



April 4, 2019

Honorable Mayor Sam Liccardo and City Council
City of San José
200 East Santa Clara Street
San José, CA 95113

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The silicon valley organization

Re: Ellis Act Re-Control Provisions

Dear Mayor Liccardo and City Council:

On behalf of The Silicon Valley Organization (The SVO), I am writing to urge the Council to adopt a 1-for-1 replacement policy of rent-controlled units for new residential projects under the Ellis Act. By way of background, The SVO is the Silicon Valley's premier business advocacy organization representing nearly 1,200 companies that employ over 300,000 workers, and we represent our membership as the region's largest Chamber of Commerce.

Any revisions to the Ellis Act re-control rules should preserve the existing supply of rent-controlled housing units, while avoiding unnecessary policies that would make residential projects infeasible for redevelopment opportunities. The city's existing 50% re-control rules on new construction projects makes it extremely difficult for housing developers to obtain adequate financing to increase the city's housing stock. The key to solving the housing crisis is to significantly accelerate housing production at all income levels – we must do everything we can to remove impediments to housing and the Council must not impose a 50% re-control rule that would be counterproductive to the city's housing production goals.

According to a recent staff report on the Housing Crisis Work Plan, an average of 2,800 residential units were built between 2010 and 2017. There simply is not enough housing production to tackle the housing affordability crisis head-on. Furthermore, we are aware that the Housing Department is floating a proposal to exempt the 50% re-control provisions, but only for new residential projects that generate at least 7 times the number of original units on the existing site. Many small sites will be unable to meet this density requirement and this policy proposal essentially supports the status quo by denying redevelopment opportunities. By amending the Ellis Act re-control provisions to strictly a 1-for-1 replacement rule, we can remove obstacles to construction and start encouraging residential development that will address housing affordability in the region.

In closing, we strongly urge the Council to exempt new residential construction from the Ellis Act 50% re-control provisions. If you have any questions about The SVO's position on this issue, please contact Eddie Truong, Director of Government and Community Relations, at

[REDACTED]

Sincerely,

[REDACTED]

Matthew R. Mahood
President & CEO



April 5, 2019

Mayor Sam Liccardo
San Jose City Council
Via email submittal

RE: San Jose CC Meeting 4.9.19 Ellis Act Recontrol Provisions

Dear Mayor Liccardo and San Jose City Council,

BIA Bay Area urges the City Council to eliminate the 50% re-control provisions under the Ellis Act and adopt a 1-for-1 replacement policy of rent-controlled units for new residential projects. Any revisions to the Ellis Act re-control rules must eschew counterproductive policies from current housing law that make residential redevelopment opportunities infeasible.

The city's existing 50% re-control rules on new construction projects effectively kills the potential of any redevelopment project on older rent controlled properties. The City should be working to achieve housing goals by removing impediments to new development. The Ellis Act 50% re-control rule is yet another obstacle to achieving the city's housing production goals vital to improving housing availability at all income levels.

According to a recent staff report on the Housing Crisis Work Plan, an average of 2,800 residential units were built between 2010 and 2017. There simply is not enough housing production to tackle the housing affordability crisis head-on. By amending the Ellis Act re-control provisions to strictly a 1-for-1 replacement rule, we can remove obstacles to construction and start encouraging residential development that will address housing affordability in the region.

California's high housing cost and lack of housing supply compromise the ability to access opportunity (jobs, health, stability) for families and individuals, including working families. Homeownership rates are the lowest since the 1940s and the State has not met its projected need for housing in the last 15 years. Housing supply needs are of vital importance and the highest priority.

In conclusion, BIA Bay Area strongly urges the Council to eliminate the Ellis Act 50% re-control provisions on new residential construction. BIA remains ready to work with the City to assist in any way we are able. Please feel free to contact me at dmartin@biabayarea.org.

Yours truly,

Dennis Martin
BIA BAY AREA

Honorable Mayor Sam Liccardo and City Council
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113
Re: Ellis Act RE-Control Provisions

Dear Mayor Liccardo and City Council:

On behalf of the Santa Clara County Association of REALTORS® (SCCAOR), and the 6,500 Real Estate Professionals we represent, I am writing to you to express support for revising the existing Ellis Act ordinance to reduce the re-control requirement to a 1-to-1 ratio.

SCCAOR is committed to the defense of private property rights and to taking action on policy issues that support the expansion of our housing supply at all levels. A reduction in the re-control requirement of the Ellis Act is a step in the right direction – and indicates a commitment to expedient action as is necessary when addressing a crisis.

As is evident by the stagnation of applications for redevelopment projects being done under the Ellis Act, it is clear that the Ellis Act is not supporting the Mayor's vision to build 25,000 units of housing. According to the Housing Department's memorandum dated February 28, 2019 and submitted to HCDC on March 3, 2019, "to date, two properties have issued a notice to withdraw" under the Ellis Act. This is clear indication that investment confidence in these type of redevelopment projects is low under the status-quo of the Ellis Act.

Lowering the re-control provision to 1-to-1 is a necessary step to reduce the reluctance of investors. Redevelopment of properties under the Ellis Act have so many net-benefits to our community that are being prevented under the existing ordinance: Dramatically increased supply (two projects have set to build 529 units, imagine how many more that could be), safety (new units will be up to code), higher quality units, and stronger communities.

It is our hope that you will act with a crisis mindset in the best interest of affordability and housing supply and amend the Ellis Act re-control provision to be 1-to-1.

Thank you for your service to our community and for considering SCCAOR's position on this issue.

Regards,

Gustavo Gonzalez, President
Santa Clara County Association of REALTORS®

ELLIS ACT ORDINANCE COMMUNITY MEETING

WHEN: March 20, 2019

WHERE: Seven Trees Community Center

NOTES:

Rent Control vs. Affordable

- I think that the 100%-50% subject to re-control was a move to encourage new developments. Too many restrictions will deter development.
- Rent Stabilization is preferable to an income-restricted property because AMI may grow rapidly with new developments/changing composition of region.
- 1 Re-control
- Must replace existing units or meet 15% inclusionary standard
- If a rent-controlled complex is removed from the market and processed as Ellis, we are essentially losing affordable housing, because the re-control aspect doesn't matter when rents are reset to market rates.
- Can we income-restrict properties for longer than 55 years?

