



LAW FOUNDATION of Silicon Valley

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**SENT VIA EMAIL: mayoremail@sanjoseca.gov; rose.herrera@sanjose.ca.gov;
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Mayor Sam Liccardo, Chair
Rules and Open Government Committee, San José City Council
200 E. Santa Clara St.
San José, CA 95113

**Re: Rules and Open Government Committee, September 30, 2014
Crime Free Multi-Housing Program, Agenda Item G.2.**

Dear Mayor Liccardo and Members of the Rules Committee:

The Law Foundation of Silicon Valley, Sacred Heart Community Services, Silicon Valley De-Bug, Working Partnerships USA, Project Sentinel, Tenants Together, Affordable Housing Network, Asian Law Alliance, Legal Aid Society – Santa Clara County, Next Door Solutions to Domestic Violence, Asian Americans for Community Involvement (AACI), People Acting in Community Together (PACT) San Jose, San Jose/Silicon Valley NAACP, EMQ Families First, Somos Mayfair, Silicon Valley Independent Living Center, and CHAM Ministry write to strongly oppose the immediate implementation of the “Crime-Free Multi Housing Program.” This program is unlikely to reduce crime in our community, but it will almost certainly lead to the unfair and unnecessary eviction of innocent tenants, and it will exacerbate the city’s homelessness crisis. Given the serious consequences that such a program will have, we encourage the City to undergo a robust process of public participation through the appointment of a taskforce that will study this proposed program and make recommendations about how the community can effectively reduce crime in San Jose’s neighborhoods.

1. Crime Free Multi-Housing: Background

The Crime Free Multi-Housing Program is a product which is sold to municipalities and police departments.¹ The purported purpose of the Crime Free Multi-Housing program is to curtail criminal or excessive nuisance behavior that is impacting the health, safety, or the quality of life of a rental community and neighborhood. The program includes trainings exclusively for landlords and property managers but makes no provision for training for impacted tenants. Instead of providing training to all parties, the program merely requires tenants to sign pro forma

¹ International Crime Free Program, <http://www.crime-free-association.org/multi-housing.htm>.

lease addendum that subject tenants to the program's requirements. One of these requirements is that despite having a good rental history and being a model tenant, a tenant agrees that she can be evicted if any household member or guest is arrested. So, for example, if a tenant's short-term guest is alleged to have committed a crime across town, she and her family will face eviction. The Crime Free Multi-Housing program and similar policies have recently come under scrutiny for the negative effects they have had on crime victims, and specifically survivors of domestic violence.²

A study by the well-respected Shriver National Center on Poverty Law³ that examined these types of policies found that they undermine the public safety goal that they are ostensibly meant to serve. This study also identified the following unintended consequences:

- Causing the eviction of crime victims – especially victims of domestic or sexual violence – because of the crimes committed against them or their efforts to obtain police help;
- Causing the eviction of persons with disabilities because of behaviors related to their disability;
- Deterring tenants and landlords from reporting crimes or otherwise reaching out to the police when they need assistance;
- Increasing homelessness and educational disruption for children;
- Increasing the number of vacant properties in the community; and
- Reducing the supply of affordable rental housing.

Before adopting this program, we encourage the Rules Committee to engage with stakeholders through the formation of a task-force to study and address the Crime Free Multi-Housing program.

2. The Crime Free Lease Addendum is Overbroad and Will Have Long-Lasting Consequences for Tenants.

The Crime Free Multi-Housing Program requires tenants to sign an overbroad lease addendum that would allow a landlord to evict a tenant or her guest for committing nearly any type of crime at any time anywhere in the world. This goes far beyond California law which already permits a landlord to evict tenants for nuisance on or around the property, including criminal activity, such as the sale of controlled substances or the possession of a weapon.⁴ The

²The stakeholders include San Jose Department of Housing, San Jose Police Department, San Jose Code Enforcement Division, Neighborhood Housing Services of Silicon Valley (and its Responsible Landlord Engagement Initiative), California Apartment Association, and Law Foundation of Silicon Valley.

³Werth, Emily, "The Cost of Being Crime Free: Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances," (August 2013), available at <http://povertylaw.org/sites/default/files/files/housing-justice/cost-of-being-crime-free.pdf>

⁴Code of Civil Procedure § 1161(4).

lease addendum is even broader than leases that apply to HUD subsidized properties which limit criminal activity on or near the property.⁵

As currently drafted, the lease addendum makes any conviction *or arrest* of any household member *or guest* for any crime (including misdemeanors) a material breach of the lease and grounds for eviction. Therefore would authorize eviction in all of the following cases:

- An innocent tenant who is arrested for a crime but later found to be not guilty.
- An innocent tenant whose cousin visiting from out of town gets arrested for DUI.
- A tenant who lives in South San Jose who is involved in a bar fight in downtown San Jose on Saturday night.
- A civil rights activist who is arrested during an act of peaceful civil disobedience.

