

SPECIAL CITY COUNCIL MEETING

Wednesday, Oct. 25, 2023

Staff Presenter:
Bill Chapin,
Rent Program Director



Capital Improvement Plan (CIP) Program and Tenant Assistance



What is Alameda's CIP Policy?

Capital Improvement Plans are a longstanding provision of the City's Rent Program

- **Intent:** Maintain quality of City's rental housing stock and encourage certain types of long-term improvements 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.
 - Requires landlords to provide relocation assistance if tenants must be displaced.
- **Policy Documents:** Established by Resolution 15138, implemented by Rent Control Ordinance Regulation 23-01.

Timeline

2016

- CIP Policy introduced

2019

- Rent Ordinance revised

2021 & 2022

- Staff presents proposed CIP updates

Oct. 2022

- South Shore CIP filed

May 2023

- CIP moratorium for 25+ unit properties

COVID-19 moratoriums prevent landlords from terminating a tenancy or increasing rent based on CIP

Why Have a CIP Policy?

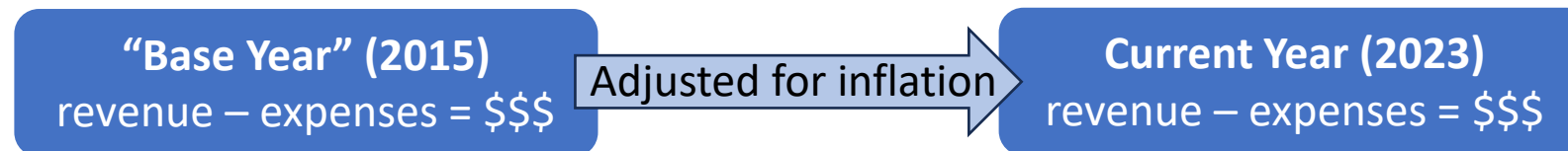
Arguments For	Arguments Against
Almost half of California jurisdictions with rent control have similar policies	Other half rely on alternate methods to allow for recovery of capital investments
Better housing for tenants, keeps units on the market	Increases already high rent burden on tenants
Limits housing insecurity by spreading costs over time and requiring relocation payments	Increases housing insecurity due to higher rental costs
Incentivizes specific types of renovation and upkeep the City wants to encourage	As business owners, landlords should plan ahead and pay for investments in their property
Possibility for administrative approval without costly hearings	Submissions can be complex, requiring significant staff time to process



Alternative: Fair Return Petitions

- **What is “Fair Return”?**
 - Constitutional right to a fair return on investment, including rental property
 - Not the same as “market rate”
 - Rent control jurisdictions must have a process in place to ensure landlords receive a fair return

- **“Maintenance of Net Operating Income” (MNOI)**



- **Alameda’s Fair Return Petition Process:**

- Refined and updated in September 2019 as part of enhanced Rent Ordinance
- Landlord makes case for an upward rent adjustment in an administrative hearing
- Hearing Officer makes determination based on evidence, including documentation of MNOI
- Petition could include amortized cost of capital improvements as an expense in MNOI calculation

Fair Return Petitions From 2019 to Date

	Upward Rent Adjustment Approved	Upward Rent Adjustment Denied	Withdrawn	Resolved via Mediation
OUTCOMES	1	2	6	3
TOTAL	12			

CIP Applications From 2016 to Date

	Approved		Denied, Withdrawn, or Suspended Due to Moratorium	Total
	Pass Through Only	Tenant Relocation Only		
1-24 units	1	3	8	12
25+ units	0	0	2	2
Total	1	3	10	14

Outreach Summary

Feedback used to refine staff recommendations

Focus Groups with Landlord & Tenant Representatives

Aug. 24, 2020

April 26, 2022

April 28, 2022

Aug. 1, 2023

Aug. 3, 2023

Public Workshops & Informational Sessions

May 1, 2023

Aug. 20, 2023

Oct. 18, 2023

Generally, landlords expressed preference for keeping a revised CIP Policy, while tenants expressed strong opposition to the CIP Policy and preference for a system based on fair return.

