



Santa Monica  
Rent Control Board

Annual Report 2011

January through December 2011

---

TABLE OF CONTENTS

---

INTRODUCTION	1
THE RENT CONTROL BOARD AT A GLANCE	2
SIGNIFICANT DEVELOPMENTS IN 2011	3
COMMUNITY OUTREACH	6
THE STATUS OF CONTROLLED RENTAL HOUSING IN SANTA MONICA	7
<b>Market Vacancy Increases</b>	7
<b>The Ellis Act</b>	7
<b>Exemptions</b>	9
<b>Removal Permits</b>	10
<b>Changes in the Housing Stock</b>	11
POLICIES, PROGRAMS, AND ADMINISTRATION	12
<b>Significant Legal Decisions</b>	12
<b>Santa Monica Rent Control Regulations</b>	13
<b>Eviction Monitoring</b>	14
<b>Relocation</b>	14
<b>Fee Waivers</b>	15
<b>Hearings Department Activities</b>	16
• <b>Mediation</b>	16
• <b>Rent Control Hearings</b>	17
RENT CONTROL STATISTICAL OVERVIEW	20

---

## INTRODUCTION

---

Each year, the Santa Monica Rent Control Board reports to the City Council on the status of controlled rental housing and the general activities of the Rent Control Agency. This report, a requirement of the Rent Control Law, describes the Board's activities in 2011, the 32<sup>nd</sup> year following the voters' passage of the Rent Control Law.

Changes in the makeup of the community of Santa Monica renters, seen from year to year in the statistics of the annual report, appear relatively minor. But review of specific demographic indices, such as the reduced number of very-low-income senior fee waivers over the past 12 years, and the increased rents for newer tenancies registered over the same time period, indicates there have been significant changes to the renter population in the city.

Another of the reports the Board produces to evaluate changes in the housing stock and to meet its obligation to the City Council, "The Impact of Market-Rate Vacancy Increases," highlights the frequent turnover of units with market-rate rents (especially units of 0 or 1 bedroom) and describes the "rent burden" of market-rate rents for households at or below moderate income levels. The report also reviews census data and finds a shift to new residents with higher household income levels coupled with a willingness of renters to spend a larger portion of their income on housing.

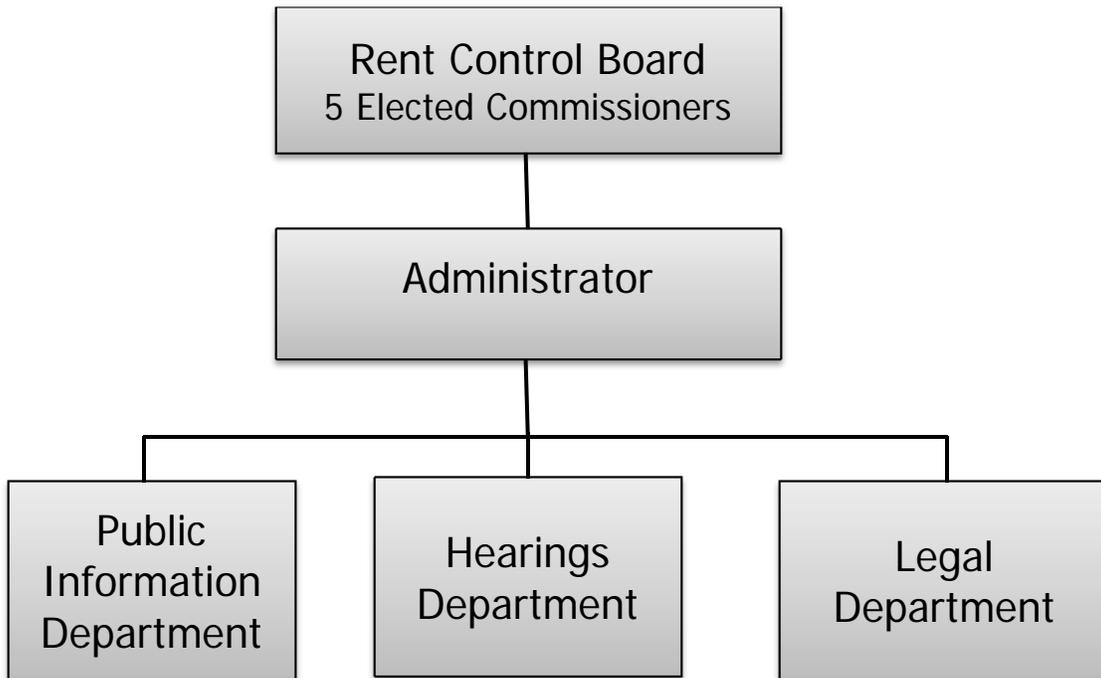
Significant changes in the tenant population, especially the increase in turnovers seen, indicate a need for the Rent Control Board to continue to work to raise awareness among all tenants of the protections of the Rent Control Law and the services provided by the Rent Control Agency. Efforts to make those benefits clear to the citizens of Santa Monica are as important as ever to the elected Rent Control Board Commissioners and staff. In this regard, the Board has been working hard to reach all of its constituents by maintaining contact through traditional forms of outreach, as well as introducing new forms of communication including use of "social media."

