

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

(VC) Alex Shoor — District 2
 Shavell Crawford — District 4
 (C) Andrea Wheeler — District 6
 Vacant — District 8
 Roberta Moore — 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.

MEETING AGENDA
NOVEMBER 14, 2019
CITY HALL WING ROOMS 118-119

5:45 PM

**APPROX.
TIME**

AGENDA ITEM

The time schedule shown below is approximate and intended only to notify the Commission of the approximate amount of time staff expects each item might take. Please note that items may be heard before or after the times shown.

5:45

I. Call to Order & Orders of the Day

5:47

II. Introductions

5:50

III. Consent Calendar

A. Approve the Minutes for the special meeting of October 29, 2019
 ACTION: Approve the October 29, 2019 action minutes.

5:55

IV. Reports and Information Only

A. Chair
 B. Director
 C. Council Liaison

6:00

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.

6:10

VI. Old Business

6:10

VII. New Business

-
- 6:15** **A. Create a New Downpayment Assistance Program for Moderate-income Homebuyers**
(K. Richardson, Housing Department)
- ACTION: Review the staff report and provide possible recommendations to the City Council in response to the proposal to create a new downpayment assistance program.
- 7:00** **B. Accessory Dwelling Unit Forgivable Loan Program to House Moderate-Income Renters**
(R. Lopez, Housing Department)
- ACTION: Review and make possible recommendations to the City Council on the creation of a forgivable loan program for San José homeowners who build a legal accessory dwelling unit and agree to house an income-eligible household for a period of five years, including the possible suspension of business tax collection for qualifying accessory dwelling units during the five-year compliance period.
- 7:45** **C. Rent Stabilization Program Quarter 1 Report for Apartments, including the Apartment Rent Ordinance, Tenant Protection Ordinance, Ellis Act Ordinance, and Housing Payment Equality Ordinance**
(F. Tran, Housing Department)
- ACTION: Review the staff report and provide possible recommendations on the Rent Stabilization Program Quarter 1 Report for FY 2019-20.
- 8:15** **D. Rent Stabilization Program Quarter 1 Report for Mobilehomes, Including the Mobilehome Rent Ordinance**
(T. Ramos, Housing Department)
- ACTION: Review the staff report and provide possible recommendations on the Rent Stabilization Program Quarter 1 Report for FY 2019-20.
- 8:45** **E. Rent Stabilization Program Rent Registry Implementation Update**
(F. Tran, Housing Department)
- ACTION: Review the staff report and provide possible recommendations on the Rent Stabilization Program Rent Registry Implementation update for FY 2018-19.
- 9:15** **F. Completion of the Ratio Utility Billings System Petitions Under the Apartment Rent Ordinance**
(T. Ramos, Housing Department)
- ACTION: Review the staff report on completion of the Ratio Utility Billing Systems (RUBS) Petitions Under the Apartment Rent Ordinance in FY 2018-19.
- 9:45** **G. Timing for Hearing Commissioner-initiated Items**
- ACTION: Discuss the process and order of upcoming Commissioner-initiated items on future agendas.

10:00 VIII. Open Forum

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10:05 IX. Meeting Schedule

The next Commission meeting is scheduled to be held on Thursday, December 5, 2019, at 5:45 p.m. at San José City Hall, 200 E. Santa Clara St., San José, CA 95113 in Tower Room 332.

Potential items for December (subject to change):

- Mobilehome Park Land Use General Plan Designations
- Potential Policy/Program on Affordable Housing that Encourages Transportation Mobility

11:05 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.

You may speak to the Commission about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the Commission. Please be advised that, by law, the Commission is unable to discuss or take action on issues presented during Open Forum. Pursuant to Government Code Section 54954.2, no matter shall be acted upon by the Commission unless listed on the agenda, which has been posted not less than 72 hours prior to meeting.

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
SPECIAL MEETING ACTION MINUTES**

OCTOBER 29, 2019

MEMBERS PRESENT: Andrea Wheeler Chair
Alex Shoor Vice Chair
Barry Del Buono Commissioner
Martha O'Connell Commissioner
Roberta Moore Commissioner
Ruben Navarro Commissioner
Victoria Partida Commissioner
Julie Quinn Commissioner

MEMBERS ABSENT: District 8 – VACANT Commissioner
Justin Lardinois Commissioner
Shavell Crawford Commissioner
Ryan Jasinsky Commissioner
Nhi Duong Commissioner

STAFF PRESENT: Helen Chapman Council Liaison
Amy Chen Housing Department
Kristen Clements Housing Department
Selena Copeland Housing Department
Viviane Nguyen Housing Department
Rachel VanderVeen Housing Department

(I) Call to Order & Orders of the Day

Chair Wheeler called the meeting to order at 5:46 PM.

(II) Introductions – Commissioners and staff introduced themselves.

(III) Consent Calendar

- A. Approve the Minutes for the Meeting of October 10, 2019
ACTION: Approve the October 10, 2019 action minutes

**Commissioner Moore made a motion to approve the minutes, with a second by Commissioner Quinn. The motion was approved unanimously (8-0).
Yes: Navarro, Quinn, Moore, Shoor, Wheeler, O'Connell, Del Buono, Partida (8)**

(IV) Reports and Information Only

- A. **Chair:** Chair Wheeler discussed the usage of e-mails.
B. **Director:** Ms. Kristen Clements provided an update to policy items agendaized for the Housing Day on November 5, 2019.

- C. **Council Liaison:** Ms. Helen Chapman shared an event that Councilmember Jimenez is organizing on November 13th Housing Ready from 6 to 7 PM at Southside Community Center.

(V) Open Forum

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(VI) Old Business

(VII) New Business

A. Demographic Study of Renters Living in Apartments Covered by the Apartment Rent Ordinance (V. Nguyen, Housing Department)

ACTION: Review and discuss Economic Roundtable's 2019 update study on the demographics of renters in apartments subject to the Apartment Rent Ordinance, and possible recommendation to the City Council.

Commissioner Moore made a motion that the Commission highlight for the City Council that one of the most significant findings in the report is that the population of ARO tenants is largely Hispanic/Latinx (47%), with a second by Commissioner Navarro.

Commissioner Navarro made a proposed amendment that any changes to the Ellis Act Ordinance and Apartment Rent Ordinance should be thoughtful of disproportionate impact on the Hispanic/Latinx communities in addition to the impact on all communities, with a second by Commissioner Partida.

Motion passes 7-1.

Yes: Navarro, Quinn, Shoor, Wheeler, O'Connell, Del Buono, Partida (7)

No: Moore (1)

Commissioner Moore made a motion that the Commission highlight for the City Council that one of the most significant findings in the report is that the population of ARO tenants is largely Hispanic/Latinx (47%) and that any changes to the Ellis Act Ordinance and Apartment Rent Ordinance should be thoughtful of disproportionate impact on the Hispanic/Latinx communities in addition to the impact on all communities, with a second Commissioner Navarro. Motion passed 8 -0.

Yes: Navarro, Quinn, Moore, Shoor, Wheeler, O'Connell, Del Buono, Partida (8)

No: None (0)

Commissioner Moore made the motion that Table 9 in the Ellis Act Ordinance memo submitted to City Council for the November 5, 2019 meeting to also include

the numerical population for ARO renters and all renters in San Jose, with a second by Commissioner O'Connell. Motion passes 8-0.

Yes: Navarro, Quinn, Moore, Shoor, Wheeler, O'Connell, Del Buono, Partida (8)

No: None (0)

B. Inclusionary Housing Ordinance Proposed Revision (R. VanderVeen, Housing Department) ACTION:

(a) Review the staff report and provide possible recommendations to the City Council on proposed amendments to Chapter 5.08 of the Municipal Code, including the following changes as described in this staff memorandum:

- (1) Apply the Inclusionary Housing Ordinance on developments with five units or more;
- (2) Serve a wider range of incomes for rental housing to 5% at 100% of the Area Median Income (AMI), 5% at 60% of the AMI, and 5% at the 50% of the AMI;
- (3) Restructure the in-lieu fee option to apply the fee on a square foot basis and change the amount to \$43 per square foot for rental development and \$25 per square foot for forsale development;
- (4) Encourage rental developments to choose on-site compliance option by setting the in-lieu fee to \$18 per square foot where at least 5% of the units are provided onsite and allowing affordable units to be located in a separate building on-site;
- (5) Update the requirement to locate offsite units within the same redevelopment area to areas of opportunity;
- (6) Ensure units remain affordable as long as practical by extending the period of affordability to 99 years;
- (7) Adjust affordability requirements for co-living units to 90% of studio rents; and
- (8) Update program administration to allow recertification every two years.

(b) Provide recommendations to staff regarding potential amendments to the Park Fees Ordinance to define 100% AMI units as "affordable;" and,

(c) Provide recommendations to staff regarding the potential development of geographic market areas to allow the phase in of the in-lieu fee adjustments over a three-year period.

Vice Chair Shoor made the motion to approve staff recommendation to apply the Inclusionary Housing Ordinance on developments with five units or more, with a second by Commissioner Del Buono. The motion failed 4-4.

Yes: Quinn, Shoor, Wheeler, Del Buono (4)

No: Navarro, Moore, O'Connell, Partida (4)

Commissioner O'Connell made the motion to reject the staff recommendation (B-1) to expand the income tiers for rental on-site and off-site projects, with a second by Commissioner Navarro. The motion failed 4-2-2.

Yes: Partida, Del Buono, O'Connell, Navarro (4)

No: Shoor, Quinn (2)

Abstain: Wheeler, Moore (2)

Vice Chair Shoor made the motion to approve the staff recommendation (B-2) of an in-lieu of providing on-site rental units in the three specified income tiers a project can provide 10% of units affordable at 30% of AMI, with second by Commissioner Moore. The motion passed 8-0-0.

Yes: Partida, Del Buono, O'Connell, Navarro, Shoor, Quinn, Wheeler, Moore (8)

No: None (0)

Abstain: None (0)

Vice Chair Shoor made the motion to approve the staff recommendation to explore extending the Park Fee discount to 100% of AMI rental units (B-3), with a second by Commissioner Navarro. The motion failed 4-3-1.

Yes: Del Buono, Shoor, Quinn, Moore (4)

No: Navarro, Partida, O'Connell (3)

Abstain: Wheeler (1)

Vice Chair Shoor made the motion to approve the staff recommendation to apply the In-Lieu Fee on a per square foot basis (C-1), with a second by Commissioner Moore. The motion passed 7-0-1.

Yes: Partida, Del Buono, O'Connell, Shoor, Wheeler, Moore, Navarro (7)

No: None (0)

Abstain: Quinn (1)

Commissioner O'Connell made the motion to approve the staff recommendation to tie the In-Lieu Fee calculation to the per unit affordability gap (C-2), with a second by Commissioner Partida. The motion passed 7-0-1.

Yes: Partida, Del Buono, O'Connell, Navarro, Shoor, Quinn, Wheeler (7)

No: None (0)

Abstain: Moore (1)

Vice Chair Shoor made the motion to reject the staff recommendation to set a lower fee outside of strong market areas (C-3), with a second by Commissioner Navarro.

Yes: Partida, Del Buono, O'Connell, Navarro, Shoor, Quinn, Wheeler (7)

No: Moore (1)

Abstain: None (0)

Vice Chair Shoor made the motion to reject the staff recommendation to cap the annual fee adjustment, with a second by Commissioner Navarro (C-4). The motion passed 6-1-1.

Yes: Partida, Del Buono, O'Connell, Navarro, Shoor, Quinn (6)

No: Moore (1)

Abstain: Wheeler (1)

Vice Chair Shoor made the motion to approve the staff recommendation to provide advance notice of fee increases (C-5), with a second by Commissioner Quinn. The motion passed 8-0.

Yes: Partida, Del Buono, O'Connell, Navarro, Shoor, Quinn, Wheeler, Moore (8)

No: None (0)

Abstain: None (0)

Commissioner O'Connell made the motion to reject the staff recommendation to offer an adjusted schedule of In-Lieu Fees for mixed compliance projects (D-1) and to adjust the mixed compliance fees as the market changes (D-2), with a second by Navarro. The motion passed 6-2-0.

Yes: Partida, Del Buono, O'Connell, Navarro, Shoor, Wheeler (6)

No: Moore, Quinn (2)

Abstain: None (0)

Commissioner O'Connell made the motion to reject the staff recommendation to allow affordable project immediately adjacent to market-rate project (D-3), with a second by Commissioner Moore. The motion passed 5-1-2.

Yes: Partida, Del Buono, O'Connell, Navarro, Moore (5)

No: Quinn (1)

Abstain: Wheeler, Shoor (2)

Chair Wheeler made a motion to request City Council to direct staff to evaluate the community impact due to clustering of low income housing units, with a second by Commissioner Navarro. The motion passed 6-0-2.

