City of Fremont
Rent Review Ordinance

Annual Report | January 1, 2018 - December 31, 2018

CITY OF
Fremont

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Executive Summary

In response to the rising cost of rent, on October 3, 2017, the Fremont City Council adopted the Rent Review Ordinance (RRO) which took effect on January 1, 2018. The RRO repealed and replaced the Residential Rent Increase Dispute Resolution Ordinance (RRIDRO) which was in place since 1997. The RRO also enhances the RRIDRO in the following ways:

- Establish a Rent Review Board: Landlords and tenants have the right to have matter heard by the Rent Review Board in a public meeting if the proposed rent increase exceeds 5%.
- Changes Rent Increase Notice Requirements: Requires that rent increases exceeding 5% include a statement setting for the reason for the rent increase. The Notice of Availability of Rent Review is provided in English, Spanish, Chinese, Dari and Punjabi on the Rent Review website.
- Changes Retaliation Penalties from $1,000 to $2,000.
- Annual Report to Council: Requires staff to prepare an annual report to the City Council assessing the effectiveness of the Ordinance.

The City Council received a mid-year report on the Rent Review Ordinance at the July 10, 2018 City Council meeting. Staff did not seek Council's evaluation of the effectiveness of the Ordinance at that time, but rather, provided an update on the activities that have taken place to implement and operate the Ordinance.

In contrast to the mid-year report, this annual report is intended to assist Council to evaluate the effectiveness of the Rent Review Ordinance, measure the impact of the current program, and plan for the future. The report is organized under these broad categories:

- Program History and Overview
- Fremont Demographics & Housing Market Trend
- Marketing and Educational Outreach
- Rent Review Case Data and Program Statistics
- Rent Review Follow-Up Survey and General Inquiries
- Rent Review Ordinance Limitations
- Ordinance Amendment & Potential Solutions

This annual report covers the period from January 1, 2018 to December 31, 2018. During this time period, the Rent Review office has received a total of seventy-one requests for rent review related services and forty-seven of them qualified as rent review cases. The average rent increase for these cases prior to the rent review process was 11.5%, and decreased to 8.7% after the process. Program staff also received more than 800 inquiries on other housing needs with the need for affordable housing at the top of the list, an indication that the need for affordable housing remains a priority in Fremont.

As with many new ordinances and programs, there have been challenges that arose that illustrate the limitations of the Rent Review Ordinance. This report will also highlight the notable challenges and present potential solutions for Council consideration.

History & Overview

A BRIEF HISTORY OF THE RENT REVIEW ORDINANCE

* SEPTEMBER 27, 2016 - Fremont City staff presented to the City Council several possible actions to respond to the rising rental prices in Fremont. Options included different models of rent control and revisions to the City's existing Residential Rent Increase Dispute Resolution Ordinance (RRIDRO).
* JULY 11, 2017 - City Council received a presentation from Management Partners on "Rent Control and Just Cause Eviction: Review of Programs." City Council asked staff to return with revisions to RRIDRO.
* SEPTEMBER 19, 2017 - City staff developed a revised ordinance for City Council consideration.
* OCTOBER 3, 2017 - City Council adopted the Rent Review Ordinance.
* JANUARY 1, 2018 - Rent Review Ordinance went into effect.
* JANUARY 16, 2018 - Rent Review Program Manager recruited.
* FEBRUARY 20, 2018 - City Council appointed the Rent Review Board.
* APRIL 10, 2018 - City Council approved the annual per unit fee for landlords of $24.
* JULY 10, 2018 - Rent Review Mid Year Report to City Council

Overview of the Rent Review Process

STEPS

1 **Request for Rent Review**
Landlord or tenant request for rent review within 15 calendar days from date of rent increase notice.

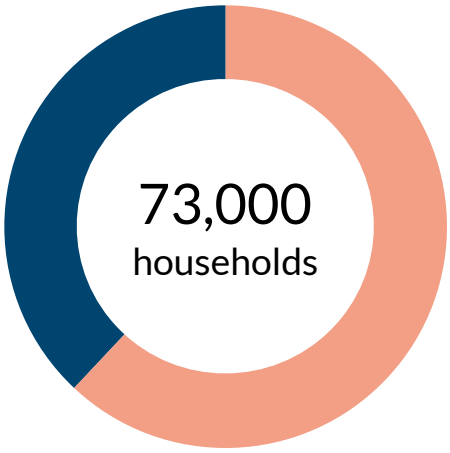
2 **Rent Review Request and Response Forms**
City verifies that rent increase notice is valid, and parties submit request and response forms.

3 **Consultation/Mediation**
City schedules consultation phone call and/or in-person mediation.

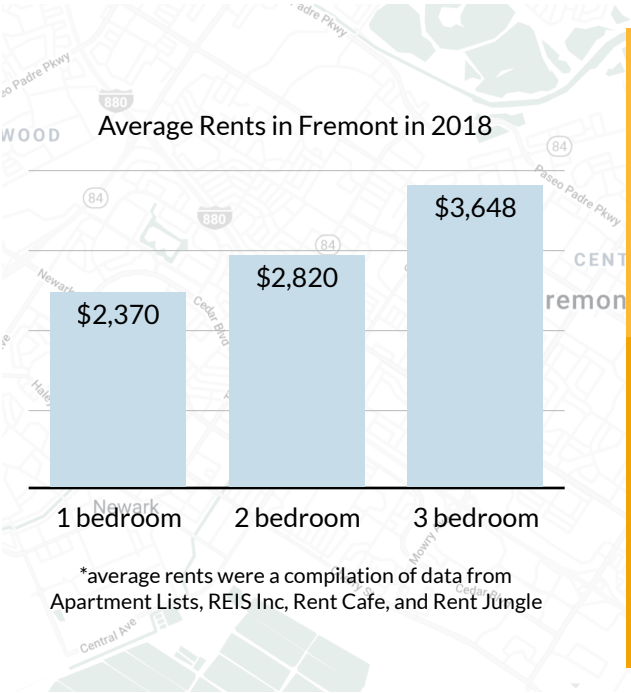
4 **Rent Review Board Hearing**
If no resolution, and rent increase is over 5%, a Rent Review Board Hearing may be requested.

