

# SPECIAL CITY COUNCIL MEETING

Thursday, May 11, 2023

Staff Presenter:  
Bill Chapin,  
Rent Program Director



Temporary  
Moratorium on  
Capital  
Improvement Plan  
Applications for  
Larger Properties



# Capital Improvement Plan (CIP) Policy

Adopted in 2016 to encourage investment in certain types of long-term improvements.

- **Policy Documents:** Established by Resolution 15138, implemented by Rent Control Ordinance Regulation 23-01.
- **Intent:** Maintain quality of City's rental housing stock while providing tenant protections.
- **What it does:**
  - Allows landlords to submit proof of qualifying improvements and pass costs through to tenants.
  - Moderates the costs of the pass throughs by spreading them over the useful life of improvements (often 27.5 years).
  - Requires landlords to provide relocation assistance if tenants must be displaced.

# Types of Allowable Rent Increases

Methods of Permissible Rent Increase	Limitations
1. Annual General Adjustment (AGA)	5% annual cap, calculated at 70% of change in Consumer Price Index (“CPI”)
2. Banked increase	3.0% annual cap
3. CIP increase	No cap under local law, subject to 10% overall annual cap under state law*
4. Fair Return increase	Constitutionally guaranteed, no cap

\*AB 1482 imposes a maximum 10% cap on annual rent increases, but applicability of state law to CIP increases is untested.

# Processing CIP Applications

Existing law requires Rent Program staff to approve a CIP application if it meets objective legal requirements.

1. Do improvements meet the definition of Capital Improvements under local law?
2. Has the landlord provided sufficient documentation of the work and its costs?
3. Does the work meet a cost threshold defined by local law?
  - $[\text{average monthly rent over last 12 months}] \times [\text{total dwelling units}] \times 8$

# CIP Applications to Date

	Qualifying		Denied or Withdrawn	Total
	Pass Through Only	Permanent Relocation		
1-24 units	1	3	7	11
25+ units	1*	0	1	2
<b>Total</b>	<b>2</b>	<b>3</b>	<b>8</b>	<b>13</b>

\* Pending application

# Pending CIP Application

Owners of 452-unit property (South Shore Apartments) filed in October 2022, seeking pass through of \$24M of completed work.

- **Preliminary findings:**

- Approximately \$20M qualifies for CIP pass through increase.
- Amortized over 27.5 years based on IRS standards.
- Costs to be spread across 452 units. CIP increase could only be applied, however, to 268 units with tenancies that pre-date completion of work.
- CIP increase estimated to range from \$113 for studios to \$169 for 2 bedroom.
- 10% state law cap on annual rent increase likely applies (AGA + Banked + CIP)

