Comments on the Preliminary Consultant Report

From: [redacted]
To: Grabowski, Ann
Subject: Against Rental Control
Date: Thursday, February 11, 2016 10:15:01 PM

City Housing,
I am against any RC. Below are points why.

- From 1990 to 2014, for ARO unites, rent increased 5% per year, but value of building increased 10% per year. During 2010-2015 there were a lot of turnover for ARO units, which means a lot of landlords just purchased recently. They would have very hard time to keep their operation financially balanced.
- From the report, most ARO units were built in 60' and 70'. They need a lot of maintenance. Further squeezing those units will push those out of the market. Developers will jump in to change them into Non-ARO unites. Then less supply for low rent housing.
- This is from the report: "From 2013 to 2014, the increase in average rents for new tenants in buildings constructed 1980 or later was exceptional. The average for tenants who had moved in within the last twelve months increased from $1,688 to $1,963, an increase of 16.3%. In contrast, the increase in the rents of new tenants in pre-1980 buildings was 4%. " From this we can tell tenants cried for high rent increase from non-ARO units, not ARO units. Further squeezing ARO units won't help the rent market at all.
- Renters in ARO unit have largest share of residents who speak English "not well" or "Not at all". Same thing will be for Landlords if there is data. So complicated ARO won't work. We have enough rules; we just need Landlords and Tenants to know their rights and responsibilities.
- From the table of rent increase in the report, there was negative increase in the history in SF-Oak-SJ area. City will control not to let rent to increase when the demanding is strong, but no reimbursement when the rent decrease.
- The report didn't show how many case of eviction per year, how much landlords paid for each case, what kind of tenants had been evicted, and for what reasons those tenants were evicted. If those data were shown, Just Cause Eviction will be immediately known no use.
- Under current ARO, landlords can't increase rent if tenants don't voluntarily move out. So there is no intention for landlord to evict good tenants. Just Cause Eviction just makes it much hard to evict bad tenants.
- As can be shown on the chart (page 18%, visual Aid), absolute rent went from $628 to $1388, which is only 4.8%/year. Some year higher, some year lower, some year negative, this is all based on Economy. The last few years had huge job growth, which brought huge housing shortage. But economists are predicting Tech bubble bursting (Barron story, Yahoo, Twitter, evernote layoff etc). Market downturn is coming, not far. here is the prediction!

http://www.barrons.com/articles/BL-TB-50479 - there will be major semiconductor layoffs this year for sure from Qualcomm, Marvell , etc. lean time is coming. Down turn is upon us. Please don't stand in front of economic principle and put bad laws on the book. No rent control please!

- That rate increase shown in the report shows that apartment owners are all guided by market force! It shows that the renter groups' cry of 8% per year is not true. The 8% is only a cap that we had never touched! So market adjustment works very well.
- There are 44283 ARO units, which is only 33% of total rental units., Have a further strict rent control law on the ARO unit will not solving the rental crisis. Why not use this fund to fund some real affordable housing unit had have a real impact each year.
- Average 70 complains per year on rent increase over 44000 units amounts to 0.16% of complains. Most complains at average 200 per year are related to service deduction, not rent increase. The complain about "no cause eviction" are even less at average 30 complains per year, out of 44000 ARO units, so average less than 0.1%.
- Per report, the med income of tenant households in ARO, grow from about 40k, to about 48k per year, from 1990 to 2014, about 20%, inline with rent increase of 21% over same period. So rent didn't increase more.
- Per report, 92% of ownership changed hand for ARO apt during this 24 years, since property value more than double during this period, this means large property tax reset for new owners who need to increase rent to stay positive on cash flow.
- In report, only performed CPI rent index for bay area during this period is faster than general CPI, but how about the utility and service indices increased over same period? For instance, water cost increased by 139% from 2001 to 2015, while garbage fee increased by 20% since 2010. Per this report, all these translated into higher operating cost.
- Very disappointed that the report has nothing about Just Cause eviction. It will be very costly for city of SJ to administer and run such program. My understanding is that Berkeley needs $8M budget to run its RC ordinance. SJ is several times larger in size and population; the budget will be very costly to administrate the complication raised from the just cause eviction. With $10M budget to run RC program, you can buy 20 units condos for low income families. Or help 1000 families with $10K support for their rent, which is much larger than numbers of complaints.
- From the report San Jose has had very low vacancy (below 5%) over the past 15 years. Tighter RC will make the vacancy even lower. So no one wants to move out from San Jose and no one can get into San Jose from outside either. San Jose will become a not vivid city.

- “On a cumulative basis, the differences between the allowable increases under the ARO and market trends have often been striking. For example, during five-year periods when market rents were increasing by 4% a year, the cumulative increase in market rents would have been 21.6%, while the cumulative increase in the allowable rents under the ARO for the same period would be 46.9%. This indicates that the City’s ARO has had little effect on rents for regulated apartments in San José.” But further RC will make this kind of effect in an opposite direction: higher rent, less supply.

Sincerely,
Susan

From: [redacted]
To: Grabowski, Ann
Subject: San Jose ARO
Date: Monday, February 15, 2016 9:14:38 AM

Dear Ms. Grabowski;

The consultant's 156 page report was very informative.

I am an owner of 24 units in San Jose where I charge an average of $867/mo for 1 bdrm and $757/mo for studio
and a mean rent even lower at $860 and $750 respectively. I wonder how many of the ARO owners have been contacted by the consultant
to get a percentage of those whose rental charges are much lower that those published. I for one have not been contacted.
Is the city willing to give concessions to those apt. owners whose rents are below the market?

The older buildings for rentals, in my opinion, serve to help the underprivileged with lower income find housing in the San Jose's high rental arena.
Otherwise the housing shortage would be worse.
I feel the outrage of being trampled by those who are greedy and by the corporate rental unit owners, some of them nationally, who may be dictating
the rental business through their financial resources which the so called "Mom and Pop" (map) owners cannot compete

I also feel that the permit cost based on tiers is unethical and unconstitutional since the increased permit charges are carried through until the
next inspection cycle even though the violations have been corrected.
Why is there such discrimination between the "haves" and "have nots" amongst apt. ownership?

In the last 30 years I had to evict 3 tenants through unlawful detainer. Six were given notice through non compliance to rental agreement.

Please give us the right to manage our property rather than managed by the city.
Grant us with fair and equitable treatment rather than exempting the privileged owners.

Respectfully,

Seigi Tadokoro
[redacted]

From: [redacted]
To: Grabowski, Ann
Subject: Comments on Preliminary ARO Study
Date: Friday, February 12, 2016 10:45:43 AM
Attachments: ARO Preliminary Report Final.docx

Hello Ann-

Attached are my comments regarding the Preliminary Study on the ARO Ordinance; they include responses to some of the points
raised at the last Advisory Committee meeting.

Would you please forward this document to the consultants and to city staff working on this issue?

Thanks,

Bob Brownstein
Research and Policy Director
Working Partnerships USA

PS KIndly acknowledge receipt of this document by return e-mail.

