COUNTY OF MARIN

COMMUNITY DEVELOPMENT AGENCY

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December 15, 2015

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, California 94903

SUBJECT: Tenant protections policy options for preserving housing affordability and preventing displacement. This is the third workshop of a three-part discussion continued from October 13 and November 17, 2015.

Dear Board Members:

RECOMMENDATION: Staff recommends that your Board review policy options for preventing displacement and preserving housing affordability, and provide direction to staff.

SUMMARY: A comprehensive set of policy options to address the County's affordable housing needs were first presented to your Board at the October 13, 2015 workshop, and were divided into three categories: preservation & conversion, new construction, and tenant protections. The options related to the first two categories were further considered at your Board's workshop on November 17. Policy options related to tenant protections are the focus of the December 15 workshop.

BACKGROUND: Current housing and income statistics for Marin County and the results of the 2015 Rental Housing Survey illustrate the growing affordability gap between what most Marin households can afford to pay for housing and the actual cost of housing in today's competitive market. The demand for affordable housing continues to grow while the County's limited supply quickly dwindles leading to housing instability for many in our community.

Vacancy rates are a traditional tool for measuring the availability of housing, including housing shortages, and can provide a context for public and private organizations to consider new housing policies and programs. Vacancy rates are most useful for measuring the supply of housing in relation to housing demand. Low vacancy rates indicate a shortage of housing while high vacancy rates indicate a surplus. Very low vacancy rates typically drive up housing costs which is more likely to affect low income residents. Vacancy rates are less useful for measuring unmet housing demands, and do not account for households that may be displaced due to the lack of affordable housing in the neighborhood or community of their choice.[1]

In 2010, the rental vacancy rate in Marin was around 5%, which is considered to be an indicator of a "healthy" housing market with enough housing supply to meet demand.[2] However, by 2013 the vacancy rate had dropped below 3% and remained there throughout 2014. It rose modestly to a rate of 3.8% by July 2015[3], however this is well below the 5% "normal" vacancy rate standard, indicating that Marin is still experiencing a housing supply shortage relative to existing demand.

A growing number of lower and moderate income residents, including seniors and families, are struggling to keep up with rising housing costs. Marin's workforce is facing longer commutes with fewer of those employed by local businesses living in the County. It is estimated that at least 50% of Marin's workforce lives outside the County and commutes in to their job every day. This equates to more than 60,000 workers commuting into Marin daily[4].

On average, rental prices in Marin have soared in recent years, impacting thousands of renter households that comprise 30% of Marin's population. Ten years ago in 2005, the average apartment rental in Marin cost $1,478 per month. Despite the 2008 recession, this figure had climbed to $1,673 per month by 2009. As of October 2015, average apartment rents have jumped by 75% since 2005 to $2,583 per month.[5] Other data sources state that the median rent for an apartment is even higher at approximately $3,000 per month and the median rent for a single-family home is $5,000 per month[6].

Based on housing affordability standards established by the U.S. Department of Housing and Urban Development (HUD), a household that spends more than 30% of their *take-home pay* (i.e. after taxes/deductions) on rent and other housing expenses is considered cost burdened and may have difficulty affording other necessities such as food, clothing, transportation, medical care and child care. This means that a household would need to earn $8,610 per month or $103,320 per year *after taxes* to afford the average rental in Marin right now. According to 2010 Census data, 28% of Marin households are low income and overpaying for housing by spending more than 30% of their income toward housing expenses.