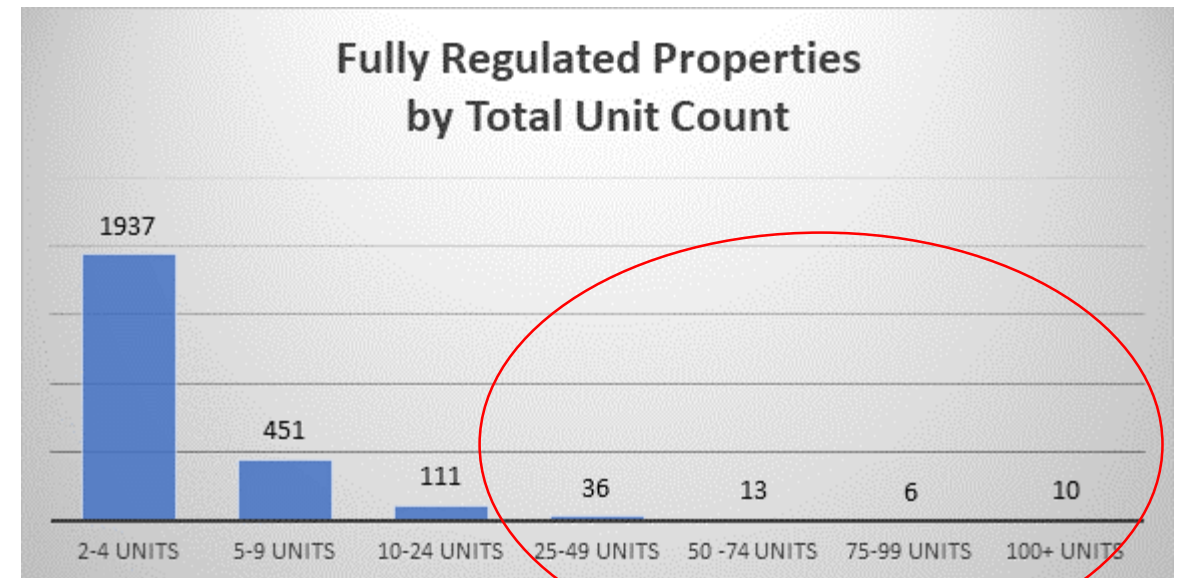
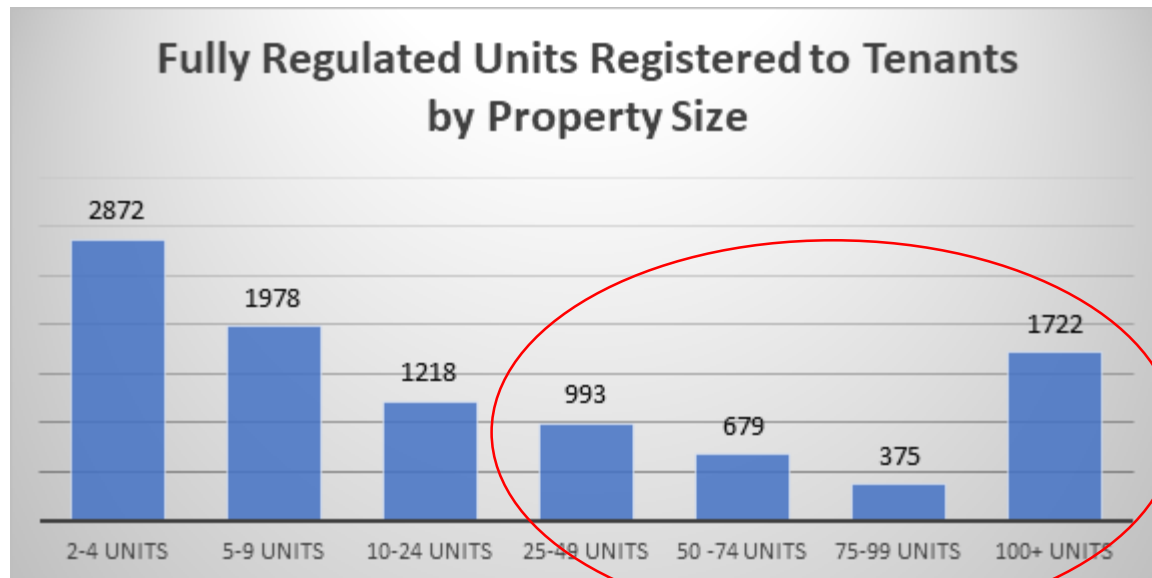
# Proposed Moratorium

Staff is proposing a moratorium on CIP applications for properties with 25 or more rental units, based on the following:

- Gives Council time to consider revisions to CIP Policy
- Context of ongoing housing supply and affordability crisis
- Without moratorium, displacement of vulnerable residents endangers health and safety, and harms city as a whole
- End of Declaration of Local Emergency and rent increase moratorium means most landlords have banked amounts they are now permitted to implement, leading to an unusual number of valid rent increases that exceed the AGA.

