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RESIDENTIAL RENT STABILIZATION AND

ARBITRATION BOARD

PROPOSITION I FACT SHEET
UPDATES 1 - 8

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City and County of San Francisco Residential Rent Stabilization and
Arbitration Board

PROPOSITION I FACT SHEET, UPDATE NO. 1
^ NOVEMBER 16, 1994

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I.'

Proposition I, passed by the voters on November 8, 1994, WILL REPEAL the exemption for owner-

occupied buildings containing 4 units or less. This means that those previously exempted buildings

will be covered by the Rent Ordinance when Proposition I goes into effect, which will be 10 days

AFTER the date that the election results are certified by the Board of Supervisors. This is anticipated to be around mid-December 1994. Proposition I establishes the base rent for these

newly covered units as the rent that was in effect as of May 1, 1994. If no rent was in effect for

the newly covered unit on May 1, 1994, the initial base rent shall be the first rent in effect after that

date. This means that when proposition I goes into effect, the rent for newly covered units must be

set at the amount effective on May 1, 1994, or the first rent established after that date. Proposition I mandates that any rent amounts paid in excess of this new rent amount must be refunded by December 15, 1994. If the landlord fails to refund any such amounts by December 15th, the tenant may deduct the amount owed from future rent payments, go to Small Claims Court, or file a petition with the Rent Board.

In most respects, these previously exempted buildings are subject to the same requirements and

regulations as all other buildings subject to the Rent Ordinance. However, there are many questions

raised by the passage of Proposition I that have yet to be resolved. Issues such as what is t

he anniversary date for future increases, which capital improvements or operating and maintenance expenses can be imposed, if any, must first be determined by the Commission.

The Commission may entertain possible amendments to the Rules and Regulations in order to effect the implementation of Proposition I. Comments may be sent to the Commission or made at the Commission during public comment time. As soon as we have answers to the questions pertaining to Proposition I, we will update this information. Updates will be numbered as they are issued. You can obtain a copy of these updates by fax or mail by leaving your request on our voice mail number, 703.6320.

THE FOLLOWING BUILDINGS WILL CONTINUE TO BE EXEMPT FROM THE RENT ORDINANCE:

-buildings constructed since June 1979; and
I -buildings that have been exempted through a Rent Board petition process.

All other units, including single family homes and condominiums not meeting this criteria, come under the provisions of the Rent Ordinance.

NOTE: This information is also available on our 24-hour information line, 554.9550.

It can be found under Main Menu No. 1 , subtopic No. 2. It will be updated regularly. r>j:pT

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and Arbitration Board

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PROPOSITION I FACT SHEET, UPDATE NO. 2
DECEMBER 10, 1994

Frank M. Jordan
Mayor

Joseph Grubb
Executive Director

According to the Clerk of the Board of Supervisors, Proposition
I will become effective on December 22, 1994.

The Rent Board Commission will be meeting on the following dates and times to discuss Proposition I. Commission meetings are held at 25 Van Ness Ave. at Market St., Suite 70 on the lower level.

December 13, 1994 at 6:30 p.m. Note that this start time is an hour later than usual. This meeting will be devoted entirely to discussion of Proposition I.

December 20, 1994 at 5:30 p.m. There will be a public hearing at 6:00 p.m. on Proposition I. The Commission invites public comment on a proposed amendment the Rules and Regulations, Section 1.11, Anniversary Date, as it pertains to the implementation of Proposition I. This proposal will determine how anniversary dates are to be established for the purpose of imposing annual allowable rent increases for units newly covered by Proposition I. Please note that this is the first of several possible amendments to the Rules and Regulations that will provide for the implementation of Proposition I.

The language being considered is as follows:

(b) For newly covered units, as defined in Ordinance Section 37.12 as amended on December 22, 1994, the first anniversary date is the date on which the initial base rent for the newly covered unit, as lawfully set pursuant to the provisions of Section 37.12(a), first became effective. The next allowable rent increase shall take effect no less than one year from the anniversary date, but when imposed after one year, shall set a new anniversary date for the imposition of future

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rent increases.

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Page 2

Your comments may either be made in writing to the Commission or at the public hearing. If you write the Commission, it is recommended that your comments be submitted before Noon, Thursday, December 15, 1994, so that they may be reviewed by the Commissioners prior to the hearing. However, comments may be submitted at any time prior to or during the hearing. Public comments made during the hearing may also be supplemented with written comments.

// you are submitting written comments for the Commissioners' consideration, you will need to provide eleven sets of your documents.

This information will be updated as we have new information for you. Proposition I information can be found on our 24-hour information line, 554.9550 under Main Menu No. 1, subtopic No. 2. It is also available on 703.6320, our 24-hour Prop I information and request line. Don't forget that you can leave your name, address and/or fax number after the message on the 703.6320 number in order to be sent these updates.

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Residential Rent Stabilization
and Arbitration Board

PROPOSITION I FACT SHEET, UPDATE NO. 3
DECEMBER 21, 1994

Frank M. Jordan
Mayor

Joseph Grubb
EXECiFTivE Director

Proposition I becomes effective December 22, 1994. The next commission meeting will be on January 3, 1995 at 6 p.m. Please note that this is not a public hearing, although comments can be made and there may be discussion by the Commission on Prop I. The earliest anticipated public hearing on any amendments will be January 24, 1995.

At last night's Board meeting, after a Public Hearing, the Commissioners passed the first new Regulation to clarify the implementation of Proposition I as it pertains to anniversary dates. This becomes effective immediately. The language reads

as follows:

Section 1.11 Anniversary Date

For units which became covered under the Ordinance as of December 22, 1994 (as defined in Ordinance Section 37.12 as amended on December 22, 1994) the first anniversary date shall be the date of the last lawful and effective rent increase, or the lawful rent at the time the tenancy commenced, whichever occurred later. The next allowable rent increase shall take effect no less than one year from the anniversary date, but when imposed after one year, shall set a new anniversary date for the imposition of future rent increases.

This language is somewhat vague, and there is a reason for that. Since there are outstanding questions concerning the application of vacancy control to Prop. I units where a vacancy occurred after May 1, 1994, it was impossible to be more specific until those questions are answered. This Regulation goes into effect immediately; many of the numerous other outstanding issues will be resolved in January, with a Public Hearing tentatively scheduled for January 24th (if language is

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available by then). After that time, we may re-visit the anniversary date regulations and try to make it more self-explanatory, including putting in some examples. In the meantime, at least we can advise those who just wish to give an annual increase (not inclusive of banking) when they can do it. It basically works just like the current regulation concerning anniversary dates: you go back to the effective date of the last increase. (This is unlike what we have traditionally done with units that were exempt and then come under our jurisdiction, where the anniversary date was the first date the unit came under the Ordinance. This was thought to be unfair to Prop I landlords who hadn't given increases for many years, and then would have to wait until May of 1995.) So, if the last increase was in November of 1989, the landlord could now notice an annual increase because it has been more than one year. The only difference for Prop I landlords is: increases given after May 1, 1994 do not count for determining the anniversary date. Since these rents must be rolled back to the May 1, 1994 level and the increased amounts refunded to the tenant, it is as if these increases are null and void except that they do not affect when the next increase can be given. You therefore look to the last rent increase that is still in effect to determine the anniversary date. For example, if there was an increase in July of 1993 and another in June of 1994, the anniversary date is July of 1993 and the landlord could now notice an increase since it has been more than one year.

// you are submitting written comments for the Commissioners' consideration, you will need to provide eleven sets of your documents.

This information will be updated as we have new information for you. This same information can be found on our 24-hour Prop I hotline, 703.6320. You can leave your name, address and/or fax number on the hotline in order to be sent these updates. The same information is also on our 24-hour information line, 554.9550 under Main Menu No. 1, subtopic No. 2.

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PROPOSITION I FACT SHEET, UPDATE NO. 4
JANUARY 20, 1995

Frank M. Jordan
Mayor

Joseph Grubb
Executive Director

Proposition I became effective December 22, 1994. The next Rent Board Commission meeting will be a public hearing on January 31, 1995 at 5:30 p.m. at 25 Van Ness Ave., Suite 70 on the lower level.

The Commission will be considering proposed amendments to the following sections of the Rules and Regulations. Note that all versions

are new except for Version C, which amends Section 6.11(a):

Section 6.11

There are three versions being considered. A and B are somewhat similar, while C is quite different from A and B. To varying degrees, each version proposes language which will enable owners of newly covered units to file a comparables petition at the Rent Board and be granted increases when the rent of a newly covered unit is significantly below that of comparable units. Each version has different qualifications for such increases and they should be read closely for that reason.

Section 4.10(d)

This proposal defines the transition period for Proposition I as being from May 1, 1994 through December 21, 1994 (Proposition I became effective on December 22, 1994). This proposal would deem any newly covered unit that was vacated on May 1, 1994 or thereafter, or was vacant on December 22, 1994 and subsequently re-let, to not be subject to the rent rollback and refund provisions of Section 37.12 of the Ordinance, provided that the unit was vacated as a result of a proper termination of the tenancy as defined in 6.11(d)(9) of the Rules and Regulations. This means, basically, that vacancy control does not apply after the transition period only under these limited circumstances, provided that the vacancy occurred voluntarily or because of a just cause reason for eviction of the tenant.

