HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
FULL BOARD SPECIAL MEETING
January 28, 2021
5:00 P.M.
Meeting Will Be Conducted Via Zoom Conference

AGENDA

PUBLIC PARTICIPATION
The public may observe and/or participate in this meeting in many ways.

OBSERVE:

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on the link below to join the webinar:

When: **Jan 28, 2021 05:00 PM Pacific Time (US and Canada)**
Topic: **Housing, Residential Rent and Relocation Full Board Meeting**
Please click the link below to join the webinar:
https://us02web.zoom.us/j/84017455936
Or iPhone one-tap :
US: +16699009128,,84017455936# or +12532158782,,84017455936#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799
Webinar ID: 840 1745 5936
International numbers available: https://us02web.zoom.us/u/kesPduAcsU

COMMENT:
There are three ways to submit public comments:

- To comment by Zoom video conference, click the "Raise Your Hand" button to request to speak when Public Comment is being taken on an eligible agenda item. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Instructions on how to "Raise Your Hand" are available here.
- To comment by phone, please call on one of the above listed phone numbers. You will be prompted to "Raise Your Hand" by pressing "*9" to speak when Public Comment is taken. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Please unmute yourself by pressing *6.
- You may submit written public comments to the Board Secretary, Briana Lawrence-McGowan, via email at BMcGowan@oaklandca.gov. *Please be advised, written public comments must **ONLY** be directly related to the Tenant*

*Protection, Just Cause for Eviction, and Rent Adjustment Program Ordinance Regulations. Please **DO NOT** submit written public comments unrelated to the proposed amendments to the regulations.*

If you have any questions, please email Bkong-brown@oaklandca.gov.

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD

1. CALL TO ORDER
2. ROLL CALL
3. CONSENT ITEMS
    a) Approval of Full Board Special Meeting Minutes, 1/14/2021
    b) Review of Board Panel Meeting Minutes, 1/7/2021
4. PUBLIC COMMENTS (TPO/Just Cause/Rent Regulations: 2 mins per comment)
5. COMMITTEE REPORTS AND SCHEDULING
    a. Ad Hoc Committee Updates
        - Amendments to Just Cause for Eviction Ordinance
        - Rent Adjustment Program Regulations
        - Appendix A to Rent Adjustment Regulations
6. OPEN FORUM (1 min per comment)
7. ADJOURNMENT

As a reminder, alternates in attendance (other than those replacing an absent board member) will not be able to take any action, such as with regard to the consent calendar.

Accessibility. Contact us to request disability-related accommodations, American Sign Language (ASL), Cantonese, Mandarin, or another language interpreter at least five (5) business days before the event. Rent Adjustment Program staff can be contacted via email at RAP@oaklandca.gov or via phone at (510) 238-3721. California relay service at 711 can also be used for disability-related accommodations. To listen to this meeting in Spanish, from the Zoom controls in the desktop or mobile app, switch your language from English to Spanish. Instructions on how to "Listen to Language Interpretation" is available at here.

*Staff appeal summaries will be available at the Rent Program website and the Clerk's office at least 72 hours prior to the meeting pursuant to O.M.C. 2.20.080.C and 2.20.090

Para escuchar esta reunión en Español, desde los controles de Zoom en la aplicación, cambie su idioma de Inglés a Español. Las instrucciones sobre cómo

"escuchar la interpretación de idiomas" están disponibles en: https://support.zoom.us/hc/en-us/articles/360034919791-Language-interpretation-in-meetings-and-webinars#h_6802bbbc-2ec9-47cb-a04c-6aac35914d82
Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en Español, Cantones, Mandarín o de lenguaje de señas (ASL) por favor envié un correo electrónico a RAP@oaklandca.gov o llame al (510) 238-3721 o 711 por lo menos cinco días hábiles antes de la reunión.

需要殘障輔助設施, 手語, 西班牙語,

粵語或國語翻譯服務, 請在會議前五個工作天電郵 RAP@oaklandca.gov 或致電 (510) 238-3721 或 711 California relay service.

HOUSING, RESIDENTIAL RENT AND RELOCATION
BOARD FULL BOARD SPECIAL MEETING
January 14, 2021
5:00 P.M.
VIA ZOOM CONFERENCE
OAKLAND, CA

MINUTES

1. CALL TO ORDER

The Board meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order at 5:00 p.m. by Chair R. Stone.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
T. HALL	Tenant	X		
R. AUGUSTE	Tenant	X		
H. FLANERY	Tenant Alt.			
Vacant	Tenant Alt.			X
R. STONE	Homeowner	X		
A. GRAHAM	Homeowner	X		
S. DEVUONO-POWELL	Homeowner	X		
E. LAI	Homeowner Alt.			X
J. MA POWERS	Homeowner Alt.			X
K. FRIEDMAN	Landlord	X		
T. WILLIAMS	Landlord	X		
B. SCOTT	Landlord Alt.			X
K. SIMS	Landlord Alt.			X

Staff Present

Oliver Luby	Deputy City Attorney
Barbara Kong-Brown	Senior Hearing Officer, RAP
Barbara Cohen	Acting Senior Hearing officer, RAP
Harman Grewal	Business Analyst III, HCD

3. CONSENT ITEMS

a) Approval of Board Minutes from November 12, 2020, Full Board Special Meeting

Member K. Friedman stated that COVID-19 was misspelled.

A. Graham moved to approve the Rent Board minutes from November 12, 2020, with correction of Co-Vid 19 to COVID-19 wherever it appears in the minutes. S. Devuono-Powell seconded.

The Board voted as follows:

Aye: T. Hall, R. Auguste, R. Stone, A. Graham, S. Devuono-Powell, T. Williams
Nay: None
Abstain: K. Friedman

The motion carried.

b) Approval of Board Minutes from December 10, 2020, Full Board Special Meeting

R. Stone moved to approve the Rent Board minutes from December 10, 2020. T. Williams seconded.

The Board voted as follows:

Aye: T. Hall, R. Auguste, R. Stone, A. Graham, S. Devuono-Powell, T. Williams
Nay: None
Abstain: K. Friedman

The motion carried.

4. OPEN FORUM

Chair Stone requested that the Board focus on the changes redlined in the Regulations, discussed on pages 42-51 of the Board packet, and the amendments to Appendix A, and requested that the public direct its comments to these items.

Laura Everly

- Stated tenants need to be protected against abuse of power and need protection from evictions and retaliations. Her landlord, Justin Walway, JDW, ignores and denies tenant requests, and she urges adoption of the changes to the amendments.

Stephanie Jackson, In It Together

- Stated she is the owner of a duplex, and a small housing provider. She commented on the abuse of master tenants who rent out rooms for more than they are paying under rent control. There needs to be a control over these kinds of actions and some way for owners to see if there is this kind of abuse.

Ben Sigurest

- Is a JDW tenant and due to the lack of his response they set up a tenants' union. Tenants are being harassed and are scared that the landlord will punish them for standing up for their rights. Neighbors are helping each other to assert rights. A small landlord should be in support of the changes.

Ryan Furkamp

- Commented on Section 10.7, principal residence, Appendix A, stating it would encourage landlords to spy on tenants. He also stated that the standards on replacement roommates is not clear as to why and how a landlord can reject a roommate.

Dennis Juarez, In It Together

- Born in Oakland and is an owner-occupied duplex owner. Under the new Tenant Protection Ordinance tenants do not have to tell landlords about new occupants. He referenced Derick Almena of Ghost Ship, who let anyone live there. He does not understand why a tenant can sublet when he has a no sublease provision in his lease. The responsibilities of the master tenant have to be better thought out and the master tenant needs to provide 30 days' notice of any new occupant.

Tony Tuano

- Is a small building owner and wants clarification and more consideration on the master tenant section. Someone mentioned Ghost Ship. This lays out what could happen. There is no need to say anymore. You are putting the safety of owners, tenants, and neighbors at risk.

Constance Thomason

- Owns an owner-occupied duplex. The tenant has to give 30 days' notice about who is moving in and information so if there is an emergency they can contact the proper people. The Ghost Ship was a tragedy. Is the master tenant responsible for knowing fair housing laws? If something happens are they liable? She is not liable. Can a master tenant evict a sub tenant? What happens if they move in an additional tenant and the roommates do not like that person. If they want to evict the tenant who pays? These issues need to be addressed and in writing.

Emily Wheeler

- Upset to hear landlords talk about Ghost Ship. During this pandemic tenants have a hard time paying rent, and some need to move in with family or take on new people. These changes are critical to allow tenants to survive. There are many stories of tenant who leave abruptly and there is a need to replace them or a need to move in with family.

Marc Janowitz

- Does not like the principal residence language in the Appendix. The ordinance is to protect people who live in units. He has defended petitions claiming tenants do not live in their units. He has seen owners spying on tenants, following them, getting credit reports to see where they worked or lived, which is an invasion of privacy, just to see where someone really lives to maybe get a rent increase, which is intolerable. Landlords have multiple remedies if tenants are not living in their unit.

Jane Thomasen, Oakland Tenants Union

- Supports the changes in the tenants' rights letter. JDW and

the property manager, Lyn Myr, have a history of evicting tenants or harassing them until they move so they can raise rents. Her landlord cares more about making money than the lives of tenants. The Rent Board has a responsibility to protect them from these kinds of practices, and to protect tenants from being denied housing. She urges adoption of all the changes to the ordinance.

Benjamin Scott, Rent Board Alternate Member

- Is a property manager. Everyone talks about loopholes, but current laws protect tenants to a "T". If there are two tenants and one moves out there is a one for one replacement. The landlord has to respond within two weeks and can only deny the replacement tenant if they do not meet the standard of the original tenant. We need to get the word out. This is an enforcement issue, not a landlord or tenant issue. This is a fairness issue, and about what is good for Oakland.

