



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand
Margaret McCahan

SUBJECT: SEE BELOW

DATE: November 30, 2018

Approved

Date

11/30/18

**SUBJECT: ACTIONS RELATED TO THE TENANT PROTECTION ORDINANCE:
INCLUSION OF DUPLEXES, AMENDMENTS TO CRIMINAL ACTIVITY,
DOMESTIC VIOLENCE, AND NOTICING REQUIREMENTS**

RECOMMENDATION

a) Council to accept one of the two following options:

- (1) Approve an Ordinance amending Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to include duplexes with an exemption for owner-occupied apartments.

Or

- (2) Accept staff recommendation to not include duplexes under the Tenant Protection Ordinance.

b) Approve an Ordinance amending Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to:

- (1) Add a provision to require the posting of a notice summarizing the requirements of the Tenant Protection Ordinance including prohibiting retaliation, harassment, and intimidation against tenants based upon their immigration status;
- (2) Add a provision to the criminal activity cause for eviction stating if the tenant is acquitted or the criminal charges which caused termination of tenancy are dismissed or reduced, the tenant is permitted to return to the apartment if the tenant household still resides in the apartment and consents to the return;
- (3) Add a provision that states that nothing in the Ordinance will abrogate the protections afforded to survivors of violence consistent the Civil Code Section 1161.3, as amended, and the violence against Women Act, Public Law 103-322 as amended, and require a posting to include these rights; and
- (4) Add a provision to require a statement in the Notice of Termination that it is served in good faith and include a reference to the Rent Stabilization Program for referral information (including homeless prevention).

- c) If an amendment is approved to include duplexes, then adopt a resolution amending the 2018-2019 Housing Schedule of Fees and Charges (Resolution No. 72737, as amended) to extend the Non-Rent Controlled Apartment Unit Fee to Duplexes effective January 18, 2019, in the amount of \$2.65, prorated from the annual Non-Rent Controlled Apartment Unit Fee in the amount of \$6.20.
- d) If an amendment is approved to include duplexes, then adopt the following Fiscal Year 2018-2019 Appropriation Ordinance and Funding Sources Resolution Amendments in the Multi-Source Housing Fund:
 - (1) Increase the Fees, Rates and Charges estimate by \$25,313; and
 - (2) Increase the Non-Personal/Equipment appropriation to the Housing Department by \$25,313.

OUTCOME

If the City Council approves adding duplexes under the Tenant Protection Ordinance, the provisions of the Tenant Protection Ordinance will be extended to owners and tenants of duplexes throughout San José. Recommended actions will also apply the Non-Rent Controlled Apartment Fee to duplexes and increase the revenue estimate and corresponding Non-Personal/Equipment appropriation in the Multi-Source Housing Fund to account for the increased revenue and associated community outreach and education costs resulting from the extension of the Tenant Protection Ordinance to duplexes. Alternatively, if City Council accepts the staff recommendation to not include duplexes, then duplexes will not be added to the Tenant Protection Ordinance.

Owners would be required to post a notice summarizing the rights of the Tenant Protection Ordinance and include referral information on the notice of termination. In addition, tenants who have had their tenancy terminated as a result of criminal activity but have had the charges dismissed, reduced or acquitted may return to the tenant household if the tenant household still resides in the rental unit and provides consent to allow the tenant to return. Finally, the Tenant Protection Ordinance will state the rights of survivors of domestic violence.

EXECUTIVE SUMMARY

At the April 24, 2018 meeting, the City Council approved amendments to the Tenant Protection Ordinance regarding immigration and criminal activity. The City Council directed staff to return with amendments to include duplexes under the Tenant Protection Ordinance and consider additional amendments regarding immigration, domestic violence and the right to repossession following an eviction due to criminal activity. Through the implementation process, staff identified a need for an additional amendment to require a referral to homeless resources on the notice of termination.

After completing outreach and analysis, staff determined that extending the Tenant Protection Ordinance to duplexes will have limited impact and may be ineffective in avoiding displacement of tenants. Due to these determinations, staff is requesting that Council reconsider its previous direction to expand the Tenant Protection Ordinance to duplexes. City Council may accept the ordinance language including duplexes or the staff recommendation not to include duplexes under the Tenant Protection Ordinance.

Staff recommends the following amendments to the Tenant Protection Ordinance:

- Require a notice to be posted on buildings subject to the Tenant Protection Ordinance to apprise tenants of their rights.
- Add a provision stating the rights of survivors of violence under state and federal law. The posting of rights under the Tenant Protection Ordinance will also include a summary of rights for survivors of violence.
- Allow a tenant the right to return to the rental unit if the violating tenant's criminal case is dismissed or they are acquitted from the charges, if: 1) the tenant household is still living in the apartment and 2) consents to their return. This amendment would allow stability for the family and an opportunity for stability to the displaced tenant.
- Add a provision that Landlords shall provide a reference to the Rent Stabilization Program for referral information (including homeless prevention) on all notices of terminations and provide tenants the information upon service of a notice of termination. Providing information regarding available resources may connect vulnerable households with homeless prevention services.

BACKGROUND

In May 2017, the City of San José adopted the Tenant Protection Ordinance (TPO) to provide just cause rights to tenants and promote stability within the residential rental market. The Tenant Protection Ordinance covers rental units of three or more, currently exempting duplexes from these additional protections. At the April 24, 2018 meeting, City Council accepted the April 23, 2018 memorandum from Councilmember Rocha directing staff to extend the Tenant Protection Ordinance to duplexes and consider additional amendments including protection for domestic violence victims and the right to repossession following an eviction due to criminal activity.

Duplexes

The Tenant Protection Ordinance eliminated serving no-cause eviction notices upon tenants living in apartments with three or more units. However, owners are not prohibited from issuing no-cause eviction notices to tenants living in duplexes. In response, members of the community raised questions on whether duplexes could also be included under the Tenant Protection Ordinance to eliminate no-cause notices to provide more stability to tenants living in duplexes in San José.

Since 2015, the City Council has directed staff to explore the inclusion of duplexes as rent stabilized units under the Apartment Rent Ordinance (ARO), with the following outcomes:

- **September 1, 2015:** City Council supported staff recommendation to not include duplexes under ARO.
- **April 18, 2017:** City Council directed staff to evaluate whether duplexes should be added to the ARO.
- **November 14, 2017:** City Council supported staff recommendation to not include duplexes under ARO at that time considering the demands of fully implementing the revised Apartment Rent Ordinance and the additional staff work necessary before incorporating duplexes.
- **April 24, 2018:** City Council directed staff to include duplexes under the Tenant Protection Ordinance and Ellis Act Ordinance.

In addition, the Housing and Community Development Commission (HCDC) also made the following recommendations regarding duplexes:

- **September 7, 2015:** Advisory Committee deferred action regarding including duplexes to ARO and did not take action.
- **September 14, 2017:** HCDC recommended to not include duplexes to the ARO.
- **November 9, 2017:** HCDC recommended to include duplexes to the ARO, exempting the entire building if the owner occupies one or more units.
- **November 8, 2018:** HCDC recommended to apply Tenant Protection Ordinance to non-owner occupied duplexes, exempting the entire building if the owner occupies one or more units.

Other Amendments to the Tenant Protection Ordinance Directed by Council

In addition, at the April 24, 2018 City Council meeting, staff was directed to return with additional amendments to include:

- **Immigration – Required Posting:** Requiring owners to post a notice in common areas, in the three most commonly-spoken languages, stating: it is illegal for an owner to harass, intimidate, threaten, or evict a tenant because of their immigration or citizenship status or report a tenant to any immigration authority or law enforcement agency, except to comply with a legal obligation under federal law, or subpoena, warrant, or order.
- **Victims of Violence:** Adding a provision stating that nothing in the ordinance “shall abrogate the protection afforded to survivors of violence consistent with California Code of Civil Procedure Section 1161.3, as amended, and the Violence Against Women Act, Public Law 103-322, as amended.” In addition, add a provision allowing victims who have been residing in an apartment with the leaseholder who is the alleged abuser a mechanism by which they can take over the lease, to the extent allowed by California law.
- **Right to Repossession under Criminal Activity:** Adding a provision providing for a right to repossession for former tenants removed under the criminal activity basis if they are acquitted/dismissed from a criminal charge, subject to the consent of any co-tenants.

Staff is also recommending to include a requirement that the notice of termination include a good faith statement and a referral to the Rent Stabilization Program providing information on homeless prevention and other services. The purpose of this amendment is to provide those tenants vulnerable to being displaced with homeless prevention resources to find stability or housing as quickly as possible.

ANALYSIS

In developing the draft amendments to the Tenant Protection Ordinance, staff considered the following sources of information: reports from local jurisdictions, research from other California cities with local rent stabilization ordinances and just cause ordinances, input from community meetings, duplex owner survey results, and City Council direction. This section summarizes the research and findings made by staff related to proposed changes to the Tenant Protection Ordinance.

I. DUPLEXES

Over the past three years, the City Council has expressed interest in extending rent stabilization requirements to duplexes. Prior to this date, the Housing Department focused on researching and analyzing properties with three units or more. Over the past six months, staff has gathered information and reached out to duplex owners to learn about the characteristics of duplexes and to establish an understanding of the duplex rental market. The following section summarizes the key facts and information related to the proposed amendment to the Tenant Protection Ordinance extending just cause provisions to duplexes.

Duplex housing stock includes approximately 10,916 duplex apartments

Based on 2018 County Assessor data, there are approximately 10,916 duplex apartments in San José (excludes 92 apartments in unincorporated areas). Of the 4,855 duplex owners, an estimated 30% are owner occupied or approximately 1,456 duplex units. This means approximately 9,460 apartments are occupied by tenant households. There are approximately 29,326 tenants living in duplexes. This calculation is assuming the average household size of 3.1 persons per apartment based on the “Apartment Rent Ordinance Study” by Economic Roundtable Study in 2016.

Figure 1: Number of Apartments Covered by the Tenant Protection Ordinance

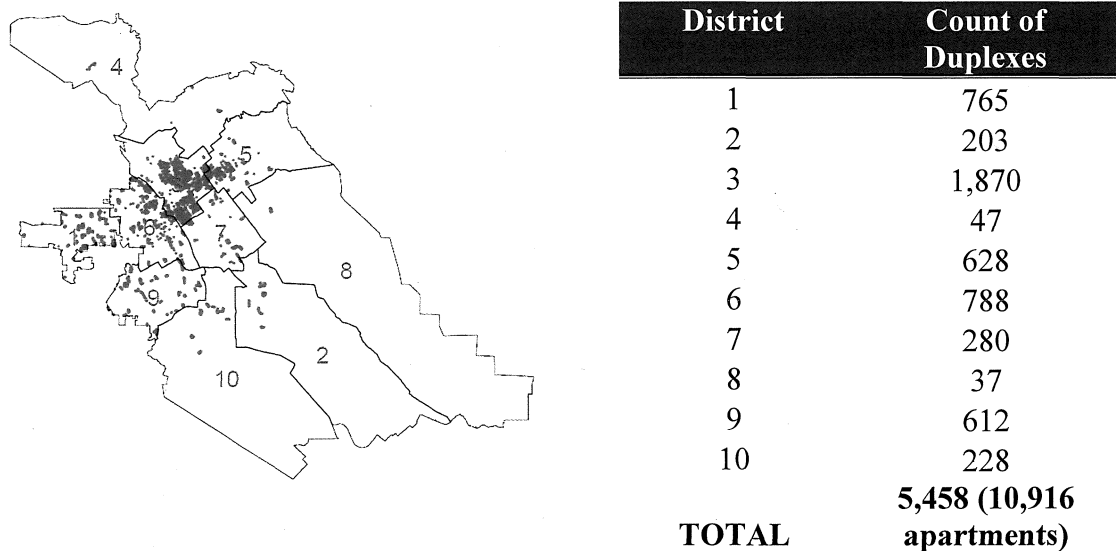


Housing Department surveys collected indicate ownership, occupancy, and rent data for duplexes

To gather more information on the duplex owners, staff conducted a survey that was provided at the community meetings, online, and mailed out to duplex owners. Staff realized that there was limited information available on duplex owners, such as how many of the owners live in their duplexes and how many total apartments were owned by each owner. Based on the 225 surveys submitted from duplex owners as of November 13, 2018, staff found the information summarized in the figures in **Attachment A**. The survey was sent to 4,855 duplex owners, with 5% responding to the survey by submitting the surveys by mail and online.

