

1 [Landlords may pass through to residential tenants 50% of water bill charges attributable to  
2 water rate increases resulting from issuance of PUC water system revenue bonds authorized  
3 at the November 2002 election; such passthroughs do not become part of a tenant's base  
4 rent; tenants may file hardship petitions for relief, and if granted the landlord may utilize  
5 available PUC low-income rate discount programs; tenants may challenge whether a  
6 passthrough meets Code requirements; technical changes.]

7 **Ordinance amending Administrative Code Chapter 37 (Residential Rent Stabilization  
8 and Arbitration Ordinance) by amending Sections 37.2, 37.3, and 37.8, to provide that  
9 landlords may pass through to residential tenants fifty percent (50%) of water bill  
10 charges attributable to water rate increases resulting from the issuance of any PUC  
11 water system revenue bonds authorized at the November 5, 2002 election, where a unit  
12 is in compliance with any applicable laws requiring water conservation devices; to  
13 provide that tenants be given notice of any such passthrough; to provide that any such  
14 passthrough does not become part of a tenant's base rent; to provide that a tenant may  
15 file a hardship application with the Rent Board for relief from all or part of the cost  
16 passthrough, and that if a hardship application is granted the affected landlord may  
17 utilize any available Public Utilities Commission low-income rate discount program or  
18 similar program for water bill reduction based on the tenant's hardship status; to  
19 provide that a tenant may file a petition with the Rent Board within one year of the  
20 effective date of a passthrough for determination of whether that passthrough is in  
21 compliance with the Code, and that the landlord bears the burden of proving the  
22 accuracy of the passthrough calculations in such a hearing; clarification of other Rent  
23 Ordinance provisions, in order to distinguish general obligation bonds from water  
24 revenue bonds; and technical changes in order to conform to other recent Rent  
25 Ordinance amendments.**

1 Note: Additions are single-underline italics Times New Roman font;  
2 deletions are ~~strikethrough italics Times New Roman font~~.  
3 Board amendment additions are double underlined Arial font;  
4 Board amendment deletions are ~~strikethrough Arial font~~.

5 Be it ordained by the People of the City and County of San Francisco:

6 Section 1. The San Francisco Administrative Code is hereby amended by amending  
7 Section 37.2, to read as follows:

8 SEC. 37.2. DEFINITIONS.

9 (a) Base Rent.

10 (1) That rent which is charged a tenant upon initial occupancy plus any rent  
11 increase allowable and imposed under this Chapter; provided, however, that base rent shall  
12 not include increases imposed pursuant to Section 37.7 ~~below, or~~ and base rent shall not  
13 include utility passthroughs or water revenue bond passthroughs or general obligation bond  
14 passthroughs pursuant to Section 37.2(q), 37.3(a)(5)(B), and 37.3(a)(6) ~~below~~. Base rent for  
15 tenants of RAP rental units in areas designated on or after July 1, 1977, shall be that rent  
16 which was established pursuant to Section 32.73-1 of the San Francisco Administrative Code.  
17 Rent increases attributable to the City Administrator's amortization of an RAP loan in an area  
18 designated on or after July 1, 1977, shall not be included in the base rent.

19 (2) From and after the effective date of this ordinance, the base rent for tenants  
20 occupying rental units which have received certain tenant-based or project-based rental  
21 assistance shall be as follows:

22 (A) With respect to tenant-based rental assistance:

23 (i) For any tenant receiving tenant-based assistance as of the effective date of this  
24 ordinance (except where the rent payable by the tenant is a fixed percentage of the tenant's  
25 income, such as in the Section 8 certificate program and the rental subsidy program for the

1 HOPWA program), and continuing to receive tenant-based rental assistance following the  
2 effective date of this ordinance, the base rent for each unit occupied by such tenant shall be  
3 the rent payable for that unit under the Housing Assistance Payments contract, as amended,  
4 between the San Francisco Housing Authority and the landlord (the "HAP contract") with  
5 respect to that unit immediately prior to the effective date of this ordinance (the "HAP" contract  
6 rent").

7 (ii) For any tenant receiving tenant-based rental assistance (except where the rent  
8 payable by the tenant is a fixed percentage of the tenant's income, such as in the Section 8  
9 certificate program and the rental subsidy program for the HOPWA program), and  
10 commencing occupancy of a rental unit following the effective date of this ordinance, the base  
11 rent for each unit occupied by such a tenant shall be the HAP contract rent in effect as of the  
12 date the tenant commences occupancy of such unit.

13 (iii) For any tenant whose tenant-based rental assistance terminates or expires, for  
14 whatever reason, following the effective date of this ordinance, the base rent for each such  
15 unit following expiration or termination shall be the HAP contract rent in effect for that unit  
16 immediately prior to the expiration or termination of the tenant-based rental assistance.

17 (B) For any tenant occupying a unit upon the expiration or termination, for whatever  
18 reason, of a project-based HAP contract under Section 8 of the United States Housing Act of  
19 1937 (42 USC Section 1437f, as amended), the base rent for each such unit following  
20 expiration or termination shall be the "contract rent" in effect for that unit immediately prior to  
21 the expiration or termination of the project-based HAP contract.

22 (C) For any tenant occupying a unit upon the prepayment or expiration of any  
23 mortgage insured by the United States Department of Housing and Urban Development  
24 ("HUD"), including but not limited to mortgages provided under Sections 221(d)(3), 221(d)(4)  
25 and 236 of the National Housing Act (12 USC Section 1715z-1), the base rent for each such

1 unit shall be the “basic rental charge” (described in 12 USC 1715z-1(f), or successor  
2 legislation) in effect for that unit immediately prior to the prepayment of the mortgage, which  
3 charge excludes the “interest reduction payment” attributable to that unit prior to the mortgage  
4 prepayment or expiration.

5 (b) Board. The Residential Rent Stabilization and Arbitration Board.

6 (c) Capital Improvements. Those improvements which materially add to the value of  
7 the property, appreciably prolong its useful life, or adapt it to new uses, and which may be  
8 amortized over the useful life of the improvement of the building.

9 (d) CPI. Consumer Price Index for all Urban Consumers for the San Francisco-  
10 Oakland Metropolitan Area, U.S. Department of Labor.

11 (e) Energy Conservation Improvements. Work performed pursuant to the  
12 requirements of Chapter 12 of the San Francisco Housing Code.

13 (f) Administrative Law Judge. A person, designated by the Board, who arbitrates  
14 and mediates rental increase disputes, and performs other duties as required pursuant to this  
15 Chapter 37.

