



## DAN KALB

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**TO:** Oakland City Council and Members of the Public  
**FROM:** City Councilmember Dan Kalb  
**SUBJECT:** Supplemental Report: Amendments to the Rent Adjustment and Just Cause for Eviction Ordinances  
**DATE:** November 25, 2024

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### RECOMMENDATION

Adopt an

ORDINANCE (1) AMENDING THE RENT ADJUSTMENT ORDINANCE TO (A) LIMIT BANKING OF CPI RENT INCREASES TO EXPIRE AFTER FOUR YEARS AND AFTER TRANSFER OF PROPERTY; (B) PROHIBIT RENT INCREASES FOR OWNERS DELINQUENT ON BUSINESS TAXES; (C) EXTEND TENANT PETITION DEADLINES FROM 90 DAYS TO 180 DAYS AND (2) AMENDING THE JUST CAUSE FOR EVICTION ORDINANCE TO PROHIBIT NO FAULT EVICTIONS FOR OWNERS DELINQUENT ON BUSINESS TAXES

### EXECUTIVE SUMMARY

This report follows our previous reports dated October 10 and November 14 2024. In this report, we summarize the ordinance as well as previous analysis, and discussion. This ordinance modifies the number of years a property owner may bank from 10 years to 5 years and limits the transfer of banked rent to spouses, siblings, children, stepchildren. In order to increase compliance with property owner payment of the business tax and increase tenant security, this ordinance prohibits no-fault evictions and rent increases of any kind if the owner is delinquent on their business tax. In order to provide tenants more time to challenge unlawful rent increases, such as those associated with this legislation, this ordinance increases the tenant petition deadline from 90 days to 180 days. This legislation does not modify or increase the fines and fees associated with nonpayment of the business tax, however it does include a direction to the Administration to develop payment plan regulations in order to work with property owners experiencing financial hardship.

### INTRODUCTION

In this ordinance we propose amendments to its **Rent Adjustment** and **Just Cause for Eviction Ordinances** to modify the rules for banking of rent increases and to delay rent increases if rental property owners are delinquent in paying their business license taxes. Recently, The City of

Oakland’s Finance Department has found that around one-third of those delinquent on business taxes are rental property owners.<sup>1</sup> Every year, the Finance Department brings to council a report detailing the accounts and dollar amount owed to the City that can lien. This year, \$2.6M in liens, penalties, interest and other administrative charges were owed the City. These liens appear on the property owner’s County property tax assessment. Because of allowable extensions, the administrative hearing process, the time-intensive process of compiling delinquent accounts, and the time elapsed before the next property tax assessment, the City receives these funds sometimes up to 2 years later. This is unacceptable given the City’s current financial state.

<b>Timeline for Recovery of Delinquent Business Tax</b>
<ul style="list-style-type: none"> <li>• <b>December:</b> Courtesy notice mailed to property owners</li> <li>• <b>January 2:</b> First day to pay business taxes</li> <li>• <b>March 1:</b> Last day to pay Business tax / Deadline to request 45 day extension</li> <li>• <b>April 15:</b> Deadline for those with extensions</li> <li>• <b>May:</b> Administrative hearings are held</li> <li>• <b>July:</b> Finance presents report of delinquent properties at City Council</li> <li>• <b>November 1:</b> Taxpayers receive their property tax bill from Alameda County</li> <li>• <b>December 1:</b> Deadline for payment of 1<sup>st</sup> installment</li> <li>• <b>April 10:</b> Deadline for payment of 2<sup>nd</sup> installment</li> <li>• <b>?</b> : City of Oakland receives payment from Alameda County.</li> </ul>

Our amendments aim to address key concerns in Oakland’s rental market: economic stability for long-term tenants, incentives for timely tax compliance by property owners, and a structured approach to rental adjustments that prevent sudden, large rent hikes.

