



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

Sandra Rivera
Agency Director

Agenda Item _____ February 27, 2024

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February 13, 2024

Honorable Board of Supervisors
Administration Building
1221 Oak Street, Suite 536
Oakland, California 94612

Dear Board Members:

**SUBJECT: FIRST READING OF UNINCORPORATED COUNTY
RENTAL HOUSING DISPUTE RESOLUTION
ORDINANCE**

RECOMMENDATION:

Adopt an Ordinance amending Chapter 3.68 to establish a rental housing dispute resolution process in Unincorporated Alameda County and to eliminate the existing rent review and mediation process.

BACKGROUND:

On February 6, 2024 (Item No. 46.2), your Board received an informational report on the Unincorporated County Rental Housing Dispute Resolution ordinance as well as the Unincorporated County Just Cause for Eviction ordinance.

As background, in 2018, your Board directed the Community Development Agency's (CDA's) Housing and Community Development Department (HCD) to investigate tenant protections in the Unincorporated area of Alameda County.

After hearings in 2021 and 2022 at the unincorporated Municipal Advisory Councils, and various Board Committees, on December 20, 2022 (Item No. 50), your Board approved a first reading of the Just Cause ordinance, among other tenant protection ordinances. At the ordinance's second reading on February 28, 2023 (Item No. 92), the motion to adopt the ordinance failed to receive sufficient votes, and your Board directed staff to return to the Unincorporated Services Committee for further discussion to determine if a consensus could be found between rental housing providers and tenants in the Unincorporated County.

On June 28, 2023 (Item No. 1), the Unincorporated Services Committee determined that President Miley would spearhead stakeholder meetings regarding the Just Cause

ordinance and return to your Board with revised versions of the ordinances. In response to expressed community support, President Miley facilitated discussions between the parties regarding a mandatory mediation program in the form of a Rental Housing Dispute Resolution ordinance.

As a result, in the Fall of 2023, President Miley hosted two facilitated stakeholder meetings with representatives from rental housing providers and tenants. These meetings led to the development of the proposed ordinances for your Board's consideration at your February 6, 2024 meeting.

Rental Housing Dispute Resolution

On February 8, 2003, your Board adopted Ordinance Number 0-2004-48, the Mandatory Notification of Rent Mediation Services ordinance (codified in Chapter 3.68 of the Ordinance Code). This ordinance requires owners of residential rental properties of three or more units in Unincorporated Alameda County to include specified language on the availability of rent mediation services on tenant rent increase notices.

During the recent facilitated stakeholder discussions, rental housing providers and tenants agreed that a more comprehensive dispute resolution ordinance is desirable, in conjunction with funding for a more robust mediation program. President Miley expressed interest in initially having the program funded by the County for the first year. The proposed ordinance states that the County will pay for the cost of the program to the extent funds are available in its first year, and CDA will seek to identify such funding. Subsequently HCD will conduct a fee study to ascertain the cost of the program in successive years, which the ordinance indicates will be allocated among the parties or paid with other available funding sources, as determined by the CDA director.

The proposed ordinance (Exhibit A) replaces the existing Rent Review Program with a more inclusive dispute resolution program and provides that a landlord or tenant in the unincorporated county may seek mediation for a proposed rent increase of more than 5% greater than the base rent, two rent increases within the previous 12-month period, or a wide array of other rental housing disputes.

Rental housing disputes are fact-based grievances raised by a landlord or tenant regarding the occupancy or use of residential property including:

- Rental rate increases
- Deposits
- Habitability
- Repairs and maintenance
- Utilities
- Occupants
- Parking and storage facilities
- Privacy
- Quiet enjoyment
- Use of common areas.

Disputes that are the subject of a lawful eviction (unlawful detainer) proceeding are excluded. Both parties must participate in the mediation in good faith upon this request.

The ordinance details specific timelines for the assignment of a mediation and how long the mediation process will last. The mediation process will conclude upon the earlier of: (a) the execution of a legally enforceable, written agreement signed by all parties to the mediation; (b) the mediator's determination that no further progress is likely to result from continued mediation; or (c) all the parties to the mediation indicate in writing that the mediation has concluded to their satisfaction. While good faith participation in mediation is mandatory, the process is nonbinding unless the parties reach an agreement which is memorialized in writing and legally enforceable.

FINANCING:

The proposed Rental Housing Dispute Resolution ordinance states that the County will pay for the cost of the program to the extent funds are available in its first year. CDA will seek to identify potential funding that your Board may consider, such as reallocating American Rescue Plan Act Unincorporated County program funds, to initially support this program. After evaluation, subsequent years of funding will be sought by CDA as the ordinance allows for the cost to be paid from other sources or to be allocated among the parties, as determined by the CDA Director.

VISION 2026 GOAL:

Approval of this ordinance meets the 10X goal pathway of **Eliminate Homelessness** in support of our shared visions of **Safe and Livable Communities** and **Thriving and Resilient Populations**.

