

City of Fremont

Rent Review Ordinance

Annual Report | January 1, 2019 - December 31, 2019



Table of Contents

Executive Summary 1

History and Overview of the Rent Review Ordinance 2

Fremont Demographics and Market Trends..... 3

Marketing and Outreach 4

Education Workshops..... 5

Rent Review Case Data 6

2019 Ordinance Amendments and Outcomes 8

Ordinance Limitations and Potential Solutions 9

Contact Us..... 11

Executive Summary

In response to the rising cost of rent, the Fremont City Council adopted the Rent Review Ordinance (RRO), which went into effect on January 1, 2018. The RRO repealed and replaced the Residential Rent Increase Dispute Resolution Ordinance (RRIDRO), which was in place since 1997. The RRO enhances the RRIDRO in the following ways:

- Establish a Rent Review Board: Landlords and tenants have the right to have matter heard by the Rent Review Board in a public meeting if the proposed rent increase exceeds 5%.
- Changes Rent Increase Noticing Requirements: Requires that rent increases exceeding 5% include a statement setting forth the reason for the rent increase. The Notice of Availability of Rent Review is provided in English, Spanish, Chinese, Dari, and Punjabi on www.fremont.gov/rentreview.
- Increases retaliation penalties from \$1,000 to \$2,000.
- Annual Report to Council: Requires staff to prepare an annual report to the City Council assessing the effectiveness of the Ordinance.

This annual report covers the period from January 1, 2019 to December 31, 2019, and is organized under these broad categories:

- History and Overview of the Rent Review Ordinance
- Fremont Demographics and Market Trends
- Marketing and Outreach
- Education Workshops
- Rent Review Case Data
- 2019 Ordinance Amendments and Outcomes
- Ordinance Limitations and Potential Solutions

In 2019, the Rent Review office received seventy-nine requests for rent review related services and forty-six qualified as rent review cases. The average rent increase for these cases prior to the rent review process was 9.2%, and decreased to 5.7% after the process.

The City Council adopted six amendments to the Ordinance in response to the 2018 Rent Review Ordinance Annual Report. This report will discuss the outcomes of the amendments, introduce current limitations to the Ordinance, and present potential solutions for Council consideration.

History and Overview of the Rent Review Ordinance

OCTOBER 3, 2017



City Council adopts Rent Review Ordinance

The City Council adopted the Rent Review Ordinance after exploring different models of rent stabilization for 2 years.

JANUARY 1, 2018



Rent Review Ordinance goes into effect

The Rent Review Ordinance went into effect on January 1, 2018. The Ordinance repealed and replaced the Residential Rent Increase Dispute Resolution Ordinance. Subsequently, the Council appointed the Rent Review Board.

JULY 10, 2018



Rent Review Ordinance Mid-Year Report

The City Council received the Rent Review Ordinance 2018 Mid-Year Report. The report was created in order to provide the Council with an update on the status of the implementation and operation of the Ordinance since its inception.

FEBRUARY 5, 2019



Rent Review Ordinance Annual Report

The City Council received the Rent Review Ordinance 2018 Annual Report, which provided an evaluation of the effectiveness of the Ordinance, and presented limitations of the Ordinance, and potential solutions for Council consideration.

APRIL 16, 2019



Rent Review Ordinance Amendments

After consideration, the City Council adopted six amendments to the Ordinance, which went into effect on May 16, 2019.

Overview of the Rent Review Process

STEPS

1

Request for Rent Review

Landlord or tenant request for rent review within 15 calendar days from date of rent increase notice.

2

Rent Review Request and Response Forms

City verifies that rent increase notice is valid, and parties submit request and response forms.

3

Consultation/Mediation

City schedules consultation phone call and/or in-person mediation.

4

Rent Review Board Hearing

If no resolution, and rent increase is over 5%, a Rent Review Board Hearing may be requested.

Fremont Demographics and Market Trends

The City of Fremont has roughly **230,000** residents and **76,000** households. Of the total occupied housing units in Fremont, **62%** are owner occupied, and **38%** are renter occupied.¹

In Fremont, landlords are not required to report their rents to the City which makes it difficult to gather accurate data on rents. Based on an average using data from CoStar, Rent Café, and Rent Jungle, **average rents in Fremont for all beds was \$2,424**. This data is skewed depending on how each agency collects their data. For example, this average reflects the average of all rents, regardless of the number of bedrooms. Most agencies collect data on larger rental properties, and not smaller rentals like single family homes.



