
SANTA MONICA
RENT CONTROL BOARD
ANNUAL REPORT

JANUARY THROUGH DECEMBER 2008



Santa Monica Rent Control Board
May 2009

TABLE OF CONTENTS

| | |
|--|-----------|
| SIGNIFICANT DEVELOPMENTS IN 2008 | 2 |
| Market Vacancy Increases | 3 |
| Public Outreach | 4 |
| CHANGES IN THE HOUSING STOCK | 6 |
| Tracking Residential Development | 6 |
| Completed Construction | 6 |
| The Ellis Act | 8 |
| Removal Permits | 8 |
| Exemptions | 9 |
| Summary Of Changes In The Rental Market | 10 |
| Relocation | 10 |
| PROGRAMS, POLICIES AND ADMINISTRATION | 11 |
| Significant Legal Decisions | 11 |
| Landlord-Tenant Legislation | 11 |
| Regulations and Resolutions | 12 |
| Incentive Housing Program | 12 |
| Annual General Adjustment | 12 |
| Petitions – Pre-Mediation/Mediations/Hearings | 13 |
| Fee Waivers | 17 |
| THE WORK OF THE RENT CONTROL BOARD | 18 |
| APPENDIX A: MAP OF SANTA MONICA AREAS | A-1 |

SANTA MONICA RENT CONTROL BOARD ANNUAL REPORT

JANUARY THROUGH DECEMBER 2008

SIGNIFICANT DEVELOPMENTS

The Rent Control Charter Amendment provides that the Rent Control Board report annually to the City Council on the status of Santa Monica's controlled rental housing. This year has seen the following significant developments:

- ◆ Outreach to members of the community increased this year. There were several workshops for both tenants and owners of rental property, advising them of their rights and obligations under the Rent Control Law. For the first time this year, one of the workshops dealt exclusively with maintenance issues and was co-presented by members of the Code Compliance Division of Building and Safety. Another innovation this year was a workshop for owners offering individual help with calculating the annual rent increases for their property. Staff produced a 30 second Public Service Announcement highlighting the services provided by the Agency. The PSA will be shown on City TV over the next two years.
- ◆ In 2008, the Santa Monica City Council considered an ordinance which would prohibit smoking in common areas of multi-unit residential housing. The ordinance was passed in early 2009. The Board recognizes that there are serious health risks presented by second-hand smoke and supports the City Council's commitment to protect the health of its citizens. However, the Board is concerned with the potential for evictions and the possible disproportionate impact on lower-income renters in regulating smoking. Before the regulation was passed, the Board formally expressed its concerns by initially drafting a resolution opposing the ordinance as originally proposed because of those concerns. The City Council noted the Board's concerns and directed its legal staff to modify provisions that could affect tenants' protections with regard to eviction and harassment. The ordinance that was passed contains those safeguards.
- ◆ In November 2006 voters passed the Clean Beaches and Ocean Parcel Tax. The tax included an exemption for persons of low income. In 2008 Rent Control Board staff assisted the City's Office of Sustainability and the Environment by

processing applications to waive the tax for those persons. Applications were filed beginning the second half of 2008. During this period, 78 applications were filed. Most applications were from tenants, 59 of which were granted. An additional 12 applications were granted for low-income owners of single family dwellings.

- ◆ The Ellis Act allows owners to stop renting or “withdraw” all residential units at a property if they no longer wish to remain in the rental business. This year, probably largely based on the economy, filings to remove properties from Rent Control under the Ellis Act were significantly lower than in other years. During 2008 applications to withdraw were filed on 8 properties affecting 79 units, compared with 2007, when 32 applications affecting 201 units were filed.
- ◆ An inter-departmental task force was formed last year to address issues arising from Ellis Act withdrawals. Departments participating in the task force in addition to Rent Control include the Consumer Protection Division of the City Attorney's office, Code Enforcement, Planning, Police, and Fire. In 2008, staff of the Santa Monica Code Compliance Division completed inspections of a number of withdrawn properties identified by the Board staff as potentially out of compliance with Ellis restrictions and City ordinances. Owners of properties that appeared to be occupied without a proper occupancy permit were identified to receive notices from the Planning Department informing them of the requirement to comply with permit requirements for any occupancy of withdrawn units.
- ◆ State mandated vacancy decontrol, which has been in place since January 1999, continues to severely undermine the supply of affordable housing in Santa Monica. By the end of 2008, owners had increased the rents on 56% of controlled rental units. The household income needed to afford the median market rent was \$24,576 to \$49,284 higher than the income needed to rent a unit of the same size if it had not been rented at market rate. This year there were only 474 units rented at market rate for the first time, indicating the stability of long-term tenants in rent-controlled units.

