



ANTONIO R. VILLARAIGOSA, MAYOR
MERCEDES MÁRQUEZ, GENERAL MANAGER

RENT *Stabilization*

3550 Wilshire Blvd., 15th Floor
Los Angeles, CA 90010

3415 S. Sepulveda Blvd., #150
Los Angeles, CA 90034

6640 Van Nuys Blvd.
Van Nuys, CA 91405

8475 South Vermont Avenue, 2nd Floor
Los Angeles, CA 90044-3424

690 Knox Street, #125
Los Angeles, CA 90502-1305

P.O. Box 17280, Los Angeles, CA 90017-0280
866-557- RENT $\hat{\Delta}$ 866-557-7368
www.lacity.org/lahd

CAPITAL IMPROVEMENT REGULATIONS

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211.01 DEFINITIONS:

- a. A capital improvement as defined in the Ordinance is: "The addition or replacement of the following improvements to a rental unit or common areas of the housing complex containing the rental units, provided such new improvement has a useful life of five (5) years or more: roofing, carpeting, draperies, stuccoing the outside of a building, air conditioning, security gates, swimming pool, sauna or hot tub, fencing, garbage disposal, washing machine, or clothes dryer, dishwasher, children's play equipment permanently installed on the premises, the complete exterior painting of the building, and other similar improvements as determined by the Rent Adjustment Commission. Provided, however, that the complete exterior painting of a building shall only be considered as an eligible capital improvement once every ten (10) years." (LAMC 151.02)
- b. The word "City" used in these regulations shall refer to the City of Los Angeles.
- c. The word "Department" used in these regulations shall refer to that City Department designated in section 151.02 of the Los Angeles Municipal Code.
- d. The words "hearing officers" used in these regulations shall refer to those hearing officers designated in section 151.07 of the Los Angeles Municipal Code.
- e. The word "Commission" used in these regulations shall refer to the Rent Adjustment Commission designated in sections 151.02, 151.07, and 151.08 of the Los Angeles Municipal Code.
- f. The Maximum Adjusted Rent as defined in the Ordinance is: "The maximum rent plus any rent increases subsequently made or granted pursuant to Sections 151.06, 151.07, or 151.08 of this Chapter, and less any rent reductions required by regulations promulgated by the Commission pursuant to Section 151.08 of this chapter or imposed pursuant to Section 151.06.5 of this Chapter; provided, however, as used in Section 151.06 of this Chapter, this term shall not include (1) any increase for capital improvement work or rehabilitation work, if such rent increase was approved by the Department on or after January 1, 1981 and such work was begun prior to June 1, 1982, or (2) any increase for capital improvement work where the application for a rent increase is filed with the Department on or after October 1, 1989, or, (3) any increase for smoke detectors installed on or after January 1, 1981." (LAMC 151.02)

- g. The Maximum Rent as defined in the Ordinance is: "The highest legal monthly rate of rent which was in effect for the rental unit during any portion of the month of April 1979. If a rental unit was not rented during said month, then it shall be the highest legal monthly rate of rent in effect between October 1, 1978 and March 31, 1979. If a rental unit was not rented during this period, then it shall be the rent legally in effect at the time the rental unit was or is first rented after the effective date of this Chapter." (LAMC 151.02)
- h. A Rent Increase as defined in the Ordinance is: "An increase in rent or any reduction in housing services where there is not a corresponding reduction in the amount of rent received. The Rent Adjustment Commission shall promulgate regulations as to what constitutes such "corresponding reduction". (LAMC 151.02)
- i. The phrase "temporary rent increase" as used in these regulations is an increase permitted by the Ordinance which must be terminated when certain conditions are met; for example, smoke detectors when the full cost of purchase and installation has been recovered, or capital improvement increases granted which were applied for after September 30, 1989.
- j. The phrase "permanent rent increase" as used in these regulations is an increase permitted by the Ordinance which continues indefinitely.
- k. The phrase "work begun" as used in these regulations refers to that date on which the first physical work is done in a unit or common area for which a rent increase application is made. A landlord may be requested to furnish proof of the date work was begun on each improvement listed in a landlord's capital improvement application.
- l. The words "approved by the Department" and any other equivalent phrase used in these regulations shall refer to notification by the Department by letter, form or other document that a landlord's application for a capital improvement rent increase has been approved. The effective date of approval shall be that date typed, stamped, or written on the approval notice. If an approval notice carries no date, the effective date shall be the date postmarked on the envelope in which the approval notice was mailed. In the absence of a date on either the notice and/or the envelope in which the notice was mailed, the approval date shall be that date indicated in the records of the Department showing that an application was approved. In the event that a Departmental approval is appealed and affirmed by a hearing officer the date of initial approval shall govern. In the event that an application is denied by the Department and approved by a hearing officer after a hearing, the date of approval shall be the date of the hearing officer's determination.

