

HOW TO INCREASE RENTS IN RICHMOND (FOR CONTROLLED RENTAL UNITS)

July 29, 2022

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CITY OF RICHMOND RENT PROGRAM



Richmond Rent Ordinance

The purpose of the Rent Ordinance is to promote neighborhood and community stability, healthy housing, and affordability for renters in the City of Richmond by controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring Landlords a fair and reasonable return on their investment and protecting homeowners.

Rent Control

Rent Regulation:
Rent Adjustment
Petition Process

Rent Stabilization
(Annual Cost of Living
Rent Increases)

Eviction Protections

Requirement to Pay
Relocation Assistance for No-
Fault terminations of tenancy

- ### Just Cause Required to Evict
1. Non-payment of Rent
 2. Breach of Lease
 3. Nuisance
 4. Failure to Give Access
 5. Temporary eviction for substantial repairs
 6. Owner or Owner Relative Move-In
 7. Withdrawal from the Rental Market (Ellis Act Eviction)
 8. Temporary Tenancy (applies to SFD and Condos)

3 OVERVIEW OF PRESENTATION

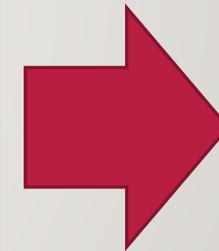
- There are three ways to lawfully raise rents in Richmond:
 - Resetting or increasing rents to market in between tenancies
 - The Annual General Adjustment rent increase
 - The Rent Adjustment Petition Process

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RAISING RENTS TO “MARKET” THROUGH VACANCY DECONTROL

Rents can be reset or raised to market when:

- 1. WHEN A TENANCY ENDS DUE TO VOLUNTARY VACANCY OR DUE TO AN AT-FAULT EVICTION AND A NEW TENANCY BEGINS.**
- 2. WHEN ALL THE ORIGINAL OCCUPANTS/ LEASEHOLDERS VACATE AND ONLY HOLD-OVER SUBTENANTS REMAIN IN THE UNIT.**
- 3. IF THE TENANT NO LONGER LIVES IN THE UNIT AS THEIR PRIMARY RESIDENCE (I.E. THE ORIGINAL TENANT IS PERMANENTLY SUBLETTING OR USING UNIT AS A VACATION HOME).**



When a new tenancy starts or when there is a complete turnover of original occupants, Landlords must file a Tenancy Registration form with the Rent Program.

**City of Richmond Rent Program
TENANCY REGISTRATION FORM**
Complete this form online at www.richmondrent.org/enroll



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REQUIREMENT TO REGISTER	Landlords MUST FILE this form for EACH EXISTING TENANCY and re-submitted for new tenancies or complete turnover of Original Occupants* . DO NOT COMPLETE THIS FORM FOR GOVERNMENTALLY SUBSIDIZED, SINGLE-FAMILY HOME/ CONDO, AND NEW CONSTRUCTION TENANCIES OR DUE TO THE ADDITION OF ROOMATES TO AN EXISTING TENANCY. *Per The Regulations of the Richmond Rent Board Chapter 7, original occupant includes any Tenant in the Rental Unit, with the Landlord's knowledge, that was residing in the unit on or before July 21, 2015, or when the Landlord last established an initial rent for the unit.
A: Enter Basic Rental Unit Information	Rental Property Street Address: <u>1234 Main Street</u> Unit #: <u>C</u> # of Bedrooms: <u>2</u>
B: Enter Tenancy Information <i>(List the names of all Tenants named in the Rental Agreement or that moved in within one month of the original Occupants with the Landlord's knowledge)</i>	PLEASE NOTE: Civil Code 1947.7(g) ensures the confidentiality of tenant names and other tenant information in accordance with the Information Practices Act of 1977. All tenant information supplied on this form will be treated as confidential information in accordance with the Information Practices Act of 1977. To comply with Civil Code 1947.7(g) and Richmond Rent Board Regulation 402, Tenant names must be provided. Tenant Name (first, last): <u>James Max</u> Tenant Name (first, last): <u>Jennifer Max</u> Tenant Name (first, last): _____ Tenant Name (first, last): _____ Tenant Name (first, last): _____
C: Enter Base Rent and Security Deposit Information <i>(The Base Rent is the rent paid on July 21, 2015, or, for tenancies that began after July 21, 2015, the first rent amount the Tenant paid after July 21, 2015)</i>	Beginning date of this tenancy (mm/dd/yyyy): <u>04, 01, 2010</u> # of Tenants: <u>2</u> Check the box that applies: <input checked="" type="checkbox"/> Month-to-month Agreement <input type="checkbox"/> Fixed Term Lease (indicate the length of the lease: e.g. 6 months, 1 year): _____ Was a discount provided (a) within the first 12 months of a month-to-month agreement OR (b) within the first term of the fixed-term lease? (check one) <input checked="" type="checkbox"/> If NO, continue to the Base Rent section below <input type="checkbox"/> If YES, how much total rent was discounted over that period? \$ _____ <i>Per The Regulations of the Richmond Rent Board Chapter 7, where the rental agreement includes periods for which the Tenant pays reduced, discounted or "free" rent, the Maximum Allowable Rent is calculated as the average of the monthly payments made during the initial term of the agreement or, in the case of a month-to-month tenancy, during the first twelve months of the tenancy.</i> The Base Rent is the rent paid on July 21, 2015, or, for tenancies that began after July 21, 2015, the first rent the Tenant paid after July 21, 2015. \$ <u>1,400.00</u> per month (RENT) + \$ <u>100.00</u> (ANY ADDITIONAL FEES / SURCHARGES) = \$ <u>1,500.00</u> (BASE RENT)

