



# City of San Leandro

Meeting Date: December 7, 2015

## Staff Report

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**File Number:** 15-582

**Agenda Section:** ACTION ITEMS

**Agenda Number:** 10.A.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** Staff Report for Proposed Amendments to the City of San Leandro Rent Review Ordinance

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### SUMMARY AND RECOMMENDATIONS

Amendments to the San Leandro Rent Review Ordinance are proposed to update the 2001 ordinance, respond to the current rental market and to more effectively administer the Rent Review Program that coordinates rent dispute hearings between tenants and landlords.

Staff recommends that the City Council adopt the attached Ordinance amending Title 4, Chapter 32 of the San Leandro Municipal Code relating to the Rent Review Board.

### BACKGROUND

In 2001, the City Council established a Rent Review Program 1) to respond to increasing residential rents in the City and throughout the Bay Area, and 2) to create a public forum for rent disputes between tenants and landlords that is presided over by a balanced Rent Review Board to achieve mutually agreeable rent resolutions. The Rent Review Board consists of five members: 2 tenant, 2 landlord, and 1 non-landlord/non-tenant (e.g., homeowner).

The Ordinance was originally created through input from a variety of local rental housing stakeholders such as the Rental Housing Association of Southern Alameda County (RHA), ECHO Housing (an experienced nonprofit housing agency with expertise in housing law), Davis Street Family Resource Center, and tenants. From its onset, the Ordinance sought to balance the needs of both renters and landlords with an emphasis on a mutually satisfactory resolution. The Ordinance applies primarily to any housing unit for rent in a building with three or more units. The Ordinance provides that:

- All landlords must provide a notice informing each tenant of the City's Rent Review Program with any rent increase notification. If a tenant does not receive the program

notice, then the rent increase is nullified until the landlord properly re-notices. The Rent Review Board notice along with the Ordinance and frequently asked questions (FAQ) are available on the City website in English, Spanish and Chinese.

- To be eligible for a Rent Review Board hearing, a rent increase must meet one of the following thresholds: 1) over 10% of the existing rent, 2) over \$75, or 3) two rent increases within a 12-month period. These three criteria are only eligibility criteria to qualify for a Board hearing, and the Board may recommend upholding the proposed rent increase regardless of the amount.
- If an applicant is eligible for a Board hearing, staff sends a letter to the tenant and landlord with the hearing date and location. In addition, the letter encourages both parties to continue working together towards a mutually acceptable solution prior to the hearing. Historically, most cases have been mutually resolved just prior to the start of the hearing and often through the encouragement of RHA, ECHO Housing, and City staff. From July 1, 2014 through June 30, 2015, of the 65 rent review requests received, 17 (26%) were settled without a hearing while 13 of 43 (30%) hearings scheduled were settled prior to a hearing. Staff also prepares an agenda packet, including staff report, for distribution to the Board, and publicly notices the hearing as required under the Ordinance. The Brown Act applies to Rent Review Board hearings.
- During the hearing, the Board reviews presentations from the landlord and tenant and then makes a recommendation to the parties for the resolution of their dispute. The Board, as stated in the Ordinance, uses a wide range of criteria in its review such as economic hardship, frequency and amount of prior rent increases, landlord's mortgage payments and ownership/maintenance costs including water and garbage, and the landlord's reasonable rate of return.
- The Board may continue the hearing for up to one month or request the City Council review the rent dispute after a party requests that the Board forward the dispute for further consideration by the City Council.
- If the landlord fails to appear at the hearing without good cause, then the rent increase is voided. If the tenant fails to appear without good cause, then the tenant's case is dismissed.
- City staff annually prepares a report to the Board and City Council to review current rental housing and Rent Review Program trends and to assess the effectiveness of the program.

Under the Ordinance, City Housing staff serves as the secretary to the Rent Review Board. When the City's Redevelopment Agency was eliminated in February 2012, the capacity to administer the Rent Review Program was significantly diminished. Since FY 2013-14, the City has contracted with ECHO Housing to assist with the administration of the Rent Review Program, including the intake of applicants and rental housing counseling/advice as needed.

### **Current Rental Market in San Leandro**

Like many cities in the San Francisco Bay Area, San Leandro rents are rising. However, they are rising at a lower level than the region. The average rent in the City increased 39% from 2007 through the 3rd quarter of 2015, less than the 51% rental growth rate for the Bay Area region (see Attachment A). The City's 39% growth rate over 8 ¾ of a year represents a 4.5% increase per year.

Key economic factors affecting the recent increase in rents in the City and the region include:

- **Under-supply of new housing construction.** The San Francisco Bay Area region has not built sufficient new residential units for decades to meet its population growth. Consequently, increased demand causes the rents for the limited housing supply to increase. Many local housing markets, including San Leandro's, have not fully recovered from the 2008 recession and many cities are seeking more investment in residential development. State law mandates that all cities and counties in California provide adequate zoning for the development of their fair share of housing growth. A minimal number of new housing, particularly market rate housing, was built during the prior eight year Regional Housing Needs Allocation (RHNA) period from 2007-2014. The RHNA, as assigned by the Association of Bay Area Governments (ABAG), for the City's recently certified 2015-2023 Housing Element Update is 2,287 units, with the largest income need category being market rate housing. Approximately 800 new rental and for sale units are currently in the planning or development process.
- **High construction costs.** New construction continues to be expensive for developers/property owners, which is a major influence on the growth of residential supply.
- **Spillover of renters from higher cost housing markets.** Unaffordable rents in San Francisco and more recently, Oakland, have caused renters to seek more affordable rental housing, which has increased demand in more traditionally affordable housing markets such as San Leandro.
- **New and existing landlords have been raising rents to make up for past years with minimal to no rent increases (or even rent reductions).** The majority of rent increases that the Rent Review Board reviewed in the last year stemmed from landlords seeking to bring their rents closer to market rate, making up for years of no rent growth and/or rent reductions. The increased rents enable the landlords to catch up with rising operating costs (i.e., utilities), obtain financing for improvements (including deferred maintenance), and meet investor returns.

Despite the recent upward rental trend in San Leandro, the City remains one of the most affordable cities to rent housing in Alameda County. In comparing year over year rent growth rates among Alameda County cities in the 3rd quarter of 2015, San Leandro's average rent of \$1,580 is the lowest in Alameda County, and the rent growth rate of 11.9% (see Attachment B) is 9th lowest among 13 cities in Alameda County.

The City's occupancy rate increased by 2.3% during the 2007 through 2015 period (see Attachment A). Occupancy levels in San Leandro are higher than the Bay Area region overall, which may reflect a lower renter turnover rate and represent a contributing factor to

the rising rents in San Leandro. For the 3rd quarter of 2015, year over year occupancy rankings among 13 Alameda County cities, San Leandro has the highest rate at 98.9% (see Attachment B).

