

SANTA MONICA
RENT CONTROL BOARD
ANNUAL REPORT

JULY 2002 THROUGH JUNE 2003

Adopted
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SIGNIFICANT DEVELOPMENTS

The Rent Control Charter Amendment provides that the Rent Control Board shall report annually to the City Council on the status of Santa Monica's controlled rental housing.

During the last year, from July 2002 through June 2003 the following occurred:

- ◆ The large increase in units constructed which was seen last year slowed down considerably in this fiscal year. This year 14 new buildings with 212 units were constructed compared with 22 new buildings with 702 units in the prior fiscal year.
- ◆ In January 2003, the Board rescinded the utility adjustment enacted in September 2001 for buildings with master metered utilities because of a decrease in electrical costs.
- ◆ The Board passed Regulation 3304 which authorizes owners to implement a one-time increase in the rent of a unit if the Board determines the tenant does not occupy the unit as his or her usual residence. At the end of the fiscal year 84 petitions for tenants not in occupancy had been filed.
- ◆ Effective January 1, 2003 legislative changes supported by the Rent Control Board became law:

60 days' notice must be given to tenants in all jurisdictions when a landlord evicts tenants from their units for no fault of their own, usually for owner or relative occupancy;

Landlords must now give reasonable written notice of entry into a tenant's unit except in emergencies.

The Ellis Act which authorizes landlords to go out of the residential rental business was amended to remove the incentive to misuse the act to evict tenants and then go back into the business. The amendment provides that tenancies beginning either within five years of the filing of the notice of intent to withdraw from the rental business or within five years of the property's withdrawal must be rented at the prior rent-controlled rent plus intervening general adjustments

- ◆ There was another increase in the use of electronic information as the Agency pursued ways to increase communications with the public. During the fiscal year the Rent Control web site received 368,975 web page hits, an increase of 141,396 web page hits over last fiscal year. The maximum allowable rent (MAR) database, with rents for all controlled units in Santa Monica, was accessed 20,436 times, an increase of 62% over last fiscal year.

PUBLIC OUTREACH

This fiscal year the Board published one issue of the newsletter, "Rent Control News" which is mailed to all tenants and owners. The November 2002 issue featured an article on new state laws effective in 2003 that provide new rights and responsibilities to landlords and tenants and an article on changes to the Rent Control Law passed by the voters of Santa Monica in the November 2002 election. These changes include eviction protections, clarification of the base rent for market rate tenancies and a new requirement that owners file a copy of certain notices ending a tenancy with the Rent Control Board.

As in prior years, in May 2003 a postcard listing the current registered maximum allowable rent was mailed to the occupant of each controlled unit in the City.

The June 2003 summer mailing to owners included unit-by-unit reports of the current maximum allowable rents and entitlement to general adjustments. Almost 575 vacancy registrations were received in the month following the mailing, as compared to an average of 300 monthly filings throughout the rest of the year. This suggests that owners who previously failed to comply with the registration requirement did so in response to this mailing.

www.santa-monica.org/rentcontrol

Interest in the Agency's internet web site continued to grow this year. During the fiscal year the site received 79,161 web surfers who initiated 368,975 web page "hits." The maximum allowable rent (MAR) database, with rents for each controlled unit in Santa Monica was accessed 20,436 times. Additionally, staff responded to approximately 473 e-mails.

As in previous years, Board staff attended community events and neighborhood meetings to provide information and answer questions. These included meetings

with various neighborhood organizations, apartment owners association and realtors.

MARKET VACANCY INCREASES

In March 2003, the Rent Control Board reviewed "The Impact of Market Rate Vacancy Increases – Four Year Report". The report covers four years of full vacancy decontrol-recontrol (January 1999 – December 2002).

