



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: 4/20/10
Placement: Board Hearing
Estimated Time: 30 minutes on 4/20/10
Continued Item: No
If Yes, date from:
Vote Required: N/A

TO: Board of Supervisors

FROM: Department David Matson, Department of Housing and Community Development Interim Director (x2068)
Director(s)
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

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

As to form: No

Recommended Actions:

- 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 has issued 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.

The information provided in the Final Report (Attachment A) is based on extensive research as well as 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 and approximately 50 potential solutions were raised by 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. Solutions range from increased collaborative community education and services to amending Chapter 44 to expand the eligibility for relocation assistance to tenants displaced by condominium conversion, demolition, remodel or rezone. To help facilitate consensus, staff placed significant emphasis on finding and highlighting “common ground strategies” that could effectively address communitywide concerns. It is important to note that California state law frames the County’s options in this area (see Legal Framework). In the report, stakeholder proposed solutions are identified under the following five broad categories of action:

- *County Funding*: Actions that require an investment of funding by the County.
- *County Leadership*: Actions that require legislative support or community coordination.
- *County Policy*: Actions that require County Code changes or other policy decisions.
- *County Program/Process*: Actions implemented by a County department that would require ongoing staff-time along with related costs.
- *Non-government Service*: Actions that could be encouraged for implementation by a non-governmental agency and do not necessarily require County costs.

To assist the Board, the Final Report provides a summary of “action options,” which highlights those solutions that: 1) were most frequently recommended by stakeholder groups and 2) achieved some consensus among landlord and tenant groups, and 3) are associated with relatively minor unintended consequences and implementation costs, based on preliminary analysis.

At the April 20th 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 and detailed in the Final Report. Keeping with the Board's direction of August 2009, no specific recommendations have been made.

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. Generally, relationships between landlords and tenants are extensively regulated by the California Civil Code, Code of Civil Procedure, Government Code, and Health & Safety Code. This approach appears to show that these are matters of statewide concern, which may impact County's ability to supplement state laws governing landlord-tenant relationships. 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.4th 886, 893-894.)

Performance Measure:

Fiscal and Facilities Impacts:

Budgeted:

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
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 for the Office of the Director.

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:

Attachment A: Evaluation of the Rights and Duties of Landlords and Tenants of Residential Property – Final Report

Authored by:

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