# Santa Monica Rent Control Board

# 2013 Annual Report

## Consolidated Report Includes

Status of Controlled Rental Housing
Impact of Market Rent Vacancy Increases
Impact of the Ellis Act

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# Introduction

Like many public entities, the Rent Control Board faced its share of challenges in 2013. A budget deficit loomed, and the Costa-Hawkins Act, which allows landlords to establish market-rate rents for new rent-controlled tenancies, continued to reduce the number of rental units affordable to lower- and moderate-income renters.

The Board closed the budget gap by raising the registration fee by the amount necessary to balance the budget: $1.58 per unit, per month, for a total per-unit monthly fee of $14.58. The portion that may be passed through to tenants remained unchanged at $13 per month.

The challenges posed by Costa-Hawkins were less easily met. By the end of 2013, two-thirds of the controlled housing stock had been rented at market rates, and frequent turnover of market-rate units has become common. But even market-rate units are subject to rent-level and eviction controls during the course of every tenancy, and the Board continued to provide services to tenants and owners of those units to the same extent as for units that have never experienced a market-rate increase.

Perhaps the greatest challenge in 2013 was the removal of 99 mobile-home spaces at the Village Trailer Park. Many of those spaces were unoccupied, but the removal will cause the displacement of several households, some of which are economically distressed. To mitigate that displacement, 109 new rent-controlled units will be built on the site, including 38 affordable units. In further mitigation, many displaced households will be given title to new manufactured homes at Mountain View Mobile Home Park, while others have chosen to live in affordable apartments in the newly-built Civic Center Village.

One challenge that we did not face over the past year was any material reduction in the number of controlled units. That number remained relatively constant at a little over 28,000. While 14 units were withdrawn from the rental market under the Ellis Act, 30 previously withdrawn units were returned to the market.

For the tenants and owners of these and all controlled units, the Board will continue the work that it performed throughout the past year, of sending out regular newsletters, conducting seminars and customized presentations, and providing other outreach. In the meantime, I hope that you will use our frequently updated website or follow the Board on Facebook to stay apprised of the Board's ongoing work throughout the year.

Tracy Condon, Administrator
March 13, 2014

# New Developments in 2013

## Measure GA: First Implementation

The November 2012 voter-approved change to the way annual rent increases are determined was implemented for the first time with the September 1, 2013 rent increase (known as the General Adjustment or GA). The rent increase is now equal to 75 percent of the annual percentage change in the Los Angeles-area inflation rate, rounded to the nearest one-tenth of a percent. This resulted in a one percent General Adjustment. Rents may only be increased in units where the tenant has lived for at least one year.

Santa Monica now joins other rent control jurisdictions in the state in using a direct Consumer Price Index-based method to determine the annual rent increase.

## Separate Agreements: Electric Vehicle (EV) Charging

In keeping with the City's goal of reducing carbon emissions and increasing sustainability, the Rent Control Board unanimously approved the opportunity for all tenants and owners to enter into separate agreements for charging electric vehicles (EV) on rent-controlled properties. Although separate agreements have been permitted for long-term tenants (those moving in prior to 1999) they were limited for tenants in market-rate units.

An inquiry from a tenant and his property manager initiated the discussion that led the Board to adopt this amendment to the Rent Control regulations.

## Registration Fee: Increase and Reapportionment

In 2013, the Rent Control Board increased the annual registration fee for the first time since 2006. The total annual fee per unit is $174.96. The Board implemented the minimum increase necessary (from $13.00 to $14.58 per unit per month) to balance the annual budget. For the first time in Santa Monica, a small portion of the fee is now paid by the owner. The amount passed through to tenants remains unchanged at $13.00 per month.

To assist in controlling costs, two vacant staff positions were not filled. Nevertheless, we continue to provide the services required to meet the needs of the community.

## Technology: New Efficiencies for Constituents

**Electronic communication is available for certain documents mailed by the Agency.**

Sign-up forms are available at the Rent Control homepage at www.smgov.net/rentcontrol through the link "Electronic Communications Sign-Up" for people interested in receiving periodic e-mailings (including meeting agendas, newsletters and announcements) from the Rent Control Board.

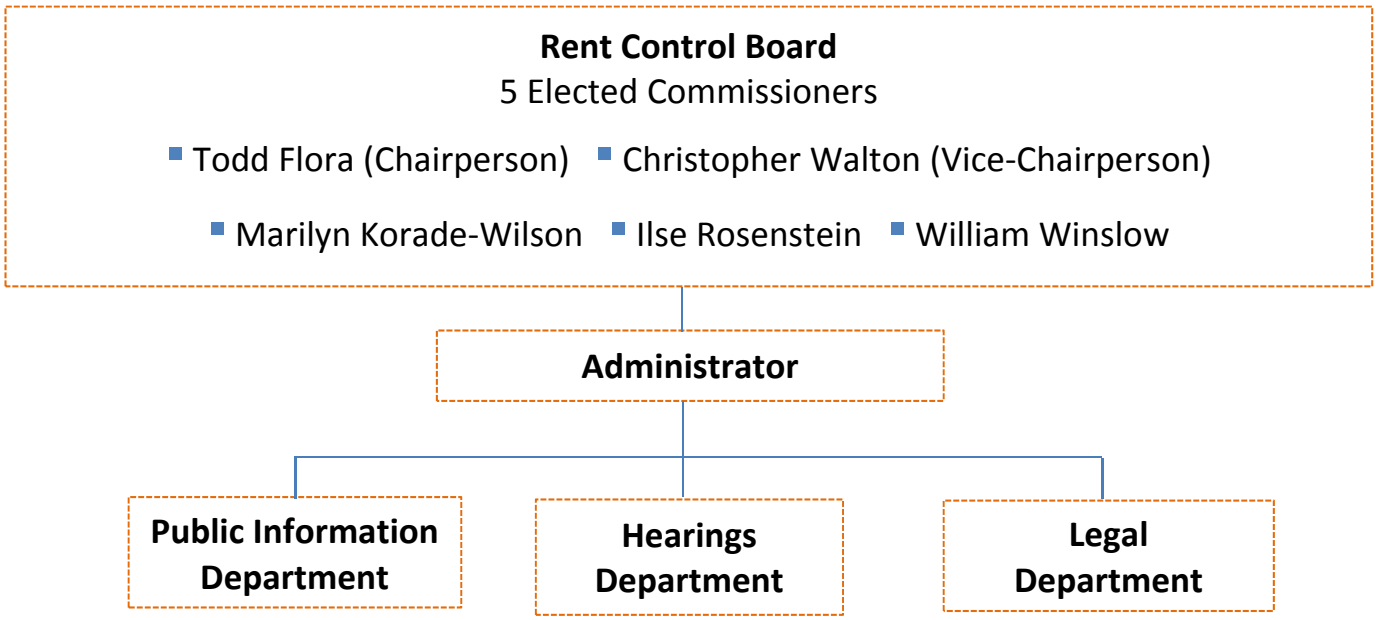
**Registration fees can be paid via online transfer.**

Rent Control registration fees, due August 1st of every year, may now be paid by making an online transfer from one's bank. The homepage provides a link to initiate electronic payments. In 2013, four percent of registration fee payments were made using this service.

**Vacancy unit registration form is now online.**

A one-page Vacancy Unit Registration form for use in registering new tenancies is now available for downloading from the Agency's website. The form may be filled out online, but the Rent Control Law requires original signatures, so owners must still mail or deliver signed forms to the Agency. Owners may use either the original triplicate form or the downloaded one-page version to meet their legal requirement to register new tenancies.

# 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. In 2013, the Rent Control Board convened 14 regular meetings and one special meeting.

Agendas for 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 online at our website.

**15**
BOARD 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, 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 computer and peripheral electronic equipment.

## Phone/Public Counter/E-mail Contacts with the Public in 2013

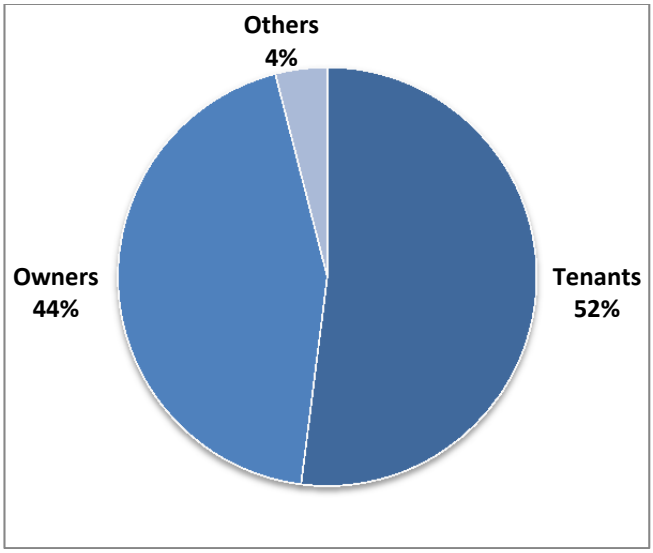



*Figure 1*

13,276

CONTACTS WITH THE PUBLIC

## 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. It also updates the Agency's website and social media presence, and presents seminars for tenants, landlords, 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. It also drafts and updates regulations for Board consideration and adoption to implement the Rent Control Law.

# Status of Controlled Rental Housing

## 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 Figures 2 and 3 on page 7 summarizes 13 multi-family residential developments completed in 2013. Two condominium developments containing a total of ten units were completed on two properties that previously had eight rent-controlled units withdrawn under the Ellis Act. Ten of the remaining developments were completed on properties that did not previously have controlled units.

Seventy-nine of the 341 apartments completed in 2013 are affordable to very-low-income or low-income households. This includes 65 apartments built by Community Corporation of Santa Monica (CCSM), which provides housing for low- and moderate-income residents. One of the CCSM developments combined two former parcels: one that previously had a commercial building and one with a formerly controlled single-family home that received a Category D removal permit.

