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# AGENDA REPORT

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

**FROM:** Michele Byrd  
Director

**SUBJECT:** Supplemental Report Increasing the  
Rent Program Service Fee from \$30  
to up to \$104 Per Unit

**DATE:** June 16, 2016

City Administrator Approval

Date:

6/16/16

## RECOMMENDATION

**Staff Recommends That The City Council Adopt An Ordinance: (1) Amending Ordinance No. 13320 C.M.S. (The Fiscal Year 2015-16 (FY 15/16) Master Fee Schedule) To Increase The Rent Program Service Fee From \$30 Per Unit To Up To \$104 Per Unit; And (2) Amending Chapter 8.22 (Rent Adjustment Program) Of The Oakland Municipal Code To Provide That Tenants May Choose Whether To Pay Their Portion Of The Rent Program Service Fee In A Lump Sum Or In Monthly Installments.**

## REASON FOR SUPPLEMENTAL REPORT

This is a report recommending that the City Council increase the Rent Adjustment Program (RAP) Service Fee (the "Fee") from \$30 per unit to up to \$104 per unit. The original report was presented at the Community and Economic Development (CED) Committee on November 10, 2015 (**Attachment A**) with a proposed fee of \$110. The Committee held the item and requested staff to receive and consider additional stakeholder input before bringing the legislation back to Committee. The Committee also requested that staff address the issue of fee collection. Staff proposes that the City Council increase the fee to at least \$73 per unit which will cover costs and provide a few additional necessary program enhancements. This is Option 2 in the report.

In addition to the requests from Council, staff also included in this supplemental, updated options for the fee increase amount as well as information to support the proposed fee increase. In this supplemental report, staff revised the recommended increased fee based on community input, the number of units paying the fee, and the wide array of potential forthcoming legislation which could affect the fee amount in the near future.

Lastly, staff recommends that the City Council adopt an ordinance that gives the tenant more flexibility of when to pay the fee as a passthrough.

Item: \_\_\_\_\_  
Finance & CED Committee  
June 28, 2016

## ANALYSIS AND POLICY ALTERNATIVES

This section of the report will present information on the number of units required to pay the RAP fee and the proposed options for an increased RAP fee. It will also provide information *Units Charged the RAP Fee*

The Oakland Municipal Code (O.M.C.) 8.22.500 (D) states the following:

*The [RAP] fee is to be charged on a per unit basis against all residential rental units that are either covered units or are covered by the Just Cause for Eviction Ordinance, except such residential rental units that are owned or operated by a public entity, including, but not limited to, the City of Oakland, the Redevelopment Agency of the City of Oakland, and the Oakland Housing Authority.*

There are exemptions identified for the RAP fee. The exemption matrix is shown in **Attachment B**. The exemptions include the following:

- Subsidized Housing.
- Motels, hotels if occupancy not more than 30 days.
- Hospital, dormitory, extended care facility, etc.
- Non-profit cooperative owned and occupied by majority of residents.
- New construction.
- Substantial rehabilitation.
- 3 units or less-owner occupied.
- The unit that an owner occupies in any building.
- Non-profit facility-homeless/substance abuse treatment.
- Unit in trust for developmentally disabled.
- Shared facilities with owner and tenants (bath/kitchen).
- Costa Hawkins-Single family residence-condominium.
- Vacant unit.

Historically, the City has used 60,000 as a rough indicator of the number of units for the RAP fee calculation. However, as staff reassessed the number of units, approximately 63,981 units are covered under RAP and Just Cause; and an additional 23,423 units are covered only under Just Cause (and not RAP). Thus the total number of units covered under RAP and/or Just Cause is 87,404. Note: this total includes single-family rental units which are identified as units not claiming a homeowners' property tax exemption. Staff acknowledges that homeowners' property tax exemptions are constantly in flux which influences the number of units covered under RAP or Just Cause. Follow up on fee exemptions is inconsistent. With new technology in the geographic database and the revenue collection systems, staff will be able to more accurately track and enforce the RAP fee.

While 87,404 units are estimated to be covered by either RAP or Just Cause, the City does not currently have the capacity to verify that all covered units are paying the fee. Based on the revenue data in Table 1, the City has received revenue from an average of 69,321 units annually for the past six (6) years which is rounded to 70,000. The City sends RAP fee forms to all residential landlords with the annual business tax renewal forms. Owners then are allowed to

claim an exemption if their unit meets the previously mentioned exemption criteria (which are also listed on the form). If the dwelling is subject to a permanent exemption, such as a unit that is newly constructed and received certificate of occupancy after January 1, 1983, the owner is required to submit proof of the exemption. Dwellings that are permanently exempt and have provided proof of exemption no longer receive RAP renewal forms. However, if the unit is not subject to a permanent exemption, then the property owner will receive an annual RAP renewal form. The onus is on the property owner to opt out each year. Due to technical and budget limitations, the exemptions claimed are not investigated or verified except for in extenuating circumstances.

As described in the Collections History section, the RAP fee collection underwent changes in 2010 with the purpose to more reliably collect RAP fees. As stated above and also as seen in **Table 1**, RAP collected fees from an average of 69,321 units annually since FY10/11 (rounded to 70,000 units). Staff believes this average to be the most reasonable estimate of units the City can expect to pay the RAP fee annually under the City's existing revenue collection systems.

**Table 1. Annual Estimated Units Paying RAP Fee**

Fiscal Year	Revenue Collected	Estimated Units Paying RAP Fee
FY10/11	\$1,925,589	64,186
FY11/12	\$2,025,873	67,529
FY12/13	\$2,048,388	68,280
FY13/14	\$2,116,885	70,563
FY14/15	\$2,137,433	71,248
FY15/16	\$2,223,546	74,118
		69,321
	Average Units	(rounded to 70,000)

Staff found that there may have been units who are covered by the fee that did not pay the annual fee. Similarly, there are units who are not covered by the fee who paid the fee. The City is constrained in its collection methods for this fee with limited ways and enforcement mechanisms to determine if units are actually rented. Thus, additional process refining is necessary. As technology improves and enforcement of delinquent fees becomes more cost effective, staff will begin to reconcile this process to ensure that those who should pay the fee do pay. Once these improvements have been made RAP fee collection can be better verified and revisions to the fee amount can be made based upon the number of units the City can reasonably expect to pay the RAP fee.

#### *Fee Increase Options*

**Table 2** below includes the staff-generated options for the RAP fee increase. The options differ from the November 2015 original staff report to account for the change in total units covered by the fee. The options are further explained in the paragraphs following **Table 2**, and all staffing costs reflect the upcoming FY 16/17 annualized cost-of-living adjustment (two (2) percent).

**Table 2. RAP Fee Increase Options**

	Status Quo (costs exceed revenue)	Option 1: Sustainable Operations (No improvements; just cost recovering)	Option 2: More Staff to Provide More Efficient Services	Option 3: More Staff & Increased Public Outreach	Option 4: Program-Wide Upgrades*
<b>Staffing Costs</b>					
Staffing (inc. O&M)	\$3,971,677	\$3,971,677	\$4,353,833	\$4,353,833	\$6,140,118
<i>Sub-Total Staffing Costs</i>	\$3,971,677	\$3,971,677	\$4,353,833	\$4,353,833	\$6,140,118
<i>Per Unit</i>	-	\$57	\$62	\$62	\$88
<b>Miscellaneous Costs (Non-Staffing)</b>					
Security Upgrades	-	-	\$100,000	\$100,000	\$100,000
Public Outreach & Education	-	-	\$25,000	\$50,000	\$75,000
<i>Sub-Total Miscellaneous Costs</i>	\$0	\$0	\$125,000	\$150,000	\$175,000
<i>Per Unit</i>	-	\$0	\$2	\$2	\$3
<b>Third-Party Costs</b>					
Additional 3 <sup>rd</sup> -Party Legal Services <sup>Y</sup>	-	-	\$165,000	\$165,000	\$225,000
Assistance (Client Contract)	-	-	\$200,000	\$400,000	\$400,000
<i>Sub-Total Third-Party Costs</i>	\$0	\$0	\$365,000	\$565,000	\$625,000
<i>Per Unit</i>	-	-	\$5	\$8	\$9
<b>Technology Costs</b>					
Website Upgrades & Maintenance	-	-	\$50,000	\$50,000	\$50,000
Technology Upgrades & Maintenance	-	-	\$100,000	\$100,000	\$100,000
<i>Sub-Total Technology Costs</i>	\$0	\$0	\$150,000	\$150,000	\$150,000
<i>Per Unit</i>	-	-	\$2	\$2	\$2
<b>TOTAL ANNUAL COSTS**</b>	<b>\$4,090,827</b>	<b>\$4,090,827</b>	<b>\$5,143,648</b>	<b>\$5,375,398</b>	<b>\$7,302,822</b>
<b>EST. FEE AMOUNT</b>	<b>\$30</b>	<b>\$58</b>	<b>\$73</b>	<b>\$76</b>	<b>\$104</b>

\*Option 4 could include a phase-in option where for FY 16/17 the RAP could be set at the Option 2 amount of \$58; for FY17/18 the RAP Fee would then increase to the full \$104 amount if no additional action is taken by Council.

