

Dwellings

Episode 26: Renting Has Its Rights

00;00;00;00 - 00;00;48;18

JS: Welcome to Dwellings, a podcast from the city of San Jose Housing Department, where we talk with thought leaders about ending homelessness and building affordable housing and key housing policies. I'm Jeff Scott and I'll be your host for season five of Dwellings. On today's episode, I'm joined by Rachel VanderVeen, assistant director of the City of San Jose Housing Department, and Vanessa Pacheco from the Housing Department's Rent Stabilization Team. We're talking about a special campaign aimed to educate residents of San Jose about the major ordinances that cover rental housing in our city. This is a special episode because not only will Rachel tell us about this campaign, but during the second segment, Vanessa will go over many frequently asked questions related to each of the housing ordinances and what that. Welcome, Rachel. It's good to have you back.

00;00;48;22 - 00;00;51;16

RV: Thank you, Jeff. It's great to be here.

00;00;51;19 - 00;00;54;26

JS: Rachel, can you start off by telling our audience a little bit about your role here?

00;00;54;29 - 00;01;14;08

RV: Yes. So I am the assistant director of the Housing Department and I have been with the city for 25 years now. And a majority of that actually, I would say a long portion of that. I spent directly working with the Rent Stabilization program probably ten years or more.

00;01;14;10 - 00;01;30;18

JS: Awesome, well, thank you very much for joining us. And what we're going to be talking about today is a new campaign that the housing department's launching called Renting has its Rights. So can you tell us a little bit about that campaign and why the Housing Department decided to launch it?

00;01;30;20 - 00;01;57;01

RV: So this is a special effort. And what we want to do with this campaign is to educate both landlords and tenants about their rights. We want them to learn the basics related to our ordinances so that they

can understand on a daily basis how the ordinances provide protections and rights to all of the parties involved in tenant landlord relationships.

00;01;57;03 - 00;02;12;11

JS: So is it safe to assume that behind the decision to launch this campaign was the fact that your department receives a lot of questions from landlords and tenants and a lot of a lot of people are uncertain about exactly what their rights and obligations are?

00;02;12;13 - 00;02;37;21

RV: Yes, we receive questions and inquiries from people in many different ways. They walk in the door, they call email, and we have questions from tenants and landlords every day. So we really have hundreds a month, I would say. And what we want to do is just to provide this information so that everyone knows where to call when things get really complicated.

00;02;37;24 - 00;02;41;02

RV: But in general, they understand the basics of the program.

00;02;41;04 - 00;02;50;28

JS: So this campaign today that we're talking about, what are some of the aspects of that campaign? How are we trying to get the word out about housing ordinances?

00;02;51;00 - 00;03;10;11

RV: Well, there are many components to our campaign. We are actually going to have billboards that are going to be viewed throughout San Jose. We're going to have posters on the side of busses. We're also going to be pushing out lots of information through our social media channels. And we have a whole website set up just for this campaign.

00;03;10;13 - 00;03;23;05

JS: I've seen some of the artwork, some of the created for the campaign, and it looks like there is a QR code in a lot of this signage and a lot of the the posters. Can you tell us what that QR code does?

00;03;23;08 - 00;03;40;07

RV: Yes. So if you connect through the QR code, you can access our website that tells you all about the campaign. But beyond that, it actually will feed to our staff and let us know where that request has come from so that we can learn what is the most effective way to reach out to people.

00;03;40;09 - 00;03;53;05

JS: Now, I understand that there are quite a few ordinances in San Jose that affect housing. The first is the ARO, the apartment rent ordinance. What is the basic gist of the ARO?

00;03;53;07 - 00;04;05;18

RV: There is a maximum allowable rent increase at 5% for anyone living in an apartment covered by the apartment rent ordinance. And that is the only increase you can receive within a one year period.

00;04;05;20 - 00;04;12;28

JS: And just to clarify, apartments that are covered by the apartment rent ordinance are generally a little bit older. Is that correct?

00;04;13;01 - 00;04;19;17

RV: Yes. These are buildings that have three units or more, and they were built before 1979.

