



Office of the Mayor

ACTION CALENDAR
December 6, 2011

TO: Honorable Members of the City Council
FROM: Mayor Tom Bates
Councilmember Arreguin
Councilmember Capitelli
Councilmember Anderson
SUBJECT: Revisions to Demolition and Elimination of Dwelling Units Ordinance

RECOMMENDATION

Request the City Manager draft language amending the Berkeley Municipal Code Chapter 23C.08 related to the demolition and elimination of dwelling units for Planning Commission and City Council consideration.

BACKGROUND

As we continue to explore strategies to increase opportunities for housing in the City of Berkeley we need to address the issue of underutilized structures on parcels where the current zoning allows larger structures for more units thus maximizing the efficient use of the land

Over the past few years a number of potential housing projects have been caught between conflicting City policies.

The first policy conflict is where the City calls for developing, preserving and supporting affordable housing, while another policy supports expanding housing opportunities for Berkeley residents. Though not mutually exclusive, there have been cases when *preservation* of existing housing has conflicted with opportunities to *expand*.

Most recently developments at 3240 Sacramento Street and 2525 Telegraph Avenue were caught in this dilemma. Though both cases were ultimately resolved successfully, it highlights the need to have a clear implementation process to deal with these situations instead of on a project by project basis.

The other conflicting policy arises when a property owner requests rental units to be combined into a larger unit. Though it is City policy to encourage larger units to create more opportunities for family housing, it is also City policy to preserve existing rental housing especially units currently subject to rent control.

RECOMMENDED REVISIONS

Demolition Ordinance

This item requests the City Manager return to the City Council with an amended ordinance that will allow demolition of existing housing units that are not designated landmarks or Structure of Merit if:

- a. The units are replaced with an equal or greater number of new units inclusive of the current number of existing affordable units; or
- b. The current units will be relocated to a new location at the same affordability level; or
- c. The demolition is necessary to permit construction of special needs facilities such as, but not limited to, childcare centers and affordable housing developments that serve the greater good of the entire community and if special findings can be made.

Demolition will not be allowed if the building has been removed from the rental market under the Ellis Act in the last five (5) years.

In addition, if the units in the building to be demolished are currently occupied, the following measures would apply:

- d. Appropriate notice to sitting tenants including being provided with their rights under the Rent Control Ordinance;
- e. Assistance with moving expenses consistent with local ordinance;
- f. Subsidization of the rent differential for a replacement unit until new units are ready for occupancy or for up to 4 years whichever comes sooner; and
- g. First right of refusal to move into the new building and, if qualified, into the low income units.

Demolition will not be allowed if there have been verified cases of harassment or illegal evictions in the prior twelve (12) months.

Elimination Ordinance

We request staff return with language that would allow elimination and consolidation of rental units if:

1. A new combined unit will be owner occupied for no less than one year prior to and no less than two years after conversion, before another conversion could occur.
2. The currently existing number of units exceeds the density standard for the neighborhood.
3. The change is not detrimental to the existing neighborhood.
4. If the building is five units or less no more than one unit can be combined per building and the owner must agree to maintain Measure Y protections that apply in five unit buildings for tenants in the other units.

Revisions to Demolition and Elimination of Dwelling
Units Ordinance

ACTION CALENDAR

FINANCIAL IMPLICATONS

Unknown

CONTACT PERSON

Mayor Tom Bates

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Rent Board Committee on Evictions, Section 8 and Foreclosures

DRAFT list of issues for Work Plan, FY 2011-12

1. Foreclosure training or workshop for Board members
2. Relocation Ordinance
 - a. Track relocations, ordinance implementation
 - b. Look into creating a security deposit revolving loan fund to assist in temporary relocations
 - c. Review the process on how tenants and landlords learn about their rights and obligations under the ordinance, how Rent Board can help
3. Section 8 and the Housing Authority
 - a. Track relocation component of Public Housing transition
 - b. Track trends in Berkeley: Will Section 8 opt-outs increase with the reduction in Payment Standard?
 - c. Consider establishing regulations to define how rent stabilization applies to Section 8 tenants
 - d. Track HUD changes in the Section 8 program
4. Foreclosures
 - a. Disclosure rules relating to foreclosure (??)
 - b. Consider how tenants who don't know who to pay rent to could pay into an escrow account
 - c. Track legislation on foreclosure issues
 - i. Support legislation establishing a foreclosed owners' right to rent and remain in place
 - d. Get results of California Attorney General's investigation of banks
 - e. Problems searching County records relating to default and foreclosure
5. Regular staff reports (six month cycle, two months apart)
 - a. Owner move-in evictions
 - b. Ellis Act evictions
 - c. Foreclosures and notices of default
6. Community Agencies
 - a. Review and approve community agency contracts
 - b. Get regular reports on trends in evictions, foreclosures
7. Anti-harassment Ordinance
8. Track Pending Legislation related to Committee issues
9. Review Eviction for Good Cause provisions of the ordinance
10. What are the effects of evictions on neighborhood stabilization
11. Establish regular monthly meeting times