\*\*Includes a 3 percent Default Rate

<sup>Y</sup> \$165,000 for Existing Third-Party Legal Service Contracts is included in O&M for all options

<sup>YY</sup> Existing Client Contracts for Tenant/Landlord Assistance are covered by the CDBG Fund. These funds could potentially be moved to the RAP fund but would require future Council action to approve the shift.

*Explanation of "Other Costs" Listed in Table 2*

Technology

Existing RAP data management systems are in dire need of upgrades, comprised mainly of paper petition files and a Microsoft Access database created by RAP in 2003. These necessary upgrades could include an electronic case management system, upgraded or new database, and an upgraded or new website. The upgrades would seek to make it easier for the public to access information on RAP, existing ordinances, and other housing services. Upgrades could also focus on creating user interfaces designed to more efficiently identify RAP requests. For instance, creating an intake system designed to identify requests that should escalate to a RAP hearing versus requests that require an administrative decision.

These upgrades would also aim to increase staff efficiency in processing and managing petitions, as well as improving the RAP's ability to analyze key program metrics. The combination of providing better education and access, as well as, better data management could possibly lead to decreased staffing costs over-time. This need for technology improvements is represented in the FY 16/17 mid-cycle budget with a one-time General Purpose Fund allocation of \$365,000 for a software system.

Technology costs listed in **Table 2** represent the annual licensing and maintenance costs. One-time start-up costs are estimated to total between \$365,000 and \$650,000 depending on the type of systems required. These costs would include the development of the database, design and development of the website, and data entry of historic RAP petition files. Further analysis is needed to specifically determine these one-time start-up costs.

Security

The RAP office could use security enhancements to ensure a safe work environment, which would allow staff to better serve the public. Such enhancements could include changes to the physical entry way and hearing rooms used by the RAP, installing cameras, panic buttons, protective enclosures, and other measures, or the presence of a security guard at the program location.

Public Outreach and Education

In order to ensure that the public is aware of the services available to them for rental housing assistance, the RAP program needs more resources for engaging in public outreach and education. Such outreach could include mailing every tenant and informing them that the program is available to them, as well as a more comprehensive and interactive website. Similarly, a notice to every purchaser of a real property in Oakland about the RAP could be required as part of disclosure documents. It could also include providing workshop/clinics at the Housing Assistance Center for landlords and tenants on different topics/sections of the Rent Ordinance, Tenant Protection Ordinance and Just Cause.

### Client Contracts

An alternative to maintaining client contracts currently funded by the Community Development Block Grant Program (CDBG) would be for the RAP to expand its current landlord and tenant contracts. As petition filing continues to increase, there is a greater need for client services. Staff estimates that only half of those seeking services under the current contracts are currently being assisted. The switching of funds from CDBG to RAP would require a future ordinance, and would not occur under this amendment.

### *Current Rent Adjustment Staff and Budget*

Currently, the RAP budget is balanced by the regular collection of the fee at \$30 per unit and a fund balance of approximately \$800,000. However, the entire fund balance is programmed to be spent down by the end of the current fiscal year (June 30, 2016).

Currently, a Paralegal, a Hearing Officer, a Program Analyst, an Administrative Assistant, and a Deputy City Attorney are funded by one-time fund balance. *Table 3* below shows the current Rent Adjustment staff and budget, which includes use of the current fund balance of \$800,000. In order to preserve the current staffing beyond FY 15/16, the Fee would need to be increased to a minimum of \$58 per unit (Option 1), generating approximately \$4,090,827, or the expenditures will need to be reduced accordingly.<sup>1</sup>

### *RAP Fee Increase Option 1*

In order for the RAP program to be cost recovering in the upcoming fiscal year which starts July 1, 2016, the RAP fee needs to be increased to at least the amount shown in Option 1. The total new fee would be \$58 per unit. This need to increase the RAP fee is because the program is currently (in the Status Quo scenario) not cost recovering and has been subsidized by a fund balance, which is no longer available. Without the fee increase to at least \$58, the City would have to consider downsizing the program team which is already understaffed for the current workload. Such an outcome would put further strain on the current program to provide quality services to the public. **Table 3** below summarizes the costs associated with this Option. It does not add any new program elements because it is the cost recovering version of the Status Quo.

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<sup>1</sup> Pursuant to an analysis by the Budget Office.

**Table 3. Option 1 Staffing Costs**

<b>Position</b>	<b>TOTAL COST (Salary, Benefits and Overhead)</b>	<b>FTE</b>
<u>HCD</u>		
Project Manager II	\$307,808	1
Senior Hearing Officer	\$265,797	1
Hearing Officer *	\$723,466	3
Program Analyst III	\$188,942	1
Program Analyst II *	\$326,484	2
Program Analyst I	\$141,001	1
Administrative Asst. I *	\$327,347	3
Housing Director	\$58,773	0.15
Administrative Services Manager I	\$34,452	0.15
Accountant II	\$17,447	0.11
<u>City Attorney's Office</u>		
Deputy City Attorney V	\$312,857	1
Deputy City Attorney III *	\$257,403	1
Paralegal *	\$136,482	1
Legal Assistant	\$129,706	1
<u>Revenue Bureau</u>		
Cashier	\$84,643	1
Revenue & Tax Administrator	\$32,852	0.10
Revenue Assistant	\$213,738	2
Tax Enforcement Officer II	\$139,263	1
<i>Staffing Sub-Total</i>	<b>\$3,698,461</b>	<b>20.51</b>
<i>O&amp;M</i>	\$273,216	--
<b>TOTAL**</b>	<b>\$4,090,827</b>	<b>--</b>
<b>EST. PER UNIT FEE</b>	<b>\$58</b>	<b>--</b>

\*Indicates position currently funded by one-time fund balance

\*\* Total includes a 3 percent default rate.

*RAP Fee Increase Option 2*

Option 2 pursues a fee to cover a slight expansion of the RAP program to increase staffing, security, and provide technology upgrades. The total new fee would be \$73 per unit under this Option.

The staffing increases projected by Option 2 would be intended to help address the current backlog of RAP petitions while aiming for more efficient services moving forward. Additional staff would allow RAP to conduct more petition hearings, thus meeting the current need to serve more people within recommended timeframes. Also included within Option 2 is an addition of specific line items for public education, including mailers to tenants and landlords informing them of the RAP as well as slight security and staff enhancements.

**Table 4. Option 2 Program Costs**

<b>Item Description</b>	<b>Current</b>	<b>Additional</b>	<b>New Total</b>	<b>Increase Amount</b>
<u>Staffing</u>	<i>(FTE)</i>	<i>(FTE)</i>	<i>(FTE)</i>	
Hearing Officer	3.00	1.00	4.00	\$241,155
Program Analyst I	1.00	1.00	2.00	\$141,001
			<i>Add. Staffing Sub-Total</i>	<b>\$382,156</b>
<u>Non-Staffing</u>	<i>(\$)</i>	<i>(\$)</i>	<i>(\$)</i>	
Third-Party Legal Services	\$165,000	\$165,000	\$330,000	\$165,000
Assistance (Client Contracts)	-	\$200,000	\$200,000	\$200,000
Technology Upgrades	-	\$100,000	\$100,000	\$100,000
Website Upgrades	-	\$50,000	\$50,000	\$50,000
Security Upgrades	-	\$100,000	\$100,000	\$100,000
Public Outreach & Education	-	\$25,000	\$25,000	\$25,000
			<i>Add. Non-Staffing Sub-Total</i>	<b>\$640,000</b>
			<i>Additional Costs Sub-Total</i>	<b>\$1,052,821</b>
			<i>Current Program Costs</i>	<b>\$4,090,827</b>
			<b>EST. TOTAL PROGRAM COSTS*</b>	<b>\$5,143,648</b>
			<b>EST. PER UNIT FEE</b>	<b>\$73</b>

\*Includes a 3 percent Default Rate



*RAP Fee Increase Option 3*

Option 3 is similar to Option 2 with the only addition being an increase from \$200,000, as shown in Option 2, to \$400,000 total for client contracts. The total new fee would be \$76 per unit.

