

DATE ISSUED: September 8, 2004 **REPORT NO.** 04-198

ATTENTION: Committee on Land Use and Housing
Agenda of September 15, 2004

SUBJECT: Single Room Occupancy Hotel Regulations

SDHC REPORT NO.: LU&H 04-003

SUMMARY

Issue: Should the Land Use and Housing Committee recommend adoption of amendments to the Municipal Code adjusting existing regulations and expanding development incentives regarding Compact Living Units, also known as Single Room Occupancy Hotels, and Living Units?

Manager's Recommendation: Recommend that the proposed revisions described herein be forwarded to the Community Planners Committee and the Planning Commission for recommendation, and then to the City Council for adoption.

Environmental Impact: An addendum to the Land Development Code Environmental Impact Report will be prepared in accordance with CEQA, prior to proceeding to Planning Commission with the proposed amendments.

Housing Affordability Impact: The proposed regulations are intended to provide assistance to low-income tenants who will be displaced by the demolition, conversion, or rehabilitation of existing Single Room Occupancy hotels (SROs); to encourage retention of existing SRO units and expand the overall supply of housing stock for low-income residents.

BACKGROUND

Single Room Occupancy Hotels (SRO) or Residential Hotels provide some of the City's most affordable housing inventory. Traditionally, this housing stock has served the most vulnerable and lowest income brackets of our City's residents, including those on fixed incomes such as seniors and disabled individuals. The City of San Diego has had some form of SRO regulations on the books since 1977. However, it was not until 1985 that the regulations took a form similar to those that the City administers today. The SRO ordinance has been amended several times since that date, most recently in 2000. The primary features of the ordinance have remained consistent, including the requirement that residential hotel rooms be replaced upon conversion or demolition, and a requirement to provide relocation assistance to tenants residing within the property upon its conversion, demolition, or rehabilitation.

The legal environment within which residential hotels are regulated has changed in recent years and continues to change with pending litigation and state legislative reforms. Recent legal interpretations of SRO ordinances have prompted a reexamination of the existing Municipal Code provisions governing the loss of SRO rooms. Specifically, the Ellis Act (Gov. Code § 7060 et seq.) established that owners of residential rental properties could choose to go out of business but it also allowed for local jurisdictions to regulate the removal of residential rental stock from the existing inventory. In 2003, AB 1217 amended the Ellis Act to allow for certain residential rental properties (namely, residential hotels) to be regulated by municipalities.

In order to bring the City's ordinance in conformance with the Ellis Act and AB 1217, the Municipal Code was amended by City Council action on August 3, 2004. These minor revisions however only represented the minimum changes needed and did not represent a more in depth analysis of the SRO policies contained in the draft ordinance. During the August 3 City Council discussion, Protection & Advocacy, Inc. raised several issues related to both the Ellis act and AB 1217 and their effects on the City's ordinance. The City Attorney has addressed the concerns of Protection & Advocacy, Inc. in the attached City Attorney's Memorandum (Attachment 2).

In consideration of the current economic environment and worsening deficiency of low-income housing, it has become apparent that simply amending the existing SRO regulations would not ensure a sufficient stock of SRO rooms. For that reason, the San Diego Housing Commission, Centre City Development Corporation, and City staffs convened a Residential Hotel Working Group to discuss the development of a comprehensive work plan to address the need for both construction and preservation of Residential Hotels. Other Working Group participants included community representatives, for-profit and non-profit developers, advocates, social service providers, and homeless service providers.

During the summer of 2003, after over six months of planning, discussion, and negotiation, the Working Group reached consensus on a comprehensive Work Plan and framework for amendments to the SRO Regulations. This agreed upon Work Plan was scheduled for a September 20, 2003 Land Use and Housing Committee hearing. Immediately prior to the Land Use and Housing Committee hearing the consensus previously attained by the Working Group collapsed, and significant divergent testimony was provided. Nevertheless, on September 20, 2003, the Land Use and Housing Committee directed City staff to return with draft SRO ordinance amendments consistent with the Work Plan.