Research from county assessor data and survey data indicate nearly 30% of duplex owners occupied units they owned. The Program received data from the County of Santa Clara - Office of the Assessor and extracted the duplex properties from the list of all properties within San José. Staff determined that there were approximately 4,855 duplex owners, accounting for the owners who own multiple properties. Using the data collected, staff mapped out the number of duplexes in the City of San José. The highest concentrations of duplexes were in Council Districts 3, 6, and 1.

Figure 2: Map of Duplexes in the City of San José by Council district based on County Assessor Data



In addition, staff collected surveys submitted by owners summarized in **Attachment A** and found that the number of self-reported owner occupancy was consistent with the findings from the County data:

- Based on survey data, 30% of duplex owners live in their duplex. This is significantly higher than the 1% of owners who report living in their apartments covered by the ARO.

- According to survey results, duplex owners are small owners with 82% of owners reporting they own a total of two apartments.
- The range of rents reported by duplex owners were similar to market rents throughout the City. According to CoStar, the average rent in San José is \$2,753 per month for a two bedroom, which is similar to the most frequent rent range of \$2,001-\$2,499 reported by 30% of duplex owners. Some rents are reportedly higher, while others are lower.

Staff also researched the average rents of duplexes on Craigslist and found that of the 41 postings in the past 30 days, the average rent listed was \$2,586. This finding was consistent with the self-reported survey submitted by the owners which indicated that the average rents were between \$1,500 and \$2,500. Based on the postings listed, staff observed that the number of bedrooms for rent ranged from one to three bedrooms and two to three bathrooms, with garages and backyards also listed. This description is noticeably different from a posting for an apartment which may be smaller in square footage and space.

Other rent control jurisdictions and just cause protections include duplexes

Staff conducted research of other cities' inclusion of duplexes under their rent control and just cause ordinances. The findings demonstrate duplexes are widely-covered under just cause ordinances with few cities not covering duplexes.

- In the cities of Richmond, San Francisco, Los Angeles, West Hollywood, East Palo Alto, Oakland, and Santa Monica, duplexes are included in their just cause ordinances.
- In the City of Oakland, the voters passed Measure Y amending the Tenant Protection Ordinance to no longer exempt a duplex building from just cause if an owner occupies a duplex apartment. Measure Y was approved by the voters on the November 2018 ballot.
- In the City of Berkeley, there is a "Golden Duplex" exemption for those duplexes where the owners have continually occupied the building before December 31, 1979.
- In the City of East Palo Alto, duplex owners and tenants are eligible for reconciliation consultation and subject to fees.

Duplex inquiries received from the Rent Stabilization Program

Tenants and owners living in duplexes have made inquiries and contacted staff at the Rent Stabilization Program regarding tenant's rights and issues. However, because duplexes are not covered under the Tenant Protection Ordinance, staff is limited to providing general information or referrals to legal agencies with concerns regarding eviction. From 2010 to 2018, staff received inquiries from over 450 duplex tenants and owners regarding the following issues: rent increase (34%), rights and ordinance (27%), eviction (18%), and others (19%).

Figure 3: Types of Inquiries Regarding Duplexes from the Rent Stabilization Program

Inquiries	2013-14	2014-15	2015-16	2016-17	2017-18	Total	%
Rights & Ordinance	8	28	16	39	34	125	27%
Rent increase	9	12	43	63	30	157	34%
Eviction	2	8	10	21	41	82	18%
Others (Deposit, Lease Dispute, Discrimination, Code Issues)	4	11	22	33	22	92	20%
Total	23	59	91	156	127	456	100%

Source: City of San José, Rent Stabilization Program - Salesforce

The greatest concern reported from duplex tenants and owners relates to rent increases. Extending the Tenant Protection Ordinance to duplexes will not address rent increases. The proposed change will be limited to addressing concerns regarding eviction.

Owner occupied exemptions

One of the primary concerns brought up during the public outreach process concerned exemptions for owner-occupied units versus owner-occupied buildings. Duplexes are unique from other multi-dwelling properties in that owners have a much higher likelihood of occupying the apartment. During the public outreach process, there were concerns that owners are sharing the home with tenants and in the event of conflicts, the owner does not have the option to move, whereas tenants have choices and may choose to move if their living conditions are not ideal. As a result, owners expressed the importance of exempting the entire building from just cause requirements to allow owners more autonomy on the compatibility of the tenant as a neighbor that impacts the owner's quality of life.

However, there is a concern that if owner-occupied buildings are exempted from the Tenant Protection Ordinance then owners would be incentivized to claim "owner-occupancy" to be exempt from the Tenant Protection Ordinance. Research from other jurisdictions, reveals that some cities with just cause protections have provisions exempting owner occupancy. In particular, the City of Oakland previously exempted owner-occupied duplexes and triplexes from just cause protections. Staff in Oakland found that exempting the entire property allowed owners to give tenants no cause notices and raise rents to market rate. As a result, the Oakland City Council approved adding Measure Y, to the November 2018 ballot amending the Tenant Protection Ordinance to provide just cause protections to the tenants living adjacent to the owners. Oakland voters passed Measure Y removing owner-occupied exemptions. Upon its effective date, an owner who purchases a duplex or moves into the apartment may no longer serve a no-cause eviction notice to tenants living in the adjacent apartment.

When considering this policy decision, there are two options: 1) exempt the owner-occupied unit or 2) exempt the owner-occupied building (the entire duplex). Given that 30% of duplex owners occupied units they owned and there are 4,855 duplex owners, staff determined that there would be approximately 1,456 duplex apartments exempt under the owner-occupied unit exemption. If the building is exempt, then the number of exempt units of 1,456 would double to 2,912.

Figure 4: Analysis on owner occupied exemption between apartment and building

Exemption Scenario for 11,008 duplex apartments	Exempt Apartments	Eligible Apartments for TPO	% Eligible for TPO	Approx. Tenants Impacted**
Unit exemption	1,456	9,460	87%	29,326
Building exemption	2,912	8,004	73%	24,812

*Source: Santa Clara County Assessor Data – 2018

**Assumes an average 3.1 tenant household, based on the “2016 ARO Study” Economic Roundtable Study

Based on this analysis, if there is apartment unit exemption for owner occupancy, approximately 87% of duplex apartments would be eligible to the Tenant Protection Ordinance. If there is a building exemption, only 73% of duplex apartments would be eligible, reducing the potential protection from just cause by 14%. Additionally, exempting only the apartment would protect the adjacent tenant.

Limiting exemption to the owner occupied apartment

On April 24, 2018, City Council directed staff to include duplexes in Tenant Protection Ordinance. If Council approves adding duplexes to the Tenant Protection Ordinance, staff recommends limiting the owner occupancy exemption to the apartment only, not the entire building, to continue efforts to stabilize and protect the tenant. The impacts of this change may be limited because duplexes are not covered by the Apartment Rent Ordinance, so duplex owners may serve sharp rent increases to tenants resulting in displacement.

Staff Recommendation Not to Include Duplexes Under the Tenant Protection Ordinance

The research and analysis completed by staff does not support the extension of the Tenant Protection Ordinance to duplexes. Staff analyzed data gathered from duplex owner surveys and the County Assessor’s Office, to find approximately 30% of duplex owners live in their duplexes, reducing the number of apartments covered by the change to the Tenant Protection Ordinance. Many duplex owners expressed a concern about applying just cause protections to the apartment adjacent to their owner-occupied unit. Staff does not support this recommendation because it will create an incentive for owners to evict tenants using the owner move-in reason under the Tenant Protection Ordinance which will eliminate a greater number of apartments.

Additionally, the effectiveness of the Tenant Protection Ordinance is limited because duplex owners may serve sharp rent increases to tenants living in duplexes, resulting in displacement. Finally, the priority of the Rent Stabilization Program is to implement the rent registry and process the ratio utility billing petitions for the next several months.

Interaction with the Apartment Rent Ordinance

Rent stabilization programs throughout the state pair policies together due to the interdependence of the requirements. Generally, rent control provisions and just cause provisions align together to prevent displacement for tenants in a community. For example, if an apartment has just cause protections but not rent control limitations, an owner can serve a sharp rent increase to a tenant resulting in displacement while avoiding serving a no-cause notice for termination. In the reverse, a rent controlled apartment may be served a no-cause notice if it does not have just cause provisions. It is important to be aware of the interdependencies of these provisions when extending the provisions to a new group of apartments. In this case, just cause provisions are being extended to duplexes without rent control provisions. The just cause provisions may be less effective for duplexes than for apartments covered by the Apartment Rent Ordinance, which have both rent control provisions and just cause protections. Currently, the Tenant Protection Ordinance is extended to apartments built after 1979 without rent control provisions. The requirements for duplexes would be similar to apartments built after 1979. Figure 5 demonstrates cities that provide just cause protections to duplexes also extend rent stabilization to the same apartments.

Figure 5: Summary of California Rent Stabilization Programs with Just Cause Laws (2018)

<i>City</i>	<i>Duplexes are included in Just Cause Ordinance</i>	<i>Duplexes are Covered by Rent Control</i>
San José	No	No
Richmond	Yes	Yes
San Francisco	Yes	Yes
Los Angeles	Yes	Yes
West Hollywood	Yes	Yes
East Palo Alto	Yes	Yes
Oakland	Yes	Yes
Santa Monica	Yes	Yes
Berkeley	Yes	Yes
Hayward	No	No
Mountain View	No	No

Limited staff resources presents challenges to implementation

Over the past two years, the Rent Stabilization Program has implemented significant changes to the Apartment Rent Ordinance and has introduced the Tenant Protection Ordinance and the Ellis Act Ordinance. The implementation of the rent registry and the Ratio Utility Billing Systems (RUBS) petitions continue to create the greatest demand on staff resources. The Rent Stabilization Program's highest priority remains with the rent registry and responding to the over 135 Ratio Utility Billing Systems (RUBS) petitions. In order to ensure success in managing all of these program changes, team members must remain focused on implementing these critical changes to the Apartment Rent Ordinance.

Duplex owner meetings and survey results illustrate the fact that many duplex owners are not familiar with the Rent Stabilization Program or the ordinances in place. Extending the Tenant Protection Ordinance to duplex will require significant outreach and education to owners and tenants that are unaware of the Ordinance and the provisions. This new effort will pull resources from existing program implementation efforts.

II. IMMIGRATION - REQUIRED POSTING

On April 24, 2018, the Council approved a recommendation to add a provision under the Tenant Protection Ordinance prohibiting owners from harassing, intimidating, threatening, or evicting a tenant because of their immigration or citizenship status and from disclosing the immigration or citizenship status of a tenant to any immigration authority or law enforcement agency, except to comply with a legal obligation under federal law, or subpoena, warrant, or court order, in compliance with Civil Code Section 1940.35(a), Code of Civil Procedure Section 1161.4, and Penal Code Section 518-19. City Council further approved a recommendation to add to the Tenant Protection Ordinance a requirement that owners post a notice in common areas, in the three most commonly-spoken languages, to notify tenants that it is illegal for an owner to harass, intimidate, threaten, or evict a tenant because of their immigration or citizenship status. The intention of the notice is to inform tenants of rights provided under current State law where owners may not threaten, intimidate, harass, or evict based on immigration status.