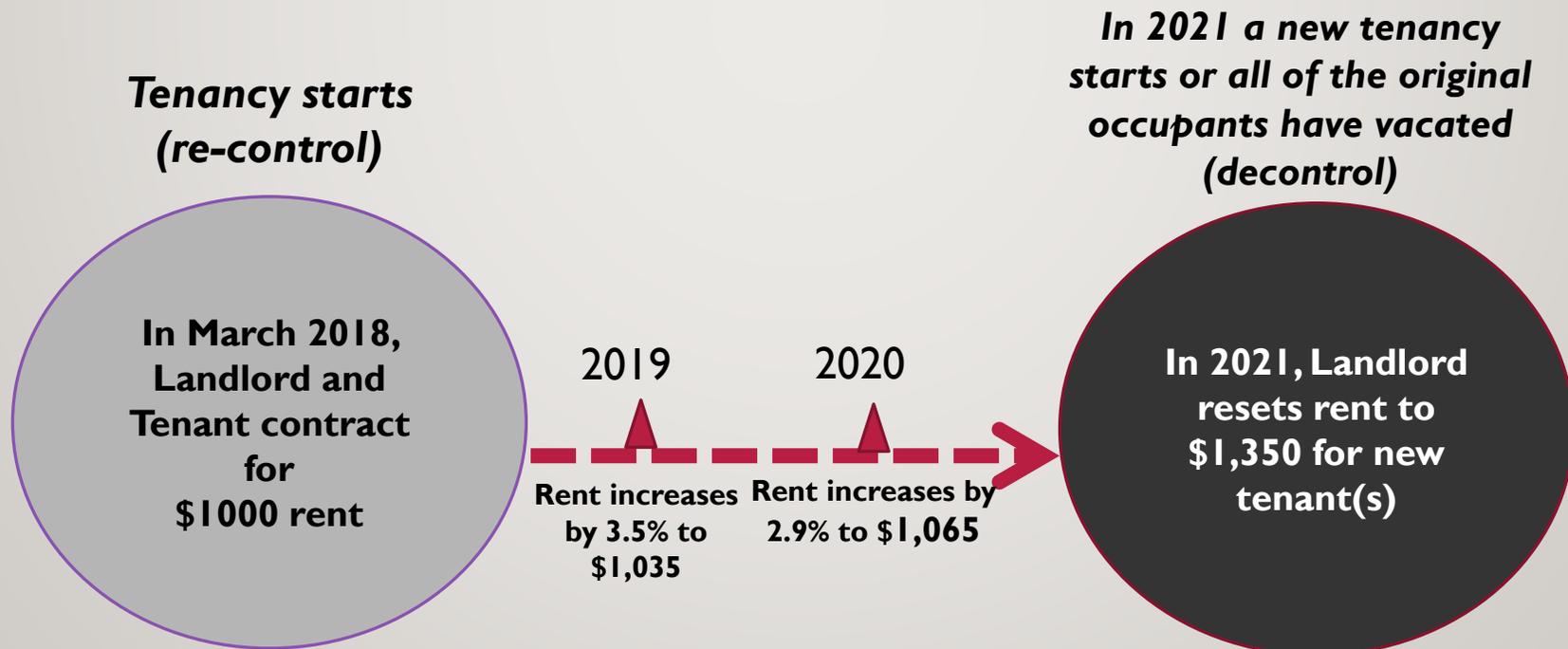
TURN TO PAGE 2 ↓

(continued)	Security Deposit Total amount of Security Deposit Collected: \$ <u>2,000.00</u> <i>Note: Security deposit means any money collected other than the first month's rent and application fee. Last month's rent, cleaning, and pet deposits are considered part of the security deposit.</i>
D: Indicate Housing Services Included in the Rent	Check the box next to the Housing Services paid by the Landlord or included in the Rent . <i>Note: Landlords may not charge for utilities unless utility is separately metered (RMC 11.100.070(f))</i> <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Garbage <input checked="" type="checkbox"/> Parking <input type="checkbox"/> Laundry <input type="checkbox"/> Gas <input type="checkbox"/> Electricity <input type="checkbox"/> Storage <input type="checkbox"/> Other: _____
E: Provide Details on the Previous Tenancy (if known)	Ending date of prior tenancy (if known) [mm/dd/yyyy]: <u>03, 01, 2010</u> Reason prior Tenant/s moved out (check one): <input checked="" type="checkbox"/> Tenant moved out voluntarily <input type="checkbox"/> Tenant moved out due to nonpayment of rent, nuisance, or breach of lease <input type="checkbox"/> Tenant moved out due to owner move-in, withdrawal from rental market, or substantial repairs <input type="checkbox"/> Other (e.g. abandonment) specify: _____ Final Rent charged to prior Tenant (if known): \$ <u>1,000.00</u> per month
Declaration and Signature	The undersigned does hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This form has been completed and signed by (check one): <input checked="" type="checkbox"/> Owner on Title <input type="checkbox"/> Property Manager / Authorized Agent Signature: <u>Malik Johnson</u> Print: <u>Malik Johnson</u> <i>*Bus. = Business</i> Bus. Phone Number: <u>(555) 123-4567</u> Bus. Email: <u>mjohnson@gmail.com</u> Date (mm/dd/yyyy): <u>10, 1, 2018</u>

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HOW DOES VACANCY DECONTROL WORK IN CALIFORNIA?

Cities in California with Rent Ordinances operate under the **Costa Hawkins Rental Act**, which allows for rents to be **decontrolled** in between tenancies and then **re-controlled** after the new tenancy starts.



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RAISING RENTS THROUGH THE ANNUAL GENERAL ADJUSTMENT (AGA)

What is the AGA and how is it calculated?

Landlords of Controlled Rental Units in Richmond are allowed to take an annual cost-of-living increase, based on 100% of Consumer Price Index (inflationary rate). This is known as the Annual General Adjustment or AGA.

When during the year can the AGA be taken?

Generally, the AGA can be taken on September 1 of each year after proper legal notice.

When can first AGA be taken after new tenancy starts?

To qualify for the first AGA increase, the tenancy had to have started prior to September 1 of the previous year.

Can Landlords “bank” or defer AGA increases and then take them in later years?

Yes, however landlords are limited to taking the current years AGA increase plus up to 5% from the previously deferred AGAs. If the AGA is over 5%, no banking of previous years AGAs is allowed.

STATE LAW ON HOW MUCH NOTICE TO GIVE CIVIL CODE 827

- Generally, changes in terms of tenancy require a minimum 30-day written notice.
- A notice to increase Rent by **10% or less** (during any 12-month period) requires a **30-day written notice** of Rent increase.
- A notice to increase Rent by **more than 10%** (during any 12-month period) requires a **90-day written notice** of Rent increase. (This section became effective January 1, 2020).