MARKET VACANCY INCREASES

In March 2009, the Rent Control Board reviewed “The Impact of Market Rate Vacancy Increases Ten Year Report”. The report covers ten years of full vacancy decontrol-recontrol (January 1999 – December 2008).

Since vacancy decontrol-recontrol began in January 1999, owners have increased the rents to market rate on 15,340 units or 56% of the controlled rental units. Although this represents a significant portion of the controlled units, the number of units rented at market rate for the first time has continued to decrease each year. In 2008, 474 new units were rented for the first time, the lowest number yet for a one-year period.

The impact of the increases on rents is summarized below.

- ◆ Upon re-rental, median MARs have increased from \$700 to \$1,130 (61%) for 0-bedroom units, from \$792 to \$1,506 (90%) for 1-bedrooms, from \$1,014 to \$1,995 (97%) for 2-bedrooms and from \$1,286 to \$2,623 (104%) for 3 or more bedroom units.
- ◆ Once a unit is rented at market rate, the tenant has less incentive to stay in place and, therefore, the unit may receive subsequent vacancies and re-rentals in a relatively short period of time. At the end of the tenth year, 63% of the units rented at market rate had been re-rented at least once since the first market rate rental. Nineteen percent of the units had been rented at market rate four or more times.
- ◆ Depending on the number of bedrooms in a unit, the household income needed to “afford” the median market rent at 30% of gross income ranges from \$64,572 to \$96,700. This is \$24,576 - \$49,284 higher than the income needed to afford the median rent of the same size unit if it had not received a market rate increase.

| <u>Income Needed to Afford MARs</u> <u>(30% Affordability Standard)</u> | | | | | |
|--|--|------------------------------------|----------------------------------|------------------------------------|--------------------------|
| <u>Units with Vacancy Increases 1/1/99 – 12/31/08 (15,340 units)</u> | | | | | |
| <u>No. of Bedrooms</u> | <u>Adjusted 1998¹ Median MARs</u> | <u>Income needed to Afford MAR</u> | <u>Post-Increase Median MARs</u> | <u>Income Needed to Afford MAR</u> | <u>Income Difference</u> |
| 0 | \$700 | \$39,996 | \$1,130 | \$64,572 | \$24,576 |
| 1 | 792 | 39,600 | 1,506 | 75,300 | 35,700 |
| 2 | 1014 | 42,696 | 1,995 | 84,000 | 41,304 |
| 3 or more | 1,286 | 47,412 | 2,623 | 96,696 | 49,284 |

- ◆ Vacancy increases on 15,340 units have resulted in the loss of 10,446 units that had rent levels formerly affordable to low-income households (80% of median income) including 7,108 units with rent levels formerly affordable to very low-income households (50 and 60% of median income).

PUBLIC OUTREACH

Outreach to members of the community increased this year. There were several workshops for both tenants and owners of rental property, advising them of their rights and obligations under the Rent Control Law. For the first time this year, one of the workshops dealt exclusively with maintenance issues and was co-presented by members of the Code

¹ December 1998 median MARs with 1999-2008 general adjustments added.

Compliance Division of Building and Safety. Another innovation this year was a workshop for owners offering individual help with calculating the annual rent increases for their property. As in prior years, Board members and Board staff attended community events and neighborhood meetings to provide information and answer questions. These included meetings with various neighborhood associations, community organizations, realtors and the Santa Monica Festival.

During 2008 the Agency's website, www.smgov.net/rentcontrol, received 78,109 web surfers who initiated 302,206 web page "hits." The maximum allowable rent (MAR) database, with rents for each controlled unit was accessed 14,317 times. Additionally, staff responded to 410 e-mails via the website.

This year, staff produced a 30 second Public Service Announcement highlighting the services provided by the Agency. The PSA will be shown on City TV over the next two years

In 2008 the Board published two issues of the newsletter, "Rent Control News" which is mailed to all Santa Monica tenants and owners. The April issue featured an article on the Rent Control Board's authorization of pass-throughs to tenants of the Clean Beaches and Ocean Parcel Tax. Additional articles publicized the Board's settling of a lawsuit involving a landlord's alleged violations of the state Ellis Act; the City's ban of non-recyclable plastics; the State's upcoming Renter Assistance Claim deadline for certain low-income tenants; and the 40th Anniversary of the passage of the Federal Fair Housing Act.

