

Memorandum

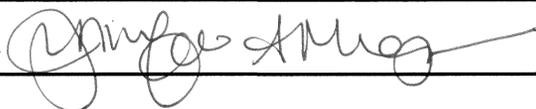
TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jacky Morales-Ferrand

**SUBJECT: RENT STABILIZATION
PROGRAM ANNUAL REPORT
2018-2019**

DATE: November 25, 2019

Approved



Date

11-25-19

INFORMATION

BACKGROUND

The Rent Stabilization Program Annual Report 2018-2019 (**Attachment A**) provides the public with information regarding the program and presents a wide range of housing data collected, including rent levels, tenant buyouts, petitions, and just cause notices. The Housing Department publishes annual reports on the Rent Stabilization Program on the Housing Department's website¹.

Over the past year, the program team implemented significant changes to both the Apartment Rent Ordinance and Tenant Protection Ordinance, processed Ratio Utility Billing Systems petitions for over 6,000 apartments, registered over 29,000 rent stabilized apartments for the Rent Registry, and responded to nearly 5,000 inquiries from owners and tenants. The Rent Stabilization Program continues to be a resource for owners and tenants seeking information on their rights and responsibilities related to the Apartment Rent Ordinance, Mobilehome Rent Ordinance, Tenant Protection Ordinance, and Ellis Act Ordinance.

COORDINATION

The memorandum was coordinated with the City Attorney's Office.

/s/

JACKY MORALES-FERRAND
Director of Housing

For more information, contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.

Attachment A – Rent Stabilization Program Annual Report 2018-2019

¹ <http://www.sanjoseca.gov/index.aspx?nid=1356>



Housing

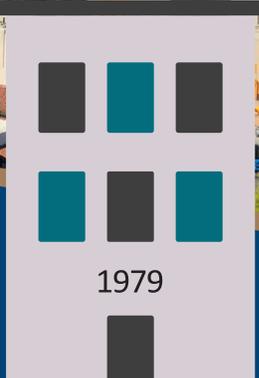
2018

2019



Rent Stabilization Program

Annual Report



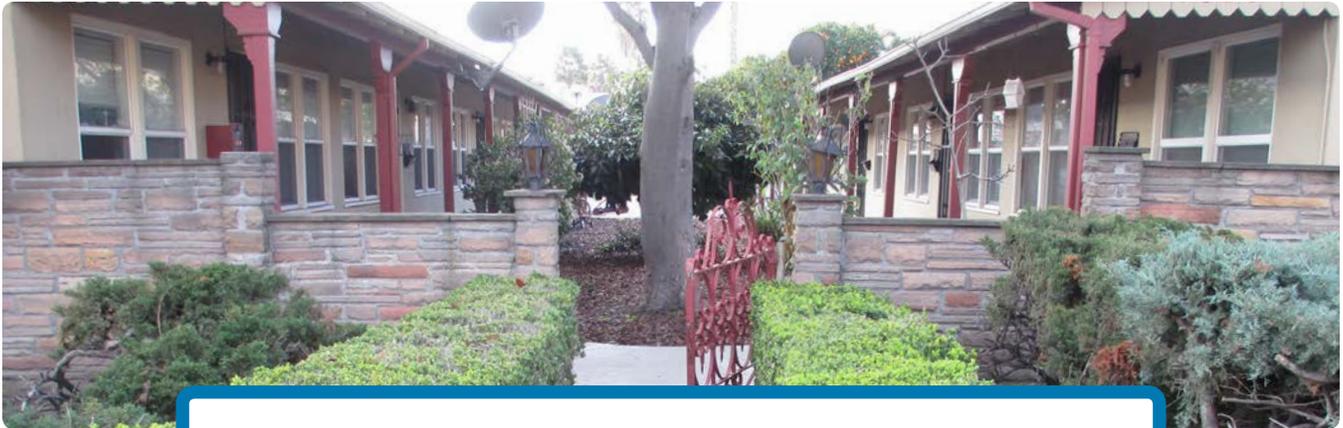


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About the Rent Stabilization Program (RSP)

The Rent Stabilization Program provides services to owners, managers and tenants of apartments and mobilehomes. The services include:

- **Staffing information lines**, responding to general inquiries, and meeting with owners and tenants to discuss issues, provide answers and offer solutions to problems;
- **Developing and implementing policies**;
- **Managing submissions of notices of termination of tenancy**, including reviewing submitted notices for accuracy and analyzing trends;
- **Managing tenant and owner petitions**, and scheduling mediations and administrative hearings;
- **Engaging with, and educating, community members**, via mailings, presentations to community groups, site visits to apartment complexes and mobilehome communities, fact sheets and brochures, website updates, and multilingual workshops.

Message from Housing Director

The Rent Stabilization Program Annual Report for 2018–2019 summarizes the program team’s work and presents a wide range of housing data collected during one of the most consequential year’s in the program’s history. Over the past year, the program team rolled out the Rent Registry, implemented significant changes to both the Apartment Rent Ordinance and Tenant Protection Ordinance, processed Ratio Utility Billing Systems petitions for over 6,000 apartments, and responded to nearly 5,000 inquiries from owners and tenants.

The program team’s work during the past year has laid the foundation for important advances in 2019–2020, including proactive enforcement of key provisions in the Apartment Rent Ordinance, and increased automation in the collection of rental housing data. The Rent Stabilization Program continues to play a critical role in stabilizing San José’s rental housing market, and has become an invaluable resource for tenants and owners seeking assistance in understanding their rights.



