

Agenda Report

June 17, 2024

TO: Honorable Mayor and City Council

FROM: Rent Stabilization Department

SUBJECT: PRESENTATION OF PASADENA RENTAL HOUSING BOARD ON RECOMMENDED CHANGES TO PASADENA FAIR AND EQUITABLE HOUSING CHARTER AMENDMENT (ARTICLE XVIII) AND POTENTIAL DIRECTION TO CITY STAFF TO PREPARE NECESSARY RESOLUTIONS TO AMEND THE CITY CHARTER

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed action in the agenda report is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA guidelines Section 15061(b)(3) (Common Sense Exemption); and
2. Receive and file the Pasadena Rental Housing Board's report on recommended amendments to the Pasadena Fair & Equitable Charter Amendment (Article XVIII); and
3. Direct staff to prepare and return with necessary resolutions, subject to Council approval, of any changes to City Charter Article XVIII, as detailed in the agenda report, or any variation as directed by Council, on the November 5, 2024 General Municipal Election ballot in the City of Pasadena.

BACKGROUND:

On November 8, 2022, the voters of the City of Pasadena voted to adopt the Pasadena Fair & Equitable Housing Charter Amendment (Article XVIII), which amended the City's Charter to impose rent control and just cause eviction protections. The Pasadena City Council adopted a resolution certifying the results of the November 8, 2022, election on December 12, 2022, and Article XVIII was thereafter filed with the California Secretary of State and took effect on December 22, 2022.

Provisions of the Article XVIII were challenged in *California Apartment Association, et al. vs City of Pasadena, et al* (Los Angeles Superior Court Case No. 22STCP04376). On March 28, 2023, the Los Angeles Superior Court substantially upheld the Article XVIII but made findings that certain provisions of Article XVIII were preempted by State law and reformed Article XVIII to remove those preempted provisions. As a result of the removal of the preempted provisions, certain remaining provisions of Article XVIII require technical amendments to conform to the Court's decision as well as State law.

In addition, the Pasadena Rental Housing Board (Board) and the Rent Stabilization Department (RSD) have been made aware of areas of Article XVIII that would benefit from further clarification or minor revision. They have also heard requests for more substantive policy changes to Article XVIII.

At its April 24, 2024 meeting, the Board formally decided to consider recommendations for minor changes to Article XVIII that could be added to the City Council's ballot measure and adopted a framework to facilitate and guide the review and recommendation process. (Attachment D) Thereafter, the Policy & Programs Ad Hoc Committee (Committee) of the Board received and reviewed all suggested changes to Article XVIII. The Committee compiled its recommendations into a report for review by the full Board.

At its May 8, 2024 meeting, the Board reviewed the initial draft of the report from the Committee summarizing the Committee's recommendations for changes to Article XVIII. (See Attachment B) The Board received significant public comment on the item, largely in support of the recommendations made by the Committee. The remaining members of the Board not on the Committee provided feedback.

In accordance with the feedback received from the Board and arising from further discussions with relevant City departments (including the Department of Housing and the City Attorney's Office), the Committee revised its report. At its May 22, 2024 meeting, the full Board again considered and received public comment on the Committee's updated report. (See Attachment C) After further discussion and deliberation, the Board adopted a resolution recommending several changes to Article XVIII. The vote count on each recommendation approved by the Board is included in the recommendation summary.

The Board's report (See Attachment A) includes additional details regarding all the recommendations received and the Board's explanation for each recommendation, as well as proposed ballot language for those changes that are being recommended. An excerpt of recommended changes for the Council to consider are discussed in the remainder of this report.

Summary of Recommended Changes

The Board requests and recommends that the City Council include the following changes to Article XVIII on the ballot, as approved at the May 22, 2024 regular meeting of the Board:

A. CLEAN-UP & MINOR CHANGES (4)

1. **Article XVIII Section 1812:** Removal of the deadline for the implementation of the Rental Registry, and removal of the April 1st deadline for annual registration by Landlords.

Reason for Proposed Recommendation: The effective date of Article XVIII was December 22, 2022. Therefore, the Rental Registry and online portal would have had to become operational no later December 22, 2023. Since the deadlines has already passed, the language should be removed from Article XVIII.