Rent Control Solutions

- Idea, poll developers to understand why they are not moving forward.
- Should be tied to AMI/CPI
- Fair Housing Act concerns with allowing off-site affordable option (or in lieu fee) (disproportionate impact on POC). On-site requirements for all re-control or those that qualify for 7Xs exemption would help.
- 1:1 with new unit being affordable rather than rent stabilized
- Affordable period be limited to 10 years creating an incentive

Smaller Development Considerations:

- Allow projects replacing same # of units some flexibility

Barriers to Development

- Ellis Act Ordinance is about preventing displacement, not promoting development. We don't know if last change (April 2018) has made an impact
- Concern regarding displacement of low income people in the Diridon Area. In this case the affordable option is better
- Concerns about displacement and its disproportionate effects on low-income minority populations.
- 55 years of income-restrictions are too long, should be 10 years plus % increase allowed



March 28, 2019

Jacky Morales-Ferrand
Director, Housing Department
City of San Jose
200 E Santa Clara Street
San Jose, CA 95113

Dear Jacky,

I am currently the CFO for KT Urban. I have been a Chief Financial Officer for the past 16 years for several real estate companies including a publicly traded company (NYSE: UCP) based in San Jose, which completed an IPO in 2013 and raised approximately \$200 MM in construction financing, as well as over \$275 MM of other debt and equity proceeds in the capital markets. Prior to my experience in the real estate industry, I spent many years working at international banks such as BNP and Deutsche Bank that provided various forms of financing for several technology companies here in the Bay Area (Sun Microsystems, 3Com, Informix, Sybase) totaling some \$2 billion.

I understand that you are considering matters pertaining to the City San Jose's Ellis Act Ordinance and its re-control provisions impact on the ability of projects to obtain equity and construction financing in the capital markets. I would like to, respectfully, offer a few observations for your consideration:

1. ***Rent controlled projects increase risk*** as rent controlled projects recover more slowly from market downturns. In Table 1 of the David Paul Rosen & Associates report, the market rents for that sampling of projects declined 8.7% in 2009 and it took over 2 years for the market to recover. If a 5% rent cap were in place, it would have taken the markets rents nearly 4 years to recover. The capital markets (institutional investors and the debt market) study long term cycles carefully and the reduced ability to recover from inevitable market downturns increases risk. Projects with higher risk require higher returns which, in turn, reduces the number of viable projects and investors while at the same time increasing the need for equity investment as higher risk projects are not able to borrow as much.
2. ***Rent controlled projects are less valuable***, of course, because of reduced revenue and cash flow. Again, using the Dave Paul Rosen data and applying the 5% cap, the 11-year average annual rent growth would have been less than 2.5%. Separate but in addition to the risk issue discussed above, less valuable projects attract fewer investors and require

more equity as the borrowing capacity of the project is reduced. If we factor in reduced annual growth rate and the increased risk and apply this data to a large multifamily project we are currently working on located in San Jose, we estimate the pretax profit of the project would be reduced by approximately \$50 MM.

3. From a capital markets standpoint, ***addressing the housing crisis in the Bay Area requires large scale institutional investors and debt.*** For the reasons cited above, institutional investors will shy away from and in some cases be precluded, as a matter of policy, from investing projects that have rent control or other limitations.
4. Over \$30 billion was invested in US in value-add multifamily projects in 2018. In this category of investment ***private equity and debt funds specifically target under-utilized, neglected or under-performing urban, infill properties with the primary goal of redeveloping the property at higher densities and increasing rents at above market rates.*** By definition, this type of significant investment, while usually being welcomed in the community, would be significantly diminished under the proposed Ellis Act ordinance.
5. ***It is widely understood by economists that rent control often results in having the opposite effect than intended.*** In a recent study from Stanford University on this topic, which I am sure you are aware, the authors concluded that rent control reduces housing supply and drives up rent.

Having lived my whole life in the Bay Area, most of which living or working in Santa Clara Valley, I am very excited to see the development of Downtown San Jose over the past 10+ years. Downtown San Jose is emerging as the social and cultural hub of Silicon Valley. Very significant large-scale investment seems to be on the near-term horizon, but the Ellis Act's re-control provision will discourage investment activity. I am very hopeful that the City of San Jose will continue to work hard to encourage this continued investment.

Sincerely,

A black rectangular box redacting the signature of William J. La Herran.

William J. La Herran
Chief Financial Officer
KT Urban

Nguyen, Viviane

From: VanderVeen, Rachel
Sent: Thursday, April 11, 2019 7:03 PM
To: Nguyen, Viviane
Subject: FW: Ellis Act
Attachments: ARO-Ellis 4.9.19 Reflections.docx

Public comment

Rachel VanderVeen

Deputy Director
Housing Department
[REDACTED]

From: David Eisbach [REDACTED]
Sent: Thursday, April 11, 2019 10:08 AM
To: VanderVeen, Rachel <Rachel.VanderVeen@sanjoseca.gov>
Subject: Fw: Ellis Act

Sent: Thursday, April 11, 2019, 9:54:03 AM PDT
Subject: Ellis Act

Hi Rachel

I believe that the Ellis Act, works so far as protecting and relocating tenants, but it serves as a stumbling block for owners, who are considering expanding their properties. I make some suggestions, that may be helpful in expanding the affordable and the market rents in San Jose.

I hope you will read the attached and put it on the record.

Regards

David Eisbach

ARO-Ellis Act, 4.9.10 Reflections

A February 7, 2019 article in the San Jose Mercury News, “San Jose to Review Rent Control” quoted Housing Director, Jacky Morales-Ferrand The Ellis Act... “is designed to make developers think Twice.”

If she is referring to protecting tenants by charging up to \$15,000 per family to relocate them and allowing up to a year notice, then I would say I understand the intent even though both are excessive.

If she is referring to an owner who wishes to expand his five unit apartment to ten but realizes that once the units are ready five of the new units must be placed under the ARO, he decides that the numbers do not work. He Thought Twice!

I have read some lines that stated that negotiations could allow 20% be placed under the ARO, i.e. 2 units. I also read that the new empty units would allow the owner to set rents and then be bound to the annual 5%. I fear that the original thought is new units would reflect the original rents plus 5% for each year passed.

I think there are current owners who might have contiguous plots large enough to physically expand their units by two to three times. These are owners, not developers, who are into large properties. They are not financial giants.

It is clear that the City must build housing. What we see is a black and white non-negotiable piece of legislation. We wonder why owners are not building? Do we not see that all the costs of expanding rental stock is borne by the owner along with the promise of reduced income in the end product. Here are some suggestions:

1. If the owner's old units were under market, and the new units would reduce the annual income by a considerable amount, Independent Agents could adjust the new rates.
2. The Planning, Permits, Code Enforcement costs be reduced by 15%; the projects should be given assistance and priority.
3. The property will be reassessed; the City could waive 10% and convince the County to do the same. (Make the adjustment in the property assessment).