Historically, the City has experienced a long-term pattern of sustained rental affordability in comparison to other nearby cities with occasional upward rent increases followed by extended periods of declining or stable rent levels (i.e., post-2008 recession impacts). The Rent Review Board's case review activity since its inception in 2001 follows the rent growth rate pattern of long periods of inactivity and occasional increases in caseload, with the most notable surge (26 cases from 10 properties, though the majority of cases were primarily from two properties) in fiscal year 2014-15. In FY 2015-2016 to date, there have been 52 rent review hearing requests received, 21 of which have been heard by the Rent Review Board (see Attachment C).

### **Analysis**

Over the past 14 years, since the Rent Review Ordinance was adopted, numerous items have arisen and revisions to the Ordinance are recommended to address them. The amendments below are recommendations from the Rent Review Board which were informed by public feedback and the the program implementation experiences of City and ECHO Housing staff. The amendments include new provisions to enhance the Ordinance and revisions to provide better clarity on the intent and requirements of the Ordinance.

- **Assess Ratio Utility Billing System (RUBS) charges, upon initial conversion, as a rent increase and therefore considered as a factor toward eligibility for review by the Board.** RUBS is when landlords subcontract out utility billing to a third party. The tenants pay their utility bills to the third party rather than to the landlord. The 2015-2023 Housing Element recommended that staff evaluate RUBS charges as a rent increase and consider these initial charges as eligible for Board review.
- **Include duplexes as eligible residential properties for rent review.** Under the current Ordinance, only buildings with three or more rental housing units are eligible for rent review. Per the 2009-2013 American Community Survey (U.S. Census Bureau), there are almost 2,000 duplex/triplex/quadruplex housing units in San Leandro, and under the current Ordinance, tenants in these units are not eligible for a rent review because their rental housing units are detached, separate buildings.
- **Clarify that landlords must re-notice tenants with proper rent increase notices if they provided improper rent increase notices.** This clarifies that landlords must properly re-notice a tenant prior to demanding or accepting any increase in rent.
- **Raise the existing \$75 rent increase threshold to \$100 plus annually adjust by the Consumer Price Index (CPI), in considering eligibility for a rent review.** The existing \$75 rent increase threshold is outdated as current rent levels are significantly higher today than in 2001 when the Ordinance was adopted and as current rent increase amounts are exceeding the \$75 rent increase threshold.

The Board recommended the \$100 threshold at its November 17, 2015 meeting. Staff

recommends adding the annual CPI adjustment, effective July 1, 2017 to provide a built-in cost of living adjustment.

As new multi-family rental housing has not been developed in San Leandro for 30 years, this \$100 threshold may be low for new projects. The Concord Group, one of the nation's premier providers of real estate advisory services, projects the average rent of San Leandro's new development to increase to \$3.04 per square foot, an increase of 49% over the 3rd Quarter 2015 average rent of \$2.08 per square foot (see Attachment D). The increase in new market rate units may help relieve the pressure on existing, affordable rental units in the City.

The existing thresholds of a rent increase greater than 10% and at least two rent increases in a 12-month period will remain intact.

- **Require tenants to submit to the City their rent review hearing request forms within 15 calendar days of receiving their rent increase notice.** This provision ensures that the 15-day requirement is not erroneously interpreted as 15 "working" days.
- **Require landlords to submit their response forms within 10 calendar days from their receipt of their tenants' rent review hearing request forms; otherwise, their rent increase is null and void.** The Ordinance currently only encourages landlords to submit their response forms. This change clarifies that landlords must submit their response forms in a timely manner similarly to the tenants in order for the Board to hear the case.
- **Increase the number of days to schedule a Rent Review Board hearing.** Currently, a Board hearing must be scheduled within 50 days of an application. However, 60 days is a more feasible timeframe particularly for 60-day rent increase notices.
- **Formalize that a rent increase must be paid on its effective date.** The existing Ordinance is silent on the situation when, for example, the Board votes to continue a case to a second and final meeting that goes beyond the noticed rent increase effective date. Tenants will be required to pay the rent increase on the effective date of the rent increase, but could be given rental credit or other consideration by the landlord should a mutually satisfactory resolution result in a reduced rent increase amount.
- **Incorporate the Retaliatory Eviction provision in its own section.** The Retaliatory Eviction provision of the Ordinance should be set apart and emphasized in its own separate section.
- **Require tenants and landlords to return for a second and final Continuance hearing.** The Board must hold a 1st hearing, then, if needed, a 2nd final Continuance hearing prior to referring a rent review case to the City Manager (see below) to provide more time for the tenant and landlord to negotiate a mutually satisfactory resolution to their rent dispute.
- **Refer unresolved cases to the City Manager instead of the City Council.** The

intent of the Ordinance has always been for a mutual resolution of the rent dispute between the tenant and the landlord. The Ordinance clearly states that the City is not “a party to such an agreement nor shall the City or the Board assume any responsibility for enforcement” of any agreement because the Board is a negotiation assistance body that makes non-binding recommendations on cases. The City Manager is a more appropriate authority for additional review of cases because he or she has more flexibility to assist in the negotiation of unresolved cases.

All of the above changes have been included in the attached Ordinance recommended for City Council adoption.

### **Previous Actions**

- The City Council adopted the Rent Review Program Ordinance in 2001 into the Municipal Code and adopted the program into the Administrative Code in 2002.
- Amendments to the Ordinance were approved by the City Council in 2003, 2005 and April 6, 2015, the latter to change the landlord representative requirement to allow for two non-resident landlords.
- Staff presented an overview of the Rent Review Program to the City Council on April 20, 2015 including discussion of the recent rising rents and Board hearings. City Council directed staff to gather public and Board input and provide modifications to the Ordinance for future City Council review.

### **Board/Commission Review and Actions**

At the August 25th, September 22nd, October 27th, and November 17th, 2015 Rent Review Board meetings, Housing staff presented the proposed Rent Review Ordinance amendments to the Rent Review Board for its comments and recommendations.

The Board approved the following four recommendations. Note that Items 1-3 below were approved unanimously by the Board, but Item 4 had a split vote:

- 1) Revise the definition of "Base Rent" to include renter's insurance and implementation of the Ratio Utility Billing System (RUBS) and revised the "Required Notice" to include habitability as required by law.**

The implementation of the RUBS and revision to the “Required Notice” are incorporated as proposed amendments to the Rent Review Ordinance.

However, the inclusion of renter’s insurance as part of a rent increase is not being recommended by staff for numerous reasons. From a program administration standpoint, the calculation of a tenant’s insurance policy is complex and would vary significantly from tenant to tenant. Additionally, the insurance is not paid to the landlord, required by most landlords nor under the landlord’s control. It is also a probable scenario that a renter’s insurance requirement would trigger a Rent Review Board hearing, , yet the Rent Review Ordinance will be unable to affect the renter’s

insurance policy payment amount required by a tenant's insurance carrier.

**2) Increase the \$75 rent increase threshold to \$100.**

City staff has incorporated the Board's recommendation of a \$100 rent increase threshold, and also recommends incorporating an annual average CPI adjustment to the \$100 threshold beginning on July 1, 2017 and each July 1 thereafter. The CPI, which is published by the U.S. Department of Labor for the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area which includes San Leandro, shall be used to calculate the annual increase.