Very truly yours,

DocuSigned by:
Sandra Rivera
4C216765DCDF437...
Sandra Rivera, Director
Community Development Agency

cc: Susan S. Muranishi, County Administrator
Donna R. Ziegler, County Counsel
Melissa Wilk, Auditor-Controller
Peilin Chen, County Administrator's Office
Andrea L. Weddle, Office of the County Counsel
Caitlyn M. Gulyas, Office of the County Counsel
Lucy Romo, Community Development Agency

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 3.68 OF THE ALAMEDA COUNTY ORDINANCE CODE TO ESTABLISH A RENTAL HOUSING DISPUTE RESOLUTION PROCESS IN THE UNINCORPORATED AREAS OF ALAMEDA COUNTY AND TO ELIMINATE THE EXISTING RENT REVIEW AND MEDIATION PROCESS

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

Chapter 3.68 of the Alameda County Ordinance Code is amended to read as follows:

Chapter 3.68 – RENTAL HOUSING DISPUTE RESOLUTION PROCESS

Article I - General

3.68.010 – Findings and Purpose

The board of supervisors finds that critical housing problems exist within the unincorporated area of Alameda County and numerous disputes have arisen between landlords and tenants of such units on issues of rental increases and rental housing habitability. This board finds:

- A. That such disputes frequently may be resolved if there exists a formal means of communication and a dispute resolution mechanism;
- B. That harmony in the relationships between tenants and rental property owners is essential for the public health, safety and welfare;
- C. That public policy favors the resolution of disputes between these parties through voluntary agreement without resort to formal court proceedings; and
- D. That it is proper for the county to mandate participation in the process for resolution of such disputes between landlords and tenants.

It is the purpose of this chapter to increase certainty and fairness in the residential rental market within unincorporated Alameda County, and to promote the health, safety, and general welfare of landlords and tenants within the county. This chapter governs rent and other disputes between landlords and tenants of all rental dwelling units located within the unincorporated areas of Alameda County.

3.68.020 – Applicability

The provisions of this chapter shall apply to all rental dwellings in the unincorporated area of Alameda County used for residential purposes, whether or not the residential use is a conforming use and including live-work spaces. Notwithstanding the foregoing, this chapter shall not apply to any dwelling unit that is owned or operated by a government agency.

3.68.030 - Definitions

Unless the context otherwise requires, the terms defined in this chapter shall have the following meanings:

"Base rent" means the rental amount, including any amount paid to the landlord for parking, storage, utilities or any other fee or charge associated with the tenancy, required to be paid by

the tenant to the landlord in the month immediately preceding the effective date of the rent increase.

"Board of supervisors" means the board of supervisors of the county of Alameda.

"Community development director" or "CDA director" means the director of the community development agency of the county of Alameda, or the director's designated representative.

"County" means the county of Alameda.

"Designated service provider" means a party or organization, which may include a County agency or department, designated by the board of supervisors to provide rent review and mediation services in the unincorporated county and to perform other tasks necessary to implement the program and procedures contained in this chapter and any associated guidelines.

"Dwelling" means any building or portion of a building which contains one or more dwelling units. The term includes one-family dwelling, two-family dwelling and multiple dwelling.

"Dwelling unit" means a structure or the part of a structure used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household, as defined in California Civil Code section 1940(c), which is hired, rented, or leased to a household. The term "dwelling unit" shall also include, for the purposes of this chapter, a one-family mobilehome as defined in section 3.32.020 of chapter 3.32 of the Alameda County General Ordinance Code.

"Good faith participation" includes the affirmative duty of a landlord to refrain from initiating an unlawful detainer proceeding while the parties are engaged in proceedings under this chapter, excepting only those actions authorized by subsections (3) and (4) of California Code of Civil Procedure section 1161 (unlawful detainer) or any successor provisions, and the affirmative duty of a tenant to abide by the terms of the lease or rental agreement and to pay all lawful rent owed.

"Guidelines" means written regulations for the administration and implementation of this chapter adopted by the CDA director. All forms and notices needed to facilitate the administration and implementation of this chapter shall be adopted by the CDA director and may be included in the guidelines.

"Housing director" means the housing and community development director of the county of Alameda or their designated representative.

"Landlord" means any person, partnership, corporation, or other business entity offering for rent or lease any residential property in the unincorporated county. Landlord shall include the agent or representative of the landlord, provided that such agent or representative shall have full authority to answer for the landlord and enter into binding agreements on the landlord's behalf.

"Mediation" means one or more meetings in which a landlord and tenant have the opportunity to directly communicate with a mediator and each other in a face-to-face setting at a neutral location to resolve a rental housing dispute under ground rules designed to protect the confidentiality and neutrality of the communications.

"Mediator" means a person who is employed or retained by the designated service provider and who meets any criteria for conducting mediations that may be established in the guidelines.

"Rent" means a fixed periodic compensation paid by a tenant at fixed intervals to a landlord for the possession and use of property, including any amount paid to the landlord for parking, storage, utilities, or any other fee or charge associated with the tenancy.

"Rent increase" means any upward adjustment of the rent from the base rent amount.

"Rental housing dispute" means a fact-based grievance raised by any tenant or landlord regarding the occupancy or use of residential property including rental rate increases, deposits, habitability, repairs and maintenance, utilities, occupants, parking and storage facilities, privacy, quiet enjoyment, or use of common areas but excluding disputes that are the subject of a lawful eviction (unlawful detainer) proceeding in a court of competent jurisdiction.

"Residential property" means any dwelling unit offered for rent or lease in the unincorporated county and mobilehomes if a tenant rents the mobile housing unit itself. Mobilehome spaces in mobilehome parks are regulated under Chapter 3.32 of this code and are explicitly excluded from this chapter.

"Tenant" means any person having the legal responsibility for the payment of rent for residential property in the unincorporated area of Alameda County. "Tenant" includes the agent or representative of the tenant, provided that such agent or representative shall have full authority to answer for the tenant and enter into binding agreements on the tenant's behalf.