Tracy Condon, Administrator  
*May 10, 2012*

---

## THE RENT CONTROL BOARD AT A GLANCE

---



---

### RENT CONTROL BOARD COMMISSIONERS

---

The Rent Control Board is composed of five elected Commissioners who are responsible for exercising the powers and duties under Article XVIII of the City Charter – the Rent Control Charter Amendment. The Commissioners typically meet one or two times a month in the City Council chambers at a scheduled public meeting. Agendas for Board meetings are available in the office of the Rent Control Agency and on the website at [www.smgov.net/rentcontrol](http://www.smgov.net/rentcontrol). Board meetings are also shown live on City TV and by webcast, and an archive of past meetings is available online at our website.

---

### THE ADMINISTRATOR

---

The Administrator is appointed by the Board. The Administrator administers and supervises the Rent Control Agency, including: developing a budget; overseeing personnel, legal work, contracts, and purchases; and assisting the Board in developing regulations to implement the Rent Control Law. Her department provides direct support to the elected Commissioners by preparing agenda packages, scheduling Board meetings, producing, implementing and archiving Board actions and processing correspondence for the Board.

---

## THE PUBLIC INFORMATION DEPARTMENT

---

The Public Information Department responds to questions from the public about the Rent Control Law and the current status and history of specific controlled units. The Department also informs the public about the Agency's services, using a variety of media to reach all of the Agency's constituents. The Department publishes a biannual newsletter and prepares three major reports annually. It also maintains the Agency's website and social media presence, and presents seminars for tenants, landlords and realtors.

---

## THE HEARINGS DEPARTMENT

---

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

---

## THE LEGAL DEPARTMENT

---

The Legal Department advises the Board regarding interpretations of the law and represents the Board in legal disputes to which the Board is a party. It prepares and presents staff reports on appeal of hearings and administrative decisions, as well as removal applications. It also drafts and updates regulations to implement the Rent Control Law.

---

# **SIGNIFICANT DEVELOPMENTS IN 2011**

---

## THE ANNUAL GENERAL ADJUSTMENT Two Components Added to the Formula

---

The Rent Control Law requires the Board to adjust rent ceilings each year to reflect changes in owners' operating expenses. This adjustment is called the annual general adjustment, or "GA". The Board approved a GA for 2011 of 3.2% with a ceiling of \$52.

In 2011, actual and estimated changes in operating expenses from March 2010 to March 2011 were researched and evaluated using a formula of general application known as the "component ratio to gross rent" or "pie methodology".

Actual changes in costs for refuse, water and sewer, gas, electricity and fire and life safety inspections were used to adjust these components. The general tax levy component was adjusted by actual changes in assessed property taxes due to property

transfers and other reassessments. Inflation-related adjustments were made to the remaining components: management, self-labor and cash flow (CPI-All Items index) and maintenance and insurance (CPI-All Items, Less Shelter index). Debt service was not adjusted. A new tax-related component was introduced in 2011 to address assessments on owners' property tax bills that are not passed through to tenants as direct surcharges. Additionally, the business license expense was separated from the maintenance component and actual business license fee data was reviewed.

Much of the Board's general adjustment discussion in 2011 focused on the impact of more than a decade of rentals under vacancy decontrol/recontrol. With a majority of units now rented at market rate, and assuming operational costs for a market-rate unit are comparable to those of a traditional controlled unit, it is apparent owners' overall cash flow has improved significantly.

To address this fact, the Board adjusted the cash flow component of the GA pie by 75% of the change in the CPI—All Items index, instead of the previously-used 100% adjustment. Seventy-five percent of the change in the CPI was thought to be reasonable, as the total of all Board-authorized general adjustment increases since 1979 has been roughly equal to 75% of the overall change in the CPI index during that time.

---

THE ANNUAL GENERAL ADJUSTMENT  
A Subcommittee Formed to Consider a New Methodology

---

In recent years, the Board's core constituents — tenants and owners — have expressed concerns that the current method of calculating the general adjustment (GA) is complex, possibly vulnerable to manipulation, and time-consuming. The Board itself has noted the current formula's complexity, with some concern expressed about the uncertain nature of some of the formula's components — most recently the cash flow component. Many have also complained that it is not only the GA calculation itself that is complex, but also its implementation, with various surcharges and pass-through expenses being added to maximum allowable rents, and in some instances prohibited.

In November 2011, the Rent Control Board conducted a study session on the Board's current GA methodology and discussed issues raised in the Board's consideration of the 2011 annual GA. The Board appointed a two member subcommittee, comprised of Commissioners Todd Flora and Bill Winslow, to conduct additional analysis and prepare recommendations for presentation to the full Board. During this year, the subcommittee has:

1. met with stakeholders, including tenant and owner representatives;
2. reviewed the current methodology for calculating the GA; and
3. analyzed alternative methods for calculating the GA.

The subcommittee is currently considering recommendations for calculation of the GA, including issues related to the implementation (e.g., surcharges), for presentation to the Board as a whole and to the City Council and voters if an amendment to the City Charter is necessary.

