

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2004 JUL -1 PM 2:00

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency, Housing and Community
Development Division, Rent Adjustment Program
DATE: July 13, 2004

RE: **ANNUAL REPORT REGARDING RENT ADJUSTMENT PROGRAM
INCOME, COSTS AND OPERATIONS FOR FISCAL YEAR 2003-2004 AND
ANTICIPATED COSTS FOR FISCAL YEAR 2004-2005**

SUMMARY

This report is required by the OMC Sections 8.22.500.A and 15.08.100.C.6 . As mandated by the City Council, it provides information to allow review of the operations of the Housing Residential Rent and Relocation Board and the amount of the Rental Property Service Fee.

The most significant issues are: changes made to the billing system, including the planned move of the *billing responsibility to the Finance and Management Agency*; the *balanced program budget*; almost complete elimination of the backlog in processing petitions; and, planned changes to the Rent Adjustment Ordinance and Regulations.

FISCAL IMPACT

No change to the fee is recommended. This report has no fiscal impact.

BACKGROUND

When the Rent Adjustment Ordinance (hereinafter "Ordinance") was revised by the City Council in January 2002, with certain provisions effective July 1, 2002, the revisions included imposition of a \$24 per unit service fee to fund the operations of the Rent Adjustment Program. The City Council also mandated that staff report each fiscal year on the cost and anticipated expense of operations of the Rent Adjustment Program to assess the effectiveness and amount of the user service fee.

In 2003, the Fee was continued by the Council for two more years through the end of the current budget cycle, June 30, 2005. The Fee was extended to units newly covered by the Just Cause for Eviction Ordinance to fund new tasks mandated by the Ordinance, increasing the number of fee paying units. At the same time certain units were newly exempted from application of the Rent Adjustment Ordinance, reducing the number of fee paying units. The net result was to increase the number of fee-paying units by more than 12,000.

Item: 4
CED Committee
July 13, 2004

Staff believes that the present level of funding for the Rent Adjustment Program, \$24 per unit for FY 04-05 is sufficient to cover Rent program operations. It also compares favorably with the fees charged in San Francisco (currently \$26/unit/year) and Berkeley (\$136/unit/year).

KEY ISSUES AND IMPACTS

There are no issues that require action by the City Council. To inform the City Council of the status of the Rent Adjustment Program, the primary concerns and accomplishments of the Rent Adjustment Program identified by staff are discussed in this section.

I. FISCAL

FEE BILLING

STARTUP PROBLEMS

The startup of fee billing has proven to be more difficult than anticipated. But steady progress in billing is being made.

The initial Fee Ordinance was passed in late 2001 and an initial bill was mailed shortly thereafter. The bills, together with the payments, were mailed to the program lockbox at the bank in San Francisco. The payments were entered and copies of the checks were stapled to the bill and returned to the Rent Adjustment Program. A large number of payments were received in March and April 2002. However, because of the inadequate staff available before the fee payments were received, no data entry of the payments was done before late 2002. A number of billing problems arose from multiple causes, such as outdated owner information, errors in the county tax assessor's data, lack of accurate information on the total number of units in a building and incomplete information on buildings with rented units.

These problems led to citizen complaints generated by inaccurate billing.

PROGRESS THROUGH AUTOMATION

The Rent Adjustment Program staff has taken steps to improve the quality of the billing. In July 2003, an additional staff position was added to the billing operation to maintain and develop the billing data base. Beginning January 22, 2004, data entry has been outsourced to the bank. All payments and claims of exemption are scanned, and reduced to electronic format by the bank. The Rent Adjustment Program Staff has daily access via the Internet to the scanned images of the documents submitted. A copy of the images is delivered on CD to the Rent Adjustment Program monthly for reference. For the first time since the beginning of billing, data entry is being done as the payments are made. The backlog of old data entry has been reduced from 6 months to five days. By the end of fiscal year 2003-2004, data entry will be up to date.

