

Orozco, Norma

From: Tim Johnson <tjohnson@jlkrlp.com>
Sent: Monday, August 28, 2023 12:09 PM
To: Ridge, Kristine; Mendoza, Steven; Carvalho, Sonia R.
Cc: RSO; eComment
Subject: Rent Registry- SFR

City Manager Ridge, Asst CM Mendoza, and City Atty Carvalho (cc RSO and also city council public comments)...I hope that all is well and the festival was great this last weekend! I am also including ecomments in the recipient list because I know that there is an agenda item (21 I believe) with regards to the Rent Stabilization Ordinance and I figure that this may be a good way to inform the mayor and city council members of a potential issue that many residents in the city may be dealing with. As far as whether 2/3 majority is needed, I will leave that to the council/mayor to figure out but this is quasi-related IMO.

As you may know, the city sent out letters this last week regarding the rental registry. I also spoke to someone at the RSO office and they are giving some conflicting info and I asked for a call back after explaining my questions but I figured you all should be aware also. I am including Sonia on here because I believe that there may be some legal issues with potential violations of rights on this also.

I received one of the rental registry letters and know that many of my neighbors around town did too. I live in a single family residence (SFR) and my home is also on the Mills Act. I am hearing from many that are receiving the same letters...although not precise, the common denominator seems to be either Mills Act or no homeowners exemption on file with the county, although there are others who are not Mills and think they have the exemption. I believe that when you are on the Mills Act, the county takes away the homeowners exemption, so that is likely the real criteria here. I also have a permitted ADU which may also be of consequence here.

I am not an expert on the new Ordinance (is anyone an expert yet on it??), but it is my understanding that the all SFRs are exempt...even those that are non-owner occupied or even rented. I believe that this is with the state's Costa Hawkins limitations also. The city's infographic here (https://storage.googleapis.com/proudcity/santaanaca/uploads/2023/01/Rent-Stabilization-Infographic_Combined.pdf) clearly indicates that a single family home is not subject to the ordinance (upper right hand box)...or at least the rent cap.

The letter indicates that information from the County "shows that you own at least one rental unit at the above property address that must be registered in the City's Rental Registry." This is simply not a true statement. There is no information with the county that would show I own a rental unit. There may be information with the county that I have a Mills Act home and maybe for some others that they are not claiming the homeowner's exemptions but there is not information that I own a rental unit at my address. The county simply does not have information that says I own a rental unit.

The letter further goes onto indicate that because the county does not show a homeowner's exemption that the city is assuming it is a rental. This is not what the above quoted language indicates...is the county saying they have info that my home is a rental or are they saying that there is not a homeowner's exemption (again, likely due to the Mills Act)? Then, the city is making the leap that it is assuming that all homes that do not have a homeowner's exemption on file are rentals. This is not an acceptable conclusion.

If the city wanted to send out an informational letter, so be it. But this is not informational because it gives me only two options: 1) Register your rental unit(s) or 2) Claim an exemption- which also btw, requires registration. Further to claim the exemption, there is required documentation to be submitted which may include gov't ID, utility bills, banking

records, and other highly personal information such as trust documents. This certainly seems like the city is presuming I am guilty (i.e. I have a rental b/c I am on Mills Act without a homeowner's exemption) and asking me to prove my innocence by submitting private information. Note that the letter further indicates that even if "your rental unit is exempt" (again, has it been established that I have a rental unit??), I must claim an exemption. Further, until and unless I claim an exemption, the city will presume that I have a rental subject to the provisions of the Ordinance and will, and this is the really damaging part, "commence enforcement action accordingly." There are so many presumptions in that paragraph and leaps to get there, that this language is so very highly concerning. The city will presume that I have a rental and commence enforcement actions...wowza.

Note that it does not say anything about how a SFR is exempt from the Ordinance. So, my first question is: Are all SFR's exempt from registration because they are exempt from the rent cap regardless of whether they are owner occupied, vacant, a second home, vacation home, or even a rental? Assuming that is yes, like your infographic says, all SFRs are exempt from registering then why do we need to do anything here?

We all know that words "matter"...as I have written the above I am now questioning whether the SFR exemption in the city's infographic and in other areas including Costa-Hawkins applies only to the "rent stabilization" portion of the Ordinance and not the eviction rights portion. Can you please clarify? Are SFR that are rented required to register even though they are presumably not subject to the rent stabilization provisions?

I believe that some major correction action is needed by the City ASAP. These letters never should have been sent out in this manner IMO but the real question is how does the city respond to this. Errors happen...correcting them is the real measure.

The city should at a minimum auto exempt all SFRs from registration and instead inform folks of potential registration IF it is required (I need your help- is registration required here). Again, remember...the city's letter gives me 2 courses of action...register to be part of the rent registry or register and file an exemption after uploading highly personal documents.

I would suggest that the city issue clarifying language on all social media sites, nixle, on line, do an auto response to the RSO email, auto prompt on the RSO phone and if needed send out corrective mailings. Further, the city has expended significant financial resources on the color printed pages and the mailing itself, so I am concerned about expending more resources but the city needs to get this corrected.

I know this is a little scattered but hopefully the above highlights an issue that many of us are facing right now. How can we proceed on clarifying and correcting this?



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Orozco, Norma

From: Kayleigh Levitt [REDACTED]
Sent: Monday, August 28, 2023 1:25 PM
To: eComment
Subject: In support of item 21

Hello Members of the Council,

I am writing in favor of moving forward with the process to amend the rent stabilization and just cause ordinance to require a supermajority to make changes to the ordinance - maintaining the maximum rent increase per year at 3%.

These ordinances have allowed a brief respite of drastic rent increases for the units which qualify since the ordinance has been passed.

The city is majority renters, and is significantly rent-burdened.

With income failing to keep up with the rising cost of rents, housing providers being able to increase the rent more than 3% per year creates an unnecessarily unstable living environment for the majority of the renters in the city.

I support taking steps to require a supermajority to make changes to this policy.

Warm regards,
Kayleigh Levitt
Volunteer - Tenants United Santa Ana

Orozco, Norma

From: Bulmaro Vicente <boomer@chispaoc.org>
Sent: Monday, August 28, 2023 1:29 PM
To: eComment
Subject: Item 21: Chispa Letter of Support (LOS)
Attachments: Chispa LOS Item 21 - 8.29 Santa Ana CC .pdf

Good afternoon,

On behalf of Chispa, I am submitting the attached **Letter of Support for Item 21**: Requirement of Supermajority Approval for Certain Future Amendments to the Rent Stabilization Ordinance and Just Cause Evictions Ordinance.

In Solidarity,

Boomer
Policy and Political Director | Chispa
e: boomer@chispaoc.org c: [REDACTED]
1505 E 17th Street Suite 117 Santa Ana, CA 92705

[Chispa is building a political home for young Latinxs in Orange County! Please consider making a donation to help us build our casita. Chispa is a project of Tides Advocacy, a 501c4 non-profit organization.](#)





August 28, 2023

Mayor Amezcua and City Councilmembers
20 Civic Center Plaza
Santa Ana, CA 92701
ecomment@santa-ana.org

Via Email

RE: SUPPORT ITEM 21 - Requirement of Supermajority Approval for Certain Future Amendments to the Rent Stabilization Ordinance and Just Cause Evictions Ordinance

Dear Mayor Amezcua and City Councilmembers,

I write on behalf of Chispa to express our support for Item 21, the requirement of supermajority approval of total council members for certain future amendments to the Rent Stabilization Ordinance (RSO) and Just Cause Evictions Ordinance (JCEO). The City of Santa Ana (City) must commit to safeguarding housing stability and the tenant protections that provide it.

As an organization based in the City, Chispa seeks to engage with excluded peoples to uproot systems of oppression and cultivate systems grounded in community accountability, solidarity, and self-determination for our communities to thrive. We are a membership based organization for young Latinxs advocating for systemic changes across Orange County. We are strong advocates for tenant protections and affordable housing at both the Local and State level. As such, we support the preservation of the City's RSO and JCEO.

Chispa urges you to provide direction to amend the City's RSO and JCEO to require a supermajority approval for certain future amendments. It is necessary that these ordinances are protected as the crucial tools they are to maintain and increase housing stability; and that certain amendments are only made with a supermajority vote. The City's RSO and JCEO policies are the result of decades of community advocacy that has included support from community members impacted by housing instability, charitable organizations, faith-based organizations, and more. These efforts must be respected and providing this direction will do just that. The City must do everything in its power to safeguard these policies and follow the requirement of supermajority approval that is required for other City items such as certain budget actions.

Renters make up approximately 55% of City residents and their stability must be prioritized. The City has passed model tenant protection policies with the RSO and JCEO that provide Santa Ana tenants with housing security and protections they would not be afforded otherwise. The Rental Registry that accompanies these policies has received national recognition and has been lauded by the White House. All of this great work must be continued.

We applaud this proactive effort to protect the RSO and JCEO. The City must continue to serve as a model and adopt higher standards to protect tenants. For these reasons, Chispa urges you to provide **DIRECTION TO UPDATE the RSO and JCEO to require a supermajority vote for certain amendments**. Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Isuri S. Ramos', with a stylized, flowing script.

Isuri S. Ramos
Deputy Director

CC: VAmezcuca@santa-ana.org
JessieLopez@santa-ana.org
TPhan@santa-ana.org
JRyanHernandez@santa-ana.org
BVazquez@santa-ana.org
DPenaloza@santa-ana.org
PBacerra@santa-ana.org

Orozco, Norma

From: Admin <admin@dowdalllaw.com>
Sent: Monday, August 28, 2023 2:24 PM
To: eComment
Subject: Public Comment re: Agenda Item #21
Attachments: santa--ana-- MMXXIII-28-AUG-.pdf

Please see attached correspondence.

Dowdall Law Offices, A.P.C.

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IN REPLY REFER TO:

August 28, 2023

Via Electronic Mail

City of Santa Ana
Mayor, Valerie Amezcu
Councilperson Thai Viet Phan
Councilperson David Penaloza
Councilperson Jessie Lopez
Councilperson Phil Bacerra
Councilperson Johnathan Ryan Hernandez
Councilperson Benjamin Vazquez

Re: OPPOSITION TO AUGUST 29, 2023 AGENDA ITEM #21: PROPOSED ACTION VIOLATES SANTA ANA CHARTER, STATE LAW, AND CALIFORNIA CONSTITUTION.¹

Executive Summary

The City Council has been asked to consider amending the process for passage of ordinances imposing rent control, requiring a 5/7 vote for amendment. The proposal is void *in ipso principio*, because:

1. Preemptive state law requires majority vote for ordinances: California Government Code expressly requires majority vote for passage of ordinances. The proposal violates state law.
2. City Charter requires majority vote for ordinances: City Charter also requires a majority vote for ordinances. Democratic governance is a matter of statewide concern and not subject to the provincial bent of charter city "home rule."
3. Changes in Charter requirements require voter approval: The California Constitution permits amendment of a charter only upon voter approval. A Council cannot itself amend the charter *ipse dixit*. The proposal discards the charter in favor of government by edict of a super legislature.
4. The proposal violates due process of law: the proposal is bereft of a rational basis. There are no findings to justify eliminating democratic principles guaranteed in the Charter.
5. A City Council qua Super Legislature: The proposal overturns the requirement of majority vote, thus scuttling the Charter by whim of the tyrant. This seditious proposal dispenses with rights of the council. An unprincipled rejection of American democracy.

¹ City of Santa Ana Agenda for Item 21, August 29, 2023, special meeting: "Discuss and consider directing the City Manager to prepare an ordinance for City Council's consideration to amend the City of Santa Ana's rent stabilization and just cause eviction ordinance to require supermajority approval of the Ordinance."

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6. 42 U.S.C.A. §1983 (federal damages for violation of civil rights under color of law): the proposal violates guarantees of majority rule in American government. “. . . a local public official [is not] immunized from liability for official acts so long as the official's conduct [violates] clearly established statutory or constitutional rights of which a reasonable person would have known." See, *Harlow v. Fitzgerald* (1982) 457 U.S. 800, 818.

7. No immunity for the willful/intentional violation of rights: Assertion of *state* immunity does not apply to *federal* civil rights violations. Legal trends today reveal exposure of elected leadership to disciplinary actions for misconduct.

8. Each Councilmember is owed separate counsel before the vote: City must provide separate legal counsel before further concerted action to violate the charter without amendment by voter approval. The City is on notice. Substantial knowledge is the same as willful intention.

9. Conflict of interest caused by City should be paid by City: The city attorney represents Santa Ana, not individual council members. The city has no duty to defend nor indemnify for willful and intentional misconduct. Violating the law under present notice requirements is outside the scope of legitimate legislative activity. It is willful and intentional misconduct for further concerted action. If the City is requesting that action, the City must pay for legal counseling respecting the risk exposure.

* * *

The Proposed Ordinance Violates the California Government Code

The Government Code provides that *ordinances are passed by majority vote*. That is a general law of statewide importance. Government Code §36936 imposes a mandatory duty on city councils to adopt ordinances by "recorded majority vote." The proposed ordinance would therefore violate State law and be preempted by Government Code §36936:

Resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the city council.

The Charter Requires That Ordinances Are Passed with Majority Vote

The city charter of Santa Ana requires that ordinances be passed by majority vote. There is no exception for rent control. There is no provision for a 5/7 vote on any given police power, ordinance, or other form of regulation. Section 410 of the City Charter states:

A majority of the members of the City Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time. Except as otherwise provided elsewhere in this charter or by law, no ordinance, resolution or motion shall be passed, adopted, or become effective unless it receives the affirmative

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*vote of a majority of the full membership of the City Council. ...*²

Therefore, enactment of the proposal violates California law and the Santa Ana Charter. Passing the proposal would constitute a change in the Charter but without the required voter approval. The proposed attack on the Charter therefore compromises bedrock principles of a democratic society for sake of appeasing a disgruntled cabal of City leaders. The City would set itself up as a super-legislature that is empowered to override the Charter whenever it suits them.

A Pernicious Attitude in Violation of Clear Law Spells Individual Liability
("Voters? We don't need them. Who Needs a Charter When We Can Rule by
Edict?")

The proponents would say "who needs a Charter when we can rule by edict?" In the United States of America, such despotic control is an effort to overturn our system of government, by overt acts soliciting Council support.

Passing the proposed ordinance would usurp the right of the people to determine changes to the Santa Ana charter. The majority vote requirement furthers the safeguarding of democratic principles of freedom from tyrannical assault. The proposed ordinance is nothing short of a subversion of the democratic ideal of a free government administered in a democratic fashion for and by the people. Santa Ana now proposes to shamelessly subvert and frustrate the most fundamental of the freedoms given to the people of this country-the power to vote.

In order to change the requirements of voting in the charter, a vote of the people is required. The proponents of this proposed legislative expressions would do away with the free will of the voters and impose its own dictatorial will on unsuspecting voters. That is unconstitutional and a disgrace to every notion of American democracy. Cal. Const., Art. XI, §3(a) says that a city may adopt charter by majority vote and charter may be amended in same manner must be construed to mean that electorate of city has right, but not obligation, to adopt or amend charter; but if electorate exercises that right, only majority vote, not super majority vote, is required for approval of charter adoption or amendment.³

The Charter May Be Amended Only by Voter Approval.

The council cannot change the Charter. This action cannot alter binding democratic

² Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22

³ Howard Jarvis Taxpayers Ass'n v. City of San Diego (2004) 120 Cal. App. 4th 374, 390-94, 15 Cal. Rptr. 3d 457.

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ideals by any vote.

The procedure to change the charter is set forth in the charter, itself. See, Santa Ana city charter, §1500 (below). If the city proposes to change the rent control law by imposing a super majority vote, a charter amendment is required. A charter amendment would be required to specify that ordinances having to deal with compulsory government interdiction of rental prices may only be entertained upon a super majority vote, when and if approved by the electorate.

Sec. 1500. - Amendments to charter.

Amendments to this charter shall be proposed and submitted to the electors of the City in the manner provided by the Constitution of the State of California.

Without an amendment to the charter, the Council would be violating its terms and subject to criminal prosecution. The charter says:

Sec. 1501. - Violations.

The violation of any provision of this charter shall be deemed a misdemeanor and be punishable upon conviction in the same manner as provided in the Penal Code of the State of California as the same now reads or as hereafter amended.

(Ord. No. NS-2074, § 9, 8-6-90, approved at election 11-6-90)⁴

The legislative privilege would not apply to actions which require city Council approval, when the policy to do so promotes the violation of civil rights. Each individual Council member is subject to punishment in the event that the ordinances squelch on the grounds that its effect would be to deprive the citizens of Santa Ana have the right to vote, and to deprive the mobilehome park owners have the right to enforcement of ordinances duly enacted in accordance with the majority vote requirements of the charter and the government code. These are the policies subverted by intended proposed and collective effort of individuals sitting on the city Council.

Due to the importance of indicating the rights to enforce democracy, the city would be liable for private attorney general attorneys fees for the actions taken to set aside and squelch the subversive legislative tactics sought to be employed by passing the proposed ordinance. Santa Ana would be hard-pressed to explain to the taxpayers why they are footing the bill for the illicit,

⁴ The ordinance would also be a violation of the state law which provides: Government Code §36900. Violation as misdemeanor or infraction; Prosecution or redress; Penalties “(a) Violation of a city ordinance is a misdemeanor unless by ordinance it is made an infraction. The violation of a city ordinance may be prosecuted by city authorities in the name of the people of the State of California, or redressed by civil action.”

