

4.3 Source of Income

From: Brian Ponty <[REDACTED]>
Sent: Sunday, December 9, 2018 4:42 PM
To: The Office of Mayor Sam Liccardo; District1; District2; District3; District4; District5; District 6; District7; District8; District9; City Clerk
Cc: Anil Babbar
Subject: Section 8

Dear Mayor Liccardo and Members of the City Council,

As a property owner, I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

The reason you are considering the Source of Income ordinance is because there are a high number of voucher holders that cannot find housing. The reason for this is the severe shortage of housing where voucher holders have to compete in the open market for housing. That coupled with the challenges of working under the HUD regulations makes a voucher a very tough form of payment to accept. I applaud the City for including resources to better educate property owners how the voucher process, but this requirement that an owner review all voucher applicants won't achieve your goals and further burden property owners. Much like the ARO and TPO, you are placing the duty of housing San Jose residents on the backs of property owners.

Additionally, the Source of Income ordinance includes the private right of action as a means of enforcement. This sends the signal that the City doesn't have the bandwidth to enforce their own laws. Instead they are relying on lawyers and the judicial system to enforce your ordinances. I would urge you to keep the enforcement within the City who would be more prudent in taking legal action.

In regards to the Duplexes, I applaud the Housing Department for understanding that adding these type of units to the Tenant Protection Ordinance isn't a good idea. And I support their recommendation to oppose that effort.

As a housing provider, I take the responsibility of providing my tenants with a safe, clean and desirable place to live very seriously. At the same time, we need to focus our energy on providing more affordable housing supply not adding unnecessary burdens on property owners.

Sincerely,

Brian Ponty

From: Chi Sung
Sent: Saturday, December 8, 2018 4:45 PM
[REDACTED]

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To: MayorEmail@sanjoseca.gov

Subject: Dec 11, 2018 Council Meeting - Source of Income Ordinance and Duplexes under TPO

Dear Mayor Liccardo and Members of the City Council,

I am writing to let you gentlemen know that if the proposal to include Duplexes under the Tenant Protection Ordinance (TPO) is passed, I am going to SELL ALL my duplexes in your City ASAP. I am just a small time operator owning a few properties and I do not want to be bothered by the TPO. With the present hot real estate market in California, especially in the Silicon Valley; I can sell off my properties easily, and at good prices. The buyers of my properties would definitely not use them as rentals. With the rising interest rates on mortgage loans, high property taxes and maintenance costs, it does not make sense to buy a duplex at today's prices and turn it into rentals. Most probably, a buyer would use it as his residence; or he may chip in with a good buddy to buy the property, with each family occupying one of the two units. As a result, the number of available rental units from duplexes in San Jose would just go down. I am sure there are a lot of other duplex owners also contemplating doing the same. Gentlemen, are you sure this is the situation that you want?

I applaud the Housing Department for understanding that adding these type of units to the Tenant Protection Ordinance isn't a good idea. And I support their recommendation to oppose that effort. I also fully support the position of the California Apartment Association on the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

As a housing provider, I take the responsibility of providing my tenants with a safe, clean and desirable place to live very seriously. At the same time, we need to focus our energy on providing more affordable housing supply not adding unnecessary burdens on property owners.

Chi Sung

From: Brian Ponty <[REDACTED]>

Sent: Sunday, December 9, 2018 4:42 PM

To: The Office of Mayor Sam Liccardo; District1; District2; District3; District4; District5; District 6; District7; District8; District9; City Clerk

Cc: Anil Babbar

Subject: Section 8

Dear Mayor Liccardo and Members of the City Council,

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Additionally, the Source of Income ordinance includes the private right of action as a means of enforcement. This sends the signal that the City doesn't have the bandwidth to enforce their own laws. Instead they are relying on lawyers and the judicial system to enforce your ordinances. I would urge you to keep the enforcement within the City who would be more prudent in taking legal action.

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Sincerely,

Brian Ponty

From: Bruce <[REDACTED]>

Sent: Sunday, December 9, 2018 9:35 AM

To: The Office of Mayor Sam Liccardo; District1; District2; District3; District4; District5; District 6; District7; District8; District9; City Clerk

Subject: Section 8 Mandates and Duplexes

Dear Mayor Liccardo and Members of the City Council,

As a property owner in the City of San Jose, I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

The reason you are considering the Source of Income ordinance is because there are a high number of voucher holders that cannot find housing. The reason for this is the severe shortage of housing where voucher holders have to compete in the open market for housing. That coupled with the challenges of working under the HUD regulations

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As a housing provider, I take the responsibility of providing my tenants with a safe, clean and desirable place to live very seriously. At the same time, we need to focus our energy on providing more affordable housing supply not adding unnecessary burdens on property owners.

Sincerely,

Bruce

Bruce Rueppel
[REDACTED]

Dec. 9, 2018

Dear San Jose City Council Members.

The two issues I am addressing are;

1. Posting Notice on TPO
2. SOI namely section 8 applicants

Posting Notice:

Rent-controlled buildings under ARO are not public entry buildings. Each of the tenants is given notices on the ARO and TPO ordinances. Why should a privately held buildings rented only to registered tenants require additional posting, which is redundant?

Furthermore where does one post these notices when there is no common areas?

SOI:

I have no problem with renting to section 8 applicants as long as they are treated in the same manner as off the street applicants. All applicants must deposit the requisite amount and can have their background checked.

Since Housing is a co-signer of the tenants under section 8, Housing must be responsible for payment of all cleaning and damages caused by the same vacating tenant(s).

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Furthermore on an annual inspection, tenant's responsibility should be directed to them for corrective action. Housing providers do not provide house cleaning services.

Seigi Tadokoro, San Jose property owner under rent control.

From: Timothy Pupach <[REDACTED]>

Sent: Monday, December 10, 2018 8:47 AM

To: The Office of Mayor Sam Liccardo; District1; District2; District3; District4; District5; District 6; District7; District8; District9; City Clerk

Subject: Source of Income Ordinance

Dear Mayor Liccardo and Members of the City Council,

As a property owner in the City of San Jose, I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

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Sincerely,

Timothy A. Pupach
Attorney at Law

[REDACTED]
San Jose, CA 95113

Tel: 408 [REDACTED]

Fax: 408 [REDACTED]

Email: [REDACTED]

From: Shawn Smith <[REDACTED]>

Sent: Monday, December 10, 2018 8:54 AM

To: The Office of Mayor Sam Liccardo

Cc: District1; District4; District7; District2; District5; City Clerk; District8; District 6; District9

Subject: TPO

Dear Mayor Liccardo and Members of the City Council,

As a property owner in the City of San Jose, I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

The reason you are considering the Source of Income ordinance is because there are a high number of voucher holders that cannot find housing. The reason for this is the severe shortage of housing where voucher holders have to compete in the open market for housing. That coupled with the challenges of working under the HUD regulations makes a voucher a very tough form of payment to accept. I applaud the City for including resources to better educate property owners how the voucher process, but this requirement that an owner review all voucher applicants won't achieve your goals and further burden property owners. Much like the ARO and TPO, you are placing the duty of housing San Jose residents on the backs of property owners.

