

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
FULL BOARD SPECIAL MEETING  
December 14, 2023  
6:00 P.M.  
CITY HALL, HEARING ROOM # 1  
ONE FRANK H. OGAWA PLAZA  
OAKLAND, CA 94612**

**AGENDA**

**PUBLIC PARTICIPATION**

The public may observe 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:

When: Dec 14, 2023 06:00 PM Pacific Time (US and Canada)

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**The Zoom link is to view/listen to the meeting only, not for participation.**

**PARTICIPATION/COMMENT:**

There is one way to submit public comments:

• To participate/comment during the meeting, you must attend in-person.

Comments on all agenda items will be taken during public comment at the beginning of the meeting. Comments for items not on the agenda will be taken during open forum towards the end of the meeting.

If you have any questions, please email [hearingsunit@oaklandca.gov](mailto:hearingsunit@oaklandca.gov)

## HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD MEETING

1. CALL TO ORDER
2. ROLL CALL
3. PUBLIC COMMENT
  - a. Comments on all agenda items will be taken at this time. Comments for items not on the agenda will be taken during open forum.
4. CONSENT ITEMS
  - a. Approval of Board Minutes, 11/09/2023 (pp. 3-6)
5. INFORMATION AND ANNOUNCEMENTS
  - a. Board Training Session— *Special Topics Training* (pp.7-10)
6. SCHEDULING AND REPORTS
7. RESOLUTION ADOPTING AMENDMENTS TO THE REGULATIONS FOR THE JUST CAUSE FOR EVICTION ORDINANCE TO: (1) UPDATE RENT ADJUSTMENT PROGRAM CONTACT INFORMATION TO BE INCLUDED IN TERMINATION NOTICES; AND (2) REMOVE REGULATIONS FOR A SECTION OF THE ORDINANCE THAT NO LONGER EXISTS (pp. 11-15)
8. OPEN FORUM
9. ADJOURNMENT

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*\*Staff appeal summaries will be available on the Rent Adjustment Program's website and the City Clerk's office at least 48 hours prior to the meeting pursuant to O.M.C. 2.20.070.B and 2.20.090*

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), Spanish, Cantonese, Mandarin, or another language interpreter at least five (5) business days before the event. Rent Adjustment Program (RAP) staff can be contacted via email at [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov) or via phone at (510) 238-3721. California relay service at 711 can also be used for disability-related accommodations.

Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en Español, Cantonés, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a [RAP@oaklandca.gov](mailto: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](mailto:RAP@oaklandca.gov) 或致電 (510) 238-3721 或711 California relay service.

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
FULL BOARD SPECIAL MEETING**

**November 9, 2023**

**6:00 P.M.**

**CITY HALL**

**1 FRANK H. OGAWA PLAZA, HEARING ROOM #1  
OAKLAND, CA 94612**

**MINUTES**

**1. CALL TO ORDER**

The Board meeting was administered in-person by B. Lawrence-McGowan from the Rent Adjustment Program (RAP), Housing and Community Development Department. B. Lawrence-McGowan explained the procedure for conducting the meeting. The HRRRB meeting was called to order by Chair Ingram at 6:04 p.m.

**2. ROLL CALL**

<b>MEMBER</b>	<b>STATUS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
D. WILLIAMS	Tenant	X		
J. DEBOER	Tenant	X		
Vacant	Tenant Alt.			
M. GOOLSBY	Tenant Alt.			X
D. INGRAM	Undesignated	X		
C. OSHINUGA	Undesignated			X
M. ESCOBAR	Undesignated			X
Vacant	Undesignated Alt.			
Vacant	Undesignated Alt.			
D. TAYLOR	Landlord			X
K. BRODFUEHRER	Landlord	X		
C. JACKSON	Landlord Alt.	X*		
Vacant	Landlord Alt.			

*\*Member C. Jackson joined the meeting at 6:25 pm.*

**Staff Present**

Braz Shabrell	Deputy City Attorney
Marguerita Fa-Kaji	Senior Hearing Officer (RAP)
Briana Lawrence-McGowan	Administrative Analyst II (RAP)
Asha Reed	Office of the City Clerk
Britney Davis	Office of the City Clerk
Krystal Sams	Office of the City Clerk

**3. PUBLIC COMMENT**

- a. No members of the public spoke during public comment.

