

## Guide to Filing PETITION C

### For Approval to Withhold Rent for Landlord's Failure to Register

**Filing this petition does not relieve tenants of the obligation to pay rent in full and on time until a determination is made by a Hearing Examiner.**

**Petition C** may be filed if you are renting a regulated rental unit and you believe that your landlord has failed to properly register your unit with the Rent Board. Filing this petition will lead to an investigation of whether or not your rental unit is regulated under the rent control provisions of the Rent Stabilization Ordinance, and if so, whether your unit has been properly registered. Until you receive a hearing decision in response to your petition that authorizes the withholding of rent and provides instructions on when and how to submit your rent into an escrow account established by the City, you must continue to pay your rent to your landlord.

#### **Why are rental units required to be registered with the Rent Board?**

If your unit is subject to the City's rent control regulations, it must be registered with the Rent Board so that a Certificate of Maximum Allowable Rent can be issued as required by the Rent Stabilization Ordinance adopted by voters in 2010. This certificate will determine how much rent your landlord is allowed to charge under the Ordinance at the time of Initial Registration. (A certificate of Maximum Allowable Rent is not issued every year as it was under the old Ordinance. Certificates were issued for regulated rental units in East Palo Alto upon Initial Registration under the new Ordinance starting in 2011, and after that each time a new tenant moves into the unit.)

Regulated rental units must also be registered each year to help the Rent Board, landlords, and tenants track compliance with the requirements of the Ordinance so that any needed corrections can be made. Once a complete Initial Registration, Change in Tenancy Registration, or Annual Registration Statement is submitted by a landlord, the tenant will receive a notice of what their landlord reported about the rent charged for their unit and other information reported. Tenants are given an opportunity to petition to challenge any incorrect information submitted in each of these registration statements.

#### **Which rental units are required to be registered?**

Under the Ordinance your rental unit is subject to registration requirements if it meets one of the following conditions:

- 1) Rental units that were built or had a certificate of occupancy issued before 1988.
- 2) Rental units in properties with more than one dwelling on a parcel, except:
  - a. Duplexes or triplexes with one unit occupied by an owner or an immediate family member of an owner, including the owner's partner, child or sibling are exempt.
  - b. Care facilities, resident-owned nonprofit housing (co-ops) or transit occupancy units are fully exempt.
  - c. Single – family dwellings that were regulated under the old Ordinance and continue to be occupied by the same tenant are still regulated.

You may not submit Petition C for rental units that are not required by the Ordinance to be registered with the Rent Board. Exempt rental units include:

- 1) Rental units owned by non-profit housing organizations with rent covenants restricting rents.
- 2) Rental of rooms within a dwelling that are shared with the owner who occupies it as a principle place residence and the landlord shares the bathroom or kitchen facilities with the tenant.

### **When are regulated rental units required to be registered with the Rent Board?**

The Ordinance requires that regulated rental units subject to rent control be registered with the Rent Board as follows:

- Upon Initial Registration, which was required starting in January 2011 under the new Ordinance. Once a rental unit is properly registered upon Initial Registration a Certificate of Maximum Allowable Rent is issued to the tenant and the landlord and both have a 60 day period to petition to contest the validity of the Maximum Allowable Rent, after which it is final.
- Upon Change in Tenancy for issuance of a Certificate of Maximum Allowable Rent to a new tenant. Within 30 days of renting to a new tenant, landlords are required to submit Change in Tenancy Registration Statement and the lease or rental agreement entered into with the new tenant.
- Annual Registration Statements must be filed with the Rent Board by the first business day in January each year, along with payment of Annual Registration fees for each regulated rental unit. Tenants are then sent notices by the Rent Program of what their landlord reported to be the rent charged for their unit, including for any fees, and other information. The purpose of sending this information is so that tenants can track compliance with the rent control provisions of the Ordinance and take action to file petitions if they believe their landlord failed to report information correctly or if there are violations of the Ordinance.

### **What information is required to be submitted with Petition C?**

The Petition C includes questions to help in determining whether the petitioner is a tenant of a regulated rental unit that is subject to rent control and registration requirements under the Ordinance. You are asked to provide a brief explanation of why you believe this unit should be registered with the Rent Board and any information you may have about the owner's failure to register this unit. Submit Petition C, along with the Tenant Petition Application form, and any evidence you have documenting that you rent this unit, how long you have lived there, what rent you pay and to whom, and whether and when your rent was increased.