Yes: Partida, Del Buono, O'Connell, Navarro, Shoor, Wheeler (6)

No: None (0)

Abstain: Quinn, Moore (2)

Vice Chair Shoor made the motion to approve the staff recommendation to extend the period of affordability to 99 years (F-1), with a second by Commissioner Quinn. The motion passed 7-1-0.

Yes: Partida, Del Buono, O'Connell, Navarro, Shoor, Quinn, Wheeler (7)

No: Moore (1)

Abstain: None (0)

(VIII) Open Forum

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(IX) Meeting Schedule

The next regular Commission meeting is scheduled to be held on Thursday, November 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.

Potential items for November (subject to change): Rent Stabilization Program Quarterly Report for the Apartment Rent Ordinance, Tenant Protection Ordinance, Ellis Act Ordinance, and Mobilehome Rent Ordinance

The Commission set its December meeting date for December 5, 2019, at 5:45 p.m. at San José City Hall, 200 E. Santa Clara St, Tower Room 334. Note that the meeting will not be held in the Wing Rooms.

(X) Adjournment

Chair Wheeler adjourned the meeting at 10:28 PM.

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Memorandum

TO: HOUSING AND COMMUNITY
DEVELOPMENT COMMISSION

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: November 5, 2019

Approved

Date

**SUBJECT: CREATE A NEW DOWNPAYMENT ASSISTANCE PROGRAM FOR
MODERATE-INCOME HOMEBUYERS**

RECOMMENDATION

Review the staff report and provide possible recommendations to the City Council in response to the proposal to create a new downpayment assistance program.

BACKGROUND

The goal of this proposal is to support the creation of housing opportunities for moderate-income and other “missing middle” residents in San José.

Empower Homebuyers SCC

In 2016, Santa Clara County voters approved Measure A, an affordable housing bond measure. While the vast majority of the funds will serve homeless or at-risk homeless individuals, there is \$50 million earmarked for downpayment assistance to moderate-income households. Since the approval, the County has released the first \$25 million to be offered as downpayment assistance. The County is contracting with the Housing Trust of Silicon Valley (HTSV) to operate a program known as “Empower Homebuyers SCC” (Empower). Empower offers an assistance loan at 17% of the sales price of a home. This program has a maximum income limit at 120% of AMI and a maximum purchase price of \$800,000. The assistance loans are fully deferred until the homeowner decides to sell their home. When a homeowner sells the home purchased with the assistance loan, the original loan plus an “equity-share” is repaid back to HTSV.

Empower was launched this past year and thus far three loans have closed. It is anticipated that Empower could be combined with the City’s proposed downpayment assistance loan program to create deeper subsidies for potential homebuyers. It may also create an advantage for Empower applicants to decide to purchase in San José rather than other cities in the County.

BEGIN Reuse Funds

The funding source that is available for this program is known as the Building Equity and Growth In Neighborhoods (“BEGIN”) Reuse Funds. BEGIN is a competitive grant program that was offered by the California Department of Housing and Community Development (“HCD”) to municipalities. The cities that were awarded the grant funds would use those funds to provide loans to moderate-income first-time buyers. From 2003 to 2012, San José received \$13 million, the most BEGIN grants than any other jurisdiction from HCD. Since then, the City has provided loans to 260 households, many of which have been repaid. In total, the City has collected over \$4.5 million in repayment (reuse) funds. When the City was originally awarded the BEGIN funds, the Housing Department submitted a Reuse Plan to HCD. Per the terms of the Plan, the City committed to re-lend the funds to create a revolving loan fund. The proposed program would be consistent with the Reuse Plan.

ANALYSIS

Staff considered many variables when creating this new downpayment program. Among the considerations were the amount of assistance, real estate market conditions, and other home purchase assistance programs.

Affordability Gap

Housing staff decided on an average loan amount of \$125,000 per household for this new program. The amount is consistent with City policies and other programs including the per unit multifamily housing construction limit. Further, staff determined this amount of subsidy would be sufficient to achieve affordability among moderate-income households for the purchase of a modest first home. Staff estimates the program would provide funding for 40 transactions.

Currently, the median price of a townhome/condominium is \$750,000 in San José. Below is a sample illustration of the combination of the two programs, the County’s Empower program and this proposed program:

\$750,000 Purchase Price	Amount	Monthly Payments
1 st Loan-Conventional	\$475,000	\$2,268*
Borrower down payment	\$22,500	\$0
2 nd Loan-Empower	\$127,500	\$0
3 rd Loan-City Loan	\$125,000	\$0

*The homeowner would also be responsible for property taxes, insurance, homeowner’s association dues, utilities, and closing costs.

Loan Terms

Staff is proposing a fixed interest rate of 3% simple interest per loan. This amount is consistent with BEGIN regulations and the City's past practices. In staff's experience, simple interest is understandable to first-time homebuyers and provides an adequate rate of return so the program can serve future households when the loan is repaid. A City promissory note and deed of trust would be signed at close of escrow. A homeowner would also be able to pre-pay the loan at any time, at which time the City would release the loan. The City will require that a home purchased with this program to be "owner occupied" during the term of the loan. There would be no "affordability restrictions" that would be recorded against these homes. Therefore, a homeowner can sell their home at fair market value to any purchaser (no income restriction nor sales price limitation for the next owner).

PUBLIC OUTREACH

This memorandum will be posted on the City's website, as part of the Housing and Community Development Commission meeting agenda.

The outreach for the new program will be part of the City's implementation plan. The public outreach process is commonly referred to as the Affirmative Fair Housing Marketing Plan ("AFHM Plan"). The AFHM Plan is a marketing strategy designed to attract buyers of all majority and minority groups, regardless of sex, religion, disability, national origin, and familial status. The AFHM Plan describes initial advertising, outreach, and other marketing activities which informs potential buyers of the existence of the proposed new program.

NEXT STEPS

This proposal is expected to be heard by the City Council within the coming months. If approved, the program implementation would occur in approximately one month.

/s/

JACKY MORALES-FERRAND
Director, Housing Department

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



Memorandum

TO: HOUSING AND COMMUNITY
DEVELOPMENT COMMISSION

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: November 7, 2019

Approved

Date

**SUBJECT: ACCESSORY DWELLING UNIT FORGIVABLE LOAN PROGRAM TO
HOUSE MODERATE-INCOME RENTERS**

RECOMMENDATION

Review and make possible recommendations to the City Council on the creation of a forgivable loan program for San José homeowners who build a legal accessory dwelling unit and agree to house an income-eligible household for a period of five years, including the possible suspension of business tax collection for qualifying accessory dwelling units during the five-year compliance period.

OUTCOME

The creation of this accessory dwelling unit (ADU) forgivable loan program could provide 200 forgivable loans of up to \$20,000 to homeowners in the City of San José to assist in building a legal accessory dwelling unit (ADU) with the agreement to house an income-eligible household for a period of five years.

EXECUTIVE SUMMARY

The “Yes, In My Backyard” affordable housing program proposed by Mayor Liccardo and Councilmembers Carrasco, Arenas, and Foley directed the City Manager to work with key partners to waive fees and provide forgivable loans for homeowners in San José who build an ADU or convert a garage into a housing unit. In exchange, the owners will agree to restrict rents to a level of affordability that enables the tenancy of a low- to moderate-income household for at least five years. The Housing Department will negotiate and execute an agreement with an external lender to provide \$5 million in funding for forgivable loans to homeowners. Each forgivable loan provided to a qualified homeowner by the external lender will be up to \$20,000 to cover planning, permit, and other predevelopment soft costs for a legal ADU. The loan will

mature six years from loan closing term, but will be forgivable after five years of occupancy by an income eligible tenant. It is expected that the external lender will approve and close approximately 200 loans for ADUs over five years.

BACKGROUND

In September 2017, Mayor Liccardo released the “Responding to the Housing Crisis” memorandum that identified a variety of programs and strategies that the City should undertake to address the housing crisis. One of those strategies included facilitating the development of accessory dwelling units by streamlining the ADU and garage conversion process and eliminating unnecessary regulations. While the efforts saw some modest success, the challenge remained in getting ADU’s built and inhabited.

On May 22, 2019, the Rules and Open Government Committee approved a memorandum written by Mayor Liccardo along with Councilmembers Carrasco, Arenas, and Foley, that proposed several initiatives to spur the production of ADUs. The memorandum directed the City Manager to develop a “Yes, In My Backyard” affordable housing program and to waive certain City impact fees and provide forgivable loans to cover a portion of the cost of building ADUs. Homeowners who obtain the forgivable loans agree to build an ADU or convert a garage into a housing unit and to restrict rents to a level of affordability that enables the tenancy of a low- to moderate-income household for at least five years. The recommendation also directed the Housing Department to partner with the Housing Trust of Silicon Valley to administer the forgivable loan program with an initial allocation of \$5 million, with the goal of getting ADUs built and inhabited within the City of San José.

On June 25, 2019, the City Council directed the Housing Department to move forward with the development of the forgivable loan program for ADUs with the Housing Trust of Silicon Valley and to coordinate with the Department of Parks, Recreation, and Neighborhood Services regarding potential park fee waivers for ADUs.

This memorandum provides an overview of the loan program and gives an update on efforts to streamline the ADU approval process.

ANALYSIS

Forgivable Loan Program

The Housing Department will negotiate and execute an agreement with an external lender to provide \$5 million in funding from City general funds for forgivable loans to homeowners in the City of San José who build a new legal ADU and agree to house an income eligible household for a period of five years.

Each forgivable loan provided to a qualified homeowner will be up to \$20,000 to cover planning, permit, and other predevelopment soft costs for a legal ADU in San José. Funds will be released either in two or three draws based on milestones achieved by the homeowner such as the completion of plans, submittal of a building permit, and or the completion of the ADU. By releasing the funds earlier in the process, this may encourage homeowners who have limited access to funds to participate in the program. There is also a risk that the homeowner will never build the ADU. The loan will be evidenced by a promissory note and a recorded deed of trust. Therefore, the City funds will be secured even if the homeowner does not build the ADU.

The loan will mature six years from the date of loan closing, but will be forgivable after five years of occupancy by an income-eligible tenant. Homeowners must market the ADU and provide the lender with language for the listing and where it will be listed. Tenants household income must be no more than 120% of Area Median Income (AMI) or below at the time of initial occupancy and for any subsequent new tenant. Rents will be set at 30% of 90% of AMI based on the size of the ADU per the City of San José Income and Rent Limit Table (**Attachment A**). This will allow a greater range of individuals who can afford to rent the ADU. Owners will be required to provide a one-year written lease and annual rent increases will be capped at five percent per year or the annual increase in the area median income, whichever is less. Exceptions will be made in the case where a tenant holds a Housing Choice Voucher. The loan will be considered in default if the owner fails to rent the ADU, or if the owner lists the ADU with any short-term rental services such as AirBnB.¹

Additionally, the external lender will be responsible for administering the program which includes creating all loan documents, income certifying the tenant, monitoring, and verifying annual rents. Quarterly and annual reports will be submitted to the City.

Program funds provided in the first year will be used to develop the ADU Forgivable Loan Program and to make loan approvals. The City will advance approximately \$95,000 to HTSV once the contract has been fully executed to fund the set-up costs, legal documents, and regulatory compliance review. No additional funds will be released until the external lender provides appropriate documentation to support the advance. The remainder of the budget will be based on a reimbursement basis of monthly expenditures. Recommended in this memorandum is appropriation action of \$1.25 million for this program with three subsequent annual contributions of \$1.25 million, subject to program performance and availability of funds, for a total program contribution of \$5.0 million.

The first year will be focused on marketing the program and providing six half day workshops and six one-hour information sessions to educate potential participants on the program. The City expects at least 30 loans will be approved in year one. Years two through five will see the same number of workshops and information sessions for homeowners interested in the ADU Forgivable Loan program, as well as approving and closing up to 200 loans to homeowners. The

¹ Newly-passed Senate Bill 13 (2019), which takes effect on January 1, 2020, will now prohibit cities from allowing short-term rentals of ADUs.

external lender will be expected to report on its progress quarterly where further analysis will be done to determine ADU trends such as types, costs, and preferences.

Impact Fees

Newly-passed Senate Bill 13 (2019), which takes effect on January 1, 2020, will prohibit jurisdictions from charging impact fees on ADUs smaller than 750 square feet. Impact fees are allowed for larger ADUs if they are charged proportional to the square footage of the primary dwelling unit. As the vast majority of ADUs in San José are 750 square feet or smaller, staff believes that implementation of the new law will satisfy the City Council’s direction to waive park fees on ADUs.