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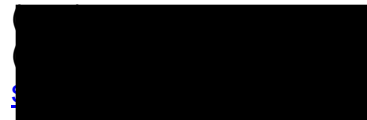
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As a housing provider, I take the responsibility of providing my tenants with a safe, clean and desirable place to live very seriously. At the same time, we need to focus our energy on providing more affordable housing supply not adding unnecessary burdens on property owners.

Sincerely,
Shawn Smith
Your name

Sincerely,
Shawn Smith
Case Manager
Caputo & Van Der Walde LLP



From: Greg Blumstein <[REDACTED]>
Sent: Monday, December 10, 2018 9:21 AM
To: The Office of Mayor Sam Liccardo; District1; District2; District3; District4; District5; District 6; District7; District8; District9
Cc: City Clerk
Subject: Please Vote NO on Section 8 Mandates and Duplexes

Dear Mayor Liccardo and Members of the City Council,

As a property owner in the City of San Jose, I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

The reason you are considering the Source of Income ordinance is because there are a high number of voucher holders that cannot find housing. The reason for this is the severe shortage of housing where voucher holders have to compete in the open market

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As a housing provider, I take the responsibility of providing my tenants with a safe, clean and desirable place to live very seriously. At the same time, we need to focus our energy on providing more affordable housing supply not adding unnecessary burdens on property owners.

--

Regards,

Greg Blumstein | Account Executive | Ad Plus, LLC

O: [REDACTED]

From: Scott Reinert <[REDACTED]>

Sent: Monday, December 10, 2018 9:56 AM

To: The Office of Mayor Sam Liccardo; District1; District2; District3; District4; District5; District 6; District7; District8; District9; City Clerk

Subject: Source of Income Ordinance and Keeping Duplexes out of the TPO

Dear Mayor Liccardo and Members of the City Council,

As a property owner in the City of San Jose, I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

The reason you are considering the Source of Income ordinance is because there are a high number of voucher holders that cannot find housing. The reason for this is the

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Additionally, the Source of Income ordinance includes the private right of action as a means of enforcement. This sends the signal that the City doesn't have the bandwidth to enforce their own laws. Instead they are relying on lawyers and the judicial system to enforce your ordinances. This will create an untenable situation while overburdening the courts. I urge you to keep the enforcement within the City who would be more prudent in taking legal action.

In regards to the Duplexes, I applaud the Housing Department for understanding that adding these type of units to the Tenant Protection Ordinance isn't a good idea. And I support their recommendation to oppose that effort.

As a housing provider, I take the responsibility of providing my tenants with a safe, clean and desirable place to live very seriously. At the same time, we need to focus our energy on providing more affordable housing supply not adding unnecessary burdens on property owners.

Sincerely,

Scott A. Reinert | Senior Vice President, Operations
Essex Property Trust, Inc.

[REDACTED]
San Mateo, CA 94403

Phone [REDACTED]

Fax 65 [REDACTED]

From: Anna Liang <[REDACTED]>

Sent: Monday, December 10, 2018 11:00 AM

To: Jimenez, Sergio; Chapman, Helen; Peralez, Raul; Rocha, Donald; Liccardo, Sam; Henninger, Ragan; Davis, Dev; Nguyen, Tam; Arenas, Sylvia; McGarrity, Patrick; Carrasco, Magdalena; Khamis, Johnny; Fedor, Denelle; Jones, Chappie; Ferguson, Jerad; Diep, Lan; District1; District2; District3; District4; District5; District 6; District7; District8; District9; District 10; ARO; Morales-Ferrand, Jacky; VanderVeen, Rachel; Lopez, Robert (HSG); The Office of Mayor Sam Liccardo; Sykes, Dave; Ponciano, Frank; City Clerk
Subject: For meeting on 12/11 city council

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Dear Sir/ Madam

I am deeply concerned about the proposed amendments to the Tenant Protection Ordinance (TPO) and the potential creation of Source of Income Ordinance (SOI), which will go to the Council meeting of December 11, 2018.

With the reason below, we strongly urge the Council, (1) to vote NO on adding duplex to TPO and (2) to vote NO on the creation of SOI.

1. The proposed amendments, if passed, will disproportionately hurt small mom-and-pop duplex owners. More than 50% of the duplex owners who are going to be affected are San Jose residents, our community members. About 80% of duplex owners own just one duplex. Their duplex may be their only source of income. The proposed amendments will force them to take the units back for family use, because, for many, it is too much of a burden to handle a whole set of regulations, bureaucracy and fees associated with Just Cause Eviction.

2. These amendments harm, rather than protect, the vulnerable. Many of the duplex owners are seniors, single parents, first generation immigrants, and people of color. Rental income may be their only protection against unforeseeable events. These small property owners are typically part-time workers, not wealthy and non-professional. They need as much protection as their tenants do. They should be encouraged to, rather than discouraged from, providing housing to the people of the City of San Jose.

3. There is no data showing that singling out duplex properties and adding them to the TPO will help tenants. In fact we are seeing just the opposite. It is entirely foreseeable that adding duplex to TPO will scare some small mom-and-pop owners away from renting out their units, which result in further shrinkage of affordable rental inventory. It will force owners to increase the tenant screening standards, which will hurt the exact segment of renters that the City is trying to help. It is irrational to regulate duplex when the harms to duplex owners and the harms to the vast majority of duplex renters are clearly foreseeable.

4. Expanding TPO to include duplex can create enormous fear among San Jose's homeowner who may consider renting out their property in the future and today's single-family rental property owners. It creates an image that the city will never stop expanding rental restrictions. It is also contradictory to the policy of encouraging homeowner to build ADU to ease the housing crisis.

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I am strong urge you to think over

Thanks

发自我的 iPhone

From: Amanda Law <[REDACTED]>
Sent: Monday, December 10, 2018 12:21 PM
To: City Clerk
Subject: Comment for 12/11 council meeting- housing items

To whom it may concern,

My name is Amanda Law and I have lived in San Jose for 14 years- 6 as a renter, 8 as a landlord. We own a duplex in a small community of duplexes in Willow Glen, District 6. We love our community and take great pride in caring for our home. Our kids were born here, they play on the block, go to Booksin, and we are active in our community. I'm not a real estate developer or an investor looking for a return. I'm a citizen of San Jose, an ACTUAL "mom and pop landlord", **and I strongly support tenants rights.**

As a home owner and resident in my community I'm sick of seeing my friends and neighbors being priced out of their homes. Our teachers can't afford to live here. Kids on our street live in houses with cracked windows and doorbells that don't work, because our neighbors know rents go up in retaliation for basic repair requests. In my view, this and the constant sight of moving trucks is the true blight on our community.

Regarding the proposal before you today, I offer you this:

Section 8 is administered by the government to help the housing crisis. As legislators, by allowing discrimination against those most vulnerable to that crisis, you are sabotaging that effort. Don't sabotage an effort that aims to protect the rights of some of the most powerless folks in our community.

Criminal Activity as Just Cause - Our most basic legal precept is "innocent until proven guilty". Why doesn't that extend to losing your home? Ill-defined terms like this have been weaponized against tenants in the past. You endanger victims of domestic violence who share a lease with an abuser, and you further disenfranchise communities of color already targeted by our justice system.

