

## Guide to Filing PETITION A

### For Violation of the City's Rent Limits

The City's Rent Stabilization Ordinance in Section 18.B permits any tenant to petition the Rent Board for a rent reduction because of their landlord's demand for or retention of excessive rent. If your landlord objects to the claims made in your petition, a hearing may be held to determine the legal Maximum Allowable Rent and any violations of the rent increase requirements of the Ordinance and implementing regulations. As the petitioner, it is up to you to provide documents and evidence at the hearing of any violations of the rent control requirements in order to show that you were charged more rent than is allowed. If the hearing decision issued in your case determines that you are entitled to a rent reduction and rebate for any overcharges, it will also specify the amount of any rent reduction and rebate that is owed to you.

#### **What violations of rent limits can be addressed by filing Petition A?**

1. Rent Charged over the Maximum Allowable Rent (MAR),
2. Unlawful Increases in Rent Above the Annual General Adjustment (AGA) and/or,
3. Other Violations of the Ordinance's Limitations on Rent Increases.

Below is more information about each of these three reasons to file **Petition A** with examples and the kinds of documentation that can be submitted for each reason:

- 1) **Rent Charged over the Maximum Allowable Rent (MAR):** If your landlord has charged rent above the Maximum Allowable Rent for your unit at any time on or after August 2010 through the time period specified in the Certificate of Maximum Allowable Rent issued for your unit, then you may seek a reduction in your current rent, and a refund for excess rent paid over the Maximum Allowed Rent.

You may request a copy of the Certificate of Maximum Allowable Rent issued for your unit at the Rent Program Office or by calling (650) 853-3114, or emailing [rentprogram@cityofepa.org](mailto:rentprogram@cityofepa.org).

For example, assume the Certificate of Maximum Allowable Rent for a tenant's unit is \$900 for the time period of June 2011 – July 2012, but their landlord charged this tenant \$950 since September 2010. This tenant could petition for a rent reduction and for a rebate of \$50 for each month from September 2010 until the rent they paid did not exceed the MAR or allowed Annual General Adjustments in rent.

#### **What documents should I submit with my petition to show my rent exceeded the MAR?**

You should submit with your petition all documentation of the rent you paid that exceeds the Maximum Allowable Rent in the certificate issued for your unit. In reporting the amount of rent you were charged over the Maximum Allowable Rent, calculate it to the best of your ability. If your case goes to a hearing, the Hearing Examiner will examine all of the records submitted by both parties to calculate the rent allowed for your unit and determine whether you were charged more for rent than is allowed under the Ordinance. The Hearing Examiner will also calculate the amount of any rent reductions and rebates you are owed and include this in the hearing decision. Examples of such documentation include:

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- Copies of your original lease or rental agreement
- Rent increase notices or letters from your landlord
- Rent receipts, cancelled checks, bank statements, or money order receipts
- Rent ledgers from your landlord listing rent charged each month, the dates and amounts that you paid, including for any service fees or late fees, and any rebates or credits you were provided

- 2) **Unlawful Increases in Rent:** You can also petition for a rent reduction and rebate for increases in rent that exceed the Annual General Adjustments (AGA) in rent authorized by the Rent Board. By petitioning, it will be determined how much your rent can legally be increased each year and whether you are owed any refunds for past overcharges. Therefore, it is important for you to provide accurate information in your petition on the history of the rent charged for your unit.

Section 10 of the Ordinance provides for the Rent Board each year to determine the percentage increase that landlords can raise rents of regulated rental units. Landlords of rent-controlled units, who are in compliance with the Ordinance may increase rents between July 1 and June 30 of each program year by the amount of the AGA after giving proper notice to a tenant. Given this, it is important for both landlords and tenants to confirm compliance with the City's registration and other requirements for raising rents.

The following are the percentage of rent increases allowed each program year since the new Ordinance went into effect in August 2010:

July 1, 2013 – June 30, 2014 AGA rent increase of **2.0% allowed**

July 1, 2012 – June 30, 2013 AGA rent increase of **2.4% allowed**

July 1, 2011 – June 30, 2012 AGA rent increase of **1.4% allowed**

August, 2010 – June 30, 2011 AGA of **0% - no rent increases were allowed**

If your rent was increased by more than the percent cited above for any of these years, you may petition for a rent reduction and a refund for any rent you overpaid.