## Condominiums

- Eight rent-controlled units were lost
- The City's Affordable Housing Production Program (AHPP) requirements were met through payment of in-lieu fees

| City Area | Address | Previous Use | Exemption Method | Rent-Controlled Units Lost | # of New Condo Units |
|---|---|---|---|---|---|
| B | 2301 10th St. | SFD | §1815 Exempt | 0 | 3 |
| D | 1827 9th St. | Two-unit rent-controlled property (Remains) | Added (New Construction) | 0 | (2 rent-controlled) 2 |
| | 1827 16th St. | 4 rent-controlled units | Ellised in 2007 | 4 | 5 |
| E | 1242 Chelsea Ave. | SFD | §1815 Exempt | 0 | 3 |
| | 1327 Euclid St. | SFD | §1815 Exempt | 0 | 5 |
| G | 811 19th St. | 4 rent-controlled units | Ellised in 2005 | 4 | 5 |
| | | | **Totals:** | **8** | **23** |

*Figure 2.*

## Apartments

- One rent-controlled unit at 430 Pico Blvd. was replaced with 32 affordable units built on two combined parcels.
- The City's AHPP requirements were met primarily through on-site and limited off-site construction of units for income-qualifying tenants.

| City Area | Address | Units Built | | | | |
|---|---|---|---|---|---|---|
| | | **Very-Low Income** | **Low Income** | **Moderate Income** | **Market Rate** | **Total Units** |
| A | 430 Pico Blvd. (CCSM)* | 25 | 7 | 0 | 0 | 32 |
| B | 2802 Pico Blvd. (CCSM) | 27 | 6 | 0 | 0 | 33 |
| C | 1420 5th St.** | 5 | 0 | 0 | 50 | 55 |
| | 1430 5th St.** | 5 | 0 | 0 | 50 | 55 |
| | 525 Santa Monica Blvd. | 4 | 0 | 0 | 36 | 40 |
| E | 1447 Lincoln Blvd. | 0 | 0 | 97 | 0 | 97 |
| | 1511 15th St.*** | 0 | 0 | 0 | 29 | 29 |
| | **Totals:** | **66** | **13** | **97** | **165** | **341** |

*Figure 3. *This building was built when two parcels were combined, one with a controlled SFD that received a Category D removal permit and the other a former commercial property; ** Very low-income units built off-site; ***In-lieu fees paid for future development of affordable units.*

## Mapping the City

To better assess changes in the housing stock in the city, the Rent Control Agency has segmented the city into seven areas, identified as A through G. These seven areas roughly parallel the city's neighborhoods and census tracts. Figure 4 shows these city areas and the percentage of controlled rental units in each as of December 31, 2013. The percentage of rent-controlled units per area of the city has remained unchanged for over a decade.

### City Areas and Percentage of Controlled Rental Units by Area

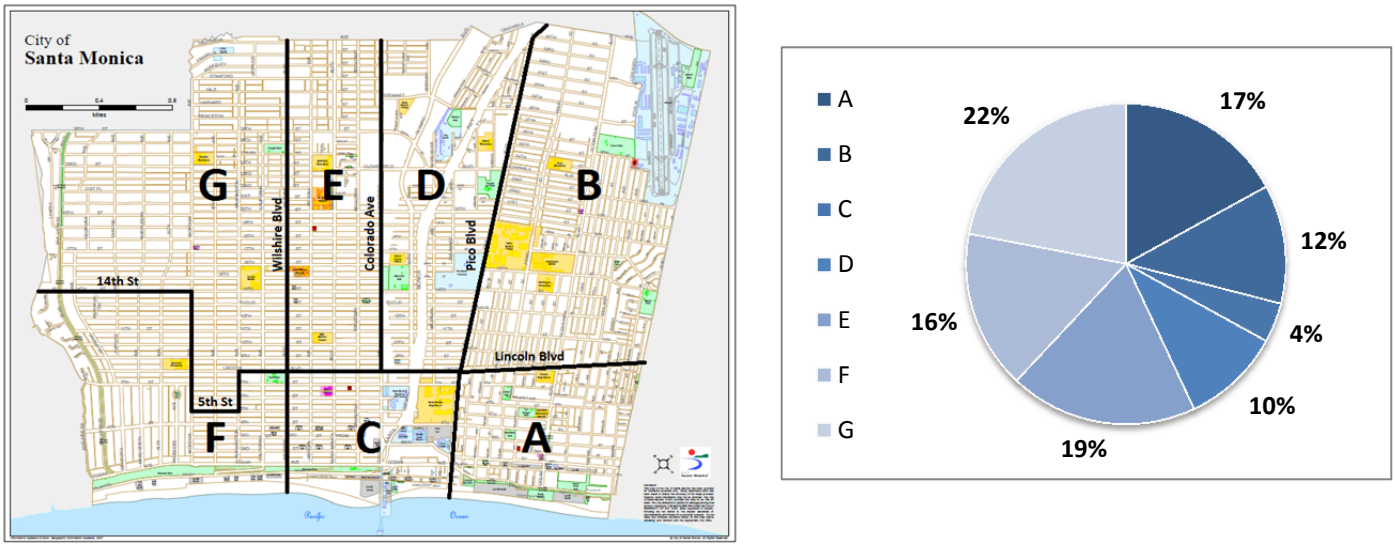



*Figure 4*

### Percentage of Controlled Rental Units by Unit Size

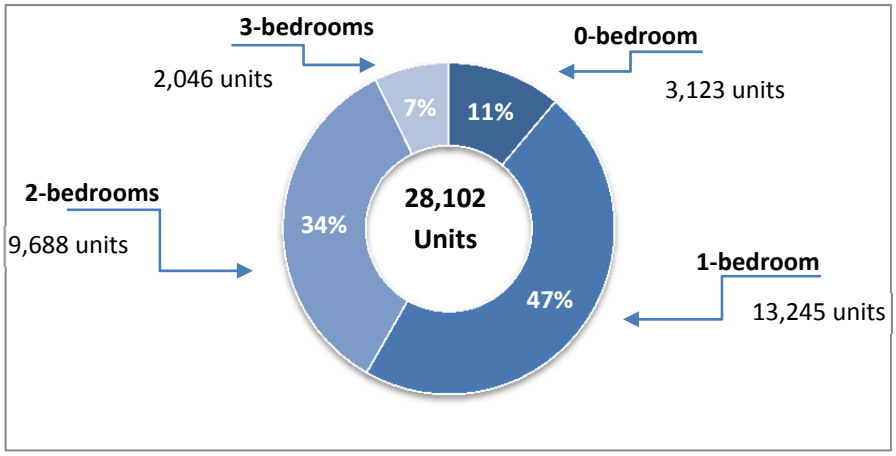



*Figure 5*

### Area C

A substantial number of units in Area C were removed from rent control after the area lines were initially drawn. Two buildings in this area constitute more than 35 percent of the total units in the area. Units at one large building, 1221 Ocean Ave., are luxury rentals, unrepresentative of the remaining units in the area.

# Impact of Market Rent Vacancy Increases

As approved by Santa Monica voters in 1979, the Santa Monica Rent Control Law was designed to preserve Santa Monica as a city with affordable rental housing for people across all income categories. Santa Monica's Rent Control Law—along with all similar laws in the state—was modified by the California state legislature with the passage of the Costa-Hawkins Rental Housing Act in 1995. Under this law, rent-level restrictions are lifted upon vacancy, and owners may establish the initial rent for the next tenancy at a market rate. This is commonly known as vacancy decontrol. As a result, the traditionally controlled Santa Monica rental housing market is gradually being replaced by a marketplace in which new tenancies may start at rent levels typically higher than what departing tenants paid. While the Santa Monica Rent Control Law continues to fairly limit increases in rent for the duration of a tenancy (including for "market-rate" tenants), the impact of vacancy decontrol has been transformative on the affordability of rent-controlled housing.

Changes brought by vacancy decontrol, along with the desirability of Santa Monica and other market forces, have driven rents for new tenants higher and higher. Since 1999 and the full implementation of the State's Costa-Hawkins law, roughly two-thirds of Santa Monica's controlled rental housing has been rented at market rates. In the past 15 years, Santa Monica has been becoming a place where primarily only higher-income households can afford to rent.

## 2013

### Report Highlights

**28,102**
total controlled rental units

**2:1**
ratio of market-rate to long-term rentals

**1%**
2013 general adjustment

**6.0%**
average increase of market-rate rentals 2012 to 2013

**50%+**
market-rate tenants who moved in within past 5 years

**1/1/1999**
Costa-Hawkins Rental Housing Act full implementation

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

At the close of 2013, there were 28,102 units subject to the Santa Monica Rent Control Law. About one percent of these units have no registered rental history because they are presumably owner-occupied, occupied by owners' relatives or held for some other use. The other 99 percent of units are either rented to long-term tenants or to those paying market rates.

Each year, as long-term tenants vacate and their units are re-rented, the share of units rented at market rates grows. In 2013, about two percent of the remaining units occupied by long-term tenants were converted to market-rate rentals. Last year, 493 units formerly occupied by long-term tenants were rented at market rates for the first time. By year end, 65.3 percent of all controlled units had been rented at market rates at least once. The share of controlled units with long-term tenants consequently dropped to 33.5 percent. About one percent of units remained without an established Maximum Allowable Rent (MAR).

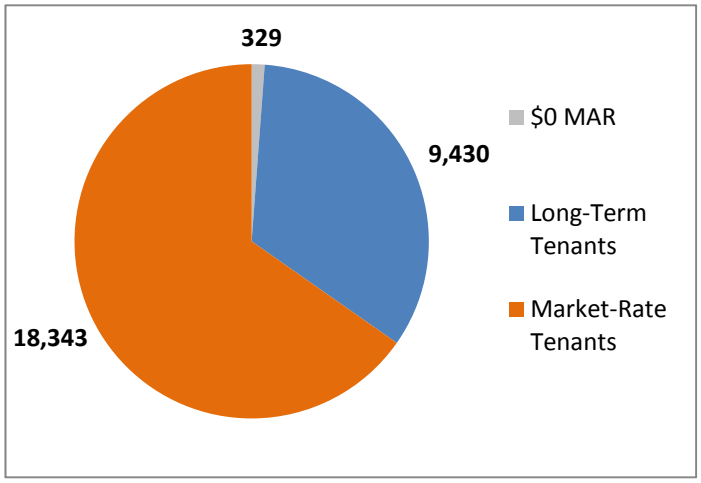



*Figure 6*

UNITS NOT CURRENTLY SUBJECT TO RENT CONTROL
(AS OF 12/31/2013)

| | |
|---|---|
| Ellis Act withdrawals | 1,939 |
| Removed per permits | 1,764 |
| Owner-occupied exemptions | 1,362 |
| Non-rental / Commercial exemptions | 505 |
| Other "use" exemptions | 2,443 |
| **Total** | **8,013** |

*Units listed as "exemptions" will again be subject to rent control if the exemption lapses. Units listed as "withdrawals" will again be subject to rent control if used as residential rentals.*

## Few Properties Have No Market-Rate Rentals

Vacancy decontrol has impacted all types of rental housing stock. As shown in Figure 7, market-rate units are widely distributed across properties of various sizes, with 70 percent or more of properties having at least half of their units rented at market rates. Properties with 4 to 15 units are representative of the effect of vacancy decontrol, as they constitute 90 percent of all controlled properties excluding those with three or fewer units. Properties with three or fewer units are omitted from the chart below, as many have exemptions as single-family dwellings or have been granted owner-occupied use exemptions.

Figure 7 also shows that only six percent of properties in the 4- to 15-unit range have recorded no market-rate tenancies, as indicated by the narrow blue section of the graph. A quarter of 4-unit property owners are collecting market rates on all of their units, as indicated by the orange section of the graph. Properties of this size are the most common in Santa Monica and constitute 21 percent of rent-controlled properties. The saturation of market-rate units also holds true for properties larger than those shown. Ninety-eight percent of properties with more than 15 units recorded market-rate rentals.