Beth Brown

- Being a landlord is aggravating with risk and responsibility. She is being stripped of control of her property. In 10 years, everything has changed, and her property has now become the property of the City of Oakland. Now, tenants can move in more people and have a master tenant. This means there are more things you do not know, as you do not know anything about who is living there. Why would she need more people? She inherited a property with a roll over tenant who paid $300 a month in rent, had exclusive right of her driveway so she could not even park in her own driveway.

Camille Villa

- Is a tenant in Oakland. She commented on the roommate replacement section. Her landlord says they need to show they paid rent for three months, pay a $20 application fee, and does not accept payments from subsequent occupants. They get paperwork from the master tenant. Why do landlords who pride themselves as good landlords continue to invoke Ghost Ship and the master tenants? If they are good landlords who respond to maintenance requests this would not lead to a catastrophe.

Laura Lew

- Commented on a petition by a tenant where the roommate moved out. The hearing officer dismissed the case. The case went to court and the tenant claimed black mold. The judge ruled in her favor. She is renting her house and is temporarily out of town. She is here due to the lack of balanced legislation.

Jeannie Llewellyn, In It Together

- Housing is a commodity. Landlords are owners. There are good and bad owners and tenants. Oakland can gain a lot more if they treat this like a business. There are laws that need oversight. When a group tries to get more control, it is like jelly. The more you squeeze the more it leaks out, which does not satisfy anyone.

Jackie Zaneri, ACCE

- Stated that Benjamin Scott did not state the law correctly. Whoever said the tenant does not have to tell you is not correct. There are laws. There is an eviction crisis. The Board is discussing whether people can stay in their homes. She agrees with the comments made by Marc Janowitz regarding principal residence and supports the tenants' rights letter.

Lucky Thomas, In It Together

- The Board has their proposals regarding the master tenant. Benjamin Scott hit the nail on the head. There are laws in place and there is no need to add anymore. The tenants have an axe to grind with JDW and are willing to grind them against them. Landlords are impacted by bad tenants just like tenants are impacted by bad landlords. Regarding Ghost Ship, his daughter had friends there.

James Vann, Oakland Tenants Union

- The Oakland Tenants Union and Tenants' Rights Coalition have submitted written comments for the Board's consideration.

Upsala Olifala

- Is neither a tenant or landlord and lives with her son in his

home. She is 75 years old. Any process that only listens to one side is unfair. There are issues regarding wrongdoing on both sides. She observes that the landlord's issues are not fairly addressed and want landlords to have fairness. She was at a City Council meeting where in an eminent domain situation the landlord was told what he could do with his property. She objects to the term "master". Anyone who wants to use the term "Ghost Ship" has the right to do so.

JR. McConnell, Jobs and Housing Coalition, McConnell Group

- Prepared a written statement and supports the changes, including the section on the principal residence.

Michael Gabriel

- Is 40 years old and retired from working for a non-profit organization. He sent many letters to the Rent Board. He heard president-elect Biden say help is on the way for mom and pop landlords. Due to COVID-19 many landlords have not received rent for months. This will drive minorities, women, and seniors out of their businesses. New owners are likely to look different. Thank small landlords who provide essential services and try to hang in there.

Phyllis Hornamen

- Are mom and pop landlords. They need the change for principal residence in Section 10.8 of Appendix A which ties in with the definition of principal residence. She had a tenant for two years before she ended the relationship. There were people in the unit that she never knew. She likes the term "primary" instead of "master."

Daniel Gonsalves

- The Ordinance does not spell out guidelines when a current tenant adds a new tenant. We need a process, at least 30 days' notice for someone moving in is needed. They want to notify other tenants who may not necessarily want to live with the other roommates.

COMMITTEE REPORTS AND SCHEDULING

5. Committee Reports and Scheduling

a) Amendments to Just Cause for Eviction Ordinance

Chair Stone stated this discussion would be deferred to the next Board meeting.

b) Amendments to the Regulations

- Definitions
  - Amend definition of principal residence 8.22.020
    - Replace “master” with “primary”.*

      Add language on intent. the individual’s usual or intended place of return.

    - Change “shall” to “may” in determining totality of circumstances.*
- Board discussion regarding purpose of section on principal residence
  - Definition is required by Section 8 of the Tenant Protection ordinance
  - Parking lot

c) Amendments to Appendix A

- Additional Occupant-allows up to 5% increase based on owner petition-Section 10.6
  - Section 10.7 provides a framework
  - Short break 6:58 p.m. to 7:05 p.m.
- Discussion regarding Board jurisdiction and clarification of Board’s role regarding the Regulations and Appendix A

6. ADJOURNMENT

The HRRRB meeting was adjourned at 7:20 p.m. by consensus.

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD

PANEL SPECIAL MEETING
January 7, 2021
5:00 P.M.
VIA ZOOM AUDIO CONFERENCE
OAKLAND, CA

MINUTES

1. CALL TO ORDER

   The Board Panel meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order at 5:00 p.m. by Chair, J. Ma Powers.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
T. HALL	Tenant			X
R. AUGUSTE	Tenant			X
H. Flanery	Tenant Alt.	X		
Vacant	Tenant Alt.			
R. STONE	Homeowner			X
A. GRAHAM	Homeowner			X
S. DEVUONO-POWELL	Homeowner			X
E. LAI	Homeowner Alt.			X
J. MA POWERS	Homeowner Alt.	X		
K. FRIEDMAN	Landlord			X
T. WILLIAMS	Landlord	X		
B. SCOTT	Landlord Alt.			X
K. SIMS	Landlord Alt.			X

Staff Present

Kent Qian	Deputy City Attorney
Barbara Kong-Brown	Senior Hearing Officer, Rent Adjustment Program
Harman Grewal	Business Analyst III, Housing and Community Development

3. OPEN FORUM

None.

4. APPEALS

a. T18-0156, Romero v. Kim

Appearances:

Jak Marquez	Owner Representative
Xavier Johnson	Tenant Representative
Brenda Romero	Tenant
Marci Valdivieso	Spanish Interpreter

PROCEDURAL BACKGROUND

On February 21, 2018 , tenant Brenda Romero filed a petition contesting several rent increases on multiple grounds, and alleging multiple decreased housing services.

The owner filed an untimely Property Owner Response on August 31, 2018, which the hearing officer determined was for good cause as the tenant petition did not state the owner's correct address.

The hearing officer found that the owner did not provide the required RAP notices, invalidated all the rent increases, and granted restitution for decreased housing services totaling $19,740.00.

GROUNDS FOR APPEAL

The owner contended that the parties executed a new lease agreement, constituting a novation of the prior oral rental agreement and the tenant signed an estoppel certificate, stating that she has one parking space, not a garage.

The tenant filed a response to the owner appeal, contending that the rent increases were invalid because the tenant never received the required RAP notices, the novation is void as the tenant's rights cannot be waived under the Rent Adjustment Ordinance, and the tenant testified that she had access to the garage at the start of her tenancy.

The owner stated that the tenant testified at the hearing that when she moved into the unit she parked in 1 parking space in front of her unit. She has continued to park there so there is no decreased housing service. She has the same parking space as when she moved in.

The tenant representative stated that California Civil Code §1632 provides that

when a lease is negotiated in a language other than English you have to give the lease in writing in the language negotiated. The landlord provided an interpreter but still has to provide the lease in the same language negotiated to provide informed consent.

Regarding parking, there was a change in the type of parking for the tenant. It was a garage format and then moved to off-site parking.

Additionally, the novation and estoppel fail because the documents do not comply with CCC §1632. Moreover, the novation is inconsistent with the Rent Ordinance, and the tenant's rights cannot be waived.

On rebuttal, the owner representative stated that the tenant not understanding English is incorrect. During the hearing, the tenant kept responding in Spanish before the interpreter interpreted the questions. The tenant representative stated that whether the tenant understood English is not relevant. When the lease is negotiated in a language other than English you have to provide the document in Spanish.

BOARD PANEL DECISION

After arguments and rebuttal made by both parties, and Board Panel discussion, T. Williams moved to affirm the hearing decision based on substantial evidence. H. Flanery seconded.

The Board Panel voted as follows:

Aye: T. Williams, H. Flanery, J. Ma-Powers
Nay: None
Abstain: None

The motion was approved by consensus.

b. T20-0037, Vega et al. v. Wash

Appearances:

Karina Mora	Tenant Representative
EL Wash	Owner

PROCEDURAL BACKGROUND

On January 1, 2020, tenants Benjamin Lepe Pena and Monica Vega filed a petition claiming a decreased housing service due to loss of two parking spaces.

In her response to the question asking if their rent was subsidized or controlled by any governmental agency, including HUD (Section 8), the tenants responded: "Yes."

The hearing officer issued an Administrative Decision dismissing the tenant petition on the grounds that the tenants admit their unit is subsidized or controlled by a governmental agency, including HUD (Section 8), and the unit is exempt from the Rent Ordinance. The Rent Adjustment Program has no jurisdiction over the exempt unit.

GROUNDS FOR APPEAL

The tenant submitted an appeal, claiming they were denied a sufficient opportunity to present their claim or respond to the petitioner's claim; they further contend they were not allowed to present evidence to substantiate their claims regarding water faucets, removal of their chairs and tables from the patio, destruction of their vegetable garden, relocating the garbage cans, and prohibiting their family and friends from parking in their driveway.

At the appeal hearing, the tenant attorney stated that she made an error in the tenant petition, and mistakenly stated that the tenants' unit was subsidized or controlled by a governmental agency, including HUD (Section 8).

The tenants withdrew their claim regarding the vegetable garden and their claim that the owner is unfit psychologically to manage rental property.

The owner argued that the tenant signed an estoppel certificate agreeing to pay an additional $150 for parking, and there is ample space for parking. If the tenant went to public storage she would have to pay for it. She also stated the tenant petition is hurtful and untrue. The RAP has jurisdiction over the tenant petition.