Business Tax

Chapter 4.76 of the San José Municipal Code requires that every person in the City engaged in the business of renting or leasing any residential real estate shall pay a business tax based on the number of rental units held for rental at the following rates:

Residential Landlords: Rental Units	Effective July 1, 2019
Base Tax: 1-2 units	\$200.85
Incremental Tax: 3-35	\$10.60
Incremental Tax: 36-100	\$15.90
Incremental Tax: 101-500	\$21.20
Incremental Tax: 501+	\$26.50
Cap	\$159,135

Staff is recommending that residential landlords participating in the ADU forgivable loan program will be eligible for an exemption, thereby waiving business tax for the qualified ADU’s during the five-year compliance period. Other rental ADU properties not covered by this program are subject to the business tax. After the five-year compliance period, the business tax will be payable, if the landlord continues to rent the ADU. The waiving of business taxes over a five-year period would cost roughly \$200,000.

ADU Process Streamlining

The City has seen a dramatic increase in the number of ADU applications. Comparing the first half of 2016 to 2019, the number of ADU applications has increased nearly tenfold. To address this surge in demand, staff have begun analyzing our existing processes to identify enhancements. In addition to this analysis, the City Council has given direction for enhancements which are at various stages of implementation.

Staff's analysis identified three categories of enhancement opportunities that will both improve the efficiency of our existing processes and expanding the scale of our permitting capabilities.

1. Clarify and streamline requirements for customers to prevent downstream issues in the permitting process.
2. Develop categories of ADUs based on their level of complexity with corresponding processes to provide improved customized service based on the needs of different customer service types.
3. Dedicate specialized staffing resources that can improve efficiency in the ADU permitting process and reduce ADU pipeline's burden on our overall permitting processes.

The subsections below identify enhancements to the City's operations that strive towards these opportunities. A status updated will be provided along with next steps or hurdles to implementation for those initiatives that have not yet been implemented.

Current Enhancements

The enhancement initiative with the greatest immediate benefit was improving the communication of process and requirements for ADU customers. Providing clear, concise, and complete information to customers early in the process prevents issues from arising downstream which take up staff time, cause unnecessary review cycles, and cost customers time and money. Taking stock of existing public content, staff recognized that requirements were spread across several locations on the City's website and that some of those requirements may appear to be inconsistent with each other.

As a result, staff have consolidated all ADU information for development service partner Departments onto a single shared webpage (<http://www.sanjoseca.gov/adus>). On this webpage, customers can learn about the process, find all forms related to ADUs, and get answers to some of their most common questions for ADUs. Staff have also consolidated all the requirements of the various departments onto a single universal checklist.

While clarity in the City's requirements is a foundational improvement to the ADU permit process, staff have worked collaboratively to find opportunities to create flexibility in existing requirements. While improvements in our Planning ordinances have already made major impact to the number of ADU applications submitted, additional flexibility in the Fire Department's requirements have been identified. The Fire Department expanded the distance that an ADU can be from the street (from 150 feet to 200 feet) and the distance from the nearest hydrant access (from 400 feet to 600 feet). This opportunity was a prime example of extending the scope of potential ADU customers while maintaining safety standards.

To improve the permitting process, staff kicked off a pilot program on August 6, 2019, called "ADU Tuesdays". This process enhancement focuses resources in the Permit Center one day of the week to provide specialized support to ADU customers with two new services:

- Dedicated Express Appointments, and

- Priority application submittal.

First, the dedicated Express Plan Check Appointments allows the customer to meet with an inter-department team of staff to get immediate feedback and potential approval for a building permit. Projects that meet certain criteria are eligible for the Express Plan Check Appointments.

The second service available on “ADU Tuesdays” is the new dedicated submission lane in the Permit Center available to any ADU customer. The dedicated intake staff member will conduct a thorough completeness review to provide immediate comments on mistakes in applications that will allow customers to fix their mistakes earlier and prevent wasteful, incomplete reviews by Plan Check staff.

To provide more accessible information to our customers, staff is retrofitting the current public information kiosk to exclusively offer ADU informational materials, this information will be provided in three languages. The Kiosk will be placed in the Permit Center in early fall.

Mirrored after the successful Small Business Ally program, an ADU Ally position is being proposed. This new position would help promote the ADU program to residents and help those customers throughout the process to make it as seamless as possible. The greatest opportunity for this position is the ability to prevent issues for both customers and the City Staff. By resolving issues earlier in the process, customers can save time and prevent costly re-work that takes staff time from reviewing other ADU applications. Funding has been identified for the date limited position (through June 2020) and recruitment will begin soon. In the interim, a member of the Building Division has been temporarily assigned to the ADU Ally role.

Staff has also launched the ADU Master Plan program. This program creates an application process for designers and builders who offer building plans for detached ADUs, pre-fabricated homes, or wood-framed single-family homes that can be pre-approved by the City of San José. These vendors can then offer their ADU customers expedited plan review and permit issuances. Pre-approved “master plans” enable City staff to quickly review a proposed ADU application much quicker, by streamlining architectural and structural review. One pre-approved foundation design has been approved, and several more plans are currently engaged in the pre-approval process.

Upcoming Enhancements

Pursuant to the City Council’s direction, staff is developing an “ABC” checklist to support the triage of applications into different permit paths based the criteria an ADU meets and the variances the project requires. With the launch of ADU Tuesdays, staff are testing the “ABC” checklist by creating two triaged processes:

- Express plan Check Appointments and
- Prioritized ADU application submission in the Permit Center.

To help promote the ADU program to more prospective ADU customers, PBCE communications staff is developing an ADU Workbook. This easily accessible document will provide

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Subject: Accessory Dwelling Unit Forgivable Loan Program

Page 7

introductory materials for early stage customers to help get aquatinted with the ADU program, benefits, and process. Staff expects to have the Workbook completed and posted to the ADU website in October 2019.

Further promotion of the ADU program is occurring as staff works with the Housing Trust of Silicon Valley to set up an ADU Showcase to promote the benefits of building an ADU. Staff is currently considering the most impactful design for the event, either building on the success of the May 30, 2019, Building Safety Event ADU presentation ([video here](#)) or providing a periodic workshop during “ADU Tuesdays” to provide customers coming into the Permit Center the resources and information they need for getting started with their ADU project.

Staff’s analysis and implementation of changes required by new State bills on ADUs will occur over the next few months.

/s/

JACKY MORALES-FERRAND

Director, Housing Department

For questions please contact Jacky Morales-Ferrand, Director of Housing, at (408) 535-3855.

ATTACHMENT:

Attachment A: City of San José Income and Rent Limit Table

**CITY OF SAN JOSE HOUSING DEPARTMENT
INCOME AND RENT LIMIT TABLES
Effective Date: May 9, 2019**

INCOME LIMITS

	% of AMI Income Level	Number of People in Household							
		1	2	3	4	5	6	7	8
*	120%	\$110,400	\$126,150	\$141,950	\$157,700	\$170,300	\$182,950	\$195,550	\$208,150
**	110%	\$101,200	\$115,610	\$130,075	\$144,540	\$156,090	\$167,640	\$179,245	\$190,795
*	100%	\$92,000	\$105,100	\$118,250	\$131,400	\$141,900	\$152,400	\$162,950	\$173,450
**	90%	\$82,800	\$94,590	\$106,470	\$118,260	\$127,710	\$137,160	\$146,610	\$156,060
*	80%	\$72,750	\$83,150	\$93,550	\$103,900	\$112,250	\$120,550	\$128,850	\$137,150
***	60%	\$61,500	\$70,260	\$79,020	\$87,780	\$94,860	\$101,880	\$108,900	\$115,920
***	55%	\$56,375	\$64,405	\$72,435	\$80,465	\$86,955	\$93,390	\$99,825	\$106,260
*	50%	\$51,250	\$58,550	\$65,850	\$73,150	\$79,050	\$84,900	\$90,750	\$96,600
***	45%	\$46,125	\$52,695	\$59,265	\$65,835	\$71,145	\$76,410	\$81,675	\$86,940
***	40%	\$41,000	\$46,840	\$52,680	\$58,520	\$63,240	\$67,920	\$72,600	\$77,280
***	35%	\$35,875	\$40,985	\$46,095	\$51,205	\$55,335	\$59,430	\$63,525	\$67,620
*	30%	\$30,750	\$35,150	\$39,550	\$43,900	\$47,450	\$50,950	\$54,450	\$57,950
***	25%	\$25,625	\$29,275	\$32,925	\$36,575	\$39,525	\$42,450	\$45,375	\$48,300
***	20%	\$20,500	\$23,420	\$26,340	\$29,260	\$31,620	\$33,960	\$36,300	\$38,640
***	15%	\$15,375	\$17,565	\$19,755	\$21,945	\$23,715	\$25,470	\$27,225	\$28,980

*	= Income limits provided by HCD
**	= Income Limits imputed from 100% AMI incomes
***	= Income Limits imputed from 50% AMI incomes

RENT LIMITS

Rent Limit based on HCD Occupancy Guidelines = 1 Person Per Bedroom + 1					% of AMI Rent Level	Rent Limit based on TCAC Occupancy Guidelines = 1.5 Person Per Bedroom				
Efficiency	1BR	2BR	3BR	4BR		Efficiency	1BR	2BR	3BR	4BR
\$2,760	\$3,154	\$3,549	\$3,943	\$4,258	120%	\$2,760	\$2,957	\$3,549	\$4,100	\$4,574
\$2,530	\$2,890	\$3,252	\$3,614	\$3,902	110%	\$2,530	\$2,710	\$3,252	\$3,758	\$4,191
\$2,300	\$2,628	\$2,956	\$3,285	\$3,548	100%	\$2,300	\$2,464	\$2,956	\$3,416	\$3,810
\$2,070	\$2,364	\$2,661	\$2,956	\$3,192	90%	\$2,070	\$2,217	\$2,661	\$3,074	\$3,429
\$1,819	\$2,079	\$2,339	\$2,598	\$2,806	80%	\$1,819	\$1,949	\$2,339	\$2,702	\$3,014
\$1,538	\$1,757	\$1,976	\$2,195	\$2,372	60%	\$1,538	\$1,647	\$1,976	\$2,283	\$2,547
\$1,409	\$1,610	\$1,811	\$2,012	\$2,174	55%	\$1,409	\$1,510	\$1,811	\$2,093	\$2,335
\$1,281	\$1,464	\$1,646	\$1,829	\$1,976	50%	\$1,281	\$1,373	\$1,646	\$1,903	\$2,123
\$1,153	\$1,317	\$1,482	\$1,646	\$1,779	45%	\$1,153	\$1,235	\$1,482	\$1,712	\$1,910
\$1,025	\$1,171	\$1,317	\$1,463	\$1,581	40%	\$1,025	\$1,098	\$1,317	\$1,522	\$1,698
\$897	\$1,025	\$1,152	\$1,280	\$1,383	35%	\$897	\$961	\$1,152	\$1,332	\$1,486
\$769	\$879	\$989	\$1,098	\$1,186	30%	\$769	\$824	\$989	\$1,142	\$1,274
\$641	\$732	\$823	\$914	\$988	25%	\$641	\$686	\$823	\$951	\$1,061
\$513	\$586	\$659	\$732	\$791	20%	\$513	\$549	\$659	\$761	\$849
\$384	\$439	\$494	\$549	\$593	15%	\$384	\$412	\$494	\$571	\$637

HCD occupancy guidelines assume 1 person plus 1 person per bedroom.

2018 State Income/Rent Limits Using Federal Program (TCAC) occupancy guidelines. Owners may make an election to use the TCAC occupancy guidelines for an entire property. Federal TCAC occupancy guidelines use 1.5 persons per bedroom.

Updated June 3, 2019 to include 90% AMI



Memorandum

TO: HOUSING COMMUNITY DEVELOPMENT COMMISSION
FROM: FRED TRAN
SUBJECT: SEE BELOW
DATE: NOVEMBER 7, 2019

Approved

Date

SUBJECT: RENT STABILIZATION PROGRAM QUARTER 1 REPORT FOR APARTMENTS, INCLUDING THE APARTMENT RENT ORDINANCE, TENANT PROTECTION ORDINANCE, ELLIS ACT ORDINANCE, AND HOUSING PAYMENT EQUALITY ORDINANCE

RECOMMENDATION

Review the staff report and provide possible recommendations on the Rent Stabilization Program Quarter 1 Report for FY 2019-20.

BACKGROUND

The Rent Stabilization Program is providing a summary of program activities for the first quarter 2019-20 to the Housing Community Development Commission. The Rent Stabilization Program provides education and information of rights for tenants and property owners.

ANALYSIS

Major actions taken during the first quarter 2019-20 from July 1, 2019 to September 30, 2019 are summarized below by administration of the Apartment Rent Ordinance, Tenant Protection Ordinance, Ellis Act Ordinance, and Housing Payment Equality Ordinance.

