



To: Ms. Lisa K. Goldman, City Manager

From: Andy Belknap, Regional Vice President  
Steven Bocian, Special Advisor  
Christine Butterfield, Senior Management Advisor

Subject: Review of the Burlingame Community Protection Ordinance

Date: September 15, 2016

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This memorandum provides the results of Management Partners' review of the Burlingame Community Protection Ordinance (ordinance) as detailed in our August 12, 2016 proposal. This engagement requested assistance in addressing a number of policy and implementation-related questions raised by the City Council concerning the ordinance. The goal of our work is to provide answers to the Council's questions based on our review of the ordinance, and existing municipal rent stabilization and just cause for eviction programs. As part of our initial meeting on August 12, 2016, City staff identified those City Council's questions that would be addressed by them and those that would be addressed by Management Partners. For consistency purposes, this memorandum includes all of the City Council's questions, and we identified those that will be addressed by staff.

This memorandum includes four major sections including a background section providing a brief overview of the situation leading to our work. We have provided a general overview of the ordinance including identification of a number of uncertainties affecting our approach to answering the City Council's questions. The third section includes our response to the City Council's questions, and the fourth section includes three tables related to a general range of costs for ordinance administration.

## **Background**

At its meeting on August 1, 2016, the Burlingame City Council approved placing the Burlingame Community Protection Ordinance on the ballot for the November 8, 2016 General Election. The ordinance is the result of a resident initiative that received the appropriate number of signatures to qualify for the ballot.

As part of the meeting deliberations, Council members raised a number of questions and concerns regarding the process and level of effort required to implement the ordinance. At the same meeting, City staff indicated it would pursue assistance from a consulting firm to address

the Council's questions and to further explore the ordinance's impact on the City organization, budget, economic development, and various housing impact issues.

As part of our work, we reviewed the ordinance, consulted with City staff regarding current operating practices and service costs, contacted the communities of Santa Monica, Berkeley and East Palo Alto for information about their rent stabilization and just cause for eviction programs, and reviewed ordinances and operating practices currently in place in the cities of Hayward, Alameda, Santa Rosa and West Hollywood. It should be noted that while all of these programs have some common features, their scope and implementation processes are unique. We did not identify a program that replicates the program as set forth in the ordinance. In addition, the cities of Alameda and Santa Rosa adopted programs in 2016. These new programs lack any significant data that can be used to analyze the ordinance. Nevertheless, where appropriate we used information from these communities.

Governing authority is another area we reviewed that will require further analysis. Alameda, Berkeley, Hayward, Santa Monica and Santa Rosa are all charter cities, while East Palo Alto and West Hollywood are general law cities. In charter cities, local laws outline a charter city's authority. In general law cities, such as East Palo Alto, West Hollywood and Burlingame, state law provides the framework for these communities' authority over municipal affairs. Evaluating the effects of the ordinance that as it relates to Burlingame's governance authority as a general law city is outside of our scope of work. However, we believe clarifying the provisions of the ordinance that permit the City of Burlingame to exercise local control versus the provisions that are governed by state law will be an important step to resolve the areas of uncertainty; we review these in greater detail below.

Given the relative scarcity of rent stabilization programs in California, the fact that each program that exists has unique elements, the complexity of the subject, and the short amount of time available for analysis, this work is not unequivocal. There are many areas where unknowns exist, and as is the case with any legislation, there are always likely to be unanticipated consequences. This analysis reflects our best professional judgement given these constraints and uncertainties.

## **Ordinance Overview**

The Burlingame Community Protection Ordinance provides for rent stabilization and just cause for eviction protection to households residing in units subject to the ordinance rental units in the City. Overall, our assessment is that the proposed ordinance reflects the key rent stabilization provisions typically found in other communities. The primary provisions include:

- An amendment to the City Municipal Code to establish the provisions as set forth in the ordinance;
- Rent stabilization would apply generally to all rental units except single family homes and condominiums, rental units with an occupancy permit issued prior to February 1, 1995, and owner occupied second units and duplexes;



- The just cause for eviction provisions would apply to all rental units except as noted below;
- As listed with more detail in Section 20.04.040 *Exemptions*, units located in transient housing such as hotels, tourist homes, hospitals, nursing homes, and units owned, operated, with tenant subsidies would be exempt from both the just cause for eviction and rent stabilization;
- The regulation of rent increases to establish, in part, an allowable annual rent increase linked to a cost of living index with a minimum rent increase amount of 1% and a not to exceed amount of 4%;
- The establishment of conditions that allow for tenant evictions;
- The formation of a Rental Housing Commission (Commission) with defined powers and duties;
- The establishment of an annual Rental Housing Fee imposed on landlords in an amount deemed reasonable and necessary to meet program expenses;
- A process for the submission and review of a petition from a tenant or landlord seeking an upward or downward adjustment in rent;
- An appeal process for decisions made concerning petitions; and
- A listing of landlord and tenant remedies concerning violations of the ordinance.

In addition to the above, Section 20.04.180 of the ordinance states that its adoption would “supersede and invalidate any limitation imposed by prior City ordinances that relate to or concern the subject matter addressed herein,” including City Ordinance 1356 known as Measure T.