Jurisdictions that require rights to be posted or given to tenants

Staff conducted research to determine if any other jurisdictions with just cause require additional public posting of tenants' rights under their local rent control and just cause ordinances. The City of Oakland requires owners for all rental units covered by the Tenant Protection Ordinance to post a notice using the required form prescribed by City staff and be posted in a common area.

Additionally, in the City of San José, the Apartment Rent Ordinance under section 17.23.050 requires each owner to post a written notice, on a form approved by the Director, of the summarizing the provisions of the Apartment Rent Ordinance in a conspicuous location within each building containing one or more Rent Stabilized Units. This requirement is similar in nature to the proposed requirement under the Tenant Protection Ordinance.

Owners concerned about possible locations for posting

During the public outreach process, duplex owners expressed concerns about requiring them to post the Tenant Protection Ordinance at their property. Typically, larger apartment buildings contain a common area in the building such as the laundry room or front desk, but in duplex complexes and some buildings, there is limited common area space. Owners provided feedback that they preferred to notify their tenants of the Tenant Protection Ordinance upon commencement of the tenancy.

Staff recommends that a notice be posted in buildings subject to the Tenant Protection Ordinance to help tenants understand their rights

Consistent with posting requirements in the Apartment Rent Ordinance, staff is recommending a requirement that owners post a notice informing tenants regarding their rights under the Tenant Protection Ordinance. The notice will include a summary of the requirements of the Tenant Protection Ordinance including prohibiting retaliation, harassment, and intimidation against tenants based upon their immigration status.

III. PROTECTIONS FOR VICTIMS OF VIOLENCE

On April 24, 2018, City Council directed Staff to:

1. Include a provision protecting victims of domestic violence by adding a provision stating that nothing in the Ordinance “*shall abrogate the protections afforded to survivors of violence consistent with California Code of Civil Procedure Section 1161.3, as amended, and the Violence Against Women Act, Public Law 103-322, as amended,*”
2. Research allowing victims who have been residing in an apartment with the tenant who is the alleged abuser a mechanism by which they can take over the lease, to the extent allowed by California law.

Based on Council direction, staff explored the option to allow victims who have been residing in an apartment to take over the lease. However, the public outreach and legal review indicated that there were concerns in providing rights to individuals who have never been approved to reside in the apartment and the owner did not consent to their occupancy. Additionally, if a survivor of domestic violence has established tenancy, that individual has rights and protections under the current Tenant Protection Ordinance. After further consideration, staff is recommending that the domestic violence survivors provisions be consistent with State and Federal Law by adding the language to the proposed Tenant Protection Ordinance consistent with #1 above.

Owners expressed concerns regarding limitations related to unapproved holdover subtenants

City Council directed staff to research the option to include a provision in the Tenant Protection Ordinance allowing victims who have been residing in an apartment with the tenant who is the alleged abuser a mechanism by which they can take over the lease, to the extent allowed by

California law. Staff explored the idea of adding an exemption for domestic violence survivor under the unapproved holdover subtenants provision of the Tenant Protection Ordinance, which would allow a survivor of domestic violence to assume a lease. The proposed provision to the Tenant Protection Ordinance was discussed at public meetings and several owners expressed concerns regarding an inability to serve a notice of termination to an unapproved holdover subtenant. If the owner did not approve the subtenant to live in the apartment initially, owners expressed concern that this provision will remove their ability to serve a notice of termination to the unapproved occupant. Although the circumstances of domestic violence may be unfortunate, owners stated they are interested in maintaining the right to remove any unapproved tenants from their apartment buildings. Additionally, owners expressed a concern that the survivor may not be able to pay the rent once the abuser leaves the apartment, resulting in a non-payment of rent termination notice. Owners stated that this provision may not provide the protections desired for domestic violence survivors due to the financial realities faced by the survivors of domestic violence.

A tenant who has established tenancy has rights under the Tenant Protection Ordinance. In the case of a domestic violence survivor, if the individual has established tenancy in the apartment, they will be protected consistent with California Code of Civil Procedure Section 1161.3, and the Violence Against Women Act, Public Law 103-322. Staff is recommending the Tenant Protection Ordinance include references to the state and federal laws protecting survivors of domestic violence.

Staff recommends including a provision stating the rights of domestic violence survivors

Survivors of violence are protected under both California law and Federal law Violence Against Women's Act from evictions based upon acts of domestic violence, sexual assault, stalking, human trafficking, and elder abuse. As owners indicated, domestic violence is difficult to define and financial burdens may continue to threaten stability of housing for domestic violence survivors. Based on public input and legal review, staff is not recommending including a provision allowing a survivor of domestic violence to take over a lease following the removal of an abuser from the apartment. However, the Tenant Protection Ordinance can help protect these survivors if they have established tenancy.

Accordingly, staff is recommending adding a provision to the Tenant Protection Ordinance that states that nothing in the Ordinance will abrogate the protections afforded to survivors of violence consistent the Civil Code Section 1161.3, as amended, and the violence against Violence Against Women Act, Public Law 103-322 as amended and require a posting to include these rights.

IV. CRIMINAL ACTIVITY

At the April 24, 2018 City Council meeting, staff was directed to research whether the Ordinance may require owners to allow a right to repossession of the apartment following a notice to vacate for criminal activity. Staff explored other cities and performed legal analysis to determine if this provision could be included in the Tenant Protection Ordinance.

New York City Housing Authority allows the return of an arrestee if drug crimes are dismissed

Staff conducted research to determine if any other jurisdictions allow an arrestee the right to repossession and return to the apartment if the crime was dismissed. While it is not a rent stabilization ordinance, and the circumstances are somewhat different, the New York City Housing Authority has a provision that allows a Felony Drug Arrestee to request to no longer be subject to prosecution and be allowed to enter the New York City Housing Authority property if:

- 1) Felony drug crime has been dismissed;
- 2) Arrestee have served the sentence of the crime; and
- 3) No further convictions for five or six years following the completion of the case.

The New York City Housing Authority allows an arrestee whose felony drug crime has been dismissed and/or served the sentence to return to the apartment.

Owners are concerned about the right to return after an apartment is re-rented

When the proposed changes to the Tenant Protection Ordinance were presented to the public, owners expressed concerns regarding the right to return to an apartment after a tenant has moved out and the unit has been re-rented, following a notice of termination based on criminal activity. Staff has considered this and is recommending a tenant may return when the following two provisions are met:

- 1) The former tenant's household remains in the apartment; and
- 2) Consent is provided by the household allowing the tenant to return.

These additional provisions allow an owner to serve a notice to vacate based on criminal activity. If the apartment is vacated by the entire household, the owner may re-rent the apartment.

Staff recommends allowing a right to repossession if charges are dismissed or reduced and family still resides in the apartment

Currently under the Tenant Protection Ordinance, the 13th just cause titled Criminal Activity allows the tenant household to cure by removing the violating tenant from the household and amend the lease to remove the violating tenant. However, if the violating tenant criminal case has been dismissed, reduced or they have been acquitted of the charges, staff recommends that the tenant be afforded the right to return to the unit if the tenant household still resides in the apartment and consents to their return. If the tenant household is no longer living in the unit, the violating tenant does not have a right to return as the tenancy has been terminated. This amendment would allow stability for the family and an opportunity for housing stability to the displaced tenant.

V. NOTICE OF TERMINATION TO REFERENCE HOMELESS PREVENTION RESOURCES

Staff is also recommending adding a requirement that the notice of termination include a statement that the notice is served in good faith and provides contact information for the Rent Stabilization Program with a reference to homeless prevention. The purpose of this notification is to provide vulnerable tenants at risk of homelessness with housing resources to find stability or housing as quickly as possible and minimize disruption to their job and family.

Jurisdictions with required referrals in conjunction with issuance of notice of termination

Staff conducted research to determine jurisdictions that require additional resources to be provided with a notice of termination.

- City of San Francisco Residential and Rent Stabilization and Arbitration Board requires a notice to the tenant to be attached to every notice to terminate tenancy. The notice is available in Spanish, Vietnamese, Chinese, Russian, and Tagalog. On the notice indicates resources from: San Francisco Rent Board, affordable housing programs and apartments, and referral to local housing resources.
- City of Oakland requires that the notice of termination to include a statement indicating that advice regarding the eviction notice is available from the Rent Board.

Over 9,000 households received a non-payment of rent notice in the first year of implementing the Tenant Protection Ordinance

The Tenant Protection Ordinance requires that a copy of all notices of termination be provided to the City's Rent Stabilization Program. The City received 9,304 notices for just cause terminations during 2017-2018. Prior to the implementation of the Tenant Protection Ordinance, the notices reported to the Rent Stabilization Program only included no-cause notices. The number of no-cause notices by fiscal year in the two years prior to passing the Tenant Protection Ordinance were 433 and 280. During this period, owners were also serving notices to vacate due to non-payment of rent. However, staff was not aware of the frequency of these notices. After the Tenant Protection Ordinance was passed, staff has learned that thousands of notices to vacate are being served each year, with over 96% of the notices for non-payment of rent. This new information is an indicator of the challenge faced by renters in San José to consistently afford the rent.

Staff recommends a reference to homeless prevention resources on all notices of terminations

The volume of non-payment of rent notices received is a concern to staff and more research is needed to better understand the outcome and impact of the notices. In the meantime, staff is working with partners to create links between households facing non-payment of rent evictions and homeless prevention programs. Many non-payment of rent notices are three-day notices to pay or quit, providing limited time for a tenant to respond. If the notice itself contains referral information to homeless prevention programs, it is more likely that the household can access the

resources necessary in a timely manner to allow them to remain in their home. Staff is recommending including a reference to available resources, including homeless prevention program information, on all notices of terminations. This will provide tenants immediately with helpful information to potentially avoiding displacement through eviction. Additionally, the notice will require a good faith statement, consistent with notices required by other jurisdictions.

EVALUATION AND FOLLOW-UP

The Tenant Protection Ordinance will have a first and second reading by the City Council. The updated ordinance will be effective 30 days following the second reading of the City Council.

POLICY ALTERNATIVES

Alternative #1: ***Require owners to serve a notice to tenants regarding their rights under the Tenant Protection Ordinance, rather than requiring a posting.***

Pros: Providing a copy of a tenant's rights at the time a tenant signs a lease is straightforward and addresses concerns about a lack of common areas for posting in duplex apartment buildings.

Cons: Providing a copy of a tenant's rights one time only will not provide information to tenants throughout a tenancy, which may extend for multiple years and may change throughout that time. As policies change, updates may not be given to tenants in real time.

Reason for not recommending: Posting information will ensure tenants have access to relevant information over time.

PUBLIC OUTREACH

Following the direction from City Council to include duplexes in the Tenant Protection Ordinance, staff conducted three community outreach meetings on August 15th, August 23rd, and August 30th focused on duplexes. A mailer was sent in August to all duplex owners informing them of the series of public meetings discussing the potential extension of just cause provisions to tenants living in duplexes. As a result of these meetings with duplex owners, staff determined additional information needed to be gathered regarding duplex owners. A survey was developed to ask questions indicating owner occupancy, total number of apartments owned, and average rents charged. The results of this survey are included in this memorandum providing additional information regarding the impacted owners of this policy. The survey was sent out in a mailer to duplex owners in September.

Additional meetings were held in November to inform the public of the proposed changes to the Tenant Protection Ordinance. The following table summarizes those meetings and **Attachment B** summarizes the public comments from these meetings. The public comments are available on the website: <http://www.sanjoseca.gov/index.aspx?nid=5591>.

