

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Bill Lindsay

Phone: 620-6512

Meeting Date: July 19, 2017

Final Decision Date Deadline: July 19, 2017

STATEMENT OF THE ISSUE: At their meeting on June 21, 2017, the Rent Board directed that staff present at a future Board meeting options concerning if rent increases permitted by the Annual General Adjustment were not taken in full, whether the increase could be "banked," and if so, for how long and to what amount. Regulation 17-09 is necessary to establish such policies.

INDICATE APPROPRIATE BODY

- | | | | | |
|---|---|--|--|---|
| <input type="checkbox"/> City Council | <input type="checkbox"/> Redevelopment Agency | <input type="checkbox"/> Housing Authority | <input type="checkbox"/> Surplus Property Authority | <input type="checkbox"/> Joint Powers Financing Authority |
| <input type="checkbox"/> Finance Standing Committee | <input type="checkbox"/> Public Safety Public Services Standing Committee | <input type="checkbox"/> Local Reuse Authority | <input checked="" type="checkbox"/> Other: <u>Rent Board</u> | |

ITEM

- | | | |
|---|--|---------------------------------------|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) | | |
| <input type="checkbox"/> Public Hearing | <input checked="" type="checkbox"/> Regulation | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Contract/Agreement | <input type="checkbox"/> Rent Board As Whole | |
| <input type="checkbox"/> Grant Application/Acceptance | <input type="checkbox"/> Claims Filed Against City of Richmond | |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Video/PowerPoint Presentation (contact KCRT @ 620.6759) | |

RECOMMENDED ACTION: ADOPT Regulation 17-09, regarding the right to raise the Rent up to the Maximum Allowable Rent level, also known as "banking" rent increases, under certain limitations (Nicolas Traylor/Michael Roush – 620-6576).

AGENDA ITEM NO:

G-1.



AGENDA REPORT

RENT PROGRAM

DATE: May 24, 2017

TO: Chair Gray and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director
Michael Roush, Legal Counsel

SUBJECT: ADOPTION OF AMENDED REGULATION 17-09, REGARDING THE
"BANKING" OF ANNUAL GENERAL ADJUSTMENT RENT INCREASES

STATEMENT OF THE ISSUE:

At their meeting on June 21, 2017, the Rent Board directed that staff present at a future Board meeting options concerning if rent increases permitted by the Annual General Adjustment were not taken in full, whether the increase could be "banked," and if so, for how long and to what amount. Regulation 17-09 is necessary to establish such policies.

RECOMMENDED ACTION:

ADOPT Regulation 17-09, regarding the right to raise the Rent up to the Maximum Allowable Rent level, also known as "banking" rent increases, under certain limitations (Nicolas Traylor/Michael Roush – 620-6576).

FISCAL IMPACT:

There is no fiscal impact to the City at this time.

DISCUSSION:

Regulation 17-09 is modeled after Oakland's "banking" rules (see Case Study Matrix) and is intended to strike a balance between landlord and tenant concerns, providing Landlords the right to raise the rent up to the Maximum Allowable Rent level, with certain limitations. The following is a summary of the proposed regulation:

1. A Landlord may, but is not required to, increase Rent by the Annual General Adjustment as provided by Board Regulation.

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2. Based on the Annual General Adjustment, a Landlord may increase Rent only once in any twelve month period.
3. To the extent that a Landlord has not increased Rent by the full amount of the allowable Annual General Adjustment and subject to item 2 above, a Landlord may increase Rent in excess of the Annual General Adjustment but by no more than (a) 10% in any twelve month period and (b) 30% in any five year period.
4. Nothing in this Regulation shall preclude a Landlord from petitioning for a Rent Increase in excess of the Annual General Adjustment.

DOCUMENTS ATTACHED:

Attachment 1 – Regulation 17-09

Attachment 2 – Case Study Matrix

ATTACHMENT 1

RICHMOND RENT BOARD REGULATION 17-09

Regarding the right of Landlords to raise the Rent up to the Maximum Allowable Rent level, also known as “banking” rent increases, under certain limitations

Whereas, the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance (Chapter 11.100, Richmond Municipal Code) provides that no later than June 30 of each year the Board shall announce the percentage by which Rent for eligible Rental Units will be generally adjusted effective September 1 of that year. Section 11.100.070 (b), RMC; and