Article II – Notice of Availability of Mediation

3.68.040 – Notice of availability of mediation required

- A. Landlords must provide to each of their tenants a notice of tenant rights under Article III of this chapter that describes the mediation and how to request service; a form for providing such notice may be issued in the guidelines.
- B. Landlords must provide to their tenants the notice of tenant rights under subsection (A):
 - 1. Within thirty (30) calendar days of enactment of this chapter;
 - 2. When entering a lease or rental agreement;
 - 3. When renewing a lease or rental agreement;
 - 4. When providing notice of a rent increase; and
 - 5. Upon receipt of written notice of untenable conditions as defined by California Civil Code section 1941.1.

3.68.050 - Contents of notice.

All notices of the availability of mediation shall be in writing, shall provide the name, address and phone number of the landlord and shall be personally delivered to the tenant or posted and mailed to the tenant at the address of the tenant's rental unit by first class mail, postage pre-paid. Service by mail shall be presumed complete within five (5) calendar days of mailing. This presumption may be rebutted by the tenant.

Article III – Rental Housing Dispute Mediation

3.68.060 – Eligibility for Mediation.

- A. Tenant-Requested Mediation. A tenant residing in a dwelling unit may file a request and receive mediation services under the following circumstances:
 - 1. Within ninety (90) calendar days of enactment of this chapter, and thereafter;

2. Within sixty (60) calendar days of providing written notice to the landlord of untenable conditions as defined by California Civil Code section 1941.1;
 3. Within twenty-one (21) calendar days of receipt of a proposed rent increase that (a) raises the rent to an amount more than five percent (5%) greater than the base rent, or (b) follows a prior rent increase imposed within the previous twelve (12) month period; and
 4. Within twenty-one (21) calendar days of learning the facts that give rise to a dispute for any other rental housing dispute.
- B. Landlord-Requested Mediation. A landlord may file a request and receive mediation services under the following circumstances:
1. Within ninety (90) calendar days of enactment of this chapter, and thereafter;
 2. Within sixty (60) calendar days of receiving written notice of untenable conditions as defined by California Civil Code section 1941.1;
 3. Within twenty-one (21) days of serving a notice of rent increase that (a) raises the rent to an amount more than five percent (5%) greater than the base rent, or (b) follows a prior rent increase imposed within the previous twelve (12) month period; and
 4. Within twenty-one (21) calendar days of learning the facts that give rise to a dispute for any other rental housing dispute.

3.68.070 - Mediation Process.

- A. Designated Service Provider. The county shall contract with or designate one or more designated service providers to provide mediation services. The guidelines may include a description of minimum qualifications for the designated service provider and mediators.
- B. Mediation Requests.
1. Any tenant or landlord eligible for mediation under this Article III may request mediation services from a designated service provider.
 2. Each landlord or tenant requesting mediation services must complete and sign a form under penalty of perjury that demonstrates eligibility for mediation and includes other information as may be specified in the guidelines.
 3. Separate requests for mediation services that involve one or more of the same parties may be consolidated with the consent of the landlord and the other tenants, but consolidation is not required and shall not affect individuals' ability to be separately represented or to bring a separate legal action.
 4. If an eligible tenant has requested mediation as a result of receiving one or more notices in accordance with California Civil Code section 827 that individually or cumulatively increase rent more than five percent (5%) within any twelve-month period, unless the parties otherwise agree in writing, such noticed rent increase will not be effective until the mediation concludes.
- C. Mediation Process. The designated service provider shall assign a mediator within ten (10) calendar days of receiving a complete request for mediation services. The assigned mediator shall offer a mediation process as follows:

1. Within two (2) business days of receiving a mediation assignment from the designated service provider, the mediator shall provide notice of the mediation to the landlord and tenant. The mediation notice shall, at a minimum, inform each party of their obligation to appear at the mediation and participate in the mediation in good faith. The mediator shall make reasonable efforts to schedule mediation sessions at times that are mutually convenient for the landlord and the tenant, which may include times that are outside of business hours. The mediation process shall commence upon notification of the landlord and tenant by the mediator.
 - (a) A mediator may notify the landlord and tenant of the mediation process via telephone, email, or any other form of communication, but the mediator must notify each party in writing via first-class mail, postage prepaid to each parties' address of record.
 - (b) Following the mediator sending such notification, both the landlord and the tenant have an affirmative obligation to participate in the mediation in good faith until the mediation concludes.
 2. The mediation process shall conclude upon the earlier of: (a) the execution of a legally enforceable, written agreement signed by all parties to the mediation; (b) the mediator's determination that no further progress is likely to result from continued mediation; or (c) all of the parties to the mediation indicate in writing that the mediation has concluded to their satisfaction. In no event shall a mediation process last longer than thirty (30) calendar days after an initial mediation session is held unless the parties agree in writing to extend the mediation term.
- D. Mandatory Participation. Every party to a mediation is affirmatively obligated to participate in such mediation in good faith until the mediator determines the mediation has concluded (as provided in C.2. above).
1. For purposes of this section, in addition to the definition in section 3.68.030, good faith participation also includes the mutual obligation of the landlord and tenant to meet on each occasion when notified of mediation proceedings, provide relevant information, exchange proposals, timely consider and respond to proposals by opposing parties, and engage in meaningful discussion on the subject of proposed rent increases, issues related to the rent increase, and the rental housing dispute.
 2. Failure to participate in good faith.
 - (a) No rent increase will be effective unless or until the landlord of the dwelling unit complies with the provisions of this chapter by participating in good faith for the entirety of a mediation process.
 - (b) If a tenant fails to participate in good faith, the mediator at their discretion may determine that the tenant has withdrawn their request for mediation service and conclude the mediation process, allowing any rent increase to be implemented in accordance with the notice requirements in California Civil Code section 827.
- E. Mediation Agreements. No party shall be obligated to reach any specific agreement, or to reach any agreement at all, as a result of participating in mediation.
1. Any agreement reached by the parties in mediation must:
 - (a) Be made in writing and signed by the parties;