TO:	San Jose Housing Department Apartment Rent Ordinance Advisory Committee
From:	Bob Brownstein Research and Policy Director Working Partnerships USA [redacted]
Subject:	Comments on the Study of the Apartment Rent Ordinance, Preliminary Report
Date:	February 12, 2016

ARO Preliminary Report

PREAMBLE

The San Jose ARO study is of great value to city leaders and the public because it provides badly needed information on the core question that the city is attempting to resolve as it considers changes in its rent stabilization policy. That question is – how can San Jose protect renters from severe economic hardship and displacement and also provide owners a fair rate of return on their property. What the study demonstrates conclusively is that, under the current ordinance, tenants experience rents which they cannot afford and that they are likely to confront even higher rents in the future. Owners, on the other hand, are able to achieve extraordinary financial returns on their investments. The specific components of the study make this assessment absolutely clear.

ECONOMIC DISTRESS OF ARO RENTERS

Income

The ARO report finds that the median income of ARO renters (adjusted for inflation) has stagnated. Today, it is *lower* than it was 11 years ago (it is 92% of the 2005 high point). Also, ARO renters are significantly poorer than non-ARO renters; the gap in median income is nearly $10,000 a year. Of course, the median income of all renters is significantly below the income of San Jose homeowners.

While renter income has stagnated or declined, ARO rents adjusted for inflation have increased. As a result, 56% of families living in ARO units are rent burdened (paying more than 30% of their income for rent). For households with incomes less than $35,000 (and $35,000 is 160% of the minimum wage), a staggering 80% to 96% are rent burdened.

In the discussion of this report at the Advisory Committee meeting of January 27th, statements by landlord representatives indicate they misunderstand the implications of this history of income and rent increases. Landlords focused on Figure 2.3 which indicated nominal rents increased from slightly more than $600 in 1990 to slightly over $1400 in 2014, an increase of about $800 in 24 years or about $33.00 a year. Thirty-three dollars, they pointed out, should not be a problem. This assertion fails to recognize the cumulative effect of these rent increases when incomes are stagnating or declining. More importantly, it ignores the fact that landlords are not proposing that rent increases be limited to the average increase since 1990. They are insisting on automatic 8% increases from 2016 and on into the future. Assuming that current ARO rents are about $1,500, 8% translates into a $120.00/month increase. *That* is the problem. $33.00 amounts to about a 2% increase which is precisely what tenants have been proposing

<u>Overcrowding</u>

When large numbers of households are rent burdened, overcrowding is an expected consequence, and the ARO report validates this concern. The study observes that San Jose stands out with some of the highest rates of overcrowding in the county. When this disturbing finding is further examined, it becomes evident that ARO renters have a higher rate of overcrowding than any other constituency in the city. Twenty-nine percent of ARO units are overcrowded with another 10% severely overcrowded. That means nearly 4,500 households are experiencing severe overcrowding.

<u>Quality of Housing</u>

Despite high rents and major appreciation in property values, numerous ARO landlords are not adequately meeting basic city standards for housing quality. Code Enforcement divides housing into tiers – with Tier III being the level which has higher numbers of complaints and which requires more frequent inspections. Thirty-six percent of ARO units are in Tier III (15,674 units). Forty-five percent of those built in the 1960's are in Tier III, and an appalling 51% built before 1960 are in that Tier as well.

<u>LIMITATIONS OF THE ORDINANCE</u>

One of the most striking and relevant findings of the report is that the existing ARO ordinance has been of almost no value in protecting the stable, long-term residents from escalating rent increases. Tables 4.6 and 4.7 demonstrate that - except for brief periods - allowable rents under the ordinance were not only higher than the CPI, they were higher than the Bay Area Rent index – that is, higher than market levels. In addition, rents on ARO units are only slightly lower than rents on unregulated units.

However, landlords are in error when they assert that this finding proves rent controls are invariably ineffective. Under California's Costa –Hawkins statute, legislation sponsored by the apartment owner industry, vacancy decontrol is a mandated component of every local rent control law. Therefore, all local rent control ordinances are *prohibited* from protecting new renters. However, it is still certainly possible for rent stabilization ordinances to protect existing enters from being displaced and becoming economic refugees. For that protection to be provided, the ordinance must hold rents for existing renters below dramatically escalating market levels, as is the case in the numerous rent stabilization ordinances in other jurisdictions that employ the CPI or a percentage of the CPI as the standard for allowable increases. To its credit, the ARO report is thorough in both describing the prevalence of those alternative measures and demonstrating that they provide owners a constitutionally defensible fair rate of return.

The owners' logic is also flawed when they argue that the relatively small number of petitions that are filed under the ARO indicate there is "no problem" and tenants are satisfied with rent levels. Tenants do not file petitions because the ordinance does not provide them with a realistic, legal basis of contesting 8% increases, even if the increase forces them on to the street. Similarly, very few owners contest the annual 2% increase in assessed valuation on their property (imposed when the CPI is greater than 2%) because they have a minimal chance of prevailing with such a claim, not because they are satisfied paying property taxes. In addition, the city's lack of interest in enforcing its regulations against retaliatory eviction creates an atmosphere in which tenants perceive they confront serious risks if they dare to assert the few rights they do have under the ARO.

OWNERS FINANCIAL OUTCOMES

The ARO report analyses the multiple ways in which the current ARO ordinance provides owners not merely a fair return but an extraordinary return on their investment. Owners benefit from the effects of vacancy decontrol, from allowable rent increases that exceed the amounts needed to pay for operating expenses, and from massive appreciation in property values.

Vacancy Decontrol:

Vacancy decontrol provides an important opportunity for owners to improve their cash flow by raising rents to market levels on voluntarily vacated units or after evictions with cause. The ARO report indicates that high tenant transiency allows these increases to take place frequently. More than a third of ARO renters have been in their current unit for less than two years. Figure 3.16 indicates only 31% of ARO renters have resided in the same unit for more than 4 years.

Operating Costs:

The San Jose ARO report estimates the ratio of operating costs to gross rents to be within the range of 25% - 45%, with an average of about 35%. This is well within the range for other jurisdictions in California. The report also indicates the trends in operating costs have been stable, not escalating dramatically. Thus, the report refutes the persistent landlord contention that owners in San Jose need to raise rents by 8% a year to cope with high operating expenses that are increasing rapidly.

In response to the report's findings on operating costs, landlords have made several criticisms.

Their first point is that the report relied on MLS listing data and that owners routinely and significantly understate operating costs to make a property more attractive to a buyer.

Our initial response to this claim is that it requires the staff of the City of San Jose to immediately notify the MLS Listing Service and the Santa Clara County Association of REALTORS that there is reason to believe that MLS regulations are being violated on a broad scale. MLS Regulation 8.3 states that brokers, by using the MLS database, represent that information is accurate to the best of their knowledge. Moreover, the listing broker is required to make good faith efforts to determine the accuracy of the information and to refrain from submitting information the broker knows to be inaccurate. By failing to notify MLS and the brokers in the region that property owners have stated repeatedly on the public record that operating costs are significantly understated, the City will be placing the MLS organization and countless brokers at severe risk of failing to meet their obligations to buyers who rely on their standards.

