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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Claudia Cappio
Assistant City Administrator

SUBJECT: Informational Report to the
Oakland Renters Act

DATE: May 5, 2016

City Administrator Approval

Date:

5/13/16

RECOMMENDATION

Staff Recommends That The Community And Economic Development Committee Accept This Informational Report And Give Staff Direction On Next Steps About A Proposed Ordinance (The "Protect Oakland Renters Act") That Would Establish The Composition And Functions Of The Rent Board; Establish Rent Adjustments For Certain Units; And Establish Procedures For Governance Of Rental Units In The City Of Oakland.

EXECUTIVE SUMMARY

At the April 7, 2016 Rules Committee, members of the public submitted a proposed ballot initiative entitled *City of Oakland – Protect Oakland Renters Act* (hereafter known as "the Initiative" or "the Ballot Initiative"). The Initiative proposes many changes to the existing Rent Adjustment Program (RAP) and some changes to the Just Cause Eviction Ordinance and the Tenant Protection Ordinance. This report provides a high level analysis of some of the concerns and likely impacts with the proposed legislation. Staff recommends that the Committee assess the legal, fiscal, and administrative implications of the Initiative, including impacts to the City Charter, prior to making a recommendation to the full City Council. This report organizes key concerns with the Initiative as follows: financial considerations, administration, implementation and oversight, and other major issues that should be considered by the Council. This analysis does not address any legal issues presented by the Initiative. Those will be addressed by the City Attorney in Closed Session.

BACKGROUND / LEGISLATIVE HISTORY

Proposed Initiative in Context of Other City Actions:

Oakland is currently experiencing an unprecedented demand for rental housing, causing rents to increase at double digit rates. These rent increases have not only made more Oaklanders vulnerable because a larger share of their incomes must be spent on rent, but many long time residents are simply being priced out of the housing market, thus contributing to displacement, in particular, a disproportionate loss of African American households.

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In response to this housing crisis, the Mayor and City Council focused on compiling data and evidence about the extent of the problems and identified key recommendations and actions to address the identified problems. In 2015, PolicyLink and the City published a comprehensive report on the Oakland housing crisis entitled: "Housing Equity Roadmap." (<https://goo.gl/i60pjw>). Of the analysis contained in the Roadmap, one of the key findings was the growing gap between the average median household income and the stark rent increases of the past three years. The report outlined a comprehensive set of solutions to address the identified problems, including revisions to the condo conversion ordinance, secondary unit ordinance revisions, increased tenant eviction protection, and finding more sources of funding for affordable housing.

As a follow up to the Equity Roadmap report, Mayor Schaaf convened a Housing Cabinet in July 2015. The Cabinet, made up of a broad spectrum of housing advocates, non-profit and for profit developers, finance experts, policy experts and others, used the Equity Roadmap as a framework to build upon and develop more specific solutions. The outcome of this concentrated effort was the Cabinet Report entitled "Oakland at Home," published in March, 2016. Two focus areas, increased renter protections and revisions to just cause evictions, did not achieve consensus or clear recommendations for action. Nonetheless, the Mayor and City Council included specific action steps to vet these issues further during the next few months. Proposed recommendations and actions that were discussed included more effective tenant protection ordinance remedies, a new rent stabilization ordinance, improvements to and extension of the Just Cause for Eviction Ordinance, revisions to the Ellis Act ordinance and an audit and functional review of the Rent Adjustment Program ("RAP").

Among the City's major identified housing actions and priorities to date:

Action	Implementation Status
Affordable Housing Impact Fee	Adopted by City Council
Amendments to Relocation Assistance Requirements	Reviewed by CED Committee; forwarded to City Council
Ellis Act Relocation Assistance	Adopted by City Council
More Funds for Affordable Housing	Recommendation to Include Affordable Housing Funds within Proposed City Infrastructure Bond and Active Support of Proposed Alameda County Affordable Housing Bond
Affordable Housing Preference for Oaklanders	Scheduled for CED Committee on 5/31/16
Public Lands Policy	Scheduled for CED Committee on 5/31/16
Condo Conversion Ordinance Revisions	Drafted and under internal review
City Auditor Report on RAP Program	Report Nearly Completed
Addressing Rent Board Backlog	Supplemental staff hired; Councilmember Kaplan's proposal to amend composition and functions of Rent Board reviewed by CED Committee and forwarded to City Council

In addition to the actions summarized above, on April 5, 2016, the City Council enacted a resolution declaring a local housing state of emergency and establishing a 90-day moratorium on no-cause evictions and rent increases not authorized by existing rent control provisions.

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With increasing rents, Oakland is also experiencing increasing notices of evictions. There are three important steps in the eviction noticing process which helps to understand the true scale of the eviction issue: 1) Required Eviction Notice Filings with the RAP for *all* notices of eviction regardless of circumstance or if the notice actually results in an eviction. 2) Unlawful Detainer Filings with the Alameda County Superior Court after a notice of eviction is filed. These filings narrow the universe of potential evictions but it is also not a guarantee of the actual number of people evicted. 3) Court ordered evictions conducted by the Sheriff's Department after receiving an unlawful detainer. These represent the minimum number of evictions.

In Oakland, although there is a large number of notices of evictions for 2015 (9,544), estimations based on Sheriff's Department data show that at minimum 1,296 evictions were conducted in Oakland in 2015. This equates to 108 evictions per month. **Attachment 1** provides more details on the methodology for these calculations.

Anticipated Improvements:

RAP management has been working closely with the City Auditor in determining better practices that will enhance the efficiencies of RAP operations. The following represent some of management's action plans for improving the services and effectiveness of the RAP:

- Establish a new and more functional automated case file and document management system.
- Provide standardized document checklists, protocols and uniform templates to increase efficiencies in the petition, hearing and appeal processes.
- Undertake physical improvements to, and if feasible expansion of, the office space (such as security enhancements, increased privacy, and hearing room enhancements).
- Increase public awareness and education for both tenants and landlords through broader and more deliberate outreach and a revised and more interactive website.

Staff proposes other targeted policies be advanced consistent with the discussions at the City Council as part of the proposed RAP fee increase and as part of the Housing Cabinet deliberations. Such issues are further explained in the subsequent "Analysis and Policy Alternatives" section.

ANALYSIS AND POLICY ALTERNATIVES

The following discussion provides high level information and analysis about some of the likely consequences and impacts of the proposed Initiative. More detailed information about current RAP improvement efforts is also included. The primary intent is to provide thoughtful consideration of the issues involved in such a major set of changes. In addition, while there is no doubt that the proposed Initiative presents an alternative means of addressing the current housing and rent crisis, there are trade-offs, other options and resource issues that the Council is advised to carefully consider and address prior to giving direction on next steps. Specifically, the proposed Initiative, as written, is projected to incur an annual cost of approximately \$24.17 million in the first few years. Funding at such a high rate could instead be allocated to other activities which further promote safe and affordable housing for more tenants than are covered under the changes set forth in the proposed Initiative.

Explanation of the Existing Rental Protection Program and the Expansion of Who is Impacted by the Proposed Initiative:

Before discussing the Initiative, it is important to understand what units are covered under current law.

The current Rent Ordinance covers all Oakland rental units, with the following major exemptions:

- All properties built after January 1, 1983;
- Most single family and condominium units;
- Owner-occupied two and three unit properties;
- Substantially rehabilitated properties; and
- Units that are governmentally controlled regulated or subsidized.

The current Just Cause for Eviction Ordinance covers single-family, condominium, and subsidized units; it exempts units built after October 1980 and owner-occupied two and three unit properties.

The current Tenant Protection Ordinance also covers single family, condominium, and subsidized units; it exempts owner-occupied two and three unit properties, non-profit owned units, and, for fifteen years after the date the exemption commences, units built after 2014. The proposed changes to the Rent Adjustment Ordinance would extend its coverage to 1,222 rental units currently exempt: units in owner-occupied triplexes built prior to 1983 and in substantially rehabilitated properties (although it is not certain if pre-existing exempt properties would be covered). The proposed expansion of the Just Cause for Eviction Ordinance would expand its coverage to 10,561 units currently exempt: units built after October 1980 and units in owner occupied triplexes. The number of additional units that the Initiative would apply to is shown in **Table 1** below.

Table 1: Units Covered Presently versus Additional Units in Proposed Initiative

	RAP	Just Cause
Units Currently Covered (Status Quo)	63,981	87,404
Units Covered Under Proposed Initiative	65,203	97,965
Net Add of New Units Covered by Initiative (Δ)	+ 1,222	+10,561

High Level Summary of Proposed Changes in the RAP, Rent Stabilization Ordinance and Renter Protection Measures:

The major changes include the following with further analysis provided later in the report:

1. Noticing Requirements (pre- and post- eviction)
2. Board Independence from City Council, City Administrator, and City Attorney
3. Staff Organization, Staffing Assigned to the Program, and Workflow
4. Timing
5. Financial Considerations:
 - a. Fees to support staff, increases, and no pass through
 - b. CPI Increases – New formula
 - c. Fair Return Petition Process – likely increased burdens/obligations for hearings

- d. No substantial rehabilitation
- 6. Extending the Just Cause for Eviction Ordinance to All Newly Constructed Units
- 7. Limitations on the number of times an owner can move in

Issue: Staff, Administration, Organizational, and Budget Changes

The current RAP program is a lean function and the need for additional staff to manage the current caseload has been previously documented, separate from the proposed Initiative. **Table 2** below breaks out two scenarios for the total Full Time Equivalent (FTE) staff needed by classification. The 'Status Quo' Scenario presents the current staffing levels. The 'Staff Needed to Meet Current Caseload' Scenario presents what staffing levels would be required to manage the backlog and continued increase in workload based on the past two to three years of petitions filed. In other words, this scenario represents staffing that would be useful for RAP regardless of whether or not the Initiative is forwarded to the ballot.

Table 3 presents the third scenario which is the 'Staffing Needed for the Initiative Based on Expected Caseload' Scenario. Two examples of new staff that would need to be added as a result of the Initiative are a new Executive Director position and more legal staff. In the Staffing Needed for the Initiative Based on Expected Caseload Scenario, the expected workload as presented in the Initiative was incorporated while maintaining the current staff levels and expected economies of scale derived from technology and other improvements. While staff estimates that existing staffing could increase up to eight times to cover the projected Initiative-proposed caseload, staff assumed only four times current key staff positions based on operational and technological efficiencies and added in other administrative staffing needed for any City department.

In addition to the estimated staff required to implement the proposed Initiative for RAP and Just Cause, the Initiative also requires implementation of elements of the Tenant Protection Ordinance (TPO) which would require additional staff as shown in the 2014 report about TPO implementation. The estimated staffing for the TPO implementation is based on the 2014 calculations when the TPO became effective and it is shown as a column in **Table 3** and included in the total for the Initiative staffing needed.

Tables 4 and 5 provide estimated one-time and ongoing operations and maintenance (O&M) expenses for the department by year for the first five years. Further explanation of the database O&M is provided after **Table 6**. **Table 6** provides a summary of the costs per year for the first five years of the Initiative and includes an estimate of the possible fee for each year.

It is important to note that, if passed, the Initiative would take an extended time period to get all staffing in place to fully implement the program and address the increased workload. This would also have to be taken into consideration as much of the projected increase in workflow would be expected during these initial years.

Table 2: Current RAP Staffing and Staff Needed to Meet Current Caseload

Position	Number of FTE	
	Current Staffing	Total Staffing Needed to Meet Current Caseload
Project Manager II	1 FTE	1 FTE
Senior Hearing Officer	1 FTE	1 FTE
Hearing Officer	3 FTE; 1 ELDE*	6 FTE
Program Analyst III	1 FTE	2 FTE
Program Analyst II	2 FTE	2 FTE
Program Analyst I	1 ELDE*	2 FTE
Administrative Asst. I	3 FTE	3 FTE
Housing Director***		
Administrative Services Mgr I***		
Accountant II***		
Account Clerk III***		
Deputy City Atty V	1 FTE**	1 FTE**
Deputy City Atty III	1 FTE**	1 FTE**
Paralegal	1 FTE**	1 FTE**
Legal Assistant	1 FTE**	1 FTE**
Tax Enforcement Officer III	2 FTE**	2 FTE**
Collections Officer	1 FTE**	1 FTE**
Total	12 FTE + 7 FTE**	17 FTE + 7 FTE**

* = Exempt, Limited Duration Employee

** = These status quo staffers are not within the RAP division although they are charged, in part or in whole to RAP

*** = Small portions of these staff positions are funded by RAP

Table 3: Expected Cost and Staffing Needed for the Initiative Based on Expected Caseload

Position	Number of FTE			Estimated Cost	
	Estimated FTE Needed for Initiative	Additional FTE Needed for TPO	Total FTE for Initiative (Incl. TPO)	Fully Burdened Cost for 1 FTE	Total Initiative Staff Cost (\$) (Salary, Benefits and Overhead)
Project Manager II	1 FTE		1 FTE	307,808	307,808
Senior Hearing Officer	4 FTE		4 FTE	265,797	1,063,188
Hearing Officer	12 FTE	2 FTE	14 FTE	241,155	3,376,176
Program Analyst III	4 FTE		4 FTE	188,942	755,768
Program Analyst II	8 FTE	2 FTE	10 FTE	163,242	1,632,416
Program Analyst I	5 FTE		5 FTE	141,001	705,004
Administrative Asst. I	11 FTE	1 FTE	12 FTE	109,116	1,309,390
Specialty Combo Inspector (Code)	2 FTE		2 FTE	176,878	353,756
Security Guard	2 FTE		2 FTE	104,538	209,077
Housing (Executive) Director	1 FTE		1 FTE	454,390	454,390
Administrative Services Mgr I	1 FTE		1 FTE	229,682	229,682
Accountant II	1 FTE		1 FTE	158,607	158,607
Account Clerk III	1 FTE		1 FTE	121,733	121,733
Admin Analyst III/II	1 FTE		1 FTE	163,242	163,242
Deputy Director	1 FTE		1 FTE	339,368	339,368
General Counsel (Asst. City Atty)	1 FTE		1 FTE	412,482	412,482
Deputy City Atty V	3 FTE		3 FTE	356,314	1,068,943
Deputy City Atty III	3 FTE	1 FTE	4 FTE	293,157	1,172,627
Paralegal	3 FTE		3 FTE	155,440	466,319
Legal Assistant	3 FTE		3 FTE	147,722	443,167
Database Analyst III	1 FTE		1 FTE	201,669	201,669
Tax Enforcement Officer III ¹	2 FTE	1 FTE	3 FTE	160,807	482,420
Collections Officer ¹	2 FTE		2 FTE	130,057	260,113
Total	74 FTE	7 FTE	81 FTE	--	\$15,687,343

¹Current support from the Revenue Bureau includes a percentage of time for the following positions: Tax Enforcement Officer, Receptionist, Cashier, Revenue Assistant, Operations Supervisor, Tax Auditor, and Revenue Analyst. The cost of these positions together is approximately equal to 2 Tax Enforcement Officers and 1 Collections Officer. It is estimated that the new program would require 1 additional Collections Officer. The TPO would require 1 additional Tax Enforcement Officer who could also aide with the additional Initiative requirements.

