

The Impact of The Ellis Act

January – December 2008



Santa Monica Rent Control Board

April 2009

TABLE OF CONTENTS

| | |
|--|----|
| Ellis Activity During 2008 | 1 |
| Withdrawal and Re-Rental Activity Since Inception of the Ellis Act | 2 |
| Vacancy Decontrol and Ellis Act Amendments | 5 |
| Property Purchase Date and Ellis Activity | 5 |
| Post-Ellis Activity | 7 |
| Re-Use of Withdrawn Properties Summary | 14 |
| Conclusion | 14 |

IMPACT OF THE ELLIS ACT

The state-enacted Ellis Act allows landlords to go out of the rental business, evict tenants, and withdraw units from the rental housing market. Earlier reviews of Ellis activity and post-Ellis property use since the law's inception in 1986 through December 2007 have been presented to the Rent Control Board and are available for review on the Board's website (www.smgov.net/rentcontrol) or from the Board's City Hall office.

This report reviews Ellis activity (applications, completed and pending withdrawals and re-rentals) for the 12-month period from January through December 2008. It also details redevelopment and re-use of properties withdrawn under the Ellis Act.

Ellis Activity During 2008

Applications to Withdraw

Ellis activity dropped significantly in 2008 as compared to 2007. Only 6 applications affecting 67 units were filed from January through June 2008. That number dropped again in the last six months, with 2 applications affecting 12 units filed from July through December. Total filings for 2008 were 8 applications affecting 79 units, while in 2007, 32 applications were filed affecting 201 units.

Completed Withdrawals

In 2008, Ellis withdrawals on 14 properties (91 units) were completed, including 11 withdrawals filed in 2007¹. Eight properties (96 units) were pending withdrawal at the end of 2008. In 2008, staff began assigning unit withdrawal dates of 120 days or one year from the date the notice was filed, depending on the circumstances of the individual tenants. For purposes of this report, properties are considered withdrawn once all the units have been vacated.

Re-Rentals

In 2008, 3 previously withdrawn properties (16 units) returned to residential rental use. Staff also discovered that at least one unit on a property withdrawn in 2002 had been rented during the period of withdrawal. In October 2008, the Board reasserted jurisdiction over the 5-unit property, with an effective date of November 1, 2005.

¹ One property, 423/427 Ocean Avenue, filed an Ellis withdrawal in 2007, which was completed in 2008 for only five of twelve units. The remaining seven units are included in a subsequent Ellis withdrawal filed on the same property in 2008.

Ellis Task Force

In 2007, Rent Control Board staff and the Consumer Protection Division of the City Attorney's Office met to form the Ellis Task Force. The task force's objective is to monitor withdrawn properties to ensure that owners adhere to use-restrictions imposed by the withdrawal. The City Attorney's Office and Board staff have worked closely to promote compliance with both the tenant relocation benefits ordinance, which governs benefits paid to tenants evicted under the Ellis Act, and the re-occupancy permit ordinance, which regulates the use of withdrawn units. Staff from the Building and Safety Department's Code Compliance Division, the Planning Department, the Police Department and the Fire Department also participate in the task force, and play a significant role in monitoring vacant properties.

In 2007, the task force reviewed, and where needed, revised notices to landlords concerning the restrictions imposed on the use of withdrawn units, and began to investigate withdrawn properties, including on-site inspections by Code Compliance staff to determine current uses.

During 2008, the Ellis Task Force focused on determining how properties that had not received permits for redevelopment or change of use were being used. Rent Control Board staff identified almost 50 withdrawn properties possibly out of compliance with Ellis restrictions and City ordinances. Code Compliance staff performed inspections on these properties and owners of 32 properties that appeared to be occupied without proper occupancy permits received notices from the Planning Department informing them of the need to comply with permit requirements for occupancy of withdrawn units.

Of the 32 notices issued, all but nine owners responded. Of those who responded, eight owners filed applications for occupancy permits, and four have retained legal counsel. Eleven of the 32 properties were withdrawn prior to December 1, 1989, the effective date of the re-occupancy ordinance, and units on two properties have been demolished. Board staff is working with the Planning Department to ensure that all owners comply with the applicable requirements.

The Rent Control Board has a particular interest in verifying that withdrawn units have not returned to residential rental use without prior notification to the Board. Furthermore, the task force's efforts give staff more accurate information on the use of withdrawn properties and are bringing owners into compliance with the City's existing permit requirements.

