

**CITY OF SAN DIEGO
M E M O R A N D U M**

DATE: May 29, 2003

TO: Affordable Housing Task Force

FROM: Robert Griswold, Chairperson
Preservation and Renter's and Homeowner's Issues Subcommittee

SUBJECT: Preservation and Renter's and Homeowner's Issues Subcommittee report to the Affordable Housing Task Force

On behalf of the Preservation and Renter's and Homeowner's Issues Subcommittee, the final report of the subcommittee to the Affordable Housing Task Force is attached.

**AFFORDABLE HOUSING TASK FORCE
COMMITTEE 4- RENTERS, HOMEOWNERS, AND PRESERVATION**

Background.....	2
Summary of Recommendations.....	2
Renter/Landlord Issues	3
Recommendation- Code Enforcement.....	4
Recommendation- Code Violation Penalties	7
Recommendation- Good Cause Termination of Tenancy Ordinance.....	8
Recommendation- Renter/Landlord Information and Referral.....	9
Preservation Issues.....	10
Recommendation- Single Room Occupancy Hotel Regulations	10
Recommendation- Condominium Conversion Regulations	11
Recommendation- Legislative Efforts	12
Other Recommendation	13
Recommendation- Downtown Community Plan Update	13

Background

Committee 4 was charged with looking comprehensively at housing issues falling under the three broad areas of renter's issues, homeownership issues, and the preservation of existing housing stock. The Committee consisted of six Affordable Housing Task Force members. They are: Robert Griswold, Chair; Donald Cohen; Chuck Hoffman; Bob Kevane; Richard Lawrence; and Father Henry Rodriguez. The Committee was also well attended by members of the public representing a wide variety of interests. The Committee invited a number of speakers, including staff from a variety of City departments to give informational presentations and answer questions from the Committee members.

The Committee met on nine occasions over a four-month period. As the Committee felt that issues facing renters and landlords posed the most complex and dire issues, much of the Committee's time was spent crafting solutions in this area.

Summary of Recommendations

- Increase capacity of Neighborhood Code Compliance and City Attorney's office to target code compliance issues through an increase in resources.
- Ensure that fees assessed by Neighborhood Code Compliance represent full cost recovery and that penalties assessed by Neighborhood Code Compliance and City Attorney's office act as a deterrent for repeat offenders.
- Develop Good Cause Termination of Tenancy Ordinance.
- Provide improved access to information and resources for Landlords and tenants at the community level.
- Amendment to the existing Single Room Occupancy Hotel Preservation Ordinance and investigation of improved regulatory environment to construct new SRO rooms.
- Develop Condo Conversion regulations.
- Support legislative efforts associated with credit reporting and demolition of housing due to school construction.
- Maximize housing opportunities in the Downtown Community Plan update.

Renter/Landlord Issues

Code Enforcement

Several of the recommendations of this report focus on addressing issues of code enforcement. Two City departments are charged with handling issues of code enforcement within the City of San Diego; Neighborhood Code Compliance and the Code Enforcement Unit of the City Attorney's office. The following gives a brief introduction to the activities and resources of each department.

The Neighborhood Code Compliance Department (NCCD) received over 39,000 inquiries in Fiscal Year 2002. These inquiries resulted in 8,256 cases related to housing, building, zoning and noise violations. Of the total number of NCCD cases, 1,741 were housing complaints that required a total of 1,080 site inspections.

From January 2002 to the present, approximately 75 cases were received by the City Attorney's office involving substandard housing violations. These cases were prosecuted either civilly or criminally. Some are still being prepared for prosecution as they were just recently received.

There are 11.0 Combination Inspectors (Building/Housing) budgeted in the General Fund for the Neighborhood Code Compliance Department for FY 03. These inspectors respond to complaints about substandard housing, building without permits, illegal grading, etc. In addition, there are 4.0 Combination Inspectors funded by grants. NCCD activities are a combination of proactive and reactive enforcement.

NCCD performed proactive code enforcement in four geographic areas of the City. These areas are Linda Vista, City Heights, Fox Canyon, and Sherman Heights. These activities are funded by Community Development Block Grants (CDBG) in FY 03. Two (2.0) Combination Inspectors are assigned areas that are designated and specifically targeted for proactive enforcement.

A full time Combination Inspector responds to complaints regarding violations of disabled access regulations in the City. This position is also funded by CDBG in FY 03. In addition to responding to complaints, the inspector proactively targets high traffic areas such as commercial centers, parking lots, office buildings and restaurants.

One Combination Inspector is funded by the California Department of Housing and Community Development and the City of San Diego through the Code Enforcement Incentive Program (CEIP). The state provides a matching grant to increase staffing levels dedicated to code enforcement of substandard housing in neighborhoods populated by high percentages of lower income households, with significant numbers of deteriorating housing stock and suspected housing violations. This three-year grant funds proactive enforcement in the communities of Grant Hill, Memorial and Stockton and expires on December 31, 2004.