**3) Revise the definition of "Residential Property" in order to make duplexes that are tenant-occupied be eligible for rent review.**

**4) Prohibit a landlord from raising rents for a period of one year if the landlord does not appear without good cause at a Rent Review Board hearing.**

Board Chair Thomas Silva, with support from Board Member Sandra Johnson Simon, explained that he does not support this recommendation because he is concerned that such policy will result in potential litigation from landlords for the City. The City Attorney's Office and City staff share this same concern, and consequently, did not incorporate this recommendation. Furthermore, since the Ordinance was adopted in 2001, there has only been one instance when a landlord failed to appear at the rent review board hearing.

The complete discussion of this matter at the November 17th Rent Review Board meeting, and prior Board meetings, can be heard on the City of San Leandro website at <https://sanleandro.granicus.com/Archives.php>.

**Summary of Public Outreach Efforts**

Copies of the proposed amendments to the Rent Review Ordinance have been available for review at the Community Development Department at City Hall and on the City's [Rent Review Program website page](http://www.sanleandro.org/depts/cd/housing/rentreview/default.asp) <<http://www.sanleandro.org/depts/cd/housing/rentreview/default.asp>> since August 5th, 2015.

Public meetings held to discuss the proposed amendments included a City-sponsored community meeting on August 19th at the Senior Center and the August 25th, September 22nd, October 27th, and November 17th Rent Review Board meetings. These meetings were well attended with the majority of the attendees at each meeting providing their public comments.

Outreach efforts for these public meetings included press releases, flyers posted at City Hall, Main Library, other branch libraries, Senior Center, and Marina Community Center; flyers mailed and/or emailed to interested tenants and landlords and posting on the City's website in English, Spanish and Chinese.

The City received the following public comments on the proposed amendments:

*August 19th Community Meeting:*

- Implement rent control at the annual rate of inflation.
- Use CPI as a rent threshold.
- Rent increases over the long term have actually been below the consumer price index (CPI) and reflect the upturn and downturns in the rental housing market over time.
- Do not eliminate the \$75 rent increase threshold, or increase it to \$92, for eligibility to go before the Rent Review Board.
- Reinstate the \$75 threshold as the 10% threshold by itself would be a burden to renters.
- Supports existing rent increase threshold of greater than 10% (of current rent).
- Impose a 1-year freeze on rent increases.
- Make duplex properties eligible for rent review.
- Existing ordinance allows self-policing for landlords and majority of cases are resolved before going to the Board.
- Challenging for small landlords due to rising utility costs and needed repairs therefore rent increases are needed.
- Prohibit a landlord from raising rents for a period of one year if the landlord does not appear without good cause at a Rent Review Board hearing.

*August 25th, September 22nd, October 27th, and November 17th Rent Review Board Meetings:*

- Institute an immediate one-year freeze on rent increases.
- Reinstate the \$75 rent increase threshold so that tenants are not “giving up their seat at the table”.
- Tie rent increases to the cost of living.
- Adopt rent control capped at 5% or at the annual rate of inflation.
- Institute a rent increase percentage threshold rather than a dollar threshold.
- Supports existing rent increase threshold of greater than 10% (of current rent).
- Keep the City Council as the final arbiter and do not change it to the City Manager.
- Add duplexes and in-law units as eligible properties for rent review.
- Do not support rent review for duplex properties.
- Prohibit a landlord from raising rents for a period of one year if the landlord does not appear without good cause at a Rent Review Board hearing.
- Supports RUBS (water/garbage) charges to be assessed as rent increase only at initial implementation of RUBS (i.e., subsequent RUBS increases are not considered as rent increases).
- Adopt a Just Cause Eviction Ordinance to protect tenants.

*Written Comments received from the public, including Rental Housing Association (RHA) and East Bay Rental Housing Association (EBRHA)*

- Implement a 15-day, instead of proposed 10-day, max for landlords to submit response forms.
- Eliminate the \$75 rent increase threshold and maintain existing rent increase threshold of a rent increase greater than 10%.
- Formalize that rent must be paid on its effective date while tenant goes through Rent



Review process.

- Formalize that subsequent RUBS increases are not considered as rent increases.
- Include Just Cause Eviction protection for tenants in the new ordinance.

### **Legal Analysis**

The proposed amendments to the Rent Review Ordinance were analyzed by the City Attorney's Office and found to be in conformance with the California Government Code.

### **ATTACHMENTS**

#### **Attachments to Staff Report**

- Attachment A - Average Annual Asking Rent & Occupancy Rate for San Leandro from 2007-2015 (Source: RealFacts, 11/11/2015)
- Attachment B - Rent/Occupancy and Rent Growth/Occupancy Rate Rankings by Cities for 2nd Quarter 2015 (Source: RealFacts, 11/11/2015)
- Attachment C - Rent Review Board (RRB) Hearing Cases (FY2001-2002 - present)
- Attachment D - Average Rent per Square Footage (Source: RealFacts, 11/11/2015)

