



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Christina Mun  
Interim Director, Housing  
and Community  
Development Department

**SUBJECT:** Amendment to Rent Adjustment  
Program Ordinance

**DATE:** October 7, 2022

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City Administrator Approval

Date: Oct 13, 2022

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## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt An Ordinance Amending The Rent Registry Ordinance (Ordinance No. 13695 C.M.S.) To Modify The Initial Submission Deadline For Registration Forms From March 1, 2023 To July 1, 2023.**

## **EXECUTIVE SUMMARY**

The proposed legislation would amend the City of Oakland's (City) [Rent Registry Ordinance](#) to 1) extend the delinquency deadline to register for the Rent Registry's inaugural year of implementation from March 1, 2023, to July 1, 2023, and 2) establish March 1 as the delinquency deadline to register in all subsequent years. The requested extension would provide sufficient time for the [Rent Adjustment Program](#) (RAP) to develop the rent registry database, complete its staffing model, and provide robust outreach and support to property owners subject to the new requirements.

## **BACKGROUND / LEGISLATIVE HISTORY**

In 1980, the Oakland City Council (Council) passed its first rent control ordinance which established the Housing, Residential Rent Arbitration and Relocation Board (The Board) and the RAP (Oakland No. 9980 C.M.S.). Since then, the Ordinance has been amended many times. The current Ordinance ([O.M.C. Section 8.22.010 et seq.](#)) regulates most residential rent increases in Oakland. Additionally, in 2002, the Oakland voters passed the Just Cause for Eviction Ordinance, requiring a property owner to cite one of the eleven enumerated "just causes for eviction" order to serve a notice to quit ([O.M.C. Section 8.22.300 et seq.](#)).

In November 2016, Oakland voters passed Measure JJ, which not only extended just cause for eviction protections to residential units built between 1980 and 1996, but also requires owners to obtain RAP approval for any rent increase that exceeds the current year's annual CPI-based increase.

CED Committee  
October 25, 2022

The City's Fiscal Year (FY) 2021-2023 adopted budget, the allocated \$500,000 for initial startup costs to create a rent registry. In its Budget Policy Directives, Council requested an ordinance for consideration by no later than May of 2022.

On June 21, 2022, the Council adopted Ordinance [No. 13695 C.M.S](#) ("Rent Registry Ordinance"), which amended the Rent Adjustment Ordinance to establish a rent registry in Oakland, effective March 1, 2023. The Rent Registry Ordinance requires rental property owners to annually report tenancy data with the RAP, and also establishes that an owner's failure to annually register tenancy data will result in denial of otherwise-allowable rent increases and will provide an affirmative defense in an eviction action.

The Rent Registry Ordinance sets forth March 1, 2023 as the date by which property owners will be required to start providing the tenancy data required. This date aligns with the date for property owners to pay the Rent Program Service Fee ("RAP fee"), which is due annually and is considered delinquent if not paid by March 1. However, both the development of the rent registry database and fulfillment of RAP's rent registry staffing model requires more time to complete than originally envisioned. The current timelines for rent registry development will negatively impact both RAP's ability to conduct effective outreach and property owners' ability to register their rents in a timely manner.

As a result, RAP recommends adopting the proposed ordinance amendment to change the inaugural rent registration delinquency date to July 1, 2023 in order to provide sufficient time for RAP to develop the rent registry database, complete its staffing model, and provide robust outreach and support to property owners subject to the new requirements. In subsequent years, the original March 1 delinquency date outlined in the Rent Registry Ordinance would take effect.

## **ANALYSIS AND POLICY ALTERNATIVES**

**The proposed amendment extends the initial delinquency deadline to provide tenancy data as required by the Rent Registry Ordinance from March 1, 2023, to July 1, 2023, during the first year that owners are required to submit this data and provides clarification that the delinquency deadline for future years will be established as March 1.**

**This proposed amendment seeks to further the City's housing, economic, and cultural security by providing the Rent Adjustment Program with sufficient time to develop the mechanisms and outreach necessary to allow property owners to submit the data that is newly required by law; it also provides additional time for owners to comply with these requirements. It is expected that the proposed amendments will result in a more effective implementation of the Rent Registry Ordinance, thereby leading to an increase in property owners' compliance. This in turn will result in enhanced transparency and accessibility of both rent data and rent increase limits, thus assisting both owners and tenants in the maintaining of lawful rents.**

The goal of the rent registry is to ensure compliance with existing laws, and a robust rent registry that will have a direct and positive impact on vulnerable communities through the maintenance of lawful rent levels. Tenants in general are more economically vulnerable than homeowners, as their housing costs are not predictable over time in the same way that homeowners' costs are, and their housing expenditures do not build equity. However, African

American, Latinx, and Asian populations are of particular concern, as they make up the majority of Oakland's tenant community. The Housing Initiative at Penn has found that African Americans make up 30% of renter households, while another 21% of renters are Latinx, and 15% are Asian.<sup>1</sup> The same study found that renters in Oakland remain "racially and ethnically segregated," and that "eight of the ten most segregated neighborhoods for African Americans in the entire Bay Area are in Oakland."<sup>2</sup> Furthermore, the City's Oakland Equity Indicators data indicates that while almost half of renter households are rent burdened – meaning that they spent more than 30% of their annual income on rent – "it was more common among African American and Latino households, with 58.4% and 52.7%, respectively."<sup>3</sup>