The proposed changes were designed with the interests of both tenants and property owners in mind. For tenants, the ordinance aims to prevent unaffordable rent increases and protect housing security, particularly for low-income and elderly residents who may be most affected by rapid rent hikes. For property owners, the amendments offer flexibility through a phased implementation of rent banking limits and introduce a payment plan protocol to support those experiencing financial hardship. Through these amendments, Oakland aims to create a fairer, more sustainable rental environment that meets the needs of both tenants and property owners, helping to foster long-term community stability. It is also a goal to further encourage payment of business license taxes to the City of Oakland—particularly given the challenging budget situation we are facing.

**BACKGROUND/ LEGISLATIVE HISTORY**

This ordinance makes a few changes to the Rent Adjustment Ordinance and one change to the Just Cause for Eviction Ordinance. The Rent Adjustment Ordinance can be found in section 8.22

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<sup>1</sup> This figure is fluid. The number of delinquent accounts changes as payments trickle in past the deadline. By the time the Notice of Intent to Lien is sent out, the percent of delinquent property owners reduces to around ¼ of the total

of the Oakland Municipal Code (OMC).

This proposed legislation was heard at the Community and Economic Development Committee for the first time on 10/22 and for the second time on 11/19, where it was forwarded to the full City Council Meeting on December 3. Public commenters from tenant advocacy organizations spoke in support of limiting banking and the provision barring rent increases for delinquent owners. Property owners believed this ordinance to represent more undue regulation on their businesses and expressed some difficulty in paying their Oakland taxes due to various factors including lost rent during the pandemic.

\*\*\*Three primary amendments were discussed: (1) **allowing landlords to bank 5 years** instead of 4, (2) **allowing banked increases to transfer to siblings in addition to spouses and children**, and (3) **changing the deadline upon which delinquent property owners will no longer be able to increase rent to April 30<sup>th</sup>**. These amendments, along with the rest of the legislation, are summarized in the proceeding section. One additional amendment approved by the committee, and suggested by Councilmember Fife, is included below:

- H. Notice Required to Increase Rent or Change Other Terms of Tenancy.
  - 1. All Rent Increase Notices. As part of any notice to increase rent or change any terms of tenancy, an owner must include:
    - a. Notice of the existence of this Chapter; and
    - b. The tenant's right to petition against any rent increase in excess of the CPI Rent Adjustment unless such rent increase is pursuant to an approved Petition.
  - 2. Notices for Rent Increases Based on the CPI Rent Adjustment or Banking. As part of a notice to increase Rent based on the CPI Rent Adjustment or Banking, an Owner must include:
    - a. The amount of the CPI Rent Adjustment; and
    - b. The amount of any Banking increase; and
    - c. i. If the rent increase includes Banking, a copy of a Current Business Tax Certificate;  
ii. If the rent increase is based solely on the CPI Rent Adjustment, a copy of a Current Business Tax Certificate or a copy of a current signed payment plan with the City for delinquent business taxes.

**POLICY ALTERNATIVES**

The proposed provisions as well as potential modifications to be discussed in CED Committee are outlined below.

Ordinance Provision	Summary of Proposed Provisions	Final Amendments
Limit on Rent Banking	1. Reduces CPI rent increase banking from 10 years to 4 years,	

	<p>preventing large, sudden rent hikes for tenants.</p> <p>2. Expiration of banked rent increases upon change in ownership; However, you don't lose banked increases if the transfer of the property is to a child or spouse.</p>	<p><b>Change the rent increase banking limit to 5 years</b></p> <p><b>Expand the transfer of banked increases to include transfer of property to siblings.</b></p>
<b>Prohibition of Rent Increases due to Delinquent Taxes</b>	Prohibits property owners who are delinquent (April 15 <sup>th</sup> deadline) on business taxes from implementing rent increases until taxes are paid.	<b>Change the cutoff date to April 30<sup>2</sup></b>
<b>No-Fault Eviction Restrictions</b>	Prohibits no-fault evictions (e.g., owner move-ins) for property owners who are delinquent on business taxes, ensuring compliance before eviction can occur.	N/A
<b>Extended Tenant Petition Deadline</b>	Increases the timeframe for tenants to file petitions against unlawful rent increases from 90 days to 180 days, providing tenants more time to seek assistance.	N/A
<b>Phased Implementation for Rent Banking Changes</b>	Allows property owners a one-year transition period to use some of their banked rent increases before the new 4-year limit fully takes effect in 2026.	N/A
<b>Payment Plan Protocol for Tax Delinquency</b>	Ensures that payment plans for property owners in financial hardship are available, supporting timely tax compliance without late fees.	N/A