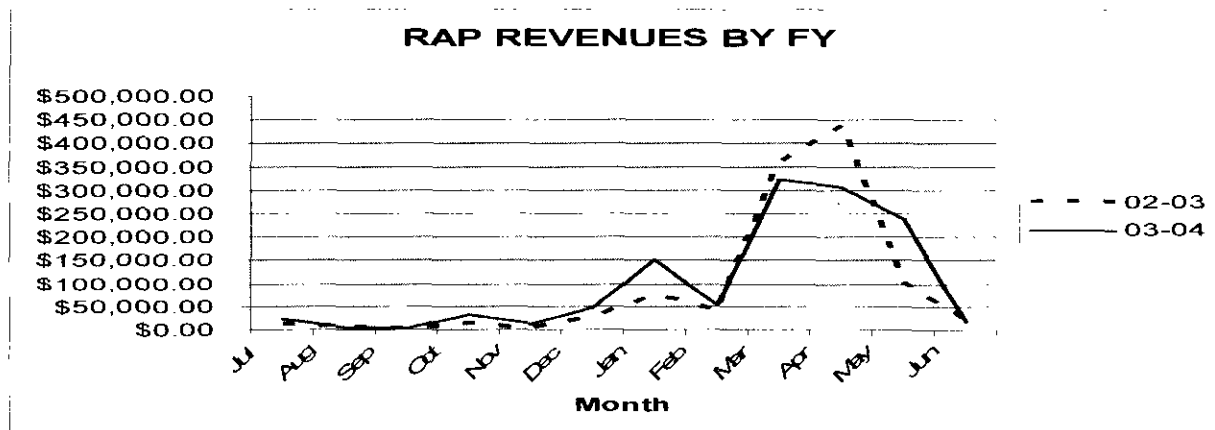
Step by step, the entire billing process is being automated. The progress to date has resulted in much quicker and more accurate billing and posting of payments.

IMPROVED BILLING DATA

Due to diligent efforts by staff, data on rental units in the City of Oakland was collected from a variety of sources, including the Business License Tax records, updated Alameda County Property Tax records, information on Section 8 units from the Oakland Housing Authority, address corrections from the US Postal Service, as well as the citizen complaints and information received on the returned bills. All of this information has been merged into the database and has greatly improved the accuracy of our billing process.

LIMITED OWNER RESPONSE

Of some concern is the lack of owner response. For FY 2003-2004, the Rent Program sent about 26,000 bills for 74,655 units. The 2000 Census reported 88,305 rental units. By the due date, May 1, 2004, we had a total response including both payments and claims of exemption for only 37,121 units, or about 50% of the units billed. By June 15, 2004, owners had paid fees for 36,896 units and had declared 4,469 units exempt, for a total response of 41,365 units. This is a 55% response rate at present. However, responses continue to arrive daily. In past years, more than 20% of owners responded after the end of the fiscal year, many in response to a second billing informing them that their accounts were delinquent. In addition, this year there are extenuating circumstances. About 12,000 units that were formerly exempt are being billed for the first time. Despite the clear information prominently displayed on the bill, many owners may be unaware of the changes in the law. Believing they are still exempt, they may ignore the bill. Also, due to bankruptcy of the outside mailing contractor, bills went out later this year and the response was also received later. The estimate is that by the end of the second billing process, the Rent Adjustment Program will have received responses for more than 75% of the units billed.



In the past, second billings to non-responsive owners have been mailed in December. Recent improvements in the billing system have allowed staff to review the accuracy of payments as they arrive. They will also allow staff to send out the second bills for FY04 to non-responders by July 15, 2004. Units definitely identified as covered and non-paying are ready to be sent to collections by the end of August.

The Revenue Division of the Finance and Management Agency has noticed that the owner response to payment of the business license tax has declined since the Rental Program Service Fee began to be collected. It may be that collection of both the business license tax and the service fee has been adversely affected by owner confusion about the existence of two separate charges. A meeting has been held with the Business License Tax Division to coordinate the billing of both the License Tax and the Service Fee, reduce the confusion for property owners and improve the response rate for both. The Rent Program and Business License Tax are exchanging billing data again this year. For increased accuracy and efficiency in billing and coordination, transfer of the responsibility for billing to the Revenue Division (FMA) is planned for the next budget cycle.

