



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

August 7, 2018

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

SUBJECT: First Reading of proposed ordinance to amend Chapter 5.95 of the Marin County Code, titled Rental Housing Dispute Resolution, to simplify the eligibility criteria and clarify certain provisions describing good faith participation and notice requirements.

Dear Board Members:

RECOMMENDATIONS:

1. Consider and conduct the First Reading of an ordinance amending the County's Rental Housing Dispute Resolution program; and
2. Schedule a merit hearing to consider adoption of the ordinance on August 21, 2018.

SUMMARY:

The County's Rental Housing Dispute Resolution program was established to provide mandatory mediation services for landlords and tenants who are party to a rent increase and/or change in Housing Services¹ equivalent to a rent increase greater than 5% over a 12-month period. Since implementation of the program in January 2018, all applicants have requested program services based on monetary increases in rent; no applicants have asserted reductions in Housing Services to establish eligibility for program participation. To simplify the eligibility determination process, and thereby promote greater transparency and clarity for all parties, staff recommends that the program be amended to allow eligibility determinations to be based solely on changes in monetary rent.

The proposed amendment also includes revisions intended to clarify specific provisions of the ordinance that describe good faith participation in the program and notice requirements. These revisions do not constitute a diversion from the existing legal implications of the ordinance; they are submitted only to create a document that is more comprehensible for a broader audience.

BACKGROUND:

Rental housing dispute resolution programs – often referred to as dispute resolution or mandatory mediation – have been used in the Bay Area to respond to escalating rent increases in jurisdictions that seek to promote community accountability and

¹ "Housing Services" are those provided for and associated with the use or occupancy of a dwelling unit including, but not limited to, repairs, replacement, maintenance, painting, light, heat, water, elevator service, laundry facilities and privileges, janitorial service, removal of refuse and recycling, furnishings, telephone, utilities, parking, storage, and any other benefits, privileges, or facilities.

support housing stability. Such programs are designed to achieve these goals through mediation, a process in which a neutral third party facilitates the negotiation of a mutually acceptable resolution to a dispute between two parties. Mandatory mediation is distinguished by a requirement for both parties to participate in Good Faith for the entirety of the mediation process, even if the landlord and tenant do not settle their dispute.

Marin County's Rental Housing Dispute Resolution Ordinance² was adopted by your Board on December 12, 2017 and went into effect on January 11, 2018. Building upon the voluntary mediation services already available through the District Attorney's Consumer Protection Unit, the Rental Housing Dispute Resolution program provides mandatory mediation services for landlords and tenants who are party to at least one rent increase and/or change in Housing Services that singly or cumulatively result in an effective rent increase of more than five percent within a 12-month period.

On May 22, 2018, your Board received an update on certain housing policy initiatives, including the Rental Housing Dispute Resolution program, and were briefed on the Affordable Housing Subcommittee's intention to explore amendments to the program. On June 13, 2018, the Affordable Housing Subcommittee convened and directed staff to move forward with the preparation of an amendment to remove a provision that allows valuations of Housing Services to be used to establish eligibility for the program.

DISCUSSION:

The Community Development Agency (CDA) has received informational requests from several cities and towns that are considering adoption of the Rental Housing Dispute Resolution program. Expansion of the program to incorporated jurisdictions would provide increased consistency for tenants and landlords. The Consumer Protection Unit of the District Attorney's office has expressed a willingness to consider providing rental housing dispute resolution services to Marin cities and towns with the stipulation that jurisdictions adopt a standard ordinance and program.

In advance of expansion, staff recommends that your Board remove a provision allowing valuations of housing services in eligibility calculations. While the District Attorney's Consumer Protection Unit finds that Housing Services are regularly discussed in mediations, no applications have relied upon a reduction of services to establish their program eligibility. Due to challenges assessing the value of services in a way that results in a fair, transparent, and consistent schedule, and to simplify the eligibility calculations for potential landlord and tenant applicants, staff recommends deletion of this provision. If your Board adopts the proposed amendments, program eligibility will be determined based on monetary rent increases only.

The proposed amendment also includes revisions intended to clarify specific provisions of the ordinance that describe good faith participation in the program and notice requirements. These revisions do not constitute a diversion from the existing legal implications of the ordinance; they are submitted only to create a document that is more comprehensible for a broader audience. A redlined copy illustrating all changes is available for your review as Attachment 2.

² Marin County Ordinance No. 3680

CONCLUSION:

Staff recommends that your Board adopt the proposed revisions to the Marin County Code Chapter 5.95, "Rental Housing Dispute Resolution," to promote greater transparency and clarity for the public.

FISCAL/STAFFING IMPACT:

To date, the District Attorney's Office and CDA have implemented and administered the Rental Housing Dispute Resolution program within existing staffing and monetary resources. Participants do not pay a fee for services. If the volume of requests increases to exceed current capacities, staff will work with the County Administrator's Office (CAO) to develop potential program funding opportunities for consideration by your Board. If cities and towns choose to expand the dispute resolution program to their jurisdictions, the Consumer Protection Unit would likely require additional staffing. Staff would collaborate with the CAO and those jurisdictions to develop a cost-sharing agreement.

REVIEWED BY:

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| <input type="checkbox"/> Auditor Controller | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

Respectfully submitted,

Debbi La Rue
Planner

Brian C. Crawford
Director

ATTACHMENTS:

1. Ordinance amending County of Marin Code of Ordinance Chapter 5.95, Rental Housing Dispute Resolution.
2. Track-changed document identifying proposed amendments to Ord. 3680, titled Rental Housing Dispute Resolution.