Just Cause - I've had difficult tenants in the past. As a duplex owner I could have pulled the classic landlord trick- and in fact was even advised several times- to raise rent until they left or evict them without reason. Instead I chose to read the *very simple* just cause rules and spoke to them like a grown-up, and we found a solution that worked for both of us. I did this because I am a responsible adult who can justify my actions, because that's the right thing to do; and I think it's totally fair to ask ALL landlords to do that. **Not extending just cause protection is by definition unjust.**

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I implore you to stand in solidarity with the people of San Jose, whose interests must be protected in the housing crisis, rather than siding with the business class. Be good to the hardworking people of San Jose, and protect their right to fair housing practices, and we will remember you next election. Thank you.

Amanda Law

From: Lindsay, David <[REDACTED]>

Sent: Monday, December 10, 2018 12:08 PM

To: City Clerk

Subject: Tenant Protection Ordinance

Dear Mayor Liccardo and Members of the City Council,

As a property owner in the City of San Jose, I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

The reason you are considering the Source of Income ordinance is because there are a high number of voucher holders that cannot find housing. The reason for this is the severe shortage of housing where voucher holders have to compete in the open market for housing. That coupled with the challenges of working under the HUD regulations makes a voucher a very tough form of payment to accept. I applaud the City for including resources to better educate property owners how the voucher process, but this requirement that an owner review all voucher applicants won't achieve your goals and further burden property owners. Much like the ARO and TPO, you are placing the duty of housing San Jose residents on the backs of property owners.

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Sincerely,

David Lindsay
Realtor since 1986

[REDACTED]
Coldwell Banker Saratoga

[REDACTED]
Saratoga, Ca. 95070

[REDACTED]com

****I have not verified any of the information contained in those documents that were prepared by other people ****

***Wire Fraud is Real*. Before wiring any money, call the intended recipient at a number you know is valid to confirm the instructions.** Additionally, please note that the sender does not have authority to bind a party to a real estate contract via written or verbal communication.

WORKING PARTNERSHIPS USA



November 29, 2018

San José City Council
San José City Hall
200 East Santa Clara Street
San José, CA 95113

Via Electronic Mail Only

**Re: Source of Income Anti-Discrimination Ordinance
San José City Council Meeting, December 11, 2018**

Dear Mayor, Vice Mayor, and Council Members:

Every family in San Jose should have the right to be housed without fear of unfair discrimination, especially low-income families who rely on vouchers such as those through the Section 8 program or formerly homeless individuals who get housing assistance through one of our agencies. Silicon Valley Renters' Rights Coalition thanks the City Council and housing staff for your efforts in helping to address displacement by enhancing tenant protections.¹ **SVRRC strongly urges the City Council to take the strongest actions to protect tenants from displacement by enacting a Source of Income Discrimination ordinance that would fully protect those with Section 8 vouchers from discrimination.**

Source of Income Discrimination Ordinances are becoming the norm. Over 42 jurisdictions including Santa Clara County and Oklahoma, have such protections.² In fact, on November 13, 2018, Senators Orrin Hatch and Tim Kaine introduced bi-partisan legislation that would amend the federal Fair Housing Act to include source of income discrimination protection for Section 8 voucher holders.³

As San Jose relies more and more on voucher-based assistance to assist low-income and formerly homeless individuals and families facing displacement, it behooves the City to ensure that there are protections for those using those vouchers in San Jose. A

¹ The Silicon Valley Renters' Rights Coalition is a coalition of the following organizations: Law Foundation of Silicon Valley, Sacred Heart Community Service, Affordable Housing Network, Working Partnerships USA, People Acting in Community Together (PACT), Latinos United for a New America (LUNA), Silicon Valley De-Bug, and Silicon Valley Rising.

² Memorandum from Housing Department to City Council regarding "Source of Income Discrimination" dated April 26, 2018.

³ S. 3612 Fair Housing Improvement Act of 2018, 115th Cong., (2017-2018)

housing provider's refusal to take Section 8 vouchers or another form of rental subsidy contributes to housing segregation and limits opportunities for low income tenants who receive a Section 8 voucher or another rental subsidy. Access to housing opportunity is a civil right and passing a Source of Income Anti-Discrimination Ordinance would ensure that the City is complying with its obligation to affirmatively further fair housing, as the proposed measure was recommended by the City's own Analysis of Impediments to Fair Housing Choice and Housing Element.

1. Source of Income Anti-Discrimination Ordinances Have Been Critical in Keeping Low-Income Families and Families of Color Housed

Source of Income Anti-Discrimination Ordinances give voucher holders a fair shake at rental options, allowing for more geographic choices, better access to decent, safe housing, and further stability once they are housed. Studies have shown that voucher holders are better able to use their vouchers in communities with source of income discrimination protections compared to those without such protections.⁴

Such laws make it easier for low income tenants to move into neighborhoods with access to greater opportunities. Where a family lives determines the quality of neighborhood schools, the ability to access better jobs, transportation costs of getting to work, access to nutritious food, and their connections to the community.⁵ When renters are turned away because of their Section 8 subsidy, they are often forced to move into neighborhoods away from family, schools, or social services and can lose their subsidy altogether if they are unable to find a landlord to accept it.

The Department of Housing and Urban Development recently published a study finding that discrimination against Section 8 voucher participants is more prevalent in areas where there are not source of income discrimination protections for voucher holders.⁶ This conclusion was reached after HUD conducted thousands of tests which found that landlords routinely deny voucher holders housing, making it difficult for them to use their vouchers to secure housing—especially in low-poverty neighborhoods.⁷ Based on the information obtained through this and other studies, legal protections for voucher holders would likely improve Housing Choice Voucher program outcomes and allow voucher participants to successfully find housing and move into higher opportunity areas.⁸

⁴ Lance Freeman, "Impact of Source of Income Laws on Voucher Utilization and Local Outcomes." Assisted Housing Research Cadre Report. Columbia University (February 2011) https://www.huduser.gov/publications/pdf/freeman_impactlaws_assistedhousingrcr06.pdf

⁵ Barbara Sard and Douglas Rice, "Realizing Housing Voucher Program's Potential to Enable Families to Move to Better Neighborhoods", Center on Budget Policy and Priority (January 2016) <https://www.cbpp.org/research/housing/realizing-the-housing-voucher-programs-potential-to-enable-families-to-move-to>

⁶ "A Pilot Study of Landlord Acceptance of Housing Choice Vouchers." HUD Office of Policy Development and Research. (September 2018). <https://www.huduser.gov/portal/pilot-study-landlord-acceptance-housing-choice-vouchers>.

⁷ Id.

⁸ Id; *see also* Alison Bell, Barbara Sard, and Becky Koepnick, "Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results," Center on Budget and Policy Priorities. (October 10, 2018)

Discrimination against voucher holders is commonplace in San Jose. The Housing Department's April Memo on Source of Income Discrimination estimated 66% of rental listings would not accept voucher holders.⁹ Our organizations serve San José residents on a daily basis who have vouchers, but cannot find housing. As a result of landlord discrimination, the residents live in substandard or overcrowded conditions, and/or are forced to move away San Jose because they cannot find a place to rent where their voucher will be accepted.

