



Santa Monica Rent Control Board
2016
Consolidated Annual Report



**Status of Controlled
Rental Housing**

**Impact of Market-Rate
Vacancy Increases**

Impact of the Ellis Act

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Public Counter: 1685 Main St., Room 202
M-Th / Alternate F: 8:00-4:30



Telephone: (310) 458-8751
M-Th: 7:30-5:30 / Alt F: 8:00-5:00



Website: www.smgov.net/rentcontrol



Email: rentcontrol@smgov.net



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Produced by staff of the Rent Control Agency
Executive Director: Tracy Condon

Introduction

Throughout the year, the Rent Control office in City Hall is filled with activity. As you'll see from the *2016 Annual Report*, our daily efforts are directed toward ensuring that everyone affected by the Santa Monica Rent Control Law is able to find answers to their questions and get help in resolving a variety of issues that arise under the law. To do this, we reach out, respond and collaborate.

Information coordinators and analysts who assist the public at our front counter, on the telephone, and by email, noted almost 13,000 interactions with community members during 2016. Through bi-annual newsletters, six annual seminars and our frequently-updated website, thousands of people who live in, own and manage controlled rental units in Santa Monica are informed of the Rent Control Law and other city laws pertaining to renters. Recognizing that knowledge is the key to effective communications, the Rent Control Board began the process of adopting regulations to implement a provision in the City Charter requiring owners to give the tenant a single-page information sheet about the Rent Control Law at the beginning of each tenancy. This provision will apply to all tenancies that start on or after July 31, 2017.

Several trends that began in recent years continued in 2016. To no one's surprise, the median market rate for new rentals continued to rise, making Santa Monica one of the most expensive rental markets in Southern California. Since vacancy decontrol was implemented in 1999, more than two-thirds of the controlled units have been rented at market rates. While new renters face higher initial rents, the annual rent increase for occupied controlled units that is pegged to inflation in the Los Angeles area has provided stability, predictability and benefits for tenants who remain in their units.

The trend of ever-higher rents has prompted many property owners to undertake significant renovations to vacant units to prepare them for future rental. Similar construction activity occurred in the late 1990s and early 2000s, as owners sought to improve their units and collect the highest possible market rents at the advent of vacancy decontrol/recontrol. Anyone who has lived through a construction project knows it can be disruptive. Acknowledging that, the City Council and Rent Control Board put into place practices and procedures that require owners to anticipate, plan for, and mitigate the impact of construction work on current residents.

The recent uptick in construction activity has resulted in increased demand for Board mediation services and hearings to address the unmitigated impacts of this construction work. While the Board can address unreasonable construction practices by granting rent reductions, other city departments issue permits, conduct inspections and investigate possible violations of local laws. Board staff collaborates with representatives of these departments to ensure that owners follow the laws and tenants are not unfairly impacted by the construction work. Over the coming year, the Board will work with representatives from

the Building & Safety and Code Enforcement Divisions of the City to foster interdepartmental communication and to ensure that all members of the community understand their rights and responsibilities when rent-controlled units undergo significant construction.

Continuing a trend that started in 2014, more property owners are using the Ellis Act to evict tenants and withdraw their units from the residential rental market. This year, almost 50 percent of the 90 units on which the Ellis process was initiated were vacant – a trend that has been noted in recent years. Concerned by the increase in Ellis activity, the Board encouraged the City Council to undertake a study to evaluate what factors influence an owner’s decision to exit the rental market. The City Council unanimously adopted the Board’s recommendation, and it is expected that a consultant will be selected soon to conduct the study and make recommendations on how city policies might be amended to reduce the loss of controlled rental housing.

Looking ahead, one of the major initiatives on the horizon will be implementation of the seismic safety retrofitting ordinance that the City Council recently adopted. Hundreds of buildings throughout the city have been identified as needing a structural analysis over the next two to three years to determine whether retrofitting is required. If retrofitting is needed, in most cases, the work will need to be completed within six years from the date that the owner is sent the notice from the Building Official that a structural analysis is required.

Many of the identified properties are rent-controlled buildings. During 2017, staff will conduct an analysis of these properties to help the Rent Control Board determine whether any portion of the retrofitting cost should be passed through to tenants of these buildings. The Board will hold public hearings to hear from the community before making any decision about retrofit costs.

Finally, the staff of the Rent Control Agency invites you to stop by our office in City Hall or call us. If you haven’t already done so, please attend one of our seminars and learn more about the protections provided by Santa Monica’s Rent Control Law. We look forward to meeting you.

Tracy Condon
Executive Director
March 23, 2017

New Developments in 2016

Regulations Amended for MAR Definition upon Lapse of Owner-Occupied Exemptions

To build on the Agency's 2015 initiative to increase monitoring of owner-occupied exempt properties with three or fewer units, in 2016 the Rent Control Board adopted a regulation to define the Maximum Allowable Rent (MAR) for units upon the lapse of an exemption. Regulation 2007 applies the reasoning in the court's decision for Givoni vs. Santa Monica Rent Control Board to establish a MAR. Additional changes require staff to inform owners of previously exempt properties of the revised method for determining the MAR for a unit after the exemption has lapsed (Regulation 12070 (b) (1), (2), and (3)). A new subdivision of Regulation 13001 requires owners, within 30 days after the lapse of the exemption, to register tenancies that began while the exemption was in effect.

Owner-Occupied Exemption Extended to Surviving Spouse

Another change to Regulation 12070 provides that an owner-occupied exemption will not automatically lapse upon the death of the owner if a surviving spouse qualifies for the exemption at the time of the owner's death.

Changes to Rent Decrease Ranges and Petition Forms

The Board expanded the dollar range for decreases that may be granted for an owner's failure to make necessary repairs or restore services or amenities for a rent-controlled unit. This revision was warranted given the significant increase in median market rents in Santa Monica since the ranges were last revised in 2002. The petition form was also changed to reflect commonly encountered maintenance and amenity issues.

Researching Factors Affecting Ellis Withdrawals

In light of increased Ellis activity in recent years, the Rent Control Board adopted a resolution to encourage the City Council to conduct a study to analyze factors that might lead some landlords to withdraw a property from the rental market. The Board believes that the results of the study could provide guidance to the City Council to consider city policies, particularly land use policies, that might be enacted to encourage/incentivize the continued use of properties for residential rental housing and reduce the loss of controlled housing.

Rent Control Information Sheet

At the end of the year, the Rent Control Board began discussion of requiring owners at the time of lease signing to provide new tenants with a single-page summary of the Rent Control Law. The Board adopted a regulation implementing this requirement early in 2017. It applies to all tenancies that start on or after July 31, 2017.

Enforcement Efforts of the Rent Control Legal Department

To ensure enforcement of the Rent Control Law, the Legal Department has continued to identify cases for the Rent Control Board to consider for proactive enforcement. In 2016, the Board authorized initiation of civil actions based on violations of the Law involving illegal removal of controlled units and failure to comply with affordable-unit deed restrictions.

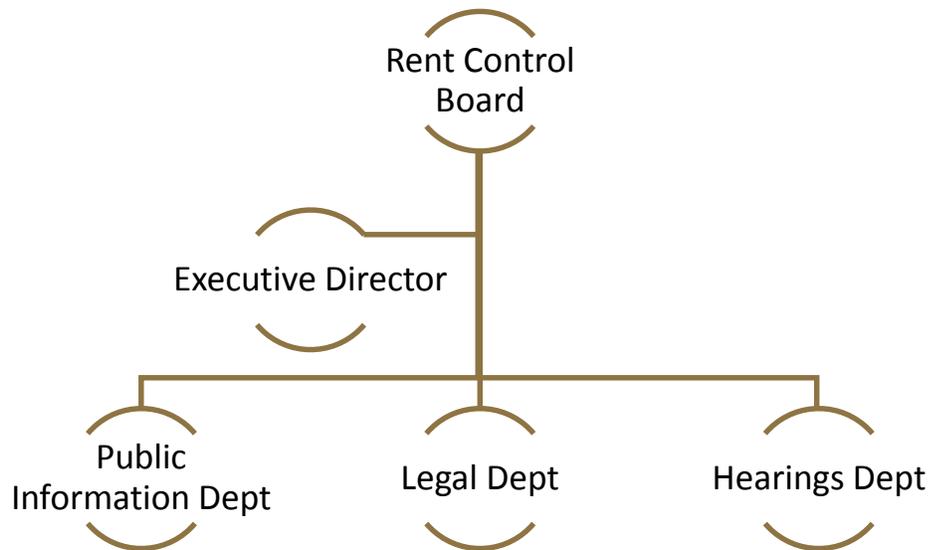


Administration

Rent Control Board

The Rent Control Board is composed of five elected commissioners who are responsible for exercising the powers and performing the duties under Article XVIII of the City Charter. The Board typically meets once a month in the City Council chambers at a scheduled public meeting. In 2016, the Board convened 12 regular meetings.

Agendas for upcoming Board meetings are available in the office of the Rent Control Agency, on the Agency's website at www.smgov.net/rentcontrol and via e-mail for people who sign up for electronic communications. Board meetings are shown live on City TV and by webcast. An archive of past meetings is available on our website.



2016 Rent Control Board Commissioners

- Nicole Phillis (Chairperson)
- Steve Duron (Vice-Chairperson)
- Todd Flora
- Anastasia Foster
- Christopher Walton



Rent Control Board as of January 2017: Front Row from left: Nicole Phillis; Steve Duron, Caroline Torosis; Back Row from left: Anastasia Foster, Todd Flora

Rent Control Agency

The Executive Director

The Executive Director, who is appointed by the Board, oversees the day-to-day functioning of the Rent Control Agency, including: developing a budget; overseeing personnel, contracts and purchases; as well as assisting the Board in developing regulations to implement the Rent Control Law. The Administration Department she oversees also provides direct support to the elected Commissioners by preparing agenda packages, scheduling Board meetings, archiving Board actions and processing correspondence for the Board.

The Administration Department also provides information technology and systems support to the Agency by maintaining the property database, website and software systems, as well as computer and peripheral electronic equipment. To enhance administrative efficiencies and to ensure cross-training, the Agency's administrative support positions are organized as an Office Support Team under the supervision of the Office/Budget Coordinator within the Administration Department.

Public Information Department

The Public Information Department responds to questions from the public about the Rent Control Law and the current status and history of specific controlled units. The department also informs the public about the Agency's services using a variety of media to reach the Agency's constituents. The department publishes semiannual newsletters and prepares an annual report on the state of the controlled housing stock for the Santa Monica City Council. It also maintains the Agency's website, and presents seminars for tenants, landlords, property managers, realtors and other interested members of the public.

Hearings Department

The Hearings Department is responsible for scheduling and holding hearings on tenant- and landlord-initiated petitions, conducting investigations and issuing recommendations and decisions. The department also handles mediation of decrease and excess rent cases and mediates other types of disputes between landlords and tenants.

Legal Department

The Legal Department advises the staff and Board regarding interpretations of the law and represents the Board in legal disputes to which the Board is a party. It prepares and presents staff reports on appeals of hearings and administrative decisions, as well as removal permit applications and exemption applications. It also drafts and updates regulations for Board consideration and adoption to implement the Rent Control Law.

Status of Controlled Rental Housing

Housing Stock

Generally, units that existed when the Santa Monica Rent Control Law was enacted on April 10, 1979 and which at any time since have been used for residential rental purposes are subject to the law. The number of controlled units varies over time as some units receive exemptions or removal permits, other units previously exempt become controlled, and units are withdrawn from, or returned to, the rental housing market pursuant to the Ellis Act.

At the close of 2016, there were 27,594 residential rental units subject to the law. This number excludes pads at mobile home parks, units with no rental history, owner-occupied units, units on properties with owner-occupied exemptions and certain single-family dwellings and condominiums with decontrolled rents (even though these residential spaces may be subject to other provisions of the Rent Control Law).

Compared to 2015, there was a net increase of 52 units subject to the law.¹ This increase is in contrast to recent years when the effect of withdrawals pursuant to the Ellis Act continually chipped away at the size of the controlled rental housing stock. Ellis Act withdrawals continue to deplete the controlled rental housing stock, as is detailed in the *Impact of the Ellis Act* section of this report, but re-rentals of withdrawn units along with increased monitoring of properties formerly granted owner-occupied exemptions have resulted in a modest increase in controlled units as of December 31, 2016.

Figure 1 below shows the total number of units in five major categories that are not currently subject to the Rent Control Law. Some of these may be returned to the controlled housing stock depending on their use in the future.

Fig 1 | Units Potentially – But Not Currently – Subject to Rent Control (as of 12/31/2016)

Ellis Act withdrawals	2,123
Removed per permits	1,734
Owner-occupied exemptions	1,412
Other “use” exemptions	3,542
Total	8,811

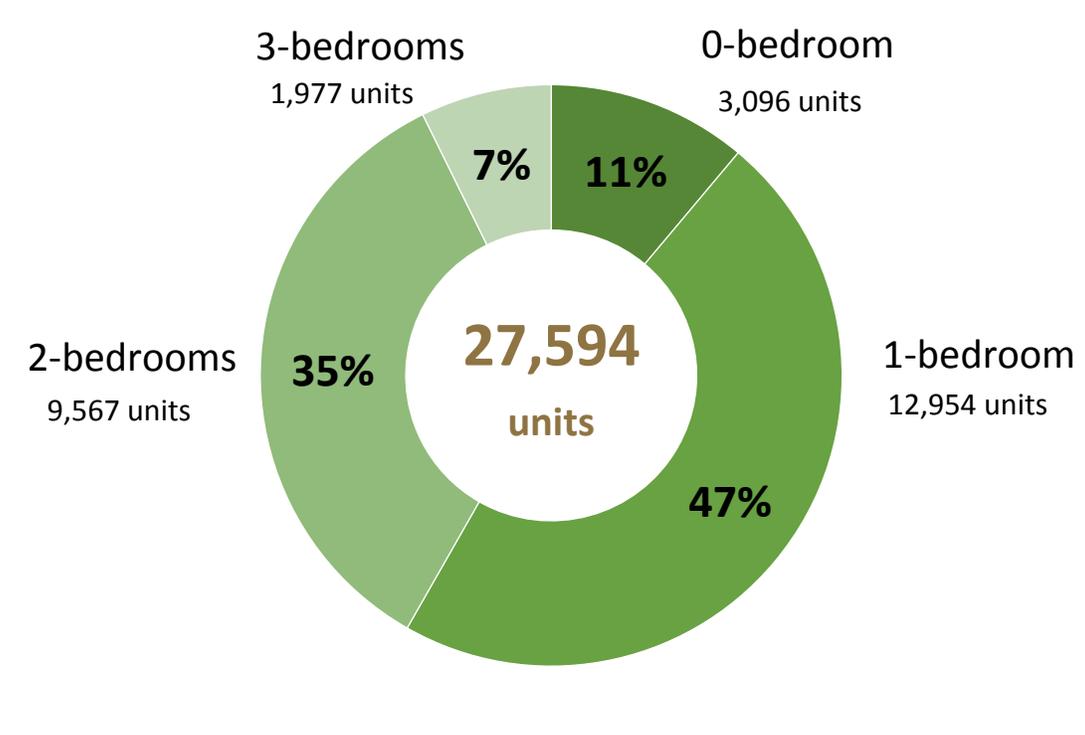
¹ Beginning in 2015, owner-occupied units on properties with four or more units were no longer included as controlled units in this summary because they are not rented. These units are subject to the Rent Control Law if and when they are rented.

Controlled Units by Type

The Rent Control Agency tracks controlled units by type: 0-bedroom, 1-bedroom, 2-bedroom and 3 (or more)-bedroom units. Forty-seven percent, or nearly half, of controlled units are 1-bedroom units. The next largest segment are 2-bedroom units. More than one-third of units are 2-bedroom units. Together, 1- and 2-bedroom units comprise 82 percent of the controlled housing stock. Accordingly, the greatest number of tenants are living in 1- and 2-bedroom units, as there are 22,521 of these units.

Large controlled units, with three or more bedrooms, are the fewest in number – just 1,977. Studios are only slightly more prevalent with 3,096 controlled units of this size in the city. Despite the higher unit count for studios, a greater number of tenants likely live in 3-bedroom units which are able to house more people. In the sections that follow on the *Impact of Market-Rate Vacancy Increases* and the *Impact of the Ellis Act*, it is relevant to consider how changes to the housing stock and median rent levels affect people living in specific unit sizes in Santa Monica.