- m. The phrase "completion of work" as used in LAMC 151.07 A2 and in these regulations, or other equivalent words in the Ordinance or these regulations, shall refer to the last date on which any physical work took place. For improvements which require a permit from the Building & Safety Department, the date of completion certified by the Building & Safety inspector shall serve as an acceptable date for determining the completion of work. The burden of proof shall be on the landlord to establish the date of the completion of work. (LAMC 151.07 A2a)
 - n. The term "Documented time cards" shall refer to the records of an employee which list the date worked, hours worked, the job performed, and the rate of pay. All documented time cards must be signed by the employee.
 - o. Seismic work is "Work required for seismic repair, reinforcement, and rehabilitation which is shown on the plans approved by the Department of Building and Safety, as described in Section 91.8805 of this Code, and limited to the following:
 - 1. tension wall anchors;
 - 2. diaphragm strengthening or connection;
 - 3. bracing of existing walls;
 - 4. strengthening existing shear walls;
 - 5. adding new lateral load resisting elements;
 - 6. structural elements that provide a continuous stress path;
 - 7. new footings;
 - 8. removal, stabilization, or bracing of parapets or appendages;
 - 9. structural repair work;
 - 10. other work necessary to restore the rental unit to a completed and habitable condition."
 - p. All other words and phrases not defined herein shall be construed as defined in Sections 12.03 and 151.00 et seq. of the Los Angeles Municipal Code.
- 211.02 In addition to the items listed in the Ordinance, similar items will be allowable capital improvements which conform to the following principles:
- a. The improvement must primarily benefit the tenant rather than the landlord. For example: the remodeling of the lobby would be eligible as a capital improvement while the construction of a sign advertising the rental complex would not be eligible.
 - b. The complete painting of the exterior of the building or the complete painting of the common interior areas are eligible as a capital improvement, while the painting of the rental units is not eligible as a capital improvement. However,

the complete painting of the exterior of the building is eligible as a capital improvement only once every ten years. (LAMC 151.02)

- c. The improvement must have a life expectancy of five years or more.
- d. Equipment, the cost of which is eligible as a capital improvement, must be permanently fixed in place or relatively immobile. For example, sinks, bathtubs, stoves, refrigerators, and kitchen cabinets are examples of items eligible as capital improvements, but hotplates, toasters, throw rugs and hibachis would not be eligible.
- e. Normal routine maintenance and repair of the rental unit and the building is not a capital improvement. For example, the patching of a window screen is not a capital improvement while the replacement of old screens with new screens would be a capital improvement.
- f. Salaries to cover additional services (for example, the wages of a doorman, parking attendant, life guard or gardener) are not eligible as capital improvements although, voluntary agreements for payment for such additional services may be entered into between the landlord and tenant pursuant to LAMC 151.18.
- g. In establishing the cost of a capital improvement, the landlord must present evidence of the actual purchase price of the improvement. The landlord may not transfer the landlord's personal appliances, furniture, etc., or those inherited or borrowed from friends and arbitrarily establish a value on which the rent increase is requested.
- h. The capital cost of converting from master to individual utility meters shall be considered a capital improvement only when accompanied by a rental reduction equal to the utility cost formerly included as part of rent pursuant to RAC regulations 420.00ff.
- i. Capital improvements otherwise eligible for a rent increase are not eligible if the landlord charges a "user fee" to the tenants. Thus, installation of new or replacement of existing coin-operated washers and dryers are not capital improvements, and the cost for such items should not be included in the application for a capital improvement rent increase.
- j. The cost of purchase and installation of a solar energy or other energy saving system (such as insulation, etc.) shall be considered a capital

improvement, provided that the improvement meets all other eligibility requirements.

k. An improvement which is financed under a lease-purchase agreement shall be considered eligible for a rent increase provided that all of the following conditions are met:

1. The lease-purchase agreement is for a term of at least five years;
2. The lease permits the landlord to apply the lease payments toward the eventual purchase price of the improvement;
3. The lease-purchase agreement sets forth the portion of the cost which represents the equivalent purchase price of the improvement, absent all financing or other costs (e.g. insurance fees);
4. No interest or other expenses involved in the lease other than the purchase and installation costs shall be included for the purpose of determining the rent increase;
5. The rent increases shall not exceed 1/60th of the equivalent purchase price divided equally among all of the units benefitting from the capital improvement;
6. Where a landlord is eligible for compensation for any portion of the cost of the improvement, such as cash rebates and federal or state tax credits, this compensation must be deducted from the equivalent purchase price of the improvement before amortizing the cost among the units;
7. The improvement shall meet all of the other requirements set forth in the Ordinance and the Commission's Capital Improvement Regulations in order to be considered a capital improvement;
8. If the improvement is removed before termination of the lease-purchase agreement, the tenant shall no longer be required to pay the approved rent increase. (effective 5-20-83)

- l. The replacement of a major component of a system or appliance shall be considered eligible as a capital improvement provided that the component meets all other eligibility requirements. (effective 11/14/83)
 - m. Seismic work completed after March 21, 1990 or for which an application for rent increase was received after that date is not eligible as a capital improvement. (LAMC 151.07a)
- 211.03 Only improvements completed on or after April 1, 1978, are eligible for a capital improvement rent increase. No tentative approval can be given prior to completion of an improvement.
- 211.04 The eligibility of any particular improvement included in the landlord's application for a rent increase based on capital improvements will be determined by the Department. (LAMC 151.07 A1)
- 211.05 If a capital improvement has already been the basis of a rent increase under the City's Rent Moratorium Ordinance or if it has been subject to an automatic increase (e.g. smoke detector), or if it is for the same type of capital improvement for which an increase has been approved for the same unit(s) within the last five years and that increase has not been eliminated, it may not be the basis for an additional rent increase under the Rent Stabilization provisions. (LAMC 151.07 A1a)
- 211.06 Labor costs must be calculated on the basis of actual costs of contractors or hired laborers. Cancelled checks, receipts, social security payments, and W-2 forms are among the types of evidence that will be required to substantiate labor costs.
- 211.07 a. If labor for work which requires a permit under the Los Angeles Municipal 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 a state licensed contractor for the type of work performed. Proof of state licensing must be included with the application. In addition, the landlord must submit a minimum of two estimates or bids by non-related licensed contractors specifying both material and labor costs. Labor costs on these bids must be identified by the type of labor performed, the number of hours to perform the work, and the rate paid for the work.
- Documented time cards must be submitted for all work performed by the landlord, family member, agent, or employee.

- b. If labor for work which does not require a permit under the Los Angeles Municipal Code, nor the services of a state licensed contractor, is provided by the landlord, the landlord's family member, or the landlord's agent or employee, such labor costs are allowable if documented time cards are submitted for all work performed by the landlord, family member, agent or employee. Documented time cards must specify the number of hours spent on each task and identify the specific building on which the work was performed. In addition, for work costing over \$200.00, the landlord must submit a minimum of two estimates or bids by non-related contractors specifying both material and labor costs.

211.08 Interest on money borrowed or otherwise furnished to pay for capital improvement work is not eligible as a cost to be included in calculating the rent increase.

211.09 Where a landlord is eligible for compensation for any portion of the money spent on capital improvements, including, without limitation, insurance, court-awarded damages, federal or state subsidies, cash rebates, and federal or state tax credits (other than tax deductions and depreciation), this compensation must be deducted from the cost of the capital improvements before amortizing the costs among the units. (LAMC 151.02 B)

211.10 In the event that any of the compensation described above is received by the landlord after a capital improvement rent increase has been approved, and where such compensation has not been deducted at the time of the approval, the landlord must prorate and refund such compensation among the tenants for that portion of the rent increase covered by the compensation. (LAMC 151.02 B)

211.11 With respect to the cost to be passed through to tenants as a result of the purchase and installation of a capital improvement for which tax credits and/or rebates may be received, as provided in RAC regulation 211.09:

- a) The full tax credit and/or public utility rebates for which a landlord may be eligible will be deducted at the time of approval of the application unless the landlord can provide documentation that he/she is ineligible to receive such benefits.
- b) Where deductions for tax credits and/or public utility rebates have been made at the time of the initial application and where at a later

date a landlord can provide documentation that he/she is not eligible to receive such benefits, the landlord may reapply to the Department for an adjustment in the capital improvement rent increase.

