

District 1 — Justin Lardinois
District 3 — Barry Del Buono
District 5 — Ruben Navarro
District 7 — Vacant
District 9 — Julie Quinn
Mayor — Nhi Duong

(VC) Alex Shoor — District 2
Huy Tran — District 4
(C) Andrea Wheeler — District 6
Lee Thompson — District 8
Michael Fitzgerald — District 10
Martha O’Connell — CAAC MR
Ryan Jasinsky — CAAC ML

*Commissioners are appointed by corresponding Council Members, but do not represent the Council District.

REPLACEMENT

SPECIAL MEETING AGENDA

6:15PM

MARCH 7, 2019

CITY HALL WING ROOMS 118-119

I. Call to Order & Orders of the Day

II. Introductions

III. Consent Calendar

- A. Approve the Minutes for the Meeting of February 14, 2019
ACTION: Approve the February 14, 2019 action minutes

IV. Reports and Information Only

- A. Chair
B. Director
C. Council Liaison

V. Open Forum

Members of the Public are invited to speak on any item that does not appear on today’s Agenda and that is within the subject matter jurisdiction of the Commission. Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Commission.

VI. Old Business

VII. New Business

- A. **Annual Progress Report on the Implementation of the San José General Plan Housing Element and the Housing Success or to the Redevelopment Agency Annual Report (A. Marcus, Housing Department)**

It is recommended that Commission: 1) Review the Calendar Year 2018 Annual Progress Report on the Implementation of the San José 2014-23 Housing Element; 2) Review the Fiscal Year 2017-18 Housing Successor to the Redevelopment Agency

Annual Report; and, 3) Make possible recommendations to the City Council on policy implications relevant to the reports.

B. Research Related to the Ellis Act Ordinance's Recontrol Provisions (R. VanderVeen, Housing Department)

ACTION: 1) Review information on staff research on the Ellis Act Ordinance's recontrol provisions; 2) Make possible recommendation to the City Council on potential revisions of the Ellis Act Ordinance, including compliance alternatives regarding in-lieu payments or restricted affordable housing units; and, 3) Possibly authorize creation of an Ad Hoc Subcommittee with the purpose being to draft a letter to the City Council on this subject, and to return to the Commission with a letter for its consideration at a future meeting.

~~**C. Ad hoc committee Report back on Mobilehome Resident Evictions Tracking (Chair A. Wheeler)**~~

~~ACTION: Discuss the report back of the ad hoc committee on tracking mobilehome resident evictions, and authorize the ad hoc committee to return to Commission with a letter to the City Council on tracking mobilehome resident evictions for approval within six months of the ad hoc committee's January 17 formation date.
To be rescheduled to a date yet to be determined per Administration.~~

VIII. Open Forum

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IX. Meeting Schedule

The next regular meeting is scheduled to be held on Thursday, March 14, 2019 at 5:45 p.m. in Wing Rooms 118-120 at San José City Hall, 200 E. Santa Clara St, San José, CA 95113.

X. Adjournment

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

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Agendas, Staff Reports and some associated documents for the Commission items may be viewed on the Internet at <http://www.sanjoseca.gov/hcdc>.

Correspondence to the Housing & Community Development Commission is public record and will become part of the City's electronic records, which are accessible through the City's website. Before posting online, the following may be redacted: addresses, email addresses, social security numbers, phone numbers, and signatures. However, please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the Housing & Community Development Commission, will become part of the public record. If you do not want your contact information included in the public record, please do not include that information in your communication.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk, 200 East Santa Clara Street, 14th Floor, San José, California 95113, at the same time that the public records are distributed or made available to the legislative body. Any draft resolutions or other items posted on the Internet site or distributed in advance of the commission meeting may not be the final documents approved by the commission. Contact the Office of the City Clerk for the final document.

On occasion, the Commission may consider agenda items out of order.

The Housing & Community Development Commission meets every Second Thursday of each month (except for July and December) at 5:45pm, with special meetings as necessary. If you have any questions, please direct them to the Commission staff. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events, or printed materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.

Please direct correspondence and questions to:

City of San José
Attn: Viviane Nguyen
200 East Santa Clara Street, 12th Floor
San José, California 95113
Tel: (408) 975-4462
Email: viviane.nguyen@sanjoseca.gov

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

Riêng đối với quý vị nói tiếng Việt : Muốn biết thêm chi-tiết, xin vui lòng tiếp xúc với Viviane Nguyen, Đ.T. 408-975-4462.

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

Para sa mga residente na ang wika ay tagalog: Kung kinakailangan pa ninyo ng inpormasyon, tawagan si Shirlee Victorio sa 408-975-2649. Salamat Po.

HOUSING & COMMUNITY DEVELOPMENT COMMISSION

MEETING ACTION MINUTES

FEBRUARY 14, 2019

MEMBERS PRESENT: Andrea Wheeler Chair
 Alex Shoor Vice Chair (Arrived at 6:09 PM)
 Martha O’Connell Commissioner
 Ryan Jasinsky Commissioner
 Justin Lardinois Commissioner
 Huy Tran Commissioner
 Nhi Duong Commissioner

MEMBERS ABSENT: Ruben Navarro Commissioner
 Barry Del Buono Commissioner
 Julie Quinn Commissioner
 Michael Fitzgerald Commissioner
 District 7 VACANT
 District 8 VACANT

STAFF: Maribel Villarreal Council Liaison
 Kristen Clements Housing Department
 Selena Copeland Housing Department
 Robert Lopez Housing Department
 Viviane Nguyen Housing Department
 Fred Tran Housing Department

(I) Call to Order & Orders of the Day

Chair Wheeler called the public meeting to order at 5:53 PM.

Chair Wheeler called the meeting to order at 6:09 PM (upon having quorum).

(II) Introductions – Commissioners and staff introduced themselves.

(III) Consent Calendar

A. Approve the Minutes for the Meeting of January 17, 2019

ACTION: Approve the January 17, 2019 action minutes

Chair Wheeler made the motion to remove the indication of priorities for the Commission’s suggested strategies to reduce the length of meetings in VII-D, with a second by Commissioner O’Connell. The motion passed unanimously (7-0).

Commissioner Lardinois made the motion to approve the minutes as amended, with a second by Vice Chair Shoor. The motion passed unanimously (7-0).

Note: The minutes have been corrected for January 17, 2019 meeting.

(IV) Reports and Information Only

A. Chair: Chair Wheeler provided an overview of the upcoming items for HCDC.

DRAFT

- B. Director:** Ms. Kristen Clements provided an update on the vacancies for HCDC, anti-displacement policy update that Housing Staff is working on, and Ellis Act Ordinance updates from the February 5, 2019 City Council meeting.
- C. Council Liaison:** Ms. Maribel Villarreal had no comments.

(V) Open Forum

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Resident expressed concerns about outreach.

PACT representative expressed concerns about low availability rentals for Section 8 housing.

(VI) Old Business

None.

(VII) New Business

A. Annual Action Plan Funding Strategies 2019-2020 (R. Lopez, Housing Department)

ACTIONS: 1) Hold a public hearing on funding priorities for the Fiscal Year 2019- 2020 Annual Action Plan for the use of federal funds from the U.S. Department of Housing and Urban Development, and 2) Provide Housing Department staff with input on the Annual Action Plan funding.

Information only.

(VIII) Open Forum

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Commissioner Lardinois made the motion to agendize a Special Meeting on March 7, 2019 to discuss potential updates to the Ellis Act Ordinance, with a second by Commissioner Duong. The motion passed unanimously (7-0).

PACT representative expressed concerns about the Ellis Act and possible amendments to limit re-control.

DRAFT

Commissioner Tran expressed concerns about the misinformation circulated to the public regarding the rent registry.

Commissioner O'Connell shared an eviction case involving a resident of 15 years regarding a satellite dish. Commission O'Connell has notified Rent Stabilization Program staff.

(IX) Meeting Schedule

The next Special Meeting is scheduled to be held on Thursday, March 7, 2019 in Wing Rooms 118-120 at San José City Hall, 200 E. Santa Clara St, San José, CA 95113.

(X) Adjournment

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(IX) Adjournment

Chair Wheeler adjourned the meeting at 7:08 PM.



Memorandum

TO: HOUSING AND COMMUNITY
DEVELOPMENT COMMISSION

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: February 27, 2019

Approved

Date

**SUBJECT: ANNUAL PROGRESS REPORT ON THE IMPLEMENTATION OF THE
SAN JOSE GENERAL PLAN HOUSING ELEMENT AND THE HOUSING
SUCCESSOR TO THE REDEVELOPMENT AGENCY ANNUAL REPORT**

RECOMMENDATION

It is recommended that Commission:

1. Review the Calendar Year 2018 Annual Progress Report on the Implementation of the San José 2014-23 Housing Element;
2. Review the report on the Fiscal Year 2017-18 Housing Successor to the Redevelopment Agency Annual Report; and,
3. Make possible recommendations to the City Council on policy implications relevant to the reports.

OUTCOME

Approval of this request will enable staff to submit both the City's Annual Progress Report on the Housing Element to its General Plan and the Housing Successor Report to the State of California, as required by April 1, 2019. The City Council's acceptance of the Annual Progress Report is required prior to submitting the report to the California Department of Housing and Community Development (HCD) and the Governor's Office of Planning and Research (OPR). In addition, maintaining a Housing Element that complies with HCD's reporting requirements allows the City to remain eligible for important State and regional funding for housing, transportation, and parks.

EXECUTIVE SUMMARY

State law requires jurisdictions to prepare an annual progress report each calendar year to detail the implementation of their Housing Elements to their General Plans and to submit the report to HCD and OPR. Since the passage of Assembly Bill 879 (Grayson) in 2017, this requirement has applied to charter cities such as San José. In the recent past, the California legislature passed several other bills to strengthen the Housing Accountability Act and to amend State Housing Element Law to hold jurisdictions accountable for meeting their housing goals. Maintaining a Housing Element that complies with HCD's reporting requirements qualifies jurisdictions for State funding programs.

The Housing Element establishes a strategy to meet a jurisdiction's housing production goals defined by its Regional Housing Needs Allocation (RHNA). San José's RHNA goal for the current 8.8-year period from January 2014 through October 2022 is 35,080 housing units. This equates to a required annual production rate of 3,986 units. A large portion of San José's current RHNA goal (42%) consists of homes that are affordable for Extremely Low-Income (ELI), Very Low-Income (VLI), and Low-Income (LI) households as defined by HCD.

In calendar year 2018, San José continued its strong focus on production in issuing building permits for 2,973 new residential units. This number constitutes a small (4%) decrease from the number of building permits issued in 2017. The 2018 permits were issued for 1,527 market-rate units (94% of the annualized goal) and 1,446 affordable units (61% of the annualized goal). The City continues to be well ahead in its market-rate housing production, but behind in its affordable housing production despite best efforts. During the first five years of the 8.8-year RHNA period (57% of the way through the period), the City has met 83% of its market-rate housing goal and 13% of its affordable housing goal. In 2018, the majority of building permits were for new multifamily housing in and around Downtown and south of Downtown concentrated in Council Districts 3 and 7. Production of accessory dwelling units (also called secondary units, or in-law units) also continues to increase. As production under RHNA is counted once building permits are issued, the City's recent commitments to new affordable housing production should appear in future RHNA cycles.