### Rent Registry Development

The Council approved the Rent Registry Ordinance in June 2022, at which time RAP commenced implementation efforts. Rent Registry implementation has focused on 1) executing a contract with a software developer to build the rent registry database, 2) fulfilling the staffing model outlined for the rent registry, 3) and crafting a multifaceted outreach plan to property owners to apprise them of the new ordinance and provide ongoing education and support. During the course of fulfilling this implementation plan, staff has encountered a number of mitigating factors that lead to the current recommendation to extend the inaugural compliance deadline. These are outlined below:

#### *Database Development*

In July 2022, RAP began the process to contract with a software developer under a cooperative contracting agreement, as is allowed by the City's Department of Workforce and Employment Standards. A cooperative contracting agreement allows RAP to engage a software development provider who has already contracted with a municipality under an agreement whose functional requirements match those that RAP seeks. The cooperative contract replaces the RFP process, resulting in a streamlined contracting process.

RAP has identified a contract that the City of Berkeley executed with software provider 3Di Systems and determined that the contract and associated scope of work will provide RAP with the functional requirements needed under the Rent Registry Ordinance. As of September 29, 2022, RAP was in the final stages of executing a contract with 3Di Systems.

Despite the more efficient contracting arrangement, the months-long contracting process has forestalled the start of database development, which is expected to take a minimum of 90 days. User testing and staff training are expected to take an additional 30-60 days. RAP then expects to contact owners directly via U.S. mail to provide the specific instructions on how to access the database to fulfill the registration requirements. Finally, property owners must have two to three months to submit their rent registration information. Should the contract be executed by the end of October 2022, the database would be built and finalized no sooner than March 2023, with property owners submitting information through June 2023. Therefore, given these contracting and database development timelines, staff anticipates that property owners will not have

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<sup>1</sup> [The Housing Initiative at Penn, "Housing Vulnerability in Oakland, CA," September 2020.](#)

<sup>2</sup> Ibid.

<sup>3</sup> City of Oakland, "2018 Oakland Equity Indicators Report: Measuring Change Toward Greater Equity in Oakland," 2018.

sufficient time to receive notification and fulfill registration requirements by the March 1, 2023, deadline currently identified in the Ordinance.

Staffing

**Table A** below describes the staffing plan outlined in the May 24, 2022 staff report for implementation of the Rent Registry. RAP staff already comprises a Project Manager (currently an ELDE position) and a Program Analyst II. RAP has not yet hired an Administrative Analyst I or an Administrative Assistant I.

**Table A**

<b>Rent Registry Positions</b>
- Project Manager (currently an ELDE) – 1 FTE
- Program Analyst II (Filled) – 1 FTE
- Administrative Analyst I (Recruitment not yet begun) – 1 FTE
- Administrative Assistant I (Recruitment not yet begun) – 1 FTE

The two positions that need to be filled (Administrative Analyst I and Administrative Assistant I) have experienced delays in the recruitment process due to ongoing shifts in RAP’s overall staffing model and the agency’s need to fill a number of existing vacancies. As a result of these delays, it is anticipated that a full staffing model required for the successful rent registry implementation will not be in place until approximately February 2023, at which point new staff members will need to be trained so that they can adequately support property owners in the fulfillment of the rent registry requirements.

RAP will rely heavily on its rent registry staff to support property owners in fulfilling the rent registry’s requirements. If a complete, trained staffing model is not in place until February 2023, RAP will be unable to provide owners with the adequate support needed to meet the March 1, 2023 deadline.

Outreach

Outreach is a crucial step in the successful launch of a rent registry. RAP’s current outreach plan comprises the following:

- 1) **Informational workshops** in October, November, and December 2022, which will describe the new law and provide owners with general information on how to fulfill the requirements.
- 2) **Informational postcard** to owners of properties that will likely be subject to the Ordinance.
- 3) **Technical Assistance Workshops** to assist landlords in completing the required rent registry process once the database is live.
- 4) **An informational video** that will summarize the new law and include instructions on how to navigate the online database. RAP has contracted with a videographer for production and plans to post the video on its website. This will provide owners with an additional source of support.
- 5) **Ongoing Housing Counseling & Rent Registry Support.** RAP housing counseling and administrative staff will respond to landlord and tenant questions related to the rent

registry as well as provide assistance to landlords in completing the rental registry database requirements.

Because RAP is at the very beginning stages of database development and staffing, it is difficult to conduct specific outreach to property owners. It is extremely important that owners are apprised of the registry and its requirement, since the Rent Registry Ordinance represents a significant change in RAP's policy and requirements for property owners, and failure to comply with the Ordinance will result in prohibitions on owners' ability to increase rents and evict tenants.