# Proposed Moratorium

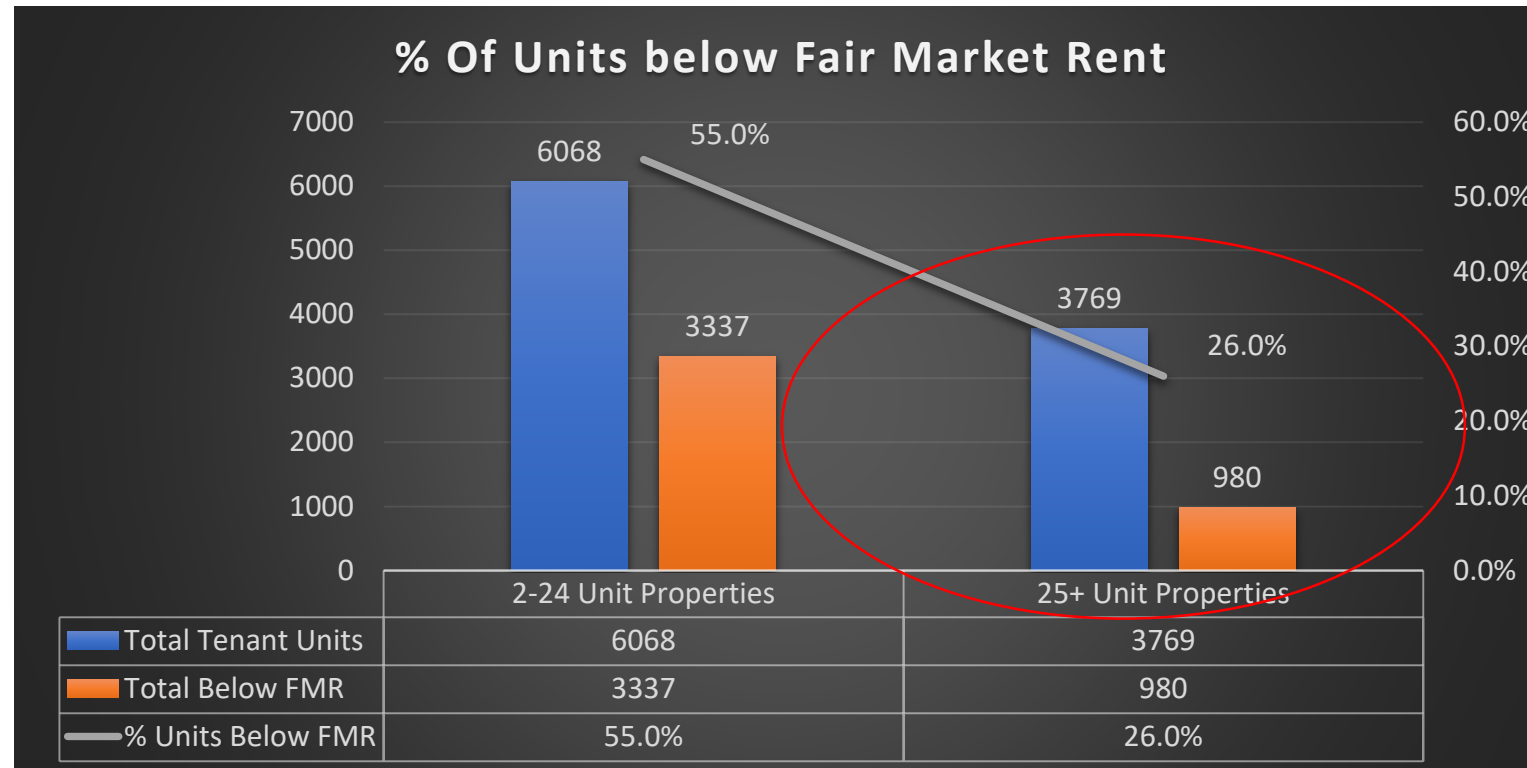
Proposed 25-unit cutoff would affect 2.5% of rental properties, containing 35% of fully regulated units.





# Proposed Moratorium

Larger properties are more likely to have units at or above Fair Market Rents, further supporting the recommended 25-unit cutoff.



# Proposed Moratorium

Staff is recommending that the moratorium apply to properties with 25 or more rental units

- Staff looked at other jurisdictions with CIP Policies that make distinctions based on the number of units
  - San Francisco draws line at 6 units
  - Mountain View draws one line at 6 units and another at 20 units
- Landlords may still increase rent via other methods, including Fair Return petitions, through which capital improvement expenditures may be considered.

# Proposed Moratorium

Staff is recommending that the moratorium apply to applications filed on or after April 27, 2023.

- Would not apply to South Shore CIP application.
  - Application submitted more than half a year ago in October 2022.
  - Work commenced in August 2020 and completed in February 2022 in contemplation of existing local law that permits CIP pass throughs.
  - Throughout process, landlord has relied on information Rent Program staff have given about current, existing local law.
  - Existing law limits rent increases (any combination of AGA + Banked + CIP) to once every 12 months, thus many tenants will not be subject to the CIP increase for several months.

# Recommendation

Adopt the attached Ordinance on an urgency basis and introduce a substantively same Ordinance on a non-urgency basis placing a moratorium on CIP applications submitted after April 27, 2023, for properties with 25 or more rental units.