

AGENDA REPORT

TO: FRED BLACKWELL
CITY ADMINISTRATOR

FROM: Michele Byrd

SUBJECT: Amendments to Capital
Improvement Regulations

DATE: March 25, 2014

City Administrator

Date

Approval

4/8/14

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council adopt:

1. **A Resolution Amending The Rent Adjustment Regulations To Provide For Extended Capital Improvement Amortization Periods For Rent Increases Greater Than Ten Percent, Passing Through Seventy Percent Of Capital Improvement Costs, Interest on Capital Improvement Overcharges, Administrative Penalties For Such Overcharges, And Removing the Requirement That Only One Year of Capital Improvement Increases Can be Passed Through At One Time; and**
2. **An Ordinance Amending The Rent Adjustment Ordinance (O.M.C. Chapter 8.22) To Limit Rent Increases To Ten Percent In Any One Year and Thirty Percent In Five Years And To Require Special Noticing For Capital Improvement Rent Increases.**

EXECUTIVE SUMMARY

On February 25, 2014, recommendations from the Residential Rent and Relocation Board (the Board) to amend debt service and capital improvement Regulations were presented to the Community and Economic Development Committee ("the Committee"). On March 11, a Supplemental report on amendments to capital improvement Regulations was presented to the Committee. At that time, the Committee recommended that landlord and tenant advocates meet and agree upon a compromise.

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April 22, 2014

OUTCOME

On March 18, 2014, a compromise was reached by landlord and tenant advocates. The compromise consisted of the following¹:

- I. Maximum 10% Annual Cap on All Rent Increases – 30% over five years
- II. Enhanced Noticing Requirements for all Capital Improvements, including filing with the Rent Program
- III. Eliminate debt service recognizing there is a constitutional right to a fair return.
- IV. The implementation date of the changes would be August 1, 2014, approximately 90 days after final adoption of the Ordinance for Capital Improvement changes [does not apply to debt service]

The landlord and tenant advocates signed the agreement on March 18, 2014 (*Attachment A*). However, the advocates could not agree on the percent of capital improvement costs that landlords would be entitled to pass through to tenants.

At the regularly scheduled City Council meeting on March 18, 2014, the City Council recommended the following additional changes:

1. That landlords be allowed to pass through 70 percent of capital improvement costs to tenants;
2. Landlords who fail to drop off the capital improvement increase from the rent at the expiration date will be subject to administrative penalties specified in Section 1.22850(B) and interest attached to any overcharge of rent.

The City Council moved to direct Staff to prepare revised Rent Adjustment Ordinance and Regulations and return directly to City Council on April 22, 2014.

In addition, the City Council voted 7-0 to adopt the Resolution and Ordinance in item 12.2(B) to eliminate debt service.

¹ For details under the four sections, see *Attachment A*.

ANALYSIS

Stabilizing Rents in Oakland

The goal of the Rent Ordinance is stabilize rents for individual and families in rental housing. Under the current Regulations, there are provisions that allow multiple justifications for rent increases with no caps on the amount that can be passed through to tenants. Exorbitant rent increases have resulted in the displacement of tenants.

The recommended changes to the Ordinance and Regulations would bring all rent increases to 10 percent or under, and would ensure that tenants did not receive more than a 30 percent increase within a five year period. These caps will further the goal of the Rent Ordinance to stabilize rents in Oakland without discouraging landlords from investing in Oakland's housing stock.

Impact on New Development in Oakland

New construction is exempt from rent control/stabilization laws pursuant to the Costa Hawkins State law². Therefore, the changes in the Rent Ordinance and Regulations will have no impact on buildings constructed after January 1, 1983.

Tracking Capital Improvements

The current Rent Adjustment Ordinance is complaint driven, therefore, staff has not been able to track the types of capital improvements being done or determine whether costs are being fully recovered by landlord. The recommended changes would not alter the complaint driven structure of the Ordinance; however, under the new Ordinance, landlords have the choice of filing a petition for a capital improvement rent increase or providing enhanced notices of a capital improvement rent increase and filing them with the Rent Adjustment Program (RAP). Because all notices of capital improvement rent increases will be filed with the RAP, staff will have the ability to track the types of capital improvements being done and gather other pertinent data.

