
SANTA MONICA RENT CONTROL BOARD ANNUAL REPORT

JANUARY THROUGH DECEMBER 2009



Santa Monica Rent Control Board
April 2010

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INTRODUCTION

As with previous years, this year's Annual Report summarizes the prior year's significant developments in the areas of new legislation, litigation, and the Board's exercise of its authority. In addition to surveying various outreach efforts and providing a statistical breakdown of the work done by Agency staff, the report also summarizes some of the major issues that have recently defined so much of the Agency's and the Board's work, such as the displacement of tenants under the Ellis Act and the loss of affordability resulting from the state Costa-Hawkins Rental Housing Act.

In this, the 30th year of Rent Control in Santa Monica, it seems appropriate to not only discuss the events and statistics of the past year, but also to place them in their larger context. The beginning point of that context is the 1970s, a period of rampant inflation. According to the United States Census Bureau, the median California house price rose from \$23,100 to \$84,500 throughout that decade—an increase of more than 265%—and rents became less affordable as owners sought to increase revenues in line with real estate values. Moreover, because property taxes increased with value, rental-property owners had to increase rents merely to maintain their income.

In response to this sharp rise in property taxes, California voters enacted Proposition 13, which rolled taxes back to their 1976 level and capped their annual escalation to a maximum of 2% during any single ownership. Among the largest beneficiaries of Proposition 13 were commercial property owners, who own residential apartments as a business investment. In a January 1978 fundraising letter to Los Angeles Apartment Owner's Association ("LAAOA") members, Howard Jarvis (who, along with Paul Gann, was responsible for putting Prop 13 on the ballot) urged apartment owners to contribute 1% of their rental

revenues to the “Yes on 13” campaign, and many did so.¹ In an April 1978 letter, sent to apartment owners on LAAOA letterhead, Jarvis advised them to “convince your tenants that lower property taxes mean lower rents. Renter votes could decide this election.”²

Renters may well have decided the election, as Jarvis predicted; it was passed with 65% of the vote. Also as predicted, owners’ tax burdens were reduced dramatically—by an average of 57% per parcel. But contrary to promises made during the election campaign, those tax savings were not passed on to tenants, and rents continued to rise.

In order to stem the growing unaffordability of rents, and fueled by a tenant backlash over the broken campaign promise, local rent-control laws were enacted throughout the state. The cities of Cotati and Beverly Hills adopted rent-control ordinances in the 1978 fall elections, and rent-control laws were enacted in San Francisco and Los Angeles in 1979. Also in 1979, Los Angeles County adopted a rent-control law applicable to unincorporated areas³, and Berkeley enacted a rent-control law the following year.

In April 1979, the people of Santa Monica, amending the City Charter by voter initiative, also enacted rent control. In voting for an effective system of rent control, the people determined that

[a] growing shortage of housing units resulting in a low vacancy rate and rapidly rising rents exploiting this shortage constitute a serious housing problem affecting the lives of a substantial portion of those Santa Monica residents who reside in rental housing. In addition, speculation in the purchase and sale of existing rental housing units results in further rent increases. These conditions endanger the public health and welfare of Santa Monica tenants, especially the poor, minorities, students, young families, and senior citizens. The purpose of [the rent control law], therefore, is to alleviate the hardship caused by this serious housing shortage by establishing a Rent Control Board empowered to regulate rentals in the City of Santa Monica so that rents will not be increased unreasonably and so that landlords will receive no more than a fair return. (Santa Monica City Charter, Article XVIII, Section 1800)

¹ Daniel A. Smith, “Howard Jarvis, Populist Entrepreneur: Reevaluating the Causes of Proposition 13,” *Social Science History*, Vol. 23, No. 2 (Summer 1999) p. 200

² Id, p. 201

³ One such area was West Hollywood. It was principally because the County rent-control law was set to expire in 1985 that the people of that area voted to incorporate as the City of West Hollywood in 1984.

After the nationwide recession of the early 1980s, California property values again began to rise through the latter part of the decade. They peaked in 1990, in what was later characterized as the second California “housing bubble.” This time, however, while property values rose, local rent-control laws provided that rents would be limited. Thus, the economic dislocations caused by the real-estate bubble of the late 1970s were not repeated in Santa Monica or the state’s other rent-control jurisdictions, except to the extent that rent-controlled properties were removed from the rental market under the Ellis Act and redeveloped.

Tenants were protected from market-driven dislocations through the mid-1990s, when real estate prices plummeted and even long-term controlled rents were more consistent with market rents, as rents statewide were driven down by the depressed housing market.

It was in this non-crisis atmosphere that, in February 1995, state Assembly member Hawkins introduced a bill to “streamline and improve state housing policy by repealing obsolete, outmoded, and inoperative programs and statutes.” Among the statutes to be repealed were several intended to provide affordable housing choices to low-income California seniors during earlier periods of housing unaffordability, and several others intended to provide housing assistance to the disadvantaged of all age groups. Some of the programs had already sunset but remained on the books and others had never been fully implemented. The bill made no mention of local rent-control laws. Five months later, the bill was amended to change state law in order to preempt local rent-control laws that held prices steady from one tenancy to the next. This amended bill, passed by the Legislature late in 1995, was the Costa-Hawkins Rental Housing Act.