Section 6.10(1)

This proposal would provide for operating and maintenance expense petitions to be filed by owners of newly covered units only when all of the "Year 2" expenses were incurred after December 21, 1994. "Year 1" expenses would be from the preceding 12 month period, even if that was prior to Rent Board jurisdiction over the property. All other provisions of Part 6 of the Rules and Regulations would apply to these petitions.

6.14(e)

This proposal extends the notification period for new co-tenants in a unit to six months from the effective date of the proposed regulation, if

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Page 2

adopted. This applies only to tenancies which commenced prior to the effective date of the proposed regulation.

Section 7.10(d)

Under this proposal, capital improvements made in newly covered units would be eligible for certification, provided the work petitioned for was completed on or after May 1, 1994. All other provisions of Part 7 would apply to these petitions.

Section 10.10(e)

This proposal would establish December 22, 1994 as the earliest permissible effective date for any rent reduction due to a decrease in housing services to be effective, provided, however, that the initial base rent as defined in Section 37.12 of the Rent Ordinance (Proposition I), shall include all housing services provided or reasonably expected on the initial base, rent date of May 1, 1994 or the date of the commencement of the tenancy if it occurred after May 1, 1994.

You can obtain copies of the exact language at the Rent Board or by leaving your mailing address on our Prop I Hotline number, 703.6320. Please note! We regret that we cannot fax you the entire proposal due to its length.

If you want the Commission to consider your written comments,

they should be in our office no later than Thursday, January 26, 1995. This will insure that communications are received by the Commissioners for review prior to the public hearing. Your submission of 11 copies will facilitate the Commissioners' prompt receipt of your comments. As always, comments may be made at the public hearing and you may submit any written comments at the hearing. Please bring eleven copies so that all of the Commissioners may review your comments that evening.

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February 17, 1995
PROPOSITION I UPDATE NO. 5

FRANK M. Jordan
Mayor

Joseph Grubb
Executive Director

The Commission has enacted several amendments to the Rules and Regulations which are attached herein. Those Sections which have been amended include 6.11(d), 4.10(d), 6.14(e) and 10.10(e).

There are three proposed amendments still under consideration which are also included in this package. Those are Sections 6.10(d), 6.11(d)(7) and 7.10(d). Sections 6.10(d) and 7.10(d) were passed at the January 31st. meeting, but there has been additional language which is underlined and being considered for adoption. Please note that 6.11(d)(7) is new and proposes a 10% cap on any amounts approved under this section. The proposal is a three-year phase-in at a rate of 10% of the tenant's base rent for the first two years with any remaining balance permitted to be imposed in the third year.

The Commission will be meeting on March 7, 1995 at 5:30 p.m. at 25 Van Ness, Suite 70 on the lower level. This is a continued meeting and although there will be no public hearing, the public may speak during either of the two Public Remarks periods as noted on the agenda, which is also enclosed for your information.

We should note that a lawsuit has been filed which is intended to prevent the Commission from implementing the Proposition I amendments. A Temporary Restraining Order may also be requested which would prevent the department from processing any petitions filed as a result of these amendments.

There has also been a request from a member of the Board of Supervisors to hear proposed legislation which would amend the Rent Ordinance and prevent the Commission from enacting most of the Proposition I amendments passed or being considered. Currently, there is no proposed language and the earliest consideration by the Board of Supervisors' Housing and Land Use Committee would be early or mid-March. Proponents would seek to make any changes to the Ordinance retroactive to the date of enactment of any Rules and Regulations amendments. This would prevent the implementation of those amendments enacted by the Rent Board considered to exceed any proposed Ordinance changes enacted by the Board of Supervisors.

Our Prop I 24-hour hotline will be updated as events unfold. You can call 703.6320 for the latest information on Prop I and these related matters.

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Amendments to Rules and Regulations

NEW SECTION 6.11(d)

Section 6.11 Comparables (Adopted on January 31, February 7 and February 14, 1995; Effective February 1, 1995)

(d) Special Provisions For Owners of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance

The following rules shall apply to petitions filed by landlords of newly covered units, as defined by Section 37.12 of the Rent Ordinance ("Newly Covered Units"), for rent increases based upon rents for comparable units. In order to comply with applicable law, including Vega v City of West Hollywood (1990) 223 Cal. App. 3d 1342, a rent increase during a tenancy of a newly covered unit may be considered justified, even in the absence of an increase in costs of operating and maintenance expenses as limited in Section 6.10 above, if it is established that the initial base rent for the newly Covered Unit, as defined by Section 37.12(a) of the Rent Ordinance, is substantially below general market conditions, as defined below.

(1) Extraordinary circumstances .

In light of the special relationship that exists between landlords of newly covered units and their tenants, and in light of the passage of Proposition I in November 1994[^] for purposes of Section 6.1 1(a), "extraordinary circumstances" shall be deemed to exist for all landlords of Newly Covered Units for which the landlord seeks a rent increase based upon rents for comparable units, provided the landlord meets either one of the following two requirements:

(A) The initial base rent for the Newly Covered Unit, as defined by Section 37.12(a) of the Rent Ordinance, was less than eighty percent (80%) of the Department of Housing and Urban Development fair market rents established for existing housing in the Primary Metropolitan Statistical Area including San Francisco County, as of the initial base rent date, under Section 8 of the United States Housing Act of 1937 ("the HUD Threshold"); or

(B) The initial base rent for the Newly Covered Unit, as defined by Section 37.12(a) of the Rent Ordinance, is substantially below (U., less than eighty percent (80%) of) general market conditions as determined in accordance with Section 6.1 1(d)(3) below.

A landlord who fails to satisfy one or the other of these requirements shall

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not be entitled to a rent increase under this Section 6.1 1 (d); provided, however, that any such failure shall be without prejudice to the right of the landlord to petition for and receive a approval of a rent increase under Section 6.1 1 (a)(b)&(c) above.

(2) Information to Accompany Comarables Petition Under Section 6.1 1 (d)
In addition to complying with the requirements of Sections 5.1 1 and 5.12 of these Rules and Regulations, a landlord who seeks a rent increase under this Section 6.1 1(d) must file a petition with the Board containing the following information:

- (A) The initial base rent, as defined by Section 37.12(a) of the Rent Ordinance for all tenants who are subject to the petition;
- (B) The names and addresses of all tenants who are subject to the petition and the dates their tenancies commenced;
- (C) To the extent reasonably available, copies of all written rental agreements for the tenants who are subject to the petition;
- (D) The basis for the proposed rent increase being sought;
- (E) A showing that the current rent does not reflect general market conditions;
- (F) If the Newly Covered Unit became vacant on or after May 1 , 1994, and was relet prior to December 22, 1994, a statement, under penalty of perjury, and other documentary evidence, explaining the circumstances under which the unit became vacant in sufficient detail to allow the Board to determine whether the tenant vacated the unit as a result of a Proper Termination of the Tenancy (as defined in subsection (d)(8) below);
- (G) A statement, under penalty of perjury, and other documentary evidence establishing that, on December 21 , 1994, the building in which the subject unit is located was owner-occupied within the meaning of former Section 37.2(p)(5) of the Rent Ordinance; and
- (H) For each Newly Covered Unit for which a rent increase is sought, a description of the terms of any oral agreements or other special arrangements with the tenant (e.g. . rental of a garage).
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(3) Burden of Proof

On any petition filed pursuant to this Section 6.1 1 (d), the landlord shall have the burden of proof on all issues necessary to sustain the petition, including (i) the threshold issues

described in Section 6. 11 (d)(1) above, (ii) the issue whether, where applicable, the Newly Covered Unit was vacated as a result of a Proper Termination of the Tenancy (as defined in subsection (d)(8) below), and (iii) the level of rent that reflects general market conditions. It shall

be a rebuttable presumption that any initial base rent which is less than the HUD Threshold (as defined in subsection (d)(1)(A) above) does not reflect general market conditions. The landlord may establish the level of rent that reflects general market conditions in the following ways:

(A) In the case of a Newly Covered Unit that was vacated on or after

May 1 , 1 994, and relet prior to December 22, 1 994, there shall be a rebuttable presumption that the relet amount of rent reflects general market conditions provided that the unit was vacated as a result of a Proper Termination of the Tenancy (as defined in subsection (d)(8) below);

(B) In the case of a Newly Covered Unit that was occupied by a tenant on May 1 , 1994, and who received a rent increase from the landlord between May 1 , 1994, and December 22, 1994, there shall be a rebuttable presumption that the latest rent during that period reflects general market conditions;

(C) In the case of a Newly Covered Unit as to which the landlord (or his or her predecessor), between April 1 , 1 982 and May 1 , 1 994, imposed less than the total amount o

f the
 rent increases that would have been allowable had the unit been subject to the jurisdiction o
 f the
 Rent Ordinance, there shall be a rebuttable presumption that the level of rent that the landl
 ord
 could have charged, as calculated in accordance with subsection (d)(6) below, had the unit be
 en
 under the jurisdiction of the Rent Ordinance since April 1 982, reflects general market condi
 tions;

(D) In all instances, the landlord may prove general market conditions by any
 other customary means applicable, including through the use of expert testimony, and/or by
 comparing the subject unit to other units with respect to the following factors to the extent
 applicable: distance from the subject unit, the total square footage, whether the unit was fu
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 or unfurnished by the landlord, the number of bedrooms and baths, the existence of a dining r
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the total number of rooms, the use and nature of a stove, refrigerator, oven, dishwasher and/or
garbage disposal, the existence of a working fireplace, carpets or hardwood floors, the use of an
elevator and house level, the nature and extent of any views from the unit, access to a yard,
the
type of heating system, parking opportunities or availability of a garage, the general condition of
the building, and monthly rents. The landlord may, but shall not be required to, supply information
regarding the length of occupancy of the current tenant.