Impact on Rent Adjustment Staff

The changes in the Ordinance and Regulations will require that Staff do the following:

- Conduct training for staff and contractors (Centro Legal de la Raza)

² Costa-Hawkins, California Civil Code Section 1954-50-1954 535

- Develop new forms and informational materials
- Conduct educational outreach to landlords, tenants, and non-profit landlord/tenant organizations
- Make changes to RAP database to allow tracking capital improvement data

It is difficult to assess the exact impact on Staff at this time. Staff is making a conservative projection that because of the changes there will be a 20 to 25 percent increase in petition filings by landlords and tenants. This projection includes the possibility that some landlords will opt to file petitions for capital improvement rent increases instead of submitting the special notices, and that tenants will have more grounds for filing petitions. In addition to processing more petitions, staff will be required to track capital improvements, educate the public, and respond to substantially more telephone calls, e-mail inquiries, and questions during office drop-in hours. All of these enhanced responsibilities may require additional staff.

Impact on Rent Board

With more petitions being filed, there would be more appeals to tax the Rent Board and potentially more writs filed in court to further appeal the decision. This will mean more Rent Board meetings and require additional services from the City Attorney's office.

The first analysis of the actual impact of the Ordinance and Regulations changes on Rent Adjustment staff and the Rent Board will be presented in the RAP Annual Report for FY 2014-15.

PUBLIC OUTREACH/INTEREST

Informational material will be developed and outreach performed to landlords and tenants regarding the changes to the Ordinance and Regulations.

COORDINATION

This report and recommendations were prepared in coordination with the City Attorney's Office, and the report has been reviewed by the Budget Office.

COST SUMMARY/IMPLICATIONS

Pursuant to O.M.C. 8.22.180, the RAP is funded by Program Services Fees. If additional staff is needed to implement the changes in the Ordinance and Regulations, program reserves can be used for hiring new staff.

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At this time, there is no fiscal impact from these proposed changes to the Ordinance and Regulations.

SUSTAINABLE OPPORTUNITIES

Economic:

- Preserve the affordable housing inventory for families, seniors, and disabled people in the City of Oakland;
- Protect tenants from exorbitant rent increases while encouraging owners to invest in the housing stock of the City.

Environmental:

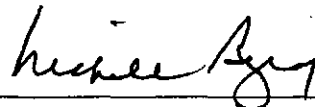
- Mitigate adverse environmental impacts resulting from existing rental housing;
- Encourage cohesion and vested interest of owners and tenants in established neighborhoods.

Social Equity:

- Improve the landscape and climate of Oakland's neighborhoods by encouraging long-term tenancies in rental housings.
- Assist low and moderate income families to save money to become homeowners.

For questions regarding this report, please contact Connie Taylor, Rent Adjustment Program Manager at (510) 238-6245.

Respectfully submitted,



Michele Byrd, Director
Department of Housing and
Community Development

Prepared by:
Connie Taylor, Program Manager
Rent Adjustment Program

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April 22, 2014

2014 APR 10 PM 3:14

CITY OF OAKLAND



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Larry Reid
Vice Mayor, District 7

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Libby Schaaf
City Council Member, District 4

(510) 238-7004

TO: Oakland City Councilmembers
FROM: Vice Mayor Reid & Councilmember Schaaf
DATE: March 18, 2014
RE: City Council Item 12.1

Colleagues in an attempt to reach consensus we held three meetings since the March 11, 2013 Community and Economic Development meeting with representatives from both the landlords and tenant advocates. Below you will find a summary of what was discussed at these meetings and the agreed upon compromise achieved through these discussions. The compromises that we have reached are truly amazing and we hope that you will support the proposed suggested changes below to our Capital Improvement program and Debt Services Agreement.

