



C O M M U N I T Y D E V E L O P M E N T A G E N C Y
H O U S I N G A N D F E D E R A L G R A N T S D I V I S I O N

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February 9, 2021

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

SUBJECT: Urgency Ordinance temporarily barring rent increases in certain census tracts due to the Public Health Emergency arising from the COVID-19 virus.

Dear Board Members:

RECOMMENDATION: Consider adopting urgency Ordinance enacting a temporary moratorium on rent increases for tenants residing in certain residential units and in census tracts most disproportionately impacted by, or at risk of, COVID-19.

SUMMARY: To prevent housing displacement while the significant increase in COVID-19 cases is occurring, the proposed urgency Ordinance (Attachment 1) would temporarily prohibit rent increases for tenants residing in certain residential units and in specific census tracts in order to support the long-term recovery of those most disproportionately impacted by COVID-19, lower the risk of displacement through eviction, and to limit the accumulation of debt related to COVID-19. The temporary prohibition on rent increases (rent freeze) would expire on December 31, 2021.

DISCUSSION: The proposed Ordinance would provide stability to the residential renter community in Marin County who are impacted by COVID-19 by preventing rent increases in certain census tracts disproportionately impacted or at risk of COVID-19. The Ordinance would only apply to specified census tracts within the unincorporated areas of the County. With employment and income decreasing over the course of the pandemic, any rent increase could place an unsustainable strain on households who have been disproportionately impacted by COVID-19.

Currently, rent increases in Marin are limited by the California Tenant Protection Act of 2019 ("AB 1482"). AB 1482 establishes a statewide rent cap on certain residential units which is set at 5% plus a Cost-of-Living-Adjustment (COLA) based on regional Consumer Price Index (CPI) published by the California Department of Industrial Relations in April of each year. In Marin, this figure is currently 6.1% (5% base + 1.1% CPI), meaning that rent cannot be increased by more than 6.1% within a 12-month period on residential units subject to the AB 1482¹.

While other communities in the Bay Area have seen substantial declines in rent due to increased vacancy levels from COVID-19, Marin rents have remained stable or

¹ AB 1482's statewide rent cap applies to residential units in multifamily properties constructed more than 15 years ago (this is a rolling date meaning units built in 2006 are covered by AB 1482 in 2021, units built in 2007 would be covered in 2022, and so on); duplexes if the owner does not live in either unit; units in condominiums and single family homes if they are owned by a corporation or REIT; and units in which the tenant has resided for one year or more.

increased over the course of the pandemic. The average rent increase over the past year in Marin has been 1.8%.² While many landlords have not increased rent during the pandemic, there have been some notable exceptions.

Table 1: Average Monthly Rents and Potential Rent Increases

	Monthly Rent	Allowable increase under current laws (6.1%)	Impact of average rent increase (1.8%)
Average Cost of One Bedroom Apartment	\$2,470 a month	\$2,621 a month <i>A monthly increase of \$151 (\$1,812 a year)</i>	\$2,514 a month <i>A monthly increase of \$44 (\$534 a year)</i>
Average Cost of Two Bedroom Apartment	\$3,110 a month	\$3,300 a month <i>A monthly increase of \$190 (\$2,280 a year)</i>	\$3,166 a month <i>A monthly increase of \$56 (\$672 a year)</i>

With employment and income decreasing over the course of the pandemic, any rent increase compounds the accumulated debt which renters that have been disproportionately impacted by COVID-19 face. As of October 15, 2020, unemployment rates for low wage earners in Marin have increased more than 40% since the beginning of the year³.

The proposed Ordinance would apply to two census tracts in the unincorporated county (Attachment 2). One is in West Marin, census tract 1330, with a comparatively higher rate of cumulative COVID cases, placing it above the 70th percentile compared to all other County census tracts. This census tract includes Dillon Beach, Tomales, Marshall, Point Reyes Station and Nicasio, in addition to some areas of unincorporated Novato (Attachment 3). The other is Marin City, census tract 1290, which has a higher prevalence of overcrowding which can put households at higher risk of COVID. This census tract is also above the 70th percentile compared to all other County census tracts (Attachment 4).

