DATE: 8/1/2019

AGENDA OF: 8/13/2019

DEPARTMENT: Planning and Community Development

SUBJECT: Data Collection Related to Rental Housing (PL)

RECOMMENDATION: Consider creation of a pilot program of data collection on rental housing units in the City and provide direction as appropriate, including community outreach.

BACKGROUND: The topic of rental housing data is one that has been raised at several City Council meetings over the past year in the context of local concerns over rising rents, reported changes in patterns of tenant turnover, and the community's sense of urgency to address challenges between renters and landlords.

At the June 11, 2019 City Council meeting, after receiving a report on the feasibility of convening a rental housing task force, Council directed staff to return at the June 25th meeting with a report on the resources needed to begin collecting rental housing data such as rental leases, rental rate increases, notices to quit, and evictions in the City of Santa Cruz.

At the June 25th meeting, staff returned with further questions for Council on their goals and objectives in conducting a rental data collection effort and provided some preliminary background to facilitate a deeper Council conversation on this topic. Following this report, Vice Mayor Cummings circulated a preliminary proposal outlining a sample Rental Housing Notification Program (Attachment 1) for discussion. After this discussion a Council motion carried, directing staff to:

> *"... use the Rental Housing Notification Program presented by Vice Mayor Cummings to influence the structure of the program regarding the goal, intended use, scope and extent of a rental housing data collection effort, and bring back at the August 13th meeting in conjunction with the priorities of Council as established at the Strategic Planning Retreat held on June 22nd, so that Council can see how the Rental Housing Program falls in the set of priorities."*

Beyond the formal motion passed by the City Council on 6/25, individual Councilmembers stated that the data collection effort may also have the following characteristics:

- Data collection should begin from our present point in time, as attempts to collect data retroactively will likely prove unsuccessful;
- The collection effort should be ongoing to allow analysis of trends over time;
- Information on rent increases and notices to quit are the key missing data points in existing data, and that information should be collected as a part of this effort;
- Reporting out on findings should happen on a regular basis; and

- Data available to the public should be provided in a way that protects the confidentiality of both tenants and landlords.

DISCUSSION: Following the direction provided by Council at the June 25th meeting, staff used the materials provided by the Vice Mayor as a guide to inform the proposed rental data collection program outlined in this report. Additionally, staff researched best practices on the topic of rental data collection, and have reviewed similar programs in other jurisdictions.

Existing Conditions
In determining how to best undertake this effort, staff analyzed housing-related programs currently existing in various departments within the City. While initially staff anticipated that that this effort would be able to simply piggyback on one of these programs, upon deeper review, it is clear that doing so will result in a less-than-optimal data collection effort. Existing programs and their constraints are outlined as follows:

- Rental Inspection Service (RIS)
  The goal of the RIS is to ensure that the physical condition of structures that are rented as housing is safe and habitable, protecting some of the most vulnerable members of our community. However, certain housing units in the community are subject to similar scrutiny by other agencies, and as such are not required to participate in the RIS. These include most deed-restricted affordable housing units, which are inspected by the Housing Authority, and manufactured homes, which are under the jurisdiction of the U.S. Department of Housing and Urban Development (HUD). Owner-occupied housing is also exempt from the RIS, as the expectation is that owner-occupants are more likely to adequately maintain the structures on their properties, so inspections are not warranted. This means that room rentals in homes where an owner lives on site are not captured, nor are properties with Accessory Dwelling Units when the owner lives on site. Currently, there are approximately 11,400 rental units, including approximately 8,900 active rental units and approximately 2,500 rental units that are exempt.

  As the charge of the RIS is not the same as the stated goals of the data collection effort, an issue arises with attempting to use or build upon the RIS system for this additional effort. In consulting with the City's Information Technology (IT) Department, staff was made aware that the tracking system used for the RIS program is not well suited to generating statistics—either on a regular basis or for the overall rental market. Rather, it is designed to track individual properties over time. While the system could potentially be manipulated to achieve this aim, albeit imperfectly, the attempt could be likened to trying to "fit a round peg into a square hole." The time, financial and opportunity costs of attempting to use the RIS tracking system far outweigh any potential benefits. Additionally, as mentioned above, the RIS does not include all rental housing in the City, much of which is anecdotally the more affordable types of rental housing available. Not capturing data on these types of rentals would create an incomplete picture of the City's rental landscape.