Move to direct Staff to prepare revised Oakland's Rent Adjustment Regulations and return directly to City Council in 4 weeks:

I. Maximum 10% Annual Cap on All Rent Increases*

- Five (5) years is basic (default) amortization, unless it needs to be extended by whatever number of years necessary to maintain 10% maximum rent increase on a unit by unit basis. Since pass-thru amount for general Capital Improvement is same for each unit in building, each unit may have a different amortization period (e.g., lower rent units would have a longer payoff period).
- To prevent a 'piling-up' loophole, no combination of increases can exceed 30% within a 5-year period

ATTACHMENT A

Item 12.1

**In event the CPI rent adjustment exceeds 10%, then the CPI rent adjustment may be given as rent increase but no other pass through are allowed or is necessary to meet the Constitutional and fair return requirements.

II. Enhanced Noticing Requirements for all Capital Improvements

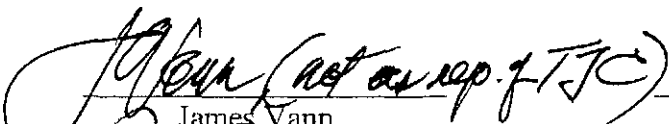
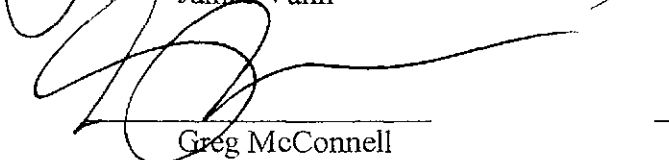
- After work is completed (as presently), Landlord will prepare and submit (1) Notice of Rent Increase (2) RAP Notice- includes ^{INFORMATION} important about your rights and how to challenge the increase (3) Summary of Capital Improvements Proposed for Pass-Thru, with improvements and costs listed by category, date improvements were completed and paid for, start and end date of rent increase and removal from tenants' rent.
- The set of 3 documents will be filed with the Rent Program, and served in advance of rent increase on each tenant affected by the capital improvement.
- Failure of Landlord to provide the required set of documents invalidates the proposed Capital Improvement rent increase for affected units.
- Landlord(s) who fail to drop off the Capital Improvement increase from rent at the expiration date will be subject to the penalty specified in Section 1.22850 (B).
- The new Capital Improvement procedures will apply to all capital improvements, whether a single unit or an entire building.
- Landlords may still file a petition for a Capital Improvement Increase in lieu of the Enhanced Notice Requirement.

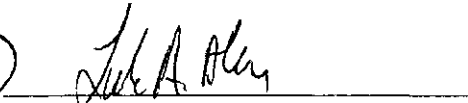
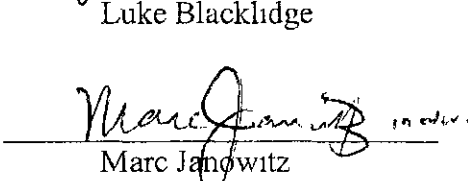
III. Debt Service

- Eliminate debt service recognizing there is a constitutional right to a fair return.

IV. Effective Date

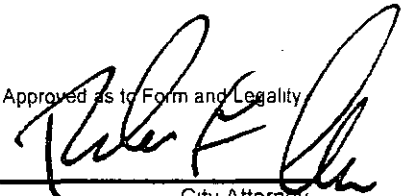
- The new Capital Improvement procedure would not be effective until 90 days following final adoption of the Ordinance.


James Vann

Greg McConnell


Luke Blacklidge

Marc Janowitz

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OAKLAND CITY COUNCIL

Approved as to Form and Legality

City Attorney

RESOLUTION No.

C.M.S.

