

ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE

REGULAR MEETING ACTION MINUTES

OCTOBER 28, 2015

MEMBERS PRESENT: Matthew Carney
Gustavo Gonzalez
Joshua Howard
John Hyjer
Roberta Moore
Melissa Morris
Elizabeth Neely
Eloise Rosenblatt
Elisha St. Laurent

MEMBERS ABSENT: Aimee Inglis
Michael Pierce
Tom Scott

STAFF:	Jacky Morales-Ferrand	Housing Department
	Wayne Chen	Housing Department
	Maria Haase	Housing Department
	Paul Lippert	Housing Department
	Ramo Pinjic	Housing Department
	Ann Grabowski	Housing Department
	Shawn Spano	Contracted Facilitator

(a) **Call to Order/Orders of the Day**—Shawn Spano opened the meeting at 6:12 pm.

(b) **Introductions**— Mr. Spano introduced himself, committee members introduced themselves, and members of the Housing Department introduced themselves.

(c) **Unfinished business from October 21st meeting, if any (Housing Staff, Facilitator)**

Mr. Chen recapped the October 21st presentation on the debt service pass through provisions of the ARO.

Mr. Chen asked for clarification on the feedback received last week that the elimination of the debt service pass through would create deferred maintenance issues.

Mr. Gonzales responded that new owners often are purchasing buildings that need significant maintenance.

Ms. Rosenblatt commented that it's important to separate and segment the costs.

Ms. Moore commented that "fair and reasonable" is an important and sensitive definition.

Mr. Howard said that it's important to maintain the debt service pass through provision. Mr. Howard suggested a new name for the pass-through, the "new owner" pass through. The pass-throughs that have

taken place were the result of a purchase. The City should not impede commerce, but believes a 65% increase in rent that is the result of a pass-through to be excessive.

Ms. Morris commented that she does not agree that the debt service pass-through is a necessary provision of the ARO because tenants should not bear the burden of making a building sellable or competitive for financing. The debt-service pass through is not intended to be a tool for refinancing. Ms. Morris does not yet see evidence that eliminating the pass-through would hurt property values, and even if so, the public policy goal of the ARO is not to increase property values. Fair rate of return has be set by the Court.

Ms. Rosenblatt responded to the public comment during the last meeting. The principal concern from owners was the difficulty of use and the lack of knowledge about the process. The bankruptcy proceeding may be a good model to delineate costs and provide clarity on eligible costs.

Mr. Gonzalez said that if the debt service pass-through were eliminated new purchasers will not be able to cover their mortgage payments.

Ms. Moore suggested that simplification of pass-throughs is important for owners. Also, banking of pass throughs is important to prevent ongoing deferred maintenance.

Mr. Gonzalez said he is frustrated with the process because the functions of the ARO are being discussed individually instead of as a whole.

Ms. Morris commented that according to a recent newspaper article the purchase of rental housing, ARO or otherwise is still considered a good investment.

Ms. Moore said that most of the rental properties being purchased in San Francisco are being purchased to take them out of rent control.

Mr. Carney said that he would not feel comfortable if the debt service provision remains as is.

Ms. Rosenblatt said that the major rent increase to tenants needs to be avoided. Regulations or reductions to the allowable debt service pass through need to be built into the Ordinance.

Temperature Check:

Green: Neely, Carney, Morris, Rosenblatt, St. Laurent

Yellow: Howard, Gonzalez

Red: Moore, Hyjer

Absent: Inglis, Pierce, Scott

(d) Presentation, discussion of the petition and administrative hearing process (Housing Staff, Facilitator)

Mr. Chen began the presentation on the petition and administrative hearing process.

Mr. Gonzalez said that the percentage of petitions and ARO contacts is very small.

Ms. Morris said that the ARO stipulates that if owners serve no-cause notices they have to maintain the rent for the new tenant. If an owner improperly raises the rent, what is the consequence for that?

Mr. Pinjic answered that there is no direct consequence from the City. The City makes a referral to private legal counsel.

Mr. Carney asked if the City maintains demographic data of petitioners. He also asked if there are accommodations made for tenants who work in unbenefited roles or need childcare.

Ms. Rosenblatt asked why the City Council took this up as a priority if the numbers are so low. Clearly this is a priority regardless of the numbers available. Is there information for landlords to provide to their tenants? Is there a self-help center for the rental rights and referrals program?

