



**Privacy Advisory Commission**  
**April 6, 2023, 5:00 PM**  
**Oakland City Hall**  
**Hearing Room 1**  
**1 Frank H. Ogawa Plaza, 1<sup>st</sup> Floor**  
***Regular Meeting Minutes***

---

***Commission Members: District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian Hofer, Chair, District 4 Representative: Lou Katz, Vice Chair District 5 Representative: Omar De La Cruz, District 6 Representative: Gina Tomlinson, District 7 Representative: Robert Oliver, Council At-Large Representative: Henry Gage III Mayoral Representative: Jessica Leavitt***

---

*Each person wishing to speak on items must fill out a speaker's card. Persons addressing the Privacy Advisory Commission shall state their names and the organization they are representing, if any.*

1. Call to Order, determination of quorum  
A quorum was present for this meeting.
2. Review and approval of the draft March 2 meeting minutes

Chair Hofer made an amendment to the minutes. The amendment is as follows:

Item 4 second to the last paragraph, “where it says to avoid any future amendments in the resolution”, delete this language and replace with “to avoid any future potential non-compliance with the federal task force ordinance,” Chair Hofer.

Motion by Chair Hofer, Second by Commissioner Tomlinson

- D1 – abstained
- D2 – absent
- D3 – yes
- D4 – yes
- D5 – absent
- D6 - yes
- D7 - yes

At large - yes

Mayor - yes

3. Open Forum/Public Comment

- Tuan N.

4. Dept. of Housing and Community Development – Rental Registry

- a. Review for compliance with City of Oakland’s Privacy Principles and take possible action

Chair Hofer explained that the is to review the Rent Registry through the lens of the adopted Privacy Principles to make sure they comport with one another and take possible action. He requested that staff provide a high-level summary of the rent registry’s overall program and requested that the presentation focus on the data collection with an emphasis on why the city feels it justified to collect certain categories of data for the purpose of executing the registry.

Allison Pretto, Project Manager with the Rent Adjustment Program (RAP) provided an overview of the rent registry. Ms. Pretto presented a PowerPoint presentation (included in the packet April agenda packet). Her presentation included an overview of the new law, benefits of the Rent Registry, tenancy information collection and data retention.

Ms. Pretto explained that on June 21, 2022, the Oakland City Council amended the Rent Adjustment and Just Cause for Eviction Ordinances to establish a rent registry. A rent registry is a database used to collect, track, and disseminate information on rents, tenancies, and rental units. She explained that the benefits establish and makes rent data available to owners and tenants. It helps calculate allowable rent increases, supports accurate housing counseling, and increases transparency and compliance with rent laws, among other benefits. Ms. Pretto explained that many other cities in the Bay Area have rent registries and are established policies.

Ms. Pretto further explained that owners of all units subject to the Rent Adjustment Program Fee must provide rent and tenancy information for all covered units by July 2, 2023. Starting in 2024, owners of covered units must verify/update tenancy information annually by March 2.

Collection of tenancy data is needed to establish granular information, including allowable rent increases. Currently, Oakland does not have information for individual units. Once the data is collected, RAP can outreach to owners and tenants about their rights and regulations required for the program to ensure compliance. The outreach will be specific to the RAP and Just Cause Ordinances.

Tenancy data can be accessed by owners for their rental properties and no private tenant data information such as name, email or unit subsidy will be made publicly available. RAP data is valuable over time.

Ms. Pretto concluded her presentation and PAC members proceeded to ask her follow-up questions.

Chair Hofer clarified for PAC that since Privacy Principles were developed some time ago that it might be helpful to consider this information in the context of data minimization. The minimum amount of data should be collected to achieve the goal and to retain the data for the shortest amount of time possible until the goal is complete. The Chair proceeded to request that Commissioner Leavitt, raise concerns that were brought up during the ad hoc meeting, in particular a state statute.

Commissioner Leavitt followed-up on concerns raised during the ad hoc meeting regarding a state law that is a provision of the California civil code. Commissioner Leavitt interpreted the law to read that the City can require the provision of the name of the tenant, but the city can request but not compel a landlord to provide any other information regarding the tenant. It was hoped that staff would investigate the provision of the law. Begs the question, what is information regarding a tenant besides email. Commissioner Leavitt, but it could also include the subsidization of the unit, security deposit, there was a mention of other information reasonable requested. These questions need to be explored.

Staff consulted with the City Attorney's Office and its our opinion that Oakland's requirement for owners to provide tenant emails and other information does not conflict with that law as it was written prior to the passage of the Costa Hawkins Rental Housing Act. It applies to jurisdictions that control rents between tenancies. The principle of the law could be to protect tenants' privacy; however, the laws restriction on requiring other information, it only applies to the had vacancy decontrol. Oakland is a vacancy decontrol city and was never restricted by those requirements. For state law purposes, Oakland has determined it is within its rights to ask for the other information.

