DATE: January 5, 2023

TO: Honorable Mayor Paulson and the Larkspur City Council

FROM: Dan Schwarz, City Manager

SUBJECT: WORKSHOP TO REVIEW RENT REGULATION, RENTAL ASSISTANCE, AND EVICTION PROTECTIONS

ACTION REQUESTED

Receive the reports of the Council’s Ad Hoc Committee on Rent Stabilization (Paulson/Haroff) and Ad Hoc Committee on Rental Assistance (Candell/Way), and discuss rent regulation, rental assistance, and eviction protections. Provide direction to staff on whether to prepare ordinance(s) and schedule a public hearing.

SUMMARY

For much of the latter part of calendar year 2022, the City Council, through ad hoc committees and workshops, has been studying the issues of rent regulation, rental assistance, and eviction protections. Both ad hoc committees have sufficiently fulfilled their charges to report now to the entire Council and the public and begin discussing whether the Council should take any action. The Ad Hoc Committee on Rent Stabilization is recommending that the Council consider an ordinance that would add local regulations to statewide rent stabilization and eviction protections laws. The Ad Hoc Committee on Rental Assistance reviewed various assistance options, including the privately-funded, means-based assistance program offered by Prime Residential to Skylark residents; the Committee believes this approach has merit and may be a better solution at this time, but recognizes that means-based programs may not help some of the members of the public who have addressed the Council in recent months.

BACKGROUND

Prior staff reports contain additional details and information and should be considered incorporated by reference.

RENT REGULATION

Rent stabilization (often called “rent control”) ordinances are the most common form of rent regulation. These ordinances establish a ceiling (or maximum amount) by which the rent of a residential unit may be...
increased in a given period of time. Local jurisdictions that control land use are allowed to create rent stabilization regulations as a form of police power, meaning that the local jurisdiction has determined that rent stabilization is needed to protect the health and welfare of the community. Rent stabilization is perceived as a tool to protect tenants from displacement. Creating a ceiling on rent increases gives tenants greater certainty about their cost of living as it relates to housing.

Courts have been clear that the owners of rental property are entitled to a “fair rate of return.” Landlords are entitled to cover their costs plus make a profit. Accordingly, any ceiling placed on annual rent increases must be sufficient to ensure a fair rate of return or the jurisdiction must provide a regulatory scheme and guidelines for the landlord to exceed the ceiling. While most rent regulation structures require the landlord to seek approval to exceed the ceiling, others require tenants to petition for review of an increase. These applications and petitions require evaluation and, sometimes, adjudication. Most jurisdictions rely on an appointed or elected board or commission, usually called a “rent stabilization board,” to resolve disputes and make determinations. Some jurisdictions retain an arbitrator for this purpose.

The ability for local agencies to adopt rent regulations is limited by state law. The Costa-Hawkins Rental Housing Act (1995) introduced three limitations. First, it exempted certain types of rental units from local rent stabilization (most notably single-family homes and condominiums). Second, it exempted units built after the February 1, 1995, effective date of the Act. Third, it prohibited “vacancy control.” Vacancy control refers to regulating the amount a landlord may charge for a new lease of a vacant unit. Under Costa-Hawkins, when a unit becomes vacant, a landlord is not restricted in the amount of rent charged in a new lease.

Rent stabilization is in effect in Larkspur today. The Tenant Protection Act (2019) introduced rent stabilization on a statewide basis. The Act established a rent ceiling of five percent (5%) plus inflation (local Consumer Price Index), with a maximum of ten percent (10%). The current spike in the inflation rate has resulted in a ceiling of 10%. From 2000 to 2020, the average Consumer Price Index (CPI) increase was closer to 2%.

Among the notable features of the Act are that it applies to units that are more than fifteen years old,1 and it applies to single family homes and condominiums if those units are owned by a real estate trust or a corporation.2 In this respect, the Act expands its reach beyond what local ordinances are allowed under the Costa-Hawkins Act. Missing from the Act is a provision for seeking a fair rate of return, suggesting that the Legislature felt the ceiling in the Act was sufficient to protect this landlord interest. The Act sunsets on January 1, 2030.

Establishing the Annual Rent Increase Ceiling

Perhaps the most significant component of a rent stabilization ordinance is the establishment of a rent increase ceiling – the most rent can increase in a given period. Some ordinances define the ceiling as a fixed percentage, while other ordinances define the ceiling using a formula based on CPI (##% of CPI) or a fixed number, whichever is lower. The challenge is to determine a rent increase ceiling that the tenant can afford while ensuring that the landlord realizes a fair rate of return. Many ordinances that use a formula set the percentage of CPI within the range of 50-75% and the fixed number in the range of 3-5%.