**Table 5. Option 3 Program Costs**

Item Description	Current	Additional	New Total	Increase Amount
<u>Staffing</u>	(FTE)	(FTE)	(FTE)	
Hearing Officer	3.00	1.00	4.00	\$241,155
Program Analyst I	1.00	1.00	2.00	\$141,001
			<i>Add. Staffing Sub-Total</i>	<b>\$382,156</b>
<u>Non-Staffing</u>	(\$)	(\$)	(\$)	
Third-Party Legal Services	\$165,000	\$165,000	\$330,000	\$165,000
Client Contract	-	\$400,000	\$400,000	\$400,000
Technology Upgrades	-	\$100,000	\$100,000	\$100,000
Website Upgrades	-	\$50,000	\$50,000	\$50,000
Security Upgrades	-	\$100,000	\$100,000	\$100,000
Public Outreach & Education	-	\$50,000	\$50,000	\$50,000
			<i>Add. Non-Staffing Sub-Total</i>	<b>\$865,000</b>
			<i>Additional Costs Sub-Total</i>	<b>\$1,284,571</b>
			<i>Current Program Costs</i>	<b>\$4,090,827</b>
			<b>EST. TOTAL PROGRAM COSTS*</b>	<b>\$5,375,398</b>
			<b>EST. PER UNIT FEE</b>	<b>\$76</b>

\*Includes a 3 percent Default Rate.

*RAP Fee Increase Option 4 (Original Recommendation)*

Option 4 is the original recommendation. This option sought to increase the fee from \$30 to \$110 per unit but with the adjusted number of units used instead the total new fee would be \$104 per unit. The proposed fee, would cover the total costs of the contracts for client services, and add the following new positions to help address the increased workload which is beyond the current staff capacity and even that of the staff capacity in Options 2 and 3:

- Four (4) Hearing Officers
- Three (3) Program Analysts
- Two (2) Administrative Assistants
- One (1) Security Guard
- One (1) Inspector
- One (1) Deputy City Attorney
- Increase client contract amounts by approximately \$600,000

The analysis for the increase was based on the impact of the following:

- Increase in petitions

- Increase in appeals before the Rent Board
- Inability of Hearing Officers to hear petitions within Rent Ordinance time frames
- Anticipated administrative responsibilities under the Tenant Protection Ordinance and possibly other legislation
- Proposal to absorb client contract costs within the RAP budget

RAP Fee Increase Option 4 Alternative: A potential alternative to Option 4, would be to approve an immediate increase of the RAP fee to the levels outlined in Option 2 --\$73 per unit-- to cover the immediate fiscal costs with a few enhancements, while also approving an increase of the fee to \$104 per unit at a later date (within 2 years) to cover the costs outlined in this Option 4 as a phase-in approach.

A phased-in fee could provide a potential means to increase the RAP fee to cover the immediate fiscal constraints, while also providing long-term direction. Additionally, a phased-in fee could allow City Council to revisit the fee if other policy changes are approved during the phase-in period.

**Table 6** below summarizes the program costs for Option 4.

**Table 6. Option 4 Program Costs**

Item Description	Current	Additional	New Total	Increase Amount
<u>Staffing</u>	(FTE)	(FTE)	(FTE)	
Hearing Officer	3.00	4.00	7.00	\$964,622
Program Analyst III	1.00	1.00	2.00	\$188,942
Program Analyst II	2.00	2.00	4.00	\$326,484
Administrative Assistant II	0.00	1.00	1.00	\$163,242
Special Combo Inspector	0.00	1.00	1.00	\$176,878
Security Guard	0.00	1.00	1.00	\$90,871
Deputy City Attorney III	1.00	1.00	2.00	\$257,403
		<i>Add. Staffing Sub-Total</i>		<b>\$2,168,442</b>
<u>Non-Staffing</u>	(\$)	(\$)	(\$)	
Third-Party Legal Services	\$165,000	\$225,000	\$390,000	\$225,000
Client Contract	-	\$400,000	\$400,000	\$400,000
Technology Upgrades	-	\$100,000	\$100,000	\$100,000
Website Upgrades	-	\$50,000	\$50,000	\$50,000
Security Upgrades	-	\$100,000	\$100,000	\$100,000
Public Outreach & Education	-	\$75,000	\$75,000	\$75,000
		<i>Add. Non-Staffing Sub-Total</i>		<b>\$950,000</b>
		<i>Additional Costs Sub-Total</i>		<b>\$3,211,995</b>
		<i>Current Program Costs</i>		<b>\$4,090,827</b>
		<b>EST. TOTAL PROGRAM COSTS*</b>		<b>\$7,302,822</b>
		<b>EST. PER UNIT FEE</b>		<b>\$104</b>

\*Includes a 3 percent Default Rate

*Collections History*

Before FY 09/10, collection of the RAP fee was uneven and the collection of delinquent fees was often delayed because the cost to take the matter to court was higher than the \$30 fee.

In 2010, staff began having quarterly meetings with the Revenue Management Bureau Manager to address the problems with the collection of the fees. Subsequently, the Director reorganized the Revenue staff responsible for the fee collection and instituted an aggressive "data mining" process to find landlords who never paid for a business license or the RAP fee.

From FY 09/10 through FY 14/15, RAP revenue has reflected fees collected from landlords who are in the database and landlords who had previously never been billed although further reconciliation is still needed and will be worked on.

The following **Table 7** shows the RAP Fee collections history from FY 05/06 through FY 14/15 as well as the historical fee amounts.

**Table 7. RAP Revenue and Fee Amount since FY 05/06**

Fiscal Year	Actual Rap Revenue	Fee Amount
2005/06	\$1,358,773	\$24
2006/07	\$1,873,503	\$24
2007/08	\$2,176,120	\$30
2008/09	\$1,911,770	\$30
2009/10	\$1,848,362	\$30
2010/11	\$1,925,589	\$30
2011/12	\$2,025,873	\$30
2012/13	\$2,048,388	\$30
2013/14	\$2,116,885	\$30
2014/15	\$2,137,433	\$30
2015/16 Year-to-date	\$2,223,456*	\$30

\* = One-time collections are included from the landlord audit.

*Program Fund Balance*

In 2012, the RAP was assigned a separate Fund number (2413), separate from the General Purpose Fund (1010). During the transfer of funds, auditors determined that \$1.9 million should have been allocated to the newly created Fund 2413 from Fund 1010. These funds represented salary savings for various position vacancies since the inception of the program.

In the current FY 15/16 budget, the total fund balance of \$800,000 is being used to fund the limited duration appointments of a Paralegal, a Hearing Officer, a Program Analyst II, an Administrative Assistant I, and a Deputy City Attorney.

*Strategy for Improving Operational and Client Services with Alternative Budgets*

Hearing Officer

Currently, the RAP has four Hearing Officers. Each Hearing Officer is scheduled to hear cases four days a week (Monday through Thursday). Because of petitioners who do not appear at their hearings, petitioners who withdraw their claims, or cases that are decided by Administrative Decision, each Hearing Officer typically hears between two and three cases per week. Therefore, between 32 and 48 hearings or mediations take place per month<sup>2</sup>.

The increase in petitions over the past two years has resulted in petitioners waiting three to four months before their cases are heard. Additional Hearing Officers would bring the scheduling of hearings back to the timeline mandated by the RAP Ordinance.<sup>3</sup>

The justification for additional staff needed is shown in the current caseload for each Hearing Officer and Program Analyst presently compared to prior years. **Attachment C** provides a summary of the time staff takes for individual tasks. With such timing required, and the additional caseload, the City can justify new staff requested for the program.

*Method of Payment by Tenants*

Staff is recommending that Section 8.22.500G of the Rent Program Service Fee Ordinance be amended to include language that allows tenants to pay their half of the Program Service in a lump sum or in monthly installments.

*Summary*

As the original report stated, the fee has not been increased since FY 07/08. Oakland has the lowest fee of the four major rent stabilization jurisdictions in California, yet the RAP processes significantly more petitions per Hearing Officer than all other jurisdictions.

The current crisis of soaring rents in Oakland has had a significant impact on the increased number of petitions that have been filed with the RAP over the past three (3) years. Without new staff, services to the public will continue to suffer, the contracts with services providers cannot be combined or expanded, and the RAP will be unable to meet its responsibilities under the current Rent Ordinance.

**FISCAL IMPACT**

Pursuant to Ordinance No. 12399 C.M.S., owners pay the Fee, but may pass half of the fee to their tenants<sup>4</sup>. At \$30 per unit, tenants would pay a maximum of \$1.25 per month.

The RAP Fee Options outlined in this report would have the following impact:

<sup>2</sup> This is a clarification from the original report that stated approximately 16 hearings are conducted each month. If each Hearing Officer heard all of their scheduled cases, it would be **16 hearings per Hearing Officer**, or 64 per month.

<sup>3</sup> This analysis is based on the increase in petition filing projected for FY 15/17.

<sup>4</sup> O.M.C. 8.22.070 (G).

- Option 1: An increase to \$58 per unit raises the monthly amount a tenant could pay to approximately \$2.42, or an increase of \$1.17.
- Option 2: An increase to \$73 per unit raises the monthly amount a tenant could pay to approximately \$3.04, or an increase of \$1.79.
- Option 3: An increase to \$76 per unit raises the monthly amount a tenant could pay to approximately \$3.14, or an increase of \$1.92.
- Option 4: An increase to \$104 per unit raises the monthly amount a tenant could pay to approximately \$4.33, or an increase of \$3.08.

