

Published May 20th, 2015

Council Considers Rent Control

By Cathy Tyson



The Lafayette City Council recently discussed a possible rent increase moratorium for larger apartment complexes like the one at 1038 Second Street. Photo C. Tyson

After hearing public testimony from many tenants complaining about unfairly soaring rents at a complex that recently changed hands, now known as 1038 on Second, and commentary from a number of local landlords who are providing what they believe to be under-market rates, the Lafayette City Council faced a dilemma. At issue was whether to institute a rent increase moratorium that could temporarily stabilize rental rate increases. Lafayette has never had rent control, and while council members were sympathetic to the tenants' plight, they were also concerned about establishing a precedent that may hurt smaller responsible landlords.

Many residents at the complex, located at the end of Second Avenue between Merrill Gardens and Highway 24, had received 60 days' written notice of rent increases, the new addition of utility charges and a requirement for renter's insurance, along with an expensive new pet policy.

In preparation for the May 11 city council meeting, city manager Steven Falk asked Kirby Sack of Sack Properties to prepare an action plan to address issues at the aging 1038 Second Street apartment buildings. A copy of the letter was available at the meeting; it acknowledged missteps but did not contain specifics to remedy the

situation. The complex has some serious deferred maintenance that has accrued over many years, under the prior owners. According to its website, new tenant rates for a two-bedroom, one-bath unit range from \$2,033 per month to \$3,660.

"It would be a huge step backwards to eliminate low-income units," said Kathy Merchant, development director of Las Trampas. Some of the developmentally disabled low-income Las Trampas clients live in the 1038 complex.

Another woman who lives in the apartments commented that the new management was willing to negotiate, offering instead of the 39 percent rent increase, a 33 percent increase - the equivalent of \$550.

Tenant Jennifer Brown encouraged the council to "implement safeguards." The rent on her 1950s apartment with no insulation, aging appliances, and single pane windows has gone up exponentially.

"We need affordable housing," said Jennifer Sutherland, urging much more reasonable rent increases, adding, "Sack (Properties) has lied to us in the past."

Bruce Whitten, who spoke up for his 80-year-old landlord mother who has a history of good relationships with long-term tenants, asked the council, "Why is it your place" to set limits on rents, calling it "landlord control."

A number of questions came up when Matt Siegel, staff attorney for the Berkeley Rent Stabilization Program, who is a Lafayette resident, stepped up to the podium. He suggested if there will be a moratorium, "eviction protection" should be included. When asked how much the rent stabilization program costs the city of Berkeley, he replied \$4 million, with 22 full-time employees.

Council Member Don Tatzin observed interesting clusters of those who commented: a group of smaller property owners who spoke against a rent moratorium, and none of their tenants; and, conversely, many tenants of large rental complexes, specifically from the 1038 on Second project, and the property manager who didn't show up. "I think that says something," reflected Tatzin. One self-described mom and pop landlord who owns a fourplex spoke up about some research she did at the county assessor's office. By her rough calculations there are 96 landlords who own from two to four rental units within the city, with an additional 37 landlords who own between five and 24 units.

Surmising only 10 entities own larger complexes - eight who own between 25 and 59 units, and only two property owners who own 60 or more units - Tatzin figured if the city is to pursue a temporary rent increase moratorium, it should be specific to larger properties.

Mayor Brandt Anderson agreed that there are a number of responsible landlords doing a good job and that the city should focus on the new owner who needs "to be held to the fire." Unfortunately without an actual moratorium, the city has little leverage over a private property owner.

Ultimately the council decided to have the city manager pursue conversations with Sack Properties, as well as work on preparing an emergency moratorium for consideration at the next meeting that would apply exclusively to multi-family projects with 25 units or more.

Over the years, the apartment complex at issue has been called a variety of names: Alta Vista, El Cerro, and La Playa apartments. The new owner, Sack Properties is based in San Francisco and took possession in February.

Can the city of Lafayette control how much of an increase an independent business entity can charge for rent? According to a parade of frustrated tenants, what the new owners have done is extreme and egregious. Many complain that they can no longer afford to live in the city they love where they are raising their children.

California state law limits rent control to older, multi-unit apartment buildings. According to the city attorney Mala Subramanian of Best, Best and Krieger, LLP it's possible for the city to adopt a moratorium limiting rent increases, although it must comply with state law regarding local rent control ordinances. In order to fully consider whether to adopt rent stabilization, the Lafayette City Council first should adopt a moratorium, which requires a four out of five vote. At this point, Subramanian was tasked with preparing the paperwork for a moratorium, but it's not clear if city council members will vote for it.



Photo Cathy Tyson

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[back](#)

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