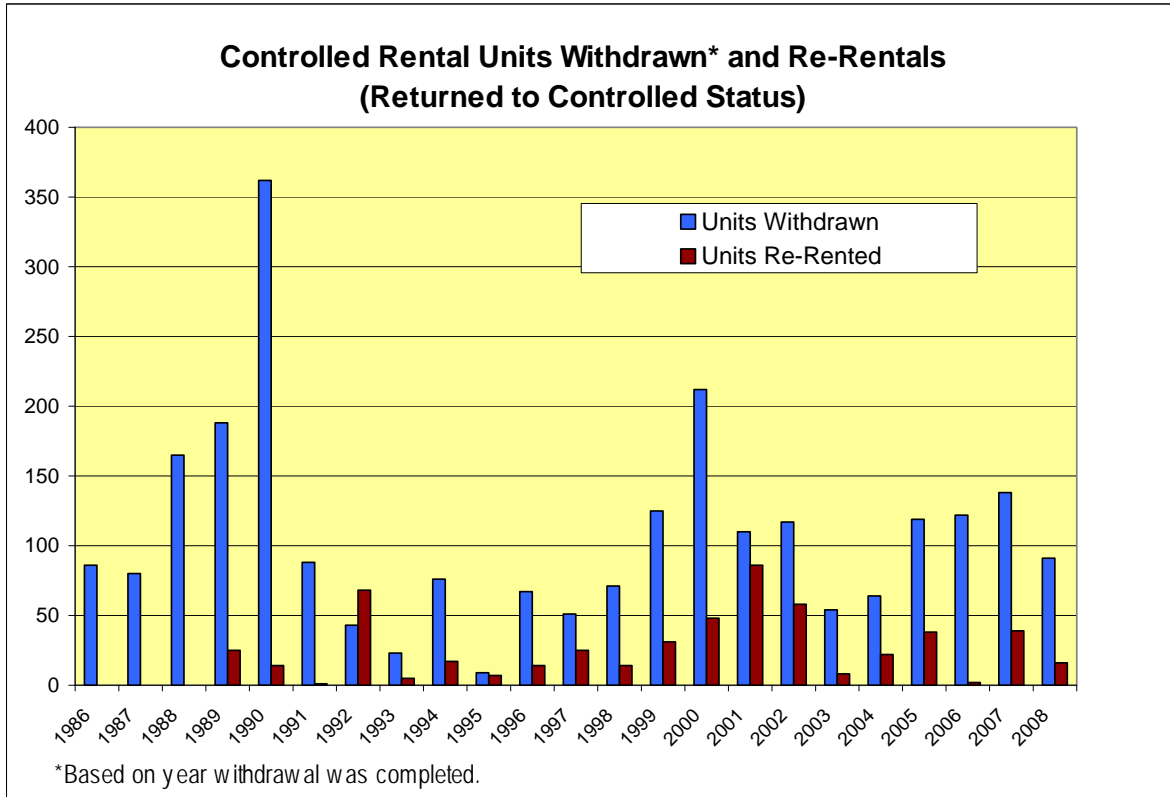
Withdrawal and Re-Rental Activity Since Inception of the Ellis Act

Historic Over-View

From the inception of the Ellis Act in July 1986 through December 31, 2008, 513 Ellis withdrawals were completed affecting 2,461 units. One hundred and ten formerly withdrawn properties (538 units) have returned to the rental housing market under rent control (re-rentals). As of December 31, 2008, 403 properties

remain withdrawn from the residential rental housing market. This represents the withdrawal of 1,921 units.²

The graph and chart below show the pattern of withdrawn and re-rented units over the years the Ellis Act has been in effect, 1986 through 2008.



Units Withdrawn and Re-Rented By Year

| Year | Properties Withdrawn | Units Withdrawn | Units Re-Rented | Change |
|------|----------------------|-----------------|-----------------|--------|
| 1986 | 14 | 86 | 0 | -86 |
| 1987 | 13 | 80 | 0 | -80 |
| 1988 | 21 | 165 | 0 | -165 |
| 1989 | 57 | 188 | 25 | -163 |
| 1990 | 76 | 362 | 14 | -348 |
| 1991 | 21 | 88 | 1 | -87 |
| 1992 | 12 | 43 | 68 | +25 |
| 1993 | 9 | 23 | 5 | -18 |

² Three properties returned to the rental market with a different number of controlled units than were withdrawn: 1111 18th Street withdrew six units in 1990 and returned in 2005 with four controlled units after combining four units into two; 1043 Pearl Street withdrew three units in 2000 and returned in 2006 with two controlled units after combining two units into one; and 1306 Princeton Street withdrew three units in 2003 and returned in 2005 with four controlled units after combining two units into one and building two new units. This accounts for the two unit discrepancy in the number of units withdrawn and returned to residential rental use.

| Year | Properties Withdrawn | Units Withdrawn | Units Re-Rented | Change |
|---------------|----------------------|-----------------|-----------------|--------------|
| 1994 | 7 | 76 | 17 | -59 |
| 1995 | 3 | 9 | 7 | -2 |
| 1996 | 10 | 67 | 14 | -53 |
| 1997 | 8 | 51 | 25 | -26 |
| 1998 | 17 | 71 | 14 | -57 |
| 1999 | 31 | 125 | 31 | -94 |
| 2000 | 36 | 212 | 48 | -164 |
| 2001 | 25 | 110 | 86 | -24 |
| 2002 | 28 | 117 | 58 | -59 |
| 2003 | 15 | 54 | 8 | -46 |
| 2004 | 15 | 64 | 22 | -42 |
| 2005 | 24 | 119 | 38 | -81 |
| 2006 | 28 | 122 | 2 | -120 |
| 2007 | 29 | 138 | 39 | -99 |
| 2008 | 14 | 91 | 16 | -75 |
| Totals | 513 | 2461 | 538 | -1923 |