---

RENT CONTROL BOARD'S ROLE IN THE EXPANSION OF RELOCATION ASSISTANCE & TENANT HARASSMENT PROTECTIONS

---

In early 2011, the Rent Control Board Commissioners forwarded recommendations to the City Council for the increase and expansion of the City's relocation assistance provisions and tenant harassment protections. In December 2011, the City Council introduced for first reading an ordinance to accomplish the stated objectives of the Rent Control Board in its recommendations by:

- increasing permanent relocation benefit amounts;
- expanding the eligibility of households with seniors, children or disabled tenants for increased benefits; and
- extending tenant harassment protections to all tenants covered by eviction limitations.

The ordinance went into effect in January 2012, increasing permanent relocation benefits to a range of \$7,800 for single units to \$16,300 for 2+ bedroom units. Additional amounts may have to be paid to seniors, disabled individuals or tenants who have minor children living with them. The increased relocation benefit amounts reflect the city's high cost of market-rate rents for new tenancies.

---

MAXIMUM ALLOWABLE RENTS INCLUDED IN RENT CONTROL NEWSLETTER

---

For the first time, starting in 2011, unit-specific Maximum Allowable Rents (MARs) were printed on the *Rent Control News*, the Rent Control Board's biannual newsletter. This eliminated the necessity for a separate mailing of an annual MAR postcard to tenants, which historically was mailed in April or May of each year. Providing tenants with their MARs twice a year has had the important effect of encouraging tenants to call with problems and discrepancies, thereby allowing the staff to update the Board's records more efficiently and frequently. It also provided some budgetary savings by eliminating the special postcard mailing.

---

SPANISH-LANGUAGE WEBSITE UP AND RUNNING

---

As of March 2011, the Rent Control Board's Spanish language website was updated and re-launched as an exact duplicate of the English language website, which was redesigned in 2010.

---

## COMMUNITY OUTREACH

---

Rent Control staff participates in a variety of events organized to interact with the community and convey information about the Rent Control Law. Every year the Agency presents seminars tailored specifically to owners and tenants. Those seminars for 2011 were:

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



Rent Control "Owner Seminar", March 8, 2011, Santa Monica Library

Presentations are also tailored for specific requests from outside groups such as realtor associations. In 2011, talks were given to the local affiliate of Coldwell Banker Realtors, as well as the Beverly Hills Realtors Association.

Every May, the Rent Control Agency participates in the Santa Monica Festival. Staff members are on hand to answer questions from the public.

---

# THE STATUS OF CONTROLLED RENTAL HOUSING IN SANTA MONICA

---

## MARKET VACANCY INCREASES

---

In February 2012, staff presented for the Board's review "The Impact of Market-Rate Vacancy Increases – Thirteenth Year Report 1999-2011". The report covers 13 years of full vacancy decontrol/recontrol since the passage of the Costa-Hawkins Rental Housing Act. The report is available from the Rent Control Office or on the website. A few facts are particularly noteworthy:

- Sixty-one percent of controlled units have now been rented at market rates.
- Across properties of all sizes, roughly 9 out of 10 owners have registered that they are collecting at least some market-rate rents.
- Rent levels in 2011 have recovered from recent economic softening.
- Market-rate rents are a financial burden for households at or below moderate income levels.
- Market-rate rents are outpacing inflation and increasing by a great deal more than is necessary to ensure a "fair return", as defined by the Rent Control Law.
- Units at market-rate rents have high turnover, whereas tenants with affordable rents tend to maintain longer tenancies.
- Turnover is greatest among smaller unit sizes and varies by neighborhood, with the Pico neighborhood remaining the most stable.