Commissioner Leavitt further inquired that the initial draft form cited section 1947.7 giving authority and providing the guidance that information needs to be protected. Ms. Pretto clarified that it was referring to the confidentiality of tenant data. It ensures confidentiality of tenancy data that is provided. The intent was to ensure that the information being provided will be kept confidential

Chair Hofer weighed in and stated that the Ordinance says that you shall require confidentiality. He stated that sub g says that a jurisdiction where an ordinance controls or establishes a system of controls on the price at which residential units will be offered for rent. Ms. Pretto clarified that once a tenancy ends there's no control on what the owner can charge for rent on the next tenancy. Chair Hofer indicated that he would investigate this issue further.

Commissioner Gage confirmed that the statute being referenced is civil procedure section 1947.7 sub section g. He further clarified that the email information being requested may not be needed and if the goal is to conduct outreach than informational materials can be mailed to owners. Ms. Pretto emphasized the need to educate renters and owners on housing rights, including the eviction moratorium, and providing information about the allowable three (3) percent rate increase. It was further clarified that collection of email is in the legislation.

Commissioner Suleman stated that there is precedence that other jurisdictions have created rental registries to encourage compliance with rent laws to notify renters and owners of their rights. Commissioner Suleman requested more of an analysis on the privacy risks and how to mitigate those risks. There were also concerns raised about third-party data sharing and a legitimate need for researchers to be able to access some of this data as it is valuable for policy development. However, there is always a need to continually protect individuals' privacy. She also expressed the need for a privacy harms analysis.

Ms. Pretto indicated that the third-party cloud-based developer has provided a great deal of assurance that they have very strong privacy protocols. The City has a joint contract with the software developer with other local jurisdictions, including the City of Berkeley. The software was not affected by the ransomware attack, so we have a high degree of confidence that that developer has a very strong process for maintaining data security. Ms. Pretto further emphasized that the goal of the rent registry is to understand the rental data of the city and to implement more effectively the Rent Adjustment Ordinance and the Just Cause for Eviction ordinance. The goal of collecting the data is to implement those two ordinances.

Commissioner Oliver requested to know if other city departments can request that information from RAP. Ms. Pretto indicated that only RAP staff will have access to the data. Commissioners encouraged staff to create a specific policy to protect the data collected.

Deputy City Administrator Joe DeVries made the point that it is important to contact tenants especially if the City is trying to protect their rights. It is not cost effective or environmentally friendly to mail each landlord in Oakland. Oakland is in the process of implementing the Equitable Climate Action plan and working to mitigate carbon sequestration. Electronic communication is efficient, fast, and effective.

Commissioner Oliver suggested assigning a number to each applicant as opposed to collecting email addresses with the ultimate goal of data minimization. Commissioner Suleman weighed in and indicated that the onus would be on the landlord to be honest when file numbers are assigned. and the tenant knows their number so when turnover where landlord claims that everybody has moved out like the tenants have record of what their numbers.

Chair Hofer indicated that there was no need to act on the item tonight. There was no clear consensus for moving forward on this item. The Privacy Principles were enacted before covid hit so that's why the Privacy Advisory Commission did not weigh in earlier. Chair Hofer and Joe DeVries thanked Ms. Allison Pretto for her presentation.

Public Speakers:

Chris Moore

Jeannie Llewellyn

Tuan N.

Chair Hofer change the order of the agenda and proceeded with Item 6.

Surveillance Technology Ordinance – DOT – Mobile Parking Payment Proposal

- a. Review and take possible action on the Impact Statement, proposed Use Policy, and Professional Services Agreement

Chair Hofer indicated that there was no impact statement or propose use policy in the agenda packet. Commissioners were encouraged to provide feedback on the addendum to the Professional Services Agreement that was included in the agenda packet. No action was needed during this meeting.

Commissioner Leavitt raised concerns about section 1 in the statutory framework. It states the use of protections of which the personal information is governed by the California Consumer Privacy Act (CCPA) and California Privacy Rights Act (CPRA). She raised that those statues apply to for-profit entities that meet certain thresholds of annual revenue or a certain amount personal data that they process. It is not clear that these vendors need to meet the same guidelines.

Chair Hofer confirmed that private party terms would be included as needed in addition to aspects of the city's privacy ordinances, including the Surveillance Technology Ordinance. It is important that the necessary safeguards are put into place regarding this contract. Some of the research completed by the Cleveland State Law School students could also be included.

Mr. Ford will possibly return in May with the impact statement and use agreement. The contract terms end in August and the goal is to complete the process in time to meet that deadline.

No public comment

Item 5. Federal Task Force Ordinance – OPD – Annual Reports – Review and take possible action

- b. US Marshals
- c. DEA
- d. ATF
- e. Secret Service
- f. FBI Child Exploitation
- g. FBI Violent Crimes

There were six annual reports provided by OPD. Acting Captain Yu and Acting Lieutenant Valle provided a brief presentation. Hofer asked the Commissioners for specific questions.

Commissioner Katz raised a question about celledbrite machine that falls under the FBI child exploitation annual report. The device is a data encryption tool and is only used if someone volunteers their cell phone or if a search warrant is obtained. Commissioner Katz inquired about the number of times the machine is used. Lt. Yu indicated that used approximately 10 to 20 a month and that would be approximately about 150 times per year.

Hofer moved to forward the item to City Council. The item passed unanimously.