16 (g) Housing Services. Services provided by the landlord connected with the use or  
17 occupancy of a rental unit including, but not limited to: repairs; replacement; maintenance;  
18 painting; light; heat; water; elevator service; laundry facilities and privileges; janitor service;  
19 refuse removal; furnishings; telephone; parking; rights permitted the tenant by agreement,  
20 including the right to have a specific number of occupants, whether express or implied, and  
21 whether or not the agreement prohibits subletting and/or assignment; and any other benefits,  
22 privileges or facilities.

23 (h) Landlord. An owner, lessor, sublessor, who receives or is entitled to receive rent  
24 for the use and occupancy of any residential rental unit or portion thereof in the City and  
25 County of San Francisco, and the agent, representative or successor of any of the foregoing.

- 1 (i) Member. A member of the Residential Rent Stabilization and Arbitration Board.
- 2 (j) Over FMR Tenancy Program. A regular certificate tenancy program whereby the  
3 base rent, together with a utility allowance in an amount determined by HUD, exceeds the fair  
4 market rent limitation for a particular unit size as determined by HUD.
- 5 (k) Payment Standard. An amount determined by the San Francisco Housing  
6 Authority that is used to determine the amount of assistance paid by the San Francisco  
7 Housing Authority on behalf of a tenant under the Section 8 Voucher Program (24 CFR Part  
8 887).
- 9 (l) RAP. Residential Rehabilitation Loan Program (Chapter 32, San Francisco  
10 Administrative Code).
- 11 (m) RAP Rental Units. Residential dwelling units subject to RAP loans pursuant to  
12 Chapter 32, San Francisco Administrative Code.
- 13 (n) Real Estate Department. A city department in the City and County of San  
14 Francisco.
- 15 (o) Rehabilitation Work. Any rehabilitation or repair work done by the landlord with  
16 regard to a rental unit, or to the common areas of the structure containing the rental unit,  
17 which work was done in order to be in compliance with State or local law, or was done to  
18 repair damage resulting from fire, earthquake or other casualty or natural disaster.
- 19 (p) Rent. The consideration, including any bonus, benefits or gratuity, demanded or  
20 received by a landlord for or in connection with the use or occupancy of a rental unit, or the  
21 assignment of a lease for such a unit, including but not limited to monies demanded or paid  
22 for parking, furnishing, food service, housing services of any kind, or subletting.
- 23 (q) Rent Increases. Any additional monies demanded or paid for rent as defined in  
24 item (p) above, or any reduction in housing services without a corresponding reduction in the  
25 monies demanded or paid for rent; provided, however, that: (1) where the landlord has been

1 paying the tenant's utilities and the cost of those utilities increases, the landlord's passing  
2 through to the tenant of such increased costs pursuant to this Chapter does not constitute a rent  
3 increase; ~~and~~ (2) where there has been a change in the landlord's property tax attributable to  
4 a ~~ballot measure~~ general obligation bond approved by the voters between November 1, 1996,  
5 and November 30, 1998, or after ~~[May 1, 2002 or 60 days prior to passage of this Ordinance on~~  
6 ~~Second Reading, whichever is later]~~ November 14, 2002, the landlord's passing through to the  
7 tenant of such increased costs in accordance with this Chapter (see Section 37.3(a)(6)) does not  
8 constitute a rent increase; and, (3) where water bill charges are attributable to water rate increases  
9 resulting from issuance of water revenue bonds authorized at the November 5, 2002 election, the  
10 landlord's passing through to the tenant of such increased costs in accordance with this Chapter (see  
11 Section 37.3(a)(5)(B)) does not constitute a rent increase.

12 (r) Rental Units. All residential dwelling units in the City and County of San  
13 Francisco together with the land and appurtenant buildings thereto, and all housing services,  
14 privileges, furnishings and facilities supplied in connection with the use or occupancy thereof,  
15 including garage and parking facilities. The term shall not include:

16 (1) Housing accommodations in hotels, motels, inns, tourist houses, rooming and  
17 boarding houses, provided that at such time as an accommodation has been occupied by a  
18 tenant for 32 continuous days or more, such accommodation shall become a rental unit  
19 subject to the provisions of this Chapter; provided further, no landlord shall bring an action to  
20 recover possession of such unit in order to avoid having the unit come within the provisions of  
21 this Chapter. An eviction for a purpose not permitted under Section 37.9(a) shall be deemed  
22 to be an action to recover possession in order to avoid having a unit come within the  
23 provisions of this Chapter;

24 (2) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a  
25 majority of the residents or dwelling units solely owned by a nonprofit public benefit

1 corporation governed by a board of directors the majority of which are residents of the  
2 dwelling units and where it is required in the corporate by-laws that rent increases be  
3 approved by a majority of the residents;

4 (3) Housing accommodation in any hospital, convent, monastery, extended care  
5 facility, asylum, residential care or adult day health care facility for the elderly which must be  
6 operated pursuant to a license issued by the California Department of Social Services, as  
7 required by California Health and Safety Chapters 3.2 and 3.3; or in dormitories owned and  
8 operated by an institution of higher education, a high school, or an elementary school;

9 (4) Except as provided in Subsections (A) and (B), dwelling units whose rents are  
10 controlled or regulated by any government unit, agency or authority, excepting those  
11 unsubsidized and/or unassisted units which are insured by the United States Department of  
12 Housing and Urban Development; provided, however, that units in unreinforced masonry  
13 buildings which have undergone seismic strengthening in accordance with Building Code  
14 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the  
15 ordinance is not in conflict with the seismic strengthening bond program or with the program's  
16 loan agreements or with any regulations promulgated thereunder;

17 (A) For purposes of Sections 37.2, 37.3(a)(10)(A), 37.4, 37.5, 37.6, 37.9, 37.9A,  
18 37.10A, 37.11A and 37.13, and the arbitration provisions of Sections 37.8 and 37.8A  
19 applicable only to the provisions of Sections 37.3(a)(10)(A), the term "rental units" shall  
20 include units occupied by recipients of tenant-based rental assistance where the tenant-based  
21 rental assistance program does not establish the tenant's share of base rent as a fixed  
22 percentage of a tenant's income, such as in the Section 8 voucher program and the "Over-  
23 FMR Tenancy" program defined in 24 CFR Section 982.4;

24 (B) For purposes of Sections 37.2, 37.3(a)(10)(B), 37.4, 37.5, 37.6, 37.9, 37.9A,  
25 37.10A, 37.11A and 37.13, the term "rental units" shall include units occupied by recipients of

1 tenant-based rental assistance where the rent payable by the tenant under the tenant-based  
2 rental assistance program is a fixed percentage of the tenant's income; such as in the Section  
3 8 certificate program and the rental subsidy program for the Housing Opportunities for  
4 Persons with Aids ("HOPWA") program (42 U.S.C. Section 12901 et seq., as amended).