- Housing & Community Development (HCD) Division Programs
  The HCD Division of the Economic Development Department is currently responsible for collecting information on approximately 1,400 deed-restricted affordable rental and for-sale units in the City that fall into several distinct programs. The HCD Division currently monitors the City's 1,400 affordable units for tenant income and rent certifications that are required to meet ordinance-mandated annual monitoring and Federal compliance deadlines. Housing staff conduct annual compliance monitoring for

Measure O/Inclusionary, Accessory Dwelling Units (affordable and non-affordable), Redevelopment Agency funded, First-Time Homebuyer, and HOME funded units. Information collected for affordable units varies from program to program, but generally includes information such as tenant name, annual income, if they are Housing Choice Voucher holders (Section 8), tenant occupation date, current rent charged, who pays utilities and how utilities are powered. HOME monitoring requires additional information dictated by United States Department of Housing and Urban Development regulations. This information is collected, reviewed and maintained in monitoring files every year. If there are any errors, incomplete submissions, or findings of non-compliance, staff further coordinates with property owners to bring units into compliance.

Further, the Housing Authority monitors units that have received federal funding, either through project-based subsidy vouchers or tenant-based subsidy vouchers. The Housing Authority currently monitors 4,600 vouchers throughout the County.

The information collected about these units is extensive, and is held confidential by the City. The information is maintained to support audits by federal and state regulating agencies, and the units for which data is collected by the HCD only represent a fraction of the overall rental housing stock in the City.

- Business Licenses for Landlords
  The Municipal Code requires that owners of Apartment Houses with 3 or more units, in which at least three units are rented out, acquire business licenses to operate. The Finance Department does not currently collect any further information about these businesses, nor are business licenses required by code for all rental property owners. As with the RIS system, the current software system used to manage business licenses is not suited to generate statistics to be compared over time. The Finance and IT Departments are coordinating on system update efforts; however, the timing for implementation of any new system is still yet to be determined.

Staff Recommendation
Because of the constraints outlined above, staff recommends that a rental data collection effort be initiated as a new project, separate and distinct from the various existing city programs.

Pilot Rental Data Collection Program Overview
Staff have found very limited information on existing programs that are set up to collect rental housing data independent of a rent stabilization program. The City does not have a rent stabilization program, and achieving that end was not articulated by the Council as a goal of this effort. For this reason, replicating programs intended to serve that purpose would likely not prove successful.

The City of El Cerrito put in place a data collection effort absent a rent stabilization program on June 20 of this year; however, it is too early to determine its utility. The registry ordinance was adopted in conjunction with a Just Cause for Eviction ordinance which is facing a referendum effort by voters. It is unclear what effect the referendum would have on the rental registry ordinance.

Given the charged tenor of conversations surrounding rental housing in the Santa Cruz community, staff recommends that the City take a community-minded approach to any rental housing data collection effort, ensuring that it takes into consideration the unique needs of our community, specifically during this contentious time.

With this approach in mind, staff is recommending that the Council consider the establishment of a limited-term "pilot" data collection program.

Staff believes that taking this approach will allow the City to test the process, stay nimble and be able to pivot when and if change is needed, and produce a product that is organic to the needs of Santa Cruz.

Staff recommends that the pilot program have the following elements:
- All rental housing, including room rentals, ADUs, and mobile homes are encouraged to be registered;
- Registration is non-compulsory;
- There is no fee associated with registering a rental unit in the pilot;
- There is no enforcement for non-compliance with the pilot;
- Registration is done through a city portal and is completed exclusively online; and
- Data can be input by both landlords/property managers and tenants.