Secondly, the ARO report does not only rely on MLS data but also on information from petitions submitted to the city seeking rent increases, on data from the Institute of Real Estate Management, and on data from REIS Services LLC.

Other sources of information corroborate the SJ ARO estimates. For example, the National Apartment Association (NAA) publishes a Survey of Operating Income and Expenses for rental apartment communities. They divide the United States into 6 regions for the purpose of organizing the data they collect. Region VI (which includes California and other far western states plus Alaska and Hawaii) reports the following:

Year	NOI
2010	58.2
2011	60.4
2012	60.8
2013	62.5
2014	64.4

This data is compatible with the SJ ARO study because the NAA includes within expenses a separate figure for capital expenditures. For example, in 2014, their nation-wide analysis divided expenses between Operating Income (62.1%), Operating Expenses (36.9%) and Capital Expenditures (7.9%).

The fact that operating expenses do not justify an 8% rent increases is also substantiated by information from the Residential Cost Index published by CBRE, the large real estate services firm. CBRE's index indicates residential costs (maintenance, repair, cleaning, power, landscaping, etc.) increased by approximately 2.7% per year between 2004 and 2015. Even assuming that operating expenses were 40% of gross rents, rents would only have to increase slightly more than 1%, to cover increased operating expenses.

If all of these sources are insufficient, we are open to the City exploring other objective sources of information on operating expenses. However, we emphasize that the sources <u>must</u> be objective. Data from self-selected landlords and anecdotal information clearly do not meet this standard.

The landlords' second point is that small properties (fourplexes) have higher expense ratios than larger complexes. This contention does run counter to the fact that larger complexes have higher operating costs because they have substantially more amenities (swimming pools, fitness rooms, elevators, etc.).

However, small complexes may have to allocate certain costs such as management fees over just a few units, thereby forcing the operating expense ratio to be higher. If this claim is substantiated, the remedy is to provide those small owners with an operating expense pass-through mechanism as is provided in the current ARO – not to provide all owners an automatic 8% increase regardless of their expenses.

Some owners commented they confronted higher operating costs because they rent a single unit to multiple families. Frankly, it is hard to see how the city would want to embrace the following strange logic: first allow rents to skyrocket so a single family can't afford an apartment, then, after multiple families are crammed into a unit, allow rents to escalate once again because the two or three families use more water or dispose of more garbage than a single household.

Finally, the owners argue that a limitation on increases tied to the CPI would make it difficult or impossible to restore rents if, during a recession, owners had to actually reduce rents in order to fill vacant units or retain existing tenants. There are several difficulties with this contention. First, the problem as presented by owners is that they need a mechanism to restore rents to their previous peak (presumably the level at the high point in the business cycle). However, the purpose of the ARO ordinance is not to assure owners of peak rents but to *balance* the owners claim to a fair return against the tenants need to be protected from excessive rent payments.

Secondly, in light of the high rate of turnover, owners have an opportunity to restore their returns as vacant units are rented at market levels which follow the post-recession business cycle upward.

Third, as will be noted below, the extraordinary appreciation in property values experienced by numerous owners suggests that they are not at risk of failing to achieve a fair rate of return, even if rents briefly decline. This is particularly true for long-term investors. If speculators who planned to "flip" buildings for a quick profit are unable to do so, we should remember it is not in the city's interest to destabilize renter families in order to protect speculators from disappointment.

Finally, it is possible that in a small number of cases an owner may have purchased a building at just the wrong time and has no tenants who express any interest in vacating their units. Like all other owners, these individuals are entitled to a fair return. However, a reasonable public policy to meet this situation is not to allow *all* other landlords to levy large automatic rent increases. Rather, it is to provide these specific owners with a hardship provision, similar to Section 17.23.451 of the current ARO which allows an extra pass through if needed to prevent an unreasonably severe financial or economic hardship to a landlord.

Capital Appreciation:

As the ARO report observes on page 143, "Appreciation and depreciation in value are a central determinant of the returns from apartment investments." Data included within the report demonstrates that many owners have experienced, and are experiencing, major gains in wealth through appreciation in property values. Table 6.7 notes that in 1980-84, the average price per ARO unit was $33,410. In 2015, it had risen to $191,463, an increase of 570%. The same table shows capitalization rates dropped from 8 – 11% in the 1990's to less than 5% in 2015.

But those figures describe returns on total investment. Almost all apartment buildings initially carry mortgages. Therefore, the report goes on to describe the return owners can achieve on their cash investment (their down payment). An owner who purchased units valued at $100,000 ten years ago and invested $30,000 per unit would today own units valued at $190,000. Subtracting their $70,000 loan from the new value, the owner would have $120,000 in equity from a $30,000 investment – or a 400% return in ten years.

CONCLUSION

1) San Jose renters who live in ARO units are relatively poorer than other residents. They are disproportionately rent burdened. They often live in overcrowded conditions in buildings that are not adequately maintained. It should be a priority for the City of San Jose to protect them from further declines in their standard of living and from displacement.

2) As a result of vacancy decontrol and the 8% automatic increase, the existing ordinance provides virtually no protection against rent increases well in excess of these renter households' ability to pay. San Jose renters are exposed to substantially greater economic hardship than renters in other large California cities that have CPI based ordinances.

3) The ordinance provides owners with much more than a fair rate of return. No evidence has been presented proving that San Jose is an outlier in which owners must confront unusually high operating costs. Data on appreciation indicates that the total return available to owners is exceptional when compared to other investment alternatives.

From:	[redacted]
To:	District5; District7; District8; District1; District2; District3; District4; Oliverio, Pierluigi; District9; District 10; The Office of Mayor Sam Liccardo; Grabowski, Ann
Subject:	Rent Control Considerations
Date:	Tuesday, February 16, 2016 1:32:04 PM
Attachments:	Rent Control Considerations 2.17.16.docx

Dear member of the City Council:

I write as a very concerned owner of income property and as a real estate broker and property manager. I believe that the findings of the consultants have been slanted and problematic. I hope that you will take a few minutes and peruse my writing.

Thank you for your consideration

David Eisbach,
Broker, Owner of Amber Realty & Property Management
[redacted]

Rent Control Considerations

By David Eisbach

Comments are based on City of San Jose: Apartment Rent Ordinance Study-Preliminary Draft Report (page references are those printed on the actual page.) Each point I make will refer to these statements.

