

**MINUTES  
JOINT STUDY SESSION  
CITY OF WEST HOLLYWOOD  
CITY COUNCIL - RENT STABILIZATION COMMISSION  
MONDAY, MARCH 29, 1993  
COMMUNITY CONFERENCE ROOM  
8613 SANTA MONICA BLVD.**

**CALL TO ORDER:**

The meeting was called to order at 7:00pm by Mayor Babette Lang.

**ROLL CALL:**

Present: City Councilmembers Sal Guarriello, John Heilman, Paul Koretz, Abbe Land and Mayor Babette Lang; Rent Stabilization Commissioners David Etezadi, Stephen Martin, Kevin Notre and Chairperson Douglas Routh.

Absent: Commissioner Ruth Williams.

Also Present: City Manager Paul Brotzman, RSD Director Mark Johnson, RSD Records Manager Mayme Cannady, RSD Analyst Wayne Zimmerman, Deputy Leah Archibald, Deputy Deanna Stevenson.

**APPROVAL OF THE AGENDA:**

The agenda was approved with the change that Council will adjourn the meeting to the Council meeting of March 30, 1993 at 7pm in Fiesta Hall, Plummer Park, 7377 Santa Monica Boulevard.

**APPROVAL OF MINUTES:**

Guarriello moved to approve the minutes of the committee's October 26, 1992 meeting. Koretz seconded. Approved unanimously.

**WRITTEN AND ORAL COMMUNICATION:**

None.

**NEW BUSINESS:**

1. RECOMMENDATIONS FROM THE JOINT COMMITTEE ON HISTORICALLY LOW RENTS.

**STAFF REPORT**

Mr. Zimmerman gave a short chronological overview of the issues, and reviewed both the discussions from the joint committee meeting to date and various reports that had been

presented. He reiterated that the joint committee had been unable to reach consensus on a proposed course of action, so that two different recommendations were being presented to the joint Council/Commission study session. One recommendation was to establish a separate program allowing for some increases in historically low rents, while the other recommendation was that current department procedures were sufficient to deal with this issue and that no additional action was necessary.

Mr. Zimmerman briefly discussed two reports that he had written and distributed since the committee's last meeting. The first contained a more detailed statistical profile of those units that may have historically low rents, according to the definitions that the committee had been using (percentiles 1, 2, 3, 4 and 5). This profile, including data such as the number of units with some type of exemption status, typical housing services and concentration of units in specific areas of the City, was gleaned from the City's Geo-Base. The second report contained comparative data of indexes used to measure the effect of inflation on goods and services, including the Consumer Price Index (CPI), on which the Rent Stabilization Commission bases the Annual General Adjustment.

Mr. Johnson discussed the favorable decision handed down in the Klaparda litigation and how it relates to some of the issues that the joint committee has reviewed. He has been engaged in ongoing discussions with both the City of Santa Monica and West Hollywood's Hearings division on what approaches we will take, given this decision which upheld the condition of peculiar circumstances as a threshold requirement for having an adjustment in base rents. He added that there are several ideas that may be developed into a package of proposed amendments to the Rent Stabilization Ordinance and Regulations. The primary issue common to both the Klaparda issue and the joint committee discussions is the question of how rents should be set if we find that peculiar circumstances existed or if the rents were disproportionately low.

Mr. Johnson has been in continuing discussions with Tony Trendacosta and Maryanne Yurkonis at Santa Monica's Rent Stabilization Department. They are working on an extremely comprehensive report which addresses similar issues to those we are discussing, drawn from their database. They anticipate presenting this report to their board within one month.

At the March 25, 1993 Rent Stabilization Commission meeting direction was given to staff to consider and possibly bring before Council a proposed Ordinance change imposing a 10 year statute of limitations on "Simonson-Vega like" increases. Concurrently, staff would be taking a closer look at the language in the Ordinance which defines peculiar circumstances. Once these things are in place, the department would look at proposing a procedure, within our current application process, that would sever the peculiar

circumstances issue from the NOI process, allowing potential increases to be given upon showing peculiar circumstances and that rent was below a pre-identified level, without requiring income and expense statements. Although this study session is not considering this specific issue, it is related to the material being discussed today.

