



Presents:

San Jose Tenant Rental Policies: Landlord and Tenant Rights and Responsibilities

Who are we?

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.

Sandra DeLateur, Mediator and Arbitrator

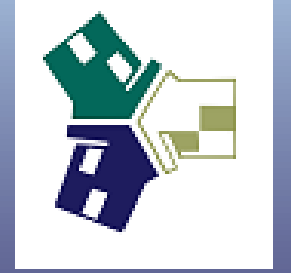
Emily Hislop, Special Programs Manager

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.

AGENDA



- 1. Introduction**
- 2. San Jose Rental Housing Laws (ARO/TPO) & AB 1482 (Tenant Protection Act)**
- 3. Statewide Temporary Eviction Protections**
- 4. Rent Relief Program**
- 5. Small Landlord Mortgage Relief**



San José ARO/TPO and State Rent Law (AB 1482)

City San José Rental Housing Laws



Useful information and tools on City's Housing website:
sanjoseca.gov/your-government/departments/housing



San Jose ARO/TPO Introduction



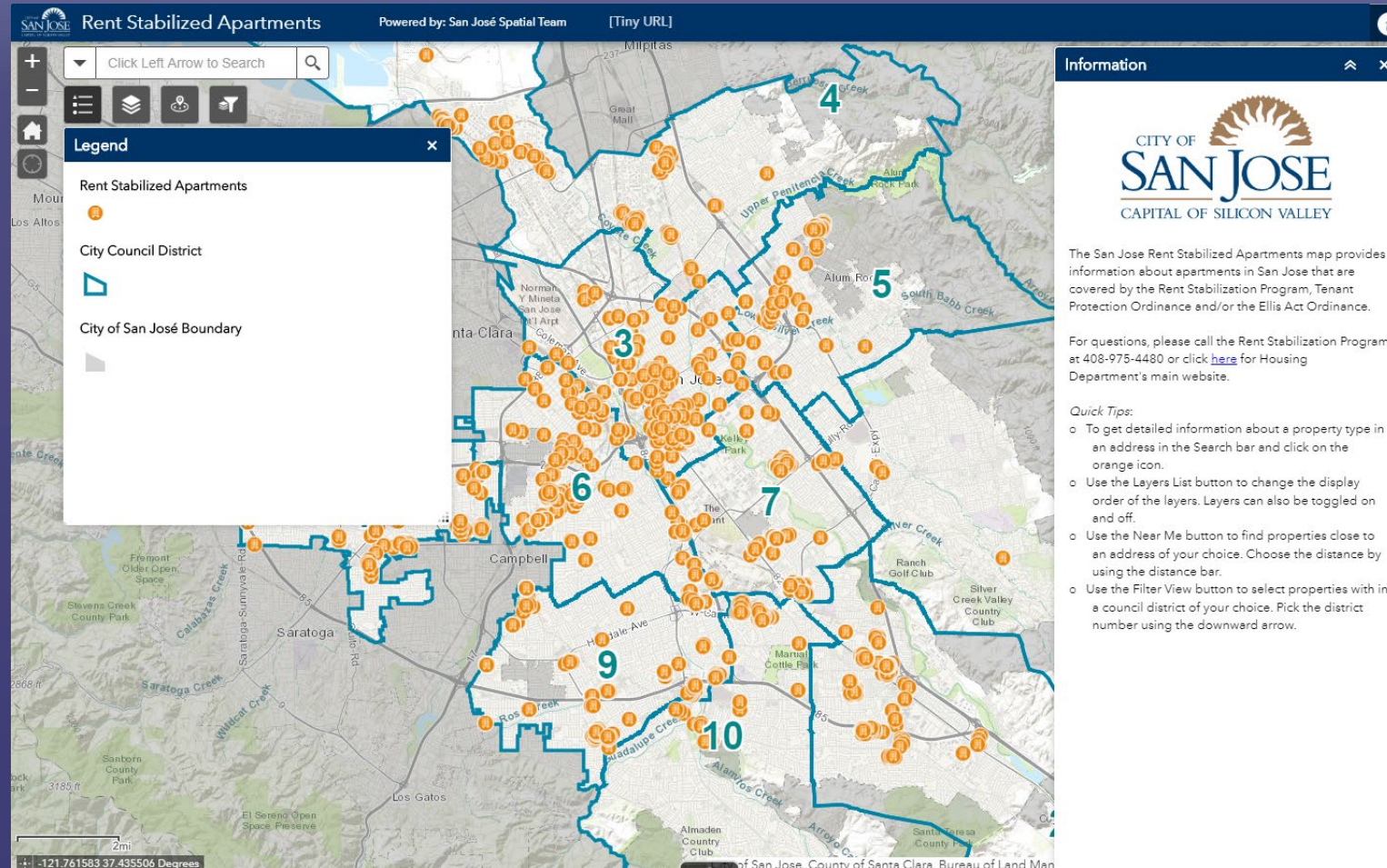
- The Apartment Rent Ordinance (ARO) provides rent control to certain units within San Jose (*took effect September 7, 1979*)
- The Tenant Protection Ordinance (TPO) provides eviction protections (*took effect August 16, 2017*)
 - ARO: rent control; all ARO units covered by TPO
 - TPO: eviction protections; not all TPO units subject to ARO