The December issue featured an article detailing rent control protections for both market rate and long term tenants. Additional articles described how tenants and owners can work together to prevent problems; how certain senior owners may qualify for exemption from payment of Proposition R assessments, (the school district parcel tax); and how low income tenants can apply to be on the 2009 affordable housing list of Community Corporation of Santa Monica. An announcement was made that the Rent Control Board is assisting the City's Office of Sustainability and the Environment in distributing and processing applications to waive the Clean Beach and Ocean Parcel tax for low income owners and tenants.

In May a postcard listing the current registered maximum allowable rent was mailed to the occupants of each controlled unit in the City.

The June mailing to owners included reports of the current maximum allowable rents and entitlement to general adjustments for each unit. More than 1,080 vacancy registrations were received in the two months following the mailing, as compared to an average of 238 monthly filings throughout the rest of the year. This suggests that owners who previously failed to comply with the registration requirement did so in response to this mailing.

CHANGES IN THE HOUSING STOCK

In order to follow changes in the housing stock in different areas of the City, the Rent Board divided the City into seven areas, which parallel neighborhoods and census tracts. Removals, Ellis activity, development, and other data are identified and analyzed by area.

A map of the City areas and percentage of rental units in each area can be found in Appendix A.

TRACKING RESIDENTIAL DEVELOPMENT

The Rent Control Board tracks residential development in the city using Planning and Building Department records and permits as well as Rent Control records².

COMPLETED CONSTRUCTION

The construction detailed in this section relates to multi-family residential developments that were completed in 2008. It includes properties that either previously contained at least one residential unit, or were previously commercial, but were developed with residential units.

New developments containing a total of 227 residential units were completed, replacing 104 previously rent-controlled residential units, 3 units exempt from rent control, 2 commercial properties, and 5 exempt single family dwellings.

Condominiums

- Fourteen properties containing a total of 80 rental units previously withdrawn under the Ellis Act and two units which were exempt because they were uninhabitable (Category C) were replaced by 108 condominiums.
- One three unit property which was granted a non-rental exemption was demolished and replaced with five condominiums.
- Five exempt single family homes were demolished, and the properties were developed with 20 condominiums

Nineteen of the properties described above paid in-lieu fees to the city to meet the City's affordable housing production requirements. One of the properties was developed with 29 market rate condominiums and three units affordable to very low income owner-occupiers.

² All information related to new construction comes from the City's PERMIT system and the Housing Division.

Rentals

Units Rented to Low, Very Low or Moderate-Income Tenants

- One property containing six units withdrawn under the Ellis Act was replaced with six market rate units and one unit affordable to persons of very low income.
- One commercial property formerly not under rent control was developed with 47 apartments restricted to renters of moderate income levels.
- One fourteen unit property which was exempt from rent control because of earthquake damage (Category DQ) was re-developed with 36 apartments affordable to renters of moderate income levels.

Market Rate Units

- One commercial property formerly not under rent control was developed with two market rate units. In-lieu fees were paid to meet the affordable housing requirement.
- One two unit property which was exempt because it was not habitable (Category C) was developed with two market rate units.

The residential development described above was completed in six of the seven areas in the City:

| <u>City Area</u> | <u>Units completed in 2008</u> | <u>Rental Units previously removed from these sites</u> |
|------------------|--------------------------------|---|
| A | 5 | 0 |
| B | 46 | 24 |
| C | 22 | 30 |
| E | 118 | 22 |
| F | 3 | 0 |
| G | <u>33</u> | <u>28</u> |
| Total | 227 | 104 |

THE ELLIS ACT

The Ellis Act ("the Act") was enacted by the state legislature in 1985 to prohibit a locality from requiring a residential landlord to remain in the residential rental business. The Act's intent is to allow residential landlords to stop being residential landlords.

The Act establishes certain procedures landlords must follow to withdraw units from the rental market. They include service of 120-day notices of termination of tenancy on tenants. The Act also sets forth procedures for the return of withdrawn units to the rental market.

In 2008, probably based largely on the economy, filings under the Ellis Act to remove properties from Rent Control were significantly lower than in other years.

During 2008 applications to withdraw were filed on 8 properties affecting 79 units, compared with 2007, when 32 applications affecting 201 units were filed.

Three properties with a total of 16 units came back under rent control after having previously been withdrawn.

Since the state-mandated Ellis Act was implemented in 1986, 513 properties with 2,461 units have been withdrawn under the Ellis Act. Although 110 formerly withdrawn properties with 538 units returned to the rental housing market under rent control, 403 properties with 1,921 units remained withdrawn from the rental housing market as of December 2008.