Note, 1 Program Analyst I in the Initiative staffing is meant to assist with the board

Note, the TPO administration staff listed here are based on the 2014 admin regulations report.

Table 4: One-time O&M Costs for the Initiative (Spread Over 5 Years)

One-Time Items	Year 1	Year 2	Year 3	Year 4	Year 5	Total Cost (over 5 years)
Database Implementation	529,400	529,400	529,400	529,400	529,400	\$2,647,000
Database Software Licensing	169,400	169,400	169,400	169,400	169,400	\$847,000
Database Maintenance	169,400	169,400	169,400	169,400	169,400	\$847,000
Database Hardware	86,000	86,000	86,000	86,000	86,000	\$430,000
Database Networking	31,800	31,800	31,800	31,800	31,800	\$159,000
Database Other	71,800	71,800	71,800	71,800	71,800	\$359,000
Translation Services	60,000	60,000	60,000	60,000	60,000	\$300,000
Technical and Capital Improvements	100,000	100,000	100,000	100,000	100,000	\$500,000
Total One-time Costs	1,217,800	1,217,800	1,217,800	1,217,800	1,217,800	\$ 6,089,000

Table 5: Ongoing O&M Costs for the Initiative

Ongoing Items	Year 1	Year 2	Year 3	Year 4	Year 5	5-Year Total
Ongoing database maintenance/ annual upgrades after Year 5 (\$369,400)	0	0	0	0	0	0
On call legal services ongoing*	6,848,000	6,848,000	6,848,000	6,848,000	6,848,000	34,240,000
ITD Internal Services Fund (ISF)	179,278	179,278	179,278	179,278	179,278	896,388
Existing O&M	232,450	232,450	232,450	232,450	232,450	1,162,250
Total ongoing costs Through Year 5	\$7,261,803	\$7,261,803	\$7,261,803	\$7,261,803	\$7,261,803	36,298,638

* = This on call legal services estimate assumes the following: 1) that the total number of people served would be 9,544 which is based on the number of eviction notices filed with the RAP for CY 2015. 2) that of the 9,544 eviction notices filed 2,744 further had unlawful detainers filed with the Alameda Superior Court; 3) that each unlawful detainer eviction case (2,744 cases) would require more intense legal services at a minimum of \$2,000 per case; 4) that the remainder of the cases would need services comparable to the legal services currently provided by Centro Legal through a City contract. The assumed legal rate for these smaller cases or consultations with either tenants or landlords is \$200 per case for 6,800 cases.

Based on the staffing expenses as well as the O&M expenses, the total estimated program costs in Year 1 would be \$24,166,946. **Thus the estimated annual fee would be \$247 per unit** (\$24,166,946/97,965 Units) as the landlord registration fee per unit. This is a \$217 increase from the current \$30 per unit cost.

Table 6: Total Annual Cost for 5 Years

	Year 1	Year 2	Year 3	Year 4	Year 5	5-Year Total
Personnel*	\$15,687,343	\$15,687,343	\$15,687,343	\$15,687,343	\$15,687,343	\$78,436,716
One-time O&M	\$1,217,800	1,217,800	1,217,800	1,217,800	1,217,800	\$ 6,089,000
Ongoing O&M	\$7,261,803	\$7,261,803	\$7,261,803	\$7,261,803	\$7,261,803	36,298,638
Total per year	24,166,946	24,166,946	24,166,946	24,166,946	24,166,946	120,834,730
Estimated Fee	\$246.69	\$246.69	\$246.69	\$246.69	\$246.69	

* = This personnel cost keeps the 2016 cost constant for each of the first five years although it is likely that staffing costs could increase over this time period.

Explanation of O&M Costs:

- Required Information Systems:

As proposed in Article 8.22.040.5.D, the Initiative requires the creation of an electronic database. The proposed database would need to be searchable, allow for the filing of rental increase notices, and track eviction notices.

While RAP currently maintains a database, it would not meet the requirements of the Initiative and thus, a new database would need to be developed. The current database contains some of the vital case information and allows staff to easily generate notices, but it does not provide everything that the Initiative alludes to.

Additionally, the proposed database requirements may necessitate the creation of a registration program. The development of a registration program may trigger State registry certification requirements, which may not be technically feasible under the projected database estimates below. If such additional design and requirements are declared necessary, it could require additional staff above the aforementioned staff requirements in order to certify the data and monitor it to ensure it is correct at all times. Further analysis is needed to determine if the proposed database would need this expanded requirements.

Table 7 below provides a brief overview of what information is currently stored in the existing database. Staff identified two potential database options which are explained below **Table 7**.

Table 7: File Management Database versus Paper File

File Management		
Information Type and How Managed	Database	
	Database	Paper File
Petition Filed		X
Petition Basic Info	X	X
Hearing Date	X	X
Reason for Petition	X	X
All Names Associated with File	X	X
Proof of Service and Notification Letters	X	X
Respondent Rebuttal		X
Evidence for File		X
Notices from Landlord		X

Option 1 would be utilizing the existing Accela database being used by the Planning and Building Department. Accela allows for the creation of additional “Modules” within an existing agency. Under Option 1, annual operating expenses would be lower due to shared costs of annual licensing fees and shared hardware amongst several City departments. Even with the shared costs of using the existing system, there is still the possibility that another database could be needed if there are any requirements or needs that Accela cannot provide. Such unknown costs are not factored into this cost estimate. The following costs were quoted to the Oakland Fire Department which is pursuing a comparable database plan to Option 1:

- \$638,000 – One-time costs for implementation services
- \$300,000 – Annual Licensing Fee (split between the Planning & Building Department, and Oakland Fire Department)

Option 2 would require the creation of a brand new database. Due to the Initiative’s proposal for an autonomous Board, this option would achieve the requirements of completely separate operating systems from the City, including the entire database. Option 2 would also require the purchasing of new independent hardware systems. The costs to implement Option 2 are projected to be comparable to the costs of initially setting up the Accela database. The 2011 City contract for Accela included the following shown in **Table 8** (inflated to 2016 dollars):

Table 8: Estimated New Database Cost (based on Accela Database Costs)

Item	Annual Cost for first 5 Years	5-Year Total Cost	Annual Cost After Year 5
Implementation	\$529,400	\$2,647,000	\$0
Software Licensing	\$169,400	\$847,000	\$0
Maintenance	\$169,400	\$847,000	\$169,400
Hardware	\$86,000	\$430,000	\$0
Networking	\$31,800	\$159,000	\$0
Other	\$71,800	\$359,000	\$0
Other Ongoing or Upgrades	-	-	\$300,000
Total	\$1,057,800	\$5,289,000	\$469,400

Not included in either option are the costs for increased staffing needed to maintain the database and systems beyond the one Database Analyst included in the staffing projection (Table 3), as well as large scale temporary staffing needed during the first two years of database development to assist in data-entry and scanning of existing RAP paper files. Such staffing costs can be projected using the cost per Database Analyst times the potential number of Database Analysts needed. In terms of the temporary staff needed for data entry, an estimated flat rate could be used and reassessed if more temporary staff is needed.

- Other Funds (e.g., General Purpose Fund) Needed to Support Standalone Function:

In order for internal services to have funds necessary to operate, the City 'charges' each department Internal Service Funds (ISF) for facilities and information technology services. The Facilities Fee amount varies by department depending on size and amount of facilities based on square footage. The Information Technology (IT) Fee is used to pay debt service for software licenses and registration, and other major IT project costs. The amount is based on amount of staff and level of interaction with hardware, software, and licenses. The IT ISF is factored into the staffing projections above. The facilities ISF is assumed to remain the same if the new staff can occupy existing available space. If the current space cannot accommodate the level of new staff needed then the facilities ISF would be applied to the new space.

- Inter-Departmental Dynamics:

Another staff-related consideration from the proposed Initiative language is that the RAP is a program separate from the rest of the Housing and Community Development (HCD) Department. If the RAP were to function in such an autonomous way, the question emerges of how the board would function with other City departments and specifically with the rest of the HCD Department. This point is particularly important if the Initiative purports to remove the City Administrator's oversight over the Executive Director. This could cause some efficiency issues with any shared systems as well as overall inter-departmental collaboration, which has been the focus of the past year in order to

promote a healthier work environment for City employees as well as to attain positive results for housing and community development efforts throughout Oakland.

Issue: Board Organization and Process

- Composition of board:

The Initiative proposes a significant shift in the composition of the Rent Board. The Board is currently composed of seven core members (two tenants, two landlords, and three neutral members) plus three alternates (one landlord alternate, one tenant alternate, and one neutral alternate). Councilmember Kaplan recently brought forth legislation which would increase the number of alternates to six in addition to a few other minor changes. Unlike the Kaplan legislation, the Initiative proposes to eliminate all alternate members and keeping only the existing number of core members at seven. Of the seven members, the Initiative requires four members to be tenant representatives. The proposed language does not state a specific representation for the other 3 members. The Initiative-proposed language states that there is one member per City Council district but does not allot for a member for the At-Large Councilmember.

The proposed language increases the duties of the Board and provides them with many powers that are currently reserved for the City Council.

The top issues that exist in the proposed Board structure are as follows: 1) The Board is a majority tenant board which could lead to perceived bias in decisions; 2) The Board is still a non-compensated board but since the Initiative eliminates alternate members, the core board members would have to be present at all meetings. This could become an issue since the Board would have a much larger caseload and would likely meet much more frequently (more than once weekly); 3) The Board could amend their budget with less than a majority of members; and 4) If the City Council does not provide any General Purpose Fund subsidy to the new standalone function due to other important financial needs in the City, then it appears that the Board can increase the fee at any given time to cover costs.

In addition to the concerns about the Board composition, there is also concern with the Initiative's lack of reference to Board oversight. If the Board is given such an enhanced palette of responsibilities, there should be some sort of checks and balance in place to ensure accountability to the public.

Issue: Financial Considerations

The Initiative has a variety of financial impacts, ranging from the financial impact on the landlords to the financial impacts on the City to properly implement the program as proposed. The previous Staff Organization, etc. subsection explained the financial impacts on the City regarding implementation. This subsection explains some other types of financial impacts of the Initiative.

- Landlord Operating Costs vs. 60 Percent CPI Rent Increase:

As proposed in Article 8.22.070.A (page 10), the Initiative would limit annual rent increases by the property owner to the Annual General Adjustment, defined as 60 percent of the Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose Region. The property owner may petition the Rent Adjustment Board for any increase above the Annual General Adjustment if they can show they are unable to obtain a reasonable return on their investment. Under no circumstances can an annual increase be greater than five (5) percent.

The creation of this new program would be a major overhaul to the RAP and could lead to an increase in landlord petitions. The Berkeley Rent Stabilization Board (RSB) experienced a similar shock to the program after the State of California's 1995 ruling requiring vacancy decontrol. During the three-year transition period (1996-1998), landlords were allowed to increase rents at a rate of 15 percent each year. During this period, the Berkeley RSB received, on average, 183 landlord petitions annually. During the three-year period following vacancy decontrol (1999-2001), landlord petitions decreased to an annual average of 76, decreasing each subsequent year. This change in landlord petitions reflects a decrease of approximately 60 percent.¹

The changes in landlord petitions resulting from the proposed Initiative are assumed to be opposite the impacts the Berkeley RSB experience following vacancy decontrol. This impact would mean that RAP could see an increase in landlord petitions of 139 percent annually for at least the first three years of this program.

After three years, landlord petitions would be expected to decrease assuming market rate rents maintain their current levels. This decrease would be expected as landlords would be able recover lost returns with higher rents in units that turnover. However, if market rate rents decrease from their current level, landlord petitions could either maintain or increase from the projected levels. It is important to note that the time it takes RAP staff to process fair return petitions (the types of petitions landlords would file in order to get a rent increase greater than the Annual General Adjustment) is five times as long as the time it takes for the average petition.

As proposed in Article 8.22.070.G of the Initiative, the fee for this program could not be passed through to the tenant, and would be entirely borne by the property owner. However, the cost of the fee could potentially be passed through to the tenant through two indirect methods:

First, as landlords petition for a rent increase above the Annual General Adjustment, the operating costs used to justify their petition would include the RAP fee and lost returns from the proposed change to the annual allowable rent

¹ Berkeley passed Measure O in 2004 which limited rent increases to 65 percent of CPI. However, this change was largely absorbed by the RSB's already existing program. Additionally, Measure O received support from both Rent Board and Berkeley Property Owners Association. As such, the changes occurring pre- and post- policy change are not believed to be representative of the changes projected by the currently proposed Initiative.

increases and the actual rate at which expenses would increase annually. If a Landlord's petition is approved, then, theoretically, part of that rent increase would include a pass through of the RAP fee to the tenant.

Second, the increased costs of the RAP fee and the lost income from the change in annual rent increase would be added to the current market rate rent. This increase in market rate rent could further exacerbate the housing affordability crisis this Initiative is attempting to address.

- Projection of Actual RAP Fee Necessary:

As proposed in Article 8.22.040.E.1 (page 7), the Initiative would require landlords to continue to pay an annual registration fee. This fee amount, which cannot be passed through to the tenant, is undesignated in the proposed language and the Rent Board would be able to set the fee. The factors affecting the fee are the staffing and O&M costs which are further broken out in the previous Staff Organization subsection, in Tables 2-4. The initial estimated annual landlord registration fees that would be necessary in the first year based on the staffing and O&M costs are \$247 per unit per year.

Annually, the Rent Board, according to the Initiative, would be able to reassess and increase / decrease the fee based on staffing needs.

There is another approach to distribute the necessary fees based on units that are now under both the Rent Stabilization Ordinance and the Just Cause for Eviction Ordinance versus those units under only the Just Cause for Eviction Ordinance. There could be a tiered fee system established based on this distinction. This would need to be further analyzed.