Apartment Rent Ordinance (ARO)

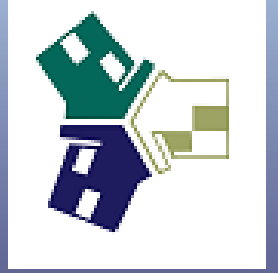


- Applies to:
 - Apartment buildings with 3 or more units built before 1979
 - Guest houses built before 1979
 - Condo developments where 3 or more units are owned by 1 owner
 - Individual rents fully or partially paid by the government (e.g. Section 8)
- Does NOT apply to:
 - Single-family homes and condominiums

ARO Covered Properties

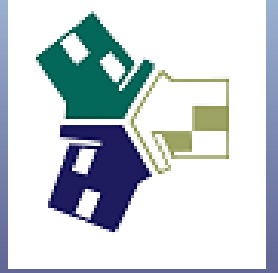


Registration - ARO



- Annually register each rent stabilized unit
- Pay fees
 - May include fees for operating expenses
 - Tenant pass-through not allowed
- Each adult household member given a copy of registration

Exceptions to ARO 5% Rent Cap



- Fair rate of return (Rent Petition)
- Capital Improvements
- One time service payments
 - i.e. parking spaces, pets
- Voucher holders (e.g. Section 8)

Reminder: Housing Payment Equality



Both San Jose and State law prohibit discrimination based on source of income (e.g. housing vouchers). Prohibited activities include:

- ✓ Advertising that housing vouchers are not accepted
- ✓ Assessing an applicant's ability to pay based on an amount greater than the portion of rent to be paid by the applicant
- ✓ Imposing rental terms on voucher holders that differ from terms for other rental applicants

San Jose Rent Increase Moratorium

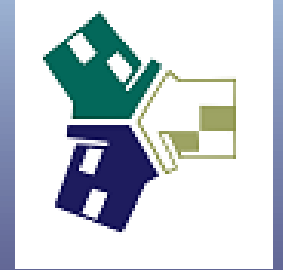


- Rent increases on covered units cannot be charged between February 2, 2021 and June 30, 2021 to tenants who have submitted a Declaration of COVID-19 Related Financial Distress*. Applies to:
 - ✓ Apartment buildings covered by the ARO
 - ✓ Rent-controlled mobile homes (MHRO)
- A prior moratorium was in effect between April 29, 2020 and December 31, 2020
 - ✓ No declaration of financial distress was required from the tenant
 - ✓ All rent increases taking effect on January 1, 2021 and February 1, 2021 may remain in place.