4. The Ellis eviction timing is a mine field; If there are seniors, or school age tenants then the timing could be extended up to a year. If the owner just says in one year you all must be out, and three leave right away that leaves two, that's a lot of lost rent because of this notice period. If there is an unforeseen loss, it should be considered in costs somewhere else.
5. The owner is responsible for construction and labor. Delays cost money, the City should be accommodating.
6. If the City can pay \$600,000 to develop one Cargo Bin into a living unit, it can certainly apply a lot less in the expansion of more existing housing.

Instead of using the Ellis Act to dissuade owners, steps could be taken to aid in the process. If we could stop viewing owners as greedy, lawless trolls and listen to each other, we might find room for negotiation. Who knows if some or all of the above suggestions were followed, the City could gain five lower cost units under ARO and Five market properties.

David Eisbach, Broker, Property Manager, Owner

[REDACTED]

[REDACTED]



Advancing Justice
Housing | Health | Children & Youth

April 16, 2019

City of San José Housing Department
200 E. Santa Clara St.
San José, CA 95113

RE: Item 4.2 – Ellis Act Ordinance Re-Control Provisions

Dear Director Morales-Ferrand:

We write to strongly urge the Housing Department to recommend no changes to the current Ellis Act Ordinance. The Ellis Act Ordinance (the “Ordinance”) was originally passed in April of 2017 as part of a package of protections against displacement for San José tenants and measures to preserve San José’s supply of affordable housing, including San José’s Apartment Rent Ordinance. These protections were passed as hundreds of tenants were losing their rent-controlled units, including over 670 tenants at the Reserve Apartments, and with broad community support following extended public comment highlighting the need to better preserve San José’s stock of affordable housing and prevent the displacement of low-income tenants.

Despite this need, the Ellis Act Ordinance was rolled back just last year to allow developers to recontrol fewer of the affordable units they demolish and to seek exemption from the recontrol requirement altogether under certain circumstances. In the midst of an unprecedented housing crisis causing massive dispossession of homes and displacement of people, it would be reckless and pernicious to further weaken this important tool for preserving affordable housing. Furthermore, such an action would likely have a disparate impact on people of color and perpetuate segregation in violation of the federal Fair Housing Act (FHA) and California Fair Housing and Employment Act (FEHA) as the City has utterly failed to evaluate the effect of such a rollback on low-income communities of color.

Efforts to prioritize the production of affordable housing that undoubtedly will lead to the displacement of low-income families of color, including rolling back the Ellis Act Ordinance, ignore the long history of discriminatory housing policy in San José and the vulnerability of the city’s existing affordable housing stock. While we agree that we need to develop more affordable housing, such development should not be to the detriment of our low-income communities of color, who disproportionately live in rent-stabilized units. Anecdotal evidence from developers regarding their motivations should not, as a matter of sound and equitable

[REDACTED]

policy making, outweigh tangible community needs especially given the failure to evaluate the effect of the loss of rent-controlled buildings both before and after the passage of the Ellis Act.

The City should instead ask the Housing Department to track how the demolishing of rent-controlled buildings have affected the displacement of low-income families out of San Jose. Why has the City not pushed the Housing Department to find out the fates of the more than 670 tenants displaced from the Reserve Apartments? Such data, rather than anecdotal data from developers, will be telling of the importance and necessity of the Ellis Act to keep low-income families in San Jose.

1. The Failure to Preserve Naturally Occurring Affordable Housing Units Has Driven Displacement and the Affordable Housing Crisis in San José

Recent studies on the scale and scope of displacement in the Bay Area have found that San José residents have been hit particularly hard by displacement and gentrification in the past ten years. The Urban Displacement Project found that every census tract within and surrounding downtown San José has seen or is currently experiencing either ongoing gentrification and displacement or advanced gentrification and displacement.¹

Efforts to produce new affordable units have not kept up with the community's needs for affordability and created a massive gap in San José's housing supply. The City of San José's General Plan Housing Element found that the City issued permits to build less than 22% of needed low-, very low-, and extremely low-income deed-restricted affordable housing units from 2007 to 2013.²

Meanwhile, the need for affordable units is only expected to grow. The City's need for housing units affordable to renters with very low incomes alone is nearly 20% greater, an increase of over 1400 units, for the 2014–2022 planning period.³ The 2018 Annual Element Plan Update reports that San José is already falling behind in meeting this goal, even while exceeding its needs for market rate housing.⁴ As the Housing and Community Development Commission emphasizes in their letter, **the City has presented no evidence that this shortfall in production is linked to incentives under the Ellis Act Ordinance.**

In light of this massive shortfall in the production of new affordable units, the failure to preserve existing affordable housing has been a key driver of displacement. This failure compounds a long history of racially discriminatory residential policy that has denied fair

¹ See *Mapping Displacement and Gentrification in the San Francisco Bay Area*, URBAN DISPLACEMENT PROJ. (2018), <http://www.urbandisplacement.org/map/sf>.

² CITY OF SAN JOSÉ, HOUSING ELEMENT VIII-4 (2015).

³ *Id.* at III-3.

⁴ SAN JOSÉ HOUS. DEP'T, ANNUAL ELEMENT PLAN UPDATE 2018, at 6 (2019), <http://www.sanjoseca.gov/DocumentCenter/View/83510>.

housing choice and made it difficult for people of color to remain stably housed in decent, affordable homes.

Beginning in the 1930's and continuing until 1976, the federal government engaged in a practice known as "redlining," whereby the federal government assigned ratings to neighborhoods to guide public and private investment. As a rule, neighborhoods where people of color lived received the lowest possible investment grade, often merely because people of color lived there.⁵ These explicitly discriminatory investment grades precluded private investment in these redlined areas, prevented residents from securing federally-insured loans to buy homes, and all but guaranteed that these neighborhoods would fall into disrepair and dilapidation.

Redlined neighborhoods, because of the economic depression and urban blight that years of *de jure* discrimination and total disinvestment created, were then targeted for redevelopment by the San José Redevelopment Authority (SJRA) in the 1980's, and '90's. Unfortunately, the SJRA's efforts to create "a thriving urban center, offering an amalgamation of cultural, professional, and residential amenities,"⁶ displaced many of the people of color that had been forced to settle in these redlined areas.

In a case study of the Diridon Station Area, for example, the U.C. Berkeley Center for Community Innovation found that "development activities, including a significant loss of housing units in the 1980s, may have primed this area for the gentrification it is experiencing today."⁷ During this period, the SJRA merged redevelopment revenues generated from neighborhoods across the city to focus development downtown.⁸ This strategy allowed the SJRA to carry out massive projects such as the Guadalupe corridor transportation project, a widening of the Guadalupe River channel, and the construction of what is now the SAP Center. Together, these projects directly displaced a significant number of Hispanic households and spurred gentrification that has driven continued home loss.⁹

Indeed, the National Community Reinvestment Coalition found that between 2000 and 2013, census tract 5003 (which covers the Diridon Station Area and the tract of land bordering Guadalupe Creek to the west between Interstate 880 and Park Ave), saw significant displacement of Hispanic residents.¹⁰ Perhaps unsurprisingly, census tract 5003 includes two sizeable

⁵ *Redlining and Gentrification*, URBAN DISPLACEMENT PROJ. (2018), <https://www.urbandisplacement.org/redlining>.