### **What happens after Petition C is filed?**

Once Petition C is filed alleging that a landlord has failed to properly register a rental unit, the Rent Program Administrator will investigate the basis for the petition and prepare a report stating the findings of his/her investigation about the status of the property. A notice of hearing will be sent to the petitioner and to the property owner that includes a summary of the findings of the Administrator's investigation regarding the petition. If there is evidence that the rental unit is not sufficiently registered, the notice will specify the actions the landlord must take if the petition is

granted by a Hearing Examiner, the penalties for noncompliance, and a description of the hearing process. The Administrator may consolidate those petitions filed by multiple tenants occupying units in the same building or buildings owned by the same landlord so these petitions can be considered together at the hearing.

A hearing will be held within 45 days after the petition is submitted unless there is good cause for an extension, including upon the request of either party. A landlord who makes a good faith effort to comply with the Ordinance and regulations concerning registration and who has cured any defect in compliance in a timely manner after receiving notice of a deficiency from the Administrator shall be found in substantial compliance with the registration requirements. If the Administrator determines that the landlord has registered the unit(s) before the hearing, the petition will be dismissed and all parties will be notified of the dismissal.

If the Hearing Examiner determines that the landlord has willfully and knowingly failed to register the petitioner's unit(s), the Hearing Examiner will issue an order directing the landlord to register the unit(s) and authorizing the petitioning tenant(s) to withhold payment of rent beginning with the next regularly scheduled rent due date after the effective date of the order. The rent withholding order shall become effective 20 days following the date on which it is mailed to the parties unless, within that time, the landlord registers the property or an appeal of the Hearing Examiner's decision is filed with the Rent Board. In the event that the landlord appeals the decision to the Board, the decision will not become effective unless it is affirmed by the Board.

### **What does it mean to have approval to withhold rent?**

Whenever the withholding of rent is authorized for failure to register, the Hearing Examiner will order that the tenant pay all withheld rent into an escrow account maintained by the Board until the landlord complies with registration requirements. If the landlord fails to properly register the property within 20 days of the mailing of the rent withholding order, the funds held in escrow will be disbursed to the tenant as follows, unless an appeal is filed:

- A.** If the landlord properly registers the property within 60 days of the effective date of the rent withholding order, the tenant(s) may keep 50% of the rent withheld pursuant to the order.
- B.** If the landlord has not properly registered the property within 60 days of the effective date of the rent withholding order, the tenant(s) may keep all of the rent withheld pursuant to the order to the date on which the landlord properly registers the property.

Once the landlord properly registers the unit(s) in accordance with the rent withholding order, a decision will be issued to the parties ordering that monies held in escrow will be disbursed according to the schedule in A. and B. above, and ordering that within 14 days the tenant is to resume regular rent payments to the landlord beginning when the next regularly scheduled rent payment is due.

A landlord cannot file an unlawful detainer to evict a tenant's lawful exercise of withholding rent ordered by a hearing decision or for making payment into the escrow account established for this purpose. Keep in mind that if the tenant does not pay the rent to the landlord or comply with the Hearing Examiner's order requiring payment of rent into the escrow account, the tenant cannot use the hearing decision as a defense in an eviction action based on non-payment of rent.

Note that the requirement that withheld rent be paid into escrow does not mean that the amount of rent demanded or charged by the landlord is lawful. If a Certificate of Maximum Allowable Rent has already been issued for a tenant and the tenant believes that rent charged exceeds either the Maximum Allowable Rent or the amount of rent increase authorized by the Rent Board's each year, the tenant can also file **Petition A – Rent Limit Violation** to seek a rent reduction and/or a rebate to reimburse for overcharges.

### **How to file Petition C**

If you have questions about whether your rental unit is properly registered with the Rent Board, contact the City's Rent Stabilization Program. To get copies of this petition form and more information:

- Go to the City's website at: [www.ci.east-palo-alto.ca.us/rentprogram](http://www.ci.east-palo-alto.ca.us/rentprogram)
- Call the Rent Stabilization Program at (650) 853-3157
- Email us with questions or tell us about a problem: [rentprogram@cityofepa.org](mailto:rentprogram@cityofepa.org)
- Come to the office between 8:30 a.m. – 5:00 p.m. at 2415 University Avenue, 2nd floor

Complete Petition C by answering each of the questions and provide information and documentation that is relevant to this petition. Also, complete, sign and date the Tenant Petition Application form and submit the Application along with Petition C 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**