**FISCAL IMPACT**

While we cannot know ahead of time the extent to which these amendments will affect behavior, it is our expectation that they will increase compliance with business license tax payment and deadlines. Given the City’s difficult financial circumstances, any additional funds this ordinance

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<sup>2</sup> Could prohibit banked increases, but still allow the annual CPI-related increase, although this weakly accomplishes our policy goal

is able to bring in will be beneficial for the financial health of the City and our ability to provide critical services.

In order to implement the majority of this legislation, the administration need only make small, no-cost changes to what they already do. The first small change is to add language to the existing notice the Finance Department already sends to rental property business owners reminding them that the deadline is approaching. This notice will include language advising property owners that if they do not pay their business tax, they will be unable to increase rents or effect no-fault evictions. The second small change is to include language on the RAP notice—the form explaining the existence of the RAP and tenants’ rights under the rent law—notifying tenants that if their landlord is delinquent on business tax, they may not raise the rent. Property owners will be required to attach a copy of the Business License Certificate to this notice.

Under the Rent Adjustment Ordinance, property owners must give tenants a copy of the RAP notice (1) at the commencement of a new tenancy and are required to give it in three languages English, Spanish, and Chinese, AND (2) with every notice of a rent increase. While we cannot guarantee that property owners and tenants will read these forms, City staff as well as tenant and property owner groups will work to educate the public on these new provisions.

## **ANALYSIS**

### ***Banking***

One of the main goals of this ordinance is to reduce the financial hardship of rent increases—sometimes larger, sudden increases—on tenants. Currently, landlords can bank 10 years worth of rent increases. They can then impose a maximum of three times the current CPI adjustment, generally up to 10% in one year.<sup>3</sup> Property owners with 10 years of banked increases could impose an almost 10% increase 3 years in a row. Consider the example below. For simplicity, we will assume an CPI Rent Adjustment of 3% across all years. Therefore, if a tenant was paying \$1500 for a rent-controlled one bedroom in 2023, with annual increases of 3%, they will be paying \$2016.92 in 2033.

However, if the landlord banks their increases over the course of 10 years (does not increase rent for 10 years), and then imposes the maximum allowable increase over the course of 3 years, the tenant will go from paying \$1,500 per month one year to \$1,815 per month the next, to \$1,996.5 in the third year. At this point the property owner has raised rents almost to the same level they would have reached had they not banked their increases. The tenant on the other hand, may not have been fortunate enough to see their income increase by the same factor, and may now be struggling to pay these higher rents.

According to advocates for renters, large rent increases like these contribute significantly to the economic instability of long-term renters, especially those who are elderly and may be on fixed incomes. On the other hand, over the long run, banking allowed the tenant to save thousands of

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<sup>3</sup> State law sets the maximum allowed rent increase at 5% plus the local consumer price index— or 10%, whichever is lower.

dollars.

Prohibiting banking is generally understood to make rental increases more predictable and tolerable by preventing property owners from imposing large increases (up to 10% in a year per state and local law).

<b>Comparisons with Nearby Cities</b>		
	<b><i>Annual General Adjustment (AGA)</i></b>	<b><i>Banking</i></b>
Oakland (currently)	60% CPI or 3%, whichever is lower	10 years
Oakland (proposed)	Unchanged, same as above	4 years
Alameda	70% CPI	<ol style="list-style-type: none"> <li>1. No increase may exceed AGA plus 3% or max allowable rent, whichever is smaller</li> <li>2. Cannot bank more than 8% of rent</li> <li>3. Cannot apply banked rents more than 3x during a tenancy<sup>4</sup></li> </ol>
San Jose	5% of rent, not based on CPI <sup>5</sup>	No banking
Richmond	100% CPI	Not to exceed Maximum Allowable Rent
Concord	60% CPI or 3%, whichever is lower <sup>6</sup>	No banking

### ***Transfers of Property***

In Oakland property owners may currently transfer banked rents to new owners. In order to keep properties as affordable as possible, this ordinance limits this transfer to spouses and children/stepchildren only. The City of Alameda is more restrictive than this proposed ordinance, disallowing the transfer of banked increases to any new owner.