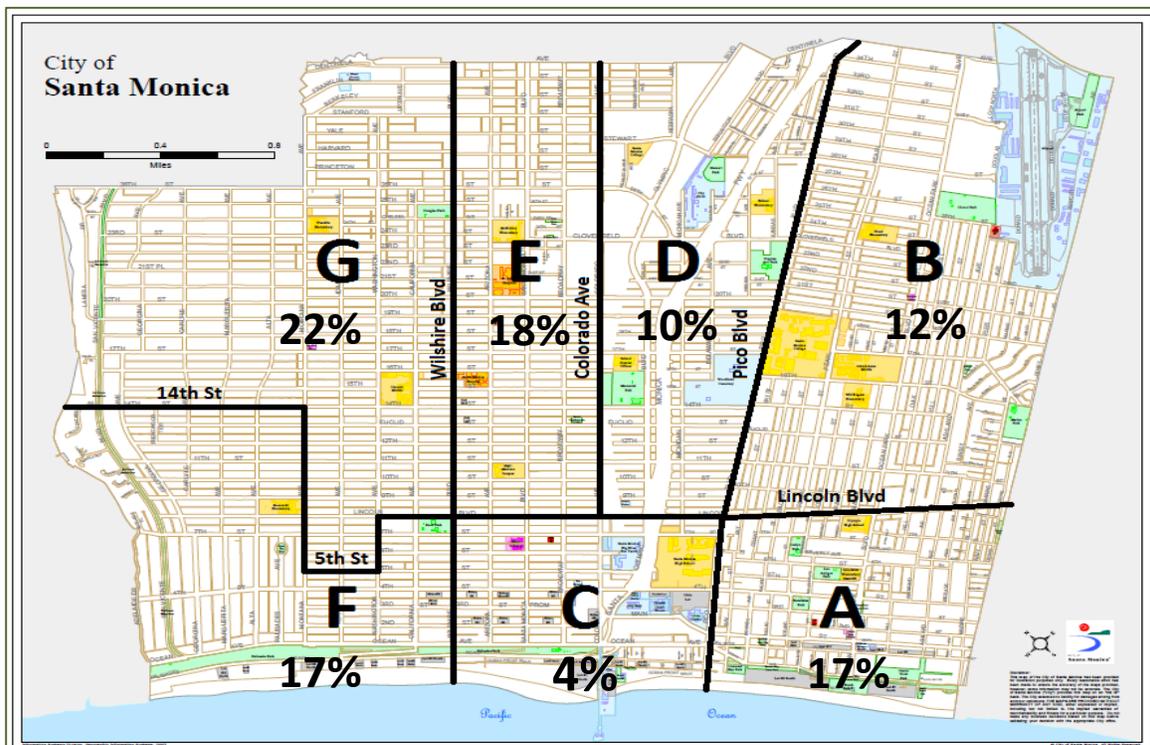
Fig 2 | Percentage of Controlled Rental Units by Unit Size



Mapping the City

In addition to tracking units by their size, the Rent Control Agency segments the city into seven areas that roughly parallel the city’s neighborhoods and census tracts. The Agency reports rental trends by neighborhood identified as Areas A through G in the map below. These areas are referenced throughout this report. The map below shows the percentage of controlled rental units in each area as of December 31, 2016. While there are significant differences in the number of controlled units in each area, the share of each area’s units tends to vary little from year to year. The table below the map compares the number of units subject to the law in 2015 and 2016. As explained above, these changes are primarily due to lapsed exemptions and Ellis activity.

Fig 3 | City Areas and Percentage of Controlled Rental Units by Area



City Area	Controlled Units as of 12/31/15	Controlled Units as of 12/31/16	Difference
A	4,704	4,727	+23
B	3,296	3,296	0
C	1,086	1,073	-13
D	2,853	2,863	10
E	5,046	5,015	-31
F	4,542	4,595	53
G	6,015	6,025	10
Total	27,542	27,594	+52

Impact of Market-Rate Vacancy Increases

The Rent Control Law was first enacted in 1979. For 20 years, Santa Monica had vacancy control and rent levels for controlled units were pegged to rents in effect in 1978. With the passage of the Costa-Hawkins Rental Housing Act by the California State Legislature, as of January 1, 1999, vacancy decontrol became the norm for rent controlled jurisdictions across the state and how rents for new tenancies are established in rent-controlled units in Santa Monica significantly changed. This report quantifies important impacts of this change over the past 18 years.

Prior to the implementation of the Costa-Hawkins Rental Housing Act, rents of most controlled units were based on rents in effect in 1978 plus annual increases authorized by the Rent Control Board. Under “vacancy control,” the controlled rent for a unit did not change even when the unit was vacated and re-rented. Once Costa-Hawkins was fully implemented, however, rents for most tenancies begun January 1, 1999 or after were no longer tied to the rent in effect in 1978. Instead, through “vacancy decontrol/recontrol,” initial rents could be negotiated with each new tenancy at whatever amount the market would bear—so called “market-rate” rents. Those newly set rents remain subject to Rent Control’s annual adjustment limits.

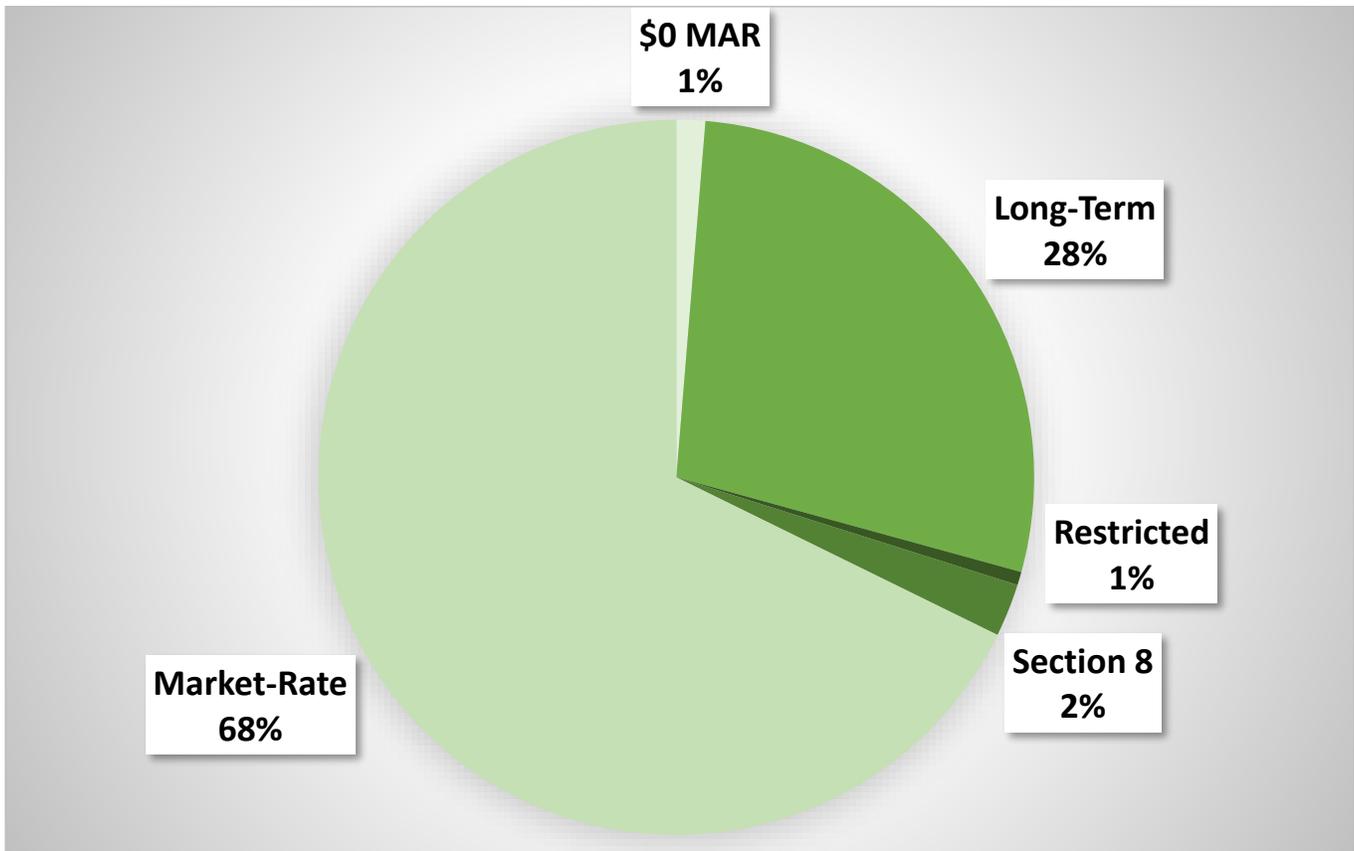
The Rent Control Law equally protects tenants who moved in before vacancy decontrol (identified herein as “long-term” tenants, or pre-January 1, 1999 tenants) and those who moved in at market rates (“market-rate” tenants). Initial rents have been rising, as existing tenants move and apartments are re-rented. New tenants are starting their tenancies paying rent levels that are not only significantly higher than rents paid by long-term tenants, but in many cases, significantly higher than the rents paid by market-rate tenants who rented their units in Santa Monica just one or two years earlier.

Rental registrations provided by owners and maintained by the Rent Control Agency reveal a dramatic escalation of rental housing costs in Santa Monica since Costa-Hawkins took effect. Rental rates in Santa Monica are now some of the highest in the Los Angeles basin. One report by a private organization identified Santa Monica as the most expensive city in the United States of America. Such a distinction was reportedly based on monthly apartment listings for that company alone. This report is based upon official documents filed with the Santa Monica Rent Control Agency and signed under penalty of perjury by the owners of controlled properties or their agents.

Share of Long-Term and Market-Rate Controlled Housing Stock

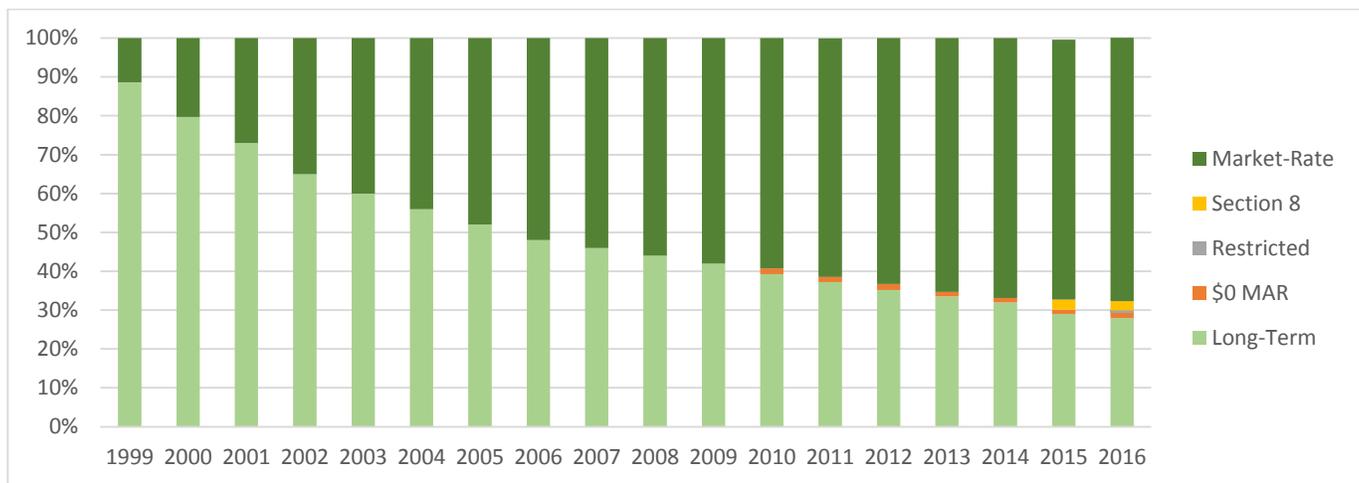
By the end of the 18th year of vacancy decontrol, the share of units occupied by renters paying market rates had increased to 67.8 percent. That percentage is based on 18,718 of 27,594 controlled units that have been rented at least once since January 1, 1999. Twenty-eight percent of the 27,594 units (7,716 units) continue to be rented by long-term tenants.

Fig 4 | Controlled Rental Units by Type – 2016



	# of Controlled Units 2015	# of Controlled Units 2016	Difference
0 MAR	313	349	+36
Long-Term	7,985	7,716	-269
Restricted	120	159	+39
Section 8	707	652	-55
Market-Rate	18,417	18,718	+301
Total	27,542	27,594	+52

Fig 5 | Controlled Rental Units by Type – 1999 to 2016



The Rent Control Agency only began segmenting controlled units by the five categories indicated above in 2015. Early Agency records did not distinguish those units with \$0 MARs, those in the Section 8 program or those with restricted rents.

As represented in Figure 5, the share of units rented at market rates has increased as tenants in long-term units vacate, and those units are re-rented. In 2016, 269 units formerly occupied by long-term tenants were re-rented to market-rate paying tenants. These 269 units comprised approximately 3.4 percent of the units that had not been rented at market rates by the end of 2015. This number is somewhat higher than the number vacated in 2015, but only about half of the average 500 units vacated per year from 2010 to 2015. As median initial rents have increased as much as 50 percent since 2010 (detailed later in this report), many long-term tenants may reason that their most affordable option is to stay in place. Except for people in high income categories, vacating a unit they’ve lived in a long time would likely mean leaving Santa Monica altogether.

Units formerly rented by tenants participating in the Section 8 program that were then re-rented to non-voucher holders also increased the number of market-rate units. Units occupied by tenants with Section 8 vouchers remain subject to the Rent Control Law, but the rents are governed by federal contracts. Agency records regarding units participating in the Section 8 program are based on registration fee waivers applied for by owners. There may be more or fewer actual units in the program because some owners don’t apply for a fee waiver and some may not have let the Agency know a waiver has lapsed. From 2015 to 2016, there was a net reduction of 55 units receiving Section 8 fee waivers.

There are a small number of units that still have no registered rental history and are identified in Figure 4 as \$0 Maximum Allowable Rent (MAR) units. These 349 units are presumed to be owner- or relative-occupied or are not used for a residential rental purpose. This number increased in 2016 because 38 units on a property formerly withdrawn from the rental market under Ellis were returned to the rental market. The units are still being renovated but when they are rented the rent levels will be unrestricted as the withdrawal occurred more than 5 years ago.

Market-Rate Units Widely Dispersed

Excluding single-family dwellings and properties with three or fewer units that may qualify for exemption, 90 percent of properties subject to the Santa Monica Rent Control Law are properties with 4- to 15-units. As noted above, long-term tenants continue to occupy 28 percent of controlled units, but that does not mean 28 percent of property owners have not benefitted from vacancy decontrol and higher rental incomes. As shown in Figure 6, the vast majority of properties have units that have been rented at market rates. The top two bands indicate that, by the end of 2016, on average owners of 86 percent of properties in the 4- to 15-unit range had rented half or more of their units at market rates. The trends indicated in the graph hold true for properties with 16 or more units. Only a small fraction of properties of that size have experienced no market-rate rentals. Similarly, on most large properties, half or more of the units have been rented at market rates.

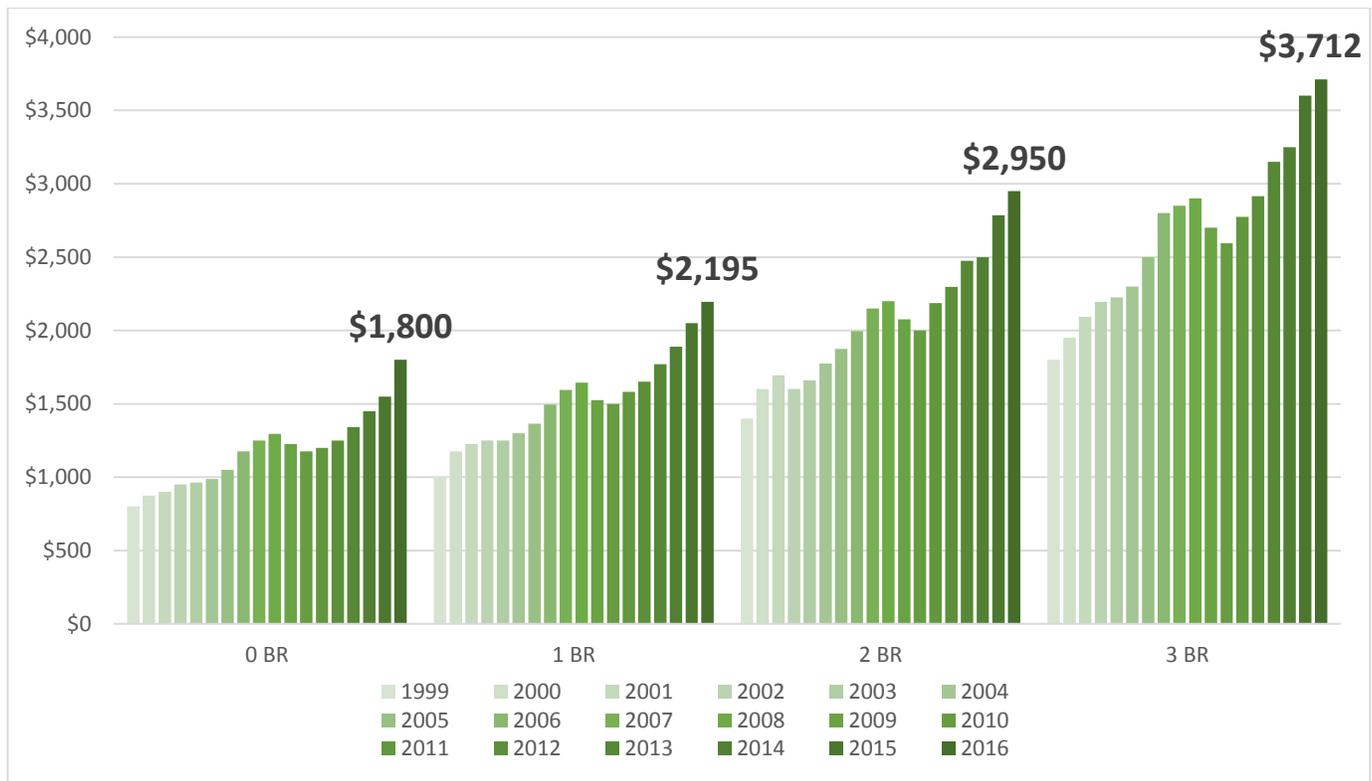
Fig 6 | Share of Market Rentals by Property Size (4-15 Units)



18-Year Review

In 2016, initial median rental rates for controlled units in Santa Monica reached all-time highs. As can be seen in Figure 7, last year was the sixth year in a row when initial rental rates for controlled units set new records across all unit sizes. On average, median rents increased eight percent over 2015. The largest increase was among studios, where the median price for a small unit jumped more than 16 percent, amounting to a \$250 per month increase compared to 2015. Median rents for 1- and 2-bedroom units, which represent the bulk of the controlled housing stock, climbed respectively \$145 and \$165 per month. In 2016, median initial rents for 2-bedroom units were nearly 50 percent higher than they were in 2010. The median rent level means that half of units rented in a given year rented at rates more than the amount indicated and half rented for less.