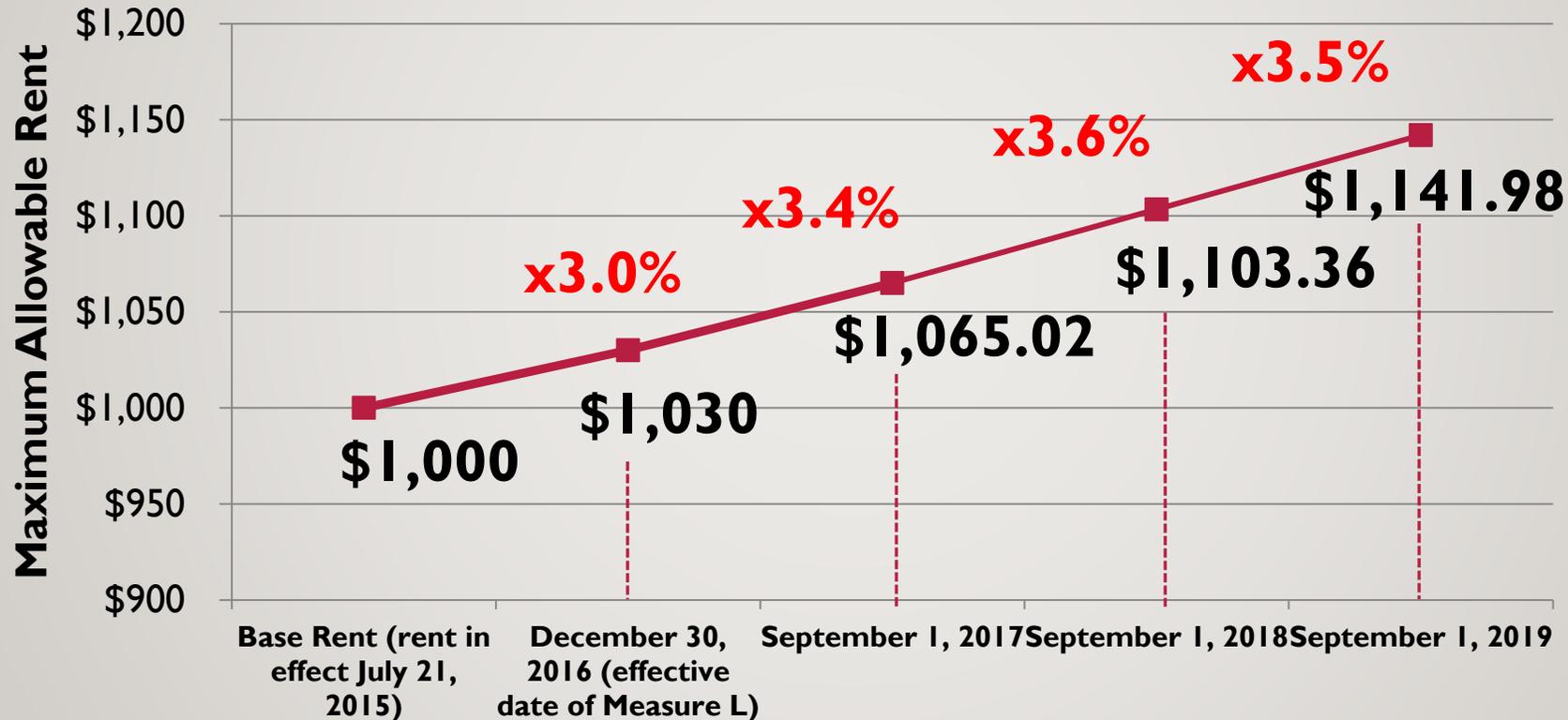
THE ANNUAL GENERAL ADJUSTMENT (AGA) AND THE MAXIMUM ALLOWABLE RENT (MAR)

The MAR is the maximum Rent that can be charged for a **Controlled Rental Unit**

The Maximum Allowable Rent is calculated by taking the **Base Rent** plus each year's **Annual General Adjustments (AGA)** + Individual Rent Adjustments (approved through the petition process)

A Rent increase cannot exceed the **Maximum Allowable Rent**, but it can be less. Even if the maximum Rent is not charged, the **Maximum Allowable Rent** remains the same. The Landlord may choose to raise the Rent to the maximum in accordance with state law and the Rent Board's banking regulation.

HOW EACH YEAR'S MAXIMUM ALLOWABLE RENT (MAR) IS CALCULATED



Note: AGA Rent increases are not automatic; Rent increases may only take effect if a tenancy began prior to September 1st of the previous year and AFTER a proper 30-day notice has been filed with the Rent Board at www.richmondrent.org.

ANNUAL GENERAL ADJUSTMENTS 2016 - 2022

2016 Annual General Adjustment: 3.0%

2017 Annual General Adjustment: 3.4%

2018 Annual General Adjustment: 3.6%

2019 Annual General Adjustment: 3.5%

2020 Annual General Adjustment: 2.9%

2021 Annual General Adjustment: 1.6%

2022 Annual General Adjustment: 5.2%

*A Landlord must give the Tenant proper notice of a Rent increase per California Civil Code 827: A Landlord may increase the Rent up to the **Maximum Allowable Rent** with a 30-day written notice. **Note: the AGA Rent increase may only be applied to tenancies in effect prior to Sept. 1 of the previous year.***

WHAT ARE THE REQUIREMENTS FOR TAKING AN AGA RENT INCREASE?

Administrative Requirements

Landlord must be in compliance with all aspects of the Rent Ordinance including

- Property Enrollment
- Tenancy Registration
- Paying Rental Housing Fees
- Properly rolling back rents and refunding any overcharges to Tenant

Rent Increase Noticing Requirements

Provide the Rent Program with a copy of the Rent increase with proof of service within 10 business days of having served the Tenant

Legal requirements for taking the AGA Rent increase

Reminder: **Only** properties that are subject to the Rent control provisions of the Ordinance are required to file Rent increase notices with the Rent Program

FILE A NOTICE OF RENT INCREASE WITH THE RENT BOARD



<https://www.ci.Richmond.ca.us/3376/Rent-Increase>

Rent Increase Procedure

1. Create and/or Sign In to your City of Richmond web account: [Sign in or Create a Web Account](#).

You must confirm your account before you will receive any emails. You will have to confirm the account in your email if you are creating one for the first time. If you haven't received an email shortly, please check your junk or SPAM folder.

