



3.12

DEPARTMENT OF
PLANNING AND DEVELOPMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
ROOM 200
SACRAMENTO, CA
95814-2998

BUILDING INSPECTIONS
916-449-5716

PLANNING
916-449-5604

April 23, 1991

APPROVED
BY THE CITY COUNCIL

APR 23 1991

OFFICE OF THE
CITY CLERK

City Council
Sacramento, CA

Honorable Members in Session:

Subject: HOUSING PROGRAMS TO REMEDY SUBSTANDARD MULTIPLE RENTALS

SUMMARY:

The attached report includes a summary of the recommendation of a Housing Program Committee regarding an expansion of the City's efforts to correct substandard conditions in multiple rentals. The report also includes the current status of efforts to implement the committee's recommendations. The item was reviewed by the joint Budget and Finance/Transportation and Community Development Committees on April 9, 1991, and received a recommendation for approval.

BACKGROUND:

The Housing Program Committee's report was submitted to the Budget and Finance/Transportation and Community Development Committees in November of 1989. Subsequently budget augmentations for expanding the Housing and Dangerous Buildings Program to accomplish all or most of the recommendations in a short period of time were submitted. Due to funding limitations these augmentations were not approved. Instead the department was asked to utilize existing resources as best it could, to begin implementing the Committee's recommendations, and to report back to the City Council on progress during the 1990 - 1991 Fiscal Year. It was pointed out in the earlier report to the Joint Committees that some of the conclusions reached by the Housing Program Committee are as follows:

- 1) There is a lack of awareness on the part of tenants and landlords concerning the resources currently available to them which demands greater education.
- 2) An increase in available staff and coordination with other agencies for referral of potential inspection problems needs to be pursued.
- 3) The Franchise Tax Program for rental deduction contained in the Revenue and Taxation Code has only been partially pursued and must immediately be fully implemented.

- 4) The relocation of tenants because of health and safety must be addressed and the fiscal responsibility placed with the person or persons responsible for the substandard conditions requiring the move.
- 5) Increased use of City Attorney staff to seek injunctive relief and establish a court-appointed receiver on more difficult cases seems a necessary addition to the remedies of the Housing Program.
- 6) Creation of fiscal disincentives up to and including invoking civil penalties is necessary to enforcement.
- 7) The exercise of the repair authority under Sacramento City Code, Chapter 49 in necessary to complete the alternative remedies sought by this committee.

An appointment by the City Manager has been made for the position of Housing Administrator. The new person will be employed effective May 4, 1991. An action plan, to accomplish the Committee's recommendations, developed by staff and the status of each item within the plan is as follows:

- 1) Immediately appoint the 2.0 FTE Building Inspectors to the Housing and Dangerous Building Section for the 6 month period specified in the Council budget report.

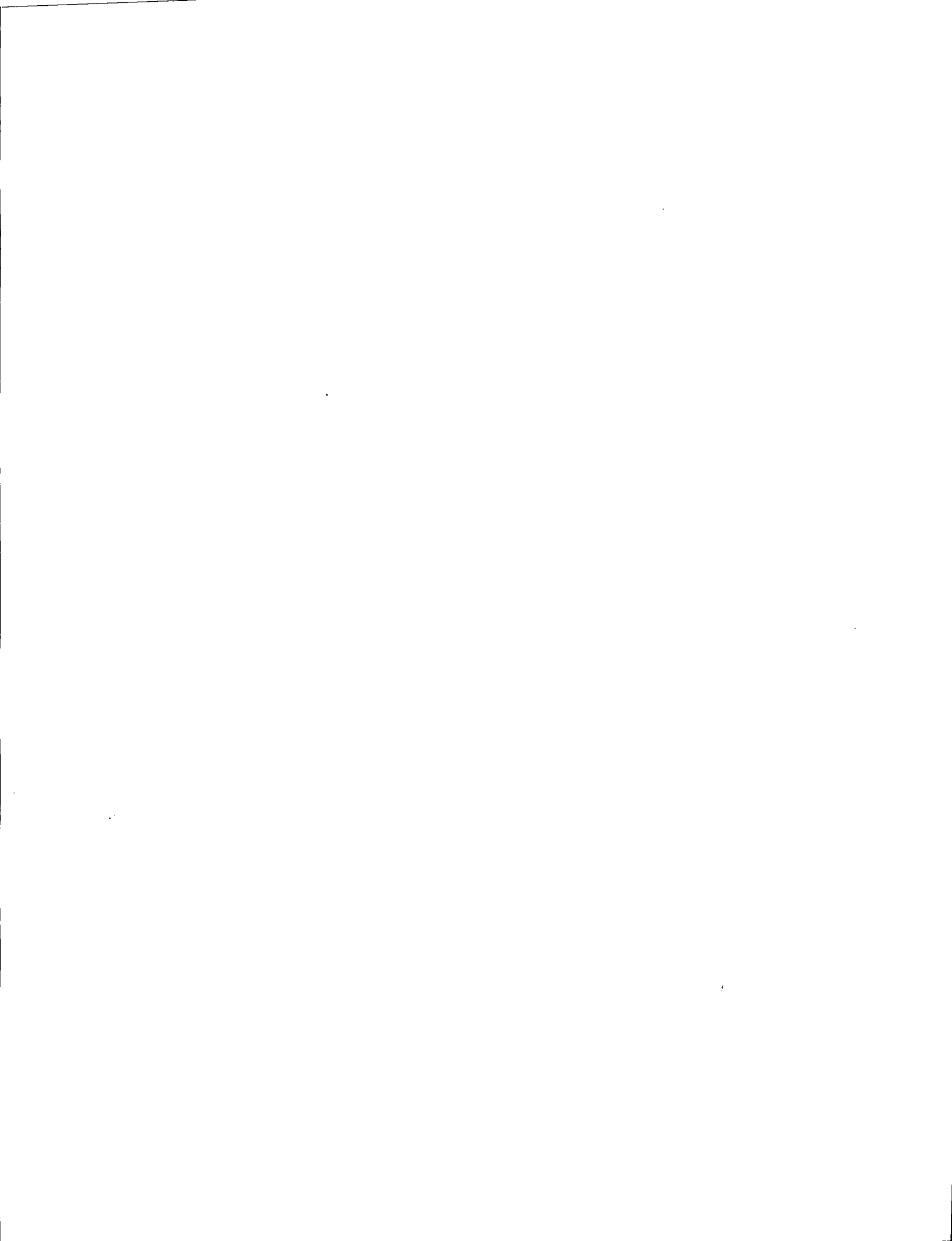
STATUS:

On July 1, 1990, two experienced Building Inspectors were transferred from Construction Inspection to the Housing and Dangerous Building Section. Ron Pecci, Chief Plumbing Inspector, was also assigned to administer the Housing and Dangerous Building Unit on a temporary basis. This enabled the Housing Unit to increase the number of housing cases resulting in an increase in successfully repaired units. One loaned position has recently become vacant, due to a resignation, and is likely to remain vacant due to budget constraints. A Building Inspector III position is vacant and also is likely to remain so due to budget restraints. An Account Clerk position was included in a proposed budget augmentation for the Housing Unit, however, the augmentation has not been funded.

- 2) Develop specific guidelines and implementing procedures for the education program. Include the acquisition of handouts and development of the recap form as included in the November 1989 report.

Inspectors are handing out an information sheet on the enforcement process and possible consequences of allowing deterioration, The Human Rights/Fair Housing Commission booklet - "Tenant - Landlord Handbook", and the SHRA brochure on Rental Rehabilitation for Redevelopment Areas.

- 3) Develop memorandum of understanding between Building Inspection Division, Fire Department and County Environmental Management regarding multiple jurisdiction inspections of S.R.O.'s. Identify responsibilities and coordinating points. Conduct two inspection per S. R. O. during the first year of the program and reassess and report on the frequency needed in future.



A memorandum of understanding between the three agencies has been achieved. The Health Department and the Fire Department has inspected the Downtown Hotels twice during the past year. Housing Inspectors have inspected the hotels once during the past year and have responded to requests by Health and Fire Department to inspect. It has been agreed that an inspector from each agency would inspect the hotels at the same time beginning July of 1991.

- 4) Prepare procedures for cross property searches on Assessor's Parcel File of all cited property owners.

Procedures are in place to utilize parcel file to track ownership of other properties of cited owners of substandard properties. Staff is currently utilizing this procedure.

- 5) Prepare amendment to City Code Chapter 49 to include State Franchise Tax Program as a step in the enforcement process. Revenue and Taxation Code Sections 17274/24436.5.

Since, this capability is provided by Revenue & Taxation Code Sections 17274/24436.5, an amendment to City Code Chapter 49 is unnecessary. The State Franchise Board has been notified, at the appropriate time, of all owners of substandard rental property who fail to heed notices by the City Housing Unit for the past two years.

- 6) Prepare report transmitting Relocation Benefits Ordinance to City Council for adoption. Develop specific guidelines for its use, payment of City relocation funds and recovery of such funds.

The Relocation Ordinance has been approved by the Council and will be effective April 4, 1991. Procedures have been developed for the implementation of the Relocation Ordinance.

- 7) Transfer \$50,000 from Commercial Plan Check consultant funds (101-350-3532-4258) to Housing and Dangerous Buildings relocation costs account (101-350-3538-4244).

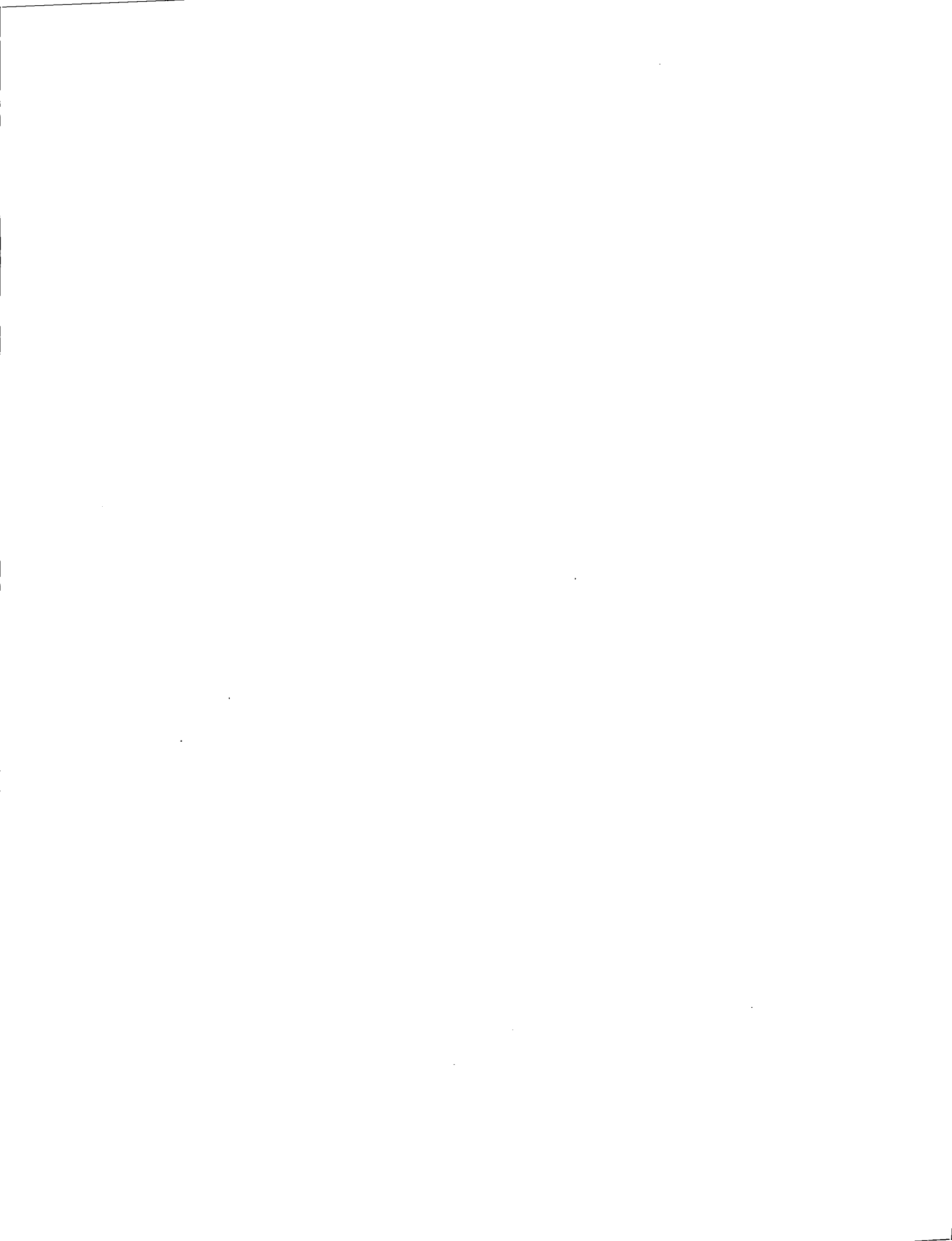
A resolution transferring \$50,000 from Building Inspection Consulting funds was approved by the Council on March 5, 1991.

- 8) Prepare procedures from reports of the Housing Program Committee for a screening process to develop a list of qualified receivers. Present to Council for approval as a rotating list.

Qualifications for receivers have been established, however, the selection process, ie, interview panel and exam questions, have not been established.

- 9) Develop specific criteria as to when Housing Codes Advisory and Appeals Board should refer a case to City Attorney for legal action including receivership.

Housing Inspection staff provides Division Management and City Attorney's office frequent flow of information on cases. Decisions are made based on this information as to the appropriate action including legal action such as receivership.



- 10) Amend City Code Chapter 49 to include receivership action as a step in the enforcement process available to the Housing codes Board.

Since this capability is provided by California Civil Code Section 564 an amendment to City Code Chapter 49 is unnecessary.

- 11) Due to an increased number of housing cases and need for legal assistance, additional help from the City Attorney's office is needed.

Department of Planning and Development will coordinate with the City Attorney's Office methods of obtaining adequate attorney expertise for the added case load.

- 12) Prepare report to seek amendments to City Codes 1.7, 49, and 50 adding Civil Penalties.

Amending the City Code is not necessary since state law provides authority for civil penalties.

- 13) Develop administrative procedures and reporting mechanism to track all H&DB cases from complaint to closure. Include management information regarding case load numbers and types, categories of action, etc.

A basic system for tracking Housing and Dangerous Building cases is being developed and should be completed in 2 to 4 weeks. Systems providing automation throughout the Building Inspections Division are being developed through a joint effort by the Data Management Department and Building Inspections. This is an expensive undertaking that will take 1½ to 3 years.

- 14) Using report prepared by Jon Ellison's subcommittee on repair authority, develop specific criteria and procedures for the exercise of emergency repair authority using City funds.

Procedures for repair authority have not been completed; however, Division staff have recently begun working with Jon Ellison developing procedures for emergency repair authority.

- 15) Develop procedures for immediate billing of property owners for recoverable expenses incurred by the City.

Processes for billing for services rendered by Housing Division staff are in place. Staff has been billing for reinspection fees on a regular basis. Staff is being directed to utilize the direct billing process as often as is feasible.

- 16) Establish system of tracking liens from filing to receipt of funds to ensure revenue collection, and accountability.

The Department of Finance is looking into the possibility of a system of tracking and accounting for specific liens.

- 17) Pursue policy to deposit funds from billing receipts, lien collections, Franchise Tax returns, and Housing Trust Fund monies into specific accounts for use as Housing repair and relocation funds. Goals is to make the program as self supporting as possible.

The Department of Planning and Development will work through the Finance Department to improve the accountability of various revenue sources available to the Housing and Dangerous Building Unit.

- 18) Add issuance of Citations and fines to Chapter 49 for non-compliance with substandard notice and develop criteria for such issuance.

We have the authority to issue citations for violations of City Code Chapter 49 and 50. Two inspectors have completed 40 hours training on the process of issuing citations and have citation authority, approved by Council on January 8, 1991. Citations will be issued to only blatant violators where prosecution by the District Attorney's Office is assured.

- 19) Add notice of reinspection costs to bill owner for inspector time required to follow up on non-compliant property owners.

Reinspection fees are currently being charged when repeated inspections are necessary to finally approve repair work.

- 20) Develop criteria for referral to City Attorney regarding pursuit of criminal and/or civil charges/penalties when conditions warrant.