Over the past several months City staff together with the City Attorney's Office, the Housing Commission, and the Centre City Development Corporation (CCDC) have met to review and discuss the Working Group's previous efforts and, based on those efforts, have drafted amendments to the SRO regulations in the Land Development Code, the Marina PDO and Centre City PDO. Because a few of staff's recommendations differ from those of the Working Group's, a matrix has been created (see Attachment 1) which describes the various recommendations and compares them to current regulations.

The ordinance amendments recommended by staff are intended to preserve, rehabilitate, and construct safe and affordable housing for individuals at the lowest income levels, such as those on fixed incomes, and to ensure consistency with State regulations governing residential hotels. In summary, the amendments include regulations to: consolidate existing, similar land use designations into a new category called "Compact Living Units"; provide incentives to builders in the form of reduced parking requirements and water and sewer capacity charges; require one-for-one replacement of residential hotel rooms if the total number of rooms falls below an established threshold; and offer sufficient relocation assistance, including moving expenses, for tenants displaced from SROs.

DISCUSSION

Fully implementing the Work Plan will require numerous major and minor amendments to the City's Municipal Code, and includes a complex set of new and revised regulations, drafts of which are included as Attachments 3 through 5. This section summarizes the principal components of the new regulations that were formed after lengthy discussion among Working Group members, City staff, community representatives, and developers of residential hotel rooms.

Compact Living Units and Living Units: Traditionally, the land use designation of low rent residential hotels has been Single Room Occupancy Hotels (SRO). However, the Working Group discussions included concerns of public perception and the ability to access financing if the stock were to remain classified as SROs. Thus, we are proposing the creation of the "Compact Living Unit" (CLU) instead of "SROs." New regulations would ensure consistency

with State regulations, in that the definition of the CLU would specifically include a reference to the State law criteria for Residential Hotels.

After lengthy staff discussions, it was agreed that the separately defined residential use called the Living Unit should be retained in downtown residential areas. Downtown would, therefore, have two small unit development types: a commercial use (the CLU) and a residential use (Living Units). This would facilitate development in the predominantly mixed use zones (80% residential/20% commercial) in much of Downtown. As an incentive, it is proposed that the current Living Unit ordinance be amended to eliminate the ceiling of three Living Unit developments, simplifying the regulations and reduce the approval process from a Conditional Use Permit to a Process 2 Neighborhood Permit process. The Downtown community update plan proposes the use of Living Units in any zone in the Downtown area. It is also recommended that Staff be directed to study whether Living Units should be a use permitted throughout the City. Such a policy consideration would require an additional environmental review which would focus on the parking impacts of this type of use outside of Downtown.

Citywide it is recommended that CLUs become a permitted use in commercial and high density residential areas where Visitor Accommodations are now allowed. SROs are currently allowed in approximately 25 such zones. As a "limited use", the recommended ordinance (Attachment 3) clarifies that CLUs would be allowed by right, subject to a Process 2 review process. The physical form of CLUs is also described in the proposed ordinance. Code section 141.0626 would expand the size of traditional SROs to allow construction of rooms up to 400 square feet, but restricts the average size in a development to 235 square feet. This characteristic, combined with limitations on full bathrooms, are anticipated to add developer flexibility while maintaining affordability without rent restrictions.

Incentives: Incentives to expand the supply of small unit development would include an expansion of the areas where CLUs and Living Units would be allowed as described in the preceding section, and discretionary review processes would be minimized. In addition, parking and water/sewer rates would be tailored to CLU and Living Unit developments.

Parking - The current parking requirement for SROs differs depending on where the unit is located. Downtown, the current parking ratios are 0.2 spaces for every SRO unit and 0.7 spaces per Living Unit. The Downtown Community Plan Update is anticipated to include a recommendation to increase parking requirements for all development to afford one full parking space per dwelling unit.

