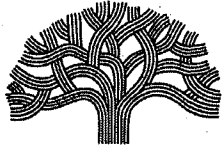


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2019 MAR 14 AM 10:20



CITY OF OAKLAND

## AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Michele Byrd  
Director

**SUBJECT:** RAP Fee Increase

**DATE:** February 19, 2019

City Administrator Approval

Date:

3/7/19

### RECOMMENDATION

**Staff Recommends That The City Council Approve An Ordinance Amending Ordinance No. 13497 C.M.S. (The 2018-19 Master Fee Schedule) To Increase The Rent Adjustment Program Service Fee From \$68.00 Per Unit To \$101.00 Per Unit.**

### EXECUTIVE SUMMARY

The Oakland Rent Adjustment Program (RAP) implements the Oakland Rent Adjustment Program Ordinance passed by the voters in 1980. Since then, the scope of RAP expanded with the voter-passed Just Cause for Eviction Ordinance (Just Cause) and the City Council's adoption of procedures regulating the withdrawal of rental units from the rental market (Ellis Act evictions) in 2003. As rents have dramatically increased and displacement and homelessness have reached crisis proportions, both the City Council and the voters have passed new ordinances in response to these needs. More rental units have been brought under the protection of the Rent Adjustment and Just Cause Ordinances by Measure JJ and Measure Y, and the Tenant Protection Ordinance, Uniform Relocation Ordinance and the Tenant Move-Out Ordinance all contemplate active administrative enforcement by RAP.

The result has greatly expanded the demands on RAP as it carries out its mission and dual responsibility to monitor and protect against unwarranted rent increases and evictions while continuing to attract persons who are willing to invest in residential rental properties and ensuring that property owners receive a fair return on their investment.

Between November 2017 and October 2018, RAP has had a vacancy in its key leadership position, the RAP Manager. This vacancy made it difficult to address the increasing demands and operate proactively. The RAP Manager hired in October 2018 possesses in-depth experience and has both a legal and programmatic background. She is leading the unit to

Item: \_\_\_\_\_  
Finance & Management Committee  
March 19, 2019

implement several new approaches that address these increased demands and will ensure that the program is well understood in the community, easy to use and transparent, and engages in enforcement to ensure compliance with the laws and regulations passed by the voters and the City Council.

There are two programmatic models for approaching the regulation of the landlord-tenant relationship: passive enforcement and active enforcement. Currently, Oakland uses the passive enforcement model, offering limited public information and enforcing its regulations only in response to complaints. An active enforcement model on the other hand, uses extensive outreach to inform tenants and owners about their rights and obligations under the law, maintains full and accurate records through reporting requirements for initial rents and eviction proceedings, ensures information provided by owners is also sent to current tenants for review, provides robust mediation and dispute resolution services, and encourages compliance rather than trying to mitigate conflict on the back-end. The new measures outlined above demonstrate a mandate to move toward active enforcement of the local laws.

***What will the proposed fee increase do?***

The proposed fee increase of \$33 per unit (from \$68 to \$101) will allow Oakland to move from passive enforcement to an active model, while enabling staff to provide efficient, accurate, enhanced, and more effective services to the public. Specifically, the additional resources deployed as a result of the proposed RAP fee increase would create a strengthened program so that it is equipped to proactively enforce the ordinances under its charge and meet increased demands at an optimal level, with updated and modernized policies, procedures, and practices.

The fee increase will also address the remaining outstanding RAP audit findings. To date, three of the 10 findings have been addressed. Five of the remaining seven findings rely on this fee increase in order to implement them in a complete and timely manner. **Attachment A** is a review of the audit findings, progress in addressing them, and the way in which this proposed fee increase would facilitate the closing of the remaining findings.

Finally, the proposed fee increase will facilitate the staffing needed to address increased work volume resulting from various recently adopted measure, including the most recent Measure Y and the mandatory seismic retrofit ordinance. The former increases the number of units covered by Just Cause, and the latter will generate an uptick in capital improvement petitions.

The expected outcomes are summarized below and further detailed in **Table 5**, which provides a quantitative analysis of the "level of service" improvements that the increased fee will deliver as compared to current levels of service.

- Improved service to the public as evidenced by timely processing of petitions, scheduling of hearings, and rendering of decisions;
- Increased and enhanced outreach efforts, as evidenced by expanded drop-in hours, increased informational seminars, workshops, and community presence;
- Increased utilization of less costly alternative methods to resolve disputes through creation of a mediation program;
- Improved timelines in addressing public inquiries;

- Improved RAP fee collection and monitoring of covered units and their rental rates;
- Increased awareness and understanding of Oakland's Rent Adjustment, Just Cause, and related laws, as evidenced through enhanced, user-friendly public facing materials;
- Improved accuracy and quality control in all aspects of the program;
- Increased monitoring for compliance; and
- Enhanced ability to collect, analyze, and distribute data

While the fee increased in 2016 from \$30 per unit to \$68 per unit, in large part this increase only ensured that the program fully covered existing costs at that time. The 2016 Agenda Report pertaining to the fee increase concluded the following: *"The scenarios described in this supplemental report do not account for the staffing needed to address the current backlog of RAP appeals cases, or the needed funding to entirely address all concerns with the RAP program."* Essentially, the fee increase to \$68/unit funded a baseline level of operation that included the hiring of three additional staff, development of the initial phase of a case management database, and a modest increase in legal services for low-income tenants. It did not address the increased number of petitions and client inquiries, the impact of new legislation and regulations over the past several years, or the need to recast program implementation and enforcement in a manner responsive to the changing housing landscape.

