

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: October 18, 2017

Final Decision Date Deadline: October 18, 2017

STATEMENT OF THE ISSUE: In light of the ongoing discussion and debate the Board has been having on whether or not to allow banking of AGA increases, the Richmond Rent Program's Executive Director, Nicolas Traylor, reached out to three peer rent control agencies for their input on the banking issue. These testimonial briefs are being provided to assist the Board in making an informed decision when the banking regulation is revisited.

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 type="checkbox"/> Regulation | <input checked="" type="checkbox"/> Other: <u>CONSENT CALENDAR</u> |
| <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: RECEIVE memoranda from Executive Directors in peer jurisdictions with rent stabilization policies regarding the impacts of restricting a landlord's ability to "bank" Annual General Adjustment rent increases – Rent Program (Nicolas Traylor 620-6537).

AGENDA ITEM NO:

G-3.

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AGENDA REPORT

DATE: October 18, 2017

TO: Chair Gray and Members of the Rent Board

FROM: Nicolas, Traylor, Executive Director

SUBJECT: LETTERS FROM EXECUTIVE DIRECTORS IN PEER RENT CONTROL JURISDICTIONS REGARDING THE ISSUE OF "BANKING" DEFERRED ANNUAL GENERAL ADJUSTMENT INCREASES

STATEMENT OF THE ISSUE:

In light of the ongoing discussion and debate the Board has been having on whether or not to allow banking of AGA increases, the Richmond Rent Program's Executive Director, Nicolas Traylor, reached out to three peer rent control agencies for their input on the banking issue. These testimonial briefs are being provided to assist the Board in making an informed decision when the banking regulation is revisited.

RECOMMENDED ACTION:

RECEIVE memoranda from Executive Directors in peer jurisdictions with rent stabilization policies regarding the impacts of restricting a landlord's ability to "bank" Annual General Adjustment rent increases – Rent Program (Nicolas Traylor 620-6564).

FISCAL IMPACT:

There is no fiscal impact related to this item at this time.

DISCUSSION:

Background

At the last two Rent Board meetings, Board members were presented several proposed "banking" regulations. The Executive Director recommended adopting a banking regulation that allows a landlord to take the current years AGA increase plus five percent (5%) of any deferred AGA from previous years. The Board will address the banking issue at the next Board meeting on November 15, 2017.

Purpose

The purpose of this agenda item is to further educate the Board on both the administrative and policy impact of prohibiting or allowing banking (with restrictions).

DOCUMENTS ATTACHED:

Attachment 1 – Testimonial letter from Victor Ramirez, Executive Director of the East Palo Alto Rent Stabilization Program

Attachment 2 – Testimonial letter from Tracy Condon, Executive Director of the Santa Monica Rent Stabilization Program



**City of East Palo Alto
Office of the City Manager
Rent Stabilization Program**

2415 University Avenue, 2nd Floor
East Palo Alto, CA 94303
Tel: 650-853-3157 / Fax: 650-853-3115
rentprogram@cityofepa.org

Via email (nicolas_traylor@ci.richmond.ca.us)

October 11, 2017

Nicolas Traylor
Executive Director
Richmond Rent Program
440 Civic Center Plaza, Second Floor
Richmond, CA 94804

Re: East Palo Alto's AGA Banking Regulations

Dear Mr. Traylor:

Per your request and to provide the Richmond Rent Board with more information that the Board may wish to consider when deciding what the best way to regulate banking of Annual General Adjustments in Richmond is, I would like to share with the Board the East Palo Alto's experience on this issue.

In 2010, the East Palo Alto voters adopted a new Rent Stabilization Ordinance to protect tenants against major increases based on years of unused Annual General Adjustments (AGAs) which had forced many low income families out of their homes between 2007 and 2009. Thus, the 2010 Ordinance regulated "banking" of rent increases when the landlord did not impose a rent increase allowed under the AGA. The Ordinance allowed unused AGAs to be implemented in future years, subject to some limitations:

- The overall rent increase in any one year pursuant to the AGAs and banked AGAs could not exceed 10%.
- By February 1 of each year, the landlord had to provide an annual notice to the tenant that had to list which, if any, authorized AGAs had not yet been implemented. Landlords also had to provide a copy of the banking notice to the Rent Stabilization Program.
- A landlord could not bank increases in rent from more than three AGAs during occupancy by the same tenant. Implementation of banked rent increases was limited to the last three banked AGAs.