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

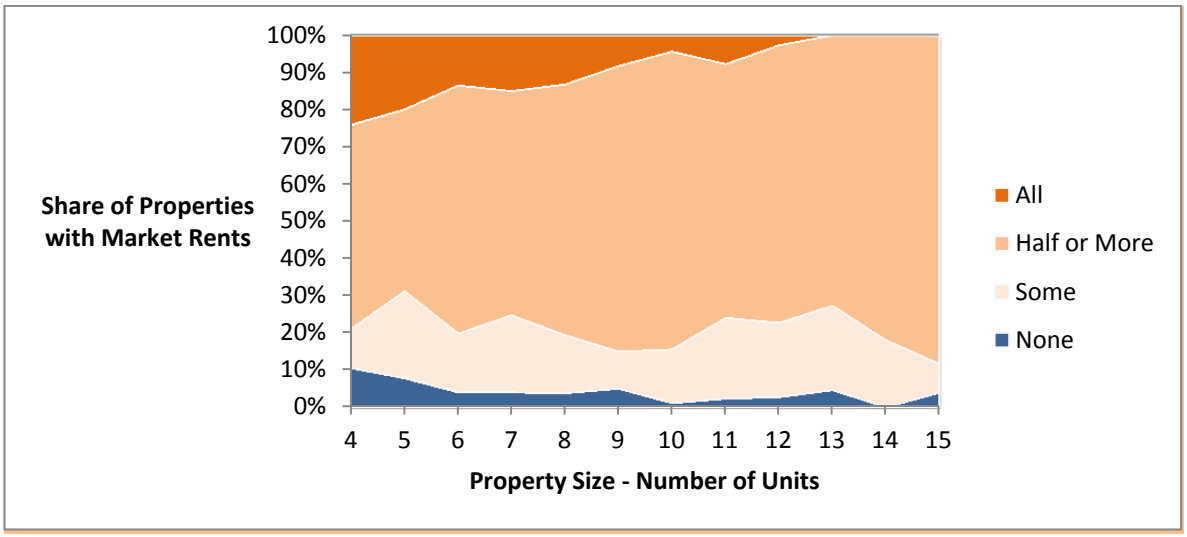



*Figure 7*

## 15-Year Review

Whether for a 0- (studio), 1-, 2- or 3-bedroom unit, median rents for tenancies started in 2013 reached the highest levels ever recorded in Santa Monica. As Figure 8 indicates, except for a temporary downturn during the recession in 2009 and 2010, rents for all unit sizes have been rising since full vacancy decontrol took effect.

MEDIAN MARS OF NEW RENTS ESTABLISHED IN 2013 WERE THE HIGHEST EVER FOR ALL UNIT SIZES

### Median MARs by Number of Bedrooms

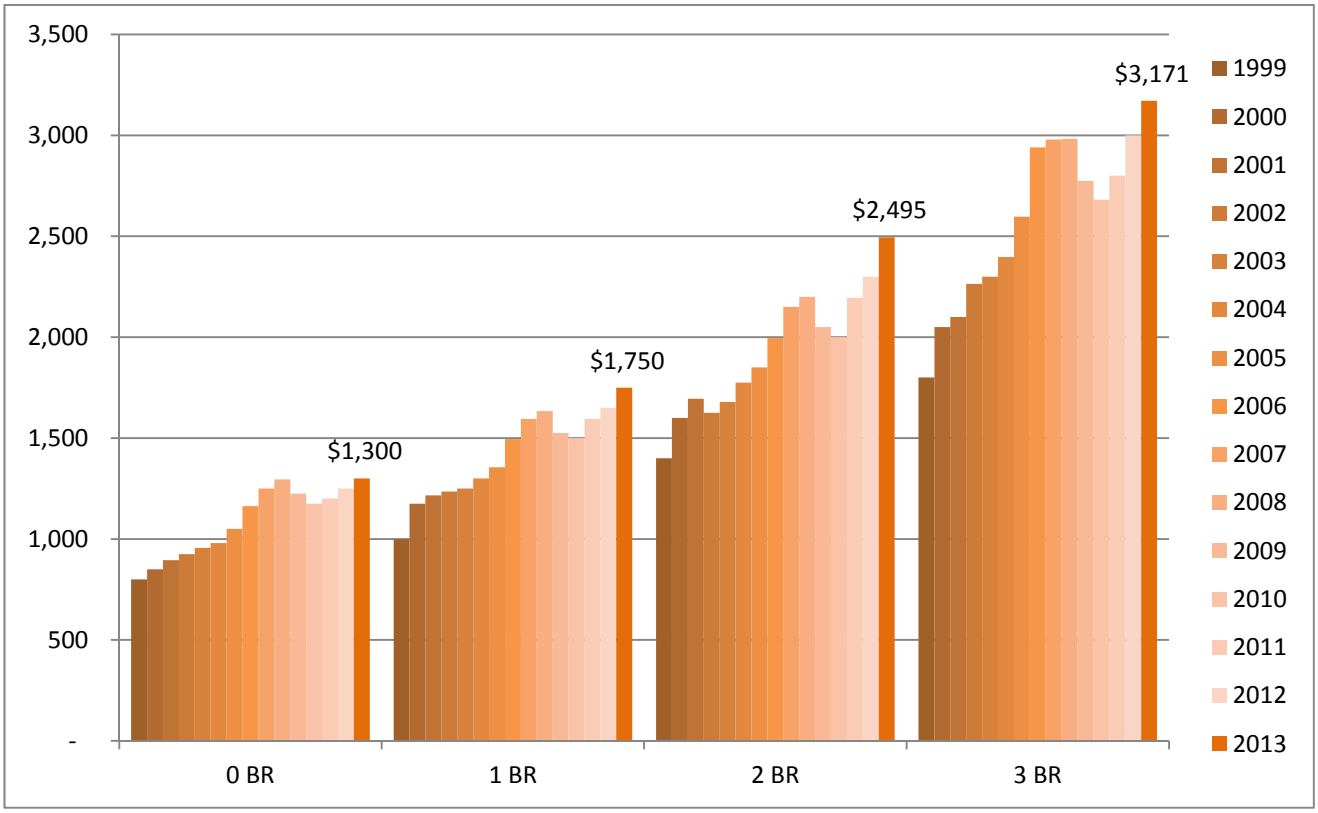



*Figure 8. If a unit was re-rented more than once in the 15-year period, only the last established market-rate rent is used here. Chart excludes rentals at 1221 Ocean Ave, a luxury property in Area C where extraordinarily high rents would distort median rents reported.*

## One-Year Review

In 2013, a total of 2,756 new tenancies were recorded. The median MARs for those new tenancies are indicated in Figure 9 below, according to unit size and location throughout the city. Citywide, median rents not only set records last year, but tenants moving to Santa Monica paid initial rent levels that averaged six percent higher than rentals begun just one year earlier.

INCREASES IN MEDIAN MARS UPON INITIAL RENTAL 2012 – 2013

- 4.0% for 0-bedroom units
- 6.0% for 1-bedroom units
- 8.5% for 2-bedroom units
- 5.7% for 3-bedroom units

### 2013 Median MARs, Market-Rate Units by City Area

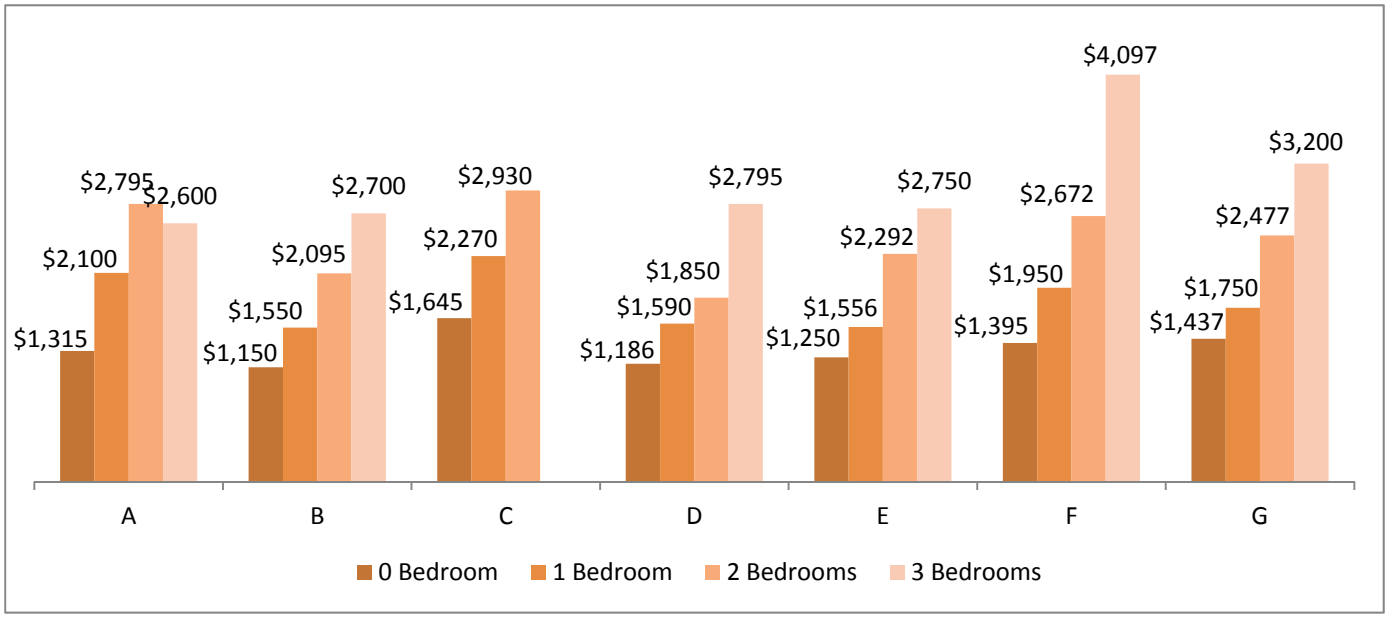



*Figure 9. Chart excludes rentals at 1221 Ocean Ave., a luxury property in Area C where extraordinarily high rents would distort median rents reported for the area. No 3-bedroom unit other than at 1221 Ocean Ave. was registered by year end as having been re-rented in Area C last year, so no median 3-bedroom rent is reported for that area.*

## Three-Year Review

The One-Year Review of median MARs reveals the most recent changes to the rental market. A wider perspective of market conditions can be seen by looking at several recent years and a greater number of re-rentals. Figure 10 indicates the median rents at time of re-rental of 7,758 controlled units re-rented from 2011 through the end of 2013.

TENANT-NOT-IN-OCCUPANCY PETITION

For some properties, the Agency uses this three-year review to establish a market-value rent when a decision is rendered that a tenant does not use his or her unit as their primary residence, pursuant to Rent Control Regulation 3304.