Additionally, Article XVIII provides that Owners must register no later than April 1st of each year. However, because of the current timeline for implementation of the Rental Registry and the fact that property registration is set to be aligned with payment of the annual Rental Housing Fees, it is possible that the annual April 1 deadline will not work. The recommended change will give the Board flexibility to establish the annual schedule for registration and payment of fees, including the ability to adopt an initial grace period, if necessary.

Board Voting Record: Unanimous Board approval of the recommendation.

Revise Section 1812 as follows:

~~(b) **Date of Implementation.** The Rental Registry, online portal, and all forms necessary for their effective and efficient use shall be available and operational within one year of the effective date of this article.~~

~~(e)~~ **(b) Owner Information Submission.** All Owners of Property subject to registration must complete and submit a rental registry form for each such Property no later than 90 days after the Rental Registry becomes operational, and subsequently every following year, as established by regulation by the Rental Board ~~no later than April 1st~~. In the event of any change in Property ownership, the new owner must register or update the Rental Registry within 30 days of the change of ownership.

2. **Article XVIII Section 1806(a)(10):** Clean-up changes aligning Article XVIII's just cause for eviction provision authorizing "Withdrawal of the Unit Permanently from the Rental Market" with the state Ellis Act (Government Code § 7060, et seq.) requirements and the Superior Court decision.

Reason for Proposed Recommendation: Section 1806(a)(10) originally provided that Tenants subject to termination of their tenancy due to withdrawal of the rental unit from the rental market would be entitled to a minimum of 180 days' notice but the Ellis Act limits the notice period to 120 days except for senior or disabled tenants. The Court struck the 180-day language. The inclusion of the 120 days conforms to the Ellis Act.

The Ellis Act requires that a legislative body elected by the voters adopt regulations implementing the Ellis Act. Since the Rental Board is not elected, only the City Council can adopt the regulations so inclusion of regulations adopted by the City Council conforms the language to the Ellis Act.

Article XVIII does not define senior but in Section 1806(a)(9)(F) provides additional eviction protections to elderly or disabled tenants in the event of an owner move in and defines elderly as any person 60 years or older. The Ellis Act defines elderly as any person 62 or older. In order to clarify that for purposes of Ellis Act evictions the definition of senior or elderly is pursuant to State law, language has been added.

Board Voting Record: Unanimous Board approval of the recommendation.

Revise Section 1806(a)(10) to read as follows:

Withdrawal of the Unit Permanently from Rental Market. To the extent required by California Government Code Section 7060 et seq., the Landlord may seek in good faith to recover possession to withdraw all Rental Units of an entire Property from the rental market. The Landlord first must have filed the requisite documents with the Rental Board initiating the procedure for withdrawing Rental units from rent or lease under California Government Code Section 7060 et seq. and all regulations passed by the Rental Board and/or the City Council of the City, with the intention of completing the withdrawal process and going out of the rental business or demolition of the Property. If demolition is the purpose of the withdrawal, then the Landlord must have received all needed permits from the City of Pasadena before serving any notices terminating a tenancy based on Subsection (a)(10) herein. Tenants shall be entitled to a minimum of 120 days' notice or one (1) year in the case Tenants are defined as senior or Disabled as defined in California Government Code Section 7060 et seq. Notice times may be increased by regulations if state law allows for additional time.

3. **Article XVIII Section 1806(b):** Clean-up changes to the relocation assistance disbursement schedule to align the requirements with state law noticing requirements for terminations of tenancies.

Reason for Proposed Recommendation: As currently written, the timeframes for disbursement of the Relocation Assistance payments do not work for tenants who are only entitled to 30-days' written notice under state law because they have resided in their Rental Unit for less than a year. The amendments seek to provide an alternate timeline for the disbursement of payments that works for Tenants on this shorter termination timeline.

Board Voting Record: Unanimous Board approval of the recommendation.