- **1986–1990:** An initial period of significant withdrawal activity when 881 units were withdrawn and just 39 re-rented for a net loss of 842 units over five years—an average of 168 units per year.
- **1991—1998:** A sharp decrease in withdrawals occurred when 428 units were withdrawn and 151 re-rented for a net loss of 277 units over eight years—an average of 35 units per year.
- **1999—2002:** A period during which both withdrawal and re-rental activity began to increase with 564 units withdrawn and 223 re-rented for a net loss of 341 units over four years—an average of 85 units per year.
- **2003—2004:** Following a change in state law restricting rent levels on units re-rented following withdrawal, Ellis activity slowed a bit in 2003 and 2004 with 118 units withdrawn and 30 units re-rented for a net loss of 88 units—an average of 44 units per year.
- **2005—2007:** During this period, Ellis withdrawal activity returned to the level seen in the early 2000's. Re-rental activity was lower during this 3-year period as compared to 1999-2002. In these three years, 379 units were withdrawn and 79 re-rented for a net loss of 300 units—an average of 100 units per year.
- **2008:** In 2008, Ellis withdrawal activity slowed to pre-2005 levels. Ninety-one (91) units were withdrawn and 16 units returned to residential rental use for a net loss of 75 units. This is a reduction of about one-third of the units lost in each of the previous two years.

As the graph and chart show, the rate of Ellis activity has varied over the years. Some contributing factors to these fluctuations may be changes in state law, as well as changing economic conditions.

Vacancy Decontrol and Ellis Act Amendments

As discussed in previous reports, the increase in Ellis withdrawals and re-rentals beginning in 1999 and continuing through 2002 might have been influenced by a number of concurrent changes in California state law.

The full implementation of state-mandated vacancy decontrol on January 1, 1999—and the prospect of market-rate rents on formerly withdrawn units returned to rental use—may explain, in part, the increase of re-rentals between 1999 and 2002.

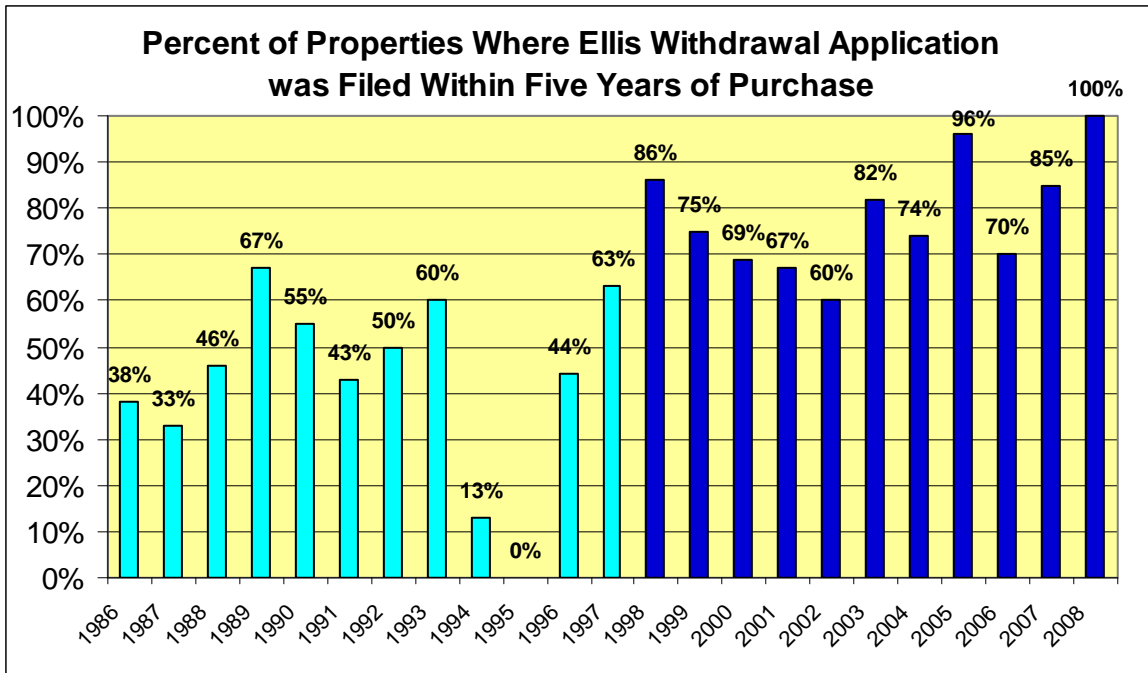
A possible factor in the increase of withdrawal applications in late 1999 and early 2000 was an amendment to the Ellis Act, effective in February 2000. This change extended the time given to tenants to relocate from 60 days to 120 days and gave seniors (62 years or older) and disabled tenants the right to request an extension of up to one year to vacate. Owners' anticipation of this extended period to complete the Ellis withdrawal process might have accelerated the filing of withdrawal applications prior to the February 2000 effective date.

Following this amendment, in the years 2000 through 2008 Ellis withdrawals on 62 out of 214 properties took one year to complete (this includes 11 of 30 withdrawals filed in 2007, and 4 of 8 withdrawals filed in 2008). More than one-fourth of all applications filed since 2000 were on buildings in which at least one senior or disabled tenant resided.