- Removing Substantial Rehabilitation Exemption

Under Article 8.22.030 of the proposed Initiative, substantially rehabilitated buildings have been removed from the types of dwelling units exempted from the existing ordinance. By removing the substantial rehabilitation exemption, property owners would lose an incentive to perform major updates to rental housing. Instead, the incentive could shift to either removing the rental unit from the rental stock or neglecting to perform major repairs.

The effective date for this clause is unclear as well as the total number of units impacted. The Initiative also does not clearly state whether or not owners with already granted substantial rehabilitation exemptions would be able to maintain such exemptions under the proposed Initiative structure.

- Fair Return for Capital Improvements:

As proposed in Article 8.22.070.A.4 (page 11), the Initiative permits as a fair return petition the pass-through of capital improvements amortized over the life of the improvement. The existing ordinance permits a property owner to pass-through capital improvements costs over a five year amortized period.

The Initiative does not define how to determine the length of the life of an improvement over which capital improvement payments will be amortized. Without further clarification of how to define these periods, a property owner may be discouraged from making improvements on their property. Long-term, the potential lack of improvements could have unintended negative impacts on the condition of the rental housing stock. Additional regulation would be needed to determine the expected useful life of capital improvement types.

Jurisdictions like the City of Santa Monica have created schedules based upon the useful life of an improvement, to define the period over which capital improvements can be amortized. Under these amortization schedules, for capital improvements such as new appliances and fenestrations, the amortization period is five years. For capital improvements like fire sprinkler systems and structural repairs the amortization period is twenty years to reflect the longer useful life.

- Mandated Relocation Expenses:

Another possible expense to landlords based on the proposed Initiative is the cost of tenant relocation for substantial repairs and for Ellis Act evictions. Currently, there is no financial relocation assistance required to be paid from the landlord to the tenant for substantial rehabilitation. The present day relocation amounts for the Ellis Act evictions are \$6,500 for studios/one bedroom units, \$8,000 for two bedroom units, and \$9,875 for three or more bedroom units, as adopted through Ordinance No. 13358 C.M.S. in March this year. The Ellis Act Ordinance also allows for an additional payment of \$2,500 per unit for units with tenants who are seniors, disabled, low-income, or families with minor-aged children.

Councilmember Kaplan has proposed revisions to the Code Enforcement Relocation Program in Oakland Municipal Code (O.M.C.) 15.60 to match the updated Ellis Act relocation amounts. The proposed legislation is online here: <https://goo.gl/WAhCG4>. The legislation only applies to units impacted by code compliance activities and where the tenant is forced to relocate due to the need for the landlord to eradicate a code violation and achieve compliance.

The Initiative does not make any recommendations for O.M.C. 15.60 (Code Compliance Relocation). It only suggests changes to O.M.C. 8.22. However, Councilmember Kaplan's legislation may be adopted before the Initiative, so the dollar amount proposed changes to O.M.C. 8.22 relocation language could also affect O.M.C. 15.60 since the Kaplan-proposed changes reference O.M.C. 8.22. Although unclear on who receives the funding (the individual versus the unit), it appears that the Initiative proposes the following relocation changes in O.M.C. 8.22:

1. There would be new relocation amounts based on length of stay in the unit and tenant age (or children's ages) and/or disability. The new amounts are shown in **Table 9** below.

- The Initiative proposes relocation amounts for rehabilitation where the tenant must vacate at the rates set in **Table 9** below when there were previously no required amounts for this.

Table 9: Relocation Amounts (\$) Offered (organized by legislation type and relocation type)

	Ellis Act				Code Enforcement				Rehabilitation Where Tenant Must Vacate			
	Status Quo				Status Quo				Status Quo – N/A			
	General	Elder/Kids	Dis-abled	Low Income	General	Elder / Kids	Dis-abled	Low Income				
Studio/1	6,500	9,000	9,000	9,000	-	Ext.	-	Rent*2*				
2 Bed.	8,000	10,500	10,500	10,500	-	Ext.	-	Rent*2*				
3+ Bed.	9,875	12,375	12,375	12,375	-	Ext.	-	Rent*2*				
	Kaplan Legislation – N/A				Kaplan Legislation				Kaplan Legislation			
					General	Elder/Kids	Dis-abled	Low Income	General	Elder/Kids	Dis-abled	Low Income
Studio/1					6,500	9,000	9,000	9,000	6,500	9,000	9,000	9,000
2 Bed.					8,000	10,500	10,500	10,500	8,000	10,500	10,500	10,500
3+ Bed.					9,875	12,375	12,375	12,375	9,875	12,375	12,375	12,375
	Initiative Legislation				Initiative Legislation – N/A				Initiative Legislation			
	General	Elder/Kids	Dis-abled	Low Income					General	Elder/Kids	Disabled	
<3 years	7,300	15,000	15,000	-					7,300	15,000	15,000	
3+ years	9,650	18,300	18,300	-					9,650	18,300	18,300	

Note: The Initiative also proposes that the same relocation funds be provided if a tenant is forced to move out due to an owner move in.

All amounts in table are in dollars.

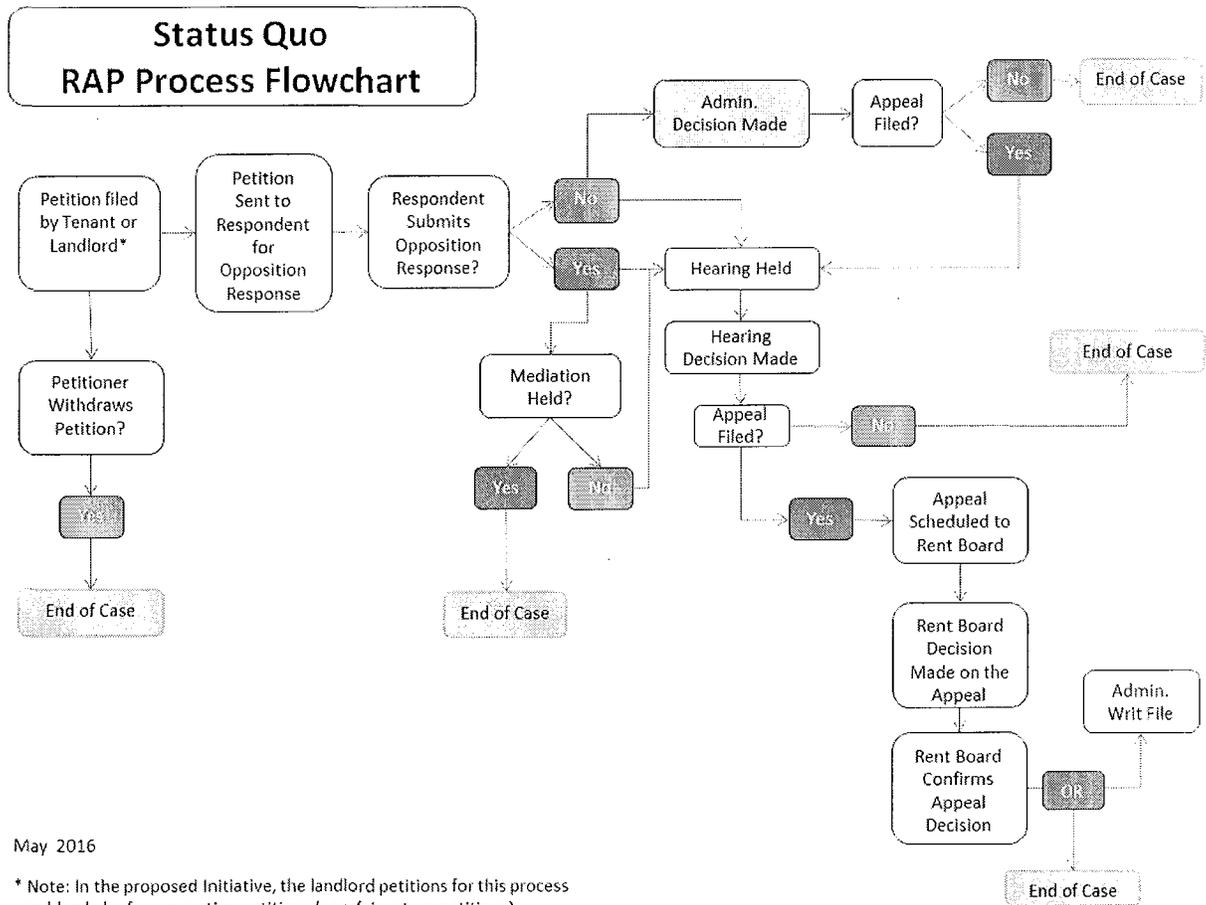
* = Low income tenants can receive two months' rent for relation.

Process Flow

- Process Flowchart

A flowchart of the status quo RAP petition process is shown in **Figure 1** below. The current RAP petition process can take up to 113 days depending on when a hearing date is scheduled. The waiting time for hearing dates, based on staff capacity, consumes the largest amount of time in the petition process. By design, the hearing is usually heard by day 60 in the process. However, due to the large current caseload, hearings are being scheduled for anywhere between day 60 and day 100 in the process, with the average hearing date of day 80 in the process. It is important to note that if a petitioner files an appeal, the total time for the case *significantly* increases to close to one (1) full year. A second note is that there is a current appeal backlog which also affects those hearing dates.

Figure 1: RAP Process Flowchart



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* Note: In the proposed Initiative, the landlord petitions for this process would only be for exemption petitions (non-fair return petitions).

RAP staff realizes that the current process and number of days with current staffing levels is not achieving good service and timely decisions. Thus, staff proposes that additional staffing of administrative assistants, analysts, and hearing officers as shown in **Table 2** in the staffing subsection could improve timeframes and process cases more quickly. Specifically additional staff could reduce the time for a hearing back down to the standard day 60 of the process instead of the current average of day 80. Councilmember Kaplan’s proposed legislation to increase the number of alternate Rent Board members will potentially increase the number of panels to hear appeals and thus reduce the time for appeals.

The proposed Initiative changes the landlord petition process for fair returns, which under this Initiative will also include rent increases and capital improvements. This process is shown in **Figure 1**. In the case of tenants, the proposed Initiative does not substantially change the process flowchart as shown in **Figure 1**. However, it does propose two significant changes for the landlord or RAP staff during a tenant petition: 1) in the case of a landlord filing a petition against a tenant, the Initiative language changes

the requirement for responses and does not mandate that the tenant file a response to the landlord’s petition (in a landlord petition against a tenant, that could make the case approximately 35 days shorter); and 2) unlike the current process where it is recommended that the entire case be completed within 120 days, the Initiative *requires* that the case be completed within 120 days for excess rent cases including the appeal timeline. The language is unclear as to the consequence of failing to meet the 120-day limit. It also does not state that any exceptions can be made to the 120 day requirement as needed (for example, if a landlord files a petition and the tenant restricts access to the unit and causes the case to go longer than the 120 days).

In addition to those two key changes, it is important to note that the proposed Initiative does not limit when a tenant can file a petition. While currently a petition must be filed within 60 days of a rent increase notice, the Initiative-proposed language in 8.22.070.H.1.c.i erases the 60-day requirement, thus potentially allowing tenants to file petitions many years after certain rent increases. This lack of a time limit could have significant workload implications which staff attempted to account for in the estimated staffing needed.

- Shift to Landlord Petitions for Rent Increases Compared to Status Quo:

The cases where a landlord would like to petition for fair return (which includes a rent increase greater than the 60 percent of CPI and capital improvements) would require more time than the current RAP process especially if a tenant appeals the rent increase. RAP staff estimates the average time expected for these petitions is five times the amount of time of a normal RAP petition.

Table 10 below projects the estimated increase in RAP petitions based upon the proposed Initiative.

Table 10. Estimated Increase in RAP Petitions

Petition Type	Calendar Year 2015		Projected under Proposed Initiative	
	Annual Petitions	Percentage of Eligible Properties	Annual Petitions	Percentage of Eligible Properties
Landlord	1,015*	1.66%	2,246	4%
Tenant	700	1.15%	1,400	2.30%

* Includes 963 Enhanced Capital Improvement Notices

As described in the Landlord Operating Costs vs. 60 percent CPI Rent Increase subsection of this report, the proposed Initiative is estimated to increase landlord petitions by 139 percent to 2,246 annual landlord petitions for at least the first three years.

In CY2015, the RAP received 700 tenant petitions. Due to the increase in tenant outreach streamlining of the tenant petition process proposed by the Initiative, tenant petitions are conservatively projected to double to 1,400 annually.

Note, the property owner reporting requirements for noticing of rent increases and eviction proposed in Article 8.22.040.5.D are not included within the estimates described in **Table 10**. While these will create an additional staffing workload, they are assumed to be automated under the proposed database and would not constitute new RAP petitions.

- No Final Certificate of Exemption Could Mean More Petitions:

Another factor which could lead to increased petitions is the fact that no certificate of exemption is ever deemed as final in the Initiative-proposed language. This could potentially allow tenants to continually file petitions for many years after an initial certificate of exemption is filed stating that the building should not be exempt and it will require the exemption process to be reexamined. Depending on how often this occurs, this lack of finality could have significant workload implications which staff attempted to account for in the estimated staffing needed.

- Noticing Requirements in Proposed Initiative:

The proposed Initiative provides a few additional noticing requirements on top of existing noticing requirements. **Table 11** below summarizes the Initiative-proposed noticing requirements compared to status quo.

Table 11: Noticing Requirements – Status Quo versus Initiative

Required RAP Notices				
Notice and When Sent	Required to Send Original/Copy:			
	Status Quo		Initiative	
	To RAP?	To Tenant?	To RAP?	To Tenant?
Notification to the Respondent (landlord or tenant) – sent upon case opening	Yes	Varies*	Yes	Varies*
Notification of deficiencies in file from Petitioner or Respondent – throughout case	Yes	Varies*	Yes	Varies*
Notification of hearing or appeal scheduling	Yes	Yes	Yes	Yes
Required Landlord Notices				
Notice and When Sent	Status Quo		Initiative	
	To RAP?	To Tenant?	To RAP?	To Tenant?
Notification upon Move-in that the RAP program applies to the unit	No	Yes	Yes	Yes
Notification 60 days before every rent increase that a rent increase is coming	No	Yes	Yes	Yes
Pre-Termination Notices (Just Cause)	Yes	Yes	Yes	Yes
Post-Termination Notices (Just Cause)	No	No	Yes	Yes

* = Depends on if the tenant was the Petitioner and filed the petition in which case there is no need to send a notice to the tenant.

Legal Issues

- There may be some legal issues with aspects of the proposed Initiative. These will be reviewed and considered by the City Council with the City Attorney in Closed Session.

