



Memorandum

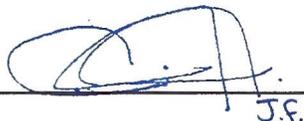
**To: HONORABLE MAYOR AND
CITY COUNCIL**

From: Councilmember Chappie Jones

Subject: RENT CONTROL

Date: April 8, 2016

Approved:



J.F.

RECOMMENDATION

1. Annual allowable rent increases:
 - a. Maintain a fixed rate limiting rent increases to no more than 5% per year.
 - b. Allow banking of annual rent increases, when an owner does not increase rents, with a maximum bank of 10%.
 - i. Put a ceiling of 8% annually, i.e., any combination of banking with the capital improvement pass-through may not exceed 8%.
 - ii. Reset the bank upon a voluntary vacancy.
 - iii. Require tenant notification when an owner banks some or all of an annual increase.
 - c. Establish a special allowance for rent reductions that are equal to, or greater than, 5% in a year.
 - i. The previous rent, i.e., before the reduction, becomes the base year.
 - ii. Allow an owner to increase rent back to the base year amount after a minimum of 12 months. This increase would be the maximum allowed increase in that year, i.e., the owner could not bank or utilize the usual 5% annual allowed increase.
 - iii. Reset the bank upon returning to the base year rent.
 - iv. Require tenant notification when an owner reduces rent under this allowance that includes the newly establish base year amount.
 - d. The effective date of the new allowable rent increases would be January 1, 2017 or the effective date of the new ordinance, whichever comes first.
2. Debt Service Pass-Through:
 - a. Eliminate the debt service pass-through provision.
3. Capital Improvement Program:
 - a. Establish a new Capital Improvement Program that allows owners to recover reasonable costs associated with major improvements to the property.
 - i. Direct staff to work with stakeholders to develop a comprehensive list of those improvements which would be allowed under the new Capital Improvement Program.
 - b. Create a simple and predictable process that allows owners to show receipts or other verifiable proof of payment associated with repairs/improvements, and would not require a hearing.

- c. The total capital improvements through this program, combined with the annual allowable rent increase (5%) and any available banked amount, shall not exceed 8% total.
 - i. In years when the Capital Improvement Program is used, an owner cannot bank any portion of the annual allowable rent increase for that year.
 - d. Capital improvement costs are amortized over 60 months and applied equally across all units in the building.
4. Notification requirements for notices to vacate and rents charged to tenants in properties subject to the Apartment Rent Ordinance:
- a. No changes to 60/90/120-day notification requirements, but increase the vacancy rate necessary to declare a “tight market” to 4% and review vacancy twice a year.
 - b. Require owners to:
 - i. Provide new tenants with a copy of the Rent Control Ordinance and Frequently Asked Questions sheet.
 - ii. Provide new tenants with a breakdown of the total rent charged, including the base rent and any additional rent charges outside of base rent, i.e., Capital Improvement Program.
5. Amendments to facilitate monitoring and enforcement of the Apartment Rent Ordinance:
- a. Create an online rent registry that requires tenant and rent information on an annual basis.
 - i. This registry must utilize best available practices and technology working with the Mayor’s Office of Innovation.
 - b. Provide outreach, education, and training to assist owners in adopting this new registry and ensure compliance.
 - c. Ensure that there are adequate measures in place to protect the privacy of tenants and owners.
6. Staffing levels to monitor and enforce Apartment Rent Ordinance:
- a. Refer question of appropriate staff level to the City Auditor to make recommendations based on the best practices of other cities, taking into account changes to rent ordinance as well as an Anti-Retaliation and Protection Ordinance.
7. Recommend creation of an Anti-Retaliation & Protection Ordinance (ARPO)
- a. Include recommendations from staff proposal and return to the City Council with a draft ordinance.
 - b. Conduct additional public outreach on this proposal.
8. Recommend creation of a Responsible Relocation Assistance Ordinance.
- a. Return to City Council with a draft Responsible Relocation Assistance Ordinance.
 - b. Including the following provisions:
 - i. The Responsible Relocation Assistance Ordinance is triggered when a landlord files an application to remove 4 or more rental units from the market to either remodel or rebuild within 1 year.
 - ii. Landlord must notify all tenants within 30 days of filing an application with the City. Notice shall include at least the following: (1) name and address of current property owner and project developer, (2) description of application being filed and estimated time frame, (3) explanation of available relocation assistance and