---

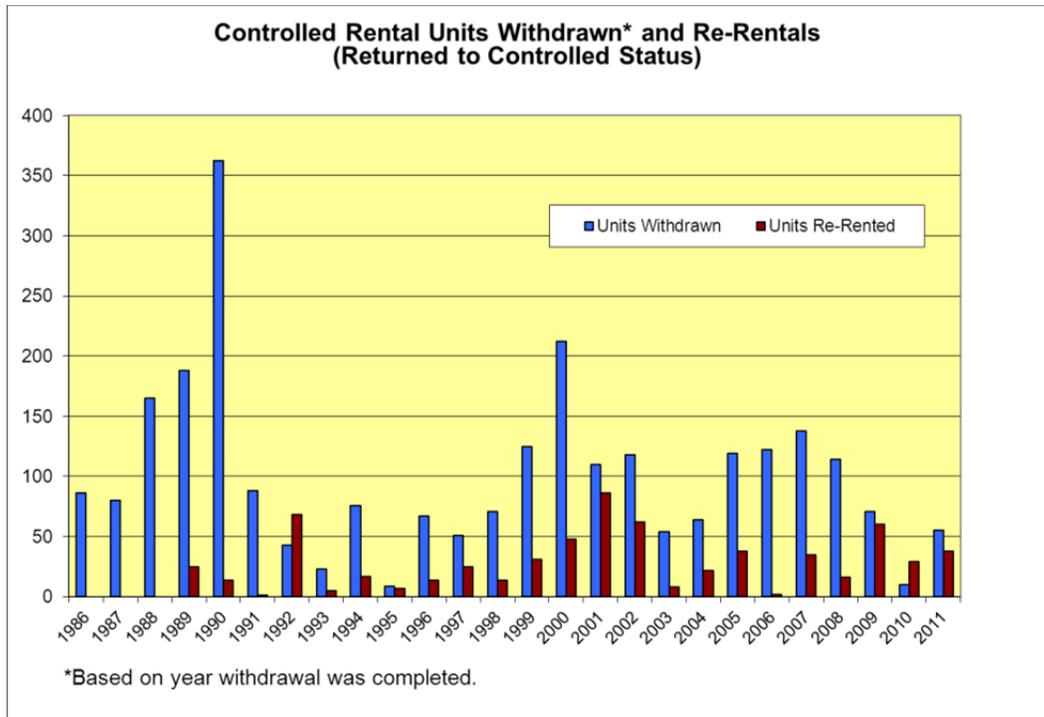
## THE ELLIS ACT

---

The Ellis Act was adopted by the State legislature in 1985 to prohibit local governments from requiring that property owners remain in the residential rental business. The Ellis Act allows local entities to establish procedures owners must follow to withdraw units from the rental market, including a mandatory 120-day notice of termination of tenancy, which under certain circumstances must be extended to one year for tenants who are senior or disabled. It also has provisions that affect the return of withdrawn units to the rental market.

In early spring, Rent Control Board staff prepares "The Ellis Act's Impact", a report that surveys Ellis Act withdrawals throughout the 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. The graph below shows that activity, including re-rentals.



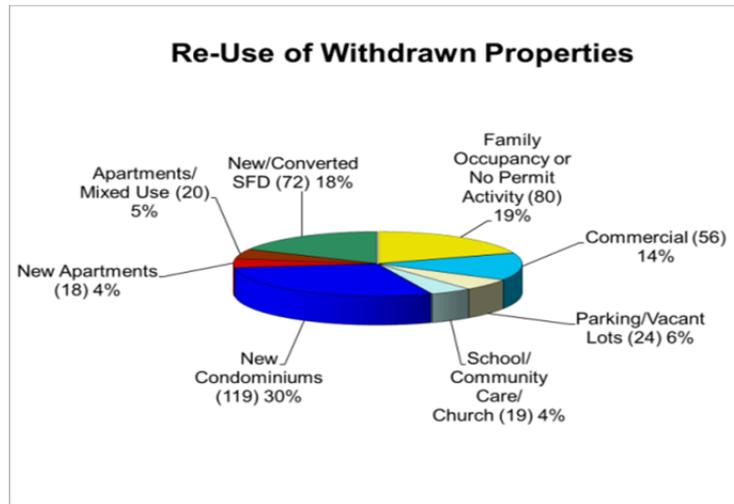
Properties are withdrawn from the rental market when all the units reach the date of withdrawal as defined by the Ellis Act. In 2011:

- Fourteen properties (55 units) completed the withdrawal process. This number includes eight properties (36 units) that had begun the process in 2010.
- Seven properties (38 previously-withdrawn units) returned to residential rental use.
- A net decrease of 17 rental units in 2011 resulted.

Since the Ellis Act became law in 1986, 541 properties (with 2,621 units) have been withdrawn. Of these properties, 133 (with 665 units) returned to the rental housing market and are subject to rent control. A net total of 408 properties (1,946 units) has been withdrawn from the rental housing market as of the end of 2011.

The most common subsequent use of properties withdrawn under the Ellis Act has been for the construction of new condominiums. Roughly 30% of "Ellised" properties have been used in this way, followed by approximately 19% for family occupancy or where no permits have been sought, and 18% have been used for construction of new or

converted single-family dwellings. All post-Ellis uses are summarized in the pie chart below.



Since the inception of the Ellis Task Force in 2007, members of the City Attorney's office, Rent Control Board staff, Code Compliance Officers and Planning Department staff have worked closely to monitor withdrawn properties and promote compliance with use restrictions imposed by the City, the Board, and the Ellis Act itself. In 2011, the Code Compliance Division continued to issue noncompliance citations to properties that appeared to be occupied but had not obtained the necessary re-occupancy permits.

---

## EXEMPTIONS

---

The Rent Control Law applies to all residential rental units in Santa Monica, except for those units specifically exempted under certain criteria. There are two kinds of exemptions: 1) permanent exemptions, and 2) use exemptions, which remain in effect as long as the criteria for which the exemption was granted continue to be met.

- Permanent Exemptions

Subject to certain limitations, new construction completed after April 10, 1979 (§1801(c)(5)) and single-family dwellings (§1815) may be eligible for permanent exemption from the Rent Control Law.

In 2011, there were 50 declarations submitted for single-family dwellings stating that the structures were not rented on July 1, 1984. As long as the information in these declarations is accurate, the subject properties are exempt (§1815). One single-family dwelling was granted an exemption by the Board after the owner filed an application based on the owner's two years of occupancy (§1815).

- Use Exemptions

“Use exemptions” or “temporary exemptions” may be granted for several different uses of a residential rental property that would otherwise be subject to the Rent Control Law. The “owner-occupied exemption,” which only applies to properties with three or fewer units, is the temporary use exemption that affects the greatest number of properties.

Although tenants living on exempt properties do not have rent level protections, eviction protections were extended to these tenants following the passage of Measure RR in November of 2010.

