

**RENT ADJUSTMENT COMMISSION**

1200 WEST 7<sup>TH</sup> STREET  
LOS ANGELES, CA 90017  
(213) 808-8664

DANIEL GRYZZMAN, CHAIRPERSON

BETH STECKLER, VICE-CHAIRPERSON

LISETTE ARSUAGA

JEFFERY J. DAAR

PAULA G. LEFTWICH

RAMON MUÑIZ

MIMI SOTO

**CITY OF LOS ANGELES  
CALIFORNIA**



ANTONIO R. VILLARAIGOSA  
MAYOR

**LOS ANGELES  
HOUSING DEPARTMENT**

MERCEDES M. MARQUEZ  
GENERAL MANAGER

**PUBLIC COUNTERS**

3550 WILSHIRE BOULEVARD, 15<sup>TH</sup> FLOOR  
LOS ANGELES, CA 90010

3415 SOUTH SEPULVEDA BOULEVARD, SUITE 150  
LOS ANGELES, CA 90034

8475 SOUTH VERMONT AVENUE  
LOS ANGELES, CA 90044

690 KNOX STREET, SUITE 125  
LOS ANGELES, CA 90502

6640 VAN NUYS BOULEVARD  
VAN NUYS, CA 91405

CUSTOMER SERVICE & INFORMATION  
(866) 557-RENT

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**PRIMARY RENOVATION COST RECOVERY REGULATIONS**

ADOPTED: June 2, 2005

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**220.00 PRIMARY RENOVATION COST RECOVERY REGULATIONS**

**221.00 STATEMENT OF PURPOSE**

**221.01 Policy Statement**

These regulations are promulgated to facilitate the operation of the City of Los Angeles' Primary Renovation Program, with specific reference to Los Angeles Municipal Code Section 151.07 A.1.(d), and thereby to encourage landlords to both re-invest in the renovation of major building systems within their rental properties and to abate exposures to hazardous materials at those properties.

**221.02 Authority for these Regulations**

These regulations are issued by the Rent Adjustment Commission under the authority granted it under Los Angeles Municipal Code Sections 151.03, 151.07 A.1., 151.07 A.8., and 152.08.

**221.03 Review of Program and Regulations**

These regulations, together with the overall operation of the Primary Renovation Program, shall be reviewed by the Rent Adjustment Commission no less than every three years.

**222.00 DEFINITIONS**

The following words and phrases, whenever used in these regulations, shall be construed as defined in this section, which restates, in some instances, definitions used in LAMC Section 151.02 and 152.02. Should a discrepancy exist between a definition presented here and in Sections 151.02 or 152.02, the wording in the LAMC definition shall prevail. Words and phrases not defined here shall be construed as defined in LAMC Sections 12.03 and 162.02, if defined there.

**Average Per Unit Primary Renovation Work Cost.** An amount determined by dividing the costs associated with Primary Renovation Work by the total number of all rental units in a complex with respect to which primary renovation costs were incurred, irrespective of whether all such dwellings are subject to the Ordinance.

**Department.** The Los Angeles Housing Department or any successor.

**Hearing Officer.** A person designated by the Department to consider an appeal of a determination by the Department through a public hearing in accordance with LAMC Section 151.07 and Section 152.03 C.4.

**LAMC.** The Los Angeles Municipal Code.

**Low Income Tenant Household.** A tenant household whose combined income, adjusted for family size, is at or below 80% of the median income for the Los Angeles-Long Beach Primary Metropolitan Statistical Area, as established for the Section 8 program by the U.S. Department of Housing and Urban Development (HUD) in accordance with Section 3(b)(2) of the U.S. Housing Act of 1937, as amended.

**Ordinance.** Chapter XV of the Los Angeles Municipal Code, Section 151.00, *et seq.*, commonly known as the Rent Stabilization Ordinance.

**Primary Renovation Program.** The provisions of Ordinance No. 176,544 which includes as its principal components the provisions for rent adjustments related to Primary Renovation Work set forth in LAMC Section 151.07 A.1.(d) and the Tenant Habitability Program set forth in LAMC Section 152.00, *et seq.*

**Primary Renovation Work.** Work performed either on a rental unit or on the building containing the rental unit that improves the property by prolonging its useful life or adding value, and involves either or both of the following:

1. Replacement or substantial modification of any structural, electrical, plumbing or mechanical system that requires a permit under the Los Angeles Municipal Code.
2. Abatement of hazardous materials, such as lead-based paint and asbestos, in accordance with applicable federal, state and local laws.