**4. CITY CLERK’S OFFICE PRESENTATION— FORM 700**

- a. Staff from the City Clerk’s office gave a brief overview and presentation on filing form 700 to the Board.

**5. CONSENT ITEMS**

- a. Approval of Board Minutes, 10/26/2023: Member J. deBoer moved to approve the Board Minutes from 10/26/2023. Member C Jackson seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, D. Williams, J. deBoer, K. Brodfuehrer, C. Jackson  
**Nay:** None  
**Abstain:** None

The minutes were approved.

**5. APPEALS\***

- a. L23-0037, Julia Apartments LP v. Tenants

No parties were present for this appeal hearing. Chair Ingram moved to postpone this appeal hearing to the end of the meeting to allow the parties more time to appear. Member C. Jackson seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, D. Williams, J. deBoer, K. Brodfuehrer, C. Jackson  
**Nay:** None  
**Abstain:** None

The motion was approved.

- b. L23-0033, 295 29th Street Owner LLC v. Tenants

Appearances: Andrew VanSlyke Owner Representative

After parties’ arguments, questions to the parties, and Board discussion,

Chair Ingram moved to remand the case back to the Hearing Officer for a hearing on the merits. The Board finds that the owner appellant has met the prerequisites to file a petition and that the 6-month standard does not apply to certificate of exemption petitions. Member C. Jackson seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, D. Williams, J. deBoer, K. Brodfuehrer, C. Jackson  
**Nay:** None  
**Abstain:** None

The motion was approved.

c. L23-0037, Julia Apartments LP v. Tenants

No parties were present for this appeal hearing. Chair Ingram moved to dismiss the owner's appeal subject to good cause for failure to appear. Member C. Jackson seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, D. Williams, J. deBoer, K. Brodfuehrer, C. Jackson  
**Nay:** None  
**Abstain:** None

The motion was approved.

## 6. INFORMATION AND ANNOUNCEMENTS

a. Board Training Session—*Rules of Evidence & Appeals*: Deputy City Attorney Braz Shabrell administered a Board training session. Topics discussed included but were not limited to:

- Evidence Submission Prior to Hearings
- Evidence at Hearings
- Hearing Officer Decisions
- Evidence on Appeal
- Standard of Judicial Review

## **7. SCHEDULING AND REPORTS**

- a. Special Topics Training—December 14, 2023: Board members discussed what they'd like their special topics training to be focused on. After Board discussion, Chair Ingram proposed learning more about the Rent Registry. Member C. Jackson proposed learning more about RAP Notice and Service Requirements. Member K. Brodfuehrer proposed learning more about RAP's petition filing and response processes and procedures.

## **8. OPEN FORUM**

- a. No members of the public spoke during open forum.

## **9. ADJOURNMENT**

- a. The meeting was adjourned at 7:24 p.m.

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## 8.22.090 Petition and response to filing procedures.

- A. Tenant Petitions and Responses.
  - 1. Tenant may file a petition regarding any of the following:
    - a. A rent increase was given that is not based on the CPI rent adjustment, banking; and/or a final decision in an owner petition;
    - b. The owner set an initial rent in excess of the amount permitted pursuant to Section 8.22.080 (Rent increases following vacancies);
    - c. A rent increase notice failed to comply with the requirements of Subsection 8.22.070H;
    - d. The owner failed to give the tenant a notice in compliance with Section 8.22.060 and State law;
    - e. The owner decreased housing services to the tenant;
    - f. The tenant alleges the covered unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations pursuant to Subsection 8.22.070 D.6;
    - g. The owner fails to reduce rent on the month following the expiration of the amortization period for capital improvements, or to pay any interest due on any rent overcharges from the failure to reduce rent for a capital improvement.
    - h. The owner noticed a rent increase that exceeds the annual limit as provided in Section 8.22.070 A.2. or that exceeds the rent increase limit of thirty percent (30%) in five (5) years.
    - i. The petition is permitted by the Just Cause for Eviction Ordinance (Measure EE) O.M.C. 8.22.300 or its regulations.
    - j. The petition is permitted by the Ellis Act Ordinance, O.M.C. 8.22.400, or its regulations.
    - k. The tenant contests an exemption from this O.M.C. 8.22, Article I or Article II.
    - l. The tenant claims the owner has received reimbursements for any portion of cost or financing of capital improvements after a capital improvement rent increase has been approved, and has not prorated and refunded such reimbursement.
    - m. After a rent increase imposed for an additional occupant as defined by Section 8.22.020, the owner fails to reduce the rent following a decrease in occupancy.
      - n. A primary tenant overcharges a subtenant in violation of the regulations. Only a subtenant may file a petition for this reason.
  - 2. For a petition contesting a rent increase, the petition must be filed as follows:
    - a. If the owner provided written notice of the existence and scope of this Chapter as required by Section 8.22.060 at the inception of tenancy:
      - i. The petition must be filed within ninety (90) days of the date the owner serves the rent increase notice if the owner provided the RAP notice with the rent increase; or
      - ii. The petition must be filed within one hundred twenty (120) days of the date the owner serves the rent increase if the owner did not provide the RAP notice with the rent increase.
    - b. If the owner did not provide written notice of the existence and scope of this Chapter as required by Section 8.22.060 at the inception of tenancy, within ninety (90) days of the date the tenant