RESOLUTION AMENDING THE RENT ADJUSTMENT REGULATIONS TO PROVIDE FOR EXTENDED CAPITAL IMPROVEMENT AMORTIZATION PERIODS FOR RENT INCREASES GREATER THAN TEN PERCENT, PASSING THROUGH SEVENTY PERCENT OF CAPITAL IMPROVEMENT COSTS, INTEREST ON CAPITAL IMPROVEMENT OVERCHARGES, ADMINISTRATIVE PENALTIES FOR SUCH OVERCHARGES, AND REMOVING THE REQUIREMENT THAT ONLY ONE YEAR OF CAPITAL IMPROVEMENT INCREASES CAN BE PASSED THROUGH AT ONE TIME

WHEREAS, under the current Rent Adjustment Ordinance and Regulations, the costs for capital improvements are amortized over 60 months (five years) and must primarily benefit the tenants; rental property owners (“owners”) are not required to file a petition for capital improvement increases, and there is no cap on the amount of capital improvement rent increase that is passed through to tenants; and

WHEREAS, an analysis of capital improvement cases over a three-year period showed that 56% of capital improvement rent increases were under 10 percent; however, 44% were greater than 10%; and

WHEREAS, in 2011 and 2012, the Housing and Residential Rent and Relocation Board held nine regular and eight capital improvement committee meetings, and Rent Adjustment Staff held a public meeting in 2013 to consider possible amendments to capital improvement Regulations that would allow for a fair and balanced application of the Regulations; and

WHEREAS, the Housing and Residential Rent and Relocation Board made recommendations to reform capital improvements; and

WHEREAS, negotiations were held with Councilmembers and representatives of owner and tenant organizations to address capital improvements and limitations on rent increases; and

WHEREAS, the City Council finds that extending capital improvement amortization periods when rent increases are in excess of ten percent and passing through seventy percent of capital improvement costs is fair and will offer tenants relief from higher rent increases while still permitting owners reasonable recovery on their capital improvement expenses; and

WHEREAS, the City Council finds that owners benefit from capital improvements by extending the life of their real property, improving the ability to recover higher rents, avoiding property deterioration, and having the possibility of income tax benefits; and

WHEREAS, tenants benefit from capital improvements by having a more livable home, and being safer,

and more comfortable in their home; and

WHEREAS, because owners and tenants both benefit from capital improvements and owners get market rate rent increases upon tenant vacancies, the City Council believes it is appropriate for them to share the cost of capital improvements and that a share of thirty percent paid by owners and seventy percent passed through to tenants is fair and appropriate; and

WHEREAS, the City Council finds that the amendments to capital improvement Regulations will further the Rent Adjustment Ordinance's purpose of preventing excessive rent increases while still enabling owners to reasonably recover the cost of capital improvements; and

WHEREAS, owners are required to remove capital improvement rent increases from tenants' rent after the end of the amortization period, and to incentivize owners to do so and to compensate tenants for the loss of use of funds when owners do not reduce rent following the end of a capital improvement amortization period, interest should be awarded to tenants on such overcharges, equivalent to the interest on court judgments, and to authorize administrative citations or penalties for an owner's failure to reduce the capital improvement pass-through upon expiration of the amortization period; and

WHEREAS, under current capital improvement regulations, owners are limited to charging one year of capital improvement cost in one rent increase, and the City Council finds that with the adoption of ten percent annual and thirty percent within five year rent increase limitations, the one year capital improvement pass-through limit is no longer necessary, but the requirement for capital improvements to be passed through within 24 months remains; and

WHEREAS, this action is exempt from the California Environmental Quality Act ("CEQA") under the following, each as a separate and independent basis, including but not limited to, the following: CEQA Guidelines Section 15378 (regulatory actions), Section 15061 (b) (3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning); now, therefore be it

RESOLVED: That the City Council hereby adopts the amendments to the Rent Adjustment Regulation 10.2 (Appendix A) as provided in Exhibit B to provide for extended amortization periods for increases greater than ten percent, passing through seventy percent of capital improvement costs; interest on capital improvement overcharges, and administrative penalties for such overcharges; and be it

FURTHER RESOLVED: This action is exempt from the California Environmental Quality Act ("CEQA") under the following, each as a separate and independent basis, including but not limited to, the following: CEQA Guideline Section 15378 (regulatory actions), Section 15061 (b) (3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning); and be it