For the purposes of these regulations, the term Primary Renovation Work includes Related Work.

**RAC.** The Rent Adjustment Commission of the City of Los Angeles or any successor.

**Related Work.** Improvements or repairs which, in and of themselves, do not constitute Primary Renovation Work but which are undertaken in conjunction with and are necessary to the initiation and/or completion of Primary Renovation Work.

**Temporary Relocation.** The moving of a tenant from the tenant's permanent residence to habitable temporary housing accommodations in accordance with a Tenant Habitability Plan. The temporary relocation of a tenant from his/her permanent place of residence shall not constitute the voluntary vacation of the unit and shall not terminate the status and rights of a tenant, including the right to reoccupy the same unit, upon the completion of the Primary Renovation Work and any Related Work, subject to any rent adjustments as may be authorized under the Ordinance.

**Tenant Habitability Plan.** A document, submitted by a landlord to the Department, identifying any impact Primary Renovation Work and Related Work will have on the habitability of a tenant's permanent place of residence and the steps the landlord will take to mitigate the impact on the tenant and the tenant's personal property during the period Primary Renovation Work and Related Work are undertaken.

**223.00 COST RECOVERY**

**223.01 Eligible Costs**

In accordance with these regulations, a landlord may recover all or a portion of documented incurred costs for Primary Renovation Work, Related Work, and Temporary Relocation provided that all of the following conditions have been satisfied:

- (1) The landlord has completed Primary Renovation Work and any Related Work in conformance with a Tenant Habitability Plan accepted by the Department and has not increased the rent to reflect the cost of such improvement;
- (2) The landlord has adhered to the requirements of RAC Regulations 710.00, *et seq.*;
- (3) The landlord has submitted an itemized application for cost recovery to the Department within twelve months of the completion of Primary Renovation Work and any Related Work;
- (4) The landlord has complied with all building permit and environmental clearance requirements necessitated by Primary Renovation Work and any Related Work; and

- (5) The landlord has identified all grants, tax credits, rebates, insurance benefits, and other sources of funding which, in whole or in part, relate to any Primary Renovation Work and Related Work.

## **223.02 Ineligible Costs**

The following costs are not eligible for recovery under the Primary Renovation Program:

- (1) Costs incurred for the permanent relocation of tenants;
- (2) Costs incurred for seismic work as defined in LAMC Section 151.02;
- (3) Costs recoverable from other sources, including but not limited to, grants, tax credits, rebates and insurance benefits;
- (4) Costs used to justify rent adjustments under the Capital Improvement [LAMC Section 151.07A.1.(a)], Rehabilitation Work [LAMC Section 151.07 A.1.(b)], or Just and Reasonable [LAMC Section 151.07 B.] provisions of the Ordinance;
- (5) Costs incurred for work to correct code violations at a rental unit subject to a notice of noncompliance sent to the Franchise Tax board pursuant to Section 17274 of the Revenue and Taxation Code;
- (6) Costs incurred for work to correct conditions at a rental unit that was subject to a Notice of Rent Reduction or a Notice of Acceptance into the Rent Escrow Account Program issued pursuant to LAMC Section 162.00, *et seq.*;
- (7) Costs incurred for work to correct conditions that resulted in a criminal conviction related to the landlord's failure to comply with a citation or order issued by the Department, the Department of Building and Safety, the Fire Department, or the Los Angeles County Department of Health; and
- (8) Costs incurred for work to comply with a government citation or order to abate hazardous materials if the citation or order was issued before the landlord filed a Tenant Habitability Plan with the Department for such abatement.

A landlord who fails to abide by the terms of an accepted Tenant Habitability Plan shall be denied individual rent adjustments under LAMC Section 151.07 A.1.(d), absent extenuating circumstances.

**223.03      Financing Costs**

Interest and other costs incurred by the landlord to finance Primary Renovation Work, Related Work, and Tenant Relocation are not eligible for direct recovery under the Primary Renovation Program. However, the Department's calculation of recoverable costs incorporates an allowance for cost of capital, based upon rates published by the Federal Reserve Board for ten-year constant maturity U.S. government securities plus 1%, as set forth in Section 223.05.4 of these regulations.