Ms. Moore said that the process should be simplified.

Ms. Neely said that it's important to remember that the only petitions that are eligible are those that are outside of the ordinance, which doesn't mean people aren't impacted by rent increases below the allowable limits. Is there a statute of limitations for tenant petitions?

Mr. Gonzalez commented that the data does not support that this is a real issue.

Mr. Howard asked if the City does any education for new owners. Previously the Advisory Committee on Rents was provided a report on petition activity by quarter.

Ms. Moore: time requirement is tough for both groups. 12 month restriction on eligible costs is harmful for both groups.

Ms. St. Laurent said that the short amount of time to file an eligible petition is very hard for tenants. If the tenant feels that they need legal counsel, they probably won't have time to file. Tenant's first priority is to find housing - not contact the City.

Ms. Rosenblatt said that she knows of a person who had a good experience with the mediation process, but feared retaliation afterward.

Ms. Neely said that she believes that the process is not working for either side. Moving forward, the process needs to be simplified. We don't know what we don't know and it's clear that people don't understand the process.

Mr. Gonzalez said that when he went through the hearing process, it was really unfair. He used the 8% annual allowable to make repairs and was forced to reduce the rent.

Ms. St. Laurent said that the landlords should have to notify the City when tenants vacate apartments because they can't afford rent increases.

Mr. Howard said that the hearing and petition process does not provide predictability and certainty to either group involved. There should be flexibility in scheduling of hearings. The City should notify Owners more regularly of their responsibilities under the ARO. City needs to work with the advocacy organizations to create a better education plan. Further, there should be a firmer definition of a "service reduction" to prevent abuse.

Mr. Hyjer said that the biggest issue with the Ordinance is education. The main issue here is bad actors.

Ms. Moore increased her rents this year in anticipation of the increase. The City should improve its website to provide this information.

Ms. Neely said that from her experience as an education of low income students, it may be helpful to reach out through culturally competent and relevant communication channels - especially for those who may not be documented.

Ms. Morris said that tenants have many barriers to use the petition process. The first barrier is that their petition falls within the annual allowable increase and isn't eligible. Better education is not mutually exclusive to better enforcement. Code Enforcement also needs to be accessible to tenants in this process. Tenants fear retaliation from the petition process because of the no-cause eviction clause. To improve the process the City should focus on education, language access and streamlining the process. Shift to pure mediation and then pure arbitration process. Many cities require registration which would create a robust data set.

Ms. Rosenblatt said that both groups should be educated. Language access is important. Information about the rental rights and referrals program should be posted in common places in ARO apartments, disseminated through chambers of commerce, dv resource, senior, community centers, public law clinics.

Ms. Moore said that the notice period to file petitions should be extended for tenants. Hearing officers should receive better training. Simplify the process and then create an appeal process.

Mr. Gonzalez said that the Realtors use a problem solving process. First step: ombudsman process. Second step: Grievance and potential mediation process. Train the trainer model for school community outreach workers on the rental rights program. The hearing officer qualifications should be reviewed.

Mr. Howard suggested that the group defers item E to Saturday.

PUBLIC COMMENT

Six members of the public gave public comment.

Owner: Bought a seven unit apartment building that needed extensive repairs. Owner raised the rent and one tenant petitioned the rent increase. Went through mediation process. The hearing officer.

Owner: The apartment he bought needed major repairs. The rents were very low at acquisition. People are lucky to have low rent.

Tenant Advocate: The number of petitions is so low because the law is broken and ineffective. The ordinance doesn't work for tenants. The rents are too high!

Owner: Data doesn't support this being a problem

Owner: The petition numbers are so low that we shouldn't be wasting our time talking about this. As an owner, won't file petition because of fear of retaliation and amount of time required.

Owner: The hearing process needs to be fair. The process is too long and complicated for both tenants and landlords.

Temperature Check:

Green: Howard, Neely, Carney, Morris, Gonzalez, Moore, Rosenblatt, St. Laurent

Yellow; Hyjer

Red: None

Absent: Inglis, Pierce, Scott

(e) Presentation, discussion and potential straw poll on data collection, monitoring and enforcement authority of the Rental Rights & Referrals Program

Mr. Chen presented information on data collection, monitoring and enforcement.

