

## Wong, Wanda

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**From:** Wong, Wanda  
**Sent:** Wednesday, February 08, 2017 4:56 PM  
**Cc:** Brewer, Lorrie  
**Subject:** Rental Housing Committee

Dear Applicants:

Thank you for your interest in serving on the Rental Housing Committee as part of the Community Stabilization & Fair Rent Act. As you know, the City Council conducted initial interviews of the applicants on January 24, 2017. Based on Council review of the interviews, you will be moving forward to the next phase of the appointment process. The next interviews will be in the early evening of February 21. The City Clerk will contact you with your time.

In order to assist the Council in their deliberations, please provide a written response to the following questions:

1. Please describe your experience/expertise in financial management and assessing financial information or similar types of data as will be required in the CSFRA.
2. Do you see any parts of the CSFRA that require clarification or leave room for interpretation or discretion on the part of the RHC? If so, can you give an example, and how would you address issue(s) that fall into that category and arrive at a determination?
3. How would you educate yourself on areas of housing law and rent stabilization you are not familiar with?

Please type or word process your answers and return by **5:00 p.m. on Monday, February 13, 2017**. Please submit either a hard copy or electronic responses to the City Clerk by the deadline. Email responses should be sent to [lorrie.brewer@mountainview.gov](mailto:lorrie.brewer@mountainview.gov) or delivered to the City Clerk's office on the 3<sup>rd</sup> floor of City Hall by the deadline noted above.

## Rental Housing Commission - Statement 2

### Community Fair Housing and Rent Control Act

I thank you for the opportunity to speak with you again regarding an appointment to the Rental Housing Commission. I feel that the work of the RHC is critical to the overall goal of maintaining the high quality of life we desire in Mountain View. As a long-time resident, home owner and professional, I have the desire, commitment, skills and background to serve in the role of Commissioner. The questions posed have presented me the opportunity to review the Act and consider the responsibilities, much closer. I look forward to our further discussion.

1. My Financial Management and assessing financial information experience includes 25+ years of being employed as a Dept Manager for 3 large Silicon Valley firms. As a manager, my responsibilities included projecting, preparing and managing the department's operating and capital budgets (\$1-10M annually) and complying with company and government cost controls and financial reporting. I was responsible for hiring employees, consultants and contractors, and completing all requisitions, statements of work and financial reports. Large Bureaucracies tend to have very strict financial policies, which if not precisely followed, no purchases or other transactions may occur, effectively shutting down the department. Being able to assess monthly and annual financial data was essential to managing operations within budget.

As a long term Director on my HOA Board, I've helped set annual budgets for our 40 unit community, determine annual fee increases and review monthly and annual financial reports. As manager of the landscaping function and roof replacement project, budgeting and account management was required to be successful.

2. Parts of the CFHCA that need clarification or leave room for interpretation or discretion include Sections 1703(a)(5), 1703(b)(1), 1705(a), (b) and (d), 1707(f)(1), 1709(d) and (j)(1), and 1710(a).

-1703(a)(5) needs clarification as I am unclear what the "effective date of this Article" is. Is it April 1, 2016 (date received by City Clerk), Nov 8, 2016 (Election Day approved by voters), or the yet to be determined date that all litigation is completed? It is critical to know the effective date as it fully exempts all units occupied after that date, essentially all new units.

-1703(b)(1) also needs clarification as it partially exempts units between Feb 1, 1995 and the effective date of the Article. If this is correct, the only units subject to rent stabilization are those built prior to Feb 1, 1995.

-1705(a), (b) and (d) leave room for interpretation or discretion as each of these subsections requires the submission of documentation with respect to failure to pay rent, breach of lease, primary residence, owner move in, reasonable relocation assistance and retaliation, among several others. Many times the documents may be black or white, rendering an easy decision. Sometimes it may not be as clear, including the validity and applicability of the documentation. Further investigation may be required.

-1707(f)(1) determining substantial compliance with the Article and all rules and regulations may be subject to interpretation by the Commission. As a career regulatory compliance officer, I know that often times, the interpretation of compliance can greatly vary between the regulator and the regulated, and perhaps even among the Commissioners. The word substantial alone leaves compliance subject to interpretation and discretion.