Owners of 17 properties containing 43 units received owner-occupied exemptions in 2011. Fourteen of the properties had owner-occupied exemptions in the past – five within the past five years. Three properties received owner-occupied exemptions for the first time.

In addition to the owner-occupied exemptions that were granted, one application was returned for insufficient documentation, and one was withdrawn.

Two applications were referred to the Hearings Department for evidentiary hearings. The Board granted an exemption in one case and denied the exemption in the other.

Owner-occupied exemptions lapse by operation of law when the owner moves off the property or when ownership is transferred. Many of these exemptions lapse due to a change in ownership. The Rent Control Agency has continued to monitor owner-occupancy exemptions and regularly researches changes in ownership of all residential Santa Monica properties. More than 33 exemptions were found to have lapsed in 2011.

Examples of other use exemptions include: residential units in hotels, hospitals, religious institutions, extended medical care facilities, commercial units, non-rental units and units owned and operated by governmental agencies.

---

#### REMOVAL PERMITS

---

To protect the controlled rental housing stock, the Rent Control Law provides strict criteria the Board must find apply before granting removal permits. Two removal permits (affecting a total of three units) were granted in 2011 based on the following requirement:

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

---

## CHANGES IN THE HOUSING STOCK

---

The Rent Control Board tracks residential development in the city using Planning and Building Department records and permits as well as Rent Control records. The construction detailed in this section relates to multi-family residential developments that were completed in 2011. New developments containing a total of 26 residential units were completed on properties that previously had 13 rent-controlled residential units, all of which were withdrawn from the rental market via the Ellis Act.

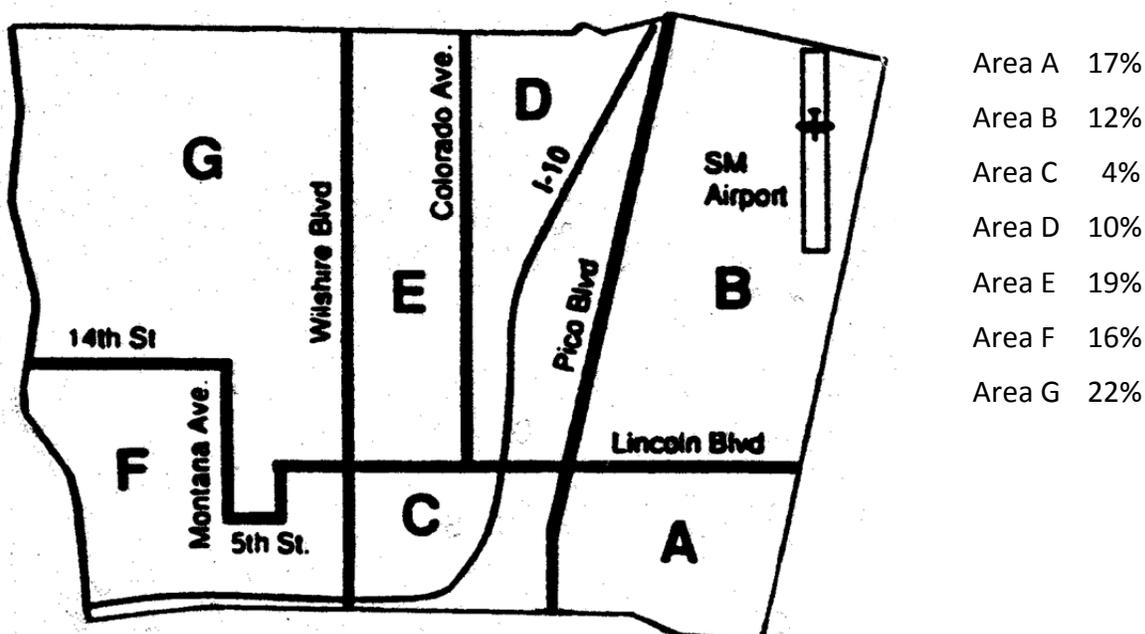
- Condominiums

Two properties, both in area G on the map below, had a total of 12 rental units that were withdrawn under the Ellis Act. The properties were re-developed with 12 condominiums. No affordable units were included in the new development. The owner elected instead to pay in-lieu fees to meet the City's Affordable Housing Production requirements.

- Rentals

One property, a single-family home in area C on the map below, was withdrawn under the Ellis Act and was redeveloped with 11 market-rate units and three deed-restricted units for low-income tenants.

The map below shows the city areas and percentage of controlled rental units in each as of 12/31/11. The percentage of rent-controlled units per area of the city remains unchanged since June 30, 2002.



---

# PROGRAMS, POLICIES AND ADMINISTRATION

---

## SIGNIFICANT LEGAL DECISIONS

---

The following is a brief summary of litigation taking place during 2011 in which the Santa Monica Rent Control Board was a party.

*Action Apartment Assoc., et al. v. SMRCB*

Action Apartment Association and two landlords filed an action in Superior Court challenging the Board's annual general adjustment formula on the grounds that the formula does not reflect the requirements of Rent Control Law section 1805(b) to account for actual increases in certain tax expenses. The case was dismissed after the dispute was resolved in settlement. In the settlement, the Board agreed to make three adjustments to its "component ratio to gross rent formula" for calculating the annual general adjustment: 1) a new property tax assessment component was introduced for actual expenses for voted indebtedness and direct assessments not already approved by the Board for direct pass-through; 2) City business license fees and taxes were separated from the maintenance component; and 3) actual property taxes paid were reviewed.