As shown in Table 1, the estimated revenue for each of the options is as follows:

Option 1: \$4,090,827

Option 2: \$5,143,648

Option 3: \$5,375,398

Option 4: \$7,302,822

### PUBLIC OUTREACH / INTEREST

This report did not require any additional public outreach further than the required posting on the City's website. However, the proposed increase to the rent program service fee is of high interest to the community. For tenants and landlords, it will represent a dramatic increase in fees that have to be absorbed in a short time period.

Because of the high public interest in this matter, Staff facilitated a meeting on February 23, 2016, inviting tenants and landlords to comment on the proposed Fee increase. **Table 8** is a summary of tenant and landlord ideas, concerns, and frustrations with the proposed increase in the fees.

**Table 8. Input Received**

LANDLORDS	TENANTS
Proposed Fee is too high; landlords facing too many increases, such as the increase in Waste Management costs.	The RAP needs to be restructured to require registration; rent increases higher than the CPI should be only allowed if the landlord petitions – similar to Berkeley and Santa Monica. Until this change, the proposed Fee increase is opposed.
Annual CPI is not enough to cover costs.	Low-income tenants cannot afford to pay the any increase in the Fee, even if it is spread out over 12 months.
RAP should dismiss more petitions.	Many tenants still do not know about the RAP, therefore, Fee should not be increased.
RAP should do more online to streamline process.	The proposed Fee increase is an overreaction to the increase in petition filing.
Some tenants do not pay their half of the fee. Tenants should face the same penalties as landlords if their half of the fee is not paid.	Appeals are backlogged because of quorum problems due to unfilled vacancies, not the large number of cases being appealed.
Petitioners should have to pay to file petitions and to appeal a Hearing Decision.	The RAP is not using its budget surplus.
Other Funding Streams should contribute to the RAP budget.	No action should be taken prior to completion of the audit and review of its findings.
RAP Fee should only be increased by the CPI.	With tenants facing more evictions and displacement, this is not the time to increase the Fee.

**COORDINATION**

This report was coordinated with the City Attorney’s Office and the Controller’s Bureau.

**SUSTAINABLE OPPORTUNITIES**

***Economic:***

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

***Environmental:***

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

***Social Equity:***

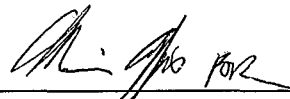
- Improve the landscape and climate of Oakland’s neighborhoods by encouraging long-term tenancies in rental housing;

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt An Ordinance: (1) Amending Ordinance No. 13320 C.M.S. (The 2015-16 Master Fee Schedule) To Increase The Rent Program Service Fee From \$30 Per Unit To Up To \$104 Per Unit; And (2) Amending Chapter 8.22 (Rent Adjustment Program) Of The Oakland Municipal Code To Provide That Tenants May Choose Whether To Pay Their Portion Of The Rent Program Service Fee In A Lump Sum Or In Monthly Installments.

For questions regarding this report, please contact Connie Taylor, Program Manager at (510) 238-6246.

Respectfully submitted,



MICHELE BYRD, Director

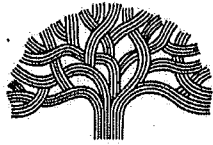
Department of Housing and Community  
Development

Prepared by:  
Connie Taylor, Program Manager  
Residential Rent Adjustment Program

Attachments: (3)  
A: Report November 10, 2015  
B: Exemptions Matrix  
C: Staff Time Estimation Summary

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OAKLAND

2015 OCT 29 PM 3:51



CITY OF OAKLAND

# AGENDA REPORT

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

**FROM:** Michele Byrd  
Director

**SUBJECT:** Increasing the Rent Program Service Fee from \$30 to \$110 Per Unit

**DATE:** October 25, 2015

City Administrator Approval

Date:

10/29/15

## RECOMMENDATION

**STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT:**

**Report and Possible Action On A Proposed Ordinance Amending The Master Fee Ordinance (O.M.C. 13320) To Increase The Rent Program Service Fee From \$30 Dollars Per Unit To \$110 Per Unit**

## EXECUTIVE SUMMARY

The proposed resolution to amend the Master Fee Schedule (MFS) to increase the Rent Adjustment Program (RAP) Service fee (the "Fee") is needed to meet the demands presented by the following:

- Historical increase in petition filing, partly as a result of rising rents in Oakland;
- Increase in all public contact, including phone calls, e-mails, and visits during drop-in hours;
- Inability to process petitions in a reasonable time frame;
- Backlog of appeal cases;
- Lack of adequate staff;
- Increased responsibilities under new ordinances and proposed Ordinances (Tenant Protection Ordinance; Seismic Retrofit)
- Combining and expanding client services contracts
- Effective and broader education and outreach efforts for both landlords and tenants
- Operational and security improvements.

Given these factors and an overall demand for RAP services, the Fee is proposed to be increased from \$30 to \$110. The Fee has not been increase since FY 2007-08.

Item: \_\_\_\_\_  
FMC and CED Committees  
November 10, 2015



## **BACKGROUND / LEGISLATIVE HISTORY**

The Oakland City Council first adopted the RAP in 1980 by Ordinance, codified as O.M.C. Chapter 8.22. The RAP Ordinance also established the Housing and Residential and Relocation Board (Rent Board). The RAP Ordinance has since been modified several times. The current version became effective August 1, 2014. The City Council and the Rent Board have adopted Regulations that govern the operation of the RAP. In addition to implementing the RAP Ordinance and Regulations, the RAP contains provisions for adjudicating certain disputes that arise under the Just Cause for Eviction Ordinance (Measure EE), and under Oakland's Ellis Act Protection.

The RAP Ordinance sets the annual allowable rate for rent increases for the approximately 60,000 residential rental units covered by the RAP in Oakland, based on the annual CPI indices reported by the U.S. Department of Labor. Increases beyond the general "CPI increase" must be justified under provision of the Rent Ordinance. The Program provides a process to resolve disputes regarding rent increases and decreased housing services through its petition, hearing/mediation and appeal process. A RAP Hearing Officer adjudicates petitions. Appeals from the decision of the Hearing Officer may be taken to the Rent Board. The Rent Board makes the final Administrative decision, which may be reviewed by the courts pursuant to C.C.P. Section 1094.6.

The Fee was established by Ordinance No. 12399 C.M.S. in FY 2001-02 to fund the RAP. The Fee exclusively funds the operation of the RAP and RAP's responsibilities under the Rent Adjustment, Ellis Act and Just Cause for Eviction Ordinances.

The Fee was initially set at \$24 and was increased to \$30 in FY2007-08.

## **ANALYSIS AND POLICY ALTERNATIVES**

### ***Rise in Oakland Rents***

The San Francisco Chronicle reported that the August 2015 Zumper National Rent Report showed three important statistics related to Oakland:

- Oakland had the biggest jump in rents in the nation at 20 percent over the past year;
- San Francisco surpassed Manhattan as the nation's priciest rental market; and,
- Oakland is still more affordable than San Francisco<sup>1</sup>.

These facts explain the demand for rental housing overflowing from San Francisco. Due to the demand, owners are improving properties and raising rents, which in part is responsible for the record number of tenant petitions that were filed during FY 2014-15.

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<sup>1</sup> San Francisco Chronicle, September 7, 2015

**Impact of Increase in Petitions**

*RAP Staff*

Increased demands for tenant services has significantly taxed both existing staff and operational capacity. Call and drop-in demands have increased exponentially. Established customer service standards are now difficult to meet, such as returning calls and answering e-mails within 24 hours, scheduling hearings within 60 days of filing petitions, and then getting hearing decisions out within 30 days.

In turn, growing demands on staff and the inability to perform in a timely fashion have resulted in increased complaints and frustrations. Obviously, rent increases, questionable evictions and other problems directly affect Oakland citizens' well-being and community stability. There have been several security related incidents with threats and other inappropriate behavior to staff.

There has also been an increase in the number of petitions filed for problems with the condition of units. Traditionally, Hearing Officers have conducted their own inspections of units to determine if the conditions constitute a decrease in services or present health and safety violations. However, Staff believes that a dedicated RAP inspector, with training to assess habitability code violations, would be a much needed addition to the Program.

*The Rent Board*

Pursuant to the Rent Ordinance No. 12538 C.M.S., the Residential Rent and Relocation Board (the "Board") meets twice a month. Special meetings and appeal panels can also be scheduled. With the increase in petitions, there has been an increase in appeals, which has created a significant backlog. Currently, appeal hearings are tentatively scheduled out to March 2016. **Table 1** below shows the increase in petitions and appeals over the past four years.