#### **BACKGROUND/LEGISLATIVE HISTORY**

On July 19, 2016, the City Council adopted Ordinance No. 13389 C.M.S. amending Ordinance No. 13320 C.M.S (the 2015-16 Master Fee Schedule) which resulted in an increase of the RAP Fee from \$30 per unit to \$68 per unit. The Agenda Report recommending the \$68 fee included the following components: a) increased staffing, b) technology upgrades, c) public education, and d) third party legal services.

On May 8, 2018, the Master Fee Schedule Agenda Report for FY 2018-19 was presented to the Finance Committee and included an increased RAP fee in the amount of \$96.02. The Finance Committee directed staff to return on May 22, 2018 with a Supplemental Report presenting further analysis of the RAP program and what the fee increase would cover.

On May 22, 2018, the Finance Committee moved the item to the May 29, 2018 City Council meeting.

On May 29, 2018, the item was continued to June 5, 2018 at which time it was removed from the agenda and the Master Fee Schedule was amended without a change to the RAP fee for FY 2018-19.

Since June 5, 2018, RAP staff has drawn from a one-time fund balance to hire four Limited Duration Appointment (LDA) positions, of which three have been filled.

## **ANALYSIS AND POLICY ALTERNATIVES**

The analysis of the proposed fee increase is conducted on two levels: 1) addressing **increased demands on the program** which involves: a) backlogs and a lack of timeliness related to increased volume of petitions and inquiries received, b) the impact of new legislation, and c) the need for programmatic and systems improvements; and 2) **facilitating the shift to an active enforcement model**. The analysis then describes the cost to operate the program at an optimal level and presents the calculations that indicate the proposed fee structure needed to cover this cost.

Alternatives to the proposed fee increase follow the analysis described above.

### **Background**

Strong rent control and eviction protections are essential elements of anti-displacement policies. High rents in Oakland are directly related to the vast number of Oakland citizens being forced to move out of the city or suffering homelessness in the current housing climate. By changing the programmatic model from a passive, complaint-driven model to an active enforcement model, the City will more effectively meet the urgent need to ensure that rents are stable and set at levels compliant with the law, that the public is informed and complying with the law, and that RAP is fulfilling its obligations under the Rent Adjustment and Just Cause Ordinances. Studies have revealed that cities with active enforcement programs achieve greater compliance and reduce the amount of rent overcharges paid by tenants. For example, in 2009, Berkeley and Los Angeles conducted separate research analyzing their respective programs. Los Angeles, like Oakland, employed a passive enforcement model whereas Berkeley implements active enforcement of its ordinance. The research found that 27% of Los Angeles tenants were paying 5% or more above the legal allowed amount for their unit whereas in Berkeley only 5% were being overcharged<sup>1</sup>.

These studies indicate that active enforcement models are not only more effective in protecting against rent violations, but also in ensuring compliance with the law.

The fee increase from \$30 to \$68 in 2016 enabled RAP to hire three additional staff (two Hearing Officers and one Program Analyst) and to engage in the following activities:

- Redesign of RAP website to improve access to information
- Creation of a web-based case management system
- Increased scheduling of appeals to four times per month
- Renewed contract with Centro Legal de la Raza for continuation of legal services to low-income tenants

While these efforts were positive steps, progress has been slow and incremental.

---

<sup>1</sup> Los Angeles report: Economic Roundtable, Economic Study of the Rent Stabilization Ordinance (RSO) and the Los Angeles Housing Market, 2009, available at the L.A. Housing Department web site; Berkeley report: Berkeley Rent Stabilization Board, Report on the April – May 2009 Survey of Tenants of Registered Rental Units, March 15, 2010, available on the Berkeley Rent Stabilization Program web site.

**Level One Analysis: Increased Demands on the Rent Adjustment Program**

- 1. Increased volume of petitions:** Between 2014 and 2017, the number of petitions, citations, and Ellis Act filings increased by 33%. While the rate of filings slowed somewhat in FY 2017-18, the higher level of petitions over that period coupled with inadequate staffing levels, systems, and infrastructure resulted in a significant backlog across the numerous steps in the process: from intake and data entry to sending notices to all parties to hearings and through to appeals and citations. Appeals are currently running about 14% of appealable decisions, with some involving numerous tenants who may have different issues at play. As such, the appeals can involve varying levels of complexity that impacts the time to hear and decide on the cases. In order to keep up with appeals, the Rent Board and Appeal Panels are meeting weekly.

Due to insufficient staff resources, outdated regulations, and lack of adequate technology the ensuing delays include:

- Parties are waiting three to four months before a petition is processed.
- Parties are waiting five to six months to have their case heard before a hearing officer.
- Rendering of hearing decisions range from a low of three months to as much as six months for more complicated cases.
- Appeals are waiting four to six months to get placed on a Board or Appeal Panel agenda, with the full life cycle of some appeals running as long as nine to 12 months.

Additionally, the inability to conduct work in a timely manner has resulted in an average of 56 appeals remaining pending at the end of a fiscal year, which then gets compounded by new appeals being generated with each new year.

