



January 8th, 2021

Dear Members of the Concord City Council,

The Raise the Roof Coalition appreciates the work of the City Council, staff, and consultants to engage with tenants and advocates to make the rent and eviction registry a useful tool to create housing policy in Concord. **Good policy needs good data.** If done right, this registry will allow the City of Concord to track changes in the rental market, identify areas of disparate impact and displacement pressure, and design smart policies that protect the fabric of our community.

At the HED Committee Meeting on December 9th, 2020, Mayor McGallian and Councilmember Birsan worked through a range of technical considerations and seemed to reach consensus on the following issues (among others that are less relevant to this memo):

1. While it isn't necessary to name all of the co-owners of a given property, it is necessary to name at least one truly responsible individual (also known as a "beneficial owner") as opposed to an anonymous LLC or LP.
2. It's critical to design and word questions in a way that accurately captures the range of reasons for a change in tenancy. This includes inquiring about all "move-outs" (not just formal "evictions"), the type of notice and cause of termination for all formal evictions, and so on.
3. While it's essential to make the data available to the public on a regular basis, there are concerns about the privacy of individual tenants. This could be addressed by removing unit numbers from the dataset that's published on the City's website. However, landlords must still report information for all individual units. Moreover, the full dataset--including unit numbers--should be provided to parties that have what Mayor McGallian called a "business interest" in the data. This includes tenants of a given unit and housing rights organizations.

While there was considerable discussion of whether the registry should be expanded to include all rental properties, including ones with 1-3 units, the Committee didn't reach consensus on this issue. Councilmember Birsan noted that many tenants reside in 1-3 unit properties, including an increasing number of corporate-owned single-family rentals. But staff noted that, at present, the City doesn't require owners of 1-3 unit properties to obtain business licenses or register for the multi-family housing program. It would thus take a significant investment of time and resources to identify the full universe of rental properties. Mayor McGallian expressed a desire to get the registry up and running right away by limiting it to 4+ unit properties. However, calling this the "first round" in a living program, he acknowledged the need to reassess the registry--including whether to expand it to all rental properties--after a year.

We agree that it's important to launch the registry as soon as possible, and we understand that it may be complicated to expand it to all rental properties. **However, we strongly believe that including 1-3 unit properties is the only way to make the registry a genuinely useful tool for data- and equity-driven policymaking.** As Councilmember Birsan noted, covering 1-3 unit properties will eventually be necessary to ensure fairness and accuracy across all rental units, monitor the expansion of corporate-owned single-family rentals, and implement AB 1482 for all eligible tenancies. It should also be noted that the representative from HdL confirmed that most of the rental registries that they administer in California cover all rental units. **As such, we ask the City to commit to working to expand the registry to 1-3 unit properties in the second year. We would be happy to help identify data solutions to make this feasible.**

At the HED Meeting, Mayor McGallian and Councilmember Birsan directed staff to engage with advocates on the technical issues raised at the meeting. On December 16th, the Raise the Roof Coalition emailed a series of redlines and recommendations to Brenda Kain (see Attachment A). **These edits, which amended the draft survey presented to HED on December 9th, were meant to consolidate the recommendations made by tenants and advocates in a way that reflected the apparent consensus reached by the Committee.**

We greatly appreciate the fact that staff seems to have adopted most of our proposed changes. **However, there are still three items that staff didn't address, which we think are critical to realizing the full potential of this registry.**

- 1. Beneficial Owner:** We recommended that staff incorporate the language of "beneficial owner" to identify the natural person who owns, controls, or reaps gains from a property. This is a standard legal term that will reduce ambiguity and thus ensure that respondents provide information on the actual people responsible for a specific property, rather than a corporate shell (e.g. LLC or LP). By contrast, we find the language proposed by staff on Question A6 to be vague and potentially ineffective at accomplishing this important aim. See proposed language in Attachment A, Question A6.
- 2. Base Rent as of Move-In Date:** We recommended that staff include a question about the base rent at the time that the current occupant moved into the unit. This would allow the City to identify the degree to which rents have already increased. Instead, the survey

only asks about the rent as of July 1st of a given year. Over time, this will allow the City to identify general trends in changes in rental prices. However, it won't reveal anything about the degree to which prices have *already increased*. This information is not only crucial, but also easy to capture by including a question about base rent at the time of move-in. Without it, the City will need to wait years to get a sense for how the housing crisis is affecting rents in Concord. See proposed language in Attachment A, Question C9.