**An unsigned [Declaration of COVID-19 Related Financial Distress form](#) must be served with any Notice of Increase*

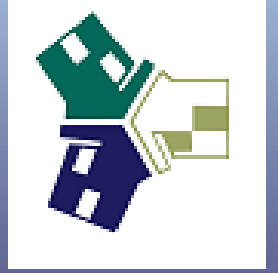
For more info: <https://www.sanjoseca.gov/your-government/departments-offices/housing/covid-19-resources/rent-increase-moratorium/frequently-asked-questions>

Benefits to Landlords under the Rent Increase Moratorium Ordinance



1. ARO / MHRO landlords who voluntarily reduce rents during the period may increase rents back to the original rates at the end of Ordinance period or the agreement, whichever occurs first;
2. Late charges on FY 2020-2021 ARO registration fees are suspended through June 30, 2021;
3. Repair/maintenance permit fees for ARO landlords are waived through FY 2020-2021; and
4. Tenants are prohibited from making service-reduction claims for the closure of recreational common areas at ARO properties during the moratorium.

Tenant Protection Ordinance (TPO)



Requires that landlords have “just cause” to evict tenants. Cause *must* be included in notice.

- Just Cause = Legal Reason
 - At Fault causes
 - No Fault cause

TPO Covered Buildings



Rent controlled
units (built
before 1979)



Guest rooms in
any guesthouse



Unpermitted
units (i.e.
converted
garages)



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

TPO Exempted Buildings



Duplexes



Hotels and
Motels

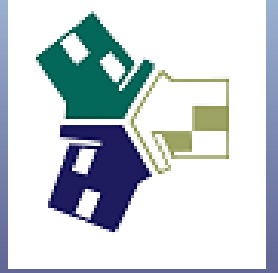


Single family
homes and
second units



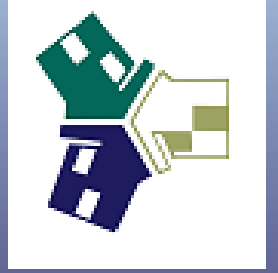
Government or
subsidized rental
units

TPO At Fault Causes



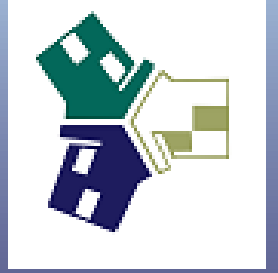
- Non-payment of rent
- Material or habitual violation of lease
- Substantial damage of unit
- Refusal to sign identical rent agreement
- Nuisance behavior
- Refusing lawful access to unit
- Unapproved holdover subtenant
- Criminal activity

TPO No Fault Causes



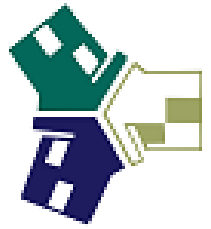
- Substantial rehabilitation of unit
- Ellis Act removal
- Owner move-in
- Order to vacate
- Vacating of unpermitted unit

TPO Termination Requirements



1. Reason for termination qualifies as a “just cause”
2. Landlord serves written notice of termination to tenant household with proper notice period
 - Cause for termination must be stated
3. Landlord files notice of termination with City of San José
 - Within 3 days of serving notice to tenant

Penalties for Non-Compliance



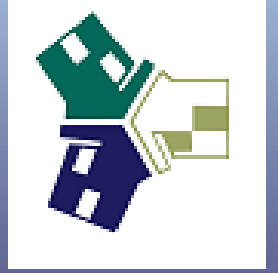
Criminal Penalties

- \$500 misdemeanor for first offense
- \$1000 for subsequent repeat offenses

Civil Remedies

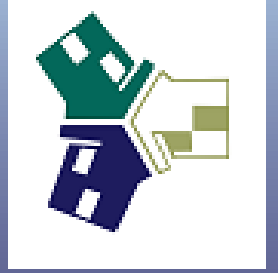
- Civil proceedings for any damages experienced by tenants
- Injunctions and costs for damages and attorney fees
- Treble fees
- Civil penalties up to \$2500 per violation, or \$10,000 per violation + attorney fees

Tenant Buyouts under TPO



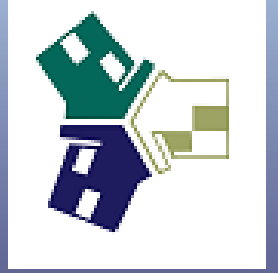
- Landlords may negotiate voluntary buyout agreements with tenants
- Separate petition is required
- Tenant rights:
 - Right to refuse
 - Right to rescind for up to 45 days