2. Section 8 Discrimination has a Disproportionate Impact on Communities of Color, Families with Children, the Elderly, and the Disabled, and it is Often a Proxy for Racial Discrimination

One of the stated goals of the Section 8 program is to promote racial integration and to provide voucher holders with the opportunity to live in the communities of their choice.¹⁰ Voucher holders are disproportionately people of color. In San Jose, 43% of voucher holders are Asian, 27% Hispanic, and 14% African American.¹¹ Compared to the general population in San Jose, voucher holders are more likely to have special needs, live with disabilities, or are formerly homeless.¹² Of voucher holders in San Jose, 50% are disabled, 24% female heads of households, 13% families with minor children, and 8% are formerly homeless.

Discrimination against voucher holders is often a proxy for racial discrimination. In the Housing Department's stakeholder meetings on this topic, some landlords stated a reluctance to rent to people of certain races.¹³ Even where racial discrimination is not intentional, the practice of not accepting Section 8 vouchers can disproportionately limit the housing opportunities of members of protected groups. Section 8 voucher holders are comprised of a disproportionate number of African-Americans, Latinos, families with children, and people with disabilities, all protected classes under federal and state fair housing law.¹⁴ By refusing to rent to voucher holders, landlords disproportionately limit the housing options of these racial minorities. Such disparate impact on housing choice

<https://www.cbpp.org/research/housing/prohibiting-discrimination-against-renters-using-housing-vouchers-improves-results>.

⁹

¹⁰ Paula Beck. "Fighting Section 8 Discrimination: The Fair Housing Act's New Frontier" 31 Harv. C.R.-C.L. L. Rev. 155 (1996).

¹¹ Memorandum from Housing Department to City Council regarding "Source of Income Discrimination" dated April 26, 2018.

¹² Id.

¹³ Id.

¹⁴ J. Rosie Tighe, Megan E. Hatch, Joseph W. Mead. "How Fair Housing Programs Can be Bolstered by Laws Prohibiting Source of Income Discrimination." Cleveland State University, Journal of Planning Literature (April 2017).

<http://www.scholarsstrategynetwork.org/brief/how-fair-housing-programs-can-be-bolstered-laws-prohibiting-source-income-discrimination>

is a violation of the federal Fair Housing Act and the California Fair Employment and Housing Act.¹⁵

3. Myths about Section 8 Voucher Holders and the Section 8 Program Perpetuate Negative Stereotypes

Negative stereotypes about Section 8 voucher holders still exist. Housing providers falsely assume that Section 8 voucher tenants will be disruptive, will destroy property, or will attract crime. These assumptions about voucher-holders are often the result of stereotypes about poverty and race, rather than actual evidence that voucher-holders bring crime with them or cause property deterioration.¹⁶ In fact, studies show that Section 8 tenants are no more likely to be disruptive or cause an increase in crime than tenants without housing subsidies.¹⁷

4. Administration of the Section 8 Voucher Program has been Streamlined to Reduce the Burden on Landlords

Housing providers often cite concerns about the bureaucracy involved with renting to tenants with Section 8 vouchers, including having to meet HUD's Housing Quality Standards. However, a housing provider's obligation under the Section 8 program mirror the obligations housing providers already have under California law to maintain habitable premises—program requirements are therefore no more burdensome than renting to tenants without Section 8 vouchers.¹⁸ Landlord complaints of administrative burden are misplaced given that these inspections are usually scheduled within weeks and Housing Assistance Payments, once initiated, are guaranteed for the duration of the tenancy.

5. Conclusion

By enacting an Ordinance aimed at prohibiting housing providers from refusing to rent to Section 8 voucher holders, the City of San Jose would help align the goals of both the Fair Housing Act and the Section 8 Voucher Program. These are to end segregation on the bases of race and income level and to help address issues of displacement and homelessness that arise from voucher holders' inability to find rental housing. Given that this particular form of discrimination has been recognized to be widespread throughout

¹⁵ See generally, *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project*, 576 U.S. ____ (2015).

¹⁶ Rebecca Tracy Rotem, "Using Disparate Impact Analysis in Fair Housing Act Claims: Landlord Withdrawal from the Section 8 Voucher Program," 78 Fordham L. Rev. 1971, 1981 (2010).

¹⁷ Ingrid Gould and Katherine O'Regan, "Investigating the Relationship Between Housing Voucher Use and Crime." NYU Furman Center Policy Brief (March 2013)
<http://furmancenter.org/research/publication/investigating-the-relationship-between-housing-voucher-use-and-crime>

¹⁸ For example, landlord responsibilities required by the Housing Authority of Santa Clara County include: Screen prospective assisted tenants using the same selection criteria used for non-assisted tenants. Collect security deposit. Collect tenant's portion of the rent; do not ask for or accept side-payments or allow sub-letting. Ensure assisted units are maintained in a safe, decent, and sanitary condition. Incorporate the U.S. Department of Housing and Urban Development's (HUD's) Tenancy Addendum into the lease agreement. Enforce the lease agreement. See <https://www.scchousingauthority.org/ownerlandlord-resources/owner-responsibilities/>

the country by both HUD and bipartisan members of the United States Senate, the City of San Jose must take action and join in the effort to protect Section 8 voucher holders from being denied access to housing solely because they receive a Section 8 voucher.

We thank staff for their consideration of the comments of SVRRC and other community stakeholders. We look forward to discussing the above recommendations with staff and Council.

Sincerely,

Silicon Valley Renter's Rights Coalition

Affordable Housing Network

Latinos United for a New America (LUNA)

Law Foundation of Silicon Valley

People Acting in Community Together

Sacred Heart Community Services Housing Action Committee

Silicon Valley De-Bug

Silicon Valley Rising

Working Partnerships, USA



December 10, 2018

San José City Council
San José City Hall
200 East Santa Clara Street
San José, CA 95113

Via Electronic Mail Only

Re: Source of Income Anti-Discrimination Ordinance

Dear Mayor Liccardo, Vice-Mayor, and Council Members:

I write on behalf of the Law Foundation of Silicon Valley to again urge that Council enact a Source of Income Anti-Discrimination Ordinance prohibiting housing providers from refusing to rent to tenants with a Section 8 voucher or other rental subsidy on the basis of that voucher or subsidy. This letter addresses the legality of such ordinances, as well as why a robust enforcement mechanism is important.

A. Source of Income Anti-Discrimination Ordinances Have Been Upheld in California and Around the Country

The Bay Area, including the city of San José, is undoubtedly in the midst of an affordable housing crisis, with low-income people and families taking an especially brutal hit. Like the Federal law surrounding the Section 8 program, San José's proposed Source of Income Anti-Discrimination Ordinance aims to assist the expansion of safe and affordable housing for low-income families.¹ Through such an ordinance, the City will help ensure that these especially vulnerable San José residents can use their vouchers in places where they have better access to work, schools, public transit, medical care, and other essential services that may not be as available to them in areas where Section 8 vouchers are otherwise more commonly accepted at the present time.

