

**SUBJECT: AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD AMENDING TITLE 17 OF THE WEST HOLLYWOOD MUNICIPAL CODE RELATING TO A REPEAL OF THE FREEZE ON RENT INCREASES, LIMIT ON THE ANNUAL GENERAL ADJUSTMENT, BAD FAITH RENT INCREASES AND THE EXEMPTION OF NO-COST INTERIM OR TRANSITIONAL HOUSING FOR PEOPLE EXPERIENCING HOMELESSNESS**

**PREPARED BY: HUMAN SERVICES & RENT STABILIZATION DEPARTMENT**  
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**CITY ATTORNEY'S OFFICE**  
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**STATEMENT ON THE SUBJECT:**

The City Council will consider a proposed ordinance that would amend the Rent Stabilization Ordinance (RSO) to repeal the existing COVID-19 related rent increase freeze effective March 1, 2023, cap the annual general adjustment at three percent, protect tenants from bad faith rent increases, and clarify an exemption for interim or transitional housing for people experiencing homelessness.

**RECOMMENDATION:**

Staff recommends the City Council introduce the following Ordinance on first reading: Ordinance No. 22- \_\_\_\_\_: "AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD AMENDING TITLE 17 OF THE WEST HOLLYWOOD MUNICIPAL CODE RELATING TO A REPEAL OF THE FREEZE ON RENT INCREASES, LIMIT ON THE ANNUAL GENERAL ADJUSTMENT, BAD FAITH RENT INCREASES AND THE EXEMPTION OF

NO-COST INTERIM OR TRANSITIONAL HOUSING FOR PEOPLE EXPERIENCING HOMELESSNESS.”

## **BACKGROUND / ANALYSIS:**

### *Summary*

On August 15, 2022, the City Council directed staff to return with an item capping future annual general adjustments (AGA) at three percent in lieu of the current seven percent cap. In addition, the City Council requested that staff return with a date certain for ending the freeze on rent increases for rent stabilized units that is in place as a part of the measures established to protect tenants during the declared local emergency. The City Council further directed staff to engage in outreach to assess the ongoing effects of the COVID-19 pandemic, and how the revised AGA cap and end to the rent increase freeze would impact tenants and landlords.

This item addresses City Council’s direction and also presents for consideration additional amendments to the RSO related to protection for tenants against bad faith rent increases and a clarifying exemption from the RSO’s provisions for interim or transitional housing for people experiencing homelessness.

### *End to Rent Increase Freeze*

On August 15, 2022, staff sought further direction related to the ongoing rent increase freeze for rent stabilized properties. The City Council requested staff to return with a proposed date for ending the freeze in the first half of 2023. As it currently stands, the rent increase freeze is in place pursuant to Urgency Ordinance No. 20-1103U through sixty (60) days following the end of the declared local emergency. Given that the end of the declared emergency is uncertain, and in light of the changing nature of the impacts of the pandemic on the economy and daily life, the City Council agreed that a definitive end date for the freeze is timely and appropriate. The City Council, however, agreed that a reasonable amount of lead time before the freeze ends would be equitable so that tenants could have sufficient notice of the change to the law and the likelihood of a rent increase following the freeze period.

In light of the City Council's comments and direction, staff is recommending that the rent increase freeze end effective March 1, 2023. This date is recommended because it marks nearly three years since the rent freeze went into effect, is sixty days after the Los Angeles County COVID-19 related protections are set to end, and allows adequate time for staff to alert the community of the change.

### *Three Percent Cap on AGA*

The current limit on the AGA is seven percent. This limit was implemented with the original adoption of the RSO at the time of the City's incorporation. At that time, however, vacancy controls were permitted, and the City limited vacancy-based increases to ten percent upon application. Since that time, the Costa-Hawkins Rental Housing Act was enacted, which preempts local vacancy controls, and landlords may set initial rents at the prevailing market rate. Given market conditions, new rental rates have far outpaced inflation since the City's founding. As such, landlords have been able to realize a just and reasonable return because of the AGA (which never exceeded 4.00% in the City's history)<sup>1</sup> that may be applied without application to existing tenancies and due to the right to set market rents for new tenancies. The fact that landlords generally obtain a just and reasonable return is borne out by the paucity of rent adjustment applications filed by landlords since Costa-Hawkins' enactment.

City Council directed staff at its August 15, 2022 meeting to return in sixty days with a revised cap on the AGA of three percent. This represents the higher end of the AGA historically, will likely provide landlords with sufficient annual increases on existing tenancies to enjoy a just and reasonable return, and in conjunction with the end of the rent freeze, ensure that tenants are not hit with a historically unprecedented rent increase.<sup>2</sup> Other California jurisdictions have set similar annual adjustment caps.<sup>3</sup> Importantly, any landlord who believes they are not receiving a just and reasonable return

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<sup>1</sup> See Attachment "D".

<sup>2</sup> As noted in staff's report of August 15, 2022, the announced AGA for September 1, 2022 through August 31, 2023 would be 6.00% were it not for the rent increase freeze. This is the highest AGA announced in the City's history.

<sup>3</sup> Antioch and Santa Ana have recently adopted 3% caps. Bell Gardens and Pomona have recently adopted 4% caps. Santa Monica has ordered a measure onto the November 8, 2022 ballot that, if passed, will amend the City Charter to cap the annual adjustment at 3%.

are still able to file a rent adjustment application.

### *Prohibition of Bad Faith Rent Increases*

On June 27, 2022, the City Council directed staff and the City Attorney to research and analyze policies to strengthen renters' access to housing opportunities. Staff considers this an ongoing directive, and will provide further amendments to the RSO in coming months.