- Committee discussion and temperature check deferred to Saturday, October 31st

PUBLIC COMMENT

Owner; City has all of the addresses of ARO units. The City should conduct a survey of ARO units to poll rents. Duplexes should be surveyed separately.

Owner: Data is important but collection should be of all apartments to create a clear data set. ARO apartments are renting for 30-40% below market rate rents.

(f) Open Forum

Owner: In the sale of buildings financial information is considered. Deferred maintenance of commercial buildings is understood after the sale because sellers don't want tenants to be aware of the sale in case the deal falls through.

Owner: The Committee needs to remember the big picture. The worksheet is complicated. The two issues at the heart of the issue - rent is going up and people are being displaced.

Tenant Advocate: Committee should not call into question the Council's direction to review the issue. ARO is supposed to provide security but tenants are still in crisis. The annual allowable increase should be capped at 2%.

Owner: Owners have not been informed of these meetings.

Owner: City should support the owners because they provide housing which helps tenants.

Owner: Owners suffer a loss. Costs are increasing so it doesn't make sense to reduce the annual allowable increase.

Owner: The City offers trainings for owners that she has benefited from.

Tenant Advocate: Before we educate about renters rights, we need renters' rights. The ARO doesn't work for tenants.

Owner: If the City only follow the tenants' interests only, the owners will be left with nothing. If it reduces the cost pass-throughs the owners will be left with zero. If the owner has zero, what's left for the tenant?

Owner: If the City reduces the annual allowable increase, there will be more mediations. The City should segment data between large and small landlords.

Owner: Rent control does not increase housing availability. Reducing the annual allowable increase will reduce the number of units available. When leases end both parties should have the right to terminate the lease.

(g) Adjourn Facilitator Shawn Spano adjourned the meeting at 8:27 pm.



Public Discussion: Updating the ARO Apartment Rent Ordinance

Discusión Pública: Actualización de la ARO Apartamento Ordenanza de Arrendamiento

Share Your Comments
Comparta sus comentarios

Item # _____
Número de artículo

1 RC does not increase house number
But decrease house availability.
2 Lease agreement has its time
interval. When the lease expires,
both sides should be able to
continue or stop.

over continuado

OR send your comments to o envíe sus comentarios a
Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

PRINT CLEARLY IMPRIMIR CLARAMENTE

Name Nombre: Michael Liang
Email Email: xinglong@yahoo.com

check all that apply marque todo lo que corresponda

- I live at an ARO apartment
I own or operate an ARO apartment
I am a member of the public.

Lined writing area with 25 horizontal lines.

thank you

gracias



Public Discussion: Updating the ARO Apartment Rent Ordinance

Discusión Pública: Actualización de la ARO Apartamento Ordenanza de Arrendamiento

Share Your Comments Comparta sus comentarios

Item # e Número de artículo

I need help in understanding the process. YOU WANT TO CUT INCREASE TO 2% so where is the 6% lost to be made up. I KNOW YOU WILL NOT LOWER MY TAX 6%.

over continuado

OR send your comments to o envíe sus comentarios a Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

PLEASE PRINT CLEARLY IMPRIMIR CLARAMENTE

Name Nombre: MICHAEL A. JOHNSON Email Email: mikejohnson408@gmail.com

check all that apply marque todo lo que corresponda

- I live at an ARO apartment Vivo en un apartamento alquiler ordenanza. I own or operate an ARO apartment Soy dueño o opero un apartamento alquiler ordenanza. I am a member of the public. Soy un miembro del public.

ARE ABLE TO TELL

PG&E ONLY 2% increase
a year. Phone, Cable, Internet
the same for them.

thank you

gracias

Lined writing area with 20 horizontal lines.

thank you

gracias



Public Discussion: Updating the ARO Apartment Rent Ordinance

Discusión Pública: Actualización de la ARO Apartamento Ordenanza de Arrendamiento

Share Your Comments

Comparta sus comentarios

Item # d
Número de artículo

1. How to make sure the administration officers are fair, not in bias.

2 most of case, officers are renters. They imidiately put pity to renters, instead of house providers.

3 officers will be half landlords/renters.