Pilot Program Framework
Below are three sections which establish the program framework:
1) Staff's understanding of the anticipated outcomes of the data collection effort (*Anticipated Outcomes*);
2) Staff's assessment of the data features required to achieve those outcomes (*Data Required to Achieve Anticipated Outcomes*); and
3) A preliminary list of the additional potential statistics that could be produced from those data (*Statistics that could be Generated*).

Note that Attachment 2 shows the complete outline of these components in greater detail.

1) *Anticipated Outcomes*
   Collect information sufficient to quantify estimates of the following:
   a. Total number of all rental units
   b. Mean/median rent amounts
   c. Changes in rent agreements
   d. Non-renewal of leases
   e. Non-renewal of month-to-month tenancies
   f. Unlawful detainers (evictions)
2) *Data Required to Achieve Anticipated Outcomes*
   a. Address of unit
   b. Date of event
   c. Type of event
   d. Type of housing unit
   e. Size of housing unit
   f. Level of services (what is included with rent)
3) *Statistics That Could Be Generated*
   a. Trends/comparisons in rent amounts, terminations of tenancy, unlawful detainers, total number of rental units, vacancy rates, sales of rental units, conversion of rental units to owner occupied housing units
   b. Trends for individual units
   c. Levels of service/size/value of individual units
   d. Neighborhoods with more/less value in rental housing stock
   e. Tenant turnover rate for individual units/projects

Staff recommends that the City make information available to the public on a regular, time-interval basis (interval to be determined). Publication of the information could be limited to aggregated data produced by the City or could be provided as open-source data available for analysis by the public, with or without anonymization or aggregation. Further discussion with the community regarding the pros and cons of each approach is needed before an approach can be recommended by staff.

<u>Compulsory vs. Non-Compulsory Program</u>
While there are certainly legitimate concerns with the proposed non-compulsory/no-fee nature of this proposal, staff have considered various options and are confident in making this recommendation.

The findings of the task force feasibility report presented to Council on June 11, 2019 make it clear that a deep, significant rift persists in our community surrounding rental housing issues, and success in efforts related to these issues is currently tenuous as best. Given this, staff strongly recommends that the City take a unity-focused, collaborative, consensus-building approach to the effort to encourage the broadest level of participation. Staff believes that a comprehensive, City-wide data collection effort can prove immensely fruitful in helping our community to accurately assess the lay of the land in terms of rental housing in the City, and such an effort has the potential to dispel myths on all sides, moving the community closer to a place where the healing process can start.

Staff believes that creating a mandatory program with an associated fee at this current point in time may only serve to further exacerbate the divide within the community. While a compulsory program may seem necessary to ensure participation, staff is concerned with the City's ability to enforce any such requirement with current resources. Council may choose to consider a program where enforcement is a civil matter; however, staff does not recommend this as an effective means to Council's desired end. Staff is concerned that such a requirement would have little effect, as non-compliance would be difficult to prove, investigations into such non-compliance could have significant privacy concerns for both tenants and landlords, and the resulting back-and-forth between parties would only result in further community conflict. Additionally, there would be significant opportunity costs for the City as staff is pulled to respond to enforcement concerns.

Rental Housing Notification Program Presented at June 25, 2019 Council Meeting
The proposal for a "Rental Housing Notification Program" (Attachment 1) was used as an influence but not a directive for the recommended pilot, and the staff recommendation differs from the Vice Mayor's proposal in a few key ways, enumerated below. The primary reason for diverging from the Notification Program proposal was to adhere as closely as possible to the stated goal or purpose of the program. Features which did not support the goal are not recommended for inclusion in the pilot. Additionally, staff is cognizant of the community sentiments around any and all government regulations regarding rental housing and is interested in making this pilot as politically neutral as possible. Staff's hope is that the pilot can be used as a tool for "both sides" of this discussion (as referenced in the "Feasibility to Convene a City of Santa Cruz Rental Housing Task Force" report presented to Council on June 11, 2019) to feel accurately seen and represented, without generating negative consequences for any participant. With this end in mind, the following are crucial components of the administration of the recommended pilot:

1. *Staff recommends registering all rental housing, including units that are exempt from the current Rental Inspection Service (RIS).*
   Utilization of the exemptions in the RIS would lead to a limited data set that would be inconsistent with the goal of a comprehensive data collection effort, as currently stated by the City Council. Therefore, staff recommends that all rental housing, including room rentals, be included in the pilot.

