



# Memorandum

**TO: CITY COUNCIL**

**FROM: Councilmember Tam Nguyen**

**SUBJECT: SEE BELOW**

**DATE: April 18, 2016**

Approved:

Date:

4-18-16

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

**RECOMMENDATION:**

- 1. Declare a Housing Shortage Emergency.**
- 2. Direct Staff to return with an Urgency Ordinance on Rent Increases and Moratorium on No Cause Eviction until, or the sooner of:**
  - a. Staff Returns with a Rent Ordinance for Rental Rate Limits with this formula (Recommendation B1):
    1. CPI+2 Rate Capping at 6% when CPI is 6% or less.
    2. At CPI Rate when CPI is higher than 6%
  - b. Staff Returns with an Anti-Retaliation and Protection Ordinance (Recommendation C).
  - c. Staff Returns with an Ellis Act Provision (Recommendation D).
  - d. Staff Returns with a Demolition and Conversion Ordinance (Recommendations E and F).
  - e. Staff Returns with a Responsible Relocation Assistance Program (CM Jones Recommendation #8).
  - f. Extend the moratorium until each of these programs is effectively staffed.
- 3. Schedule a Study Session to Discuss a Multi-Faceted Approach to alleviating Our Housing Shortage Crisis with Emphasis on Ways to Increase Housing Supply**

**DISCUSSION:**

**Free-Market Supply-and-Demand Law: Housing Shortage Drives Up Costs**

The proposed modifications will ultimately do little to contain the cost of housing, and improve the rental market for residents who need it the most. Going back the past decade San Jose has fallen over 17,000 housing units short of its RHNA allotment, and coupled with the 35,000 needed over the next

eight years, faces a steep hill to climb. We have permitted an average of 4,600 units a year, but this rate fell to 2,021 in 2015, leaving us far short of the pace necessary to achieve our RHNA goals.

### **Need for ARO Update: 37 Years Too Late**

Our ARO program will be of great relief to the 54% of households in San Jose (64% in District 7) that are rent burdened. Complaints against landlords have increased by 1600% over the last five years and continues to increase. This trend demands our focus and a need for creative solutions. Cases of abuse and retaliatory evictions are rampant on an anecdotal basis, and our Housing Department has never had the staffing or infrastructure to follow up. Once evicted many tenants have no incentive to file complaints or report illegal landlord behavior thus increasing the likelihood of abuse and ARO violations.

### **Temporary Solutions to an Emergency**

Staff's recommendation for an Anti-Retaliatory Ordinance, along with Demolition, Ellis Act, and Councilmember Jones' Relocation Program would provide a means of protecting people should they lose their apartment. Until these are implemented we have no means to ensure tenants' rights will not be violated. By including a moratorium on not just rent increases, but also no cause evictions, we can press pause on people being left on the streets for no reason until our solutions are operational. We need to take this action and provide renters with fair protection in this tough market. As rent continues to rise the incentives for circumventing our ARO policy increases, and tenants are left in greater desperation.

### **Need for A Broader Discussion**

Instead of band-aiding the rent on 1/3 of the rental market, we should explore a solution to the entire problem and avoid the near-sighted mistakes that were made in 1979. We have failed to take advantage of opportunities to address housing in the past 37 years and now we are faced with a crisis because of it. A multi-faceted approach towards solving this should include all of the following points: Inclusionary Zoning; Commercial Linkage; Increasing Supply; Fair Share; and Amending Costa-Hawkins. Some of these are steps we have taken, and some are steps we have failed to take. A study session is needed to have a broader discussion and reflection on whether or not we are doing all we can to provide real housing solutions for San Jose.