

CITY OF ALAMEDA RESOLUTION NO. 15138

ADOPTING A POLICY CONCERNING CAPITAL IMPROVEMENT
PLANS FOR RENTAL UNITS IN THE CITY OF ALAMEDA

WHEREAS, the City Council of the City of Alameda encourages Landlords in the City to improve the quality of the City's rental housing stock, recognizes the need to ensure that Landlords receive a just and reasonable return on their Capital Improvement expenditures and desires to protect Tenants from being unreasonably displaced from their Rental Units as a result of Capital Improvements to their Rental Units or to the buildings housing such Rental Units; and

WHEREAS, when a Landlord intends to make or has made major long term repairs or improvements to a Rental Unit or Rental Unit building that materially adds value to the property, prolongs the useful life or adapts the property to a new use and the cost of which is not less than eight times the amount of the Rent (of the Rental Units affected by the work) multiplied by the number of Rental Units to be improved, the Rent for Rental Units so improved should be increased not only to provide the Landlord with a just and reasonable return on the property but also to benefit the Tenants; and

WHEREAS, on February 16, 2016, City staff presented to the City Council a Policy Concerning Capital Improvement Plans, which Policy identifies major long term repairs that could qualify as a Capital Improvement, provides a method by which a Landlord may receive a Rent Increase by undertaking such Capital Improvements, and requires the Landlord to provide relocation assistance to displaced Tenants when work associated with the Capital Improvements cannot be accomplished safely and reasonably with the Tenants remaining in their Rental Units; and

WHEREAS, on February 16, 2016, City Council members heard from the public concerning the Policy and thereafter discussed the Policy among themselves; and

WHEREAS, Council provided further direction to City staff concerning certain elements that it wanted incorporated into the Policy; and

WHEREAS, on April 5, 2016, City staff presented to the City Council a revised Policy Concerning Capital Improvement Plans that incorporated the elements the Council had requested to be incorporated; and

WHEREAS, on April 5, 2016, City Council members heard from the public concerning the Policy and thereafter discussed the Policy among themselves.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALAMEDA AS FOLLOWS:

Section 1. The Policy concerning Capital Improvement Plans for Rental Units in the City of Alameda, attached hereto as Exhibit A, is approved and adopted.

Section 2. This Resolution is effective immediately upon its adoption and the Policy will be operative as of April 5, 2016.

POLICY CONCERNING CAPITAL IMPROVEMENT PLANS

1. Purpose. The purpose of this Policy is to encourage Landlords to improve the quality of the City's rental housing stock, to ensure Landlords receive a just and reasonable return on their Capital Improvement expenditures and that Tenants are not unreasonably displaced as a result of Capital Improvements to their Rental Units or the buildings housing such Rental Units. Terms that are capitalized have the same meaning as those terms in the City's Rent Review, Rent Stabilization and Limitations on Evictions Ordinance (Chapter 6-58 of the Alameda Municipal Code).
2. Capital Improvement. A Capital Improvement, **for purposes of this Capital Improvement Plan Policy**, shall be any improvement to a Rental Unit or property that (a) materially adds to the value of the property, (b) appreciably prolongs the useful life or adapts the property to new use, (c) has a useful life of more than one year and is required to be amortized over the useful life of the improvement under the straight line depreciation provisions of the Internal Revenue Code and the regulations issued pursuant thereto and (d) has a documented cost that is not less than the product of eight times the amount of the Rent multiplied by the number of Rental Units to be improved. No Rent Increase shall be granted and no Landlord shall terminate a tenancy under this section for routine repairs, replacement or maintenance including, but not limited to, interior painting of a Rental Unit, plastering, replacing broken windows, replacing carpets or drapes, cleaning, fumigating, routine landscaping, standard repairing of electrical and plumbing services, and repairing or replacing furnished appliances.
3. Policy. This Policy allows a Landlord to obtain a Rent Increase and/or to seek a termination of a tenancy in connection with Capital Improvements. Rent for a Rental Unit shall be increased to provide a just and reasonable return on the expenditures for Capital Improvements where the Landlord in good faith intends primarily to benefit the Tenants and where such Capital Improvements are for major long term improvements or repairs as defined in Section 6 or are necessary to bring the Rental Unit or the building/complex into compliance with Code requirements.
4. When a Capital Improvement Plan Must be Filed. **A Landlord must file with the Program Administrator a Capital Improvement Plan, in a form as may be approved by the Program Administrator, when the Landlord:**
 - A. **Is requesting a Rent Increase that exceeds the Maximum Increase in connection with Capital Improvements;**
 - B. **Is requesting a Rent Increase that exceeds the Maximum Increase in connection with Capital Improvements and the Landlord in good faith believes the work associated with the Capital Improvements cannot be accomplished safely with the Tenant remaining in the Rental Unit; or**

C. Is requesting a Rent Increase that is equal to or below the Maximum Increase in connection with Capital Improvements and the Landlord in good faith believes the work associated with the Capital Improvements cannot be accomplished safely with the Tenant remaining in the Rental Unit.

