

CITY OF OAKLAND

AGENDA REPORT

APR 26 2005
OFFICE OF THE CITY CLERK
OAKLAND

2005 APR 14 PM 6:32

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency, Building Services Division
DATE: April 26, 2005

RE: **INFORMATIONAL REPORT, REGARDING OPTIONS FOR RESIDENTIAL RENTAL INSPECTION.**

SUMMARY

This informational report is being presented at the request of City Council. Staff has been asked to present options for obtaining Housing Code compliance. Most landlords of residential property maintain properties in conformance with the Housing Code. However, some landlords defer maintenance and allow health and safety conditions to deteriorate. This generally creates a nuisance situation. However, some units deteriorate to a substandard or even uninhabitable level. Building Services now uses a complaint driven process. Oakland has a large number of immigrant renters who for various reasons may not contact the authorities to initiate the existing compliance program allowing poor conditions to remain uncorrected.

Staff has examined cities of similar size, age of housing stock, or with some other similar demographics to review different approaches. This report presents the experience of these cities and discusses options including:

1. Maintaining the current complaint driven program.
2. Creating an enhanced complaint driven program.
3. City wide Rental Inspection Programs.
4. Geographically based Rental Inspection Program and other threshold based concepts.

This is an informational report only. There is no action to be taken by the City Council. The Council may direct staff to prepare additional reports of a more specific nature.

FISCAL IMPACT

Since this report is informational only, no fiscal impacts are included. There may be future impacts should the Oakland City Council request policy or legislative changes in the existing residential inspections program leading to the creation of new or revised programs.

BACKGROUND

Staff was asked to research rental inspection programs in other cities to address the problem of deferred maintenance. Nine cities in California and two cities out of state were studied. Information on rental inspection programs for eight of those were compiled into a matrix (See

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Attachment A). Staff has discussed the creation of a rental inspection program with the Rental Housing Association of Northern Alameda County (RHANAC) and met separately with the Oakland Community Organizations (OCO).

The existing complaint driven program was discussed with staff of the Rent Adjustment Program. Staff has conducted some initial analysis to determine rough costs to implement a basic rental inspection program in Oakland. Staff gathered additional information on city taxes paid by landlords from the schedule issued by the Finance and Management Agency. The cost analysis was based on proportions of staff to rental properties found in other cities.

KEY ISSUES AND IMPACTS

One of the goals of the City of Oakland is to preserve public safety and quality of life. This includes compliance with the State Housing Code as it pertains to rental housing. While many rental property owners maintain housing in clean and safe condition, there are many renters in Oakland living in housing that does not meet Housing Code standards.

Rental property owners are burdened by high fees and operating costs in Oakland. Landlords are limited in their ability to recover costs due to a soft market and rent control. Owners of rental property pay one half of a fee (\$24/unit/year) to fund the rent adjustment program and substantially higher city taxes than any other category of business in Oakland paying \$13.95 per \$1,000 vs. \$1.20 per \$1,000 for general retail. The City of Oakland must determine how to insure that renters have safe, habitable living conditions and those property owners who maintain property to a high standard are not penalized.

To complicate the picture, the City of Oakland has a high number of immigrant renters. Often these renters are distrustful of authority, afraid of retribution, unfamiliar with working with authority, and or simply have a language barrier. While advocacy groups try to educate, there is still a wide gap between what people know and should know about tenant rights and city regulations.

Where programs have been in place for decades, the sheer consistency of the programs tends to promote compliance but does not entirely eliminate deteriorated rented housing. In Oakland, rental inspection is done sporadically as the program is complaint driven. Introducing a regular inspection program brings up the issue of funding in a period of scarce resources.

Options

Maintaining minimum standards for rental housing can be accomplished in a number of ways. Nearly every city uses a different approach. A number of basic options emerge:

1. Maintaining the current complaint driven program.
2. Creating an enhanced complaint driven program.

3. City wide Rental Inspection Programs.
4. Geographically based Rental Inspection Program and other threshold based concepts.