Figure 6: Summary of Community Outreach Meetings for the Tenant Protection Ordinance

Date	Time	Topic	Location
November 8, 2018	5:45 PM	Proposed changes to TPO	Housing and Community Development Commission (HCDC)
November 5, 2018	6:30 PM	Proposed changes to TPO	Bascom Community Center
November 1, 2018	9:00 AM	Proposed changes to TPO	Bascom Community Center
August 30, 2018	6:30 PM	Expansion to duplexes	Bascom Community Center
August 23, 2018	1:00 PM	Expansion to duplexes	San José City Hall Wing Rooms 119-120
August 15, 2018	6:30 PM	Expansion to duplexes	Educational Park Library

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

Pursuant to Section 7.01 of the existing regulations, the proposed amendments to the Tenant Protection Ordinance were presented to the Housing and Community Development Commission (HCDC) at their regularly scheduled meeting on November 8, 2018. These reports and attachments is available at the following link: <http://www.sanjoseca.gov/index.aspx?NID=1265>

The revised recommendation from HCDC is summarized below:

- **Duplexes:** Support the recommendation to apply the Tenant Protection Ordinance duplexes. Amend the recommendation to exempt owner-occupied duplex buildings.
- **Probation Period:** Recommend to City Council to direct staff to investigate further probationary period for the effective date of the Tenant Protection Ordinance at a future date and return to HCDC for discussion.
- **Noticing of Rights:** Support the staff recommendation to serve a notice listing all the rights under the Tenant Protection Ordinance.
- **Right to Repossession Under Criminal Activity:** Approve staff recommendation to add a provision to the criminal activity cause for eviction stating if the tenant is acquitted or the criminal charges which caused termination of tenancy are dismissed, the tenant is

permitted to return to the rental unit if the tenant household still resides in the rental unit and consents to the return.

- **Victims of Violence:** Reject staff recommendation to add a provision under the unapproved holdover subtenant. HCDC recommended staff to return with additional options to City Council to protect survivors of domestic violence. Following the HCDC meeting on November 8, 2018, staff has since reconsidered and decided to include a reference to State and Federal Law protections of victims of violence.
- **Notice of Termination Resource Referral:** Support staff recommendation to include a statement in the notice that the notice is served in good faith and include a reference to the Rent Stabilization Program for referral information (including homeless prevention)
- **Duplex Fees:** Recommend to City Council to extend the Non-Rent Control fee to duplexes on a pro-rata basis for 2018-2019.

COST IMPLICATIONS

The non-rent stabilized fee (currently \$6.20 per unit annually) is established to cover the costs related to administering the Tenant Protection Ordinance. If Council approves adding duplexes to the Tenant Protection Ordinance, this fee will be extended to duplex owners concurrently with amendments to the Tenant Protection Ordinance to include duplexes. Duplex owners would be charged a pro-rata fee for 2018-2019 in the amount of \$2.65 per unit annually for a total revenue estimate of \$25,313. Budget actions recommended in this memorandum recognize and appropriate fee revenue of \$25,313 to cover Non-Personal/Equipment costs associated with the billing and outreach necessary to extend the Tenant Protection Ordinance to duplexes. Finally, the 2019-2020 Non-Rent Controlled Apartment Units Fee calculation would include duplexes.

If Council approves adding duplexes to the Tenant Protection Ordinance Tenant Protection Ordinance, staff will use vacancy savings in the program to fund temporary staffing to assist with the outreach and implementation.

BUDGET REFERENCE

If the Tenant Protection Ordinance is extended to duplexes, the table below identifies fund and the appropriations proposed to fund the associated actions recommended as part of this memorandum.

Figure 7: Fund and appropriations proposed for duplexes


Fund#	Appn.#	Appn. Name	Total Appn.	Rec. Budget Action	2018-2019 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
448	0562	Non-Personal / Equipment	\$1,287,137	\$25,313	X-70	10/16/2018, 30172
448	R120	Fees, Rates, and Charges	\$11,155,271	\$25,313	X-69	6/19/2018, 78672

CEQA

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/

JACKY MORALES-FERRAND
Director of Housing



MARGARET MCCAHAHAN
Budget Director

If the Ordinance amending Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to include Duplexes is approved, I hereby certify that there will be available for appropriation in the Multi-Source Housing Fund in the Fiscal Year 2018-2019 monies in excess of those heretofore appropriated there from, said excess being at least \$25,313.



MARGARET MCCAHAHAN
Budget Director

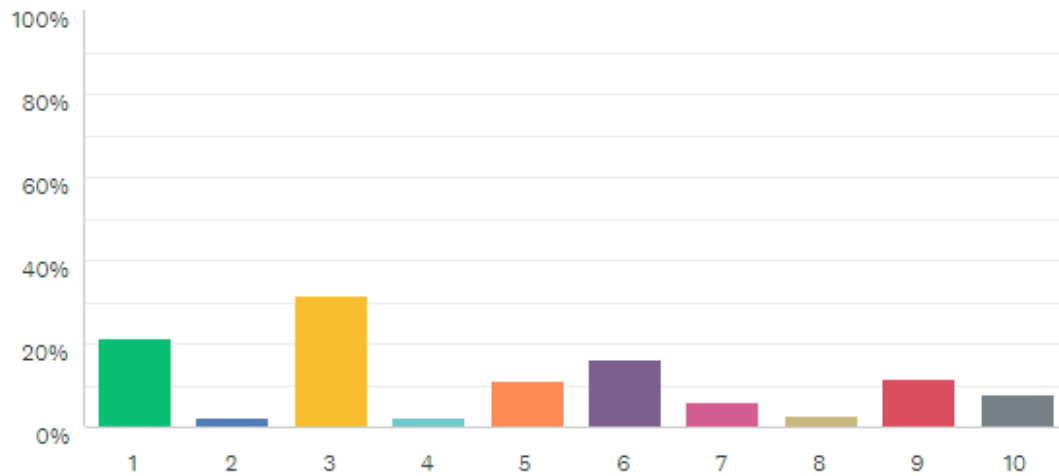
For questions, please contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.

ATTACHMENTS:

- **Attachment A** – Summary of Survey Results
- **Attachment B** – Tenant Protection Ordinance Public Comments

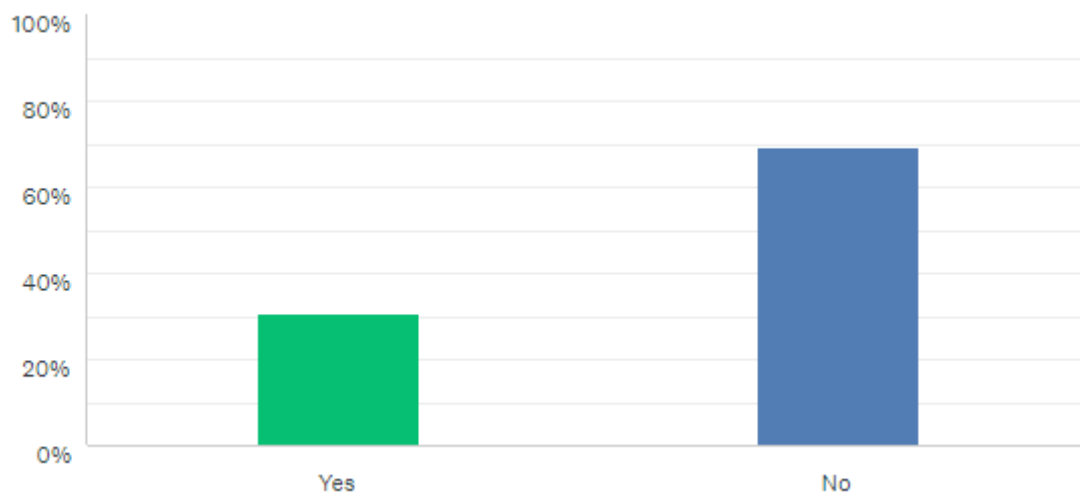
SUMMARY OF SURVEY RESULTS
Based on 225 Responses Mailed In or Submitted Online

Figure 1: Ownership of Duplexes by Council Districts



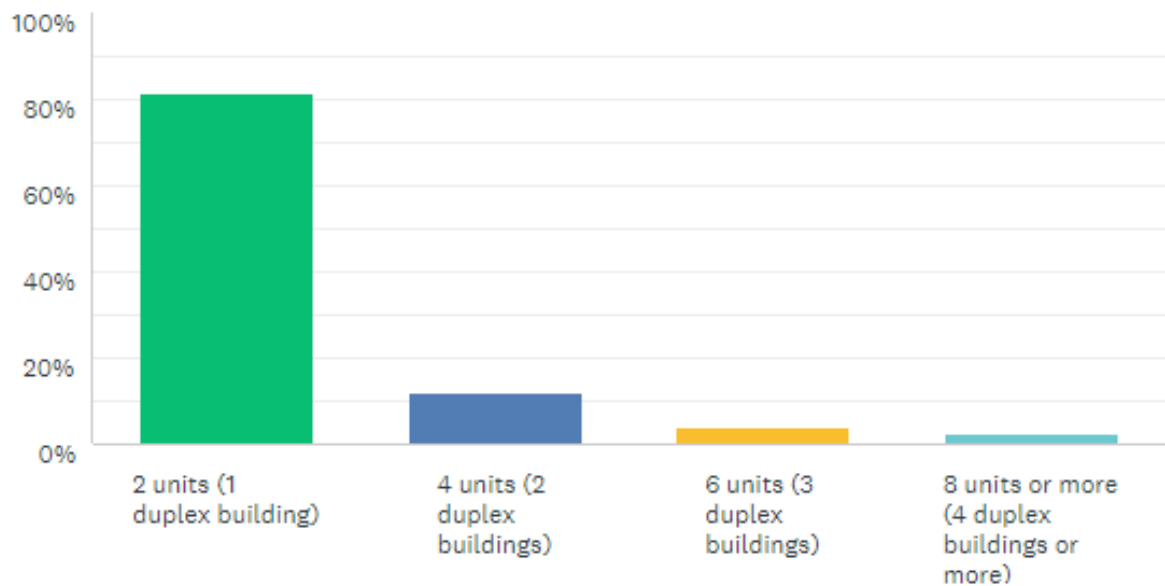
Answered: 136 Skipped: 89

Figure 2: Whether an Owner Occupies a Duplex Unit



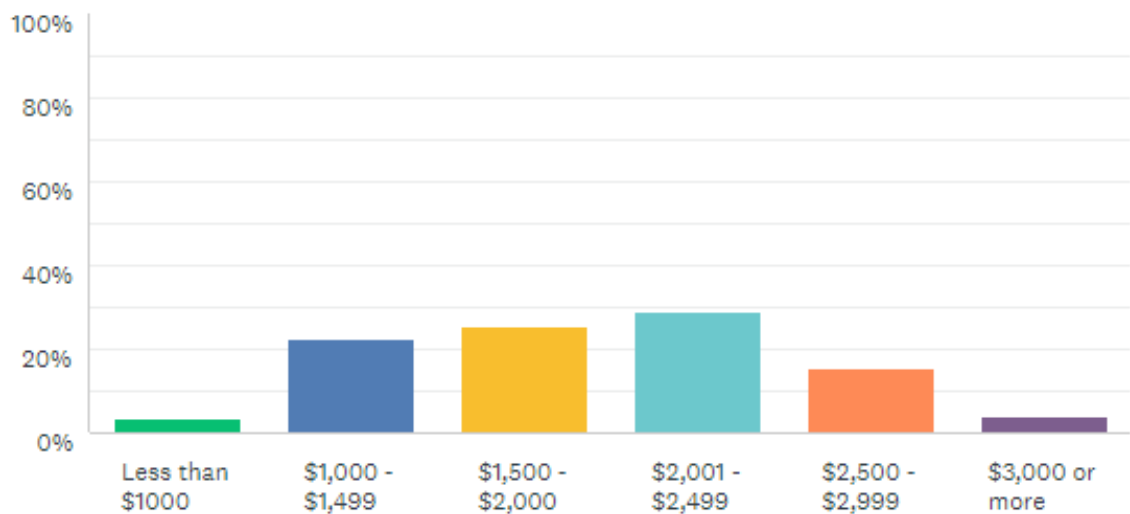
Answered: 204 Skipped: 21

Figure 3: Number of Duplex Units Owned



Answered: 220 Skipped: 5

Figure 4: Rent Levels per Unit per Month



Answered: 212 Skipped: 13

SUMMARY OF PUBLIC COMMENTS FROM COMMUNITY MEETINGS

Date	Time	Topic	Location
November 8, 2018	5:45 PM	Proposed changes to TPO	Housing and Community Development Commission (HCDC)
November 5, 2018	6:30 PM	Proposed changes to TPO	Bascom Community Center
November 1, 2018	9:00 AM	Proposed changes to TPO	Bascom Community Center
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PROPOSED CHANGES TO TENANT PROTECTION ORDINANCE

November 8, 2018 at Housing & Community Development Commission
Public Comments

1. Owners are small and don't understand the complexity of the TPO.
2. Duplex owners live in their homes, they can't just move. They don't want to fight.
3. Concerned about the right to return. Illegal tenants should not have any right to stay.
4. Do not include duplexes. Part time owners do not know about the new regulations in the TPO.
5. Small owners who are not charging unreasonable rents. Owners should have control. Regarding the right to return, it may create a grudge between a tenant and a landlord.
6. If someone is not convicted, they should be able to return home.
7. Receive hundreds of calls from tenants – the TPO is making a difference in San Jose.
8. Unauthorized Holdover Subtenant - 19.40-19.60 State law. Couldn't get rid of the tenant and his tenant because he could not afford the attorney.