2. Complete a [Property Enrollment form](#) for each property with at least one Rental Unit, and [Tenancy Registration forms](#) for all tenancies in a Controlled Rental Unit (if required). For more information about Property Enrollment and Tenancy Registration, please visit the [Enrollment and Registration](#) webpage.
3. Mail or deliver a written Tenant Notification of Rent Increase to the tenant. A sample template is available for your use; Landlords may use their own notice as long as it includes the information covered in the template. The tenant must be given at least 30 days notice (5 additional days must be added if mailed). A copy of the Richmond Rent Program Brochure must be included: [Richmond Rent Program Brochure](#).
4. Within **ten (10) business days** after service on the Tenant, complete the [Notification of Rent Increase](#) form online to file notice with the Rent Board. A [Proof of Service](#) with time and date of service must be included with the notice filed with the Rent Board. *Alternatively, for properties with five (5) units or fewer, a copy of the notice of rent increase and proof of service may be filed by mailing a hard copy to the City of Richmond Rent Program, 440 Civic Center Plaza, Suite 200, Richmond, CA 94804. Other such requests will be reviewed on a case-by-case basis.*

Step 1



Step 2



Step 3



Step 4



**FILING A RENT INCREASE
PETITION**

LANDLORD RENT ADJUSTMENT PETITIONS

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Fair Return
or MNOI
Petition

Petition to increase the Maximum Allowable Rent due to increases in Net Operating costs

Increase in
Occupants

Petition to increase the Maximum Allowable Rent due to increase in number of occupants allowed*

*A petition for an increase in the number of occupants will not be approved if it concerns additional tenants pursuant to the Regulations of the Richmond Rent Board, Chapter 9, Section 903 (B)(2)
To access more information and petition forms; visit: <http://www.ci.richmond.ca.us/3631/Petition-Forms>

Increase in
Space or
Services

Petition to increase the Maximum Allowable Rent due to increase in space or services

LANDLORD RENT ADJUSTMENT PETITIONS

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Petition to
Increase
Security
Deposit

Petition to increase the **Maximum Allowable Rent** due to the addition of a non-service/assistance/emotional support animal, where pets are prohibited or limited under the original lease

Petition to
Determine
Initial Rent

Petition to increase or maintain the **Maximum Allowable Rent** in based on whether the last original occupant has vacated or no longer or continues to live in the **Rental Unit** as their primary residence.

Petition to
Restore Previously
Denied AGAs

Petition to allow a Landlord to recover previously denied **Annual General Adjustment (AGA)** rent increases. **AGA** increase may be denied due to housing, health or safety code violations, failure on the part of the Landlord to pay the **Rental Housing Fee** or failure by the Landlord to comply with a **Hearing Examiner's** or **Rent Board's Order**.

OVERVIEW

The Rent Ordinance allows for rents to be regulated and adjusted through the Rent Adjustment Petition Process overseen by a Hearing Examiner. Think of the Hearing Examiner as a judge. The process is like Court, but the process is less formal as it is an administrative process performed and completed through the Rent Program and its staff.

Landlords or Tenants subject to the Rent-Control provisions of the Rent Ordinance may file a Petition requesting a downward or upward rent adjustment. After reviewing documents and listening to testimony, the Hearing Examiner may order an adjustment to the rent if the petitioner has proven their case by a preponderance of the evidence (more than 50% likely).

STEPS TO FILING A PETITION WITH THE RENT PROGRAM

Step 1: Contact a Rent Program Services Analyst to discuss your case and learn about your rights under the Rent Ordinance and Rent Regulations. Anyone interested in filing a petition should consult with a Rent Program Services Analyst at (510) 234-RENT [7368] prior to filing a petition to ensure correct filing and to understand how the rent adjustment petition process works. Rent Program Services Analysts are available Monday -Friday, 9:00 AM – 12:00 PM and 1:00 PM- 4:00PM.

Step 2: Complete the Landlord or Tenant Packet. This form must be completed and filed to be deemed complete.

Step 3: Complete the appropriate attachment(s). Tenants or Landlords can petition for multiple grounds at the same time.

STEPS TO FILING A PETITION WITH THE RENT PROGRAM (CONTINUED)

Step 4: Include your documentation or evidence to support the petition claim. When filing a petition, the petitioner should submit the lease, letters, e-mails, texts, photos, videos, inspection reports, and any other documentation to support the grounds for the rent adjustment. Remember that the Hearing Examiner's rent adjustment decision is based on a preponderance of the evidence.

Step 5: Complete and submit a "Proof of Service" to the Rent Program and all parties. An important part of the petition process is the requirement that a petitioner must complete and submit a "Proof of Service" along with the completed petition packet (forms, attachments and documentation). When submitting a Proof of Service, the petitioner is declaring under penalty of perjury that they will serve a copy of the petition that was submitted to the Rent Program to the other party.

Step 6: File an original copy by using the following methods:

By Mail: City of Richmond Rent Program, ATTN: Hearings Unit
440 Civic Center Plaza, Suite 200, Richmond, CA 94804

By Email: Attn: Hearings Unit at rent@ci.richmond.ca.us

Complete Landlord Petition

1. Landlord Petition Packet for Individual Rent Adjustment
2. Petition Attachment(s):
 - Attachment A -- Maintenance of Net Operating Income (MNOI);
 - Attachment B -- Increase in Number of Occupants;
 - Attachment C -- Increase in Space or Services
 - Attachment D -- Restoration of Denied Annual General Adjustments
 - Attachment E – Increase in Security Deposit Due to Additional of Pet(s)
3. Proof of Service
4. Supporting Documentation

AFTER A PETITION IS FILED

AFTER A PETITION IS FILED WITH THE RENT PROGRAM

- Once the petition is received and reviewed for completion the other party is given the opportunity to object to the petition within **twenty-one calendar (21) days of the mailing of the notice.**
- After the 21-day objection deadline is over, a Settlement Conference and Hearing Notice will be scheduled, and a hearing notice will be sent to all parties. Either party can request a continuance in writing.
- After the hearing, a decision is rendered which can be appealed by either party within **30 days (or 35 days if mailed)** of the decision.