The report detailed that since vacancy decontrol-recontrol began in January 1999, owners have increased the rents to market rate on 9,486 units or 35% of the controlled rental units. During the first year (1999), owners filed 3,796 vacancy market increase forms with the Rent Control Board. Excluding multiple registrations on the same unit, 3,192 units were impacted. In the second year (2000), 3,684 forms were filed, impacting an additional 2,487 units for the first time. In the third year (2001), 3,669 market increase forms were filed, impacting an additional 1,828 units for the first time. In the fourth year (2002), 3,730 forms were filed, impacting 1,729 units for the first time. Additionally, in 2002 market rate rent levels were registered on approximately 250 unsold TORCA units. Taken together, first time market rate rentals were registered on 1,979 units in 2002.

The impact of the increases on rents is summarized below.

- ◆ Upon re-rental, median MARs have increased from \$612 to \$896 (46%) for 0-bedroom units, from \$695 to \$1,195 (72%) for 1-bedrooms, from \$889 to \$1,606 (81%) for 2-bedrooms and from \$1,131 to \$2,074 (83%) for 3+ bedroom units.
- ◆ Depending on the number of bedrooms in a unit, the household income needed to "afford" the median market rent is \$16,200 - \$34,700 higher than the income needed to afford the median rent of the same size unit if it had not been rented at market rate.
- ◆ Vacancy increases on 9,486 units have resulted in the loss of 6,506 units that had rent levels formerly affordable to low-income households (80% of median income) including 3,950 units with rent levels formerly affordable to very low-income households (50 and 60% of median income).
- ◆ Market rate vacancies continue to be distributed throughout the city, roughly paralleling the distribution of all controlled rental units.
- ◆ Market rate rentals have been distributed between 0, 1, 2 and 3 or more bedroom units in approximately the same proportion as their occurrence in the City as a whole.
- ◆ Once a unit is rented at market rate, the tenant has less incentive to stay in place and therefore the unit may receive subsequent increases in a relatively short period of time. At the end of the fourth year, 2,377 units had two reported increases, 733 units had

three reported increases, 220 units had four reported increases and 76 units had five or more reported increases.

CHANGES IN THE HOUSING STOCK

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

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

TRACKING RESIDENTIAL DEVELOPMENT

The Rent Control Board tracks residential development in the City using Planning and Building Department records and permits as well as Rent Control records¹.

COMPLETED CONSTRUCTION

The construction detailed in this section relates to developments that were completed in 2002/2003. It includes properties that either previously contained at least one controlled residential unit, or were previously non-residential, but were developed with residential units.

Fourteen new developments containing a total of 212 new residential units were completed, replacing 59 previously rent-controlled residential units.

- Condominiums
- Two properties that were previously Ellised and had contained a total of 7 controlled units were developed with 20 condominiums.
 - One property that had previously had a single family dwelling exemption was developed with 10 condominiums.

¹ All information related to new construction comes from the City's PERMIT system.

- Two properties which previously had non-rental exemptions for three units were developed with 9 condominiums.
- Three properties which were previously non-residential were developed with 12 condominiums.

Rentals

- One property which received an owner-occupied exemption for 2 units was developed with 4 market rate units. In-lieu fees were paid.
- Three properties which were previously Ellised were developed with 105 new units. Of these, 1 unit was deed-restricted to a very low income level. Two of the properties are meeting the City's affordable housing requirement by building off-site.
- Two properties which were not under Rent Control were developed with 52 apartment units all at market rate. In lieu fees were paid for one of the properties, and one of the properties is building affordable units off-site.

Residential development described above was completed in four of the seven areas in the City:

<u>City Area</u>	<u>Units completed in FY 02/03</u>	<u>Rental Units previously removed from these sites</u>
A	2	0
C	150	43
E	35	8
G	25	8
Total	212	59

THE ELLIS ACT

As of June 30, 2003, 309 properties remained withdrawn from the residential rental housing market by way of the Ellis Act. This represents the withdrawal of 1,467 units.

Three properties with a total of 10 units that were pending withdrawal as of June 30, 2003, have subsequently completed the process.

Prior to July, 2003, 81 formerly withdrawn properties, containing 402 units, returned to the rental housing market under rent control.