Exhibit 1: data on the number of landlords and rentals in Fremont

The U.S. Department of Housing and Urban Development (HUD) defines cost-burdened families as those who pay more than 30% of their income for housing, and may therefore have difficulty affording necessities such as food, transportation, and medical care. In Fremont, **39% of renters are cost-burdened**.²

In addition to the growing trend of housing unaffordability, more alarming statistics indicate that housing is becoming out of reach to a growing number of residents. According to the Point-in-Time Count in 2019, there are **608 homeless persons** in Fremont, which is a **27% increase from 2017**.³ However, this number is likely an undercount by about three to four times, due to the difficulty of counting a transparent, hidden population.

In Fremont, **38% were experiencing homelessness for the first time**. These included families, unaccompanied children, transitional age youth, veterans, and seniors. When asked what might have prevented their homelessness, **the top two responses were rent assistance and employment assistance**.

¹ Data from American Community Survey 5-Year Estimates; https://data.census.gov/cedsci/table?q=&d=ACS%205-Year%20Estimates%20Data%20Profiles&table=DP05&tid=ACSDP5Y2018.DP05&g=0400000US06_1600000US0626000&lastDisplaydRow=23&vintage=2018&mode=

² Data from American Community Survey 5-Year Estimates; https://data.census.gov/cedsci/table?q=&d=ACS%205-Year%20Estimates%20Data%20Profiles&table=DP04&tid=ACSDP5Y2018.DP04&g=0400000US06_1600000US0626000&lastDisplaydRow=23&vintage=2018&mode=

³ Everyone Home Point in Time Count City of Fremont Homeless County & Survey Comprehensive Report 2019; <http://everyonehome.org/wp-content/uploads/2019/12/Fremont-Final-Report-2019.pdf>

Marketing and Outreach

The City is continuing to outreach to tenants and landlords on the Rent Review Ordinance. Anyone interested in staying informed of the Rent Review Ordinance may sign up to be included on the program's list serve on www.Fremont.gov/RentReviewList. Below is a list of the different types of outreach done in 2019.

Rent Review Flyer distributed at

- * Fremont Main Library
- * Fremont Family Resource Center
- * Fremont Fair Housing/Landlord Tenant Services
- * Fremont Development Center
- * Fremont Senior Center
- * Fremont Community Centers
- * Mailing to landlords who own rental property in Fremont
- * Community fairs
- * Tri City Voice ads
- * Fremont City social media outlets
- * Age Friendly newsletter
- * Fremont City newsletter and news briefs

Presentations

- * Community Ambassador Program for Seniors Annual Training
- * Fremont Senior Center Housing Forum
- * Fremont Housing Education Workshops
- * City of Fremont Housing Division Affordable Housing Workshop



The City produced a video to explain the Ordinance in a simple, easy-to-understand format. The video can be viewed at www.Fremont.gov/RentReviewVideo.



Education Workshops

In 2018, Rent Review staff hosted three workshops aimed at educating landlords, property manager, and tenants on the Rent Review Ordinance. Due to the high demand of the workshops and the expressed need for more resources and education, staff continued to organize workshops in 2019. The workshops in 2019 expanded its scope to include other rental housing topics in addition to the RRO.

The City organized [seven educational workshops](#) in 2019, all focusing on unique topics which are listed below. Staff worked with other City departments, Project Sentinel and the Housing Authority of the County of Alameda for the presentations. A total of [426 people attended](#) the workshops. Below is a list of the specific workshops that were held in 2019.



CITY OF FREMONT FREE LANDLORD EDUCATION WORKSHOP



Presentation on:
Fair Housing Law



APRIL 17, 2019
6 PM - 7 PM

Fremont Main Library
2400 Stevenson Blvd, Fukaya

SPACE IS LIMITED. TO REGISTER:

ONLINE: www.Fremont.gov/LandlordRSVP
EMAIL: RentReview@Fremont.gov
PHONE: 510.733.4945

CITY OF FREMONT
**FREE TENANT
EDUCATION WORKSHOP**
FREMONT MAIN LIBRARY
2400 STEVENSON BLVD. (FUKAYA ROOM)
THURSDAY, APRIL 18, 2019 | 6 P.M. - 7:00 P.M.