-1709(d) involves the Commission's administration of duties and subsection (j)(1) on financing and adjusting the Annual Rental Housing Fee on landlords - all will require discretion. Setting rents, preparing rules and regulations, determining rent adjustments, appointing hearing officers, establishing budgets, conducting studies, etc., all are subject to discretion by the Commission.

-1710(a) reviewing petitions for rate adjustments and determining fair rates of return both will be subject to interpretation and discretion by the Commission in order to produce a fair and reasonable decision. Sufficient, current data will be required.

For all above sections mentioned to need clarification, I would propose addressing them by seeking the opinions of fellow commissioners to ascertain their interpretation. If we reach a reasonable consensus on the issue, I would consider it resolved. If not, we can seek input from the City Attorney, responsible City Staff, consultants, and the experts and professionals we may come in contact with. I would expect that would result in clarification.

For sections requiring interpretation and discretion I would propose a fairly extensive review and discussion of the issues by the Commission. A reasonable amount of research and consultations may be needed to produce fair and collaborative decisions. We will need to be impartial and listen attentively to all seeking decisions or providing testimony or counsel.

3. I would educate myself on areas of housing law and rent stabilization I am not familiar with by learning from others and by doing independent research. As a Commissioner, I would look to learn from my fellow Commissioners, City Attorney and Staff, and the various experts and professionals with more experience than I. As a Commission, we will strive to learn from the beginning and gain knowledge as we go. We can do much research on-line as DOL and other government agencies publish much information, such as the CPI, and other economic and housing indexes. We will also establish a data base of Mountain View and surrounding communities' rents, increases and related expenses as a reference tool. We will on occasion need to hire experts such as consultants, inspectors and other industry professionals. As in industry, such outside contacts will greatly help educate us on the nuances and intricacies of housing law, rent stabilization and other provisions of the Act. We will gain expertise quickly.

Thank you,

Steven M. Hochstadt P.E.  
Stevenhochstadt@yahoo.com  
February 10, 2017

1. Please describe your experience/expertise in financial management and assessing financial information or similar types of data as will be required in the CSFRA.

- a) I have purchased and sold rental property. I have personally managed rental property, as well as worked with property managers. So, I know the financial aspects of the business.
- b) I know how to read, interpret, and create the accounting and financial statements for a rental property business. I am competent with the accounting of rents and expenses, with cash flow projections, and with forecasting rates of return for rental property.
- c) I am experienced with rental property taxation. I write my own tax software.
- d) For various professional jobs, I have done financial analysis with calculator, spreadsheet, financial software, and computer modeling. I understand the financial equations used in financial analysis. I have negotiated analytical methodology and assumptions with other expert analysts. I have written financial computer programs while working for a bank and an insurance company.
- e) I have just retired as a financial advisor. I have my MBA from Stanford University, where I took classes in real estate management and financial analysis.

2. Do you see any parts of the CSFRA that require clarification or leave room for interpretation or discretion on the part of the RHC? If so, can you give an example, and how would you address issue(s) that fall into that category and arrive at a determination?

As the example, I will address below in depth the issues around the Right to Fair Return Guaranteed.

But first, let me list some issues that I believe need to be clarified: (This list is from my reply to the first round of questions.)

- The committee needs to clarify the effect of the Right to Fair Return Guaranteed, Section 1711(m). It potentially leaves the issue of what is a fair rate of return ultimately to the committee's discretion. Is it the classic market rate of return?
- How to prioritize the needs of renters for stability, of in-town landlords, and of out-of-town landlords?
- What policy can allow, over time, for the upgrading of the rental housing stock subject to rent control? Measure V prohibits a rent increase for upgrade capital improvements. E.g. can a landlord obtain the consent of the tenants for a rent increase, when the upgrade benefits the tenants?

