

Santa Monica Rent Control Board

2012 Annual Report

Consolidated Report Includes

Impact of Market Rent Vacancy Increases Report
Impact of the Ellis Act Report



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Introduction

Whether assisting the public, resolving tenant and landlord disputes through mediation or hearing, or defending Rent Control Board decisions in court, I am very proud of the work the Rent Control Agency undertook in 2012. This publication, a requirement of the Rent Control Law, reports on the general activities of the Agency in 2012 and more specifically, on the status of rent-controlled housing.

In recent years, the Agency prepared three separate reports annually: the Annual Report; the Ellis Report detailing Ellis activity in Santa Monica; and the Report on the Impact of Market Rent Vacancy Increases (analyzing the effects of vacancy decontrol/recontrol since the inception of the Costa-Hawkins Rental Housing Act in 1999). This year's Annual Report maintains the integrity of each report's analysis and findings, but integrates the substance in one place.

After more than 30 years of using a complex methodology to calculate each year's annual rent increase, or General Adjustment (GA), the Rent Control Board determined it was time to consider alternatives. During 2012, the Board convened a subcommittee which investigated how other rent control jurisdictions across the state determine their annual increases, met with constituent groups and studied various methodologies. The Board ultimately recommended an inflation-based approach to the City Council who chose unanimously to present the new methodology to the voters as Measure GA in November 2012. The measure received support from a majority of the voters and was incorporated into Article XVIII of the City Charter. This new approach, designed to reach results similar to the prior complex methodology, is expected to save money and staff time and provide greater transparency in the GA-calculation process.

The impact of the Costa-Hawkins Rental Housing Act continued to be a challenge for maintaining the stability and affordability of Santa Monica rental housing in 2012. The report's analysis shows that by the end of 2012, 63.3 percent of controlled units had been rented at market rates and that rent levels had reached an all-time high for 1-, 2- and 3-bedroom units.

Notices to withdraw controlled units from the rental housing market using the state's Ellis Act remained low compared to previous years, tracking a persistently sluggish economy. In 2012, the Agency continued to participate in the Ellis Task Force, a collaboration of city departments that meets to advance its objective of ensuring compliance with laws imposed when a property is withdrawn from the rental market.

With renters comprising 72 percent of Santa Monica residents, many of whom are new to the city, it remains a priority for the Agency to continue to raise awareness among all tenants, property owners and developers about their rights and responsibilities under the Rent Control Law. With that overarching goal in mind, the Agency worked diligently in 2012 to reach out to its constituents.

Tracy Condon, Administrator

April 2, 2013

New Development in 2012

Santa Monica Voters Pass Measure GA

The extensive work by the Santa Monica Rent Control Board, begun in 2011 to analyze the methodology for calculating the annual rent increase (known as the General Adjustment or GA), proved invaluable when Santa Monica voters passed “Measure GA” on November 6, 2012.

Previous GA Calculation Method. Article XVIII of the City Charter requires the Rent Control Board to set the annual rent increase for all controlled units in the city. For thirty years the Board used a “component ratio to gross rent” or “pie methodology.” Costs for various categories of owners’ operating expenses were assigned a portion or “slice” of the total rent dollar. The percentage by which costs associated with each slice changed as compared to the whole pie resulted in the annual GA percentage increase.

Board Subcommittee Established. For many years, the application of this complex method of determining the annual rent increase was met with controversy and threats of litigation. In late 2011, the Board established a subcommittee to thoroughly review the methodology and meet with rent control constituent groups to better understand the areas of concern. The subcommittee also considered other California rent control jurisdictions’ calculations of rent increases.

Subcommittee Findings. The outcome from meeting with concerned groups of Santa Monicans revealed initial approval of the “pie methodology;” however, each group preferred a method that would favor lower or higher adjustments depending on the constituency represented by the group. Most rent control

jurisdictions in the state currently use a method based upon the consumer price index (CPI).

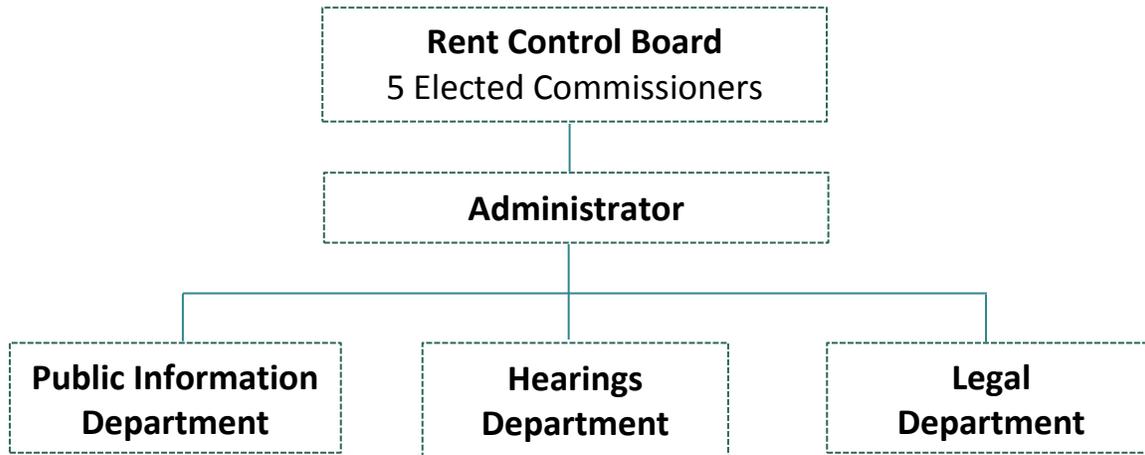
Change to the Rent Control Charter Amendment.

The subcommittee favored a CPI-based methodology that would closely track the results of the GAs calculated using the former methodology. It presented its findings to the full Board in May 2012 and public hearings were held for further input. Eventually, the Board recommended to the City Council that a Charter change be placed before the voters to move to a simpler inflation-based formula.

Sixty percent of voting Santa Monicans, 18,650 out of 30,816, voted for the change to the formula. Starting in 2013, the GA will be calculated based on 75 percent of the annual percentage change in the regional inflation rate, rounded to the nearest one-tenth of a percent. To protect against deflation or hyperinflation, the GA can never be less than zero or greater than six percent.

In addition to providing greater transparency in the GA calculation process, this new method is cost-effective as it will no longer be necessary for outside consultants to periodically research individual component cost changes. The new formula also allows the Board to set a dollar-amount maximum annual increase, provided a public hearing is held.

The Rent Control Board at a Glance



Rent Control Board Commissioners

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 Commissioners typically meet one or two times a month in the City Council chambers at a scheduled public meeting. Agendas for Board meetings are available in the office of the Rent Control Agency and on the Agency's website at www.smgov.net/rentcontrol. Board meetings are also shown live on City TV and by webcast. An archive of past meetings is available online at our website. In 2012, the Rent Control Board convened eleven regular meetings and three special meetings.

The Administrator

The Administrator, who is appointed by the Board, oversees the day-to-day functioning of the Rent Control Agency, including: developing a budget; overseeing personnel, legal work, contracts and purchases; and assisting the Board in developing regulations to implement the Rent Control Law. Her department 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 the computer and peripheral electronic equipment.

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 all of the Agency's constituents. The department publishes a semiannual newsletter and prepares an annual report for the Santa Monica City Council. They also update the Agency's website and social media presence, and present seminars for tenants, landlords, realtors and other interested members of the public.

14

BOARD MEETINGS
(INCLUDES 3 PUBLIC HEARINGS)

Hearings Department

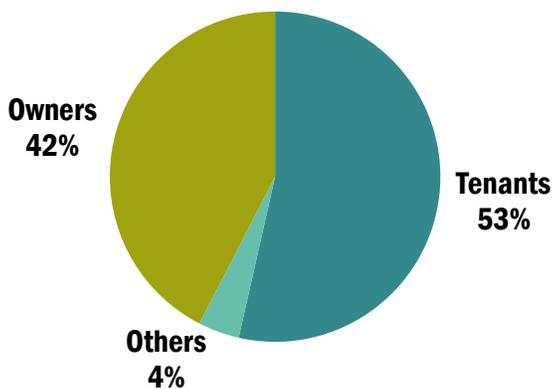
The Hearings Department is responsible for scheduling and holding hearings, conducting investigations and issuing recommendations and decisions. The department also handles mediation of decrease and excess rent cases and mediates other types of disputes between landlords and tenants.

Legal Department

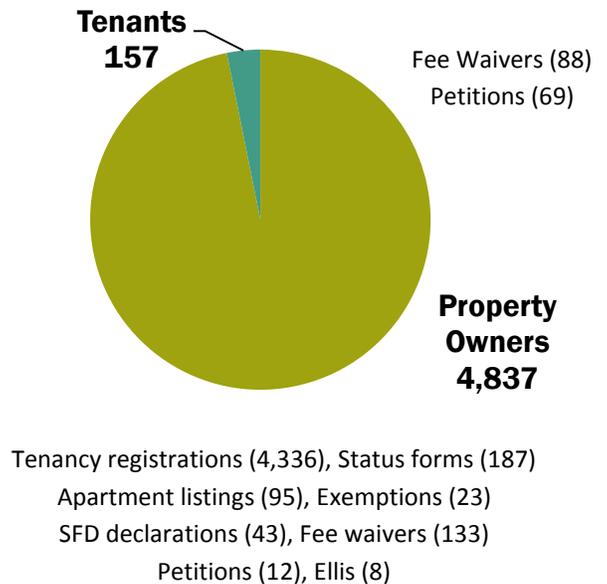
The Legal Department advises the staff and Board regarding interpretations of the law and represents the Board in legal disputes to which the Board is a party. They prepare and present staff reports on appeals of hearings and administrative decisions, as well as removal permit applications. They also draft and update regulations to implement the Rent Control Law.

Who We Help

Questions from the Public



Documents Filed with the Agency



Status of Controlled Rental Housing in Santa Monica

Changes in the Housing Stock

Santa Monica, along with all cities across the state of California that have legislated rent level protections, has been impacted by significant changes in State law—initially by the Ellis Act, described later in this report, and most recently, and dramatically, by the Costa-Hawkins Rental Housing Act. The State-mandated changes to Santa Monica’s rent control law have gradually affected the economic diversity of the community (as represented by apartments with rent levels affordable to people at all income levels) as well as housing stability for renters.

Tracking Residential Development

The Rent Control Agency tracks residential development in the city using Planning and Building Department records and permits as well as rent control records.

