

Episode 5: How Does the City Protect Renters and Landlords?

Welcome to Dwellings, a podcast from the City of San José Housing Department, where we talk with experts about ending homelessness, building affordable housing and exploring housing policies at the city and state level. I'm your host Alli Rico.

On today's episode, I'm joined by Rachel VanderVeen, deputy director for the City of San José Housing Department, to learn more about the City's Rent Stabilization Team, and what they do to help landlords and tenants in the City of San José.

Alli Rico (AR): Rachel VanderVeen, you're one of the deputy directors for the Housing Department. And you oversee the rent - one of your many domains is overseeing the Rent Stabilization Program for San José. What, what is the Rent Stabilization Program? And when did San José, uh, first startup running one?

Rachel VanderVeen (RV): Excellent question. So the City of San José's [Apartment Rent Ordinance](#) was actually born in 1979. So back in 1979, the City Council appointed a task force to address issues in rental housing that were being faced by residents in San José. Um, during that time, the ordinance was adopted for both apartments, and for mobile homes, and also created at the time what was called the City's Rental Dispute Program to administer the ordinance. So the ordinance was put in place and a program was set up on the administration side to staff the program.

AR: Can you talk about what the Apartment Rent Ordinance is? Is it the same thing as rent control?

RV: That's a good question! So the [Apartment Rent Ordinance](#) is a - is an ordinance in San José that provides limits to how high the rent can be raised for specific buildings in San José. So the buildings that are covered, um, are buildings that have three units or more that were built prior to September 7th, 1979, which is when the ordinance was put in place. So in those properties, landlords can raise the rent, but they can't raise it beyond 5% per year. Additionally, if residents living in those properties are concerned about health and safety of their unit, let's say that they have, um, a mold problem that is really causing them health issues? They can work with their landlord of course, on that, but if they don't feel like they have the results they would like, they can actually come to our program and file a petition. And then what happens is there's a whole hearing process that's set up so that the landlord and the tenant can work together to find resolution for issues related to their living experience.

AR: So we avoid going to court for things like that.

RV: Yes, actually, it works really well. It's almost like a little mini-court, where we have a hearing officer who listens to both sides, but really works on finding resolution. That is the goal of the program is to have people work together, to find ways to solve their problems on a mutual basis.

AR: We have a whole team for the Rent Stabilization Program. Can you talk a little bit about what the team does?

RV: Yes. So the Rent Program provides three main services to the community. So first the program provides information and responses to general inquiries that come from both owners and tenants who want to learn more about the ordinance and what their rights and responsibilities are underneath these laws. Second, the program develops and implements rent policies, policies that are related to this. So we have not only the Apartment Rent Ordinance, but we also have other ordinances that, that, um, that help understand how it works with mobile homes and eviction, relocation when new development comes in. So all of that work is also supported by the program. And then finally the program manages the petition process for - that's established under the Apartment Rent Ordinance. So they set up mediations, they provide administrative hearings, um, and they really aim to resolve the conflict.

AR: Um, and does the, does the City itself provide legal services for landlords and tenants who need assistance or is that, uh, where can they find that legal assistance?

RV: So, yes, the City of San José has contracted with, uh, a housing consortium, which is comprised of, um, several nonprofits, including the [Law Foundation](#), [Bay Area Legal Aid](#), [Senior Adults Legal Assistance](#), [the Asian Law Alliance](#), and [Project Sentinel](#). All of those groups are working together with us to provide legal services. They are awarded a \$500,000 contract to provide legal education and services to both tenants and owners. And this all began in 2018. The goal of this program is to increase housing stability by providing free owner and resident counseling, education, referrals, and legal assistance to anyone who might be in need. And our team can, um, work very quickly to connect people who are seeking legal services with these groups. So tenants should contact the Rent Stabilization Program immediately if they're living in an apartment with three units or more in the City of San José, or actually any apartment where they feel that they may have rights, that they don't understand. Our staff can work with them to understand where they live, what the rights are for that specific property. And for them as, um, residents there, and we will determine their eligibility for protections under the various laws that we monitor.

AR: You mentioned that the Apartment Rent Ordinance, when it was first written, it included both apartments with three or more units and mobile homes. And now we have two separate ordinances covering mobile homes and apartments. How does the mobile home ordinance work differently? Cause I understand that there are some, there are differences between the two ordinances.