Although our scope of work does not include a general analysis of the ordinance, as part of our review and analysis to answer the City’s questions, we identified a number of “tensions” or areas of uncertainty that warrant comment. We raise these not for the purpose of identifying flaws or concerns with the ordinance’s intent, but because they became apparent as we were attempting to answer the City’s questions, and anticipate implementation and administrative issues in the event the voters approve Measure R. A listing of these follows.

- Regarding the impact of the ordinance’s just cause for eviction provisions, we note that Section 20.04.200 *Exemptions* (a) (1) will require the City to interpret the application of the exemption related to facilities “rented primarily to transient guests for a period of fewer than fourteen (14) days” as it is uncertain if this section is providing a broad exemption of units with transient guests, or only those guests that have a stay of less than 14 days. If it is the latter, the ordinance does not include a mechanism for addressing this matter, including the fact that these types of facilities most typically assess daily not monthly fees (compared to charging monthly rent).
- A number of the City Council members’ questions concern the role of the Rental Housing Commission and overall program procedures and costs. Yet answering a number of these questions is largely dependent on interpreting program governance.



The primary area of uncertainty relates to Section 20.04.100 Rental Housing Commission (k) that reads:

*The commission shall be an integral part of the government of the City, but shall exercise its powers and duties under this Chapter independent from the City Council, City Manager and City Attorney, except by request of the Commission. In the period between the effective date of the Chapter and the appointment of the initial members of the Commission, the City shall take whatever steps are necessary to perform the duties of the Commission and implement the purposes of this Chapter.*

The tension here is somewhat obvious in that if the Rental Housing Commission is an integral part of the government of the City, then it would be subject to City Council and City Manager policies and procedures and legal consultation from the City Attorney. While the language used in this section generally mirrors language used in the City of Santa Monica's Rent Control Charter Amendment (Section 1800), that document includes additional clarifying language regarding the role of the Rent Board.

As such, while we can interpret this language as creating a mechanism to establish a system that assures the Commission exercises its duties related to review of petitions, appeals and the like without influence from the City Council or the City Manager, we are uncertain if the language is intended to signify a broader range of Commission autonomy such as is currently in place in Santa Monica and the City of Berkeley's (Article XVII Elected Rent Stabilization Board) rent stabilization program. If the latter is the case, it seems that additional legal review is appropriate to determine if the implied level of autonomy is consistent with the powers outlined in the ordinance.

- In addition to the broader issue of the "integral and autonomous" nature of the Rental Housing Commission, additional uncertainty was identified in Section 20.04.100 Rental Housing Commission (d) (6). This provision indicates the Commission has authority to "establish a budget for the reasonable and necessary implementation of the provisions of this Chapter, including without limitation the hiring of necessary staff, and charge fees as set forth herein in an amount sufficient to support that budget."

Here again, there is concern about consistency with the provisions of a general law city and a Commission's authority to approve a budget and hire employees. Because of our uncertainty in this area, we can interpret "establish" to mean preparing and recommending a budget to the City Council that has the authority to adopt it, and "hiring necessary staff" to mean making a recommendation to the City Manager, who is the City's hiring authority.

- The matter of the Commission's role in charging and establishing the Rental Housing Fee presents similar uncertainty regarding its autonomy. In general, establishing fees



and adopting a fee schedule falls within the authority of the City Council and therefore, there are questions about the Commission's authority to carry out this function.

- Lastly, Section 20.04.200 provides that the ordinance "shall go into effect ten (10) days after the vote is declared by the City Council." The City cannot fully implement the program within a ten day period. However, it can begin the process of building the program structure including commencement of employee recruitment, development of purchasing documents, solicitation and appointment of the Rental Housing Commission members and drafting the administrative procedures required to implement the program. In the recently adopted rent stabilization programs we reviewed, we observed a ramping-up period following the effective date. Both Alameda and Santa Rosa are in the process of building the administrative systems to support new rent stabilization programs. To manage expectations, forecasting operational milestones can be beneficial to both inform the public and demonstrate implementation.

While we are unable to address the above issues for the purposes of this engagement, we needed to make assumptions about the roles and responsibilities of the City Council, City staff and the Rental Housing Commission. We based our assumptions on our review of the proposed ordinance and the review of other rent stabilization programs in California.

To frame these assumptions, we developed two specific categories: 1) those assumptions that fall under a heading of "integral part of the government of the City" (i.e., Integral), and 2) those assumptions that fall under "shall operate its powers and duties under the Chapter independent from the City Council, City Manager and City Attorney" (i.e., Autonomous). A summary of the impact of these categories follows.

### ***Integral Related Assumptions***

- The staff members administering the Burlingame Community Protection Ordinance would be City employees subject to the City's personnel classification system, rules and procedures, salary schedule, compensation system, and other personnel related matters.
- The rent stabilization program would receive internal and support services from existing City divisions unless otherwise determined by the City Manager. As an example, the City Manager's Office would solicit and collect applications for Commission members and the City Clerk would post meeting agendas and minutes, and retain records consistent with other City boards and commissions. The Finance Department would provide financial services such as accounting, billing and collections related to rent stabilization. Information Technology would provide services to the rent stabilization program for data and security needs.
- The rent stabilization program and the Rental Housing Commission would be subject to City procedures and policies. As an example, the program would be subject to City financial policies, purchasing practices, records management, employment hiring and memoranda of understanding, etc.