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anti-Democratic frolic of a city Council. *Why are the voters paying costs assessed against the city of Santa Ana as a proximate result of Santa Ana's malevolent efforts to squelch the taxpayers constitutional right to vote?*

The Proposal Violates Due Process Of Law:

The proposal is bereft of a rational basis. There **are** no findings to justify eliminating democratic principles guaranteed in the charter. According to the agenda packet,

Since its adoption, rent stabilization ordinances have been contemplated and adopted throughout the United States. Most recently, the White House lauded Santa Ana's Rental Registry as a model for supporting renters who are increasingly facing evictions, homelessness, and displacement due to skyrocketing rents.⁵

Objection is made to each and every recital set forth in the proposed ordinance. The foregoing is, in fact, a false statement in respect to mobilehome parks located in the city of Santa Ana, and generally for the socioeconomic condition of mobile home tenants throughout the state of California. It is especially untrue with regard to residents who have selected the stability of long-term leases which provide life estate protections and rights of inheritance that continue into perpetuity and for so long as a mobilehome park remains in operation and existence. This has been empirically demonstrated in peer-reviewed scientific data which shows that the political pronouncements of the White House are groundless. As such, reliance upon this information as a basis for passage of the ordinance is misplaced and fails to provide a rational justification for action in this instance.

In response to the fabricated recitals tenderness factual underpinnings for the proposed ordinance, I submit that according to the Brookings Institution⁶, steadily rising housing rents in many large, productive U.S. Cities have reignited the discussion whether to expand or enact rent control provisions, certainly.

⁵ Citing, The White House, "White House Fact Sheet: Biden-Harris Administration Takes Action to Protect Renters," accessed July 27, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/07/27/fact-sheetbiden-harris-administration-takes-action-to-protectrenters/#:~:text=Santa%20Ana's%20new%20rental%20registry,and%20supports%20to%20qualified%20households>.

⁶ <https://www.brookings.edu/articles/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/> (Rebecca Diamond, Associate Professor of Economics, Stanford Graduate School of Business).

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However, under pressure to fight rising rents, state lawmakers in Illinois, Oregon, and California are considering repealing laws that limit cities' abilities to pass or expand rent control. While rules and regulations of rent control vary from place to place, most rent control consists of caps on price increases within the duration of a tenancy, and sometimes beyond the duration of a tenancy, as well as restrictions on eviction.

According to Brookings, current research examining how rent control affects tenants and housing markets offers empirical insight (not dogmatic rhetoric) into how rent control affects markets. While rent control appears to help current tenants in the short run, in the long run it has proven to decrease affordability, fuel gentrification, and create negative spillovers on the surrounding neighborhoods.

Moreover, a substantial body of economic research has used theoretical arguments to highlight the potential negative efficiency consequences to keeping rents below market rates, going back to Friedman and Stigler (1946).

- They argued that a cap on rents would lead landlords to sell their rental properties to owner occupants so that landlords could still earn the market price for their real estate.
- Rent control can also lead to "mis-match" between tenants and rental units. Once a tenant has secured a rent-controlled apartment, he may not choose to move in the future and give up his rent control, even if his housing needs change (Suen 1980, Glaeser and Luttmer 2003, Sims 2011, Bulow and Klemperer 2012).
- This mis-allocation can lead to empty-nest households living in family-sized apartments and young families crammed into small studios, clearly an inefficient allocation.
- Similarly, if rental rates are below market rates, renters may choose to consume excessive quantities of housing (Olsen 1972, Gyourko and Linneman 1989).
- Rent control can also lead to decay of the rental housing stock; landlords may not invest in maintenance because they can't recoup these investment by raising rents. (Downs 1988, Sims 2007).

Against the background of these arguments emerges newly-available housing-market data spanning periods of dramatic change in rent control laws in Cambridge, Massachusetts and in San Francisco, California have allowed economists to examine these questions empirically.

The Empirical Data Equally Apply to Santa Ana and Impeaches Each Recital in the Santa Ana Proposal:

Diamond, McQuade, and Qian (2018) (DMQ) examine the consequences of an expansion of rent control on renters, landlords, and the housing market that resulted from a unique 1994 local San Francisco ballot initiative. In 1979, San Francisco imposed rent control on all standing

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buildings with five or more apartments. Rent control in San Francisco consists of regulated rent increases, linked to the CPI, within a tenancy, but no price regulation between tenants. New construction was exempt from rent control, since legislators did not want to discourage new development. Smaller multi-family buildings were exempt from this 1979 law change since they were viewed as more "mom and pop" ventures, and did not have market power over rents.

This exemption was lifted by a 1994 San Francisco ballot initiative. Proponents of the initiative argued that small multi-family housing was now primarily owned by large businesses and should face the same rent control of large multi-family housing. Since the initial 1979 rent control law only impacted properties built from 1979 and earlier, the removal of the small multi-family exemption also only affected properties built 1979 and earlier. This led to a differential expansion in rent control in 1994 based on whether the small multi-family housing was built prior to or post 1980—a policy experiment where otherwise similar housing was treated differently by the law.

To examine rent control's effects on tenant migration and neighborhood choices, DMQ examine panel data that provides address-level migration decisions and housing characteristics for the majority of adults living in San Francisco in the early 1990s. This allows them to define a treatment group of renters who lived in small multi-family apartment buildings built prior to 1980 and a control group of renters living in small multi-family housing built between 1980 and 1990. Their data allows them to follow each of these groups over time up until the present, regardless of where they migrate.

Between five and ten years after the law change, the beneficiaries of rent control are 19 percent less likely to have moved to a new address, relative to the control group's migration rate. Further, impact on the likelihood of remaining in San Francisco as whole was the same, indicating a large share of the renters that rent control caused to remain at their 1994 address would have left San Francisco had they not been covered by rent control.

These effects are significantly stronger among older households and among households that have already spent a number of years at their address prior to treatment. This is consistent with the fact that both of these populations are likely to be less mobile. Renters who don't need to move very often are more likely to find it worthwhile to remain in their rent controlled apartment for a long time, enabling them to accrue larger rent savings. Finally, DMQ find these effects are especially large for racial minorities, likely indicating that minorities faced greater displacement pressures in San Francisco than whites.

While expansion of rent control did prevent some displacement among tenants living in San Francisco in 1994, the landlords of these properties responded to mitigate their rental losses in a number of ways. In practice, landlords have a few possible ways of removing tenants. First,

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landlords could move into the property themselves, known as move-in eviction. Second, the Ellis Act allows landlords to evict tenants if they intend to remove the property from the rental market, for instance, in order to convert the units to condos. Finally, landlords are legally allowed to offer their tenants monetary compensation for leaving. In practice, these transfer payments from landlords are common and can be quite large.

DMQ find that rent-controlled buildings were 8 percentage points more likely to convert to a condo than buildings in the control group. Consistent with these findings, they find that rent control led to a 15 percentage point decline in the number of renters living in treated buildings and a 25 percentage point reduction in the number of renters living in rent-controlled units, relative to 1994 levels. This large reduction in rental housing supply was driven by converting existing structures to owner-occupied condominium housing and by replacing existing structures with new construction.

This 15 percentage point reduction in the rental supply of small multi-family housing likely led to rent increases in the long-run, consistent with standard economic theory.

In this sense, rent control operated as a transfer between the future renters of San Francisco (who would pay these higher rents due to lower supply) to the renters living in San Francisco in 1994 (who benefitted directly from lower rents). Furthermore, since many of the existing rental properties were converted to higher-end, owner-occupied condominium housing and new construction rentals, the passage of rent control ultimately led to a housing stock that caters to higher income individuals. DMQ find that this high-end housing, developed in response to rent control, attracted residents with at least 18 percent higher income. Taking all of these points together, it appears rent control has actually contributed to the gentrification of San Francisco, the exact opposite of the policy's intended goal. Indeed, by simultaneously bringing in higher income residents and preventing displacement of minorities, rent control has contributed to widening income inequality of the city.

Rent controls the mobilehome park's eliminate affordable housing, protect profiteering in a black-market a mobile home tenancies petaled at market value and constitute not rent control, but "wealth transfer" laws that do nothing other than permit a false and artificial market of subsidized tenancies to be sold on every street corner.

Rent Control Continues To Be A Destructive Policy Disregarding Development
Of A Positive Economic Future For Santa Ana.

Rent control laws not only offend the Constitution, they are also misguided policy. Far from advancing the goal of housing affordability, rent control laws like the RSL generate a host of problems in housing markets by discouraging construction of new housing units and the

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maintenance of existing ones. Economists almost universally agree that rent control creates more problems than it solves because it:

(1) reduces the quantity of available housing (thereby exacerbating the existing housing shortage and affordability problem);

(2) reduces the quality of available housing;

(3) reduces consumer mobility and entry into the housing market; and

(4) offers an inequitable solution to housing affordability issues.

Rent Control Reduces the Quantity of Available Housing.

Like in any other market, prices in the housing market are responsive to supply and demand. Rents and home prices tend to increase in the short-term when demand outstrips supply. Over time, however, higher rents encourage new investment in rental housing, which yields "new construction, rehabilitation of existing units, and conversion of buildings from nonresidential to residential use," and contributes to eliminating the housing shortage.⁷ Artificially capping rents sends a false message that no such investment is necessary, thereby reducing rather than expanding the housing supply.⁸ Because it reduces the profitability of rental housing, rent control "direct[s] investment capital out of the rental market and into other more profitable markets."⁹

This results not only in a decline of construction of new housing, but existing rental units are often converted to other uses.¹⁰ In short, rent control "perpetuates the very problem it was

⁷ Vai Werness, Rent Controls: /I White Paper Report 94, National Association of Realtors (Mar. 2017), <https://realtorparty.realtor/wp-content/uploads/2017/12/State-Local-Issues-Rent-Control-White-Paper.pdf>.

⁸ Id.

⁹ National Multifamily Housing Council, The High Cost of Rent Control, <https://www.nmhc.org/news/articles/the-high-cost-of-rent-control/>.

¹⁰ Id.

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designed to address: a housing shortage." ¹¹

Numerous studies of the real-world impact of rent control support the position that rent control reduces quantity of available housing. For example, the number of rental units decreased in Cambridge (8%) and Brookline (12%), Massachusetts, during the 1980s after those cities imposed rent control measures, while the number of rental units in neighboring communities increased during the same period.¹² Similarly, the number of rental units decreased in Berkeley (14%) and Santa Monica (8%), California, between 1978 and 1990 after those cities imposed rent control measures, while the rental supply rose in nearby cities during the same period.¹³ None of this information to refute the allegations set forth in the findings of the proposed ordinance are relevant to the consideration of changing the manner in which ordinances are considered and passed. The findings of the City are irrelevant and do not support the proposal.

Further, a recent study of the San Francisco housing market found that rent control reduced the rental supply of small multi-family housing by 15%, which ultimately led to rent increases and increased gentrification.¹⁴ Another study concluded that rent control held thousands of units off the rental market in Boston.¹⁵ This information constitutes empirical data which, scientifically, impeaches the validity of the underlying rent control law in its entirety. Not only does the proposal failed to pass muster, but the original rent control law itself is fatally deficient and void for lack of any specific rational basis applicable to Santa Ana.

The New York RSL has a similar impact. Data demonstrates that, despite ample zoning capacity, buildings where more than 75% of the units are rent stabilized have a significantly higher share of their zoned capacity available for development than buildings that contain no rent stabilized units. Such buildings have approximately 20% of their zoned capacity available, while

¹¹ Peter D. Salins, Rent Control's Last Gasp, City Journal (Winter 1997), [https:// www.city-journal.org/ html/rentcontrol%E2%80%99s-last-gasp-l 1951.html](https://www.city-journal.org/html/rentcontrol%E2%80%99s-last-gasp-l-1951.html).

¹² Goetze, Rent Control: Affordable Housing for the Privileged, Not the Poor (1994).

¹³ St. John & Associates, Rent Control in Perspective: Impacts on Citizens and Housing in Berkeley and Santa Monica Twelve Years Later, Pacific Legal Foundation (1993).

¹⁴ Rebecca Diamond, Tim McQuade, & Franklin Qian, The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco, 109 Am. Econ. Rev. 3365 (2019)

¹⁵ David P. Sims, Out of Control: What Can We Learn from the End of Massachusetts Rent Control?, 61 J. Urb. Econ. 129 (2007).

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buildings without rent stabilized units tend to exceed their zoned capacity. Id. This disparity in development demonstrates that the RSL contributes significantly to the underdevelopment of rental properties, thus aggravating the very housing supply problem that it purports to remedy.

The RSL reduces revenue from buildings that could be reinvested into further development and restricts owners' ability to demolish and rebuild their buildings to provide additional rental units. Id.

Moreover, the RSL's limitations, just like the ordinance in Santa Ana, dealing with an owner's right to recover units create substantial barriers to redeveloping a building, because stabilized tenants (and their successors) can leverage their rights to extract outsized buyout payments in exchange for vacating the premises. Id. 127. In California, in Santa Ana, the ability to sell subsidized tenancy rights on every street corner eviscerates any benefits that rent control may have on the second generation of tenants. All the benefits of rent control are sold in the bundled transaction for the mobile home, at full market value. The tenant pays for the premium tenancy as part of the gray-market sale of tenancy rights, like key money.

By further comparison, the 2019 Amendments to the RSL make the problem worse. The amendments eliminated two decontrol provisions, eliminated two bases for rent increases, and capped the amount recoverable for making improvements to rental units. Id. 131-33.

Because rent control worsens, rather than solves, the problem of housing scarcity, one additional consequence is that rent control laws tend to contribute to greater rent increases in the unregulated market. One study concluded that the RSL had this effect on rents in uncontrolled units.¹⁶ Another concluded that rents in uncontrolled units in New York City were between 22% and 25% higher than they would be in the absence of the RSL.¹⁷ Likewise, due to the Vega case binding upon all cities in California, beginning rental rates under the ordinance have a right to start the general market conditions, resulting in rent increases. Rent controls increase rents.

Rent Control Reduces the Quality of Available Housing

Not only does rent control reduce the supply of available housing, it also results in deterioration of the quality of existing housing. This is in part because property owners derive less revenue from their rental units and thus have less money available to devote to maintenance

¹⁶ Dirk W. Early, Kent Control, Kent a I Housing Supply, and the Distribution of Tenant Benefits, 48 J. Urb. Econ. 185 (2000).

¹⁷ Steven B. Caudill, Estimating the Costs of Partial-Coverage Kent Controls: A Stochastic Frontier Approach, 75 Rev. Econ. & Stat. 727 (1993).

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and repair. One study estimated that a Los Angeles rent control law causes increased deterioration over time, so much so that the deterioration offset a significant percentage of the benefit to consumers of lowered rent.¹⁸ Studies of New York and Boston housing markets found lower housing quality and fewer expenditures on maintenance and repair for rent-controlled units versus market-rate units.¹⁹ This has obvious negative effects on tenants in rent-controlled housing, because landlords lack the incentive to properly maintain units and provide amenities or services that appeal to tenants in a competitive market.²⁰

Rent Control Reduces Consumer Mobility and Entry.

Tenants in rent-controlled units are understandably reluctant to give up their housing subsidy and thus are less willing to move or pursue homeownership, even when it may be in their best interest to do so. One study found that rent control in New York City tripled the expected duration of a tenant's residence.²¹ A study of San Francisco's housing market concluded that rent control limited renters' mobility by 20% and lowered displacement from San Francisco.²² This reduced mobility "can be particularly costly to families whose job opportunities are geographically or otherwise limited and who may have to travel long distances to reach those jobs available to them."

This can also cause spillover effects in the community, such as increased traffic congestion and demand for city services. Additionally, rent control erects barriers to entry into the housing market. As explained above, rent control has the effect of exacerbating housing scarcity and raising rents for unregulated apartments.

Consequently, in many rent-controlled communities, prospective consumers must pay

¹⁸ C.P. Rydell et al., *The Impact of Rent Control on the Los Angeles Housing Market* 55-59, The Rand Corporation (1981).

¹⁹ NMHC, *The High Cost of Rent Control*.

²⁰ Norm Miller, *California Kent Controls: Good Intentions with Disastrous Consequences*, Univ. of San Diego (May 16, 2018), https://www.sandiego.edu/news/detail.php?_focus=67472.

²¹ Richard W. Ault *et al.*, *The Effect of Long-Term Rent Control on Tenant Mobility*, 35 J. Urb. Econ. 140 (1994).

²² Diamond, *et al.*, *supra*.

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substantial finder's fees or other payments to current consumers to obtain a rental unit.²³ Some communities have developed a housing "gray-market," where units are passed among friends or family members.²⁴ These barriers to entry disproportionately affect low-income and young people.²⁵

Rent Control Is Not an Equitable Solution to the Housing Affordability Problem.

Contrary to its proponents' intentions, rent control frequently benefits the wealthy while doing little to help the poor. The RSL is particularly egregious example of a poorly structured rent control law. The RSL haphazardly applies to a large number of buildings and does not target relief to low-income populations. There is no means testing, financial qualification, or other requirement that rent-stabilized apartments be rented to low-income families. Compl. 86. And, because the RSL effectively requires owners to perpetually renew leases, landlords have an incentive to choose tenants with higher incomes and better credit. *Id.*

On the other side, examples abound of wealthy New Yorkers who have no need for housing subsidies living in rent-stabilized apartments. For example, one report stated that a polo-playing multimillionaire whose family owned a 300-acre estate in North Salem, New York lived in a rent-stabilized apartment for several years. A former executive with a weekend home in the Berkshires lived in a rent-stabilized apartment for nearly 20 years. A former magazine editor and her husband who owned a photo agency lived in a rent-stabilized unit in the Upper West Side for 27 years while also owning a cottage on a 7-acre property in upstate New York.

