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Date: March 15, 2023

To: Rachel VanderVeen, Assistant Director, Housing Department  
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CITY OF SAN JOSE

From: Tara Matthews, Principal  
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RSG, INC.

**SUBJECT: San José Rent Stabilization Program Research - Status Update**

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## EXECUTIVE SUMMARY

RSG, Inc. (“RSG”) was selected by the City of San José (“City”) Housing Department to prepare a data-driven three-year Strategic Plan (“Plan”) that will set goals and identify metrics to help determine if the City’s Rent Stabilization Program (“Program”) is meeting its intended purpose. The Plan will provide a report on Program effectiveness and make policy recommendations.

This memorandum provides a summary of progress to date, along with next steps for the completion of the Plan later this year. This progress memo is not intended to be a comprehensive report on our findings and recommendations for the Program, as we are still performing on our scope of work and have not drafted the Plan. The memo includes some of our preliminary findings and recommendations resulting from our research to date that has provided some insights on Program effectiveness. Although additional research and stakeholder engagement are underway, this memo presents an opportunity for RSG and City staff to seek feedback from the Committee, residents, property owners, and stakeholders that can inform the remainder of our work and development of the Plan.

## BACKGROUND

The City’s Rent Stabilization Program consists of education, engagement, collaboration, adoption and enforcement of policies and regulations intended to build and maintain safe, healthy, and sustainable communities. The City has over 38,000 rent stabilized apartments, over 48,000 market rate units, and more than 10,000 mobilehome spaces, regulated through one or more of the following five (5) related Ordinances:

- Tenant Protection Ordinance (TPO)
- Apartment Rent Ordinance (ARO)
- Ellis Act Ordinance (EAO)
- Mobilehome Rent Ordinance (MRO)
- Housing Payment Equality Ordinance (HPEO)

On April 1, 2022, the City's Housing Department released a Request for Proposals ("RFP") "seeking an experienced planning consultant to design and facilitate a participatory strategic planning process that will create a three-year strategic plan for the Program." The RFP indicated that the Plan process would be a means to evaluate the effectiveness of the aforementioned policies and programs in meeting the following strategic goals:

- Policy research and policy development to maintain tenancies and avoid vacancies for residents who rent apartments and own mobilehomes in the City.
- Support fair housing through inclusive education and outreach.
- Foster positive relationships between tenants and property owners to ensure housing satisfaction and stability, while encouraging tenure of tenancy by monitoring annual rent increases and just cause notices and educating residents and owners to ensure compliance with the Ordinances.
- Preservation of mobilehomes and mobilehome parks as a source of affordable housing for senior citizens, residents on limited or fixed-incomes, and other vulnerable residents.
- Stabilize housing for renters in the City of San José through mediation, the petition process, and enforcement of the Ordinances.

The primary strategic questions to be answered through the Plan process are to include:

- Is the TPO meeting the goal of keeping tenants housed?
- Is the ARO meeting the goal of stabilizing rents?
- Is the EAO meeting the goal of maintaining the rent stabilized housing stock?
- Is the MRO meeting the goal of stabilizing mobilehome rents and supporting residents to maintain affordable housing?
- Is the HPEO meeting the goal of preventing discrimination against low-income households who received rental assistance, especially those in protected classes?

RSG was selected by the City based on its response to the RFP, and a consulting agreement was executed by the City on July 18, 2022. The basic scope of services included the following tasks:

1. Information gathering, self-assessments, consensus building on plan objectives, and program and operational prioritization.
2. Meetings with City staff, tenants, property owners, property managers, and stakeholders.
3. Creation of a three (3) year strategic plan for the Housing Department's Rent Stabilization Program.
4. Other tasks as assigned as they relate to the project.

RSG's proposal included the following more detailed scope of services:

- Task 1: Kick-off and periodic check-ins with City staff
- Task 2: Review Ordinances and other program documents
- Task 3: Analyze historic tenant protection implementation data
- Task 4: Identify comparable jurisdiction best practices
- Task 5: Stakeholder engagement
- Task 6: Prepare a memo presenting alternatives and a draft strategic plan
- Task 7: Prepare a report to City Council with recommendations.

## **PROGRESS TO DATE**

Shortly after our kickoff meeting in July 2022, RSG reviewed the Program-related Ordinances, related sections of State law, and available literature and studies on rent stabilization programs and tenant protections. RSG then identified, gathered, researched, and analyzed various City and third-party data sources<sup>1</sup> on the San José rental market and demographics including:

- Rent Stabilization Program Annual Reports from FYs 2016-17 to 2020-21
- City of San José Rent Registry
- Santa Clara County Housing Authority
- U.S. Census - American Community Survey (ACS)
- Bureau of Labor Statistics (BLS)
- U.S. Department of Housing and Urban Development (HUD)
- California Department of Housing and Community Development (HCD)
- CoStar Market Analytics
- Princeton Eviction Lab

## **Stakeholder Engagement and Feedback**

RSG has reviewed stakeholder feedback collected through the General Plan Housing Element update process and has met with representatives from the Santa Clara Housing Authority to better understand different perspectives and aspects of the overall Program and its effectiveness.