A vast number of other cities and states – including several cities and counties within the State of California, such as Marin and Santa Clara Counties and the cities of San Francisco, Santa Monica, Corte Madera, East Palo Alto, and Woodland – have enacted ordinances preventing landlords from turning away tenants who have Section 8 vouchers. Although both San Francisco and Santa Monica's Section 8 anti-discrimination

¹ See, e.g. *Montgomery County v. Glenmont Hills Assocs.* (2007) 402 Md. 250, 272.

ordinances faced legal challenges by landlords, they were each upheld by California courts.

In upholding San Francisco's ordinance, the California Court of Appeals highlighted the "well-established" principle under the our State Constitution that gives a municipality the broad authority to regulate the use of real property located within its jurisdiction in order to promote the public welfare, which includes "[e]xercising [its] [] police powers... [to] interfere in the private housing market."² It also emphasized that California law "tasks local governments with adopting plans of action to assist in meeting the housing needs of their low-income households" and that an ordinance prohibiting discrimination against voucher holders fits squarely within that goal.³

So, too, did the Superior Court in Los Angeles recognize that local Section 8 Ordinances are not preempted because they "involve[] the regulation of the development and use of real property, which is a matter traditionally within the broad powers of the municipal governments"⁴ when it upheld Santa Monica's Section 8 anti-discrimination ordinance. Pointing to the U.S. Supreme Court case *West Coast Hotel Co. v. Parrish*,⁵ the court also underscored that a local ordinance premised on making affordable housing available to all "was not an arbitrary restraint on [landlords'] right to contract but a reasonable regulation imposed in the interests of the community." Further, when an ordinance does not apply retroactively and does not aim to impact already-existing contractual relationships, it does not run afoul of either the Federal or State Constitutions' Contract Clauses.⁶

Likewise, courts around the country have upheld similar Section 8 Anti-Discrimination laws. Courts in Maryland,⁷ New Jersey,⁸ Massachusetts,⁹ Texas,¹⁰ and Washington D.C.,¹¹ for example, have all recognized the role (and legality) of Section 8 anti-discrimination statutes in ensuring the availability of safe and decent affordable housing, and moreover how local or state ordinances advance this Federally-recognized goal and the Federal laws that implement it. They have also addressed concerns regarding

² *City & County of San Francisco v. Post* (2018) 22 Cal.App.5th 121.

³ *Id.*

⁴ *Apt. Ass'n of Los Angeles County Inc. et al. v. City of Santa Monica*.

⁵ In *Parrish*, the Supreme Court stated that "[l]iberty under the Constitution is thus necessarily subject to the restraints of due process, and regulation which is reasonable in relation to its subject and is adopted in the interests of the community is due process." It further found that "freedom of contract is a qualified, and not an absolute, right. There is no absolute freedom to do as one wills or to contract as one chooses. The guaranty of liberty does not withdraw from legislative supervision that wide department of activity which consists of the making of contracts, or deny to government the power to provide restrictive safeguards. Liberty implies the absence of arbitrary restraint, not immunity from reasonable regulations and prohibitions imposed in the interests of the community." *West Coast Hotel Co. v. Parrish* (1937) 300 U.S. 379, 391-392.

⁶ *Apt. Ass'n v. City of Santa Monica*, *supra*.

⁷ *Montgomery County*, *supra*.

⁸ *Franklin Tower One v. N.M.* (1999) 157 N.J. 602.

⁹ *Attorney General v. Brown*, 400 Mass. 826.

¹⁰ *Austin Apt. Ass'n v. City of Austin* (W.D.Tex. 2015) 89 F. Supp. 3d 886.

¹¹ *Bourbeau v. Jonathan Woodner Co.* (D.D.C. 2008) 549 F.Supp.2d 78.

ordinances that mandate that landlords participate in the Section 8 program, holding that it does not mean that “merely because Congress provided for voluntary participation, the States are precluded from mandating participation absent some valid nondiscriminatory reason for not participating.”¹² Because the goal at the heart of the federal law is assisting low-income people in accessing affordable housing, and there is nothing prohibiting jurisdictions below from mandating landlords’ participation in the Section 8 program, it is within the purview of state and local governments to do so.¹³

In enacting a Source of Income Anti-Discrimination Ordinance, therefore, San José would be not only acting properly, but acting proactively, in furthering the objectives at the very core of Federal Section 8 laws. Landlords are not being compelled to rent to non-paying tenants; they are not being required to lower the rent that they charge; and they are not required to meet any additional burdens with the upkeep of the rental premises that are not already required by law. This ordinance would ensure that affordable housing is available to all, an undoubtedly reasonable goal, and is a small ask of landlords in promoting that broader purpose.

B. An Enforcement Mechanism Within the Ordinance is Necessary to Promote its Objectives

Given the importance of the aforementioned goals, it is equally as important to ensure that landlords are taking this ordinance seriously and complying with its requirements. Fair housing laws are designed to rely on private enforcement. The language of both the federal Fair Housing Act and the California Fair Employment and Housing Act contemplate that private enforcement will be used to redress discrimination complaints.¹⁴ In fact, the United States Supreme Court has found that “complaints by private persons are the primary method of obtaining compliance with the Act.”¹⁵ Without providing for enforcement, fair housing laws would be rendered meaningless.

Should a prospective tenant with a voucher or subsidy be turned away when applying for a new apartment because of their voucher/subsidy status, without an enforcement mechanism, it is likely that this protection will not be realized. While the City is currently proposing an initial warning for landlords who are found to be non-compliant with the ordinance, we would seek implementation of an actual penalty at the first instance. If a landlord is reported to have turned away one tenant because they have a voucher, it is likely that they have already turned away others; thus, a warning at the first *reported* instance may not actually be the first instance where the landlord has violated this rule, and would likely not deter a landlord who has already gotten away with denying housing to many others without being detected. The basic tenet of the Ordinance is simple: do not turn away a family because they have a voucher or subsidy. There should be no issue with a landlord understanding this rule such that a warning would be necessary.

¹² *Montgomery County*, *supra* citing *Attorney General*, *supra*.

¹³ *Franklin Tower One*, *supra*.

¹⁴ 42 USC §3613, Cal. Gov’t Code § 12989.1.

¹⁵ *Trafficante v. Metropolitan Life Insurance Co.*, 409 U.S. 205, 209 (1972).

The risk of abuse of a private enforcement mechanism is incredibly low. First of all, the fair housing bar is limited already to just a small number of organizations providing tenant assistance, and there is little incentive for unnecessary litigation given the lack of statutory penalties and the fact that we rely on enforcement funding from the city. Further, as compared to enforcement of, for instance, the Americans with Disabilities Act, a tenant claiming that his or her voucher was denied by a landlord would need to provide evidence to the court, which would act as a check on their claim. The ADA, on the other hand, has very specific rules which lend themselves to an increased risk for litigation that is just not present here with the proposed Section 8 ordinance.

C. Conclusion

The passage of an Ordinance that prohibits housing providers from refusing to rent to those with Section 8 vouchers will undoubtedly make affordable housing more accessible to residents of San José, and precedent in many other states and cities has shown ordinances like the one proposed to be legal and appropriate ways to advance these aims. Further, by ensuring that this ordinance has the teeth necessary to ensure compliance, the City will be better able to effectuate its purpose, decrease displacement and discrimination, and protect the rights of low-income tenants.