**223.04      Permanent Rent Increase**

Any cost recovery allowed under these regulations shall constitute a permanent monthly increase in rent. However, no rent increase may be imposed on a unit where the initial rent was established after the date the Tenant Habitability Plan applicable to a given rent adjustment application was accepted by the Department.

**223.05      Cost Recovery Basis**

**223.05.1      Basic Rule**

If the Department so finds, the landlord shall be entitled to a permanent monthly rent increase for each affected rental unit that shall not exceed the lesser of:

- (1) 100% of the Average Per Unit Primary Renovation Work Cost amortized in accordance with a term schedule established by the RAC and an interest rate corresponding to the monthly composite rate for average yields from the sale of ten-year constant maturity U.S. government securities plus one full percentage point; or
- (2) 10% of the Maximum Adjusted Rent at the time an application for a rent increase was filed.

**223.05.2      Average Per Unit Primary Renovation Work Cost**

The Average Per Unit Primary Renovation Work Cost is the proportionate share for a given rental unit of all costs associated with Primary Renovation Work, including costs for any Related Work and Temporary Relocation.

Only rental units benefitting from the Primary Renovation Work and subject to the Ordinance may receive a rent increase under the provisions of LAMC Section 151.07A.1.(d). In determining the proportionate cost to be allocated to individual

units, all units benefitting from the Primary Renovation Work must be included, regardless of whether some units might be exempt from the provisions of the Ordinance (e.g., for owner-occupancy, luxury exemption, etc.) For example, if the renovation involved the same work undertaken on a building consisting of ten housing accommodations of which two were exempt from the Ordinance, one on a temporary basis for owner occupancy and one on a permanent basis for substantial renovation, the costs per unit would be one-tenth of the total, even though only eight units are subject to rent increases under the Primary Renovation Program.

Costs related to Primary Renovation Work undertaken in common areas shall be apportioned equally among all affected units. Costs related to work done in individual units, however, must be allocated in a manner proportionate to the benefit enjoyed by each unit. For example, rental units with two bathrooms may bear a larger share of re-piping costs than units with one bathroom.

Because different cost components may be allocated differently, individual rental units at a property may have differing Average Per Unit Primary Renovation Work Costs. For example, a unit may be allocated the same average cost as all other units in a building for structural repairs, the same average cost as all other units of its size or configuration for plumbing repairs, and a cost specific to that unit for Temporary Relocation. The Average Per Unit Primary Renovation Work Cost for any given rental unit is the sum of all the costs associated with Primary Renovation Work that have been allocated to that unit.

In instances where work is done on a mixed use structure, the costs for renovation work that also benefits any non-housing use must be proportionally allocated to that non-housing use. For example, the costs of foundation repairs to a building where half of the floor area was devoted to commercial use and the other half to housing accommodations would first be divided between the housing and commercial use, with the housing share subsequently allocated equally among all housing accommodations in the building.

### 223.05.3 Amortization Period

The amortization period used in calculating rent increases under the Primary Renovation Program shall be 180 months.

223.05.4 Interest Rate

The interest rate used in calculating rent increases based on the Average Per Unit Primary Renovation Work Cost shall be one percent (1.00%) higher than the relevant monthly composite rate for federal ten-year constant maturity securities, as calculated by the U.S. Department of the Treasury and published by the Federal Reserve System (<http://federalreserve.gov/releases/h15/>). The rate relevant to any given application for rent increase shall be the composite annual rate calculated for the month in which the applicant's Tenant Habitability Plan was approved by the Department. If the rate for that month has not been published by the date of the application for a rent increase, the Department shall use the most recent monthly composite annual rate published by the Federal Reserve.