2. *Staff does not recommend collecting lease documents or documents in support of proposed landlord action.*
   Not all rental housing operates under a written lease, and staff is recommending that collecting data about the rental rate and level of service (features that are covered by rent, e.g., utilities, landscaping, laundry, etc.) will be sufficient. Further, collecting and maintaining a database of lease and other documents electronically becomes a significantly greater administrative and technical challenge. Staff is recommends that the pilot collect data about the basis of a change in a rental agreement but does not recommend collecting documentation of any kind at this point. Collecting information about the basis of a change in rental agreement will provide a more detailed picture of the circumstances affecting landlords and tenants.

3. *Staff does not recommend collecting the names of tenants.*
   Due to the level of detail proposed for this data collection and the possibility of information being subpoenaed or requested under the Freedom of Information Act, staff has concerns about personal privacy with collecting this information.

4. *Staff does not recommend collecting past data (i.e., date of last rent increase).*
   Because not all landlords and tenants maintain written agreements of leases or terms, requesting information about prior rent increases or date of move in may generate inaccurate information.

5. *Staff recommends that reporting in the pilot program not be subject to any City or civil enforcement mechanism.*
   City staff is highly aware of the intensity of the community scrutiny around regulations proposed for rental housing. For the duration of the pilot program, staff is recommending that compliance by landlords not be subject to enforcement by any city department, primarily due to the resources that would be required to create and monitor such a program. Further, based on the findings in the "Feasibility to Convene a City of Santa Cruz Rental Housing Task Force" report, stakeholders around this issue are currently highly distrustful of one another that collaboration is unlikely. Because of this, staff is interested in developing a program that can accurately reflect the experiences and need for certainty of both tenants and landlords. Staff believes that data that can be mutually trusted and ideologically neutral could be the basis for a fruitful conversation about rental housing. In order to gain the trust of property owners and solicit their willing participation, staff is recommending that no enforcement mechanism be built into the pilot, and staff will monitor to determine if enforcement will be necessary to gain a high rate of compliance. Further, with both tenants and landlords participating in the data submission, both groups will be motivated to provide information as a way to check on the accuracy of the other's submittal.

   The "Rental Housing Notification Program" document and some tenants in the focus group suggested that landlords be required to notify the City prior to effectuating a rent increase, notice to quit, or eviction. For reasons stated above, staff is recommending that

the initial pilot program not include this element. This approach would preclude a requirement for landlords to notify the City in advance of effectuating a rent increase, notice to quit, or eviction.

6. *Staff recommends beginning with a Council Resolution to initiate a pilot program.*
The proposal in Attachment 1 assumes that the data collection effort would be immediately codified by an ordinance adopted by the City Council. Staff is recommending a more measured approach and, to this end, is recommending that the pilot be initiated by resolution rather than by ordinance. Because the City does not have a department that has previously engaged in a similar effort and there are few relevant models available on which to build, staff is anticipating that there will be significant lessons to learn through this initial process. Operating under a resolution allows the City more flexibility to make changes and adjust parameters during the pilot, and that experience can then contribute to the drafting of a more well-informed ordinance, should the Council direct that a permanent program be established following the close of the pilot. However, should Council want to include enforcement requirements at this time, such requirements would need to be mandated through an ordinance rather than resolution.

Focus Group Input

In an effort to verify the general policy direction of the data collection program and gather some preliminary community input, staff met with one focus group of tenants on July 22, 2019 and one focus group of landlords on July 23, 2019. Based on feedback from these groups, opportunities exist for the City's data collection effort to address additional questions about the rental housing market. Staff worked with Santa Cruz Tenants Association to reach an interested group of tenants and with Santa Cruz Together to contact a group of landlords. Feedback from both groups, as well as a list of attendees, is included with Attachment 2

Tenants were interested in collecting information that would make the database useful to tenants in doing due-diligence on landlords before signing a lease agreement, as well as gathering information on the cause for an eviction, the return of security deposits, and total duration of tenancy. Tenants also expressed interest in having transparent access to the rental housing database in order to do their own research and analysis on various features.

