
SANTA MONICA
RENT CONTROL BOARD
ANNUAL REPORT

JULY 2004 THROUGH JUNE 2005

Adopted January 12, 2006

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SIGNIFICANT DEVELOPMENTS

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

During the last year, from July 2004 through June 2005 there has been a continued erosion of the affordable controlled rental stock.

- ◆ The Ellis Act allows owners to stop renting or “withdraw” all residential units at a property if they no longer wish to remain in the rental business. During the prior fiscal year (2003-04) nine (9) properties with 30 units were withdrawn from the market. This fiscal year 23 properties with 110 units were withdrawn bringing the total number of properties withdrawn to 333 properties with 1585 units.
- ◆ State mandated vacancy decontrol, which has been in place since January 1999, continues to severely undermine affordable housing. Since January 1999, owners have increased the rents on 44% of controlled rental units, a total of 12,132 units. Median rents rose 49% for 0-bedroom units, 76% for 1-bedroom units, 82% for 2-bedroom units, and 83% for 3+ bedroom units. The household income needed to afford the median market rent is \$17,400 to \$36,000 higher than the income needed to rent a unit of the same size before vacancy decontrol. These figures have increased every year including this one.
- ◆ There are many fewer low income seniors renting the controlled units than before vacancy decontrol. There were only 409 low income seniors whose rent control registration fees were waived based on their income this fiscal year, as compared to 450 last year and 719 in 1997-98.
- ◆ There were a number of court challenges to the Rent Control Law this year. The Legal Department was successful in fending off all but one of these challenges. However, it is likely the challenges to the Law will continue. In particular, unless local incentives are created to maintain the current stock of residential rental housing, litigation surrounding the processes for removing rental units from the housing market is likely to increase.

- ◆ A significant tenant protection, the requirement of 60 days' written notice when a tenant is being evicted through no fault of his or her own, was not renewed this year by the state legislature. This was despite valiant efforts by the Rent Control Board and its lobbyist to continue this protection for tenants. During the coming year, the Board and its lobbyist will continue their efforts to promote legislation that reduces the tenant hardships created by such short notice.

OUTLOOK FOR THE FUTURE

In light of the increasing threats to the affordable residential rental housing stock in Santa Monica, the Board and its staff will continue to promote policies that maintain and enhance the availability of such housing. In the new fiscal year, the Board will be relying upon its authority to prohibit rent increases in situations where there are serious health and safety violations on properties. Limitations on rent increases encourage proper maintenance of properties. Board staff will continue to work closely with the Department of Building & Safety and its Code Enforcement Officers to ensure that any such health and safety violations are corrected.

Additionally, in this fiscal year, Board staff has increased its interactions with the Planning and Community Development Department in reviewing development projects that may have an impact on the City's residential rental housing stock. Coordinated efforts that support the maintenance of existing habitable rental housing units in all areas of the City have been a primary goal of these interdepartmental interactions.

The Board and its staff will continue to take an active role in the development of the City's new General Plan and in the City's other land use and related policies affecting residential rental housing. The adoption of land use and development standards that promote the creation of new residential rental housing, as well as the maintenance of existing rental housing, is critical to fulfilling the voters' mandate in the Board's Charter of preserving affordable residential rental units in the City. The growing dialogue among the Council, Planning Commission, Board, Planning and Community Development Department staff and the Board's staff on these issues will serve to promote such policies and standards.

The Board's authority under the Charter Amendment to grant removal permits so that properties can be developed with multifamily rental units, provided at least 15% of the controlled units will be deed restricted at rents affordable to low income people (Category "D" Removals) offers the Agency some flexibility in addressing the concerns of controlled rental property owners who are seeking to redevelop their properties. The Board will be looking more closely in the next fiscal year at how it may wish to further utilize this authority to promote the goal of preserving and maintaining affordable housing in the City.

MARKET VACANCY INCREASES

In March 2005, the Rent Control Board reviewed "The Impact of Market Rate Vacancy Increases – Six Year Report". The report covers six years of full vacancy decontrol-recontrol (January 1999 – December 2004).