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

The owners of an 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 to resolve a zoning dispute and set the permissible uses of the property. As part of the settlement agreement, the Board granted a hotel exemption for half of the units, and the City allowed the owners to operate as a partial hotel. In exchange, the owners waived their rights under the Ellis Act to withdraw the remaining rent-controlled units from the rental housing market. The trial court entered judgment in favor of the Board and the City, finding that the Ellis Act waiver was enforceable. The owners appealed and the Court of Appeal reversed the judgment, finding that the Ellis Act prohibited enforcement of the waiver. The City's and the Board's petition for review by the California Supreme Court was denied. The matter was returned to the trial court for resolution of the remaining legal issues. The Board and the City filed cross-complaints against the owners. The case was resolved by settlement. As part of the settlement, the remaining tenants at the property were provided protection from displacement for a four-year period.

*Galloway v. SMRCB*

The owner filed a writ petition in the Superior Court challenging the Board's decision denying the owner's petition to register a backyard bootleg unit. The Court remanded the matter to the Board for consideration of additional evidence. The Hearings Department conducted additional hearings and rendered a decision again denying the petition to register on the grounds that petitioner failed to carry her burden to prove that the unit she sought to register existed in 1979, as required under the regulation. The owner and the tenant appealed the decision to the Board. The Board upheld the hearing officer's decision to deny the petition. The matter was then reviewed again by the Court, which granted the writ petition in favor of the owner and ordered the Board to set aside its decision and register the bootleg unit. The owner moved for attorneys' fees and the motion was denied. The case has concluded.

*McKinsey v. SMRCB*

The tenant filed a writ petition in the Superior Court challenging the Board's decision denying a rent decrease. The denial was based, at least in part, on the fact that the landlord removed some housing services in order to comply with local and state safety laws. The tenant claimed that the Board should have granted the rent decrease because the landlord's reason for reducing housing services was irrelevant. The tenant also challenged the Board's policy of requiring payment for production of the administrative record and sought to strictly enforce the directory timeframes for rendering decisions on rent decrease petitions. The case was pending at the end of 2011. The case is now over, the Board having prevailed.

*Santa Monica Properties v. SMRCB*

The Board granted a rent decrease due to a reduction in Jacuzzi and sauna housing services, and the owner challenged the Board in Superior Court. The Superior Court upheld the Board's decision, and the owner appealed. A decision by the Court of Appeal was still pending at the end of 2011. The appellate court ruled in the owner's favor in early 2012.

---

SANTA MONICA RENT CONTROL REGULATIONS

---

The Board adopted the following amendments to Rent Control regulations in 2011:

- Chapter 1 – Regulation 1005 & 1017 (d) (4) – Rules for Board Meetings
- Chapter 3 – Regulation 3033 – 34<sup>th</sup> General Adjustment (3.2%)
- Chapter 8 – Regulation 8066 – Requires final Board action on excess rent complaints in 120 days

- Chapter 11 – Regulation 11200(d) – Deadline for payment of registration fees for previously withdrawn units brought back on the rental market, or for newly constructed units which replace withdrawn units that were subsequently demolished
- Chapter 12 – Administrative process for lapse of all use exemptions

---

## EVICTION MONITORING

---

Rent Control Board staff monitors evictions for two main reasons: 1) the Rent Control Law limits the grounds for eviction, so staff monitors evictions to ensure compliance; and 2) when a tenant is evicted without fault (for example due to owner-occupancy), the rent for the unit from which the tenant was displaced is restricted to the pre-eviction level plus intervening general adjustments for the next tenancy.

These restrictions can only be implemented when the Board is made aware of the no-fault evictions and subsequent tenancies. The eviction monitoring performed by Board staff was enabled by an amendment to the Rent Control Law in 2002 that requires property owners to file copies of any eviction notice terminating a tenancy, except when the reason is 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.

The Board received 58 separate notices of eviction in 2011. Of these, 39 were for alleged nuisance or breaches of lease terms. Notably, it is for such reasons that Measure RR changed the law to require warning and a reasonable opportunity to correct the problem. Eight notices of eviction were received for owner-occupancy. While the law does not require owners to file with the Board notices of eviction for non-payment of rent, the Board received five such notices.

---

## RELOCATION

---

Board staff continues to help the City Attorney's office to mediate disputes regarding 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, worked closely in 2011 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" (e.g., owner-occupancy, Ellis withdrawals, approved and granted removal permits) are entitled to permanent relocation benefits. The benefit amounts are primarily determined by the size of the units. As previously stated on page 7, the increased permanent relocation benefit

amounts recommended by the Rent Control Board and approved by the City Council reflect the city's high cost of market-rate rents for new tenancies.

When a tenant is forced to vacate an apartment temporarily, the owner is required to cover their temporary housing expenses and other related items. For relocations of less than 30 days, 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 are required to continue to pay their rent and have the right to return to their units once the situation has been resolved.