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[1] CA Department of Housing and Community Development (HDC): http://www.hcd.ca.gov/housing-policy-development/housing-resource-center/rtr/chp6r.htm
[2] 2010 Census data, U.S. Census Bureau
[3] Marin County Rental Statistics:, Michael J. Burke Rental Survey, Summer 2015: http://www.marinapartments.com/_docs/RentalSurvey.pdf; and real Answers, Marin County Rental Trends, 3rd quarter 2015 report.
[4] 2010 Census data, U.S. Census Bureau
[5] Average apartment rents for all unit types and sizes. Marin County Rental Statistics:, Michael J. Burke Rental Survey, Summer 2015: http://www.marinapartments.com/_docs/RentalSurvey.pdf; and real Answers, Marin County Rental Trends, 3rd quarter 2015 report.
[6] Zillow Research Rental Data: http://www.zillow.com/research/data/#rental-data

The median income for a two-person household in Marin is $81,500, or $101,900 for a four-person household for the County's entire population[7]. However the average income for a Marin-based job was only $62,408 in 2014[8], which is below the low-income threshold of $65,700 for a one-person household as established by HUD. Based on a gross income (pre-taxes) of $62,408, a person should not be spending more than $1,014 per month on their rent and utilities. The minimum wage in Marin County is currently $13 an hour, or $27,040 a year for full-time employment, just barely above HUD's "extremely low" income threshold. Based on a full-time minimum wage salary, a person should not be spending more than $500 a month on housing. With the average rent for even a studio apartment currently at $1,675, it is clear as to why an increasing majority of Marin workers are being forced to find housing outside the County. Between 2010 and 2014, the average income for a Marin-based job increased by only 8% while the average apartment rent rose by 30%.[9]

A household of two persons is considered "low income" if they earn a combined household income of $75,100 or less a year, or "moderate income" if they earn $97,800 or less per year. According to 2010 Census data, 38% of all Marin's households are low income and another 18% are moderate income[10]. Looking at renter households alone, this jumps to 57% low income and 19% moderate. More than 21,000 Marin residents (8.4% of population) are currently living below the federal poverty level, and 1,900 are children under 6 years old[11]. If measured using the more rigorous California poverty indicator that adjusts for the cost of living, Marin's poverty rate is closer to an estimated 17-19%. When evaluating how many County residents meet a separate "self sufficiency" standard that also accounts for cost of living, nearly 30% are unable to adequately make ends meet[12]. With less than 5% of all the housing in unincorporated Marin currently preserved as affordable housing for lower and moderate income households[13], it is apparent that the County's housing stock is not as economically diverse as the population it's intended to serve.

The lack of affordable rental housing has also contributed to a rise in the local homeless and precariously housed[14] population. The Marin County 2015 Point in Time Count of homeless persons was conducted on January 29, 2015, and revealed

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[7] HUD FY2015 Income Limits: http://www.huduser.org/portal/datasets/il/il15/index.html

[8] U.S. Census Bureau, Center for Economic Studies, LEHD: http://ledextract.ces.census.gov/

[9] U.S. Census Bureau, Center for Economic Studies, LEHD: http://ledextract.ces.census.gov/; Average apartment rents for all unit types and sizes. Marin County Rental Statistics:, Michael J. Burke Rental Survey, Summer 2015: http://www.marinapartments.com/_docs/RentalSurvey.pdf;

[10] 2010 Census data, U.S. Census Bureau: http://www.census.gov/

[11] Poverty in the Bay Area, Marin Economic Consulting, March 2015: http://www.marineconomicconsulting.com/whitepapers.php

[12] http://www.marinij.com/general-news/20150404/study-stirs-marin-poverty-rate-surprise

[13] 2015 Affordable Housing Inventory, Marin County Community Development Agency. Includes all public housing units, and Below Market Rate rentals and ownership units dedicated as affordable housing through an affordability deed-restriction agreement.

