



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** April 18, 2016

Approved

*D. D. SyL*

Date

*4/18/16*

## SUPPLEMENTAL

**SUBJECT: RECOMMENDATIONS FOR MODIFICATIONS TO THE CITY'S  
APARTMENT RENT ORDINANCE**

### REASON FOR SUPPLEMENTAL

This report provides information on the input received from the Housing & Community Development Commission on proposed amendments to the recommended modifications to the City's Apartment Rent Ordinance (ARO), which were heard by the Commission at its April 14, 2016 regular meeting.

### BACKGROUND

On Monday, March 21, the Housing & Community Development Commission (HCDC) held a special meeting to hear the Housing Department's draft recommendations for modifications to the ARO released to the community on March 1. The input provided by HCDC at the March 21 meeting is outlined in the staff report dated April 8. Included in the recommendations provided by HCDC on March 21 was a request that staff return to the Commission if substantial changes (to the recommended modifications) are made before Council makes a final decision. The final recommendations to the City Council contain two additional provisions that were not part of the draft recommendations HCDC heard on March 21.

### ANALYSIS

At its regular meeting of April 14, HCDC provided its input and recommendations on two proposed amendments to the recommended modifications to the City's Apartment Rent Ordinance (ARO). This includes 1) rent adjustments for historically low rents; and 2) the creation of a voluntary mediation program. A representative from the Law Foundation of Silicon Valley was the only person from the public to speak on these items.

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### Historically Low Rents

This provision is proposed as a result of input received from property owners. It would allow for a rent adjustment based on an unusually low base year net operating income that occurs when owners have chosen to keep rents low for a significant period of time and/or there has been very little turnover. As a result, rents are very low to comparable units. If this provision is approved by City Council, the details of the proposal would be developed by staff for review and approval by City Council as part of the modified ordinance.

While the apartment owner representative for the Commission supported this concept, other commissioners voiced concern about how this concept would be implemented if it were approved by the City Council. The primary concern stated was the potential for this provision to become a loophole for owners to significantly raise rents, thereby undermining the purpose of the ARO. Furthermore, it was felt that it was an unnecessary provision given that the maintenance of net operating income would already address the issue of historically low rents through the fair return provision.

Chair O'Connell made the first motion to recommend to the City Council that the HCDC does not recommend the Housing Department's recommendation to include a provision in the Apartment Rent Ordinance to address historically low rents. The motion failed with a vote of 3-4-3. Commissioner Shoor made the second motion to recommend to the City Council that the HCDC does not take a position on the Housing Department's recommendation to include a provision in the ARO addressing historically low rents, but to allow the Housing Department to further study the issue. The motion passed with a vote of 7-3.

### Voluntary Mediation Program

During the public input process, some apartment owners suggested that the City create an ombudsman program to promote good relations between landlords and tenants. The Housing Department's memorandum to City Council will incorporate a recommendation that the City establish a voluntary mediation program to address landlord/tenant and tenant/tenant issues.

Commissioners were supportive of the creation of a voluntary mediation program. Commissioner Johnson made the motion that the City Council approve the Housing Department's recommendation to develop a voluntary mediation program to address landlord/tenant and tenant/tenant disputes so long as the program serves as a compliment to, not a substitute for, stronger policies and enforcement. The motion passed with a 10-0 unanimous vote.

### COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

/s/

Jacky Morales-Ferrand

Director, Department of Housing