



Legislation Text

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Report regarding renter protection measures for residential tenants in South San Francisco. (*Nell Selander, Deputy Director of Economic Development and Housing*)

RECOMMENDATION

Staff recommends City Council hold a study session regarding potential renter protection measures for residential tenants in South San Francisco.

BACKGROUND/DISCUSSION

On January 9, 2019, the City Council held a study session to discuss potential renter protection and anti-displacement measures that the City Council could adopt within South San Francisco. Staff's presentation included introductory information on:

- Types of residential displacement, including: evictions, demolitions, rent increases, and/or physical renovations or changes in use.
- Impacts of displacement, including: loss of neighborhood stability, overcrowding of units, health issues, impacts on local businesses, etc.
- Existing City programs, state laws, and recent regional policy discussions (e.g., CASA) affecting renter protections.
- Overview of existing programs in other cities, including:
 - Minimum lease terms
 - Rent Review Board and/or Mediation
 - Relocation Assistance
 - Voluntary Rent Programs

After discussing the different options available, the Council directed staff to provide additional research, analysis, and recommendations on three specific policy initiatives: enhanced notification for rent increases, minimum lease terms, and relocation assistance. At the July 10th Council meeting, Council requested more information on mediation. This report provides the additional information requested by Council at the January 9th study session and the July 10th Council meeting.

Demographic Information

South San Francisco's population of 67,120 lives in 20,712 households. Of these households, 61% are homeowners and 39% are renters. The renter households can be broken out further by type of residence: 37% of renter households live in attached or detached single family homes, 15% in developments with two to four units, 47% in developments with five or more units, and 1% in mobile homes, RVs, or boats.

The Winston Manor, Sierra Highlands, Buri Buri, Westborough, Sign Hill, and Paradise Valley neighborhoods are home to most of the City's single family homes; whereas, Downtown, Avalon, and Orange Park are predominated by multi-family housing. Sunshine Gardens has, perhaps, the most diverse housing stock, with a near even split between multi-family housing and single family homes. Native Hawaiian and other Pacific Islanders are most likely to rent attached and detached single family homes. Households identifying as African American, two or more races, and other are least likely to rent single family homes, and most likely to live in larger apartment complexes.

According to rentcafe.com, as of July 2019, the average rent for a one-bedroom apartment in South San Francisco is \$2,883 (5% increase from last year). In order for a household to afford a one-bedroom apartment in South San Francisco, the household must earn at least \$115,320. The median income in South San Francisco is \$92,074.

Furthermore, over 49% of renter households are rent burdened, meaning they spend more than 30% of their household income on rent. More specifically, over 65% of renter households earning less than \$75,000 a year experience rent burden, whereas less than 18% of households that make more than that experience rent burden. Households earning between \$20,000 and \$35,000 are most rent burdened (84%).

Proposed Renter Protection Initiatives

Based on the Council's direction from the January 9th study session and an additional request at the July 10th City Council meeting, staff is now returning with more specific information and recommendations, regarding the following renter protection initiatives: enhanced notification, minimum lease terms, relocation assistance, mediation, and anti-rent gouging. At the conclusion of this study session, staff would be prepared to bring back legislation to implement these initiatives, based on the Council's feedback and direction.

1. Enhanced Notification Requirements

Currently, State law requires landlords to notify tenants at least 30 days prior to rent increases of 10% or less. If the increase is 10% or more, landlords must provide 60 days' notice (Civil Code Section § 827b). State law preempts the City from increasing these notification requirements. However, Assembly Bill 1110 (Friedman) would increase notification requirements. If AB 1110 passes as currently drafted, it will take effect in January of 2020 and will increase the notification of tenants of a rent increase of more than 10% from 60 days to 90 days.

Staff recommends City Council consider requiring landlords to notify the City if they increase rent more than 5%. At this time, the City does not monitor rent increases. This notification procedure will provide the City with valuable rental unit data and rental rate information to inform future policies. It is industry practice to assume a 3% increase in rental rates year over year when developing new housing. Additionally, the Consumer Price Index (CPI) fluctuates year-to-year, but on average is below 4%. As such, setting the noticing requirement at 5% will still allow for the profit typically assumed by developers and account for usual increase in the cost of goods without imposing a noticing requirement on reasonable rent increases.

The cities of San Jose, Mountain View, and Los Angeles have Landlord Registries to provide eviction protections and ensure a fair rate of return on investment for landlords. Notification of rental increases are a component of their reporting requirements. Additionally, the City of El Cerrito is currently exploring the concept of a Rent Registry to collect data on rental units and rental rates.

2. Minimum Lease Terms

Currently, when an initial residential lease term expires, the lease converts to a month-to-month tenancy. Minimum lease term policies afford tenants the right to lock in their rental rate and lease term for a minimum of 12-months or longer, if desired. Tenants have the option of waiving the minimum 12-month term to negotiate a shorter-term or elect a month-to-month lease, but landlords at minimum must offer a 12-month lease term option. Because rents cannot be increased during the term of a lease, unless stipulated at the outset, minimum lease terms can provide stability and predictability to renters. At the end of the lease term, the landlord and tenant may renew the lease at a new rate with the offer of another minimum term.

At this time, staff does not recommend adopting a minimum lease term policy because it may have the unintended consequence of inducing landlords to raise rents. For example, if a landlord does not want to offer a tenant a new, year-long lease, they may offer the new lease term at an unreasonably high rent, so that the tenant cannot accept it.

3. Relocation Assistance

Tenant relocation assistance policies establish financial assistance to eligible residential households displaced due to code violations, remodel, renovation, demolition, or repurposing of a property. Staff recommends approaching relocation assistance in two ways.