The rent increase ceiling can be exceeded when a landlord incurs qualifying costs that can be passed to the tenant. Two of the more recently adopted ordinances, Bell Gardens and Oxnard, offer different approaches to the consideration of these qualifying costs. The Bell Gardens ordinance provides greater detail about qualifying expenses and establishes a single-year ceiling of five percent (5%) on pass-through

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1 The fifteen years provision is a “rolling” determination, meaning that a unit that is ten years old today will fall under the Act in five years.
2 Local jurisdictions remain subject to the Costa-Hawkins Act and its restrictions.
costs (allowing for a longer amortization period if the landlord hits this ceiling). The Oxnard ordinance takes a more case-by-case approach to the review of qualifying expenses (within guidelines).  

*Should it desire to consider an ordinance, the Council must decide what is a fair rent increase ceiling for both the tenant and the landlord.* At Larkspur’s public meetings on this topic, many speakers have suggested that the Council establish 60% of CPI or 5%, whichever is lower.

**Code Interpretation and Enforcement**

Rent stabilization ordinances assign responsibility for interpretation and enforcement of the ordinance to staff. A majority of ordinances task landlords with applying for approval to exceed the rent increase ceiling. For example, if a landlord believes the rent increase ceiling will prevent realization of a fair rate of return, the landlord must submit an application for evaluation. Depending on how the ordinance is structured, the application might be subject to ministerial approval or it may go before a rent stabilization board or commission. Other provisions of the rent stabilization ordinance are treated similarly.

An alternative approach, sometimes distinguished from rent stabilization with the name “rent review” or “rent dispute resolution” is found in communities like Fremont and Los Gatos. The ordinances in these communities include key elements of rent stabilization, such as a rent increase ceiling, but shift the mechanics of code enforcement away from regulation by staff and toward conflict resolution by the involved parties. In this model, landlords must provide notice to tenants that conditions warrant raising rent above a rent increase ceiling. If tenants do not agree with the justification provided in the notice, they can petition for conflict resolution. This process usually begins with mandatory mediation. If mediation fails to resolve the dispute, the parties must submit to binding arbitration through a hearing. In the case of Fremont, the hearing is conducted by a five-person board that includes two tenants, two landlords, and a neutral third-party. In Los Gatos, a hearing officer is appointed.

It might be argued that the Tenant Protection Act is more in line with this alternative approach, as the Act requires tenants to challenge violations of the Act through a legal proceeding.

*Should it desire to consider an ordinance, the Council will need to decide how code interpretation and enforcement should be conducted.*

**RENTAL ASSISTANCE**

Rental assistance is an umbrella term for programs designed to help renters pay their rent. While most of these programs are government funded, there are examples of privately funded programs. Rental assistance is often described as a method to diversify the socio-economic make-up of the tenant population by helping participants pay for the rent of units they would otherwise be unable to afford.

Perhaps the most widely known rental assistance program available to qualifying Larkspur residents is the federally funded “Housing Choice Voucher Program,” commonly referred to as “Section 8.” Section 8 is an example of direct assistance to the renter, as the voucher effectively has cash value that the recipient can spend on rent. At various times, there have been other direct assistance programs offered by state and county-level agencies. Direct assistance programs are more commonly operated at these levels because these agencies have access to monies restricted for this purpose. Most California cities, including Larkspur, would need to draw upon unrestricted dollars that are needed for day-to-day operation and the provision of citywide services.

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3 The Bell Gardens ordinance allows an additional rent increase of up to three percent (3%) per year for units that are more than eighty percent (80%) below fair market value. This is a unique provision that may prove an outlier or a new approach to addressing rent disparities.
Like many cities, Larkspur provides indirect rental assistance by supporting the development of affordable housing for rent. This indirect assistance is in the form of assistance at the time of development and in the foregoing of the tax revenue potential of the property in question. These contributions help maintain the affordable units over time.

Rental assistance can be offered privately and is sometimes offered through a landlord or third-party. When the program is offered through the property owner, it typically comes in the form of a reduced rent.

If the Council is interested in providing rental assistance in Larkspur, it will need to decide if the assistance would come through a government or non-profit organization or by working directly with tenants and landlords.