An important element in strengthening renters' access to housing opportunities is to ensure that tenants are not displaced through any bad faith actions of their landlords, and this must include those tenants that have no rent control protections.

In the past, some landlords have circumvented the eviction protections for tenancies not subject to rent control by increasing rents to unreasonable levels relative to market conditions. This, obviously, has been a means of forcing tenants out.

In January 2019, San Francisco set out to tackle this problem by enacting an amendment to its Rent Stabilization and Arbitration Ordinance that would make bad faith rent increases of non-stabilized units a misdemeanor. The amendment was challenged by landlords' groups. Earlier this year, the ordinance amendment was upheld by the Court of Appeal.

In order to ensure that non-rent stabilized tenancies are further protected, and that these tenants are not displaced through bad faith efforts to circumvent authorized grounds for eviction, staff is recommending that the City Council enact an amendment to the RSO that tracks the protections provided in San Francisco's code.

### *Exemption of Interim or Transitional Housing for People Experiencing Homelessness*

There are efforts underway to bring interim/transitional housing for people experiencing homelessness in the City. While this type of no-cost, temporary housing would inherently preclude a finding of a tenancy, staff believes it is necessary to affirmatively indicate that this type of housing is exempt from the RSO. Therefore, staff recommends an exemption category be added to the RSO for "Interim or Transitional Housing for People Experiencing Homelessness."

### *Conclusion*

For the foregoing reasons, staff recommends that the City Council adopt the proposed ordinance presented herein at Attachment “A”.

## **CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST**

### **HOLLYWOOD GENERAL PLAN:**

This item is consistent with the Primary Strategic Goal(s) (PSG) and/or Ongoing Strategic Program(s) (OSP) of:

- PSG-2: Affordable Housing.
- OSP-2: Institutional Integrity.

In addition, this item is compliant with the following goal(s) of the West Hollywood General Plan:

- H-1: Provide affordable rental housing.
- H-6: Promote equal access to housing for all.

### **EVALUATION PROCESSES:**

Staff will monitor feedback from landlords and tenants, including filings of rent adjustment applications, if any, to determine the impacts of the end of the rent increase freeze and AGA cap. Based on responses from landlords received in the outreach efforts and survey noted in the “Community Engagement” section below, staff will monitor any spike in Ellis Act removals following the end of the protection from no-fault evictions covered by the County’s Tenant Protection Resolution set to expire on December 31, 2022 relative to prior timeframes.

With respect to the provision related to bad faith rent increases, staff will ascertain its effectiveness as drafted in the event enforcement action becomes necessary.

## **ENVIRONMENTAL SUSTAINABILITY AND HEALTH:**

N/A

## **COMMUNITY ENGAGEMENT:**

As part of its direction to staff, the City Council requested outreach to assess the ongoing effects of the COVID-19 pandemic, and how the revised AGA cap and end to the rent increase freeze would impact tenants and landlords. Therefore, staff created a survey in both paper and electronic form that was advertised through a newsletter, a press release and social media. Survey results are included here at Attachment "C". Staff also held the following in person events to obtain further impacted community feedback:

**Virtual outreach meetings** held via the Zoom platform:

- **For Tenants:** Tuesday, September 27, 2022 at 7 p.m.
- **For Landlords:** Wednesday, September 28, 2022 at 7 p.m.

**In-person outreach meetings** took place at the Community Center at Plummer Park:

- **For Tenants:** Thursday, September 29, 2022 at 7 p.m.
- **For Landlords:** Tuesday, October 4, 2022 at 7 p.m.

**Drop-ins** with City Rent Stabilization Division staff were offered in a pop-up spot for tenants and landlords at the Helen Albert Certified Farmers' Market at Plummer Park on Monday, September 12, 19 & 26, 2022 from 9 a.m. to 2 p.m.

In addition, an item related to the outreach efforts were presented to the Rent Stabilization Commission at its September 22, 2022 meeting.

The amendments to the RSO related to bad faith rent increases and the exemption of interim/transitional housing were presented to the Rent Stabilization Commission at its August 25, 2022 meeting. The Commission recommended these amendments for approval by the City Council.

In the event that the City Council adopts the items set forth, staff will again reach out to impacted tenants and landlords via special mailings, newsletter, press release and social media. The public will also be informed at the Rent Stabilization Commission's earliest

regular meeting. Special consideration will be given to any changes to the rent increase freeze and annual rent increase cap.

**OFFICE OF PRIMARY RESPONSIBILITY:**

HUMAN SERVICES & RENT STABILIZATION DEPARTMENT / RENT  
STABILIZATION DIVISION

**FISCAL IMPACT:**

None at this time. Staff will incorporate activities related to this item into currently budgeted work plans.

**ATTACHMENTS:**

Attachment A – Ordinance No. 22- \_\_\_\_\_: “AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD AMENDING TITLE 17 OF THE WEST HOLLYWOOD MUNICIPAL CODE RELATING TO A REPEAL OF THE FREEZE ON RENT INCREASES, LIMIT ON THE ANNUAL GENERAL ADJUSTMENT, BAD FAITH RENT INCREASES AND THE EXEMPTION OF NO-COST INTERIM OR TRANSITIONAL HOUSING FOR PEOPLE EXPERIENCING HOMELESSNESS.”

Attachment B – Redline of Proposed Ordinance

Attachment C – Survey Results

Attachment D - History of Annual General Adjustments in the City (1985-2021)