223.05.5 Calculation of Rent Increase based on the Average Per Unit Primary Renovation Work Cost

The rent increase for a given rental unit shall be calculated by using the following formula to amortize the Average Per Unit Primary Renovation Work Cost:

$$a = \frac{PV}{PVIFA_{r,n}}$$

Where

- $a$  = allowable monthly rent increase
- $PV$  = present value of the Average Per Unit Primary Renovation Work Cost
- $PVIFA_{r,n}$  = present value interest factor for an annuity at any given interest rate [r] and amortization period [n]
- $r$  = interest rate ÷ 12
- $n$  = amortization period in months

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Notes on the calculation: The formula used for determining rent increases under the Primary Renovation Program is the standard formula used for calculating fixed-term loan payments (e.g., home loans, automobile loans, etc). Algorithms for undertaking this calculation are available on computer spreadsheet programs and financial calculators, and the Department shall make the spreadsheet calculation model it uses available to all interested parties. The allowable rent increase can also be calculated manually by substituting the formula for the present value interest factor for

an annuity,  $PVIFA_{r,n} = \frac{1 - \frac{1}{(1+r)^n}}{r}$  into the equation above. The result can be reduced to the following formula,  $a = \frac{(PV \times r)(1+r)^n}{(1+r)^n - 1}$  which will generate the same result as the computer

algorithm. In applying this formula, the interest rate, which is reported by the Federal Reserve Board as an annual rate, is divided by 12 to allow for the calculation of the rent increase on a monthly basis.

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## **223.06 Cost Recovery Limitations**

### **223.06.1 Implementation of Rent Increases**

Any rent increase granted under the Primary Renovation Program shall be imposed in two equal increments over a two-year period. Upon receipt of the Department's approval of a rent increase for Primary Renovation Work, the landlord may impose the first increment after providing notice to each affected tenant pursuant to California Civil Code Section 827. The second increment may be imposed no earlier than 12 calendar months after the first increment is imposed, but only after again providing notice to each affected tenant pursuant to California Civil Code Section 827.

### **223.06.2 Low Income Tenant Households**

No Low Income Tenant Household may be subject to a rent increase for Primary Renovation Work of more than 10% over the life of the tenancy. If the initial rent increase for Primary Renovation Work was 10%, a Low Income Tenant Household would not be subject to any additional rent increases under the Primary Renovation Program for the life of the tenancy. If a Low Income Tenant Household received a rent increase of less than 10%, it may still be subject to a limited rent increase for subsequent Primary Renovation Work. For example, if a landlord received a 6% rent increase for foundation work and five years later sought an 8% rent increase for plumbing and electrical system replacement, the rent increase that could be applied to a Low Income Tenant Household for the plumbing and electrical work would be 4%.

Any subsequent rent increase for a low income tenant shall be limited to the balance of the percentage rent increase available under the 10% cap applied to the tenant household's rent at the time of the subsequent rent increase application, as calculated by the Department.

Whenever the Department receives an application for a rent increase for Primary Renovation Work following the approval of a prior application for the same property, the Department shall notify all affected tenant households of this cost recovery limitation and the current annual income limits at various family sizes to qualify as low income. Any tenants seeking a limitation on rent increases under this provision must submit the following to the Department:

- (1) A completed application for a rent limitation on a form provided by the Department; and
- (2) Documentation of household income in accordance with requirements established by the Department.

The Department shall determine the household's income in accordance with the standards for calculating family income under the Section 8 program as set forth in Section 5.609 of Title 24 of the Code of Federal Regulations.

## **223.07 Application Frequency**

### **223.07.1 General Limitation on Cost Recovery**

Except as noted below in this subsection, a landlord may seek to recover costs for Primary Renovation Work and any Related Work under the Primary Renovation Program not more frequently than once every five (5) years from the date of the Department's approval of the preceding rent increase under the Primary Renovation Program.

### **223.07.2 Hardship Waivers**

A landlord may submit a written request to the Department seeking a waiver of the five year limitation on repeat applications for rent adjustments under the Primary Renovation Program on the ground that adherence to the five year general limitation on repeat cost recovery applications will result in one or more of the following situations:

- (1) A definable deterioration of a building's infrastructure;
- (2) A definable endangerment of tenant health and safety; or
- (3) A definable hardship on the landlord.

In requesting a waiver, the landlord shall have the burden of establishing the hardship created by the five year limitation on cost recovery. When evaluating a request for a waiver, the Department shall consider the entirety of the circumstances and may take into account (a) alternative cost recovery programs available to the landlord including, but not limited to, rent increases due to capital improvements, just and reasonable applications, and vacancy decontrol and (b) whether a deterioration of a building's infrastructure or conditions endangering tenant health

and safety could not have been addressed through the regular repair and maintenance of the property.