The report detailed that since vacancy decontrol-recontrol began in January 1999, owners have increased the rents to market rate on 12,132 units or 44% of the controlled rental units. Although this represents a significant portion of the controlled rental units, the number of units rented at market rate for the first time has decreased each year. In 2004, 1050 new units were rented for the first time, the lowest number yet for a one-year period.

The impact of the increases on rents is summarized below.

- ◆ Upon re-rental, median MARs have increased from \$630 to \$936 (49%) for 0-bedroom units, from \$715 to \$1,255 (76%) for 1-bedrooms, from \$921 to \$1,675 (82%) for 2-bedrooms and from \$1,173 to \$2,150 (83%) for 3+ bedroom units.
- ◆ Once a unit is rented at market rate, the tenant has less incentive to stay in place and, therefore, the unit may receive subsequent vacancies and re-rentals in a relatively short period of time. At the end of the sixth year, 48% of the units rented at market rate had been re-rented at least once since the first market rate rental. Almost 8% of the units had been rented at market rate four or more times.
- ◆ Depending on the number of bedrooms in a unit, the household income needed to "afford" the median market rent is \$17,400 - \$36,000 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 12,132 units have resulted in the loss of 8,295 units that had rent levels formerly affordable to low-income households (80% of median income) including 4,997 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, closely paralleling the distribution of all controlled rental units.
- ◆ Market rate rentals have been distributed among 0, 1, 2 and 3 or more bedroom units in approximately the same proportion as their occurrence in the City as a whole.

PUBLIC OUTREACH

This fiscal year the Board published two issues of the newsletter, "Rent Control News" which is mailed to all tenants and owners. The November 2004 issue featured articles on changes to the tenant relocation assistance ordinance, the updated rent control website and safety issues related to water heaters and locks. The March 2005 issue featured an article encouraging input to the City's revised Land Use Element and Circulation Element. That issue also detailed the upcoming mailings of rent reports to tenants and owners.

In May 2005 a postcard listing the current registered maximum allowable rent was mailed to the occupants of each rent controlled unit in the City.

The June 2005 mailing to owners included reports of the current maximum allowable rents and entitlement to general adjustments for each unit. One thousand forty-two (1,042) vacancy registrations were received in the two months following the mailing, as compared to an average of 290 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.

During the fiscal year the Agency's Internet website, www.santa-monica.org/rentcontrol, received 87,013 web surfers who initiated 269,363 web page "hits." The maximum allowable rent (MAR) database, with rents for each controlled unit in Santa Monica, was accessed 23,200 times. Additionally, staff responded to approximately 619 e-mails, an 11% increase over the previous year.

As in prior years, Board members and Board staff attended community events and neighborhood meetings to provide information and answer questions. These included meetings with various neighborhood associations, community organizations, realtors and the Santa Monica Festival.

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, 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 2004/2005. It includes properties that either previously contained at least one controlled residential unit, or were previously non-residential, but were developed with residential units.

Five new developments containing a total of 55 new residential units were completed, replacing 20 previously rent-controlled residential units.

Condominiums

- One property that was previously Ellised and had contained 2 controlled units was developed with 5 condominiums. One property which had a commercial exemption for two units was developed with 6 new condominiums. One property which had a Category CQ (earthquake) removal permit for three units was developed with 5 new townhouses. All three properties paid in-lieu fees to the city to meet the City's affordable housing requirements.

Rentals

- One property which was previously Ellised and had contained 3 controlled units was developed with 13 new market rate units. Another previously Ellised property which had contained 10 units was developed with 26 units. Of these new units, 15 units are deed-restricted to very low income tenants and 11 units are available to tenants with moderate income levels.

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

The residential development described above was completed in three of the seven areas in the City:

<u>City Area</u>	<u>Units completed in FY 04/05</u>	<u>Rental Units previously removed from these sites</u>
C	26	10
E	19	5
G	<u>10</u>	<u>5</u>
Total	55	20

THE ELLIS ACT

The Ellis Act ("the Act") was enacted in 1985 to prohibit a locality from requiring a residential landlord to remain in the residential rental business. The Act's intent is to allow residential landlords to stop being residential landlords.