The year after Costa-Hawkins was enacted, the California real estate market, along with that of most of the nation, showed signs of recovery, driven in part by low interest rates and a stock market bubble. By the time Costa-Hawkins was fully phased in, in 1999, the recovery had turned into the beginning of a full-scale boom as even mortgages became securitized and traded at inflated stock market values. This boom ultimately became the third real-estate bubble in as many decades. Unlike during the previous bubble in the early 90s, Costa-Hawkins now made it impossible for local government to control rents for new tenancies. As tenants moved out and their units were rerented the initial rents charged for those units rose commensurately with inflated real estate prices.

The economic result of that sharp increase in prices is set forth in greater detail in the Rent Control Board’s April 2010 Vacancy Increase report, but one striking fact is worth noting here: as of 2009 the median rents for units of any

size occupied by long-term tenants (i.e, units that had not received Costa-Hawkins vacancy increases) were affordable to households earning the Los Angeles-area median family income for a family of four. But *none* of the median rents for any size unit that had been given a market level increase was affordable. Units actually large enough to house a family of four were more than \$20,000 more than the amount considered affordable, and the median rent for an efficiency unit had risen to so high a level that it was literally impossible for a single person earning minimum wage to pay for it. It seems likely that this dramatic loss of affordability will have resulted in demographic changes in the Santa Monica community, particularly with respect to the elderly, the disabled, and families with young children. Next year, with the benefit of the 2010 Census results, the Agency and the Board expect to discover and report on whether that has been the case.

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. This year has seen the following significant developments:

- The Rent Control Board exercised jurisdiction over 168 units built on properties in downtown Santa Monica that had been withdrawn from the rental market as permitted by the state Ellis Act. Under the Rent Control Law, if controlled units are withdrawn from the rental market and demolished, any replacement units built on the same property are subject to rent control if they are offered for rent less than five years after the withdrawal. A developer withdrew controlled units from the rental market, built new ones, and rented them less than five years later. The developer argued that a provision of state law (The Costa-Hawkins Rental Housing Act) made the newly-built units exempt from rent control. In 2008, the California Court of Appeal considered an identical issue in *Apartment Association of Los Angeles County, Inc. v. City of Los Angeles* (173 Cal.App4th 13) and determined that the local rent control law applies. It was this authority under which the Board succeeded in asserting its authority over the newly-constructed replacement units.
- Rent Control Board staff redesigned the Rent Control website in order to make it more user friendly, to provide more detailed and yet more easily navigable data, and to provide more continuously-current data to Rent Control users, including both current and prospective Santa Monica tenants and landlords. The web site launched in early 2010.
www.smgov.net/rentcontrol

- The state Ellis Act allows owners to withdraw properties from the rental market, evicting tenants who are without fault and ceasing to offer the vacated units for rent. In most cases, those units are demolished and redeveloped as condominiums or reused/redeveloped as single-family homes or for other family and non-rental use. In 2009, applications were filed to withdraw only 14 units, and no such applications were filed from August through the end of the year. This marked a significant decline in Ellis activity from the previous two years in which a total of 280 units were withdrawn (201 in 2007 and 79 in 2008). A total of 71 units were actually withdrawn in 2009, but this was due mostly to Ellis applications that had been filed in 2008 but not completed that year. Fifty nine units that were withdrawn in past years were returned to the rental market for a net loss of 12 controlled units. The dramatic decline in Ellis activity coincides with the economic downturn and tightening of credit, which has impeded construction lending.
- State-mandated vacancy decontrol continued to erode the supply of affordable housing in Santa Monica. Although initial market rents actually declined last year for the first time since vacancy decontrol was enacted statewide in 1999, the decline was small and the disparity between even the lower market rents and the area median income was great. By the end of 2009, 58% of all rent-controlled units in the City had been rented at market rate. The household income needed to afford the median market rent was between \$25,092 and \$49,548 higher than the income needed to rent the same size unit that had not been rented at market rate. But the number of units given a first-time market increase was the lowest ever last year, at 431, suggesting the stability of tenancies in long-term controlled units.
- The Clean Beaches and Ocean Parcel Tax, which was enacted by the voters in 2006, includes a waiver for units occupied by low-income households. Although the tax proceeds are administered by the City's Office of Sustainability and the Environment, the tax-waiver applications filed by renters are processed by Rent Control Board staff. In 2009, staff processed 149 tax-waiver applications, of which 88 were granted. Fourteen applications were denied. The remaining 47 were rejected as duplicate applications, or were ultimately granted or denied outside the 2009 calendar year.

MARKET VACANCY INCREASES

In April 2010, the Rent Control Board reviewed "The Impact of Market Rate

Vacancy Increases Eleven Year Report". The report covers eleven years of full vacancy decontrol-recontrol (January 1999 – December 2009).