REVENUES

Revenues for FY 03-04 through June 22, 2004 are \$1.21M compared to \$1.10M for all of FY 02-03. The total revenue currently projected for FY04 is \$1.22M based on what has been collected this fiscal year through June 22, 2004 plus an estimate for the remaining days in June. The budgeted revenues are \$1.4M. It is anticipated that revenues will increase again for the next fiscal year as newly covered property owners learn about the fees, and collection efforts begin to produce results. Also, revenues from the second billing have increased each FY to date, and the increase is expected to continue into FY04-05 as data and billing procedures continue to improve. Although the total revenues have increased each year, revenues have been collected later this year than last.

Because the last payments made on the last day before a penalty is imposed have increased dramatically each year, staff believes the delay is attributable to owners learning the payment date and planning accordingly. The chart below shows Fee revenue collected by the Rent Adjustment Program since the fee was instituted through June 22, 2004.

01-02		02-03		03-04	
Jul		Jul	\$11,965.32	Jul	\$21,456.40
Aug		Aug	\$3,816.00	Aug	\$5,548.36
Sep		Sep	\$2,053.26	Sep	\$1,445.41
Oct		Oct	\$13,269.48	Oct	\$32,269.00
Nov		Nov	\$2,058.00	Nov	\$11,512.74
Dec		Dec	\$27,900.00	Dec	\$45,945.82
Jan		Jan	\$76,889.70	Jan	\$149,856.16
Feb		Feb	\$39,882.40	Feb	\$51,872.00
Mar	\$433,528.66	Mar	\$361,669.20	Mar	\$320,831.75
Apr	\$477,651.00	Apr	\$438,912.38	Apr	\$308,105.70
May	\$157,516.94	May	\$104,189.80	May	\$238,482.68
Jun	\$9,648.52	Jun	\$21,699.24	Jun	\$23,807.35
	\$1,078,345.12		\$1,104,304.78		\$1,211,133.47

EXPENDITURES

A complete list of the program expenditures for FY03-04 is shown below. By far the largest expenditures are personnel costs and overhead, including charges by the City Attorney's Office, that are more than 90% of the program costs in FY04. Other large charges, either budgeted or actual, are

Item: _____
CED Committee
July 13, 2004

the Low Income Representation program and outside vendor costs for billing and collecting the user fees that include bank charges for the lockbox and document scanning, and the costs of printing and mailing the annual bills.

ACCOUNT	BUDGET	ENCUM.	ACTUAL
Salary and Benefits	\$ 861,873.00		\$ 805,409.98
Supply and Material Exp.	\$ 16,843.00	\$ 208.92	\$ 3,044.02
Service Expenditures	\$ 71,392.00		\$ 6,396.23
Contract Services Exp.	\$ 13,200.00	\$ 904.88	\$ 9,019.89
Travel and Education Exp.	\$ 5,926.02		\$ 3,492.25
Internal Service	\$ 157,486.00		\$ 162,437.44
Rent Adj Grand Total	\$ 1,126,720.02	\$ 1,113.80	\$ 989,799.81
 City Attorney Grand Total	 \$ 256,365.00	 \$ -	 \$ 190,273.75
 Total for all of Project	 \$ 1,383,085.02	 \$ 1,113.80	 \$ 1,180,073.56

The budget for FY04-05 is similar to the FY 03-04 budget. The budget details are attached as an addendum to this report.

STAFFING

Rent Adjustment Program staff consists of:

Program Manager	1
Hearing Officer	2
Urban Economic Analyst	1
Program Analyst	3
Administrative Assistant II	1
Administrative Assistant I	3
FTE in City Attorney's Office	1.5

For the first time since the Service Fee was instituted, the Rent Adjustment Program has a full complement of staff. No staff changes are planned for the coming fiscal year until the billing functions are transferred.

