

ORDINANCE NO. 90-04 C.S.

AN ORDINANCE AMENDING ORDINANCE NO. 83-023 C.S.  
THE RESIDENTIAL RENT STABILIZATION ORDINANCE, AS  
AMENDED, BY ADDING SECTIONS THERETO AND AMENDING  
CERTAIN SECTIONS THEREOF

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THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Section 1 of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, is hereby amended to read in full as follows:

"Section 1. Findings and Purpose. The City Council finds that a shortage of decent, safe, and sanitary residential rental housing continues to exist in the City of Hayward which is evidenced by a low vacancy rate among such units throughout the City; that in order to retain or find adequate rental housing, many residents of the City of Hayward pay a substantial amount of their monthly income for rent; that the present shortage of rental housing units and the prevailing rent levels have a detrimental effect on the health, safety, and welfare of a substantial number of Hayward residents, particularly those senior citizens, persons in low and moderate income households, and persons on fixed incomes who reside in the City; and that the welfare of all persons who live, work, or own property in the City of Hayward depends in part on attracting persons who are willing to invest in residential rental property in the City and it is therefore necessary to insure that such persons are not discouraged from making such investments in the City by any action of the City Council.

"Among the purposes of this ordinance are therefore: providing relief to residential tenants in the City by stabilizing rent increases for certain tenants; encouraging rehabilitation of rental units whenever vacancies occur; encouraging investment in new residential rental property in the City by providing for the gradual elimination of rent increase controls; and assuring efficient landlords both a fair return on their property and rental income sufficient to cover the increasing cost of repairs, maintenance, insurance, employee services, additional amenities, and other costs of operation while the provisions of this ordinance are in effect."

Section 2. Subsection (p) of Section 2 of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, is hereby amended to read in full as follows:

"(p) 'Voluntarily Vacated' A vacancy which is not the result of any action of the landlord, including, but not limited to: service of written or oral notice to vacate on the previous tenants; service of a rent increase notice in an amount so unconscionably high as to cause the tenant to vacate the unit as unaffordable; actual physical eviction or lockout of the previous tenant; a landlord's refusal to renew a housing agreement, periodic tenancy, or lease agreement; a landlord's offer of a payoff or monetary incentive to the tenant to vacate; or any conduct by the landlord which is found by a mediator or arbitrator to constitute harassment of the previous tenant that caused such tenant to vacate the rental unit."

Section 3. Subsection (c) of Section 5 of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, is hereby amended to read in full as follows:

"(c) Tenant Right to File a Petition. A tenant may file a petition to initiate review of a rent increase, including a reduction in housing services, or the status of a unit as decontrolled. A tenant may not file a petition to initiate review of an eviction. Upon the filing of a petition, the rent increase, or that portion of the demanded rent that is in dispute, is not effective and may not be collected until and to the extent it is awarded by a mediator or, if appealed in a timely fashion, by an arbitrator pursuant to the provisions of the ordinance, or until the petition is abandoned."

Section 4. Paragraph (7) of Section 5(f) of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, is hereby amended to read in full as follows:

"(7) The mediator may request each party to submit a best offer in writing at the hearing or within five (5) days of the initial mediation hearing or the continued hearing, if any, if agreement is not reached at that hearing. Upon receipt of a best offer from each party, the mediator shall determine the amount of rent increase, if any, which is reasonable. The mediator may determine that relief in the form of a rent reduction is appropriate for any period of time that the tenant has endured a reduction in services without a corresponding reduction in rent. The mediator may additionally determine that the rental rate may be restored to its former level if the landlord

and Section 20(a), the arbitrator shall make findings as to the landlord's willfulness, oppression, fraud, or malice."

Section 7. Paragraph (5) is hereby added to Section 5(g) of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, to read in full as follows and the existing Paragraph (5) shall be renumbered to (6) and the existing Paragraph (6) shall be renumbered to (7):

"(5) The arbitrator may order relief in the form of a decrease in rent for any period of time that the tenant has endured a reduction in services without a corresponding reduction in rent. The arbitrator may additionally order that the rental rate may be restored to its former level if the landlord fixes, repairs, or otherwise cures the reduction in services by a date to be determined by the arbitrator."

Section 8. Renumbered Paragraph (6) of Section 5(g) of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, is hereby amended to read in full as follows:

"(6) In order to grant any party the time within which to obtain a stay or judicial review from a court of law, the decision of the arbitrator shall not be final and binding upon the landlord and all affected tenants until thirty (30) days after it has been mailed to the landlord and affected tenants. However, where a valid and timely application for correction has been filed pursuant to subsection (7), the arbitrator's decision shall not be final or binding until thirty (30) days after the arbitrator's denial of the application or correction of the award has been mailed to the landlord and affected tenants. Any sum of money determined by the decision of the arbitrator to be due to landlord by tenant or to tenant by landlord shall constitute a debt and, subject to the provisions of Section 10 of this ordinance, may be collected in any manner provided by law for the collection of debts."