PROPOSED CHANGES TO TENANT PROTECTION ORDINANCE

November 5, 2018 at Bascom Community Center
Public Comments

1. What is the difference between a Victim of Violence vs. Victim of Domestic Violence and how does each impact an unapproved holdover subtenant?
2. How can a landlord lawfully evict an unapproved holdover subtenant when the landlord doesn't recognize the subtenant and there is no written agreement?
3. If a person is evicted due to criminal activity, why does the tenant household allowed to remain in the unit? The landlord should have discretion to evict.
4. What does it mean "held to answer" for a serious felony or a violent felony? If a tenant is held to answer, how long does a landlord have to wait to evict the tenant? What about the safety of the other tenants?
5. If a tenant is held to answer, wrongly accused, and is acquitted, does the landlord have to allow the tenant to return to the apartment?
6. What is the tenant on the lease goes to jail for criminal activity, is the landlord obligated to keep the family in the unit even if the family is not listed in the lease?
7. Duplexes should not be included in the Ellis Act or the Just Cause
8. Duplexes do not have a common area so landlords cannot comply with posting of notice
9. Impact of duplex being removed from the market for a demolish and rebuild is likely to occur as most landlords do not own multiple properties or multiple properties in one location to demolish and rebuild
10. Many duplexes are located in residential areas, there are zoning codes that may not allow to rebuild a large complex. And to change the zoning codes, would be timely and costly.
11. When a landlord issues a tenant with a perform a covenant or quit, is the landlord required to notify the city?
12. When a landlord submits 3 day notices to the city, there are no response

PROPOSED CHANGES TO TENANT PROTECTION ORDINANCE

November 1, 2018 at Bascom Community Center

Public Comments

1. Tenant does not like the posted notes (ARO required note) that the landlord is required to post in the laundry room she said it does not feel welcoming. Having notices posted make her feel like she's not at home.
2. Tenant asked if we provide resources to help with tenant, landlord issues.
3. Owners feel harassed by being forced to comply with the Ordinance.
4. Is the City going to make the changes fair to the owners, we need more balanced changes.
5. Owner would like a copy of the notes for this meeting.
6. Does the City know the consequences for the owners to comply with all the regulations.
7. Owner asked when the Rent Registry is it due.
8. Owner is concerned that he will become a victim himself by enforcing the Victims of Violence Cause. He would like the City to consider the unintended consequences.
9. By forcing the landlords to comply with the regulations is it the City's intent to drive the owners out of business? If so, this is not working. The Housing Department is becoming the enemy of property owners, before the Ordinances we had no problems now we have all kinds of issues. We are disappointed with the Housing Department; we are very discouraged. Jacky should resign for allowing these changes
10. Owner is opposed to Duplex's being covered by the TPO, owners want a breakdown of how our department did the research on Duplexes.
11. Have more inspectors been hired to do more inspections? Why are we paying a fee to do our own inspections, it is not fair.
12. Has the Housing Department hired all the employees they said they were going to hire.
13. All these regulations are doing more harm than good.
14. Two duplex owners feel that amendments to the Tenant Protection Ordinance and the Ellis Act Ordinance will burden small property owners with more regulation and compliance.
15. What are the penalties associated with TPO non-compliance, such as not submitting an eviction notice to the Rent Stabilization Program?
16. Tenant names on rent registry, what standardized process is in place for tenants who refuse to have their names disclosed on the registry? Do tenants have a right to refuse?
17. Small property owners feel that amendments to the Ordinances will spike up their management costs, because they will need to hire specialist that understand the laws.
18. Just causes are biased towards the tenants
19. What type of research has the Housing Department conducted on Duplexes? Do we have a comprehensive understanding of who lives there? Have we looked at titling reports?
20. How are amendments to the Ordinances, such as adding duplexes, legal under Costa-Hawkins?
21. What does AMI stand for and how many new developments are actually underway?

EXPANSION TO DUPLEXES UNDER TENANT PROTECTION ORDINANCE

August 30, 2018 at Bascom Community Center
Public Comments

- 1) Does Housing have hard data about evictions to back its claims for the necessity of TPO coverage?
- 2) The rent registry is currently being challenged by a lawsuit. It is an administrative burden, especially for individuals without computers.
- 3) TPO will make evictions more confrontational. Landlords will fear for their personal safety if TPO is enacted on duplexes. Legal process takes too long and is expensive. It will also affect cash flow.
- 4) Relocation assistance is too expensive.
- 5) City Council will vote to support Costa Hawkins repeal. Costa Hawkins repeal will get rid of vacancy decontrol.
- 6) Landlords feel like rent-control is a way to force them to subsidize rent. They feel it contributes to the loss of housing stock.
- 7) Business licenses and permits are imposing costs on landlords unfairly.
- 8) San Jose PD doesn't respond fast enough. This exacerbates the landlord's lack of power to get rid of violent and nuisance causing tenants. (An attendee called SJPd's line to make his point).
- 9) Landlords have evicted and raised rents in response to Ordinances.
- 10) The TPO is a solution in search of a problem.
- 11) Tenants started tenancy as minors and are now 18. Do have to track their ages to follow occupancy limitation rules?
- 12) There are fears that there will be discrepancy amongst Ordinances for duplexes in the same way that occurred for Ellis.
- 13) In the past, unpermitted units were not covered by the TPO. What is the process now?
- 14) What is a guesthouse?
- 15) How many staff members will be hired to expand the program [RSP]? Staffing plan is costing tax payers \$4 million for 22 staff. The permit fees should be used differently.
- 16) Business license and fees keeps on increasing.
- 17) TPO and Ellis are unfair to landlords and only protect tenants.
- 18) There should be a survey mailed out to landlords to gain their feedback. Staff needs to compile questions for survey. Their data collection efforts come off as disingenuous.
- 19) Tenants receive free legal advice. There isn't a resource available for landlords.
- 20) Landlords feel unfairly attacked and that they are politically outnumbered. City Council's agenda does not seem friendly to their interests.
- 21) Please send mailers to owner address and not the rental property address.
- 22) Feedback sessions are not being objectively reported and are affected by cherry-picking. Landlords want to know that their feedback is being considered (and want a response). What will staff report back to Council?
- 23) TP is not in the interest of tenants.

- 24) The attendees held and impromptu vote and voted against TPO and Ellis expansion to duplexes 21-0.
 - 25) The mailer for the meeting was received after the 1st meeting.
 - 26) What does held to answer mean? How can landlords access charges and case information?
 - 27) How can I evict for drug usage or sale if it's only a misdemeanor.
 - 28) If a crime is committed outside the 1000ft from premises limit, I can't evict the tenant?
 - 29) Do we have to terminate current leases and draw up new ones to protect ourselves now?
 - 30) Affordability is an issue because neighboring cities aren't building enough housing. Concerns about property values are driving down property values. If the issue is regional, why do the landlords of San Jose have to be the ones to take on the burden or rent control and TPO?
 - 31) Lender is not giving accommodating interest rate on home loans.
 - 32) TPO for duplexes will lead to administrative burdens and legal costs, and force landlords to raise rents. Owners will have to invest or buy outside of San Jose.
 - 33) No cause evictions won't be served regularly unless there is a change in ownership.
 - 34) TPO will reward bad behavior of tenants.
 - 35) What transpired at 4/24/2018 City Council meeting?
 - 36) If Council is already leaning towards TPO and Ellis for duplexes, why are they still gathering information?
 - 37) I served a no cause notice to tenants for growing marijuana and received positive feedback from my tenants.
 - 38) Can we have this type of meeting again with a City Council Member present.
 - 39) What is the time frame for reporting this information back to Council?
 - 40) When would relocation assistance have to be paid?
 - 41) Can you give some examples of quick evictions?
 - 42) Under TPO, tenants can stall and vandalize the property.
 - 43) How can we get the number for legal services?
-

EXPANSION TO DUPLEXES UNDER TENANT PROTECTION ORDINANCE

August 23, 2018 at San Jose City Hall Wing Rooms 119-120

Public Comments

- 1) What is the duplex fee?
- 2) Duplex landlords are already charging low rents.
- 3) Further regulation will penalize good landlords.
- 4) How many duplexes exist in San Jose?
- 5) Why are duplexes being considered for TPO and Ellis?
- 6) What kind of data about duplexes did Housing receive from the County?
- 7) Adding duplexes to TPO and Ellis is the beginning of a slippery slope. Soon single family homes will be subject to rent control and other ordinances.
- 8) Has the department received complaints about duplex owners evicting without cause? What are the statistics for these complaints? What percentage of complaints are from duplexes?
- 9) Most duplex owners are mom and pop and have a personal relationship with their tenants. Rent control will force them to raise rents. Many use duplexes as retirement income and live paycheck to paycheck.

EXPANSION TO DUPLEXES UNDER TENANT PROTECTION ORDINANCE

August 15, 2018 at Educational Park Library

Public Comments

1. What are these Ordinances?
 2. Why were duplex selected and not other properties?
 3. Who should we contact at council and/or at the City to not have this approved?
 4. We never wanted to remove our property from the rental market but will if these laws pass.
 5. We purchased our duplex to rent so we can live in one unit and rent out the other because it is what we can afford. We prefer to have a good long-term renter and these laws won't help.
 6. These laws will cause the exact opposite objective and may decrease units rented in the market.
 7. How were the relocation benefits determined.
 8. Noticing 120 days is a lot of advance requirement.
 9. Will re-control really help?
 10. We are following the State renter laws, will this additional layer of laws really help?
-

Nguyen, Viviane

From: Alex H <[REDACTED]>
Sent: Friday, August 24, 2018 11:35 AM
To: RSP
Subject: San Jose Duplexes

To Whom It May Concern,

Having been a tenant longer than I have been a homeowner, I am writing today to urge the city to exclude duplexes from the Apartment Rent Ordinance since these types of homes provide one of the rare market entry points for renters to transition to home ownership.

The market entry point for renters to transition to home ownership is already extremely challenging and for those that want to own their own home someday, duplexes are one of the few viable solutions. Duplexes help renters transition to home ownership because potential rent collected from the extra unit are calculated as income in their loans, allowing those with less cash to receive a better loan. By restricting the rent on duplexes, it will diminish the already slim opportunities for people to transition to home ownership.

Rent control laws should consider how it can indirectly restrict the financial mobility of renters it seeks to protect. In the case of duplexes, I strongly urge the city to continue to exclude them.