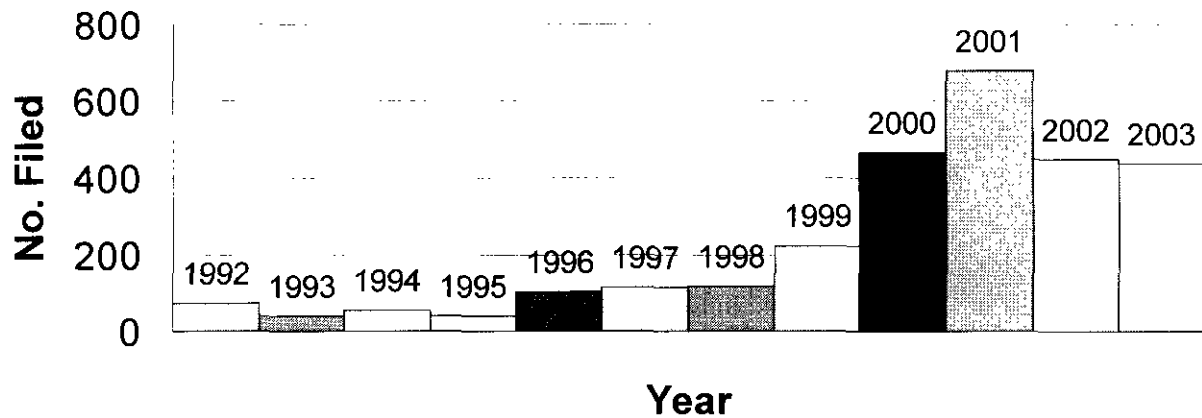
II. PROGRAM OPERATIONS

RENT ADJUSTMENT

PETITIONS

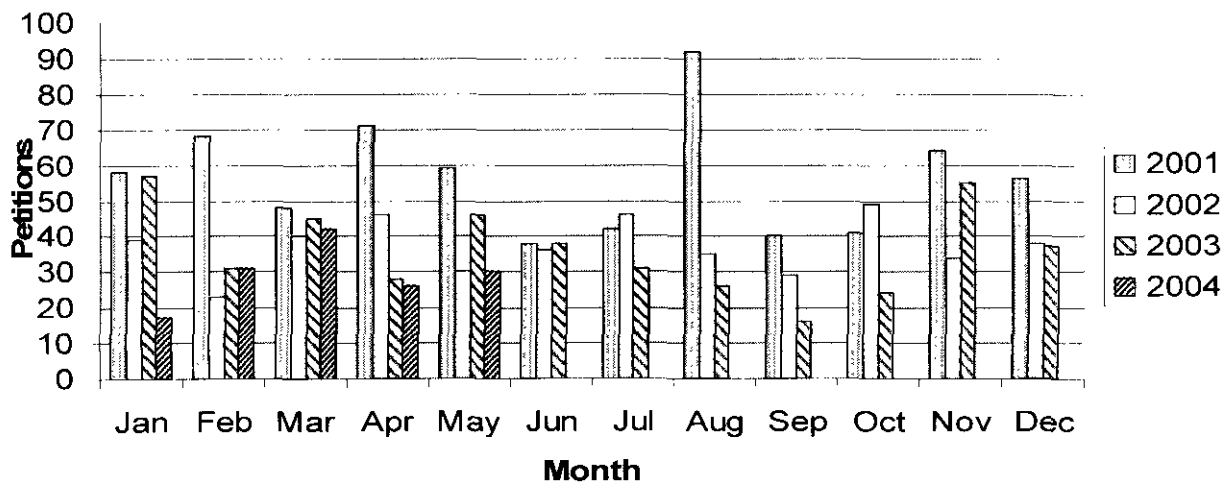
The number of petitions filed in FY 03-04 has declined from the record number filed in calendar year 2001. The total number of petitions and applications filed by year is shown on the next chart.