RV: Yes. So the [Mobilehome Rent Ordinance](#) has a different limit for the amount of increase that the rent can be made each year. So under the [Mobilehome Rent Ordinance](#), the annual space rent for a mobile home, may be increased by 75% of the Consumer Price Index for like the prior year with a minimum of 3% and a maximum of 7%. During the last 10 years, the rent increase has really hovered right at the 3%, because CPI has actually been historically low over the last several years. And so 75% of that amount will actually be less than 3%. So in practical terms, the rent increase has been 3% for mobile homes. Whereas for the apartments, the allowable rent increase is 5%.

AR: And I know like mobile homes, cause typically you own like the, the actual structure, but you don't own the land, correct?

RV: So in a mobile home park, the park owner owns all of the land of the park. And what they do then is they rent spaces to individual people. Those individuals then go ahead and, and actually purchase the home that sits on it. So they - so a mobile home owner generally, um, they own the home that they live in, but they're renting the space that the mobile home is sitting on.

AR: Okay.

RV: So for their, when they are thinking about their monthly bills, they're going to be paying both the mortgage, but also rent.

AR: Okay. You also mentioned, um, there are other ordinances other than the Apartment Rent Ordinance and the Mobilehome Ordinance. Can you talk about the, what the Tenant Protection Ordinance is and how that helps both tenants and landlords in San José?

RV: Yeah. So the [Tenant Protection Ordinance](#), what it covers is built apartment buildings that have three units or more that were built anytime. In San José's history. So it covers approximately 90,000 apartments in San José. And so what it does is it says any notice of termination must include a just cause. And so the [Tenant Protection Ordinance](#) walks through and describes what all the appropriate just causes are. Um, there are 13 of them that are included. And the landlord must provide, um, - basically when they're moving through an eviction process, they have to state the cause. And then, um, if a tenant feels like that, cause was not justified, then they can, um, challenge that in court. So the, the whole process in this case is actually handled by the Santa Clara County court system. The, our program does not have a middle, a little mini court for eviction. All evictions are dealt with by the County program. But what the Tenant Protection Ordinance does is provides a framework for what is allowable and when eviction may move forward in San José,

AR: The RSP team, you guys have been very busy during the pandemic. Can you talk about what your team has done to help reduce the financial stress that people are facing because of the pandemic?

RV: So the RSP team was faced with an unprecedented challenge during the pandemic to continue to provide services to impacted tenants and landlords. Our team has taken a two-step approach to help reduce the financial stress that many people, both tenants and landlords, are facing during this unprecedented time. First, we introduced an eviction moratorium. The City of San José was the first jurisdiction in the country to introduce an eviction moratorium, protecting tenants who were financially impacted by COVID-19. Our eviction moratorium is, um - the period of time that it was in place has now moved on, but, but our moratorium also included a 12 month repayment period for all of the rent that was accrued and not paid during the eviction moratorium. Tenants have a year to repay those funds. Second, the rent, a rent moratorium was introduced to prohibit rent increases for rent stabilized apartments, and for mobile homes to further prevent compounding accumulated rents for struggling residents.

AR: I feel like I, since I started working at the city, I've had to correct my language around rent control versus rent stabilization. Cause we don't have rent control here, we call it rent stabilization. And I'm wondering if you can talk about it, like is there a difference between those two terms or why do we choose to use that term? Um, like what is the difference between rent control and rent stabilization?

RV: What rent control is, is controlling the pricing for rents. So the Apartment Rent Ordinance may be considered a form of rent control, that, that it can be. Rent control is again, it has to do with coming in with a law that actually changes the price for rents. And so, um, the Apartment Rent Ordinance does that. It says that you cannot increase the rents beyond 5% per year. So that is a form of rent control. However, throughout our country, historically, I would just say that rent control, just that term has, um, certain images in people's minds. Right? So people think about New York City. They may think about Chicago. And what happens in those places is that the rent is actually set. And as, as residents move in and out, the rent remains the same. And so it's actually controlled between residents. So again, if you can like get a rent control unit in New York City, you may be paying, let's say, um, you know, \$1000 a month and you're also, you're paying what the prior tenant was paying as well. And so it's controlled year by year, by year, but it's, um, it's actually tends to be more restrictive on the pricing than in San José. So, San José is a part of the state of California. And in the state of California, [there was a law passed in the nineties](#) that basically said, every time, an apartment turns over, so someone moves out and someone else moves in, then the rent can be reset to whatever the market is. And so, in San José, when you come to rent your unit, you're going to be paying what anybody else would be paying to begin with. Right? But then over time, the rent will be controlled by the 5% rent increases. And so I guess one of the reasons I hesitate to call our program "rent control" is that in many people's minds, they believe that the pricing is actually set, and it, um, is controlled between tenants and over time, where our ordinance does not work that way. And the reason it doesn't is because, um, the state law does not allow that in the state of California.