### 2011-2013 Median MARs, Market-Rate Units by City Area

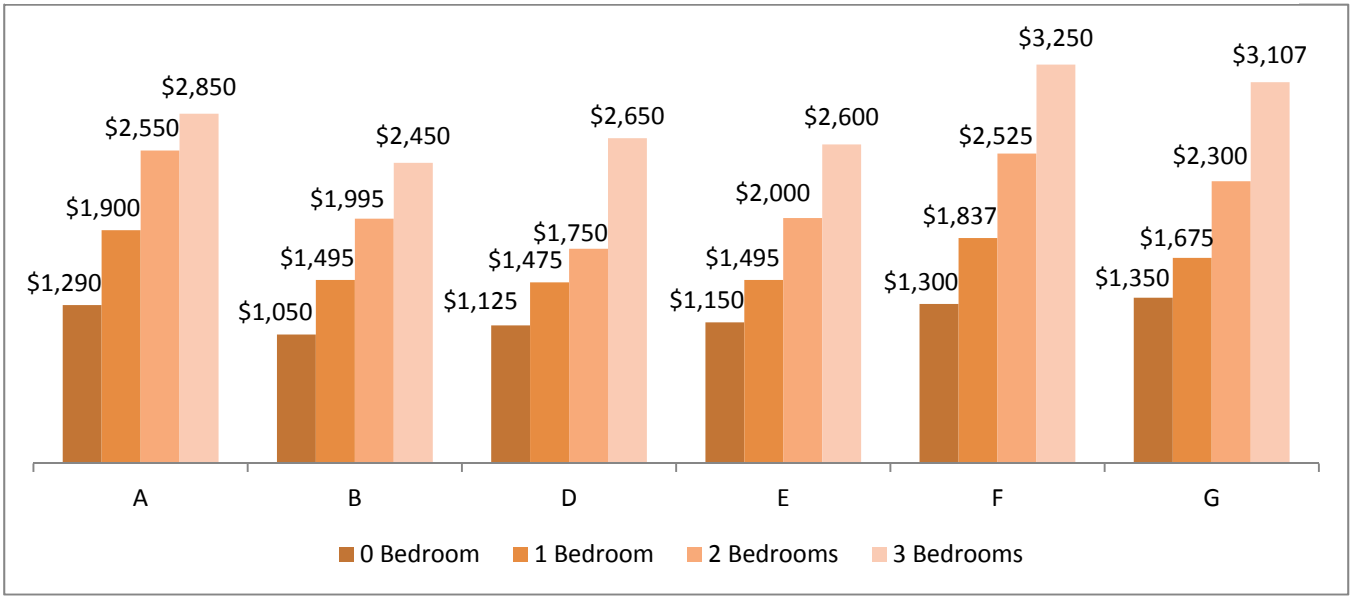



*Figure 10. Area C is not included in this analysis as two large luxury buildings on Ocean Ave. are not representative of other units in the area and would distort median rents reported for the area.*

## Vanishing Affordability

### Santa Monica Housing Opportunities Disappearing for Lower-Income Households

With high demand for Santa Monica housing driving up rental costs, the issue of rental housing affordability is a concern for a city largely composed of renters.

As shown in Figures 11 and 12 on page 16, had the state legislature not imposed a change to the Rent Control Law, all but four percent of controlled units would continue to be affordable to households with moderate incomes. With vacancy decontrol, however, today almost eight out of ten units have been rented at levels that are unaffordable except to those making above 110 percent of Area Median Income (AMI) as determined by the California Department of Housing and Community Development (HCD).

**$64,800**

2013 HCD AREA MEDIAN INCOME
4-PERSON HOUSEHOLD, LA AREA

While actual median income declined from 2012 to 2013, due to a new State "Hold Harmless Policy," the amount used to calculate income levels and rents was not reduced. Using actual median incomes would otherwise decrease allowed rent limits and potentially jeopardize affordable housing projects.

### Defining Affordability Standards

Under housing affordability standards developed by the U.S. Department of Housing and Urban Development (HUD), tenants are rent-burdened if they spend more than 30 percent of gross income on housing. HUD publishes Median Family Income (MFI) amounts for various geographic areas, including Los Angeles County. This MFI is used by state and local agencies to derive maximum income levels and affordable rent limits for affordable housing projects. HCD takes information from HUD and further refines it based on economic factors specific to various locales to arrive at the AMI for each locale.

In 2013, the Santa Monica City Council adopted a revised formula for setting affordability levels for units created under the Affordable Housing Production Program (AHPP) on future projects. For compatible reporting purposes, affordability standards used in this report match those recently adopted by the City Council.[1] To determine affordability and calculate the loss of affordable units since vacancy decontrol, this report uses the median income limits established by HUD along with adjustments that result in the AMI for the Los Angeles area, as published by HCD.

**1998: 83%**
**2013: 5%**

CONTROLLED UNITS AFFORDABLE TO HOUSEHOLDS MAKING 80 PERCENT OR LESS OF HCD AREA MEDIAN INCOME

[1] *See Appendix 2 for charts of Maximum Income Levels and Rent Limits for affordable housing.*

## Comparison of Affordability of Market-Rate Rental Units by Income Category, 1998 versus 2013

| Income Category | 1998 | | 2013 | | Change (+/-) |
|---|---|---|---|---|---|
| **Rent Level Affordability** | **Units** | **%** | **Units** | **%** | |
| **Extremely Low** (30%) | 824 | 4.50% | 4 | 0.02% | -99.5% |
| **Very Low** (50%) | 3,535 | 19.27% | 107 | 0.58% | -97.0% |
| **Low** (60%) | 4,654 | 25.37% | 210 | 1.14% | -95.5% |
| **Low** (80%) | 6,151 | 33.53% | 622 | 3.39% | -89.9% |
| **Moderate** (110%) | 2,405 | 13.11% | 3,111 | 16.96% | 29.4% |
| **Higher** (>110%) | 779 | 4.25% | 14,341 | 78.80% | 1,740.9% |

*Figure 11*

Looking at units that were rented in 1998 and that were subsequently re-rented at market-rates, the same four walls require incomes that are in some cases more than double the incomes required in 1998. Affordability standards incorporate HUD's recommendation that housing costs be no more than 30 percent of a household's income. If median MARS do not fall below those established in 2013, and trends indicate they won't soon, a four-person household would require income that is at least 73 percent higher than the 2013 AMI to afford a rent-controlled unit in Santa Monica.

## Affordability Summary

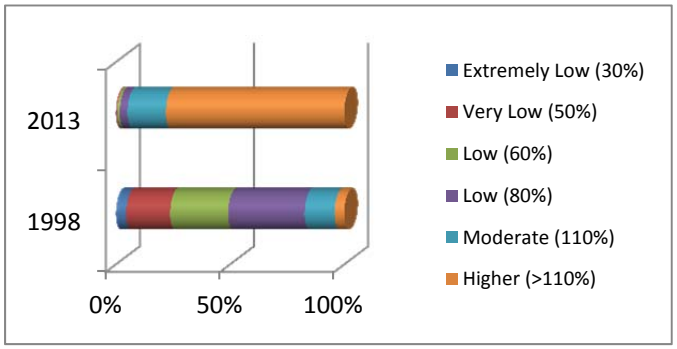



*Figure 12*

## Income Needed to Afford a Market-Rate Unit

| | Without Vacancy Decontrol | | With Vacancy Decontrol | | |
|---|---|---|---|---|---|
| **No. of Bedrooms** | **Median MAR without Vacancy Increase** | **Income Needed to Afford MAR** | **Median MAR with Vacancy Increase** | **Income Needed to Afford MAR** | **Income Difference** |
| 0 | $740 | $42,286 | $1,227 | $70,114 | $27,829 |
| 1 | $862 | $43,100 | $1,629 | $81,450 | $38,350 |
| 2 | $1,082 | $48,089 | $2,166 | $96,267 | $48,178 |
| 3+ | $1,380 | $55,200 | $2,802 | $112,080 | $56,880 |

*Figure 13*

## Paying the Price

For some, it is possible to move to Santa Monica even without being able to "afford" it, per HUD's definition. That is, households could spend more than 30 percent of income on rent. As reported last year, such rent-burdened households already constitute 48 percent of Santa Monica renters. For these households, the extra money they must pay for housing means less available for all of life's other expenses.

One way the rent burden may be lessened is by increasing the number of tenants per unit. Fifty-eight percent of Santa Monica's controlled units are studios or 1-bedroom apartments. When these units were affordable, it was not uncommon for a single person to move into one of these units. As rental rates become increasingly unaffordable to moderate-income households in the Los Angeles area, it is reasonable to assume that, in addition to higher-income tenants, people who don't mind sharing space will move in together and share the rent.

### An Upside of Higher Rents

For property owners, the increase in market rents means more money in their pockets. Today, very few owners petition the Rent Control Board with the claim they are not making a fair return. Rather, higher rental income means additional funds that can be put not only into value-adding upgrades to vacant units but to necessary maintenance of all rent-controlled housing. With the city's aging housing stock, owners whose incomes are rising are better able to cover repair and maintenance costs when they are necessary.

## Santa Monica: Old and New

A look at Santa Monica's renter population living in controlled units by the year they started their tenancies reveals that the city is neatly divided between old and new, and in-betweens. That is, tenants in long-term controlled units comprise about a third of the population. The same is true of tenants who moved in since 2010. The remaining third are those who moved in during the first 11 years of vacancy decontrol. As shown in this report, except for the dip during the recession, every year since 1999 median rents on initial rentals have increased. Not surprisingly, pre-1999 tenants are holding onto their tenancies while those paying market-rate rents are much more likely to terminate their tenancies.

With 2,756 new tenancies started in controlled units last year and only about 450 units occupied by long-term tenants becoming available to new renters annually, it is obvious that most turnover is among market-rate units. A somewhat lower turnover of market-rate units has been the trend since about 2006, when the share of long-term tenancies dropped below 50 percent for the first time. Those who are staying in their units have likely by now established firm roots in the community and are holding on to their relatively affordable units.

### Controlled Rental Units by Year Occupied

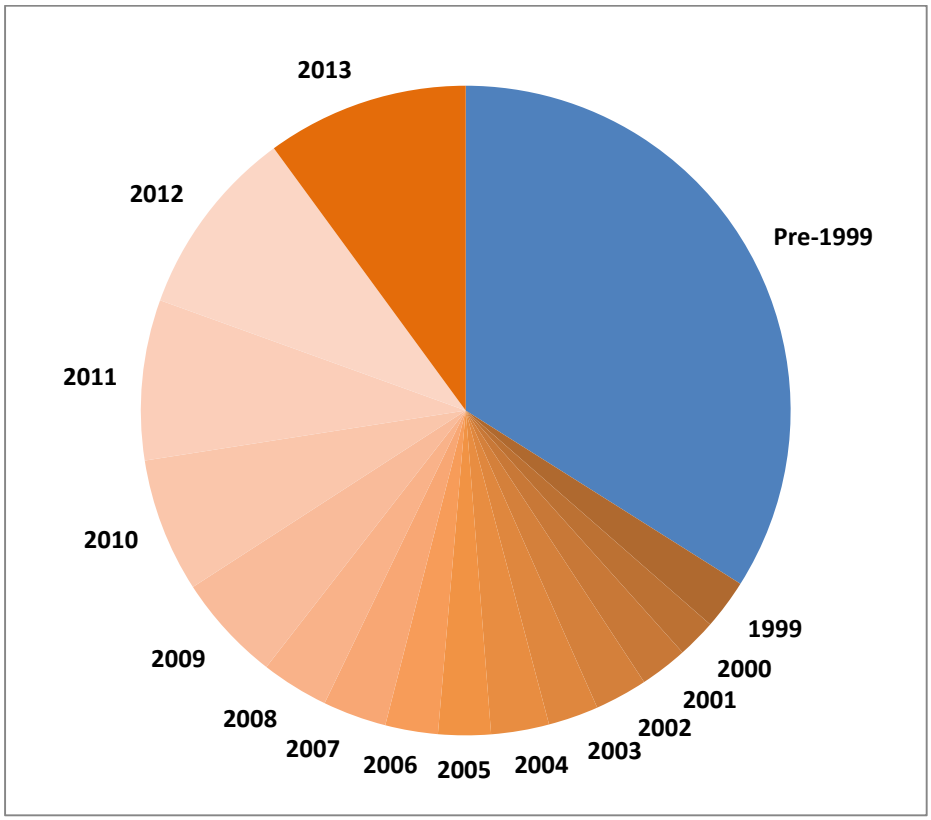



*Figure 14*

## Parking Amenities

For market-rate tenancies, a rental unit includes parking as a base amenity if parking was provided on the base rental date or if parking was added later for an additional payment. For a market-rate tenant, the base rental date is the date they started their tenancy. For a long-term tenant (pre-1999), parking is only a base amenity if it was provided on the base rental date (usually April 10, 1978). The share of units that included parking in 1978 is indicated in Figure 15.