- (b) State the specific terms of the mediation agreement including the duration and conditions of the agreement;
 - (c) State the effective date of any agreed-upon rent increase and stipulate to the adequacy of notice for any rent increase in accordance with California Civil Code section 827;
 - (d) Be legally enforceable against the parties to the agreement;
 - (e) Provide that the agreement may be enforced via civil action by any party and by the county or its designee as third-party beneficiaries; and
 - (f) Provide that any agent or representative signing a mediation agreement on behalf of other persons shall be responsible for promptly providing a copy of the agreement to the parties they represent.
2. A tenant bound by a mediation agreement may not request further mediation concerning any rent increase covering the same time period included in the mediation agreement but may request mediation concerning an additional rent increase that is first noticed or occurs after the mediation agreement is signed by both parties.
 3. Mediation Statements. If a mediation does not result in a mediation agreement, then the designated mediator shall produce a nonbinding mediation statement. The guidelines shall include form mediation agreements and mediation statements that include, without limitation, the name of each party that appeared for and participated in good faith in the mediation service, and a concise summary of the dispute.

Article IV - Miscellaneous

3.68.080 – Rights Not Affected.

- A. Nothing in this chapter shall be deemed to affect any rights or remedies of a tenant provided by state or federal law, including but not limited to:
 1. Tenant's right to quiet enjoyment of the rental premises.
 2. The duty of a landlord to make a dwelling unit tenantable and repair all dilapidations that render it untenable.
 3. Prohibited landlord conduct including discrimination in housing; retaliation, threats or other coercive conduct; unauthorized entry into a tenant's unit, and unauthorized taking of tenant's personal property.
 4. Rights concerning payment and return of rent and security deposits.
 5. Rights to required notice prior to termination of a rental agreement.
 6. Rights under unlawful detainer statutes.
- B. Nothing in subsection A of this section prohibits the lawful eviction of a tenant in accordance with California Civil Code section 1946.1 or by any other appropriate legal means.
- C. Nothing in this chapter shall be deemed to affect any duties or obligations of a landlord to comply with applicable housing, building, or zoning codes, including compliance with valid code enforcement orders and notices.

3.68.090 – Retaliation

Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising the tenant's legal rights. Commencement of eviction proceedings against a tenant for exercising his or her rights under this chapter shall be considered a retaliatory eviction.

3.68.100 – Annual review.

The housing director shall annually prepare and present a report to the board of supervisors assessing the effectiveness of the rental housing dispute mediation program established under this chapter and recommend changes as may be appropriate. Annual assessment of the program shall include factors such as rent levels and trends, number of requests for mediation, and types of reported disputes.

3.68.110 - Civil remedies.

- A. Injunctive relief. Any aggrieved person may enforce the provisions of Article III of this chapter by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of Article III of this chapter may be enjoined therefrom by any court of competent jurisdiction. An action for injunction under this section may be brought by any aggrieved person, by county counsel, or by any person or entity which will fairly and adequately represent the interests of the protected class.
- B. Civil Liability. Any person who violates any of the provisions of Article III of this chapter or who aids in the material violation of any provisions of Article III of this chapter is liable for, and the court may award to the individual whose rights are violated special and general damages. The court may award attorney's fees, costs of action, and punitive damages. Civil actions filed pursuant to this section must be filed within one (1) year of the events giving rise to the alleged cause of action.

3.68.120 – Initial Cost of Program

For the first year during which Article III of this chapter is in effect, the county shall pay the cost of any rental housing dispute mediation required by Article III of this chapter to the extent funds are available. Thereafter the costs of the rental housing dispute mediation shall be allocated among the parties or paid with other available funding sources, as determined by the CDA director.

SECTION II

If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this chapter which can be implemented without the invalid provisions, and to this end, the provisions of this Chapter 3.68 are declared to be severable, and the Board of Supervisors hereby declares that it would have adopted this Chapter and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION III

This Ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the _____ day of _____ 2024, by the following called vote:

AYES:

NOES:

EXCUSED:

ABSTAINED:

President of the Board of Supervisors

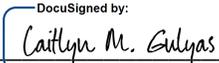
ATTEST:

Anika Campbell-Belton,
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By:  _____
Caitlyn M. Gulyas
Deputy County Counsel

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 3.68 OF THE ALAMEDA COUNTY ORDINANCE CODE TO ESTABLISH A RENTAL HOUSING DISPUTE RESOLUTION PROCESS IN THE UNINCORPORATED AREAS OF ALAMEDA COUNTY AND TO ELIMINATE THE EXISTING RENT REVIEW AND MEDIATION PROCESS

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

Chapter 3.68 of the Alameda County Ordinance Code is amended to read as follows:

Chapter 3.68 – NOTIFICATION OF RENT MEDIATION SERVICES– RENTAL HOUSING DISPUTE RESOLUTION PROCESS

Article I - General

3.68.010 – Findings and Purpose Short Title.

