

City of San José
Rental Rights and Referrals Program
200 E. Santa Clara Street, 12th Floor

(408) 975-4480
www.sjhousing.org



Fair Return Petition (Interim)

Adopted September 15, 2016

Prior to completing this application, visit www.sjhousing.org to ensure you are using a current version of the form and download the instructions.

Box 1 **Owner**

Owner Information:

Name: _____ Phone: (_____) _____

Mailing Address: _____

Email: _____

Check if sole owner of property; if not, list all other owners, their mailing addresses and daytime telephone number in Box 13.

Box 2 **Designated Agent (authorized to bind Owner)**

Designated Agent: _____

Mailing Address: _____

Daytime Phone Number: (_____) _____ Email: _____

Box 3 **Property Information**

Property Information: _____
Street Number Street Name (Unit Numbers)

Parcel Identification Number: _____ - _____ - _____ Date Acquired: _____

Box 4 **Unit Information**

Unit Information

Enter the total number of residential units on this property _____.

Check if this application seeks rent increases for all units at this property.

Otherwise list each unit identification for those units for which you are seeking a rent increase:

_____.

Box 5 **Declaration**

Declaration:

I (we) declare under penalty of perjury under the laws of the State of California that the foregoing and all attached pages, including documentation, are true correct, and complete.

Signature: _____ Date: _____

Print Name: _____

Box 6 Proposed Individual Rent Increase Schedule

Box 6					
A	B	B1	C	D	E
Unit I.D.	Move-in Date (Month/Year)	Date of Last Rent Increase	Current Rent	Proposed Monthly Increase Based On This Petition	Proposed Rent After Increase

(Complete and attach additional copies of this page if needed)

Box 7 **Income Summary**

Box 7		
	A	B
	Base Year 2014	Current Year through _____
1) Rents for all residential units in property projected at 100% occupancy. Include all housing services.	\$ _____	\$ _____
2) Annual interest from security and cleaning deposits, except that interest payable to the tenants.	\$ _____	\$ _____
3) Other income including coin laundry, appliance and/or furniture rental, and any or all other income received in connection with rental units other than housing services.	\$ _____	\$ _____
	\$ _____	\$ _____
4) Total projected gross income (<u>add lines 1, 2 & 3</u>)	\$ _____	\$ _____
5) Rent Loss:		
a) Vacancies (Explain in Box 13)	\$ _____	\$ _____
b) Uncollected rents (bad debts) (Explain in Box 13)	\$ _____	\$ _____
c) Other (Explain in Box 13)	\$ _____	\$ _____
6) Total Rent Loss: (<u>add lines 5 (a), (b) & (c)</u>)	\$ _____	\$ _____
7) Total collected gross income (<u>subtract line 6 from line 4</u>)	\$ _____	\$ _____

Box 8 Summary of Operating Expenses

Box 8		
	A	B
Operating Expenses	Base Year	Current Year
	2014	_____ through _____
1) Property Taxes		
2) Electricity (except to the extent charged to tenant)		
3) Gas (except to the extent charged to tenant)		
4) Water (except to the extent charged to tenant)		
5) Solid Waste Collection		
6) Management Expenses		
7) Legal Expenses		
8) Insurance		
9) Normal Repair & Maintenance [Enter totals from worksheets <u>Box 10a (2014)</u> and <u>Box 10b (current)</u>]		
10) License, registration and other fees to the extent that such fees are not paid by tenants		
11) Amortized Capital Expenses (Enter totals from worksheets <u>Box 11a (2014)</u> and <u>Box 11b (current)</u>)		
12) Intentionally Blank		
13) Other (Itemize in <u>Box 13</u>)		
14) Total		

Box 9 **Summary of Operating Expenses: Net Operating Income**

Box 9		
	Base Year 2014	Current Year through _____
1) Total Collected Gross Income (Refer to Box 7, Line 7)	\$ _____	\$ _____
2) Total Operating Expenses (Refer to Box 8, Line 14)	\$ _____	\$ _____
3) Net Operating Income (Subtract line 2 from Line 1 above)	\$ _____	\$ _____

Box 10a **Normal Repair And Maintenance Worksheet (Base Year)**

Box 10a				
A	B	C		D
Item #	Description of Expense	Units Benefitted (Choose One)		Cost
		All (Place X in Box)	Unit (List Unit I.D.s)	
Total				

Please attach regular maintenance records or logs, if any.

Box 10b **Normal Repair And Maintenance Worksheet (Current Year)**

Box 10b				
A	B	C		D
Item #	Description of Expense	Units Benefitted (Choose One)		Cost
		<u>All</u> (Place X in Box)	<u>Unit</u> (List Unit I.D.s)	
Total				

Please attach regular maintenance records or logs, if any.