Reminder: Anti-Retaliation



- Prohibited actions for purposes of retaliation:
 - Threatening eviction
 - Pushing tenant to leave unit involuntarily
 - Serve notice of termination
 - Reduction in services
 - Increase rent
 - Report tenant to immigration authorities

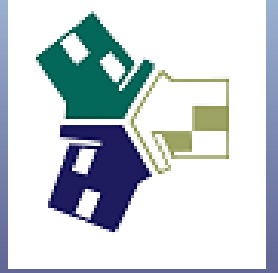
CA Tenant Protection Act of 2019 (AB 1482)



Statewide rental housing legislation that went into effect January 1, 2020, to be in effect until January 1, 2030. Two main components:

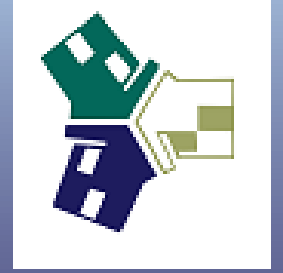
1. Rent Cap
2. Just Cause Protections

AB1482: Rent Cap



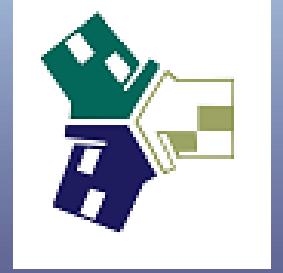
- 5% + cost of inflation (measured through CPI)
 - *for Santa Clara County the cap is currently 6%*
- Maximum 2 rent increases per year (total cannot exceed cap within given year)
- Does not apply to:
 - Exempted types of properties
 - Properties covered by ARO
 - Properties younger than 15 years old

AB 1482: Just Cause Protections



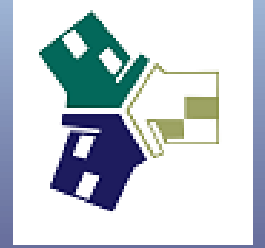
- Landlord must have legally valid reason to terminate
 - Applies once:
 - ✓ Tenant(s) have all lived in unit for 12 months; **OR**
 - ✓ At least one tenant has lived in unit for 24 months
 - Does not apply to:
 - ⊗ Exempt units
 - ⊗ Units covered by TPO
 - ⊗ Where tenant(s) not lived in unit long enough

AB 1482: Units Exempt from Rent Cap



- Dormitories
- Government subsidized or below market rate (BMR) units
- Rent controlled properties, provided that local rent control is stricter
- Units less than 15 years old
- Single family homes or condominiums, provided they are not owned by corporate interests
- Duplex where owner has lived unit other than rental unit since beginning of the tenancy

AB 1482: Units Exempt from Just Cause



- Hotels, motels, hostels (<30 days)
- Dormitories
- Care facilities, religious facilities, non-profit hospitals
- Government subsidized or BMR housing based on income level
- Units less than 15 years old
- Single family homes or condominiums (requires notice!)
- Lodgers
- Owner-occupied properties where:
 - Tenant resides in other unit of duplex
 - Tenants share bathroom and kitchen facilities with owner
 - No more than 2 tenants reside on single family property, ADUs included
- Units protected by TPO

AB1482: At Fault Causes



- Failure to pay rent
- Nuisance (as defined by CA state law)
- Damage to property
- Criminal activity on premises
- Using the unit for an unlawful purpose
- Refusal to allow lawful entry to landlord (e.g. repairs)
- Refusal to renew on same lease terms
- Breach of material lease term
- Lease violation re: subletting
- Employee termination from employee housing
- Failure to move out after giving notice of leaving

NOTE: Many causes require notice giving tenant opportunity to fix before lawful termination notice can be given.