FURTHER RESOLVED: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have passed this Resolution and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional; and be it

FURTHER RESOLVED: This Resolution shall only take effect if the City Council enacts proposed amendments to O.M.C. Chapter 8.22 regarding annual rent increase limitations and capital improvement noticing requirements, and will take effect only when that ordinance is implemented pursuant to its terms; and be it

FURTHER RESOLVED: The Regulation amendments provided for in this Resolution shall only apply to capital improvements on which either permits have been taken out and work commenced on or after the implementation date of this Ordinance, or, if no permits are required, then only to capital improvements on which actual work started on or after the implementation date.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST _____

LaTonda Simmons

City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit B

AMENDMENTS TO RENT ADJUSTMENT REGULATIONS [Added text is underlined, deleted text is struck through]

Reg. 8.22.110 HEARING PROCEDURE.

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 (Appendix A).

Reg. 8.22.170 GENERAL REMEDIES.

A. Administrative Citation

2. Violations Subject to Administrative Citation. Violations of the specific provisions of OMC Chapter 8.22 set forth in this Regulation are subject to administrative citation. The provisions of OMC Chapter 8.22 subject to administrative citation are:

j. Failure to remove a Capital Improvement Rent increase on the first month following the end of the amortization period.

Appendix A

10.2 Capital Improvement Costs: Capital Improvement Costs are those improvements which materially add to the value of the property and appreciable 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 of the proposed rent increase. ~~However, no more than twelve (12) months of capital improvement costs may be passed on to a tenant in any twelve (12) month period.~~

~~For example: In year one a landlord makes a capital improvement by replacing a roof. In year two the landlord makes another capital improvement by painting the exterior of the building. The landlord would not be able to pass on the roof and exterior painting capital improvement costs during the same year, but would have to pass them on in separate years, subject to the twenty-four (24) month time limitations.~~

...

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 defined as Capital Improvements will be given a useful life period of five (5) years or sixty (60) months and the total costs shall be amortized over that time period, unless the Rent increase using this amortization would exceed 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 ten percent (10%) or thirty (30%) in five years, if the Owner elects to recover the portion of the Capital Improvement that causes the Rent Increase to exceed ten percent (10%) or thirty (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. When a Rent increase that includes a Capital Improvement increase does not exceed ten percent (10%) or thirty (30%), the amortization period remains five (5) years. The dollar amount of the rent increase justified by Capital Improvements shall be reduced/removed from the allowable rent in the sixty-first month or at the end of an extended 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 (including financing) may be passed through to the Tenant;

b. of 1/60th of the average per unit capital improvement cost is allowable;
The amount of the Capital Improvement calculated in a. above is then divided equally among the Units that benefit from the Capital Improvement that is, the landlord may divide the total cost of the capital improvement by 60 and then divide this monthly increase equally among the units which benefited from the improvement (i.e., a roof benefits all units.)

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 be 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. If the capital improvements are finished with a loan to make capital improvements which term exceeds five (5) years (sixty (60) months), the following formula for the allowable increase is: monthly loan-payment divided by number of units.

8. 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.

...

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

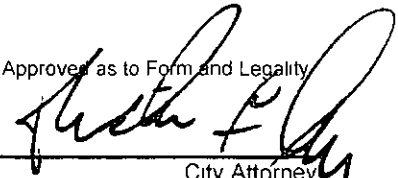
1. If an Owner fails to reduce a Capital Improvement Rent increase in the month following the end of the amortization period for such improvement and the Tenant pays any portion of such Rent increase after the end of the amortization period, the Tenant may recover interest on the amount overpaid.

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.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2014 APR 10 PM 3 OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

ORDINANCE No.

C.M.S.