1. Current Complaint Driven Program

There is no rental inspection program at this time. Rental inspection is handled as a function of code enforcement. An inspector is dispatched upon receiving a complaint from any of various sources including referral from other divisions within the city, or from outside agencies. The extent of the problem is assessed and the property owner contacted and given time to make corrections. In cases where the problems are severe, a structure may be declared substandard. In such cases a compliance plan is drafted and is monitored by Building Inspection Services. The enforcement costs are captured through existing cost recovering fees. Liens and fines may also be used to obtain compliance.

2. Enhanced Complaint Driven Program

This would be a step between our current system and a formal rental inspection program. Although none of the cities studied used such a program, staff envisions such an option. The Enhanced Complaint Driven Program would entail creating an individual compliance program for each rental property that, upon inspection brought about by a complaint, fails basic thresholds set by the program. Thresholds might be failure to correct an identified problem after more than one re-inspection or multiple complaints/investigations at the same property within one year.

Creation of a compliance program and monitoring could be accomplished using existing code compliance staff and established processes only if the number of cases remained small. Substandard housing discovered in the inspection process would be handled in the same manner as described in the above section again using existing personnel. Since there are a large number of rental units, and staff is at maximum capacity now, Building Services anticipates such a program would require additional staff. To determine the number needed, staff would need to create test thresholds and inspect a representative number of rental units. Staff lacks the resources to do this research at this time.

The intent of such a program would be to effectively deal with property owners who do not achieve compliance without penalizing compliant owners. To create such a program would require developing new protocol and possibly new legislation. New protocol might be developed for creating compliance programs for issues that do not now rise to the level of substandard housing. A funding source would need to be identified.

Main aspects positive and negative:

- Only affects recalcitrant rental property owners.
- Cost borne mostly by affected property owners.
- Minimal changes and training of staff insuring a quick transition.
- An existing fee structure that is cost covering.

- If too many properties come under investigation, current staff will be overwhelmed unless new staff is hired.
- Additional funding source needed.
- Establishment of thresholds and education of renters will partly determine numbers of properties in the program as will performance of property owners.

3. City wide Rental Inspection Programs

There are nearly no common features among the cities studied. Below are common features with variations (See Attachment A for a comprehensive matrix.). Most cities in the study have had inspection programs in place for many years. Those with long term programs report the program works to improve the general level of maintenance of rental property but does not eliminate all problems. They attribute success to consistency and fairness over a period of years. Note that the fees discussed here are for inspection only. Enforcement fees in the cities polled tend to be done on a cost recovery basis usually by another division.

- All cities stipulate what type of rental is included and list exclusions. Most cities only review properties with three units or more. Examples of exclusions include hospitals, dorms, condominiums, residential care facilities, hotels/motels, and owner occupied units.
- Annual fee-per-unit ranges from \$5/unit/year to \$30/unit/year. The lower end of the range is for property owners who do not have violations and are not inspected, or are inspected on a less regular basis.
- Inspection cycles range from random inspections of a proportion of all units in a given complex every three years to reviews of all properties every five or six years. Less frequent inspections are performed for self certified units.
- Most programs allow for some sort of self certification.
- Many programs contain an educational component. San Jose has a waiting list of property owners who want to take the classes offered.
- Most contain a performance based carrot and stick approach to fee structure with compliant complexes being inspected less often and property owners paying lower fees.
- All use fire inspection services to look at fire code issues.
- Most do not inspect for lead or mold. Most cities refer bad cases of mold to the Health Department or look at the causes of mold and have them abated, i.e. eliminate water leaks in showers to abate mold.
- Many cities require separate certificates for gas appliances to ensure they are safe. This is an inspection done by third parties. Certificates are updated from time to time.
- Use various enforcement tools for cost recovery of funds to achieve compliance.

4. Geographically based Rental Inspection Program and concepts

Two cities use geography to focus inspection efforts. Hayward, a city with 21,500 rental units, tried a system of geographical target areas focusing on problematic areas of the city. All rental units are inspected in the target area. Outside of the target areas inspectors inspect on a random sample basis. Glendale with 40,000 rental units ran a pilot program for 4,500 units in a target area. Education and outreach was a part of the Glendale program. The main advantage of such an approach is that scarce resources are expended in problematic areas. The costs in both cases were borne by all property owners. This was justified by the fact that other units are inspected although not as frequently. All rental property owners benefit from the educational component.

