



Information Item

Date: October 29, 2009

To: Mayor and City Council
From: Marsha Jones Moutrie, City Attorney
Subject: Summary and Update of Work Performed by Ellis Task Force

Introduction

Over the years staff from various departments had received reports that some property owners had evicted rent-controlled tenants under the Ellis Act and then re-rented the Ellised units in violation of state and local law. Staff also learned of Ellised properties that were occupied but lacked the required re-occupancy permits. The Ellis Task Force (“ETF”) was created to investigate and address these issues. Its goal was to assess the scope of the potential problem and address potential violations through enforcement, education and deterrence. The group is comprised of staff from City Attorney, Rent Control, Code Compliance, Police, and Planning.

Discussion

The ETF began work in early 2008. Its first inquiry was which properties in Santa Monica might contain illegal rentals of formerly Ellised units. Staff started by identifying properties that had been withdrawn from the rental market under the Ellis Act but had not been accounted for by demolition or change of use. Staff found 59 such properties, comprising 245 units. Staff then conducted a field investigation as to which of these properties were occupied. This revealed that approximately 42 properties had currently occupied units.

1. Occupancy permit enforcement

The first issue that the ETF addressed with these occupied properties was enforcement of the City's re-occupancy permit ordinance. Pursuant to Municipal Code Section 4.32.030, Ellised units may not be re-occupied unless the owner first obtains a re-occupancy permit from the Planning Department. Staff identified 32 (of the original 42) properties that appeared to be out of compliance with the re-occupancy permit requirement. Staff is currently in the process of pursuing the owners of these properties to assure compliance with the re-occupancy permit law. Of those 32 properties, these are the latest figures:

- 9 owners have applied for re-occupancy permits after receiving staff's request
- 5 owners have retained counsel and are contesting the request
- 3 owners are being pursued with enforcement after no response
- 5 owners were excused due to demolition or withdrawal pre-dating the ordinance
- 10 owners claim other exemptions or have agreed to apply for the permit

For properties removed before February 1989, the effective date of the re-occupancy permit ordinance, staff is sending a letter advising owners of the rules governing the re-renting of units.

Staff also has amended the re-occupancy permit application form to require owners to sign under penalty of perjury; and to require all occupants to sign the form. This should increase voluntary compliance with the Ellis rules.

2. Ellis Enforcement Litigation

Rent Control staff brought an Ellis enforcement lawsuit against the owners of an Ocean Avenue property that resulted in a settlement of \$100,000. The Rent Board's lawsuit alleged illegal re-renting of Ellised units. (*Santa Monica Rent Control Board v. Santa Monica Ocean Star et al.*, L.A.S.C. Case No. SC 094603.) Some former tenants of that property also filed private lawsuits seeking damages from the owners for their

displacement. The City Attorney's office is currently pursuing a civil lawsuit against a local landlord for tenant harassment. (*City of Santa Monica v. Cheryl Kautzky et al.*, L.A.S.C. Case No. SC101788.) In that case, the City alleges that the owner illegally re-rented recently Ellised units in addition to committing illegal harassment against a new tenant.

City Attorney and Rent Control legal staff continue to confer about other potential properties that may be in violation of the Ellis rules and that could be the subject of enforcement action.

3. Other measures

With or without a re-occupancy permit, owners who accept rent payments within two years of withdrawing a property are liable for money damages to both displaced tenants and the Rent Control Board under the local Ellis rules.

The ETF considered various other ways to encourage and enforce compliance with the Ellis re-renting rules. First, staff added new warnings with more conspicuous language to the application documents used by owners who withdraw properties from the market under Ellis. Staff also added a new information sheet to this packet for all Ellis withdrawals.

Second, staff added a notice of any Ellis filing to all Residential Building Reports when residential properties are sold in the City; and added staff contact information for those seeking more information.

Third, Rent Control Board staff has written a letter to the units of all properties Ellised since 2007 that were not otherwise accounted for by demolition or change of use, notifying potential occupants of the re-renting rules and of possible owner liability for violations. To date, no one has contacted staff with information indicating a possible

violation. Most of the letters have been returned by the post office as undeliverable, presumably due to non-occupancy.

In addition to these proactive measures, Rent Control and Code Compliance staff follow up on all reports from the public of potential misuse of withdrawn properties.

4. Ellis trends

The number of Ellised properties in the City has been declining in the past two and a half years. The following are the most recent statistics available for properties withdrawn from the rental market under the Ellis Act in Santa Monica:

Year	Notices of Intent Filed	Units Affected	Units Re-Rented	Change
2007	31	189	35	-154
2008	8	76	16	-60
2009 (YTD)	5	14	54	+40
Totals	44	279	105	-174

As the numbers reflect, there has been a recent shift with more units returned to the rental market this year (54) than have received notices of the owner's intent to withdraw (14).

The ETF will continue to meet at regular intervals to discuss potential enforcement action at specific properties as well as strategies to aid compliance with the law.

Prepared By: Adam Radinsky, Head, Consumer Protection Unit