**EVICITION PROTECTIONS**

Many communities consider eviction protections in conjunction with rent stabilization, as there is concern that in the absence of regulations governing the reasons why a tenant can be evicted, landlords facing rent stabilization restrictions will evict tenants in order to raise rents to market rate. In some respects, the scope of this review changed with the passage of the Tenant Protection Act in 2019, as protections from eviction without cause are now state law. Under the Act, the following are the “at fault just cause” reasons why a tenant may be evicted:

- Non-payment of rent;
- Breach of a material term of the rental agreement that has not been corrected after written notice under CC §1161(3) (the new law requires the landlord to serve an additional 3-day notice to quit after the cure period is passed);
- Maintaining or committing a nuisance as described in CC §1161(4);
- Maintaining or committing waste as described in CC §1161(4);
- Termination of the rental agreement without renewal (i.e. the tenant refuses to sign a written extension or renewal after written request or demand from the owner);
- Criminal activity by the tenant;
- Unapproved subtenant;
- The tenant has refused to give the landlord access to the unit as permitted by law;
- Illegal use of the unit;
- Failure to vacate after termination of employment or agency as described in CC §1161(1); and
- Failure to deliver possession after the tenant provides written notice of intent to vacate or makes a written offer of surrender that is accepted by the landlord.

In addition, under the Act there are four “no-fault just cause” reasons that a tenant can be evicted:

- The owner, spouse, domestic partner, children, grandchildren, parents or grandparents intends to occupy the unit. For new or renewed leases entered into on or after July 1, 2020, the tenant must agree to this in writing.
- Withdrawal of the unit from the rental market.
- Compliance with a government or court order or local ordinance that necessitates vacating the premises.
- Demolition or substantial remodel of the unit.

The statute provides for relocation assistance—equal to one month of rent—in the event of a no fault just cause eviction.
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Some communities choose to eliminate or restrict the ability of landlords to use these no-fault provisions of the Act. Some communities choose to increase the amount of relocation assistance that must be paid to use them, regardless of whether they further restrict a landlord’s ability to use these causes.

Should the Council wish to consider an ordinance about eviction protections, it will need to decide whether local regulations should mirror those in state law or add restrictions about the “no fault” causes currently allowed under the Tenant Protection Act.

ANALYSIS

RENT STABILIZATION

Public policy begins with a straight-forward question. Is there a problem that requires a solution?

Straight-forward questions do not always have straight-forward answers and that is the case with rent stabilization and eviction protections. The Tenant Protection Act provides rent stabilization and eviction protections to Larkspur residents. The question is whether despite statewide law, the health and safety of the Larkspur community is sufficiently threatened to warrant local regulation. Certainly, rent stabilization as a topic invites broader discussion about the right to housing, but the Council’s authority to implement rent stabilization rests on making a finding that there is a threat to health and safety.

Throughout its review of this issue, the Council and its Ad Hoc Committee on Rent Stabilization have heard from speakers that the Tenant Protection Act is not sufficient and local regulation is needed. Nearly all of these speakers are tenants of the Skylark Apartments or advocates for rent stabilization. Most tenants have stated that while they were able to absorb the 2022 rent increase allowed under the Tenant Protection Act, future rent increases of a similar magnitude will force them to move. Framed in this light, the concern becomes whether the community faces the displacement of significant numbers of its residents.

The Ad Hoc Committee on Rent Stabilization and staff have focused on whether there is a threat of displacement. Two factors have confounded the analysis. First, few tenants from properties other than Skylark Apartments have stated there is a problem with state law. Local regulation must be citywide, raising the question of whether a threat of displacement exists throughout the community or only at one apartment complex. Second, the preponderance of evidence is qualitative. Staff spoke with several landlords and none reported a significant increase in the number of tenants choosing not to renew their leases – including the landlord for Skylark. Speakers have said that they feel threatened and will be displaced without local regulation, but that they have been paying their increased rent.

After weighing the feedback of stakeholders and public speakers, the Committee’s conclusion is that the fear of displacement is genuine and that this fear is a threat to the health of the community. Although the Council and Committee have heard mostly from tenants of Skylark Apartments, the Committee heard from enough tenants of other properties to believe this concern exists elsewhere in the community. The Committee believes local regulation can help alleviate this fear and remove this threat.

