



# Memorandum

**TO:** COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** November 13, 2020

Approved

Date

11/16/2020

**SUBJECT: AFFORDABLE HOUSING RENT INCREASES**

## **RECOMMENDATION**

Accept the staff report and provide input regarding rent-burdened households in affordable housing developments.

## **OUTCOME**

This report will provide background to the Community and Economic Development Committee on the challenge of rent burden facing vulnerable residents living in affordable housing. Approval of the report will provide input to staff on the issue of rent burden in affordable housing developments.

## **BACKGROUND**

On October 1, 2019, the City Council approved agenda item 4.1 “Approval of the Issuance of Tax-Exempt Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof and Approval of Related Documents and Changes to Existing Loan and Grant Terms for the Markham Plaza I Project.” During the discussion of this item, Councilmember Esparza raised concerns regarding the rent burden associated with rent increases on tenants with limited, fixed incomes in affordable housing developments.

Tenants voiced concerns that annual rent increases exceeded the increases in cost of living increases provided by social security or other sources of fixed-income. Staff acknowledged that the large increases in allowable rents were a cause of potential concern. The City Council directed that staff return to the Community and Economic Development Committee to report on this issue. The report was originally scheduled for May 18, 2020. The item was rescheduled to November 23, 2020, due to City’s need to focus on its COVID-19 response priorities.

### ***Calculation of Rents and Rent Burden***

Health and Safety Code (H&SC) Section 50093 requires the California Department of Housing and Community Development (HCD) to publish updated income limits including a determination of the area median income (AMI) for various family sizes when the U.S. Department of Housing and Urban Development (HUD) updates its Section 8 program income limits each year. HUD released updated 2020 income limits on April 1, 2020. HCD updated its 2020 State Income Limits (effective April 30, 2020). In Santa Clara County, the AMI for a family of four is \$141,600. This is an increase of 7.7 % from the prior year's AMI. Affordable rents are calculated based on a percentage of the AMI and vary depending on the number of bedrooms in the apartment unit. The statutory occupancy formula used to relate the number of bedrooms to rent limits is based on an assumed family size which assumes one person per each bedroom plus one additional person per apartment for the purpose of calculating rents, unless there are tax credits, in which case the tax credit occupancy formula of 1½ persons per bedroom applies.

The affordable housing income and associated rent limits for 2020 are included as **Attachment A**. Affordable housing is largely comprised of apartments with tenants earning 60% AMI or less at initial occupancy.

The U.S. Department of Housing and Urban Development (HUD) defines a household as being “rent-burdened” if it spends over 30% of its income on rent. HUD defines households as being “severely rent-burdened” if in excess of 50% of household income must be applied toward rent. “Rent-burdened families can have difficulties paying for core needs such as food, transportation, health care, and clothing.”<sup>1</sup>

Most households that are initially qualified and rent an affordable apartment, have a rent burden of between 30% and 50% unless they have a Housing voucher or subsidy. This report will focus on data and potential strategies to address households with rent-burden of 50% or greater.

### ***Affordable Housing is Exempt from Laws that Cap Annual Rent Increases***

The City Council approved significant modifications to the City's Apartment Rent Ordinance (San José Municipal Code (SJMC) Section 17.23) in 2018. The Apartment Rent Ordinance limits annual rent increases to 5% annually for all apartments (buildings with three or more units) constructed and occupied prior to September 7, 1979. Virtually all of the City's affordable housing was built after September 7, 1979, and state law restricts the extension of the Apartment Rent Ordinance to later constructed property. Additionally, affordable housing with rents that are affordable to households at 60% of AMI or less is exempted from the current Apartment Rent Ordinance. Therefore, the City cannot impose any additional rent limits as a means to control rent increases and in order to address rent burden in affordable housing.