Fremont Demographics & Market Trends

The City of Fremont has about 235,000 residents and 73,000 households. Of the total housing units in Fremont, 62 percent are owner occupied, and 38 percent are renter occupied.[1]



In Fremont, landlords are not required to report their rents to the City, and as a result, it is difficult to gather more accurate data on rents. The chart below illustrates the average rents in Fremont in 2018, using estimates that were compiled from four databases: Apartment Lists, REIS Inc., Rent Cafe, and Rent Jungle. These numbers are estimates, and may be skewed depending on how each reporting service gathers their data.



The U.S. Department of Housing and Urban Development (HUD) defines cost-burdened families as those who pay more than 30 percent of their income for housing, and may therefore have difficulty affording necessities such as food, clothing, transportation, and medical care. In Fremont, about 41 percent of renters are cost-burdened.

[1] American Community Survey

In addition to the growing trend of housing cost burden in Fremont, more alarming statistics indicate that housing is becoming out of reach to a growing number of Fremont residents. According to the last county-wide homeless count in 2017, there are **479 homeless persons** in Fremont.[2] However, this number is likely an undercount by about three to four times, due to the difficulty of counting a transient, hidden population.

In Fremont, **48 percent were experiencing homelessness for the first time**. These included families, unaccompanied children, transitional age youth, veterans, and seniors. When asked what might have prevented their homelessness, the top four responses were:

1. rent assistance
2. employment assistance
3. benefits/income
4. mental health services

In recent years, California and many of its cities have seen a rise in the number of homeless individuals. The cost of housing has increased exponentially, while incomes have remained relatively stagnant. Additionally, there is a serious shortage of affordable housing.

In recent years, there has been funding from the county and state, such as the Alameda County A-1 bond funds, SB 1, and SB 2, which will create and protect affordable housing options for people who need it most in Alameda County. However, even with this bond measure and other funding, **there are still gaps in the types of services needed** to help the most vulnerable populations. For example, there is also a need for long-term permanent subsidies, which are provided to the most severely disabled and most chronically homeless, often for persons who make less than 20 percent of median income.

While the long term solution to this housing crisis is to build more affordable housing, and to bring balance to the supply and demand for housing, **it is imperative to explore short term solutions** that will provide immediate support to Fremont residents that are struggling to find and keep affordable housing.

The City Council approved funding for **landlord incentives and housing subsidies**, to incentivize landlords to rent to people that are homeless or at risk of losing their housing. Staff presented several incentive options to landlords. See page 6, Landlord and Tenant Education Workshops, for additional details.

[2] EveryOne Home Homeless Census & Survey Jurisdictional Report: http://everyonehome.org/wp-content/uploads/2016/02/2017-Alameda-County-8.1-2.pdf

Marketing & Outreach

The City is continuing to outreach to tenants and landlords on the Rent Review Ordinance. Anyone interested in staying informed of the Rent Review Ordinance may sign up to be included on the program's list serve on www.Fremont.gov/RentReviewList. Below is a list of the different types of outreach done this year.

Rent Review Flyer distributed at

* Fremont Main Library
* Fremont Family Resource Center
* Fremont Fair Housing/Landlord Tenant Services
* Fremont Development Center
* Fremont Senior Center
* Mailing to landlords who own rental property in Fremont
* BACS Community Wellness Center
* Tri City Volunteers
* Fremont City social media outlets
* RHA Times
* Fremont City newsletter and news briefs

Presentations

* Rental Housing Association of Southern Alameda County
* RISE Coalition
* Assembly Member Kansen Chu
* Housing Authority of Alameda County
* BACS Weekly Housing Workshop
* Rental Property Owners and Property Managers Information Training
* Legal Assistance for Seniors
* Fremont Human Relations Commission
* Fremont Senior Citizens Commission
* Fremont Health Expo
* Fremont Library

The City produced a video to explain the Rent Review Ordinance in a simple, easy to understand format. The video can be viewed at www.Fremont.gov/RentReviewVideo.

Landlord & Tenant Education Workshops

The City worked with different organizations to host a series of landlord and tenant education workshops. The goal of these workshops was to educate Fremont landlords, property managers, and tenants on the Rent Review Ordinance and other landlord/tenant rights and responsibilities.

Landlord Workshops

The City coordinated two landlord education workshops, with a total attendance of **over 200 participants**. The first workshop was held on Wednesday, October 24, 2018. This workshop was in partnership with the **Rental Housing Association** and **Project Sentinel**. Topics that were covered include:

- Rent Review Ordinance
- Habitability
- Fair Housing
- Common landlord/tenant issues

The second workshop was held on Wednesday, November 7, 2018. This workshop was in partnership with the **Fremont Family Resource Center, Abode Services, Bay Area Community Services, Eden I&R, and the Housing Authority of Alameda County**. The goal of this workshop was to raise awareness of and encourage landlords to rent to tenants from different rental subsidy programs. The Human Services Director also presented on potential landlord incentive programs the City is considering to further encourage landlords to work with these types of organizations to help house residents. The five different landlord incentives that were presented are:

1. **signing bonus** - when a landlord agrees to rent to a tenant through a rental assistance program for the first time, they would receive a one-time signing bonus.
2. **apartment repair fund** - funds that can be used for damage repairs caused by the tenant.
3. **vacancy loss payment** - payment for up to two months rent if the available rental unit is rented to anther participating tenant.
4. **re-rent bonus** - a bonus for landlords if they rent to another participating tenant.
5. **24/7 landlord hotline** - staff is available 24/7 by phone or email to answer landlord questions.

