

Summary of Discussion & Comments

Tenant Protection Ordinance & Apartment Rent Ordinance

Community Meeting Series 7/11/17

Tenant Protection Ordinance

Topic: Roommate Clause

July 11, 2017

48 Comments

1. Pre-notification must be done for all added tenants in writing.
2. For 18 and over, must be in the form of a rental application. They must be qualified. What if
3. Anyone over 18 must be qualified. They must be able to pay rent in case the person on the lease moves out or can't pay.
4. What do other cities do?
5. How does the owner address the additional costs for new tenants – RUBS? What about additional maintenance “wear and tear” due to new tenants. Increased water use? No means to compensate owners for additional costs.
6. Follow the correct federal guidelines
7. Q: total number of tenants. 2 persons per bedroom & 50 square feet for additional occupant, isn't it too crowded? Or is it 2 person per bedroom + 1?
8. 8 people max per 2 bedroom 1 bath. 2 per room + 2 max. If kids are present, then every 2 kids = 1 adult. So 8 people max! In a 2 bed 1 bath. 3 bed 1 or 2 bath = 10 people.
9. Over occupancy should be kept into consideration for healthy reasons & cleanliness.
10. An occupant is an occupant regardless of age (i.e. 18 or not)
11. Believe an occupant is an occupant; children are to be counted at age 6. Overcrowding can be a concern with maintenance and use of noise.
12. 4 plex with 2 bedrooms. If there are 10 people living next door and I can no longer use the washer/dryer or have hot water. How will I be protected from the service reduction?
13. Occupancy standards should include people in the unit (children & adults)
14. 18 year old age is arbitrary; don't use this as a benchmark definition for an occupant.
15. Roommate add ons – every occupant over the age of 18 must have their credit run
16. Anyone moving in must fill out an application and qualify for the unit
17. Tenant must notify landlord before anyone moves into the unit.
18. Add new tenants moving into unit (family members) to the lease.
19. Especially if month-to-month, review #4 in ordinance. Landlords using offer of new rental agreement & tenant refuse sign – not have landlord use as loophole
20. Roommate – 1) there should be a maximum regardless of age to be living in unit
21. Have a maximum regardless of age
22. The more child will have more trouble to escape a fire

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23. Not in middle of school year
24. Make student or hardship exemptions
25. 2 Br = 2+1 = 5. Children are tenant and counted.
26. Any additional tenants need to fill out an application and be accepted by owners.
27. What happens when the original tenants leave and the remaining tenants stay? Do they bring in more family?
28. How does the city expect an owner to plan and continue his property?
29. Extra costs per extra tenants
30. Tenants share of water bill
31. People are people. There should not be unlimited children.
32. Difficult to enforce
33. What is the rationale to define the head count?
34. Occupancy – recommend the federal/state guidelines of 2 per 1 br plus one be followed
35. Tenants need to get prior approval to get additional tenants moved in and additional rent must be increased
36. We need a “landlord protection ordinance”
37. Like San Francisco: 2 BR + 1 and children under 6 don’t count
38. The 50 ft guideline used to determine # of tenants which can legally occupy a unit is irrational. i.e. 10 people can live in 500 sq ft bed room. This reminds me of the Good Earth book by Pearl Buck in the 1800s
39. The Roommate clause is conflict with standard square ft. What if tenant bring in number of relative without informing or approving by landlord?
40. Tenant want safe comfortable homes – not crime & overcrowded
41. Roommate is not under contract until adult proposed related “roommate” has provided.
 - o Application to rent
 - o References – if this is part of standard landlord process. Landlord has right and responsibility to provide fair housing.
42. Roommate – is the number regardless of square area of unit?
43. People will move in and out. They don’t live there. Hard to prove who the residents are.
44. Parking issue. People over 1b + will have a right to drive. Parking situation is horrible in apt area. And if there will be worse if this is allowed.
45. There is no such thing as a just cause as long as the tenant qualifies for federal aid unless the owner spends \$10,000. I know from experience.
46. Unauthorized and addition of more tenants should go with an addition rent.
47. Before moving in notify landlord and provide verification of relationship. If else move in is ground for eviction.
48. Remove roommate clause. Let go with tenant and landlord lean agreement. The roommate clause asking for trouble.