Since vacancy decontrol-recontrol began in January 1999, owners have increased the rents to market rate on 15,955 units or 58% of the controlled rental units. Although this represents a significant portion of the controlled units, the number of units rented at market rate for the first time has continued to decrease each year. In 2009, 431 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 \$703 to \$1,141 (62%) for 0-bedroom units, from \$799 to \$1,514 (90%) for 1-bedrooms, from \$1,024 to \$2,000 (95%) for 2-bedrooms and from \$1,299 to \$2,643 (103%) for 3 or more 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 eleventh year, 64% of the units rented at market rate had been re-rented at least once since the first market rate rental. Twenty-two percent 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 at 30% of gross income ranges from \$65,200 to \$97,438. This is \$25,029 - \$49,548 higher than the income needed to afford the median rent of the same size unit if it had not received a market rate increase.

<u>Income Needed to Afford MARs</u> <u>(30% Affordability Standard)</u>					
<u>Units with Vacancy Increases 1/1/99 – 12/31/09 (15,955 units)</u>					
<u>No. of Bedrooms</u>	<u>Adjusted 1998⁴ Median MARs</u>	<u>Income needed to Afford MAR</u>	<u>Post-Increase Median MARs</u>	<u>Income Needed to Afford MAR</u>	<u>Income Difference</u>
0	\$703	\$40,171	\$1,141	\$65,200	\$25,029
1	799	39,950	1,514	75,700	35,500
2	1024	43,116	2,000	84,211	41,095
3 or more	1,299	47,889	2,643	97,438	49,548

⁴ December 1998 median MARs with 1999-2009 general adjustments added.

- ◆ Vacancy increases on 15,955 units have resulted in the loss of 11,552 units that had rent levels formerly affordable to low-income households (80% of median income) including 6,684 units with rent levels formerly affordable to very low-income households (50 and 60% of median income).

PUBLIC OUTREACH

Outreach to members of the community continued this year. Agency staff presented four workshops for both tenants and owners of rental property advising them of their rights and obligations under the Rent Control Law. The four workshops were titled Tenant Seminar on Santa Monica Rent Control Law, Owning Rental Property in Santa Monica (for owners), Maintenance of Residential Rental Property (for owners and tenants) and a Workshop for Owners and Managers on Calculating and Noticing the Annual Rent Increase.

Agency staff also participated in the housing seminar, Finding Common Ground, presented by the City Attorney Office, and attended other 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.

The 30 second Public Service Announcement highlighting services of the Agency continues to be shown on City TV and a new PSA informing low-income seniors and disabled tenants of the availability of registration fee waivers is in production.

In 2009 the Board published two issues of the newsletter, "Rent Control News" which is mailed to all Santa Monica tenants and owners. It was also distributed to many venues around the City such as the main library and its branches, and community centers. The spring issue featured an article on the City Council's passage of the no-smoking law for common areas in multi-family properties and a description of common areas. Additional articles included: the thirty year anniversary of the Santa Monica Rent Control law; the fact that water conservation remains critically important; a calendar highlighting a free workshop on new issues in rental housing and other free workshops and seminars on rent control topics; dates for important mailings and public hearings; and a description of the general adjustment.

The fall issue featured an article on the continued urgent need to conserve water as part of the City's sustainability goals. Additional articles described: guidelines for entering into temporary rent reductions; the availability of utility bill assistance for low-income households; rebates offered to owners of multifamily buildings through the gas and electric companies; how to view rent control meetings either live or replayed through CityTV; the anticipated availability of the

maintenance seminar video online; the creation of the new affordable housing marketing list for 2010 for Community Corporation of Santa Monica; the need to participate in the 2010 Census; and the availability of registration and surcharge waivers for qualifying tenants and owners.

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

The June mailing to owners included reports of the current maximum allowable rents and entitlement to general adjustments for each unit. More than 1,304 vacancy registrations were received in the two months following the mailing, as compared to an average of 337 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.

Due to the economic downturn and consequent drop in initial market rents, staff received several calls from tenants and owners asking whether an owner can temporarily reduce a tenant's rent without affecting a long-term reduction in the maximum allowable rent. In order to accommodate this need for information, to make it easier for tenants to obtain such temporary reductions, and to ensure owners that they will not suffer longer-term economic consequences for granting them, staff created an information sheet about this issue.

CHANGES IN THE HOUSING STOCK

To follow changes in the housing stock in different areas of the City, 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 area can be found on page 11.

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 records⁵.

COMPLETED CONSTRUCTION

The construction detailed in this section relates to multi-family residential developments that were completed in 2009. The properties either previously contained at least one residential unit or were commercial, but were developed with residential units.

Also included in the table on page 11 are two properties completed late in 2008 that were not detailed in last year's annual report.

New developments containing a total of 446 residential units were completed in 2009, replacing 30 previously rent-controlled residential units, 3 units exempt from rent control, 8 commercial properties, one vacant lot, one parking lot, and 5 exempt single family dwellings.

