

CITY OF SAN JOSÉ
APARTMENT RENT ORDINANCE (ARO)

ADVISORY COMMITTEE

October 17, 2015, 10:00 AM

San Jose High School - Cafeteria

275 North 24th Street, San Jose, 95116

This meeting will end promptly at 2:00pm



Members of the public who wish to make comments on any item on the Agenda, or any other item related to the City’s Apartment Rent Ordinance may be given up to two (2) minutes, however overall time limits on public comment will apply. Please note that: (1) the Stakeholder Group will only be able to discuss comments to items listed on the Agenda; and (2) the time schedule shown below is approximate and intended only to notify the Committee of the approximate amount of time staff expects each item might take, and items may be heard before or after the times shown.

TIME*	AGENDA ITEM
10:00	(a) Call to Order/Orders of the Day
10:10	(b) Introductions
10:15	(c) Approval of Action Minutes for the September 30, 2015 Regular Meeting ACTION: Recommend approval of the September 30, 2015 action minutes
10:20	(d) Discussion and possible action of unfinished business from October 14th meeting (Housing Staff, Facilitator) 1) Presentation and discussion of Consultant Scope of Work, including background information, contextual information, financial outcomes and fair returns (Housing Staff)
10:35	(e) Presentation and discussion on alternative standards and potential modifications to the annual rent increase of the ARO, and analytic methodology (Housing Staff, Facilitator) 1) Annual Rent Increase Standards 2) Allowable Annual Rent Increases: California Cities with an Apartment Rent Ordinance
1:15	(f) Open Forum
2:00	(g) Adjourn Next Meeting: Wednesday, October 21, 2015, 7:00pm San Jose City Hall, Wing Rooms 118-120 200 E. Santa Clara Street, San Jose



All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the City of San Jose Housing Department, 200 E. Santa Clara St., 12th Floor, San Jose, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

To request an accommodation for this meeting or an alternative format for any related printed materials, please contact Ann Grabowski at 408-794-7472 or Ann.Grabowski@sanjoseca.gov or 408-294-9337 (TTY) as soon as possible, but at least three business days before the meeting.

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

Riêng đôi với quý 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.

***You can access the agenda and all attachments electronically at the 2015 Apartment Rent Ordinance Update website at: <http://www.sanjoseca.gov/index.aspx?nid=4744>

ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE
REGULAR MEETING ACTION MINUTES
SEPTEMBER 30, 2015

MEMBERS PRESENT: Gustavo Gonzalez
Joshua Howard
John Hyjer
Amiee Inglis
Roberta Moore
Melissa Morris
Elizabeth Neely
Michael Pierce
Eloise Rosenblatt
Elisha St. Laurent
Tom Scott

MEMBERS ABSENT: Vacant – Tenant Representative

STAFF: Jacky Morales-Ferrand Housing Department
Wayne Chen Housing Department
Paul Lippert Housing Department
Ramo Pinjic Housing Department
Ann Grabowski Housing Department
Shasta Green City Attorney’s Office
Shawn Spano Contracted Facilitator

(a) Call to Order/Orders of the Day—Wayne Chen opened the meeting at 6:10 pm.

(b) Introductions—Committee members and staff introduced themselves.

(c) Expectations & Outcomes (Facilitator)

Mr. Spano Spano presented an overview of how the meetings would be facilitated and carried out.

(d) Brown Act (Staff)

Ms. Green from the City Attorney’s Office provided an overview of the Brown Act and the Political Reform Act, which included information about meeting decorum, parliamentary procedures, and restrictions on decision making and serial meetings.

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(e) Presentation on the City's Apartment Rent Ordinance (Staff)

Mr. Chen provided an overview of the key provisions of the City's existing Apartment Rent Ordinance, including the annual allowable increase, cost pass-through provisions, notification requirements for termination of tenancy, and the mediation/arbitration petition process.

Member of the public: Is the effective date of the restriction when the building was built or when it was first rented?

Mr. Chen answered that the effective date is when the building was built and first rented before September 7, 1979

Ms. Moore: What is the breakdown of rental housing units in San Jose, and how many are ARO units?

Mr. Chen answered that there are approximately 122,000 rental units in San Jose, with approximately 43,000 of those units being rented under the Apartment Rent Ordinance.

Mr. Hyjer asked for an explanation of the calculation for the capital improvement pass through.