The San Jose ARO controls 44,300 units, including three units and beyond, all built before September 1979. Out of a total rental number of approximately 122,000, that leaves an exempt group of 77,700 rentals. Roughly the ARO controls about 36% of San Jose's rental stock. (#1)

STUDY SOURCES. Owners have argued that the basis and the process of this study misses the point. (# 12) This study looks to U.S. Census data and attempts to smooth it with practiced spin. The January 27, 2016 meeting brought out reliance on input from REIS, which covers only large properties, IREM, which deals in large properties, Operators of affordable housing, which are exempt, and finally California Association of Realtors MLS for actual information. The report also uses RealFacts, which only deals in properties 50 units and above. (# 12)

This study mirrors the stance of San Jose Housing by painting the older, smaller ARO units with the broad brush of larger, newer properties in an effort to prove that ARO owners are charging more than should be allowed. Owners have steadfastly offered to give Housing rental data, which has just as determinedly been turned down. Would the cost of this study have been saved by San Jose Housing conducting its own survey, after all it would appear that they have the list of properties? Please note that almost the total number of information sources deal in properties above 50 units, while the Actual spread of ARO properties show only 9% of rentals in the 50 plus category. (#1)(#12)

THE PHYSICAL PROPERTY. By definition, the properties under ARO are the oldest stock. This study stated that older properties had more maintenance costs than the newer by stating that that percentage could be found between 30 and 40% of income. Then miraculously the study says that there is no real difference between the newer and the old and set the estimate at 33%. (p 24). They seem to base this assertion by saying only 12% of ARO units built in the 1970s are in tier III (requiring four year inspections) That would be 5,325 units. Table 1.10 shows a tier III total of 15,674, so the remaining 10,349 units would be spread over the 60s and before. It would seem to me that 35% of the ARO Tier III, which is based on finding two code violations in single units, points out that older properties do indeed have a greater measure of maintenance needs.(#4)(#10) I shall include one incidence of such a cost:

> This is a repiping of 19 units in San Jose at a cost of $150,000for the whole job. Each unit $8,000
>
> Permits $6,000
> Check for asbestos $3,000
> Engineering costs $10,000
> Plumbing costs $105,000
> Sheetrock removal (w asbestos) $15,000
> Re patch sheetrock$18,000

Obviously, aging properties require more care and cost more money to upgrade and maintain. Two more things that the post 1979 do not have to contend with, asbestos and lead-base paint.

RENTS. I was astounded after reading rental charts that showed ARO properties below the Non-ARO TO SEE THE CONCLUSION THAT THE ARO PROPERTIES WERE RISING FASTER THAN THE NON-ARO. USING WORDS LIKE "EXCEEDED ON AN ABSOLUTE AND PERCENTAGE BASIS" (#5)

DEMOGRAPHY CONTENT AN AWFUL LOT OF WORK WAS EXPENDED TO SAY THAT ARO UNITS ARE OLD, AND BELOW THE MARKET OFNEWER, LARGER UNITS. BECAUSE THEY ARE UNDER THE MARKET, PEOPLE WHO'S MEANS ARE LIMITED SEEK THEM OUT. THESE UNITS CANNOT COMPETE WITH NEWER UNITS, AT LEAST NOT WITHOUT REMODELS OF WINDOWS, PLUMBING, ELECTRICAL (NO GROUNDS IN OLDER PROPERTIES), ROOFS, CONCRETE ETC. TENANTS STARTING OUT ARE YOUNGER, LESS EDUCATED, LESS PAID AND TEND TO CROWD TO MEET EXISTING RENTS. (# 34)(#3) (#6)(#7) THE EXAMPLE GIVEN THAT 1.5 PER ROOM IS INTERESTING IN THAT THE SENTINAL GUIDELINES AGAINST DISCRIMINATION AGAINST CHILDREN SUGGEST THAT TWO PERSONS PER BEDROOM PLUS ONE IS A SAFE BET. (#9)

FAIR RETURN. IN THE LAST TEN YEARS RENTS HAVE RISEN ABOUT THE CPI RENT INDEX, ABOUT 3.4%. THE STUDY WAS QUICK TO POINT OUT THAT THIS IS "SUBSTANTIALLY" ABOVE THE INFLATION RATE. (#8) THE STUDY GOES TO GREAT LENGTH TO OPINE THAT A RETURN ON INVESTMENT IS SOMEHOW A BLOW TO SOCIETY. (#3)

CONCLUDING COMMENTS

- **A. THE STUDY IS BASED ON SOURCES WHICH DEAL WITH 50 UNITS OR MORE, WHILE THE MAJORITY OF ARO PROPERTIES ARE 49 AND BELOW.**
- **B. THERE IS SURPRISINGLY LITTLE EVIDENCE THAT THE STUDY HAS ANY IDEA AS TO THE MAINTENANCE REQUIREMENTS OF OLDER PROPERTY.**
- **C. SAN JOSE HOUSING SEEMS TO WANT TO USE 36% OF THE RENTAL STOCK TO IMPROVE THE AFFORDABILITY STATISTICS FOR THE CITY, BY INCREASING THE BURDEN OF AN ALREADY ENCUMBERED LAYER OF SOCIETY.**
- **D. I WOULD LIKE TO SEE THE CITY LOOK INTO THE TIER SYSTEM, WITH THE QUESTION. "IS IT A FINANCIAL AND BUREAUCRATIC BURDEN, WITH ITS FINES AND INSPECTION CHARGES."**
- **E. THE STUDY CITES A RISE IN EVICTIONS, CODE VIOLATIONS AND ILLEGAL RENT RAISES ABOVE 8%. YET LEAVES IT AT THAT. THE 8% VIOLATIONS DO NOT EVEN AMOUNT TO A QUARTER OF ONE PERCENT.**
- **F. HOUSING HAS GONE ALL OUT IN PAINTING THE WORST PICTURE OF THE ARO, YET OWNERS HAVE ADJUSTED TO IT AND HAVE FOLLOWED ITS DICTATES. THE PASS THROUGH PROVISIONS HAVE BEEN SO DETAILED AND INTENSIVE COUPLED WITH SUCH LITTLE CONFIDENCE IN OUTCOMES BECAUSE OF CLAUSES LIKE "TENANT ABILITY TO PAY" AND HEARING OFFICERS BEING HOUSING EMPLOYEES AS WELL. OWNERS HAVE SIMPLY USED THE RENT CAP TO TRY TO RECOUP SOME OF THE CAPITAL AND MAINTENANCE COSTS.**
- **G. IT HAS NOT BEEN PROVED THAT ARO OWNERS HAVE USED THE 8% ANNUALLY AND RELIGIOUSLY. CERTAINLY, THERE ARE ANECDOTAL ACCOUNTS, BUT THE REAL PROOF WOULD HAVE COME OUT WITH A CONTROLLED SURVEY OF ARO PROPERTIES BY HOUSING, WHICH APPARENTLY HAS NO INTENTION OF DOING SUCH.**

1. There are 44,300 units 21% in buildings 3-4 units, (page 2)

   20% in buildings 5-9 units

   24% in buildings 10-19 units

   26% in buildings 20-49 units

   9% in buildings 50 plus units

2 "The plurality of ARO buildings 42% built in the 60s (p.24)

33% built in the 70s

25% built in the 40s and 50s (I have added this)

3 "The average price per ARO unit is just under $200,000, or $258 per square foot...Comparatively, multi-family properties built in 1980 or later have fetched higher valuations per unit since the recent recession, averaging over $100,000 more in sale values compared to ARO units since 2010." (p. 18)

4 "ARO quality housing quality, gauged by code enforcement inspection "tiers" assigned to each building, show that more recently built units are in better condition. For example, just 12 percent of ARO units built in the 1970s are assigned Tier III status, requiring inspections on a 4-year cycle. Over half of those built in the 1940s and 1950s are in the tier." (p. 24) (p.20)

5 "Over the past 24 years, rent increases for ARO housing have exceeded those for non-ARO housing on both an absolute and percentage basis." It shows ARO units at $1,190 in 1990 and $1,445 in 2014 and non-ARO rents at $1,392in 1990 and $1,579 in 2014. (P.38).