- The City would initially advance program funds and provide detailed documentation of all costs to ensure full reimbursement. Examples of these initial program expenses includes: employee recruitment, rent, information technology systems (i.e., billing, property tracking, and records management), training, equipment, etc.
- The City Attorney's Office would advise the Rental Housing Commission similar to its role with other City programs and operations. However, the Commission would retain autonomy in its program-related decision making process.

### ***Autonomous Related Assumptions***

- The Rental Housing Commission would establish the rent stabilization program budget and submit it to the City Manager. The City Council would adopt the program budget, which would be part of the City Budget.
- The Rental Housing Commission would establish the Rental Housing Fee and submit it to the City Council for its consideration and adoption.
- One-hundred percent of the rent stabilization program costs would be recovered through the Rental Housing Fee.
- The Rental Housing Commission would exercise its authority to implement and administer the ordinance, including matters related to petitions and appeals.
- The City Council, City Manager and the City Attorney would implement the ordinance and provide the policy and administrative structures to enable the Rental Housing Commission to exercise its powers and duties pursuant to Section 20.04.100 (d).

As indicated previously, these assumptions have been made solely for the purpose of developing a frame of reference for answering the City Council's questions based on information available at this time. Should the ordinance be approved by the voters, we assume the City will take action to implement the program based on its interpretations and information available at that time.

### **The Burlingame Community Protection Ordinance: Questions and Responses**

Our responses to the questions pertaining to the Rental Housing Commission and Land Use, General Plan and Housing Supply are listed below. As indicated previously, we have included all of the questions provided by the City from the original list including those assigned to staff (noted in italics) and the responsible department. Staff is in the process of developing responses to those questions that are not included in this memorandum, but will be provided directly to the City Manager.



Rental Housing Commission Questions	Responses
<p>1. Who determines the process for the appointment for the Rental Housing Commission?</p>	<p>According to the Burlingame Community Protection Ordinance, <i>Section 20.04.100 Rental Housing Commission (a) Composition. The Commission shall consist of five (5) Commission members appointed by the City Council, and an alternate Commission member...</i></p> <p>As such, the City may use the standard board/commission recruitment process and timeline to advertise the vacancies, collect applications, conduct interviews, select and appoint the Rental Housing Commission members.</p>
<p>2. Will staff absorb these new duties to process, screen and oversee applicants?</p>	<p>Yes. The City Manager’s Office will administer this process and follow its standard procedures. In the rent stabilization programs we reviewed, communities apply the standard procedures to recruit and select members.</p>
<p>3. What is the cost of staff time to conduct and manage the financial disclosure statements (3 years-worth) that are required from the applicants?</p>	<p>We anticipate there will be minimal, typical staff costs associated with the collection and filing of disclosure forms. The proposed ordinance provides a description of the financial disclosure requirements in Section 20.04.100 (b) <u>Eligibility and Appointment</u>. <i>Commission members shall be appointed by the City Council at a public meeting. Applicants for the membership on the Commission shall submit an application to the City Council. The application shall include a statement under penalty of perjury of the applicant’s interests and dealings in real property, including but not limited to, ownership, trusteeship, sale, or management and investment in an association with partnerships, corporations, joint ventures, and syndicates engaged in ownership, sale, or management of real property during the three (3) years immediately prior to the applicant’s application. This document shall be made available to the public.</i></p> <p>This language is similar to the financial disclosure in the Santa Monica Rent Control Charter Amendment Section 1803(c) <u>Full Disclosure of Holdings</u>: <i>Candidates for the position of Commission shall submit a verified statement listing all of their interests and dealings in real property, including but not limited to its ownership, sale or management, during the previous three (3) years.</i></p> <p>According to Santa Monica’s Rent Board and City Clerk staff, the City of Santa Monica City Clerk manages collection and maintenance of the disclosure forms. Rent Board Commissioners are required to supply the information and the City Clerk’s Office retains the documents for public review. Staff reported they periodically check board and commission disclosure forms for completeness, however, they do not research the accuracy of the documents. Moreover, the disclosure forms are signed by applicants under penalty of perjury. Applicants that submit inaccurate disclosure are subject to fines and legal action.</p>