- Should the Rental Housing Agreement as defined in Measure V, Section 1702 (i), be a valid contract?
- Policy on lease renewals – Under Measure V, Section 1705, do leaseholds become a perpetual option of the tenant?
- Clarify the rules for subleasing – Does Measure V, Section 1705 (a)(2)(A), overrule a no subleasing clause in a lease? What if all the original tenants have moved out?
- What should be included in a historical rent database?
- Can the committee extend Measure V to mobile home parks?

#### Regarding Section 1711(m), Right to Fair Return Guaranteed

The biggest flaw in the CSFRA is that it leaves the critical term fair rate of return undefined. Section 1711(m) gives the RHC committee members complete discretion to interpret this term. Section 1711(m) also is worded so as to override any other provisions of the article.

In economics and in finance, the fair rate of return is defined as the market rate of return. However, the CSFRA purposefully reduces the landlord's rent below the free market rent, thereby denying a market rate of return, and provides to the tenant a windfall reduced rent. By this classic definition, the CSFRA is inherently unfair.

The RHC is forced to develop an its own theory of a fair rate of return. I would resolve this conundrum by going to the needs of the community of Mountain View at large. One relevant need would be housing for the workers who provide essential services to the community such as teachers, police officers, and retail workers. Another would be for stability of MV neighborhoods, which would include continuity of housing for long-time residents and for families with children in local schools. Another need would be to maintain and even improve the livability and quality of the housing stock of in MV.

Concerns that would fall beyond of the scope the CSFRA include issues of inequality of income in MV, requiring welfare-like rent subsidies and assistance to renters from landlords, and increasing the supply of rental units to meet the overwhelming demand for rental units.

In applying this community-oriented theory of fair rate of return, I believe this means the RHC may need to allow rents to rise, on a case by case basis, above the arbitrary levels set in Section 1707(a) in order to maintain the rental housing stock to a quality level consistent with the housing structures in the neighborhood. Rent increases in support of such capital improvements can be allowed on a case by case basis.

With this new theory of a fair rate of return, a controversial argument could be made that rents be allowed to rise to a level where essential teachers and firemen could still afford to live in MV, while non-essential workers would be priced out.

Per this theory and if it is legal otherwise, the RHC may give families with children in school preferential rent control decisions versus single professionals for similar rental units, allowing the family to stay and allowing the displacement of the single professionals. This may appear to be social engineering, but no more so than any other implementation of rent control.

3. How would you educate yourself on areas of housing law and rent stabilization you are not familiar with?

I will primarily ask questions of staff and legal counsel. I hope we will have the opportunity to study the rent stabilization policies of neighboring communities. I will research topics as need to understand them. Perhaps, we will have the opportunity to attend conferences on rent stabilization to share best practices with other officials.

I fully expect the Rental Housing Committee will be pioneering new territory, which will require the study of legal precedents. Outside experts or consultants may be needed.



Round 2 of answers to questions for RHC applicants: Joan MacDonald

1. Please describe your experience/expertise in financial management and assessing financial information or similar types of data as will be required in the CSFRA.

Besides handling taxes and other personal financial matters for our family for more than 63 years, I also dealt with the financials for a launderette we owned for 10 years here in Mountain View. And for about 20 years, we successfully owned two different sets of duplexes and triplexes (not in this area) which also required a new learning curve of financials. I became skilled at analysis of costs, amortization, future planning and, of course, return on investment to name a few areas.

In the public arena, during the 22 consecutive years I served on two different school boards, I dealt with budgets during changing economic cycles. This experience accentuated the need for careful study, learning about school budgeting as well as close collaboration with other members of the school boards and administrators.

My service on the CHAC board (1974 - 2016) gave me the additional opportunity to learn about non-profit financials, requiring at first dealing with the needs of a start-up and then the many changing economic cycles.

This varied experience has emphasized to me a critical need: to become effective in any new position requires learning the questions to ask in order to find out what one needs to know. I feel I have a good handle on that skill.

2. Do you see any parts of the CSFRA that require clarification or leave room for interpretation or discretion on the part of the RHC? If so, can you give an example, and how would you address issue(s) that fall into that category and arrive at a determination?