The rebuttable presumptions described in this subsection (d)(3) shall become
conclusive if either the tenant waives a hearing on the petition (as set forth below) or the
tenant
and/or landlord fail to overcome the presumption with competent evidence at any hearing that
occurs on the petition. At any such hearing, the tenant shall be entitled to assert the defenses that
are available pursuant to Section 6.12 of these Rules and Regulations. The tenant shall have
the
burden of proof on any such defenses.

(4) Time of Filing of Petition and Notice

A landlord must file a petition before giving legal notice of a rent increase under this
Section 6.1 1 (d). The notice shall include the dollar amount requested and the reason for the
rent
increase. This increase shall be inoperative unless and until the petition is approved by a hearing
officer. Any amount approved by a hearing officer shall relate back to the effective date of
the legal

notice, if given. If the landlord serves a notice of rent increase under this Section 6.1 1 (d) without first filing a petition, the increase shall be null and void.

(5) Procedures For Deciding a Comparables Petition Under Section 6.1 1 (d)

As soon as practical after the filing of the petition, the Board shall administratively determine whether each proposed rent increase set forth in the petition is justified and whether the

landlord has otherwise met his or her burden of proof. If the Board determines that the proposed

rent increases are justified, and, where applicable, the landlord has made out a prima facie case

that the Newly Covered Unit was vacated as a result of a Proper Termination of the Tenancy (as

defined in subsection (d)(8) below), the Board shall send a notice to the tenant and the landlord

certifying that the landlord provisionally has met his or her burden of proof and thus may be entitled

to the proposed rent increase. The notice shall also advise the tenant of his or her right to an

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arbitration hearing on the comparables petition and that unless the tenant, within 30 calendar days of the mailing of the notice, elects in writing to have a hearing, the right to a hearing shall be deemed waived. In the event that the hearing is waived by the tenant, a hearing officer shall promptly issue a decision approving the rent increases sought by the landlord. The decision shall include a copy of the comparables petition, which shall constitute the findings and conclusions of the hearing officer. . .

If the Board determines that the rent increases proposed by the landlord are not justified, or that the landlord, where applicable, has not established a prima facie case that the Newly Covered Unit was vacated as a Result of a Proper Termination of the Tenancy (as defined in subsection (d)(8) below), it may, in its discretion, either set the petition for hearing or request further information from the landlord in an effort to resolve any facial inadequacies in the petition. If, as a result of further information obtained by the Board, the initial petition is amended to increase the amount of the rent increase sought by the landlord, the landlord shall serve on the tenant a legal notice of the proposed rent increase, amending any prior notice if necessary. If the initial petition is amended to decrease the amount of the rent increase sought by the landlord and/or to add factual information, no such further notice need be given, unless the landlord has not provided any notice up until that point.

If, after obtaining further information, the Board determines that the proposed rent

increases are not justified, the Board shall send a notice to the landlord and the tenant administratively (and provisionally) denying the petition and explaining the basis for the denial.

The notice shall also advise the landlord of his or her right to an arbitration hearing on the

comparable petition and that unless the landlord, within 30 calendar days of the mailing of the

notice, elects in writing to have a hearing, the right to a hearing shall be deemed waived. Hearings

shall be conducted in accordance with the provisions contained in Ordinance Section 37.8(e)

except as otherwise provided in this Section 6.1 1 (d). In the event that the hearing is waived by

the landlord, a hearing officer shall promptly issue a decision denying the petition. The decision

shall include a copy of the comparable petition and a copy of the notice of the administrative and

provisional denial, which shall constitute the findings and conclusions of the hearing officer.

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In the case of a Newly Covered Unit as to which the landlord requested and received from the tenant a rent increase during the period from May 1 , 1994 until and including December 21 , 1 994, the granting of a comparables petition shall not derogate any right of the tenant to a rent refund or offset mandated by Ordinance Section 37.12.

(6) Calculation of Rent Increase For Purposes of Subsection (3)(C)

For purposes of subsection (3)(C) above, determination of the rent that the landlord could have charged had the unit been under the jurisdiction of the Rent Ordinance since April 1982, shall be calculated as follows: (i) first determine the earliest rent for the existing tenancy on or after April 1 , 1 981 ; (ii) beginning with April 1 , 1 982, or one year after the commencement of the existing tenancy, whichever is later, multiply the allowable annual rent increase percentage published by the Board against the earliest rent the landlord can establish for the existing tenancy on or after April 1, 1982; (iii) on a compounded basis, add subsequent allowable annual rent increases as published by the Board; and (iv) from the dollar amount of the total allowable Increases, subtract the dollar amount of any actual rent increases imposed during the applicable period. For purposes of this subsection (6), any actual individual rent increase that was imposed by a landlord (or his or her predecessors) on a Newly Covered Unit which would have exceeded the allowable limits had the unit been subject to the Rent Ordinance shall not be deemed "null and void" within the meaning of Section 4.10 of these Rules and Regulations and Section 37.3(b) (5) of the Rent Ordinance.

(7) Imposition of Approved Rent Increase

Nothing in this Section 6.1 1 (d) shall require a landlord of a Newly Covered Unit to impose any rent increase approved under this Section at any particular time after approval. A landlord may impose all or a portion of any such rent increase at any time after the filing of a petition under this Section 6.1 1 (d) upon giving proper 30 days notice.

(8) Proper Termination of The Tenancy

For Newly Covered Units which became vacant on or after May 1 , 1 994, and

which were relet prior to December 22, 1 994, a Proper Termination of the Tenancy shall be deemed

to have occurred if the tenant vacated the tenancy either (a) voluntarily, j^, without any coercion

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or improper conduct (e^, retaliation) by the landlord, or (b) as a result of an eviction, the reasons

for which would have qualified as just cause under Sections 37.9(a)(1) thru (7) and (9) thru (1 2) of

the Rent Ordinance.

(9) Severability

Each of the provisions of this Section 6.1 1 (d) shall be deemed to be severable, if any provision of this Section 6.1 1 (d) or the application of any provision to any person or circumstance is held invalid, such invalidity shall not affect the remaining provisions of this Section which can be given effect without the invalid provision.

(10) Limited Scope

This Section 6.1 1(d) shall apply only to Newly Covered Units.

(11) Landlord Election

The petition described in this Section 6.1 1(d) is not the exclusive means by which a landlord of a Newly Covered Unit may seek a rent increase based on rents for comparable units. Such a landlord may elect instead to file a petition under subsections 6.1 1(a) through (c) in the nonnal course.

Section 6.10 Operating and Maintenance

(i) Special Provision for Owners for Newly Covered Units, as defined by Section 37.12 of the Ordinance

Landlords of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, may petition the Board for a rent increase based on increased operating and maintenance expenses as provided for in Section 6.10(a). However, no rent increase shall be approved if the operating and maintenance expense increase, plus any increases actually imposed during year one and year two, would in the aggregate be in excess of what could have been approved had the unit been under the jurisdiction of the Rent Ordinance during the applicable two-year period and a 7% increase based on operating and maintenance expenses approved.

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Section 7.10 Filing

(d) Special Provision for Owners of Newlv Covered Units, as defined by Section

37.12 of the Ordinance

Landlords of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, may petition the Board to certify the cost of capital improvements, rehabilitation and/or energy conservation work in accordance with, and subject to, the rules and procedures set forth in Part 7 of these Rules and Regulations and Section 37.7 of the Ordinance.

Section 4.10 Notice (Adopted on January 31, 1994 and February 14, 1995; Effective February 1, 1995)

(d) With respect to Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, the transition period shall be from May 1, 1994, through and including December 31, 1994 ("Transition Period"). Thus, any tenant of a newly covered unit whose tenancy commences on or after December 22, 1994, shall not be entitled to the rent rollback and refund provisions of Section 37.12 of the Rent Ordinance, provided that the unit was vacated during the Transition Period as a result of a Proper Termination of the Tenancy, as defined in Section 6.1 1(d)(8) of these Rules and Regulations. In addition, any tenant of a Newly Covered Unit vacant on May 1, 1994 and rented during the "Transition Period" shall not be entitled to the rent rollback and refund provisions of Section 37.12 of the Rent Ordinance.

Section 6.14 Agreements to Pay Additional Rent For Change of Tenants
(Effective February 14, 1995)

(e) For Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, a new co-tenant shall be considered a tenant as defined in subsection (a) above unless the landlord has not accepted the new co-tenant as a tenant pursuant to applicable law and the landlord gives the new co-tenant written notice that she/he is not considered a tenant under subsection (a) above.