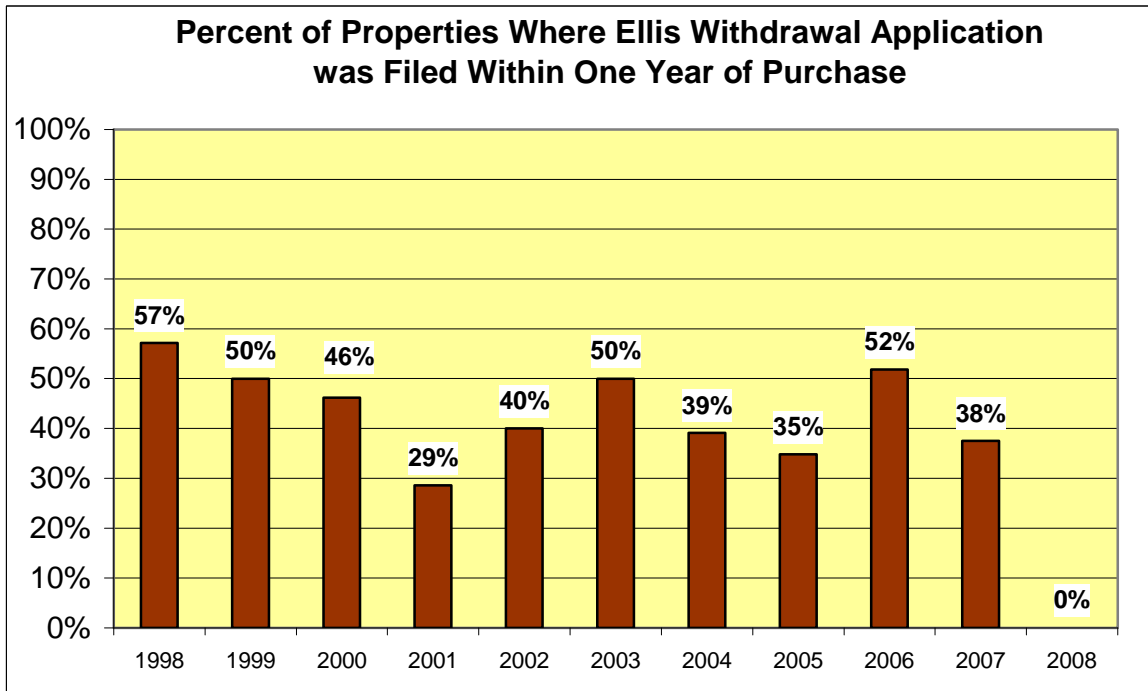
Effective January 1, 2003, owners are prohibited from establishing market-rate rents upon re-rental of withdrawn units for a period of five years after the units are withdrawn. If an owner returns units to the rental market within five years of withdrawal, the units must be rented for the maximum allowable rents in effect on the date of withdrawal plus general adjustments.

Property Purchase Date and Ellis Activity

The graph on the next page shows the percentage of owners who filed their Notice of Intent to Withdraw within five years of purchasing the property. Only the 403 properties that remain withdrawn as of December 2008 are included. Beginning in 1998, many more owners withdrew after a short period of ownership. This trend peaked in 2005 when 96% of the withdrawals were on properties owned fewer than five years, and in 2008 when all three owners who filed Notices of Intent to Withdraw owned the properties less than five years.



It appears that since 1998 many owners have purchased rental properties with the intention of going out of the rental business within a relatively short period of time. Even more surprising is that during this time period between a third and three fourths of the properties withdrawn each year were owned less than one year before the owner filed the Notice of Intent to Withdraw. In many instances, withdrawals were filed in the first few months (or even days) of ownership. The only exception was 2008 when Notices to Withdraw were filed on just three properties.



Post-Ellis Activity

Post-Ellis activity on withdrawn properties falls into a number of categories: residential redevelopment (usually involving demolition of existing structures), conversion to single-family dwellings, change of use (including conversion to commercial use or schools, childcare centers and churches), new commercial construction, parking lots or vacant lots, non-rental residential occupancy (i.e. family occupancy), or no activity at all.

The table below summarizes post-Ellis use for all 403 currently withdrawn properties and also looks at the development activity for properties withdrawn before and after 1998.

| Overall Summary of Post-Ellis Use of Withdrawn Properties | Totals | | 1986 - 1997 Withdrawals Post-Ellis New Use | | 1998 - 2008 Withdrawals Post-Ellis New Use | |
|---|------------|-------------|--|-------------|--|-------------|
| | Count | Percentage | Count | Percentage | Count | Percentage |
| Apartments | 19 | 5% | 6 | 4% | 13 | 8% |
| Apartments/Mixed Use | 20 | 5% | 13 | 8% | 7 | 4% |
| Condominiums | 125 | 31% | 49 | 30% | 76 | 45% |
| Condominiums/Mixed Use | 1 | 1% | 1 | 1% | 0 | 0% |
| Single Family Dwellings | 69 | 17% | 23 | 13% | 46 | 28% |
| Commercial | 55 | 14% | 42 | 25% | 13 | 8% |
| Parking Lot | 14 | 3% | 11 | 7% | 3 | 2% |
| School/Childcare/Church | 14 | 3% | 9 | 6% | 5 | 3% |
| Vacant Lot | 13 | 3% | 10 | 6% | 3 | 2% |
| Totals | 330 | | 164 | 100% | 168 | 100% |
| Family Occupancy/No Activity | 73 | 18% | | | | |
| Grand Totals | 403 | 100% | | | | |

As the blue portion of the table shows, the largest reuse category overall has been condominium development, followed by single family dwellings and family occupancy/no activity.

When looking at the redevelopment by the different time periods, a couple of points stand out:

- For owners who withdrew prior to 1998 (green section), the most common post-Ellis use has been condominium development (31%) or commercial use (25%). A large number of withdrawals during this time period were in commercially zoned areas and owners chose to reuse or redevelop the properties consistent with that zoning.
- For the more recent time period (pink section), condominium development continued to be the largest reuse category, with 76 properties (45%) used in this way. Single family dwellings doubled for this period (13% to 28%), replacing commercial use as the second highest reuse category.

