



Memorandum

TO: NEIGHBORHOOD SERVICES
AND EDUCATION COMMITTEE

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: May 25, 2022

Approved

Date

06/01/22

SUBJECT: RENT STABILIZATION PROGRAM STRATEGIC PLAN REPORT

RECOMMENDATION

Accept the report on the Rent Stabilization Program Strategic Plan.

OUTCOME

The Neighborhood Services and Education Committee will receive an update to Rent Stabilization Program (Program) Three-year Strategic Plan. The update will outline areas of focus and provide a timeline for the Strategic Plan.

BACKGROUND

In 1979, the San José City Council appointed a task force to address issues in rental housing and adopted a rent stabilization ordinance for mobilehome parks and apartments. The Program's mission is to enforce the City's housing ordinances through education, engagement, and collaboration to build and maintain safe, healthy, and sustainable communities. Over the last few years, the Program has developed and implemented multiple policies and programs aimed at protecting the rental community which includes approximately 38,000 rent-stabilized apartments, 40,000 market-rate apartments, and 10,000 mobilehome spaces. As a result of the increase in services provided, the Program increased staffing to meet the Program demand and strives to provide community members excellent levels of customer service. A summary of the significant policy changes in the past five years includes:

- **2017 Adoption of the Tenant Protection Ordinance and Ellis Act Ordinance and Staffing and Fee Implementation:** On June 17, 2017, the adoption of the Tenant Protection Ordinance provided just-cause protections for residents and property owners of apartments in the City. In addition, the Ellis Act Ordinance was adopted to allow property owners to withdraw apartments from the rental market while providing notification and relocation benefits to impacted residents.
- **2018 Updated Apartment Rent Ordinance Regulations and Adoption and Launch of Rent Registry:** The City Council made substantial amendments to the Apartment Rent Ordinance that included an update on the hearing process, rent registry, capital improvement, and a refined fair-return process. The Rent Registry is an online database comprised of rental information rent stabilized property owners must submit annually. During the open registration period, property owners update rent increases and vacancy information.
- **2019 Adoption of the Housing Payment Equality Ordinance:** On August 13, 2019, the Housing Payment Equality Ordinance was adopted in order to prevent discrimination based on a resident's payment method (e.g., use of a voucher).
- **2019 and 2020 Adoption of the Administrative Citation Program:** On December 3, 2019, the Program made amendments to the administrative citation schedule of fines for violations of the Apartment Rent Ordinance, Tenant Protection Ordinance, and Ellis Act Ordinance.
- **2020 and 2021 Adoption of the Eviction Moratorium and Moratorium on Rent Increases:** In response to the COVID-19 pandemic, the City Council adopted the Eviction Moratorium and Moratorium on Rent Increases. On May 19, 2020, the Apartment Rent Ordinance was amended due to the COVID-19 pandemic to allow a temporary reduction of rent without impacting a property owner's ability to raise rents at the termination of the COVID-19 public health emergency. In addition, program fees for apartments and mobilehomes subject to Apartment Rent Ordinance, Ellis Act Ordinance, Tenant Protection Ordinance, and Mobilehome Rent Ordinance were reduced.

The Program has examined its goals, outcomes, and measurements of program effectiveness to ensure the community is receiving necessary housing services. In the examination, staff also incorporated recommendations from the 2016 City of San José Office of the City Auditor's Report: <https://www.sanjoseca.gov/home/showpublisheddocument?id=10563> into the Program's first Strategic Plan. The Program's future annual report will complement the implementation of the Strategic Plan.

To make further strides towards the development of the Strategic Plan, the Program has made the decision to procure the services of a consultant to lead the Program in information gathering, self-assessments, consensus building on plan objectives, and focusing on program and operational priorities. The Program issued a request for proposal on April 1, 2022, and intends to award the contract and execute an agreement by the end of this fiscal year.

https://www.sanjoseca.gov/home/showpublisheddocument?id=10563https://issuu.com/csjrsp/docs/2019-2020_rsp_annual_report_execsummary

ANALYSIS

To develop its Strategic Plan in partnership with a consultant, the Program outlined its goals in its Request for Proposal with a focus on stabilizing housing through various policy and program implementation efforts.

Program Strategic Goals

In the Request for Proposal, the Program outlined its strategic goals to center the areas of focus for the potential consultant. The key areas of focus include:

- Research and develop policy to maintain tenancies and mitigate displacement of apartment and mobilehome residents in the San José.
- Support furthering fair housing through inclusive education and outreach.
- Foster positive relationships between residents and property owners to ensure housing satisfaction and stability, while encouraging tenure of tenancy by monitoring annual rent increases and just cause notices, as well as educating residents and owners to ensure compliance with the ordinances.
- Preserve mobilehomes and mobilehome parks as a source of affordable housing for senior citizens, residents on limited or fixed-incomes, and other vulnerable residents.
- Stabilize housing for renters in the San José through mediation, the petition process, and enforcement of the ordinances.