#### **Attachment to Ordinance**

- Exhibit A - Proposed Amended Rent Review Ordinance

**PREPARED BY:** Steve Hernandez, Housing Specialist II, Community Development Department



# ATTACHMENT A

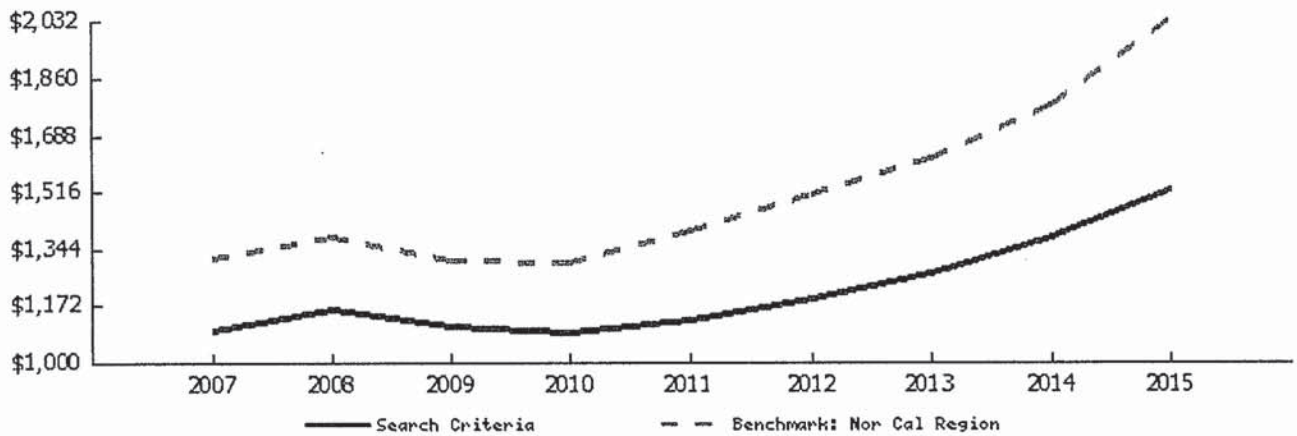
## Market Overview

### Rental Trends for City San Leandro

All Classes  
Annual Trend

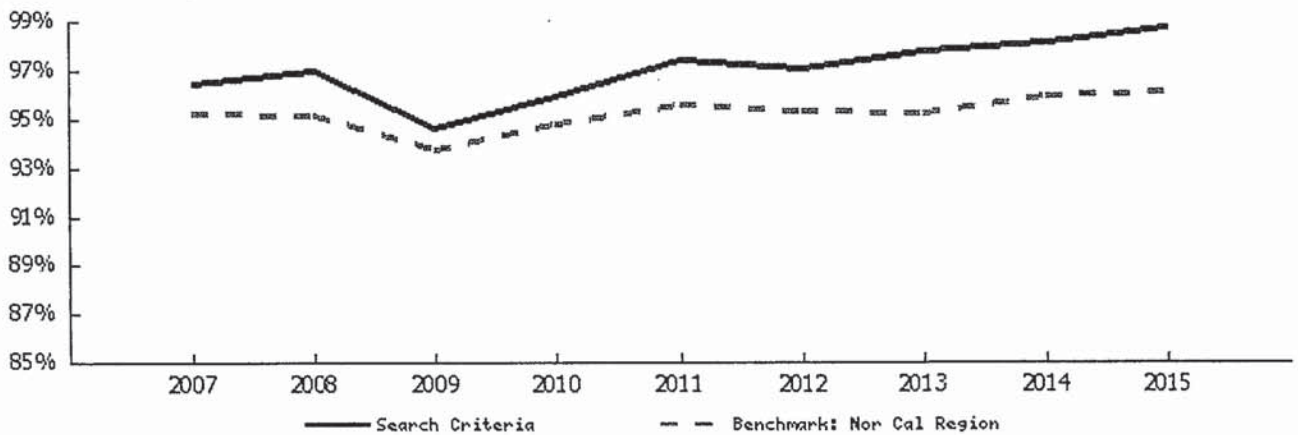
#### Average Asking Rent

|                | 2007    | 2008    | 2009    | 2010    | 2011    | 2012    | 2013    | 2014    | 2015    | 4 Vr. Change |
|----------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|--------------|
| <b>AVERAGE</b> | \$1,090 | \$1,154 | \$1,106 | \$1,086 | \$1,123 | \$1,189 | \$1,263 | \$1,377 | \$1,516 | 34.9%        |
| studio         | \$876   | \$941   | \$892   | \$886   | \$926   | \$998   | \$999   | \$1,047 | \$1,116 | 20.5%        |
| 1bd 1bth       | \$978   | \$1,036 | \$994   | \$974   | \$1,020 | \$1,077 | \$1,144 | \$1,261 | \$1,389 | 36.1%        |
| 2bd 1bth       | \$1,190 | \$1,266 | \$1,240 | \$1,202 | \$1,230 | \$1,264 | \$1,312 | \$1,405 | \$1,530 | 24.4%        |
| 2bd 2bth       | \$1,283 | \$1,351 | \$1,291 | \$1,279 | \$1,299 | \$1,404 | \$1,546 | \$1,674 | \$1,879 | 44.6%        |
| 2bd TH         | \$1,387 | \$1,451 | \$1,323 | \$1,337 | \$1,365 | \$1,456 | \$1,558 | \$1,698 | \$1,892 | 38.5%        |
| 3bd 2bth       | \$1,610 | \$1,411 | \$1,320 | \$1,395 | \$1,325 | \$1,387 | \$1,250 |         |         |              |
| 3bd TH         | \$1,605 | \$1,725 | \$1,641 | \$1,680 | \$1,716 | \$1,797 | \$1,890 | \$2,047 | \$2,149 | 25.3%        |



#### Average Occupancy Rate

|                | 2007  | 2008  | 2009  | 2010  | 2011  | 2012  | 2013  | 2014  | 2015  | 4 Vr. Change |
|----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|--------------|
| <b>AVERAGE</b> | 96.4% | 96.9% | 94.6% | 95.9% | 97.4% | 97.0% | 97.7% | 98.1% | 98.7% | 1.4%         |





## ATTACHMENT B

## Market Overview

3Q2015

San Leandro is 1 of 13 cities in Alameda County (with at least 5 communities)

Rent ranking  
for cities in Alameda County

| City              | Avg Rent |
|-------------------|----------|
| 1. Berkeley       | \$3,019  |
| 2. Oakland        | \$2,846  |
| 3. Emeryville     | \$2,841  |
| 4. Dublin         | \$2,510  |
| 5. Pleasanton     | \$2,439  |
| 6. Newark         | \$2,384  |
| 7. Fremont        | \$2,317  |
| 8. Alameda        | \$2,251  |
| 9. Union City     | \$2,225  |
| 10. Livermore     | \$2,001  |
| 11. Castro Valley | \$1,910  |
| 12. Hayward       | \$1,863  |
| 13. San Leandro   | \$1,580  |

Occupancy ranking  
for cities in Alameda County

| City             | Avg Occ. |
|------------------|----------|
| 1. San Leandro   | 98.9%    |
| 2. Castro Valley | 98.5%    |
| 3. Hayward       | 98.2%    |
| 4. Berkeley      | 98.1%    |
| 5. Fremont       | 97.4%    |
| 6. Oakland       | 97.3%    |
| 7. Alameda       | 97.3%    |
| 8. Union City    | 97.0%    |
| 9. Livermore     | 97.0%    |
| 10. Emeryville   | 96.1%    |
| 11. Newark       | 95.9%    |
| 12. Pleasanton   | 95.4%    |
| 13. Dublin       | 95.3%    |