With market-rate tenancies, owners are not required to include parking, even if the prior tenant had such an amenity. Accordingly, a unit that may have come with parking for a long-term tenant does not necessarily come with parking for a tenant who moved in last year.

While owners are not required to provide the same amenities for new tenancies, Board records show that on a unit-for-unit basis, owners typically do continue to offer parking with new tenancies. Not only is the share of units with parking roughly the same as it was when Rent Control started, when long-term units are re-rented at market rates, more units are renting with parking than were prior to 1999.

Parking may be added by agreement to a tenancy even if not included on the base rental date. For tenants who moved in before 1999, the separate agreement for parking must meet standards established by Board regulations, but the rent for the parking is not incorporated into the Maximum Allowable Rent (MAR) for the unit. For post-1999 tenants, owners are required to register the additional amount for parking so that it can be combined with the MAR and may only be increased by each year's GA.

### Comparison of Units with Original Parking Amenities and Market-Rate Re-Rentals

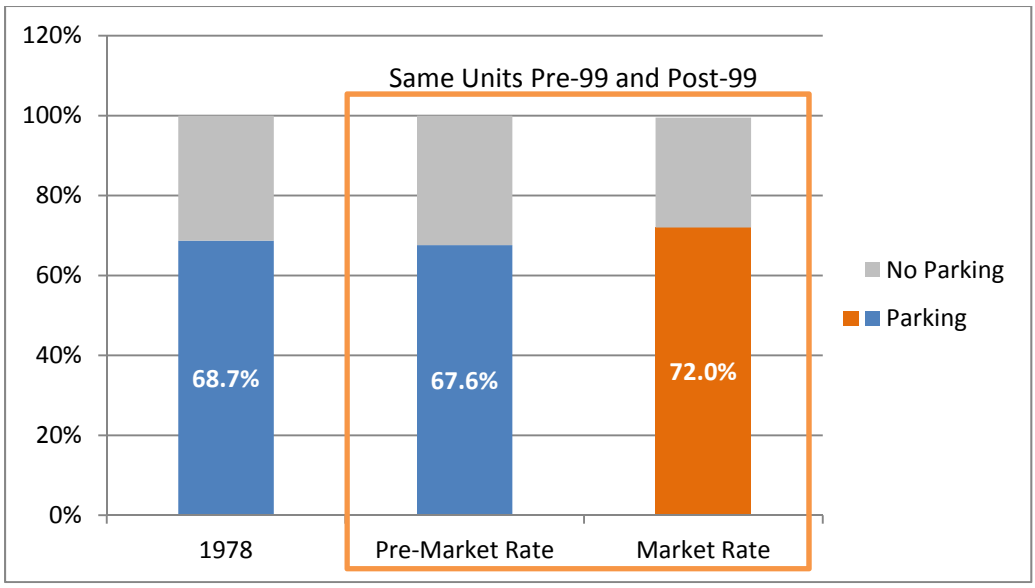



*Figure 15*

## Parking Costs

When parking is included at the start of a market-rate tenancy, the value of the parking amenity is not registered separately from the base rent for the unit. This makes it difficult to quantify the value of the parking space itself. Owners do register, however, whether the base rent includes a parking space or not. By comparing the median rents for similar-sized units rented with a parking amenity and those that were not, it may be possible to see a difference that may be partially attributed to the parking amenity. However, the differences in initial rental rates are impacted by a variety of factors such as upgrades to a unit, placement in a building, and other amenities provided. After conducting such a comparison, the results were not sufficiently informative to quantify the value of parking.

## Parking Registrations

Since January 1, 1999, when parking is added to a market-rate rental after the initial rental agreement, owners are required to register the dollar amount charged for parking. While these registration forms indicate the type and specific dollar amount charged for added parking, very few have been filed, and they alone may not accurately reflect the total market. In the past three years, for example, only 82 such forms were filed. Moreover, 26 of these forms were for 2700 Neilson Way, an ocean-front property unrepresentative of the market. Excluding that property, the median cost for parking added during this period was $100.

**$100**

3-YEAR MEDIAN COST FOR PARKING 2011-2013

## Conclusion: A Tale of Two Cities?

While a third of rent-controlled units are still occupied by tenants who moved in before 1999, and while some tenants moved in after 1999 but before rents reached current rates, for recent tenants and those looking to move to Santa Monica, a considerable income is required to rent here. This is true of non-rent-controlled units as well.

The Southern California rental market is being driven by high demand and limited supply, conditions that are only exaggerated in Santa Monica. Adding to demand, higher home prices result in many people being priced out of home ownership and forced to rent.

As housing that is affordable vanishes for new households with moderate incomes, it is becoming increasingly difficult for many people to find housing they can afford in Santa Monica. Low-income households may still find limited housing opportunities due to the City's long-term commitment to affordable housing development and the voter-approved Affordable Housing Production Program. However, with the State's elimination of redevelopment agencies and the impact of vacancy decontrol, Santa Monica appears to be heading toward a future where the population will be made up of fewer and fewer middle-income residents.

# Impact of the Ellis Act

For more than 27 years, since 1986, the State Ellis Act has allowed owners to go out of the rental housing business, withdraw units from the market, and evict tenants from their rent-controlled apartments. The resulting loss of affordable units in Santa Monica has been significant.

This report surveys the cumulative effect of that loss, focusing on Ellis activity during calendar year 2013.

The report outlines the number of units removed from the rental market, units returned to residential rental use, and the ultimate use of the withdrawn properties. Properties are generally considered withdrawn from the rental market 120 days after the owner delivers a withdrawal notice to the Agency and serves eviction notices on the tenants. Senior and disabled tenants may request up to a year to relocate.

## 2013

### Report Highlights

A recovering economy apparently continued to moderate Ellis activity in 2013, with Ellis withdrawal notices remaining at near historically low levels.

**9**

Number of withdrawal notices filed in 2013

**29**

Number of units affected by notices filed in 2013

**1,939**

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

**1986**

Ellis Act enacted

## Filing of Applications to Withdraw Remains Static

As described in previous reports, the ebb and flow of Ellis activity is driven by the economy — reduced activity during a slumping economy, increased activity with a healthy economy. The slow pace of withdrawals and re-rentals, particularly over the last six years, reflects an economy which continues to struggle. Moreover, as described in the section of this report on the impact of market rate vacancy increases, 65.3 percent of rent-controlled units are now at market rates, providing some owners with an incentive to remain in the residential rental business.

From 2008 through 2013, an average of eight withdrawal notices were filed per year. In the four years before that (2004 through 2007), the average was more than 27 notices filed, as shown in Figure 16 on page 23.

## Withdrawn Units

In 2013, the Rent Control Agency received nine withdrawal notices affecting 29 units. As shown in Figure 17 on the following page, of the nine notices, all but two involved properties with three or fewer units. Five properties (14 units) completed the withdrawal process in 2013, resulting in seven evictions, as the other units were vacant. This total includes one four-unit property that started the process in 2012 but was not completed for a year because three of the units were occupied by seniors.

## Units Pending Withdrawal

Under the Ellis Act, a property is deemed withdrawn from the rental market four months after the owner delivers a withdrawal notice to the Board, but the withdrawal period can be extended to a year for units occupied by senior or disabled tenants. At the end of 2013, five properties (19 units) had not yet completed the statutory waiting period required under state law and were still pending withdrawal. One unit is occupied by a senior tenant who has requested one year to relocate. These withdrawals are expected to be completed in 2014. Figure 17 lists the eviction status of units on Ellis applications filed in 2013.

## Units Returned to Rent Control Jurisdiction

Although the Ellis process was completed on 14 units in 2013, 30 formerly withdrawn units (on six properties) were returned to residential rental use. As a result, there was a net gain of 16 rental units this year (the second time since 2010 there's been a net gain). The Ellis Act allows an owner to collect market rents upon re-rental if a property has been withdrawn for more than five years. More than two-thirds of the returning units (21 on four properties) were entitled to market rents because they had been withdrawn more than five years.

Figure 18 illustrates the number of units withdrawn, along with the number returned to the rental market from 1986 through 2013. Since it was enacted in 1986, the Ellis Act has been used to withdraw 2,698 units from the rental housing market, 741 of these units have returned to residential rental use. The net loss is 1,937 units.