Most cities with rental inspection programs use some form of thresholds and use other methods to reduce program impacts on compliant property owners. This type of program makes problematic property owners pay more than compliant property owners. Berkeley exempts new buildings for five years and allows self certification for units with no violations on record. Mountain View allows self certification for eight years for compliant properties and charges only 25% of the full fee. Complexes with serious defects pay the base fee plus 75%. Concord allows self certification for compliant units and refunds 80% of fees. Residential units found in violation in Concord are removed from self certification and placed in the regular program.

All property owners benefit from inspections under any scheme. Inspections become part of property maintenance. Deficient items found in one unit are likely to be deficient in all units. Early intervention may actually save property owners money although proper maintenance of residential properties should include regular inspections of every unit on an annual basis.

Costs of running a citywide rental inspection program as described above

Staffing for citywide rental inspection programs range from 1 FTE per 2857 units to 1 FTE per 5200 units for an average of 1 FTE per 4169 units. With a rough number of rental units in Oakland of 88,000 based on the most recent census this would require a staff of 21 FTE. At a cost of roughly \$200,000 per new employee, a new program for Oakland would require \$4.2 million in funding and would need to charge about \$47.72 per unit per year for inspection costs. Any cases that meet the criteria for substandard housing would generate the need for additional staff and increased fees to make such a program cost covering.

Other findings and comments from other cities

In discussing existing programs with other cities, staff learned that one disadvantage of self certification is that property owners tend to under report problems. The incentive to underreport is high. Admitting problems means that the property owner must pay for fixing the problems and the owner incurs higher inspection fees and closer scrutiny. Random inspection tends to be

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and the owner incurs higher inspection fees and closer scrutiny. Random inspection tends to be effective. Problems in one unit of a complex tend to be replicated everywhere in a complex. Random inspections keep property owners on their toes practicing preventative maintenance. Overlong inspection intervals from self certification programs lead to deficiencies that may be borne by tenants for years. Consistent inspection where property owners know what to expect brings good results. No existing program eliminates deteriorated conditions completely.

SUSTAINABLE OPPORTUNITIES

Economic

As units are brought into compliance they will generate short and long term economic sustainability. In the short term there will be economic opportunities for construction workers and sales of construction materials some of which will benefit Oakland firms and employees. In the long term, well maintained housing stock tends to improve property values leading to higher property taxes and rents. The city would benefit directly from increased property taxes and business license taxes.

The amount that improvements increase property values and rents will not be linear because of the high demand for housing in the Bay Area, rents and property values will tend to rise regardless of rental housing quality.

Environmental

Bringing non-compliant housing into compliance will create opportunities for environmental sustainability through the existing regulations related to development. Most of the work performed to bring property into compliance will require review and approval through the building permit and inspection process. Existing regulations require compliance with Title 24 which includes meeting energy use standards. As most construction projects generate waste, the application of our waste reduction program will help achieve short and long term sustainability goals. Properly maintained structures will need less construction and increase the long term life of existing housing stock requires the expenditure of less energy and materials resources.

Social Equity

There are obvious social equity issues related to rental inspection. Rental inspection of any type will tend to benefit all renters with greater benefits for renters on the low end of the rental market. Tenants with less economic resources tend to rent cheaper housing. Cheaper housing tends to have more deferred maintenance.

DISABILITY AND SENIOR CITIZEN ACCESS

As discussed above, bringing units into compliance with building and housing codes will result in compliance with Title 24. This title includes requirements for mobility accessibility for seniors and disabled individuals as well as energy compliance.

RECOMMENDATION AND RATIONALE

Staff asks that the City Council accept this informational report and direct staff.

ACTION REQUESTED OF THE CITY COUNCIL

Conduct a public hearing, take public testimony, review and accept report.