On February 9, 2023, staff and RSG presented a similar progress report to the Housing and Community Development Commission and gathered valuable feedback, particularly regarding the forthcoming stakeholder engagement sessions that were being planned at the time.

As this memo was being prepared, RSG was conducting six (6) stakeholder engagement meetings with tenants and property owners, and mobilehome residents and park owners/managers, including:

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<sup>1</sup> Most data sources were only available through 2021 at the time research was conducted in Fall of 2022.

- Two meetings each with tenants and property owners, one in-person and one online.
- One virtual meeting with mobilehome park owners and residents.
- The sixth meeting will be a report out open to all and offered virtually.

From tenants and mobilehome park residents, RSG is seeking perspectives on the following key questions:

- How effective is the Program at ensuring affordable housing options?
- What are the benefits and challenges of the Program?
- Do you feel protected from unfair evictions and displacements?

From property owners and mobilehome park owners, RSG is seeking their perspective on the following key questions:

- Do you feel you are able to get a fair return on your property?
- In what ways do the policies create challenges to a fair return?
- Do policies allow you to exercise adequate control over your property?

From all stakeholders, RSG is seeking feedback on the following:

- Do policies fairly protect the interests of both tenants, mobilehome park residents, property owners, and mobilehome park owners?
- What changes/improvements would you like to see?

Lastly, the City is distributing and promoting an online survey for stakeholders who were unable to participate in the virtual and in-person meetings or did participate and wanted to provide additional input later. The survey will be available through March 17, 2023.

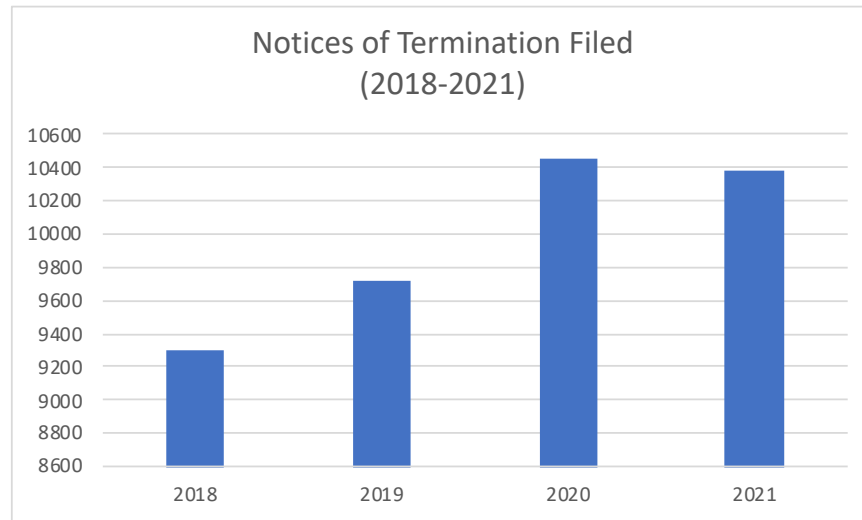
## **PRELIMINARY FINDINGS**

As noted earlier, this progress memo is not intended to be a comprehensive report on our findings. However, below are some of our preliminary findings resulting from our research to date that provide some insight on Program effectiveness:

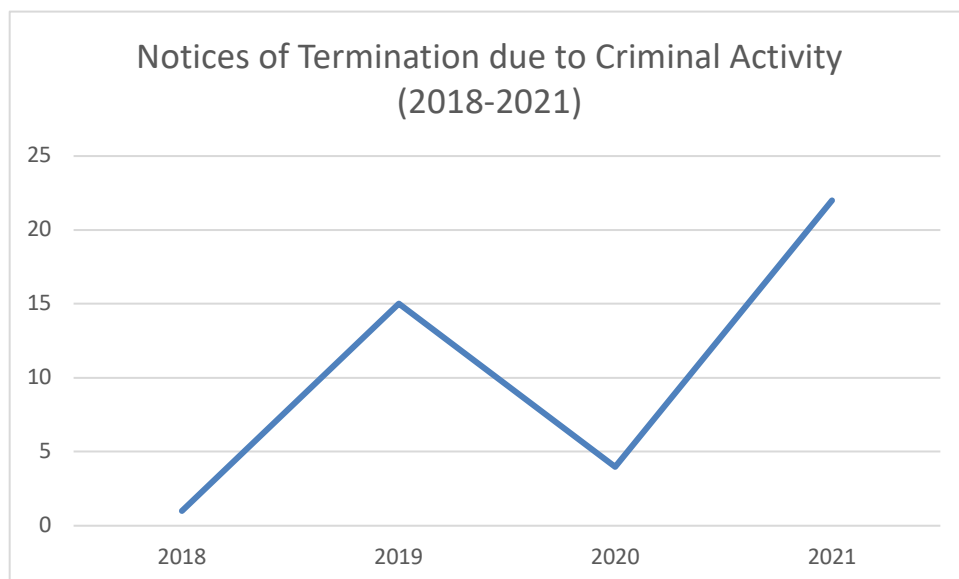
### **Tenant Protection Ordinance (TPO)**