Through a forum and several stakeholder meetings, the Committee and staff heard from Larkspur’s landlords. This group includes large, corporate owners, local management companies, and sole-proprietors. Most landlords reported that they raise rents an average of 1 or 2% per year (or 18 months). Sometimes, repairs and other investments in the property warrant more of an increase. The landlord community is concerned that local regulation will take away the flexibility to deal with these situations. The Committee believes that local regulations should be structured to allow landlords the flexibility they need.

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4 Most of the landlords who stated they raise rents 1-2% annually have owned their properties for some time. They are not dealing with the cost of acquisition and associated taxes that more recent entries into Larkspur must address.
Additionally, several landlords reported working with tenants to keep them in their homes through difficult economic circumstances. Some of these landlords have defined lines of communication between tenant and property management. This feedback underscores a distinction between the Tenant Protection Act and many local ordinances. The Tenant Protection Act lacks any mechanism to force communication between tenant and landlord — communication that might result in a mutually acceptable outcome. For some tenants, approaching the landlord to discuss rent can be difficult and intimidating. It is for this reason that many communities, including many that do not have any form of rent regulation, provide mediation and other services to help with tenant-landlord relations. The Committee believes local regulations should include mediation so that tenants and landlords might resolve their disputes themselves. To encourage resolution, binding arbitration should occur when mediation fails.

The Committee believes the impact of local rent regulations on city operations and resources needs to be as low as possible. Managing costs is important, as these costs are passed to landlords through rental registration fees and can have an upwardly impact on market rate rent. Of the two broad categories of rent regulation, rent stabilization and rent dispute resolution, discussions with several cities have led staff to believe the latter will be easier to manage and cost less. Both models require creating and maintaining a rental registry. The rent stabilization model requested by many speakers is triggered by all applications to increase rent above the amount set by ordinance. The rent dispute resolution approach is triggered only when a tenant does not accept the explanation given by the landlord for the rent increase. An attached memo from staff offers additional details and comments about the speculative cost of implementing and enforcing an ordinance.

The Committee and staff recommend preparing a rent dispute ordinance with the following general parameters:

- The City will establish a rental registry and all landlords shall be required to register units in order to offer them for rent. An annual fee will be established and charged for registration and the ongoing implementation of the ordinance.
- Rent increases of 7% or more in a 12-month period shall be subject to the ordinance.
- Landlords shall give notice of intent to increase rent by 7% or more. This notice will state the reason why the landlord finds it necessary to increase the rent by this amount. The ordinance will establish a period during which the tenant can appeal the rent increase to the City.
- Upon valid appeal, the City shall refer the matter to a mediator. The parties shall then participate in mediation. If the mediation fails, the mediator shall become the arbitrator of the matter and can issue a binding ruling with regard to the rent increase.
- The ordinance will sunset on January 1, 2030.

Setting the rent increase line at 7% would align the ordinance closely to 5% plus the historical level of CPI. This line would give tenants options during periods of high inflation. In addition, it is hoped that any prospective landlord buying property in Larkspur would have modeled their acquisition pro forma around 7% since it would be approximate to the cap in most years under the Tenant Protection Act. Adding a sunset that is tied to the expiration of the Tenant Protection Act will serve to cause a review of the situation when the state is also taking up the matter in 2029 or 2030.

Staff believes it can effectively manage this approach to rent regulation through the use of third-party resources. Landlords are required to obtain a business license to operate legally in Larkspur. Staff believes the data for a rental registry can be obtained each year when the business license is filed. Through its research, staff learned that there are several organizations offering support for tenant-landlord services, including mediation and arbitration. Based on conversations with some of the cities that use the rent dispute resolution model, staff believes retaining one of these organizations would be cost effective and not require in-house resources.
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Staff also notes that the ordinance and any accompanying resolutions can be structured in a way that empowers the City Council to quickly and easily modify the amount of rent increase that triggers mediation. This approach will allow the City Council to revisit the amount if the 7% figure is not achieving intended outcomes.

*Should the Council wish to consider an alternative to the recommendation of the Committee, it should discuss the following key factors:*

- What administrative and legal approach should be used?
- What should the rent increase cap be?

