



City of San Jose

Advisory Committee for the Apartment Rent Ordinance

Petition Process

Wednesday, October 28, 2015

San Jose City Hall – Council Chambers



Item C – Unfinished Business from October 17

Debt Service Pass-Through

Focus Questions

- What is the purpose of the debt-service pass-through?
 - For the owner:
 - Facilitates sale of buildings
 - Allows owner to have rents that meet new debt
 - Increases the value of the building
 - For the tenant:
 - Displaces tenants due to high rent increases
 - Results in tenants ultimately financing significant portion of the owner's investment

Focus Questions

- What would be the consequences of not having a debt-service pass-through provision?
 - For the owner:
 - Possible foreclosure within 1 year of ordinance change
 - Maintenance deferred on buildings
 - Reduce the value of the building
 - For the tenant:
 - Increase stability in living situation
 - Not financing an owner's investment

Focus Questions

- Does the debt-service pass-through provision meet the public purposes as stated in the ARO?
 - Prevention of excessive and unreasonable rent increases
 - No
 - Alleviation of undue hardship upon individual tenants
 - No
 - Assurance of a fair and reasonable return on the value of their property
 - No definition of “fair and reasonable” return; depends on property/owner

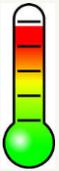
Focus Questions

- Does the existing debt service provision align with the Advisory Committee's shared principles of
 - Certainty
 - Yes for owners
 - No for tenants
 - Predictability
 - Yes for owners
 - No for tenants
 - Fairness
 - Yes for owners; open to exploring adjustments
 - No for tenants

Focus Questions

- What specific potential modifications should the City explore regarding debt-service pass-throughs, if any?

Temperature Check



Should the City continue to explore potential modifications to the ARO's debt-service provision?

Item D – Administrative Hearing Process

Core Functions of ARO

- Respond to customer inquiries
- Intake tenant- and owner-initiated petitions
- Liaison between tenants and owners
- Administration of mediation/arbitration hearings

Education

- Since FY 2010
 - 11 presentations to apartment owners (279 participants)
 - 9 presentations to tenants (164 participants)
 - 49 community events/resource fairs (events draw attendance of up to 8,000 people)
- Staff available for presentations upon request

Administrative Hearing Officers

- Presides over mediation/arbitration hearings
- Facilitates discussion between owners and tenants, which may lead to voluntary agreements (VA)
- Decisions based on Ordinance/Regulation
- Allowable cost pass-throughs based on worksheet

Customer Interactions

- Since FY 2010:
 - 12,132 total customer interactions
 - 2,015 ARO apartments
 - 544 non-ARO apartments
 - 1,553 excluded residential (eg, SFR, duplex, condos, townhomes)
 - 8,020 other

Tenant-Initiated Petitions

- Since FY 2010:
 - 819 eligible petitions filed
 - 709 Voluntary Agreements
 - 110 hearing officer decisions
 - 1,169 issues (each petition may have more than one issue)
 - Excessive rent increase = 236
 - Service reduction = 599
 - Housing code violation = 193
 - Termination of Tenancy = 141

Owner-Initiated Petitions

- Since FY 2010:
 - Operations & Maintenance petitions = 0
 - Rehabilitation petitions = 0
 - Capital Improvement petitions = 2
 - Debt-Service petitions =13

Notices of Termination of Tenancy

- Since FY 2010:
 - 1,549 total Notices and Filing Statements received by the City
 - 30-day notice = 209 (all ARO apartments)
 - 60-day notice = 269 (all ARO apartments)
 - 90-day notice = 1,060 (1,010 ARO, 50 non-ARO)
 - 120-day notice = 11 (all ARO apartments)
 - ~ 310 Notices of Termination of Tenancy filed annually

Data Considerations

- No requirement or tool to proactively and comprehensively track relevant data
- Education and awareness may increase submittals of petitions/notifications
- Without monitoring/enforcement, cannot determine whether data reflects reality or whether it reflects non-compliance/barriers to compliance

Data Considerations

- Landlord petitions may be limited by:
 - Choosing to cover costs through annual allowable increase
 - Additional resources needed to submit paperwork
- Tenant petitions may be limited by:
 - Fear of retaliation
 - Lack of time/resource
 - Language barriers
 - Cultural factors
 - Decision to exit

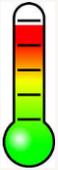
Focus Questions

- For owners, what specifically is challenging about the process or ARO provisions that limit the use of pass-throughs?
- For tenants, what specifically is challenging, if any, about the process or ARO provisions that limit the filing of petitions?

Focus Questions

- For owners, what suggestions do you have for facilitating the utilization of the cost pass-through provisions?
- For tenants, what suggestions do you have for facilitating the ability to file qualified petitions with the City?

Temperature Check



Should the City explore potential modifications to the hearing and petition process?

Item E – Data Collection, Monitoring & Enforcement

Existing Data Gathering Mechanisms

- All data received through submitted petitions
- Annual request for exempt units is only data gathering
- Requirement \neq Compliance

Data Gaps

- Currently no requirement or mechanism for proactive, comprehensive data gathering, including:
 - May not be receiving all notices of termination of tenancy. There may be higher turnover resulting from no-cause terminations than what is filed with City.
 - Lacks systematic collection of past, current, and existing rents. Limits City's ability to monitor compliance with ARO requirements for annual allowable increase.
 - Lack monitoring of all ARO sales transactions. Financed transactions and rent increases could be occurring outside of pass-through process w/o City knowledge.
 - Barriers to tenant-initiated petitions may understate prevalence of excessive rent increases, housing code violation, and service reductions.

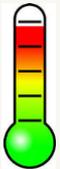
Focus Questions

- What data should the City be collecting to facilitate the monitoring and enforcement of ARO provisions?

Focus Questions

- Besides data collection, what else should be explored to facilitate the monitoring and enforcement of ARO provisions?

Temperature Check



Should the City continue to explore potential modifications to the monitoring and enforcement provision of the ARO?

Public Comment

For more information visit:

<http://www.sanjoseca.gov/index.aspx?nid=4744>

Scan code with your smart phone/device to sign up
for email updates on this process



Open Forum

This time is reserved for comment
on items not on the Agenda

Meeting Schedule

Date	Time	Location
Wednesday, September 30	6:00 – 8:30pm	Roosevelt Community Center
Wednesday, October 7	6:00 – 8:30pm	Roosevelt Community Center
Wednesday, October 14	6:00 – 8:30pm	Roosevelt Community Center
Saturday, October 17	10:00am – 2:00pm	San Jose High School Cafeteria
Wednesday, October 21	6:00 – 8:30pm	City Hall Wing Rooms 118-120
Wednesday, October 28	6:00 – 8:30pm	San Jose City Hall Council Chambers
Saturday, October 31	10:00am - 2:00pm	San Jose City Hall Council Chambers
Wednesday, November 4	6:00 - 8:30pm	Roosevelt Community Center
Saturday, November 7	10:00am - 2:00pm	San Jose City Hall Council Chambers
Monday, November 9	6:00 - 8:30pm	San Jose City Hall Council Chambers

Next Meeting:

Saturday, October 31

10:00am

San Jose City Hall - Council Chambers

Topic: Just/Good Cause Evictions