4 Most small landlords work extremely hard, no time for hearing process, sometime Language barrier too.

over continuado

OR send your comments to o envíe sus comentarios a Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

PLEASE PRINT CLEARLY IMPRIMIR CLARAMENTE

Name Nombre : Dan Pan
Email Email : _____

check all that apply marque todo lo que corresponda

- I live at an ARO apartment
Vivo en un apartamento alquiler ordenanza.
- I own or operate an ARO apartment
Soy dueño o opero un apartamento alquiler ordenanza.
- I am a member of the public. Soy un miembro del publico.

Lined writing area with 20 horizontal lines.

thank you

gracias



Public Discussion: Updating the ARO Apartment Rent Ordinance

Discusión Pública: Actualización de la ARO Apartamento Ordenanza de Arrendamiento

Share Your Comments

Item # d
Número de artículo

Comparta sus comentarios

City is wasting ^{taxpayer} public money & ^{public resource} ~~resident~~
petition is < 1%, there is no reason to do any changes.

Tenant petition limits: Fear of retaliation, Lack of time/resource, Language barriers, Cultural factors, ~~Discrimination~~ We landlords have all of these, and more.

over continuado

OR send your comments to o envíe sus comentarios a Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

PRINT CLEARLY IMPRIMIR CLARAMENTE

Name Nombre: Yong Zhao

Email Email: _____

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[] I live at an ARO apartment Vivo en un apartamento alquiler ordenanza.

[] I own or operate an ARO apartment Soy dueño o opero un apartamento alquiler ordenanza.

[X] I am a member of the public. Soy un miembro del público.

2nd priority to address housing issue

thank you

gracias



Public Discussion: Updating the ARO Apartment Rent Ordinance

Discusión Pública: Actualización de la ARO Apartamento Ordenanza de Arrendamiento

Share Your Comments / Comparta sus comentarios

Item # / Número de artículo

Handwritten comments: Why 2% only. Are you going to lower taxes 6%? Are you going to make PG & E only go up 2% over continued a year!

OR send your comments to o envíe sus comentarios a Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You / Acerca de usted

PRINT CLEARLY

IMPRIMIR CLARAMENTE

Name Nombre: MIKE JOHNSON
Email Email: mikejohnson408@gnq1.com

check all that apply / marque todo lo que corresponda

- I live at an ARO apartment / Vivo en un apartamento alquiler ordenanza.
I own or operate an ARO apartment / Soy dueño o opero un apartamento alquiler ordenanza.
I am a member of the public. / Soy un miembro del publico.



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Share Your Comments Comparta sus comentarios

Item # _____ Número de artículo

Why are you punishing three of us older (1974 older) units and not those newer units. The newer units are the ones raising the rents

over continuado

OR send your comments to o envíe sus comentarios a Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

PLEASE PRINT CLEARLY

IMPRIMIR CLARAMENTE

Name Nombre: Rose Toquani

Email Email:

check all that apply marque todo lo que corresponda

- I live at an ARO apartment Vivo en un apartamento alquiler ordenanza.
I own or operate an ARO apartment Soy dueño o opero un apartamento alquiler ordenanza.
I am a member of the public. Soy un miembro del publico.

thank you

gracias



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Comparta sus comentarios

Item # _____
Número de artículo

My name is Bridget McKay. I am a property owner and my apts are under rent control since the start of the program. I've attended several meetings and I've heard several advisory committee members mention the need for education. As an owner, I've attended City sponsored training entitled "Project Blossom" for education of property owners. (Heavily rent control and many pertinent information)

over continuado

OR send your comments to Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

PRINT CLEARLY IMPRIMIR CLARAMENTE

Name Nombre: Bridget McKay
Email Email: 408-265-1988 cell 408-605-5678

check all that apply marque todo lo que corresponda

- I live at an ARO apartment
I own or operate an ARO apartment
I am a member of the public.

It is my understanding that the City of San Jose collects ^{multiple} housing ^{permits} fees to provide this training. I believe that an owner was eligible to attend this training every two years. I've contacted Code Enforcement about the program and the obvious lack of information ^{for past 2-3 years} in the program. I was told that it would be offered this past spring, that it was being modified. It concerns me that fees have been collected from owners for this training and it is not being provided. I believe that the fees are collected through the multiple housing permits. What happened to those funds? And more importantly, the training?

thank you

gracias