

RHC majority pushes for extra rent increase

Lawyers for rent control committee warn the plan will invite lawsuits

by Mark Noack / Mountain View Voice

Mountain View's landlords could be granted a bonus 2.6 percent increase on their apartment rents under a plan pushed forward by the Rental Housing Committee on Monday night. The extra rent hike was promoted as a way to balance out a lapse caused by a citywide rent rollback; however, tenant advocates warned that such a move is blatantly illegal under the city's rent control law.

The Rental Housing Committee approved investigating the extra rent increase in a 3-2 vote at its March 26 meeting. Committee members Emily Ramos and Evan Ortiz voted against it.

The discussion focused on a long-simmering issue stemming from the city's Community Stabilization and Fair Rent Act (CSFRA), the voter-approved law that limits most rent hikes to increases in the Consumer Price Index (3.4 percent last year). When the law, also known as Measure V, took effect, apartment owners were also required to roll back their rents to what they were charging in October 2015.

Unsurprisingly, local landlords have been hostile to the idea of rent control, and have complained that, even under rent control, they deserve to charge tenants a little more. If rents can go up only by a percentage tied to inflation, they say, the city has neglected to give them an increase for a 10-month period starting after October 2015. For this period, they said their apartment rents were effectively frozen, which many dubbed an "illegal taking" of their property.

"Right now, we're going to be 10 months behind the CPI forever," said Joe Maydek, a Mountain View property manager. "Just because it's hard to figure out doesn't mean it shouldn't be fixed."

Yet the exact length of time without an inflationary increase is debatable. If an extra rent increase were granted, city legal staff suggested it should be only for the four months spanning from October 2015 to February 2016. That would add up to a meager 0.6 percent increase, which didn't excite anyone. Plus, the attorneys warned that granting even that modest rent increase wouldn't be easy because it shouldn't apply to any tenants who moved in recently. They recommended the best course of action was to not give any rent increase, and to let the problem be sorted out through the program's petition process.

That legal advice wasn't what most committee members wanted to hear. Presenting his own [slideshow](#), committee member Matthew Grunewald insisted that landlords actually deserved permission for a 2.6 percent increase for a total of 318 days when their rents were frozen. Inflation occurs every day, he said, and it was unrealistic for the committee to artificially constrain this effect on apartments.

"Every landlord is due a bankable 2.6 percent increase," he said. "This is the most conservative amount that you could say is defensible."

Critics said that going forward with that plan could violate the CSFRA, which stipulates that tenants receive only one rent increase per year and that it must be less than 5 percent. Under the rent control law, landlords are allowed to "bank" extra rent increases for future years if they didn't adjust their rates in prior years. Grunewald indicated this was how he wanted to solve the inflation lapse issue.

But tenants' lawyers warned the idea was treading on thin ice and could invite a legal challenge. Nan McGarry of Community Legal Services, who is currently representing numerous Mountain View tenants in rent disputes, argued the committee didn't have the authority to grant an extra rent increase. The rent control law only allowed for one annual rent increase, starting on Sept. 1 2017, she said, and prior years shouldn't register.

Committee member Ramos pointed out that landlords were still entitled to keep any increased rent they collected from October 2015 through the end of 2016, when they were still free to set rents as high as they wanted. Ramos pointed out her apartment complex received a hefty rent increase during that time.

"I don't think it's fair to throw that out," she said. "I've seen many of my neighbors move out because their rent has gone up too much."

As in many previous discussions, the Rental Housing Committee showed a deep ideological divide. Grunewald, Tom Means and Vanessa Honey insisted that the CSFRA regulations needed to accommodate the business realities of the rental market -- even if their legal counsel disagreed. The three committee members voted to direct staff to draft plans to allow the additional 2.6 percent increase and bring it back at a future meeting.

On the opposing side, Ramos and Ortiz reminded their colleagues that voters entrusted them to scrutinize rent increases, not to usher in more of them.

"This allows for a substantial rent increase beyond what people were expecting," Ortiz said. "With instances like this, there's going to be even more of a public perception that this board always leans a certain way."