Tenant Protection Ordinance

Topic: Criminal Activity

July 11, 2017

40 Comments

1. What are other cities doing? We shouldn't reinvent the wheel. There is precedent.
2. Main concern is a tenants harassment or threatening of other tenants or damage to building. Not too concerned about multiple misdemeanors.
3. Need legal definition/direction from City Attorney on what constitutes criminal activity that can be used for eviction. What is the standard? Arrest record? Police reports?
4. Liability can not be placed on the landlord.
5. Key question: What if there is a felony – i.e. drug arrest/conviction but it is not on the property?
6. Not vaping – what do about smoking pot if on chemo? Have a mediation process instead of violation.
7. Document noise – multiple case #s. Tenants keep written records.
8. How do we address fear of retaliation from tenants?
9. Federal or local laws. Convicted or accused.
10. Is domestic violence victim fall under tenant protection if violent DV perpetrator with restraining order by court for violence (nuisance behavior)
11. Domestic violence?
12. Criminal activity – defined:
 - o Drug use
 - o Physical threat to other tenant or owner
 - o Prostitution
 - o Graffiti
 - o Harboring dangerous items such as flammables, dangerous chemical, etc
 - o Gang activity
13. If landlord feels threatened or is afraid to pick up rent, then they should have the right to evict. In the event that they are being physical/mental threatened by tenant.
14. Drug use – if landlord gets evidence vs police arrest (?)
15. Union City – lease included a clause that included criminal activity that caused bodily harm (on or off property). Criminal activity person-on-person crime can be cause for eviction.
16. Allow LLs to evict for criminal activity and allow the family to agree to remove that individual & not allow him/her back on property. If that person returns to property, the family can be evicted.
17. Fraud & criminal activity – 1) any one whether who may remain anonymous
18. Do not want to be in the middle of collecting evidence (like drug use)
19. Death threats, bodily harm caused by your tenants to another

20. Any criminal activity, drugs, or criminal
21. Habitual nuisance should be criminal. After 5+ notices of disruptive behavior & should be okay to evict
22. Add: tenant harassment of manager
23. Drug activity by traffic- arrests are fine
24. What if crime isn't on the property?
25. Defined: criminal activity:
 - o People who are disruptive to the community
 - o Gang members
 - o Extortionists
26. Plea bargain should count as a crime
27. How can we evict a tenant involving in gang activity in court? Will the City give certain paperwork that we can bring to court?
28. Tenant retaliate against other tenant scratching other people's car. It is hard to proof the bad deed bad tenant is done. We need 90 day notice.
29. I am not qualified to answer this. This is ill defined.
30. Landlord should not be put in a position to prove the criminal activity.
31. Drunk & disorderly
 - o under the influence
 - o drug dealing
 - o drug usage
 - o threats to other tenants and landlord
 - o illegal sexual activity
32. Criminal activity by a tenant in the apartment should be a just cause for eviction
33. Urinating should be documented as a nuisance and lead to eviction
34. It is too difficult to move the criminal activity
35. Any misdemeanor or felony
36. Landlord should not be held to the same level of proof as police are held
37. Please note the attendees of this meeting. Majority are believed seniors who ask same questions several times!! These are the people who purchased rental property to provide them with income during their retirement years. We are not owners with multi hundreds of units or have the legal resources of those owners. Why are owners of these buildings so severely discriminated against? If the City of SJ truly want to help then incentive developers to build low cost housing such as pre fabricated ones so rents on payment will be low. This to me will be the essence of changing the future of housing. Not by ordinances that burden the owners financially and emotionally – Seigi Takokoro
38. Dear Addressees;
The Roommate Clause has nothing to do with TPO
It seems like a way for the City of San Jose to relieve the housing shortage for low income people. The City is imposing the burden of free rent to roommates to the Owners of the apt. under ARO. Section 8 where the city subsidize people with low income and the recent

article on low rental housing which will be charging 30 % of the renter's income as rent; yet the City is suggesting having the owners take in additional tenants at zero rent. Furthermore the city wants to have the owners take in new tenants who are related to the registered tenant without any approval by the owners. Owners of apt. not under ARO have complete control of who and how many tenants can stay in their unit. The city should incentivize the owners of Apt under ARO. The following suggestion offers a win-win situation for the city, roommates, and the owners. Every roommate should be subject to owner's approval. This is to screen those who have questionable behavior pattern that will disrupt the neighboring tenants, damage the property, and will not abide by the rules of the rental agreement. In essence to ensure that the roommate is a responsible person. If the roommate does not adhere to the contractual obligations then the roommate can be evicted. For each roommate the owner should be permitted to charge a nominal fee of \$200/mo which will be included in the registered tenants rent and subject to the annual rental increase. For each roommate leaving the registered tenant rent will be decreased by \$200/mo.