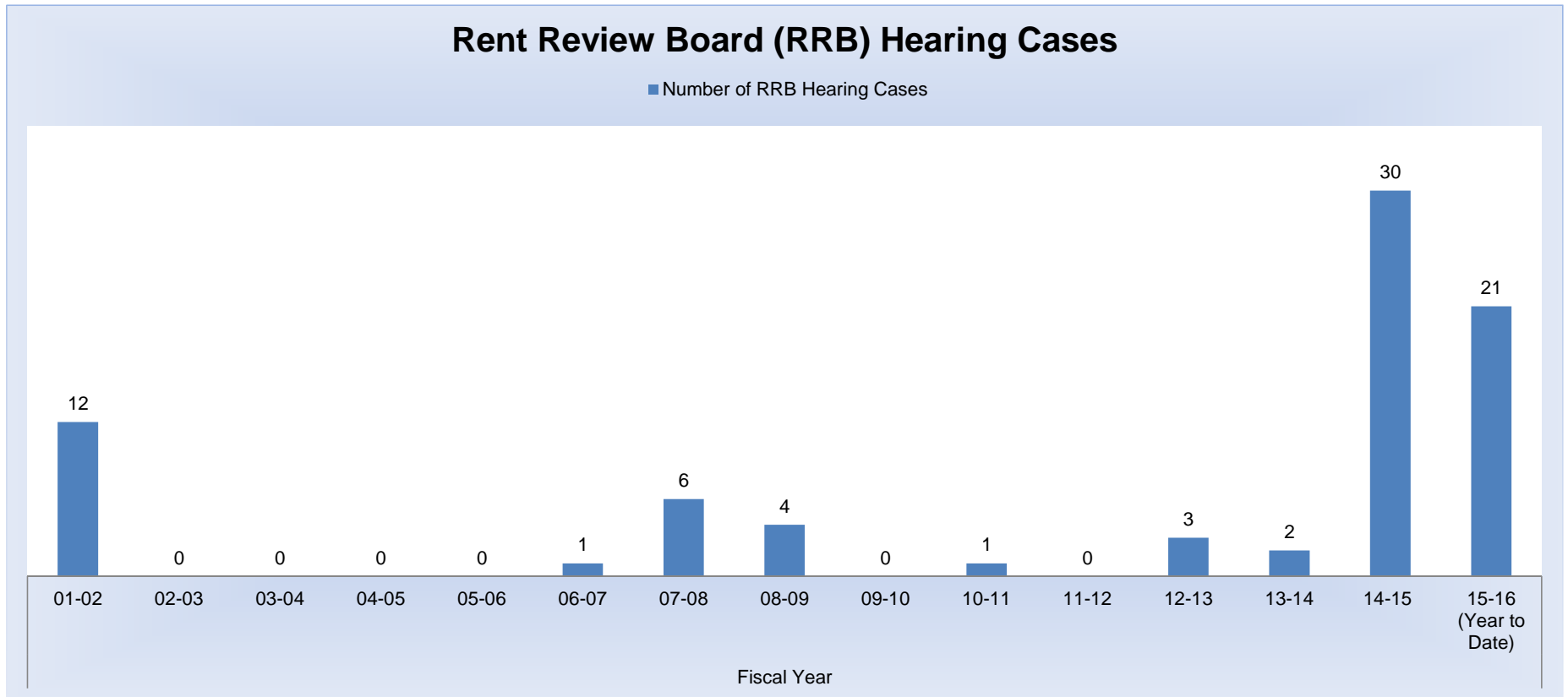
Rent growth % Rankings Yr. over Yr.  
for cities in Alameda County

| City             | Avg Rent |
|------------------|----------|
| 1. Castro Valley | 24.2%    |
| 2. Newark        | 15.3%    |
| 3. Fremont       | 14.8%    |
| 4. Emeryville    | 14.6%    |
| 5. Hayward       | 14.4%    |
| 6. Oakland       | 13.9%    |
| 7. Union City    | 13.4%    |
| 8. Livermore     | 13.3%    |
| 9. San Leandro   | 11.9%    |
| 10. Pleasanton   | 10.9%    |
| 11. Alameda      | 9.4%     |
| 12. Dublin       | 8.4%     |
| 13. Berkeley     | 7.7%     |

Occupancy growth Rankings Yr. over Yr.  
for cities in Alameda County

| City             | Avg Occ. |
|------------------|----------|
| 1. Berkeley      | 2.1%     |
| 2. Castro Valley | 0.7%     |
| 3. Hayward       | 0.6%     |
| 4. Livermore     | 0.5%     |
| 5. San Leandro   | 0.4%     |
| 6. Oakland       | 0.4%     |
| 7. Newark        | 0.0%     |
| 8. Fremont       | 0.0%     |
| 9. Alameda       | 0.0%     |
| 10. Dublin       | -0.7%    |
| 11. Emeryville   | -1.2%    |
| 12. Pleasanton   | -1.4%    |
| 13. Union City   | -1.5%    |

# ATTACHMENT C





ATTACHMENT D

Market Overview

Inventory Analysis

San Leandro  
2Q2015

|                  |            |                            |             |
|------------------|------------|----------------------------|-------------|
| Properties/Units | 32 / 4,125 | Average units per property | 128         |
| Class A          | 0 /        | Average year built         | 1968        |
| Class B          | 0 /        | Size range (units)         | 54 - 840    |
| Class C          | 32 / 4,125 | Age range                  | 1948 - 1987 |

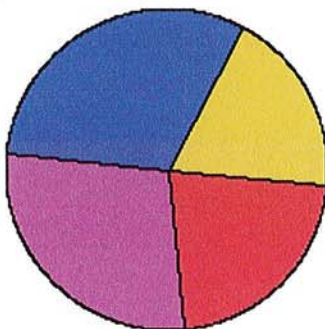
Unit Mix (all unit types appear in this report)

| Totals            | Units | % of Mix | Benchmark % of Mix | Average Sq. Ft | Benchmark Avg Sq Ft | Average Rent | Benchmark Avg. Rent | Avg. Rent Sq. Ft. | Benchmark Avg. Rent Sq. Ft. |
|-------------------|-------|----------|--------------------|----------------|---------------------|--------------|---------------------|-------------------|-----------------------------|
| All               | 4,125 | 100.0%   | 100.0%             | 760            | 848                 | \$1,513      | \$1,981             | \$1.99            | \$2.34                      |
| Urban Loft studio | 344   | 8.3%     | 5.3%               | 561            | 486                 | \$1,122      | \$1,856             | \$2.00            | \$3.82                      |
| jr 1bd            |       |          |                    |                |                     |              |                     |                   |                             |
| 1bd 1bth          | 2,001 | 48.5%    | 39.1%              | 674            | 704                 | \$1,390      | \$1,828             | \$2.06            | \$2.60                      |
| 1bd 1.5bth        |       |          |                    |                |                     |              |                     |                   |                             |
| 1bd TH            | 45    | 1.1%     | 0.4%               | 675            | 831                 | \$1,483      | \$2,337             | \$2.20            | \$2.81                      |
| 2bd 1bth          | 731   | 17.7%    | 16.6%              | 833            | 862                 | \$1,512      | \$1,617             | \$1.82            | \$1.88                      |
| 2bd 1.5bth        | 84    | 2.0%     | 1.5%               | 880            | 930                 | \$1,862      | \$1,803             | \$2.12            | \$1.94                      |
| 2bd 2bth          | 602   | 14.6%    | 26.5%              | 937            | 1,019               | \$1,883      | \$2,292             | \$2.01            | \$2.25                      |
| 2bd 2.5th         |       |          |                    |                |                     |              |                     |                   |                             |
| 2bd TH            | 258   | 6.3%     | 3.2%               | 964            | 1,079               | \$1,889      | \$2,310             | \$1.96            | \$2.14                      |
| 3bd 1bth          |       |          |                    |                |                     |              |                     |                   |                             |
| 3bd 1.5bth        | 6     | 0.1%     | 0.3%               | 820            | 1,104               | \$1,725      | \$2,287             | \$2.10            | \$2.07                      |
| 3bd 2bth          |       |          |                    |                |                     |              |                     |                   |                             |
| 3bd 3bth          |       |          |                    |                |                     |              |                     |                   |                             |
| 3bd TH            | 54    | 1.3%     | 0.8%               | 1,200          | 1,327               | \$2,116      | \$2,761             | \$1.76            | \$2.08                      |
| 4bd               |       |          |                    |                |                     |              |                     |                   |                             |
| 5bd 2bth          |       |          |                    |                |                     |              |                     |                   |                             |
| 5bd TH            |       |          |                    |                |                     |              |                     |                   |                             |