00;04;19;19 - 00;04;28;05

JS: Another one of the ordinances that covers a lot of our renters in San Jose is something called the TPO, the tenant Protection Ordinance. What's that all about?

00;04;28;07 - 00;04;48;00

RV: So the Tenant Protection Ordinance provides 13 reasons that must be stated on a notice to vacate when someone is being asked to leave their apartment. And so the Tenant Protection Ordinance outlines what are the valid reasons that need to be stated in order for someone to have to vacate.

00;04;48;02 - 00;05;09;03

JS: So a landlord has to be able to identify at least one of those 13 reasons in order to justify an eviction or an order to vacate. Correct. And then we have something else. Getting away from apartments. This is for mobile homes and people who rent mobile home spaces. In San Jose, we have something called the Mobile Home Rent Ordinance.

00;05;09;06 - 00;05;10;12

JS: And what does that do?

00;05;10;14 - 00;05;26;09

RV: The mobile home rent ordinance provides protections for everyone living in a mobile home in San Jose. We have over 10,000 mobile homes in our city. And what it does is limits the amount of the space rent can increase each year.

00;05;26;12 - 00;05;48;08

JS: So what you're talking about is the space that the mobile home park owner will lease to someone who's living in a mobile home. Is that correct? Yes. One other ordinance is something called the Ellis Act ordinance. And I understand this doesn't come into play for a lot of people, but in certain situations, I believe the Ellis Act ordinance will come into play. And so can you tell us what the Ellis Act ordinance does?

00;05;48;11 - 00;06;30;08

RV: Yes, the Ellis Act ordinance provides protections for people who are in an apartment where the owner of that building has decided that they no longer want to rent it to on the market. So in San Jose, the most common scenario is that they want to demolish and build something new on that site. And so what the Ellis Act does is provides rights to all of the people living there. It prescribes the process for how they're notified that they need to leave. It also talks about relocation benefits and the right to actually return to that building or a new building once it's built on that site.

00;06;30;11 - 00;06;44;12

JS: So the ordinance probably doesn't affect that many people. It safe to say there may be a handful of events each year where were a building covered by the Ellis Act ordinance comes off the market.

00;06;44;14 - 00;06;53;28

RV: Yes. So far, I would say we see 20 or less apartments impacted by the Ellis Act per year.

00;06;54;00 - 00;07;08;07

JS: Lastly, I want to go back to the the team that you have. We have something called a rent stabilization program, and we have the Rent Stabilization Program team. Can you tell us a little bit about their role and how they are serving landlords and tenants in the city?

00;07;08;09 - 00;07;37;11

RV: So the Rent Stabilization Program has multiple teams built into it. And so, for example, there is the Petitions team, and the Petitions team has staff dedicated to work directly with landlords and tenants who are working through very specific issues that need to be resolved. So they will work with them and walk them right through our process. Second, we have our compliance team and what they do is support our tenant protection ordinance.

00;07;37;11 - 00;08;13;20

RV: They gather all of the notices collected, they look for trends and themes and also just analyze data related to the market to understand what's happening. They also implement a rent registry, which is a requirement that all of the apartments covered by the apartment rent ordinance are registered every single year. And then we have an eviction help team and what they are doing is actually going right down to the court and attending court and providing onsite services and support to people facing eviction real time.

00;08;13;22 - 00;08;28;16

JS: Rachel, thank you very much for joining us today. Really appreciate it. And we're also going to be talking to one of your colleagues, Vanessa Pacheco, as part of this episode. And she's going to be filling us in on some more details about the ordinances that you just touched upon. So thanks again, Rachel. We appreciate your time.

00;08;28;19 - 00;08;30;29

RV: Thank you so much. It was a pleasure.

00;08;31;02 - 00;08;57;06

JS: Now, in the second segment, we have Vanessa Pacheco from the Rent Stabilization Team, and she'll be going over frequently asked questions. She works on the petitions team with the Rent stabilization Program. Petitions are written request to appeal actions taken by landlords or tenants. Vanessa and her team answer many calls every day about our housing ordinances. Thanks, Vanessa, for joining us. Can you begin by telling us your role on the team?