The Act establishes certain procedures landlords must follow to withdraw units from the rental market. They include service of 120-day notices of termination of tenancy on tenants. The Act also sets forth procedures for the return of withdrawn units to the rental market.

Due to the increased demand in the residential real estate market and the associated rising rent levels for residential housing, withdrawals of properties under the Act are rapidly on the rise. This also means that the potential for abusing the Act by filing a removal, only to secretly re-rent the property to new tenants willing to pay higher rent levels, is increasing. Board staff is closely monitoring for evidence of any such abuse.

During the period July 1, 2004 through June 30, 2005, 23 properties with 109 units completed the withdrawal process. Four properties with a total of 16 units came back under rent control after having previously been withdrawn. In addition, 1 property with a total of 8 units began the Ellis process but the request was withdrawn prior to completion.

Five properties with a total of 21 units that were pending withdrawal as of June 30, 2005, have subsequently completed the process.

Since the Ellis Act became law in 1985, 565 properties with 2,037 units have been withdrawn under the Ellis Act. Although 94 formerly withdrawn properties with 452 units returned to the rental housing market under rent control, 333 properties with 1,585 units remained withdrawn from the rental housing market as of June 30, 2005.

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, 2004 through June 30, 2005, the Board granted four Category C removal permits for uninhabitable properties, or uninhabitable units on otherwise habitable properties. This resulted in the removal of nine units.

Two Category D removal permits were granted resulting in the removal of twenty-two units.

It is important to note that, unlike Category C removals or Ellis withdrawals, both of which result in the permanent loss of residential rental housing units, Category D removals require the property to be redeveloped with new multifamily rental units, 15% of which must be restricted at rents affordable to persons of low income. Thus, the negative impacts on the affordable residential rental housing stock in the City caused by the Ellis withdrawals and Category C removals are much greater than in Category D removals.

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 68 declarations submitted for single-family dwellings stating that the structures were not rented on July 1, 1984. Five other single-family dwellings were approved for exemption under §1815 based on the owner's two year occupancy.

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	22	57

These exemptions do not all represent a loss of controlled rental units from the housing stock in 2004/05. Only four properties with a total of eleven 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

2003-04 vs. 2004-05

<u>Activity</u>	<u>Reduction in controlled units</u>		<u>Increase in controlled units</u>		<u>Net change in controlled units</u>	
	03/04	04/05	03/04	04/05	03/04	04/05
Ellis activity	-30	-109	+26	+16	-4	-93
Category C Removals	-3	-9	0	0	-3	-9
Category D Removals	0	-22	0	0	0	-22
New use exemptions	-6	-11	0	0	-6	-11
Total	-39	-151	+26	+16	-13	-135

The above chart compares the increased number of units lost from the controlled rental housing market between fiscal year 2003-04 and 2004-05.

RELOCATION

Board staff continues to assist the City Attorney's office in mediating relocation benefits owed under the City's relocation laws to tenants being displaced from their units. As increases in withdrawals of units from the rental market have occurred over the last year, inquiries and issues concerning relocation benefits have also increased. Board staff and the City Attorney's office, along with the City's Planning and Building and Safety Departments, have been working together to better advise property owners of their obligations to provide relocation assistance.

PROGRAM, POLICIES AND ADMINISTRATION

SIGNIFICANT LEGAL DECISIONS

During fiscal year 2004-2005 the Agency successfully prevailed in all of its litigation with the exception of one case, discussed below. Most notable was the prolonged litigation in *Bisno v. SMRCB* (2005) 130 Cal.App.4th 816. After numerous motions and hearings, the appellate court found that the promulgation of regulation 3304 was a valid exercise of the Board's authority. Regulation 3304 allows the Board to implement a one-time rent increase if it is found that the tenant does not use his/her unit as their usual residence of return. The California Supreme Court declined Bisno's petition for review rendering the appellate court's published opinion law. This precedent-setting case will allow other rent control jurisdictions to adopt a similar regulation if they so choose.

