



## TENANT'S GUIDE

Introduction: The City of Oakland encourages investment in residential housing while also protecting the welfare of residential tenants. The City of Oakland Residential Rent Adjustment Program allows for a landlord to make a reasonable profit while protecting tenants in covered units from most sudden, large rent increases. The Residential Rent Adjustment Ordinance places limits on rent increases and provides a process to resolve disputes regarding rent increases.

The Ordinance and Rent Board Regulations allow for an increase instead of the annual general CPI increase for any of the following reasons; Banking (deferred annual increases), Capital Improvements expenditures, Debt Service Costs (mortgage principal and interest), Increased Housing Service Costs (operating expenses), Uninsured Repair Cost (casualty loss) and Constitutional Fair Return (profit from investment). Complete definitions for each category are found in the Regulations attached. Any of these increases may be greater than the CPI increase.

What is the Process? The Oakland Rent Adjustment Ordinance is the law that makes rules for tenants and landlords regarding rent increases for units covered by its provisions. The Ordinance places limits on rent increases and provides a process to resolve problems regarding rent increases. You may be able to use the Ordinance to deal with problems you have with your landlord, by filing a petition and going to mediation or hearing. Mediation is a voluntary meeting with your landlord, presided by a trained mediator, to discuss the problem and possible solutions. If you don't reach an agreement with your landlord, the problem will be set for hearing. A hearing is a less formal way than going to Court to make a binding decision. In a hearing, the Hearing Officer will apply the rules in the Residential Rent Adjustment Ordinance and Regulations and other laws to your situation and make a decision. Hearings are held in person at the Rent Adjustment Office, 5313 Frank H. Ogawa Plaza, Oakland, California. If needed, they may also be held over the phone. At the hearing, you can present evidence, and bring witnesses. The Hearing Officer will decide what to do about the increase, based on an interpretation of the law. You and your landlord must obey the decision.

Common Problems: The most common violations of the Ordinance are:

An owner may increase a continuing tenant's rent only once in any twelve (12) month period. Many owners give several small increases in a year as their costs rise, rather than a single increase for the year. All increases given in any 12 month period after the first one are invalid.

The owner is required to give each tenant at the beginning of the tenancy a Notice to Tenants (a Board form) regarding the existence of the Rent Board and tenant's rights under the rent law. If the owner does not give that notice at the beginning of the tenancy; he or she may not give the tenant any rent increase until 6 months after the proper form notice is given to the tenant. Every increase given in violation of this section of the Ordinance is void. Every notice given to a tenant to increase rent must be accompanied by a supplemental notice of rights under the Rent Adjustment Ordinance (the same Board form given again). If the notice is not given with the Rent Board form, that particular rent increase is invalid.

A tenant has the right to request in writing a summary of the owner's justifications for the rent increase within 30 days of being served with a rent increase notice. The owner must respond in writing within 15 days of service

of tenant's request for a summary.

If the landlord believes that they have not complied with the law, they have the option of rescinding the incorrect rent increase notice and giving the tenant a proper rent increase notice.

1. Fees: Landlords of units covered by the Rent Adjustment Ordinance or by the Just Cause for Eviction Ordinance are required by law to pay a \$30 per rental unit service fee to the City of Oakland Residential Rent Adjustment Program, for each covered unit. The landlord may pass one-half of the per-unit fees (\$15.00) on to the tenant(s) of each unit after they have paid the fee, so long as the payment is made prior to the end of the fiscal year.

2. Time limits: A tenant must file a petition within 60 days of receiving a rent increase notice or decrease in service. There are exceptions, for example, Landlord didn't give the Notice to Tenants when Tenant moved in, or a decrease in services caused by the condition of the property. If you don't know how much time you have to petition to challenge an increase, immediately phone the Residential Rent Adjustment Program or take the notice of rent increase to the Residential Rent Adjustment Program Office and ask to speak to an analyst.

3. Tenant Petition form: To contest a rent increase above the annual CPI amount, you must file a properly completed Tenant Petition form. The form is online at

<http://cedaonline.oaklandnet.com/rentadjustmentsite/tenant/index.htm#forms>

You can request the forms from the Residential Rent Adjustment office. You can submit your completed Tenant Petition form by mail, by phone or in person. There is no fee or charge for filing a petition, having a Rent Program staff member mediate a case, or for a hearing. For mediation you have the option of using a mediator that is not an RAP staff member. An outside mediator may charge a fee. That is a matter of agreement between you, the landlord and the mediator.

