




# Memorandum

**TO:** CITY COUNCIL  
**FROM:** Mayor Sam Liccardo  
**SUBJECT:** SEE BELOW  
**DATE:** April 24, 2018

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Approved  Date *4/24/2018*

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**SUBJECT: AMENDMENTS TO PROCEDURES FOR REMOVAL OF RENT STABILIZED UNITS FROM THE RENTAL MARKET (ELLIS ACT ORDINANCE)**

## RECOMMENDATION

1. Accept the staff report and recommendation.
2. Direct the City Manager to discuss the merits and drawbacks of the following policy approaches relating to older ARO housing stock at upcoming hearings relating to the cost of development and the Affordable Housing Investment Plan, for Council to consider for future prioritization processes:
  - a. Policies designed to encourage ARO re-developers to elect on-site inclusionary zoning, such as reducing parking requirements, reducing construction fees, and the like; and
  - b. Partnership with a nonprofit to create a land bank or similar model, to identify and acquire rent-controlled buildings at risk of conversion, and to finance the rehabilitation of such properties as affordable housing, with priority given to the retrofit of “soft story” and other inherently hazardous buildings; and
  - c. Policies designed to discourage elimination of ARO housing stock, including but not limited to a conversion ordinance, imposing impact fees where the owner has converted ARO rental properties to condominiums without meeting some affordability standard.

## DISCUSSION

San José needs housing at all levels of affordability—and lots of it. It is also true that a large number of ARO apartment buildings have growing safety risks, including San José’s 1,093 “soft story” buildings that pose unique seismic risks for the roughly 30,000 residents of 10,923 apartments within those buildings, based on a 2003 study. Recent residential fires in the past two years—several with tragic outcomes—point to the inadequacy of fire safety in buildings with aging wiring and gas systems. The City lacks code enforcement staffing to police residential

safety hazards to a level that would give any of us comfort, although we have recently made considerable strides in the application of data analytics to improve targeting of enforcement. Moreover, aggressive enforcement of safety mandates in many circumstances—such as on the soft-story buildings—would merely put more residents out in the street, as many owners will chose to simply close buildings over incurring hundreds of thousands of dollars in costly retrofits.

Many cringe at the notion of redeveloping these units, fearing the displacement of thousands of families. Yet rebuilding these structures—under modern building codes, and with some affordability protections that minimize displacement—constitutes the only feasible path to safe housing in light of existing economic and fiscal constraints. Redevelopment also offers the opportunity to add substantially more housing—through densification—on existing sites under antiquated zoning codes. Addressing our housing crisis requires upzoning of the many urban, transit-rich sites that remain underdeveloped at one or two stories.

For these reasons, we must not craft an Ellis Act policy that stifles the redevelopment of our aging and unsafe ARO apartment buildings. Several cities that currently require one-hundred percent (100%) re-control of redeveloped rent controlled properties are re-visiting their re-control policies because they are losing rental units to condominium conversions and non-housing developments.

Fifty percent (50%) re-control is a best-guess strategy designed to avoid dis-incentivizing development of much-needed rental housing while at the same time maintaining our ARO stock. I suspect we'll have to revisit this policy once we see how market forces respond, because we know that many developers today cannot get financing to get a shovel in the ground on vacant sites, let alone sites requiring costly demolition and relocation of existing tenants.

Ultimately, we'll need to find additional tools to incentivize the responsible redevelopment of these parcels, and to discourage the elimination and conversion of ARO sites. The suggestions listed in the recommendation above merit scrutiny, as do others, as we work to find a suitable solution that aligns our desires for more affordable housing with market realities.