

Fair Return Petition

Purpose: A Landlord may petition for a rent adjustment in order to obtain a fair return in the event that the other increases allowed pursuant to the Apartment Rent Ordinance (ARO) do not provide a fair return (17.23.800).

Instructions: Please complete and submit Petition and Excel Spreadsheet with supporting documentation along with 3 sets of copies of each to the Rent Stabilization Program. For projects over 100 units, please contact the Housing Department and we will create a special file for you.

Box 1- Owner Information

Name: _____ Phone: (____) _____
Mailing Address: _____
Email: _____
<input type="checkbox"/> Check if sole owner of property; if not, list all other owners, their mailing addresses and daytime telephone number Box 13.

Box 2- OPTIONAL Designated Proxy (Agent Authorized to Bind Owner per 8.06.07). If yes, complete and submit attached Proxy (Notice of Representation) Form

Designated Agent: _____
Mailing Address: _____
Daytime Phone Number: (____) _____ Email: _____

Box 3- Property Information

Property Information: _____
Street Number Street Name (Unit Numbers)
Parcel Identification Number: _____ - _____ - _____ Date Acquired: _____

Box 4- Unit Information

Enter the total number of residential units on this property _____.
<input type="checkbox"/> Check if this application seeks rent increases for all units at this property. Otherwise, list each unit identification for those units for which you are seeking a rent increase: _____

Box 5- Declaration

I (we) declare under penalty of perjury under the laws of the State of California that the foregoing and all attached pages, including documentation, are true, correct, and complete.
Signature: _____ Date: _____
Print Name: _____



Instructions: The following Boxes 6-12 cover income and expenses in Base Year and Current Year to calculate Net Operating Income (NOI). Please complete Boxes 6-12 in their entirety in the designated sections of the Excel Worksheet.

Box 6- Tenant Information and Proposed Individual Rent Increase Schedule. Please complete this section on the Excel Worksheet.

Box 7- Gross Income Summary (SJMC Section 17.23.820). Please complete this section on the Excel Worksheet. **Copies of invoice receipts, cancelled checks and other documentation must be attached to support claim.** For clarification on Item C, please see SJMC Section 17.23.820 A.3.

OPERATING EXPENSES

Box 8- Taxes, Fees, and Insurance (SJMC Section 17.23.820.C). Please complete this section on the excel spreadsheet. **Copies of invoices, cancelled checks and other documentation must be attached to support expense data.**

Box 9- Management Expenses (SJMC 17.23.820.C.7), and Legal Fees (SJMC 17.23.820.C.8) . Please complete this section on the excel spreadsheet. Management expense is presumed to be six percent. If claiming higher than 6%, submit documentation to justify expense. Legal fees must be amortized over five years.

Box 10- Utilities Paid by Landlord (Base Year and Current Year). Please complete this section on the excel spreadsheet. **Copies of invoices, cancelled checks, regular maintenance logs and other documentation must be attached to support claim. Please included the amount paid for the of actual utilities used for the base and current year.**

Box 11- Normal Repair and Maintenance (Base Year and Current Year) (SJMC 17.23.820.C.6). Please complete this section on the excel spreadsheet. **Copies of invoices, cancelled checks, regular maintenance logs and other documentation must be attached to support claim.**

Box 12- Completed Capital Amortized Expense (Base Year and Current Year) (SJMC 17.23.820.C.9) The following chart includes all items of capital improvement allowed and the number of years the item must be amortized. Please use the following chart to complete Box 12 on the excel spreadsheet. **Copies of invoices, cancelled checks and other documentation must be attached for all completed capital expenses to support claim.**

Expense	Amortization Period (Years)	Expense	Amortization Period (Years)
Air Conditioning	10	Gutters	10
Appliances (Major)	7	Heating	10
Cabinets	10	Insulation	10
Dishwasher	7	Locks	7
Doors	10	Paving	10
Dryer	7	Plumbing	10
Drywall	10	Pumps	10
Electric Wiring	15	Refrigerator	10
Elevator	20	Roofing	10
Fencing	10	Security System	10
Fire Alarm System	10	Stove	10
Fire Escape	10	Stucco	10
Flooring	7	Washing Machine	7
Garbage Disposal	7	Water Heater	7
Gates	10		

For additional space to list Completed Capital Amortized Expenses, attach additional copies of Box 12a, and designate

each page (12-1, 12-2, 12-3, etc.) in the upper right-hand corner.

