

**From:** rise fremont [<mailto:risefremont@gmail.com>]

**Sent:** Tuesday, September 27, 2016 2:40 PM

**To:** Bill Harrison; Lily Mei; [electlily@lilymei.org](mailto:electlily@lilymei.org); Rick Jones - Councilmember; Suzanne Chan; [vinnie@bacon4fremont.com](mailto:vinnie@bacon4fremont.com); Vinnie Bacon

**Cc:** May Lee; Dan Schoenholz; Harvey Levine

**Subject:** RISE response to city staff report on rent control

September 27, 2016

Dear Mayor Bill Harrison and Councilmembers,

Our city is facing an unprecedented housing crisis, one that disproportionately affects low income communities of color. As we talk to our friends and neighbors, we hear troubling accounts of displacement caused by stagnant wages that cannot keep up with rising housing costs. Thirty seven percent of Fremont rents and of that, 42% are cost-burdened, meaning they pay more than 30% of their household income on rent. A two-bedroom apartment is averaging \$2,736 in Fremont, an increase of 82% in just five years. In the wake of all this, RISE is a coalition fighting to make sure Fremont remains an affordable and diverse community.

In October 2015, Councilmember Vinnie Bacon put up a [referral](#) that directed city staff to "research the options that the City Council has regarding the implementation of rent control and just cause eviction." It was voted on unanimously, and staff had almost a year to study this important issue. A subsequent city-led working group created cause for concern due to:

- A staff member openly stating their bias against rent stabilization.
- An unbalanced group - on many occasions, landlord lobbyists and real estate interests outnumbered local residents and community groups from Fremont.
- No clear timeline, goals, agendas, or concrete action items during the process.

Despite this, RISE participated in good faith and strongly advocated for vulnerable renters in Fremont. The effort resulted in an incomplete and one-sided staff report favoring non-binding mediation and future housing production, both of which do not address the current displacement state of emergency in Fremont or the crux of the original referral. The report excludes comprehensive data relating to RRIDRO's ineffectiveness as a voluntary program without built-in safeguards — such as a limit to annual rent increases and defense against retaliatory behavior by landlords — that places the burden on tenants to file a complaint. Further, the section detailing arguments for and against rent control mainly includes industry-friendly studies against these policies, and fails to incorporate the expertise of [county public health](#)

[officials](#), [policy advocates](#), [sociologists](#), and [lawyers](#) who have cited the effectiveness of rent stabilization strategies to keep people in place.

RISE firmly believes that the combination of rent control and just cause for eviction are the most robust tools to stabilize communities, and we know that stakeholders from all parts of Fremont have a critical role to play in encouraging development without displacement. We thank you for voting to dig deeper into studying policy options to help the city's struggling renter population. We hope you will stand up again to protect Fremont's neighborhood fabric by considering the following next steps as recommendations to staff:

- Come back to council in 30 days with an interim moratorium on rent increases and no-fault evictions while staff continues to analyze deeper causes of housing instability in Fremont, searches for appropriate solutions, draft new ordinances, and revises existing renter protections in its municipal code.
- Return to council in 90 days with a model ordinance that includes binding policies to mitigate displacement by tying annual allowable rent increases to the annual change in the consumer price index complemented with a just cause for eviction policy.

Sincerely,

RISE Fremont Coalition

From: **rise fremont** <[risefremont@gmail.com](mailto:risefremont@gmail.com)>

Date: Sun, Jul 10, 2016 at 9:36 PM

Subject: City Working Group on Fremont Housing Crisis Complete

To: [bharrison@fremont.gov](mailto:bharrison@fremont.gov), [lmei@fremont.gov](mailto:lmei@fremont.gov), [schan@fremont.gov](mailto:schan@fremont.gov), [ybacon@fremont.gov](mailto:ybacon@fremont.gov), [rjones@fremont.gov](mailto:rjones@fremont.gov)

Cc: [mlee@fremont.gov](mailto:mlee@fremont.gov), [HLevine@fremont.gov](mailto:HLevine@fremont.gov), [dschoenholz@fremont.gov](mailto:dschoenholz@fremont.gov), [DMargolis@fremont.gov](mailto:DMargolis@fremont.gov)

Dear Mayor Bill Harrison, Vice Mayor Lily Mei, Councilmember Suzanne Chan, Councilmember Vinnie Bacon, and Councilmember Rick Jones:

We completed the City working group process with our fourth and final meeting on June 21. We would like to provide an assessment of the process, our understanding of where it ended up, and next steps.