Landlords expressed more concerns and apprehension about the stated goals of the data collection effort and indicated they were distrustful of the motivations of the City Council. Relative to the specific data that should be collected, landlords were interested in identifying tenant-initiated move outs as distinct from landlord-initiated terminations of tenancy in the database; collecting data that could provide snap-shots of rents to show that units with on-going tenancies are renting at lower rates than advertised units; and that the aggregated data be compared to existing data sources to test the value of the City's effort. Landlords were divided about whether the City should record the reason for a termination of tenancy or change in rent rate or level of service.

One of the key points where opinions of tenants and landlords diverged was the form of data available to the public. Tenants were interested in making the raw data available to the public for analysis, and landlords indicated that aggregate statistics produced by City staff were preferred. There are pros and cons of each approach, and City staff is currently recommending that this element be a point of discussion during the community outreach process.

Staff is concerned that a high degree of transparency in the data, including the ability to single out a specific property, could negatively affect the participation rate of landlords and property managers and therefore degrade the quality and quantity of the data collected during the pilot. As the details of the pilot are finalized, staff will consider whether providing partially disaggregated data, such as to a Census block or block group, could provide sufficient anonymity for property owners while also providing more detailed and useful data to tenants and the public.

Next Steps
The timing of implementation of a rental housing data collection pilot program is impacted by the level of detail and features included in the database and the administration of the program. The public process for the pilot recommended by staff would proceed as follows:

- Direction from City Council on August 13 to proceed.
- Community outreach on a proposed data collection pilot takes place from September through early November. (Minimum process described below may be expanded.)
- Staff returns to City Council for adoption of Resolution initiating pilot program in November/December.
- Creation of user interface and database, notice and outreach to landlords and tenants about data collection effort in January-March 2020
- Initial registration in April-June 2020
- Pilot runs 12 months before reporting back with data in August 2021.

Community Outreach
Before any new policy or program is approved by the City Council, the Council-adopted Community Outreach Policy requires that staff engage in an appropriate community outreach process. Based on the current level of interest in rental housing issues and the recent history on this topic, staff is recommending that the community outreach process include at minimum the following:

1. Two additional focus groups with representatives of tenants and landlords (one each) as the components and goals of the proposed pilot are refined;
2. One community-wide workshop when a draft recommendation for a pilot program has been developed, prior to returning to City Council for review.

The community outreach process will be critical in developing the final staff recommendation and in answering some outstanding questions that have been raised regarding this effort. The City needs input from citizen stakeholders on all factors related to collecting rental housing data and specifically needs to address these questions:

1. Should Affordable units/Section 8 vouchers be included?
   a. These units could skew data, depending on how metrics are analyzed.
2. Should data be confidential or open source?
3. What are the reasons that a tenancy might end? What options should be included in the data collected?
4. Should vacancies be registered/tracked? Is rental vacancy rate important to know?
5. How frequently should data be provided to the public?
6. Is aggregate data sufficient to build trust between stakeholders and accurately describe the City's rental housing market? Would neighborhood-level data be more useful? How important is privacy to all affected stakeholders?

The lack of mutually-trusted data was one of the key findings in the feasibility study that led to the determination that a task force process was unlikely to be successful. Staff views this project as an opportunity to begin the community healing process. Staff aims to operate throughout this process as a trusted, neutral, third party entity focused on collecting impartial data and generating impartial statistics. Staff is hopeful that in this role we are able to elevate the community discussion from one saturated with emotion and anecdotes to one grounded in accuracy and facts.

Opportunity Cost
Creation of a new rental data monitoring program will carry not only a fiscal cost but also an opportunity cost to the departments involved in implementing it. The Advanced Planning Division of the Planning and Community Development Department, the IT Department, the Housing and Community Development Division of the Economic Development Department, and the City Attorney will all experience a workload opportunity cost with any new direction from Council. Like the fiscal cost, the opportunity cost will be driven by the scope and extent of the effort directed by City Council.