---

FEE WAIVERS

---

The Rent Control Board may approve waivers of Rent Control registration fees to units occupied by their owners, subsidized by HUD (Section 8, HOME or other affordable housing programs), or occupied by low-income tenants who are seniors or disabled. There are also fee waivers for condominiums and single-family dwellings on which rent restrictions have been lifted pursuant to the Costa-Hawkins Act.

The change in the number of low-income senior fee waivers since the full implementation of vacancy decontrol just over 13 years ago is noteworthy. At the end of 1998, 791 tenants held senior fee waivers. As the table below shows, there were only 317 such fee waivers as of December 31<sup>st</sup> last year.

The following table shows the number of fee waivers of each type that were active in 2011, along with the change in the quantity from 2010.

<u>Type of Fee Waiver</u>	<u>As of 12/31/11</u>	<u>Change from Prior Year</u>
Low-income senior	317	+8
Low-income disabled	123	+2
Owner-occupied	2,290	-50
Single-family dwelling	1,396	+40
HUD subsidized (Section 8)	797	+21
HOME/Tax Credit Units	148	+67
Administrative	<u>353</u>	<u>+17</u>
<b>Total fee waivers</b>	<b>5,424</b>	<b>+105</b>

---

## HEARINGS DEPARTMENT ACTIVITIES

---

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 the owner is given a chance to resolve the complaint. Those complaints which are not resolved are referred to the Hearings Department for mediation and/or hearing. Owner-occupied exemption applications that cannot be resolved administratively are referred to the Hearings Department for a recommendation to the Board.

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.

### ***MEDIATION***

Mediation is a service the Rent Control Board provides to settle disputes without the need for a hearing. Settling disputes through mediation, with the help of a trained facilitator (the mediator), is often less confrontational and allows the parties to settle their issues in a way where differences are safely aired and where agreements that are reached are mutually satisfactory. Assuming the parties come to agreement in mediation, the mediator writes up a settlement agreement (a contract) that is signed and is binding on both parties. Mediation is voluntary and the parties to a case must be willing to participate. Rent decrease and excess rent cases are the types of cases that are actively mediated by the Board's mediators. The mediators have been very successful in settling a large percentage of them, either in whole or in part, resulting in the need for far fewer hearings and in lessening the number of issues that do ultimately require a hearing.

### ***Cases Referred to Mediation in 2011***

- *Excess Rent*

Of the 22 excess rent cases referred for mediation, 20 were actively mediated. Seven cases were resolved through the mediation process. Seven cases were sent to hearings after mediation, as all the issues were not resolved. Six cases were still pending at the end of the year.

- *Decrease*

In 2011, 68 decrease cases were referred for mediation; the parties in 53 agreed to mediate. Of the remaining cases, the parties in 12 declined to mediate, two were dismissed and one case was withdrawn. Twenty-three of the mediated cases were fully or partially resolved by the end of the year, 22 cases were still pending, and eight were referred to hearings.

Twelve cases pending from 2010 were closed during 2011. Nine of those cases were fully or partially resolved in mediation; one was not resolved and was referred to hearings. Two cases were dismissed.

- *Non-Petition Mediations*

Six non-petition cases were mediated during 2011. Four of the cases were resolved. One case was not resolved and one case was closed without mediation because a party declined to participate. No cases were pending at the end of 2011.

These non-petition cases came from contact with members of the public. In five cases, an owner or tenant contacted a staff member, who then referred the matter to the mediator. Two of the cases came from tenants, three from owners, and one from both the owner and the tenant. Four of the mediations concerned the issue of a lost parking amenity. The others had to do with a refrigerator amenity and payment for a water utility. The case that was not resolved was referred to the petition process.

## ***RENT CONTROL HEARINGS***

### ***Cases Set for Hearing***

- *Individual Rent Adjustments--Increases ("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.

One increase petition was received in 2011. That petition was still pending at the end of the year.

- *Individual Rent Adjustments--Decreases ("Decrease Petitions")*

Tenants living in rental units with neglected repairs or maintenance, or whose amenities or housing services have been reduced, may petition to have their monthly rent decreased. The tenant must first ask the owner to repair the problem or restore the amenity or service. If the owner does not do so, the tenant may petition for a rent decrease. When the owner makes required repairs or restores the amenities or services for which a decrease was granted, the decreased amount is reinstated to the rent. The cases are initially sent to a settlement/mediation conference for resolution. Unresolved cases are decided by a hearing officer following an administrative hearing.

<u>Decrease Cases filed and referred for hearing</u>	<u>21</u>
Decreases granted	11
Decreases denied	0
Dismissed	1
Withdrawn	5
Pending at end of year	4

Eleven cases pending from prior years were closed during 2011. Of these, decisions granting decreases were issued on seven petitions, one petition was denied, two petitions were withdrawn and one petition was dismissed.

- *Reinstatement of Decreases*

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

For the 18 decisions granting decreases in 2011 (11 filed in 2011 plus 7 filed in prior years but resolved in 2011), the decreases were fully reinstated in three cases and partially reinstated in four cases. For cases decided in prior years, decreases were fully reinstated in one case and partially reinstated in five cases.