First, the RHC will not be working in a vacuum. And all rules and regulations can't be created overnight. No jurisdiction did this and our RHC will be no exception. Fortunately, many jurisdictions have been working successfully with measures quite similar to ours and our RHC will have access to that data and those directly involved. Additionally, RHC will have assistance from our knowledgeable staff.

Although, the establishment of the fee structure is clearly in need of fleshing out of details, much data is available from nearby jurisdictions that have years of experience to help RHC with its decision-making process in addition to the history of Mountain View's landlord fees. The RHC might inquire of the city manager if reimbursement of part or all of the start-up costs should be considered as needed. If so, that factor could be included in the establishment of fees. That would require amortization over several years, after which the fee would decrease. Certainty must

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Round 2 of answers to questions for RHC applicants: Joan MacDonald

be considered as part of the fairness issue of the fee. This would allow long-range planning/decision-making by landlords. However, I don't feel this is the major issue that requires clarification.

Perhaps a major concern relates to reasonable rate of return (RROR). Again, fortunately, outside data is available to help RHC to craft fair rules and regulations. Also the wording in the CSFRA (1710 (2)) does give specific guidance as to factors to be considered. Particularly helpful would be studying other cities' methods so RHC can strive to provide consistency in methodology of regulations to avoid unfairness. The concept of Maintenance of Net Operating Income (MNOI) is something the RHC should study. As I understand it, it is one way of ensuring that landlords continue to earn what they historically have been earning if at all possible. Clear, consistent definitions are needed to create a foundation of what is fair and reasonable. I am eager to learn the details of this concept which I believe has merit.

3. How would you educate yourself on areas of housing law and rent stabilization you are not familiar with?

Clearly, much of the role of an RHC member will deal with unfamiliar ground. I'm not shy about asking questions. Fortunately, experts are available. Between city staff and those experts in cities that have had rent stabilization for some time, answers are available. Possibly some information might be found on-line. Fellow RHC members might also have information to share. This experience will be similar to a start-up. Group education with all RHC members would benefit everyone and make progress smoother. The major role for RHC initially will be to craft rules and regulations. Choosing our hearing officer(s) will be crucial for the success of CSFRA. Recommendations from staff will be significant. We are fortunate to have knowledgeable staff to help RHC. We need to craft rules and regulations so that our hired hearing officers don't have to second guess the rules — that they have clear paths toward their decisions. The RHC will only rarely be acting as hearing officers: in, I suspect, the few times that petitioners — tenants or landlords choose to appeal the initial hearing officer's decision. Our learning curves will vary but all members of RHC should be supportive of each other and our staff. None of us has power as an individual.

*Joan MacDonald*



Matt Grunewald  
2/13/2017

**1. Please describe your experience/expertise in financial management and assessing financial information or similar types of data as will be required in the CSFRA.**

Generally speaking, as a Business undergrad, I took advanced courses in Accounting, Finance, Economics, etc. Admittedly that was a long time ago, but those courses established a base of understanding for me that has been continuously reinforced in subsequent jobs.

As part-owner in a tenancy-in-common, I am familiar with many of the operating expenses faced by landlords today, as well as which key factors to consider when refinancing debt, or making capital improvement expenditures.

In my day-to-day job as an Analytics Manager, I interpret data sets to help customers measure the return on investment that they receive from my company's products and services. My data-driven recommendations aid customers in allocating budget..

**2. Do you see any parts of the CSFRA that require clarification or leave room for interpretation or discretion on the part of the RHC? If so, can you give an example, and how would you address issue(s) that fall into that category and arrive at a determination?**

Many parts of the CSFRA leave room for interpretation. In my view, here are the three sections where the decisions of the RHC could potentially have the greatest impact (positive or negative) on the Mountain View community:

- ***Subsection 1709(j) - Financing***

The language of the CSFRA allows for the RHC to set a budget, hire staff, and charge fees to "reasonably" implement the Article, but also establishes the RHC's right to make these decisions "without limitation". Those competing terms, "reasonable" vs. "without limitation", potentially establish a broad spectrum of power.

I personally believe that the best way to serve the tenants, landlords, and taxpayers of Mountain View is for the RHC to operate as efficiently as possible, to minimize operating costs and ultimately minimize the Rental Housing Fee.