The construction detailed in this section relates to all multi-family residential developments that were completed in 2012. New developments containing a total of 236 residential units were completed on properties that previously had 96 rent-controlled units. Although this represents the loss of many rent-controlled units, 80 of the new apartments were built by Community Corporation of Santa Monica which provides housing for low- and moderate-income residents.



Mapping the City

In the early 1990s, the Rent Control Agency began to track changes in the housing stock in different areas of the city. These seven areas, identified as A through G, roughly parallel the city’s neighborhood and census tracts (see Figure 1).

Special Note about Area C

A substantial number of units in this area were removed from rent control after the area lines were initially drawn. Today, only four percent of the total rent-controlled units in Santa Monica are located in Area C. Of these, two buildings on Ocean Avenue (one with 120 units and one with 288 units) account for more than 35 percent of the total. These units are generally luxury rentals, unrepresentative of the remaining units in the area in both size and character.

Condominiums

Four properties, two in Area G and one each in Areas A and F, had a total of 35 rental units that were withdrawn under the Ellis Act. Three of those properties were developed with a total of 17 condominiums and in-lieu fees were paid to meet the City's Affordable Housing Production Program requirement. The fourth property was redeveloped with six condos, one of which must be made available to a moderate-income tenant.

Two other properties, one in Area D and one in Area E, were not subject to the Rent Control Law. On one, a permanently exempt single-family dwelling was replaced by four condominiums. The developer paid in-lieu fees rather than providing affordable units. The other property (formerly a commercial building) was redeveloped with 32 condos, and three of those are restricted to very low-income occupants.

Rentals

Two properties redeveloped in Area E were not subject to the Rent Control Law. A 55-unit property that was exempt as a Community Care Facility was redeveloped with 33 rental units, 27 of which are restricted to very-low-income tenants and six for low-income tenants. The other property was formerly commercial and was developed with 97 units, all restricted to moderate-income tenants.

A third property in Area D had 25 rent-controlled units before receiving a Category D removal permit in 2008. This property was redeveloped with 47 units restricted to low-income tenants, 25 of which are replacement rent-controlled units.

The map below shows the city areas and the percentage of controlled rental units in each area as of December 31, 2012. The percentage of rent-controlled units per area of the city remains unchanged since June 30, 2002.

Percentage of Controlled Rental Units, By City Area

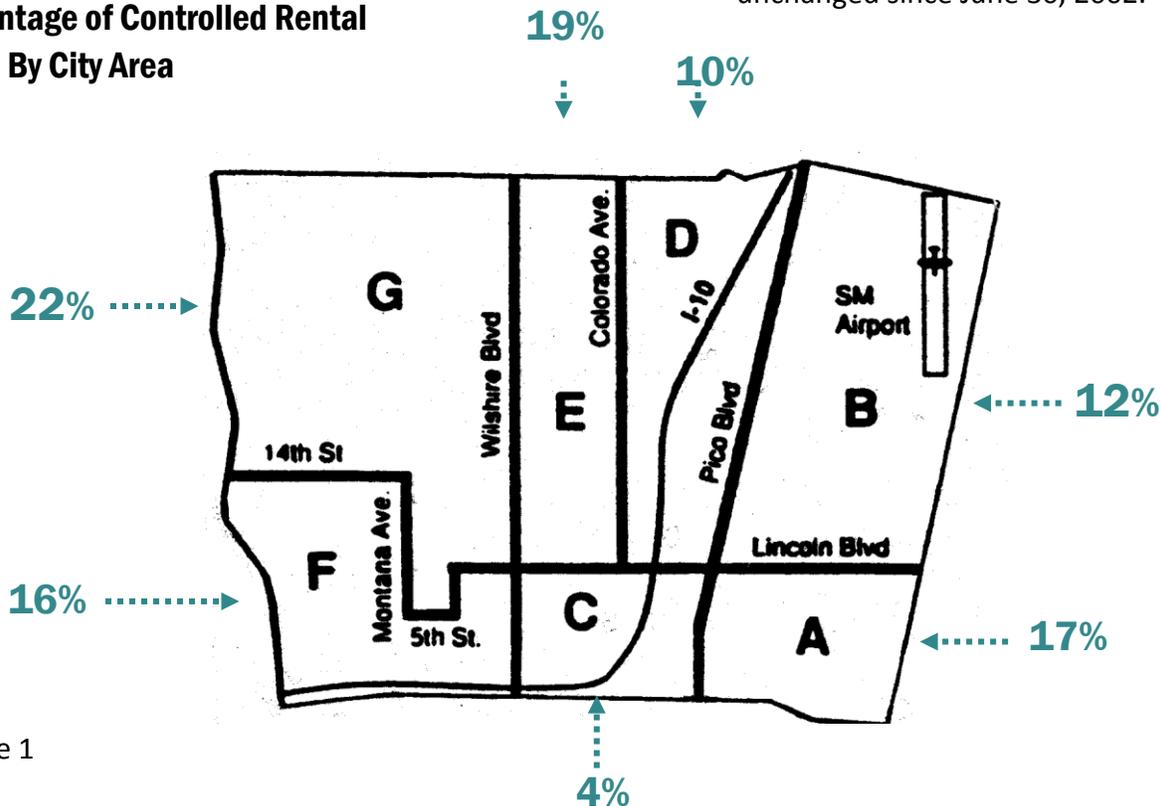


Figure 1

Impact of Market Rent Vacancy Increases

The Costa-Hawkins Rental Housing Act, enacted by the State legislature in 1995, eliminated the ability of rent control agencies throughout California to control rents upon initial rental within their respective jurisdictions. The law was phased in over a three-year period and went fully into effect on January 1, 1999.

Costa-Hawkins introduced the concept of “decontrol-recontrol.” With few exceptions, the initial rents for new tenancies in rent-controlled apartments can now be negotiated at current market-rate levels. All future rent increases, as determined by the Rent Control Board, are applied to that initial rent.

In the fourteen years since Costa-Hawkins came into effect, new rents for market-rate units have significantly outpaced both inflation and the increases authorized by the Rent Control Board on an annual basis. These higher initial rents have made Santa Monica a city that for many people is now unaffordable.

63.3%

OF UNITS HAVE BEEN RENTED AT MARKET RATES

28,180

RENTAL UNITS UNDER RENT CONTROL IN 2012

1999-2012

Report Highlights

By 2013, 63.3 percent of controlled units had been rented at market rates.

Of properties with 4–15 units, only 6.5 percent have recorded no market-rate tenancy.

Rent levels upon initial rental have reached all-time highs for 1-, 2- and 3-bedroom units.

Rents of 3-bedroom units are up 26 percent over last year.

Households earning the median income for the LA area cannot afford a market-rate unit in Santa Monica, according to HUD affordability standards.

There has been a significant decrease in households with incomes under \$75,000 in Santa Monica since 2000.

One in three households in units under rent control moved in within the past four years.



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

As of 2012, 28,180 units were subject to the Santa Monica Rent Control Law.¹ Of these, 63.3 percent of controlled units (17,850) have been rented at market-rate rents at least once. This represents a 1.9 percent increase from last year. At this point, only 35.2 percent of rent-controlled units are occupied by long-term tenants, or 9,927 units. The remaining 403 units (1.5 percent) have never been rented. These units are presumably occupied by property owners or have been set aside for family use.

The increase in rental units going to market-rate levels this year confirms the trend we reported last year: approximately two percent of long-term tenancies are lost each year. If this trend continues, all rent-controlled units in Santa Monica will have received at least one market-rate vacancy increase by 2031.

Vast Majority of Owners Collect Market-Rate Rents

While more than 63 percent of rent-controlled units have been rented at market rate, when looking at 4- to 15-unit properties, which constitute about three-quarters of the controlled housing stock, over 93 percent of such properties have recorded at least one market-rate tenancy (as shown in Figure 2). Only 6.5 percent of these, or 166 out of 2,548 properties, have no registered market-rate rentals. Moreover, over 75 percent of properties with 4 to 15 units have had half or more of their units rented at market rates. Overall, it is clear that the impact of vacancy decontrol has been felt throughout the city.

¹ As of 12/31/12, 9,245 units had either been removed from rent control or had been granted one of the following: owner-occupied (3-units or less) exemptions: 1,423; Ellis withdrawal: 2,684; removal permits: 1,664; non-rentals or commercial exemptions: 736; other “use exemptions”: 2,738.

Share of Market Rents by Property Size (4-15 Units)