During the period July 1, 2002 through June 30, 2003, 25 properties with 103 units completed the withdrawal process. Ten properties with a total of 45 units came back under rent control after having been withdrawn. In addition, 1 property with a total of 3 units began the Ellis process but the request was withdrawn prior to completion.

An analysis of Ellis withdrawals presented to the Board in August 2003 revealed that of the properties remaining withdrawn, 39% (111) had registered no development or change of use activity, 5% (15) had been converted to parking lots, 7% (21) were vacant lots, 10% (30) had changed their use from residential rental, 10% (31) had been redeveloped for commercial use, 7% (23) had been converted or rebuilt as single-family dwellings, 6% (18) had been or were in the process of being redeveloped as apartments, and 19% (60) had been or were in the process of being redeveloped as condominiums.

TENANT OWNERSHIP RIGHTS CHARTER AMENDMENT (TORCA)

In 1984 Santa Monica voters approved the Tenant Ownership Rights Charter Amendment (TORCA) through which an apartment building could be converted to condominiums if a sufficient number of tenants approved and agreed to purchase their units. Not all converted units are lost from the rent control housing stock immediately. Current tenants may continue to occupy them. However, once a tenant moves and the unit is bought and owner-occupied, it is unlikely that it will again be available on the rental market.

The provisions of the TORCA law ended on June 30, 1996. Applications filed prior to the deadline have been processed, but the City cannot accept new applications.

As of June 30, 2003, TORCA conversions had been approved for 327 properties containing 3,246 units. As a result of changes in state law effective January 1, 2002, the rents of approximately 250 unsold TORCA units once again became controlled.

One property (Mountain View mobile home park) containing 141 units, was still pending conversion at the end of the fiscal year.

REMOVAL PERMITS

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

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

In the period July 1, 2002 through June 30, 2003, the Board granted three Category C removal permits for uninhabitable properties, or uninhabitable units on otherwise habitable properties. This resulted in the removal of 40 units. Thirty-six of the "units" were unoccupied spaces in the Mountain View Mobile Home Park. Upon the granting of the removal permit, vacant spaces were to be converted to parking, thus relieving potentially dangerous impairment of emergency vehicle access to the park. This was intended as an interim measure to be followed by a future redesign and improvement of the park to conform to current statewide standards. The park owner has restricted the rents of the remaining spaces so that they will remain affordable to low-income residents.

No category D removal permits were granted.

EXEMPTIONS

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

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

In this fiscal year, there were 54 declarations submitted for single family dwellings stating that the structures were not rented on July 1, 1984. One other single family dwelling was approved for exemption under §1815 based on the owner's two year occupancy. In addition, a new construction exemption was granted for one unit.

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

- *Rental units on properties with two or three units, one of which is occupied by the owner;*

The following use exemptions were granted:

<u>Type of exemption</u>	<u>Number of properties</u>	<u>Number of units</u>
owner-occupied	35	88

These exemptions do not all represent a loss of controlled rental units from the housing stock in 2002/03. Nine properties with a total of 24 units received owner-occupied exemptions for the first time. The balance of the owner-occupied properties had previous exemptions.

SUMMARY OF CHANGES IN THE RENTAL MARKET

<u>Activity</u>	<u>Reduction in controlled units</u>	<u>Increase in controlled units</u>	<u>Net change in controlled units</u>
Ellis activity	-103	+45	-58
Category C Removals	-40*	0	-40
Category D Removals	0	0	0
New use exemptions	<u>-24</u>	<u>0</u>	<u>-24</u>
Total	-167	45	-122

* 36 AT MOUNTAIN VIEW MOBILE HOME PARK

PROGRAM, POLICIES AND ADMINISTRATION

SIGNIFICANT LEGAL DECISIONS

During fiscal year 2002-2003, two appellate court opinions were published in cases in which the Board was a party. In *Village Trailer Park v. Santa Monica Rent Control Board* (2002) 101 Cal.App.4th 1133, the plaintiff challenged Board decisions which awarded restitution of excess rent plus interest to mobilehome park tenants. The main contention made by the plaintiff was that the tenancies were exempt from rent control under the provisions of the state Mobilehome Residency Act (Civil Code §798.17), and that the Board had no jurisdiction to determine if the rental agreements complied with the requirements of the act to exempt the tenancies from local rent control. The appellate court concluded that the Board could apply Civil Code section 798.17 to the rental agreements to determine if the tenancies were subject to the Rent Control Law or were exempt from it. It further held that the Rent Control Law authorizes interest on an excess rent award, and that it was proper to exclude general adjustments during the period excess rent was retained when calculating the excess rent award.