Other

- Change in Tenancy Length:

As proposed in Article 8.22.030.A.2 (page 4), the Initiative changes the length of stay needed to establish tenancy from 30 days to 14 days. This change in length of stay needed would have direct impacts on the operations of hotels, motels, inns, tourist's hotels, rooming houses, and boarding houses. In particular, smaller hotels and rooming establishments would likely be more affected as these types of businesses are often used for longer stays. More than half of Oakland's current hotels are classified as small operations (50 rooms or less.)

Under the proposed Initiative, after 14 days of a tenant residing within a dwelling unit, that unit no longer receives an exemption from the proposed Initiative. This change in

tenancy requirements will directly impact businesses willingness to allow for stays of longer than 14 days.

Anecdotally, some residents living in residential hotels have contacted the City stating that they currently are forced to vacate units every 29 days. This action is meant to maintain the units' exempt status under the existing ordinance. This practice is currently prohibited under CA Civil Section 1940.1. Under the proposed Initiative this practice can be expected to double as individuals in these dwellings would be required to vacate units every 13 days rather than every 29 days. This increase in moving would double the moving costs and increase the instability for the City's most vulnerable residents, who are least able to bear this additional burden.

Indirectly, the change in tenancy length from 30 days to 14 days could have an impact on the City's Transient Occupancy Tax (TOT) revenue in that it could provide fewer days of TOT revenue for the City.

- Extending the Just Cause for Eviction Ordinance to All Newly Constructed Units:

The proposed Initiative removes the exemption for newly constructed units from Article 8.22.350, the Just Cause for Eviction Ordinance. Newly Constructed units refer to rental units in buildings built after 1980. Also covered under this exemption are buildings constructed as condominiums, but used as rental housing. Under this section, the Initiative additionally proposes to remove the exemption for three unit owner-occupied rentals.

Table 12 presents the number of units estimated to be no longer exempt from the Just Cause for Eviction Ordinance under the proposed Initiative. Removing the exemption would increase the total number of estimated units covered under the current Just Cause for Eviction Ordinance from 87,404 to 97,965 under the proposed Initiative—or 86 percent of *all* Oakland rental units versus 97 percent of *all* Oakland rental units under the policy conditions respectively. 23,423 total units— or 27 percent of total eligible units—and are currently covered under the Just Cause for Eviction notice but not RAP. This difference in coverage will increase to 32,762 rental units under the proposed Initiative— 33 percent of total eligible units.

Table 12: Estimated Rental Units Built After 1979

Building Type	New Construction (Post-1979)	
	Rental Units in Owner-Occupied Buildings*	Rental Units in Non Owner-Occupied Buildings
Single Family Homes	-	1,403
2 unit	105	358
3 Unit	28	141
4+ Units	108	3,582
Condominium	-	3,719
Total	241	9,203

*Owner-Occupied Units have been removed from Totals; Source: Alameda County Assessor's Records

- Limit on number of times and owner can move in:

Limiting the number of times that an owner can move into their own property is concerning for a few practical reasons: 1) It will be very difficult to follow and track to ensure compliance; 2) It could create an underground market which is not beneficial to the tenant or the City in terms of ensuring that health and safety requirements are met; 3) It discourages owners, who are upstanding community members and neighbors with roots, from fulfilling responsibilities that temporarily take them out of Oakland (e.g., professional opportunity at Oxford; participation in Peace Corps or other similar programs; lead in a national campaign; etc.) and 4) In those circumstances of temporary absence, it prevents the owner from being able to easily re-establish their previous Oakland community network upon their return.

- Tenant Protection Ordinance:

As proposed in Article 8.22.690, the Initiative includes provisions requiring within ninety (90) days of the Initiative passing an implementation plan for the Tenant Protection Ordinance (TPO) to be presented to City Council. This plan would include a staffing plan, Rules and Regulations, and a two-year budget.

Previous staff reports estimated that the creation an administrative remedy program would incur an annual cost of \$779,191 in 2014. The creation of this administrative remedy program would require a fee analysis to be conducted prior Council action. At this time staff has received no directive from Council to perform such analysis.

What is Possible via City Council Ordinances versus a Ballot Initiative?

If the Council has an interest in taking legislative or administrative actions related to some of the major goals of the Initiative, some of the items can be approved via ordinance and others require a ballot initiative. **Table 13** below summarizes the items which could be approved via ordinance versus going to the ballot.

Table 13: Potential Policies to Consider and Adoption Requirements

Policy Item	Ordinance	Ballot Initiative
Apply the Just Cause for Eviction Ordinance to All New Construction		X
Change Exemption for Protection for 2 and 3 unit buildings, owner occupied	X	X*
Landlord-based petitions	X	-
Reforming substantial rehabilitation language	X	-
Restructuring the board membership and objective (but not providing the duties as proposed in the Initiative)	X	-
Education and access to the petitions process by tenants in a searchable database of sorts	N/A	N/A
Require database for Landlord Registration	X	-

* = If it affects Just Cause for Eviction Ordinance

- Other Cities Comparison:

Attachment 2 includes a full comparison chart of the rent board structures in the Cities of Oakland, Berkeley, Santa Monica, West Hollywood, and San Francisco. This chart was prepared by Ecaterina Burton in her report *Oakland's Rent Control: It's Time to Remodel!* Some key facts specifically relevant to the ballot initiative are:

Table 14: Cities Comparison

	Oakland	Berkeley	Santa Monica	West Hollywood	San Francisco
Population	406,000	117,000	95,000	35,000	837,000
% of Population Renters	59%	57%	70%	80%	63%
# of Covered Units	60,000	19,000	27,500	17,000	173,000
Type of Program	Complaint-based.	Active Enforcement through rent registry.	Active Enforcement through rent registry.	Active Enforcement through rent registry.	Complaint-based and active enforcement for certain rent increases.
Current Fee	\$30	\$234	\$174.96	\$120	\$37
Current Budget	\$2.3 million ¹	\$4 million	\$4.7 million	\$1.8 million	\$6.4 million
# of Staff	10	22.25	26	11	32
# of Hearing Officers	4	2	3	Third party contracted (1)	12
# of Counselors	4	4	6	5	11
# of Senior staff	1	3	4	1	4
# of additional staff and duties	1 clerical staff Passes fee processing on to Finance Dept. and legal services to City Attorney office.	3 clerical staff 4.5 rent registration/fee processing unit 2.75 legal unit 1 IT dept. 2 Policy staff	5 clerical staff (2 of whom handle rent registry/processing) 4 legal unit 3 IT dept. 1 Investigator	4 clerical staff (3 of whom manage rent registration) 1 Policy person Contracts out City Attorneys	5 clerical staff Contracts out fee processing to other department
Ratio of Officers and Counselors to Units	1 officer/ counselor per 15,000 units.	1 officer/ 10,000 units. 1 counselor/ 4,750 units.	1 officer/ 13,600 units. 1 counselor/ 4,600 units.	1 officer/ 17,000 units. 1 counselor/ 3,400 units.	1 officer/ 14,400 units. 1 counselor/ 15,700 units.
Type of Buildings Covered Currently	Pre-1983 bldgs (except Section 8 units and Owner-occupied 2-3 unit bldgs)	Pre-1980 buildings, (<u>does</u> include Section 8 units)	Pre-1979 (except for Owner-occupied 2-3 unit buildings)	Pre-1979 (<u>does</u> include Section 8, but exempts Owner-occupied)	Pre-1979 buildings (<u>does</u> include Section 8 units)

	Oakland	Berkeley	Santa Monica	West Hollywood	San Francisco
Board Type and Board Composition	Appointed. 2 Tenants, 2 Landlords, 3 Homeowners	Elected. 9 members.	Elected. 5 members.	Appointed. 7 members with no distinct requirements.	Appointed. 2 Tenants, 2 Landlords, 1 Neutral.
Board Duties	Reviewing Appeals	Reviewing Appeals, Hiring Personnel, 4 Policy Sub-committees	Reviewing Appeals, Adopting regulations & amendments, Hiring Senior Personnel	Reviewing Appeals	Reviewing Appeals, Hiring Personnel

¹ This number is taken from Oakland’s Rent Annual Adjustment Program Report FY 2013-2014. It differs from the amount listed in the report *Increasing the Rent Program Service Fee from \$30 to \$110 Per Unit* because it also includes the portion of their budget that is paid to other City of Oakland departments for additional services.

FISCAL IMPACT

Please see the “Staff, Administration, Organizational, and Budget Changes” Subsection of this report for the Fiscal Impact details. It is estimated that the proposed Initiative could cost approximately \$24.17 Million annually.

PUBLIC OUTREACH

No public outreach necessary beyond the standard City noticing process.

COORDINATION

The Office of the City Attorney, the Budget Office, the Rent Adjustment Board in the Housing and Community Development Department, and the City Auditor were consulted in the preparation of this report.

SUSTAINABLE OPPORTUNITIES

Economic: No economic opportunities have been identified.

Environmental: No environmental opportunities have been identified.

Social Equity: Taking efforts to prevent displacements of Oakland residents contributes to social equity.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The Community And Economic Development Committee Accept This Informational Report And Give Staff Direction On Next Steps About A Proposed Ordinance (The "Protect Oakland Renters Act") That Would Establish The Composition And Functions Of The Rent Board; Establish Rent Adjustments For Certain Units; And Establish Procedures For Governance Of Rental Units In The City Of Oakland.

For questions regarding this report, please contact Claudia Cappio, Assistant City Administrator, at (510) 238-3301.

Respectfully submitted,



CLAUDIA CAPPIO
Assistant City Administrator

PREPARED BY:

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Ethan Guy
Program Analyst III,
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Attachments (3):

- A. Oakland Eviction Informational Memorandum
- B. Comparison Chart Between Oakland and Other Cities
- C. Protect Oakland Renters Act

OAKLAND EVICTION INFORMATIONAL MEMORANDUM

Summary

This informational memorandum provides analysis on evictions in the City of Oakland. The County of Alameda and the City of Oakland currently do not keep specific records on the number of evictions that actually occur. Based upon analysis of City, Superior Court, and Sheriff's Office data, **it is estimated that there were a total of 1,296 evictions in Oakland during calendar year 2015 (this equates to 108 evictions per month in Oakland).**

Methodology

Three main data points were used to determine the estimated number of evictions in Oakland:

- Eviction Notice Filings with the Rent Adjustment Program- Property owners are required to file all notices of eviction with the City of Oakland's Rent Adjustment Program. Eviction notices are often filed regardless of circumstance, often when a rent payment is late or there is a breach of the lease. Since eviction notices are often resolved prior to tenant eviction, this data point may help identify universe of people who are at risk of eviction but does not represent the number of people evicted.
- Unlawful Detainer Filings with Alameda County Superior Court- After a notice of eviction has been filed, a property owner can continue with the eviction process and file for an unlawful detainer with the County Superior Court. Unlawful detainer filings data may help identify the universe of people in need, but does NOT represent the number of people evicted.
- Evictions Conducted by Alameda County Sheriff's Department- After receiving an unlawful detainer, a property owner can obtain a court order for the Sheriff's office to evict a tenant. Alameda County Sheriff's Office has provided county-level information on the number of these court order evictions that have been conducted. Due to this information being at the county-level, we assume that Oakland represents the same proportion of evictions conducted in Alameda County as Oakland's proportion of Alameda County's unlawful detainer filings.

Please note that included in both eviction notices and unlawful detainer filings are instances where a tenant may have relocated prior to the property owner taking further action and thus not recorded as an eviction. Additionally, these data points do not include evictions that were never officially noticed or legal action was never taken by the property owner. At this time, there is no information available to quantify evictions that have occurred without proper noticing or legal action.

Findings

As seen in Table 1, there were 9,544 eviction notices filed with the RAP in CY2015. There were 5,330 unlawful detainer filings with the Alameda County Superior Court of which Oakland represented 2,744—or 51.5%—of cases. Assuming all Oakland unlawful detainer filings had previously filed an eviction notice with RAP, 29% of eviction notices filed with RAP would have resulted in an unlawful detainer filing with the Superior Court.

For CY2015, 2,517 evictions were conducted in Alameda County by the Alameda County Sheriff's Department (note: this is all of Alameda County). Assuming Oakland represented the same proportion of evictions conducted at the county level as the city's proportion of Alameda County's unlawful detainer filings —51.5%— it is estimated that there were 1,296 evictions conducted by the Sheriff's Department in Oakland during CY2015. Assuming all estimated 1,296 evictions conducted in Oakland filed eviction notices with RAP and filed for an unlawful detainer with the Superior Court, 14% of eviction notices filed with RAP and 47% of unlawful detainer filings led to an eviction conducted in CY2015.

Table 1. Estimated Number of Evictions in Oakland during CY2015

	Oakland	Alameda County	Source
Eviction Notice Filings	9,544	-	City of Oakland, Rent Adjustment Program
Unlawful Detainer Filings	2,744	5,330	Alameda County Superior Court
Actual Evictions Conducted	1,296*	2,517	Alameda County Sheriff's Department, Civil Section

*City estimate based upon proportion of Oakland unlawful detainer filings in Alameda County (51.5%)

Comparison Chart Between Oakland and Other Cities

This chart was prepared by Ecaterina Burton in her report *Oakland's Rent Control: It's Time to Remodel!* and it summarizes key differences between the current programs:¹

	Oakland	Berkeley	Santa Monica	West Hollywood	San Francisco
Total population	406,000	117,000	95,000	35,000	837,000
% of Population Renters	59%	57%	70%	80%	63%
# of Covered Units	60,000	19,000	27,500	17,000	173,000
Type of Program	Complaint-based. Tenants must contest rent increases, otherwise no enforcement.	Active Enforcement through rent registry that creates rent ceiling where every/any increase is reviewed.	Active Enforcement through rent registry that creates rent ceiling where every/any increase is reviewed.	Active Enforcement through rent registry that creates rent ceiling where every/any increase is reviewed.	Complaint-based: Although they have active enforcement around certain rent increases. See below.
Current Fee	\$30	\$213	\$174.96	\$120	\$37
Current Budget	\$2.3 million ⁱⁱ	\$4 million	\$4.7 million	\$1.8 million	\$6.4 million
# of Staff	10	22.25	26	11	32
# of Hearing Officers	4	2	2	Third party contracted (1)	12
# of Counselors	4	4	6	5	11
# of Senior staff	1	3	4	1	4
# of additional staff and duties	1 clerical staff Contracts out to Finance for fee processing and to City Attorney offices for legal services.	3 clerical staff 4.5 rent registration/fee processing unit 2.75 legal unit 1 IT department 2 Policy staff	5 clerical staff (2 of whom handle rent registry/processing) 4 legal unit 3 IT department 1 Investigator	4 clerical staff (3 of whom manage rent registration) 1 Policy person Contracts out City Attorneys	5 clerical staff Contracts out fee processing to other department
Ratio of Officers and Counselors to Units	1 officer/counselor per 15,000 units.	1 officer per 10,000 units. 1 counselor per 4,750 units.	1 officer per 13,600 units. 1 counselor per 4,600 units.	1 officer per 17,000 units. 1 counselor per 3,400 units	1 officer per 14,400 units. 1 counselor per 15,700 units.