## Ellis Withdrawal Notices and Units Affected (2004 – 2013)

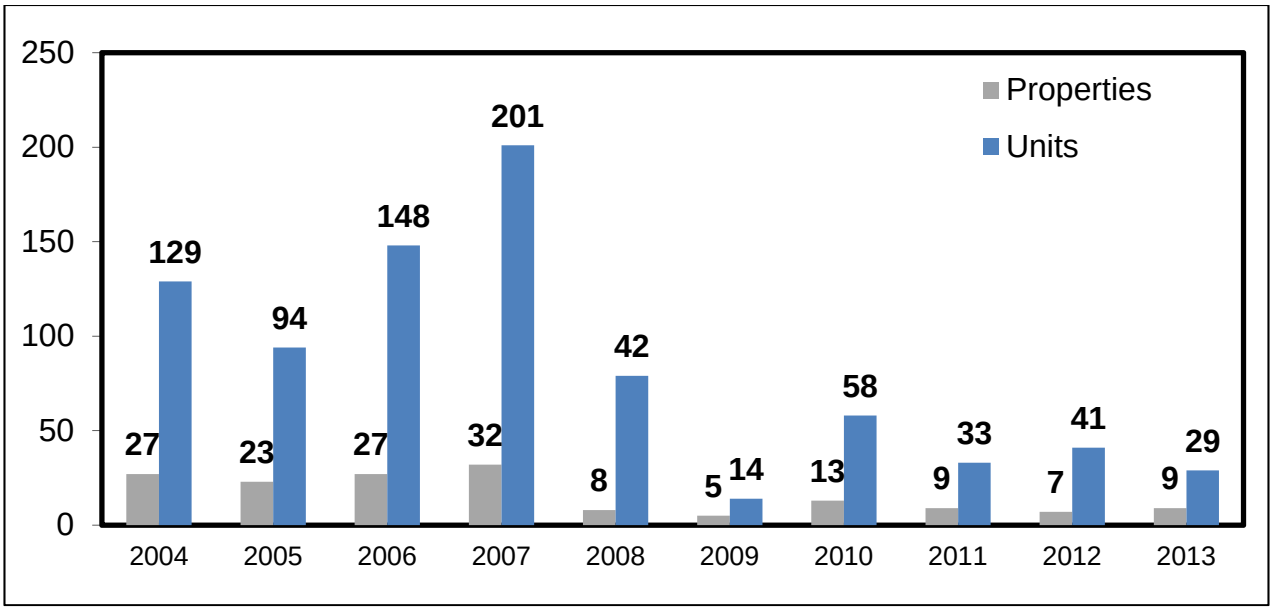



*Figure 16*

## Ellis Notices of Withdrawal (2013)

| Location | Filing Date | Ellis Status | Units Withdrawn | Evictions | Vacant | Family Occupancy |
|---|---|---|---|---|---|---|
| 20th Street | 1/29/13 | Withdrawn | 3 | 0 | 3 | 0 |
| 16th Street | 2/20/13 | Withdrawn | 3 | 2 | 1 | 0 |
| Ocean Park Boulevard | 4/10/13 | Pending | 4 | 4 (2 seniors) | 0 | 0 |
| Palisades Beach Road | 5/10/13 | Withdrawn | 2 | 2 | 0 | 0 |
| Bay Street | 6/27/13 | Withdrawn | 2 | 0 | 1 | 1 |
| Palisades Beach Road | 10/16/13 | Pending | 3 | 0 | 3 | 0 |
| Dewey Street | 10/28/13 | Pending | 2 | 2 (1 senior) | 0 | 0 |
| Dewey Street | 10/28/13 | Pending | 2 | 0 | 0 | 2 |
| 3rd Street | 12/26/13 | Pending | 8 | 5 | 3 | 0 |
| **Totals** | | | 29 | 15 | 11 | 3 |

*Figure 17*

## Controlled Rental Units Withdrawn and Re-Rentals Returned to Controlled Status

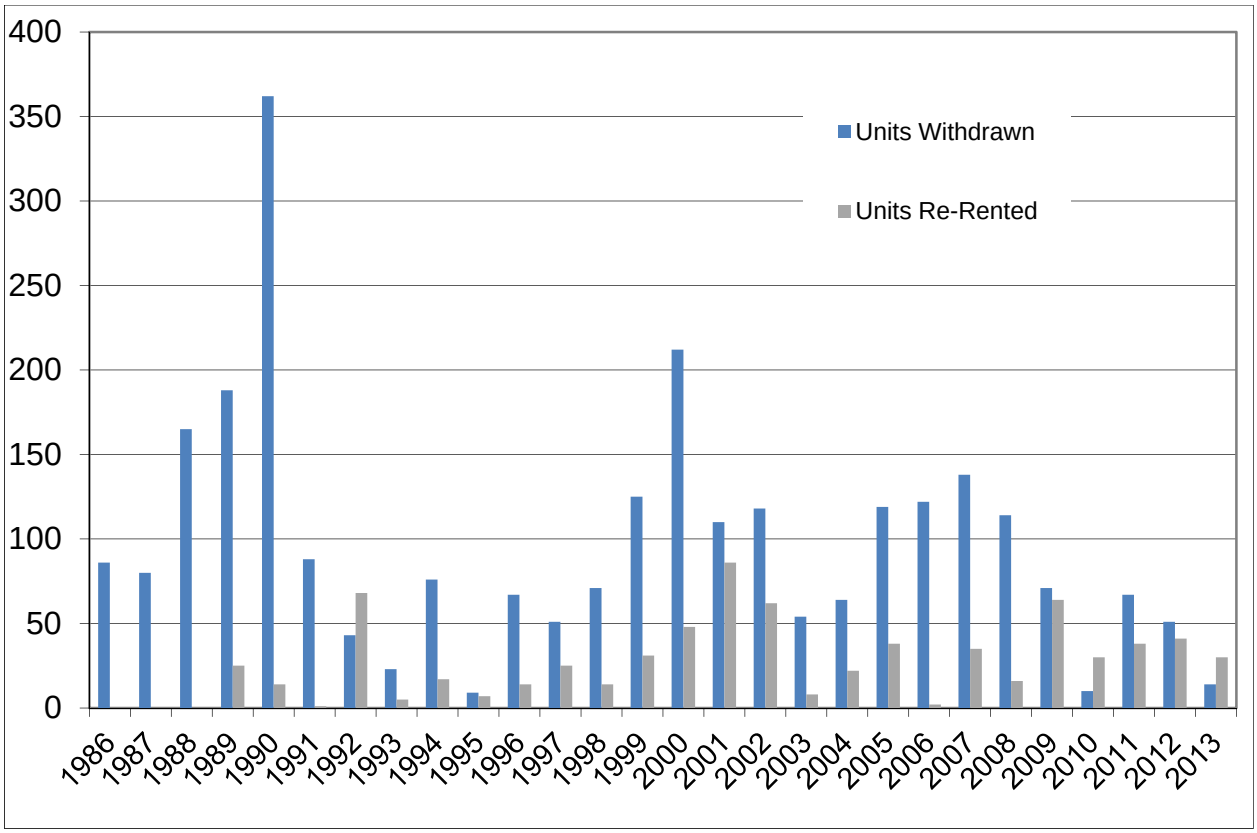



*Figure 18. Based on year withdrawal was completed*

| Units | Properties | Status |
|---|---|---|
| 2,698 | 556 | Withdrawn from the rental market |
| 741 | 148 | Returned to the market and under rent control[2] |
| 1,937 | 408 | Remain withdrawn |

*Figure 19*

[2] Ten properties returned to the rental market with a different number of controlled units than were withdrawn. This resulted in a 20-unit difference in the number of units withdrawn and later returned to residential rental use.

## Post-Ellis Activity

Over the years, the use of properties withdrawn from the rental market has remained relatively constant. Approximately a quarter of withdrawn properties are now being used for a non-residential purpose, (business/commercial, schools/childcare centers/churches, parking lots or vacant lots). Of withdrawn properties, 64 buildings were built as new construction, and 33 were converted to a non-residential use.

Eighteen percent of withdrawn properties are being used as single-family dwellings (47 new structures, 26 properties converted to use as single-family dwellings). Another 19 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.

Residential development remains the most common use. Close to 40 percent of the properties have been redeveloped for multi-family residential use, either condominiums or apartments, some also include a commercial or mixed-use component.

Figure 20 below shows the current status of all 408 properties that remain withdrawn since the inception of the Ellis Act.

**40%**

ELLISED PROPERTIES REDEVELOPED FOR MULTI-FAMILY RESIDENTIAL USE

(13 OF THESE PROPERTIES WERE RETURNED TO RENT CONTROL JURISDICTION BECAUSE THEY WERE BUILT AND OFFERED FOR RENT WITHIN FIVE YEARS OF WITHDRAWAL)

| Overall Summary of Post-Ellis Use of Withdrawn Properties | End of 2013 Totals | |
|---|---|---|
| Apartments | 18 | 4% |
| Apartments / Mixed Use | 20 | 5% |
| Condominiums | 120 | 29% |
| Condominiums / Mixed Use | 1 | <1% |
| Single-Family Dwellings | 73 | 18% |
| Commercial | 56 | 14% |
| Parking Lot | 12 | 3% |
| School / Childcare / Church | 17 | 4% |
| Vacant Lot | 12 | 3% |
| **Totals** | **329** | |
| Family Occupancy / No Activity | 79[3] | 19% |
| **Grand Totals** | **408** | **100%** |

*Figure 20*

[3] *Thirty-nine of these properties have received re-occupancy permits. One additional property did not require a permit.*

## Post-Ellis Monitoring and Enforcement

Post Ellis monitoring of withdrawn properties continued in 2013 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.

### Enforcement for 2013

The Board occasionally receives information from the public indicating some kind of rental activity on Ellised properties. In such cases, an investigation is launched, and the Board investigator inspects those properties and reports his findings to the Ellis analysts and staff attorney. In 2013, Board staff investigations revealed:

- An Ellised five-unit property in Area A had been demolished and rebuilt with four single-family homes and rented within five years of the date the accommodations were withdrawn from Rent Control. Leases from the tenants provided proof the units had been rented since 2009. The Board asserted jurisdiction and billed the owner registration fees. The fees were paid, and the tenancies were registered at market rate with the Board. One tenant successfully pursued an excess rent claim against the owner.

- An Ellised 10-unit property in Area C was reported as occupied, and all the units re-rented. An on-site investigation confirmed tenants living in the units. The Board asserted jurisdiction, and the owner was billed registration fees. Registration fees have not been paid, and tenancies on the property have not yet been registered.

- An Ellised four-unit property in Area E was combined into a single-family home, and the owner began re-renting within five years of the withdrawal. Upon obtaining the lease from the tenant, the Board asserted jurisdiction over the property. The property sold, and the new owner subsequently obtained a single-family home fee waiver.

As a result of these enforcement efforts, the Board asserted jurisdiction over 15 units. Additionally, over the last three years, a partnership of staff from Rent Control, Planning, Code Compliance and the City Attorney's Consumer Protection Division has resulted in investigations of properties appearing to be re-occupied but for which re-occupancy permits had not been obtained. As a result, 11 withdrawn properties have obtained re-occupancy permits, ten of these for family occupancy and one for a community care facility.

## Conclusion

In 2013, Ellis activity continued at a tepid pace, with only nine withdrawal notices filed affecting 29 units. As Figure 17 shows, the majority of these withdrawn properties were four or fewer units. This extends a dip in activity that began in 2008 and mirrors a slow economy over the same period. Nevertheless, as noted in the City of Santa Monica's 2013-2021 Housing Element, this loss of units is eroding the housing stock that is affordable to lower- and middle-income households.

Citing a drop in foreclosures and unemployment, last year's report anticipated an upturn in the economy, leading to a possible increase in Ellis activity. However, the combination of an extended period of lukewarm recovery and new rents of market-rate controlled units at record highs may have contributed to the slow pace of Ellis activity in 2013. With the market-rate rents owners are obtaining (detailed earlier in The Impact of Market Rate Vacancy Increases section of this report), the incentive to go out of the residential rental business seems to have tapered off in recent years. Additionally, the City's goal of maintaining existing residential neighborhoods, as expressed in the Land Use and Circulation Element (LUCE), appears to be redirecting growth to other locations within the city and may also be contributing to the reduction of Ellis activity.

# Public Information Programs

Santa Monica Rent Control staff communicate regularly with a variety of constituents, including tenants, property owners 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.