- 3. Changes in Rent:** We recommended that staff include a question about the frequency and amount of all changes in rent over the preceding year. Comparing the base rent as of July 1st from one year to the next, as is currently proposed, will give a sense for the overall changes in the rent *amount*. But AB 1482 also regulates the *frequency* of such changes. The current survey assumes that all owners comply with AB 1482 by raising the rent no more than twice in a 12-month period. Instead of assuming, however, we believe that the registry should be designed to *ensure compliance* with AB 1482 and individual lease terms by asking about each change in rent over the course of a year. See proposed language in Attachment A, Questions C13-C14.

Thank you for your consideration of these recommendations. We look forward to continuing to work with the City Council, staff, and consultants to make Concord's rent and eviction registry a model tool for data- and equity-driven policymaking in California.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex Werth', with a long horizontal flourish extending to the right.

Alex Werth
Policy Associate
East Bay Housing Organizations

On behalf of the Raise the Roof Coalition

Attachment A: Recommended Changes to the Questionnaire

These redlines and recommendations were submitted to Brenda Kain on December 16th, 2020.

Proposed Rent Registry Property Owner Information

A. Property Ownership Status

1. Rental Property Street Address, City, State, Zip Code
2. Parcel Number
3. Total Number of Rental Units in Property
4. Name of Owner (Individual, Trust, LLC, etc.)
5. Ownership % (if managing member does not own 100% of property interest)
6. Name of Beneficial Owner (if owner is not an individual) and Title of trustee, managing member, CEO or responsible party if the Owner is a trust, LLC, corporation or business partnership

*The Beneficial Owner is the natural person who owns, controls, or profits from the property. It cannot be an LLC, LP, or other business entity.

7. Business Mailing Address for Beneficial Property Owner Listed in A.6, Street Address, City, State, Zip Code
8. Business Phone Number for Beneficial Property Owner Listed in A.6
9. Business E-mail Address for Beneficial Property Owner Listed in A.6

B. Agent or Property Manager Authorized to Complete Rent Registry Documents (if different from the Beneficial Owner in Section A.6)

1. Company and Agent Name
2. Agent Name
3. Agent Business Mailing Address, Street Address, City, State, Zip Code
4. Agent Business Phone Number

5. **Agent** Business E-mail Address

6. Ownership Signature **[unclear]**

C. Information Regarding Each Rental Unit in the Property

1. Unit **Number or** Address (if different from property address)

2. Unit Square Feet

3. Number of Bedrooms in Unit

4. Number of Parking Spaces Assigned to Unit

5. Is Unit **Occupied** Leased-as of July 1st?

6. Is There an Active Lease in Writing?

7. Type of Lease (if answered yes to Section C.6)

a. Drop down menu (12-Month Lease, 6-Month Lease, Month-to-Month)

86. Move-In Date of Current Tenant (Month and Year) ~~Current Lease Start Date~~

9. Base Rent as of Move-In Date

107. Base Rent as of July 1st

118. Monthly Cost of Additional Non-Optional Charges as of July 1st (note which are collected by a third party)

a. Drop down menu (Electricity, Natural Gas, Cable, Wi-Fi, Garbage, Recycling, Water, Sewer, ~~Recycling~~, Common Area Maintenance, Other _____) **[a drop down menu will not work to capture amount or whether it is collected by a third party]**

129. Monthly Cost of Additional Optional Charges as of July 1st (note which are collected by a third party)

a. Drop down menu (Parking, Storage Space, Other _____) **[a drop down menu will not work to capture amount or whether it is collected by a third party]**

13. How Many Times Did the Base Rent of This Unit Increase in the 12 Months Leading Up to July 1st?

14. Provide Amount of All Rent Increases (if answered 1 or more to Section C.13)

~~150. During the Past 12 Months Was~~ How Many Times Did the Tenancy of This Unit Change Not Renewed in the 12 Months Leading to July 1st?