5 (5) Rental units located in a structure for which a certificate of occupancy was first  
6 issued after the effective date of this ordinance, except as provided for certain categories of  
7 units and dwellings by Section 37.3(d) and Section 37.9A(b) of this Chapter;

8 (6) Dwelling units in a building which has undergone substantial rehabilitation after  
9 the effective date of this ordinance; provided, however, that RAP rental units are not subject to  
10 this exemption.

11 (7) Dwellings or units otherwise subject to this Chapter 37, to the extent such  
12 dwellings or units are partially or wholly exempted from rent increase limitations by the Costa-  
13 Hawkins Rental Housing Act (California Civil Code Sections 1954.50. et seq.) and/or San  
14 Francisco Administrative Code Section 37.3(d).

15 (s) Substantial Rehabilitation. The renovation, alteration or remodeling of residential  
16 units of 50 or more years of age which have been condemned or which do not qualify for  
17 certificates of occupancy or which require substantial renovation in order to conform the  
18 building to contemporary standards for decent, safe and sanitary housing. Substantial  
19 rehabilitation may vary in degree from gutting and extensive reconstruction to extensive  
20 improvements that cure substantial deferred maintenance. Cosmetic improvements alone  
21 such as painting, decorating and minor repairs, or other work which can be performed safely  
22 without having the unit vacated do not qualify as substantial rehabilitation.

23 (t) Tenant. A person entitled by written or oral agreement, sub-tenancy approved  
24 by the landlord, or by sufferance, to occupy a residential dwelling unit to the exclusion of  
25 others.



1 (u) Tenant-Based Rental Assistance. Rental assistance provided directly to a tenant  
2 or directly to a landlord on behalf of a particular tenant, which includes but shall not be limited  
3 to certificates and vouchers issued pursuant to Section 8 of the United States Housing Act of  
4 1937, as amended (42 U.S.C. Section 1437f) and the HOPWA program.

5 (v) Utilities. The term “utilities” shall refer to gas and electricity exclusively.  
6  
7

8 Section 2. The San Francisco Administrative Code is hereby amended by amending  
9 Section 37.3, to read as follows:

10 SEC. 37.3. RENT LIMITATIONS.

11 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose  
12 rent increases upon tenants in occupancy only as provided below and as provided by  
13 Subsection 37.3(d):

14 (1) Annual Rent Increase. On March 1st of each year, the Board shall publish the  
15 increase in the CPI for the preceding 12 months, as made available by the U.S. Department of  
16 Labor. A landlord may impose annually a rent increase which does not exceed a tenant's  
17 base rent by more than 60 percent of said published increase. In no event, however, shall the  
18 allowable annual increase be greater than seven percent.

19 (2) Banking. A landlord who refrains from imposing an annual rent increase or any  
20 portion thereof may accumulate said increase and impose that amount on the tenant's  
21 subsequent rent increase anniversary dates. A landlord who, between April 1, 1982, and  
22 February 29, 1984, has banked an annual seven percent rent increase (or rent increases) or  
23 any portion thereof may impose the accumulated increase on the tenant's subsequent rent  
24 increase anniversary dates.  
25

1           (3) Capital Improvements, Rehabilitation, Energy Conservation Improvements, and  
2 Renewable Energy Improvements. A landlord may impose rent increases based upon the cost  
3 of capital improvements, rehabilitation, energy conservation improvements, or renewable  
4 energy improvements, provided that such costs are certified pursuant to Sections 37.7 and  
5 37.8B below; provided further that where a landlord has performed seismic strengthening in  
6 accordance with Building Code Chapters 16B and 16C, no increase for capital improvements  
7 (including but not limited to seismic strengthening) shall exceed, in any 12 month period, 10  
8 percent of the tenant's base rent, subject to rules adopted by the Board to prevent landlord  
9 hardship and to permit landlords to continue to maintain their buildings in a decent, safe and  
10 sanitary condition. A landlord may accumulate any certified increase which exceeds this  
11 amount and impose the increase in subsequent years, subject to the 10 percent limitation.  
12 Nothing in this subsection shall be construed to supersede any Board rules or regulations with  
13 respect to limitations on increases based upon capital improvements whether performed  
14 separately or in conjunction with seismic strengthening improvements pursuant to Building  
15 Code Chapters 16B and 16C.

16           (4) Utilities. A landlord may impose increases based upon the cost of utilities as  
17 provided in Section 37.2(q) above.

18           (5) Water: Charges Related to Excess Water Use, and 50% Passthrough of Water Bill  
19 Charges Attributable to Water Rate Increases Resulting From Issuance of Water System Improvement  
20 Revenue Bonds Authorized at the November 2002 Election.

21           (A) Charges Related to Excess Water Use. A landlord may impose increases not to  
22 exceed 50 percent of the excess use charges (penalties) levied by the San Francisco Water  
23 Department on a building for use of water in excess of Water Department allocations under  
24 the following conditions:  
25

1           (A- i)           The landlord provides tenants with written certification that the following  
2 have been installed in all units: (1) permanently installed retrofit devices designed to reduce  
3 the amount of water used per flush or low-flow toilets (1.6 gallons per flush); (2) low-flow  
4 showerheads which allow a flow of no more than 2.5 gallons per minute; and (3) faucet  
5 aerators (where installation on current faucets is physically feasible); and

6           (~~B- ii~~)           The landlord provides the tenants with written certification that no known  
7 plumbing leaks currently exist in the building and that any leaks reported by tenants in the  
8 future will be promptly repaired; and

9           (~~C- iii~~)           The landlord provides the tenants with a copy of the water bill for the  
10 period in which the penalty was charged. Only penalties billed for a service period which  
11 begins after the effective date of the ordinance [April 20, 1991] may be passed through to  
12 tenants. Where penalties result from an allocation which does not reflect documented  
13 changes in occupancy which occurred after March 1, 1991, a landlord must, if requested in  
14 writing by a tenant, make a good-faith effort to appeal the allotment. Increases based upon  
15 penalties shall be prorated on a per-room basis provided that the tenancy existed during the  
16 time the penalty charges accrued. Such charges shall not become part of a tenant's base  
17 rent. Where a penalty in any given billing period reflects a 25 percent or more increase in  
18 consumption over the prior billing period, and where that increase does not appear to result  
19 from increased occupancy or any other known use, a landlord may not impose any increase  
20 based upon such penalty unless inspection by a licensed plumber or Water Department  
21 inspector fails to reveal a plumbing or other leak. If the inspection does reveal a leak, no  
22 increase based upon penalties may be imposed at any time for the period of the unrepaired  
23 leak.

