

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING**

**March 23, 2017
7:00 P.M.
CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. CONSENT ITEMS
 - i. Approval of minutes, March 9, 2017
4. OPEN FORUM
5. OLD BUSINESS
 - i. Discussion and Possible Action on Just Cause Regulations
 - ii. Board Training
6. NEW BUSINESS
 - i. Discussion and Possible Action on Placement of Board Panel Minutes
7. SCHEDULING AND REPORTS
8. ADJOURNMENT

Accessibility. The meeting is held in a wheelchair accessible facility. Contact the office of the City Clerk, City Hall, One Frank Ogawa Plaza, or call (510) 238-3611 (voice) or (510) 839-6451 (TTY) to arrange for the following services: 1) Sign interpreters; 2) Phone ear hearing device for the hearing impaired; 3) Large print, Braille, or cassette tape text for the visually impaired. The City of Oakland complies with applicable City, State and Federal disability related laws and regulations protecting the civil rights of persons with environmental illness/multiple chemical sensitivities (EI/MCS). Auxiliary aids and services and alternative formats are available by calling (510) 238-3716 at least 72 hours prior to this event.

2017 MAR 15 PM 3:23

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Foreign language interpreters may be available from the Equal Access Office (510) 239-2368. Contact them for availability. Please refrain from wearing **strongly scented products** to this meeting.

Service Animals / Emotional Support Animals: The City of Oakland Rent Adjustment Program is committed to providing full access to qualified persons with disabilities who use services animals or emotional support animals.

If your service animal lacks visual evidence that it is a service animal (presence of an apparel item, apparatus, etc.), then please be prepared to reasonably establish that the animal does, in fact, perform a function or task that you cannot otherwise perform.

If you will be accompanied by an emotional support animal, then you must provide documentation on letterhead from a licensed mental health professional, not more than one year old, stating that you have a mental health-related disability, that having the animal accompany you is necessary to your mental health or treatment, and that you are under his or her professional care.

Service animals and emotional support animals must be trained to behave properly in public. An animal that behaves in an unreasonably disruptive or aggressive manner (barks, growls, bites, jumps, urinates or defecates, etc.) will be removed.

**CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD**

**Regular Meeting
March 9, 2017
7:00 p.m.
City Hall, Hearing Room #1
One Frank H. Ogawa Plaza, Oakland, CA**

DRAFT MINUTES

1. CALL TO ORDER

The HRRRB was called to order at 7:10 p.m. by Board Chair, Edward Lai

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
Edward Lai	Homeowner Alt	X		
Ramona Chang	Landlord	X		
Jessie Warner	Homeowner	X		
Noah Frigault	Tenant	X		
Ubaldo Fernandez	Tenant Alt	X		
Karen Friedman	Landlord	X		

Staff Present

Kent Qian	Deputy City Attorney
Connie Taylor	Rent Adjustment Program Manager

3. CONSENT ITEMS

i. Approval of consent items:

N. Frigault made a motion to approve draft minutes for February 23, 2017. E. Lai seconded. The Board voted as follows:

Aye: E. Lai, J. Warner, N. Frigault, U. Fernandez, K. Friedman

Nay: 0

Abstained: R. Chang

The motion was approved.

000003

5. OPEN FORUM

James Vann

6. NEW BUSINESS

- i. Appeal Hearing in Consolidated cases:
 - a. T15-0618; Ross v. Claridge Hotel
T15-0635; Anderson v. Claridge Hotel
T15-0636; Mason v. Claridge Hotel

Appearances in case T15-0618; Tenant Appeal

Tenant

Frank Ross

Landlord/ Landlord Representative

No appearance.

Appearances in cases T15-0635 & T15-0636; Landlord Appeal

Landlord/Landlord Representative

No appearance.