	Oakland	Berkeley	Santa Monica	West Hollywood	San Francisco
Type of Buildings Covered Currently	Pre-1983 buildings (except Section 8 units and Owner-occupied 2-3 unit buildings)	Pre-1980 buildings, (<u>does</u> include Section 8 units)	Pre-1979 (except for Owner-occupied 2-3 unit buildings)	Pre-1979 (<u>does</u> include Section 8, but exempts Owner-occupied)	Pre-1979 buildings (<u>does</u> include Section 8 units)
How Annual Rent Adjustment Measured	Annual adjustment is the average of two CPI submeasures.	Annual adjustment is 65% of CPI increase.	Annual adjustment is 75% of CPI increase with a minimum increase of 0% and a maximum of 6%. The Board may also establish a maximum dollar increase each year.	Annual adjustment is 75% of CPI increase.	Annual adjustment is 60% of CPI increase.
Requirements for rent notices	Landlords required to provide notice of annual fee increase and justification for any increase in excess. Landlords can only raise the rent once every 12 months.	City of Berkeley notifies <u>all</u> units of annual adjustment. Landlords required to provide 60-day notice for any increase in excess of 10%. No cap on number of increases.	Landlords required to provide notice of annual fee increase. City of Santa Monica notifies <u>all</u> units of annual adjustment. Landlords may bank previous increases.	Landlords required to provide notice of annual fee increase. No banking allowed. Only once per 12 months.	Landlords required to provide notice of annual fee increase or 60-day notice for any increase in excess that is more than 10%. Landlords can only raise the rent once every 12 months.
Statute of limitation for Tenant petitions on rent increases	60 days to contest rent increase, otherwise the increase becomes legal.	None. Tenant can contest increases at any time after notice.	3 year limitation. Tenants can contest excess rent from up to 3 years prior.	3 year limitation. Tenants can contest excess rent from up to 3 years prior.	None. Tenant can contest increases at any time after notice.

	Oakland	Berkeley	Santa Monica	West Hollywood	San Francisco
Type of Rent Increases Requiring Landlord Petitions to Board	None. Landlords are not required to seek pre-approval. Landlords required to provide justification to Tenants. Tenants have 60 days to contest; otherwise increase is legal under statute of limitations.	Petitions required for any increase to Rent Ceiling beyond annual adjustment, including: Capital Improvements, additional tenants, maintenance of NOI, additional space or services, debt service or hardship.	Petitions required for any increase to Rent Ceiling beyond annual adjustment, including: Capital improvements, base amenities, and if tenant is not in occupancy.	Petitions required for any increase to Rent Ceiling beyond annual adjustment, including: Capital improvements, base amenities, and owner-exemption.	Petitions required for: Capital improvements, increase in operating/ maintenance expenses, utilities passthrough, or hardship.
Type of Board and Board Composition	Appointed. 2 Tenants, 2 Landlords, 3 Homeowners	Elected. 9 members.	Elected. 5 members.	Appointed. 7 members with no distinct requirements.	Appointed. 2 Tenants, 2 Landlords, 1 Neutral.
Responsibilities of Board	Reviewing Appeals	Reviewing Appeals, Hiring Personnel, 4 Policy Subcommittees	Reviewing Appeals, Reviewing exemption and removal permit applications, Adopting regulations and amendments, Hiring Senior Personnel	Reviewing Appeals	Reviewing Appeals, Hiring Personnel
Types of Services Offered by City Staff	Counseling, Arbitration	Counseling, Arbitration, Mediation	Counseling, Mediation, Educational workshops, Twice yearly newsletters	Counseling, Mediation, Tenant Harassment investigations	Counseling, Arbitration, Mediation, Wrongful Eviction Reporting, Eviction Defense Referral

	Oakland	Berkeley	Santa Monica	West Hollywood	San Francisco
Capital Improvements Passthrough	Landlords can pass 70% of costs to tenants with 10% cap on annual rent increase and 30% cap on rent increase within a 5-year period.	Landlords can pass-through costs through annual rent increases as long as monthly sum of rent increase is no more than \$25 per year. <u>Cannot</u> pass-through to tenants who are low-income seniors or receiving SSI or welfare.	Landlords can pass-through costs above annual increase only if they are not getting a fair return on their investment based on the rent registry's history of their apartments.	Landlords can pass-through costs above annual increase only if they are not getting a fair return on their investment based on the rent registry's history of their apartments.	In Buildings with 6+ units: tenants can choose to pay 50% of costs through max 10% annual increases or 100% of cost through max 5% annual increases. In buildings with 5 or fewer units: Tenants pay 100% of costs with max 5% annual increase per year.

	Oakland	Berkeley	Santa Monica	West Hollywood	San Francisco
Additional Tenant Benefits	<p>Relocation payment <u>for Ellis Act evictions</u>: 2 months rent for low-income tenants.</p> <p><u>For displacement of 60+ days</u>: fixed amount that is twice the rent of unit of comparable size for low-income tenants only. <u>For less than 60 days</u>, landlords required to pay tenants' anticipated moving and temporary housing costs within 5 days.</p> <p>No annual interest on security deposit paid to tenants.</p>	<p>Relocation payment <u>for permanent displacement</u>: \$4,500 for low-income tenants only from owner move-in or \$8,700-\$11,200 for Ellis Act evictions.</p> <p><u>For temporary displacement of 30+ days</u>: landlords required to pay tenants' anticipated moving and temporary housing costs. <u>For displacements less than 30 days</u>: fixed per diem per person.</p> <p>Annual interest on security deposits paid to tenants.</p>	<p>Relocation payment <u>for permanent displacement</u>: \$8,650 for a studio, \$13,300 for 1-bedroom, \$18,050 for 2-bedroom. Fee is also increased if tenant is elderly/disabled, or has minor children in the household.</p> <p><u>For temporary displacement of 30+ days</u>: Landlords are required to provide alternative housing. <u>For temporary displacement less than 30 days</u>: \$154 per day for hotel. \$29 for meals per day per person. Also per diem for pets.</p> <p>No annual interest on security deposit paid to tenants</p>	<p>Relocation payment <u>for permanent displacement</u>: \$6,180 for studio, \$8,726 for 1-bedroom, \$11,754 for 2-bedroom, \$15,512 for 3-bedroom. Qualified tenants (disabled, senior, house with minors, terminally ill or moderate income) get \$16,359. Low-income household gets \$20,600.</p> <p><u>For temporary displacement of 6 months or less</u>: Landlords are required to provide a hotel room.</p> <p>Annual interest on security deposits paid to tenants.</p>	<p>Relocation payment <u>for Ellis Act evictions</u>: \$5,555 per tenant up to \$16,665 for household with additional amount provided for households with elderly and/or disabled members.</p> <p><u>For temporary displacement</u>: \$4,500 per tenant with up to \$13,500 per household.</p> <p>Annual interest on security deposits paid to tenants.</p>

ⁱ This data comes from following sources for each municipality: their 2015-2023 Housing Elements, their Rent Control Ordinances, general information provided on their respective Rent Control websites, annual reports and interviews with Santa Monica, West Hollywood, SF and Berkeley staff. Also, it should be noted that each city has a particular name for their rent stabilization program respectively: in San Francisco it is

called the “Rent Board,” in Berkeley it is called “Rent Stabilization Board,” in Santa Monica it is called “Rent Control Board,” and in Oakland it is called “Rent Adjustment Board.” The same goes for staff. In Berkeley, a housing counselor is called “Community Services Specialist,” in Oakland a “Program Analyst,” in Santa Monica a “Information Analyst,” and in San Francisco a “Complaint Officer.” San Francisco calls the staff who run their hearings “Administrative Judges” while Berkeley, Santa Monica and Oakland calls theirs “Hearing Officer.”

ⁱⁱ This number is taken from Oakland’s Rent Annual Adjustment Program Report FY 2013-2014. It differs from the amount listed in the report *Increasing the Rent Program Service Fee from \$30 to \$110 Per Unit* because it also includes the portion of their budget that is paid to other City of Oakland departments for additional services.

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THE CITY OF OAKLAND—PROTECT OAKLAND RENTERS ACT

BE IT ORDAINED by the People of the City of Oakland as follows:

- (a) Oakland rents are now the EIGHTH highest in the country, our residents are being priced out of the housing market and there is a lack of housing that all families can afford; and
- (b) There is a shortage of decent, safe, affordable, and sanitary rental housing in the City of Oakland; and
- (c) While some landlords abide by the law, others do not—taking advantage of their tenants, with unsafe properties, illegal rent increases and evictions—landlords who don't obey tenant protection laws must be charged fines; and
- (d) According to the City of Oakland Housing Element, 2015-2022, 65% of renter households in the City pay a gross rent which exceeds 50% of their income and are thus considered to be extremely housing cost burdened; and
- (e) According to the City of Oakland Housing Element, 2015-2022, approximately 52% of low-income renter occupied households pay 70% or more of income for rent, and are also extremely housing cost burdened; and
- (f) According to Zillow Inc., the average asking price for rental units in the City of Oakland rose 154% between 2011 and 2014; and
- (g) According to the Oakland Housing Equity Roadmap, the median income gap between owner and renter households in the City of Oakland in 2015 was \$55,450, with renter households earning substantially less than owner households; and
- (h) According to the Oakland Housing Equity Roadmap, between 2000 and 2010, 25% of the African American population, a loss of 33,502 residents, and 16.7% of school age children in the City of Oakland, compared with a decline of only 3.9% in Alameda County, had been evicted and/or displaced from Oakland with corresponding impact on schools, culture, and the stability of neighborhoods; and
- (i) Oakland is one of the most diverse cities in the country—we can only keep it that way by protecting against the evictions and rent increases pricing out people of color, seniors, working families, and artists who have made and make Oakland vibrant; and
- (j) Rent stabilization programs have been adopted in several jurisdictions in California and have long been upheld as constitutional;

This measure shall be known as the Protect Oakland Renters Act.

Article I. - Residential Rent Adjustment Program

8.22.020 - Definitions.

Section 1. That Section 8.22.020 of the Oakland Municipal Code is amended to read as follows:

As used in this chapter, Article 1:

"1946 notice" means any notice of termination of tenancy served pursuant to California Civil Code Section 1946. This notice is commonly referred to as a thirty (30) or sixty (60) day notice of termination of tenancy, but the notice period may actually be for a longer or shorter period, depending on the circumstances.

"1946 Termination of Tenancy" means any termination of tenancy pursuant to California Civil Code § Section 1946.

"Anniversary date" is the date falling one year after the day the tenant was provided with possession of the covered unit or one year after the day the most recent rent adjustment took effect, whichever is later. Following certain vacancies, a subsequent tenant will assume the anniversary date of the previous tenant (Section 8.22.080).

~~"Banking" means any CPI Rent Adjustment (or any rent adjustment formerly known as the Annual Permissible Rent Increase) the owner chooses to delay imposing in part or in full, and which may be imposed at a later date, subject to the restrictions in the regulations.~~

"Board" and "Residential Rent Adjustment Board" means the Housing, Residential Rent and Relocation Board.

~~"Capital improvements" means those improvements to a covered unit or common areas that materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. Those improvements must primarily benefit the tenant rather than the owner.~~

~~"CPI—All items" means the Consumer Price Index—All items for all urban consumers for the San Francisco—Oakland—San Jose area as published by the U.S. Department of Labor Statistics for the twelve (12) month period ending on the last day of February of each year.~~

~~"CPI—Less shelter" means the Consumer Price Index—All items less shelter for all urban consumers for the San Francisco—Oakland—San Jose area as published by the U.S. Department of Labor Statistics for the twelve (12) month period ending on the last day of February of each year.~~

"Annual General Adjustment" means the maximum allowable rent increase that the owner may impose once per year without an order from a hearing officer. The maximum is the set at sixty (60) percent of the percentage increase of the Consumer Price Index. All references to the "CPI Rent Adjustment" in this chapter will now be interpreted to refer to the Annual General Adjustment.

~~"CPI Rent Adjustment" means the maximum rent adjustment (calculated annually according to a formula pursuant to Section 8.22.070 B.3) that an owner may impose within a twelve (12) month period without the tenant being allowed to contest the rent increase, except as provided in Section 8.22.070B.2 (failure of the owner to give proper notices, decreased housing services, and unneured code violations).~~

"Costa-Hawkins" means the California state law known as the Costa-Hawkins Rental Act codified at California Civil Code §Section 1954.50, et seq. (Appendix A to this chapter contains the text of Costa-Hawkins).

"Covered unit" means any dwelling unit, including joint living and work quarters, and all housing services located in Oakland and used or occupied in consideration of payment of rent with the exception of those units designated in Section 8.22.030A as exempt.

"Disability" means physical and mental disabilities as defined in Government Code Section 12955.3.

"Ellis Act Ordinance" means the ordinance codified at O.M.C. 8.22.400 (Chapter 8.22, Article III) setting out requirements for withdrawal of residential rental units from the market pursuant to California Government Code §Section 7060, et seq. (the Ellis Act).

"Fee" means the Rent Program Service Fee as set out in O.M.C. 8.22.500 (Chapter 8.22, Article IV).

"Housing ~~s~~Services" means all services provided by the owner related to the use or occupancy of a covered unit, including, but not limited to, insurance, repairs, maintenance, painting, utilities, heat, water, elevator service, laundry facilities, janitorial service, refuse removal, furnishings, parking, security service, and employee services.

"Owner" means any owner, lessor or landlord, as defined by state law, of a ~~covered~~ rental unit that is leased or rented to another, and the representative, agent, or successor of such owner, lessor or landlord.

"Owner of record" means a natural person, who is an owner holding an interest equal to or greater than Fifty (50%) ~~thirty-three~~ 33% percent in the property, but not including any lessor, sublessor, or agent of the owner of record.

~~"Just Cause for Eviction Ordinance" means the just causes listed in means the ordinance adopted by the voters on November 5, 2002 (also known as Measure EE) and codified at O.M.C. 8.22.300 (O.M.C. Chapter 8.22, Article II). This includes the amendments made by this amendment.~~

"Rent" means the total consideration charged or received by an owner in exchange for the use or occupancy of a covered unit including all housing services provided to the tenant.