Condominiums

- Four properties containing a total of 21 rental units previously withdrawn under the Ellis Act were replaced by 20 condominiums.
- One property that was granted an administrative exemption (and was demolished before April 10, 1979) was replaced with six condominiums.
- Four exempt single family homes were demolished, and the properties were developed with 17 condominiums.

⁵ All information related to new construction comes from the City's PERMIT system and the Housing Division.

The nine properties described above paid in-lieu fees to the City to meet the City's affordable housing production requirements. The properties were developed with 43 market rate condominiums.

Rentals

Units Rented to Low, Very Low or Moderate-Income Tenants

- One commercial property not under rent control was replaced with 44 apartments that must be rented at affordable levels to very low income renters and 2 apartments restricted to renters of moderate income levels.
- One commercial property not under rent control was developed with 65 apartments restricted to renters of moderate income levels.
- One exempt single family home was demolished, replaced with a parking lot, and then developed with 14 apartments affordable to renters of very low income levels and 6 apartments affordable to renters of moderate income levels.

Market Rate Units

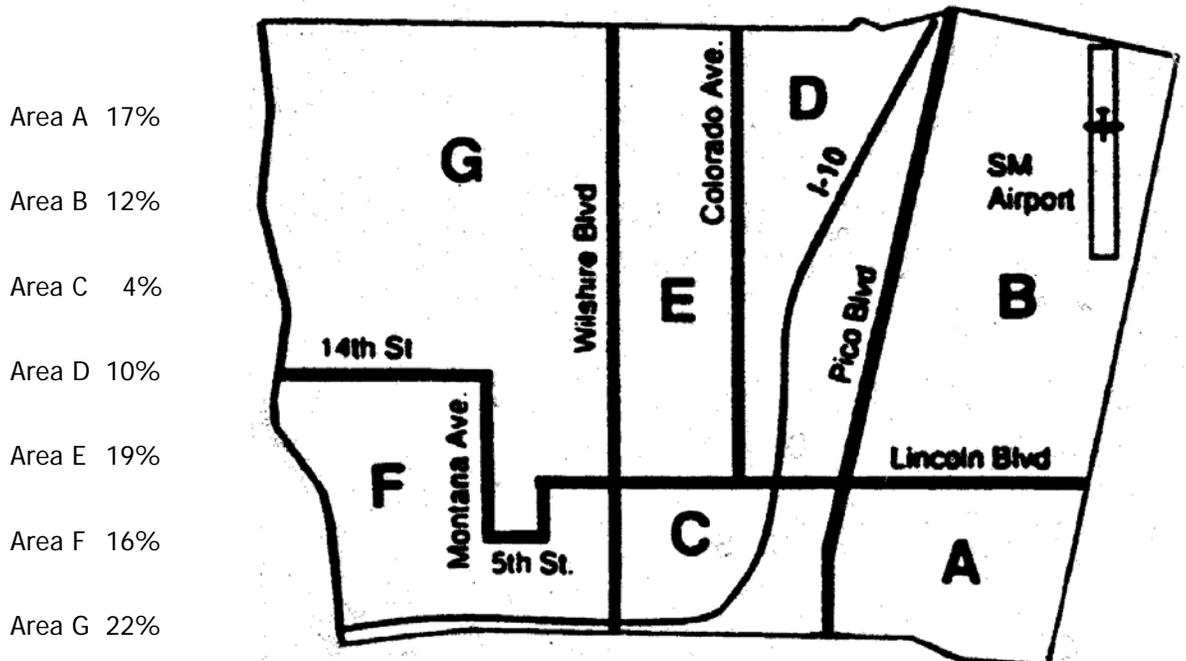
- Two commercial properties not under rent control were developed with 54 market rate units. In-lieu fees were paid to meet the affordable housing requirement for both of these properties.
- One exempt single family home was developed with 4 units and in-lieu fees were paid to meet the affordable housing requirement.
- One exempt mixed-use property was converted to add 4 new market rate units to the City's housing stock. In-lieu fees were paid to meet the affordable housing requirement.
- One three-unit property which was exempt because it was not habitable (Category C) was developed with 50 market rate units. Five deed-restricted units affordable to very low income tenants are to be built off-site to meet the affordable housing requirement.
- Three commercial properties not under rent control were developed with 160 market rate units. 18 deed-restricted units affordable to very low income tenants are to be built off-site to meet the affordable housing requirement.

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

<u>City Area</u>	<u>Units completed in 2008 *</u>	<u>Units completed in 2009</u>	<u>Rental Units previously removed from these sites</u>
A		0	0
B		2	0
C	50	258	3
D	100	71	0
E		46	12
F		52	2
G	—	17	13
Total	150	446	30

* These 2 properties received *certificates of occupancy* at the very end of 2008 but were not included in the 2008 Annual Report where it was reported that 227 units were completed. Both developments were on commercial properties that did not contain controlled rental units. The developer of the 50-unit property paid *in-lieu* fees to meet their affordable housing production requirement and all units in the 100-unit development are affordable at moderate income levels.

