EXHIBIT 1

Responses to concerns from Tenant Stakeholders

Tenant stakeholders had identified a number of concerns with the draft Ordinance that was presented to City Council in April 2021. These concerns/questions are reproduced below along with the City's responses.

1. **Would there be a "cap" on the pass through amount?** Yes, there would be a cap on the pass through amount such that the cumulative pass through amount as to any tenant could not exceed 5% of that tenant's Maximum Allowable Rent at the time the initial application is filed. Section 6-58.77 C 1 and D; Regulations, at Section 10 B. (Note: A landlord may not receive a pass through for capital improvements completed more than 12 months prior to the filing of an application. Regulations, at section 10 B. Also, if a landlord received a rent increase based on capital improvements through the fair return petition process, the landlord cannot also receive a pass through for the same improvements. Section 6-58.77 C 2.)

2. **Even if there were a cap, what would prevent a landlord from seeking additional pass throughs?** As stated in the response in No. 1, above, the pass through amount for all capital improvements, on a cumulative basis, is capped at 5% of the tenant's Maximum Allowable Rent. Because, however, a landlord is constitutionally required to receive a fair return on property, in some instances, it may be necessary for the pass through to continue beyond the 15 years when pass throughs would otherwise expire on their own. Section 6-58.77 D 2; Regulations, at Section 10 B. But remember that if there is a vacancy, the pass through goes away. Section 6-58.77 I; Regulations, at Section 12. Thus it will be a very unusual situation where the pass through period lasts more than 15 years. In addition, if a landlord has received a pass through for a capital improvement, the landlord may not recover any additional pass through for the same capital improvements until 15 years has lapsed, except when necessary due to fire, flood, earthquake, or other natural disaster. Section 6-58.77 B (Second paragraph). Finally, no landlord may file an application for a Capital Improvement Plan more frequently than once every 24 months in the absence of unusual circumstances. Regulations, at Section 4 B.

3. **Capital improvement work could result in tenants being temporarily or permanently relocated, either of which is burdensome to tenants; what limitations are there concerning either temporary or permanent relocations?** The Ordinance and the Regulations provide numerous opportunities for the tenant to be informed about a proposed Capital Improvement Plan and to contest (appeal) determinations made by the Rent Program concerning a proposed Plan. For example, the landlord must provide written notice to a tenant that the landlord has filed an application for a Capital Improvement Plan and whether, as part of that application, the landlord is requesting

the tenant be temporarily relocated while the work is undertaken. Regulations, at Section 7. The Ordinance and Regulations provide a tenant with the right to contest whether the tenant must be temporarily relocated while the work is being undertaken. Section 6-58.77 K; Regulations at Sections 9 B and 15. If the Rent Program approves a Plan that has a temporary component, the Rent Program must inform the tenant in writing of that. Regulations, at Section 9 B. Moreover, the landlord must make temporary relocation payments to the tenant—and those payments are significant—in order to provide a financial incentive to the landlord to complete the work expeditiously. Section 6-58.85 B. 1-2. A landlord may terminate a tenancy permanently (and be required to make permanent relocation payments) only in the atypical situation where a tenant informs the landlord that the tenant is unable or unwilling to pay the pass through amount and the landlord thereafter decides neither to forgo the work nor withdraw the application. Section 6-58.85 A. Otherwise, when a tenant has been temporarily relocated, it is at the sole discretion of the tenant to terminate the tenancy permanently (and receive permanent relocation payments). Section 6-58.85 B. 3.

4. **How will tenants be informed about the proposed capital improvement work and the pass through amount; will tenants have any say about whether the work is necessary?** In addition to the requirement that the landlord inform the tenant in writing when the landlord has filed an application for a Capital Improvement Plan, the Ordinance and Regulations provide the tenant with the right, before the application is approved and/or any work begins, to contest whether the proposed improvement is a "capital improvement" as opposed to routine maintenance and repair, to contest whether the capital improvement work is necessary, to contest that the capital improvement to be replaced has run its useful life, and to contest the amount of the proposed pass through. Section 6-58.77 K; Regulations, at Sections 9 B and 15. Note that the amount of the pass through is determined before any work begins and is thereafter fixed, even if the cost of the improvements turns out to be greater than estimated. Section 6-58.77 F; Regulation, at Section 9 C. Note also that if the landlord decides to withdraw the application, the landlord is prohibited from filing another application for 24 months (in the absence of natural disaster, fire, etc.) Regulation, at Section 9 D.

5. **City Council has now lifted the rent increase freeze; won't any pass through simply add to a tenant's financial burden?** The Ordinance provides that any authorized pass through could not be imposed until one year after the City Council declares the local emergency over. Section 3 of the Ordinance. In addition, staff is recommending not only that a tenant may apply for a financial hardship that would relieve the tenant from paying the pass through (Section 6-58.77 G; Regulations, at Section 11) but also that there be a cap of 8% of a tenant's Maximum Allowable Rent when an allowable rent increase is imposed in conjunction with a pass through. Section 6-58.77 E; Regulations, at Section 10 C. For example, assume a tenant's Maximum Allowable Rent is $2000,

there has been an approved pass through of 4%, an Annual General Adjustment of 3%, and the landlord has banked a 3% increase. The increase that a tenant would be required to pay for rent plus the pass through would be no more than $160, i.e., 8% of $2000. Because the "allowable" rent increase would be 7% (4% AGA and 3% banked increase), if the landlord imposed the 7% rent increase, the landlord could impose only 1% of the pass through.

6. **Why can't the list of capital improvements be tied only to improvements for habitability purposes?** Some of the items that are defined as "Capital Improvements" do relate to habitability, such as plumbing, electrical, heating, ventilation and air conditioning but certainly many do not, e.g., the installation of water conservation devices, exterior painting of the building, a fire sprinkler system, etc. Section 6-58.77 A. 1-10. From a code enforcement point of view, conditions on property that result in a determination that the property is not "habitable" are extreme and, under the Ordinance, would likely not qualify for a pass through because the Program Administrator is to give no consideration to costs the landlord incurs for property deterioration due to unreasonable delay in undertaking the repair. Section 6-58.77 B, second paragraph; Regulations, at Section 6 B. Moreover, the Ordinance is intended to encourage landlords to keep up and improve the City's housing stock and limiting pass throughs to improvements tied solely to making the property habitable runs counter to such encouragement and may result in fewer landlords improving their properties.

7. **Other jurisdictions, for example, Richmond, East Palo Alto and Mountain View, provide that landlords may recover capital improvements only through the "maintenance of net operating income" (MNOI) process; why does this Ordinance not follow those examples?** We have always acknowledged that the City Council could decide that a landlord's right to recover the cost of capital improvements may only be through the MNOI process, as do some other jurisdictions. The reason that we have thought, and continue to think, that the pass through process is preferable is three fold: First, the list of "improvements" under an MNOI process would expand considerably to include many items, such as windows, doors, appliances, etc., not now covered by the Ordinance. This would increase the chance that the amortized cost of these improvements, when added to a landlord's other expenses, may well result in justifying a rent increase under the MNOI process. Second, it is very possible that a tenant would pay more under the MNOI method than under the pass through method. Third, if the MNOI process is baked into the Ordinance, then hearing officers, rather than Rent Program staff, would need to hear and decide such petitions, leading to an increase in the costs to administer the Rent Program, a portion of which (50%) is passed through to tenants. On balance, we continue to think the proposed Ordinance and Regulations provide more than ample protection to tenants concerning the amount and timing of any potential pass throughs and reducing substantially the possibility that a tenant would be relocated, either temporarily or permanently, due to capital improvement work.