



California Apartment Association

3349 Michelson Dr, Suite 200
Irvine, CA 92612

September 21, 2021

Mayor and City Council
City of Santa Ana
20 Civic Center Plaza
Santa Ana, CA 92701

Re: CAA Opposition to Rent Control and Just Cause Ordinances (Item 33)

Dear Mayor Sarmiento and Members of the City Council:

The California Apartment Association (CAA) is opposed to the proposed rent control and just cause ordinances as proposed in Item 33. CAA represents more than 60,000 owners and rental housing professionals in the State of California. Nearly sixty percent of our membership are small “mom and pop” housing providers, including many who have offered housing services responsibly in the City of Santa Ana for generations. The rent control and just cause proposals have significant deficiencies that will harm property owners, renters, and community-at-large. CAA enumerates the following issues:

1. THE SECRET HOUSING AD HOC COMMITTEE IS SEVERELY LACKING IN PROCESS AND TRANSPARENCY

The City of Santa Ana (City) has not conducted any thorough stakeholder outreach in comparison to other initiatives such as the inclusionary housing ordinance or General Plan update. The City has been a regular convener of all community and business stakeholders on major housing issues that are subjects of the Housing Ad Hoc committee. The City led workshops on the inclusionary housing ordinance as far back as July 1, 2019, which CAA was invited to participate in. Likewise, the City led six weeks of community and stakeholder workshops on the General Plan update. In a drastic departure from these best practices, the City made only a brief mention of the ordinance in a September 7 meeting and gave as little as five days’ notice of the actual language for the rent control and just cause ordinances.

The City has been meeting in a secret “ad hoc” committee to develop the proposal for six months. CAA inquired on February 25, 2021 about participating in the Housing Ad Hoc to provide its views on all major housing issues including rent control, but was denied. The Housing Ad Hoc is inconsistent with its own public policymaking process and unprofessionally selective in its approach to public outreach.

Any progress to solve both city and regional housing shortage is predicated on good faith. CAA and its members have been regular contributors to the City of Santa Ana and have been eager to help on housing affordability needs of the community. The Housing Ad Hoc Committee members have failed to act in good faith, and the flawed proposal reflects that. It is a one-sided, ill-considered measure that will only make the housing shortage worse.

2. CITY COUNCIL MUST VOTE NO ON RENT CONTROL BECAUSE THERE HAS NEVER BEEN COMMUNITY OR VOTER SUPPORT FOR RENT CONTROL IN SANTA ANA

Santa Ana voters have definitively rejected rent control on four different occasions in the past two election cycles. Tenant groups have sought – and failed – to garner enough support to meet the 10% signature requirement to qualify rent control and just cause ballot measures in both 2018 and 2020. Similarly, Santa Ana voters rejected two statewide rent control initiatives that proposed to expand the use of rent control locally in 2018 and 2020. Both elections had record turnouts. In the latter election, voters were not convinced that a once-in-a-generation pandemic was reason enough to support rent control. Any City Council decision rendering passage of the rent control and just cause ordinances would contradict the clear message sent by Santa Ana voters.

3. THE CITY HAS FAILED TO SPEND MILLIONS OF RENTAL ASSISTANCE DOLLARS

The Housing Ad Hoc Committee has justified this proposal as “an emergency measure to protect and preserve the health, safety, and welfare of the residents of the City of Santa Ana in response to the pending expiration of the State’s COVID-19 emergency residential eviction moratorium on September 30, 2021.” In addition to falsely implying that the proposal will, in any way, provide relief to tenants who have been unable to pay rent due to circumstances related to the COVID-19 pandemic, this justification also ignores the fact that the City has at its disposal tens of millions of dollars that can provide real relief to Santa Ana renters, and yet it has failed to ensure proper distribution of those funds.

To restate the facts for the current record, the City reported a budget of over \$42 million for rental assistance funds on August 31, 2021. Another recent city report shows improved distribution at \$16 million, but it will still take nearly 56 weeks to distribute funds to Santa Ana residents at the current rate. Only 3.6% of all Santa Ana households have applied for funds. A previous report shows that over 82% of applicants were rejected or did not complete their applications.

The City has had six months to distribute rental assistance funds with the full knowledge that the statewide eviction moratorium would be coming to an end. It is unfathomable why the Housing Ad Hoc, if it is truly concerned about the expiration of the state eviction moratorium, is ignoring the primary tool the City has to address those concerns and is instead focusing its efforts on policies that do nothing to provide relief to renters and landlords suffering as a result of the COVID-19 pandemic.

Rather than distribute the millions of rental assistance funds that can help households in need right now, the Housing Ad Hoc committee is prioritizing a political agenda to push failed and extreme versions of rent control.