The Recitals in the Ordinance Are Fatally Flawed

For the foregoing reasons, and as elsewhere specified herein, the recitals set forth that: "ORDINANCE NO. NS-XXXX AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA AMENDING ARTICLE XIX OF CHAPTER 8 OF THE SANTA ANA MUNICIPAL CODE PERTAINING TO THE RENT STABILIZATION AND JUST CAUSE EVICTION ORDINANCES" are demonstrably untrue and therefore fail to provide a rational justification for the politically expedient rampage of compulsory government interdiction into residential rental pricing of mobile home spaces unjustified by any rational purpose, and based upon false, misleading, and groundless assertion of manufactured rationale that is woefully

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

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bereft of merit as a matter of law. By way of illustration and not exhaustion, the recital set forth the following:

The findings in Ordinance No. NS-3009 and Ordinance No. NS-3010 articulate that significant rent increases and housing instability pose a threat to public health, safety and welfare, and a particular hardship for senior citizens, persons living on fixed incomes, and other vulnerable persons living in Santa Ana. These findings are still true and incorporated herein.

F. Since the adoption of the RSO and JCEO, Santa Ana residents have made multiple reports about landlords who have refused to comply with the law relating to rent increase and improper evictions.

G. Requiring supermajority approval for changes to certain provisions in Article XIX in Chapter 8 of the Santa Ana Municipal Code pertaining to the RSO and JCEO shall help to provide tenants, landlords, Mobilehome residents, and interested parties with consistency and ongoing stability relating to the implementation of the RSO and JCEO as well as the programs and services related thereto.

H. Pursuant to the City's police power, as granted broadly under Article XI, section 7 of the California Constitution, and Santa Ana Charter section 200, the Santa Ana City Council has the authority to enact and enforce ordinances and regulations for the public peace, health, and welfare of the City and its residents.

I. The City Council finds, determines, and declares that the threat to the public health, safety and welfare of the City and its residents necessitates the enactment of the Ordinance.

Section 2. The recitals and statements of fact set forth in the preamble to this Ordinance are true and correct, constitute a substantive part of this Ordinance, and are incorporated herein by this reference.

These recitals are false and fraudulent as a matter of law. The recitals appear to intentionally misstate the requirements of the Santa Ana charter which protect the rights of the voters to make any changes or take any action inconsistent with the current content of the charter. All justifications that were proffered for the initial interdiction of the marketplace by passage of compulsory price ceilings do not apply to the intent or effect of this proposed ordinance. None of the facts recited relevant to the intent and effect of the proposed ordinance, as explained below.

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The Violations of Civil Rights of the Voters and Parkowners

The violations of the charter, the government code, and constitutional provisions for charter governments proximately resulting the deprivation of constitutional rights on the part of the mobilehome park owners in the city of Santa Ana. Under federal law, actions for damages may be brought against individual leaders as agents of municipal Corporation such as the city of Santa Ana. Each Council member should take fair notice that actions to promote violation of constitutional rights may result in actions to determine whether or not compensation is required for the damage cause, and the cognizable relief provided by federal law. In accordance with opinions of the Ninth Circuit,

“We have found municipal liability on the basis of ratification when the officials involved adopted and expressly approved of the acts of others who caused the constitutional violation. See, e.g., *Hammond v. County of Madera*, 859 F.2d 797, 802-803 (9th Cir. 1988) (board, which was responsible for approving transfers of rights-of-way, accepted and approved of transfer documents that resulted in deprivation of constitutional rights);”

Trevino v. Gates (9th Cir. 1996) 99 F.3d 911, 920.

“(One) ...who has voluntarily undertaken the task of supervising the operation of the school and the activities of the students, must be held to a standard of conduct based not only on permissible intentions, but also on knowledge of the basic, unquestioned constitutional rights of his charges. Such a standard imposes neither an unfair burden upon a person assuming a responsible public office requiring a high degree of intelligence and judgment for the proper fulfillment of its duties, nor an unwarranted burden in light of the value which civil rights have in our legal system. Any lesser standard would deny much of the promise of § 1983.

The U. S Supreme Court therefore concluded that the loyalty oath which requires a public official to support and defend the constitution is enforced with federal remedies against a dereliction of that civic responsibility.

... a school board member is not immune from liability for damages under §1983 if he knew or reasonably should have known that the action he took within his sphere of official responsibility would violate the constitutional rights of the student affected, or if he took the action with the malicious intention to cause a deprivation of constitutional rights or other injury to the student. . . . A compensatory award will be appropriate only if the school board member has acted with such an impermissible motivation or with such disregard of the

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student's clearly established constitutional rights that his action cannot reasonably be characterized as being in good faith.

Wood v. Strickland (1975) 420 U.S. 308, 321-322.

“... the City may still be subject to municipal liability for causing a constitutional violation under 42 U.S.C. § 1983. *Owen v. City of Independence*, 445 U.S. 622, 651-652, 63 L. Ed. 2d 673, 100 S. Ct. 1398 (1980).²⁶

The federal decisions vindicating the right of the people to be free of constitutional violations at the hands of municipal corporations is voluminous. Consider: *Gillette v. Delmore*, 979 F.2d 1342, 1346-1347 (9th Cir. 1992) (citations and internal quotations omitted), cert. denied, 510 U.S. 932, 114 S. Ct. 345, 126 L. Ed. 2d 310 (1993). After proving that one of the three circumstances existed, a plaintiff must also show that the circumstance was (1) the cause in fact and (2) the proximate cause of the constitutional deprivation. *Arnold v. International Business Machines Corp.*, 637 F.2d 1350, 1355 (9th Cir. 1981); see also *City of Springfield v. Kibbe*, 480 U.S. 257, 266-68, 107 S. Ct. 1114, 94 L. Ed. 2d 293 (1987) (discussing causation requirement in section 1983 municipal liability cases). See, *Trevino v. Gates* (9th Cir. 1996) 99 F.3d 911, 918.

For these reasons, the city Council, and each member thereof, is on specific notice of the potential conflict of interest between individual rights of the individual Council members and the entity rights of the city of Santa Ana, in respect to being requested to commit an action which quite clearly constitutes a transgression of the charter, state law in the California Constitution. When such conflicts arise, the city may owe each individual Council member the right to advice of separate counsel. See, for example, Greyson, “Constructing Ethical Due Process Walls following *Sabey v. Howitt*,” *League Of California Cities*, 2013.

Policies behind Majority Vote Required by California Government Code

The legal policy requiring majority vote is constitutionally grounded. The proposed ordinance violates the charter, state law, in the California Constitution. The clarity of these transgressions is not open to debate. In such case, the deprivation of civil rights is painstakingly clear and precise. Such was the case with, and doomed fate of, “Proposition F” in *Howard Jarvis*

²⁶ Qualified or “good faith” immunity is an affirmative defense that must be pleaded by a defendant official. *Gomez v. Toledo*, 446 U.S. 635 (1980).²⁴ Decisions of this Court have established that the “good faith” defense has both an “objective” and a “subjective” aspect. The objective element involves a presumptive knowledge of and respect for “basic, unquestioned constitutional rights.” *Wood v. Strickland*, 420 U.S. 308, 322 (1975). See *Harlow v. Fitzgerald* (1982) 457 U.S. 800, 815.

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Taxpayers Assn. v. City of San Diego (2004) 120 Cal.App.4th 374. In that case, a city trader argued that a super majority voting requirement for charter amendments was not inconsistent with the California Constitution (article XI, §3(a)):

Applying the foregoing legal principles, we conclude the provisions of Proposition F requiring that certain amendments to the charter be approved by a supermajority vote of the city's electorate conflict with the California Constitution. Article XI, section 3(a), which governs the voting margin required to amend a city charter, provides in part: "**For its own government, a ... city may adopt a charter by majority vote of its electors voting on the question. ... A charter may be amended ... in the same manner.**" (Italics added.)

The city claimed there was no conflict between the Constitution and the supermajority voting requirement for charter amendments. But the court held that the provisions in the California Constitution (article XI, §3(a)) that a city "may adopt a charter by majority vote" (italics added) and "[a] charter may be amended ... in the same manner" must be construed to mean that the electorate of a city has the right, but not the obligation, to adopt or amend a charter, but if the electorate exercises that right, only a majority vote, not a supermajority vote, is required. Because the charter requires a majority vote for the passage of ordinances, the Council cannot amend or change that provision without amending the charter. Amending the charter requires a vote of the people. The proposed ordinance is illegal, ab initio, if passed. Still worse, this letter, among others, gives notice of the flagrant invalidity of the proposed ordinance. That invalidity proximately results in the violation of constitutional rights of the mobilehome park owners, among others. That is a known infliction of a constitutional harm directly were addressable by action for violation of civil rights.

In the San Diego case, the court explained the insidious ramifications of a provision in violation of requirements for charter city amendments. The court said that Proposition F, requiring a supermajority vote for approval of certain charter amendments, "cannot be harmonized with the provisions of article XI, section 3(a) granting voters the right to amend a city charter by majority vote."

"Because those provisions of Proposition F are in conflict with those of article XI, section 3(a), they cannot be enforced."

The proposed ordinance would set up a requirement that provides limitations upon the amendment of a rent control law that are inconsistent with the city charter, government code, and the California Constitution. It is also anti-democratic.

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The San Diego case was also decided against the city based on the doctrine of preemption. The court found that after the state Constitution was amended in 1970 the Legislature manifested an intent to fully occupy the field of charter amendments by enacting a comprehensive statutory scheme governing the charter amendment process, and thus state law preempted the provisions of the San Diego Proposition F that would require a supermajority vote for approval of certain charter amendments. *Howard Jarvis Taxpayers Assn. v. City of San Diego* (2004) 120 Cal.App.4th 374, 386-387. The court concluded that the “constitutional language clearly and unambiguously ... requires only a majority vote, and a two-thirds vote cannot be required.” *League of Educ. Voters v. State* (2013) 176 Wn.2d 808, 825-826 [295 P.3d 743, 752].)

Policies Behind the Democratic Ideal of Majority Vote

Additionally, courts have repeatedly held that one legislature cannot attempt to bind future legislatures by imposing higher standards for the passage or repeal of specific legislation. One especially representative example comes from a Michigan case. See, *e.g.*, *Atlas v. Wayne County*, 281 Mich. 596, 275 N.W. 507, 509 (Mich. 1937) (“The power to amend and repeal legislation as well as to enact it is vested in the Legislature, and the Legislature cannot restrict or limit its right to exercise the power of legislation by prescribing modes of procedure for the repeal or amendment of statutes; nor may one Legislature restrict or limit the power of its successors. (sic.)”). See also, *State ex rel. Stenberg v. Moore*, 249 Neb. 589, 544 N.W.2d 344, 348-49 (Neb. 1996). Utilizing a supermajority for amendment of an ordinance as specified by the charter and the government code would conflict with the democratic ideal of “majority rule” that is a consistent and unquestioned rule flowing from local charter to the state constitution.

The language and history of the constitution evince a principle favoring a simple majority vote for legislation. The proposed ordinance would fundamentally alter our system of government in regard to fundamental right of a vote in a free society, and such alteration is possible only through amendment of the charter, state law, and the Constitution itself.

A Civics Lesson Taught in Every Public School in America

Our government was founded as a representative democracy based on simple majority rule. The founding fathers escaped England in order to establish a free society, away from the dark underbelly of a totalitarian dictatorial subjugation. The most fundamental of these human rights for all Americans is a majority vote for government, to prevent the tyranny of the dictator, or a small group of autocratic despots intoxicated with the power of political office.

Importantly, the framers were particularly concerned with a tyranny of the minority. The framers feared special interests that might capture or corrupt public institutions. Article XI,

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section 3 of the California Constitution provides that “a county or a city may adopt a charter by majority vote,” and that the Charter shall “supersede. . . all laws inconsistent therewith.”

This preference for simple majority rule is evident from the very language of the constitution. Thus, the framers were aware of the significance that a supermajority vote requirement entailed and consciously limited it to special circumstances; the passage of ordinary legislation is not one of those. The Federalist No. 22, at 141 (Alexander Hamilton) (Jacob E. Cooke ed., 1961); accord The Federalist No. 58 (James Madison).

The founders generally disfavored supermajority requirements because they shifted the power from a legislative majority to a minority, which was antithetical to their general governing philosophy. The United States Constitution requires supermajority approval for only seven fundamental actions. See, Designing The Tax Supermajority Requirement, 71 Syracuse L. Rev. 959, 963-965.

In 1879, California adopted a provision granting the charter-making power, including the requirement that charter provisions should be subject to and controlled by general laws.²⁷88 The California Supreme Court interpreted this provision to mean that all charter provisions, including those involving municipal affairs, were subordinate to conflicting state general laws.²⁸ In 1896, an amendment to former article XI, section 6 (currently §5) provided that cities may prepare and adopt charters which allow them to "make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to and controlled by general laws."²⁹ The California constitutional provision now empowers "any county, city, town, or township to make and enforce within its limits such local, police, sanitary, and other regulations as are *not in conflict with general laws*." Cal. Const. article XI, §11 (now §7). The California Supreme Court has held on several occasions that the state legislature has preempted powers granted by this section to units of local government. See *In re Hubbard*, 62 Cal. 2d 119 (1964); *In re Lane*, 58 Cal. 2d 99 (1962).

In *In re Lane*, the court gave a clear interpretation of the doctrine of state preemption. In that case, a woman had been arrested for violating Los Angeles Municipal Code section 41.0787

²⁷ Cal.Const. Art. XI, § 6 (1879).

²⁸ See, *People v. Henshaw*, 76 Cal. 435, 18 P. 413 (1888); *Staube v. Election Commissioners*, 61 Cal. 313 (1882). See also Jones, "Municipal Affairs" in the California Constitution, 1 Cal.L.Rev. 132-147.

²⁹ Cal Const. Art. XI, § 6 (amended and adopted as art. XI, § 5 in 1970).

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which prohibited unmarried persons from "resorting" to various designated locations (including one's personal residence) for the purpose of having sexual intercourse. The court, in an opinion by Justice McComb, determined the sole issue to be whether state law had preempted the local regulation. The court cited numerous provisions of the Penal Code dealing with criminal aspects of sexual activity and declared that they were "so extensive in their scope that they clearly show an intention by the Legislature to adopt a general scheme for the regulation of this subject.

Although the Penal Code did not deal with the specific subject matter of the Los Angeles ordinance, the court maintained that "[i]n determining whether the legislature intended to occupy a particular field to the exclusion of all local regulation we may look to the 'whole purpose and scope of the legislative scheme' and are not required to find such an intent solely in the language used in the statute." In his concurrence in Lane, Chief Justice Gibson expanded on this theme. In his view, the word "conflict," as used in article XI, section 11 (currently section 7) "is to be given a broad construction; there may be a conflict even though there is no actual grammatical conflict between the statute and the ordinance."⁹ Further, Chief Justice Gibson felt that the determination would have to be made, not on the basis of any hard and fast rule, but rather on the facts of each case. Thus, even in cases where the legislature was silent on a particular point, other considerations were relevant:

"In order to hold that the field has been occupied, it is not necessary that the Legislature has specifically declared the scheme or policy in so many words, and the general intent may be found in a multiplicity of statutes taken together. . . . One of the factors stressed in the decisions is whether or not the subject calls for uniform treatment throughout the state."

See also Comment, The California City versus Preemption by Implication, 17 HASTINGS L. J. 603-618 (1966).

Thus, article XI, section 11 of the constitution was a summary characterization of the existing statutory powers, now given constitutional status. It was a direct grant of state police powers to the cities, to be shared with the legislature but not dependent upon it, subject to *supersession only by general laws*.

The government code is a "general law." The city may not transgress it. Professional Fire Fighters (60 Cal. 2d 276, 384 P.2d 158, 32 Cal. Rptr. 830 (1963)) announced the doctrine that general law prevails over local enactments of a chartered city, even in regard to matters which would otherwise be strictly municipal matters, where the subject matter of the general law is of statewide concern. The court followed this position in Healy v. Industrial Accident Commission, in which the compensation provisions of the Labor Code were held to prevail over the city charter's pension provisions.

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Only when a conflict arises between state and local regulation or where the legislature intends to preempt the field to the exclusion of local regulation does the issue of superiority or predominance of state laws over local regulations arise. *Bishop v. City of San Jose*, 1 Cal. 3d 56, 460 P.2d 137, 81 Cal. Rptr. 465 (1969).

The Charter Requires That Ordinances Are Passed with Majority Vote

Section Sec. 410 of the charter provides for a democratic solution consistent with the American way: *no ordinance, resolution or motion shall be passed, adopted, or become effective unless it receives the affirmative vote of a majority of the full membership of the City Council.*

Government Code §36936 states that *all ordinances require a recorded majority vote of the total membership of the city council.* The proposed ordinance would therefore violate State law and to be preempted by the Government Code.

Whatever the insidious source of the proposed ordinance in this case, the corrosive, toxic mix would undermine the most fundamental ideas, beliefs, and commitments embedded in our way of life. A democratic society cannot tolerate such shameless, rudderless deviance reaching positions of unrepresentative leadership.

An unconstitutional legislative act - at least when it is implemented against an individual - can create civil responsibility to those who are damaged by it. *The Liability of Governments for Legislative Acts in the United States of America*, 46 Am. J. Comp. L. 531, 540.

For local legislation, the vestiges of sovereign immunity for unconstitutional legislative acts are completely gone. In contrast to the state itself, municipalities (as well as independent state agencies) are "persons" subject to the liabilities of section 1983. Like their state counterparts, the municipal legislators would have an immunity from suit. The municipality itself can be held directly liable for a legislative (or policy-making) act of its own that violates federal constitutional rights. Its liability is strict; it must pay damages if its legislation is unconstitutional, even if it reasonably believed that it was proper. Its officials may also be held personally liable, but, like other officials, are not subject to liability unless they acted contrary to clearly established law.