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<sup>1</sup> *American Families Face a Growing Rent Burden*, The PEW Charitable Trusts, April 2018.  
[https://www.pewtrusts.org/-/media/assets/2018/04/rent-burden\\_report\\_v2.pdf](https://www.pewtrusts.org/-/media/assets/2018/04/rent-burden_report_v2.pdf)

On October 8, 2019, Governor Gavin Newsome signed AB 1482. This law prohibits landlords from imposing annual rent increases in excess of 5% plus the percentage change in the cost of living, or 10%, whichever is lower. Deed-restricted affordable housing developments are exempted from this law.

This memorandum addresses the issue raised at the October 1, 2019 City Council meeting by presenting data, identifying trends, and next steps to develop viable options to reduce the rent burden for low-income tenants residing in the City's affordable housing properties.

## **ANALYSIS**

In order to address rent burden concerns raised at the October 1, 2019 City Council meeting, the Housing Department completed the tasks listed below.

- Assessed the recent history of allowable rent increases for affordable housing
- Conducted analysis of rents to determine rent burden on affordable housing tenants
- Collaborated with Destination: Home to learn the impacts of rent burden on homeless prevention programs
- Facilitated a meeting with affordable housing stakeholders to discuss the rent burden issue
- Determined next steps to address the rent burden issue

### ***Recent history of allowable rent increases for affordable housing***

In order to determine the potential cumulative impact of allowable rent increases, staff compiled a summary of allowable rents. These are summarized in the table below. [More detail on the income and rent limits can be found on the City's website.](#)

### **Rent Increases Exceed Increases in Incomes**

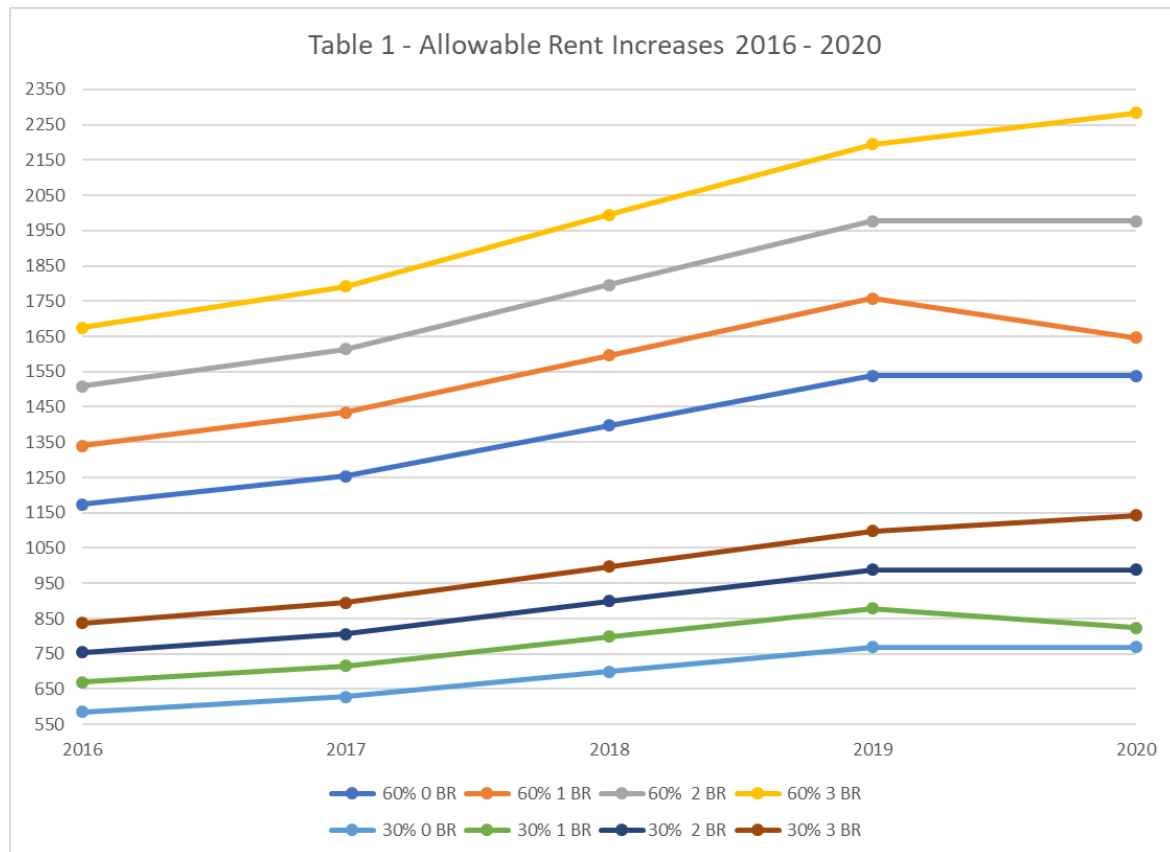
Over the past several years, the Bay Area economy has fueled significant increases in wages. Those increases, however, are not spread evenly across all income levels. According to U.S. Census data, incomes among the poorest fifth of households in the nine-county Bay Area and Santa Cruz rose 29% from 2010 to 2018 — to an average of \$21,600 a year. In contrast, the wealthiest fifth of households experienced a 48% increase in income during that time, to an average of \$375,200. According to the second quarter 2020 Costar, in the City of San José, renters must earn \$52/hour (\$108,440/year) to afford the average monthly rent for a 2-bedroom apartment of \$2,711.<sup>2</sup> An analysis by the National Low Income Housing Coalition released a study that Santa Clara, Alameda, and Contra Costa counties remain among the top 10 most income-stressed spots in the country. The heavy housing costs means a minimum wage worker needs the equivalent of four full-time jobs to make rent and other necessary expenses.<sup>3</sup>