<p>4. Who establishes the budget for implementation of the initiative?</p>	<p>Initially, staff and City Council will develop the program budget. Upon appointment, the Rental Housing Commission will be responsible to establish the budget after members are appointed. According to the proposed ordinance,</p> <p style="padding-left: 40px;"><i>Section 20.04.100 Rental Housing Commission (d) Powers and Duties (6) <u>Establish a budget for the reasonable and necessary implementation of the provisions of this Chapter, including without limitation the hiring of necessary staff, and charge fees as set forth herein in an amount sufficient to support that budget.</u></i></p> <p>However, nothing in the proposed ordinance defines the approving body and as indicated previously, we assume the City Council is responsible for adopting the City budget. Therefore, once the Rental Housing Commission establishes the budget, it would be submitted to City Council for approval.</p> <p>Based on our review of other rent stabilization programs, the City Council is responsible for approving the budget for the programs in Alameda, East Palo Alto and Santa Rosa. The Berkeley Rent Stabilization Board, established by Charter, has the authority to finance reasonable and necessary expenses by charging a fee and the Board may request and receive funds from the City. The Berkeley Rent Stabilization Board develops the program budget and as a practice the program budget is included in the City of Berkeley’s budget document.</p> <p>The Santa Monica Rent Board does have the expressed authority to approve the program budget. The Santa Monica Rent Control Charter Amendment Section 1802 (a) vests the Rent Board with the authority to adopt a budget and specifies the required process steps. This provision reinforces the Board’s authority and states, “<i>The City Council and the City Manager shall have no authority to oversee, supervise, or approve this budget.</i>”</p>
<p>5. How many staff positions would possibly be needed (e.g., hearing officer, attorney, analyst, accountant, administrative secretary and information technology (IT))?</p>	<p>Based on our review of the staffing of various rent stabilization programs, we estimate that the City of Burlingame would need from three to six full-time equivalent (FTE) employees to administer the program for approximately 5,031 rental housing units (as shown in Table 2 below). The related staffing cost estimates range from \$680,000 to \$915,000. These costs are estimated based on our survey data included in Table 1 below. (Table 1 provides a broad overview of rent stabilization costs (i.e., in-house staff and/or contract support). Table 2 includes average costs of the most similar programs and City of Burlingame cost estimates, including some one-time startup costs.)</p> <p>The staff roles to support the program typically include administrative staff (e.g., secretarial, billing), analyst and manager, legal services and hearing officers (which may be contracted). It will be important to assess the number of positions needed. To do so, an analysis would be required following adoption of the ordinance. To some degree, the final number of employees will be</p>



	<p>dependent on the City’s approach to matters such as community outreach, tenant counseling, the number of petitions, the activity of the Rental Housing Commission, etc. Those activities cannot be determined by reviewing the ordinance.</p>
<p>6. Are the new staff employees of the City or the Commission?</p>	<p>Based on assumptions we made as a result of reviewing the ordinance, additional positions to support the rent stabilization program would be City employees, not Commission employees. Further, the City Clerk and the City Attorney are both expressly named with specific responsibilities in the implementation of the proposed ordinance listed in <i>Section 20.04.150 Remedies (e) Commission or City Attorney Enforcement Action</i> and <i>Section 20.04.190 Codification</i>.</p> <p>Of the rent stabilization programs we reviewed, employees responsible for administering the program are employees of the municipality. In East Palo Alto program staff are part of the City Manager’s Office. West Hollywood staff are part of the Department of Human Services and Rent Stabilization and Santa Rosa staff will be part of the Housing and Community Services department. Even in Santa Monica, as reflected by the Charter Amendment, “<i>Except ... the Administrator and attorneys employed to represent or advise the Board...all employees of the Board are within the classified civil service of the City</i>”.</p>
<p>7. If they are City employees, will we have to pay for salary and benefits? If not, does the rent board carry liabilities involved with being an employer?</p>	<p>Yes. As we noted previously we assume the rent program would be staffed with City employees who would be part of the municipal pay and classification system and eligible for benefits. Notwithstanding this, the City may elect to utilize contract services for such matters as hearing officer, billing services and other matters consistent with City practices and employment law. Typically, personnel expenses are included in the rent stabilization program costs. These costs can be recovered through collection of the program fee charged to landlords.</p>
<p>8. What if someone wanted to sue the rent board, would the City also be dragged in?</p>	<p>Yes. As noted in the response to question 6, the City Attorney is named as one of the parties responsible for enforcing the proposed ordinance in <i>Section 20.04.150 Remedies (e) Commission or City Attorney Enforcement Action</i> and <i>Section 20.04.190 Codification</i>. Moreover, as an integral part of the City pursuant to <i>Section 20.04.100 (k)</i>, the City owns the liability of the actions of the Rental Housing Commission and the administrative operation of the rent stabilization program.</p>
<p>9. Does the City hold the public hearings that would occur with the rent board? If so, I would assume a City staff member would have to be present? Is that a fair assumption?</p>	<p>Yes. The Rental Housing Commission staff, City or contract staff responsible for administering the proposed ordinance would conduct public hearings.</p>
<p>10. Who would post the agenda, provide materials and offer technical support?</p>	<p>The Rental Housing Commission staff would be responsible for developing the agenda, following the City’s agenda posting process and working with the City Clerk. This is consistent with the practices we observed in other rent stabilization programs. The City Clerk’s responsibilities are described in the proposed ordinance.</p>