This liability may occur if a municipality engages in a course of unconstitutional conduct. and was required by a court to take measures (including legislation) to correct that unconstitutionality. A failure to do so can justify penalties. In *U.S. v. City of Yonkers*, 856 F.2d

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444 (2d Cir.1988), cert. denied, 489 U.S. 1065 (1989), the court issued a housing remedy order, which included mandatory and discretionary construction of public housing. City defaulted on the order. Government then entered into a consent judgment with city and council members, which required implementing remedial legislation. When they failed to act on a clear constitutional requirement, the court held them in contempt, with punishment including incarceration. U.S. v. Yonkers (2d Cir. 1988) 856 F.2d 444, 446.

The proposed ordinance is the enemy of every American ideal of electoral and political freedoms. It is not consistent with the principles of the Republic envisioned by the founding fathers and embedded in the Constitution. It is a violent rejection of the appropriate tools to govern in a free and open society. The proposed ordinance must be squelched so that the council is not in a position of violating the rights of free American subject to the laws of the city of in Santa Ana.

Voting in favor of the proposed ordinance would violate the Santa Ana charter. Passing the proposed ordinance would be a void de facto amendment of the charter for rent control ordinances. Passing the proposed ordinance would usurp the right of the people to determine the existence of grounds or justifications for any change to the Santa Ana charter.

Setting a precedent for the punishment and discrimination against minority interests by official citywide political action may single out the city of Santa Ana as a shining example of the corrosion of a fair and open democracy in our world.

With all respect, demand is hereby made to reject this patently unconstitutional proposal. The proposal would clearly inflict constitutional damage upon the mobilehome park owners in the city of Santa Ana and upon every voter deprived of the powers vested by the California Constitution and the City Charter.

Please further note this letter constitutes a demand for the preservation of all writings with relate to the issue of rent control in the city of Santa Ana including the documents, correspondence, electronic mail, and all other writings which relate to Santa Ana rent control.

Dowdall Law Offices, A.P.C.
Terry R. Dowdall,

/s/

By:
Terry R. Dowdall

Orozco, Norma

From: Leopoldo Campos [REDACTED]
Sent: Monday, August 28, 2023 3:06 PM
To: eComment
Subject: 3% Rent stabilization

My Name is Leopoldo Campos

I have lived in Santa Ana for 33 years.

Please keep the 3% rent stabilization, it's been a great help for all of us, in general it's been a substantial support for the majority of the vulnerable people of Santa Ana.

An increase to the 3%, it will be devastating for most of the renters of Santa Ana,

Seniors and people the a low fixed income, it would be terribly affected.

Please maintain your support for the most vulnerable in our community, give us the chance at stabilizing our housing costs.

Thanks for your support

Leopoldo Campos

Orozco, Norma

From: Carla Nava [REDACTED]
Sent: Monday, August 28, 2023 3:08 PM
To: eComment
Subject: Rent Cap

Hello, I've been a tenant of Santa Ana for about 5 years. Living in a rent stable apartment has been life changing. My income hasn't changed much over the last 5 year but rent has increased. If it wasn't for rent cap my family and I would most likely be homeless. We are hardworking citizens who pay into taxes and deserve a place to call home. This law must be protected. Housing is a right not a commodity.

Sent from my iPhone

Orozco, Norma

From: Assistant <Assistant@loftinbedell.com>
Sent: Monday, August 28, 2023 4:32 PM
To: eComment
Cc: Sue Loftin; Assistant; Amezcua, Valerie; Lopez, Jessie; Phan, Thai; Vazquez, Benjamin; Bacerra, Phil; Hernandez, Johnathan; Penaloza, David
Subject: Kingsley 426-427: Special Meeting of City Council for August 29, 2023 - Opposition to Agenda Item 21
Attachments: 2023.08.28 Opposition to Proposed Amendment (Agenda Item 21).FINAL.pdf

Dear Honorable Mayor Valerie Amezcua, Mayor Pro Tem Jessie Lopez, and Councilmembers Thai Viet Phan, Benjamin Vazquez, Phil Bacerra, Johnathan Ryan Hernandez and David Penaloza:

Attached to this email please find a **formal Opposition to Agenda Item 21** for tomorrow night's Special Meeting of the City Council regarding Councilmember Phan's request to amend the 2022 Ordinance No. 3027. Please consider the information contained therein before making a decision on Agenda Item 21 for all the reasons set forth in the attached Opposition. This Opposition is also being sent via Overnight Delivery from Federal Express to ensure that it is received prior to the City Council meeting and provided to the Councilmembers for review at that Meeting.

If you have any questions or need any further information regarding anything contained in the attached Opposition, please do not hesitate to contact me at this email address or via my direct phone number below.

Have a great evening!

Lauren Caggiano

LOFTIN|BEDELL P.C.

Office: 760.431.2111
Direct: 760.444.4037
Fax: 760.842.0432
Web: www.loftinbedell.com
Email: assistant@loftinbedell.com
2540 Gateway Road, Carlsbad, CA 92009

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LOFTIN | BEDELL
ATTORNEYS AT LAW

Via Overnight Delivery & Electronic Transmission (eComment@santa-ana.org)

August 28, 2023

City of Santa Ana City Council
c/o Office of the City Clerk
City of Santa Ana
20 Civic Center Plaza M-30
Santa Ana, CA 92701

Re: **Hearing Date:** City Council Special Meeting, August 29, 2023 (“**Agenda Item 21**”)

Agenda Item 21: OPPOSITION (i) to this Agenda Item being heard; and
(ii) if it proceeds to the consideration and/or adoption of Exhibit A, to the Amendment to the Ordinance No. 3027 (“**2022 Ordinance**”).

Title of Item 21: Councilmember Requested Item (Phan): “Discuss and consider directing the City Manager to prepare an ordinance for City Council’s consideration to amend the City of Santa Ana’s Rent Stabilization and Just Cause Eviction Ordinance (“**RS-JCE**”) to require a supermajority approval of the total number of Councilmembers for certain future amendments to the ordinance.”

Request: **DENY** the Request to the City Manager to prepare an Ordinance to amend the RS-JCE Ordinance; and, if considered at this hearing,
DENY the Adoption of Exhibit A – the Ordinance implementing the change in required approval of the total number of Councilmembers for future amendments to the Ordinance.

Dear Honorable Mayor Valerie Amezcuca, Mayor Pro Tem Jessie Lopez, and Councilmembers Thai Viet Phan, Benjamin Vazquez, Phil Bacerra, Johnathan Ryan Hernandez and David Penaloza:

This Firm represents Kingsley Management Corporation, and its affiliated companies, which manage, own, and operate with care and concern for the Homeowners (residents) within multiple mobilehome parks in the City of Santa Ana.¹

¹ California Civil Code (“CCC”) §§ 798.9, 798.12. “Homeowner occupied spaces” means the Homeowner owns the mobilehome (the housing unit) and rents a space in the Park on which to locate their mobilehome. The Homeowner is responsible for maintaining, repairing and replacing the mobilehome, and parts thereof and the space

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This Opposition is focused, but not exclusively, on mobilehomes (“**MHs**”) and mobilehome parks (“**MHPs**”). MHs and MHPs are, with few exceptions, exclusively and preemptively controlled by State and Federal statutes and regulations including the case law derived therefrom.²

VIOLATION OF GOVERNMENT CODE
Sections 54950 *et seq.*; 36900 *et seq.*; 81000 *et seq.*

The title and publication of Agenda Item 21 is misleading and inaccurate; and therefore, the description fails to comply with the Ralph M. Brown Act [California Government Code (“**Gov’t Code**”) section 54950 *et seq.*; “**Brown Act**” or “**Act**”).³ The title and publication of Agenda Item 21 provides that matter to be heard is to provide “direction to the City Manager **to prepare an ordinance**”, with full title set forth above. The Agenda Item 21 **failed to mention that the Ordinance was already prepared, attached to the Staff Report as Exhibit A, and presumably would be reviewed and adopted at the August 29, 2023 Special Meeting.**⁴ The Staff Report urges that Exhibit A be approved in the statement “The amendments to the RSO and JCEO as evidenced in the attached Exhibit A are crucial for ensuring the continuity and longevity of these protections.”

Assuming the intent was to discuss, consider and probably approve the Ordinance attached to the Staff Report for Agenda Item 21 as Exhibit A, this matter is improperly set to be considered at a Special Meeting of the City Council and violates Gov’t Code section 36934 (“**Ordinance Enactment Code**”).⁵ The mandate is that Ordinance adoption be heard and considered at Regular City Council Meetings.

² California Manufacture Housing Act, Health & Safety Code (“**HS**”) sections 18000 *et seq.* (“**MHA**”), National Manufactured Housing and Safety Standards Act of 1974 (“**NMHC**”) 42 U.S.C. section 5401 *et seq.*; Code of Federal Regulations Title 24 *et seq.*, and other Federal Building Codes; Mobilehome Park Act, HS 18200 *et seq.* and Title 25 CCR 1000 *et seq.*; the Mobilehome Residency Law, California Civil Code (“**CC**”) sections 798 *et seq.*; California Regulations 25 CCR 1000 *et seq.*, which is list is not exclusive of the State and Federal Statutes controlling all aspects of MHs and MHPs.

³ “The Brown Act, Open Meetings for Local Legislative Bodies”, California Attorney General’s Office, (2003).

⁴ San Diegans for Open Government v. City of Oceanside (2016) 4 Cal.App. 5th 637, 642; Olson v. Hornbrook Community Services Dist., 33 Cal. App. 5th 502, 515, 525-527.

⁵ The violation of Gov’t Code sections 54950 and 36934 are a continuation of the violations as set forth in the public records of City Council Hearings held on September 21, October 5 and November 19, 2021 (“**2021 Record**”) for the adoption of Ordinance Nos. 3009 and 3027 and in the public records of City Council Hearings held on October 5, 2022 and October 18, 2022 for the adoption of Ordinance No. 3027. (“**2022 Record**”); for the adoption of Resolution No. 2023-031, June 6, 2023 (“**2023 Resolution**”) The public records of these hearings include all memorandums, electronic transmissions, letters between among staff, excepting attorney-client privileged materials and between any City staff person, consultant or elected or appointed official with any third party, and all opposition letters, emails and verbal presentations and the video recording of those hearings are hereby incorporated for the record in this matter.

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In addition to the violations of the Brown Act and Ordinance Enactment Code, violations of the Political Reform Act, Gov't. Code sections 81000 *et seq.* have occurred.⁶ Based on the Record, as incorporated below, the Agenda Item 21 description at disparity with the Staff Report thereto, and the focus on a single group in the materials and proposed Ordinance, it appears some elected officials and City staff fail to comply with the City of Santa Ana – Code of Ethics and Conduct, generally, but specifically, (i) to be “honest with my fellow elected officials, the public and others; (ii) to not “give special treatment or consideration to any individual or group beyond that available to any other individual; (iii) to promote meaningful public involvement in the decision making process, and (iv) “treat all persons, claims and transactions in a fair and equitable manner.

Based on this Opposition to Agenda Item 21, along with all other oppositions submitted in opposition to Agenda Item 21 by other interested Parties, and each said opposition is incorporated herein by this reference as part of the record on Agenda Item 21, no action may be taken and the request in Agenda Item 21 must be denied for the reasons set forth herein and as presented by others in Opposition to Agenda Item 21 due to the improper Notice, inaccurate description of the Agenda Item 21 contained in the Notice and the Agenda, and consideration in a “Special Meeting of the City Council.” Further, consideration and approval of the proposed Ordinance at this hearing will violate the Brown Act, as explained in detail above.

This matter is not properly before the City Council for consideration and should not be heard.

STAFF REPORT

The Staff Report for Agenda Item 21 is a well-crafted political piece. There are no factual or legal basis provided in support of the action requested by Agenda Item 21. It appears to seek the protection of a Proposition without the expense and effort required. It further appears to disregard the changing State and Federal legislation and case law in these and related areas of law. Acknowledged in the first paragraph is confirmation of the continuing bias against the property owners. The 2021 Ordinances Numbers 3009 and 3010 (“**2021 Ordinances**”) were negotiated and written in conjunction with a closed committee of Councilmembers, staff and representatives of renters. Property owners were not included in these closed meetings and received the Notice of the Ordinance with the Agenda for the September 21, 2021 City Council Hearing. Certain of the councilmembers were likewise excluded with

⁶ For obligations to disclose personal interests or abstain from participating in the subject matter of the proposed City action: California Code of Regulations (“CCR”), Title 2, Division 6, sections 18702(a), (a)(5), (c)(1-4). In addition to the public record incorporated herein, the City records related to disclosure, including without limitation the Form 700s through 2022 (2023 form 700s were not available on line) are hereby incorporated as though fully set forth and the political positions and promises to the electorate to obtain votes, which political promises are best exemplified former Mayor Sarmiento stating from the dais on September 21, 2021, video record at approximately 6:25 p.m. to 6:45 p.m. in response to the Motion to send the Ordinance back to staff to consider the Amendments to Ordinance Nos.

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one councilmember stating at the hearing that the first knowledge and notice was provided to the entire council four days prior to the hearing.⁷

As a general observation and objection to presentation of evidence and factual justification for the 2021 Ordinances and 2022 Ordinance, and the request before the Council in Agenda 21 to Amend the 2022 Ordinance, the footnotes 5, 6, 7, and 8 provide only web page connections for the public to access for review rather than the customary and ordinary method of providing the factual or other information upon which an Agenda item is based as an attachment to the Staff Report. By not providing the materials upon which the conclusions are purportedly based by attachment/exhibit, ready access to many people is excluded. **This Opposition will follow the same method of reference to exhibits as “footnotes” utilized in the Staff Report but offer to anyone who requests, the opportunity to receive a full copy of the referenced materials via email by contacting Lauren Caggiano at Assistant@loftinbedell.com.**

As to Staff Report Footnote 5 (“**SR Footnote**”), the Biden Report supporting the adoption of rent control and acknowledging the City of Santa Ana as one of the cities adopting such ordinance fails to analyze the specific facts related to the specific jurisdictions or types of housing⁸ or confirm the compliance of said statutes with the state specific statutory and related case law. In the SR Footnote 7, the description information in the Staff Report for that document is misleading in that it states, “Accessed August 17, 2023,” whereas the document specifically states, “Owner-occupied housing unit rate 2017-2021” and does not include total employment, income or other financial/economic information. Lastly, the housing costs, it does not distinguish mobilehomes from other types of housing. The evidence submitted at the hearings for the 2021 Ordinances clearly established that the rent increases over five years in all parks averaged 3-4%. Housing costs cannot be resolved by the passing of rent control. Other participants creating excessive housing costs, e.g., governmental regulations, need to be addressed. The impact of rent control is not just on a big corporation, it is on its small investors such as retirees and retirement plans, and small business owners.⁹ Acknowledgment is due to the City that since the 2021 hearings at which time the City had an excess of funds in its tenant relieve fund, that the City appears to be focusing on using those and other governmental funds to assist financially challenged tenants. The Santa Ana Park owners would appreciate a like acknowledgment for its program to assist the financially challenged mobilehome owners.

⁷ See, 2021 Record, and Video of September 21, 2021 Hearing, for focus, 6:25 to 6:50 p.m.

⁸ Staff Report, Footnote 7, Census, Quick Facts was identified by the computer accessed date August 17, 2023 which misrepresented the validity of the data for this hearing in that the date range for the data of 2017 to 2020 was not included. The housing costs category does not distinguish the costs nor rental amounts applicable to mobilehomes and mobilehome spaces from other types of housing. For example, there is no acknowledgement that in California there are mandatory statutory restrictions and protections related to evictions, the Tenant Protection Act and the Mobilehome Residency Law.

⁹ For an analysis of the historical and current issues related to housing and governmental action: Roderick Wright, California State Senator (Retired), “Politics of a Housing Crisis,” California Rental Housing Association, June 1, 2022. (<https://cal-rha.org/the-politics-of-a-housing-crisis/>)

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The conclusory discussion related to the “Injustice of Proposition 13” and Mike Levin’s political statement opposing Proposition 13 in SA Footnote 6 does not acknowledge the date for the political position nor purpose of this political statement. Further, the political statement is flawed in that it failed to consider or address among many other negative impacts of repeal of Proposition 13: (i) the mathematical analysis does not consider increases in costs to operate, repair and maintain properties is significantly higher than 3%,¹⁰ (ii) the impact on development, repair, replacement and maintenance due to substantial increase in costs specifically related to substantially increased regulatory requirements and governmental fees, (iii) the increase in other types of taxes, insurance, (iv) Prop 13 has been amended, (v) the silent owner who loses his/her home due to highly escalating property taxes. The primary beneficiary of eliminating Proposition 13 is you, the City, and other governmental entities; the primary injured parties will be the moderate and low income homeowners who bought relying on the formula, and who may have saved and bought another property gradually creating a legacy in rentals for their heirs and (vi) the significantly added costs to owners of rental property which will over time negatively impact the quantity of rental properties and (vii) Proposition 13 has been amended since the distribution of the Levin Political Statement. For a discussion and objection to Staff Report Footnote 8 see Opposition Footnote 11, below¹¹.

¹⁰ For a financial and participant analysis of the elements required to provide affordable housing, See: Urban Institute, National Housing Conference, July 2016, “The Cost of affordable housing: Does it pencil out?” (<https://apps.urban.org/features/cost-of-affordable-housing/>).