The Strategic Plan will ask fundamental questions related to the effectiveness of the ordinances managed by the Program. These questions include:

- Is the Tenant Protection Ordinance meeting the goal of keeping tenants housed?
- Is the Apartment Rent Ordinance meeting the goal of stabilizing rents?
- Is the Ellis Act Ordinance meeting the goal of maintaining the rent-stabilized housing stock?
- Is the Mobilehome Rent Ordinance meeting the goal of stabilizing mobilehome rents and helping residents to maintain affordable housing?

These key areas will require input from multiple perspectives to thoughtfully address the strategic questions presented in **Attachment A**. The strategic questions align with the four ordinances that fall within the jurisdiction of the Program. These questions will serve as guide for the development of the Strategic Plan; and will assist the Program in developing its framework to provide improved community services and education.

Program Goals

The following four goals reflect the key areas identified by the Program to be addressed in the Strategic Plan. The purpose of these goals is to evaluate the impact of educational services and implementation and enforcement efforts undertaken by the Program pursuant to the Apartment

Rent Ordinance, Tenant Protection Ordinance, Ellis Act Ordinance, Mobilehome Rent Ordinance, and if key objectives of the Ordinances are being met.

A. Apartment Rent Ordinance

The Apartment Rent Ordinance (ARO) protects residents from excessive and unreasonable rent increases, by generally limiting annual rent increases, regulating how much and what types of costs may be passed through to residents; monitoring of rents; permitting property owners to receive a fair and reasonable return; and providing an administrative review process for housing-related disputes like maintenance and habitability concerns.

Goal: Stabilize residents in apartments covered by the ARO.

The objective is to determine the impact the ARO has within the rent-stabilized community by examining the following: tenancy longevity; frequency and limitations of rent increase caps; rental comparisons with market-rate units; maintenance and upkeep of rental units; and the application and use of petitions.

B. Tenant Protection Ordinance

The Tenant Protection Ordinance (TPO) provides eviction protections for tenants by prohibiting evictions, unless there is a qualifying just cause, and prohibiting retaliation. The Program's role is to ensure compliance with the ordinance.

Goal: Preserve and enforce resident rights under the TPO through support and compliance efforts.

The objective is to determine effectiveness of the TPO in protecting residents from unjust evictions; examine the driving force and underlying issues leading to just cause evictions; and to monitor the degree to which our property owners and managers are adhering to the TPO.

C. Ellis Act Ordinance

The Ellis Act Ordinance includes the City's requirements for withdrawal of a building or units from the residential rental market in accordance with the Ellis Act¹, and mitigate any adverse impact on persons displaced by that withdrawal through the provisions of relocation assistance.

Goal: Mitigate against the effects of displacement by Ellis Act Ordinance withdrawals by providing supportive services to residents in properties undergoing a withdrawal and working with owners and developers on new development requirements in order to maintain or increase the rent-stabilized and affordable housing stock.

The objective to examine the programmatic framework in monitoring the compliance of Ellis

¹ California Government Code Sections 7060 - 7060.7, as amended

Act Ordinance projects, gain a knowledge base toward the reason for the removal of properties from the market, and evaluate if provisions are sufficiently mitigating the effects of displacement and working to maintain or increase the affordable and rent-stabilized housing stock.

D. Mobilehome Rent Ordinance

The Mobilehome Rent Ordinance prevents excessive and unreasonable rent increases to mobilehome park residents in order to avoid an exploitation of the shortage of available mobilehome lots in the City, establishes a process for rent dispute resolution and permits mobilehome park owners to receive a fair and reasonable return by petition.

Goal: Stabilize mobilehome space rents and support residents to maintain affordable housing.

The objective to determine the impact the Mobilehome Rent Ordinance has within the mobilehome community by examining the following: tenancy longevity; frequency and limitations of rent increase caps; the application and use of petitions; and policy limitations on local jurisdictions to provide services.

Consultant Status

The Program posted a request for proposals on April 1, 2022, with a May 3, 2022 deadline to submit. Two proposals were submitted for evaluation. The panel made the determination to award RSG, Inc. with the consultant contract. Working with the consultant, a project plan and timeline is being developed. Table 1 provides an estimated timeline for each phase of the development of the Strategic Plan.

Table 1: Strategic Plan Estimated Timeline

	Project Item	Completion Timeline(Estimated)
Task 1	Project Kickoff	Summer/Fall 2022
Task 2	Review Ordinances, Program Documents, Implementation and Administration	Summer/Fall 2022
Task 3	Analyze Historic Data	Fall/Winter 2022
Task 4	Identify Comparable Jurisdiction Best Practices	Winter 2022/2023
Task 5	Stakeholder Engagement	Winter/Spring 2023
Task 6	Provide Memo Presenting Alternatives and Draft Strategic Plan	Spring2023
Task 7	City Council Report and Presentation	Spring 2023

CONCLUSION

The Strategic Plan's development will be supported through the hiring of a consultant who will work closely with Program staff over the upcoming fiscal year. The Program's update to the

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Strategic Plan reflects the department's examination of the Program and the areas of focus to further strengthen the services, education, and support provided to the community.