24           (B) Fifty Percent (50%) Passthrough of Water Bill Charges Attributable to Water Rate  
25 Increases Resulting From Issuance of Water System Improvement Revenue Bonds Authorized at the

1 November 2002 Election. A landlord may pass through fifty percent (50%) of the water bill charges  
2 attributable to water rate increases resulting from issuance of Water System Improvement Revenue  
3 Bonds authorized at the November 5, 2002 election (Proposition A), to any unit that is in compliance  
4 with any applicable laws requiring water conservation devices. The landlord is not required to file a  
5 petition with the Board for approval of such a cost passthrough. Such cost passthroughs are subject to  
6 the following:

7 (i) Affected tenants shall be given notice of any such passthrough as provided by applicable  
8 notice of rent increase provisions of this Chapter 37, including but not limited to Section 37.3(b)(3).

9 (ii) A tenant may file a hardship application with the Board, and be granted relief from all  
10 or part of such a cost passthrough;

11 (iii) If a tenant's hardship application is granted, the tenant's landlord may utilize any  
12 available Public Utilities Commission low-income rate discount program or similar program for water  
13 bill reduction, based on that tenant's hardship status;

14 (iv) A landlord shall not impose a passthrough pursuant to Section 37.3(a)(5)(B) if the  
15 landlord has filed for or received Board approval for a rent increase under Section 37.8(e)(4) for  
16 increased operating and maintenance expenses in which the same increase in water bill charges  
17 attributable to water rate increases resulting from issuance of any water revenue bonds authorized at  
18 the November 5, 2002 election was included in the comparison year cost totals.

19 (v) Where a tenant alleges that a landlord has imposed a water revenue bond passthrough  
20 that is not in compliance with Section 37.3(a)(5)(B), the tenant may petition for a hearing under the  
21 procedures provided by Section 37.8. In such a hearing the landlord shall have the burden of proving  
22 the accuracy of the calculation that is the basis for the increase. Any tenant petition challenging such a  
23 passthrough must be filed within one year of the effective date of the passthrough.

24 (6) Property Tax. A landlord may impose increases based upon a 100%  
25 passthrough of the change in the landlord's property tax resulting from the repayment of

1 general obligation bonds of the City and County of San Francisco approved by the voters  
2 between November 1, 1996, and November 30, 1998, as provided in Section 37.2(q) above.

3 A landlord may impose increases based upon a 50% passthrough of the change in the  
4 landlord's property tax resulting from the repayment of general obligation bonds of the City  
5 and County of San Francisco approved by the voters after ~~May 1, 2002 or 60 days prior to~~  
6 ~~passage of this Ordinance on Second Reading, whichever is later~~ November 14, 2002, as provided in  
7 Section 37.2(q) above, and subject to the following requirement: Any rent increase for bonds  
8 approved after the effective date of this initiative ordinance [November 2000 Proposition H,  
9 effective December 20, 2000] must be disclosed and approved by the voters.

10 The amount of such increases shall be determined for each tax year as follows:

11 (A) For general obligation bonds approved by the voters between November 1,  
12 1996 and November 30, 1998:

13 (i) The Controller and the Board of Supervisors will determine the percentage of  
14 the property tax rate, if any, in each tax year attributable to general obligation bonds approved  
15 by the voters between November 1, 1996, and November 30, 1998, and repayable within  
16 such tax year.

17 (ii) This percentage shall be multiplied by the total amount of the net taxable value  
18 for the applicable tax year. The result is the dollar amount of property taxes for that tax year  
19 for a particular property attributable to the repayment of general obligation bonds approved by  
20 the voters between November 1, 1996, and November 30, 1998.

21 (iii) The dollar amount calculated under Subsection (ii) shall be divided by the total  
22 number of all units in each property, including commercial units. That figure shall be divided  
23 by 12 months, to determine the monthly per unit costs for that tax year of the repayment of  
24 general obligation bonds approved by the voters between November 1, 1996, and November  
25 30, 1998.

1 (B) For general obligation bonds approved by the voters after ~~May 1, 2002 or 60 days~~  
2 ~~prior to passage of this Ordinance on Second Reading, whichever is later~~ November 14, 2002 where  
3 any rent increase has been disclosed and approved by the voters:

4 (i) The Controller and the Board of Supervisors will determine the percentage of  
5 the property tax rate, if any, in each tax year attributable to general obligation bonds approved  
6 by the voters after ~~May 1, 2002 or 60 days prior to passage of this Ordinance on Second Reading,~~  
7 ~~whichever is later~~ November 14, 2002, and repayable within such tax year.

8 (ii) This percentage shall be multiplied by the total amount of the net taxable value  
9 for the applicable tax year. The result is the dollar amount of property taxes for that tax year  
10 for a particular property attributable to the repayment of general obligation bonds approved by  
11 the voters after ~~May 1, 2002 or 60 days prior to passage of this Ordinance on Second Reading,~~  
12 ~~whichever is later~~ November 14, 2002.

13 (iii) The dollar amount calculated under Subsection (ii) shall be divided by two, and  
14 then by the total number of all units in each property, including commercial units. That figure  
15 shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the  
16 repayment of general obligation bonds approved by the voters after ~~May 1, 2002 or 60 days~~  
17 ~~prior to passage of this Ordinance on Second Reading, whichever is later~~ November 14, 2002.

18 (C) Landlords may pass through to each unit in a particular property the dollar  
19 amounts calculated under these Subsections 37.3(a)(6)(A) and (B). These passthroughs may  
20 be imposed only on the anniversary date of each tenant's occupancy of the property. These  
21 passthroughs shall not become a part of a tenant's base rent. The amount of each annual  
22 passthrough imposed pursuant to this Subsection (6) may vary from year-to-year, depending  
23 on the amount calculated under Subsections (A) and (B). Each annual passthrough shall  
24 apply only for the 12 month period after it is imposed. A landlord may impose the  
25 passthroughs described in this Subsection (6) for a particular tax year only with respect to

1 those tenants who were residents of a particular property on November 1st of the applicable  
2 tax year. A landlord shall not impose a passthrough pursuant to this Subsection (6) if the  
3 landlord has filed for or received Board approval for a rent increase under Section 37.8(e)(4)  
4 for increased operating and maintenance expenses in which the same increase in property  
5 taxes due to the repayment of general obligation bonds was included in the comparison year  
6 cost totals.

7 (D) The Board will have available a form which explains how to calculate the  
8 passthrough.

