

From: [Padilla, Noel](#)
To: [Padilla, Noel](#)
Subject: FW: Administrative Fee Meeting 9/25/19
Date: Thursday, October 3, 2019 3:02:29 PM

From:
Sent: Monday, September 30, 2019 7:29:24 AM
To: Tran, Fred <Fred.Tran@sanjoseca.gov>
Cc: VanderVeen, Rachel <Rachel.VanderVeen@sanjoseca.gov>; Liccardo, Sam <sam.liccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>
Subject: Administrative Fee Meeting 9/25/19

Dear Mr. Tran,

Thank you for presenting the staff information on Administrative Fees
I cannot fathom how the staff could propose such outlandish fees; even half of the proposed amount is too much.

Most of the apartments with few units are owned by senior Housing Providers, who have purchased them as investments with hopes that income would fund their retirement such as is the case for myself. Some of us have no pensions to fall back on and the investment income is our means of financial support.

Take a case of an owner with three units and a monthly rental income of \$2000 per unit.
Some proposed administrative citation fees are as high as \$10,000.
This means that an owner is losing about 3 months of net rental income assuming a nominal monthly expense of 30 % such as for maintenance, utilities, taxes, permits, license insurance, etc..

A larger unit owner will not be financially hurt as those owning smaller number of units.
As a minimum there should be a tiered fee structure tied to groups of units to not impose unfair hardship to those owning smaller number of units.

Why is Housing so intent of hurting Mom and Pop Housing Providers when in reality they are the ones providing the affordable rentals to the lower labor group.

How about about incentives to encourage owners to keep rents even lower such as perhaps eliminating the property tax for them?
What contribution has Housing and the City of San Jose done to help the low income Housing Providers other than pile ordinance after ordinance to punish the low income Housing Providers with higher and higher financial burden?

The management of the San Jose Housing should apply resources to relieve the housing shortage problem rather than creating relentless barrage of ordinances on the existing owners under rent control, which does not solve the housing shortage nor the affordability problem.

Hopefully your procedures of warning and other measures to inform owners to cure administrative violations are fair before actual fees are issued to make fees a moot point.

Respectfully,

Seigi Tadokoro

From: [Padilla, Noel](#)
To: [Padilla, Noel](#)
Subject: FW: Draft Schedule of Fines
Date: Thursday, October 3, 2019 3:12:40 PM
Attachments: [DRAFT Schedule of Fines -- jzell.doc](#)

From:
Sent: Wednesday, October 2, 2019 5:56 PM
To: Tran, Fred <Fred.Tran@sanjoseca.gov>
Subject: RE: Draft Schedule of Fines

Hi Fred,

Found the sections in the ordinances after a bit of searching. Only 7 recommendations:

Anything that involves collusion and/or fraud should be the maximum penalty, so I actually raised those to \$10K. I don't have any patience for illegal behavior and neither should anyone else.

Reduced the two rent increase categories to \$2,500. This amount is better reflective of the dollars, yet will have an impact. The difference between a 5% increase and a 7% increase is maybe \$40 per month and the errors get caught quickly, so there isn't big money involved. If the act is intentional, then that's a different story.

Reduced the two Just Cause Protections noticing categories to \$500 to match the other noticing categories. Additionally, if notices aren't posted correctly, the landlord's punishment is having the start the process over again, which is equivalent to double indemnity because it costs us additional attorney's fees and lost rent in addition to the fine.

I didn't have any issues with the Ellis Act fines because most folks will probably use attorneys.

Please let me know if you have any questions.

Jeff

Housing Department - Proposed Administrative Citation Schedule of Fines
(Note: All fines are levied per household unit unless otherwise specified)

| <u>Section</u> | <u>Offense</u> | <u>Administrative Citation Fine</u> |
|----------------|---|-------------------------------------|
| 17.23.050 A | Notice of Apartment Rent Ordinance to Tenant Households – Posting Notice on Building Note: Fine is levied per Property | \$ 500.00 |
| 17.23.050 B | Notice of Apartment Rent Ordinance to Tenant Households – Written Notice Prior to Lease | \$ 500.00 |
| 17.23.060 | Limit on Electronic Payment. | \$ 500.00 |
| 17.23.300 A | Initial Rent and Vacancy Decontrol – Valid Decontrol | \$ 10,000.00 |
| 17.23.310 A,B | Limits on Rent Increases - Annual Rent Increase Limit | \$ 2,500.00 |
| 17.23.310 C | Limits on Rent Increases - Rent Increase Frequency Limit | \$ 2,500.00 |
| 17.23.520 B | Waivers -Attempt to Waiver Tenant Rights | \$ 10,000.00 |
| 17.23.560 A | Disclosure to Purchasers of Real Property Note: Fine is levied per Property | \$ 5,000.00 |
| 17.23.600 B | Notices of Termination of Tenancy - Mandatory Notice to City | \$ 500.00 |
| 17.23.600 C | Notices of Termination of Tenancy – Notice of Re-Rental to the City | \$ 500.00 |
| 17.23.705 | Tenant Buyout. | \$ 5,000.00 |
| 17.23.900 A | Rent Registry - Failure to Register - Registration | \$ 500.00 |
| 17.23.900 B | Rent Registry - Failure to Register - Copy of Registration to Tenant | \$ 500.00 |
| 17.23.900 E | Rent Registry - Failure to Register – Collusion | \$ 10,000.00 |
| 17.23.900 F | Rent Registry - Failure to Register – Late Registration Fee | \$ 500.00 |

