

SANTA MONICA RENT CONTROL BOARD

TO: Jennifer Kennedy, Chair, and the
Santa Monica Rent Control Board

FROM: Legal Staff

RE: Proposed Regulation 3028A – September, 2006
Utility Adjustment for Buildings for Master-Metered
Gas and/or Gas and Electric

FOR BOARD MEETING OF: May 11, 2006

INTRODUCTION

Proposed Regulation 3028A, attached to this staff report, authorizes a \$7 utility adjustment for units for which the landlord pays individual unit gas service or electrical and gas service expenses, in addition to common area service costs. The reason staff is proposing this adjustment is to ensure that the landlords who pay for such expenses are able to recoup the cost of the rate increases that have occurred for such services.

The attached regulation provides that if an otherwise eligible unit has a tenancy after voluntary vacancy which began on or after January 1, 1999, the landlord may not implement the utility adjustment for such unit. This prohibition is recommended because since January 1, 1999, owners who have voluntary vacancies have been authorized to raise their rents on such vacancies to market levels and would therefore have been able to factor in any increases in utilities, either actual or projected, in setting the new rents. In addition, if an otherwise eligible unit has had a vacancy increase pursuant to regulation 3304 after January 1, 2004, the owner may not implement the utility adjustment for that unit. Again, because in such cases the new rent level may be set to include the cost of the master-metered utility expenses, owners do not also need the adjustment to assist them in maintaining a fair return.

DISCUSSION

The methodology and computations which resulted in the \$7 figure are explained in the staff report entitled Utility Adjustment 2006 – Master-Metered Buildings, also submitted to the Board.

Landlords who have already received written authorization from the Board for prior utility adjustments are not required to reapply before noticing this proposed utility adjustment. The proposed regulation requires landlords to give notice of the utility adjustment pursuant to Civil Code section 827.

RECOMMENDATION

Staff recommends that the Board set the attached, proposed regulation 3028A for public hearing on June 8, 2006, and that the Board adopt the regulation on that date.

Adopted REGULATION 3028A
(Utility Adjustment for Master-Metered Properties)

3028A. September 2006 Utility Adjustment for Master-Metered Properties

- (a) If a landlord pays for all gas and electrical service for common areas and, additionally, for all gas service or all gas and electrical service in individual units on the property, commencing on September 1, 2006, the landlord may increase the maximum allowable rent on qualifying rental units by an additional \$7, in addition to the general adjustment authorized in regulation 3028.
- (b) To be eligible for the master-metered utility adjustment set forth in subparagraph (a) above, the landlord must comply with the following:
 - (1) The landlord must pay for all gas and electrical service for all common areas and, additionally, must pay for all gas or all gas and electrical service within individual units on the property, including but not limited to, the cost of cooking, heating, hot water, and lighting.
 - (2) The landlord must complete and file an application for a master-metered utility adjustment on the form approved by the Board. The landlord must submit photocopies of all utility bills for the property for the twelve-month period preceding the application at the time of filing the application. The Board will notify the landlord within 30 days of receipt of the master-metered utility adjustment application that the landlord has qualified for the adjustment, that additional information is required, or that the application is denied.
 - (3) If the landlord previously received authorization from the Board to collect the master-metered utility adjustment for qualifying units at a particular property, it is not necessary to refile an application pursuant to subparagraph (b)(2) above.
 - (4) The landlord may not notice a rent increase for a master-metered utility adjustment unless the landlord has received written authorization from the Board.
 - (5) A landlord may increase rents pursuant to this regulation only for those units for which he or she pays all gas service or pays all gas and electrical service.
 - (6) In order to increase rents pursuant to this section, a landlord must comply with the notice requirements set forth in regulation 3028(d). A landlord may give notice of the master-metered utility adjustment at the same time as giving notice of the general adjustment.
- (c) A landlord shall not increase rents or serve a notice attempting to increase rents by this utility adjustment where the unit's tenancy commenced on or after January 1, 1999, and a new base rent after vacancy was lawfully established for the unit.
- (d) A landlord shall not increase rents or serve a notice attempting to increase rents by this utility adjustment where the unit received a rent increase pursuant to regulation 3304 based upon a petition filed on or after January 1, 2004.
- (e) A landlord shall not increase rents or serve a notice attempting to increase rents by this utility adjustment where the unit's first rental since the adoption of the Rent Control Law commenced on or after January 1, 1999, and the unit's base rent was therefore established on or after January 1, 1999.