Best Regards,

Alexandra Harris

Nguyen, Viviane

From: FRANK HARRIS <f[REDACTED]>
Sent: Monday, August 27, 2018 12:07 PM
To: RSP
Subject: San Jose Duplexes

We resent that after 40 years of successfully managing our duplexes, the City now thinks it has to step in with all kinds of management stipulations, fees, taxes, etc. Our properties are our main source of income. Obviously, if our tenants are not happy, it is not in our best interest. Asking landlords to submit notices to vacate to the Rent Stabilization Program is ridiculous! Should the City really be taking over the rental business? This seems like an expansion of government that taxpayers should not have to support.

Frank and Marcia Harris

[REDACTED]

Extending Ordinances to DUPLEXES

James Walsh 

Sat 8/18/2018 12:52 AM

To: RSP <RSP@sanjoseca.gov>;

 1 attachments (301 KB)

Addresses.jpg;

Hi, Staff
SJ Housing Department
Rent Stabilization Program

I'm the "Pop" half of a Mom-and-Pop DUPLEX ownership, our only rental property. I am in my 80s with limited driving. Thus, I will miss the meeting you invited me to.

Instead, I'll be brief in writing the information you asked me to share with you. Here it comes.

Please recommend NOT adding duplexes to those SJ rentals already required to file forms/comply with SJ ordinances --Ellis Act and TPO. Your ordinance-supporting "simple" forms, currently online, demonstrate that they already are beyond mom's and my tech skills. We would need to start hiring and paying for professional help, a burden to us at this stage of life --perhaps an upcoming expense to the tenants as well.

Background: We purchased our one duplex in our middle age, intended for retirement security. The mortgage interest rate was 13% then (1983), later refinanced to 9%. We subsidized the mortgage (and the rents) from my solo family (teaching) income. We held on to the building by curtailing new clothing, nutrition, and outings for us and our children.

Over these decades, we have fulfilled all ongoing obligations to the DUPLEX tenants and to the City of San Jose. The DUPLEX tenants are secure in long-term occupancy as they choose. One family is in 6th year. Other in 14th. They benefit from below market rents, immediate repairs, and stable, proactive management --mom and pop! As well, no police, fire, or social service professionals have ever been needed at the DUPLEX during my personal management. I've prompted tenants to vote for the SJ parcel taxes (most of which advance education) which elevate the DUPLEX property tax.

Let me broaden the context so it might better assist your recommendation to the City Council. There are 7 duplex buildings on the block where mom and I own one. Over my 35 years of personally managing ours, I've made myself acquainted with most of the other DUPLEX owners, past and present. To my knowledge, all but one have been the mom-and-pop types. Several of these one-building owners have lived in their duplex. Doing so, they have served their tenants even better and more promptly than have I.

Conclusion: Duplexes (largely mom and pop) should not be added to extended bureaucratic requirements. Not required. Counter productive. An unnecessary, additional burden to your current load of staff functions.

In my case, please allow me to play out my final quarter under the established rules of the game. I'm doing my very best. The DUPLEX tenants are doing their very best. Your "NO" Duplex recommendation to the City Council would help preserve what's been real good, real long.

Respectfully,
James Walsh

P.S. Do let me know who up the food chain sees this. How is input such as mine included within the Staff mix going forward? jw

Attached: address info.

Duplex

John Higaki <higakij@yahoo.com>

Tue 8/21/2018 4:52 PM

To: RSP <RSP@sanjoseca.gov>;

We are against the new ordinance. This ordinance makes it tough to be an individual owner of a duplex, we should sell out to an large company that will have the resources to fight city hall.

This ordinance does nothing to increase the number of rental units, nor does it address the imbalance in the pay that is the driving force in creating city council and mayor to pick on individual landlords.

I see that Google is planning a huge complex that the city council and mayor welcomes with open arms, yet this means that up to 20,000 more people will live in the greater San Jose area, which means that the cost of rentals should go up, so we (the individual landlords) can benefit from this increase in the population. The City wants the increase in tax money from the new buildings but does not want the individual landlord to benefit from the same increase in the population. What happened to fairness?

BTY we happen to be seniors (ages 79 and 73), I don't think that the City should be picking on Seniors.

John and Keiko Higaki

Rent Stabilization Program

IDC 

Tue 8/21/2018 8:43 PM

To: RSP <RSP@sanjoseca.gov>;

Property Owner or Social Service Surrogates

All Landlords are now being used as social service surrogates to satisfy the City of San Jose's socialist agenda!

1. Everyone knows that the expense ratio of Duplexes at 25% is much higher than those of apartment complexes at 8% and cannot be treated the same.
2. Utility increases, in addition to demanding that Landlords pay for tenant's garbage and collect those fees with the tax bill is an over-reach of authority.
3. Wage, maintenance and construction cost increases will force landlords of all sizes to become slumlords.
4. Socialist ideas at the expense of others may give a false sense of accomplishment; however, it is like a virus that left unchecked, eventually kills the host.

Landlords are not the bad guys, they did not cause the housing crisis. Eliminating unnecessary costly regulations and fees can substantially increase the number of units to be developed in the city.

Best,

Rod Farsai, Esq.



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San Jose Duplex Rent Control Letter

Scott Grasmoen [REDACTED]

Thu 8/23/2018 11:32 PM

To: RSP <RSP@sanjoseca.gov>;

Dear San Jose City Council

Historically speaking, we have benefited greatly as a country from the free market economic system of the last 100 years. We consume more and have cheaper prices while also reaping the benefits of mass technological advances. While those countries that have followed a centrally controlled system with the doctrine of Marx such as China, Russia, Cuba and recently Venezuela have experienced economic shortages....food, consumer products and housing.

Enacting rent control does not create rent stability, it creates shortages. The solutions is to get out of the free market's way and allow them to create more housing. It is your job to amend the archaic zoning ordinances to meet the demand for housing in 2018 and beyond. Secondly, the building codes should also pass a litmus test of diminishing returns, thus keeping the benefits to cost ratios in line.

Yes, government has a role in a free market system but that role is not to shackle progress. Nothing has solved the worlds problems better than free markets. Over 400 million Chinese have been lifted from poverty in the last 20 years, they learned their lesson. History is a great teacher, we have been blessed as a country, please learn from other's failures in what not to do.....we all lose with emotionally driven economic decisions.

Regards

Scott Grasmoen
Pepperdine University (88')
Economics
Santa Clara Realty
[REDACTED]

Duplex Owners

Antonina Ettare [REDACTED]

Mon 10/8/2018 11:44 PM

To: RSP <RSP@sanjoseca.gov>;

I am an owner of a duplex that I built around 2004. It was very difficult to have my plans put through the Building Department at that time. The Building Department DID NOT RECOMMEND the construction of my unit. This is probably one of the reasons these types of units weren't built. The difficulties in getting building plans through the Building Department is also probably the reason we are in short supply.

I live in one unit and rent the unit I had built. This is my plan to supplement my income. Currently the income is used to stay in the valley now that I am retired. Another purpose of this unit may be to house a care giver if needed in my future.

Please don't put Ellis Act burden due to a tight rental market on the owners of these duplexes. Please don't put the burden on the ADUs either as we are the ones to add the infill of housing the City should have been doing.

I support high-density housing for mid and low income residents. I do not support applying the Ellis Act Ordinance on duplexes and ADUs.

Respectfully,
Antonina
N. 2nd Street

Duplexes (proposed Tenant Protection Act and Ellis Act Ordinances)

Wed 10/3/2018 10:07 AM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>;

Cc: Wright, Sara <sara.wright@sanjoseca.gov>;

Dear Mayor and Council Members,

On August 23rd I attended a workshop regarding San Jose Duplexes where it was shared that "the City Council wants your input on extending city ordinances to Duplexes". It's my understanding that the City is considering including Duplexes under the Tenant Protection Ordinance and the Ellis Act Ordinance. No one attending the workshop expressed support for these changes. Here's my input.

This change would have unintended negative consequences for renters. If the objective is to drive all the long-term duplex owners out of the market, this is a good approach. However, if the objective is to keep rents low do not approve these ordinances for duplexes. As a duplex owner in San Jose for the last 32 years, I am able to keep rent costs substantially lower than corporations or newer owners (due to lower taxes and no mortgage). My current tenants have both lived in my duplex for over 7 years on a month-to-month rental agreement. San Jose is trying to outlaw month-to-month rental agreements! No competent landlord would ask a good tenant to move. No reason should be necessary to ask a tenant to vacate. The balance of power is equal. If the City of San Jose wants to get into the duplex rental business, buy some properties and contract with them as you see fit, but don't get in the middle of a private property owner and their tenants!

My current tenants are each paying \$8400/yr. below market rent. Yet, the City of San Jose thinks it's a good idea for the landlords to pay the tenant to relocate over \$10,000!? If that were the case, why would I keep rents low? I've already provided my tenants with a subsidy of over \$40,000 each over the last 5 years! It appears that my best move if the Council approves this measure is to either 1) Increase the rent to the market rates or 2) Sell the duplex and move the funds to a city that appreciates my investment. Therefore, the purchaser of my duplex (paying top dollar) will need to charge the highest rent possible to afford their new mortgage. Also, the new owner will want to move into one side of the duplex displacing one of the renters. So again, what is the objective of these ordinances?

Asking good renters to move is not a strategy of current duplex owners and is not a problem in the City of San Jose. These new ordinances are not needed for duplexes. The only way to solve the housing problem is through the supply, so approve more residential building permits faster! Thanks.

Dave Baldwin
Duplex Owner since 1985

cc: Sara Wright, Housing Department

Oppose New Rent Stabilization restrictions on Duplexes

Dave Klensk

Fri 8/31/2018 5:04 PM

To: RSP <RSP@sanjoseca.gov>;

I'm writing to oppose your proposed rent stabilization restrictions on duplexes, including the TPO and Ellis Act ordinance.

I own one residential rental property, which is a duplex in San Jose. This was purchased for long term goals of generating income to pay for it, and someday housing my father-in-law when he can no longer live alone and my son with severe learning disabilities, who would not be able to live in the area without financial assistance. I saved as much money as I could to purchase in San Jose specifically because there were not governmental restrictions and we were free to charge market rents to pay for much needed upkeep, maintenance and mortgage payments.

Since that time, the City of San Jose has blamed the housing crisis on landlords such as myself. You have vilified the 'greedy corporations' who are raising rents and displacing residents. What you have and continue to fail to realize is what all students learn in Econ 101- supply, demand and pricing curves. If the City of San Jose were truly interested in solving the housing crisis, you would do everything possible to increase supply. The current high prices come from the incredible demand of individuals and families wanting to take advantage of the South Bay jobs, environment and diversity. If supply increases, prices naturally drop. By trying to create burdens on landlords, you increase the cost of doing business, create disincentive to invest and pay taxes to your city, and hurt the very residents you are apparently trying to help.

I have always found that a happy tenant is a good tenant. I treat my tenants with fairness and respect, with the expectation they will treat my investment with respect. They will notify me of problems, I will fix and update things as I am able. My tenants typically stay for years, and it is always to my benefit to create incentives for them to do so. Vacancies do not help my bottom line. However, if a situation arises where I need to take action, your proposed governmental restrictions will add significant cost and zero value.

I do not have a magic bucket of money that gets used to pay for things getting pushed onto landlords. Last year, you made me become a business in San Jose, paying a fee for my duplex (as an aside, you immediately sold my contact information and I have been barraged by telemarketing calls trying to sell me things and wasting my time- thank you for that). I had to pass on those costs to my tenants' leases. And I made clear to them, that this was not 'Mr. Greedy Landlord' raising their rents, that this was passing through new taxes imposed on me by the City of San Jose. All rents I receive from my tenants fund all costs, expenses, upgrades and repairs of the duplex. None of them flow back to me personally. And the more costs and complexity you impose on me the worse it will get for tenants. And that's a shame, as the people who rent my duplex are hard working, taxpaying individuals (a family with high school kids, and a single mom with two daughters struggling to make ends meet) and they deserve better!