The Working Group suggested retaining 0.2 spaces for CLUs, with provisions to further reduce the parking requirement, conceivably to zero. Staff recommends a compromise between the current and proposed community plans for CLUs, with a base of 0.5 parking spaces per unit, and reductions for deeper affordability. To simplify the parking ratio schedules it is recommended that, in the downtown area, the Living Unit and CLU parking ratios be the same. Based upon

recent input from developers, it is recommended that further reductions in parking ratios be allowed for smaller lot sizes (i.e. 5,000 sq. ft. or smaller).

Outside of downtown, the parking ratios required of SROs is 1 space per unit unless the unit is rent restricted or located in a Transit Area Overlay Zone (TAOZ), then the ratio is cut in half to 0.5. If the unit is both rent restricted *and* located in a TAOZ, then the parking ratio is reduced further to 0.25 spaces per unit. It is recommended that these same parking incentives be available to CLUs, except in downtown, as described above. As an alternative, the Committee may direct that all parking standards reflect those proposed for downtown.

In addition, some advocates have proposed a provision to the Ordinance which would allow for developers to dedicate a proportion of their project to Very Low and Low Income renters in exchange for allowing the remainder of the CLU units to be rented at market rates. This is envisioned to be an incentive which would allow for the creation of Low and Very Low housing stock while allowing the developer to help subsidize the operation of the rent restricted units with higher priced units.

Water and Sewer Fees - Water and sewer capacity fee reductions were identified as additional potential incentives for CLUs by the Working Group. Recent public comments at meetings of both the Land Use and Housing Committee and the City Council also suggested that such charges should more closely approximate the volume of water consumed by SROs. During testimony, it was noted that it might be more appropriate to use existing methodologies applied to multifamily residential developments. However, it has been found that the existing method in use for SROs is more accurate and results in a lower cost overall.

Capacity calculations and fee reductions for SROs and similar living units, as well as for affordable housing, has been addressed on several occasions. Currently, the capacity requirements for such living units are based on their actual number of plumbing fixtures such that the fewer number of fixtures installed, the lower the capacity charges will be, as opposed to a fixed unit value and the application of a density factor. Additionally, SROs are eligible for the affordable housing rate that is currently \$3,000 per equivalent dwelling unit (combined water and sewer) compared to the combined rate of \$6,260 recently adopted by the City Council.

There appears to be some confusion about the fee amount for water and sewer hook-up Downtown. At one time, the \$3,000 fee was available to all Downtown housing projects; today market rate housing pays the full \$6,260. Because CLU developers can choose the lower of the per fixture rate or the affordable housing rate, this does offer an incentive. It is recommended that the same reduced fee schedule be available to Living Units. An additional proposal has been discussed which would set CLU hook-up rates based upon the water usage surveys.

Replacement Housing Provisions: The City's existing SRO Hotel regulations require a property owner to either replace SRO rooms that are removed from the market or pay an in-lieu fee equal to 50 percent of the replacement cost. Recent amendments to the Municipal Code clarified that

this replacement provision only applies to residential hotels built prior to 1990. The Work Plan would revise the requirement to include one for one replacement for pre-1990 residential hotels only when the supply of small dwelling units drops below an established threshold. Proposed amendments would further narrow applicability of the replacement requirements to low-income occupied rooms, rather than all rooms as in the current code.

The proposed Municipal Code amendments to the existing regulations will establish a mechanism for measuring and setting goals. In order to accomplish this, it will be necessary to establish a base inventory of existing residential hotels and similar land uses so future progress can be measured. No fool-proof process to establish the base inventory emerged after extensive discussions. However, the recommended method for establishing the base inventory would begin with the City of San Diego's Transient Occupancy Tax (TOT) records. TOT exemptions are provided for residency of more than one month or very low rent rooms. An appeal process would be established to allow property owners to have an opportunity to demonstrate that, despite being exempted from TOT, they do not meet the definition of a CLU project. This methodology is described in greater detail in section 143.0535 of Attachment 3.