⁶ *Downtown San José*, SAN JOSÉ REDEVELOPMENT ASSOC., <http://www.sjredevelopment.org/downtown.htm> (last visited April 3, 2019).

⁷ U.C. BERKELEY CTR. COMM. INNOVATION, DIRIDON STATION CASE STUDY 8 (2015), http://www.urbandisplacement.org/sites/default/files/san_jose_final.pdf.

⁸ *See id.* at 9.

⁹ *See id.*

¹⁰ *Shifting Neighborhoods*, NAT'L COMM. REINVESTMENT COALITION (2019), <http://maps.ncrc.org/gentrificationreport/index.html?bookmark=Map>.

neighborhoods that were redlined by the federal government throughout most of the twentieth century.¹¹

By specifically targeting communities of color for disinvestment, redlining created severe poverty in these neighborhoods that has incentivized developers to demolish and replace them with more profitable properties. The economic impact of redlining also has created obstacles for the residents of these ostracized neighborhoods in resisting changes to their community.

The result is that the low-income people of color who were cut-off and denied investment for much of the last century because they were told their very presence made these neighborhoods undesirable are now being pushed out so that their neighborhoods can be redeveloped to be desirable to other, richer, and perhaps newer, residents of San José.

This history demands a renewed emphasis on preserving affordable housing units, like rent-stabilized units, because, unlike production, preservation maintains existing tenancies and conserves the cultural identity of the neighborhoods in which it takes place. Focusing only on production of new units through redevelopment will perpetuate a long history of inequity in housing policy in San José, and all but guarantee that low-income tenants will once again be excluded from the economic growth that City policy seeks to stimulate.

2. The Ellis Act Ordinance Must be Retained in its Current Form in Order to Fulfill its Purpose to Preserve Naturally Occurring Rent-Stabilized Units

In addition to being counter-productive to promoting equitable housing policy, efforts to prioritize the production of affordable housing that inhibit the City's ability to preserve affordable units are also self-defeating. Strong measures to preserve San José's existing affordable housing stock are needed to mitigate economic pressures that have already caused severe displacement in our community. Although not all ARO-covered units remain affordable due the vacancy decontrol requirement of the Costa Hawkins Rental Housing Act, rent-stabilized units remain an important and significant source of naturally-occurring affordable housing. The legislative history of the Ellis Act Ordinance shows that its primary purpose is to preserve rent-controlled units and prevent the displacement of low-income tenants.

City Council initially directed Housing Department staff to formulate the ordinance in May 2016 in order to address concerns about the demolition of affordable apartments covered by San José's Apartment Rent Ordinance (ARO) and displacement of tenants residing in ARO-covered properties.¹² Following extended public outreach, Housing Staff returned in April of 2017 with an ordinance that sought to prevent displacement by requiring landlords who want to remove a building from the rental market to provide to tenants certain notices, relocation services

¹¹ See *Redlining and Gentrification*, *supra*, note 5.

¹² See Synopsis of May 10, 2016 City Council Meeting at 8, SAN JOSÉ CITY COUNCIL (2016), <http://www.sanjoseca.gov/DocumentCenter/View/56624>.

and benefits, and a right to return and/or recontrol of new units under certain circumstances. The ordinance was passed after several hours of public comments, many of which focused on the need to preserve San José's supply of affordable housing units.

Indeed, San José needs its Ellis Act Ordinance to remain as strong as possible in order to preserve its stock of affordable housing. As the Housing Department's memorandum explains, there are many reasons why rent-controlled units never return to the rental market following an Ellis Act conversion, but the most common are that building is replaced with a commercial use or for-sale housing instead of rental housing and that developers fail to return to the building within five years as required under the Ellis Act's recontrol provisions.¹³

Thus, even in jurisdictions that require 100% of new rental units to be recontrolled, the demolition of buildings with rent-controlled units under the Ellis Act consistently results in an overall loss of affordable units. San Francisco, for example, requires 100% recontrol, but still suffered a loss of 1,257 affordable units due to Ellis Act conversions alone between 2008 and 2018.¹⁴ San José can count on similar losses to its affordable housing stock, and allowing developers who do not find a way to skirt the Ellis Act Ordinance's recontrol requirement to recontrol fewer units will only make these losses more severe.

Strong measures to preserve San José's affordable housing stock are urgently needed, particularly given that "nearly 14% of the City's deed-restricted housing stock is at risk of conversion within the next ten years."¹⁵ Specifically, the Ellis Act Ordinance's protection for rent-controlled units in buildings with a potential for redevelopment must remain in place because of San José's affordable housing units, over 40% "are owned by profit-motivated companies and are thus at greater risk of conversion in the next ten years."¹⁶

3. Further Limiting the Recontrol Requirements of the Ellis Act Ordinance Without Studying the Effects Such Policies May Have on Communities of Color Likely Violates the Fair Housing Act and California Fair Housing and Employment Act and the City's Responsibility to Affirmatively Further Fair Housing

Further rolling back the recontrol requirements of the Ellis Act Ordinance would likely have a disparate impact on people of color in violation of the Federal Fair Housing Act¹⁷ and

¹³ See Memorandum from San José Housing Department to City Council RE: Item 4.2 – Ellis Act Ordinance Recontrol Provisions, at 5 (Apr. 9, 2019).

¹⁴ S.F. PLANNING DEP'T, HOUSING BALANCE REPORT NO. 7, at 10 (2018), http://default.sfplanning.org/publications_reports/20180920_HousingBalance7CPC.pdf.

¹⁵ CITY OF SAN JOSÉ, HOUSING ELEMENT VI-6 (2015).

¹⁶ *Id.* at VII-4.

¹⁷ See *Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, 135 S. Ct. 2507, 2525 (2015).