A map of the City areas and percentage of rental units in each as of 12/31/09 are shown below:



THE ELLIS ACT

The Ellis Act ("the Act") was enacted by the state legislature 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.

In March 2010, the Rent Control Board reviewed "The Impact of the Ellis Act," a report that surveys Ellis Act withdrawals throughout the 2009 calendar year, and places the year's data in the broader historical context of withdrawals that have happened since the Ellis Act became law in 1986.

In 2009, probably based largely on the economy, filings to remove properties from Rent Control were significantly lower than in other years. Applications to withdraw were filed on 5 properties affecting 14 units, compared with 2008 when 8 applications affecting 79 units were filed.

Nine properties with a total of 59 units came back under rent control after having previously been withdrawn.

Since the state-mandated Ellis Act was implemented in 1986, 519 properties with 2,533 units have been withdrawn under the Ellis Act. Although 115 formerly withdrawn properties with 597 units returned to the rental housing market under rent control, 406 properties with 1,934 units remained withdrawn from the rental housing market at the end of 2009.

Since the inception of the Ellis Task Force in 2007, the City Attorney's office and Board staff, in collaboration with the Building and Safety Department's Code Compliance Division, the Planning Department, the Police Department and the Fire Department, have worked closely to monitor withdrawn properties, and promote compliance with use restrictions imposed by the City, the Board, and the Ellis Act itself.

Research conducted by Rent Control Board staff, and subsequent inspections by Code Compliance staff, revealed 32 properties that appeared to be occupied without proper occupancy permits. The owners of those properties received notices from the Planning Department informing them of the need to comply with permit requirements for occupancy of withdrawn units. Of those 32 properties:

- 9 owners filed applications for occupancy permits in order to come into compliance with the law;
- 10 owners claim exemptions from the occupancy-permit requirement or have agreed to apply for the permit but have not yet done so;

- 5 owners were excused from the permit requirement because they demolished or withdrew the property before the occupancy permit ordinance was enacted;
- 5 owners retained counsel and are contesting the City's order to apply for an occupancy permit;
- 3 owners failed to respond, and the City Attorney has initiated enforcement.

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 2009, the Board granted five Category C removal permits. One of the permits was for one uninhabitable unit on an otherwise habitable property. The other four permits were for *bootleg* units --- units created without permits. The applications were granted and a total of 7 units were removed from Rent Control. Three of the permits had been submitted in 2008 and two in 2009.

No Category D removal permits were either submitted or granted in 2009.

Activity	Reduction in controlled units		Increase in controlled units		Net change in controlled units	
	2008	2009	2008	2009	2008	2009
Ellis activity	-92	-71	+16	+59	-76	-12
Category C Removals	-1	-7	0	0	-1	-7
Category D Removals	-25	0	0	0	-25	0
Total	-118	-78	+16	+59	-102	-19

The above chart compares the number of units lost from the controlled rental housing market between 2008 and 2009.

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 2009, there were 30 declarations submitted for single-family dwellings stating that the structures were not rented on July 1, 1984. Two other single-family dwellings were approved for exemption under §1815 based on the owner's two-year occupancy.

Seventy-five units received new construction exemptions which are granted to units constructed after the enactment of the Rent Control Law. The majority of these units received their initial *Certificate of Occupancy* before 2009.

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 "owner occupied exemption," which applies to properties with three or fewer units, is the temporary use exemption that affects the greatest number of properties. Tenants living on exempt properties do not have rent level protections or eviction protections.

Owners of thirty-two properties containing 73 units received owner-occupied exemptions in 2009. Twenty-one (21) of the properties had recently held these owner-occupied exemptions under prior owners. Six (6) of the properties had owner-occupied exemptions in the past but had been controlled for some period of time prior to the granting of the current exemptions. Only four (4) properties with a total of eight (8) units received owner-occupied exemptions for the first time. One other property which received an owner-occupied exemption for the first time represented no loss of controlled units because the property had previously held a non-residential rental exemption.

The owner-occupied exemption lapses by operation of law when the owner moves off the property or when ownership is transferred. This year, there was a significant net reduction in the total number of rental units subject to owner-occupied exemptions tracked in the Agency's property database. Many of these exemptions lapsed due to a change in ownership. However, the decrease in the owner-occupied exempt units was unusually high in 2009 because the Agency

increased its monitoring of owner-occupancy exemptions. In addition to regularly researching changes in ownership of all residential Santa Monica properties, as the Agency has done for several years, the Agency increased its proactive investigation of the status of properties previously granted owner occupancy exemptions. This increased activity resulted in a significant decrease in the number of temporarily exempt units and returned the rent level control and eviction protections to the tenants residing on these properties.

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 controlled rental units. 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 either temporary or permanent relocation assistance depending on the situation.