5. Calculation of Rent Increases for Capital Improvements. Where a Landlord demonstrates an improvement qualifies as a Capital Improvement under Section 2 and satisfies the Policy under Section 3, the Program Administrator shall calculate the amount of a Rent Increase by amortizing the cost of the improvement, **including the confirmed interest rate for the financing that the Landlord secures for the Capital Improvements**, over the useful life of the improvement as provided herein and dividing that cost by each Rental Unit that benefits by the improvement.
6. Major Long Term Improvements or Repairs. A Landlord's expenditures for any major long term improvements or repairs listed in subsection A of this Section 6 shall qualify for a permanent Rent Increase, provided the documented cost thereof is not less than the product of eight times the amount of the Rent multiplied by the number of Rental Units to be improved.
 - A. The following major long term improvements or repairs shall be eligible for a Rent Increase:
 1. A new roof covering all or substantially all of a building or a structurally independent portion of a building;
 2. A significant upgrade of the foundation of all or substantially all of a building or a structurally independent portion of a building, including seismic retrofits;
 3. A new or substantially new plumbing, electrical or heating, ventilation and air conditioning (HVAC) system for all or substantially all of a building;
 4. Exterior painting or installation/replacement of siding on all or substantially all of a building;
 5. Repairs reasonably related to correcting or preventing the spread of defects that are noted as findings in a Wood Destroying Pest and Organisms Report issued by a pest control company registered in Branch 3 of the State of California Structural Pest Control Board provided that any such expenditures for such repairs exceed \$6000 or the product of \$1000 times the number of units in the building, whichever is less.
 6. The installation of water conservation devices that are intended to reduce the use of water or energy efficient devices, such as a solar roof system, that are intended to save energy and/or reduce greenhouse gases.
 7. Improvements or upgrades to the Rental Unit or the building/complex that meet or exceed disability/accessibility standards as required by law.

- B. In determining the cost of a major repair under this Section 6, no consideration shall be given to any additional cost incurred for increased property damage and/or deterioration due to an unreasonable delay in the undertaking or completing any repair or improvement.
7. Requests for Rent Increases and Notices to Tenants. A Landlord seeking a Rent Increase based on Capital Improvements shall:
- A. When the Rent Increase exceeds the Maximum Increase, (1) file with the Program Administrator a request for a Rent Increase and a Capital Improvement Plan, (2) provide to the Program Administrator supporting documentation of the Rent Increase and the names and addresses of the Tenants affected by the request and (3) mail a copy of the request for a Rent Increase (but not the supporting documentation) to each Tenant affected by the request.
- B. When the Rent Increase is equal to or below the Maximum Increase, notice the Tenants of a Rent Increase as provided in Section 6-58.60 of the Alameda Municipal Code but the Landlord is not required to file with the Program Administrator a request for a Rent Increase.
8. Supporting Documentation. For requests for a Rent Increase that exceed the Maximum Increase, the supporting documentation must substantiate the interest rate for financing the Capital Improvements and the nature and cost of the claimed improvement and may include copies of invoices, signed contracts, material and labor receipts, self-labor logs, cancelled checks, spread sheets or any other items of documentation accepted and used in the normal course of business; provided, however, if the supporting documentation is based on estimates, the Landlord must subsequently provide to the Program Administrator supporting documentation as set forth in the previous sentence.
9. Limitations on Rent Increases. No Rent Increase under this Policy shall be granted in consideration of any Capital Improvement for which a building permit had been issued prior to November 1, 2015 or, if the Capital Improvement was for work for which a building permit was not required, for any Capital Improvement that was started prior to November 1, 2015. For Capital Improvements commenced after November 1, 2015 for which a Landlord seeks a Rent Increase, a Landlord must comply with Section 7 within 12 months of completion of the Capital Improvements.
10. Program Administrator's Determination. The Program Administrator shall review the request for a Rent Increase and supporting documentation and determine whether the documentation is adequate and sufficient to approve the requested Rent Increase. If the Program Administrator so determines and approves the request, the Program Administrator shall notify the Landlord. Any approved Rent Increase shall not take effect until the Program Administrator has determined the Landlord has completed the Capital Improvement; provided, however, if the Landlord has requested a Rent Increase based on estimated costs, the Program Administrator may grant conditional approval of a Rent Increase but the Rent Increase shall not take effect until the

Program Administrator has determined the Landlord has completed the Capital Improvement and submitted to the Program Administrator adequate and sufficient supporting documentation to approve the Rent Increase unconditionally. If the Program Administrator does not approve the request for a Rent Increase, the Program Administrator shall advise the Landlord in what respects the request is deficient.

11. Landlord's Notice to the Tenants That the Rent Increase Has Been Approved. Where the Landlord has requested a Rent Increase that exceeds the Maximum Increase and the Program Administrator has unconditionally approved the Rent Increase, the Landlord shall notify the Tenants.