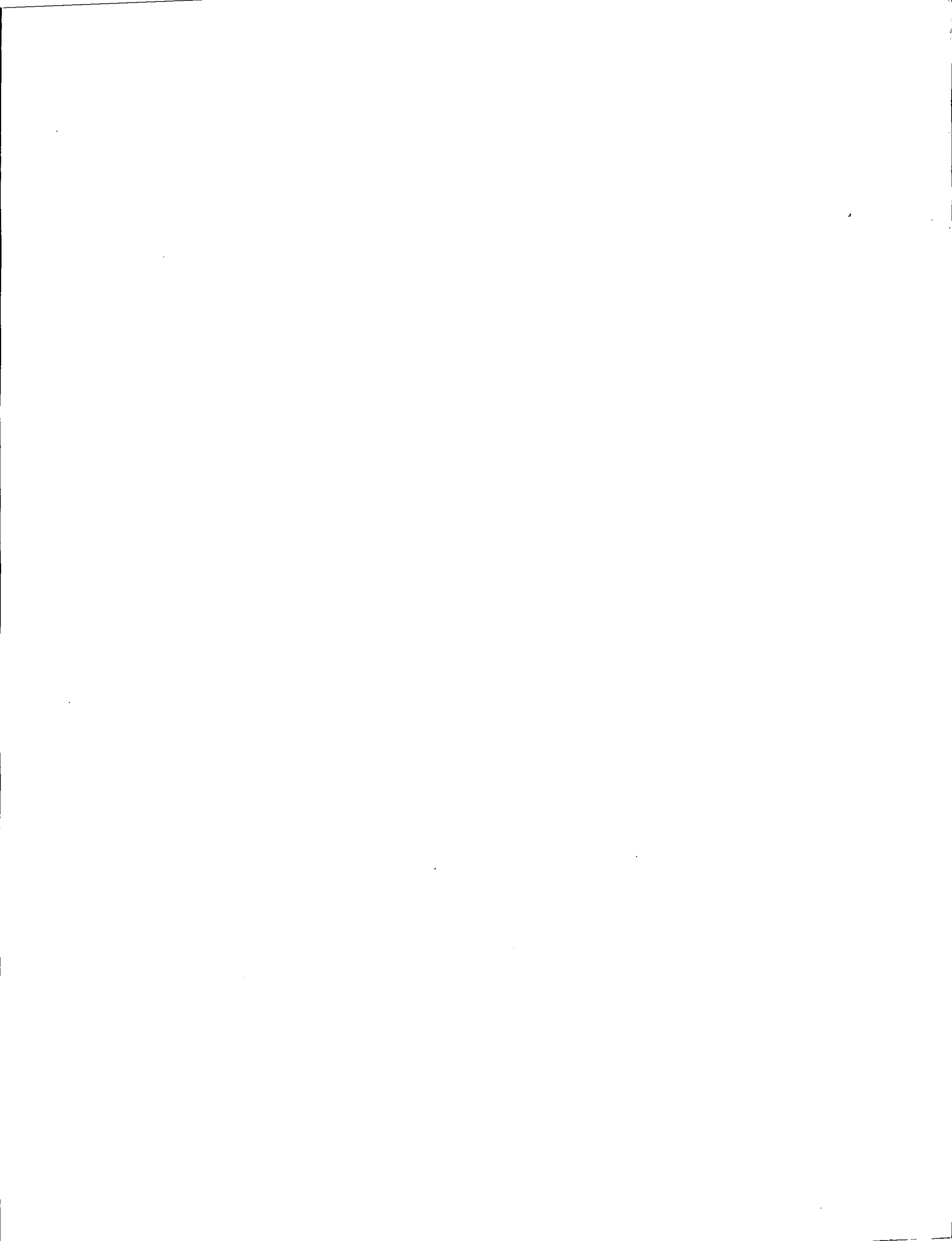
This has not been achieved, however, Housing Inspectors provide Division Management and City Attorney's office frequent flow of information. Decisions regarding referral to City Attorney are based on this information.

RENT ESCROW ACCOUNT PROGRAM

An ordinance regarding the "R.E.A.P." program has been prepared under the direction of the City Managers Office and will be submitted to the Joint Committee at a later date.

NEIGHBORHOOD CONSERVATION PROGRAM

The Sacramento Housing and Redevelopment Agency is in the process of establishing a Neighborhood Conservation Program. It is anticipated that a Comprehensive Rental Inspection Program will be utilized under this program. If the opportunity arises, the R.E.A.P. will also be invoked on a test case basis within the Neighborhood Conservation Area. A report will be submitted by S.H.R.A. on the Neighborhood Conservation Program at a later date. The Building Inspection Division has committed one Housing Inspector to be assigned full time to that program. This position is currently funded by S.H.R.A.



PROBLEM ORIENTED POLICING (P.O.P)

The Building Inspection Division, Housing and Dangerous Buildings Unit is working with the Police Department in the implementation of the "P.O.P." program. Housing Inspectors respond to the officers requests and perform immediate inspections on residential property where drug dealing or other illegal activities are known to take place. Through this effort the buildings are usually closed to eliminate the illegal activity. The goal here is to have the building repaired and have law abiding citizens occupy the residence. The Division has committed up to one full time employee to this program.

FINANCIAL INFORMATION

The committee recognized that there may be a need for staff increases and the establishment of fees, fines, and penalties regarding the enforcement of the housing codes. The committee however did not believe that it was appropriate for them to make specific recommendations regarding individual department and City budget augmentations. Specific recommendations regarding costs and fees will be developed by the Planning and Development Department once the City Council has determined more specifically whether any, all, or only some of the measures recommended in this report should be implemented. It is the Department's intent to include any adjustments to staffing and/or budget augmentations in the FY 91-92 budget submittal.

POLICY MATTERS:

The Housing Program Committee included discussion in the body of the attached report regarding the various policy matters for which Council guidance is sought. These include implementation of the education program, expansion and enhancement of inspections, exercise of City Repair Authority, implications in the adoption of the Rent Escrow Account Program (REAP), specific policy direction on filing court action for injunctive relief and appointed receivership, adoption of civil penalties, augmentation of departmental budgets, and continuance of the committee. Staff has proceeded with implementing several of the programs that are contained in this report.

MBE/WBE:

Not applicable



RECOMMENDATIONS:

This item was heard before the joint Budget and Finance/Transportation and Community Development Committees on April 9, 1991. The committees requested status reports from staff and recommend forwarding the following recommendations:

1. Approve the Housing Program Committee's recommendations.
2. Receive and file the Building Inspections Division Information Status Report.
3. Approve the Housing Program Committees report and recommendations.
4. Direct staff to prepare any additional resolutions, ordinances, and budget proposals necessary to implement and forward them to the City Council.
5. Education Program
Recommend staff be directed to continue its current educational program and expand the effort when the opportunity arises.
6. Discovery/Inspection Program
The Rental Inspection Program should be tried on a trial basis in the Neighborhood Conservation Program. Decisions could then be made on if such a program is achievable City wide.
7. Chapter 49, Repair Authority
The joint committees recommend full development of repair authority and report back in 60 days to the committee.
8. Receivership Policy
The Committee strongly recommends that filing of court actions for injunctive relief and requesting appointment of a receiver is one of the more effective measures for resolution of the problems. The committee strongly recommends that Council adopt a policy position encouraging its use where necessary by the Housing Codes Advisory and Appeals Board. The joint committees request a list of eligible receivers and report back in 60 days.

City Council
April 23, 1991
Page Eight

9. Continuance of the Committee

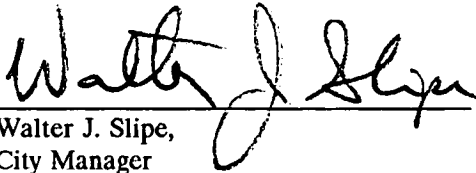
The Committee recommends that its membership be directed to work with the Planning and Development Department during the implementation phase of all adopted portions of the program and seeks guidance from Council to utilize the committee as a housing issues discussion group.

Respectfully submitted,



Tim Sullivan, Manager
Building Inspections Division

RECOMMENDATION APPROVED:



Walter J. Slipe,
City Manager

APPROVED:



Robert B. Wall, Assistant Director
Planning and Development

Contact Person:
Tim Sullivan
449-2186

April 23, 1991
All Districts

ATTACHMENT

RESOLUTION NO. 91-289

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

APPROVED
BY THE CITY COUNCIL

APR 23 1991

OFFICE OF THE
CITY CLERK

**RESOLUTION ADOPTING THE RECOMMENDATIONS OF
THE HOUSING PROGRAM COMMITTEE WITH REGARD
TO HOUSING PROGRAMS TO REMEDY SUBSTANDARD
MULTIPLE RENTALS**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

That the City Council approves the following Housing Program Committee recommendations and direct staff to implement programs and provide periodic progress reports.

1. Receive and file the Building Inspections Division Information Status Report.
2. Approve the Housing Program Committee report and recommendations.
3. Direct staff to prepare any additional resolutions, ordinances, and budget proposals necessary to implement programs and forward them to the City Council.
4. Direct staff to continue its current educational program and expand the effort when the opportunity arises.
5. Test the Rental Inspection Program on a trial basis in the Neighborhood Conservation Program and evaluate with respect to city wide implementation.
6. The joint committees recommend full development of repair authority and report back in 60 days to the committee.
7. Encourages the use of receivership where necessary by the Housing Codes Advisory and Appeals Board.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

8. The Housing Program Committee be directed to work with the Planning and Development Department during the implementation phase of all adopted portions of the program.

MAYOR

ATTEST:

CITY CLERK

-2-

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____



9
4

DEPARTMENT OF
PLANNING AND DEVELOPMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
SACRAMENTO, CA

November 14, 1989

ADMINISTRATION
ROOM 300
95814-2987
916-449-5571

Budget and Finance/
Transportation and Community
Development Committees

ECONOMIC DEVELOPMENT
ROOM 300
95814-2987
916-449-1223

Honorable Members in Session:

NUISANCE ABATEMENT
ROOM 301
95814-3982
916-449-5948

SUBJECT: HOUSING PROGRAMS TO REMEDY SUBSTANDARD MULTIPLE RENTALS

SUMMARY

The attached report includes a review and proposals regarding the programs of the Housing and Dangerous Buildings unit of the Building Inspections Division, particularly with regard to correction of substandard conditions in multiple rentals.

BACKGROUND

In the spring of this year Council directed that staff meet with outside agencies to form a task force to review and make recommendations on effective programs for enforcement of housing codes. That task force (the Housing Program Committee) established goals, reviewed activities of other cities; reviewed the available alternatives under law, and considered various alternative proposals toward more effective enforcement of the housing codes.

Some of the conclusions reached by the Housing Program Committee are as follows:

1. There is a lack of awareness on the part of tenants and landlords concerning the resources currently available to them which demands greater education.
2. An increase in available staff and coordination with other agencies for referral of potential inspection problems needs to be pursued.

3. The Franchise Tax Program for rental deductions contained in the Revenue and Taxation Code has only been partially pursued and must immediately be fully implemented.
4. The Rent Escrow Account Program developed by Los Angeles is not a workable proposal in this jurisdiction. However, a similar program, more tailored to Sacramento's needs likely could be developed and should be pursued.

The relocation of tenants because of health and safety must be addressed and the fiscal responsibility placed with the person or persons responsible for the substandard conditions requiring the move.

5. Increased use of City Attorney staff to seek injunctive relief and establish a court-appointed receiver on more difficult cases seems a necessary addition to the remedies of the housing program.
6. Creation of fiscal disincentives up to and including invoking civil penalties is necessary to enforcement.
7. The exercise of the repair authority under Sacramento City Code, Chapter 49 is necessary to complete the alternative remedies sought by this committee.

FINANCIAL INFORMATION

The committee recognized that there may be a need for staff increases and the establishment of fees, fines, and penalties regarding the enforcement of the housing codes. The committee however did not believe that it is appropriate to make specific recommendations regarding individual department and City budget augmentations. Specific recommendations regarding costs and fees will be developed by the Planning and Development Department once the City Council has determined more specifically whether any, all, or only some of the measures recommended in this report should be implemented. Unless directed otherwise it is the Department Director's intent to include any adjustments to staffing and/or budget augmentations for other purposes in the department's FY 90-91 budget submittal.

9

Budget and Finance/
Transportation and Community
Development Committees
November 14, 1989
Page Three

POLICY MATTERS

The Housing Program Committee includes discussion in the body of the attached report regarding the various policy matters for which Council guidance is sought. These include implementation of the education program, expansion and enhancement of inspections, exercise of City repair authority, implications in the adoption of the Rent Escrow Account Program (REAP), adoption of the Relocation Benefits Ordinance, specific policy direction on filing court action for injunctive relief and appointed receivership, adoption of civil penalties, augmentation of departmental budgets, and continuance of the committee.

◆
MBE/WBE

Not applicable.

RECOMMENDATION

VII. RECOMMENDATIONS

The committee recommends that the Budget and Finance and Transportation and Community Development Committees approve in concept these recommendations and direct staff to prepare for consideration by the City Council the resolutions, ordinances & budget proposals necessary to implement and forward them to the full Council.

A. Educational Program

Recommend staff be directed to implement the educational program.

B. Discovery/Inspection Program

If Inspection staff requests are approved, direct staff to implement Inspection Enhancements of Fire/Environmental Management referrals, computer file cross-reference of property holding, and drive-bys or environmental field reviews.

6

C. Chapter 49, Repair Authority

Recommend Council augment Building Inspections Division budget with a specific appropriation for repair and direct staff to exercise the repair authority under direction of the Housing Codes Advisory and Appeals Board.

D. Rent Escrow Account Program

The committee feels that the proposal as currently written is somewhat weak and requests Council direct the committee to pursue development of a similar proposal with enforcement aspects greater than the current proposal, and bring such proposal to the joint Council Committees once developed.

E. Relocation Benefits Ordinance

The committee recommends that Council adopt the Relocation Benefits Ordinance and establish specific budgetary appropriation to be used as necessary. Expenditures to be recovered through invoicing of landlord and/or property liens when necessary.

F. Receivership Policy

The committee strongly recommends that filing of court actions for injunctive relief and requesting appointment of a receiver is one of the more effective measures for resolution of the problems. The committee strongly recommends that Council adopt a policy position encouraging its use where necessary by the Housing Codes Advisory and Appeals Board.

G. Civil Penalties

The committee recommends the adoption of civil penalties as a fiscal disincentive.

H. Budget Augmentation

The committee supports and recommends Council Committees give favorable consideration to the budget adjustments that may be needed to implement these recommendations.

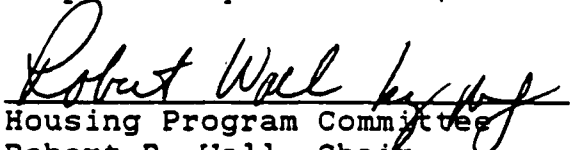
4

Budget and Finance/
Transportation and Community
Development Committees
November 14, 1989
Page Five

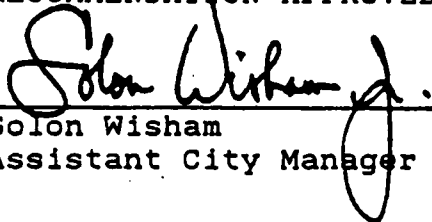
I. Continuance of the Committee

The committee recommends that its membership be directed to work with the Planning and Development Department during the implementation phase of all adopted portions of the program and seeks guidance from Council to utilize the committee as a housing issues discussion group.