They do not say that the ARO properties never surpassed the non-ARO properties, by using the terms "absolute and percentage, the impression is given that the ARO units are outstripping the non-ARO. They choose to ignore that ARO properties are all older and have more actual expense in maintenance.

6 “Renter households in ARO units are slightly more rent burdened than those in non-ARO apartments in San Jose. Fifty-six percent of ARO renters pay 30 percent or more of their income for housing compared to 52 percent of non-ARO renters.” (p.34)

7. “Renters living in ARO units have somewhat lower incomes than non-ARO renters. The median household incomes of non-ARO renter households was nearly $10,000 higher than the incomes of ARO renter households in 2014”…”ARO renters have the largest share of residents with a high school diploma or less (49%) versus 42% for non-ARO renters. ARO renters have the largest share of residents who speak English “Not Well” ir “Not at all” (32%) versus 29 percent for non-ARO renters. (p.3).

8. “In the past ten years, the rents of units subject to the ARO have increased at about the same rate as the CPI Rent index compiled by the U.S. Bureau of Labor Statistics for the San Francisco Area. These increases have been substantially above the rate of inflation.” (p. 4) “The annual increase in CPI has averaged 3.4 percent since 1980.” (p. 3)

9. “Thirty nine percent of ARO units have more than one person per room versus 31 percent of non-ARO units, while 10 percent of ARO units are severely crowded with greater than 1.5 persons per room versus 8 percent of non-ARO units.” (P. 3) It would appear that no one in City Hall ever heard of the Sentinal, the watch guard of for tenants who might be discriminated against because of their children. It’s not the law, but the safe practice is: “two persons per bedroom plus one.”

10. “Operating expenses of San Jose apartment buildings subject to the ARO are in the range of 30 to 40% of revenues, with an average of approximately 33 percent. This average has remained stable over time. This provides net operating income-to-rent ratios in the range of 60 to 70 percent.” (p.4)

11 "The surge in constructing larger apartment buildings ("20to 49 Units" and "50Units or More") continued into the 1980s, 1990s and 2000s.(Table 1.7). For the decade, the trend for units in buildings of 50 units or more is on pace to exceed 15,800 by 2020." (p. 11) Table 1.6 ARO Units b y Age and Size shows that the total 50+ units are 4,149 (9%), 20 to 49 are 11,626 (26%) 3 to 19 units total are 28,506 (64%). (p. 11)

12 "Given the intricacies of San Jose's Apartment Rent Ordinance (ARO) and the irregular shape of its Council Districts (CD) and overall boundaries, we select Census variables and variable categories that best match "ARO Apartment Renters" in San Jose, as well as creating two comparison groups of our own: "Non-ARO Apartment Renters" and "Other San Jose Residents." Although not exact matches to San Jose's renters living in ARO units described inventoried in the previous chapter, they are extremely close and the best that these data allow." (p. 43)

"Rent data in this report are actual gross rents reported by renters to the US census Bureau, and of surveys of asking rents listed in Newspaper or Craigslist ads." (p. 39) Finally, in the January 27 bullet point presentation page 6, under Chp 3: Renter Demographics page 6, San Jose Housing states, "RealFacts" to offer "limited sample, show greater fluctuation in vacancy rate."

David Eisbach, Broker Amber Realty & Property Management

Property Manager and Owner [redacted]

From: [redacted]
To: The Office of Mayor Sam Liccardo; Herrera, Rose; Jones, Chappie; Kalra, Ash; Peralez, Raul; Matthews, Margie; Carrasco, Magdalena; Oliverio, Pierluigi; Nguyen, Tam; Rocha, Donald; Khamis, Johnny; City Clerk; Grabowski, Ann; Chen, Wayne
Subject: Comments on Rent Ordinance study
Date: Tuesday, February 16, 2016 5:25:15 PM

Dear Ms. Grabowski, Mayor, Council Members and others,

The following are my comments towards the report. The report findings and the company you have chosen "Economic Roundtable" are biased towards rent control. They do not compare the financial plight of the smaller mom and pop landlords versus the bigger Funds and Corporations controlling the newer buildings. No mention of rents and prices going lower and the fact that no city in the Bay Area has recently instituted rent control in the last year, to mention a few items.

We have had to reduce rents from $100 to $200 this year versus last year. Even move in bonuses of $500 have not helped. Please review this article--
http://www.bizjournals.com/sanjose/news/2016/01/25/are-silicon-valley-apartment-rents-about-to-come.html?ana=e_du_pub&s=article_du&ed=2016-01-25&u=YxaeOPvjmJamuBFYHZ1ZOA0d8a88ba&t=1455665206

With the scare of rent control in San Jose building prices are going down. A building priced at last year's price has no interest today.

Recently the cities of Lafayette and Pacifica have decided not to enact rent control. To the best of my knowledge no city in the Bay Area in the last year has felt the need for rent control.

Lastly for the small owners, who cannot afford private security services, the City Police services have been pathetic. We continue to be plagued with graffiti, break ins in the laundry rooms and nothing being done about known drug houses and homeless people using our garages. I have been working with David Tran and while he has been verbally understanding he has not been able to get action from the Police Dept.

We look forward to your help and understanding with the small owners that are making every effort to provide good services and lower cost housing for the city.

Thank You

Neville Batliwalla

[redacted]

From: [redacted]
To: Grabowski, Ann
Subject: San Jose analysis of the Apartment Rent Ordinance
Date: Wednesday, February 17, 2016 5:26:07 PM

Dear Ms. Grabowski,

Thanks to the ARO committee and the city officials for this valuable analysis on the rent ordinances of various cities and regions. The key findings seem to show that the current San Jose ordinance is working remarkably well, and supports keeping the allowable rent increases close to market conditions to minimize unwanted manmade/artificial, long term irrevocable damages to the housing market.

Some of my observations are as follows, and try a detail study of these factors on San Francisco, the notorious monster of rent control on steroid:

- owners' expenses severely inaccurately, such as legal fees, self-management time and costs, etc., are unaccounted for.

- impact of imbalanced policies cause societal ongoing animosity, rent scammers, bad tenant retention, litigation and costly government intervention.