The following sections of the report discuss the various post-Ellis use categories in more detail.

Multi-Family Residential Redevelopment of Withdrawn Properties

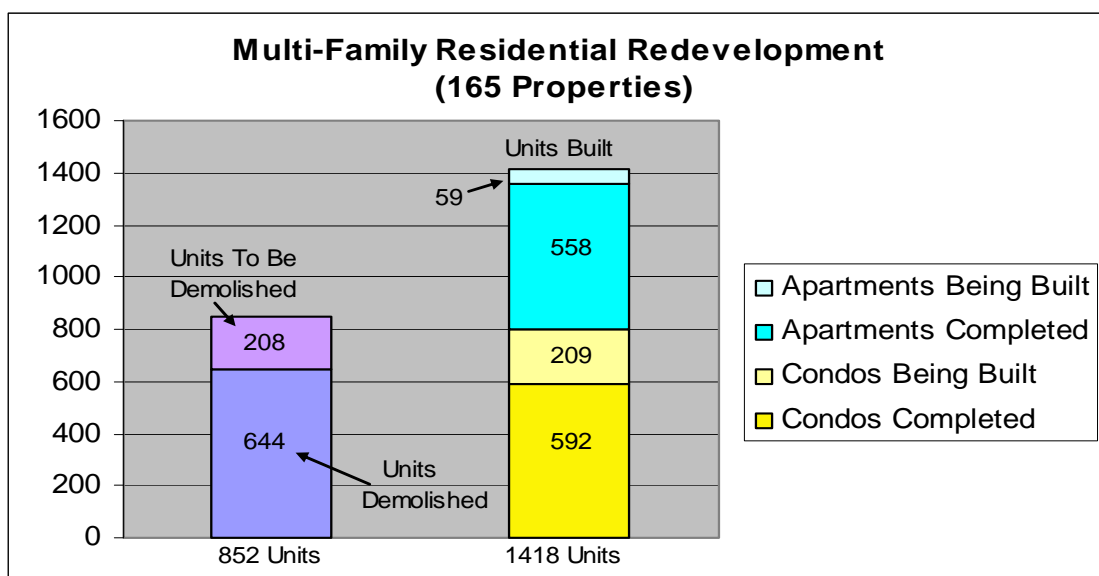
According to City records,³ 165 withdrawn properties (41% of the 403 properties that remain withdrawn) have been--or are in the process of being--developed as new multi-family housing including both condominiums and apartments. In 23 instances, two or more withdrawn parcels were combined in the new development. Therefore, the total number of new residential developments is 138.

Approximately 72% of these developments (99 of 138) were completed by the end of 2008. On these 99 sites, 644 units withdrawn under Ellis were demolished and 1,150 units have been built (592 condominiums and 558 apartments). On the remaining 39 sites in development, 208 withdrawn units are to be demolished and 268 units are to be built (209 condominiums and 59 apartments).

The struggling economy's impact on borrowing appears to have influenced multi-family residential development in Santa Monica. According to the City Planning Division, the number of applications for condominium projects dropped from 23 in 2007 to just 8 in 2008, a reduction of almost two-thirds.

The graph below compares the overall number of withdrawn units demolished or to be demolished (852), with the number of condominiums and apartments completed or being built on the same properties (1,418). As the graph shows, the new multi-family residential developments significantly increase the density on these redeveloped sites.

A high percentage of the increase in units is attributable to 12 mixed-use projects (ground floor commercial space and upper floor apartments) in the downtown and Main Street areas (77% of the new apartments built are part of mixed-use projects). On these properties, 162 withdrawn units are being replaced by 432 apartments. Additionally one mixed-use condominium project (ground floor commercial space and upper floor condominiums) was completed in 2008. On this property, 2 withdrawn units were replaced by 32 condominiums.



³ Information on redevelopment, re-occupancy and conversion is drawn from the City's Permits Plus System.

Affordable Housing Production Program (AHPP)

In November 1990, Santa Monica voters adopted a charter amendment (Proposition R) which specified that not less than 30% of all newly constructed multi-family residential housing in the City should be permanently affordable to and occupied by low and moderate income households. It further required that at least one-half of the affordable units be made available to low income households (not exceeding 60% of area median income) and the remainder be affordable to moderate income households (not exceeding 100% of area median income).

Proposition R has been implemented through a series of ordinances since its adoption, and is currently implemented as Chapter 9.56 of the Municipal Code.

For a variety of reasons, there may be a time delay between when a property is withdrawn under the Ellis Act and when it is redeveloped. Additionally, the dates on which multi-family development applications were deemed complete (and therefore which AHPP requirements applied), are not readily available to Rent Control staff. Therefore, it's not possible in this report to directly correlate for each property the AHPP requirements that applied to its redevelopment.

Nevertheless, a review of records maintained by the City's Housing Division indicates that of the 617 apartments being built on the withdrawn properties, 218 have been deed-restricted as affordable: 92 to moderate income households, 27 to low-income households, and 99 to very-low-income households. Twenty percent of the deed-restricted units are in one mixed-use affordable housing development on Main Street that was completed in 2007 with 23 low-income units and 21 very-low-income units. In several instances, it appears fees were paid in lieu of actually building the units, and no information is available in some cases.