In *Borten v. SMRCB* (LASC No. BC316509) plaintiff contended that applying rent control to out-of-state tenants who also maintain a unit in Santa Monica effects an unconstitutional taking of property. The Board was not originally a party to this action for declaratory relief because the landlord initiated the litigation against the tenant. Plaintiff lost that case and appealed to the appellate court. The appellate court remanded the case and ordered that the Board be made a party. During the remand hearing the court found that applying rent control to out-of-state tenants did not effect an unconstitutional taking of property. Plaintiff again appealed and the case is pending.

In *Jarmakani v. SMRCB* (LASC No. BS089517) plaintiff asked the court to determine the rent level of a unit that is part of the (now-unused) Incentive Housing Program. Plaintiff rented the dedicated unit to a Section 8 tenant resulting in the collection of a much higher rent (\$1,009) than the Maximum Allowable Rent ("MAR") for this unit (\$491). When the tenant terminated her section 8 contract plaintiff maintained that he remained entitled to the higher rent. The case involved the interplay of the Section 8 Housing Program Agreement, the Incentive Housing Program Agreement, and a change in the regulations affecting the Incentive Housing Program. The court ruled in favor of the Board and the time for appeal has expired.

In *Bohbot v. SMRCB* (2005) 133 Cal.App.4th 456 the court found that section 1806(a)(8)(vi) of the Board's Charter Amendment does not prohibit evictions for owner-occupancy in TORCA units, but instead only prohibits evictions for owner-occupancy in illegally converted condominiums. Further, the court found that regulation 9002(b)(3), which prohibits a landlord from filing an unlawful detainer action for four years if he/she subsequently has the action dismissed either voluntarily or involuntarily, is preempted by state law. The court determined that this regulation conflicts with the provisions of California law which allow for the voluntary dismissal without prejudice of an unlawful detainer action any time prior to trial.

In *Hirschfield, et al. v. Santa Monica Rent Control Board* (LASC Case No. SS012563), landlord challenged a Board decision that found a parking space to be an amenity for a unit and that a \$75 rent decrease was appropriate for the loss of that space. The landlord argued that the Board refused to consider the equitable defenses of estoppel and unclean hands. Landlord contended the tenant's behavior gave rise to equitable defenses that should bar her from prevailing on the decrease petition. The trial court denied landlord's writ petition holding that the Board's statutory scheme for making amenity determinations and individual rent adjustments is unambiguous and comprehensive and that the scheme does not contemplate the application of equitable defenses. The landlord appealed the trial court's judgment and the matter is pending.

REGULATIONS

In 2004/2005, the Board adopted regulation 3027, authorizing the September 2005 general rent adjustment of 3% with a ceiling of \$48 for all units except mobile homes and mobile home spaces. As in the past, the regulation defined "maximum allowable rent" and set forth various restrictions on a landlord's entitlement to implement the general adjustment rent increase. These restrictions include circumstances where the unit received a rent increase pursuant to regulation 3304 on or after September 1, 2004; the landlord is not in compliance with any provision of the Rent Control Law or regulation; the subject unit is not properly registered; outstanding registration fees and penalties not barred by the statute of limitations are unpaid; and landlord's failure to correct conditions specified in a citation or notice of violation of health, safety or housing laws. The regulation also required that written notice of the general adjustment rent increase be given as set forth by applicable State law.

As referenced in other portions of this report, a significant part of the Agency's legal work in 2004-2005 concerned the implementation of regulation 3304 which provides for one-time market-rate rent increases upon a Board determination that the tenant is not in occupancy of his or her unit. In addition to defending the regulation against a tenant's challenge as discussed above, the Board rendered decisions on appeals of hearing officer determinations that presented a variety of factual situations concerning occupancy.