BOARD PANEL DECISION

After arguments and rebuttal made by both parties, and Board Panel discussion, H. Flanery moved to remand the case to the hearing officer to be heard on its merits, with an option for the rent program to combine duplicate cases at its discretion. T. Williams offered a friendly amendment to remand on good cause. H. Flanery withdrew her motion.

T. Williams moved to remand the case to the hearing officer for a hearing on its merits due to attorney error stating that the tenant's unit was subsidized, constituting good cause. J. Ma Powers offered a friendly amendment that if another petition on the matter has been filed, the hearing officer has discretion to consolidate the petitions for hearing, which was accepted. H. Flanery seconded.

The Board Panel voted as follows:

Aye: T. Williams, H. Flanery, J. Ma Powers
Nay: None
Abstain: None

The motion was approved by consensus.

c. T19-0335, Reyes v. Olivolo

Appearances:	Esmeraldo Esposo	Owner Representative
	Adama Olivolo	Tenant
	Ron Keala	Property Manager
	Sandra Reyes	Tenant
	Marci Valdivieso	Spanish Interpreter

PROCEDURAL BACKGROUND

On June 28, 2019, tenant Sandra Reyes filed a petition, contesting several rent increases, claiming she never received the notice of the existence of the Rent Adjustment Program, claiming code violations, and alleging decreased housing services, including issues with her windows, a leak in the kitchen sink, a broken stove, and old deteriorating kitchen cabinets.

The notice to the owner of the tenant petition was mailed on September 20, 2019, with a proof of service, requesting an owner response within 35 days of the date of mailing.

The owner did not file a response and did not appear at the hearing, which was conducted on January 15, 2020.

The hearing officer issued a decision invalidating the rent increases, granting restitution for rent overpayments totaling $9,650.00. She also granted restitution for decreased housing services regarding the windows and leak in the kitchen sink from items from January 1, 2020, to April 30, 2020, as well as a 4% rent reduction for ongoing decreased housing services for these items. The restitution totaled $1,368.00. Total restitution for rent overpayment and past decreased housing services totaled $11,018.00.

GROUNDS FOR APPEAL

The owner appealed the Hearing Decision on the grounds that she was denied the opportunity to present her claim or respond to the petitioner's claim.

The owner alleges that she was out of the country from January 13 to January

31, 2020, making it impossible for her to attend the hearing. She was not aware of the hearing until July 6, 2020, when she received a copy of the hearing decision.

The owner argued that her husband was dying of cancer and when he passed she was thrust into managing the property. There was no agreement to increase the tenant's rent $10 per year. She replaced the entire roof, the stairs and walkway, and installed gutters and rain guards. She understood she could raise the rent due to capital improvements.

If the tenant requested repairs she contacted Mike Hernandez, whose wife spoke Spanish, and the tenant's daughter spoke English. After she received a letter from the tenant's lawyer she tried to contact the lawyer but there was no contact reference. She attempted to contact the tenant by knocking on her door, texting the tenant's daughter, and emails, and was finally able to speak to her directly with the help of the onsite manager, to schedule repairs.

The tenant argued that she did not have any agreement with the landlord about annual rent increases and he charged whatever amounts he wanted. In March 2012 she told the landlord that the apartment was in bad condition and he responded that he would make repairs and increase her rent to market. She preferred the apartment as is because she did not want to pay more rent. When the owner died his wife raised the rent without any control, so she contacted a lawyer. Her first increase was $50, the second increase was $150.00, and the third increase was $200.00

The owner responded that the tenant's letter was hurtful, and they spent over $70,000 in improvements to the property.

The owner further stated that she never received any notice from the city about the hearing.

BOARD PANEL DECISION

After presentation of party arguments, rebuttal, questions to the party, and Board discussion, H. Flanery moved to remand the case to the hearing officer to determine whether the owner had good cause for failure to file a response to the tenant petition or appear at the hearing. If there is a finding of good cause, the hearing officer is directed to allow the owner to file a response to the tenant petition and schedule the case for a further hearing on the underlying merits of the case.

The Board Panel voted as follows:

Aye: H. Flanery, T. Williams, J. Ma Powers
Nay: None
Abstain: None

The motion was approved by consensus.

5. ADJOURNMENT

The meeting was adjourned by consensus at 7:20 p.m.

Amendments to Just Cause for Eviction Regulations (MEASURE EE, CODIFIED IN THE OAKLAND MUNICIPAL CODE at 8.22.300, *et seq*.)

8.22.360 - Good Cause Required for Eviction.

8.22.360.A.2.

a. A "material term of the tenancy" of the lease includes obligations that are implied by law into a residential tenancy or rental agreement and are an obligation of the Tenant. Such obligations that are material terms of the tenancy include, but are not limited to:
    i. Nuisance. The obligation not to commit a nuisance. A nuisance, as used in these regulations, is any conduct that constitutes a nuisance under Code of Civil Procedure § 1161 (4). Provided that a termination of tenancy for any conduct that might be included under O.M.C. 8.22.360 A4 (causing substantial damage), A5 (disorderly conduct), or A6 (using premises for illegal purpose) and which also be considered a nuisance, can follow the requirements of those sections in lieu of this section (O.M.C 8.22.360 A2). Nuisance also includes conduct by the Tenant occurring on the property that substantially interferes with the use and enjoyment of neighboring properties that rises to the level of a nuisance under Code of Civil Procedures § 1161 (4).
    ii. Waste. The obligation not to commit waste, as the term waste may be applicable to a residential tenancy under California Code of Civil Procedure § 1161. Waste, as used in these regulations, is any conduct that constitutes waste under Code of Civil Procedure § 1161 (4). Provided that a termination of tenancy for any conduct that falls under O.M.C 8.22.360 A4 (causing substantial damage) and might also be considered waste can follow the requirements of that section in lieu of this section (O.M.C 8.22360 A2).
b. Repeated Violations for Nuisance, Waste or Dangerous Conduct.
    i. Repeating the Same Nuisance, Waste, or Dangerous Conduct within 12 Months. The first time a Tenant engages in conduct that constitutes nuisance, waste or is dangerous to persons or property within any 12 month period, the Landlord must give the Tenant a warning notice to cease and not repeat the conduct. If the Tenant repeats the same or substantially similar nuisance, waste or dangerous conduct within 12 months after the Landlord served the prior notice to cease, the Landlord need not serve a further notice to cease, but may give a notice pursuant to Code of Civil Procedure § 1161 for the repeated conduct.
    ii. Repeating Different Nuisance or Waste Conduct within 24 Months. The first two times a Tenant engages in different conduct that constitutes waste or a nuisance that interferes with the right of quiet enjoyment of other Tenants at the property, the Landlord must give the Tenant a warning notice to cease and not repeat the conduct. If within 24 months after the Landlord served the first of the two notices

to cease for the waste or nuisance conduct, the Tenant again engages conduct that constitutes waste or a nuisance that interferes with the right of quiet enjoyment of other Tenants at the property, the Landlord need not serve a further notice to cease, but may give a notice pursuant to Code of Civil Procedure § 1161 for the third incident of waste or nuisance conduct.

c. By giving a Tenant a notice that the Tenant has violated a material term of tenancy, the Landlord is not precluded from also noticing a possible eviction for the same conduct under a separate subsection of O.M.C. 8.22.360 so long as the notices are not contradictory or conflicting.

d. Reasonable and Unreasonable Refusal of Tenant's Written Request to Sublet or Add Additional Occupants

i. A Landlord may reasonably deny a Tenant's request to sublease, to replace a departing tenant, or to add an additional occupant in some circumstances including but not limited to:

(1) where the Landlord resides in the same rental unit as the Tenant;

(2) where the unit is restricted as affordable housing as defined by O.M.C. Section 15.72.030 and the request to add an occupant is deemed incomplete and inadequate due to failure to provide all documentation required for qualification of such occupant and the household, after the occupant's addition, under the rules restricting the housing;

(3) where the total number of occupants in the unit exceeds (or with the proposed additional occupant(s) would exceed) the lesser of:

(i) two persons in a studio unit, three persons in a one-bedroom unit, four persons in a two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-bedroom unit; or

(ii) the maximum number permitted in the unit under state law and/or other local codes as the Building, Fire, Housing and Planning Codes;

(4) where the proposed occupant will be legally obligated to pay some or all of the rent to the Landlord and the Landlord can establish the proposed additional occupant's lack of creditworthiness, so long as the Landlord does not use more stringent criteria or processes with the proposed occupant that they or their predecessor used with any of the original or subsequent occupants;

(5) where ~~the Landlord has made a written request, which is within five (5) days of receipt of the Tenant's request, for~~ the proposed occupant does not comply within five (5) days of receipt of a written request by the Landlord to complete the

Landlord's standard form application or provide sufficient information to allow the Landlord to conduct a typical background check, if the Landlord's written request was made within five (5) days of receipt of the Tenant's request to add the proposed occupant ~~and the proposed occupant does not comply within five (5) days of receipt of the Landlord's request~~;

(6) where the Landlord can establish that the proposed occupant has intentionally misrepresented significant facts on the Landlord's standard form application or provided significant misinformation that interferes with the Landlord's ability to conduct a background check. Such misrepresentation or misinformation does not include minor discrepancies on credit reports or tenant screening reports or where the proposed occupant's background check returns other names that were undisclosed by the proposed occupant;

(7) where the Landlord can establish that the proposed occupant presents a direct threat to the health, safety or security of other residents of the property, or to the property itself;

(8) where the tenant refuses to identify the proposed occupant.

ii. A Landlord's denial of a Tenant's written request to replace a departing tenant or add an additional occupant shall be considered unreasonable in some circumstances, including but not limited to the following:

(1) denial based on the criminal history of the proposed occupant, ~~if the tenancy is not exempt from~~as prohibited by the Fair Chance Access to Housing Ordinance (O.M.C. 8.25.010 et seq or successor provisions) ~~, including for~~ This subsection shall also apply to proposed occupants who do not qualify as Applicants under the Fair Chance Access to Housing Ordinance, who also may not be denied on the basis of criminal history;

(2) denial based on requirements that are more stringent than those imposed by the Landlord on other applicants, including on the existing Tenant at the inception of the tenancy;

(3) denial based on the Tenant's refusal to agree to an extended lease term or other changes in the terms of tenancy;

(4) denial based on the proposed occupant's lack of creditworthiness, if the occupant will not be legally obligated to pay some or all of the rent to the Landlord;

(5) denial based on the Tenant's refusal to provide a copy of the subtenancy agreement to the Landlord;~~.~~

(6) denial based on the Tenant's or proposed occupant's refusal to provide information or participate in processes that are outside of the reasonable scope of the application process;

(7) denial based on the Tenant's or proposed occupant's prior acts of tenant organizing, participating in or belonging to a tenant rights organization, requesting repairs, contesting rent increases, filing a complaint with a government agency, or other exercise of legal rights under the law as a tenant.

iii. When a request to add an occupant who will be legally obligated to pay some or all of the rent to the Landlord is denied based on the proposed occupant's lack of creditworthiness, a new request to add the same occupant as a subtenant may be submitted. Such new requests made for individuals without legal obligation to pay some or all of the rent to the Landlord may not be reasonably denied based on the proposed individual's lack of creditworthiness.