	<p><i>Section 20.04.190 Codification. The City Clerk and City Attorney shall take all steps necessary to ensure the proper and efficient codification of this Chapter into the Municipal Code, including making revision to numbering and similar non-substantive items contained herein. In exercising this authority, the City Clerk and City Attorney shall not alter the substantive provision of this Chapter <u>nor take any action that contradicts express terms and purpose of this ordinance.</u></i></p>
<p>11. Who will educate the commissioners on the Brown Act and make sure it is implemented correctly?</p>	<p>The City Attorney’s Office would be responsible for conducting an orientation with new members. We assume the review of the Brown Act and other training would be consistent with the City’s standard commission training program.</p>
<p>12. Who would pay for all the studies, surveys, investigations and cases that come before the rent board?</p>	<p>The rent stabilization program. These activities are typically included in the charge of a rent stabilization board or commission. Costs associated with studies, surveys and investigations (i.e., typically excludes code enforcement and police department) would be included in the annual budget as well as recoverable through the rent stabilization fee.</p>
<p>13. Who will oversee safeguarding all documents containing personal private residents’ information? Who is responsible if there is a security breach?</p>	<p>The Rental Housing Commission staff would be responsible for complying with City public records policies and procedures. The safeguards in place today to secure private data would be applied to the program information (as well as any records retention policy).</p>
<p>14. Where would all documents be stored and what security measures will be implemented to secure these documents?</p>	<p>Program records would be maintained consistent with the City’s records management procedures. As noted in the response to question 13, the safeguards in place today to secure private data would be applied to the program information. Based on discussion with City staff, there is insufficient office space for any new rent stabilization employees and/or related materials storage. Therefore, we anticipate the use of rented office space.</p>
<p>15. Who will pay for litigation fees?</p>	<p>The rent stabilization program will capture these costs. Litigation expenses are recoverable through the program fee.</p> <p>In our review of rent stabilization programs and the provision of legal services to support the function, we observed that programs relied on either the City Attorney’s staff or employed their own attorneys to focus exclusively on the rent stabilization program. For example, Alameda, East Palo Alto and Santa Rosa secure legal services for the program through the City Attorney’s Office. The cost of this staff time is tracked and included in the program costs. Santa Monica and Berkeley both have staff attorneys that are solely responsible for the rent stabilization program and related litigation. However, even in Santa Monica and Berkeley, the programs periodically also utilize the services of the City Attorney’s Office. A number of the rent stabilization programs also budget for additional contract services that include legal services (e.g., East Palo Alto and Santa Monica).</p>
<p>16. What are the potential sources in addition to landlords, general fund and grants?</p>	<p>Based on our research, rent stabilization programs, including just cause for eviction administration, are funded through the program fee. Berkeley, East Palo Alto, Santa Monica and Santa Rosa cover program costs with the program fee. Staff in Berkeley and Santa Monica indicated that both maintain a reserve fund and have the</p>



	ability to cover deficits with those resources. The cities of Hayward and Oakland use their General Fund for a portion of the program’s cost.
17. Can they potentially put some type of tax on a future ballot for the homeowners to pay?	Our research did not identify any instance in which a rent stabilization board has the authority to excise a tax under California law.
18. My understanding is that the City has to provide the upfront costs. What could be the potential range of this amount?	<p>Yes. Pursuant to the proposed ordinance, <u>Section 20.04.100 (j) (2) City to Advance Initial Funds. During the initial implementation of this Chapter the City shall advance all necessary fund to ensure the effective implementation of this Chapter, until the Commission has collected the Rental Housing Fees sufficient to support the implementation of this Chapter. The City may seek a reimbursement of any advanced funds from the Rental Housing Commission after the Rental Housing Fee has been collected.</u></p> <p>As provided in the response to question 5 and listed in Table 2 below, the program cost could range from \$680,000 to \$915,000. However, this amount does not include all startup costs. A more detailed analysis would be required to determine the specific one-time costs. (The annual cost for the cities of Alameda and Santa Rosa includes some one-time costs to implement the program.) Also, Table 3 below identifies several of the other initial program costs specific to Burlingame. We estimate initial costs of \$186,200 and this includes annual rent, software, Commission training and reserves.</p>
19. Also, during the implementation phase, the Commission can ask staff to perform the duties of the Commission till it’s up and running. How much staff time could be taken away from priorities set by City Council? How many City staff members would be needed?	It is likely to take at least 120 days to conduct the recruitment and selection process to fill the estimated three to six FTEs (noted in Table 2 below) needed to operate the program. If that is the case, about 1,560 to 3,120 hours of staff time would be necessary to support the rent stabilization program implementation phase. If the ordinance is adopted, the initial tasks could be assigned to existing staff or outsourced.
20. If we make the assumption that there will be litigation, how would the City handle establishing the rent board?	<i>City Staff to respond</i>
21. Which departments would be involved?	<i>City Staff to respond</i>
22. How much time would it take to establish the rent board?	The timeline would be based on the City’s typical process to recruit and appoint Commission members. As noted above, although the ordinance will be effective within ten days, it will take several months to build the program systems and administrative materials.
23. If there is litigation that arises due to the passage of the initiative, what would the range of costs be to the City?	This requires speculation and we cannot answer this question. The limited data and variation within California makes it virtually impossible to identify any typical or average ranges.
24. Also, would money be put aside to fight potential future litigation?	As noted in the response to question 15, legal staff and contractual services (including legal services) are budgeted on an annual basis in the rent stabilization programs we reviewed. Again, reserve policies and funds play an important role in covering program