In 2008, staff of the Santa Monica Code Compliance Division, as part of the City's inter-departmental task force to address issues arising from Ellis Act withdrawals, completed inspections of a number of withdrawn properties identified by Board staff as potentially out of compliance with Ellis restrictions and City ordinances. Owners of properties that appeared to be occupied without a proper occupancy permit were scheduled to receive notices from the Planning Department informing them of the requirement to comply with permit requirements for any occupancy of withdrawn units. Departments participating in the task force in addition to Rent Control include the Consumer Protection Division of the City Attorney's Office, Planning, Code Enforcement, Police and Fire.

REMOVAL PERMITS

To protect the controlled rental housing stock, the Rent Control Board applies the provisions of the Charter to decide whether or not to grant removal permits. There are two types of removals which the Board may grant:

- Category C -- if the Board finds that the unit is uninhabitable and cannot be made habitable in an economically feasible manner.*
- Category D -- if the permit is being sought so that the property can be developed with multifamily rental units, and at least 15% of the controlled units to be built will be deed restricted at rents affordable to low income people.*

In 2008, the Board received one Category C removal permit application for an uninhabitable unit on an otherwise habitable property. The application was granted, and the unit was removed from Rent Control.

One Category D removal permit was filed. The permit was granted, resulting in the removal of 25 rent control units. At the time the removal was granted, 5 units were tenant-occupied. At the request of the tenants and the property owner, the Board's mediator assisted in resolving relocation issues for the remaining tenants. The units will be replaced by 47 rent controlled units and 45 limited equity condominiums.

EXEMPTIONS

The Rent Control Law applies to all residential rental units in Santa Monica except those the Charter exempts under a number of different criteria. There are two kinds of exemptions: 1) use exemptions, which the owner retains as long as the criteria for which the exemption is granted remain in effect; and 2) permanent exemptions.

Permanent Exemptions -- *Permanent exemptions are granted for single-family dwellings not used as rentals (§1815) and for new construction (§1801).*

In 2008, there were 38 declarations submitted for single-family dwellings stating that the structures were not rented on July 1, 1984. Two other single-family dwellings were approved for exemption under §1815 based on the owner's two year occupancy.

Use Exemptions -- *Use exemptions were granted this year in the following situations:*

- *Rental units on properties with two or three units, one of which is occupied by the owner;*
- *Units used to provide, on a non-profit basis, childcare or other residential social services in accordance with applicable laws*

The following use exemptions were granted in 2008:

| <u>Type of exemption</u> | <u>Number of properties</u> | <u>Number of units</u> |
|---|-----------------------------|------------------------|
| Owner-occupied | 11 | 28 |
| Social Services (Non-profit residential) | 1 | 8 |

These exemptions do not represent a loss of controlled rental units from the housing stock in 2008. All of the 11 properties granted owner-occupied exemptions had previously held these owner-occupied exemptions under prior owners. In addition to the owner-occupied exemptions that were granted, one application was denied, one was not accepted for filing, and one was administratively dismissed.

The non-profit residential social services exemption was granted for a property that had previously received a hotel-motel exemption as an eight-unit motel. Seven units were vacant at the time of application, and a tenant-occupied unit was to become exempt upon the tenant's vacating the unit. This property is to be used for a residential program for young adults suffering from mental illness.

SUMMARY OF CHANGES IN THE RENTAL MARKET

2007 vs. 2008

| <u>Activity</u> | <u>Reduction in controlled units</u> | | <u>Increase in controlled units</u> | | <u>Net change in controlled units</u> | |
|---------------------|--------------------------------------|-----------------|-------------------------------------|-----------------|---------------------------------------|-----------------|
| | 2007 | 2008 | 2007 | 2008 | 2007 | 2008 |
| Ellis activity | -138 | -91 | +35 | +16 | -103 | -75 |
| Category C Removals | -2 | -1 | 0 | 0 | -2 | -1 |
| Category D Removals | 0 | -25 | 0 | 0 | 0 | -25 |
| New use exemptions | <u>-5</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>-5</u> | <u>0</u> |
| Total | -145 | -117 | +35 | +16 | -110 | -101 |

The above chart compares the number of units lost from the controlled rental housing market between 2007 and 2008.

RELOCATION

Board staff continues to assist the City Attorney's office in mediating relocation benefits owed under the City's relocation laws to tenants being displaced from their units. Board staff and the City Attorney's office, along with the City's Planning and Building and Safety Departments, have been working together to better advise property owners of their obligations to provide relocation assistance.