To meet this efficiency goal, I would approach the budgetary process from a "needs-based" perspective, meaning that I would try to identify which critical resources are absolutely necessary to implement the CSFRA. I would also seek out opportunities to collaborate with City Council and other local organizations, to avoid duplicative efforts and cost overruns.

- ***Subsection 1709(k) - Integrity and Autonomy of Committee***

The language of the CSFRA reserves the right of the RHC to operate "independent" from the City Council.

When possible, I would err on the side of achieving alignment between City Council and the RHC.

- ***"Fair rate of return"***

This terminology is used throughout the CSFRA to establish protections for the rights of MV landlords. However, there is no specific guidance regarding what the RHC should use as a benchmark to evaluate whether a rate of return is “fair”.

In order to set a “fair” benchmark and rules for evaluation, I would start by researching how other municipalities approach the issue. Then I would compare Mountain View’s specific housing market to the housing market in those municipalities, to set a general range of “fair” rates. Then I would evaluate each specific MV landlord’s situation vs. the “fair” range.

### **3. How would you educate yourself on areas of housing law and rent stabilization you are not familiar with?**

Depending on the time available and complexity of the topic, I would take an iterative approach:

1. Read – e.g. Google search for relevant information
2. Collect relevant data points – e.g. How are similar laws implemented in nearby municipalities? To what effect?
3. Engage with experts & stakeholders – Collect specific feedback from local stakeholders (tenant advocacy groups, individual tenants, apartment owners, City officials) to determine how Mountain View’s situation may differ from other municipalities.
4. Iterate – Continuously confirm & revise assumptions as new information becomes available

Tom Means' answer to 2.21.2017 interview questions.

1.

As I said in previous answers, I have a Ph.D. in Economics. One of my fields is in Finance. I have taught courses in financial management and done plenty of research using financial models and tools. As a council member, I was one of the few who were always assigned to sit on the finance committee, where we reviewed reports detailing the financial assets of the city. I have plenty of experience reviewing financial data.

2.

One of the main parts of the CSFRA that requires clarification is "what does a fair rate of return mean?" The ordinance lists several items that can and cannot be included. To address this issue one must understand corporate finance, market structure and accounting. Fortunately I possess all of those skills. The major hurdle is that a fair rate of return is a subjective concept and will likely vary by individual. Hence, each landlord may face a different cost structure and require different rates of return for their investment. Though I am not committed to any individual approach, it may be that determining a fair rate of return will have to be decided on a case-by-case basis.

3

As a council member it is important to use staff resources. For legal issues I would rely heavily on the city attorney for advice. I would also use staff time to investigate and report about the supply and quality of rental housing. Personally, I am an academic researcher and have published high quality research articles on local government and housing issues. My background provides me with the experience to critically analyze information that staff provides to the rental housing committee.

**1. Please describe your experience/expertise in financial management and assessing financial information or similar types of data as will be required in the CSFRA.**

Working as a sales professional over the past seven years, I've developed a thorough understanding of financial statements, investment returns, and financial analysis. I regularly review my clients' SEC 10K and 10Q forms and analyze top line revenue, margins, and net earnings and lead conversations on revenue growth and ROI with high-level executives.

This allows me to craft sophisticated marketing strategies and defend on-going multi-million dollar marketing investments. I create and tweak marketing attributional models and demonstrate return on investment.

I'm also familiar with analyzing other types of data that will be required through the CSFRA, including academic and policy analysis. For example, as a Human Relations Commissioner I've worked on developing an LGBTQ Needs Assessment survey. This includes programming surveys, compiling survey data, and analyzing the results to inform future program development.

Having supported the growth and development of businesses across the country, as well as in academic and policy analysis, I am well positioned to use my skills to support the CSFRA.