¹¹ Staff Footnote 8 was included in the discussion related to the repeal of Proposition 13. The spurious argument that the existence of Proposition 13 may be a cause of increased rents and results in inequities between homeowners and renters in that homeowners have a protection against increased property taxes. The assertion then is that renters deserve a protection from rent increases similar to homeowners having a limited protection against increased property taxes (no discussion of impact of special assessments and other financial differences between the two categories of residential occupants such as homeowners pay for maintenance and other governmental costs whereas renters pay rent and the landlord pays those additional costs. A Note on the document: the Federal Housing Finance Agency, an agency funded by the Federal government and a lender insurance provider that requires stringent underwriting re costs and income from properties, sent a “Request for Information” to university professors and certain housing groups to comment on whether an additional underwriting provision providing rental income restrictions should be required. The article highlights the current issues related to homelessness and the housing availability close to work centers. These issues are being addressed by such statutory actions requiring ADU/JADUs, increased density, reducing parking requirements, public transportation; however, the State and local jurisdictions need to reduce the costs and time of development is not reduced. Rent Control will not eliminate the issues. The recommendation was for Fannie Mae and Freddie Mac to require some rent regulation but offset that requirement with changes in loan terms, high loan-to-value ratios, longer loan periods, and other loan costs mitigations. It also emphasized that any requirement for a rental costs term be added to the underwriting, that the underwriting and loan terms must maintain the landlords’ ability to receive a fair and reasonable return on their investment. In summary, the response was an opinion piece with political overtones which assumed many assertions were facts and as such is not a proper evidentiary basis upon which to support this 2023 Ordinance Amendment. Unless, the City elects to provide the financial offset to the imposition of rent limitations as was recommended to FEMA.

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The purpose of the “amendments to the RSO and JCEO as evidenced in the ordinance attached Exhibit A are crucial for ensuring the continuity and longevity of these protections.” The change is to require a “Super-Majority” to approve a change to specified provisions in the RSO and JCEO ordinances.¹² Staff Report 21-2, 8/29/2023.

The following comments incorporate the basis of Opposition set forth above.

Santa Ana is a Charter City.¹³ Its Charter appears modeled after state law Government Code section 36936 which requires: Resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the city council. (2023). Santa Ana’s Charter requires “...the affirmative vote of the majority of the full membership of the City Council. (“**Charter**”) Charter section 410 Quorum. If Santa Ana wants to amend its Charter, it “shall be proposed and submitted to the electors of the City in the manner provided by the Constitution of the State of California. Section 1500 Amendment to Charter. Attorney Terry Dowdall is submitting a separate opposition to Agenda Item 21 providing a more detailed discussion of this objection and said Dowdall Opposition is hereby incorporated as though fully set forth.

The proposal is further designed to, based on the stated purpose, permanentize the current provisions as set forth in bullet points 1-6 in the Agenda 21 Staff Report, page 21-2. Both the RSO and JCEO are currently the subject of litigation challenging specific provisions therein, specifically as related to mobilehomes and mobilehome parks except some challenges may benefit all residential rental housing regardless of type of units or ownership.¹⁴ Both rent control and eviction state statutes have additional specific and related legislation pending.

Ordinance No. 3022 and Resolution No. 2023-031 do not distinguish the Federal and State Laws including the Regulatory Systems adopted for implementation thereof and the case law related thereto applicable to mobilehomes and mobilehome parks from other the Federal and State Laws including the Regulatory Systems adopted for implementation thereof and the case law related thereto applicable to other types of rental housing units. *See* Opposition Footnote 11.

¹² The statement confirms the violation of Gov’t Code sections 54950 and 36394.

¹³ The charter was adopted by the electors on November 4, 1952; and subsequently amended by them on November 2, 1954; April 9, 1957; November 4, 1958; April 2, 1963; and June 7, 1966.

¹⁴ See, *Kingsley Management Cor, et al. v. City of Santa Ana, et al.* United States District Court, Central District, Case No. 8:22-cv-0076-CJC-JDEx (03/04/2022); *Kingsley Management Corp, et al. v. City of Santa Ana, et al.* United States District Court, Central District, Case No. 8:23-cv-00102-CJC-JDE (01/17/2023).

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PROPOSED ORDINANCE

The last sentence of the Staff Report provides a plea for adoption: “The amendments to the RSO and JCEO as **evidenced** in the attached Exhibit A are **crucial** for ensuring the continuity and longevity of these protections.” (**Emphasis added.**) The amendments to the RSO and JCEO are **not** evidence that the provisions of the proposed Ordinance amendments are crucial. There is no evidence that the existence of the RSO and JCEO face an immediate threat or distant threat of being repealed. Assuming the pending and future state and/or legislation is passed that alters the City’s right to impose certain provisions or case law develops or the pending litigation against the City requires amendments to certain provisions, then changing laws or errors in the City’s legislative or regulatory process may result in mandatory revisions to the RSO and JCEO. That leaves the question, why is this amendment to the RSO and JCEO being proposed now as opposed to at a time after the courts decide on the underlying litigation involving these Ordinances?

Proposed Ordinance Provisions:

Section 1. “The City Council of Santa Ana hereby finds, determines, and declares as follows:”

- A. The Record for the City Council hearings held on September 21, 2021 (due to Brown Act Violations reset first reading to the October 5, 2021 hearing) and October 5, 2021 will show numerous, but if not hundreds of, residents appeared at those hearings. The record will further show that numerous persons in opposition disputed those facts as well as the illegality of many of the provisions proposed in the two Ordinances passed violated Federal and State statutes including their implementing regulations and case law interpreting and analyzing those laws. The Record will further show that the Ordinances were developed in a closed City Council Hearing that did not include all of the councilmembers or any representatives of the various types of landlords and property. The record will further show, as presented, the matter violated the Brown Act and based upon the conduct and statements of the then-Mayor in refusing to consider a motion to continue the matter that the matter had to be voted on that night because “that’s why we were elected.” The record will further show that the adoption of the Ordinance was placed on the consent calendar for October 19, 2021 and adopted notwithstanding requests to remove it from the consent calendar and ignored the opposition to its adoption submitted for that hearing. For a full understanding of the irregularity of the Adoption of these two Ordinances, see the Record.
- B. This is a statement of the adoption of the RSO and JCEO, as two Ordinances.
- C. No evidence was provided to support the findings in Ordinance No. NS_3009 and NS-3010 that significant rent increases had occurred. In fact, the rent increase history and financials related thereto for mobilehome parks were presented establishing the average rent increase had been 3% to 4%. The blanket statement that this finding “significant rent increases” was true in 2021 and

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is still true is a false statement based upon the evidence presented. Further, housing instability and the resulting hardships are related to a lot of factors, many of which were created by the City and State, excessive regulations, fees; by the City's failure to provide the rent subsidies for which it had funds; more recently, the rapid and substantial increase in interest rates; rising costs of utilities, insurance and other taxes. As Councilmember Phan would say, there are a lot of tools the City can use to address the homelessness and related issues rather than pass Ordinances which violate settled law and the actions of the City in failing to work with the very people who provide the housing – the owners of the housing.

- D. This is a descriptive statement of the action taken to study the regulatory framework.
- E. The Amendments to and Consolidation of the RSO and JCEO into one Ordinance did not result in "efficient and effective program services to rental property owners," specifically mobilehome park owners but did substantially increase services to the renters in all types of rental properties. It is not the scope of this Opposition to reiterate the legal deficiencies and violations of statutes, you are referred to the Record in the hearings related to adoption of the ordinances and pending litigation. The Staff Report for October 4, 2022 had the same issues related to a lack of credible evidentiary backing and a continued refusal to include the owners of the rental units in the meetings, discussions and considerations of the proposed and then adopted amendments. Specifically, as to mobilehome residents and park owners, the mere addition of a provision that states (sort of) if any provision of the Ordinance conflicts with the Mobilehome Residency Law, California Civil Code sections 798 *et seq.*, then the Mobilehome Residency Law controls. The mobilehome residents and Mobilehome Park owners are then left with obligation to determine what does and does not apply. Further, there is no reference to the other controlling Federal and State Statutes including their implementing regulations and case law interpretations.
- F. There is no evidence or other factual materials provided to support this Finding. Assuming an owner is not complying with the RSO-JCSO Ordinance, the mechanism for requiring enforcement is contained within the Ordinance. Therefore, this Finding is irrelevant to the proposed Amendment to the Ordinance in that these Amendments will not change or alter the City's current enforcement privileges. The remedies for these complaints are within the City's "tools" already.
- G. This is a conclusory statement which sounds politically well placed but stability is dependent upon the City passing procedurally and substance appropriate Ordinances, availing itself of other "tools" (*e.g.*, reducing regulations and costs related thereto, implementing the ordinances and/or permitting by State statute the increase in housing via ADUs and JADUs, providing the funding available to it for the benefit of the residents and other similar actions). If by "stability" the intent is to "never change," that is not possible given the right of the Federal and State governments to change laws and interpretations of existing law by judicial decision. Further, this limits the rights of the citizens, both tenants and owners, to exercise their rights to request changes. Lastly, as

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provided herein and in the records for the hearings related to this matter, the coordination with and consideration of the requirements of the rental unit owners has not been welcomed or considered.

- H. This is standard boiler plate language, which has now been discussed and it has been established since September 2021 to the present date Opposing Agenda Item 21, that the facts and law do not support the 2022 Ordinance as implemented and drafted nor the proposed Amendment to said ordinance.
- I. This is standard boiler plate language, which has now been discussed and the record has established since September 2021 to the present date Opposing Agenda Item 21 that the facts and law do not support the 2022 Ordinance as implemented and drafted nor the proposed Amendment to said ordinance.
- J. The only citizen or interested party “testimony” the City Council will deem required to establish the necessary Findings is “oral testimony.” The City Council will not consider the record from the other hearings, written testimony, contradicting documents among other customary and ordinary acceptance of evidence related to findings. submitted for consideration and as a basis for this Amendment to the Ordinance. This requirement further invalidates the Notice of the Meeting and the Agenda.

Section 2. This is boiler plate customary language, except the modification to limit the record to those persons who provide oral testimony with limited time for presentation. The truth of the recitals and statements of fact need to be established through the record. The assumption is that the goal of “truthfulness” is being advanced by only permitting oral testimony with time limits which by necessity excludes contrary documentary or detailed evidence and relies on the Staff Report and attachments.

Section 3. As to the substance of each section, except Section 7 of the RSO JCEO, the opposition, objections and other assertions related to each of the provisions, including those provisions listed here, have been incorporated into this Record and are set forth in the pending litigation, which public record portion of the litigation record has likewise been incorporated into this Record. As to Section 7, this prohibition on legislative action by a future council is questionable and from a literal reading prohibits compliance with Federal and State statutes including the implementing regulations and case law interpretations and orders as applicable as of this writing and as may be amended from time to time.

For the reasons set forth above, there has been no justification, evidence or other basis for requiring a supermajority vote to amend the RSO JACO Ordinance presented.

LOFTIN | BEDELL P.C.

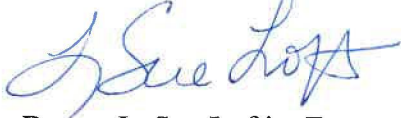
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CONCLUSION

Based on the violations of the California Government Code sections 54960 (Brown Act) and 36934 (Ordinance Enactment Code); California Government Code section 36936 (Charter Cities), as amended in 2023; City of Santa Ana Charter, Sections 410 and 1500; and the Constitutions of the United States and of California, this matter is prohibited for being heard and the proposed Ordinance on its face is flawed.

Sincerely,

LOFTIN | BEDELL P.C.

A handwritten signature in blue ink, appearing to read "L. Sue Loftin", is written over the typed name.

By: L. Sue Loftin, Esq.

cc: Client

Orozco, Norma

From: Julie Paule <julie@pauleconsulting.com>
Sent: Monday, August 28, 2023 5:13 PM
To: eComment
Subject: Item #21 Oppose
Attachments: 23_08_28 Santa Ana voting thresholds.pdf

Attached is WMA's communication for the record on Item #21 on the August 29, 2023 Santa Ana City Council Agenda.

Thank you,
Julie Paule

Julie Paule
Contracted Regional Representative, WMA
Paule Consulting, Inc.
40335 Winchester Rd. #E-165
Temecula, CA 92591
(951) 704-2427
julie@pauleconsulting.com



Western
Manufactured Housing Communities
Association

August 28, 2023

Mayor Valerie Amezcua
City of Santa Ana
22 Civic Center Plaza
Santa Ana, CA 92701

RE: Item 21 Discuss and consider directing the City Manager to prepare an ordinance for City Council's consideration to amend the City of Santa Ana's Rent Stabilization and Just Cause Eviction Ordinance to require supermajority approval of the total number of Councilmembers for certain future amendments to the ordinance. – Councilmember Phan

Dear Mayor Amezcua,

Western Manufactured Housing Communities Association (WMA) is a statewide trade association representing mobilehome community owners throughout California and many here in the City of Santa Ana.

We oppose this illegal amendment to the City of Santa Ana's rent control law which regulates the city's rental housing and mobilehome parks. The city council doesn't have the legal authority to make this change without running afoul of Santa Ana's City Charter, state law, and case law.

Santa Ana City Charter states:

Sec. 410. - Quorum.

*A majority of the members of the City Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time. Except as otherwise provided elsewhere in this charter or by law, no ordinance, resolution or motion shall be passed, adopted, or become effective unless it receives the **affirmative vote of a majority of the full membership of the City Council**. In the absence of all of the members of the City Council from any regular meeting, the City Clerk may declare the same adjourned to a stated day and hour.*

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

The city would be required to amend its charter to allow councils to place higher thresholds on amendment votes of the rent control ordinance. Of course, charter amendments can only be

Western Manufactured Housing Communities Association

Sacramento Office: 455 Capitol Mall Suite 800, Sacramento, CA 95814 | (916) 448-7002

Regional Office: 40335 Winchester Rd. #E165, Temecula, CA 92596 | (951) 704-2427 | julie@pauleconsulting.com

made by voters, not politicians. Passing this amendment with new voting thresholds without amending your charter is a violation of your charter which is a misdemeanor.

This is also a violation of state law. Government Code 36936:

Resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the city council. (Gov. Code, § 36936 (Deering, Lexis Advance through the 2023 Extra Session Ch 1, 2023 Regular Session Ch. 130).)

Industry representatives have been asked by the city to come to the table and “work together” to implement this rent control ordinance and regulations on rental housing. Stunts like this discussion item show that the city is not earnest in a desire to work with all stakeholders. Instead, the council majority and city staff put their collective thumb on the scale in favor of tenants time and time again: passing the most onerous, sub-inflationary rent control ordinance in the state, stacking the make-up of the rent board with more tenants than property owners and independent members, and now attempting to handcuff future council's ability to make changes to the rent control ordinance. This will draw the city into more litigation and is a pure power grab by a tyrant majority of the council. It sends a very clear message to property owners.

This council is fully aware of the legal risks and challenges this change will invite. On behalf of the mobilehome park owners in Santa Ana, we request that you abandon this anti-democratic effort and attempt to build some resemblance of trust between the stakeholders.

Sincerely,



Julie Paule, Regional Representative

cc: Mayor Pro Tem Jesse Lopez
Council Member Thai Viet Phan
Council Member Benjamin Vazquez
Council Member Phil Bacerra
Council Member Johnathan Ryan Hernandez
Council Member David Penaloza

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Orozco, Norma

From: Tim Johnson <tjohnson@jlkrlp.com>
Sent: Monday, August 28, 2023 5:39 PM
To: Garcia, Michael (CDA); Brown, Judson
Cc: RSO; eComment; Ridge, Kristine; Mendoza, Steven; Carvalho, Sonia R.
Subject: RE: Rent Registry- SFR

Hi Director Garcia and Judson (cc the others from the below...)...Please read the below to catch up. I am struggling immensely with the rent registry letters sent out to folks. Do you know how many letters were mailed to those that the city rec'd data from the county on those that are single family residences with no homeowner's exemption on them? Can you confirm that Mills Act homes are by default void of the homeowner's exemption on the county property tax roles by default. This is not the real crux of this email btw, so don't get bogged down in those questions before addressing the real issue below (i.e....the below is way more important than the costs and resources above).

To catch everyone up...I had a nice yet frustrating conversation with Bella and Cindy from the RSO office...both great on the phone and would be glad to say that they are representing the city well from a customer service point of view. Unfortunately, my call got cut off with Cindy, however I think we were somewhat wrapping up because we were going in circles. The issue though we are having is immense and I would be glad to go over this on the phone if someone wants to call me (cell: [REDACTED]; texting OK, call anytime, I work late!).

I feel that the city is expecting all the homeowners to respond and essentially exempt themselves out of the registry when 95% to 100% are exempt by statute. I am still not sure of the case where a single family home would be subject to registration and the rent ordinance OR the exemption process.

Specifically, when I started to explain to Cindy that I did not believe there was a section in the rent registry website for situations where the house is essentially just someone's home, that is where we got disconnected.

Specifically, I refer you to the below 2 screenshots from my portal. The top are my exemption options...none of them apply to someone who is an ordinary person living in their house and not renting it. The "residential real property...." one is not applicable either btw. I can explain why if need be. Further even if that one was correct, I would have to upload documents including a tenant notification AND sign something that is false under penalties of perjury. There is something really wrong here. I don't think the city should be fixing this one property at a time but instead correcting this at the macro level.

I still do not understand why someone who is a homeowner would need to register and provide private documents to the city. PLEASE, let's fix this.

I am hoping that Director Garcia or Judson can get back to me. I have specific questions that should be addressed. I totally understand that this is a new program and will have quirks...the real test is how we respond to those quirks. The city should not put this burden on regular homeowners. I feel like I am a smart person in this area and I am wholly confused...I know that others are also.

Again, I can be reached at [REDACTED] Clerk of the Council...you can feel free to include this in the agenda item for #21 tomorrow. Thanks!