Jacky Morales-Ferrand, *Director of Housing*

Program Staff



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Staff Specialist



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Deputy Director



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Staff Specialist



Monica Velarde
Analyst

EXECUTIVE SUMMARY

Annual Report 2018–2019

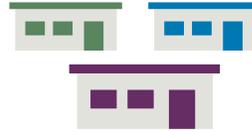
Span of Responsibility



38,867
RENT STABILIZED
APARTMENTS



49,133
NON-RENT STABILIZED
APARTMENTS

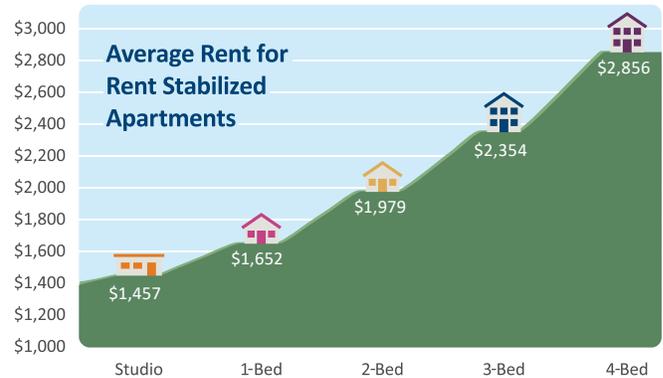
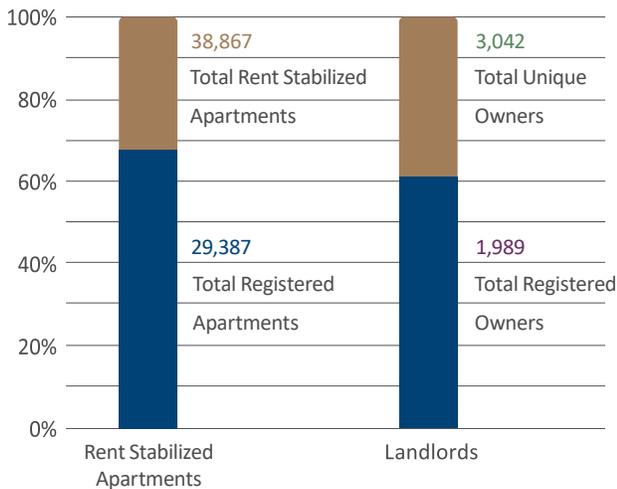


59
MOBILEHOME
PARKS



10,840
MOBILEHOME
SPACES

Rent Registry Data



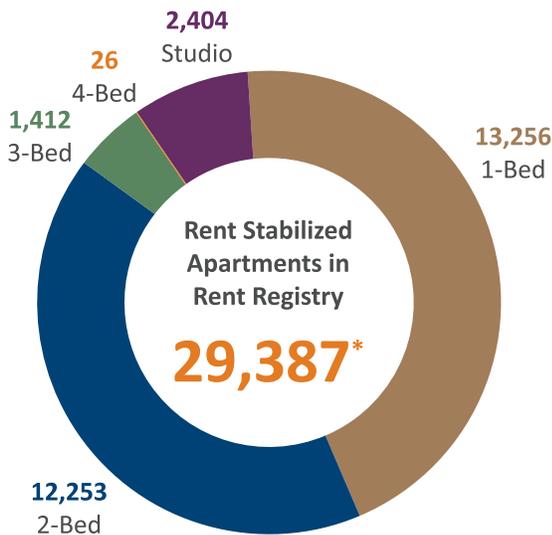
12

Tenant Buyouts



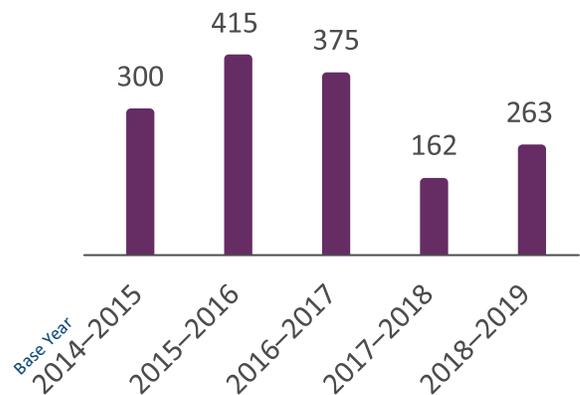
\$29,050

Average Tenant Buyout per Household



*Information for 36 apartments not included due to pending review.

Owner and Tenant Petitions Filed from 2014-2019

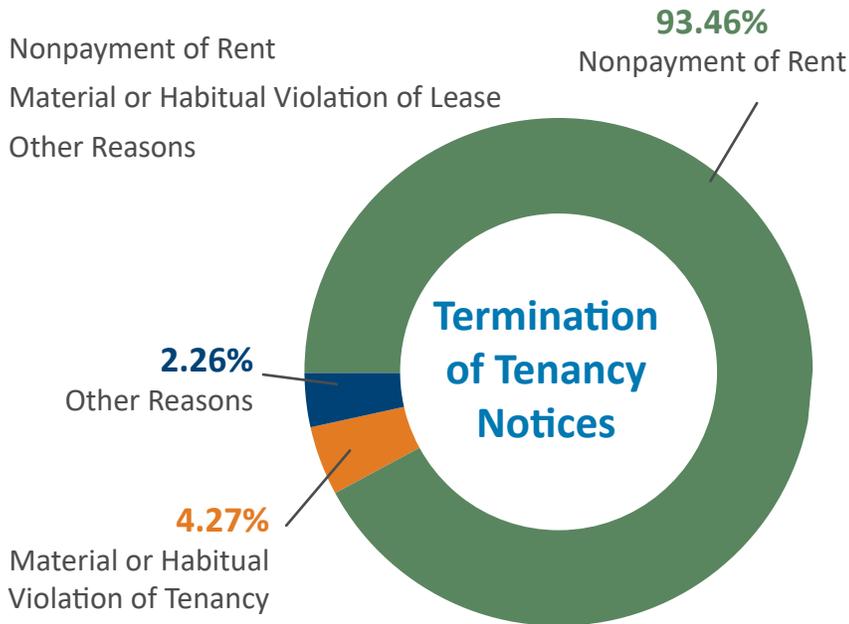


EXECUTIVE SUMMARY

Annual Report 2018–2019

Termination of Tenancy Notices

- 9,081 Nonpayment of Rent
- 415 Material or Habitual Violation of Lease
- 220 Other Reasons



130 Ratio Utility Billing System (RUBS) petitions submitted, impacting 6,480 apartments



101 petitions approved through administrative decisions, impacting 5,613 apartments



22 petitions ineligible, impacting 784 apartments



\$70.09 average increase in rent



3 petitions approved through hearing decisions, impacting 48 apartments



4 petitions pending hearings, impacting 35 apartments



47 unique owners/property managers

Workload Summary



PETITIONS PROCESSED



INQUIRIES ADDRESSED

including 558 in non-English languages



PUBLIC MEETINGS

on ordinance changes and program updates



COMMUNITY EVENTS

5 hosted by council offices, 4 hosted for owners, 4 hosted for tenants

ACCOMPLISHMENTS



ACCOMPLISHMENTS

Workload Summary



**PETITIONS
PROCESSED**



**INQUIRIES
ADDRESSED**



**PUBLIC
MEETINGS**



**COMMUNITY
EVENTS**

In 2018–2019, the Rent Stabilization Program processed 263 petitions. Details regarding outcomes can be found on page 15.