- 2. New Regulations and Procedures:** The following reflects the changes that are placing additional demands on staff time to set up systems, implement, track, and monitor:

- Measure JJ
  - Extended Just Cause to buildings built before Dec. 31, 1995, expanding the number of covered units.
  - Property owners must petition for rent increases above CPI or banking.
  - Annual notice to tenants and owners
- Uniform Relocation Ordinance (owner move-in relocation requirement) has created the need for monitoring and reporting, as well as addressing public inquiries.
- Just Cause Certifications
  - Monitoring no-fault evictions
  - Certification forms needed
- Tenant Move Out Agreement Ordinance creates new filings, as well as tracking and monitoring responsibilities.
- Measure Y expanded the number of units covered by the Just Cause ordinance.

- The Mandatory Seismic Retrofit Ordinance will create an increase in capital improvement petitions.<sup>2</sup>

**3. Programmatic and Systems Improvements Needed:** The new measures outlined above call for RAP to adopt a more robust programmatic model. Because of limited staffing and technological resources, RAP has been unable to build out and improve its internal infrastructure in the following areas: a) operating systems, including compliance, b) public information and outreach, and 3) data collection and analysis. The following describes each area, all of which would be addressed through the staffing and direct costs proposed in the new fee structure.

- a) Operating system improvements are needed to reduce paperwork, improve timeliness and accuracy, and ensure that staff works at highest and best use levels. In addition, systems are needed to conduct consistent compliance activities that ensure the intent of all laws is being met, that all parties are held accountable, and citations and fines are levied appropriately.
- b) Enhanced outreach, education and support to tenants and property owners is needed to ensure that the public understands their rights and responsibilities under the law, the options available to address issues/problems, and that there are resources to tap for legal consultation and/or representation. Enhancing these activities is expected to result in a decrease in petitions, an improvement in the quality of petitions, and more effective visits at RAP drop-in clinics. These new activities (described in detail in **Attachment B: Public Information and Outreach Plan**) would include:
  - i. Increased drop-in hours for both tenants and property owners<sup>3</sup>.
  - ii. Informational workshops and seminars.
  - iii. Updated and more user-friendly public information materials.
  - iv. Enhanced website that it is user-friendly, offers relevant information on key issues and needs, and is regularly updated, including providing online publication of annual report.
  - v. Annual notifications to landlords and tenants regarding rent ceiling information.
  - vi. Topical informational postcards mailed to property owners and tenants regarding their rights and responsibilities.
  - vii. Creating a mediation program and other alternative conflict resolution procedures.

---

<sup>2</sup> In San Francisco, upon implementation of a mandatory seismic retrofit ordinance, there was a 22% increase in capital improvement petitions at the start of the compliance period, and a 43% increase two years later when completion dates become due.

<sup>3</sup> RAP has just selected Housing and Economic Rights Advocates (HERA) to administer a small property owner legal services, outreach, and public information program. They were selected pursuant to a Request for Qualifications process conducted in the Fall of 2018 and began work in March 2019.

- c) Database and systems improvements needed include:
- i. Building out the database to add features that streamline the processing of cases, such as uploading of case documents, enhanced search capabilities, and a tickler and notification system.
  - ii. Improving database external-facing functions to create improved interactivity and so petitioners have easier access to information.
  - iii. Creating a client management system to ensure quality and accuracy of information provided, enable holistic delivery of services, and track common issues enhancing data collection and inform future public outreach campaigns.
  - iv. Creating a system to track and monitor rents, such as a rent registry which will also facilitate RAP's tenant notification requirement (noted in 3.b.v. above).
  - v. Ensuring data can be delivered easily to the public upon request and that data collection facilitates analyses that assist the general public, the Rent Board, and the City Council in understanding the impact of RAP, surface trends and patterns, and inform policy discussions and decisions.

***Level Two Analysis: Reorganization of Rent Adjustment Program Responsibilities to Facilitate Shift to Active Enforcement***

As noted above, newly adopted rent measures demonstrate a mandate to move toward active enforcement of the local laws. To accomplish this and to address all of the issues described above, RAP is reorganizing its activities under the leadership of a new Program Manager. This reorganization creates three divisions within the unit:

- The Hearings Division to address petitions (including eliminating the backlog), elevate the use of mediation to resolve disputes when possible, and ensure timely rendering of decisions.
- The Public Information, Outreach, and Enforcement Division will carry out the enhanced activities described above and detailed in ***Attachment B***.
- The Administration and Policy Division which will manage the Rent Board, as well as oversee data collection and analysis, budget management and other administrative, policy, and managerial functions.