"Rental Unit." Any building, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for residential purposes, together with all Housing Services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the Tenant.

"Rent Adjustment Program" means the department in the city that administers this chapter and also includes the ~~h~~Board.

"Regulations" means the regulations adopted by the Bboard ~~and approved by the City Council~~ for implementation of this chapter, Article I (formerly known as "Rules and Procedures") (After regulations are approved, they will be attached to this chapter as Appendix B).

"Security deposit" means any payment, fee, deposit, or charge, including but not limited to, an advance payment of rent, used or to be used for any purpose, including but not limited to the compensation of an owner for a tenant's default in payment of rent, the repair of damages to the premises caused by the tenant, or the cleaning of the premises upon termination of the tenancy exclusive of normal wear and tear.

~~"Tenant" means a person entitled, by written or oral agreement to the use or occupancy of any covered unit.~~ "Tenant" means a tenant, subtenant, lessee, sub-lessee or other person entitled to the use or occupancy of a Rental Unit by written, oral, or implied agreement, or any tenant at sufferance or tenant at will, or any successor of any of the foregoing.

Section 2. That subdivisions A and B of Section 8.22.030 of the Oakland Municipal Code are amended to read as follows:

8.22.030 - Exemptions.

- A. Types of Dwelling Units Exempt from Rent Control. The following dwelling units are not covered units for purposes of this chapter, Article I only (the Just Cause for Eviction Ordinance (Chapter 8.22, Article II) and the Ellis Act Ordinance (Chapter 8.22, Article IIIH)) have different exemptions):
1. Dwelling units whose rents are controlled, regulated (other than by this chapter), or subsidized by any governmental unit, agency or authority.
 2. Accommodations in motels, hotels, inns, tourist houses, rooming houses, and boarding houses, provided that such accommodations are not occupied by the same tenant for (14) fourteen ~~thirty (30)~~ or more continuous days.
 3. Housing accommodations in any hospital, convent, monastery, extended care facility, convalescent home, nonprofit home for the aged, or dormitory owned and operated by an educational institution.
 4. Dwelling units in a nonprofit cooperative, owned, occupied, and controlled by a majority of the residents.
 5. Dwelling units which were newly constructed and received a certificate of occupancy on or after January 1, 1983. This exemption does not apply to any newly constructed dwelling units that replace covered units withdrawn from the rental market in accordance with O.M.C. 8.22.400, et seq. (Ellis Act Ordinance).

To qualify as a newly constructed dwelling unit, the dwelling unit must be entirely newly constructed or created from space that was formerly entirely non-residential.

~~6. Substantially rehabilitated buildings.~~

7. Dwelling units exempt pursuant to Costa-Hawkins (California Civil Code §Section 1954.52).
8. A dwelling unit in a residential property that is divided into a maximum of two ~~(2) three (3)~~ units, one of which is occupied by an owner of record as his or her principal residence. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the state of California.

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 3. That subdivision D of Section 8.22.030 of the Oakland Municipal Code is amended to read as follows:

- D. Exemptions for Owner-Occupied Properties of Two ~~(2) Three~~ or Fewer Units. Units in owner-occupied properties divided into three ~~two~~ or fewer units will be exempt from this chapter, Article I under the following conditions:

- a. One-Year Minimum Owner Occupancy. A qualifying owner of record must first occupy one of the units continuously as his or her principal residence for at least one year.
- b. Continuation of Exemption. The owner-occupancy exemption continues until a qualifying owner of record no longer continuously occupies the property.
- c. Rent Increases. The owner of record qualifying for this exemption may notice the first rent increase that is not regulated by this chapter, Article I one year after the effective date of this exemption or one year after the qualifying owner of record starts residing at the affected property as his or her principal place of residence.
- d. Effective date of this Exemption. This exemption for owner-occupied properties of ~~three~~ two or fewer units takes effect one year after the adoption of this ordinance modifying this chapter, Article I.

Section 4. That subdivision A of Section 8.22.040 of the Oakland Municipal Code is amended to read as follows:

8.22.040 - Composition and Functions of the Board.

A. Composition.

1. Members. The Board shall consist of seven regular members appointed pursuant to Section 601 of the City Charter. The Board shall be comprised of seven (7) ~~two residential rental property owners, two tenants~~ members of which four (4) shall be ~~tenants, two neither tenants nor residential rental property owners.~~ There shall be a Board Member from each council district. ~~The Board shall also have three alternate members, one residential rental property owner, one tenant and one person who is neither a tenant nor residential rental property owner appointed pursuant to Section 601 of the Charter. An alternate member may act at Board meetings in the absence of a regular Board member of the same category.~~
2. Appointment. A Board member is deemed appointed after confirmation by the City Council and upon taking the oath of office.
3. Board members serve without compensation.

Section 5. That subdivision D of Section 8.22.040 of the Oakland Municipal Code is amended to read as follows and subdivisions E and F of Section 8.22.040 of the Oakland Municipal Code are added to read as follows:

D. Duties and Functions.

1. Appeals. The Board hears appeals from decisions of hearing officers.
2. Regulations. The Board may develop or amend the regulations, ~~subject to City Council approval.~~
3. Reports. The Board shall make such reports to the City Council or committees of the City Council as may be required by this chapter, by the City Council or by City Council Committee.
4. Recommendations. The Board may make recommendations to the City Council or appropriate City Council committee pertaining to this chapter or City housing

policy when requested to do so by the City Council or when the Board otherwise acts to do so.

5. Establish and announce the Annual General Adjustment under Section 8.22.070 A.
6. Make adjustments in the Rent Increase and Decreases in accordance with Section 8.22.070.
7. Issue orders, rules and regulations, conduct hearings and charge fees as set forth in this chapter.
8. Make such studies, surveys and investigations, conduct such hearings, and obtain such information as is necessary to carry out its powers and duties.
9. Report annually to the City Council of the City of Oakland on the status of rental housing covered by this chapter. Reports shall include a summary of the numbers of notices served, the basis upon which they were served, the amount of the Rent increases and the addresses for which they were served.
10. Charge and collect registration fees, including penalties for late payments.
11. Collect and receive copies of notices of termination of tenancy and changes in terms of tenancy.
12. A searchable database will be created so that service of notice may be determined as well information for the reports described above.
13. Administer the withdrawal process for the removal of Rental Units from rental housing market under sections 8.22.360 8.
14. Administer oaths and affirmations and subpoena witnesses.
15. Establish rules and regulations for deducting penalties and settling civil claims under Section 8.22.670.
16. Refer violations of this Chapter to appropriate authorities for prosecution.
17. Seek injunctive and other civil relief under Section 8.22.670.
18. Make available, on a contract basis, translation services in Spanish, Chinese, Mandarin, Vietnamese, Tagalog, and other languages, where requested in advance, to interpret and translate documents and procedures as needed related to Board Hearings and Appeals.
19. Make available, on a contract basis, legal assistance services for low and moderate income tenants and landlords who express the need for legal assistance related to Board Hearings, Appeals and eviction defense.
20. Any other duties necessary to administer and enforce this chapter.

E. Administration of the Board

1. **Financing.** The Board shall finance its reasonable and necessary expenses by charging Landlords annual registration fees in amounts deemed reasonable by the Board. The Board is also empowered to request and receive funding when and if necessary from any available source for its reasonable and necessary expenses.
2. **Integrity and Autonomy of Board.** The Board shall be an integral part of the government of the City, but shall exercise its powers and duties under this Chapter independent from the City Council, City Administer, and City Attorney, except as requested by the Board. The City shall provide infrastructural support on an ongoing basis as it would with any other department. During the transition period before the Board Members are appointed and an Executive Director is

hired, the City shall take whatever steps necessary to perform the duties of the Board and implement the purpose of this Chapter.

3. **Budget.** The Board shall, prior to July 1 of each year, hold a public hearing on a proposed budget and adopt an annual budget for the ensuing fiscal year. At least thirty-five (35) days prior to the beginning of each fiscal year, the Board's Executive Director shall submit to the Board the proposed budget as prepared by the Executive Director. After reviewing the same and making such revisions as it may deem advisable, the Board shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten (10) days prior to said hearing, by at least one insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public in the office of the Board at least ten (10) days prior to said hearing. The City Council and the City Administer shall have no authority to oversee, supervise, or approve this budget. Upon final adoption, the budget shall be in effect for the ensuing fiscal year and the amounts stated therein shall be and become appropriated by the Board for the respective objects and purposes therein specified. At any meeting after the adoption of the budget, the Board may amend or supplement the budget by the affirmative votes of at least three members. Copies of the adopted budget and any amendments or supplements shall be filed with the City Clerk and City Administer. Necessary adjustments to city administrative procedures shall be made.
4. **Personnel.** The Board shall review and assess yearly that a sufficient number of staff are employed, including an Executive Director, hearing examiners, housing counselors, and legal staff, as may be necessary to perform its function efficiently in order to fulfill the purpose of this Chapter. The Executive Director shall be hired by the Board.
5. **Board Legal Work.** Legal staff hired by the Board shall represent and advise the Board, its Members, and its staff in any civil matters, actions, or proceedings in which the Board, its Members, or its staff, in or by reason of their official capacity, are concerned or are a party. The Board may, in its sole discretion, and without approval of the City Council, retain private attorneys to furnish legal advice or representation in particular matters, actions, or proceedings.
6. **Contracts and Purchases.** The Board shall procure goods and services as do other City agencies using existing support services within the City as would any other department, i.e. Finance, Information Technology, and Public Works, among others. Provided, however, that the Board shall have sole and final authority to employ attorneys, legislative lobbyists, and other professionals, and to approve contracts for such professional services.
7. **Conforming Regulations.** If any portion of this Chapter is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by state or federal legislation, the Board and not the City Council shall have authority to enact replacement regulations consistent with the intent and purpose of the invalidated provision and applicable law. Such replacement regulations shall supersede invalidated or unenforceable provisions of this Chapter to the extent necessary to resolve any inconsistency. The subject

matter of such replacement regulations shall be limited to rent control matters as enumerated in this Chapter.

- F. In the event the duties of the Board under this section is adjudged to be invalid for any reason by a court of competent jurisdiction, the City Council shall designate one or more City departments, agencies, boards, or commissions to perform the duties of the Rent Board as prescribed by this Chapter.

Section 6. That Section 8.22.050 of the Oakland Municipal Code is amended to read as follows:

8.22.050 - Summary of notices required by this chapter, Article I. Notice Requirements.

The following is a summary of notices required by this chapter, Article I (the Just Cause for Eviction Ordinance (Chapter 8.22, Article II) and the Ellis Act Ordinance (Chapter 8.22, Article III) may require other or different notices). Details of the requirements for each notice are found in the applicable section.

- A. Notice at the Commencement of a Tenancy. Existence and scope of this chapter (Section 8.22.060).
- B. Change in Terms of Tenancy or Rent Increase. Notice of tenant's right to petition. (Section 8.22.070 H).
- C. All Landlords shall be required to file a copy of all rental increase notices, change of terms of tenancy and tenancy termination notices with the Board before serving the tenant the notice. A proof of service with time and date of service of notice shall be included with notice filed with the City.
- D. If the Board, after the Landlord has proper notice and after a hearing, determines that a Landlord has willfully and knowingly failed to properly report, as described above, any rental increase notices, change of terms of tenancy, or tenancy termination, the Board may authorize the Tenant of such a non-reporting unit to withhold all or a portion of the Rent for the Rental Unit until such time as the notice is filed. After a notice is properly filed, the Board shall determine what portion, if any, of the withheld Rent is owed to the Landlord for the period in which the notice was not properly filed. Whether or not the Board allows such withholding, no Landlord who has failed to properly report shall at any time increase Rents for a Rental Unit until such notice is properly reported. This shall go into effect thirty (30) days after determination of the Board.

Section 7. That subdivision A of Section 8.22.060 of the Oakland Municipal Code is amended to read as follows:

8.22.060 - Notice of the existence of this chapter required at commencement of tenancy.

- A. Notice at Commencement of Tenancy. The owner of any covered unit is required to comply with the following notice requirements at the commencement of any tenancy:

1. On or before the date of commencement of a tenancy, the owner must give the tenant a written notice in a form prescribed by the Rent Adjustment Program which must include the following information:
 - a. The existence and scope of this chapter; and
 - b. That no owner may increase rent beyond the annual maximum adjustment; and
 - c. The tenant's rights to petition against certain rent increases and seek decreases for a reduction of services.

Section 8. That subdivisions A, B, and C of Section 8.22.070 of the Oakland Municipal Code are amended to read as follows:

8.22.070 – Annual 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. One Rent Increase Each 12 Months and Limitations.

1. An owner may increase the rent on a covered unit occupied continuously by the same tenant only once in a 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 plus ~~by more than five (5) ten percent in any 12-month period for any and all a~~ the Annual General Adjustment. The Annual General rent Aadjustment shall be equal to sixty (60) percent of the percentage increase in the Consumer Price Index (All Urban Consumers, San Francisco-Oakland-San Jose region, or any successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve (12) month period ending on February 1 of the current year. 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)
3. In no event shall the Annual General Adjustment be approved greater than five (5) percent, nor shall a rent increase on the rent of any tenant exceed five (5) percent in any twelve (12) month period. Should the Board determine, as result of a landlord petition for "fair return," that a resulting Rent Adjustment would be greater than 5%, landlord shall be permitted to carry the excess to future years until "fair return" is re-established.
4. The owner may petition for an increase beyond the Annual General Adjustment for an individual adjustment if the owner can show that he or she is unable to obtain a reasonable return on his or her investment. In making individual adjustments of the rent, the hearing examiner shall consider the purposes of this chapter and shall specifically consider all relevant factors, including:
 - a. Increases or decreases in property taxes;

- b. Unavoidable increases or any decreases in maintenance and operating expenses;
 - c. The cost of planned or completed capital improvements to the rental unit (as distinguished from ordinary repair, replacement and maintenance), where such capital improvements are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, and where such capital improvement costs are properly amortized over the life of the improvement;
 - d. Increases or decreases in the living space, furniture, furnishings, equipment, or other housing services provided, or occupancy rules;
 - e. Substantial deterioration of the controlled rental unit other than as a result of normal wear and tear;
 - f. Failure on the part of the landlord to provide adequate housing services, or to comply substantially with applicable state rental housing laws, local housing, health and safety codes, or the rental agreement;
 - g. The pattern of recent rent increases or decreases.
 - h. No upward adjustment of an individual rent ceiling shall be authorized by the Board under this Section if the landlord:
 - i. Has continued to fail to comply, after order of the board, with any provisions of this chapter and orders or regulations issued thereunder by the Board; or
 - ii. Has failed to bring the rental unit into compliance with the implied warranty of habitability.
 - i. Allowable rent increases pursuant to an individual upward adjustment of the rent ceiling shall become effective only after the landlord gives the tenant at least a thirty (30) day written notice of such rent increase and the notice period expires. If the Board makes a downward individual adjustment of the rent ceiling, such rent decrease shall take effect no sooner than thirty (30) days after the effective date set by the Board for the downward adjustment.
 - j. No provision of this chapter shall be applied so as to prohibit the Board from granting an individual rent adjustment that is demonstrated by the landlord to be necessary to provide the landlord with a fair return on investment. Limits on the total increase per month and length of monthly increase shall be promulgated by the Board through regulations.
 - k. A rent increase based on the CPI Rent Adjustment for the current year that exceeds ten percent, provided however that such Rent increase may only include a CPI Rent Adjustment;
 - l. The rent increase is required for the owner to obtain a fair return pursuant to O.M.C. 8.22.070C.2.f.
5. ~~No series of rent increases in any five-year period can exceed 30 percent 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 30 percent limitation;~~
 - b. ~~Exceeding the 30 percent limitation is required for the owner to obtain a fair return pursuant to O.M.C. 8.22.070C.2.f.~~
6. If an owner is entitled to a rent increase or increases that cannot be taken because of the Rent increase limitations pursuant to Subsections 2.or 3. above, the owner may defer the start date of the increase 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 deferred increase that may be applied in the future.