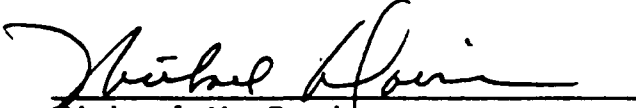
Respectfully submitted,


Housing Program Committee
Robert B. Wall, Chair

RECOMMENDATION APPROVED:


Solon Wisham
Assistant City Manager

APPROVED:


Michael M. Davis
Director
Planning and Development

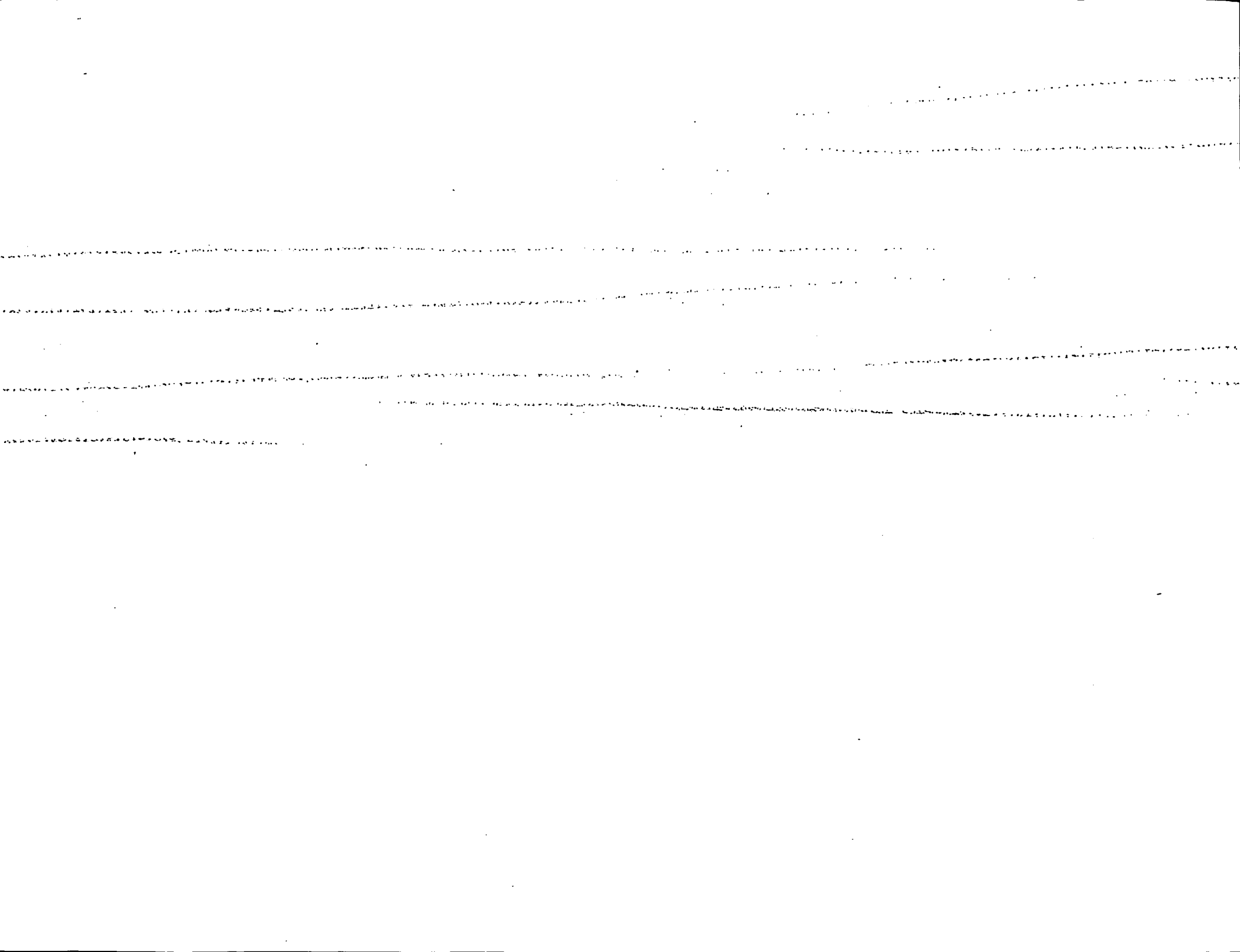
Contact Person:
Robert B. Wall
Chair
449-5075

November 14, 1989
All Districts

8

TABLE OF CONTENTS

	<u>Page</u>
I. Summary	1
II. Background	1
A. Goals	1
B. Review of Other Cities	2
C. Available Alternatives	2
1 - 6. California Civil Code	3
7. City Code Chapter 49	4
8. Sacramento Housing & Redevelopment Agency Loans	5
9. Health & Safety Code, Section 17961	5
III. Committee Proposals	5
A. Program Considerations	5
1. Education	5
2. Discovery/Inspection	6
3. Revenue & Taxation Code	8
4. REAP	9
5. Relocation Benefits Ordinance	10
6. Receivership	11
7. Civil Penalties	14
B. Departmental Resources	14



A

	<u>Page</u>
IV. Financial Considerations	15
A. Expense	15
B. Revenues	16
V. Policy Matters	16
A. Education	16
B. Discovery/Inspection Enhancements	16
C. Chapter 49 - Repair Authority	17
D. Adoption of REAP	17
E. Adoption of Relocation Benefits Ord.	18
F. Policy Directive on Receivership	18
G. Civil Penalties	18
H. Augmentation of Budget	18
I. Continuance of Committee	19
VI. MBE/WBE	19
VII. Recommendations	19
A. Education Program	19
B. Discovery Inspection Enhancements	19
C. Chapter 49 - Repair Authority	19
D. REAP Ordinance	19
E. Relocation Benefits Ordinance	20
F. Receivership Policy	20
G. Civil Penalties	20
H. Augmentation of Budgets	20
I. Continuance of Committee	20

HOUSING PROGRAMS TO REMEDY SUBSTANDARD MULTIPLE RENTALS

I. SUMMARY

A Housing Program Committee of public and private members was convened to develop enforcement measures against property owners who rented substandard units in multiple unit dwellings.

The committee is proposing an inspection process and various remedies to ensure compliance with the Housing Code. This proposal also supports requests for additional resources and fee establishment for partial financing of the proposal. The committee recommends that it meet quarterly with the Director of Planning and Development to review the progress of the new programs and to help resolve any problems in implementation which may arise. The committee also recommends that it continue to serve as a roundtable or clearinghouse for discussion of code enforcement/low income housing preservation problems, meeting on an as-needed basis.

II. BACKGROUND

Earlier this year the City of Los Angeles adopted a Rent Escrow Account Program (REAP). This program allows tenants of substandard properties to deposit their rent money into city escrow accounts in an effort to apply fiscal pressure to those landlords who have not maintained their properties. Council Members referred the Los Angeles ordinance to staff for review and recommendation for possible adoption in Sacramento. At the City Council Meeting of May 23, 1989 this subject was discussed during review of an SRO report. Suggestions were made for committee participants and a report back to the joint committees was requested. The initial staff committee was expanded to include numerous outside agencies who have specific interest in this subject. Representatives on this committee are listed in Appendix 1 (attached).

The expanded committee first met on June 5, 1989 and has subsequently met on 15 occasions to review, discuss and brainstorm various approaches to the substandard rental housing problem.

A. Goals

The committee adopted a set of working goals which set direction and purpose to the group activities. The three primary goals can be summarized as follows:

1. Develop policies and programs to ensure maintenance of the City's rental housing stock in a safe and

8

healthful manner minimizing loss of low income housing which reasonably could be preserved.

2. Establish preventative code enforcement procedures including proactive preventative housing standards controls.
3. Eliminate or reduce substandard/dangerous rental housing from the market by creating incentives for property owners to maintain their structures. Create disincentives for property owners who fail or refuse to correct substandard conditions.

B. Review of Other Cities

A survey was conducted of eight California cities to determine the extent to which they had enforcement programs similar to those being considered by the committee. The results of the survey are shown in Appendix 2. It is interesting to note that the use of a relocation ordinance, use of receivership power or rent escrow account programs is almost non-existent. The recent adoption by the City of Los Angeles of the REAP Program has not allowed sufficient time to evaluate its effectiveness. Likewise the City of San Francisco has recently enacted and established two test cases with a receivership program on multiple rental properties. The effects of that program are being carefully monitored. Four of the surveyed jurisdictions use the Franchise Tax Board program contained in the State Revenue and Taxation Code. That program denies rental property deduction from the State tax on those properties which are substandard and which are not corrected. Three agencies utilizing the code indicated the code's use to be somewhat effective, but time consuming.

C. Available Alternatives

It should be noted that while most current regulations are directed toward the non-compliant owner of substandard properties the tenant/landlord situation is a two edged sword. Property owners experience destruction by tenants, loss of rents from midnight movers, and other actions which increase the operating cost of the properties. These experiences can discourage owners from maintaining the properties at minimum building code standards. The responsibilities of both parties are noted in State law and the City Housing Code which identify such responsibilities specifically.

Prior to the local housing inspectors becoming involved in a case, there are existing State laws which present

A

available alternatives to persons suffering substandard housing conditions. The laws, local regulations and programs are summarized as follows. Excerpts from California Civil Code are attached in Appendix 3.

1. California Civil Code, Section 1941

Responsibility:

The landlord is required to maintain rental units in good condition. This is the "implied warranty of habitability". The warranty means that the law assumes a landlord must keep the premises in good condition and if not the rental agreement is considered cancelled and the tenant owes only the "reasonable rental value" of the premises in its defective condition. Further clarification is offered as follows:

2. California Civil Code, Section 1941.1

Responsibility:

Specifies the landlord's duties and specific items which constitute a tenantable rental unit maintained in good repair. These include such things as waterproofing, weather protection, plumbing, gas, water, sewer, heating & electric.

3. California Civil Code, Section 1929 and 1941.2

Responsibility:

Specifies the tenant's duties with regard to maintenance and cleanliness of the rental unit.

After specifying the landlord and tenant responsibilities in the maintenance of the rental units the code provides for some courses of action.

4. California Civil Code, Section 1942

Remedies:

This section provides that a landlord who has been notified in writing of deficiencies and been provided a reasonable time to repair and has not, may be notified that the tenant intends to pay for the repairs and deduct them from the next month's rent. This repair and deduct method may only be used twice in any 12 month period and the amount of repair cannot exceed the equivalent on one

A

month's rent each time the method is used.

5. California Civil Code, Section 1942.4

Remedy:

Specifies those circumstances under which a landlord may not collect rent. These circumstances include substandard conditions which have been noticed by the enforcement agency to the property owner with an order to abate and which have not been abated 60 days from notice. Those conditions were additionally not caused by the tenant but are the responsibility of the landlord.

6. California Civil Code, Section 1942.5

Protection:

Provides that tenants exercising their rights relating to lack of habitability may not be retaliated against by the landlord through eviction or rent increase.

7. City Code, Chapter 49

The City Housing Code provides the authority for the Building Inspections Division as the enforcement agency to pursue complaints of substandard conditions and upon validation provides a process to so notify the landlord and seek abatement of the nuisance established by those defective conditions. Authority is vested in the Manager of the Building Inspections Division with appeal to the Housing Codes Advisory and Appeals Board.

When an owner is unable or unwilling to obey the order of the Board the Manager of the Building Inspections Division may institute any appropriate action to abate (Sections 49.1202 and 49.1203). This may include causing the building to a) be repaired, b) be secured, c) be sold and demolished, or d) be demolished and the property cleaned and leveled, or e) a legal action instituted requiring the owner to comply either in repairing, securing, or demolishing (Section 49.1202 and Section 1.7 of Sacramento City Code).

Section 49.1130 provides that a secured building may be held secured for a period not to exceed one year. At the end of that year only the City's repair or demolish options remain in Chapter 49. By practice, the authority for the City to repair has neither been budgeted nor exercised. In its absence the only threat for enforcement remains demolition of the building. In an instance where the value of the unimproved property

exceeds the value of the current "improved" property, the demolition loses its effectiveness as a threat to force repairs. This is discussed further in the policy section.

San Francisco and Fresno exercise authority to make emergency repairs which may be an alternative for consideration in Sacramento.

8. Sacramento Housing and Redevelopment Agency offers an interest free loan program for making improvements to property in targeted areas through its Rental Rehabilitation Program. This program also offers assistance to tenants in the form of Section Eight certificates or vouchers to eligible in-place tenants who may be displaced due to the rehabilitation of such rental property.

9. Health and Safety Code, Section 17961

* This section specifies that if there is no housing department, the local environmental health agency shall enforce the building standards published in the State Building Standards Codes, and the other local rules and regulations pertaining to the maintenance, sanitation, ventilation, use, or occupancy of apartment houses, hotels, or dwellings. In Sacramento, environmental health specialists in the Environmental Management Department provide these services.

III. COMMITTEE PROPOSALS

A. Program Considerations

During our numerous meetings the Housing Committee brainstormed a variety of ideas regarding effective programs to reduce the number of substandard rental structures in the City of Sacramento. The committee believes that having the resources to conduct a vigorous inspection program and an enforcement program which includes several enforcement alternatives provides the best opportunity to achieve our goals. What follows is a synopsis of the group's considerations. These range from education of tenants and landlords through improved and expanded discovery and inspection procedures to enforcement programs and legal remedies. Enforcement proposals include a Revenue and Taxation Code franchise tax program, a rent escrow account program, a relocation benefits program, a receivership program, and use of Civil Penalties for non-compliance.

1. Education - As noted above there are resources for tenant/landlords under existing State law. Many tenants

5

and landlords are not aware of the landlord/tenant rights and duties described in "Available Alternatives" above. Also, property owners may be unaware of the availability of some low or no interest loans through the Housing and Redevelopment Agency. If economics are the main reason for lack of maintenance, a problem may be solved through use of that loan resource. For these reasons the committee is encouraging an education program and suggests the distribution of handouts, where appropriate, by the housing inspectors. Suggested handouts could include the SHRA brochure on Rental Rehabilitation for Redevelopment Areas, the HUD booklet "A Good Place to Live", the Human Rights/Fair Housing Commission booklet entitled "Tenant-Landlord Handbook", and development of a single page notice of programs and resources available to the tenants, landlords, and the housing inspectors. (Appendices #'s 4, 5, 6, & 7.)

2. Discovery/Inspection - As currently operated the Housing and Dangerous Buildings Section of Building Inspections Division is staffed by three housing inspectors, a Building Inspector III and two clerical support positions. A third clerical position is currently vacant as is the recently added Chief of Housing.

Substandard housing cases are opened based on valid complaints received and observations of the housing inspectors in the field. There are also referrals from Fire Department and Environmental Management Department. Other than these referrals the unit operates on a complaints received basis.

Sometimes, preliminary notices to abate result in repairs being completed and the case closed. Timeliness in identifying problems and notifying the landlord can affect cost of repair. The greater time delay frequently results in more extensive problems and the increased cost can frequently reduce the landlord's enthusiasm to repair. Timeliness is attributable to staffing given the current workload.

The committee discussed various alternatives to the complaints received approach. In considering these alternatives the committee proposed a four-step incremental program, each step of which would further expand the inspections. Pursuit of each phase would be dependent upon the relative success of the prior phase. The phasing approach is an attempt to accomplish the maximum success of the program with minimum expenditure of resources. You will note that each additional phase requires expanded resources and time.

- a. Phase one envisions an inspection program based on

G

complaints received. This phase recognizes that the current Housing and Dangerous Buildings Section has a staff compliment of three field inspectors and a current backlog of 150 uninspected complaints. This phase would require additional resources to catch up the backlog and attempt to stay current with complaints received. An additional aspect added to this continuing inspection program would be a procedure whereby a property owner who was found to have a valid substandard condition in their units would be checked in the parcel and utility files for other property holdings. Those additional properties held by this person would likewise be reviewed in hopes of preventing other properties which may also be receiving low maintenance from becoming substandard. The complaints received program would be an inherent part of the three following phases as well.

- b. Phase two envisions continuation of phase one inspections plus a program of drive-bys or environmental reviews in various geographic areas. The inspection areas would be ranked from the heaviest concentration of housing cases to the lightest based on our most recent experience. The intent of the environmental review is predicated upon our experience that a poorly maintained building exterior frequently reflects a poorly maintained interior. A joint venture with the Fire Department is being developed as well. The Fire Department currently inspects some 3,000 multiple rental units of four or more units per structure. Inspection frequency is approximately every 15 to 18 months. Fire inspectors would have specific items included in their checklist to be reviewed during inspections. Problems in those specific areas would result in an immediate referral to the Housing and Dangerous Buildings Section for building inspector follow up. A similar review of referrals is being discussed with the Environmental Health Specialists who currently refer specific items to Building Inspections. These additional aspects to the inspection program would require expanded staffing to meet the increased workload.
- c. Phase three envisions a continuation of phase one and two above plus a program of inspection of all rental units in the City which have exceeded a certain age (ten years plus, etc). Using age as a factor we reduce the total of units requiring inspection. Recognizing that lack of maintenance and abuse of property can affect structure condition

9

in a two to three year old multiple rental, we assume that such problems would be handled in the environmental review or from complaints received rather than this proactive review of aged multiple units. Substandard conditions are more likely to show in older structures which have suffered low or no on-going maintenance.

- d. Phase four would require the maximum expenditure of resources and includes the largest universe of inspections. This phase envisions continuation of phase one, two, and three but rather than inspect only units of a certain age, it proposes inspection of all rental units regardless of age on an area by area basis. Those areas again would be prioritized based on the concentration of housing cases. The universe of structures falling within this category is so vast that estimates of staff need cannot be accurately predicted. Experience has shown that the preponderance of workload comes from a small core of property owners. Concentrating on that small group requires fewer resources and is more easily off set in expense by adoption of fees, fines, and penalties for non-compliance. Expansion of housing inspections of all rental units (including the majority of well-maintained units) would require adoption and implementation of an inspection fee viewed by many as an unnecessary cost of doing business.

The committee acknowledges that the complaints received approach continues to generate more work activity than can be handled by existing resources. We therefore recommend continuation of the complaints received mode as an appropriate course of action with the addition of those aspects discussed in phases one and two (parcel file check, environmental review, and fire/environmental management referrals).

Additionally the committee strongly recommends that priority for inspections be given to the City's diminishing stock of SRO's. A coordinated approach is being developed between Housing Inspectors, Fire inspection personnel, and Environmental Health Specialists. Each of these inspection programs includes review of SRO's. By coordinating the inspection schedules it is possible to inspect these structures on a quarterly basis. Specific coordination procedures will be developed by the Building Inspections Division Manager.