12. Relocation Assistance.

- A. When the Landlord has notified a Tenant of the amount of a Rent Increase, either as provided in Section 11 or as provided in Section 7B, the Landlord must also inform the Tenant that the Tenant must advise the Landlord within 30 days whether or not the Tenant intends to remain in the Rental Unit and pay the Rent Increase. If the Tenant has advised the Landlord that the Tenant does not intend to remain in the Rental Unit and pay the Rent Increase or if the Tenant has not advised the Landlord within 30 days one way or the other, the Landlord may take action to terminate the tenancy but is required to provide relocation assistance to the Tenant as provided in the City's Rent Review, Rent Stabilization and Limitations on Evictions Ordinance (Section 6-58.150, Alameda Municipal Code).
- B. Where the Landlord has notified a Tenant of a Rent Increase that is equal to or less than the Maximum Increase based on the Capital Improvements and has filed with the Program Administrator a Capital Improvement Plan that contemplates the temporary or permanent relocation of a Tenant based on the Landlord's good faith belief that the Capital Improvement work cannot be accomplished safely with the Tenant in the Rental Unit and the Program Administrator concurs, the Program Administrator will approve a Capital Improvement Plan that includes terms and conditions of relocating the Tenant either on a temporary or permanent basis as provided further in this section 12.
- C. Where the Landlord has requested a Rent Increase that exceeds the Maximum Increase and filed with the Program Administrator a Capital Improvement Plan that contemplates the temporary or permanent relocation of a Tenant based on the Landlord's good faith belief that the Capital Improvement work cannot be accomplished safely with the Tenant in the Rental Unit and the Program Administrator concurs, the Program Administrator will approve a Capital Improvement Plan that includes terms and conditions of relocating the Tenant either on a temporary or permanent basis as provided further in this section 12.
- D. If (1) the approved Capital Improvement Plan requires a Tenant to vacate the Tenant's Rental Unit, (2) the Tenant has informed the Landlord the Tenant will pay the Rent Increase once the improvement work is complete and (3) at the time the Tenant must vacate the Rental Unit there is a comparable and available

replacement Rental Unit satisfactory to the Tenant within the building/complex, the Landlord must (a) relocate the Tenant into such comparable and available replacement Rental Unit satisfactory to the Tenant but within the building/complex, (b) offer the Tenant the Rental Unit that the Tenant vacated, or a comparable Rental Unit satisfactory to the Tenant within the building/complex, on a first right of refusal basis (subject to the Rent Increase) when the Capital Improvement is completed, (c) provide the Tenant with reasonable and documented costs of relocating the Tenant to and from the replacement Rental Unit and (d) until the Tenant re-occupies the Rental Unit or comparable Rental Unit after the Capital Improvement is completed, impose on the Tenant the Rent the Tenant was paying at the time of the displacement.

- E. If (1) the approved Capital Improvement Plan requires a Tenant to vacate the Tenant's Rental Unit, (2) the Tenant has informed the Landlord that the Tenant will pay the Rent Increase once the improvement work is completed, and (3) at the time that the Tenant must vacate the Rental Unit there is no comparable and available Rental Unit satisfactory to the Tenant in the building/complex, **the Program Administrator will determine whether the Landlord must provide temporary relocation benefits to the Tenant or whether the Landlord may take action to terminate the tenancy. In determining whether a Tenant may be temporarily relocated during the improvement work rather than permanently relocated, the Program Administrator will take into consideration the length of the displacement with the presumption that if the work can be completed within six months, the relocation will be temporary. Other terms and conditions concerning temporary relocation may include, but not be limited to, offering the Tenant the Rental Unit that the Tenant has vacated, or a comparable Rental Unit satisfactory to the Tenant within the building/complex, on a first right of refusal basis (subject to the Rent Increase) when the Capital Improvement is completed, determining whether the displaced Tenant may be placed temporarily in a nearby hotel or similar facility or stay temporarily with family or friends, providing the Tenant with reasonable and documented costs of relocating the Tenant to and from the temporary housing arrangements and requiring the Tenant to pay no more than the Rent the Tenant was paying at the time of displacement until the Tenant re-occupies the Rental Unit or the comparable Rental Unit after the Capital Improvement is completed. If the Program Administrator determines the Landlord may take action to terminate the tenancy due to the length of time to complete the work or otherwise, the Landlord shall provide relocation assistance to the Tenant as provided in the City's Rent Review, Rent Stabilization and Limitations on Evictions Ordinance (Section 6-58.150, Alameda Municipal Code).**
- F. For purposes of this Section, a Rental Unit is comparable to the Tenant's Rental Unit if both Rental Units are comparable in size, amenities and, as to a Tenant who is disabled, accessibility.

I, the undersigned, hereby certify that the foregoing resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 5th day of April 2016 by the following vote, to wit:

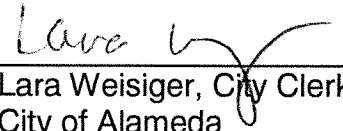
AYES: Councilmembers Daysog, Ezzy Ashcraft, Matarrese, Oddie and Mayor Spencer – 5.

NOES: None.

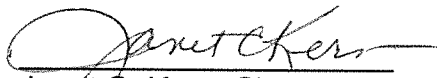
ABSENT: None.

ABSTENTIONS: None.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this 6th day of April 2016


Lara Weisiger, City Clerk
City of Alameda

Approved as to form:


Janet C. Kern, City Attorney
City of Alameda