



## CITY COUNCIL AGENDA REPORT

### CITY OF ANAHEIM COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

**DATE:** MARCH 19, 2019  
**FROM:** COMMUNITY & ECONOMIC DEVELOPMENT AND  
PLANNING DEPARTMENTS  
**SUBJECT:** RENTAL PRICING AND RENT REGULATIONS

**ATTACHMENT (Y/N):** YES **ITEM # 25**

#### **REQUESTED ACTION:**

That the City Council review a report that provides a broad overview of rental rates in the City of Anaheim and rent stabilization tools in use in other jurisdictions and provide direction to staff should the Council desire additional action.

#### **DISCUSSION:**

The Statewide housing shortage and issues related to housing affordability have been discussed in the City over the past few years. As part of that ongoing discussion, Councilman Moreno, at the City Council meeting on December 18, 2018, requested that staff prepare an analysis of rents (particularly rent escalation) in Anaheim and also provide information on rent stabilizing tools used in other jurisdictions for review and discussion by the Council. While housing affordability is certainly an issue that is tracked and discussed locally, it is not exclusively an Anaheim or even an Orange County issue. In fact, affordability is increasingly being discussed at both the state and national levels.

#### State Law

In California, the relationship between a tenant and a landlord is regulated by Section 1940 et seq. of the Civil Code. These statutes cover various issues, including but not limited to, security deposits, payments for utilities, rights to repair, right of entry provisions, warranty of habitability and laws governing evictions. The California Department of Consumer Affairs, in an effort to guide tenants through this litany of laws, provides an easy to read, 124 page guidebook, entitled "California Tenant, A Guide to Residential Tenant and Landlord Rights and Responsibilities." The guidebook is available at <https://www.achhd.org/documents/California-Tenants-Guide.pdf>.

While the Civil Code governs a wide variety of tenancy issues, an area that is primarily left to market conditions is the issue of rental rates. Currently, except for those few cities in the State that have enacted some sort of rent control provision, the cost of a rental unit is based on market demand. However, there are laws governing how rent increases must be noticed. California State law guarantees a 30 day advance written notice for rent

increases of 10% or less for month to month tenancies and a 60 day notice for rent increases greater than 10%. For leases with a term longer than 30 days, typically a 12-month lease, rents cannot be increased during the term of the lease, unless the lease specifically allows it.

Affordability Discussion

For purposes of this report, staff endeavored to locate reliable, objective data that would provide a general sense of current rental rates and recent trends. To the best of staff’s knowledge, there is no single universally accepted source. There are multiple sources available and sometimes the results vary. With this understanding, in November 2018, the OC Register published findings from researchers at apartment tracker RentCafe, which concluded that, in Orange County, the average tenant paid a median rent of \$1,786 while earning \$61,503 yearly. By this math, Orange County had the third-worst rental affordability among 10 Southern California counties studied. The study further shared that between 2011 and 2017, Orange County rents rose \$356 a month, 25 percent, while incomes rose \$12,413 a year, or 25 percent. The entire OC Register article is attached for the City Council’s review.

In another study, conducted by Reis Inc, and published in the OC register on October 30, 2018, it was reported that rents in neighboring LA County have risen by \$500 a month in the last seven years (2010-2017) and \$355 a month in Orange County. This particular study places the average rent in Orange County at \$1,883 in the fourth quarter of 2018. According to the article, the U.S Census figures suggest that about 55 percent of Southern California renters are rent burdened, meaning they pay a disproportionate share of their household income to rent.

In Anaheim specifically, information provided by Yardi Matrix last updated March 2019, (presented below for ease of reference) compares average rents and the year-over-year change for 10 Orange County cities. According to Yardi Matrix, Anaheim’s average rent (\$1,787) which is lower than seven of the 10 cities and the year-over-year change (3%) is consistent with the average of the cities compared.