Board Discussion

After Board discussion and questions to Mr. Ross, E. Lai made a motion to affirm the Hearing Officer's decision in case T15-0618 based upon substantial evidence. K. Friedman seconded. The Board voted as follows:

Aye: E. Lai, R.Chang, J. Warner, U. Fernandez, N. Frigault, K. Friedman

Nay: 0

Abstained: 0

The motion was approved by consensus.

E. Lai made a motion to dismiss the Landlord appeal of cases T15-0635 & T15-0636 subject to a showing of good cause for non-appearance. N. Frigault seconded. The Board voted as follows:

Aye: E. Lai, R. Chang, J. Warner, U. Fernandez, N. Frigault, K. Friedman
Nay: 0
Abstained: 0

b. T15-0684; Miller v. Rockridge Real Estate, LLC

Appearances:

Landlord/Landlord Representative

No appearance.

Tenants

No appearance.

N. Frigault made a motion to dismiss the Landlord appeal subject to a showing of good cause for non-appearance. U. Fernandez seconded. The board voted as follows:

Aye: E. Lai, R. Chang, J. Warner, U. Fernandez, N. Frigault, K. Friedman
Nay: 0
Abstained: 0

The motion carried.

8. SCHEDULING AND REPORTS

1. Agendize a discussion of Panel Board minutes.

9. ADJOURNMENT

J. Warner made a motion to adjourn. N. Frigault seconded. The meeting was adjourned by consensus at 8:00 p.m.

CITY OF OAKLAND

SUPPLEMENTAL REPORT

To: Housing Residential Rent and Relocation Board
ATTN: Jessie Warner, Chairperson
FROM: Connie Taylor, Rent Adjustment Program Manager
DATE: March 15, 2017

RE: Revisions to Just Cause Regulations

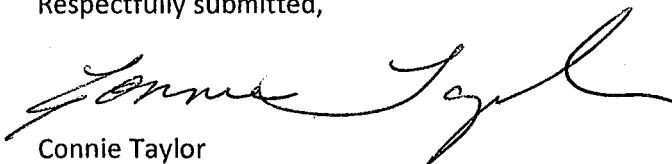
At the February 23 meeting, the Board considered amendments to the Just Cause regulations ("Regulations") brought forward by staff. The Regulations were brought in accordance with the Council's direction for the Board to adopt Regulations to require owner certifications for certain no-fault evictions. In the Board's discussion of the proposed Regulation amendments, the Board indicated some areas where it would like changes. This supplemental report identifies the modifications to the Regulations made in response to the Board's discussion.

The regulations in Attachment A contain the following changes discussed at the February 23 meeting. The changes from the draft submitted at that meeting are indicated.

- 8.22.360B.8.b.i: "Rent Board" changed to "Rent Program"
- 8.22.360B.8.b.i: removed "on a form to be developed by staff"
- 8.22.360B.8.b.iii: identification must show the address of the unit
- "Notice" changed to "notice terminating tenancy" where appropriate
- "Certification" changed to "certificate" where appropriate
- Administrative penalties imposed only after notice
- Just Cause sections labeled for easier reference (Owner or Relative Move In, Ellis, Repairs)

In addition, the Board discussed changes to the notice requirements to include the amount of lawful rent at the time a termination notice is provided to the tenant. The Board also discussed allowing owners to petition for an extension of the 30-day owner or relative move-in requirement upon a showing of good cause. Public comment also raised a new discrepancy between the change in exemption from the Just Cause Ordinance adopted in Measure JJ and the exemption provision currently in the Regulations. Additional proposed amendments to the Regulations for Board discussion are in Attachment B.