- c) Where a landlord is eligible for a tax credit and/or public utility rebate and elects not to apply for or accept such credits or rebates, or elects to claim some alternative form of statutory benefit such as accelerated depreciation, the landlord may not later apply for an increase in the rent based on inability to utilize the credits or rebates.
- d) Where tax credits and/or rebates are deducted from the cost of the improvements, the Department shall notify both landlord and tenants that the landlord is permitted to submit a new application at the time the landlord can provide documentation that he/she is ineligible to receive such tax credits and/or rebates.

211.12 The Ordinance does not require the landlord to obtain approval by the tenants before making a capital improvement.

212.00 **COMPUTING THE CAPITAL IMPROVEMENT RENT INCREASE FOR EACH INDIVIDUAL RENTAL UNIT**

212.01 The landlord is entitled to a monthly rent increase of 1/60th of the average per unit allowable capital improvement cost. For applications filed after September 30, 1989 the allowable capital improvement cost is 50% of the costs approved by the Department. Thus, the landlord divides the total allowable capital improvement cost by 60 and then divides this monthly increase equally among all units benefitting from the capital improvement. (LAMC 151.07 A). In the case of capital improvements where the capital improvement has been funded or subsidized through a federal, state or city housing program, the amortization period may be extended by such regulations as the Commission may from time to time promulgate. (LAMC 151.08 D)

212.02 If an improvement benefits one or more but not all of the units, only those units benefitting can be given the rent increase. However, improvements in common areas or structural improvements which benefit all units in a building shall be apportioned equally to all units. For example, if new carpeting was installed in two units, only these two units can be given the rent increase, while the rent increase for carpeting in a hallway must be apportioned to all units in the building equally.

- 212.03 Units which are exempt from rent stabilization (because they are luxury units, they are occupied by the owner or by members of the owner's immediate family, etc.), must be included in determining the proportionate cost to be distributed to the units. For example, if 8 units in a 10 unit building are registered and subject to the Ordinance, any capital improvement rent increase for the roof would have to be divided by 10, not 8, in determining the average rent increase. (LAMC 151.07 A)
- 212.04 If a rental unit has become decontrolled and re-rented at an open-market rate after the completion of the capital improvement listed in the landlord's application, no rent increase will be allowed on that unit. (LAMC 151.05 C, 151.06 C, 151.09 A)
- 212.05 Where a lease exists which establishes the rent for a period of time, no rent increase based on a capital improvement can be given to such a tenant until the lease expires unless the lease provides otherwise. However, such a unit must be included in calculating the proportionate cost as in the case of other exempt units. That portion of a capital improvement cost attributable to units where the rent cannot be raised may not be allocated to other tenants. (LAMC 151.02 A)
- 212.06 In completing the application, the landlord must indicate the date each improvement was begun and the date each improvement was completed. The landlord must also indicate if the rent increase will be temporary or permanent. The increase will be temporary if the:
- a. application was approved by the Department between February 13, 1981 and May 31, 1982, the increase will terminate after 60 months (five years). (151.07 A1a)
 - b. work involves a smoke detector installed after January 1, 1981, the increase will terminate once the landlord has recovered the full cost of the purchase and installation of the smoke detector pursuant to RAC regulation 340.00ff (LAMC 151.06.1)
 - c. application for a rent increase was filed after September 30, 1989, the increase will terminate after 72 months (six years) unless extended in accordance with RAC 212.08. (LAMC 151.07 A1a)
- 212.07 The landlord must also indicate for each increase in the application whether or not that increase will become part of the maximum adjusted rent which is the basis for the annual automatic increase, according to the following standards:

- a. An increase for work begun on or after June 1, 1982 and applied for by September 30, 1989 will become a part of the maximum adjusted rent.
- b. If work began before June 1, 1982, only those improvements approved by the Department on or before January 1, 1981 became part of the maximum adjusted rent.
- c. For capital improvement rent increases applied for on or after October 1, 1989 the increase granted will not be part of the maximum adjusted rent.
- d. The rent increase permitted for smoke detectors does not become part of the maximum adjusted rent if the detector was installed on or after January 1, 1981.