OPTIONAL-Adjustments to Operating Expenses

Box 13 through Box 17- Adjustment of Base Year Net Operating Income (“NOI”) (17.23.830.E.), (8.02.04).

The ARO presumes that the Landlord received a fair return in the Base Year, however, SJMC 17.23.830.B allows a landlord to overcome that presumption if the Landlord can provide sufficient evidence showing that the Base Year NOI was unusually low due to unusually low income or expenses were unusually high for a particular Covered Property in the Base Year. If the Landlord is not challenging the Base Year fair return presumption, Box 13 through Box 17 should be marked “Not Applicable” (N/A).

A Landlord making this claim needs to provide sufficient evidence of an unusually low NOI in the Base Year produced by unusual circumstances. The unusual circumstances can be described in the Box 13-18 worksheet. The Hearing Officer must make one of the following findings before he or she may determine that the owner has provided sufficient evidence to overcome the presumption of a fair return in the Base Year.

For Appraisal Requirement (ARO Regulations 8.02.1), the Landlord shall be required to pay the costs of an appraisal determining the Base Year rents for comparable buildings at the time of, and as a condition to, filing a Petition. (SJMC 17.23.830.C.2.a). Please check our website for current list of City approved appraisers.

Instructions for Proposed Adjusting Base Year Net Operating Income (NOI): The Landlord should check all that apply and **complete the appropriate tabs on the excel spreadsheet.** If the Landlord claims that they did not receive a fair return because the Base Year NOI was unusually low due to unusual circumstances, describe the unusual circumstances in Box 18 and provide documentation to support claim.

Base Year Expenses-Unusually High or Low

- Box 13:** Substantial capital improvements that improved the housing services during the base year, which were not reflected in the base year rent levels. (Complete Box 13 and attach supporting documents). (17.23.830.C.1.a)
- Box 14:** Substantial repairs were made due to damage caused by uninsured disaster or vandalism. (Complete Box 14 and attach supporting documents.) (17.23.830.C.1.b). Indicate your actual out of pocket cost for the repair.
- Box 15:** Maintenance and repair were below accepted standards or resulted from the intentional deferral of other repairs or work, which deferral caused significant deterioration of housing services, the building or individual units. If the time since the deferred work was performed significantly exceeds the amortization periods established by the regulations, it shall be presumed that it was intentionally deferred. (Complete Box 15 and attach supporting documents.) (17.23.830.C.1.c)
- Box 16:** Other expenses were unreasonably high or low, notwithstanding prudent business practice. (Complete Box 16 and attach supporting documents.) (17.23.830.C.1.d)

Base Year Income-Unusually High or Low

- Box 17:** The gross income during the base year (2014) was unusually low because some residents had unusually low rents for the quality, location, age, amenities, and condition of the housing. (Complete Box 13e and attach supporting documents). The City has an Appraisers List.

For the following situations, provide rent information on Box 17 on the excel spreadsheet and provide an explanation in Box 18 below:

- A. The gross income during the base year (2014) was significantly lower than normal because of destruction of all or part of the premises and/or temporary eviction for construction or repairs. (Complete Box 17 and

attach supporting documents.) (17.23.830.C.2.b)

- B. There was a special relationship between the Landlord and Tenant (such as a family relationship) resulting in abnormally low rent charges. (17.23.830.C.2.c)
- C. The rents had not been increased for five (5) years preceding the Base Year. (17.23.830.C.2.d)
- D. The tenant lawfully assumed maintenance responsibilities in exchange for low rent increases or no rent increases. (17.23.830.C.2.e)
- E. Other special circumstances which establish that the rent was not set as the result of an arms-length transaction. (17.23.830.C.2.f)

Box 18- Use this box to explain or submit any other relevant information. If this box is not needed, mark "Not Applicable" (N/A).

Notice to Tenants of Rent Increase Petition

Date:
Tenant Name:
Address:

Dear Tenant,

This is to notify you that I intend to file a petition for rent increases with the City of San José, Rent Stabilization Program (Program). I believe I am entitled to rent increases because the Net Operating Income (**NOI**) for the property has not increased with inflation as provided by the City's Apartment Rent Ordinance.

