

**SANTA MONICA RENT CONTROL BOARD**

**ANNUAL REPORT  
1997/1998**

**Adopted  
DECEMBER 10, 1998**



## **TABLE OF CONTENTS**

<b><u>INTRODUCTION</u></b>	<b>2</b>
<b><u>SIGNIFICANT DEVELOPMENTS IN 1997/98</u></b>	
<b>Limited Vacancy Increases</b>	<b>3</b>
<b>Update on Impact of Vacancy Increases</b>	<b>3</b>
Impact of Vacancy Increases on Median MAR's	4
Impact of Vacancy Increases on Affordability	6
Impact of Other Factors on Affordability	9
Impact of Vacancy Increases on Fee Waivers	10
<b>Summary of Earthquake-Damaged Housing Stock</b>	<b>12</b>
<b>Public Outreach</b>	<b>12</b>
<b>Tracking Complaints of Harassment</b>	<b>13</b>
<b><u>CHANGES IN THE HOUSING STOCK</u></b>	<b>14</b>
Tracking Residential Development	14
Completed Construction	15
The Ellis Act	15
Tenant Ownership Rights Charter Amendment	16
Removal Permits	16
Exemptions	17
Unit Summary	17
<b><u>PROGRAM, POLICIES AND ADMINISTRATION</u></b>	<b>18</b>
Significant Legal Decisions	18
Regulations	19
Incentive Housing Program	19
Annual General Adjustment	19
Individual Rent Adjustments	20
Fee Waivers	23
<b>THE WORK OF THE RENT CONTROL BOARD BY DEPARTMENT</b>	<b>24</b>



# **Santa Monica Rent Control Board Annual Report**

**July 1997 Through June 1998**

## **INTRODUCTION**

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

During Fiscal Year 1997/98 the Agency was primarily focused on implementation of the state law that mandated vacancy decontrol/recontrol on January 1, 1999 which was preceded by a 3-year phase-in period during which an owner could increase the rent up to 15% upon vacancy.

- The Costa-Hawkins Act, passed by the State Legislature and signed by the Governor, took effect on January 1, 1996. In most cases it allows rent increases of 15% upon voluntary vacancy of a unit. Units may be eligible for two increases prior to January 1, 1999. Through June 30, 1998, 9,699 unit vacancy registrations (R's) had been filed, 2,843 in the past year. 1,714 of those filed were second filings for the same unit. Costa-Hawkins is expected to continue having a substantial long-range deleterious effect on the affordability of rental housing in the coming years.

- The vacancy increases authorized by state law continued to erode the affordability of units. While one vacancy increase greatly diminished the affordability of units for very low income households, the second increase virtually eliminated them. This report updates the impact of increases on median MAR's, the affordability of units and the number of low-income fee waivers.

- The provisions of the TORCA law ended on June 30, 1996, although units already approved for conversion continue to be sold. By June 30, 1998, TORCA conversions had been approved for 321 properties containing 3,381 units. 1,664 units had been sold on 210 properties; 546 units on the same properties had not been sold. On 110 projects, none of the 1,030 units had been sold. An application remained pending for an additional 141 units located in a mobile home park.

- During the 1997/98 fiscal year, five properties containing 28 residential rental units were withdrawn from the residential rental housing market under the Ellis Act. In the same period, owners of two properties which had previously been withdrawn rescinded the withdrawal and re-rented the units. The 12 units on these properties are again under Rent Control. The net loss of units during the fiscal year was 16. Seven properties with a total of 26 units had begun the process of withdrawal, indicating that the rate of withdrawals may be increasing rapidly. In addition to the increase in withdrawals, which has continued in 1998/99, nearly 50% of the recent withdrawals are by new purchasers. This suggests that the properties are being purchased for withdrawal and re-development, not to be operated as residential rental property, despite the owners' ability to obtain market rents on vacancy after January 1, 1999.

## **SIGNIFICANT DEVELOPMENTS IN 1997/98**

### **Limited Vacancy Increases**

*The State Legislature passed Assembly Bill 1164, known as the Costa-Hawkins Act, effective January 1, 1996. After a three year phase-in period, the law requires vacancy decontrol/recontrol in apartments and complete decontrol of houses and condominiums rented after January 1, 1996. The Board adopted regulations implementing the new law affecting tenancies that occurred on or after October 1, 1995.*

During the period of this report, the law allowed an owner to increase the rent on a voluntarily vacated unit by up to 15% of the previous rent or up to 70% of a market level determined by HUD (Department of Housing and Urban Development), whichever was greater. Owners were eligible for up to two such increases.

2,843 unit vacancy registrations (R's) were filed in the past year. Twenty-three were rejected as duplicate filings, and in 134 cases the units were ineligible. Eighteen of the ineligible units resulted in a petition for an evidentiary hearing. Three hundred fifty-nine R's were in progress at the end of the fiscal year.

Through June 30, 1998, a total of 9,699 unit vacancy registrations (R's) had been filed of which 7,057 were for the first vacancy. Within this category, MAR's on 466 units (7% of first vacancies) were raised to 70% of fair market. During the same period of time, between 11% and 15% of units had MAR's low enough to be eligible for 70% of FMR.

The remaining 6,591 units with a first vacancy increase collected up to a 15% increase. Because the regulation changed in April 1997, it is not possible to report on the number of units for which the owner could not collect the full 15% increase.

1,714 petitions were for the second vacancy, which allows up to a 15% increase in all cases. Of those, 686 were filed in the last year. Two hundred thirteen of the 1,714 units (12%) were not able to collect the full 15%.

### **Update on Impact of Vacancy Increases**

A major portion of the 1996/97 Annual Report was devoted to an in-depth analysis of the impact on rents and affordability from the earthquake and its resulting earthquake-related rent increases as well as from vacancy increases.

Though a few additional earthquake increases were implemented in 1997/98 by way of addenda for completed work and a small number of new decisions, the overall impact of earthquake increases was established in last year's report. This report focuses on the impact of vacancy increases, particularly the 8,771 new increases, both first and second, which have occurred since October 1995.