Apply for Property Exemption

* Please select the qualifying grounds for the property exemption

Select

☒ Select

☐ Dormitories owned by higher education or K-12 school

☐ Housing that has been Issued a Certificate of Occupancy (or equivalent document) within the previous 15 years (excluding mobilehomes)

☐ Residential real property that is alienable separate from the title to any other dwelling unit (not owned by REIT, corporation, certain LLC's) AND tenant has been given proper notice

☐ Affordable housing/deed restricted property

☐ A property that is a single-structure with two separate dwelling units (including a duplex) in which the owner occupies one of the units as a principal residence at the beginning of the tenancy, so long as accessory dwelling unit or junior accessory dwelling unit

* Full Name

* Title

Select

Apply for Property Exemption

* Please select the qualifying grounds for the property exemption

Residential real property that is alienable separate from the title to any other dwelling unit (not owned by REIT, corporation, certain LLC's) AND tenant has been given proper notice

Please submit your Title records; AND proof that tenants have been provided written notice that the Residential Real Property is exempt from the Ordinance using the following statements:

"This property is not subject to the just cause requirements of Santa Ana Municipal Code Chapter 8, Article XIX, Division 2. This property meets the requirements of Santa Ana Municipal Code section 8-3 Investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation."

"This property is not subject to the Rent limits imposed by Santa Ana Municipal Code section 8-3140 and the Owner is not any of the following: (1) a real estate investment trust, as defined by section 856 liability company in which at least one member is a corporation."

Upload the Title records

Select files...

* Upload the Proof of Written Notice

Select files...

Comments

Declaration Statement

☐ * By checking this box, I declare under penalty of perjury under the laws of the State of California that the information I have provided in this form is true and correct to the best of my knowledge and true and correct copies of the original documents.

Submitter's Info

* Full Name

* Title

Tim Johnson, CPA

JLK Rosenberger, LLP

 (949) 860-9892

From: Tim Johnson

Sent: Monday, August 28, 2023 12:09 PM

To: Ridge, Kristine <kridge@santa-ana.org>; Mendoza, Steven <SMendoza@santa-ana.org>; Carvalho, Sonia R. <SCarvalho@santa-ana.org>

Cc: rso@santa-ana.org; ecomment@santa-ana.org

Subject: Rent Registry- SFR

City Manager Ridge, Asst CM Mendoza, and City Atty Carvalho (cc RSO and also city council public comments)...I hope that all is well and the festival was great this last weekend! I am also including ecomments in the recipient list because I know that there is an agenda item (21 I believe) with regards to the Rent Stabilization Ordinance and I figure that this may be a good way to inform the mayor and city council members of a potential issue that many residents in the city may be dealing with. As far as whether 2/3 majority is needed, I will leave that to the council/mayor to figure out but this is quasi-related IMO.

As you may know, the city sent out letters this last week regarding the rental registry. I also spoke to someone at the RSO office and they are giving some conflicting info and I asked for a call back after explaining my questions but I figured you all should be aware also. I am including Sonia on here because I believe that there may be some legal issues with potential violations of rights on this also.

I received one of the rental registry letters and know that many of my neighbors around town did too. I live in a single family residence (SFR) and my home is also on the Mills Act. I am hearing from many that are receiving the same letters...although not precise, the common denominator seems to be either Mills Act or no homeowners exemption on file with the county, although there are others who are not Mills and think they have the exemption. I believe that when you are on the Mills Act, the county takes away the homeowners exemption, so that is likely the real criteria here. I also have a permitted ADU which may also be of consequence here.

I am not an expert on the new Ordinance (is anyone an expert yet on it??), but it is my understanding that the all SFRs are exempt...even those that are non-owner occupied or even rented. I believe that this is with the state's Costa Hawkins limitations also. The city's infographic here (https://storage.googleapis.com/proudcity/santaanaca/uploads/2023/01/Rent-Stabilization-Infographic_Combined.pdf) clearly indicates that a single family home is not subject to the ordinance (upper right hand box)...or at least the rent cap.

The letter indicates that information from the County "shows that you own at least one rental unit at the above property address that must be registered in the City's Rental Registry." This is simply not a true statement. There is no information with the county that would show I own a rental unit. There may be information with the county that I have a Mills Act home and maybe for some others that they are not claiming the homeowner's exemptions but there is not information that I own a rental unit at my address. The county simply does not have information that says I own a rental unit.

The letter further goes onto indicate that because the county does not show a homeowner's exemption that the city is assuming it is a rental. This is not what the above quoted language indicates...is the county saying they have info that my home is a rental or are they saying that there is not a homeowner's exemption (again, likely due to the Mills Act)? Then, the city is making the leap that it is assuming that all homes that do not have a homeowner's exemption on file are rentals. This is not an acceptable conclusion.

If the city wanted to send out an informational letter, so be it. But this is not informational because it gives me only two options: 1) Register your rental unit(s) or 2) Claim an exemption- which also btw, requires registration. Further to claim the exemption, there is required documentation to be submitted which may include gov't ID, utility bills, banking records, and other highly personal information such as trust documents. This certainly seems like the city is presuming I am guilty (i.e. I have a rental b/c I am on Mills Act without a homeowner's exemption) and asking me to prove my innocence by submitting private information. Note that the letter further indicates that even if "your rental unit is

exempt” (again, has it been established that I have a rental unit??), I must claim an exemption. Further, until and unless I claim an exemption, the city will presume that I have a rental subject to the provisions of the Ordinance and will, and this is the really damaging part, “commence enforcement action accordingly.” There are so many presumptions in that paragraph and leaps to get there, that this language is so very highly concerning. The city will presume that I have a rental and commence enforcement actions...wowza.

Note that it does not say anything about how a SFR is exempt from the Ordinance. So, my first question is: Are all SFR's exempt from registration because they are exempt from the rent cap regardless of whether they are owner occupied, vacant, a second home, vacation home, or even a rental? Assuming that is yes, like your infographic says, all SFRs are exempt from registering then why do we need to do anything here?

We all know that words “matter”...as I have written the above I am now questioning whether the SFR exemption in the city's infographic and in other areas including Costa-Hawkins applies only to the “rent stabilization” portion of the Ordinance and not the eviction rights portion. Can you please clarify? Are SFR that are rented required to register even though they are presumably not subject to the rent stabilization provisions?

I believe that some major correction action is needed by the City ASAP. These letters never should have been sent out in this manner IMO but the real question is how does the city respond to this. Errors happen...correcting them is the real measure.


The city should at a minimum auto exempt all SFRs from registration and instead inform folks of potential registration IF it is required (I need your help- is registration required here). Again, remember...the city's letter gives me 2 courses of action...register to be part of the rent registry or register and file an exemption after uploading highly personal documents.

I would suggest that the city issue clarifying language on all social media sites, nixle, on line, do an auto response to the RSO email, auto prompt on the RSO phone and if needed send out corrective mailings. Further, the city has expended significant financial resources on the color printed pages and the mailing itself, so I am concerned about expending more resources but the city needs to get this corrected.

I know this is a little scattered but hopefully the above highlights an issue that many of us are facing right now. How can we proceed on clarifying and correcting this?



Tim Johnson, CPA
Partner

 (949) 860-9892

 [Redacted address]

 tjohnson@jlkrlp.com

2601 Main Street, Suite 580, Irvine, CA 92614

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Orozco, Norma

From: Ana Charco <acharco@latinohealthaccess.org>
Sent: Monday, August 28, 2023 5:49 PM
To: eComment
Cc: Hernandez, Johnathan; Phan, Thai; Lopez, Jessie; Penaloza, David; Bacerra, Phil; Amezcua, Valerie
Subject: LHA_LOS-Agenda Item #21
Attachments: LHA_LOS-RSO and JCEO.pdf

Dear Mayor Amezcua and City Councilmembers,

Please see Latino Health Access's letter of support for Agenda Item #21.

Have a great day,
Ana Charco
She/Her/Ella
Policy Associate
Civic Engagement and Advocacy Department - Latino Health Access
acharco@latinohealthaccess.org

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Latino Health Access
450 W. Fourth Street, Suite 130
Santa Ana, CA 92701
714-542-7792
www.latinohhealthaccess.org

August 29, 2023

Mayor Amezcua and City Councilmembers
20 Civic Center Plaza
Santa Ana, CA 92701
ecomment@santa-ana.org

**RE: SUPPORT ITEM 21 - Requirement of Supermajority Approval for Certain Future
Amendments to the Rent Stabilization Ordinance and Just Cause Evictions Ordinance**

Dear Mayor Amezcua and City Councilmembers,

For 30 years, Latino Health Access has been proudly working alongside community residents to bring health, equity, and sustainable change to underserved communities through education, services, consciousness-raising, and civic participation. We strive to provide culturally appropriate health-related services and programming to address urgent health concerns while also empowering individuals in low-income, low-opportunity areas to transform their environments and create positive changes in their homes and communities. Through the provision of tools, training, and mechanisms for civic engagement and participation, Latino Health Access seeks to foster a sense of agency and empowerment among community members, ultimately contributing to a healthier and more equitable community. Therefore, Latino Health Access supports the council in providing direction to amend the City's Rent Stabilization Ordinance (RSO) and Just Cause Eviction Ordinance (JCEO) to require a supermajority approval for certain future amendments.

The RSO and JCEO was enacted with the primary goal of safeguarding the rights of tenants within the city. It aims to prevent arbitrary rent increases and unjust evictions, thus ensuring housing stability and security for Santa Ana residents. This ordinance reflects our commitment to providing affordable and stable housing in Santa Ana, especially at a time when housing affordability is a critical issue. We believe that implementing this change is necessary to maintain and uphold the integrity of the ordinance and, ultimately, to protect tenants' rights and security.

The Need for a Supermajority: The proposed supermajority requirement for amending the ordinance serves several crucial purposes:

- **Stability and Consistency:** The RSO and JCEO is designed to provide long-term stability and predictability for tenants. Frequent changes or amendments to the ordinance can disrupt this stability. Requiring a supermajority vote ensures that any modifications are thoroughly considered and less vulnerable to individual and short-sighted political interests.
- **Tenant Protection:** This ordinance is fundamental to protecting the rights and security of tenants. By implementing a supermajority requirement, we are adding an extra layer of protection against potential weakening or dilution of tenant rights. This helps ensure that any changes made to the ordinance are well-founded and genuinely in the best interests of our residents.
- **Community Consensus:** Requiring a supermajority vote encourages broader community consensus on any proposed changes. It ensures that multiple perspectives are considered and that the decision to amend the ordinance is made with the utmost care and attention to its potential impacts.



Latino Health Access
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- **Policy Continuity:** Housing policies should be consistent over time to provide stability and predictability for landlords and tenants alike. Requiring a supermajority for amendments reinforces the idea that changes to this vital ordinance should be infrequent and well-justified.

Latino Health Access recommends that we move forward with the proposed amendment to the Rent Stabilization and Just Cause Eviction Ordinance, requiring a supermajority approval of the total number of Council members for certain future amendments. This measure will help maintain and uphold the integrity of the ordinance and, more importantly, ensure that the ultimate goal of protecting tenants' rights and security is consistently met. It is our responsibility as public servants to prioritize the well-being of our residents, and this amendment is a crucial step toward that goal.

Please consider this proposal thoughtfully, and let us work together to strengthen our commitment to affordable and stable housing in Santa Ana.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Mejia".

Nancy Mejia, MPH, MSW
Chief Program Officer



Latino Health Access
450 W. Fourth Street, Suite 130
Santa Ana, CA 92701
714-542-7792
www.latinohhealthaccess.org

Orozco, Norma

From: Mark Alpert <malpert@beamlaw.net>
Sent: Monday, August 28, 2023 7:53 PM
To: !City Clerk; 'bvazquez@santa-ana.org; pbecerra@santa-ana.org
Subject: FW: Proposed Consideration Of Supermajority Requirements At Council Meeting of August 29,2023
Attachments: Letter To Santa Ana City Council Aug 28 2023.pdf

I believe there may have been a problem with the attached letter receiving you in a prior email so I am resending it.

Thanks

Mark Alpert

From: Mark Alpert
Sent: Monday, August 28, 2023 7:49 PM
To: 'vamezcua@santa-ana.org' <vamezcua@santa-ana.org>; 'jessielopez@santa-ana.org' <jessielopez@santa-ana.org>; 'tphan@santa-ana.org' <tphan@santa-ana.org>; 'bvazquez@santa-ana.orgpbacerra@santa-ana.org' <bvazquez@santa-ana.orgpbacerra@santa-ana.org>; 'jryanhernandez@santa-ana.org' <jryanhernandez@santa-ana.org>; 'dpenaloza@santa-ana.org' <dpenaloza@santa-ana.org>
Cc: 'email/cityclerk@santa-ana.org' <email/cityclerk@santa-ana.org>; 'scarvalho@santa-ana.org' <scarvalho@santa-ana.org>
Subject: Proposed Consideration Of Supermajority Requirements At Council Meeting of August 29,2023

Dear Santa Ana City Council Members, City Clerk and Legal Counsel,

Attached please find my letter of August 28, 2023 regarding the City's proposed amendment to its Rent Stabilization Ordinance to be considered at your meeting of August 29, 2023.

Sincerely,

Mark Alpert
Of Counsel,
Gregory Beam and Associates, Inc.

Law Offices of
Gregory Beam & Associates, Inc.
25201 Paseo De Alicia, Ste 105
Laguna Hills, California 92653
(949) 598-5800
Facsimile: (949) 598-5815

August 28, 2023

Via Email

City Council Members

Valerie Amezcua/ vamezcua@santa-ana.org

Jessie Lopez/ jessielopez@santa-ana.org

Thai Viet Phan/ tphan@santa-ana.org

Benjamin Vazquez/ bvazquez@santa-ana.org

Phil Bacerra/ pbacerra@santa-ana.org

Johnathan Ryan Hernandez/ jryanhernandez@santa-ana.org

David Penaloza/ dpenaloza@santa-ana.org

20 Civic Center Plaza

Santa Ana, CA 92701

Re: Proposed Adoption of Super-Majority Voting

Dear Council Members,

I represent the owners of three manufactured home communities in the City of Santa Ana (Bit-O-Home, Liberty and Sandalwood). I am on writing on their behalf regarding the City's consideration of a proposed change to the City Charter that would establish a supermajority voting requirement to repeal the City's "Rent Stabilization and Just Cause Eviction Ordinance" ("Rent Control Ordinance).

As has been pointed out to you in correspondence by Mr. Dowdall on behalf of other park owner attorneys, the proposed change violates both the City's charter, California state law, the California Constitution and a violation of the park owner's substantive due process rights. I will not repeat Mr. Dowdall's letter, which does an excellent job of comprehensively explaining numerous violations of law that would result if the proposed change were adopted. The question is not even remotely debatable under existing law.

In addition, it is quite revealing that the proposed supermajority vote would only apply to changes in the Rent Control Ordinance that make it less restrictive. Thus, under the proposed change, a simple majority could reduce or eliminate annual rent increases, but a super-majority would be required to increase annual rent adjustments. This feature violates the right of park owners to equal protection under the law because park owners are singled out as less deserving protection under the law. They treated as second class citizens who are politically disfavored by the City.

City Council,
City of Santa Ana
August 28, 2023
Page 2

It is disappointing that this patently illegal change in the Rent Control Ordinance would be put forward by a Council Member who is an attorney, no less one that purports to specialize in municipal law. If Ms. Phan was acting in her capacity as an attorney, she would be ethically bound under Rule 1.2.1 of the Rules of Professional Conduct to "not counsel a client to engage, or assist a client in conduct that the lawyer knows is . . . a violation of any law, rule, or ruling of a tribunal." Apparently, Ms. Phan feels no such obligation toward the City she represents. Unfortunately, the staff report discussing this item contains no discussion of the legality of the proposed amendment.

At this point, the proposal is put forward only by Ms. Phan, who advocates for this change despite the fact that she must know it exposes the City to a lawsuit or lawsuits in which it cannot prevail. If this proposal is moved forward for consideration of adoption by a majority City Council vote, it will also underscore the message to park owners in Santa Ana that they cannot expect fair treatment by the current City Council under the Rent Control Ordinance.

The City Council should obviously reject this proposal. In addition, every single Council Member should, on the record, explicitly and unambiguously state his or her rejection of any attempt to deny park owners their legal rights and equal treatment under the law through the rejection of majority voting principles or otherwise.

Respectfully Submitted,

Dated: August 28, 2023

Gregory Beam and Associates, Inc

By

Mark D. Alpert

CC: City Clerk, City of Santa Ana (via [email/cityclerk@santa-ana.org](mailto:cityclerk@santa-ana.org))
City Attorney, Sonia Carvalho (via email scarvalho@santa-ana.org)
Park Owners

Orozco, Norma

From: Fernando Delgado <fdelgado@occord.org>
Sent: Tuesday, August 29, 2023 8:00 AM
To: eComment
Cc: Amezcua, Valerie; Lopez, Jessie; Phan, Thai; Hernandez, Johnathan; Vazquez, Benjamin; Penaloza, David; Bacerra, Phil
Subject: OCCORD; Support for Item 21 - 8.29.23 Santa Ana CC
Attachments: OCCORD; Support for Item 21 - 8.29.23 Santa Ana CC.docx.pdf

Fernando Delgado

Campaigns Manager

OCCORD

"I'm for truth, no matter who tells it. I'm for justice, no matter who it is for or against. I'm a human being, first and foremost, and as such I'm for whoever and whatever benefits humanity as a whole."- Malcolm X



August 28, 2023

Mayor Amezcua and City Councilmembers
20 Civic Center Plaza
Santa Ana, CA 92701
ecomment@santa-ana.org

RE: SUPPORT ITEM 21 - Requirement of Supermajority Approval for Certain Future Amendments to the Rent Stabilization Ordinance and Just Cause Evictions Ordinance

Dear Mayor Amezcua and City Councilmembers,

I write on behalf of OCCORD to express our support for Item 21, the requirement of supermajority approval of total council members for certain future amendments to the Rent Stabilization Ordinance (RSO) and Just Cause Evictions Ordinance (JCEO). The City of Santa Ana (City) must commit to safeguarding housing stability and the tenant protections that provide it.