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within 6 calendar months of the effective date of this regulation (February 14, 1995), up to and

including August 13, 1995. This applies only to tenancies which commenced prior to the effective

date of this regulation. For tenancies which commenced subsequent to the effective date of this

regulation, the 60-day notice requirement contained in subsection (d) above shall apply. A landlord

may comply with subsection (c) and this subsection (e) simultaneously.

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Section 10.10 Decrease in Services (Effective February 7, 1995)

(e) With respect to Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, the earliest permissible effective date for any rent decrease allowed under this Section

10.10 shall be December 22, 1994; provided, however, that the initial base rent, as defined by

Section 37.12(a) of the Rent Ordinance, shall include all housing services provided or reasonably

expected on the initial base rent date, or as of the commencement of the tenancy, whichever is

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ADDITIONAL PROPOSED AMENDMENTS
(Proposed new language underlined)

Proposed amendment to Section 7.10(d):

Landlords of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, may petition the Board to certify the cost of capital improvements, rehabilitation and/or energy conservation work in accordance with, and subject to, the rules and procedures set forth in Part 7 of these Rules and Regulations and Section 37.7 of the Ordinance [.]; provided, however, that any tenant of a Newly Covered Unit subject to the rent rollback and refund provisions of

Ordinance Section 37.12 shall not be subject to Rules and Regulations Section 7.12(b).

Proposed amendment to Section 6.10(i):

Landlords of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, may petition the Board for a rent increase based on increased operating and maintenance expenses as provided for in Section 6.10(a) except that the requirement that tenants be in residence during Year 1 shall not be applicable. However, no rent increase shall be approved if

the operating and maintenance expense increase, plus any increases actually imposed during year one and year two, would in the aggregate be in excess of what could have been approved had the unit been under the jurisdiction of the Rent Ordinance during the applicable two-year period and a 7% increase based on operating and maintenance expenses approved.

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Add New Section 6.11 (d)(7) [Maximum Rent Increase]

Subject to applicable notice requirements, no rent increase under this Section 6.11 (d) shall exceed 10% of the tenant's [petition base rent] [initial base rent] during each of the first and second twelve-month periods. The landlord may accumulate any approved increase which exceeds this amount and impose all or a portion of the accumulated increase in subsequent years without limitation. For example, assume the landlord filed a petition under Section 6.11(d) on March 15, 1995 and gave the tenant legal notice of a \$200.00 proposed rent increase on March 30, 1995, to take effect on May 1, 1995. [At the time the petition was filed, the tenant's lawful base rent was \$600.00.] [The tenant's initial base rent, as defined by Ordinance Section 37.12(a), was \$600.00.] Assuming the proposed rent increase was approved by the Rent Board, the landlord could impose a \$60.00 base rent increase (10% of \$600.00) on May 1, 1995. On May

1. 1996, the landlord could impose another \$60.00 base rent increase (10% of \$600.00). On May

1. 1997, the landlord could impose an \$80.00 base rent increase, which represents the remainder of the approved rent increase; provided, however, that the hearing officer shall have the discretion to modify or eliminate the above schedule and percentage limitations should the landlord demonstrate the existence of extraordinary circumstances justifying such relief. The limitations imposed in this subsection shall not in any way limit the right of a landlord to impose any other rent increase allowed or approved in accordance with the Rent Ordinance or these Rules and Regulations.

City and County of San Francisco

Residential Rent Stabilization and
Arbitration Board

/PROPOSITION I FACT SHEET, UPDATE NO. 6
MARCH 10, 1995

Oor< "MPMT«^ DEFT
JUN 7 1995

SAN FRANCISCO
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The Board passed three changes to the Rules and Regulations at its March 7th meeting, one of which is minor; the other two are reversals of regulations adopted after the Public Hearing on January 31st, which were effective on February 1st. The amendments passed on March 7th are retroactive to February 1st and are effective as of that date.

Section 1.15(e)

The first regulation passed simply moved the language defining what constitutes an owner's "principal place of residence" from Section 1.15(e) (Definitions of covered "Rental Units") to Section 12.14 ["Evictions under Ordinance Section 37.9(a)(8)]. This conforms the change in the Ordinance brought about by Prop I and removes the exemption language for owner-occupied small buildings. However, for purposes of owner-occupancy eviction, we still need to define what constitutes "principal place of residence", so the language has been moved to that section.

Section 7.10(d)

The second regulation passed changes the Board's position on capital improvement costs that can be passed through by Prop I landlords. The version of Section 7.10(d) that passed on January 31st allowed landlords to petition for certification of any capital improvement costs that had not already been passed through to the tenants, subject only to the 5-year Statute of Limitations, even if the work had been performed during a period of exemption. The language passed March 7th limits the landlord to work completed on or after May 1, 1994. The new Section 7.10(d) also provides an exemption from the "6-month Rule" for Prop I landlords who suffered rent rollbacks. The policy behind the "6-month Rule" is that for new tenants, landlords had the opportunity to raise the rent to market due to vacancy decontrol. For Prop I landlords whose rents were rolled back during the window period, this opportunity was taken away. New Section 7.10(d) is effective February 1st; the prior version was rescinded:

Section 6.11(d)(7)

The last reg. passed March 7th puts the "cap" back in for rent increases granted as the result of a special Prop I comparables petition. It is now a 3-year phase-in, at the rate of 10% the first two years and the remainder of the approved amount in the third year. There are a couple of issues still outstanding, which will be dealt with at the next Board meeting on March 14th at 6:00 p.m. However, there will be meeting in Executive Session with the Board that night,

(OVER)

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San Francisco, CA 94102-6033

City and County of San Francisco

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Residential Rent Stabilization and
Arbitration Board

so the public should be warned that the meeting will be closed until at least 7:00 p.m. The public will be able to make comments during remarks from the public period on the agenda.

Please note that because of a lawsuit we will not be able to process any petitions that are filed under the Prop I comparables section until the suit is

settled and only if the Rent Board wins the lawsuit. The matter is expected to be heard sometime in mid-April.

Also, we should note that Supervisor Bierman has introduced amendments to the ordinance that would retroactively eliminate most, if not all, of the Proposition I amendments to the Rules and Regulations that have been passed by the Commission. If this ordinance passes, the Rent Board would probably not be able to hear any petitions filed under the Prop I regulations passed by the Commission. However, we will not know the extent of the impact of the Supervisor's legislation until and unless it is passed and reviewed by the City Attorney's office.

The ordinance amendments will be introduced at the Housing and Land Use special committee meeting to be held on Monday March 20, 1995 at 12:30 p.m. at the Board of Supervisors office. It is anticipated that the item, if passed by the committee, will be referred to the full Board of Supervisors for first reading that same afternoon.

For updates on Proposition I as they occur, you can call our 24-hour Prop I hotline at 703.6320

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Residential Rent Stabilization and
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^PROPOSITION I UPDATE NO. 7
'^/ MARCH 23, 1995

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JUN 7 1995

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The commission at its March 21st meeting met in executive session to discuss the rules and regulations it had promulgated concerning Proposition I units in light of the action taken by the Board of Supervisors on March 20, 1995.

The Board of Supervisors passed for first reading an ordinance which would prevent the Rent Board commission from implementing any rules or regulations that apply a different standard or methodology to petitions for rent increases filed by Prop I owners. Any rules passed by the commission that fit this definition would be retroactively repealed, which means that the Rent Board would not be able to process any petitions that meet this criteria. The Board of Supervisors did however, amend their legislation to allow the commission to promulgate regulations for those Prop I owners who purchased their building between September 1993 and Dec. 1994 and relied on the ability to raise rents and can demonstrate a financial hardship as a result of not being able to do so.

The ordinance will have a second reading at the Board of Supervisors on the 27th and then be referred to the Mayor' office. If the Mayor vetoes the ordinance, it would take 8 votes to override the veto. There are 7 votes for it, 2 against it, 1 excused from voting due to conflict and 1 supervisor absent and whose vote is unknown.

The commission discussed at their March 21st meeting pending litigation and explored various options that might be agreeable with both the landlord and tenant communities. The commission will be meeting on march 28th to further discuss these matters. Other issues to be discussed include the matter of vacancy control and rent rollbacks during the transition period. Note that there will be an executive session, but you will be able to make public comments at start of the agenda. We will update this message on Friday with any other agenda items that may considered at next week's meeting.

The package of amendments included here will probably be amended at some point in the future, so we suggest that you call our 24 hour Prop I hotline at 703.6320 in order to find out what is happening. The Rent Board is still barred from processing any petitions until the court matter is settled. Thank you for your patience.

end.

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PROPOSITION I AMENDMENTS TO THE RULES AND REGULATIONS

MARCH 17, 1995

Amendments to Rules and Regulations

NEW SECTION 6.11(d)

Section 6.11 Comparables (Adopted on January 31, February 7, February 14, 1995 and March 7, 1995; Effective February 1, 1995)

(d) Special Provisions For Landlords of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance

The following rules shall apply to petitions filed by landlords of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance ("Newly Covered Units"), for rent increases based upon rents for comparable units. In order to comply with applicable law, including Vega v.