Amendments to Rent Adjustment Program Regulations

8.22.020 DEFINITIONS.

~~"1946 Notice" means any notice of termination of tenancy served pursuant to California Civil Code §1946. This notice is commonly referred to as a 30-day notice of termination of tenancy, but the notice period may actually be for a longer or shorter period, depending on the circumstances.~~

~~"1946 Termination of Tenancy" means any termination of tenancy pursuant to California Civil Code § 1946.~~

~~"Anniversary Date" is the date falling one year after the day the Tenant was provided with possession of the Covered Unit or one year after the day the most recent rent adjustment took effect, whichever is later. Following certain vacancies, a subsequent Tenant will assume the Anniversary Date of the previous Tenant (OMC 8.22.080).~~

~~"Appeal Panel" means a three-member panel of board members authorized to hear appeals of Hearing Officer decisions. Appeal Panels must be comprised of one residential rental property owner, one tenant, and one person who is neither a tenant nor a residential rental property owner. Appeal Panels may be made up of all regular board members, all alternates, or a combination of regular board members and alternates.~~

~~"Banking" means any CPI Rent Adjustment (or any rent adjustment formerly known as the Annual Permissible Rent Increase) the Owner chooses to delay imposing in part or in full, and which may be imposed at a later date, subject to the restrictions in the Regulations.~~

"Base occupancy level" means the number of tenants occupying the covered unit as principal residence as of June 16, 2020, with the owner's knowledge, or allowed by the lease or rental agreement effective as of June 16, 2020, whichever is greater, except that, for units that had an initial rent established on or after June 17, 2020, "base occupancy level" means the number of tenants allowed by the lease or rental agreement entered into at the beginning of the current tenancy. When there is a new lease or rental agreement solely as a result of adding one or more additional occupants to the lease or rental agreement, the "beginning of the current tenancy" refers to the tenancy existing prior to the new lease or rental agreement regarding the additional occupant(s).

~~"Board" and "Residential Rent Adjustment Board" means the Housing, Residential Rent and Relocation Board.~~

~~"Capital Improvements" means those improvements to a Covered Unit or common areas that materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. Those improvements must primarily benefit the Tenant rather than the Owner. Capital improvement costs that may be passed through to tenants include seventy percent (70%) of actual costs, plus imputed financing. Capital improvement costs shall be amortized over the useful life of the~~

~~improvement as set forth in an amortization schedule developed by the Rent Board. Capital improvements do not include the following as set forth in the regulations: correction of serious code violations not created by the tenant; improvements or repairs required because of deferred maintenance; or improvements that are greater in character or quality than existing improvements ("gold-plating" "over-improving") excluding improvements approved in writing by the tenant, improvements that bring the unit up to current building or housing codes, or the cost of a substantially equivalent replacement.~~

~~"CPI - All Items" means the Consumer Price Index – all items for all urban consumers for the San Francisco-Oakland-San Jose area as published by the U.S. Department of Labor Statistics for the 12 month period ending on the last day of February of each year.~~

~~"CPI - Less Shelter" means the Consumer Price Index- all items less shelter for all urban consumers for the San Francisco-Oakland-San Jose area as published by the U.S. Department of Labor Statistics for the 12 month period ending on the last day of February of each year.~~

~~"CPI Rent Adjustment" means the maximum Rent adjustment (calculated annually according to a formula pursuant to OMC 8.22.070 B. 3) that an Owner may impose within a twelve (12) month period without the Tenant being allowed to contest the Rent increase, except as provided in OMC 8.22.070 B. 2 (failure of the Owner to give proper notices, decreased Housing Services, and uncured code violations).~~

~~"Costa-Hawkins" means the California state law known as the Costa-Hawkins Rental Housing Act codified at California Civil Code § 1954.50, et seq. (Appendix A to this Chapter contains the text of Costa-Hawkins).~~

~~"Covered Unit" means any dwelling unit, including joint living and work quarters, and all Housing Services located in Oakland and used or occupied in consideration of payment of Rent with the exception of those units designated in OMC 8.22.030 A as exempt.~~

~~"Debt Service" means the monthly principal and interest payments on one or more promissory notes secured by deed(s) of trust on the property on which the Covered Units are located. NOTE: Debt Service for newly-acquired units has been eliminated as a justification for new rent increases in excess of the CPI pursuant to Ordinance No. 13221 C.M.S., adopted by the Oakland City Council on April 1, 2014.~~

~~"Housing Services" means all services provided by the Owner related to the use or occupancy of a Covered Unit, including, but not limited to, insurance, repairs, maintenance, painting, utilities, heat, water, elevator service, laundry facilities, janitorial service, refuse removal, furnishings, parking, security service, and employee services.~~

"Imputed interest" means the average of the 10 year United States treasury bill rate and the 10 year LIBOR swap rate for the quarter prior to the date the permits for the

improvements were obtained plus an additional one and one-half percent, to be taken as simple interest. The Rent Program will post the quarterly interest rates allowable.

~~"Master tenant" means a tenant who resides in a covered unit, is not an owner of record of the property, and charges rent to or receives rent from one or more subtenants in the covered unit.~~

~~"Owner" means any owner, lessor or landlord, as defined by state law, of a Covered Unit that is leased or rented to another, and the representative, agent, or successor of such owner, lessor or landlord.~~

"Primary tenant" means a tenant who resides in a covered unit, is not an owner of record of the property, and charges rent to or receives rent from one or more subtenants in the covered unit.

"Principal Residence" means the one dwelling place where an individual primarily resides. Such occupancy does not require that the individual be physically present in the dwelling place at all times or continuously, but the dwelling place must be the individual's usual or intended place of return. A Principal Residence is distinguishable from one kept primarily for secondary residential occupancy, such as a pied-a-terre or vacation home, or non-residential use, such as storage or commercial use. A determination of Principal Residence shall be based on the totality of circumstances, which may include, but are not limited to, the following factors: (1) whether the individual carries on basic living activities at the subject premises; (2) whether the individual maintains another dwelling and, if so, the amount of time that the individual spends at each dwelling place and indications, if any, that residence in one dwelling is temporary; (3) the subject premises are listed as the individual's place of residence on any motor vehicle registration, driver's license, voter registration, or with any other public agency, including Federal, State and local taxing authorities; (4) utilities are billed to and paid by the individual at the subject premises; (5) all or most of the individual's personal possessions have been moved into the subject premises; (6) a homeowner's tax exemption for the individual has not been filed for a different property; (7) the subject premises are the place the individual normally returns to as his/her home, exclusive of military service, hospitalization, vacation, family emergency, travel necessitated by employment or education, incarceration, or other reasonable temporary periods of absence.

~~"Rent" means the total consideration charged or received by an Owner in exchange for the use or occupancy of a Covered Unit including all Housing Services provided to the Tenant.~~

~~"Rent Adjustment Program" means the department in the City of Oakland that administers this Ordinance and also includes the Board.~~

~~"Regulations" means the regulations adopted by the Board and approved by the City Council for implementation of this Chapter (formerly known as "Rules and~~

~~Procedures") (After Regulations that conform with this Chapter are approved they will be attached to this Chapter as Appendix B).~~

~~"Security Deposit" means any payment, fee, deposit, or charge, including but not limited to, an advance payment of~~ Rent~~, used or to be used for any purpose, including but not limited to the compensation of an Owner for a Tenant's default in payment of~~ Rent~~, the repair of damages to the premises caused by the Tenant, or the cleaning of the premises upon termination of the tenancy exclusive of normal wear and tear.~~

"Staff" means the staff appointed by City Administrator to administer the Rent Adjustment Program.

"Subtenant," for purposes of Regulation 8.22.025, means a tenant who resides with and pays rent to one or more primary~~master~~ tenants, rather than directly to the owner to whom the primary~~master~~ tenant(s) pay rent, for the housing services provided to the subtenant.