9 (E) Landlords must provide to tenants, on or before the date that notice is served on  
10 the tenant of a passthrough permitted under this Subsection (6), a copy of the completed form  
11 described in Subsection (D). This completed form shall be provided in addition to the Notice  
12 of Rent Increase required under Section 37.3(b)(5). ~~A tenant may petition for a hearing under the~~  
13 ~~procedure described in Section 37.8.~~ Where the a tenant alleges that a landlord has imposed a  
14 charge which exceeds the limitations set forth in this Subsection (6), the tenant may petition for  
15 a hearing under the procedures provided by Section 37.8. In such a hearing, ~~the burden of proof~~  
16 ~~shall be on~~ the landlord shall have the burden of proving the accuracy of the calculation that is the  
17 basis for the increase. ~~Any Tenant petitions regarding this challenging such a~~ passthrough must  
18 be filed within one year of the effective date of the passthrough.

19 (F) The Board may amend its rules and regulations as necessary to implement this  
20 Subsection (6).

21 (7) RAP Loans. A landlord may impose rent increases attributable to the City  
22 Administrator's amortization of the RAP loan in an area designated on or after July 1, 1977,  
23 pursuant to Chapter 32 of the San Francisco Administrative Code.  
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1           (8)     Additional Increases. A landlord who seeks to impose any rent increase which  
2 exceeds those permitted above shall petition for a rental arbitration hearing pursuant to  
3 Section 37.8 of this Chapter.

4           (9)     A landlord may impose a rent increase to recover costs incurred for the  
5 remediation of lead hazards, as defined in San Francisco Health Code Article 26. Such  
6 increases may be based on changes in operating and maintenance expenses or for capital  
7 improvement expenditures as long as the costs which are the basis of the rent increase are a  
8 substantial portion of the work which abates or remediates a lead hazard, as defined in San  
9 Francisco Health Code Article 26, and provided further that such costs are approved for  
10 operating and maintenance expense increases pursuant to Section 37.8(e)(4)(A) and certified  
11 as capital improvements pursuant to Section 37.7 below.

12           When rent increases are authorized by this Subsection 37.3(a)(9), the total rent  
13 increase for both operating and maintenance expenses and capital improvements shall not  
14 exceed 10 percent in any 12 month period. If allowable rent increases due to the costs of  
15 lead remediation and abatement work exceed 10 percent in any 12 month period, an  
16 Administrative Law Judge shall apply a portion of such excess to approved operating and  
17 maintenance expenses for lead remediation work, and the balance, if any, to certified capital  
18 improvements, provided, however, that such increase shall not exceed 10 percent. A landlord  
19 may accumulate any approved or certified increase which exceeds this amount, subject to the  
20 10 percent limit.

21           (10)    With respect to units occupied by recipients of tenant-based rental assistance:

22           (A)     If the tenant's share of the base rent is not calculated as a fixed percentage of  
23 the tenant's income, such as in the Section 8 voucher program and the Over-FMR Tenancy  
24 Program, then:  
25



1 (i) If the base rent is equal to or greater than the payment standard, the rent  
2 increase limitations in Sections 37.3(a)(1) and (2) shall apply to the entire base rent, and the  
3 arbitration procedures for those increases set forth in Section 37.8 and 37.8A shall apply.

4 (ii) If the base rent is less than the payment standard, the rent increase limitations  
5 of this Chapter shall not apply; provided, however, that any rent increase which would result in  
6 the base rent being equal to or greater than the payment standard shall not result in a new  
7 base rent that exceeds the payment standard plus the increase allowable under Section  
8 37.3(a)(1).

9 (B) If the tenant's share of the base rent is calculated as a fixed percentage of the  
10 tenant's income, such as in the Section 8 certificate program and the rental subsidy program  
11 for the HOPWA program, the rent increase limitations in Section 37.3(a)(1) and (2) shall not  
12 apply. In such circumstances, adjustments in rent shall be made solely according to the  
13 requirements of the tenant-based rental assistance program.

14 (b) Notice of Rent Increase for Tenants in Occupancy. On or before the date upon  
15 which a landlord gives a tenant legal notice of a rent increase, the landlord shall inform the  
16 tenant, in writing, of the following:

17 (1) Which portion of the rent increase reflects the annual increase, and/or a banked  
18 amount, if any;

19 (2) Which portion of the rent increase reflects costs for increased operating and  
20 maintenance expenses, rents for comparable units, and/or capital improvements,  
21 rehabilitation, energy conservation improvements, or renewable energy improvements  
22 certified pursuant to Section 37.7. Any rent increase certified due to increases in operating  
23 and maintenance costs shall not exceed seven percent;

24 (3) Which portion of the rent increase reflects the passthrough of charges for: gas  
25 and electricity; or the passthrough of increased water bill charges attributable to water rate

1 increases resulting from issuance of water revenue bonds authorized at the November 2002 election as  
2 provided by Section 37.3(a)(5)(B); or the passthrough of general obligation bond measure costs  
3 described in as provided by Section 37.3(a)(6) ~~above~~, which charges shall be explained in writing  
4 on a form provided by the Board as described in Section 37.3(a)(6)(E);

5 (4) Which portion of the rent increase reflects the amortization of the RAP loan, as  
6 described in Section 37.3(a)(7) above.

7 (5) Nonconforming Rent Increases. Any rent increase which does not conform with  
8 the provisions of this Section shall be null and void.

9 (6) With respect to rental units occupied by recipients of tenant-based rental  
10 assistance, the notice requirements of this Subsection (b) shall be required in addition to any  
11 notice required as part of the tenant-based rental assistance program.

12 (c) Initial Rent Limitation for Subtenants. A tenant who subleases his or her rental  
13 unit may charge no more rent upon initial occupancy of the subtenant or subtenants than that  
14 rent which the tenant is currently paying to the landlord.

15 (d) Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)  
16 Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)  
17 and regardless of whether otherwise provided under Chapter 37:

18 (1) Property Owner Rights to Establish Initial and All Subsequent Rental Rates for  
19 Separately Alienable Parcels.

20 (A) An owner or residential real property may establish the initial and all subsequent  
21 rental rates for a dwelling or a unit which is alienable separate from the title to any other  
22 dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b), (d), or  
23 (f) of Section 11004.5 of the California Business and Professions Code. The owner's right to  
24 establish subsequent rental rates under this paragraph shall not apply to a dwelling or unit  
25 where the preceding tenancy has been terminated by the owner by notice pursuant to

1 California Civil Code Section 1946 or has been terminated upon a change in the terms of the  
2 tenancy noticed pursuant to California Civil Code Section 827; in such instances, the rent  
3 increase limitation provisions of Chapter 37 shall continue to apply for the duration of the new  
4 tenancy in that dwelling or unit.