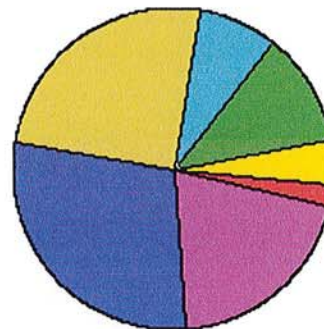
Age of Existing Inventory

Area: San Leandro

Benchmark: Nor Cal Region



- Pre 1960s (7)
- 1960s (9)
- 1970s (10)
- 1980s (6)



- Pre 1960s (42)
- 1960s (391)
- 1970s (562)
- 1980s (486)
- 1990s (154)
- 2000s (223)
- 2010s (88)

**EXHIBIT 8**  
**RENTAL OPPORTUNITY - RECOMMENDATIONS**  
**SAN LEANDRO, CALIFORNIA**  
**MARCH 2015**

- Positioning**
- Positioned at bottom edge of Oakland institutional apartment product due to more distant location versus core urban offerings in Uptown, Downtown, and Jack London Square.
  - At top of San Leandro market due to new build vintage and assumed higher finish level.
- Rationale:**
- In-line with market average for BART adjacent properties in East Bay due to proximity to San Leandro BART Station.
  - Additional upside possible given tight occupancies and burgeoning rent growth in Oakland institutional set.

**Recommended Positioning:**

| Program Menu                      | Plan            | Bed/<br>Bath | Mix<br>#   | Unit<br>Mix<br>% | Unit<br>Size | Bldg<br>Total  | Sponsor Pricing |               |               | TCG Pricing          |                 |                      | TCG - Sponsor<br>Delta<br>\$ | TCG - Sponsor<br>Delta<br>% | Potential<br>Monthly Revenue |                  |
|-----------------------------------|-----------------|--------------|------------|------------------|--------------|----------------|-----------------|---------------|---------------|----------------------|-----------------|----------------------|------------------------------|-----------------------------|------------------------------|------------------|
|                                   |                 |              |            |                  |              |                | Avg. Rent       | PSF           | PSF           | Base<br>Rent         | PSF             | Potential<br>Premium |                              |                             |                              | Average<br>Rent  |
| <b>Sponsor Program</b>            | Studio          | 0B / 1b      | 50         | 13%              | 480          | 24,000         | \$1,632         | \$3.40        | \$3.54        | \$1,700              | \$3.54          | \$1,760              | \$3.67                       | \$128                       | 8%                           | \$87,975         |
|                                   | One Bedroom     | 1B / 1b      | 120        | 31%              | 650          | 78,000         | 2,145           | 3.30          | 3.08          | 2,004                | 3.08            | 2,074                | 3.19                         | -71                         | -3%                          | \$248,844        |
|                                   | One Bedroom+Den | 1B / 1b      | 100        | 26%              | 775          | 77,500         | 2,480           | 3.20          | 2.87          | 2,227                | 2.87            | 2,305                | 2.97                         | -175                        | -7%                          | \$230,472        |
|                                   | Two Bedroom     | 2B / 2b      | 120        | 31%              | 900          | 108,000        | 2,790           | 3.10          | 2.72          | 2,450                | 2.72            | 2,536                | 2.82                         | -254                        | -9%                          | \$304,290        |
| <b>Subtotal/Weighted Average:</b> |                 |              | <b>390</b> | <b>100%</b>      | <b>737</b>   | <b>287,500</b> | <b>\$2,364</b>  | <b>\$3.21</b> | <b>\$2.93</b> | <b>\$2,159</b>       | <b>\$2.93</b>   | <b>\$2,235</b>       | <b>\$3.03</b>                | <b>-\$129</b>               | <b>-5%</b>                   | <b>\$871,581</b> |
| <b>TCG Pricing</b>                |                 |              |            |                  |              |                |                 |               |               |                      |                 |                      |                              |                             |                              |                  |
| <b>Program Menu</b>               | Plan            | Bed/<br>Bath | Mix<br>#   | Unit<br>Mix<br>% | Unit<br>Size | Bldg<br>Total  | Base            |               |               | TCG Pricing          |                 |                      | TCG - Sponsor<br>Delta<br>\$ | TCG - Sponsor<br>Delta<br>% | Potential<br>Monthly Revenue |                  |
|                                   |                 |              |            |                  |              |                | Rent            | PSF           | PSF           | Potential<br>Premium | Average<br>Rent | PSF                  |                              |                             |                              |                  |
|                                   | Blank State     | Studio       | 0B / 1b    | 65               | 18%          | 480            | 31,200          | \$1,736       | \$3.62        | \$3.74               | \$1,796         | \$3.74               | \$1,796                      | \$3.74                      | \$116,770                    |                  |
|                                   |                 | One Bedroom  | 1B / 1b    | 125              | 34%          | 700            | 87,500          | 2,093         | 2.99          | 2.97                 | 2,166           | 3.09                 | 2,166                        | 3.09                        | \$270,763                    |                  |
|                                   | One Bedroom+Den | 1B / 1b      | 40         | 11%              | 775          | 31,000         | 2,227           | 2.87          | 2.87          | 2,305                | 2.97            | 2,305                | 2.97                         | \$92,189                    |                              |                  |
|                                   | Small Two       |              | 60         | 16%              | 900          | 54,000         | 2,718           | 3.02          | 3.13          | 2,718                | 3.02            | 2,813                | 3.13                         | \$168,779                   |                              |                  |
|                                   | Two Bedroom     | 2B / 2b      | 80         | 22%              | 1,050        | 84,000         | 2,718           | 2.59          | 2.68          | 2,718                | 2.59            | 2,813                | 2.68                         | \$225,039                   |                              |                  |
| <b>Subtotal/Weighted Average:</b> |                 |              | <b>370</b> | <b>100%</b>      | <b>778</b>   | <b>287,700</b> | <b>\$2,281</b>  | <b>\$2.93</b> | <b>\$3.5%</b> | <b>\$2,361</b>       | <b>\$3.04</b>   | <b>\$2,361</b>       | <b>\$3.04</b>                |                             |                              | <b>\$873,540</b> |



# City of San Leandro

Meeting Date: December 7, 2015

## Ordinance

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**File Number:** 15-583

**Agenda Section:** ACTION ITEMS

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** ORDINANCE Amending Title 4, Chapter 32 of the San Leandro Municipal Code Relating to the Rent Review Ordinance

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**WHEREAS**, the City of San Leandro adopted the Rent Review Ordinance in 2001 in response to rapidly rising rents; and

**WHEREAS**, the Rent Review Ordinance established the Rent Review Board to review proposed rent increases and encourage landlords and tenants to come to mutually satisfactory accommodations; and

**WHEREAS**, certain aspects of the Rent Review Ordinance are outdated and require clarification; and

**WHEREAS**, City staff received input from a variety of stakeholders and directly from the City Council which has led to the proposed amendments to the Rent Review Ordinance; and

**WHEREAS**, the City of San Leandro desires to clarify the provisions in the Rent Review Ordinance and revise existing provisions in response to the rapidly transforming rental market in San Leandro as well as in the San Francisco Bay Area as a whole and to modernize and more effectively administer the Rent Review Program and Rent Review Board hearings.