	deficits or unexpected litigations costs. Reserves may be established in an initial budget and included in the program fee.
25. At this point we have not put aside money for upfront costs, if this initiative passes; where would (we) pull the money from to cover this?	This is a policy decision that will need to be made by the City Council. However, the proposed ordinance expressly provides that the “City may seek a reimbursement of any advanced funds” through the Rental Housing Fee in Section 20.04.100 (j) (2).
26. What if the landlord fee established by the rent board doesn’t cover the costs; then what?	The rent stabilization fee charged to landlords is intended to cover the program cost. The program fee should include annual costs, startup costs and reserves necessary to properly fund the program. If costs grow, the fee would be increased to cover the costs. In 2016, the rent stabilization fee in Berkeley was increased to cover a deficit due to growing costs.
27. In rent controlled cities such as San Francisco, East Palo Alto, Alameda and Berkeley, how much money was needed the first year to set up the rent board?	<p>We contacted staff in East Palo Alto and Berkeley and they were unable to provide this information. However, the City of Alameda approved a rent stabilization in early 2016 and the estimated program budget is \$1,900,000. Yet, the budget information does not include a specific rent board category. Santa Rosa approved a rent stabilization ordinance in August 2016. The first year of operation is estimated to cost \$1,248,674. This figure includes a portion of the initial startup costs.</p> <p>We understand that there is also potential for these programs to be stayed if new ballot measures are proposed to revise or contest them. We do not have information regarding the effect such actions may have on program costs.</p>
28. What are their budgets?	Refer to Table 1 below.
29. What are the range of budgets after the first year?	Refer to Table 1 below.
30. What is the potential impact on the San Mateo County court system from lawsuits related to this?	<i>City Staff to respond</i>

<b>Land Use, General Plan and Housing Supply Questions</b>	<b>Responses</b>
1. What is the number of apartment impacted and percent of multifamily housing stock affected with this proposed ordinance? This includes rent control and just cause eviction.	<i>City Staff to respond</i>
2. What number of new apartment coming online would be subject to just cause for eviction?	<i>City Staff to respond</i>
3. What percentage of (single) family homes would be subject to just cause for eviction?	<i>City Staff to respond</i>
4. Is there data on what the average cost is to move a tenant in current rent control cities (legal fees, lost rent damages, and payments for moving expenses)?	We did not find average costs to move a tenant. However, rents in Burlingame will drive these costs. Tenant relocation assistance costs are typically defined by reimbursement numbers and/or categories of expenses. The City of Santa Rosa requires three months’ rent plus an additional \$1,500 for tenant relocation assistance. In East Palo Alto and Santa Monica, tenant relocation ordinances prescribe detailed



	<p>reimbursement amounts, adjusted annually, by unit type (one, two or three bedroom) and tenant characteristics (e.g., age, income, and disability or terminally ill).</p> <table border="1" data-bbox="743 323 1398 814"> <thead> <tr> <th data-bbox="743 323 1084 359">East Palo Alto</th> <th data-bbox="1084 323 1398 359">Santa Monica</th> </tr> </thead> <tbody> <tr> <td data-bbox="743 359 1084 814"> <p>&lt;2 years \$7,912.02 &gt;2 years \$10,549.38 and \$2,549.88 additional payment(s) for each category that applies: low income, disabled, elderly or terminally ill (example: if tenant is low income and disabled, owner pays \$5,099.76) and Up to \$2,637.34 for moving costs with receipts</p> </td> <td data-bbox="1084 359 1398 814"> <p>One bedroom – \$13,900 (if senior/disabled/ minor \$16,000)  Two or more – \$18,850 (if senior/disabled/ minor \$21,650)</p> </td> </tr> </tbody> </table> <p>Also, generally tenant relocation assistance ordinances distinguish between permanent and temporary relocation costs (e.g., per diem for hotel, meals, laundry, cat and dog boarding).</p>	East Palo Alto	Santa Monica	<p>&lt;2 years \$7,912.02 &gt;2 years \$10,549.38 and \$2,549.88 additional payment(s) for each category that applies: low income, disabled, elderly or terminally ill (example: if tenant is low income and disabled, owner pays \$5,099.76) and Up to \$2,637.34 for moving costs with receipts</p>	<p>One bedroom – \$13,900 (if senior/disabled/ minor \$16,000)  Two or more – \$18,850 (if senior/disabled/ minor \$21,650)</p>
East Palo Alto	Santa Monica				
<p>&lt;2 years \$7,912.02 &gt;2 years \$10,549.38 and \$2,549.88 additional payment(s) for each category that applies: low income, disabled, elderly or terminally ill (example: if tenant is low income and disabled, owner pays \$5,099.76) and Up to \$2,637.34 for moving costs with receipts</p>	<p>One bedroom – \$13,900 (if senior/disabled/ minor \$16,000)  Two or more – \$18,850 (if senior/disabled/ minor \$21,650)</p>				
<p>5. With rent controlled cities, has there been an impact on their housing supply?</p>	<p>Rent stabilization programs typically evolve out of concerns about increasing rents and limited rental housing supply. Although there is no definitive data about increasing or decreasing the supply of housing, the rent stabilization program staff we spoke to affirmed this lack of data, but reported that these programs have generally stabilized the number of rental units, rents and tenant population.</p> <p>Some communities have adopted condominium conversion ordinances to prevent the loss of rental stabilization program units. Berkeley and East Palo Alto implemented condominium conversion ordinances in reaction to property owners selling rental units to avoid the rent stabilization program. Staff reported that in some cases, the units were sold and re-rented within a number of years. To ensure property owners do not circumvent the program and purpose, these ordinances require a transparent process to document the sale and removal of a housing unit from the rental market for a defined period of time to ensure that when the unit is sold, if it returns to the rental market, it is subject to the rent stabilization program.</p>				
<p>6. Does just cause for eviction and/or rent control affect the assessed values of property over time?</p>	<p>Based on our research, we have not located data that indicates it increases or decreases assessed valuation.</p>				
<p>7. There is a clause in the initiative on page 10 that states if a tenant is disabled, terminally ill or just 62 years of age and has been in a unit</p>	<p><i>City Staff to respond</i></p>				