LANDLORD-TENANT LEGISLATION

There were a number of Landlord-Tenant bills being considered in the State Legislature during the 2004-2005 legislative session. Most notably, Senate Bill 51 (sponsored by Senator Kuehl) attempted to extend the sunset date to 2009 on the current law that requires a 60-day notice to terminate any residential tenancy where the tenant has resided in the unit for at least one year. The current law requiring the 60-day notice expired on January 1, 2006. Because SB 51 was not signed into law during this legislative term, this important 60-day notice requirement, which protects tenants from excessively swift evictions, will no longer be in effect. In most

cases tenants will instead be subjected to 30-day termination notices, which place a considerable hardship on most tenants. The Board's Legal Department and lobbyist continue to work with lawmakers in Sacramento to determine whether there are ways to amend current legislative proposals to ensure that the 60-day notice requirement remains in effect.

The Board's Legal Department also tracked other bills that could affect the rights of landlords and tenants in the City. AB 438 (sponsored by Assembly Member Parra and the California Apartment Association) would allow landlords the right to refuse to rent to, or to evict, registered sex offenders on the Megan's Law website. It would also allow landlords the right to notify tenants that a registered offender resides on the property. The bill was opposed by housing advocates who expressed concerns that the website itself is inaccurate. The bill is still pending.

AB 781 (sponsored by Assembly Member Leno) was another bill of interest to the Board. The existing Ellis Act allows a landlord to evict all of his or her tenants and take the residential rental property off the rental market. The Act was being used in other jurisdictions to evade local condominium development restrictions governing the rights of existing tenants on the properties being developed. AB 781 would act as a brake to such illegal activity by requiring lengthier notices before a senior or disabled tenant could be evicted under the Ellis Act. This bill is still pending as well.

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 thirteen years the program was in effect, the Rent Control Board approved 42 contracts. Four of the contracts were subsequently withdrawn. Two were terminated by the Board. The remaining thirty-six contracts have now expired, the last in July 2003. Although there are no longer any active contracts, the rent level restrictions for tenants who qualified for dedicated units remain in place; 52 of these are rented to households qualifying as "very low income." The remaining 19 units are rented to households qualifying as "low income."

Although the Incentive Housing Program is no longer used because of vacancy decontrol, rent level protections remain for 71 units because of agreements made under that program. Given the on-going yearly loss of affordable units, these protections are extremely important.

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 2005-06 general adjustment of 3% with a maximum increase of \$48.

EXCESS RENT COMPLAINTS

Excess Rent Complaints -- *When an excess rent complaint is submitted, staff reviews the complaint. 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.*

During fiscal year 2004/05, 21 complaints alleging excess rent were submitted.

Of the 21 complaints submitted, two were withdrawn, and one was dismissed.

Of the 18 complaints accepted for filing, three were resolved prior to formal mediation by owners paying tenants the amount of overcharge claimed by the tenant. Two were pending at the end of the fiscal year. Twelve complaints were forwarded to the Hearings Department for mediation, and one was sent directly to be heard by a hearing officer.

PETITIONS

MEDIATION/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 Rent/Amenities determinations. The Department provides mediation as part of the Decrease and Excess Rent process, as well as with some matters not brought by petition. Hearings are held for all other types of petitions and in decrease and excess rent cases not resolved through mediation.

Mediations

Rent decrease and excess rent cases are usually referred to the Rent Control Board's mediator before they are set for 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.

Excess Rent Mediations

Twelve excess rent petitions were referred for mediation. In two cases repayment was made prior to mediation. Four complainants declined mediation. One petition was withdrawn. The remaining five excess rent cases were mediated; four were resolved through the mediation process, and one was still pending at the end of the fiscal year.

Decrease Mediations

Of the 57 decrease petitions forwarded for mediation, eight were still pending at the end of the fiscal year, four declined mediation, one was withdrawn and one dismissed. Mediation was fully or partially successful in 47% of the remaining 43 cases.

Non-Petition Mediations

The mediator handled 14 non-petition cases during the year. Eleven of these cases arose in this fiscal year, and three were unresolved at the end of the prior fiscal year. Three of the cases were resolved through mediation. One case was pending at the end of the fiscal year. Two were not resolved through mediation. Four were closed due to failure of the parties to participate in mediation. Four were referred to other agencies because no remedy was available under the Rent Control Law.