In *Santa Monica Rent Control Board v. Pearl Street, LLC* (2003) 109 Cal.App.4th 1308, the Board filed an action for declaratory relief against a landlord, seeking a determination that the landlord was not entitled to vacancy rent increases for two tenancies at its property. The landlord went out of the residential rental business under the Ellis Act (Government Code §7060 *et seq.*) and went back into business one year later, paying the former tenants statutory damages rather than re-renting the units to them, as required by the Ellis Act. It then claimed initial tenancies of only three months at the former rent-controlled rent, and new tenancies at market rents directly thereafter. At that time, the Ellis Act required that, upon return to the residential rental business, the rents for initial tenancies be set at the former rent-controlled rents, while first rents of subsequent tenancies were decontrolled pursuant to the Costa-Hawkins Act (Civil Code §1954.53). Because of the suspicious nature of the claimed initial tenancies, the Board filed the lawsuit, alleging that the then-current tenancies were actually the first tenancies, and alleging that the landlord was not legitimately entitled to charge market rate for them.

Prior to answering the complaint in *Pearl Street*, the landlord filed a motion to dismiss it under the anti-SLAPP statute, Civil Code section 425.16. This statute was enacted to provide an early dismissal of lawsuits filed solely to chill members of the public's right of freedom of speech and right to petition the government. The motion contended that the Board's declaratory relief action arose out of the landlord's filing documents to return to the rental

business as well as registration forms listing market-rate rents with the Board, thus subjecting the lawsuit to dismissal under the anti-SLAPP statute. The appellate court disagreed, concluding that the Board's lawsuit arose from the landlord's alleged act of charging unlawful rent, not its act of filing re-rental and registration forms. The landlord also contended that, by filing the lawsuit, the Board violated an order in a prior case prohibiting the Board from applying a former regulation regarding sham tenancies. Again, the appellate court disagreed, stating: "Clearly the intent of the order in the *Cabinda* case was not to require the Board to blindly accept as true all information submitted to it by landlords and tenants." (109 Cal.App.4th at 1320.)

In addition, one published opinion reviewing San Francisco's rent stabilization law also has application here. In *Bullard v. San Francisco Residential Rent Stabilization Board* (2003) 106 Cal.App.4th 488, the landlords evicted a tenant for owner occupancy and, as required by San Francisco's law, offered the tenant a different unit at the property. They charged a market rate for the replacement unit, however, rather than the rent the tenant had paid on the tenant's former unit, as mandated by the San Francisco law. A San Francisco Rent Board decision determined that the tenant's rent should be reduced to the amount the tenant paid prior to relocation. The appellate court rejected the Board's decision, holding that the Costa-Hawkins Act's provisions allowing decontrol of a unit's rent after vacancy preempts the San Francisco ordinance requiring the lower rent for tenants relocated because of owner occupancy.

REGULATIONS

In 2002/2003, the Board adopted, amended, or repealed 65 subdivisions of regulations. The Board amended and added several regulations to Chapter 3 (General Rent Adjustments). The most significant addition to Chapter 3 was the adoption of regulation 3304, which allows a landlord to implement a one-time rent increase in the rent of a unit if the Board determines that the tenant does not occupy the unit as the tenant's usual residence.

