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APPROVED AS TO FORM AND LEGALITY

By: 
City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 80336 C.M.S.

INTRODUCED BY COUNCIL MEMBER _____

A RESOLUTION APPROVING AMENDMENTS TO THE RENT ADJUSTMENT REGULATIONS TO CLARIFY HOW RENTAL PROPERTY OWNERS MAY TAKE BANKED RENT INCREASES AND TO IMPLEMENT THE CERTIFICATE OF EXEMPTION PROCESS

WHEREAS, amendments to the Housing Residential Rent and Relocation Board Regulations are necessary in order to permit landlords to completely implement deferred annual general rent increases and to improve coordination among the provisions of the Ordinance and Regulations; and

WHEREAS, the Rent Adjustment Ordinance was amended to permit landlords to file petitions seeking a determination as to whether their rental units are exempt from the Rent Adjustment Ordinance and regulations are needed to implement the certificate of exemption process; and

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

WHEREAS, public input in the process of making recommendations for the Rent Program Regulations was received by the Housing Residential Rent and Relocation Board; and after public input, the Board unanimously recommended these changes herein, now, therefore, be it

RESOLVED: That the Regulations for the Rent Adjustment Program previously amended in Resolution No. 77194 C.M.S. are hereby amended as set forth below;

Section 1.

8.22.010 RENT ADJUSTMENTS FOR OCCUPIED COVERED UNITS.

A. Purpose.

This section sets forth the regulations for a Rent adjustment exceeding the CPI Rent Adjustment and that is not authorized as an allowable increase following certain vacancies.

B. Justifications for a Rent Increase in Excess of the CPI Rent Adjustment.

1. ~~The justifications for a Rent increase in excess of the CPI Rent Adjustment remain the same as under Resolution No. 71518 C.M.S. (Residential Rent Arbitration Board Rules and Procedures) Section 10.0 and the applicable definitions from Section 2.0 and pursuant to Ordinance No 12273 (Residential Rent Arbitration Ordinance) Section 8.22.060 C.2. Resolution No. 71518 C.M.S. Sections 2.0 and 10.0 are attached as Appendix A to these Regulations.~~

2. ~~Ordinance No 12273 Section 8.22.060 C.2. provides as follows:-
"Standards for Rent Increases in Excess of the Annual Permissible Rent Increase [now "CPI Rent Adjustment"]:~~

~~* * *~~

~~2. The amount of rent increase allowable for the items listed in [OMC 8.22.070] (hereinafter the "standards"), shall be subject to the limitations set forth in the rules and procedures and shall be computed as follows. If the derived percentage allowable for the standards is in excess of the annual permissible rent increase [CPI Rent Adjustment], the higher percentage shall be used to compute the allowable rent increase. If the derived percentage allowable for the standards does not exceed the annual permissible rent increase, the annual permissible rent increase shall be used to compute the allowable rent increase. The derived percentage allowable for the standards shall not be added to the annual permissible rent increase."~~

2. Except for a Rent increase justified by banking, Rent may be increased by either
a. the CPI Rent Adjustment, or
b. the total amount justified under provisions of OMC Section 8.22.070.D.1), whichever is greater.

3. Section 8.22.070 B.2. does not apply to any Rent increase based on Banking pursuant to Appendix A, Section 10.5.

Section 2.

Exhibit A

10.5 Rental History/"Banking"

~~10.5.1 If a landlord chooses not to increase rents maximum amount permitted by the Ordinance since May 6, 1980, the remaining allowable percentage increase may be carried over to the succeeding twelve (12) month periods. However, any such carry over increase may not exceed three times the then current allowable annual rate in any given twelve month period and in no event, may any such~~

~~increase be carried forward for more than ten years. As used in this section, the term "carry over increase" shall be defined as any percentage increase in rent permitted under the Ordinance for prior years not yet passed on to the tenant and shall not include any percentage increase in rent permitted for the current year.~~

10.5.1 If a landlord chooses to increase rents less than the annual CPI Adjustment [formerly Annual Permissible Increase] permitted by the Ordinance, any remaining CPI Rent Adjustment may be carried over to succeeding twelve (12) months periods ("Banked"). However, the total of CPI Adjustments imposed in any one Rent increase, including the current CPI Rent Adjustment, may not exceed three times the allowable CPI Rent Adjustment on the effective date of the Rent increase notice.

10.5.2 Banked CPI Rent Adjustments may be used together with other Rent increase justifications, except Increased Housing Service Costs, Debt Service and Fair Return, because these justifications replace the current year's CPI increase.

10.5.3 In no event may any banked CPI Rent Adjustment be implemented more than ten years after it accrues.

Section 3.

8.22.030 EXEMPTIONS.

C. Certificates of Exemption.

1. Whenever an Owner seeks a Certificate of Exemption the following procedures apply:

a. The petition cannot be decided on a summary basis and may only be decided after a hearing on the merits;

b. Staff may intervene in the matter for the purpose of better ensuring that all facts relating to the exemption are presented to the Hearing Officer;

c. In addition to a party's right to appeal, Staff or the Hearing Officer may appeal the decision to the Rent Board; and,

d. A Certificate of Exemption shall be issued in the format specified by Government Code Section 27361.6 for purposes of recording with the County Recorder.

2. In the event that previously issued a Certificate of Exemption is found to have been issued based on fraud or mistake and thereby rescinded, the Staff shall record a rescission of the Certificate of Exemption against the affected real property with the County Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, ~~DEC 19 2008~~006

PASSED BY THE FOLLOWING VOTE:

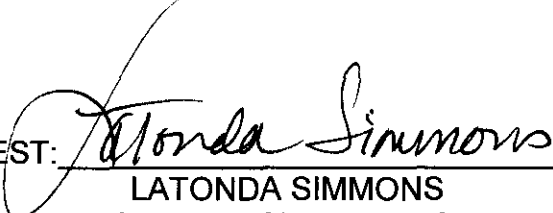
AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE -8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:



LATONDA SIMMONS

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