Thank you for your time and consideration of this issue. If you have any questions about Source of Income Anti-Discrimination laws please do not hesitate to contact me by phone at _____ or by email at _____

Sincerely,

Erika Fairfield
Staff Attorney

From: Jake Tonkel < >

Sent: Tuesday, December 11, 2018 9:52 AM

To: City Clerk; The Office of Mayor Sam Liccardo; District 6

Subject: DUPLEXES, TENANT PROTECTION ORDINANCE, AND SOURCE OF INCOME DISCRIMINATION

I would like to express my support for the following measures that are on today's agenda.

- **A Source of Income Discrimination Ordinance** to prevent landlords from discriminating against tenants just because they have a Section 8 voucher or other subsidy;
- **Include duplexes** in the Tenant Protection Ordinance and the Ellis Act Ordinance so more tenants are protected from wrongful evictions;
- Landlords be required to post a notice, in multiple languages, that tenants have a right to be **free from harassment based on their immigration status**;
- **Eliminate the criminal activity provision** from the TPO, as people of color are more likely to be criminally convicted for minor non-violent offenses;

(CITY OF SAN JOSE POLICE DEPARTMENT
2011-12 ARREST RATE PER 1000 RESIDENTS

132.2 BLACK RATE
35.9 NON-BLACK RATE

<https://www.usatoday.com/story/news/nation/2014/11/18/ferguson-black-arrest-rates/19043207/>

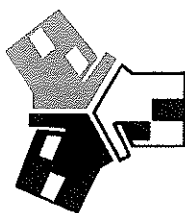
- Protect survivors of domestic violence from eviction in the TPO;
- Require referral to the Rent Stabilization Program and other homelessness prevention resources in termination notices given to tenants under the TPO.

I have read both the [Memorandum from Diep, Davis, Nguyen, Khamis, 12/05/2018](#), and the [Memorandum from Rocha, 12/10/18](#) and find Rocha's statement "to not let perfect be the enemy of the good as we examine the pitfalls of extending TPO to duplexes without ARO" to be a very reasonable one. We have a homeless and housing crisis that will only be exacerbated in the coming years by inequality issues outside the control of San Jose City Council. Protecting people that are unjustly convicted today is more important than "what ifs" of the financial success of a wealthier class of people in the future.

I am neither a renter nor a duplex owner. Just a concerned resident of district 6.

Thank you for your consideration,

Jake Tonkel



**project
sentinel**

Fair Housing Center
Fremont • Gilroy • Modesto • Redwood City
Sacramento • Santa Clara

December 11, 2018

The Office of Mayor Sam Liccardo
200 East Santa Clara Street
18th Floor
San José, CA 95113

CC: Vice Mayor Magdalena Carrasco, Councilmember Charles Jones, Councilmember Sergio Jimenez, Councilmember Raul Peralez, Councilmember Lan Diep, Councilmember Devora Davis, Councilmember Tom Nguyen, Councilmember Sylvia Arenas, Councilmember Donald Rocha, Councilmember Johnny Khamis

Via email:

The Office of Mayor Sam Liccardo [TheOfficeofMayorSamLiccardo@sanjoseca.gov]; District1 [district1@sanjoseca.gov]; District2 [District2@sanjoseca.gov]; District3 [district3@sanjoseca.gov]; District4 [District4@sanjoseca.gov]; District5 [District5@sanjoseca.gov]; District6 [district6@sanjoseca.gov]; District7 [District7@sanjoseca.gov]; District8 [district8@sanjoseca.gov]; District9 [district9@sanjoseca.gov]; District 10 [District10@sanjoseca.gov]; City Clerk [city.clerk@sanjoseca.gov]

RE: Source of Income Discrimination and Private Enforcement

Dear Mayor Liccardo and Councilmembers:

Requiring San José landlords to give equal consideration to Housing Choice Voucher (“Section 8”) participants is a fair housing matter. Currently, landlords can use Section 8 as a proxy to discriminate against people with disabilities, Veterans, single female heads of households, families with children, and people of color. The proposed ordinance would require landlords to give equal consideration to ALL applicants *and* provide recourse when landlords discriminate. Therefore, as a private non-profit agency with the mission of promoting fairness and equality of housing for all, Project Sentinel’s Fair Housing Center strongly supports San José’s efforts to close this loophole and tear down one more barrier to housing in the midst of the continued housing crisis.

1. People of Color and People with Disabilities are the Most Affected

100% of calls we have received in the last 6 months from Section 8 voucher holders shared one or more of the following characteristics: **Veteran, senior, female head of household, Hispanic, Black, Asian, and/or disabled. 80% of Section 8 voucher holders who contacted us over the last 6 months had one or more disabilities. 60% of voucher holders who contacted us over the last 6 months were a person of color.** This demonstrates that the current differential treatment that voucher holders experience has a disparate impact on federally and state protected classes.

2. The Use of Section 8 Vouchers as a Proxy for Discrimination

In addition to the disparate impact on people of color and people with disabilities, many landlords use an applicant’s Section 8 voucher as a proxy to discriminate on the basis of their protected class. Currently, all a landlord has to say is “No Section 8” when what they really mean is “no people with disabilities,” “no Hispanics,” “no families with children,” etc. Requiring landlords to give equal consideration to Section 8 voucher applicants is a good step towards closing this loophole. However, eliminating this loophole without a private enforcement option will have little impact as landlords will know that repercussions are unlikely.

Our mission is to develop and promote fairness and equality of housing for all persons and to advocate peaceful resolution of disputes for community welfare and harmony

3. Private Enforcement is Crucial to the Success of the Ordinance

Although providing a public enforcement option is helpful, it is not sufficient to meet the needs of voucher holders currently looking for stable housing in San José. First, public enforcement actions are often long processes that are unable to respond with the level of urgency that someone looking for housing requires. Second, public enforcement action is simply not enough to deter some bad actors from pervasive discriminatory rental practices. Private enforcement addresses both of these issues.

Project Sentinel has first-hand experience with both publicly and privately-initiated enforcement actions in the context of housing discrimination, which is why we know that a publicly-initiated enforcement action does not resolve the problem for someone who is looking for housing. A fine against the landlord after an unknown length of time will not provide what that person ultimately needs: housing. However, the option of private enforcement gives that person the opportunity to seek injunctive relief and a better chance at securing a home.

As a regular part of our work, Project Sentinel also has first-hand experience with landlords who are unaffected by the threat of a fine from a City and who discriminate in such a prevalent way that private enforcement is necessary to put an end to such behavior and prevent it from reoccurring.

This ordinance deserves a fair shot—more importantly, the communities in most need deserve a fair shot at having this ordinance be effective. Having the option of private as well as public enforcement is the only way to achieve this, and that is why Project Sentinel supports the proposed ordinance and respectfully requests that the City Council move forward with its creation.

Thank you for your time and attention to this matter.

Sincerely,

Cristina Figueroa Cortes
Fair Housing Director

Jaqueline C. Ramirez
Associate Fair Housing Director

Date:

Dear Mayor and City Council,

I am a tenant who rents a home/an apartment in San José and believes everyone has a right to be free from wrongful evictions and unfair housing discrimination. I am writing today to voice my support for measures that help protect tenants from wrongful evictions and unfair discrimination.

