



# Updates on Rent Control Developments in Silicon Valley

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# Rent control in Silicon Valley: Cui bono?

*“Property renters vastly outnumber property owners so it is not surprising that city council decisions favor renters. Renters will win those political battles unless property owners are organized and willing to engage early and often.”*

—Former San Jose Mayor Chuck Reed

# Rent control in Silicon Valley: Who's adopted it?

## San Jose



- Key dates: 1979, 2016
- Key elements: Limits on rent increases, “just cause” eviction requirements, tenant relocation assistance

## East Palo Alto



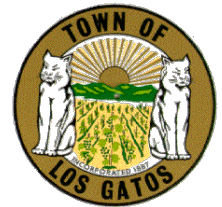
- Key dates: 1983, 1988, 2010
- Key elements: Limits on rent increases, “just cause” eviction requirements

## Mountain View



- Key dates: 2016
- Key elements: Limits on rent increases, “just cause eviction” requirements, tenant relocation assistance

## Los Gatos



- Key dates: 1980
- Key elements: Limits on rent increases, mandatory mediation/arbitration



## Rent control in Silicon Valley: Who's considered it recently?

- San Mateo
- Burlingame
- Palo Alto



# City of San Jose enacts “just cause eviction” ordinance to “protect renters”

- The “**Tenant Protection Ordinance**” imposes “just cause” requirements on landlord’s action to terminate a tenancy
  - This requirement is stricter than state law
  - Limits the discretion of the landlord to terminate a periodic tenancy
  - Query: What happens if the landlord and tenant agree to terminate the tenancy?



# What is “just cause”?

- **Nonpayment of rent** (excluding rent withheld as permitted by law).
- Material or habitual **violation** of the **terms of the tenancy**.
- **Damage** to the rental unit.
- **Refusal** to agree to a **new rental contract**.
- **Nuisance** behavior.
- **Refusing access** to the rental unit.
- **Unapproved subtenants** holding over after the end of the term.
- **Substantial rehabilitation** of the rental unit, subject to certain conditions, including payment of relocation assistance and refund of security deposit
- Removal of the tenant under the **Ellis Act**, subject to compliance with the new relocation assistance requirements (see below).
- **Owner move-in**, subject to payment of relocation assistance and refund of security deposit.
- **Governmental order** to vacate.
- Vacating an **unpermitted rental unit**.

# City of San Jose imposes additional limits on landlords to “protect renters”

- The “Ellis Act Ordinance” requires landlords who wish to exit the residential rental market pursuant to the state **Ellis Act** to give tenants additional notice as well as relocation assistance.



# Ellis Act Protections enhanced for some San Jose renters

- San Jose landlords of rent-controlled property must give tenants at least **120 days notice** (one year if there is an elderly or disabled person in the household) of their intention to take their property off the rental market in order to allow those tenants to find new housing.
- When these tenants vacate, the San Jose landlords must give them **financial assistance**
  - **1<sup>st</sup> and last** months' rent,
  - new **security deposit**,
  - **moving** expenses,
  - **application fees** for new housing
    - additional assistance required if the household contains school-age children or elderly or disabled persons



# ...wait, there's more!

- In the event that a **landlord takes advantage** of Ellis Act protections to **exit the San Jose residential rental market** but then **decides to re-enter** the residential rental market **within five years of exiting**, that landlord must **give the former tenants the opportunity to move back** into their old units **at their old rental rate**, plus a **maximum increase of 5% per year** since the property was taken off the market



# What are the implications of San Jose's new rent control ordinances?

- Landlords must be even **more careful in carrying out the notice and service** requirements for eviction
  - The new ordinances **bar landlords from retaliating against tenants** for exercising their rights under the new ordinance
  - These ordinances **affect all San Jose rental** properties with **three or more units**. As such, these requirements are estimated to **apply to at least 100,000 rental units** in San Jose, housing approximately 450,000 renters
  - The new ordinances may cause **ROI uncertainty** for **investors who develop housing**, thus **depressing the expansion of housing** in San Jose



# Voters in Mountain View adopt Community Stabilization and Fair Rent Act

- Hotly-contested ballot measure in November 2016
- Rent increases trigger community response
- Rent rollback for pre-1995 rental units to October 19, 2015
- Annual limits on rent increases and nine “just cause eviction” requirements
- Pending litigation over law’s effective date
- Existing low-income tenant relocation payment (3 months’ rent plus special \$3,000 allowance)



# East Palo Alto's longstanding rent control program

- Tenant protections included in 1983 incorporation
- Additional ordinances adopted in 1988, 2010 and 2016
- Annual limits on rent increases and “just cause eviction” requirements
- Registration of rental units



# Los Gatos imposes rent caps and arbitration/mediation of disputes

- Adopted in 1980, revised in 2004
- 5% annual rent increase cap
- Allowance for “pass-through” of certain expenses
- Mandatory mediation/arbitration of landlord/tenant disputes





# Measure “R” *Fails* in Burlingame

- 67.44% of Burlingame voters said no to rent control in the November 2016 election.
- Measure R would have tied annual rent increases to the consumer price index, but no more than 4% and no less than 1%.
- The rent control restrictions would apply to only multi-family homes built before Feb. 1, 1995.
- Also included in the measure was a just cause eviction provision which would have applied to all rentals other than owner occupied duplexes.



# Measure “Q” Fails in San Mateo

- 60.44% of San Mateo voters rejected restrictions on rent increases and a just cause eviction provision.
- No new construction, single-family homes or owner-occupied duplexes would have been subjected to either rent control or just-cause eviction.



# Palo Alto Says “No” to Rent Control

- City Council (October 2017) rejects proposal to “study” tenant protections
  - included an annual percentage cap on rent increases for buildings of five or more housing units built before Feb. 1, 1995 and measures to protect tenants against termination without just cause.
- Prevailing argument: Rent Control/ stabilization is bad for the housing supply: *“[Rent control ordinances] have unintended consequences : landlords being stuck with undesirable tenants, traffic congestion and taking units off the market.”*



# What is the future of Rent Control in Silicon Valley?

- Each jurisdiction is steering its own course
- Housing supply remains tight; wide grassroots support among renters for relief from rising housing costs
- Expect greater push for “just cause eviction” restrictions and annual rent increase caps in future election cycles



# Who is Daniel S. Gonzales?

- Originally from San Antonio, Texas
- B.A., University of Notre Dame, J.D., Stanford Law School
- Over 30 years in private practice
- Focus on California real estate and business law since 1996
- Counsels developers, landowners and investors in the disposition, development and commercial use of real property
- Extensive experience in negotiating and crafting:
  - Long-term ground leases
  - Commercial, retail, industrial, office, and shopping center leases
  - Secured financing agreements for commercial, industrial, and multi-family residential real estate, shopping centers and office buildings
- Represents buyers and sellers in the negotiation, documentation, due diligence and closing of their purchase, sale and exchange transactions