AN ORDINANCE AMENDING THE RENT ADJUSTMENT ORDINANCE (O.M.C. CHAPTER 8.22) TO LIMIT RENT INCREASES TO TEN PERCENT IN ANY ONE YEAR AND THIRTY PERCENT IN FIVE YEARS AND TO REQUIRE SPECIAL NOTICING FOR CAPITAL IMPROVEMENT RENT INCREASES

WHEREAS, under the current Rent Adjustment Ordinance and Regulations, the cost of capital improvements are amortized over 60 months (five years) and must primarily benefit the tenants; rental property owners (“owners”) are not required to file a petition for capital improvement increases, and there is no cap on the amount of capital improvement rent increase that is passed through to tenants, and

WHEREAS, an analysis of capital improvement cases over a three-year period showed that 56% of capital improvement rent increases were under 10 percent; however, 44% were greater than 10%, and

WHEREAS, in 2011 and 2012, the Housing Residential Rent and Relocation Board held nine regular and eight capital improvement committee meetings, and Rent Adjustment Staff held a public meeting in 2013 to consider possible amendments to capital improvements Regulations that would allow for a fair and balanced application of the Regulations; and

WHEREAS, negotiations were held with Councilmembers and representatives of landlord and tenant organizations to address capital improvements and limitations on rent increases; and

WHEREAS, the City Council finds that annual rent increases in excess of ten percent and increases of more than thirty percent in five years are often onerous to tenants and potentially can lead to tenant displacement; and

WHEREAS, the City Council finds additional noticing requirements for capital improvements rent increases, as an alternative to owners filing petitions, would benefit tenants by providing them with more information on justifications for capital improvements, which may result in fewer tenants filing petitions to contest such rent increases, and

WHEREAS, the City Council finds filing capital improvement rent increase notices with the Rent Program will improve enforcement and provide more information for future rent adjustment policy purposes;

WHEREAS, owners and tenants need information on the Rent Ordinance changes, and Rent Program staff need time to develop informational materials and forms, and perform outreach to owners and tenants on the new changes;

WHEREAS, this action is exempt from the California Environmental Quality Act (“CEQA”) under the following, each as a separate and independent basis, including but not limited to, the following: CEQA Guidelines Section 15378 (regulatory actions), Section 15061 (b) (3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning);

Now, therefore, the Council of the City of Oakland does ordain as follows:

Section 1: The City Council hereby adopts the amendments to Oakland Municipal Code Chapter 8.22, attached as Exhibit A hereto, to limit annual rent increases to ten percent, to limit rent increases over a five-year period to thirty percent, and provide additional noticing requirements for capital improvement rent increases.

Section 2: This Ordinance takes effect seven (7) days after final adoption, unless it has been passed with at least six (6) votes, in which case it takes effect immediately upon adoption.

Section 3: Delayed implementation. This Ordinance will not be implemented until August 1, 2014 nor apply to any rent increase noticed prior to that date.

Section 4: Grandparented Capital Improvement Rent Increases. This Ordinance shall only apply to capital improvements on which either permits have been taken out and work commenced on or after the implementation date of this Ordinance, or, if no permits are required, then only to capital improvements on which actual work started on or after the implementation date.

Section 3: This action is exempt under the California Environmental Quality Act (“CEQA”) pursuant to, but not limited to the following CEQA Guidelines: Section 15378 (regulatory actions), Section 15061 (b) (3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan).

Section 4: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, and
PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION _____

Exhibit A

Amendments to O.M.C. Chapter 8.22, Rent Adjustment Ordinance

[Added text is underlined, deleted text is struck out (Section references underlined in original)]

8.22.070 Rent adjustments for occupied covered units.

This section applies to all rent adjustments for continuously occupied covered units (Rent increases following vacancies of covered units are governed by Section 8 22 080) Any rent increase for a continuously occupied covered unit must comply with this section