California FEHA,¹⁸ as well as the City’s Obligation to Affirmatively Further Fair Housing.¹⁹ As explained above, modifying the Ellis Act Ordinance to allow developers to recontrol fewer of the rent-stabilized units they demolish or more easily seek exemption from the ordinance altogether will cause the loss of affordable units. This loss will have a disparate impact on tenants who are people of color and female heads of households because these residents are the most highly-rent-burdened and frequently-evicted for not being able to afford the rent or for no cause.²⁰

While the City absolutely has an ethical obligation to mitigate the impact of displacement by providing alternative housing, it is unlikely that providing housing elsewhere would absolve the City of all liability under the FHA and FEHA if it were to weaken the recontrol provision of the Ellis Act Ordinance. This is because alternative housing must be “truly comparable” to the housing denied, which “is not simply a question of price and model, but also of the factors that determine the desirability of particular locations—factors such as similarly or better performing schools, comparable infrastructure, convenience of public transportation, availability of amenities such as public parks and community athletic facilities, access to grocery or drug stores, as well as equal or lower crime levels.”²¹

The Ellis Act Ordinance already provides a compliance option for developers to meet their recontrol obligation through payment of a fee to the City to develop affordable housing offsite.²² Expanding the offsite compliance option will make it particularly difficult for the City to show that its policy provides for truly comparable housing to displaced tenants because throughout the Bay Area, tenants who are forced to move consistently end up in more highly rent-burdened units.²³

It is also unlikely that any affordable units actually produced through the off-site options are truly comparable to those demolished because so many of the factors affecting whether the units are truly comparable to those denied rely on the neighborhood in which the units are located. Moreover, those tenants displaced during construction may never be financially able to remain and return to San Jose. Therefore, even under the convenient and misleading fiction that the people whose rent-controlled units are demolished for redevelopment are the people who are

¹⁸ See *Yazdian v. Las Virgenes Vill. Cmty. Ass’n*, 2012 U.S. Dist. LEXIS 191221, *14 (C.D. Cal. 2012) (“Plaintiffs must demonstrate that the objected-to action results in, or can be predicted to result in, a disparate impact upon a protected class compared to a relevant population as a whole.” (citing *Charleston Hous. Auth. v. USDA*, 419 F.3d 729, 740-741 (8th Cir. 2005))).

¹⁹ See Cal. Gov’t Code § 65583.

²⁰ SILICON VALLEY RISING, CASHING IN ON RENTERS 1, 2 (Apr. 2017), <https://www.siliconvalleyrising.org/files/CashingInOnRenters.pdf>.

²¹ *Ave. 6E Invs., Ltd. Liab. Co. v. City of Yuma*, 818 F.3d 493, 512 (9th Cir. 2016).

²² See

²³ U.C. BERKELEY URBAN DISPLACEMENT PROJ. AND THE CAL. HOUS. P’SHIP, RISING HOUSING COSTS AND RE-SEGREGATION IN THE SAN FRANCISCO BAY AREA 16 (2019), http://www.urbandisplacement.org/sites/default/files/images/bay_area_re-segregation_rising_housing_costs_report_2019.pdf.

actually able to occupy newly-developed units,²⁴ off-site compliance options still create barriers to fair housing choice. This is especially true in an era of transit-oriented and mixed-use development that add neighborhood amenities and enhance community livability while increasing the number of residential units.

Although renters of all racial backgrounds typically see a rent hike when moving, low-income renters who are people of color frequently end up in highly segregated, high-poverty regions while low-income white renters are able to access more resource-rich areas.²⁵ Therefore, weakening the Ellis Act Ordinance's reconrol provisions will perpetuate residential segregation in San José, which is already highly divided by race and income.

The City of San José's Housing Element for 2014–2023 observes that “certain race/ethnic groups tend to concentrate in specific parts of the City.”²⁶ Hispanic residents live in higher numbers “on the east side of San José (Central, Alum Rock, and Alviso areas) where traditionally lower income neighborhoods exist, while Asians and Whites are the majority group in the northern, southern, and western parts (Berryessa, Evergreen, Willow Glen, West Valley, Cambrian, and Almaden areas) where traditionally higher income neighborhoods are found.”²⁷

As explained above, this distribution originated in the explicitly discriminatory and intentionally segregative practice of redlining that existed for much of the twentieth century. Not surprisingly, the majority of aging properties with rent-controlled units that are being considered for Ellis Act conversion are located in these predominately Hispanic, low-income neighborhoods.²⁸ Thus, redevelopment of these buildings and surrounding neighborhoods will not only disproportionately displace Hispanic tenants, it will do so just before these neighborhoods become some of the City's newest, most desirable places to live. The City should be studying the segregative effects of the loss of such rent-controlled units, not accelerating their redevelopment.

After decades of targeted and intentional disinvestment of communities of color followed by a concerted effort to gentrify the same neighborhoods through redevelopment, the City has an obligation to invest in preserving and improving the affordable units that still exist in these

²⁴ Displaced tenants typically cannot access affordable units constructed off-site because tenants in rent-controlled apartments are displaced prior to their building's demolition, but fees for off-site affordable housing development are not collected until the certificate of occupancy is issued.

²⁵ *Id.* at 15.

²⁶ CITY OF SAN JOSÉ, HOUSING ELEMENT II-9 (2015).

²⁷ *Id.* at II-9.

²⁸ See Attachment A to Memorandum from San José Housing Department to City Council RE: Item 4.2 – Amendments to Procedures for Removal of Rent Stabilized Units from the Rental Market (Ellis Act Ordinance) (Mar. 15, 2018), <https://sanjose.legistar.com/View.ashx?M=F&ID=6190894&GUID=12094E01-AB81-4478-B7BD-7759773FE62B> (providing the location of properties up for conversion under the Ellis Act).

neighborhoods. The notion that a policy change that will make it more profitable for developers to flip ARO-covered buildings will somehow lead to a net benefit for low-income renters sometime after the actual occupants of those buildings are displaced is totally backwards. This logic shows a callous disregard for the history of oppression that San José's people of color have suffered due to housing policy and promises to reproduce the existing segregation that such policy created.

4. Conclusion

Reflecting on the long history of discriminatory housing policy in San José and those of our neighbors who have been forced out of their homes following the demolition of their building under the Ellis Act, we urge you to recommend that City Council abstain from further rolling back the Ellis Act Ordinance for the second time within a year. We would be happy to meet with you to discuss this matter further. You can reach me at

[REDACTED]

Sincerely,

[REDACTED]

Nadia Aziz, Supervising Attorney
Michael Trujillo, Staff Attorney

CC:
San José City Council
Rick Doyle, City Attorney
David Sykes, City Manager

[REDACTED]



Advancing Justice
Housing | Health | Children & Youth

April 16, 2019

City of San José Housing Department
200 E. Santa Clara St.
San José, CA 95113

RE: Item 4.2 – Ellis Act Ordinance Re-Control Provisions

Dear Director Morales-Ferrand:

We write to strongly urge the Housing Department to recommend no changes to the current Ellis Act Ordinance. The Ellis Act Ordinance (the “Ordinance”) was originally passed in April of 2017 as part of a package of protections against displacement for San José tenants and measures to preserve San José’s supply of affordable housing, including San José’s Apartment Rent Ordinance. These protections were passed as hundreds of tenants were losing their rent-controlled units, including over 670 tenants at the Reserve Apartments, and with broad community support following extended public comment highlighting the need to better preserve San José’s stock of affordable housing and prevent the displacement of low-income tenants.