Tenants of controlled units evicted for no-fault of their own (e.g. owner-occupancy, Ellis withdrawals, approved removal permits granted) are entitled to permanent relocation benefits. The benefit amounts are determined by the size of the units (determined by number of bedrooms) and range from \$5,700 for a single unit to \$10,450 for unit with four or more bedrooms. For seniors, disabled tenants and families with children, the fee is increased by \$1,650.

Tenants evicted for no-fault following the granting of an owner-occupied exemption are not eligible to receive these benefits.

When a tenant is forced to vacate an apartment temporarily, the owner is required to cover their temporary housing expenses and other related items. The City Council has set fixed dollar amounts to cover hotel, meals, laundry and pet boarding expenses, if applicable. Examples of when an owner must pay temporary relocation costs include termite fumigation, extensive repair or remodeling work where tenants must vacate, and code violations where the City requires tenants to leave. Tenants have a right to return to their units once the temporary situation has been resolved.

PROGRAM, POLICIES AND ADMINISTRATION

SIGNIFICANT LEGAL DECISIONS

SUMMARY OF SMRCB LITIGATION FOR 2009

Embassy LLC et al. v. SMRCB and City of Santa Monica

The owners of the Embassy Apartment Hotel filed a complaint in the Superior Court seeking to invalidate part of a settlement agreement they entered into with the Board and the City of Santa Monica in 2000, setting the permissible uses of the property. As part of the settlement agreement the Board granted a hotel exemption for half of the 38 units on the property. In exchange, the owners waived their rights under the Ellis Act to withdraw the remaining 19 rent controlled units. The court entered judgment in favor of the Board and City, finding that the complaint failed to state a cause of action for relief. The owners appealed the trial court's decision, and the matter is pending in the Court of Appeal.

Galloway v. SMRCB

The owner filed a writ petition in the Superior Court challenging the Board's administrative decision denying the owner's petition to register a bootleg unit under Regulation 13008. The parties briefed the issues and presented oral argument before the court. The court remanded the matter to the Rent Control Board for consideration of evidence the owner presented on her administrative appeal to the Board after the record and was closed, and which the Board had declined to consider. The matter has been heard by the hearing officer and is pending administrative appeal.

Dennis v. SMRCB

The owner filed a writ petition in the Superior Court challenging the Board's administrative decision denying the owner's petition to register her bootleg unit under Regulation 13008. The parties briefed the issues and presented oral argument before the court. The matter is pending.

Golden-Gealer v. SMRCB

The owner filed a writ petition in the Superior Court challenging the Board's administrative decision finding that the owner accepted excess rent. The owner also seeks a court order that the Board adopt regulations requiring it to take final action on individual rent adjustment petitions within 120 days. The matter is pending.

Santa Monica Properties v. SMRCB

The owner filed a writ petition in the Superior Court challenging the Board's administrative decision granting rent decreases to two tenants for reduction in housing services related to Jacuzzi and sauna heating. The owner also seeks a court order that the Board adopt regulations requiring it to take final action on individual rent adjustment petitions within 120 days. The matter is pending.

LANDLORD-TENANT LEGISLATION

Summary of Legislation

The City Council adopted a Water Shortage Response Plan by resolution and declared an advisory water shortage emergency calling for a voluntary 10% reduction in water consumption.

The Governor signed a bill making permanent a requirement for 60 days' notice to a tenant for a no-cause eviction. The Governor also signed legislation extending to tenants in single family homes notice and other protections when landlord-supplied utility service is to be terminated because the landlord failed to pay the bill.

REGULATIONS AND RESOLUTIONS

Regulations adopted in 2009 include an express protection against eviction for violation of the City's ordinance prohibiting smoking in the common areas of multi-unit residential properties and a general adjustment regulation allowing a 1% adjustment for September 2009 through August 2010, with a floor of \$8 and a ceiling of \$16.

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 2009-10 general adjustment of 1% with an \$8 floor and a \$16 ceiling for eligible tenants. The increase for mobile home spaces is 1%.

EVICTION MONITORING

Rent Control Board staff monitors evictions for two main reasons. First, the Rent Control Law limits the grounds for eviction, so staff monitors evictions to ensure that those limits are complied with. Second, when tenants are evicted without fault (for example due to owner occupancy), the rent for units from which they were displaced is generally controlled at the pre-eviction level for the next tenancy. It is only possible for the Board to be certain that the rent limitation is being complied with if it is aware of the no-fault evictions and subsequent tenancies.

To assist the Board in monitoring evictions, the Rent Control Law was amended by Santa Monica voters in 2002 to require property owners to file copies of any eviction notices terminating tenancies, except for notices for nonpayment of rent. An owner's failure to file the copy with the Board within three days of serving the tenant may be used as a defense in an eviction action.