I urge the City Council to support the following tenant protections coming to City Council on 12/11:

- A **Source of Income Discrimination Ordinance** that prevent landlords from discriminating against tenants just because they have a Section 8 voucher or another subsidy;
- Including **duplexes** in the Tenant Protection Ordinance and the Ellis Act Ordinance so all tenants are protected from wrongful evictions;
- Landlords be required to post a notice, in multiple languages, that tenants have a right to be **free from harassment based on their immigration status**.
- Eliminating the **criminal activity provision** from the TPO
- Protecting survivors of domestic violence from eviction in the TPO.
- Requiring references to the Rent Stabilization Program and other homelessness prevention resources in termination notices given to tenants under the TPO.

Thank you for continuing to protect the rights of tenants in San José. I appreciate your support of the above as you vote on these measures on December 11th.

Sincerely,

(Name)

(Address)/(Council District)

Date:

Dear Mayor and City Council,

I am a tenant who rents a home/an apartment in San José and believes everyone has a right to be free from wrongful evictions and unfair housing discrimination. I am writing today to voice my support for measures that help protect tenants from wrongful evictions and unfair discrimination.

I urge the City Council to support the following tenant protections coming to City Council on 12/11:

- A **Source of Income Discrimination Ordinance** that prevent landlords from discriminating against tenants just because they have a Section 8 voucher or another subsidy;
- Including **duplexes** in the Tenant Protection Ordinance and the Ellis Act Ordinance so all tenants are protected from wrongful evictions;
- Landlords be required to post a notice, in multiple languages, that tenants have a right to be **free from harassment based on their immigration status**.
- Eliminating the **criminal activity provision** from the TPO or, alternatively, allowing a tenant the right to repossess her unit if the charges against her are dismissed.
- Protecting survivors of domestic violence from eviction in the TPO.
- Requiring references to the Rent Stabilization Program and other homelessness prevention resources in termination notices given to tenants under the TPO.

Thank you for continuing to protect the rights of tenants in San José. I appreciate your support of the above as you vote on these measures on December 11th.

Sincerely,

Handwritten signature

(Name)

(Address)/(Council District)

Fecha: 11-29-18

Estimado alcalde y Consejo Municipal,

Soy un inquilino que renta una casa/un apartamento en San José y creo que todos tienen el derecho de estar libres de desalojos injustos y discriminación injusta de vivienda. Hoy estoy escribiendo para expresar mi apoyo a las medidas que ayudan a proteger a los inquilinos de los desalojos ilegales y la discriminación injusta.

Les pido que el Concejo Municipal apoye las siguientes protecciones para inquilinos que vienen al Concejo Municipal el 11 de diciembre:

- **Una Ordenanza sobre la Fuente de Discriminación de Ingresos** que impide que los propietarios discriminen a los inquilinos simplemente porque tienen un cupón de la Sección 8 u otro subsidio;
- Incluir los **dúplex** en la Ordenanza de protección del arrendatario y en la Ordenanza de la Ley Ellis para que todos los arrendatarios estén protegidos contra los desalojos ilegales;
- Se requiere que los propietarios publiquen un aviso, en varios idiomas, que los inquilinos tienen derecho a **estar libres de acoso por su estatus migratorio**;
- Eliminar la **disposición de actividades delictivas** de la TPO,
- Proteger a los sobrevivientes de violencia doméstica del desalojo en el TPO
- Requerir referencias al Programa de Estabilización de Alquileres y otros recursos para la prevención de la falta de vivienda en los avisos de terminación dados a los inquilinos bajo la TPO

Gracias por continuar protegiendo los derechos de los inquilinos en San José. Aprecio su apoyo a lo anterior al votar sobre estas medidas el 11 de diciembre.

Sinceramente,

ROSC GARCIA

(Nombre)

-

(Dirección)/(Consejo del Distrito)

Date:

Dear Mayor and City Council,

I am a tenant who rents a home/an apartment in San José and believes everyone has a right to be free from wrongful evictions and unfair housing discrimination. I am writing today to voice my support for measures that help protect tenants from wrongful evictions and unfair discrimination.

I urge the City Council to support the following tenant protections coming to City Council on 12/4: 12/11:

- A **Source of Income Discrimination Ordinance** that prevent landlords from discriminating against tenants just because they have a Section 8 voucher or another subsidy;
- Including **duplexes** in the Tenant Protection Ordinance and the Ellis Act Ordinance so all tenants are protected from wrongful evictions;
- Landlords be required to post a notice, in multiple languages, that tenants have a right to be **free from harassment based on their immigration status**.
- Eliminating the **criminal activity provision** from the TPO or, alternatively, allowing a tenant the right to repossess her unit if the charges against her are dismissed.
- Protecting survivors of domestic violence from eviction in the TPO.
- Requiring references to the Rent Stabilization Program and other homelessness prevention resources in termination notices given to tenants under the TPO.

Thank you for continuing to protect the rights of tenants in San José. I appreciate your support of the above as you vote on these measures on December 4th.

Sincerely,

(Name)

SHARON BORLAND

(Address)/(Council District)

From: Furlan Family < >

Sent: Saturday, December 8, 2018 3:26 PM

To: The Office of Mayor Sam Liccardo; District1; District2; District3; District4; District5; District 6; District7; District8; District9; City Clerk

Subject: income Discrimination ordinance

Dear Mayor

please take into consideration the owners of Duplexes.

Thank You

Rita Furlan

Dear Mayor Liccardo and Members of the City Council,

As a property owner in the City of San Jose, I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

The reason you are considering the Source of Income ordinance is because there are a high number of voucher holders that cannot find housing. The reason for this is the severe shortage of housing where voucher holders have to compete in the open market for housing. That coupled with the challenges of working under the HUD regulations makes a voucher a very tough form of payment to accept. I applaud the City for including resources to better educate property owners how the voucher process, but this requirement that an owner review all voucher applicants won't achieve your goals and further burden property owners. Much like the ARO and TPO, you are placing the duty of housing San Jose residents on the backs of property owners.

Additionally, the Source of Income ordinance includes the private right of action as a means of enforcement. This sends the signal that the City doesn't have the bandwidth to enforce their own laws. Instead they are relying on lawyers and the judicial system to enforce your ordinances. I would urge you to keep the enforcement within the City who would be more prudent in taking legal action.

In regards to the Duplexes, I applaud the Housing Department for understanding that adding these type of units to the Tenant Protection Ordinance isn't a good idea. And I support their recommendation to oppose that effort.

As a housing provider, I take the responsibility of providing my tenants with a safe, clean and desirable place to live very seriously. At the same time, we need to focus our energy on providing more affordable housing supply not adding unnecessary burdens on property owners.

Sincerely,

From: Carlos Padilla < >

Sent: Tuesday, December 11, 2018 11:11 AM

To: The Office of Mayor Sam Liccardo; District1; District2; District3; District4; District5; District 6; District7; District8; District9; City Clerk

Cc: Carlos Padilla; Denise Padilla

Subject: Oppose Section 8 Mandates and Duplexes

Dear Mayor Liccardo and Members of the City Council,

As a property owner in the City of San Jose, I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

The reason you are considering the Source of Income ordinance is because there are a high number of voucher holders that cannot find housing. The reason for this is the severe shortage of housing where voucher holders have to compete in the open market for housing. That coupled with the challenges of working under the HUD regulations makes a voucher a very tough form of payment to accept. I applaud the City for including resources to better educate property owners how the voucher process, but this requirement that an owner review all voucher applicants won't achieve your goals and further burden property owners. Much like the ARO and TPO, you are placing the duty of housing San Jose residents on the backs of property owners.