Fig 7 | Median MARs by Number of Bedrooms



0 Bedroom	1 Bedroom	2 Bedroom	3(+) Bedroom
 up 16.1%	 up 7.0%	 up 5.9%	 up 3.1%
2015 = \$1,550 (+ 6.9%) 2014 = \$1,449 (+ 8.1%)	2015 = \$2,050 (+ 8.5%) 2014 = \$1,890 (+ 6.7%)	2015 = \$2,785 (+ 10.0%) 2014 = \$2,500 (+ 11.4%)	2015 = \$3,600 (+ 10.8%) 2014 = \$3,250 (+ 3.2%)

Chart excludes rentals at 1221 Ocean Ave, a luxury property in City Area C where extraordinarily high rents would distort median rents reported. Median rents reported here for prior years may vary from previously reported amounts due to late registration of tenancies by owners and subsequent updates to Board records.

Newly Established Market-Rate Rents in 2016

The median initial rents for the 2,753 units rented in 2016 by city area and unit size are shown in Figure 8. The number of units re-rented in 2016 was about three percent less than the 2,838 units rented the prior year. The highest rents for studios, 1- and 2-bedroom units were set in Area C, downtown Santa Monica. Generally, areas along the beach continued to command higher rents, particularly Area F north of downtown. As in previous years, the least expensive median rents were established in City Area D, no matter the size of the unit.

Median rent levels reported here and throughout this report are greatly affected by the number of rentals in each category. In any individual city area, the number of units rented by number of bedrooms is relatively small, which results in greater variation in median rents.



Fig 8 | 2016 Initial Rents, Market-Rate Units by City Area



If a unit was re-rented more than once in the one-year period, only the last established market-rate rent is used here. Chart excludes rentals at 1221 Ocean Ave, a luxury property in City Area C where extraordinarily high rents would distort median rents reported. Other than at that property, there was no 3-bedroom unit rented in City Area C last year, so no median is reported here.

Three-Year Review by City Area

While Figure 8 analyzes newly set rent levels by city area and unit size, there may be a limited number of re-rentals in any given area from which to report. Similarly, there may be a limited number of re-rentals of units of a certain size. A three-year view of vacancy increases provides a broader perspective of rental rates because the selection set is larger.

During the three-year period from the start of 2014 to the end of 2016, initial rents were set for 7,658 controlled units citywide. The median rents established over this period are reflected in Figure 9 below.

Pursuant to Rent Control Regulation 3304, the Agency may use this three-year review to establish a market-value rent for a unit when a decision is rendered that a tenant does not use that unit as his or her primary residence.



Fig 9 | 2014-2016 Median MARs, Market-Rate Units by City Area



Chart excludes rentals at 1221 Ocean Ave, a luxury property in Area C where extraordinarily high rents would distort median rents reported. Other than at that property, there was only one 3-bedroom unit rented in Area C during the last three years, so no median is reported here.

Current Median MARs

Once initial rents are set, the Rent Control Law establishes a Maximum Allowable Rent or “MAR” and limits annual increases. Figure 10 shows the current median MARs as of the end of 2016 of all controlled units by city area and unit size, no matter when the tenancies began.

Figure 11 reveals by city area and unit size the difference in median rents of units depending on whether they are occupied by long-term or market-rate tenants. The long-term median MARs are those of units still occupied by tenants who moved in before January 1, 1999. It is not uncommon to see market-rate units renting for twice as much as similarly sized units occupied by long-term tenants in each area.

Fig 10 | Median MARs of All Controlled Units

City Area	0-Bedroom Units	1-Bedroom Units	2-Bedroom Units	3-Bedroom Units
A	\$1,246	\$1,746	\$2,092	\$1,744
B	1,068	1,424	1,888	1,932
C	1,980	1,848	2,817	*
D	1,066	1,435	1,514	1,439
E	1,193	1,508	1,915	1,925
F	1,199	1,823	2,296	2,370
G	1,257	1,724	2,254	2,733

Fig 11 | Median MARs: Market-Rate Units vs. Long-Term Units

City Area	0-Bedroom Units			1-Bedroom Units			2-Bedroom Units			3-Bedroom Units		
	long-term	market-rate	diff.	long-term	market-rate	diff.	long-term	market-rate	diff.	long-term	market-rate	diff.
A	\$617	\$1,419	\$802	\$856	\$1,982	\$1,126	\$1,020	\$2,632	\$1,612	\$1,243	\$3,061	\$1,818
B	538	1,210	672	761	1,601	840	895	2,151	1,256	1,223	2,348	1,125
C	742	2,095	1,353	773	2,645	1,872	852	3,205	2,353	*	*	*
D	512	1,179	667	709	1,600	891	794	1,892	1,098	970	2,567	1,597
E	649	1,300	651	772	1,622	850	1,004	2,186	1,182	1,265	2,698	1,433
F	626	1,430	804	925	1,993	1,068	1,225	2,633	1,408	1,413	3,532	2,119
G	583	1,430	847	814	1,852	1,038	1,107	2,525	1,418	1,439	3,300	1,861

As with Figures 6 - 8, Figures 9 and 10 exclude rentals at 1221 Ocean Ave. * Aside from 1221 Ocean Ave., there are fewer than five 3-bedroom units in Area C so the medians are not reported here.

Current Market-Rate MARs by Year of Tenancy Compared to 2016 Median Initial Rents

As Figure 11 indicates, vacancy decontrol has resulted in median MARs that are much higher for tenants who moved in after 1999 than for long-term tenants. In fact, as each year passes, rates for new tenancies in rent-controlled units are rising. The Rent Control Law’s limitations on the amount of annual rent increases during a tenancy are the only protection for tenants against paying these higher rates. Figures 12 through 15 show by unit size and by the year a tenancy started the monthly savings compared to median MARs set during 2016. These figures are based on the median initial rents set each year since 1999 plus allowed annual general adjustments. The numbers shown below assume owners are charging the maximum allowable rent for a similarly sized unit.

Fig 12 | 0-Bedroom Units: How much below the 2016 Median Initial Rent of \$1,800

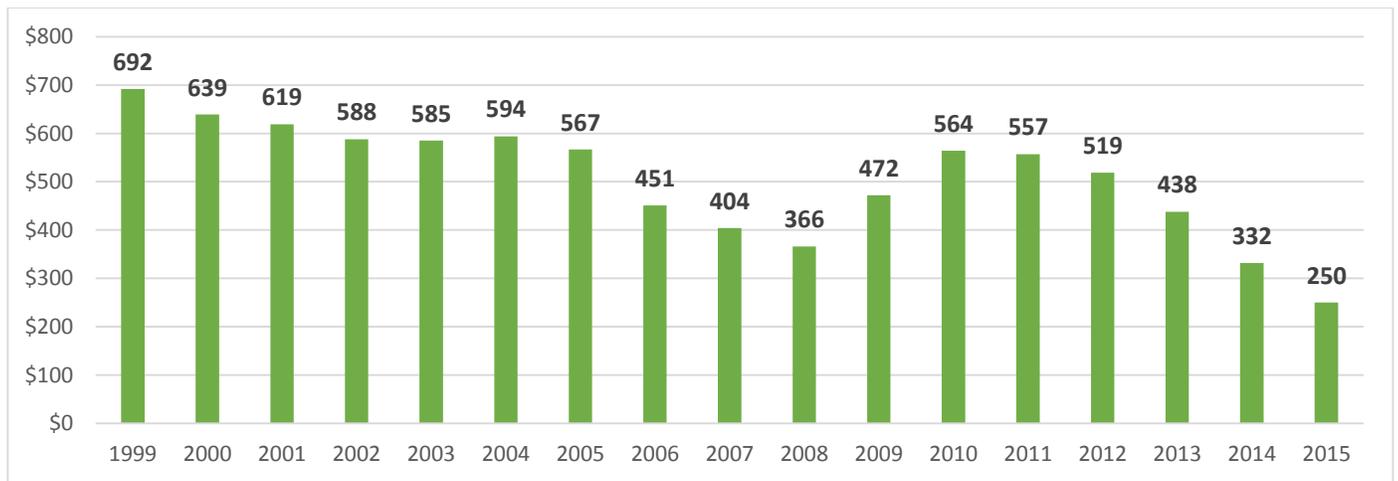


Fig 13 | 1-Bedroom Units: 2016 Median Initial Rent = \$2,195

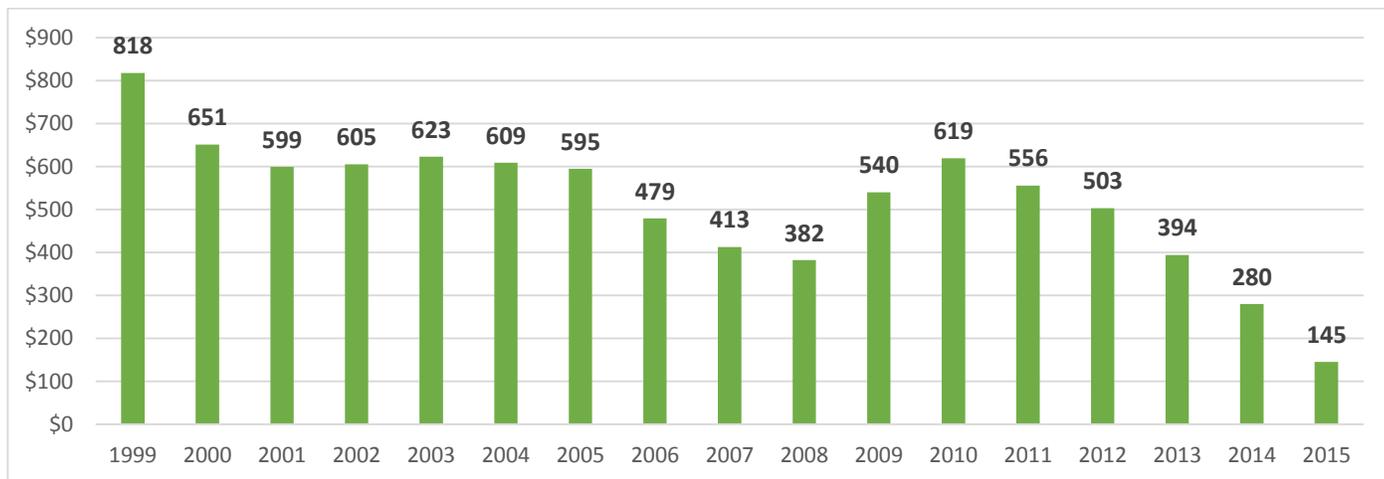


Fig 14 | 2-Bedroom Units: 2016 Median Initial Rent = \$2,950

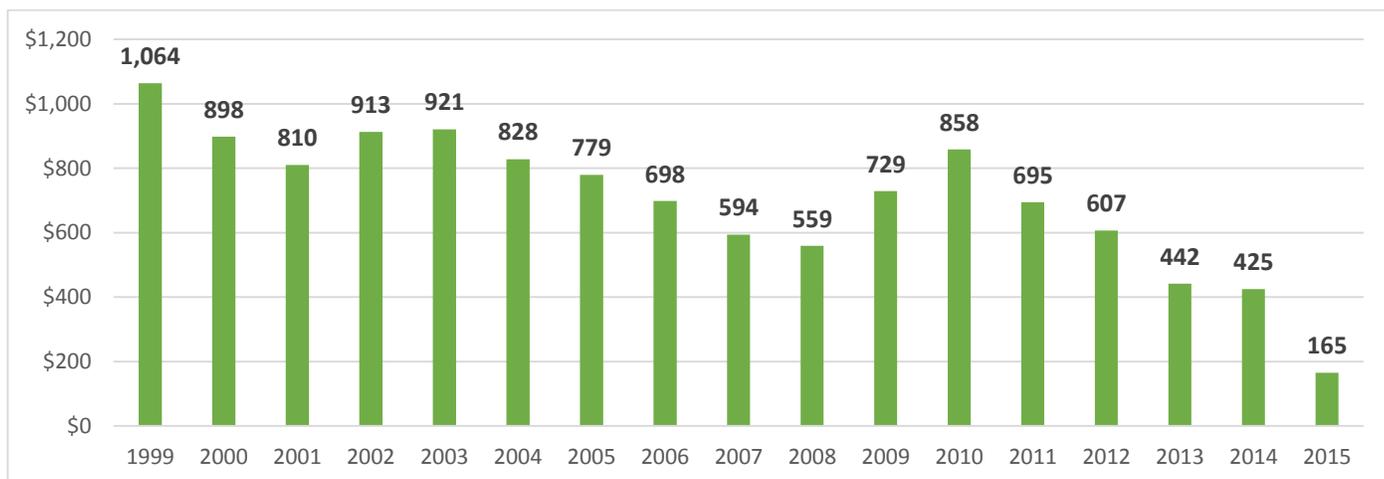
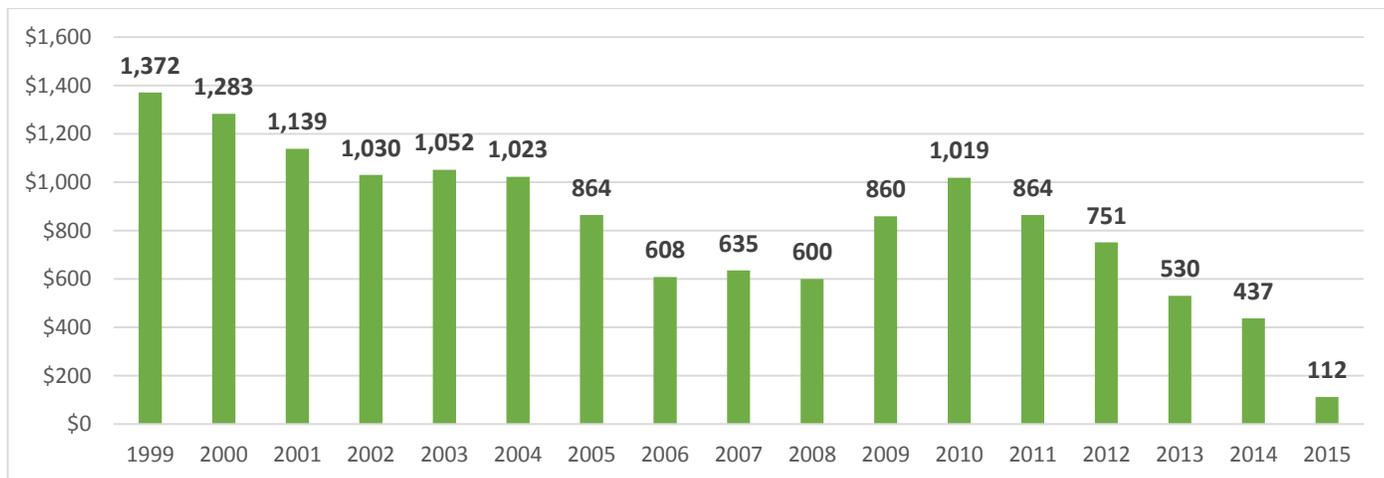


Fig 15 | 3-Bedroom Units: 2016 Median Initial Rent = \$3,712



Affordability Analysis

Figure 16 shows the median MARs today for all controlled units that have been rented at market rates at least once since 1999. It also shows what the rents would be for those same units had vacancy decontrol not been enacted. In other words, it is an apples-to-apples comparison of the same units before and after vacancy decontrol.

The far right column shows the difference in income that would be required to afford a median-priced market-rate unit compared to what that unit would cost today without vacancy decontrol. Given that the California Department of Housing and Community Development (HCD) reports that Area Median Income (AMI) for a four-person household in the greater Los Angeles area was no more than \$64,800 in 2016, and assuming the U.S. Department of Housing and Urban Development (HUD) recommendation that no more than 30 percent of household income be spent on housing, such a household could not afford even a median-priced studio in Santa Monica. To rent any sized unit at median rent levels set last year and have it considered “affordable” by HUD standards would require an income of at least \$80,629, 24 percent higher than the AMI. To rent a 2- or 3-bedroom unit in Santa Monica in 2016, required at least a six-figure household income to have it be affordable. By contrast, had vacancy decontrol not been implemented, any household earning the median household income would have been able to afford any sized unit last year.