**2. Do you see any parts of the CSFRA that require clarification or leave room for interpretation or discretion on the part of the RHC? If so, can you give an example, and how would you address issue(s) that fall into that category and arrive at a determination?**

Regardless of the specific clarification needed or issue at hand, as a Committee member of the RHC I would read staff reports and materials, conduct independent research, and engage with community members and relevant community organizations, to make an informed and educated decisions. I understand that these decisions must work towards creating trust in the RHC as a nonpartisan institution that will maintain high professional standards. Below are a few examples of decisions within the RHC's scope:

**Clarify who is protected under the CSFRA** - CSFRA defines "rental units" as "any building, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for residential purposes, together with all Housing Services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the Tenant."

This broad definition means that the RHC will have to interpret who will be eligible for protections under the CSFRA and specifically, whether mobile homes and space rentals will be included. If so, this would likely require the RHC to develop a new set of rules and regulations specific to mobile homes and space rentals.

This process will require that the RHC review and discuss the legal implications of formalizing this definition, including how the CSFRA may conflict with or augment the California Mobilehome Residency Law.

**Establishment of a reasonable Rental Housing Fee** - The RHC is tasked with financing “reasonable and necessary expenses” by charging landlords an annual, reasonable fee. The RHC will have to craft a preliminary budget and weigh the costs and benefits of each line item with the understanding that the fees will ultimately be passed down to tenants.

Within the budget, the RHC will also need to take into account and prioritize any need to reimburse the City for advanced funds received.

**Establishing a process in which petitions are handled and adjudicated** - The RHC is responsible for developing a petition process which will include: directing staff to develop appropriate forms and intake processes, balancing confidentiality and transparency, public record keeping, and a policy governing the appointment of hearing officers.

The latter is of particular importance as it has a direct impact on the efficacy and implementation of the program. The hearing officers will be the first to hear cases between tenants and landlords, so their ability to remain impartial and identify facts is critical in producing justifiable outcomes. Moreover, they will be charged with finalizing and publishing rulings and summary judgements.

The RHC could approach this in different ways. For example, by contracting with an organization to train and staff hearing officers on an as-needed basis perhaps at a cost, or seeking neutral residents to volunteer as hearing officers.

**Establishing fair rate of return** - The RHC will have to develop a fair return standard (typically this calls for the establishment of a ‘base year’ where all investments are assumed to have been driving a fair return).

The standard should ensure net operating income remains positive and take into account property taxes, necessary and reasonable management expenses, normal repair and maintenance, owner-performed labor, and fees. This includes developing an amortization schedule for the cost of necessary capital improvements to the rental unit and ordinary repair, replacement, and maintenance of fixed appliances, etc.

### **3. How would you educate yourself on areas of housing law and rent stabilization you are not familiar with?**

Throughout the past several years I’ve independently attended housing conferences; reached out to Project Sentinel, the Stanford Community Law Clinic, the City of Mountain View, and other non-profits and agencies; done community outreach in Mountain View mobile home parks and apartment complexes; and had extensive conversations with landlords in order to learn more about housing law and policies.



Most recently I've developed relationships with various Bay Area rent boards to learn best practices and create a learning community.

In the future I hope to continue to leverage the professional contacts I've developed with housing attorneys, professors, and others, as well as rely on City Staff reports in order to increase my understanding of housing law. In this way I hope to promulgate rules and regulations that will proactively address issues and eliminate ambiguities.

James Leonard

1. Please describe your experience/expertise in financial management and assessing financial information or similar types of data as will be required in the CSFRA.

I have a BS degree from California State University, Hayward in Business/Accounting. I have worked as an accountant for over 40 years. In that time at different companies I have been an Accounting Manager, a Cost Accounting Manager and a Controller. I have prepared monthly financial statements in all those positions including Income Statements, Balance Sheets and Cash Flow Statements. In order to produce those statements I had to review the statements and reconcile any accounts that had balances I felt appeared to be questionable.

When it comes to the CSFRA I can look at Financial Statements and determine the strength and viability of an apartment complex or parent company. I would know what questions to ask to determine the reliability of the statements. Since I have experience with invoices I have a good working knowledge to determine if this is a valid expense for the company in the specific time period. One way to cook the books is to expense everything in the current year and not accrue expenses.

I have also been involved in financing loans either with the companies I have worked at or with my own home. I have seen many loan documents and have a very good understanding of loan rates, points and other financing costs.