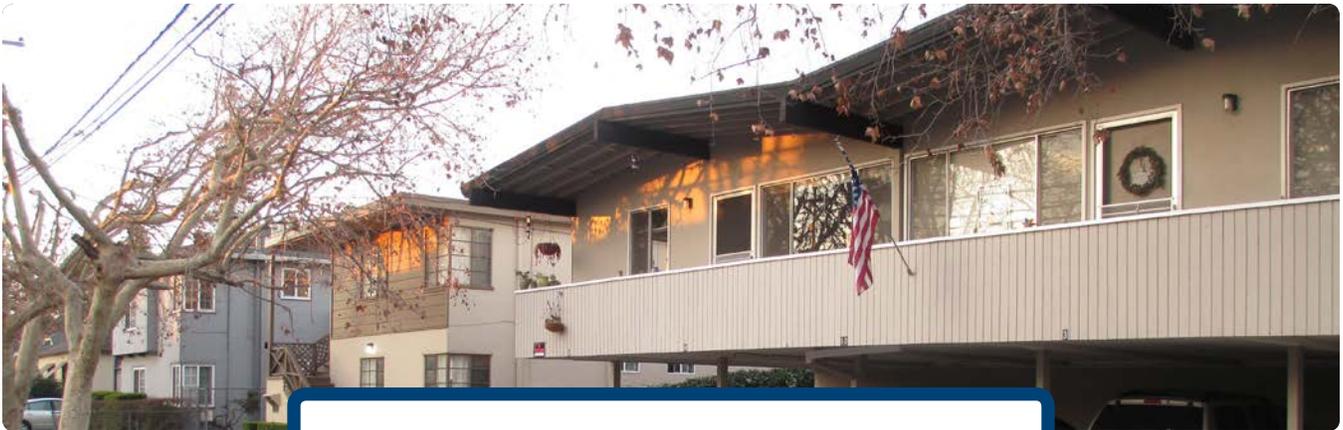
Of the 4,905 inquiries handled, the team addressed 404 inquiries in Spanish, 133 in Vietnamese, and 21 in other languages.

The Rent Stabilization Program’s 75 public events included community meetings for public outreach, mobilehome meetings, and outreach meetings hosted by our partners through our Legal Services Grant. The outreach meetings included four for tenants, four for owners, five hosted by City Council members, and 34 for the general public.

The Rent Stabilization Program produced 18 informational videos—six each in English, Spanish and Vietnamese. The videos are accessible on the City’s website and the Housing Department’s YouTube channel.

Informational Videos for Renters & Landlords

What's covered by the Apartment Rent Ordinance	La Cobertura de la Ordenanza	Đạo Luật Thuê Chung Cư
Rent Ordinance Basics	Fundamentos de la Ordenanza de Alquiler	Khái niệm căn bản về Đạo Luật
Tenant & Landlord Petitions	Peticiones de Inquilinos y Proprietarios	Đơn Kiến Nghị Dành Cho Người Thuê và Nhà Chủ Nhà
Joint Petitions	Peticiones Conjuntas	Đơn Kiến Nghị Chung
Tenant Buy Out Agreement	Acuerdo de Compra del Inquilino	Thỏa Thuận Trả Tiền Đổi Chìa Khóa
About the Tenant Protection Ordinance	Ordenanza de Protección del Inquilino	Đạo Luật Bảo Vệ Người Thuê Nhà



HOUSING DATA

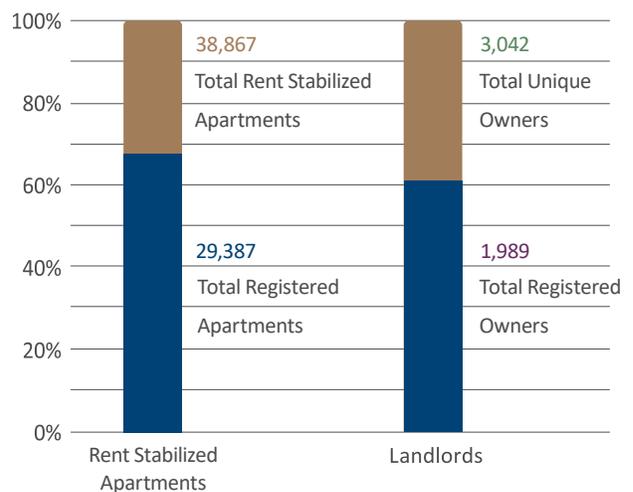
To better understand the needs of San José residents, the Rent Stabilization Program researches housing data for rent stabilized properties, which are apartment buildings with three or more apartments, built before September 7, 1979.

Implemented this year, the Rent Registry allows owners to register their rent stabilized apartments online via the Rent Registry portal. San José’s Rent Registry collects information relating to rent increases, security deposits, vacancy reasons, and tenant names, and helps ensure San José tenants’ rights are protected.