THE DAY OF THE HEARING

Part 1: Expectations & Preparations

- Before the Hearing starts, each party must introduce themselves for the record. The Hearing Examiner may not discuss the case unless all parties are present. The Settlement Conference and Hearing can only proceed if all parties are participating unless there is a complete failure to appear by the Responding party, in which case the Hearing can still go forward. A failure to appear by the Petitioning party will generally result in a Dismissal of the Petition.

Part 2: Settlement

- Each petition and the corresponding objections present openings for possible settlement motivation.

Part 3: Evidence

- The parties may have submitted evidence with their Petition or Objections. Any other documentation (such as invoices, photographs, text messages) to be reviewed during the Hearing in the form of Exhibits (a document designated to support or contest a specific claim) must be provided electronically to the Rent Program and all parties no less than two (2) business days before the Hearing.

THE DAY OF THE HEARING

Part 4: Cross-Examination

- The Hearing Examiner will ask questions to the parties present about their pre-filed testimony or evidence to better understand the parties' position in the case or to ask questions to challenge their credibility or accuracy.

Part 5: Rebuttal

- To the Hearing Examiner's discretion, each party may have an opportunity to contradict evidence presented by the other party. You may present evidence (texts, photos, documents etc.) in rebuttal to disprove or rebut new evidence presented by the other side

Part 6: Closing Arguments

- The Hearing Examiner will close the hearing and/or decide to keep the case open for further analysis to later make a decision. A written decision will be sent to all parties after the Hearing pursuant to Richmond Rent Board Regulation 837. The decision is likely to be sent between a few weeks and a few months after the Hearing.

AFTER A PETITION IS COMPLETED: FILING AN APPEAL

- Any party may Appeal the Decision of the Richmond Rent Program Hearing Examiner within thirty-five (35) calendar days after the date of mailing of the Hearing Examiner's Decision. On appeal, the decision is reviewed by a 5-member Rent Board who act as quasi-judicial judges. The Board may affirm, reverse or modify the decision of the Hearing Examiner.
- Filing a timely Appeal puts on hold the finality of the Hearing Examiner's decision.
- Filing a late Appeal is possible but you must state the reason in writing and include it with your Appeal. The filing of an untimely Appeal does not stay any portion of the Hearing Examiner's Decision.
- After a timely appeal is filed the appellant and respondent are informed by the Rent Program regarding the requirement to appear and participate at the appeal hearing.
- Any party who wishes to appeal the Rent Board's decision, may seek judicial review by filing a Writ of Administrative Mandamus with the Superior Court within the jurisdiction.

**FILING MAINTENANCE OF NET
OPERATING INCOME (MNOI)
PETITION**

27 Rent Ordinance codifies right to a Fair Return

- The purpose of the Rent Ordinance is to promote neighborhood and community stability, healthy housing, and affordability for renters in the City of Richmond by controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring Landlords a fair and reasonable return on their investment and protecting homeowners.

28 Landlords are Entitled to a Fair Return

- The Rent Board's ability to control rents is necessarily circumscribed by Constitutional principles.
- As it relates to rent control jurisdictions, these principles are satisfied so long "as the price controls are not confiscatory; i.e, they do not deprive investors of a fair return on their investment."
- This is consistent with the stated purpose of the Rent Ordinance.

MNOI OVERVIEW

30 MNOI Rationale

- MNOI is based on the presumption that the net operating income received by the Landlord in the Base Year provided the Landlord a Fair Return.
- Thus, so long as the net operating income (NOI) in the Base Year is maintained and adjusted for 100% of inflation, it is presumed the Landlord is receiving a Fair Return on their investment in the Base Year.

31 Selection of the Base Year

- MNOI presumes that the rents Landlords chose to charge, in a year free from the idea of rent control, provided Landlords a fair return on their investment, as the rents that were charged were based on general market conditions, and not the upward pressure that policy discussions of rent control may have on the market.
- In the City of Richmond, the Base Year is 2015.

32 The Annual General Adjustment (AGA)

- The Rent Ordinance permits a Landlord to take a rent increase equal to 100% of the inflation rate.
- This rent increase is known as the Annual General Adjustment (AGA).
- The AGA serves to maintain the Landlord's NOI and fair return on investment.
- Despite this device, there may be occasions where Landlords are still not receiving a fair return on their investment.

33 Net Operating Income (NOI) Calculation

- Maintaining the net operating income (NOI) in the Base Year is essential to a Landlord obtaining a fair return on their investment.
- NOI is calculated by taking the total expenses in a given year and subtracting it from the gross income received in that same year.
 - Certain expenses and income are excluded from the MNOI analysis.

34 Calculating the Fair Net Operating Income (NOI)

- Once the petitioner determines the net operating income (NOI) in the Base Year, that income must be compared to the net operating income in the Current Year.
 - The Current Year is the calendar year preceding the year the Landlord files the MNOI petition.
 - Prior to comparing the figures, the Base Year NOI must be adjusted by inflation (i.e the Consumer Price Index) that has occurred from the Base Year to the Current Year.
- This newly adjusted Base Year NOI is referred to as the "Fair NOI," and is compared to the Current Year NOI.
- If the NOI in the Current Year is less than the Fair net operating income, the Landlord is not receiving a fair return and is entitled to an income adjustment through the form of a rent increase.