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<sup>2</sup> <https://www.sanjoseca.gov/your-government/departments/housing/data/housing-market>

<sup>3</sup> <https://www.mercurynews.com/2020/07/15/high-rents-make-bay-area-tenants-most-stressed-in-the-country/>

This sharp increase in incomes across the region is reflected in the Area Median Income for San José. Table 1 shows the increase in AMI levels over the most recent four years (2016-2020).



*Source: City of San José annually published rent limit tables*

Table 1 shows that affordable housing tenants could have received a cumulative increase in rents from 2016 to 2020 from between 22% to 35%. That represents an average annual rent increase of 6.75% per year. For comparison purposes, rents for tenants in apartments covered by the City's Rent Ordinance (SJMC Section 17.23) cannot be increased by more than 5% per year. The rent limits for 2020 were adjusted in order to ensure compliance with the H&SC section 50053 requirements. This change resulted in slightly lower rents for one-bedroom apartments.

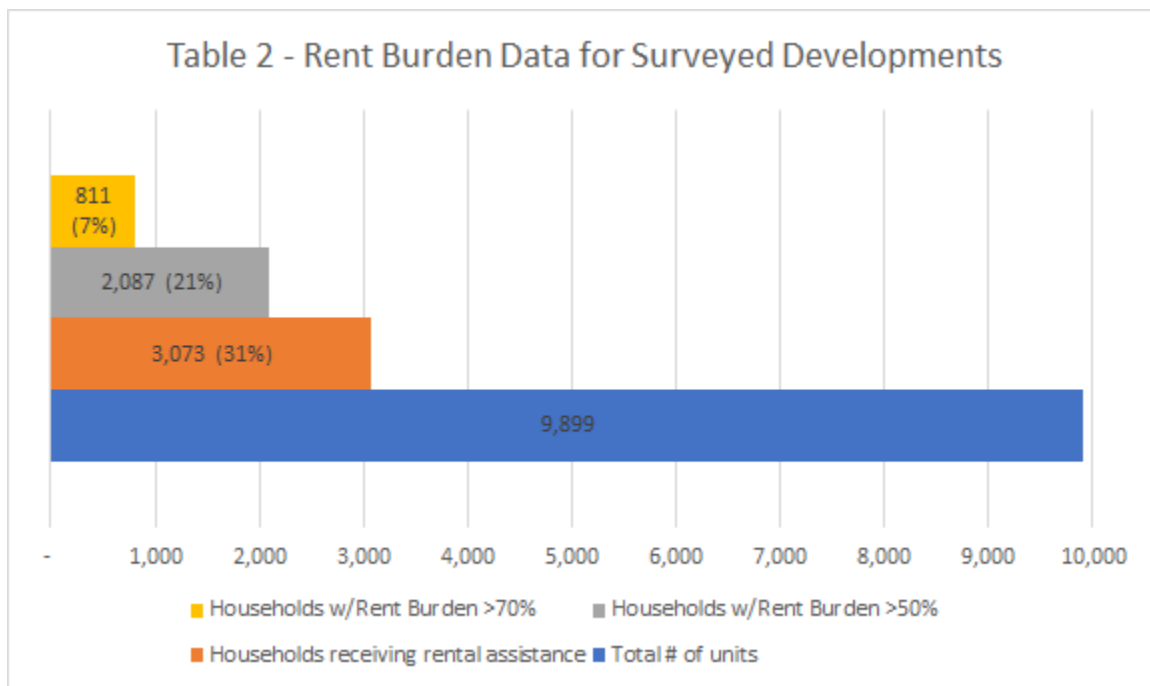
### ***Analysis of Actual Rents to Determine Rent Burden on Affordable Housing Tenants***