for five (5) years, they cannot be evicted. I assume this also relates to houses since they would be in just cause for eviction. How can this potentially affect our housing supply and demographics diversity?	
8. In rent controlled cities, have there been housing units taken off the market?	Yes. Santa Monica reported in the 2015 Consolidated Annual Report that since 1986 a total of 2,019 units have been withdrawn from the rental housing market. Staff in East Palo Alto and Berkeley reported no change or limited change to the number of units withdrawn. East Palo Alto staff reported none of the rental units have been withdrawn in the past 15 years. Berkeley's staff reported that although the total number of registered units for each of the past 18 years has fluctuated, the overall trend is stable with over 19,000 rental units in the program.
9. Would there be an impact on the ability of working families to move into Burlingame?	<i>City Staff to respond</i>
10. What is the potential impact on the quality of rental housing stock?	Based on our research, maintaining safe, decent and sanitary housing is a focus of any rent stabilization program. Rent stabilization programs provide tenants the opportunity to petition for a rent reduction if the quality declines (property condition) or quantity of housing services (washer/dryer, parking space) is reduced. For example, West Hollywood requires that owners paint, replace carpet and windows based on specific frequency. If the replacement and repair frequency is not met, the tenant may petition for a rent reduction. Also, a number of rent stabilization programs depend heavily on city-administered rental inspection programs. Berkeley and Hayward both operate rental inspection programs and their staffs report a high degree of collaboration between rent stabilization and rental property inspection teams to ensure units meet housing quality standards.
11. How would rent control and just cause for eviction affect our real estate industry considering there isn't much land to build new housing?	<i>City Staff to respond</i>
12. Would there potentially be a decrease in sales with both single family and multifamily dwelling units if rent control and just cause for eviction was implemented?	<i>City Staff to respond</i>
13. How would the General Plan be affected?	<i>City Staff to respond</i>
14. How would rent control and just cause for eviction potentially affect our property tax revenue?	In our research, we did not locate data that could be used to reasonably answer this question. Therefore, it would be speculative to attempt to provide a response given the constraints with this analysis. It is possible to conceive of an analytical approach to answering the question, but it would be expensive and time consuming.
15. How could this initiative alter our transient occupancy tax? Only hotels are	<i>City Staff to respond</i>



<p>exempt if guests stay for a period of fewer than 14 days?</p>	
<p>16. In rent controlled cities, has there been any change in crime statistics and/or safety concerns?</p>	<p>We did not locate data from our research that links rent stabilization programs and changes in crime statistics.</p>
<p>17. Has there been changes in the aesthetic/maintenance in rent control and just cause for eviction cities?</p>	<p>We did not locate data from our research. However, as noted in the response to question 10, rent stabilization programs are highly dependent on local code enforcement programs. In Berkeley and Hayward, the rent stabilization and rental inspection program staff share information and work closely together to ensure rental housing properties comply with codes. Also, Santa Monica’s rent stabilization program staff reported that local code enforcement staff play an important role in promoting rental housing quality by aggressively enforcing the codes, and in some situations, testifying in cases where a tenant’s petition for rent reductions is due to lack of property maintenance.</p>



## Survey Data and Tables

Table 1 reflects data collected from communities that operate rent stabilization programs. While all of the programs in Table 1 include rent stabilization and just cause for eviction provisions, each of the cities' programs are unique with elements specific to that City. As an example, the programs in the cities of Berkeley and East Palo Alto require rental unit registration while the others do not. Further, the level of program services also vary. As an example, the City of Alameda program includes mediation services for rental properties not subject to rent stabilization while the City of Santa Rosa's program does not include these services. Finally, the City of Hayward's fees are significantly less than other communities due to its policy to recover only a portion of program costs, a more limited administrative model, and unique program features, including those that allow landlord to remove units from the rent stabilization portion of the program if certain conditions are met. As such, it is important to view this data as representing a range of program costs.

*Table 1. Overview of Peer Rent Stabilization Programs*

City	Number of Non-exempt Housing Units	Current Program Operating Budget	Annual Per Unit Program Fee	Number of Program FTE	Annual Allowable Rent Increase
<b>Alameda<sup>1</sup></b>	13,037	\$1,900,000	\$131	6	5%
<b>Berkeley</b>	19,093	\$4,550,000	\$234	20.60	1.5% (CPI Formula)
<b>East Palo Alto<sup>2</sup></b>	2,400	\$650,000	\$234	2.00	2.40% (CPI Formula)
<b>Hayward<sup>3</sup></b>	3,000	\$27,875	\$2.77	0.50	5.00%
<b>Oakland</b>	N/A	\$1,773,209	\$30	12.00	2% (CPI Formula)
<b>Santa Rosa<sup>4</sup></b>	11,076	\$1,248,674	\$113	4.5	3%

Source: Annual budget documents, city websites and program reports.