All of these cases came from direct contact with members of the public. Five of these cases came from an owner, and eight from tenants, and one from an owner and tenant.

Of the 14 non-petition cases, six cases involved parties who had participated in prior pre-hearing mediations.

Cases Set for Hearings

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 2004/05, the Hearings Department received seven (7) increase petitions. One petition was dismissed based on uncorrected Health and Safety Code violations. One decision was issued which granted increases for proposed capital improvements. The remaining five petitions were pending at the end of the fiscal year.

In addition, two decisions were issued on increase petitions received in the prior fiscal year. Increases were granted in both of those cases. Another increase petition from the prior fiscal year was dismissed.

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 referred for hearing</u>	<u>36</u>
Decreases granted	23
Decreases denied	4
Dismissed	1
Withdrawn	3
Pending at end of year	5

Decisions were issued in 27 cases. Decreases were granted in 23 of those petitions. In addition, four decisions were issued on petitions that were pending from the prior fiscal year. Decreases were granted in all four cases. Three other petitions pending from the prior fiscal year were withdrawn, and one was dismissed.

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

In FY 2004/05 the decreases in 3 of the 23 approved petitions were fully reinstated within the same fiscal year and partially reinstated in another petition. For cases decided in prior years, decreases were fully reinstated in five cases and partially reinstated in four cases.

Base Rent/Amenities 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 2004/05 five Base Rent/Amenities petitions were received by the Hearings Department, three for base amenities determinations only, one for rent and amenities, and one for rent only. Decisions were issued in three of the cases, one was dismissed, and one was pending at the end of the fiscal year.

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 2004/05 five new excess rent complaints were scheduled for hearing. Two of these complaints were referred by the mediator, while the other three went directly to hearing without mediation. Excess rent was substantiated in three cases, and two were pending at the end of the fiscal year.

In addition, one decision was issued on a complaint received by the Hearings Department in the prior fiscal year. Excess rent was substantiated in that case. Another complaint was withdrawn.

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 2004/05, two new applications for owner-occupied exemptions were referred to the Hearings Department. Decisions were issued in both cases recommending denial of the exemptions.

Bootleg "J" Petitions -- Bootleg petitions are filed for units which have not previously been registered with the Rent Control Board. In order for a unit to be qualified to register, the petitioner must show the unit was used as a residential rental unit in April, 1979 and is either habitable or capable of being made habitable.

During FY 04/05 three petitions were filed for units which had not been previously registered with the Board. A decision was issued in one petition which determined the unit could be registered. The remaining two petitions were pending at the end of the fiscal year. All three petitions were filed by owners.

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. The Regulation was amended in January 2004, allowing the Board, rather than the petitioners in those cases to set the new rents for tenants not in occupancy.

When a tenant not in occupancy case ("N" case) is accepted for filing, the petition is either handled administratively (dismissed, withdrawn or, if uncontested, an administrative decision is issued by the Hearings Department) or a hearing is held.

During fiscal year 2004/05 the Agency handled 49 of these petitions. Twenty eight (28) of the 49 petitions were newly filed in 2004/05 and two cases were remanded to the Hearings Department in 2004/05. Nineteen (19) petitions had been received by the Agency in the prior fiscal year. Of the 49 petitions, 35 required hearings, while 14 were handled administratively.

Of the 35 cases assigned for hearings, decisions were issued in 24 cases. Increases were granted in eighteen cases and were denied in the remaining six. Four cases were withdrawn. Seven were pending at the end of the fiscal year. In addition, one supplemental decision was issued to determine the rent level on a case decided in the prior fiscal year.

Of the 14 cases handled administratively, decisions (no hearing required) granting increases were issued in three cases, five were dismissed, and one was withdrawn. Five cases were still pending at the close of the fiscal year.