Landlords provided feedback on which incentives would have the biggest impact. The top two incentives were the signing bonus and vacancy loss payment.

Landlords were asked to fill out a survey to share comments and what they would like to learn at a future workshop. 65 percent of the landlords expressed that the workshops were very relevant, and 87 percent responded that they would like to be invited to future education workshops. Some of the common points that were raised are listed below.

- Landlords appreciated the workshops, and there is a desire to continue having more workshops for landlords to learn about their rights and responsibilities.
- There is a need for a legal advice line for landlords, especially with the increasing number of ordinances and state laws around rental properties.

The survey results indicated that the top future workshop topics are as follows:

- Landlord Rights
- Habitability
- Leasing Requirements
- Pets vs. Service Animals
- Evictions

Tenant Workshops

The tenant education workshop took place on Thursday, November 29, 2018. There were over 45 participants that attended. This workshop was in partnership with the Bay Area Legal Aid and Project Sentinel. Topics that were covered include:

- Rent Review Ordinance
- Tenant and affordable housing resources
- Fair housing
- Tenant rights and responsibilities

Tenants were also asked to fill out a survey to share comments and what they would like to learn at a future workshop. 100 percent of tenants surveyed responded that the workshop was either relevant or very relevant, and 67 percent responded that they would like to be invited to future workshops. Some of the common points that were raised are listed below:

- The City does not have enough protections for tenants who experience retaliation; several tenants pointed out that if a tenant decides to exercise their right to request for a rent review, a landlord may decide to issue them an eviction notice.
- The City needs more affordable housing.

The survey results indicated that the top future workshop topics are as follows:

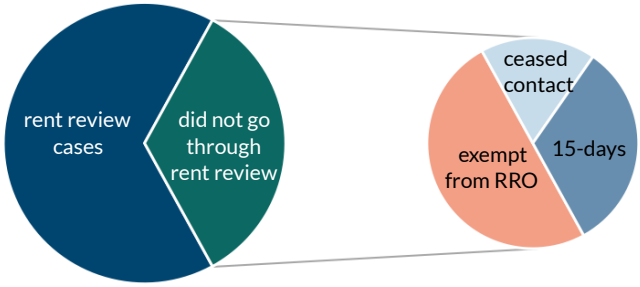
- How to get affordable housing
- Landlord responsibilities and tenant responsibilities
- Common landlord/tenant issues, and how to resolve them

Due to the high level of participation and demand for the workshops from both tenants and landlords, the City will be coordinating additional workshops for landlords and tenants next year. Anyone interested in attending workshops may sign up for the rent review interest list at www.fremont.gov/rentreviewlist.

Rent Review Case Data

From January 1, 2018 to December 31, 2018 the City received a total of seventy one requests for service. Not all of these requests went through the rent review process.

Twenty-four rent review requests did not proceed to go through the rent review process for various reasons. The breakdown of those reasons are below.



Twelve rent review requests could not be fulfilled because the tenants were exempt from the Rent Review Ordinance.

> Ten of these units were exempt from the Rent Review Ordinance because they are below market rate (BMR) rental units with a regulatory agreement.
>
> One tenant was exempt from the Rent Review Ordinance because they received a termination of tenancy notice, not a rent increase.
>
> One tenant was exempt from the Rent Review Ordinance because the tenants received a 3-day notice to pay or quit, not a rent increase.

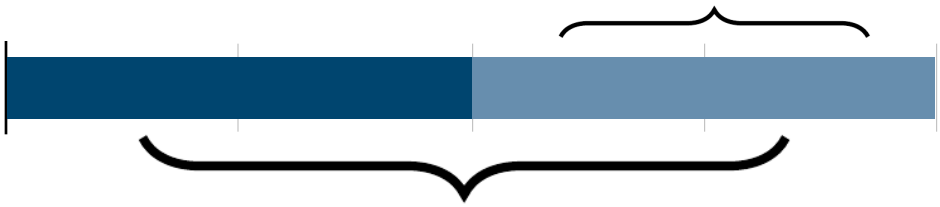
Eight rent review requests did not proceed because the tenants did not contact the City within 15 days from the date of their rent increase notice. The Rent Review Ordinance states that the rent review process may be initiated by either an affected landlord or tenant by contacting the City within 15 calendar days of the date of the notice of rent increase and providing a copy of the notice of rent increase to the City.

Four rent review requests did not proceed because the tenants ceased contact with the City after their initial requests.

It is important to note that of the **24 requests** that did not go through the rent review process, **12 (50%)** are from tenants who live in rental units that are exempt from the rent review ordinance. The following types of units are exempt from the rent review ordinance:

- hotels
- boarding houses
- transient accommodations
- dormitories
- mobile home space rentals
- rental units owned or operated by any government agency
- rental unit subsidized by a government agency and subject to a regulatory agreement

The average rent increase of the 24 requests that did not go through rent review is **19.6%.** The average rent increase of the 12 tenants who live in units that are exempt from the Ordinance is **28.9%,** which is higher than the overall average.