AR: So what is the, what is the benefit to rent stabilization and the way San José has things set up?

RV: What it does is it provides long-term stability. And that's why I come back to rent stabilization. If someone moves in, um, and, and holds on to their apartment for five years, six years, seven years, that that resident is actually going to have the most benefit from the limit of 5% rent increases per year. If someone comes in, moves in, lives somewhere for a year, moves again, lives somewhere for another year, moves again - they're really not going to experience the benefit of the Apartment Rent Ordinance. It's really designed to create long-term stability.

AR: So separate but related, um, I understand San José has a rent registry. Can you explain a little bit about what the rent registry is and how it works?

RV: The City Council directed the Housing Department staff to implement the [rent registry](#) in 2018. The rent registry requires owners to submit specific housing and tenancy information regarding each apartment that is subject to the Apartment Rent Ordinance on an annual basis. The registry is an essential tool in the prevention of unpermitted rent increases,

overcharging, and unlawful of evictions and vacancies. So, the registry gives the Housing Department the ability to monitor rents. It actually provides us policy information about what are current rents, and then it also automatically flags situations where people are raising the rent beyond the 5% that is allowed. And so that's really the two main benefits to have the rent registry in place.

AR: And it's only for rent stabilized units.

RV: Yes.

AR: Okay. Has there ever been any conversation about doing one for all of the apartment buildings in San José?

RV: There have been conversations about how to expand the registry. Again, if there's two main benefits for us having the registry, one is gathering information about our rental market, that is extremely helpful for us when we're looking at policy decisions and just trying to understand who we're dealing with and what the rent structure looks like. The other benefit is to really, um, get ahead of compliance and understand if people are raising the rent beyond 5% and we can communicate about that very easily and quickly when it's actually happening. When you take a look at apartments that are not covered by the Apartment Rent Ordinance, um, you still have one of those values. You still can gain information and understand better what's happening in our rental market. But you, but there it's not, um, there is no limitation on how much rents can be increased. And so again, we would just be gathering information, but we wouldn't be really, um, building on a compliance plan for, for that. So I would just say one of the major aspects would not be, um, we wouldn't be able to use, so that prop, that is one of the reasons why we question, okay, well, what is the value? How important is it for us to understand, um, unit by unit, how rents are structured in the city? So, yeah, it's something that's been discussed, but it's also something we need to understand what the value would be considering the cost and, and, and struggle of implementation to do that, um, what, you know, what is the cost benefit?

AR: Prior to the pandemic there had been a bill in the California legislature about creating a statewide rent registry. I was just curious, like, if you think, if you thought that a statewide registry would, would help with - help renters and landlords, or if it would cause more problems than it's worth?

RV: The value would be again in, in the, in the information itself. It would be in trying to understand what is the different structures of rents throughout the state? How, where do we see differences? Um, are there certain areas that are being impacted in different ways? Um, I think you would be able to see even, you'd be able to take, like crisis information. And over time you may be able to actually see how it interacts with rent structure. For example, in areas like in Napa, where there's been, um, uh, fires over the last couple of years, has that had an impact on their rental, um, rent market? Can we see that? Um, what, what is happening now with the COVID crisis, um, how is that impacting rents? Can we see that across geographic - geography and, um, other, other components? So I think it's, it would just be a really powerful data set that we could learn from. Um, I think again, the logistics, just understanding how much of a challenge we've had in building the rent registry, you

know, doing that across the state would be a challenge, but again, um, It, it would, it would also provide a vast set of data that would be very interesting and I'm sure we could learn from.

Thanks so much to Rachel for joining me on today's episode.

If you're a landlord or tenant in the City of San José and have questions about the ordinances discussed on today's show, you can check out our website at sjhousing.org or call our Rent Stabilization Team at (408) 975-4480.

Thanks for listening to Dwellings, the City of San José Housing Department podcast.

Our theme music is "Speed City," composed and performed by Ettaine Charles. Thanks to San José Jazz for letting us use your music. If you like the show, please [subscribe](#) and share with your friends and family. If you're looking for more ways to get involved with housing and homelessness response, please [check out the show notes](#).

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