Table 1

**RAP Petition and Appeal Data by Fiscal Year**

FISCAL YEAR	NUMBER OF PETITIONS/OTHER FILINGS	NO. OF APPEALS
2011-2012	385	20
2012-2013	411	39
2013-2014	551	82
2014-2015	739	98

The appeals process has to be restructured so that appeal hearings can be heard every week. However, this cannot be accomplished with current staffing. At least two staff would have to be assigned to coordinate the process in order for appeals to be heard each week in order to address the backlog and meet current service demands in a timely manner.

With a significant increase in appeals, more lawsuits filed against the City are anticipated; therefore, additional staff from the City Attorney's office is needed.

### *RAP Clients*

The goal of the RAP is to schedule hearings within 60 days of a petition being filed. The Program met that goal for many years. However, over the past two years, tenants and owners who file petitions must often wait three months or longer before a hearing can be scheduled. If a client does not agree with a decision, there could be months before an appeal hearing can be scheduled. Ideally, appeals should be scheduled within 60 days after they are filed.

In addition to the scheduling problems, lack of adequate staff has caused the quality of customer service to suffer. In particular, staff has had difficulty keeping up with phone calls, e-mails and in person inquiries for even basic information.

### ***Impact of Other Ordinances***

#### *Tenant Protection Ordinance (TPO)*

The RAP may be assigned administrative responsibilities under the TPO, which would require additional staff. However, even without the administrative responsibilities, the RAP recently added \$110,000 to the amount allocated for client contracts for a total amount of \$200,000 for FY 2015-16 to counsel and assist tenants with claims of harassment and owners who need assistance with understanding how to comply with the Ordinance.

#### *Seismic Retrofits*

The anticipated passage of the Seismic Retrofit Ordinance would require landlords to retrofit approximately 1,400 soft story buildings in Oakland. The ordinance would require that landlords file a petition with the RAP when passing through the allowed costs to tenants. This requirement could generate an additional 300 to 400 petitions a year over the next six years.

At least four additional hearing officers would be needed to hear the seismic petitions alone. Adding additional support staff (Program Analysts, Administrative Assistants, and Inspector) would also be required.

### ***Impact of Combining Client Contracts***

Currently, the RAP has a contract with Centro Legal de la Raza for tenant services. Additionally, the RAP has been given the authorization to enter into a contract with a qualified agency for owner services. There are also contracts funded by the Community Block Grant Program (CDGB) with the East Bay Community Law Center and Causa Justa, Just Cause.

Because of the dwindling availability of CDGB funds, the Department of Housing and Community Development (HCD) recommends combining the contracts and having them funded and monitored by the RAP. However, the current RAP budget would not cover the costs of combining or expanding the contracts.

***Strategy for Improving Operational and Client Services***

In order to meet the new demands, the RAP must have adequate staff. Without adequate staff, necessary operational changes cannot be implemented to address the problems created by the rapid growth of the RAP.

*Hearing Officers*

Currently, there are four Hearing Officers, three are permanent and one is temporary. The temporary position is being paid by one-time surplus funds. Each Hearing Officer is scheduled to hear at least one case per week, although sometimes two cases are scheduled. Approximately 16 hearings are conducted each month.

Cases involving a claim of decreased housing services, substantially rehabilitated units or consolidated cases can involve multiple hearings and days of analyzing evidence and listening to the audio of the hearing before a decision can be written. It may then take several days to write a decision. To meet program goals, Hearing Officers should be assigned between 100 to 125 cases per year. Four Hearing Officers would be adequate if the RAP received up to 425 petitions per year.

At least four additional Hearing Officers are needed to hear the number of petitions that the RAP is currently receiving.

*Program Analysts*

Currently, there are two permanent Program Analyst II positions, one permanent Program Analyst III position, and one temporary Program Analyst I. The temporary position is being paid by one-time surplus funds.

Program Analysts provide information regarding the Rent Ordinance and Regulations directly to the public by telephone and during office drop-in hours. The Analysts also assist in the preparation of the cases for hearing, as the Hearing Officers cannot speak to the parties outside of a hearing. The Analyst III is assigned additional responsibilities, such as preparing a Request for Qualifications or monitoring contracts.

An additional Program Analyst III is needed to work full-time with appeals to address the backlog and ensure that the process operates efficiently. This request also accounts for the fact that there is a temporary position.

*Administrative Assistants*

Currently, there are two Administrative Assistants, one of which was recently hired and will begin work in November. The recent hire filled a vacant position. Administrative Assistants have an enormous amount of paperwork to process, including opening petitions and other

filings, scanning and organizing termination notices required under the Just Cause Ordinance<sup>2</sup>, and sending out documents that require a Proof of Service.

An Administrative Assistant II is needed, not only to assist with the volume of work, but to manage the duties of each Assistant and ensure that all assignments are being done correctly and timely.

**Justification for Increase in the Program Service Fee**

Staff recommends that the Fee be increased to \$110 per unit per year in order to address temporary positions, add additional staff, and cover the total costs of client contracts, refer to (**Attachment B**). The following **Table 2** details the fully loaded costs of additional staff and anticipated operating costs.

**Table 2**

**Rent Adjustment Budget for Fee Increase of \$110 Per Unit**

RENT ADJUSTMENT STAFF	CURRENT POSITIONS	NEW POSITIONS	TOTAL COSTS CURRENT/NEW POSTIONS
Program Manager	1	None	\$256,826
Senior Hearing Officer	1	None	\$221,769
Hearing Officer	3	4	\$1,407,945
Program Analyst III	1	1	\$315,170
Program Analyst II	3	1	\$544,604
Program Analyst I	0	1	\$117,602
Admin Assistant II	0	1	\$104,631
Admin Assistant I	1	2	\$209,262
S.C. Inspector	0	1	\$147,521
Security Guard	0	1	\$77,646
<b>TOTAL</b>	<b>10</b>	<b>12</b>	<b>\$3,402,976</b>
<b>OTHER DEPARTMENTS</b>	<b>CURRENT POSITIONS</b>	<b>NEW POSITIONS</b>	<b>TOTAL COSTS</b>
City Attorney's Office	D.C. Attorney V D.C. Attorney III Paralegal Legal Assistant	D.C. Attorney III	\$1,283,488
Revenue	TEO, Receptionist, Cashier, Rev. Assist., Operations Supervisor, Auditor, Analyst Manager	None	\$376,385 (based on percentage of each position's time spend on RAP) ( <b>See Attachment A</b> )
<b>TOTAL</b>		<b>1</b>	<b>\$1, 659,873</b>
<b>RAP OPERATING</b>	<b>ADOPTED BUDGET</b>	<b>EXPENSES BASED ON</b>	<b>TOTAL INCREASE IN</b>

<sup>2</sup> The RAP can receive up to 100 or more notices per day to must be addressed in order to accurately respond to the public.

EXPENSES		FEE INCREASE	BUDGET
Temporary Personnel (IT Support)	\$5,000	\$50,000	\$45,000
<b>Client Contracts, tenant &amp; owner (See Attachment B)</b>	\$90,000 (RAP Tenant) \$10,000 (RAP Owner)	\$422,680 (EBCLC) \$382,000 (CLR) \$291,000 (Just Cause) \$35,000 (Landlord) <b>Total: \$1,130,680</b>	\$1,030,680
Minor Computer Software	\$5,000	\$5,000	None
Printing, Advertising, and Promotion	\$21,000	\$21,000	None
Band & Credit Card Fees	\$8,000	\$8,000	None
Postage and Mailing	\$6,900	\$10,000	\$3,100
Miscellaneous Operating Expenses	\$24,000	\$24,000	None
<b>TOTAL</b>	<b>\$169,900</b>	<b>\$1,248,680</b>	<b>\$1,078,780</b>
<b>GRAND TOTAL</b>	<b>\$6,311,529</b>		

The proposed budget based on an increase of the Fee to \$110 would increase RAP staff from ten to 22, including two positions that have never been added to the RAP staff: an inspector and a security guard. This budget would also add an additional Deputy City Attorney. The new Fee, based on 60,000 units times \$110 per unit, would generate 6.6 million dollars, and cover the costs of the following:

- Four Hearing Officers
- Three Program Analysts
- Two Administrative Assistants
- Security Guard
- Inspector
- Deputy City Attorney
- Total cost of client contracts

**Rental Fee in Other Jurisdictions**

The Fee for the RAP in Oakland is lower than any of the four major rent stabilization jurisdictions in California administering similar Ordinances as shown in **Table 3**. The information is for FY 2014-15<sup>3</sup>.

Table 3

CITY	RENT FEE	COVERED UNITS	ANNUAL BUDGET	FTE STAFF	PETITIONS FILED	HEARING OFFICERS	PETITIONS ASSIGNED
Berkeley	\$213.00	19,000	\$4,047.00	20	222	2	111
San	\$37.00	173,000	\$6,401.00	32	2,124	12	177

<sup>3</sup> The information was obtained from annual reports and speaking to staff.