Staff will continue to monitor other areas of the County, and if other census tracts are disproportionate impacted by COVID-19, your Board may want to consider expanding the proposed applicability of this Ordinance.

State law limits local jurisdictions from regulating rent on certain units, including single-family dwellings and condominiums, and apartments built after 1995⁴. Therefore, these units would be exempt from the proposed rent freeze.

Enforcement

Enforcement of the proposed rent freeze would be clear and straightforward, as any rent increase in the affected census tracts would be considered a violation of the

² Zillow 2019-2020

³ <https://tracktherecovery.org/>

⁴ The Costa–Hawkins Rental Housing Act of 1995

Ordinance. Legal Aid of Marin has indicated that they would serve as the first point of contact for tenants that believe their rent has been illegally increased.

BACKGROUND: Your Board has taken actions to protect tenants during the pandemic in three significant areas detailed below: eviction protections, rental assistance and legal assistance. However, despite these efforts, renters in the specific census tracts continue to be at higher risk of COVID and displacement.

County Eviction Protections & Rental Assistance

Eviction Protections: Beginning on March 24, 2020, your Board barred evictions of residential tenants for nonpayment of rent due to the Public Health Emergency arising from COVID-19. Prior to expiration of those protections, on August 31, 2020 the California Legislature extended similar eviction protections statewide through January 31, 2021 under Assembly Bill 3088, as described in greater detail below. On January 12, 2021, your Board adopted Ordinance 2021-00 preventing evictions countywide through June 30, 2021. On January 29, 2021 Governor Newsom signed Senate Bill 91 which effectively extended the protections provided under AB 3088, barred late fees, and preempted local jurisdictions from taking action to prevent evictions related to unpaid rent due to COVID-19. Therefore, the Resolution your Board adopted barring evictions is no longer in effect.

Rental Assistance: The County and the Marin Community Foundation established an Emergency Rental Assistance Program with funds from County General funds, Marin Community Foundation, and the Federal CARES Act through the Community Development Block Grant (CDBG) program. The program received an additional \$2,800,000 in funding through a combination of Marin Community Foundation and CDBG CARES Act funds considered by your Board in December 2020. These funds act in alignment with California's eviction moratorium (Assembly Bill 3088) by prioritizing assistance to households that have been unable to meet the financial prerequisite of this law for protection from eviction, which includes paying at least 25% of total rent due between September 1, 2020 and January 31, 2021 by January 31, 2021. As part of the Consolidated Appropriations Act of 2021, the County received \$7,695,346.50 in emergency rental assistance which will be available in February and must be spent by 12/31/2021.

Approximately 10,700 households in Marin are at imminent risk of displacement and/or eviction, with an estimated 8,270 children living in those households. In addition to the threat of eviction, many households are facing an overwhelming accumulation of rental debt due to pandemic-related job and income loss. According to a study published by the Federal Reserve Bank of Philadelphia in October 2020, the estimated average rent debt accumulated in California during COVID-19 is \$6,953 per household, equating to a total of about \$74,000,000 for Marin's vulnerable population⁵.

While it is difficult to completely evaluate the total need for rental assistance in the community, based on the applications for rental assistance received since mid-December (as illustrated in table 2 below), the demand continues to grow and is anticipated to exceed our current program. Rental assistance is applied for by tenants

⁵ October 2020 Federal Reserve Bank of Philadelphia "[Household Rental Debt During COVID-19](#)"

and has been used for no more than 25% of rent due in alignment with State legislation, AB 3088. This program also provides financial relief to landlords as the payments are made directly to the property owner.