AB 1482: No Fault Causes



- Owner move in (OMI)
- Ellis Act withdrawal
- Government orders to vacate
- Intent to demolish or substantially remodel unit (requires permits)

TPO / AB 1482: Just Cause Comparison



"At Fault" Causes	TPO	AB 1482
Non-payment of rent	Y	Y
Material Violation of Lease	Y	Y
Substantial Damage	Y	Y
Nuisance Behavior	Y	Y
Refusing lawful access	Y	Y
Unapproved Holdover Tenant	Y	N
Criminal activity	Y	Y (or unlawful)
Subletting violation	N	Y
Termination of Employment	N	Y
Failure to move out (after Tenant gave notice)	N	Y

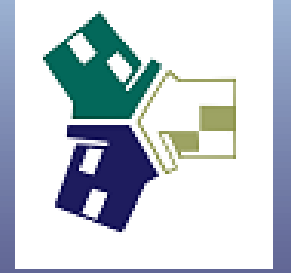
"No Fault" Causes*	TPO	AB 1482
Substantial Rehabilitation	Y	Y (with permits)
Ellis Act Removal from market	Y	Y
Owner Move-In	Y	Y
Order to Vacate safety/health	Y	Y
Vacating an unpermitted unit	Y	N

*Relocation Assistance

AB 1482: If "No Fault" cause, landlord must pay relocation assistance (1 month's rent) within 15 days of serving the termination notice OR may waive last month's rent in writing.

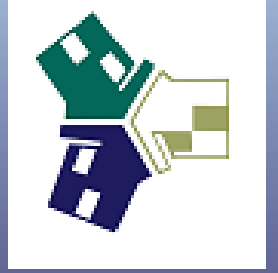
San José TPO Units: For "No Fault" causes, Tenants may be entitled greater relocation payments under the City's relocation assistance ordinance. For more info:

<https://www.sanjoseca.gov/your-government/departments/housing/renters-apartment-owners/apartment-rent-ordinance/tenant-protection-ordinance>



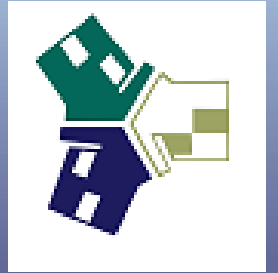
Statewide Rental Housing COVID-19 Laws

Statewide Eviction Protections



- Tenant Relief Act of 2020 (aka AB 3088) went into effect August 30, 2020 replaced City of San Jose and Santa Clara County eviction moratoria
- AB 3088 was extended and expanded by SB 91 January 29, 2021
- The State Legislature sought to keep people housed, avoid massive homelessness, and protect the public from Covid-19

Statewide COVID-19 Eviction Protections



- Unpaid rent between March 4, 2020 and June 30, 2021 of Tenants experiencing COVID-19 related financial hardship can **NEVER** be the basis of eviction **IF**:
 - Tenant demonstrates such impact by signing and returning a *Declaration of COVID-19 Related Financial Distress* to their landlord* to receive this protection.
 - If any of the unpaid rent is from September 1, 2020 and June 30, 2021, Tenants must make sure to pay at least 25% of the total rent due between September 1, 2020 and June 30, 2021.

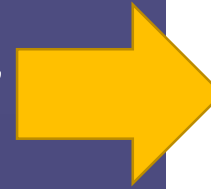
**This declaration form is to be provided TO tenant BY landlord with any Notice to Pay*

Landlord Responsibilities - Notices



Any Notice to Pay or Quit **MUST:**

1. be a 15-Day Notice;
2. contain specific information; **AND**
3. be served with a “Declaration of COVID-19-Related Financial Distress”



15-Day Notice to Pay or Quit

*(Nonpayment of Rent between March 1, 2020 and August 31, 2020)
(Code of Civil Procedure Section 1179.03(b)(4))*

TO: _____
(Name of Tenant(s))

NOTICE FROM THE STATE OF CALIFORNIA

If you are unable to pay the amount demanded in this notice, and have decreased income or increased expenses due to COVID-19, your landlord will not be able to evict you for this missed payment if you sign and deliver the declaration form included with your notice to your landlord within 15 days, excluding Saturdays, Sundays, and other

DECLARATION OF COVID-19-RELATED FINANCIAL DISTRESS

Code of Civil Procedure Section 1179.02(d)

I am currently unable to pay my rent or other financial obligations under the lease in full because of one or more of the following:

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.
5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment assistance, state disability insurance (SDI), or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

Signed under penalty of perjury under the laws of the State of California.