3. Revenue and Taxation Code, Sections 17274/24436.5

These code sections provide in part that a taxpayer who derives rental income from housing which has been determined to be substandard, cannot deduct State income tax deductions for interest, depreciation, taxes or amortization attributable to that substandard structure. Warning notices to that effect have been incorporated into the normal procedures of the Housing and Dangerous Buildings Section. Follow up and referral to the State for non-compliance after a six month period will place the Franchise Tax Board on notice that the property in question should not receive such deduction. The steps required for implementation of this program have been written and its immediate use is strongly recommended. The inclusion of this program into Chapter 49 of the Sacramento City Code should be accomplished at the earliest possible moment. Amendment of Chapter 49 is not essential to the implementation of the full program.

4. Rent Escrow Account Program (REAP)

The REAP ordinance (Appendix 8), closely modeled on an ordinance which recently took effect in Los Angeles, creates an additional disincentive for allowing rental housing to deteriorate. When a property owner fails to correct substandard conditions pursuant to an order of the City Building Inspections Division, the City Fire Department, or the County Health Department, the agency which issued the order may refer the substandard building for possible inclusion in the REAP Program. If the building is placed into REAP, the tenants will be informed that they may pay their rent to the City instead of the property owner. The City will then hold the rent, releasing funds only for purposes connected with operating the building or making repairs, with the balance to be returned to the landlord after repairs are completed.

Some of the REAP ordinance's more significant provisions are:

- a. Would be administered by City's existing Housing Code Advisory and Appeals Board.
- b. Building is eligible for REAP if it contains one or more untenable residential units and the landlord has refused or consistently failed to correct the deficiencies.
- c. Property owner is entitled to administrative hearing and administrative appeal before building is placed



9

in REAP program.

- d. Tenant's participation is voluntary. Tenant may continue to pay rent to property owner or may pay City.
- e. City retains \$50 per individual monthly rent payment as a non-refundable administrative fee.
- f. Landlord receives monthly report of rental payments received from tenants.
- g. Tenant's payment to REAP deemed payment of rent in that amount in any action by landlord to recover possession of a residential unit; landlord may not retaliate against tenant for paying rent to REAP or complaining about untenable conditions.

5. Relocation Benefits

• The Relocation Benefits Ordinance (Appendix 9) would provide relocation assistance to tenants who are displaced from a residential rental unit because the landlord fails to maintain the unit. Displacement can create substantial hardships for the tenant, who generally needs a large sum of money, often including first and last month's rent, deposits, moving expenses, and utility deposits for a new residence. Relocation benefits in the amount of twice the monthly rent for the unit being vacated would be payable by the landlord when an authorized City official orders the unit vacated due to failure to repair or maintain. If the landlord does not pay the benefits in a timely fashion, the tenant could apply to the City for assistance with the City subsequently seeking reimbursement from the landlord.

Provisions of the ordinance include:

- a. Relocation benefits of twice the established monthly rental for the unit shall be payable to the tenant by the landlord within 10 days after the order to vacate is issued, or 20 days before the final date to vacate, whichever date occurs later.
- b. Any landlord who does not provide timely benefits is liable to the tenant for an additional 50% of the amount due.
- c. No benefits are due to a tenant who causes or substantially contributes to the condition giving rise to the order to vacate or when a disaster not the fault of the landlord causes the substandard



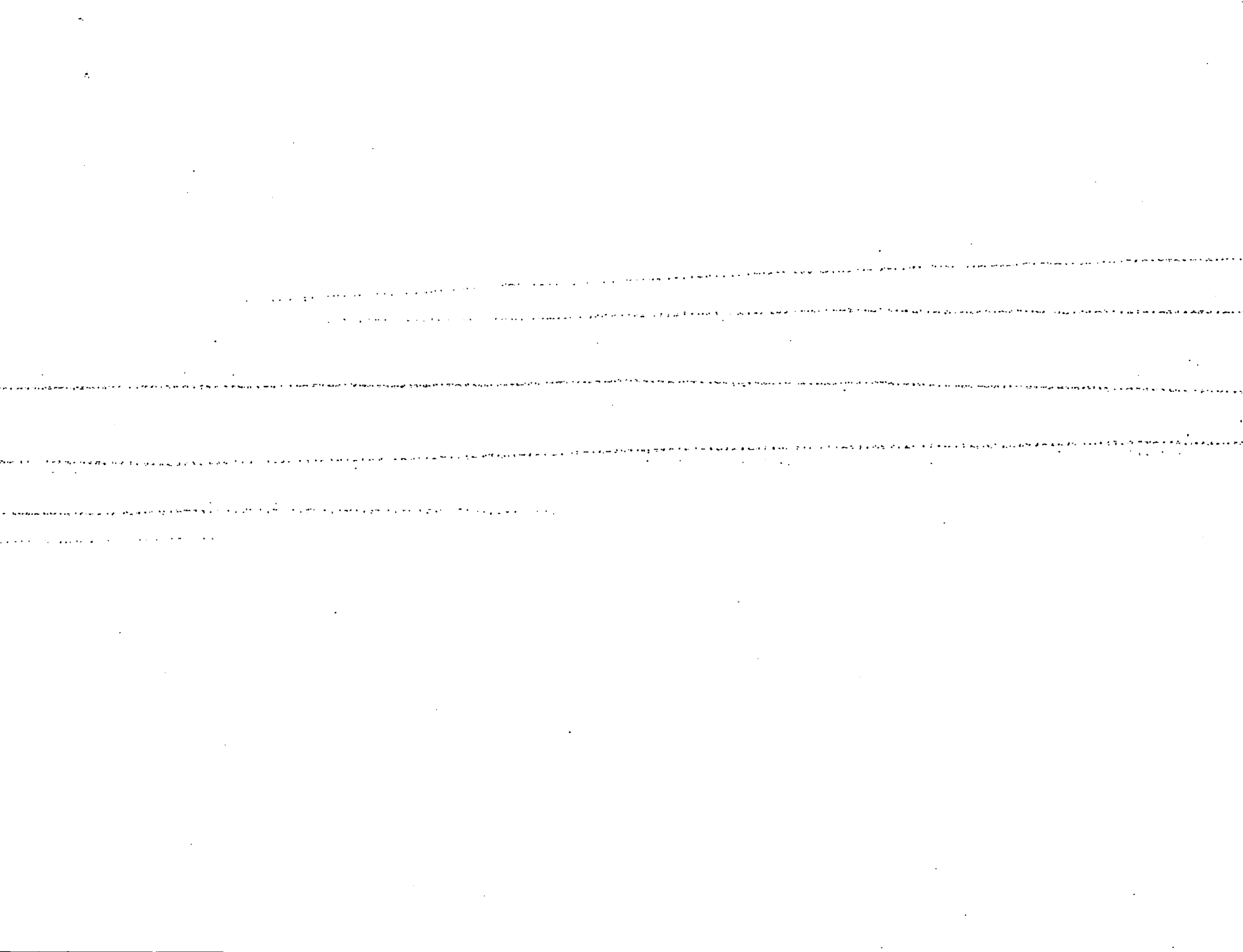
9

condition, unless more than six months have passed and repairs have still not been completed.

- d. Payment of relocation benefits by the City to a tenant who does not receive timely payment from the landlord is not mandatory, and must be within budgetary limitations. Application for benefits would be made to the Manager of Building Inspections, with an appeal to a three-member committee of the Housing Code Advisory and Appeals Board. The City may recover any benefits paid plus a 50% penalty and its administrative costs from the landlord. An opportunity for administrative appeal of the City's billing is provided to the landlord.
- e. Emergency payments may be made by the City if orders to vacate in less than 10 days are issued, with subsequent reimbursement by the landlord.
- f. A reimbursable account would be established by the Council, from which payments would be made to tenants, and into which recovery from landlords would be deposited.
- g. A tenant of a residential hotel (SROS) would be entitled to apply for City benefits if the landlord did not pay as required by Chapter 73.

6. Receivership Program

During its discussions the Housing Program Committee raised concerns about the effectiveness of current and proposed programs. The number of substandard and/or vacant secured rental units attests to a need for greater authority under Chapter 49 or the exercise of the City's repair authority under Chapter 49 (this is discussed in the following policy section). Additionally the committee raised concerns about the effectiveness of the REAP Program because of the voluntary nature of tenant participation and lack of enforcement authority other than interruption of cash flow to require compliance with the Housing Code by the property owner. The committee believes that each of the aforementioned procedures can be effective with all but the hard core non-compliant landlords. For those situations the committee recommends court action to remedy the violations. This can be done by filing a complaint for injunctive relief requiring the owner to make the necessary repairs through the appointment of a receiver to handle the rents, oversee repairs and payments for those repairs. Receivership is an ancillary procedure. There is no such thing as an action brought directly for the appointment of a receiver



9

(55 Cal Jur 3d, Receivers § 2). Appointment of a receiver effectively removes management of the property from the landlord during the receivership period.

California Code of Civil Procedure, Section 564 provides the basis for requesting appointment of a receiver as a remedy in a court action to correct a substandard housing condition. Additionally, State Health and Safety Code, Sections 17980.6 and 17980.7 provide that if the rental property is occupied and the violations are of such an extent that the health and safety of the tenants and/or the public are substantially endangered, then we can seek a court order (mandatory injunctive relief) requiring that the landlord make the necessary repairs. In addition we can seek all costs of inspection, investigation, enforcement, securement, temporary relocation of the tenants, attorney's fees, and court costs. This remedy is currently being used for the Shasta/Argus law suit.

• The Housing Program Committee considers the receivership approach to be a more effective enforcement tool than the other proposals. Utilization of this process would require additional demands for City Attorney time, because of the necessity of filing the underlying lawsuit seeking to enjoin the maintenance of a substandard residence (requiring that repairs be made) and then seeking a receiver be appointed to bring the residence from a substandard condition to that of a habitable condition pursuant to law. Some cases that are now being handled by the Housing Codes Advisory and Appeals Board would be referred to the City Attorney, which would create a larger workload than currently exists. The receiver would be responsible to collect the rents, manage the property, cause repairs and necessary renovations to be made in order to meet the minimum Housing Code and correct the substandard conditions. Seeking relief through receivership appointment would remove the City from the rent collection business and provides for property management which is not present in the proposed REAP ordinance. The City of San Francisco has recently embarked upon a receivership program in which they have filed suits on two multiple rental properties. Attorney staff are carefully monitoring the results of that action.

9

Key elements of this recommended policy would include:

a. Concept

1. Receiver takes over management of rental unit when owner refuses to maintain it to code.
2. Building maintained with rental collections.

b. Purpose

1. Maintain the current tenancy (preserving health and safety)
2. Have the buildings repaired rather than vacated and either secured or demolished
3. Alleviate blight in the neighborhood
4. Maintain stock of decent housing

c. Who can be a receiver?

1. Court-appointed individual
2. Competent private individual
3. Competent private property manager
4. Non-profit corporations

d. Current law -- receiver appointed to deal with property which is subject of litigation (CCP, Section 564).

1. Unlawful detainer (removal of tenant from premises by landlord)
2. Action by City to mandate compliance with Housing Codes (Health and Safety Code, Sections 17980, 17981, 17995)

e. Need to change law or regulations

1. City as receiver would require State adoption of Assembly Bill 3130 (Harris) currently a two-year bill.
2. Sacramento City Code, Chapter 49 can explicitly mention receivership option as a policy.

9

f. Suggestions

1. Seriously consider receivership option at earliest appropriate juncture.
2. City initiate law suit to abate Housing Code violations.
3. Ask court to appoint receiver.
4. Utilize only for multiple family rental complexes (with tenants) which are economically feasible to salvage.

7. Civil Penalties

The committee reviewed proposals for cost recovery and appropriate payment for services provided. Proposed fees are included in the separate report from Building Inspection Division on fiscal considerations, as they are related to the requested staff increase and the cost of performing the service. One area which the committee particularly recommends is the imposition of Civil Penalties when the order to abate has not been complied with. Amendment to City Code Section 1.7 to include Civil Penalties and reference in Chapter 49 and 50 would enable the Housing Unit to have an additional economic enforcement tool for use with non-compliant landlords.

B. Departmental Resources

The Housing and Dangerous Buildings Section of the Building Inspections Division contains the following staffing. One Chief Housing Inspector (vacant -- new position), one Building Inspector III, three Building Inspector I/II, and three clerical support positions (one currently vacant). Workload for the unit during calendar 1988 totaled 280 cases of which 137 were closed and 143 remained open and active. As of July 1989 there were 372 active cases and 155 complaints which had not yet been inspected. In addition to those cases there were 221 active permits requiring follow up inspections. (See appendix 10.)

Building Inspections Division by separate report is requesting the addition of three Building Inspector I/II and one additional support position to handle the existing and increased workload which would result from the adoption of these programs and procedural enhancements. The committee agrees with need for

7

increased staffing if progress in this program is to be achieved. The number and level of staff are more appropriately addressed by the Planning and Development Department. In addition to the need for increased resources the committee believes that there is need to more effectively systematize the tracking of housing and dangerous building cases. A system should provide computerization of the labor-intensive paper work entailed in each case. Pursuit of complaint inspections, case establishment, recordation of inspections, issuance & follow up of preliminary & subsequent notices, tracking of established deadlines and status of actions to date should be designed and implemented along with an invoicing and a lien process tracking system. Staff advises that development of such a computer system will require system development resources not currently available to the division and for which additional appropriation will be required. This matter will be discussed in more detail in the Planning and Development budget request report.

During the discussion of receivership we noted the additional impact that broader litigation would have on City Attorney staff. We believe that an expanded use of legal action will be necessary to resolve many of the more difficult housing cases. Because we understand that the volume and complexity of nuisance and housing/dangerous building cases (particularly with drug houses and labs) have stretched current legal staff to maximum, this committee supports any consideration for staff which may help to meet this problem.

IV. FINANCIAL CONSIDERATIONS

The role of this committee is to review and recommend policies for consideration by the City Council. Specific requests for staff, and other resources as well as modification or adoption of fees and changes is appropriately requested in separate memo from the affected City department. The committee therefore includes the following as a support recommendation in the belief that adoption of departmental requests at some level is necessary for effective resolution of housing problems.

A. Expenses

As already noted the committee supports the need for additional inspection, support and legal staff. With regard to specific appropriation needed to support program proposals, the committee recommends establishment of an appropriation for relocation benefits. This appropriation would be necessary when a landlord did not

9

pay the required benefit and reimbursement from landlord could be obtained from the lengthy property lien process.

A second appropriation would be for the City to exercise its repair authority, paying contractors to perform the minimum code repair. This process also would result in invoicing costs to the property owner and liening for unpaid invoices.

Our suggestion that the Housing Codes Board Members be established as a REAP Committee if that program is adopted could result in need to modify the compensation structure for those members.

B. Revenues

In conducting the survey of other cities, staff became aware of practices and fees which help to partially offset the expense incurred by non-compliant landlords. A list of proposed fees is attached in Appendix 11 for information purposes and will be reviewed in the report from Planning and Development Department.

The committee expects any return from the Franchise Tax Board to be minimal revenue but encourages that any such revenue be added to the Relocation Benefits appropriation as an appropriate source of funding for that purpose.

The committee also recommends the use of Civil Penalties when proper orders to correct substandard conditions are not complied with. Inclusion of that money into the Relocation Benefits appropriation is also recommended.

V. POLICY MATTERS

A. Educational Program

In an effort to make tenants and landlords aware of their rights and resources available to them, Council should encourage distribution of written materials to advise tenants and landlords of those rights and responsibilities.

B. Discovery and Inspection Enhancement

If additional staff are approved, the enhancements to the discovery of conditions and inspection of same as noted under Phase One and Phase Two of the Inspection Program, should be implemented. This includes computer file checking of property holdings of a landlord other than the substandard property and joint venture with Fire Department and Environmental Management Department of the

4

County for referral of suspect properties.

C. City Code Chapter 49 - Repair Authority

Article XII Enforcement of Order of Board provides that when there is failure to obey the order of the Housing Codes Advisory and Appeals Board (Section 49.1202) or failure to commence the ordered work (Section 49.1203) the director (Manager of Building Inspections Division) may cause the building to be vacated and posted. The director may also "cause the building to be repaired to the extent necessary to correct the conditions which render the building substandard." Past practice in housing cases has been to avoid use of this authority, perhaps because no funds have been budgeted for this purpose. Staff has expressed some apprehension in exercising this repair power. Anxiety centers around challenges regarding propriety of repair, selection of contractor, cost and extent of repairs performed. Without exercising the repair power, Chapter 49 leaves the director's discretion focused only on threat of demolition to gain compliance with the Board's order.