A. APARTMENT RENT ORDINANCE

Summary of Petitions Filed – A summary of petitions filed quarterly is provided in **Table 1**. The Rent Stabilization Program received 22 petitions and overall, the number of petitions filed with the Rent Stabilization Program remained consistent with the prior quarters, except for Quarter 2 of 2018-19 as a result of the submission of the owner petition Ratio Utility Billing Systems (RUBS). Owners were able to file for a petition for a one-time “Off Set” petition which

must have been filed by October 31, 2018 and establish a business practice of charging utilities and eligible to meet the requirements of the petition.

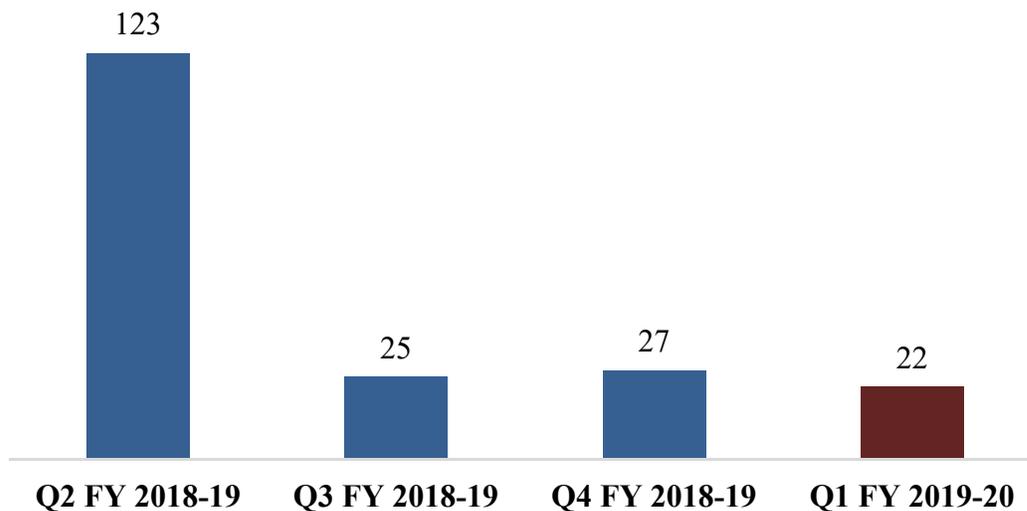
The breakdown of the 22 petitions received in the first quarter are:

- 17 service reductions,
- 1 rent increases,
- 1 buyout agreement, and
- 3 ineligible for the Mediation.

The outcomes of the petitions filed are:

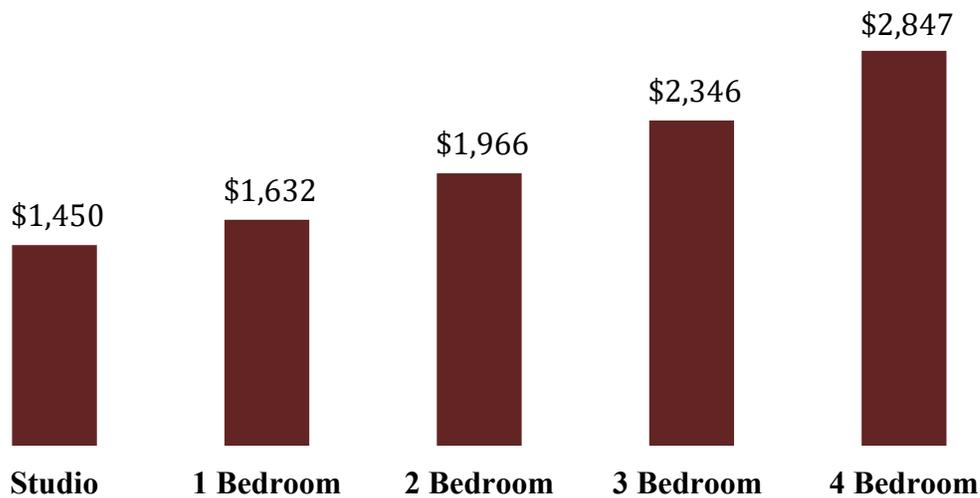
- 1 pending hearing by Hearing Officer (4%),
- 10 resolved voluntarily by Hearing Officer (45%),
- 3 resolved by staff (14%),
- 2 decision by Hearing Officer (9%),
- 3 withdrawn (14%), and
- 3 ineligible (14%).

Table 1 – Summary of Petitions Filed in the in the Most Recent Four Quarters



Rent Registry – As of September 30, 2019, a total of 31,497 or 81% of all rent stabilized apartments have registered in the rent registry. **Table 2** summarizes the rental information collected from the Rent Registry during the first registration period. Apartments not registered will be ineligible for general annual rent increases.

Table 2 – Average Rent Stabilized Rents by Bedroom Size



The apartments that will still need to register are approximately:

- 790 apartment complexes with 10 units or less (3,600 units)
- 100 apartment complexes with 11-49 units (1,500 units)
- 7 apartment complexes with 50 or more units (490 units)

During 2019-20, staff will implement a system under the Rent Registry to allow for tenant validation of rental data. Staff will also propose to City Council by the end of the year the implementation of administrative citations for units not registered. The next registration period is tentatively scheduled to start in January 2020 with a 90-day registration period. Once the Program receives two years of data, further analysis and compliance will be available from the rent stabilization community.

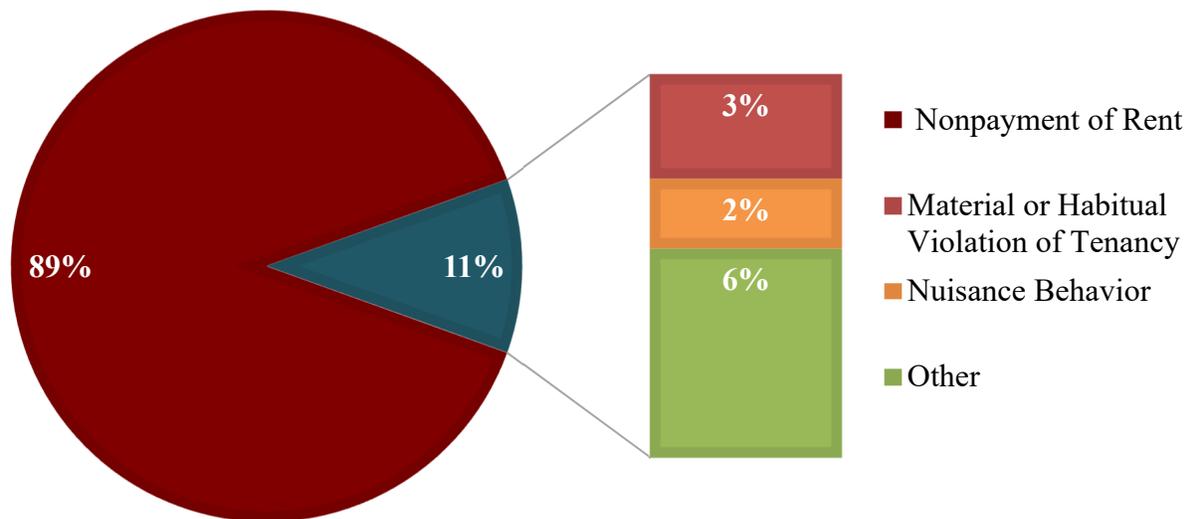
B. TENANT PROTECTION ORDINANCE

From July 1, 2019 to September 30, 2019, the Rent Stabilization Program received 2,465 notices of terminations for apartments in the City of San Jose as required by the Tenant Protection Ordinance. Of the notices received, 2,204 or 89% received was due to the just cause reason “Nonpayment of Rent.” In addition, a total of 211 Unlawful Detainers were submitted. **Table 3** summarizes the notices received in Quarter 1. Through the Legal Services grant, a summary of services received for eligible tenants and owners included:

- 370 participants assisted,
- 11 outreach and education services,
- 13 legal consultations,
- 9 legal representation for eviction proceedings and administrative hearings, and
- 1 limited legal representation for enforcement.

Table 3 – Notices of Terminations Received for Quarter 1

Inquiries	July	Aug	Sep	Total
1. Nonpayment of rent	627	741	836	2,204
2. Material or habitual violation of tenancy	26	35	25	86
3. Substantial damage to the apartment	1	0	1	2
4. Refusal to agree to a similar or new rental agreement	0	0	0	0
5. Nuisance behavior	13	14	11	38
6. Refusing access to the apartment	0	1	0	1
7. Unapproved holdover subtenant	3	1	1	5
8. Criminal Activity	0	0	0	0
9. Substantial rehabilitation of the apartment	0	0	0	0
10. Removal of apartments from rental market under the Ellis Act Ordinance	0	0	0	0
11. Owner move-in	0	0	0	0
12. Order to vacate	2	1	0	3
13. Convert an unpermitted apartment for permitted use	0	0	0	1
Exempt from the TPO	35	60	31	129
Total	707	853	905	2,465



C. ELLIS ACT ORDINANCE

The Ellis Act Ordinance was amended to include apartment buildings with three units or more and extended to buildings built after 1979 requiring 120-day notification and providing relocation services. Since the Ellis Act Ordinance was effective in San José in 2017, there have been three properties with tenants that have received notices to vacate as a result of the Ellis Act Ordinance. Of the projects, two are subject to rent control and subject to the re-control and right to return provisions, and a third project is exempt from the Apartment Rent Ordinance.

The tenant households at three properties received relocation assistance from the Associated Right of Ways Services (ARWS) and the outcomes are summarized in **Table 4**.

Table 4 – Outcomes of Relocation of Tenant Households who Received Ellis Noticing

Year Served	Types of Property	Outcomes of Tenant Households
2019	Subject to ARO – Built before 1979 <ul style="list-style-type: none"> • Noticing • ARWS Relocation Services 	7-unit apartment complex <i>Average Rent: \$1,948 for 1 BR</i> <ul style="list-style-type: none"> • 5 received noticing • 2 vacant
2018	Subject to ARO – Built before 1979 <ul style="list-style-type: none"> • Noticing • Relocation Benefits by Owner • ARWS Relocation Services 	4-unit apartment complex <i>Average Rent: \$913 for 1 BR</i> <ul style="list-style-type: none"> • 2 relocated with benefits to Porterville, San Mateo • 1 relocated without benefits but unknown where due to voluntary vacation • 1 occupied by owner • 1 received Qualified Assistance as a senior qualification
2018	Not Subject to ARO – Built after 1979 <ul style="list-style-type: none"> • Noticing • ARWS Relocation Services 	5-unit apartment complex <i>Average Rent: \$1,500 for 1 BR</i> <ul style="list-style-type: none"> • 1 relocated to San José • 1 relocated to unknown • 2 vacant

Source: Housing Department Records, October 2019

D. HOUSING PAYMENT EQUALITY ORDINANCE

The Housing Payment Equality Ordinance, effective September 27, 2019, prohibits discrimination against housing voucher holders who apply for rental housing in San José. The ordinance enables applicants who receive financial assistance to be considered in an equal manner to all other applicants. The ordinance is intended to expand housing opportunities for voucher holders, many of whom have previously faced discrimination.

The properties covered are all rental properties and single-family homes exempt when owner lives in home. The prohibited activities by owners include:

- Advertising that housing vouchers are not accepted,
- Assessing an applicant's ability to pay based on an amount greater than the portion of rent to be paid by the applicant, and
- Imposing rental terms on voucher holders that differ from terms for other rental applicants.

For the next steps, staff will continue outreach with the community on education on the new Housing Payment Equality Ordinance.

On October 8, 2019, SB 329, authored by Senator Holly Mitchell, was signed into law by Governor Newsom, after approval by the Senate by 25-12 and approval by the Assembly by 46-21. Effective January 1, 2020, the bill would prohibit landlords from discriminating against tenants based upon their source of income, such as federal Section 8 housing voucher applicants. SB 329 (Mitchell) Source of Income Housing Discrimination has the following provisions:

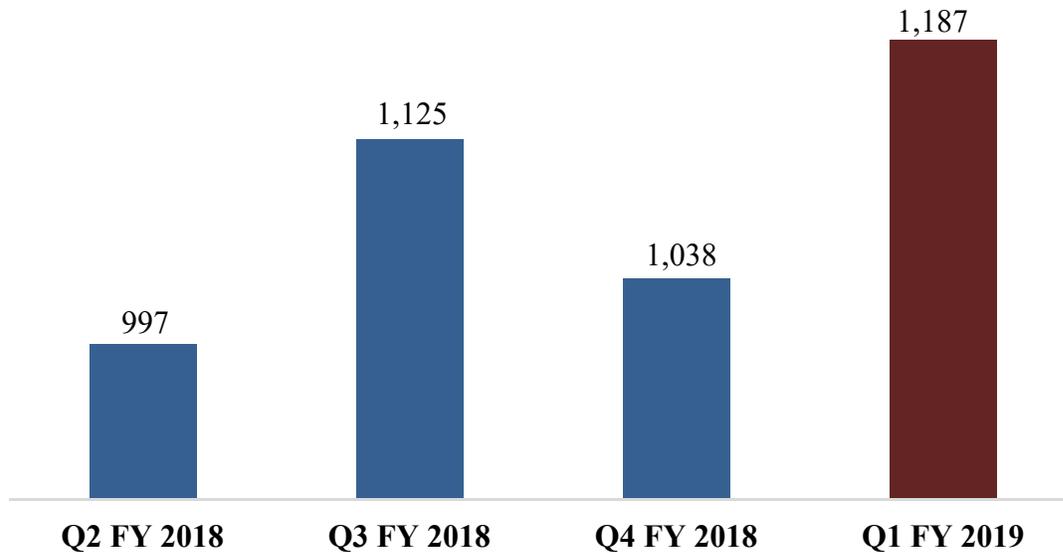
- Expands California's Fair Employment and Housing Act (FEHA) definition of "source of income" to include lawful, verifiable income paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance and subsidies. FEHA is an anti-discrimination legislation that oversees the field of regulation for housing and employment discrimination claims, and
- Prohibits landlords from discrimination against tenants who receive housing assistance, such as Section 8 voucher, and provide voucher program participants an opportunity to receive a fair vetting when applying and seeking housing.