Section 9. Subsection (f) of Section 8 of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, is hereby amended to read in full as follows:

"(f) Penalties for Violation. A landlord violating the provisions of this section shall be liable in a civil action to the tenant for three (3) times the amount of any rent increase wrongfully imposed upon a finding by the court that the landlord has acted will-

fully or with oppression, fraud or malice. The arbitrator shall make findings as to the landlord's willfulness, oppression, fraud, or malice. In any civil action filed under the authority of this section, the court shall give the arbitrator's findings the weight to which they are legally entitled."

Section 10. Section 10 of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, is hereby amended to read in full as follows:

"Section 10. Obligations of the Parties. (a) Any increase in rent which has occurred since July 1, 1979, and prior to the effective date of this ordinance, which increase is subsequently disallowed, shall be either rebated to the tenant within thirty (30) days after the decision is final or credited against or set off from the next rent due after the effective date of this ordinance and any succeeding months until full credit for the increase has been applied; except that, in the event that the tenancy of the tenant is terminated for any reason prior to full credit to him against rent, the balance of the credit due the tenant shall be paid to him by the landlord within thirty (30) days from the date of the termination of his tenancy.

"(b) If a final decision by a mediator or arbitrator finds that a proposed increase or any portion thereof that was previously inoperative is justified, the tenant shall pay the amount found justified to the landlord within thirty (30) days after the decision is final.

"(c) If a final decision by a mediator or arbitrator finds that an increase or any portion thereof is not justified, the landlord shall refund any amount found to be unjustified, but that had been paid, to the tenant within thirty (30) days after the decision becomes final; if such refund is not made within thirty (30) days, the tenant may withhold the amount from the next rent(s) due until the full amount of the refund has been made; except that, in the event that the tenancy of tenant is terminated for any reason prior to full credit to him against rent, the balance of the credit due the tenant shall be paid to him by the landlord within thirty (30) days from the date of the termination of his tenancy.

"(d) Any sum of money that under the provisions of this section is the obligation of the landlord or tenant, as the case may be, shall constitute a debt

and, subject to the foregoing provisions of this section, may be collected in any manner provided by law for the collection of debts."

Section 11. Section 14 of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, is hereby amended to read in full as follows:

"Section 14. Termination. This ordinance shall terminate on April 1, 1993."

Section 12. Section 18 of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, is hereby amended to read in full as follows:

"Section 18. Fees. One-third of the costs of administration of this ordinance shall be borne by the City of Hayward; two-thirds shall be reimbursed to the General Fund by imposition of a fee chargeable against each rental unit in the City. The landlord who pays these fees may consider fifty percent (50%) of those fees assessed against a rental unit, except a rental unit to which the provisions of Section 8(a) are applicable, as a governmental services cost subject to the provisions of Section 3(e) herein. Fifty percent (50%) of the fees assessed against a rental unit that is not subject to Section 8(a) shall not be passed on in any way to tenants.

"Notwithstanding the formula set forth above, the City of Hayward shall pay no more than \$26,000 per fiscal year as its share of the costs of administering this ordinance. To the extent that the total cost of administering this ordinance exceeds \$78,000 in any fiscal year, the amount by which the cost exceeds \$78,000 shall be paid by imposition of fees chargeable against each rental unit in the City, with fifty percent (50%) of such additional fees being a governmental services cost subject to the provisions of Section 3(e) herein.

"The fees imposed by this section shall be paid annually. The manner of payment, delinquency status, and assessment and collection of penalties for delinquent payment of the fees imposed by this section shall be as provided in Article 1 of Chapter 8 of the Hayward Municipal Code. The City Manager and Rent Review Officer shall recommend to the City Council the amount of such fee and time for payment and the City Council shall adopt such fee by resolution.

"A landlord failing to pay fees required by this section shall not be entitled to collect any rent increase otherwise authorized by this ordinance from the tenant nor to any increase that might otherwise be awarded by a mediator or arbitrator and such failure by the landlord shall be a defense in any action brought by the landlord to recover possession of a rental unit or to collect any rent increase from the tenant. A landlord may cure the failure to pay the fees required by this section by paying such fees before initiating an action for possession of a unit or collecting any rent increase otherwise authorized hereunder."

Section 13. Paragraph (12) is hereby added to Section 19(a) of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, to read in full as follows and the existing Paragraph (12) shall be renumbered to (13) and the existing Paragraph (13) shall be renumbered to (14):

"(12) The tenant has used or allowed the use of the rental unit, or any other area owned or controlled by the landlord, for the manufacture, sale, distribution, possession, or use of a controlled substance as defined in state law."

Section 14. Section 20 of Ordinance No. 83-023 C.S., the Residential Rent Stabilization Ordinance as amended, is hereby amended to read in full as follows:

"Section 20. Penalties and Remedies. In addition to those penalties and remedies set forth elsewhere in this ordinance, the following penalties and remedies shall apply.