<b>Comparisons with Nearby Cities</b>	
	<b><i>Does banked rent transfer to new owner?</i></b>
Oakland (currently)	Yes
Oakland (proposed)	Only for spouses and children/stepchildren
Alameda	No
San Francisco	Yes <sup>7</sup>
Berkeley	Yes
San Jose	N/A (see above table, no rent banking)

<sup>4</sup> <https://www.alamedarentprogram.org/FAQs/Moratorium-FAQ#:~:text=Tenants%20also%20have%20an%20opportunity,not%20bank%20more%20than%208.0%25>.

<sup>5</sup> <https://siliconvalleyathome.org/resources/rent-stabilization-2/#:~:text=In%20Santa%20Clara%20County%2C%20the,are%20governed%20by%20State%20law.>

<sup>6</sup> <https://www.cityofconcord.org/1172/Rent-Stabilization-and-Just-Cause-for-Ev>

<sup>7</sup> <https://hrssf.org/know-your-rights-as-a-tenant-in-sf/rent-increases-utility-passthroughs-banking-capital-improvements/#:~:text=Banking%20is%20when%20a%20landlord,it's%20a%2030%2Dday%20notice.>

Richmond	Yes
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***Business Tax Delinquency, Rental Increases, and Prohibition No-Fault Evictions***

Anyone operating or doing business in the City of Oakland must pay business tax. Federal and state of California tax exempt nonprofit organizations as well as family daycare homes (licensed by the State) and caring for fewer than 14 children, are exempted. Rental property owners must pay \$13.95 per \$1000 of gross income, or ~1.4%. This means that rental property owners who have not collected rent do not owe any business tax besides a one-time \$100 registration fee and a one-time \$5 recordation fee.<sup>8</sup> Should property owners not pay, they are subject to hefty fines and penalties. Registrations 31 – 60 days late add 10%, while 61 days late and over add an additional 25% (10% + 25% = 35%). Additionally, interest that accrues at 1% per calendar month is added on top of the registration fee, tax and penalties. Because of these fines and penalties, it is in every property owner’s best interest to pay promptly and in full; yet many do not pay. *For this reason, this ordinance directs the City Administrator to work with staff to create clearly defined protocols for working with rental property business owners on payment plans, should they find themselves in financial hardship.*

**In order to further incentivize payment of the business tax, this ordinance will prohibit any rent increase (CPI or otherwise) until the tax is paid and the business license certificate is issued. Additionally, property owners who are delinquent on this tax shall not be allowed to effect no-fault evictions** (e.g. owner move-in, substantial renovations) until the taxes are paid to the city. Evictions for cause will of course still be permitted as these represent undeniable reasons or “just causes” for eviction. Rates of eviction, including no-fault evictions, are on the rise. In 2023, ten of California’s largest counties have seen more evictions filed per month than in 2019.<sup>9</sup> According to Tenants Together, half a million Californians face eviction every year.<sup>10</sup>

***Petitions***

Most municipalities that have a rent control stabilization program do not set a limit on when tenants can bring a petition against their landlord due to an unlawful rent increase. This is because an unlawful increase remains an unlawful increase regardless of when a tenant brings a petition. However, in Oakland, we do set a short limit on when tenants can file a petition—90 days. This ordinance increases that time frame to 180 days in order to give tenants more time to learn about their rights and seek expert help if needed. Future legislation may want to consider whether a time limit is merited at all.