~~"Tenant" means a person entitled, by written or oral agreement to the use or occupancy of any Covered Unit.~~

~~"Uninsured Repairs" means that work done by an Owner or Tenant to a Covered Unit or to the common area of the property or structure containing a Covered Unit which is performed to secure compliance with any state or local law as to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent such repair is not reimbursed by insurance proceeds.~~

8.22.025 SUBLEASES.

A. Maximum rent for subtenants

Where one or more primary~~master~~ tenants reside with one or more subtenants in a covered unit, the maximum rent that a primary~~master~~ tenant may charge a subtenant is no more than the proportional share of the total current rent paid to the owner by the tenants for the housing and housing services to which the subtenant is entitled under the sublease. The allowable proportional share of total rent may be calculated based upon the square footage shared with and/or occupied exclusively by the subtenant; or an amount substantially proportional to the space occupied by and/or shared with the subtenant (e.g. three persons splitting the entire rent in thirds) or any other method that allocates the rent such that the subtenant pays no more to the primary~~master~~ tenant than the primary~~master~~ tenant pays to the Owner for the housing and housing services to which the subtenant is entitled under the sublease. In establishing the proper initial base rent that the subtenant is charged, additional housing services (such as utilities) provided by, or any special obligations of, the primary~~master~~ tenant, or evidence of the relative amenities or value of rooms, may be considered by the parties or the Rent Adjustment Program when deemed appropriate. Any methodology that shifts the rental burden such that the subtenant(s) pays substantially more than their square footage

portion, or substantially more than the proportional share of the total rent paid to the Owner, shall be rebuttably presumed to be in excess of the lawful limitation.

B. Petitions

Subtenants in covered units may petition the Rent Adjustment Program to contest overcharges in violation of this section, as if the primary~~master~~ tenant were the Owner. Such petitions are not subject to the timing requirements of OMC 8.22.090.A.2. Any restitution awards for subtenant overcharges are limited to the period of three years preceding the the filing of the subtenant's petition, except that no restitution shall be awarded for any period prior to [*effective date – when approved by City Council*]. This section shall not apply to agreements between primary~~master~~ tenants and subtenants that terminated prior to [*effective date – when approved by City Council*].

* * *

8.22.070 RENT ADJUSTMENTS FOR OCCUPIED COVERED UNITS.

A. Purpose

This section sets forth the Regulations for a Rent adjustment exceeding the CPI Rent Adjustment and that is not authorized as an allowable increase following certain vacancies.

B. Justifications for a Rent Increase in Excess of the CPI Rent Adjustment

Regulations regarding the justifications for a Rent increase in excess of the CPI Rent Adjustment are attached as Appendix A to these Regulations. The justifications are: banking; capital improvement costs; uninsured repair costs; increased housing service costs; additional occupant as defined by OMC 8.22.020; Tenant does not reside in the unit as their principal residence; and the rent increase is necessary to meet constitutional or fair return requirements.

* * *

8.22.090 PETITION AND RESPONSE FILING PROCEDURES.

A. Filing Deadlines

In order for a document to meet the filing deadlines prescribed by OMC Chapter 8.22.090, documents must be received by the Rent Adjustment Program offices no later than 5 PM on the date the document is due. A postmark is not sufficient to meet the requirements of OMC Chapter 8.22.090. Additional Regulations regarding electronic and facsimile filing will be developed when these filing methods become available at the Rent Adjustment Program.

B. Tenant Petition and Response Requirements

1. A Tenant petition or response to an Owner petition is not considered filed until the following has been submitted:

a. Evidence that the Tenant is current on his or her Rent or is lawfully withholding Rent. For purposes of filing a petition or response, a statement under oath that a Tenant is current in his or her Rent or is lawfully withholding Rent is sufficient, but is subject to challenge at the hearing;

b. A substantially completed petition or response on the form prescribed by the Rent Adjustment Program, signed under oath; ~~and~~

c. For Decreased Housing Services claims, organized documentation clearly showing the Housing Service decreases claimed and the claimed value of the services, and detailing the calculations to which the documentation pertains. Copies of documents should be submitted rather than originals. All documents submitted to the Rent Adjustment Program become permanent additions to the file~~.~~; and

d. Proof of service by first-class mail or in person of the tenant petition or response and any supporting documents on the owner.

2. Subtenant petitions described by Regulation 8.22.025 and Primary~~Master~~ Tenant responses to them are subject to the tenant petition and response requirements in this section. ~~Staff shall serve on respondents copies of the completed petition forms accepted for filing with notification that the petition has been filed. Staff shall serve on petitioners completed response forms accepted for filing. Attachments to petitions and responses shall not be included but will be available to review upon request of either party~~.

C. Owner Petition and Response Requirements

1. An Owner's petition or response to a petition is not considered filed until the following has been submitted:

a. Evidence that the Owner has paid his or her City of Oakland Business License Tax;

b. Evidence that the Owner has paid his or her Rent Program Service Fee;

c. Evidence that the Owner has provided written notice, to all Tenants affected by the petition or response, of the existence and scope of the Rent Adjustment Program as required by OMC 8.22.060. For purposes of filing a petition or response, a statement that the Owner has provided the required notices is sufficient, but is subject to challenge at the hearing;

d. A substantially completed petition or response on the form prescribed by the Rent Adjustment Program, signed under oath;

e. Organized documentation clearly showing the Rent increase justification and detailing the calculations to which the documentation pertains. Copies of documents

should be submitted rather than originals. All documents submitted to the Rent Adjustment Program become permanent additions to the file.; and

f. Proof of service by first-class mail or in person of the owner petition or response and any supporting documents on the tenants of all units affected by the petition. Supporting documents that exceed twenty-five (25) pages are exempt from the service requirement, provided that: (1) the owner petition form must be served by first-class mail or in person; (2) the petition or attachment to the petition must indicate that additional documents are or will be available at the Rent Adjustment Program; and (3) the owner must provide a paper copy of supporting documents to the tenant or the tenant's representative within ten (10) days if a tenant requests a paper copy in the tenant's response.

2. Primary~~Master~~ tenant responses to subtenant petitions described by Regulation 8.22.025 are not subject to the Owner response requirements in this section.~~Staff shall serve on respondents copies of the completed petition forms accepted for filing with notification that the petition has been filed. Staff shall serve on petitioners completed response forms accepted for filing. Attachments to petitions and responses shall not be included but will be available to review upon request of either party~~.

D. Time of Hearing and Decision

1. The time frames for hearings and decisions set out below are repeated from OMC 8.22.110 D.

2. The Hearing Officer shall have the goal of hearing the matter within sixty (60) days of the original petition's filing date.

3. The Hearing Officer shall have a goal of rendering a decision within sixty (60) days after the conclusion of the hearing or the close of the record, whichever is later.

E. Designation of Representative

Parties have the right to be represented by the person of their choice. A Representative does not have to be a licensed attorney. Representatives must be designated in writing by the party. Notices and correspondence from the Rent Adjustment Program will be sent to representatives as well as parties so long as a written Designation of Representative has been received by the Rent Adjustment Program at least ten (10) days prior to the mailing of the notice or correspondence. Parties are encouraged to designate their representatives at the time of filing their petition or response whenever possible.

* * *

8.22.110 HEARING PROCEDURE.

A. Postponements

1. A Hearing Officer or designated Staff member may grant a postponement of the hearing only for good cause shown and in the interests of justice. A party may be granted only one postponement for good cause, unless the party shows extraordinary circumstances.

2. “Good cause" includes but is not limited to: a. Verified illness of a party an attorney or other authorized representative of a party or material witness of the party; b. Verified travel plans scheduled before the receipt of notice of hearing; c. Any other reason that makes it impractical to appear at the scheduled date due to unforeseen circumstances or verified prearranged plans that cannot be changed. Mere inconvenience or difficulty in appearing shall not constitute "good cause".

3. A request for a postponement of a hearing must be made in writing at the earliest date possible after receipt of the notice of hearing with supporting documentation attached.

4. Parties may mutually agree to a postponement at any time. When the parties have agreed to a postponement, the Rent Adjustment Program office must be notified in writing at the earliest date possible prior to the date set for the hearing.

B. Absence Of Parties

1. If a petitioner fails to appear at a properly noticed hearing, the Hearing Officer may, in the Hearing Officer’s discretion, dismiss the case.

2. If a respondent fails to appear, the Hearing Officer may rule against the respondent, or proceed to a hearing on the evidence.

C. Record Of Proceedings

1. All proceedings before a Hearing Officer or the Rent Board, except mediation sessions, shall be recorded by tape or other mechanical means. A party may order a duplicate or transcript of the tape recording of any hearing provided that the party ordering the duplicate or transcript pays for the expense of duplicating or transcribing the tape.

2. Any party desiring to employ a court reporter to create a record of a proceeding, except a mediation session, is free to do so at their own expense, provided that the opportunity to obtain copies of any transcript are offered to the Rent Adjustment Program and to the opposing party.

D. Translation

Translation services for documents, procedures, hearings and mediations in languages other than English pursuant to the Equal Access to Services ordinance (O.M.C. Chapter 2.3) shall be made available to persons requesting such services subject to the City's ability to provide such services. In the event that the City is unable to provide such services, petitioners and respondents who do not speak or are not comfortable with English must provide their own translators. The translators will be required to take an

oath that they are fluent in both English and the relevant foreign language and that they will fully and to the best of their ability translate the proceedings.

E. Conduct Of Hearings Before Hearing Officers

1. Each party, attorney, other representative of a party or witness appearing at the hearing shall complete a written Notice of Appearance and oath, as appropriate, that will be submitted to the Hearing Officer at the commencement of the hearing. All Notices of Appearance shall become part of the record.

2. All oral testimony must be given under oath or affirmation to be admissible.

3. Each party shall have these rights:

a. To call and examine witnesses;

b. To introduce exhibits;

c. To cross-examine opposing witnesses on any matter relevant to the issues even if that issue was not raised on direct examination;

d. To impeach any witness regardless of which party called first called him or her to testify;

e. To rebut the evidence against him or her;

f. To cross-examine an opposing party or their agent even if that party did not testify on his or her own behalf or on behalf of their principal.

4. Unless otherwise specified in these Regulations or OMC Chapter 8.22, the rules of evidence applicable to administrative hearings contained in the California Administrative Procedures Act (California Government Code Section 11513) shall apply.