Vacancy increases were implemented since 1992 through the Board's Threshold Rent Program. However, the Costa-Hawkins Act had the potential of a substantially greater impact. The table below indicates median rents, by number of bedrooms in the unit, that were in effect on the day before the Costa-Hawkins Act was implemented. As the Threshold Rent program was repealed when Costa-Hawkins increases were implemented, the direct effect of Threshold Rents and a significant amount of earthquake increases were already reflected in September 30, 1995 rents.

**IMPACT OF VACANCY INCREASES ON MEDIAN MAR'S<sup>1</sup>**

<u>Number of Bedrooms</u>	<u>9/30/95 Median MAR's (just prior to Costa-Hawkins)</u>
0	\$445
1	527
2	676
3	850

**Changes in Median MAR's by June 30, 1997.** The annual general adjustment was \$9 or 1.6% in 1996. The left-hand column below lists what MAR's would have been on June 30, 1997 applying the annual general adjustment alone. The right-hand column lists actual city-wide median MAR's on June 30, 1997.

<u>Number of Bedrooms</u>	<u>6/30/97 Median MAR's Based on General Adjustments</u>	<u>6/30/97 Median MAR's Actual</u>
0	\$454	\$474
1	536	557
2	687	708
3	864	886

The actual increase in median MAR's over what would have been expected from the general adjustment alone was 2-3% over a period of 21 months. This increase can, for the most part, be attributed to Costa-Hawkins increases. For example, in the category of one-bedroom units, the median would have increased by \$11 as a result of general adjustments. The actual increase was \$30 – therefore \$19 of the increase may be attributed to Costa-Hawkins.

<sup>1</sup> Periodically the Agency determines median MAR's from units in its database. The units include only those on properties with four units or more and only those units for which the number of bedrooms listed is considered accurate. The number of units used in the determination is typically between 26,000 and 29,000. The median is used because it is more representative of the "average" than is the mean. It is derived from listing all MAR's in order from lowest to highest; the median is the mid-point. In analyzing rents, this method is preferable to adding up the MAR's and dividing by the number of units because MAR's at the high end have too much weight and tend to skew the result.

**Changes in Median MAR's by June 30, 1998.** The annual general adjustment was \$15 or 2.0% in 1997. The left-hand column below lists what the MAR's would have been on June 30, 1998 after increasing the 6/30/97 median MAR's based on general adjustments in the table above by the annual general adjustment alone. The right-hand column lists actual median MAR's on June 30, 1998.

Number of Bedrooms	6/30/98 Median MAR's Based on General Adjustments	6/30/98 Median MAR's Actual
0	\$469	\$494
1	551	579
2	702	736
3	881	915

The actual increase in median MAR's over what would have been expected from the general adjustment alone was 4-5% during the 33 month period since Costa-Hawkins went into effect. Median MAR's have risen between 8-11% overall. Approximately half of the increase is attributable to annual general adjustments, and the other half is attributable to vacancy increases. For example, in the category of one-bedroom units, the median would have increased by \$24 as a result of general adjustments. The actual increase was \$52 – therefore \$28 of the increase may be attributed to Costa-Hawkins. The fact that the median rose less in the past year than the year before is that 1,991 increases were taken in the past year compared to 3,625 the year before.

Although other factors could influence the data, they are statistically insignificant. These include increases and decreases granted by the Board, exemptions, removals, changes of bedroom verification, and reassignment of parcel numbers due to TORCA conversions.

The data indicates that vacancy increases have served to increase the median rent by 1% to 2% per year. Two elements of the Costa-Hawkins Act indicate that this increase will be accelerated in the coming years. First, before January 1999 more units will be eligible for the second vacancy increase, resulting in cumulative increases per unit of 33%, rather than the 15% allowed on the first increase. Second, beginning January 1999, increases upon vacancy will no longer be restricted to 15% each or to two increases maximum. Each time the unit is vacated, rent may be set anew. Presumably, this will result in increases larger than 15%.

## **IMPACT OF VACANCY INCREASES ON AFFORDABILITY**

The impact of the increases is particularly meaningful when placed in the perspective of affordability, one of the most important factors affected by the recent increases. In the first 16 years of rent control, the stability provided by vacancy controls resulted in a large percentage of units that were affordable to households with a wide range of incomes, from very low to moderate, thereby enabling Santa Monica to maintain an economically diverse community.

The following discussion uses definitions established by the federal Housing and Urban Development (HUD) program:

*Very Low Income* -- households whose income is 50% or less than the median household income for a family of four in Los Angeles County<sup>2</sup>.

*Affordable* -- paying no more than 30% of gross income for rent.

On September 30, 1995, the day before Costa-Hawkins was implemented, and in spite of the prior impact of the Threshold Rent Program, 48% of 0-bedroom units, 46% of 1-bedrooms, 33% of 2-bedrooms, and 20% of units with 3 or more bedrooms were affordable to "very low income" households, those at 50% of median income. Cumulatively, 39% of all units were affordable to households at 50% of median income.

Also on the same day:

- 80% of 0-bedroom units, 77% of 1-bedrooms, 61% of 2-bedrooms, and 43% of units with 3 or more bedrooms were affordable to "low income" households at 60% of median income. Cumulatively, 68% of all units were affordable to households at 60% of median income.

- 91% of 0-bedroom units, 95% of 1-bedrooms, 90% of 2-bedrooms, and 75% of units with 3 or more bedrooms were affordable to "low income" households at 80% of median income. Cumulatively, 91% of all units were affordable to households at 80% of median income.

The numbers below detail the effect on rents affordable to households with incomes at the top of the income group. Households with lower incomes will find even fewer units affordable. For example, in 1994 the maximum income for a family of four to be considered very low income was \$25,200; in 1997 and 1998 it was \$25,650.

Of the 6,489 units with Costa-Hawkins increases, 2,092 units (32.2%) were affordable at 50% on September 30, 1995, and by June 30, 1998 only 332 (5.1%) were affordable. Similarly, 4,437 units (68.4%) were affordable at 60% on September 30, 1995 (including all the units affordable at 50%), and by June 30, 1998 only 1,664 (25.7%) were affordable at that level.