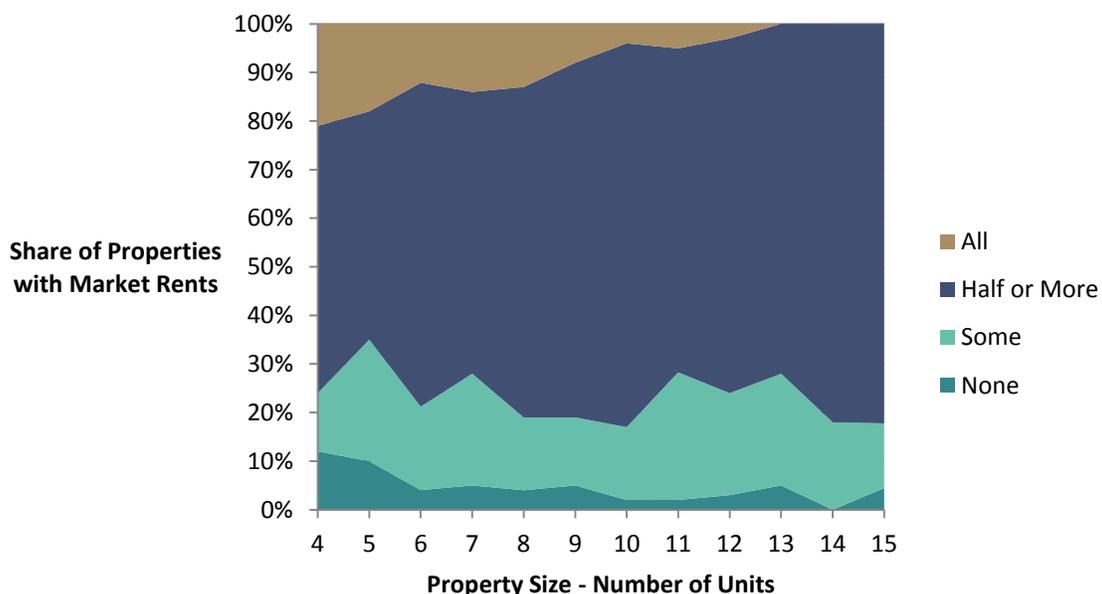


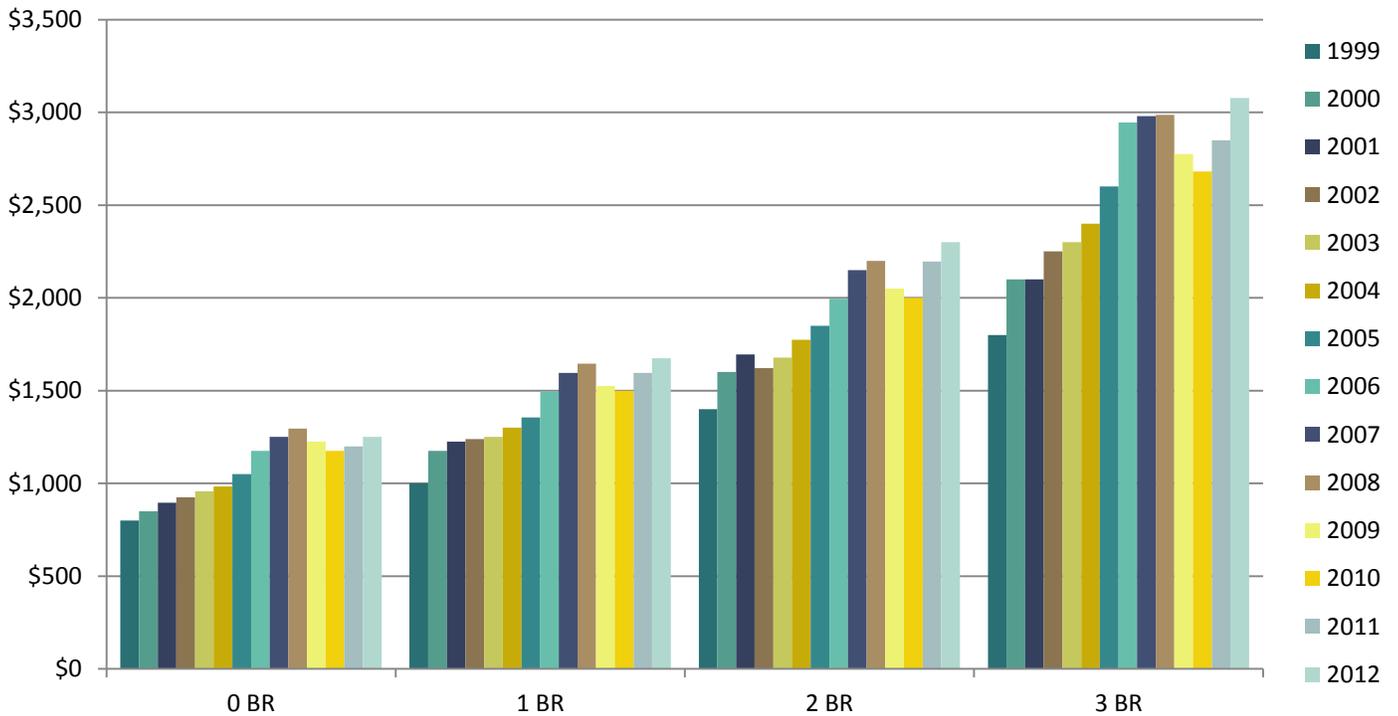
Figure 2

14-Year Review

A 14-year review of median Maximum Allowable Rents (MARs) at the time of the rental reveals median MARs in 2012 were the highest ever for 1-, 2- and 3-bedroom units (as shown in Figure 3). The median MAR for studios tied the second highest level, set in 2007. While median MARs had declined in 2009 and 2010 along with the economy, 2011 and 2012 initial rents have proven that dip to be a temporary reprieve on the march to ever higher rents.

MEDIAN MARS OF NEW RENTS ESTABLISHED IN 2012 WERE THE HIGHEST EVER FOR 1-, 2- AND 3-BEDROOM UNITS

Median MARs by Number of Bedrooms



Note: If a unit was re-rented more than once in the 14-year period, only the last established market-rate rent is used here.

Figure 3

Rents Rebound: A Post-Recession Analysis

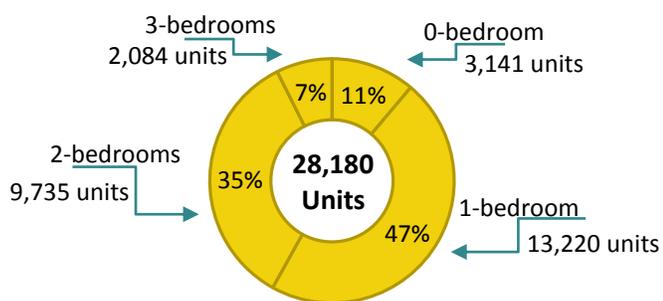
One-Year Review

Tenancies begun in 2012 had rents that on average were 13 percent higher than tenancies begun in 2011. This number, however, doesn't tell the whole story. The median market-rate rent for three-bedroom units increased 26 percent from 2011, very likely a result of demand for a scarce commodity: three-bedroom units are rare in Santa Monica, totaling only 7 percent of the overall rent-controlled housing stock. The 1-year figures are based on 2,554 units rented in 2012.

Increases in market-rate rents from 2011 to 2012 by bedroom size:

- 3% for zero-bedroom units (291 units)
- 6% for one-bedroom units (1,380 units)
- 5% for two-bedroom units (785 units)
- 26% for 3-bedroom units (98 units)

In contrast, the General Adjustment (GA) approved by the Rent Control Board in 2012 was 1.54 percent with a maximum increase of \$26 per month.



Breakdown of Rent-Controlled Units in Santa Monica, by Bedroom Size

Figure 4

2012 Median MARs, Market-Rate Units by City Area

(Excludes Reported Rental Data for 1221 Ocean Avenue)

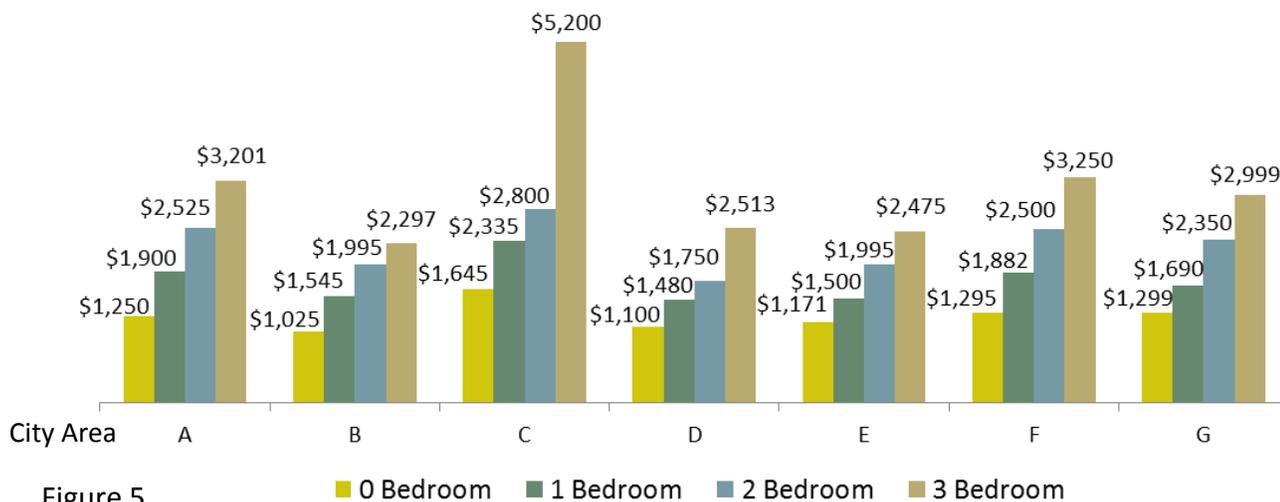


Figure 5

■ 0 Bedroom ■ 1 Bedroom ■ 2 Bedroom ■ 3 Bedroom

Three-Year Review

In addition to studying how newly-established median MARs of all units change on a yearly basis, the Rent Control Agency also reviews median MARs of units re-rented in the past three years. Because the number of units impacted in one year is small, the applicability of the median to other units in the area is less accurate. Looking at three years of rentals gives a truer picture of general market conditions.

The three-year figures are based on 7,617 units rented in 2010, 2011 and 2012. Area C is not included in this analysis because two large luxury buildings on Ocean Avenue make up 35 percent of the units in this area and are not representative of other units in the area.

The three-year study also assists the Agency in establishing the rent when a decision is rendered that a tenant does not use the rent-controlled unit as their primary residence and a new market-value MAR is established (pursuant to Rent Control Regulation 3304).

When there have been comparable rentals on the property in the past three years, the average MAR of those rentals is used to determine the new MAR for the subject unit. When there has not been a comparable rental on the property, the Board uses the median MAR of comparable units in the area re-rented in the past three years (as shown in Figure 6).

2010-2012 Median MARs, Market-Rate Units by City Area

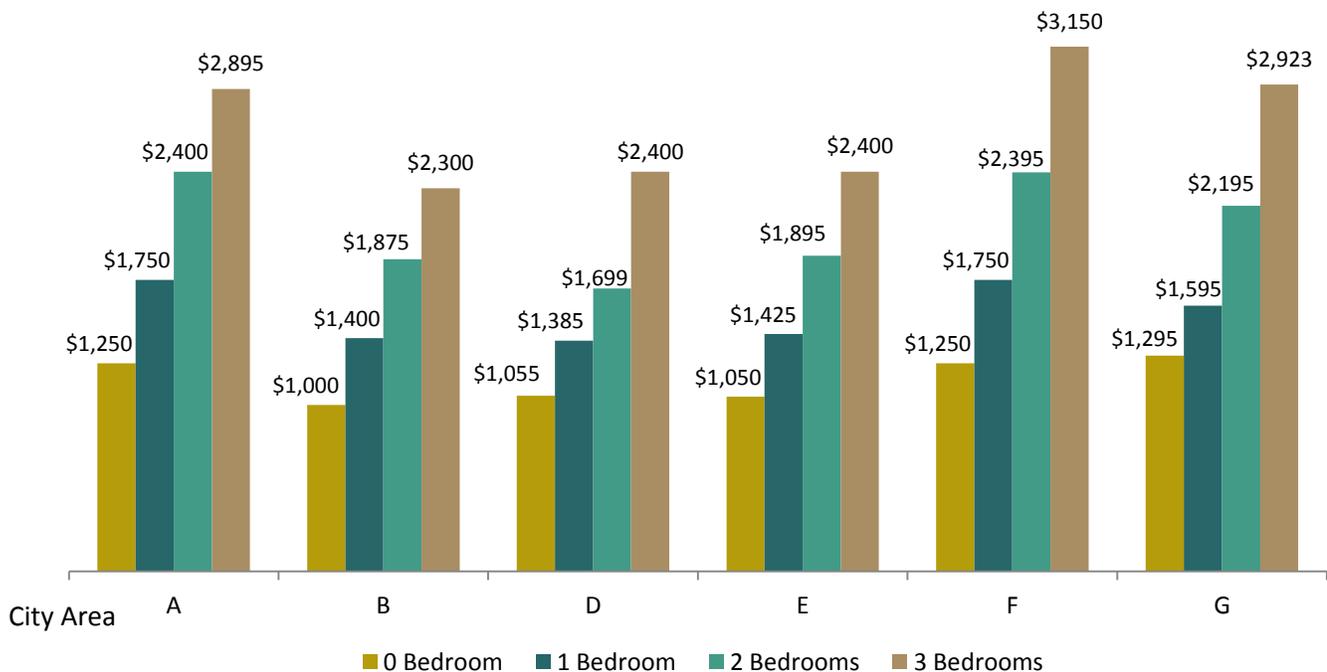


Figure 6

The Effect of Vacancy Decontrol on the Community

That Santa Monica is a highly desirable community to live in is undeniable. The question, however, is this: Can a middle-class household afford to move here paying market-rate rents? The short answer is no, at least not comfortably.