28.9% - the average rent increase of the 12 tenants who live in units that are exempt (Section 8 or Below Market Rate unit)

19.6% - the average rent increase of the 24 tenants who were not able to go through the rent review process. These tenants were not able to go through rent review for the following reasons: unit is exempt, request came after 15 days from date of rent increase notice, and tenants ceased contact with staff after initial request.

Forty-seven rent review requests went through the rent review process and were resolved in different stages. The breakdown of those cases are below.

Twenty One rent review cases were resolved prior to the consultation phone call. The City encourages tenants to work directly with the landlord or property manager to come to an agreement, and will often work with tenants to assist them with this approach. The breakdown of those twenty requests is below.

- **Nine** of the twenty one tenants agreed to the original terms of the lease renewal because they felt there was not enough protection against potential retaliation.
- **Eight** tenants were able to agree on a lower rent increase with their landlords or property managers.
- **Two** tenants agreed on a delayed or staggered rent increase with their landlord.
- **One** case ended because the landlord terminated the tenant's tenancy.
- **One** tenant vacated their unit.

Eighteen rent review cases concluded after the consultation phone call.

- **Nine** cases resolved with a decreased rent increase.

Four tenants agreed to the original terms of the lease renewal.

Two tenants decided not to pursue mediation because of fears of landlord retaliation.

Two landlords rescinded the proposed rent increase.

One tenant decided to vacate their unit rather than pursue mediation.

Seven rent review cases concluded after the in person mediation.

Three tenants received a decreased rent increase.

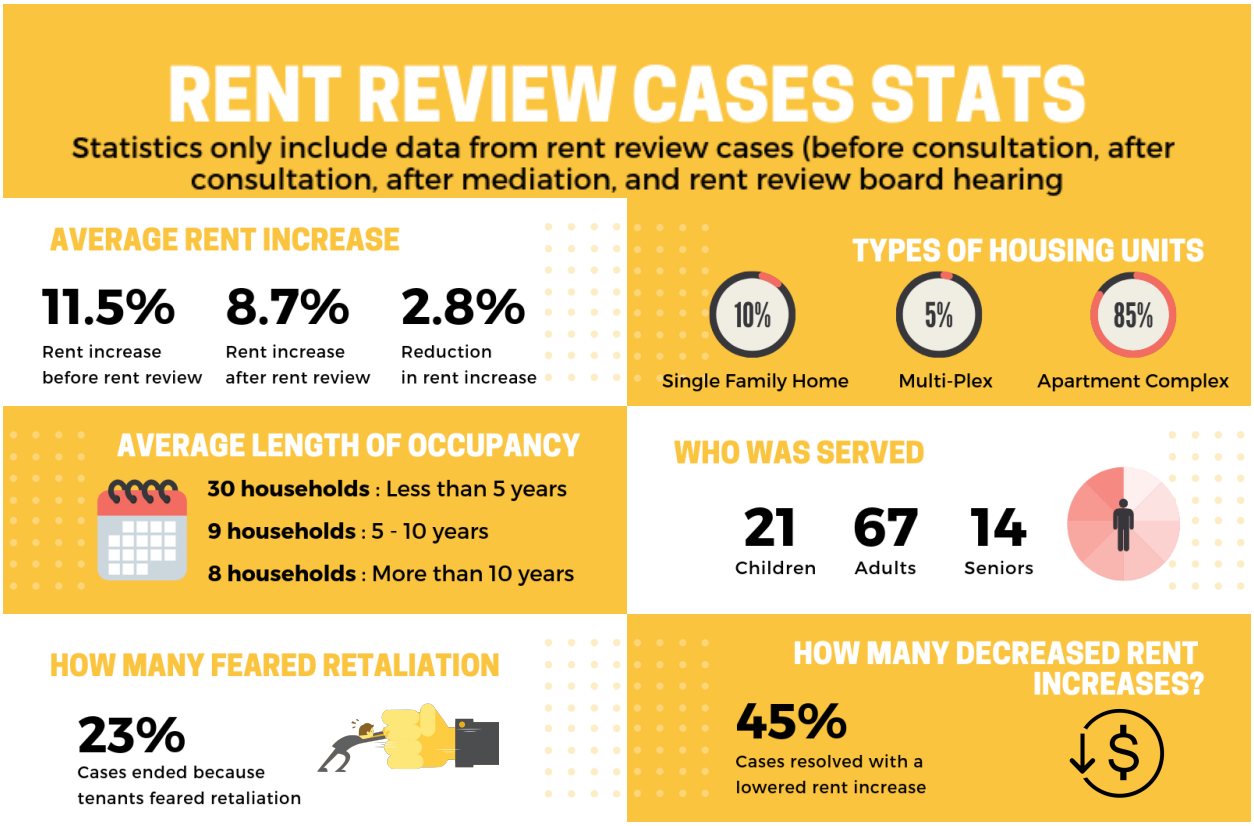
One tenant agreed to the original terms of the lease renewal.

One tenant agreed to the original terms of the lease renewal, but also received six months of $100 rent credit.

One tenant decided to vacate their unit.

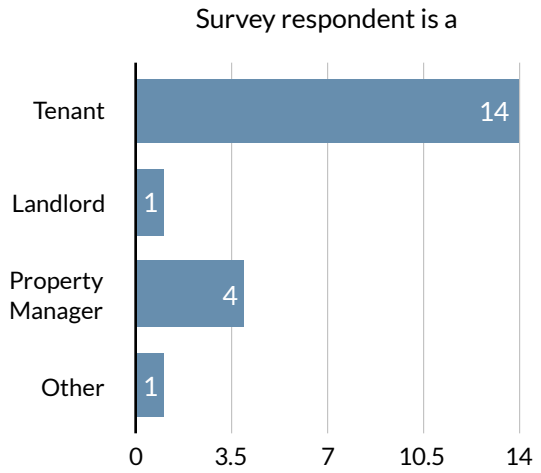
One of the seven cases got resolved through peer counseling with the Rental Housing Association after an unsuccessful mediation. The case was resolved with a decreased rent increase.