[14] A person is considered precariously housed and at risk of homelessness if they are about to lose housing and have no other place to live, or are housed but living temporarily with friends or family because they lack the resources and/or support networks to retain or obtain permanent housing and/or are housed but have moved frequently due to economic reasons and/or are living in severely overcrowded housing.

a total of 1,309 homeless persons, an increase of 38% since January 2013.[15] The 2015 homeless count included a total of 57 families with children, accounting for 15% of the overall homeless population. Of those surveyed for the 2015 count, 35% shared that this was their first time experiencing homelessness, and 51% said they've been homeless for a year or more.[16]

In 2013, an additional 4,388 persons were found to be at risk of homelessness and considered precariously housed. In 2015, this number jumped by 19% up to a total of 5,222 precariously housed persons. Last year, Marin County Health & Human Services tracked in real time the number of households (either individuals or families) who requested assistance with a housing crisis. Over a one-week period in late 2014, they received 587 requests for assistance from households experiencing a housing crisis (at least 225 of which were families and 286 were individuals).[17]

2015 Rental Housing Survey

The results of the 2015 Rental Housing Survey conducted by the Community Development Agency in March – July further illustrated that more needs to be done to prevent displacement of the County's low and moderate income community. The survey received more than 800 responses from renters, the majority of who indicated that their rent has been raised in the past twelve months and that the cost of monthly rent is the most challenging and prohibitive factor to living in Marin. The survey results revealed a number of significant challenges that face residents attempting to maintain their rental homes:

- When asked about monthly rent increases, 498 of the 829 respondents (60%) indicated that their rent has gone up by some amount in the past year. To be more specific, 135 respondents (16%) said their rent increased by $200 or more per month in the past twelve months; 172 (21%) by $100 to $199; 142 (17%) by $51 to $99, and 52 (6%) by less than $50.
- Two hundred sixty one (32%) of respondents are spending more than 50% of their income on housing, and 382 (46%) indicated that they are paying 30 to 50% of their income toward housing costs.
- Three hundred seventy two (45%) of respondents have a month-to-month agreement and are living without the security and stability of a longer term lease.
- Fifty-nine percent of respondents indicated that they have plans to move, citing the cost of their rent payment and concerns about rent increases and/or eviction as their primary reasons.
- Seventy-seven percent of respondents state that the cost of monthly rent is by far the most significant challenge to renting in Marin, followed by the cost of

[15] Marin County Health & Human Services: https://www.marinhhs.org/point-time-count-marin
[16] According to Marin County Health & Human Services, improved methodology was used for the 2015 Point in Time Count compared to that used for the 2013 count, which may account for some of the increase to the number of homeless persons accounted for in 2015.
[17] Marin County Health & Human Services, August 2015.

rent deposits at move-in time (36%), and concern about rent increases and/or eviction (27%).

In the open comments at the end of each survey, participants provided details of their personal struggle to find or maintain housing in Marin that they can afford. By way of example, parents can't afford to stay in Marin to keep their kids in the county's high performing school districts. Seniors can't afford to transition within their own community as their daily life needs and incomes change. Young people new to the workforce can't afford to live in the area they grew up in. And many of the locally employed people who serve Marin's residents and add significant value to their communities are being displaced due to the affordability gap between their respective wages and current housing prices.

Fair Housing

Under state and federal fair housing laws, it is unlawful to restrict housing choice on the basis of race, color, disability, religion, sex, familial status, national origin, sexual orientation, marital status, ancestry, age, and source of income. In 2011, the Board adopted an Analysis of Impediments to Fair Housing Choice (AI) which broadly identifies the actions, omissions, and conditions in the County that may have the effect of restricting housing choice for people protected under state and federal fair housing laws. The AI not only identifies impediments to fair housing choice, but also makes recommendations to overcome the effects of those impediments in an Implementation Plan. The AI is intended to serve as the basis for fair housing planning, providing essential information to County staff, policy makers, housing providers, lenders, and fair housing advocates, and to assist with garnering community support for fair housing efforts.

The AI concludes that substantial impediments to housing choice exist across the rental, sale, and lending markets throughout Marin County. For example, Hispanic, Asian, and particularly Black households are not moving into Marin County in appreciable numbers in part because Marin is viewed as an unwelcoming place for racial minorities; and those minorities who choose to live in Marin may face differential treatment that limits housing choices. Families with children also experience discrimination and are limited in their housing choices that have unit sizes that can accommodate families. People with disabilities face barriers ranging from housing providers' unwillingness to rent to tenants in need of reasonable accommodations to physically inaccessible housing. As the generation of baby boomers ages, demand has increased for a limited number of beds in residential care facilities for the elderly (RCFEs). Studies have shown that people with disabilities, particularly people of color, have unequal access to senior housing, RCFEs and continuing care facilities. Although fair housing and affordable housing are not synonymous, affordable housing can serve the needs of a diverse community, including those who historically have faced discrimination in finding a place to live.