#### The process

Members of City staff were well-intentioned and sincere in their desire to facilitate a discussion between landlords and housing advocates to find common ground. However, the meetings themselves were not well structured or facilitated. As a result many of the discussions were repetitive and were often monopolized by representatives of Rental Housing Owners Association of Southern Alameda County (RHASAC), the apartment owners' trade association. For the record, after the first meeting RISE did request that agendas be provided beforehand and asked for more structured facilitation, but to no avail.

Furthermore, members of the RHASAC were hostile and patronizing towards members and allies of the RISE Coalition. This happened from the very first meeting, and little was done to correct for or ease the tension and hostility. Sexism was visibly present, as male landlords were quick, aggressive, and consistent in cutting off female participants from RISE as they were speaking. Comments with racist overtones referring to "slum neighborhoods," "model immigrants," "good tenants vs. bad tenants," and crime and safety were brought up repeatedly. Community members participating in the process in good faith often felt demoralized and disrespected, and question the value of engaging with representatives of the real estate industry. City staff apologized to members of the RISE members for the behavior of these representatives at the end of the process. This was appreciated but was not helpful in making the process itself more productive.

Unfortunately, the nature of the process did allow for in-depth discussion of rent control (or just cause) and what implementation could look like. Rent control and just cause were recently adopted by the city council in Santa Rosa and the San Jose City Council recently improved their rent control ordinance and are adopting a form of just cause. Additionally, there are a number of additional jurisdictions exploring these policy options and others which already have them. It would have been much more productive if the meetings could have been more focused on learning about and from these efforts.

RISE does not feel RHASAC participated in this process in good faith and believes they participated primarily to obstruct our efforts as they saw these gain momentum across the city. RISE questions why this organization was given such a prominent role in a resident initiated effort to work with our elected representatives in confronting the ongoing crisis of housing affordability and displacement of middle and working class residents.

#### Where we ended

RISE presented its proposal for addressing the housing crisis (see below for a summary) and RHASAC presented theirs. Regarding the RHASAC proposal, RISE rejects the idea that a non-binding process, either alone or combined with a "good faith" effort by RHASAC to regulate their colleagues, represents a meaningful or sustainable response to the problem.

RISE has been clear from the outset that rent control and just cause eviction are necessary policies to address the crisis and stabilize the rental housing market in the near term while longer term solutions aimed at expanding the affordable housing supply are implemented. No other

policies that we know of, and none that were introduced through this process, can benefit so many residents so quickly.

While one staff member made an off handed comment indicating bias against rent control on ideological grounds at our first meeting, **staff did not raise any substantial concerns about our objections to rent as an option worth exploring.** RISE on more than one occasion asked staff to raise any concerns so that we could address them, and none were offered.

While members of RHASAC did express some concerns about just cause eviction protection early in the process, **we heard no concerns about just cause from staff.**

Because of this we expect a strong recommendation from staff that Council seriously consider these policies and begin investigating how they can be adopted in the City of Fremont.

Next steps:

The City staff report is scheduled to be completed in either July or September. If presented in September, this will mark almost a year since Councilmember Bacon's referral passed on October 13, 2015. We have members who have been evicted or forced out of Fremont due to escalating rents during this time -- and surely many more Fremont residents we do not know have been displaced.

**Therefore, we reiterate the urgency of a moratorium on rent increases and no-fault evictions until City council takes decisive action on lasting solutions to the housing crisis in Fremont.**

Our stance remains firm on the strongest protection for renters in Fremont.