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first receives written notice of the existence and scope of this Chapter as required by Section 8.22.060.

3. For a petition claiming decreased housing services:
  - a. If the decreased housing is the result of a noticed or discrete change in services provided to the tenant (e.g., removal of parking place, requirement that tenant pay utilities previously paid by owner) the petition must be filed within ninety (90) days of whichever of the following is later:
    - i. The date the tenant is noticed or first becomes aware of the decreased housing service; or
    - ii. The date the tenant first receives written notice of the existence and scope of this Chapter as required by Section 8.22.060.
  - b. If the decreased housing is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for ninety (90) days before the petition is filed and to the period of time when the owner knew or should have known about the decreased housing service.
4. In order to file a petition or respond to petition, a tenant, including a subtenant contesting overcharges by a primary tenant, must provide the following at the time of filing the petition or response:
  - a. A completed tenant petition or response on a form prescribed by the rent adjustment program;
  - b. Evidence that the tenant's rent is current or that the tenant is lawfully withholding rent;
  - c. A statement of the services that have been reduced or eliminated, if the tenant claims a decrease in housing services;
  - d. A copy of the applicable citation, if the tenant claims the rent increase need not be paid because the covered unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations pursuant to Section 8.22.070D.6; and
  - e. Proof of service by first-class mail or in person of the tenant petition or response and any supporting documents on the opposing party (owner, subtenant, or primary tenant).
5. A tenant must file a response to an owner's or subtenant's petition within thirty (30) days of service of the petition.

**B. Owner Petitions and Owner Responses to Tenant Petitions.**

1. In order for an owner to file a response to a tenant petition or to file a petition seeking a rent increase, the owner must provide the following:
  - a. Evidence of possession of a current City business license;
  - b. Evidence of payment of the rent adjustment program service fee;
  - c. i. Evidence of service of written notice of the existence and scope of the rent adjustment program on the tenant in each affected covered unit in the building prior to the petition being filed;
    - ii. After July 1, 2023, evidence of registration with the Rent Adjustment Program as provided in Section 8.22.510 for each affected covered unit in the building prior to the petition or response being filed;
  - d. A completed response or petition on a form prescribed by the rent adjustment program;
  - e. Documentation supporting the owner's claimed justification(s) for the rent increase or supporting any claim of exemption; and



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- 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. An owner must file a response to a tenant's petition within thirty (30) days of the service of the tenant petition.
  3. Section 8.22.090 B. shall not apply to primary tenant responses to subtenant petitions.

(Ord. No. 13710 , § 2, 12-6-2022; Ord. No. 13693 , § 3, 6-7-2022; Ord. No. 13649 , § 3, 5-18-2021; Ord. No. 13618 , § 2, 10-20-2020; Ord. No. 13608 , § 3(Att. B), 7-21-2020; Ord. No. 13516 , § 6, 1-22-2019; Ord. No. 13418 , § 1(Exh. A), 2-7-2017; Ord. No. 13391 , § 1, 9-20-2016; Ord. No. 13226 , § 1(Exh. A), 5-6-2014; Ord. 12538 § 1 (part), 2003; Ord. 12399 (part), 2002)

## REGULATIONS

### **8.22.090 PETITION AND RESPONSE FILING PROCEDURES.**

#### **A. Filing Deadlines**

1. 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.