Box 11a **Completed Capital Expense Worksheet (BASE YEAR)**

BOX 11a								
A	B	C	D	E	F	G	H	I
Item #	Description of Expense	Units Benefited (check one)	Initial Cost	Interest Rate (Assumed 3.5%)	Amortization Period (# of years)	Cost of Financing (DxE)xF	Total Cost (D+G)	Annual Cost (H÷F)
1.	EXAMPLE	<input checked="" type="checkbox"/> All <input type="checkbox"/> Units _____	\$1,000.00	3.5%	7	\$245	\$1,245.00	\$177.85
2.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
3.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
4.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
5.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
6.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
7.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
8.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
9.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
10.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
11.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
12.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
13.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
14.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
15.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
16.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
17.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
Annual Total (Sum of All Annual Costs) – Enter on Page 4, Box 8, Line 11A								

Box 11b **Completed Capital Expense Worksheet (CURRENT YEAR)**

BOX 11b								
A	B	C	D	E	F	G	H	I
Item #	Description of Expense	Units Benefited (check one)	Initial Cost	Interest Rate (Assumed 3.5%)	Amortization Period (# of years)	Cost of Financing (DxE)xF	Total Cost (D+G)	Annual Cost (H÷F)
1.	EXAMPLE	<input checked="" type="checkbox"/> All <input type="checkbox"/> Units _____	\$1,000.00	3.5%	7	\$245	\$1,245.00	\$177.85
2.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
3.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
4.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
5.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
6.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
7.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
8.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
9.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
10.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
11.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
12.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
13.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
14.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
15.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
16.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
17.		<input type="checkbox"/> All <input type="checkbox"/> Units _____						
Annual Total (Sum of All Annual Costs) – Enter on Page 4, Box 8, Line 11B								

Box 12 **Unusually Low Base Year NOI**

If the owner claims that he or she did not receive a fair return because the Base Year NOI was unusually low due to unusual circumstances, the Owner should describe the unusual circumstances in Box 13 and provide supporting documents. The Hearing Officer must make one of the findings listed below before he or she can determine that the owner has provided sufficient evidence to overcome the presumption of a fair return in the Base Year, so the owner should check all that apply, complete applicable table for each checked box, and attached supporting documents.

Expenses

- a. The owner made substantial capital improvements that improved the housing services during the base year, which were not reflected in the base year rent levels. (Complete Box 12a and attach supporting documents.)
- b. Substantial repairs were made due to damage caused by uninsured disaster or vandalism. (Complete Box 12b and attach supporting documents.)
- c. Maintenance and repair were below accepted standards or resulted from the intentional deferral of other repairs or work, which deferral caused significant deterioration of housing services, the building or individual units. If the time since the deferred work was performed significantly exceeds the amortization periods established by the regulations, it shall be presumed that it was intentionally deferred. (Complete Box 12c and attach supporting documents.)
- d. Other expenses were unreasonably high or low, notwithstanding prudent business practice. (Complete Box 12d and attach supporting documents.)

Income

- e. The gross income during the base year (2014) was unusually low because some residents had unusually low rents for the quality, location, age, amenities and condition of the housing. (Complete Box 12e and attach supporting documents.)
- f. The gross income during the base year (2014) was significantly lower than normal because of destruction of all or part of the premises and/or temporary eviction for construction or repairs. (Complete Box 12f and attach supporting documents.)

Box 12a Substantial Capital Improvement Cost Worksheet (Base Year)

Box 12a					
A	B	B1	C		D
Item #	Description of Base Year Improvement	Housing Service Improved	Units Benefitted (Choose One)		Cost
			All (Place X in Box)	Unit (List Unit I.D.s)	\$
Total					\$

Box 12b **Uninsured Damage or Vandalism Cost Worksheet (Base Year)**

Box 12b					
A	B	C	D		
Item #	Description of Base Year Repair Expense	Insurance Company Claim No. and Response	Units Affected (Choose One)		Cost
			<u>All</u> (Place X in Box)	<u>Unit</u> (List Unit I.D.s)	
					\$
Total					\$

Box 12c **Deferred Maintenance Worksheet (Base Year)**

Box 12c					
A	B	B1	C		D
Item #	Description of Deferred Maintenance or Substandard Repairs	Base Year Expense Incurred or Avoided	Units Benefitted (Choose One)		Cost
			<u>All</u> (Place X in Box)	<u>Unit</u> (List Unit I.D.s)	\$
Total					\$

Box 12d **Unreasonably High or Low Expenses Worksheet (Base Year)**

Box 12d					
A	B		C		D
Item #	Describe Base Year Expense that was Unreasonably High or Low	Describe Unusual Circumstances	Units Benefitted (Choose One)		Cost
			All (Place X in Box I.D.s)	Unit (List Unit I.D.s)	
					\$
Total					\$

Box 12e **Unusually Low Rents - Comparison Worksheet (Base Year)**

Box 12e				
	Subject Building	A	B	C
Building Address, Location Within ¼ mi of Subject				
Age and Condition				
Avg. Size of Units (sq ft)				
Building Unit Mix (0, 1, 2 bedroom, etc)				
Common Area (size)				
Parking				
Amenities in/ similar to Subject Building				
Amenities not provided in Subject Building (e.g., play area, pool, laundry)	N/A			
2014 Rents :				
Unit ID, bedrooms, rent				
Unit ID, bedrooms, rent				
Unit ID, bedrooms, rent				
Unit ID, bedrooms, rent				
Unit ID, bedrooms, rent				
Unit ID, bedrooms, rent				
Unit ID, bedrooms, rent				
Unit ID, bedrooms, rent				
Unit ID, bedrooms, rent				
Unit ID, bedrooms, rent				