Marin Countywide Plan

The 2007 Marin Countywide Plan has a goal of maintaining balanced communities that house and employ persons from all income groups and provide the full range of needed facilities and services. In order to promote diverse and vibrant communities and economies, there is a need to preserve the limited housing opportunities that exist for lower and moderate income households. The following policies of the Countywide Plan and 2015-2023 Housing Element exemplify the County's goal of supporting a diverse housing stock that offers opportunities for households of all income levels to be an integral part of the local community:

> **CWP Goal CD-2: Balanced Communities.** Maintain balanced communities that house and employ persons from all income groups and provide the full range of needed facilities and services.
>
> **CWP Policy CD-2.1 Provide a Mix of Housing.** The range of housing types, sizes, and prices should accommodate workers employed in Marin County. This includes rental units affordable to lower-wage earners and housing that meets the needs of families, seniors, disabled persons, and homeless individuals and families.
>
> **Housing Element Policy 2.2 Housing Choice:** Implement policies that facilitate housing and preservation to meet the needs of Marin County's workforce and low income population.
>
> **Housing Element Policy 2.4 Protect Existing Housing:** Protect and enhance the housing we have and ensure that existing affordable housing will remain affordable.
>
> **Housing Element Program 2.i: Increase Tenants Protections**
>
> Explore providing rental protections, such as:
>
> - Noticing of rental increases
> - Relocation costs
> - Just-cause eviction
> - Rent stabilization
> - Rent control

One of the primary goals that guides the Countywide Plan states: *"**A Creative, Diverse, and Just Community.** Marin will celebrate artistic expression, educational achievement, and cultural diversity, and will nurture and support services to assist the more vulnerable members of the community."* The policy options presented for the Board's consideration offer a range of measures aimed at making the County an equitable, healthy and safe place to live, regardless of background or income level.

New Policy Options

The County has a number of provisions in place that help to support the preservation and development of affordable housing in the unincorporated County, including a range of affordable housing funding sources and affordable housing requirements for new development. However, existing options are primarily development-dependent and thus have had an incremental impact on addressing the County's housing needs. Based on the limited opportunities for new development of affordable multi-family housing, the County has been considering a broader range of policy measures aimed at preserving the affordability of existing housing and different ways of creating new opportunities for affordable housing.

At the November 17th workshop, the Board signaled their agreement with this approach by supporting an acquisition strategy involving the purchase of existing multi-family rental developments for long-term preservation as affordable housing. The Board also expressed an interest in amending existing land use regulations to encourage second units and exploring incentives for landlords to rent to lower income tenants.

For the December 15 workshop, staff recommends that the Board consider several tenant protection policy options, including rent stabilization, just cause for evictions, relocation assistance, and source of income protection. Tenant protections serve the same overall affordability goals as the policy options considered by the Board to date while having a targeted benefit to renters who may be forced out of their home if rent increases are significant and frequent enough to outpace their budget. Together, these policies could provide thousands of Marin renter households with housing stability and secure their ability to remain part of the County community.

In the Bay Area region, the cities of San Francisco, Oakland, Berkeley, San Jose, East Palo Alto, Hayward, and Los Gatos have established comprehensive rent regulation programs administered by a rent board, which include rent stabilization, just cause evictions, and other tenant protections. This past August, the City of Healdsburg adopted rental housing guidelines to encourage landlords to limit rent increases to no more than 10% annually and provide 90-day notice for rent increases when possible. Several other local jurisdictions have recently begun the process of considering tenant protections including San Mateo County, and the cities of Richmond, Alameda, Mountain View and Santa Rosa. A total of 22 cities have rent regulation in place specifically for mobile home parks, including both San Rafael and Novato. The cities of Campbell, Fremont, Gardena and San Leandro offer tenant/landlord mediation service, and the cities of San Diego and Glendale currently implement just cause eviction ordinances.

