

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: November 25, 2015

Approved

D. D. Sy L

Date

11/30/15

INFORMATION

SUBJECT: STATUS UPDATE ON POTENTIAL MODIFICATIONS TO THE CITY'S APARTMENT RENT ORDINANCE

BACKGROUND

The purpose of this memorandum is to provide the City Council a status update on the process to explore potential modifications to San José's Apartment Rent Ordinance (ARO). This item was identified on June 23, 2015 as the City's second highest policy priority for FY 2015-16. On September 1, 2015, the City Council approved staff's proposed workplan and provided additional direction to advance the following items:

- Potential modifications to Municipal Code Chapter 17.23, the Apartment Rent Ordinance (ARO) including:
 - The annual allowable rent increases;
 - The debt-service pass through;
 - Revised notification requirements for notices to vacate and rents charged to tenants in properties subject to the ARO;
 - Amendments to facilitate monitoring and enforcement of the ARO;
- Consideration of a Just Cause Eviction Ordinance;
- Evaluation of the Staffing levels to effectively monitor, enforce, and analyze the ARO program;
- Evaluation of the inclusion of duplexes as part of the ARO;
- Exploration of income eligibility criteria for rent-controlled units; and
- Convene an Advisory Committee composed of tenants, owners, and advocates to provide input on Council-directed items.

Staff was directed to bring back recommendations for Council consideration in December 2015.

ANALYSIS

Since the September 1, 2015 City Council meeting, staff has undertaken a significant amount of work to advance the Council's policy priority.

Advisory Committee

Per Council direction, a 12-member Advisory Committee was convened, with six members composed of apartment owners/managers and their advocates and six members composed of tenants and their advocates. The Advisory Committee met over several weeks to provide an initial round of input on the Council-directed items:

- September 30, 2015: Presentation on the City's Apartment Rent Ordinance provisions
- October 7, 2015: Income qualification of tenants in ARO units; Inclusion of duplexes
- October 14, 2015: Information on consultant scope of work
- October 17, 2015: Alternative standards to the annual allowable rent increase
- October 21, 2015: Cost pass-through provisions, including debt-service pass-through
- October 28, 2015: Petition and administrative hearing process; Data collection, monitoring, and enforcement
- October 31, 2015: Consideration of a just/good cause ordinance

These meetings were held in several locations. These included the Roosevelt Community Center, the City Hall Rooms W118-120, and the City Council Chambers.

Prior to each meeting, staff sent information via a distribution list composed of over 1,500 individuals. Staff also created a dedicated email for interested parties to subscribe to, as well as a dedicated website that contains all of the information related to this process. Information that can be found on the website includes background information, Advisory Committee meeting agendas, minutes, public comments, and audio recordings. Additionally, written correspondence received by staff via email or physical mail are included under "Public Correspondence." The website is at the following location: <http://www.sanjoseca.gov/index.aspx?nid=4744>. Public attendance was consistently high, ranging between approximately 80 and 120 attendees each meeting, albeit composed primarily of the same apartment owners/managers representing small landlords. While some tenants and tenant advocates did attend the meetings, they comprised a small proportion of the public participants. Each meeting was conducted by Shawn Spano, a third party facilitator.

Consultant Report

The City has procured consultants to perform an analysis of the apartments which are subject to the ARO Ordinance. The analysis will include the following topics:

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- An economic analysis on apartments under the ARO,
- Demographic and socio-economic conditions of ARO tenants,
- A comparison of ARO and non-ARO rents,
- An assessment of other ARO and non-ARO apartment characteristics - such as building quality and age.

Based on public input to utilize as much historical data possible, the consultant work was expanded to include additional Census data. The study is currently underway and it is anticipated that a draft will be available for public review by the end of 2015.

NEXT STEPS

Staff has modified the workplan to bring recommendations for Council consideration on March 22, 2016.

- December 7, 2015: Advisory Committee meeting to receive information and to provide feedback on summary of Committee and public input.
- End of 2015: Release public draft of consultant report.
- Mid-January 2016: Advisory Committee meeting to provide input on draft consultant report.
- Mid- to Late-February 2016: Hold two general public meetings and one Advisory Committee meeting to provide input on staff's draft recommendations for potential modifications to the ARO.
- March 10, 2016: Housing and Community Development Commission to provide input of staff's draft recommendations for potential modifications to the ARO.
- March 22, 2016: City Council consideration of staff's recommendations for potential modifications to the ARO.

Given the multiple perspectives on this topic, staff has included four additional meetings (as noted in the above timeline) that were not originally in the workplan approved by Council in September 1, 2015. These include two additional Advisory Committee meetings and two general public meetings to obtain input on staff's recommendations. The revised workplan ensures that both the Advisory Committee and the public have sufficient time to respond to both the consultant report and staff recommendations.

/s/

Jacky Morales-Ferrand

Director, Department of Housing

For questions, please contact Wayne Chen, Acting Division Manager, at (408) 975-4442.