2. Electronically filed documents must be received by the Rent Adjustment Program no later than 11:59 PM on the date the document is due.

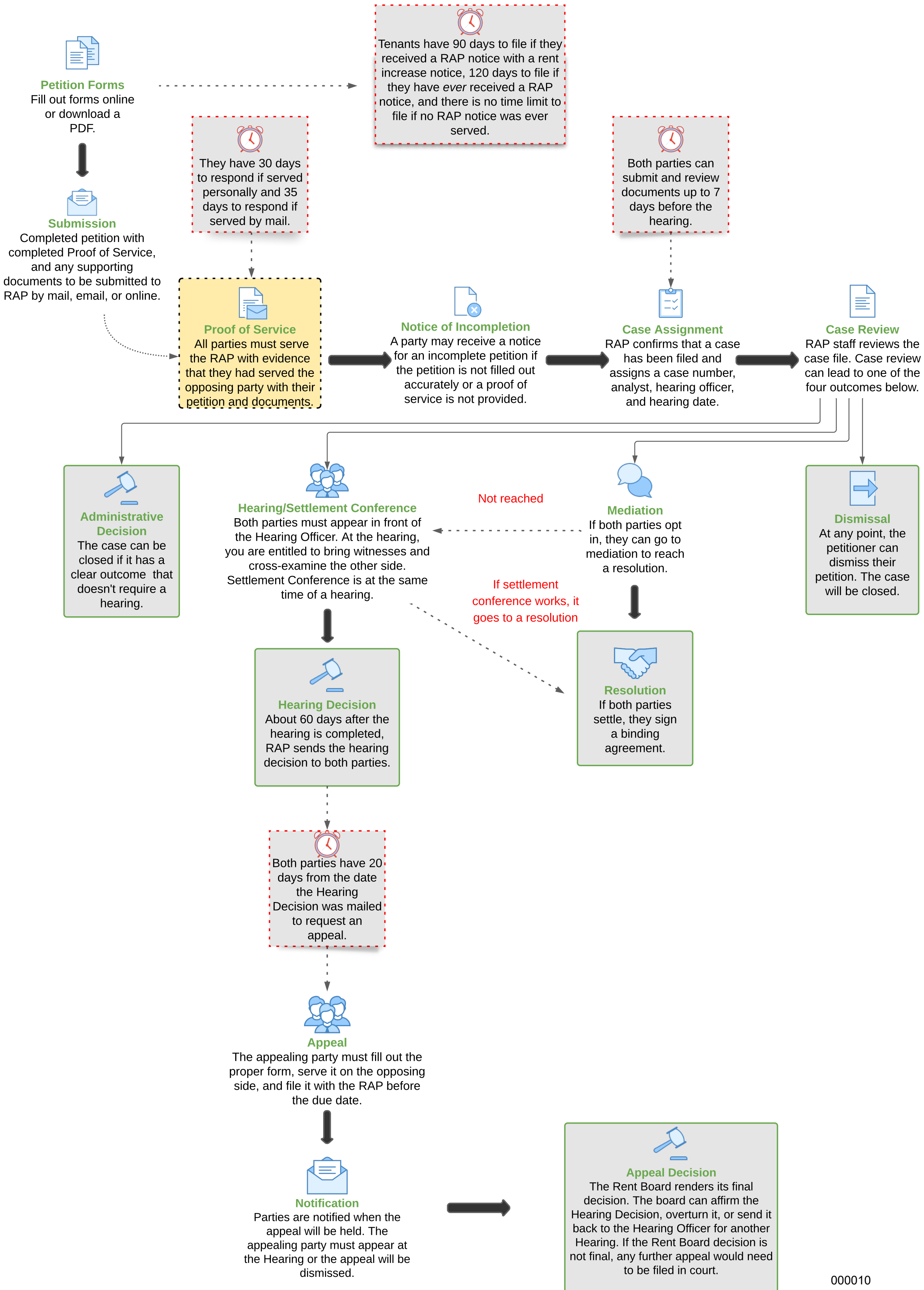
#### **B. Subtenant Petitions**

1. Primary tenant responses to subtenant petitions described by Regulation 8.22.025 are not subject to the Owner response requirements in this section.