PROGRAM, POLICIES AND ADMINISTRATION

SIGNIFICANT LEGAL DECISIONS

Summary of Litigation 2008

OKH v. SMRCB

The owners of the Teriton Apartments began the process to withdraw this 28 unit property from the rental market under the Ellis Act. The tenants and the City of Santa Monica filed actions seeking to prevent the withdrawal on numerous grounds, including violation of federal and state fair housing laws and state law governing unfair business practices. In the owners' action against the Board, they sought a declaration from the court that their plans for the property did not violate the Ellis Act. After months of settlement negotiations, all parties reached a global settlement in which the Ellis filing was rescinded, and the property was returned to the jurisdiction of the Rent Control Board. A number of long-term tenants retained their apartments, and tenants who had left pursuant to the Ellis filing were given the opportunity to return to their units or be compensated. As part of the settlement, the owners agreed not to withdraw the property under the Ellis Act for at least three years. The property has also been designated a landmark.

Enayati v. SMRCB

The owner filed a complaint with the court on the issue of the Board's authority to set and enforce the amount of damages due to a tenant evicted under the Ellis Act when the landlord returns to the business within 10 years. (Regulation 7060.2(c)). The Board negotiated a settlement with the owner who agreed not to contest the amount owed to the tenant and dismissed the case against the Board.

LANDLORD-TENANT LEGISLATION

Summary of Legislation

In 2008, the Santa Monica City Council considered an ordinance which would prohibit smoking in common areas of multi-unit residential housing. The ordinance was passed in early 2009. The Rent Control Board was instrumental in ensuring that the City's regulation of smoking in the common areas of apartment buildings and condominiums contained safeguards so tenants would not be evicted for violating the ordinance.

The City Council amended the permanent and temporary relocation benefits for tenants which were increased by the annual adjustment based on the July 1, 2008 CPI.

The state legislature passed a bill requiring 60 days notice to tenants being evicted due to foreclosure. Tenants protected by the just cause eviction provisions of the Rent Control Law cannot be evicted due to foreclosure because it is not one of the enumerated reasons for which eviction is permitted. The state also passed legislation allowing domestic violence survivors to be released from a lease upon written notice to the landlord.

REGULATIONS AND RESOLUTIONS

Regulations adopted in 2008 include a general adjustment regulation allowing a 2.7% adjustment for September 2008 through August 2009, a regulation allowing owners to collect a monthly surcharge on controlled units as reimbursement for the cost of the Clean Beaches and Ocean Parcel Tax levied by the City of Santa Monica, and a regulation passing through the School District Qualified Special Tax surcharge (Measure R, which replaced Measures S and Y). The Board also adopted resolutions regarding a records retention schedule and the City's proposed no-smoking ordinance.

INCENTIVE HOUSING PROGRAM

In 1984, as part of a Charter Amendment, Santa Monica voters passed a provision [§1805(i)] which authorized the Board to "enact regulations to provide for increases of rents on units voluntarily vacated where the landlord has dedicated a percentage of units to be rented at affordable rates to low-income tenants." In 1989 the Board passed Chapter 17, "Regulations for Inclusionary Housing Pilot Program."

Although there are no longer any active Incentive Housing contracts, the rent level restrictions for 53 tenants who qualified for dedicated units remain in place; 38 of these units are rented to households qualifying as "very low income", including at least two households of families with children. The remaining 15 units are rented to households qualifying as "low income."

ANNUAL GENERAL ADJUSTMENT

The annual General Adjustment is a determination made yearly by the Board which allows all landlords to raise rents by a specified amount to keep pace with the increase in operating expenses.

The Board approved a 2008 general adjustment of 2.7% for eligible tenants.

PETITIONS

Petitions, complaints and applications are filed to resolve issues involving rent increases, rent decreases, excess rent, owner-occupied exemptions, tenants not in occupancy, base rent/amenities determinations and units previously not registered under Rent Control.

Excess Rent complaints are reviewed by staff, and, if they are accepted for filing, the owner is given a chance to resolve the complaint. Those complaints which are not initially resolved are referred to the Hearings Department for mediation and/or hearing. Owner occupied exemption applications that are not resolved administratively are referred to the Hearings Department.

The Hearings Department provides mediation services as part of the decrease and excess rent processes, as well as for some matters not brought by petition. Hearings are held for all other types of petitions and for decrease and excess rent cases not resolved through mediation.