**Table 1** provides an overview of these divisions and a brief description of the activities each will carry out.

**Table 1. RAP Divisions and Areas of Activity**

Division	Activity Description
<b>Hearings Division</b>	<ul style="list-style-type: none"> <li>• Conducts hearings and prepares hearing decisions</li> <li>• Conducts mediations of owner/tenant disputes (separate and independent of the petition process)</li> <li>• Analyzes and recommends regulatory amendments to City Attorney based on hearing trends and changes in the law</li> </ul>
<b>Public Info, Outreach, and Enforcement</b>	<ul style="list-style-type: none"> <li>• Delivers informational services to the public through drop-in clinics and responding to phone calls and emails</li> <li>• Prepares, updates, and distributes public information materials</li> <li>• Makes presentations at workshops, seminars, and other public events</li> <li>• Attends community-based civic events to answer questions related to landlord and tenant issues and to distribute information on RAP</li> <li>• Provides topical informational postcards to owners and tenants</li> <li>• Monitors rent ceilings and sends annual mailing to owners and tenants</li> <li>• Processes citations for violations of the Rent Adjustment Program Ordinance and the Just Cause for Eviction Ordinance</li> <li>• Monitors Ellis Act compliance</li> <li>• Monitors and enforces the Tenant Protection Ordinance</li> <li>• Monitors and enforces the Tenant Move-Out Ordinance</li> <li>• Monitors and enforces the Uniform Relocation Ordinance</li> <li>• Coordinates with Finance Department's Revenue and Taxation Bureau to field public inquiries concerning exemptions, fees, and increases compliance monitoring</li> </ul>
<b>Admin &amp; Policy</b>	<ul style="list-style-type: none"> <li>• Manages the Rent Board, including appeals and policy matters</li> <li>• Manages database, data collection and analysis</li> <li>• Manages RAP webpage and prepares annual report</li> <li>• Tracking and monitoring of rents and rent increases</li> <li>• Administration of contracts, billings, invoicing</li> <li>• Budget management</li> <li>• Coordinates with Revenue and Taxation Division</li> <li>• Coordinates with City Attorney's Office</li> </ul>

**Program Cost Categories**

The RAP budget has four key cost categories: 1) Staffing, 2) Operations & Maintenance (O & M), 3) Third Party Consultants, and 4) Technology. The following section describes each cost category.

1. **Staffing:** There are four categories of staff assigned to RAP work:
  - a. RAP staff: a unit within HCD, RAP staff are 100% dedicated to RAP activities.



- b. HCD staff: a small percentage of FTE provides oversight, support, and hands-on assistance to the RAP unit. These include the Director, Deputy Director, Fiscal Manager, and Business Analyst.
- c. City Attorney's Office: Staff from the City Attorney's Office engage directly in RAP activities including, but not limited to, providing guidance on decisions, advising on policy matters, supporting the Rent Board, responding to legal inquiries from RAP staff, assisting in training of Board and staff, and crafting resolutions and policy memos.
- d. City staff: The Finance Department's Revenue and Taxation Bureau supports RAP fee collection and billing for delinquencies, as well as fields questions. Additionally, Finance staff provide budget management oversight and assistance.

Table 2 provides a breakdown of the current RAP staff positions as well as those proposed to address the increased demands and to meet the pressing needs described earlier in this report.

**Table 2. Current and Proposed Staff Positions**

Personnel	Current FTE	Proposed FTE	Additional FTE
<b>RAP Staff</b>			
Program Manager	1	1	0
Sr. Hearing Officer	1	1	0
Hearing Officers	5	6	+1
Program Analysts	6	8	+2
Administrative Assistants	3	5	+2
Ass. Program Manager	0	1	+1
Home Mgmt Specialists	0	2	+2
Legal Admin. Assistants	0	3	+3
<b>Total RAP Staff</b>	<b>16</b>	<b>27</b>	<b>+11</b>

Table 3 describes the activities to be carried out by the additional proposed staff positions above.

**Table 3. Description of Proposed New Staff Positions**

Hearing Officer (1)	The Hearing Officer will conduct hearings that serve to both reduce backlog and prevent future backlog on cases being heard and decisions rendered. They will also make recommendations for regulation and ordinance changes geared to help the program run more efficiently and ensure consistency in hearing decisions.
Program Analysts (2)	<ul style="list-style-type: none"> <li>• One new Program Analyst will work on improving and managing operational systems, database improvements, data collection and data analysis for both internal staff uses and external purposes, preparing the Annual Report and responding to public information requests. This position will assist with contract monitoring and supporting the Rent Board.</li> <li>• One new Program Analyst will work on building out a robust outreach and public information function that will include updating public-facing informational materials, creating monthly fact sheets on topical areas as well as a newsletter, utilizing social media, and coordinating outreach events.</li> </ul>
Home Management Specialists (2)	The two new Home Management Specialists will carry out the new Public Outreach and Education activities described in <b>Attachment B</b> .
Administrative and Legal Assistants (5)	<ul style="list-style-type: none"> <li>• Three new Legal Administrative Assistants will be tied to the Hearings division and ensure that all of the case file paperwork is properly handled, that mailings are conducted on time, and that parties to petitions have the information they need to participate in hearings in an informed manner.</li> <li>• Two new Administrative Assistants will support the enforcement activities of the program, assisting with data entry and mailings associated with tracking and monitoring of rents and rent increases.</li> </ul>
Assistant Program Manager (1)	The Assistant Program Manager will assist in the general management of the program, specifically focused on supervising implementation of the robust public information and outreach and enhanced enforcement activities.

