

Marin Landlords to Enter Mediation Before Hiking Rents

By Richard Halstead, *Marin Independent Journal*

December 12, 2017



In photo: Rev. Thomas Gamble

Marin landlords will now be required to enter into mediation with their tenants if they increase rents more than 5 percent within a 12-month period.

The Board of Supervisors voted unanimously Tuesday to adopt an ordinance imposing the new requirement. The mediation requirement also will be triggered if a landlord reduces services to a tenant, if that service reduction is equivalent to more than a 5 percent rent hike. Landlords will be required to notify their tenants of the new ordinance by Feb. 12.

The ordinance ultimately does nothing to prevent landlords from imposing whatever rent increase they want. And there is nothing in the mandatory mediation ordinance that requires the county to enforce it. Tenants, however, are now empowered to sue landlords to guarantee compliance.

David Levin, managing attorney for Legal Aid of Marin, said, “Legal Aid is prepared to assist with enforcement of the new ordinance. We think it is an important if modest step in the right direction to address the housing crisis in Marin.”

The supervisors chose not to adopt a just-cause eviction ordinance in tandem with the mediation ordinance, which was one of the options presented by Community Development Agency staff. The supervisors did, however, say they will reconsider the just-cause eviction ordinance option in the second quarter of 2018.

The supervisors said in the first quarter of 2018 they will also finalize plans to gather data on rent increases and tenant evictions, enhance the county’s multi-unit housing inspection program, increase coordination and collaboration with San Rafael and Novato code enforcement staffs, and increase outreach to educate tenants about their rights.

Several people who spoke during the public hearing said the mandatory mediation ordinance is only a mild attempt to address Marin’s raging affordable housing crisis and called on the supervisors to also adopt a just-cause eviction law.

“It is incumbent on the county to take immediate tangible steps to ease the current crisis that is disrupting our families,” said Julia Kiely Reich, a member of Congregation Kol Shofar and the Marin Organizing Committee, whose 18-member organizations include religious groups and nonprofits.

Reich said the mandatory mediation ordinance “is not enough.”

“A just-cause eviction ordinance needs to be enacted to provide protection for tenants from retaliatory evictions should mediation fail,” Reich said. “Without a just-cause ordinance, landlords can simply choose to evict a tenant if they want a rental increase of more than 5 percent.”

Bob Pendoley, speaking on behalf of the Marin Environmental Housing Collaborative, also called on the supervisors to adopt a just-cause ordinance.

“Tenants need to know they are not going to be subject to retribution or eviction when they ask to have code problems corrected,” Pendoley said. “When a family is evicted often times they end up homeless.”

Linda Jackson, a member of the Aging Action Initiative, said, “Rather than deferring just cause, I would recommend doing a pilot in West Marin or another area because the people getting the rent increases just can’t wait.

“About 25 percent of people over 60 in Marin rent and according to the American Community Survey over half of those overpay for their rent,” Jackson said.

No landlords spoke during Tuesday's public hearing, but Andy Fegley, CEO of the Marin Association of Realtors, stated several objections.

Fegley said the association sees a conflict between the ordinance and the Costa-Hawkins Act, a California state law, enacted in 1995, that placed limits on municipal rent control ordinances. He said there is no justification for the 5 percent trigger; the association believes the trigger should be 10 percent. And Fegley said the ordinance shouldn't be adopted until a formula has been approved for determining the value of housing services, which if reduced could trigger mediation under the ordinance.

"Passing this ordinance without a clear, publicly edited schedule is akin to building an airplane while you're flying it," Fegley said.

Supervisor Katie Rice quizzed staff closely on this point at the beginning of Tuesday's meeting. Leelee Thomas, a principal planner with the county's Community Development Agency, said the county would be working with a consulting economist who had done similar evaluations in other communities.

Rice, however, didn't seem satisfied with that answer.

"I would ask that those guidelines, before they are codified, get run through our subcommittee and get some vetting from some folks who are real world," Rice said.

Supervisors Rice and Damon Connolly serve on the Board of Supervisors' housing subcommittee, which oversaw preparation of the mandatory mediation ordinance.

Rice also sought to have two tenant anti-harassment provisions removed from the ordinance. One would have prohibited landlords from offering tenants payment in return for moving out more often than once every six months. The other would have prohibited landlords from refusing to accept receipt of lawful rent from tenants. The other 12 anti-harassment provisions in the ordinance are already part of state law.

These and other smaller changes proposed by Rice on Tuesday would have required a third public hearing on the ordinance; only clerical changes may be made in an ordinance during a second reading and final vote. That would have delayed approval of the ordinance until Jan. 9, since the supervisors won't meet again until then.

Supervisor Kate Sears, however, said, "I'm fine with this ordinance. I would really like to see us move forward."

And supervisors Connolly, Dennis Rodoni and Judy Arnold said they all favored voting on the ordinance without changes.

In the end, Rice decided against casting the lone no vote.

"I can count votes," she said, adding, "I do think we also need to pay close attention and be tracking the costs on the property owners' side of this equation. We pass parcel taxes and it does add up as well. That whole segment of our landlord community that are excellent landlords and want to keep their tenants and work with their tenants has not been given the attention it is due."