Pre-Mediation

***Excess Rent Complaints** -- Complaints are submitted but not filed for a variety of reasons including: the tenant has not shown a valid claim of excess rent; the property is not under the jurisdiction of the Rent Control Law, e.g. it has an owner-occupied exemption; or the tenant withdraws the complaint prior to filing in favor of going to court.*

During 2008, 33 complaints alleging excess rent were submitted.

Of the 33 complaints submitted, two were withdrawn, and four were pending at the end of the year.

Of the 27 complaints accepted for filing, seven were resolved prior to formal mediation by owners paying tenants the amount of overcharge claimed by the tenant. In another case, the tenant moved out of her unit before resolution of the complaint. Nineteen complaints were forwarded to the Hearings Department for mediation.

Mediations

Excess rent and rent decrease cases are usually referred to the Rent Control Board's mediator before they are set for a hearing. The mediator has been very successful in settling a large percentage of these cases, either in whole or in part. This has resulted in the need for hearings in far fewer cases and in simplification of the issues that do ultimately require a hearing. There are also a number of landlord-tenant disputes other than those brought by petition which are referred to the mediator through direct contact with landlord or tenant or referral from another staff member or City department.

Excess Rent Mediations

Nineteen excess rent petitions were referred for mediation in 2008. Five (5) cases were resolved through the mediation process. One case was resolved prior to mediation, one was withdrawn, and one was dismissed for lack of jurisdiction. Eight petitions were sent to hearings, as the issues were not resolved, and three were still pending in mediation at the end of the year.

In addition, three cases pending in mediation from the prior year were resolved during 2008, and two were dismissed as the parties did not wish to go forward.

Decrease Mediations

Of the 55 decrease petitions forwarded for mediation (one of these 55 petitions included 15 separate petitioners and was consolidated), 51% of the 43 mediated cases were fully or partially resolved. Six were still pending at the end of the year. The parties in five cases declined mediation, and one case was withdrawn. In addition, six cases pending from the prior year were fully resolved during 2008.

Non-Petition Mediations 2008

The mediator handled 32 non-petition cases during the year. Twenty-seven of these cases arose in 2008, four arose in 2007, and one arose in 2006. Twelve of the cases were resolved through mediation (ten fully resolved, and two partially). Four cases were not resolved in mediation. Seven cases were closed without mediation either because the referring party decided not to mediate or because the issues were not appropriate for mediation. Nine cases remained pending at the end of 2008. Of the 32 non-petition cases, 10 cases involved parties who had participated in prior pre-hearing or non-petition mediations.

All of these cases came from contact with members of the public. In thirteen of the cases the owner or tenant contacted other staff members, who then referred the matter to the mediator. The other 19 came by direct contact with the mediator. Five of the cases came from an owner, 18 from tenants, and nine from both owner and tenant. The mediations included such issues as excess rent, separate amenity agreements, repairs following hearing officer decisions, parking, relocation benefits, general adjustment pass-through amounts, base rent, laundry facilities, water intrusion and maintenance.

Cases Set for Hearings

Increase Petitions -- *Property owners may petition the Rent Control Board for rent increases above the yearly general adjustment due to completed or planned capital improvements, lack of a fair return or increased operating expenses not covered by the general adjustments.*

Only one rent increase petition was received in 2008. This is largely due to the vacancy decontrol law, which allows owners to collect rents at market rate on most vacancies. The case was still pending at year's end.

Decrease Petitions -- Tenants whose rental units need repairs or maintenance, or whose housing services have been reduced, may petition to have their monthly rent decreased. The tenant must first request that the owner repair the problem or restore the service. If the owner does not meet this request, the tenant may petition for a rent decrease. When the owner makes required repairs or restores services for which a decrease was granted, the decreased amount is reinstated to the rent. When a decrease petition is filed, a settlement/mediation conference is scheduled to resolve the issues without a hearing, if possible.

| | |
|--|---|
| <u>Decrease Cases referred for hearing</u> | <u>42 (including 15 consolidated petitions)</u> |
| Decreases granted | 20 |
| Decreases denied | 0 |
| Dismissed | 3 |
| Withdrawn | 4 |
| Pending at end of year | 15 |

In addition, three decisions granting decreases were issued on decrease petitions that were pending from the prior calendar year.

Reinstatement of Decreases -- Reinstatement of decreases occurs upon receipt of a Request for Proposed Addendum and verification that the conditions were corrected.

In 2008, the decreases in seven of the 23 approved petitions were fully reinstated within the same year and were partially reinstated in five petitions. For cases decided in prior years, decreases were fully reinstated in five cases and partially reinstated in seven cases.