### DISCUSSION

Before discussion ensued, Mayor Lang asked that she be allowed to read a letter of resignation from Rent Stabilization Commissioner Ruth Williams. Agreed by acclamation. Regrettably, due to work conflicts with Commission meeting times, Commissioner Williams stated in her letter that she would not be able to continue to give the Commission the attention it needed, given the critical nature of the work entrusted to this body. Mayor Lang will fill this vacancy at a later date, since Ms. Williams was her appointee to the Commission. The Council directed Mr. Zimmerman to prepare a commendation for Ms. Williams, who has served the City in various capacities before, during and since City Incorporation. (commendation attached)

Mr. Heilman suggested that statements highlighting the two committee positions be made, followed by questions and discussion. This was agreed to by consensus.

Mr. Heilman reviewed the report and program that he and Mr. Martin had prepared, outlining the reasoning behind the proposed plan. Their largest concern was that "very low rent" units were gradually falling behind the rest of the City's housing stock, given the fact that the the annual general adjustment raises rents by a percentage, rather than dollar amount. Furthermore, the Net Operating Income (NOI) Hearing procedure is not a viable alternative for owners of these units due to: the expense associated with filing the application; the expertise required to apply for an increase using this procedure; the relatively small return possible in relation to the expense, particularly as a large portion of historically low rent units are in smaller (2-6 units) buildings; and, that many of the owners of these units are "mom and pop landlords," who more often than not, didn't try to squeeze every drop of rent from their tenants.

Mr. Heilman stressed that a program of this nature would take place only upon vacancy and could avoid some of the large increases to in-place tenants, witnessed as a result of the decision handed down in Vega v. The City of West Hollywood.

Mr. Routh discussed the recommendation that he and Mayor Lang had compiled. Their arguments against initiating a new program of this nature included that: such a program could open loopholes and weaken the Rent Stabilization Ordinance; the increases given under the program wouldn't satisfy owners anyway; relatively few units would be affected; an unnecessary burden would be placed upon the department to administer such a program; it would place a hardship on

tenants; and, that such a program would do nothing to deflect opponents of Rent Stabilization in Sacramento, from continuing in their efforts to weaken and/or end Rent Stabilization in the state.

Ms. Land questioned Mr. Routh as to what hardship would be created under the proposed program, given that it took effect only upon vacancy. Mr. Routh responded that as unit rents are raised upon vacancy, the entire City housing stock becomes less affordable.

Mayor Lang asked that the regular orders of the day be suspended so that Mr. Koretz, who was ill and couldn't stay for the rest of the meeting, could read a statement. Agreed to by acclamation.

Mr. Koretz presented his own proposal for a program to adjust historically low rent units, based upon discussions that took place in the Rent Stabilization Department several years ago. The plan would tie the program into guidelines for the City's own Housing corporation, which provides low income housing. The thresholds used by the Housing Corporation would set the levels to which rents would be raised, rather than using a percentile or statistical rule. Like the proposed Heilman-Martin plan, the increase would take place only upon vacancy. It would not be automatic however, as certain requirements would have to be met by the owner and if any requirements were violated, the applicant would not be able to continue in the process. The requirements would include not having any unlawful evictions in the building, along with meeting other criteria to be discussed at a later date. Finally, the owners would have to choose tenants from a City approved list of low income people, similar to the Housing Corporation approach. This would avoid non-low income people from being able to rent the low income housing.

Finally, he agreed with the premise put forth by Mr. Heilman and Mr. Martin that not having a program in place to resolve this low rent issue will subject the City to potentially constant litigation and make the City vulnerable to the whims of the judicial system.

Mr. Etezadi expressed concern that it is difficult to link rents in the stock of housing due to differences between some of the old housing stock and new construction. He also stated the the rents charged by the Housing Corporation are largely a function of the financing arranged to put the purchase and construction together. Many of the Housing Corporation units charge rents of several hundred dollars or more, putting them out of range for those receiving SSI benefits.