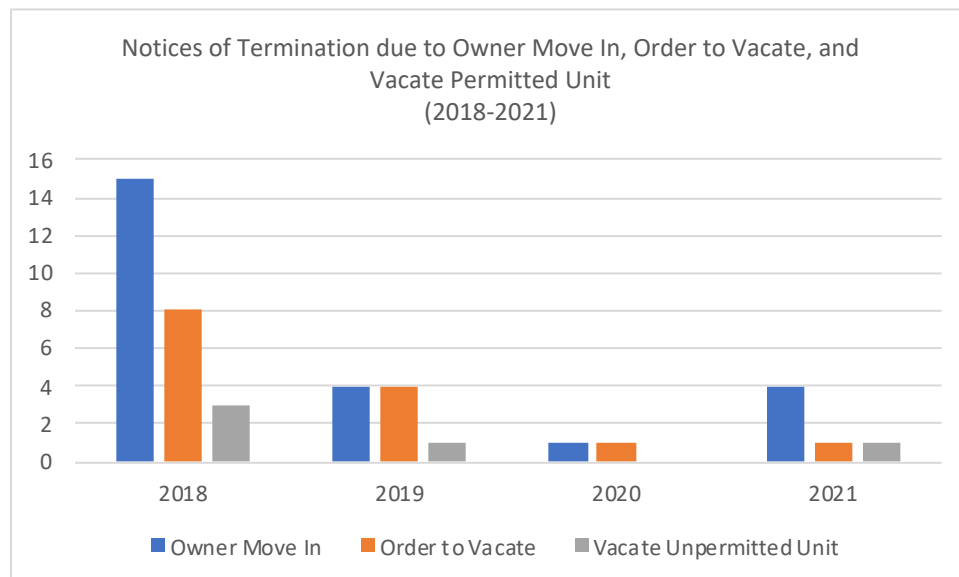
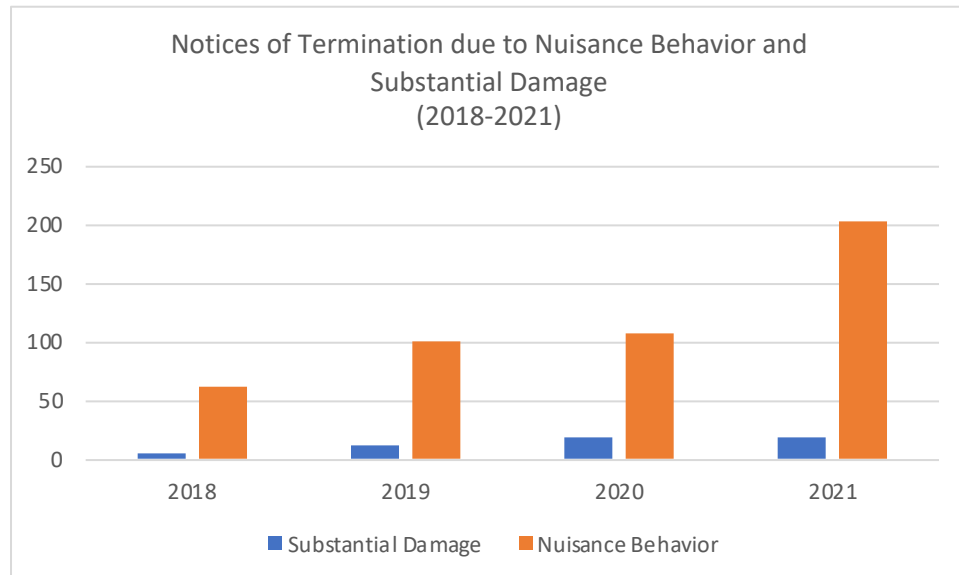
#### *Notices of Termination/Just Cause Submissions and Evictions (data from Annual Reports and Princeton Eviction Lab)*

- Notices of Termination increased 12% from 2018 to 2020, and then decreased slightly from 2020 to 2021 (presumably due to COVID policies).