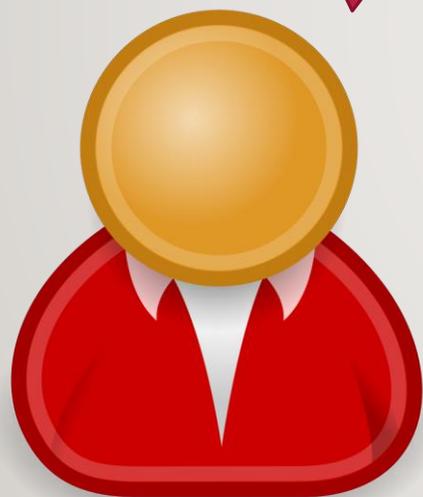
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BASIC EXAMPLE CALCULATION

Maintenance of Net Operating Income (MNOI) Calculation

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**Greeting!
I'm Maria**



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MNOI
Example

**MNOI CALCULATIONS
BEGIN BY EXAMINING
THE BASE YEAR NET
OPERATING INCOME
AND OPERATING
EXPENSES...**

Example of Operating Expenses

38 DEFINITION OF “OPERATING EXPENSES”

Included in Operating Expenses

- Reasonable costs of operation and maintenance of the rental unit
- Real property taxes
- Insurance
- Utility costs
- Management expenses
- License, registration, and other public fees
- Landlord-performed labor
- Legal Expenses

NOT Included in Operating Expenses

- Debt service costs and costs for obtaining financing
- Mortgage payments or principal
- Any penalties, fees, or interest assessed for violation of the ordinance or law
- Land lease expenses
- Political contributions
- Depreciation
- Any expenses for which the landlord has already been reimbursed
- Unreasonable increases in expenses since the base year

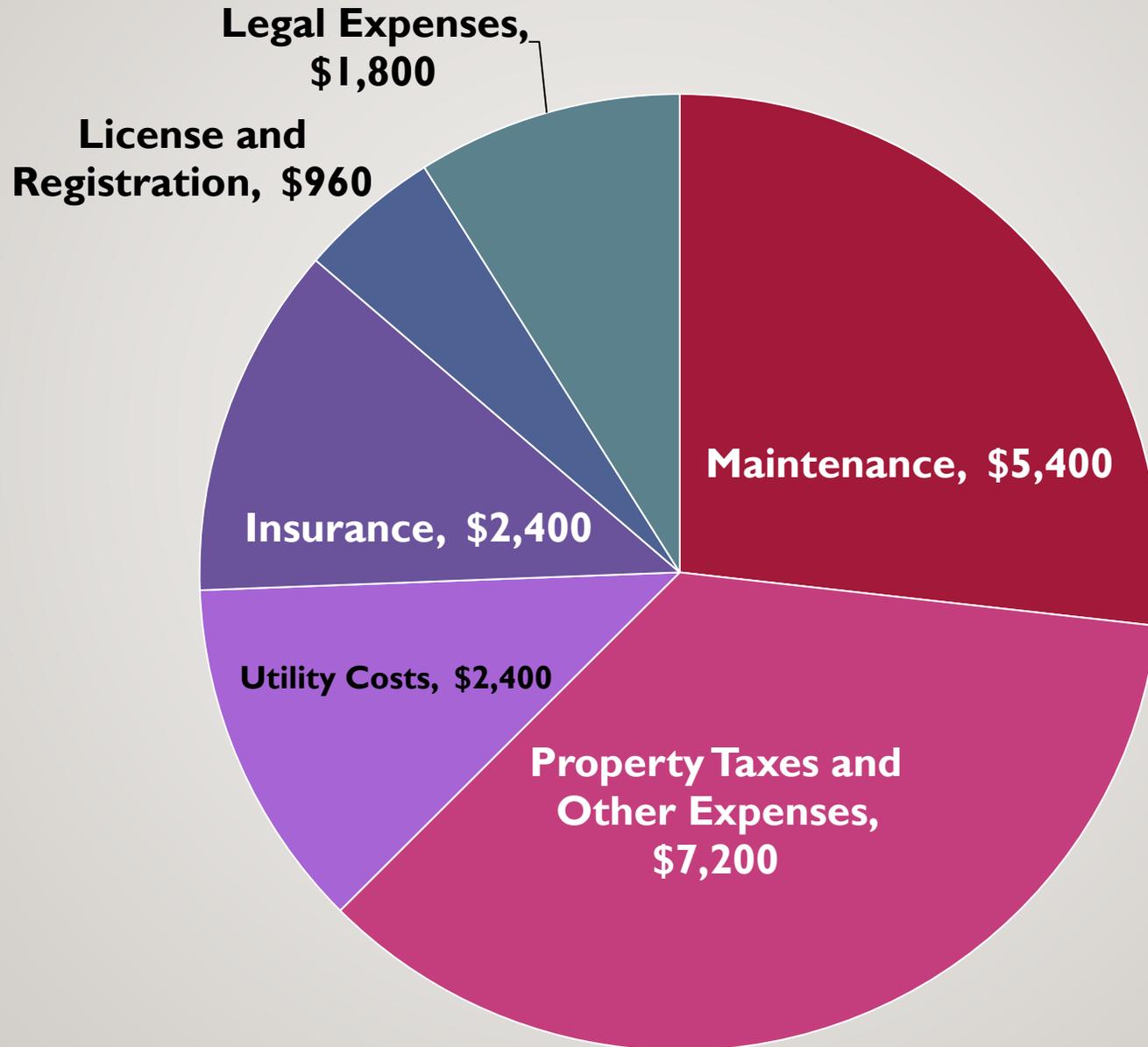
VIII. Income and Operating Expense Worksheet

Annual Total		
(Insert Base and Current Years)	Base Year (2015)**	Current Year (2021)
Rental Income	\$	\$
1. Gross scheduled rental income is based on the calendar year.	\$	\$
2. Portion Attributable to Vacancy	\$	\$
Fees (indicate what fee is for):		
3. Late fees	\$	\$
4. List fees, other than utilities, collected for services & amenities not included in rent	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$
Other Income (list separately by type)*:		
8.	\$	\$
9.	\$	\$
10.	\$	\$
Fees for Utilities		
11. Gas	\$	\$
12. Electricity	\$	\$
13. Water	\$	\$
14. Sewer	\$	\$
15. Garbage & Recycling	\$	\$
Other (list separately by type)		
16.	\$	\$
17.	\$	\$
18. Total Income	\$	\$
(add only lines 1 and 3-17)		
*Interest earned by Landlord on Tenant security deposits, other interest or investment income.	** (or an alternative year in the event of extenuating circumstances)	