<i>City</i>	<i>Average Rent</i>	<i>Year over year change</i>
<i>Irvine</i>	\$2,391	n/a
<i>Tustin</i>	\$2,122	2%
<i>Laguna Niguel</i>	\$2,068	n/a
<i>Costa Mesa</i>	\$2,065	4%
<i>Orange</i>	\$2,027	3%
<i>Santa Ana</i>	\$1,910	4%
<i>Fullerton</i>	\$1,879	4%
<i>Anaheim</i>	\$1,787	3%
<i>Buena Park</i>	\$1,725	4%
<i>Garden Grove</i>	\$1,677	6%

Source: Yardi Matrix Rental Data March 2019

It is noted that Yardi Matrix only tracks rental data for apartment complexes that are larger in size, 50 units or more. In an effort to get a sense of the average rents for potentially smaller complexes, staff reviewed data from the Section 8 Housing Choice Voucher (HCV) program. The data reflects that the average market rent (before the assistance provided by the voucher) for a 2 bedroom unit leased under the HCV program in the last six months is \$1,682. The payment standards for the Section 8 program are intentionally set at a level that ensures 40% of the available rental units in a Metropolitan Statistical Area (MSA) are accessible to Section 8 renters and may therefore limit accessibility to higher rent units. The data for the Anaheim HCV program reflects that the average per unit cost for the program increased 17% from late 2015 through 2018, which is generally consistent with the increase in rent reported for Orange County overall.

It is important to note that the market trends described above cover a period of significant economic growth in California and throughout the nation and the rental market is likely a reflection of the strong economy. Therefore, it is possible that as the economy slows, so will rent escalation. City staff attempted to find data regarding the performance of the rental market during times of recession, such as the period between 2001 and 2009, but could not find data that was deemed sufficiently reliable to reference in this report.

Data compiled by CoStar for the California Apartment Owners' Association tracking market rent per unit from 2013 to the present and projecting into 2022 shows that average rental rates peaked in 2015 at just above \$1,900 per unit. However, based on current and projected construction of new units, CoStar predicts downward pressure on annual rent increases. Specifically, CoStar predicts year-over-year increases of just above 1% beginning in the fourth quarter of 2020 continuing into 2022. The CoStar report is attached for the City Council's information.

### Rent Stabilizing Measures

A limited number of cities and states grappling with concerns regarding affordability and rental housing shortages have implemented varying strategies to address their local issues. As has been widely reported, in February 2019, the State of Oregon became the first State with mandatory rental control. The Oregon law, which became effective immediately, puts a statewide limit on rent increases to no more than 7% plus the consumer price index during a one-year period and bans no-cause evictions for the first year a person is renting a dwelling unit. While the Oregon law is the most far reaching because of its statewide impact, there are a limited number of municipalities throughout the State of California that have elected to address rental affordability or tenant protection issues on a local level. The following provides an overview of some of the strategies currently in practice.

## Rent Control

Rent Control measures were prominently discussed in California in 2018 as voters considered the merits of Proposition 10, a measure aimed at loosening rent control laws in the State. There are 482 cities in the State of California. Using readily available internet data (and not including the City of Inglewood which is discussed below), staff estimates at least 15 cities in California that have some form of rent control: Alameda, Berkeley, Beverly Hills, East Palo Alto, Hayward, Los Angeles, Los Gatos, Mountain View, Oakland, Palm Springs, Richmond, San Francisco, San Jose, Santa Monica and West Hollywood. This list reflects that rent control measure are more prevalent in northern California cities.

The basic premise of rent control laws is to restrict how much landlords are legally allowed to raise the rent each year. In California, the Costa Hawkins Rental Housing Act sets requirements on how rent control measures can be applied.

There are three main provisions of the Costa Hawkins Rental Housing Act:

- It protects a landlord's right to raise the rent to market rate on a unit once a tenant moves out (eliminated vacancy control).
- It prevents cities from establishing rent control—or capping rent—on units newly constructed after February 1995.
- It exempts single-family homes and condos from rent control restrictions.

It is noted that Proposition 10 did not pass, leaving Costa Hawkins restrictions in place. However, the debate on the merits of rent control still continue and tend to be driven by differences in philosophies. A key argument against rent control is that it distorts the market and it creates winners and losers, the winners being those who have access to rent controlled units. Advocates for rent control often link their arguments with calls for recognition of a right to housing as a basic necessity. At the heart of the debate lies the fundamental question as to whether private rents should be controlled by government, and, if so, which government and to what extent.