#### **C. Supporting Documentation**

1. Petitions and responses are not considered filed until all filing requirements have been met, including the requirement to submit organized documentation justifying a rent increase or exemption. Petitions and responses that are submitted without necessary documentation may be dismissed.

2. Any additional documentation not submitted together with the petition or response must be filed and served on the other party at least seven (7) days prior to the scheduled hearing.



CITY OF OAKLAND  
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
RESOLUTION

RESOLUTION No. R23-0002

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**RESOLUTION ADOPTING AMENDMENTS TO THE REGULATIONS FOR THE JUST CAUSE FOR EVICTION ORDINANCE TO: (1) UPDATE RENT ADJUSTMENT PROGRAM CONTACT INFORMATION TO BE INCLUDED IN TERMINATION NOTICES; AND (2) REMOVE REGULATIONS FOR A SECTION OF THE ORDINANCE THAT NO LONGER EXISTS.**

**WHEREAS**, the Just Cause for Eviction Ordinance (Measure EE) (Oakland Municipal Code Section 8.22.300 et. seq) has corresponding Regulations that govern the implementation and interpretation of the Ordinance; and

**WHEREAS**, the Just Cause for Eviction Ordinance Regulations were initially adopted in 2004 and have been amended on numerous occasions since, in 2007, 2009, 2017, 2018, 2019, and 2021; and

**WHEREAS**, it is occasionally necessary to amend the Regulations to conform with amendments to the Ordinance and to otherwise ensure that the Regulations are current and accurate; and

**WHEREAS**, the Housing, Residential Rent and Relocation Board (“Rent Board”) is the body responsible for amending and adopting the Just Cause for Eviction Regulations and may do so without City Council approval; and

**WHEREAS**, Section 8.22.360(B)(6)(b) of the Regulations currently contains contact information for the Rent Adjustment Program that is not accurate and which must be updated; and

**WHEREAS**, Regulation 8.22.360(B)(6)(b) also contains confusing and somewhat inconsistent language regarding whether the statement contained within the Regulation is “preferred” or required, and the Board seeks to clarify that such statement is indeed required; and

**WHEREAS**, Section 8.22.360(C) of the Regulations currently contains regulations for a section of the Just Cause for Eviction Ordinance that no longer exists and therefore must be removed; now, therefore, be it

**RESOLVED:** That Regulation 8.22.360(B)(6)(b) of the Just Cause for Eviction Ordinance is hereby amended as set out in Attachment A; and be it

**FURTHER RESOLVED:** That Regulation 8.22.360(C)(1) of the Just Cause for Eviction Ordinance is hereby removed in its entirety as set out in Attachment B and shall be removed from the Regulation Table of Contents; and be it

**FURTHER RESOLVED:** That the Regulation amendments set forth herein shall apply to all notices served on or after January 1, 2024.

APPROVED BY THE FOLLOWING VOTE

AYES: BRODFUEHRER; DEBOER; ESCOBAR; OSHINUGA; TAYLOR; WILLIAMS;  
CHAIRPERSON INGRAM.

NOES:

ABSENT:

ABSTENTION:

\_\_\_\_\_  
Date:

ATTEST

\_\_\_\_\_  
BRIANA LAWRENCE-MCGOWEN  
Rent Adjustment Program  
Housing & Community  
Development Department

## ATTACHMENT A

### 8.22.360.B.6.b.

~~This regulation sets out the preferred language Landlords must insert into notices terminating tenancy or notices to cure or quit regarding advice from the Rent Program. As preferred language, the language used in this regulation is “safe harbor” language that, if used by a Landlord in applicable notices, cannot be challenged by the Tenant as being not in compliance with the O.M.C. 8.22.360 B.6.b. Other language imparting the same information may also be acceptable.~~

- ~~\_\_\_\_\_~~ i. ~~The following statement must be included in notices terminating tenancy or notices to cure or quit regarding advice from the Rent Program. “Information regarding evictions is available from the City of Oakland’s Rent Adjustment Program. Parties seeking legal advice concerning evictions should consult with an attorney. The Rent Adjustment Program is located at 250 Frank H. Ogawa Plaza, Suite ~~3315-5313~~, Oakland, CA 94612, ~~(510) 238-3501~~ (510) 238-3721, website: ~~www.oaklandnet.com.~~ (as of January 2004) <http://www.oaklandca.gov/RAP>.”~~