5 (B) Where the initial or subsequent rental rates of a Subsection 37.3(d)(1)(A)  
6 dwelling or unit were controlled by the provisions of Chapter 37 on January 1, 1995, the  
7 following shall apply:

8 (i) A tenancy that was in effect on December 31, 1995, remains subject to the rent  
9 control provisions of this Chapter 37, and the owner may not otherwise establish the  
10 subsequent rental rates for that tenancy.

11 (ii) On or after January 1, 1999, an owner may establish the initial and all  
12 subsequent rental rates for any tenancy created on or after January 1, 1996.

13 (C) An owner's right to establish subsequent rental rates under Subsection  
14 37.3(d)(1) shall not apply to a dwelling or unit which contains serious health, safety, fire or  
15 building code violations, excluding those caused by disasters, for which a citation has been  
16 issued by the appropriate governmental agency and which has remained unabated for six  
17 months or longer preceding the vacancy.

18 (2) Conditions for Establishing the Initial Rental Rate Upon Sublet or Assignment.  
19 Except as identified in this Subsection 37.3(d)(2), nothing in this Subsection or any other  
20 provision of law of the City and County of San Francisco shall be construed to preclude  
21 express establishment in a lease or rental agreement of the rental rates to be applicable in the  
22 event the rental unit subject thereto is sublet, and nothing in this Subsection shall be  
23 construed to impair the obligations of contracts entered into prior to January 1, 1996, subject  
24 to the following:

25

1 (A) Where the original occupant or occupants who took possession of the dwelling  
2 or unit pursuant to the rental agreement with the owner no longer permanently reside there,  
3 an owner may increase the rent by any amount allowed by this Subsection to a lawful  
4 sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996.  
5 However, such a rent increase shall not be permitted while:

6 (i) The dwelling or unit has been cited in an inspection report by the appropriate  
7 governmental agency as containing serious health, safety, fire, or building code violations, as  
8 defined by Section 17920.3 of the California Health and Safety Code, excluding any violation  
9 caused by a disaster; and,

10 (ii) The citation was issued at least 60 days prior to the date of the vacancy: and,

11 (iii) The cited violation had not been abated when the prior tenant vacated and had  
12 remained unabated for 60 days or for a longer period of time. However, the 60-day time  
13 period may be extended by the appropriate governmental agency that issued the citation.

14 (B) This Subsection 37.3(d)(2) shall not apply to partial changes in occupancy of a  
15 dwelling or unit where one or more of the occupants of the premises, pursuant to the  
16 agreement with the owner provided for above (37.3(d)(2)), remains an occupant in lawful  
17 possession of the dwellings or unit, or where a lawful sublessee or assignee who resided at  
18 the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit.  
19 Nothing contained in this Subsection 37.3(d)(2) shall be construed to enlarge or diminish an  
20 owner's right to withhold consent to a sublease or assignment.

21 (C) Acceptance of rent by the owner shall not operate as a waiver or otherwise  
22 prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an  
23 owner's rights to establish the initial rental rate unless the owner has received written notice  
24 from the tenant that is party to the agreement and thereafter accepted rent.

1           (3) Termination or Nonrenewal of a Contract or Recorded Agreement with a  
2 Government Agency Limiting Rent. An owner who terminates or fails to renew a contract or  
3 recorded agreement with a governmental agency that provides for a rent limitation to a  
4 qualified tenant, shall be subject to the following:

5           (A) The tenant(s) who were beneficiaries of the contract or recorded agreement  
6 shall be given at least 90 days' written notice of the effective date of the termination and shall  
7 not be obligated to pay more than the tenant's portion of the rent, as calculated under that  
8 contract or recorded agreement, for 90 days following receipt of the notice of termination or  
9 nonrenewal.

10          (B) The owner shall not be eligible to set an initial rent for three years following the  
11 date of the termination or nonrenewal of the contract or agreement.

12          (C) The rental rate for any new tenancy established during the three-year period in  
13 that vacated dwelling or unit shall be at the same rate as the rent under the terminated or  
14 nonrenewed contract or recorded agreement, plus any increases authorized under this  
15 Chapter 37 after the date of termination/non renewal.

16          (D) The provisions of Subsections 37.3(d)(3)(B) and (C) shall not apply to any new  
17 tenancy of 12 months or more duration established after January 1, 2000, pursuant to the  
18 owner's contract or recorded agreement with a governmental agency that provides for a rent  
19 limitation to a qualified tenant unless the prior vacancy in that dwelling or unit was pursuant to  
20 a nonrenewed or canceled contract or recorded agreement with a governmental agency that  
21 provides for a rent limitation to a qualified tenant.

22          (4) Subsection 37.3(d) does not affect the authority of the City and County of San  
23 Francisco to regulate or monitor the basis or grounds for eviction.

24          (5) This Subsection 37.3(d) is intended to be and shall be construed to be  
25 consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)

1 (e) Effect of Deferred Maintenance on Passthroughs for Lead Remediation  
2 Techniques.

3 (1) When lead hazards, which have been remediated or abated pursuant to San  
4 Francisco Health Code Article 26, are also violations of State or local housing health and  
5 safety laws, the costs of such work shall not be passed through to tenants as either a capital  
6 improvement or an operating and maintenance expense if the Administrative Law Judge finds  
7 that the deferred maintenance, as defined herein, of the current or previous landlord caused  
8 or contributed to the existence of the violation of law.

9 (2) In any unit occupied by a lead-poisoned child and in which there exists a lead  
10 hazard, as defined in San Francisco Health Code Article 26, there shall be a rebuttable  
11 presumption that violations of State or local housing health and safety laws caused or created  
12 by deferred maintenance, caused or contributed to the presence of the lead hazards. If the  
13 landlord fails to rebut the presumption, that portion of the petition seeking a rent increase for  
14 the costs of lead hazard remediation or abatement shall be denied. If the presumption is  
15 rebutted, the landlord shall be entitled to a rent increase if otherwise justified by the standards  
16 set forth in this Chapter.

17 (3) For purposes of the evaluation of petitions for rent increases for lead  
18 remediation work, maintenance is deferred if a reasonable landlord under the circumstances  
19 would have performed, on a regular basis, the maintenance work required to keep the  
20 premises from being in violation of housing safety and habitability standards set forth in  
21 California Civil Code Section 1941 and the San Francisco Municipal Code. In order to prevail  
22 on a deferred maintenance defense, a tenant must show that the level of repair or remediation  
23 currently required would have been lessened had maintenance been performed in a more  
24 timely manner.