Whereas, the Annual General Adjustment shall equal one-hundred (100%) percent of the percentage increase in the Consumer Price Index (All Urban Consumers, San Francisco-Oakland-San Jose region, or any other successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics)(CPI) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of March of the current year and

Whereas, on December 30, 2016, Landlords were entitled to increase the Maximum Allowable Rent in an amount not to exceed 3.0% for tenancies in effect prior to September 1, 2015, as provided in Section 11.100.070 (b) (3), RMC, assuming a Landlord served a Tenant with the legally required notice of a rent increase under State law; and

Whereas, the percentage increase in the CPI from 2016-2017, as set forth in recital 2, was 3.4%; and

Whereas, in recognition that some Landlords may elect not to impose in any given year the full amount of the Annual General Adjustment but have concerns that if they do not, they will lose the opportunity to impose some or all of the Annual General Adjustment in a subsequent year or years, the Board, by this Regulation, providing Landlords the right to raise Rent up to the Maximum Allowable Rent to address those concerns, but include limitations such that to protect tenants, a Tenant will receive no more than one Rent increase in a twelve-month period, no more than a ten percent (10%) Rent increase in a twelve month period and no more than a thirty percent (30%) rent increase in any five year period.

NOW, THEREFORE, THE RICHMOND RENT BOARD ADOPTS THE FOLLOWING REGULATION:

1. A Landlord may, but is not required to, increase Rent by the Annual General Adjustment as provided by Board Regulation.
2. Based on the Annual General Adjustment, a Landlord may increase Rent for a Controlled Rental Unit occupied continuously by the same Tenant only once in any twelve-month period.
3. To the extent that a Landlord has not increased Rent by the full amount of the allowable Annual General Adjustment and subject to section 2 above, a Landlord may increase Rent in excess of the Annual General Adjustment, up to the Maximum Allowable Rent, but by no more than (a) ten percent (10%) in any twelve month period and (b) thirty percent (30%) in any five year period.
4. Nothing in this Regulation shall preclude a Landlord from petitioning for a Rent Increase in excess of the Annual General Adjustment.

City of Richmond Rent Program | Case Study Comparisons: “Banking” Annual General Adjustment Rent Increases

	BERKELEY	EAST PALO ALTO	LOS ANGELES	OAKLAND	SANTA MONICA	WEST HOLLYWOOD	RICHMOND (PROPOSED)
Application of the Annual General Adjustment – Can AGA Increases Be “Banked,” such that there is a Maximum Ceiling, not to exceed all applicable Annual General Adjustments?	<p>YES.</p> <p>Rent may be increased so long as the Tenant is noticed in accordance with California Civil Code Section 827(b).¹</p>	<p>YES, with limitations.</p> <ul style="list-style-type: none"> Rent increases may not exceed 10% in any 12-month period. A written notice of banking must be given to the tenant by February 1 in the program year for which an AGA is authorized and will not be used that lists which, if any, authorized AGAs have not been taken. A landlord may not bank more than three AGAs during a tenant’s occupancy. 	<p>NO.</p> <p>The annual increase may be imposed only if twelve (12) months or more have elapsed since the last such rent increase. The increase is neither cumulative nor retroactive.</p>	<p>YES, with limitations.</p> <ul style="list-style-type: none"> An owner may increase the rent on a covered unit occupied continuously by the same tenant only once in a 12-month period. No individual rent increase can exceed the existing rent by more than ten percent in any 12-month period. No series of rent increases in any five-year period can exceed 30 percent for any rent increases based on the CPI Rent Adjustment, with exceptions. 	<p>YES.</p> <p>Rent may be increased so long as the Tenant is noticed in accordance with California Civil Code Section 827(b).¹</p>	<p>NO, unless tenancy commenced prior to January 1, 1996.²</p> <p>The annual general adjustment announced by the Commission each year shall be available only for annual rent increases which first become effective at any time during the period of September first of the year in which the adjustment is announced through August thirty-first of the following year.</p>	<p>YES, with limitations.</p> <ul style="list-style-type: none"> A Landlord may increase the rent on a Controlled Rental Unit, occupied continuously by the same tenant, only once in a 12-month period. No individual rent increase can exceed the existing rent by more than ten percent in any 12-month period. No series of rent increases in any five-year period can exceed 30 percent.
In banking AGA increases, are increases compounded, as to create a Maximum Rent Ceiling?	YES	YES, subject to the limitations described above	NO	YES, subject to limitations described above	YES	NO	YES, subject to the limitations described above
Amount of Annual General Adjustment	65% of CPI-U (SF-Oakland-San Jose region) for 12-month period ending June 30	80% of CPI-U (SF-Oakland-San Jose region) for 12-month period ending in February	100% of CPI-U (Los Angeles-Long Beach-Anaheim-SMSA) for 12-month period ending September 30, not to exceed 8.0% PLUS an additional 1.0% for each electric or gas service if Landlord pays all costs, not to exceed an additional 2.0%	100% of the average of the percentage increase in the CPI-U (SF-Oakland-San Jose region) for the 12-month period starting March 1 of each year and ending the last day of February	75% of CPI-U (Los Angeles, Riverside, Orange County region) for 12-month period ending in March	75% of CPI-U (Los Angeles, Riverside, Orange County region) for 12-month period ending in May, not to exceed 7%	100% of CPI-U (SF-Oakland-San Jose region) for 12-month period ending in February
2017 AGA	1.8%	2.4%	3.0%	2.3%	2.0%, with a \$40 cap for all Maximum Allowable Rents of \$1,975 or higher ³	1.0%	3.4%
2016 AGA	1.5%	2.0%	3.0%	2.0%	1.3%, with a \$25 cap for all Maximum Allowable Rents of \$1,913 or higher ³	1.75%	3.0%