OCCORD's mission is to build the power of historically marginalized communities in Orange County. Our community organizing team works tirelessly to meet with residents and learn about the struggles they are facing day in and day out; We work to connect residents with their local representatives to address these struggles in a way that adequately meets the needs of the families. Through our work, we have seen just how severely the rising cost of housing and rent has impacted our working-class communities across OC. The passage of Santa Ana's RSO and JCEO in 2021 gave residents hope that their local officials were finally listening to them.

We urge you to provide direction to amend the City's RSO and JCEO to require a supermajority approval for certain future amendments. It is necessary that these ordinances are protected as the crucial tools they are to maintain and increase housing stability; and that certain amendments are only made with a supermajority vote. The City's RSO and JCEO policies are the result of decades of community advocacy that included support from community members impacted by housing instability, charitable organizations, faith-based organizations, and more. These efforts must be respected, and providing this direction will do just that. The City must do everything in its power to safeguard these policies and follow the requirement of supermajority approval that is required for other City items such as certain budget actions.

Renters make up approximately 55% of City residents, and their stability must be prioritized.

The City has passed model tenant protection policies with the RSO and JCEO that provide Santa Ana tenants with housing security and protections they would not be afforded otherwise. The Rental Registry that accompanies these policies has received national recognition and has been lauded by the White House. All of this great work must be continued.

We applaud this proactive effort to protect the RSO and JCEO. The City must continue to serve as a model and adopt higher standards to protect tenants. For these reasons, we at OCCORD urge you to provide **DIRECTION TO UPDATE the RSO and JCEO to require a supermajority vote for certain amendments**. Thank you for your time and consideration.

Sincerely,

Ely Flores
Executive Director, OCCORD

Orozco, Norma

From: Maria Valencia <maria@occcopico.org>
Sent: Tuesday, August 29, 2023 9:30 AM
To: eComment
Cc: Amezcua, Valerie; Lopez, Jessie; Phan, Thai; Hernandez, Johnathan; Vazquez, Benjamin; Penaloza, David; Bacerra, Phil
Subject: Support Item 21
Attachments: Support Item 21 - 8.29 Santa Ana.docx.pdf

Hello,

We are submitting a letter regarding agenda item #21. Our letter of Support is attached to this email.

Best,
Maria E. Valencia, Community Organizer
Orange County Congregation Community Organization
Pronouns: she, her, hers, ella
C: 714-323-0203
www.occcopico.org



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August 28, 2023

Mayor Amezcua and City Councilmembers
20 Civic Center Plaza
Santa Ana, CA 92701
ecomment@santa-ana.org

Via Email

RE: SUPPORT ITEM 21 - Requirement of Supermajority Approval for Certain Future Amendments to the Rent Stabilization Ordinance and Just Cause Evictions Ordinance

Dear Mayor Amezcua and City Councilmembers,

I write on behalf of Orange County Congregation Community Organization (OCCCO) to express our support for Item 21, the requirement of supermajority approval of total council members for certain future amendments to the Rent Stabilization Ordinance (RSO) and Just Cause Evictions Ordinance (JCEO). The City of Santa Ana (City) must commit to safeguarding housing stability and the tenant protections that provide it.

OCCCO works to develop transformational leaders within diverse, multicultural, interfaith communities who together have the power to shape equitable public policy throughout Orange County. We work with leaders on three key issues: Housing, Immigration and Education. Our universal goal for housing is that everyone deserves access to affordable, healthy and safe housing.

OCCCO urges you to provide direction to amend the City's RSO and JCEO to require a supermajority approval for certain future amendments. It is necessary that these ordinances are protected as the crucial tools they are to maintain and increase housing stability; and that certain amendments are only made with a supermajority vote. The City's RSO and JCEO policies are the result of decades of community advocacy that has included support from community members impacted by housing instability, charitable organizations, faith-based organizations, and more. These efforts must be respected and providing this direction will do just that. The City must do everything in its power to safeguard these policies and follow the requirement of supermajority approval that is required for other City items such as certain budget actions.

Renters make up approximately 55% of City residents and their stability must be prioritized. The City has passed model tenant protection policies with the RSO and JCEO that provide Santa

Orange County Congregation Community Organization
310 W Broadway, Anaheim CA 92805
www.occcopico.org
(714) 491-0771



Ana tenants with housing security and protections they would not be afforded otherwise. The Rental Registry that accompanies these policies has received national recognition and has been lauded by the White House. All of this great work must be continued.

We applaud this proactive effort to protect the RSO and JCEO. The City must continue to serve as a model and adopt higher standards to protect tenants. For these reasons, OCCCO urges you to provide **DIRECTION TO UPDATE the RSO and JCEO to require a supermajority vote for certain amendments**. Thank you for your time and consideration.

Sincerely,

Miguel Hernandez
Executive Director

CC: VAmezcua@santa-ana.org
JessieLopez@santa-ana.org
TPhan@santa-ana.org
JRyanHernandez@santa-ana.org
BVazquez@santa-ana.org
DPenaloza@santa-ana.org
PBacerra@santa-ana.org

Orozco, Norma

From: Julian Gutierrez <juliang@kennedycommission.org>
Sent: Tuesday, August 29, 2023 9:45 AM
To: eComment
Cc: Amezcua, Valerie; Lopez, Jessie; Phan, Thai; Hernandez, Johnathan; Vazquez, Benjamin; Penaloza, David; Bacerra, Phil; Cesar C
Subject: Kennedy Commission; Support for Item 21 - 8.29.23 Santa Ana CC
Attachments: Kennedy Commission; Support for Item 21 - 8.29 Santa Ana CC.docx.pdf

August 28, 2023

Mayor Amezcua and City Councilmembers
20 Civic Center Plaza
Santa Ana, CA 92701
ecomment@santa-ana.org

RE: SUPPORT ITEM 21 - Requirement of Supermajority Approval for Certain Future Amendments to the Rent Stabilization Ordinance and Just Cause Evictions Ordinance

Dear Mayor Amezcua and City Councilmembers,

I write on behalf of The Kennedy Commission to express our support for Item 21, the requirement of supermajority approval of total council members for certain future amendments to the Rent Stabilization Ordinance (RSO) and Just Cause Evictions Ordinance (JCEO). The City of Santa Ana (City) must commit to safeguarding housing stability and the tenant protections that provide it.

The Kennedy Commission is a broad-based coalition of residents and community organizations that advocates for the production of homes affordable for families earning less than \$27,000 annually in Orange County. Formed in 2001, the Commission has been successful in partnering and working with Orange County jurisdictions to create effective housing and land-use policies that have led to the new construction of homes affordable to lower-income working families.

Thank you for the opportunity to review and comment on Agenda Item 21 for the City of Santa Ana's upcoming City Council Meeting. We have reviewed the item and are submitting this initial letter to provide public comments.

The Kennedy Commission urges you to provide direction to amend the City's RSO and JCEO to require a supermajority approval for certain future amendments. It is necessary that these ordinances are protected as the crucial tools they are to maintain and increase housing stability; and that certain amendments are only made with a supermajority vote. The City's RSO and JCEO policies are the result of decades of community advocacy that has included support from community members impacted by housing instability, charitable organizations, faith-based organizations, and more. These efforts must be respected and providing this direction will do just that. The City must do everything in its power to safeguard these policies and follow the requirement of supermajority approval that is required for other City items such as certain budget actions.

Renters make up approximately 55% of City residents and their stability must be prioritized. The City has passed model tenant protection policies with the RSO and JCEO that provide Santa Ana tenants with housing security and protections they would not be afforded otherwise. The Rental Registry that accompanies these policies has received national recognition and has been lauded by the White House. All of this great work must be continued.

We applaud this proactive effort to protect the RSO and JCEO. The City must continue to serve as a model and adopt higher standards to protect tenants. For these reasons, The Commission urges you to provide **DIRECTION TO UPDATE the RSO and JCEO to require a supermajority vote for certain amendments**. Thank you for your time and consideration.

Sincerely,



Cesar Covarrubias
Executive Director, Kennedy Commission

Orozco, Norma

From: Maria Ceja [REDACTED]
Sent: Tuesday, August 29, 2023 12:06 PM
To: eComment
Subject: Item 21

Dear Mayor and City Council,

I am in support of Item #21. Having a supermajority is needed to decide the fate and preserve such an important and historic policy that benefits the majority of Santa Ana residents. Santa Ana residents have been in support of and advocated for Rent stabilization and just cause protections for years, demonstrating the need for these protections to stay in place permanently. As you may already be aware, rents keep going up all over the state while wages remain stagnant, not being enough to afford market-rate and affordable-rate housing. This also increases the chance of overcrowding due to not one family making enough to afford their own home.

The max 3 percent rent cap should NEVER be increased; all in all, the City of Santa Ana is a working-class City. Many residents are living paycheck to paycheck. This is the reality of our community. Rent stabilization and just cause protections have so many benefits, including:

1. It increases Santa Ana tenants' overall wellbeing
2. It promotes economic stability for renter households since they won't be sacrificing their needs to remain housed in the face of an insurmountable rent hike.
3. preserve naturally occurring and existing affordable housing options
4. offers immediate relief to rising housing costs and the dangers of being evicted
5. prevents unjust evictions
6. Holds harmful landlords accountable

These are just a few reasons as to why rent stabilization and just cause protections work and are needed in our community.

In order to afford a 2-bedroom apartment, a Santa Ana household has to make a minimum of \$41.15, according to the National Low Income Housing Coalition. What does that mean for a single parent making minimum wage facing a rent increase they can't afford? Santaneros want to remain in their community and thrive, not be priced out and forced to relocate somewhere else just because it's more "affordable". The cost of being displaced because you can't afford to live in the City that raised you is on the City itself. We have to always remember and prioritize that it is Santaneros that make Santa Ana so special.

We also CAN NOT ignore that we are experiencing a silent and ignored COVID wave that is signaling the need to consider those who are most vulnerable to being susceptible to contracting COVID-19 and frontline workers; many of Orange County's frontline workers live in Santa Ana, the majority being renters.

Santa Ana is a majority renter city. This ordinance protects those most vulnerable to unreachable rent hikes and unjust evictions. Please protect Rent Stabilization and Just Cause protections by doing your due diligence to the majority of your constituents. Thank you for your time.

Sincerely,
Maria Ceja
Born and Raised Santanera

Orozco, Norma

From: Larry Morris [REDACTED]
Sent: Tuesday, August 29, 2023 1:02 PM
To: eComment
Subject: Agenda Item 21 on August 29, 2023

This Rental Registry is demanding that homeowners are assumed to be landlords who do not live in their homes until they prove otherwise. This is harassment and bullying. And for landlords it is an invasion of the privacy of their renters. The landlord is required to keep renters personal information secure and private. FORCING landlords to release names, phone numbers, and information on lease agreements, at the threat of fines or other penalties, is coercion. This can put asylum-seekers, undocumented immigrants, victims of spousal abuse, etc. at risk of this private information falling into unscrupulous hands. And the landlord could be sued by the renter for divulging this privileged information.

All your registry needs is a rental address, number of adult renters, and the monthly rent. Anything else is authoritarian overreach and a means to meddle and interfere with renter and landlord. If there is a problem between landlord and renter, let them come seeking your assistance in the matter rather than your intervening and being the cause of problems.

Sent from [Mail](#) for Windows

Orozco, Norma

From: ALONDRA YESENIA SALAZAR [REDACTED]
Sent: Tuesday, August 29, 2023 12:49 PM
To: eComment
Subject: Public comment in support of Agenda Item 21

Hello City Council Members,

My name is Alondra Salazar, I am a community member of Santa Ana and am writing to you in support of maintaining the 3% rent cap increase as stated in our rent control ordinance, which many community members fought for years to instill in our community. I, also, support taking steps to require a supermajority to make changes to this policy.

Our community members are still burdened with rent debt and should not have to shoulder higher rent increases. Many of our families live on a fixed income and are having to deal with rising prices of goods, while keeping up with rent to keep their home. Maintaining the max cap at 3% will be one mechanism by which we can give renters a fighting chance to stay housed and prevent further displacement and destabilization of our community.

Thank you.

Best,

Alondra Salazar

Orozco, Norma

From: Kelli Corona [REDACTED]
Sent: Tuesday, August 29, 2023 12:41 PM
To: eComment
Subject: Item 21, Rent Stabilization Ordinance

Good afternoon,

I want to thank and express appreciation for Councilmembers Lopez, Phan, Hernandez, and Vasquez for supporting the Rent Stabilization Ordinance recently recognized by the Biden Administration. It has allowed my husband and myself, both lifetime residents of Santa Ana, to continue to afford our rent despite coercive and negligent behavior from our landlord who is currently and knowingly out of compliance with the law (Advanced Management Company).

Given the police union and apartment association's money-backed recall attempt to oust Ms. Lopez, the councilmember I and my family voted for in her original run, I would approve the protection of the rent stabilization ordinance by requiring a supermajority vote to make future amendments to the ordinance given the outsized role money from these organizations has played to circumvent the democratic and electorally determined laws enacted on behalf of our community.

Kind regards to those aforementioned council members who have been fighting with integrity, intelligence, and courage to keep low-income residents housed and fairly represented. Your work is invaluable to the community.

Kelli Corona

Orozco, Norma

From: Steven Hurtado [REDACTED]
Sent: Tuesday, August 29, 2023 1:53 PM
To: eComment
Subject: Santa Ana City Council Comment 8/29 Item 21

Hello,

I wish the following to be read during the Item 21 proceedings regarding the rent stabilization, thank you.

Hello Council Members,

My name is Steven, a resident in Orange County, and I am writing this message to express my very strong support for Item 21, otherwise known as the requirement of a supermajority vote to alter rent stabilization.

I don't have to go into detail about the negative side-effects of rent increases. I'm sure many in the room understand what that would mean, just as I'm sure many in the room have first-hand experience with it. For too long have tenants suffered under financial burden, and how this further affects us socially and mentally. It shapes every aspect of our lives.

With the rising costs of living (including but not limited to bills, groceries, gas, etc.) paired with stagnating wages, it is not only foolish, but reckless and irresponsible to believe that tenants, working-class people, can keep up with rising rents.

The only reason rents go up is because the housing market is not regulated. I want to stress this: housing, which is a human right, does not fall under government oversight or protection. Instead, it is a private commodity which landlords have exploited to make a profit.

Landlords are not in the business of real estate, they are in the business of human suffering. Their profit means another family has to struggle to get by, their profit means another family kicked to the curb and forced to live on the streets, their profit is blood money.

Homelessness and poverty are a policy choice, a choice you all have the power to change for the better, to help working-class families, your constituents, and guarantee we can all live with dignity and respect.

Rent stabilization is not the solution to end these crises, but it is an important step that must be taken in order to ensure the safety and well-being of the residents of Santa Ana.

Thank you.

Orozco, Norma

From: Orozco, Norma
Sent: Tuesday, August 29, 2023 2:13 PM
To: eComment
Subject: RE: Apoyo total.

Translation:

I am Claudia Morales Sánchez, I live in District 5, zip code 92707. I wanted to express my strong support for item #21 on the agenda, which seeks to amend the Rent Stabilization Ordinance (RSO) and the Just Cause Eviction Ordinance (JCEO).) of the City to require supermajority approval for certain future amendments.

This change is critical to protecting the rights of tenants in our city. Requiring a supermajority to amend these ordinances will ensure that future changes are made with a broad base of support and consideration.

I strongly urge you to move forward with Item 21 and take steps to strengthen these important tenant protections.

Thank you for your attention to this crucial matter. I look forward to your positive action on this matter.

Sincerely,



Norma Orozco, CPMC, CMC | Senior Deputy City Clerk
City Clerk's Office | 20 Civic Center Plaza | Santa Ana, CA 92701
714-647-6520 | norozco@santa-ana.org

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From: Claudia Morales Sánchez [REDACTED]
Sent: Tuesday, August 29, 2023 11:16 AM

To: eComment <ecomment@santa-ana.org>

Subject: Apoyo total.

Soy Claudia Morales Sánchez, vivo en Distrito 5, código postal 92707. Quería expresar mi fuerte apoyo para el artículo #21 en la agenda, que busca enmendar la Ordenanza de Estabilización de Renta (RSO) y la Ordenanza de Desalojo por Justa Causa (JCEO) de la Ciudad para requerir una aprobación por mayoría calificada para ciertas enmiendas futuras.

Este cambio es fundamental para proteger los derechos de los inquilinos en nuestra ciudad. Requerir una mayoría calificada para enmendar estas ordenanzas asegurará que futuros cambios se hagan con una amplia base de apoyo y consideración.

Les insto encarecidamente a que avancen con el Ítem 21 y tomen medidas para fortalecer estas importantes protecciones para los inquilinos.

Gracias por su atención a este asunto crucial. Espero con interés su acción positiva en este asunto.

Atentamente,

Orozco, Norma

From: Orozco, Norma
Sent: Tuesday, August 29, 2023 2:15 PM
To: eComment
Subject: RE: comentario público estabilización de la renta

Translation:

I support rent stabilization and just cause protections as written.

Tue, Aug 29, 2023 1:48 PM m., Silvia Avendaño [REDACTED] wrote:
I support rent stabilization and just cause protections just like the food wrote them. Because just the way they are written they protect us.