Respectfully submitted,



Connie Taylor
Rent Adjustment Program Manager

Amendments to Just Cause For Eviction Regulations

Reg 8.22.360B.8 Owner Certifications For Certain No Tenant Fault Evictions

- a. Scope of Regulations: The regulations in this section are designed to provide reporting requirements to better assure compliance with Sections 8.22.360A.8, A.9, A.10, and A.11 of the Oakland Municipal Code.
- b. Certifications to Rent Program required for eviction or tenant vacating pursuant to O.M.C. Sections 8.22.360A.8 or A.9 (Owner or Relative Move In).
 - i. Initial certification following vacancy by Tenant. An Owner who evicts a tenant pursuant to O.M.C. Sections 8.22.360 A.8 or A.9 or where a tenant vacates following a notice terminating tenancy or other communication stating the ~~Landlord~~Owner's intent to seek recovery of possession of the unit under any of these O.M.C. Sections must submit to the Rent Board ~~Program~~ a completed ~~certification~~ certificate ~~on a form to be developed by Staff~~ within thirty (30) days of the tenant's vacation of the unit. This ~~certification~~ certificate must include the amount of the Tenant's rent on the date the Tenant vacated.
 - ii. Certification following occupancy. The Owner or the designated qualifying relative must move in to the unit within three (3) months of the tenant's vacation of the unit. Within 30 days of the Owner or the Owner's qualifying relative's commencing occupancy of the unit as a principal residence, the Owner must file a certificate attesting to the occupancy in addition to any evidence of occupancy as required by the certificate.
 - iii. Continued occupancy certification. Following an Owner or qualifying relative occupying a unit pursuant to Sections 8.22.360A.9, the Owner must submit a ~~certification~~ certificate that the Owner or the Owner's qualifying relative continues to reside or not reside in the unit as a principal residence. The Owner must attach proof of residence in the unit, including but not limited to a copy of a valid California Driver's License or another government-issued form of identification showing the address of the unit. This certification must be provided every twelve (12) months from the initial move-in date for thirty-six (36) months following that move-in date.
- c. Certifications to Rent Program required for eviction or tenant vacating pursuant to O.M.C. Section 8.22.360A.10 (Repairs or to Bring Unit in Compliance With Municipal Code or Other Laws Affecting Health and Safety of Tenants).
 - i. Initial certification following vacancy by tenant. An Owner who evicts a tenant pursuant to Section 8.22.360A.10 or where a tenant vacates following a notice terminating tenancy or other communication stating the Landlord's intent to seek recovery of possession of the unit under this O.M.C. Section

must submit to the Rent Program a completed certification certificate within thirty (30) days following the Tenant's vacation of the unit. This ~~certification~~ certificate must include the amount of the Tenant's rent on the date the Tenant vacated.

- ii. Completion of work. Within thirty (30) days following completion of the work that required the Tenant to vacate, the Owner must file a ~~certification~~ certificate that the Owner re-offered the unit to the Tenant.

- d. Certifications to Rent Program required for eviction or tenant vacating pursuant to O.M.C. Section 8.22.360A.11 (Ellis Act).
 - i. Initial certification following vacancy by tenant. An Owner who evicts a tenant pursuant to Section 8.22.360A.11 or where a tenant vacates following a notice terminating tenancy or other communication stating the Landlord's intent to seek recovery of possession of the unit under this O.M.C. Section must submit to the Rent Program a completed certification certificate within thirty (30) days following the Tenant's vacation of the unit. This certification must include the amount of the Tenant's rent on the date the Tenant vacated.

 - e. Certifications upon re-rental.
 - i. An Owner re-renting a unit to the former Tenant or a new Tenant following an eviction or tenant voluntarily vacating under O.M.C. Sections 8.22.360A.8, A.9, and A.10 must certify the Rent amount within thirty (30) days of occupancy.

 - f. Forms and information required as part of certifications.
 - i. Staff shall develop forms for required ~~certifications~~ certificates.
 - ii. The ~~certifications~~ certificates shall be filed under penalty of perjury.
 - iii. Staff is authorized to request supplemental information consistent with the purpose of each of these certifications.

 - g. Notification of failure to file.
 - i. Staff may, but is not required to, notify an Owner that a required filing was not made.
 - ii. Staff's not providing notification to an Owner of the Owner's failure to file does not excuse the Owner from filing, nor from any penalties from failing to file.