RENTAL AGREEMENT

PRESENTATION ON:
Tenant Rights & Responsibilities

TO REGISTER:

online: www.Fremont.gov/TenantRSVP
email: RentReview@Fremont.gov
phone: 510.733.4945

2019 Housing Education Workshops

[February 27, 2019](#): Landlord Rights and Responsibilities

[April 17, 2019](#): Fair Housing 101

[April 18, 2019](#): Tenant Rights and Responsibilities

[June 27, 2019](#): Rent Review Ordinance and Source of Income
Discrimination

[September 3, 2019](#): Source of Income Discrimination

[October 16, 2019](#): Code Enforcement 101

[October 30, 2019](#): Housing Choice Voucher Program Overview

At the end of every workshop, participants are asked to complete a brief survey about how relevant and effective the workshop was, and what topics they would like presented at a future workshop. Of those that submitted a survey, [everyone responded that the workshops were at least somewhat](#)

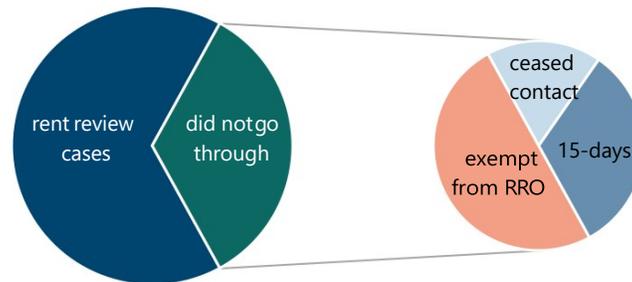
[relevant and effective](#). Topics that participants would like at a future workshop include: renter assistance programs, short-term rentals, overview of rental property management, and overview of new rental housing laws.

Due to the high level of participation and demand for the workshops from both tenants and landlords, the City will coordinate additional workshops for landlords and tenants next year. Anyone interested in attending workshops may sign up for the rent review interest list at www.fremont.gov/rentreviewlist.

Rent Review Case Data

From January 1, 2019 to December 31, 2019 the City received **seventy-nine requests for service**. Not all of these requests went through the rent review process.

Thirty-three rent review requests did not proceed to go through the rent review process for various reasons, which can be found below.



Seven requests could not be fulfilled because the tenants were exempt from the RRO.

- One was a below market rate (BMR) unit whose household income had exceeded the income limits and converted to a regular market rate unit.
- One tenant was exempt because they received a termination of tenancy notice, not a rent increase notice.
- One unit received a rent increase notice in error.
- Two tenants did not receive a rent increase, but wanted a reduction on their current rent.
- One tenant with a Section 8 Housing Choice Voucher received a rent increase from the Housing Authority of the County of Alameda, but their portion of the rent remained the same.
- One tenant lived in a shared housing arrangement, which is exempt.

Thirteen requests did not qualify because the tenants did not contact the City within 15 days from the date of their rent increase notice. The RRO states that rent review may be initiated by either an affected landlord or tenant by contacting the City within 15 calendar days of the date of the rent increase notice and providing a copy of the notice of rent increase to the City.

Thirteen requests did not go through the process because the tenants ceased contact with the City after their initial requests.

The average rent increase of the 31 requests that did not go through rent review is **10.5%**.

Forty-six rent review requests went through the rent review process and were resolved in different stages.

Eighteen rent review cases were resolved prior to the consultation phone call. The City encourages tenants to work directly with the landlord or property manager to come to an agreement, and will often work with tenants to assist them with this approach.

- Twelve tenants agreed on a lower rent increase.
- Two tenants vacated their unit.
- One tenant agreed to the original terms of the lease renewal because they felt there was not enough protection against potential retaliation.
- One tenant had the option to renew a yearly lease with no rent increase.
- One case resolved with the tenant agreeing to the original terms of the lease renewal in exchange for upgrades to their unit.
- One tenant renewed their lease with the rent increase in exchange for converting to a month-to-month tenancy.