Despite this need, the Ellis Act Ordinance was rolled back just last year to allow developers to recontrol fewer of the affordable units they demolish and to seek exemption from the recontrol requirement altogether under certain circumstances. In the midst of an unprecedented housing crisis causing massive dispossession of homes and displacement of people, it would be reckless and pernicious to further weaken this important tool for preserving affordable housing. Furthermore, such an action would likely have a disparate impact on people of color and perpetuate segregation in violation of the federal Fair Housing Act (FHA) and California Fair Housing and Employment Act (FEHA) as the City has utterly failed to evaluate the effect of such a rollback on low-income communities of color.

Efforts to prioritize the production of affordable housing that undoubtedly will lead to the displacement of low-income families of color, including rolling back the Ellis Act Ordinance, ignore the long history of discriminatory housing policy in San José and the vulnerability of the city’s existing affordable housing stock. While we agree that we need to develop more affordable housing, such development should not be to the detriment of our low-income communities of color, who disproportionately live in rent-stabilized units. Anecdotal evidence from developers regarding their motivations should not, as a matter of sound and equitable

policy making, outweigh tangible community needs especially given the failure to evaluate the effect of the loss of rent-controlled buildings both before and after the passage of the Ellis Act.

The City should instead ask the Housing Department to track how the demolishing of rent-controlled buildings have affected the displacement of low-income families out of San Jose. Why has the City not pushed the Housing Department to find out the fates of the more than 670 tenants displaced from the Reserve Apartments? Such data, rather than anecdotal data from developers, will be telling of the importance and necessity of the Ellis Act to keep low-income families in San Jose.

1. The Failure to Preserve Naturally Occurring Affordable Housing Units Has Driven Displacement and the Affordable Housing Crisis in San José

Recent studies on the scale and scope of displacement in the Bay Area have found that San José residents have been hit particularly hard by displacement and gentrification in the past ten years. The Urban Displacement Project found that every census tract within and surrounding downtown San José has seen or is currently experiencing either ongoing gentrification and displacement or advanced gentrification and displacement.¹

Efforts to produce new affordable units have not kept up with the community's needs for affordability and created a massive gap in San José's housing supply. The City of San José's General Plan Housing Element found that the City issued permits to build less than 22% of needed low-, very low-, and extremely low-income deed-restricted affordable housing units from 2007 to 2013.²

Meanwhile, the need for affordable units is only expected to grow. The City's need for housing units affordable to renters with very low incomes alone is nearly 20% greater, an increase of over 1400 units, for the 2014–2022 planning period.³ The 2018 Annual Element Plan Update reports that San José is already falling behind in meeting this goal, even while exceeding its needs for market rate housing.⁴ As the Housing and Community Development Commission emphasizes in their letter, **the City has presented no evidence that this shortfall in production is linked to incentives under the Ellis Act Ordinance.**

In light of this massive shortfall in the production of new affordable units, the failure to preserve existing affordable housing has been a key driver of displacement. This failure compounds a long history of racially discriminatory residential policy that has denied fair

¹ See *Mapping Displacement and Gentrification in the San Francisco Bay Area*, URBAN DISPLACEMENT PROJ. (2018), <http://www.urbandisplacement.org/map/sf>.

² CITY OF SAN JOSÉ, HOUSING ELEMENT VIII-4 (2015).

³ *Id.* at III-3.

⁴ SAN JOSÉ HOUS. DEP'T, ANNUAL ELEMENT PLAN UPDATE 2018, at 6 (2019), <http://www.sanjoseca.gov/DocumentCenter/View/83510>.

housing choice and made it difficult for people of color to remain stably housed in decent, affordable homes.

Beginning in the 1930's and continuing until 1976, the federal government engaged in a practice known as "redlining," whereby the federal government assigned ratings to neighborhoods to guide public and private investment. As a rule, neighborhoods where people of color lived received the lowest possible investment grade, often merely because people of color lived there.⁵ These explicitly discriminatory investment grades precluded private investment in these redlined areas, prevented residents from securing federally-insured loans to buy homes, and all but guaranteed that these neighborhoods would fall into disrepair and dilapidation.

Redlined neighborhoods, because of the economic depression and urban blight that years of *de jure* discrimination and total disinvestment created, were then targeted for redevelopment by the San José Redevelopment Authority (SJRA) in the 1980's, and '90's. Unfortunately, the SJRA's efforts to create "a thriving urban center, offering an amalgamation of cultural, professional, and residential amenities,"⁶ displaced many of the people of color that had been forced to settle in these redlined areas.

In a case study of the Diridon Station Area, for example, the U.C. Berkeley Center for Community Innovation found that "development activities, including a significant loss of housing units in the 1980s, may have primed this area for the gentrification it is experiencing today."⁷ During this period, the SJRA merged redevelopment revenues generated from neighborhoods across the city to focus development downtown.⁸ This strategy allowed the SJRA to carry out massive projects such as the Guadalupe corridor transportation project, a widening of the Guadalupe River channel, and the construction of what is now the SAP Center. Together, these projects directly displaced a significant number of Hispanic households and spurred gentrification that has driven continued home loss.⁹

Indeed, the National Community Reinvestment Coalition found that between 2000 and 2013, census tract 5003 (which covers the Diridon Station Area and the tract of land bordering Guadalupe Creek to the west between Interstate 880 and Park Ave), saw significant displacement of Hispanic residents.¹⁰ Perhaps unsurprisingly, census tract 5003 includes two sizeable

⁵ *Redlining and Gentrification*, URBAN DISPLACEMENT PROJ. (2018), <https://www.urbandisplacement.org/redlining>.

⁶ *Downtown San José*, SAN JOSÉ REDEVELOPMENT ASSOC., <http://www.sjredevelopment.org/downtown.htm> (last visited April 3, 2019).

⁷ U.C. BERKELEY CTR. COMM. INNOVATION, DIRIDON STATION CASE STUDY 8 (2015), http://www.urbandisplacement.org/sites/default/files/san_jose_final.pdf.

⁸ *See id.* at 9.

⁹ *See id.*

¹⁰ *Shifting Neighborhoods*, NAT'L COMM. REINVESTMENT COALITION (2019), <http://maps.ncrc.org/gentrificationreport/index.html?bookmark=Map>.

neighborhoods that were redlined by the federal government throughout most of the twentieth century.¹¹

By specifically targeting communities of color for disinvestment, redlining created severe poverty in these neighborhoods that has incentivized developers to demolish and replace them with more profitable properties. The economic impact of redlining also has created obstacles for the residents of these ostracized neighborhoods in resisting changes to their community.