212.08 For capital improvement rent increase applications filed after September 30, 1989 the cumulative rent increase (s) for a unit cannot exceed \$55 unless agreed upon in writing by the landlord and tenant. If the approved rent increase(s) exceeds the \$55 maximum, then the maximum length of time for charging this increase (72 months) may be extended until the cost of the capital improvement is recovered. Where there is more than one capital improvement whose combined effect exceeds \$55, then the recovery of the excess amounts shall be made as follows:

- a. Upon termination of a capital improvement surcharge which lowers the monthly surcharge below the \$55 limit, the surcharge payment level shall continue at an amount not to exceed \$55 until the unpaid surcharge excess amount has been fully recovered.
- b. Upon the full recovery of the temporary monthly surcharge excess, the excess payment amount shall terminate.

213.00 **PROCEDURES TO BE FOLLOWED BY LANDLORDS IN APPLYING TO THE DEPARTMENT FOR A CAPITAL IMPROVEMENT RENT INCREASE**

213.01 Before a landlord may submit an application for a capital improvement rent increase, all work which will be the basis of the application must have been completed. (LAMC 151.07 A1a)

213.02 An application must be made to the Department within 12 months of the completion of the work. (LAMC 151.07 A2a)

- 213.03 The landlord may obtain written permission by completing an application on a form approved by the Department and mailing it to the City at the address listed on the application. (LAMC 151.07 A2a)
- 213.04 An application for a capital improvement rent adjustment shall be accompanied by a \$25.00 filing fee. The landlord shall not recover this filing fee from any tenant. The requirement to pay this fee shall not apply to the first application for the housing complex made by a landlord within a calendar year. (LAMC 151.07 A2a)
- 213.05 In no event will authorization for a rent increase be given until the landlord has registered the units as required by law. The landlord must attach to the application a photocopy of the landlord's Registration Certificate issued by the City or a photocopy of the cancelled check or a receipt from the City showing that the registration fee required by LAMC 151.05 A has been paid.
- 213.06 Photocopies of all pertinent information possessed by the landlord shall be attached to the landlord's application. In addition, the landlord shall attach photocopies of all invoices, bids, building permits, final inspection record cards, financial documents, lease-purchased agreements, cancelled checks, and any other relevant papers. These might include, but are not limited to, for example, estimates of costs by various contractors contacted by the landlord, bids by competing contractors, and cost comparisons submitted by various vendors on equipment and supplies. Bids, estimates, and invoices shall be broken down to show each item of work to be done. Composite bids, etc. which fail to detail the specific work items requested in the application, shall not be accepted.
- 213.07 The landlord may not collect any rent increase based on a capital improvement until such time as the Department approves the landlord's application. (LAMC 151.07)
- 213.08 For improvements which require a permit from the Department of Building and Safety, the landlord must submit a photocopy of the necessary permit(s) and final inspection record cards, except that for re-roofing the landlord must submit a photocopy of the necessary permit, but may substitute a Certificate of Completion from the licensed Roofing contractor for the final inspection record card.
- 214.00 **PROCEDURES THAT WILL BE USED BY THE DEPARTMENT IN PROCESSING CAPITAL IMPROVEMENT APPLICATIONS**
- 214.01 The Departmental staff officer handling the application will review the documents submitted by the landlord to determine if the landlord's request for

a rent increase meets all the requirements of the Ordinance and the Commission's regulations.