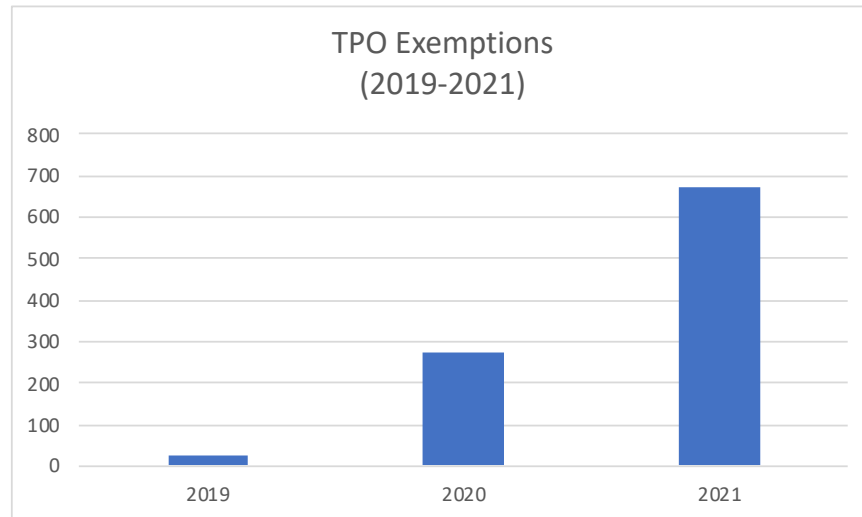


- The reasons cited on Notices shifted between 2018 and 2021, with significant increases for “Criminal Activity” (cited 22x more), “Substantial Damage” (3.6x), and “Nuisance Behavior” (3.2x), while decreasing by about two-thirds each for “Owner Move In”, “Order to Vacate”, and “Vacate Unpermitted Unit” reasons. The increase for the “criminal activity” reason is primarily due to it only being added to the Ordinance in May, 2018, and subsequently included as an option on the form.

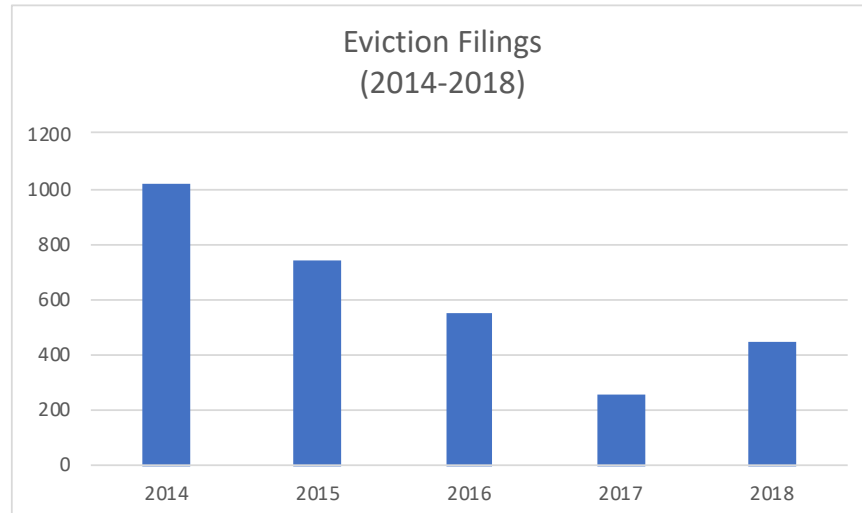




- TPO Exemptions<sup>2</sup> increased by more than 25x from 2018 to 2021.



- Eviction filings decreased 57% overall from 2014 to 2018, according to data from Princeton Eviction Lab, although they increased by 74% from 2017 to 2018.



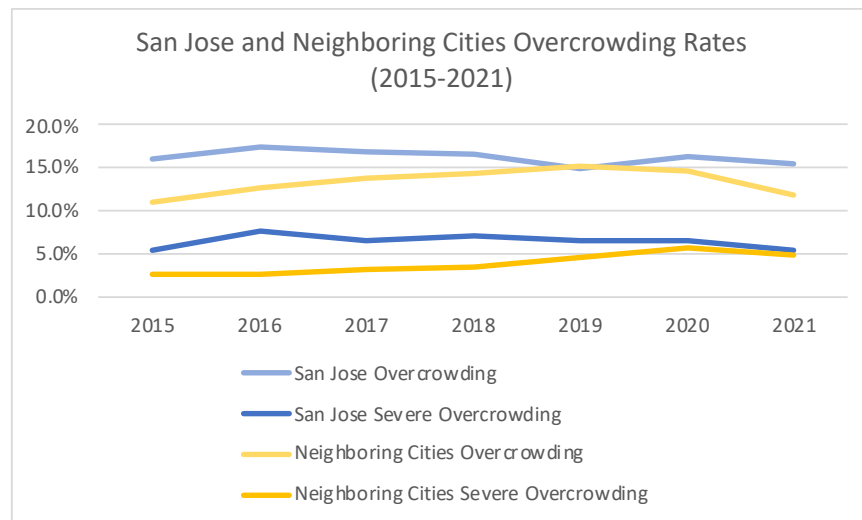
## Apartment Rent Ordinance (ARO)

### Overcrowding (U.S. Census data<sup>3</sup>)

<sup>2</sup> The TPO does not cover single family rentals or multifamily buildings used or designed for less than three families.

<sup>3</sup> The U.S. Census defines "overcrowding" as a unit occupied by more than one person per room (excluding bathrooms and kitchen). A one-bedroom apartment with more than 2 people would be considered overcrowded. Units with more than 1.5 persons per room are considered "severely overcrowded." A one-bedroom apartment with more than 3 people would be considered severely overcrowded. The census definition does not factor in square footage.