BASE YEAR CHALLENGE (If box to the left is marked): I believe the property's expenses were unusually high or income was unusually low in 2014, and I will be making this claim in the petition. If my petition is granted, your monthly rent will increase from \$_____ to \$_____, an increase of \$_____ per month. I will request that this increase become effective on _____, 20___. This date is **at least 30 days** after the date of delivery of this notice and **at least 12 months** after the last rent increase.

Sincerely,

Owner/Agent

Property Address

Unit #

FOR OWNER: Please see reverse for instructions and declaration.

FOR TENANT: Information regarding Owner's Fair Return Petition and the time limit for Tenant Petitions is listed below:

Once the owner files a petition with all supporting documentation to the City, the City will schedule a Hearing on the petition. The City will notify you directly by mail at your unit of the date, time, and location of the Hearing. All evidence filed by the owner will be available for inspection at City Hall. Based on the evidence, the Hearing Officer may approve or deny rent increases. If the box above is checked, the owner is seeking to increase rents because they believe the 2014 rents or expenses resulted in an unusually low income to the owner. **You are encouraged to review the submitted evidence before the date of the Hearing.**

You may:

- ✓ File a response statement and participate in the Hearing regarding the owner's petition.
- ✓ Compile and present your own evidence to support your response.
- ✓ Have an attorney or other representative at the Hearing.
- ✓ File a petition if you have had service reductions or other violations of the apartment rent ordinance.

If you wish to file a petition regarding service reductions or housing code violations or other claims of violations of the City's Apartment Rent Ordinance, you should do so within 30 days from the mailing date of the Notice of Complete Petition (5.03.4).

The City of San José, Rent Stabilization Program is available to answer questions at **408-975-4480** during normal business hours: Monday - Friday, 8:00 a.m. to 5:00 p.m., although no member of the staff can or will give legal advice to the public. Please visit the City's website at www.sanjoseca.gov.

Para residentes que hablan español, si desea más información, llame a Theresa Ramos al 408- 975-4475.

Muốn biết thêm chi-tiết, xin vui lòng liên lạc Hạnh Lê. 408-275-4404.

Declaration of Notification to Tenants of Filing of Fair Return Petition

Instructions: The owner must give a copy of this notification to all tenants (*including those units for which no increase is requested*) indicating the intent to file a Fair Return Petition and the grounds therefore. The owner must sign this declaration and file it with the Housing Department along with the Fair Return petition.

Declaration: I declare under penalty of perjury under the laws of the State of California that I have served the tenant(s) of this unit with a complete copy of this notice, and will file a separate copy with the Rent Stabilization Program.

Signature _____

Date _____

The City of San José, Rent Stabilization Program is available to answer questions at **408-975-4480** *during normal business hours: Monday - Friday, 8:00 a.m. to 5:00 p.m.*, although no member of the staff can or will give legal advice to the public. Please visit the City's website at www.sanjoseca.gov.

Tenant Opposition Statement

Date: _____ Case: _____ Address: _____

Purpose: The purpose of this form is to provide a written opposition statement response to the completed Petition within 30 days to the Rent Stabilization Program located at 200 E. Santa Clara St, San José, 95113 or via email at rsp@sanjoseca.gov. A tenant opposition statement is used to contest the issues and/or facts raised in the Petition and may be accompanied with supporting documentation (i.e. pictures, correspondence, etc.). You may provide a written response on the back of this page.

Note: Review the instructions attached to this Tenant Opposition Statement carefully before attempting to complete this form. You may also amend your statement.

Box 1 Tenant Information

Name: _____	
Address (include unit number): _____	
Home Phone: (_____) _____	Work Phone: (_____) _____
Cell Phone: (_____) _____	Email: _____
The best way to contact me is: <input type="checkbox"/> Email <input type="checkbox"/> Mail <input type="checkbox"/> Phone: _____	

Box 2 Designated Representative (Tenant's Authorized Representative)

<input type="checkbox"/> I authorize _____ as my representative. He/She may provide, request, receive information/evidence/testimony, negotiate, sign on my behalf on matters in this dispute, and should be placed on the mailing list. <u>(Correspondence will be sent to your representative)</u>
Representative Name: _____ Phone: (_____) _____
Address: _____
Email: _____
Please complete and return within 21 days of the date of the City's Notice of Complete Petition to the Rent Stabilization Program at 200 E. Santa Clara St. San José, CA 95113.