Base Rent/Amenities Petitions -- Any owner, former owner, tenant or former tenant of a property, or any Board Commissioner or the Board's Administrator may petition for a hearing to establish a correct rent or apartment/building amenities.

In 2008, no base amenities petitions were received by the Hearings Department. Base rent and amenities issues are often resolved in other types of petitions, such as decreases and excess rents.

Excess Rent Complaints -- Board regulations provide for a tenant who believes he or she is paying more than the maximum allowable rent or whose landlord has not registered the property with the Rent Control Board to petition the Board for recoupment of extra monies paid or to withhold rents until the landlord has registered the property. The cases are initially sent to the mediator for resolution. Unresolved cases are decided by a hearing.

During 2008, nine excess rent complaints were scheduled for hearing. Excess rent was substantiated in five of the cases and not substantiated in one case. Three cases were pending at the end of the calendar year.

In addition, a decision was issued in one case received in the prior calendar year which determined the excess rent violation was substantiated.

Exemptions -- Although many owner-occupied exemption cases are decided without a hearing, there are occasions when a hearing is necessary. In these cases, questions of fact need to be decided in an evidentiary hearing. In many of these cases the exemption is contested by one or more tenants. Hearings may also be required in cases where a lapsed exemption is contested. The recommended decision is used by the Board to make a final determination on the exemption application.

In 2008, one application for owner-occupied exemption was referred to the Hearings Department. In that case the hearing officer recommended the exemption be denied.

Also during the calendar year, the lapse of one owner-occupied exemption was contested by the property owners, and the case was referred to the Hearings Department. The hearing officer recommended the exemption be lapsed.

Bootleg "J" Petitions -- Bootleg petitions are filed for units which have not previously been registered with the Rent Control Board. In order for a unit to be qualified to register, the petitioner must show the unit was used as a residential rental unit in April, 1979 and is either habitable or capable of being made habitable.

During 2008 one petition was filed by an owner for units which had not been previously registered with the Board. The petition was approved, and the units were allowed to be registered. In addition, one petition pending from the previous calendar year was denied.

Tenants not in Occupancy -- In March 2003, the Board adopted Regulation 3304. This regulation allows for a one-time increase to market level for units the tenant does not occupy as his/her usual residence of return. The Regulation was amended in January 2004, allowing the Board, rather than the petitioners in those cases to set the new rents for tenants not in occupancy.

When a tenant not in occupancy case ("N" case) is accepted for filing, the petition is either handled administratively (dismissed, withdrawn, or, if uncontested, an administrative decision is issued by the Hearings Department) or a hearing is held.

During 2008 the Agency handled 13 of these petitions. One petition was withdrawn pending review. Seven cases were handled administratively. Six of these were dismissed and one granted authorizing an increase. Four cases were scheduled for hearings. Of those four cases, two cases were withdrawn during the hearings process, one case was decided denying the petition, and the other case was pending at the end of the calendar year.

In addition, one case pending from the prior year was granted an increase by the hearing officer.

FEE WAIVERS

The Rent Control Board provides waivers of Rent Control registration fees to units occupied by their owners, subsidized by HUD (Section 8 or HOME program), or occupied by low-income tenants who are over 62 or disabled. There are also fee waivers for condominiums and single-family-dwellings on which rent restrictions have been lifted pursuant to the Costa-Hawkins' Act, for tenants participating in the City of Santa Monica TARP program, and in mobile home parks for units where tenants have signed long-term leases.

| <u>Type of Fee Waiver</u> | <u>As of 12/30/08</u> | <u>Change from Prior Year</u> |
|----------------------------|---------------------------|-----------------------------------|
| low-income senior | 327 | -23 |
| low-income disabled | 129 | +7 |
| owner-occupied | 2,455 | -29 |
| single family dwelling | 1,215 | +33 |
| HUD subsidized (Section 8) | 767 | +4 |
| HOME program | 80 | 0 |
| administrative | 346 | -1 |
| mobile home | 2 | -4 |
| TARP | <u>0</u> | <u>-1</u> |
| Total fee waivers | 5,321 | -14 |

THE WORK OF THE RENT CONTROL BOARD

Board Meetings

| | | |
|--|---|----|
| ◆ Rent Board meetings convened and staffed | | 14 |
| <i>regular meetings</i> | 9 | |
| <i>special meetings</i> | 5 | |