Ways to spur housing production continue to be a focus both at the local, State, and regional level. In 2018, the State of California created several new housing funding sources including SB 35 (2017) which streamlines housing development in jurisdictions that are not meeting housing production goals. Additional sources and production tools are possible through the many housing-related bills that have been introduced in the current legislative session in Sacramento. Regionally, the Metropolitan Transportation Commission's CASA (Committee to House the Bay Area) framework was finalized in January 2019. All of these efforts should support the City's ongoing work to meet its five-year goals in its Housing Crisis Response Plan.

The Housing Successor to Redevelopment Agency Annual Report for Fiscal Year 2017-18 is required to be submitted with the Annual Housing Element Progress Report. The Housing Successor report provides information on the City's use of the assets created through redevelopment. The City's major asset is loan repayments from loans originated with 20% redevelopment funds for affordable housing, now known as the Low and Moderate Income

Housing Asset Fund (LMIHAF). The Successor Agency has addressed the required expenditure tests, as outlined in the Report.

BACKGROUND

The Housing Element establishes a comprehensive policy framework to implement San José’s residential strategies and outlines the City’s plan to meet its affordable and market-rate housing production goals. The determination of regional housing need is made by HCD, the California Department of Finance, and regional Councils of Government (COGs) throughout the State. The State agencies calculate statewide housing needs based upon population projections and regional population forecasts used in preparing regional transportation plans. The Statewide need is then distributed to regional COGs throughout California, who work with cities and counties within their purview to assign each jurisdiction its share of the RHNA.

The City of San José is a member of the Association of Bay Area Governments (ABAG), the Bay Area’s COG. ABAG oversees housing goals over nine counties and 101 cities. ABAG is responsible for distributing the RHNA to Bay Area local governments through an allocation methodology that is consistent with development and growth patterns. San José’s RHNA for the current 8.8-year projection period from January 2014 through October 2022 is 35,080 housing units. The City’s current RHNA is slightly higher than the previous 2007-14 RHNA cycle allocation of 34,721 units). The current cycle’s goal equates to an annual production rate of 3,986 units.

The RHNA itself is divided into four income categories that encompass all levels of housing need. HCD combines ELI and VLI units into the VLI category, but because ELI is an important focus in San José this memorandum breaks them out. A large portion of San José’s current RHNA goal (42%) is focused on Extremely-Low Income (ELI), Very-Low (VLI) Income, and Low Income (LI) households, as defined by HCD and as shown in Figure A below.

Figure A – HCD 2018 Income Limits for Santa Clara County¹

Income Level % of AMI	Household Size							
	1	2	3	4	5	6	7	8
Extremely Low Income (30% AMI)	\$27,950	\$31,950	\$35,950	\$39,900	\$43,100	\$46,300	\$49,500	\$52,700
Very Low Income (50% AMI)	\$46,550	\$53,200	\$59,850	\$66,500	\$71,850	\$77,150	\$82,500	\$87,800
Lower Income (80% AMI)	\$66,150	\$75,600	\$85,050	\$94,450	\$102,050	\$109,600	\$117,150	\$124,700
Median Income (100% AMI)	\$87,650	\$100,150	\$112,700	\$125,200	\$135,200	\$145,250	\$155,250	\$165,250
Moderate Income (120% AMI)	\$105,200	\$120,200	\$135,250	\$150,250	\$162,250	\$174,300	\$186,300	\$198,350

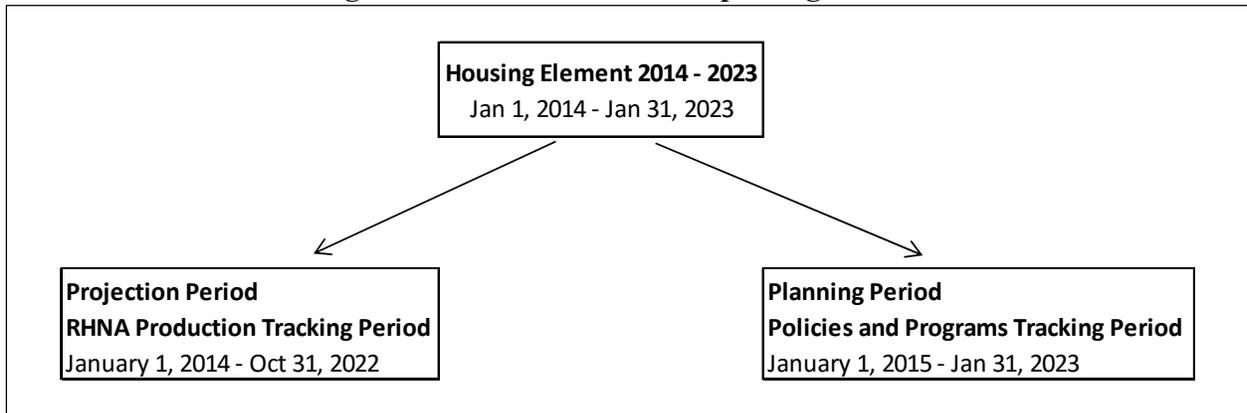
The City Council adopted its 2014-23 Housing Element on January 27, 2015, and submitted it to HCD for approval on January 30, 2015. HCD certified the Housing Element on April 30, 2015.²

¹ Income Limits for 2018 are the most recent available; 2019 limits have not yet been released.

² The adopted Housing Element is posted at www.sanjoseca.gov/DocumentCenter/View/43711

There are two reporting periods associated with the Housing Element, as shown in Figure B below. Building permit goals are measured against an 8.8- year projection period from January 1, 2014 to October 31, 2022. However, progress on policies and programs (Attachment D in the adopted Housing Element plan) have been tracked since 2015 against an 8.1-year planning period from January 1, 2015 to January 31, 2023.

Figure B – RHNA 2014-23 Reporting Periods



State law requires jurisdictions to prepare an annual progress report each calendar year to detail the implementation of their Housing Element and to submit it to HCD and OPR. All jurisdictions, including charter cities, must now submit annual reports.

Changes to the Annual Progress Report

In response to the passage of several housing bills, the State has increased reporting requirements for Cities and Counties. Starting in calendar year 2018, the Annual Progress Report must now list the number of development applications received, planning entitlements issued, building permits issued, and certificates of occupancy issued. The Annual Progress Report must also report on projects that applied for SB 35 streamlining and if these projects were approved.

The Annual Progress Report reports on the City’s continued progress with implementing programs and policies to increase, preserve, and improve the supply of affordable housing; to invest in activities to end homelessness; to promote equitable development; and to create healthy and sustainable communities and neighborhoods.

With the acceptance of a completed Annual Progress Report by the City Council, staff will submit the report to HCD and the Governor’s Office of Planning and Research. It is important to note that maintaining housing element compliance qualifies jurisdictions for funding opportunities including but not limited to: The Sustainable Communities Grant, PDA Planning Grant, Affordable Housing and Sustainable Communities funding, Housing Related Parks Program, Infill Infrastructure Grant, SB 2 Planning Grants, One Bay Area Grant, and the Building Equity and the Growth in Neighborhoods program

The Housing Successor to the Redevelopment Agency Annual Report for Fiscal Year 2017-18 (Housing Successor Report) is included with the Housing Element Annual Report to satisfy the requirements of Senate Bill 341, which took effect on January 1, 2014. This report describes how the City (as the housing successor to the former Redevelopment Agency of the City of San José) has utilized its former redevelopment agency funds on housing activities in conformance with State Health and Safety Code.

ANALYSIS

Housing Market Overview

San José is one of the most expensive cities in the nation to rent or to buy a home. Market rents are significantly out of reach for many San José workers including teachers, construction workers, and retail salespersons. Average effective rents increased 5.5% between 2017 and 2018 and increased 28% over the past five years³. In Q4 2018, the average effective rent in San José was \$2,417⁴. Figure C compares rents and incomes need to afford deed restricted, rent stabilized, and class A market rate housing in San José.

Figure C: Comparison of Rents and Incomes

Income Level ⁵	1 Bedroom		2 Bedroom	
	Max Income	Rent	Max Income	Rent
Extremely Low-Income (30% AMI)	\$31,950	\$799	\$35,950	\$899
Very Low-Income (50% AMI)	\$53,200	\$1,330	\$59,850	\$1,496
Rent Stabilized	N/A	\$1,737	N/A	\$2,047
Low Income (80% AMI)	\$75,600	\$1,890	\$85,050	\$2,126
Moderate Income - 110%	\$110,165	\$2,754	\$123,970	\$3,099
Market Rate Class A	N/A	\$2,752	N/A	\$3,292
Moderate Income - 120%	\$120,200	\$3,005	\$135,250	\$3,381

In 2018, the average residential vacancy was 4.2% for all housing, 7.1% for Class A housing, 4.5% for Class B housing, and 3.8% for Class C and F housing.⁶ The lower vacancy rates for Classes B, C, and F housing indicate the relative scarcity of lower rent apartments in San José. Definitions for CoStar building classes are included as Attachment A.

³ Costar Q4 2013 – Q4 2018

⁴ Costar Q4 2018

⁵ Income and rent levels based on 2018 California HCD Income Limits, City of San Jose Rent Stabilization Program, and CoStar as of 2/27/19.

⁶ Housing Class is defined by CoStar and is based on building characteristics such as location, size, quality of construction and materials, and amenities.

Home prices increased by 53% over the last five years⁷ but decreased by 8% in the last year. In Q4 2018, the median home price was \$1,050,000⁸. Homes are also taking longer to sell with Days on Market rising from 20 to 35 days. *Error! Bookmark not defined.* For-sale homes are affordable to higher income households, but only 13% are affordable to households earning the median income.⁹ In Q4 2018, the 30-year fixed interest rate was 4.64%, which was 17% higher than last year's rate of 3.95%, making homes more expensive for borrowers.¹⁰

Summary of Planning Entitlements proposed in 2018

During this period, 34 residential entitlement applications were proposed for the development of 5,559 units, of which 87% were market-rate and 12% were affordable. One 87-unit affordable application was submitted using SB 35 streamlining and is currently under review. **Attachment B, Table A** provides project specific details on entitlement applications.

Entitlements for 112 units were completed in 2018, of which 81 were affordable and 31 were market-rate. **Attachment B, Table A2** provides details on completed entitlements.

Summary of Building Permit Activity in 2018

In calendar year 2018, the City issued building permits for 2,973 new residential units, a 4% drop from the 2017 permits issued. This included 1,527 market-rate units (94% of the annualized goal) and 1,446 affordable units (61% of the annualized goal). **Figure D** illustrates this 2018 activity by income category.