4. How to file a Tenant Petition: When you file a petition, you are the "petitioner" and your landlord is the "respondent." On the form, you must provide all of the relevant information requested. You must include your landlord's name and address or the name and address of the person to whom you pay your rent. If you provide incorrect or incomplete information, your petition cannot be processed.

On the petition form, you need to check the box next to the section titled, "Reason(s) for petition", that describes your complaint. The various complaints allowed by the Ordinance are listed on the first page of the tenant petition form. Except in exceptional cases, the Hearing Officer or mediator will only consider complaints that you check on the form. When completing page 2 of the tenant petition form it is important that you provide the month, date and year in all areas that require a date. You also need to include the basic information and details of the problem that you are contesting. For example, if you are challenging a notice of increase after the landlord has given you a reason for the increase, say why you don't agree with the landlord's reasons to increase your rent. If you are asking for a refund of rent or a decrease in your rent, explain how you came up with the amount. If you are contesting prior rent increase because no notice to tenants was provided, make sure you check the applicable box on the rental history portion of the petition. If there is not enough space on the form, attach extra sheets to the form to explain the problem.

5. Group Petitions: If you and your neighbors on the same property have the same problem with the same landlord and they are filed within a few days of each other, your cases will be grouped automatically for processing and will be scheduled for hearing at the same time. For example, if several tenants have a problem with lack of heating in a building you can all apply for a rent decrease based on a decrease in housing services. Only one hearing will be held. Not everyone in the group will need to attend the hearing. You can give a letter authorizing someone else to act as your representative. To apply, you and your neighbors each need to fill out a tenant petition form.

Each tenant must fill out a Petition. If your group decides to have one person represent everyone at the hearing, you all need to designate the representative in writing. Call or visit the RAP Office for more information.

6. Notifying your landlord: The Residential Rent Adjustment Program will mail a copy of the petition form you submit to your landlord along with an explanation and a form for the landlord to respond. If a response is received by the RAP, we will mail a copy of the response to you, not including any attachments. If you want to see any documents the landlord submitted with his response, you may review the entire file including all of the documentation. Please call the RAP to make an appointment to see the file.

If you sign the request for mediation on the petition, and the landlord also signs and returns a request for mediation, a mediation session will be scheduled. You and your landlord will get a written notice of the date, time, and place of the mediation and the hearing. If you and your landlord cannot reach an agreement through mediation, the matter goes to hearing as scheduled and a hearing officer will make a decision. If the landlord does not respond, or, if the facts necessary to make a decision are not in dispute, Staff may make a decision without holding a hearing.

7. Naming someone to represent you: If you want someone to act as your representative before or at the mediation or hearing you need to list them on your Tenant Petition form or you can send the Residential Rent Adjustment Program a letter, signed by you, naming your representative. A representative is not mandatory and you can un-name or change your representative at any time.

8. How to prepare for a hearing: At the hearing you can represent yourself or have another person represent you. A representative does not have to be an attorney. There are also non-profit organizations that are available to assist you. You may bring someone with you to interpret for you or request an interpreter from the RAP. The interpreter can also be a friend. The hearing officer will make sure that you get a chance to present the parts of your story that he or she needs to hear in order to make a decision. You need to present evidence to the hearing officer to prove your side of the dispute. Your landlord can also present evidence. The hearing officer will make a final decision based on this evidence, so it's important to prepare your case well and have all your evidence, including witnesses, with you.

a. Getting help - If you need legal help, you can go to one of the tenant counseling programs or to a lawyer. If you need an explanation of the process for hearing or mediation, you can call or visit the Residential Rent Adjustment Office.

b. Getting organized - Make a list of the most important points you want to make at the hearing. Organize these points in the order that they happened.

c. Getting evidence - If you have witnesses, it is best if they come to the hearing. If they can't come in person, get a sworn statement. This is your witness' statement of what happened, and can be sworn by adding the following language to the statement "I declare the foregoing to be true correct under penalty of perjury under the laws of the State of California." The statement must be signed and dated by the witness. However, testimony by declaration is not as good as testimony in person and will not be enough to prove a particular fact if it is the only evidence of that fact. Make sure that you talk to your witnesses before the hearing. They need to know what questions you are going to ask them. And you need to know what answers they are going to give!

