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memorandum

To

Pasadena Rental Housing Board

From

Karen Tiedemann

RE

First Annual General Adjustment Pursuant to the Pasadena Fair and Equitable Housing Charter Amendment

RECOMMENDATION:

That the Pasadena Rental Housing Board adopt the following resolutions:

1. Find that the proposed actions are exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3) (common sense exemption)
2. A Resolution of the Pasadena Rental Housing Board of the City of Pasadena, California adopting an Annual General Adjustment to Rental Housing Rents of 2.75% for the Period from October 1, 2023, through September 30, 2024
3. A Resolution of the Pasadena Rental Housing Board of the City of Pasadena, California, adopting an Annual General Adjustment of Rental Housing Rents for the period from December 22, 2022, through September 30, 2023
4. A Resolution of the Pasadena Rental Housing Board of the City of Pasadena, California, adopting interim regulations regarding the Annual General Adjustment Procedures to implement the Pasadena Fair and Equitable Charter Amendment

BACKGROUND:

The Pasadena Fair and Equitable Housing Charter Amendment ("Charter Amendment") charges the Rental Housing Board with the power to set allowable rent increases at fair and equitable levels to achieve the purposes of the Charter Amendment and authorizes the Rental Housing Board to adopt regulations authorizing rent increases (§1811(e)(1)).

The Charter Amendment establishes the Base Rent for tenancies that commenced prior to May 17, 2021, as the rent in effect on May 17, 2021. For all tenancies that commenced after May 17, 2021, the Base Rent is the rent paid by the Tenant upon initial occupancy (§1803(c)).

The Charter Amendment limits rent increases for Covered Units to (1) the Annual General Adjustment, or (2) by a petition for an upward adjustment (§1807(b)).

Section 1808 of the Charter Amendment requires the Rental Housing Board to announce the Annual General Adjustment no later than September 1st of each year with the Annual General Adjustment being effective on October 1 of each year. The Annual General Adjustment is the percentage by which rent can be increased for existing tenancies in a Covered Rental Unit. The amount of the Annual General Adjustment is equal to 75% of the increase in the Consumer Price Index (All Items, All urban Consumers, Los Angeles-Riverside-Orange County region) (“CPI”) for the twelve-month period ending as of March of the year in which the Annual General Adjustment is set.

The Charter Amendment also states that the first Annual General Adjustment is to be set no later than September 1, 2022, with the first rent increase that a landlord could impose under the Charter Amendment not taking effect prior to October 1, 2022, although the Charter Amendment was not effective until December 22, 2022, and the Rental Housing Board was not appointed until April 2023. The Charter Amendment also requires that the first Annual General Adjustment for tenancies that commenced prior to May 17, 2021, be set at 75% of the increase in the CPI from May 2021 to May 2022. Additionally for tenancies that commenced after May 17, 2021, the first Annual General Adjustment is to be 75% of the increase in the CPI from the month the tenancy commenced through May 2022.

The Charter Amendment also provides that a landlord must impose any Annual General Adjustment within the twelve months between October 1 and September 30 of the year in which that Annual General Adjustment is issued. If a landlord fails to impose the Annual General Adjustment during this 12-month period, then the Annual General Adjustment is no longer available.

ANALYSIS:

The Charter Amendment establishes a special procedure for the adoption of the first Annual General Adjustment and establishes dates for that Annual General Adjustment but perhaps inadvertently set the date for establishment of the first Annual General Adjustment for a date prior to the effective date of the Charter Amendment. Furthermore, the Base Rent for tenancies that commenced prior to May 17, 2021, is the rent on May 17, 2021, meaning that as of the effective date of the Charter Amendment rents for those tenancies were to be rolled back to the May 17, 2021 rent.

In order to ensure that landlords are obtaining a fair return on their property and to implement the Charter Amendment consistent with the text, the resolutions proposed

adopt a First Annual General Adjustment that will apply to tenancies that commenced prior to May 1, 2022, and a 2023 Annual General Adjustment that will apply to all tenancies.

The First Annual General Adjustment.

The First Annual General Adjustment, consistent with the Charter Amendment, would allow landlords to impose a rent increase on a tenancy that commenced prior to May 17, 2021, of 6%, which is 75% of the CPI increase from May 2021 to May 2022. For tenancies that commenced after May 17, 2021, but before May 1, 2022, the first Annual General Adjustment is based on the increase in the CPI from the month the tenancy commenced to May 2022 in accordance with the schedule set forth in the Resolution.

Landlords can impose the first Annual General Adjustment any time before September 30, 2023, but only after (1) rolling rents back to the Base Rent; (2) providing the tenants with at least 30 days' notice of the rent increase and (3) if the rental unit is maintained in a habitable condition.

Because of the delay in the commencement of the appointment of the Rental Housing Board due to the litigation challenging the Charter Amendment, some property owners have already implemented a rent increase consistent with the first Annual General Adjustment. These rent increases were consistent with guidance provided by the Pasadena Tenants Union. In order to avoid any confusion about the appropriateness of these rents increases, Regulations are being proposed that make the Rental Housing Board's adoption of the First Annual General Adjustment retroactive to the effective date of the Charter Amendment and clarifying that any validly imposed rent increase that was consistent with the First Annual General Adjustment is not a violation of the Charter Amendment that could result in the landlord having to refund rent to the tenant. These regulations will provide guidance in the event of future petitions regarding the legal rent for tenants who may have received a rent increase consistent with the First Annual General Adjustment before the date of the Rental Housing Board's action adopting the First Annual General Adjustment.

The First Annual General Adjustment must be imposed by a landlord no later than September 30, 2023. If the landlord does not impose the First Annual General Adjustment before that date, the landlord will not be eligible to impose that rent increase in the future. If a landlord imposes the First Annual General Adjustment, the landlord cannot impose the 2023 Annual General Adjustment until 12 months have elapsed since the imposition of the First Annual General Adjustment since the Charter Amendment prohibits more than one rent increase in any 12-month period.

2023 Annual General Adjustment

The third resolution proposed for adoption, adopts the 2023 Annual General Adjustment which will be effective October 1, 2023, until September 30, 2024. The 2023 Annual General Adjustment is 75% of the increase in the CPI from March 2022 to March 2023

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rounded to the nearest quarter of a percent. The CPI increase from March 2022 through March 2023 was 3.7%.