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Section 3. The San Francisco Administrative Code is hereby amended by amending Section 37.8, to read as follows:

SEC. 37.8. ARBITRATION OF RENTAL INCREASE ADJUSTMENTS.

(a) Authority of Board and Administrative Law Judge. In accordance with such guidelines as the Board shall establish, the Board and designated Administrative Law Judges shall have the authority to arbitrate rental increase adjustments, and to administer the rent increase protest procedures with respect to RAP rental units as set forth in Chapter 32 of the San Francisco Administrative Code.

(b) Request for Arbitration.

(1) Landlords. Landlords who seek to impose rent increases which exceed the limitations set forth in Section 37.3(a) above must request an arbitration hearing as set forth in this Section. The burden of proof is on the landlord.

(2) Tenants.

(A) Notwithstanding Section 37.3, tenants of non-RAP rental units and tenants of RAP rental units in areas designated on or after July 1, 1977, may request arbitration hearings where a landlord has substantially decreased services without a corresponding reduction in rent and/or has failed to perform ordinary repair and maintenance under State or local law and/or has failed to provide the tenant with a clear explanation of the current charges for gas and electricity or bond measure costs passed through to the tenant and/or imposed a nonconforming rent increase which is null and void. The burden of proof is on the tenant.

(B) Tenants of RAP rental units in areas designated prior to July 1, 1977, may petition for a hearing where the landlord has noticed an increase which exceeds the limitations set forth in Section 32.73 of the San Francisco Administrative Code. After a vacancy has occurred in a RAP rental unit in said areas, a new tenant of said unit may petition

1 for a hearing where the landlord has demanded and/or received a rent for that unit which  
2 exceeds the rent increase limitations set forth in Section 32.73 of the San Francisco  
3 Administrative Code. The burden of proof is on the landlord.

4 (c) Procedure for Landlord Petitioners.

5 (1) Filing. The request for arbitration must be filed on a petition form prescribed by  
6 the Board and shall be accompanied by such supporting material as the Board shall  
7 prescribe, including but not limited to, justification for the proposed rental increase.

8 (2) Filing Date. The petition must be filed prior to the mailing or delivering to the  
9 tenant or tenants legal notice of the rental increase exceeding the limitations as defined in  
10 Section 37.3.

11 (3) Effect of Timely Filing of Petition. Provided a completed petition is timely filed,  
12 that portion of the requested rental increase which exceeds the limitations set forth in Section  
13 37.3 and has not been certified as a justifiable increase in accordance with Section 37.7 is  
14 inoperative until such time as the Administrative Law Judge makes findings of fact at the  
15 conclusion of the arbitration hearing.

16 (4) Notice to Parties. The Board shall calendar the petition for hearing before a  
17 designated Administrative Law Judge and shall give written notice of the date to the parties at  
18 least 10 days prior to the hearing.

19 (d) Procedure for Tenant Petitioners.

20 (1) Filing; Limitation. The request for arbitration must be filed on a petition form  
21 prescribed by the Board and must be accompanied by such supporting material as the Board  
22 shall prescribe, including but not limited to, a copy of the landlord's notice of rent increase. If  
23 the tenant petitioner has received certification findings regarding his rental unit in accordance  
24 with Section 37.7, such findings must accompany the petition. If the tenant petitioner has  
25 received a notification from the Chief Administrative Officer with respect to base rent and



1 amortization of a RAP loan, such notification must accompany the petition. ~~A Tenant~~ petitions  
2 regarding ~~the a~~ gas and electricity passthrough must be filed within one year of the effective  
3 date of the ~~pass-through~~ passthrough or within one year of the date the passthrough was  
4 required to be recalculated pursuant to rules and regulations promulgated by the Board. A  
5 tenant petition regarding a water revenue bond passthrough under Section 37.3(a)(5)(B) must be filed  
6 within one year of the effective date of the passthrough. ~~A Tenant~~ petitions regarding ~~the a~~ general  
7 obligation bond cost passthrough ~~described in~~ under Section 37.3(a)(6) must be filed within one  
8 year of the effective date of the passthrough.

9 (2) Notice to Parties. The Board shall calendar the petition for hearing before a  
10 designated Administrative Law Judge and shall give written notice of the date to the parties at  
11 least 10 days prior to the hearing. Responses to a petition for hearing may be submitted in  
12 writing.

13 (e) Hearings.

14 (1) Time of Hearing. The hearing shall be held within 45 days of the filing of the  
15 petition. The level of housing services provided to tenants' rental units shall not be decreased  
16 during the period between the filing of the petition and the conclusion of the hearing.

17 (2) Consolidation. To the greatest extent possible, hearings with respect to a given  
18 building shall be consolidated.

19 (3) Conduct of Hearing. The hearing shall be conducted by an Administrative Law  
20 Judge designated by the Board. Both parties may offer such documents, testimony, written  
21 declarations or other evidence as may be pertinent to the proceedings. A record of the  
22 proceedings must be maintained for purposes of appeal.

23 (4) Determination of the Administrative Law Judge: Rental Units. Based upon the  
24 evidence presented at the hearing and upon such relevant factors as the Board shall  
25 determine, the Administrative Law Judge shall make findings as to whether or not the

1 landlord's proposed rental increase exceeding the limitations set forth in Section 37.3 is  
2 justified or whether or not the landlord has effected a rent increase through a reduction in  
3 services or has failed to perform ordinary repair and maintenance as required by State or local  
4 law; and provided further that, where a landlord has imposed a passthrough for property taxes  
5 pursuant to Section 37.3(6)(D), the same increase in property taxes shall not be included in  
6 the calculation of increased operating and maintenance expenses pursuant to this Subsection  
7 (4). In making such findings, the Administrative Law Judge shall take into consideration the  
8 following factors:

9 (A) Increases or decreases in operating and maintenance expenses, including, but  
10 not limited to, real estate taxes, sewer service charges, janitorial service, refuse removal,  
11 elevator service, security system, and debt service; provided, however, when a unit is  
12 purchased after the effective date of this ordinance, and this purchase occurs within two years  
13 of the date of the previous purchase, consideration shall not be given to that portion of  
14 increased debt service which has resulted from a selling price which exceeds the seller's  
15 purchase price by more than the percentage increase in the "Consumer Price Index for All  
16 Urban Consumers for the San Francisco-Oakland Metropolitan Area, U.S. Department of  
17 Labor" between the date of previous purchase and the date of the current sale, plus the cost  
18 of capital improvements or rehabilitation work made or performed by the seller.