I also have an understanding of what expenses should be covered by insurance in case they somehow end up on an Income Statement in error. I have also examined many property tax statements and understand how to determine the time period they cover in case it was all expensed in one year and not allocated correctly.

2. Do you see any parts of the CSFRA that require clarification or leave room for interpretation or discretion on the part of the RHC? If so, can you give an example, and how would you address issue(s) that fall into that category and arrive at a determination?

Example:

Section 1709 (j) Financing The Committee shall finance its reasonable and necessary expenses, including without limitation engaging any staff as necessary to insure implementation of this Article, by charging Landlords an annual Rental Housing Fee as set forth herein, in amounts deemed reasonable by the Committee in accordance with applicable law. The Committee is also empowered to request and receive funding when and if necessary from any available source including the City for its reasonable and necessary expenses.

We would need to determine all the expenses for the current year including how many hours we would need to pay for Hearing Officers and Staff. We would need to determine reimbursable costs incurred by committee members. At first the expenses would be financed by the City but would need to be repaid. This will be difficult the first year as we would have no experience to use as a guide. We would not know what to expect, how many issues might come before the Hearing Officers or the board. We would need to make the best estimate and make adjustments in the future.

3. How would you educate yourself on areas of housing law and rent stabilization you are not familiar with?

First we cannot go outside the rules of the amendment. We must follow all the rules as they are laid out in this amendment. It is only the areas where the committee has discretion, the grey areas, is where we should convene as a committee to determine the best path to take. At that point we could reach out to the city attorney for advice and direction. I would search the internet to find all the information I can and to reach out to other committees in other cities for advice. Building a network of individuals in other areas would be of benefit as landlords tend to bond together and come up new strategies to circumvent rent stabilization. With the network I could stay abreast of the latest trends.

1. Please describe your experience/expertise in financial management and assessing financial information or similar types of data as will be required in the CSFRA.

As part of my duties as an event coordinator at The Tech Museum of Innovation, I needed to create and adhere to budgets in order to run events effectively. I would hire and collaborate with vendors and partners, purchase supplies and file the financial paperwork necessary to access the company's funds.

In a volunteer capacity, I also serve as the treasurer for the Mountain View Historical Association, where I am responsible for reporting the income and expenditures of the organization every quarter. I also file the necessary taxes for MVHA and manage the bank account, which include the general fund, large institutional grants and organizational investments.

2. Do you see any parts of the CSFRA that require clarification or leave room for interpretation or discretion on the part of the RHC? If so, can you give an example, and how would you address issue(s) that fall into that category and arrive at a determination?

There are many parts in the CSFRA that will require clarification by the RHC. One example is the appointing of hearing officers. The CSFRA doesn't specify how this is done. It simply designates this responsibility to the RHC. Another example is a development of the petition process. There were no operational guidelines to how we would implement the petition process, but it is clear that it will need to be an efficient accessible process.

To address this issue and many like it, I would first conduct a study on how other cities are implementing this particular issue with their rent regulations. The next step would be to hold a public hearing on the study. It is critical to give the public an opportunity to weigh in on these decisions as effectively as possible. I would reach out and encourage people from all different perspectives in the community to weigh in through public comment or by a letter to the committee. I estimate that in the beginning of the program implementation many of these public hearings will be consolidated for the initial decisions. I would also take into consideration the recommendations provided by the City Attorney, the Housing & Neighborhood Services Manager and city staff. My decisions would be based on the feedback received through the research, recommendation and public comments presented at the hearings.

3. How would you educate yourself on areas of housing law and rent stabilization you are not familiar with?

My first source of information would come from current and past council reports, which are compiled by city staff. I would research other California cities, like San Jose, East Palo Alto, and Berkeley, which implemented rent stabilization or other rental regulations. I would also contact colleagues who work in housing policy presently or in the past. Another source of information can come from relevant stakeholder groups like Stanford Law Clinic, Silicon Valley Association

of Realtors, California Apartment Association, Silicon Valley Law Foundation, Project Sentinel, League of Women Voters and other groups that may have expertise in rental housing policy.