Most NCCD activities are complaint driven or reactive. Increasing the number of proactive enforcement areas does not eliminate the need to respond to complaints filed with NCCD for substandard housing. The number of complaints generated from a proactive area may be reduced, but not eliminated. The public has a reasonable expectation that the City will respond to a complaint regarding an alleged violation.

Rental Unit Tax

The Rental Unit Tax is being proposed to finance recommendations of this report. The Tax is currently deposited in the City's General Fund. Receipts from collection of the Tax were \$5.1M in FY01 and \$4.9M in FY02. The Rental Unit Tax is assessed as follows:

Residential Rentals

# of Units	Base Rate	Rate per Unit
1-10	\$50	\$5
11-100	\$57	\$9
101+	\$150	\$8

* Information is from San Diego Municipal Code Section 31.0301 (b)

Hotels and Motels

# of Units	Base Rate	Rate per Unit
1-250	\$50	\$5
251+	\$57	\$9

* Information is from San Diego Municipal Code Section 31.0301 (c)

RECOMMENDATION- CODE ENFORCEMENT

- Responsive code enforcement on substandard multi-family housing with adequate resources to ensure that all serious complaints are field investigated within 72 hours, including targeted code enforcement in certain communities based on their observation of high concentrations of noted violations;
- Make reports available to residents in timely fashion;
- Dedicated code officers for substandard multi-family housing with regular inspections of substandard buildings;
- Give the City Attorney's office sufficient resources to aggressively pursue repeat violators of code enforcement laws;
- Educate landlords and tenants by distributing information in utility bills for renters, Business license tax bills for landlords/resident managers/property managers, and in Notice of Code Violations; and
- Begin tracking disability issues.

Currently, code enforcement is primarily complaint-driven. Code enforcement capacity should be expanded to allow for more responsive efforts than are currently possible and with code enforcement dedicated solely to investigate complaints of sub-standard rental housing. This would enable an aggressive campaign against the worst landlords with the support of the City Attorney's office.

Code enforcement capacity should be expanded to allow for proactive and aggressive efforts. The department should be expanded, with code officers dedicated solely to sub-standard housing. Enable an aggressive campaign against the worst landlords to be mounted, with the support of

the City Attorney's office. The City Attorney's office should be empowered/required to prosecute property managers and property owners who fail to meet health and safety requirements. Further, the City Attorney could implement punitive mechanisms to include mandatory property management and building maintenance training for repeat offenders and even require appointed third-party property managers for the worst cases.

Fiscal Implications:

\$1M of the Rental Business Tax should be dedicated through a Council Policy to fund efforts.

Staffing Implications:

Neighborhood Code Compliance should be given an addition 4 FTE's in order to mount a campaign against the most egregious slumlords and then reevaluate yearly.

The City Attorney's Office should receive sufficient funding for 2 full-time attorneys and 2 investigative positions.

(Approved by the Committee 6-0)

Code Violation Penalties

Neighborhood Code Compliance and the City Attorney's office utilize a wide variety of penalties to enforce local, state, and federal regulations. The following is a brief summary of methods used by both departments:

Monetary fines are assessed administratively or judicially for Code Violations. These fines are assessed against the property owner. The fines are deposited into the Code Enforcement Fund. The fund pays for staff training and education in addition to equipment and supplies needed for enforcement activities. It is important to emphasize that NCCD's goal is to gain compliance and ensure the health and safety of the occupants and the public. It is sometimes necessary to levy fines in order to bring the property into compliance, recover investigative costs and deter future violations.

A reinspection fee is assessed to the property owner on the third and subsequent inspection to verify compliance. The current reinspection fee for a Combination Inspector is \$52.00. NCCD is evaluating the current fee structure and will revise the fee schedule to reflect changes in personnel and non-personnel expenses accordingly.

There are two types of administrative fines that can be assessed against a property owner who fails to correct the violations voluntarily: administrative citations and civil penalties. Fines which are not immediately paid by the owner are referred to the City Treasurer for collection via Small Claims actions or referred to the City Attorney's Office to file a civil lawsuit.

Administrative citations are assessed incrementally, starting with \$100.00, \$250.00 up to \$500.00. Administrative citations are applicable to minor violations that can be easily corrected. The amount of the penalty provides an incentive to the property owner to make the repairs rather than pay a monetary penalty and also pay for the repairs. Approximately \$37,800 was collected in FY 2002 and over \$35,300 has been collected thus far in FY 2003. These amounts include penalties for building and housing code violations and are levied under the authority of San Diego Municipal Code, Section 12.0901 et. seq.