Fig 16 | Income Needed to Afford a Market-Rate Unit

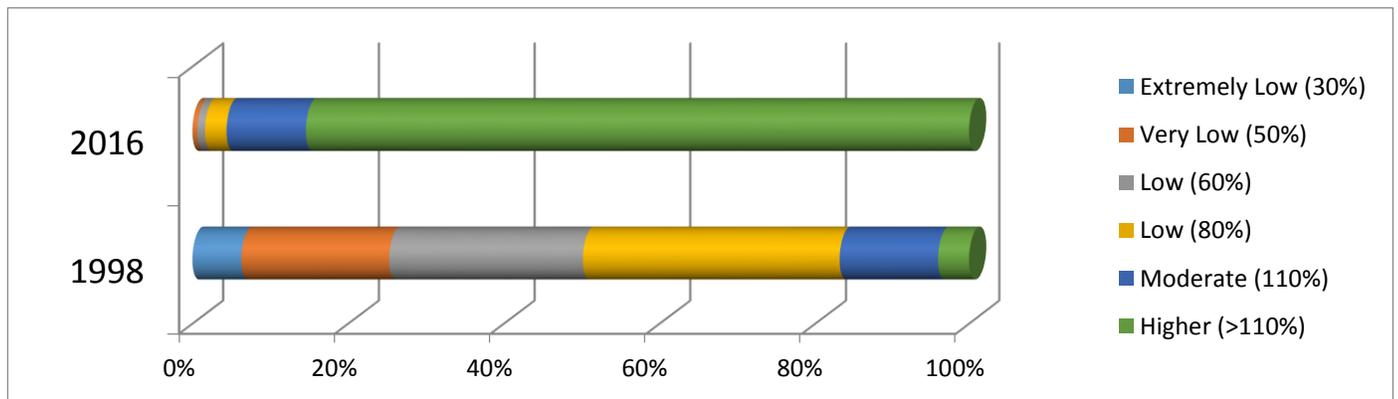
No. of Bedrooms	HUD Affordability Factor	Household Size Adjustment Factor	Without Vacancy Decontrol		With Vacancy Decontrol		Income Difference
			Median MAR	Income Needed	Median MAR	Income Needed	
0	0.3	0.7	\$772	\$44,114	\$1,411	\$80,629	\$36,514
1	0.3	0.8	\$883	\$44,150	\$1,815	\$90,750	\$46,600
2	0.3	0.9	\$1,116	\$49,600	\$2,400	\$106,667	\$57,067
3	0.3	1.0	\$1,438	\$57,520	\$3,032	\$121,280	\$63,760

Calculation: $MAR \div [.30 \text{ affordability factor}] \div [\text{household size adjustment factor}] \times 12 \text{ months} = \text{Income needed.}$

Figure 17 shows the availability of controlled rental units for various income categories and compares that availability in 2016 with availability prior to vacancy decontrol. Again, the figures assume that no more than 30 percent of income is used for rent to be affordable. Prior to vacancy decontrol in 1999, rents for 83 percent of units were affordable to households in the low, very low and extremely low income categories. Today, only 4.4 percent of controlled units' rents can be considered affordable to such households. Many of these units are likely on properties that are required by agreements with governmental agencies to provide low-income housing. The availability of units by income category is represented graphically below. The bands show availability across the income spectrum in 1998 with little affordability for all but the highest income groups as of 2016.

Fig 17 | Comparison of Affordability of Market-Rate Rental Units by Income Category, 1998 versus 2016

Income Category	1998		2016		Change (+/-)
	Units	%	Units	%	
Rent Level Affordability					
Extremely Low (30%)	1,176	6.3	5	0	-99.6%
Very Low (50%)	3,554	19.0	115	0.6	-96.8%
Low (60%)	4,657	24.9	183	1.0	-96.1%
Low (80%)	6,174	33.0	518	2.8	-91.6%
Moderate (110%)	2,402	12.8	1,911	10.2	-20.4%
Higher (>110%)	756	4.0	16,016	85.6	2,018%



The New Santa Monicans

The years in which current tenants moved into controlled units are represented in Figure 18. This figure excludes units with no rental history, Section 8 units and those with rent restrictions. As explained above, 28 percent of currently controlled units are occupied by tenants who moved in more than 18 years ago. Some tenants in these units have lived in Santa Monica even before rent control began in 1979. With a lack of affordable housing options, it is not surprising that tenants in long-term units are not moving from their current residences. Nonetheless, units vacated by long-term tenants accounted for more than 10 percent of vacancies in 2016.

Among the 68 percent of units at market-rates, many tenancies began quite recently. As shown in Figure 19, 50 percent of tenancies in market-rate units began in the past four years, and more than 75 percent began in the past seven years. These recent tenancies, however, tend not to last long. As shown in Figure 20, most units vacated in 2016 were in units where tenancies had begun within the past four years. The greatest number of vacancies were by tenants who started their tenancies in 2013 and 2014. With rents that are perhaps unaffordable, and without deep roots in the community, these tenants seem less inclined to hold onto their rent controlled units. Tenants who have been renting market-rate units for a longer time, however, may realize the financial benefits shown above of remaining in controlled units.

50%

Percentage of market-rate units with tenants who moved in just in the past four years

Fig 18 | Controlled Units by Year Occupied

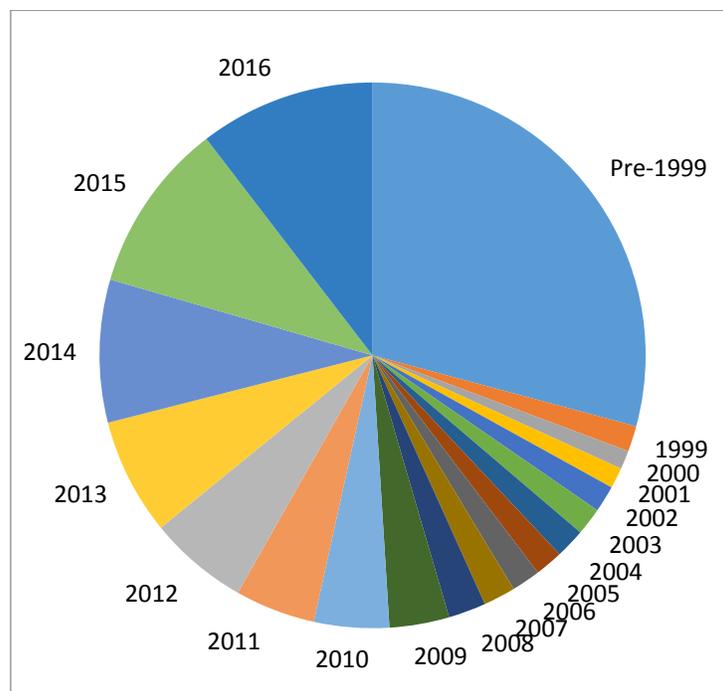


Fig 19 | Market-Rate Units by Year Occupied

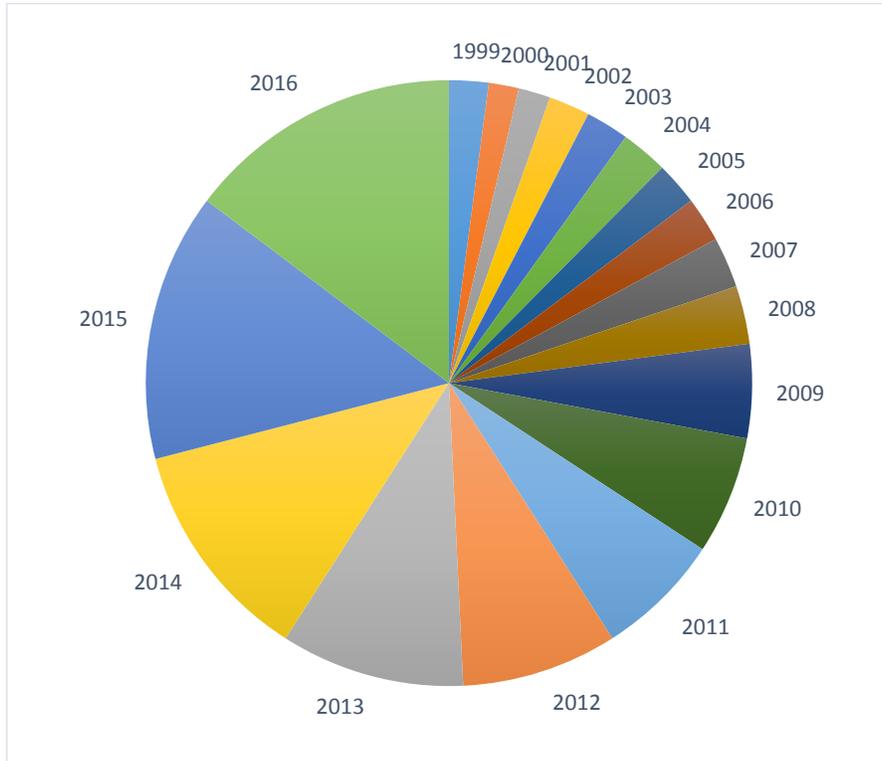
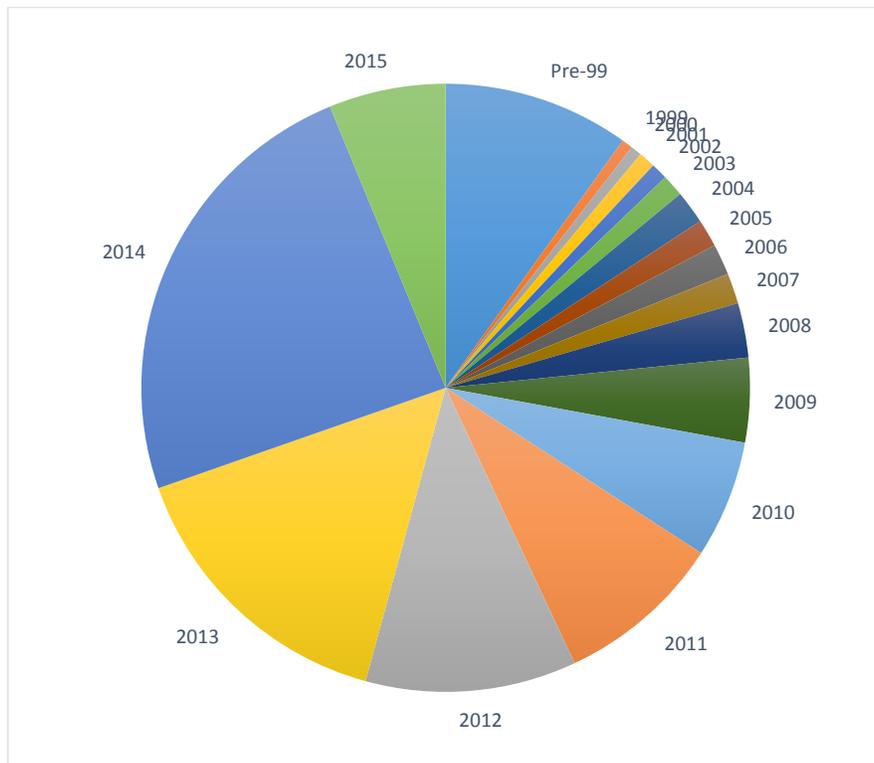


Fig 20 | Units Vacated in 2016 by Year Occupied



Affordability Housing Challenge

One of the five strategic goals established by the Santa Monica City Council is maintaining an inclusive and diverse community. Information in this report makes it clear that achieving this goal in terms of housing affordability will be an uphill battle. Even controlled rental units are generally only affordable to households earning well above what most households in the greater Los Angeles area earn. Two- and three-bedroom units, which could accommodate a family of four, require no less than six-figure incomes.

Even in a City committed to diversity, providing housing opportunities for low-income households remains a challenge. While the Rent Control Agency's records of Section 8 participation is limited to information provided by owners about controlled units, an increase or decrease in the numbers of units with qualifying Section 8 fee waivers is an indication of participation in this program. Controlled units occupied by tenants with Section 8 vouchers were down eight percent in 2016 as compared to 2015. Given the challenge to provide more affordable housing, the City Council and Housing Authority made efforts in 2016 to prevent discrimination and encourage property owners to participate in the Section 8 program. The City applied to the federal government for, and was granted, an increase in payment standards for Section 8 vouchers in Santa Monica. This adjustment makes voucher payment standards more in line with the elevated market rates in the city. The City has also developed an incentive program to offer cash awards to encourage owners to rent to tenants participating in the Section 8 program.

While the most affluent households can afford units in Santa Monica, and there are some programs to assist the least affluent households, those in the middle appear to have limited housing opportunities in Santa Monica. Middle-class households may find housing here only if they are willing share housing or be rent burdened, which means having less money for life's necessities. Moreover, the burden of high rent and its impact on everyday life may negatively affect overall wellbeing.

Impact of The Ellis Act

This report surveys the Ellis Act's cumulative effect in Santa Monica over the 30 years since its enactment, with special emphasis on Ellis activity during the calendar year January through December 2016.

Since the inception of the Ellis Act on July 1, 1986, the State Legislature has only amended the law twice. These amendments have slightly improved the situation for tenants during and after the Ellis withdrawal process.

- January 1, 2000 - the law was amended to extend the withdrawal notice period from 60 to 120 days. It also provided a one-year extension for qualifying senior and disabled tenants.
- January 1, 2003 – the law was again amended precluding an owner from establishing a market rent upon re-rental for a period of five years after a property had been withdrawn.

2016

Report Highlights

23

Withdrawal notices filed in 2016

90

Units affected by notices filed in 2016

44

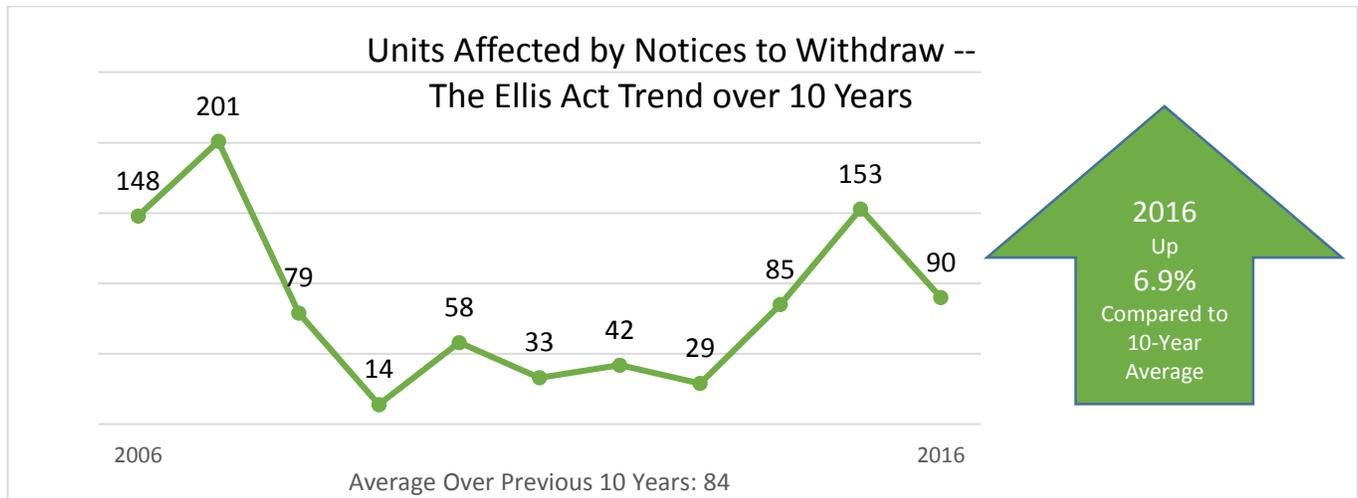
Number of occupied units affected
by notices filed in 2016

2,123

Net total of units withdrawn from
the Santa Monica rent-controlled
housing stock since 1986

Ellis Activity in 2016

During a momentary interruption during the great recession, Ellis activity slowed down from 2008 -2013. However, the resurgence of Ellis activity that began in 2014 has continued at a constant pace into 2016 as shown in the figure below. In 2016, there were 23 Ellis withdrawal notices filed (10 in the first six months and 13 in the last six months) affecting 90 units. Of the 90 units, 44 were occupied by tenants (including eight seniors and five disabled tenants), 42 were vacant and four were owner occupied. More information about these properties is provided in the *Applications to Withdraw in 2016* section on page 29.



Update of 2015 Completed Withdrawals

In last year’s report, it was stated that 13 properties (47 units) completed the withdrawal process in 2015. Complications at the end of the withdrawal process prohibited inclusion of four additional properties (44 units) in the 2015 numbers. Those issues have been resolved and the actual number of completed withdrawals for 2015 was 17 properties with 91 total units. The four properties not included in last year’s figures are summarized in Figure 21 below.

Fig 21 | Additional Completed Withdrawals – 2015

Location	City Area	Filing Date	Withdrawn Date	Units Withdrawn
10 th St	E	11/03/14	11/03/15	21
23 rd St	G	12/17/14	12/17/15	5
34th St	B	12/17/14	12/17/15	12
11th St	E	06/23/14	06/23/15	6

Completion of Withdrawn Units in 2016

Under the Ellis Act, a property is deemed withdrawn from the rental market four months after the owner delivers a withdrawal notice to the tenants and the Board. The withdrawal period may be extended to a year for units occupied by senior or disabled tenants. The Rent Control Board does not consider a property withdrawn until the entire property has been vacated. To verify a withdrawal is complete, the board investigator visits the property to confirm that all the units are vacant.

Twenty-three properties (171 units) completed the withdrawal process in 2016. Tenants were evicted from 94 units, with the remaining units either vacant or owner-occupied when the notices were served. Fifteen withdrawals started in 2015 and completed in 2016, while eight started and completed in 2016.