## Just Cause Evictions

Under California's "no-fault" rental laws, landlords can end a renter's tenancy for any reason, or no reason at all, by issuing a move-out notice 30 to 60 days in advance, depending upon how long the renter has lived in the unit. Tenant and housing advocacy groups have asserted this is far too little notice, especially for tenants that may have occupied a unit for many years and been a tenant in good standing. Landlords and associations representing property owners generally have a contrary view, citing that landlords can adjust rents with proper notice and therefore have little financial motivation to evict tenants in good standing for no cause. Based on reporting on April 27, 2018 in the OC Register, 19 California cities have enacted "Just Cause" eviction ordinances, limiting when landlords can force tenants to leave. Examples of justifiable reasons under such laws include:

- Rent: Failure to pay the rent.
- Breaching the lease: This includes “substantially” violating a rental agreement by violating occupancy limits, creating a nuisance, violence, illegal activity or failing to give the landlord proper access to inspect or repair the unit.
- Illegal sublet: A sublease to a new tenant not approved by the landlord.
- Owner move-in: The owner or an immediate family member seeks to use the unit as their primary residence.
- Substantial repairs or renovations: Work that makes the unit uninhabitable for at least 30 days.
- Permanent withdrawal from the rental market: Includes selling or demolishing the rental property.
- Relocation assistance: Required when ordering tenants out for an owner move in, repairs or renovations or when taking the unit off the rental market.

Proponents of Just Cause evictions suggest that evictions have reached crisis levels and are leading to displacement and increased homelessness. However, opponents retort that such measures create many unintended consequences, one of which is an unhealthy, uncomfortable, or even dangerous living environment for neighboring tenants who report acts of harassment, bullying, or even criminal activity as the property owner does not have the ability to evict tenants without solid proof, which could include disclosing the name of persons making the complaints.

To the best of staff’s knowledge, no city in Orange County has a Just Cause eviction law in place; however, there was recent discussion in Santa Ana regarding this option as part of a menu of options being considered to address homelessness (December 2018).

#### Temporary Measures/Moratorium on Rent Increases

Temporary moratoriums on rental increases have been used in a few jurisdictions including Oakland and most recently, LA County, while the jurisdiction is studying options it may consider adopting on a more permanent basis. Temporary rent control restrictions approved by the Los Angeles County Board of Supervisors went into effect on December 20, 2018, preventing landlords in unincorporated parts of Los Angeles County from raising rents more than 3 percent each year.

On March 6, 2019, the LA Times ran a story reporting that officials in the City of Inglewood adopted an emergency ordinance to limit rent increases and halt evictions temporarily while the city tries to find a permanent solution to address rapidly rising rents spurred in part by construction of a \$2.6-billion football stadium and entertainment complex. The measure, will prevent landlords during a 45-day period from raising rents by more than 5% and evicting tenants for any reasons other than criminal activity or drug use in the rental property.

#### Source of Income Protections

The Housing Choice Voucher (HCV) program, the nation’s largest rental housing program, which serves over 2.2 million households, is the quintessential public-private

partnership. The federal government provides funds to state and local agencies to fill the gap between what families can afford to pay and local market rents, and to administer the program. Locally, the Anaheim Housing Authority assists over 6,000 households using the HCV program. Participants are protected from significant rent increases. Rent increases are tied to wages which are indexed. The program is also currently being used to help address homeless issues in the City.

California law prohibits discrimination based on source of income. Source of income is defined as legal, verifiable income paid directly to the tenant or his or her representative (such as a payee). Some examples of income types are Social Security, Supplemental Security Income (SSI), veteran's benefits, CalWorks, General Assistance, child support, alimony, unemployment insurance, pensions, and wages. However, under California state law, Section 8 Housing Choice Vouchers are not considered tenant income, and therefore a housing provider is not required to accept a voucher. Housing providers are also not required to treat other rental assistance programs as income.

In October 2016, the OC Register covered the challenges of renting using a Section 8 voucher in Southern California. Similarly, in May 2017, the National Public Radio (NPR) covered stories of families who could not utilize their vouchers in multiple states. To address this challenge and make the voucher program work more effectively, 11 states, including Washington, D.C., and over 50 cities and counties have enacted laws that prohibit landlords from refusing to rent to voucher holders solely because of their source of income (often called SOI laws). It should be noted that California is not one of the 11 States with this type of provision in place at this time; however, in 2016, then State Senator Leno championed SB 1053 entitled the Housing Opportunities Act, which contained a source of income protection provision. However, the Bill did not advance out of committee therefore never became law, but on February 15, 2019, Senator Mitchell introduced SB 329, which once again attempts to codify such a law.

Under the proposed law, landlords are not required to rent to vouchers holders if their standard tenant screening practices are uniformly applied and comply with fair housing laws. However, it would be a violation to advertise "No Section 8" business policies and refuse to accept a rental application from a Section 8 voucher holders unilaterally.

In Southern California, source of income protection laws are gaining traction. On July 30, 2018, the San Diego City Council passed such an ordinance and enforcement of the ordinance will begin on August 1, 2019. Additionally, it has been reported that both LA County and LA City are currently drafting such measures for their jurisdictions with the expectations that the laws would take effect in 2019.