The Department shall respond to a request for a hardship waiver by issuing a written determination within 15 days of receipt of the request. Notice of the Department's determination shall also be sent to all potentially affected tenants. Either a landlord or tenant may appeal the Department's determination regarding a waiver request to a Hearing Officer by filing a request for hearing in accordance with the procedures set forth in Section 227.00, *et seq.*, of these regulations.

223.07.3 Replacement Work

In instances where a landlord seeks to recover the costs of Primary Renovation Work that replaces earlier work performed under the Primary Renovation Program, the landlord shall have the burden of establishing, in accordance with industry standards, the need for the subsequent Primary Renovation Work in order to qualify for recovery of costs under these regulations.

**223.08 Cost Recovery Alternatives**

223.08.1 Capital Improvements and Rehabilitation Work

Instead of seeking a rent adjustment under the Primary Renovation Program, a landlord may elect to recover a portion of the costs of Primary Renovation Work and any Related Work under the Capital Improvement provisions set forth in LAMC Section 151.07 A.1.(a) and RAC Regulation Section 210.00, *et seq.* A landlord may also seek to recover a portion of the costs of Primary Renovation Work and any Related Work under LAMC Section 151.07 A.1.(b) and RAC Regulation Section 250.00, *et seq.*, for work that also qualifies as Rehabilitation Work, as defined in LAMC Section 151.02. Under no circumstances, however, may the same costs be used to justify recovery under more than one program listed in LAMC Section 151.07 A.1.

223.08.2 Just and Reasonable Return

A landlord may also include the costs of Primary Renovation Work and Related Work as factors to be considered by a Hearing Officer in determining whether the rent allowed under the Ordinance provides the landlord with a just and reasonable return. Such determinations are governed by the provisions of LAMC Section 151.07 B. and RAC Regulations Section 240.00, *et seq.*

**224.00 APPLICATION FOR RENT ADJUSTMENT**

**224.01 Application Requirements**

An application for a rent adjustment under the Primary Renovation Program shall be made on a form provided by the Department and in accordance with specific instructions the Department may provide. At a minimum, the application should include the following information:

- (1) A complete listing of all rental units in the rental complex identified by address and unit number;
- (2) The name, phone number, and move-in date for the primary tenant(s) or head(s) of tenant household for each rental unit subject to the proposed rent increase;
- (3) The current amount of rent charged and the date of last rent increase for each unit subject to the proposed rent increase;
- (4) The total of all primary renovation costs which the landlord is seeking to recover;
- (5) The landlord's estimate of the primary renovation costs allocated to each unit and the basis of such cost allocation;
- (6) Documentation of costs in accordance with Section 224.04 of these regulations;
- (7) A copy of the Tenant Habitability Plan and any amendments that were accepted by the Department; and
- (8) A declaration by the applicant stating that the information provided is true and correct.

**224.02 Timeliness of Application**

The landlord must file an application for a rent adjustment under the Primary Renovation Program within 12 months after the last date on which any Primary Renovation Work or Related Work, as described in the Tenant Habitability Plan, took place. The burden of proof shall be on the landlord to establish the date of the completion of work.

Landlords shall have the right to resubmit one time an application for a rent adjustment that was disapproved by the Department. For purposes of the 12-month submission deadline, the initial application date will be considered the date of application only if the landlord resubmits within 60 days of the disapproval.

**224.03 Application Fee**

An application for a rent adjustment under the Primary Renovation Program shall be accompanied by a \$25.00 filing fee. However, this fee requirement shall not apply to the first application for any type of rental adjustment permitted under LAMC Section 151.07 A., including but not limited to primary renovation, which is submitted by a landlord for a given housing complex within a calendar year. The landlord shall not recover this filing fee from any tenant.

**224.04 Documentation of Costs**

The landlord bears the burden of establishing allowable costs of any Primary Renovation Work.

**224.04.1 Acceptable Types of Documentation**

Acceptable documentation of costs includes, but is not limited to, the following:

- (1) Invoices;
- (2) Bids specifying both material and labor costs by the type of labor performed, the number of hours required to perform the work, and the applicable rate of pay;
- (3) Building permits;
- (4) Final inspection record cards;
- (5) Financial documents;
- (6) Lease-purchase agreements;
- (7) Canceled checks;
- (8) Estimates of costs by various contractors contacted by the landlord;

- (9) Bids by competing contractors; and
- (10) Cost comparisons submitted by various vendors on equipment and supplies.