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 HOME program), 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 6/30/05</u>	<u>Change from Prior Year</u>
low-income senior	409	-41
low-income disabled	130	-7
owner-occupied	2,535	-38
single family dwelling	981	+104
HUD subsidized (Section 8)	844	+1
HOME program	80	+33
administrative	348	-1
mobile home	14	+5
TARP	<u>1</u>	<u>-0</u>
Total fee waivers	5,342	+56

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	17,815
	<i>number at counter (15%)</i>	2,746
	<i>number by phone (82%)</i>	14,450
	<i>number by e-mail (3%)</i>	619
◆	Rent Control web pages viewed	269,363
◆	Web page MAR's viewed	23,200
◆	Mass mailings produced and distributed	4
	<i>General Adjustment mailing</i>	1
	<i>(Includes City-wide MAR report mailing)</i>	
	<i>Newsletter</i>	2
	<i>MAR Postcards to Tenants</i>	1
◆	Clearance forms to submit development applications	165
◆	Demolition Permits processed	137
◆	Building Permits processed	213
◆	Property Registrations processed	377
◆	Vacancy Registration Forms Processed	4,079
◆	Registration fee payments processed	3,822
◆	Fee waivers processed	267
◆	MAR reports generated	14
◆	Petitions processed on in-take	117
◆	Excess Rent Prima Facie Determinations	21
◆	Small Claims litigation fees collected	\$7,306
	<i>collection actions taken</i>	13
	<i>settlements entered</i>	4
	<i>registration fee suits filed</i>	6

HEARINGS DEPARTMENT

◆	Hearings held		92
	<i>on tenant not in occupancy petitions</i>	28	
	<i>on rent increases</i>	3	
	<i>on decreases</i>	45	
	<i>on base rents and amenities</i>	5	
	<i>on complaints</i>	6	
	<i>on exemptions</i>	2	
	<i>on bootleg units</i>	3	
◆	Written decisions issued		72
◆	Addenda issued		19
◆	On-site investigations conducted		188
	<i>upon scheduling decrease petitions</i>	47	
	<i>in response to compliance requests</i>	26	
	<i>regarding unit identification conflicts</i>	9	
	<i>Ellis investigations</i>	33	
	<i>Occupancy, unit use, residence verification, etc.</i>	21	
	<i>Other, i.e., measuring, service of documents, etc.</i>	7	
	<i>N-petition on-sites</i>	45	
◆	MARs updated due to decisions/addenda		352
◆	Drop-off letters generated		67
◆	Interpreter services provided		8
	<i>Spanish</i>	5	
	<i>Farsi</i>	1	
	<i>Vietnamese</i>	1	
	<i>Mandarin Chinese</i>	1	
◆	Excess Rent Prima Facie Cases Reviewed		21
◆	Tenant Not in Occupancy Prima Facie Cases Reviewed		47
◆	Tenant Not in Occupancy dismissal letters written		5
◆	Exemption staff reports reviewed		22

LEGAL DEPARTMENT

◆ Staff reports on appeal prepared		38
<i>base amenity cases</i>	1	
<i>decrease cases</i>	12	
<i>increase cases</i>	3	
<i>excess rent complaints</i>	1	
<i>tenant not in occupancy cases</i>	21	
◆ Ellis withdrawals		23
<i>withdrawals processed</i>	19	
<i>returns to rental market processed</i>	4	
◆ Miscellaneous staff reports written		25
◆ New or amended regulations prepared		1
◆ Board meetings staffed		20
◆ Small claims cases advisory		3
◆ Litigation cases		17
◆ Amicus briefs filed		1
◆ Officer of the Day requests responded to		710
◆ Infoco Meetings Advisory		41
◆ Administrative records prepared		2
◆ Removal Permits		6
<i>Category C</i>	4	
<i>Category D</i>	2	
◆ Agreements Written		2
◆ Occupancy Permits Advisory		18
◆ Responses to subpoenas and Public Record Act requests served on Agency		15
◆ Consultations with Planning and City Attorney staffs		117

APPENDIX A

A map of the City areas and percentage of rental units in each as of 6/30/05 are shown below:

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