4. EXTREME USE OF RENT CONTROL WITH HALF-BAKED COMPLIANCE MEASURES

The Housing Ad Hoc committee has not fully comprehended the impacts of the egregious price control mandated by the proposed rent control ordinance. The proposed ordinance prohibits any rent increase of more than 80% of the change in the consumer price index (CPI), with a ceiling of three percent, thereby ensuring that rents cannot keep up with inflation. The committee gives little consideration to the significant expenses landlords must pay out of their rental income, including mortgages, repair costs, insurance, and property taxes. The price controls would harm teachers, police officers, firefighters, and other public employees who have invested in rental properties to fund their retirement. Extreme rent control policies also provide a strong disincentive for landlords to invest in anything more than the bare minimum required to maintain their properties, resulting in the degradation and ultimate loss of older housing stock.

The proposed ordinance is lacking in substance. For example, there is no base definition of “rent,” a term that is key to compliance with the measure; as a result, it’s unclear whether “rent” is simply that amount paid for the use of the rented premises, or also includes other amounts such as charges for utilities, internet, amenities, and other services. The City expects property owners to follow draconian decrees without defining the basic parameters needed for compliance.

Under the proposed ordinance, an owner whose rents are too low to keep up with costs would be forced to go through a new bureaucratic appeal process that typically costs other jurisdictions millions in dollars per year to administer. By the staff reports own admission, the Housing Ad Hoc committee seeks to implement a policy before fully weighing the fiscal impacts. The Housing Ad Hoc committee has made a half-baked recommendation for price controls that is harmful to a diverse constituency of stakeholders.

5. CITY COUNCIL SHOULD NOT RUSH TO APPROVE DANGEROUS LOOPHOLES IN THE JUST CAUSE ORDINANCE

By conducting diverse community and stakeholder outreach, the Housing Ad Hoc would have learned about the dangerous loopholes in the proposed just cause ordinance that would increase criminal activity in Santa Ana neighborhoods. The criminal activity provisions are if not onerous, then impossible to follow. The ordinance provides a right of return to criminal offenders if the district attorney fails to file charges within the applicable statute of limitations, even if a court of law has found the tenant to have engaged in criminal activity at the eviction hearing. Victims, surrounding tenants, employees, and owners may be left for years anxiously waiting to know whether they will be forced to live alongside the offending tenant.

Likewise, the anti-harassment provisions include glaring problems that inhibit even the most basic operations of a rental housing provider. For example, property owners are in a Catch-22 for basic repairs that require a temporary interruption of services, such as a temporary water or electrical shut-off, as the ordinance stipulates that any interruption in housing services is considered harassment with no exception, even if that interruption is necessary to conduct repairs, maintenance, or upgrades. This restriction is not only patently unreasonable, it also contradicts other provisions of both the just cause ordinance and rent control ordinance that penalize the owner for not conducting necessary repairs. The ordinance also prohibits landlords from entering a dwelling unit “inspections that are not related to necessary repairs or services,” despite the fact that state law permits entry for

other purposes such as inspecting a smoke detector (Health & Safety Code Sec. 13113.7(d)(2)(A)) or exhibiting the dwelling to a potential tenant or purchaser (Civil Code Sec. 1954(a)(2)).

In addition to unreasonably interfering with owners' ability to conduct basic operations, the anti-harassment provisions of the just cause ordinance appear to be a solution in search of a problem, given that various state laws already prohibit the exact type of conduct the provisions are intended to address. For example, Civil Code Sec. 1942.5 prohibits landlords from retaliating against tenants who complain about habitability issues or exercise other legal rights. Civil Code Sec. 789.3 prohibits landlords from interrupting housing services for nefarious purposes. Fair housing laws, such as Government Code Sec. 12955, prohibit landlords from harassing tenants because of a wide variety of personal characteristics including, but not limited to, race, religion, sex, gender identity or expression, sexual orientation, and disability. California has even adopted a law (Civil Code Sec. 1940.35) specifically prohibiting landlords from harassing tenants by reporting the tenant's immigration or citizenship status to immigration or other law enforcement authorities.

Exacerbating these issues is the fact that violation of any provision of the ordinance is a misdemeanor. This puts rental housing providers in the impossible position of risking jail time for engaging in otherwise perfectly legal activities, such as performing maintenance or exhibiting a dwelling to a potential buyer.

CONCLUSION: CAA ENCOURAGES CITY COUNCIL TO FOCUS ON MORE EFFECTIVE MEANS OF PROVIDING IMMEDIATE RELIEF AND CREDIBLE HOUSING SOLUTIONS

The rent control and just cause ordinances are deficient in their ability to provide any substantial net benefit to the community and address challenges associated with the city's housing shortage. The Housing Ad Hoc has gravitated to failed policy proposals that voters have clearly rejected four times. CAA encourages the City to demonstrate its leadership and focus on distributing emergency rental assistance, a resource that it has now to help Santa Ana residents who are in need.

For these reasons, the California Apartment Association is opposed to the Housing Ad Hoc's rent control and just cause ordinances.

Respectfully,



Victor Cao
Senior Vice President, Local Public Affairs