As requested by your Board, details regarding timing, funding and staffing needs are summarized for the tenant protections policy options below. Timing is based on staff's estimate of approximate time needed to implement each option. Pursuing multiple options concurrently may add to the overall timeframe for implementation.

Direction from the Board regarding specific policy options will be brought back to the Board in the Community Development Agency's performance plan and proposed budget in March 2016. Also included are the potential opportunities and challenges of implementing each option.

1. **Rent Stabilization:** Allow moderate annual rent increases to stabilize the multi-family rental market while providing a reasonable regular return on investment for property owners. Annual rent adjustment rates are typically tied to a specific percentage (e.g. 5%) or to inflation through the Consumer Price Index. Currently, there is no local regulation of rent increases in unincorporated Marin. State law requires a 30 day notice for rent increases of 10% or less per year, or 60 days for an increase of more than 10%.[18]

   The Costa-Hawkins Rental Housing Act (CA Civil Code §1954.50 et seq.) places significant limitations on the applicability of rent stabilization policies established by cities and counties in California. It exempts the following housing types from any local rent stabilization ordinance: single-family homes, condominiums, and any residential rental units (including multi-family developments) that received a certificate of occupancy after February 1, 1995. Because of these limitations, any rent stabilization policy pursued by the County could only be applied to multi-family rental units built and occupied prior to February 1995 that are not already protected by an existing affordability agreement. Costa-Hawkins also includes a provision known as vacancy decontrol, which allows a property owner to raise rents to market rate once a unit is vacated by the existing tenant.

   There are several concerns frequently voiced about rent stabilization. One of the most common concerns is that it will lead to dilapidated housing conditions due to diminished rent revenue and a disincentive to improve rental properties. However, rent stabilization programs can be structured to allow for higher rent increases relative to any investments made for capital improvements and maintenance needs to allow property owners to recoup costs associated with upkeep of their properties. These special increases are typically in addition to the standard annual rent increase allowed by an applicable rent stabilization ordinance. Furthermore, since a unit can be returned to market rate upon vacancy, there is a considerable incentive for property owners to keep their units in a condition acceptable to new market rate renters.

   Another concern is that rent stabilization could serve as a disincentive to new development, however as referenced above, rent stabilization cannot be applied to new development due to the limitations of the Costa-Hawkins Act. As referenced above, Costa-Hawkins exempts all housing built since 1995 from any local rent stabilization ordinance. Some property owners further argue that this distinction can create an unfair burden on owners of multi-family property built prior to 1995. However, in unincorporated Marin only a handful of multi-family developments have been built since 1995, all of which are already deed-restricted as affordable housing.

Rental property owners also argue that rent stabilization results in an unconstitutional taking of personal property rights. However, the courts have thus far not found rent stabilization to result in a regulatory taking, and rent stabilization programs are required to allow for annual rent increases, thus providing property owners with an increased return on investment every year.

Finally, opponents of rent stabilization argue that such policies do not help the housing situation but in fact worsen it by further limiting supply of market rate housing and thereby driving up market rate prices. To this point, it's important to note that housing prices throughout the Bay Area region have risen dramatically in recent years, both in jurisdictions with and without rent stabilization. Areas without rent stabilization, such as Marin County, are experiencing the same steep increases in housing costs where rent stabilization ordinances are in place, including San Francisco, Berkeley and Oakland.

As reflected by recent housing and income data, a stronger case can be made that rising housing prices are a result of the recent economic recovery, which has brought an influx of high income renters and homebuyers into the region that have in turn put more pressure on demand in a market with an already limited housing supply. The imbalance between limited supply and growing demand is further impacted by the slow rate at which new housing is developed in the area and the growing disparity between local wages and increasing housing costs.