2. **O & M:** These costs consist of direct administrative costs such as printing, office supplies, postage, equipment, staff training, and facilities.
3. **Third Party Consultants:** Currently there are two third party contracts in place:

- a. **Low Income Tenant Legal Services:** Currently this contract is held by Centro Legal de la Raza. These services provide legal consultation and representation for low-income tenants related to the rent adjustment and tenant protection ordinances. An RFP will be issued in April 2019 that will revisit the scope for this work, ensure it is aligned and integrated with the City's anti-displacement activities, and will create a competitive process for selecting the provider of the services to ensure the City is getting the best suited and priced service.
  - b. **Small Property Owner Legal Services:** A contract for these services was just awarded to Housing and Economic Rights Advocates (HERA) pursuant to a Request for Qualifications process held in the Fall of 2018 and they began work in March 2019. HERA's scope will include public information and outreach, education, and one-on-one legal assistance services to small property owners.
4. **Technology:** The first phase of technology improvements were funded with General Fund resources in the amount of \$365,000 and resulted in a baseline case management system for petitions that needs additional features to enhance its capacity such as the ability to upload documents to reduce or eliminate the use of paper when filing a petition and moving through the hearing and appeal processes and improved search and filtering functions.

**Proposed Budget**

The cost to carry out these activities at the optimal level identified above is \$8,087,443 for 2019-2020. **Table 4** presents the proposed budget.

**Table 4. Proposed Budget for 2019 – 20**

	<b>2019 - 20 Proposed Budget</b>
Personnel	
City	\$ 533,422
HCD (RAP + non-RAP staff)	\$ 5,429,592
City Attorney	\$ 1,249,429
O&M and Facilities	\$ 400,000
Third Party Contracts	\$ 400,000
Technology <sup>4</sup>	\$ 75,000
<b>TOTAL</b>	<b>\$ 8,087,443</b>

<sup>4</sup> The first phase of technology improvements were funded with an allocation of \$365,000 from the General Fund.

**Units Covered and Revenue**

The adoption of the \$68 fee was based on an estimate of 70,000 rental units covered by both Rent Adjustment and Just Cause or Just Cause only. Since that time, the passage of Measure JJ and Measure Y have added approximately 10,000 covered units for a total of 80,000 units. Based on the total cost to operate the program described in this report and meet the outcomes presented, the per unit fee would need to increase to \$101.00 per unit.

**How the Proposed Fee Increase Will Impact the Level of Service to Oakland Residents and Property Owners**

Table 5 provides an overview of the improvements to the level of service customers will experience as a result of the fee increase.

**Table 5. Comparison of Level of Service by RAP Service Activity**

<b>RAP Service Activity</b>	<b>Current Level of Service</b>	<b>New Level of Service</b>
Processing of petitions, scheduling hearings and appeals, and rendering decisions.	<ul style="list-style-type: none"> <li>• Three to four months before a petition is processed.</li> <li>• Five to six months to have their case heard before a hearing officer.</li> <li>• Three months to six months for rendering a hearing decision.</li> <li>• Four to six months for an appeal to get placed on a Board or Appeal Panel agenda.</li> <li>• Full life cycle of some appeals running nine to twelve months.</li> </ul>	<ul style="list-style-type: none"> <li>• Processing petitions within one week of receipt of petition.</li> <li>• Hearings on petition will occur within two months of filing.</li> <li>• Hearing decision rendered within two months of hearing.</li> <li>• Appeal placed on Board Agenda within two months of the filing of the appeal.</li> <li>• Appeal decision rendered within two months of the filing of the appeal.</li> <li>• Full life cycle of appeals reduced to a maximum of four months</li> </ul>
<b>Outreach and public information</b>		
Seminars and workshops	None in 2018; prior years one to two per year.	Nine to 10 per year
Community outreach events	Three to four per year	13-14 per year
Drop-in hours	14 hours per week	30 hours per week

RAP Service Activity	Current Level of Service	New Level of Service
Public information materials	Updated sporadically, not user-friendly	Create 16 topical information sheets, four informational postcards mailed to landlords and tenants, the creation of a Guide to Rent Control in Oakland, update landlord information packet, update tenant information packet
Mailings	None	Twice a year to all tenants and property owners indicating the unit's lawful rent ceilings.
Legal services	No landlord services	Adds \$50,000 contract for landlord legal services
Response time on public inquiries	Complaints from the public have referenced calls unreturned and waiting on hold for more than five minutes.	No more than 48 hours. A dedicated receptionist will handle all calls for an immediate initial response.
Mediation Program to resolve disputes more quickly	None	20 - 30 per month
Monitoring of covered units pertaining to fee collection, exemptions, and rental rates	No monitoring of fee collection or rental rates. Exemption inquiries handled case by case and can take up to two weeks to resolve due to lack of staff.	Proactive inspections of properties claiming an exemption, monitor and maintain data on the lawful rent ceiling for all covered units, creation of a mechanism for tenants to affirmatively challenge exemption status.
Compliance monitoring	None	Proactive enforcement of citation violations including board initiated compliance hearings.
Collection, analysis and distribution of data	Limited capacity; on a case-by-case basis.	Generate reports on evictions, anti-displacement, and trends in rental rates and compliance.

**Alternatives**

- Reduce number of new staff positions proposed: The key cost component that escalates the fee are the additional 11 staff positions identified in **Table 3**. To lower the fee, positions could need to be eliminated. The following are several categories of fee increase-funded positions and the impact of eliminating them:
  - Elimination or reduction of administrative support to the Hearings Division would limit the ability to achieve timeliness in processing petitions and scheduling hearings and appeals.