 - h. Notification to new Owner and filing change of Ownership.
 - i. Whenever a unit or the property in which the unit is located changes ownership, the former Owner is required to notify the new Owner of the certification requirements.

ii. Whenever a unit or the property in which the unit is located changes ownership, the former Owner is required to notify the Rent Program of the change in ownership and the contact information for the new Owner.

i. Penalties for Failing to File ~~Certification~~Certificate.

i. An Owner who fails to timely file any ~~certification~~certificate ~~or after notice of the filing requirement~~ may be assessed administrative citation pursuant to O.M.C. Chap. 10.12.

ii. An Owner who fails to timely file any ~~certification~~certificate on more than one occasion ~~or who fails to file after notice of the filing requirement~~, may be assessed a civil penalty pursuant to O.M.C. Chap. 10.08.

Attachment B

Amendments to Just Cause For Eviction Regulations

8.22.340 Definitions

"Appeal panel" has the same meaning as that term is defined in O.M.C. Section 8.22.020.

"Rent Program" means the Rent Adjustment Program as defined in O.M.C. Section 8.22.020.

8.22.350 Applicability

~~H. New Construction Exemption.~~

~~1. Date to Qualify for Exemption. The new construction exemptions under the Just Cause Ordinance and the Rent Adjustment Ordinance differ as the date after which units must be constructed for the units to qualify for the new construction exemption. For purposes of O.M.C. 8.22.350 H (exemption under the Just Cause Ordinance for newly constructed units), newly constructed rental units are residential rental units that have a certificate of occupancy as new construction issued after October 14, 1980 and are first offered for rent on or after that date. (The new construction exemption under the Rent Adjustment Ordinance is for units newly constructed and that received a certificate of occupancy on or after January 1, 1983 (O.M.C. 8.22.030 A5)).~~

~~2. The intent of this regulation is to conform the definitions of what constitutes new construction in the Just Cause Ordinance and the Rent Adjustment Ordinance for purposes of the new construction exemption. To qualify as a newly constructed rental unit, the dwelling unit must be entirely newly constructed or created from space that was formerly entirely non-residential. a. Newly constructed units include legal conversions of uninhabited spaces not used by tenants, such as:~~

~~i. Garages;~~

~~ii. Attics;~~

~~iii. Basements;~~

~~iv. Spaces that were formerly entirely commercial.~~

~~b. Dwelling units not eligible for the new construction exemption include:~~

~~i. Live/work space where the work portion of the space was converted into a separate dwelling unit;~~

ii. Common area converted to a separate dwelling unit.

8.22.360A.8.

- a. A notice terminating tenancy under this section must contain, in addition to the provisions required under O.M.C. 8.22.360 B 6:
- i. The lawful rent applicable for the unit on the date of the notice.

8.22.360A.9. Eviction for Owner or Relative Move In

- a. A notice terminating tenancy under this section must contain, in addition to the provisions required under O.M.C. 8.22.360 B 6:
- i. A listing of all real property owned by the intended future occupant(s).
- ii. The address of the real property, if any, on which the intended future occupant(s) claims a homeowner's property tax exemption.
- iii. The lawful rent applicable for the rent on the date of the notice.
- b. For the purpose of subdivision (a), real property means a parcel of real estate located in Oakland or elsewhere.
- c. Petitioning to extend time for move in
- i. The Owner or the designated qualifying relative must move in to the unit within three (3) months of the tenant's vacation of the unit. If more than three months are required, either to complete repairs or because of unforeseen circumstances, the Owner may petition the Rent Program to extend this time.
- ii. Time for Petitioning
- A. When the Owner knows before the notice to terminate tenancy is served on the tenant that the repairs cannot be completed within the three-month period, the landlord must file the petition with the Rent Program and serve the tenant with a copy of the petition to extend time with or before the notice to terminate tenancy.
- B. When the Owner discovers, after serving the notice to terminate tenancy, that the work will require longer than 3 months or that unforeseen circumstances will delay the move-in date, the Owner must file the petition within 15 days of first learning that the work will not be completed within 3 months or of first discovering the unforeseen circumstances.
- iv. Petition and response contents. Rent Program staff will issue form petitions and responses that will specify the required contents.
- v. Priority. The nature and subject matter of the petition requires an expeditious decision on these petitions. The Rent Program will give priority to the hearing on the petition.