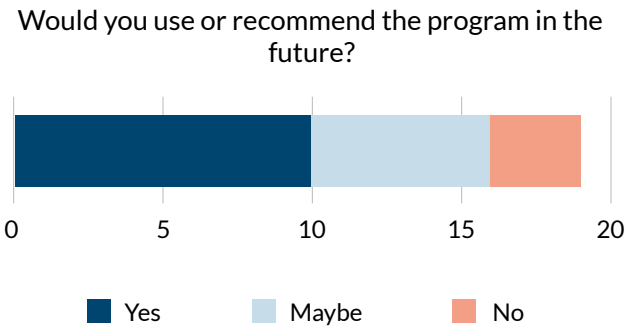
One rent review case was heard before the Rent Review Board. The Board did not make a recommendation because both parties agreed to the terms of the originally proposed rent increase.

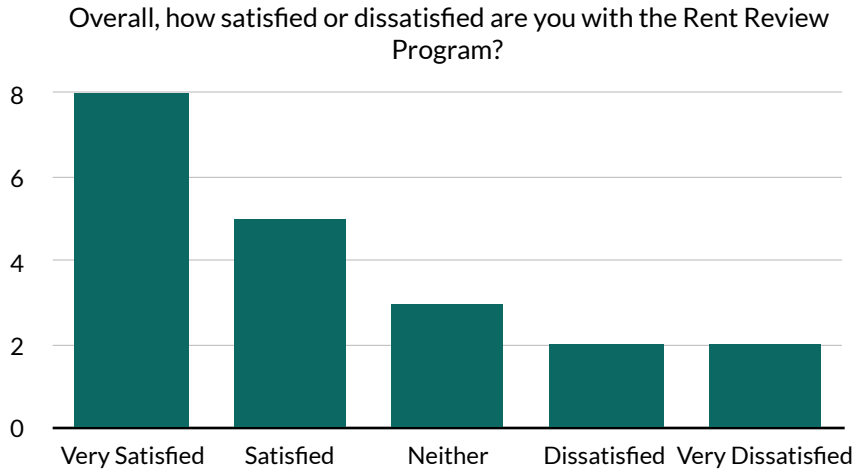


Rent Review Follow Up Survey

After the conclusion of a rent review case, the City follows up with both parties with a survey request to evaluate and provide feedback on their experience. Follow up generally happens about one to three weeks after the case is resolved, and is not mandatory. Surveys are only sent to parties who have gone through a rent review case. As of December 31, 2018 the City sent survey requests to parties of 43 rent review cases, and received a total of 20 responses to the survey. Below is a summary of the responses.







How can we improve the Rent Review Program?

Top responses include:

- Make the decisions binding
- Cannot be improved
- Require more descriptive reason for rent increase by landlord. *Landlords are required to provide a reason for the rent increase for any rent increase notices seeking an increase exceeding five percent. The top reasons included in the rent increase notice by landlords are:*
    - To bring the unit up to market rent (71% of rent increase notices received by the City cite this as the reason for the rent increase)
    - Increased cost of maintenance

Actual Responses

1. Require that the landlord give more detailed explanations of why the rent is being increased, instead of a vaguely worded one line like “future market conditions.”
2. If the decision is more binding, it will be more conducive for both parties to come to an agreement. It seems like with the current market pricing, the landlord would have more leverage if the tenant does not agree with what the landlord wants. The review process should also look at the historical trend of rent increases. In my case, my increase last year was 15%, and this year was 5%. This makes it seem like the increase this year is not that much based on percentage, but in dollars it is actually high.
3. I am not sure how the program can be improved. It is difficult to be required to have to go to mediation when a resident does not feel it is fair. The landlord has huge expenses and yes, with the way rents are in the bay area, rents are increasing. In the end you agree to reduce the rent or you have to continue with more time. The time to complete the paperwork is time consuming, the meeting, etc.
4. City should do more awareness of the program and should have binding authority to prevent landlord charging exorbitant rent increases.

Do you have additional comments?

Top responses include:

- Protect tenants against retaliation
- More regulations needed
- Program is helpful

Actual Responses

1. Provide adequate and easy to access safeguards against landlords who retaliate against tenants who used rent review.
2. From a perspective of a tenant, it seems that more regulations will be needed to give both parties a level playing field. In a booming economy landlord would have more leverage in determining market price. All I know for sure is that this is definitely not sustainable. As a first generation immigrant, it seems that the word "American Dream" is becoming more and more literal. It is exactly that, just a "dream" and would never become “reality.”
3. Thanks to Fremont Government for having such a program.
4. Great process, but if Fremont really wants to help people remain here additional programs will be needed.
5. As a Tenant, I feel the Landlord had more leverage knowing the Board is not binding. Therefore the Landlord would never agree. As a tenant, I felt I had no choice but to agree otherwise the Landlord will serve notice to vacate which I cannot afford to move.
6. My plea is to repeal the Rent Review Program.

General Inquiries

The City of Fremont contracts with Project Sentinel to provide landlord/tenant counseling, and investigate housing discrimination. The Rent Review office and Project Sentinel received inquiries from tenants and landlords that were not directly related to a rent review request. Below is a compilation of calls, emails, letters, and walk-ins that the Rent Review office and Project Sentinel received this calendar year.