- Overcrowding among City renters decreased from 16.1% in 2015 to 15.6% in 2021.
- Severe overcrowding remained about the same, 5.4% in 2015 and 5.5% in 2021.
- Across four neighboring cities without rent control (Campbell, Cupertino, Milpitas, and Santa Clara) overcrowding rose from 11% in 2015 to 11.7% in 2021. Severe overcrowding rose from 2.5% in 2015 to 4.9% in 2021 in those cities.
- It would appear the Program may be easing overcrowding in San José, relative to the experience in neighboring cities.

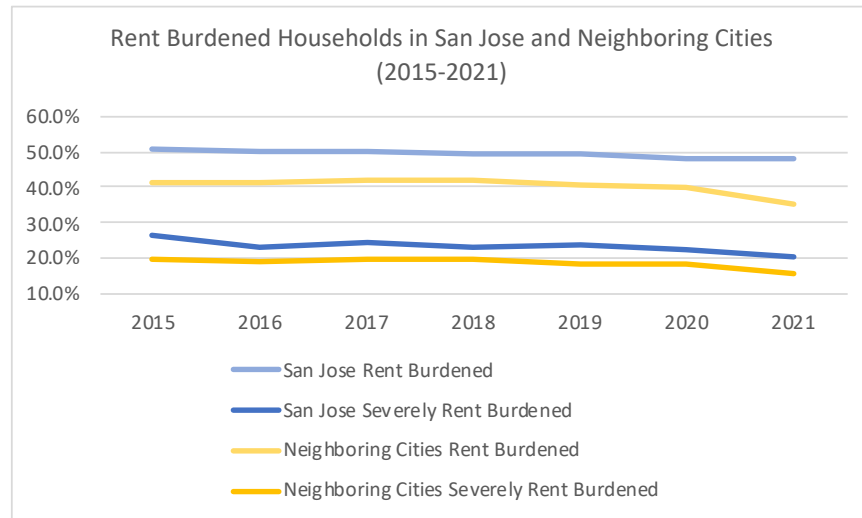


### Rent Burdened Households

(HUD defines “rent burdened” as households that spend 30% or more of income on rent, and “severely rent burdened” as spending 50% or more.)

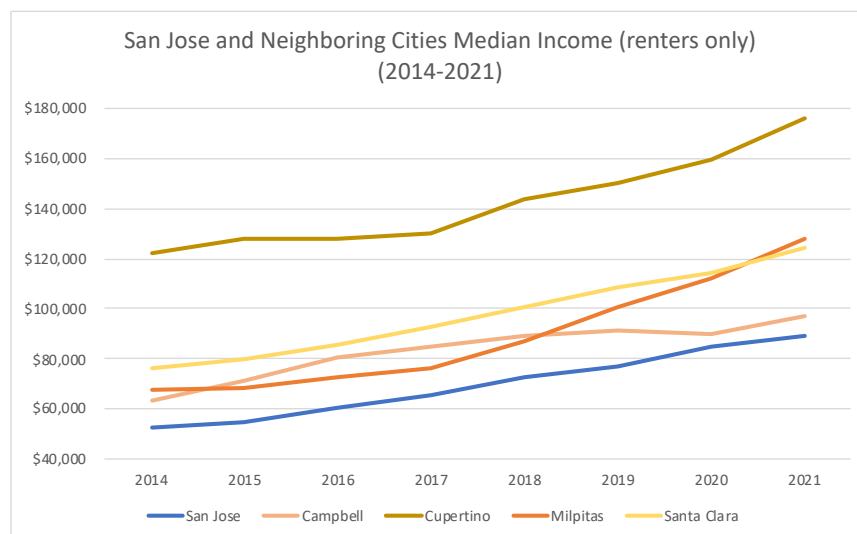
- The number of rent burdened households decreased between 2015 and 2021 in both San José and four neighboring cities without rent control (Campbell, Cupertino, Milpitas, and Santa Clara).
- Rent burdened households in San José decreased from 50.9% in 2015 to 48.1% in 2021, and severely rent burdened households decreased from 26.2% to 20.7%.
- Rent burdened households in neighboring cities decreased from 41.1% in 2015 to 35.3% in 2021 and severely rent burdened households decreased from 19.6% to 15.8%.
- All of the four neighboring cities had smaller percentages of rent burdened households than San José, which may be due to the higher relative household incomes of the other cities and higher income growth rates, as noted further below.
- It is worth noting that since January 2020, all California cities now have some level of rent increase protection afforded under the State Tenant Protection Act (AB1482). In addition, San José had a rent increase moratorium on ARO units during 2020-21.





### Median Income

- The median income of all households rose significantly in the four neighboring cities as well as San José during the period from 2014 through 2021, according to US Census data.
- For renters specifically, household median income grew at an average annual rate of 8.4% in the neighboring cities, as compared to 9.9% in San José.
- The median income for renters in San Jose rose from \$52,827 in 2014 to \$89,572 in 2021, as shown in the figure below. The average of renter household median income in the four neighboring cities rose from \$82,531 to \$131,255 during the same period.