IX. Operating Expenses Worksheet	Annual Total	
(Insert Base and Current Years)	Base Year (2015)	Current Year (2021)
1. Assessments	\$	\$
2. Real Property Taxes	\$	\$
3. License Tax/Fee	\$	\$
4. Rent Board Registration Fees	\$	\$
5. Insurance	\$	\$
6. Accounting	\$	\$
7. Legal (explain types of legal expenses)	\$	\$
8. Manager /Management Services	\$	\$
9. Security	\$	\$
10. Office Supplies	\$	\$
12. Normal Repairs	\$	\$
13. Owner-Performed Labor	\$	\$
14. Plumbing Maintenance	\$	\$
15. Pool Maintenance	\$	\$
16. Landscape Maintenance	\$	\$
17. Other Maintenance	\$	\$
18. Parking Lot/Street Maintenance	\$	\$
19. Gas (separately metered only)	\$	\$
20. Electricity (separately metered only)	\$	\$
21. Water	\$	\$
22. Sewer	\$	\$
23. Amortized portion of Capital Expense [from page _____ ; column (i)]	\$	\$
Other (list separately by type):		
24. Vandalism Repairs	\$	\$
25. Uninsured Damages	\$	\$
26.	\$	\$
Additional operating expense items can be listed for this worksheet using separate page(s) as needed.		
27. TOTAL OPERATING EXPENSES	\$	\$

Maria's Annual Operating Expenses (Hypothetical)

40



**Total Annual
Operating
Expenses
=
\$20,160**

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MNOI Example Calculation

$$\text{Annual Net Operating Income} = \text{Total Annual Rent Collected} - \text{Operating Expenses}$$

Operating income is usually the total amount of rent collected minus expenses. For the purpose of the Maintenance of Net Operating Income (MNOI) analysis, we will be using the **annual** rental income collected.

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MNOI Example Calculation



\$1,400



\$67,200

Annual revenue is 4 units times
\$1,400 times 12 months =
\$67,200



\$20,160

Annual expenses are 30% of
revenue = \$20,160

**Base Year
Net Operating
Income =**



\$47,040

Annual net operating
income (NOI) = \$47,040

Illustration of Fair Return Using the MNOI Standard

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FAST FORWARD TO 2021: RENT HAS INCREASED BY \$210 THROUGH AGA INCREASES OVER THE SPAN OF FIVE YEARS.

THE **NEW MAXIMUM ALLOWABLE RENT** FOR EACH UNIT IS **\$1,610**.



Illustration of Fair Return Using the MNOI Standard

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MARIA HAS APPLIED ALL THE ANNUAL GENERAL ADJUSTMENT INCREASES, BUT UTILITY AND MANAGEMENT COSTS HAVE ALSO INCREASED.



\$77,280

Annual revenue for 4 units is
 $\$1,610 * 4 \text{ units} * 12 \text{ months} =$
 $\$77,280$



\$26,275

Annual expenses are now
34% of revenue = \$26,275

**Current Year Net
Operating
Income**

=



\$51,005

Annual net operating
income (NOI) = \$51,005

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TO MAINTAIN A FAIR RETURN A
LANDLORD'S CURRENT YEAR NOI MUST
BE EQUAL TO OR GREATER THAN THEIR
BASE YEAR NOI.

Comparing
2015 NOI to
2020 NOI

2015 NOI = \$47,040

2020 NOI = \$51,005

IS THE LANDLORD MAINTAINING A FAIR
RETURN?

WHAT ABOUT INFLATION?

Illustration of Fair Return Using the MNOI Standard

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$$\begin{array}{r} \$47,040 \\ \text{2015 NOI} \end{array} + \begin{array}{r} 15\% \text{ of 2015 NOI} \\ \text{(CPI Increase)} \end{array} = \begin{array}{r} \$54,096 \\ \text{Fair NOI} \end{array}$$

THE HEARING EXAMINER LOOKS AT THE NET OPERATING INCOME IN THE BASE YEAR (2015) FOR MARIA'S CASE.

- Fair net operating income is the base year net operating income (NOI) adjusted by the Consumer Price Index (CPI) increase since the base year.
- In this hypothetical example, the CPI increased by 15%. Therefore, the fair net operating income is \$47,040 increased by 15% for a total of \$54,096. To receive a Fair Return, the landlord should receive an annual net operating income of \$54,096.

Illustration of Fair Return Using the MNOI Standard

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MNOI Example Calculation

- **The Hearing Examiner has determined the Fair Net Operating Income (NOI) is \$54,096 (a \$3,091 difference from the Current Year NOI).**
- **To provide the landlord with a Net Operating Income (NOI) that generates a Fair Return, the Hearing Examiner determines each unit may receive up to a \$64 increase in the Maximum Allowable Rent (a total of \$256 for all 4 units).**
- **The Hearing Examiner checks to see how much of a percentage the rent increase will result in for each tenant. In this example, the adjustment in the Maximum Allowable Rent would result in a 4 % rent increase for each tenant.**
- **The Board has capped annual rent increases at 15%, which would phase in on a yearly basis the percentage change to the maximum allowable rent, in order to prevent rent shock for tenants.**

ADJUSTMENT OF BASE YEAR NOI

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What if Rents weren't based on General Market Conditions?

- The Base Year presumes that the rents Landlords chose to charge, in a year free from rent control, provided Landlords a fair return on their investment, as the rents that were charged were based on general market conditions.
- There are those instances where the rents that were charged or expenses incurred prior to the enactment of rent control were not based on general market conditions.
- In such case, the presumption that the rents received during the Base Year provided the Landlord a fair return may not be applicable.
 - One does not look to the amount of rent charged to determine whether rents were set based on general market conditions. Rather, one looks to the basis by which rents were charged; whether the rents charged were based on general market conditions or other conditions that would constitute exceptional circumstances.

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What if Rents weren't based on General Market Conditions?