This chapter shall be known as the mandatory notification of rent mediation services ordinance. The board of supervisors finds that critical housing problems exist within the unincorporated area of Alameda County and numerous disputes have arisen between landlords and tenants of such units on issues of rental increases and rental housing habitability. This board finds:

- A. That such disputes frequently may be resolved if there exists a formal means of communication and a dispute resolution mechanism;
- B. That harmony in the relationships between tenants and rental property owners is essential for the public health, safety and welfare;
- C. That public policy favors the resolution of disputes between these parties through voluntary agreement without resort to formal court proceedings; and
- D. That it is proper for the county to mandate participation in the process for resolution of such disputes between landlords and tenants.

It is the purpose of this chapter to increase certainty and fairness in the residential rental market within in the residential rental market within unincorporated Alameda County, and to promote the health, safety, and general welfare of landlords and tenants within the county. This chapter governs rent and other disputes between landlords and tenants of all rental dwelling units located within the unincorporated areas of Alameda County.

3.68.020 – Applicability

The provisions of this chapter shall apply to all rental dwellings in the unincorporated area of Alameda County used for residential purposes, whether or not the residential use is a conforming use and including live-work spaces. Notwithstanding the foregoing, this chapter shall not apply to any dwelling unit that is owned or operated by a government agency.

3.68.030 - Definitions.

Unless the context otherwise requires, the terms defined in this chapter shall have the following meanings:

"Base rent" means the rental amount, including any amount paid to the landlord for parking, storage, utilities or any other fee or charge associated with the tenancy, required to be paid by the tenant to the landlord in the month immediately preceding the effective date of the rent increase.

"Board of supervisors" means the board of supervisors of the county of Alameda.

"Community development director" or "CDA director" means the director of the community development agency of the county of Alameda, or the director's ~~his or her~~ designated representative.

"County" means the county of Alameda.

"Designated service provider" means a party or organization, which may include a County agency or department, designated by the board of supervisors to provide rent review and mediation services in the unincorporated county and to perform other tasks necessary to implement the program and procedures contained in this chapter and any associated guidelines.

"Dwelling" means any building or portion of a building which contains one or more dwelling units. The term includes one-family dwelling, two-family dwelling and multiple dwelling.

"Dwelling unit" means a structure or the part of a structure used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household, as defined in California Civil Code section 1940(c), which is hired, rented, or leased to a household. The term "dwelling unit" shall also include, for the purposes of this Chapter a one-family mobilehome as defined in section 3.32.020 of Chapter 3.32 of the Alameda County General Ordinance Code.

"Good faith participation" includes the affirmative duty of a landlord to refrain from initiating an unlawful detainer proceeding while the parties are engaged in proceedings under this chapter, excepting only those actions authorized by subsections (3) and (4) of California Code of Civil Procedure section 1161 (unlawful detainer) or any successor provisions, and the affirmative duty of a tenant to abide by the terms of the lease or rental agreement and to pay all lawful rent owed.

"Guidelines" means written regulations for the administration and implementation of this chapter adopted by the CDA director. All forms and notices needed to facilitate the administration and implementation of this chapter shall be adopted by the CDA director and may be included in the guidelines.

"Housing director" means the housing and community development director of the county of Alameda or their ~~his or her~~ designated representative.

"Landlord" means any person, partnership, corporation, or other business entity offering for rent or lease any residential property in the unincorporated county. Landlord shall include the agent or representative of the landlord, provided that such agent or representative shall have full authority to answer for the landlord and enter into binding agreements on the landlord's behalf.

"Mediation" means one or more meetings in which a landlord and tenant have the opportunity to directly communicate with a mediator and each other in a face-to-face setting at a neutral location to resolve a rental housing dispute under ground rules designed to protect the confidentiality and neutrality of the communications.

"Mediator" means a person who is employed or retained by the designated service provider and who meets any criteria for conducting mediations that may be established in the guidelines.

~~"Nonrequesting party" means the party, either the tenant or landlord, who does not initiate a request for rent review or rent mediation but who is asked by either the requesting party or the rent review officer to participate.~~

"Rent" means a fixed periodic compensation paid by a tenant at fixed intervals to a landlord for the possession and use of property, including any amount paid to the landlord for parking, storage, utilities, or any other fee or charge associated with the tenancy.

"Rent increase" means any upward adjustment of the rent from the base rent amount.

~~"Rent review entity" means any organization, board or individual, as designated by the board of supervisors to provide rent review and mediation services in the unincorporated county.~~

~~"Rent review officer" means a person or persons working for the rent review entity, to provide rent review and/or mediation services to landlords and tenants in the unincorporated county.~~

~~"Rent review services" means services provided to tenants or landlords who request review of a rent increase up to, but not including rent mediation.~~

~~"Rent mediation" means mediation or conciliation services involving discussion among and between tenants and landlords facilitated by a rent review officer or a mediator telephonically or in person.~~

"Rental housing dispute" means a fact-based grievance raised by any tenant, landlord regarding the occupancy or use of residential property including rental rate increases, deposits, habitability, repairs and maintenance, utilities, occupants, parking and storage facilities, privacy, quiet enjoyment, or use of common areas but excluding disputes that are the subject of a lawful eviction (unlawful detainer) proceeding in a court of competent jurisdiction.