95 units were not affordable even at the 100% level on September 30, 1995. By June 30, 1998, 437 units were unaffordable even at the 100% level.

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<sup>2</sup> For example, for a family of four, the median income at 50% was \$25,650 in the years in question. Income for a family of four at 60% was \$30,780; at 80% it was \$41,040, and at 100% it was \$51,300.

**Changes in Affordability for Very Low Income Households -- 50% of Median Income (all controlled units).**

By June 30, 1998, less than three years after Costa-Hawkins began, a large number of units once affordable to the very low income group were no longer affordable to them. The chart below shows the changes in affordability between September 30, 1995 and June 30, 1998 for all controlled units<sup>3</sup>:

<u>No. of Bedrooms</u>	<u>Units in Report<sup>4</sup></u>	<u>Affordable Sept. 1995</u>	<u>%</u>	<u>Affordable June 1998</u>	<u>%</u>	<u>Amt. of Change</u>
0		1,255		773		-38.4%
1		6,067		3,674		-39.5
2		3,208		2,504		-22.0
3 or more		<u>563</u>		<u>437</u>		-22.4
Total	28,537	11,093	38.9%	7,388	25.9%	-33.4%

The major factor in the loss of units affordable to very low income households was a vacancy increase. Though some loss of affordability is attributed to the intervening annual general adjustments, the table below details the major loss of affordable units resulting from vacancy increases.

**Changes in Affordability for Very Low Income Households -- 50% of Median Income (at least one Costa-Hawkins increase).**

The chart below shows changes in affordability levels of all units with at least one vacancy increase after September 30, 1995. Affordable units decreased from 2,092 to 332, a loss of 84%.

<u>No. of Bedrooms</u>	<u>Units in Report</u>	<u>Affordable Sept. 1995</u>	<u>%</u>	<u>Affordable June 1998</u>	<u>%</u>	<u>Amt. of Change</u>
0		328		87		-73.5%
1		1,298		225		-82.7%
2		432		20		-95.4%
3 or more		<u>34</u>		<u>0</u>		-100.0%
Total	6,489	2,092	32.2%	332	5.1%	-84.1%

<sup>3</sup> The analysis measures effects of increases on very low income households as if all households in the group had the maximum qualifying income. In fact, most households had even lower incomes. Because affordability is based on a percentage of income, households with lower incomes will find even fewer units affordable.

<sup>4</sup> The units include only those on properties with four units or more and only those units for which the number of bedrooms listed is considered accurate. It also excludes units that had a MAR of 0 in either 1995 or 1998. In the case of this report, the total number of units was 28,537.

While one vacancy increase greatly diminished the affordability of units for very low income households, the second increase virtually eliminated them.

Of the 1,694 units that had two vacancy increases, 435 had been affordable at 50% before the first vacancy increase. 117 were still affordable at 50% after the first vacancy increase, but by the second increase only six units were affordable. Four of the six units affordable units did not take the full increase upon each vacancy.

**Changes in Affordability for Very Low Income Households -- 50% of Median Income (all units with second vacancy increase):**

<u>No. of Bedrooms</u>	<u>Units in Report</u>	<u>Affordable before 1st Inc.</u>	<u>%</u>	<u>Affordable after 2nd Inc.</u>	<u>%</u>	<u>Amt. of Change</u>
0		68		4		-94.1%
1		280		2		-99.3
2		78		0		-100.0
3 or more		9		0		-100.0
Total	1,589	435	27.4%	6	.4%	-98.6%

The impact of vacancy increases was seen as well for very low income households at 60% of median income. Though the percentage units lost is smaller, the number of units lost increased from 1,760 (2,092 - 332) at 50% of median to 2,773 (4,437 - 1,664) at 60% of median:

**Changes in Affordability for Very Low Income (60% of Median Income) Households (at least one Costa-Hawkins increase).** The chart below shows changes in affordability of all units with at least one vacancy increase after September 30, 1995.

<u>No. of Bedrooms</u>	<u>Units in Report</u>	<u>Affordable Sept. 1995</u>	<u>%</u>	<u>Affordable June 1998</u>	<u>%</u>	<u>Amt. of Change</u>
0		702		251		-64.3%
1		2,569		1,007		-60.8
2		1,064		397		-62.7
3 or more		102		9		-91.2
Total	6,489	4,437	68.4%	1,664	25.7%	-62.5%

## **IMPACT OF OTHER FACTORS ON AFFORDABILITY**

Some loss of affordability is attributed to the intervening annual general adjustments that occurred in September 1996 and 1997. Because the HUD affordability levels did not change those years, and the general adjustment increased rents by 1.6% or \$9, whichever was higher in 1996 and 2% or \$15, whichever was higher in 1997, some attrition occurred.

**Changes in Affordability for Very Low Income Households (no Costa-Hawkins increases)**. The chart below shows changes in affordability of all units with no vacancy increase after September 30, 1995. Loss of affordability for these units was due to causes other than Costa-Hawkins vacancy increases.

<u>No. of Bedrooms</u>	<u>Units in Report</u>	<u>Affordable Sept. 1995</u>	<u>%</u>	<u>Affordable June 1998</u>	<u>%</u>	<u>Amt. of Change</u>
0		927		686		-26.0%
1		4,769		3,449		-27.7%
2		2,776		2,484		-10.5%
3 or more		529		437		-17.4%
Total	22,048	9,001	40.8%	7,056	33.0%	-21.6%

The direct cause of the loss of affordability among these units was probably the annual general adjustment. The largest loss of affordable units was in the 1-bedroom category. The number was unusually high because September 1995 MAR's that became unaffordable at 50% of median income by June 1998 generally had 1978 base rents in the range of \$249-\$263. Over 1,100 units had base rents in this range. In fact, at least 600 1-bedroom units had the popular base rent of \$250. The accumulation of annual general adjustments, culminating in a \$15 increase in September 1997, raised those rents above the level of affordability at 50% of median.

In addition, units in areas B, C and E that previously received Threshold rent increases were in the affected range of rents.