Affordable Housing

Over 250 inquiries were received this year from residents about affordable housing. Residents wanted to know how to get into an affordable housing unit either for themselves or for a family member. The City also received calls from residents who wanted to raise awareness of the lack of affordable housing in Fremont. All residents who were looking for affordable housing were referred to organizations that provide resources to help find affordable housing, such as 211.

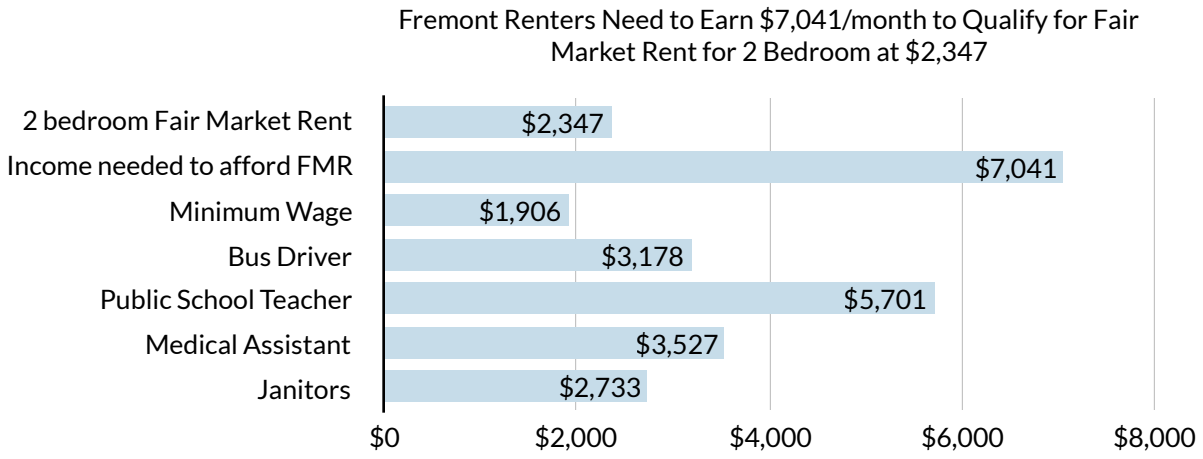
Some tenants needed assistance to find landlords that would accept their Section 8 Housing Choice Voucher (HCV). This has become a growing concern among Section 8 tenants. There has been a shortage of landlords in Fremont who are willing to accept tenants with a HCV. Fremont residents who are not able to find a landlord willing to accept their HCV has to either look for housing out of the city, or risk losing their voucher.

In addition to HCVs, there are other rental subsidy programs that aim to assist tenants who are looking for affordable housing, such as Rapid Rehousing and Stay Housed. However, it is increasingly challenging to find landlords who are willing to accept tenants from these programs.

One solution to this growing problem is to add a Source of Income Discrimination amendment to the Rent Review Ordinance. Landlords today are not prohibited by federal or California law from rejecting a tenant based solely on the fact that they possess a HCV or other rental subsidies, nor are landlords required to consider rental subsidies as income. A Source of Income Discrimination amendment would prohibit landlords from discriminating against tenants who have a rental subsidy, and would require landlords to consider rental subsidies as part of the tenant's income.

In addition to the lack of affordable housing available in Fremont, residents also needed assistance in finding a rental unit that they would qualify for based on their income. Oftentimes, landlords require that prospective tenants need to have an income of 2.5 to 3 times the asking rent to qualify for the rental unit. In Fremont, due to the rising rents and stagnant wages, many tenants do not qualify, even though they are willing to spend more than 30 percent of their income on the rent.

The chart below shows the income needed to afford a 2 bedroom rental listed at $2,347 per month, using the industry practice of requiring 3 times the asking rent. It also shows the average wages that different occupations earn in Fremont.



General Landlord/Tenant Issues

Over 200 inquiries were received from residents about landlord tenant issues. Common topics that come up are around:

- Landlord and Tenant - rights and responsibilities
- Security deposit - how much can landlords charge for security deposit, how can tenants receive their security deposits back
- Habitability and maintenance - mold, bed bugs, repairs, landlord entry

One solution to help address many of these concerns is through continued landlord and tenant education workshops. The Rent Review office is planning on organizing additional workshops in 2019 to landlords and tenants on common concerns such as evictions and habitability.

Rent Control and Rent Review

Over 200 inquiries were received from residents around rent control and the new Rent Review Ordinance. Some of the common types of questions the City received were:

- Does Fremont have rent control?
- What are rent increase noticing requirements?
- What is the rent review process?
- Does the City have any binding authority?

Landlords also shared comments and questions regarding the Rent Review Ordinance annual per unit fee. For example, some landlords are seniors who live in assisted living facilities. Those landlords expressed how the annual $24 per unit fee is negatively impacting them, because the rent they are currently charging is not enough to cover their own expenses.

Termination of Tenancies/Evictions

The City received over 150 inquiries from landlords and tenants about termination of tenancies and evictions. Landlords asked about their rights as a landlord to terminate tenancies or evict a tenant, and what the process is to evict a tenant. Tenants needed help

with termination notices they have received and what their rights are as a tenant. Many tenants also asked about affordable housing resources, because they needed to look for housing as a result of their eviction.

Fremont does not have a specific eviction ordinance, and landlords are not required to state a reason for the eviction or termination of tenancy. However, some landlords do provide a reason for the eviction on their notices. Common reasons that were listed on notices were:

- property owner is planning to sell or move in to rental unit
- non-renewal of tenancy due to renovation of unit

Some landlords renovate their rental units to increase the unit's value. As a result, the existing tenants receive a non-renewal notice or a termination of tenancy notice so the landlords can renovate and re-rent the unit for a higher price, and the landlords give the tenants the option to move in to a newly renovated rental unit. These units are often higher in rent than their current units, and the tenants cannot afford to move in to the renovated units.