The County would have considerable flexibility to design a rent stabilization program for unincorporated Marin. In general, there are two models of rent stabilization programs: complaint-based and rent certification. A select few jurisdictions including Berkeley, East Palo Alto and West Hollywood have a rent certification program in place, which is the more resource intensive of the two models. This type of program involves the detailed registration and tracking of all rental units subject to the ordinance, investigation of complaints or petitions related to the ordinance, as well as in-house counseling services and extensive outreach and education for both tenants and landlords. These programs require a considerably higher per unit annual registration fee to cover the extensive program costs.

Alternatively, most local jurisdictions with rent stabilization (e.g. Oakland, Hayward, and Los Gatos) have implemented a "complaint-based" system, meaning that the onus is on tenants to file a complaint or petition that the ordinance has been violated and to demonstrate evidence of the violation. Complaints are then reviewed by a hearing examiner and usually resolved through the mediation process. In some cases, an arbitration hearing before an Administrative Law Judge is required. This type of program typically is funded by a modest annual registration fee anywhere between $2 to $30 per unit that can be wholly or partially passed on to tenants.

Both program types involve the establishment of a rent board or commission that can enact and amend applicable regulations, and hear petition appeals regarding select issues related to the ordinance. This board or commission typically addresses issues with related tenant protection policies when applicable, such as just cause for eviction or relocation assistance.

To test the effectiveness and impacts of implementing rent stabilization in unincorporated Marin, the County could consider a pilot program with a built-in expiration tied either to a specific timeframe (e.g. 5 years) or to the market (e.g. rental vacancy rates or the rate of rental increases). Upon expiration, the results of the program would be evaluated and the County could consider whether or not to continue the program from that point forward. The County could also explore applying further exemptions to rent stabilization for small multi-family developments of 2-3 units that are owner-occupied.

Option A: Rent Stabilization. The County could consider adopting a regulatory requirement that limits rent increases to once per year and to a percentage equal to the Consumer Price Index (CPI) for that year. This regulation would apply to multi-family rental units built prior to February 1995 in unincorporated Marin.

i. **Timing:** 1 year, depending on scope of program

ii. **Status:** New policy

iii. **Funding:** A detailed budget and program would be developed should the Board choose to further consider this policy, including the ability of existing staff to handle routine tasks and the need for additional staff resources to administer the program. The cost of an outside hearing examiner to adjudicate administrative law disputes typically runs between $1,000 to $2,000 per case.

iv. **Opportunities:** This could stabilize rents for more than 3,300 existing households in unincorporated Marin, and would help prevent further displacement of low and moderate income households. Property owners are provided a reasonable increased return on investment, and rents can return to market rate upon vacancy of unit.

v. **Challenges:** Per existing limitations of Costa-Hawkins, this would only provide stability for tenants as long as they reside in an applicable unit since "vacancy decontrol" allows a unit to return to market rate once it is vacated. Costa-Hawkins further established that rent stabilization cannot be applied to single-family homes or condominiums, nor can it be applied to any housing built since February 1995 (including multi-family rentals). Without a just cause for evictions ordinance, rent stabilization is less beneficial to the renter community since tenants could continue to be evicted "at-will" if property owners wanted to take advantage of the “vacancy decontrol” provision of Costa-Hawkins.

