

CITY OF SANTA MONICA
RENT CONTROL BOARD MEETING
1685 Main Street
THURSDAY, January 14, 2010 – 7:00 P.M.
AGENDA

1. CALL TO ORDER
2. ROLL CALL – PLEDGE OF ALLEGIANCE
3. APPROVAL OF THE MINUTES: December 3, 2009
4. SPECIAL AGENDA ITEM
7. JURISDICTIONAL ITEMS (Public discussion is permitted)
 - B. Exemptions – Owner Occupancy
 - 1) 1594: 1120 Ozone Ave., Applicant – Scheri
 - 2) 1595: 3208 Pennsylvania Ave., Applicants – Ganz and Literal
 - 3) 1596: 1944 22nd St., Applicant – GonzalezApplicants request an exemption of a three-unit or less property based upon owner-occupancy pursuant to section 1801(c)(4) of the Rent Control Law.
Recommendations: Grant
 - C. Removal
 - 1) 432R-C: 2501 2nd St., Applicant – Plaster Family Trust by K. Kozel (Rep.)
Applicant seeks removal permit claiming units are not habitable and cannot be made habitable. Recommendation: Grant
9. ADMINISTRATIVE ITEM
 - A. Proposed Amendments to Regulations 12060 and 13001 regarding Registration of New Controlled Rental Units Constructed on Properties Withdrawn Under the Ellis Act.
13. REQUESTS TO SPEAK - (Requests from members of the public to speak to the Board on any issue in general)
15. ADJOURNMENT

Next Regular RCB meeting – February 11, 2010
7:00 p.m., Council Chamber

The Council Chamber is wheelchair accessible. If you need any disability-related accommodations, please contact Glenda Jacobs at (310) 458-8751 at least three days prior to the meeting. This document is available in alternate format upon request.

Rent Control Board meetings are aired live on CityTV cable channel 16. Any documents produced by the Santa Monica Rent Control Agency and distributed to a majority of the Rent Control Board regarding any item on this agenda will be made available during normal business hours at the Rent Control counter located at City Hall, 1685 Main Street, Room 202, Santa Monica.

SANTA MONICA RENT CONTROL BOARD-MEMO

To: Board Commissioners

From: Staff

Re: Proposed amendments to regulations 12060 and 13001 regarding registration of new controlled rental units constructed on properties withdrawn under the Ellis Act

Board meeting of: January 14, 2010

Both the Ellis Act (Gov. Code, § 7060 et seq.) and current Board regulation 1631 provide that where withdrawn units are demolished and new residential rental units are constructed and offered for rent or lease within five years of the withdrawal, the new units are subject to the Rent Control Law.

This application of local rent controls was recently affirmed by the Court of Appeal in its holding in *Apartment Association of Los Angeles County, Inc. v. City of Los Angeles* (2008) 173 Cal.App.4th 13.

Existing regulation 12060 limits what units qualify for exemption as new construction and regulation 13001 concerns times when a landlord is required to register a property with the Board.

The attached proposed amendments to regulations 12060 and 13001 incorporate the existing application of both State and local law to new units constructed on withdrawn properties within five years of withdrawal by providing that 1) such new construction does not qualify for exemption under section 1801(c)(5) of the Rent Control Law, and 2) owners are required to register the new units within 30 days of the issuance of the certificate of occupancy for the new construction.

The proposed amendments to these regulations are set forth in bold type on the attached pages.

RECOMMENDATION

Staff recommends that the Board set the attached, proposed amendments to the above-referenced regulations for public hearing on February 11, 2010. Staff further recommends that the Board adopt the proposed amendments to the regulations on that date.

12060. New Construction

- (a) Rental units and dwellings constructed and first receiving occupancy permits outside the boundaries of the City of Santa Monica prior to April 10, 1979 and thereafter moved into the City and first receiving occupancy permits after April 10, 1979 shall not be considered new construction qualifying for exemption under §1801(c)(5).

- (b) **Residential rental units constructed and offered for rent or lease within five years of the withdrawal (and subsequent demolition) of controlled rental units pursuant to Government Code section 7060, et seq. (the Ellis Act) and Board regulations 1600, et seq. shall not be considered new construction qualifying for exemption under §1801(c)(5).**

[12060(b) Adopted _____; Effective _____]

13001. Times When Registration Is Required

Pursuant to §1803(q) of the Charter Amendment, the Board requires registration and/or re-registration at the following times:

- (a) Initial Registration. The Board required initial registration on or before June 10, 1979, within sixty (60) days following the adoption of the Charter Amendment.
- (b) Change in Ownership. Whenever a change in ownership of a controlled rental property occurs, the new owner is required to file an amendment to the registration form setting forth the name(s) and address(es) of all new owners and the date of change in ownership within thirty (30) days of the change in ownership. The form shall set forth the business or residence street addresses of the owners. It is insufficient to provide an address which is in care of a management company or which is a post office box.
 - (1) If the owner of the property is a corporation, the registration form shall provide the street address of its principal place of business and the name and street address of the business or residence of its chief executive officer.
 - (2) If the owner of the property is a partnership, the registration form shall provide the street address of its principal place of business and the names and street addresses of the business or residence of each partner.
 - (3) If the owner of the property is a limited liability company, the registration form shall provide the street address of its principal place of business and the name and street address of the business or residence of its managers.
- (c) Application for Exemption. If an owner has not previously registered, upon filing an exemption application, a registration form and/or an amendment to the registration form, as required in subsections (a) and (b) of this section, must be filed at the same time. This subsection applies to all owners who file exemption applications after January 13, 1983.
- (d) Change of Address of Owner. Whenever the owner's address changes, the owner is required to file an amendment to the registration form setting forth the name and address and the date of the change in the address within thirty (30) days of the change in address. The owner must provide the address information set forth in subsection (b) above.
- (e) Rent Control Board Findings and Decision. If a hearing conducted by the Rent Control Board or one of its hearing examiners reveals that a property is either improperly registered or not registered, the hearing examiner or the Board may either decide the proper amenities or base rent or any other fact that would have been included in a true and proper registration or the hearing examiner or Board may require the owner to file a new registration form containing complete and correct information within thirty (30) days following the date of the final administrative decision.
- (f) New Maximum Allowable Rent Established between October 1, 1995 and December 31, 1998. Whenever a landlord established a new Maximum Allowable Rent pursuant to former Regulation 3301 and/or the Costa-Hawkins Rental Housing Act (Civil Code §1954.50, et seq.) for tenancies commencing during the period of October 1, 1995 through December 31, 1998, the landlord was required to file a vacancy registration form within thirty (30) days of the establishment of the new Maximum Allowable Rent.

- (g) New Base Rent after Vacancy for Tenancies Beginning on or after January 1, 1999. Whenever a landlord establishes a new base rent after vacancy pursuant to Regulation 3301 and/or the Costa-Hawkins Rental Housing Act (Civil Code §1954.50, et seq.), the landlord is required to file a vacancy registration form within thirty (30) days of the establishment of the new base rent after vacancy.
- (h) New Maximum Allowable Rent for Incentive Units Upon Expiration of Incentive Housing Contract. Upon expiration of an Incentive Housing Program Regulatory Agreement, the landlord shall register the adjusted Maximum Allowable Rents of all incentive units under regulation 17210 within thirty (30) days of the expiration of the regulatory agreement.
- (i) Addition of a Parking, Garage, or Pet Base Amenity. If a parking space or garage amenity, or permission to have a pet, is added as a base amenity of a unit pursuant to regulation 3301(h)(4), the landlord shall register the parking, garage, or pet base amenity within thirty (30) days of the addition of the garage, parking, or pet base amenity and shall register the agreed-upon monthly rental amount for the parking, garage, or pet amenity.
- (j) New Rent for Specified Former U.S. Department of Housing and Urban Development ("HUD") Section 8 Units. If a tenant terminates or becomes ineligible for a Section 8 contract and the unit is entitled to a rent increase under regulation 3301(f)(7) or (8), the landlord shall register the adjusted rent pursuant to regulation 3301(f)(7) or (8) and regulation 13002 within thirty (30) days of the termination of the Section 8 contract.
- (k) Registration of Deed-Restricted Units under a Removal Permit Agreement with the Board. If a removal permit agreement or other agreement with the Board requires registration of units, the landlord shall register the property or units within the time period specified in the agreement.
- (l) Registration of Condominium Units Which Have Not Been Sold Separately to a Bona Fide Purchaser for Value. If a landlord owns unsold condominium units as defined in regulation 3302(a), the landlord shall register the units by February 1, 2002.
- (m) **Registration of Newly Constructed Rental Units on Properties Withdrawn From the Residential Rental Market Where Withdrawn Units Are Demolished.** Whenever new residential rental units constructed on a property withdrawn pursuant to Government Code section 7060, et seq. (the Ellis Act) and Board regulations 1600, et seq. are offered for rent or lease within five years of the date of withdrawal, the landlord shall register the new residential rental units within 30 days of the issuance of the certificate of occupancy for the new construction.

[13001 Amended 8/22/96; Effective 8/31/96]

[13001 Amended 12/17/98; Effective 1/1/99]

[13001(b)(1)(2)(d)(i)(j)(k) Amended 12/7/00; Effective 12/30/00]

[13001(b)(3)(l) Adopted 01/07/02; Effective 01/26/02]

[13001(m) Adopted _____; Effective _____]

SANTA MONICA RENT CONTROL BOARD
REGULAR MEETING MINUTES
January 14, 2010

1. CALL TO ORDER

Commissioner Korade-Wilson called the Rent Control Board meeting to order at 7:00 p.m. followed by the pledge of allegiance.