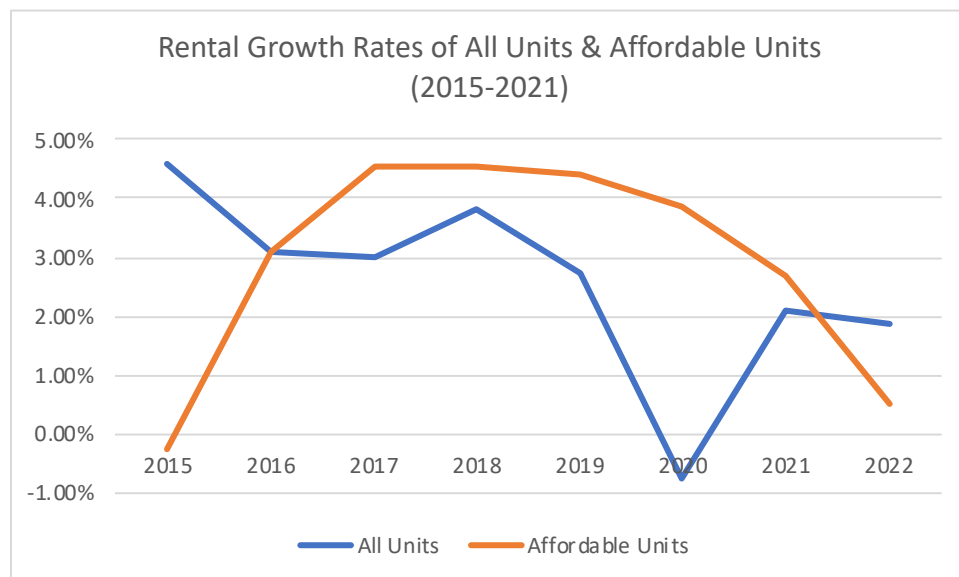


### Rental Rates (Market data)

- Rental rate increases for all units in San José ranged from 4.5% to 3% from 2015 to 2019, then decreased in 2020, before returning to about 2% for 2021-22, based on data collected

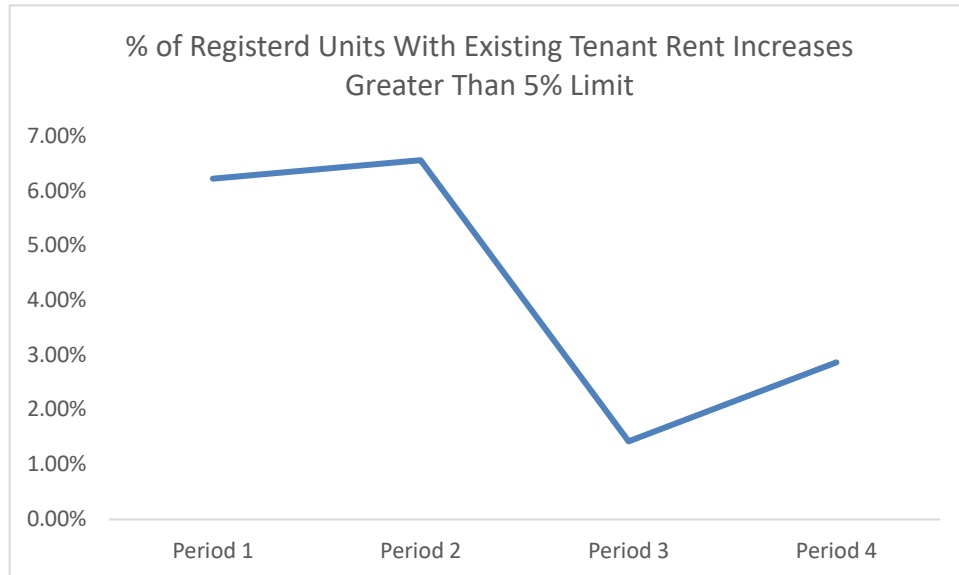
from Costar.

- The rate of rent growth for affordable units was 3% or more from 2016 through 2020, but has since declined to only 0.5% in 2022.
- Although there are other factors in the market, it would appear the decline in rents is likely attributed to the effect of COVID and policies adopted to mitigate the related economic impact.



