

SANTA MONICA RENT CONTROL BOARD

STAFF REPORT

TO: Commissioners

FROM: Staff

RE: Proposed amendments to regulation 12060 and 13001 regarding new rental units constructed on properties withdrawn under the Ellis Act

FOR BOARD MEETING OF: February 18, 2010

Introduction

At its regular meeting of January 14, 2010, the Board considered staff's recommendation that it amend regulations 12060 and 13001 regarding new rental units constructed on withdrawn properties.

The proposed amendments incorporate the existing application of both State and local law to newly built units on withdrawn properties which was recently affirmed by the Court of Appeal in its holding in *Apartment Association of Los Angeles County, Inc. v. City of Los Angeles*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.

The Board reviewed the recommended amended regulations and proposed a minor change to proposed regulation 12060(b) – the removal of internal parentheses. The Board also set the matter for public hearing at its February 18, 2010 regular meeting.

Recommendation

After the public hearing, staff recommends the Board adopt amended regulations 12060 (new subparagraph 12060(b)) and 13001 (new subparagraph 13001(m)).

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 _____]