Summary of the RISE Fremont proposal

***Rent Control***

- Protect tenants from large, unnecessary rent increases.
- Limits annual rent increases so that landlords may only raise the rent once per year by a predictable amount. Fremont could link the annual allowable rent increase to changes in the Consumer Price Index (CPI).
- Rent control will not discourage the development of new housing since new construction is exempt from rent control under state law.
- Rent control can be cost neutral for cities. Any costs to administer the program can come through a low per unit fee paid by landlords (or shared with tenants).

***Just Cause for Eviction***

- Prevents the arbitrary eviction of tenants who have paid their rent and have respected their lease agreements.
- Requires that landlords have a specific reason to evict a tenant.
- Can be applied to all residential rental units including single family homes, condominiums, and newly constructed units.
- Just causes for eviction could include: substantial damage to property, owner move in, removal of property from rental market or temporary move due to capital improvement (with relocation payments and right to return in a temporary move)

Now that the final working group meeting has been completed, we hope to meet with each of you one-on-one. Please reply to this email with your availability in the next month, or look out for an email reaching out to you individually.

Thank you.

Sincerely,  
RISE Coalition

# RENT STABILIZATION

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|--|--|--|
| <b>Coverage/Applicability</b>          | Which units are subject to rent stabilization? State law already exempts some (single family homes, units constructed after 1995, etc.), but City could choose to exempt additional units. | <ul style="list-style-type: none"> <li>● Owner-occupied duplexes, triplexes, other small apartments?</li> <li>● Property owners who own only one building?</li> <li>● Second units/accessory dwelling units?</li> </ul>  |
| <b>Allowable Annual Rent Increases</b> | How much can the landlord automatically increase rents per year?   | <ul style="list-style-type: none"> <li>● Consumer Price Index (or percentage of CPI)</li> <li>● Flat percentage (e.g., 5%)</li> <li>● Allow “banking” so landlord can implement “catch up” increases after not increasing the rent for years?</li> </ul>   |
| <b>Pass Through Increases</b>          | Can landlords “pass through” certain increased costs to tenants automatically? If so, how much? What is the process for making these determinations?                                       | <p><u>Regular Costs:</u></p> <ul style="list-style-type: none"> <li>● Utilities</li> <li>● Property taxes</li> <li>● Registration fees</li> </ul> <p><u>Other Costs:</u></p> <ul style="list-style-type: none"> <li>● Capital improvements, renovations/remodels</li> </ul>                            |
| <b>Administration</b>                  | Enforcement  | <ul style="list-style-type: none"> <li>● Complaint-based (minimal bureaucracy, but less compliance)</li> <li>● Registration and certification of rents (substantial staff time required, but achieves greater compliance)</li> <li>● Hybrid models (e.g., vacancy registration only?, etc.)</li> </ul> |
| <b>Administration</b>                  | Rent Board   | <ul style="list-style-type: none"> <li>● Do you have one? (Los Gatos, Hayward don't)</li> <li>● If so, is it elected or appointed?</li> <li>● Composition <ul style="list-style-type: none"> <li>○ Require # of landlords, # of tenants?</li> </ul> </li> </ul>  |
| <b>Administration</b>                  | Funding  | <ul style="list-style-type: none"> <li>● Fee charged to each covered landlord?</li> <li>● Business license fee?</li> <li>● Tax on gross receipts? (Steve Barton's idea)</li> </ul>   |
| <b>Term</b>                            | How long will the policy last?   | <ul style="list-style-type: none"> <li>● Permanent policy</li> <li>● Time-based (specific number of years)</li> <li>● Production-based (lapses when specified number of housing units are produced)</li> <li>● Market-based (specified vacancy rate, etc.)</li> </ul>                                  |