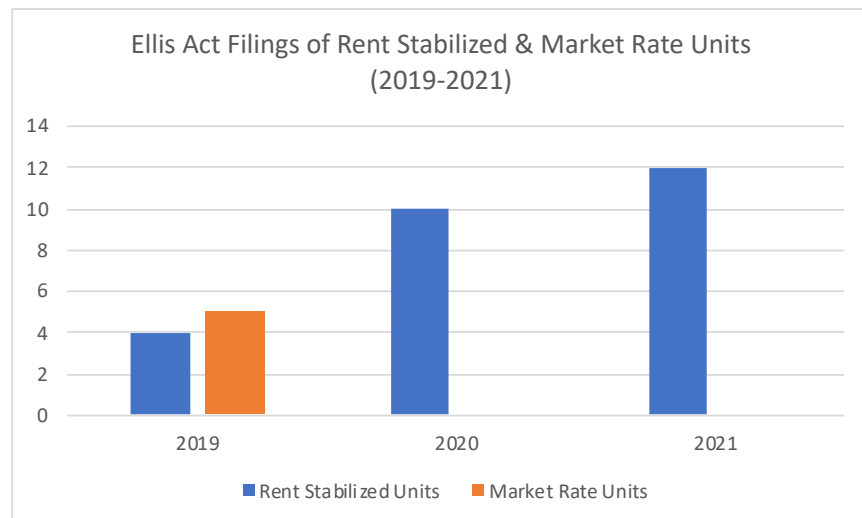
### Rental Registry

- According to the City's rent registry of ARO-covered units, between 1% to 7% of tenants received an annual rental rate increase greater than the 5% limit under the ARO.
- Rents for registered ARO units increased by 1.82% annually on average over the four registration periods from August 2018 through September 2022.
- Following vacancy of a unit, rents were increased by more than 4% annually on average over the four registration periods.
- Tenants receiving rental assistance experience greater rent increases than those who receive no assistance.
- Voluntary move outs account for 95% of vacancies, followed by owner move-in (1.5%) and nonpayment of rent (1.4%).

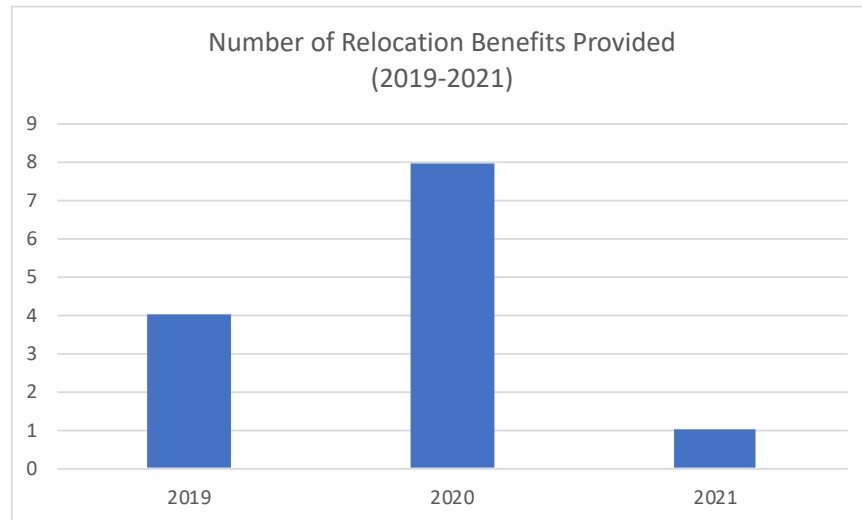


### Ellis Act Ordinance (EAO)

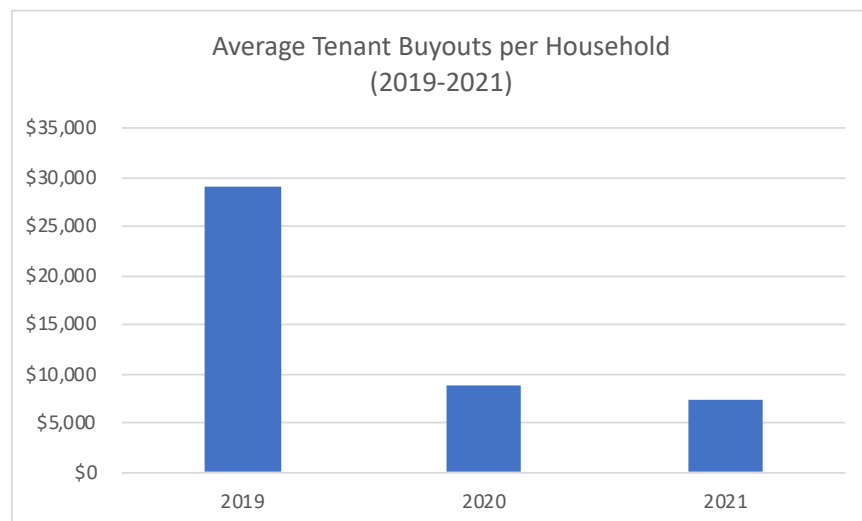
- Rent-stabilized units withdrawn from the market due to Ellis Act filings *increased* from 4 to 12 between 2019 and 2021.
- Market-rate units withdrawn from the market *decreased* from 5 to 0.



- Relocation benefits provided to households due to Ellis Act filings rose in 2020 to eight instances, but then decreased to only one household in 2021.