Housing Department - Proposed Administrative Citation Schedule of Fines
(Note: All fines are levied per household unit unless otherwise specified)

| | | |
|----------------|---|--------------------|
| 17.23.1110 | Policy and Purpose (Ellis Act) | |
| Section | Offense | Fine Amount |
| 17.23.1130 B | Copies of Forms – Failure to provide forms to tenants | \$ 500.00 |
| 17.23.1130 C | New Tenants During the Withdrawal Process – Failure to provide withdrawal notice to the new tenants | \$ 10,000.00 |
| 17.23.1130 E | Notices of Tenants Right to Extend Tenancy – Failure to provide notice of right to extend | \$ 10,000.00 |
| 17.23.1130 F | Withdrawal of less than an entire building – Prohibited | \$ 10,000.00 |
| 17.23.1130 H | Non-Rent Stabilized Properties – Failure to meet requirements to withdraw | \$ 10,000.00 |
| 17.23.1140 A | Notices of intent to withdraw - Service on Tenants | \$ 10,000.00 |
| 17.23.1140 B | Notices of intent to withdraw - Service on City | \$ 10,000.00 |
| 17.23.1140 C | Notices of intent to withdraw – Contents | \$ 10,000.00 |
| 17.23.1145 | Recording of memorandum - failing to record with the County Clerk's Office Note: Fine is levied per Property | \$ 10,000.00 |
| 17.23.1150 A | Relocation assistance - Failing to pay to a tenant household | \$ 10,000.00 |
| 17.23.1150 B | Relocation assistance – Depositing Relocation Benefits in Escrow Account | \$ 10,000.00 |
| 17.23.1150 C | Relocation assistance – Failing to pay entire relocation assistance entitled to tenant household. | \$ 10,000.00 |
| 17.23.1150 E | Relocation assistance - Relocation Specialist Services | \$ 10,000.00 |
| 17.23.1151 A | Voluntary alternative relocation | \$ 10,000.00 |
| 17.23.1151 C | Voluntary alternative relocation-failing to pay relocation benefits if alternative housing not accepted | \$ 10,000.00 |
| 17.23.1160 A | One Hundred Twenty (120) Notice Required to Tenant Household | \$ 10,000.00 |

Housing Department - Proposed Administrative Citation Schedule of Fines
(Note: All fines are levied per household unit unless otherwise specified)

| Section | Offense | Fine Amount |
|--------------|--|--------------|
| 17.23.1160 B | Provide Notice of Right to Extend Tenancy Up to One Year | \$ 10,000.00 |
| 17.23.1160 C | Effective date of withdrawal; extension of tenancy | \$ 10,000.00 |
| 17.23.1180 A | Right to Return Offered to Former Tenant Households | \$ 5,000.00 |
| 17.23.1180 B | Re-Control | \$ 5,000.00 |
| 17.23.1180 C | Re-Control | \$ 5,000.00 |
| 17.23.1240 A | Just Cause Protections | \$ 5,000.00 |
| 17.23.1210 | (TPO) Policy and Purposes Declaration | |
| 17.23.1240 C | Just Cause Protections-failing to post notice of rights. | \$ 500.00 |
| 17.23.1240 D | Just Cause Protections | \$ 500.00 |
| 17.23.1250 B | Just Cause Termination (B) Relocation Assistance | \$ 5,000.00 |
| 17.23.1260 D | Notice of Termination to the Tenant and City | \$ 500.00 |
| 17.23.1260 E | Summons and Complaint Sent to the Tenant and City | \$ 1,000.00 |

The Housing Department will adhere to the following text in the adopted Schedule of Fines.