## Public Outreach and Inter-Agency Activity

### 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 2013, the newsletters covered the Board's revision of its separate agreements regulation, which enabled all tenants and owners to enter into agreements regarding charging electric vehicles. Other articles reminded residents and owners of new state recycling requirements ensuring opportunities for all buildings of five or more units, the Rent Control Agency's new online tenancy registration form, and a reminder to all to make sure heaters are clean and working in preparation for winter.

Notices of upcoming seminars and inter-agency events were given as well as the December acceptance dates for CCSM applications for affordable housing.

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

### Electronic Communications

Constituents who prefer receiving 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.

**Public Inquiries**

| | Telephone | Public Counter | Email |
|---|---|---|---|
| Tenants | 5,216 | 1,323 | 694 |
| Owners | 4,161 | 1,329 | |
| Others | 483 | 70 | |

*Figure 21*

## Educational Programming

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, and others are designed to offer a forum for public input on current City priorities like the fall 2013 Santa Monica Talks series.

Every year, the Agency presents seminars tailored specifically to owners and tenants. Those seminars for 2013 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 Code Compliance Division)

Smaller presentations can also be tailored for specific requests from groups such as realtor associations or building-specific tenant organizations. In 2013, staff addressed the Beverly Hills Realtors Association, and a special meeting was held in collaboration 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.

## 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.

**48,029**
TOTAL WEBSITE VISITS

**32,557**
UNIQUE WEBSITE VISITORS

**44%**
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 Council passed an ordinance to prohibit smoking in common areas of multi-unit residential buildings, and as of November 22, 2012, to prohibit new tenants from smoking in their units. Rent Control staff provides assistance in educating the public about these smoke-free laws by answering basic questions and referring 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) 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 81 separate notices of eviction in 2013 (this excludes notices for Ellis withdrawals and non-payment of rent). Of these, 36 were for alleged nuisance and 25 were for breach of contract (lease terms). Thirteen notices of eviction were received for owner move-ins. One notice was received for an illegal subtenant, and two were 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. The warning letter gives tenants an opportunity to correct the problem identified. The law does not require owners to file warning letters with the Rent Control Board. Nevertheless, 34 warning letters were received.

81

EVICTION NOTICES RECEIVED IN 2013

## Participation in Inter-Agency Committees

Rent Control staff members participate in several of the City's interdepartmental 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 with Code Compliance, and communicates with the City Attorney's Office regularly 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 office in City Hall.

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

In 2013, the Rent Control Agency received approximately 111 listings.

**111**

APARTMENT LISTINGS IN 2013

## 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 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 15 years ago is noteworthy. At the end of 1998, 791 tenants held senior fee waivers. As the following table shows, there were only 309 such fee waivers as of December 31, 2013.

The following table shows the number of fee waivers of each type that were active in 2013, along with the change in the quantity from 2012.

| Type of Fee Waiver | As of 12/31/13 | Change from 2012 |
|---|---|---|
| Low-income senior | 309 | 0 |
| Low-income disabled | 126 | 3 |
| Owner-occupied | 2,227 | -33 |
| Single-family dwelling | 1,454 | +27 |
| HUD subsidized (Section 8) | 755 | -32 |
| HOME/Tax Credit Units | 169 | +0 |
| **Total fee waivers** | **5,045** | **-35** |

*Figure 22*

# Hearings Department

The Hearings Department is the department within the Rent Control Agency where tenant- or landlord-initiated 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 complaint 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, complaints and situations for which Rent Control regulations call for a hearing. Petitioners and respondents may appeal a hearing officer decision to the Rent Control Board if they disagree with the outcome, and the 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.

## Mediation

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.

## 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. Matters not resolved 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 decrease is granted, the decrease amount will be reinstated (added back into the rent) when the owner makes the required repairs or restores 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. 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 proposed addendum, a hearing is held, after which a final addendum is issued. Decrease amounts are reinstated for each properly corrected condition.

Of the 22 decisions issued in 2013 that granted decreases, the decreased amounts were fully reinstated in one case and partially reinstated in four cases. In addition, for decisions issued in prior years, decreases were fully reinstated in one case and partially reinstated in four cases.

| New Decrease Petitions in 2013 | | |
|---|---|---|
| Total decrease petitions filed | | **67** |
| *withdrawn or dismissed prior to mediation or hearing* | *6* | |
| *referred to mediation* | *45* | |
| *referred directly to hearing* | *16* | |
| *pending referral* | *0* | |
| **Mediation Activity** | | |
| Cases mediated during 2013 | | **60** |
| *current year cases* | *45* | |
| *carried over from prior year* | *15* | |
| Status at end of 2013 | | |
| *withdrawn or dismissed after mediation* | *2* | |
| *resolved — case closed* | *22* | |
| *no resolution — referred to hearing* | *19* | |
| *partial resolution — referred to hearing* | *5* | |
| *pending* | *12* | |
| **Hearing Activity** | | |
| Active cases during 2013 | | **51** |
| *referred directly to hearings* | *16* | |
| *referred from mediation* | *24* | |
| *ongoing from prior year* | *11* | |
| Status at end of 2013 | | |
| *withdrawn or dismissed* | 9 | |
| *decision granting decrease* | *22* | |
| *decision denying decrease* | *5* | |
| *pending* | *15* | |

*Figure 23*

### Appeals of Decrease Petition Decisions

Appeals were filed on ten of the 27 decisions issued during 2013, all ten of which had granted decreases for various conditions. The Board fully affirmed the appeals in six of the cases, three of which had been filed by tenants and three by owners. The Board modified one hearing officer decision appealed by the tenant, increasing the amount of a decrease granted by the hearing officer. The Board modified another decision that was appealed by both tenant and owner, eliminating one decrease granted by the hearing officer and reducing another. Two of the appeals filed were withdrawn prior to the issuance of the Board decision.

**46%**

OF MEDIATED CASES FOR DECREASE PETITIONS WERE RESOLVED IN MEDIATION (EXCLUDING 12 PENDING CASES)

**34%**

OF DECREASE PETITIONS FILED IN 2013 WERE FOR MARKET-RATE TENANCIES (23 UNITS)

## Individual Rent Adjustments: Construction Decrease Petitions

On October 1, 1999, the Rent Control Board enacted regulations allowing for rent decreases to help mitigate certain construction-related impacts on tenants residing in buildings undergoing substantial rehabilitation. The decrease amounts are based, in part, on length of time tenants experience problems, the severity of the problems, and the specific impact on the petitioning tenants.

During 2013, the Agency issued notices to two properties informing the tenants and property owners that tenants may file decrease petitions for claims of construction-related losses. Twenty-six petitions seeking decreases for construction-related impacts were filed on one of the properties. All the petitions were referred to mediation. One petition was withdrawn and one petition was dismissed. Twenty-three petitions were successfully mediated resulting in settlement agreements for those petitioners. One petition was referred to hearing and was pending at the end of 2013.

## 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. One hearing was conducted on a rent increase petition.

### Appeals of Increase Petition Decisions

During 2013, an appeal was filed on one increase decision issued in the prior year that had granted increases. The owners appealed seeking greater increases; one tenant appealed requesting lower increases. The Board affirmed the Hearing Officer decision as issued.

| Increase Petitions | |
|---|---|
| New petitions filed in 2013 | **1** |
| Petitions from 2012 | 1 |
| Petitions denied | 1 |
| Petitions dismissed | 1 |
| Petitions at the end of 2013 | 0 |

*Figure 24*

## 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 or tenancy 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 or tenancy. The cases are initially sent to a mediator for resolution. Unresolved cases are decided by a hearing officer following an administrative hearing.

### Appeals of Excess Rent Complaint Decisions

No appeals were filed on the four decisions issued during 2013.

78%

OF ALL EXCESS RENT COMPLAINTS WERE FULLY RESOLVED IN MEDIATION (EXCLUDING 5 PENDING CASES)

70%

OF EXCESS RENT COMPLAINTS FILED IN 2013 WERE FOR MARKET-RATE TENANCIES (19 UNITS)

| Newly Filed Excess Rent Petitions in 2013 | | |
|---|---|---|
| Total excess rent petitions filed | | **27** |
| *withdrawn or dismissed prior to mediation or hearing* | *5* | |
| *referred to mediation* | *22* | |
| **Mediation Activity** | | |
| Cases mediated during 2013 | | **23** |
| *current year cases* | *22* | |
| *carried over from prior year* | *1* | |
| Status at the end of 2013 | | |
| *withdrawn or dismissed after mediation* | *1* | |
| *resolved — case closed* | *12* | |
| *no resolution — referred to hearing* | *5* | |
| *pending* | 5 | |
| **Hearing Activity** | | |
| Active cases during 2013 | | **7** |
| *referred directly to hearings* | *0* | |
| *referred from mediation* | *5* | |
| *ongoing from prior year* | *2* | |
| Status at the end of 2013 | | |
| *withdrawn or dismissed* | *2* | |
| *Decision substantiating complaints* | *2* | |
| *decision not substantiating complaints* | *2* | |
| *Pending* | *1* | |

*Figure 25*

## 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 facia* case is not made at the time of filing or 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 median MAR for the city area.

During 2013, three new petitions were filed and two were still pending from 2012. Two of the petitions were handled administratively and resulted in an administrative decision granting them and setting the new rent. The other three petitions went through the hearings process (one in 2012), and all three petitions were granted in 2013.

### Appeals of Tenant-Not-In-Occupancy Decisions

One hearing officer decision granting the petition was appealed. The Board reversed the hearing officer decision and denied the Tenant-Not-in-Occupancy increase.

## 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, or that the unit was created by conversion and conforms to the City's zoning and development standards and is either habitable or capable of being made habitable.

During 2013, no new petitions of this type were filed. However, a decision was issued on a petition filed in the prior year. The hearing officer denied that petition. The petitioning owner appealed that decision. The Board remanded the matter to the hearing officer to conduct an additional hearing in order to consider additional evidence. The hearing officer decision on remand denied the petition. The owner appealed the remand decision. The Board affirmed the hearing officer's remand decision.

## 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. One petition filed in 2012 was resolved in 2013 and was pending withdrawal. During 2013, no base amenities petitions were filed.

## Owner-Occupied Exemption Applications

Owner-occupied exemptions are available for properties with three or fewer units. 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 2013, five exemption applications were referred for evidentiary hearings. The Board adopted staff's recommendation to grant the exemption in three cases. The applicants in the remaining two cases withdrew their applications during the hearing process.

# 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 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 2013

### Baheri v. SMRCB

*Judgment for the Board, affirmed by Court of Appeal*

In 2012, the Board determined that Shirley Joan Baheri's owner-occupancy exemption had lapsed when she moved from the property. Baheri filed a writ petition with the Superior Court to challenge the Board's determination, alleging that the Board's procedures were unconstitutional. The Superior Court dismissed the suit as frivolous. Baheri appealed, and the Court of Appeal affirmed that Baheri's claims had no merit.