F. Decisions Of The Hearing Officer

1. The Hearing Officer shall make written findings of fact and issue a written decision on petitions filed.

2. If an increase in Rent is granted, the Hearing Officer shall state the amount of increase that is justified, and the effective date of the increase.

3. If a decrease in Rent is granted, the Hearing Officer shall state when the decrease commenced, the nature of the service decrease, the value of the decrease in services, and the amount to which the rent may be increased when the service is restored. When the service is restored, any Rent increase based on the restoration of service may only be taken following a valid change of terms of tenancy notice pursuant to California Civil Code Section 827. A Rent increase for restoration of decreased Housing Services is not considered a Rent increase for purposes of the limitation on one Rent increase in twelve (12) months pursuant to OMC 8.22.070 A. (One Rent Increase Each Twelve Months).

4. The Hearing Officer may order Rent adjustment for overpayments or underpayments over a period of months, however, such adjustments shall not span more than a twelve (12) month period, unless longer period is warranted for extraordinary circumstances. The following is a schedule of adjustments for underpayment and overpayments that Hearing Officers must follow unless the parties otherwise agree or good cause is shown:

a. If the underpayment or overpayment is 25% of the Rent or less, the Rent will be adjusted over 3 months;

b. If the underpayment or overpayment is 50% of the Rent or less, the Rent will be adjusted over 6 months;

c. If the underpayment or overpayment is 75% of the Rent or less, the Rent will be adjusted over 9 months;

d. If the underpayment or overpayment is 100% of the Rent or more, the Rent will be adjusted over 12 months.

5. For Rent overpayments based on an Owner's failure to reduce Rent after the expiration of the amortization period for a Capital Improvement, the decision shall also include a calculation of any interest that may be due pursuant to Reg. 10.2.5 (see Appendix A).

6. If the Landlord has petitioned for multiple capital improvements covering the same unit or building, the Hearing Officer may consolidate the capital improvements into a single amortization period and, in the Hearing Officer's discretion, determine the length for that amortization period in the Decision.

G. Administrative Decisions

For rent increase petitions based on one or more additional occupants, if there is no genuine dispute regarding any material fact, the petition may be decided as a matter of law, and the tenant waives their right to a hearing in writing on a form provided by the Rent Adjustment Program, the Hearing Officer shall issue a decision without a hearing.

RENT ADJUSTMENT BOARD REGULATIONS
APPENDIX A
EXCERPTS FROM OAKLAND CITY COUNCIL RESOLUTION NO. 71518
(SUPERSEDED)
RESIDENTIAL RENT ARBITRATION BOARD RULES AND REGULATIONS SECTIONS
2.0 AND 10.0 (all other section omitted, pages 1, 5-13, 21 omitted)

2.0 DEFINITIONS

2.1 **Additional Occupancy Level**: A number equal to the total number of occupants minus the base occupancy level, as defined by O.M.C 8.22.020 and Regulation 8.22.020.
2.2 **Base Rent**: The monthly rental rate before the latest proposed increase
2.32 **Current Rent**: To keep current means that the tenant is paid up to date on rental payments at the base rental rate.
2.43 **Landlord**: For the purpose of these rules, the term "landlord" will be synonymous with owner or lessor of real property that is leased or rented to another and the representative, agent, or successor of such owner or lessor.
2.54 **Manager**: A manager is a paid (either salary or a reduced rental rate) representative of the landlord.
2.65 **Petitioner**: A petitioner is the party (landlord or tenant) who first files an action under the ordinance.
2.76 **Respondent**: A respondent is the party (landlord or tenant) who responds to the petitioner.
2.87 **Priority 1 Condition**: The City of Oakland Housing Code Enforcement Inspectors determine housing conditions(s)/repair(s) as a "Priority 1" condition when housing condition (s)/repair(s) are identified as a major hazardous or inhabitable condition(s). A "Priority 1" condition must be abated immediately by correction, removal or disconnection. A Notice to Abate will always be issued.
2.98 **Priority 2 Condition**: The City of Oakland Housing Code Enforcement Inspectors determine housing condition(s)/repair(s) as a Priority condition when housing condition (s)/repair(s) are identified as major hazardous or inhabitable condition(s) that may be deferred by an agreement with the Housing Code enforcement Section.

2.109 The following describe five major hazard conditions classified as Priorities 1 & 2:

I. MECHANICAL

Priority 1

A. Unvented heaters
B. No combustion chamber, fire or vent hazard
C. Water heaters in sleeping rooms, bathrooms
D. Open gas lines, open flame heaters

Priority 2

A. Damaged gas appliance
B. Flame impingement, soot
C. Crimped gas line, rubber gas connections
D. Dampers in gas heater vent pipes, no separation or clearance, through or near combustible surfaces
E. Water heater on garage floor

II. PLUMBING

Priority 1

A. Sewage overflow on surface

C. T & P systems, newly or improperly installed

Priority 2

A. Open sewers or waste lines
B. Unsanitary, inoperative fixtures; leaking toilets

III. ELECTRICAL

Priority 1

A. Bare wiring, open splices, unprotected knife switches, exposed energized electrical parts
B. Evidence of overheated conductors including extension cords
C. Extension cords under rugs

Priority 2

A. Stapled cord wiring; extension cords
B. Open junction boxes, switches, outlets
C. Over-fused circuits
D. Improperly added wiring

IV. STRUCTURAL

Priority 1

A. Absence of handrail, loose, weakly-supported handrail
B. Broken glass, posing potential immediate injury
C. Hazardous stairs
D. Collapsing structural members

Priority 2

A. Garage wall separation
B. Uneven walks, floors, tripping hazards
C. Loose or insufficient supporting structural members
D. Cracked glass, leaky roofs, missing doors (exterior) and windows
E. Exit, egress requirements; fire safety

Note: Floor separation and stairway enclosures in multi-story handled on a case basis.

V. OTHER

Priority 1

A. Wet garbage
B. Open wells or unattended swimming pools
C. Abandoned refrigerators
D. Items considered by field person to be immediate hazards

Priority 2

A. Broken-down fences or retaining walls
B. High, dry weeds, next to combustible surfaces
C. Significant quantity of debris
D. Abandoned vehicles

Questions concerning permits, repairs and compliance schedules should be referred to code enforcement office of the City of Oakland -- (510) 238-3381.

10.0 JUSTIFICATION FOR ADDITIONAL RENT INCREASES

10.1 Increased Housing Service Costs: Increased Housing Service Costs are services provided by the landlord related to the use or occupancy of a rental unit, including, but not limited to, insurance, repairs, replacement maintenance, painting, lighting, heat, water, elevator service, laundry facilities, janitorial service, refuse removal, furnishings, parking, security service and employee services. Any repair cost

that is the result of deferred maintenance, as defined in Appendix A, Section 10.2.2, cannot be considered a repair for calculation of Increased Housing Service Costs.

10.1.1 In determining whether there has been an increase in housing service costs, consider the annual operating expenses for the previous two years. (For example: if the rent increase is proposed in 1993, the difference in housing service costs between 1991 and 1992 will be considered.) The average housing service cost percentage (%) increase per month per unit shall be derived by dividing this difference by twelve (12) months, then by the number of units in the building and finally by the average gross operating income per month per unit (which is determined by dividing the gross monthly operating income by the number of units). Once the percentage increase is determined the percentage amount must exceed the allowable rental increase deemed by City Council. The total determined percentage amount is the actual percentage amount allowed for a rental increase.

10.1.2 Any major or unusual housing service costs (i.e., a major repair which does not occur every year) shall be considered a capital improvement. However, any repair cost that is not eligible as a capital improvement because it is deferred maintenance pursuant to Appendix A, Section 10.2.2, may not be considered a repair for purposes of calculating Increased Housing Service Costs.

10.1.3 Any item which has a useful life of one year or less, or which is not considered to be a capital improvement, will be considered a housing service cost (i.e., maintenance and repair).

10.1.4 Individual housing service cost items will not be considered for special consideration. For example, PG&E increased costs will not be considered separately from other housing service costs.

10.1.5 Documentation (i.e., bills, receipts, and/or canceled checks) must be presented for all costs which are being used for justification of the proposed rent increase.

10.1.6 Landlords are allowed up to 8% of the gross operating income of unspecified expenses (i.e., maintenance, repairs, legal and management fees, etc.) under housing service costs unless verified documentation in the form of receipts and/or canceled checks justify a greater percentage.

10.1.7 If a landlord chooses to use 8% of his/her income for unspecified expenses, it must be applied to both years being considered under housing service cost (for example, 8% cannot be applied to 1980 and not 1981).

10.1.8 A decrease in housing service costs (i.e., any items originally included as housing service costs such as water, garbage, etc.) is considered to be an increase in rent and will be calculated as such (i.e., the average cost of the service eliminated will be considered as a percentage of the rent). If a landlord adds service (i.e., cable TV, etc.) without increasing rent or covers costs previously paid by a tenant, this is considered to be a rent decrease and will be calculated as such.

10.1.9 The transfer of utility costs to the tenant by the landlord is not considered as part of the rent increase unless the landlord is designated in the original rental agreement to be the party responsible for such costs.

10.1.10 When more than one rental unit shares any type of utility bill with another rental unit, it is illegal to divide up the bill between units. Splitting the costs of utilities among tenants who live in separate units is prohibited by the Public Utilities Commission Code and Rule 18 of PG&E. The best way

to remedy the bill is to install individual meters. If this is too expensive, then the property owner should pay the utility bill himself/herself and build the cost into the rent.

10.2 Capital Improvement Costs: Capital Improvement Costs are those improvements which materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. Those improvements primarily must benefit the tenant rather than the landlord.

10.2.1 Credit for capital improvements will only be given for those improvements which have been completed and paid for within the twenty-four (24) month period prior to the date the petition for a rent increase based on the improvements is filed.