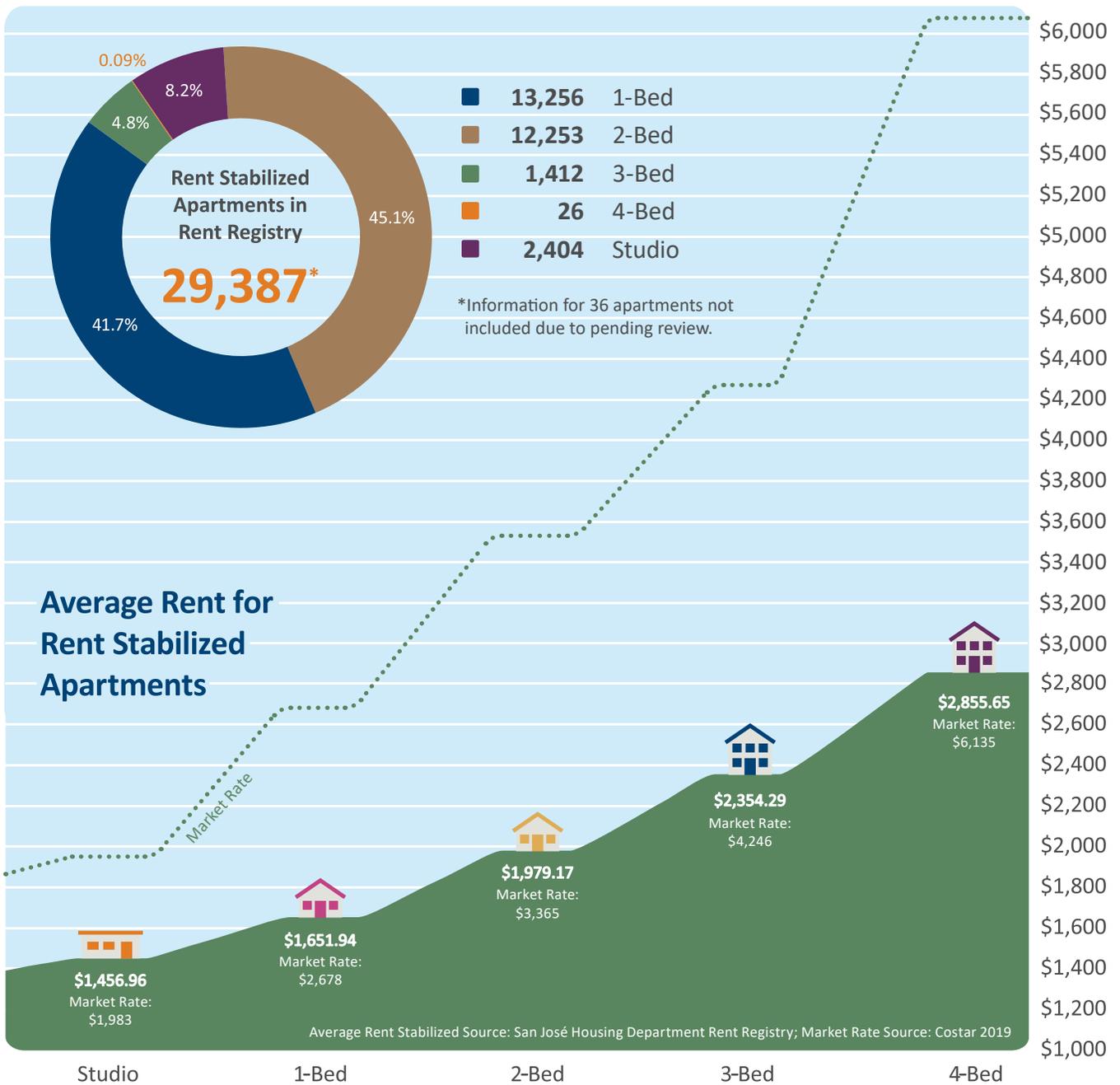


38,867

Rent Stabilized Apartments
Built before 1979

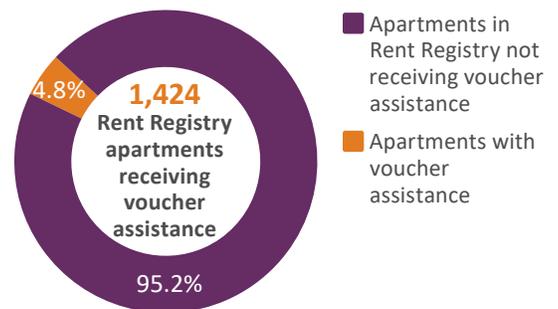


HOUSING DATA



Section 8 Voucher Assistance

Section 8 vouchers provide financial assistance to very low-income families, the elderly, and the disabled to help them afford housing in the private market, not limited to apartments in subsidized housing developments. In 2018–2019, there were 1,424 apartments in the Rent Registry for which tenants received voucher assistance.



Apartments — Tenant Buy Outs

A tenant buy-out occurs when the owner wants the lease of an existing tenant to be terminated early. The owner essentially pays the tenant to leave. Buy-outs are one way owners and tenants can make a mutual agreement to end a lease.



Apartment Relocation Assistance

Under the Tenant Protection Ordinance, relocation benefits must be paid when a tenant is removed from an apartment for certain reasons. An owner must also provide tenants the opportunity to return to the apartment under specific circumstances when an owner terminates a lease under the Ellis Act Ordinance.

	Unpermitted Apartments	Fire	Ellis Act
Received relocation assistance	4	2	4
Relocated to another apartment by same owner	-	2	-
Received legal assistance	4	-	-
Moved elsewhere in San José no assistance	-	2	-
At fault; No assistance	-	1	-
Total Cases	8	7	4

POLICY CHANGES



POLICY CHANGES

In 1979, the City Council created the Rental Dispute Mediation and Arbitration Ordinance, codified under San José Municipal Code Chapter 17.23, in order to address the “substantial upward pressure on residential rents.” Commonly known as the Apartment Rent Ordinance (ARO), the program’s public policy purposes are further clarified in the Ordinance’s statement:

- the prevention of excessive and unreasonable rent increases;
- the alleviation of undue hardship upon individual tenants; and
- the assurance to owners of a fair and reasonable return on the value of their property.

Change to the Apartment Rent Ordinance

- **April 24, 2018:** Revised Apartment Rent Ordinance to no longer allow utilities to be passed through to tenants. *Effective July 5, 2018.*

Changes to the Tenant Protection Ordinance

- **April 24, 2018:** Revised Tenant Protection Ordinance to prohibit disclosure of immigration status; included criminal activity as an additional Just Cause for eviction; added “opportunity to cure” causes for eviction. *Effective July 5, 2018.*
- **December 11, 2018:** Revised Tenant Protection Ordinance to amend Just Cause for criminal activity, add protections for victims of domestic violence, and add additional noticing requirements.

The “criminal activity” Just Cause was amended stating:

- If the tenant is acquitted of the criminal charges, the tenant is permitted to return to the apartment if the tenant household still resides in the apartment and consents to the return.

RENT REGISTRY

The Rent Registry website went live in August 2018. The launch of the Rent Registry marked the beginning of the first registration period, which ended on March 1, 2019. As of June 1, 2019, there were approximately 28,800 apartments registered out of the total 38,867 apartments subject to the Apartment Rent Ordinance. That is a compliance rate of 74%. By comparison, Los Angeles established a Rent Registry in 2016, and after one year of implementation, it had a compliance rate of 65%. City Council directed Housing staff to implement the Rent Registry to facilitate enforcement of the Apartment Rent Ordinance (ARO). The registry requires owners to submit specific housing and tenancy information regarding each apartment subject to the ARO. The information collected includes rent amounts and increases, security deposits, vacancy reasons, and tenant names.