Additionally, the Board amended regulations dealing with base and separate amenities for tenancies commencing after January 1, 1999 which are not allowed to implement a vacancy rent increase because they come under an exception to the Costa-Hawkins Act. The amendments allow separate amenity agreements for post-January 1, 1999 tenancies which have not had a vacancy increase. Other amendments rescinded effective January 1, 2003 the September 1, 2001 utility adjustment for units in buildings with master meters. This was done because a study by the Board's consultant showed that electricity costs to consumers were significantly reduced from their anticipated level at the time the September 2001 utility adjustment was adopted.

The Board also made several amendments to individual rent increase regulations (4101 et seq.) to better fit the increase formula to conditions under vacancy decontrol. It added a

provision making a unit ineligible for a rent increase for proposed capital improvements² if the unit had a vacancy increase within the last five years. It revised provisions regarding computation of gross rents for vacant units. This provides a more accurate determination of income available from the property. Other amendments give the hearing officer the discretion to amortize otherwise reasonable rent loss in excess of 3% of gross income to apportion the rent increases among the units in a manner which will ensure fairness. Finally, the rates at which owner labor is compensated were increased to keep up with the cost of living.

The Board also amended rent decrease regulation 4200 to increase the upper end of rent decrease ranges for maintenance problems and removal of base amenities. This change responds to the fact that market rents under vacancy decontrol are much higher than rents for units which have not had a vacancy increase, and decreases for units which have market rents may require a larger rent decrease than the prior ranges allowed. In addition, decrease ranges for various conditions, such as broken or missing smoke alarm, and removal of on-site manager services, were added.

Finally, the Board amended Regulation 12070, dealing with lapses of owner-occupied exemptions, to make the lapsing procedure less cumbersome when the Board has received reliable information that the owner no longer lives on the property. And it amended several regulations in Chapter 16, dealing with withdrawals from the residential rental market under the Ellis Act, Government Code section 7060 et seq., to conform to amendments to that act effective January 1, 2003. See Landlord-Tenant legislation below.

LANDLORD-TENANT LEGISLATION

The state legislature made important amendments to landlord-tenant laws effective January 1, 2003. In particular, Senate Bill 1403 (sponsored by Santa Monica's Senator Sheila Kuehl) amended several statutes relating to residential rentals.

First, prior to amendment, Civil Code section 1954 mandated reasonable notice to tenants before landlords could enter a dwelling unit and limited the circumstances under which they could enter. SB 1403 amended this section to require the reasonable notice of intended entry to be in writing, except in cases of emergency. It also specifies how the notice is to be delivered to the tenant.

Second, the bill amended Civil Code section 1946.1 to require statewide 60 days' notice to terminate a tenancy where the termination is not caused by the fault of the tenant, if the

² Proposed capital improvements are authorized improvements which the landlord has not yet done but intends to complete within a year of a final Board rent increase decision. Rent increases are allowed for proposed capital improvements when completed within the year following the decision. They are allowed without the necessity of a new rent increase petition to encourage maintaining rental properties.

tenant resided in the unit at least a year. The prior version of the statute required 60 days' notice for such evictions in Santa Monica, Los Angeles, and West Hollywood only, and retained the historical 30-day notice requirement for no-fault evictions for the remainder of the state.

Third, the Ellis Act (Government Code §7060 *et seq.*), which authorizes landlords to go out of the residential rental business, was amended to remove the incentive to misuse the act to evict tenants and then go back into the business in the minimum amount of time allowed. The amendment provides that tenancies commenced either within five years of the filing of the notice of intent to withdraw from the rental business or commenced within five years of the property's withdrawal must be rented at the prior rent-controlled rent, plus intervening general adjustments.

Fourth, an amendment to Civil Code section 1947.15 -- which required owners' reasonable attorneys fees to be included as an expense in a rent increase proceeding before a rent control board and which further required rent boards to pay owners' reasonable attorney's fees incurred in obtaining a judicial reversal of a rent increase decision -- was made inoperative while the Costa-Hawkins Rental Housing Act (Civil Code §1954.50 *et seq.*) remains in effect.