RENT REVIEW CASES STATS

Statistics only include data from rent review cases (before consultation, after consultation, after mediation, and rent review board hearing)

AVERAGE RENT INCREASE

9.2%

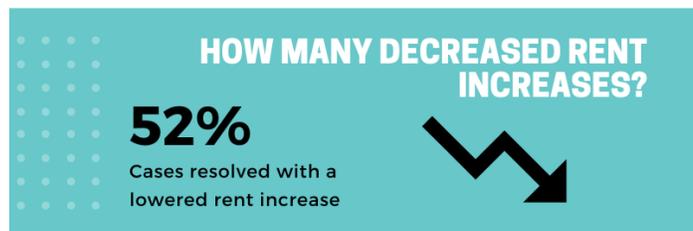
Rent increase
before rent review

5.7%

Rent increase
after rent review

3.5%

Reduction
in rent increase



Twenty rent review cases concluded after the consultation phone call.

- Thirteen cases resolved with a decreased rent increase.
- Two tenants agreed to the original terms of the lease renewal.
- One tenant decided not to pursue mediation because of fear of landlord retaliation.
- One landlord rescinded the proposed rent increase.
- One tenant received a decreased rent increase and ceased contact with the City.
- One tenant renewed their lease with the rent increase in exchange for converting their lease to a month-to-month tenancy.
- One tenant decided not to pursue mediation because they were able to come to a resolution with the property manager.

Nine rent review cases concluded after the in-person mediation.

- Three tenants agreed to a delayed or staggered rent increase with their landlord.
- One tenant received a decreased rent increase.
- One tenant received a decreased rent increase and credit for their utilities.
- One tenant agreed to the original terms of the lease renewal in exchange for upgrades to their unit.
- One tenant agreed to the original terms of the lease renewal, but also received a utilities bill adjustment.
- One tenant agreed to the original terms of the lease renewal.

2019 Ordinance Amendments and Outcomes

In 2019, the City Council voted to adopt six amendments to the RRO, which went into effect in May, 2019. Staff informed the community of the amendments through different modes of communication, including news briefs, email notifications, and letters to landlords. The following is a discussion on the outcomes of each of the amendments that were adopted.

Responsible Party (FMC § 9.60.020): Add language to the ordinance to strengthen the definition and role of the responsible party to require the person negotiating the rent increase to have final legal authority to adjust the rent without limitations.

Outcome: This is difficult to measure quantifiably because rent review cases get resolved in unique ways, and it is challenging to pinpoint what the specific reason for the resolution is.

Exempt Units (FMC § 9.60.050): Rental units owned or operated by a government agency and units subsidized by a government agency and subject to a regulatory agreement are no longer exempt from the ordinance. Shared housing and junior accessory dwelling units are exempt.

Outcome: This amendment allowed staff to assist 8 households who live in units that were exempt before the amendment.

Clarification on Rent Increase Notice Delivery Requirement (FMC § 9.60.030(b) and FMC § 9.60.040(a)): Rent increase notices shall be personally delivered or mailed to the tenant.

Outcome: This was procedural to align with state regulations. Outcomes were not tracked.

Clarification on Rent Increase Notice Applicability to Rent Terms (FMC § 9.60.030(a)): The notice of availability of rent review shall be provided to any tenant that receives an increase from their base rent, regardless of the length of tenancy.

Outcome: This was to clarify the language in the ordinance. Outcomes were not tracked.

Rent Review Board Terms (FMC § 2.20.650): Rent Review Board member terms are staggered.

Outcomes: This has not been completed because there have not been any board meetings.

Prohibition Against Source of Income Discrimination (FMC § 9.60.070): Redefine the definition of "source of income" to include all lawful sources of income or rental assistance program, homeless assistance program, security deposit assistance program, or housing subsidy program. The amendment prohibits landlords from rejecting a tenant based solely on the fact that they have a rental subsidy voucher.

Outcomes: Large landlords worked with the City to revise their tenant screening policies to comply with the amendment. "Mom and pop" landlords have more difficulty understanding the complexities of the amendment. Staff worked on outreach and education to inform landlords and tenants of their rights and responsibilities, and visited large rental properties to meet with managers and educate them of the amendment. Staff also held two education workshops specifically for this topic, which were attended by over 100 landlords.