Rent Review Ordinance Limitations

As with many new ordinances and programs, there have been several challenges that arose that illustrate the limitations of the Rent Review Ordinance. This report will highlight the biggest challenges that repeatedly arose throughout the year.

Responsible Party

The Rent Review Ordinance states the landlord and tenant must participate in good faith, which means the mutual obligation of the parties to meet on each occasion when notified in consultation, mediation, or Rent Review Board proceedings, provide relevant information, exchange proposals, reasonably consider proposals by opposite parties and engage in meaningful discussion on the subject of proposed rent increases and issues related to the rent increase. However, if a landlord does not wish to participate in the rent review process personally, they may designate a responsible party to participate on their behalf. A responsible party is a person with the legal authority to adjust rent increases and resolve tenant issues on behalf of the landlord. In most cases, a responsible party is the landlord's property manager or management company.

There are several challenges of trying to resolve a rent review case with a tenant and a responsible party, rather than a landlord. A responsible party does have to participate in the rent review process and must have the authority to adjust rent increases. However, the Ordinance is vague as to how much authority the responsible party needs to have. A responsible party will usually have the authority to make some amount of rent increase adjustment, but will not have complete authority to decide on the final amount of the rent increase adjustment. For example, a responsible party may have the authority to decrease the rent increase by 2 percent, but for anything more they will have to receive approval from their management.

This can be a challenge during the mediation. The rent review mediations are a non binding process, where the mediator is an impartial third party who assists the parties in reaching a mutually agreeable resolution. The mediator facilities the conversation and may make suggestions or recommendations. However, it is up to the parties as to whether or not they come to a resolution and if the responsible party that is present cannot make those definitive decisions, it not only slows the process, it discourages the tenant from continuing with the rent review process.

Additionally, a property management company often has several departments such as the community manager, the regional manager, and pricing team that work together on rent increases. This can also be a challenge during mediation, because one person usually cannot make the final decision on a revised rent increase. The representative at the mediation usually has to discuss the potential solutions with their management team, which can take more time and also discourage the tenant from continuing with the rent review process.

Retaliation

The Rent Review Ordinance states that landlord retaliation is strictly prohibited. It states what types of action can be presumed to be retaliatory conduct, and lists the remedies for such conduct. However, the City does not directly enforce against retaliation. It is up to the tenant and landlord to resolve disputes through civil action. This discourages some tenants from exercising their rights, like the City's rent review program, because the burden of proof of retaliation often falls on the tenant.

For example, some tenants who receive a rent increase notice choose not to request for a rent review, because they fear their landlords may retaliate against them. Of the tenants who did request for rent review, 23 percent chose not to proceed to the next step of the rent review process because they felt that if they pursued anything further, their landlords would retaliate. There have also been tenants who reached out to the City to ask about the rent review process and intentionally did not request for a rent review because of the fear of retaliation.

Exempt Units

The Rent Review office received 10 rent review requests from tenants that live in below market rate units, and are therefore exempt from the rent review ordinance. The average rent increase of those ten tenants was 28.9 percent. None of these tenants were able to go through the City's rent review process to resolve their rent increase disputes.

Section 8 Income Discrimination

As indicated by the number of calls received regarding affordable housing, there is still a big need among renters for housing options that are affordable. One solution to the need for affordable housing is through programs that provide tenants with rental subsidies, such as the federal Housing Choice Voucher program (HCV), or common referred to as Section 8. However, voucher holders are having trouble finding landlords that will accept their vouchers, and many tenants end up losing their vouchers or moving out of the area to find a landlord that will accept their voucher. The issue is serious enough that over 42 jurisdictions nationwide have adopted policies or ordinances relating to this issue, including several jurisdictions in California such as San Francisco and San Diego.

Reason for Rent Increase over 5% (FMC 9.60.030(a))

The Ordinance requires that landlords provide a reason for any rent increases above 5%. A significant number (71%) of rent increase notices received by the City cite bringing the unit up to market rent as the reason for the rent increase. Many tenants have noted that the reasons listed on their rent increase notice often do not provide enough details to explain the reason for the increase above 5%.

Clarification on Rent Increase Notice Delivery Requirement (FMC 9.60.030(b))

Currently the ordinance is written so that the rent increase notice shall be personally delivered or posted *and* mailed to the tenant. This conflicts with State law which requires that the notice shall be personally delivered or posted *or* mailed to the tenant.

Clarification on Rent Increase Notice Applicability to Rent Terms (FMC 9.60.040(a))

FMC 9.60.040(a) states that landlords shall provide tenants notice of the availability of rent review in addition to any rent increase notice required by California Civil Code Section 827(b). However, California Civil Code Section 827(b) is applicable only when the rental term is from week to week, month to month, or other period less than a month, which means that the City's rent review notice shall also only be provided to tenants with a rental term less than a month.

The City's municipal code is intended to mean that the notice of availability of rent review must follow the noticing procedure referenced in California Civil Code Section 827(b), and must be applied for all notices that include a rent increase adjustment, regardless of the length of tenancy.

Rent Review Board Terms (FMC 2.20.650)

Currently the ordinance is written so that all Board member terms will expire at the same time, rather than staggering them.

Ordinance Amendments & Potential Solutions

After implementing the Ordinance for one year, staff have kept track of sections of the Ordinance that should be amended to better support the intent of the rent review program. Some amendments are minor changes, and others have greater impact.