0-bedroom units affected were those that had base rents between \$209 and \$223 and units in areas A, B and D which had previously received Threshold Rent increases.

Over 200 2-bedroom units affected were those that had base rents between \$303 to \$314 and more than 100 3-bedroom units affected were those that had base rents between \$348 to \$359.

While some of the loss of affordability can be traced directly to annual general adjustments alone, for other units, it was a combination of Threshold Rent or other increases compounded by the annual general adjustment.

## **IMPACT OF VACANCY INCREASES ON FEE WAIVERS**

The loss of very low income households during this period can also be seen by the changes in low income fee waivers. The number of fee waivers typically rises and falls during the year. Generally, however, they decrease in June and increase again by December. Senior fee waivers were consistently in the 900's through December 1993, one month before the earthquake. One year later, December 1994, the number was still 895. However, from that point on the number continued to decline until by June 30, 1997, it was down to 766. On June 30, 1998 the number had declined further to 719.

The impact resulting from vacancy increases is clear. In September 1995, there were 163 senior fee waivers and 28 disabled fee waivers on 6,935 units which subsequently received vacancy increases. On June 30, 1998, these same units had only 18 senior fee waivers and 9 disabled fee waivers.

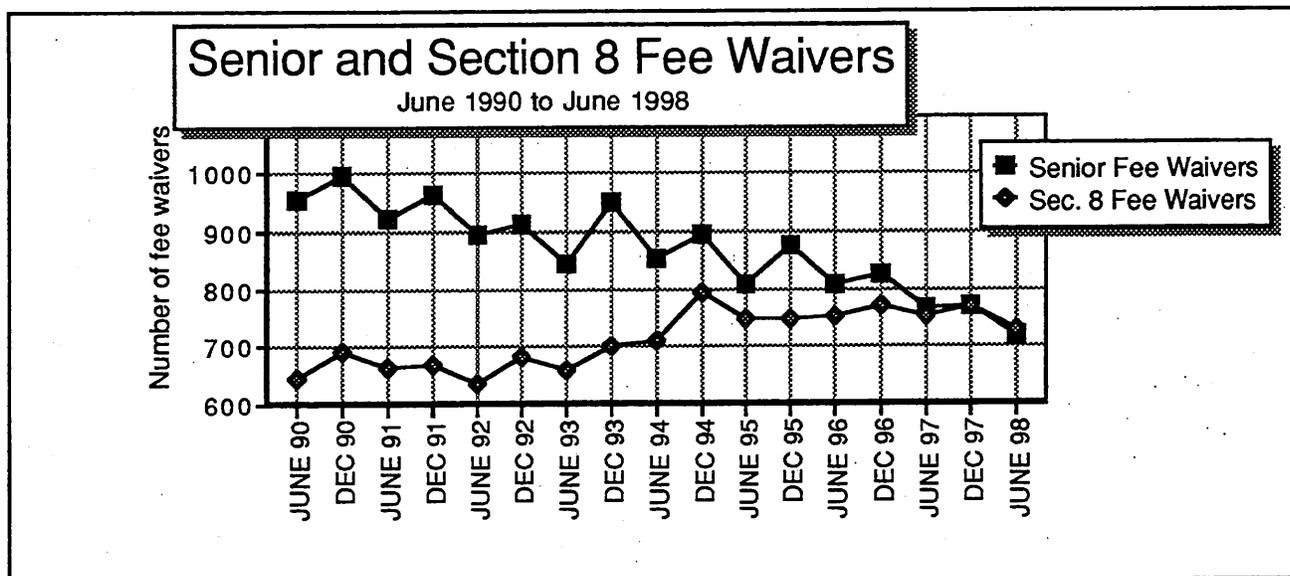
The numbers of Section 8 fee waivers on units with vacancy increases have declined since July 1, 1997. In September 1995 there were 748 Section 8 fee waivers. One hundred and fifty-four of those were on units which subsequently received vacancy increases. In June 1998 there were 731 Section 8 fee waivers, only 85 of which had had vacancy increases, including the four that previously had other low income fee waivers.

The table below details the changes of fee waiver status for units with vacancy increases:

<u>Type of Change from 1995 to 1998</u>	<u>Senior</u>		<u>Disabled</u>		<u>Section 8</u>	
	<u>1995</u>	<u>1998</u>	<u>1995</u>	<u>1998</u>	<u>1995</u>	<u>1998</u>
Dropped fee waiver	157	0	25	0	128	0
Added fee waiver	0	12	0	8	0	59
Replaced fee waiver	<u>6</u>	<u>6</u>	<u>3</u>	<u>1</u>	<u>24</u>	<u>26</u>
Total	163	18	28	9	152	85

Of 1,713 units with two Costa-Hawkins increases, 41 units had senior fee waivers on September 30, 1997; four had them on June 30, 1998. Four units had disabled fee waivers in 1995 and one in 1998.

In September 1995 there were 46 Section 8 fee waivers on units which subsequently received two Costa Hawkins increases. In June 1998 only 12 units that had two Costa Hawkins increases continued to have Section 8 fee waivers.



**Vacancy Rent Increases for TORCA Units** -- In December, 1995, the Board created a new program allowing owners of eligible owner-occupied TORCA units to rent their units at market rate upon authorization by the Board.

The program, *Vacancy Rent Increases for TORCA Units*, was modeled after the Board's exemption which is granted to single family dwellings that are owner-occupied for two consecutive years. An owner-occupant who has lived in a TORCA unit for two years may apply to the Rent Control Board for authorization to establish a new maximum allowable rent for the unit. The authorization gives the owner pre-approval to set a new MAR when he rents the unit to a tenant. If the Board authorizes the vacancy rent increase, the owner is required to register the unit and its new MAR and amenities.

Between July 1, 1997 and June 30, 1998, 37 applications for Vacancy Increase for TORCA units had been filed. Of those, 36 were granted and one was withdrawn. Three applications filed in the prior fiscal year were also granted.

During FY 1997/98, 15 owners rented their units and re-registered the new MARs. Of these fifteen, nine re-registrations were for vacancy increase authorizations granted in FY 97/98.