~~B. CPI Rent Adjustments:~~

- 1. ~~Effective Date of this Section. An owner may first impose CPI Rent Adjustments pursuant to this section that take effect on or after July 1, 2002.~~
- 2. ~~CPI Rent Adjustment Not Subject to Petition. The tenant may not petition to contest a rent increase in an amount up to and including the CPI Rent Adjustment unless the tenant alleges one or more of the following:~~
 - a. ~~The owner failed to provide the notice required at the commencement of tenancy and did not cure such failure (Section 8.22.060);~~
 - b. ~~The owner failed to provide the notice required with a rent increase (Section 8.22.070 H);~~
 - c. ~~The owner decreased housing services;~~
 - d. ~~The covered unit has uncured health, safety, fire, or building code violations pursuant to California Civil Code Section 1942.4 and Section 8.22.070 D.7).~~
- 3. ~~Calculation of the CPI Rent Adjustment. Beginning in 2002, the CPI Rent Adjustment is the average of the percentage increase in the CPI—All items and the CPI—Less shelter for the twelve (12) month period starting on March 1 of each calendar year and ending on the last day of February of the following calendar year calculated to the nearest one-tenth of one percent.~~
- 4. ~~Effective Date of CPI Rent Adjustments. An owner may notice a rent increase for a CPI Rent Adjustment 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 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.~~
- 5. ~~Banking. In accordance with rules set out in the regulations, An owner may not bank CPI rent adjustments and annual permissible rent adjustments previously authorized by this chapter.~~
- 6. ~~Schedule of Prior Annual Permissible Rent Adjustments. Former annual permissible rent adjustments available under the prior versions of this chapter:~~
 - a. ~~May 6, 1980 through October 31, 1983, the annual rate was ten percent.~~
 - b. ~~November 1, 1983 through September 30, 1986, the annual rate was eight percent.~~
 - c. ~~October 1, 1986 through February 28, 1995, the annual rate was six percent.~~
 - d. ~~March 1, 1995 through June 30, 2002, the annual rate was three percent.~~

~~C. Rent Increases in Excess of the CPI Rent Adjustment.~~

- ~~1. A tenant may file a petition in accordance with the requirements of Section 8.22.110 contesting any rent increase which exceeds the CPI Rent Adjustment. The tenant may also petition for a decrease of rent due to a reduction of housing services.~~
- ~~2. If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond by either claiming an exemption to the~~
- ~~3. and/or justifying the rent increase in excess of the CPI Rent Adjustment. on one or more of the following grounds:~~
- ~~4.~~
 - ~~a. Banking;~~
 - ~~b. Capital improvement costs, including financing of capital improvement costs;~~
 - ~~c. Uninsured repair costs;~~
 - ~~d. Increased housing service costs;~~
 - ~~e. The rent increase is necessary to meet constitutional or fair return requirements.~~
- ~~5. The amount of rent increase allowable for the grounds listed in Section 8.22.070 C.2 are subject to the limitations set forth in the regulations.~~
- ~~6. An owner must provide a summary of the justification for a rent increase upon written request of the tenant.~~

D. Operative Date of Rent Adjustment when Petition Filed.

- ~~1. While a tenant petition is pending, a tenant must pay when due, pursuant to the rent increase notice, the amount of the rent increase that is equal to the CPI Rent Adjustment unless:~~
 - ~~a. The tenant's petition claims decreased housing services; or~~
 - ~~b. The owner failed to separately state in the rent increase that equals the CPI Rent Adjustment pursuant to Section 8.22.070 H.~~

Section 9. That subdivisions G and H of Section 8.22.070 of the Oakland Municipal Code are amended to read as follows:

- G. Pass-through of Fee. ~~There shall be no pass-through of the Fee to a Tenant. An owner may pass through one half of the fee to a tenant in accordance with Section 8.22.500G. The allowed fee pass-through shall not be added to the rent to calculate the CPI Rent Adjustment or any other rent adjustment and shall not be considered a rent increase.~~
- 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 Annual General 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 Annual General Adjustment 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

timely give the tenant a written summary of the basis for a rent increase in excess of the ~~CPI Rent Adjustment~~Annual General Adjustment, as required by Subsection 8.22.070 H.1.c, the amount of the rent increase in excess of the ~~CPI Rent Adjustment~~ Annual General Adjustment is invalid.

Section 10. That subdivision A of Section 8.22.090 of the Oakland Municipal Code is amended to read as follows:

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 ~~CPI Rent Adjustment~~ the Annual General Adjustment, including, without limitation circumstances where:
 - i. 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~~ annual rent increase as required by Subsection 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 Subsection 8.22.070 H;
 - 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 Subsection 8.22.070 D; and
 - 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 annual limit or that exceeds the rent increase limit of 30 percent in five years.~~
 - b. The tenant claims relocation restitution pursuant to Subsections 8.22.360 A.6-8 or Subsection 8.22.450.
 - c. The petition is permitted by the Just Cause for Eviction Ordinance (Measure EE) O.M.C. 8.22.300.
 - d. The petition is permitted by the Ellis Act Ordinance, O.M.C. 8.22.400.
 - e. The tenant contests an exemption from this O.M.C. 8.22, Article I.
2. ~~For a petition contesting a rent increase, the petition must be filed within sixty (60) days of whichever of the following is later:~~
 - a. ~~The date the owner serves the rent increase notice; or~~
 - b. ~~The date the tenant first receives written notice of the existence and scope of this chapter as required by Section 8.22.060.~~

3. In order to file a petition or respond to an owner petition, a tenant may provide the following at the time of filing the petition or response:
 - a. A completed tenant petition or response on a form prescribed by the Rent Adjustment Program;
 - b. ~~Evidence that the tenant's rent is current or that the tenant is lawfully withholding rent; and~~
 - c. A statement of the services that have been reduced or eliminated, if the tenant claims a decrease in housing services;
 - d. A copy of the applicable citation, if the tenant claims the rent increase need not be paid because the covered unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations pursuant to Section 8.22.070 D.7.
 4. A tenant may ~~shall~~ file a response to an owner's petition to increase rent pursuant to within thirty (30) days of service of the notice by the Rent Adjustment Program that an owner petition was filed. Board staff shall prepare a response and recommendation for the Board regardless if tenant files a response. The response and recommendation by Board staff shall review and provide all necessary information so that the Board may consider the factors listed in Section 8.22.070(A)(3).
- B. ~~General~~ Civil Remedies. An aggrieved party or the City Attorney, on behalf of such party, may bring a civil action for injunctive relief or damages, or both, for any violation of the provisions of this chapter or an order or decision issued by a Hearing Officer or the Board.
1. Any Landlord who demands, accepts, receives or retains any payment of Rent in excess of the Maximum Allowable Rent, in violation of the provisions of this Chapter or any rule, regulation or order hereunder promulgated, including the provisions ensuring compliance with habitability standards and registration fee requirements, shall be liable in a civil action to the Tenant from whom such payments are demanded, accepted, received or retained, for reasonable attorney's fees and costs as determined by the court, plus damages in the amount by which the payment or payments demanded, accepted, received or retained exceeds the Maximum Allowable Rent. A civil penalty of treble the amount by which the payment or payments demanded, accepted, received or retained exceeds the Maximum Allowable Rent shall be awarded against the Landlord upon a showing that the Landlord has acted willfully or with oppression, fraud or malice. No administrative remedy need be exhausted prior to filing suit pursuant to this Subsection.
 2. In lieu of filing a civil action, a Tenant may file an administrative complaint. The Board shall establish by rule and regulation a hearing procedure similar to that set forth in Section 8.22.090.
 3. The rules and regulations adopted by the Board shall provide for final Board action on any complaint for excess Rent within one hundred twenty (120) days following the date of filing of the complaint.
 4. In any administrative hearing under this Section, a Landlord who demands, accepts, receives or retains any payment of Rent in excess of the Maximum

Allowable Rent shall be liable for damages in the amount by which the payment or payments demanded, accepted, received or retained exceeds the Maximum Allowable Rent.

5. If the Tenant from whom such excessive payment is demanded, accepted, received or retained in violation of the foregoing provisions of this Chapter, or any rule or regulation or order hereunder promulgated, fails to bring a civil or administrative action as provided for in Sections 8.22.090 within one hundred twenty (120) days from the date of occurrence of the violation, the Board may settle the claim arising out of the violation or bring such action. Thereafter, the Tenant on whose behalf the Board acted is barred from also bringing an action against the Landlord in regard to the same violation for which the Board has made a settlement or brought action. In the event the Board settles said claim, it shall be entitled to retain the costs it incurred in settlement thereof, and the Tenant against whom the violation has been committed shall be entitled to the remainder.
6. The appropriate court in the jurisdiction in which the Controlled Rental Unit affected is located shall have jurisdiction over all actions brought under this Section.
7. Any Landlord violating this Chapter shall be guilty of a misdemeanor and shall be punished in accordance with the Oakland Municipal Code.

Section 11. That subdivision (F) of Section 8.22.350 of the Oakland Municipal Code is amended to read as follows and subdivision (H) of Section 8.22.350 is repealed:

F. A rental unit in a residential property that is divided into a maximum of ~~two~~three units, one of which is occupied by the owner of record as his or her principal residence. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the State of California.

~~H. Newly constructed rental units which are completed and offered for rent for the first time after the effective date of the initial Oakland Residential Rent, Relocation, and Arbitration Ordinance, provided that such new units were not created as a result of rehabilitation, improvement or conversion as opposed to new construction.~~

~~(Ord. 12537 § 1 (part), 2003)~~

Section 12. That subdivisions (A) and (B) of Section 8.22.360 of the Oakland Municipal Code are amended to read as follows:

A. No landlord shall take action to terminate any tenancy, including but not limited to making a demand for possession of a Rental Unit, threatening to terminate a tenancy verbally or in writing, serving any notice to quit or other eviction notice, or bringing any action to recover possession or be granted recovery of possession of a Rental Unit endeavor to recover possession, issue a notice terminating tenancy, or recover possession of a rental unit in the city of Oakland unless the landlord is able to prove the existence of one of the following grounds:

1. Failure to Pay Rent. The tenant has failed to pay rent to which the landlord is legally entitled pursuant to the lease or rental agreement and under provisions of state or local law, and said failure has continued after service on the tenant of a written notice correctly stating the amount of rent then due and requiring its payment within a period, stated in the notice, of not less than three (3) days. However, this subsection shall not constitute grounds for eviction where tenant has withheld rent pursuant to applicable law.

2. Breach of Lease. The tenant has continued, after written notice to cease, to substantially violate a material term of the tenancy other than the obligation to surrender possession on proper notice as required by law, and provided that such terms are reasonable and legal and have been accepted in writing by the tenant or made part of the rental agreement; and provided further that, where such terms have been accepted by the tenant or made part of the rental agreement subsequent to the initial creation of the tenancy, the landlord shall have first notified the tenant in writing that he or she need not accept such terms or agree to their being made part of the rental agreement. ~~notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet following a written request by the tenant, so long as the tenant continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord.~~

a. Notwithstanding any contrary provision in this Section, a Landlord shall not take any action to terminate a tenancy based on a Tenant's sublease of the unit if the following requirements are met:

i. The Tenant continues to reside in the Rental Unit as his, her or their primary residence.

ii. The sublease replaces one or more departed Tenants under the Rental Housing Agreement on a one-for-one basis.

iii. The Landlord has unreasonably withheld the right to sublease following written request by the Tenant. If the Landlord fails to respond to the Tenant in writing within fourteen (14) days of receipt of the Tenant's written request, the Tenant's request shall be deemed approved by the Landlord. A Landlord's reasonable refusal of the Tenant's written request may not be based on the proposed additional occupant's lack of creditworthiness, if that person will not be legally obligated to pay some or all of the Rent to the Landlord. A Landlord's reasonable refusal of the Tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a Rental Unit exceed the maximum number of occupants as determined

under Section 503(b) of the Uniform Housing Code as incorporated by California Health and Safety Code Section 17922.

b. Protections for Families. Notwithstanding any contrary provision in this Section, a Landlord shall not endeavor to recover possession of a Rental Unit as a result of the addition to the Rental Unit of a Tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as defined in California Family Code Section 297) of such relatives, or as a result of the addition of the spouse or domestic partner of a Tenant, so long as the number of occupants does not exceed the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health and Safety Code Section 17922. The Rent Board shall promulgate regulations that will further protect families and promote stability for school-aged children.

~~3. The tenant, who had an oral or written agreement with the landlord which has terminated, has refused after written request or demand by the landlord to execute a written extension or renewal thereof for a further term of like duration and under such terms which are materially the same as in the previous agreement; provided, that such terms do not conflict with any of the provisions of this chapter. [O.M.C. Chapter 8.22, Article II].~~

~~4. The tenant has willfully caused substantial damage to the premises beyond normal wear and tear and, after written notice, has refused to cease damaging the premises, or has refused to either make satisfactory correction or to pay the reasonable costs of repairing such damage over a reasonable period of time.~~

3. Nuisance. The tenant has continued, after the Landlord has served the Tenant with a written notice to cease, to commit or expressly permit a nuisance in, or cause substantial damage to the Rental Unit.