Francisco							
Santa Monica	\$174.00	28,069	\$4,910,952	23	117	2	59
Hollywood	\$120.000	15,600	\$1,872,000	11	106	2	53
Oakland	\$30.00	60,000	\$1,800.00	10	726	4	182

Compared to other jurisdictions, the Oakland RAP has less staff and lower fees, yet more petitions are processed per Hearing Officer.

**Alternative Fee Increases**

The following **Tables 4** and **5** show alternative fee increases:

**Table 4**

**Rent Adjustment Budget for Fee Increase of \$98 Per Unit**

RENT ADJUSTMENT STAFF	CURRENT POSITIONS	NEW POSITIONS	TOTAL COSTS
Program Manager	1	None	\$256,826
Senior Hearing Officer	1	None	\$221,769
Hearing Officer	3	4	1,407,945
Program Analyst III	1	1	\$315,170
Program Analyst II	3	1	\$544,604
Program Analyst I	0	1	\$117,602
Admin Assistant II	0	1	\$104,631
Admin Assistant I	1	2	\$209,262
<b>S.C. Inspector</b>	0	1	\$147,521
<b>Security Guard</b>	0	1	\$77,646
<b>TOTAL</b>	<b>10</b>	<b>12</b>	<b>\$3,402,976</b>
<b>OTHER DEPARTMENTS</b>			
	<b>CURRENT POSITIONS</b>	<b>NEW POSITIONS</b>	<b>TOTAL COSTS</b>
City Attorney's Office	D.C. Attorney V D.C. Attorney III Paralegal Legal Assistant	D.C. Attorney III	\$1,283,488
Revenue	TEO, Receptionist, Cashier, Rev. Assist, Operations Supervisor, Auditor, Analyst Manager	None	\$376,385 (based on percentage of each position's time spent on RAP business)
<b>TOTAL</b>	<b>5 + % OF 8</b>	<b>1</b>	<b>\$1,659,873</b>
<b>RAP OPERATING EXPENSES</b>			
	<b>ADOPTED BUDGET</b>	<b>BUDGET BASED ON FEE INCREASE</b>	<b>INCREASE IN OPERATING EXPENSES</b>
Temporary Personnel (IT Support)	\$5,000	\$50,000	\$45,000
Client Contracts combined; current levels	\$90,000 (RAP Tenant) \$10,000 (RAP Owner)	\$165,000 (CLR RAP) \$56,731 (CLR CDGB)	\$325,685

		\$35,000 (RAP LL ) \$97,000 (EBCLC) \$71,954 (Just Cause) Total: \$425,685	
Minor Computer Software	\$5,000	\$5,000	None
Printing, Advertising, and Promotion	\$21,000	\$21,000	None
Band & Credit Card Fees	\$8,000	\$8,000	None
Postage and Mailing	\$6,900	\$10,000	3,100
Miscellaneous Operating Expenses	\$24,000	\$24,000	None
<b>TOTAL</b>	<b>\$169,900</b>	<b>\$540,585</b>	<b>\$370,685</b>
<b>GRAND TOTAL</b>	<b>\$5,603,434</b>		

Table 4 shows 60,000 units times 98 dollars per unit, generating 5.8 million dollars. Twelve additional RAP positions are added, with one additional position in the City Attorney's Office. The client contracts are kept at the current levels, with limited expansion. This alternative would allow for enough Hearing Officers for the anticipated increase in petitions, along with an inspector and a security guard.

Table 5

**Rent Adjustment Budget for Fee Increase of \$88 Per Unit**

RENT ADJUSTMENT STAFF	CURRENT POSITIONS	NEW POSITIONS	TOTAL COSTS WAGES
Program Manager	1	None	\$256,826
Senior Hearing Officer	1	None	\$221,769
Hearing Officer	3	3	\$1,206,810
Program Analyst III	1	1	\$315,170
Program Analyst II	3	1	\$544,604
Admin Assistant II	0	1	\$104,631
Admin Assistant I	1	2	\$209,262
<b>TOTAL</b>	<b>10</b>	<b>7</b>	<b>2,864,254</b>
OTHER DEPARTMENTS	CURRENT POSITIONS	NEW POSITIONS	TOTAL COSTS
City Attorney	D.C. Attorney V D.C. Attorney III Paralegal Legal Assistant	D.C. Attorney III	\$1,283,488
Revenue	TEO, Receptionist, Cashier, Rev. Assist, Operations Supervisor, Auditor, Analyst, Manager	None	\$376,385 (based on percentage of each position's time spent on RAP business)
<b>TOTAL</b>	<b>4 + % of 8</b>	<b>1</b>	<b>\$1,659,873</b>
RAP Operating Expenses	ADOPTED BUDGET	BUDGET BASED ON FEE INCREASE	TOTAL INCREASE IN BUDGET
Temporary Personnel	\$5,000	\$50,000	\$45,000



(IT) Support			
<b>Combined Client Contracts (current funding) (See Attachment C)</b>	\$90,000 (RAP Tenant) \$10,000 (RAP Owner)	\$165,000 (CLR RAP) \$35,000 (RAP LL) \$56,731 (CLR CDGB) \$97,000 (EBCLC) \$71,954 (Just Cause) <b>Total: \$425,685</b>	\$325,000
Minor Computer Software	\$5,000	\$5,000	None
Printing, Advertising & Promotion	\$21,000	\$21,000	None
Band & Credit Card Fees	\$8,000	\$8,000	None
Postage and Mailing	\$6,900	\$6,900	None
Miscellaneous Operating Expenses	\$24,000	\$24,000	None
<b>TOTAL</b>	<b>\$169,900</b>	<b>\$540,585</b>	<b>\$370,685</b>
<b>GRAND TOTAL</b>	<b>\$5,064,712</b>		

Table 5 shows 60,000 units times 88 dollars, generating 5.2 million dollars. Seven additional RAP positions are added, with one position in the City Attorney's Office. The client contracts would remain at current levels, with limited expansion. This budget allows for only seven Hearing Officers. The inspector, security guard, and Program Analyst I would be excluded.

**Summary**

The Fee has not been increased since FY 2007-8. Oakland has the lowest fee of the four major rent stabilization jurisdictions in California, yet the RAP processes significantly more petitions per Hearing Officer than all other jurisdictions.

The current crisis of soaring rents in Oakland has had a significant impact on the increased number of petitions that have been filed with the RAP over the past three years. The responsibilities of the RAP have dramatically changed and the Program needs to be restructured. Without new staff, services to the public will continue to suffer, the contracts with services providers cannot be combined or expanded, and the RAP will be unable to meet its responsibilities under current or new ordinances.

The RAP has never employed a security guard. However, due to the volume of public contact, which often includes angry clients, enhanced security is needed.

Hearing Officers in the RAP have traditionally done their own inspections. Staff believes that the number of complaints regarding the condition of units require a professional inspector.

Staff recommends raising the Fee to \$110 per unit per year to enable the RAP to restructure the Program and meet its responsibilities.

## **FISCAL IMPACT**

Pursuant to Ordinance No. 12399 C.M.S., owners pay the Fee, but may pass half of the total fee to their tenants<sup>4</sup>. At \$30 per unit, tenants were required to pay \$1.25 per month. An increase of \$110 per unit raises the monthly amount a tenant would be required to pay to approximately \$4.58, or an increase of \$3.33.

## **PUBLIC OUTREACH / INTEREST**

This report did not require any additional public outreach further than the required posting on the City's website. However, the proposed increase to the rent program service fee is of high interest to the community. For tenants, it will represent a dramatic increase in fees that have to be absorbed in a short time period. There have been conversations with both tenant based and rental property based interest groups, and it is anticipated that these discussions will be on-going as consideration of the fee increase continues during the next month.

## **COORDINATION**

This report was coordinated with the City Attorney's Office and the Controller's Bureau.

## **SUSTAINABLE OPPORTUNITIES**

### ***Economic:***

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

### ***Environmental:***

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

### ***Social Equity:***

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

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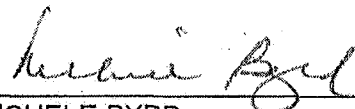
<sup>4</sup> O.M.C. 8.22.070 (G).

**ACTION REQUESTED OF THE CITY COUNCIL**

It is recommended that the City Council approve the attached Ordinance to amend the Master Fee Schedule, Ordinance 13320, C.M.S., to increase the Rent Program Service Fee from \$30 dollars per unit to \$110 dollars per unit.

For questions regarding this report, please contact Connie Taylor, Program Manager at (510) 238-6246.