Staff will continue to administer the Housing Payment Equality Ordinance and provide information on SB 329.

E. PROGRAM INQUIRIES RECEIVED

From July 1, 2019 through September 30, 2019, the Rent Stabilization Program received 1,187 inquiries. During the first quarter, the inquiries received were primarily regarding rent registry **Table 5** summarizes the inquiries by members of the public received by the Rent Stabilization Program in the past four quarters:

Table 5 – Summary of Inquiries Received by Members of the Public in the Most Recent Four Quarters

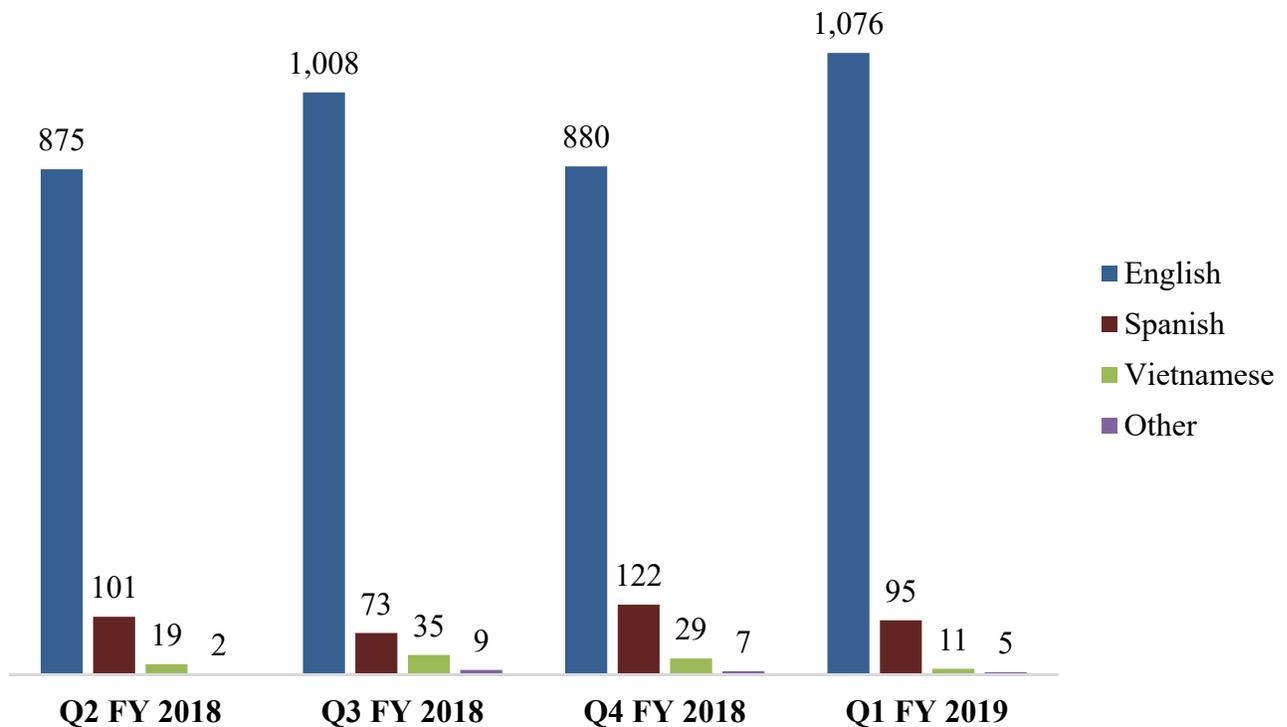


Summary of Inquiries by Language – The Rent Stabilization Program received 1,187 inquiries during the first quarter 2019-20. During the first quarter, the language spoken by individuals making inquiries is provided below in **Table 6**:

- 1,076 inquiries (90.6%) received in English,
- 95 inquiries (8.0%) received in Spanish,
- 11 inquiries (0.9%) received in Vietnamese, and
- 5 inquiries (0.4) % received in other.

Based on the 2019 Economic Roundtable Report, San José ARO renters are 19% White, 47% Hispanic or Latinx, 26% Asian, and 5% African American. Staff will continue to develop an annual outreach plan to target the different demographics.

Table 6 – Summary of Inquiries by Language in the Most Recent Four Quarters



F. ADMINISTRATIVE PROGRAM FEES

The City Council approved a fee structure for 2019-20 for the Rent Stabilization Program below:

- Annual Apartment Rent Control Fee: increased from \$77.30 to \$85.04 per unit;
- Annual Apartment Non-Rent Control Fee: increased from \$6.20 to \$8.76 per unit;
- Annual Mobilehome Rent Control Fee: decreased from \$25.70 to \$24.24 per unit; and
- Fees for withdrawal under the Ellis Act Ordinance: increased from \$2,258 to \$2,469 per unit for up to ten units and increased from \$872 to \$902 per unit for over ten units.

The annual billing for program fees was sent to property owners in October. Owners with questions are reaching out to staff. Payments are due in December.

PUBLIC OUTREACH

Staff conducted 13 community meetings and outreach events and the Legal Services agencies led 11 community meetings. The outreach included stakeholders of tenants, property owners, and community stakeholders. A summary of all meetings is listed in **Attachment A**. Staff will continue to develop an annual outreach plan to target the different communities who need additional language assistance.

HOUSING COMMUNITY DEVELOPMENT COMMISSION

Subject: Rent Stabilization Program – First Quarter Report

November 7, 2019

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For any questions, please contact Fred Tran at 408-975-4443.

/s/

Fred Tran

Acting Program Manager

Rent Stabilization Program

ATTACHMENT:

Attachment A – Summary of Community Outreach Meetings and Events

**SUMMARY OF RENT STABILIZATION PROGRAM COMMUNITY OUTREACH
July 1, 2019-September 30, 2019**

Community Meetings (3)

- | | | |
|---|-----------|---------|
| • Ellis Act Ordinance Community Meeting | 8/29/2019 | Tenants |
| • Proposed General Plan Amendment PD zoning and PD Permit Meeting | 8/26/2019 | Public |
| • Ellis Act Ordinance Community Meeting | 8/8/2019 | Owners |

Outreach Events (9)

- | | | |
|---|-----------|---------|
| • Moon Festival at Vietnamese American Community Center | 9/28/2019 | Public |
| • Viva Calle at Rose Garden | 9/22/2019 | Public |
| • Project Hope at Cadillac Winchester | 9/12/2019 | Tenants |
| • Office of Santa Clara County of Education Resource Fair | 8/10/2019 | Public |
| • National Night Out at Evan Lane | 8/6/2019 | Public |
| • National Night Out at Southside Community Center | 8/6/2019 | Public |
| • National Night Out at Roosevelt Community Center | 8/6/2019 | Public |
| • National Night Out at Seven Trees Community Center | 8/6/2019 | Public |
| • National Night Out at Cadillac Winchester | 8/6/2019 | Public |

Mobilehome Outreach (1)

- | | | |
|---|-----------|--------|
| • San Jose Verde Mobilehome Park Presentation | 8/28/2019 | Public |
|---|-----------|--------|

Legal Services Outreach (11)

- | | | |
|--|-----------|---------------------|
| • Project Sentinel at Santa Clara County HSA CalWORKS | 9/26/2019 | County Staff |
| • Project Sentinel at Sparkpoint at Evergreen Valley College | 9/24/2019 | Staff/ Public |
| • Project Sentinel at The Sobrato Center | 9/17/2019 | Tenant |
| • SALA at Mayfair Community Center | 9/17/2019 | Tenant/Landlord |
| • SALA at Evergreen Senior Center | 9/11/2019 | Tenant/Landlord |
| • Project Sentinel at East Side Senior Center | 9/10/2019 | Tenant/
Landlord |
| • Project Sentinel at Catholic Charities Santa Clara County | 9/6/2019 | Staff/ Public |

ATTACHMENT A

- Project Sentinel at The Sobrato Center 8/27/2019 Landlord
- Project Sentinel at Office of Supportive Housing 8/22/2019 Tenant/
Landlord
- SALA at Mayfair Community Center 8/13/2019 Tenant/Landlord
- Project Sentinel at St. Lucie's Parish 8/3/2019 Tenant/
Landlord



Memorandum

TO: HOUSING AND COMMUNITY
DEVELOPMENT COMMISSION

FROM: Theresa Ramos

SUBJECT: SEE BELOW

DATE: November 7, 2019

Approved

Date

**SUBJECT: RENT STABILIZATION PROGRAM QUARTER 1 REPORT FOR
MOBILEHOMES, INCLUDING THE MOBILEHOME RENT ORDINANCE**

RECOMMENDATION

Review the staff report and provide possible recommendations on the Rent Stabilization Program Quarter 1 Report for FY 2019-20.

BACKGROUND

The Rent Stabilization Program (Program) is providing a summary of Program activity, including reports and mobilehome call log inquiries for the first Quarterly Report FY 2019-20, July 1, 2019 to September 30, 2019, regarding mobilehome issues and trends impacting San José mobilehome park communities.

In addition, this report highlights current issues. The Program provides education and information to protect the rights of residents and improve relations between residents and park owners/managers. The Housing and Community Development Commission (HCDC) has requested periodic data from the Program.

PROGRAM HIGHLIGHTS

Major actions taken during the first quarter of FY 2019-20 include community engagement via public outreach and presentations about the Mobilehome Rent Ordinance. Program staff continues to engage the mobilehome community through e-mail, in-person and telephone assistance, and referrals to legal and social services.

Mobilehome Inquiries

During the first quarter, the Rent Stabilization Program received 35 mobilehome park inquiries (**Attachment A**).

Types of inquiries during the first quarter include:

- Residents’ Rights
- Referral Advice
- Utility Charges
- Mobilehome Evictions

Chart A is a list of Summary of Issues for Mobilehomes:

SUMMARY OF ISSUES FOR MBOILEHOMES	
Referrals	9
Request for Information	6
Code Enforcement/Maintenance	2
Rent Increases	4
Evictions*	7
Fees, Lease, Deposits	1
Miscellaneous	6
Total	43

*One inquiry self-reported 29 eviction notices within a mobilehome park.

Park Specific Issues:

Below is a summary of alleged park issues during this quarter:

Magic Sands (541 Spaces)

There is resident concern about a new water utility charge alleging an illegal rent increase. Program staff is reviewing the resident’s allegations.

San Jose Mobilehome and RV Park (Formerly Mobilehome Manor Mobilehome Park) (81 Spaces)

The park has been recently sold and the new park owner and operator, Brochton (Brock) Kaveny of Kingdom Communities, is implementing changes which include new rental agreements and park rules. Residents have complained about new utility charges and an increase of evictions. Program staff reached out to the new park owner and is currently reviewing the residents’ allegations.

La Buona Vita Mobilehome Park (108 Spaces)

The park has been recently sold and the new park owner and operator is Rutherford Investments. Residents complained about increased water charges and new added charged. Program staff has reached out to the new park owner. The new park owner has identified administrative errors from a third party billing company. Residents were noticed on October 2, 2019, October 16, 2019, and a final notice on October 31, 2019 that the charges have been corrected and credits will appear on residents’ November 2019 statements. The new park owner has also extended an invitation to Program staff to provide a presentation at their first park owner/resident meeting scheduled for November 13, 2019.

Sunshadow Mobilehome Park (121 Spaces)

The park has been recently sold and the new park owner and operator, Equity LifeStyles (ELS) is implementing changes. Programs staff has reached out to park management to conduct a site visit with new park operator.