<b>Comparisons with Nearby Cities</b>	
<b><i>Are tenant petitions time-limited?</i></b>	<b><i>How long after notice to file petition?</i></b>

<sup>8</sup> <https://cao-94612.s3.us-west-2.amazonaws.com/documents/Fiscal-Year-2024-25-Adopted-MFS.pdf>

<sup>9</sup> <https://calmatters.org/housing/homelessness/2023/11/california-evictions-post-pandemic/#:~:text=In%20San%20Diego%20County%2C%20eviction,%E2%88%924%25>

<sup>10</sup> <https://www.tenants-together.org/tt-report-california-evictions-are-fast-frequent-and-underreported#:~:text=Tenants%20Together%2C%20in%20collaboration%20with,Californians%20face%20eviction%20every%20year.>

Oakland (currently)	Yes	90 days
Oakland (proposed)	Yes	180 days
Alameda	Yes	3 years <sup>11</sup>
San Francisco	No	N/A
Berkeley	No	N/A
San Jose	No	N/A
Richmond	No	N/A

**PUBLIC OUTREACH/INTEREST**

Our office met with both tenant and property owner organizations. Please note that these groups do not comprise the entirety of tenant and property groups in Oakland.

**Tenant Groups**

- East Bay Rental Housing Organizations (EBHO)
- Alliance of Californians for Community Empowerment (ACCE)
- Centro Legal de la Raza
- Oakland Tenants Union
- East Bay Community Law Center (EBCLC)

**Property Owner and Business Groups**

- East Bay Rental Housing Association (EBRHA)
- Bridge Association of Realtors
- In It Together\*
- Jobs and Housing Coalition\*
- Oakland Metro Chamber of Commerce

\*Organizations which did not respond

Tenant groups cited unlawful rent increases as a common issue, which this legislation helps address by providing more time for tenants to bring petitions. Several groups also expressed concern with the practice of banking in general, and reported that 10% increases over the course of 3 years have been a financial burden for their clients. They also reported large numbers of evictions in Oakland and supported the new provision against no-fault evictions for nonpayment of business tax for this reason.

Property owner groups expressed concern with any reduction in banking. They believe that banking is an important way in which landlords can offer a temporary “break” to their tenants. These groups also expressed frustration with the COVID moratorium, and reported that many property owners are still struggling financially because of lost rent. In order to address these concerns, this legislation asks the City Administrator to work with Finance staff to develop clear payment plan protocols for property owners experiencing financial hardship. While the goal of this legislation is to reduce multi-year increases of nearly 10%, we do not wish overly distress property owners who may have been planning on using these increases. Therefore, this ordinance contains a phase-in. By including an implementation date of December 31, 2025 for the multi-

<sup>11</sup> <https://www.alamedarentprogram.org/files/sharedassets/housingauth/v/3/forms/rp-100c-review-rent-increase-notice.pdf>



year banking, property owners who may have the maximum number of years of banked rent (10 years) may utilize most—but not all—of their banked rent if they so choose. For example, these owners may take the maximum increase this year and in 2025. Then, in 2026, when the legislation comes into effect, they will have the maximum number of years banked, or 4 years, losing at most 3 years of banked rent.

## **CONCLUSION**

This legislation is designed to strike a balance between protecting tenants and ensuring fair practices for property owners in the City of Oakland. By implementing key amendments such as reducing the rent banking period from 10 years to 4 years, extending the tenant petition deadline to 180 days, and prohibiting rent increases and no-fault evictions for rental property owners delinquent on local business taxes, we aim to enhance housing stability for vulnerable tenants while also encouraging compliance among landlords. The introduction of a payment plan protocol for property owners facing financial hardship further demonstrates our commitment to equitable solutions.

In drafting this legislation, our office engaged extensively with both tenants' rights groups and property owner organizations to ensure that diverse perspectives were considered. We also collaborated closely with the Oakland City Attorney's Office to create a well-rounded policy that addresses the needs of our community.

For questions, please contact Keara O'Doherty, Chief of Staff to Dan Kalb, (510) 238-7014, [kodoherty@oaklandca.gov](mailto:kodoherty@oaklandca.gov).

Best,



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