



Memorandum

TO: Honorable Mayor and City Council

FROM: Councilmember Jimenez

SUBJECT: Actions Related to the Apartment Rent Ordinance and Regulations.

DATE: November 13, 2017

APPROVED

DATE

11/13/17

Recommendation

1. Approve the November 9th memo from Councilmember Arenas and myself.
2. Approve the November 9th memo from Vice Mayor Carrasco and Councilmember Peralez with the following modifications:
 - a. Direct the Housing Department and the City Attorney's Office to return with an amendment to the Apartment Rent Ordinance establishing a waiver program with the following parameters:
 - i. The waiver program will exempt eligible landlords from the limit on annual rent increases based on CPI-U.
 - ii. Small landlords who own four (4) or fewer ARO units in the City will be eligible for the exemption.
 - iii. Eligible landlords must demonstrate that they own four or fewer ARO units in the City on an annual basis.
 - iv. Eligible landlords will instead be subject to the existing 5% rent increase ceiling.
 - v. Continue to prohibit banking.
3. Require that permitted pass-through costs, like amortized capital improvement expenses, be listed separately from the base rent and itemized on monthly rental statements.

Background

The debate over rent control in San Jose can be distilled into a fundamental question about two competing interests: How do we prevent the displacement of low and moderate income tenants in the nation's third most expensive rental market, while at the same time preserving the livelihood of "mom and pop" landlords who depend on their rental units to make a living?

In an attempt to address both of these real and valid concerns, I am suggesting a small landlord exemption from annual rent increases based on CPI-U. This exemption will allow small landlords to continue to raise annual rents up to the existing 5% threshold. Larger landlords, who

have the means and capacity, will be subject to the industry standard of rental increases based on CPI-U.

“Mom and pop” landlords who make up a significant portion of landlords in the City are hardworking individuals, often with limited means. This waiver program takes that into consideration and allows for equitable rent increases based on the number of units owned. The waiver program will be administered by the Housing Department, and small landlords will have to prove that they qualify for the exemption.

The memo prepared by Vice Mayor Carrasco and Councilmember Peralez articulates perfectly why CPI-U is the most efficient indicator of rental increases. The adoption of CPI-U with a waiver program will allow the City to strike a balance by preventing excessive rent increases for tenants while providing small landlords the ability to make a profit from their business.

Earlier this year, Council debated the notion of banking, and a majority of my colleagues and I decided not to implement the practice in San Jose. Furthermore, the City Auditor found that banking provisions undermine protections offered by rent control and “add complexity for rent controlled landlords, the majority of whom own small apartment buildings and are not necessarily professional apartment managers”. For these reasons, I recommend we continue to reject banking.

Lastly, tenants deserve transparency when it comes to monthly billing statements. Therefore, landlords should be required to provide itemized statements for all capital pass throughs.