*Should the Council choose not to introduce a rent increase ceiling, it might want to consider requiring mandatory mediation. There are several cities that require mandatory mediation so that there is a process available to tenants who are seeking a meeting to discuss rent with their landlords.*

RENTAL ASSISTANCE

The Ad Hoc Committee on Rental Assistance was formed to evaluate what options the City might have to support tenants through existing or new programs. Because of the concentration of public speakers from the Skylark Apartment complex, the Committee prioritized reviewing the assistance program being offered by Prime Residential and met with representatives of Prime. The details of the program are found in the attached summary. This means-based program provides a 15% discount on rent to tenants who have annual income of less than 50% of the median family income defined by the Department of Housing and Urban Development (HUD), and have rent (including utilities of water, sewer, trash and hot water) of more than 40% of their income. Program participants will have future rent increases limited to CPI.

Prime reports that 26 units have qualified for the program (as of December 21, 2022) and that as many as 58 units may qualify (based on the information Prime has in its records). During some of the public meetings about rent stabilization, Skylark tenants were asked if they had applied for and been accepted to the program. Those who were accepted did say that it is providing them with financial relief (though they still advocate for rent stabilization).

The Committee and Prime have initiated discussions about what sort of partnership might be constructed to ensure the program continues for the foreseeable future – perhaps with an expanded eligibility to broaden its reach. Prime is using widely used and accepted means-based measures, which means expanded eligibility would require agreeing to undefined standard. These discussions are in their preliminary stages and the Committee anticipates additional meetings in the coming weeks.

The Committee is also researching what a city-funded rental assistance program would entail. The County of Marin directs its funds through a third-party non-profit. A similar approach could work in Larkspur. However, the Committee is uncertain the General Fund has the capacity to make a meaningful contribution to a citywide rental assistance program.

*The Council may wish to discuss rental assistance options and provide direction to the Committee.*

EVICITION PROTECTIONS

Most of the public discussion in Larkspur has focused on rent stabilization. While staff has provided background on eviction protections so that discussion can occur, it is recommended that the City conduct outreach and hold a forum specifically dedicated to the topic before making any decision about adopting local regulations.
In considering the eviction protections as they have been structured in the Tenant Protection Act, the Council must resolve whether the four reasons for a “no fault just cause” eviction are appropriate in Larkspur or require some sort of enhancement. Other than eliminating one or more of these reasons, the Council might explore increasing the financial assistance a landlord must provide to a tenant being evicted for a “no fault” reason. Another option the Council might consider is that evicted tenants have the right to return to a unit once the qualifying reason for eviction no longer exists. Usually, the evicted tenant is able to return at the rental rate at the time of eviction, though some cities make allowances for some amount of increase if the unit was substantially upgraded.

The Council should discuss the four “no fault just cause” evictions in the Tenant Protection Act and decide if it wants to explore adding local regulations to them. If the Council determines it is inclined to consider local regulations, staff recommends scheduling a public forum dedicated to the topic.

STAFF RECOMMENDATION

Provide direction to staff regarding whether to construct an ordinance, conduct additional research, or schedule additional meetings.

Respectfully submitted,
Dan Schwarz, City Manager

Attachment
1. Staff’s preliminary estimates of implementation and enforcement costs.
2. Prime Residential Rental Assistance program for Skylark Apartment tenants.

Previous Reports and Meetings

9/21/2022: REPORT FROM RENT STABILIZATION AD-HOC COMMITTEE
- Agenda w/ linked public comment: http://www.cityoflarkspur.org/ArchiveCenter/ViewFile/Item/2900
- Staff Report: https://www.cityoflarkspur.org/DocumentCenter/View/15704/81-Rent-Stabilization
- Recording: https://www.youtube.com/watch?v=pBFPTsjHdY&t=586s

9/27/2022: RENT STABILIZATION AD HOC COMMITTEE TENANTS FORUM
- Recording: https://www.youtube.com/watch?v=VCDcoNmSUdY

10/5/2022: PUBLIC WORKSHOP ON OPTIONS TO REGULATE RESIDENTIAL RENT INCREASES
- Agenda w/ linked public comment: http://www.cityoflarkspur.org/ArchiveCenter/ViewFile/Item/2903
- Staff Report: https://www.cityoflarkspur.org/DocumentCenter/View/15783/81-Rent-Stabilization-Workshop
- Presentation: https://www.ci.larkspur.ca.us/DocumentCenter/View/15826/81-Presentation
- Recording: https://www.youtube.com/watch?v=23aFOALn3SY&t=3258s

10/17/2022: RENT STABILIZATION AD HOC COMMITTEE LANDLORDS FORUM
- Recording: https://www.youtube.com/watch?v=LbPYYpjZyQ