Market-rate housing production in 2018 was just below the annual goal of 1,617 new units; however, it is well ahead in the cumulative goal for the current RHNA cycle.

Affordable units are those offering rents affordable to Extremely-Low, Very-Low, Low- and Moderate-Income households (as detailed in Figure A above). Figure D shows the City's annual production of Extremely Low, Very Low, and Low-Income housing which remained well below the annual goal. The City exceeded the year's moderate-income goal. Of the total affordable homes that received building permits, 146 are deed-restricted for long-term affordability while 1,300 may be counted as affordable to moderate-income households based upon current market conditions.¹¹ Although it should be noted, that it is uncertain how long the units will remain affordable to moderate-income households because of the lack of restrictions that require that the units remain affordable over time. **Attachment C** provides a detailed description of the methodology staff used for the moderate-income analysis, as allowed by HCD. This is the same methodology used for the 2017 Annual Progress Report which was accepted by HCD. The increase is likely due in part to several large developments in downtown.

⁷ Santa Clara County Association of Realtors, Q4 2013 – Q4 2018

⁸ Santa Clara County Association of Realtors, December 2018

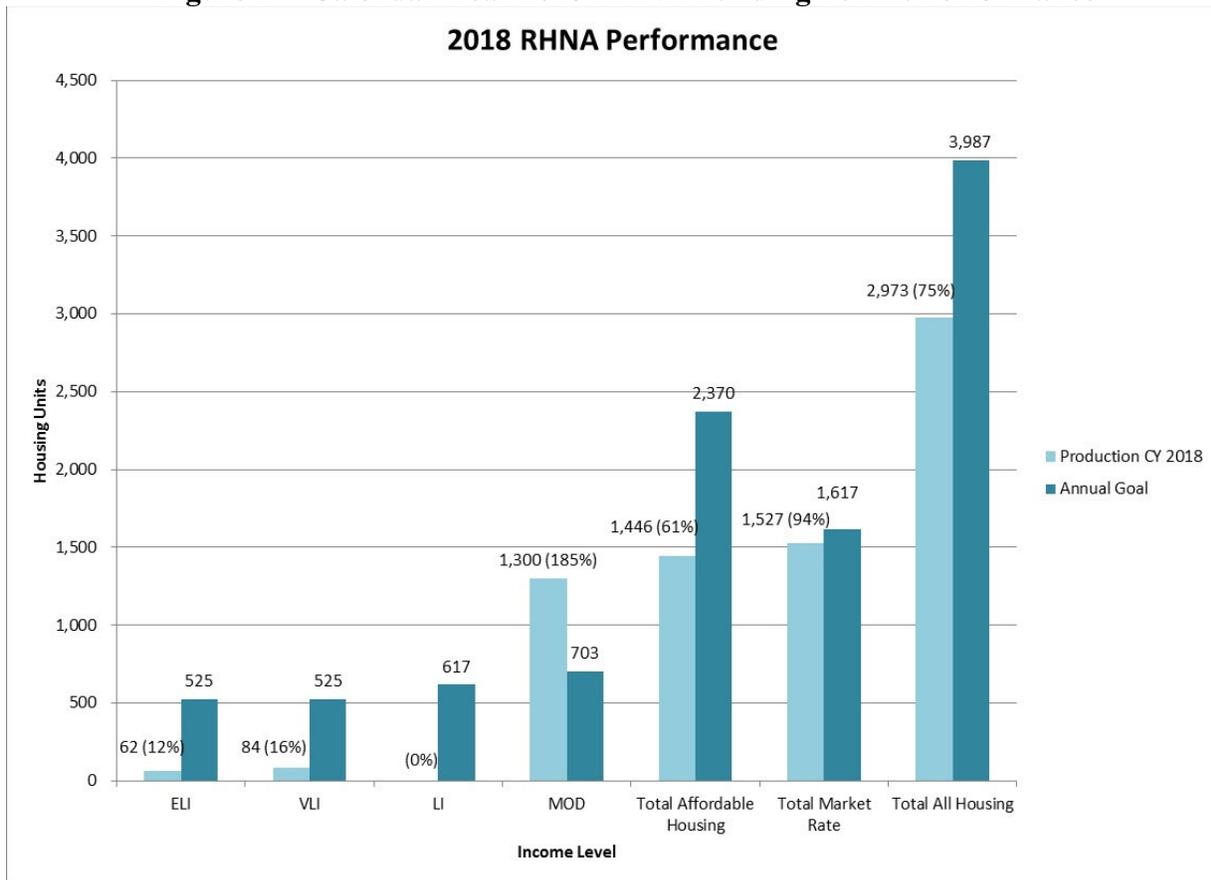
⁹ National Association of Home Builders (NAHB) Housing Opportunity Index Q4 2018

¹⁰ Freddie Mac 30-year Fixed Rate Mortgage December 2018

¹¹ HCD guidelines indicate that where actual rent information is unavailable, permitted units can be counted in the moderate-income category based on market conditions.

In 2018, 190 building permits were issued for accessory dwelling units (ADUs). This is nine times higher than the 21 SDU permits issued in 2014, indicating the positive impact from changes to State and local regulations of SDUs. In 2018, SDUs were counted in the “above moderate-income” category because staff did not have data on the rents homeowners intend to charge or whether SDUs would be used for family members. However, it is likely that some SDUs will be affordable to moderate-income households. If initial rents data can be collected in future years, staff will accordingly reflect those SDUs under moderate-income units.

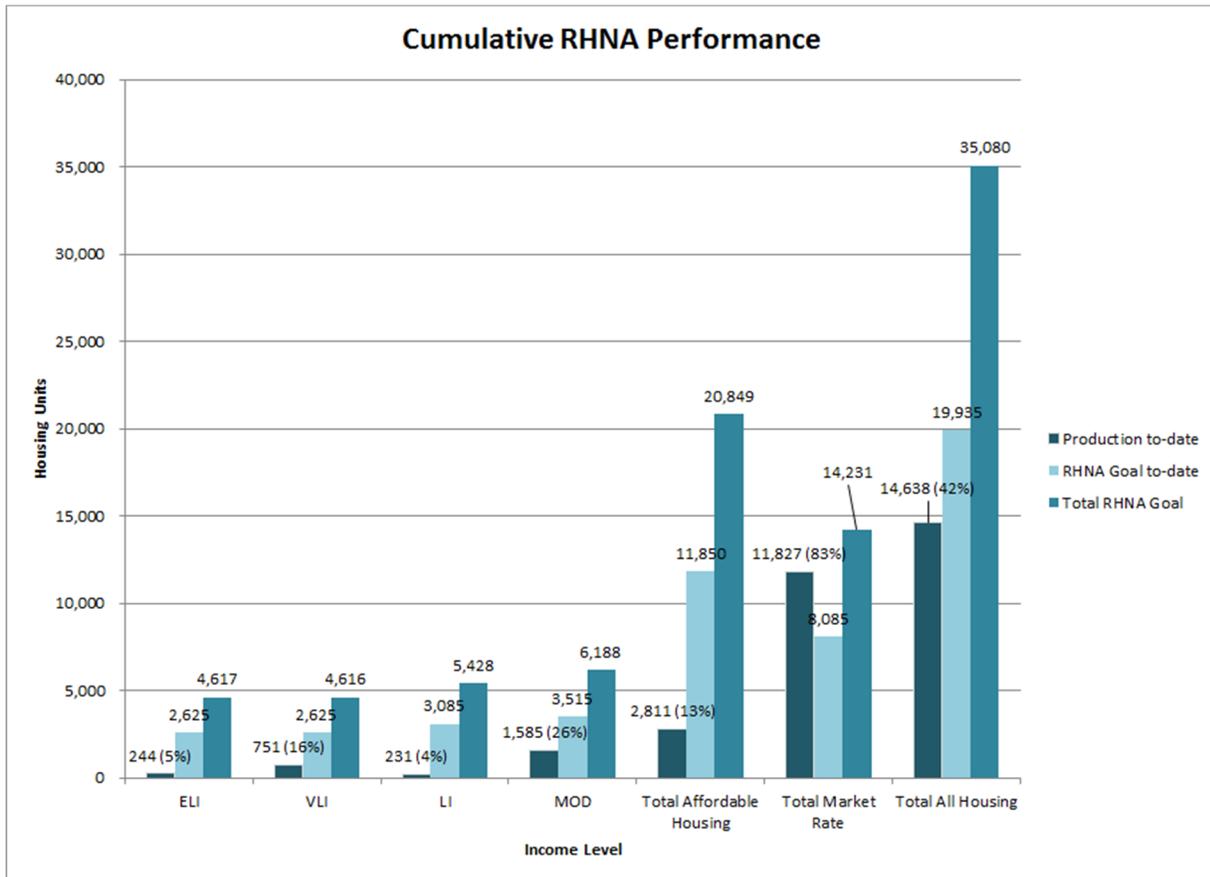
Figure D – Calendar Year 2018 RHNA Building Permit Performance



Summary of Cumulative Building Permits (2014-2018)

Figure E compares the City’s performance to date with the overall goal for the current RHNA cycle (2014 – 2018). During the first five years of the 8.8-year RHNA projection period, the City has met 83% of its market rate housing goal and 13% of its affordable housing goal. The chart indicates that San José is ahead of schedule in delivering market rate housing and behind schedule in delivering all income levels of affordable housing.

Figure E – 2014-2022 RHNA Building Permit Performance



Building Permit Type and Location

Over 80% of the 2018 building permits were for multifamily buildings, 9% were for single family attached, 6.5% were for accessory dwelling units, 3.8% were for single family detached, and 0.3% were for 2- to 4-unit buildings. **Attachment D** is a map that shows where different types of building permits were located. The map shows that multifamily projects were clustered primarily in growth areas in Downtown and south of Downtown (Council Districts 3 and 7). Accessory dwelling units were somewhat scattered throughout the City with higher concentrations in Council Districts 1, 3, and 6.

Certificates of Occupancy

There were 827 units that received certificates of occupancy in 2018. Of these, 827 were market-rate and 30 were affordable. Details on certificates of occupancy can be found in **Attachment C, Table A2**.

Progress on Programs and Policies

In addition to reporting on housing production, HCD requires annual updates on the City's programs and policies that support housing production. **Attachment B, Table D** provides a comprehensive progress update.

Units Rehabilitated, Preserved and Acquired

Attachment B, Table F summarizes the units that were preserved or rehabilitated in 2018. While preservation and rehabilitation does not count toward RHNA production goals, it is important to note that the City took action to extend affordability restrictions on 340 apartment units and helped fund the rehabilitation of 969 income-restricted affordable apartment units.

Units Lost to Expiring Affordability Restrictions

Foxchase Drive Apartments consists of 144 units, of which 29 units were subject to a regulatory agreement and deed restricted for Very-Low-Income households. This affordability restriction expired in November 2017 and the residents were notified of this expiration on March 30, 2018. The property owner voluntarily agreed to give existing residents twelve months' notice before rents increased to market rate. Although rental assistance payments of 3-5 months were offered as assistance to the existing tenants, these 29 deed restricted apartments will cease to be affordable after March 2019.