Two Policy Options:

Option A : Revised CIP Policy

- Adopt new CIP Policy that adds tenant protections while allowing more projects to qualify.
- Draft proposal maintains moratorium limitation, i.e. only properties with less than 25 units may apply
- Properties with 25+ units may use existing Fair Return petition process

Option B : Eliminate CIP

- Eliminate CIP by repealing Resolution 15138
- Landlords of any size property would continue to be eligible to use the existing Fair Return petition process
- Enhanced Fair Return petition application to include section on Capital Improvements and comprehensive amortization schedules

Other Jurisdictions Survey

	CIP Application separate from Fair Return process	Renter Population
Los Angeles	YES	2,321,544
San Francisco	YES	477,798
San Jose	YES	418,053
Sacramento	NO	245,752
Oakland	YES	238,645
Santa Ana	YES	180,991
Hayward	YES	73,110
Santa Monica	NO	60,544
Berkeley	NO	57,909
Richmond	NO	54,524

Other Jurisdictions Survey ... continued

	CIP Application separate from Fair Return Process	Rent Control Renter Population
Mountain View	YES	44,744
Antioch	NO	44,096
Alameda	YES	38,581
Gardena	NO	28,673
West Hollywood	NO	28,062
Palm Springs	NO	20,811
East Palo Alto	NO	18,803
Beverly Hills	NO	17,862
Culver City	YES	17,270
Los Gatos	NO	9,287

CIP Policy Comparison



	Renter Population	Cost Threshold	Staff Determination/ Hearing Officer	Tenant Hardship Option	Project Cost Recovery %	Pass Through Increase Cap
Los Angeles	2,321,544	None	Staff	No	50%	\$55/month
San Francisco	477,798	None	Hearing Officer	Yes	1-5 Units = 100% 6+ Units = 50% Seismic = 100%	Greater of \$30/month or no more than 5%
San Jose	418,053	None	Hearing Officer	No	100%	3%
Oakland	238,645	None	Hearing Officer	No	70%	10% including AGA + Banking, no more than 30% increases in 5 year period
Santa Ana	180,991	None	Hearing Officer	No	100%	10%
Hayward	73,110	None	Hearing Officer	No	50%	10% Including AGA + Banking
Mountain View	44,744	None	Hearing Officer	Yes	1-5 Units = 90% 6-20 Units = 75% 21+ Units = 50%	5%
Culver City	17,270	None	Staff	Yes	50%	3%

CIP Policy Update (Option A) - Highlights



Eligible Recovery Based on Property Size

2-4 Units = 100% Pass Through
5-15 Units = 75% Pass Through, 100% for seismic upgrades
16-24 Units = 50% Pass Through, 100% for seismic upgrades
25 or more Units = No CIP (Fair Return remain available)



Caps on Pass Through

Initial calculation not to exceed 5% of current rent. Annual rent increase (AGA and Banking) + CIP not to exceed 8%.



Minimum Threshold

\$10,000 overall and \$1,000 per unit (both must be satisfied)