While your flier claims that "duplexes will continue to not be rent stabilized," I have heard that before.. And the City of San Jose continues to push to increase control and bureaucracy. What it may be an accurate statement today, I would be a fool to believe that you will not subject my property to future rent control restrictions rather than solve the supply problem which plagues all types of housing in the Bay Area. And going back to my Econ 101 example, students learn that any type of rent control is bad for tenants, the very people that are apparently trying to be helped.

In summary, I **OPPOSE** any further restrictions on Duplexes and ask that you let me operate my duplex as a responsible landlord. I strongly urge you to FIX THE HOUSING SUPPLY problem. If you do that, you will not need to worry about the rest as the market will function in a stable, predictable way.

Respectfully,
Dave Klenske
Owner, San Jose Duplex

Response to Survey Assessment for Duplex Owners in San Jose

Senter Property [REDACTED]

Thu 9/6/2018 3:09 PM

To: RSP <RSP@sanjoseca.gov>;

Cc: Senter Property <goodpricetorent@gmail.com>;

 1 attachments (173 KB)

RE Survey Assessment for Duplex Owners in San Jose Sept 6 2018.pdf;

Date September 6, 2018

Dear RSP,

I wish that the city council will not take action to include duplexes under the Rent Stabilization Program ordinances, including Ellis Act Ordinance, Tenant Protection ordinance. Putting duplexes in the rent control hurts tenants, landlords and neighborhoods more than it helps them.

Below is my input on the effects if duplexes being subject to the Tenant Protection Ordinance and Ellis Act Ordinance.

Here's how rent control for duplexes is risky for tenants and neighborhoods:

1. Since landlords can't charge the market rate and 13 just causes for rent-controlled properties, they stand to lose money. In most cases, landlords will remove their properties from the rental market. The housing supply dwindles as a result.
2. My tenants pay below market rent. Since the San Jose city will consider duplexes under the tenant protection ordinance and the Ellis Act Ordinance, I will raise the substantial rent tomorrow to bring the rent to market rate.
3. Tenants can end up paying rent higher than the market rate. Since rent control decreases the supply of open apartments, the demand becomes higher—driving prices up for everyone else.
4. With a limited budget for repairs and upgrades, landlords are less motivated to keep buildings in good condition.
5. If tenant's life circumstances change and consider moving, tenant will find it hard to get a similar deal on an apartment elsewhere.
6. Property values tend to drop in rent-controlled areas, and so do property taxes. This decrease will hurt communities in San Jose that rely on property tax revenue.
7. The conclusion seems to be that rent stabilization doesn't do a good job of protecting its intended beneficiaries—poor or vulnerable renters—because the targeting of the benefits is very haphazard. A study of rent stabilization in Cambridge, for example, concluded that “the poor, the elderly, and families—the three major groups targeted for benefits of rent control—were no more likely to be found in controlled than uncontrolled units.” And, those in uncontrolled units tend to pay higher rents, so they hurt by rent control.
8. Given the current research, there seems to be little one can say in favor of rent control. What, then, should be done to help renters obtain affordable, decent housing? A better approach is to adopt policies that encourage the production of more diverse types of housing (different densities, tenure types, unit sizes, etc.), implementing strong regulations and practices to ensure housing quality and to protect tenants from abuses; and providing targeted, direct subsidies to people who need help paying their rents.

Attached is the completed Survey Assessment for Duplex Owners in San Jose.

Thank you,

Jenny Suwan

Rent Stabilization Program

John

Fri 8/31/2018 8:00 PM

To: District9 <district9@sanjoseca.gov>;

Cc: RSP <RSP@sanjoseca.gov>;

Councilman Rocha,

I attended the informational meeting held last night at the Bascom Community Center regarding the extension of city ordinances to duplexes. Unfortunately, my notification of these three scheduled meetings arrived too late to attend the first two. I did enjoy meeting people from my community that do what I do, that is provide housing for our fellow citizens. My foray into home ownership was made possible because of my duplex. I was able to qualify for the loan because I could include the rental income, and I could reduce my taxable income with the use of the depreciation deduction. I also had a lot more responsibility added to my 60 hour a week small business owner schedule. I found out quickly that being a landlord means you are on call 24/7. I am not complaining - just explaining.

Being an owner occupied duplex owner means that you are very intimate with your tenant, in fact I refer to my tenant as my neighbor in all discussion. You share the same driveway, the same walkway, the same floor and roof. You become friends. Our neighbor (tenant) has lived next door to us since 2002. We are both comfortable. That means we respect each other and the voluntary relationship we have nurtured through the years. Of course, we have kept rent increases to a minimum for them. For our neighborhood, they are \$800/mo. below market at minimum. At this time I would also like to mention my mother has a four-plex in Campbell whose occupants have all lived there between 10 - 20 years. Her tenants are also close to \$900/mo. below market. I add this because the narrative is that landlords are bad/greedy people. Not true! We use our efforts and savings to provide a place for our fellow citizens to call home.

Your efforts to include duplexes in the city ordinances will damage the relationships many landlords have with their tenants, especially the owner occupied duplexes. There was a raising of hands at the meeting last night of how many in the room had the same tenant for more than 10 years. More than half raised their hands. This is real world rent stabilization! There were many owner occupied in attendance. I urge the council to reconsider this policy change. You will drive a wedge between many successful voluntary relationships which exist in our rental market place. Thank you for your time and consideration.

Sincerely,
John Fiebich

Duplex feedback - Ellis Act

Murgesh Navar



Wed 10/10/2018 4:38 AM

To: RSP <RSP@sanjoseca.gov>;

Hello,

I own a duplex in the 95126 zip code. Extending the Ellis act to smaller landlord's will introduced friction in tenant:landlord relationships. Small landlords will become unreasonably risk averse and many residents deserving of a chance to prove their reliability as good tenants will now not be given that opportunity. In the current market, there is a good supply of highly paid professionals looking to rent on 1-2 year terms. These are unlikely to need the proposed Ellis act protections. Landlords will seek them out at the expense of more vulnerable populations.

-murgesh

Nguyen, Viviane

From: Scott Grasmoen [REDACTED]
Sent: Monday, October 29, 2018 4:41 PM
To: RSP
Subject: Survey Assessment for Duplex Owner in San Jose

Dear Housing Department

I received your second mailing asking me to participate in your survey concerning the Ellis Act and rent control. The questions that you're asking are simply none of the business of a government agency. We all enjoy a certain amount of privacy and less government intrusion is the foundation of private property rights. Rent control in the last 40 years has been destructive to the housing supply and created a **"failure to launch"** by those who live under it.

Scott Grasmoen

Nguyen, Viviane

From: Alex H [REDACTED]
Sent: Friday, August 24, 2018 11:35 AM
To: RSP
Subject: San Jose Duplexes

To Whom It May Concern,

Having been a tenant longer than I have been a homeowner, I am writing today to urge the city to exclude duplexes from the Apartment Rent Ordinance since these types of homes provide one of the rare market entry points for renters to transition to home ownership.

The market entry point for renters to transition to home ownership is already extremely challenging and for those that want to own their own home someday, duplexes are one of the few viable solutions. Duplexes help renters transition to home ownership because potential rent collected from the extra unit are calculated as income in their loans, allowing those with less cash to receive a better loan. By restricting the rent on duplexes, it will diminish the already slim opportunities for people to transition to home ownership.

Rent control laws should consider how it can indirectly restrict the financial mobility of renters it seeks to protect. In the case of duplexes, I strongly urge the city to continue to exclude them.

Best Regards,

Alexandra Harris

Duplex Owners

Antonina Ettare [REDACTED]

Mon 10/8/2018 11:44 PM

To: RSP <RSP@sanjoseca.gov>;

I am an owner of a duplex that I built around 2004. It was very difficult to have my plans put through the Building Department at that time. The Building Department DID NOT RECOMMEND the construction of my unit. This is probably one of the reasons these types of units weren't built. The difficulties in getting building plans through the Building Department is also probably the reason we are in short supply.

I live in one unit and rent the unit I had built. This is my plan to supplement my income. Currently the income is used to stay in the valley now that I am retired. Another purpose of this unit may be to house a care giver if needed in my future.

Please don't put Ellis Act burden due to a tight rental market on the owners of these duplexes. Please don't put the burden on the ADUs either as we are the ones to add the infill of housing the City should have been doing.

I support high-density housing for mid and low income residents. I do not support applying the Ellis Act Ordinance on duplexes and ADUs.

Respectfully,
Antonina
N. 2nd Street

Duplexes (proposed Tenant Protection Act and Ellis Act Ordinances)

Wed 10/3/2018 10:07 AM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>;

Cc: Wright, Sara <sara.wright@sanjoseca.gov>;

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This change would have unintended negative consequences for renters. If the objective is to drive all the long-term duplex owners out of the market, this is a good approach. However, if the objective is to keep rents low do not approve these ordinances for duplexes. As a duplex owner in San Jose for the last 32 years, I am able to keep rent costs substantially lower than corporations or newer owners (due to lower taxes and no mortgage). My current tenants have both lived in my duplex for over 7 years on a month-to-month rental agreement. San Jose is trying to outlaw month-to-month rental agreements! No competent landlord would ask a good tenant to move. No reason should be necessary to ask a tenant to vacate. The balance of power is equal. If the City of San Jose wants to get into the duplex rental business, buy some properties and contract with them as you see fit, but don't get in the middle of a private property owner and their tenants!

My current tenants are each paying \$8400/yr. below market rent. Yet, the City of San Jose thinks it's a good idea for the landlords to pay the tenant to relocate over \$10,000!? If that were the case, why would I keep rents low? I've already provided my tenants with a subsidy of over \$40,000 each over the last 5 years! It appears that my best move if the Council approves this measure is to either 1) Increase the rent to the market rates or 2) Sell the duplex and move the funds to a city that appreciates my investment. Therefore, the purchaser of my duplex (paying top dollar) will need to charge the highest rent possible to afford their new mortgage. Also, the new owner will want to move into one side of the duplex displacing one of the renters. So again, what is the objective of these ordinances?

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Duplex Owner since 1985

cc: Sara Wright, Housing Department

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Respectfully,
Dave Klenske
Owner, San Jose Duplex

Nguyen, Viviane

From: FRANK HARRIS [REDACTED]
Sent: Monday, August 27, 2018 12:07 PM
To: RSP
Subject: San Jose Duplexes

We resent that after 40 years of successfully managing our duplexes, the City now thinks it has to step in with all kinds of management stipulations, fees, taxes, etc. Our properties are our main source of income. Obviously, if our tenants are not happy, it is not in our best interest. Asking landlords to submit notices to vacate to the Rent Stabilization Program is ridiculous! Should the City really be taking over the rental business? This seems like an expansion of government that taxpayers should not have to support.

Frank and Marcia Harris

[REDACTED]

Extending Ordinances to DUPLEXES

James Walsh

Sat 8/18/2018 12:52 AM

To: RSP <RSP@sanjoseca.gov>;

📎 1 attachments (301 KB)

Addresses.jpg;

Hi, Staff
SJ Housing Department
Rent Stabilization Program

I'm the "Pop" half of a Mom-and-Pop DUPLEX ownership, our only rental property. I am in my 80s with limited driving. Thus, I will miss the meeting you invited me to.

Instead, I'll be brief in writing the information you asked me to share with you. Here it comes.

Please recommend NOT adding duplexes to those SJ rentals already required to file forms/comply with SJ ordinances --Ellis Act and TPO. Your ordinance-supporting "simple" forms, currently online, demonstrate that they already are beyond mom's and my tech skills. We would need to start hiring and paying for professional help, a burden to us at this stage of life --perhaps an upcoming expense to the tenants as well.