New Funding and Strategies

In response to the housing crisis, State lawmakers have passed several important pieces of legislation that will assist cities in addressing affordable housing needs. AB 1505 (2017) allows San José to fully implement its Inclusionary Housing Ordinance for both rental and ownership developments and became effective January 1, 2018. SB 2 (2017) will generate on-going funding from real estate transfer taxes, and SB 3 (a.k.a. Proposition 1) was approved by the voters in 2018 and will generate \$4 billion for affordable housing and veterans' loan programs. Santa Clara County's Measure A (2016) is making available \$950 million for affordable housing. In early 2019, Governor Gavin Newsom proposed a State budget that would allocate 1.7 billion dollars in one-time and ongoing funding to build affordable and moderate-income housing and to respond to homelessness.

Several years ago, the Bay Area's Metropolitan Transportation Commission (MTC) created a blue ribbon committee known as CASA to develop a comprehensive strategy to address the region's housing crisis. The strategy was released in late 2018 and calls for a package of State laws that would further protect tenants, remove barriers to housing production, increase funding, and coordinate lending, reporting, and technical assistance in a regional body.

On June 12, 2018, the City Council directed staff to implement a Housing Crisis Response Workplan. The plan is centered around Mayor Liccardo's goal to build 15,000 market-rate units and 10,000 affordable units over five years. The plan also calls for a series of policies and programs to help achieve production goals while minimizing residential displacement. A status

update on the Housing Crisis Response Workplan was provided at the Community and Economic Development Committee on February 25, 2019, and is planned for the Housing and Community Development Commission on March 14, 2019 and the City Council on March 19, 2019.

Finally, in 2018, the City issued a \$100 million Notice of Funding Availability (NOFA). The NOFA will support 11 proposed developments that will add 1,144 new affordable apartments at varying affordability levels including permanent supportive housing for the homeless. The Housing Department intends to provide an update on its Affordable Housing Investment Plan to the Community and Economic Development Committee on March 25, 2019. The Plan includes information about the City's affordable housing pipeline with estimates on the amount of federal, State, regional, and local funding that will be available for the construction of affordable housing in San José.

With the above funding increases, strategies, and policy changes, it is very likely the City will see a boost in affordable housing production for the next several years. However, without a additional funding, the City will continue to fall short in meeting both its RHNA and 10,000 affordable unit production goals. At \$125,000 in subsidy per unit, the City would need an additional \$548.1 million in order to fund the balance of 4,385 units needed to meet the 10,000 affordable unit goal.

Housing Successor to Redevelopment Agency Annual Report

The Housing Successor to the Redevelopment Agency Annual Report for Fiscal Year 2017-18 (Housing Successor Report) is included as **Attachment D**. As mentioned previously, the Successor Report is required to be submitted with the Annual Housing Element Progress Report. The City is the Housing Successor for the former Redevelopment Agency. The Housing Successor Report provides information on receipts and expenditures in the Low and Moderate Income Housing Asset Fund (LMIHAF), which contains repayments of loans made with original redevelopment 20% funds.

The Housing Successor Report shows that the City had \$670,377,920 in LMIHAF assets at the end of the fiscal year. The City's major asset is loan repayments from loans originated with 20% redevelopment funds for affordable housing, now known as the Low and Moderate Income Housing Asset Fund (LMIHAF). Besides information on aggregate expenditures, the document includes several expenditures "tests" that the Housing Successor must meet. The "Excess Surplus Test" requires that the Housing Successor cannot have unencumbered funds that exceed the aggregate amount deposited into the fund during the preceding four fiscal years. The Report indicates that the aggregate amount during the four prior years was \$121.2 million. The unencumbered amount is currently \$115.8 million of which \$63 million will be deployed through the City's Notice of Funding Availability issued in August, 2018. Therefore, the Housing Successor meets this test because the balance does not exceed the aggregate amount deposited for the test period. If a Housing Successor fails to meet the excess surplus test, it may be required to transfer excess LMIHAF funds to HCD.

Redevelopment law places a limit on the amount of funds that can be spent on affordable housing for senior citizens. If this percentage exceeds 50% of units funded over the last ten years, the Housing Successor cannot expend future LMIHAF funds on new senior housing until the Housing Successor or City has reduced this percentage to 50% or below. The Report indicates that only 25% of expenditures over this period went to fund senior affordable housing. Therefore, the Housing Successor meets the “senior housing test” and can continue to fund senior affordable housing developments with LMIHAF funds.

Redevelopment law also requires at least 30% of LMIHAF funds to be expended for the development of rental housing affordable to extremely low-income households earning less than 30% of the area median income and that no more than 20% of LMIHAF can be expended for households earning between 60-80% of area median income. This information is not required to be reported until 2019 for the 2014-2019 period.

EVALUATION AND FOLLOW-UP

After the City Council accepts the Annual Progress Report and the Housing Successor Report, staff will submit the approved document to HCD and the Governor’s Office of Planning and Research by the State-mandated April 1, 2019 deadline.

PUBLIC OUTREACH

The individual City programs and projects described in the attachments have had appropriate public outreach pursuant to City Council policy.

COORDINATION

This memorandum was coordinated with the City Attorney’s Office and the City Manager’s Budget Office.

/s/

JACKY MORALES-FERRAND, DIRECTOR
Department of Housing

For planning-related questions, please contact Jared Hart, Division Manager at (408) 535-7896. For housing-related questions, please contact Adam Marcus, Manager of Policy and Planning at (408) 975-4451.

Housing and Community Development Commission

March 7, 2019

Subject: Housing Element Annual Progress Report and Housing Successor to the Redevelopment Agency Annual Report

Page 12

Attachment A: CoStar Building Class Definitions

Attachment B: San José Housing Element Annual Progress Report for CY 2018 (Tables A-F)

Attachment C: Methodology for Moderate Income Unit Analysis CY 2018

Attachment D: Map of Building Permits Issued CY 2018

Attachment E: Housing Successor Annual Report FY 2017-18

ATTACHMENT A

Costar definitions for Building Class:

Class A: In general, a class A building is an extremely desirable investment-grade property with the highest quality construction and workmanship, materials and systems, significant architectural features, the highest quality/expensive finish and trim, abundant amenities, first rate maintenance and management; usually occupied by prestigious tenants with above average rental rates and in an excellent location with exceptional accessibility. It may have been built within the last 5-10 years, but if it is older, it has been renovated to maintain its status and provide it many amenities.

Class B: In general, a class B building offers more utilitarian space without special attractions. It will typically have ordinary architectural design and structural features, with average interior finish, systems, and floor plans, adequate systems and overall condition. It will typically not have the abundant amenities and location that a class A building will have.

Class C: In general, a class C building is a no-frills, older building that offers basic space. The property has below-average maintenance and management, a mixed or low tenant prestige, and inferior elevators and mechanical/electrical systems.

Class C: In general, a class C building is a no-frills, older building that offers basic space. The property has below-average maintenance and management, a mixed or low tenant prestige, and inferior elevators and mechanical/electrical systems.

Class F: A functionally or economically obsolete building is one that does not offer a viable alternative for space and does not "compete" with others of similar type for occupancy by businesses seeking a location for operations. These buildings will usually have externally visible physical or structural features as well as internal ones that render it undesirable to be leased and therefore not competitive with any other properties in the market. The property may even be tagged as "Condemned" by the local authorities.

Source: CoStar, February 26, 2019

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction	San Jose	
Reporting Year	2018	(Jan. 1 - Dec. 31)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.
 Please contact HCD if your data is different than the material supplied here

Table B													
Regional Housing Needs Allocation Progress													
Permitted Units Issued by Affordability													
		1	2									3	4
Income Level		RHNA Allocation by Income Level	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	9233	345	314	190	146						995	8238
	Non-Deed Restricted												
Low	Deed Restricted	5428	231									231	5197
	Non-Deed Restricted												
Moderate	Deed Restricted	6188			285	1300						1585	4603
	Non-Deed Restricted												
Above Moderate		14231	5904	1774	2622	1527						11827	2404
Total RHNA		35080											
Total Units 44			6480	2088	3097	2973						14638	20442

Note: units serving extremely low-income households are included in the very low-income permitted units totals
 Cells in grey contain auto-calculation formulas

Methodology for Moderate Income Unit Analysis – 2018 Housing Element Annual Report

The purpose of this analysis is to determine if market rate apartments can reasonably be categorized as moderate income for RHNA reporting purposes. It is assumed that some class A rental units that were permitted in 2018 will be affordable to moderate income households in 2020 when they are occupied. Generally, these would tend to be studio and one-bedroom apartments in zip codes with lower average effective rents. Note that RHNA Table B counts building permits issued not constructed so this analysis uses current CoStar rents and HCD income limits to project future rents and income limits. The analysis consists of the following steps:

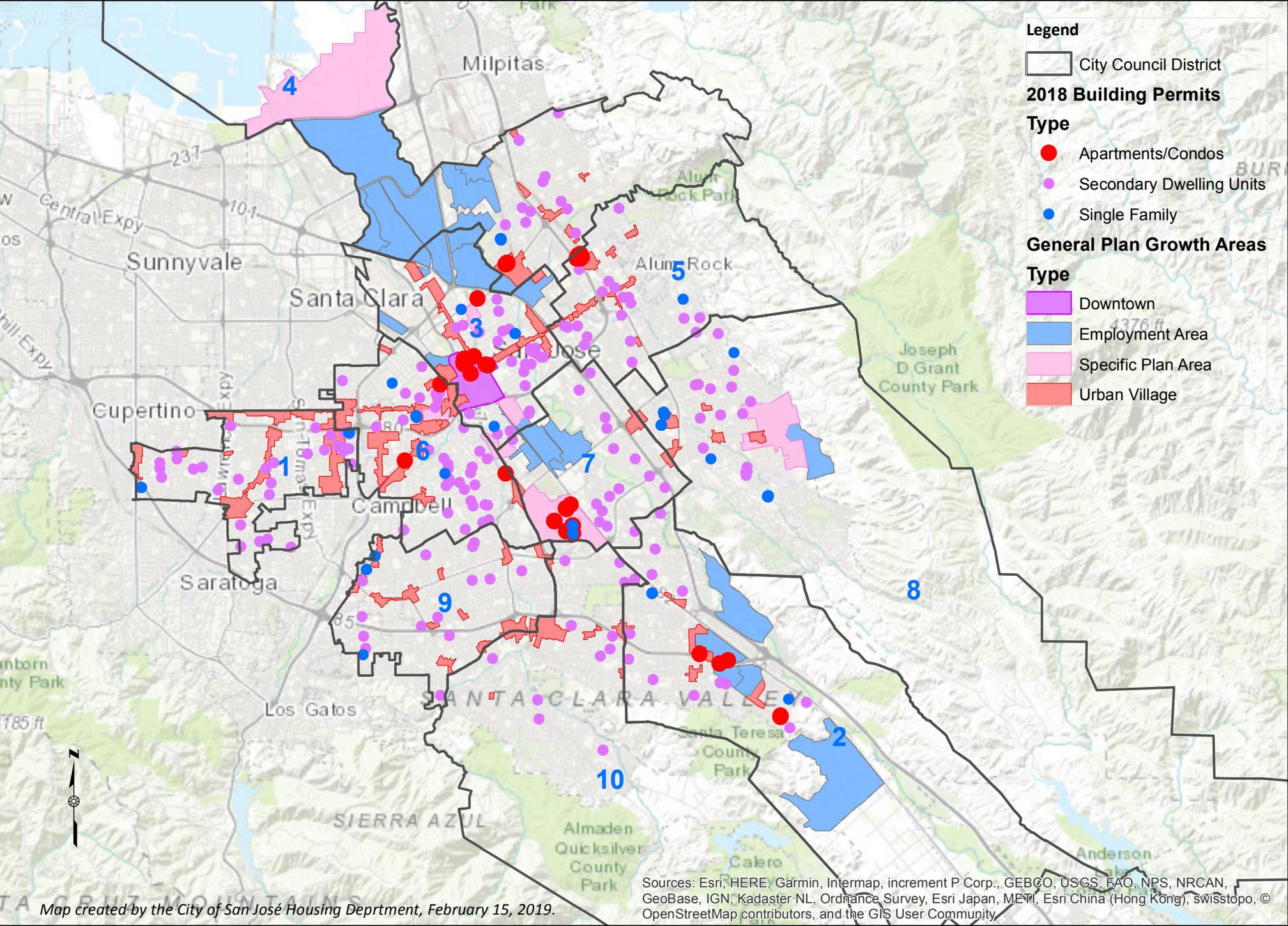
- 1. Determine rent ranges affordable to 110% AMI households:**
 - a. Calculate affordable rent ranges that would be affordable to moderate income households using 2018 HCD Income Limits and assuming a rent of no more than 30% of 110% of Area Median Income as the affordability standard following the California Health and Safety Code.
 - b. Convert rent range from household size to rents by # bedrooms, using HCD Occupancy Guidelines. Assign rent maximum by unit type (studio, 1BR, 2 BR etc.)
 - c. Adjust these rent ranges to approximate what they will be in two years when these units are occupied. (In 2020 we assume incomes will be higher). Apply the average % change that HCD Income limits have had over the last 5 years.

- 2. Identify 2018 Permitted Housing Projects > = 10 units:**
 - a. Obtain CY2018 Residential Building Permits for projects with 10 or more units. Exclude potential ownership projects and affordable projects.
 - b. Identify Zip Codes of the projects.

- 3. Identify Zip Codes where average effective rents (by unit size) are at/below the moderate income rent range:**
 - a. Use Costar to identify Q4 2018 Class A average effective rents (by bedroom size) for market-rate projects in SJ, for the zip codes identified in #2 above.
 - b. Adjust average effective rents to approximate what they will be in two years when these units are occupied. (In 2020 we assume average effective rents will be higher). Apply the % change in average effective rent observed in each zip code over the last 5 years.
 - c. Identify target zip codes where adjusted average effective rents, by bedroom count, are at or below the rent ranges calculated in step 1.

- 4. Collect unit mix data and identify the units affordable to moderate income households:**
 - a. Identify the # of units by bedroom size, in each of the qualifying projects in the qualifying zip codes, per 3 above.
 - b. Count only those units, by bedroom size, that are equal to or less than the HCD rent ranges calculated and extrapolated in step 1.

New Residential Building Permits Issued in San José (CY 2018)



Legend

- City Council District

2018 Building Permits

Type

- Apartments/Condos
- Secondary Dwelling Units
- Single Family

General Plan Growth Areas

Type

- Downtown
- Employment Area
- Specific Plan Area
- Urban Village

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, MEI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community.

Map created by the City of San José Housing Department, February 15, 2019.

HOUSING SUCCESSOR TO THE REDEVELOPMENT AGENCY ANNUAL REPORT

REGARDING THE

LOW AND MODERATE INCOME HOUSING ASSET FUND

FOR FISCAL YEAR 2017-18

PURSUANT TO

CALIFORNIA HEALTH AND SAFETY CODE SECTION 34176.1(f)

FOR THE

CITY OF SAN JOSE

This Housing Successor Annual Report (Report) regarding the Low and Moderate Income Housing Asset Fund (LMIHAF) has been prepared pursuant to California Health and Safety Code Section 34176.1(f) and is dated as of February 25, 2019. This Report sets forth certain details of the housing activities of the City of San José, which is the Housing Successor Agency to the former Redevelopment Agency of the City of San José, during Fiscal Year 2017-18. The purpose of this Report is to provide the governing body of the Housing Successor an annual report on the housing assets and activities of the Housing Successor under Part 1.85, Division 24 of the California Health and Safety Code, in particular sections 34176 and 34176.1 (Dissolution Law).

The following Report is based upon information prepared by Housing Successor staff and information contained within the independent financial audit of the Low and Moderate Income Housing Asset Fund CITY OF SAN JOSE COMPREHENSIVE ANNUAL FINANCIAL AUDIT for Fiscal Year 2017-18 as prepared by GRANT THORTON LLP, which Audit is separate from this annual summary Report; further, this Report conforms with and is organized into sections I. through XI., inclusive, pursuant to Section 34176.1(f) of the Dissolution Law:

I. Loan Repayments: The amount the city, county or city and county received pursuant to subparagraph (A) of paragraph (3) of subdivision (b) of Section 34191.4.

II. Amount Deposited into LMIHAF: This section provides the total amount of funds deposited into the LMIHAF during the Fiscal Year. Any amounts deposited for items listed on the Recognized Obligation Payment Schedule (ROPS) must be distinguished from the other amounts deposited.

III. Ending Balance of LMIHAF: This section provides a statement of the balance in the LMIHAF as of the close of the Fiscal Year. Any amounts deposited for items listed on the ROPS must be distinguished from the other amounts deposited.

IV. Description of Expenditures from LMIHAF: This section provides a description of the expenditures made from the LMIHAF during the Fiscal Year. The expenditures are to be categorized.

V. **Statutory Value of Assets Owned by Housing Successor:** This section provides the statutory value of real property owned by the Housing Successor, the value of loans and grants receivables, and the sum of these two amounts.

VI. **Description of Transfers:** This section describes transfers, if any, to another housing successor agency made in previous Fiscal Year(s), including whether the funds are unencumbered and the status of projects, if any, for which the transferred LMIHAF will be used. The sole purpose of the transfers must be for the development of transit priority projects, permanent supportive housing, housing for agricultural employees or special needs housing.

VII. **Project Descriptions:** This section describes any project for which the Housing Successor receives or holds property tax revenue pursuant to the ROPS and the status of that project.

VIII. **Status of Compliance with Section 33334.16:** This section provides a status update on compliance with Section 33334.16 for interests in real property acquired by the former redevelopment agency prior to February 1, 2012. For interests in real property acquired on or after February 1, 2012, provide a status update on the project.

IX. **Description of Outstanding Obligations under Section 33413:** This section describes the outstanding inclusionary and replacement housing obligations, if any, under Section 33413 that remained outstanding prior to dissolution of the former redevelopment agency as of February 1, 2012 along with the Housing Successor's progress in meeting those prior obligations, if any, of the former redevelopment agency and how the Housing Successor's plans to meet unmet obligations, if any.

X. **Income Test:** This section provides the information required by Section 34176.1(a)(3)(B), or a description of expenditures by income restriction for five year period, with the time period beginning January 1, 2014 and whether the statutory thresholds have been met. However, reporting of the Income Test is not required until 2019.

XI. **Senior Housing Test:** This section provides the percentage of units of deed-restricted rental housing restricted to seniors and assisted individually or jointly by the Housing Successor, its former redevelopment Agency, and its host jurisdiction within the previous 10 years in relation to the aggregate number of units of deed-restricted rental housing assisted individually or jointly by the Housing Successor, its former Redevelopment Agency and its host jurisdiction within the same time period. For this Report the ten-year period reviewed is January 1, 2009 to January 1, 2019.

XII. **Excess Surplus Test:** This section provides the amount of excess surplus in the LMIHAF, if any, and the length of time that the Housing Successor has had excess surplus, and the Housing Successor's plan for eliminating the excess surplus.

XIII. Homeownership Units:

An inventory of homeownership units assisted by the former redevelopment agency or the housing successor that are subject to covenants or restrictions or to an adopted program that protects the former redevelopment agency's investment of moneys from the Low and Moderate Income Housing Fund pursuant to subdivision (f) of Section 33334.3. This inventory shall include all of the following information:

- (A) The number of those units.
- (B) The number of the units lost to the portfolio in the last fiscal year and the reason for those losses.
- (C) Any funds returned to the housing successor as part of an adopted program that protects the former redevelopment agency's investment of moneys from the Low and Moderate Income Housing Fund.
- (D) Whether the housing successor has contracted with any outside entity for the management of the units and, if so, the identity of the entity.

This Report is to be provided to the Housing Successor's governing body by April 1, 2017. In addition, this Report and the former redevelopment agency's pre-dissolution Implementation Plans are to be made available to the public on the City's website <http://www.sanjoseca.gov/index.aspx?nid=1302>.

I. LOAN REPAYMENT

The City did not receive any amount pursuant to subparagraph (A) of paragraph (3) of subdivision (b) of Section 34191.4.

II. AMOUNT DEPOSITED INTO LMIHAF

A total of \$44,336,728 of program income from loan repayments was deposited into the LMIHAF during the Fiscal Year. Of the total funds deposited into the LMIHAF, zero dollars were held for items listed on the ROPS.

III. ENDING BALANCE OF LMIHAF

At the close of the Fiscal Year, the ending balance in the LMIHAF was \$121,103,223 of which zero dollars are held for items listed on the ROPS.

IV. DESCRIPTION OF EXPENDITURES FROM LMIHAF

The following is a description of expenditures from the LMIHAF by category:

Expenditure Category	Spent in Fiscal Year
Monitoring & Administration Expenditures	\$11,798,971
Homeless Prevention and Rapid Rehousing Services Expenditures	\$100,000
Housing Development Expenditures	
- Expenditures on Extremely-Low Income Units (0-30% AMI)	\$1,962,751
- Expenditures on Very-Low Income Units (31-50% AMI)	\$3,081,372
- Expenditures on Low Income Units (51-60% AMI)	\$823,791
- Expenditures on Unrestricted Units (Manager’s unit)	\$130,883
- Expenditures on Acquisition and Predevelopment	<u>\$0</u>
Total Housing Development Expenditures	\$5,998,797
Total LMIHAF Expenditures in Fiscal Year	\$17,897,768

California Health and Safety Code Section 34176.1 allows for 5% of the total \$670,377,920 gross value of Housing Successor assets, or \$33,518,896, to be used on monitoring and administrative expenditures. The Housing Successor continues to monitor expenditures from the LMIHAF.