vi. Tenant Response. To expedite the landlord's petition, no formal response from the tenant will be required until the hearing. However, if the tenant wishes to submit any documentary evidence (including pictures) in response to the landlord's petition, the tenant must file such evidence with the Rent Program and send a copy to the landlord not less than 5 days prior to the hearing, unless the tenant can show the evidence was unavailable at that time.

vii. Conduct of Hearings. Rent Program hearings contesting the rent for an available vacant unit are conducted in accordance with the procedures set forth in Rent Adjustment Program Regulation 8.22.090.

viii Appeals. The hearing officer's decision may be appealed to the Rent Board within the time frame set forth in O.M.C. 8.22.120 and in accordance with Rent Adjustment Program Regulations. Rent Program staff may assign the appeal to an Appeal Panel to expedite it.

8.22.360A.10. Eviction for Repairs or to Bring Unit in Compliance With Municipal Code or Other Laws Affecting Health and Safety of Tenants.

a. Petitioning to extend time for tenant vacancy.

i. Purpose. When a landlord seeks to recover possession of a unit to make repairs, the repairs must be completed in time to permit the tenant to reoccupy the unit after three months of vacancy. If more than three months of vacancy are required to complete the repairs, the landlord may petition the Rent Program to extend this time.

ii. Additional Notice Requirements. In addition to the other requirements for the notice terminating tenancy in the Just Cause Ordinance or by state law, the landlord must include the following information in a prominent place on the front of the notice:

(A) If the tenant wishes to return to the rental unit, the tenant must provide the landlord with a forwarding address and telephone number or other contact information. A tenant who fails to provide this information may not be entitled to return to the rental unit.

(B) The lawful rent applicable for the unit on the date of the notice.

(B) Rent Program staff will issue a form notice for evictions brought pursuant to this Section.

iii. Time for Petitioning.

(A) When the landlord knows before the notice to terminate tenancy is served on the tenant that the repairs cannot be completed within the three-month period, the landlord must file the petition with the Rent Program and serve the tenant with a copy of the petition to extend time with or before the notice to terminate tenancy.

(B) When the landlord discovers, after serving the notice to terminate tenancy, that the work will require longer than 3 months, the landlord must file the petition within 15 days of first learning that the work will not be completed within 3 months.

iv. Petition and response contents. Rent Program staff will issue form petitions and responses that will specify the required contents.

v. Priority. The nature and subject matter of the petition requires an expeditious decision on these petitions. The Rent Program will give priority to the hearing on the petition.

vi. Tenant Response. To expedite the landlord's petition, no formal response from the tenant will be required until the hearing. However, if the tenant wishes to submit any documentary evidence (including pictures) in response to the landlord's petition, the tenant must file such evidence with the Rent Program and send a copy to the landlord not less than 5 days prior to the hearing, unless the tenant can show the evidence was unavailable at that time.

vii. Conduct of Hearings. Rent Program hearings contesting the rent for an available vacant unit are conducted in accordance with the procedures set forth in Rent Adjustment Program Regulation 8.22.090.

viii Appeals. The hearing officer's decision may be appealed to the Rent Board within the time frame set forth in O.M.C. 8.22.120 and in accordance with Rent Adjustment Program Regulations. Rent Program staff may assign the appeal to an Appeal Panel of the Board to expedite it.

