



TOWN OF FAIRFAX

STAFF REPORT

May 4, 2022

TO: Mayor and Town Council

FROM: Heather Abrams, Town Manager and Janet Coleson, Town Attorney

SUBJECT: Direct Town resources to review and draft a rent stabilization ordinance, and direct staff regarding which recommended option to pursue at this time.

RECOMMENDATION

Staff recommends that the Council: A. Direct staff and Town Attorney resources to review and draft a rent stabilization ordinance B. Provide staff direction regarding whether to implement the recommended option A. Alternatively, Council may select option B or option C.

BACKGROUND

In March 2022, Fairfax Town Council received a presentation on rent stabilization. Based on the Council and community member comments following the presentation, staff wanted to bring the item back for Council discussion and direction on next steps. Rent stabilization is one tool that the Town may use to preserve economic diversity, equity, and inclusion.

In California, the Costa-Hawkins Act covers many aspects of rent stabilization throughout the state. The law prohibits local rent stabilization for single-family homes, condominiums, and ADUs, apartment buildings built after 1995, and buildings requiring safety upgrades; additionally, it caps rent increases, and it allows rent increases to market rates when renters move. According to the 2020 US Census, Fairfax has 3,326 households and 59.7% are owner occupied. It is estimated less than 900 homes/apartments could be covered by a Fairfax specific rent stabilization ordinance.

The proposed rent stabilization item is separate from, though related to, eviction controls. In addition to the California Ellis Act, the Town of Fairfax adopted a just cause eviction ordinance in 2019. Fairfax's current implementation of eviction control follows the model recommended for option A of Fairfax's potential rent stabilization program, allowing residents and property owners to use the court system to enforce their rights. Residents needing legal representation are currently encouraged to contact Legal Aid of Marin. Fairfax town staff is not trained nor employed in rental dispute resolution.

Rent stabilization currently exists in cities many times larger than Fairfax, in terms of staff and population. Local rent stabilization programs are untested in small towns such as Fairfax. To date, staff and Council has heard support from residents and renters, no property owners have yet weighed in.

Additionally, an Urgency Eviction Moratorium bill through June 30, 2022 (AB 2170) was signed into law, to take effect immediately by Acting Governor Eleni Kounalakis on March 31, 2022. This bill applies only for people already in the queue for rental assistance and prohibits local governments, such as Town of Fairfax, from enacting their own eviction moratoriums.

DISCUSSION

Staff recommends that the Council adopt option A for rent stabilization. Option A would be to direct staff and the Town Attorney to review and draft a simple rent stabilization ordinance which includes a private right of action. This format would offer protection to eligible households, could be adopted by the Council in a relatively short timeframe and, if the ordinance was violated, residents could use the court system to enforce the ordinance, just as with Fairfax's current eviction protections. Option A would allow Fairfax to enact rent stabilization and then determine if a more robust and costly program is needed. Town staff would publicize the ordinance via the Town website, Town newsletter, and Town social media. It is likely the story would also be covered in local news media. Historically, Fairfax has sought to limit the number of staff and consultants needed in part due to financial limitations of the Town, this option would allow rent stabilization in keeping with this philosophy.

Option B would be for the Council to direct staff and the Town Attorney to develop a rent stabilization program, in which the Town would collect annual rental permit fees from property owners and use the fees to provide case intake, case management, and dispute adjudication. In order to charge fees, local governments must provide clear justification of the costs associated with fees charged, and may face litigation regarding the fees and regarding the decisions made in case management and adjudication. A good deal of staff work would be needed in order to determine whether experts, such as Legal Aid of Marin or other jurisdictions who may adopt rent stabilization in the future, are available and willing to provide services. We note that Legal Aid of Marin has indicated their willingness to provide an initial first year of no cost assistance to the Town, should the Town decide to engage in an Option B type of program.

If possible, contracting for, or sharing services rather than hiring staff, may conserve funds and relieve space constraints in Town Hall. However, this would mean residents would be referred to others for services. Ordinance development and establishing agreements with appropriate experts will take six to 12 months and would impact FY 22/23 planning.

Option C would be for Council to direct staff and Town Attorney to develop a rent stabilization program with a staff and a Rent Board to perform the quasi-judicial function of adjudicating cases. This option would require the most time and expense to implement (likely over several hundred thousand dollars annually and one to two years before full implementation). Council would need to provide resources for one to two full-time staff, rent or purchase new office space to house the staff and receive members of the public who wish to meet with staff privately. A Rent Board would need to be legally established, with the Council either: a) acting as Rent Board with new staff providing case management and Board support, b) recruiting and appointing a Rent Board, with new staff providing training and support to the Board, renters, and property owners, or c) establishing and paying for Rent Board election with new staff training and supporting the Board, renters, and property owners on an on-going basis.

FISCAL IMPACT

If option A is selected, staff and Town Attorney time will be needed to review current options for drafting a rent stabilization ordinance that could be used by residents and property owners to resolve any remaining disputes via the court system. A few months may be needed to complete the drafting and adoption process.

If option B or C is selected, a significant investment of staff, Town Attorney, and potentially consultant time will be needed to plan and draft a rent stabilization system that will be effective in a small town. Consultant services will need to be procured, and agreements will need to be prepared, vetted, and approved by the full Council. Staff may need to be hired and offices for them would need to be rented or purchased, and the offices need to be outfitted with desks and computers. A Rent Board, if this option is selected, would need to be established in law and appointed at a Town Council Meeting, or elected through a regularly scheduled Countywide election. Option B or C will require many months, possibly 1-2 years, of planning, and as a result other priorities in the Council's strategic plan may need to be delayed and/or other Town programs may need to be reduced. Staff recommends option A and clear direction from the full Council.

REFERENCES

- A. Costa-Hawkins: California Government Code Chapter 2.7, Residential Rent Control [1954.50 - 1954.535] (Title 5 added by Stats. 1995, Ch. 331, Sec. 1.)
(https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=5.&part=4.&chapter=2.7.&article)
- B. Town of Fairfax Renter Eviction Protection Ordinance Adopted in 2019
(<https://storage.googleapis.com/proudcity/fairfaxca/uploads/2019/04/Ord-829-Just-Cause-Evictions.pdf>)
- C. 2020 Census Quick Data for Fairfax CA
(<https://www.census.gov/quickfacts/fact/table/fairfaxtowncalifornia/HSG445220#HSG445220>)