Finally, Code of Civil Procedure section 1179, which allows a tenant to request relief from forfeiture of the tenant's lease,³ was amended to allow a court to relieve a tenant from forfeiture on the court's own motion and to allow a tenant to make a motion for relief from forfeiture orally. And the state legislature amended Civil Code section 1950.5, the statute governing security deposits, to require a landlord, within a reasonable time after a notice to terminate tenancy, to notify the tenant of the tenant's right to request an initial inspection of the unit prior to the end of the tenancy. The purpose of this inspection is to enable a tenant to correct any problems in the unit for which the owner would otherwise use the security deposit to repair.

³ Tenants may forfeit their rental agreement if they violate the agreement or commit some other wrong which entitles the landlord to evict them, and they fail to cure within the three days provided by law to do so.

INCENTIVE HOUSING PROGRAM

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

During the twelve years the program has been in effect, the Rent Control Board has approved 42 contracts. Four of the contracts were subsequently withdrawn. Two were terminated by the Board. Thirty four contracts have expired. Of those 34 expired contracts, 78 dedicated units remain in place. Two properties with 4 units remain active, 2 dedicated units and 2 incentive units.

In total, there are 80 dedicated units. Sixty-one of these are rented to households qualifying as "very low income," the remaining 19 units are rented to households qualifying as "low income."

ANNUAL GENERAL ADJUSTMENT

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

The Board approved a 2003-04 general adjustment of 3% with a minimum increase of \$15 and a maximum increase of \$30.

PETITIONS/HEARINGS

The Hearings Department receives cases involving Rent Increases, Rent Decreases, Excess Rent, contested Owner-Occupied Exemptions, Petitions for Tenants Not in Occupancy, and Base Rents/Amenities determinations. In addition to conducting hearings in these areas, the Department also provides mediation as part of the Decrease and Excess Rent process, as well as with some matters not brought by petition.

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

In FY 2002/03, the Hearings Department received three (3) increase petitions. Hearing Officers issued decisions in two (2) cases that were received in the prior fiscal year. An

increase was granted in one increase and denied in the other. One petition was withdrawn, and two were pending at the end of the fiscal year.

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

<u>Decrease Cases sent to Hearings from Mediation</u>	26
Decreases granted	14
Decreases denied	1
Dismissed	2
Withdrawn	3
Pending at end of year	6

Decisions were issued in 15 cases. Decreases were granted in 14 of those petitions. Eight additional decisions were issued on petitions that were pending from the prior fiscal year. Decreases were granted in 7 of those petitions.

The Hearings Department also received 22 decrease petitions filed by a landlord for removal of owner-paid gas as an amenity. Three consolidated decisions were issued for 19 of the 22 petitions. Decreases were granted in 19 petitions. Three petitions were dismissed. In addition, three consolidated decisions were issued for 18 petitions for removal of owner-paid gas filed in the prior fiscal year. Decreases were granted for all 18 petitions.

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

In FY 2002/03 the decreases in seven (7) of the 14 approved petitions were fully reinstated within the same fiscal year and partially reinstated in another two (2) petitions. For cases decided in prior years, decreases were fully reinstated in 6 cases and partially reinstated in 7 cases.

Construction Decrease Petitions and Common Area Construction Petitions – On October 1, 1999, the Rent Control Board enacted regulations which help mitigate the impacts of certain construction activities on tenants residing in buildings undergoing substantial rehabilitation. The decrease amounts are based, in part, on length of time tenants experience problems, severity of the problems, and the specific impact on the petitioning tenants.

In FY 2002/03, one new construction-related decrease petition was filed for an individual unit. A decision was issued denying a decrease. In addition, one petition filed in the prior fiscal year was dismissed.

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

In FY 2002/03 two Base Rent/Amenities petitions were received by the Hearings Department, both for base amenities determinations. One of the petitions was withdrawn. One was still pending at the end of the year. In addition, one Base Rent petition filed in the prior fiscal year was withdrawn.