Petitions by Calendar Year

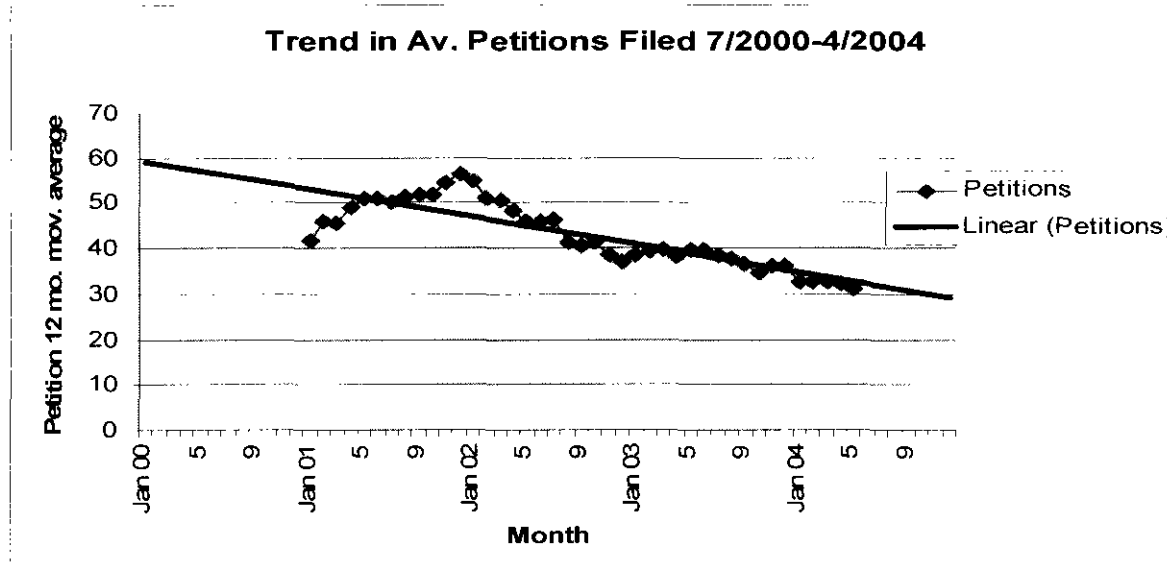


For the first 5 months of 2004, the number of petitions has decreased compared to the same period last year. There was a large decrease in the month of January 2004 and a smaller but substantial decrease in the month of May.

Petitions filed by Month



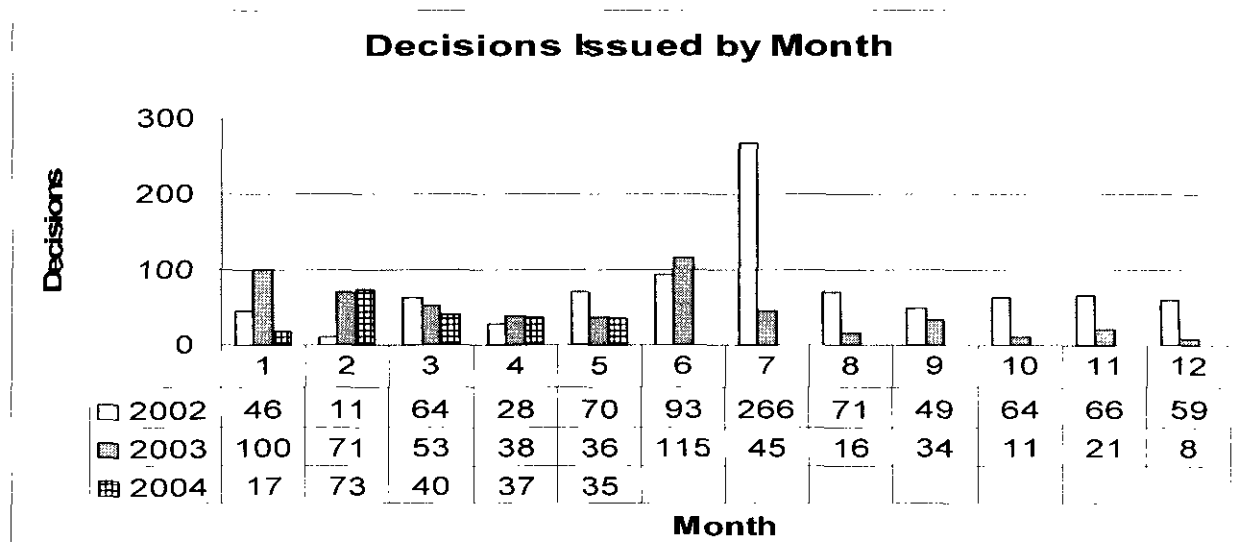
Staff has devised a calculation to predict the number of petitions that will be filed in any given month-to-distribute workload and plan effectively. The number of petitions filed changes radically from month to month. Often, multiple tenants in a building file petitions at or near the same time, producing a spike for a particular month. Assuming that the rate of rent decrease remains constant, the number of petitions will also decrease. Based on these assumptions, the predictive calculation estimates that about 380 petitions will be filed in calendar year 2004. See the following chart.