The result is that the low-income people of color who were cut-off and denied investment for much of the last century because they were told their very presence made these neighborhoods undesirable are now being pushed out so that their neighborhoods can be redeveloped to be desirable to other, richer, and perhaps newer, residents of San José.

This history demands a renewed emphasis on preserving affordable housing units, like rent-stabilized units, because, unlike production, preservation maintains existing tenancies and conserves the cultural identity of the neighborhoods in which it takes place. Focusing only on production of new units through redevelopment will perpetuate a long history of inequity in housing policy in San José, and all but guarantee that low-income tenants will once again be excluded from the economic growth that City policy seeks to stimulate.

2. The Ellis Act Ordinance Must be Retained in its Current Form in Order to Fulfill its Purpose to Preserve Naturally Occurring Rent-Stabilized Units

In addition to being counter-productive to promoting equitable housing policy, efforts to prioritize the production of affordable housing that inhibit the City's ability to preserve affordable units are also self-defeating. Strong measures to preserve San José's existing affordable housing stock are needed to mitigate economic pressures that have already caused severe displacement in our community. Although not all ARO-covered units remain affordable due the vacancy decontrol requirement of the Costa Hawkins Rental Housing Act, rent-stabilized units remain an important and significant source of naturally-occurring affordable housing. The legislative history of the Ellis Act Ordinance shows that its primary purpose is to preserve rent-controlled units and prevent the displacement of low-income tenants.

City Council initially directed Housing Department staff to formulate the ordinance in May 2016 in order to address concerns about the demolition of affordable apartments covered by San José's Apartment Rent Ordinance (ARO) and displacement of tenants residing in ARO-covered properties.¹² Following extended public outreach, Housing Staff returned in April of 2017 with an ordinance that sought to prevent displacement by requiring landlords who want to remove a building from the rental market to provide to tenants certain notices, relocation services

¹¹ See *Redlining and Gentrification*, *supra*, note 5.

¹² See Synopsis of May 10, 2016 City Council Meeting at 8, SAN JOSÉ CITY COUNCIL (2016), <http://www.sanjoseca.gov/DocumentCenter/View/56624>.

and benefits, and a right to return and/or recontrol of new units under certain circumstances. The ordinance was passed after several hours of public comments, many of which focused on the need to preserve San José's supply of affordable housing units.

Indeed, San José needs its Ellis Act Ordinance to remain as strong as possible in order to preserve its stock of affordable housing. As the Housing Department's memorandum explains, there are many reasons why rent-controlled units never return to the rental market following an Ellis Act conversion, but the most common are that building is replaced with a commercial use or for-sale housing instead of rental housing and that developers fail to return to the building within five years as required under the Ellis Act's recontrol provisions.¹³

Thus, even in jurisdictions that require 100% of new rental units to be recontrolled, the demolition of buildings with rent-controlled units under the Ellis Act consistently results in an overall loss of affordable units. San Francisco, for example, requires 100% recontrol, but still suffered a loss of 1,257 affordable units due to Ellis Act conversions alone between 2008 and 2018.¹⁴ San José can count on similar losses to its affordable housing stock, and allowing developers who do not find a way to skirt the Ellis Act Ordinance's recontrol requirement to recontrol fewer units will only make these losses more severe.

Strong measures to preserve San José's affordable housing stock are urgently needed, particularly given that "nearly 14% of the City's deed-restricted housing stock is at risk of conversion within the next ten years."¹⁵ Specifically, the Ellis Act Ordinance's protection for rent-controlled units in buildings with a potential for redevelopment must remain in place because of San José's affordable housing units, over 40% "are owned by profit-motivated companies and are thus at greater risk of conversion in the next ten years."¹⁶

3. Further Limiting the Recontrol Requirements of the Ellis Act Ordinance Without Studying the Effects Such Policies May Have on Communities of Color Likely Violates the Fair Housing Act and California Fair Housing and Employment Act and the City's Responsibility to Affirmatively Further Fair Housing

Further rolling back the recontrol requirements of the Ellis Act Ordinance would likely have a disparate impact on people of color in violation of the Federal Fair Housing Act¹⁷ and

¹³ See Memorandum from San José Housing Department to City Council RE: Item 4.2 – Ellis Act Ordinance Recontrol Provisions, at 5 (Apr. 9, 2019).

¹⁴ S.F. PLANNING DEP'T, HOUSING BALANCE REPORT NO. 7, at 10 (2018), http://default.sfplanning.org/publications_reports/20180920_HousingBalance7CPC.pdf.

¹⁵ CITY OF SAN JOSÉ, HOUSING ELEMENT VI-6 (2015).

¹⁶ *Id.* at VII-4.

¹⁷ See *Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, 135 S. Ct. 2507, 2525 (2015).

California FEHA,¹⁸ as well as the City’s Obligation to Affirmatively Further Fair Housing.¹⁹ As explained above, modifying the Ellis Act Ordinance to allow developers to recontrol fewer of the rent-stabilized units they demolish or more easily seek exemption from the ordinance altogether will cause the loss of affordable units. This loss will have a disparate impact on tenants who are people of color and female heads of households because these residents are the most highly-rent-burdened and frequently-evicted for not being able to afford the rent or for no cause.²⁰

While the City absolutely has an ethical obligation to mitigate the impact of displacement by providing alternative housing, it is unlikely that providing housing elsewhere would absolve the City of all liability under the FHA and FEHA if it were to weaken the recontrol provision of the Ellis Act Ordinance. This is because alternative housing must be “truly comparable” to the housing denied, which “is not simply a question of price and model, but also of the factors that determine the desirability of particular locations—factors such as similarly or better performing schools, comparable infrastructure, convenience of public transportation, availability of amenities such as public parks and community athletic facilities, access to grocery or drug stores, as well as equal or lower crime levels.”²¹

The Ellis Act Ordinance already provides a compliance option for developers to meet their recontrol obligation through payment of a fee to the City to develop affordable housing offsite.²² Expanding the offsite compliance option will make it particularly difficult for the City to show that its policy provides for truly comparable housing to displaced tenants because throughout the Bay Area, tenants who are forced to move consistently end up in more highly rent-burdened units.²³

It is also unlikely that any affordable units actually produced through the off-site options are truly comparable to those demolished because so many of the factors affecting whether the units are truly comparable to those denied rely on the neighborhood in which the units are located. Moreover, those tenants displaced during construction may never be financially able to remain and return to San Jose. Therefore, even under the convenient and misleading fiction that the people whose rent-controlled units are demolished for redevelopment are the people who are

¹⁸ See *Yazdian v. Las Virgenes Vill. Cmty. Ass’n*, 2012 U.S. Dist. LEXIS 191221, *14 (C.D. Cal. 2012) (“Plaintiffs must demonstrate that the objected-to action results in, or can be predicted to result in, a disparate impact upon a protected class compared to a relevant population as a whole.” (citing *Charleston Hous. Auth. v. USDA*, 419 F.3d 729, 740-741 (8th Cir. 2005))).