00;08;57;08 - 00;09;12;01

VP: Good morning. Thanks for having me today. I'm excited to be here. I work specifically with our Petitions team, so we oversee the petitions process whenever a tenant or a landlord files a petition with our program. So that's pretty much my role with the team.

00;09;12;04 - 00;09;16;25

JS: Can you explain what a petition is and what the purpose is, just so our audience is aware?

00;09;16;28 - 00;09;56;00

VP: Yeah, of course. So petitions are usually filed by tenants that are covered under the apartment rent ordinance. And filing a petition helps if both landlord and tenant come to have basically a solution that's either through the mediation process with the help of a mediator or even with the hearing officer. And so petitions are usually filed if a tenant is experiencing a reduction in housing services, if they received unlawful rent increases or unlawful charges, if there are any house or safety concerns or if they believe that there may be any other violation of the apartment rent ordinance.

00;09;56;04 - 00;10;11;08

JS: So, in short, it sounds like the petition process is kind of the formal way that we can help tenants and landlords resolve disputes. Yes. Can you tell us what does the Rent Stabilization program do? How does it interact with landlords and tenants?

00;10;11;10 - 00;10;41;05

VP: The Rent Stabilization Team. We provide education and information to both tenants and landlords. We help them understand basically what their rights are under the ordinance that they may fall under. There are a number of ways that we provide that information, and that's through our website where we have a number of resources that's including fact sheets about each of the ordinances that we have a map and our contact information as well.

00;10;41;08 - 00;11;03;19

JS: Great. Thanks for that, Vanessa. And we'll be sure to share with the audience some of that contact information at the end of this episode. Now, I know one of the primary ordinances in the city of San Jose that deals with rental housing is called the Apartment Rent Ordinance. And just for our listeners, I'm going to refer to the apartment rent ordinance going forward as the ARO, just to make it a little bit easier.

00;11;03;21 - 00;11;12;12

JS: But Vanessa, can you tell us a little bit about the ARO starting with who is covered by it or what apartments are covered by the ARO?

00;11;12;14 - 00;11;35;25

VP: Yeah. So essentially the apartment rent ordinance covers any apartment building within the city of San Jose. And these buildings are built before and permitted before September 7th, 1979. These buildings usually have three or more units. And so these are the buildings that are covered under the.

00;11;35;28 - 00;11;56;25

JS: One of the messages that we're emphasizing in this public education campaign is this concept of the rent increases being capped at 5% per year. And can you tell us a little bit more about that 5% increase, for example, is it once a year? Can they can a landlord increase that 2% now and then a few months from now do 3%?

00;11;56;27 - 00;12;02;04

JS: Just to clarify exactly what we mean when we say that landlords are capped at a 5% increase per year?

00;12;02;10 - 00;12;27;01

VP: Yeah, of course. So that 5% is only allowed once every 12 months as long as the unit is registered with the rent registry that's here within the city. So it doesn't matter if you've received a 2% this year and then six months later you get a 3% that is not allowed under the apartment rent ordinance.

00;12;27;04 - 00;12;40;19

JS: So under the ARO, there's the mediation process which allows landlords and tenants to try to work through disagreements. Does that mediation process allow tenants and landlords to avoid the cost of hiring an attorney?

00;12;40;21 - 00;12;47;13

VP: Right. Yeah. So if they wanted to bring in their own attorneys, they absolutely can, but they're not required to.

00;12;47;15 - 00;12;54;15

JS: And is the mediation process voluntary? So both parties have to agree to go through the mediation process?

00;12;54;22 - 00;13;13;08

VP: Yes. Both parties should have to agree to come to the mediation if for whatever reason, one of the parties refuses to participate in the mediation, then the that mediation or the petition itself gets referred to what we call a hearing and they meet with a hearing officer.

00;13;13;10 - 00;13;25;28

JS: That and when there's a a mediation or a petition filed, is there a timeframe, a timeline associated with that? Does it have to be resolved within a certain amount of time?

00;13;26;01 - 00;13;49;17

VP: We usually aim to have a mediation or a petition closed at least within six weeks. I mean, there are other things that might not allow it for it to be closed within that time frame. But as long as we can help the tenant and the landlord come to a resolution, you know, that's ultimately our goal.

