

Public Comment, Yes to Rent Stabilization and Eviction Protection ordinances

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To: Fairfax Town Council <fairfaxtowncouncil@townoffairfax.org>

Cc: Michele Gardner <mgardner@townoffairfax.org>

September 06, 2023

From:

Robert Smithfield

200 Bolinas Rd., Apt. 50

Fairfax, CA 94930

To:

Town Council Meeting, February 01, 2023

Fairfax Town Council

Fairfax, CA 94930

Dear Fairfax Town Council Members,

This is my official public comment to you for today's regular meeting of the Council on Sept 06, 2023. My comment is in regard to the current ordinances (**Ordinance 870 Just Cause Evictions and Ordinance 871 Rent Stabilization**) that serve to provide residential renters in our Town with Rent Stabilization and Eviction Protections. Today's Town Council Meeting Agenda shows this as "REGULAR AGENDA", 2. Read by title only and adopt ordinance revising Town Code Chapters 5.54 'Just Cause Evictions' and 5.55 'Rent Stabilization Program'--".

I remain in full support of the Town of Fairfax's **Ordinance 870 Just Cause Evictions and Ordinance 871 Rent Stabilization**. My sincere hope is that this Council now meeting will decide to uphold these adequate and reasonable mutual protections and, thereby, contribute along with the rest of Fairfax's residents to building better community here.

As stated in previous public testimony to the Fairfax Town Council, those Fairfax residents, both home-owners and renters, have taken careful note of the public processes followed and of the public comments made in the run-up to and following the 2022 enactment of **Fairfax's Ordinance 870 Just Cause Evictions and Ordinance 871 Rent Stabilization**, along with debate among Council members. I have consulted comments on, along with the actual performance of other towns' and cities' rent stabilization measures and just cause evictions measures. From my reading and understanding, I believe that the Council provided both a legally appropriate and adequate set of ordinances; furthermore, I believe that the Council's ordinances give needed clarity and agency to both Fairfax renters and landlords when a rental agreement is offered, considered and agreed on.

A specific component of these ordinances that cannot be overlooked and the importance of which cannot be diminished is equal and adequate legal resources and recourse to both the renter and landlord. I have assisted myself one time and offered assistance and support to others on other occasions using various Landlord and Tenant ordinances and the measures and protections offered. Fortunately, in all of my experiences, in each case a much better settlement was achieved by the renter and landlord by means of and because the renter had clear legal standing and agency. The more 'level' the field of resources and ease of use of resources on which both renter and landlord stand together, the more reasonable and livable are the outcomes. Plus, and this is crucial, renting a room, or apartment, or home becomes a mutually respectful agreement to share a DWELLING place. This mutuality of intent, meaning and understanding, as well as standing in the community

for dwelling together, contributes to important changes in the total environment of the community in which renters live.

The perspective which I have presented in the above paragraph has SUBSTANTIAL LEGAL SUPPORT. The importance of understanding the responsibility and choice, both of which belong individual, of obtaining and maintaining a safe and affordable personal residence is the central understanding that informs all public interest, including legal interest, protection and accountability. A succinct and powerful introduction to the common interest herein is:

This quote is found above the "Abstract" of a well documented article by Vamsi A. Damerla, Columbia Human Rights Law Review, "The Right to Counsel in Eviction Proceedings: A Fundamental Rights Approach", May 5, 2022, and is followed by:

Every day in the United States, thousands of tenants are plunged into the uncertainty of eviction proceedings. At best, this process forces tenants to enter a complex and fear-inducing web of legal proceedings; at worst, it causes families to become homeless and enter a cycle of poverty that is not easy to escape. Yet approximately 90% of tenant-litigants are forced to navigate the labyrinth of eviction proceedings without counsel representation, notwithstanding the fact that counsel representation dramatically helps tenants by preventing improper evictions and leveling the playing field against represented landlords. This Note argues that counsel representation is critical to the integrity of eviction proceedings. It surveys the literature and data from cities that provide tenants with counsel representation to underscore the importance of representation in eviction proceedings, and it seeks to locate a constitutional right to counsel for tenants facing eviction proceedings. In so doing, it posits that the language and interpretation of the Fourteenth Amendment's Due Process Clause may provide a constitutional right to counsel through the Supreme Court's development of substantive due process."

I share the view that democratic governance is valued, supported and actively alive in our society because and ONLY IF it is chosen to inform our relationships, among ourselves, beginning with our own local community and extending effectively to State and Federal levels of governance. And, so:

equal protection and equal accountability, along with the judicial understanding and choice to bring honest advocacy into partnership and alliance to always and for any one apply these protections and effect this accountability; there is no lawfulness, there is no community, without them;

the housing provider and provider housing user relationships are and must be, as you Council members understand, fully and without prejudice, within the scope and action of equal legal protection and accountability;

clean safe housing is a universal and shared need, one of the resources required in today's communities for personally and socially responsible living; it is a dwelling space, whether or not it is traditional or non-traditional in terms of physical make-up; by contrast, ownership of property is not a universal and shared need, and it is not always achievable by all people actively employed in productive work, education, personal relationships, community volunteer and other ordinary living efforts;

let no attorney nor citizen, self-appointed advocate of elitist private interest cast a shadow of doubt (nor political vulnerability) over the clear-sighted and democratic public interest that informed user-provider statutes such as the Council's 870 and 871 AND THAT give understanding and effect to these equal legal protections and accountability.

There need be no -- and under our Constitution and the administration of laws and justice within its authority - - the is no standing for claims of private propertied interest exceptionalism and favoritism; legally acquiring private property is protected by and comes with explicit personal or corporate responsibilities -- with explicit accountability.

So, now, all the attorneys can go home; now the residents of Fairfax can sit together and confidently dialogue about rules that formally and clearly represent, protect and designate responsibilities of user and of provider. Again and again, and without attorneys but with evidence of ordinary and candid appraisal of everyday experience, residents of Fairfax have given this Council evidence of the need for and of the legal and social responsibility of providing the definitions, understandings, and tools afforded by 870 and 871.

Sincerely and gratefully,
Robert Smithfield
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