### Dellagatta Family Trust v. SMRCB

*Objection to Board action rejected and attorney-fee motion against Board denied*

After Dellagatta won a petition for writ of administrative mandamus in 2012, the Board reconsidered a rent-decrease case in accordance with the Superior Court's writ. Dellagatta then objected to the Board's new action and sought $75,000 in attorney's fees against the Board. The court rejected Dellagatta's objection and denied her attorney's fees motion.

## Writs Filed Against the Board in 2013

### Barnes v. SMRCB

*Pending*

In October 2013, Brenda Barnes filed what she claimed was a class-action writ petition against the Board arising out of the Board's grant of a removal permit. The complaint also included various other causes of action. The Board demurred to the petition and complaint, and Barnes missed the deadline to oppose the Board's demurrer. She then amended her complaint to eliminate any class action claims, leaving only her individual claims. The case is currently stayed, pending transfer from the complex-litigation court that hears class actions to a regular civil courtroom.

### Dellagatta Family Trust v. SMRCB

*Pending*

After the court rejected her objection to the Board's action (see *Dellagatta Family Trust v. SMRCB* in previous section), Dellagatta filed a new writ petition to challenge the same Board action that was the subject of that objection.

### Noda v. SMRCB

*Judgment for Board*

When the Board granted landlord Nobuhito Noda's rent-increase petition, Noda petitioned the Superior Court for a writ of administrative mandamus, alleging that the Board improperly calculated the net operating income for his property. The Board demurred on the ground that Noda's petition lacked all legal merit. The court agreed and entered judgment for the Board.

### Solomon v. SMRCB

*Pending*

In 2012, the Board granted an excess rent petition requiring landlord Alvin Solomon to reimburse his tenant for rent that she claimed had been illegally collected from her. Solomon petitioned the Superior Court for a writ of administrative mandamus, alleging that the Board's decision was in error.

## Other Litigation

### Action Apartment Association v. City of Santa Monica and SMRCB

*Pending*

Action Apartment Association has sued the Board and the City to challenge a 2010 amendment to the City Charter (Measure RR) that requires landlords to give tenants a warning and reasonable opportunity to correct an alleged tenancy violation before beginning the eviction process. Action argues that this provision of the City Charter is preempted by state law.

### Barnes v. SMRCB

*Case voluntarily dismissed by Plaintiff*

Brenda Barnes sued the Board to prevent it from hearing a removal permit application. The Board demurred to the complaint, alleging that it lacked any legal merit. Barnes missed the deadline to oppose the Board's demurrer, after which she amended her complaint. The Board demurred to the amended complaint on the ground that it, too, lacked any legal merit. The court stayed discovery pending a ruling on the Board's demurrer, and Barnes then voluntarily dismissed the action before the demurrer could be ruled upon.

### SMRCB v. Bathaii

*Settled*

Seyed Mehdi Bathaii terminated a long-term tenancy, allegedly in order to allow his disabled mother to move into the tenant's unit. A later investigation led the Board to believe that Bathaii's mother never moved into the unit, and that the unit was unlawfully rented to a new tenant at market rate. The Board sued Bathaii to enforce the rent control law, and Bathaii entered into a voluntary settlement under which he did not admit liability, but reduced the current tenant's rent to the level that would have been paid by the displaced tenant. Bathaii also agreed to reimburse the current tenant from the market-rate rent that the Board alleged had been unlawfully collected.

### Sidenberg v. SMRCB

*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 moved to dismiss the case 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. The trial court denied the Board's motion, and the Board filed a petition for extraordinary writ with the Court of Appeal to challenge the trial court ruling. The matter was pending before the Court of Appeal at the end of 2013.

### HRCLA v. City of Santa Monica and SMRCB

*Pending*

The Housing Reform Coalition of Los Angeles has sued the Board and the City, challenging the City's anti-smoking ordinance, and challenging a Board regulation forbidding landlords to evict purely for violation of that ordinance. HRCLA alleges that the City's ordinance places unlawful burdens on landlords, and that the Board's regulation prevents landlords from evicting tenants who are committing a nuisance by smoking.

# Exemption and Removal Permit Applications

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.

## Exemptions

### 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 2013, there were 82 declarations submitted for single-family dwellings stating that the structures were not rented on July 1, 1984 and eligible for permanent exemption. As long as the information in these declarations is accurate, the subject properties are exempt.

Four 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 on two years of owner occupancy.

4
SINGLE-FAMILY DWELLING EXEMPTIONS GRANTED

82
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. Last year, 23 owner-occupied exemptions were received. 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 thirteen properties received owner-occupied exemptions in 2013. Twelve of the properties had owner-occupied exemptions in the past – eight within the past five years. One property received

an owner-occupied exemption for the first time. Five applications were pending at the end of 2013.

Five 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. In these cases, a hearing officer makes a recommendation for the Board's consideration and decision.

Three of the applications filed were returned as there was insufficient documentation. Two applications were withdrawn prior to the issuance of a Board decision.

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.

Eight exemptions were verified to have lapsed in 2013.

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.

13
OWNER-OCCUPIED
EXEMPTIONS GRANTED

8
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. The only removal permit granted by the Board in 2013 was for the removal of 99 of the 109 rent-controlled mobile home spaces in Village Trailer Park located at 2930 Colorado Avenue. Many of these spaces were unoccupied. When the property is redeveloped, the removed spaces will be replaced by 109 rent-controlled units, including 38 units affordable to low-income households..

# Appendix

## 1. Statistical Overview

| Board Meetings | | |
|---|---|---|
| Board meetings convened and staffed | | **15** |
| *Regular meetings* | *14* | |
| *Special meetings* | *1* | |
| **Public Outreach** | | |
| Contacts with people seeking information | | **13,276** |
| *Counter (21%)* | *2,722* | |
| *Phone (74%)* | *9,860* | |
| *E-mail (5%)* | *694* | |
| Constituency-wide mailings produced and distributed | | **3** |
| *General Adjustment mailings (Includes citywide MAR report mailing)* | *1* | |
| *Newsletters* | *2* | |
| Community meetings/seminars | | **6** |
| *Seminars by Rent Control staff* | *4* | |
| *Beverly Hills Realtor Association* | *1* | |
| *Santa Monica Festival* | *1* | |
| Rent Control Seminar Attendance | | **86** |
| *Owner seminar* | *28* | |
| *Tenant seminar* | *23* | |
| *General adjustment seminar* | *15* | |
| *Maintenance seminar* | *20* | |
| **Petitions/Complaints** | | |
| Petitions processed on intake | | **124** |
| *Decrease petitions filed* | *67* | |
| *Construction decrease petitions filed* | *26* | |
| *Increase petitions filed* | *1* | |
| *Excess rent complaints filed* | *27* | |
| *Base amenities petitions filed* | *0* | |
| *Unregistered unit petitions filed* | *0* | |
| *Tenant-Not-in-Occupancy petitions filed* | *3* | |
| Hearings held | | **58** |
| *Decrease petitions* | *43* | |

| | | |
|---|---|---|
| Hearings held (cont.) | | |
| *Increase petitions* | *1* | |
| *Excess rent complaints* | *4* | |
| *Exemption applications* | *7* | |
| *Unregistered units* | *1* | |
| *Potential lapse of exemptions* | *0* | |
| *Tenants-not-in-occupancy* | *2* | |
| Written decisions issued | | **42** |
| Proposed addenda issued | | **18** |
| Final addenda after hearing issued | | **2** |
| Exemption staff reports prepared and reviewed | | **13** |
| Interpreter services provided | | **0** |
| On-site investigations conducted | | **115** |
| *Upon scheduling decrease petitions* | *41* | |
| *In response to compliance requests* | *16* | |
| *Exemption use investigations* | *19* | |
| *Ellis investigations* | *20* | |
| *Occupancy, unit use, residence verification, construction activities etc.* | *17* | |
| *Other (e.g., measuring, service of documents, etc.)* | *2* | |
| **Ellis Withdrawals, Exemptions and Removals** | | |
| Ellis withdrawals (properties) filed | | **9** |
| *Completed* | *5* | |
| *Pending* | *4* | |
| Ellis returns (properties) to rental market | | **6** |
| *Units returned to market* | *30* | |
| Exemption applications filed | | **23** |
| SFD declarations filed | | **82** |
| Removal permit applications filed | | **3** |

| Forms and Permits Processed | | |
|---|---|---|
| Status forms to submit development applications | | **116** |
| Demolition permits | | **99** |
| Building permits | | **405** |
| Property registrations | | **621** |
| Vacancy registration forms | | **4,563** |
| Registration fee payments | | **3,805** |
| Fee waivers | | **159** |
| Clean Beaches Tax waivers | | **20** |
| **Appeals and Litigation** | | |
| Staff reports on appeal | | **17** |
| *Decrease petitions* | *12* | |
| *Excess rent complaints* | *0* | |
| *Increase petitions* | *1* | |
| *Tenants not in occupancy* | *2* | |
| *Unregistered units* | *2* | |
| *Exemptions/lapses following Hearing Officer recommendation* | *0* | |
| Supplemental staff reports prepared | | **1** |
| Litigation cases | | **14** |
| Administrative records prepared | | **3** |
| **Legal Advisory** | | |
| Miscellaneous staff reports written | | **2** |
| Occupancy permits advisory | | **5** |
| Responses to subpoenas & Public Records Act requests | | **32** |
| **Apartment Listing Service** | | |
| Number of listings received | | **111** |
| **Regulations and Resolutions** | | |
| New or amendments prepared | | **2** |

## 2. Maximum Income and Rent Levels

The following Income Eligibility Limits and Rent Limits were adopted by the Santa Monica City Council at its June 25, 2013 meeting amending income limits and rents to be used for future units built pursuant to the City's Affordable Housing Production Program.

### Maximum Income Levels*

| Household Size | Household Size Adjustment Factor | Extremely Low $ | Very Low $ | Low $ | Moderate $ |
|---|---|---|---|---|---|
| | | 30% HUD MFI $85,400 | 50% HUD MFI $85,400 | 80% HUD MFI $85,400 | 120% HCD AMI $64,800 |
| **1** | 0.7 | 17,950 | 29,900 | 47,850 | 54,450 |
| **2** | 0.8 | 20,500 | 34,200 | 54,650 | 62,200 |
| **3** | 0.9 | 23,050 | 38,450 | 61,500 | 70,000 |
| **4** | 1.0 | 25,600 | 42,700 | 68,300 | 77,750 |

**Amounts are rounded to the nearest $50.*

### Rent Limits

| Unit Type | Unit Type Adjustment Factor | Extremely Low $ | Very Low $ | Low $ | Low $ | Moderate $ |
|---|---|---|---|---|---|---|
| | | 30% HCD AMI $64,800 | 50% HCD AMI $64,800 | 60% HCD AMI $64,800 | 80% HCD AMI $64,800 | 110% HCD AMI $64,800 |
| **0** | 0.7 | 340 | 567 | 680 | 907 | 1,247 |
| **1** | 0.8 | 389 | 648 | 778 | 1,037 | 1,426 |
| **2** | 0.9 | 437 | 729 | 875 | 1,166 | 1,604 |
| **3** | 1.0 | 486 | 810 | 972 | 1,296 | 1,782 |