You must provide copies of any tangible evidence you intend to present at the hearing, like documents and photographs, to the Residential Rent Adjustment Office at least seven (7) days before the hearing. Your landlord must do the same. Photographs, audio, and video recordings must also be submitted at least 7 days in advance

of the hearing. If you need equipment to play a video recording or audio tape, you must tell the Residential Rent Adjustment Program Office in advance. Make sure to black out all sensitive personal information, like account numbers and social security numbers, on the documents you submit. If your evidence is first presented at the hearing, the Hearing Officer may refuse to consider it, unless you have an excellent reason for not providing it on time. You don't have to submit evidence to prove things that every reasonable person agrees about, like what month we are in or in what direction the sun rises in the morning, you can ask the hearing officer to "take notice" of the fact. This also applies to the contents of public records, including the case files in RAP cases.

d. Look through the Landlord's evidence - Just like you, the landlord must submit their written evidence to the Rent Program at least 7 days before the hearing. You can look at it, by making an appointment with a staff member. Remember that you will have an opportunity to ask each witness questions. Plan what questions you may want to have them answer.

e. Practice presenting your case - Once you have gathered the facts and evidence, practice telling your side of the story. Present your case to a friend who can ask questions if some of your points are confusing. You may need to explain something in a different way to make your point clear.

f. Examples of hearing decisions - All hearing decisions are public information. The Residential Rent Adjustment Program office keeps copies of actual decisions for public viewing. You can make an appointment to review them. This may give you an idea of what to expect at your hearing and what your decision might look like.

g. Request for postponement - A postponement of a RAP hearing may only be granted for good cause shown and in the interests of justice. More than one postponement may not be granted to the same party unless the party shows extraordinary circumstances. Requests for postponement must be made in writing as early as possible. An agreement by all of the parties to a postponement to a particular date will be honored by the Residential Rent Adjustment Program, if there is good cause for the postponement. When the parties agree to a postponement, the RAP must be notified in writing as soon as possible. All parties, or their representatives, must sign the request for postponement form. Before submitting a request for postponement, the person asking for a postponement must try to reach an agreement with the other party (ies) for two alternate hearing dates. Failure to comply with rules will result in denial of the request.

#### 9. At the hearing:

a. Bring all of your evidence - This includes your lease, letters, notices, photographs, receipts and witnesses. Make sure your papers are in the order that you want to present them. Keep your answers short and to the point. You should only talk about things related to your case.

b. Only affirm what you know for sure - It's okay to say that you don't understand a question. It's also okay to say that you don't know or that you've forgotten something. Just tell the truth, and don't guess about facts you aren't sure about.

c. Wait your turn - If your landlord is talking to the hearing officer, you can make notes about any questions you may want to ask or arguments you want to make. When it's your turn, you can make your points.

d. Don't get mad - Even if you think your landlord is rude or lying, please stay calm. Don't interrupt. Your behavior in the hearing can influence the Hearing Officer's decision.

e. Take an interpreter - If you have trouble speaking or understanding English, bring a friend who can interpret for you.

f. Don't be late! - Rent Adjustment hearings are usually very brief. If you're late, they will start the hearing without you, or the hearing officer may simply dismiss your case.

10. The Decision: A written hearing decision is normally issued and mailed to you within 30 days after the close of the hearing. If the hearing officer renders a decision in your favor, the landlord is obligated to pay the increase retroactively to the effective date of the rent increase notice. A hearing officer's order is serious. If the landlord doesn't pay you the owed rent you can use the available legal remedies to collect.

a. Mistakes in the Hearing Officer's decision - If you think there are mistakes in the Hearing Officer's decision you can ask a hearing officer to correct the decision before time to file an appeal expires (see the next section). For example, if you won at the hearing but there is no mention of the correct rent, it may be an unintentional oversight. You must write to the Hearing Officer asking for a correction in the decision. The hearing officer may or may not change the decision. Time for appeal is not extended by asking for a correction to the decision.