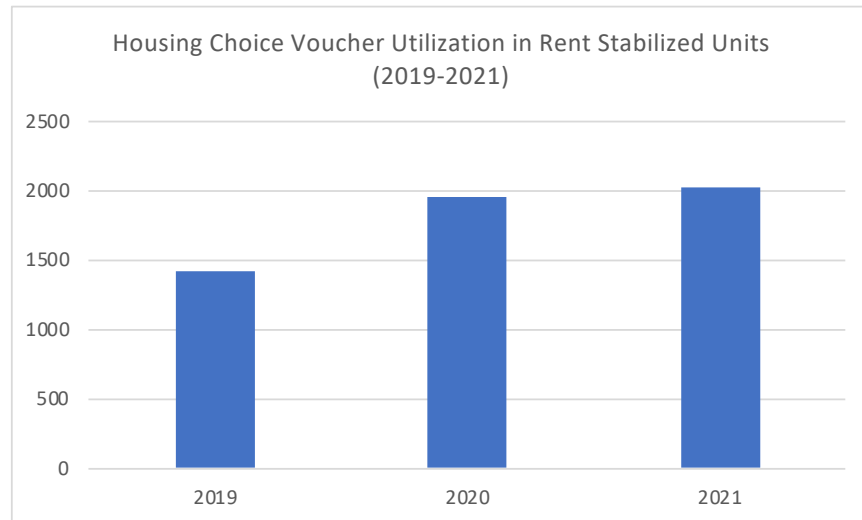


- Average voluntary tenant buyout per household decreased 75% (from \$29,050 to \$7,256), although the 2019 average was apparently skewed by an unusually large buyout by one property owner.



### Housing Payment Equality Ordinance (HPEO)

- Housing Choice Voucher utilization rates in ARO units increased 44% from 2019 to 2021.



## **PRELIMINARY DRAFT RECOMMENDATIONS UNDER CONSIDERATION**

Below are some of RSG's preliminary draft recommendations resulting from our research to date. These concepts are subject to change after further review and discussion with City Staff and stakeholders over the next few months.

### **Topic Area 1: Rental Registry Data in Salesforce Database**

After reviewing and analyzing the information collected and reported in the City's Rental Registry (maintained in a database using Salesforce software), we would suggest consideration of the following changes:

- Make rental registration mandatory for *all* rental properties. This would provide the City with a more complete picture of the rental market in San José, allowing for direct comparison among rent-controlled and market rate units and the impact of the Program on the full range of households in San José.
- Standardize the annual registration period dates to allow for consistent comparisons across periods. Notify property owners and tenants if no data was entered in a registration period.
- Collect more specific information for rental units, and add fields in the database, to allow for more detailed analysis and isolation of trends, and to better track the effectiveness of the Program in meeting the intent of the Ordinances. The City should include these additional fields in the database and information intake forms:
  - building location zip code;
  - unit square feet;
  - total tenure in unit;
  - % increase or decrease of rent at start of lease and thereafter; and
  - age of building or year of completion, plus dates of any major rehabilitation.

- Investigate unusual registration data entries and provide a field for registrants to provide notes on any unique rental arrangements.
- Track when units are the subject of an eviction proceeding and what the outcome is.
- Proactively notify property owners and tenants of a potential violation when the rent registry indicates a rent increase was greater than 5%.

## **Topic Area 2: Program Administration**

Based on preliminary feedback from stakeholders, and interviews with other cities that have comparable rent stabilization programs, RSG has compiled the following preliminary considerations for the Program and related processes. These adjustments would help to further ensure that the intent of the ordinances is being met:

- Establish regular meetings among Hearing Officers to create consistency and coordination, and to deliver best practices.
- Utilize different hearing officers for mediations and petitions.
- Increase coordination between City housing staff and the Police Department, Code Enforcement, other City and County departments, especially local courts, Legal Aid and other tenant support groups, churches, and schools.
- Participate in an informal consortium of jurisdictions with rent stabilization programs to share best practices and results.
- Identify and track unlawful detainers and eviction proceedings.
- Distribute periodic surveys on the program to tenants and property owners.

## **NEXT STEPS**

This progress memo has been prepared part way through our planned scope of services, and there remains a considerable number of outstanding tasks to complete before a draft Strategic Plan can be presented. Among the activities currently underway or in planning by RSG are:

- Additional research and analysis of City and third-party data sources, including rent registry data.
- Analysis of comparable jurisdictions for best practices and lessons learned.
- Completing stakeholder engagement.
- Drafting Strategic Plan.

Exhibit 1 below shows a progress timeline for the project tasks, both completed and pending.

**Exhibit 1**  
**Progress Timeline**

Task	Proposed Deadline	Adjusted Deadline	Status
Task 1: Kickoff and Check-ins	July - Ongoing	N/A	Strategic Plan questions were identified and agreed upon between RSG and City staff.
Task 2: Review Ordinances and Program Docs	Jul - Aug	Complete	RSG reviewed the ARO, TPO, EAO, MRO, and HPEO and organized strategic plan questions by each Ordinance.
Task 3: Analyze Historic Data	Sept- Nov	Complete	RSG reviewed background documents received from City staff, collected economic and RSP-related data, and continues to analyze for findings and recommendations.
Task 4: Comparable Jurisdictions Best Practices	Nov-Jan	Complete	RSG has researched comparable jurisdictions of interest, interviewed staff, and is organizing a summary of comparable jurisdiction data.
Task 5: Stakeholder Engagement	Jan - Feb	Feb-Mar	RSG is working with City staff to schedule, invite stakeholders, and facilitate virtual and in-person community meetings.
Task 6: Memo and Draft Strategic Plan	Mar - Apr	Mar-May	N/A
Task 7: Report and Presentation	May	Jun-Aug	N/A