## JUST CAUSE

|   |   |   |
|---|---|---|
| <b>Coverage/Applicability</b>   | Can apply to all rental units, but City could choose to exempt some units.                    | <ul style="list-style-type: none"> <li>● Only applies to units subject to rent stabilization?</li> <li>● Doesn't apply to new construction?</li> <li>● Exempt small landlords, or owner-occupied small buildings?</li> </ul>  |
| <b>Grounds for Eviction (more controversial or problematic grounds for tenants)</b> | Occupancy Standards -- can landlords evict based on the number and identity of the occupants? | <ul style="list-style-type: none"> <li>● Allow landlords to evict if there are any unauthorized occupants (bad for tenants given overcrowding)</li> <li>● Prevent evictions so long as occupants are qualified family members and number doesn't exceed Uniform Housing Code (EPA model)</li> <li>● Roommates? (See SF model for dealing with replacing roommates)</li> </ul> |
|   | Substantial renovation? – can landlords evict in order to renovate/remodel?                   | <ul style="list-style-type: none"> <li>● Yes, but only when repairs are necessary AND tenants have right to return at prior rent (subject to capital improvement pass throughs) (EPA model)</li> <li>● No (LA model)</li> </ul>   |
| <b>Notices</b>  | Landlord must submit eviction notices to City?  | <ul style="list-style-type: none"> <li>● Yes (good for data collection if followed, but difficult to enforce and potentially resource intensive)</li> <li>● No (less expensive/burdensome, but city won't have data available)</li> </ul>   |

## RELOCATION ASSISTANCE

|                                     |  |   |
|-------------------------------------|--|---|
| <b>When required?</b>               | What triggers the obligation to pay relocation assistance? | <ul style="list-style-type: none"> <li>● All no-fault evictions?</li> <li>● Specific no-fault evictions?</li> </ul>   |
| <b>Who qualifies?</b>               | Which tenants are eligible to receive payment?             | <ul style="list-style-type: none"> <li>● Means-tested? (e.g., only families making &lt; 80% AMI) (Mountain View model)</li> </ul>   |
| <b>What assistance is provided?</b> | What must the landlord provide to the tenant?              | <ul style="list-style-type: none"> <li>● Payment linked to housing market (e.g., 3-months current market rent)</li> <li>● Payment of specific amount (e.g., \$10k per family)</li> <li>● Additional amounts for vulnerable/sensitive groups?             <ul style="list-style-type: none"> <li>○ Elderly</li> <li>○ Disabled</li> <li>○ Families with children</li> </ul> </li> <li>● Other services:             <ul style="list-style-type: none"> <li>○ Relocation experts?</li> <li>○ Transportation assistance?</li> <li>○ Subscription to listing agencies?</li> </ul> </li> </ul> |

# RISE COALITION FREMONT

## *Residents Insisting on Social Equity*

March 31, 2016

RE: Rent Control and Just Cause Eviction Protections in Fremont

On behalf of Residents Insisting on Social Equity (RISE) – a coalition of local stakeholders including faith congregations, residents, service agencies, and community-based organizations rooted in Fremont – we are writing to express our views on the City of Fremont’s displacement emergency and follow up on City staff’s request that RISE produce a brief report on rent control and just cause eviction policies.

On October 13, 2015, City Council unanimously voted on Councilmember Vinnie Bacon’s referral directing City staff to study tenant protection policy options, including rent control/stabilization and/or just cause eviction policy alternatives, in order for the City Council to consider such policy options at a later date. City staff, including the Community Development and Housing departments and the City Attorney’s Office, reached out to the RISE Coalition and RHA representatives for working group meetings to be held on January 14, 2016 and March 9, 2016, for the purpose of discussing these policy options.

### Background

Renters are a large and growing part of communities across the region but are often neglected when our city discusses housing. Traumatic stories of individuals being priced out of their community or facing homelessness because of rising rents are becoming more and more frequent. Rent increases and mass evictions are disrupting the lives of individuals and families and destabilizing our community, as working class families, seniors, and those on a fixed income are forced to abandon their jobs, schools, and faith communities. Additionally, local organizations have shared that they do not have the financing and/or capacity to help a growing base of vulnerable renters with a limited safety net. These neighbors are essential to the fabric of Fremont. This is an important opportunity for an entire community to be a model to shape the region on the basis of inclusion, equity, and prosperity for all residents.

RISE firmly believes that the combination of rent control and just cause eviction are the most effective tools to stabilize communities, especially in an unregulated market in which rents can be raised at exorbitant rates. Further, there is a growing momentum around rent stabilization gaining steam in the Bay Area. From Pacifica and Santa Rosa, to San Jose, Richmond, Alameda, Burlingame, and San Mateo, cities throughout the region are pursuing stronger tenant protections.