Respectfully submitted,



MICHELE BYRD

Director  
Department of Housing and Community  
Development

Prepared by:  
Connie Taylor, Program Manager  
Residential Rent Adjustment Program

Attachments: (3)

- A: List of positions in Revenue funding by RAP
- B: Oakland Housing Services Funding Summaries
- C.: Oakland Housing Services Funding Summaries

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**OAKLAND CITY COUNCIL**

Approved as to Form and Legality

  
City Attorney

**ORDINANCE No.**

**C.M.S.**

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**AN ORDINANCE AMENDING THE MASTER FEE ORDINANCE  
(O.M.C. 13320) TO INCREASE THE RENT PROGRAM SERVICE FEE  
FROM \$30 DOLLARS PER UNIT TO \$110 PER UNIT**

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

**WHEREAS**, the Fee was initially set at \$24 dollars per unit and was increased to \$30 dollars per unit in fiscal year 2007-2008; and

**WHEREAS**, rents in Oakland have risen by 20 percent over the past year, yet housing is still more affordable in Oakland than in San Francisco, which has caused a demand for rental housing overflowing from San Francisco; and

**WHEREAS**, within the last three fiscal years (from FY 2011-2012 to FY 2014-2015) the RAP workload has increased dramatically including nearly double the amount of petitions filed annually (from 385 – 739) and five-fold the amount of appeals filed annually (from 20 to 98); and

**WHEREAS**, the recently enacted Tenant Protection Ordinance has also increased calls to staff and referrals for assistance; and

**WHEREAS**, RAP expects an additional large increase in petitions (potentially 300-400 additional petitions per year) due to the anticipated passage of a Mandatory Seismic Retrofit Ordinance; and

**WHEREAS**, in order to increase the assistance available to Oakland tenants and landlords RAP is expanding its funding for client service contracts;

**WHEREAS**, RAP is currently inadequately staffed to manage the anticipated increased workload in a reasonable time frame; and

---

**WHEREAS**, compared to other Rent Stabilization jurisdictions in California, Oakland has a low fee, yet processes more petitions per Hearing Officer than any other jurisdiction; and

**WHEREAS**, the City Council finds that based on the significant increase in petitions and responsibilities under new City ordinances there is good cause for raising the Rent Program Service Fee from \$30 dollars to \$110 dollars per unit thereby enabling the Rent Program to meet its responsibilities; an

**WHEREAS,** THE City Council finds that the staffing levels proposed for the Rent Program are justified and necessary for the program to function in an efficient and responsive manner;

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

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

**Section 1:** The City Council hereby amends the Master Fee Schedule, Housing & Community Development: Residential Rent Adjustment Section at (B)(1), to increase the Rent Program Service Fee from \$30 to \$110 per unit;

**Section 2:** This Ordinance takes effect seven (7) days after final adoption, unless it has been passed with at least six (6) votes, in which case it takes effect immediately upon adoption. The amended Fee amount will apply to those fees first due on January 1, 2016 and thereafter.

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

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

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2015

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND  
PRESIDENT GIBSON McELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

## **NOTICE AND DIGEST**

### **AN ORDINANCE AMENDING THE MASTER FEE ORDINANCE (O.M.C. 13320) TO INCREASE THE RENT PROGRAM SERVICE FEE FROM \$30 DOLLARS PER UNIT TO \$110 PER UNIT**

The Ordinance amends the City of Oakland Master Fee Schedule to increase the Rent Program Service Fee from \$30 per unit to \$110 per unit.

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BUDGETED RAP LABOR							
Classification	Function	FTE	% of Time Renewal	% of Time non-renewal	Avg Cost Per FTE	Cost During Renewal	Cost Non-Renewal
EOII	Declaration Assistance	4.00	33%	5%	89,144	117,670	17,829
Receptionist	Forms, wayfinding, genl RAP info	1.00	33%	5%	61,275	20,221	3,064
Cashier	Processing RAP Pmts	1.00	33%	5%	56,462	18,632	2,823
Dev Assts/Call Center	Phone calls, correspondence, education, outreach	3.00	50%	5%	63,830	95,745	9,575
Operations supervisor	Management of the above classif's	1.00	33%	10%	147,626	48,717	14,763
QA Auditor II	Lockbox, Data Integrity, reconciliations	1.00	50%	10%	88,464	44,232	8,846
System Administrator Analyst	Systems design & maintenance; DQ leads; data matching against other s/w programs	1.00	10%	2%	108,746	10,875	2,175
Revenue & Tax Mgr	Administration	1.00	10%	5%	202,934	20,293	10,147
						376,385	69,221

BUDGETED RAP LABOR P190016								
Classification	Function	FTE	% of Time Renewal	% of Time non-renewal	Avg Cost Per FTE	Cost During Renewal	Cost Non-Renewal	
EO II	Customer Service	1.00	25%	25%	117,175	29,294	29,294	
EO II	Customer Service	1.00	25%	25%	117,175	29,294	29,294	
Dev Asst	Customer Service	1.00	35%	15%	85,435	29,902	12,815	
Dev Asst	Customer Service	1.00	15%	35%	85,435	12,815	29,902	
						101,305	101,305	202,610
Total REVDIV RAP Labor Cost During Renewal						477,690	-	-
Total REVDIV RAP Labor Cost - Non-renewal Season During Renewal						-	170,526	-
Total OPW Labor Funding						50,653	151,958	202,610
Total Underfunding During Renewal						(427,037)	-	-
Total Underfunding During Non-renewal Season						-	(18,568)	-
Grand Total Labor Underfunding						-	(445,606)	-

**Master Fee Schedule: Oakland Housing Services Funding Summaries  
Oakland Housing Services Partners (EBCLC, Centro and Causa Justa/Just Cause).**

**East Bay Community Law Center's Oakland Housing Services (based on FY 2014-15)**

**Need:** The overall picture - 94,000 rental units, nearly 60% of our housing stock, 15-20% increasing in rent in one-two years; unlawful and lawful evictions; rapidly increasing displacement; the need for services (calls for housing legal services are approximately 5,000 each year to EBCLC front desk) far outstrip available resources to respond (particularly to enforce existing tenant protection ordinances);

**Staffing:** 4 attorneys (1 program director), 1 paralegal/intake specialists, .8 Jesuit Volunteer, and .6 of a law fellow;

**Services:** EBCLC Housing Practice staff and students provided approximately 2,077 client services to approximately 1,294 Oakland residents – all low-income and the majority (79%) People of Color (40% African American, 23% Latino, 5% Asian or Pacific Islander and, 16% other/multiracial);

**Costs:** The costs of the current provision of Oakland-specific Housing Legal Services: \$422,680 direct costs ("true" costs \$540,270, including overhead and non-direct; 65% of overall Housing Practice costs reflecting 65% of clients are Oakland residents);

**City of Oakland funding:** Currently, through Oakland CDBG, EBCLC gets \$96,541 for Oakland Housing Legal Services, i.e., 17% (or 22% of "true") of what it costs to provide the current Housing Legal Services to Oaklanders.

**Centro Legal de la Raza - Oakland Housing Services (based on FY 2014-15)**

**Staffing:** 3.5 attorneys (1 program director and one litigation director) and .5 intake specialist

**Services:** Centro Legal's Housing staff provided approximately 1,372 client services to approximately 600 Oakland residents – all low-income and the majority (86%) People of Color (53% Latino, 25% African-American, 6% Asian or Pacific Islander and, 16% other/multiracial);

**Costs:** The costs of the current provision of Oakland-specific Housing Legal Services: \$250,000 direct costs including overhead and non-direct; 83% of overall Housing Practice costs reflecting 83% of clients are Oakland residents);

**City of Oakland funding:** Currently, through Oakland CDBG and Rent Adjustment Program, Centro Legal gets \$146,731 for Oakland Housing Legal Services, i.e., 57% of what it costs to provide the current Housing Legal Services to Oaklanders. Less than 50% of the funding (\$56,731) we receive from the City of Oakland can be used to help tenants facing evictions.

**Causa Justa :: Just Cause Oakland Housing Services (based on FY 2014-15)**

**Staffing:** 2 FTE Clinic Staff Counselors, .5 FTE Volunteer Coordinator, .25 FTE Reporting/Data-entry Coordinator, .25 FTE Program Management, 2 FTE (unpaid) Volunteer

**Services:** 3,000 Oakland Tenant's Hotline calls, Clinic Cases: 580, 240 direct eviction cases, 340 some form of harassment under the TPO leading toward eviction.

**ATTACHMENT B**



CJJC constituency is approximately 50% African American, 40% Latino (the majority of whom are monolingual Spanish speakers and/or immigrants), and 10% from other racial/ethnic backgrounds. All Low income, unemployment in these areas is consistently 3-4% higher than the national average. The Oakland neighborhoods we work in – East and West Oakland – have a median income of \$22,000-\$30,000 per family of four.

CJJC has two offices – West Oakland and Deep East Oakland

**Costs:** The costs of the current provision of Oakland-specific Outreach and Education Services: \$291,000 including overhead and non-direct.