### Affordable Housing Strategy in Anaheim

To date, the City of Anaheim has not considered or adopted its own local rent stabilization measures nor has it set a course to implement policies that broadly impact the local rental market. However, the City has sought to meet the housing needs of low income residents living and/or working in the City through the development of

affordable housing for a broad spectrum of income ranges, through the implementation of progressive land use policies, streamlined business processes and by providing financial assistance for affordable housing development. As part of the 2004 General Plan Update, the City re-designated hundreds of acres of underutilized commercial and industrial land to residential land use designations. The City also created a Housing Opportunities Overlay Zone as part of the latest Housing Element update to facilitate “by-right” residential development at strategic locations throughout the City. In addition, the City continuously updates its existing regulations to create flexibility in development standards and streamline the approval process for infill residential development. In 2005, the City Council adopted the Affordable Housing Strategic Plan, which set a goal of constructing 1,200 affordable housing units for very low to moderate-income households. Funding from the Redevelopment Housing Set- Aside fund, the federal HOME Investment Partnership program and Section 8 Housing Vouchers have been critical funding tools used to assist such development. The City met the goal set in 2005 and subsequently adjusted the goal in 2009 through 2014 to 3,112 units as well as expanded development activities to include homeownership and substantial rehabilitation options.

As has been previously discussed, the loss of Redevelopment funds, which provided approximately \$14 million annually for affordable housing development, presents a significant funding challenge; however, efforts to increase the affordable housing stock in Anaheim continue as evidenced by projects currently in the pipeline, such as El Verano, a 54 unit, 100% affordable, senior housing development on the former Sandman Motel site and the submission of a funding request to the State of California for \$20 million under the Affordable Housing Sustainable Communities (AHSC) program to support the development of a Housing Authority owned site at Manchester and Orangewood for the purposes of developing 102 units of affordable, workforce housing. Residents who reside in affordable housing developments are protected from significant monthly rent increases, as they generally pay 30% of their income towards rent and increases are capped by state and/or federal regulations. Rent policies of this nature are tied to specific developments that were developed with restricted funds and do not impact the broader rental market. The City has also implemented innovative programs such as the Quality Rental Housing Program which is aimed at ensuring residents residing in rental housing have decent, safe, and sanitary conditions. Where violations are noted, enforcement action is taken.

### Preliminary Outreach

In preparing this report, staff was contacted by and contacted several stakeholders to share general thoughts on the issue. Staff spoke with representatives from the Building Industry Association, local and State representatives of the apartment owners’ association, and the Kennedy Commission. The conversations were helpful and underscored the divergence of views on the subject of rent control as well as the need for, and benefits of, tenant protection actions such as ordinances or policies seeking to establish “just cause evictions.” Staff advised all the parties that the City Council would be discussing the issue, at the request of Council Member Moreno, on March 19, 2019. Several of the entities with whom staff spoke stated they may provide a letter summarizing their general thoughts on the subject (not available at the time of

production of this report) and plan to attend the City Council meeting to share their views.

### Summary/Conclusion

There is general recognition that there is a housing crisis in California and a resulting affordability challenge for renters and others seeking to purchase a home. However, as noted above, there is considerable debate on the most effective approaches for addressing the crisis. Many espouse private sector, free market approaches (e.g., facilitate and promote the development of new housing); conversely, others assert public solutions such as inclusionary housing and policies and programs aimed at limiting excessive rent increases and extending protections to tenants are essential. To date, the City of Anaheim has focused on streamlining and facilitating housing development and delivering affordable housing through its former redevelopment agency and the Anaheim Housing Authority. These efforts are intended to assist individuals who need assistance in meeting housing costs rather than the implementation of policies that have broader impact on the rental market in general. These efforts have been successful, although some might suggest more is needed. To the City's credit, Governor Newsome recently cited the City of Anaheim as a positive example of a city that is a leader in the area of housing development.

The information provided in this report provides an overview of rent trends and what actions cities have taken, or may be considering, to address rent escalation and extend protections (beyond those provided by State law) to renters.

### **IMPACT ON BUDGET:**

The report has no budgetary impact.

Respectfully submitted,

John E. Woodhead IV  
Community and Economic  
Development Director

David Belmer  
Deputy City Manager

### **Attachment(s):**

1. Orange County Register Publication (11/2018)
2. Rental Data from Yardi Matrix
3. Report from NOLO
4. CoStar Report