Composite bids or summaries which fail to detail the work referenced in the application with enough specificity to allow costs to be appropriately allocated do not constitute acceptable documentation.

#### 224.04.2 Labor Costs

Labor costs are the actual costs of contractors or hired laborers. Acceptable documentation of labor costs includes, but is not limited to, the following:

- (1) Canceled checks;
- (2) Receipts;
- (3) Social security payments; and
- (4) W-2 forms.

If labor for work which requires a permit, license, or credential under the LAMC or relevant state or federal code is provided by the landlord, the landlord's family member, or the landlord's agent or employee, such labor costs are not allowable unless the person contracting to perform the work is licensed for the type of work performed. Two estimates or bids by non-related licensed contractors, proof of licensing, and documented time cards for all work performed by the landlord, family member, agent, or employee are required to document such costs.

If the landlord, landlord's family member, agent, or employee performs work which requires neither a permit under the LAMC nor the services of a state licensed contractor, labor costs are allowable. Acceptable documentation includes time cards specifying the number of hours spent on each task and identifying the unit and building on which the work was performed. For work costing over \$200.00, two estimates or bids by non-related contractors specifying both material and labor costs are required to document allowable costs.

#### 224.04.3 Temporary Relocation Costs

Temporary relocation costs are the documented actual costs incurred by the landlord that relate to the temporary relocation of tenants, provided such relocation

was undertaken in accordance with an approved Tenant Habitability Plan. Such costs may include, but are not limited to, the following:

- (1) The actual costs of renting temporary accommodations;
- (2) Non-refundable fees;
- (3) Moving costs;
- (4) Storage fees;
- (5) Pet boarding charges;
- (6) Any food allowances granted to compensate for loss of cooking facilities; and
- (7) Payment to affected tenants of the *per diem* relocation payments agreed to between the landlord and tenant and included in the Tenant Habitability Plan, in accordance with RAC Regulations Section 716.07.3 and Section 716.08.4.

## **225.00 DEPARTMENTAL REVIEW OF APPLICATIONS**

### **225.01 Notice of Application**

#### **225.01.1 General Requirement**

Upon receipt of a rent adjustment application, the Department shall notify the tenant or tenants of the subject unit or units by mail of the following:

- (1) The receipt of such application;
- (2) The amount of the requested rent increase;
- (3) The landlord's justification for the request;
- (4) The tenant's right to submit written objections to the adjustment request within 10 days of the date of mailing such notice; and
- (5) The address to which the objections may be mailed or delivered.

The Department shall address such notice to each primary tenant or head of tenant household listed in the landlord's application.

225.01.2 Noticing Specific to Primary Renovation Program

In addition to the information listed in the preceding paragraph, the Department's notice to a tenant of the Department's receipt of a rent adjustment application for Primary Renovation Work shall include:

- (1) A summary of these regulations and related portions of the Ordinance;
- (2) The cost of Primary Renovation Work undertaken at the tenant's rental unit;
- (3) An explanation that the proposed rent increase represents the lesser of (a) the rent increase allowable based upon the cost of Primary Renovation Work at the tenant's rental unit or (b) ten percent (10%) of the stated rent for that unit;
- (4) An explanation that any approved rent increase must be imposed in two equal stages over the course of two years; and
- (5) An explanation that the maximum 10% rent increase for Primary Renovation Work may be imposed no more than once during the tenancy of any Low Income Tenant Household, provided the Low Income Tenant Household provides the Department with evidence of low income status within 30 days of receipt of the Department's notice.

225.01.3 Examples of Tenant Objections

The Department's notice to tenants affected by a proposed rent adjustment under the Primary Renovation Program also shall provide examples of objections that may be raised including the following:

- (1) The landlord is attempting to increase the rent on a unit where the rent cannot be legally raised;
- (2) The tenant has grounds to believe that some of the Primary Renovation Work or Related Work referenced in the rent adjustment application was not completed;
- (3) The tenant moved in after the Tenant Habitability Plan was approved by the Department; and

- (4) The 12-month time period from the completion of the Primary Renovation Work and Related Work has expired and the landlord is no longer eligible to apply for an increase in the rent.