Fewer Affordable Rental Units

Affordability Standards

Under housing affordability standards developed by the U.S. Department of Housing and Urban Development (HUD), one-third of gross income should go toward housing expenses. Households that spend more than 30 percent of gross income on rent are considered “rent burdened.” While rent-controlled units with long-term tenants (specifically, with tenancies that began before 1999) remain affordable, the median rents for units at market-rate have risen out of the reach of most renters.

\$64,800
2012 HUD MEDIAN INCOME
4-PERSON HOUSEHOLD, LA AREA

Meeting the Expense of a Market-rate Unit in Santa Monica

The Rent Control Agency uses the median income limits established by HUD for Los Angeles County to track the loss of affordable units since vacancy decontrol began fourteen years ago. As Figure 7 shows, if vacancy decontrol had not gone into effect, the median rents for units of every size (except three bedrooms or larger) would be affordable to a household whose income was at 100 percent of the adjusted county median. That is no longer true.

Using HUD’s affordability guidelines as a starting point, the household income needed to afford a market-rate rental unit is \$26,000 to \$50,802 more than the income that would have been needed to afford the same unit if it had not received a market-rate increase.

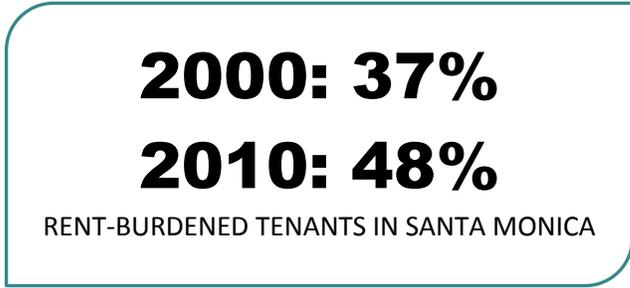
Change in Income Needed to Afford a Controlled Unit
(30% Affordability Standard)

No. of Bedrooms	Before Vacancy Decontrol		After Vacancy Decontrol		
	Median MAR without Vacancy Increase	Income Needed to Afford MAR	Median MAR with Vacancy Increase	Income Needed to Afford MAR	Income Difference
0	\$745	\$42,571	\$1,200	\$68,571	\$26,000
1	\$867	\$43,350	\$1,597	\$79,850	\$36,500
2	\$1,089	\$45,853	\$2,105	\$88,632	\$42,779
3+	\$1,388	\$51,171	\$2,766	\$101,972	\$50,802

Figure 7

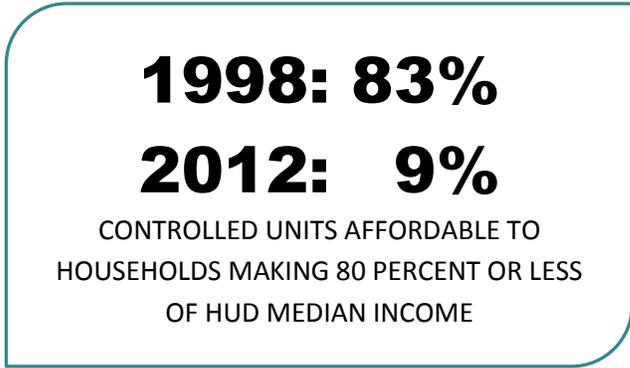
Percent of Household Income Spent on Monthly Rent

As Figure 7 makes clear, even a household earning 100 percent of the 2012 HUD median income (\$64,800) would be unable to afford a market-rate unit in Santa Monica unless they were willing to devote more than 30 percent of their income to rent. According to the 2010 Census, this is exactly what is happening. Forty-eight percent of Santa Monica residents spend 30 percent or more of their household income on monthly rent, up from 37 percent just ten years earlier.



Affordability by Income Category

The effect of vacancy decontrol on the community has been significant. Before its full implementation, 83 percent of units were affordable to households making 80 percent or less of the area median income. Just fourteen years later however, only nine percent of the rent-controlled units rented at market-rate remain affordable to these same households.



Affordability of Market-Rate Rental Units

By Income Category, By Rental Year

Income Category	1998		2012		Difference (-/+)
	Units	Percent	Units	Percent	
Rent Level Affordability					
Very Low (50%–60%)	8,691	48.7%	974	5.5%	(88.8%)
Low (80%)	6,038	33.8%	617	3.5%	(89.8%)
Moderate (100%–120%)	2,595	14.5%	5,503	30.8%	112.1%
Higher (>120%)	526	2.9%	10,756	60.3%	1,944.9%

Figure 8

Fewer Middle-Class Households

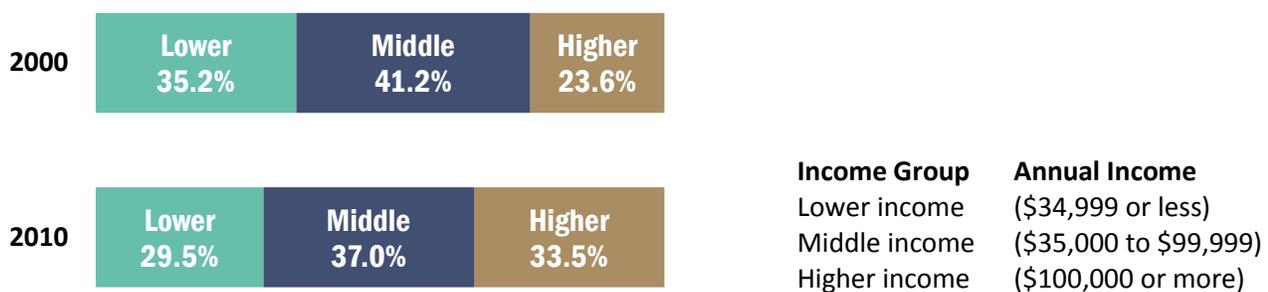
Defining what counts as a middle-class income is difficult. An official government definition does not exist, and most studies rely on self-reported designations. The result is an income range so wide that it is nearly unwieldy. For example, a recent report by Pew Research Center² identified a middle-class income for a three-person household in 2010 as being between \$39,418 and \$118,255.

That the number of people who self-identify as being middle class is so broad can be attributed to the emotional appeal of belonging to this income category. To be middle-class means different things to different people. The classification is subjective, reflecting not just a level of income but a mindset.

The lack of official consensus adds to the difficulty of analyzing the number of middle-class households in Santa Monica. The most recent data available is the 2010 Census (see Figure 10 to see the income groupings).

Adjusting for the way the Census provides income data, the range of middle-class income in Santa Monica may be defined as being between \$35,000 and \$99,999. By this definition, the city has experienced a ten percent loss in the number of middle- and lower-income households since 2000.

Income Distribution for Households



Source: U.S. Census

Figure 9

² "Fewer, Poorer, Gloomier: The Lost Decade of the Middle Class." Published August 2012

Whittling Away At Economic Diversity

Between 2000 and 2010, Santa Monica experienced a significant loss of households at every income level below \$75,000. By 2010, there were 5,382 fewer households with incomes below \$75,000, a drop of 22 percent. In other words, the city is losing both middle- and low-income households.

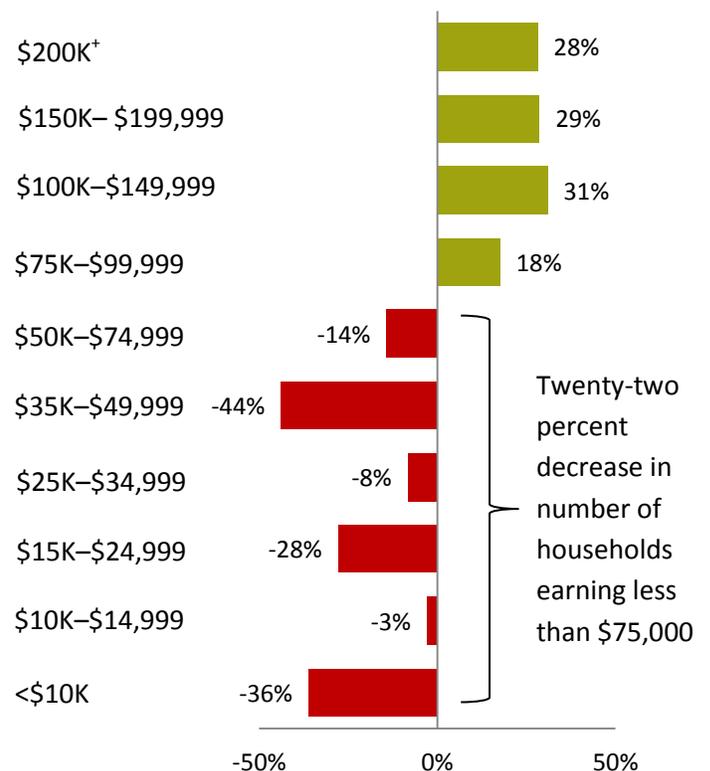
However, when the household data is divided into its component parts (married-couple families, other families, people living alone and other non-family households) there was a 13-percent increase in the number of families with annual incomes between \$15,000 and \$24,999. This increase, totaling 192 families, is likely due to the construction of affordable housing units pursuant to the City’s “Affordable Housing Production Program,” density bonuses granted through the planning process, the City’s

aggressive efforts to provide housing voucher assistance for low-income households and Community Corporation of Santa Monica’s expansion of their rental housing stock. In other words, if the City did not have affordable housing programs, the loss of households in this income category would have been much greater than the loss indicated in Figure 10.