The steps taken by the Rent Stabilization Program to ensure a successful launch of the Rent Registry included:

- **Three** mailers to owners
- **Seven** Rent Registry workshops
- **Three** email blasts
- User guide produced in **three** languages
- **Paper registration forms** for owners who prefer not to submit information electronically
- Phone, email, and in-person **technical support**

Data from the Rent Registry has proven to be valuable in helping the staff understand and analyze the ARO market. For example, staff now has visibility into apartment sizes and average rents charged for ARO apartments (see page 8). The focus for staff during 2018–2019 was informing owners about the Rent Registry, educating them about their obligations, and providing technical assistance throughout the registration process. While most properties were registered online, **360 properties** were registered by paper forms. **Ten tenant petitions** were filed regarding service reductions at unregistered ARO properties. Staff followed up with those owners to get their properties registered. During 2019–2020, staff’s focus will shift to tenant validation of rental data through a tenant portal that will be added to the Rent Registry.

POLICY CHANGES

The Rent Registry is an essential tool in the prevention of unpermitted rent increases, overcharging, and unlawful evictions and vacancies. The registry gives the Housing Department the ability to proactively monitor and enforce by: 1) analyzing data on current rents; 2) automatically calculating maximum allowable rent increases; 3) documenting instances of improper rent increases.

Information collected in the Rent Registry has already been proven useful. For example, average and median rents for one- and two-bedroom apartments subject to the ARO were compared to Class A, B and C market-rate apartment rents. Through this comparison it was determined that one- and two-bedroom ARO apartment rents were lower than Class A, B and C rents.

RATIO UTILITY BILLING SYSTEM (RUBS) PETITIONS

The Apartment Rent Ordinance was amended on May 22, 2018 to allow owners to petition for a one-time rent increase to offset the cost of utilities. An "Offset" petition must have been filed between July 5, 2018, and October 31, 2018. Owners with written utility pass-through contracts for water, sewer and/or garbage in place prior to January 1, 2018, could file a petition. The Rent Stabilization Program received 130 RUBS petitions.

Challenges the staff faced when administering the RUBS petitions included having to process a much larger volume of paperwork than anticipated to verify utility billings for each apartment, and being overwhelmed by the number of submissions. Staff received 130 petitions, covering more than 6,000 apartments. Petitions ranged from a few pages for small apartment buildings, to boxes of paperwork for large apartment complexes. To address this heavy workload, temporary staff was added to the Rent Stabilization Program for the sole purpose of reviewing RUBS petitions.

Of the 130 petitions impacting 6,480 apartments:



101

petitions approved through administrative decisions, impacting 5,613 apartments



22

petitions ineligible, impacting 784 apartments



3

petitions approved through hearing decisions, impacting 48 apartments



4

pending hearings, impacting 35 apartments



\$70.09

average increase in rent



47

unique owners/property managers



ELLIS ACT ORDINANCE

Summary of Activity Related to Ellis Act Ordinance

To date, two property owners have issued notices to withdraw their apartments from the rental market. This amounts to nine apartments. One property is a four-apartment rent-stabilized apartment complex proposing to build 285 apartments. All impacted tenants have successfully relocated.

The second property is a five-unit apartment complex built in 2008 and not subject to the Apartment Rent Ordinance. This property is proposing to build 249 apartments. It is projected to remain as rental housing and subject to the Tenant Protection Ordinance and limited provisions of the Ellis Act Ordinance.

Both properties mentioned above have paid the City fees, tenants were properly noticed, and the City's contracted relocation specialist assisted impacted tenants. Program staff continue to receive inquiries from property owners and developers regarding the Ellis Act Ordinance.

On February 5, 2019, staff received direction from City Council to conduct additional analysis of the re-control provisions in the Ellis Act Ordinance and return with a verbal update. Staff conducted interviews with developers, lenders and tenants. As of the printing of this report, the staff analysis is tentatively scheduled for City Council in November 2019.



Eviction Notice



Financial Assistance



Relocation Planning

PETITIONS SUMMARY



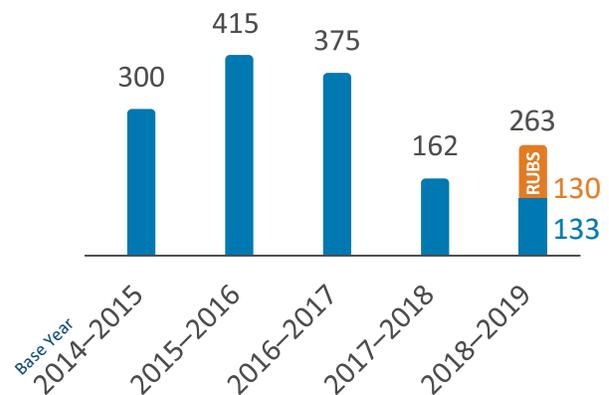
PETITIONS

The Rent Stabilization Program handles tenant and owner-initiated petitions. Through its hearing officers, the Program conducts mediations and administrative hearings to assist in resolving rental issues.