However, the assumption that rent will continue to decline may be incorrect. Rents may not continue to decline. The 12 month moving average of the number of petitions filed has declined very little for the last 5 months, perhaps indicating a rental market bottom. Based on past experience, any increase in market rents will be followed within a month or two by an increase in the number of petitions filed. The number of petitions filed with the Rent Adjustment Program approximately doubled each year from 1998 to 2001 during the run-up in Oakland rental housing prices. Any increase in rents is likely to be followed by a larger proportional increase in the number of petitions.

HEARINGS BACKLOG ELIMINATED

The backlog in processing and initial decision of petitions at the staff level was completely eliminated late in FY 2003. Staff has maintained the backlog to near zero during all of FY 2004. In addition to having a full complement of staff during the entire fiscal year, the process for handling petitions was improved by writing summary decisions in cases that did not need to go to hearing. All summary decisions were read and approved by a hearing officer or the program manager. A comparison of the number of decisions issued by staff over the last three years follows:



APPEALS BACKLOG REDUCED

The number of cases awaiting an appeal decision has been reduced substantially—from about 150 at the beginning of the fiscal year to about 30 at the end of May 2004. This has been due primarily to the Board members' hard work and discipline. The increased number of settlements of disputes between landlords and tenants has also been a contributing factor. During FY 02-03 the Board issued 98 appeal decisions. During FY 03-04, the Board has already issued 120 decisions and it is expected that approximately 15 more will be issued in the month of June 2004. That is an increase of 43% in the number of appeals decisions issued. The number does not include the number of cases on appeal that were settled.

TENANT PETITIONS GENERALLY HAVE MERIT

Based on a sample of the decisions issued in calendar year 2003, the majority of petitions filed by tenants have at least some merit. Staff estimates the following results in the cases filed in 2003, $\pm 6\%$.

ESTIMATE OF RESULTS OF CASES FILED IN 2003		
	Number	Percent
Cases decided in favor of Tenant:	200	46%
Cases decided in favor of Landlord	78	18%
Cases settled	111	26%
Cases dismissed for non prosecution	22	5%
Cases pending appeal	22	5%

In Staff's experience, in most of the cases settled the tenant has the right to at least some relief, albeit not necessarily all of the relief requested in the petition. If we add the number of cases settled (cases are generally settled when there is some exposure to liability) to the number of cases decided in favor

of the Tenant, the percentage of tenant petitions filed that have at least some merit increases to about 70%.

MEDIATION

The program for voluntary mediation of rent disputes has been a success. During the period January 1, 2004 to the present, both parties in 39 out of 158 cases filed (almost 25%) agreed to mediation. The results are reported on the following chart.