With respect to the condominium developments, there are 4 cases in which affordable units were built on-site: one unit affordable to moderate income households, two units affordable to low income households, and one unit affordable to a very-low-income household. In many cases, in-lieu fees were paid, but in a large number of cases no information is available.

In a February 2009 Information Item to the City Council, Housing Division staff provided a Fiscal Year 2007/2008 Report Concerning the City's Affordable Housing Production Program. In the report, staff reported that the Proposition R standard of 30 percent affordability of all units developed was met and exceeded during 2007/2008. Additionally, virtually all of the affordable units that were completed or received Planning approvals, and one-third of the affordable units in construction, resulted from City housing trust fund financing.⁴

The report provides background on the implementation of Proposition R and a review of options developers of new multifamily housing may elect to satisfy their affordable housing obligation. The Information Item may be viewed at:

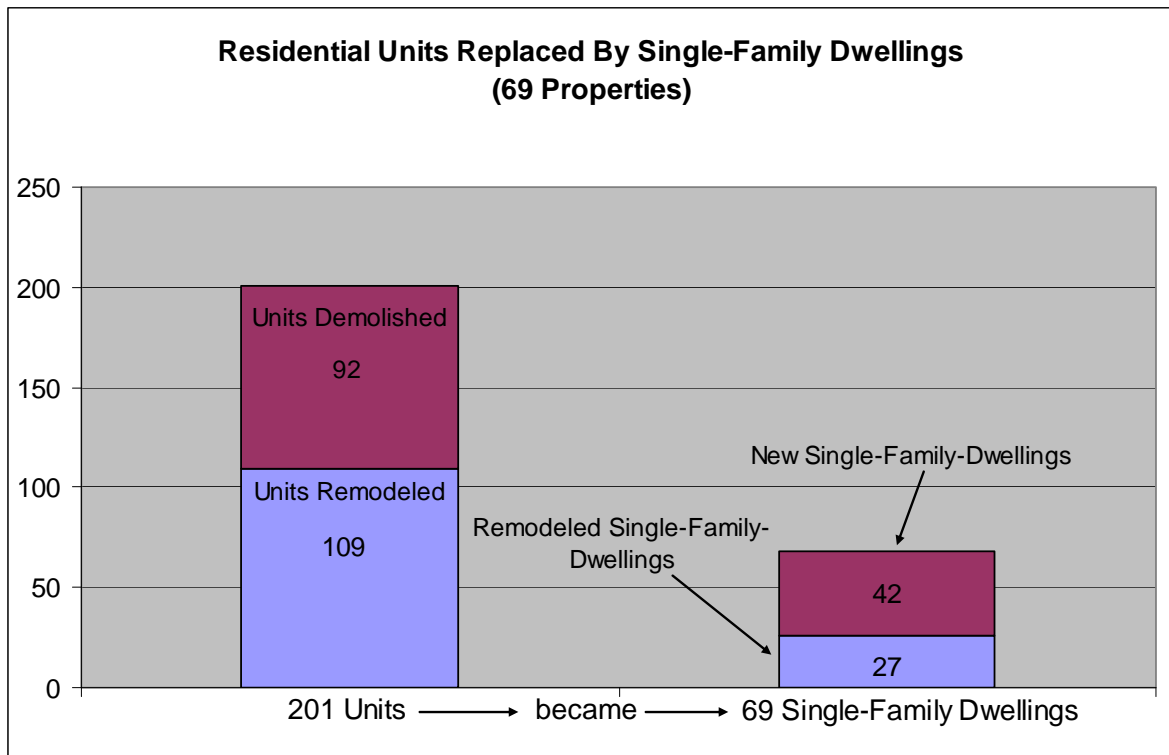
www01.smgov.net/housing/reports/Prop_R_Report_FY07-08.pdf

⁴ The report covers all multi-family developments, including those constructed on properties that did not contain controlled rental units withdrawn under the Ellis Act.

Single-Family Dwellings

Forty-two of the 403 currently withdrawn properties (92 units) were demolished and replaced by single-family dwellings or are pending single-family dwelling construction. Twenty-seven withdrawn properties (109 units) were converted to single-family-dwellings, or are in the process of conversion.⁵

In three instances, only a portion of the withdrawn units on the parcel were part of the single-family home conversion.⁶ It is assumed the other units on these sites are vacant or are being used for non-rental occupancy. The numbers in the left column account for all the units originally on these parcels since none of the units are available for rental use.



Overall, 17% of the redeveloped withdrawn properties have been converted into single-family dwellings or demolished and rebuilt as single-family homes. This suggests that some owners have found it more economical to buy a multi-unit property and convert it to a single-family home than to buy an already existing single-family home.

⁵ On one property four units were converted into two and then the property was subdivided to create two single-family dwellings.

⁶ On one property, three out of seven units were converted into a single-family home. On another, six out of thirteen units were converted into a single-family home. On the third property, two out of four units were converted into a single-family dwelling.

Geographic Display of Residential Redevelopment and Re-Use

The map on page 12 displays the geographic distribution of the apartments, condominiums and single family homes that have been developed (or remodeled), or are being developed.

Apartments

The red and rust dots on the map show the 27 apartment projects. By the end of 2008, 22 apartment developments with 558 units had been constructed (replacing 34 withdrawn properties with 215 units). Five more apartment projects with 59 units are in development (replacing 5 withdrawn properties with 23 units).