- Fifteen properties (140 units) started the process in 2015 but did not complete the withdrawal until 2016 because either the units were occupied by senior or disabled tenants who qualified for the one-year extension or the notice was filed late in the year and the 120-day withdrawal was not completed until 2016. These properties are summarized in Figure 22.
- Eight properties (31 units) on which notices were filed in 2016 completed the withdrawal process in 2016 (21 units were vacant, nine units were tenant occupied and one unit was owner occupied. These properties are identified as “Withdrawn” in the list of all notices filed in 2016 in Figure 23 on the following page.

Fig 22 | Completion of Withdrawn Units - Started in 2015 and Completed in 2016

Location	File Date	Withdrawn Date	Units	Evictions	Senior/Disabled Tenants
Exposition Blvd	01/30/15	04/15/16	4	3	2
2 nd St	02/12/15	02/12/16	49	24	15
3 rd St	02/23/15	02/23/16	6	3	3
20 th St	06/18/15	06/18/16	10	3	3
	07/16/15	07/16/16	10	2	2
Appian Way	07/01/15	07/01/16	4	3	1
3 rd St	07/02/15	07/02/16	2	2	3
Pier Ave	09/28/15	01/26/16	1	0	0
California Ave	11/02/15	03/01/16	4	3	0
Hollister Ave	11/10/15	11/10/16	8	7	1
20 th St	11/16/15	11/16/16	10	8	1
5 th St	11/17/15	11/17/16	4	3	3
5 th St	11/17/15	03/16/16	2	3	0
5 th St	12/16/15	04/14/16	3	1	0
Montana Ave	12/16/15	12/16/16	6	4	1
Ocean Front	12/17/15	12/17/16	17	16	8
Total	15		140	85	43

Applications to Withdraw in 2016

Notices to Withdraw were filed on 23 properties (90 units) in 2016. As mentioned above, eight of these properties completed the withdrawal process in 2016. At the end of 2016, 15 properties (59 units) were pending withdrawal. These withdrawals are expected to be completed in 2017.

Fig 23 | Ellis Notices of Withdrawal Filed in 2016

Location	City Area	Filing Date	Status as of 12/31/16	Units Withdrawn	Vacant	Evictions	Senior Tenants	Disabled Tenants	Family Occupancy
Ozone Ave.	B	03/10/16	Withdrawn	2	2	0	0	0	0
Ashland Ave.	B	03/10/16	Withdrawn	2	2	0	0	0	0
9th St	E	03/11/16	Pending	11	2	9	1	0	0
18 th St	G	03/14/16	Withdrawn	8	4	3	0	0	1
18 th St	G	03/29/16	Pending	3	0	2	0	2	1
26 th St	E	04/12/16	Withdrawn	2	2	0	0	0	0
Highland Ave	A	04/20/16	Withdrawn	8	8	0	0	0	0
17 th St	D	05/20/16	Withdrawn	2	2	0	0	0	0
Hollister Ave	A	06/08/16	Pending	3	1	2	0	1	0
Wellesley Dr.	B	06/13/16	Withdrawn	1	1	0	0	0	0
Euclid St	G	08/01/16	Pending	4	1	3	1	0	0
Wilshire Bl.	G	08/01/16	Withdrawn	6	0	6	0	0	0
26 th St	G	08/23/16	Pending	4	1	3	2	1	0
18 th St	E	09/06/16	Pending	2	2	0	0	0	0
9 th St	E	09/09/16	Pending	11	5	6	1	0	0
6 th St	A	09/21/16	Pending	6	1	4	1	0	1
Centinela Ave.	D	09/29/16	Pending	1	1	0	0	0	0
Sunset Ave.	B	10/03/16	Pending	1	0	1	1	0	0
Main St.	A	10/13/16	Pending	2	1	1	0	0	0
Santa Monica Bl.	E	10/13/16	Pending	3	2	1	0	0	0
Alta Ave	F	11/08/16	Pending	1	0	1	0	0	0
19 th St	D	12/15/16	Pending	3	3	0	0	0	0
10 th St	E	12/30/16	Pending	4	1	2	1	1	1
Total	23			90	42	44	8	5	4

Ellis Notices of Withdrawal in 2016 by City Area

In 2016, Ellis withdrawals were initiated in all neighborhoods in Santa Monica, except downtown. The mid-city neighborhood (Area E) was most severely impacted with 33 units noticed for withdrawal.

Fig 24 | Notices of Withdrawal in 2016 by City Area

City Area	Total Units	%
A	19	21
B	6	7
C	0	0
D	6	7
E	33	37
F	1	1
G	25	28
Total	90	



A Few Observations

A few overall observations about the properties on which Ellis withdrawals were initiated in 2016 follow.

- Sixty percent of the properties (14 out of 23) were small properties with three or fewer units.
- Almost 40 percent of the properties (9 out of 23) were vacant at the time the notice was filed with the Board.
- Close to 45 percent of the properties (10 out of 23) had at least one senior or disabled tenant who was entitled to one year’s notice to relocate.
- Rent Control records show that more than three-quarters of the owners that initiated the Ellis process in 2016 had owned the property for less than five years.
- Forty-three percent of properties had been owned for less than one year by the owner who started the Ellis process.

Units Returned to Rent Control Jurisdiction

To return formerly withdrawn properties to the rental market, the owner must follow a legal process that includes notifying the Board of their intention to re-rent the units. If the property is being returned to the rental market within 10 years of withdrawal, the displaced tenants have the first right of refusal to rent the units.

In 2016, owners of four properties (49 units) returned their buildings to residential rental use by properly notifying the Board. One property was withdrawn with 47 units and returned to the rental market with 38 remodeled units. Three of the four properties returned to the rental market more than five years after the withdrawal and therefore the units could be rented at market rate. The remaining property returned to the rental market within two years of withdrawal but because the units were vacant at the time of withdrawal and no tenants were displaced, the owners were not liable for damages for returning the property to the rental market within two years. These buildings are summarized below.

Fig 25 | Units Returned to Rent Control Jurisdiction

Location	Withdrawn date	Re-rental date	Units
Ocean Ave	03/17/09	03/31/16	38
11 th St	04/02/11	06/01/16	5
16 th St	09/10/02	05/09/16	4
17 th St	06/23/15	05/10/16	2

Additionally, in 2016 three withdrawn properties (12 units) were discovered by staff to have been re-rented without the owner following the proper process. These properties are discussed in the enforcement portion of this report on page 34.

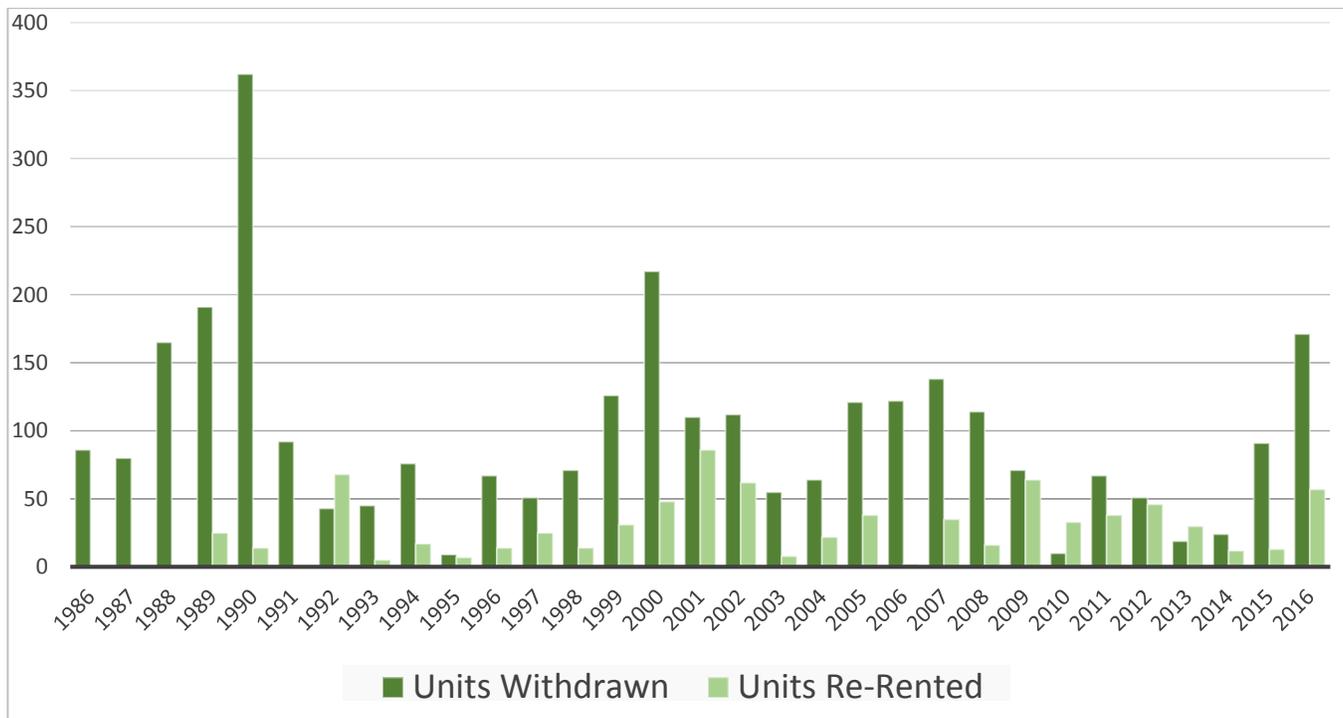
Net Loss of Units in 2016

With 171 units completing withdrawal and 49 units being returned to the rental market, there was a total net loss of 122 rental units pursuant to the Ellis Act in 2016.

Historical Ellis Activity

Figure 26 illustrates the number of units withdrawn, along with the number returned to the rental market each year from 1986 through 2016. Since it was enacted in 1986, the Ellis Act has been used to withdraw 2,975 units from the Santa Monica rental housing market. A total of 852 of these units have returned to residential rental use, resulting in a net loss of 2,123 units.

Fig 26 | Controlled Rental Units Withdrawn and Re-Rentals Returned to Controlled Status (based on year withdrawal was completed)



In last year's 2015 report the number of withdrawn units was lower because of unresolved issues with 4 properties (44 units). These properties have completed the Ellis process and are now included in the 2015 count for withdrawn units.

Status	Units	Properties
Withdrawn from the rental market	2,975	609
Returned to the market and under rent control	852	163
Net loss of units due to withdrawal	2,123	446

Post-Ellis Activity

After a property is withdrawn, there are restrictions imposed by the Ellis Act, Rent Control Board Regulations and the Santa Monica Municipal Code on the subsequent use of the withdrawn units. Any post withdrawal occupancy requires approval of an occupancy permit from the Planning Department.

As Figure 27 shows, properties withdrawn from the rental market are used for a variety of purposes. In 2016, there were not many changes in the use of properties as compared to 2015. Twenty-three percent of withdrawn properties continue to be used for non-residential purposes (commercial, schools/childcare centers/churches, parking lots or vacant lots).

Residential development remains the most common use. Almost 40 percent of withdrawn properties have been redeveloped for multi-family residential use, either condominiums or apartments. Some also include a commercial or mixed-use component. Approximately twenty-two percent of withdrawn properties are now being used as single-family dwellings and 16 percent are being used for non-rental residential occupancy (i.e., family occupancy) or show no permit activity and have been left vacant.

Figure 27 shows the current status of all 446 properties that remain withdrawn since the inception of the Ellis Act. Overall condominium development constitutes the largest reuse category overall.

Fig 27 | Summary of Post-Ellis Use

Summary of Post-Ellis Use of Withdrawn Properties	End of 2016 Totals	
Apartments	24	5%
Apartments / Mixed Use	21	5%
Condominiums	124	28%
Condominiums / Mixed Use	1	<1%
Single-Family Dwellings	99	22%
Commercial	61	14%
Parking Lot	11	2%
School / Childcare / Church	22	5%
Vacant Lot	5	1%
Public Road/Walkway	5*	1%
Total	373	
Family Occupancy / No Activity	73**	16%
Grand Total	446	100%

* These buildings were demolished to facilitate development of the Civic Center Village Project which includes affordable units, condominiums, Olympic Blvd. extension and Tongva Park.

** Thirty-three of these properties have received re-occupancy permits for family use (eight properties have pending re-occupancy permits). One additional property did not require a permit.

Post-Ellis Monitoring and Enforcement

The Rent Control Board in conjunction with the Planning Department, Code Compliance and the City Attorney's Consumer Protection Division work together in overseeing all post-Ellis activity to ensure compliance with laws imposed when a property is withdrawn from the rental market.

Enforcement for 2016

Board staff investigations in 2016 yielded the following results

- Monitoring by staff revealed that one of the four units on a property that had been Ellised in 2003 had been re-rented in 2012. The Board asserted jurisdiction and deemed that the property had returned to the rental market, and was again subject to the rent control law. Because the unit was re-rented more than five years after the property was withdrawn, previously displaced tenants only had the right to request an offer to re-rent their units at market rate; none expressed interest.
- Persistent monitoring by staff in collaboration with the City's Code Enforcement Division finally secured evidence that the owner of a five-unit property had re-rented Ellised units without advising the Board. The Board asserted jurisdiction and deemed the property again subject to the rent control law. Because the property had been vacant when it was originally Ellised, there were no restrictions on the initial rent for any of the new tenancies. The owner has registered current tenancies to comply with the Board's regulations.
- Monitoring of permit activity raised concern about a previously Ellised three-unit property. Investigation by staff confirmed that the property was now occupied without the re-occupancy permit required by Santa Monica's Municipal Code for Ellised properties. The owner responded that the property had undergone extensive renovation, and notified the Board that he was returning the property to the rental market. Once he had done so, he registered new tenancies at market rate because the property had been vacant when it was withdrawn, which means there were no restrictions on the initial rent for any new tenancy.

Conclusion

A stated mission of the Rent Control Charter Amendment is to control the removal of controlled rental units from the housing market. With Ellis withdrawals at pre-great recession highs, the Board wants to understand the factors that could be making withdrawal more attractive to some property owners. At its July 14, 2016 meeting, the Board recommended to the City Council that a study be undertaken to analyze these factors so that city policies might be amended with the goal of reducing the loss of controlled housing. The City Council allocated funds to conduct the study at their August 9, 2016 meeting, bid proposals are due in March 2017, and the City hopes to select a consultant in May 2017.

Policies & Programs

Public Information Department

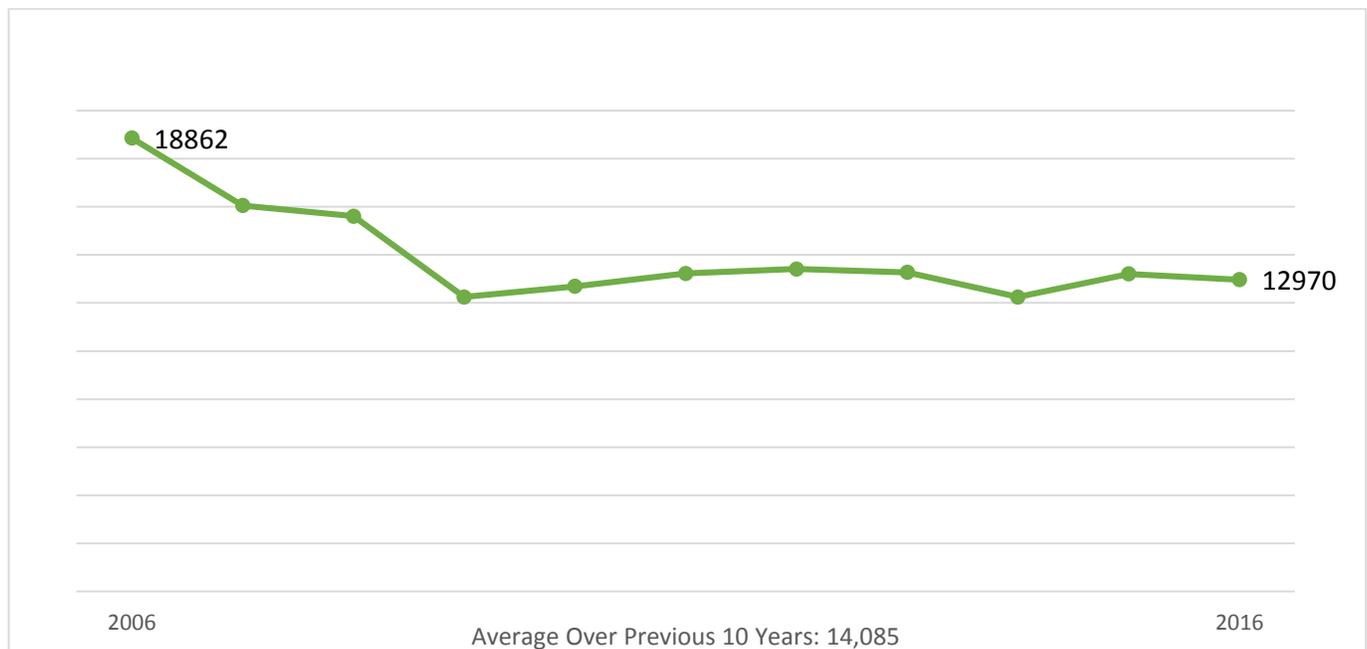
Santa Monica Rent Control staff members communicate regularly with a variety of constituents, including tenants, property owners and managers, real estate agents and other city staff members. Mailings, seminars, community meetings and interdepartmental meetings provide opportunities to discuss Rent Control Law applications in specific contexts and to coordinate solutions.