Mr. Heilman expressed support for most of Mr. Koretz's plan, feeling it was much like the plan he and Mr. Martin had put forth. He had no objection to the owners having to pick from a list of City provided names, but agreed with Mr. Etezadi that linking rents to income would be problematic.

Mr. Notre questioned why the joint study session was focusing on the 5th percentile, as a threshold level for raising rents. He didn't see any rational for this level being a fair one to use when adjusting rents. He doesn't see the current proposal as fully dealing with the peculiar circumstances issue either, since it would only adjust a small percentage of units that may have a peculiar circumstance issue.

Mr. Heilman agreed that the proposal would not solve the peculiar circumstances problem, however for those owners who have not been able to use the NOI process, it allows a methodology for rent adjustment and may result in more units being on the market and being rented in the City, as opposed to being reserved for family members. In using the 5th percentile the joint committee considered how unit rents were distributed, based upon the base rent study provided by Dr. Paul Baum.

In response to Mr. Notre's question, Mr. Heilman explained that under the plan he and Mr. Martin were proposing, owners applying for a vacancy increase would not receive more than the current 10% increase, unless this would still leave the rent on their unit below the fifth percentile.

Mr. Guarriello raised the question of how inflation impacted the increases currently given and those proposed. Mr. Notre stated that he had asked Mr. Zimmerman to research the general inflation increases versus housing inflation, because he was concerned that a disparity might exist. As it turned out, the two indexes rose at close proximity over the years.

At this point, Mr. Koretz had to leave the meeting due to illness. The discussion was interrupted to ask Mr. Koretz a few questions before he left the meeting. In response to Mr. Johnson's question, Mr. Koretz said that his proposal would also take place only upon vacancy. He went on to say that the other substantive difference between his plan and the Heilman-Martin proposal was that the program would be voluntary on the City's part and that not every building would be eligible, only those with a clean record of violations against tenants. Mr. Johnson asked if a future violation would cause any increases already granted, to be voided under the Koretz plan. Mr. Koretz responded affirmatively. In response to Mr. Zimmerman's question, Mr. Koretz confirmed that one violation would cause an owner to be ineligible for the program henceforth.

Mr. Martin asked Mr. Johnson if there were any other jurisdictions with similar programs, aside from Santa Monica. Mr. Johnson responded that Berkeley had been required by court order to increase their rents substantially for many units.

Mayor Lang expressed a concern that the City was already struggling with cutting services to balance the budget and that seniors on SSI will have to bear the brunt of any rent increase caused by the type of program being discussed. She

reiterated that no program will appease opponents of rent in the state legislature. Finally, the program would be staff-intensive, requiring additional personnel for inspection review and to guard against harassment.

Ms. Land expressed the viewpoint that the Council and Commission should agree to a program only if the motivation was positive change for West Hollywood, agreeing with Mayor Lang that nothing short of an end to rent control will appease opponents in Sacramento. She also stated that she would feel most comfortable using peculiar circumstances as the way to adjust historically low rents. Finally, studies done have shown that most of those living in rent controlled units are low income people, though there will always be exceptions.

Mr. Martin stated that one of the main goals of the plan he and Mr. Heilman had proposed was to provide enough of an increase for these historically low rent units, so that they are not removed from the market, while at the same time avoiding large increases for in-place tenants.

Mayor Lang spoke about the rents charged at H.U.D. units in the City and how she didn't want to see our historically low rent units increase to and beyond this level. Mr. Martin responded that the units under discussion as these meetings are private property and therefore can't be fully compared to a federal housing project.

In response to Mayor Lang's concern of losing affordable housing stock in the City, Mr. Heilman stated that even given the proposed increases, the units under consideration would still remain very low rent, by virtually any measure, including comparison to the City's Housing Corporation units. He reiterated that the proposed program raises rents only upon vacancy, while the current NOI process affects in-place tenants.