00;13;49;19 - 00;14;07;15

JS: And we all know that San Jose is a very diverse city. We have a lot of people and there are in our city a lot of residents whose native language may not be English. So when people choose to go through the mediation process, landlords or tenants, are we able to support them in other languages other than English?

00;14;07;18 - 00;14;22;18

VP: Absolutely. We have access to interpreters. And so any point that a tenant or a landlord does need an interpreter, they just need to request it with our team and we are able to provide that for them.

00;14;22;20 - 00;14;41;07

JS: So, Vanessa, I understand that there are a few other very important ordinances in the city of San Jose that affect rental housing, and one of them is the TPO or Tenant Protection Ordinance. And it's my understanding that does not only apply to older buildings, that applies to many more rental properties. Is that correct?

00;14;41;09 - 00;15;04;09

VP: So yeah, So the Tenant Protection Ordinance not only covers our rent stabilized buildings, it also covers any other rental units and any multiple dwelling except permitted motels and hotels. It also covers any guestrooms and any guest houses, and it covers unpermitted units.

00;15;04;14 - 00;15;21;21

JS: Sounds like it's much broader in scope than the arrow in terms of the properties that it covers. And so the TPO, the Tenant Protection Ordinance essentially requires landlords to provide a just cause. So can you tell us a little bit about that, the the just cause provisions in the tenant protection ordinance.

00;15;21;25 - 00;15;47;13

VP: So within the tenant protection Ordinance, a tenant can't be evicted basically without a legal reason for eviction. And these are what we just called just causes. And there are a total of 13. And then these just causes can be based on actions or inactions of the tenant. And we also have our no fault just causes as well under the tenant Protection ordinance.

00;15;47;14 - 00;16;07;15

VP: So when a tenant is at fault, most of the time they should be given a chance to fix the issue. And when a tenant is not at fault, there are other requirements that landlords must follow no matter what the notice is. A copy of the notice must be filed within three days of it being given to the tenant.

00;16;07;17 - 00;16;25;08

JS: So when we talk about the 13 just causes some of the some of those just causes have to do with tenants failing to do something or doing something that they shouldn't. For example, I believe and correct me if I'm wrong, the most common just cause is failure to pay rent. Is that correct?

00;16;25;13 - 00;16;33;28

VP: Yes, that is correct. That's a nonpayment of rent. And that is one of the causes that are based on actions of the tenant.

00;16;34;00 - 00;16;41;12

JS: All right. Can you give us a couple of other examples of things that tenants might do that would provide a just cause for eviction?

00;16;41;19 - 00;16;59;22

VP: Yeah, of course. So some of the other ones that are listed are a substantial damage to the apartment. Nuisance behavior, refusing access to an apartment and unapproved hold over a tenant. So these are just among one of the just causes of terminations.

00;16;59;25 - 00;17;17;27

JS: And then you also mentioned this concept of the no fault just cause. So that is, I take it when the landlord is allowed to evict the person, even though they haven't done something wrong, because there might be other circumstances at play. So can you explain what some of those just causes, those no fault just causes might be?

00;17;18;03 - 00;17;46;10

VP: Yeah. So one in particular is owner move in. So that's if the owner wants to take possession of the unit. So either that they may move in or even an authorized family member might move in. So that's an example of a no fault just cause Another one could also be a substantial rehabilitation of the apartment. So that's if the landlord wants to, you know, make substantial repairs to the building.

00;17;46;13 - 00;17;59;23

JS: And so in those cases where there's a no fault just cause with the landlord's allowed to take the unit over, but the tenant hasn't done anything wrong, does the law provide any compensation for the tenant who's being forced to move out?

00;17;59;24 - 00;18;26;25

VP: Yeah. Under some of the no fault just causes, there are relocation benefits that should be paid to the tenant. So some of these, like I said, include that substantial rehabilitation. If there's the Ellis Act removal, if there's an owner move in or in order to vacate. So those are just again, some examples as to how relocation assistance might be triggered for these no fault just causes.