Background: We purchased our one duplex in our middle age, intended for retirement security. The mortgage interest rate was 13% then (1983), later refinanced to 9%. We subsidized the mortgage (and the rents) from my solo family (teaching) income. We held on to the building by curtailing new clothing, nutrition, and outings for us and our children.

Over these decades, we have fulfilled all ongoing obligations to the DUPLEX tenants and to the City of San Jose. The DUPLEX tenants are secure in long-term occupancy as they choose. One family is in 6th year. Other in 14th. They benefit from below market rents, immediate repairs, and stable, proactive management --mom and pop! As well, no police, fire, or social service professionals have ever been needed at the DUPLEX during my personal management. I've prompted tenants to vote for the SJ parcel taxes (most of which advance education) which elevate the DUPLEX property tax.

Let me broaden the context so it might better assist your recommendation to the City Council. There are 7 duplex buildings on the block where mom and I own one. Over my 35 years of personally managing ours, I've made myself acquainted with most of the other DUPLEX owners, past and present. To my knowledge, all but one have been the mom-and-pop types. Several of these one-building owners have lived in their duplex. Doing so, they have served their tenants even better and more promptly than have I.

Conclusion: Duplexes (largely mom and pop) should not be added to extended bureaucratic requirements. Not required. Counter productive. An unnecessary, additional burden to your current load of staff functions.

In my case, please allow me to play out my final quarter under the established rules of the game. I'm doing my very best. The DUPLEX tenants are doing their very best. Your "NO" Duplex recommendation to the City Council would help preserve what's been real good, real long.

Respectfully,
James Walsh

P.S. Do let me know who up the food chain sees this. How is input such as mine included within the Staff mix going forward? jw

Attached: address info.

Response to Survey Assessment for Duplex Owners in San Jose

Senter Property <goodpricetorent@gmail.com>

Thu 9/6/2018 3:09 PM

To: RSP <RSP@sanjoseca.gov>;

Cc: Senter Property [REDACTED]

 1 attachments (173 KB)

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Date September 6, 2018

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Attached is the completed Survey Assessment for Duplex Owners in San Jose.

Thank you,

Jenny Suwan

Duplex

John Higaki 

Tue 8/21/2018 4:52 PM

To: RSP <RSP@sanjoseca.gov>;

We are against the new ordinance. This ordinance makes it tough to be an individual owner of a duplex, we should sell out to an large company that will have the resources to fight city hall.

This ordinance does nothing to increase the number of rental units, nor does it address the imbalance in the pay that is the driving force in creating city council and mayor to pick on individual landlords.

I see that Google is planning a huge complex that the city council and mayor welcomes with open arms, yet this means that up to 20,000 more people will live in the greater San Jose area, which means that the cost of rentals should go up, so we (the individual landlords) can benefit from this increase in the population. The City wants the increase in tax money from the new buildings but does not want the individual landlord to benefit from the same increase in the population. What happened to fairness?

BTY we happen to be seniors (ages 79 and 73), I don't think that the City should be picking on Seniors.

John and Keiko Higaki

Rent Stabilization Program

John [REDACTED]

Fri 8/31/2018 8:00 PM

To: District9 <district9@sanjoseca.gov>;

Cc: RSP <RSP@sanjoseca.gov>;

Councilman Rocha,

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John Fiebich

Duplex feedback - Ellis Act

Murgesh Navar [REDACTED]

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-murgesh

Rent Stabilization Program

IDC [REDACTED]

Tue 8/21/2018 8:43 PM

To: RSP <RSP@sanjoseca.gov>;

Property Owner or Social Service Surrogates

All Landlords are now being used as social service surrogates to satisfy the City of San Jose's socialist agenda!

1. Everyone knows that the expense ratio of Duplexes at 25% is much higher than those of apartment complexes at 8% and cannot be treated the same.
2. Utility increases, in addition to demanding that Landlords pay for tenant's garbage and collect those fees with the tax bill is an over-reach of authority.
3. Wage, maintenance and construction cost increases will force landlords of all sizes to become slumlords.
4. Socialist ideas at the expense of others may give a false sense of accomplishment; however, it is like a virus that left unchecked, eventually kills the host.

Landlords are not the bad guys, they did not cause the housing crisis. Eliminating unnecessary costly regulations and fees can substantially increase the number of units to be developed in the city.

Best,

Rod Farsai, Esq.

[REDACTED]

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San Jose Duplex Rent Control Letter

Scott Grasmoen [REDACTED]

Thu 8/23/2018 11:32 PM

To: RSP <RSP@sanjoseca.gov>;

Dear San Jose City Council

Historically speaking, we have benefited greatly as a country from the free market economic system of the last 100 years. We consume more and have cheaper prices while also reaping the benefits of mass technological advances. While those countries that have followed a centrally controlled system with the doctrine of Marx such as China, Russia, Cuba and recently Venezuela have experienced economic shortages....food, consumer products and housing.

Enacting rent control does not create rent stability, it creates shortages. The solutions is to get out of the free market's way and allow them to create more housing. It is your job to amend the archaic zoning ordinances to meet the demand for housing in 2018 and beyond. Secondly, the building codes should also pass a litmus test of diminishing returns, thus keeping the benefits to cost ratios in line.

Yes, government has a role in a free market system but that role is not to shackle progress. Nothing has solved the worlds problems better than free markets. Over 400 million Chinese have been lifted from poverty in the last 20 years, they learned their lesson. History is a great teacher, we have been blessed as a country, please learn from other's failures in what not to do.....we all lose with emotionally driven economic decisions.

Regards

Scott Grasmoen
Pepperdine University (88')
Economics
Santa Clara Realty
[REDACTED]

Fwd: Assessment for Duplex owners

Tom Duff [REDACTED]

Tue 10/16/2018 3:32 PM

To: RSP <RSP@sanjoseca.gov>;

Subject: Assessment for Duplex owners

I am very opposed to adding duplexes to the Tennant Protection Ordinance .Particularly where the owner has only one duplex. My wife and I lived in this duplex for 10 years my mother in law lived on one side for. some of that time .

On retirement we left the area for more economical living and this duplex was our retirement pension . As a self employed person I do not have a big pension fund , this duplex is it .

We have always said that we may have to move back closer to the family as we get older and this would be the place we would go .

Having to pay 10 thousand dollars would be a big burden to us .

WE have been good landlords and always considerate to our tenants .

Tenants rights should not out weigh the needs of the owner .

Thank you.

Thomas and Kay Duff

[REDACTED]

[REDACTED]

Tenants average 3-5 years tenancy

Rent for each is \$3,000.00 month

ARO, Duplex Inclusion 11.7.18

I am against the inclusion of duplexes under ARO for the following reasons.

- The owners of duplexes are people, who purchase a duplex as an investment and are relying on it to augment their retirement. They generally only have that rental.
- They are not corporations. A recent California Apartment Association survey noted that 50% of ARO properties are owned by San Jose residents and 80% of the owners are from Santa Clara County and 97% are from California.
- The age of their property requires more maintenance. No new duplexes are being built. A National Association of Realtors developed a survey of over 950,000 properties. The result using a 5 year old and a 20 year old property found a 4.5% differential.
- Many manage the property by themselves.
- Many perform their own maintenance (sweat equity) because they don't have sufficient funds.
- According to city statements some 1,500 out of a total 5,500 live in their duplex.
- These owners tend to be the least able financially to take the expenses of housing.
- Owners of duplexes tend to be closer to their tenants and tend to keep rents reasonable to keep their units full.
- If you destroy their ability to stay solvent, you destroy their ability to trade up into four unit rentals. The slow destruction of the property will erode the value and tax base as well.

David Eisbach [REDACTED]

ARO, Duplex, Ellis Act 11.7.18

Ellis Act

I oppose this inclusion for the following Reasons:

- A. Duplexes are built on standard size lots 60 X 100, 6,000 sq ft or less. Too small for any major reconstruction of more units.
- B. Even modest remodeling requiring residents to vacate for a week becomes prohibitively expensively.
- C. Forcing an owner to pay to remove residents for an expensive remodeling is bad enough, but to have them resettle those same tenants at the same rents deters any thoughts of remodeling or construction.
- D. The original intent of the Ellis Act was to protect tenants from being evicted by owners for the purpose of remodeling an apartment. It was also devised to allow an owner to remove a unit from the rental market. Duplexes are small enough to be treated as a single family residence or converted into a condominium, in either case it will be the only recourse left to a hard-pressed owner.
- E. It is clear to me, when the rent cap is lowered, capital improvement sharing is restricted, occupancy standards are substantially raised, utilities are the owners responsibility, and legal contracts (in the State of California) are overpowered by the San Jose ARO, there is no doubt that existing rental housing stock will erode.

David Eisbach [REDACTED]

Nguyen, Viviane

From: Julie Engelbrecht [REDACTED]
Sent: Monday, November 5, 2018 10:08 AM
To: Nguyen, Viviane
Subject: Re: TPO/Ellis for Duplexes

Dear Viviane Nguyen:

I was given your name to send my thoughts on the city's desire to regulate duplexes under the TPO and Ellis Act.

First off it is very difficult to participate in things that matter to us at the city level when these meetings are announced so late or close to the actual time. The notice came out on October 29th with meetings scheduled on Nov 1, Nov 5 and Nov 8 — meaning a 3 to 10 day notice for those concerned wishing to come and speak little opportunity to plan or adjust work schedules so that their voices may be heard.

I have not been able to adjust my schedule to attend Thursday's meeting, so I will share my thoughts here.

We own a duplex that we live in with our daughter. I believe that OWNER OCCUPIED duplexes should be exempt from these regulations as there is a unique situation that occurs when the owner lives in the duplex. It's much more like sharing your home/yard/driveway with someone and as such compatibility and respect is important. Compatibility is not something you can evaluate from a rental application and meeting someone for a walk through of a rental unit. There needs to be a no cause termination of a lease available in owner occupied duplexes, particularly in the cases of incompatibility or if tenants are suddenly and for whatever difficult circumstances can't pay their rent. If we were an investor renting for the purposes of profit generation or a large rental organization we could endure several months without rent as complex issues were worked through or resolved. But we are not an investor earning profit, we rent one unit that is really almost part our home with shared spaces like the laundry room, yard and driveway, and we depend upon the monthly rent to keep up with our expenses of offering the unit (mortgage, garbage, water, landscaping, repairs and maintenance).


We have been lucky enough for the last 12 years to have the same tenant who enjoys a well below market rate rent on a 2 bedroom duplex. Our rent increases have always been modest and less than inflation, and we have always paid the garbage bill (long before it was added to our property tax) since our first tenant who moved refused to remove their name from the bill, but would also not pay the bill. A challenge to fix, so we put both units in our name. We have also been unlucky enough to have tenants who were less than courteous about quiet hours and the types of guests and parties they brought home. Despite repeated conversations and written formal letters reminding them of specifications in the lease, behavior that was completely unacceptable (and in some cases illegal behaviors) continued to the point that we simply did not renew the lease and gave proper and more than ample notice of that. Our rent was and has not been significantly raised after any renter has left. We have been thoughtful and responsible with our rental and feel that we will be penalized if these new rules are put in place and cover *owner occupied* duplexes.

The challenge is that we cannot just move to a new location if the situation with the tenant is bad. If we were renting out both units then either party could move to a new place, but we own and live in this duplex as our home and as such need to be afforded reasonable ways to deal with tenant issues given that we live in the same shared space. We cannot afford to move and rent out our unit so any problem tenant would need to move or our home would no longer be a comfortable safe place to live.

If all duplexes are subject to these new provisions we will likely take our unit off the market and turn to other forms of transient rentals.

Thank you for your consideration of the unique situation of owner occupied duplexes and we hope that they will be exempt from these regulations.

Sincerely,
Julie Engelbrecht, Richard Smoker and family.

Julie Engelbrecht


Imagination is more important than knowledge. -Albert Einstein