Winchester Ranch Mobilehome Park (111 Spaces)

Program staff is assisting the City of San José Building, Planning, and Code Enforcement (BPCE) Department, Winchester Ranch Home Owners Association, and Pulte to review documents submitted by Pulte as required to move forward with filing their General Plan Amendment.

General Trends

General mobilehome trends during this quarter include inquiries about three mobilehome park purchases (Sunshadow, La Buona Vita, and San Jose Mobilehome/RV Park formerly known as Mobile Manor), utility charges, and mobilehome titling changes.

Evictions

The City's Housing and Community Development Commission was concerned with mobilehome anti-displacement and requested from Program staff data about mobilehome evictions. Program staff informed the Commission that the City's Mobilehome Rent Ordinance does not have authority over evictions, but does track mobilehome inquiries from residents who self-report evictions. During this quarter, Program staff noted thirty-two (32) self-reported evictions. Below is a list of parks identified with an eviction notice.

San Jose Mobilehome and RV Park (Formerly Mobilehome Manor Mobilehome Park) (81 Spaces)

A resident advocate reported twenty-nine (29) notices of eviction from this park. Program staff conducted a site visit and met with the President of the Home Owner Association/Golden State Mobilehome League about the park change of ownership and implementation of new rules and charges. Program staff also met with the new park owner/operator to discuss the recent changes and issues within the park. Program staff has offered resources and referrals to residents.

Colonial Mobile Manor Mobilehome Park (207 Spaces)

There was one alleged illegal eviction notice self-reported at this mobilehome park. A sub-tenant rented a room from a mobilehome homeowner who locked out the sub-tenant. Per the sub-tenant, the mobilehome homeowner has an alleged history of subletting rooms without proper park management notice. Program staff contacted the park manager who confirmed the allegation. The park manager is working with their legal counsel to address the illegal subletting issue.

Oakcrest Mobilehome Park (158 Spaces)

There was one alleged eviction notice self-reported at this mobilehome park. A resident recently received a park rule violation notice. Resident denies the park rule violation contained in the notice. Subsequently, the resident received a second warning on the same park rule violation with a threat of an

HOUSING AND COMMUNITY DEVELOPMENT COMMISSION

Subject: Quarterly Report for Mobilehome Activity for Rent Stabilization Program

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eviction. The resident alleged that the management is harassing them and sending illegal eviction notices for park rule violations. Program staff referred the resident to legal services for assistance.

Golden Wheel Mobilehome Park (221 Spaces)

There was one eviction notice self-reported at this mobilehome park. A resident received a sixty-day (60) notice to move and it is unclear if the resident is on the rental agreement. Program staff referred the resident to legal services for assistance.

/s/

Theresa Ramos

Department of Housing

Rent Stabilization Program

ATTACHMENT:

Attachment A: Call Log Report



Memorandum

TO: HOUSING & COMMUNITY DEVELOPMENT COMMISSION (HCDC)

FROM: Theresa Ramos

SUBJECT: CALL LOG REPORT

DATE: 11/5/2019

Total Calls=35

	Date	Requestor	Mobilehome Park	Topic	Resolution Suggested
July	7/1/2019	RESIDENT	LAMPLIGHTER MOBILEHOME PARK	Code Issue	Information
July	7/9/2019	RESIDENT	MOBILEHOME MANOR MOBILEHOME PARK	Mobilehome Eviction	Site Visit
July	7/9/2019	RESIDENT	COLONIAL MOBILE MANOR MOBILEHOME PARK	Mobilehome Eviction	Referral
July	7/15/2019	RESIDENT	RANCHO SANTA TERESA MOBILEHOME PARK	Service	Referral
July	7/19/2019	TENANT	TRAILER TERRACE	Rights	Information
July	7/19/2019	RESIDENT	OAKCREST ESTATES MOBILEHOME PARK	Eviction	Referral
July	7/29/2019	RESIDENT	WESTWINDS MANUFACTURED HOME COMMUNITY	Allowable Rent Increase	Information
July	7/29/2019	RESIDENT	SPANISH COVE MOBILEHOME PARK	Maintenance	Information
Aug	8/1/2019	RESIDENT	TRAILER TERRACE	Service	Information
Aug	8/1/2019	LANDLORD	SILVER CREEK MOBILEHOME PARK	Service	Information
Aug	8/1/2019	RESIDENT	FOOTHILLS MOBILELODGE	Allowable Rent Increase	Ordinance
Aug	8/2/2019	OTHER	SILVER CREEK MOBILEHOME PARK	Ordinance	Ordinance

Aug	8/5/2019	RESIDENT	VILLAGE OF THE FOUR SEASONS	Referral Advice	Information
Aug	8/5/2019	OTHER	SILVER CREEK MOBILEHOME PARK	Ordinance	
Aug	8/7/2019	RESIDENT	TRAILER TERRACE	Allowable Rent Increase	Information
Aug	8/13/2019	OTHER	WESTWINDS MANUFACTURED HOME COMMUNITY	Office Information	Information
Aug	8/15/2019	RESIDENT	RIVERBEND MOBILEHOME PARK	Service	Information
Aug	8/15/2019	TENANT	COLONIAL MOBILE MANOR MOBILEHOME PARK	Eviction	Information
Aug	8/15/2019	RESIDENT	SILVER CREEK MOBILEHOME PARK	Ordinance	Information
Aug	8/21/2019	RESIDENT	SUNSET MOBILE MANOR	Rights	Referral
Aug	8/22/2019	TENANT	COLONIAL MOBILE MANOR MOBILEHOME PARK	Mobilehome Eviction	Information
Aug	8/26/2019	RESIDENT	SUNSET MOBILE MANOR	Service	Information
Aug	8/29/2019	RESIDENT	HOMETOWN EASTRIDGE ESTATES	Allowable Rent Increase	Information
Sept	9/4/2019	LANDLORD	CASA ALONDRA MOBILEHOME PARK	Ordinance	Information
Sept	9/9/2019	RESIDENT	LA BUONA VITA MOBILEHOME PARK	Fees;Mobilehome Residency Law Violation;Utility Overcharges	Information
Sept	9/9/2019	RESIDENT	WESTWINDS MANUFACTURED HOME COMMUNITY	Rights	Referral
Sept	9/17/2019	RESIDENT	GOLDEN WHEEL PARK	Eviction	Referral
Sept	9/20/2019	RESIDENT	SILVER CREEK MOBILEHOME PARK	Rights	Information
Sept	9/20/2019	RESIDENT	SILVER CREEK MOBILEHOME PARK	Rights	Information
			SILVER CREEK		

Sept	9/20/2019	RESIDENT	MOBILEHOME PARK	Rights	Information
Sept	9/23/2019	RESIDENT	PEPPERTREE MOBILEHOME ESTATES	Mobilehome State Inspection	Referral
Sept	9/23/2019	RESIDENT	OAKCREST ESTATES MOBILEHOME PARK	Eviction	Information
Sept	9/23/2019	RESIDENT	WESTERN TRAILER MOBILEHOME PARK	Service	Information
Sept	9/25/2019	RESIDENT	COLONIAL MOBILE MANOR MOBILEHOME PARK	Office Information	Information
Sept	9/26/2019	RESIDENT	Unavailable	Referral Advice	Information

Brief Synopsis on Disposition of Calls

7/1/2019 - LAMPLIGHTER MOBILEHOME PARK

Resident's issue: Resident complained about park management not maintaining common areas of the park. Program staff noted complaint.

7/9/2019 - MOBILEHOME MANOR MOBILEHOME PARK

Resident's Issue: Resident advocate notified staff of a state inspection scheduled for Wednesday, July 10, 2019. Program staff and Law Foundation have been invited to be present for the duration of the inspection. Program staff will be attending.

7/9/2019 - COLONIAL MOBILE MANOR MOBILEHOME PARK

Other: Resident advocate notified staff of 29 eviction notices at Mobilehome Manor. Program staff notified Housing Director. Program staff offered residents referrals to legal services.

7/15/2019 - RANCHO SANTA TERESA MOBILEHOME PARK

Resident's issue: Resident requested information regarding change of mobilehome title. Program staff referred the resident to the State Mobilehome Title Registry for assistance.

7/19/2019 - TRAILER TERRACE

Resident's issue: Resident requested park permission to install a new trailer. The park manager is now informing the resident to remove trailer. Program staff referred the resident to legal services for assistance.

7/19/2019 - OAKCREST ESTATES MOBILEHOME PARK

Resident's issue: Resident called to complain about two written warnings from the park manager and fear eviction for retaliation. Program staff referred the resident to legal services for assistance.

7/29/2019 - WESTWINDS MANUFACTURED HOME COMMUNITY

Resident's issue: Resident requested information regarding annual rent increase. Program staff explained the City's

Mobilehome Rent Ordinance.

7/29/2019 - SPANISH COVE MOBILEHOME PARK

Resident's issue: Resident requested legal advice regarding reducing rent and/or compensation of an alternative parking for the three days of street repairs. Program staff referred the resident to the park manager to make a request for an alternative parking arrangement.

8/1/2019 - TRAILER TERRACE

Resident's issue: Resident requested information about permits. Program staff referred the resident to the State Housing and Community Development for assistance.

8/1/2019 - SILVER CREEK MOBILEHOME PARK

Landlord's issue: Landlord contacted staff and left a message about a park owner and resident meeting.

8/1/2019 - FOOTHILLS MOBILELODGE

Resident's issue: Resident requested information regarding a rent increase upon resident's replacement of new home. Program staff explained to the resident that no increase is allowed and referred the resident to the Mobilehome Rent Ordinance. Program staff contacted the park manager to inform them of no rent increase.

8/2/2019 - SILVER CREEK MOBILEHOME PARK

Other: Caller requested information about pass through charges. Program staff explained to the caller the City's Mobilehome Rent Ordinance.

8/5/2019 - VILLAGE OF THE FOUR SEASONS

Resident's issue: Resident requested information regarding mobilehome title change. Program staff referred the resident to the state Mobilehome Title Registry for assistance.

8/5/2019 - SILVER CREEK MOBILEHOME PARK

Other: Program staff confirmed park manager and resident meeting.

8/7/2019 - TRAILER TERRACE

Resident's issue: Resident requested information regarding allowable rent increases. Program staff provided information to the resident.

8/13/2019 - WESTWINDS MANUFACTURED HOME COMMUNITY

Other: Caller requested information regarding mobilehome information for Westwinds Mobilehome Park. Program provided information.

8/15/2019 - RIVERBEND MOBILEHOME PARK

Resident's issue: Resident requested information regarding obtaining a mobilehome decal. Program staff referred the resident to the State Housing and Community Development for assistance.

8/15/2019 - COLONIAL MOBILE MANOR MOBILEHOME PARK

Tenant's issue: Tenant requested legal services regarding eviction from resident mobilehome owner. Program staff referred the resident to legal services for assistance.

8/15/2019 - SILVER CREEK MOBILEHOME PARK

Resident's issue: Resident purchased mobilehome and requested information regarding mobilehome title change. Program staff referred the resident to the State Mobilehome Title Registry for assistance.

8/21/2019 - SUNSET MOBILE MANOR

Resident's issue: Resident requested information regarding sale of trailer and park management non-cooperation. Program staff referred the resident legal services for assistance.

8/22/2019 - COLONIAL MOBILE MANOR MOBILEHOME PARK

Tenant's issue: Program staff contacted the park manager and followed up on the tenant's issue and confirmed the resident's illegally sublet.

8/26/2019 - SUNSET MOBILE MANOR

Resident's issue: Program staff followed up with resident's issue about providing title registration.

8/29/2019 - HOMETOWN EASTRIDGE ESTATES

Resident's Issue: Resident requested information regarding allowable rent increases. Program staff called resident back and left a message that the annual increase for this year is 3.01%.

9/4/2019 - CASA ALONDRA MOBILEHOME PARK

Landlord's issue: Landlord requested a copy of a mobilehome park decision. Program staff provided the landlord with a copy.

9/9/2019 - LA BUONA VITA MOBILEHOME PARK

Resident's Issue: Resident complained about utility charges with a new service provider and claim illegal rent increase. Program staff is reviewing alleged claim.

9/9/2019 - WESTWINDS MANUFACTURED HOME COMMUNITY

Resident's issue: Sub-tenant, possibly not registered with the park, rents a room in a mobilehome and requested information about his rights when a homeowner is selling the mobilehome. Program staff referred the sub-tenant to legal services for assistance.

9/17/2019 - GOLDEN WHEEL PARK

Resident's issue: Resident received a 60 days notice to move. Program staff referred the resident to legal services for assistance.

9/20/2019 - SILVER CREEK MOBILEHOME PARK

Resident's Issue: Wanted to know how best to transfer title/add someone to his mobilehome's title. RSP staff to conduct research and call back.

9/20/2019 - SILVER CREEK MOBILEHOME PARK

Resident's Issue: After meeting with compliance team, notified Resident of the California state HCD website, sent resident an email with the link to HCD website related to registration and titling: amidnitydr@att.net.