Excess Rent Complaints -- Board regulations provide for a settlement phase prior to a hearing in excess rent complaints. The purpose of the settlement phase is to provide an expeditious mechanism for tenants and owners to meet and resolve their differences informally, with the assistance of a skilled intermediary. Unresolved cases are decided by a hearing.

During FY 2002/03 thirty-seven (37) complaints alleging excess rent were submitted and 1 complaint was submitted for non-registration.

Complaints are submitted but not filed for a variety of reasons including: the tenant has not shown a valid claim of excess rent; the property is not under the jurisdiction of the Rent Control Law, e.g. it has an owner-occupied exemption; or the tenant withdraws the complaint prior to filing in favor of going to court. Of the 37 complaints submitted, 6 were withdrawn and 3 were rejected.

Of the 28 complaints accepted for filing, 2 were resolved prior to formal mediation by owners paying tenants the amount of overcharge claimed by the tenant. Three continued to be processed at the end of the fiscal year. The remaining 23 complaints received in 2002/03 were forwarded to the Hearings Department for mediation, though only 22 were forwarded prior to June 30, 2003.

The Hearings Department received 20 complaints for excess rent and one for non-registration. Four of those complaints were referred by the mediator. Thirteen cases filed for the Village Trailer Park went directly to Hearings without mediation, as did three other excess rent complaints.

During FY 2002/03, decisions were issued in 12 excess rent cases (seven cases were received in the prior fiscal year). In 10 cases, the excess rent violation was substantiated and rent withholding was authorized. One petition was withdrawn. Eleven of the Village Trailer Park cases and three of the cases received from mediation were still pending at the end of the fiscal year.

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

In FY 2002/03, 3 new applications for owner-occupied exemptions were referred to the Hearings Department. During the fiscal year, 3 recommended decisions were issued. The hearing officers recommended one application be granted, and two be denied.

In addition, a recommendation was issued on one potential lapsed exemption case. The recommendation of the hearing officer was to lapse the exemption.

Tenants not in Occupancy -- In March 2003, the Board adopted Regulation 3304. This regulation allows for a one-time increase to market level for units the tenant does not occupy as his/her usual residence of return.

As of the end of this fiscal year, 84 petitions for tenants not in occupancy had been filed. Fifteen cases were dismissed because they did not state a prima facie case. One case was withdrawn. In six cases the tenant did not dispute the owner's petition, and administrative decisions granting rent increases were issued in those cases. Forty cases were sent to the Hearings Department and were awaiting hearings and decisions. Twenty two cases were still awaiting processing to determine whether they would be dismissed, administratively granted, or sent to hearings.

Mediations

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

Of the 59 decrease petitions forwarded for mediation, 18 were still pending at the end of the fiscal year, 9 declined mediation, and mediation was fully or partially successful in 63% of the remaining cases. Twenty four excess rent petitions were referred for mediation (two of these were filed in the prior fiscal year). Of these, 19 new excess rent cases were mediated; 74% were resolved through the mediation process.

Non-Petition Mediations

The mediator handled 28 non-petition cases during the year. Twenty of these cases arose in this fiscal year, and eight were unresolved at the end of the last fiscal year. Fourteen of the cases were resolved through mediation. Three cases were pending

at the end of the fiscal year, and the eleven others were not resolved through mediation.

Seventeen of these cases came from direct contact with members of the public. One of these cases came from an owner, and twelve from tenants. Four came from both landlords and tenants together. Eleven cases were referred from within the Agency. The mediator made the initial contact in those cases.

Of the 28 non-petition cases, eleven cases involved parties who had participated in prior pre-hearing mediations. Eight of those eleven were post-hearing cases involving resolution of issues having to do with repairs ordered in rent decrease decisions and/or excess rent withholding ordered in excess rent complaint decisions.