In 2009, staff improved monitoring of owner-occupancy evictions in particular, by establishing new procedures. An owner's filing of an owner-occupancy eviction notice triggers three letters. One is sent to the owner to inform him or her of the ramifications of that kind of eviction. The second letter informs the affected tenant of his or her rights under the law and asks the tenant to provide the Board with information that will allow continued monitoring of the eviction, such as the tenant's scheduled move-out date. And because the law allows only good-faith owner occupancy evictions, a third letter is sent to the affected unit six months after the tenant was to vacate, addressed to the intended owner occupant with a "do not forward" notice, to be sure that the owner really did complete the occupancy. If the letter is returned, an investigator is sent to the unit to see who, if anyone, lives there. There were four reported owner-occupancy evictions in 2009.

There were 91 reported evictions for all other reasons (a total of 95), including fault and no-fault evictions alike. This figure does not necessarily present an accurate picture of all evictions, however, because the law does not require

owners to file with the Board notices of eviction for non-payment of rent, and because all evictions are self-reported by landlords. The majority of reported evictions was for alleged breach of contract.

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."

Although there are no longer any active Incentive Housing contracts, the rent level restrictions for 51 tenants who qualified for dedicated units remain in place; 37 of these units are rented to households qualifying as "very low income", including at least one family with children. The remaining 14 units are rented to households qualifying as "low income."

PETITIONS

Petitions, complaints and applications are filed to resolve issues involving rent increases, rent decreases, excess rent, owner-occupied exemptions, tenant not in occupancy, base rent/amenities determinations and units previously not registered under Rent Control.

Excess Rent complaints are reviewed by staff, and, if they are accepted for filing, the owner is given a chance to resolve the complaint. Those complaints which are not initially resolved are referred to the Hearings Department for mediation and/or hearing. Owner occupied exemption applications that are not resolved administratively are referred to the Hearings Department.

The Hearings Department provides mediation services as part of the decrease and excess rent processes, as well as for some matters not brought by petition. Hearings are held for all other types of petitions and for decrease and excess rent cases not resolved through mediation.

Pre-Mediation

***Excess Rent Complaints** -- 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 2009, 30 complaints alleging excess rent were submitted.

Of the 30 complaints submitted, one was withdrawn, and six were pending at the end of the year.

Of the 23 complaints accepted for filing, 11 were resolved prior to formal mediation. Twelve complaints were forwarded to the Hearings Department for mediation.

Mediations

Rent decrease and excess rent cases are usually referred to the 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 2009. Seven (7) cases were resolved through the mediation process. One case was dismissed as the tenant vacated the unit. Three petitions were sent to hearings, as the issues were not resolved, however, one case was returned back to mediation. Two cases were still pending at the end of the year.

In addition, three cases pending at the end of 2008 were closed in 2009: one case was settled, one was sent to hearings and one case was withdrawn to be re-filed.

Decrease Mediations

Fifty-five decrease petitions were forwarded for mediation. Forty-seven percent of the 32 mediated cases were fully or partially resolved. Of the remainder, ten were still pending at the end of the year. The parties in eight cases declined mediation, four cases were withdrawn and one case was dismissed. In addition, five cases pending from the prior year were fully resolved in 2009.

Non-Petition Mediations 2009

The mediator handled 13 non-petition cases during the year. Five of these cases arose in 2009. The remainder arose prior to 2009. Eight of the cases were resolved through mediation. One (1) case was not resolved in mediation. One (1) case was closed without mediation because a referring party decided not to mediate. Three (3) cases remained pending at the end of 2009. Of the 13 non-petition cases, 2 cases involved parties who had participated in prior pre-hearing or non-petition mediations.

All of these cases came from contact with members of the public. In ten (10) of the cases the owner or tenant contacted other staff members, who then referred the matter to the mediator. The other three (3) came by direct contact with the

mediator. Nine of the cases came from tenants and four (4) from both owner and tenant. The mediations included such issues as excess rent, maintenance, construction mitigation, removal of amenities, utility costs, and changes in property configuration.

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.

Six rent increase petition were received in 2009. Decisions granting increases were issued in 2009 for five petitions, one petition was pending at the end of the year. In addition, a decision denying increases was issued on a petition that was filed in the prior 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 referred for hearing</u>	<u>26</u>
Decreases granted	10
Decreases denied	10
Dismissed	0
Withdrawn	4
Pending at end of year	11

In addition, eleven decisions granting decreases were issued on decrease petitions that were pending from the prior calendar year.

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

For the twenty-one decisions granting decreases in 2009, decreases were fully reinstated in one case and partially reinstated in ten cases. For cases decided in prior years, decreases were fully reinstated in eight cases and partially reinstated in eight 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 2009 no base amenities petition were received by the Hearings Department, as base rent and amenities issues were resolved in other types of petitions, such as decreases and excess rents.

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

During 2009 five excess rent complaints were scheduled for hearing. Excess rent was substantiated in two of the cases. Two cases were pending at the end of 2009 and one case was returned to mediation.

In addition, three decisions were issued on cases received in the prior calendar year. Excess rent was substantiated all three of the cases. One case also included a claim of non-registration which was not substantiated.

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 2009, one application for owner-occupied exemption was referred to the Hearings Department. In that case the hearing officer recommended the exemption be denied.