During this same time period, the city experienced a six percent increase in the total number of residents and housing units. This increase equates to an additional 5,652 residents and 3,049 units. Given the income trends reported in the recent Census, it is likely that these new units, most of them uncontrolled units rented at market rate, are occupied primarily by households earning significantly above the 2012 HUD area median income of \$64,800.

Change in Number of Households in Santa Monica by Income from 2000 to 2010

Figure 10



Source: U.S. Census

Many New Faces: High Turnover in Market-Rate Units

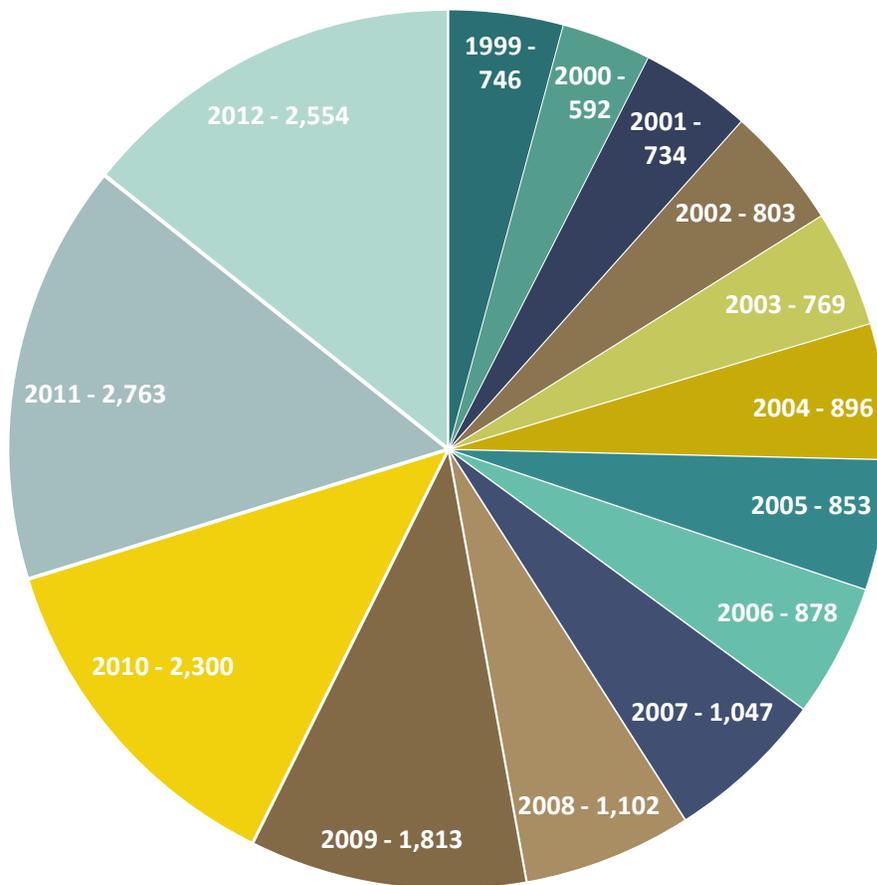
By the end of 2012, the Rent Control Agency had processed 52,792 vacancy unit registration forms for new tenancies.

New tenancies make up a significant share of Santa Monica renters. As shown in Figure 11, more than half of existing tenancies in market-rate units (9,430 of 17,850) started in the past four years. Furthermore, a review of all rent-controlled units confirms that one-third of units are occupied by tenants who moved in within the past four years.

While long-term tenants continue to hold onto their relatively affordable units, and just 379 long-term controlled units were rented at market rates for the first time last year, the rate that tenants vacate market-rate units is much higher. In each of the past five years, approximately 20 percent of new tenancies lasted only a year, and another 20 percent lasted only two years. Even with rent control, some tenants may find that the cost of current rents may be financially unsustainable in the long term.

Market-Rate Units by Year Occupied

Figure 11



The State Ellis Act, which allows landlords to evict tenants from rent-controlled units and withdraw their properties from the residential rental market, has been in effect since 1986.

This report focuses on completed withdrawals and tracks the Ellis Act's cumulative effect in Santa Monica over the 26 years since its enactment, with an emphasis on Ellis activity during the 2012 calendar year.

The report summarizes how many units were removed from the rental market, how many were returned to residential rental use, and the ultimate use of the withdrawn properties. Properties are usually deemed withdrawn from the rental market 120 days after the owner delivers a withdrawal notice to the Agency and serves eviction notices on the tenants. However, senior and disabled tenants may request up to a year to relocate.

2012 Report Highlights

The economy continued to temper Ellis activity in 2012, with Ellis withdrawal notices the second lowest in the last five years.

Eight withdrawal notices, affecting 42 units, were received in 2012.

A total of 1,964 units have been withdrawn from the Santa Monica rent control housing stock since 1986.



Ellis Activity in 2012

Notices of Intent to Withdraw Remained Steady

Fluctuations in Ellis activity generally reflect prevailing economic conditions—reduced activity during economic downturns and increased activity when the economy is strong. The near static withdrawals and re-rentals in 2011 and 2012 are indicative of an economy which remained sluggish.

Over the past five years, Ellis applications have been uniformly low compared to previous years (see Figure 12). From 2008 through 2012, an average of eight withdrawal notices were filed per year.

Withdrawn Units

In 2012, the Rent Control Agency received eight withdrawal notices affecting 42 units. Fifty-one units (nine properties including three initiated in 2011) completed the withdrawal process. Only six

of these units were occupied by tenants at the time withdrawal notices were received.

Units Returned to Rent Control Jurisdiction

On the other hand, 41 units (affecting seven properties) returned to residential rental use. As a result, the total net loss equaled only 10 rental units. At the end of 2012, six units (two properties) had not yet completed the statutory waiting period required under State law and were still pending withdrawal. Those withdrawals are expected to be completed in 2013.

Additionally, the Board asserted jurisdiction over one property (four units) after obtaining evidence from a tenant renting at the withdrawn property. Figure 13 illustrates the number of units withdrawn, along with the number returned to the rental market from 1986 through 2012.

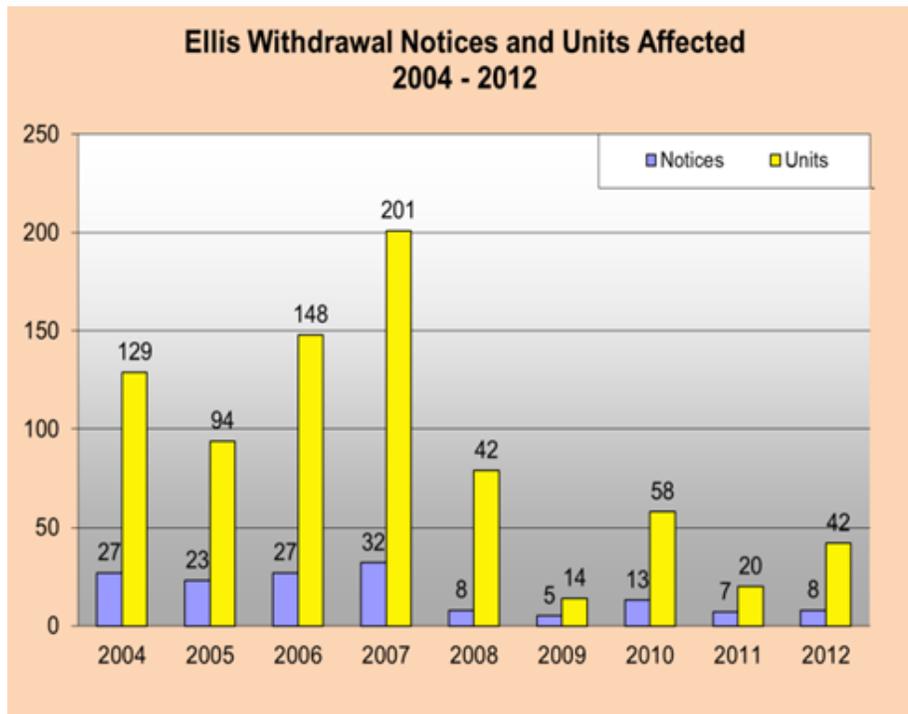


Figure 12

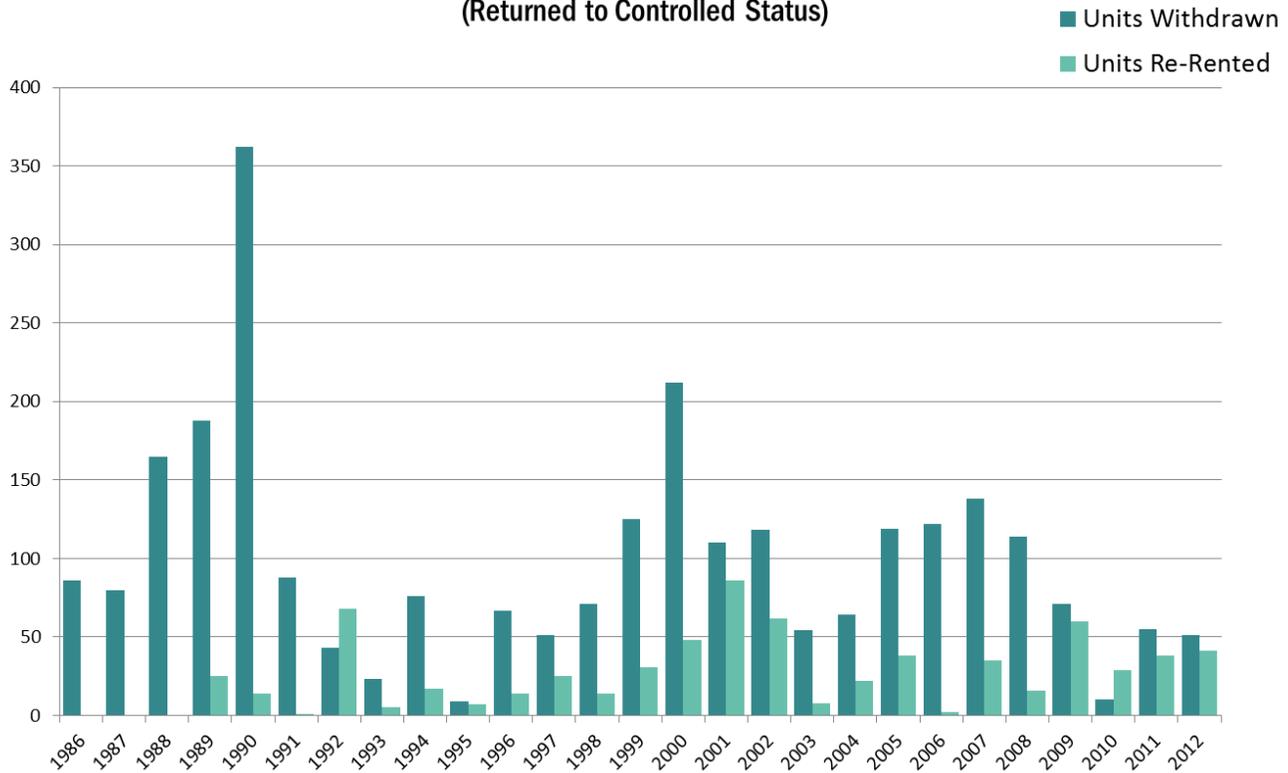
Historical Ellis Activity

Units	Properties	Status
2,684	551	Withdrawn from the rental market
706	140	Returned to the market and under rent control ³
1,964	412	Remain withdrawn

Withdrawn Units

Since the Ellis Act was enacted in 1986, 2,684 units have been withdrawn. When offsetting this amount by the number of withdrawn units returned to residential rental use, the net loss is 1,964 units.