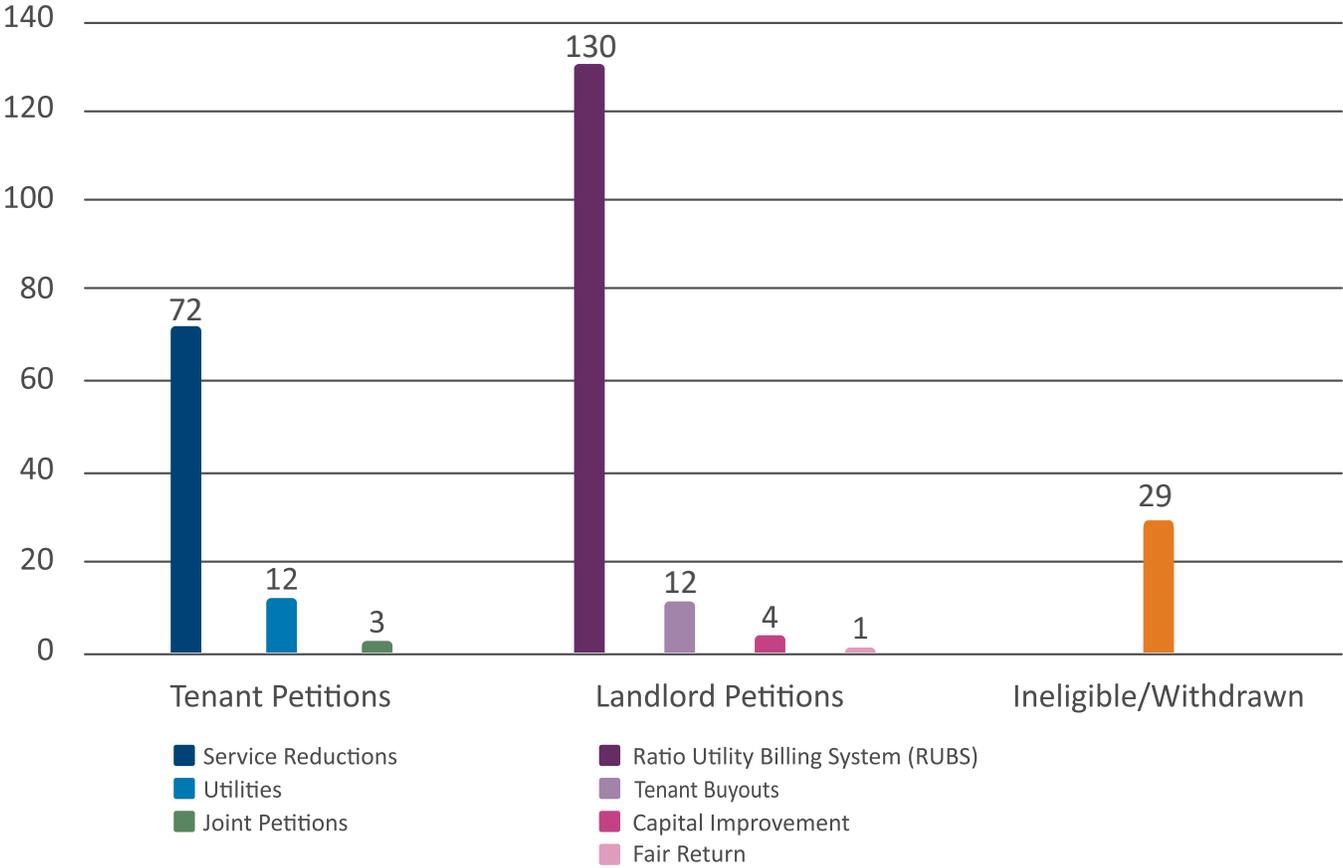
Mediations are held to settle disputes without the need for a more formal hearing. Participation in a mediation is voluntary. Administrative hearings are held for cases not resolved through mediation. At these hearings, the hearing officer reviews evidence and hears testimony from the parties. After the administrative hearing process, the hearing officer issues a detailed written decision. Most petitions filed are resolved through mutual agreement.

Summary of Petitions filed from 2014-2019

The data to the right represents figures over a five-year period from 2014–2019. There have been 1,515 petitions filed with the Rent Stabilization Program, with 263 being submitted in the last year. The 2018–2019 fiscal year was the first time staff administered petition decisions.

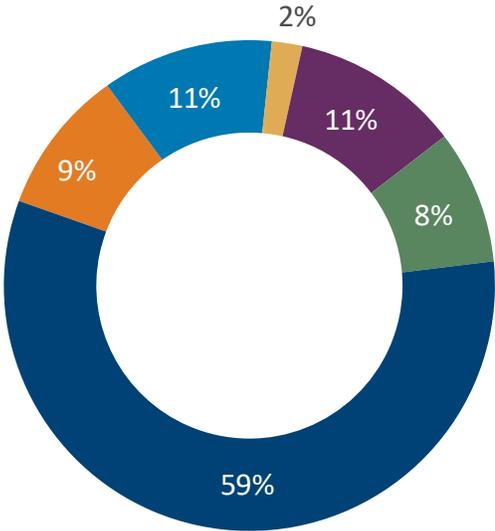


Summary of Petitions in 2018–2019

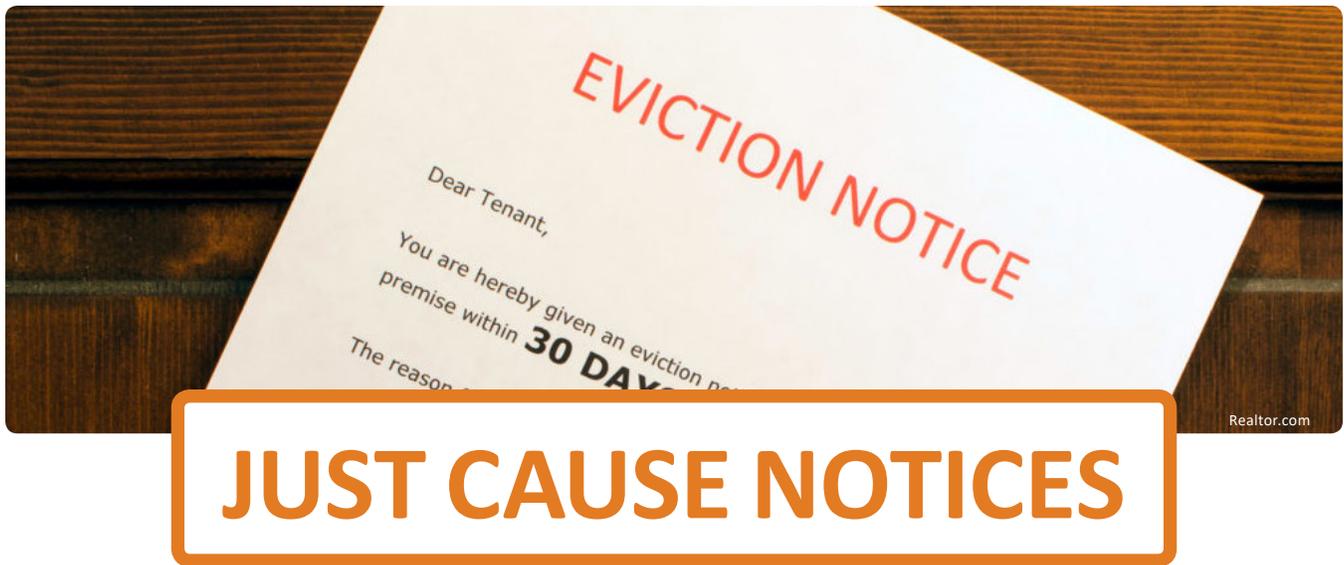


Resolution of Petitions

Decision	Petitions		Total
	Non-RUBS	RUBS	
Voluntary	28	0	28
Hearing Officer	19	3	22
Administrative	54	101	155
Pending	20	4	24
Ineligible	7	22	29
Withdrawn	5	0	5