Among the seven one-bedroom units, the pre-increase MAR's ranged from \$461 to \$742 and the post-increase MAR's ranged from \$975 to \$1,500. The median pre-increase MAR was 575 (affordable at 60% of median income) the median post-increase MAR was \$1,213 (unaffordable at 100% of median).

Among the seven two-bedroom units, the pre-increase MAR's ranged from \$391 to \$1,428 and the post-increase MAR's ranged from \$1,150 to \$1,600. The median pre-increase MAR was \$750 (affordable at 80% of median income) the median post-increase MAR was \$1,404 (unaffordable at 100% of median).

The MAR on the one 3-bedroom unit went from \$542 to \$3,950.

The results are generally consistent with those reported for 1996/97.

## **Summary Of Earthquake-Damaged Housing Stock**

Data collected soon after the January 17, 1994 earthquake indicated that approximately 218 multi-family residential buildings containing 2,252 units had some units which were made uninhabitable, either red or yellow-tagged<sup>5</sup> by the earthquake. Many other properties sustained varying degrees of damage, particularly those in the northwestern part of the city.

Of the tagged properties, through June 30, 1998, 163 properties with 1,634 units have been repaired and are now habitable.

Thirty-six properties containing 394 units have been demolished as a direct consequence of earthquake damage. Included are 178 units at the Sea Castle which was damaged in the earthquake. The Sea Castle obtained a removal permit and has begun rebuilding.

Twenty-five properties (242 units) remain tagged as uninhabitable. This includes 1221 Ocean Avenue, with 120 units, that has begun the process of repair.

## **Public Outreach**

This fiscal year, the Board published three issues of its newsletter "Rent Control News." The fall 1997 issue included articles on: determining legal rent levels (explanations of maximum allowable rent levels and surcharges); remedies for rent overcharges; the Board's expanded mediation service; and Community Corporation, a neighborhood-based non-profit organization that buys, renovates and builds affordable housing in Santa Monica. This issue included a postcard that tenants could return to the Board to ask about the maximum allowable rent for their units. Approximately 1,000 tenants returned postcards and received personalized written responses explaining the legal rent levels for their units.

The newsletter mailed in February 1998 highlighted a new state law that requires landlords to install and maintain security or locking devices on certain doors and windows. It also included articles on when owners may enter rental units and proper notice requirements, the importance of having landlord/tenant agreements in writing, and Police Department services to help residents improve personal safety and security measures in their homes.

The spring issue, mailed in April 1998, emphasized the continuation of Rent Control beyond January of 1999 when vacancy decontrol/recontrol is fully implemented. It also included articles on when owners need to register with Rent Control, earthquake preparedness and the City of Santa Monica's sustainable city programs.

Additional public outreach efforts included creation of an information sheet for new owners, staffing information booths at numerous community events and neighborhood meetings, and continuing development of an expanded World Wide Web page.

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<sup>5</sup> Buildings that were red or yellow-tagged immediately following the earthquake but had already been upgraded to green status by February 10, 1994 are not included in these numbers.

## **Tracking Complaints of Harassment**

In 1997/98 the Agency began systematically tracking complaints of harassment. There are two primary reasons the department undertook this task: 1) the Rent Control agency was receiving many complaints, and there was a recognition that a tenant's first interaction with the City would most likely be with Rent Control; 2) the Rent Control Board has an interest in seeing that vacancy increases under the Costa-Hawkins Rental Housing Act are being obtained fairly.

The Public Information Department maintains a problem report log. This log tracks a complaint from the time it comes into the Agency until its ultimate disposition or outcome. The Agency will track a complaint that is either received in written format or is conveyed verbally. If it is conveyed verbally, a staff member then writes up a problem report.

In Fiscal Year 1997/98, the Agency received 178 complaints of harassment. The predominant issues in these complaints related to lack of repairs and habitability, bad faith eviction, verbal threats, unauthorized entry, and rent payment. Following discussion in rent control staff meetings, 65 complaints necessitated further action by the Agency (legal letter, mediation, or telephone call) over and above routine information and referral.

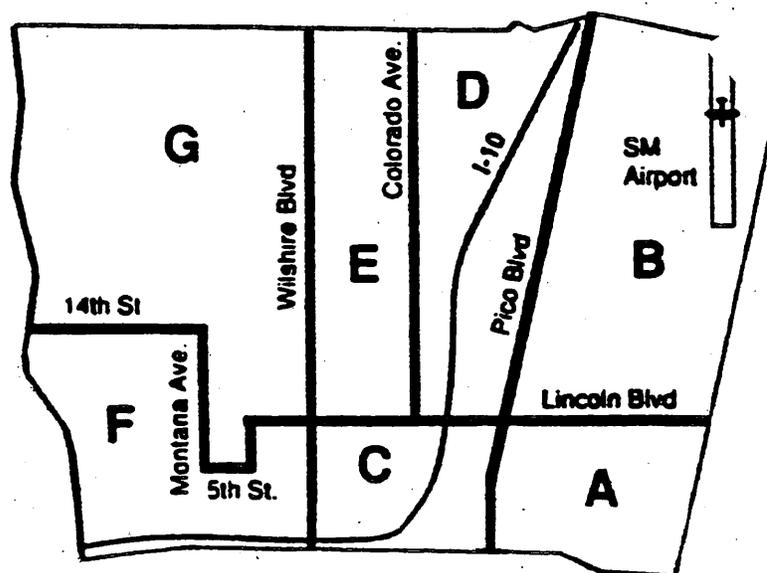
The Rent Control staff regularly shares information about the complaints its receives with the City Attorney's office. At times, the staff meets directly with the Deputy City Attorney and the staff who prosecute under the anti-tenant harassment ordinance. Occasionally, the Rent Control staff will meet to discuss problems with tenants and/or owners at meetings that occur outside normal working hours.

## CHANGES IN THE HOUSING STOCK

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

The City areas and approximate percentage of rental units in each are shown below:

Area A	17%
Area B	12%
Area C	5%
Area D	10%
Area E	18%
Area F	17%
Area G	21%



### **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 records<sup>6</sup>.

The small amount of development in the two years that are the subject of this report reflects a continuing trend which began several years earlier. Several conditions, some local and some national, resulted in a slow rate of development. The slowdown in development has been seen since the early 1990's not only in Santa Monica, but in Southern California generally.