Box 3 Petition & Notice Information

I received a notice from my Landlord of a Fair Return Petition for rent increase on this date: _____
<input type="checkbox"/> Yes <input type="checkbox"/> No I received a notice that the Landlord's petition was complete and available for review at City Hall (Notice Complete Petition).
<input type="checkbox"/> Yes <input type="checkbox"/> No I have filed a service reduction petition with the City's Rent Stabilization Program.

Box 4 Tenancy Information

Date I moved into this apartment: _____

List any other units on the property your household has occupied and the dates:

Yes No Did you sign a written lease? If yes, please provide a copy of your lease if you have it.

Box 5 Rent Information

Current monthly rent: _____ Date of Last Rent Increase: _____

List any other fees that your Landlord charges in addition to rent and when those fees last increased:

Garbage Parking Utilities (Gas/Water) Pet Rent/Pet Deposit Storage

Other: _____ Date of last fee increase: _____

My Landlord reduced my rent by \$ _____ because I provide the following services:

I am the on-site manager I provide maintenance Other: _____

Box 6 Opposition Grounds (complete A or B)

A. I am filing before I have reviewed the landlord's petition. I understand that I must amend this petition to complete Section B and attach documents within 30 days of the City Complete Petition Notice. (5.03.4)

B. I plan to oppose the landlord's petition for the following reasons:

The income is incorrect because some or all of the rents shown are incorrect.

The income is incorrect for other reasons. Those reasons are: _____

Some or all of the expenses shown are incorrect or were not incurred at the time stated.

Some or all of the improvements or repairs listed were not completed.

Some or all of the improvements or repairs listed were needed only because prior work was delayed or was substandard.

If the landlord checked the "Base Year Challenge" box on the Fair Return Petition Notice and your Notice, saying the 2014 Base Year Net Operating Income will be challenged AND you were a tenant on the property in 2014:

The 2014 rents were not unusually low.

The 2014 expenses were not unusually high.

Some or all of the 2014 expenses were due to intentionally deferred maintenance and repairs.

The building had housing code or other violations of the Ordinance in 2014.

Some or all of the 2014 substantial capital improvements claimed did not improve housing services.

The property did not have the claimed quality, amenities and condition in 2014.

You must provide proof (documentation) supporting your claims to the Rent Stabilization Program within 30 days of the date of the City Complete Notice.

Box 7 Declaration

Declaration:

I (we) declare under penalty of perjury under the laws of the State of California that the foregoing and all attached pages, including documentation, are true, correct, and complete.

Signature: _____ Date: _____

Print Name: _____

Signature: _____ Date: _____

Print Name: _____

Questions? Contact Us:

The City of San José Rent Stabilization Program is available to answer your questions at **408-975-4480** during normal business hours: Monday - Friday, 8:00 a.m. to 5:00 p.m., although no member of the staff can or will give legal advice to the public. You can also visit the City's website at www.sanjoseca.gov.

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

Muốn biết thêm chi-tiết, xin vui lòng liên lạc Hạnh Lê, Đ.T. 408- 795-4404.

對於說華語的居民: 請電408-975-4450 向Ann Tu 詢問詳細事宜。說粵語的居民則請撥打 408-975-4425 與Yen Tiet 聯絡。

Important: Tenants are encouraged to review the Landlord's petition and evidence as soon as possible. Tenants may file and/or amend their opposition statement and supply additional documents to RSP until 30 days after the date of the City Complete Notice.

Fair Return Petition Supplemental Base Year Certification Form

Date:

Case:

Address:

Purpose: This form is to request the Program to accept the Petition without the complete base year net operating expense evidence pursuant to Apartment Rent Ordinance Regulation 8.02.3.

This request is an affidavit under penalty of perjury indicating that I, the Landlord, do not have and cannot obtain this evidence. I agree to cover the cost for Program staff to investigate and prepare a report for the Hearing Officer in accordance with the Apartment Rent Ordinance and its Regulations.

Please provide a description of how this evidence was lost and/or may not be obtained in the box below:

I declare under penalty of perjury under the laws of the State of California that this information and every attached document, statement, and form, is true and correct.

Print Name

Signature of: Landlord Tenant Proxy (see Form 6 attached)

Date



Rent Stabilization Program
City of San José Housing Department
200 East Santa Clara St, 12th Floor, San José, CA 95113
408-975-4480 • www.sanjoseca.gov/rent • RSP@sanjoseca.gov