9/20/2019 - SILVER CREEK MOBILEHOME PARK

Resident's Issue: Informed tenant of ongoing research and likely update on Monday 9/23.

9/23/2019 - PEPPERTREE MOBILEHOME ESTATES

Resident's Issue: Referred resident to call the state authorities.

9/23/2019 - OAKCREST ESTATES MOBILEHOME PARK

Resident's issue: Resident received another seven day notice and contends that the notice has false accusations. Program staff referred the resident to legal services for assistance.

9/23/2019 - WESTERN TRAILER MOBILEHOME PARK

Resident's issue: Resident requested information regarding new garbage cans and posts for fence. Program staff contacted park manager to assist resident with request.

9/25/2019 - COLONIAL MOBILE MANOR MOBILEHOME PARK

Resident Advocate's Concern: Martha asked for information on the HCDC minutes. Staff will send follow up.

9/26/2019 - Unavailable

Resident's issue: Resident requested information to add name to title of mobilehome home. Program staff referred the resident to the state Mobilehome Title Registry for assistance.

Theresa Ramos

Rental Rights & Referrals Program

Analyst II, Policy and Special Projects



Memorandum

TO: HOUSING AND COMMUNITY
DEVELOPMENT COMMISSION

FROM: RACHEL VANDERVEEN

SUBJECT: SEE BELOW

DATE: November 5, 2019

Approved

Date

**SUBJECT: RENT STABILIZATION PROGRAM RENT REGISTRY
IMPLEMENTATION UPDATE**

RECOMMENDATION

Review the staff report and provide possible recommendations on the Rent Stabilization Program Rent Registry Implementation update for FY 2018-19.

BACKGROUND

The City Council directed Housing staff to implement a rent registry of all rent-stabilized units to facilitate enforcement of the Apartment Rent Ordinance (ARO). The registry requires landlords to submit specific housing and tenancy information regarding each apartment unit subject to the ARO. The information collected includes rent amounts and increases, security deposits, vacancy reason for last tenant, and tenant names.

In preparation of developing the Rent Registry, staff spent three weeks working with IBM's top talent in a pro-bono consulting grant project called 'San Jose Smarter Cities Challenge'. Khanh Russo in the Mayor's Office had submitted a compelling proposal to have IBM's problem-solving team contribute on the project and the City was awarded the grant. On November 7-8, 2017, Housing staff, property owners, housing providers, property managers, tenants, and tenant advocates met for an IBM led workshop to brainstorm the design of an evolving Rent Registry to benefit the City's rent stabilized community. IBM brought an innovative approach from the private sector to include all stakeholders involved. System specifications and functions were established with participants' input and IBM's recommendations to increase utilization for property owners and to ensure a successful launch.

Staff completed additional research by contacting other cities that maintain an online rent registry. Staff received insightful recommendations on other Programs' processes, functions, security, resource requirements to develop and maintain their system. Three other cities had used

significantly more personnel or consultant time and capital to build out and support their rent registry.

Cities with Established Rent Registries implemented over time include:

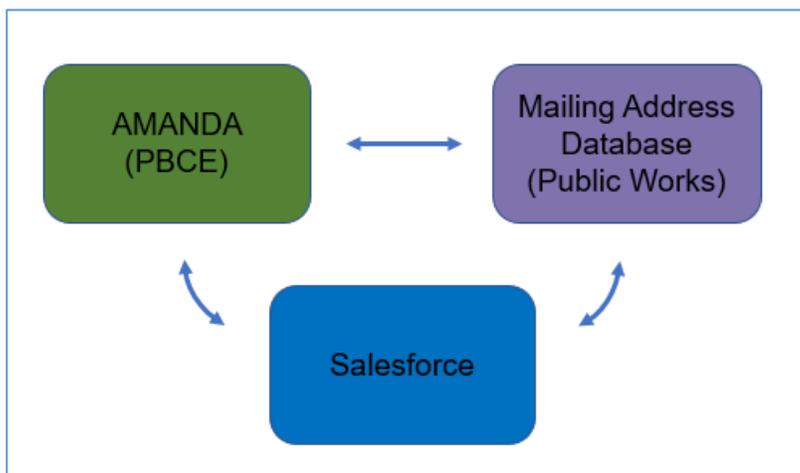
- Santa Monica;
- Berkeley;
- Los Angeles;
- Beverly Hills; and
- San Jose.



Cities currently establishing an online presence include:

- East Palo Alto;
- Richmond; and
- West Hollywood.

Innovative System Design - The Housing Department uses Salesforce as the Customer Relations Management (CRM) system and it was determined that the best solution to host the Rent Registry should also be Salesforce. IBM assisted with analyzing and cleaning of the data and offered recommendations on the design of the system. Staff spent four months reconciling the addresses in PBCE's AMANDA Permit system to Public Works mailing address lists to assure the records were as accurate as possible.



User Engagement - Once a testing environment was developed the data was integrated into the Rent Registry. Staff then hosted workshops and outreach meetings with property owners and realtor associations to test the system. The Program concentrated on creating additional value for the end users. Participants ranged from the savvy technically skilled users to some that rarely operated a computer. There were multiple recommendations for design changes to improve the functionality and layout of the system. Staff considered, and applied all proposed changes offered within the system's capability. The Program's goal was to produce the most user friendly environment to increase participation in unison with being a resource to assist with the enforcement.

Plan to increase compliance rate - In an effort to increase owner participation, 1,421 letters to landlords were mailed in August of 2019 to those who have not registered to inform them that, per the Ordinance, rent increases are not allowed unless the apartment units are registered in the Rent Registry. As a result, the registration compliance rate increased 8% by end of August. A similar letter was mailed to 6,453 tenants in October 2019 informing them that their rents cannot increase until their landlords comply with the Ordinance. On day one of tenants receiving the letter, staff received 12 tenant inquiries from tenants living in units not registered and who received rent increases or rent increase notices. During these conversations, one tenant reported a rent increase of 13% in the last 6 months. The Rent Registry is a pro-active compliance tool for the Program. Tenants are engaged with and becoming more aware of the Ordinances. Tenants living in units that are not registered *and* received rent increases after the registration deadline can file a tenant petition with the Program.

Enforcement – Currently tenants who file a petition may also file on the basis of living in an unregistered apartment. Staff works with tenants to provide documentation indicating if the apartment is registered. Landlords with non-registered apartments may not increase rent. If a rent increase is determined to be illegal, a rent credit can be awarded by the hearing officer to the tenant.

After meetings with landlords, housing providers, property managers, and realtor associations during the development stage of the Rent Registry, the Program established action items to

inform and assist the users with the adoption of the new technology. Below are the steps taken by the Department to ensure an effective launch of the Rent Registry:

- Three mailers to landlords;
- Three email blasts;
- Availability of paper registration forms for landlords who prefer not to submit information electronically; and
- Seven Rent Registry workshops;
- User guide produced in three languages;
- Phone, email, and in-person End User Support.

ANALYSIS

The Rent Registry website went live in August 2018. The launch of the Rent Registry marked the beginning of the first registration period that ended on March 1, 2019. As of October 1, 2019, approximately 31,682 rent-stabilized units have registered out of 38,867 equaling 82% of the total amount of rent stabilized units. By comparison, Los Angeles established a rent registry in 2016, and through their first year of implementation had 65% of their units registered.

The focus for staff during 2018–2019 was informing owners about the Rent Registry, educating them about their requirements, and providing technical assistance throughout the registration process. While most properties were registered online, 372 properties were registered by paper forms.

The Rent Registry serves as an essential tool in the tracking and prevention of unpermitted rent increases, overcharging during tenancies, and unlawful evictions and vacancies. The registry gives the Housing Department the ability to proactively monitor and enforce by:

- Tracking current rents and rent increases
- Automatically calculating maximum allowable rent increases
- Documenting instances of improper rent increases

Data from the Rent Registry has proven valuable in helping staff understand and analyze the rent-stabilization apartment market. For example, staff can now analyze the rents charged by landlords.

Below are examples of data derived from the Rent Registry.

Figure 1 - Apartment Sizes and Average Rents Charged for Apartments subject to the Apartment Rent Ordinance:

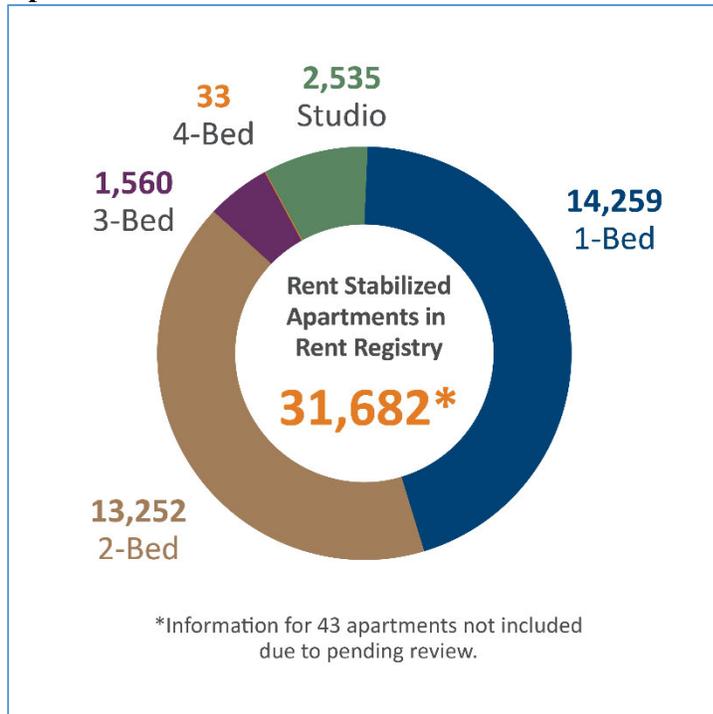


Figure 2 - Over 1,500 Section 8 Voucher Holders Live in Apartment Rent Ordinance Apartments:

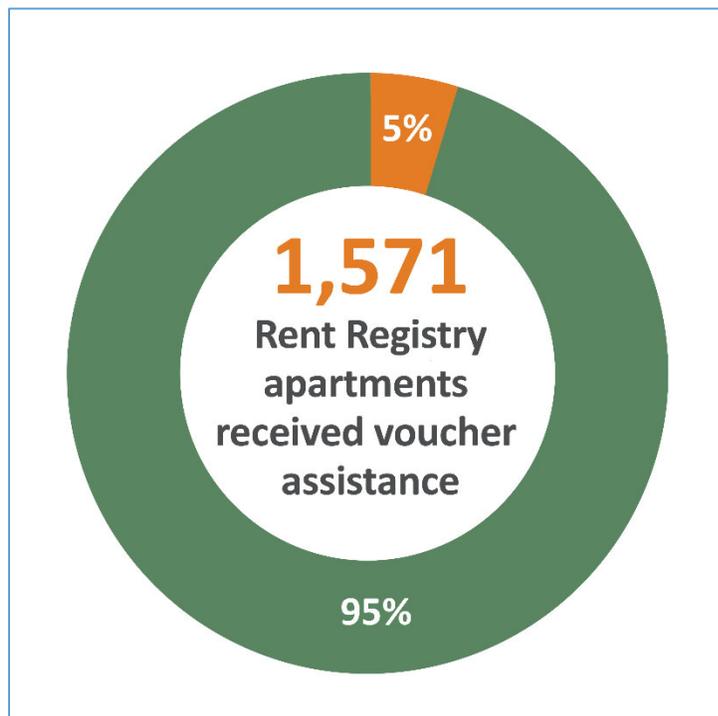
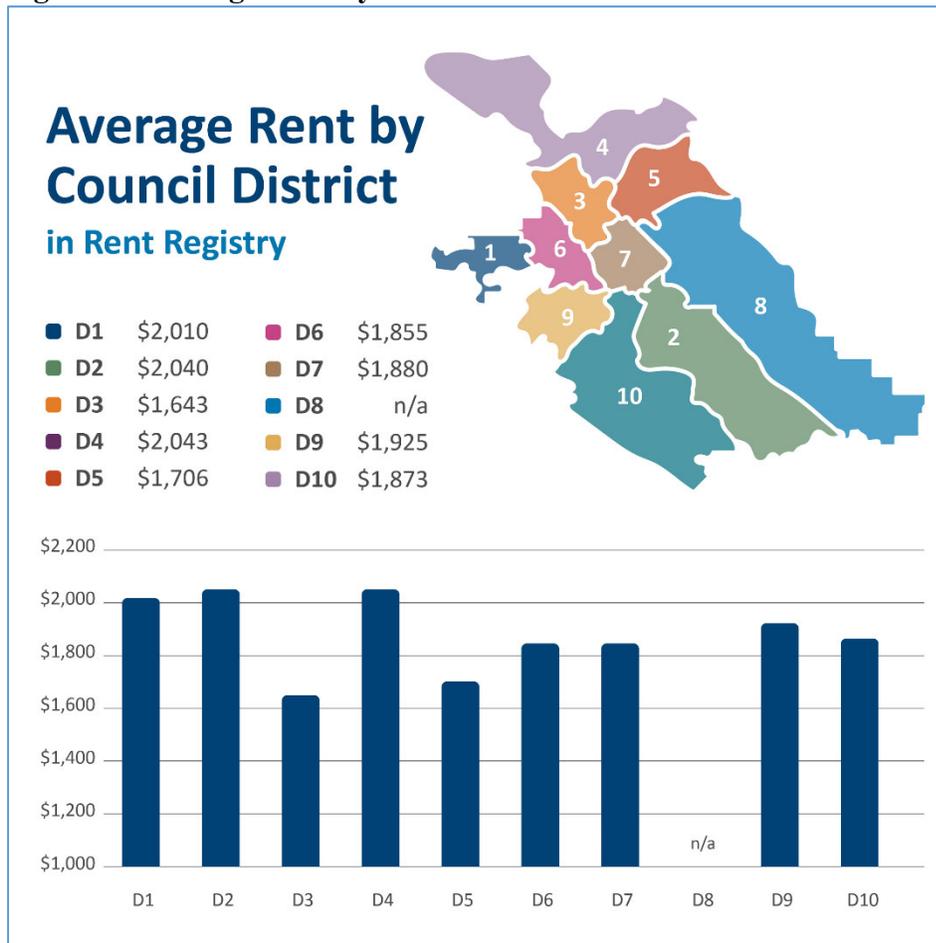


