarters in a new congregate or shared living setting," and tenants must affirm that they have "used best efforts to obtain all available government assistance for rent or housing." Under the Order, renters who qualify will still owe accrued back rent and landlords are not stopped from charging or collecting rent.

Los Angeles County Eviction Moratorium

Los Angeles County has implemented a moratorium on evictions for non-payment of rent due to financial hardship caused by COVID-19. The County's moratorium runs through February 28, 2021. The County's moratorium is partially preempted by AB 3088 and its required repayment period timelines, but does provide additional protections to tenants experiencing a financial hardship due to the COVID-19 pandemic, including within the City. The County may act to further extend its moratorium on evictions for certain qualifying persons.

PROPOSITION 21

Proposition 21 was a statewide initiative on the ballot that was rejected by voters on November 3rd, 2020. Proposition 21 would have replaced Costa-Hawkins and would have allowed local governments to adopt rent control on some housing units that were more than 15 years old.

FISCAL IMPACT/SOURCE OF FUNDING:

This item is a discussion only, with no specific action required of the City Council; therefore, no fiscal impacts will result from this report.

Meanwhile, it should be noted that establishment and operation of a rent stabilization program is a substantial undertaking, with many moving parts and legal entanglements. Consequently, such an endeavor is expensive. For example, the City of Burbank previously considered rent stabilization -- an initiative was on the local ballot for voter consideration on November 3, 2020, and failed. The analysis of that proposed program, prepared by Burbank city staff and a consultant, yielded an estimate of the potential costs to the City of Burbank as high as \$1,800,000 for program start-up and \$4,000,000 per year for operation, had the program passed. Although such a program in the City of Calabasas would be substantially smaller in scale, with correspondingly lower costs, initiating a rent stabilization program in Calabasas would nonetheless be costly. Furthermore, the year-to-year operation of a rent stabilization program would be significantly cost burdened to the city, with very few potential revenue components, aside from a reasonable registration fee for landlords subject to the program.

REQUESTED ACTION:

Staff recommends that the City Council discuss options for a rent stabilization policy and ordinance.

ATTACHMENTS:

Attachment A: Table V-5 from 2014 – 2021 Housing Element