

CITY OF OAKLAND
COUNCIL AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2005 JUN 30 PM 2:52

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 12, 2005

RE: RESOLUTION AMENDING RENT ADJUSTMENT PROGRAM
REGULATIONS TO REMOVE THE REQUIREMENT THAT ONE OF
EACH OF THE THREE CLASS OF MEMBERS (NEUTRAL, LANDLORD,
AND TENANT) BE PRESENT FOR QUORUM OF THE HOUSING,
RESIDENTIAL RENT, AND RELOCATION BOARD AND PROVIDE
THAT A QUORUM IS A SIMPLE MAJORITY OF THE MEMBERS.

SUMMARY

The Housing Residential Rent and Relocation Board ("Rent Board") is composed of seven members, two landlord representatives, two tenant representatives and three neutral members, neither landlords nor tenants, usually homeowners. Under current Rent Board Regulation 8.22.040.B.2, adopted by the City Council as Resolution 77194, at least one landlord representative, one tenant representative and one 'neutral' representative must be present to make a decision on any matter, when coming before the Board. Over the past 8 months, 8 meetings have been cancelled where a majority of members have been present, but did not include representation from the three groups. On March 10, 2005, the Housing Residential Rent and Relocation Board approved a recommendation to the City Council to eliminate the supermajority quorum requirement. To that end, staff is recommending the City Council eliminate this unique requirement so that a simple majority of the Rent Board may constitute a quorum and transact business.

FISCAL IMPACT

The proposed change does not directly impact the Rent Adjustment program budget. Undetermined efficiency is gained through the scheduling and completion of monthly meetings.

BACKGROUND

This Regulation was adopted by Resolution 77194 and has been in effect since July 1, 2002. Prior to its adoption, a simple majority of the Board members was all that was required to transact business. Board meetings have a primary function to rule on appeal matters from tenants and landlords. Meetings occurred on its regularly scheduled dates. Since the July 1, 2002 implementation date, 16 meetings have been cancelled due to lack of a quorum. That has created a serious impediment to the conduct of business.

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On March 10, 2005, the Housing Residential Rent and Relocation Board approved a recommendation to the City Council to eliminate the supermajority quorum requirement. The HRRRB's Resolution is attached as Attachment A.

KEY ISSUES AND IMPACTS

- The supermajority quorum requirement imposed on the Rent Board is unique. No other Board or Commission has this requirement to transact business.
- The supermajority quorum requirement creates an impediment to transacting business. During the last 12 months 10 meetings were cancelled due to the lack of a supermajority. These cancellations have caused delays to the appeals process, inconvenienced parties wishing to have their appeals heard and caused delays in discussing detailed proposals to modify the Rent Adjustment Ordinance and the Rent Adjustment Regulations.
- Because it has negatively affected the conduct of business, it has had negative impacts on the ability of Board members to carry out their functions effectively. It was one reason given by a Board member for his recent resignation.
- The supermajority quorum requirement is unnecessary. Board members are expected by law to act responsibly and exercise their independent and neutral best judgment within the parameters created by the Ordinances and Regulations the Board administers regardless of whether the member is a landlord or tenant or homeowner. In case of a conflict of interest, a Board member is required by law to abstain from participating in the deliberations and vote on that case or issue.
- The supermajority quorum requirement creates the false appearance that Board Members really are irremediably biased. The quality of participation of each Board member has improved with experience, but no member of the Rent Board has uniformly voted in favor of their supposed constituency in every case nor has any member of the Board exhibited bias toward or against any party in the experience of the current Staff members.
- Elimination of the supermajority requirement would create an incentive for Board members to attend Board meetings. If Member representatives of the Landlord or Tenant constituencies truly believe that their interests are at stake, they will attend Board meetings to protect those interests.

SUSTAINABLE OPPORTUNITIES

Pursuant to City Council Resolution No. 74678, C.M.S. adopted on December 1, 1998, staff encourages property owners to operate sustainable projects. Stabilizing Oakland's existing rent tenancies 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.

The proposed Resolution now before the City Council will increase program efficiency and enhance the sustainable aspects of the program.

DISABILITY AND SENIOR CITIZEN ACCESS

Access to the Rent Board for disabled and senior citizens will be enhanced because they will be able to attend meeting with a greater certainty that they will, in fact, take place.

RECOMMENDATIONS AND RATIONALE

It is recommended that the City Council approve the Resolution modifying the quorum requirement for the Rent Board to provide that a simple majority of the members is required to transact business. The overarching rationale is increased program efficiency.

ALTERNATIVE RECOMMENDATIONS

As a much inferior alternative, Staff recommends expanding the Rent Board to nine members, including three landlord representatives, three tenant representatives and three neutral representatives.

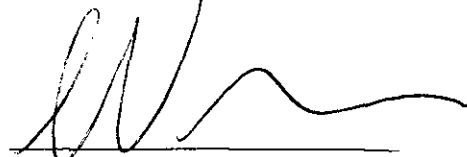
Although this alternative proposal would alleviate the quorum problems, it would exacerbate the problems in conducting meetings efficiently. The membership of the

Board was reduced by the City Council from nine to seven in the year 2000 amendments to the Rent Adjustment Ordinance (Ordinance Number 12273), in order to improve the Boards functioning.

ACTION REQUESTED BY CITY COUNCIL

The City Administrator recommends that the City Council approve the attached Resolution to provide that a simple majority of the members of the Housing Residential Rent and Relocation Board constitutes a quorum to transact business.