19 (B) The past history of increases in the rent for the unit and the comparison of the  
20 rent for the unit with rents for comparable units in the same general area.

21 (C) Any findings which have been made pursuant to Section 37.7 with respect to the  
22 unit.

23 (D) Failure to perform ordinary repair, replacement and maintenance in compliance  
24 with applicable State and local law.

25

1 (E) Any other such relevant factors as the Board shall specify in rules and  
2 regulations.

3 (5) Determination of the Administrative Law Judge: RAP Rental Units.

4 (A) RAP Rental Units in RAP Areas Designated Prior to July 1, 1977. The  
5 Administrative Law Judge shall make findings as to whether or not the noticed or proposed  
6 rental increase exceeds the rent increase limitations set forth in Section 32.73 of the San  
7 Francisco Administrative Code. In making such findings, the Administrative Law Judge shall  
8 apply the rent increase limitations set forth in Chapter 32 of the San Francisco Administrative  
9 Code and all rules and regulations promulgated pursuant thereto. The Administrative Law  
10 Judge shall consider the evidence presented at the hearing. The burden of proof shall be on  
11 the landlord.

12 (B) RAP Rental Units in RAP Areas Designated On or After July 1, 1977. The  
13 Administrative Law Judge shall make findings with respect to rent increases exceeding the  
14 limitations as set forth in Section 37.3 of this Chapter. In making such findings, the  
15 Administrative Law Judge shall take into consideration the factors set forth in Subsection (4)  
16 above and shall consider evidence presented at the hearing. The burden of proof is on the  
17 landlord.

18 (6) Findings of Fact. The Administrative Law Judge shall make written findings of  
19 fact, copies of which shall be mailed to the parties within 30 days of the hearing.

20 (7) Payment or Refund of Rents to Implement Arbitration Decision. Upon finding  
21 that all or any portion of the rent increase is or is not justified, or that any nonconforming rent  
22 increase is null and void, the Administrative Law Judge may order payment or refund of all or  
23 a portion of that cumulative amount within 15 days of the mailing of the findings of fact or may  
24 order the amount added to or offset against future rents; provided, however, that any such  
25 order shall be stayed if an appeal is timely filed by the aggrieved party. The Administrative

1 Law Judge may order refunds of rent overpayments resulting from rent increases which are  
2 null and void for no more than the three-year period preceding the month of the filing of a  
3 landlord or tenant petition, plus the period between the month of filing and the date of the  
4 Administrative Law Judge's decision. In any case, calculation of rent overpayments and re-  
5 setting of the lawful base rent shall be based on a determination of the validity of all rent  
6 increases imposed since April 1, 1982, in accordance with Sections 37.3(b)(5) and 37.3(a)(2)  
7 above.

8 (8) Finality of Administrative Law Judge's Decision. The decision of the  
9 Administrative Law Judge shall be final unless the Board vacates his decision on appeal.

10 (f) Appeals.

11 (1) Time and Manner. Any appeal to the Board from the determination of the  
12 Administrative Law Judge must be made within 15 calendar days of the mailing of the findings  
13 of fact unless such time limit is extended by the Board upon a showing of good cause. If the  
14 fifteenth day falls on a Saturday, Sunday or legal holiday, the appeal may be filed with the  
15 Board on the next business day. The appeal shall be in writing and must state why appellant  
16 believes there was either error or abuse of discretion on the part of the Administrative Law  
17 Judge. The filing of an appeal will stay only that portion of any Administrative Law Judge's  
18 decision which permits payment, refund, offsetting or adding rent.

19 (2) Record on Appeal. Upon receipt of an appeal, the entire administrative record of  
20 the matter, including the appeal, shall be filed with the Board.

21 (3) Appeals. The Board shall, in its discretion, hear appeals. In deciding whether or  
22 not to hear a given appeal, the Board shall consider, among other factors, fairness to the  
23 parties, hardship to either party, and promoting the policies and purposes of this Chapter, in  
24 addition to any written comments submitted by the Administrative Law Judge whose decision  
25 is being challenged. The Board may also review other material from the administrative record

1 of the matter as it deems necessary. A vote of three members shall be required in order for an  
2 appeal to be heard.

3 (4) Remand to Administrative Law Judge Without Appeal Hearing. In those cases  
4 where the Board is able to determine on the basis of the documents before it that the  
5 Administrative Law Judge has erred, the Board may remand the case for further hearing in  
6 accordance with its instructions without conducting an appeal hearing. Both parties shall be  
7 notified as to the time of the re-hearing, which shall be conducted within 30 days of remanding  
8 by the Board. In those cases where the Board is able to determine on the basis of the  
9 documents before it that the Administrative Law Judge's findings contain numerical or clerical  
10 inaccuracies, or require clarification, the Board may continue the hearing for purposes of re-  
11 referring the case to said Administrative Law Judge in order to correct the findings.

12 (5) Time of Appeal Hearing; Notice to Parties. Appeals accepted by the Board shall  
13 be heard within 45 days of the filing of an appeal. Within 30 days of the filing of an appeal,  
14 both parties shall be notified in writing as to whether or not the appeal has been accepted. If  
15 the appeal has been accepted, the notice shall state the time of the hearing and the nature of  
16 the hearing. Such notice must be mailed at least 10 days prior to the hearing.

17 (6) Appeal Hearing; Decision of the Board. At the appeal hearing, both appellant  
18 and respondent shall have an opportunity to present oral testimony and written documents in  
19 support of their positions. After such hearing and after any further investigation which the  
20 Board may deem necessary the Board may, upon hearing the appeal, affirm, reverse or  
21 modify the Administrative Law Judge's decision or may remand the case for further hearing in  
22 accordance with its findings. The Board's decision must be rendered within 45 days of the  
23 hearing and the parties must be notified of such decision.

24 (7) Notification of the Parties. In accordance with item (6) above, parties shall  
25 receive written notice of the decision. The notice shall state that this decision is final.

1 (8) Effective Date of Appeal Decisions. Appeal decisions are effective on the date  
2 mailed to the parties; provided, however, that that portion of any decision which orders  
3 payment, refund, offsetting or adding rent shall become effective 30 calendar days after it is  
4 mailed to the parties unless a stay of execution is granted by a court of competent jurisdiction.

5 (9) Limitation of Actions. A landlord or tenant aggrieved by any decision of the  
6 Board must seek judicial review within 90 calendar days of the date of mailing of the decision.

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9 APPROVED AS TO FORM:  
10 DENNIS J. HERRERA, City Attorney

11 By: MARIE CORLETT BLITS  
12 Deputy City Attorney  
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