ix. Penalty. In addition to any other remedies a tenant may have, a landlord who fails to timely file a petition seeking an extension or unreasonably delays completing the repairs will forfeit one month of any rent increase based the repairs that necessitated the tenant's eviction for each month, or fraction thereof that the tenant's return is unreasonably delayed.

b. Removal of Unit(s) or Change of Use Required by Code Violation. [new reg. 7/9/09]

i. Purpose. The City of Oakland or other regulatory agency may require a Landlord to make repairs or corrections, or cease renting a unit or units in a building because the unit or building has been cited with a code violation. In such cases, often the landlord is unwilling to make such repairs or corrections, or the corrections cannot be made without taking the unit(s) or building off the market, converting the unit(s) or building to another use, or demolishing the unit(s). This Regulation 8.22.360A(10)(b) applies to foregoing circumstances. Before this Regulation 8.22.360A(10)(b) was enacted, landlords would often evict tenants citing Regulation 8.22.360A(6) herein, which applies to circumstances where a tenant has committed an illegal act on the premises, such as selling controlled substances. In those cases, while the eviction was through no fault of their own, tenants were only given three days notice to vacate, and the evictions were often reported to credit reporting agencies as being related to illegal uses of the premises. This Regulation 8.22.360A(10)(b) is intended to provide landlords with an appropriate mechanism for evicting a tenant where a unit is

being taken off the residential rental market due to a code violation.

ii. All Units Withdrawn from the Rental Market. If the City of Oakland or other regulatory agency has cited the building with a code violation, and the landlord is unable or unwilling to make the necessary repairs or corrections, and all the residential units in the building are similarly affected and can be withdrawn from the residential rental market pursuant to the Ellis Act Ordinance (O.M.C. 8.22.400, *et seq.*), the Landlord must use the procedures and notice provisions of the Ellis Act Ordinance to take all the units off the market.

iii. Not All Units Withdrawn from the Rental Market. If the landlord withdraws a unit from the residential rental market due to a code violation cited by the City of Oakland or other regulatory agency, and other units in the building will remain on the residential rental market, the landlord must use the procedures and notice provisions of this Regulation 8.22.360A(10)(b)(v) to take the affected unit off the market.

iv. Units Subject to an "Imminent Hazard" – 72-Hour Notice to Vacate. Where the City or other public agency has issued a 72-hour notice to vacate ("red-tagged") the unit or building, the provisions of the Just Cause Ordinance do not apply as this order to vacate is brought by the City or governmental entity and not the landlord.

v. Units or Buildings Wherein Corrections Cannot Be Made. If the Landlord determines that the corrections required to address the code violation(s) cannot be made to the unit or if the Landlord is unwilling to make the corrections and will cease renting the affected unit for residential purposes, the Landlord must do the following:

(A) Follow the eviction process established in California Civil Code §1946 and §1946.1 providing for a 30-day or 60-day notice period.

(B) Provide the information on the notice terminating tenancy required by O.M.C. 8.22.360A.10.c as follows:

(1) A statement informing tenants as to any right to payment under the City of Oakland's Code Enforcement Compliance Relocation Ordinance (O.M.C. Chapter 5.60).

(2) A short, simple statement describing the violations or attaching the report noticing the violations and that the landlord has decided that the landlord will cease using the unit for residential rental purposes and terminate the tenant's tenancy. This information on the notice terminating tenancy must be signed under penalty of perjury.

(3) A statement that the termination of tenancy is brought in good faith, with honest intent, and without ulterior reasons, including but not limited to: retaliating against the tenant, facilitating repairs or permits necessary to retain the unit(s) as residential, or to re-rent the unit(s). This information on the notice terminating tenancy must be signed under penalty of perjury.

(4) A statement that "If the needed repairs are completed on your unit, the landlord must offer you the opportunity to return to your unit with a rental agreement containing the same terms as your original rental agreement and with the

same rent (although the landlord may be able to obtain a rent increase under the Oakland Residential Rent Arbitration Ordinance [O.M.C. Chapter 8.22, Article I]). This statement only applies if your landlord restores your unit to the residential rental market.”