Controlled Rental Units Withdrawn* and Re-Rentals (Returned to Controlled Status)



*Based on year withdrawal was completed.

Figure 13

³ Seven properties returned to the rental market with a different number of controlled units than were withdrawn. This resulted in a fourteen unit difference in the number of units withdrawn and later returned to residential rental use.

Post-Ellis Activity

Properties withdrawn from the rental market are used for a variety of purposes. Approximately a quarter of withdrawn properties have been converted to a non-residential use (business/commercial, schools/childcare centers/churches, parking lots or vacant lots). Residential development remains the most common use. Almost 40 percent of the properties have been redeveloped for multi-family residential use, either condominiums or apartments, some also including a commercial or mixed-use component.

Approximately 18 percent have changed use to a single-family dwelling and another 20 percent are being used for non-rental residential occupancy (i.e., family occupancy) or show no permit activity and have been left vacant but otherwise unchanged.

The chart below shows the current status of all 412 properties that remain withdrawn since the inception of the Ellis Act. Overall, condominium development constitutes the largest reuse category overall.



Overall Summary of Post-Ellis Use of Withdrawn Properties	End of 2012 Totals	
Apartments	18	4%
Apartments/Mixed Use	20	5%
Condominiums	118	29%
Condominiums/Mixed Use	1	<1%
Single-Family Dwellings	74	18%
Commercial	56	14%
Parking Lot	12	3%
School/Childcare/Church	18	4%
Vacant Lot	12	3%
Totals	329	
Family Occupancy/No Activity	83	20%
Grand Totals	412	100%

Figure 14

The Ellis Task Force

The Ellis Task Force, a collaboration of the Rent Control Agency, Planning, Code Compliance and the City Attorney's Consumer Protection Division, continued to meet in 2012, advancing its objective of ensuring compliance with laws imposed when a property is withdrawn from the rental market. These laws include Ellis Act restrictions on the ability to return units to the rental market after they are withdrawn, as well as Santa Monica laws requiring that withdrawn units be issued a re-occupancy permit before they may again be used for any purpose.

Over the last two years, as a result of investigations and letters sent to owners of properties appearing to be re-occupied but for which re-occupancy permits had not been obtained, nine withdrawn properties either received, or are in the process of receiving, re-occupancy permits.

Conclusion

Ellis activity remained low in 2012 with only eight withdrawal notices filed affecting 42 units. This continues a period of reduced activity begun in 2008, when the economy began to struggle. In the ensuing years, from 2008 through 2012, as the economic slump has lingered, only an average of eight notices have been filed annually.

But entering 2013, there are signs that the economy may be improving—foreclosures are down in California⁴ along with unemployment⁵—and there is a sense in the state that our economy may finally be headed in the right direction⁶. Along with that recovery is the likelihood of increased Ellis activity, bringing with it the inevitable loss of accessible, competitive, controlled housing.

⁴ According to DataQuick there was a 37.9 percent decline in notices of default during the final three months of 2012 as compared to the same period in the previous year.

⁵ The U.S. Bureau of Labor Statistics reports that the unemployment rate fell from a high of 12.4 percent in November 2010 to a low of 9.8 percent in December 2012.

⁶ A survey conducted by the University of Southern California Dornsife College and the Los Angeles Times revealed that 38 percent of Californians believe the state is headed in the right direction, twice the number from 13 months before.

Policies, Programs & Administration

Public Information Programs

Public Outreach and Inter-Agency Activity

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

Newsletters

The Santa Monica Rent Control Agency publishes a bilingual newsletter, the *Rent Control News*, twice a year in the spring and fall. Articles usually address changes to the Rent Control Law as well as state and city laws that affect tenants and owners of residential rental property in Santa Monica.

In 2012, articles included information regarding the State’s carbon monoxide alarm requirement, as well as the State’s “zero waste” statute, which requires recycling in 5-unit and larger buildings. The City’s new smoking law, which requires a smoking or non-smoking designation for units in multi-family developments, was highlighted. Also included was an article covering the Santa Monica voter-approved Measure GA, which simplified determination of the annual rent increase (general adjustment) for rent-controlled units in the city.

One newsletter also included guidelines for reasonable warning periods to cure a breach of contract or nuisance prior to an eviction action. Another article provided advice for replacing outgoing roommates.

Notice of upcoming seminars and inter-agency events were also in the newsletters, as well as a welcome to newly elected Rent Control Board Commissioners and thanks to those whose terms had ended.

Newsletters mailed to tenants included the current Maximum Allowable Rent (MAR) for the unit according to the Agency’s records.

BILINGUAL WEBSITE ACTIVITY

Number of total visits:	32,760
Number of first-time visits:	18,194

Educational Programming

Rent Control staff participates 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* and others are designed to offer a forum for public input on current city priorities like the Fall 2012 *Santa Monica Talks* series.

Every year, the Agency presents seminars tailored specifically to owners and tenants. Those seminars for 2012 were:

- Owning Rental Property in Santa Monica
- Tenant Seminar on the Santa Monica Rent Control Law
- Calculating the Annual Rent Increase
- Rental Property Maintenance (co-presented with the Code Compliance Division)

Smaller presentations can also be tailored for specific requests from groups such as realtor associations or building-specific tenant organizations. In 2012, staff addressed the Beverly Hills Realtors Association and a special meeting was held in conjunction with the City Attorney’s office at a 60-unit building to address specific tenant questions regarding their rights and protections under the Rent Control Law and the City’s anti-harassment law.

Public Inquiries

	Email	Telephone	Public Counter
	651		
Tenants	5,434		1,362
Owners	4,107		1,301
Others	498		62

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 relocation costs are for termite fumigation or “tenting” of a building, for extensive repair or remodel work where tenants must vacate, 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 rental housing.

The Rent Control Agency allocates significant staff time to assist tenants in obtaining temporary relocation benefits, and to assist landlords in complying with temporary relocation requirements. This 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 Compliance 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 may refer the matter to the Consumer Protection Unit of the City Attorney’s office for enforcement.

42%
OF PUBLIC INQUIRIES ARE FROM PROPERTY OWNERS AND THEIR REPRESENTATIVES

Educating About Smoke-Free Laws

The City of Santa Monica has become a leader in protecting its residents from the harms of second-hand smoke. In recent years, the City passed an ordinance to prohibit smoking in common areas of residential buildings, and as of November 22, 2012 to prohibit new tenants from smoking in their units. The Rent Control staff provides assistance in educating the public about smoke-free laws pertaining to residential units. The staff answers basic questions and refers people needing more information to the City Attorney's office and their website at www.smconsumer.org.

Eviction Monitoring

Rent Control Agency staff monitors evictions for two main reasons:

- 1) The Rent Control Law limits the grounds for eviction, so staff monitors evictions to ensure compliance.
- 2) When a tenant is evicted without fault (for example, so an owner can move on to the property), the rent for the unit from which the tenant was displaced is restricted to the pre-eviction level plus intervening general adjustments for the next tenancy.

Units subject to these restrictions can only be monitored when the Agency is made aware of the no-fault evictions and subsequent tenancies. 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 85 separate notices of eviction in 2012 (this excludes notices for Ellis and non-payment of rent). Of these, 35 were for alleged nuisance and 34 were for breach of contract (lease terms). Eleven notices of eviction were received for owner move-ins. Four notices were received for an illegal subtenant and one was received because a tenant allegedly refused access to their unit.

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. This letter gives tenants an opportunity to correct the problem identified in the warning letter. The law does not require owners to file warning letters with the Rent Control Board. Regardless, 69 warning letters were received.

85

EVICTION NOTICES RECEIVED IN 2012

Code Compliance Monitoring

The Costa-Hawkins Rental Housing Act provides that a unit for which a citation was issued by a governmental agency due to certain "serious" health, safety, fire or building code violations is not entitled to have a market-rate rent established for a new tenancy if:

- The citation was issued at least 60 days before the date the prior tenant vacated the unit; and
- The cited violation remained unabated when the prior tenant vacated.

Additionally, both the City Charter and rent control regulations prohibit landlords from imposing annual general adjustments if there are outstanding code violations.

To identify affected units, the Rent Control Agency monitors code enforcement and compliance activities. With information provided by the City's Code Compliance Division, and with the support and input of that department's staff, the Agency tracks units on which owners are not entitled to implement annual general adjustments and/or set a market-rate rent for a new tenant. At the end of 2012, nine properties had one or more units with blocked general adjustments, for a total of 31 units.

31

UNITS WITH BLOCKED GENERAL
ADJUSTMENTS FOR CODE VIOLATIONS

Participation in Inter-Agency Committees

Rent Control staff members participate in several of the City's inter-departmental groups designed to educate employees about the City's larger comprehensive goals.

The *Public Information Team* (also known as the PIT crew), meets once a month. The objective of this group is to enhance communication among City staff and with the public at large for various endeavors such as events, festivals and emergency preparedness.

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

The *Electric Vehicle Infrastructure Task Force* meets periodically to discuss issues and develop plans to enhance electric vehicle charging opportunities throughout the city.