For example, if your rent, including all fees for housing services, was increased by 5% in September 2012 from \$900 to \$945, this rent increase exceeded the 2.4% AGA for the July 1, 2012 – June 30, 2013 program year which permitted the rent to be increased to no more than \$918. In this example, the tenant may petition for a rent reduction and a rebate of \$27 per month for each month the rent increase exceeded the allowed amount. (*Note "rent" does not include half of the City's rent registration fee of \$9.75 that can be passed on to tenants each month after they have been given proper notice.*)

**What does it mean when my landlord "banks" an AGA instead of raising my rent?**

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There are circumstances when your landlord may apply AGAs that were not used to raise your rent in three previous years in order to raise your rent later. The Ordinance permits landlords to “bank” AGAs rather than raise rents in the program year when they are authorized, but only if the landlord notifies the tenant by February 1 of that program year that they intend to bank, or deposit, that AGA to reserve it for use in raising that tenant’s rent in future years.

For example, if your landlord notified you in January 2013 that they were not going to raise your rent by the allowed 2.4% AGA for the 2012-13 program year, they could use this “banked” AGA to raise your rent in future years. Then they could, for example, combine the banked 2.4% AGA allowed for 2012-13 with the 2% AGA allowed in 2013-14 to raise your rent a total of 4.4% anytime between July 1, 2013 and June 30, 2014. Your landlord can bank for later use in raising your rent, up to three AGAs during your entire tenancy in your rental unit. Your rent cannot be increased more than 10% in any 12 months.

#### **What documents should I submit with my petition to show my rent increase was unlawful?**

You should submit with their petition notices of any rent increases you received that exceed the AGA increase (including banked AGAs for which you have received notice from your landlord). Examples of documentation that you can submit to substantiate your petition include:

- Rent increase notices or letters from your landlord
- Rent receipts, cancelled checks, money order receipts
- Rent ledgers from your landlord listing rent you were charged each month and the dates that you paid, including for any housing service fees or late fees, and any rebates or credits you were provided

You may contact the City’s Rent Stabilization Program for Registration Statements submitted to the Rent Board by your landlord each year about the rent you are charged, rent increases reported for your unit, and any AGA increases reported to have been banked by your landlord to apply for future increases in your rent.

#### **3) Other Violations of the Ordinance’s Limitations on Rent Increases:** You can also petition to challenge increases in your rent when your landlord has:

- a. Failed to properly register your rental unit with the Rent Stabilization Program each year, including payment of annual registration fees and submittal of accurate Registration Statements
- b. Failed to substantially comply with the Rent Stabilization Ordinance and/or orders or regulations issued under the Ordinance
- c. Failed to comply with the implied Warranty of Habitability\*
- d. Failed to complete all repairs ordered by the City’s Building Inspection and Code Compliance Divisions\*

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\* Besides filing **Petition A** to challenge a rent increase based on your landlord's failure to maintain a rental unit in compliance with the Warranty of Habitability and completing all repairs ordered by the City, etc. you may also file **Petition B** to secure a rent reduction and rebate for the loss of use and enjoyment of your rental unit, or for any exposure to health and safety risks caused by your landlord's failure to make repairs in a timely manner.

The following are examples of each of the four types of violations of the Ordinance's limitations on rent increases and the kinds of documentation that can be submitted to show that your landlord was not in compliance with the Ordinance when your rent was increased:

#### **Example of failure to properly register a regulated rental unit:**

If your landlord has not filed an accurate Registration Statement with the Rent Board for your unit each year, this can be a basis to challenge a rent increase in your petition. For documentation, you can 1) ask the Rent Program for a copy of the Registration Statement submitted by your landlord to the Rent Board about your rent and rent increases and submit rent receipts, copies of checks or money orders that show what you paid was different; 2) ask the Rent Program Administrator for a statement if your landlord has not properly registered your rental unit with the Rent Board, or has failed to pay the required registration fee each year for their regulated rental unit. You may also ask for a statement from the Administrator if there has been a notice of noncompliance issued to your landlord that pertains to your rental unit.

#### **Examples of failure to comply with the Ordinance or regulations:**

- Your rent has been increased more than once in 12 months, including the 12 months after initial occupancy when you moved into your unit. For documentation of the rent increase, submit notices of rent increases you have received, rent ledgers from your landlord, or money order receipts or cancelled checks showing increases in rent payments.
- Your rent was increased by more than 10% in any 12 month period. For documentation of the rent increase, submit notices of rent increases you have received, rent ledgers from your landlord, or money order receipts or cancelled checks showing increases in rent payments.
- Your landlord decreased services that were included in your rental agreement or were made available when you first moved into your unit, such as limiting the hours of access to a swimming pool, reducing parking spaces for tenants or visitors, eliminating security cameras, lighting or services, reducing regular maintenance or gardening services.

Documentation of a service reduction to submit with your petition may include notices from your landlord, photographs, and/or testimony from others knowledgeable about the reduction in service. For documentation of the rent increase you received while services were reduced, submit notices of rent increases you have received, rent ledgers from your landlord, or money order receipts or cancelled checks showing increases in rent payments.