Nevertheless, the development that has been completed indicates that there has been an intensification of use of land, that is, more units have been built than have been removed.

<sup>6</sup> All information related to new construction comes from the City's PERMIT system.

**COMPLETED CONSTRUCTION**

Six projects containing 82 units were completed, replacing 23 residential units:

Condominiums • Two properties received certificates of occupancy for 21 units, 5 units on one property and 16 on the other. One of the developed parcels was formerly vacant; the other property contained two units. In lieu fees were paid to the City on the vacant land.

Rentals • Two properties that were formerly vacant land were developed with 16 units (14 units at market rate, 1 deed-restricted to low income tenants, and 1 deed-restricted to tenants of moderate income).  
 • Two separate properties with 21 units received CQ removal permits. The properties were developed with 45 units, 13 market rate units, 21 moderate income units and 11 low income units.

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

<u>City Area</u>	<u>Units completed in FY 97/98</u>	<u>Rental Units previously removed from these sites</u>
C	28	4
D	16	0 (vacant land)
F	33	17
G	5	2
<b>Total</b>	<b>82</b>	<b>23</b>

**THE ELLIS ACT**

*When the Ellis Act became law in July 1986, it allowed landlords to go out of the rental business, evict tenants, and withdraw units from the housing market.*

During 1997/98, five properties containing 28 residential rental units were withdrawn from the residential rental housing market under the Ellis Act. The owner of a one-unit property began the withdrawal process but did not to complete it. In the same period, owners of two previously withdrawn properties rescinded the withdrawals and re-rented the units; the 12 units are again under Rent Control.

The net loss of units during the fiscal year was 16. As of June 30, 1998, 218 properties comprised of 1,070 units had been withdrawn.

What is particularly noteworthy and alarming is that 7 properties with a total of 26 units began the process of withdrawal in May. There are indications that the rate of Ellis withdrawals is increasing rapidly. In addition to the increase in withdrawals, which has continued in 1998/99, nearly 50% of the recent withdrawals are by new purchasers. This suggests that the properties are being purchased for withdrawal and re-development, not to be operated as residential rental property, despite the owners' ability to obtain market rents on vacancy after January 1, 1999.

The Rent Control Board will continue to monitor the withdrawal of properties under the Ellis Act.

## **TENANT OWNERSHIP RIGHTS CHARTER AMENDMENT (TORCA)**

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

The provisions of the TORCA law ended on June 30, 1996. Applications filed prior to the deadline are still processed, but no further applications are accepted by the City.

As of June 30, 1998, TORCA conversions had been approved for 321 properties containing 3,381 units. Of those, 1,664 units had been sold on 210 properties; 546 units on the same properties had not been sold. On 110 of the projects, none of the 1,030 units had been sold.

One additional property (Mountain View mobile home park - 1930 Stewart Street) containing 141 units was pending conversion at the end of the fiscal year.

## **REMOVAL PERMITS**

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

- *Category B – if the Board finds that the Maximum Allowable Rent does not provide a fair return and that the landlord cannot rent the unit at the rent necessary to provide the landlord with a fair return.*
- *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, the demolished rent controlled units will be replaced with the same number of rent controlled units, and at least 15% of the controlled units to be built will be at rents affordable to low income people.*

*The Board also adopted special regulations for the removal of earthquake-damaged properties (called CQ and DQ removals).*

In the period July 1, 1997 through June 30, 1998, the Board granted a Category C permit for one property with one unit and Category D permits for the removal of a two properties totaling 11 units.

Two properties which had received Category CQ removal permits returned 45 non-controlled units, 32 of which have deed-restrictions limiting them to low and moderate income tenants.

## **EXEMPTIONS**

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

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

In this fiscal year, there were 43 declarations submitted for single family dwellings stating that the structures were not rented on July 1, 1984. Five other single family dwellings were exempted under §1815.

**Use Exemptions** -- Use exemptions are granted for units used as follows:

- Rental units in buildings having two or three units, one of which is occupied by the owner;
- Residential units which have never been rented or for which rent has never been collected since the beginning of rent control (non-rentals);
- Residential units used for housing as a necessary part of a social service program on a non-profit basis.

The following use exemptions were granted:

<u>Type of exemption</u>	<u>Number of units affected</u>	<u>Number of properties affected</u>
owner-occupied	94	36
non-rental	<u>1</u>	<u>1</u>
<b>Total</b>	<b>95</b>	<b>37</b>

These exemptions do not all represent a loss of controlled rental units from the housing stock in 1997/98. Nine properties with a total of 24 units received owner-occupied exemptions for the first time. The balance of the owner-occupied properties had previous exemptions.

## **UNIT SUMMARY**

<u>Activity</u>	<u>Reduction in controlled units</u>	<u>Increase in controlled units</u>	<u>Net change in controlled units</u>
Ellis activity	-30	+12	-18
Category C Removals	-1		-1
Category D Removals	-11		-11
New use exemptions	<u>-24</u>	<u>—</u>	<u>-24</u>
<b>Total</b>	<b>-66</b>	<b>+12</b>	<b>-54</b>

## PROGRAM, POLICIES AND ADMINISTRATION

### SIGNIFICANT LEGAL DECISIONS

Four significant cases were decided during 1997/98. Two cases, *Action Apartment Association v. SMRCB* and *Apartment Association of Los Angeles County v. SMRCB* considered the same issue, whether the Board's registration fees are covered by Proposition 218. In addition, *Kavanau v. SMRCB* and *Santa Monica Beach, Ltd. v. SMRCB* considered constitutional takings issues in connection with an increase decision of the Board and the Santa Monica Rent Control Law itself.