Smaller groups, organized to accomplish the specific tasks of normal operations of the City, meet as the need or opportunity arises. Rent Control staff participates in the Code Compliance Hoarding Task Force, co-sponsored the Maintenance of Residential Rental Property seminar, and communicates with the City Attorney's office regarding relocation disputes.

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 our website at www.smgov.net/rentcontrol or at the Agency's office.

Owners can submit a listing by telephone or in person at the Rent Control office or by using a convenient email form. The listing includes the unit's address, number of bedrooms and bathrooms, rent amount, amenities, contact person, phone number and brief comments.

In 2012, the Rent Control Agency received approximately 95 listings.

95

APARTMENT LISTINGS IN 2012

Registration Fee Debt Collection Program

Registration Fees

The Rent Control Agency’s primary source of revenue is the registration fee paid annually for each rent-controlled unit in the city. The Agency does not receive any funds from the General Fund of the City of Santa Monica.

Fees Past Due and Debt Collection

In addition to current year registration fees, the Agency collects some past due fees from prior years through a debt collection program. If informal negotiations with property owners are unsuccessful, cases are filed in Small Claims Court to collect monies owed to the Board.

The success of the collection program in recent years has significantly reduced the balance of outstanding fees to be collected. In calendar year 2012, \$15,534 in past due fees were collected. To further the goals of the debt collection program, the Agency entered into five debt collection settlements and filed seven small claims lawsuits in 2012. At the end of 2012, outstanding collectibles had been reduced to approximately \$40,000.

\$15,534
PAST DUE FEES COLLECTED

Fee Waivers

The Rent Control Agency may approve waivers of rent control registration fees for units occupied by their owners, subsidized by HUD (Section 8 and HOME) or other affordable housing programs, or occupied by low-income tenants who are seniors or disabled. 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 just over 14 years ago is noteworthy. At the end of 1998, 791 tenants held senior fee waivers. As the table below shows, there were only 309 such fee waivers as of December 31, 2012.

The following table shows the number of fee waivers of each type that were active in 2012, along with the change in the quantity from 2011.

Type of Fee Waiver	As of 12/31/12	Change from Prior Year
Low-income senior	309	-8
Low-income disabled	123	0
Owner-occupied	2,260	-30
Single-family dwelling	1,432	+36
HUD subsidized (Section 8)	787	-10
HOME/Tax Credit Units	169	+21
Total fee waivers	5,080	+9

The Hearings Department is the department within the Rent Control Agency where petitions, complaints or applications are handled and hearings are conducted to assist members of the public seeking to resolve rent control-related issues.

The Hearings Department provides mediation services as part of the decrease petition and excess rent processes, as well as for some matters not brought by petition. Hearings are held for decrease and excess rent cases not fully resolved through mediation and for all other types of petitions and complaints. Petitioners and respondents may appeal a hearing officer decision if they disagree with the outcome. Appeals are handled 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.

Mediations

Mediation is a service the Rent Control Board provides 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 settle their issues in a way where differences are safely aired and where agreements that are reached are mutually satisfactory. Additionally, mediation provides an opportunity for the parties to tailor solutions that meet their specific needs.

How it works: Some petitions are resolved after the first mediation conference, while other cases

require on-going mediation before an acceptable resolution is reached. Assuming the parties come to an agreement, the mediator writes up a settlement agreement (a contract) that is signed and is binding on both parties. The agreement may provide for a schedule of repairs or a voluntary rent decrease. In excess rent matters, the parties may work out a repayment schedule. Rent decrease and excess rent cases are the types of cases most frequently mediated.

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

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. The tenant’s initial step is to 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. If the matter is not resolved and goes to a hearing, the hearing officer will consider all of the evidence and issue a written decision, granting a rent decrease if warranted.

Reinstatement of Decreases

If a decrease is granted, the decrease amount can be reinstated (added back into the rent) when the owner makes the required repairs or restores services for which a decrease was granted. Property owners wishing to have a decrease

amount reinstated must first file notice (“Request for Compliance and Addendum”) with the Agency that the subject problem has been corrected. Once the Agency receives such a 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 outcome, a hearing is held on the proposed addendum after which a final addendum is issued. Decrease amounts are reinstated for each properly corrected condition.

During 2012, decreases were fully or partially reinstated in four of the 13 decisions issued in 2012 that granted a decrease: decreases were fully reinstated in one case and partially reinstated in three cases. In addition, for decisions issued in prior years, decreases were fully reinstated in three cases and partially reinstated in four cases.

Newly Filed Decrease Petitions in 2012		44	
Withdrawn or dismissed prior to mediation or hearing	3	Referred directly to hearing	7
Referred to mediation	31	Pending referral	3
Mediation Activity		Hearing Activity	
Cases mediated during 2012	54	Active cases during 2012	29
<i>current year cases</i>	31	<i>referred directly to hearings</i>	7
<i>carried over from prior year</i>	23	<i>referred from mediation</i>	17
Withdrawn or dismissed after mediation	2	<i>ongoing from prior year</i>	5
Resolved—case closed	19	Withdrawn or dismissed	6
Referred to hearing	17	Decision granting decrease	13
<i>no resolution</i>	14	Decision denying decrease	2
<i>partial resolution</i>	3	Pending	8
Pending	16		

Appeals of Decrease Petition Decisions

Appeals were filed on five of the 15 decisions issued during 2012. The five appeals were filed on decisions which granted decreases for various conditions. One appeal, filed by the owner, was withdrawn on the date the matter was scheduled before the Board. The legal staff’s recommendation was to affirm the decision. The Board fully affirmed the hearing officer’s decisions, appealed by owners, in two cases, and affirmed with modifications the remaining two cases, appealed by both tenants and owners. The modification in one case was to add an additional decrease, while the modification in the second case was to lower the decreases granted by the hearing officer.

50%

OF MEDIATED CASES FOR DECREASE PETITIONS
WERE RESOLVED IN MEDIATION
(EXCLUDING 16 PENDING CASES)

52%

OF DECREASE PETITIONS FILED IN 2012 WERE
FOR MARKET-RATE TENANCIES (23 UNITS)

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.

New petitions filed in 2012:	4	Petitions approved:	3
Petitions from 2011:	1	Petitions dismissed:	1
		Petitions pending at the end of 2012:	1

Appeals of Increase Petition Decisions

Appeals were filed on two of the decisions granting increases. The property owner filed one appeal. The tenant and owner filed the second appeal. The Board affirmed the hearing officer decisions in both instances.

Excess Rent Complaints

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

74%

OF ALL EXCESS RENT COMPLAINTS WERE FULLY RESOLVED IN MEDIATION (EXCLUDING 1 PENDING CASE)

54%

OF EXCESS RENT COMPLAINTS FILED IN 2012 WERE FOR MARKET-RATE TENANCIES (13 UNITS)

Newly Filed Excess Rent Petitions in 2012

24

Withdrawn or dismissed prior to mediation or hearing	6	Referred directly to hearing	2
Referred to mediation	16	Pending referral	0

Mediation Activity

Hearing Activity

Cases mediated during 2012	24	Active cases during 2012	11
<i>current year cases</i>	16	<i>referred directly to hearings</i>	2
<i>carried over from prior year</i>	8	<i>referred from mediation</i>	5
		<i>ongoing from prior year</i>	4
Withdrawn or dismissed after mediation	1	Withdrawn or dismissed	2
Resolved—case closed	17	Decision substantiating complaints	7
No resolution—referred to hearing	5	Pending	2
Pending	1		

Appeals of Excess Rent Complaint Decisions

Appeals were filed for six of the seven decisions which substantiated the complaints for excess rent. The Board fully affirmed the decisions in three cases which were appealed by owners; affirmed with language modifications two cases appealed by both tenants and owners; and reduced the amount of excess rent found in the sixth case appealed by the owner.

Base Amenities Petition

Any owner or former owner, tenant or former tenant of a property, or any Board Commissioner or the Board's Administrator may petition for a hearing to establish correct apartment and building amenities.

In 2012, one base amenities petition was received by the Hearings Department. That petition was pending at the end of the calendar year.

Owner-Occupied Exemption Applications

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. 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 to make a final determination on the exemption application or lapse of an exemption.

During 2012, two exemption applications were referred for evidentiary hearings. The Board adopted staff's recommendation to grant the exemption in one case. The applicant in the second case withdrew his application during the hearing process. In addition, a matter regarding the lapse of an owner-occupied exemption was resolved in 2012. The hearing officer's recommendation was to lapse the exemption and the Board adopted staff's recommendation.

Petitions to Register Previously Unregistered Units

Petitions may be filed with the Rent Control Board when an owner seeks to register a unit not previously 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 was used as a residential rental unit in April 1979, or the 12 months that preceded April 1979, and is either habitable or capable of being made habitable.

During 2012, one petition was received. This case was pending at the end of the calendar year.

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 withdrawn if the subject unit is vacated. The Board sets the new maximum allowable rent for the unit based on rents for comparable units on the property or the median MAR for the city area.

During 2012, seven new petitions were filed. Two cases were dismissed as a *prima facie* case was not made and one petition was withdrawn prior to review. Four cases were referred to hearing in addition to three cases pending from the prior year. Decisions granting the petitions were issued in three of those cases and three petitions were withdrawn during the hearing process. One petition was pending at the end of the calendar year.

Appeals of Tenant Not In Occupancy Decisions

No appeals were filed on the three decisions issued during 2012.

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 and publishes 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.

Lawsuits Challenging Administrative Decisions

Writs Filed in Prior Years but Resolved in 2012

ENA7 LLC v. SMRCB

(Settlement favorable to the Board)

In 2009, tenants filed a rent decrease petition alleging loss of shade and privacy resulting from damage to a hedge running between the property where they lived and a commercial property next door. Though it was unclear whether the hedge was on the owner's property, and though it appeared that it was users of the commercial property who damaged the hedge, the Board granted the decrease. The owner petitioned the Superior Court for a writ of mandate, which the court denied in 2011. The owner then sought review by the Court of Appeal. While the appeal was pending, the Board determined that the hedge had largely grown back, such that the basis for a decrease had substantially ended. The owner and the Board entered into a settlement under which the owner withdrew its appeal, the rent was fully restored, and the Board made a nuisance-value settlement payment of \$3,750.

Galloway v. SMRCB

(Attorney fee motion against Board denied)

Susan Galloway sought to register a bootleg unit with the Board. Although the Building and Safety Department made no determination that the unit was uninhabitable or could not be legalized, the Board disallowed the registration. In 2008, Galloway petitioned the Superior Court for a writ mandating that the Board allow the registration, which the Court granted in late 2011. Early in 2012, Galloway filed a motion seeking \$383,920 in attorney fees. The Board opposed, and the motion was denied in its entirety.