## **Answers To Supplemental Questions For Applicants To Rental Housing Committee**

Julian Pardo de Zela

February 13, 2017

### **1. Please describe your experience / expertise in financial management and assessing financial information or similar types of data as will be required in the CSFRA.**

I graduated with a *Distinction in Economic Analysis* when I received a Master's Degree in International Political Economy and Development from Fordham University in 2002.

I have been involved in many legal matters where resolution of disputes has required collection and then evaluation of financial information in order to identify economic damages that have included, but have not been limited to, lost wages, lost profits, business interruption damages, and repair and restoration claims. This process has entailed management of financial data and the utilization of software to perform financial calculations in order to evaluate claims for economic damages.

### **2. Do you see any parts of the CSFRA that require clarification or leave room for interpretation or discretion on the part of the RHC? If so, can you give an example, and how would you address issue(s) that fall into that category and arrive at a determination?**

The CSFRA provides the Rental Housing Committee with an enormous amount of power and discretion. For example, the Committee may:

- a. Create rules and regulations for the procedures used to establish the applicable amount of Relocation Assistance to tenants. (CSFRA § 1705(b))
- b. Set the Annual General Adjustment for Covered Rental Units. (CSFRA § 1707(a))
- c. Stop accumulated increases if the Committee feels these increases would result in an "undue hardship" on tenants. (CSFRA § 1707(d))
- d. Issue rules and regulations on restrictions on initial rent for new tenancies. (CSFRA § 1708(b))
- e. Enact replacement regulations if any portion of the Act is deemed invalid or unenforceable. (CSFRA § 1709(l)).
- f. Generate a schedule of penalties for non-compliance with the CSFRA. (CSFRA § 1709(d)(13))
- g. Establish the Annual Rental Housing Fee that landlord swill have to pay, subject only to the requirement this be "reasonable." (CSFRA § 1709(j), (l))

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The aforementioned provisions provide the Committee with expansive authority to make decisions that will have repercussions throughout Mountain View. I believe any and all such provisions should be interpreted and acted on according to the following principles: (1) transparency (2) consistency (3) conflict avoidance (4) reliance on informed third parties.

(1) Transparency. The Committee should be transparent in its decision-making. The greater the transparency, the less likely aggrieved parties will challenge those decisions. Accordingly, where as above there is room for clarification or interpretation of a particular provision, the Committee should be transparent in the process of how it clarifies or interprets that provision(s).

(2) Consistency. The Committee must strive to operate with consistency, applying its rules and regulations in a predictable and orderly manner so that landlords and tenants feel the Committee is treating each of them no better, and no worse, than other similarly situated landlords and tenants in Mountain View. Where a particular provision allows for interpretation, the Committee should be consistent in the principles and procedures it relies upon to resolve that ambiguity.

(3) Conflict Avoidance. The Committee should clarify and interpret any ambiguous provisions, and use its discretion when exercising its authority, to avoid conflict. Actions that appear to be punitive will invite challenges. So will actions that are inconsistent with the law.

(4) Reliance on Informed Third Parties. The Committee may seek guidance from the City Council and/or City Attorney on any aspect of the Act. (CSFRA § 1709(k)) The Committee should not make rash or uninformed decisions. When seeking to clarify and interpret any ambiguous provisions, and/or exercising its discretion, the Committee should look to the City Council and/or City Attorney for guidance as to the legality, wisdom, and expected repercussions from any such Committee actions. The Committee should also look at other communities where similar rent control provisions have been enacted, to learn from their experiences.

**3. How would you educate yourself on areas of housing law and rent stabilization you are not familiar with?**

The Committee must act consistent with California law. The Committee may invite the City Attorney to review the wisdom and/or legality of the Committee's proposed actions under the CSFRA. (CSFRA § 1709(k)) The Committee should commit to work with the City Attorney so the Committee avoids taking any action that might embroil the City in costly and time-consuming legal disputes.

As a practicing attorney, I have access to a large number of legal resources. These would allow me to expand my knowledge of housing law and rent stabilization. I would also be willing to freely share these materials with other members of the Committee.

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