<sup>1</sup> The City of Alameda information represents and estimated amount as the program has just recently been approved. However, the fee has not yet been adopted.

<sup>2</sup> The City of East Palo Alto budget includes \$206,000 City overhead charges.

<sup>3</sup> The City of Hayward includes various conditions that allow rent increases in excess of 5%, including rent carry-overs. Cost is based on 80% program recovery. A total of 20% is funded by the General Fund and 3,000 units are subject to the rent control portion of the program.

<sup>4</sup> The City of Santa Rosa program fee was adopted on August 30, 2016 based on program cost and fee estimate.

Table 2, represents a range of staffing and program cost estimates for the City of Burlingame based on the programs in the cities of Alameda, Santa Rosa and East Palo Alto. The Santa Rosa and Alameda programs were selected in part because they have just recently been adopted and include one-time costs anticipated in program start up. As an example, the Santa Rosa program includes one-time program costs including consultant services to prepare an implementation plan and a cost and fee estimate, the purchase of new office equipment, program support software and nonprofit services to assist with program administration until the City can secure program staff. The Alameda information also includes one-time costs related to office equipment, consultant services, etc. However, because the program is being addressed through a service contract with its Housing Authority, these one-time startup costs are less than those in



the City of Santa Rosa. While the East Palo Alto program includes unit registration, which results in higher program costs, its proximity to Burlingame, like program elements (e.g., CPI based rent adjustments rather than fixed maximum percentage based limits in place in Santa Rosa and Alameda) and overall program scope warranted its inclusion. As noted earlier, the scarcity of these programs hinders the ability to find a wide range of data that can be used for developing a comprehensive comparison. Also, note that the cost and fee information developed by the City of Alameda has not yet been adopted by its City Council pending results of an upcoming municipal election regarding program adoption and voter consideration of a resident initiative for an alternate program.

Because Table 2 is intended to provide an expected range of program costs. We anticipate Burlingame would design its administrative model in a way that effectively administers the ordinance within its existing organizational structure, physical space limitations and opportunities, availability of software and hardware systems, staffing capacities, etc. This design would also include decisions regarding overhead rates for program support versus direct recording of non-program support, use of contract services (e.g., fair housing, hearing officers, legal services, etc.), and a program cost and fee study required to adopt a program fee resolution.

*Table 2. Overview of Burlingame Rent Stabilization Program Operating Cost Range*

City	Number of Non-exempt Housing Units	Current Program Operating Budget <sup>2</sup>	Annual Per Unit Program Fee	Number of Program FTE
Alameda	13,037	\$1,900,000	\$131	6
East Palo Alto	2,400	\$650,000	\$234	2.00
Santa Rosa	11,076	\$1,248,674	\$113	4.5
Average	N/A	\$1,266,224	\$159	N/A
<b>Burlingame Est.</b>	5,031 <sup>1</sup>	\$680,000 to \$915,000 <sup>4</sup>	\$135 to \$182 <sup>3</sup>	3 - 6

<sup>1</sup> 2015-2023 City of Burlingame Housing Element and 2009-2011 American Community Survey.

<sup>2</sup> Santa Rosa and Alameda budget data is for the first year and includes some startup costs.

<sup>3</sup> Range is 15% below and above the average.

<sup>4</sup> Range is based on the Annual Peer Unit Program Fee multiplied by 5,031 units.

Table 3 provides a list of potential program costs identified that would be somewhat unique to the Burlingame program. As an example, while programs may charge for use of office space, there is concern that the lack of exiting City office space would require the rental of private office space to house the program. Likewise, while the program cost and fee estimates in both the cities of Alameda and Santa Rosa include onetime costs for software support, these demands may be somewhat greater in Burlingame due to lack of existing systems. Nevertheless, as indicated above, a more detailed program design, cost and fee estimated will provide clarity regarding anticipated program costs.



Finally, regarding program costs overall, it is important to note that following initial program implementation, program costs may fluctuate because they are driven, in large part, by program activity, including the number of annual rent adjustment petitions and other program/commission activity. In addition, the City Council's program vision and goals regarding public outreach, tenant/landlord training, use of mediation services (if deemed beneficial to address certain landlord tenant disputes), etc., will impact program costs. As such, the City will need to develop systems for the regular tracking of program expenditures to assure the program fee represents all incurred costs during a particular year.

*Table 3. Overview of Burlingame Rent Stabilization Program Initial Costs<sup>1</sup>*

Item	Estimated Cost
<b>Rental of Office Space (800 square feet)</b>	\$2,600/month; \$31,200 annually
<b>Enhancements to software systems for billing, property tracking, records management, etc.</b>	\$125,000
<b>Reserve for unforeseen costs</b>	\$25,000
<b>Commission training, equipment, supplies, records storage, etc.</b>	\$5,000

<sup>1</sup>Alameda's first year budget included commission training.

## Next Steps

Our team will be prepared to review and discuss the information in this memorandum at the City Council Meeting on September 19, 2016. Feel free to contact Steven Bocian ([sbocian@managementpartners.com](mailto:sbocian@managementpartners.com)) or Christine Butterfield ([cbutterfield@managementpartners.com](mailto:cbutterfield@managementpartners.com)) with questions or comments.