Twelve of the 27 apartment developments are mixed use projects with commercial space on the ground floor (rust dots). The map shows that with just one exception, these mixed-use projects have been built in the downtown and Main Street areas and they account for 70% of the new apartment units built or in development (432 of 617).

Condominiums

The prevalence of blue dots on the map shows the majority of residential redevelopment on withdrawn parcels has been condominiums. By the end of 2008, 77 condominium projects with 592 units had been completed (replacing 85 withdrawn properties with 429 units). Thirty-four more projects with 209 units are in development (replacing 43 withdrawn properties with 185 units).

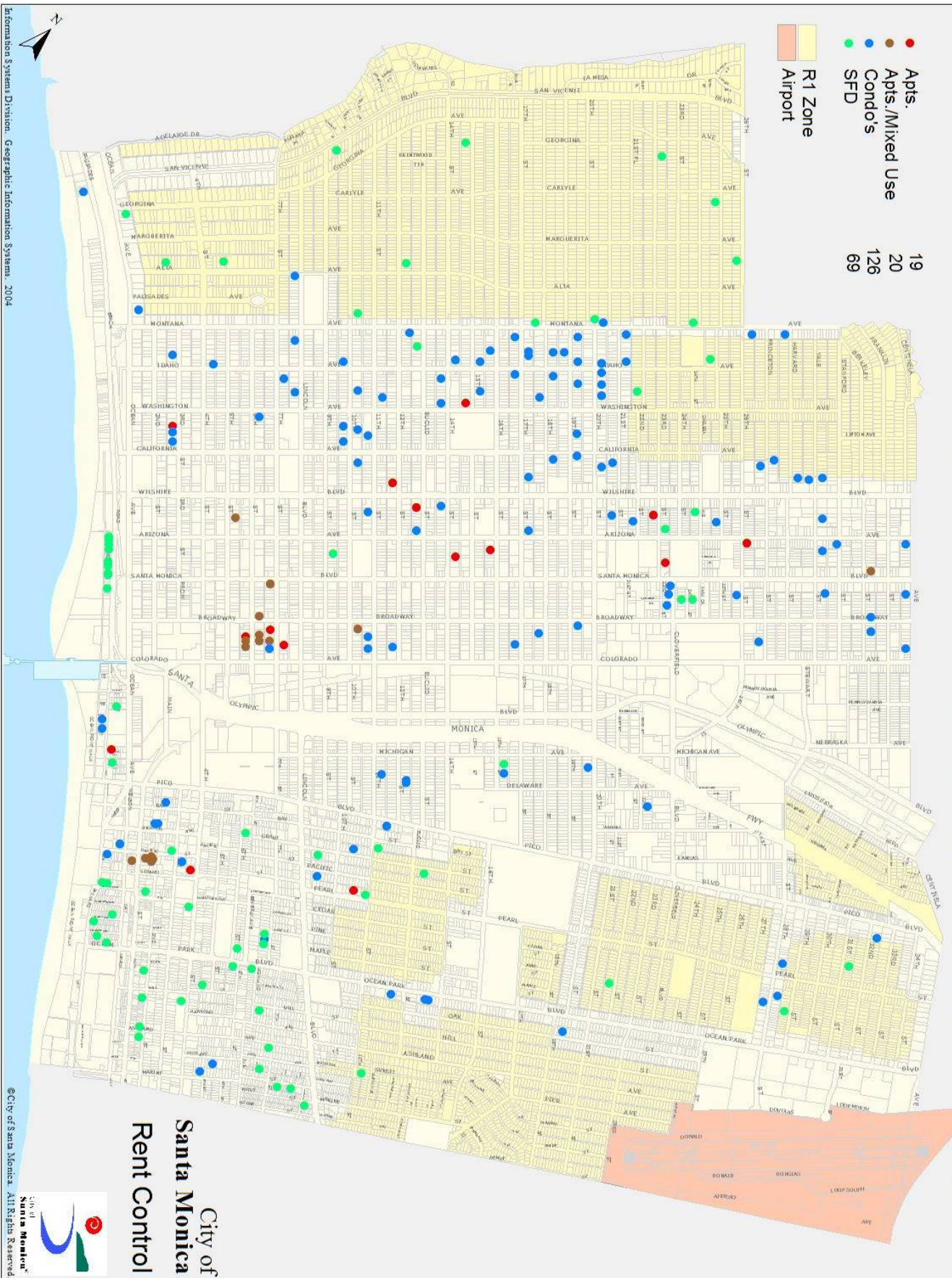
As the blue dots show, condominium developments have been built throughout the areas of the city that are zoned for multi-family development, with the highest concentration in the corridor between Wilshire Boulevard and Montana Avenue east of 14th Street.

Single-Family Homes

The green dots show that the redevelopment of multi-unit properties into single-family homes has occurred primarily in the Ocean Park neighborhood, on Pacific Coast Highway and north of Montana in the area zoned for single-family homes.

Residential Redevelopment on Withdrawn Properties

April 2009



Other Uses

Commercial

Thirty-two withdrawn properties (165 units) were demolished and either replaced by commercial buildings or are in the process of commercial development. Twenty-five of these properties were withdrawn before 1998 and seven were withdrawn after. Additionally, 23 properties (128 units) have been converted to commercial use. Seventeen properties were withdrawn prior to 1998 and six were withdrawn between 1998 and 2008.