¹ Section 827(b) of the California Civil Code of Procedures requires 30 days’ notice for rent increases of 10 percent or less of the rental amount charged to that tenant at any time during the 12 months prior to the effective date of the increase, or 60-days’ notice for rent increases more than 10 percent.

² See Section 17.08.010(1) of the City of West Hollywood Rent Stabilization Ordinance (<http://qcode.us/codes/westhollywood/>)

³ Santa Monica’s City Charter Section 1805(b) allows the Rent Board to impose a dollar-amount limit to the annual general adjustment. The methodology for determining such ceiling is based on averaging the 85th percentile of the maximum allowable rent for all controlled units and those controlled unit with a base rent established before January 1, 1999, and multiplying that amount by the Annual General Adjustment. See memorandum dated June 8, 2017:

[https://www.smgov.net/uploadedFiles/Departments/Rent_Control/About_the_Rent_Control_Board/Staff_Reports/2017/Item%2011A%20GA%20and%20Ceiling%202017\(1\).pdf](https://www.smgov.net/uploadedFiles/Departments/Rent_Control/About_the_Rent_Control_Board/Staff_Reports/2017/Item%2011A%20GA%20and%20Ceiling%202017(1).pdf).

ATTACHMENT 2

	BERKELEY	EAST PALO ALTO	LOS ANGELES	OAKLAND	SANTA MONICA	WEST HOLLYWOOD	RICHMOND (PROPOSED)
COMBINED MAXIMUM AGA INCREASE (reflects compounding)	3.3%	4.4%	N/A - Increases cannot be banked	4.3%	3.3%	2.8% (for tenancies commencing prior to 1/1/96)	6.5%
2015 Fair Market Rent (FMR) for a 2-Bedroom Apartment⁴	\$1,585	\$2,062	\$1,424	\$1,585	\$1,424	\$1,424	\$1,585
Application of 2016 & 2017 AGAs on Fair Market Rent	\$1,637	\$2,153	N/A - Increases cannot be banked	\$1,653	\$1,471	\$1,464 (for tenancies commencing prior to 1/1/96)	\$1,688
Section Reference	Rent Stabilization and Good Cause Ordinance, Section 13.76.110; The Berkeley Rent Board Mailbag ⁵	Rent Stabilization Ordinance, Section 14.04.100	RAC Regulation 360.00; Rent Stabilization Ordinance Section 151.06(D) & Section 151.07(A)(6)	Residential Rent Adjustments and Eviction Ordinance, Section 8.22.065 & Section 8.22.070; Oakland CPI Banking Calculator	Santa Monica Rent Board Regulations, Chapter 3; Santa Monica Rent Control Law Charter Amendment, Section 1805	Rent Stabilization Ordinance, Section 17.36.050	Rent Board Regulation 17-05

⁴ The United States Department of Housing and Urban Development (HUD) determines Fair Market Rents (FMRs) by county. Figures shown do not include the utility allowance. Source: HUD User 2015 Final Fair Market Rents.

https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2015_code/select_Geography.odn.

⁵ http://www.ci.berkeley.ca.us/Rent_Stabilization_Board/Home/FAQs_AGA_and_other_rent_increases.aspx