- 214.02 In the event that a landlord's application lacks the required documents, or there are major errors in the mathematical computations showing the individual rent increases, or there is clear evidence that the increase requested by the landlord is not eligible under the Ordinance, or an improvement was completed more than 12 months before the application is submitted, the application will be returned to the landlord with an explanation as to why the application cannot be accepted. (LAMC 151.14 A)
- 214.03 If a landlord's application is returned by the Department because of an error or missing documents, the landlord may re-submit the application after correcting the error or obtaining the necessary documents. (LAMC 151.14 A) For purpose of meeting the time limit stated in RAC regulation 213.02, the Department will use the date on which the initial application was submitted, provided that a revised application is re-submitted within 60 days.
- 214.04 Unless suspended as specified below, a decision will be made allowing or disallowing the landlord's request within 45 days from date of receipt of the landlord's application by the Department. (LAMC 151.07 A2c)
- 214.05 Where the Department initially accepts the application but later finds mathematical errors or incomplete documentation, the application may be suspended for a 30-day period (or longer with the landlord's consent) commencing upon the date of mailing the notification to the landlord of the documentation and/or the information needed.
- 214.06 The suspended time is not part of the Department's 45-day review period. If at the end of the suspension period the requested information has not been supplied, a determination shall be made on the basis of the documentation and information already supplied.
- 214.07 The Department will notify each tenant listed in the landlord's application that the landlord has requested approval to add a rent increase based on capital improvements. This notification will include a photocopy of the face sheet of the landlord's application, the tenant's present rent, the amount of the requested increase, and the proposed total rent for the unit. (LAMC 151.07 A2b)
- 214.08 The tenants will be notified by the Department that they have 10 days from the date of mailing of such notification to object to the rent increase requested by the landlord. (LAMC 151.07 A2b) These objections cannot be made on

frivolous grounds or on the basis that the tenants do not want the capital improvement. Examples of legitimate objections are: The landlord is attempting to add a rent increase on a unit where the rent cannot be legally raised (see RAC regulations 212.04 and 212.05 above) or the tenant has grounds to believe that the capital improvement claimed by the landlord was not actually completed, (LAMC 151.07 A1a) or that the 12-month time period from completion of the capital improvement has expired and the landlord is no longer eligible to apply for an increase in the rent. (LAMC 151.07 A2c)

- 214.09 The information provided by the landlord, statements by tenants, and information received from any of the above sources will be used by the Department in determining whether or not to approve the landlord's application. (LAMC 151.07 A2a)
- 214.10 The documents submitted by the landlord will be examined for accuracy and conformity with industry norms for the type of work involved or for the prices of equipment purchased by the landlord. If such prices are significantly higher than market prices and industry standards, the staff member has the authority to disapprove the requested rent increase.
- 214.11 Written tenant responses which have a bearing on the Department's decision will become part of the public record. All other responses will be sealed and will not be available to other parties.
- 214.12 The Departmental staff member handling the application may contact the landlord, the tenants, or any of the contractors or vendors shown on the documents submitted by the landlord.
- 214.13 The decision will be to approve, disapprove or modify the landlord's request, consistent with the following:
- a. The Department CANNOT approve a rent increase GREATER than the amount the landlord requested;
 - b. The Department CAN approve a rent increase that is LOWER than the amount the landlord requested due to conditions such as minor mathematical errors in the application, only some of the improvements being eligible as capital improvements, a difference in apportioning the cost among the affected apartments;
 - c. A rent increase on a unit may be modified or denied if the Department determines that the rent on that unit has been

illegally increased to reflect the cost of the capital improvement for which the rent increase application is submitted. (LAMC 151.07 A1a)

214.14 The landlord and the tenants will be notified by mail immediately after the determination is made. (LAMC 151.07 A2c)

214.15 Upon approval of the Department, the capital improvement rent increase can go into effect after compliance with statutory notice requirements regardless of the filing of a request for a hearing. (LAMC 151.07 A3b)

215.00 **NOTICE AND RECORD KEEPING REQUIREMENTS**

215.01 Upon receipt of the Department's approval for a capital improvement rent increase, the landlord must give each tenant a notice stating:

- a. the amount of the monthly rent increase;
- b. the effective date of the commencement of the rent increase;
- c. the duration of the rent increase, and in the case of temporary rent increases the date when the rent increase must terminate (see RAC regulations 212.06, 212.07, 212.08);
- d. in the case of smoke detector increases, the full cost of the purchase and installation of the detector, and the date when the increase will terminate;
- e. the amount of higher rent now demanded that is part of the maximum adjusted rent (and thus is subject to the annual automatic increase).
- f. the amount of higher rent now demanded that is not part of the maximum adjusted rent and a statement that this amount is not to be subject to the annual automatic increase.

215.02 A copy of this notice must be retained by the landlord as a permanent part of the rental record of the unit. (LAMC 151.05 C)

215.03 The Department has available for distribution an Example Sheet approved by the Commission indicating the method for calculating annual automatic increases when a landlord's legal rent includes rent increases which are not part of the maximum adjustment rent. The Example Sheet is available without cost from the Department.