- Elimination of a Program Analyst, Assistant Program Manager, and/or the Home Management Specialists, would slow the pace and impact an enhanced public information and outreach model designed to facilitate a reduction in petitions, improved petition quality, and create a more informed public.
  - Elimination of staffing to handle enforcement would dilute efforts to ensure compliance and maximize fee collection. It would make it difficult to ensure that the intent of legislation the City Council and the voters approve can be effectively implemented.
- Retain current fee at \$68 per unit for all units: By retaining the current fee, the current level of service, including the backlogs and delays would remain as status quo. Incremental improvements would be possible over time; however, it could take several years to see material improvements.

### **PUBLIC OUTREACH**

The proposal to increase the RAP fee was discussed with both tenant and property owner stakeholders over the course of one-on-one and group meetings in February and March 2019.

### **FISCAL IMPACT**

Adoption of the Ordinance presented with this March 19, 2019 Agenda Report to the Finance and Management Committee will increase the Rent Adjustment Program Fee, generating an increase in revenue of \$2,647,443 which will be used to hire additional staff as described in **Table 2** and pay for operating expenses, as outlined in **Table 4**.

### **COORDINATION**

This report was prepared in coordination with the Finance Department and the City Attorney's Office.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** Stable rents and housing stability improve low income tenants' economic well-being. Improved program functioning and increased education on how the laws are implemented will facilitate owners' ability to ensure that their property(ies) and future investments are protected.

**Environmental:** Improving owners' and tenants' knowledge of the Rent Adjustment Ordinance can mitigate adverse environmental impacts resulting from existing rental housing and encourage cohesion and vested interest of owners and tenants in established neighborhoods.

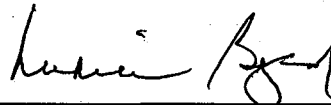
**Social Equity:** Heightened awareness of the program, education regarding owner and tenant rights under the program, and improved program performance will ensure that owners' and tenants' rights are protected and that there is equal access to exercising those rights.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Approve An Ordinance Amending Ordinance No. 13497 C.M.S. (The 2018-19 Master Fee Schedule) To Increase The Rent Adjustment Program Service Fee From \$68.00 Per Unit To \$101.00 Per Unit.

For questions regarding this report, please contact Maryann Leshin, Deputy Director, Housing and Community Development Department at (510) 238-6225 or Chanee Franklin Minor, Manager, Rent Adjustment Program at (510) 238-3262.

Respectfully submitted,



\_\_\_\_\_  
Michele Byrd, Director  
Housing and Community Development Department

Attachments (2)

- A: Progress in Addressing RAP Audit Findings
- B: Public Information and Outreach Plan

**Attachment A: Status of RAP Audit Findings**

	<b>Audit Findings</b>	<b>Current Audit Standing and Action Plan</b>	<b>Fee Increase Impact</b>
<b>1</b>	<ul style="list-style-type: none"> <li>• Increase the number of Rent Board alternates to provide sufficient volunteer Board members.</li> <li>• Attendance records should be provided to the Mayor on a semiannual basis.</li> </ul>	Closed.	N/A
<b>2</b>	<p>Board Training:</p> <ul style="list-style-type: none"> <li>• Develop a training program that extends over the course of a year, with sessions held during Board meetings.</li> <li>• Track progress and send information on attendance to Mayor</li> </ul>	<p>Open.</p> <p>The following, should be completed by May/June 2019:</p> <ul style="list-style-type: none"> <li>• Board manual</li> <li>• Training modules and schedule</li> <li>• Re-establishment of Board Policy Committee</li> </ul>	Fee increase would fund staff positions to carry out these activities on an ongoing basis.
<b>3</b>	<p>Develop a Communication Strategy for accessing Rent Board materials online for differing users.</p> <ul style="list-style-type: none"> <li>• Packets should be scanned and uploaded to website.</li> <li>• Provide interested parties with information in advance of the meeting.</li> </ul>	<p>Open.</p> <p>The scaling back of mailed packets by May/June 2019.</p> <p>Explore use of new technology (ie: tablets).</p>	Can take place with current fee.
<b>4</b>	Case & Appeal Decisions should be posted on website and/or electronic portal.	Closed.	



## Attachment A: Status of RAP Audit Findings

	<b>Audit Findings</b>	<b>Current Audit Standing and Action Plan</b>	<b>Fee Increase Impact</b>
<b>5</b>	<p>Address resource needs through temporary staffing and planning for new permanent positions.</p> <ul style="list-style-type: none"> <li>• Review workflow processes for efficiencies; update policies and procedures</li> <li>• Determine appropriate staffing levels</li> <li>• Implement a formal and routine quality assurance program.</li> <li>• Hearing Officers should not conduct onsite inspections or properties.</li> <li>• Work with City Attorney's Office to propose changes to RAP Ordinance to create efficiencies.</li> </ul>	<p>Open.</p> <p>The following should be pursued:</p> <ul style="list-style-type: none"> <li>• Improved case management system</li> <li>• Streamlining procedures</li> <li>• Increase use of mediation</li> <li>• Analyze staffing needs and propose fee increase accordingly</li> </ul>	<p>Fee increase will cover the cost of enhanced case management system, staff to revise/update procedures, implement a robust mediation program.</p> <p>This Agenda Report presents the results of staff's analysis of staffing needs.</p>
<b>6</b>	<p>Improve case management system; track cases, store records electronically (to reduce paperwork), produce performance metrics and trend analysis, and facilitate regular reporting on RAP activities.</p>	<p>Open.</p> <p>Database improvements needed, including rent tracking.</p>	<p>Fee increase would cover ongoing database maintenance along with the staff time to set up and manage the systems that will facilitate smoother operations, reduction of paperwork, generation of performance metrics data/policy analyses, and regular and timely reporting.</p>