2. ROLL CALL

Members Present: Christopher Braun
Jennifer Kennedy
Marilyn Korade-Wilson
Robert Kronovet
Zelia Mollica

Others Present: Tracy Condon, Administrator
Michaelyn Jones, General Counsel
Keith Kresge, Staff Attorney
Christy Engels, Lead Hearing Officer
Laima Noseworthy, Acting Board Secretary

3. APPROVAL OF THE MINUTES: December 3, 2009

Commissioner Korade-Wilson proposed an addition to Item 11 (Board Discussion) of the minutes that would more accurately reflect what transpired at the meeting. The proposal was to add a sentence referring to General Counsel's statement that the Rent Control Board lacks the authority to regulate smoking. A discussion followed during which the commissioners offered their opinions about the wording and placement of the proposed language and to whether the additional language was warranted. Following the discussion, Commissioner Braun, seconded by Commissioner Kennedy, moved to adopt the minutes with Item 11 amended by inserting the following language after the word "discussion"; "General Counsel stated that the Rent Control Board lacks the authority to regulate smoking." The motion passed in a 4-1 roll call vote. Commissioner Kronovet voted no.

4. SPECIAL AGENDA ITEM

Administrator Tracy Condon announced that the February Board meeting has been changed to February 18, 2009 and will not be held on February 11, 2009 as shown on the current agenda.

7. JURISDICTIONAL ITEMS

B. Exemptions – Owner Occupancy

- 1) 1594: 1120 Ozone Ave., Applicant – Scheri
- 2) 1595: 3208 Pennsylvania Ave., Applicants – Ganz and Literal
- 3) 1596: 1944 22nd St., Applicant – Gonzalez

Applicants request an exemption of a three-unit or less property based upon owner-occupancy pursuant to section 1801(c)(4) of the Rent Control Law.

Recommendations: Grant

Commissioner Korade-Wilson, seconded by Commissioner Mollica, moved to adopt staff recommendations to grant owner-occupied exemptions on the cases listed above pursuant to section 1801(c)(4) of the Rent Control Law. The motion passed unanimously in a roll call vote.

C. Removal

- 1) 432R-C: 2501 2nd St., Applicant – Plaster Family Trust by K. Kozel (Rep.)
Applicant seeks removal permit claiming units are not habitable and cannot be made habitable. Recommendation: Grant

Staff Attorney Keith Kresge presented the staff report after calling the Board's attention to two documents placed on the dais which were submitted by the applicant too late to be included in the Board packets. Mr. Kresge informed the Board the two units on the subject property are vacant and both the applicant's contractor and the Board's contractor-consultant agree that both units are currently uninhabitable. They also agree that the cost of repairing both units will exceed 50% of the cost to replace the units. Mr. Kresge explained this fact triggers the Municipal Code provision requiring that all systems be brought up to technical code or that the structures be demolished. Staff recommended the Board grant the removal permit application for both units.

Kevin Kozal, owner representative, addressed the Board. Following questions and comments, Commissioner Kennedy, seconded by Commissioner Kronovet, moved to adopt staff recommendation to grant the removal application on the grounds that the units are uninhabitable and cannot be made habitable under section 1803(t)(2)(i) of the Rent Control Law and to adopt the proposed Findings of Fact and Conclusions of Law. The motion passed unanimously in a roll call vote.

9. ADMINISTRATIVE ITEM

- A. Proposed Amendments to Regulations 12060 and 13001 regarding Registration of New Controlled Rental Units Constructed on Properties Withdrawn Under the Ellis Act.

Staff Attorney Kresge presented a summary of the staff report. The proposed amendments incorporate the existing provisions of both the Ellis Act and current Board regulation 1631 providing that where withdrawn units are demolished and new residential units are constructed and offered for rent or lease within five years of the withdrawal, the new units are subject to the Rent Control Law. The proposed amendments would provide that such new construction does not qualify for exemption under section 1801(c)(5) and that owners are required to register the new units with the Board.

Commissioner Kennedy suggested the parentheses surrounding the phrase "and subsequent demolition" be removed from proposed amendment 12060(b). Following questions and comments by the Board, Mr. Kresge added that the proposed amendments will ensure that the Board's regulations comply with existing law and that the relevant Board regulations are consistent with one another.

Commissioner Kennedy, seconded by Commissioner Braun, moved to amend staff's proposed amendment for Regulation 12060 by removing the parentheses from the phrase "and subsequent demolition". The motion passed unanimously in a roll call vote. Commissioner Kennedy, seconded by Commissioner Mollica, moved to accept, as written, staff's proposed amendment to Regulation 13001(m). The motion passed unanimously in a roll call vote. Commissioner Braun, seconded by Commissioner Kennedy, moved to set both proposed amendments for public hearing at the February 18th meeting.

15. ADJOURNMENT

At 7:45 p.m. Commissioner Korade-Wilson adjourned the meeting in honor of Mayor Ken Genser who recently passed away. The commissioners shared brief recollections and comments about Mayor Genser and his contributions to the City.