The nominal fee of \$200/mo/roommate is less than the subsidy cost to the city via Section 8. The fee is also less than rental charged by low cost housing rent. I believe this to be equitable and fair to all parties.

Respectfully, Seigi Tadokoro

39. To: Officials and Council Members of the City of San Jose

From: Seigi Tadokoro

The TPO proposed are illogical and burdensome ordinances ranging from allowing overcrowding to diminishing owner authority to manage their investments for the improvement of their structure and quality of living for the tenants some of which I have enumerated in separate emails.

Many of ARO owners budgeted their finances to make ends meet with hopes that their investments will provide them with independent lifestyle during their retirement years. The ordinances are discriminatory to owners and reduces responsibility of the tenants. I believe, further that many of these ordinances are unconstitutional.

Rather than the City providing fair and equitable treatment to all rental owners it targets only those buildings constructed prior to 1979, the year selected in an arbitrary manner, and imposes dictatorial ordinances on them.

The Ordinance also includes other items not related to Tenant Protection" but burdens the owners financially to relieve the housing shortage of low income personnel by allowing free rent to roommate not specified in the rental agreement.

I am angered and outraged by these unreasonable ordinances proposed by the City of

San Jose.

I am certain that the City of San Jose has paid hundreds of thousands in either consultant fee or time devoted by the City staff to come up with these proposals. These proposals are based on nothing more than past statistics and copycat ordinances from other cities that have no bearing on the cost of doing business in San Jose. There is not a shred of creativity in the ordinances proposed and the proposals are predominantly for the benefit of the tenants and nothing for the owners.

I believe majority of owners under ARO are "MOM and POP" owners which have smaller number of units rather than corporate owners whose buildings are not under ARO. In doing so the City has stayed away from their lawsuits by exempting them from complying with the same ordinances.

The tenant activist group will always have more voice than owners for obvious reasons.

The Tricounty apartment association is a weak organization and a more powerful "owner legal rights" organization will surely follow.

The City of San Jose is relentlessly suppressing the rights of the owner, whose buildings are under ARO, so much that I would not be surprised of a revolt or future lawsuits.

40. Dear Addressees;

At the initial TPO mtg., May 31, 2017, criminal activity by the tenant was not an item. When audience questioned it the response was that it maybe included in the nuisance category, but more logical head from the city prevailed and the response was that it would be considered as a separate item. I am pleased to hear that it will be a visible item that will be considered as "just cause" eviction.

Criminal activity by tenant is not a nuisance. It is a seriously detrimental behavior that can frighten the neighboring tenants especially those with children. Neighboring tenants would be reluctant to report them since they fear retribution from the criminals.

Criminal activities must have "zero tolerance" and should be subject to immediate eviction. A 30, 60, or 90 day notice would only permit the violator to be more aggressive during the time left before they are evicted.

Criminal activities in a rental building will attract undesirable visitors which can intimidate, threaten neighboring tenants with physical injury, and other disruptive and destructive actions associated with criminal behavior.

For the City ordinance to even consider just a slap on the wrist for violators lowers

the bar on maintaining law and order. Such behavior tolerated will sow the seed for degrading the standard of the city culture to protect law abiding citizens.

A strong deterrent is required so that the tenants will know the severity of criminal behavior. How many of you would tolerate criminal activities going on in your own home? I would not tolerate it *even* from my children. There should be consequences to criminal activities.

Do not protect tenants with criminal activities!!!! Respectfully,
Seigi Tadokoro

Tenant Protection Ordinance

Topic: Immigration

July 11 - 18, 2017

0 Comments

- Not included in discussion topic.

