

Below is a copy of the ordinance establishing the Rent Review Program as part of the Municipal Code. It includes changes and/or amendments passed by City Council on September 16, 2002 under Ordinance Number 2002-026.

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

ORDINANCE NO. 2001-08

(2507)

AN ORDINANCE ADDING TITLE 4, CHAPTER 32 TO THE SAN LEANDRO
MUNICIPAL CODE
RELATING TO THE REVIEW OF RENT INCREASES BY
THE RENT REVIEW BOARD

WHEREAS, housing prices in the City of San Leandro and throughout the Bay Area have risen rapidly in recent years; and

WHEREAS, the City Council is concerned that rising rents have dislocated residents of the City of San Leandro and threaten additional dislocation in the future; and

WHEREAS, other cities in the Bay Area have established community boards to review proposed rent increases and encourage landlords and tenants to come to mutually satisfactory accommodations; and

WHEREAS, such community boards have demonstrated that rent review programs can help to reduce dislocation and distress for tenants without restricting landlords' ability to set and raise rents as they deem appropriate; and

WHEREAS, the City Council is eager to provide a forum for the hearing of rent disputes between landlords and tenants; and

WHEREAS, City staff have consulted extensively with representatives of tenant groups as well as representatives of the Rental Housing Owners Association of Southern Alameda County, ECHO Housing, and the Davis Street

Community Center, which consultations have given rise to proposals included in this ordinance; and

WHEREAS, the Council has by Ordinance Number 09 - 2001 established a Rent Review Board the powers and duties of which are to be prescribed in Title 4, Chapter 32 of the San Leandro Municipal Code;

NOW, THEREFORE, the City Council of the City of San Leandro does ORDAIN as follows:

SECTION 1:

Chapter 32 is hereby added to Title 4 of the San Leandro Municipal Code to read as follows:

ARTICLE 1. GENERAL.

4-32-100 SHORT TITLE.

This ordinance shall be known as the Rent Review Ordinance.

4-32-105 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. "Board" means the Rent Review Board, as defined below.

(c) CITY. "City" means the City of San Leandro.

(d) COMMUNITY DEVELOPMENT DIRECTOR. "Community Development Director" means the Director of the Community Development Department of the City of San Leandro, or his or her designated representative.

(e) COUNCIL. "Council" means the City Council of the City of San Leandro.

(f) LANDLORD. "Landlord" means any person, partnership, corporation, or other business entity offering for rent or lease any residential property in the city. "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) PARTY. "Party" means a person who participates in the rent review program of this chapter or his or her agent or representative.

(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 BOARD. "Rent Review Board" means the board established under Chapter 3, Article 14 of Title 1 of this Code.

(k) RESIDENTIAL PROPERTY. "Residential property" means any housing unit offered for rent or lease in the City, provided that such housing unit is in a building 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.

(l) TENANT. "Tenant" means any person having the legal responsibility for the payment of rent for residential property in the City. "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

4-32-200 NOTICE OF AVAILABILITY OF RENT REVIEW 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 the rent review procedure established by this 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.

4-32-205 CONTENTS OF NOTICE.

All notices of the availability of rent review 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.

4-32-210 TEXT OF NOTICE.

In addition to all other information provided in the notice of the availability of rent review 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 Title 4, Chapter 32 of the San Leandro Municipal Code, a landlord must at the same time provide this notice of the City's rent review procedure 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. However, 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, you may request that the San Leandro Rent Review Board review the increase. Such a request must be made in writing within fifteen (15) days of your receiving notice of the rent increase (or post marked

within 15 days of receipt if mailed). You must submit a copy of the Notice of Increase at the same time you submit the Hearing Request. If you request review of the rent increase, you and your landlord will be required to appear before the Board for a hearing on your rent dispute. After hearing from you and your landlord, the Board will make a non-binding recommendation for resolution of the rent dispute. To request review of your rent increase, please contact the Board through the Community Development Department of the City of San Leandro, 835 East 14th Street, San Leandro, CA 94577. 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 3. RENT REVIEW

4-32-300 REQUEST FOR RENT REVIEW.

Either a landlord or a tenant may seek to have a rent dispute heard before the Board when 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 must submit the hearing request in writing to the Community Development Director within fifteen (15) days of the tenant's receipt of a notice of rent increase (or post marked within 15 days of such receipt if the request for review is mailed). The request

must be accompanied by a copy of the Landlord's Notice of Increase. The hearing shall be scheduled before the Board within fifty (50) days of the receipt of the hearing request, unless the landlord and the tenant consent to a later date.

4-32-305 NOTICE TO PARTIES.

After determining that a proposed rent increase meets the criteria for initiation of rent review set forth in Section 4-32-300 above, the Community Development Director shall schedule a staff facilitation hearing of the rent dispute before the Board. The Community Development Director shall provide the landlord and the tenant notice of the hearing date and location at least ten (10) days prior to the hearing. The notice to the landlord shall encourage him or her to contact the tenant directly to seek a mutually satisfactory resolution of the rent dispute prior to the Board hearing.

4-32-310 HEARING AND DETERMINATION.

At a hearing of a rent dispute, the Board 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 factors that may assist the Board in determining a fair resolution to the dispute, the Board will make a recommendation to the parties for the resolution of their dispute. If the parties agree to a resolution proposed by the Board, they may formalize the agreement in a standard form signed by both parties. Neither the

City nor the Board shall be a party to such an agreement, nor shall the City or the Board assume any responsibility for enforcement of its terms.

4-32-315 CONTINUANCE.

If the landlord and tenant are unable to reach a resolution of their dispute during a hearing before the Board, the Board may in its discretion continue the hearing for up to one (1) month and require the parties to return for a second and final Board hearing of their dispute. Whenever the Board continues a hearing of a rent dispute, the Board will provide notice of the continuance to a mailing list of interested organizations that annually submit to the City Clerk a request to be included on such mailing list.

4-32-320 FAILURE TO APPEAR – RETALIATORY EVICTION.

If the tenant requesting a rent review hearing appears at a noticed Board hearing, but the landlord who has received notice of the Board hearing as required by Section 4-32-305 above fails to appear before the Board without good cause, the rent increase shall be void, and the landlord may not take any action to enforce such an invalid rent increase. Commencement of eviction proceedings against a tenant for exercising his or her rights under this Chapter shall be considered a retaliatory eviction. If a tenant who has received proper notice of a Board hearing as required by Section 4-32-305 above fails to appear before the Board without good cause, or if both the tenant and landlord fail to appear without good cause, the Board shall dismiss the case and the tenant will be barred from subsequently challenging such increase before the Board.

ARTICLE 4. COUNCIL REVIEW

4-32-400 REFERRAL TO CITY COUNCIL.

If the parties to a rent dispute are unable to mutually agree to a resolution of the dispute before the Board, either party may request that the Board forward the dispute for further consideration by the City Council. In its discretion, after either a first or a second hearing, the Board may then request that the Council review the rent dispute. Whenever the Board recommends that the Council review a rent dispute, the Board will provide notice of its action to a mailing list of interested organizations that annually submit to the City Clerk a request to be included on such mailing list.

ARTICLE 5. MISCELLANEOUS

4-32-500 ANNUAL REVIEW.

The Board shall annually prepare a report to the Council assessing the effectiveness of the rent review program established under this Chapter and recommending changes as may be appropriate.

SECTION 2:

This ordinance shall take effect thirty (30) days after adoption and the title thereof shall be published once prior to adoption.