As shown in Table 1, affordable housing tenants could have experienced a rent increase between 22% and 35% over the four-year time-frame 2016 to 2020. It is important to note that not all property managers increase rents to the fullest extent allowable each year. Therefore, to assess the impact of actual rent increases, the Housing Department reviewed actual rents assessed to tenants as submitted during their annual monitoring.

Portfolio Rent Burden – Analysis of Total Rent Burden

Affordable housing property managers are required to submit rent rolls to the Housing Department on an annual basis. The Housing Department reviewed rent rolls submitted by property managers between 2016 and 2019 to compile rent burden data. The Housing Department focused on evaluating rent-burden in properties whose owners have six or more affordable housing developments in the City's portfolio. This entailed the review of rent rolls for 9,889 affordable apartments in the City. This represents 62% of the City's 16,057 affordable apartments. The properties in the dataset comprise a broad spectrum of housing types and affordability levels.

Table 2 below shows the rent burden calculation for the surveyed developments.



Within this dataset, 3,073 (31%) of the households had a form of rental assistance, such as a voucher from the Santa Clara County Housing Authority that is either project-based or provided directly to the tenant or a rental assistance program administered by another entity. The majority of rental assistance programs limit the rent paid by the tenant based on a percentage of their actual income. A subsidy is paid to the property owner to cover the balance of the rent. Therefore, the rental subsidy programs ensure that enrolled households are not excessively rent-burdened. The analysis shows that 7,812 (79%) of the total households assessed did not experience excessive rent burden.

While the overall data is relatively positive, the rent burden analysis identifies some areas of concern. The table shows that 2,087 (21%) of all households had a rent-burden of 50% or greater. Additionally, 811 (7%) households had a rent burden of 70% or greater.

#### Rent-Burden Analysis for Most Vulnerable Households

As the analysis was completed across the portfolio of affordable housing, trends were identified in the data. The rate of rent burden was higher in developments for senior households and in apartments restricted at extremely low-income levels. The data demonstrates the rent burden is experienced by the most vulnerable households.

Table 3 shows the rent burden calculation for the 2,978 households in apartments designated for seniors. A review of the data shows that nearly 40% of all seniors experience a high rent burden with 28% experienced a 50% rent burden and an additional 11% experienced a 70% rent burden. Many senior households are on fixed incomes with limited increases in social security or other assistance. Seniors do not have the same ability to earn more income as younger individuals may as rents increase. Additionally, seniors may lose a spouse or experience other changes in family size resulting in a loss of income. These factors, combined with increasing AMI levels, result in higher rates of rent burden than the overall portfolio.