### Fremont Facts

The City of Fremont is facing an unprecedented housing crisis, one that disproportionately affects low-income people and people of color. As we talk to friends and neighbors, we hear distressing accounts of displacement and stagnant wages that cannot keep up with inflating housing costs. In a City where **42%<sup>1</sup> of renters are cost-burdened** (pay more than 30% of their income on rent) and 37% rent, a two-bedroom apartment can cost a

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<sup>1</sup> U.S. Census Bureau, American Community Survey 2009-2013



working class family upwards of \$2,736<sup>2</sup>, **an increase of \$1,236 or 82% in just five years**. Comparatively, incomes only grew by 11.5% during this same time.

Low-income households are even more likely to be rent-burdened, with two-thirds facing unaffordable rents<sup>3</sup>. Forbes Magazine named the Oakland-Hayward-Fremont metro area as second worst market for renters.<sup>4</sup> Additionally, Fremont has the second fastest rising rents in California behind Sunnyvale.<sup>5</sup> Recent research by the Urban Displacement Project at the University of California, Berkeley shows that Alameda County and parts of Fremont are at a very high risk of exclusion and gentrification.<sup>6</sup>

While we applaud the existence of the Residential Rent Increase Dispute Resolution Ordinance (RRIDRO), anecdotal evidence and municipal reporting indicate that this policy is not enough to address the current crisis. A three-year summary of RRIDRO's performance reveals that a mandatory mediation ordinance is ineffective. Many tenants cite not utilizing RRIDRO due to fear of landlord retaliation, the absence of for an annual limit on rent increases, and the fact that it is non-binding. Further, the burden falls on tenants to initiate a mediation process and request that a landlord voluntarily adjust rent prices that are being contested.

From March 2012 through March 31, 2015, the number of rent increase calls received from tenants and landlords was 1,117 (932 tenants; 185 landlords). The number of cases opened for dispute resolution was 171. The number of disputes resolved through the first step of the process [informal conciliation] was 48 (19 rent reductions). From 932 tenant calls, there were 19 rent reductions (2%).<sup>7</sup> RRIDRO reform is not the solution, as it would still leave tenant grievances under an unenforceable, voluntary program. We firmly believe that the City of Fremont should adopt the following policies:

### ***Rent Control***

Rent control is a way to protect tenants from unwarranted housing cost hikes in an unregulated market. A rent control ordinance would limit annual rent increases so that landlords may only raise the rent once per year by a predictable amount, helping stabilize our communities and leaving tenants with more money to spend in the local economy. Rent control will not discourage the development of new housing since new construction is exempt from rent control under state law. Under a rent control policy, Fremont could link the annual allowable rent increase to changes in the Consumer Price Index (CPI). Moreover, rent control can be cost neutral for cities—any costs to administer the program can come through a low per-unit fee paid by landlords (or shared with tenants).<sup>8</sup> Unlike RRIDRO, a rent control ordinance gives a third party designate, such as a rent board, the authority to grant any exceptions for a fair rate of return in a regulated market.

Thirteen cities in California currently have some form of rent control and just cause protections on the books, with new renter protection campaigns springing up and gaining momentum in the cities of Alameda, San Mateo,

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<sup>2</sup> Rent Jungle. Rent Trend Data, <http://www.rentjungle.com>

<sup>3</sup> According to Census, nearly 1/3 of Fremont renters earn \$50,000 or less

<sup>4</sup> Forbes E-Magazine. "Best and Worst Market for Renters." April 2015.

<http://www.forbes.com/pictures/emeg45efhgm/worst-cities-for-renters-9/>

<sup>5</sup> Apartment List. January 2015 California Rental Price Monitor. "Fastest Growing California Rents.

<https://www.apartmentlist.com/rentonomics/january-2015-california-rental-price-monitor/>

<sup>6</sup> Urban Displacement Project, <http://www.urbandisplacement.org>

<sup>7</sup> Carol Lamont. Rent Increase Statistical Summaries and Trends. 2015

<sup>8</sup> Tenants Together. "Communities Thrive with Rent Control." September 2015.

