



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

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

SUBJECT: Amendment to Rent Adjustment
Program Regulations

DATE: October 7, 2022

City Administrator Approval

Date:

Oct 12, 2022

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Adopting Amendments To The Rent Adjustment Program Regulations Approved by the Housing Residential Rent and Relocation Board To Clarify Substantial Compliance With the Rent Registry Ordinance (Ordinance No. 13695).

EXECUTIVE SUMMARY

The proposed legislation would amend the Rent Adjustment Program Regulations promulgated and adopted by the Housing Residential Rent and Relocation Board (Rent Board) and submitted to the City Council for ratification to define substantial compliance with registration requirements as required by O.M.C 8.22.510. Specifically, the amendment would define that owners will substantially comply with the registration requirement in O.M.C 8.22.510 if 1) they have made a good faith effort to comply with the registration requirement in OMC 8.22.520, and 2) have cured any defect in compliance in a timely manner after receiving a notice of deficiency from Rent Adjustment Program staff.

BACKGROUND / LEGISLATIVE HISTORY

On June 21, 2022, the Oakland City 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 amendment to Oakland's [Residential Rent Adjustment Program Ordinance](#) ("Rent Ordinance") required rental property owners to annually report tenancy data with the Rent Adjustment Program ("RAP") and also amended both the Rent Ordinance and the [Just Cause for Eviction Ordinance](#) ("JCO") to establish 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.

CED Committee

October 25, 2022

Section 11 of Ordinance No. 13695 C.M.S. required, in relevant part, the development of amendments to the Rent Adjustment Program Regulations for the purpose of defining substantial compliance with the registration requirement and offering directives on mandatory and optional fields. On [September 8, 2022](#), the Housing, Residential Rent and Relocation Board considered the proposed Regulation amendments at its noticed public meeting and received oral public comment.

At that same meeting, the Rent Board adopted the Regulation amendments, subject to the ratification of the City Council.

ANALYSIS AND POLICY ALTERNATIVES

The proposed amendments help to explicate and clarify how property owners can fulfill the requirements of the Rent Registry Ordinance, and defines substantial compliance in the event that an owner cannot obtain all information required data outlined in Ordinance No. 13695 C.M.S.

These proposed amendments will seek to further the City of Oakland’s housing, economic, and cultural security by defining and clarifying the ways in which a property owner may substantially comply with the Rent Registry Ordinance in the event that the owner cannot obtain all data points described in the Ordinance. It is expected that the proposed regulation changes will result in increased compliance with the Rent Registry Ordinance, thereby leading to an increase in the transparency and accessibility of both rent data and rent increase limits. This will in turn will assist 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 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.¹ 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.”² Furthermore, the City of Oakland’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.”³

A rent registry provides the best protection for vulnerable tenants only when a high percentage of property owners comply by registering their properties. The proposed amendment seeks to significantly boost Oakland property owners’ ability to meet the registration requirement by

¹ [The Housing Initiative at Penn, “Housing Vulnerability in Oakland, CA,” September 2020](#)

² Ibid.

³ City of Oakland, “2018 Oakland Equity Indicators Report: Measuring Change Toward Greater Equity in Oakland,” 2018.

providing standards for substantial compliance, and by explicating that owners will not suffer penalties if they have met those standards. With the path to compliance made more clear, property owners will be able to report rental data to the best of their knowledge and ability and populate the rent registry thoroughly. This will ultimately lead to the creation of a robust rent registry that is necessary to reduce the likelihood of illegal rent increases that could lead to eviction.

Rent Adjustment Program Regulation Amendment

The amendment to the Rent Adjustment Regulations adopted by the Rent Board are attached hereto as **Exhibit A** to the proposed Resolution accompanying this report. This amendment would make the following changes:

- Define substantial compliance with the Rent Registry Ordinance to require that the Property Owner make a good faith effort to comply with the Rent Registry Ordinance;
- Provide that the Property Owner will be found in substantial compliance if they have cured any defect identified by Rent Program staff in a timely manner;
- Allow a Property Owner to be found in substantial compliance if that owner has made a reasonable effort to provide data and 1) reports that the requested information is provided on belief, 2) notes that the information is approximate, or 3) states that the information is unknown;
- Allow a Property Owner who is providing information under penalty of perjury to provide data on information and belief where the owner does not have direct, firsthand knowledge of the information;
- Define the certification for owners to submit registration information as follows:

I have used all reasonable diligence in preparing this statement. I have reviewed the statement and, to the best of my knowledge, the information contained herein is true and complete. To the extent I was unable, despite the use of reasonable diligence, to ascertain the exact information to be reported, I have provided the most accurate approximation possible based on information and belief where possible or, where such approximation is not feasible, I have stated that the information is unknown. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

FISCAL IMPACT

There is no fiscal impact expected as a result of the adoption of these regulations.

PUBLIC OUTREACH / INTEREST

Housing and Community Development Department staff and the Rent Board received public input regarding amending the RAP Regulations. Drafts of the Regulations were published in the agenda packet for a noticed Board meeting on [September 8, 2022](#).

COORDINATION

The City Attorney's office was consulted on the development of the Regulations.

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 a regulation that will improve 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 regulation is expected to increase compliance with the Rent Registry Ordinance, which in turn will further transparency in allowable rents. Maintenance of a 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 A Resolution Adopting Amendments To The Rent Adjustment Program Regulations Approved by the Housing Residential Rent and Relocation Board To Clarify Substantial Compliance With the Rent Registry Ordinance (Ordinance No. 13695).

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

Respectfully submitted,

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