Revise 1806(b) to read as follows:

Relocation Assistance. A Landlord seeking to recover possession under Subsections (a)(8)—(11) above shall provide Relocation Assistance. The Landlord shall provide a minimum of fifty percent (50%) of the required Relocation Assistance within ten (10) days of service of any written notice of termination pursuant to Subsections (a)(8)—(11) to the Tenant(s). For any Tenant entitled to at least sixty (60) days' written notice pursuant to Civil Code Section 1946.1, the Landlord may elect to pay the remaining Relocation Assistance owed to a Tenant pursuant to this subsection to an escrow account no later than twenty-eight (28) days prior to the expiration of the written notice of termination, to be disbursed to the Tenant upon certification of vacation of the Rental Unit. The escrow account shall provide for the payment prior to vacation of all or a portion of the monetary relocation benefits for actual relocation expenses incurred or to be incurred by Tenant prior to vacation, including but not limited to security deposits, moving expense deposits and utility connection charges. For any Tenant entitled to at least sixty (60) days' written notice pursuant to Civil Code Section 1946.1, the Landlord may also disburse the remaining Relocation Assistance directly to the Tenant no later than twenty-eight (28) days prior to the expiration of the notice of termination. For any Tenant entitled to less than sixty (60) days' written notice pursuant to Civil Code Section 1946.1, the Landlord shall disburse the remaining Relocation Assistance directly to the Tenant at the time that the Tenant vacates the Rental Unit.

4. **Article XVIII Section 1806(f)(1):** Clean-up changes to the security deposit interest adoption schedule.

Reason for Proposed Recommendation: The current language of Section 1806(f)(1) requires that the Rental Board announce the interest rate for the subsequent year by October 1 and that the interest rate must be based on interest rates paid by banks on October 1. Complying with both of these requirements means that the interest rate for security deposit lags by a full year. Moving the date for announcement of the interest rate to November 1 will allow the most current October 1 interest rate to be used for subsequent calendar year.

Board Voting Record: Unanimous Board approval of the recommendation.

Revise 1806(f)(1) to read as follows:

- (1) The interest rate shall be based on the average of the interest rates on savings accounts paid on October 1 of the previous year in which the interest rate is adopted, by at least five Federal Deposit Insurance Corporation (FDIC) insured banks with branches in Pasadena. The Rental Board shall adopt the rate by ~~October 1~~ November 1 of each year. The interest rate established by the Rental Board shall be the rate in effect from January 1 through December 31 of the subsequent year.

B. GOVERNMENT SUBSIDIZED TENANT EXEMPTION

Article XVIII Section 1804: Addition of a partial exemption from the rent stabilization provisions of Article XVIII for Rental Units leased to government subsidized tenants.

Reason for Proposed Recommendation: The current language in Article XVIII only exempts Rental Units occupied by a government-subsidized tenant, such as a tenant with a Section 8 Housing Choice Voucher, if there are applicable federal or state administrative regulations or laws that specifically exempt the Tenant from local rent control. There is no applicable federal or state law or administrative regulation that specifically exempts Section 8 Housing Choice Voucher recipients from municipal rent control. Therefore, if the Rental Unit in which a Section 8 Housing Choice Voucher recipient resides is otherwise covered by either the just cause for eviction protections or both the rent stabilization and just cause for eviction protections of Article XVIII, then the Section 8 voucher recipient's tenancy is covered by those same provisions.

The City's Department of Housing, which functions as the local public housing authority in Pasadena, has expressed that tenants served by its voucher/subsidy programs have struggled to find housing due to the limitations of the Section 8 program, namely the "Payment Standard" requirement which limits the subsidy the Department can provide.

The Department of Housing has shared that the layering of the provisions in Article XVIII limiting rent increases is likely to make it even more difficult for these tenants to find housing because it further restricts the amount of rent landlords receive.

The recommendation carves out only a limited exception to the rent stabilization provisions of Article XVIII for Rental Units leased to government-subsidized tenants so long as the rent for the Rental Unit does not exceed the Payment Standard. This limited nature of this exemption would not impact the Board's ability to regulate excessive rent increases and should ensure that the tenants of these Rental Units are not impacted by large rent increases (because as long as the rent for a unit remains under the Payment Standard, the tenant will not be required to pay more than 30 percent of their household income as their portion of the rent). As such, the exemption should help facilitate the Department of Housing's and the Rental Housing Board's mutual goal of ensuring safe, stable, and affordable housing for tenants in the City.

Board Voting Record: The vote to recommend Government Subsidized Tenant Exemptions was eight members in favor and three opposed.