Apartment Rent Ordinance

Apartment Rent Ordinance

Topic: Consumer Price Index

July 11, 2017

Consumer Price Index – 46 Comments

1. CPI does not reflect owner costs – Maintenance labor, property tax, water & garbage rate increases, increases in ARO fees, gas, ½ % sales tax increase.
2. Recommendation to take 18 month pause before considering CPI.
3. Use our own rent data from the Rent Registry to see how rent increases are being applied. Then consider CPI.
4. No change in 5% until 2019
5. No change at all
6. 5% increases every 12 months is a burden for very low income families + individuals. Increases tied to CPI would bring emergency relief.
7. From 2002 through 2015 CPI from Oak/SF/SJ has been less than 3% except 2006, 2007, 2008. Recommend CPI not be used.
8. Ordinance is antagonistic to landlords
9. Prices generally are rising beyond our control
10. No social services raise for 2 years (under 2%)

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11. Please move the year up with the changes to include more units.
12. If tied to CPI put caps on. If CPI drops below 2% allow 2% increase if CPI goes above 5% allow max of 5% increase.
13. Tie increase in utilities i.e. water, gas, electricity etc to CPI to lower expenses so owners can compete
14. If no banking is allowed, the LLs will likely raise rent every year.
15. Index for rent increasing should have minimum and maximum. If utility, recycle, water, city tax can follow CPI, then rent increase can follow.
16. CPI is not fair means for an owner to maintain the property. Flat is better.
17. Keep rent at CPI
18. Do NOT change from current 5% down to anything less. This is too much of a change especially with other changes that are now financial burden.
19. If I do not have fund the up keep my building, anything happens or earthquake comes, the building will be hazardous to renter and the property owner. It is unsafe.
20. My tenants are paying \$1200. Setting it at CPI, this is making me go out of business.
21. CPI x 1.5 with a cap?
22. Water increase is over 25%, everything is expensive to upkeep the property. Cockroaches and bedbug is a serious issue all the landlords face and they are costly. With this Tenant Protection Law, the situation will be worse.
23. Delay decision for 1.5 or more years so we can see if property owners can survive the 5% and all other new changes.
24. Give another year, wait for rent registry to go online and gather data. See how TPO works out with 5%. CPI wait.
25. Rent should go with market to cover increase, insurance, and cost of repair increase.
26. CPI – this is not sustainable. No other expense is tied to this number. Do not decrease less than current 5%.
27. Stick with 5% from last year & see how the impact is with the TPO in place.
28. If retirement were cut to 25%, would you be happy. Most landlords do not have jobs that provide retirement or health benefits.
29. If CPI is used, go like mobile home ordinance. 3% floor, 7% cap with banking.
30. CPI does not help the people who need help. Apartments are held for a lifetime by people who don't even live there.
31. The 5% limit on unit increase should remain. The CPI should not be used. Reset the limit because it isn't reasonably related to expenses of maintaining pre 1979 buildings.
32. 5% is fine, CPI is punitive on landlord
33. C.P.I. is not a valid criteria of expense. 5% is a bare minimum.
34. 5% has never been tested yet. Constant change makes the city untrustable at all.
35. CPI is not right. Mortgage costs amid house maintenance cost doesn't tie to CPI. Why the utility cost can go beyond CPI, government worker go beyond, but rent cannot go beyond?
36. CPI is not stable.

37. What is the fair measurement to give a fair and reasonable return like what MV try to define.

38. Dear Addressees;

I read that the city is considering tying the rent increases of apt. under ARO to CPI. Tying rent increase to CPI puts a financial strain on the owners. This is especially so for those that have provided very low rents to the tenants.

My average rent for studio is \$850 and for one bedroom it is \$975. These rents are conservatively \$500 to \$700 dollars or more per month below the market rate respectively.

Even at 5% per year it would take over 12 years to achieve the current market rate. Anyone owning any property knows only too well that owning property does not come cheaply.

Items that have high local CPI are gas, water, electricity, garbage, mortgage interest, labor, materials, etc all which are necessities for maintaining rental units.

This is even more so among low income housing since tenants paying low rent have attitude that differs from those who are paying high rent.