- unrealistic protection of tenants cause them not want to move out of rent-controlled units for natural reasons, thus further delaying their desire to seek homeownership and eventually priced out of market, can't keep up with market values, and thus requirement more government protection, etc., creating more and more unrealistic demands for government proctection...a vicious cycle.

- Consider market, economic,demographic changes. The investment options have changed dramatically in the last 20 yrs. People have all kinds of mutual funds, pensions, 401k,ira, roth ira, roth 401k, etc., so real estate is just type of investment, which requires a lot of money in one basket and physical management so younger people don't want to do it. Rent control is robbing owners who already take great risks to protect those who are not willing to take the risk. That's the new trend now.

- Any policies need to be on a temporary basis, subject to change. Usually unfair laws are created just when the market is at it's peak; just when they are implemented, the market takes a turn, but those unfair laws are not undone.

- More changes to rental businesses due to baby boomers retiring, and lack of people willing to run rental business; mom and pop owners will be diminished, and rent control will speed that process.

- It's great that SJ is making policies based on input from a large advisory committee. Housing is too important to be subject to a few politician's wimp.

Thank you.

Meina Young

From: [redacted]
To: Grabowski, Ann
Cc: Oliverio, Pierluigi
Subject: ARO
Date: Wednesday, February 17, 2016 4:52:41 PM

Ms. Grabowski,

I have reviewed the Economic Round Table Report regarding the ARO. Two things jump out at me.

1. Why are the landlords who supply 1/3 of the available rental housing, which is currently serving a significant portion the moderate and lower income members of the community, being asked to carry the financial burden for assisting a random group of tenants. These properties are primarily owned by local individuals not large corporations.
2. There is nothing in the report that would indicate that it would result in an increase in affordable housing.

No Cause Eviction- A change to this law is a solution in search of a problem. The report states that the City receives from tenants of 44,300 units about 70 complaints a year.

As a self-employed individual for most of my life, my wife and I led frugal lives in order to save for our retirement. We chose residential real estate as the main vehicle for our savings for retirement. For the past 20 years I have replaced toilets, cleaned drains, repaired broken windows and performed 1000's of other tasks to save on expenses. This provided additional revenue, of which a significant was placed back in our property to improve the units.

Had I known that the City of San Jose would impose stricter rent control I would have been sure to purchase property in a different jurisdiction. The passing of stricter regulations will result in a significant loss of value in my property.

The cause of the current affordable housing crisis is the lack of construction and tremendous growth in job demand for Silicon Valley. I don't hear about the City rising up and taxing or discouraging the growth of tech and other businesses. Why pick on the little guy?

I am 100 % in favor of the City taking meaningful steps to increase the availability of affordable housing providing the burden is shared by all San Jose residents.

Sincerely,

Peter Miron-Conk
[redacted]

[redacted]

CC Pierluigi Oliverio

From: [redacted]
To: Grabowski, Ann
Cc: [redacted]
Subject: Response ARO Consultant Report
Date: Friday, February 19, 2016 4:01:15 PM
Attachments: Response to San Jose ARO Consultant Report 2 2016.pdf

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Please see the attached response.

Frank Bommarito

My partners and I have attended the Advisory Committee meetings and have listened to the spirited discussions of all the affected stakeholders at the various meetings. We have read the 165 page consultant report that was generated at the request of the City Council. The report provides data that is necessary to understanding the current housing shortfall and the units covered under the ARO. The problem I have with the data is that it comes from sources that primarily cover 50+ units in size, which only reflects 9% of the units under the ARO, which means you don't necessarily have accurate data covering 91% of the covered ARO units.

When I reviewed the consultant report, I question the accuracy of the perceived "apartment quality rated by inspection tiers." We manage our properties consistently, yet we have two buildings in Tier 1 and one building in Tier 3. As mentioned by Joshua Howard in the Advisory Committee Meeting on February 17th, the inspection process is very subjective with some real issues of consistency between code enforcement inspectors. I do not agree with the comments shared in the Advisory Committee Meeting that Code Enforcement "favors" the landlords. We perform the annual maintenance review of each unit and make the necessary repairs to keep the buildings in compliance. This is very expensive given the age of our buildings. It is very evident that the City of San Jose is under staffed to meet the challenges of monitoring the current ARO program let alone monitor and enforce any "new" implementations. I am concerned that any changes to the ARO, which increases the staffing and cost to the City, will be passed on to the housing providers who will have nothing to say on the matter.

Over the last 13 years, under the current ARO system of up to an 8% annual increase, our rental income increased an average of 5.18%, while our expenses increased an average of 4.29% over that same time frame. The expenses are operating expenses, not including debt service, to maintain buildings that are over 40 years' old, necessary upgrades to extend the life of our investment. If we were operating under the "proposed" CPI limits, we would be operating the buildings at a loss which is not acceptable if we want our business to survive.

Our annual apartment turnover rate over this same time frame of 13 years averaged 31%, but over the last 5 years it has dropped to 25%. We are not driving tenants away.

The Legislative Analyst's Office of the State of California, recently published a report entitled "Perspectives on Helping Low Income Californians Afford Housing." In short the report states that "elected officials should focus more on encouraging private residential development and less on existing government programs that subsidize construction or impose rent control." The 4 key points emphasized in the report are:

1. Expanding rent control does not increase the supply of housing, in fact, it likely would discourage new construction.
2. Remove barriers to private development will help improve the housing supply. (Local community resistance and CEQA) limit the amount of housing built in California – both private and subsidized.
3. Increased supply places downward pressure on prices and rents.
4. Increased development of market rate housing experienced considerably less displacement than areas where development was lacking.

I am opposed to amending the current ARO to include "Just Cause" eviction. We have used the current "No Cause" process, WITH CAUSE, 4 times over the last 2 years. We made a conscious decision to terminate the tenancies over the following reasons: 1) continuous late rental payment trends 2) lack of adherence to community rules 3) damage to the property 4) threat of physical harm to our staff and 5) lack of adherence to local, state and federal laws and ordinances. In each case we filed the required documentation with the City of San Jose and we complied with renting the unit to the new tenant at the existing rate. In each of the cases we provided the tenant with 120 days' notice of the termination. These decisions were made with the rest of the apartment community in mind and use this as a last resort.

We are a family owned business, operating property in San Jose since 1979. We have 3 buildings covered by the ARO, comprising a total of 105 units (32 and 37 unit buildings in district 1 and a 36 unit building in district 6.) We are fair landlords who take care of their buildings as evidenced by the fact that we have a tenant in one of the buildings who has been there since 1979. We have several tenants across the 3 buildings that have been there 5, 10 and 15+ years. Our tenants stay an average of 4.5 years.

Frank Bommarito
Housing Provider February 19, 2016

From: [redacted]
To: Grabowski, Ann; [redacted]
Subject: Strongly Against San Jose to Tightening RC policy
Date: Thursday, February 18, 2016 11:24:04 AM

I am writing to you to strongly against what the City is intended to do, with the following reasons:

1. History proves Rent Control policy had never really helped a city to control it's rent and housing affordability, it's a failure and bad policy.

