



# Memorandum

**TO: HONORABLE MAYOR  
& CITY COUNCIL**

**FROM:** Councilmember Devora "Dev" Davis  
Councilmember Johnny Khamis  
Councilmember Lan Diep

**SUBJECT: ACTIONS RELATED TO  
THE APARTMENT RENT  
ORDINANCE**

**DATE:** November 9, 2017

Approved:

Date:

11/9/17

*Lan Diep*  
*Devora Davis*      *Johnny Khamis*

## RECOMMENDATIONS

The City Council directs staff to apply the following modifications to the Draft Apartment Rent Ordinance (ARO):

- 1) Maintain the flat five percent (5%) cap on annual rent increases.
- 2) Maintain the Ratio Utility Billing Systems (RUBS) pass-through and codify as a separate provision of the ARO policy, not subject to the five percent cap applicable to annual rent increases.
- 3) Maintain the elimination of Banking, for ease of administration, as previously recommended by the City Auditor.
- 4) Expressly prohibit the establishment of a Rent Registry.
- 5) Allow for staff arbitration of Rental Rate Disputes only, maintaining the existing process for arbitration and mediation of all other disputes.
- 6) Maintain the staff recommendation to exclude duplexes from the ARO.

## BACKGROUND

We urge our Council colleagues to consider supporting our recommendations for the following reasons:

1. Property owners who choose to enter the rental market face many challenges and regulations – including the City's new Tenant Protection Ordinance. There is an even greater burden on property owners who choose to enter the rental market of pre-1979 properties as these are subject to the City's ARO policies. Maintaining the five percent (5%) Maximum Allowable Rent would provide stability as both a dependable predictor of return on investment (ROI)

for property owners, and as a stabilizing predictor of cost of living for tenants. Therefore, keeping the flat five percent (5%) is a reasonable gesture of consideration for those who choose to provide much of the City's unsubsidized affordable housing. This will also protect tenants from volatile market shifts.

2. Extricating the RUBS pass-through option from the five percent (5%) rent increase cap will allow property owners to recoup the costs incurred by their tenants and maintain the tenant incentive to conserve resources. This pass-through is necessary as wholesale annual water-rates will increase by 6-10 percent for the next 10 years, in addition to the anticipated cost increases from the local water retailers. The City will, consistent with Green Vision Goals, also continue to encourage the conservation of energy and water and the diversion of waste on the part of tenants. We all have a role to play in the conservation of our environment and to eliminate the incentive for tenants to participate in water conservation and waste reduction appears to contradict the City's stated environmental goals. Codification is necessary as RUBS was initially implemented without Council direction and should be articulated in the Municipal Code.
3. Per Finding #3 in the City Auditor's Report dated November 30, 2016, implementing the Rent Registry would be costly and burdensome to staff, property owners, and tenants. This burden could contribute to underfunded enforcement and render the totality of the ARO program ineffective:  
  
*"the proposed rent registry would also present significant burdens and costs to the City, landlords, and tenants... We believe the Department may struggle to collect all the required information from landlords, and doing so will be staff-intensive. In our opinion, a rent registry system could divert limited Program resources away from administering the fundamental elements of the ordinance. Furthermore, because of tenant turnover (estimated once every four years), registry data may have a limited useful shelf life."*
4. Elimination of the Rent Registry and the other simplifications we propose will reduce the need for staff additions in the Housing Department required to administer the ARO and TPO programs.
5. Eliminating the ability to bank foregone rent increases for past years (banking) would promote efficiency in the cost and paperwork of the administration of the program. This was also included in the City Auditor's Report of November 30, 2016, as recommendation #12.
6. The proposed amendments to the Apartment Rent Ordinance would eliminate the option for independent mediation. Reassigning the representation for the mediation process to the Housing Department appears to remove the presence of impartiality due to the stated purpose of the Housing Department *"Housing for All - Ensure that residents have access to a variety of housing choices at prices they can afford."* Assigning the Housing Department to find and provide mediators for issues other than Rent Rate Disputes would not preserve the spirit of impartiality and due process.

## **CONCLUSION**

Neither tenants nor property owners want a complicated, burdensome process. The adjustments to the proposed Apartment Rent Ordinance outlined in the aforementioned recommendations reflect that mutual position. Wherever possible streamlined processes, workforce efficiencies, and cost savings should be implemented along with the ARO framework. Maintaining the elimination of banking, keeping the flat 5 percent annual rent increase, codifying and allowing RUBS pass-throughs, and eliminating the rent registry for the reasons outlined in the referenced City Audit aim to achieve the greatest compromise possible while still allowing a reasonable return on investment and preserving our pre-1979 rental stock.