SECTION 3. Except as otherwise specifically set forth in Section 2 of the Schedule of Fines (as amended with the text above) the fine amount for a second violation of the same Municipal Code section by the same person within a thirty-six (36) month period shall be and equal one hundred twenty-five percent (125%) of the fine amount listed in this Resolution for a first violation of that Municipal Code section at the time of the second violation.

SECTION 4. Except as otherwise specifically set forth in Section 2 above, the fine amount for a third and subsequent violation of the same Municipal Code section by the same person within a thirty-six (36) month period shall be and equal one hundred fifty percent (150%) of the fine amount listed in

Housing Department - Proposed Administrative Citation Schedule of Fines
(Note: All fines are levied per household unit unless otherwise specified)

this Resolution for a first violation of that Municipal Code section at the time of the third or, as applicable, subsequent violation.

SECTION 5. Any fine amount imposed pursuant to Chapter 1.15 of the San Jose Municipal Code and this Resolution shall be deemed delinquent if it is not paid in accordance with the terms and provisions of Chapter 1.15. Any person who fails to pay to the City the amount of any fine imposed pursuant to the provisions of Chapter 1.15 of the San Jose Municipal Code and this Resolution on or before the date that fine amount is due shall be liable for the payment of an additional delinquency penalty. The delinquency penalty is equal to ten percent (10%) of the amount of the fine due to the City, or ten percent (10%) of the amount of the fine remaining unpaid to the City if a portion of the fine amount was timely paid. Interest shall accrue on all delinquent fine amounts, exclusive of delinquency penalties, at the rate of one half of one percent per month, pro rata, of the total delinquent fine amount, from the date the fine amount becomes delinquent until the date that all delinquent fine amounts are paid to the City.

From: Barb MacNeil
Sent: Monday, December 2, 2019 8:30 PM
To: Agendadesk
Subject: 12/3/19 Council meeting Item 4.4 19-1111

Dear Mayor & San Jose City Council,

I watched this whole City Council meeting. There were Council members wanting it to go into affect immediately without any notice to landlords. A woman stood up and told about her having to pay \$30,000 in legal fees and a loss of rent for 6 mos. while the tenant was able to stay in her rental rent free, but the tenant had their legal fees paid for by taxpayers. The owner was found innocent of the claims brought against her. I still remember that day.

I have had 2 rentals. I remember being so upset after this exchange I thought, "There is NO way I would EVER have a rental in San Jose. The way to not be sued is to charge high rents and don't cave to the city's plea for rentals." That woman thought she was doing a GOOD thing and was found to be innocent of the charges lodged against her, but her wanting to help house others came back to bite her big time and this will bite others even bigger if this passes.

My question to Jacky in Housing, in particular, and to those of you on the Council who had advocated for this to go into affect without giving property owners ANY notice, how do sit in the Council chambers week after week after week and talk about the San Jose needing more available housing when it's you who are the cause of some of this need??

From: Nadia Aziz

Sent: Tuesday, December 3, 2019 9:45 AM

To: The Office of Mayor Sam Liccardo; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; City Clerk; 'richard.doyle@sanjoseca.gov' <'richard.doyle@sanjoseca.gov'>; Sykes, Dave

Cc: Morales-Ferrand, Jacky; VanderVeen, Rachel

Subject: Agenda Item 4.4: Support Resolution Amending Administrative Citation Schedule of Fines

Dear Mayor and City Councilmembers:

The Law Foundation urges Council to adopt the resolution related to Administrative Citation Schedule Fines for violations of the ARO, TPO, and Ellis Ordinance (Agenda Item 4.4). We thank the Housing Department for their work on these important amendments. Administrative citations are an important tool for deterring landlords from failing to comply with important tenant protections. In most cases where we assist tenants, educating the landlord about the law results in the landlord complying with the law. However, in those cases where landlords refuse to comply, the consequences can be devastating for tenants, who may be forced out of their home without a relocation payment or without good reason. Many tenants are unable to access Courts to be able to enforce these important protections against their landlords. We strongly believe that the Administrative Citation Schedule is a reasonable way to enforce tenant protections and ensure that landlords comply with the law.

Additionally, we request that the City add a tenant payment requirement to the the fines and/or administrative hearing process, specifically requiring landlords who fail to pay relocation assistance to pay that relocation assistance to tenants as part of the fine and/or allowing hearing officers to require that payment. Right now, tenants who do not receive those payments have no recourse aside from going to small claims court, which many tenants do not have the knowledge or experience to do. Alternatively, the City could consider a fund for those tenants who do not receive relocation assistance, and then recover those fees as part of the administrative citation process. Los Angeles has a similar program.

Thank you for your consideration of these comments.

Sincerely,

Nadia Aziz | Directing Attorney | Housing

Pronoun: she/her

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