¹⁹ See Cal. Gov’t Code § 65583.

²⁰ SILICON VALLEY RISING, CASHING IN ON RENTERS 1, 2 (Apr. 2017), <https://www.siliconvalleyrising.org/files/CashingInOnRenters.pdf>.

²¹ *Ave. 6E Invs., Ltd. Liab. Co. v. City of Yuma*, 818 F.3d 493, 512 (9th Cir. 2016).

²² See

²³ U.C. BERKELEY URBAN DISPLACEMENT PROJ. AND THE CAL. HOUS. P’SHIP, RISING HOUSING COSTS AND RE-SEGREGATION IN THE SAN FRANCISCO BAY AREA 16 (2019), http://www.urbandisplacement.org/sites/default/files/images/bay_area_re-segregation_rising_housing_costs_report_2019.pdf.

actually able to occupy newly-developed units,²⁴ off-site compliance options still create barriers to fair housing choice. This is especially true in an era of transit-oriented and mixed-use development that add neighborhood amenities and enhance community livability while increasing the number of residential units.

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As explained above, this distribution originated in the explicitly discriminatory and intentionally segregative practice of redlining that existed for much of the twentieth century. Not surprisingly, the majority of aging properties with rent-controlled units that are being considered for Ellis Act conversion are located in these predominately Hispanic, low-income neighborhoods.²⁸ Thus, redevelopment of these buildings and surrounding neighborhoods will not only disproportionately displace Hispanic tenants, it will do so just before these neighborhoods become some of the City's newest, most desirable places to live. The City should be studying the segregative effects of the loss of such rent-controlled units, not accelerating their redevelopment.

After decades of targeted and intentional disinvestment of communities of color followed by a concerted effort to gentrify the same neighborhoods through redevelopment, the City has an obligation to invest in preserving and improving the affordable units that still exist in these

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²⁶ CITY OF SAN JOSÉ, HOUSING ELEMENT II-9 (2015).

²⁷ *Id.* at II-9.

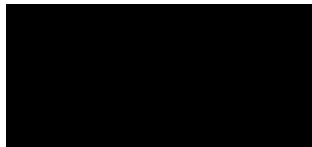
²⁸ See Attachment A to Memorandum from San José Housing Department to City Council RE: Item 4.2 – Amendments to Procedures for Removal of Rent Stabilized Units from the Rental Market (Ellis Act Ordinance) (Mar. 15, 2018), <https://sanjose.legistar.com/View.ashx?M=F&ID=6190894&GUID=12094E01-AB81-4478-B7BD-7759773FE62B> (providing the location of properties up for conversion under the Ellis Act).

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4. Conclusion

Reflecting on the long history of discriminatory housing policy in San José and those of our neighbors who have been forced out of their homes following the demolition of their building under the Ellis Act, we urge you to recommend that City Council abstain from further rolling back the Ellis Act Ordinance for the second time within a year. We would be happy to meet with you to discuss this matter further. You can reach me at michael.trujillo@lawfoundation.org and (408) 280-2454.

Sincerely,



Nadia Aziz, Supervising Attorney
Michael Trujillo, Staff Attorney

CC:
San José City Council
Rick Doyle, City Attorney
David Sykes, City Manager

From: Jeffrey Buchanan < >

Sent: Tuesday, April 23, 2019 9:56 AM

To: City Clerk; The Office of Mayor Sam Liccardo; District7; Khamis, Johnny; Jimenez, Sergio; Diep, Lan; Perez, Raul; Jones, Chappie; Carrasco, Magdalena; Davis, Dev; Arenas, Sylvia; Foley, Pam

Cc: Quintero, Andres; Sandoval, Vanessa; Ramos, Christina M; Herbert, Frances; McGarrity, Patrick; Gomez, David

Subject: Item 4.4: Jimenez Memo 4/22 (SUPPORT)

Greetings:

On behalf of Working Partnerships USA, I encourage the Council to support the [4/22 memo from Councilmember Jimenez](#) on item 4.4 (the Ellis Act Ordinance) as the Council gives direction on deferring this item to a later date. The memo adds to the list of additional information requested from staff for when the item comes back to Council within Mayor Liccardo's 4/19 memo. Specifically, the memo encourages staff to bring back information on the San Jose families and seniors who live in homes governed by the Apartment Rental Ordinance which are subject to current recontrol provisions under the Ellis Act Ordinance. These families depend on ARO units as naturally occurring affordable housing and would be put at greater risk of eviction and displacement if changes are made to the ordinance, impacts that will be important for Council to consider as it weighs any policy changes.

In order to have a fuller discussion about the impacts of these policies, it will be important to not only review the surveys with bankers and developers who have inquired about Ellis Act redevelopments but the debate could benefit from a presentation of how this policy may impact access to housing and personal finances of San Jose's communities of color, seniors, families with school-aged children, single parent households, veterans, low-income, disabled tenants, and other vulnerable populations that either depend disproportionately on ARO housing or are at greater risk of experiencing impacts. We believe City staff should be able to do this building on previous work, including the City's 2016 comprehensive report by the Economic Roundtable on the Apartment Rental Ordinance which included extensive data on these topics.

Thank you for your consideration.

Best,
Jeffrey

Jeffrey Buchanan, Director of Public Policy
Working Partnerships USA

GOLDEN STATE MANUFACTURED - HOME OWNERS
LEAGUE



GSMOL Superchapter 0018 - Pepper Tree- and 0018A - Colonial Mobile Manor

April 23, 2019

TO: Mayor and Council

FROM: Glenna Howcroft, President

Martha O'Connell, Secretary

RE: Ellis Act Ordinance Recontrol Provisions
Council agenda 4-23-19 item 4.4

GSMOL Superchapter 00018/0018A joins with the City's Housing and Community Development Commission, the Law Foundation of Silicon valley, Working Partnerships USA, the Affordable Housing Network, PACT, Debug, and other community leaders who oppose any changes to the current recontrol provisions of the Ellis Act.

We understand that affordable housing is an extensive matrix which is why we support all affordable housing and not just that inherent in mobilehomes.

We also support the 4-22-19 letter submitted by Councilperson Sergio Jimenez.