Mr. Chen answered that the capital improvement pass-through would be explained during the meeting where capital improvements will be addressed.

Ms. Heeley asked for clarification of the definition of an "excessive rent increase."

Mr. Chen responded that rent increases at or below 8% annually or 21% after 24 months are not considered excessive.

Mr. Pierce clarified that under California State Law requires a 60-day noticing requirement for any rent increase above 10%.

Mr. Howard clarified that it's the responsibility of the owner or manager to inform the new tenant about their responsibilities under the Ordinance.

Ms. St. Laurent asked a clarifying question about the merits of a rent increase that is within the 8% allowable annual increase

Mr. Chen responded that under the existing Ordinance 8% increases are allowed by right.

Mr. Pierce clarified that evictions for cause do not happen over the course of three days. Instead, a notice is served and the tenant is required to correct the issue within three days. If not corrected, it takes additional time through the unlawful detainer process to remove the tenant.

Mr. Hyjer asked what percentage of units has participated in the petition process.

Mr. Chen answered that the percentage is 1.8%.

Mr. Gonzalez asked for a breakdown of which of the petitions were for rent increases.

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Mr. Howard asked for a breakdown of the petitions that rent increases, voluntary agreements, the results of the petition process, the number of petitions filed by those not under the ARO.

Ms. Inglis requested data on the number of no-cause notices on file.

Ms. Moore asked for clarification and additional data on the total number of customer contacts and the types of interactions had by staff.

Ms. Moore stated that many apartment owners file a 90-day no cause termination of tenancy even if there is cause.

Ms. Moore asked if pass through petitions are rejected by the City if there was no challenge by a tenant.

Mr. Chen responded that the City has received 15 pass-through petitions and all have been accepted.

(f) Process (Staff)

Unfinished

(g) Open Forum

There were no comments made during open forum.

(h) Adjourn

Mr. Spano adjourned the meeting at 9:13pm.

Alternatives for Annual Allowable Rent Increases

This document summarizes three alternatives that jurisdictions in California with comparable rent regulation programs use for determining annual allowable rent increases, including:

- I. Annual increase based on the Consumer Price Index (CPI) or a percentage of CPI. The CPI is a measure of the average change over time in the prices paid for a basket of consumer goods and services. Some jurisdictions using this standard also include and adjustment for utility costs.
- II. Annual increase based on a fixed percentage.
- III. Annual increase based on operating costs. This standard provides an annual allowable increase to cover rises in the cost of operating an apartment building.

I. Ordinances with Annual Increase Based on CPI		
Jurisdiction	Annual Increase Standard	Utility Adjustments for Master-Metered Units
Los Angeles	100% of CPI Minimum 3%, Maximum 8%	1% / year gas 1% / year electricity
Berkeley	65% of CPI (until 2006, annual increase based on opening cost study)	None
Oakland	100% of CPI	None
San Francisco	60% of CPI	Gas and electricity – pass through of costs increases for a bldg based on application
West Hollywood	75% of CPI	None

II. Ordinances with Fixed Percentage Annual Increase		
Jurisdiction	Annual Increase Standard	Utility Adjustments for Master-Metered Units
Beverly Hills	10% / year*	None
Hayward	5% / year	None
San José	8% / year	None

III. Annual Increase Based on Operating Cost Study		
Jurisdiction	Annual Increase Standard	Utility Adjustments for Master-Metered Units
Santa Monica	Annual increase determined by Board based on apartment operating cost study	Gas and electricity adjustments in 4 of 30 years based on operating cost studies

Allowable Annual Rent Increases (Utility Adjustments Not Included)