Box 12f **Unusually Low Rents - Destruction Worksheet (Base Year)**

Box 12f				
A	B	C		D
Item #	Description of Damage	Units Affected (Choose One)		Cost/Lost Rent
		<u>All</u> (Place X in Box)	<u>Unit</u> (List Unit I.D.s)	
				\$
Total				\$

Box 13Use This Section to Add to or Explain Your Entries from the Listed Boxes:

- ✓ Box 1 Owners
 - ✓ Box 7 Income Summary Explain Line 5c (Other) or other Line 5
 - ✓ Box 8 Summary of Operating Expenses Explain Line 14 (Other)
 - ✓ Box 12 Explain Unusually High or Low Income or Expenses
- Please indicate the Box Number (1, 7, 8, etc.) you are adding to or explaining and the Unit I.D. in question, when appropriate.

Box 14
Tenant Mailing Labels

Notice to Tenants of Rent Increase Petition

Date: _____
 Tenant Name: _____
 Address: _____

Dear Tenant:

This is to notify you that I intend to file a petition for rent increases for the property with the City of San José Rental Rights and Referrals Program (Program). I believe I am entitled to rent increases because the Net Operating Income (**NOI**) for the property has not increased with inflation as provided by the City's Apartment Rent Ordinance.

BASE YEAR CHALLENGE: If box to the left is marked, I believe the property's expenses were unusually high or income was unusually low in 2014, and I will be making this claim in the petition.

If my petition is granted, your monthly rent will increase from \$_____ to \$_____, an increase of \$_____ per month. I will request that this increase become effective on _____, 20____. This date is at least 30 days after the date of delivery of this notice and at least 12 months after the last rent increase.

Sincerely,

Owner/Agent

Property Address

Unit #

TENANT: Information Regarding Owner Petition and the Time Limit for Tenant Petitions.

After the owner files the petition with all supporting documentation to the City, the City will schedule a Hearing on the petition. The City will notify you directly by mail at your unit of the date, time and location of the Hearing. All evidence filed by the owner will be available for inspection at City Hall. Based on the evidence, the Hearing Examiner may approve or deny rent increases. If the box above is checked, the owner is seeking to increase rents because s/he believes the 2014 rents or expenses resulted in an unusually low income to the owner. **You are encouraged to review the submitted evidence before the date of the Hearing.**

You may file an opposition statement and participate in the Hearing regarding the owner's petition. You may need to compile and present your own evidence to support your opposition statement. You may wish to have an attorney or other representative at the Hearing. You may also file a petition if you have had service reductions or other violations of the apartment rent ordinance have occurred. **If you wish to file a petition regarding service reductions or housing code violations or other claims of violations of the City's Apartment Rent Ordinance, you should do so within 10 days of your receipt of this notice.**

The City of San José Rental Rights and Referrals Program is available to answer your questions at **408-975-4480** during normal business hours: Monday - Friday, 8:00 a.m. to 5:00 p.m., although no member of the staff can or will give legal advice to the public. You can also visit the City's website at www.sanjoseca.gov.

Para residentes que hablan español: Si desea mas información, favor de llamar a Theresa Ramos al 408-975-4475.

Riêng đối với qui vị nói tiếng Việt : Muốn biết thêm chi-tiết, xin vui lòng tiếp xúc với Therese Tran, Đ.T. 408-793-5349.

對於說華語的居民: 請電 408-975-4450 向 Ann Tu 詢問詳細事宜。說粵語的居民則請撥打 408-975-4425 與 Yen Tiet 聯絡。

Para sa mga residente na ang wika ay tagalog: Kung kinakailangan pa ninyo ng inpormasyon, tawagan si Arlene Silverio sa 408-793-5542. Salamat Po.

OWNER: Please see reverse for instructions and Declaration

Declaration of Notification to Tenants of Filing of NOI Petition

Instructions: The owner must give a copy of this notification to all tenants (*including those units for which no increase is requested*) indicating the intent to file a NOI petition and the grounds therefore. The owner must sign this declaration and file it with the Department along with the NOI petition. If the owner is seeking an increase based on a claim that property's expenses were unusually high or income was unusually low in the Base Year (2014) they must check the box on the opposite side of this page.

Declaration: I declare under penalty of perjury under the laws of the State of California that I have served the tenant(s) of this unit with a complete copy of this notice, and will file a separate copy with the Rental Rights and Referrals Program.

Signature _____

Date _____

The City of San José Rental Rights and Referrals Program is available to answer your questions at **408-975-4470** during normal business hours: Monday - Friday, 8:00 a.m. to 5:00 p.m., although no member of the staff can or will give legal advice to the public. You can also visit the City's website at www.sanjoseca.gov.