	Number	Percent
Cases Filed	158	-----
Requested Mediation	39	25%
Settled Prior	7	18%
Settled at mediation	17	44%
No appearance	4	10%
Did not settle	5	13%
Pending mediation	6	15%
Totals	39	100%

Eliminating the cases that have yet to be mediated, 73% of the cases settled. There was a resolution without a hearing in about 85% of the cases that went to mediation. Staff posits that the non-appearance of a party at mediation generally indicated an informal resolution of the underlying dispute.

In light of the positive outcome of the mediation process, for the coming fiscal year Staff is trying to broaden mediation services to include mediation of evictions pending in Superior Court. Contact has been initiated with the Court and with the East Bay Community Law Center. EBCLC operates an eviction counseling program in the courthouse, to explore the possibility that mediation services provided by Rent Program Staff may be of mutual benefit to all of the agencies involved.

PROPOSED CHANGES TO THE ORDINANCE AND REGULATIONS

Staff is now working to present a proposal to the Rent Board and the City Council for changes to Rent Adjustment Ordinance and Regulations, based on last two years experience with the new Ordinance and Regulations. Certain of the provisions need to be coordinated, others need to be updated or modified to make them work smoothly. A very limited number of changes to the substance of the Ordinance and Regulations will be proposed, as contrasted with many changes to the wording and the procedure followed by the Rent Adjustment Program.

JUST CAUSE FOR EVICTION

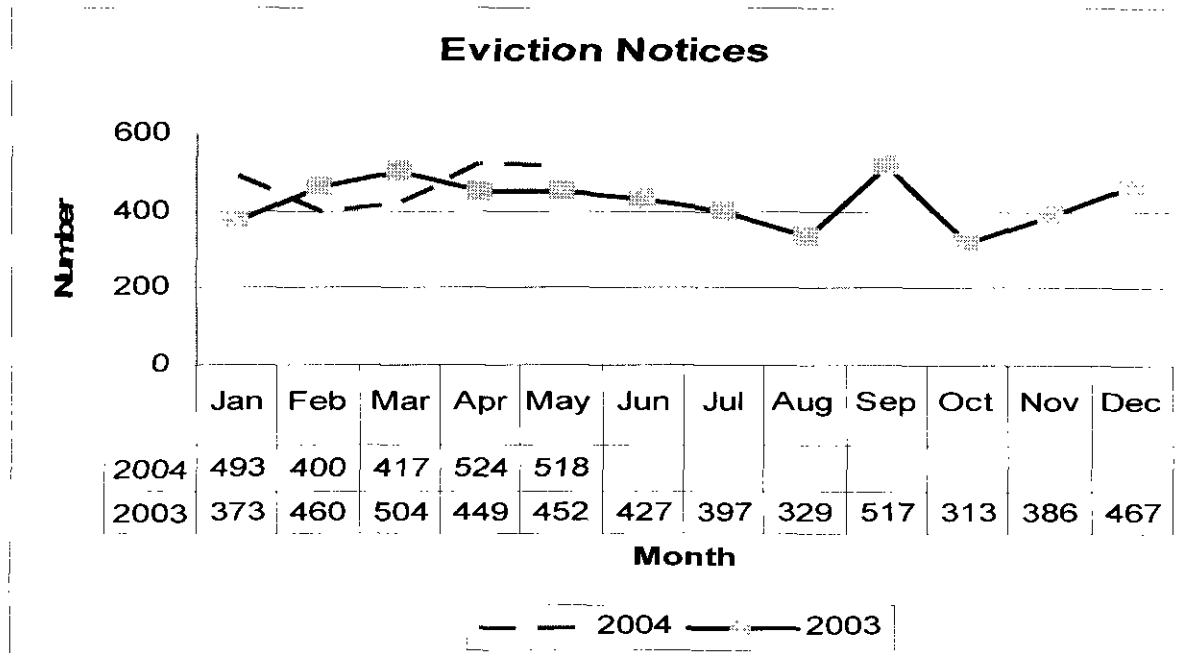
ADOPTION OF REGULATIONS TO IMPLEMENT ORDINANCE

Staff presented a draft set of Just Cause Regulations to the HRRRB for approval. Under the Just Cause Initiative, the HRRRB is the body empowered to adopt Regulations. The Board held public hearings and made numerous changes to the draft and approved a set of Regulations that will become effective soon.