- 1) Requiring payment of relocation assistance to tenants when the housing unit they occupy is deemed unsafe and uninhabitable by the City's Building Division or Code Enforcement (also referred to as "red-tagging").
- 2) Requiring relocation assistance for households evicted at no fault of their own who earn less than 120% of the area median income (AMI).

Displacement Due to Red-tagging

In the red-tagging scenario, relocation assistance would be triggered when a code violation is issued and the tenant household is required to vacate the unit whether temporarily or permanently. Staff recommends that this relocation assistance be provided regardless of the tenant household's income, as it is incumbent upon landlords to maintain housing in safe and habitable condition. If the landlord is unable to pay the relocation assistance at the time it is required, staff would recommend that the City remit the relocation assistance to the tenant and place a lien against the property. San Mateo County, the City of San Mateo, City of Fremont provides this benefit to households displaced due to red-tagging. Staff is bringing forward an urgency ordinance establishing relocation benefits in the case red-tagging at an upcoming City Council meeting.

Displacement Due to No-fault Eviction

No-fault eviction occurs when a tenant's lease is terminated at no fault of their own. For example, a tenant may be evicted so that the landlord or their family member can move into the unit, for the landlord to complete a remodel or extensive renovations, or because the landlord intends to change the use of the property from residential to some other use, such as commercial. In the no-fault eviction scenario, relocation assistance would be triggered when a planning or building permit application is submitted to the City for discretionary or ministerial approval that will result in the displacement of a tenant, or when notice is given to the tenant that their lease is being terminated. Tenants who are evicted due to their own conduct (non-payment of rent, breach of lease, nuisance, etc.) would not be eligible for relocation assistance under this program.

Further, staff recommends that tenant households be eligible for this no-fault eviction relocation benefit if they earn 120% or less of the area median income and occupy a unit in a multi-family housing property with two or more units. Generally speaking, households in South San Francisco earning about 60% of the area median income are most rent burdened. However, staff recommends setting the threshold for eligibility at 120% of the area median income to help prevent discrimination against lower income households. For example, if a landlord has to provide relocation benefits to a household of four earning \$80,000 per year, but not a household earning \$120,000, that landlord may be more likely to rent to the higher income household.

Relocation Benefit

For both the red-tagging and no-fault eviction relocation assistance programs described above, staff recommends Council consider requiring a relocation assistance benefit equal to three months' rent based on the Department of Housing and Urban Development's Fair Market Rent (FMR) calculation for San Mateo County for a similar-sized rental unit. For Fiscal Year 2019, the FMR calculations are as follows: \$2,069 for a studio, \$2,561 for a one-bedroom, \$3,170 for a two-bedroom, \$4,153 for a three-bedroom, and \$4,392 for a four-bedroom.

Additionally, City Council may want to consider providing a hardship exemption to landlords, as well as an extra month of compensation to households meeting special circumstances. A hardship exemption would exempt low income landlords or those impacted by accident or natural disaster from having to provide relocation assistance. Some special circumstances to consider for an additional benefit for displaced households include senior or handicapped households, households including at least one minor, or households that have occupied the subject housing unit for a long period of time, such as five or more years.

4. Mediation

In the cities of San Leandro and Palo Alto, mediators or rent review boards mediate between tenants and landlords on issues related to rent increases and encourage them to come into voluntary agreement. Rent mediation ordinances typically require owners of residential rental properties to include specified language

on the availability of rent mediation services on rent increase notices to tenants. While there is no limit on how much rent can be increased, a tenant may request mediation (typically to a Landlord Tenant Mediator or Board) if she/he feels the increase is excessive. Mediation ordinances typically establish a timeframe for rent increase notification. A key feature of existing rent mediation ordinances is that the final decision of any mediation process is non-binding.

The goals of rent mediation generally are the same as rent regulation (limiting unreasonable rent increases and preventing displacement). The main difference is that mediation programs attempt to achieve this goal through a non-binding mediation process rather than legally binding regulatory requirements, and that mediation programs generally tend to be more permissive in establishing acceptable rent increases. Rent mediation can also be applied to more rental units and not, like rent regulation, only to units built before 1995.

Staff does not recommend adopting a mediation or rent board at this time since the City is still exploring rental protection policies and has not established rental ordinance to set rules for mediation.

5. Anti-Rent Gouging

Assembly Bill 1482 (Chiu) currently being considered in the State legislature caps annual rent increases by 7% plus the percentage change in the cost of living, or 10%, whichever is lower. In this case, the bill would ban property owners from increasing the rental rate more than 10% in the preceding 12 months. This rent cap would not apply to owners with less than 10 single-family homes. Although this bill does not have any reporting requirements tied to the rental caps, it does prevent landlords from increasing rents more than 10% every year. If AB 1482 passes through Senate votes it will go back to the Assembly for a final vote. If approved, AB 1482 will take effect in January of 2020. Staff recommends that Council consider adopting local anti-rent gouging legislation similar to AB 1482 should it not pass the State legislature.

FISCAL IMPACT

At this time, it is unknown how much enforcement of the above renter protection measures will cost. Implementation of similar measures - including tracking and online reporting - has cost other communities in the range of \$30,000 to \$50,000.

RELATIONSHIP TO STRATEGIC PLAN

Renter protection measures address the following Strategic Plan area: Strategic Plan Priority Area 2 Quality of Life, Initiative 2.3 - Promote a balanced mix of housing options in South San Francisco.

CONCLUSION

Staff is seeking direction from City Council on which of the following renter protection measures should be prepared for Council consideration and possible adoption:

1. enhanced notification for rent increases;
2. minimum lease terms;
3. relocation assistance;

4. mediation; and
5. anti-rent gouging.