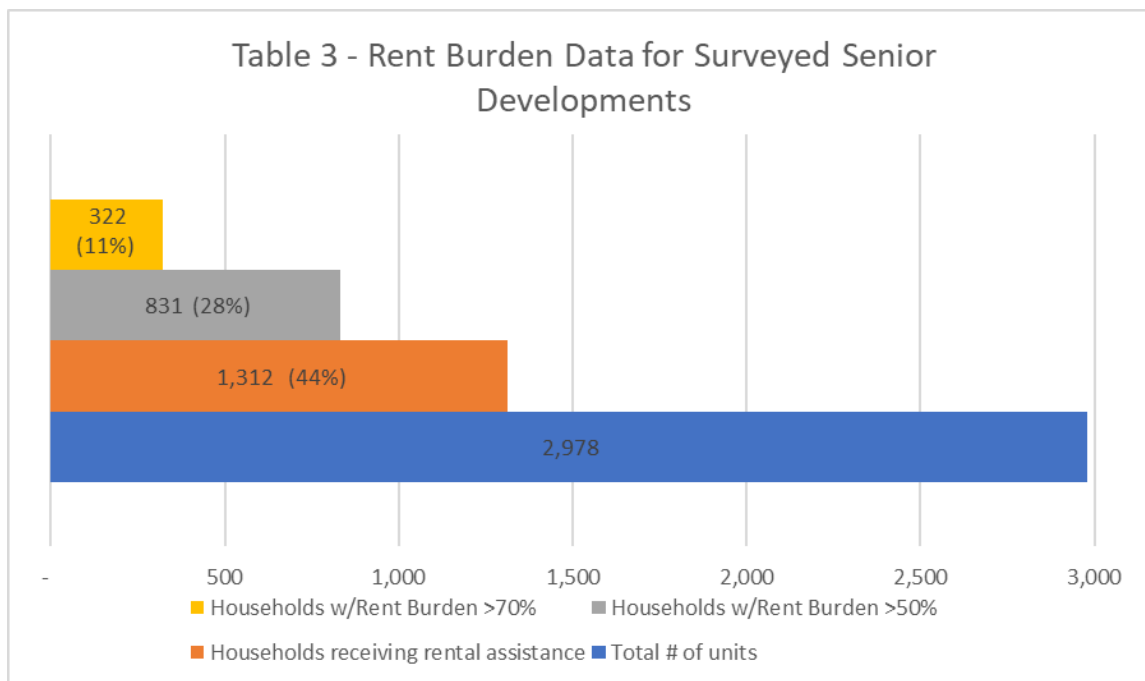
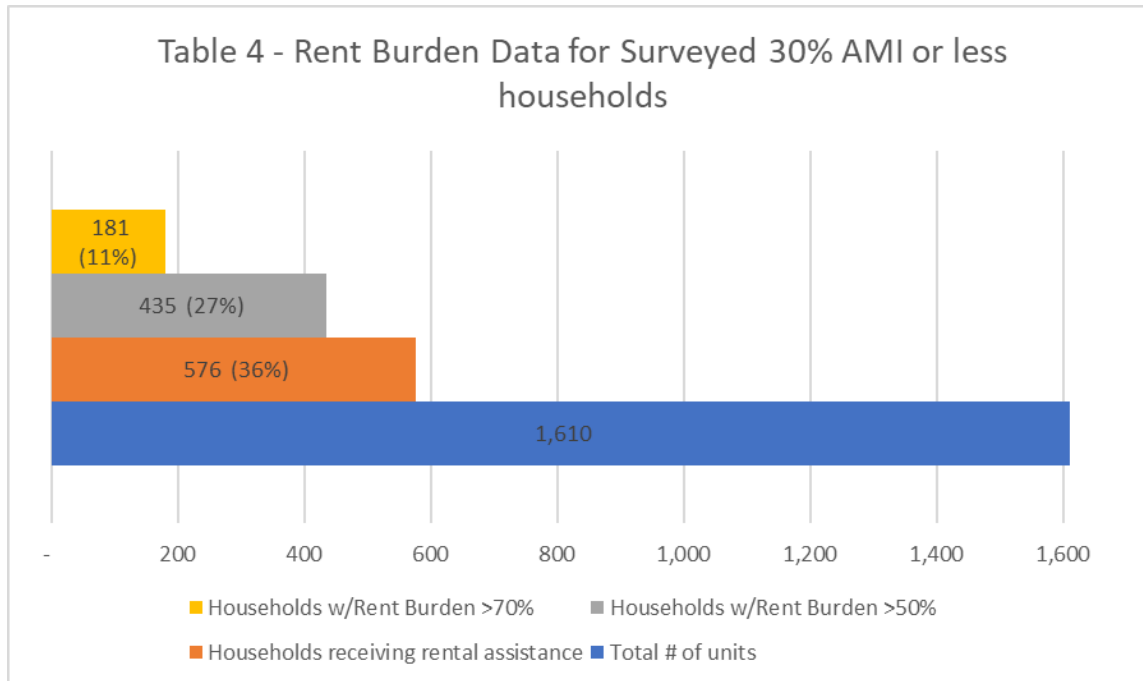