The base inventory established through this process is recommended to serve as a threshold. The City's Development Services Department in conjunction with the Housing Commission will monitor construction of CLUs and Living Units as well as demolition of units in the inventory, and will report annually to the San Diego Housing Commission. In the event that the total stock of SROs, CLUs and Living Units falls below the threshold in any given year, replacement requirements for pre-1990 residential hotels would be triggered. It is important to note that, although CLUs and Living Units would be included in the process of establishing a threshold and inventory list, property owners would not be required to replace any units built after 1990.

Although the Working Group's recommendation includes requiring replacement of CLUs within the same community planning area where the demolition has occurred, an alternative could include allowing the Housing Commission to approve an alternative site if it meets the purpose and intent of the replacement regulations and meets the goals of providing economically balanced communities.

The compromise reached by the Working Group would retain the replacement provisions with the triggering threshold, and that is a part of the staff recommendation. An alternative is to require replacement regardless of the inventory. This might have the effect of locking into service private property, some of questionable useful life. Clearly, some members of the Group would prefer that these provisions be eliminated altogether. The mandate that property owners provide replacement housing enables the City to ensure that the impacts to residents being displaced are minimized by providing that sufficient comparable housing is available when units are removed from the market. However, if the market is able to provide for sufficient new housing, replacement requirements may become unnecessary.

Relocation Assistance Benefits: The Working Group suggested a revision of the relocation assistance provisions affecting the current SRO regulations. It recommended that the method for determining relocation payments be changed to better reflect the income level of tenants. As such an alternative method has been proposed based on State Relocation law used by Redevelopment Agencies.

State Redevelopment Relocation law requires a relocation payment that is calculated based on either the difference between current rent or household's ability to pay and new rent after relocation. A relocation assistance payment based on the difference between a renter's ability to pay and the renter's new rent after relocation better reflects the needs of households at varying income levels. The recommended assistance includes a payment calculated as the difference between the household's ability to pay and the new rent for a period of 12 months. In addition, tenants would be provided with financial assistance for moving expenses. This would again be based on relocation law which sets this payment dependent upon whether the tenant has furniture or not at \$575 or \$375 respectively. The Committee may want to consider instituting a cap of the amount a property owner may be required to pay out per tenant (i.e. \$3,000 per displaced tenant).

In the case of rehabilitation of an existing SRO facility, the Working Group agreed that property owners could be exempted from providing relocation assistance if they are able to provide comparable size accommodations at cost that does not exceed 110% of the permanent resident's rental charged for the last month of residency preceding his or her relocation. All low-income tenants who have resided in a CLU for at least 90 consecutive calendar days preceding permit application would receive specified noticing and relocation assistance.

An alternative to the somewhat cumbersome process of adjusting the relocation benefits to each household's income and new rent is to use a multiplier of current monthly rent. The adopted Condominium Conversion regulations call for three times current monthly rent. A similar formula could be adopted for SROs. Given the lower rents charged to SRO tenants, a larger multiplier may be in order.

Rehabilitation of Older SROs: It has been noted that some properties in the current stock of older SROs are in poor physical condition. In order to provide an incentive for repairing older buildings, CCDC and the Housing Commission are considering the allocation of tax increment funds and inclusionary housing in lieu fees for a new rehabilitation loan program. Low interest loans would be made available to owners wishing to upgrade their properties and rent to eligible households. Staff recommends prioritizing properties of historic significance.

Finally, CCDC's Planning Committee met on Wednesday, September 8, 2004 to discuss the proposed revisions to the SRO Ordinance. A full Report of their action will be presented to the LU&H Committee on Wednesday, September 15, 2004.

Respectfully submitted,

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- Attachments: [1. Comparison Matrix](#)
[2. City Attorney's Memorandum re: Ann Menasche Letter](#)
[3. Ordinance 1: Amendments to Chapter 11, 12, 13, 14](#)
[4. Ordinance 2: Amendments to Centre City PDO](#)
[5. Ordinance 3: Amendments to Marina PDO](#)