

Regular Meeting
July 8, 2008

Chairperson Kishimoto called the meeting to order at 7:00 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Barton, Drekmeier, Kishimoto (chair), Espinosa

Absent:

1. Oral Communications

None.

2. 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 Required Notice of the Tenant's Rights to Mediation.

Kathy Espinoza-Howard, Staff Liaison to the Human Relations Commission (HRC), stated that the HRC recommends to amend Municipal Code Chapter 9.72, the mandatory response to request discussion of disputes between landlords and tenants. The Amendment is to void rental increases, given without the required notice of the tenant's rights to mediation. The Ordinance was passed in 2001 and took three years of work to establish the Mandatory Response Ordinance, which provides for discussion of rental housing disputes as well as rental increases. It also requires landlords and property managers to provide written notification to tenants regarding their rights to conciliation and mediation services on rental agreements, leases, and other written documents that change the terms of tenancy of a property. She noted that it is mandatory for the landlords and tenants to appear for mediation. Both parties need to hear the declaration of the mediatory, but may leave after hearing it. She stated that Project Sentinel has had opportunity to sample some of the leases when there is mediation and found that none of them have been in compliance with the Declaration of Right of Mediation Services to the tenant. The report has compared the City of Campbell which has 5,300 rental units and has opened 215 cases in the past three years with the City of Palo Alto. Palo Alto

has 6,000 rental units, but has only opened 86 cases during the same time period. The HRC believes the City of Campbell has language in their Ordinance that voids any rental increases when the landlord is out of compliance with the Ordinance. She concluded that the HRC is recommending that along with the Amendment to the Ordinance that the City Council adopts the plan with three elements:

- 1) Communication using email, website, or other means targeting "Mom and Pop" and mid-level landlords encouraging them to register and educating them about the Ordinance.
- 2) Similar notification about the Ordinance targeting landlords already registered.
- 3) A 90-day grace period for all landlords to register and comply with the Ordinance.

Shauna Mora, Human Relations Commissioner and former employee of Project Sentinel and the Palo Alto Mediation Program, spoke about the Mandatory Response Program and stated that Staff notified landlords about the Ordinance and asked them to add the language in their lease. She noted that there was no public awareness about this particular service. She was asking landlords to be in compliance and put the language in the lease agreements.

Chairperson Kishimoto asked why some HRC members voted against the program.

Ms. Mora replied that it was an odd situation. Daryl Savage who was supportive of the program got ill and left. She also added that she attributes it to not enough time to notify everyone.

Vice Mayor Drekmeier asked about the comparison of the current language to what is proposed for the amendment.

Ms. Mora answered that the landlord would have to do 30 or 60 day notice after they put in the particular language in the lease agreements, and 21 days after receiving notification of mediation before it becomes a Mandatory Response Program case.

Council Member Espinosa asked about incentives and penalties.

Ms. Mora replied that they have been around since 2001, and HRC has done many programs, ads, forums, and educational briefings. The other aspect is that landlords are supposed to be registering with the City. There was the hope that when the landlord registry was introduced that there would be a fee landlords would pay to help subsidize the administrative part of the program, which didn't occur.

Kelly Morariu, Interim Deputy City Manager, noted that the Landlord Registry fee will be coming back to the Finance Committee for review.

Ms. Mora stated that this is another way of notifying landlords that it is required to include the language in lease agreements if they have two or more units.

Martin Eichner, Director of Dispute Resolutions, commented about the success of the project and achieving 70.3 percent success rate. He stated that he drafted language at the HRC's suggestion and the concept was being requested to be added to the Ordinance.

Leon Leong, 138 Byron St. stated he had several questions and wanted to confirm that every time maintenance work is going to be completed that the tenant does not need to be notified. He also asked about how long the rent increases would be voided when the increase is going through mediation. He also had concerns about the length of time it takes to evict a tenant through this process. He also suggested that better notification of the program be made to single family home renters whose utilities are not in their name. He also stated that the Ordinance language should be changed to state regardless of whether the residential rental property is listed in Section 9.72.030.

Andrea Werlaoff, 1210 Pitman Ave. stated that she is a volunteer mediator. She clarified during the process of mediation they take a neutral point of view. She stated most of the cases she mediates get resolved, and most of it is done over the phone between the parties.

Jim Baer, 3376 St. Michael Dr. a former mediator, stated that he was there to answer any questions.

Council Member Barton stated that there are numerous people from Mediation and Project Sentinel at the meeting, however, no one from California Apartment Association/Tri-County was available tonight. He asked if they were notified about the meeting.

Vice Mayor Drekmeier noted that the language of Municipal Code Section 9.72.050 contradicts Section 9.72.030.

Ms. Morariu replied that it will be clarified, if and when the item comes back to Council.

Council Member Barton advised that the original Ordinance hasn't been followed, landlords don't want to break the law and they just don't know it is

there. He added that this reasonable and rational approach is based on comparison to other cities.

MOTION: Council Member Barton moved, seconded by Vice Mayor Drekmeier, that the Policy and Services Committee recommends to the City Council to 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.

Council Member Espinosa asked if the language had been reviewed by the City Attorney's Office.

Ms. Espinoza-Howard replied that the City Attorney's Office is waiting for direction from the Policy and Services Committee.

Council Member Espinosa commented that the Tri-County Apartment Association are the people most affected.

Vice Mayor Drekmeier replied that they have been notified and invited, the fact that they are not at the meeting shows that his might not be an important issued to them.

Ms. Espinoza-Howard clarified that they participated in the development of ordinances with the City of Campbell and City of Los Gatos, which have similar language. This may not be something new and the proposed administrative cost is negligible.

Chairperson Kishimoto asked if other methods are used to reach out-of-town landlords.

Ms. Espinoza-Howard replied that there are other affiliates at Tri-County Apartment Association which we can try to reach out to, however the large property owners and property managers belong to Tri-County Apartment Association.

Council Member Espinosa questioned ensuring notification before forced compliance.

Chairperson Kishimoto replied that the only time it becomes apparent is when somebody is protesting it and then they look at the agreement to see what the language says.

Council Member Barton commented that the Ordinance is being proposed for a change, everybody has an obligation to learn what is there and to follow the law. There is no obligation to inform every single citizen that they may be affected by the Ordinance.

Ms. Espinoza-Howard stated that larger landlords and Staff will make every effort to communicate with them. Flyers to educate other tenants could be made regarding their rights and they should be talking to their landlords if they know the landlord is not in compliance.

Vice Mayor Drekmeier commented that we move toward greater compliance and the worst scenario for a landlord is when they raise the rent, then the City gets involved and the landlord reissues a letter with the language and loses 21 days in rent increases.

MOTION PASSED 4-0.

3. Discussion for Future Meeting Schedules and Agendas.

September 8, 2008

ADJOURNMENT: Meeting adjourned at 7:48 p.m.