Table 4 provides the rent-burden calculation for the 1,610 apartments designated for Extremely Low Income (ELI) (30% AMI or less) households. Within this subgroup of households, 27% were 50% rent-burdened and 11% were 70% rent-burdened. Extremely low-income households

are struggling to meet basic needs including food, transportation, and health care. As rents increase, wages at this level are not increasing at an equivalent rate. Increased rent burdens may result in instability for the household.



Senior and ELI apartments comprise 46% of the 9,899 households in the Department's rent burden analysis. When combined, 503 households in these two categories have a rent burden of 70% or greater. This comprises 62% of the 811 households experiencing a rent burden of 70% or greater. Senior households on fixed income and households with the least income are more likely to experience extreme rent burdens.

### ***Homeless Prevention Finds Increased Requests from Tenants living in Affordable Apartments***

Over the last year, Destination: Home has seen a noticeable increase in the number of households living in affordable housing developments seeking assistance from the homeless prevention system. From July 2019 to December 2019, Destination: Home observed that approximately 19% (61 out of 327) of renter households seeking emergency financial assistance and other support services were from affordable housing developments. Most of those individuals were severely rent-burdened and unable to afford basic necessities despite living in deed-restricted apartments. The majority of these renters were seniors and extremely low-income households. Without the intervention of the homelessness prevention system, they would have most likely lost their housing, leaving the most vulnerable families and individuals without any other options. As a partner in providing deeply affordable housing in San José, Destination: Home has raised this issue and has indicated a desire to work collaboratively to explore solutions for the rent burden issue facing many residents living in affordable housing locally.

### ***Discussions with Affordable Housing Partners Regarding Rent-Burden***

On October 22, 2020, the Housing Department held a meeting with affordable housing stakeholders to discuss the rent burden topic. This meeting was attended by 17 representatives from other government agencies, non-profit agencies, and property managers. At this meeting, the Department shared the rent-burden data provided in this memorandum and sought input on how to address the issue.

Destination: Home stated that they are seeing an increase in numbers of people seeking homeless prevention assistance as detailed above. These individuals are primarily seniors on fixed incomes and tenants in apartments with the deepest level of affordability (30% AMI or below).

Property managers in attendance at the October 22<sup>nd</sup> meeting acknowledged that they were seeing an increase in household rent-burden and expressed a willingness to work toward resolving this issue. Several representatives stated that their agencies were not imposing rent increases this year. Others stated that they assess each tenant's rent burden prior to imposing a rent increase.

While property managers were concerned about excessive rent burden, they also expressed the need to have a solution that preserves sufficient rental income to effectively operate the property, maintain the facility, and provide good service to the tenants.

### ***Next Steps***

After completing an analysis of the loan portfolio, the Housing Department staff will coordinate with property managers, developers, tenants, and other stakeholders to craft solutions for rent-burdened residents. These solutions must balance the financial strain on rent-burdened households with the needs of developers to effectively operate and manage affordable housing developments.