City of West Hollywood (1990) 223 Cal. App. 3d 1342, a rent increase during a tenancy of a

Newly Covered Unit may be considered justified, even in the absence of an increase in costs of operating and maintenance expenses as limited in Section 6.10 above, if it is established that the initial base rent for the Newly Covered Unit, as defined by Section 37.12(a) of the Rent

Ordinance, is substantially below general market conditions, as defined below.

(1) Extraordinary circumstances .

In light of the special relationship that exists between landlords of newly covered units and their tenants, and in light of the passage of Proposition I in November 1994[^] for purposes

of Section 6.1 1 (a), "extraordinary circumstances" shall be deemed to exist for all landlords of Newly

Covered Units for which the landlord seeks a rent increase based upon rents for comparable units,

provided the landlord meets either one of the following two requirements:

(A) The initial base rent for the Newly Covered Unit, as defined by Section 37.12(a) of the Rent Ordinance, was less than eighty percent (80%) of the Department of Housing

and Urban Development fair market rents established for existing housing in the Primary Metropolitan Statistical Area including San Francisco County, as of the initial base rent date, under

Section 8 of the United States Housing Act of 1937 ("the HUD Threshold"); or

(B) The initial base rent for the Newly Covered Unit, as defined by Section 37.12(a) of the Rent Ordinance, is substantially below (Le[^], less than eighty percent (80%) of f)

general market conditions as determined in accordance with Section 6.1 1 (d)(3) below.

A landlord who fails to satisfy one or the other of these requirements shall

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PROPOSITION I AMENDMENTS TO THE RULES AND REGULATIONS

MARCH 17, 1995

not be entitled to a rent increase under this Section 6.1 1(d); provided, however, that any such failure shall be without prejudice to the right of the landlord to petition for and receive a approval of a rent increase under Section 6.1 1(a)(b)&(c) above.

(2) Information to Accompany Comparables Petition Under Section 6.1 1 (d)
In addition to complying with the requirements of Sections 5.1 1 and 5.12 of these Rules and Regulations, a landlord who seeks a rent increase under this Section 6.1 1 (d) must file a petition with the Board containing the following information:

(A) The initial base rent, as defined by Section 37.12(a) of the Rent Ordinance for all tenants who are subject to the petition;

(B) The names and addresses of all tenants who are subject to the petition and the dates their tenancies commenced;

(C) To the extent reasonably available, copies of all written rental agreements for the tenants who are subject to the petition;

(D) The basis for the proposed rent increase being sought;

(E) A showing that the current rent does not reflect general market conditions;

(F) If the Newly Covered Unit became vacant on or after May 1 , 1 994, and was relet prior to December 22, 1 994, a statement, under penalty of perjury, and other documentary evidence, explaining the circumstances under which the unit became vacant in sufficient detail to allow the Board to determine whether the tenant vacated the unit as a result of a Proper Termination of the Tenancy (as defined in subsection (d)(8) below);

(G) A statement, under penalty of perjury, and other documentary evidence

establishing that, on December 21 , 1 994, the building in which the subject unit is located was owner-occupied within the meaning of former Section 37.2(p)(5) of the Rent Ordinance; and

(H) For each Newly Covered Unit for which a rent increase is sought, a description of the terms of any oral agreements or other special arrangements with the tenant (e.g. . rental of a garage).

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PROPOSITION I AMENDMENTS TO THE RULES AND REGULATIONS

MARCH 17, 1995

(3) Burden of Proof

On any petition filed pursuant to this Section 6.1 1(d), the landlord shall have the burden of proof on all issues necessary to sustain the petition, including (i) the threshold issues

described in Section 6.11(d)(1) above, (ii) the issue whether, where applicable, the Newly Covered Unit was vacated as a result of a Proper Termination of the Tenancy (as defined in subsection (d)(8) below), and (iii) the level of rent that reflects general market conditions. It shall

be a rebuttable presumption that any initial base rent which is less than the HUD Threshold (as

defined in subsection (d)(1)(A) above) does not reflect general market conditions. The landlord

may establish the level of rent that reflects general market conditions in the following ways:

(A) In the case of a Newly Covered Unit that was vacated on or after

May 1, 1994, and relet prior to December 22, 1994, there shall be a rebuttable presumption that the

relet amount of rent reflects general market conditions provided that the unit was vacated as a result

of a Proper Termination of the Tenancy (as defined in subsection (d)(8) below);

(B) In the case of a Newly Covered Unit that was occupied by a tenant on

May 1, 1994, and who received a rent increase from the landlord between May 1, 1994, and December 22, 1994, there shall be a rebuttable presumption that the latest rent during that period

reflects general market conditions;

(C) In the case of a Newly Covered Unit as to which the landlord (or his or her predecessor), between April 1, 1982 and May 1, 1994, imposed less than the total amount of the

rent increases that would have been allowable had the unit been subject to the jurisdiction of the

Rent Ordinance, there shall be a rebuttable presumption that the level of rent that the landlord

could have charged, as calculated in accordance with subsection (d)(6) below, had the unit been

under the jurisdiction of the Rent Ordinance since April 1982, reflects general market conditions;

(D) In all instances, the landlord may prove general market conditions by any other customary means applicable, including through the use of expert testimony, and/or by comparing the subject unit to other units with respect to the following factors to the extent

applicable: distance from the subject unit, the total square footage, whether the unit was furnished

or unfurnished by the landlord, the number of bedrooms and baths, the existence of a dining room,

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PROPOSITION I AMENDMENTS TO THE RULES AND REGULATIONS

MARCH 17, 1995

the total number of rooms, the use and nature of a stove, refrigerator, oven, dishwasher and/or
garbage disposal, the existence of a working fireplace, carpets or hardwood floors, the use of an
elevator and house level, the nature and extent of any views from the unit, access to a yard,
the
type of heating system, parking opportunities or availability of a garage, the general condition of
the building, and monthly rents. The landlord may, but shall not be required to, supply information

regarding the length of occupancy of the current tenant.

The rebuttable presumptions described in this subsection (d)(3) shall become conclusive if either the tenant waives a hearing on the petition (as set forth below) or the tenant and/or landlord fail to overcome the presumption with competent evidence at any hearing that occurs on the petition. At any such hearing, the tenant shall be entitled to assert the defenses that are available pursuant to Section 6.12 of these Rules and Regulations. The tenant shall have the burden of proof on any such defenses.

(4) Time of Filing of Petition and Notice

A landlord must file a petition before giving legal notice of a rent increase under this Section 6.1 1 (d). The notice shall include the dollar amount requested and the reason for the rent increase. This increase shall be inoperative unless and until the petition is approved by a hearing officer. Any amount approved by a hearing officer shall relate back to the effective date of the legal notice, if given. If the landlord serves a notice of rent increase under this Section 6.1 1 (d) without first filing a petition, the increase shall be null and void.

(5) Procedures For Deciding a Comparables Petition Under Section 6.1 1 (d)

As soon as practical after the filing of the petition, the Board shall administratively determine whether each proposed rent increase set forth in the petition is justified and whether the landlord has otherwise met his or her burden of proof. If the Board determines that the proposed rent increases are justified, and, where applicable, the landlord has made out a prima facie case that the Newly Covered Unit was vacated as a result of a Proper Termination of the Tenancy (as defined in subsection (d)(8) below), the Board shall send a notice to the tenant and the landlord certifying that the landlord provisionally has met his or her burden of proof and thus may be entitled to the proposed rent increase. The notice shall also advise the tenant of his or her right to an

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PROPOSITION I AMENDMENTS TO THE RULES AND REGULATIONS

MARCH 17, 1995

arbitration hearing on the comparables petition and that unless the tenant, within 30 calendar days of the mailing of the notice, elects in writing to have a hearing, the right to a hearing shall be deemed waived. In the event that the hearing is waived by the tenant, a hearing officer shall promptly

issue a decision approving the rent increases sought by the landlord. The decision shall include a copy of the comparables petition, which shall constitute the findings and conclusions of the hearing officer.

If the Board determines that the rent increases proposed by the landlord are not justified, or that the landlord, where applicable, has not established a prima facie case that the Newly Covered Unit was vacated as a Result of a Proper Termination of the Tenancy (as defined in subsection (d)(8) below), it may, in its discretion, either set the petition for hearing or request further information from the landlord in an effort to resolve any facial inadequacies in the petition. If, as a result of further information obtained by the Board, the initial petition is amended to increase the amount of the rent increase sought by the landlord, the landlord shall serve on the tenant a legal notice of the proposed rent increase, amending any prior notice if necessary. If the initial petition is amended to decrease the amount of the rent increase sought by the landlord and/or to add factual information, no such further notice need be given, unless the landlord has not provided any notice up until that point.

If, after obtaining further information, the Board determines that the proposed rent increases are not justified, the Board shall send a notice to the landlord and the tenant administratively (and provisionally) denying the petition and explaining the basis for the denial.