Tenant Hardship Exemption

Tenants may be eligible for exemption from CIP Increase based on income



Qualifying Improvements Expanded

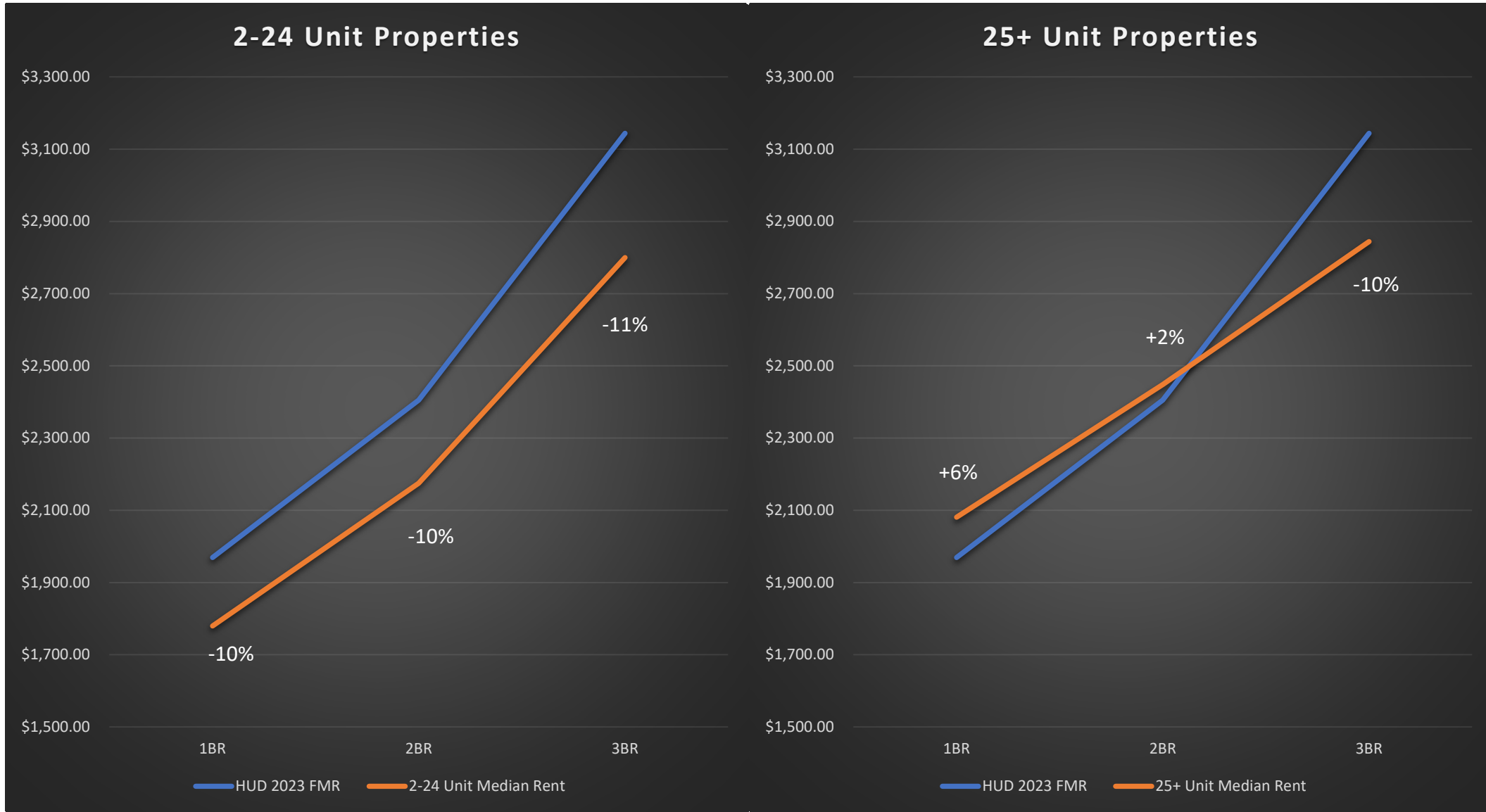
Utilities for energy efficiency/conservation
Fire sprinklers & alarm systems
Replacement of stairs or railings



Temporary Relocation Only

Permanent Relocation not permitted

Eligibility Based on Property Size



Temporary Relocation Tenant Assistance Program

- Rent Ordinance requires landlords to make Temporary Relocation Payments (TRP) to tenants who face temporary displacement due to:
 - Work associated with an approved CIP
 - Compliance with a governmental order to vacate
 - Health and Safety Conditions
- Some landlords delay compliance, creating a financial burden for tenants
- **Proposal:** Establish a grant program to provide immediate TRP to tenants for up to 14 days
 - One-time \$100,000 transfer from General Fund
 - Staff estimates fund could provide TRP to approximately 20 tenants simultaneously
 - Rent Program would seek reimbursement from the landlord for any payments made

Staff Recommendation:

1. Update the existing CIP policy by either:
 - A. Introducing the ordinance revising CIP policies by enhancing tenant protections, clarifying authorized improvements, and eliminating CIP for properties with 25 or more units. (Option A), OR
 - B. Introducing the alternative ordinance that would eliminate and discontinue all CIPs. (Option B).

2. Approve staff's recommendation to establish a Temporary Relocation Tenant Assistance Program and authorize a one-time general fund transfer of \$100,000 to fund the program.