Option B: Voluntary Rent Guidelines. Alternative to the regulatory approach of "Option A" above, the County could consider adopting an interim set of voluntary rent stabilization guidelines, similar to those adopted by the City of Healdsburg in August 2015 and by the City of San Rafael in 2001. This non-regulatory approach could be established as an initial or interim step while the County further considers if and how to structure a rent stabilization program appropriate for unincorporated Marin. Both the Healdsburg and San Rafael guidelines are completely voluntary and non-binding, established as a "good faith" commitment to fair rental practices. These guidelines encourage landlords to limit rent increases to once per year and to a maximum of 10%, to provide a 60-90 day rental increase notice to tenants, and to maintain properties in good repair and consistent with health and safety standards. Because the guidelines are voluntary and therefore not subject to statutory or case law, there is flexibility in setting the recommended annual rental increase and noticing time frame. For example, the recommended limit on rental increases could be lower than the 10% figure adopted by the Cities of Healdsburg and San Rafael.

i. **Timing:** 6 months

ii. **Status:** New advisory

iii. **Funding:** Additional funding is not expected to be required at this time.

iv. **Opportunities:** Voluntary rent guidelines would signal the County's request for rental property owners to commit to fair practices regarding rent increases, noticing periods, and housing maintenance.

v. **Challenges:** Because rent guidelines are voluntary in nature rather than mandated, their effectiveness in preserving affordable rents is entirely dependent upon the willingness of rental property owners to adhere to the advisory. It should be noted that the City of San Rafael rental guidelines have been in place for 14 years; however, the rental prices in the City, which has the largest share of rental property in the county, have risen as dramatically as the rest of the county in recent years with current median rents on par with countywide rental rates.

2. **Just Cause for Evictions:** Landlords currently can terminate a periodic tenancy for any or no reason as long as they provide a 30-day written notice to the tenant to vacate, or 60 days if the tenant has lived in the rental unit for a year or longer.[19] Landlords can also serve tenants with a 3 day written eviction notice for any reason consistent with CA Code of Civil Procedure §1161. The County could pursue a "Just Cause for Eviction" ordinance to require that a landlord establish and verify that an eviction is based on a valid reason (i.e. "just cause") such as owner move-in, non-payment of rent, nuisance to landlords/other tenants, damage to unit/building, illegal activity, or any other violation of a lease

[19] Pursuant to CA Civil Code §1946.1

agreement. This type of ordinance is often combined with other tenant protections including rent stabilization, and relocation assistance.

i. **Timing:** 6 months

ii. **Status:** New policy

iii. **Funding:** A detailed budget and program would be developed should the Board choose to further consider this policy, including the ability of existing staff to handle routine tasks and the need for additional staff resources to administer the program. The cost of an outside hearing examiner to adjudicate administrative law disputes typically runs $1,000 to $2,000 per case.

iv. **Opportunities:** This would prevent "no-fault" eviction of responsible tenants, providing them with greater security and stability. Can help to eliminate evictions pursued for increased profits alone, and is not subject to the limitations of the Costa-Hawkins Act. This provides protection to tenants on short-term (month-to-month) leases who do not have the security of a longer-term lease agreement.

v. **Challenges:** This policy would have less impact without rent stabilization, since property owners could simply raise rents to an unaffordable level for the applicable tenant, thereby leaving them no choice but to move out.

3. **Relocation Assistance:** Pursuant to CA Health and Safety Code §17975 et al, tenant relocation fees are required to be paid by a landlord when a local enforcement agency orders the unit vacated due to an immediate threat to the tenants' health and safety. Increased requirements for relocation assistance established by the County could help lower income households find replacement housing and could reduce displacement rates. The County could consider an ordinance similar to the City of Mountain View's model, which requires a landlord to provide the following for all eligible low income households who are displaced due to no fault of their own: a full refund of a tenant's security deposit; a 60-day subscription to a rental agency; the cash equivalent of three months median market rate rent for a similar sized rental unit; and an additional $3,000 for special-circumstances tenants, which are households having at least one person that is either over 62 years of age, handicapped, disabled, or a legally dependent child under 18 years of age. Alternatively, the County could consider a more complex model, such as the one implemented in West Hollywood. Relocation assistance requirements would have more impact if coupled with other tenant protections policies such as rent stabilization and just cause for evictions.

i. **Timing:** 6 months

ii. **Status:** New policy

iii. **Funding:** A detailed budget and program would be developed should the Board choose to further consider this policy, including the ability of existing staff to handle routine tasks and the need for additional staff resources to administer the program. The cost of an outside hearing examiner to adjudicate administrative law disputes typically runs $1,000 to $2,000 per case.

iv. **Opportunities:** This would help displaced and disadvantaged tenants with the cost of relocating to new housing, and could help prevent these individuals/families from becoming homeless after losing their existing housing. This could help reduce the number of “no-fault” evictions.

v. **Challenges:** Displaced tenants would likely still be forced to leave Marin to find new housing elsewhere, due to the lack of affordable housing options currently available in the County.

