



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

Department Name: HCD  
Department No.: 055  
For Agenda Of: 4/13/10  
Placement: Set Hearing on 4/13/10  
Estimated Tme: 30 minutes on 4/20/10  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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TO: Board of Supervisors

FROM: Department David Matson, Department of Housing and Community  
Director(s) Development Interim Director (x2068)  
Contact Info: Angela Hacker, Department of Housing and Community  
Development Senior Community Development Specialist (x3515)

SUBJECT: **Evaluation of the Rights and Duties of Landlords and Tenants of Residential Property**

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**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:** N/A

As to form: No

**Recommended Actions:**

Set a hearing for April 20, 2010 to:

- A. Receive and file a presentation and Final Report on the Evaluation of the Rights and Duties of Landlords and Tenants of Residential Property in Santa Barbara County.
- B. Direct County staff, as necessary, to further evaluate or return for further Board action concerning specified potential actions.

**Summary Text:**

As directed by the Santa Barbara County Board of Supervisors (Board) on August 18, 2009, County staff will present a report detailing the results of an objective evaluation of the effectiveness of Chapter 44 of the County Code. To gain a better understanding of the scope and scale of community concerns about the rights and duties of landlords and tenants of rental housing units, the Board directed staff to investigate potential modifications and improvements to the County's current policies, processes and services. Special emphasis was placed on the impact of "mass evictions" resulting from circumstances other than those in which a tenant is ordered to vacate a rental unit as a result of repairs required to bring the property into code compliance, as currently covered by Chapter 44.

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**Auditor-Controller Concurrence**

As to form: N/A

The Final Report will be attached to a Board Agenda Letter in advance of the April 20<sup>th</sup> hearing. The information provided in the Final Report is based on extensive research and outreach to a broad cross-section of the community including 25 stakeholder groups and over 45 people with direct experience and topical expertise. In aggregate, about 30 issue-related problems were raised and roughly 50 potential solutions were raised by these stakeholders. Summary analysis yielded five main problem areas, which are detailed in the report:

- Problem 1: Evictions or termination-of-tenancies abruptly displace tenants.
- Problem 2: Quality affordable housing is limited and the rental market is constrained.
- Problem 3: Tenants and landlords are generally unaware of rights and responsibilities as well as available services.
- Problem 4: Related services are limited, and may not adequately meet the need, particularly in the event of a mass eviction.
- Problem 5: Certain provisions of Chapter 44 are not routinely enforced, are unclear, or are too burdensome.

The potential solutions recommended by stakeholders are wide-ranging and attempt to creatively address the problems identified. To help facilitate consensus, staff placed significant emphasis on finding and highlighting “common ground strategies” that could effectively address communitywide concerns. At the April 20<sup>th</sup> hearing, the Board will have the option to choose any, some, or none of the stakeholder-proposed actions presented for further action. The Board may also wish to propose different actions or direct staff to conduct further investigation of specific actions raised by the community stakeholders. Where applicable, staff has provided preliminary analysis of the potential solutions related to both the unintended consequences and costs to implement those solutions. Keeping with the Board’s direction of August 2009, no specific recommendations have been made. It is also important to note that California state law frames the County’s options in this area (see Legal Framework).

### **Background:**

On August 18, 2009, the Board directed the Housing and Community Development Department to conduct an objective evaluation of the rights and duties of landlords and tenants in residential properties in Santa Barbara County, pursuant to Chapter 44 of the County Code. The evaluation was to include a set of potential “action options” derived from the community stakeholder input that could assist the Board as it considers potential Chapter 44 revisions. Adopted in 2002, the main provision of Chapter 44 required landlords to provide relocation payments to tenants who were ordered to vacate a rental unit as a result of repairs required to bring the property into code compliance.

### **Legal Framework**

California state law frames the County’s options in this area. In 1984, the California Supreme Court permitted a city to restrict when property owners could evict residential tenants in order to withdraw property from the rental market. (*Nash v. City of Santa Monica* (1984) 37 Cal.3d 97.) In 1985, the California legislature superseded *Nash* by enacting the Ellis Act, which generally prohibits local

governments from compelling residential property owners to continue to offer accommodations in their property. (Government Code § 7060(a).) As part of this prohibition, the Ellis Act imposes limits on the County’s ability to exercise its police power to create substantive defenses for use in summary eviction proceedings. (*City of Santa Monica v. Yarmark* (1988) 203 Cal.App.3d 153, 164.) The Ellis Act preserves, however, the County’s power to mitigate impacts on tenants displaced by the withdrawal of residential units from the market. (Government Code § 7060.1(c).) Courts analyzing potential changes to County Code Chapter 44 would determine whether the Ellis Act expressly or impliedly preempts those amendments. In considering residential relocation payments, for example, a California Court of Appeal concluded that an ordinance requiring owners of residential rental properties to pay “reasonable relocation assistance compensation for displaced tenants” does not violate the Ellis Act. (*Pieri v. City and County of San Francisco* (2006) 137 Cal.App.4<sup>th</sup> 886, 893-894.)

**Performance Measure:**

**Fiscal and Facilities Impacts:**

Budgeted: Select\_Budgeted

**Fiscal Analysis:**

<b><u>Funding Sources</u></b>	<b><u>Current FY Cost:</u></b>	<b><u>Annualized On-going Cost:</u></b>	<b><u>Total One-Time Project Cost</u></b>
General Fund			
State			
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ -

Narrative: The current exploration of Chapter 44 is funded by the County General Fund contribution to the Department’s Annual Budget.

**Staffing Impacts:**

**Legal Positions:**

**FTEs:**

Further exploration and/or implementation of “action options” that have been posited by community stakeholders, as referenced in the report, may impact County staffing levels from various departments.

**Special Instructions:**

**Attachments:**

To be provided with the Board Agenda Letter accompanying April 20<sup>th</sup> hearing date.

**Authored by:**

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