~~6. The tenant has continued, following written notice to cease, to be so disorderly as to destroy the peace and quiet of other tenants at the property.~~

~~7. The tenant has used the rental unit or the common areas of the premises for an illegal purpose including the manufacture, sale, or use of illegal drugs.~~

4. Failure to Give Access. The tenant has, after written notice to cease without good cause, continued to deny landlord access to the unit that is permitted under Civil Code Section 1954 as required by state law.

5. Temporary Tenancy for Principal Residence. The owner of record seeks to recover possession of the rental unit for his or her occupancy as a principal residence where he or she has previously occupied the rental unit as his or her principal residence and has the right to recover possession for his or her occupancy as a principal residence under a written rental agreement with the current tenants.

6. Owner Move-In. The owner of record seeks in good faith, without ulterior reasons and with honest intent, to recover possession for his or her own use and occupancy as his or her principal residence, or for the use and occupancy as a principal residence by the owner of record's spouse, domestic partner, child, parent, or grandparent. The owner shall pay relocation expenses. The Board shall adopt rules and regulations regarding relocation expenses.

- a. ~~When the owner of record recovers possession under this Subsection (9) [Paragraph 8.22.360 A.9], and where continuous occupancy for the purpose of recovery is less than thirty-six (36) months, such recovery of the residential unit shall be a presumed violation of this chapter. The owner of record may not recover possession pursuant to this subsection more than once. in any thirty-six (36) month period.~~
- b. ~~When the owner seeking possession of a unit under Section 6(A)(9) [8.22.360 A.9] owns a similar vacant unit, the owner's decision not to occupy said similar unit shall create a rebuttable presumption that they are seeking to recover possession in bad faith.~~

c. Until such time as the Board adopts additional rules and regulations regarding relocation expenses to be paid by landlords who seek to recover possession of a unit pursuant to Subsections and 9, the following fees shall be the total amount paid for each tenancy based on length of tenancy, age of tenants and whether or not a tenant has a disability. Relocation in the amount of \$7,300 shall be paid if that tenant has lived in his or her rental unit for fewer than three years, or \$9,650 if the tenant has lived in the rental unit for three years or more. This payment is to be provided to the tenant at the time of service of the notice to quit. Each tenant who is 62 years of age or older or who is disabled within the meaning of California Government Code Section 12955 et seq., and each household with at least one tenant and at least one child under the age of 18 years, shall be entitled to receive a payment of \$15,500 if that tenant has lived in the rental unit for less than three years, or \$18,300 if the tenant has lived in the rental unit for three years or more.

c. This payment is to be provided to the tenant within fifteen (15) calendar days of the landlord's receipt of written notice from the tenant of entitlement to the relocation payment along with supporting evidence. The landlord shall notify the tenants of their rights under this section at the time of service of the notice to quit.

<u>Length of Tenancy</u>	<u>Base Rate</u>	<u>Tenant 62 and older Or minor child</u>	<u>Disabled Tenant</u>

<u>Less than three years</u>	<u>7,300</u>	<u>15,000</u>	<u>15,000</u>
<u>3 years or more</u>	<u>9,650</u>	<u>18,300</u>	<u>18,300</u>

d. Commencing upon passage of this Ordinance, these relocation expenses shall increase annually, rounded to the nearest dollar, at the rate of increase in the "rent of primary residence" expenditure category of the Consumer Price Index ("CPI") for the preceding calendar year, as that data is made available by the United States Department of Labor and published by the Board.

7. Temporarily Vacate in Order to Make Substantial Repairs. The owner of record, after having obtained all necessary permits from the City of Oakland on or before the date upon which notice to vacate is given, seeks in good faith to undertake substantial repairs that cannot be completed while the unit is occupied, and that are necessary either to bring the property into compliance with applicable codes and laws affecting health and safety of tenants of the building, or under an outstanding notice of code violations affecting the health and safety of tenants of the building. The owner shall pay relocation expenses. The Board shall adopt rules and regulations regarding relocation expenses.

a. Until such time as the Board adopts additional rules and regulations regarding relocation expenses to be paid by landlords who seek to recover possession of a unit pursuant to Subsections and 9, the following fees shall be the total amount paid for each tenancy based on length of tenancy, age of tenants and whether or not a tenant has a disability. Relocation in the amount of \$7,300 shall be paid if that tenant has lived in his or her rental unit for fewer than three years, or \$9,650 if the tenant has lived in the rental unit for three years or more. This payment is to be provided to the tenant at the time of service of the notice to quit. Each tenant who is 62 years of age or older or who is disabled within the meaning of California Government Code Section 12955 et seq., and each household with at least one tenant and at least one child under the age of 18 years, shall be entitled to receive a payment of \$15,500 if that tenant has lived in the rental unit for less than three years, or \$18,300 if the tenant has lived in the rental unit for three years or more.

i. This payment is to be provided to the tenant within fifteen (15) calendar days of the landlord's receipt of written notice from the tenant of entitlement to the relocation payment along with supporting evidence. The landlord shall notify the tenants of their rights under this section at the time of service of the notice to quit.

<u>Length of Tenancy</u>	<u>Base Rate</u>	<u>Tenant 62 and older Or minor child</u>	<u>Disabled Tenant</u>
<u>Less than three years</u>	<u>7,300</u>	<u>15,000</u>	<u>15,000</u>
<u>3 years or more</u>	<u>9,650</u>	<u>18,300</u>	<u>18,300</u>

- b. Commencing upon passage of this Ordinance, these relocation expenses shall increase annually, rounded to the nearest dollar, at the rate of increase in the "rent of primary residence" expenditure category of the Consumer Price Index ("CPI") for the preceding calendar year, as that data is made available by the United States Department of Labor and published by the Board.
8. **Ellis Act Eviction.** The owner of record seeks in good faith, without ulterior reasons and with honest intent, to remove the property from the rental market in accordance with the terms of the Ellis Act (California Government Code Section 7060 et seq.). The owner shall pay relocation expenses. The Board shall adopt rules and regulations regarding relocation expenses.
- a. Until such time as the Board adopts additional rules and regulations regarding relocation expenses to be paid by landlords who seek to recover possession of a unit pursuant to Subsections and 9, the following fees shall be the total amount paid for each tenancy based on length of tenancy, age of tenants and whether or not a tenant has a disability. Relocation in the amount of \$7,300 shall be paid if that tenant has lived in his or her rental unit for fewer than three years, or \$9,650 if the tenant has lived in the rental unit for three years or more. This payment is to be provided to the tenant at the time of service of the notice to quit. Each tenant who is 62 years of age or older or who is disabled within the meaning of California Government Code Section 12955 et seq., and each household with at least one tenant and at least one child under the age of 18 years, shall be entitled to receive a payment of \$15,500 if that tenant has lived in the rental unit for less than three years, or \$18,300 if the tenant has lived in the rental unit for three years or more.
- b. This payment is to be provided to the tenant within fifteen (15) calendar days of the landlord's receipt of written notice from the tenant of entitlement to the relocation payment along with supporting evidence. The landlord shall notify the tenants of their rights under this section at the time of service of the notice to quit.
- c. Commencing upon passage of this Ordinance, these relocation expenses shall increase annually, rounded to the nearest dollar, at the rate of increase in the "rent of primary residence" expenditure category of the Consumer Price Index ("CPI") for the preceding calendar year, as that

data is made available by the United States Department of Labor and published by the Board.

- C. Within ten (10) days of service of a notice terminating tenancy upon a tenant, a copy of the same notice and any accompanying materials must be filed with the Rent Board. Each notice shall be indexed by property address and by the name of the landlord and shall be placed in a searchable database by the Board. Such notices shall constitute public records of the City of Oakland, and shall be maintained by the Rent Board and made available for inspection during normal business hours. Failure to file the notice within ten (10) days of service shall be a defense to any unlawful detainer action.

Section 13. That subdivisions C, D and E of Section 8.22.450 of the Oakland Municipal Code are removed, and current subdivisions A, B, F, and G of Section 8.22.450 of the Oakland Municipal Code are amended to read as follows:

8.22.450 - Relocation payments ~~for lower income households.~~

- A. ~~Tenant households whose income is not more than that permitted for lower income households, as defined by California Health and Safety Code Section 50079.5, are entitled to receive payments to mitigate the adverse impact of displacement from withdrawal of the unit.~~
- B. ~~The relocation payment is two months of the tenant's rent in effect at the time owner issues the notice of termination of tenancy under this O.M.C. Article 8.22.400. The owner shall pay relocation expenses. The Rent Board shall adopt rules and regulations regarding relocation expenses.~~
1. Until such time as the Rent Board adopts additional rules and regulations regarding relocation expenses to be paid by landlords who seek to recover possession of a unit pursuant to Subsections and 9, the following fees shall be the total amount paid for each tenancy based on length of tenancy, age of tenants and whether or not a tenant has a disability. Relocation in the amount of \$7,300 shall be paid if that tenant has lived in his or her rental unit for fewer than three years, or \$9,650 if the tenant has lived in the rental unit for three years or more. This payment is to be provided to the tenant at the time of service of the notice to quit. Each tenant who is 62 years of age or older or who is disabled within the meaning of California Government Code Section 12955 et seq., and each household with at least one tenant and at least one child under the age of 18 years, shall be entitled to receive a payment of \$15,500 if that tenant has lived in the rental unit for less than three years, or \$18,300 if the tenant has lived in the rental unit for three years or more. These amounts shall supersede any passed by the City Council if they are less than the amounts listed below.
 - a. This payment is to be provided to the tenant within fifteen (15) calendar days of the landlord's receipt of written notice from the tenant of entitlement to the relocation payment along with supporting evidence. The landlord shall notify the tenants of their rights under this section at the time of service of the notice to quit.

<u>Length of Tenancy</u>	<u>Base Rate</u>	<u>Tenant 62 and older Or minor child</u>	<u>Disabled Tenant</u>
<u>Less than three years</u>	<u>7,300</u>	<u>15,000</u>	<u>15,000</u>
<u>3 years or more</u>	<u>9,650</u>	<u>18,300</u>	<u>18,300</u>

- b. Commencing upon passage of this Ordinance, these relocation expenses shall increase annually, rounded to the nearest dollar, at the rate of increase in the "rent of primary residence" expenditure category of the Consumer Price Index ("CPI") for the preceding calendar year, as that data is made available by the United States Department of Labor and published by the Board.
- C. ~~A tenant whose household qualifies as lower income may request relocation payments from the owner, provided the tenant gives written notice of his or her entitlement to such payments to the owner within sixty (60) days of the date of delivery to the Rent Adjustment Program of the Withdrawal Documents.~~
- D. ~~An owner who, reasonably and in good faith, believes that a tenant does not meet the income standards as a household may request documentation from the tenant demonstrating the tenant's income. Such documentation may not include any document that is protected as private or confidential under any state, local, or federal law. The owner's request must be made within fifteen (15) days after receipt of the tenant's notification of eligibility for relocation benefits. The tenant has thirty (30) days following receipt of the owner's request for documentation to submit documentation. The owner must keep the documents submitted by the tenant confidential unless there is litigation or administrative proceedings regarding the tenant's eligibility for relocation payments or the documents must be produced in response to a subpoena or court order, in which case the tenant may seek an order from the court or administrative body to keep the documents confidential.~~
- E. ~~Time for payment. The owner must make the relocation payment within fifteen (15) days of the tenant's notice of eligibility or the tenant supplying documentation of the tenant's eligibility, provided that the tenant agrees not to contest an unlawful detainer based on the notice to terminate tenancy for the withdrawal of the tenant's rental unit. If the tenant does not so agree, then the relocation payment is not due unless the owner prevails in the unlawful detainer. If the owner prevails in the unlawful detainer, the relocation payment must be paid to the tenant prior to the owner seeking a writ of possession for the tenant to vacate the withdrawn unit.~~
- F. ~~Failure to make the relocation payments in the manner and within such times as prescribed in this Section 8.22.450 is not a defense to an unlawful detainer action. However, Additionally, if an owner fails to make the relocation payment as prescribed, the tenant may file an action against the owner and, if the tenant is found eligible for the relocation payments, the tenant will be entitled to recover the amount of the relocation payments plus an equal amount as damages and the tenant's attorney's fees. Should the owner's failure to make the payments as prescribed be found to be in bad faith, the tenant~~

shall be entitled to the relocation payments plus an additional amount of three times the amount of the relocation payments and the tenant's attorney's fees.

- G. ~~A tenant who is eligible for relocation payments under state or federal law, is not also entitled to relocation under this section.~~ A tenant who is also eligible for relocation under the City of Oakland's Code Enforcement Relocation Program (O.M.C. Chapter 15.60), must elect for either relocation payments under this section or O.M.C. Chapter 15.60, and may not collect relocation payments under both.

Section 14. That subdivision G of Section 8.22.500 of the Oakland Municipal Code is amended to read as follows:

- G. ~~No Pass through Passthrough of One Half of Fee.~~ For rental properties that are covered by the rent adjustment program, a rental property owner may pass through one-half of the fee to a tenant in the year in which it is due, unless the owner does not pay the fee before the date it is deemed late. A rental property owner may not pass through any penalties, delinquent charges, or interest to a tenant. Rental properties that are subject to the fee, but are not covered by the rent adjustment program are not subject to the limitation in this Subsection 8.22.500(G).

Section 15. That Section 8.22.690 of the Oakland Municipal Code is added to read as follows:

8.22.690 – Implementation of “Tenant Protection Ordinance” [Ordinance No. 13265, OMC Section 8.22.650 et seq.]

- A. At the time of adoption of the Tenant Protection Ordinance by the City Council, the “Remedies” section were stayed, with no scheduled date for removal of the stay. As a part of this Article, Section 8.22.650 “General Remedies;” “Section 8.22.660 “(Reserved), Section 8.22.670 “Civil Remedies;” and Section 8.22.680 “Miscellaneous” of the Tenant Protection Ordinance are herein adopted.
- B. Within ninety (90) days of passage and certification of this Ordinance, the Office of the City Attorney, Office of the City Administrator, and Officer of the Rent Stabilization Board, administered by the City Attorney, shall present to the City Council for adoption, and implementation plan, staffing plan, Rules and Regulations, and a two (2) year budget plan for the Tenant Protection Ordinance. The City Attorney shall announce the plan and dates of scheduled City Council action to the general public.