- Your landlord began charging you new fees for housing services other than as allowed by the Ordinance or regulations. If, for example, your lease when you moved into your unit does not specify that you are required to pay separately for your gas or electricity usage,

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and after you move into your unit, your landlord requires you to begin paying a new fee for gas or electricity or to pay the service provider directly, you can petition to challenge the legality of charging you for this service. *(Note that landlords can pass through to tenants half of the City's rent registration fee of \$9.75 each month and this is not considered rent or a rent increase.)*

For documentation, submit your lease agreement, notices from your landlord of new fees you are charged that were not included in your lease, rent ledgers from your landlord showing charges and payments made, or receipts for rent with the new service charge, or a PG&E or other service provider's bill showing you are being charged for services not included in your first lease agreement when you moved into your unit.

#### **Examples of a landlord's failure to comply with the "Warranty of Habitability:"**

If you received a rent increase while any of the following problems existed, you can petition to challenge the legality of your being rent increase until these issues are corrected;

- Your apartment has water leaks, is not waterproof, or has wet or moldy walls or ceilings.
- Your apartment's plumbing or gas is not in good working order.
- Your apartment does not have hot or cold running water or is not properly connected to a sewage disposal system.
- Your apartment does not have a working heater.
- Your apartment has broken electrical lighting, or wiring and electrical equipment that is broken or dangerous.
- Your apartment building and common areas are not clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents, and vermin, such as cockroaches or rats.
- Your apartment does not have enough garbage and rubbish bins.
- The floors, stairways, or railings in your apartment or building are broken, rotting, or missing.

It is important to write down or keep a journal or record of when each maintenance or habitability problem started and when you told your landlord about each problem. If the problem was corrected, it is important to document when it was corrected. This information will be used to show whether your rent was increased during the period that there were code or warranty of habitability violations in your rental unit that were not corrected when your rent was increased.

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#### **Examples of a landlord's failure to make repairs ordered by the City:**

If you received a rent increase when your landlord did not make repairs ordered by the City's Building Inspection or Code Compliance Divisions, you can petition to challenge the legality of your rent being raised before these problems are corrected. (Note that many code violations are also included in the listing above of violations of the implied Warranty of Habitability.) Examples:

- Your rent was increased when the owner had not removed walls that were illegally erected and had been ordered to be removed from your unit by the Building Inspector.
- You received a rent increase when the owner had not repaired the elevator to the building.
- You received a rent increase while the owner had not installed fire alarms or other safety equipment ordered by the City.

To get a serious problem fixed and make a record to document the problem, tenants should request a code enforcement inspection by contacting the City or County:

City of East Palo Alto Building Division:  
1960 Tate Street, East Palo Alto, CA 94303      650-853- 3193

San Mateo County Environmental Health Division:  
2000 Alameda de las Pulgas, Suite #100, San Mateo, CA 94403      650- 599-1112

Tenants can also submit at the hearing or in their petition other evidence of the existence of violations of the implied Warranty of Habitability or of citations of code violations that were corrected when their rent was increased. Examples of the kinds of documentation that a tenant may submit include:

- Photographs showing water damage and mold in the unit from plumbing problems or a broken window, etc.
- Verbal testimony about the problem and when they notified the landlord.
- A photograph of the cockroaches or rats captured in their rental unit
- A written notice that they provided to their landlord seeking corrections of code or habitability violations
- Notices, work orders and invoices for repairs from your landlord
- A witness observation report that is signed by others under penalty of perjury to be true describing the extent and nature of the problem(s) in your rental unit that they have observed and when they observed it.

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#### **How to file Petition A**

If you have questions about how much rent your landlord is allowed to charge for your unit, or whether your rental unit is properly registered with the Rent Board, contact the Rent Stabilization Program. To get copies of this petition form and more information:

- Call the Rent Stabilization Program at (650) 853-3114
- Email: [rentprogram@cityofepa.org](mailto:rentprogram@cityofepa.org)
- Go to Rent Program Office at the East Palo Alto Government Center at 2415 University Avenue, 2nd floor office between 8:30 a.m. – 5:00 p.m
- Go to the City's website at: [www.ci.east-palo-alto.ca.us/rentprogram](http://www.ci.east-palo-alto.ca.us/rentprogram)

Complete Petition A by answering each of the questions and provide information and documentation that is relevant to your complaint. Also, complete, sign and date the Tenant Petition Application form and submit your Application along with Petition A, and any other related petitions to:

City of East Palo Alto  
Rent Stabilization Program  
2415 University Avenue, East Palo Alto, CA 94303  
Fax: 650-853-3115    Email: [rentprogram@cityofepa.org](mailto:rentprogram@cityofepa.org)

**Free legal services are available to most tenants needing help filing petitions and presenting their case at hearings. For assistance contact Community Legal Services in East Palo Alto: (650) 326-6440; or go to 1861 Bay Road, East Palo Alto**