



LONDON N. BREED
MAYOR

NOVEMBER 27, 2019

ROBERT A. COLLINS
EXECUTIVE DIRECTOR

DAVID GRUBER
PRESIDENT

NOTICE OF PUBLIC HEARING

DAVE CROW
SHOBA DANDILLAYA
RICHARD HUNG
REESE AARON ISBELL
ASHLEY KLEIN
CATHY MOSBRUCKER
KENT QIAN
ARTHUR TOM
DAVID WASSERMAN

DATE: DECEMBER 10, 2019
TIME: 7:00 P.M.
**PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70, LOWER LEVEL
SAN FRANCISCO, CALIFORNIA**

THE RENT BOARD COMMISSION INVITES THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON PROPOSED AMENDMENTS TO RULES AND REGULATIONS SECTION 6.10. EFFECTIVE JULY 18, 2018, RENT ORDINANCE SECTION 37.8 WAS AMENDED TO LIMIT CONSIDERATION OF INCREASED DEBT SERVICE AND/OR PROPERTY TAXES FOLLOWING A CHANGE OF OWNERSHIP, AS WELL AS MANAGEMENT EXPENSES, WHEN A LANDLORD SEEKS TO INCREASE THE TENANTS' RENTS BASED ON INCREASED OPERATING AND MAINTENANCE EXPENSES. THE LEGISLATION STATES THAT FOR PETITIONS FILED ON OR AFTER DECEMBER 11, 2017, WHERE THE LANDLORD PURCHASED THE PROPERTY ON OR BEFORE APRIL 3, 2018, THE RENT BOARD CAN ONLY CONSIDER INCREASED DEBT SERVICE AND/OR PROPERTY TAXES IF THE LANDLORD DEMONSTRATES THAT IT HAD "REASONABLY RELIED" ON ITS ABILITY TO PASS THROUGH THOSE COSTS TO THE TENANTS AT THE TIME OF PURCHASE.

THE PROPOSED AMENDMENTS TO RULES AND REGULATIONS SECTION 6.10 ARE INTENDED TO CLARIFY THE STANDARD FOR DETERMINING WHETHER THE LANDLORD MET ITS BURDEN OF PROVING IT HAD

♻️ Printed on 30% post-consumer recycled paper

“REASONABLY RELIED” ON THE ABILITY TO PASS THROUGH INCREASED DEBT SERVICE AND/OR PROPERTY TAX COSTS TO THE TENANTS AT THE TIME OF PURCHASE.

You may either comment at the Public Hearing and/or submit written comments. If you would like to submit written comments, it is requested that they be received at the Rent Board's office no later than **noon on Thursday, December 5, 2019**, so that the Commissioners can receive your comments and review them prior to the hearing. Written comments may also be submitted at the hearing. Please submit 16 copies of your comments in order to facilitate their distribution. You will be able to address the Commissioners during the public comment period at the hearing.

VERSION #3 - Mosbrucker Amendments (11/4/19)

1 NOTE: Unchanged text is in plain Arial font.
2 Additions to Regulations are in single-underline plain Arial font.

3 **Section 6.10 Operating and Maintenance Expenses**

4 (Subsection (a) amended effective February 28, 1989; Subsections (b), (c) and
5 (d) amended February 21, 1989; Subsections (e) and (g) amended February 28,
6 1989; Subsection (f) renumbered February 28, 1989; Subsections (a) and (b)
7 amended and Subsection (h) added May 24, 1994; Subsection (i) added January
8 31, 1995; amended March 14, 1995; repealed and adopted April 25, 1995,
9 effective February 1, 1995; entire Section renumbered and/or amended in its
10 entirety effective June 6, 1995; Section 6.10(b)(5) amended effective
11 June 20, 1995; entire Section renumbered and/or amended in its entirety effective
12 June 18, 1996; Subsection(e) amended effective March 19, 2002; entire Section
13 renumbered and/or amended in its entirety effective September 11, 2018;
14 Subsection (e)(4) amended [insert date]

15 Except in extraordinary circumstances, the following guidelines shall apply to increases
16 based upon Operating and Maintenance Expenses:

17 * * * *

18 **(4) Evidence of Reasonable Reliance.**

19 (A) For the purpose of establishing reasonable reliance as referenced in
20 subsections 6.10(e)(1)(B) and 6.10(e)(2)(B), a landlord must demonstrate through documentary
21 evidence that it relied financially on the ability to file an Operating and Maintenance Expense
22 petition based on increased debt service and/or property taxes at the time of purchase, that such
23 reliance was reasonable (e.g. informed by actual knowledge of the prior owner's Operating and
24 Maintenance Expenses in Year 1 and an estimate of the expected Year 2 costs), and that one of
25 the following two circumstances apply:

26 (i) without the proposed rent increase for Operating and
27 Maintenance Expenses, the landlord's rate of return is less than 5%. To determine the rate of
28 return, the total Operating and Maintenance Expenses in Year 2 (excluding debt service) shall
be deducted from the gross income for the same period, and the resulting number shall then be
divided by the landlord's out of pocket costs of purchase. Gross income is defined as the total of
the gross rents collectible from the property at 100% occupancy, plus any other consideration

PROPOSED AMENDMENTS TO SECTION 6.10 OF THE RENT BOARD'S RULES AND REGULATIONS – PUBLIC HEARING ON DECEMBER 10, 2019

1 received for, or in connection with, the use or occupancy of rental units and all housing services
2 (including consideration from laundry, parking, commercial leases, or any other facilities or fees),
3 and including any rent increases that could have been imposed. Gross rents collectible shall
4 include the market rental value of any vacant and/or owner-occupied units; or

5 (ii) due to extraordinary circumstances, an additional rent increase
6 for Operating and Maintenance Expenses is necessary to relieve the landlord from financial
7 hardship.

8 (B) Notwithstanding the provisions of (4)(A), the landlord's failure to file the
9 Operating and Maintenance Expense petition within two years of the date of its purchase of the
10 property shall raise a conclusive presumption that the landlord did not reasonably rely on the
11 ability to pass through the increase in debt service and/or property taxes to the tenants at the
12 time of purchase.

VERSION #4 - Dandillaya Amendments (11/4/19)

1 NOTE: Unchanged text is in plain Arial font.
2 Additions to Regulations are in single-underline plain Arial font.

3 **Section 6.10 Operating and Maintenance Expenses**

4 (Subsection (a) amended effective February 28, 1989; Subsections (b), (c) and
5 (d) amended February 21, 1989; Subsections (e) and (g) amended February 28,
6 1989; Subsection (f) renumbered February 28, 1989; Subsections (a) and (b)
7 amended and Subsection (h) added May 24, 1994; Subsection (i) added January
8 31, 1995; amended March 14, 1995; repealed and adopted April 25, 1995,
9 effective February 1, 1995; entire Section renumbered and/or amended in its
10 entirety effective June 6, 1995; Section 6.10(b)(5) amended effective
11 June 20, 1995; entire Section renumbered and/or amended in its entirety effective
12 June 18, 1996; Subsection(e) amended effective March 19, 2002; entire Section
13 renumbered and/or amended in its entirety effective September 11, 2018;
14 Subsection (e)(4) amended [insert date]

15 Except in extraordinary circumstances, the following guidelines shall apply to increases
16 based upon Operating and Maintenance Expenses:

17 * * * *

18 **(4) Evidence of Reasonable Reliance.**

19 (A) For the purpose of establishing reasonable reliance as referenced in
20 subsections 6.10(e)(1)(B) and 6.10(e)(2)(B), a landlord must demonstrate through documentary
21 evidence that it relied on the ability to file an Operating and Maintenance Expense petition based
22 on increased debt service and/or property taxes at the time of purchase, and that such reliance
23 was informed by actual knowledge and receipt of the prior owner's Operating and Maintenance
24 Expenses in Year 1. Absent such contemporaneous documentary evidence, the landlord may
25 demonstrate reasonable reliance only by showing that it intended to file an Operating and
26 Maintenance Expense petition at the time of purchase and due to extraordinary circumstances, a
27 rent increase for Operating and Maintenance Expenses based on increased debt service and/or
28 property taxes is necessary to relieve the landlord from financial hardship.

(B) Notwithstanding the provisions of (4)(A), the landlord's failure to file
the Operating and Maintenance Expense petition within three years of the date of its purchase of

PROPOSED AMENDMENTS TO SECTION 6.10 OF THE RENT BOARD'S RULES AND REGULATIONS – PUBLIC HEARING ON DECEMBER 10, 2019

the property shall raise a rebuttable presumption that the landlord did not reasonably rely on the ability to pass through the increase in debt service and/or property taxes to the tenants at the time of purchase.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28