The notice shall also advise the landlord of his or her right to an arbitration hearing on the

comparables petition and that unless the landlord, within 30 calendar days of the mailing of the

notice, elects in writing to have a hearing, the right to a hearing shall be deemed waived. Hearings

shall be conducted in accordance with the provisions contained in Ordinance Section 37.8(e)

except as otherwise provided in this Section 6.1 1(d). In the event that the hearing is waived by

the landlord, a hearing officer shall promptly issue a decision denying the petition. The decision

shall include a copy of the comparables petition and a copy of the notice of the administrative and

provisional denial, which shall constitute the findings and conclusions of the hearing officer.

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PROPOSITION I AMENDMENTS TO THE RULES AND REGULATIONS

MARCH 17, 1995

In the case of a Newly Covered Unit as to which the landlord requested and received from the tenant a rent increase during the period from May 1, 1994 until and inclu

ding
 December 21 , 1994, the granting of a comparables petition shall not derogate any right of the
 e
 tenant to a rent refund or offset mandated by Ordinance Section 37.12.

(6) Calculation of Rent Increase For Purposes of Subsection (3)(C)

For purposes of subsection (3)(C) above, determination of the rent that the
 landlord could have charged had the unit been under the jurisdiction of the Rent Ordinance si
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 April 1 982, shall be calculated as follows: (i) first determine the earliest rent for the ex
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 on or after April 1 , 1981 ; (ii) beginning with April 1 , 1982, or one year after the commen
 cement of the
 existing tenancy, whichever is later, multiply the allowable annual rent increase percentage
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 tenancy
 on or after April 1 , 1 982; (iii) on a compounded basis, add subsequent allowable annual ren
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 increases as published by the Board; and (iv) from the dollar amount of the total allowable
 increases, subtract the dollar amount of any actual rent increases imposed during the applica
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 by a landlord (or his or her predecessors) on a Newly Covered Unit which would have exceeded
 the allowable limits had the unit been subject to the Rent Ordinance shall not be deemed "nul
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 void" within the meaning of Section 4.10 of these Rules and Regulations and Section 37.3(b)
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 the Rent Ordinance.

(7) Maximum Rent Increase

Subject to applicable notice requirements, no rent increase under this Section

6.1 1 (d) shall exceed 10% of the tenant's petition base rent during each of the first and se
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twelve-month periods. The landlord may accumulate any approved increase which exceeds this
 amount and impose all or a portion of the accumulated increase in subsequent years without

limitation. (For example, assume the landlord filed a petition under Section 6.1 1(d) on Marc
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1 995 and gave the tenant legal notice of a \$200.00 proposed rent increase on March 30, 1 99
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take effect on May 1 , 1 995. At the time the petition was filed, the tenant's lawful base re
 nt was

\$600.00. Assuming the proposed rent increase was approved by the Rent Board, the landlord

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PROPOSITION I AMENDMENTS TO THE RULES AND REGULATIONS

MARCH 17, 1995

could impose a \$60.00 base rent increase [10% of \$600.00] on May 1 , 1995. On May 1 , 1996, t
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landlord could impose another \$60.00 base rent increase [10% of \$600.00]. On May 1 , 1997, th
e
landlord could impose an \$80.00 base rent increase, which represents the remainder of the
approved rent increase.) The hearing officer shall have the discretion to modify or eliminate
the
above schedule and percentage limitations should the landlord demonstrate the existence of
extraordinary circumstances of the landlord justifying such relief. The limitations imposed i
n this
subsection shall not in any way limit the right of a landlord to impose any other rent increa
se
allowed or approved in accordance with the Rent Ordinance or these Rules and Regulations.

(8) Imposition of Approved Rent Increase

Nothing in this Section 6.1 1(d) shall require a landlord of a Newly Covered Unit to
impose any rent increase approved under this Section at any particular time after approval. A
landlord may impose all or a portion of any such rent increase at any time after the filing o
f a petition
under this Section 6.1 1(d) upon giving proper 30 days notice.

(9) Proper Termination of The Tenancy

For Newly Covered Units which became vacant on or after May 1 , 1 994, and
which were relet prior to December 22, 1994, a Proper Termination of the Tenancy shall be dee
med
to have occurred if the tenant vacated the tenancy either (a) voluntarily, Le^, without any c
oercion
or improper conduct (e.g. . retaliation) by the landlord, or (b) as a result of an eviction,

the reasons
for which would have qualified as just cause under Sections 37.9(a)(1) thru (7) and (9) thru
(12) of
the Rent Ordinance.

(10) Severability

Each of the provisions of this Section 6.1 1(d) shall be deemed to be severable.
If any provision of this Section 6.1 1 (d) or the application of any provision to any person
or
circumstance is held invalid, such invalidity shall not affect the remaining provisions of th
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Section which can be given effect without the invalid provision.

(11) Limited Scope

This Section 6.11(d) shall apply only to Newly Covered Units.

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PROPOSITION I AMENDMENTS TO THE RULES AND REGULATIONS

MARCH 17, 1995

(12) Landlord Election

The petition described in this Section 6.1 1(d) is not the exclusive means by which a landlord of a Newly Covered Unit may seek a rent increase based on rents for comparable units. Such a landlord may elect instead to file a petition under subsections 6.1 1 (a) through (c) in the normal course.

Section 6.10 Operating and Maintenance (Adopted on March 7, 1995; effective February 1, 1995)

(!) Special Provision for Owners for Newly Covered Units, as defined by Section 37.12 of the Ordinance

Landlords of Newly Covered Units, as defined in Section 37.12 of the Rent

Ordinance, may petition the Board for a rent increase based on increased operating and maintenance expenses provided that all Year 2 expenses were incurred on or after May 1 , 1 99 4.

Where at least some of the landlord's Year 2 expenses were incurred during the period May 1 ,

1 994 to December 22, 1 994, the requirement that tenants be in residence during Year 1 shall not be

applicable to tenants who commenced occupancy after May 1 , 1 994 and before December 22,

1994 and who were entitled to the rent rollback and refund provisions of Ordinance Section 3 7.12.

Section 7.10 Filing (Adopted on March 7, 1995; effective February 1, 1995)

(d) Special Provision for Owners of Newly Covered Units, as defined by Section 37.12 of the Ordinance

Landlords of Newly Covered Units, as defined by Section 37.12 of the Rent

Ordinance, may petition the Board to certify the cost of capital improvements, rehabilitation and/or

energy conservation work in accordance with, and subject to, the rules and procedures set forth in

Part 7 of these Rules and Regulations and Section 37.7 of the Ordinance provided that the work

for which certification is sought was completed on or after May 1 , 1994; provided, however, that

any tenant of a Newly Covered Unit entitled to the rent rollback and refund provisions of

Ordinance Section 37.12 shall not be subject to Rules and Regulations Section 7.12(b) if: (1) the

rent increase imposed after May 1 , 1 994 and before December 22, 1 994 was based, in whole or

in part, on capital improvement costs ; or (2) the tenant commenced occupancy after May 1 , 1 994

and before December 22, 1 994 at a base rent higher than the initial base rent for the Newly

Covered Unit, as defined in Ordinance Section 37.12(a), and the higher rent was due, in whole or

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PROPOSITION I AMENDMENTS TO THE RULES AND REGULATIONS

MARCH 17, 1995

in part, to capital improvement costs. The landlord shall have the burden of proving that Rules

and Regulations Section 7.12(b) is inapplicable.

Section 4.10 Notice (Adopted on January 31, 1994 and February 14, 1995;

Effective February 1, 1995)

(d) With respect to Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, the transition period shall be from May 1 , 1994, through and including December 21 , 1994 ('Transition Period"). Thus, any tenant of a newly covered unit whose tenancy commences on or after December 22, 1 994, shall not be entitled to the rent rollback and refund provisions of Section 37.12 of the Rent Ordinance, provided that the unit was vacated during the Transition Period as a result of a Proper Termination of the Tenancy, as defined in Section 6.1 1 (d)(8) of these Rules and Regulations. In addition, any tenant of a Newly Covered Unit vacant on May 1 , 1 994 and rented during the "Transition Period" shall not be entitled to the rent rollback and refund provisions of Section 37.12 of the Rent Ordinance.

Section 6.14 Agreements to Pay Additional Rent For Change of Tenants

(Effective February 14, 1995)

(e) For Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, a new co-tenant shall be considered a tenant as defined in subsection (a) above unless the landlord has not accepted the new co-tenant as a tenant pursuant to applicable law and the landlord gives the new co-tenant written notice that she/he is not considered a tenant under subsection (a) above, within 6 calendar months of the effective date of this regulation (February 14, 1995), up to and including August 13, 1995. This applies only to tenancies which commenced prior to the effective date of this regulation. For tenancies which commenced subsequent to the effective date of this regulation, the 60-day notice requirement contained in subsection (d) above shall apply. A landlord may comply with subsection (c) and this subsection (e) simultaneously.

Section 10.10 Decrease in Services (Effective February 7, 1995)

(e) With respect to Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, the earliest permissible effective date for any rent decrease allowed under this Section 10.10 shall be December 22, 1994; provided, however, that the initial base rent, as defined b

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Section 37.12(a) of the Rent Ordinance, shall include all housing services provided or reasonably

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PROPOSITION I AMENDMENTS TO THE RULES AND REGULATIONS

MARCH 17, 1995

expected on the initial base rent date, or as of the commencement of the tenancy, whichever is
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later.