"Residential property" means any dwelling housing unit offered for rent or lease in the unincorporated county, ~~provided that such housing unit is on a property that contains three or more housing units, and mobilehomes. Mobilehomes are subject to this chapter only if a tenant rents the mobile housing unit itself. Mobilehome spaces in mobilehome parks are regulated under Chapter 3.32 of this code and are explicitly excluded from this chapter.~~

~~"Requesting party" means the party, either a the tenant or landlord, who initiates a request for rent review, or rent mediation.~~

"Tenant" means any person having the legal responsibility for the payment of rent for residential property in the unincorporated area county of Alameda County. "Tenant" includes the agent or representative of the tenant, provided that such agent or representative shall have full authority to answer for the tenant and enter into binding agreements on the tenant's behalf.

Article II – Notice of Availability of ~~Rent Review~~ and Mediation

3.68.0340 – Notice of availability of ~~rent review~~ and mediation 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 a rent increase, the landlord shall also provide notice of the availability of voluntary rent review and mediation services. The required language to be included describing the voluntary rent review and mediation program shall be provided by the county.~~

- A. Landlords must provide to each of their tenants a notice of tenant rights under Article III of this chapter that describes the mediation and how to request service; a form for providing such notice may be issued in the guidelines.
- B. Landlords must provide to their tenants the notice of tenant rights under subsection (A):
 - 1. Within thirty (30) calendar days of enactment of this chapter;
 - 2. When entering a lease or rental agreement;
 - 3. When renewing a lease or rental agreement;
 - 4. When providing notice of a rent increase; and
 - 5. Upon receipt of written notice of untenable conditions as defined by California Civil Code section 1941.1

3.68.0450 - Contents of notice.

All notices of the availability of ~~rent review and~~ mediation shall be in writing, shall provide the name, address and phone number of the landlord and shall be personally delivered to the tenant or posted and mailed to the tenant at the address of the tenant's rental unit by first class mail, postage pre-paid. Service by mail shall be presumed complete within five (5) calendar days of mailing. This presumption may be rebutted by the tenant.

~~3.68.0560~~ Text of notice.

~~In addition to all other information provided in the notice of the availability of rent review and mediation 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 ninety (90)sixty (60) days' notice of a rent increase of greater than ten percent (10%). Under Chapter 3.68 of Title 3 of Alameda County General Ordinance Code, a landlord of any rental unit on a property with three or more housing units must at the same time provide this notice of the county's rent review and mediation program before demanding or accepting any increase in rent.~~

~~You are encouraged to contact the owner or manager of your rental unit to discuss a rent increase as soon as possible. However, you may also request services under the Alameda County rent review and mediation program. Rent review services are available for any rent increase. You may also be eligible for voluntary rent mediation services if you have received notice of a rent increase that (1) will increase your rent more than five ten percent (510%) above the rent you paid last month, (2) is greater than seventy five dollars (\$75.00) per month, or (3) follows one or more prior rent increases within the past twelve (12) months.~~

~~Request for rent review or mediation services may be made in writing or by telephone. If you request mediation of the rent increase, you and your landlord may be requested to meet with a rent review officer for a hearing on your rent dispute. After hearing from you and your landlord, the rent review officer may make a nonbinding recommendation for resolution of the rent dispute. To request review or mediation of your rent increase, please~~

~~contact the Rent Review Program, 224 W. Winton Ave., Room 108, Hayward, CA 94544 or by calling (510) 670-6682 and requesting rent review or mediation services.~~

~~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.~~

~~Article III - Rent Review~~ Rental Housing Dispute Mediation

~~3.68.060— Request for rent review or mediation.~~

~~Either a landlord or a tenant may seek rent review services concerning any rent increase. Either a landlord or a tenant may request rent mediation if the proposed rent increase (1) raises the rent to an amount more than ten percent (10%) greater than the base rent, (2) increases the monthly rent by an amount greater than seventy-five dollars (\$75.00) per month, or (3) follows a prior rent increase imposed within the previous twelve (12) month period. The party seeking rent review or mediation may submit the request in writing or by telephone, as specified in Section 3.68.050. The rent review entity shall respond to all requests in an expeditious manner.~~

~~3.68.070— Rent review officer.~~

~~If the request is for rent review, the rent review officer shall review the increase with the requesting party. With the agreement of the requesting party and at the discretion of the rent review officer, the rent review officer may contact the nonrequesting party to discuss the increase.~~

~~If the request is for mediation, after determining that a proposed rent increase meets the criteria for mediation set forth in Section 3.68.060, the rent review officer shall contact both parties by telephone to attempt mediation. If agreeable to both parties, the rent review officer may schedule an in-person hearing of the rent dispute.~~

~~3.68.080— Hearing and determination.~~

~~At a rent mediation hearing, the rent review officer will afford the landlord and the tenant an opportunity to explain their respective positions. After hearing from both parties, and taking into consideration such factors as the hardship to the tenant, the frequency and amount of prior rent increases, the landlord's mortgage payments and other costs associated with owning and maintaining the property, the landlord's interest in earning a reasonable rate of return, and any other relevant factors, the officer may make a recommendation to the parties for the resolution of their dispute. If the parties agree to a resolution proposed by the officer, they may formalize the agreement in a standard form signed by both parties. Neither the county, the rent review entity, nor the rent review officer shall be a party to such an agreement, nor shall the county, the entity, or the officer assume any responsibility for enforcement of its terms.~~

~~3.68.090— Continuance.~~

~~If the landlord and tenant are unable to reach a resolution of their dispute during a hearing before the officer, the officer may in his or her discretion continue the hearing and request the parties to return for a second and final hearing of their dispute.~~

~~3.68.100— Retaliatory eviction.~~

~~Commencement of eviction proceedings against a tenant for exercising his or her rights under this chapter shall be considered a retaliatory eviction.~~

~~3.68.1120—Violation of 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.~~

~~3.68.120—Nonbinding nature.~~

~~The final recommendation of the rent review officer shall be nonbinding on all parties, except as they are mutually agreed upon by both parties to the dispute.~~

3.68.060 - Eligibility for Mediation.