**NOW, THEREFORE**, the City Council of the City of San Leandro does **ORDAIN** as follows:

**SECTION 1. Recitals.** The above recitals are true and correct and made a part of this ordinance.

**SECTION 2. CEQA.** Approval of the amendments is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a

significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

**SECTION 3. Approval.** The City Council hereby approves the amendments to the Municipal Code, more particularly, amending Title 4, Chapter 32 as shown in attached Exhibit A with red-lined amendments, which is incorporated herein by reference and available for review in the City Clerk's office during normal business hours.

**SECTION 4. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

**SECTION 5. Publication and Effective Date.** This Ordinance shall take effect thirty (30) days after adoption. The title thereof shall be published once and a complete copy thereof shall be posted on the City Council Chamber bulletin board for five (5) days prior to adoption.



## EXHIBIT A: PROPOSED AMENDED RENT REVIEW ORDINANCE

Note: **underline and bolded** text represents new text; ~~strike through~~ text represents text to be eliminated

CHAPTER 4-32 RENT REVIEW

ARTICLE 1. GENERAL

4-32-100 SHORT TITLE.

This Chapter shall be known as the “Rent Review Ordinance.”

4-32-105 DEFINITIONS.

Unless the context otherwise requires, the terms defined in this Chapter shall have the following meanings:

(a) **BASE RENT** means the rental amount, including any amount paid to the landlord for parking, storage, utilities, water, garbage or any other fee or charge associated with ~~the~~ tenancy residential property required to be paid by the tenant to the landlord in the month immediately preceding the effective date of the rent increase. Additionally, base rent ~~could~~ includes costs associated with the initial conversion to a Ratio Utility Billing System.

(b) **BOARD** means the Rent Review Board, as defined in this section.

(c) **CITY** means the City of San Leandro.

(d) **CITY MANAGER** means the City Manager of the City of San Leandro, or his or her designated representative.

(e) **COMMUNITY DEVELOPMENT DIRECTOR**, means the Director of the Community Development Department of the City of San Leandro, or his or her designated representative.

(f) **CONSUMER PRICE INDEX (CPI)** means the annually adjusted average consumer price index, which is released by the U.S. Department of Labor – Bureau of Labor Statistics for the San Francisco – Oakland – San Jose Consolidated Metropolitan Statistical Area (CMSA), as adopted by the City of San Leandro for its annual budget.

(g) **COUNCIL** means the City Council of the City of San Leandro.

(h) **LANDLORD** means any person, partnership, corporation, or other business entity offering for rent or lease any residential property in the City. “Landlord” shall include the agent or representative of the landlord, provided that such agent or representative shall have full authority to answer for the landlord and enter into binding agreements on the landlord’s behalf.

(i) **PARTY** means a person who participates in the rent review program of this chapter or his or her agent or representative.

(j) **RATIO UTILITY BILLING SYSTEM** means a billing system paid to a third party that allocates the property’s actual utility bill to the tenant based on an occupant factor, square footage factor, or any other similar factors.

(k) **RENT** means a fixed periodic compensation paid by a tenant at fixed intervals to a landlord for the possession and use of residential property, including any amount paid to the

landlord for parking, storage, utilities, [water, garbage](#), or any other fee or charge associated with the tenancy.

(k) **RENT INCREASE** means any upward adjustment of the rent from the base rent amount.

(l) **RENT REVIEW BOARD** means the board established under Article 4 of Chapter 1-3 of this Code.

(m) **RESIDENTIAL PROPERTY** means any housing unit offered for rent or lease in the City, provided that such housing unit is in a [building parcel](#) that contains ~~three~~ [two](#) or more [tenant-occupied](#) housing units, and mobile homes. Mobile homes are subject to this Chapter only if a tenant rents the mobile housing unit itself.

(n) **TENANT** means any person having the legal responsibility for the payment of rent for residential property in the City. "Tenant" shall include the agent or representative of the tenant, provided that such agent or representative shall have full authority to answer for the tenant and enter into binding agreements on the tenant's behalf.

#### ARTICLE 2. NOTICE OF AVAILABILITY OF RENT REVIEW 4-32-200 NOTICE OF AVAILABILITY OF RENT REVIEW REQUIRED.

In addition to the notice of a rent increase required by Civil Code Section 827(b), and at the time when a landlord provides such notice of a rent increase, the landlord shall also provide notice of the availability of the rent review procedure established by this Chapter. Any rent increase accomplished in violation of this Chapter shall be void, and no landlord may take any action to enforce such an invalid rent increase. Any rent increase in violation of this Chapter shall operate as a complete defense to an unlawful detainer action based on failure to pay any illegal rent increase. Any tenant required to pay an illegal rent increase may recover all illegal rent increase amounts actually paid by the tenant.

[If a landlord fails to properly notice a tenant pursuant to this Chapter, the landlord must re-notice the tenant in accordance with this section prior to demanding or accepting any increase in rent.](#)

#### 4-32-205 CONTENTS OF NOTICE.

All notices of the availability of rent review shall be in writing, shall provide the name, address and phone number of the landlord and shall be personally delivered to the tenant or posted and mailed to the tenant at the address of the tenant's ~~rental unit~~ [residential property](#) by first class mail, postage pre-paid. Service by mail shall be presumed complete within five (5) days of mailing. This presumption may be rebutted by the tenant.

#### 4-32-210 TEXT OF NOTICE.

In addition to all other information provided in the notice of the availability of rent review required by this Chapter, each such notice shall state:

NOTICE: Under Civil Code Section 827(b) a landlord must provide a tenant with thirty (30) days notice prior to a rent increase of ten percent (10%) or less and sixty (60) days notice of a rent increase of greater than ten percent (10%). Under Title 4, Chapter 32 of the San Leandro Municipal Code, a landlord must at the same time provide this notice of the City's rent review procedure before demanding or accepting any increase in rent. You are encouraged to contact the owner or manager of your rental unit to discuss ~~the~~ rent increase and or any maintenance or repair work that needs to be done in your rental unit. However, if you have received notice of a rent increase that 1) will increase your rent more than ten percent (10%) above the base rent you paid last month; ~~2) is greater than \$75 per month, or 3) is greater than \$100 per month. Beginning on July 1, 2017, and each July 1 thereafter, this threshold for a rent increase that is greater than \$100 shall increase by an amount equal to the prior year's increase, if any, in the Consumer Price Index (CPI), as determined by the United States Department of Labor and adopted by the City of San Leandro for its annual budget. The City shall use the February to February change in the CPI to calculate the annual increase, if any. A decrease in the CPI shall not result in a decrease of this threshold for a rent increase.~~ plus the annual Consumer Price Index (CPI) adjustment adopted by the City, or 3) follows one or more prior rent increases within the past twelve months, you may request that the San Leandro Rent Review Board review the increase. Such a request must be submitted in writing within fifteen (15) calendar days of your receiving notice of the rent increase (or post marked within 15 days of receipt if mailed). You must submit a copy of the Notice of Increase at the same time you submit the Hearing Request. If you request review of the rent increase, you and your landlord will be required to appear before the Board for a hearing on your rent dispute. After hearing from you and your landlord the Board will make a non-binding recommendation for resolution of the rent dispute. To request review of your rent increase, please contact the Board through the Community Development Department of the City of San Leandro, 835 East 14th Street, San Leandro, CA 94577. Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