**Attachment A: Status of RAP Audit Findings**

	<b>Audit Findings</b>	<b>Current Audit Standing and Action Plan</b>	<b>Fee Increase Impact</b>
<b>7</b>	Formulate a public outreach and communication plan.	Open.  Initiation of Communication and Outreach Plan (see Attachment B) and preparation of public information materials by March 2019.	Fee increase would cover staff time to create these materials, update them on an ongoing basis, and implement the Communication and Outreach Plan. It would also cover cost of printing and mailings.
<b>8</b>	Design dedicated, professional space for hearing and other public RAP business	Open.  Implementation has been held up by lack of budget authority to carry out. Timing for addressing TBD.	Staff propose to use RAP fund balance of approximately \$1,000,000 to fund the implementation of space improvements called for in this audit funding.
<b>9</b>	Validate that all covered properties are being assessed.	Closed.	
<b>10</b>	Develop and monitor the RAP budget	Open.  Preparation of Annual Report and RAP budget analysis by March 2019.	This is being carried out with current fee.



ATTACHMENT B

**STAFF COMMUNICATION AND OUTREACH WORK PLAN 2019**

GOAL: DEVELOP SOCIAL MEDIA STRATEGY, ENHANCE PUBLIC FACING MATERIALS, AND EXPONENTIALLY INCREASE OUTREACH

MEDIA	PURPOSE/DETAIL	DRAFT PRODUCTION PREPARATION START DATE	FINAL DUE DATE	PUBLICATION OR EVENT DATE
<b>PRINT MEDIA</b>				
Annual Report	Fiscal Year (FY) Budget and RAP Outcomes, mission, policy, services, standard format	Nov	March	April
Newsletter	Trends and policy, changes, services	July	September	October
Informational Postcards	Rent Increases (Landlords)	March	April	May
	Habitability (Tenants)	August	September	October
	Seismic Retrofit Ord (Landlords)			
Guide to Rent Control	Rent Control and Eviction Protection Information	October	March	April
New Tenant Checklist	Checklist for New Tenants	March		May
Tenant Packet	Tenant Rights and Responsibilities	March		May
Landlord Packet	Landlord Rights and Responsibilities	March		May
Magnet	RAP Information	March		May
<b>ELECTRONIC MEDIA</b>				
Social Media	Create Program Facebook Page	July		September
CPI Posted	Post CPI on website	July		July
Press Releases	Issue Specific			
Info Sheets	Security Deposits	Jan		May
	Eviction Flowchart	Jan		May
	Just Cause for Evictions	Jan		May
	Subletting	Jan		May
	Guide to the Ellis Act	Jan		May
	Owner Move-In Evictions	Jan		May

MEDIA	PURPOSE/DETAIL	DRAFT PRODUCTION PREPARATION START DATE	FINAL DUE DATE	PUBLICATION OR EVENT DATE
	Uniform Relocation Ordinance	Jan		May
	Tenants Rights and Responsibilities	Jan		May
	Landlord Rights and Responsibilities	Jan		May
	Costa-Hawkins State Law	Jan		May
	Move-In/Move Out Checklist for Tenants and Landlords	Jan		May
	Measure Y	Feb		March
	Notice of Rent Increase Template	Jan		May
	RAP Fee Pass Through Information	Jan		May
	Lease Breaking	Jan		May
	Landlord and Tenant Resources	Jan		May
	Small Property Owners Seminar Owner Occupied Duplex/Triplex	Feb		March
	Landlord 101	March		April
	Tenants Rights	May		June
	Landlord and Tenant Rights and Responsibilities - Security Deposits	September		October
	Tenants Rights Workshop	April		May
	Small Property Owners Workshop	May		June
	Evictions in Oakland: A Workshop for Oakland Property Owners	June		July
	Tenants Rights Workshop	August		September
	Small Property Owners Workshop	August		September
	Tenants Rights Workshop (Spanish)	September		October
	Chinatown Lunar New Year Bazaar			1/26/2019
	Bike to Work Day			5/10/2019
	Temescal Street Fair			6/9/2019
	Juneenth Celebration			6/23/2019
	Oakland Art and Soul Festival			7/27/2019
	National Night Out			8/6/2019
	Outreach Events			
	Workshops			
	In House Seminars			

MEDIA	PURPOSE/DETAIL	DRAFT PRODUCTION PREPARATION START DATE	FINAL DUE DATE	PUBLICATION OR EVENT DATE
	Laurel Street Fair			8/10/2019
	Chinatown Street Festival			8/24/2019
	Oakland Pride Festival			9/8/2019
	Rockridge Out and About			9/15/2019
	OaktoberFest in the Dimond			9/29/2019
	East Bay Rental Housing Ass. Fair			TBD
	Día de Los Muertos Festival			11/3/2019
Peralta Colleges Outreach	Information Table at Laney College	TBD		TBD
	Information Table at Merritt College	TBD		TBD