- Where a Landlord believes that the Base Year did not provide a fair return, Landlords are permitted to present evidence to rebut the presumption that the Base Year net operating income provided a Fair Return.
- There are two avenues by which a Landlord may rebut the Base Year presumption:
 - 1) The Landlord's operating expenses in the Base Year were unusually high or low in comparison to other years
 - 2) The gross income during the Base Year was disproportionately low due to exceptional circumstances

**EXCEPTIONAL
CIRCUMSTANCES
IN THE BASE YEAR**

52 What if Rents weren't based on General Market Conditions?

- Landlords may rebut the Base Year presumption by demonstrating that the gross income in the Base Year was disproportionately low due to exceptional circumstances.
- This provision establishes a two-part analysis:
 - 1) First, to rebut the Base Year presumption, a Landlord must demonstrate that an exceptional circumstance served as the basis of setting rents.
 - 2) Second, to rebut the Base Year presumption, a Landlord must establish that because the rents were charged based on an exceptional circumstance, the gross income or rents charged in the Base Year were disproportionately low.

53 Factors Considered in Determination of Proportionally Low Base Rents

- In determining whether the gross income in the Base Year was disproportionately low, the Hearing Examiner must consider the following factors:
 - i. If the gross income during the Base Year was lower than it might have been because some residents were charged reduced rent.
 - ii. If the gross income during the Base Year was significantly lower than normal because of the destruction of the premises and/or temporary eviction for construction or repairs.
 - iii. The pattern of rent increases in the years prior to the Base Year and whether those increases reflected increases in the CPI.
 - iv. Base period rents were disproportionately low in comparison to the base period rents of comparable apartments in the City.
 - v. Other exceptional circumstances.
- The Hearing Examiner has discretion to any given factor but must analyze each factor to determine its applicability, regardless of whether the factors were raised by the Landlord.

54 Base Year Rent Adjustments

- If the Landlord successfully demonstrates that: (1) the Landlord set Base Year rents on an exceptional circumstance, and (2) the resulting rents were disproportionately low, the Landlord is entitled to an adjustment in their Base Year gross income.
 - That adjustment is reflected by artificially increasing the rents reported in the Base Year, which results in a higher Base Year NOI.
- The Hearing Examiner has the discretion to decide how such adjustment in the Base Year rents occur, but all evidence relied upon to adjust the Base Year rents must be reasonable and substantiated by the evidence contained in the Record.

55 Example Calculation

- Consider a situation where Landlord's MNOI petition demonstrates a Base Year gross income of \$12,000 and expenses of \$6,000.
 - The resulting Base Year net operating income would be \$6,000.
- Within that the same petition, it is determined that the Current Year gross income is \$17,400 and expenses are \$6,000.
 - The resulting Current Year net operating income would be \$11,400.
- Assuming no inflation, comparing the Current Year net operating income to the Base Year, one subtracts \$6,000 from \$11,400, which results in an increase of \$5,400.
 - It would appear the Landlord is receiving a fair return because not only has the Landlord maintained the Base Year net operating income of \$6,000 in the Current Year, they exceeded it by \$5,400.

56 Example Calculation (continued)

- Suppose the Landlord presents evidence that they only rented to close friends and family members and charged low rents because they wanted to give their family members a deal.
- Using the best evidence available, the Hearing Examiner would determine Base Year rent amounts that were set based on general market conditions and make an adjustment in the Landlords' Base Year rents to reflect those rents set based on general market conditions.

57 Example Calculation (continued)

- Once the Hearing Examiner has made a determination as to the rents that were set based on general market conditions, the Hearing Examiner adjusts the Landlord's Base Year rents to reflect those based on general market conditions.
- Returning to our example, assume that average Base Year rents charged based on general market conditions were \$1,500.
 - The Hearing Examiner would then substitute \$1,500 times twelve months to determine the Base Year income. The result would be that the Base Year net operating income changes from \$6,000 (\$12,000 Base Year gross income minus \$6,000 expenses) to \$12,000 (\$18,000 Base Year gross income minus \$6,000 expenses).
 - Assuming no inflation, Comparing the new Base Year net operating income of \$12,000 to the Current Year net operating income of \$11,400, the Landlord is no longer receiving a fair return on their investment, but is \$600 below maintaining their Base Year Net Operating Income.
 - As a result, the Landlord is entitled to a rent increase.

WHAT IF I DO NOT HAVE BASE YEAR INFORMATION

59 Projection of Base Year Operating Expenses in the Absence of Actual Data

- Regulation 905(6)(e)
- If the Landlord does not have Base Year operating expense data, it shall be presumed that operating expenses increased by the percentage increase in the CPI between the Base Year and the current year. This presumption is subject to the exception that specific operating expenses shall be adjusted by other amounts when alternate percentage adjustments are supported by a preponderance of evidence (such as data on changes in the rates of particular utilities.)

HOW DO CAPITAL IMPROVEMENTS IMPACT MNOI?

61 Capital Improvements and Amortization

- Regulation 905(6)(b)(viii)
- Operating expenses include the amortized costs of capital improvements plus an interest allowance to cover the amortization of those costs. For purposes of this section a capital improvement shall be any improvement to a unit or property which materially adds to the value of the property, appreciably prolongs its useful life or adapts it to new use and has a useful life of more than one year and a direct cost of \$250.00 or more per unit affected.
- The Rent Ordinance modifies the regulation by requiring the improvement be distinguishable from ordinary repair, replacement and maintenance, and the improvement be necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety.

62 Anticipated Capital Improvements

- Regulation 905(8)(a)
- In order to encourage necessary capital improvements, the Board allows a Landlord to petition for an upward rent adjustment based upon anticipated future expenses for capital improvements. The purpose of this procedure is to permit Landlords to seek advanced authorization for future rent adjustments based upon anticipated capital improvements. A petition under this Section should only be made for anticipated expenses that the Landlord intends to incur during the twelve month period following the date of final Board decision. This procedure should not be used for anticipated expenses for ordinary repairs and maintenance

63 Capital Improvements and Vacancy

- Regulation 905(9)
- Any unit which received a vacancy rent increase pursuant to Civil Code section 1954.53 within one year prior to the Fair Return application shall be ineligible for a rent increase for the portion of any rent increased based on the cost of proposed capital improvements.

THANK YOU!

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Or

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