EVALUATION AND FOLLOW UP

The Program will include feedback and comment from the Committee toward the development of the Strategic Plan.

PUBLIC OUTREACH

The update to the Strategic Plan will be presented to the Housing and Community Development Commission on June 2, 2022. In the development of the Strategic Plan, targeted stakeholder engagement is estimated to be complete by spring of 2023.

COORDINATION

This memorandum has been coordinated with the City Attorney's office.

/s/

JACKY MORALES-FERRAND
Director of Housing

The primary author of this memorandum is Noel Padilla, Interim Senior Analyst.
For more information, contact Rachel VanderVeen, Deputy Director at (408) 535-8231.

Attachment A – Rent Stabilization Program Strategic Plan Questions

Attachment A
Rent Stabilization Program Strategic Plan Questions
Apartment Rent Ordinance (ARO)

Goal: Stabilize residents in apartments covered by the ARO.

- Do tenants and property owners understand the ordinance?
- Relationship of percentage rent increases non-ARO covered units vs. ARO units? What is the rent rate change after turnover in non-ARO covered units vs. ARO units? Are the rent increase rates less for ARO properties than non-ARO properties? If rent increase rates are less for ARO units, why are they less? Is it to remain competitive with market rate properties?
- How frequent are petitions for capital improvements and fair returns? Are property owners getting a fair return?
- Are property owners choosing to sell? What are the ownership transfer rates? What do sale prices of the properties show over time? To that extent, what are the reasons why owners are selling?
- Is the physical condition of rent stabilized apartments reduced or deteriorated as compared decontrolled units or non-ARO units? If so, is it related to rent increases being capped? How do we measure the conditions of the housing stock and track conditions over time?
- How do turnover rates compare between high-rent apartments versus ARO stock? Are tenants staying longer in the ARO units?
- What are the compliance efforts related to frequent or high rent increases and how do we reach out to property owners to inform them that they served a rent increase of more than 5% or more than once every 12 months?
- How do we evaluate that the property owner refunded/credited/corrected the incorrect rent increase?
- How are the outcomes of petitions tracked after mediation? Are the decisions being enforced?
- Which communities file petitions? Which communities receive the most frequent rent increases? Which communities experience the most housing service reductions?

Tenant Protection Ordinance (TPO)

Goal: Preserve and enforce resident rights under the TPO through support and compliance efforts.

- Is the TPO effective in helping to prevent unjust evictions?
- How many notices are submitted within three days of the notice of termination being served on the tenant?
- In how many cases were legal agencies able to defend the tenant by utilizing the TPO? For example, there was a successful judgment for the tenant represented by a local nonprofit, where part of the tenant's defense utilized the property owner's lack of compliance with the TPO.
- How many unlawful detainers are submitted? What is the primary reason landlords are evicting tenants? What are the underlying issues driving these evictions? What are the limitations of accessing information from the courts? Do we need state legislation to compel courts to release information to municipalities?

- How many tenants received relocation benefits under the TPO relocation just causes or as a result of an owner receiving a notification of an unpermitted dwelling from Code Enforcement?
- Do property owners understand the TPO? What kind of support are landlords receiving and from where?
- What are the demographics of households the TPO typically protects? What demographics does the TPO attempt to protect but fails to? Who is the TPO protecting and are there buildings/people that should be protected but are not?
- There are some people who are protected under the TPO but not covered by the ARO. Is there a difference in behavior between property owners of TPO/non-ARO and TPO/ARO properties? For example, under TPO only properties, are landlords increasing rents to induce tenants to vacate units?

Ellis Act Ordinance

Goal: Mitigate against the effects of displacement by Ellis Act Ordinance withdrawals by providing supportive services to residents in properties undergoing a withdrawal, and working with owners and developers on new development requirements in order to maintain or increase the rent-stabilized and affordable housing stock.

- Why are owners taking the properties off the market?
- When properties are being redeveloped after an Ellis Act withdrawal, are rental units or single ownership units (e.g., condos, single-family homes) being constructed?
- Tenants have the right to return to their apartments if the same apartments return to the rental market within ten years. How does the program monitor the activities of properties in Ellis?
- How does the program verify relocation needs?
- What is the reason for tenant buyouts? What is the average amount for buyout agreements? In which neighborhoods are buyouts taking place? What is the new rent after buyouts?

Mobilehome Rent Ordinance

Goal: Stabilize mobilehome space rents and support residents to maintain affordable housing.

- What are the average space rents in mobilehome parks?
- Are the conditions of mobilehome parks impacted by a limit on rent rates?
- How many fair returns are filed for mobilehome parks?
- How many parks are being withdrawn?
- What are the limitations for local jurisdictions to provide services to mobilehome residents?
- How frequent are evictions in mobilehome parks? What are the reasons for eviction?
- What is the frequency and impact of long-term leases in mobilehome parks?
- What other trends or issues are there concerning mobilehome park space rents and mobilehome rentals?