Burlingame, and Richmond among others, while San Jose and Oakland are in the process of strengthening their existing renter protections.<sup>9</sup> Leading policy organizations including Association of Bay Area Governments (ABAG), San Francisco Bay Area Planning and Urban Research (SPUR), East Bay Housing Organizations (EBHO), and the UC Berkeley Displacement Project support rent control. In a recent article, Aimee Inglis from Tenants Together, a statewide advocacy group, shares the following about rent control laws: they are not a ceiling on rents, do not impede new development (since new housing is exempt in most places), and contrary to common belief, they employ strong habitability code enforcements to maintain residence upkeep.

### ***Just Cause Eviction Protections***

Just cause for eviction prevents the arbitrary eviction of tenants who have paid their rent and have respected their lease agreements, and goes hand in hand with rent control. Specifically, just cause requires that landlords have a specific reason to evict a tenant.<sup>10</sup> Renters have very limited rights if there are no just cause protections in their city, as landlords can unexpectedly remove tenants without ever stating a reason. Indeed, under state law - and in Fremont currently - a tenant does not have to know why she is being evicted. A just cause ordinance can be applied to all residential rental units including single-family homes, condominiums, and newly constructed units, protecting a great number of Fremont's tenants from unfair and arbitrary evictions.

With just cause eviction protections, a landlord still has the ability to remove tenants for failure to pay rent, a breach of the lease, and excessive nuisance (typically criminal activity) among other reasons. Additionally, just cause ordinances typically allow landlords to terminate tenancies for other valid reasons that are unrelated to any wrongdoing by the tenant; such causes include owner move-in and removal of the housing unit from the rental housing market (i.e., Ellis Act).

We believe just causes for eviction could include:

- Nonpayment of rent
- Breach of rental agreement
- Nuisance or substantial damage to property and interference with the comfort, safety, and enjoyment of the landlord or other tenants in the building
- Failure to allow landlord to access the unit to make repairs or as otherwise required by law
- Temporary move due to capital improvement or rehabilitation projects (with a guaranteed right of return for former tenants once repairs are completed, plus relocation payments)
- Owner move-in, or move-in of certain relatives of the owner
- Demolition or removal of the property from the rental market (the tenant must have a right to relocation payments)

### ***Data Tracking and Discouraging Retaliation***

While RRIDRO exists for the purpose of conciliation, mediation, and fact finding, it only discourages and does not provide a guarantee against retaliatory behavior like excessive rent hikes and no-fault evictions by landlords. We urge the City to adopt a rent control and just cause for eviction ordinance because they provide meaningful protection for tenants. The City should also collect information on all rent increases, change of

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<sup>9</sup> California Tenant Law, <http://www.caltenantlaw.com/RCcities.htm>

<sup>10</sup> Tenants Together. "Communities Thrive with Rent Control." September 2015.

terms in tenancy, and eviction notices into a central data bank so citizens and officials have the ability to track citywide rental housing trends.

***Temporary Rent Increase and No Fault Eviction Moratorium***

We recommend that City Council adopt a temporary moratorium on rent increases and no-fault evictions while staff continues to analyze the deeper causes of housing instability in Fremont, searches for appropriate solutions, drafts new ordinances, and revises existing renter protections in its municipal code. A moratorium will help stabilize rents in the short term so that landlords do not retaliate by raising rents and use no-cause evictions to remove tenants as this matter is further studied.

**In Closing**

Housing is vital to the stability of our community and protection of housing for our lower and moderate income residents reflects the values we believe Fremont should embrace. Allowing for higher density and market-rate development, even with some affordable housing requirements, with no tenant protections will only exacerbate the City's displacement crisis. A dependence on trickle down housing policies fails to address the root causes of residential displacement, and yields ill advised fixes to a broken system. Fremont has a moral obligation to house all its residents in healthy and affordable homes. We should be planning for opportunity, not exclusion, and this means providing safeguards for those who are currently here in order for them to remain in our fair city.

Sincerely,

RISE Coalition