None of these hypothetical tenants has engaged in any criminal activity on the property or otherwise shown that they are irresponsible tenants—yet all could be evicted under the Crime Free Multi-Housing lease addendum. Additionally, as there is no time restriction for when the criminal activity had to have occurred, a tenant could be evicted if a landlord finds about a crime that occurred more than twenty years ago.

3. The Crime-Free Program Will Have Serious Consequences for Survivors of Domestic Violence and Other Vulnerable Population Groups

The implementation of the Crime Free Multi-Housing program may negatively affect victims of domestic violence. Victims of domestic violence are more likely to be targeted for eviction because of the criminal activity committed by abusers. In a story that made national headlines, a city in Pennsylvania faced liability after forcing a landlord to evict a domestic violence victim who pleaded with her neighbor not to call the police after suffering abuse for fear of eviction.⁶ Even though California does have laws that protects domestic violence victims from eviction, it has been our experience, and indeed the experience of other advocates across the country, that victims and landlords are unaware of such protections, or these laws are ignored by landlords. In fact, a study by the National Law Center on Homelessness and Poverty found that hundreds of domestic violence victims faced eviction for domestic violence even when laws existed that protect them from eviction.⁷

Additionally, the Crime Free Multi-Housing Program runs contrary to our state and local policy of reintegrating formerly incarcerated people into the community. Barring these individuals with past convictions from housing could lead to more and more families unable to find housing in Silicon Valley and could disproportionately affect people with disabilities and other groups protected by state and federal civil rights laws. We are further concerned that, without community input and careful oversight, such a policy will target specific racial and

⁵*Oakland Housing Authority v. Rucker*, 535 U.S. 125 (2002)

⁶http://www.nytimes.com/2013/08/17/us/victims-dilemma-911-calls-can-bring-eviction.html?pagewanted=1&_r=1&hp&_hpt=hp

⁷National Law Center on Homelessness and Poverty, “Insult to Injury: Violations of the Violence Against Women Act,” (April 2009).

economic groups based on unfounded stereotypes about crime, increasing racial segregation and inequality in our community.⁸

4. The Crime Free Program Will Lead to an Increase in Homelessness

We believe that implementation of this program will increase the already high rate of homelessness in San Jose. By requiring landlords to evict families for the criminal activity of anyone at the property, more and more families will face homelessness. We are presently experiencing an extremely low and decreasing rental vacancy rate and dramatically increasing rents in the County. When lower-income families are evicted, they often become homeless, and the increasing rate of homelessness in turn increases burdens on SJPD and the larger community.

5. The Crime Free Multi-Housing Program Is Unlikely to Reduce Crime.

Additionally, evicting a problematic tenant from his home does not mean that he will leave the City of San Jose—or even the immediate neighborhood. Programs like Crime Free Multi-Housing do not deter crime, rehabilitate past offenders, or remove criminals from our community. Instead they merely force people who have committed (or allegedly committed) crimes out of stable housing to elsewhere within the City. This is not a smart approach to protecting our families, our neighbors, and our neighborhoods from crime.

6. The City Should Implement a Joint- a Task-Force to Study the Implementation of the Crime-Free Multiple Housing Program

Vigorous public participation with various stakeholders should be implemented prior to the adoption of a program with far-reaching consequences to some of the most vulnerable population groups in San Jose. This program does not only affect policing – it affects domestic violence survivors, individuals with mental health disabilities, families facing homelessness, and tenant advocates. We ask that the Rules Committee to appoint a Task Force comprised of the San Jose Police Department, Housing Department, Code Enforcement, City Attorney, tenant representatives, homeless prevention advocates, landlord representatives, domestic violence advocates, and civil rights experts to study the issue and report back to the City Council for assignment to the appropriate commissions, if that is determined appropriate at that time.

Thank you for considering our comments.

Sincerely,

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⁸Furman Center for Real Estate and Urban Policy, New York University, “*Investigating the Relationship between Housing Choice Voucher Use and Crime*,” February 2013, available at <http://furmancenter.org/files/publications/FurmanCenter-HousingVoucherUseCrime.pdf>.

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