The committee believes that the careful exercise of this power in cases where it is economically feasible to repair would preclude some unwanted demolitions. Demolitions further reduce the City's rental housing stock. By exercising the repair authority we can avoid the ongoing problem of impasse being reached at the securement stage. Property which continues to remain secured is likewise unavailable for tenancy. The committee further encourages that an appropriation be added to the Building Inspections Division budget to serve as a combined "Repair and/or Demolition" account. Before the repair power could be exercised, a Writ of Possession would have to be sought. A Writ of Possession is an order by the court allowing the City/City's contractor to enter upon the premises to make the necessary repairs. This step will also require City Attorney involvement.

D. Adoption of the Rent Escrow Account Program (REAP)

As currently written the ordinance would provide for the City to accept rental payments on properties declared to be substandard and which properties have been included in the REAP Program. Adoption of this ordinance will place the City in a rent collection mode with all the appropriate accounting and fiscal responsibilities. By so doing it can reduce the cash flow of a particular property to encourage the landlord to make the necessary repairs.

One issue which requires continuing consideration is the issue of affordability. The committee's pursuit of enforcement of housing codes carries with it the potential that maintenance expense would be passed on to the tenant to the degree that fewer units would remain in the "affordable" range. While we cannot permit people to live in substandard and unhealthy rental units, the escalation of rents always has the potential of removing more residents from what were previously affordable units to no units available within their ability to pay. This issue will particularly be pursued as the committee continues its efforts to develop an effective REAP Program.

E. Adoption of Relocation Benefits Ordinance

Adoption of this ordinance will place responsibility for relocating tenants in substandard properties with the landlord who is responsible for that property. If the landlord does not follow the directive to pay the relocation benefits, a specific appropriation is requested from which the City can provide the appropriate amount to the tenant and after invoicing, lien the property for recovery from the landlord.

F. Policy Directive on Receivership

When efforts of the Housing and Dangerous Building Unit and the Housing Codes Advisory and Appeals Board have been unsuccessful in getting the landlord to effect the repair of substandard conditions, Council is being requested to adopt a specific policy which allows the Board to direct City Attorney's staff to proceed with court action requesting a remedy of a court-appointed receiver. Use of this action will also request recovery of administrative enforcement fees and court costs from the landlord.

G. Inclusion of Civil Penalties

The addition of a civil penalties clause in City Code, Chapter 1.7 and reference in Chapters 49 and 50 (the Housing and Dangerous Building Codes) will provide the basis for penalties to be levied against non-compliant landlords when multiple directives to repair have not been complied with.

H. Augmentation of Budgets for Staff, Equipment, etc.

Separate reports request augmentation of the Building Inspections Division budget for staff, services and

9

equipment and augmentation of the City Attorney budget for staff and equipment are being concurrently presented.

The committee believes the addition of resources to be essential to the success of these proposed policies and programs.

I. Continuance of the Committee as a Housing Issues Clearinghouse

Policy guidance is requested from the Council toward continuance of the current membership of the Housing Program Committee as an implementation oversight committee and continuing as a housing issues discussion committee.

VI. MWBE

Not applicable.

VII. RECOMMENDATIONS

The committee recommends that the Budget and Finance and Transportation and Community Development Committees adopt the following recommendations and forward them to the full Council. The recommendations are lettered and placed in the sequence in which they appear under Section V. Policy Matters.

A. Educational Program

Recommend staff be directed to implement the educational program.

B. Discovery/Inspection Enhancements

If Item H, Staffing Recommendations are approved, direct staff to implement Inspection Enhancements of Phase One and Phase Two.

C. Chapter 49, Repair Authority

Recommend Council augment Building Inspections Division budget with a specific appropriation for repair and direct staff to exercise the repair authority under direction of the Housing Codes Advisory and Appeals Board.

D. Rent Escrow Account Program

The committee feels that the proposal as currently

written is somewhat weak and requests Council direct the committee to pursue development of a similar proposal with enforcement aspects greater than the current proposal, and bring such proposal to the joint Council Committees once developed.

E. Relocation Benefits Ordinance

The committee recommends that Council adopt the Relocation Benefits Ordinance and establish specific budgetary appropriation to be used as necessary. Expenditures to be recovered through invoicing of landlord and/or property liens when necessary.

F. Receivership Policy

The committee strongly recommends that the use of court actions requesting appointment of a receiver is one of the more effective measures for resolution of the problems and strongly recommends that Council adopt a policy position encouraging its use where necessary by the Housing Codes Advisory and Appeals Board.

G. Civil Penalties

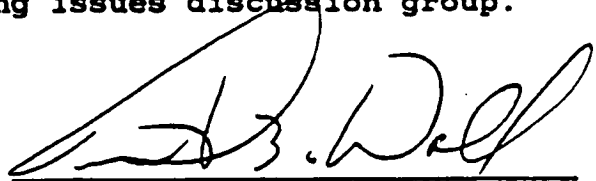
The committee recommends the adoption of civil penalties as a fiscal disincentive.

H. Augmentation of Budgets

The committee supports and recommends Council Committees give favorable consideration to the requested staff positions by Building Inspections Division and City Attorney's Office.

I. Continuance of the Committee

The committee recommends that its membership be directed to work with the Planning and Development Department during the implementation phase of all adopted portions of the program and seeks guidance from Council to utilize the committee as a housing issues discussion group.



Housing Program Committee
Robert B. Wall, Chair

9

Appendices - Housing Programs Report

- Appendix 1 **Committee Representatives**
- 2 **Survey of Other Cities**
- 3 **Excerpts - California Civil Code, Sect. 1940**
- 4 **SHRA - Rental Rehabilitation for Redevelopment Areas**
- 5 **HUD - A Good Place to Live**
- 6 **Human Rights/Fair Housing Commission -
 Tenant/Landlord Handbook**
- 7 **Housing/Dangerous Buildings - Notice of Programs
 and Resources**
- 8 **Rent Escrow Account Program - Proposed Ordinance**
- 9 **Relocation Benefits Proposed Ordinance**
- 10 **Housing/Dangerous Buildings Workload Data**
- 11 **Proposed Fees - Building Inspection Division
 (Info. only)**

Little
 Manager's Office
 915 I Street, #109
 Sacramento, CA 95814

Tammy Milligan-Harmon
 Dept. of Planning & Dev.
 1231 I Street, #302
 Sacramento, CA 95814

Bill Hughson
 Sims' Property Mgmt.
 9801 Fair Oaks Blvd., #400
 Fair Oaks, CA 95628

Barrie Jean Roberts
 Legal Services of No. Calif.
 515 12th Street
 Sacramento, CA 95814

Sue Block
 SHRA
 630 I Street, C-23
 Sacramento, CA 95814

Helen Sims
 Sims' Property Mgmt.
 9801 Fair Oaks Blvd., #400
 Fair Oaks, CA 95628

Marc Brown
 Calif. Rural Legal Asst.
 2000 O Street
 Sacramento, CA 95814

Art Seipel
 Sacramento Cnty. Env. Health
 8475 Jackson Rd., #240
 Sacramento, CA 95826

David Martinez
 Deputy City Manager
 915 I Street, #109
 Sacramento, CA 95814

Jonathan Ellison
 Legal Ctr. for the
 Elderly and Disabled
 530 Bercut Dr., St. G
 Sacramento, CA 95815

Ken Stuart
 Sacramento Cnty. Env. Health
 8475 Jackson Rd., #240
 Sacramento, CA 95826

Bill Lefkovitz
 600 I Street
 Sacramento, CA 95814

Cathy Creswell
 Housing and Comm. Development
 P. O. Box 952053
 Sacramento, CA 95452-2053

Erik Rasmusson
 Sacto. Board of Realtors
 2003 Howe Avenue
 Sacramento, CA 95825

Sally Hencken
 Mayor/City Council Office
 915 I Street, #205
 Sacramento, CA 95814

Tim Sullivan, Manager
 Building Inspections Div.
 1231 I Street, #200
 Sacramento, Ca 95814

Diane Balter
 City Attorney's Office
 812 10th Street, #201
 Sacramento, CA 95814

Robert B. Wall
 Asst. Director
 Planning & Development
 1231 I Street, Room 302
 Sacramento, CA 95814

Dennis Richardson, Asst. Mgr.
 Building Inspections Div.
 1231 I Street, #200
 Sacramento, CA 95814

Derrick Lim
 Human Rights/Fair Hsg. Comm.
 2131 Capitol Ave., #206
 Sacramento, CA 95816

Michael Hanamura
 Neighborhood Services Div.
 1231 I Street, Room 301
 Sacramento, CA 95814

Betty Gwiazdon
 Sacramento Apt. Owners Assoc.
 1775 Tribute Rd., St. C
 Sacramento, CA 95815

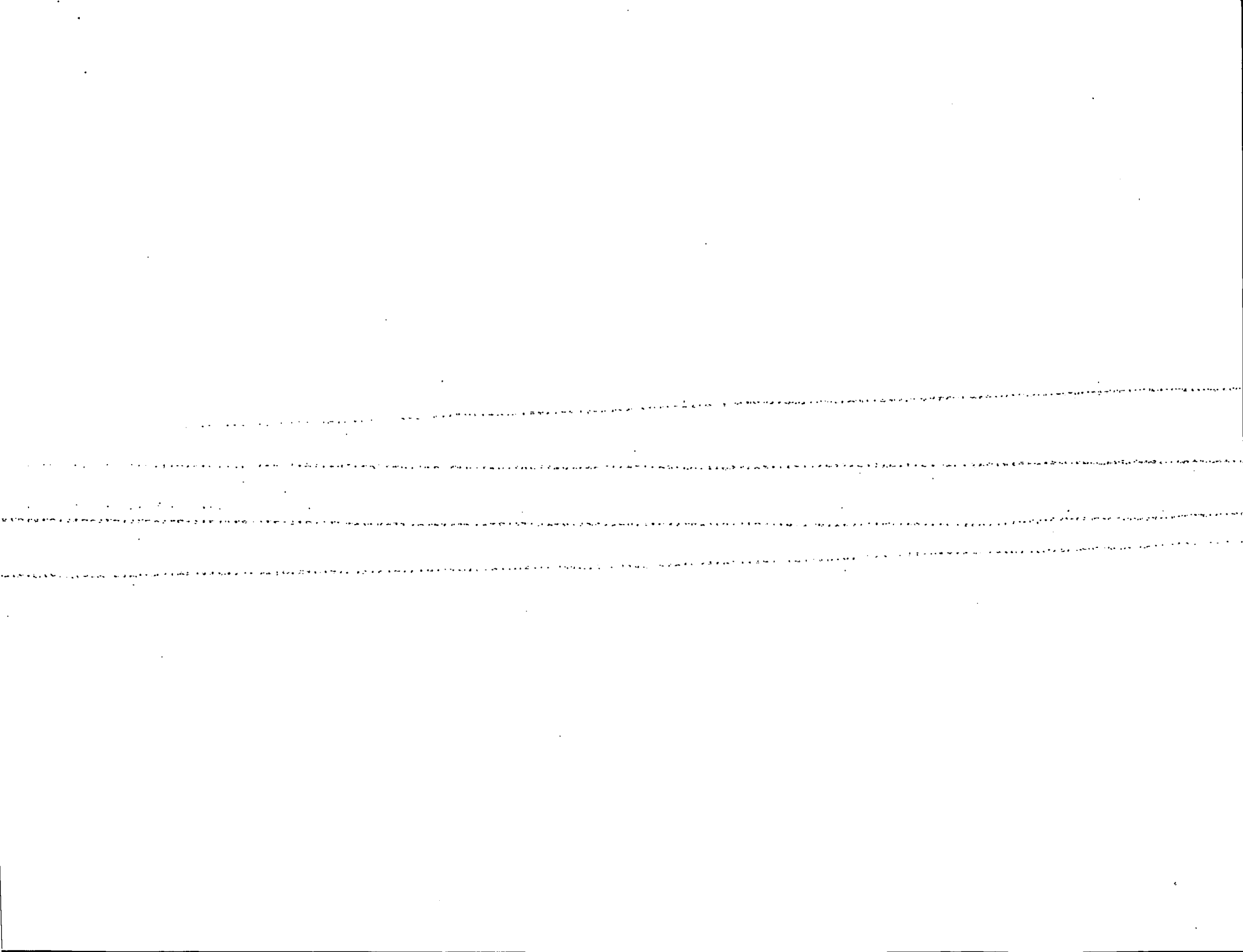
Don Berry
 County Building Inspections
 827 - 7th Street, Room 102
 Sacramento, CA 95814

Donna May Campbell
 Calif. Apt. Assn.
 1 K Street, #610
 Sacramento, CA 95814-3929

Mary Brill
 P. O. Box 22898
 Sacramento, CA 95822

Jurisdiction	Pop	Dept Division	# Substd Housing Complaints	Rental Cert. Single	Cert. Mult	Permit Fee	Reloc Ord	Receiver Program	Rent "Escrow"	FTB Used	Comments
HAYWARD (415) 581-2345 X5254 Carlos Baltadano	103,000	Dept PW Bldg Div	550/year	No	Yes	Reinspections \$50.00/parcel Add'l. insp. \$50.00+\$10.00/ Unit	No	No	No	Yes	Threat of FTB Works
FRESNO (209) 488-1377 Max Fernandez	308,000	Develop Dept/Bldg Insp Div Hsg Stds Section	1500/year	Annual Insp's For Hotels/ Motels		Insp. Fee \$78/hr Min 1 hr	No	No (Code Allows emergency repairs)	No	Yes	Just started FTB referrals -2/3 years ago. No income data Substd chg.\$260. on top of bldg permit.
OAKLAND (415) 273-3381 Jim Blyler	356,000	Comm Dev Dept Hsg Conserv Division	2000/year	No	No	No	No	No	No	No	Has mechanism for charging \$150. for third inspection but not used.
LONG BEACH (213) 490-6623 Donna Weeks	415,800	Plan & Bldg Dept/ Bldg/Safety Bureau Code Enf Section	3500/year	No	No	No	No	No	No	No	On substd charge \$100. fee in addition to bldg permits.
SAN JOSE (408) 277-4528 Tony LaRussa	732,000	Neigh.Pres. Dept. Code Enf. Div.	1300/year	No	Yes	\$18/unit*	No	No	No	No	FTB-Can use but haven't. Number complaints decreased since mail-in complaint forms. *Generates \$1.5 million/year.
SAN FRANCISCO (415) 558-6183 Joe Grubbs	770,000	Dept PW Bureau of Bldg Div of Hsg	5500/year	No	Yes	Varies Apts: <20rms = \$ 88.00 >60rms = \$319.00 Hotels:<20rms = \$135.00 >150rms = \$444.00	No	Yes (Code allows emergency repairs)	No	Yes	FTB-Receiver Avg. of \$90,000/year; use for revolving loan fund.
LOS ANGELES	3,000,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Yes	N/A	
SAN DIEGO (610) 533-4555 Paul Elias	1,050,000	Bldg Insp Dept. Housing, C.E. Div.	2,000 - 4,000/year	No	No	No Charge \$50.00 for 3rd. inspect.	No	No	No	Yes	Used last 3 years; Impr. compliance. Also charge \$50.00 for d inspect.

Appendix 2



Part 4

thing hired during the term of the hiring, against all persons lawfully claiming the same. (Enacted 1872.)

Cross References

Covenant for quiet enjoyment as running with the land, see § 1463.
Damages for breach of covenant of quiet enjoyment, see § 1304.
Obligations of letter of personal property, see § 1935.

§ 1928. Degree of care

Degree of care, etc., on part of hirer. The hirer of a thing must use ordinary care for its preservation in safety and in good condition. (Enacted 1872.)

§ 1929. Repairs

The hirer of a thing must repair all deteriorations or injuries thereto occasioned by his want of ordinary care. (Enacted 1872. Amended by Stats.1905, c. 454, § 1.)

Cross References

Buildings for human occupancy, see § 1941.
Personal property, see § 1935.

§ 1930. Use of thing lent for particular purpose; damages

When a thing is let for a particular purpose the hirer must not use it for any other purpose; and if he does, he is liable to the letter for all damages resulting from such use, or the letter may treat the contract as thereby rescinded. (Enacted 1872. Amended by Stats.1905, c. 454, § 2.)

Cross References

Grounds for rescission of contract, see § 1689.

§ 1931. Termination of hiring by letter

When letter may terminate the hiring. The letter of a thing may terminate the hiring and reclaim the thing before the end of the term agreed upon:

1. When the hirer uses or permits a use of the thing hired in a manner contrary to the agreement of the parties; or,

2. When the hirer does not, within a reasonable time after request, make such repairs as he is bound to make. (Enacted 1872.)

§ 1932. Termination of hiring by hirer

The hirer of a thing may terminate the hiring before the end of the term agreed upon:

1. When the letter does not, within a reasonable time after request, fulfill his obligations, if any, as to placing and securing the hirer in the quiet possession of the thing hired, or putting it into good condition, or repairing; or,

2. When the greater part of the thing hired, or that part which was and which the letter had at the time of the hiring reason to believe was the material inducement to the hirer to enter into the contract, perishes from any other cause than the want of ordinary care of the hirer. (Enacted 1872. Amended by Stats.1905, c. 454, § 3.)

