



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: April 18, 2017

TO: Carolyn Lehr, City Manager

FROM: Sheri Hartz, City Clerk

SUBJECT: Resolution Of The City Council Of The City Of Emeryville In Support Of AB 1506 (Bloom) Residential Real Property: Costa-Hawkins Rental Housing Act

RECOMMENDATION

Staff recommends that the Council adopt a resolution in support of AB 1506 (Bloom), which will repeal the Costa-Hawkins Rental Housing Act and direct staff to send copies of the adopted resolution to Governor Jerry Brown, Assemblymembers Richard Bloom, David Chiu, and Rob Bonta, and other legislators as appropriate.

BACKGROUND

The State of California has been facing an unprecedented housing crisis for several years. Within the State of California and the East Bay region, there is a severe shortage of affordable housing. The City of Emeryville has implemented programs and supported legislation aimed at preserving existing affordable housing, increasing the overall supply of affordable housing, and expanding tenant protections. The Costa-Hawkins Rental Housing Act is a state law that has severely limited the ability of cities to administer programs that would help to bring stability to local rental housing markets.

AB 1506 - Repeal Costa-Hawkins

AB 1506, which was introduced by Assemblymembers Richard Bloom (D-Santa Monica), David Chiu (D-San Francisco), and Rob Bonta (D-Oakland), would repeal the Costa-Hawkins Rental Housing Act, which went into effect in 1996. The Costa-Hawkins Rental Housing Act (California Civil Code Section 1954.50-1954.535) establishes that certain units must be exempt from local rent control ordinances. This includes:

1. Units with a certificate of occupancy issued after February 1, 1995.
2. Units that were already exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units.
3. Units that are alienable separate from the title to any other unit, such as single family homes and condominiums.

The law also removes local control on the rent level that could be charged at the start of a new tenancy on units that are subject to rent control, known as “vacancy decontrol”.

Some cities in California have rent control ordinances that limit or prohibit rent increases and dictate what costs can be passed on to the tenant. The cities in the East Bay that have rent control are Berkeley, Fremont, Hayward, and Oakland. San Francisco has rent control as well. Many of the tenants in Emeryville previously rented in these cities and became accustomed to having some level of certainty on the amount of rent they would be charged in the future.

If Emeryville were to adopt rent control, most of the housing units in the city would not be covered due to the restrictions of the Costa Hawkins Act, because much of the housing built before 1995 in Emeryville was either single family detached homes or condominiums.

The table below includes an analysis of residential structures in Emeryville that might be eligible for rent control. Please note that four of the projects have Below Market Rate (BMR) income restricted units through the City’s or County’s affordable housing programs.

Pre-1995 Rental Housing in Emeryville		
Emery Glen (Housing Authority of County of Alameda)	1983	36
Emery Villa Senior Housing	1992	50
Artistry (BMR)	1993	52
Triangle Court (BMR)	1994	20
<i>Total income restricted</i>		158
Hollis Street Project	1986	20
Hollis Street Complex	1980	40
Artistry (Market Rate)	1993	209
Approximate 2 to 19 unit buildings		450
<i>Maximum Market Rate Units eligible for rent control</i>		719

Based on the above, there are approximately 700 units that would subject to rent control if Emeryville were to institute a rent control ordinance. This would not include many of the larger apartment projects such as Bridgecourt, the Courtyards at 65th, and the Metropolitan, nor would it be applicable to any of the new apartment units currently under construction or planned. With the complete repeal of Costa Hawkins, all residential units

in Emeryville could potentially be subject to rent control, amounting to approximately 7,000 units as opposed to the approximately 700 under Costa Hawkins.

DISCUSSION

The Costa Hawkins Act severely restricts the ability of the City of Emeryville to stabilize housing for tenants. Tenants only know what their rent will be for the period of their lease and, if rents are raised, often the increase cannot be afforded and the tenant will be forced to move. The repeal of Costa Hawkins, and possible subsequent enactment of rent control in Emeryville, would create security for the tenant population. It has been found that people who are secure in their housing tend to be more civically engaged and enjoy better health.

In areas with high rents, units that would normally have been ownership are sometimes purchased by investors as rental units. In addition, as homeowners move from Emeryville to other cities, they sometimes retain units that they own as income property rather than selling to new homebuyers. This is the case in Emeryville where the number of renters far exceeds the number of rental units. Many condominiums and single family homes are used to generate ongoing income rather than being returned to the market for sale.

The total repeal of Costa Hawkins would help the City immensely. In the event that the Act is not totally repealed, however, there are still some changes to the law that would benefit Emeryville in its effort to stabilize housing for residents:

- Remove the restrictions on condominium and single family homes or, alternatively, only exempt condominiums and single family homes if they are rented for more than five years.
- Create a system where units are only exempt from rent control for 30 years, so that units built in 1995, for example, would be subject to rent control starting in 2025.

Another possible outcome of the repeal of Costa Hawkins would be the reinstatement of “inclusionary zoning” for rental housing. In 2009, the California Court of Appeal ruled in *Palmer/Sixth Street Properties L.P. v. City of Los Angeles* (“Palmer”) that local inclusionary requirements for rental housing (i.e. the requirement to include affordable units in rental developments) amounted to rent control and therefore violated Costa Hawkins. The repeal of Costa Hawkins may have the effect of rendering the Palmer decision moot, thereby effectively allowing the reinstatement of Emeryville’s former inclusionary requirements for rental housing.

Support for AB 1506 is in the best interest of those attempting to settle in the City of Emeryville and its passage would help provide a stable housing stock for an engaged citizenry.

FISCAL IMPACT

None at this time.

PREPARED BY: Sheri Hartz, City Clerk

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**

Carolyn Lehr, City Manager

ATTACHMENTS:

1. Draft Resolution of Support
2. Text of Bill