2. Rent Control has caused high rent, high crime and waste tax payer's money, look at East Palo Alto, Oakland, they are all smaller than SJ, but has more police forces, spend much more money on safety, but have much high crime rate. We don't want SJ to become EPA or Oakland.

3. Also from the consultant report itself, it proves SJ doesn't even need rent ordinance, the market will justify by itself.

4. The report didn't show how many case of eviction per year, how much landlords paid for each case, what kind of tenants had been evicted, and for what reasons those tenants were evicted. If those data were shown, Just Cause Eviction will be immediately known no use.

5. Under current ARO, landlords can't increase rent if tenants don't voluntarily move out. So there is no intention for landlord to evict good tenants. Just Cause Eviction just makes it much hard to evict bad tenants.

6. Tightening RC would only discourage property owners to pull the unit back from rental market, cause even less supply and higher rent.

7. Just Cause will cause the bad tenant to stay, hurt the neighborhood, cause all good tenants to suffer, and the entire neighborhood to suffer.

Bottom line, tightening RC policy won't solve the problem the city is intended to solve, will cause backfires and make things worse.

Regards,

Yong Zhao
A voter, resident and property owner of SJ

From: [redacted]
To: Grabowski, Ann
Subject: Comments to preliminary consultant report
Date: Thursday, February 18, 2016 10:32:54 AM

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1) ARO has not stabilized rents because 8% exceeded average rate market rent over 35 years (4.7%): There is no logic between those two: we are comparing maximum and average. You know from the report, there are many years without any rent increase or very minimum increase and some years even with negative increase. Those contributed a lot to the average 4.7%. When does the 8% work? When the economy is good, landlords will increase rate near 8% to bs lance the lose from recession. That was when ARO got effect. Can you image if you put 5% as the maximum ceiling, the average rate increase will be 2.5%. If you put Cpi as ceiling, our increase will be zero if averaging with those negative increase. 2) Because most landlords didn't increase 8%, so they don't need 8%. That has no logic either. It is just saying if you save money, that means you don't need money! Why we need 8%? We need it for some special case just like insurance. Otherwise, anything unexpected happens, we will be pushed out of business.

Thanks!

Dan Pan

From:	[redacted]
To:	Morales-Ferrand, Jacky; Grabowski, Ann
Cc:	Howard, Josh
Subject:	ARO Consultant Study - CAA Comment Letter
Date:	Friday, February 19, 2016 4:50:31 PM
Attachments:	021916_ARO Study Letter.pdf

Dear Ms. Morales-Ferrand,

Attached please find the California Apartment Association's comments on the preliminary report regarding the City's ARO.

If you have any questions, please do not hesitate to contact myself or Joshua Howard at jhoward@caanet.org.

Best Regards,
Lillie

Lillie Richard ▪ Public Affairs Coordinator
California Apartment Association
1530 The Alameda, Suite 100, San Jose, CA 95126
[redacted]

California Apartment Association
980 Ninth Street, Suite 1430
Sacramento, CA 95814
800.967.4222 ▪ caanet.org

February 19, 2016

Jacky Morales-Ferrand
Director, Department of Housing
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

RE: ARO Consultant Study Comment Letter

Dear Ms. Morales-Ferrand:

The California Apartment Association (CAA) appreciates the work of the Housing Department to analyze possible amendments to San Jose's Apartment Rent Ordinance (ARO). In reviewing the recently commissioned preliminary report of the San Jose ARO Study (ARO Study), CAA offers the following feedback, comments, and input.

The ARO Study concludes that owners of apartments subject to the City's ARO have obtained an attractive rate of return from their investments as a result of increasing rents, net operating incomes, and values of their apartments. In order to better understand how the ARO Study came to this conclusion, CAA raises several questions and comments outlined below that are designed to understand the scope and information evaluated in the process of developing the ARO Study.

Debt Service Pass-Through

The ARO Study focuses on debt service pass-through and its application in other markets. Specifically noting that six of the eleven apartment rent control ordinances exclude consideration of debt service in setting allowable rent levels, except when the debt service is associated with capital improvements.

The ARO Study also notes that "if debt service is considered, owners who make equal investments in terms of purchase price are entitled to differing rents depending on differences in the size of their mortgages and/or the terms of their financing arrangements". What is ignored is that buyers of investment properties understand their options when capitalizing a purchase, as well as how that choice will impact future returns on the investment. These choices impact purchase prices, thereby impacting ARO property values. A buyer of an ARO property will adjust the purchase price based on anticipated returns. If the debt service pass-through were to be reduced or prohibited, it is reasonable to anticipate a significant reduction in ARO apartment values, negatively impacting current owners of ARO properties.

Investment returns are impacted by a variety of considerations including capital investment requirements, ARO rent caps, and anticipated operating income and expenditures. There is little, if any, concrete analysis on the impact of removing or reducing this pass-through on the San Jose economy, rental market, or overall cost of housing. Thus, prohibiting or reducing a pass-through is contradictory to the policy and purpose of the ARO ordinance, which is in part to provide assurance to landlords of a fair and reasonable return on the value of their property.

Financial Outcomes of ARO Rental Properties

Chapter 6 of the ARO Study provides a summary of returns on total investment for San Jose apartments constructed prior to 1980. In the ARO Study summary three (3) measurements were provided to quantify returns on investment:

1. Values of units above their purchase price
2. Ratio of net operating income to purchase price ratio
3. Return on cash investment

The ARO Study then selected three (3) time frames to base their results:

- 1990-1997
- 1998-2005
- 2006-2014

However, depending on the selected time frame the results could change significantly. For example, from 2007-2014 apartment values remained relatively flat. As the ARO Study notes, "the rates of return of recent purchasers vary drastically depending on where in the cycle of ups and downs in apartment prices their purchase was undertaken".

The impression the ARO Study provides is that (i) ARO apartments are worth more in 2015 than in prior years, (ii) overall rents are higher than in prior years and (iii) if an investor used debt to partially fund their ARO apartment purchase, it is likely their cash return has improved. While an owner might achieve all of these results, it does not necessarily equate to attractive rates of return as other factors come in to play that impact an owner's investment returns.

Effects on Low-Income Households

Housing affordability is a tremendous challenge in San Jose for households on the lower-end of the income spectrum. On an absolute basis, San Jose is one of the most expensive housing markets in the United States. The median price for an existing home in the City was $761,000 in the second quarter of 2015, substantially higher than the statewide median price of $395,000.

The high price of home ownership keeps most households in the rental segment of the housing market, and rents are still quite high relative to other parts of the state. The average rent for an apartment in the City was $1,926 in the second quarter of 2015. In contrast, the average apartment rent was $1,671 in the East Bay, and $1,241 further north in the Vallejo metropolitan area.

And while tightening the current cap on rent growth may be well intentioned, in the aggregate, there is potential for unintended, negative outcomes, particularly among low-income households.