JUST CAUSE NOTICES

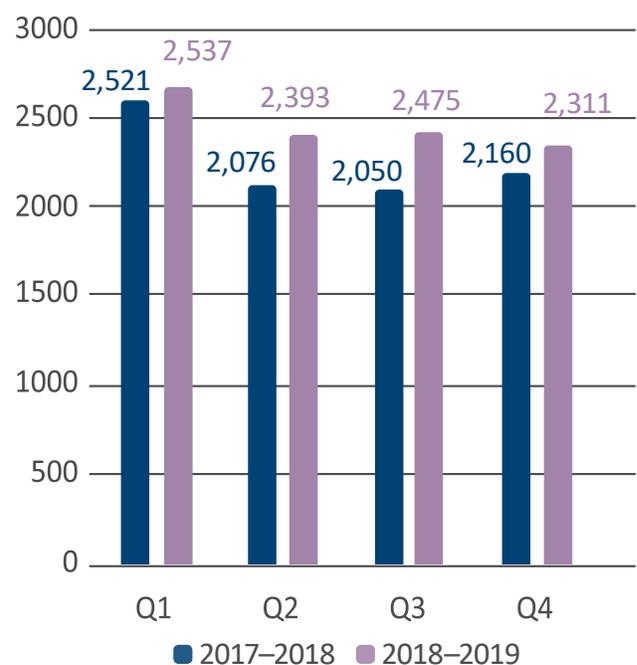


Just Cause Notices Received

The Tenant Protection Ordinance requires all notices of termination to state a “just cause.” This applies to tenants living in apartment buildings with three or more apartments, including voucher holders. Under the Tenant Protection Ordinance, owners must submit copies of any notices of termination to the City.

From July 1, 2018 through June 30, 2019, the City received **9,716** notices for Just Cause terminations.

Termination of Tenancy Notices



JUST CAUSE NOTICES

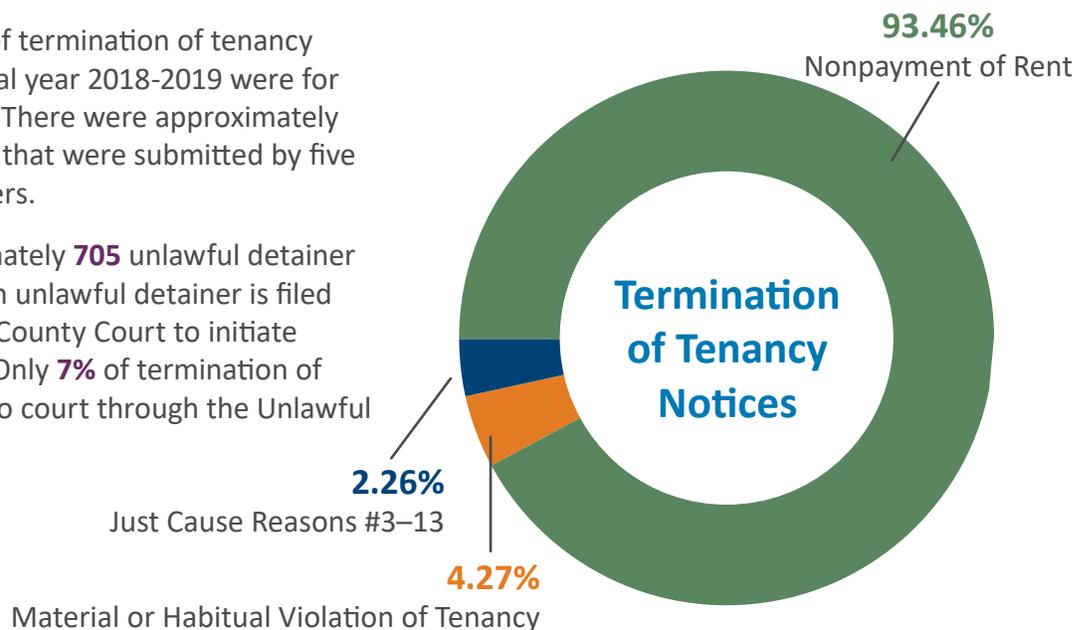
Under the Tenant Protection Ordinance, there are 13 Just Causes. Certain causes require the owner to provide relocation assistance to the tenant. The following reasons no longer constitute cause for termination of a tenancy: change in ownership, foreclosure of property, and expiration of a fixed-term lease.

The table below illustrates the number of each type of termination of tenancy notice filed with the Rent Stabilization Program during this time period.

Just Cause Submissions 2018–2019		Total	Percent
1	Nonpayment of rent	9,081	93.46%
2	Material or habitual violation of tenancy	415	4.27%
3	Substantial damage to the rental apartment	12	0.12%
4	Refusal to agree to a like or new rental agreement	6	0.06%
5	Nuisance behavior	100	1.03%
6	Refusing access to the apartment	1	0.01%
7	Unapproved holdover subtenant	17	0.17%
8	Criminal activity	15	0.15%
9	Substantial rehabilitation of the apartment	13	0.13%
10	Ellis Act Removal	0	0.00%
11	Owner move-in	4	0.04%
12	Order to vacate	4	0.04%
13	Vacation of unpermitted apartment	1	0.01%
No reason listed		21	0.22%
TPO exemptions		26	0.27%
Total		9,716	

Approximately **93%** of termination of tenancy notices served in fiscal year 2018-2019 were for nonpayment of rent. There were approximately 1,763 notices or **18%** that were submitted by five large corporate owners.

There were approximately **705** unlawful detainer notices submitted. An unlawful detainer is filed with the Santa Clara County Court to initiate an eviction process. Only **7%** of termination of tenancy cases went to court through the Unlawful Detainer process.



LEGAL SERVICES



LEGAL SERVICES

Legal Services for Low Income Tenants and Owners

San José Housing Consortium (comprised of Law Foundation, Bay Area Legal Aid, Senior Adults Legal Assistance, Asian Law Alliance, and Project Sentinel), was awarded a \$500,000 contract to provide legal education and services to tenants and owners beginning fall 2018.

The goal of the program is to increase housing stability by providing free owner/tenant counseling, education, referrals, and legal assistance to low-income tenants and owners. These services also include outreach and education to low-income tenants and owners citywide. This year, legal services held a total of 16 outreach and educational meetings: three for owners, nine for tenants, and four for both owners and tenants.