10/19/2022: OPTIONS TO REGULATE RESIDENTIAL RENT INCREASES
- Agenda w/ linked public comment: http://www.cityoflarkspur.org/ArchiveCenter/ViewFile/Item/2908
- Staff Report: https://www.cityoflarkspur.org/DocumentCenter/View/15866/81-Rent-Stabilization
- Recording: https://www.youtube.com/watch?v=51XS69_7DI8&t=1066s

11/2/2022: UPDATES FROM AD-HOC COMMITTEES ON RENT STABILIZATION AND RENTAL ASSISTANCE
- Agenda w/ linked public comment: http://www.cityoflarkspur.org/ArchiveCenter/ViewFile/Item/2916
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- Staff Report: https://www.ci.larkspur.ca.us/DocumentCenter/View/15982/83-Rent-Ad-Hoc-Committees-Update
- Recording: https://www.youtube.com/watch?v=SuybxdVCZTI&t=5070s
January 4, 2023

TO: City Council

FROM: Dan Schwarz, City Manager

SUBJECT: Cost of Implementation and Enforcement of Rent Regulation

Staff has reviewed budgets for several cities that have rent regulation ordinances and found the costs of implementation and ongoing enforcement to vary considerably. Variables that affect costs include the breadth of services offered and the demand for services. While a handful of cities provide rent regulation services in-house, most use some mix of in-house and third-party staff.

Like any new program, there will be start-up costs should the Council adopt a rent regulation ordinance. The development of a rental registry would be a significant cost in the first two years. We would also anticipate a higher utilization rate in the first few years. Over the long-term, some agencies choose to allow their rent regulation program to expand to include a broader array of tenant-landlord dispute services.

Rental Registry
Implementation and enforcement of rent regulation is informed by a rental registry. A rental registry is a database that contains up-to-date information about every rental unit in the City. Key information includes the size and nature of the unit and the rent being charged. The ordinance requires that landlords submit timely and accurate information for the registry in order to lawfully rent units. Agencies charge a fee to file with the registry. This fee is used to offset costs associated with operating the entire regulation program.

Rental registries require a database system to manage them. While some cities have developed in-house software solutions to manage this data, there are data management systems tailored to this purpose. Staff believes it would be more cost-effective and expeditious to contract for a plug-and-play solution. This solution would also provide robust reporting and analytical capabilities. Staff reviewed the budgets in several cities and believes a software package for Larkspur would have an implementation year cost of $50,000 to $100,000, with subsequent years being around $35,000 to $50,000. In-house staff would manage the database; this task would likely be assigned to analyst-level employee. Implementation year commitment would probably be 50-75% of the employee’s time, with subsequent years requiring 25-50% of the employee’s time. At 50%, this allocation of staff time equates to $50,000 to $60,000 dollars.
All of the rental registry costs could be included in a registration fee.

Rent Stabilization
Cities with rent stabilization ordinances generally have at least one staff person in-house or under contract who is assigned management of the program. This person engages tenants and landlords and is responsible for reviewing and processing applications to exceed the rent increase ceiling. In many of these cities, the employee is a “housing specialist” who can take on other housing-related assignments when demand for rent stabilization services is low. For example, the housing specialist could support the Community Development Director with the goals of the City’s Housing Element. An in-house housing specialist would be classified similarly to a senior planner, with an annual total compensation of approximately $180,000. The portion of this person’s time dedicated to rent stabilization could be recovered through a combination of the registration fee and an application fee, depending on the nature of the costs being recovered.

To exceed the rent increase ceiling, a landlord must submit the relevant financial information to justify the increase. This information can be rather detailed, and the landlord and the city sometimes engage in discussions about whether the increase can be spread in smaller increments across several years so that the impact is more manageable for the tenant. This level of fiscal analysis can require expertise not possessed by a housing specialist. Some cities employ an in-house analyst for this work, though most contract with a third-party. The applicant, the landlord, directly bears the cost for this analysis as part of the application.

Rent Dispute Resolution
The rent dispute resolution approach to rent regulation also requires in-house or contract staff to manage the program. There are third-party vendors (mostly non-profits) who provide a suite of services that include what is required to operate this model. As a result, many of the cities choose to outsource to one of these entities. This model relies heavily on facilitating good communication between tenants and landlords. A common scope of work involves outreach and response to inquiries, mediation, and arbitration.