Respectfully submitted,

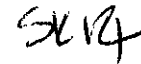


DAN VANDERPRIEM

Director of Redevelopment, Economic
Development and Housing

Reviewed by:

Sean Rogan



Deputy Director

Housing and Community Development

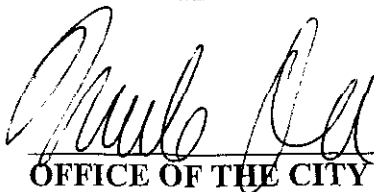
Prepared by:

Rick Nemcik Cruz



Rent Adjustment Program Manager

APPROVED AND FORWARDED TO
THE COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE



OFFICE OF THE CITY ADMINISTRATOR

Item: _____

Community & Economic Development Cmte.

July 12, 2005

OAKLAND CITY COUNCIL

OFFICE OF THE CITY CLERK
OAKLAND

RESOLUTION No. _____ C.M.S. 2005 JUN 30 PM 2:53

INTRODUCED BY COUNCILMEMBER _____

**Resolution Amending Rent Adjustment Program
Regulations To Remove the Requirement That One of Each
of the Three Classes of Members (Neutral, Landlord, and
Tenant) be Present for Voting Quorum of the Housing,
Residential Rent, and Relocation Board and Provide That a
Quorum Is A Simple Majority Of The Members**

WHEREAS, the Rent Adjustment Program regulations require that for the Housing, Residential Rent and Relocation Board to decide a matter at least one of each of the classes of Rent Board members (landlord, tenant, and neutral) be present when a matter first comes before the Board;

WHEREAS, this "supermajority" voting quorum requirement creates an impediment to the Rent Board conducting business. Between the eight month period of September 2004 and April 2005, eight Rent Board meetings were cancelled due to the lack of a supermajority. These cancellations have been the major cause in delays in deciding pending appeals, have inconvenienced parties wishing to have their appeals hear, and have caused delays the Rent Board being able to conduct other business;

WHEREAS, the supermajority quorum requirement is unnecessary. Board members are expected to act responsibly and exercise their independent and neutral best judgment within the parameters created by the Ordinances and Regulations the Board administers, regardless of whether the member is a landlord or tenant or homeowner;

WHEREAS, elimination of the supermajority requirement would create an incentive for Board members to attend Board meetings. If Member representatives of the Landlord or Tenant constituencies truly believe that their interests are at stake, they will attend Board meetings to protect those interests;

WHEREAS, elimination of the supermajority requirement would make the Rent Adjustment Program operate more efficiently and would reduce the costs of operating the program;

WHEREAS, the Rent Board recommends removing the supermajority voting quorum requirement; now therefore, be it

RESOLVED, that the an amendment to Section 8.22.040(B)(2) of the Rent Adjustment Program Regulations is approved to read as follows:

Decisions of the Board. A majority of the Board members present is required to make decisions, provided that a quorum is present. ~~For the Board to make a decision on the first time a matter comes before the Board, the quorum must include at least one of each of the three categories of Board members (tenant, residential rental property owner, and one who is neither of the foregoing). If a matter cannot be decided because at least one of each of the three categories of Board members is not present, the matter will be considered a second time at a future meeting where the matter can be decided even if at least one member from each category is not present. A majority of the Board members present are required to make decisions, provided a quorum is present and sufficient members of each category are present."~~

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20__

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
 LATONDA SIMMONS
 City Clerk and Clerk of the Council
 Of the City of Oakland, California

CITY OF OAKLAND

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD

RESOLUTION NO. R05-0001

**A RESOLUTION TO RECOMMEND TO THE CITY COUNCIL AN
AMENDMENT OF THE REGULATIONS TO PROVIDE THAT A SIMPLE
MAJORITY OF THE MEMBERS OF THE HRRRB SHALL CONSTITUTE A
QUORUM**

WHEREAS, the supermajority quorum requirement imposed on the Rent Board is unique. No other Board or Commission has this requirement to transact business;

WHEREAS, the supermajority quorum requirement creates an impediment to transacting business. During the last 12 month, 9 meetings were cancelled due to the lack of a supermajority. These cancellations have been the major cause in delays in deciding pending appeals, have inconvenienced parties wishing to have their appeals hear, and have caused delays in discussing detailed proposals to modify the Rent Adjustment Ordinance and the Rent Adjustment Regulations;

WHEREAS, the supermajority quorum requirement is unnecessary. Board members are expected to act responsibly and exercise their independent and neutral best judgment within the parameters created by the Ordinances and Regulations the Board administers, regardless of whether the member is a landlord or tenant or homeowner. In case of a conflict of interest, a Board member is required by law to abstain from participating in the deliberations and vote on that case or issue;

WHEREAS, elimination of the supermajority requirement would create an incentive for Board members to attend Board meetings. If Member representatives of the Landlord or Tenant constituencies truly believe that their interests are at stake, they will attend Board meetings to protect those interests; now therefore, be it

RESOLVED that the Housing, Residential Rent and Relocation Board hereby recommends to the City Council that Section 8.22.040(B)(2) of the Rent Adjustment Program Regulations be amended to read as follows: "Decisions of the Board. A majority of the Board members present is required to make decisions, provided that a quorum is present."

In the City of Oakland, Housing, Residential Rent and Relocation Board
Oakland, California, March 10, 2005

Passed by the following vote:


AYES: Ricardo Hunter, S. Kennedy, S. Sanger, D. Taylor,

NAYS: *None*

ABSENT: J. Bell, M., Montag, H. Bolt Trippe

ABSTENTION:

ATTEST



HILLERY BOLT TRIPPE
Chairperson of the Housing, Residential
Rent and Relocation Board