



Legislation Details (With Text)

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Staff Report for Second Reading and Adoption of Ordinance No. 2015-015 Amending Title 4, Chapter 32 of the San Leandro Municipal Code Relating to the Rent Review Ordinance

**RECOMMENDATIONS**

Staff and the City Attorney’s Office recommend that the City Council review and determine whether to waive a full reading, conduct a second reading and adopt an Ordinance Amending title 4, Chapter 32 of the San Leandro Municipal Code Relating to the Rent Review Ordinance. The City Council conducted a first reading and introduction of the amendments to the Rent Review Ordinance on December 7, 2015 with the following changes: 1) the eligibility threshold for a rent review hearing is an increase in rent of greater than 8%, or greater than \$75, or more than two rent increases within a twelve month period; 2) the definition of residential property is expanded to include all housing units for rent within the City; 3) a tenant shall have thirty days to request a rent review hearing from the date of notice of a rent increase; and 4) landlords are required to provide tenants notice of availability of rent review in the three predominant languages spoken within the City. The Ordinance as amended passed with four votes in favor, two abstentions, and one vote against. If adopted, the Ordinance would become effective in thirty days.

**BACKGROUND AND SUMMARY**

On December 7, 2015, following staff presentation, public comment and deliberation, the City Council conducted a first reading and introduction of an Ordinance Amending title 4, Chapter 32 of the San Leandro Municipal Code Relating to the Rent Review Ordinance (the “Ordinance”).

The Ordinance, as presented by staff and including comments and suggestions from the Rent Review Board as part of the Rent Review Board’s annual review, included the following amendments:

- **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.
- **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 1<sup>st</sup> hearing, then, if needed, a 2<sup>nd</sup> 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.

The City Council accepted the amendments as proposed in the Ordinance with the following changes: **1) the eligibility threshold for a rent review hearing is an increase in rent of greater than 8%, or greater than \$75, or more than two rent increases within a twelve month period; 2) the definition of residential property is expanded to include all housing units for rent within the City; 3) a tenant shall have thirty days to request a rent review hearing from the date of notice of a rent increase; and 4) landlords are required to provide tenants notice of availability of rent review in the predominant three languages spoken within the City.**

The City Council conducted a full reading and introduction of the Ordinance with the above changes. Those changes are reflected in Exhibit A to the Ordinance. Upon an affirmative vote of the City Council, the ordinance with the changes in bold above, will be adopted, and effective thirty days from December 21, 2015.

## **ATTACHMENT**

### **Attachment to Ordinance**

- Exhibit A - Proposed Amended Rent Review Ordinance

**PREPARED BY:** Richard D. Pio Roda, City Attorney, City Attorney’s Office

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