Public Outreach

| | | |
|--|--------|---------|
| ◆ Number of people helped seeking information | | 15,614 |
| <i>number at counter (16%)</i> | 2,437 | |
| <i>number by phone (81%)</i> | 12,767 | |
| <i>number by e-mail (3%)</i> | 410 | |
| ◆ Rent Control web pages viewed | | 302,206 |
| ◆ Web page MAR's viewed | | 14,317 |
| ◆ Mass mailings produced and distributed | | 4 |
| <i>General Adjustment mailing</i> | 1 | |
| <i>(Includes City-wide MAR report mailing)</i> | | |
| <i>Newsletter</i> | 2 | |
| <i>MAR Postcards to Tenants</i> | 1 | |
| ◆ Community Meetings and Seminars | | 7 |

Regulations and Resolutions

| | | |
|------------------------------|--|---|
| ◆ New or amendments prepared | | 5 |
|------------------------------|--|---|

General Adjustment

| | | |
|------------------------------------|--|----|
| ◆ Restrictions for Code Violations | | 23 |
|------------------------------------|--|----|

Ellis Withdrawals and Removals

| | | |
|---|----|----|
| ◆ Ellis withdrawals | | 17 |
| <i>withdrawals completed</i> | 14 | |
| <i>returns to rental market completed</i> | 3 | |
| ◆ Removal Permits | | 2 |
| <i>Category C</i> | 1 | |
| <i>Category D</i> | 1 | |

Forms and Permits

| | |
|---|-------|
| ◆ Status forms to submit development applications | 141 |
| ◆ Demolition Permits processed | 74 |
| ◆ Building Permits processed | 193 |
| ◆ Property Registrations processed | 352 |
| ◆ Vacancy Registration Forms Processed | 3,736 |
| ◆ Registration fee payments processed | 3,478 |
| ◆ Fee waivers processed | 129 |

Petitions

| | |
|---|-----|
| ◆ Petitions processed on in-take | 111 |
| ◆ Excess Rent Prima Facie Determinations | 25 |
| ◆ Exemption Staff Reports Prepared and Reviewed | 16 |
| ◆ Tenant Not in Occupancy Prima Facie Cases Reviewed | 13 |
| ◆ Hearings held | 46 |
| <i>on decreases</i> | 33 |
| <i>on complaints</i> | 7 |
| <i>on exemptions</i> | 1 |
| <i>on bootleg units</i> | 1 |
| <i>on potential lapse of exemptions</i> | 1 |
| <i>on petitioners not in occupancy cases</i> | 3 |
| ◆ Written decisions issued | 37 |
| ◆ Interpreter services provided | 4 |
| <i>Spanish</i> | 3 |
| <i>Vietnamese</i> | 1 |
| ◆ Addenda issued | 40 |
| ◆ On-site investigations conducted | 168 |
| <i>upon scheduling decrease petitions</i> | 45 |
| <i>in response to compliance requests</i> | 28 |
| <i>exemption use investigations</i> | 6 |
| <i>regarding unit identification conflicts</i> | 1 |
| <i>Ellis investigations</i> | 45 |
| <i>Occupancy, unit use, residence verification, etc.</i> | 36 |
| <i>Other, i.e., measuring, service of documents, etc.</i> | 7 |

Appeals and Litigation

| | | |
|---|---|----------|
| ◆ Staff reports on appeal prepared | | 13 |
| <i>decrease cases</i> | 6 | |
| <i>petitions seeking registration</i> | 2 | |
| <i>excess rent</i> | 1 | |
| <i>exemptions/lapses following</i> | | |
| <i>Hearing Officer Recommendation</i> | 4 | |
| ◆ Ellis returns to rental market processed | | 5 |
| ◆ Litigation cases | | 4 |
| ◆ Administrative records prepared | | 2 |
| Registration Fees collected through Small Claims | | \$20,057 |
| <i>collection actions taken</i> | 3 | |
| <i>settlements entered</i> | 2 | |
| <i>registration fee suits filed</i> | 0 | |

Legal Advisory

| | | |
|--|--|----|
| ◆ Miscellaneous staff reports written | | 4 |
| ◆ Officer of the Day requests responded to | | 40 |
| ◆ Agreements Written | | 2 |
| ◆ Occupancy Permits Advisory | | 6 |
| ◆ Responses to subpoenas and Public Record Act requests served on Agency | | 9 |
| ◆ Consultations with Planning and City Attorney staffs | | 75 |

APPENDIX A

A map of the City areas and percentage of rental units in each as of 12/31/08 are shown below:

- Area A 17%
- Area B 12%
- Area C 4%
- Area D 10%
- Area E 19%
- Area F 16%
- Area G 22%