b. Appeal of a decision by a Hearing Officer - You cannot apply for another hearing because you do not like the decision. But you can appeal the decision to the Housing Residential Rent and Relocation Board (HRRRB or Rent Board). You must appeal within twenty days following the date of mailing of the Hearing Decision.

c. Reasons For Appeal - The reasons allowed for appeal to the Board are listed in the Rent Adjustment Regulations. You can appeal a decision issued by a Hearing Officer for the following reasons:

The decision does not follow the applicable law including, OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. In order to understand your appeal, you have to be specific about what Ordinance section, regulation or prior Board decision is involved.

The decision is inconsistent with decisions issued by other hearing officers. In order to understand your appeal, you must explain how the decision is inconsistent and identify both decisions.

The decision raises a new policy issue that has not been decided by the Board. You must state the issue in detail and your argument about how the issue should be decided.

The decision is not supported by substantial evidence. You are responsible for making sure that sufficient record (not new evidence) is before the Board to support your position.

You were denied a sufficient opportunity to present my claim or respond to the petitioner's claim. You must explain how you were denied a sufficient opportunity. Note: A hearing is not required in every case. For example, as when none of the facts necessary to make a decision are in dispute.

11. The Appeal Process: You do not have to pay a fee for filing an appeal. You can request an appeal form from the Rent Adjustment Program or find it online. It is important to fill out the form completely and fully explain your reasons for filing the appeal. You must attach an explanation of your appeal to the form. If your appeal is incomplete, it cannot be processed. Your appeal must be filed within 20 days of the date a hearing decision is mailed to you (15 days, plus 5 days for mailing). If your appeal is late, you must explain why it was late. The Rent Adjustment staff or the Board will decide whether to accept it late.

a. Who will look at my appeal? - Usually, the analyst that managed your case, the Program Manager and the hearing officer who wrote the decision will read the appeal. The hearing officer will consider only the information contained in the appeal, and the records from the original hearing and may issue a corrected decision. A corrected decision begins the appeal process all over again and if you are still not satisfied, you have to file another appeal. You won't be able to speak to the hearing officer about your case, the decision, or your appeal.

b. What happens to the original decision? - The hearing decision is automatically suspended if an appeal is filed. For example, if the original hearing decision allowed the tenant to pay a lesser amount, the decrease in the rent does not go into affect until the HRRRB makes a final written decision.

c. Notifying your landlord: - When filing your appeal, you must serve a complete copy of your appeal, including attachments, on the landlord. You must fill out the proof of service form on the appeal certifying under penalty of perjury that you sent the landlord a copy or your appeal will not be processed. You will receive a written notice of the date and time of your appeal hearing by mail.

d. Briefs. - You may submit written argument up to 3:00 p.m. in the 8th day before the hearing. The Board will not accept evidence that was not presented to the Hearing Officer. However, you may describe to the Board evidence that you are willing and able to present. The Board does not accept written argument at the appeal hearing.

12. The appeal hearing: - Parties are notified of the date, time and place of the appeal hearing by mail. The Board usually conducts hearings at their regular meetings at 7:00 p.m. on the second and fourth Thursdays of every month. If your case is on the agenda, you do not have to sign-in or register. The Board chairperson will call your case in turn. If you filed the appeal and are not present, the Board will dismiss your case. Usually, each party is given a total of 15 minutes to speak, divided into two segments. You have the discretion to divide your time between the segments as you think best. The Board will then deliberate publicly and move, second and vote a decision. If the Board does not take any action, the appealed decision by the Hearing Officer or Staff becomes the final decision of the RAP.

13. Review of a hearing decision by the Board - The HRRRB can:

- a. Make a decision based on the record as presented.
- b. Hold an evidentiary hearing setting forth the issues on which the parties may present evidence.
- c. Send the case back to the RAP staff for hearing, calculations or some other action.

The Board's decision is the final decision of the City. The Board does not have jurisdiction to reconsider its decisions. Staff cannot change or modify a Board Decision. Parties cannot appeal to the City Council, but may ask the Superior Court to review the decision within 90 days after the date the decision was mailed.