"(a) Receipt of Rent to Which Landlord is Not Entitled. Any landlord who demands, accepts, receives, or retains any money as rent from a tenant to which the landlord is not entitled under the provisions of this ordinance shall be liable to the tenant for any actual damages, attorneys' fees, and costs incurred by the tenant as a consequence thereof. The landlord shall also be liable in a civil action for a civil penalty of five hundred dollars (\$500.00) or, if greater, three (3) times the amount of money the landlord accepted, received, or retained in violation of the provisions of this ordinance, upon a showing that the landlord has acted willfully or with oppression, fraud, or malice. The arbitrator shall, in his or her decision, make findings as to the landlord's willfulness, oppression, fraud, or malice. In any civil action filed under the authority of this section, the court shall give the arbitrator's findings the weight to which they are legally entitled.

"(b) Failure to Provide Required Notices. Except as provided hereinafter, any landlord who fails to provide a tenant with any information, documentation, or notice required by the provisions of this ordinance shall be guilty of an infraction. The first conviction of a landlord of any provision of this ordinance requiring giving information, documentation, or notice in a twelve (12) month period shall be punishable by a fine of not more than one hundred dollars (\$100.00), the second conviction by a fine of not more than two hundred dollars (\$200.00), and the third by a fine of not more than five hundred dollars (\$500.00). Any landlord who has been convicted of three (3) or more infractions for violating any provision of this ordinance requiring giving information, documentation, or notice in a twelve (12) month period shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by six (6) months imprisonment, or both for each additional such violation."

Section 15. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 9th day of January 1990, by Councilmember Cooper.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 30th day of January, 1990, by the following votes of members of said City Council.

AYES: COUNCILMEMBERS: JIMENEZ, ARAGON, CAMPBELL, COOPER, SWEENEY, WARD

MAYOR: GIULIANI

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

APPROVED January 30, 1990

BY: Alex Giuliani  
Mayor of the City of Hayward

ATTEST: Juan Venado  
City Clerk of the City of Hayward

# The Daily Review

116 W. Winton Ave., Hayward, CA 94544  
(415) 783-6111

LEGAL NO. 3093

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**PUBLIC NOTICE OF INTRODUCTION OF AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF HAYWARD**

**AN ORDINANCE AMENDING ORDINANCE NO. 83-023 C.S. THE RESIDENTIAL RENT STABILIZATION ORDINANCE, AS AMENDED, BY ADDING SECTIONS THERETO AND AMENDING CERTAIN SECTIONS THEREOF**

NOTICE IS HEREBY GIVEN that at a Regular Meeting of the Hayward City Council held January 9, 1990, the above entitled ordinance was introduced by Councilmember Cooper. The following is a subject matter index of the ordinance as introduced:

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

- Section 1. - Findings and Purpose
- Section 2. (p) - Voluntarily Vacated
- Section 3.
- Subsection (c) of Section 5 - Tenant Right to File a Petition
- Section 4.
- Section 5 (f) - Paragraph 7
- Section 5.
- Section 5 (f) - Paragraph 8
- Section 6.
- Section 7 (g) - Paragraph 4
- Section 8.
- Section 9 (g) - New Paragraph 5
- Section 10.
- Renumbered Section 5 (g) - Paragraph 6
- Section 11.
- Subsection 8 (f) - Penalties for Violation
- Section 10. - Obligations of the Parties
- Section 11.
- Section 14 - Termination
- Section 12.
- Section 18 - Fees
- Section 13.
- Section 19 (a) - Paragraph 12
- Renumbered Section 19 (a) - Paragraph 12 and 13 to 13 and 14
- Section 14.
- Section 20 - Penalties and
- Section 15.

This ordinance will be introduced for consideration at the Regular Meeting of the Hayward City Council on January 24, 1990 at 8:00 PM in the City Council Chamber, City Building, 27300 Patrick Avenue, Hayward, California. The ordinance may be examined at the City Clerk's Office, 10th floor of the City Building, 27300 Patrick Avenue, Hayward, California, on January 24, 1990.

WYNADA  
City Clerk of the  
City of Hayward

The Daily Review, Legal No. 3093  
January 24, 1990

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

## AFFIDAVIT OF PUBLICATION

Case No .....

In the matter of  
ORDINANCE NO. 83-023 C.S.  
RENT STABILIZATION ORD.

Cheryl Poon .....deposes and says that he/she was the Public Notice Advertising Clerk of THE DAILY REVIEW a newspaper of general circulation as defined by Government Code Section 6000, adjudicated as such by the Superior Court of the State of California, County of Alameda (Order Nos. 224 933 and 244 264) which is published and circulated in Eden Township in said county and state seven days a week.

That the PUBLIC NOTICE OF AN  
INTRODUCTION OF AN  
ORDINANCE.....

of which the annexed is a printed copy, was published in every issue of THE DAILY REVIEW on the following dates:

.....JANUARY 24, 1990.....

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date JANUARY 24, 1990  
at Hayward, California.

Cheryl Poon  
Public Notice Advertising Clerk