Being a "MOM and POP" owner of rental for over 50 years I can attest to the higher cost of maintenance for the lower income tenants. Is this being prejudicial, no more than the City of San Jose's trying to reduce rent increase only for those apt. under ARO.

What is the average rent amongst the apartments under ARO vs. those not under ARO? When one reads about average rent being high in San Jose it is because the rents are skewed by the rental not under ARO. I have never been asked what is my average rent.

For those under ARO some rents are well below market and some are close to market. As a minimum there should be tiered rental rate increase depending on level of the average or unit rents charged.

I would not mind if limit to rent increases were applied to ALL rental units in San Jose but to impose it only to those under ARO is highly discriminatory and unconstitutional. This is akin to imposing limits on salary increases based upon the age of the worker.

Respectfully,
Seigi Tadokoro

39. Recommendation on using the CPI as a basis for rental increases is to have a neutral party analyze the actual operating expenses and compare to the CPI that is being reviewed.

40. CPI should be delayed for one more year to let the existing changes settle down.

41. CPI is unfair to landlords and business owners when costs of operations far exceeds the CPI rate in any given year. ESPECIALLY when there is no capital improvement allowed.
42. TPO creates more work for landlords & more costs. This is not accounted for in CPI.
43. CPI will keep tenants in their unit forever and leaves life units for new people looking.
44. 5% is not enough to cover the costs of maintaining properties.
45. One landlord didn't raise any thing close to CPI. Likes predictability of CPI.
46. Keep it at 5%. CPI is not a contemporary basis considering the cost of operating properties in the Bay Area.
47. Can we change fee for added utility costs of many more people? \$50 a tenant.

Apartment Rent Ordinance

Topic: Capital Improvements

July 11, 2017

Capital Improvements – 27 Comments

1. Doesn't make sense to lower to rent increase to CPI – then allow pass-throughs. Just creating more paperwork and costs.
2. "cost of paperwork for owners is not worth the benefit"
3. Unanimous consensus of my table was to just keep 5% allowable rent increase and do away with Capital Improvement pass-throughs
4. If we are to use pass-throughs, then any capital expenditure should be allowed to pass-through at 100%.
5. As an example, major pipework should be allowed at 100%. It is a tenant benefit.
6. 100% seismic, safety upgrades
7. 100% improvement of tenant service. Every major capital improvement is a service improvement:
 - o Driveway
 - o Roof
 - o Repiping
 - o Windows
 - o Remodel of bath and kitchen
 - o Electrical
 - o Landscape change
8. Maintenance replacement – 50%
 - o Water heater
 - o Appliances
 - o Carpets
 - o Painting
9. CPI) reduction would make all of the above moot

10. Cap the capital improvements at 8% on top of the cap on allowed rent increases. Capital improvement cap is separate from the annual increase.
11. If capital improvements are needed, banks will not loan \$ to owners if they cannot raise the rent to cover costs.
12. TPO will discourage capital improvement
13. Possible separate set of rules for mom & pop vs. corp (which are just out for max profit)
14. All capital improvements should have the option of 100% pass through
15. I think the owners should use other funds to do improvements and not raise rents for tenants
16. All capital improvements should have pass through of 100%
17. Capital Improvement: 1) increase = cost. Amortization x 12 x # of units. 4 max = 10% over rent with longer amortization
18. This capital improvement policy makes execution too complicated. Just define the number
19. No cap on capital improvements. Landlords have an incentive to minimize increases because they do not want vacancy.

20. Dear Addressees;

The recent change of no pass through for capital improvement is more testimonial to the City of San Jose dictatorial attitude of imposing financial hardship for those under ARO. Even the City reassess property values when remodeled by increasing the tax base even though they have not put a single penny into the cost.; yet ARO owners are burdened to shoulder the entire cost.

San Jose housing has a slogan that their mission is "to strengthen and revitalize housing and neighborhood through investments". What incentive do the owners have to make improvements if the cost of doing so cannot be supported by the business they are in. Why would the owners want to make improvements when no pass-through is allowed. Why will the City of San Jose not incentivize owners to do the right things and to encourage the owners to make their investments they can be proud of.

Surely there are creative people working for the City to devise an incentive that will make the tenants happier through improve facility, encourage owners to make these improvements and the city to fulfil their mission. Improvements do not flourish under unfair mandates.