A. A. One Rent Increase Each Twelve Months and Limitations

- 1 An Owner may increase the Rent on a Covered Unit occupied continuously by the same Tenant only once in a twelve (12) month period. Such rent increase cannot take effect earlier than the tenant's anniversary date.
- 2 No individual Rent increase can exceed the existing Rent by more than ten percent (10%) in any twelve month period for any and all Rent increases based on the CPI Rent Adjustment, as set out in, O M C 8 22 070B (CPI Rent Adjustment), and any justifications pursuant to O M C 8 22 070C 2 (Rent Increases In Excess of CPI Rent Adjustment) except for the following.
 - a A Rent increase based on the CPI Rent Adjustment for the current year that exceeds ten percent (10%), provided however that such Rent increase may only include a CPI Rent Adjustment.
 - b The Rent increase is required for the Owner to obtain a fair return pursuant to O M C 8 22 070C 2 f.
- 3 No series of Rent increases in any five (5) year period can exceed thirty percent (30%) for any Rent increases based on the CPI Rent Adjustment, as set out in, O M C 8 22 070B (CPI Rent Adjustment) and any justifications pursuant to O M C 8 22 070C 2 (Rent Increases In Excess of CPI Rent Adjustment) except for the following.
 - a A series of Rent increases composed solely of CPI Adjustments may exceed the thirty percent (30%) limitation.
 - b Exceeding the thirty percent (30%) limitation is required for the Owner to obtain a fair return pursuant to O M C 8 22 070C.2 f.
- 4 If an Owner is entitled to a Rent increase or increases that cannot be taken because of the Rent increase limitations pursuant to 2 or 3, above, the Owner may carry such amount or amounts over to a future period, provided that in the Rent increase notice that limits the Owner's ability to take the increases, the Owner must identify the justification and the amount or percentage of the carry over that may be applied in the future.

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H Notice Required to Increase Rent or Change Other Terms of Tenancy

- 1 As part of any notice to increase rent or change any terms of tenancy, an owner must include
 - a Notice of the existence of this chapter,
 - b The tenant's right to petition against any rent increase in excess of the CPI Rent Adjustment,
 - c For all Rent increases other than one solely based on Capital Improvements When an owner notices a rent increase in excess of the CPI Rent Adjustment, the notice must include a statement that the owner must provide the tenant with a summary of the justification for the amount of the rent increase in excess of the CPI Rent Adjustment if the tenant makes a written request for such summary Requirements for Rent increase notices for Capital Improvements are set out in subparagraph d below
 - i If a tenant requests a summary of the amount of the rent increase in excess of the CPI Rent Adjustment, the tenant must do so within thirty (30) days of service of the rent increase notice,
 - ii The owner must respond to the request with a written summary within fifteen (15) days after service of the request by the tenant
 - d. Additional Notice Required for Capital Improvement Rent Increase
 - i In addition to any other information or notices required by this Chapter 8 22 or its Regulations, or by state law a notice for a Rent increase based on a capital improvement(s) (other than after an Owner's petition) must include the following
 - (a) The type of Capital Improvement(s).
 - (b) The total cost of the Capital Improvement(s).
 - (c) The completion date of the Capital Improvement(s).
 - (d) The amount of the Rent increase from the Capital Improvement(s).
 - (e) The start and end of the amortization period
 - ii Within ten (10) working days of serving a Rent increase notice on any Tenant based in whole or in part on Capital Improvements, an Owner must file the notice and all documents accompanying the notice with the Rent Adjustment Program Failure to file the notice with this period invalidates the Rent increase
 - iii The above noticing requirement for Capital Improvements is an alternative to an Owner filing an Owner's petition for a Capital Improvement Rent increase and this noticing is not required after a Capital Improvement Rent increase has been approved through an Owner's petition.
 - de If the increase exceeds the CPI Rent Adjustment, the notice must state the amount of the increase constituting the CPI Rent Adjustment If the amount constituting the CPI

Rent Adjustment is not separately stated the tenant is not required to pay the amount of the CPI Rent Adjustment while a petition challenging the rent increase is pending

f The Rent Adjustment Program may provide optional, "safe harbor" forms for required notices, unless the Ordinance or Regulations require use of a specified form.

