

## Alameda Renters Coalition

### Analysis of 8% Annual Rent Increases over 10 Years

	Year	8%	Increase	New Rent
10	2025	8%	\$320	\$4,318
9	2024	8%	\$296	\$3,998
8	2023	8%	\$274	\$3,702
7	2022	8%	\$254	\$4,328
6	2021	8%	\$235	\$3,174
5	2020	8%	\$218	\$2,939
4	2019	8%	\$202	\$2,721
3	2018	8%	\$186	\$2,519
2	2017	8%	\$173	\$2,333
1	2016	8%	\$160	\$2,160
Base	Pre-2016	n/a	n/a	\$2,000

January 5, 2016

Submitted by John Klein  
Re: b-c  
1-5-16

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## Alameda Renters Coalition

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### Mom-and-Pop Landlords

- *In August (2015) rents spiked 3.6 per cent over the same time a year earlier, the fastest pace since 2008.*

*Naturally, people collecting rents are thrilled with the gains they are seeing. Both large apartment investors and mom-and-pop landlords are enjoying the best conditions they've seen in years.*

Yun Lawrence (Sr. VP of Research at the National Association of Realtors) October, 2015, "Why Renters Can't Make the Move," <http://realtormag.realtor.org>

- *"The greatest returns are actually in markets like San Jose and San Francisco where there are short-term monthly losses, but the long-term earned equity makes them the best markets to invest in."*

Humphries, Stan Dr. (Zillow Chief Economist) August 26, 2014, "Best Cities for Small Landlords," Apartment Management Magazine.

## Alameda Renters Coalition

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January 5, 2016

Submitted by Duane Moles  
For Renters' Presentation  
Re: 6-C  
1-5-110



# LAW FOUNDATION of Silicon Valley

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January 4, 2016

**SENT VIA EMAIL.**

Mayor Trish Herrera Spencer  
Members of the City Council  
City of Alameda  
2263 Santa Clara Avenue  
Alameda, CA 94501

**Re: Item 6.C. Renters' Rights Protections**

Dear Mayor Spencer and Members of the City Council:

I am an attorney at the Law Foundation of Silicon Valley, which provides free legal services to Santa Clara County residents on a variety of legal issues, including landlord-tenant disputes, housing discrimination, and evictions. I am writing at the request of Tenants Together to share some of our experience with San José's current Apartment Rent Ordinance since the three Draft Rent Ordinances that you will be considering have elements that are similar to portions of San José's Ordinance.

As you likely know, San José is currently in the process of updating its Apartment Rent Ordinance. The current Ordinance is not effective at protecting long-term tenants from unaffordable rent increases. The result of these increases is that renter families are overpaying for housing, living in overcrowded or uninhabitable conditions, being forced to move out of San José altogether, or becoming homeless. The Law Foundation is active in the Renters' Rights Coalition of Silicon Valley, which supports reforms to strengthen San José's Ordinance, including reducing the allowable annual rent increase from 8% to 2% and adopting just cause eviction protections for tenants citywide. I have attached our Coalition's Statement of Principles for your reference.

**An 8% Annual Allowable Rent Increase Is Too High.**

San José's Apartment Rent Ordinance allows for annual rent increases of up to 8% (or 21% if the rent has not been increased in the last 24 months).<sup>1</sup> The Ordinance presumes that rent increases of up to 8% are reasonable, and landlords may increase rents by more than 8% annually by utilizing a variety of pass-through provisions. However, because

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<sup>1</sup> San José Mun. Code, §§ 17.23.180, 17.23.210.

Submitted as the LS-16  
meeting  
Re: 6-C

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tenants cannot expect their incomes to increase by 8% annually, such increases far outstrip the ability of most tenants to afford their homes.

San José's annual allowable increase was set at 8% in 1979, when inflation was over 10%. In contrast, the annual percentage change in the CPI-U for the San Francisco Bay Area MSA for October 2015 was 2.6%.<sup>2</sup> Wages in Silicon Valley are increasing by less than 2% a year,<sup>3</sup> and public benefits increase by even smaller increments—indeed, seniors and people with disabilities who rely on Social Security benefits for their income will get zero cost of living adjustment in 2016. Given that so many members of our community are already overpaying for rental housing,<sup>4</sup> rent increases of 8% are far beyond what low- and moderate-income tenants can afford.

Our Coalition is advocating for an annual allowable increase that more accurately reflects the current economic reality, an allowable increase of no more than 2%. One method for achieving this objective is to set the allowable increase at a percentage of the annual change in CPI, as is done in several other California cities. This method would allow the rent control policy to be more responsive to fluctuations in the economy and would be both fairer and more effective over time than a static 8% figure. A lower allowable increase may be coupled with provisions that allow landlords to pass through certain increases in the cost of operations, capital improvements, etc., so that landlords still have incentives to make repairs and improve their properties.