216.00 **PROCEDURES TO BE FOLLOWED BY LANDLORDS OR TENANTS WHO OBJECT TO THE DEPARTMENTAL DETERMINATION OF A CAPITAL IMPROVEMENT APPLICATION**

216.01 Either landlord or tenant, or possibly both, may object to the decision of the Department by filing a "Request For Hearing" form. They have a right to request a public hearing by a hearing officer if they believe that a) the Department committed an error by failing to apply the regulations properly, b) the Department's determination was an abuse of discretion because it was arbitrary or capricious, or c) there is new evidence to be presented to the hearing officer which would warrant a decision different from that made by the Department. (LAMC 151.07 A3b)

216.02 If a complete "Request for Hearing" form along with the filing fee or the "Fee Exemption" form are received by the Department within 15 days after the date of mailing of the original determination, a hearing will be set by the Department. (LAMC 151.07 A3a)

216.03 The "Request for Hearing" form must state the reason or reasons why the hearing is being requested.

216.04 There is a \$35 fee for filing a "Request For Hearing" form. The completed application form and a check or money order payable to "The City of Los Angeles" may be mailed to the address listed on the application. Cash should not be mailed. Low income tenants and landlords can apply for an exemption from the \$35 filing fee by filing a completed "Fee Exemption" form which can be obtained from the Department. (LAMC 151.14C)

217.00 **PROCEDURES FOR THE HEARING**

217.01 The hearing will be set for a date no later than 30 days after the application for the hearing is received. (LAMC 151.07 A3c)

217.02 At least ten days before the hearing the landlord and the tenants will be notified of the time and place of the hearing. (LAMC 151.07 A3c)

217.03 The hearing will be conducted by a hearing officer designated by the Department. Both landlords and tenants may submit documents, testimony, written declarations or other evidence, all of which shall be submitted under oath. If at the hearing the landlord presents documents or information, the hearing may be continued, up to 30 days to provide staff sufficient time to examine the documents and/or information or for the documents to be provided. 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 material or information consideration in accordance with the circumstance afforded for its verification and/or examination and comments by affected parties. (LAMC 151.07 A3d)

217.04 The hearing officer shall, within 45 days after termination of the time for requesting a hearing, make a determination upholding, reversing, or modifying the determination of the Department. The landlord and tenants shall be notified by mail of the findings and determination of the hearing officer. (LAMC 151.07 A3e, f)

217.05 If the hearing officer's determination is to reverse or modify the original Department determination, the hearing officer shall specifically set forth the reasons for such reversal or modification. For example, if evidence is presented that the invoices submitted by the landlord exceed normal industry costs, the hearing officer may disallow or reduce costs which the landlord has claimed, or conversely, the hearing officer may reinstate costs the Department had originally disallowed in the initial determination. The maximum rent increase the hearing officer can approve cannot exceed the original amount requested by the landlord. (LAMC 151.07 A3e)

217.06 A rent increase on a unit may be revised or denied if the hearing officer determines that the rent on that unit has been illegally increased to reflect the cost of the capital improvement for which the rent increase application is submitted.

218.00 **PROCEDURES AFTER APPROVAL OR DISAPPROVAL OF A CAPITAL IMPROVEMENT APPLICATION HEARING**

218.01 Upon approval by the hearing officer, the rent increase can go into effect after compliance with statutory notice requirements.

218.02 If the hearing officer reverses or modifies the original determination, the following conditions prevail:

- a. If the rent increase was disallowed by the Department and is now authorized, the rent increase may go into effect after compliance with statutory notice requirements.
- b. 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 must refund to tenants any previously collected increases, or credit this amount against the tenants' next rent payment.

- c. 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 must refund all excess rent increases collected, if any, or credit the amount against the tenant's next rent payment. (LAMC 151.07 A3b)
- d. If the rent is increased or decreased as stated in a, b, or c above then the landlord must reissue the notice required in 215.01, in conjunction with required statutory notices for rent changes.

218.03 There is no administrative appeal from the decision of a hearing officer in the case of a capital improvement rent increase application, except as provided by LAMC 151.14D.

219.00 **COMPLETE FAILURE OF AN APPROVED CAPITAL IMPROVEMENT**

219.01 Any capital improvement rent increase or surcharge approved by the Department shall terminate if the Department determines that there has been a complete failure of the capital improvement.