In Fall 2018, the Housing Department released a Notice of Funding Availability seeking proposals for commitments to affordable housing developments from the LMIHAF. Eleven developments were selected and will be brought forward to City Council for funding commitments totaling over \$98 million in funding from the Housing Department, with approximately \$60 million from the LMIHAF. The first commitments were approved by the City Council in February 2019.

V. STATUTORY VALUE OF ASSETS OWNED BY HOUSING SUCCESSOR IN LMIHAF

Under the Dissolution Law and for purposes of this Report, the “statutory value of real property” means the value of properties formerly held by the former redevelopment agency as listed on the housing asset transfer schedule approved by the Department of Finance as listed in such schedule under Section 34176(a)(2), the value of the properties transferred to the Housing Successor pursuant to Section 34181(f), and the purchase price of property(ies) purchased by the Housing Successor. Further, the value of loans and grants receivable is included in these reported assets held in the LMIHAF.

The following provides the statutory book value of assets owned by the Housing Successor.

Category	As of End of Fiscal Year
Statutory Value of Real Property Owned by Housing Successor	\$40,171,263
Value of Loans and Grants Receivable	\$509,103,434
Cash Balance	\$121,103,223
Total Value of Housing Successor Assets	\$670,377,920

VI. DESCRIPTION OF TRANSFERS

The Housing Successor did not make any LMIHAF transfers to other Housing Successor(s) under Section 34176.1(c)(2) during the Fiscal Year.

VII. PROJECT DESCRIPTIONS

The Housing Successor does not receive or hold property tax revenue pursuant to the ROPS.

VIII. STATUS OF COMPLIANCE WITH SECTION 33334.16

Section 34176.1 provides that Section 33334.16 does not apply to interests in real property acquired by the Housing Successor on or after February 1, 2012; however, this Report presents a status update on the projects related to such real property.

With respect to interests in real property acquired by the former redevelopment agency prior to February 1, 2012, the time periods described in Section 33334.16 shall be deemed to have commenced on the date that the Finance Department approved the property as a housing asset in the LMIHAF; thus, as to real property acquired by the former redevelopment agency now held by the Housing Successor in the LMIHAF, the Housing Successor must initiate activities consistent with the development of the real property for the purpose for which it was acquired within five years of the date the DOF approved such property as a housing asset. For San José, the date of Finance’s approval was March 14, 2013.

Address of Property	Date of Acquisition	Deadline to Initiate Development Activity	Status of Housing Successor Activity
Evans VTA (aka Willow Glen Woods)	12/31/02	3/13/2018	On January 8, 2019 the City Council approved entitlements to move forward with the development of 61 apartments on the Evans Lane site. The selected developer, Abode Services, is seeking financing and plans to begin construction in Winter 2019.
E side Evans Lane (aka Willow Glen Woods)	06/30/05	3/13/2018	See Evans Lane VTA description.

ATTACHMENT E

Address of Property	Date of Acquisition	Deadline to Initiate Development Activity	Status of Housing Successor Activity
Vermont House	06/30/09	3/13/2018	In June 2016, City staff closed a Conditional Grant for rehabilitation and a Lease of this City-owned property to Abode Services, an owner and developer of supportive housing. Construction was completed in November 2018 providing permanent supportive housing for 16 homeless veterans pursuant to its award of VASH vouchers from the Housing Authority of the County of Santa Clara.
COMPLETED:			
The Haven	06/30/08	3/13/2018	This property includes an affordable apartment building and a building which is currently being managed by a nonprofit agency (LifeMoves, f.k.a. InnVision) as a shelter for fire victims. Income-eligible residents occupy the adjacent apartment.
Brookwood Terrace	03/01/09	3/13/2018	Construction on this 84-unit family development started in March 2010 and completed in January 2012. The City Financing Authority holds the site fee simple and has a

ATTACHMENT E

Address of Property	Date of Acquisition	Deadline to Initiate Development Activity	Status of Housing Successor Activity
			groundlease to the development. The development is in its permanent financing phase and units are occupied by income-eligible residents.
Orvieto Family	03/01/09	3/13/2018	Construction on this 92-unit family development started in September 2010 and completed in August 2012. The City Financing Authority owns the site fee simple and has a groundlease to the development. The development is in its permanent financing phase and its units are occupied by income-eligible residents.
Japantown Seniors	05/03/10	3/13/2018	Construction on this 75-unit seniors' development completed in late 2015, and it converted to its permanent financing phase in August 2016. All apartments are occupied by income-eligible residents. The City holds the site fee simple and has a groundlease to the development.
North Fourth Street	05/21/10	3/13/2018	Construction on this 100-unit development started in July 2010 and completed in June 2012. The development includes 35 apartments for developmentally disabled residents. The City owns the site fee simple and has a groundlease to the development. It is in its permanent financing phase and units are occupied by income-eligible residents.
Playa Almaden (aka Sycamore Terrace)	02/16/96	3/13/2018	The Housing Department obtained City Council approval to sell the property to the City's Parks Department; in May 2018 the City Council passed resolution authorizing the sale and the property was sold.

IX. DESCRIPTION OF OUTSTANDING OBLIGATIONS PURSUANT TO SECTION 33413

Replacement Housing. No Section 33413(a) replacement housing obligations were transferred to the Housing Successor fiscal year.

Inclusionary/Production Housing. No Section 33413(b) inclusionary/production housing obligations were transferred to the Housing Successor in the fiscal year.

X. EXTREMELY-LOW INCOME TEST

Section 34176.1(a)(3)(B) requires that the Housing Successor must require at least 30% of the LMIHAF to be expended for development of rental housing affordable to and occupied by households earning 30% or less of AMI. In addition, this Section requires that no more than 20% of the LMIHAF be expended for creation of rental housing affordable to and occupied by households earning 60% to 80% of AMI.

If the Housing Successor fails to comply with the Extremely Low-Income requirement in any five-year report, then the Housing Successor must ensure that at least 50% of the funds remaining in the LMIHAF be expended in each fiscal year following the latest fiscal year following the report on households earning 30% or less of the AMI until the Housing Successor demonstrates compliance with the Extremely-Low Income requirement.

This information is not required to be reported until 2019 for the 2014- 2019 period.

XI. SENIOR HOUSING TEST

The Housing Successor is to calculate the percentage of units of deed-restricted rental housing restricted to seniors and assisted by the Housing Successor, the former redevelopment agency and/or the City within the previous 10 years in relation to the aggregate number of units of deed-restricted rental housing assisted by the Housing Successor, the former redevelopment agency and/or City within the same time period. If this percentage exceeds 50%, then the Housing Successor cannot expend future funds in the LMIHAF to assist additional senior housing units until the Housing Successor or City assists and construction has commenced on a number of restricted rental units that is equal to 50% of the total amount of deed-restricted rental units.

The following provides the Housing Successor’s Senior Housing Test for the 10-year period of 2008-09 through 2017-18:

Senior Housing Test	2008-09 THROUGH 2017-18
# of Assisted Senior Rental Units	983
# of Total Assisted Rental Units	3,875
Senior Housing Percentage	25%

XII. EXCESS SURPLUS TEST

Excess Surplus is defined in Section 34176.1(d) as an unencumbered amount in the account that exceeds the greater of one million dollars (\$1,000,000) or the aggregate amount deposited into the account during the Housing Successor’s preceding four Fiscal Years, whichever is greater.

The following provides the Excess Surplus test for the preceding four Fiscal Years (in millions):

	FY13-14	FY14-15	FY 15-16	FY 16-17	FY17-18	Total deposited in preceding 4 years (FY13/14 – 16/17)
Beginning Balance	\$21.7	\$31.1	\$54.6	\$91.7	\$92.8	
Add: Deposits	15.8	34.3	52.9	18.2	44.3	121.2
(Less) Expenditures	(6.4)	(10.8)	(15.8)	(17.1)	(16.0)	
(Less) Encumbrances					(5.3)	
Unencumbered Balance	\$31.1	\$54.6	\$91.7	\$92.8	\$115.8	

The LMIHAF does not have an Excess Surplus. The aggregate amount deposited into the account during the four Fiscal Years is \$121.2 million. The current fiscal year cash balance is \$121.1 million with \$5.3 million in encumbrances. The unencumbered amount of \$115.8 million does not exceed the aggregate amount deposited in the preceding four fiscal years.

XIII. HOMEOWNERSHIP UNITS

The Housing Successor is to provide an inventory of homeownership units assisted by the former redevelopment agency or the housing successor that are subject to covenants or restrictions or to an adopted program that protects the former redevelopment agency’s investment of moneys from the Low and Moderate Income Housing Fund pursuant to subdivision (f) of Section 33334.3.

A. Number of Homeownership Units as of 6/30/18

Number of Homeownership Units	628
-------------------------------	-----

B. Homeownership Units Lost in Fiscal Year

Units Lost	Reason for Loss
40	Loans paid off
0	Loans written off due to foreclosure or short sale

ATTACHMENT E

C. \$2,479,766 in single family loan funds were returned to the Housing Successor in the past fiscal year as part of an adopted program that protects the former redevelopment agency's investment of moneys from the Low and Moderate Income Housing Fund.

D. The Housing Successor has contracted with an outside entity for the management of the single family homeownership loans. The name of the entity is AmeriNat Loan Servicing.



Memorandum

**TO: HOUSING AND COMMUNITY
AND DEVELOPMENT COMMISSION**

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: February 28, 2019

Approved

Date

**SUBJECT: PROCEDURES FOR REMOVAL OF RENT STABILIZED UNITS FROM
THE RENTAL MARKET (ELLIS ACT ORDINANCE)**

RECOMMENDATION

It is recommended that the Commission:

1. Review information on staff research on the Ellis Act Ordinance's reconrol provisions;
2. Make possible recommendation to the City Council on potential revisions of the Ellis Act Ordinance, including compliance alternatives regarding in-lieu payments or restricted affordable housing units; and,
3. Possibly authorize creation of an Ad Hoc Subcommittee with the purpose being to draft a letter to the City Council on this subject, and to return to the Commission with a letter for its consideration at a future meeting.

BACKGROUND

On May 10, 2016, the City Council directed staff to develop a local Ellis Act Ordinance to address the removal of rent stabilized properties from the rental market that applied to buildings with four or more apartments. The Council gave this direction as part of the policies adopted to strengthen the ARO.

The City Council approved the Ellis Act Ordinance on April 18, 2017. This action established a process by which a property owner can remove their apartments from the rental market. Upon approval of the Ellis Act Ordinance, the City Council provided direction to the City Manager to return with additional research regarding the impact of subjecting all "replacement" apartments to re-control by the Apartment Rent Ordinance. Replacement apartments are new apartments constructed on the site of apartments removed from the market via the Ellis Act Ordinance. As part of that action, the City Council directed that Housing Staff: 1) complete additional research regarding the impact of subjecting all replacement units to re-control by the Ellis Act; and 2)

provide the City Council with additional research regarding existing Ellis Act Ordinances throughout California.