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City and County of San Francisco

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Residential Rent Stabilization and
Arbitration Board

PROPOSITION I FACT
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Proposition I Amendments

SAN FRANCISCO

PUBLIC LIBRARY

At the Board meeting on April 25, 1995, after a Public Hearing, the Rent Board Commissioners unanimously passed new Regulations delineating grounds for allowable increases for Proposition I Affected Units. All previous Regulations adopted by the Board concerning Proposition I are rescinded. The new Regulations are effective retroactive to February 1, 1995.

As you are aware, a lawsuit was filed against the Rent Board in February 1995 to challenge the validity of the prior Regulations pertaining to the implementation of Proposition I. As a result of an order in that lawsuit, the Rent Board was prevented from acting on the petition that you previously filed. In addition, legislation was introduced at the Board of Supervisors in March 1995 that would have precluded the implementation of

the previous set of Regulations enacted by the Rent Board.

The new Regulations are the result of a formal agreement between representatives of the landlord and tenant communities. Pursuant to the agreement, the lawsuit will be dismissed and Supervisor Bierman has agreed to withdraw her legislation. Therefore, we can now go forward with processing your petition as expeditiously as possible.

To that end, new petition forms have been developed that comply with the requirements of the new Regulations and are enclosed for your use. All landlords of Proposition I Affected Units MUST COMPLETE THE NEW FORMS.

The grounds for rent increases for which landlords may file petitions under the new Regulations are summarized as follows below:

"Past Rent History of Proposition I Affected Units" - landlords who did not increase rents between 5/2/89 and 5/1/94 are eligible for the following rent increases:

No increase between 5/2/91 and 5/1/94 - 7.2%

No increase between 5/2/90 and 5/1/94 - 11.2%

No increase between 5/2/89 and 5/1/94 - 15.2%

Capital Improvements - landlords may petition to pass through the cost of work completed on or after May 1, 1989, as long as the tenant's rent has not already been increased to cover such costs.

Operative and Maintenance Expenses - landlords may petition for increases based on increased operating and maintenance costs by comparing costs for the two immediately preceding calendar years or any recent twenty-four month period, provided that the comparison period selected does not create "exaggerated results."

Comparable Rents - where, due to extraordinary circumstances, rents were set very low or increased by only negligible amounts throughout the tenancy, landlords may petition for increases that are similar to what a tenant in a like unit who had been subject to rent stabilization would be paying. If the landlord recently purchased the building and relied on the ability to raise rents without limitation, and is therefore experiencing financial hardship, or the initial rent was set very low due to the lack of an "arms-length" agreement, then the landlord may

petition for rent increases that are more like rents of recent tenancies ^ . ^ . ^^

^ OVER, PLEASE

TEL. (41 5) 554-9550 FAX (41 5) 252^99

25 Van Ness Avenue, #320

San Francisco, CA 94102-6033

Page 2

There are tenant defenses to all of the above grounds for Increases, which may be raised at the hearing. Tenants may waive their right to a hearing on "Past Rent History" increases only.

Some of the amendments adopted at the April 25th meeting include the following:

- The rules will consider all newly covered units and also units that would have been affected by Prop I, i.e., would have been exempt after a reasonable period of time, to be covered by these new rules;
- Prop I does not preclude owners from setting a new rent during the transition period, unless there was an eviction that would not have been otherwise permitted under the Rent Ordinance, unless that eviction was commenced prior to May 1 , 1 994;
- Language defining who is a tenant In a Prop I unit as per Section 6.14.

We have dedicated the hearing calendar from May 24th through June 30th to hearings on Landlord Petitions for Proposition I Affected Units, as these petitions have been in limbo for quite some time. Therefore, petitioners are urged to complete the new petition forms and resubmit the petition as quickly as possible. Once the petition is received, it will be screened promptly by our staff for completeness and then processed for scheduling.

Accessing Information at the Rent Board

If you have questions concerning the new petition forms, please consult with a staff member at the Rent Board in person, or by calling the counseling line at 252-4602. These Regulations and accompanying forms are as new to our staff as they are to you, so please bear with us while we become familiar with their use. You may call the Prop. I Hotline number (703-6320) for any new information regarding Prop. I. For access to recorded Information on 36 of the most frequently asked questions at the Rent Board, please call our 24-hour number at 554.9550.

Proposition I Mail Notice

Owners of Proposition I buildings can expect to be receiving a notice and billing statement from the Tax Collectors office within the next month. The Rent Board is entirely funded through the assessment of a \$1 per unit fee for each unit subject to the Ordinance. Owners may either bill the tenants of each unit for the \$1 or deduct it from the interest payment each year. Owner-occupied units with a homeowner's exemption on file should not receive a bill. If you are an owner-occupant and receive a bill for your unit, there is a
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adjustment form sent with each statement and you can check the appropriate box and sign under penalty of perjury that the unit in question is not subject to the Ordinance. Note that occupancy by a child or relative does not exempt that unit. Vacant units are not entitled to an exemption. If you are entitled to a home owners exemption, you should contact the Assessor's office and file with them, since this is worth approximately \$70 less in property taxes each year.

Prop I owners take note- you must provide a copy of the document entitled "Important Notice to Tenants and Owners" to each unit in your building. You will need to make copies of the notice and provide them within 15 days of the mailing of the notice. There is a translation in both Chinese and Spanish on the back which you should make available as appropriate to your tenants.

Prop I owners and tenants should make themselves familiar with the Rent Ordinance and the Rules and Regulations as soon as possible by obtaining a copy of each document. This will enable all parties to understand both their rights and responsibilities and thus reduce the number misunderstandings and conflicts that might otherwise arise from simple ignorance of the law.

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SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD
PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS RELATING TO PROPOSITION I
ADAPTED ON APRIL 25, 1995 (ALL CHANGES TO BE EFFECTIVE FEBRUARY 1, 1995)

Existing Section 1.1Kb) would be repealed and replaced with the following new section:

Section 1.11 Anniversary Date

(b) For Newly Covered Units, the first anniversary date shall be the date of the last lawful and effective rent increase imposed on or before May 1, 1994 or the date the tenancy commenced, whichever occurred later. The next allowable rent increase shall take effect no less than one year from the anniversary date, but, if it takes effect after more than one year, its effective date shall be the new anniversary date for purposes of future rent increases .

* * *

Existing Sections 1.15 through 1.18 would be renumbered as 1.17 through 1.20, and the following two new sections would be added:

Section 1.15 Newly Covered Unit

"Newly Covered Unit" shall mean a Rental Unit that became subject to the Rent Ordinance on December 22, 1994 as a result of the passage of Proposition I in November 1994 because, as of that date, the unit was located in a building containing four Rental Units or less, and an owner (who held in good faith at least a fifty percent (50%) recorded fee interest) had occupied the building as a principal place of residence for at least six continuous months .

Section 1.16 Proposition I Affected Unit

"Proposition I Affected Unit" shall mean a Newly Covered Unit, as well as a unit that would have been subject to the Rent Ordinance on December 22, 1994 regardless of passage of Proposition I at the November 1994 election, but that would have become exempt within a reasonable period of time thereafter if Proposition I had not passed. If the unit is not a Newly Covered Unit, the landlord must have:

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(a) resided in the building prior to November 9, 1994;

(b) initiated renovations on a unit in the same building prior to November 9, 1994 for the purpose of residing in that unit, and at the conclusion of the renovations the landlord must have resided in that unit;

(c) served an eviction notice pursuant to Section 37.9(a)(8) prior to November 9, 1994 and sometime thereafter the landlord must have resided in the building;

(d) initiated renovations (with all necessary permits) prior to November 9, 1994, which renovations were ordered by a governmental agency in order to reduce the total number of units in the building to four or less; or

(e) did any of the above within three months of becoming owner of record of the unit if the landlord was not owner of record prior to

November 9, 1994, but had entered into an agreement to purchase the unit which agreement became non-contingent on or after September 1, 1993 and prior to

November 9, 1994.

* * *

Existing Section 4.10(d) would be repealed. The following new section would be added:

Section 4.14 Effect of Vacancy

In accordance with Section 37.3(a) of the Rent Ordinance, the Rent Ordinance does not regulate initial rent levels for a new tenancy. The Rent Board does not interpret anything in Section 37.12 of the Rent Ordinance to alter this general principle. However, the Rent Board does find in the spirit of Section 37.12 an intent to preclude a landlord from setting a new Base Rent when that landlord served an eviction notice on or after May 1, 1994 and before December 22, 1994 (the "Transition Period") and the eviction would not have been permissible under Section 37.9 of the Rent Ordinance. Thus, for newly Covered Units, if there was a proper termination of tenancy during the

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fransition Period, then the landlord was/is free to set a new Base Rent
«/ithout limitation upon reletting the unit, and any rents paid by the new
tenant that exceed the initial base rent (as defined in Section 37.12(a) of
the Rent Ordinance) need not be refunded to the new tenant. If there was not
i proper termination of tenancy during the Transition Period, then the
landlord was/is not entitled to set a new Base Rent, and the landlord shall be
required to refund any overpayments of rent in accordance with Section
37.12(b) of the Rent Ordinance. A proper termination of tenancy occurs wne^i
the tenant:

(a) terminates the tenancy voluntarily;

(b) vacates the unit as a result of an eviction that would have
Deen permissible under Section 37.9 of the Rent Ordinance; or

(c) vacates the unit as a result of a notice of eviction served
Drior to May 1 , 1994.