In the Proposition 218 cases, which were consolidated during most of the proceedings, ACTION and the Apartment Association (along with the Howard Jarvis Taxpayers Association) contended that the Board's registration fee is subject to the requirements of Proposition 218 (Articles XIII(C) and XIII(D) of the California Constitution). These new constitutional provisions require government entities to obtain affected property owners' approval in two separate votes before levying certain kinds of assessments and fees on real property. ACTION and the Apartment Association argued that the Board's 1997 registration fees were invalid because the Board did not comply with these requirements.

The trial court held that the Board's registration fee is a regulatory fee, not the kind of fee covered by Proposition 218, and that it is not subject to the requirements of the proposition. ACTION and the Apartment Association appealed the trial court's decision. The appellate court's opinion affirming the trial court judgment was issued on August 5, 1998, shortly after the fiscal year covered in this report. ACTION filed a petition for review with the California Supreme Court, which was denied October 21, 1998. These cases are now fully resolved in the Board's favor.

*Kavanau v. SMRCB* was an "unconstitutional taking" case based on an earlier appellate court decision in which the court decided that the Board's regulation phasing in rent increases at a maximum of 12% per year denied the property a fair return. Mr. Kavanau filed a second case seeking damages from the Board for a claimed unconstitutional taking. He sought to recover damages from the Board in an amount which was the difference in rent increases between the amounts allowed by the Board and the higher amounts required by the appellate court for the period between the Board and the appellate court decisions. The California Supreme Court held that Mr. Kavanau was not entitled to maintain an inverse condemnation (takings) action for this claimed loss. He petitioned the U.S. Supreme Court for a writ of *certiorari*. The Supreme Court declined to take the case.

In *Santa Monica Beach, Ltd. v. SMRCB* the trial court concluded that Santa Monica Beach Ltd. could not assert a takings claim simply by citing changes in census data purporting to show that the Rent Control Law failed to meet its objectives. It held that the deferential "rational basis" standard of judicial review applied to regulatory takings. The appellate court reversed, holding that heightened judicial scrutiny applies to regulatory takings. The California Supreme Court accepted the case for review, and oral argument was held in early October, 1998. The parties await the court's opinion in the case.

## **REGULATIONS**

In 1997/98 the Board adopted, amended or repealed five regulations, including the 1998/99 annual general adjustment (Reg. 3020) and registration fee (Reg. 11019). The other three revisions entailed minor housekeeping changes and updates.

## **INCENTIVE HOUSING PROGRAM**

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

During the eight years the program has been in effect, 42 contracts have been approved by the Rent Control Board. Five of the contracts were subsequently withdrawn. Thirty-seven properties with 227 units remain active. As of June 30, 1998 there are 113 inclusionary sets in place.

There are 114 dedicated units. Eighty-four of these are rented to households qualifying as "very low income" (55% have HUD subsidies); the remaining 30 units are rented to households qualifying as "low income."

## **ANNUAL GENERAL ADJUSTMENT**

*The annual General Adjustment is a determination made yearly by the Board which allows all landlords to raise rents by a specified amount to keep pace with the increase in operating expenses. Over the years the Board has used various methods to arrive at the General Adjustment.*

For the 1997 Annual General Adjustment, the Board used the "pie method" to analyze the increases in operating costs by the various components of the rent dollar. The Board also took into consideration the findings of a consultant hired by the Board to assess the impact of increases in the costs of insurance. The impact of recent increases in water bills and the water surcharge were also reviewed.

The Board adopted a general adjustment in rent levels of 2.0 percent or \$15, whichever was greater. The \$15 was set to provide a minimum increase to apartments with the lowest rents. Since these units have many of the same expenses, such as trash collection increases, as the higher rent units, the \$15 assured owners of the minimum necessary to cover their actual costs.

**INDIVIDUAL RENT ADJUSTMENTS**

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

In FY 1997/98, 14 increase petitions were received by the Hearings Department.

Hearing examiners issued decisions in 16 cases (including eight filed the prior year). Eleven increases (69%) were granted and five cases were denied. One petition was withdrawn. At end of the fiscal year, five petitions were pending.

**Professional Expenses Addenda** -- Professional expenses addenda are issued by hearing examiners in response to requests from owners and tenants in relation to the owner's pursuit of Constitutional rights with regard to the Rent Control Law. The professional expenses category was added in 1994/95 in response to the State law which required it.

In 1997/98, eight professional expenses addenda were issued. All eight addenda, which had been requested by landlords, were approved.

**Hardship Addenda** -- Low income tenants may apply for hardship addenda when increases granted exceed 12% of the MAR or \$50, whichever is greater. The addenda schedules out the increase over a period of time, not exceeding 60 months.

Three hardship addenda were issued for six tenant applicants. Three of the applicants qualified as low income.

**Decrease Petitions** -- Tenants whose rental units need repairs or maintenance, or whose housing services have been reduced, may petition to have their monthly rent decreased. The tenant's first step is to 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 conference is scheduled to resolve the issues without a hearing, if possible.

**Received for Mediation**

117

Successful Fully Resolved	38
Resolutions: Partially Resolved Mediation on-going	28
Withdrawn or Dismissed	2
Pending at end of year	<u>3</u>
	50
Partial resolution-referred to hearing	23
No resolution-referred to hearing	29
Declined mediation-referred to hearing	<u>15</u>
	67

Success rate based on 98 cases (total less pending and declined):

Overall success rate -- 72%  
Fully successful -- 39%; partially successful -- 33%

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**Received for Hearing from Mediation**

82

Decreases granted	49
Decreases denied	6
Dismissed	2
Withdrawn	12
Pending	13

Additionally, 20 petitions pending from prior fiscal years were closed in 1997/98. Decisions were issued in 11 of those cases, and the remaining 9 petitions were withdrawn or dismissed. Decreases were granted in 8 of the 11 approved petitions.

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

In FY 97/98 the decreases in ten of the 49 approved petitions were fully reinstated and partially reinstated in another 18.

For the cases decided in 1997/98 which had been filed in prior years, decreases were fully reinstated in two of those cases and partially reinstated in another two.

Reinstatements also occurred in 37 decisions that had been issued in prior years. Decreases were fully reinstated for 27 of those decisions and partially reinstated for the remaining 10.