Additionally, the Source of Income ordinance includes the private right of action as a means of enforcement. This sends the signal that the City doesn't have the bandwidth to enforce their own laws. Instead they are relying on lawyers and the judicial system to enforce your ordinances. I would urge you to keep the enforcement within the City who would be more prudent in taking legal action.

In regard to the Duplexes, I applaud the Housing Department for understanding that adding these types of units to the Tenant Protection Ordinance isn't a good idea. And I support their recommendation to oppose that effort.

As a housing provider, I take the responsibility of providing my tenants with a safe, clean and desirable place to live very seriously. At the same time, we need to focus our energy on providing more affordable housing supply not adding unnecessary burdens on property owners.

Sincerely,

Carlos Padilla
Property Owner

"Reminder: email is not secure or confidential. Intero Real Estate Services will never request that you send funds or nonpublic personal information, such as credit card or debit card numbers or bank account and/or routing numbers, by email. If you receive an email message concerning any transaction involving Intero Real Estate Services and the email requests that you send funds or provide nonpublic personal information, do not respond to the email and immediately contact Intero Real Estate Services. To notify Intero Real Estate Services of suspected email fraud,

From: message1189@gmail.com < >

Sent: Friday, December 7, 2018 5:09 PM

To: City Clerk

Subject: I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO)

Dear Mayor Liccardo and Members of the City Council,

As a property owner in the City of San Jose, I am deeply concerned with the proposed Source of Income Ordinance and the proposal to include Duplexes under the Tenant Protection Ordinance (TPO).

The reason you are considering the Source of Income ordinance is because there are a high number of voucher holders that cannot find housing. The reason for this is the severe shortage of housing where voucher holders have to compete in the open market for housing. That coupled with the challenges of working under the HUD regulations makes a voucher a very tough form of payment to accept. I applaud the City for including resources to better educate property owners how the voucher process, but this requirement that an owner review all voucher applicants won't achieve your goals and further burden property owners. Much like the ARO and TPO, you are placing the duty of housing San Jose residents on the backs of property owners.

Additionally, the Source of Income ordinance includes the private right of action as a means of enforcement. This sends the signal that the City doesn't have the bandwidth to enforce their own laws. Instead they are relying on lawyers and the judicial system to enforce your ordinances. I would urge you to keep the enforcement within the City who would be more prudent in taking legal action.

Regarding Duplexes, I applaud the Housing Department for understanding that adding these types of units to the Tenant Protection Ordinance isn't a good idea. And I support their recommendation to oppose that effort.

As a housing provider, I take the responsibility of providing my tenants with a safe, clean and desirable place to live very seriously. At the same time, we need to focus our energy on providing more affordable housing supply not adding unnecessary burdens on property owners.

Sincerely,

Gary

December 6th, 2018

City Council, the City of San Jose
200 E. Santa Clara St.
San Jose, CA 95113

Re: Tenant Protection Ordinance Amendments and Source of Income Ordinance

Dear Mayor, Vice Mayor and Council Members:

As an organization that represents thousands of small mom-and-pop rental property owners, we are deeply concerned about the proposed amendments to the Tenant Protection Ordinance (TPO) and the potential creation of Source of Income Ordinance (SOI), which will go to the Council meeting of December 11, 2018.

With the reason below, we strongly urge the Council, (1) to vote NO on adding duplex to TPO and (2) to vote NO on the creation of SOI.

A. Duplex

1. The proposed amendments, if passed, will disproportionately hurt small mom-and-pop duplex owners. More than 50% of the duplex owners who are going to be affected are San Jose residents, our community members. About 80% of duplex owners own just one duplex. Their duplex may be their only source of income. The proposed amendments will force them to take the units back for family use, because, for many, it is too much of a burden to handle a whole set of regulations, bureaucracy and fees associated with Just Cause Eviction.
2. These amendments harm, rather than protect, the vulnerable. Many of the duplex owners are seniors, single parents, first generation immigrants, and people of color. Rental income may be their only protection against unforeseeable events. These small property owners are typically part-time workers, not wealthy and non-professional. They need as much protection as their tenants do. They should be encouraged to, rather than discouraged from, providing housing to the people of the City of San Jose.
3. There is no data showing that singling out duplex properties and adding them to the TPO will help tenants. In fact we are seeing just the opposite. It is entirely foreseeable that adding duplex to TPO will scare some small mom-and-pop owners away from renting out their units, which result in further shrinkage of affordable rental inventory. It will force owners to increase the tenant screening standards, which will hurt the exact segment of renters that the City is trying to help. It is irrational to regulate duplex when the harms to duplex owners and the harms to the vast majority of duplex renters are clearly foreseeable.
4. Expanding TPO to include duplex can create enormous fear among San Jose's homeowner who may consider renting out their property in the future and today's single-family rental property owners. It creates an image that the city will never stop expanding rental restrictions. It is also contradictory to the policy of encouraging homeowner to build ADU to ease the housing crisis.

B. Source of Income Ordinance (SOI)

1. We welcome our City to provide education and training to both owners and tenants for each side's rights and responsibilities, and to help owners to understand how voucher programs work. However, adding a new regulation of SOI will not provide real help to voucher holders.
2. We welcome the government agencies to work with property owner community to establish better understanding and trust, to modify and improve the process of the voucher programs.
3. We are especially concerned about temporary voucher programs because temporary voucher programs do not provide a predictable source of income at all. There are huge risks and uncertainties associated with unbearable costs and burdens when a temporary voucher expires. We recommend our City and County governments to modify the programs to address these concerns and to incentivize owners to join the programs.
4. Again we welcome education and training on housing rights and obligations. Meanwhile we strongly oppose spending taxpayers' money to fund tenant legal services to bring lawsuit against rental property owners. This practice encourages unnecessary lawsuits, destroys the harmony and goodwill between housing providers and housing recipients, burdens the legal system, and is blatantly unfair. It deliberately positions a renter against a housing provider, even when the renter is wealthier than the housing provider, and even when the renter and the housing provider are on good terms.

Once again, we urge our leaders to accept staff's recommendation NOT to include duplex properties in the TPO, and to vote NO on the SOI.

The high housing cost is not caused by small mom-and-pop property owners, but by job-housing imbalance. It is profoundly unfair to blame small mom-and-pop property owners for the housing crisis and to put the burden of solving a large social issue on their fragile shoulders. Again, the small mom-and-pop property owners need protection, as renters do. Punishing housing providers will not bring more housing. We welcome our leaders to work with us to find real solutions to our renters.

Sincerely,

Jenny Zhao, Board of Director
On behalf of Bay Area Homeowners Network

CC: Jacky Morales-Ferrand, Director, Housing Department; Rachel VanderVeen, Deputy Director, Housing Department; City Clerk