Opportunity costs identified here are related only to the initiation of a pilot program. Opportunity and fiscal costs related to on-going program management, should the pilot become permanent, are unknown at this time, but estimated to potentially fall within a range of 0.25-1.0 new Full-Time Employee in the department ultimately responsible for maintaining the database and producing statistics on a regular basis, though this could vary widely depending on the scope and scale of the program. No new City staff will be added to launch and manage the pilot, and staff costs to the City will remain unchanged, but workload impacts will affect several departments.

As currently drafted, staff in IT, Housing, and Advance Planning will be heavily involved in the creation, launch, and initial registration period of the pilot program. Staffing in the Advance Planning section will be largely occupied with this project for the remainder of 2019, placing on hold certain efforts initiated by the Housing Blueprint Subcommittee Report, as well as other recent direction from City Council. Also on this same Council agenda is an item focused on prioritizing the various work products currently underway in the Advance Planning Division, so the City Council will have the ability to make a fully-informed choice regarding these opportunity costs.

In the IT department, the pilot program as currently drafted is estimated to require a minimum of 40 hours of staff time spread over several weeks due to necessary coordination with other City departments. This time will mostly be spent in creating the web-based interface and back-end database after the Council takes formal action to launch the pilot program.

In the Housing and Community Development (HCD) Division of the Economic Development Department, staff will be involved in the creation and launch of the pilot program, and will assist in outreach to affordable housing owners.

The HCD programs operate under rigorous federal and state monitoring with significant reporting requirements necessary in order to maintain the reliable funding streams the City receives for Housing and Community Development programs. In addition, staff review of housing development proposals and related analysis of inclusionary requirements are tasks that have very tight deadlines. At the same time, the staff are preparing grant applications to garner new funding streams for the development of affordable housing units in the City, and staff are working with developers to use limited available resources as leverage for complex proposals for new housing development. All of this work is fundamental to responding to the City housing

crisis and strengthening collaborative partnerships with community interests to maintain and increase our affordable housing inventory.

FISCAL IMPACT: The total Fiscal Impact of a data collection program will be influenced by the administrative factors surrounding how the registry will be used, as well as and how and how frequently data will be provided to the public. Staff is recommending a pilot that charges no fee and includes no City-initiated enforcement in order to keep the fiscal impact as modest as possible. Collecting a fee requires a significantly more complex technical system than the simple, streamlined pilot staff is recommending. Should the pilot be made permanent, it may be necessary to charge a fee for the maintenance of the registry, and staff will be tracking time spent on this project throughout the pilot in order to determine the amount of a fee that might be necessary.

Based on the scope of the proposed pilot, staff is currently estimating that the pilot program will require city staff resources costing between $30,000 and $125,000 to implement. This cost will be shared between the IT, Economic Development, and Planning and Community Development Departments. No new City staff will be added to launch and manage the pilot, and staff costs to the City will remain unchanged, but workload impacts will affect several departments. As recommended, existing City resources can be used to launch and manage the pilot. Should the scope change or increase, existing resources may or may not be sufficient. Further costs will also include printing and noticing to landlords, technical support from the City's website provider, as well as on-going support from the City Attorney. More detailed estimates of costs will be generated as the final form of the pilot program is developed through the community outreach process.

ENVIRONMENTAL REVIEW: As currently recommended, the data collection pilot would be initiated by resolution of the City Council, and it is expected that the future resoultion would be determined to be exempt from the California Environmental Quality Act (CEQA) in that the activity is covered under the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. The proposed resolution would not result in physical changes to the environment, increased densities, or intensification of uses not allowed by State law. The creation of a database of rental housing information would, therefore, be exempt per Section 15061(b)(3).

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ATTACHMENTS:
Sample Rental Housing Notification Program (presented by VM Cummings on 06/25/19)
Data Collection Pilot Outline & Focus Group Notes