The following next steps will be taken to continue exploring this issue:

- 1) Working Group – The Housing Department has solicited volunteers to join a working group to evaluate challenges and potential policy options to address the rent-burden issue. The first meeting for this group took place on November 12, 2020.
- 2) Equity Analysis – The Housing Department will review the data with a racial equity lens to see if there are additional disparities that need to be addressed.
- 3) Legal Analysis – As potential solutions are developed, those ideas will be carefully considered within existing legal parameters.
- 4) Refinance Requests – The rent-burden of existing residents will be calculated and considered on a case-by-case basis when requesting support from the Housing Department to move forward with a refinance.



5) Ongoing Monitoring – The Housing Department will continue monitoring the rent-burden across the portfolio and will determine on an annual basis if the rent-burden is growing.

6) Follow-up Report – Staff will provide a follow-up report to both the Housing and Community Development Commission as well as the Community and Economic Development Committee in fall 2021. Per the request of the Commissioners, Staff will provide a list of attendees from the November 12, 2020 Working Group meeting and an update on the progress in the analysis of how much money is required to alleviate the rent-burden for households above 50% rent burden in the City's portfolio.

These next steps will be taken over the coming months. At the same time, staff will continue to monitor not only the rent-burden issue but also the impact of COVID-19 on rents and occupancy within affordable housing developments. As stated by property managers in the October 22<sup>nd</sup> meeting, many property managers have frozen rents and do not anticipate increasing rents over the coming year. Staff will continue to perform analysis, work collaboratively with property managers, negotiate solutions for refinancing requests, and monitor rent burden over the coming months. Observations and potential solutions will be brought back to the Housing and Community Development Commission as well as the Community and Economic Development Committee in fall 2021.

## **CONCLUSION**

The Area Median Income used to calculate state-defined rent limits for affordable housing developments funded with state and federal funds has increased significantly over the past several years. During the outreach phase, property managers explained that at times they need to increase rents in order to fund their project's maintenance and operations costs. According to property managers of affordable housing developments, properties that have large numbers of deeply affordable apartments have very thin operating margins which can compel rent increases on households experiencing excessive rent burdens.

The City's assessment of the actual rents for over 9,889 affordable apartments shows that 71% of all households are not excessively rent-burdened. This demonstrates that the majority of households do not experience a significant rent-burden. Overall, affordable housing developments meet their objective in providing stable, affordable housing.

Unfortunately, 11% of households have a rent burden of 70% or greater. The majority of these households reside in apartments designated for seniors and extremely low-income households. It should be noted, that the Housing Department recently implemented a food policy that specifically targets developments that provide housing to these target populations in order to address food insecurity in the design of the development and to address their unmet needs. The Department has met with stakeholders to discuss this issue and develop potential solutions. Solutions will have to address the need for sufficient operating revenues to effectively manage

the City's affordable housing assets. Solutions must also acknowledge that the City has limited ability to compel reduction in rents for extremely rent-burdened households.

The Department will continue to work with property managers to address this issue. A meeting was held on November 12, 2020, to establish the working group and develop potential solutions for rent-burdened residents.

### **PUBLIC OUTREACH**

On October 22, 2020, the Housing Department conducted a public outreach meeting with property owners and managers of affordable housing to discuss the impact of successive rent increases and the associated rent burden placed on tenants. A summary of the input received from that meeting is provided as **Attachment B**.

### **COMMISSION RECOMMENDATION/INPUT**

The Housing and Community Development Commission (HCDC) reviewed and received this report on November 12, 2020, and made the following requests during the Commission meeting: (i) that staff provide the names of the attendees at the November 12, 2020 working group meeting; and (ii) that staff begin an analysis to determine how much money is required to alleviate the rent burden on households paying 50% or more of their gross income towards rent.

### **COORDINATION**

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

/s/

JACKY MORALES-FERRAND  
Director, Housing Department

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

### **ATTACHMENTS:**

**Attachment A** – City of San Jose 2020 Published Income and Rent Limit Tables

**Attachment B** – October 22, 2020 Meeting with Affordable Housing Stakeholders