For RAP to conduct robust outreach that will support owners' ability to comply with the new law, RAP requires a full rent registry staffing model. Furthermore, staff must be able to communicate specific and comprehensive information on the rent registry itself. The timelines on staffing and database development described above place real constraints on RAP's ability to conduct this outreach.

#### Just Cause Ballot Measure – November 8, 2022

In addition to the areas of development described above, RAP also must prepare for the possible passage of a ballot measure that Council approved for placement on the November 8<sup>th</sup> ballot. If passed by the voters, the measure would extend Just Cause for Evictions protections to tenants who live in recreational vehicles (RVs), as well as units built after 1995 (except for the first ten years after a new unit is built).

RAP has been working with the Department of Planning and Building and Finance Department to assess how many units would be affected by the ballot measure's passage, and currently estimates that in the first year, approximately 14,000 additional units could fall under the Just Cause for Eviction Ordinance. These additional units would be subject to both the RAP fee and rent registration requirements.

If the measure passes, RAP anticipates engaging in additional outreach to these property owners to inform them that 1) their units are newly subject to Just Cause protections, and 2) they must register their units in the rent registry.

The considerations of gathering data and performing outreach to these owners are such that RAP must have an abundance of time to perform necessary outreach and education to these owners of units subject to registration under the ballot measure.

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Given the combination of factors described above – database development and staffing timelines, these timelines' impacts on RAP's ability to conduct effective outreach, and the potential impacts of the Just Cause ballot measure – RAP foresees that the imposition of a March 1, 2023, delinquency date for the rent registry's inaugural year will not provide sufficient time for RAP to provide adequate mechanisms for property owners to comply with the registration requirements by the deadline. RAP thus recommends that the Council approve the amendment as proposed. This will extend the inaugural delinquency date for registration to July 1, 2023, which will provide the additional time needed for RAP to develop the database and hire the necessary staff, support property owners through outreach, and reach out to owners who may be newly impacted by Just Cause requirements.

### *Rent Adjustment Ordinance Amendment*

The amendment to the Rent Adjustment Ordinance adopted by the Rent Board would make the following changes:

- Define the inaugural deadline for property owners to fulfill requirements of the Rent Registry Ordinance as July 1, 2023;
- Establish March 1<sup>st</sup> as the registration deadline for subsequent years.

### **FISCAL IMPACT**

There is no fiscal impact expected as a result of the adoption of these amendments. The RAP fee delinquency deadline remains unchanged as March 1<sup>st</sup>, and property owners' obligation to pay this fee timely also remains unchanged.

### **PUBLIC OUTREACH / INTEREST**

Over the course of developing of the rent registry ordinance amendment, RAP has sought feedback from community stakeholders. In February of 2022, RAP held stakeholder engagement meetings with representatives of groups representing both property owners and tenants, in which RAP provided an overview of rent registries and sought input from participants. Furthermore, at the April 28, 2022 public meeting of the Housing, Residential Rent, and Relocation Board, RAP staff presented an informational overview of rent registration, and answered community members' questions in an open forum.

While tenant groups generally expressed support for the rent registry, property owners have expressed concerns, especially around privacy, administrative burdens, and fee impacts. RAP addressed these concerns in proposing the original ordinance amendment in June. It is important to note that the extension of the original deadline to register will enable RAP to more effectively develop a rent registry that ensures privacy of personal information, promotes equity, and reduces the likelihood of a fee increase.

### **COORDINATION**

This report and legislation were prepared in coordination with the City Attorney's Office. The Finance Department was also consulted on the legislation.

## **SUSTAINABLE OPPORTUNITIES**

**Economic:** While there are no direct economic opportunities associated with this report, the maintenance of a rent registry is expected have a direct impact in the prevention of illegal rent increases, which in turn may reduce evictions associated with illegal rent increases. Thus, the approving the ordinance amendment that will ensure a smooth rollout and in turn better compliance with a rent registry will amount to a strengthening of tenant protections and act as a stabilizing force in maintaining housing. Housing stability is a necessary component in increasing citizens' economic stability and associated economic opportunities.

**Environmental:** There are no environmental opportunities associated with this report.

**Race & Equity:** African-American, Latinx, Asian, and other immigrant communities continue to be the populations most vulnerable to displacement as Oakland's housing crisis continues. Approval of this ordinance amendment is expected to increase compliance with the Rent Registry Ordinance, which in turn will further transparency in allowable rents. Maintenance of a robust rent registry will enable the city to monitor allowable rents and protect tenants from illegally high housing costs and from unjust evictions and illegal rent increases.

## **ACTION REQUESTED OF THE CITY COUNCIL**

**Staff Recommends That The City Council Adopt An Ordinance Amending The Rent Registry Ordinance (Ordinance No. 13695 C.M.S.) To Modify The Initial Submission Deadline For Registration Forms From March 1, 2023 To July 1, 2023.**

For questions regarding this report, please contact Emily Weinstein, Deputy Director of Community Development, at 510.238.6225.

Respectfully submitted,



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Christina Mun  
Interim Director, Housing and Community  
Development Department

Prepared by:  
Emily Weinstein, Deputy Director of  
Community Development  
Housing and Community Development  
Department