Year	San Jose	San Francisco	Los Angeles	Oakland	Berkeley	Santa Monica	Hayward (a)	West Hollywood	Beverly Hills	East Palo Alto	Los Gatos
1980			7.0%			6.5%					
1981			7.0%		5.0%	5.5%					
1982	8.0%	7.0%	7.0%		9.0%	5.5%					
1983	8.0%	7.0%	7.0%		4.7%	4.5%					
1984	8.0%	4.0%	7.0%		0.0%	4.0%					
1985	3.0%	4.0%	4.0%		2.0%	3.0%			7.0%		
1986	8.0%	4.0%	5.0%		3%+\$2.50	2.5%		2.5%	10.0%	2.7%	
1987	8.0%	4.0%	4.0%		3.5%	4.0%	5.0%		5.0%	0.4%	
1988	8.0%	4.0%	4.0%		\$25.00	3.0%	5.0%	3.2%	10.0%	3.4%	
1989	8.0%	4.0%	5.0%		3.0%	3.0%	5.0%	3.7%	10.0%	4.9%	5.0%
1990	8.0%	4.0%	5.0%		4%/\$17	6.0%	5.0%	3.7%	10.0%	4.9%	5.0%
1991	8.0%	4.0%	5.0%		4.0%	3.5%	5.0%	3.5%	10.0%	3.9%	5.0%
	8.0%				45% of 1980 rent		5.0%		10.0%		5.0%
1992	8.0%	4.0%	5.0%		\$26.00	3.0%	5.0%	2.7%	10.0%	2.3%	5.0%
1993	8.0%	1.9%	3.0%		\$20.00	3.0%	5.0%	2.0%	10.0%	3.3%	5.0%
1994	8.0%	1.3%	3.0%		\$18.00	2.0%	5.0%	0.7%	10.0%	1.0%	5.0%
1995	8.0%	1.1%	3.0%	3.0%	1.5%	1.5%	5.0%	1.7%	10.0%	1.4%	5.0%
1996	8.0%	1.0%	3.0%	3.0%	1.0%	1.6%	5.0%	1.2%	10.0%	1.8%	5.0%
1997	8.0%	1.8%	3.0%	3.0%	1.1%	2.0%	5.0%	1.0%	10.0%	5.6%	5.0%
1998	8.0%	2.2%	3.0%	3.0%	0.8%	1.0%	5.0%	1.0%	10.0%	7.1%	5.0%
1999	8.0%	1.7%	3.0%	3.0%	1.0%	1.0%	5.0%	1.0%	10.0%	2.3%	5.0%
2000	8.0%	2.9%	3.0%	3.0%	\$6.00	3.0%	5.0%	3.0%	10.0%	6.3%	5.0%
2001	8.0%	2.8%	3.0%	3.0%	\$10.00	4.2%	5.0%	4.2%	10.0%	5.8%	5.0%
2002	8.0%	2.8%	3.0%	0.6%	3.5%	\$11	5.0%	1.7%	10.0%	2.1%	5.0%
2003	8.0%	0.8%	3.0%	3.6%	0.0%	3.0%	5.0%	3.0%	10.0%	2.2%	5.0%
2004	8.0%	0.6%	3.0%	0.7%	1.5%	1.3%	5.0%	1.3%	10.0%	0.5%	5.0%
2005	8.0%	1.2%	3.0%	1.9%	0.9%	3.0%	5.0%	3.0%	10.0%	2.1%	5.0%
2006	8.0%	1.7%	4.0%	3.3%	0.7%	4.0%	5.0%	4.0%	10.0%	2.4%	5.0%
2007	8.0%	1.5%	5.0%	3.3%	2.6%	2.3%	5.0%	2.3%	10.0%	3.2%	5.0%
2008	8.0%	2.0%	3.0%	3.2%	2.2%	2.7%	5.0%	2.7%	10.0%	3.3%	5.0%
2009	8.0%	2.2%	4.0%	0.7%	2.7%	1.0%	5.0%	0.0%	10.0%		5.0%
2010	8.0%	0.1%	3.0%	2.7%	0.1%	2.0%	5.0%	1.2%	10.0%	0.0%	5.0%
2011	8.0%	0.5%	3.0%	2.0%	0.7%	3.2%	5.0%	2.2%	10.0%	1.4%	5.0%
2012	8.0%	1.9%	3.0%	3.0%	1.6%	1.5%	5.0%	1.2%	10.0%	2.4%	5.0%
2013	8.0%	1.9%	3.0%	2.1%	1.7%	1.0%	5.0%	1.2%	10.0%	2.0%	5.0%
2014	8.0%	1.0%	3.0%	1.9%	1.7%	0.8%	5.0%	0.7%	10.0%	2.0%	5.0%
2015	8.0%	1.9%	3.0%	1.7%	2.0%	0.4%	5.0%	1.2%	10.0%	2.0%	5.0%

(a) In addition to the 5% increases, a landlord is permitted to additional increases equal to the difference between 7% and the increases actually imposed from 1979 to 1987, subject to an annual ceiling of 12%