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OFFICE OF THE CITY CLERK
CITY OF OAKLAND

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER _____

03 APR 10 PM 12:13

CITY ATTORNEY _____

ORDINANCE NO. 12517 C.M.S.

REVISED

AN ORDINANCE RECODIFYING THE RENT PROGRAM SERVICE FEE TO A NEW ARTICLE IN OAKLAND MUNICIPAL CODE CHAPTER 8.22 AND APPLYING THE FEE TO RESIDENTIAL RENTAL UNITS COVERED BY THE JUST CAUSE FOR EVICTION ORDINANCE (MEASURE EE)

WHEREAS, the Rent Program Service Fee originally established at O.M.C. 8.22.180 applies to only those units that are covered under the Rent Adjustment Ordinance (O.M.C. Chapter 8.22, Article I);

WHEREAS, the Just Cause for Eviction Ordinance (Measure EE) gives the Rent Program administration significant additional responsibilities in carrying out that Ordinance's mandates including: Information to tenants, accepting filings, retrieving filings (including redacting confidential information), holding hearings and possible appeals and further legal action on certain rent disputes (setting comparable rents and rents after rehabilitation) and disputes over elderly, disabled, or catastrophically ill status for owner-occupancy evictions, and adopting regulations;

WHEREAS, in addition to the mandatory responsibilities for the Rent Program, additional administrative tasks will fall on the Rent Program and City Attorney's Office, including dissemination of informative material, workshops and counseling, and litigation involved the Just Cause for Eviction Ordinance;

WHEREAS, there are a significant number of additional residential rental units that are subject to the Just Cause for Eviction Ordinance that are not also covered by the Rent Adjustment Ordinance, which number is estimated to be in excess of 19,000, and includes principally single-family units, condominiums, units on the Section 8 federal housing subsidy program, and substantially rehabilitated units;

WHEREAS, the Just Cause for Eviction Ordinance does not provide its own independent funding source and the existing fee applicable to residential rental units covered by the Rent Adjustment Ordinance is insufficient to cover the costs of administration for the additional responsibilities for the Rent Adjustment Program for the units subject to the Just Cause for Eviction Ordinance, but exempt from the Rent Adjustment Ordinance;

Whereas, rental units exempt from the Rent Adjustment Program currently use Rent Adjustment Program services in determining whether such units are, in fact, exempt from the Rent Adjustment Program;

WHEREAS, applying the Rent Program Service Fee to the residential rental units that are subject to the Just Cause for Eviction Ordinance, but are not covered by the Rent Adjustment Ordinance would reasonably approximate the additional cost of servicing these units by the Rent Adjustment Program.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN THAT CHAPTER 8.22 OF THE OAKLAND MUNICIPAL CODE IS HEREBY AMENDED TO ADD ARTICLE IV AS FOLLOWS:

CHAPTER 8.22

RESIDENTIAL RENT ADJUSTMENTS AND EVICTIONS

ARTICLE IV

RENT PROGRAM SERVICE FEE

8.22.500 Rent Program Service Fee.

A. A. Establishment of the Fee. The Rent Program Service Fee (the "Fee") is hereby established. The Fee and any penalties or costs for late or non payment of the Fee are dedicated solely to the payment of services and costs of the Rent Adjustment Program and may be used only for the administration, outreach, legal needs, enforcement of Chapter 8.22 (including the Rent Adjustment Program and the Just Cause for Eviction Ordinance), collection of this Fee, and other costs of the Rent Adjustment Program and cannot be used for any other purpose. The City Manager shall develop procedures for collection of the Fee and ensuring that all funds generated by the Fee will be used only for the Rent Adjustment Program. The Fee is to be charged against any residential rental unit that is subject to either the Rent Adjustment Ordinance, the Just Cause for Eviction Ordinance, or both.

B. B. Definitions.

1. "Rental Property Owner" includes an Owner as defined in the Rent Adjustment Ordinance (O.M.C. 8.22.020) or a Landlord as defined in the Just Cause for Eviction Ordinance (Measure EE, Section 4A).

2. "Tenant" has the same meaning as that term is defined in the Rent Adjustment Ordinance (O.M.C. 8.22.020).

C. C. Amount of Fee. The amount of the Fee shall be set by the City Council in the Master Fee Schedule. For the City's fiscal years of 2001 – 2002, and 2002 – 2003 the Fee is set at \$24.00 per Covered Unit Each fiscal year the City Manager shall report to the City Council on the costs of the Rent Adjustment Program for the preceding fiscal year and the anticipated costs of the Rent Adjustment Program for the coming year.