The Department's notice to tenants shall also state that tenant objections to a proposed rent adjustment are not limited to these examples.

## **225.02 Identification of Eligible Costs and Calculation of Rent Adjustments**

The Department shall identify eligible primary renovation costs and calculate related rent adjustments in accordance with these regulations. In no case shall the total costs determined to be recoverable exceed the total amount listed in the landlord's application.

In determining the eligibility of such costs, the Department shall rely upon documentation submitted by the landlord, statements from tenants, information gathered by the Department, and assessments based on market prices or industry norms.

Documents submitted by the landlord will be examined for accuracy and conformity with industry norms or market prices for the type of work involved and for equipment and materials purchased by the landlord. Should the Department find the costs reported by the landlord are significantly higher than market prices or industry norms, the Department may reduce the eligible costs in accordance with these prices or norms. If the Department so reduces the eligible costs in accordance with market prices or industry norms, the Department will provide the landlord with a written explanation of its action.

In undertaking its review of the application, the Department may contact the landlord, affected tenants, or any of the contractors and vendors shown on the documents submitted by the landlord. The Department also may elect to conduct site visits to directly examine the completed work.

## **225.03 Departmental Decision**

### **225.03.1 Suspension**

The Department may suspend an application that lacks adequate documentation for up to 30 days (or longer with the landlord's consent) to allow the landlord an opportunity to provide documentation. If the landlord does not provide the necessary documentation by the end of the suspension period, the application shall

be disapproved. Suspended time to allow a landlord to provide additional documentation is not part of the 45-day review period allotted for the Department to make its determination.

225.03.2 Determination

Within 45 days of the receipt of a completed application, the Department shall make a written determination on an application for rent adjustment, together with written findings supporting its determination, and mail copies of its determination and related findings to the applicant and all affected parties.

In making its determination, the Department shall either:

- (1) Approve rent adjustments for the amount requested, provided that the application meets the requirements set forth in these regulations; or
- (2) Disapprove rent adjustments for the amount requested, in whole or in part, whenever the application fails to meet requirements under these regulations.

225.03.3 Notice of Appeal Rights

With its transmittal of its determination and findings, the Department shall include notice to the applicant and all affected tenants that they have a right to request a hearing to challenge the Department's determination in accordance with LAMC Section 151.07 A.3. and Section 227.00, *et seq.*, of these regulations. In the event the Department disapproves an application for a rent adjustment, the transmittal shall also include notice of the right to resubmit the application under RAC Regulation 224.02.

225.04 **Record Keeping**

The landlord's application for a rent increase under the Primary Renovation Program and all supporting documentation shall be a matter of public record, except for information related to the names, phone numbers, unit numbers, move-in dates, and rents of individual tenants. Documentation submitted by tenants shall also be a matter of public record, except as prohibited by law.

225.04.1 Record Retention

The Department shall maintain all records in accordance with Chapter 12 of the Los Angeles Administrative Code. In addition, the Department shall maintain a permanent record of the following information:

- (1) Identification, by address and unit number, of all rental units receiving rent increases under the Primary Renovation Program;
- (2) A description of the Primary Renovation Work performed;
- (3) The primary tenants or heads of tenant households who received such rent increases;
- (4) The rent for each unit at the time of application for a rent adjustment under the Primary Renovation Program;
- (5) The final approved amount of the rent adjustment; and
- (6) Any identified low-income tenants.

225.04.2 Ineligible or Incomplete Applications

The Department shall return disapproved applications which it finds to be incomplete or to be not eligible under the Ordinance to the landlord with a written explanation as to why the application was disapproved along with notice of the right to resubmit the application under RAC Regulation 224.02.

**226.00 RENT INCREASE IMPLEMENTATION**

Upon approval by the Department, the landlord may impose a rent increase for Primary Renovation Work regardless of the filing of a request for a hearing to appeal the Department's determination of an allowable rent increase. The landlord shall comply with State law and LAMC requirements to give each tenant notice stating the amount of the monthly rent increase and the effective date of the commencement of the rent increase.

