

CITY AUDITORS IMPARTIAL FINANCIAL ANALYSIS OF Proposed Amendments to Oakland's Just Cause for Eviction and Rent Adjustment Ordinances

This measure proposes amendments to the Rent Adjustment Program (RAP) and Just Cause for Evictions (Just Cause) ordinances (O.M.C. 8.22.100 and 8.22.300, respectively) to, if approved by voters:

- (1) require residential rental property owners and landlords to file petitions for rent increases other than those based on the annual consumer price index or banking (effective February 1, 2017);
- (2) increase transparency and reporting; and
- (3) modify the Just Cause for Eviction Ordinance to apply to units constructed on or before December 31, 1995 (currently October 14, 1980).

The last two components of the measure go into effect, if approved by the voters, 10 days after the results of the vote are declared by the City Council.

Financial Impact

Property owners of residential rental units covered under these ordinances are assessed an annual Rent Program Service fee per unit (owners may pass through one-half of the fee to the tenant). These monies are used to support RAP operations.

An increase (or decrease) in cost to operate the program relates primarily to changes in workload and staff time due to a greater (or lesser) number of petitions submitted to RAP. Under this measure, landlords must petition RAP to increase rent in excess of the allowable limits or to pass on the costs of capital improvements to their tenants. Tenants may continue to appeal petition decisions and may use the petition process to contest decreased housing services. Given this, it is probable that the number of petitions will increase under this measure and add to the caseload. Expanded informational reporting may also impact staff workload. If these changes result in significant increased costs, the Program Service fee may need to be increased to support the costs of the RAP operations.

Further, this measure will expand the properties covered under Just Cause from those built prior to October 14, 1980 to those constructed prior to December 31, 1995. Owners of these properties will be assessed the annual Rent Program Service fee.

Background

Oakland's RAP presently permits landlords to petition for rent increases, but in most cases tenants petition to contest rent increases that exceed an annual rent allowance. Under the proposed measure, rent increases are restricted to the Consumer Price Index

or banked rents unless a petition, filed by the landlord or property owner, is approved by the RAP.

Currently, RAP requires an annual reporting on its activities and operations. The proposed measure expands the reporting requirements to include Rent Board vacancies, Rent Board meeting cancellations, and other statistics and information.

The effective dates for and the protections afforded under RAP and Just Cause ordinances are different. Tenants living in rental units constructed prior to January 1, 1983 are afforded protections under the Just Cause and RAP ordinances. Tenants residing in rental properties built between January 1, 1983 and prior to December 31, 1995 are only protected under the Just Cause for Evictions Ordinance.

IMPARTIAL ANALYSIS

The Just Cause for Eviction Ordinance ("Just Cause Ordinance") (O.M.C. § 8.22.300, et seq.) generally prohibits landlords from evicting tenants without just cause from residential rental units covered by the ordinance. The voters adopted and therefore must approve any amendments to this Ordinance. The Rent Adjustment Ordinance (O.M.C. § 8.22.100, et seq.) allows tenants to ask the City's Rent Adjustment Program ("Rent Program") to reverse rent increases that exceed the cost-of-living adjustment ("COLA") allowed under City law. This measure would extend just-cause requirements to more units and require landlords to obtain advance approval from the Rent Program before raising rents more than the COLA.

Exemption for New Construction

The Just Cause Ordinance prohibits evictions without just cause for residential rental units in Oakland that were completed and first offered for rent on or before October 14, 1980. Just cause protections do not apply to units completed and first offered for rent after October 14, 1980, unless the new units were created by rehabilitating, improving, or converting pre-existing space.

The measure would extend the just cause requirements to new units constructed and approved for occupancy before December 31, 1995. As a result, just cause would be required to evict tenants from rental units approved for occupancy between October 23, 1980 and December 30, 1995, unless the units are exempt from just cause for other reasons. If the City did not issue a certificate of occupancy for a rental unit, then whether the unit was subject to just cause requirements would depend on the date the last construction permit was finalized before occupancy.

Petitions for Rent Increases

The Rent Ordinance currently allows landlords to make COLA adjustments in rent based on changes to the Consumer Price Index. A landlord is not required to obtain advance approval from the City before imposing a rent increase exceeding the allowable adjustment. If a rent increase exceeds the allowable adjustment, the tenant may object by filing a petition with the Rent Program.

The measure would amend the Rent Ordinance to require that landlords obtain approval from the Rent Program before imposing any rent increases exceeding the COLA. Without advance approval, landlords could not make tenants pay any rent increases noticed on or after February 1, 2017 exceeding the COLA.

Notice to Landlords and Tenants

The measure would amend the Rent Ordinance to require the City to provide an annual notice to residents and owners of all covered units. The notice would include the amount of the allowable COLA increase and explain how to get information to petition for a rent increase exceeding the COLA, or how to challenge such a petition.

Administration

The measure would amend the Rent Ordinance to require the City Administrator to report annually to the City Council on topics such as Rent Board vacancies, statistics on petitions and evictions, and other information. The measure would also require the City Administrator to develop a searchable, public database with information about hearing decisions, appeals, and notices filed.

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