A. Tenant-Requested Mediation. A tenant residing in a dwelling unit may file a request and receive mediation services under the following circumstances:

1. Within ninety (90) calendar days of enactment of this chapter, and thereafter;
2. Within sixty (60) calendar days of providing written notice to the landlord of untenable conditions as defined by California Civil Code section 1941.1;
3. Within twenty-one (21) calendar days of receipt of a proposed rent increase that (a) raises the rent to an amount more than five percent (5%) greater than the base rent, or (b) follows a prior rent increase imposed within the previous twelve (12) month period; and
4. Within twenty-one (21) calendar days of learning the facts that give rise to a dispute for any other rental housing dispute.

B. Landlord-Requested Mediation. A landlord may file a request and receive mediation services under the following circumstances:

1. Within ninety (90) calendar days of enactment of this chapter, and thereafter;
2. Within sixty (60) calendar days of receiving written notice of untenable conditions as defined by California Civil Code section 1941.1;
3. Within twenty-one (21) days of serving a notice of rent increase that (a) raises the rent to an amount more than five percent (5%) greater than the base rent, or (b) follows a prior rent increase imposed within the previous twelve (12) month period; and
4. Within twenty-one (21) calendar days of learning the facts that give rise to a dispute for any other rental housing dispute.

3.68.070 - Mediation Process.

A. Designated Service Provider. The county shall contract with or designate one or more designated service providers to provide mediation services. The guidelines may include a description of minimum qualifications for the designated service provider and mediators.

B. Mediation Requests.

1. Any tenant or landlord eligible for mediation under this Article III may request mediation services from a designated service provider.

2. Each landlord or tenant requesting mediation services must complete and sign a form under penalty of perjury that demonstrates eligibility for mediation and includes other information as may be specified in the guidelines.
 3. Separate requests for mediation services that involve one or more of the same parties may be consolidated with the consent of the landlord and the other tenants, but consolidation is not required and shall not affect individuals' ability to be separately represented or to bring a separate legal action.
 4. If an eligible tenant has requested mediation as a result of receiving one or more notices in accordance with California Civil Code section 827 that individually or cumulatively increase rent more than five percent (5%) within any twelve-month period, unless the parties otherwise agree in writing, such noticed rent increase will not be effective until the mediation concludes.
- C. Mediation Process. The designated service provider shall assign a mediator within ten (10) calendar days of receiving a complete request for mediation services. The assigned mediator shall offer a mediation process as follows:
1. Within two (2) business days of receiving a mediation assignment from the designated service provider, the mediator shall provide notice of the mediation to the landlord and tenant. The mediation notice shall, at a minimum, inform each party of their obligation to appear at the mediation and participate in the mediation in good faith. The mediator shall make reasonable efforts to schedule mediation sessions at times that are mutually convenient for the landlord and the tenant, which may include times that are outside of business hours. The mediation process shall commence upon notification of the landlord and tenant by the mediator.
 - (a) A mediator may notify the landlord and tenant of the mediation process via telephone, email, or any other form of communication, but the mediator must notify each party in writing via first-class mail, postage prepaid to each parties' address of record.
 - (b) Following the mediator sending such notification, both the landlord and the tenant have an affirmative obligation to participate in the mediation in good faith until the mediation concludes.
 2. The mediation process shall conclude upon the earlier of: (a) the execution of a legally enforceable, written agreement signed by all parties to the mediation; (b) the mediator's determination that no further progress is likely to result from continued mediation; or (c) all of the parties to the mediation indicate in writing that the mediation has concluded to their satisfaction. In no event shall a mediation process last longer than thirty (30) calendar days after an initial mediation session is held unless the parties agree in writing to extend the mediation term.
- D. Mandatory Participation. Every party to a mediation is affirmatively obligated to participate in such mediation in good faith until the mediator determines the mediation has concluded (as provided in C.2. above).
1. For purposes of this section, in addition to the definition in section 3.68.030, good faith participation also includes the mutual obligation of the landlord and tenant to meet on each occasion when notified of mediation proceedings, provide relevant information, exchange proposals, timely consider and respond to proposals by opposing parties, and engage in meaningful discussion on the

subject of proposed rent increases, issues related to the rent increase, and the rental housing dispute.

2. Failure to participate in good faith.

(a) No rent increase will be effective unless or until the landlord of the dwelling unit complies with the provisions of this chapter by participating in good faith for the entirety of a mediation process.

(b) If a tenant fails to participate in good faith, the mediator at their discretion may determine that the tenant has withdrawn their request for mediation service and conclude the mediation process, allowing any rent increase to be implemented in accordance with the notice requirements in California Civil Code section 827.

E. Mediation Agreements. No party shall be obligated to reach any specific agreement, or to reach any agreement at all, as a result of participating in mediation.