On April 24, 2018 the City Council amended the Ellis Act Ordinance to require recontrol of the greater of either the number of demolished units, or half of newly constructed replacement apartments (rather than all of the newly constructed units). In addition, non-ARO apartments with three or more units became subject to the Ellis Act Ordinance's notice requirements and relocation specialist fee. City Council also approved an exemption from the re-control provisions if 20% of the new apartments are deed-restricted affordable apartments, and are included in the new development (i.e. built on-site). The goal was to preserve rent stabilized apartments and provides developers with viable options to meet the Ellis Act requirements and provide new housing opportunities.

Ellis Act Ordinance

The Ellis Act Ordinance establishes a process by which a property owner can remove their apartments from the rental market. A summary of the Ellis Act Ordinance requirements is provided below:

For tenants of ARO and non-ARO apartments:

- **Noticing** – All households must be provided with a minimum of 120 days' notice prior to the removal of the property from the rental market. Special populations including residents over the age of 62, disabled, terminally/catastrophically ill, and residents with school-aged children must be given upon request up to one-year notice to vacate.

For tenants of ARO apartments:

- **Relocation Benefits** – All tenant households are eligible to receive relocation benefits. Qualifying households include low-income residents, residents over the age of 62, disabled, terminally/catastrophically ill, and residents with school-aged children are eligible for additional relocation benefits.
- **Right to Return** – If the apartments return to the rental market within ten years, tenants have a right to return to their apartments.
- **Re-control** – If a property owner demolishes existing rent stabilized apartments and rebuilds apartments at the same location within five years, the greater of 50% of all new apartments or the number demolished will be subject to the City's Apartment Rent Ordinance.
- **Re-control Alternative** – An alternative is for the developer to rebuild 20% of the new units as restricted affordable at certain affordability levels, and not re-control any new apartments under the Rent Stabilization Program.

In addition, all new housing constructed with 20 units or more is subject to the City's Inclusionary Housing Ordinance, as explained below.

Inclusionary Housing Ordinance

The Inclusionary Housing Ordinance (IHO), Chapter 5.08 of the San José Municipal Code, was adopted on January 12, 2010. The IHO requires all residential developers who create new, additional, or modified for-sale or rental units to provide 15% of housing on-site as affordable to income qualified buyers/renters. Developers also have other options to meet the inclusionary requirement. These options include building affordable apartments offsite or paying an in-lieu fee. If the residential project is a rental development and the owner chooses to meet this obligation by providing the affordable apartments on-site, 9% of the apartments must be income- and rent-restricted at 80% Area Median Income (AMI) and 6% of the apartments must be restricted at 50% AMI.

On November 18, 2014, the City Council adopted an Affordable Housing Impact Fee (AHIF) that applies to rental residential developments. The fee was intended to fund new development to help meet the increased affordable housing demand created by new market-rate rental housing. On December 19, 2017, the City Council approved a transition from the AHIF to the IHO for projects with 20 units or more. As a result, new market-rate rental developments have a time-limited option to remain under the AHIF program if certain criteria are met. More information on the Inclusionary Housing Ordinance Program can be found on the following webpage: www.sjhousing.org/IHO.

Apartment Rent Ordinance (ARO)

The Ellis Act Ordinance also applies to apartments covered by the Apartment Rent Ordinance. The Apartment Rent Ordinance promotes stability and fairness within the residential rental market in the City, thereby serving the public peace, health, safety, and public welfare. To protect tenants from excessive and unreasonable rent increases, the Apartment Rent Ordinance limits annual rent increases to 5% per year. It requires notices be provided to the City and regulates how much and what types of costs may be passed through to tenants. In San José, all apartments of three or more units built and occupied prior to September 7, 1979, are subject to the Apartment Rent Ordinance.

Apartment Rent Ordinance (ARO) Profile in San José

The Apartment Rent Ordinance applies to 39,009 apartments built and occupied prior to September 7, 1979. This is a significant portion of the rental housing stock in San José. ARO apartments make up 49% of all market rate rental housing in San José. The "San José ARO Study" by Economic Roundtable Report includes a summary of the profile:

http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2132&meta_id=567688

Attachment A provides additional statistical information related to the apartments covered by the ARO.

Ownership Characteristics

- The majority (66%) of ARO apartment owners owned three- or four-unit rent stabilized buildings. The statistic only reflects owners' ARO buildings located in San José that are subject to the ARO. For example, an owner may own rental properties outside of the city or apartments in San José that were built after 1979 and are not subject to the ARO.
- Half of ARO property owners (1,501) lived outside of San José. Half of ARO property owners (1,479) lived in San José.

Tenant Demographics

- There are approximately 140,000 people living in ARO units in San José, making up nearly half of the tenants in market-rate rental housing. This calculation is based on an average size of 3.1 persons per household.
- In 2016, ARO Tenants by ethnicity include 49% Hispanic or Latino, 34% Asian American, 20% White, and 5% African American.
- ARO Tenants by education attainment include 9% graduate degree, 16% Bachelor's Degree, 26% Associate Degree and some college, and 49% High School Diploma or less than High School Diploma.

Developments that have issued notices to withdraw apartments under the Ellis Act Ordinance

To date, two properties have issued a notice to withdraw a total of nine apartments from the rental market. One property is a four-unit ARO apartment proposing to rebuild 290 residential units. The developer's current planning application indicates transitioning from rental housing to "for-sale" housing. However, the developer has also indicated an interest in creating a co-living rental development. Any new rental housing will be subject to Ellis Act recontrol provisions. Another five-unit apartment complex not subject to the ARO (built after 1979) is proposing to rebuild 249 units, which is projected to remain as rental housing. The developers, however, will not be required to re-control the newly built apartments. For these two properties, the Ellis Act fee has been paid, tenants have been properly noticed and the City's contracted relocation specialist has worked with the impacted tenants. The four-unit property subject to the ARO has also recorded a memorandum with the County and paid the tenant relocation benefits. All impacted tenants have successfully relocated.

Impacted tenant demographics showed that rents ranged from \$800 to \$1,500 per month for their one-bedroom ARO units; tenants move-in dates also ranged from 2002 to 2017; and tenant incomes ranged from \$60,000 to \$112,000. To meet their housing needs, tenants relocated to other areas within San José and to nearby cities.

ANALYSIS

The “San José ARO Study” by Economic Roundtable Report found that in San José, 28% of ARO households spend 30-49% of their income on housing, while 27% spend 50% or more of their income on housing. As a result, even small percentage changes in rents can have a severe, destabilizing impact on tenants.

Rental Data***Data from the Rent Registry***

From the rental data from the ARO Rent Registry, the average rents for a 1 bedroom is \$1,737 and 2 bedroom apartments is \$2,047.

Comparison of average market rents

Table 1 below illustrates the important segment of the City’s overall housing stock that rent stabilized apartments provide. The City’s data on current rents for rent stabilized apartments place the rents between Class C and Class F average rents. The implied minimum incomes generally support the fact that rent stabilized apartments provide important housing for working class families who are likely in the very low- or low-income range, depending on family size.

Table 1: Average Effective Rents in San José and Likely Required Minimum Incomes

	1 Bedroom Rents	1 Bedroom Income at 2.5 Factor	2 Bedroom Rents	2 Bedroom Income at 3.0 Factor
Class A	\$2,752	\$82,560	\$3,292	\$118,512
Class B	\$2,383	\$71,490	\$2,846	\$102,456
Class C	\$1,794	\$53,820	\$2,279	\$82,044
Rent Stabilized Apartments	\$1,737	\$52,114	\$2,047	\$73,707
Class F	\$1,136	\$34,080	N/A	N/A

Source: CoStar, February 27, 2019 and City of San José Housing Department

In **Table 2** below, vacancy rates for Classes B, C and F - lower-rent properties, including those subject to the Apartment Rent Ordinance - are far lower than that for Class A, the highest-rent properties. This illustrates that demand for lower-cost apartments in San José far exceeds the demand for the highest-rent properties. Note that a “healthy” vacancy rate for a rental market is generally considered to be 5%.

Table 2: Vacancy Rates by Building Class in San José

	1 Bedroom	2 Bedroom
Class A	7.1%	6.8%
Class B	4.4%	4.5%
Class C	4.0%	3.5%
Class F	4.7%	-

Source: CoStar, February 27, 2019

Urban Villages and other defined growth areas in San José are those areas slated to accommodate the most new residential growth. New residential growth typically would involve demolition of existing buildings. **Table 3** below illustrates those Urban Villages that have the largest existing stock of rent stabilized buildings. Many of these areas are in the current horizon for development under the City's General Plan 2040.

Table 3: Top 10 Rent Stabilized Apartments in Urban Village Areas

	Address	Units
1	Saratoga Avenue	851
2	Southwest Expressway	611
3	Stevens Creek Blvd (West)	430
4	Santa Teresa Bl/Cottle Rd.	332
5	Winchester Blvd.	318
6	S. De Anza Blvd.	297
7	Camden Av/Kooser Rd.	266
8	N. Capitol Av/Berryessa Rd.	220
9	Camden Av/Hillsdale Avenue	154
10	S. Bascom Avenue (South)	106

Overall, the demographics of tenants living in ARO apartments tend to be disproportionately minority groups. In 2016, ARO tenants by ethnicity include 49% Hispanic or Latino, 34% Asian American, 20% White, and 5% African American. By comparison, in the City of San José in 2010, there were 33% Hispanic or Latino, 32% Asian American, 43% White, and 3% African American.

POLICY ALTERNATIVES

The recontrol provisions in the Ellis Act serve as an additional deterrent to developers seeking sites for redevelopment. This policy serves as a tool to avoid displacement of minority and low-income residents currenting living in rent stabilized apartments. At the same time, some claim that the recontrol provisions may cause a barrier to construction of new housing throughout the City. The recontrol provisions of the Ellis Act are not prescribed by the State law and provide flexibility to the jurisdiction to determine the policy on a local level.

Please note, rent stabilized apartments removed from the rental market and re-rented within five years are all re-stabilized. If rent stabilized apartments are demolished and new rental housing is rebuilt within five years, recontrol provisions apply to the new apartments. The following section outlines potential options for recontrol following demolition of rent stabilized apartments. There are several options to consider when selecting an appropriate recontrol policy, as summarized in **Table 4**.

Alternative 1: 50% Recontrol

The Ellis Act currently states the number of new apartments rent stabilized is equal to the greater of the number of rent stabilized apartments demolished or 50% of all newly constructed apartments (Section 17.23.1180.B). Typically, this will result in rent stabilization for 50% of the new apartments.