The Ordinance then became much more complicated, difficult and expensive to administer. If the landlord did not invoke banking, each year's AGA percentage was then applied to the then actual legal rent rather than the base rent plus all previous AGAs. The Program had to collect annual information on the actual rent charged and the used and unused AGAs on every existing tenancy. This process was further complicated by a banking system that allowed landlords to use up to three years of the reported and unused AGAs, but only if they had provided a required banking notice to the tenant by February 1 each year. To further complicate the administration of the Ordinance, many rent increase anniversary dates fell after February 1, so some landlords did not issue a banking notice when they were planning on using the AGA for that specific year. To preemptively respond to possible illegal rent increase challenges, other landlords decided to issue banking notices even if they were actually planning to use their authorized AGA for that specific year.

Enforcement of banking, with a limitation of three years on increases banked, required the Program to not only track actual rents but also change the maximum allowable rent (MAR) once banking exceeded three years even if not more than 10% or if the landlord failed to provide the required banking notice to tenants. The Program had to either maintain files of copies of landlord banking notices to tenants or contact landlords for such notices in order to properly maintain MAR records. Issuing banking notices and then rent increase notices also caused confusion among tenants, and it became a point of contentions between tenants and landlords. On many cases, especially small landlords failed to understand and properly comply with banking requirements even when they tried. Many landlords, especially small landlords, failed to issue banking notices and had to then reissue rent increase notices, lose AGAs, and reimburse tenants after months of collecting rent increased amounts which were within the AGAs limits but improperly increased due to their failure to comply with banking notice requirements. Also, this banking system did not allow landlords to charge a rent below the MAR without jeopardizing their ability to raise the rent to the MAR in the future.

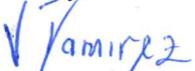
Applying AGAs to the actual rent charged, tracking and enforcing compliance of banking requirements made the administration of the Ordinance more expensive. The Program had to dedicate a substantial amount of time to manually entering banking notice information and rent increase notice information into the Program's database, counseling tenants and landlords on banking requirements and resolving disputes arise from misinterpretations of a complicated system.

In 2016, the East Palo Alto voters amended the Ordinance by adopting new language regulating rents based on the maximum allowable rent rather than actual rent and eliminating banking requirements. This has reduced reporting and data entry requirements. To still protect tenants against major increases based on years of unused AGAs, the Ordinance imposes a 10% annual limitation on rent increases including the approved AGA for the Program year when the rent increase is to take effect. Thus, once an initial MAR is established, the Program can now determine the subsequent years' MARs by simply adding the cumulative AGA percentages to the base year rent. An additional protection was also added in 2016. If the calculation of the AGA results in a percentage higher than ten percent (10%), the annual general adjustment is now limited to ten percent (10%). At the beginning of each year, the Program also sends a notice to all the tenants informing them of the MAR that was initially certified and what a landlord could be legally collecting if all AGAs which have been approved during the life of the tenancy have been used.

Lastly, I can only hope that having briefly shared the East Palo Alto's experience with the Richmond Rent Board regarding AGA banking regulations helps the Rent Board make a determination that best fits the needs of the Richmond Rent Program to effectively implement the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance.

Should you have any questions or believe we can be of more assistance, please do not hesitate to contact us.

Sincerely,


Victor I. Ramirez, Administrator
Rent Stabilization Program



City of
Santa Monica®

Rent Control Board
1685 Main Street, Room 202
PO Box 2200
Santa Monica, CA 90407-2200
Phone: 310-458-8751

October 9, 2017

Nicolas Traylor, Executive Director
Richmond Rent Program
440 Civic Center Plaza
2nd Floor
Richmond, CA 94804

Dear Mr. Traylor:

I'm writing in response to your request for information on Santa Monica's rent control program, specifically the issue of banking annual general adjustments.

The Santa Monica Rent Control Law authorizes the maximum allowable rent for eligible units to be adjusted by the annual general adjustment with no limitation on when the increase may be implemented once it's authorized. The Board tracks each unit's maximum allowable rent which allows the Agency to answer questions from the public about the lawful rent for any properly-registered controlled unit in the city. The Board itself has never considered the pros and cons of limiting the implementation of general adjustments

Some property owners have suggested that without the ability to bank general adjustments, they would be forced to implement the maximum increase each year. Although we have no way of verifying whether this statement is true, it could suggest an unintended consequence that might result from an owner's inability to bank general adjustments.

If you have any questions, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Tracy H. Condon".

Tracy H. Condon
Administrator

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