(5) The lawful rent applicable for the unit on the date of the notice.

(C) File the notice terminating the tenancy with the Rent Program as required by O.M.C. 8.22.360 B.7.

CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
RESOLUTION

RESOLUTION No. R17-001

**RESOLUTION APPROVING AMENDMENTS TO JUST CAUSE FOR
EVICTION REGULATIONS TO ENHANCE THE REPORTING
REQUIREMENT FROM THE OWNER FOLLOWING CERTAIN NO-
FAULT EVICTIONS**

WHEREAS, on September 20, 2016, the City Council directed the Rent Board to consider Just Cause regulations to require owners to report their compliance with evictions where the tenant is not at fault (Ordinance No. 13391 C.M.S.); and

WHEREAS, on February 7, 2017, the City Council amended the Rent Adjustment Ordinance to enhance the reporting requirement due from the owner to a tenant where the owner is not permitted to set the initial rent at the commencement of tenancy (Ordinance No. 13418 C.M.S.); and

WHEREAS, the Rent Ordinance and Rent Board Regulations currently provide no mechanism for the Rent Program to record the lawful rent at the time a tenant vacates pursuant to such no-fault evictions or to monitor an Owner's compliance with the occupancy requirement following an owner or relative move-in; and

WHEREAS, the Rent Board wishes to adopt new Regulations to require owners to certify the lawful rent at the time a tenant vacates pursuant to such evictions and to annually certify occupancy after evictions for owner or relative occupancy; and

RESOLVED: That the Just Cause for Eviction Regulations are hereby amended to read as set out in Attachment A attached hereto and made a part hereof.

APPROVED BY THE FOLLOWING VOTE

AYES: CHANG, FRIEDMAN, FRIGAULT, FERNANDEZ, LAI, AND CHAIRPERSON WARNER

NOES:

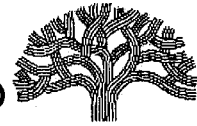
ABSENT:

ABSTENTION:

Date: _____

ATTEST _____
JESSICA WARNER
Chairperson of the Housing, Rent
and Relocation Board

#2076277v2



P.O. BOX 70243, OAKLAND, CA 94612-2043

Department of Housing and Community Development
Rent Adjustment Program

(510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254

OUTLINE FOR BOARD TRAINING
March 23, 2017

1.

Board Procedures

- Robert's Rules
- Board Function

2.

Appeal Procedures

1. Preliminary Review of Appeals:

- Appeal is reviewed by Program Manager;
- Appeal form and attachments may not exceed 25 pages;
- Untimely appeals are dismissed;
- Timely appeals are reviewed by Hearing Officer for possible clerical errors;
- A Corrected Decision is issued in case of clerical errors;
- Decision can be set aside and a new hearing scheduled if the appellant has "good cause" for non-appearance;
- If it is decided that the appeal should go to the Board, a tentative date is set in the database;
- Either party can request a postponement for good cause; postponements are approved by the Program Manager.

2. Appeal Process:

- Oral arguments – each party has 15 minutes – 5 for opening, 5 for rebuttal, 5 for questions from the Board; the Board may extend or reduce time in a particular case, so long as each party has equal time;
- Board may only decide the appeal on the issues raised in the appeal pleadings;
- The Board may not hear any new evidence at the appeal hearing. The Board is not hearing the matter *de novo* – only deciding whether the original decision was properly conducted or considered;
- The Board may overturn the hearing officer's decision, approve the decision, or remand the case back to the Hearing Officer to allow for certain evidence to be admitted or considered;
- The Board may remand the case back to staff or Hearing Officer for recalculations;
- Appeal Decisions are drafted by Staff;
- Draft decisions are approved by the City Attorney's office;
- Board Decision is final. Appeal is by Writ to Superior Court.