- eligible households and when the particular assistance will be available. Landlord will issue another notice to all tenants within 120 days of displacement.
- iii. A subscription to a rental agency, paid for by the landlord and hired by the City, for all tenants.
 - iv. Full refund of security deposit for all tenants.
 - v. Relocation payment for low- and very low-income households totaling 3 months of market-rate rent (based on the median monthly rent for a similar-sized unit with the same number of bedrooms and bathrooms). An eligible residential household for relocation payments is a displaced household whose annual household income does not exceed 80 percent of the median household income for Santa Clara County. An additional \$3,000 for special populations including: elderly, disabled, and families with 1 or more minor dependent children.
 - vi. Payments are made by unit, not by tenant.
 - vii. Rental units ineligible under Responsible Relocation Assistance program: (1) lease expired and has not been renewed, (2) residential unit has not paid rent or, (3) residential household received written notice, prior to entering a written or oral agreement to become a tenant that an application to convert their rental unit to another use was on file or approved, and such conversion would lead to displacement.
- c. Temporary remodeling, single-family homes, mobile homes, and residential hotels are not covered under the Responsible Relocation Assistance Ordinance.
 - d. Administer the program in a manner that minimizes impact on staff and cost of implementation.

BACKGROUND

Over the last year, we have undertaken a very deep look into our current rent control ordinance and its administration. It is clear that there is not agreement on how best to move forward, and those on both sides of the issue are nowhere close to agreement. However, I believe that my proposal strikes the right balance in providing relief to tenants in rent controlled units, while also balancing the interest of owners. Overall under my proposal, no tenant would see a rent increase above 8%, and many would likely be limited to a 5% maximum increase.

Annual Allowable Rent Increase

A fixed annual rate has been a part of our rent control ordinance since its inception, and makes for much easier administration and predictability. However, I believe that we should lower the annual allowable rent increase to 5% in order to strike the right balance between tenants and owners. An owner would be allowed to bank any unutilized increase in a year with a maximum bank of 10%. However, the total increase could not exceed 8% in any year.

In a down market, owners that choose to reduce their rents 5% or more in a year could do so knowing that when the market rebounded they could go back to their previous rent. Tenants would be assured that they would not pay a rent amount that they have not already paid as owners could not increase rent higher than the established base year.

Debt Service Pass-Through

This aspect of our current Rent Control Ordinance has been used only 14 times, on only 124 units total. When it was utilized, it resulted in rent increases on average of over 44%. If a building or complex is to be purchased, the value of that property should be based on the rents attainable under the City's Rent Control Ordinance.

Capital Improvement Program

Given that the current Capital Improvement Program has only been utilized one time, it is clear that apartment owners currently integrate their capital costs into the allowed 8% annual rent increase. The previous program is burdensome and provides too high of a degree of uncertainty for the owner who is looking to make an investment in her/his property. I am proposing a new capital improvement program that allows owners up to an additional 3% rent increase, for what would be no more than an 8% cumulative increase for that year. Owners would be required to provide evidence of the improvements and proof of payment for those improvements. Allowed improvements would be based upon a defined list of types of allowed improvement expenses.

Online Registry for Improved Enforcement

It is clear that there is significant lack of enforcement of the current rent control ordinance. Staffing should be addressed, but the City should also look to implement technology through an online registry that better tracks rent being paid in rent control units.

Staffing levels to Enforce Rent Control Ordinance

The current staffing levels are insufficient to properly enforce our rent control ordinance, more study is needed to better determine the appropriate staffing level. The City Auditor should analyze other cities and make a recommendation to the Housing Department and City Council for consideration.

Anti-Retaliation & Protection Ordinance

In studying Just/Good Cause protections in other cities, it is clear that these rules often have too many unintended consequences. However, we can do more to protect tenants. The staff recommendation of an Anti-Retaliation & Protection Ordinance appears to be a good way to offer these increased protections. The City should work with stakeholders to establish this framework and ordinance.

Responsible Relocation Assistance Ordinance

As we encourage new residential and commercial development in our city, we must also do so responsibly. Although the city, and region as a whole, is facing a housing shortage, we must mitigate the negative impacts of this growth on our most vulnerable populations. The purpose of the Responsible Relocation Assistance Ordinance is to mitigate the adverse economic impacts on low- and very low-income residents of rental housing, who are displaced from their residences due to demolition or remodeling of a rental unit.