McKinsey v. SMRCB

(Petition against the Board dismissed for failure to timely file)

In 2011, the Board partly granted and partly denied a rent decrease petition against Village Trailer Park. The tenant, McKinsey, immediately demanded that the Board prepare the administrative record as a predicate to his seeking judicial review of the partial denial. The Board prepared the administrative record and served it on McKinsey, after which, under Code of Civil Procedure section 1094.6(d), he had 30 days to file his petition for writ of mandate with the Superior Court. He missed that deadline by three days and the Board demurred on that basis. The demurrer was granted.

Santa Monica Properties v. SMRCB

(Board decision granting rent decrease reversed)

In January 2008, tenants sought a rent decrease because the landlord ceased heating the hot tub during workday hours and changed the timing knob on a sauna from a one-hour timer to a half-hour timer. The Board granted the petition in April 2009, and the owner petitioned the Superior Court for a writ of mandate. The writ was denied and the owner appealed. In February 2012, the Court of Appeal reversed, holding that minor reductions in "adult luxury housing services" such as hot tubs and saunas cannot justify a rent decrease absent a showing that the tenant's rent has become "excessive" as the result of the reduction. The Board asked the Supreme Court to depublish the Court of Appeal's opinion, but the depublishing request was denied.

Writs Filed Against the Board in 2012



Baheri v. SMRCB

(Demurrer granted in Board's favor)

The Board initiated proceedings to determine whether an owner-occupancy exemption had expired because the owner, Joan Baheri, had ceased to reside at her three-unit property. In March 2012, the Board determined that Baheri had moved from the property and that her exemption from rent control had therefore expired by operation of law. Baheri sued, seeking a writ of mandate as well as monetary damages in excess of \$600,000.

The suit did not challenge the Board's conclusion that Baheri had moved from the property, but instead challenged the Board's regulations. Baheri alleged that Board regulations allowing for a fact-finding process to determine whether an exemption had lapsed was unlawful because no process is contemplated by the City Charter. By engaging in the fact-finding process, Baheri alleged, the Board violated her constitutional rights. The Board demurred on the ground that the regulations grant greater process than is due under the constitution, not less, and it is improper to sue for "too much due process."

The court granted the Board's demurrer, denying Baheri leave to amend her complaint.

Dellagatta Family Trust v. SMRCB

(Board decision granting rent decrease reversed and ordered reconsidered in light of Santa Monica Properties v. SMRCB)

A tenant filed for a rent decrease alleging a number of minor defects in his apartment, including a loose towel hook in the bathroom, a small area of mismatched color in the bathroom paint, and squeaky faucets. In July 2011, the Board reduced the tenant's rent by over 40 percent, though only after discussion in which some Board members expressed concern about the amount of the decrease relative to the minor nature of some of the problems alleged.

The owner petitioned the Superior Court for a writ of mandate, arguing that the decrease was improper under the Court of Appeal's holding in *Santa Monica Properties*. Because many of the conditions complained of were minor and there was no showing that they amounted to a code violation or failure to provide adequate housing services, the court determined that a decrease granted for those conditions was improper absent a showing that the rent had become "excessive."

The court issued a writ directing the Board to hold further proceedings consistent with this analysis, which the Board did on March 7, 2013.

Other Litigation

Barnes v. SMRCB

(Currently pending)

The Village Trailer Park filed an application with the Board, seeking a permit to remove the park's controlled mobile home spaces from the rental market so that the property can be developed with new multifamily housing. Brenda Barnes has filed suit against the Board alleging that the Board:

- conspired with its General Counsel to impose "made up" conditions under which the permit would be granted;
- violated the Brown Act in 2007; and
- violated state and federal law, including constitutional law, by failing to enact regulations governing the removal-permit process.

Barnes failed to obtain statutorily-required court permission to allege a conspiracy between the Board and its counsel; failed to meet pre-filing requirements imposed by the Brown Act; and filed her suit five years after the cause of action on her Brown Act claim elapsed. The Board's motion seeking the case's dismissal for these reasons is currently pending.

Sidenberg v. SMRCB

(Currently pending)

In 1995, a property owner entered into a contract with the Board allowing the owner to temporarily vacate the property so that it could be repaired after the Northridge earthquake. Under the contract, the owner agreed to set aside two units as permanently affordable to low-income persons, in exchange for which the Board allowed the owner to charge market-rate rents for the remaining units when they were first returned to the rental market after repairs were completed. The contract was recorded. The owners died, leaving the property to their daughter who has now sued the Board alleging that the contract's affordable-unit set-aside was invalidated with the enactment of the Costa-Hawkins Rental Housing Act in 1996.

The Board has moved to have the case dismissed because the owner's claims are barred by the statute of limitation and because Costa-Hawkins does not apply retroactively to invalidate pre-1996 contracts.

Exemption and Removal Permit Applications

Exemptions

The Rent Control Law applies to all residential rental units in Santa Monica, except for those units specifically exempted under certain criteria. Some exemptions are permanent, whereas others are referred to as “use exemptions,” which remain in effect as long as the criteria for which the exemption was granted continue to be met.

Permanent Exemptions

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

In 2012, there were 43 declarations submitted for single-family dwellings stating that the structures were not rented on July 1, 1984 and eligible for permanent exemption. Of these, 20 declarations were filed in connection with a demolition permit for homes that were never under rent control. As long as the information in these declarations is accurate, the subject properties are exempt.

Four single-family dwellings were granted an exemption by the Board after each owner filed an exemption application based on two years of owner occupancy, another way to qualify for this permanent exemption.

4

SINGLE-FAMILY
DWELLING
EXEMPTIONS GRANTED

43

SINGLE-FAMILY
DWELLING
DECLARATIONS FILED

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 due to 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 who makes the final determination. Owners of twelve properties received owner-occupied exemptions in 2012. Eleven of the properties had owner-occupied exemptions in the past; six within the past five years. One property received an owner-occupied exemption for the first time.

In addition to the owner-occupied exemptions that were granted, two applications were returned. One application had insufficient documentation and the other application was for a property that consisted of more than three units. Another application was dismissed as it failed to state a basis for exemption under the Board's regulations.

Two applications were referred to the Hearings Department for evidentiary hearings to determine if the owner-applicants met all the residency requirements to qualify for this exemption.

Owner-occupied exemptions lapse by operation of law when the owner moves off the property or when ownership is transferred. Many of these exemptions lapse due to a change in ownership. The Rent Control Agency has continued to monitor owner-occupancy exemptions and regularly researches changes in ownership of all residential Santa Monica properties.

Thirty-three exemptions were verified to have lapsed in 2012.

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.

12
OWNER-OCCUPIED
EXEMPTIONS GRANTED

33
OWNER-OCCUPIED EXEMPTIONS
VERIFIED TO HAVE LAPSED

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. Five removal permit applications were filed in 2012, but three were withdrawn. The remaining two applications (affecting a total of three units) were granted in 2012 based on the following requirement:

“The Board finds a unit is uninhabitable and cannot be made habitable in an economically feasible manner.”

Appendix

Statistical Overview

Board Meetings

Board meetings convened and staffed	14
Regular meetings	11
Special meetings	3

Public Outreach

Number of contacts with people seeking information	13,415
<i>Counter (20%)</i>	2,725
<i>Phone (75%)</i>	10,039
<i>E-mail (5%)</i>	651
Constituency-wide mailings produced and distributed	3
General Adjustment mailing (Includes citywide MAR report mailing)	1
Newsletter	2
Community meetings/seminars	9
<i>Seminars by Rent Control staff</i>	4
<i>Beverly Hills Realtor Association</i>	1
<i>Santa Monica Festival</i>	1
<i>Santa Monica Talks</i>	3
Rent Control Seminar Attendance	84
<i>Owner seminar</i>	25
<i>Tenant seminar</i>	23
<i>General adjustment seminar</i>	12
<i>Maintenance seminar</i>	24

Petitions/Complaints

Petitions processed on intake	81
Decrease petitions filed	44
Increase petitions filed	4
Excess rent complaints filed	24
Base amenities petitions filed	1
Unregistered unit petitions filed	1
Tenant Not in Occupancy petitions filed	7
Hearings held	58
<i>Decrease petitions</i>	29
<i>Increase petitions</i>	2
<i>Excess rent complaints</i>	12
<i>Exemption applications</i>	2
<i>Unregistered units</i>	0
<i>Potential lapse of exemptions</i>	0
<i>Tenants not in occupancy</i>	13
Written decisions issued	30
Proposed addenda issued	17
Final addenda after hearing issued	3
Exemption staff reports prepared and reviewed	12
Interpreter services provided	0
On-site investigations conducted	126
<i>Upon scheduling decrease petitions</i>	27
<i>In response to compliance requests</i>	10
<i>Exemption use investigations</i>	15
<i>Ellis investigations</i>	38
<i>Occupancy, unit use, residence verification, etc.</i>	22
<i>Other (e.g., measuring, service of documents, etc.)</i>	14

Ellis Withdrawals, Exemptions and Removals

Ellis withdrawals (properties)	
Filed	8
Completed	9
Ellis returns to rental market completed	
Properties	7
Units	41
Exemption applications filed	18
SFD declarations filed	43
Removal permit applications filed	5

Forms and Permits (Processed)

Status forms to submit development applications	188
Demolition permits	69
Building permits	246
Property registrations	583
Vacancy registration forms	4,336
Registration fee payments	3,865
Fee waivers	156
Clean Beaches Tax waivers	57

Appeals and Litigation

Staff reports on appeal	20
<i>Decrease petitions</i>	7
<i>Excess rent complaints</i>	7
<i>Increase petitions</i>	2
<i>Tenants not in occupancy</i>	0
<i>Unregistered units</i>	0
<i>Exemptions/lapses following Hearing Officer recommendation</i>	3/1
Supplemental staff reports prepared	8
Litigation cases	8
Administrative records prepared	2

Legal Advisory

Miscellaneous staff reports written	8
Occupancy permits advisory	13
Responses to subpoenas & Public Record Act requests	17

Registration Fees Collected through Debt Collection Program: \$15,533.84

Collection actions initiated	0
Settlements entered	5
Small claims lawsuits filed	7

Apartment Listing Service

Number of listings received	95
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Regulations and Resolutions

New or amendments prepared	1
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General Adjustment

GAs blocked for code violations	
Properties	9
Units	31