Landlords’ and Tenants’ Rights and Responsibilities under San Jose’s Apartment Rent Ordinance and Tenant Protection Ordinance & the CA Emergency Rental Assistance Program

Presented by Project Sentinel
About Project Sentinel

• Project Sentinel, Inc. is a non-profit housing services agency serving many communities in Northern California. Neutral Landlord/Tenant Counseling and Dispute Resolution is one our core services. This includes supporting some Cities with the administration of their rent stabilization hearing and petition processes.

• Isenia Macias, Case Manager/Outreach Coordinator

• PLEASE NOTE: We are not able to offer legal advice or legal representation, but we can offer tips, best practices, and an overview of local and State laws. For legal services, please contact an attorney or a lawyer referral service.
Apartment Rent Ordinance (ARO)

Applies to:

1. Apartment buildings with three or more units built before 1979
2. Guest houses built before 1979
3. Condo developments where 3 or more units are owned by one owner
4. Individual rental units fully or partially paid by the government (i.e. Section 8)

Single family homes and Duplexes are not covered by the ARO.
Registration

• Annually register each rent stabilized unit
• Pay Fees
• Each adult household member should be given a copy
• (14,179 Units Registered this year)
Additional Exceptions to 5% increase:

• One time payments for new additional housing services – previously prohibited (pet, and parking spaces)

• Voucher holders (Section 8) – Rent increases, are determined by Program Guidelines
Retaliation

• Tenants cannot be removed for exercising rights under ARO; or

• To evade the purpose of ARO

Waivers:

• Any waiver by tenant of rights granted is VOID

• Landlords may not try to waive rights of tenant(s) as condition to entering into Rental Agreement.
On June 16, 2017, San Jose put into effect a new Tenant Protection Ordinance (TPO).
What is the Tenant Protection Ordinance (TPO)?

Landlords used to be able to evict tenants with no **just cause**, or valid reason. With this new ordinance, landlords are now required to provide a **just cause**.
What does this apply to?

Rental units in any multiple dwelling (3 or more units)

Unpermitted units (i.e. converted garages)

Guest rooms in any guesthouse
Fault Causes for Eviction
(Causes based on the action of the tenant)

- Failure to pay rent
- Violating the lease
- Damaging the property
- Refusing to sign a lease extension or renewal—provided the lease is of similar duration and with similar terms as the previous lease
- Nuisance
- Refusing Access to Rental Unit
- Unapproved Holdover Subtenant
- Criminal Activity
- Subletting when your lease doesn’t allow it
- Refusing access to the Landlord to make repairs, emergencies, when the tenant
Right to return to the same unit if:

• Owner returns building to market within 5 years (same rental rates plus any annual adjustments)

• Returns after 10 years, owner to provide 120 day notice to tenant of intent to return to rental market

• Any tenants displaced may request right to return within 30 days of receipt of notice and city may request owner extend offer to renew tenancy.
Vacating of Unpermitted Unit

• Landlord wishes to end use of an unpermitted unit.

• Relocation Assistance Available.
Landlord may not terminate a tenancy unless they can demonstrate:

1) Landlord served notice of termination to tenant household and delivered copy to the city, AND

1) Termination qualifies as a just cause termination

*Notice of Termination of Tenancy to the City within 3 days of serving tenant and any Summons, and Unlawful Detainer Complaint

*Must state the reason for termination
Anti-Retaliation

If the intent is to retaliate against a tenant asserting his or her rights under the TPO, a landlord may not:

- Threaten to bring action to recover possession.
- Cause the tenant to quit rental unit involuntarily.
- Serve any notice to quit or notice of termination.
- Reduce any housing services.
- Report or threaten to report the tenant, household, or known associates of the tenant to immigration authorities.
- Increase rent.

- Landlords MAY NOT threaten to disclose immigration or citizenship status to authorities for the purpose of intimidating/influencing tenant
What is AB1482?

Rent Caps and just cause protections for California tenants starting January 1, 2020

- Annual rent caps of 5%+ CPI of 3.3% = 8.3% (San Jose Tenant’s) not covered under ARO

- Rent Cap will take effect on 1/1/20 with rent roll back to March 15, 2019

- Just Cause protection requires at least 12 months of tenancy
Unit’s Covered

- Apartments. If you live in a newer building built after 2004, AB will NOT apply to you.

- Duplexes built before 2004 (if the owner does not live in the duplex)

- Single-family homes built before 2004, AND ONLY if corporately owned.
Units not covered?