219.02 If a tenant in a unit subject to a capital improvement rent increase believes the capital improvement has completely failed within five (5) years of the approval of the rent increase, then that tenant may apply for a rent reduction on a form provided by the Department.

219.03 Prior to filing the application for a rent reduction, the tenant(s) shall attempt to bring the failure of the capital improvement to the attention of the landlord and allow the landlord a reasonable opportunity to correct the alleged failure. A written statement by the tenant(s) describing the tenant's attempts to inform the landlord of the failure of the capital improvement shall be required as part of the application submitted by the tenant(s).

219.04 The burden of proving a complete failure of the capital improvement is on the tenant or party claiming a failure of the capital improvement. The Department need not prove the truth of any failure, but shall weigh the evidence provided by all interested parties to determine if there is sufficient evidence to support the claim of failure. The types of evidence which may be considered include, but is not limited to, the following:

- a. Signed statements by affected tenants describing the failure.

- b. Written opinions from experts supporting the claim of failure.
- c. Reports of government agencies responsible for inspecting and/or approving the particular capital improvement being claimed as failed.
- d. Original capital improvement approvals from the Housing Preservation and Production Department and the landlords' rent increase notice.

219.05 After receiving the failure claim of the tenant(s), and any submitted evidence, the Department shall send a copy of the claim to the landlord and any other tenants who also received the Capital Improvement increase approval. The Department shall accept any written replies furnished by a tenant for at least 10 calendar days.

219.06 The Department shall decide the claim subsequent to the expiration of the 10 day calendar reply period.

219.07 If the Department finds either no failure or insufficient evidence to support a claimed failure, then claim for rent reduction shall be denied.

219.08 The Department may find that there is a complete failure if:

- a. The entire capital improvement as approved is not operational or not providing the intended service or benefit for which it is designed for an unreasonable and substantial period of time; or
- b. A portion of the approved capital improvement is not operational as outlined in RAC 219.08a, and the costs of the portion that failed can be distinguished from the entire capital improvement in the original application; or
- c. The Capital improvement is not functioning because of a malfunction of another component(s) in the larger system, but not the Capital improvement itself.

If the non-operation of a capital improvement exists for any period in excess of 30 calendar days subsequent to a good faith attempt at notification of the complete failure to the landlord by the tenant, then the capital improvement shall be presumed to be a complete failure. This presumption can be rebutted by evidence submitted to the Department by either the landlord or the tenant.

219.09 If the Department finds that there is a complete failure of the approved capital improvement pursuant to RAC 219.08, then it shall order that all affected units' monthly rent be decreased by:

- a. The entire increase for that capital improvement in the case of a finding of complete failure in accordance with 219.08a. or c;
or
- b. That portion of the increase attributable to the component(s) which failed when this can be distinguished in accordance with 219.08b.

The landlord shall be credited for that period of time the capital improvement was functioning where the increase was delayed or lessened because the \$55 maximum cumulative monthly increase would have been exceeded as described in RAC 212.08.

219.10 The landlord may apply to the Department to restore the capital improvement increase or surcharge if the capital improvement has been made fully functional and if at the time of determination of a complete failure the Department also determined that:

- a. The Capital improvement was a complete failure due to circumstances beyond the control of the landlord; or
- b. The failure is due to a component of the system containing the capital improvement, but not one that was included in the costs approved for the capital improvement.

219.11 If the Department determines that the capital improvement increase or surcharge should be restored, the restoration period will be:

- a. The months remaining to the original termination date where the increase was a surcharge and the termination date was not extended beyond the 72 month maximum provided for in RAC 212.06C; or
- b. The months remaining in the five year period starting from the date the final approval was given for the original capital improvement rent increase or surcharge.

219.12 Any decision by the Department on the rent decrease application or subsequent rent increase application (RAC 219.11) may be appealed within 15 calendar days after the date of mailing of the original determination. The

Regulations for appeals of capital improvement determinations (RAC 216.00 - 217.06) shall be followed for appeals from Department decisions under this section.

219.13 Any rent decrease ordered by the Department pursuant to RAC 219 is effective on the next rent payment due date for each affected unit subsequent to either the expiration of the 15 day appeal period after the Department order or the mailing date of the decision of the hearing officer.

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