Signature

Dated

For information about legal resources that may be available to you, visit
<https://lawhelpca.org/>.

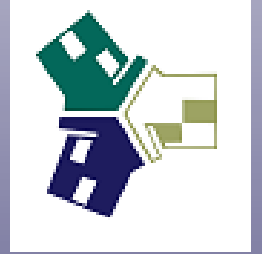
For information, resources, and support visit <http://housingiskey.com> or by calling

Statewide COVID-19 Eviction Protections



1. Protects **all residential tenants**, including mobile home tenants, regardless of immigration status or if there is a written lease
2. Unpaid rent of protected Tenants is not forgiven!
3. Until June 30, 2021: Just Cause eviction protections are extended to ALL residential tenancies!
 - The protections are those causes included in AB 1482, with some further limitations
 - Under the limited circumstances a tenancy termination is permissible, the **legally-valid reason** must be included in any Notice of Termination

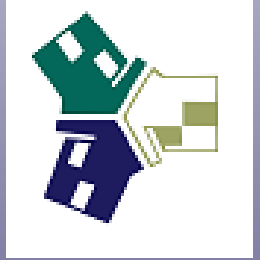
Temporary COVID-19 Eviction Protections



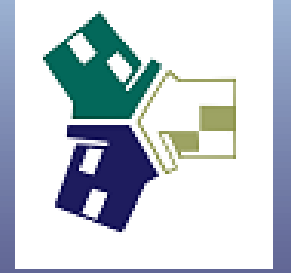
Important to Note....

4. Tenants with unpaid rent **must** take certain actions to be protected
5. Landlords **must** serve certain documents to comply with the law and reserve their rights
6. Tenants still **owe unpaid rent**. Collection actions may be filed in Small Claims Court, but only after August 1, 2021.
7. Landlords who refuse rent relief funds may be barred from recovering from the Tenant the amount of money they would have received.

Other COVID-19 Rent Debt Provisions



1. No late fees can be charged
2. COVID Rent Debt cannot be used as a negative factor in screening tenant
3. COVID Rent Debt cannot be sold or assigned if Tenant would have qualified for rent relief (if not, not until July 1, 2021)
4. Rent payments must be applied to current month's rent.
5. Cannot use current tenant's security deposit to satisfy COVID rent debt.
6. Retaliation against Tenants with COVID Rent Debt is barred; could be subject to penalties.



COVID-19 Rent / Small Landlord Relief Programs

FEDERAL RENT RELIEF ASSISTANCE



Who Qualifies and What is Covered?

- Impacted tenant households with incomes \leq 80% of AMI
 - Priority to assist households with \leq 50% AMI and households unemployed 90 days before applying
- Back and forward rent, utility payments and other housing expenses.
 - Priority to back rent

Santa Clara County Household of 4 income limits

50% AMI = \$78,950

80% AMI = \$112,150

RENT RELIEF ASSISTANCE PROGRAM (ERAP)



State of California's Rental Assistance program

- Can be accessed by both landlords and low-income residents
- Landlords may apply to receive **80%** of qualifying tenant's unpaid rent from April 1, 2020 - March 31, 2021 **if they forgive the remaining unpaid rent** for the covered period. Tenants must consent.
 - If landlord does not participate, a qualifying tenant can apply for relief valued at 25% of unpaid rent from the covered period.
- Subject to funding availability, qualified tenants can apply to receive 25% of future rent for April, May, and June of 2021.
- Voucher participants, like Section 8, may only obtain relief for the tenant's portion of the rent under the lease.

RENT RELIEF ASSISTANCE PROGRAM (ERAP)



Santa Clara County and City of San Jose Rent Relief Program

- City and County approved on March 23rd a hybrid rent relief program targeting community's lowest income and most vulnerable residents (<30% AMI) *expected launch after Mid-April*

Deploying Rental Assistance in Santa Clara County



In Santa Clara County, the next round of federal rental assistance will be deployed through a **Hybrid Program** comprised of two complementary approaches:

- The **State of California's Rental Assistance program** will have funding earmarked for our community that can be accessed by both landlords and low-income residents.
- The **Santa Clara County Homelessness Prevention System** will administer a rental assistance program designed specifically for our lowest-income residents.