EVICTON NOTICES

The Just Cause for Eviction Ordinance requires that a copy of every eviction notice served on tenants in units covered by the Ordinance be filed with the Rent Adjustment Program. The number of eviction notices received by the Rent Adjustment Program during FY 03-04 was 4,788 through June 4, 2004. For comparison, the number of eviction notices increased 2% during the first five months of calendar year 2004 as compared to the same period in 2003.

LITIGATION OVER JUST CAUSE ORDINANCE



As the City Council is aware, a broad challenge to the legality of the Just Cause for Eviction ordinance is pending in the Alameda County Superior Court. The matter is being handled by the City Attorney's Office.

ELLIS ACT ORDINANCE

After passage of Ellis Act Protections (regulating the removal of rental units from the market) by the City Council during FY03-04, staff developed and implemented a set of procedures and a series of forms to implement those protections. Since the protections went into effect, there have been 4 applications filed with the Rent Adjustment Program to remove units from the rental housing market. All 4 applications have been single-family houses or small multi-unit buildings.

COMMUNITY OUTREACH

Again this year, Staff participated in public presentations to numerous community groups, including the Rental Housing Association of Alameda County, Citizens' Academies in English, Spanish and Chinese, groups of realtors and brokers, title companies and groups of tenants. Staff also placed a public service ad on the AC Transit buses that run through the Oakland flatlands. The bus ads generated a good response.

Because they are more diffusely organized, reaching tenants has been more difficult than reaching landlords. All tenant groups that Staff could identify as operating in the City of Oakland were invited to participate in a meeting at the Rent Adjustment Program offices to discuss ideas to reach to tenants. The ideas generated were incorporated into the Rent Program community outreach effort.

SUSTAINABLE OPPORTUNITIES

Pursuant to City Council Resolution No. 74678, C.M.S. adopted on December 1, 1998, staff encourage property owners to operate sustainable projects. Stabilizing Oakland's existing rent tenancies will stabilize existing neighborhoods and rental communities.

The rental regulation programs address the "3 E's" of sustainability by:

Economic:

- Preserve the affordable housing inventory for families, seniors, and disabled people in Oakland.
- Mitigate the adverse economic pressure on surrounding neighborhoods caused by new housing development.

Environmental:

- Preventing disruption of the urban infill and transit-oriented workforce that already has an operative family infrastructure, and senior, and disabled housing.
- Mitigating any adverse environmental impacts of development on existing rental housing.

Social Equity:

- Improving the landscape and climate of Oakland's neighborhoods by encouraging longer-term tenancies in rental housing.
- Enabling low-income families to become homeowners.

DISABILITY AND SENIOR CITIZEN ACCESS

The City's Rent Adjustment staff complies with legal requirements to provide access to all Rent Adjustment Program services for people with disabilities and to ensure that the units rented to people with disabilities comply with applicable codes. The Just Cause Ordinance provides special protections against evictions for seniors and people with disabilities

RECOMMENDATION(S) AND RATIONALE

This report contains no recommendation.

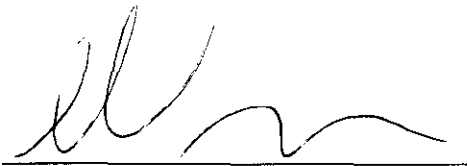
ALTERNATIVE RECOMMENDATION(S)

This report contains no recommendation.

ACTION REQUESTED OF THE CITY COUNCIL

This report requests no action to be taken by the City Council.

Respectfully submitted.



DAN VANDERPRIEM
Director of Redevelopment, Economic
Development and Housing

Prepared by:

Roy L. Schweyer, Director
Housing & Community Development Division,
Rick Nemcik-Cruz
Rent Adjustment Program Manager

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE


OFFICE OF THE CITY ADMINISTRATOR