Civil penalties are assessed by the Hearing Officer against the property owner. The amount of the penalty is based on several factors. These factors include the duration and seriousness of the violation, the good faith effort by the property owner and the economic impact of the penalty on the property owner. Civil penalties can accrue at a maximum of \$2,500 per day per violation up to a maximum of \$250,000 (effective June, 2003). Approximately \$22,000 was collected in FY 2002 and almost \$23,000 has been collected thus far in FY 2003. These amounts include penalties for building and housing code violations and are levied under the authority of San Diego Municipal Code, Section 12.0801 et. seq.

Fines are also assessed judicially. Cases that are referred to the City Attorney's Office are prosecuted either civilly or criminally. These fines take into account the seriousness of the violation and the impact of the violation on the community. The judicial actions also recoup investigative costs incurred by the City. The City Attorney's office reports that an appropriate result in a court action might be lower fines in lieu of other more meaningful sentencing terms. City Attorney's office records show that approximately \$100,000 in judicial fines and investigative costs were collected since January 2002 in cases involving substandard housing violations.

For the most egregious violators, Sections 17274 and 24436.5 of the California Revenue and

Taxation Code provide, in part, that a taxpayer, who derives rental income from housing determined by the local regulatory agency to be substandard for over six months, cannot deduct interest, depreciation or property taxes from state personal income tax. NCCD sends the substandard notices to the Franchise Tax Board if the property is not in compliance within six months. Property owners may appeal the notices to the City's Housing Advisory and Appeals Board.

In addition to the above monetary penalties, other remedies may used, including: attendance of the San Diego Police Department's landlord/tenant training; and/or the requirement to retain a property management company. The City Attorney may also request the court to:

- appoint a receiver to make necessary repairs or secure rehabilitation loans;
- order the sale of the property due to the owner's inability to manage the property; and/or,
- stay fines so that the owner has the cash-flow to make immediate repairs under the Court's supervision.

RECOMMENDATION- CODE VIOLATION PENALTIES

Neighborhood Code Compliance would increase fees for repeated inspection of rental properties where violations had not been corrected or in the case of multiple different violations within a defined period of time, to ensure cost recovery. Code Enforcement should charge the property owners for all related costs associated with the inspection of the rental property and assess an additional punitive fee, through a change in the Municipal Code. In addition, the City could mandate that outside property managers be hired to handle the property in question.

Fiscal Implications:

Additional staff would be needed to effectively pursue the assessment of penalties; however, additional staffing would be cost recoverable.

(Committee vote, 6-0)

Tenant Notice

Civil Code section 1946.1 of State Law requires that landlords give tenants that have maintained occupancy for at least one-year 60-days notice to vacate. For tenancies of less than one year, 30 days notice is required. Tenants must be given 60-days notice for any rent increase over 10%. No specific reason is required to be given by Landlord to remove a tenant or raise rent; however, all State and Federal laws must be complied with.

RECOMMENDATION- GOOD CAUSE TERMINATION OF TENANCY ORDINANCE

Good cause eviction controls protect renters by ensuring that landlords cannot arbitrarily terminate tenancies. The committee proposes a Good Cause Termination of Tenancy ordinance for all residents whose tenancy period exceeds 24 months with the following proposed language:

"To terminate any periodic tenancy of at least two years in duration pursuant to California Civil Code § 1946, the lessor must serve, pursuant to California Code of Civil Procedure § 1162 or California Civil Code § 1946, a written notice stating good grounds upon which the lessor, in good faith, seeks to recover possession. If such statement of good grounds be controverted, the lessor shall establish its truth at the trial or other hearing."

While the controls provide protections for renters, landlords retain the right to terminate a tenancy for any reason which is not "bad faith" or for unlawful intentions or reasons. Renters will also benefit by knowing in writing the reasons that the landlord is seeking to terminate the tenancy so that they can begin a dialogue to resolve any issues short of actually vacating or at least learn the reasons so that they can ensure the same issues do not occur again.

The Renter/Landlord Resource Center could begin to publicize the new ordinance. Landlords could give renters information upon move-in.

(Committee vote 3-2, Cohen absent. Note: Griswold prefers the ordinance apply after a 2-year tenancy period as he feels that landlords would not offer a 12-month lease and/or be inclined to immediately terminate a tenancy for any minor problems that surface in the first 11 months to avoid being subject to this ordinance. This would lead to a lack of stability in the rental market and be detrimentally for both tenants and landlords. Whereas, tenants with the 2+ years in tenancy would have additional rights and thus would be inclined to remain tenants rather than change locations for the latest rental special or concession. The increased stability of a 2-year tenancy would benefit both renters and landlords and their entire communities. Note: Task Force vote change term of tenancy from one year to two years.)