* * *

Existing Section 5.13 would be amended to add two sentences as follows:
Section 5.13 Imposition of Rent Increases Granted by the Hearing Officer

(a) [INSERT TEXT OF EXISTING SECTION, BUT RENUMBER]

(b) The landlord need not impose a rent increase (including a certified capital improvement) on the first opportunity after it is granted. Rather, the landlord may impose all or a portion of any such rent increase at a later date upon giving proper notice.

* * *

Existing Section 6.10(i) would be repealed and replaced with the following new section:

Section 6.10 Operating and Maintenance

(i) Landlords of Proposition I Affected Units may petition the Board for a rent increase based on increased operating and maintenance

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expenses in accordance with, and subject to, Section 6.10 of these Rules and regulations and Section 37.8 of the Rent Ordinance. Events before the unit was subject to the Rent Ordinance may be considered. Petitions for Proposition I Affected Units based upon increased operating and maintenance expenses that are pending as of, or filed within six months of, April 25, 1995 may, at the request of the landlord, be treated as if filed on any day that the landlord designates on or after May 1, 1994 and before April 25, 1995; provided, however, that the actual date of filing shall be used to determine the effective date of any rent increase pursuant to Sections 5.12 and 5.13

above.

* * *

Existing Section 6.11 would be repealed and replaced with the following new section:

Section 6.11 Comparables

A rent increase may be granted pursuant to this Section 6.11 only one time during the life of the unit, and Sections 6.11(a) and 6.11(b) are each mutually exclusive of the other; however, a landlord may petition for an increase under both Sections 6.11(a) and 6.11(b) in the alternative.

(a) Petition Based on Extraordinary Circumstances

(1) The provisions of this Section 6.11(a) shall apply only in extraordinary circumstances, including but not limited to situations:

(A) where, because of a special relationship between the landlord and tenant, or through fraud, mental incompetency, or some other reason, the initial rent on a unit was set very low or the rent was not increased or was increased only negligible amounts during the tenancy; or

(B) where the landlord became owner of record of a Proposition I Affected Unit between September 1, 1993, and December 22, 1994, or where the landlord entered into an agreement to purchase a Proposition I

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Effected Unit which agreement became non-contingent on or after September 1, 1993 and before November 9, 1994, and, in becoming owner of record or entering into the purchase agreement, the landlord relied on the ability to increase

•ents without limitation from the Rent Ordinance.

Passage of Proposition I at the November 1994 election does

not in and of itself satisfy this Section 6.11(a)(1), though it may be considered.

(2) A rent increase during a tenancy may be considered justified, even in the absence of an increase in costs of operating and maintenance expenses as limited in Section 6.10 above, if it is established that the rent for the unit is significantly below those of comparable units in the same general area as defined in Section 6.11(a)(3) below. If a rent

increase is granted pursuant to this Section 6.11(a), the increase shall preclude the imposition of all annual rent increases, banked increases, and operating and maintenance increases that the landlord could have imposed prior to the filing of the petition. Petitions for Proposition I Affected Units based upon comparable rents that are pending as of, or filed within six months of, April 25, 1995 may, at the request of the landlord, be treated as if filed on May 1, 1994, in which case rents for comparable units as of May 1, 1994

shall be used for comparison; provided, however, that the actual date of filing shall be used to determine the effective date of any rent increase pursuant to Sections 5.12 and 5.13 above. For purposes of the preceding sentence, the landlord may establish rents of comparable units as of May 1, 1994 by presenting evidence of current rents of comparable units, in which case rent on May 1, 1994 may be presumed to equal 98.9% of current rent.

(3) The length of occupancy of the current tenant, size and physical condition of the unit and building, and services paid for by the tenant are important factors (though not the exclusive ones) in determining

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whether or not a unit is "comparable" to another, as the term "comparable" is used in the Rent Ordinance and in these Rules. Evidence of reasonably comparable units is required; however, "perfect" comparability is not required. The issue of "rent for comparable units" may be raised by a landlord or a tenant.

(4) For Proposition I Affected Units, when determining the length of occupancy of the current tenant, occupancy before April 15, 1979 need not be considered if it appears from both the landlord's and the tenant's evidence that it is impractical to do so under the circumstances; however, occupancy before the unit most recently became subject to rent regulation shall not be considered when:

(A) the requirements of Section 6.11(a)(1)(A) are satisfied, and the rent at the time the unit most recently became subject to rent regulation was not arrived at through arm's length negotiations due to a special relationship, fraud, mental incompetency, or some other reason; or

(B) the requirements of Section 6.11(a)(1)(B) are satisfied, and an additional rent increase is necessary to relieve the landlord from hardship, also taking into consideration tenant hardship if raised and if not inconsistent with the constitutional rights of the landlord. The landlord may not assert hardship pursuant to this Section unless the landlord has completed a hardship application (which can be obtained from the Rent Board), and filed the hardship application along with the landlord's petition for a rent increase. If the landlord asserts hardship pursuant to this Section, then Rent Board staff shall mail to the tenant a blank hardship application at least twenty days prior to the hearing on the landlord's petition. The tenant may not assert hardship pursuant to this Section unless the tenant has completed the hardship application and mailed it (or delivered it) to the landlord and to the Rent Board at least ten days;

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prior to the hearing on the landlord's petition. The landlord shall have the burden of proving landlord hardship, and the tenant shall have the burden of proving tenant hardship. Except on remand from the Rent Board or pursuant to this Section, the hearing officer may not consider the hardship of either party.

(b) Petition Based on the Past Rent History of a Proposition I Affected Unit

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(1) The provisions of this Section 6.11(b) shall apply only to Proposition I Affected Units.

(2) A landlord may petition for only one of the following increases:

(A) A 7.27., rent increase during a tenancy may be considered justified, even in the absence of an increase in costs of operating and maintenance expenses as limited in Section 6.10 above, if it is established that no Rent Increases (as defined in Section 37.2(o) of the Rent Ordinance) were in effect between May 2, 1991 and May 1, 1994;

(B) An 11.27o rent increase during a tenancy may be considered justified, even in the absence of an increase in costs of operating and maintenance expenses as limited in Section 6.10 above, if it is established that no Rent Increases (as defined in Section 37.2(o) of the Rent Ordinance) were in effect between May 2, 1990 and May 1, 1994; or

(C) A 15.27» rent increase during a tenancy may be considered justified, even in the absence of an increase in costs of operating and maintenance expenses as limited in Section 6.10 above, if it is established that no Rent Increases (as defined in Section 37.2(o) of the Rent Ordinance) were in effect between May 2, 1989 and May 1, 1994.

(3) By executing a waiver form which can be obtained from the Rent Board, a tenant may waive the right to a hearing on a petition fo-

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increase brought under this Section 6.n(b), in which case the hearing officer shall issue a determination based on the facts as alleged in the petition.

* * *

Existing Section 6.14(e) would be repealed and replaced with the following new section:

Section 6.14 Agreements to Pay Additional Rent for Change of Tenants
(e) For Proposition I Affected Units, a new co-tenant shall be considered a tenant as defined in subsection (a) above unless the landlord has not accepted the new co-tenant as a tenant pursuant to applicable law and the landlord gives the new co-tenant written notice on or before August 13, 1995

that she/he is not considered a tenant under subsection (a) above. This subsection (e) applies only to tenancies that commenced prior to February 14, 1995. For tenancies that commenced on or after February 14, 1995, the 60-day notice requirement contained in subsection (d) above shall apply. A landlord may comply with subsection (c) and this subsection (e) simultaneously.

* * *

Existing Section 7.10(d) would be repealed and replaced with the following new section:

Section 7.10 Filing

(d) Special Provision for Owners of Proposition I Affected Units

Landlords of Proposition I Affected Units may petition the Board to certify the cost of capital improvements, rehabilitation and/or energy conservation work, in accordance with, and subject to, the rules and procedures set forth in Part 7 of these Rules and Regulations and Section 37.7 of the Rent Ordinance. Events before the unit was subject to the Rent Ordinance may be considered. Petitions for Proposition I Affected Units based upon capital improvements that are pending as of, or filed within six months of, April 25, 1995 may, at the request of the landlord, be treated as if filed on May 1.

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994; provided, however, that the actual date of filing shall be used to
(jetermine the effective date of any rent increase pursuant to Section 7.10(c)
above.

* * *

Existing Section 10.10(e) would be repealed and replaced with the
following new section:

Section 10.10 Decrease in Services

(e) With respect to Newly Covered Units, the earliest permissible
effective date for any rent decrease allowed under this Section 10.10 shall be
December 22, 1994; provided, however, that the initial base rent, as defined
by Section 37.12(a) of the Rent Ordinance, shall include all housing services
provided or reasonably expected on May 1, 1994 or as of the commencement of
the tenancy, whichever is later.

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