Also during the calendar year, the lapse of one owner-occupied exemption was contested by the property owners, and the case was referred to the Hearings Department. The case was pending at the end of the year.

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 2009 no new petitions for bootleg units were received. However, in the fall of 2009 the Court remanded one petition decided by the Board in 2007 back to the Hearing Department for additional hearings and for the issuance of a remand decision. That matter was pending at the end of 2009. In addition, two decisions were issued on petitions filed in the prior year. The petitions were approved in both cases and the units were allowed to be registered.

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 2009 the Agency handled four of these petitions. One petition was handled administratively and an increase was authorized. Three cases were scheduled for hearings. Decisions were issued in two cases: One petition was granted and an increase authorized. The second petition was denied. The third case was withdrawn during the hearings process. One case pending from the prior year was also withdrawn during the hearing process.

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 12/31/09</u>	<u>Change from Prior Year</u>
low-income senior	314	-13
low-income disabled	119	-10
owner-occupied	2,359	-96
single family dwelling	1,315	+100
HUD subsidized (Section 8)	759	-8
HOME program	80	0
administrative	337	-9
mobile home	0	-2
TARP	<u>0</u>	<u>0</u>
Total fee waivers	5,283	-38

THE WORK OF THE RENT CONTROL BOARD

Board Meetings

◆ Rent Board meetings convened and staffed		13
<i>regular meetings</i>	<i>10</i>	
<i>special meetings</i>	<i>3</i>	

Public Outreach

◆ Number of people helped seeking information		12,430
<i>number at counter (16%)</i>	<i>2,380</i>	
<i>number by phone (81%)</i>	<i>9,695</i>	
<i>number by e-mail (3%)</i>	<i>355</i>	
◆ Rent Control web pages viewed		141,327
◆ Web page MAR's viewed		13,014
◆ Mass mailings produced and distributed		4
<i>General Adjustment mailing</i>	<i>1</i>	
<i>(Includes City-wide MAR report mailing)</i>		
<i>Newsletter</i>	<i>2</i>	
<i>MAR Postcards to Tenants</i>	<i>1</i>	
◆ Community Meetings and Seminars		4

Regulations and Resolutions

◆ New or amendments prepared		2
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General Adjustment

◆ Properties with Restrictions for Code Violations		6
◆ Units with Restrictions for Code Violations		34

Ellis Withdrawals and Removals

◆ Ellis withdrawals		5
<i>withdrawals completed</i>	<i>8</i>	
<i>returns to rental market completed</i>	<i>9</i>	
◆ Removal Permits		5
<i>Category C</i>	<i>5</i>	
<i>Category D</i>	<i>0</i>	

Forms and Permits

◆ Status forms to submit development applications	143
◆ Demolition Permits processed	63
◆ Building Permits processed	117
◆ Property Registrations processed	510
◆ Vacancy Registration Forms Processed	4,044
◆ Registration fee payments processed	3,714
◆ Fee waivers processed	189
◆ Clean Beaches tax waivers processed	149

Petitions

◆ Petitions processed on in-take	83
◆ Excess Rent Prima Facie Determinations	23
◆ Exemption Staff Reports Prepared and Reviewed	38
◆ Tenant Not in Occupancy Prima Facie Cases Reviewed	3
◆ Hearings held	47
<i>on decreases</i>	28
<i>on increases</i>	8
<i>on complaints</i>	3
<i>on exemptions</i>	2
<i>on bootleg units</i>	3
<i>on potential lapse of exemptions</i>	1
<i>on petitioners not in occupancy cases</i>	2
◆ Written decisions issued	35
◆ Interpreter services provided	2
<i>Spanish</i>	1
<i>Farsi</i>	1
◆ Addenda issued	33
◆ On-site investigations conducted	135
<i>upon scheduling decrease petitions</i>	40
<i>in response to compliance requests</i>	35
<i>exemption use investigations</i>	15
<i>regarding unit identification conflicts</i>	1
<i>Ellis investigations</i>	27
<i>Occupancy, unit use, residence verification, etc.</i>	16
<i>Other, i.e., measuring, service of documents, etc.</i>	1

Appeals and Litigation

◆ Staff reports on appeal prepared		14
<i>increase cases</i>		
<i>decrease cases</i>	8	
<i>petitions seeking registration</i>	0	
<i>excess rent</i>	3	
<i>exemptions/lapses following</i>		
<i>Hearing Officer Recommendation</i>	2	
◆ Ellis returns to rental market processed		9
◆ Litigation cases		5
◆ Administrative records prepared		3
Registration Fees collected through Small Claims		\$1,596.00
<i>collection actions taken</i>	1	
<i>settlements entered</i>	1	
<i>registration fee suits filed</i>	0	

Legal Advisory

◆ Miscellaneous staff reports written		2
◆ Officer of the Day requests responded to		37
◆ Agreements Written		0
◆ Occupancy Permits Advisory		18
◆ Responses to subpoenas and Public Record Act requests served on Agency		12
◆ Consultations with Planning and City Attorney staffs		71