



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: November 15, 2004
TO: Honorable Members of the Rent Stabilization Board
FROM: IRA/AGA Committee
SUBJECT: Proposed Amendment to Regulation 1100 [Conditions for Taking Annual General Adjustments] to Conform to Measure O

Recommendation:

That the Board adopt on first reading a proposal to amend Regulation 1100 [Conditions for Taking Annual General Adjustments] to conform to Measure O by deleting subdivision (A).

Background and Need For Rent Stabilization Board Action:

On November 2, 2004, the voters of Berkeley passed Measure O, which amended Section 11 of the Rent Stabilization Ordinance to modify the method for determining each year's annual general adjustment. Prior to Measure O, when setting each year's AGA, the Rent Board was required to determine the appropriate amount of adjustment that was necessary to protect landlords' net operating income from the effects of inflation. This requirement, which was mandated by judicial action prior to the enactment of statewide vacancy decontrol, is set forth in subdivision (A) of Regulation 1100. Now, however, under Measure O, each year's AGA is set at 65% of the increase in the prior year's Consumer Price Index. Thus, subdivision (A) of Regulation 1100 is superceded by Measure O and, therefore, should be deleted from the regulation. On November 4, 2004, the IRA/AGA Committee voted 2-0-0-2 (Walden, Kavanagh, absent) to recommend that the Board delete Section (A) of Regulation 1100.

Financial Impact:

None

Name and Telephone Number of Contact Person:

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1100. Conditions for Taking Annual General Adjustments

(A) ~~The annual general adjustment shall include an adjustment to protect landlords' net operating income from the adverse effects of inflation. The amount appropriate to protect net operating income from inflation shall be determined annually by the Board. Net operating income as a percentage of rent shall be estimated annually using an analysis of costs and cost increases for controlled units in general.~~

(B) No rent increase in the rent ceiling for a rental unit pursuant to an Annual General Adjustment shall be effective for the period of time in which the landlord:

(1) has failed to register a rental unit on the property with the Board;

(2) has demanded, accepted, received or retained rent in excess of the lawful rent ceiling for the affected unit;

(3) has failed to comply with any order of the Board concerning the affected unit;

(4) has failed to bring the affected unit into compliance with the implied warranty of habitability; or

(5) has failed to pay interest on security deposits for the affected unit as required by Section 7 of the Ordinance.

(C) ~~(B)~~ Under California Civil Code Section 1947.7, certain owners may obtain previously lost AGA's. In order to regain them, an owner must file a petition. The Rent Stabilization Board will determine the owner's eligibility under Regulation 1278.