



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: April 17, 2017

Approved

D. D. S. L.

Date

4/17/17

SUPPLEMENTAL

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

REASON FOR SUPPLEMENTAL

The reason for this supplemental memo is to: 1) Request that the City Council direct the City Manager to complete additional research regarding the impact of subjecting all replacement units be subject re-control by the Ellis Act; and 2) Provide the City Council with additional research regarding existing Ellis Act Ordinances throughout California.

Re-control of Apartments Returned to the Rental Market (Section 17.23.1180)

The Proposed Ellis Act Ordinance requires that all apartments returned to the housing market within five years of the Notice to Withdraw are subject to the Apartment Rent Ordinance (ARO). The Proposed Ordinance includes a provision that allows the City Council, by resolution, to “exempt some or all of the new units in excess of the number of demolished Covered Units from the requirement for re-control.” This provision allows the City Council to approve the Proposed Ordinance, re-control all new units and subsequently approve a resolution exempting some of the units from the re-control requirement.

As indicated in the memorandum, this provision to re-control one-hundred percent of new units may act as a disincentive to redevelopment. To date, staff has not completed the research necessary to determine the extent of this requirement’s impact on future development. Therefore, staff is recommending the City Council direct the City Manager to complete the following efforts:

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- 1) **Conduct a Developer Stakeholder Meeting** – Convene a stakeholder group of developers to discuss the impacts of the proposed re-control provision in the Ellis Act Ordinance to redevelopment projects.
- 2) **Map the location of ARO units** – Develop a map showing the current locations of ARO units. Determine the likely areas and number of units that may be redeveloped in areas where growth is most likely to occur.
- 3) **Examine Turnover Rates** – When a tenant voluntarily leaves an apartment, the owner is able to reset the rent at market rate. To the extent new market rate developments have high turnover rates, the impact of re-control will be minimized.
- 4) **Complete Research On Other Communities** – Complete research in other communities with Ellis Act Ordinances in place and evaluate the impact of the re-control provision on redevelopment in these cities.

Staff recommends bringing this additional research back to the City Council for consideration of a resolution potentially limiting the extent of the units re-controlled this summer.

Proposed Provisions in Other Communities

The Housing Department gathered additional research on other cities regarding components to the Ellis Act Ordinance. The Proposed Ordinance includes provisions common to existing Ellis Act Ordinances throughout California. A summary of the proposed provisions included in San José's Ellis Act Ordinance are included as **Attachment A** to this memorandum.

/s/
JACKY MORALES-FERRAND
Director of Housing

For questions please contact Rachel VanderVeen, Program Administrator, at (408) 535-8231.

Attachment A

ATTACHMENT A

City of San José	The Reserve	City of Berkeley	City of East Palo Alto	City of Los Angeles	City of Oakland	City of San Francisco	City of Santa Monica	City of West Hollywood
1) Additional Benefits for Qualified (Low-Income, Disabled, or Senior) Households								
<ul style="list-style-type: none"> • Yes • 40% increase of total base relocation for lower income, senior, disabled. 	<ul style="list-style-type: none"> • Yes • Additional payment if disabled, senior, low income, or minor children - \$3,000 . 	<ul style="list-style-type: none"> • Yes • If tenant is elderly, disabled family with minor child, or tenant since before January 1, 1999 eligible for an additional \$5,000. 	<ul style="list-style-type: none"> • Yes • \$2,549.88 added for each category that applies: low-income, disabled, elderly and/or terminally ill 	<ul style="list-style-type: none"> • Yes • Less than three years of tenancy, \$7,900 (if senior (62+)/disabled/minor \$16,650) • More than three years of tenancy, \$10,400 (if senior (62+)/disabled/minor \$19,700) • Incomes below 80% of Area Median Income (AMI), \$10,400 (if senior (62+)/disabled/minor \$19,700) • Evictions for owner occupancy in "Mom & Pop" properties (i.e., own one single family home and four or less unit building), \$7,600 (if senior (62+)/disabled/ minor \$15,300) 	<ul style="list-style-type: none"> • Yes • Additional payment if disabled, 62 years or older, minor children and if low income (based on California Health and Safety Code 50079.5) \$2,500. 	<ul style="list-style-type: none"> • Yes • Additional payment if 62 years or older or disabled: \$3,929.74 	<ul style="list-style-type: none"> • Yes • Studio - \$9,050 (if senior/disabled/minor \$10,350) • One bedroom - \$13,900 (if senior/disabled/minor \$16,000) • Two or more bedrooms - \$18,850 (if senior/disabled/minor \$21,650) 	<ul style="list-style-type: none"> • Yes • Qualified tenant - \$17,087 (62 +/- disabled/minor children/terminally ill/120% AMI) • Lower-income tenant - \$21,517 (i.e., as defined by the California Health and Safety Code Section 50079.5)
2) Right to Extended Eviction Period if Requested for Families With:								
<i>School Aged Children</i>								
Yes	No	No	Yes	No	No	No	No	No
<i>Catastrophically Ill / Terminally Ill</i>								
Yes	No	No	No	No	No	Yes	No	No
3) Inflation Increases for Relocation Assistance								
Yes	N/A	<ul style="list-style-type: none"> • Yes • Adjusted for inflation periodically. 	<ul style="list-style-type: none"> • Yes • Relocation payments adjusted annually on April 1 to account for inflation based on the Consumer Price Index (CPI) for San Francisco-Oakland-San José area. 	No	<ul style="list-style-type: none"> • Yes • Payments shall increase annually July 1 based on CPI Adjustment. 	No	<ul style="list-style-type: none"> • Yes • Updated annually based upon the CPI on July 1 each year. 	<ul style="list-style-type: none"> • Yes • Updated annually and adjusted for inflation by the percentage change in the "rent of primary residence" component of the CPI-U Index for the Los Angeles/Riverside/Orange County area from May to May each year.
4) Fees for Services of a Relocation Specialist								
Yes	Yes	Yes	No	Yes	No	No	<ul style="list-style-type: none"> • Yes • Housing Relocation Fee - \$250 per housing unit where a tenant is displaced and payable to the City for counseling and other related costs. 	<ul style="list-style-type: none"> • Yes • Relocation Counseling Fee - \$400 (qualified/lower income tenants trigger \$640 fee)
5) Requirement for Escrow Account for Dispersing Benefits								
Yes	No	Yes	Yes, requires an escrow account with the City.	No	No	No	Yes	No
6) Voluntary Relocation to Another Apartment Owned by the Withdrawing Owner								
Yes	Yes	Yes, temporary relocation.	Yes, requires landlord to offer available units to tenants.	Yes, temporary relocation.	Yes, temporary relocation.	Yes, temporary relocation.	Yes	Yes, temporary relocation.
7) Owner Reporting Requirement During Withdrawal Period								
Yes	Yes	No	<ul style="list-style-type: none"> • Yes • Annual Filing on year 1, 5, and 10th anniversary of withdrawal. 	No	No	<ul style="list-style-type: none"> • Yes • Owner will report the last day of the third month, sixth month following notice to the Rent Board and by December 31 each year for five years: 1) if unit demolished, 2) if not demolished it is used, 3) if in use, is it residential, 4) if residential, the date of tenancy, 5) if demolished and reconstructed, and 6) if residential the tenancy of each unit. 	No	No