16

Total Outreach Meetings

3 for owners, 9 for tenants, and 4 for both owners and tenants

927

Total Legal Consultations

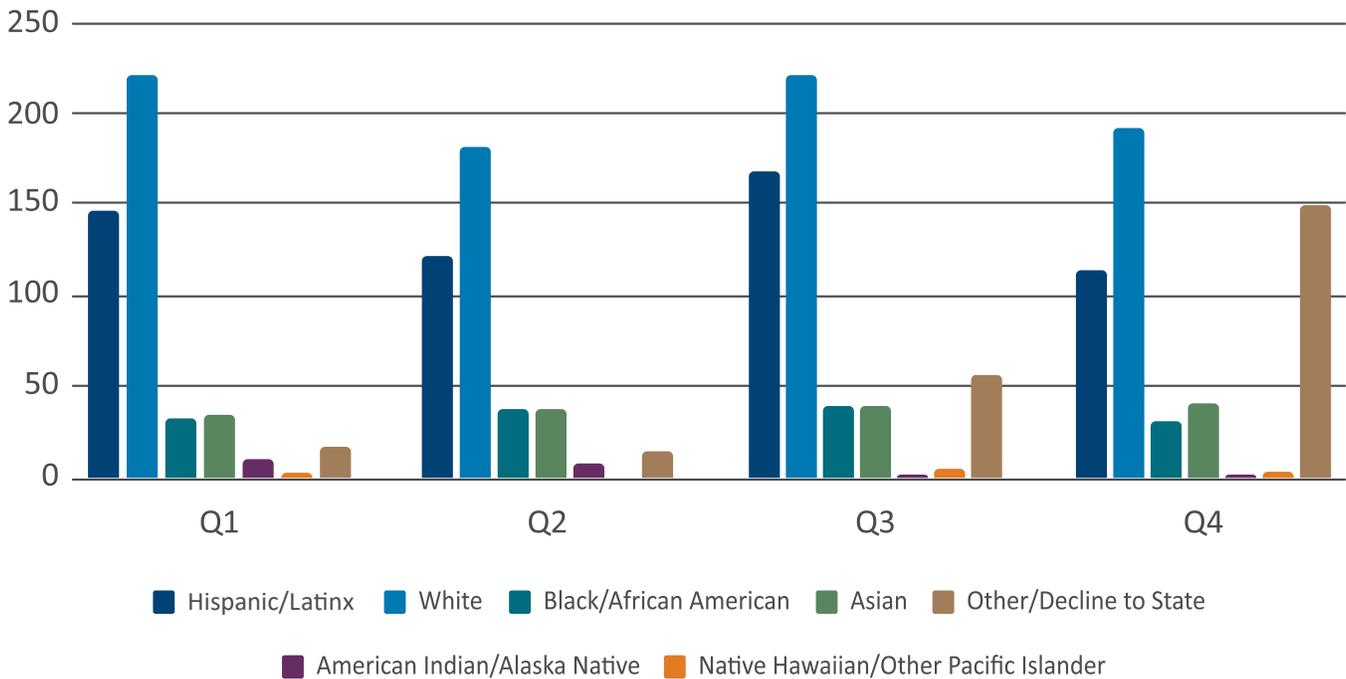
770 consultations for tenants, 157 consultations for owners

Legal Services Client Data by Income

Client Data Range of Median Family Income	Q1 390 Clients	Q2 375 Clients	Q3 364 Clients	Q4 421 Clients	Total 1550 Clients
Extremely Low Below 30% of Median Family Income	235	277	252	297	1061
Very Low 30%–50% of Median Family Income	47	45	55	47	194
Low/Moderate 50%–80% of Median Family Income	30	38	48	53	169
Moderate	10	15	9	24	58
Total	322	375	364	421	1482*

*Not all 1,550 clients served provided information

Race & Ethnicity



MOBILEHOMES



MOBILEHOMES

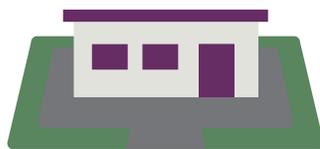
Mobilehome Rent Ordinance

The Rent Stabilization Program provides services to mobilehome owners, park owners, park managers, and park residents. There are 59 mobile home parks in San José that are home to approximately 35,000 residents. The City is home to the largest number of mobilehome households in California.

The Mobilehome Rent Ordinance covers 59 mobilehome parks and approximately 10,840 mobilehome spaces. 12 mobilehome parks are age-restricted communities, serving individuals fifty-five years and older, many of whom live on fixed incomes. The Mobilehome Rent Ordinance allows annual mobilehome space rent increases equal to 75% of the regional Consumer Price Index increase, with a minimum increase of 3% and a maximum of 7%. During each of the past 10 years, the rent increase has remained at the minimum 3%.



59
Mobilehome
Parks



10,840
Mobilehome
Spaces



12
Age Restricted Parks
(Ages 55+)



47
Family
Parks

Summary of Mobilehome Issues

The Rent Stabilization Program received 306 inquiries from the mobilehome community during 2018–2019. The types of inquiries are explained below. Due to restrictions in State law, the Rent Stabilization Program has limited authority to respond to many mobilehome issues.

Inquiries from mobilehome residents included:



90

resident referrals and inquiries
about renters' rights

76



requests for information and
clarification about ordinances

44



code, maintenance, and service
calls



38

questions about
rent increases



17

questions about
evictions

14



inquiries about fees, lease
disputes, and deposits

27



questions about miscellaneous
topics

POLICY CHANGES



LOOKING AHEAD

Program and Policy Priorities 2019–2020

Looking ahead to 2019-2020, the Rent Stabilization Program will continue to oversee the Apartment Rent Ordinance, Tenant Protection Ordinance, Ellis Act Ordinance, and Mobilehome Rent Ordinance, and conduct community education, policy analysis, and implementation of various housing programs.

PROGRAMS

- Establish an annual public education program
- Maintain monthly reportable statistics of program activity
- Develop a Citywide Disaster Recovery Planning Tool to focus on fires
- Continue to educate tenants, owners, and members of the public about the Rent Stabilization Program
- Expand the use of innovative outreach tools, including informational videos and infographics, and establish a larger social media presence
- Work collaboratively with other City departments to improve housing inspection options and strengthen housing policy



- Review and modify relocation benefits and ordinances in the City of San José
- Implement administrative citations for the Apartment Rent Ordinance, Tenant Protection Ordinance, and Ellis Act Ordinance

RENT REGISTRY

- Monitor and enforce compliance
- Implement Phase Two to increase participation and enable tenant validation of apartment information
- Create a system to update the Rent Registry when ownership changes occur and notify new owners of their responsibilities

POLICY RESEARCH

- Implement the Housing Payment Equality Ordinance (HPEO), develop compliance procedures, and collaborate with the Santa Clara County Housing Authority on outreach efforts
- Collaborate with the Planning, Building and Code Enforcement Department to develop a program to retrofit rent-stabilized buildings for earthquake/seismic safety
- Conduct outreach and implement possible changes to the Ellis Act Ordinance
- Continue efforts related to community development and legal representation for mobilehome residents



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