**City of Oakland funding:** Currently Causa Justa :: Just Cause receives \$55,288 in Oakland CDBG funding with \$16,666 1-year supplemental funding added by city staff. \$55,288 is 19% of the cost to provide Oakland-specific Outreach and Education Services.

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Oakland Housing Services Partners (EBCLC, Centro and Causa Justa/Just Cause).**

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IN ORDER TO BE EXEMPT FROM PAYING THE RENT PROGRAM SERVICE FEE YOU MUST BE EXEMPT FROM BOTH THE RENT ORDINANCE AND THE JUST CAUSE FOR EVICTION ORDINANCE AS SHOWN IN THE CHART BELOW PURSANT TO ORDINANCE NO. 12517 C.M.S.

EXEMPTION	RENT ORDINANCE	JUST CAUSE FOR EVICTION ORDINANCE
Subsidized Housing	X	
<b>Motels, hotels if occupancy not more than 30 days</b>	X	X
<b>Hospital, dormitory, extended care facility,etc</b>	X	X
Non profit cooperative owned and occupied by majority of residents	X	
<b>New construction</b>	X	X
Substantial rehabilitation	X	
3 units or less-owner occupied	X	X
The unit that an owner occupies in any building	X	X
Non profit facility-homeless/substance abuse treatment		X
Unit in trust for developmentally disabled		X
Shared facilities with owner and tenants(bath/kitchen)		X
Costa Hawkins-Single family residence-condominium	X	
Vacant unit	X	X

**Approximate time to Perform Rent Adjustment Duties**

**Hearing Officers:**

1. Prepare case for hearing: **15 minutes to 5 hours, depending on issues presented**
2. Conduct Hearings: **2 to 7.5 hours OR 2 or three days for additional hearings, depending on number of parties and issues**
3. Conduct Mediation: **2 to 7.5 hours**
4. Write Hearing Decisions: **2 weeks to 60 days**
5. Prepare Mediation Agreement: **15 minutes to an hour, depending on number of parties**

**Program Analysts:**

1. Analysis of case record: **15 minutes to an hour for each case**
2. Time spent with customers during drop-in hours: **10-15 minutes with each client (we are getting between 25 and 30 clients each day; it often requires 2 Analysts for drop-in hours)**
3. Time spent with customers on the telephone: **10-15 minutes with each client (average 50 phone calls per day for Analyst on telephone duty)**
4. Time spent doing miscellaneous tasks related to managing case files, such as processing potential evidence; continuance requests, answering questions from tenants/landlords/representatives involved in Upcoming hearings or appeals: **approximately 4 hours each day.**

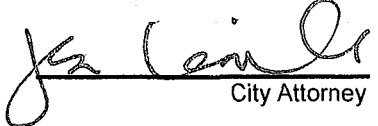
**Administrative Assistants**

1. Opening case files: **15 minutes to an hour, depending on number of parties**
2. Mailing documents with proof of service: **10 minutes per file**
3. Conducting file reviews: **5 minutes to an hour**
4. Scanning termination notices: **4 to 6 hours per day**
5. Making copies of case files: **10 minutes to an hour**
6. Certifying documents: **10 minutes**
7. Processing mail: **30 minutes to an hour**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2016 JUN 17 AM 10:07

Approved as to Form and Legality

  
City Attorney

## OAKLAND CITY COUNCIL

ORDINANCE NO.

C.M.S.

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**ORDINANCE: (1) AMENDING ORDINANCE NO. 13320 C.M.S. (THE 2015-16 MASTER FEE SCHEDULE) TO INCREASE THE RENT PROGRAM SERVICE FEE FROM \$30 PER UNIT TO UP TO \$104 PER UNIT; AND (2) AMENDING CHAPTER 8.22 (RENT ADJUSTMENT PROGRAM) OF THE OAKLAND MUNICIPAL CODE TO PROVIDE THAT TENANTS MAY CHOOSE WHETHER TO PAY THEIR PORTION OF THE RENT PROGRAM SERVICE FEE IN A LUMP SUM OR IN MONTHLY INSTALLMENTS**

**WHEREAS**, the City of Oakland periodically amends City Council Ordinance No. 13238 C.M.S. and updates its Master Fee Schedule to account for the cost increases relating to municipal programs, services and activities; and

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

**WHEREAS**, City staff undertook analysis and evaluation of the revenue requirements to fund RAP's ongoing services, programs and activities and the fee structure necessary to proportionately allocate the costs of providing these government services and programs; and

**WHEREAS**, the agenda report provided by staff in support of the amendments to this Ordinance was prepared and includes proposed fees and charges, and documentation supporting the estimated and reasonable costs for continuing to provide the various government services; and

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

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

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

the program; and

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

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

**WHEREAS**, the City Council finds that based on the significant increase in petitions there is good cause for raising the Rent Program service fee from \$30 to up to \$104 per unit, thereby enabling RAP to meet its responsibilities; and

**WHEREAS**, the City Council finds that the staffing levels proposed for RAP are justified and necessary for the program to function in an efficient and responsive manner; and

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

**WHEREAS**, at the Public Hearing held on July 5, 2016, the Council reviewed and considered the proposed fee changes; and

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

**WHEREAS**, tenants should be permitted to decide whether to pay the portion of the Fee that is passed through to them either in a lump sum or in monthly installments; now, therefore

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

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

**Section 2:** The Master Fee Schedule Housing & Community Development: Residential Rent Adjustment Section at (B), as set forth in ordinance number 13228 C.M.S. as amended, is hereby amended as follows to increase the Rent Program Service Fee from \$30 to \$104 per unit (additions are shown as double underline and deletions are shown as ~~strikethrough~~):

	CURRENT FEE (FY 2015-2016)	PROPOSED FEE (FY 2015-2016)	PROPOSED FEE (FY 2016-2017)
<b>RESIDENTIAL RENT ADJUSTMENT</b>			
<b>B. RENT PROGRAM SERVICE FEE</b>			
1. Annual Service Fee per Unit (Fees are due January 1 and delinquent March 1.	30.00 Unit	<u>104.00</u> Unit	<u>104.00</u> Unit
2. If paid within 30 days late, add 10% late fee. In addition add simple interest of 1% of the balance owed (Fee + late charges per month or fraction of a month late	30.00 + 10% Unit	<u>104.00</u> + 10% Unit	<u>104.00</u> +10% Unit
3. If paid within 60 days late, add 25%.	30.00 + 25% Unit	<u>104.00</u> + 25% Unit	<u>104.00</u> +25% Unit
4. If paid after 60 days late, add 50%.	30.00 + 50% Unit	<u>104.00</u> + 50% Unit	<u>104.00</u> +50% Unit

**Section 3:** Relevant sections of Title 8 of the Oakland Municipal Code are hereby amended to read as follows (additions are shown as double underline and deletions are shown as ~~strike through~~):

Chapter 8.22 - RESIDENTIAL RENT ADJUSTMENTS AND EVICTIONS

8.22.500 - Rent program service fee.

G. Passthrough of One-Half of Fee. For rental properties that are covered by the rent adjustment program, 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. If a rental property owner passes through one-half of the fee to a tenant, the tenant may choose to pay that amount to the property owner as either a lump sum or in twelve (12) monthly installments. 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 4:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**Section 5:** This Ordinance takes effect seven (7) days after final adoption, unless it has been passed with at least six (6) votes, in which case it takes effect immediately upon adoption. The amended Fee amount will apply to those fees first due on January 1, 2017 and thereafter.



**Section 6:** This action is exempt under the California Environmental Quality Act (“CEQA”) pursuant to, but not limited to the following CEQA Guidelines: §15378 (regulatory actions), § 15061(b)(3) (no significant environmental impact), and §15183 (actions consistent with the general plan).

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2015

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND  
PRESIDENT GIBSON McELHANEY

NOES –

ABSENT –

ABSTENTION –

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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## NOTICE AND DIGEST

**ORDINANCE: (1) AMENDING ORDINANCE NO. 13320 C.M.S. (THE 2015-16 MASTER FEE SCHEDULE) TO INCREASE THE RENT PROGRAM SERVICE FEE FROM \$30 PER UNIT TO UP TO \$104 PER UNIT; AND (2) AMENDING CHAPTER 8.22 (RENT ADJUSTMENT PROGRAM) OF THE OAKLAND MUNICIPAL CODE TO PROVIDE THAT TENANTS MAY CHOOSE WHETHER TO PAY THEIR PORTION OF THE RENT PROGRAM SERVICE FEE IN A LUMP SUM OR IN MONTHLY INSTALLMENTS**

The Ordinance amends the City of Oakland Master Fee Schedule to increase the Rent Program Service Fee from \$30 per unit to up to \$104 per unit. The Ordinance also amends Chapter 8.22 of the Oakland Municipal Code to provide that tenants may choose whether to pay their portion of the Rent Program Service Fee in a lump sum or monthly.

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