10.2.2 Eligible capital improvements include, but are not limited to, the following items:

1. Those improvements which primarily benefit the tenant rather than the landlord. (For example, the remodeling of a lobby would be eligible as a capital improvement, while the construction of a sign advertising the rental complex would not be eligible). However, the complete painting of the exterior of a building, and the complete interior painting of internal dwelling units are eligible capital improvement costs.

2. In order for equipment to be eligible as a capital improvement cost, such equipment must be permanently fixed in place or relatively immobile (for example, draperies, blinds, carpet, sinks, bathtubs, stoves, refrigerators, and kitchen cabinets are eligible capital improvements. Hot plates, toasters, throw rugs, and hibachis would not be eligible as capital improvements).

3. Except as set forth in subsection 4, repairs completed in order to comply with the Oakland Housing Code may be considered capital improvements.

4. The following may not be considered as capital improvements:

a. Repairs for code violations may not be considered capital improvements if the Tenant proves the following:

i. That a repair was performed to correct a Priority 1 or 2 Condition that was not created by the Tenant, which may be demonstrated by any of the following:

(a) the condition was cited by a City Building Services Inspector as a Priority 1 or 2 Condition;

(b) the Tenant produces factual evidence to show that had the property or unit been inspected by a City Building Services Inspector, the Inspector would have determined the condition to be a Priority 1 or 2 Condition, but the Hearing Officer may determine that in order to decide if a condition is a Priority 1 or 2 Condition expert testimony is required, in which case the Hearing Officer may require such testimony.

ii. That the tenant

(a) informed the Owner of the condition in writing;

(b) otherwise proves that the landlord knew of the conditions, or

(c) proves that there were exceptional circumstances that prohibited the tenant from submitting needed repairs in writing; and

iii. That the Owner failed to repair the condition within a reasonable time after the Tenant informed Owner of the condition or the Owner otherwise knew of the condition.

iv. A reasonable time is determined as follows:

(a) If the condition was cited by a City Building Services Inspector and the Inspector required the repairs to be performed within a particular

time frame, or any extension thereof, the time frame set out by the Inspector is deemed a reasonable time; or

(b) Ninety (90) days after the Owner received notice of the condition or otherwise learned of the condition is presumed a reasonable time unless either of the following apply:

(1) the violation remained unabated for ninety (90) days after the date of notice to the Owner and the Owner demonstrates timely, good faith efforts to correct the violation within the ninety the (90) days but such efforts were unsuccessful due to the nature of the work or circumstances beyond the Owner's control, or the delay was attributable to other good cause; or

(2) the Tenant demonstrated that the violation was an immediate threat to the health and safety of occupants of the property, [in which case] fifteen (15) business days is presumed a reasonable time unless:

(i) the Tenant proves a shorter time is reasonable based on the hazardous nature of the condition, and the ease of correction, or

(ii) the Owner demonstrates timely, good faith efforts to correct the violation within the fifteen (15) business days after notice but such efforts were unsuccessful due to the nature of the work or circumstances beyond the Owner's control, or the delay was attributable to other good cause.

(c) If an Owner is required to get a building or other City permit to perform the work, or is required to get approval from a government agency before commencing work on the premises, the Owner's attempt to get the required permit or approval within the timelines set out in (i) and (ii) above shall be deemed evidence of good faith and the Owner shall not be penalized for delays attributable to the action of the approving government agency.

b. Costs for work or portion of work that could have been avoided by the landlord's exercise of reasonable diligence in making timely repairs after the landlord knew or should reasonably have known of the problem that caused the damage leading to the repair claimed as a capital improvement.

i. Among the factors that may be considered in determining if the landlord knew or should reasonably have known of the problem that caused the damage:

(a) Was the condition leading to the repairs outside the tenant's unit or inside the tenant's unit?

(b) Did the tenant notify the landlord in writing or use the landlord's procedures for notifying the landlord of conditions that might need repairs?

(c) Did the landlord conduct routine inspections of the property?

(d) Did the tenant permit the landlord to inspect the interior of the unit?

ii. Examples:

(a) A roof leaks and, after the landlord knew of the leak, did not timely repair the problem and leak causes ceiling or wall damage to units that could have been avoided had the landlord acted timely to make the

repair. In this case, replacement of the roof would be a capital improvement, but the repairs to the ceiling or wall would not be.

(b) A problem has existed for an extended period of time visible outside tenants' units and could be seen from a reasonable inspection of the property, but the landlord or landlord's agents either had not inspected the property for an unreasonable period of time, or did not exercise due diligence in making such inspections. In such a case, the landlord should have reasonably known of the problem. Annual inspections may be considered a reasonable time period for inspections depending on the facts and circumstances of the property such as age, condition, and tenant complaints.

iii. Burden of Proof

(a) The tenant has the initial burden to prove that the landlord knew or should have reasonably known of the problem that caused the repair.

(b) Once a tenant meets the burden to prove the landlord knew or should have reasonably known, the burden shifts to the landlord to prove that the landlord exercised reasonable diligence in making timely repairs after the landlord knew or should have known of the problem.

c. "Gold-plating" or "Over-improvements"

i. Examples:

(a) A landlord replaces a Kenmore stove with a Wolf range. In such a case, the landlord may only pass on the cost of the substantially equivalent replacement.

(b) A landlord replaces a standard bathtub with a jacuzzi bathtub. In such a case, the landlord may only pass on the cost of the substantially equivalent replacement.

ii. Burden of Proof

(a)The tenant has the initial burden to prove that the improvement is greater in character or quality than existing improvements.

(b) Once a tenant meets the burden to prove that the improvement is greater in character or quality than existing improvements, the burden shifts to the landlord to prove that the tenant approved the improvement in writing, the improvement brought the unit up to current building or housing codes, or the improvement did not cost more than a substantially equivalent replacement.

d. Use of a landlord's personal appliances, furniture, etc., or those items inherited or borrowed are not eligible for consideration as capital improvements.

e. Normal routine maintenance and repair of the rental until and the building is not a capital improvement cost, but a housing service cost. (For example: while the replacement of old screens with new screens would be a capital improvement).

<u>f. Costs for which an Owner is reimbursed (e.g., insurance, court awarded damages, subsidies, tax credits, and grants) are not capital improvement costs.</u>

10.2.3 Rent Increases for Capital Improvement costs are calculated according to the following rules:

1. For mixed-use structures, only the percent of residential square footage will be applied in the calculations. The same principle shall apply to landlord-occupied dwellings (i.e., exclusion of landlord's unit).

2. Items determined to be capital improvements pursuant to Section 10.2.2. shall be amortized over the useful life of the improvement as set out in the Amortization Schedule attached as Exhibit 1 to these regulations and the total costs shall be amortized over that time period, unless the Rent increase using this amortization would exceed the Rent increase limits provided by O.M.C. 8.22.070 A2 or 3 ~~ten percent (10%) of the existing Rent for a particular unit~~. Whenever a Capital Improvement Rent increase alone or with any other Rent increases noticed at the same time for a particular Unit exceeds the limits set by O.M.C. 8.22.070 A2 or 3 ~~ten percent (10%) in a 12-month period or thirty percent (30%) in five years~~, if the Owner elects to recover the portion of the Capital Improvement that causes the Rent Increase to exceed the limits set by O.M.C. 8.22.070 A2 or 3 ~~ten percent (10%) or thirty percent (30%)~~, the excess can only be recovered by extending the Capital Improvement's amortization period in yearly increments sufficient to cover the excess, and complying with any requirements to notice the Tenant of the extended amortization period with the initial Capital Improvement increase. The dollar amount of the rent increase justified by Capital Improvements shall be removed from the allowable rent at the end of the amortization period.

3. A monthly Rent increase for a Capital Improvement is determined as follows:

a. A maximum of seventy percent (70%) of the total cost for the Capital Improvement (plus imputed interest calculated pursuant to the formula set forth in Regulation 8.22.020) may be passed through to the Tenant;

b. The amount of the Capital Improvement calculated in a. above is then divided equally among the Units that benefit from the Capital Improvement;

c. The monthly Rent increase is the amount of the Capital Improvement that may be passed through as determined above, divided by the number of months the Capital Improvement is amortized over for the particular Unit.

4. If a unit is occupied by an agent of the landlord, this unit must be included when determining the average cost per unit. (For example, if a building has ten (10) units, and one is occupied by a nonpaying manager, any capital improvement would have to divided by ten (10), not nine (9), in determining the average rent increase). This policy applies to all calculations in the financial statement which involve average per unit figures.

5. Undocumented labor costs provided by the landlord cannot exceed 25% of the cost of materials.

6. Equipment otherwise eligible as a Capital Improvement will not be considered if a "use fee" is charged (i.e., coin-operated washers and dryers).

7. Where a landlord is reimbursed for Capital Improvements (i.e., insurance, court-awarded damages, subsidies, etc.), this reimbursement must be deducted from such Capital Improvements before costs are amortized and allocated among the units.

10.2.4 In some cases, it is difficult to separate costs between rental units; common vs. rental areas; commercial vs. residential areas; or housing service costs vs. Capital Improvements. In these cases, the Hearing Officer will make a determination on a case-by-case basis.

10.2.5 Interest on Failure to Reduce Capital Improvement Increase After End of Amortization Period.

1. If an Owner fails to reduce a Capital Improvement Rent increase in the month following the end of the amortization period for such improvement and the Tenant pays any portion of such Rent increase after the end of the amortization period, the Tenant may recover interest on the amount overpaid.

2. The applicable rate of interest for overpaid Capital Improvements shall be the rate specified by law for judgments pursuant to California Constitution, Article XV and any legislation adopted thereto and shall be calculated at simple interest.

10.3 Uninsured Repair Costs: Uninsured Repair Costs are costs for work done by a landlord or tenant to a rental unit or to the common area of the property or structure containing a rental unit which is performed to secure compliance with any state or local law as to repair damage resulting from, fire, earthquake, or other casualty or natural disaster, to the extent such repair is not reimbursed by insurance proceeds

10.3.1 Uninsured Repair Costs are those costs incurred as a result of natural causes and casualty claims; it does not include improvement work or code correction work. Improvements work or code correction work will be considered either capital improvements or housing services, depending on the nature of the improvement.