Revise 1804(a)(4) and 1804(b)(3) to read as follows:

- (a) Fully Exempt (Exempt from Both Rent Stabilization and Just Cause for Eviction).
The following Rental Units are exempt from all provisions of this Article:

...

(4) Rental Units which a government unit, agency or authority owns, operates, or manages, ~~or in which government-subsidized Tenants reside,~~ if applicable federal or state law or administrative regulation specifically exempt such units from municipal rent control; and

...

- (b) Partially Exempt (Just Cause for Eviction Applies). The following Rental Units are exempt from Sections 1807, 1808, and 1809 of this Article (regarding Stabilization of Rents) and from Sections 1813 and 1814 (regarding Petitions for Individual Rent Adjustment), but are not exempt from Section 1806 (Just Cause for Eviction Protections):

...

(3) Rental Units leased to tenants assisted under the Section 8 program (42 U.S.C. Section 1437f) or the Continuum of Care Rental Assistance (42 U.S.C. 11381 et. seq.) or similar rent subsidy program where the tenant's portion of the Rent is determined based on their household income and a specific formula. For the purposes of the Section 8 program, the exemption from Sections 1807, 1808, 1809, 1813, and 1814 shall apply only for so long as the rent demanded does not exceed the authorized Payment Standard minus the applicable utility allowance, which, for purposes of this subsection, is the maximum monthly rental assistance potentially available to an assisted household before deducting the household share of income paid for rent and utilities as established by the City of Pasadena Department of Housing or successor agency. For Rental Units where the rent demanded exceeds the Payment Standard minus the applicable utility allowance, the Payment Standard or an initial rent above the Payment Standard if approved by the City of Pasadena Department of Housing, as reported to the Board, or its designee, by the City of Pasadena Department of Housing or successor agency, shall become the Rental Unit's Base Rent and the reference point from which the Rent shall be adjusted in accordance with Sections 1807, 1808, and 1809. For the purposes of all other rent subsidy programs, the exemption from Sections 1807, 1808, 1809, 1813, and 1814 shall apply only for so long as the Tenant remains eligible for the program and Tenant's portion of the Rent remains unaffected by any rent increases demanded by the Landlord. For Rental Units where the Tenant becomes ineligible for the rent subsidy program or where any rent increase demanded would increase the Tenant's portion of the Rent, the Rent at the time that the Tenant's assistance is terminated or the initial rent after the rent increase that increases the Tenant's portion of the Rent as reported to the Rent Stabilization Department, by the City of Pasadena Department of Housing or successor agency, shall become the Rental Unit's Base Rent and the reference point from which the Rent shall be adjusted in accordance with Sections 1807, 1808, and 1809.

C. BOARD MEMBER REMOVAL

Article XVIII Section 1811(d): Addition of language allowing the Board to initiate removal of a Board member for repeated or significant violations of the Board's Code of Conduct, such as absenteeism, improper disclosure of private information received while performing Board duties, misuse of City resources or official position on Board for personal, non-City purpose, etc.

Reason for Proposed Recommendation: As currently written, Rental Housing Board members can be removed via (1) a petition signed by 10% of the qualified voters of the district from which the Board member was appointed for Tenant members or (2) a petition signed by 5% of the qualified voters in the city for at-large members.

The changes will provide an additional mechanism for the removal of Board member by the City Council where the Board member has engaged in egregious or repeated violations of the Board's Code of Conduct. This can include, but is not limited to, absenteeism, harassment or committing a felony that indicates the Board member is unfit to participate on the Board.

Board Voting Record: The vote to recommend changes to Board Member removal was eight members in favor, two opposed, and one abstention.

Revise 1811(d) to read as follows:

Term of Office. Rental Board members shall serve four (4) year terms, unless they are appointed to fill unexpired terms or are designated to fill a two (2) year term on the initial Board. Those members filling unexpired terms shall serve the remaining length of the unexpired term. Members may serve no more than eight (8) consecutive years. Member terms shall be staggered. Four (4) of the tenant appointees initially appointed shall serve for four (4) years; the terms of the remaining initial tenant appointees shall be two (2) years. Two (2) of the at-large appointees initially appointed shall serve for four (4) years; the terms of the remaining initial at-large appointees shall be two (2) years. The initial term for any alternate shall be for four (4) years. The City Council will appoint members to the Board with careful alacrity, taking care to ensure there are no unfilled Board seats. Tenant members of the Board may be removed pursuant to a petition signed by 10% of the qualified voters of the district from which the tenant was appointed. At-large members may be removed pursuant to a petition signed by 5% of the qualified voters of the City. Any member of the Board may be removed by the City Council upon petition by the Rental Board for repeated or significant violations of the Rental Board's Code of Conduct, which shall be established by the Rental Board by regulation. A petition of the Rental Board to remove a Board member must be approved by a majority of the Rental Board members in attendance at the meeting where the petition is voted on. No vote of the electorate will be required to remove a Board member.

Summary of Rejected Suggestions

The Board also considered thirteen additional suggestions, but they were ultimately not recommended for inclusion. A discussion of each of the items are included in the Board report (See **Attachment A**):

1. Addition of language making Board member compensation optional at the discretion of each individual Board member.
2. Expansion of the exemption for tax credit projects.
3. Addition of an exemption for duplexes.
4. Addressing the permitting issues in § 1806(a)(10).
5. Addition of language granting the Board expanded contracting powers.
6. Inclusion of language regarding self-certification of maximum lawful rent.
7. Codification of the definition of "Natural Person."
8. Codification of the definition of "Mom and Pop Landlord."
9. Addition of a "Mission Statement" to Article XVIII.
10. Creation of a task force between the Board, the Rent Stabilization Department and the City's Housing Department.
11. A statement that the Board will not adjudicate terminations of tenancies and evictions.
12. Changing the definition of "Tenant" in Article XVIII.
13. Several recommendations related to justice for renters.

Next Steps

As part of the action to receive and file the Board's Report, staff also recommends the City Council direct staff to prepare and return with resolutions required to place the recommended Charter Amendment measures, as described in this report, or any variation as Council directs, to City Charter Article XVIII, on the November 5, 2024 General Municipal ballot.

Additionally, staff could return with additional information for further discussion and consideration at a later date. Below is a chart with the upcoming timeline and potential dates for further discussion:

Council Meeting Date	Suggested Steps Prior to Adoption of Election Resolutions
June 17, 2024	Presentation and In-depth review of Board recommendations, with the following possible outcomes: <ul style="list-style-type: none"> • Direct staff to prepare one or more ballot measure questions • Schedule further discussion by the City Council • Refer the matter to a Council Committee for review and recommendation prior to July 22, 2024 City Council meeting • Provide alternate direction
July 8, 2024	Further in-depth review of Board recommendations, if needed
July 22, 2024	Consideration of Election Resolutions to submit ballot measures, including any Charter Amendment measures approved by City Council, to submit to Pasadena voters for their consideration

The deadline to submit ballot measures to the Los Angeles County Registrar-Recorder/ County Clerk's Office for the November 5, 2024 General Election ballot is August 9, 2024 (88th day prior to the election). The City Council's last scheduled meeting date prior to the deadline is July 22, 2024.

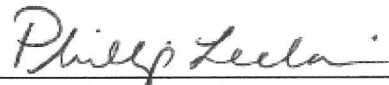
ENVIRONMENTAL ANALYSIS:

The action proposed herein has been determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3), the "Common Sense" exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Such is the case with the proposed Charter amendments.

FISCAL IMPACT:

The Board's Report is presented for the City Council's information, to consider proposed changes to the City Charter Article XVIII, and to provide an opportunity to direct City staff on next steps. There is no fiscal impact anticipated as part of this agenda item.

Respectfully submitted,

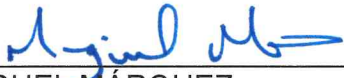


PHILLIP LECLAIR

Interim Director

Rent Stabilization Department

Approved by:



MIGUEL MÁRQUEZ

City Manager

Attachments (4):

Attachment A – Pasadena Rental Housing Board Report on Proposed Amendments to Article XVIII of the City Charter

Attachment B – May 8, 2024 Pasadena Rental Housing Board Meeting Agenda Report and Attachments

Attachment C – May 22, 2024 Pasadena Rental Housing Board Meeting Agenda Report and Attachments

Attachment D – Pasadena Rental Housing Board Resolution No. 2024-07