- *Excess Rent Complaints*

Board regulations allow 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 a mediator for resolution. Unresolved cases are decided by a hearing officer following an administrative hearing.

During 2011, ten excess rent complaints were scheduled for hearing. Excess rent was substantiated in six of the cases (two of those cases also had claims for non-registration, which were not substantiated). Two cases were withdrawn prior to hearings and two cases were pending at the end of 2011.

In addition, a decision was issued on a case received in the prior calendar year. Excess rent was substantiated in that case, but a claim of non-registration was not substantiated.

- *Owner-Occupied Exemptions*

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

In 2011, two applications for owner-occupied exemptions were referred to the Hearings Department. In one case, the hearing officer recommended that the exemption be denied; in the other, the recommendation was to grant the exemption. The Board adopted the hearing officer recommendation in both cases.

Also during 2011, the lapse of an owner-occupied exemption was contested and therefore was referred to the Hearings Department for a full evidentiary hearing. The matter was pending at the end of the year.

- *Petitions to Register Unregistered Units*

Petitions may be filed with the Rent Control Board when an owner seeks to register a unit not previously registered. This usually occurs in cases where a unit was built without permits (i.e., a bootleg unit). For a unit to be qualified to register, the petitioner must show that the unit was used as a residential rental unit in April 1979 and is either habitable or capable of being made habitable.

During 2011, no new petitions for permission to register a unit were received.

- *Tenant Not in Occupancy*

In March 2003, the Board adopted Regulation 3304. This regulation allows for a one-time increase to market level for a unit 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, 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 2011, the Agency handled nine of these petitions. One case was dismissed administratively as petitioners did not sufficiently make a prima facie case. One petition was administratively granted. Seven cases were referred for hearing. Decisions were issued in two cases: one petition was granted, the other was denied. One petition was withdrawn during the hearing process. The remaining four cases were pending at the end of the year.

---

## Rent Control Statistical Overview

---

### Board Meetings

◆ Rent Board meetings convened and staffed	13
<i>regular meetings</i>	12
<i>special meetings</i>	1

### Public Outreach

◆ Number of contacts with people seeking information	12,230
<i>number at counter (17%)</i>	2,388
<i>number by phone (78%)</i>	10,130
<i>number by e-mail (5%)</i>	712
◆ Constituency-wide mailings produced and distributed	4
<i>General Adjustment mailing</i>	1
<i>(Includes city-wide MAR report mailing)</i>	
<i>Newsletter</i>	2
◆ Community meetings/seminars	7
<i>By Rent Control staff</i>	5
<i>Co-sponsored by staff</i>	1
<i>Participation in the Santa Monica Festival</i>	1

### Regulations and Resolutions

◆ New or amendments prepared	5
------------------------------	---

### General Adjustment

◆ Properties with GAs blocked for code violations	1
◆ Units with GAs blocked for code violations	17

### Ellis Withdrawals and Removals

◆ Ellis withdrawals (properties)	14
<i>returns to rental market completed</i>	7
◆ Removal Permits	2

### Forms and Permits

◆ Status forms to submit development applications	153
◆ Demolition permits processed	79
◆ Building permits processed	148
◆ Property registrations processed	510
◆ Vacancy registration forms processed	4,446
◆ Registration fee payments processed	3,717
◆ Fee waivers processed	252
◆ Clean Beaches Tax waivers processed	100

### Petitions

◆ Petitions processed on in-take	79
◆ Excess rent complaints received	31
◆ Exemption staff reports prepared and reviewed	25
◆ Tenant Not in Occupancy prima facie cases reviewed	9
◆ Hearings held	53
<i>on decreases</i>	29
<i>on increases</i>	1

<i>on complaints</i>	7	◆ Administrative records prepared	1
<i>on exemptions</i>	2		
<i>on unregistered units</i>	0	<b>Registration Fees Collected through Debt Collection Program: \$47,067.63</b>	
<i>on potential lapse of exemptions</i>	8	<i>collection actions taken</i>	22
<i>on tenants not in occupancy</i>	6	<i>settlements entered</i>	15
◆ Written decisions issued	30	<i>small claims lawsuits filed</i>	12
◆ Interpreter services provided	2		
◆ Addenda issued	18	<b>Legal Advisory</b>	
◆ On-site investigations conducted	138	◆ Miscellaneous staff reports written	12
<i>upon scheduling decrease petitions</i>	34	◆ Occupancy permits advisory	4
<i>in response to compliance requests</i>	14	◆ Responses to subpoenas and Public Record Act requests served on the Agency	10
<i>exemption use investigations</i>	19		
<i>Ellis investigations</i>	24		
<i>occupancy, unit use, residence verification, etc.</i>	22		
<i>other (e.g., measuring, service of documents, etc.)</i>	17		
<b>Appeals and Litigation</b>			
◆ Staff reports on appeal prepared	18		
<i>increase cases</i>	1		
<i>decrease cases</i>	8		
<i>petitions seeking registration</i>	0		
<i>excess rent</i>	3		
<i>exemptions/lapses following Hearing Officer Recommendation</i>	1		
◆ Removals	2		
◆ N Petitions	2		
◆ J Petitions	1		
◆ Litigation cases	9		