

SANTA MONICA RENT CONTROL BOARD

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

FROM: Legal Staff

RE: Proposed Regulation 3028 – September 2006
Annual General Adjustment

FOR BOARD MEETING OF: May 11, 2006

INTRODUCTION

As discussed in the staff report entitled Annual General Adjustment 2006, staff recommends that the Board adopt the September 2006 general adjustment of 4% per unit, with a \$54 ceiling. The attached, proposed regulation 3028 provides for the proposed 4% general adjustment, as well as the ceiling, in accordance with the general adjustment staff report.

The language of proposed regulation 3028 mirrors in large part that of regulations authorizing recent past general adjustments, with the amounts of the general adjustment and the ceiling changed.

RECOMMENDATION

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

PROPOSED REGULATION 3028
(September, 2006 General Adjustment)

3028. General Adjustment Number 29

(a) Amount of General Adjustment

(1) Mobile Homes and Mobile Home Spaces

Commencing on September 1, 2006, landlords of controlled mobile homes and mobile home spaces may increase maximum allowable rents by 4%, except as provided in subsection (c) below.

(2) Controlled Units Other Than Mobile Homes and Mobile Home Spaces

Commencing on September 1, 2006, landlords of controlled units other than mobile homes and mobile home spaces may increase maximum allowable rents by 4%, but no more than \$54, except as provided in subsection (c) below.

(b) Definition of Maximum Allowable Rent

For purposes of this section, the maximum allowable rent is the lawful rent in effect on August 1, 2006. This is composed of the rent level certified pursuant to Regulation 13005 (which represents the base rent ceiling, as defined by Section 1804 of the Rent Control Law, plus any individual or general adjustments authorized prior to the date of certification) plus any subsequent increases otherwise authorized by law and/or any subsequent general adjustments not precluded by a final Board decision or addendum unless:

- (1) The Board has rendered a decision in a base rent petition, a threshold rent petition, an individual adjustment petition or addendum after certification. In such a case the maximum allowable rent is the rent established by such decision or addendum, plus any subsequent increases otherwise authorized by law and/or any subsequent general adjustments not precluded by a final Board decision or addendum; or
- (2) For tenancies commencing October 1, 1995 through December 31, 1998 for which a vacancy rent increase has been lawfully established pursuant to Section 1954.50 *et seq.* of the Civil Code, the maximum allowable rent is the new maximum allowable rent established after vacancy plus any individual rent adjustments established in any subsequent Board decisions or addenda and/or general adjustments not precluded by a Board decision or addendum.
- (3) For tenancies commencing on or after January 1, 1999, for which a vacancy increase has been lawfully established under Civil Code Section 1954.50 *et seq.*, the maximum allowable rent is the new base rent after vacancy plus any individual rent adjustments established in any subsequent Board decisions or addenda and/or subsequent general adjustments to which the unit is entitled under this chapter.
- (4) For condominium units which have not been separately sold and which are rented by tenants whose tenancies commenced between January 1, 1996 and May 7, 2001, the maximum allowable rent is the lawful rent in effect on May 7, 2001, plus applicable general adjustments as set forth in regulation 3302(c) and subsequent general adjustment regulations.

The registration fee pass-through set forth in Chapter 11 or any other surcharges permitted by law as set forth in Regulation 3100 *et seq.* shall not be considered part of

the maximum allowable rent.

(c) Restrictions on Landlord's Entitlement to General Adjustment

A landlord shall not increase rents or serve a notice attempting to increase rents if any of the following circumstances exist:

- (1) The unit's tenancy commenced on or after September 1, 2005, and a new base rent after vacancy was lawfully established for the unit.
- (2) The unit received a rent increase pursuant to regulation 3304 based upon a petition filed on or after September 1, 2005.
- (3) The unit's first rental since the adoption of the Rent Control Law commenced on or after September 1, 2005, and the unit's base rent was therefore established on or after September 1, 2005.
- (4) The landlord is not in compliance with any provision of the Santa Monica Rent Control Charter Amendment or regulations promulgated thereunder.
- (5) The landlord has not properly registered the rental unit for which the rent increase is sought.
- (6) The landlord has failed to pay in full all outstanding registration fees and penalties which have not otherwise been barred by the statute of limitations.
- (7) The landlord has failed to correct conditions specified in a citation or notice of violation of health, safety or housing laws existing at the subject property with respect to any unit or the common areas of the building.

(d) Notice Requirements

- (1) In order to increase rents pursuant to this section, a landlord must give notice as required by California Civil Code section 827. A landlord may serve a notice of the general adjustment rent increase on or after July 1, 2006.
- (2) No landlord shall increase rent unless the notice contains the following form language: "The undersigned (landlord) certifies that this unit and the common areas are not subject to any uncorrected citation or notices of violation of any state or local housing, health, or safety laws issued by any government official or agency." If a landlord fails to comply with this subsection, the tenant may refuse to pay the improperly noticed increase, may seek administrative or civil remedies under the Rent Control Law, and may raise the landlord's noncompliance as an affirmative defense in any resulting unlawful detainer action.

- (e) Any rent increase notice served in violation of any provisions of this regulation shall be ineffective to increase maximum allowable rents pursuant to this section.