Responsible Party (FMC 9.60.020)

Add language to strengthen the definition and role of the responsible party to require the person negotiating the rent increase to have final legal authority to adjust the rent without limitations.

Retaliation (Relocation Assistance)

Fear of eviction, particularly in a low vacancy environment, is understandable. The City does not currently have a just cause eviction ordinance that prevents landlords from evicting a tenant for no-cause. However, just cause violations are also resolved in civil action. A potential remedy adopted by some cities is to require a landlord to provide relocation assistance upon eviction. Relocation assistance may act as a financial deterrent against landlord retaliation, because there would be a financial cost to evict a tenant. Some jurisdictions that currently have a relocation assistance program are the Cities of San Leandro, Mountain View, and Berkeley.

Exempt Units (FMC 0.60.050)

Amend the Ordinance so that the rental units owned or operated by any government agency and rental units subsidized by a government agency and subject to a regulatory agreement are no longer exempt from the Ordinance. However, the Ordinance should clarify that shared housing units and junior accessory dwelling units are exempt units. Shared housing units and junior accessory dwelling units often have other agreements in place, such as service in lieu of payment. Due to the nature of shared housing agreements, these rental units should be exempt from the Ordinance.

Source of Income (Including Section 8) Discrimination

Include a section to the Ordinance that prohibits landlords from discriminating against applicants based on source of income. Landlords today are not prohibited by federal or state law from rejecting a tenant application based solely on the fact that they possess a housing choice voucher or other rental subsidies because rental subsidies do not have to be considered as income. This puts tenants who rely on rental subsidies at a disadvantage when looking for housing, because many landlords do not want to rent their units to a tenant with a voucher or subsidy. A source of income discrimination ordinance would prohibit landlords from rejecting a tenant based solely on the fact that they have a rental subsidy voucher. For example, landlords would no longer be able to advertise that "Section 8 is not allowed." There are currently nine other cities and counties in California that have passed ordinances that prohibit discrimination against a tenant based on source of income.

Reason for Rent Increases over 5% (FMC 9.60.030(a))

Expand FMC 9.60.060 (c) so that the landlord/responsible party shall present evidence to explain the rationale or reason for rent increase in excess of 5% during the consultation/ mediation step.

Clarification on Rent Increase Notice Delivery Requirement (FMC 9.60.030(b))

Revise the Ordinance so that the rent increase notices shall be personally delivered to the tenant *or* mailed to the tenant. Also remove the mailing requirements since State law incorporates the mailing process. This would align with California State noticing and mailing requirements.

Clarification on Rent Increase Notice Applicability to Rent Terms (FMC 9.60.040(a))

Clarify that the notice of availability of rent review shall be provided to any tenant that receives an increase from their base rent, regardless of the length of tenancy.

Rent Review Board Terms (FMC 2.20.650)

Revise the Ordinance so that the Rent Review Board member terms are staggered.

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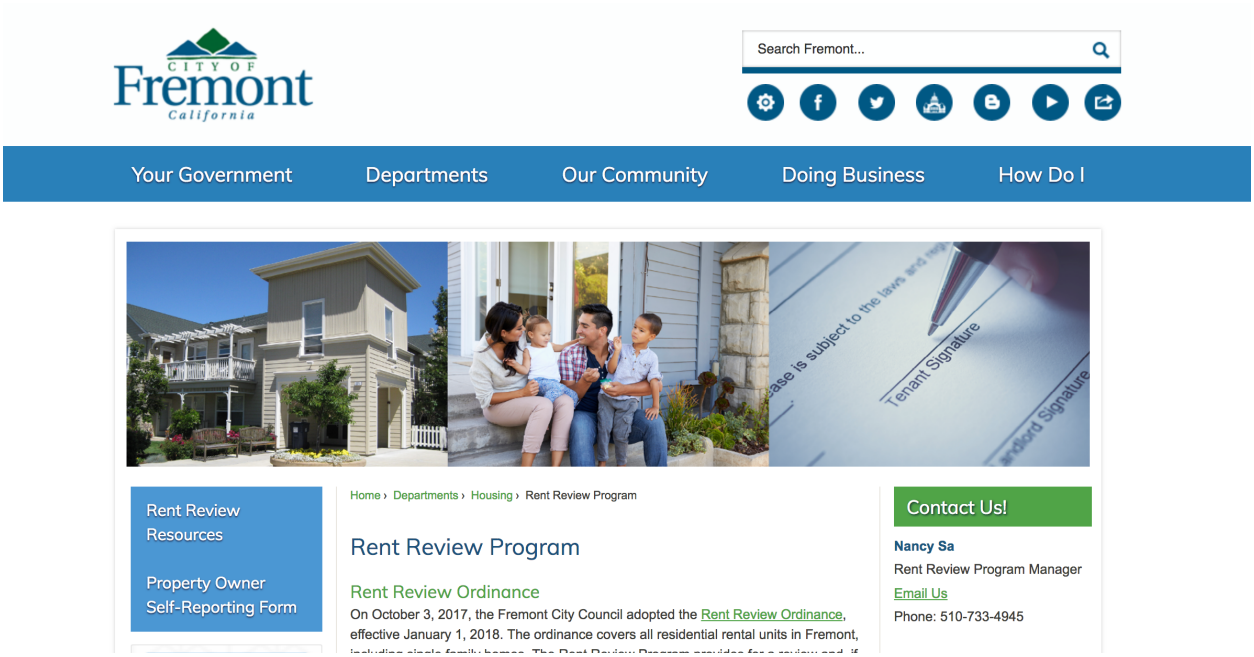
For more information, check out the City of Fremont Rent Review Ordinance website
www.Fremont.gov/RentReview