Mr. Etezadi raised the issue of how many of the 890 units in the bottom five percentiles are not being rented out because the rent was too low and how many might be put back on the rental market if increases were granted. He was generally not in favor of the type of program being discussed, but might be more inclined to support such a program if the stock of affordable units would increase. Mr. Zimmerman cited numbers from his report showing that 105 of the 890 units hold some type of exemption status. Mr. Johnson expressed that the only way we could determine how owners would react to a proposed increase and whether they would put units back on the rental market, would be through a personal survey.

Ms. Land agreed that a survey which would shed light on Mr. Etezadi's questions, would be helpful to her in making a decision. She went on to say that she believed everyone in the joint study session wanted to be fair and preserve affordable housing, and only in the proposed methodology was there disagreement. She asked Mr. Johnson if it was possible to give some further thought and better define an

administrative remedy to the peculiar circumstances issue. Mr. Johnson explained that the potential process that he had discussed earlier in the meeting would be in the form of an amendment to our existing rent increase upon application process. The main difference from the current process would be that owners would not have to provide the NOI documentation in addition to their facts and allegations about peculiar circumstances.

Mayor Lang asked why we were even dealing with this issue. Mr. Heilman responded that the joint meetings and research had been at the direction of Council in the wake of the Simonson decision and the effect it had on dramatically raising the rent for in-place tenants. In addition, we would be sensitive to the fairness issue in allowing owners with extremely low rents, some relief.

## 2. DIRECTION TO THE DEPARTMENT ON FURTHER ACTION.

Mr. Heilman moved that the Council and Commission give direction to staff to do further analysis including a survey of the owners of the units that are currently below the 5th percentile of unit rents and are currently exempt, to determine if those units would be made available to the general public if we implemented some type of short form process to allow them an increase in unit rents, upon vacancy. Mr. Etezadi seconded and added any research that staff could do to analyze units that may be pulled off the market, would be helpful too. This was incorporated into the motion and agreed to by consensus, by the Council-Commission joint study session.

## ADDITIONAL DISCUSSION AND SETTING THE NEXT JOINT STUDY SESSION

Mr. Heilman expressed that obviously, any proposal to raise unit rents is politically sensitive, and appreciated the Council and Commission's willingness to approach the issue in a non-partisan manner.

Mr. Notre expressed that if we are going to give direction to staff to bring forth a streamlined administrative process to review peculiar circumstances, it should take place also only upon vacancy to avoid hardship to in-place tenants. He added that it should be an alternative procedure, maintaining the current process as an option. Ms. Land agreed with these thoughts as did Mr. Heilman.

Mr. Johnson reiterated earlier comments differentiating the administrative process that the department was working on, from the regular NOI process. He went on to recommend that no new process be initiated until both the statute of limitations on peculiar circumstances Commission proposal has been enacted and, we had also amended the Ordinance to include a very careful definition of peculiar circumstances which makes sure that the causal link between peculiar

circumstances and the rent being low in the first place, on the base date, is clear.

Mr. Guarriello asked Mr. Johnson for clarification on the Ordinance amendment giving the department and/or Commission the discretion to extend by 45 days, the 115 day limit for deciding a case. Mr. Johnson responded that that the extension would be for good cause including scheduling difficulties, the need to remand a case for further consideration by the Hearing Examiner and a variety of other issues. The City of Santa Monica has a similar provision in place.

The Council and Commission agreed to meet again in joint study session on Monday, June 14, 1993 at 6pm to consider the results of the survey and give further direction to staff.

**WRITTEN AND ORAL COMMUNICATION:**

None.

**ADJOURNMENT:**

There being no further business, Mayor Lang adjourned to the March 30, 1993 meeting of the City Council at Fiesta Hall, Plummer Park at 7pm and the April 8, 1993 meeting of the Rent Stabilization Commission in West Hollywood Park Auditorium at 7pm. Minutes taken and respectfully submitted by Wayne Zimmerman, Analyst, Rent Stabilization Department.

APPROVED BY MOTION OF THE CITY COUNCIL THIS 21ST DAY OF JUNE, 1993.

  
MAYOR

ATTEST:

  
CITY CLERK