**227.00 CHALLENGES TO DETERMINATIONS**

**227.01 Request for Hearing**

Either a landlord or tenant may appeal the Department's determination of an allowable rent increase by filing a request for hearing. Such request must be in writing on a form issued by the Department and state a reason for the appeal. This appeal must be received by the Department within 15 days after the mailing of the Department's findings and determination. In accordance with LAMC Section 151.14 E., if a request for hearing is mailed to the Department, it is deemed to be received by the date of the postmark affixed on an envelope properly addressed to the Department.

The Department's determination may be appealed only on the following grounds:

- (1) That the Department committed an error by failing to apply the regulations properly;
- (2) That the Department's determination was an abuse of discretion because it was arbitrary or capricious; or
- (3) That there is new evidence to be presented which would warrant a decision different from that made by the Department.

The filing of a request for hearing by a tenant will not stay the effect of the determination of the Department. However, any increase collected by the landlord pursuant to the Department's determination but not approved by the Hearing Officer shall be refunded by the landlord to any tenants from whom such rent increases were collected, or offset by the landlord against the next legally due rental payment, in accordance with LAMC Section 151.07 A.3.(b).

Each request for hearing shall be accompanied by a \$35.00 filing fee to be submitted in the form of a check or money order payable to "The City of Los Angeles." In accordance with LAMC Section 151.14 C., this fee may be waived for any individual who files a declaration stating that he or she annually earns no more than 50% of the median income for the Los Angeles area as calculated annually by the U.S. Department of Housing and Urban Development. The notice of hearing rights shall contain the annual income for various family sizes which correspond to 50% of the median income.

## **227.02 Hearing Procedures**

The Department shall schedule a hearing no later than 30 days after the request for hearing is received and shall provide the landlord and affected tenant households a minimum of ten days notice of the time and place of the hearing. The hearing will be conducted by a Hearing Officer designated by the Department, and both landlords and tenants may submit documents, testimony under oath, written declarations or other evidence.

If new documentation or information is presented at the hearing, the Hearing Officer may continue the hearing for up to 30 days to allow staff sufficient time to examine the evidence, provided that any continuation must be within the limits imposed for final action on the appeal unless a waiver of time limits is given by the appellant. The Hearing Officer should give such evidence consideration in accordance with the circumstance afforded for its verification and/or examination and comments by affected parties.

## **227.03 Hearing Officer Decision**

### **227.03.1 Written Determination**

The Hearing Officer shall make a written determination upholding, reversing, or modifying the determination of the Department within 45 days of the termination of the time for filing a request for a hearing. The Department subsequently shall mail copies of the Hearing Officer's findings and determination to the applicant and to all affected tenant households.

If the Hearing Officer's decision is to reverse or modify the original Department determination, the Hearing Officer shall specifically set forth the reasons for such reversal or modification. In no case shall the total costs determined to be recoverable exceed the total amount listed in the landlord's application.

### **227.03.2 Applicant Bad Faith**

If a Hearing Officer determines, based upon clear and convincing evidence, that an applicant has willfully or knowingly with the intent to deceive made or caused to be made a false statement or representation, or knowingly failed to disclose a material fact, in connection with any application under consideration by the Hearing Officer, then the Hearing Officer may deny the application.

227.03.3 Appeal of Hearing Officer Decision

With one exception, there is no administrative appeal of a Hearing Officer's decision regarding an application for rent increase due to Primary Renovation Work. The one exception pertains to cases where a Hearing Officer has denied an application due to bad faith on the part of the applicant, in accordance with Section 227.03.2 of these regulations and LAMC Section 151.14 D., in which case the applicant may appeal the determination to the RAC.

**228.00 IMPLEMENTATION OF FINAL DECISION**

Reversals or modifications of Department determinations by a Hearing Officer shall be implemented in the following manner:

- (1) If the rent increase, or a portion thereof, was disallowed by the Department and is now authorized, the landlord may increase the rent after compliance with statutory notice requirements.
- (2) If a rent increase had been authorized by the Department and this increase is disallowed by the Hearing Officer, the landlord shall cease collecting the rent increase and refund to tenants any previously collected increases, or credit this amount against the tenants' next rent payment.
- (3) If a rent increase has been authorized by the Department and the increase is reduced by the Hearing Officer, the landlord shall cease collecting any sums in excess of the amount allowed by the Hearing Officer and refund all excess rent increases collected, if any, or credit the amount against the tenant's next rent payment.