00;18;26;28 - 00;18;47;11

JS: So for some of these no fault move outs that you just mentioned where relocation benefits have to be paid by the landlord to the tenant. Is it in your team inside the Rent Stabilization program that helps

make sure that landlords and tenants are both aware of what that payment must be or what that payment should be?

00;18;47;14 - 00;19;24;29

VP: Yeah. So within the rent stabilized program, we have our our two team, So that's a petitions team and the compliance team, the team that works closely with the tenant protection ordinance is actually a compliance team. So at any point that a tenant does receive a no fault just cause of termination, they can always contact our program and ask to speak with someone about the tenant protection ordinance and then they would be able to get more information as to what their rights are. And you know, if the relocation assistance does apply and you know what next steps to take.

00;19;25;06 - 00;19;38;18

JS: You know, San Jose has more mobile homes and almost any city in the country. So people don't realize that an over 99% of those spaces were permitted before September 1979. Can you tell us a little bit more?

00;19;38;20 - 00;20;09;23

VP: So San Jose has had the mobile home rent ordinance for, I want to say, about close to 40 years. So under the mobile home rent ordinance, annual increases on space rents are limited to 75% of the change in the San Francisco Oakland. All urban consumer price index or CPI with a minimum increase of a 3% and a maximum increase of 7%. Rents may not, with the few exceptions, be increased when a mobile home is sold or transferred.

00;20;09;25 - 00;20;28;04

JS: So, Vanessa, I know for the rent increases on mobile home spaces, the calculation can be a little bit confusing. The formula the city uses can be a little bit confusing. If mobile home residents or mobile home park owners have questions about can they call you, can they call your team to get clarification on that?

00;20;28;06 - 00;20;49;15

VP: Yeah, absolutely. They can totally call us. They can call us at the 4089754480 number and someone on our team would be able to assist them and answer that question for them. I know it can be a little confusing and so we're always happy to explain how the calculation is made for rent increases.

00;20;49;18 - 00;20;58;16

JS: The bottom line for that is that mobile home spaces, the rent for mobile home spaces, increases between 3% and 7% per year.

00;20;58;23 - 00;20;59;21

VP: Yes.

00;20;59;23 - 00;21;06;17

JS: And I think it's the city I believe that does the calculation and lets the mobile home park owners understand what their allowable rent increases.

00;21;06;18 - 00;21;17;27

VP: Yes. So the city calculates the rent increases and we send out the notices to all park owners who are then required to post that information for all residents to see.

00;21;17;29 - 00;21;36;10

JS: Well, and that's obviously is a critically important protection for mobile home residents because obviously, once someone buys a mobile home and they put it on a mobile home space in the park, they're kind of locked in there. And so without some protection on rent increases, they'd be very vulnerable.

00;21;36;17 - 00;22;23;10

VP: Essentially under the mobile home rent ordinance. This covers mobile phone lots that have received operational permits on or prior to September seven, 1979. So mobile home lots that are actually not covered under the ordinance include any lots that received operational permits after the 1979 date. Spaces that are owned, operated or subsidized by a government agency or a housing assistant payments program, or any lots that do enter into a voluntary long term lease agreement. So if any resident does sign a long term lease agreement, essentially they are they are exempt from the mobile phone ordinance.

00;22;23;12 - 00;22;53;20

JS: And that seems like a pretty significant issue there. So if I'm a resident living in a mobile home and my space is covered by the mobile home rent ordinance, I'm protected. The rent can't increase by more than three to 3 to 7% a year. But you're saying that if I voluntarily enter into a long term agreement with the mobile home park owner, that I might lose that rent control protection and that in the future my rent could actually go up more. Is that correct?

00;22;53;22 - 00;23;01;18

VP: Yes, that is correct. I would definitely call our program. So just to get more information about the mobile home rental ordinance.

00;23;01;20 - 00;23;27;09

JS: Okay. So, Vanessa, one other housing ordinance that we talk about during the public education campaign is something called the Ellis Act ordinance. And it's my understanding that in certain circumstance, it's not everybody, but in certain circumstances, when tenants are forced to move out of their apartment, they may be eligible for compensation due to the due to coverage and protections provided by the Ellis Act ordinance.