An argument can be made that the intended beneficiaries of rent control policies are low-income households. However, these aren't necessarily the households that will benefit the most from stronger rent control policies. The report fails to demonstrate how the presence of a rent control policy, or in San Jose's case, a stronger rent control policy, is associated with reducing number of low- and middle-income households spending 30% or more of their income on rent.

While the tightening of rent control policies in San Jose may be well intentioned, it could lead to undesirable outcomes in the broader housing market and could negatively affect the very households the policy was intended to help.

<u>What the ARO Study Did Not Address</u>

The ARO Study compares apartment values and net operating income based on snapshots of time, but does not address other factors that impact rate of return, such as:

- Time value (when dollars are spent and when those dollars come out of the investment)
- The amount of additional investment or costs incurred by an owner in order to achieve the reported financial outcomes.

For example, a new roof, plumbing, HVAC repair/replacement, structural issues, windows, or efficiency upgrades result in significant cash and investment outlays. These costs may be recouped over time through rent increases, if permitted; however, depending on the amount and the number of years before recoupment occurs, there will be an impact on the rate of return.

Approximately 75% of the City's ARO apartment properties were constructed in the 1960's and1970's. As properties age they require significantly higher capital investment, particularly properties in excess of 20 years. Deferred maintenance and market competition are also a challenge. The ARO Study does not provide any analysis of whether or not further limiting an owner's ability to increase rent may create a disincentive to properly maintain the property, since landlords will not be able to recover the cost of that investment through higher revenues. Despite the existence of a pass-through formula for capital improvements, a reduced maximum allowable rent increase will force owners to seek city permission and approval for these expenses and lead to a decline in investment and reduction of housing quality. In addition, the report does not offer any type of analysis on how a reduction in the current maximum allowable rent increase would affect the quality of San Jose's housing stock, quality of life for tenants, and the surrounding neighborhoods by decreasing the value of adjacent properties.

Other areas where the ARO Study is lacking:

- The assumption that owners of apartments who are subject to the City's ARO have obtained an attractive rate of return without accounting for impacts of non-operating expenditures, particularly when the ARO apartments are all pre-1980 properties.
- Including a snapshot of: (i) Rent Growth, (ii) NOI Growth and (iii) Apartment Value Changes -but lacked to provide the actual rate of return data. Thereby, invalidating the statement that owners of ARO apartments have obtained an attractive rate of return on their investment.
- Failing to address whether or not the presence of the ARO helps or hinders the current housing crisis facing Silicon Valley.
- Inadequate data on whether or not changes to ARO will add more housing units into the market or reduce housing costs—specific items that the City Council requested be explored when they ranked the ARO review as one of its priorities.
- The study does not contemplate any potential unintended consequences of changing the current ARO or the removal of current ARO units from the market altogether.

- The report claims that there are a number of San Jose residents who spend more than 30% of their income on rent. However, the report does not offer any strong evidence that rent controls help to reduce the number of low-income households spending 30% or more of their income on rent.
- The ARO study did not address whether or not rent control can have a negative impact on low-income households not living in rent-controlled covered units through higher growth in citywide median rents.

Conclusion

It is important to note that housing affordability is not unique to San Jose, but rather a problem that spans throughout the state. Recently, CAA commissioned research and consulting firm, Beacon Economics, to complete an objectively-based economic analysis of Rent Control Ordinances in California; this report can be made available to the City upon request. Beacon Economics, using data from the American Community Survey (ACS), reported the median gross rent in San Jose was 29.7% of household income in 2014, near the bottom of the list among California metropolitan areas.

While rent control measures are certainly well intentioned, questions remain as to whether they are the most appropriate strategy to combat housing affordability issues among the renter population. Clearly such rules can directly reduce the rental burden of those fortunate enough to live in a stabilized unit. But the transfer of income from the owner of the property to the tenant also has the impact of reducing the overall supply of housing. This 'winners versus losers' phenomenon implies that the net impact is, at best, mixed.

CAA's own literature review on rent control suggests that rent control laws do not accomplish their goals of increasing diversity, providing affordable housing for low-income residents, or reducing homelessness. At worst, rent controls laws actually move cities further away from these goals by making low-income residents in cities with rent control laws worse-off and even leading them to move elsewhere. CAA's study of the 2000 Census and 2013 American Community Survey found that in San Jose, 57.1% of low-income households did not live in rent-controlled housing, which leaves them vulnerable to higher rent growth in housing that is exempt from rent control policies.

Ultimately, price increases are due to high demand, low supply, or a combination of the two. Addressing the larger problem of our housing shortage—especially in markets with strong rent growth—is the more economically sound approach to dealing with housing affordability.

Recently outlined in a report by the state's Legislative Analyst's Office, extolling more private construction should not be met with other approaches to housing issues, such as expanding rent control — a move being considered by several California cities. "By depressing rents, rent control policies reduce the income received by owners of rental housing," says the document. "In response, property owners may attempt to cut back their operating costs by forgoing maintenance and repairs. Over time, this can result in a decline in the overall quality of a community's housing stock."

The Legislative Analyst's Office considered the impacts of expanding rent control in two ways — applying the policy to more properties and barring landlords from resetting rents at market rates when tenancies turn over.

"Neither of these changes would increase the supply of housing and, in fact, likely would discourage new construction," the report says. "Households looking to move to California or within California would therefore continue to face stiff competition for limited housing, making it difficult for them to secure housing that they can afford. Requiring landlords to charge new tenants below-market rents would not eliminate this competition."

The LAO report also refers to the detrimental effects that rent control can have on a household — a phenomenon known as the “lock-in effect.”

“Households residing in affordable housing (built via subsidized construction or inclusionary housing) or rent-controlled housing typically pay rents well below market rates,” the study says. “Because of this, households may be discouraged from moving from their existing unit to market–rate housing even when it may otherwise benefit them — for example, if the market-rate housing would be closer to a new job. This lock-in effect can cause households to stay longer in a particular location than is otherwise optimal for them.”

Despite strong evidence that increasing the private housing stock would bring down prices, much of the focus remains on government programs — such as rent control — that fail to help many of the residents who need it most and never address the underlying problem — a lack of housing, according to the LAO report.

“The changes needed to bring about significant increases in housing construction undoubtedly will be difficult and will take many years to come to fruition,” the LAO says. “Policy makers should nonetheless consider these efforts worthwhile. In time, such an approach offers the greatest potential benefits to the most Californians.”

Rental units subjected to the city’s ARO are just one component of the city’s housing market. The ARO study fails to explore the impacts of the ARO as part of the larger housing market and any impacts amendments to the ordinance will have on San Jose residents, business owners, investors, and the city’s tax base. In addition, it does not evaluate other options that will truly promote affordability and reduce the amount of income one pays for housing.

We look forward to continuing to work with you and your staff on this process and welcome the opportunity to discuss these comments in greater detail in the coming weeks.

Please do not hesitate to contact me via email at jhoward@caanet.org or by phone at (408) 342-3507 if you have any questions or would like to further discuss the contents of this letter.

Sincerely,

Joshua Howard
Senior Vice President, Local Public Affairs
California Apartment Association