4. **Source of Income Protection:** Source of income protection prevents landlords from advertising or stating a preference for certain sources of income, from charging a higher deposit based on a person’s source of income, and from treating a person differently based on their source of income. It also establishes that an income requirement can only be applied to the tenant’s portion of the rent. These protections apply to all housing except a home in which the landlord lives and rents out only one room.[20] California Government Code §12921 prohibits housing discrimination based on a person’s source of income, and §12955(p)(1) defines “source of income” as “lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant. For the purposes of this section, a landlord is not considered a representative of a tenant.” Case law (*SABI v. Sterling,* 183 Cal.App.4th 916 (2010)) has established that California’s source of income discrimination law described above does not protect Section 8 voucher holders. However, the law has not prevented the adoption of ordinances in several California cities, including Los Angeles, San Francisco, East Palo Alto and Woodland that prohibit Section 8 voucher discrimination.

   The County could consider adopting an ordinance to recognize Section 8 vouchers and other third-party housing subsidies as a “source of income,” thereby prohibiting discrimination against potential tenants with such subsidies. This policy could be reinforced by combining it with a program establishing incentives for landlords to rent to lower income tenants, as considered by the Board at the November 17 workshop (see Attachment 3), as well as the just cause for evictions option described above in Item 2.

i. **Timing:** 6 months

ii. **Status:** New policy

iii. **Funding:** No additional funding required; would utilize existing staff time and resources as needed.

iv. **Opportunities:** This would prohibit property owners from advertising "No Section 8" in rental listings, and would prohibit discrimination against voucher

[20] Poverty & Race Research Action Council (PRRAC), May 2014: *State, Local, and Federal Laws Barring Source-of-Income Discrimination.*

holders and other third-party subsidized renters. This could increase available housing opportunities for subsidized renters.

v. **Challenges:** Property owners could effectively still decide not to rent to subsidized renters based on other factors such as total income, credit score, etc. Most market rate rents in Marin are currently too high to qualify for Section 8 and other subsidy programs, so without an additional subsidy, property owners have to rent their unit below market rate to participate in these programs.

CONCLUSION

With housing prices at an all-time high, vacancy rates at historic lows, and extremely limited opportunities for development of new multi-family housing, exploring tenant protections is consistent with the County's interest to help prevent displacement and preserve housing affordability. Tenant protection measures are most effective when combined, such as rent stabilization with just cause for eviction laws; however, each policy option discussed above can also be considered individually on its own merits.

REVIEWED BY:

- ☐ Auditor Controller ☒ N/A
- ☒ County Counsel ☐ N/A
- ☐ Human Resources ☒ N/A

Respectfully Submitted,

Alisa Stevenson
Planner

Leelee Thomas
Principal Planner

Attachments:

1. Existing County Support for Affordable Housing in Marin
2. 10/13/15 Staff Report to the Board of Supervisors
3. 11/17/15 Staff Report to the Board of Supervisors
4. Administrative Record (comments received)

This Board letter and all attachments are available online at:
http://www.marincounty.org/depts/cd/divisions/planning/housing/affordable-housing

A full reference copy is available for public review at the Board of Supervisors office, 3501 Civic Center Drive, Suite 329 (8:00 am to 5:00 pm, Monday through Friday) and at the Community Development Agency, Planning Division, 3501 Civic Center Drive, Suite 308 (8:00 am to 4:00 pm, Monday through Thursday, closed Fridays).