Respectfully,
Seigi Tadokoro

21. Dear Addressees;

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Respectfully,
Seigi Tadokoro

22. There will be non with CPI.
23. Staffer's capital improvement proposal seems very complex and more than 30 days must be allowed for comments – 60 or 90
24. There needs to be a capital improvement pass through to tenants
25. 100% pass through on REQUIRED services. Probably 50% pass through on upgrade.
26. Include sewer/water repipe & electric rewire in the major system upgrades. 50% is fine over 38 months for 6 plexes & under.
27. Capital improvements pass-through – is there a cap on top of the rent increase cap?

Apartment Rent Ordinance

Topic: Duplex

July 11, 2017

31 Comments

1. Duplex are a residential complex/dwelling. They are not considered a type of apartment living standard. Also, lenders do not consider them as apartments. DO NOT INCLUDE THEM.
2. Duplexes should remain outside of the ARO because:
 - o Duplex owners don't know these rules
 - o Staff would have to increase regulations to handle 11,000+ duplexes.
3. Keep them off of rent control.
4. Don't feel duplexes should be included under rent control ordinance.
5. Don't include duplex into rent control.
6. NO
7. Exclude owner occupied duplexes.
8. No duplex included under ARO
9. It's only an entry level investment
 - o Owners have limited cash
 - o They use sweat equity and barely make it
10. Can't afford a bigger property
11. Have the Housing Dept check to see how many duplex owners actually live in their units
12. Check to see if owners are local (Santa Clara County)
13. Duplexes should not be included in rent control, but they should be included in the Tenant Protection Ordinance
14. Disadvantage: owners will sell the duplex or convert it to single family home
15. Engage duplex owners. They are not here.
16. Duplexes should be included
17. Should not be included in TPO. Duplexes are smaller than single homes. TPO is one side protection assuming landlords have tons of money. TPO with great landlord out of market
18. Duplexes should be added since it is about tenant protection, we have many duplexes in San Jose
19. Providing affordable housing is all of societies responsibility. Not just <20% of all rentable housing
20. Add the duplexes. This I only fair. Actually my only reasons is for more property owners to be involved.
21. Include duplexes and (all) units after 1979. The more units under rent control, the better to improve house crisis.
22. If it is a rental unit, it needs to be included whether duplex, condos, or single family home
23. Duplexes should be covered under both the ARO and Tenant Protection Act! If it is being used as a rental then the tenants should be protected.

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24. Include more units under rent control will make crisis much worse.
25. Do not add to Rent Control. These are entry properties to rental property management.
26. Duplexes should be treated differently. Owners often live in one of the units. They have to live right by the other tenant. If they are a bad tenant and make their life difficult, they should not have to live next to them and share same amenities.
27. No duplexes or SFR's in ARO. Many reasons for not including duplexes. Duplexes are not generally owned by rich. Not all tenants are needy – ARO severely hurts property values when sale must be ___.
28. No duplex. There is no reason why duplex should be included. Then why condo and SFH? Such JCF will damage the community.
29. The City should provide aid to needy tenants instead of freezing rents.
30. Duplexes right now may be affordable because they are not included. Because the owner is able to stay because of the income of the other unit.
31. HUD has defined these rents as being "fair." Rent control freezes very low rents unjustly.

Voucher Payment Standard, FMR & Utility Allowance

Voucher Payment Standard

The Voucher Payment Standard (VPS), which is established based on the FMR, is the maximum subsidy SCCHA can provide toward the contract rent.

Santa Clara County Housing Authority (SCCHA) Payment Standards
Effective January 1, 2017

0 BR: \$1,657	<i>H. J. D. WAS DEFINED THESE RENTS AS BEING "FAIR" RENT CONTROL FREEZES VERY LOW RENTS UNJUSTLY.</i>
1 BR: \$1,950	
2 BR: \$2,442	
3 BR: \$3,385	
4 BR: \$3,793	
5 BR: \$4,362	
6 BR: \$4,931	
7 BR: \$5,501	
8 BR: \$6,069	

Apartment Rent Ordinance

Topic: Hearing Process

July 18, 2017

Hearing Process – 0 Comments

- Not included in discussion topic.