It is uncertain what the cost would be for Larkspur to engage one of these entities, but a review of other agencies suggests $50,000-$100,000 per year is a fair range, with costs being higher in years in which there is a higher demand for service. Some cities reduce some of the cost of this model by having the mediator transition into the role of arbitrator when necessary. The contract typically have a base monthly cost and then a separate charge for mediation and arbitration services. The base monthly cost could be recovered through the registration fee, with the mediation and arbitration costs borne by the landlord.

ROUGH ESTIMATE OF COSTS TO CITY

Rental Registry:  $100,000 to $150,000 for implementation year
                 $85,000 to 100,000 in following years

All costs should be recoverable

Rent Stabilization:  $180,000 per year plus registry costs for primary staff
                    Unknown additional costs if program expands

Recoverable amount uncertain. Fee study would be required to determine how much of this cost can be attributed to registration fee
Rent Dispute: $50,000 to $100,000

Recoverable amount uncertain. Fee study would be required to determine how much of this cost can be attributed to registration fee (shared by all landlords) and how much would be charged as an application fee. Some amount of General Fund subsidy is likely.

Staff believes it would be reasonable to assume the allocation of some staff time from management employees in Administration and Community Development regardless of which model is used. Adding 5% to these figures would be a reasonable assumption of this cost of staff time.

COST RECOVERY

In the implementation year(s), the General Fund will need to bear the cost of any program. Once costs are understood and a fee schedule completed, costs can be recovered through a rental registration fee and application fees. It may be possible to reimburse the General Fund for the initially incurred costs by building the reimbursement into the fees.

Staff conducted a detailed review of the City’s records for rental units and believes the number of units that would be subject to a rent regulation ordinance would is 1,825. Based on the rough costs estimates, a reasonable assumption for the purposes of discussion is that the registration fee will need to generate at least $200,000. Staff believes it is reasonable to assume that the annual registration fee will be between $100 and $200 per unit. Some cities require the landlord to bear the entire registration fee, while others allow the landlord to pass as much as 50% of the fee to the tenant.

Many cities charge a registration fee to units that are not subject to rent regulation so that the city’s database covers its entire rental stock. Staff believes there are 177 units that fall into this category.

There are several apartment complexes in Larkspur that have tax exempt status because they provide some form of affordable or otherwise tax exempt units. These units are not among the 2,002 units reported here. These units should be entered into the registry for analytical purposes but should not be subject to the fees discussed here. Staff is currently confirming the number of units that fall into this category. It is likely around 400 units.

As noted in the discussion about the different processes and costs, some application and processing costs would be recovered through an application fee.
Skylark Housing Fund

Skylark Housing Fund ("Fund") is designed to immediately help Skylark Residents experiencing financial difficulty. The Fund will assist eligible Skylark residents by limiting annual increases and providing monthly rent credits of up to 15% of rent, based on the below eligibility requirements and subject to availability of funds. For those most in financial need, this could provide hundreds of dollars of monthly rent relief.

Income Limits

Total income for all occupants in a unit must be below the following thresholds, as calculated by the U.S. Department of Housing and Urban Development for Marin County:\(^1\):

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Annual Rent Increases

If a resident qualifies using the above income limits, annual rent increases will be limited to CPI (April release).

Rent + Utilities to Income Ratio

The ratio of rent + the cost of utilities to income must exceed 40% to qualify for a rent credit. For leases that do not include the cost of water, sewer and trash, an estimate of $150 per month will be used.

Calculation of Rent Credit

The credit toward monthly rent calculated as a percentage of rent will be the lesser of:

1) 15% of monthly rent; and
2) the difference between i) the ratio of monthly rent + utilities to income and ii) 40% of monthly rent

Example: For a sole resident in a unit with $60,000 annual income, $2500 of monthly rent and whose lease includes the cost of water, sewer and trash: they would qualify because: i) their income is below the maximum income of $65,250 and (ii) their rent is 50% of their monthly income.

Their rent credit would be $375, which is a 15% discount, meaning their monthly rent would go down to $2,125.

Other Assistance Programs

No resident in the unit may be receiving assistance from any other housing program (e.g., Section 8).

Certification of Income

The Fund will utilize independent accounting company, Novogradac, to verify each applicant’s income. Residents must recertify income annually to requalify.

Termination of Program

The Fund will provide residents with at least 90 days of notice in the event it terminates for any reason.

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\(^1\) Note, the Skylark Housing Fund, unlike Marin Housing Authority’s voucher program, is not limited to seniors, families, or disabled residents.