West's Cal. Civil Code '88 Pamph.—15

§ 1933. Termination of hiring

When hiring terminates. The hiring of a thing terminates:

1. At the end of the term agreed upon;
2. By the mutual consent of the parties;
3. By the hirer acquiring a title to the thing hired superior to that of the letter; or,
4. By the destruction of the thing hired. (Enacted 1872.)

Cross References

Termination of lease, remedy of lessor, see § 1951.2.

§ 1934. Death or incapacity of party; effect

When terminated by death, etc., of party. If the hiring of a thing is terminable at the pleasure of one of the parties, it is terminated by notice to the other of his death or incapacity to contract. In other cases it is not terminated thereby. (Enacted 1872.)

§ 1934.5. Accommodations from month to month in nursing or convalescent home; termination on death of patient

Notwithstanding the provisions of Section 1934, the hiring of accommodations from month to month in a nursing or convalescent home shall be terminated by the death of the patient by or for whom the hiring was made. The hirer or his heir, legatee, or personal representative shall not be liable for any rent due for such accommodations under the hiring agreement beyond that rent due for the date on which such patient died. No advance payment of rent made by the hirer shall be subject to the claim of, or retention by, the nursing or convalescent home and shall be returned to the heir, legatee, or personal representative no later than two weeks after such patient has died. Any provision in the hiring agreement by which the hirer agrees to modify or waive any of his rights under this section shall be void as contrary to public policy.

The provisions of this section shall be applicable to all hiring agreements executed on or after January 1, 1979. (Added by Stats.1978, c. 628, § 1.)

§ 1935. Termination of hiring; apportionment of hire

Apportionment of hire. When the hiring of a thing is terminated before the time originally agreed upon, the hirer must pay the due proportion of the hire for such use as he has actually made of the thing, unless such use is merely nominal, and of no benefit to him. (Enacted 1872.)

CHAPTER 2. HIRING OF REAL PROPERTY

Section

1940. Application of chapter; "persons who hire", defined.
1940.5. Refusal to rent to otherwise qualified tenant on basis of possession of waterbed prohibited; requirements and conditions.

- Section
1941. Buildings for human occupancy; fitness; repairs.
- 1941.1. Untenantable dwellings.
- 1941.2. Tenant's affirmative obligations.
1942. Repairs by tenant; rent deduction or vacation of premises; presumption; limit; nonavailability of remedy; additional remedy.
- 1942.1. Waiver of rights; public policy; arbitration of untenability.
- 1942.3. Unlawful detainer; burden of proof; rebuttable presumption landlord breached habitability requirements; conditions.
- 1942.4. Actual and special damages; landlord liability; conditions; attorney's fees; remedies; small claims court.
- 1942.5. Retaliation; prohibited acts; violations; remedies; penalties.
1943. Term of hiring; presumption.
1944. Term of hiring; presumption; lodgings or dwelling house.
1945. Renewal by continued possession and acceptance of rent.
- 1945.5. Automatic renewal or extension; recitals in contract; size of type, etc.
1946. Renewable hiring; notice of termination.
- 1946.5. Room by single lodger or periodic basis within dwelling unit occupied by owner; termination; written notice; removal from premises.
1947. Rent; time of payment.
- 1947.7. Legislative findings, declarations, and intent concerning standards of compliance with local rent stabilization programs; owners of residential rental units in substantial compliance with local rent controls; penalties and sanctions.
- 1947.8. Local rent controls; establishment and certification of permissible rent levels; appeal; fee; public record.
1948. Assignment to a stranger.
1949. Tenant's obligation to deliver certain notices to landlord; damages.
1950. Letting parts of rooms; double letting of rooms.
- 1950.5. Security for rental agreement for dwelling property of tenant; "security" defined; limits on amount; mutual agreements; priority; claims against security; itemized statement and accounting; landlord's successors in interest; itemized statement of deductions from security; damages; actions in small claims court; evidence.
- 1950.7. Payment or deposit of money to secure performance of rental agreement for other than residential property; status of and claims against deposit; duty of landlord on termination of interest.
1951. "Rent", "lease", defined.
- 1951.2. Termination of lease; remedy of lessor.
- 1951.3. Abandonment by lessee; notice by lessor; form; defenses of lessee.
- 1951.4. Remedy provided by lease; provisions.
- 1951.5. Liquidated damages.
- 1951.7. Advance payment defined; notice of reletting.
- 1951.8. Equitable relief.
1952. Actions for unlawful detainer, forcible entry, and forcible detainer; effect.
- 1952.2. Inapplicability of Sections 1951, 1952, inclusive, to certain leases.
- 1952.3. Unlawful detainer; possession not in issue; conversion to action for damages.
- 1952.4. Agreement for exploration for or removal of natural resources not lease of real property.
- 1952.6. Applicability to leases between public entities and nonprofit corporations.
- 1952.8. Gasoline service stations; leases; vapor control system; requirements.
1953. Waiver or modification of lessor's rights; void as contrary to public policy; exception; applicability of section.
1954. Entry of dwelling by landlord; conditions.
- 1954.1. Assignment for the benefit of creditors; right of assignee to occupy business premises; payment of rent; time.

§ 1940. Application of chapter; "persons who hire", defined

(a) Except as provided in subdivision (b), this chapter shall apply to all persons who hire dwelling units located

within this state including tenants, lessees, boarders, lodgers, and others, however denominated.

(b) The term "persons who hire" shall not include a person who maintains either of the following:

(1) Transient occupancy in a hotel, motel, residence club, or other facility when such occupancy is or would be subject to tax under Section 7280 of the Revenue and Taxation Code.

(2) Occupancy at a hotel or motel where the innkeeper retains a right of access to and control of the dwelling unit and the hotel or motel provides or offers all of the following services to all of the residents:

(A) Facilities for the safeguarding of personal property pursuant to Section 1860.

(B) Central telephone service subject to tariffs covering the same filed with the California Public Utilities Commission.

(C) Central dining, maid, mail, room and recreational services.

(D) Occupancy for periods of less than seven days.

(c) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(d) Nothing in this section shall be construed to limit the application of any provision of this chapter to tenancy in a dwelling unit unless such provision is so limited by its specific terms. (Added by Stats.1976, c. 712, § 1.)

Cross References

Tenant, exclusion from definition of persons whose occupancy is described in subd. (b) of this section, see Code of Civil Procedure § 1161.

§ 1940.5. Refusal to rent to otherwise qualified tenant on basis of possession of waterbed prohibited; requirements and conditions

An owner or an owner's agent shall not refuse to rent a dwelling unit in a structure which received its valid certificate of occupancy after January 1, 1973, to an otherwise qualified prospective tenant or refuse to continue to rent to an existing tenant solely on the basis of that tenant's possession of a waterbed or other bedding with liquid filling material where all of the following requirements and conditions are met:

(a) A tenant or prospective tenant furnishes to the owner, prior to installation, a valid waterbed insurance policy or certificate of insurance for property damage. The policy shall be issued by a company licensed to do business in California and possessing a Bests Insurance Report rating of "B" or higher. The insurance policy shall be maintained in full force and effect until the bedding is permanently removed from the rental premises. The policy shall be written for no less than one hundred thousand dollars (\$100,000) of coverage. The policy shall cover, up to the limits of the policy, replacement value of all property damage, including loss

of use, incurred by the rental property owner or other caused by or arising out of the ownership, maintenance, use, or removal of the waterbed on the rental premises only, except for any damage caused intentionally or at the direction of the insured, or for any damage caused by or resulting from fire. The owner may require the tenant to produce evidence of insurance at any time. The carrier shall give the owner notice of cancellation or nonrenewal 10 days prior to this action. Every application for a policy shall contain the information as provided in subdivisions (a), (b), and (c) of Section 1962 and Section 1962.5.

(b) The bedding shall conform to the pounds-per-square foot weight limitation and placement as dictated by the floor load capacity of the residential structure. The weight shall be distributed on a pedestal or frame which is substantially the dimensions of the mattress itself.

(c) The tenant or prospective tenant shall install, maintain and remove the bedding, including, but not limited to, the mattress and frame, according to standard methods of installation, maintenance, and removal as prescribed by the manufacturer, retailer, or state law, whichever provides the higher degree of safety. The tenant shall notify the owner or owner's agent in writing of the intent to install, remove, or move the waterbed. The notice shall be delivered 24 hours prior to the installation, removal, or movement. The owner or the owner's agent may be present at the time of installation, removal, or movement at the owner's or the owner's agent's option. If the bedding is installed or moved by any person other than the tenant or prospective tenant, the tenant or prospective tenant shall deliver to the owner or to the owner's agent a written installation receipt stating the installer's name, address, and business affiliation where appropriate.

(d) Any new bedding installation shall conform to the owner's or the owner's agent's reasonable structural specifications for placement within the rental property and shall be consistent with floor capacity of the rental dwelling unit.

(e) The tenant or prospective tenant shall comply with the minimum component specification list prescribed by the manufacturer, retailer, or state law, whichever provides the higher degree of safety.

(f) All bedding shall comply with the rules and regulations governing the quality of bedding construction promulgated by the Bureau of Home Furnishings pursuant to Section 19155 of the Business and Professions Code, and shall display a label declaring compliance with those rules and regulations. Any bedding constructed prior to January 1, 1973, shall be deemed not in compliance with the requirements of this subdivision.

(g) Subject to the notice requirements of Section 1954, the owner, or the owner's agent, shall have the right to inspect the bedding installation upon completion, and periodically thereafter, to insure its conformity with this section. If installation or maintenance is not in conformity with this section, the owner may serve the tenant with

a written notice of breach of the rental agreement. The owner may give the tenant three days either to bring the installation into conformity with those standards or to remove the bedding, unless there is an immediate danger to the structure, in which case there shall be immediate corrective action. If the bedding is installed by any person other than the tenant or prospective tenant, the tenant or prospective tenant shall deliver to the owner or to the owner's agent a written installation receipt stating the installer's name and business affiliation where appropriate.

(h) Notwithstanding Section 1950.5, an owner or owner's agent is entitled to increase the security deposit on the dwelling unit in an amount equal to one-half of one month's rent. The owner or owner's agent may charge a tenant, lessee, or sublessee a reasonable fee to cover administration costs. In no event does this section authorize the payment of a rebate of premium in violation of Article 5 (commencing with Section 750) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(i) Failure of the owner, or owner's agent, to exercise any of his or her rights pursuant to this section does not constitute grounds for denial of an insurance claim.

(j) As used in this section, "tenant" includes any lessee, and "rental" means any rental or lease. (*Added by Stats.1987, c. 1503, § 1.*)

§ 1941. Buildings for human occupancy; fitness; repairs

The lessor of a building intended for the occupation of human beings must, in the absence of an agreement to the contrary, put it into a condition fit for such occupation, and repair all subsequent dilapidations thereof, which render it untenable, except such as are mentioned in section nineteen hundred and twenty-nine. (*Enacted 1872. Amended by Code Am.1873-74, c. 612, § 205.*)

Cross References

Repairs by hirer, see § 1929.

§ 1941.1. Untenable dwellings

A dwelling shall be deemed untenable for purposes of Section 1941 if it substantially lacks any of the following affirmative standard characteristics:

(a) Effective waterproofing and weather protection of roof and exterior walls, including unbroken windows and doors.

(b) Plumbing or gas facilities which conformed to applicable law in effect at the time of installation, maintained in good working order.

(c) A water supply approved under applicable law, which is under the control of the tenant, capable of producing hot and cold running water, or a system which is under the control of the landlord, which produces hot and cold running water, furnished to appropriate fixtures, and connected to a sewage disposal system approved under applicable law.

(d) Heating facilities which conformed with applicable law at the time of installation, maintained in good working order.

(e) Electrical lighting, with wiring and electrical equipment which conformed with applicable law at the time of installation, maintained in good working order.

(f) Building, grounds and appurtenances at the time of the commencement of the lease or rental agreement in every part clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, and all areas under control of the landlord kept in every part clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents, and vermin.

(g) An adequate number of appropriate receptacles for garbage and rubbish, in clean condition and good repair at the time of the commencement of the lease or rental agreement, with the landlord providing appropriate serviceable receptacles thereafter, and being responsible for the clean condition and good repair of such receptacles under his control.

(h) Floors, stairways, and railings maintained in good repair. (*Added by Stats. 1970, c. 1280, § 1. Amended by Stats. 1979, c. 307, § 1.*)

§ 1941.2. Tenant's affirmative obligations

(a) No duty on the part of the landlord to repair a dilapidation shall arise under Section 1941 or 1942 if the tenant is in substantial violation of any of the following affirmative obligations, provided the tenant's violation contributes substantially to the existence of the dilapidation or interferes substantially with the landlord's obligation under Section 1941 to effect the necessary repairs:

(1) To keep that part of the premises which he occupies and uses clean and sanitary as the condition of the premises permits.

(2) To dispose from his dwelling unit of all rubbish, garbage and other waste, in a clean and sanitary manner.

(3) To properly use and operate all electrical, gas and plumbing fixtures and keep them as clean and sanitary as their condition permits.

(4) Not to permit any person on the premises, with his permission, to willfully or wantonly destroy, deface, damage, impair or remove any part of the structure or dwelling unit or the facilities, equipment, or appurtenances thereto, nor himself do any such thing.

(5) To occupy the premises as his abode, utilizing portions thereof for living, sleeping, cooking or dining purposes only which were respectively designed or intended to be used for such occupancies.

(b) Paragraphs (1) and (2) of subdivision (a) shall not apply if the landlord has expressly agreed in writing to perform the act or acts mentioned therein. (*Added by Stats. 1970, c. 1280, § 2. Amended by Stats. 1979, c. 307, § 2.*)

§ 1942. Repairs by tenant; rent deduction or vacatur of premises; presumption; limit; nonavailability remedy; additional remedy

(a) If within a reasonable time after written or oral notice to the landlord or his agent, as defined in subdivision (a) of Section 1962, of dilapidations rendering the premises untenable which the landlord ought to repair, the landlord neglects to do so, the tenant may repair the same himself where the cost of such repairs does not require an expenditure more than one month's rent of the premises and deduct the expenses of such repairs from the rent when due, or the tenant may vacate the premises, in which case the tenant shall be discharged from further payment of rent, or performance of other conditions as of the date of vacating the premises. This remedy shall not be available to the tenant more than twice in any 12-month period.

(b) For the purposes of this section, if a tenant acts to repair and deduct after the 30th day following notice, he is presumed to have acted after a reasonable time. The presumption established by this subdivision is a rebuttable presumption affecting the burden of producing evidence and shall not be construed to prevent a tenant from repairing and deducting after a shorter notice if all the circumstances require shorter notice.

(c) The tenant's remedy under subdivision (a) shall not be available if the condition was caused by the violation of Section 1929 or 1941.2.

(d) The remedy provided by this section is in addition to any other remedy provided by this chapter, the rental agreement, or other applicable statutory or common law. (*Enacted 1872. Amended by Code Am. 1873-74, c. 612, § 206; Stats. 1970, c. 1280, § 3; Stats. 1979, c. 307, § 3.*)

Cross References

Expenses of hirer in making good lessor's default, see § 1957.

§ 1942.1. Waiver of rights; public policy; arbitration of untenability

Any agreement by a lessee of a dwelling waiving or modifying his rights under Section 1941 or 1942 shall be void as contrary to public policy with respect to any condition which renders the premises untenable, except that the lessor and the lessee may agree that the lessee shall undertake to improve, repair or maintain all or stipulated portions of the dwelling as part of the consideration for rental.

The lessor and lessee may, if an agreement is in writing, set forth the provisions of Sections 1941 to 1942.1, inclusive, and provide that any controversy relating to a condition of the premises claimed to make them untenable may by application of either party be submitted to arbitration, pursuant to the provisions of Title 9 (commencing with Section 1280), Part 3 of the Code of Civil Procedure, and that the costs of such arbitration shall be apportioned by the arbitrator between the parties. (*Added by Stats. 1970, c. 1280, § 4.*)

§ 1942.3. Unlawful detainer; burden of proof; rebuttable presumption landlord breached habitability requirements; conditions

(a) In any unlawful detainer action by the landlord to recover possession from a tenant, a rebuttable presumption affecting the burden of producing evidence that the landlord has breached the habitability requirements in Section 1941 is created if all of the following conditions exist:

(1) The dwelling substantially lacks any of the affirmative standard characteristics listed in Section 1941.1.

(2) A public officer or employee who is responsible for the enforcement of any housing law has notified the landlord, or an agent of the landlord, in a written notice issued after inspection of the premises which informs the landlord of his or her obligations to abate the nuisance or repair the substandard conditions.