FEE WAIVERS

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

<u>Type of Fee Waiver</u>	<u>As of FY 2002/03</u>	<u>Change from Prior Year</u>
low-income senior	478	-39
low-income disabled	137	-1
owner-occupied	2,624	-36
single family dwelling	774	+108
HUD subsidized (Section 8)	756	+54
administrative	337	+11
mobile home	24	-13
TARP	1	-0
Total fee waivers	5,131	+84

THE WORK OF THE RENT CONTROL BOARD BY DEPARTMENT

ADMINISTRATION AND PUBLIC INFORMATION DEPARTMENTS

◆	Rent Board meetings convened and staffed	20
	<i>regular meetings</i>	16
	<i>special meetings</i>	4
◆	Number of people helped seeking information	18,539
	<i>number at counter (17%)</i>	2,648
	<i>number by phone (82%)</i>	15,418
	<i>number by e-mail (1%)</i>	473
◆	Rent Control web pages viewed	368,975
◆	Web page MAR's viewed	20,436
◆	Mass mailings produced and distributed	5
	<i>General Adjustment mailing</i>	1
	<i>(Includes City-wide MAR report mailing)</i>	
	<i>Newsletter</i>	1
	<i>MAR Postcards to Tenants</i>	1
	<i>Owner mailing re: Sec. Dep. Interest Settlement</i>	1
	<i>Tenant mailing re reg. 3304</i>	1
◆	Clearance forms to submit development applications	152
◆	Demolition Permits processed	92
◆	Building Permits processed	241
◆	Property Registrations processed	466
◆	Vacancy Registration Forms Processed	3,622
◆	Registration fee payments processed	4,068
◆	Fee waivers processed	295
◆	MAR reports generated	22
◆	Petitions processed on in-take	205
◆	Excess Rent Prima Facie Determinations	48
◆	Small Claims litigation fees collected	\$38,334
	<i>collection actions taken</i>	35
	<i>settlements entered</i>	10
	<i>registration fee suits filed</i>	20

HEARINGS DEPARTMENT

◆ Hearings held		69
<i>on tenant not in occupancy petitions</i>	17	
<i>on rent increases</i>	1	
<i>on decreases</i>	31	
<i>on base rents and amenities</i>	1	
<i>on complaints</i>	15	
<i>on exemptions</i>	4	
◆ Written decisions issued		50
◆ Addenda issued		33
◆ On-site investigations conducted		215
<i>upon scheduling decrease petitions</i>	32	
<i>in response to compliance requests</i>	24	
<i>regarding unit identification conflicts</i>	10	
<i>Ellis investigations</i>	74	
<i>Exemption investigations</i>	4	
<i>Occupancy, unit use, residence verification, etc.</i>	37	
<i>Other, i.e., measuring, service of documents, etc.</i>	7	
<i>N-petition on-sites</i>	27	
◆ MARs updated due to decisions/addenda		623
◆ Drop-off letters generated		92
◆ Interpreter services provided		1
◆ Excess Rent Prima Facie Cases Reviewed		48

LEGAL DEPARTMENT

◆ Staff reports on appeal prepared		21
<i>base amenity cases</i>	0	
<i>decrease cases</i>	5	
<i>increase cases</i>	3	
<i>earthquake increase cases</i>	1	
<i>excess rent complaints</i>	10	
<i>vacancy increase cases</i>	1	
◆ Ellis withdrawals		35
<i>withdrawals processed</i>	25	
<i>returns to rental market processed</i>	10	

◆ Excess rent prima facie cases reviewed		6
◆ Exemption staff reports written or reviewed		7
<i>owner-occupied</i>	<i>6</i>	
<i>1815</i>	<i>0</i>	
<i>non-rental</i>	<i>0</i>	
<i>lapse</i>	<i>1</i>	
◆ Miscellaneous staff reports		21
◆ New or amended regulations prepared		65
◆ Small claims cases advisory		4
◆ Litigation cases		13
◆ Officer of the Day requests responded to		800
◆ Infoco Meetings Advisory		35
◆ Administrative records prepared		3
◆ Removal Permits		3
Category C	<i>3</i>	
Category D	<i>0</i>	
◆ Agreements Written		2
◆ Occupancy Permits Advisory		20

APPENDIX A

A map of the City areas and percentage of rental units in each are shown below:

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

