



MEMORANDUM

CSFRA, Community Development Department

DATE: June 3, 2019

TO: Rental Housing Committee

FROM: Karen M. Tiedemann, Special Counsel to the Rental Housing Committee
Justin D. Bigelow, Special Counsel to the Rental Housing Committee
Anky van Deursen, Program Manager

SUBJECT: Draft Regulations Chapter 9: New and Additional Occupants

RECOMMENDATION

Review the draft regulations regarding new and additional occupants under the CSFRA and State law and either: (i) provide further direction to staff; or (ii) adopt a resolution approving regulations.

BACKGROUND

In response to calls to the Mountain View Rental Housing Helpline, the Rental Housing Committee (“RHC”) held a Study Session and discussed a draft frequently asked questions (“FAQ”) document regarding potential regulations addressing new and additional occupants on March 4 and May 13, 2019. The RHC directed staff to draft limited regulations providing guidance to implement:

- Housing eligible family members under CSFRA Section 1705(a)(2)(B);
- Replacing roommates under CSFRA Section 1705(a)(2)(A); and
- Rents when housing additional persons and other impacts.

ANALYSIS

Regulations addressing the three topics are attached as draft Chapter 9 and briefly discussed below. Thereafter, this report discusses the draft regulations in the context of the previously discussed FAQ document.

Summary of Regulations

First, Section C of the draft regulations clarifies the process for housing an eligible family member (eligible family members are listed in CSFRA Section 1705(a)(2)(B)). A tenant who desires to house eligible family must provide notice to the landlord, including the person's name and the qualifying relationship (e.g., spouse, child, sibling, etc.). Then the landlord may request documentation verifying the eligible relationship. The regulations do not create a petition process to determine eligible family relationships but require reasonable documentation be provided to the landlord upon request.

Second, Section D of the draft regulations clarifies the process for replacing a departing roommate. A tenant who desires to replace a roommate must provide notice to the landlord, including the new roommate's name and the proposed terms of payment (e.g., to the tenant or to the landlord and how much rent will be paid). The regulations clarify that the landlord may screen the new roommate in accordance with typical tenant screening procedures. The landlord may charge a screening fee under State law, but the regulations require landlords to use the same tenant screening standards for the new roommate as would be used for any other tenant. Again, the draft regulations do not create a petition process.

Third, Sections C and E provide general guidance applicable to new and additional occupants. Specifically, Section E clarifies that rental agreement terms govern whether a tenant may sublease or house additional occupants other than replacement roommates and eligible family members.

Section C addresses rents. Section C.4 clarifies that when no original tenants reside in a unit, the landlord may renegotiate rent with the subtenants and may raise rent so long as notice is provided. Section C.3 limits the amount of rent that a tenant may charge to a subtenant to the amount of rent owed to the landlord. Section C.1 provides that landlords and subtenants have the right and obligation to disclose rental charges to one another to help ensure landlords have accurate information about their units and that subtenants are not price-gouged. Finally, Section C.2 emphasizes that parties should not seek and may not take action based on a person's immigration or citizenship status, which corresponds to anecdotal reports from the Helpline of price gouging of immigrants and other vulnerable populations.

Notably, the regulations introduce two defined terms: "Additional Occupant" and "Housing Provider." Additional Occupants addresses the effective date of the CSFRA and covers subtenants, eligible family members, and replacement roommates. Housing

Providers covers landlords and excludes master tenants, such as tenants who house a replacement roommate or eligible family member.

Questions Answered and Unanswered

The draft FAQ document discussed by the RHC on May 13, 2019 identified various questions for which answers do not exist in the CSFRA or State law. Many of these questions are answered by the draft Regulations Chapter 9, as shown in Table 1, below.

Table 1: Issues Under CSFRA and State Law Clarified by Draft Regulations

<u>Issue</u>	<u>Draft Regulations Clarify?</u>
Housing Eligible Family Members	
• Verification of eligible family member status	• Yes
• Notification to landlord	• Yes
Replacing a Roommate	
• Application process and screening fees	• Yes
Vacancy Decontrol	
• Reset rents under Costa-Hawkins	• Yes

However, not all of the questions left unanswered in the FAQ document are addressed by the draft regulations. The draft regulations address rents but do not clarify the rights of subtenants or additional occupants to just cause for eviction protections. Likewise, the draft regulations provide no guidance regarding additional occupants if a rental agreement does not address the topic.

**Table 2: “New and Additional Occupant” Regulations
(Rent-Stabilized Jurisdictions)**

Jurisdiction	Clarified in Regulations or Ordinance?	Clarification of Additional Tenant	Clarification of Original Tenant/Vacancy Decontrol/Rent Increase	Clarification of Just Cause/Right to Sublease
Alameda	✓	✓		✓
Berkeley	✓	✓	✓	✓
Beverly Hills	✓	✓	✓	✓
East Palo Alto	✓	✓	✓	✓
Los Angeles	✓	✓	✓	✓
Oakland	✓		✓	✓
Richmond	✓	✓	✓	✓
San Francisco	✓	✓	✓	✓
San Jose	✓	✓	✓	✓
Santa Monica	✓		✓	✓
West Hollywood	✓	✓	✓	✓

As noted in Table 2, many, but not all, rent-stabilized jurisdictions address these topics in some fashion. The RHC could address these issues in additional regulations, if desired.

FISCAL IMPACT – None.

PUBLIC NOTICING – Agenda posting.

KMT-JDB-AVD/DJ/6/RHC

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- Attachments: 1. Draft Resolution Adopting Regulations Chapter 9
A. Draft Regulations Chapter 9: New and Additional Occupants
2. Draft FAQ Document (May 13, 2019)