(3) The conditions have existed and have not been abated 60 days beyond the date of issuance of the notice specified in paragraph (2) and the delay is without good cause.

(4) The conditions were not caused by an act or omission of the tenant or lessee in violation of Section 1929 or 1941.2.

(b) The presumption specified in subdivision (a) does not arise unless all of the conditions set forth therein are proven, but failure to so establish the presumption shall not otherwise affect the right of the tenant to raise and pursue any defense based on the landlord's breach of the implied warranty of habitability.

(c) The presumption provided in this section shall apply only to rental agreements or leases entered into or renewed on or after January 1, 1986. (Added by Stats.1985, c. 1279, § 1.)

§ 1942.4. Actual and special damages; landlord liability; conditions; attorney's fees; remedies; small claims court

(a) Any landlord who demands or collects rent when all of the following conditions exist is liable to the tenant or lessee for the actual damages sustained by the tenant or lessee and special damages in an amount not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000):

(1) The rental dwelling substantially lacks any of the affirmative standard characteristics listed in Section 1941.1.

(2) A public officer or employee who is responsible for the enforcement of any housing law has notified the landlord, or an agent of the landlord, in a written notice issued after inspection of the premises which informs the landlord of his or her obligations to abate the nuisance or repair the substandard conditions.

(3) The conditions have existed and have not been abated 60 days beyond the date of issuance of the notice specified in paragraph (2) and the delay is without good cause.

(4) The conditions were not caused by an act or omission of the tenant or lessee in violation of Section 1929 or 1941.2.

(b) In addition to recovery of allowable costs of suit, the prevailing party shall be entitled to recovery of reasonable attorney's fees in an amount fixed by the court.

(c) The tenant or lessee shall be under no obligation to undertake any other remedy prior to exercising his or her rights under this section.

(d) Any action under this section may be maintained in small claims court if the actual or special damages claimed are within the jurisdictional amount specified in Section 116.2 of the Code of Civil Procedure.

(e) The remedy provided by this section applies only to rental agreements or leases entered into or renewed on or after January 1, 1986, and may be utilized in addition to any other remedy provided by this chapter, the rental agreement, lease, or other applicable statutory or common law. (Added by Stats.1985, c. 1279, § 2.)

§ 1942.5. Retaliation; prohibited acts; violations; remedies; penalties

(a) If the lessor retaliates against the lessee because of the exercise by the lessee of his rights under this chapter or because of his complaint to an appropriate agency as to tenantability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of his rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days:

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, or has made an oral complaint to the lessor regarding tenantability; or

(2) After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenantability; or

(3) After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice; or

(4) After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenantability; or

(5) After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenantability is determined adversely to the lessor.

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive.

(b) A lessee may not invoke the provisions of subdivision (a) more than once in any 12-month period.

(c) It shall be unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of such acts, for the purpose of retaliating against the lessee because he or she has lawfully organized or participated in a lessees' association or an organization advocating lessees' rights or has lawfully and peaceably exercised any rights under the law. In an action brought by or against the lessee pursuant to this subdivision, the lessee shall bear the burden of producing evidence that the lessor's conduct was, in fact, retaliatory.

(d) Nothing in this section shall be construed as limiting in any way the exercise by the lessor of his rights under any lease or agreement or any law pertaining to the hiring of property or his right to do any of the acts described in subdivision (a) or (c) for any lawful cause. Any waiver by a lessee of his rights under this section shall be void as contrary to public policy.

(e) Notwithstanding the provisions of subdivisions (a) to (d), inclusive, a lessor may recover possession of a dwelling and do any of the other acts described in subdivision (a) within the period or periods prescribed therein, or within subdivision (c), if the notice of termination, rent increase, or other act, and any pleading or statement of issues in an arbitration, if any, states the ground upon which the lessor, in good faith, seeks to recover possession, increase rent, or do any of the other acts described in subdivision (a) or (c). If such statement be controverted, the lessor shall establish its truth at the trial or other hearing.

(f) Any lessor or agent of a lessor who violates this section shall be liable to the lessee in a civil action for all of the following:

(1) The actual damages sustained by the lessee.

(2) Punitive damages in an amount of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to such act.

(g) In any action brought for damages for retaliatory eviction, the court shall award reasonable attorney's fees to the prevailing party if either party requests attorney's fees upon the initiation of the action.

(h) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law. (Added by Stats.1979, c. 652, § 2.)

Former § 1942.5 was repealed by Stats.1979, c. 652, § 1.

§ 1943. Term of hiring; presumption

A hiring of real property, other than lodgings and dwelling-houses, in places where there is no custom or usage on the subject, is presumed to be a month to month tenancy unless otherwise designated in writing; except that, in the case of real property used for agricultural or grazing purposes a hiring is presumed to be for one year from its commencement unless otherwise expressed in the hiring. (Enacted 1872. Amended by Stats.1953, c. 1541, § 1.)

Cross References

Oral leases valid for one year, see § 1624, subd. (c).

§ 1944. Term of hiring; presumption; lodgings or dwelling house

Hiring of lodgings for indefinite term. A hiring of lodgings or a dwellinghouse for an unspecified term is presumed to have been made for such length of time as the parties adopt for the estimation of the rent. Thus a hiring at a monthly rate of rent is presumed to be for one month. In the absence of any agreement respecting the length of time or the rent, the hiring is presumed to be monthly. (Enacted 1872.)

Cross References

Estates in real property, see § 761.

§ 1945. Renewal by continued possession and acceptance of rent

Renewal of lease by lessee's continued possession. If a lessee of real property remains in possession thereof after the expiration of the hiring, and the lessor accepts rent from him, the parties are presumed to have renewed the hiring on the same terms and for the same time, not exceeding one month when the rent is payable monthly, nor in any case one year. (Enacted 1872.)

§ 1945.5. Automatic renewal or extension; recitals in contract; size of type, etc.

Notwithstanding any other provision of law, any term of a lease executed after the effective date of this section for the hiring of residential real property which provides for the automatic renewal or extension of the lease for all or part of the full term of the lease if the lessee remains in possession after the expiration of the lease or fails to give notice of his intent not to renew or extend before the expiration of the lease shall be voidable by the party who did not prepare the lease unless such renewal or extension provision appears in at least eight-point boldface type, if the contract is printed, in the body of the lease agreement and a recital of the fact that such provision is contained in the body of the agreement appears in at least eight-point boldface type, if the contract is printed, immediately prior to the place where the lessee executes the agreement. In such case, the presumption in Section 1945 of this code shall apply.

Any waiver of the provisions of this section is void as against public policy. (Added by Stats.1965, c. 1664, § 1. Amended by Stats.1976, c. 1107, § 1.)

§ 1946. Renewable hiring; notice of termination

A hiring of real property, for a term not specified by the parties, is deemed to be renewed as stated in Section 1945, at the end of the term implied by law unless one of the parties gives written notice to the other of his intention to terminate the same, at least as long before the expiration thereof as the term of the hiring itself, not exceeding 30 days; provided, however, that as to tenancies from month to month either of the parties may terminate the same by giving at least 30 days' written notice thereof at any time and the rent shall be due and

**Appendix 4 - Rental Rehabilitation for
Redevelopment Areas**

Appendix 5 - A Good Place to Live

Appendix 6 - Tenant/Landlord Handbook

Filed Separately



CITY OF SACRAMENTO

NOTICE

FAILURE TO COMPLY TO THE ATTACHED HOUSING INSPECTION NOTICE AND ORDER MAY RESULT IN:

- Loss of rental housing state tax deduction.
(R & T Code Section 17274/24436.5)
- Loss of rent revenue to City rent escrow account.
(City Ordinance No.)
- Responsibility for relocation payments to tenants if building or unit(s) are required to be vacated and/or demolished.
(City Ordinance No.)
- Court appointment of a receiver to administer property, collect rents and cause repairs to be made under review by the Courts.
- Property liens and/or personal obligation judgements filed by the City to recover investigative and administrative costs.
- Imposition of civil penalties.

FINANCIAL RESOURCES AVAILABLE TO ASSIST YOU MAKE THE NECESSARY CORRECTIVE REPAIRS INCLUDE:

- Sacramento Housing and Redevelopment Agency rental rehab loan program.
(Call 916-440-1350 for information)
- Sacramento Housing and Redevelopment Agency retrofit repair grant for disabled occupants.
(Call 916-440-1350 for information)

RESOURCES FOR ADVICE & ASSISTANCE

- Sacramento Valley Apartment Association 920-1120
- Sacramento Housing and Redevelopment Agency
Housing - Low income & senior citizens 441-6717
- Human Rights/Fair Housing Commission
Tenant/landlord information 440-0178
- Legal Services, Northern California
Legal assistance for low income Sacramento residents 444-6760
- Legal Center for Elderly and Disabled
60 or over, or disabled, low income residents 446-4851



ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADDING ARTICLE XIV TO CHAPTER 49 OF THE SACRAMENTO CITY CODE ESTABLISHING THE RENT ESCROW ACCOUNT PROGRAM

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

Article XIV is hereby added to Chapter 49 of the Sacramento City Code, to read as follows:

ARTICLE XIV

Sec. 49.1400. Title.

This Article shall be known as the Rent Escrow Account Program of the City of Sacramento.

Sec. 49.1401. General.

A. Purpose. It is the purpose of the provisions of this Article to provide a just, equitable and practical method, to be cumulative to and in addition to any other remedy available at law, to encourage compliance by landlords with respect to the maintenance and repair of residential buildings, structures, premises and portions thereof.

B. Scope. The provisions of this Article shall apply to all residential units in all existing buildings, structures, and premises which consist of or contain one or more rental units.

C. Role of Housing Code Advisory and Appeals Board.

The Housing Code Advisory and Appeals Board shall be responsible for carrying out the provisions of this Article.

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

9

It shall have the authority to issue orders and promulgate policies, rules and regulations to effectuate the purposes of this Article.

It may make such studies and investigations, conduct such hearings, and obtain such information as it deems necessary to promulgate, administer and enforce any regulation, rule or order adopted pursuant to this Article.

D. Other Provisions of the City Code Unaffected Hereby.

The provisions of this Article shall not be deemed to repeal by implication any other provision of the Sacramento City Code and the adoption hereof shall not be deemed to affect or diminish the power or authority of an officer or employee of the City to condemn, demolish, or repair any building or structure erected or maintained in violation of any provision of said Code. The application of the provisions of this Article shall not be construed as constituting ownership, operation, or management by the City of any building.

E. * Cumulative Nature of Remedies and Penalties.

Unless otherwise expressly provided, the remedies and penalties provided by this Article are cumulative to each other and to any other remedies or penalties available under law.

Sec. 49.1402. Definitions.

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

BOARD: Housing Code Advisory and Appeals Board.

INTERESTED PARTY: Any person, firm, corporation, partnership, or other entity listed in the title report as having an interest in the real property or known to the Building Inspections Division as claiming an interest in the real property.

LANDLORD: An owner, lessor, or sublessor (including any person, firm, corporation, partnership, or other entity) who receives or is entitled to receive rent for the use of any residential unit, or the agent, representative, or successor of any of the foregoing.

FOR CITY CLERK USE ONLY

ORDINANCE NO: _____

DATE ADOPTED: _____

9

PROOF OF COMPLIANCE: Documentation, on such form as the citing department may provide, that the deficiencies noted in the order or citation have been corrected. The Board, by regulation, may specify the acceptable evidence for proof of compliance. The burden is on the landlord or the interested party to obtain and provide to the Board or the Building Inspections Division any proof of compliance.

REAP: The Rent Escrow Account Program provided by this Article.

RESIDENTIAL UNIT: A unit rented or used for residential purposes in an existing residential building, structure, or premise which consists of or contains one or more rental units.

SECRETARY: The Secretary of the Housing Code Advisory and Appeals Board.

TENANT: A tenant, subtenant, lessee, sublessee, or any other person entitled to use or occupancy of a residential unit.

UNTENANTABLE RESIDENTIAL UNIT: A residential unit shall be deemed untenantable for the purposes of this Article if it or the common area of the building, structure, or premises in which it is located is the subject of one or more citations or orders and substantially lacks any of the affirmative standard characteristics set forth in California Civil Code section 1941.1:

1. Effective waterproofing and weather protection of room and exterior walls, including unbroken windows and doors.
2. Plumbing or gas facilities which conformed to applicable law in effect at the time of installation, maintained in good working order.
3. A water supply approved under applicable law, which is under the control of the tenant, capable of producing hot and cold running water, or a system which is under the control of the landlord, which produces hot and cold running water, furnished to appropriate fixtures, and connected to a sewage disposal system approved under applicable law.

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

9

4. Heating facilities which conformed with applicable law at the time of installation, maintained in good working order.

5. Electrical lighting, with wiring and electrical equipment which conformed with applicable law at the time of installation, maintained in good working order.

6. Building, grounds and appurtenances at the time of the commencement of the lease or rental agreement in every part clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, and all areas under control of the landlord kept in every part clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents, and vermin.

7. An adequate number of appropriate receptacles for garbage and rubbish, in clean condition and good repair at the time of the commencement of the lease or rental agreement, with the landlord providing appropriate serviceable receptacles thereafter, and being responsible for the clean condition and good repair of such receptacles under his control.

8. Floors, stairways, and railings maintained in good repair.

Sec. 49.1403. Pre-review Procedures.

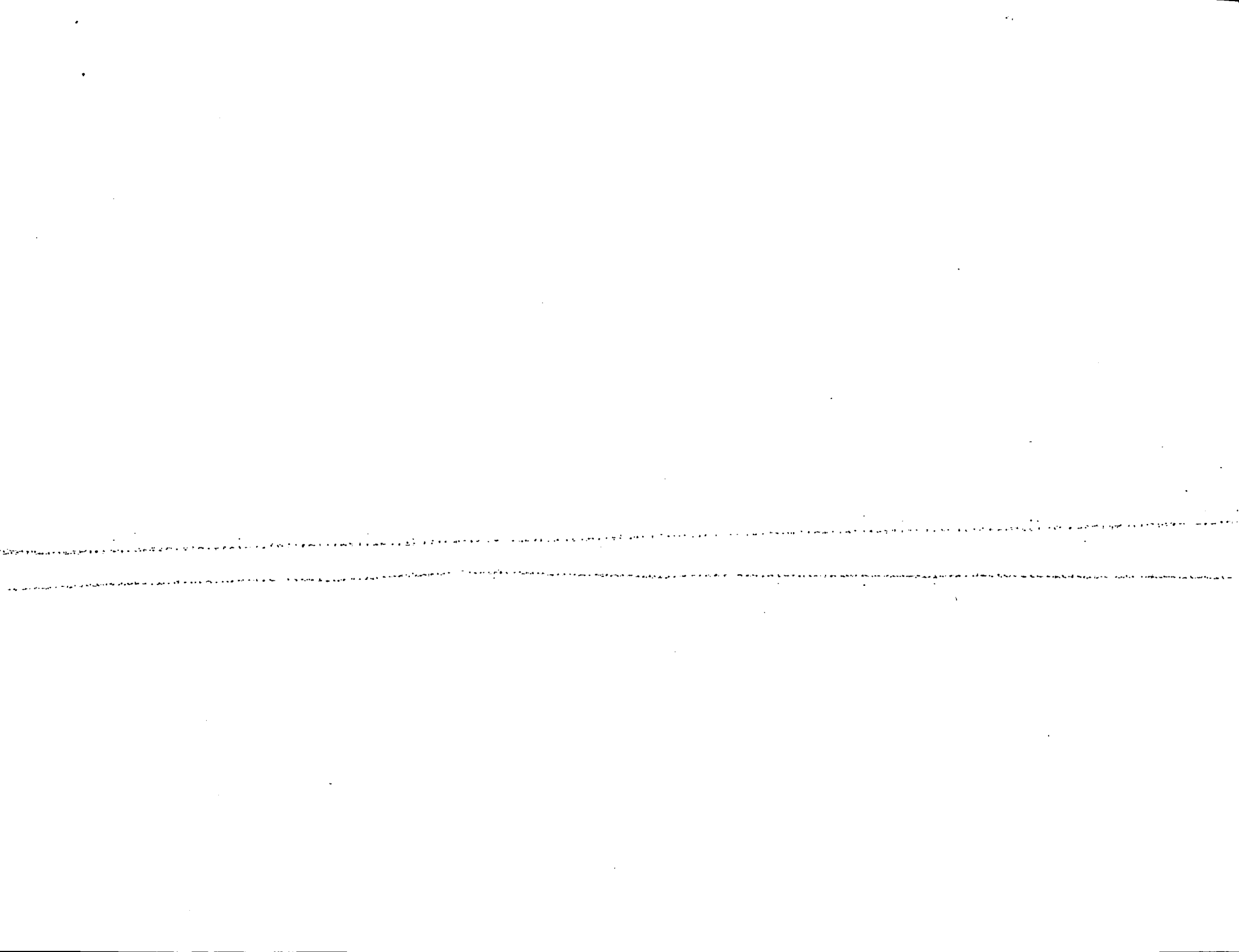
A. Referral to Board. The Building Inspections Division, Fire Department or Department of Environmental Management may refer to the Board any building containing any untenable residential unit after the expiration of the period allowed for compliance with an order or citation issued by the citing division or department where there has not been such compliance.