Ordinance Limitations and Potential Solutions

Several factors affected this year's limitations and recommended solutions for 2020. On a statewide level, legislation has been passed that may potentially impact the demand and effectiveness of the RRO. On a local level, it has been challenging to implement a sustainable and cost effective fee administration system to support the program.

State Legislation

In October, 2019 the State of California passed AB 1482 which became effective on January 1, 2020. AB 1482 establishes an annual rent increase cap and provides just cause eviction protections for eligible tenants. Rent increases are capped at 5% plus the regional Consumer Price Index (CPI). Regional CPI is typically around 3%, which would cap rent increases at 8%. Tenants who are issued an eviction notice for a no-fault reason qualify for relocation assistance, which is equal to the amount of one month's rent.

This poses several implications for the City's RRO. AB 1482 could negatively impact the demand and effectiveness of the Ordinance. There may be fewer requests for service, decreasing the need for the Ordinance. Landlords may also be more reluctant to participate in good faith in the City's program, because they are already subject to the State's binding rent increase cap.

In 2019, 33 of the 79 requests for service were from tenants who received a rent increase over 8%. This demonstrates that a majority of the requests for service are for rent increases under 8%, which would have been compliant with AB 1482.

Staff Recommendation

In light of the legislation, staff recommends restructuring the Rent Review Program to address the potential decrease in demand. Currently, the RRO is managed by 1 FTE Management Analyst and .5 FTE Office Specialist II. Staff recommends contracting with a Designated Service Provider and employ 1 FTE Senior Office Specialist. The Designated Service Provider is an organization that would administer most of the case management of the Rent Review Program. This includes responding to requests for rent review, and handling the rent review case with the tenant and landlord. The Senior Office Specialist would support the other aspects of the program. For example, they would manage the rent review website, coordinate the housing education workshops, work with the City's Revenue Division on the Rent Review Fee collection, and coordinate Rent Review Board meetings as needed. The Designated Service Provider would charge the City based on the number of hours worked on the program, which addresses the uncertainty of the demand of the program and would reduce the program budget.

This course of action does not require an Ordinance amendment. This would be a programmatic change that the City can implement without Council action.

Fee Administration Challenge

The RRO requires collection of an annual per unit cost administration recovery fee from landlords renting one or more units in the City of Fremont. In order to calculate this fee, the City must analyze County property tax records, determine property owners, and identify potential landlords. The City then sends invoices to all property owners identified as potential landlords.

Many of these property owners do not rent their property, and therefore are not subject to the Rent Review Fee. Yet they are required to either pay or contest these invoices by contacting the City. This in turn places a costly administrative burden on staff who handle incoming inquiries and disputes related to Rent Review invoices. For example, in 2018 the City mailed over 9,600 letters to property owners who were identified as potential landlords through County property tax records, and over 2,000 of those property owners had to contact the City and inform staff that they are not landlords.

Staff Recommendation

Staff recommends amending the RRO to require collection of the Rent Review Fee only from property owners with five or more rental units. This would remove the inefficient practice of determining, identifying and invoicing small property owners, many of which ultimately are not subject to the fee, thus reducing the administrative burden on the City. This will reduce fee administration costs significantly, because over 80% of landlords own only one rental unit in Fremont.

This reduction would enable staff to perform Rent Review Fee administration (invoicing of fees) in house, eliminating the need to contract with an outside vendor, at a cost savings of approximately \$100,000 annually. With these efficiencies, the per-unit cost recovery fee would drop, as administrative costs are reduced. In addition, staff would have another data source to cross-reference, as the City's HdL business tax database maintains a record of all landlords with five or more rental units.

Landlords who would be exempt from the Rent Review fee would still be subject to the Rent Review Ordinance.

Contact Us

City of Fremont Human Services

3300 Capitol Avenue, Building B | Fremont, CA 94538

Phone: 510.733.4945 Email: RentReview@Fremont.gov

Suzanne Shenfil | Human Services Director

Nancy Sa | Rent Review Program Manager

Jenny Luu | Rent Review Program Support

For more information, check out the City of Fremont Rent Review Ordinance website

www.Fremont.gov/RentReview

