

ORDINANCE NO. O-2004-48

AN ORDINANCE ADDING CHAPTER 3.68 TO TITLE 3 OF THE
ORDINANCE CODE OF THE COUNTY OF ALAMEDA
RELATING TO THE REVIEW OF RENT INCREASES

WHEREAS, housing prices in the County of Alameda and throughout the Bay Area rose rapidly for several years and, while declining, are still very high; and

WHEREAS, the Board of Supervisors is concerned that high rents have dislocated residents of the County of Alameda and threaten additional dislocation in the future; and

WHEREAS, for many years the County has funded a voluntary rent mediation program through which tenants and landlords can discuss proposed rent increases and which encourages landlords and tenants to come to mutually satisfactory accommodations; and

WHEREAS, historically landlords have a high record of participation in such mediations when tenants have requested them; and

WHEREAS, the Board of Supervisors is eager to ensure that all tenants in the Unincorporated County are aware of the availability of rent mediation services at the time of notification of proposed rent increases; and

WHEREAS, Board members and County staff have consulted extensively with representatives of the Rental Housing Owners Association of Southern Alameda County, ECHO Housing, Congregations Organizing for Renewal, and others; and

WHEREAS, the Board of Supervisors has by Ordinance Number O-2004-48 established a Mandatory Notification of Rent Mediation Services Program the provisions of which are to be prescribed in Title 3, Chapter 3.68 of the Ordinance Code of the County of Alameda;

NOW, THEREFORE, the Board of Supervisors of the County of Alameda does ORDAIN as follows:

SECTION 1:

Chapter 3.68 is hereby added to Title 3 of the Ordinance Code of the County of Alameda to read as follows:

ARTICLE 1. GENERAL.

3.68.010. SHORT TITLE.

This ordinance shall be known as the Mandatory Notification of Rent Mediation Services Ordinance.

3.68.020. DEFINITIONS.

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

- (a) **BASE RENT.** 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.

- (b) **BOARD OF SUPERVISORS.** Board of Supervisors means the Board of Supervisors of the County of Alameda.
- (c) **COMMUNITY DEVELOPMENT DIRECTOR.** Community Development Director means the Director of the Community Development Agency of the County of Alameda, or his or her designated representative.
- (d) **COUNTY.** County means the County of Alameda.
- (e) **HOUSING DIRECTOR.** Housing Director means the Housing Director of the County of Alameda or his or her designated representative.
- (f) **LANDLORD.** 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.
- (g) **NONREQUESTING PARTY.** "Nonrequesting Party" shall mean 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.
- (h) **RENT.** 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.

- (i) **RENT INCREASE.** Rent Increase means any upward adjustment of the rent from the base rent amount.
- (j) **RENT REVIEW ENTITY.** "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.
- (k) **RENT REVIEW OFFICER.** "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.
- (l) **RENT REVIEW SERVICES.** "Rent Review Services" means services provided to Tenants or Landlords who request review of a Rent Increase up to, but not including Rent Mediation.
- (m) **RENT MEDIATION.** "Rent Mediation" means mediation or conciliation services involving discussion among and between Tenants and Landlords facilitated by a Rent Review Officer telephonically or in person.
- (n) **RESIDENTIAL PROPERTY.** Residential property means any 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 mobile homes. Mobile homes are subject to this Chapter only if a tenant rents the mobile housing unit itself. Mobile home spaces in mobile home parks are regulated under

County Ordinance Code Chapter 3.32 and are explicitly excluded from this ordinance.

- (o) REQUESTING PARTY. "Requesting Party" shall mean the party, either the Tenant or Landlord, who initiates a request for Rent Review or Rent Mediation.
- (p) TENANT. Tenant means any person having the legal responsibility for the payment of rent for residential property in Unincorporated County of Alameda. Tenant shall include 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 2. NOTICE OF AVAILABILITY OF RENT REVIEW AND MEDIATION

3.68.030. 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.

3.68.040. 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 days of mailing. This presumption may be rebutted by the Tenant.

3.68.050. 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 sixty (60) days notice of a rent increase of greater than ten percent (10%). Under Chapter 3.68 of Title 3 of the Ordinance Code of The County of Alameda, 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 ten percent (10%) above the rent you

paid last month, 2) is greater than \$75 per month, or 3) follows one or more prior rent increases within the past twelve 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 non-binding 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 4. RENT REVIEW

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 \$75 per month, or 3) follows a prior rent increase imposed within the previous twelve-month period. The party seeking Rent Review or

Mediation may submit the request in writing or by telephone, as specified above 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 Article 4, Section 3.68.060 above, 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.

3.69.080. 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.

3.68.110. VIOLATIONS TO ORDINANCE.

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 non-binding on all parties, except as they are mutually agreed upon by both parties to the dispute.

ARTICLE 6. MISCELLANEOUS

3.68.120. ANNUAL REVIEW.

The Housing Director shall annually prepare a report to the Board of Supervisors assessing the effectiveness of the Mandatory Notification of Rent Mediation Services program established under this Chapter and recommending changes as may be appropriate. Annual assessment shall include factors such as rent levels and trends, number of tenant requests for rent review and mediation, and level of landlord participation.

SECTION 2:

This ordinance shall take effect July 1, 2004 and before the expiration of fifteen days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of

California, on February 5, 2004 by the following called vote:

AYES: Supervisors Lai-Bitker, Miley and Haggerty - 3

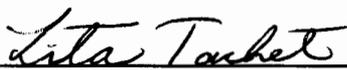
NOES: None

EXCUSED: Supervisor Carson and President Steele - 2



GAIL STEELE
President of the Board of Supervisors
County of Alameda, State of California

ATTEST: CRYSTAL K. HISHIDA, Clerk
of the Board of Supervisors, County of Alameda

By 

Approved as to form,
RICHARD E. WINNIE, County Counsel



LORENZO E. CHAMBLISS

O-2004-48
Agenda 2/5/04
Item 11
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