D. D. Residential Rental Units Subject to the Fee. The Fee is to be charged on a per unit basis against all residential rental units that are either Covered Units or are covered by the Just Cause for Eviction Ordinance, except such residential rental units that owned or operated by a public entity, including, but not limited to, the City of Oakland, the Redevelopment Agency of the City of Oakland, and the Oakland Housing Authority. A Rental Property Owner who does not

timely pay the Fee because the Rental Property Owner claims the dwelling unit is not subject to the Fee must pay all Fees, delinquent charges, interest, and collection costs for any dwelling unit that is found by the City to be subject to the Fee. Neither the fact that a Rental Property Owner paid the Fee nor that a Rental Property Owner claimed dwelling units are not subject to the Fee can be used as evidence in any determination of a petition with the Rent Adjustment Program or in a Court proceeding regarding whether the subject dwelling unit is covered by the Rent Adjustment Ordinance or the Just Cause for Eviction Ordinance.

E. E. Fee Based on Business Operation. The Fee is a fee associated with the operation of a residential rental property business and not a fee based on ownership of real property.

F. F. Due Date for Fee. For the first fiscal year of 2001-2002, the Fee will be due on March 1, 2002 and will be deemed delinquent if not paid by May 1, 2002. For all subsequent fiscal years, the Fee will be due on January 1, and will be deemed delinquent if not paid by March 1.

G. G. Passthrough of One-Half of Fee. For rental properties that are covered by the Rent Adjustment Program, a Rental Property Owner may pass through one-half of the Fee to a Tenant in the year in which it is due, unless the Owner does not pay the Fee before the date it is deemed late. A Rental Property Owner may not pass through any penalties, delinquent charges, or interest to a Tenant. Rental properties that are subject to the Fee, but are not covered by the Rent Adjustment Program are not subject to the limitation in this Subsection 8.22.500G.

H. H. Delinquent Owner. A Rental Property Owner who has not paid the Fee and any charges related to a delinquency in payment of the Fee cannot:

1. Respond to a petition brought by a Tenant; or
2. Petition for a rent increase.

I. I. Delinquent Charges, Interest, and Collection Costs.

1. An Owner who does not pay the Fee on or before the date it is considered late must pay a delinquency charge according to the following schedule:

- a. 10% of the Fee due if paid in full within 30 days of the date it is considered late;
- b. 25% of the Fee due if paid in full within 60 days of the date it is considered late;
- c. 50% if paid after 60 days of the date it is considered late.

2. In addition to the delinquent charges, a Rental Property Owner who fails to remit the Fee due by the date it is late shall pay simple interest at the rate of one percent per month or fraction thereof on the amount of the Fee inclusive of delinquent charges from the date the Fee is late.

3. A Rental Property Owner who has not paid the Fee by the end of the fiscal year in which it is due may also be assessed the City's costs of collecting the Fee, including the City's administrative costs of collection and any attorney's fees whether incurred by the City Attorney's Office or by outside counsel.

4. The amount of any Fee, delinquent charges, interest, and collection costs imposed by Chapter 8.22 shall be deemed a debt to the City and any Rental Property Owner carrying on a residential rental business without paying the Fee and/or any delinquent charges, interest or collection costs shall be liable in an action in the name of the City in any court of competent jurisdiction, for the amount of the Fee and any tax and delinquent charges, interest or collection

costs imposed. An action to collect the Fee must be commenced within three years of the date the Fee became due. An action to collect delinquent charges, interest or collection costs for nonpayment of the Fee must be commenced within three years of the date such accrues.

J. Severability. This O.M.C Article 8.22.500 shall be liberally construed to achieve its purposes and preserve its validity. If any provision or clause of this Chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application; and to this end the provisions of this Chapter are declared to be severable and are intended to have independent validity.

K. Nonwaiverability. Any provision, whether oral or written, in or pertaining to a rental agreement whereby any provision of this O.M.C. Chapter 8.22, Article IV (8.22.500) is waived or modified, is against public policy and void.

L. Effective Date.

1. The ordinance codified in this O.M.C. Chapter 8.22, Article IV (8.22.500) takes effect his Section Chapter take effect pursuant to Section 216 of the Oakland City Charter.

2. For rental units covered only by the Just Cause for Eviction Ordinance (O.M.C. Chapter 8.22 Article II (8.22.300)) and not by the Rent Adjustment Ordinance (O.M.C. Chapter 8.22 Article I (8.22.100)), the fee shall charged to such rental units in the fiscal year beginning July 1, 2003.

JUL 1 5 2003

IN COUNCIL, OAKLAND, CALIFORNIA, (DATE), 20(YEAR)

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CHANG, ~~MAYNE~~, ~~NADAL~~, ~~QUAN~~, REID, WAN, AND PRESIDENT
DE LA FUENTE - 5

NOES- Brunner, Nadel, Quan - 3

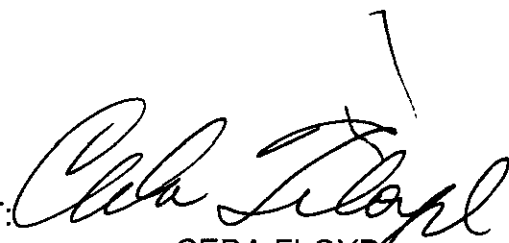
ABSENT- 0

ABSTENTION- 0

Introduction Date:

JUN 1 7 2003

ATTEST:



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