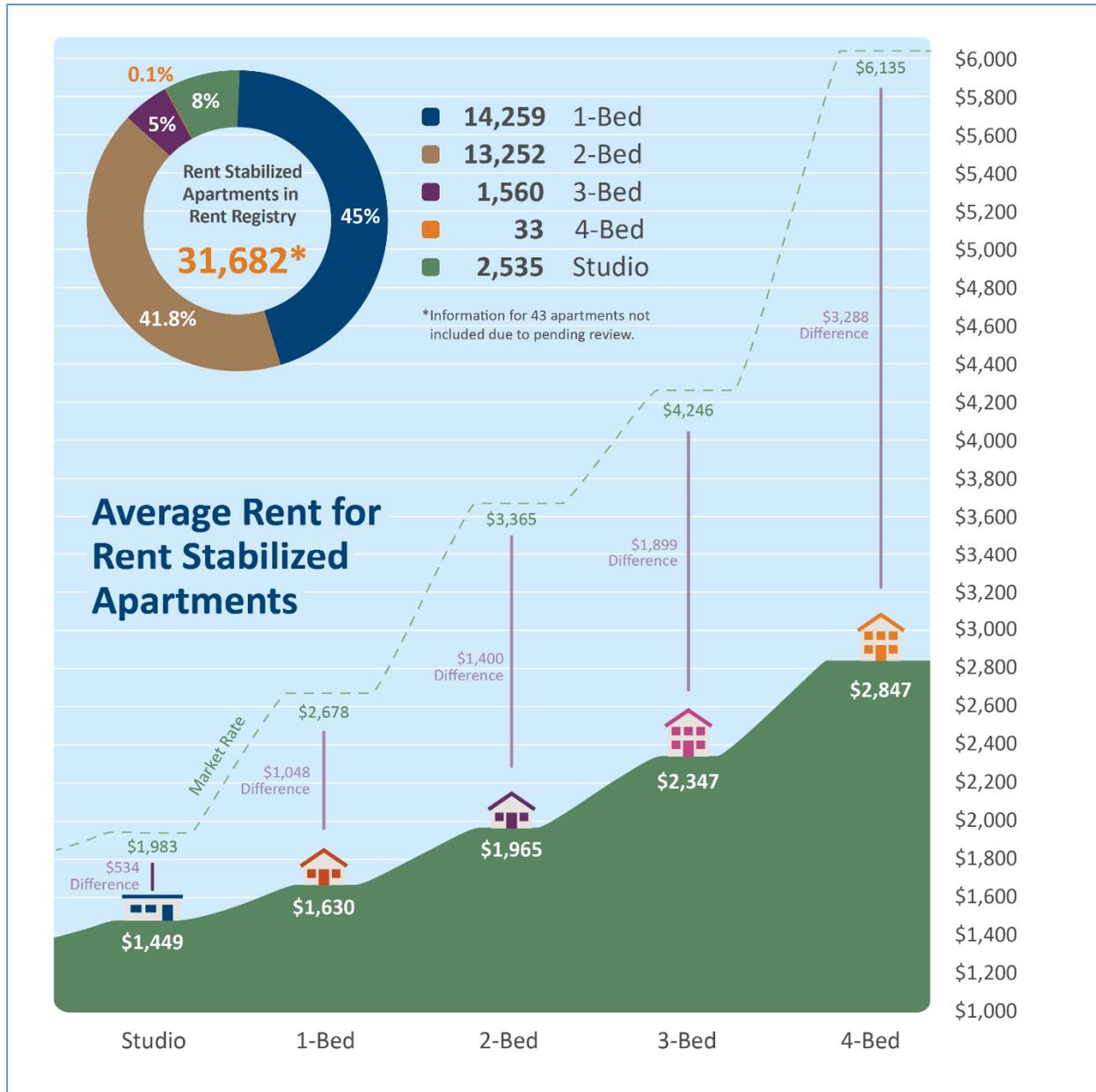
Figure 3 - Average Rent by Council District:



*n/a – Designates no apartments were registered during this period for D8

Prior to the implementation of the Rent Registry, Rent Stabilization Program staff relied on data from sources such as U.S. Census data and subscription services such as CoStar to provide information related to the rental housing market used to develop policy recommendations. Since the implementation of the Rent Registry, data is now available providing a more accurate description of the apartments covered by the Apartment Rent Ordinance. The following is a summary of key findings:

Figure 4 - Average Rent for Rent Stabilized Apartments:



As Figure 4 shows, rents in Apartment Rent Ordinance Apartments are up to 54% Lower than Market Rents.

Rent Registry year two plan - During 2019–2020, staff will implement a system under the Rent Registry allowing for tenant validation of rental data. Also, staff will propose to City Council by end of the year the implementation of administrative citations for unregistered units. The next registration period is tentatively scheduled to start in January 2020 with a 90-day registration

period. Once the Program receives 2 years of data, further analysis and compliance will be available from the rent stabilization community.

The City and staff will increase visibility by having the rent registry generate a report of the rent increases and percentages on a year to year basis. Enforcement of the Ordinance will improve with this report, staff will be aware of rent increases beyond the allowable amount and will inform property owners and management. As the rent registry builds more history, the data will be more insightful and relevant for the rent stabilization community.

Opportunity to Replicate Success - Other Cities are researching and assessing which solution would be the best platform for their online rent registry. They are considering the available staff time to develop and support the product as well as budgeted funds. The City has received feedback by several cities on the efficiency of the Salesforce implementation with the limited resources.

PUBLIC OUTREACH

From August to November 2019, staff conducted seven workshops where owners and property managers received one-on-one technical assistance from housing staff to register their properties. These workshops were held in computer labs at the Roosevelt Community Center and Martin Luther King Library. There was an average of 15 attendees per workshop.

/s/

RACHEL VANDERVEEN
Deputy Director, Housing Department

For questions, please contact Fred Tran, Acting Program Manager of the Rent Stabilization Program, at 408-975-4443.



Memorandum

TO: HOUSING AND COMMUNITY
DEVELOPMENT COMMISSION

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: November 7, 2019

Approved

Date

**SUBJECT: COMPLETION OF THE RATIO UTILITY BILLINGS SYSTEM
PETITIONS UNDER THE APARTMENT RENT ORDINANCE**

RECOMMENDATION

Review the staff report on completion of the Ratio Utility Billing Systems (RUBS) Petitions Under the Apartment Rent Ordinance in FY 2018-19.

BACKGROUND

This memorandum is an update on the Apartment Rent Ordinance (ARO), Ratio Utility Billing System (RUBS) petition process. Chapter 17.23.315 sets a limitation on pass through charges landlords may impose on tenants only when the City approves such a pass through. The Ordinance and its accompanying Regulations allowed landlords to file a petition from July 5, 2018 to October 31, 2018. Staff has completed a review and issued findings for all the petitions submitted under the RUBS.

On April 24, 2018, the City Council accepted the staff report and an amendment to the Apartment Rent Ordinance providing clarification that RUBS is not allowed and established a petition process for landlords with existing RUBS contracts. The City Council requested staff to work with the City Attorney's Office to prepare an amendment to the ARO clarifying that RUBS will be allowed until the offset RUBS petitions are reviewed and a determination is made. The Mayor inquired about the possibility of including utility agreements executed after the January 1, 2018 date. Staff clarified that landlords who had an established business practice of offering utility pass through agreements to all tenants could also participate in the offset petition process for agreements executed after January 1, 2018. On May 22, 2018, the ARO was amended to allow owners to petition for a one-time rent increase to offset the cost of utilities. Subsequently, staff provided outreach to landlords on how to notice their tenants, complete the petition, and process the supporting documentation. Mailers with information on the transition were sent to property owners in June 2018 on how to submit information for their units. The

RUBS Offset petition offered owners two options: to either submit the petition electronically or by hard copies.

ANALYSIS

The Department's Rent Stabilization Program (Program) oversees and administers the ARO in San José. The Ordinance and its accompanying Regulations sets a limitation on pass through charges that landlords can request. The landlord is required to submit a RUBS petition which must be approved by the City before the landlord is allowed a one-time passthrough of utility charges to tenants. The timeline set to file a landlord RUBS Petition was from July 5, 2018 through October 31, 2018.

Landlords with written utility pass-through rental agreements for water, sewer and/or garbage and/or gas and electricity that were in place prior to January 1, 2018, could file a petition. Landlords were required to submit their petition along with supporting documentation to the Program. The Rent Stabilization Program received 130 RUBS petitions between July 1, 2018, and October 31, 2018 covering 6,480 apartments, which represents about 16.66% of the total number of ARO apartments.

Submitted landlord petitions ranged from a 3-unit apartment complex to an 800+unit apartment complex. Rental agreements, pre-filing forms, and billing invoices and ledger submissions ranged from a several pages for small apartment buildings to boxes of paperwork for large apartment complexes.

Landlords were allowed to continue to charge for RUBS until a decision had been reached by a Petition Examiner or a Hearing Officer. Landlords who did not file a timely petition were not allowed to collect any utility charges after October 31, 2018. The action steps taken by staff to process the petitions included:

1. Accepted and verified the landlord's petition and supporting documentation.
2. Provided written notification along with telephone follow up to the landlord regarding missing documentation and/or an incomplete petition. Staff provided landlords additional time to submit requested information.
3. Once petition was deemed complete, staff notified the landlord and impacted tenants by mail with a Notice of Complete Petition. Staff also sent impacted tenants an Offset Petition Response Form for tenants to contest the validity of the information provided in the landlord's petition within a fourteen (14) day period.

During the filing of the petitions, there was an increase in telephone inquiries from landlords requesting assistance in RUBS paperwork submissions and tenants requesting information about the RUBS process. To address this heavy workload, two full-time temporary staff were hired to assist in the RUBS petition review.

Once petitions were completed, petitions were assigned to a City staff member who served in the capacity of a Petition Examiner. The action steps taken by the Petition Examiner included:

- Reviewed petitions and corresponding documentation which required additional time for review.
- Requested additional information from the landlord, such as originals submitted in the event documents appeared to be incomplete, altered, and/or non-contemporaneous.
- Reviewed tenants' Offset Responses and spoke with tenants when necessary to obtain additional information and comments.
- Referred the landlord's petition to a Hearing Officer if needed or made a determination if the landlord met the burden of proof for the Offset petition.

Once the Petition Examiner made a determination of the landlord's petition, the Petition Examiner issued a Tentative Administrative Decision to the landlord and all tenants. Ten (10) days later, a Final Administrative Decision was issued. Three petitions were heard by an Administrative Hearing Officer.

OUTCOME

Staff received 130 landlord petitions impacting 6,480 apartments, 47 unique owners/property managers were involved and the outcomes were as follows:

- 101 petitions approved through administrative decisions, impacting 5,613 apartments
- 22 petitions ineligible, impacting 784 apartments
- 3 petitions approved through hearing decisions, impacting 48 apartments
- 4 petitions pending hearings, impacting 35 apartments—A Petition Examiner made a determination.
- Pass through of utility charges ranged from a low of \$51.61 to a high of \$102; the average increase was \$70.09.

/s/

JACKY MORALES-FERRAND
Director, Housing Department

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