Public Outreach and Inter-Agency Activity

Direct Communication with Members of the Public

Whether in person at the public counter in the Rent Control office in City Hall, by telephone or e-mail, the public information staff fields a high volume of inquiries from the public. Although lower than the 10-year average for contacts over the course of a year, demand for staff services has remained relatively steady since 2009. About 80 percent of contacts are by telephone, but staff also met in person with property owners, tenants and others more than 2,100 times during the year. Excluding e-mail contact, which is not tracked by user type, 31.7 percent of contacts in 2016 were with property owners, 61.9 percent were with tenants, and the balance were with others.

Fig 28 | Annual Public Information Contacts Trend



Newsletters

The Santa Monica Rent Control Agency publishes a newsletter, the *Rent Control News*, twice a year – in the spring and in the fall. A Spanish language version is available upon request. The newsletter is mailed to tenants and owners and its purpose is to address changes in the Rent Control Law, as well as State and City laws that affect tenants and owners of residential rental property in Santa Monica. It also is used to educate tenants and landlords about their remedies for various issues and to share information on other important current topics and programs.

In 2016, both spring and fall newsletters advised tenants of the current Maximum Allowable Rents (MAR) for their unit according to Agency records. (Owners receive a report of the maximum allowable rents for their properties each summer.) Articles advised tenants that they lived in controlled rental units and described their remedies under the Rent Control Law for lack of maintenance and repairs and for paying too much rent. Other articles included mention of a City pilot program to assist the most severely rent burdened households and a description of the important work of the City’s Senior Task Force, a monthly gathering of representatives from various City divisions and local agencies who meet to determine ways to help “at risk” seniors in danger of losing their housing because of health and safety risks. Additionally, the 2016 newsletters welcomed elected Rent Control Commissioners Anastasia Foster (incumbent) and newcomer Caroline Torosis, and also thanked outgoing Commissioner Christopher Walton for his service on the Rent Control Board since 2013.

Notices of upcoming seminars and inter-agency events were included in each newsletter. Copies of recent newsletters may be viewed on the Agency’s website.

Electronic Communications

Constituents who would like to receive periodic e-mails regarding Board meeting agendas, newsletters and announcements may complete a sign-up form on the Board’s website at www.smgov.net/rentcontrol.

Educational Programs

Rent Control staff members participate in a variety of events organized to interact with the community and convey information about the Rent Control Law. Some of these events are part of a larger, citywide occasion like the annual spring Santa Monica Festival (which was not held in 2016) and others are forums to disseminate information and answer questions the public may have.

Every year, the Agency presents seminars tailored specifically to owners and tenants. Those seminars in 2016 were:

- Owning Rental Property in Santa Monica
- Tenant Seminar on the Rent Control Law
- Calculating the Annual Rent Increase
- Rental Property Maintenance (co-presented with the Santa Monica Code Enforcement Division and Los Angeles County Health Department)
- Landlord/Tenant Forum (offered in collaboration with the Consumer Protection Division of the City Attorney's Office)

52,546

Total website hits in 2016

34,475

Unique website visitors in 2016

Upon request, smaller presentations are prepared for specific groups, such as realtor associations or building-specific tenant organizations. In 2016, staff addressed the Beverly Hills Realtors Association at its annual meeting and attended building-wide meetings at several controlled properties.

Temporary Relocation Counseling

Santa Monica law requires that owners pay a tenant's expenses in certain situations when the tenant is forced to vacate an apartment temporarily. Some examples of when an owner must pay temporary relocation costs are for termite fumigation or "tenting" of a building, for extensive repair or remodel work where a unit becomes temporarily uninhabitable, and when the City orders tenants to temporarily leave because of code violations.

If a tenant is relocated for less than 30 days, the tenant must be paid an amount intended to cover temporary housing, food, laundry and pet boarding. The City Council has set fixed amounts to cover these expenses. If a tenant is relocated for 30 days or more, the tenant is entitled to alternate comparable rental housing.

The Rent Control Agency assists tenants in obtaining temporary relocation benefits and assists landlords in complying with temporary relocation requirements. Assistance typically involves educating tenants and landlords about their rights and responsibilities under the temporary relocation law. It also involves interacting with the staff of the City's Code Enforcement Department to clarify whether the tenant is entitled to relocation and, if so, for how long. Additionally, in cases where landlords are reluctant to pay relocation fees, Rent Control staff refers the matter to the Consumer Protection Division of the City

Attorney's Office for enforcement. In late 2016, the Planning and Community Development Department added a Neighborhood Preservation Coordinator to lead the temporary relocation counseling effort.

Eviction Monitoring

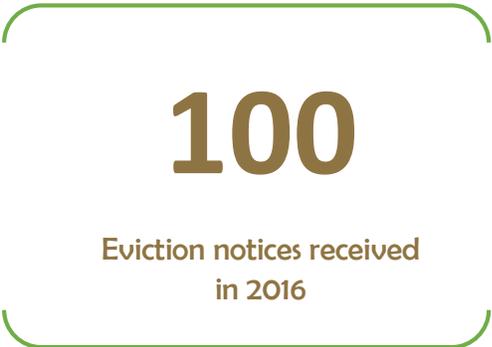
The Rent Control Agency monitors evictions for two main reasons:

- 1) To ensure compliance with the Rent Control Law, which limits the grounds for eviction; and
- 2) When a tenant is evicted without fault (for example, so an owner can move onto the property), the rent for the next tenancy in the unit is restricted to the pre-eviction level plus intervening general adjustments.

Eviction monitoring was enabled by an amendment to the Rent Control Law in 2002 that requires property owners to file with the Agency copies of any eviction notice terminating a tenancy, except when the reason is nonpayment of rent. An owner's failure to submit the copy to the Board within three days of serving the tenant may be used by the tenant as a defense in an eviction action.

The Board received 100 separate notices of eviction in 2016 (this does not include notices for Ellis withdrawals, but does include 22 notices for non-payment of rent and one notice related to the granting of a removal permit). The notices included 30 for alleged nuisance, 28 for breach of contract (lease terms), seven for illegal subtenants, and one for a tenant's alleged refusal to provide access to their unit. Eleven notices of eviction were received for owner move-ins.

In 2010, Measure RR changed the law to require owners to give warning letters to tenants prior to starting an eviction action for breach of contract, nuisance or denying reasonable access to a unit. The warning letter gives tenants an opportunity to correct the problem identified before it rises to a cause for eviction. The law does not require owners to file warning letters with the Rent Control Board. Nevertheless, 56 warning letters were received in 2016.



100

Eviction notices received
in 2016

Participation in Inter-Agency Committees

Rent Control staff members participate in several of the City's interdepartmental groups designed to facilitate collaboration and to educate employees about the City's larger comprehensive goals.

The *Sustainability Advisory Team* meets during the year to discuss ways City departments can meet sustainability goals.

The *Senior Task Force* meets once a month and is overseen by Human Services. Staff members from various City divisions, as well as Legal Aid, Wise and Healthy Aging, meet to coordinate ways to help seniors in danger of losing their apartments due to a hoarding disability.

Smaller groups, organized to accomplish the specific tasks of normal operations of the City, meet as the need or opportunity arises. Rent Control co-sponsors the Maintenance of Residential Rental Property seminar with Code Enforcement and communicates with the City Attorney's Office and Code Enforcement regularly regarding relocation disputes, maintenance and enforcement issues, use of withdrawn properties and other challenges.

Apartment Listing Service

The Rent Control Agency provides a free service for landlords to advertise their available rental units in the city. The list of available apartments is updated weekly and may be obtained on the Board's website at www.smgov.net/rentcontrol or at the office in City Hall.

Owners may submit a listing by telephone or in person at the Rent Control office or by using a convenient e-mail form on the Agency's website. The listing includes the unit's address, number of bedrooms and bathrooms, rent amount, amenities, phone number, contact person and brief comments. In 2016, the Rent Control Agency received 89 listings, up from 47 listings in 2015.

Fee Waivers

The Rent Control Agency may approve waivers of Rent Control registration fees for units occupied by owners, subsidized by HUD (Section 8 and HOME) or other affordable housing programs, or occupied by very-low-income tenants who are senior or disabled people. There are also fee waivers for condominiums and single-family dwellings for which rent restrictions have been lifted pursuant to the Costa-Hawkins Rental Housing Act.

The change in the number of low-income senior fee waivers since the full implementation of vacancy decontrol 18 years ago is noteworthy. At the end of 1998, 791 tenants held senior fee waivers. As the following table shows, there were only 240 senior fee waivers as of December 31, 2016.

The following table shows the number of fee waivers of each type that were active in 2016, along with the change in the quantity from 2015.

Type of Fee Waiver	As of 12/31/15	As of 12/31/16	Difference
Low-income senior	255	240	-15
Low-income disabled	96	90	-6
Owner-occupied	2,176	2,159	-17
Single-family dwelling	1,517	1,539	+22
HUD subsidized (Section 8)	713	652	-61
HOME/Tax Credit Units	173	189	+16
Total	4,930	4,869	-61

Policies & Programs

Hearings Department

The Hearings Department handles tenant- or landlord-initiated petitions, complaints and applications. It conducts mediations and hearings to assist members of the public seeking to resolve rent control-related issues.

Mediation

The Hearings Department provides mediation services as part of the decrease petition and excess rent complaint processes, as well as for some matters not raised by petition. Mediation is provided as a means to settle disputes without the need for a hearing. Participation in mediation is voluntary.

Why it Works

Settling disputes through mediation, with the help of a trained facilitator (the mediator), is often less confrontational and allows the parties to safely air their differences and reach a mutually satisfactory agreement. Mediation provides an opportunity to tailor solutions that meet each party's specific needs.

Success rate

The mediators have been very successful in settling a large percentage of cases, in whole or in part, resulting in fewer hearings or narrowing the issues to be considered at a hearing.

Hearings

Hearings are held for decrease and excess rent cases not fully resolved through mediation and for all other types of petitions, complaints and situations for which Rent Control regulations call for a hearing. If a party disagrees with the outcome, the hearing officer's decision may be appealed to the Rent Control Board. Appeals are reviewed and Board action recommended by the Board's Legal Department. Contested applications for exemption of two- and three-unit owner-occupied properties are referred to the Hearings Department for a hearing, resulting in a recommendation to the Board. Contested lapses of such exemptions may also be referred for a hearing and recommendation to the Board.

How it Works

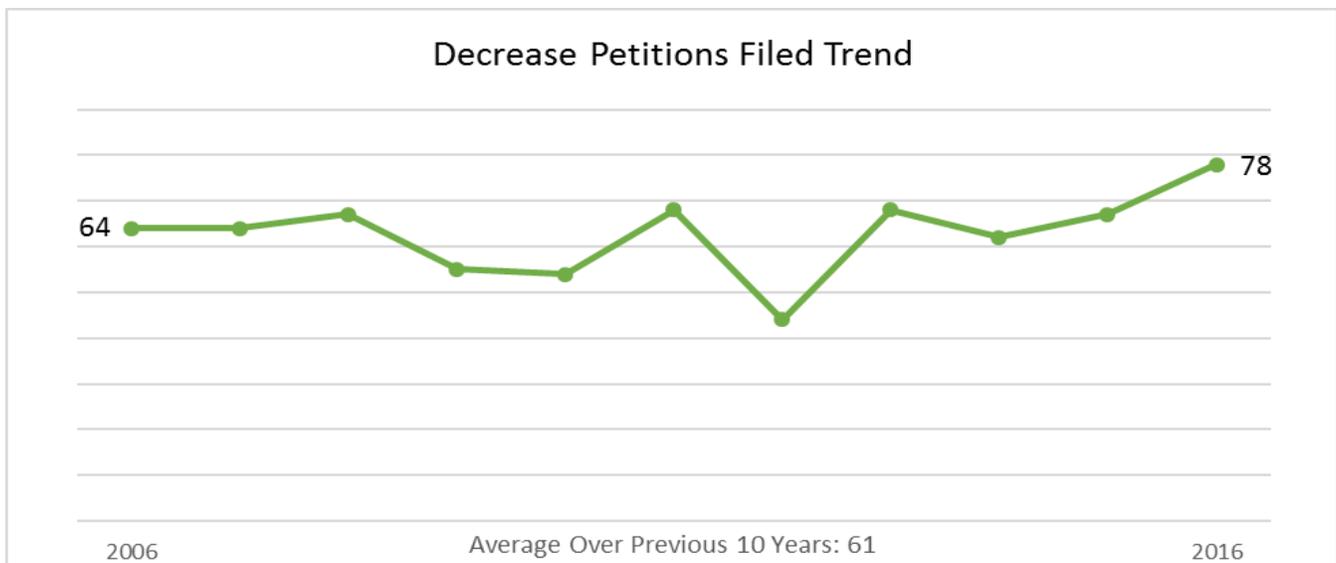
At the hearing, the hearing officer takes evidence from the parties, including witness testimony and documentary evidence. If appropriate to the issues in the case, a hearings staff investigator will visit a property before the hearing to document the conditions and then present that evidence at the hearing. In most cases the hearing is concluded in one day. Some cases are more complex and require multiple hearings. After the hearing process, the hearing officer reviews the evidence and issues a detailed written decision.

Petitions and Complaints

Individual Rent Adjustments:

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. Seventy-eight decrease petitions were filed in 2016. Before filing the petition, a tenant must request in writing 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 a decrease petition is filed, a mediation settlement conference is scheduled in an attempt to resolve the issues without a hearing. Matters not resolved in mediation go to a hearing, where the hearing officer will consider all of the evidence and issue a written decision that could include the granting of a rent decrease if warranted.



Reinstatement of Decreases

If a rent decrease is granted, the decrease amount is only reinstated (added back into the rent) when the owner makes the required repairs or restores the services for which the decrease was granted. Property owners wishing to have a decrease amount reinstated must first file a notice (“Request for Compliance and Addendum”) with the Agency that the subject problem has been corrected. Nineteen compliance requests were received in 2016. Once the Agency receives a compliance request, action is taken to verify that the conditions for which the decrease was granted are corrected and a proposed addendum is issued. If the petitioner and/or respondent disagree with the proposed addendum, a hearing is held, after which a final addendum is issued. If no hearing is requested, the proposed addendum is made final. Decrease amounts are reinstated for each properly corrected condition. Addenda may have been issued on cases decided during the current year or on decisions issued in prior years.

Appeals of Decrease Petition Decisions

Eleven appeals were filed on hearing officer decisions in 2016. All of the decisions had granted decreases for various conditions. Board decisions were issued on four of the appeals, three were withdrawn by appellants, one appeal was rejected as it was filed by a person not authorized to act on the owner’s behalf, and one untimely appeal was not considered by the Board. Two of the appeals filed (both by tenants) were still pending at the end of the year.

In the four appeals for which decisions were issued, the Board fully affirmed the hearing officer decisions in two of the appealed cases, both filed by owners. The Board modified the other two decisions, both appealed by the tenants, increasing the amounts of the decreases granted in both decisions.

52%

Decrease petitions resolved in mediation

(Does not include 24 pending cases and three cases withdrawn or dismissed)

46%

Decrease petitions filed in 2016 that were for market-rate tenancies (36 units)

New Decrease Petitions		
Decrease petitions filed in 2016		78
<i>withdrawn or dismissed prior to mediation or hearing</i>	4	
<i>referred to mediation</i>	52	
<i>pending referral to mediation</i>	9	
<i>referred directly to hearing or referred prior to mediation</i>	12	
<i>resolved prior to mediation</i>	1	
Mediation Activity		
Cases mediated during 2016		69
<i>current year cases</i>	52	
<i>carried over from prior year</i>	17	
Status at end of 2016		
<i>withdrawn / dismissed (tenants vacated, refiled petitions or non-responsive)</i>	3	
<i>resolved — case closed</i>	22	
<i>no resolution — referred to hearing</i>	17	
<i>partial resolution — referred to hearing</i>	3	
<i>pending</i>	24	
Hearing Activity		
Active cases during 2016		44
<i>referred directly to hearings</i>	12	
<i>referred from mediation</i>	20	
<i>ongoing from prior year</i>	12	
Status at end of 2016		
<i>withdrawn or dismissed</i>	10	
<i>decision granting decrease</i>	23	
<i>decision denying decrease</i>	1	
<i>pending</i>	10	
Decrease Reinstatements		19
<i>decreases fully reinstated</i>	8	
<i>decreases partially reinstated</i>	8	
<i>no reinstatement as compliance requirements not met</i>	3	

Individual Rent Adjustments: Construction Decrease Petitions

The construction decrease regulations allow for rent decreases to address construction-related impacts on tenants residing in buildings undergoing substantial rehabilitation. The decrease amounts are based, in part, on the length of time a tenant experiences problems, the severity of the problems, and the specific impact on the petitioner. When the Agency becomes aware of substantial construction activities on a property, it issues a notice informing the property owner and the tenants that rent decreases may be authorized for construction-related impacts. The notice offers the Board's mediation services to work with the parties to explore solutions, including mitigating the impacts and temporary rent reductions. Tenants may file petitions before, during, or after the mediation process.

