

2006 NOV -1 PM 4: 05

APPROVED AS TO FORM AND LEGALITY

By: [Signature]
City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. 12781 O.M.S.

INTRODUCED BY COUNCILMEMBER _____

AN ORDINANCE AMENDING O.M.C. CHAPTER 8.22, RENT ADJUSTMENT PROGRAM, TO PROVIDE A SET DATE FOR IMPLEMENTING THE CONSUMER PRICE INDEX (CPI) BASED RENT ADJUSTMENT AND NEW PROCEDURES FOR RENTAL PROPERTY OWNERS TO OBTAIN A CERTIFICATE OF EXEMPTION

Whereas, the Rent Adjustment Ordinance (O.M.C Chap. 8.22) does not have a fixed date for applying the annual general CPI based rent increase and this has created confusion among landlords and tenants alike as to when landlords can implement the annual rent increase; and

Whereas, landlords presently may not petition the Rent Adjustment Program for a determination of the status of their rental units as exempt or not and may only seek a determination as to the exempt status of their units in response to a tenant petition contesting a rent increase; and

Whereas, it is in the interests of both landlords and tenants alike to create an effective mechanism to ascertain the status of a unit to be rented as exempt or not exempt from application of rent controls so that both parties know whether the rental unit is covered when they enter into rental agreements; and

Whereas, the Housing Residential Rent and Relocation Board is charged with recommending changes to the Ordinance and Regulations; and

Whereas, the Rent Board received public input from both landlord and tenant organizations on proposed amendments to the Rent Adjustment Ordinance for setting a date to implement the annual CPI Adjustment and for certificates of exemption and the Rent Board unanimously recommended these changes; now, therefore,

THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 8.22 of the Oakland Municipal Code (Rent Adjustment Ordinance) is hereby amended to read as follows:

8.22.030 Exemptions

B. Exemption Procedures.

1. Certificate of Exemption:

a. A Certificate of Exemption is a determination by the Rent Adjustment Program that a dwelling unit or units qualify for an exemption and, therefore, are not Covered Units. An Owner may obtain a Certificate of Exemption by claiming and proving an exemption in response to a Tenant petition or by petitioning the Rent Adjustment Program for such exemption. A Certificate of Exemption may be granted only for dwelling units that are permanently exempt from the Rent Adjustment Ordinance as new construction, substantial rehabilitation, or by state law (Costa Hawkins.)

b. For purposes of obtaining a Certificate of Exemption or responding to a Tenant petition by claiming an exemption from Chapter 8.22, Article I, the burden of proving and producing evidence for the exemption is on the Owner. A Certificate of Exemption is a final determination of exemption absent fraud or mistake.

c. Timely submission of a Certificate of Exemption previously granted in response to a petition shall result in dismissal of the petition, absent proof of fraud or mistake regarding the granting of the Certificate. The burden of proving such fraud or mistake is on the Tenant.

2. Exemptions for Substantially Rehabilitated Buildings.

a. In order to obtain an exemption based on substantial rehabilitation, an Owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project.

b. The average basic cost for new construction shall be determined using tables issued by the Chief Building Inspector applicable for the time period when the Substantial Rehabilitation was completed.

Section 2. Chapter 8.22.070(B)(4) of the Oakland Municipal Code (Rent Adjustment Ordinance), is hereby amended to read as follows:

4. Effective Date of CPI Rent Adjustments. An Owner may notice a Rent increase for a CPI Rent Adjustment on the first day of the month so that the Rent increase is effective during the period from July 1 following the Rent Adjustment Program's announcement of the annual CPI Rent Adjustment for that year or sufficiently in advance of the Tenant's Anniversary Date to comply with state law (California Civil Code § 827), whichever is later through June 30 of the next year. The Rent increase notice must comply with state law and take effect on or after the Tenant's Anniversary Date.

JAN 16 2007

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID,
AND
PRESIDENT DE LA FUENTE - 8

NOES- 0

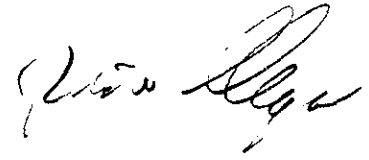
ABSENT- 0

ABSTENTION- 0

ATTEST: Latonda Simmons
LATONDA SIMMONS

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

Introduction Date: DEC 19 2006



NOTICE & DIGEST

AN ORDINANCE AMENDING O.M.C. CHAPTER 8.22, RENT ADJUSTMENT PROGRAM, TO PROVIDE A SET DATE FOR IMPLEMENTING THE CONSUMER PRICE INDEX (CPI) BASED RENT ADJUSTMENT AND NEW PROCEDURES FOR RENTAL PROPERTY OWNERS TO OBTAIN A CERTIFICATE OF EXEMPTION

Adoption of this ordinance will amend Chapter 8.22 of the Oakland Municipal Code to provide a set date for owners to notice a rent increase for a Consumer Price Index (CPI) rent adjustment and amend procedures by which qualified owners may obtain a Certificate of Exemption from the Rent Adjustment Ordinance.