- 2 A notice to increase rent must include the information required by 8 22 070H 1 using the language and in a form prescribed by the Rent Adjustment Program
- 3 A rent increase is not permitted unless the notice required by this section is provided to the tenant An owner's failure to provide the notice required by this section invalidates the rent increase or change of terms of tenancy This remedy is not the exclusive remedy for a violation of this provision If the owner fails to timely give the tenant a written summary of the basis for a rent increase in excess of the CPI Rent Adjustment, as required by Section 8 22 070 H 1 c, the amount of the rent increase in excess of the CPI Rent Adjustment is invalid

8.22.090 Petition and response filing procedures.

A. Tenant Petitions

1. Tenant may file a petition regarding any of the following:

- a A rent increase exceeds the CPI Rent Adjustment, including, without limitation circumstances where:
 - b The owner failed to timely give the tenant a written summary of the basis for a rent increase in excess of the CPI rent adjustment as required by Section 8 22 070 H 1 c; and
 - ii The owner set an initial rent in excess of the amount permitted pursuant to Section 8 22 080 (Rent increases following vacancies);
 - iii A rent increase notice fails to comply with the requirements of Section 8 22 070H,
 - iv The owner failed to give the tenant a notice in compliance with Section 8 22 060
 - v The owner decreased housing services to the tenant;
 - vi 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 Section 8 22 070 D 7,
 - vii 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
 - viii The Owner noticed a Rent increase of more than the ten percent (10%) annual limit or that exceeds the Rent increase limit of thirty percent (30%) in five (5) years
- hb The tenant claims relocation restitution pursuant to Section 8 22 140 C 1
- ci The petition is permitted by the Just Cause for Eviction Ordinance (Measure EE) O M C 8 22 300
- jd The petition is permitted by the Ellis Act Ordinance, O.M.C 8 22 400
- e k The tenant contests an exemption from this O M C 8 22, Article I

Table of Amendments to Rent Adjustment Ordinance and Regulations Per Council Motion of
March 18, 2014

Change	Ord. or Reg.	Section
10% Cap on Rent Increase	Ord.	OMC 8.22.070A.2
10% cap excludes CPI alone over 10%	Ord.	OMC 8.22.070A.2.a
10% cap excludes fair return	Ord.	OMC 8.22.070A.2.b
30% five year cap	Ord.	OMC 8.22.070A.3
Carry over rent increase exceeding cap	Ord.	OMC 8.22.070A.4
Capital Improvement - Rent Increase Notices	Ord.	OMC 8.22.070H.1.c & d
Capital Improvement – Items in notice	Ord.	OMC 8.22.070H.1.d.i
Capital Improvement – Filing notice with Rent Program	Ord.	OMC 8.22.070H.1.d.ii
Capital Improvement – Alternative to Owner petition.	Ord.	OMC 8.22.070H.1.d.iii
Staff can prepare sample notices	Ord.	OMC 8.22.070H.1.e
Capital improvement – petitions for failure to reduce rent	Ord.	OMC 8.22.090A.1.a.vii
10% & 30% Cap – tenant petitions	Ord.	OMC 8.22.070A.1.a.viii
Capital improvements – Hearing Officer decisions for failure to reduce rent	Reg.	Reg. 8.22.110F.5.
Capital Improvement – Citation for failing to reduce rent	Reg.	Reg.8.22.170A2.j
Capital Improvement – Elimination of 12 month requirement for increases		
Capital Improvement – Extended amortization	Reg.	Reg. Appendix A 10.2.3(2) & (3)b & c
Capital Improvement – 70% pass-through	Reg.	Reg. Appendix A 10.2.3(3)a
Capital Improvement – Interest on failure to reduce	Reg.	Reg. Appendix A 10.2.5(1) & (2)
Ord. Implementation date – August 1, 2014	Ord. Section 2	
Ord. Grandparent clause	Ord. Section 3	
Reg. Implementation date – same as ordinance	Resolved 4	
Reg. Grandparent clause – same as ordinance	Resolved 5	