The Agency issued construction decrease notices to owners of eight properties in 2016. Tenants responded to the notices from five of the properties. For one property, mediation discussions were held and all issues were successfully resolved; for another property, mediation discussions were held during 2016 and the parties later settled outside of mediation; for two properties, mediation discussions were begun and are on-going. Petitions were filed on only one of the properties. For this property, consisting of eight units, mediation discussions were held but no resolution was reached and the matter was referred to hearing. The hearings process was pending at the end of 2016.

In addition, mediation discussions were held on a petition filed on a property where the construction notice was issued in 2014. No resolution was reached and the matter was

referred to hearing. It was pending at the end of 2016. (A consolidated decision was issued for seven other petitions filed on this property, further discussed below.)

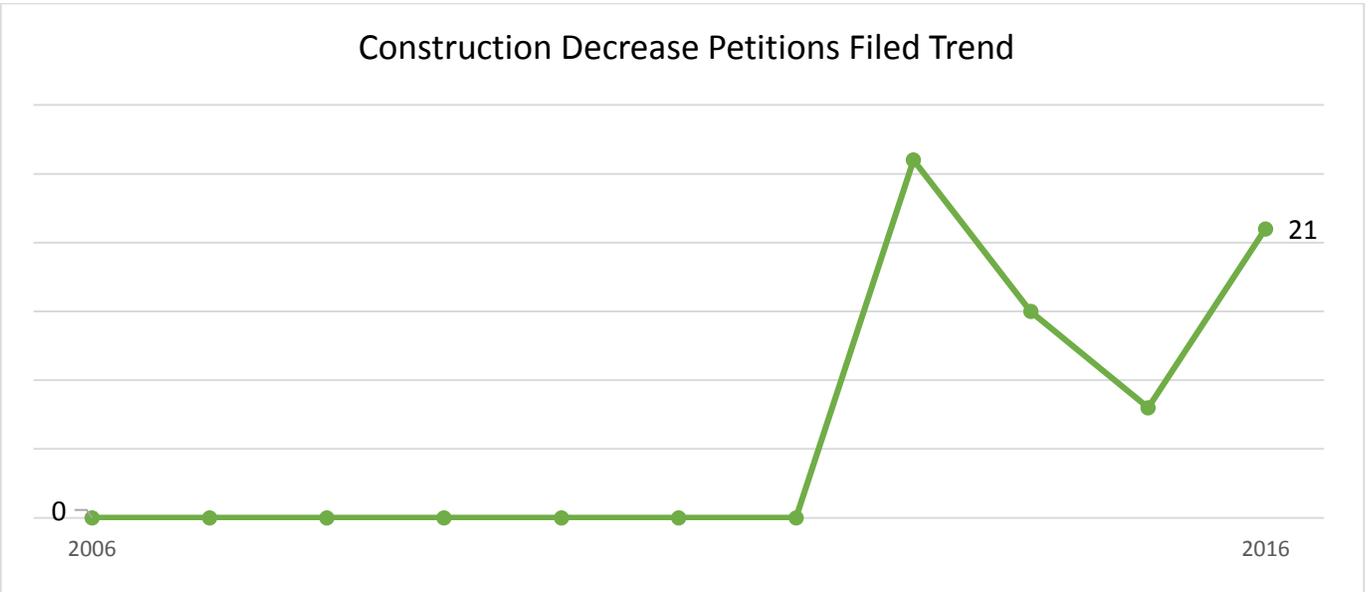
Also during 2016, mediation discussions were continued from 2015 for two properties. Ten petitions were filed for one property and two petitions were filed for the other property. For the property with ten petitions, the matters were ultimately resolved in private settlement agreements and the petitions were withdrawn. For the property with two petitions, the matter was referred to hearing and was pending at the end of 2016. (One of the petitions was withdrawn following the first hearing as the petitioners vacated the unit).

During 2016, hearing officer decisions were issued for two properties after a series of hearings were conducted. The hearing officer granted decreases on all seven petitions on one property and six petitions for the other property.

In addition, an addendum was issued on the latter property at the end of 2016, extending the schedule of decreases as the repairs were not completed in the time frame estimated.

One tenant appealed the hearing officer decision issued on the seven-petition property. The Board affirmed the hearing officer decision.

Construction Decrease Petitions 2016	
Agency construction notices issued in 2016	<i>8 properties</i>
Petitions filed in 2016	<i>21 (3 properties)</i>
Mediation Activity	
Mediation services initiated in 2016	<i>5 properties</i>
Mediations continued from 2015	<i>2 properties</i>
Pending mediation at end of 2016	<i>2 properties (no petitions filed yet)</i>
Hearing Activity	
Active cases in Hearings during 2016	<i>5 properties</i>
Referred to Hearings in 2016	<i>3 properties (11 petitions)</i>
Ongoing in Hearings from prior years	<i>2 properties (13 petitions)</i>
Decisions issued	<i>2 properties (13 petitions)</i>
Pending decisions	<i>3 properties (10 petitions)</i>



Excess Rent and Non-Registration Complaints

Rent Control regulations allow a tenant who believes he or she is paying more than the maximum lawful rent or whose landlord has not registered the property or tenancy with the Rent Control Agency to petition the Board for recoupment of monies paid that exceeded the maximum lawful rent or to withhold rents until the landlord has registered the property or tenancy. The cases are initially sent to a mediator for resolution. In some instances, cases are administratively resolved based on a proposed resolution conveyed to parties in writing prior to the mediation. Cases not resolved by mediation are decided by a hearing officer following a hearing.

Appeals of Excess Rent Complaint Decisions

Appeals were filed by landlords on five of the ten decisions issued during 2016. The Board affirmed the hearing officer decisions on four of the appeals and remanded the fifth decision appealed back to the Hearings Department to gather additional evidence. The remand decision was pending at the end of 2016.

Newly Filed Excess Rent & Non-Registration Petitions		
Petitions filed in 2016		29
<i>withdrawn or dismissed prior to mediation or hearing</i>	4	
<i>referred directly to hearing or referred prior to mediation</i>	8	
<i>referred to mediation</i>	16	
<i>pending referral</i>	1	
Mediation Activity		
Cases mediated during 2016		24
<i>current year cases</i>	16	
<i>carried over from prior year</i>	8	
Status at the end of 2016		
<i>withdrawn or dismissed without mediation</i>	1	
<i>resolved — case closed</i>	11	
<i>resolved administratively</i>	2	
<i>no resolution — referred to hearing</i>	5	
<i>pending</i>	5	
Hearing Activity		
Active cases during 2016		16
<i>referred directly to hearings</i>	8	
<i>referred from mediation</i>	5	
<i>ongoing from prior year</i>	2	
<i>remanded back to hearings</i>	1	
Status at the end of 2016		
<i>decision substantiating complaints</i>	9	
<i>decision not substantiating complaints</i>	1	
<i>Pending</i>	6	

62%

Excess rent complaints filed in 2016 that were for market-rate tenancies (18 units)

72%

Excess rent complaints fully resolved administratively or by mediation (Does not include 5 pending cases and 1 withdrawn case)



Individual Rent Adjustments: Increase Petitions

Property owners may petition the Rent Control Board for rent increases above the yearly general adjustment for completed or planned capital improvements, lack of a fair return or increased operating expenses not covered by the general adjustments. During 2016, no petitions of this type were filed although a number of owners contacted staff seeking guidance about how to properly fill out increase petitions and what documentation and information was needed.

Individual Rent Adjustments: Tenant-Not-in-Occupancy Petitions

Rent Control Regulation 3304 allows for a one-time increase to market level for a unit the tenant does not occupy as his/her usual residence of return. When a tenant-not-in-occupancy case is accepted for filing, the petition is handled administratively if the tenant does not contest the owner’s petition, or is referred to a hearing if the tenant contests the petition. A petition may be dismissed if a sufficient *prima facie* case is not made at the time of filing or

may be withdrawn if the subject unit is vacated. If the petition is granted, the Board sets the new Maximum Allowable Rent (MAR) for the unit based on rents for comparable units on the property or the three-year median MAR for the city area.

During 2016, twelve new petitions were filed. Three of the petitions were withdrawn. One petition was dismissed following hearings as the owners had also taken a Costa Hawkins increase for the subject unit and per Board regulations owners are not eligible to pursue the Tenant-Not-in-Occupancy Petition if they opt to take a Costa Hawkins increase. (The tenant contested the Costa Hawkins increase and filed an Excess rent petition which was pending at the end of 2016.) One petition pending from 2015 was also withdrawn.

Two petitions were not contested by the tenants and administrative decisions granting the petitions and setting new rents were issued. In one of those cases, both the tenant and the owner requested a hearing regarding the rent level. Following a hearing, a hearing officer decision was issued setting the rent level as determined in the Administrative Decision.

Hearing Officer decisions were also issued on two petitions referred to hearings after the subject tenants contested the petitions. One petition was granted and the other was denied. Three other contested petitions, referred to hearings, were pending at the end of 2016. In addition, one petition was pending dismissal at the end of 2016 as it did not present a sufficient *prima facie* case.

Appeals of Tenant-Not-in-Occupancy Decisions

One appeal, filed by the tenant on a decision granting the owner’s petition, was affirmed by the Board; another appeal filed by both the petitioner and tenant was pending at the end of 2016.

Petitions to Register Previously Unregistered Units

Petitions may be filed with the Rent Control Board when an owner seeks to register a unit that has never been registered. This most often occurs in cases where a unit was built without permits (i.e., a bootleg unit). For a unit to be qualified to register, the petitioner must show that the unit is habitable or capable of being made habitable and the unit was either used as a residential rental unit in April 1979, (or in the 12 months that preceded April 1979), or the unit was created by conversion after April 1979 and conforms to the city’s zoning and development standards. During 2016, one petition of this type was filed. An administrative decision was issued granting the petition and was not challenged. In addition, a hearing officer decision was issued in one petition pending from 2015. The hearing officer denied the petition. The owner filed an appeal of the decision. The Board affirmed the hearing officer decision.

Tenant-Not-in Occupancy Activity		
Active Cases in 2016		13
New Cases filed in 2016	12	
<i>Pending from 2015</i>	1	
Status at end of 2016		
<i>Withdrawn or Dismissed</i>	5	
<i>Administrative Decisions</i>	2	
<i>Hearing Officer Decisions includes one case contested and heard after Administrative Decision issued</i>	3	
<i>Pending hearing officer decisions</i>	1	
<i>Pending Intent to Dismiss</i>	3	

Base Rent, MAR, Amenities Determinations

Under certain circumstances, a party may petition for a hearing to establish correct apartment and building amenities, base rents, and maximum allowable rents (MAR). During 2016, one MAR determination petition was filed. A decision following hearing was issued in that case and determined the correct initial base rent ceiling and MAR for the subject unit. The matter was not appealed.

Owner-Occupied Exemption Applications

Exemptions are available for properties with three or fewer units that are owner occupied. Although many owner-occupied exemption cases are decided by the Rent Control Board without an administrative hearing, there are occasions when an evidentiary hearing is necessary to determine questions of fact or law. In many of these cases, the exemption is contested by one or more tenants. Hearings may also be required in cases where the lapse of an exemption is contested by the owner. The hearing officer issues a recommended decision that is considered by the Board in making a final determination on the exemption application or lapse of an exemption.

During 2016, four exemption applications were referred for evidentiary hearings. Two applications were referred back to the administrative process as additional information was gathered resolving

questions of fact or law and/or the tenants no longer contested the exemption. Hearings were held on one of the applications. The hearing officer recommended granting that exemption, and the Board adopted staff's recommendation. The other application was pending a hearing at the end of 2016.

Also during 2016, a matter regarding the lapse of an owner occupied exemption was resolved. Following the Board's administrative certification process regarding owner-occupied exemptions, staff issued an Initial Notice of Lapsed Exemption. The owner challenged the lapse and the matter was referred to the Hearings Department for an evidentiary hearing. The hearing officer issued a recommendation to not lapse the exemption. The matter was then set before the Board. The Board rejected the hearing officer's recommendation and found that the exemption had not lapsed.

Policies & Programs

Legal Department

Under the direction of the General Counsel, the Legal Department serves two principal functions: it advises the Board and the Agency on all legal matters, and it represents the Board in litigation.

Of necessity, much of the department's advisory work occurs outside the public view in order to preserve attorney-client confidentiality; but there are important exceptions to this. As a legislative and quasi-adjudicatory body, the Board must operate openly, publicly and transparently. Thus, when the Board decides whether to enact or amend a law, or when it hears an appeal of a hearing officer's decision, its deliberative process must be fully public. As part of that public process, the Legal Department prepares a written report that analyzes the issues presented and advises the Board about legally appropriate outcomes. Last year, the Board's lawyers prepared a number of public reports, which are detailed in the statistical overview at the end of this Annual Report. The Board considers the advice given, but it is not bound by it; rather, the Board makes its final decision based on its independent assessment of staff's advice (including legal advice), public input and its own public deliberation.

The Legal Department has no policy-making role. It is the Board, and not its lawyers, whom the public has elected; therefore, the only "policy" advanced by the Legal Department is that which is embodied in the City Charter or the Rent Control regulations enacted by the people's duly-elected representatives. Nor does the department have any political role. Because its function is to offer the Board complete, accurate, and independent legal advice, it necessarily does so without considering politics, and without favor toward tenants, owners or others.

Litigation

Lawsuits Filed in Prior Years but Resolved in 2016

Action Apartment Association v. SMRCB

Judgment for the Board

Action Apartment Association sued the Board to challenge the increase to the registration fee adopted by the Board by regulation in 2013. Action argued that under Proposition 26 (enacted in 2010), the registration fee is a tax that cannot be increased without approval by the voters. It also claimed that the increase to the registration fee was in conflict with the City Charter's requirement that the annual general adjustment shall be equal to 75 percent of the change in the CPI. The Board successfully moved for summary judgment on two grounds: first, that the registration fee is a valid regulatory fee (not a tax)—which does not require voter approval—and, second, that the increase in the registration fee does not violate the Charter because it has no impact on the landlord's ability to collect rent according to the Charter's specified formula. The trial court agreed with the Board on both counts and judgment was entered for the board.

Bilet Properties, LLC v. SMRCB

Voluntarily dismissed by Plaintiffs

In 2015, the Board granted an excess rent petition filed by a tenant of Bilet Properties, LLC. The owner sued the Board seeking to reverse the decision on the ground that she should have been permitted to charge additional fees for cable TV services notwithstanding the Board's regulations that prohibit separate agreements for such services entered into after the tenancy has begun. The Board demurred (moved to dismiss)

on the ground that the complaint failed to state any valid claim for relief. While the hearing date on that motion was pending, the landlord dismissed the lawsuit against the Board.

Gray-Bleiberg Investments VIII, Ltd. v. SMRCB

Writ granted; motion for damages denied; attorneys' fees granted

In 2013, the Board denied owner Gray-Bleiberg Investment VIII, Ltd.'s petition for a rent increase based on an assertion that the tenant was not in occupancy. The tenant had been absent from the property in order to care for her ill cousin. Gray-Bleiberg petitioned the Superior Court for a writ of administrative mandamus, alleging that the tenant was absent too long and the owner should be entitled to a rent increase. The court agreed with the owner and granted the writ petition. The owner then sought damages and attorneys' fees against the Board. The Court denied the motion for damages but granted the request for attorneys' fees. Because fees were sought under the Government Code, the amount was limited by a statutory cap and the Board paid just over \$6,000.

SMRCB v. Anna Gee

Settlement reached by the parties

Owner Anna Gee entered into a settlement agreement with the Board in 2007 under which she was to return units that had been unlawfully combined without a removal permit to their original configuration after the tenants who then occupied the property had vacated. When the tenants did vacate, Gee instead re-rented the units without restoring the units to their original configuration. The Board filed a complaint to

enforce the terms of the 2007 settlement. As a result of the litigation, Mrs. Gee entered into a new settlement agreement with the Board under which she agreed to restore the units in compliance with City permits within 90 days of the end of the lease terms of current tenants in both units. Both tenants have since vacated the units, Mrs. Gee has obtained the necessary permits and the construction required to restore four units is pending completion.

Status of Lawsuits Filed Against the Board in 2016

Action Apartment Association, Inc. v. SMRCB

Pending

Action Apartment Association sued the Board challenging an alleged Board policy prohibiting the pass-through of water charges to tenants in master-metered buildings. Action's complaint alleged that the claimed policy is preempted by the Costa Hawkins Act because that statute allows landlords to establish the "initial rental rate" for new tenancies, and, according to Action's complaint, a separate charge for water is "rent" under the Act. The Board moved for judgment on the pleadings on the ground that Action's complaint improperly sought an advisory opinion, in that there was no claim that the Board's asserted policy had been applied, or was imminently going to be applied, in any real-life situation. The trial court granted the Board's motion but allowed Action to amend its complaint if it can find an actual landlord who has charged an actual tenant a separate "proportionate share" water charge, and who has been actually affected in some way by the Board's asserted policy.

ASN Santa Monica, LLC v. SMRCB

Pending

In 2016, the Board granted an excess rent petition filed by a tenant of ASN Santa Monica, LLC. ASN argued that the tenant's unit was exempt from rent control because, several years ago, the Board granted a permit authorizing a prior owner to remove the tenant's unit from the rental housing market. The Board rejected that argument and concluded that, because the unit is now on the rental market and satisfies no exemption criteria, it is subject to the rent control law. ASN sued the Board seeking to reverse the decision on the ground that the prior removal permit created a permanent exemption from regulation and the tenant's unit is not subject to the rent control law.