**Administrative Petitions** -- *Administrative petitions may be filed when an individual decrease petition cites a common area problem such as a leaky roof, dangerous stairs, loss of laundry room, etc. Administrative petitions are filed on behalf of all tenants not covered by the individual decrease petition. If a decrease is warranted for the common area problem, all affected units may then be authorized to take such a decrease.*

In FY 97/98 five administrative common area decrease petitions in conjunction with individual decrease petitions were received. Three decisions were issued, one was withdrawn and the other one is pending. The three petitions were granted, authorizing decreases which affected 37 units. All common area decreases were reinstated by the end of the year.

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

In 1997/98 13 base rent petitions were received by the Hearings Department.

Twelve base rent decisions were issued by the Hearings Department, and one was withdrawn. Nine of the petitions were filed in prior years. Of the 9 petitions that concerned base amenity issues, seven were granted and two were denied. Of the two petitions that concerned both base rent and base amenities issues, one was granted and one denied. The one petition that concerned base rent only was denied. Three cases were pending at the end of the year.

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

During the fiscal year, 44 complaints alleging excess rent were submitted and 2 complaints were submitted for non-registration. Complaints are submitted but not filed for a variety of reasons including: the tenant has not shown a valid claim of excess rent; the property is not under the jurisdiction of the Rent Control Law, i.e., it has an owner-occupied exemption; or the tenant withdraws the complaint prior to filing in favor of going to court. Of the 46 complaints submitted, 7 were withdrawn, 2 were rejected and there are two for which the status is pending.

Of the 35 complaints accepted for filing, 5 were resolved prior to formal mediation when owners paid tenants the amount of overcharge claimed by the tenant; 9 were resolved through the settlement/mediation process; and 6 were withdrawn prior to hearing. A total of 57% of the complaints were resolved without the necessity of a hearing. At the close of the fiscal year, 9 cases were in the settlement/mediation process.

Twelve cases were sent to the Hearings Department to be resolved through hearing. The cases included ten for excess rent, one for excess rent and non-registration, and one for non-registration.

Three cases were dismissed and one was withdrawn. Three cases were settled after hearings were scheduled but before a hearing was held.

Six decisions (one of which was filed the prior year) were issued by the Hearings Department this year. Excess rent violations were substantiated and rent withholding was authorized in four decisions; two claims were not substantiated.

Three cases were pending at the end of the year.

**Vacancy Increase Petitions** -- This year the Hearings Department began to receive cases concerning vacancy increases. In these cases, the unit did not appear eligible for the increase. Parties who disputed the facts filed petitions for an evidentiary hearing on the matter.

Eighteen petitions were received, of which six were later withdrawn.

Seventeen decisions were issued, including five which had been filed during the prior fiscal year. The decisions found that seven were qualifying vacancies; ten were denied as not qualifying.

## **FEE WAIVERS**

The Rent Control Board provides waivers of Rent Control registration fees to units: occupied by their owners, subsidized by HUD (Section 8), or occupied by low-income tenants who are over 62 or disabled. There are also fee waivers in mobile home parks for units where tenants have signed long-term leases.

<u>Type of Fee Waiver</u>	<u>As of FY 1997/98</u>	<u>Change from Prior Year</u>
low-income senior	719	-47
low-income disabled	153	+5
owner-occupied	2,706	+16
HUD subsidized (Section 8)	731	-20
administrative	278	+6
mobile home	43	-2
seismic safety	4	+4
<b>Total fee waivers</b>	<b>4,634</b>	<b>-38</b>

## THE WORK OF THE RENT CONTROL BOARD BY DEPARTMENT

### Administration and Public Information Departments

• Rent Board meetings convened and staffed		38
<i>regular meetings</i>	31	
<i>special meetings</i>	7	
• Newsletters produced and distributed		3
• Q-Petition addenda issued		21
• Clearance forms to submit development applications		146
• Demolition Permits processed		105
• Building Permits processed		127
• Utility adjustment applications processed		0
• Number of people helped seeking information		27,750
<i>Number at counter (20%)</i>	5,663	
<i>Number by phone (80%)</i>	22,087	
• Excess rent complaints processed		36
• Excess rent mediations conducted		30
• MAR reports generated		139
• Petitions processed on in-take		215
• Property Registrations processed		354
• Registration fees processed		4,408
• Fee waivers processed		374
• Small Claims litigation		
fees collected		\$48,559
collection actions taken		14
settlements entered		15
registration fee suits filed		17
• S-Petitions (soft story) processed		13

## **Hearings Department**

• Hearings held		142
<i>on rent increases</i>	17	
<i>on decreases</i>	79	
<i>on base rents and amenities</i>	14	
<i>on earthquake petitions</i>	6	
<i>on complaints</i>	7	
<i>on vacancy increases</i>	19	
• Written decisions issued		131
• Addenda issued		98
• On-site investigations conducted		283
<i>upon scheduling decrease petitions</i>	122	
<i>in response to compliance requests</i>	102	
<i>regarding unit identification conflicts</i>	14	
<i>Ellis investigations</i>	7	
<i>research and measuring</i>	13	
<i>other, i.e., occupancy, unit use, etc.</i>	25	
• MARs updated due to decisions/addenda 4012		
• Site file pages copied to fiche by contractor		67,223
• Interpreter services provided		10
<i>Spanish</i>	5	
<i>Persian, Egyptian</i>	5	

## **Legal Department**

• Staff reports on appeal prepared		73
<i>base rent cases</i>	3	
<i>decrease cases</i>	15	
<i>increase cases</i>	9	
<i>earthquake increase cases</i>	41	
<i>excess rent complaints</i>	2	
<i>vacancy increase</i>	3	
• Ellis property withdrawals processed		5
• Miscellaneous staff reports		7
• New or amended regulations prepared		3
• Litigation		11
• Officer of the Day requests responded to		625
• Vacancy rent increase matters		
<i>re-registration inquiries</i>	84	
<i>TORCA increase petition reviews</i>	60	
• Exemption cases written or reviewed		35
<i>owner-occupied</i>	26	
<i>single family dwellings</i>	7	
<i>non-rental</i>	2	
• Administrative Records prepared		6