~~11. If answered yes to Question C.9, How Many Times Was the Tenancy of This Unit Not Renewed?~~

16. For Each Time the Tenancy Changed, Was the Move-Out Initiated by the Tenant or the Owner?

17. For Each Time the Move-Out Was Initiated by the Owner, Provide the Notice of Termination Issued.

a. Drop down menu (3-Day Notice, 15-Day Notice, 30-Day Notice, 60-Day Notice)

18. For Each Time the Move-Out Was Initiated by the Owner, Provide the Cause of Action for Termination.

a. Drop down menu (Non-Payment of Rent, Lease Violation Other Than Non-Payment of Rent, Unit Removed from the Market/Ellis Act, Owner or Relative Move-In, Demolition or Substantial Remodel, Compliance with a Government or Court Order)

b. Lease Violation (if different from non-payment of rent)

19. For Each Time the Move-Out Was Initiated by the Owner, Was an Unlawful Detainer Case Filed in Court?

~~12. For each time a tenancy was not renewed, provide the reason for non-renewal.~~

~~a. Drop down menu (Eviction, Non-payment of rent, Lease violation other than non-payment of rent, tenant initiated relocation).~~

D. General Information About Tenant Charges

~~1. Are All Tenant Charges Collected by the Property Owner?~~

~~2. If answered no to Question D.1, what tenant charges are collected by a third party~~

b. Drop-down menu (~~Electricity, Natural Gas, Cable, Wi-Fi, Garbage, Recycling, Water, Sewer, Recycling, Common Area Maintenance, Other _____~~)

Explanation of Recommended Changes

A6-A9

Under federal regulations, including tax law, the legal term for the natural person who owns, controls, or reaps gains from an asset, including real estate, is “Beneficial Owner.” (See [this article](#) for more information.) Therefore, we recommend that the registry use the language of “Beneficial Owner,” while also providing a definition (as noted) in order to dispel any potential confusion.

B6

We find this item (“Ownership Signature”) to be unclear. Please clarify.

C5-C8

Many tenants are not offered leases, even though they are the legal occupants of their units. We recommend avoiding language that assumes that the occupant has a lease and, instead, adding questions to ask about the presence and type of lease. The language of “Move-In” also works to capture tenancies in which there is no lease.

C9

We recommend adding a question about Base Rent as of Move-In Date in order to provide more data on trends in rental prices over the long term. Once it launches, the registry will provide this sort of data moving forward. But adding this question will allow the City to “look back” at the many tenancies that started before the registry was established.

C11-C12

A drop down menu will not allow the respondent to either select more than one cost or provide the actual amount of that cost. We recommend changing this to a [matrix question type](#), which will allow the respondent to indicate a) if the tenant pays a specific cost, b) the amount of that cost, and c) if the tenant pays it through a third party. This last item will allow you to consolidate Section D with Section C11-C12.

C13-C14

While comparing the Base Rent as of July 1st from one year to the next will give a sense for any changes in the amount of rent, AB 1482 regulates the frequency and amount of changes in rent. So we recommend asking owners to self-report on any changes in rent over the preceding year.

C15-C19

The term “eviction” is often misconstrued to mean only those terminations of tenancy that are ruled on in Court. We recommend asking more detailed questions about all changes in tenancy, including information on whether move-out was initiated by the owner and, if so, a) the notice of termination used, b) the cause of termination, and c) whether or not an unlawful detainer case was involved. While owners are only required to provide information once a year, it is possible that the tenancy turned over, or was terminated, several times over that period. Therefore, it is essential to ensure that respondents provide answers for each instance in which the tenancy changed.