Parking Lots and Vacant Lots

Fourteen properties (65 units) were replaced by parking lots. Thirteen more (87 units) are now vacant lots. Twenty-one of the 27 properties were withdrawn prior to 1998.

Schools/Childcare Facilities/Community Care Facilities/Churches

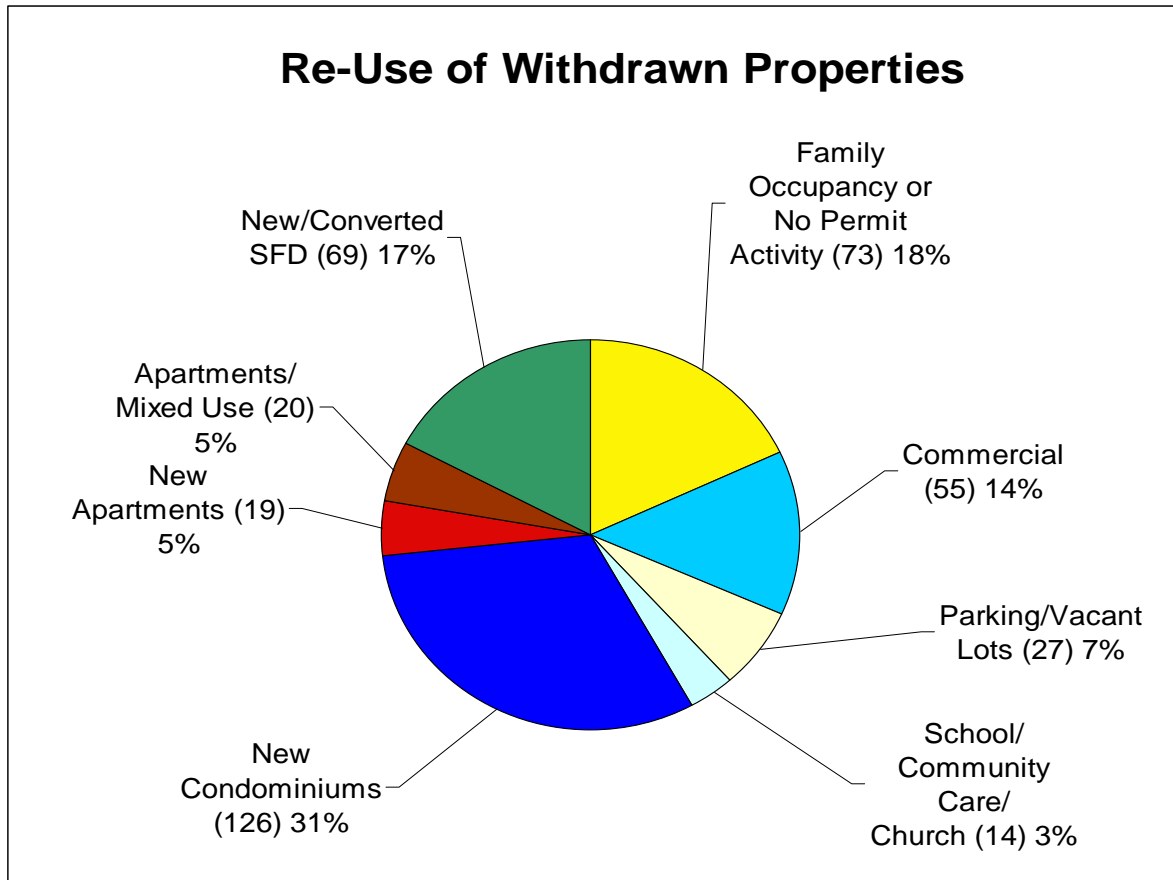
Seven properties (40 units) were demolished and replaced by five schools or childcare centers, one community care facility and one church. Seven withdrawn properties (28 units) that remain standing have been remodeled to change their use: three to community care facilities, three to pre-schools or childcare facilities and one to a church. Nine of the 14 properties were withdrawn prior to 1998.

Family Occupancy/No Building Permit Activity

Almost 20% of withdrawn properties (73) remain standing as withdrawn with no building permit activity. City ordinances require owners who want to occupy their withdrawn properties to apply for a re-occupancy permit. Twenty-three (23) of these properties are being used for family and/or non-rental occupancy as indicated on the owner's re-occupancy permit application. The remaining fifty (50) properties are the focus of the Ellis Task Force as described earlier in this report (see page 2). Future Ellis reports will include an update on this area of post-Ellis usage.

Re-Use of Withdrawn Properties Summary

The diagram below summarizes the current status of all 403 properties that remain withdrawn since inception of the Ellis Act. The colors in the left side of the pie slices correspond with the dots on the map on page 12.



Conclusion

Ellis activity fell significantly in 2008 with one-third fewer units withdrawn than in 2007. This downward trend appears to be continuing in 2009 with only one Notice of Intent to Withdraw filed and four formerly withdrawn units re-rented in the first quarter of the year. While this is good news, the long-term effects of Ellis withdrawals on the community continue to be substantial with a net loss of 1,921 units since inception of the Ellis Act in 1986.

The Ellis Task Force, established in 2007 to monitor Ellis activity, continued its efforts in 2008. Rent Control Board staff along with the Planning Division researched 50 properties and subsequent Code Compliance inspections resulted in the identification of more than 30 properties that appeared to be occupied without proper occupancy permits. Board staff is working with the Planning Department to ensure these owners comply with the requirements.