Alternative 2: On-Site Affordable Housing Waiver

The Ellis Act also currently includes a waiver of recontrol provisions if at least twenty new apartments are built and 20% of the new apartments are constructed as on-site affordable rental units consistent with the standards and affordability restrictions in the Inclusionary Housing Ordinance (Section 5.08 of Title 5 of the San José Municipal Code). This means the new apartments would be affordable to households in the following Area Median Income (AMI) categories:

- 9% affordable to 80% AMI
- 6% affordable to 50% AMI
- 5% affordable to 100% AMI

A waiver may be granted to developments providing this level of affordable apartments as a part of the new housing development. In this case, no apartments are subject to the recontrol provisions.

Alternative 3: One-to-one

On February 5, 2019, the Mayor and Vice Mayor brought forward a memorandum (**Attachment B**) recommending the recontrol provisions be moved to a one to one basis.

Alternative 4: Combination Based on the Ratio of New Apartments to Demolished Apartments

When considering the cost of replacing existing housing, staff has determined that when the number of total apartments demolished is replaced by seven times the number of original apartments, the cost is balanced with the benefits of new affordable housing built on-site or lieu fees paid through the Inclusionary Housing Ordinance requirements. The combination alternative would apply in the following cases:

- If the total number of new apartments is less than a 7:1 replacement factor, 50% of the new apartments are subject to the recontrol provisions.
- If the total number of new apartments exceeds a 7:1 replacement factor, the new apartments are subject to the recontrol provisions on a one to one basis.

Alternative 5: In-Lieu

An in-lieu fee may be paid on a per unit basis using the fee schedule of the Inclusionary Housing Ordinance for 50% of the new apartments built in-lieu of subjecting these apartments to the recontrol provisions. This would be additional payment of 30% in-lieu fee assuming the developer paid 20% in-lieu fee under the Inclusionary Ordinance.

Alternative 6: Others (Geography/Near Transit)

Housing located near transit or in specific growth areas may be more valuable than housing in other areas of the City. Another alternative may be that the 50% re-control provisions apply when developments are located within a half mile of a transit stop or in an urban village area. Proposed developments outside of these areas may revert to the one to one re-control provisions.

Table 4: Summary of Alternatives

Scenarios given current number of units compared to proposed new units built						
Current Units		4	6	30	50	50
Proposed New Units Built		100	20	218	680	60
Alternative 1 – 50% Recontrol		50	10	109	340	50
Alternative 2 – On-site Affordable Housing Waiver	80%	9	2	20	61	5
	50%	6	1	13	41	4
	100%	1	1	11	11	3
Alternative 3 – One-to-one		4	6	30	50	50
Alternative 4 – Combination based on the Ratio of New Apartments to Demolished Apartments.		4	10	109	50	50
<i>If replacement factor is more than 7:1, then it is 1:1.</i>						
Alternative 5 – In-Lieu. 50% of new units built		0	0	0	0	0

NEXT STEPS

Staff is continuing to gather data around the issue of recontrol provisions within the Ellis Act. Additional steps include holding conversations with developers, lenders and tenants potentially impacted by proposed redevelopment sites. This information, along with recommendations from the Housing and Community Development Commission, will be brought to the City Council for consideration at the March 19, 2019 City Council meeting in conjunction with the Housing Crisis Workplan discussion.

/s/

JACKY MORALES-FERRAND
Director, Housing Department

For questions, please contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.

ATTACHMENTS:

Attachment A: Summary of ARO Profile

Attachment B: Mayor and Vice Mayor Memorandum from February 5, 2019 City Council

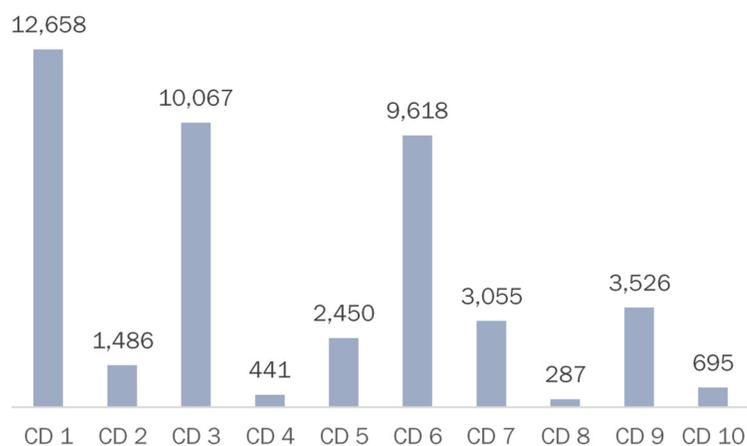
Apartment Rent Ordinance (ARO) Profile

ARO Units by City Council

Rent Stabilized Apartments Covered by the Apartment Rent Ordinance, Tenant Protection Ordinance, and Ellis Act Ordinance	39,009
Non-Rent Stabilized Apartments Covered by the Tenant Protection Ordinance and Ellis Act Ordinance	48,991
Total	88,000

SOURCE: City of San José, Housing Department - Multiple Housing Roster 2018

ARO Units by City Council District



SOURCE: Economic Roundtable Study, "City of San José ARO" - 2016
 Note: Affordable units were not excluded from the analysis, resulting in a sum different from 88,000 units determined by Staff using the 2018 Multiple Housing Roster.

Tenant Summary

Table 1: Total Number of ARO Tenants

Total People in ARO Units	San Jose Population Estimate	% of San Jose Population that are ARO Renters
137,513	1,025,350	13%

Table 2: ARO Tenants by Ethnicity

African American	Asian American or Pacific Islander	Hispanic or Latino	White/Non-Hispanic	Other
5%	24%	49%	20%	2%

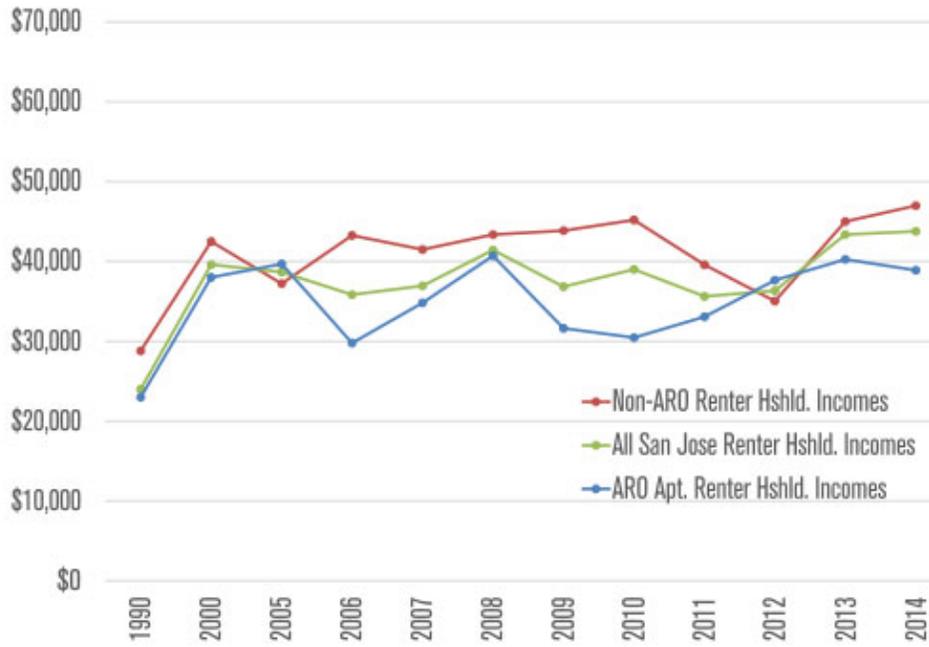
Source: Economic Roundtable - San José ARO Study 2016

Table 3: ARO Tenants by Education Attainment

Graduate Degree	Bachelor's Degree	Associate Degree	Some College, No Degree	HS Diploma or GED	Less than HS Diploma
9%	16%	6%	20%	23%	26%

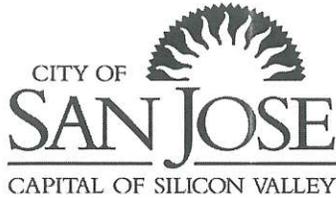
Source: Economic Roundtable - San José ARO Study 2016

Table 4: Median Household Income by ARO Status, Unadjusted



Source: Economic Roundtable - San José ARO Study 2016

City Council: 02/05/19
Item: 4.3



Memorandum

To: CITY COUNCIL

From: Mayor Sam Liccardo
Vice Mayor Chappie Jones

Subject: RENT STABILIZATION
PROGRAM
IMPLEMENTATION PLAN

Date: February 1, 2019

Approved:

RECOMMENDATION

1. Accept the Rent Stabilization Program Implementation Plan Update.
2. Direct the City Manager to conduct additional analysis of the re-control provision in the Ellis Act Ordinance to determine the extent to which it makes new residential projects infeasible.
 - a. Consider whether other formulations—which still maintain a minimum 1-for-1 replacement of rent controlled or rent-restricted units—can improve feasibility of housing development.
 - b. Return to Council with the results of this analysis at the next update on the Housing Crisis Workplan.

BACKGROUND

When the Ellis Act Ordinance was last updated in April 2018, Housing Staff acknowledged that the 50% requirement amounted to a “best-guess” strategy to avoid dis-incentivizing development of much-needed rental housing while maintaining our existing ARO housing stock. We expected that we would need to monitor the response of the housing market, and learn from feedback.

In the ten months since, we have seen very few Ellis-relevant housing development proposals emerge, and have heard anecdotally that the re-control requirement undermines the viability of several projects. If we have any intention of meeting our affordable and market-rate housing goals, Council must fully understand the impacts of the current requirement. We urge approval.



GSMOL Superchapter 0018 - Pepper Tree- and 0018A - Colonial Mobile Manor

February 21, 2019

TO: Sam Liccardo, Mayor
Rick Doyle, City Attorney
Maya Esparza, D 7 Councilperson
Toni Taber, City Clerk

FROM: Glenna Howcroft, President

A handwritten signature in black ink, appearing to read "Glenna Howcroft", written over the printed name.

Martha O'Connell, Secretary/Treasurer

A handwritten signature in black ink, appearing to read "Martha O'Connell", written over the printed name.

RE: Formal Complaint Re Maya Esparza recusal

On 2-5-19 Councilperson Maya Esparza recused herself from a vote on the Ellis Act due to the fact that she lives in a rent controlled apartment.

Maya represents 18 Mobilehome Parks and some 3,311 spaces. **No other Council member represents such a large constituency in the Mobilehome Parks in San Jose.**

We are gravely concerned that out of an "abundance of caution" the majority of Mobilehome Park residents in our Superchapter will be disenfranchised.

Maya should be allowed to vote on issues concerning affordable housing which includes Mobilehomes. One of the Council members who is a landlord is allowed to vote as is another who has ties to Park owners and big developers.

We wish to file a formal complaint against the current directive by the City Attorney that Maya must recuse herself.

Sc: HCDC Commission

Sergio Jimenez, Council Liaison to the HCDC