00;23;27;11 - 00;23;29;13

JS: Can you tell us a little bit more about that?

00;23;29;16 - 00;23;48;25

VP: Yeah. So at any point that a tenant does receive a notice to vacate under the Ellis Act, we highly encourage you to call our program and just get more information as to what your rights are under this ordinance as well as the other ordinances that do exist within our program.

00;23;48;27 - 00;23;53;14

JS: So, Vanessa, you've been with the Rent Civilization program for a few years now, is that correct?

00;23;53;17 - 00;23;59;03

VP: Yeah, I've been with the program for, I want to say about a little over two years now.

00;23;59;06 - 00;24;14;03

JS: Just out of curiosity, are there are there trends or patterns that you see in the calls that you guys receive and the Rent Stabilization program? And are there there common questions that the tenants are landlords have that you guys get that you might want to share with our our audience?

00;24;14;06 - 00;24;53;18

VP: Yes. So a lot of those questions that come into our program are about understanding what their rights are under the ordinances, asking for more information in terms of what next steps to take if they do receive a notice to vacate, if they do need help with rental assistance. We usually like to refer them out to other community organizations that exist within the city of San Jose and some other phone calls that we get just basic information as to, like I mentioned, just what their rights are and how they might be covered under the ordinances.

00;24;53;21 - 00;25;09;25

JS: And we as a city, as a public entity, we don't take sides in disputes. Right. So if a landlord and tenant have a dispute, it's not up to us to take sides on that. We want to give them the information and help them work through it. Is that correct, Vanessa?

00;25;10;02 - 00;25;17;27

VP: The main purpose of our program is essentially to foster positive relationships between tenant and landlords.

00;25;17;29 - 00;25;31;03

JS: In the spirit of remaining neutral. If we if someone is looking for legal counsel, legal advice, are there outside agencies, maybe nonprofit legal agencies where we can refer people?

00;25;31;06 - 00;26;06;29

VP: Yeah, we definitely refer tenants and landlords out to legal agencies that exist within our community. So we do have a couple legal agencies that are within our community, and these are agencies that we normally refer all of our callers out to if they do have any legal questions. Some of that includes Law Foundation, Bay Area Legal Aid, Asian Law Alliance, and in some cases, if they do have further questions, we usually will also refer tenants out to or onwards out to the Santa Clara County Superior Court for self-help.

00;26;07;01 - 00;26;16;25

JS: It sounds like there are quite a few resources to help both landlords and tenants navigate those stressful times. Vanessa, before we wrap up, are there any other points you'd like to make?

00;26;16;27 - 00;26;41;18

VP: So yeah. So if at any point, any tenant or landlord does have any questions about our ordinances, what their rights are, if they are covered under the ordinances, we always encourage you to give us a call at our program and anyone on our team will be happy to assist you and just provide you with the education and information regarding your rights and the ordinances within the city of San Jose.

00;26;41;20 - 00;26;48;09

JS: And is there a is there a main phone number or main email address that people can use to reach the Rent stabilization program?

00;26;48;11 - 00;27;04;13

VP: Yeah. So the email that you can reach out to is RSP @ San Jose C A dot G O V or you can give us a call at 4089754470.

00;27;04;15 - 00;27;15;24

JS: Well, that's great. Vanessa, thank you so much for your time. Thanks for sharing your expertise and your experience with the RSP program. And good luck with this campaign. Hopefully, you guys are able to do a lot of good for a lot of people in our community.

00;27;15;27 - 00;27;22;28

VP: Thank you, Jeff. Thanks for having me. And we look forward to just helping everybody within the city of San Jose.

00;27;23;01 - 00;27;46;27

JS: Thanks so much, Rachel, Vanessa, for joining me on today's episode. Listeners, please follow us on social media for information about these ordinances and to engage with us. We'd love to hear your questions and feedback. Visit our Renting Has its Rates website if you're interested and want to learn more about our housing ordinances. And as always, please feel free to reach out to us by email, phone or on our social platforms.

00;27;46;29 - 00;28;07;07

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