## ATTACHMENT B

### **8.22.360.C.1 – Determining Rent for a Replacement Unit.**

The Just Cause for Eviction Ordinance requires a Landlord to offer a replacement unit (if one is vacant) to a Tenant being evicted for occupancy by the owner or the owner's relative (O.M.C. 8.22.360 A.9.), or for the rehabilitation of the Tenant's unit (O.M.C. 8.22.360 A.10). This regulation addresses how to set the rent for the replacement unit in the event the Landlord and Tenant are not able to agree on the rent.

- a. ~~When the Rent Program Can Determine Rent For The Replacement Unit. The Rent Program can determine the amount of the rent for the vacant unit when the unit is not subject to vacancy decontrol under the Costa Hawkins Rental Housing Act (California Civil Code § 1954.50, et seq.) or is exempt from the Rent Adjustment Ordinance by the ordinance itself or by or Costa Hawkins. If the Landlord contends that the replacement unit was vacancy decontrolled under Costa Hawkins or is exempt, the Landlord must produce the evidence showing that the replacement unit is vacancy decontrolled or exempt. The Tenant may then contest the Landlord's evidence.~~
- b. ~~Landlord Offering Tenant Replacement Unit. A Landlord seeking to evict a Tenant for owner/relative occupancy or rehabilitation of the Tenant's unit must give the Tenant a notice of any units that are or will become available prior to the Tenant vacating the Tenant's unit. If no vacant units are available the Landlord must provide written notice so stating. The notice must include the following:~~
  - i. ~~The date the replacement unit will be vacant and available for occupancy;~~
  - ii. ~~The Landlord's proposed rent for the replacement unit.~~
  - iii. ~~The location and size of the replacement unit.~~
  - iv. ~~Whether the replacement unit is vacancy decontrolled or exempt.~~
- c. ~~Notice to Tenant of Available Vacant Unit. This notice must be served on the Tenant:~~
  - i. ~~At the time of giving the notice to terminate tenancy if the unit is vacant or the Landlord anticipates that it will become vacant prior to the Tenant's vacating.~~
  - ii. ~~Within 5 days of the Landlord's knowledge that a unit may be vacated.~~
- d. ~~Inspection of Vacant Units. The Landlord must make reasonable efforts to make any vacant units available for inspection by the Tenant.~~
- e. ~~Criteria for Setting Rent for Replacement Unit. If the Landlord does not prove the vacant unit is vacancy decontrolled or exempt, then the rent for the replacement unit will be set according to the following criteria:~~
  - i. ~~Rent for the Tenant's current unit.~~
  - ii. ~~The condition of the Tenant's unit versus the replacement unit.~~
  - iii. ~~The size and number and types of rooms.~~
  - iv. ~~Other amenities, such as view, floor, location, furnishings.~~
- f. ~~Petitions for Determining Rent for Replacement Unit.~~

- ~~i. Petitioning. A Tenant being evicted for occupancy by the Landlord or the Landlord's relative, or for major repair of the unit may contest a Landlord's proposed rent for a replacement unit (including a determination of the exempt or vacancy decontrol status of the replacement unit), by filing a petition on a form prescribed by the Rent Adjustment Program.~~
- ~~ii. Time for Petitioning. The Tenant may file the petition prior to occupying the replacement unit, but must file the petition not later than 60 days after the Tenant first starts to occupy the available vacant unit.~~
- ~~iii. Priority. The Rent Program will make efforts to prioritize the hearing on the petition.~~
- ~~iv. Landlord Response. To expedite the Tenant's petition, no formal response from the Landlord will be required until the hearing.~~
- ~~v. Conduct of Hearings. Rent Program hearings contesting the rent for an available vacant unit are conducted in accordance with the procedures set forth in Rent Adjustment Program Regulation 8.22.090.~~
- ~~vi. Appeals. The hearing officer's decision may be appealed to the Rent Board within the time frame set forth in O.M.C. 8.22.120 and in accordance with Rent Adjustment Program Regulations. Rent Program staff may assign the appeal to a panel of the Board to expedite it.~~