RENT RELIEF ASSISTANCE & SB 91



Where to apply?







Landlords can apply on behalf of their tenants using the State's Program portal visit www.housing.org/covid-19 for links, checklists, resources and other info.




Housingiskey.com or <https://housing.ca.gov/>

<https://housing.ca.gov/>



CA.GOV     Select Language  Settings 


 **HOUSING IS KEY**

Search this website 

COVID-19 Tenant Relief Act

Apply here!

 **CA COVID-19 RENT RELIEF**
Learn More 

 **AYUDA CON LA RENTA DE COVID-19 DE CALIFORNIA**
Clic Aquí 

Landlords & Tenants
California COVID-19 Interactive App
Click to learn more.

Propietarios y Arrendatarios
Su guía interactiva para los protecciones
Clic aquí.

Tenants
CA COVID-19 Rent Relief
Eviction Protection Guidelines

Landlords
CA COVID-19 Rent Relief
Eviction Protection Guidelines

Homeowners
Eviction Protection Guidelines
Eviction Protection Resources

Community Partners
Eviction Protection Resources

Local Governments/Tribes
CA COVID-19 Rent Relief Resources

LANDLORD - RENT RELIEF APPLICATION



✓ **Am I Eligible?**

Landlords with one or more eligible renters can apply to get reimbursed for 80% of each eligible renter's unpaid rent between April 1, 2020, and March 31, 2021, *if they agree* to waive the remaining 20% of unpaid rent.

✓ **Requirements include:**


1. All payments must be used to satisfy the renter's unpaid rent for the period between April 1, 2020 and March 31, 2021
2. Renters must take steps to verify eligibility requirements and sign the application
3. Renter's household income must be at or below 80% AMI

✓ **Before applying, you will need:**

1. *To verify ownership* - Property Deed, Mortgage Note, Property Tax Statement or Copy of Property Insurance Statement
2. IRS W-9
3. Lease or rental agreement reflecting renter's name, residence address, monthly rent due.

What to Expect – Log In / Registration





Welcome to the California
COVID-19 Rent Relief Program

New users must first **REGISTER** their account
before signing in to the portal.

Sign In

Register

Email Address

Password

☒ Remember my email address

Sign In

[Forgot your Password?](#)

What to Expect – After submission



- Tenant will receive an email from California COVID-19 Rent Relief with “Neighborly Software” in the message that will ask them to register to complete the application.

TIP: If you apply, let your tenant(s) know that you have and for them to look for an email from California COVID-19 Rent Relief. *So they know it's not spam or a fishing scam!*

From: California COVID 19 Rent Relief <no-reply@neighborlysoftware.com>
Sent: Monday, March 22, 2021 9:23 PM
To: Emily Hislop
Subject: California COVID 19 Rent Relief: Please confirm your account

Thank you for registering your account with California COVID 19 Rent Relief. Please confirm your account by [clicking here](#).

If you receive an error message using the confirmation link above, please copy and paste this link into your browser: <https://homellp-ca.neighborlysoftware.com/californiacovid19rentrelief/participant/Account/ConfirmEmail?userId=6cafeab->

Note: The confirmation link above will expire after use. To log back into the site after confirmation, please bookmark this link: <https://homellp-ca.neighborlysoftware.com/CaliforniaCovid19RentRelief/participant>

If you did not register this account or believe you have received this email in error, please contact support@neighborlysoftware.com.



What to Expect – After submission



PROCESS FLOW - Landlord Initiated

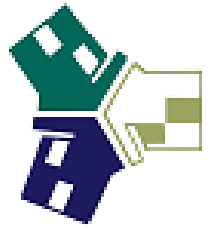
Landlord Process Flow

1. Confirms rental unit(s) address is in CA and within a participating jurisdiction
2. Account Creation
3. Collect Tenant Information [Can be for multiple tenants]
4. Collect Information on Rent Owed
5. Collect Bank Account Information
6. Collect Verification Documents
7. Agree to Program Terms
8. Landlord Signs

