

MEMORANDUM

DATE: December 7, 2015
TO: Honorable Mayor and City Council
FROM: _____
RE: **Item 10.A, Changes to Attachment A**

Attached to this memorandum as Exhibit A are changes and clarifications to Attachment A to the Ordinance Amending Title 4, Chapter 32 of the San Leandro Municipal Code Relating to the Rent Review Ordinance, Item 10.A.

1. **Changes related to Ratio Utility Billing System:** The minor change to the definitions of “base rent”, “rent” and “rent increase” reflects the proposed amendments to the Rent Review Ordinance regarding the assessment of Ratio Utility Billing System (RUBS) charges upon initial conversion as intended. This clarifies that an initial conversion to RUBS by a landlord is included in the calculation of a rent increase and therefore considered toward eligibility for a rent review hearing. This recommendation was made by the Rent Review Board during its 2014 annual review.
2. **Changes related to notice requirement:** It recently came to staff’s attention that there is a potential inconsistency under the existing Rent Review Ordinance. Tenants are currently entitled to a rent review hearing following a qualifying rent increase (defined as an increase in rent related to the rental amount, parking, storage, utilities or other similar fees). However, the notice requirement of the Rent Review Ordinance suggests that notice of rent review eligibility for a rent increase is limited to rent increases that must be accompanied by a thirty (30) day or sixty (60) day notice pursuant to Civil Code Section 827(b). The minor changes to Sections 4-32-200 and 4-32-210 clarify that landlords must provide notice of the availability of rent review at the same time as providing notice of any rent increase as defined by the Municipal Code. This will ensure that tenants that are eligible for rent review will receive notice for rent increases that occur separately from rent increases that must be noticed pursuant to Civil Code Section 827(b).

ATTACHMENT A

Clarifying changes to Attachment A to the Ordinance Amending Title 4, Chapter 32 of the San Leandro Municipal Code Relating to the Rent Review Ordinance, Item 10.A:

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.

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(jh) **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. Additionally, rent includes costs associated with the initial conversion to a Ratio Utility Billing System.

(ki) **RENT INCREASE** means any upward adjustment of the rent from the base rent amount. Rent increase includes costs associated with the initial conversion to a Ratio Utility Billing System.

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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 any 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.

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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 as a notice under Civil Code 827(b) and other qualifying rent increases under the Municipal Code, 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 thea 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~~ 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.