SM85719TH1903-1913IDA, LLC v. SMRCB

Pending

In 2015, landlord SM85719TH1903-1913IDA, LLC (“SM857”) served a rent increase notice on a tenant they believe is no longer in occupancy of the unit. The landlord believes it can increase the rent for the unit under the Costa Hawkins Act, unlimited by the restrictions of the rent control law, based on its belief that the current occupant is a subtenant and the original occupant no longer resides there. The original occupant filed an excess rent petition with the Board challenging the

amount of the rent increase. Hearings have been held and the matter is now pending review by the Board, as authorized by the City Charter and Board regulations. As the hearings were under way, SM857 sued the tenant and the Board claiming the Board does not have jurisdiction to hold hearings or issue decisions regarding the excess rent petition because it involves a question of state law (the Costa Hawkins Act). It seeks to prevent a decision by the Board on the excess rent petition until the court issues a determination on the legality of the rent increase notice under Costa Hawkins.

Status of Lawsuits Filed by the Board in 2016

SMRCB v. 108 Allston Street Ltd. Partnership, et al.

Pending

In the 1980’s a property owner illegally demolished five rent-controlled apartments and replaced them with a 16-unit apartment building. The Board prepared to sue the property’s then-owner for removing the original units without first obtaining a removal permit as required by the City Charter. At the same time, the City refused to issue a certificate of occupancy for the new building. To prevent litigation by the Board and obtain a certificate of occupancy, the owner entered into a

settlement in which it agreed that four of the newly-built units would be subject to rent control, and one of them would be permanently deed restricted as affordable to a low-income household. The property’s current owner, 108 Allston Street Ltd. Partnership, has failed to comply with the affordable-unit deed restriction, and has failed to register the other controlled units as required by the rent control law. When Allston Street continued to refuse to comply with these requirements over the course of several years, the Board filed a complaint to force compliance.

Amicus Briefs Filed by the Board

John Sheehe, et al. v. Anne Kihagi, et al.

Decision in Favor of City of West Hollywood

In 2015, the Board filed an amicus brief in the Court of Appeal in a case regarding interpretation of the Ellis Act. In this case, the owner withdrew her eight-unit rental property from the rental market under the Ellis Act and then rented only the units that were vacant at the time she withdrew. She claimed that she did not have to offer the other units back to displaced tenants, because the units they occupied were not re-rented. The Board filed an Amicus Brief in support of the City of West Hollywood (Intervenor in the suit) to explain the application of the Ellis Act to a property that the owner attempts to return to

the rental market in piecemeal fashion. The express terms of the Ellis Act prohibit an owner from withdrawing less than all of the units on the property from the rental market. By the same logic, an owner may not return only some of the units to the rental market and avoid the remedies available to displaced tenants when it is re-rented. The Court of Appeal issued a decision on procedural grounds, without direct discussion of the Ellis Act. It upheld the lower court's ruling granting an injunction barring the owner from circumventing West Hollywood's rent stabilization system by removing rent-stabilized units from the market and then re-renting them at full market rates.

Status of Lawsuits Filed in Prior Years

Hirschfield v. Cohen (SMRCB, Intervenor)

Pending

Owner Richard Hirschfield sued tenant Tanya Cohen seeking a declaration that his property is exempt from the Rent Control Law. Because the lawsuit challenges the Board's jurisdiction, the Board intervened in the lawsuit so that its own views on the subject may be heard, and its interests adequately represented. Tenant Tanya Cohen filed a special motion to strike the complaint contending that the complaint unlawfully targets her rights under the First Amendment of the U.S. Constitution to petition the government for the redress of grievances, because Hirschfield appeared to sue her in response to her previously filing an excess-rent petition. After the motion was denied, she sought review by the Court of Appeal where the case is now pending.

Wormser v. SMRCB

Pending

In 2014, the Board denied owner Wormser's application for an owner-occupancy exemption. To qualify for the exemption, Board regulations require the property to have had three or fewer units on April 10, 1979. Since this property had four units at that time, the property did not qualify and the application was denied. The owner sued the Board claiming that the property has only three units now and that it has qualified for the exemption in the past based on an earlier version of the regulation. The Board demurred (moved to dismiss) on the ground that Wormser's position was unsupported by the facts. The trial court agreed with the Board and judgment was entered in the Board's favor. Wormser sought review by the Court of Appeal where the case is now pending.

Regulations & Resolutions Drafted

In 2016, the Legal Department prepared amendments to seven regulations and one resolution for the Board's consideration.

- Regulations 2007, 12070 and 13001 were amended to clarify the amount of rent that a landlord may charge upon an exemption's lapse.
- Regulation 12070 was further amended to clarify procedures to determine whether an owner-occupancy exemption has lapsed.
- Regulation 4002 was amended to allow staff to make clerical and non-substantive changes to the Board's forms more readily.
- Regulation 4200 was amended to update standards and guidance for rent decreases to more accurately reflect the categories of issues that typically arise in rent decrease petitions and to update the suggested value ranges for such conditions to keep pace with higher rents.
- Regulation 13007 was amended to conform to a change in state law regarding the certification of rents [SB 775 amending Civil Code section 1947.8 (the "Petris Act")].
- The Legal Department also prepared one resolution announcing the 2016 General Adjustment of 1.3 percent with a \$25 ceiling.

Buyout Disclosure and Agreements

Because of concern that Santa Monica’s heated real estate market was leading some landlords to coerce tenants in rent-controlled units into signing buyout agreements—agreements to move from a rent-controlled unit in exchange for payment, which would then allow the landlord to reset the unit’s rent to market rate—the City Council amended the City’s Tenant Harassment Ordinance to require landlords to inform tenants of certain rights, including the right to consult a lawyer before deciding whether to enter into a buyout agreement, and the right not to enter into one at all. The ordinance also sought to discourage abuse by having the amounts paid be made public through mandatory filing of the agreements with the Rent Control Board, which could then provide information to other tenants who have been approached to sign a buyout agreement. In response, the Rent Control Board amended its regulations to accept executed buyout agreements for filing and developed a form that includes the disclosure of rights to tenants who have been offered a buyout. Landlords are required to provide the form to tenants before making a buyout offer. To protect individual privacy concerns, the Board required its staff to maintain the buyout agreements in a file separate from other publicly accessible data, and to provide the data to the public in an aggregate manner, such as on a neighborhood basis instead of by specific property (to avoid revealing personal-identifying information) or on another aggregate basis upon specific request.

In 2016, the Board received 52 buyout agreements. The data from these agreements are provided below based on city area and unit size.

City Area	Units	Average \$
A	9	\$24,939
B	2	\$54,915
C	14	\$19,121
D	8	\$23,775
E	4	\$34,608
F	8	\$22,137
G	7	\$50,221
Total	52	\$28,069

Unit Size	# Filed	Average \$	Average MAR
0-Bedroom	12	\$15,142	\$659
1-Bedroom	25	\$26,012	\$1,324
2(+)-Bedroom	12	\$41,389	\$2,142
Total	52	\$28,069	

Policies & Programs

Exemption & Removal Permit Applications

The Rent Control Law applies to all residential rental units in Santa Monica, except for those units specifically exempted based on certain criteria. Some exemptions are permanent, while others are “use exemptions,” which stay in effect only as long as the criteria upon which the exemption was granted remain true.

Exemptions

Permanent Exemptions

Subject to certain limitations, new construction (completed after April 10, 1979) and single-family dwellings are eligible for permanent exemption from the Rent Control Law.

In 2016, there were 83 declarations submitted for single-family dwellings stating that the homes were not rented on July 1, 1984 and are eligible for permanent exemption. As long as the information in these declarations is accurate, the subject properties are exempt. There were 12 more declarations filed in 2016 as compared to 2015.

Three single-family dwellings that didn't qualify for the automatic exemption were granted an exemption by the Board after each owner filed an exemption application based upon two years of owner occupancy.

Use Exemptions

“Use exemptions” or “temporary exemptions” may be granted for several different uses of a residential rental property that would otherwise be subject to the Rent Control Law. Although tenants living on exempt properties do not have rent-level protections, eviction protections were extended to these tenants with the amendment to the City Charter following the passage of Measure RR in November of 2010.

The “owner-occupied exemption,” which only applies to properties with three or fewer units, is the temporary use exemption that affects the greatest number of properties. Most applications for this type of exemption are handled administratively provided the owner submits the required documentation and the tenants (if any) verify the owner's residency. Staff prepares a recommendation for the Board, which then determines if the exemption is granted. In some instances, applications are referred to the Hearings Department for evidentiary hearings to determine if the owner-applicants meet all the requirements

86

Single-family dwellings exempted

30

Owner-occupied exemptions granted

to qualify for this exemption. In these cases, a hearing officer makes a recommendation for the Board's consideration and decision.

The Board received owner-occupancy exemption applications for 33 properties in 2016. It approved 28 of them, only one of which had been referred to an evidentiary hearing. Five applications were still pending at the end of the year, one of which was referred to an evidentiary hearing. The Board also approved two exemption applications that had been filed in 2015.

Of the 30 properties for which the Board granted an owner-occupied exemption in 2016, 14 had previously been exempted within the last five years, but the exemption had lapsed because a new owner had purchased the property, or the owner had moved off. Owner-occupied exemptions lapse by operation of law when the owner moves off the property or when ownership is transferred. As is described in more detail in the section that follows, the Rent Control Agency monitors owner-occupancy exemptions and regularly researches changes in ownership of all

residential Santa Monica properties. Most exemptions lapse due to a change in ownership. In 2016, 63 exemptions were verified to have lapsed.

Examples of other use exemptions include: residential units in hotels, hospitals, religious institutions, and extended medical care facilities; commercial units; non-rental units; and units owned and operated by governmental agencies.

Removal Permits

To protect the controlled rental housing stock, the Rent Control Law provides strict criteria the Board must apply before granting permits removing units from rent-control jurisdiction. During 2016, the Board approved the removal of one unit.

Owner-Occupied Exempt Properties: Annual Certification

The Rent Control Law has always provided that, under certain circumstances, an owner of a three-or-fewer-unit property who lives on the property may receive an exemption from the Rent Control Law. Calendar year 2016 was the first full calendar year since an amendment to the law was adopted requiring owners who received the exemption to certify annually that the circumstances on which the exemption was based continue to exist.

The Agency assists owners in meeting this requirement by sending each owner a letter and certification form for them to complete and return to the Agency. These letters are mailed to the owner of each exempt property at least one year after the exemption was granted and during the month in which the exemption was granted.

This certification requirement allows the Agency to better monitor the continuing validity of the exemptions. Sometimes the certification process reminds owners to notify the Agency of facts indicating the exemption has lapsed. Other times, owners do not respond at all.

If an owner does not respond to the Agency's mailing, the lapse procedures outlined in the Rent Control Regulations are followed. If the owner disagrees with the initial notice of lapse, they may provide information indicating the exemption remains valid. If questions of law or fact remain, the matter is referred to a hearing examiner, who prepares a recommendation to the Board regarding whether or not the exemption should be deemed to have lapsed. The recommendation is then considered by the Board at a regularly scheduled meeting for a decision on the issue.

As of December 31, 2016, there were approximately 572 properties holding owner-occupied exemptions. The annual certification letters mailed during 2016 were mailed to the owners of these properties who had received the exemption at least 12 months earlier. Due to exemptions lapsing during 2016 and other exemptions being granted, the number of certification letters sent out will not be the same as the number of properties mentioned above that held an exemption as of the end of 2016.

During 2016, the Agency mailed 550 certification letters. Due to title to properties no longer being held by the owner who was granted the exemption, or the owners no longer living on the properties as their principal place of residence, many exemptions appear to have lapsed during 2016. Some of these properties where the exemption appears to have lapsed are continuing to be investigated and the matter was pending as of December 31, 2016. By the end of the 2016 calendar year, the exemptions for 63 properties were verified to have lapsed.

63

Owner-occupied exemptions
verified to have lapsed

Appendix

Board Meetings		
Board meetings convened and staffed		12
<i>Regular meetings</i>	12	
Public Outreach		
Contacts with people seeking information		12,970
<i>Counter (16%)</i>	2,109	
<i>Phone (78%)</i>	10,179	
<i>E-mail (6%)</i>	682	
Constituency-wide mailings produced and distributed		3
<i>General Adjustment mailings (includes citywide MAR Report mailing to owners)</i>	1	
<i>Newsletters (includes report of current MAR for each unit)</i>	2	
Community meetings/seminars		6
<i>Seminars by Rent Control staff</i>	4	
<i>Beverly Hills Realtor Association</i>	1	
<i>Landlord/Tenant Forum w/City Attorney's Office</i>	1	
Rent Control Seminar Attendance		85
<i>Owner seminar</i>	30	
<i>Tenant seminar</i>	22	
<i>General adjustment seminar</i>	14	
<i>Maintenance seminar</i>	19	
Website Visits		52,546
Petitions/Complaints		
Petitions processed on intake		142
<i>Decrease petitions filed</i>	78	
<i>Construction decrease petitions filed</i>	21	
<i>MAR determination petition filed</i>	1	
<i>Excess rent/Non-registration complaints filed</i>	29	
<i>Previously unregistered unit petitions filed</i>	1	
<i>Tenant-Not-in-Occupancy petitions filed</i>	12	

Hearings held		69
<i>For 27 decrease petitions</i>	40	
<i>For 2 properties – 8 construction decrease petitions</i>	5	
<i>Purposely left blank</i>		
<i>For 11 excess rent/non-registration complaints</i>	14	
<i>For one exemption application</i>	1	
<i>For one exemption lapse</i>	1	
<i>For 5 tenant-not-in-occupancy petitions</i>	6	
<i>For one MAR determination</i>	2	
Written decisions issued on 57 petitions (some petitions consolidated)		42
Decrease Petition Proposed Addenda Issued		23
Construction Petition Proposed Addenda Issued		1
On-site investigations conducted		147
<i>Upon scheduling decrease petitions</i>	36	
<i>In response to compliance requests</i>	10	
<i>Exemption use investigations</i>	37	
<i>Ellis investigations</i>	42	
<i>Occupancy, unit use, residence verification, construction activities etc.</i>	21	
<i>Other (e.g., measuring, service of documents, etc.)</i>	1	
Ellis Withdrawals, Exemptions and Removals Activity		
Ellis withdrawals filed in 2016		23
Ellis withdrawals pending from 2015		32
<i>Withdrawals completed in 2016</i>	40	
<i>Withdrawals withdrawn</i>	0	
<i>Pending at the end of 2015</i>	15	
Ellis returns (properties) to rental market		7
<i>Units returned to market</i>	61	
Exemption applications filed		33
SFD declarations filed		83
Owner-occupied verification letters mailed		550
Removal permit applications filed		1
Removal permit applications granted		1

Apartment Listing Service		
Number of listings received		89
Forms & Permits Processed		
Status forms to submit development applications		177
Demolition permits		99
Building permits		617
Property registrations		628
Vacancy registration forms		4,272
Separate agreement registration forms (parking/storage/pets)		47
Tenant-filed rental unit registration forms		2
Registration fee payments		3,805
Fee waivers		69
Clean Beaches Tax waivers		42
Appeals and Litigation		
Staff reports on appeal		21
	<i>Decrease petitions</i>	<i>10</i>
	<i>Excess rent complaints</i>	<i>7</i>
	<i>Increase petitions</i>	<i>0</i>
	<i>Tenants-Not-in-Occupancy</i>	<i>2</i>
	<i>Construction Related</i>	<i>1</i>
	<i>Unregistered units</i>	<i>1</i>
	<i>Base Rent</i>	<i>0</i>
Exemption staff reports prepared and reviewed		30
Supplemental staff reports prepared		1
Litigation cases		9
Administrative records prepared		2
Legal Advisory		
Miscellaneous staff reports written		3
Occupancy permits advisory		11
Responses to subpoenas & Public Records Act requests		61
Buy-out agreements received		52

Regulations & Resolutions		
New and amended regulations or resolutions prepared		8
2/11/2016 2007 – Definition of Maximum Allowable Rent (MAR) <i>Amendment to add two new provisions defining MAR upon the lapse of an exemption</i>	1	
2/11/2016 12070 – Lapse of Exemptions <i>Amendment to require staff to notify landlords that the MAR for a unit with respect to which an exemption has lapsed is determined as provided in Regulation 2007</i>	1	
2/11/2016 13001 – Times When Registration is Required <i>Amendment to clarify that landlords must register tenancies in units that were not previously registered due to an exemption</i>	1	
5/12/2016 4002 – Petition Forms <i>Amendment to eliminate the language that petition forms for rent adjustments shall be approved by the Board</i>	1	
5/12/2016 4200 – Rent Decrease Standards <i>Amendments to adjust the dollar amounts of the range of decreases for rent adjustments; modify the categories to more accurately reflect maintenance conditions and housing service reductions; and clarify how hearing officers exercise their discretion</i>	1	
6/9/2016 Resolution 16-001 – 2016 General Adjustment <i>Resolution announcing the 2016 GA of 1.3% general adjustment with a \$25 ceiling</i>	1	
12/8/2016 12070 – Lapse of Exemptions <i>Amendment clarifying procedures on whether an owner-occupancy exemption has lapsed</i>	1	
12/8/2016 13007 – Post-Certification Rent Level Verification Process <i>Amendment clarifying that the Board will not certify rents for tenancies that began on or after January 1, 1999 and state that properly-completed and sworn registrations are presumed to be accurate</i>	1	