1. Any agreement reached by the parties in mediation must:

(a) Be made in writing and signed by the parties;

(b) State the specific terms of the mediation agreement including the duration and conditions of the agreement;

(c) State the effective date of any agreed-upon rent increase and stipulate to the adequacy of notice for any rent increase in accordance with California Civil Code section 827;

(d) Be legally enforceable against the parties to the agreement;

(e) Provide that the agreement may be enforced via civil action by any party and by the county or its designee as third-party beneficiaries; and

(f) Provide that any agent or representative signing a mediation agreement on behalf of other persons shall be responsible for promptly providing a copy of the agreement to the parties they represent.

2. A tenant bound by a mediation agreement may not request further mediation concerning any rent increase covering the same time period included in the mediation agreement but may request mediation concerning an additional rent increase that is first noticed or occurs after the mediation agreement is signed by both parties.

3. Mediation Statements. If a mediation does not result in a mediation agreement, then the designated mediator shall produce a nonbinding mediation statement. The guidelines shall include form mediation agreements and mediation statements that include, without limitation, the name of each party that appeared for and participated in good faith in the mediation service, and a concise summary of the dispute.

Article IV - Miscellaneous

3.68.080 – Rights Not Affected.

A. Nothing in this chapter shall be deemed to affect any rights or remedies of a tenant provided by state or federal law, including but not limited to:

1. Tenant's right to quiet enjoyment of the rental premises.
 2. The duty of a landlord to make a dwelling unit tenantable and repair all dilapidations that render it untenable.
 3. Prohibited landlord conduct including discrimination in housing; retaliation, threats or other coercive conduct; unauthorized entry into a tenant's unit, and unauthorized taking of tenant's personal property.
 4. Rights concerning payment and return of rent and security deposits.
 5. Rights to required notice prior to termination of a rental agreement.
 6. Rights under unlawful detainer statutes.
- B. Nothing in subsection A of this section prohibits the lawful eviction of a tenant in accordance with California Civil Code section 1946.1 or by any other appropriate legal means.
- C. Nothing in this chapter shall be deemed to affect any duties or obligations of a landlord to comply with applicable housing, building, or zoning codes, including compliance with valid code enforcement orders and notices.

3.68.090 – Retaliation

Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising the tenant's legal rights. Commencement of eviction proceedings against a tenant for exercising his or her rights under this chapter shall be considered a retaliatory eviction.

3.68.1300 - Annual review.

The housing director shall annually prepare and present a report to the board of supervisors assessing the effectiveness of the ~~mandatory notification of rent mediation services~~ rental housing dispute mediation program established under this chapter and recommend changes as may be appropriate. Annual assessment of the program shall include factors such as rent levels and trends, number of ~~tenant~~ requests for ~~rent review and mediation~~, and ~~level of landlord participation~~ types of reported disputes.

3.68.010 - Civil remedies.

- A. Injunctive relief. Any aggrieved person may enforce the provisions of Article IV of this chapter by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of Article IV of this chapter may be enjoined therefrom by any court of competent jurisdiction. An action for injunction under this section may be brought by any aggrieved person, by county counsel, or by any person or entity which will fairly and adequately represent the interests of the protected class.
- B. Civil Liability. Any person who violates any of the provisions of Article IV of this chapter or who aids in the material violation of any provisions of Article IV of this chapter is liable for, and the court may award to the individual whose rights are violated special and general damages. The court may award attorney's fees, costs of action, and punitive

damages. Civil actions filed pursuant to this section must be filed within one (1) year of the events giving rise to the alleged cause of action.

3.68.120 – Initial Cost of Program

For the first year during which Article IV of this chapter is in effect, the county shall pay the cost of any rental housing dispute mediation required by Article IV of this chapter to the extent funds are available. Thereafter the costs of the rental housing dispute mediation shall be allocated among the parties or paid with other available funding sources, as determined by the CDA director.

SECTION II

If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this chapter which can be implemented without the invalid provisions, and to this end, the provisions of this Chapter 3.68 are declared to be severable, and the Board of Supervisors hereby declares that it would have adopted this Chapter and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION III

This Ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ____ day of _____ 2024, by the following called vote:

AYES:

NOES:

EXCUSED:

ABSTAINED:

President of the Board of Supervisors

ATTEST:

Anika Campbell-Belton,
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____

Caitlyn M. Gulyas
Deputy County Counsel

Perkins, Cheryl, CAO

From: Dan Pan <dan_pan@hotmail.com>
Sent: Monday, February 26, 2024 12:21 PM
To: Clerk of the Board
Subject: Please stop more housing restrictions in Alameda County

Dear Supervisors of Alameda County;

I finally got a chance to remove a tenant who hasn't paid their rents for nearly three years with huge damage to our house. I had negative cash flow for more than 4 years for this property because of Covid-19 impact. Housing providers like me have been suffered a lot during this hard period.

Now I heard BOS of Alameda County is going to discuss more housing restriction policies in Alameda County. I am so shocked, frustrated, scared and confused, and feel helpless, ignored, and betrayed after this horrible pandemic. More housing restriction policies will lead to more tense of housing provider-tenant relationship, more bankrupted housing providers, huge decreased house values, and more homeless people, like SF, Oakland, and Berkeley now.

I was a minority and immigrant with American dream many years ago when I came to this country. Please keep my American dream by rejecting those harsh and unreasonable housing restrictions in Alameda County.

Thanks a lot for your consideration.

Best!

Dan
Cell: 408-334-1148

**** This email was sent from an external source. If you do not know the sender, do not click on links or attachments. ****

cc: BOS, CAO, CBS