### ARTICLE 3. RENT REVIEW

#### 4-32-300 REQUEST FOR RENT REVIEW.

~~Either a landlord or a~~ A tenant may seek to have a rent dispute heard before the Board when the proposed rent increase: 1) raises the rent to an amount more than ten percent (10%) greater than the base rent; ~~2) increases the monthly rent by an amount greater than seventy five dollars (\$75) per month, or 3) increases the monthly rent by an amount greater than \$100 per month. Beginning on July 1, 2017, and each July 1 thereafter, this threshold for a rent increase that is greater than \$100 shall increase by an amount equal to the prior year's increase, if any, in the Consumer Price Index, as determined by the United States Department of Labor and adopted by the City of San Leandro for its annual budget. The City shall use the February to February change in the CPI to calculate the annual increase, if any. A decrease in the CPI shall not result in a decrease of this threshold for a rent increase.~~ plus the annual Consumer Price Index (CPI) adjustment adopted by the City or 3) follows a prior rent increase imposed within the previous

twelve-month period. The ~~party-tenant~~ seeking a rent review must submit the hearing request in writing to the Community Development ~~Department Director of the City of San Leandro, 835 East 14th Street, San Leandro, CA 94577,~~ within fifteen (15) calendar days of the tenant's receipt of a notice of rent increase. The hearing request must be received by the Community Development Director, (or post marked (if submitted by mail) within fifteen (15) calendar days of receipt of the notice of rent increase such receipt if the request for review is mailed). The request must be accompanied by a copy of the Landlord's Notice of Increase.

The Community Development Director shall provide the landlord with a copy of the tenant's rent review hearing request form, which shall be accompanied by a hearing response form. A landlord must submit a completed hearing response form to the Community Development Director within ten (10) calendar days of the landlord's receipt of a tenant's rent review hearing request form. A rent increase shall be void, and the landlord shall be required to properly re-notice the tenant in accordance with Section 4-32-200 of this Code if the landlord does not submit a hearing response form pursuant to this section. The Community Development Director shall provide notice of the requirements of this section in a conspicuous location on the hearing response form.

The hearing shall be scheduled before the Board within ~~fifty-sixty (650)~~ days of the receipt of the hearing request, ~~unless the landlord and the tenant consent to a later date~~ or as soon thereafter as the hearing may be scheduled.

A request for rent review shall not delay the effective date of a rent increase. If appropriate, the parties may enter into a ~~mutual~~ private agreement to delay the effective date of a rent increase or reach any other agreement to effectively reimburse rent increases paid by the tenant.

#### 4-32-305 NOTICE TO PARTIES.

After determining that a proposed rent increase meets the criteria for initiation of rent review set forth in Section 4-32-300 above, the Community Development Director shall schedule a ~~staff facilitation~~ rent review hearing of the rent dispute before the Board. The Community Development Director shall provide the landlord and the tenant notice of the hearing date and location at least ten (10) days prior to the hearing. The notice to the landlord shall encourage him or her to contact the tenant directly to seek a mutually satisfactory resolution of the rent dispute prior to the Board hearing.

#### 4-32-310 HEARING AND DETERMINATION.

At a hearing of a rent dispute, the Board will afford the landlord and the tenant an opportunity to explain their respective positions. After hearing from both parties, and taking into consideration such factors as the hardship to the tenant, the frequency and amount of prior rent increases, the landlord's mortgage payments and other costs associated with owning and maintaining the property, the landlord's interest in earning a reasonable rate of return, and any other factors that may assist the Board in determining a fair resolution to the dispute, the Board will make a recommendation to the parties for the resolution of their dispute. If the parties agree

to a resolution proposed by the Board, they may formalize the agreement in a standard form signed by both parties. Neither the City nor the Board shall be a party to such an agreement, nor shall the City or the Board assume any responsibility for enforcement of its terms.

#### 4-32-315 CONTINUANCE.

If the landlord and tenant are unable to reach a resolution of their dispute during a hearing before the Board, the Board may in its discretion continue the hearing to the next scheduled regular meeting or special meeting of the Board for up to one month and require the parties to return for a second and final Board hearing of their dispute. Whenever the Board continues a hearing of a rent dispute, the Board will provide notice of the continuance to a mailing list of interested organizations that annually submit to the City Clerk a request to be included on such mailing list.

#### 4-32-320 FAILURE TO APPEAR—~~RETALIATORY EVICTION.~~

If the tenant requesting a rent review hearing appears at a noticed Board hearing, but the landlord who has been given notice of the Board hearing as required by Section 4-32-305 above fails to appear before the Board without good cause, the rent increase shall be void, and the landlord may not take any action to enforce such an invalid rent increase. ~~Commencement of eviction proceedings against a tenant for exercising his or her rights under this Chapter shall be considered a retaliatory eviction.~~ If a tenant who has been given proper notice of a Board hearing as required by Section 4-32-305 ~~above of this Code~~ fails to appear before the Board without good cause, or if both the tenant and landlord fail to appear without good cause, the Board shall dismiss the case and the tenant will be barred from subsequently challenging such increase before the Board.

#### 4-32-325 ~~RETALIATORY EVICTION.~~

Commencement of eviction proceedings against a tenant for exercising his or her rights under this Chapter shall be considered a retaliatory eviction. Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

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#### ARTICLE 4. ~~COUNCIL-CITY MANAGER REVIEW~~

##### 4-32-400 REFERRAL TO CITY ~~COUNCILMANAGER~~

If the parties to a rent dispute are unable to mutually agree to a resolution of the dispute before the Board ~~after a first hearing and a second and final continuance hearing, either party may request that~~ the Board ~~may, in its discretion, refer forward~~ the rent dispute ~~for further consideration by~~ to the City ~~Manager for review~~ Council. ~~In its discretion, after either a first or a second hearing, the Board may then request that the Council review the rent dispute.~~ Whenever the Board recommends that the ~~Council-City Manager~~ review a rent dispute, the Board will provide notice of its action to a mailing list of interested organizations that annually submit to the City Clerk a request to be included on such mailing list. In the event that a landlord and tenant

mutually agree to a resolution of their rent dispute prior to review by the City Manager, the rent dispute will no longer be forwarded to the City Manager for review.

4-32-405 CONSIDERATION BY CITY MANAGER.

Upon referral from the Board, the City Manager may request a meeting with the tenant and landlord in an effort to resolve the rent dispute. However, the City Manager shall have no authority to require the tenant and landlord to meet or take any further actions pursuant to this Chapter.

ARTICLE 5. MISCELLANEOUS

4-32-500 ANNUAL REVIEW.

The Board shall annually prepare a report to the Council assessing the effectiveness of the rent review program established under this Chapter and recommending changes as may be appropriate.

2555539.1