Norma Orozco, CPMC, CMC | Senior Deputy City Clerk
City Clerk's Office | 20 Civic Center Plaza | Santa Ana, CA 92701
714-647-6520 | norozco@santa-ana.org

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From: Silvia Avendaño [REDACTED]
Sent: Tuesday, August 29, 2023 1:53 PM
To: eComment <ecomment@santa-ana.org>
Subject: Re: comentario público estabilización de la renta

Yo apoyo la estabilización de la renta y las protecciones de causa justa así como están escritas.

El mar., 29 de agosto de 2023 1:48 p. m., Silvia Avendaño [REDACTED] escribió:
Apoyo la estabilización de la renta y las protecciones de causa justa así como las escribio la comida. Porque así como están escritas nos protegen.

Orozco, Norma

From: Nathaniel Greensides [REDACTED]
Sent: Tuesday, August 29, 2023 2:43 PM
To: eComment
Subject: Fwd: Agenda Item 21 - August 29th, 2023 City Council Meeting

Just in case for some reason ecomment@santa-ana.org didn't receive the message, I am forwarding here my written public comment on the matter

----- Forwarded message -----

From: Nathaniel Greensides [REDACTED]
Date: Mon, Aug 28, 2023 at 2:07 PM
Subject: Agenda Item 21 - August 29th, 2023 City Council Meeting
To: <ecomment@santa-ana.org>, Hernandez, Johnathan <jryanhernandez@santa-ana.org>, Amezcua, Valerie <vamezcua@santa-ana.org>, Lopez, Jessie <JessieLopez@santa-ana.org>

I write as a Ward 5 constituent.

I wholeheartedly support this Councilmember requested item. We require a supermajority of council votes for many topics and matters of utmost importance to all residents. Ensuring strong local tenant protections can remain should be added to that list - especially when Santa Ana remains has historically held over fifty percent renters. Rent stabilization is only one aspect of the strong local tenant/landlord protections - just cause evictions is the other. Rent stabilization and just cause will NOT solve homelessness nor will it suddenly make vacant units suddenly cheaper for rent. Rent stabilization and just cause protections ensure that renters who have lived in Santa Ana can remain. Both work to ensure that the rate of homelessness does not continue to increase. Both ensure a stabilized local economy for all.

Despite claims otherwise, rent stabilization has NOT decimated the local housing market. Sale prices for the local housing market have increased 5.2% since July 2022 according to Rocket Homes.com (<https://www.rockethomes.com/real-estate-trends/ca/santa-ana>). While rents may be -3.7% in Santa Ana according to Apartmentlist.com (<https://www.apartmentlist.com/rent-report/ca/santa-ana>) - meaning listed median rents for vacant units has decreased 3.7% - landlords in Santa Ana can still raise rents at a maximum of 3% (until the end of this month and then 2.54% beginning September 1st). This means that rents on units which have been occupied can still be raised despite the negative returns between September 2022 and September 2023. Where experts understand that no law in the USA can deprive a person of a fair return on investment, rent stabilization can provide a positive return on investment where the local rentals market, or housing market, may be on the decline.

Mayor Amezcua, please consider supporting the item. I know that you accepted donations from the Apartment Association for your campaign to be the Mayor. However, you said that you are an independent person and owe nobody any favors - well except for the voters. I watched you state upon taking office that "I can't tell you how many times I've seen the boogeyman up close and personal, he really does exist". I too have seen not only the boogeyman up close and personal, but also witnessed real landlords do real terrible things to real residents in our city. I hope you can be on the right side of history to ensure that the boogeyman of housing precarity and displacement may be contained once and for all.

To the landlords and their agents/organizations who continue to ardently oppose rent stabilization and just cause protections: the money raised by the AAOC and spent did not help your property values increase. That money you worked hard to earn went to the coffers of their statewide campaigns to ensure other housing markets in the state can be profitable - not Santa Ana. The money you are paying to attorneys who write overly verbose nonsensical legal arguments (that they themselves don't even proofread before submitting to the public record in Santa Ana) indicate that you have in fact had money to spend on increasing your own property values, yet have chosen to do otherwise. Rent stabilization is exactly that - stabilization. As we approach times of ever increasing interest rates and possible serious economic repercussions, a stabilized return to whether the storm will work for you and the tenants who generate that return. Please consider supporting this item too.

Sincerely,
Nathaniel Greensides
Ward 5 Resident

Orozco, Norma

From: Orozco, Norma
Sent: Tuesday, August 29, 2023 2:54 PM
To: eComment
Subject: RE: Comentario Público

Translation:

My name is Sonia Hernández and my ZIP code is 92701. I wanted to express my strong support for item #21 on the agenda, which seeks to amend the Rent Stabilization Ordinance (RSO) and the Just Cause Eviction Ordinance (JCEO) of the City to require supermajority approval for certain future amendments. This change is critical to protecting the rights of tenants in our city. Requiring a supermajority to amend these ordinances will ensure that future changes are made with a broad base of support and consideration. I ask that you continue with #21 and take steps to strengthen these important protections for tenants. Thank you for your attention to this crucial matter. I look forward to your positive action on this matter.

Sincerely,
Sonia Hernandez



Norma Orozco, CPMC, CMC | Senior Deputy City Clerk
City Clerk's Office | 20 Civic Center Plaza | Santa Ana, CA 92701
714-647-6520 | norozco@santa-ana.org

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From: Sonia Hernandez [REDACTED]
Sent: Tuesday, August 29, 2023 2:35 PM
To: eComment <ecomment@santa-ana.org>
Subject: Comentario Público

Mi nombre es Sonia Hernández y mi código postal es 92701. Quería expresar mi fuerte apoyo para el punto #21 en la agenda, que busca enmendar la Ordenanza de Estabilización de Renta (RSO) y la Ordenanza de Desalojo por Justa Causa (JCEO) de la Ciudad para requerir una aprobación por mayoría calificada para ciertas enmiendas futuras. Este cambio es fundamental para proteger los derechos de los inquilinos en nuestra ciudad. Requerir una mayoría calificada para enmendar estas ordenanzas asegurará que futuros cambios se hagan con una amplia base de apoyo y consideración. Les pido que sigan con el punto #21 y tomen medidas para fortalecer estas importantes protecciones para los inquilinos. Gracias por su atención a este asunto crucial. Espero con interés su acción positiva en este asunto.

Atentamente,
Sonia Hernández

Orozco, Norma

From: Orozco, Norma
Sent: Tuesday, August 29, 2023 3:02 PM
To: eComment
Subject: RE: Fwd:

Translation:

My name is ___Edith___ and my zip code is ___92701_____. I wanted to express my strong support for Agenda Item #21, which seeks to amend the City's Rent Stabilization Ordinance (RSO) and Just Cause Eviction Ordinance (JCEO) to require supermajority approval for certain amendments. future.

This change is critical to protecting the rights of tenants in our city. Requiring a supermajority to amend these ordinances will ensure that future changes are made with a broad base of support and consideration.

I ask that you continue with #21 and take steps to strengthen these important protections for tenants.

Thank you for your attention to this crucial matter. I look forward to your positive action on this matter. And they can do something for the Community our voices be heard.

Sincerely,



Norma Orozco, CPMC, CMC | Senior Deputy City Clerk
City Clerk's Office | 20 Civic Center Plaza | Santa Ana, CA 92701
714-647-6520 | norozco@santa-ana.org

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From: Edith Garcia [REDACTED]
Sent: Tuesday, August 29, 2023 2:43 PM

To: eComment <ecomment@santa-ana.org>

Subject: Fwd:

----- Forwarded message -----

From: **Edith Garcia** [REDACTED]

Date: Tue, Aug 29, 2023, 1:37 PM

Subject:

To: <ecomment@santa-ana.org>

Mi nombre es __Edith__ y mi código postal es __92701__. Quería expresar mi fuerte apoyo para el punto #21 en la agenda, que busca enmendar la Ordenanza de Estabilización de Renta (RSO) y la Ordenanza de Desalojo por Justa Causa (JCEO) de la Ciudad para requerir una aprobación por mayoría calificada para ciertas enmiendas futuras.

Este cambio es fundamental para proteger los derechos de los inquilinos en nuestra ciudad. Requerir una mayoría calificada para enmendar estas ordenanzas asegurará que futuros cambios se hagan con una amplia base de apoyo y consideración.

Les pido que sigan con el punto #21 y tomen medidas para fortalecer estas importantes protecciones para los inquilinos.

Gracias por su atención a este asunto crucial. Espero con interés su acción positiva en este asunto. Y puedan hacer algo por la Comunidad nuestras voces sean escuchadas.

Atentamente,

Orozco, Norma

From: Gema Suarez <gema@elcentroculturaldemexico.org>
Sent: Tuesday, August 29, 2023 3:27 PM
To: eComment
Subject: Item 21 In favor of supermajority vote for future amendments to the RSO

Dear Santa Ana City Council members and Mayor,

I write to you to express my support for Item 21 to approve a supermajority for future amendments to the Santa Ana Rent Stabilization and Just Cause Ordinance.

This movement for development without displacement policies has been loud and clear for many years. Long time Santa Ana residents, working families and elders, and young people from different cultural backgrounds advocated for a policy that could lessen the stress of not being able to afford rent. It was a struggle against uncertainty.

After so many philosophical battles, today this ordinance is one of the best rent stabilization and just cause ordinance in the whole state. It is a good example of a policy that not only helps with rent control, but also it helps with reduction of unfair evictions. The ordinance also represents participatory democracy where everyone's voice was taken into account. It is historical.

Please consider adopting the amendment so that Santa Ana keeps protecting our vulnerable population.

Sincerely,
Thank you.

--

Gema Suárez (She/They)
Organizing & Campaign Coordinator
[elcentroculturaldemexico.org](mailto:gema@elcentroculturaldemexico.org)

Orozco, Norma

From: James Ballantine <jpb@ballantinelaw.com>
Sent: Tuesday, August 29, 2023 3:27 PM
To: eComment
Subject: Re August 29, 2023 Special Meeting, Item Number 21
Attachments: 2023.08.29.Opposition.Item 29 Spec.Mtg.Santa Ana City Council.pdf

City Clerk:

Attached is an Opposition to Agenda Item 21 – Supermajority Motion for today's August 29, 2023 City Council Special Meeting, addressed to the City Mayor, Mayor Pro Tem, and Members of the City Council.

Thank you for your attention to this.

JAMES P. BALLANTINE
ATTORNEY AT LAW
329 East Anapamu Street
Santa Barbara, CA 93101
voice: (805) 962-2201
facsimile: (805) 564-2048

LAW OFFICE OF
JAMES P. BALLANTINE
ATTORNEY AT LAW
329 EAST ANAPAMU STREET
SANTA BARBARA, CALIFORNIA 93101
(805) 962-2201
(805) 564-2048 – FACSIMILE
JPB@BALLANTINELAW.COM - E-MAIL

August 29, 2023

By Electronic Mail:

City Clerk

Mayor, Mayor Pro Tem, and Members of the City Council

Santa Ana City Council

22 Civic Center Plaza

Santa Ana, California 92701

**Re: Opposition to Agenda Item 21 – Supermajority Motion
August 29, 2023 Santa Ana City Council Special Meeting**

Dear Mayor, Mayor Pro Tem, and Members of the City Council:

I represent Park Management of Taggin Wagon Mobile Home Park located at 2767 West 1st Street, in the City of Santa Ana.

I am writing to OPPOSE the proposal set forth in Agenda Item 21 of your special meeting set for today that the City Council consider directing the preparation of an Ordinance (“Proposed Ordinance”) to amend the City’s Rent Stabilization and Just Cause Eviction Ordinance (“Rent Ordinance”) to require a supermajority approval of the total number of Councilmembers for certain future amendments to that Rent Ordinance.

The supermajority requirement imposed under the Proposed Ordinance is ill-conceived and ill-advised. If enacted, the Proposed Ordinance would be in patent violation of state law and the City’s own Charter, and therefore illegal and void. Moreover, enactment of the Proposed Ordinance would offend all fundamental principles of democratic governance and the rule of law. If the City Council were to engage in such a gambit, it would subject the City and the members of the City Council to further legal proceedings, and subject the taxpayers to yet additional unnecessary legal expenses and costs.

The Rent Ordinance itself is of dubious legality and is already being challenged in the Courts. Singling out the Rent Ordinance for this unprecedented and illegal treatment of

purporting to require a super majority to amend it would only add to these unnecessary legal expenses to the taxpayers of the City of Santa Ana.

The Proposed Ordinance Directly Violates the California Government Code

The Government Code expressly requires that all ordinances must be passed by a majority vote. Government Code Section 36936 imposes a mandatory duty on city councils to adopt ordinances by "recorded majority vote," and provides, in pertinent part, as follows:

Resolutions, orders for the payment of money, and **all ordinances** require a recorded **majority vote** of the total membership of the city council.

(Gov't Code § 36936, (emphases added).)

The Government Code is a "general law," and is binding on the City. The City may not ignore it. *Professional Fire Fighters* (1963) 60 Cal. 2d 276, 384 P.2d 158, announced the doctrine that general law prevails over local enactments of a chartered city, even in regard to matters which would otherwise be strictly municipal matters, where the subject matter of the general law is of statewide concern. The court followed this position in *Healy v. Industrial Accident Commission* (1953) 41 Cal.2d 118, in which the compensation provisions of the Labor Code were held to prevail over the city charter's pension provisions.

The Proposed Ordinance would therefore violate State law and be preempted by Government Code Section 36936, and therefore would be illegal and void.

The City Charter Requires That Ordinances Are Passed with Majority Vote

The City Charter of Santa Ana also requires that ordinances be passed by majority vote. There is no exception for rent control. There is no provision for a 5/7 vote on any given police power, ordinance, or other form of regulation, including rent control. Section 410 of the City Charter states:

A majority of the members of the City Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time. Except as otherwise provided elsewhere in this charter or by law, **no ordinance, resolution or motion shall be passed, adopted, or become effective unless it receives the affirmative vote of a majority of the full membership of the City Council. ...**

(Proposition of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22 (emphases added).

Therefore, enactment of the Proposal Ordinance would violate not only California law, but also the Santa Ana City Charter. Passing the Proposed Ordinance would constitute a purported change in the City Charter, without the required voter approval, to add an impermissible provision.

California Constitution Article XI, Section 3(a) provides that a city charter may be amended, revised or repealed **only by the majority vote of the electorate**. (*Howard Jarvis Taxpayers Ass'n v. City of San Diego* (2004) 120 Cal. App. 4th 374, 386.)

In *Howard Jarvis Taxpayers Assn. v. City of San Diego*, the Court held that Article XI, Section 3(a) of the California Constitution must be construed to mean that the electorate of a city has the right, but not the obligation, to adopt or amend a charter, but if the electorate exercises that right, **only a majority vote, not a supermajority vote**, is required. Because the Charter requires a majority vote for the passage of ordinances, the Council cannot amend or change that provision without amending the charter. Amending the Charter requires a vote of the people. Therefore, the Proposed Ordinance would be illegal, *ab initio*, if passed.

The Charter May Be Amended Only by Voter Approval

The City Council cannot unilaterally change the City Charter. The procedure to change the Charter is set forth in the Charter, itself. If the City Council proposes to change the Rent Ordinance by imposing a super majority vote, if it were even permissible, a Charter amendment would be required.

Sec. 1500. - Amendments to charter.

Amendments to this charter shall be proposed and submitted to the electors of the City in the manner provided by the Constitution of the State of California.

A Charter amendment would require the City voters to approve an amendment to the Charter. Without an amendment to the City Charter, the Council would be violating its terms and subject to criminal prosecution. The Charter says:

Sec. 1501. - Violations.

The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction in the same manner as provided in the Penal Code of the State of California as the same now reads or as hereafter amended.
(Ord. No. NS-2074, § 9, 8-6-90, approved at election 11-6-90)

The Proposal Violates Due Process of Law and is Not Supported By Any Findings

The Proposed Ordinance has no rational basis. There are no findings proposed that justify treating the Rent Ordinance different from other laws, or that justify requiring a

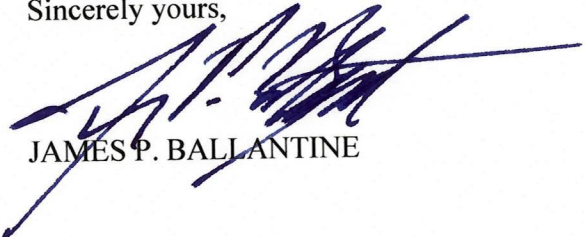
super majority vote for an amendment to the Rent Ordinance, if it were even legally possible. Further, there are no findings proposed that justify eliminating democratic principles guaranteed in State law and the Charter, or that would allow the violation of the clear requirements for a majority vote to amend an Ordinance. Any claim that the Rent Ordinance actually does anything to “stabilize” housing has no support in any evidence submitted, and has been challenged in litigation.

Conclusion

The Proposed Ordinance would establish limitations upon the amendment of a rent control law that are inconsistent with the City Charter, California Government Code, and the California Constitution. It is also anti-democratic. In *Howard Jarvis Taxpayers Assn. v. City of San Diego* (2004) 120 Cal.App.4th 374, 386-387, the court concluded that when the “constitutional language clearly and unambiguously ... requires only a majority vote, and a two-thirds vote cannot be required.” Clearly, purporting to amend the Rent Ordinance to require an amendment by a super majority, when the Government Code or City Charter requires only a majority, cannot be supported legally.

For the reasons set forth herein, the Proposed Ordinance requiring that any amendment to the Rent Ordinance be made by a super majority vote would be directly contrary to State law and the City’s Charter. Accordingly, the City Council should NOT vote to proceed any further along this misguided path.

Sincerely yours,



JAMES P. BALLANTINE

JPB/lp