Table 2: Rental Assistance Funding Sources

	CDBG funds	MCF funds	County general funds	Treasury Dept. Funds	Total
Round I: April – May 2020	\$938,000	\$1,000,000	\$1,000,000	-	\$2,938,000
Round II December 2020	\$1,343,246	\$1,500,000	-	-	\$2,843,246
Round III: February 2021	-	-	-	\$7,695,346	\$7,695,346
Total funding	\$2,243,246	\$2,500,000	\$1,000,000	\$7,695,346	\$13,476,592

Table 3: Rental Assistance Demand and Distribution as of 01/21/2021

Demand	
Total Requests Received	4,429*
--Requests received from March – June 15, 2020	--2,430
--Requests received from December 17, 2020 onward	--2,432
Average Weekly Requests	370**
Current Open Waitlist List	1,400
Distribution	
Households Served to date	1,551
Funds Spent to Date	\$3 million
Funds Available	\$2.8 million
Treasury Funds	\$7.6 million***

* This figure may include some duplicates

** Average calls per week 12/17/20 – 1/19/21

*** These funds will be available for rent and utility assistance

Legal Assistance: On September 15, your Board authorized an additional \$310,000 to Legal Aid of Marin for legal services to low-income renters regarding rental modification agreements, rental repayment plans, and potential evictions, and \$90,000 in additional support to the District Attorney's Consumer Protection Unit to provide mediation services to landlords and tenants to help facilitate rental repayment to modification agreements prior to the initiation of eviction proceedings.

Canal Policy Working Group

The proposed Ordinance would support the work of the Canal Policy Working Group (CPWG). In August 2020, a coalition of organizations representing community, health, education, and business sectors sent a letter to local elected officials highlighting the disproportionate impact that the COVID-19 pandemic has had on low income Latinx communities in Marin County. The collaboration called for action to protect Marin County residents hardest hit by the COVID-19 pandemic, with the aim to best position the community for recovery. With local elected officials and staff from the City of San Rafael and the County, they formed the Canal Policy Working Group to consider policies to address the needs of those hardest hit by the pandemic. On November 3, 2020 your Board adopted Ordinance 2020-119, affirming the Board's commitment to support the historically marginalized residents who have been disproportionately impacted by the COVID-19 pandemic.

The policies under consideration by the CPWG which are focused on housing include:

- Temporary extension of eviction moratorium
- Temporary expansions of protections provided under the current eviction moratorium
- Temporary rent freeze or cap

As noted above, on January 12, 2021, Ordinance 2021-00 was adopted preventing evictions countywide through June 30, 2021. On January 19, 2021, the San Rafael City Council adopted an urgency Ordinance barring rent increases in two census tracts most impacted by COVID-19 (1122.01 and 1122.02) and on January 26, 2021 the Novato City Council adopted an urgency Ordinance barring rent increases in three census tracts most impacted by COVID (1032, 1042, 1022.03).

CONCLUSION: If adopted, this urgency Ordinance would provide tenants in the impacted census tracts with a measure of needed financial relief. Staff will continue to work closely with tenants and landlords to be sure they are aware of the rental assistance available. Because the public health emergency arising from COVID-19 is a fluid and on-going situation, staff and the Board Subcommittee will continue to monitor the situation and may come back to your Board with recommended amendments based on COVID-19 related circumstances affecting the stability of renters in Marin.

EQUITY IMPACT: The 2020 Marin County Analysis of Impediments to fair housing choice illustrated racial disparities in housing, largely tied to the impacts of historic housing policies and practices that prevented equal opportunity in housing accessibility, quality, and financing. Marin County presents the starker racial inequities in housing tenure throughout the nine Bay Area counties: while over two thirds of non-Hispanic white residents are homeowners, roughly three quarters of both Black/African American and Hispanic/Latinx communities in Marin are renters. The proposed Ordinance barring rent increases will protect renters, who are disproportionately people of color, against displacement. Staff will continue to provide information to tenants and landlords impacted by the proposed Ordinance, including information in Spanish and English, and other languages as needed.

FISCAL/STAFFING IMPACT: No Impact on the general fund.

REVIEWED BY:

- | | |
|---|---|
| <input type="checkbox"/> Department of Finance | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Administrator's Office | <input 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,

Leelee Thomas

Leelee Thomas
Planning Manager

Attachments:

1. Urgency Ordinance barring rent increases due to the Public Health Emergency arising from the COVID-19 virus
2. Map of Census tracts impacted by rent increase moratorium
3. Map of Tract 1330 Boundary
4. Map of Tract 1290 Boundary