Respectfully submitted,

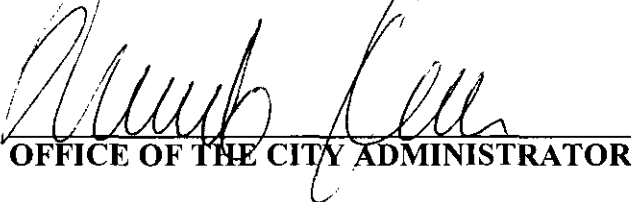


CLAUDIA CAPPIO

Director of Development

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APPROVED AND FORWARDED TO THE
COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE:


OFFICE OF THE CITY ADMINISTRATOR

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(DRAFT) RENTAL INSPECTION PROGRAM

City	Applies to	Inspections	Cycle	Fees	Type of review	Landlord	Fine	Self Certified	Special features and notes
Alhambra	31 Hotel/Motel	Complaint units	Code: No more than 5yrs of change in ownership	\$157-3-20 units \$167-21-50 units \$5/\$11/yr	Random, 1/3 of all units/complex. Moved to 3 yr cycle.	No	Yes	Self certified process for complaint sites Sys. before re-inspection.	Base fee \$75% for complex w/serious defects, - 25% for complaint units and 8 year self certification. Fee schedule may be changed. Looks at causes of mold. Lead on referral from Health Dept.
San Jose	72 ex-7 units 14 FTE	Condos, dorms	6 years	\$30.94/unit/year (\$5/unit fine)	Annual renewal of occupancy permit must be displayed.	No	Yes	Self certification for Annual occupancy permit.	May require special certificates. Has an outreach including a landlord training program paid for out of program. Has a waiting list. 100% cost covered. Illegal units asked to convert back or obtain permits. Uses Appeals Board to assess daily fine of up to \$2,500/day for recalcitrant landlords
Hayward	21,200 units 6 FTE	Any rental includes SFRR Residential care, condos	4-5 years	\$20/unit yrs 1-4 > 4 \$5/unit	Looks at 100% of units in target area and sample elsewhere.	No	Yes	No	Use of geographic target areas.
Glendale	40,000 units*	2+ units Owner occupied/ Sect 8	3 years by geographic area	\$24/unit	3 year certificate program	No	Yes	No	Pilot program expired. Will try to establish new program. Has outreach and education program. Checklists sent out prior to inspection yields good 1 st inspection results. Enforcement was a separate component from inspection.
Berkeley	2-26,000 units 2 FTE	All rental units Hotel/Motel	3 year/annual certification	\$17/unit \$8/renting unit/yr	Self certify if no violations on books	No	Yes	Yes	Special gas appliance certification. Outreach through rental arbitration program.
Concord	10,000 units 3.5 FTE	4+ Hotel/Motel	3 year/ 20% units/cycle	\$33.25/unit/year	Self cert. added this year. Annual	Yes if over 9 square feet	Yes	Yes	Inspections of 20% of units reviewed in year one of cycle. If random inspection finds violation site is removed from program and pays base fee. Complaint units have 80% of fee refunded for total cost of \$6.65/unit/year.
Los Angeles	783,000 units	21 units Owner occupied	3 year	\$27.24/unit/year	3 year certification	Refer to Health Dept.	Yes	Yes	If severe cases tents impounded in escrow account to pay for city repair of units as part of separate program. Program is cost covered and is adding staff. Pass through new additional inspection fee of \$2.27/unit/year to tenants.
Vallejo	193 FTE	SFR (P)	N/A	N/A	(P) review period based on performance	N/A	(P)	(P)	Proposed. No program yet. Mandated after Berkeley/Concord. Waiting on funding. Proposed both landlord and tenant cert.
Oakland	88,000- 111,000 units								

General notes: All cities queried will inspect on a complaint basis. All fees are per unit per year, to calculate fee per inspection use "cycle" i.e. \$24/unit/year for a 3 yr. program where all units are reviewed means that the fee is \$7.2/unit inspection. Some cities only look at a portion of units per inspection cycle and figures should be divided by that proportion. (B) - Existing (P) - Proposed
 *Excludes run a pilot program with 5 FTE inspecting 4,500 units. Would like to create citywide program with about 25 FTE to review about 40k units. Draft date: May 4, 2004