- Any housing – including apartments built within the last 15 years (after 2004)
- Units that’s are already covered by rent-control or “just cause” law. *(In Santa Clara County, this includes some units in San Jose and Mountain View)*
- Duplexes (if the owner lives in one of the duplex units)
- Hotels, hostels, or other short term housing
- Student dormitories
- Subsidized housing (BMR complexes; section-8 or other subsidy)
AB 832/SB – 91 Eviction Protections & Eligibility for Rent Relief

8/31/2020
Eviction moratorium (COVID-19 Tenant Relief Act)

6/28/2021
AB 832 extended it to 9/30/21

3/31/2022
COVID-19 Rental Housing Recovery Act expires

1/28/2021
SB 91 extended it to 6/30/2021

10/1/2021
COVID-19 Rental Housing Recovery Act begins
**AB 832/SB-91 Eviction Protections**

**Eviction Protections Extended to September 30, 2021**

1. Tenants must sign and serve a Declaration of COVID-19 Related Financial Distress on Landlord, AND
2. Pay 25% of Rent Owed between September 1, 2020 and September 30, 2021 by September 30, 2021

**Temporary Eviction Procedures starting October 1, 2021**

- Landlords should have served Notice pursuant to Code of Civil Procedure 1179.04(c) to Tenants who as of July 1, 2021 have accrued unpaid rent from March 1, 2020 to September 30, 2021
  - Landlords should also serve Notice pursuant to Code of Civil Procedure 1179.04(a) and (b) if applicable to their Tenants
- As of October 1, 2021, 3-day Notices to Pay or Quit with specific language must be served
- Tenants will have the opportunity to apply for rent relief once served with a 3-day Notice, but will have only 15 days to submit a rent relief application
- Landlords are also required to submit a rent relief application to successfully file an eviction lawsuit (a.k.a. “unlawful detainer” lawsuit)
What do tenant’s need to apply?

- Email address
- Total Monthly Rent Owed (by month) since April 2020, if any
- Landlord/Property Manager Contact Info (only one form of contact required)
- Utility Bills, if utilities assistance requested
- Previous Assistance - how much, when, and from who?
- Income Information - i.e. 2020 tax return, W-2, 1099, 2 paystubs, assistance recertification letters, bank statements, etc.
  
  ➢ **NOTE:** Tenants can now certify to zero income or cash income without supporting documentation

- Proof of Identification, if utilities and income verification not provided
- Lease/Rental Contract, if Landlord is not applying
What do housing providers need to apply?

- Email address
- Case ID number, if Tenant has applied
- Landlord or Property Manager contact info
- IRS W-9 or IRS W-8 form, completed and signed

For EACH Tenant:
- Tenant contact info (email, phone, and address)
- Rent amounts owed by Tenant (total per Tenant)
  Amounts accrued since April 2020, if any
- Lease/Rental Contract
  (if none, can document rental relationship in other ways)
- Proof of Ownership or Authorization as Property Manager to Lease Units (this may be requested by the State after submission)
Begin Process Online

Go to housingiskey.com or laviviendaesclave.com or www.housing.ca.gov
Registering for an Account or Logging Back in

Click here to create a new account

Click here to log into your existing account

Need help with unpaid rent or utilities?

The CA COVID-19 Rent Relief program provides financial assistance for unpaid and/or future rent and utilities to income-eligible California renters and their landlords who have been impacted by COVID-19. Both renters and landlords can apply for assistance. Depending on the address of your rental property, you may be eligible for a local program. Click Apply Now to determine which program is right for you.
After submitting your application
**Application Statuses**

**Application Status Progression**

1. **Application in Progress** = Applicant has created an application but has not submitted.
2. **Application Submitted** = Applicant has completed all steps required and has submitted for Case Manager Review. Application will now appear in waitlist.
3. **Application Under Review** = Case Manager has been assigned to the application and is reviewing the application to determine eligibility.
4. **Pending Applicant Information** = Application is missing documentation; Case Manager has reviewed and is waiting on information from the Applicant.
5. **QC Return for Corrections** = An application was reviewed by QA/QC and determined to be missing information or needs more clarity, so it is sent back to the CM to revision.
6. **Approved: Pending Landlord** = All information required to determine eligibility of Tenant application has been verified, but Landlord has not completed an Application.
7. **Submitted to QC Review** = Case Manager approved the application; it is now ready to be “claimed” by QA/QC for review – must have tenant and landlord review complete and approved.
8. **QC Under Review** = QA/QC “claims” file for review and is currently working on the application file.
9. **Resubmitted to QC** = An application that was returned to a CM for more information that has been updated and is ready to resume the QA/QC Process.
10. **Application Under Final Review** = (Temporary) used as an indicator file is ready for payment

11. **Approved: Pending Payment** = QA/QC has reviewed an application and approves it for payment.
12. **Approved: Submitted for Payment** = Application is in payment process
13. **Paid** = Once application is marked paid on the approved draw request, the status automatically changes to Paid.
14. **Recertification Submitted** = Once an Applicant submits a recertification of income, the status will need to be updated to Recertification Submitted.
15. **Denied** = Applications that do not meet eligibility requirements
16. **Denied – Option B** = Application is from a Jurisdiction that falls under Option B. Application should be moved here for a bulk denial.
17. **Redirect Option C** = Applicant is eligible for local jurisdiction program
18. **Withdrawn** = Applicant reaches out to the program to have their Application withdrawn, move to this status.
19. **Duplicate** = Application has one or more duplicates. Any duplicates that will not be worked on should be moved to this Status.
20. **Non-Responsive** = Applicant has not responded, file moved to an inactive status
Questions?
Contact Information & Resources

• Project Sentinel assists San Jose Landlord Questions
  (408) 414-5359

• Bay Area Legal assists San Jose Tenant Questions
  (800) 551-5554

• City of San Jose Code Enforcement
  200 E. Santa Clara Street San Jose, CA 95113
  (408) 535-7770