RECOMMENDATION- RENTER/LANDLORD INFORMATION AND REFERRAL

The City should provide improved access to pertinent information regarding renter/landlord rights and referrals to existing mediation, counseling, and other sources of information for both tenants and landlords.

The “Housing Czar” position, as proposed by Committee 2, will coordinate efforts, including the development of informational brochures that will be accessed at Neighborhood Community Centers, libraries, and other relevant public facilities and community-based non-profits providing social services.

In addition, information on where these services are available should be included in all leases for publicly funded projects.

Fiscal Implications:

The program should be funded by the existing Rental Business Tax, which is currently deposited in the General Fund.

(Item changed in Task Force, not voted on in committee)

Preservation Issues

Single Room Occupancy Hotel Regulations

The City's SRO Hotel Regulations are found in Municipal Code Section 143.0510 et. al. The Ordinance has two major provisions; tenant relocation and housing replacement.

The Ordinance requires that landlords pay qualified tenants relocation assistance equal to 2 months rent plus \$10 per month for each month of occupancy over 90 days up to \$210.

In addition, a landlord would be required to replace SRO rooms that were removed from supply through one of three methods: 1) construction of new SRO rooms (one for one replacement); 2) conversion or rehabilitation of a property to replacement lost stock (one for one replacement); or 3) payment of a mitigation fee equal to 50% of the cost of replacement of units based on current development costs.

RECOMMENDATION- SINGLE ROOM OCCUPANCY HOTEL REGULATIONS

Amend the existing Preservation ordinance to require that SROs constructed prior to 1990 must do the following when proposing demolition or change of use:

- At least 6 months relocation assistance for senior, disabled or low-income tenants; and,
- One for one replacement of equivalently affordable units, replacement does not have to be in downtown; or,
- In-Lieu fee of 100% of the cost of replacement of the converted or demolished units.

Create a regulatory environment that gives incentive to construction of new housing serving SRO residents.

(Committee vote, 6-0)

Condominium Conversion Regulations

The City of San Diego does not currently regulate the conversion of apartments to condominiums. The ability to regulate condominium conversion is limited locally due to the State Subdivision Map Act. Most recently constructed apartments received their subdivision approvals prior to development and are therefore exempt from any local regulation. The act of conversion in these situations is simply a change of tenure type from rental to ownership.

Local regulations would only apply to condominium conversions in which the conversion includes a subdivision of the units for purposes of individual sale. State Condominium Conversion Law, section 66427.1 of the Government Code gives certain rights to a tenant of a unit to be converted. Tenants are required to be given 180-days written notice of intention to convert prior to termination of tenancy. In addition, each tenant must be given at least 90-days notice of an exclusive right to contract for the purchase of the unit under the same or better terms that such unit will be offered to the general public.

RECOMMENDATION- CONDOMINIUM CONVERSION REGULATIONS

The following requirements should be applied to all unmapped (per State Map Act) condominium conversions:

- Apply 10% inclusionary housing requirements on condo conversions.
- Relocation assistance for seniors, disabled, and low-income households.
- Require compliance with:
 - Property must meet building and zoning requirements at the time it was built
 - Plumbing, mechanical, electrical systems must be in good working order
 - Roof systems must be inspected by a licensed contractor, or home inspector
 - Walls and roof should have some insulation, or meet title 24 at the time of construction
- Downpayment assistance for tenants to encourage homeownership.

(Approved by the Committee 6-0)

RECOMMENDATION- LEGISLATIVE EFFORTS

Council should direct legislative staff to pursue and/or support the following issues:

Credit Reporting

Pursue legislation that would require credit reporting agencies make copies of a tenant credit reports available to landlords for a specified amount of time, to eliminate the duplication of credit report charges.

Pursue legislation that would prevent “unlawful detainer” labels on tenant credit reports when the eviction case has been dismissed. This would prevent an erroneous opinion that they are renters that the apartment industry would not want to rent to.

School Construction

Pursue State legislation that would require the School District to replace the housing that is demolished to make way for the construction of new schools.

(Approved by the Committee 6-0)

Other Recommendation

Currently, the Centre City Development Corporation (CCDC) is updating the Community Plan for downtown San Diego. CCDC has developed three alternatives to guide the future growth and redevelopment of downtown. The number of housing units included in each alternatives ranges from 26,000 to 42,000 units in the next 20 years.

RECOMMENDATION- DOWNTOWN COMMUNITY PLAN UPDATE

The Task Force recommends that CCDC and the Redevelopment Agency chose the development alternative that includes the highest number of housing units, Scenario 1. This Scenario would include a total of 42,000 new housing units. The Task Force recommends that a minimum of 38% of this housing be affordable at or below 80% of the Area Median Income, a strong emphasis on family housing. This amount would be consistent with the need number identified by the Task Force.

(Item changed in Task Force, not voted on in Committee)