10.3.2 Increases justified by Uninsured Repair Costs will be calculated as Capital Improvement costs.

~~**10.4 Debt Service Costs**: Debt Service Costs are the monthly principal and interest payments on the deed(s) of trust secured by the property.~~

~~Debt Service for newly-acquired units has been eliminated as a justification for new rent increases in excess of the CPI, effective April 1, 2014. This restriction will not apply to any property on which the rental property owner can demonstrate that the owner made a bona fide, arms-length offer to purchase on or before April 1, 2014, the effective date of this amendment. The regulations previously in effect regarding debt service are attached to these Regulations as Exhibit 2.~~

10.~~4~~5 Rent History/"Banking"

10.~~4~~5.1 If a landlord chooses to increase rents less than the annual CPI Adjustment [formerly Annual Permissible Increase] permitted by the Ordinance, any remaining CPI Rent Adjustment may be carried over to succeeding twelve (12) month periods ("Banked"). However, the total of CPI Adjustments imposed in any one Rent increase, including the current CPI Rent Adjustment, may not exceed three times the allowable CPI Rent Adjustment on the effective date of the Rent Increase notice.

10.~~4~~5.2 Banked CPI Rent Adjustments may be used together with other Rent justifications, except Increased Housing Service Costs and Fair Return, because these justifications replace the current year's CPI increase.

10.~~4~~5.3 In no event may any banked CPI Rent Adjustment be implemented more than ten years after it accrues.

10.~~5~~6 "Fair Return"

10.~~5~~6.1 Owners are entitled to the opportunity to receive a fair return. Ordinarily, a fair return will be measured by maintaining the net operating income (NOI) produced by the property in a base year, subject to CPI related adjustments. Permissible rent increases will be adjusted upon a showing that the NOI in the comparison year is not equal to the base year NOI.

10.56.2 Maintenance of Net Operating Income (MNOI) Calculations

1. The base year shall be the calendar year 2014.
    a. New owners are expected to obtain relevant records from prior owners.
    b. Hearing officers are authorized to use a different base date, however, if an owner can demonstrate that relevant records were unavailable (e.g., in a foreclosure sale) or that use of base year 2014 will otherwise result in injustice.

2. The NOI for a property shall be the gross income less the following: property taxes, housing service costs, and the amortized cost of capital improvements. Gross income shall be the total of gross rents lawfully collectible from a property at 100% occupancy, plus any other consideration received or receivable for, or in connection with, the use or occupancy of rental units and housing services. Gross rents collectible shall include the imputed rental value of owner-occupied units.

3. When an expense amount for a particular year is not a reasonable projection of ongoing or future expenditures for that item, said expense shall be averaged with the expense level for that item for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses.

10.56.3 Owners may present methodologies alternative to MNOI for assessing their fair return if they believe that an MNOI analysis will not adequately address the fair return considerations in their case. To pursue an alternative methodology, owners must first show that they cannot get a fair return under an MNOI analysis. They must specifically state in the petition the factual and legal bases for the claim, including any calculations.

10.67 Additional Occupants

As provided by O.M.C. 8.22.020, "Additional occupant," the addition of occupants above the base occupancy level, as defined by the Rent Adjustment Ordinance, allows an owner to petition to increase the rent by an amount up to 5% for each occupant above the base occupancy level. Such petitions must be filed within ninety (90) days of approval, or deemed approval as provided by O.M.C. 8.22.360.A.2.b, of the tenant's written request to add the occupant. No rent increase shall be granted for an additional occupant who is the spouse, registered domestic partner, parent, grandparent, child, adopted child, foster child, or grandchild of an existing tenant, or the legal guardian of an existing tenant's child or grandchild who resides in the unit, or a caretaker/attendant as required for a reasonable accommodation for an occupant with a disability.

Such rent increases must be reversed by the Owner if the additional occupancy level decreases, beginning with the most recently granted increase. Once a tenant provides written notice to the Owner of a decrease in the additional occupancy level and lists all current occupants, the Owner must provide written notice within fifteen (15) days to the tenant of the applicable reduced rent, effective as of the next regular rent due date occurring no sooner than thirty (30) days after the tenant's written notice.

If there are changes in occupancy following a tenant's request to add an occupant and, prior to the Owner's 15-day rent reduction notice deadline and the Owner issuing the notice, the additional occupancy level remains the same (e.g., a departing occupant is replaced), the Owner need not issue the rent reduction notice and the rent increase granted due to the prior additional occupant shall remain in effect, until and unless the additional occupancy level decreases. When the additional occupancy level remains the same following a change in occupancy, the Owner may not be granted a new additional occupant rent increase for any additional occupant that is added. The number of rent increases for additional occupants that currently apply to the rent may not exceed the additional occupancy level.

10.~~7~~8 Tenant Not Residing in Unit as Principal Residence

An Owner who seeks to impose a rent increase without limitation because the Tenant is not residing in the unit as their principal residence must petition for approval of the unrestricted rent increase based on a determination made pursuant to a hearing that the Tenant does not reside in the unit as their principal residence as of the date the petition is filed.

Exhibit 1
Amortization Schedule

Improvement	Years	Improvement	Years
Air Conditioners	10	Heating	
Appliances		Central	10
Refrigerator	5	Gas	10
Stove	5	Electric	10
Garbage Disposal	5	Solar	10
Water Heater	5	Insulation	10
Dishwasher	5	Landscaping	
Microwave Oven	5	Planting	10
Washer/Dryer	5	Sprinklers	10
Fans	5	Tree Replacement	10
Cabinets	10	Lighting	
Carpentry	10	Interior	10
Counters	10	Exterior	10
Doors	10	Locks	5
Knobs	5	Mailboxes	10
Screen Doors	5	Meters	10
Earthquake Expenses		Plumbing	
Architectural and Engineering Fees	5	Fixtures	10
Emergency Services		Pipe Replacement	10
Clean Up	5	Re-Pipe Entire Building	20
Fencing and Security	5	Shower Doors	5
Management	5	Painting	

Tenant Assistance	5
Structural Repair and Retrofitting	
Foundation Repair	10
Foundation Replacement	20
Foundation Bolting	20
Iron or Steel Work	20
Masonry-Chimney Repair	20
Shear Wall Installation	10
Electrical Wiring	10
Elevator	20
Fencing and Security	
Chain	10
Block	10
Wood	10
Fire Alarm System	10
Fire Sprinkler System	20
Fire Escape	10
Flooring/Floor Covering	
Hardwood	10
Tile and Linoleum	5
Carpet	5
Carpet Pad	5
Subfloor	10
Fumigation	
Tenting	5
Furniture	5
Interior	5
Exterior	5
Paving	
Asphalt	10
Cement	10
Decking	10
Plastering	10
Pumps	
Sump	10
Railing	10
Roofing	
Shingle/Asphalt	10
Built-Up, Tar and Gravel	10
Tile and Linoleum	10
Gutters/Downspots	10
Security	
Entry Telephone Intercom	10
Gates/Doors	10
Fencing	10
Alarms	10
Sidewalks/Walkways	10
Stairs	10
Stucco	10
Tilework	10
Wallpaper	5
Window Coverings	5

Automatic Garage Door Openers	10	Drapes	5
Gates		Shades	5
Chain Link	10	Screens	5
Wrought Iron	10	Awnings	5
Wood	10	Blinds/Miniblinds	5
Glass		Shutters	5
Windows	5		
Doors	5		
Mirrors	5		

Exhibit 2
Debt Service: Old Regulations

10.4 Debt Service Costs: Debt Service Costs are the monthly principal and interest payments on the deed(s) of trust secured by the property.

10.4.1 An increase in rent based on debt service costs will only be considered in those cases where the total income is insufficient to cover the combined housing service and debt service costs after a rental increase as specified in Section 5 of the Ordinance. The maximum increase allowed under this formula shall be that increase that results in a rental income equal to the total housing service costs plus the allowable debt service costs.

10.4.2 No more than 95% of the eligible debt service can be passed on to tenants. The eligible debt service is the actual principal and interest.

10.4.3 If the property has been owned by the current landlord and the immediate previous landlord for a combined period of less than twelve (12) months, no consideration will be given for debt service.

10.4.4 If a property has changed title through probate and has been sold to a new owner, debt service will be allowed. However, if the property has changed title and is inherited by a family member, there will be no consideration for debt service unless due to hardship.

10.4.5 If the rents have been raised prior to a new landlord taking title, or if rents have been raised in excess of the percentage allowed by the Ordinance in previous 12- month periods without tenants having been notified pursuant to Section 5(d) of the Ordinance, the debt service will be calculated as follows:

1. Base rents will be considered as the rents in effect prior to the first rent increase in the immediate previous 12-month period.

2. The new landlord's housing service costs and debt service will be considered. The negative cash flow will be calculated by deducting the sum of the housing service costs plus 95% of the debt service from the adjusted operating income amount.

3. The percentage of rent increase justified will then be applied to the base rents (i.e., the rent prior to the first rent increase in the 12-month period, as allowed by Section 5 of the Ordinance).

10.4.6 Refinancing and second mortgages, except those second mortgages obtained in connection with the acquisition of the property, will not be considered as a basis for a rent increase under the debt service category. Notwithstanding this provision, such refinancing or second mortgage will be considered as basis for a rent increase when the equity derived from such refinancing or second mortgage is invested in the building under consideration in a manner which directly benefits the tenant (i.e., capital improvements or housing services such as maintenance and repairs) or if the refinancing was a requirement of the original purchase.

10.4.7 As in housing service costs, a new landlord is allowed up to 8% of the gross operating income for unspecified expenses.