We encourage Alameda likewise to consider an annual allowable increase that is tied to CPI or otherwise protects tenants from exorbitant rent increases. San José's model of 8% is not effective in preventing overpayment, overcrowding, or displacement.

### **Just Cause Eviction Protections Are Necessary to Prevent Retaliation and to Make Rent Control Meaningful.**

Another major shortcoming of San José's current Apartment Rent Ordinance is that it does not include adequate protection from eviction without cause. While San José's Ordinance provides that landlords are still bound by its rent control provisions "where the vacancy arises from the landlord issuing a tenant a notice to vacate, which notice does not state a reason for eviction that would legally entitle a landlord to evict a tenant on three days [sic] notice under Section 1161(2) through 1161(4) of the California Code of Civil Procedure,"<sup>5</sup> this provision is not effective at preventing landlords from using no-cause evictions to circumvent rent control. While, in theory, such a policy removes the financial incentive for a landlord to evict a tenant in order to re-rent the unit at market-rate, the policy is, as a practical matter, extremely difficult to enforce. The tenant who has been evicted is no longer in the unit (and may still be in crisis as a result of being

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<sup>2</sup> [http://www.bls.gov/regions/west/news-release/ConsumerPriceIndex\\_SanFrancisco.htm](http://www.bls.gov/regions/west/news-release/ConsumerPriceIndex_SanFrancisco.htm)

<sup>3</sup> <http://siliconvalleyindicators.org/data/economy/income/average-wages/>.

<sup>4</sup> See City of San José Adopted Housing Element 2014-2023, p. III-15, available at <https://www.sanJoseca.gov/index.aspx?nid=1275>; see also <http://siliconvalleyindicators.org/data/place/housing/rental-affordability/>.

<sup>5</sup> San José Mun. Code, § 17.23.190, subd. (B)(2).

forced from his home); the new tenant doesn't know what the old tenant was paying. Most of the time landlords are left to comply voluntarily—or not—without effective oversight by the City or recourse for tenants. In contrast, requiring just cause for eviction would prevent landlords from evicting tenants unless they can state an objective, legally sound reason why the tenant is being evicted, preventing the landlord from violating the ordinance in the first place.

Making rent control more effective is not the only purpose or the only benefit of just cause eviction protections. Under California law, landlords can force tenant from her home without stating any objective reason why the tenant is being evicted. This imbalance of power, which is exacerbated by the lack of affordable housing options for low-income families, creates an environment in which tenants fear retaliation and are vulnerable to abuse. While using the eviction process to discriminate or retaliate against a tenant is illegal, it can be extremely difficult for tenants to assert discrimination or retaliation as defenses in eviction court. For tenants, many of whom are not represented by attorneys and/or do not speak English, providing the evidence necessary to prove the defense is often impossible. In contrast, landlords (most of whom do have access to attorneys) do not need to provide any explanation—much less proof—why a tenant is being evicted.

Beyond the situations in which landlords use no-cause tenancy termination to evict tenants for illegal, unfair, or trivial reasons, the ability of landlords to evict tenants without proving any wrongdoing on the tenants' part deters tenants from requesting repairs or reporting harassment. We hear frequently from families who have been living in uninhabitable conditions and from women who have been subjected to repeated unwanted sexual advances from their landlords. When asked why they didn't request repairs or make complaints, tenants say that stayed silent out of fear that their landlord would evict them. Our low-income clients have extremely limited housing options, so they put up with unsafe, unfair, and abusive conditions for fear of receiving a no-cause eviction notice.

Just cause eviction protections are essential to creating a community in which tenants are protected from unfair evictions and feel secure in their homes.

We are glad that the City of Alameda is considering stronger renter protections, and we hope that this perspective is helpful to you as you weigh the policy options. If you have any questions, please feel free to contact me at (408) 280-2429 or [melissam@lawfoundation.org](mailto:melissam@lawfoundation.org).

Many thanks,

/s/

Melissa A. Morris  
Senior Attorney

**Core Coalition  
Members:**



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# Renters' Rights Coalition

of Silicon Valley

## Statement of Principles

San José is experiencing a rental housing crisis of historic proportions. Rents have been increasing at 10% or more every year since 2010, with no end in sight. The average two-bedroom apartment rent here is now over \$2500.

A quarter of San Jose renter families pay over half their income for rent, causing needless suffering, overcrowding, stress, code violations, dislocation, and often homelessness. Renters priced out of our city are forced to commute long distances to work here, clogging our highways and damaging the environment and our quality of life. A recent study shows that homelessness in our region costs local governments over half a billion dollars a year.