Tenant Process Flow

1. Notified Application has been submitted
2. Checks if already a registered user; if no, Account Creation
3. Collects Household Information [Income, Loss of Income]
4. Determines eligibility
5. Verify Information on Rent Owed
6. Determine Application Priority
7. Collect any missing information
8. Verifies identities, income, tenant residence, rent due
9. Tenant Signs
10. Application Complete

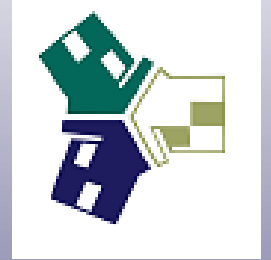
Small Landlord Relief (AB 3088 / SB 91)



Mortgage relief options available to Small Landlords who have had difficulty making mortgage payments due to COVID-19.

- A “**Small Landlord**” is:
 - Owner of 4 or fewer properties; AND
 - Each property has no more than 4 rental units
- Properties do not have to be owner-occupied
- COVID-19 impacted = at least one Tenant has not paid full rent.

Small Landlord Relief Workout Options



- **Forbearance:**
 - Temporary suspension or reduction of the mortgage payment for a specific period of time.
- **Mortgage Modification:**
 - Permanent change of one or more of the existing mortgage terms
- **Repayment Plan:**
 - 6-12 month plan to repay the past due amount



What's Coming: The American Rescue Act

www.housing.org/housing-counseling | Project Sentinel

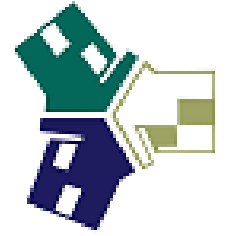
American Rescue Act



Homeowner Assistance Fund Overview and FAQs

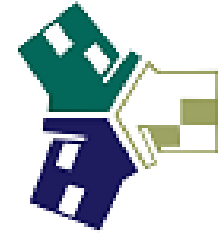
www.housing.org/housing-counseling | Project Sentinel

Eligibility



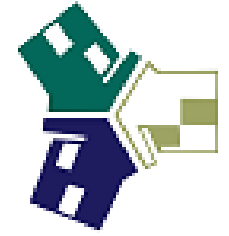
-
- Homeowners and renters experiencing a COVID-19 financial hardship that began after January 21, 2020
- If you have a mortgage, the new law limits mortgage-related assistance to homeowners with mortgages on their principal residence, including any 1-4 unit dwelling, with principal not exceeding the maximum allowed by Freddie Mac and Fannie Mae

Uses of HAF Funds: Property Owners



- The purpose of HAF is to prevent:
 - Homeowner mortgage delinquencies, defaults and foreclosures
 - Loss of utilities or home energy services
 - Homeowner displacement
- Qualifying expenses for HAF include:
 - Mortgage payment assistance;
 - Funds to help a homeowner reinstate a mortgage or to pay other housing related costs from a period of forbearance, delinquency or default
 - Principal reduction
 - Interest rate reductions
 - Utilities, internet service, property, flood or mortgage insurance
 - Homeowner association fees, condominium association fees, or common charges

Uses of HAF Funds: Renters



- The purpose of HAF is to prevent:
 - Rental delinquencies
 - Loss of utilities or home energy services
 - Renter Displacement
- Qualifying expenses for HAF include:
 - Rental payment assistance
 - Funds to help a renter reinstate a rent payment (80%) or to pay other housing related costs from a period of rental moratorium
 - Utilities, internet service, property, flood or mortgage insurance

www.housing.org/covid-19



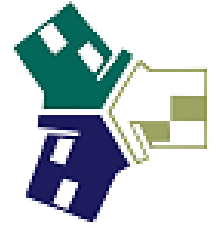
Links to applications, checklists, resources and more!



We are here to assist with disputes over rent payments, evictions or any other housing issues during COVID-19 and beyond.



Other Information & Contacts



City of San Jose: sanjoseca.gov/your-government/departments/housing

Landlord ARO/TPO Questions: Project Sentinel, (408) 414-5359

HUD Housing Counseling: Project Sentinel, (408) 470-3730

Tenant Questions: Bay Area Legal Aid, (800) 551-5554