2019 MAR 14 AM 10:20

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

---

**ORDINANCE AMENDING ORDINANCE NO. 13497 C.M.S. (THE 2018-19 MASTER FEE SCHEDULE) TO INCREASE THE RENT ADJUSTMENT PROGRAM SERVICE FEE FROM \$68.00 PER UNIT TO \$101.00 PER UNIT.**

**WHEREAS**, the City of Oakland periodically amends its Master Fee Schedule to account for the cost increases relating to municipal programs, services, and activities; and

**WHEREAS**, in the Fiscal Year (FY) 2001-2002, the City Council established the Rent Adjustment Service Fee (the Fee) to fund the Rent Adjustment Program (RAP); and

**WHEREAS**, City staff undertook an analysis and evaluation of the revenue requirements to fund RAP's ongoing services, programs, and activities as well as ensure that the program is operating efficiently, accurately, and in a proactive manner regarding compliance and data, and the fee structure necessary to proportionately allocate the costs of providing these government services and program; and

**WHEREAS**, the agenda report provided by staff in support of the amendment of this Ordinance was prepared and includes the proposed fee and documentation supporting the estimated and reasonable costs to provide the services in a manner that ensures full compliance with the laws governing RAP; and

**WHEREAS**, the investigations conducted by staff reflected in the agenda report show that existing revenues are and will be insufficient to cover the current and projected costs of operating and maintaining identified City government programs, services, and activities; and

**WHEREAS**, the fee modifications and additions proposed by RAP, and the facts and analysis in support thereof, are identified in the agenda report; and

**WHEREAS**, the agenda report shows that revenues derived from the proposed fees will not exceed the funds required to provide the related government programs, services, and activities; and

**WHEREAS**, the agenda report shows that the amounts of the proposed fees and charges will not exceed the proportional cost of service provided or benefit attributable to each fee payer; and

**WHEREAS**, the agenda report shows that the proposed fees for a product, benefit or service are imposed for a specific government service, benefit or product provided directly to the payer that is not provided to those not charged and does not exceed the reasonable costs to the City of providing the services, benefit, or product; and

**WHEREAS**, the City Council finds that based on the significant increase in petitions and the new laws and regulations recently adopted there is good cause for raising the RAP service fee from \$68 to \$104 per unit, thereby enabling RAP to meets its responsibilities; and

**WHEREAS**, 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 and zoning; and

**WHEREAS**, based upon all written reports and presentations to the City Council, including the agenda report and each of the Attachments thereto, the City Council finds and determines that the proposed modification to the RAP fee set forth herein is necessary to reimburse the City for the costs of performing various municipal and regulatory functions, and that this fee does not exceed the proportional cost of the service or benefit attributable to the fee payer); and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council finds and determines that the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City Council.

**SECTION 2.** The Master Fee Schedule for the Housing and Community Development Department: Residential Rent Adjustment Section at (B), as set forth in Ordinance Number 13497 C.M.S., is hereby amended as follows to increase the Rent Program Service Fee from \$68 to \$104 per unit (additional are shown as double underline and deletions are shown as ~~strikethrough~~):

**RESIDENTIAL RENT ADJUSTMENT  
B. RENT PROGRAM SERVICE FEE**

	<b>CURRENT FEE (FY 2018-2019)</b>	<b>PROPOSED FEE (FY 2019-2020) and thereafter</b>
1 Annual Service Fee per Unit (Fees are due January 1 and delinquent March 1)	\$68.00	<u>\$101.00</u>
2 If paid within 30 days late, add 10% late fee. <del>In addition, add simple interest of 4% of the balance owed (Fee + late charges) per month or fraction of a month late</del>	\$68.00 + 10% Unit	<u>\$101.00</u> + 10% Unit
3 If paid within 60 days late, add 25%	\$68.00 + 25% Unit	<u>\$101.00</u> + 25% Unit
4 If paid after 60 days late, add 50% <u>In addition, add simple interest of 1% of the balance owed (Fee + late charges) per month or fraction of a month late</u>	\$68.00 + 50% Unit	<u>\$101.00</u> + 50% Unit

**SECTION 3. Severability.** 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.

**SECTION 4. Effective Date.** This Ordinance take effect seven (7) days after final adoption, unless it has been passed with six (6) votes, in which case it takes effect immediately upon adoption. The amended Fee amount will apply to those fees first due July 1, 2019 and thereafter.

**SECTION 5.** This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to, but not limited to, the following CEQA Guidelines: § 15378 (regulatory actions), § 15061(b)(3) (no significant environmental impact), and § 15183 (consistent with the general plan and zoning).

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LATONDA SIMMONS

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

Date of Attestation: \_\_\_\_\_



## NOTICE AND DIGEST

**ORDINANCE AMENDING ORDINANCE NO. 13497 C.M.S. (THE 2017-18 MASTER FEE SCHEDULE) TO INCREASE THE RENT ADJUSTMENT PROGRAM SERVICE FEE FROM \$68.00 PER UNIT TO \$101.00 PER UNIT.**

This Ordinance amends the City of Oakland's Master Fee Schedule to increase the Rent Program Service Fee from \$68 per unit to \$101 per unit.