*This is a humanitarian crisis.*

The City of San José should respond to this crisis by:

- **Reducing the annual increases allowed by San José's Apartment Rent Ordinance from 8% down to no higher than 2%.**
- **Requiring landlords to demonstrate just cause before terminating tenancies, as required in other large California cities.**
- **Ensuring that the Apartment Rent Ordinance's rent stabilization protections cover as many housing units as possible, including smaller units and units rented to Section 8 voucher holders.**
- **Ending discrimination against tenants with Section 8 housing choice vouchers and other housing subsidies, either by ordinance or by effective incentives.**

Strengthening San José's rent ordinance is a cost effective solution that will stabilize rents for tens of thousands of working families, seniors, people with disabilities, and others at risk of displacement. It will also stem the erosion of San José's affordable housing stock.

San José's existing rent ordinance is far weaker than those in other Bay Area cities and there is no legitimate reason why our city's renters should be denied the same protection provided in nearby communities.

We must act now to prevent displacement of low- and moderate-income tenants, and to promote the stability of our neighborhoods, by passing strong renters' rights protections.

## San José Rent Stabilization and Just Cause Eviction FAQs

**What is rent stabilization?** Rent stabilization policies limit how much landlords can increase rents for in-place tenants, usually based on a percentage cap or an amount that is tied to the Consumer Price Index. When the tenant moves out, the landlord can increase the rent to market rate.

**Is all rental housing covered by rent stabilization?** No. In California, rent stabilization *cannot* be applied to single family homes, condominiums, or housing built after 1995. San José's existing rent stabilization ordinance generally applies to non-subsidized apartment buildings of 3 or more units that were occupied before 1979.

**Why do we need to improve San José's rent stabilization ordinance?** San José's allowable increases are **too high to provide stability for renters**. San José's ordinance allows rent increases up to 8% annually or up to 21% if the landlord has not increased the rent in the last 2 years. If the increase is more than 8%, the tenant can appeal, but the increase may still be allowed if the landlord can justify it. These increases far exceed the ability of many tenants to afford their rent, which leads to overpayment, overcrowding, and the loss of housing. San José's existing ordinance is failing to prevent the displacement of working families from their homes.

**Can landlords afford to maintain their rent stabilized properties?** Yes. All California rent stabilization programs ensure that landlords can maintain and improve their properties. Most do this by permitting pass-throughs of certain expenses that are above the allowable yearly rent increase. Also, landlords may increase rents when housing units are vacant, so they may charge market rates to new tenants. Existing studies from around the country show that rent stabilized properties are maintained just as well as similar market rate properties.

**How does rent stabilization affect the larger housing market?** Rent stabilization policies are intended to protect tenants from being displaced by exorbitant rent increase and are extremely **effective in providing stability for in-place tenants**. Studies have shown that, at a citywide level, stabilized rents tend to be roughly the same as non-stabilized rents, and some economists have found that modern rent stabilization programs make housing markets function more efficiently. Furthermore, because rent stabilization cannot be applied to newly constructed housing in California, it **has no impact on new housing production**.

**What is a just cause eviction requirement?** In California, landlords can evict tenants for any non-discriminatory (or no) reason with as little as 30 days' notice. Local governments can pass ordinances that require landlords to have "just cause"—or a good reason—before they evict tenants. Under these ordinances, a landlord can evict a tenant if the tenant breaks the law, misses rent payments, or violates the lease. The landlord has to **provide an explanation in writing why the tenant is being evicted** and prove the eviction is justified in court.

**Why do we need just cause eviction protections?** Just cause protections are essential to providing **housing security** for tenants. Given the high cost of housing in Silicon Valley, tenants who lose their housing often face homelessness or are forced out of the Bay Area altogether. These protections help to ensure that tenants who pay rent and follow the rules have stability in their housing. Additionally, these protections are **essential to make rent stabilization meaningful**. Rent stabilization only applies to in-place tenants, and a landlord can raise the rent to market rate if the home is vacant. San José currently has rent stabilization *without* just cause eviction protections. Although the ordinance does not allow landlords to increase rents beyond 8% following the eviction of a tenant without cause, this provision is not enforced and would be difficult to enforce.

**If San José adopts a just cause eviction ordinance, will landlords still be able to evict tenants who cause problems on the property?** Yes. If a tenant fails to pay rent, violates the lease, commits a crime, damages the property, or creates problems for other tenants, the landlord may evict the tenant. The landlord has to identify the reason for the eviction in writing, and, if it goes to court, the landlord to prove that the reason given for the eviction, but the burden of proof in court is fairly low—the reason is more likely than not to be true.



I BELIEVE THIS MEETING  
IS BEING HELD IN VIOLATION  
OF THE BROWN ACT BECAUSE  
THE PUBLIC IS NOT ABLE TO  
ATTEND AT 4 A.M.

William E Rowan