The referral to the Board shall contain the street address of the property, a description of the uncorrected deficiencies, the names and addresses of the landlord, any interested parties, any tenants as shown on the records of the citing department, the apartment number or address of each untenable residential unit, and any other information as required by such regulations as the Board may promulgate. The citing division or department shall specify that the noncompliance with the citation or order appears to render the building, or a portion thereof, untenable. In any

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____



9

appeal, a referral shall not be invalidated solely because required information is not included, or is inaccurate or incomplete.

B. Notice of Eligibility. Within ten (10) working days after receiving the referral, the Board shall give to the landlord, tenants, and any interested parties a Notice of Eligibility to place the building into REAP.

The Notice of Eligibility shall provide written notification to the landlord of the eligibility of the building for placement into REAP and shall list the street address of the property, a description of the uncorrected deficiencies, the apartment number or address of each untenable residential unit, and any other information required by such regulations as the Board may promulgate. The Notice of Eligibility shall specify a date and time, not less than fourteen (14) and not more than thirty (30) calendar days from the date of the notice, at which the landlord may appear for a Formal Conference before the Secretary of the Board, or a designee of the Secretary. The Notice of Eligibility shall also state that if the building is placed into REAP, the City shall establish an escrow account for the deposit of monthly rent payments with a non-refundable administrative fee of \$50.00 per individual rent payment.

C. Manner of Giving Notice. The notice described in this section shall be given in writing and may be given either by personal delivery thereof to the landlord or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the landlord at the address known to the citing division or department, or as shown on the last equalized assessment roll if not known. Service by mail shall be deemed to have been completed at the time of deposit in the United States mail. The failure of any landlord or other person to receive such notice shall not affect in any manner the validity of any of the proceedings taken thereunder. Proof of giving any such notice may be made by a declaration signed under penalty of perjury by any employee of the City which shows service in conformity with this section.

D. Formal Conference. At the Formal Conference, and in accordance with any regulations which the Board may promulgate, the landlord may demonstrate that the deficiencies have been corrected, that the landlord has obtained the necessary permits and has substantially commenced the work necessary to abate the deficiencies, or that the building does not come within the scope of this Article. Prior to the date specified in the Notice of Eligibility, the landlord, in lieu of or in addition to the personal appearance

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

provided for in this subsection, may submit to the Secretary written information upon a form and with the number of copies prescribed by the Board. Such submissions shall be accompanied by a declaration stating that the information is true and correct.

The Secretary, or the designee of the Secretary, shall provide a written report concerning the eligibility of a property for REAP to the Board within five (5) working days of the Formal Conference or the date set for the Formal Conference where no conference is held.

Sec. 49.1404. REAP Procedure.

A. Board to Serve as REAP Committee. The Board shall comprise the REAP Committee. The Board shall meet as the REAP Committee as often as is necessary to perform its duties. The Director of Planning and Development Department shall designate employees to furnish staff support to the Board sitting as the REAP Committee.

B. Duties.

1. Review Process. The Board shall receive the report of the Secretary with respect to each building for which a Notice of Eligibility was sent to the landlord, including the results of the Formal Conference, if any. The Board shall review each building with respect to its suitability for inclusion in REAP. The Board shall complete its review within ten (10) working days of its receipt of the report of the Secretary, unless additional time is necessary. In such event, the time for review shall be extended only so long as is reasonably necessary and only in accordance with such regulations as the Board may promulgate. At the completion of the review process, the Board shall vote for one of the following options:

a. Acceptance. If the Board determines that a building meets each of the findings set forth in Subsection C of this Section, then the Board shall vote to accept the building into REAP.

b. Rejection. If the Board determines that a building does not meet all of the findings set forth in Subsection C of this Section, then the Board may vote to reject a building for inclusion into REAP. Where a building is rejected, the Secretary shall notify the landlord, any interested parties, any tenants known to

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

~~9~~

the Secretary, and any other occupants of the building that the building is not included in REAP at that time. The notice shall state the reasons for the rejection and shall state that such rejection does not relieve the landlord of criminal or civil liability under any other provisions of the law, and, where appropriate, that the building may be placed into REAP at a future date.

c. **Suspension of Consideration.** If the Board determines that a building does not meet all of the findings set forth in Subsection C of this Section because work has commenced or been completed to correct the deficiencies, and the citing department has not yet issued proof of compliance, then the Board may vote to suspend consideration of the building. However, the Board shall specify a date, not later than the time reasonably necessary for the landlord or interested party to complete the work and obtain the proof of compliance, at which time the Board shall reconsider the eligibility of the building for REAP.

Upon such suspension, the Secretary shall notify the landlord, any interested parties, any tenants known to the Secretary, and any other occupants of the building that the building is not included in REAP at that time. The notice shall state the reasons for the suspension and shall state that such suspension does not relieve the landlord of criminal or civil liability under any other provisions of the law. The notice shall also specify the date that the Board will reconsider the eligibility of the building for REAP unless the Board is provided with proof of compliance prior to such date.

2. Application for Release of Funds.

a. At any time during a building's participation in REAP, a landlord, any interested party, and any creditor, including any utility, contractor, or subcontractor, whose debt arose from the purchase, repair, maintenance, or operation of the building may apply to the Board for a release of funds from the escrow account. The Board shall review such applications and, where the landlord concurs, may order the release of funds from the escrow account where it has been demonstrated to the satisfaction of the Board that such release is necessary to prevent a significant diminution of an essential

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

9

service to the building, including utilities, or is necessary for the correction of the deficiencies. Where specifically ordered by a court, the Board shall order the release of funds from the escrow account irrespective of concurrence by the landlord.

b. The Board shall deny the application where it determines that the application for payment of the debt is intended, in whole or in part, to circumvent the provisions of this Article. A debt incurred subsequent to notice to such creditor that the building is under consideration for or had been selected for participation in REAP, shall be presumed, subject to rebuttal, to be for the purpose of circumventing the provisions of this Article.

C. Findings.

In reviewing whether a building should be included in REAP, the Board shall find that each of the following factors exists:

1. The building contains one or more untenable residential units as the result of the deficiencies noted in the citation or order; and

2. The landlord has refused or has consistently failed to correct the deficiencies.

Sec. 49.1405. Duties of the Secretary.

The Secretary shall have the following duties upon the instruction of the Board:

A. Determination of Interested Parties. The Secretary shall obtain a title report. The report of interested parties shall list all persons on the records of the County Recorder as having an ownership interest or liens or encumbrances or other interests in the real property on which the building is located, in addition to any other interested party known to the Secretary.

B. Contact with Tenants. The Secretary may contact the tenants of any building during or after review. Such contact may be in person or by mail or by both. The Secretary may contract with other persons or organizations to carry out this activity. During such contact, the tenants shall be informed of the principal provisions of REAP, of the mechanism for payment into the escrow account by tenants of untenable residential units where the

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

~~6~~

building is accepted into REAP, and of their legal rights with respect to eviction under the provisions of this Article.

The specific responses of tenants and any information in a form which is identifiable to any individual tenant shall not be a public record and shall not be disclosed to the landlord, any interested party, or the general public.

C. REAP Trust Fund. The Secretary shall establish and maintain the REAP Trust Fund in accordance with the provisions of this Article.

Sec. 49.1406. Acceptance into REAP.

A. Notice of Acceptance. Within ten (10) working days of the acceptance by the Board of a building into REAP, the Secretary shall mail notification of the acceptance to the landlord as identified in the title report, any creditors of the landlord known to the Secretary, to SMUD, to PG&E, to City Revenue Division, any interested parties, all tenants in the building who are known to the Secretary, and the occupants of each untenable residential unit. *

The Notice of Acceptance shall state that the property has been accepted into REAP and shall state the following:

1. The street address of the property;
2. A description of the uncorrected deficiencies;
3. Which residential units in the building are eligible for payment into the escrow account;
4. The proposed date upon or after which an escrow account shall be established into which tenants of untenable residential units may deposit their rent in lieu of payment to the landlord;
5. That a non-refundable administrative fee of fifty dollars (\$50.00) per residential unit per monthly rent payment shall be collected by the City from the escrow account;
6. The right of the landlord or other interested party to appeal the determination of the Board to accept the building to the City Manager.

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

9

B: Service of Notices. The Notice of Acceptance shall be sent to each landlord and interested party both by certified mail, postage prepaid, return receipt requested, and by first-class mail, postage prepaid, at the address or addresses of such person as it appears on the last equalized assessment roll of the County or as known to the Secretary. Service on other persons entitled to a notice may be sent by first-class mail, postage prepaid. In addition, a copy of the Notice of Acceptance shall be posted in a conspicuous place upon the building involved. The failure of any landlord or other person to receive such notice shall not affect in any manner the validity of any proceedings taken thereunder.

C. Declaration of Service. The designee of the Secretary, upon giving notices as provided in this Section, shall make a declaration under penalty of perjury certifying to the date and manner in which such notice was given. Any receipt card which may have been returned to the Secretary in acknowledgment of the receipt of such notice by certified mail shall also be filed with the declaration.

D. Recording. At the time that the Secretary gives the notice described in Subsection A of this Section, the Secretary shall file and record with the County Recorder of the County of Sacramento a certificate legally describing the real property and stating that the subject building has been placed into REAP and that the owner thereof has been so notified. After the building has been removed from REAP, the Secretary shall file and record with the County Recorder a certificate terminating the above-recorded status of the subject building. The Board may, by regulation, provide for the reimbursement to the Secretary from the escrow trust account for the fees and costs incurred.

Sec. 49.1407. Appeals.

A. Appeal. A landlord or interested party may appeal the determination of the Board. The request for a hearing must be filed within ten (10) calendar days after the mailing of the Notice of Acceptance as provided for in Section 49.1306A, and such request shall be in writing and filed in the Offices of the Secretary upon a form and with the number of copies required by the Secretary. The landlord shall include a current list of all of the tenants in the building with the application. Each request for hearing shall be accompanied by a filing fee in an amount to be set by resolution of the City Council.

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

4

The request for hearing shall set forth specifically wherein the requesting party believes there was an error or abuse of discretion by the Board in the determination. Additionally, a request for hearing may be made based on new, relevant information which was not submitted to the Board at the time of the original determination due to mistake, surprise, inadvertence or excusable neglect, and which information would have affected the determination of the Board if it had been submitted earlier.

B. Hearings.

1. The requested hearing shall be held and conducted by a hearing officer designated by the City Manager. Notice of the time, date and place of the hearing shall be mailed by the Secretary at least 10 calendar days prior to the hearing date to the landlord, any interested party, and shall be posted on the subject building at least 10 calendar days prior to the hearing date.

2. At the time of the hearing, the landlord, any interested party, or any tenant, or their representatives or counsel, may offer such documents, testimony, written declarations or evidence as may be pertinent to the proceedings. The burden of proof shall be on the appellants to demonstrate their cases by a preponderance of the evidence.

3. The Board, the Secretary, and the hearing officer may rely on the records of the citing departments as prima facie evidence of their contents. The Board, the Secretary, and the hearing officer shall be bound by the determination of the citing department as to the existence of any deficiencies or as to any proof of compliance.

C. Determination.

1. A final decision shall be made by the hearing officer within 15 calendar days of the hearing.

2. The hearing officer may affirm, modify, or reverse the determination of the Board. The hearing officer shall find that each of the factors set forth in Section 49.1304C exists in affirming the acceptance of a building into REAP. The hearing officer may modify or reverse the determination of the Board only upon making written findings setting forth specifically either (i) wherein the action of the Board was in error or constituted an abuse of discretion, or (ii) there

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

~~5~~

is new, relevant information which was not previously submitted either at the time of the Board review or the Formal Conference due to mistake, surprise, inadvertence, lack of notice, or excusable neglect, which information supports such modification or reversal.

3. Within five (5) working days of receipt of the findings and determination from the hearing officer, the Secretary shall mail a copy of same to the landlord, any interested party, all tenants, the representatives or counsels of such persons, and any other person who makes a written request.

Sec. 49.1408. Escrow Account.

A. Within ten (10) working days after the decision of the Board or the hearing officer accepting a building into REAP becomes final, the Secretary shall establish as part of the REAP Trust Fund an account for such building into which tenants of untenable residential units of such building may deposit rent payments. The Secretary shall mail notification to all such tenants of the existence of the account, including an explanation of how payments may be deposited into the account. The Secretary shall provide a receipt to each tenant making a deposit. The Secretary shall provide, at least once a month, a periodic report to the landlord concerning the activity in such account. The records of such account shall be reasonably available to the landlord or any interested party, or their representatives, in accordance with such regulations, including the provision for payment of reasonable fees, as the Board may promulgate.

B. The gross amount of payment made into the account by or on behalf of a tenant shall be deemed as a payment in the same amount to the landlord, including, but not limited to, for the purpose of determining whether a tenant has paid rent. In any action by a landlord to recover possession of a residential unit, the tenant may raise the fact of payments into REAP as an affirmative defense in the same manner as if such payments had been made to and accepted by the landlord.

C. If the dominant intent of the landlord in seeking to recover possession of a residential unit is retaliation against the tenant for exercising his or her rights under this Article or because of his or her complaint to an appropriate agency as to the tenantability of a residential unit, and if the tenant is not in default as to the payment of rent, including payments into REAP,

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

then the landlord may not recover possession of a residential unit in any action or proceeding or cause the tenant to quit involuntarily.

D. The Secretary shall deduct a non-refundable administrative fee of \$50.00 for each individual rent payment made into the account. Only one such fee shall be deducted for each residential unit for each month.

E. The funds paid into the escrow account shall only be expended on the following items:

1. The non-refundable administrative fee provided under Subsection D of this Section.

2. Funds returned to the landlord where the landlord has provided the Secretary with proof of compliance that the deficiencies have been corrected.

3. Funds paid in accordance with a court order.

4. Funds paid to the landlord, an interested party, tenant, creditor, utility, or other person or entity pursuant to an order of the Board.

5. Funds paid in accordance with and pursuant to such regulations as the Board may promulgate.

Sec. 49.1409. Removal from REAP.

A. Request for Removal. The landlord or any interested party may apply to the Board for an order removing a building from REAP on the ground that the deficiencies noted in the citation or order have been corrected and that continued placement in REAP is not necessary to ensure continued compliance by the landlord with respect to required maintenance of the building:

B. Report and Hearing. The Secretary shall prepare a report to the Board containing a recommendation on whether to terminate the building's REAP placement. A hearing on the application shall be scheduled no later than sixty (60) days after the request for removal is received, with notice thereof given to those parties who would be eligible to receive a Notice of Eligibility under Section 49.1403B. At the hearing, the Board shall determine whether the deficiencies have been corrected and whether removal from REAP is appropriate. The Board shall be bound by the determination of the

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

citing department as to the existence or correction of deficiencies. The decision of the Board shall be final.

C. Notice of Removal. Within ten (10) working days after removal of a building from REAP, notice of removal shall be given to all persons who were sent a Notice of Acceptance pursuant to Section 49.1406.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST: *

CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADDING ARTICLE XIII TO CHAPTER 49 OF THE SACRAMENTO CITY CODE, RELATING TO PROVISION OF RELOCATION BENEFITS TO TENANTS DISPLACED BY CODE ENFORCEMENT ACTIVITY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Article XIII is hereby added to Chapter 49 of the Sacramento City Code, to read as follows:

ARTICLE XIII

RELOCATION BENEFITS FOR DISPLACED TENANTS

Sec. 49.1301 Findings.

The Council of the City of Sacramento finds and determines that:

- (a) Some rental units in Sacramento are found to have severe code violations which threaten the life and safety of occupants and require the units or rooms to be vacated to allow for extensive repairs.
- (b) Such code violations are often caused by deferred maintenance, may breach the landlord's implied warranty of habitability, and sometimes constitute constructive eviction of the tenant household from its residence.
- (c) Tenants of substandard residential units or structures suffer financial and other hardship when required to vacate their housing because the owner fails to correct the substandard conditions.

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

9

- (d) It is appropriate to require the owner to mitigate partially the tenant's hardship, since the hardship arises from the owner's failure to comply with the law and fulfill a landlord's obligations to the landlord's tenants.
- (e) Financial hardship arises because the tenant generally needs a large sum of money to relocate, often including first and last month's rent, deposits, moving expenses, and utility deposits for a new residence.
- (f) The level of payments provided in this ordinance is reflective of actual relocation costs likely to be incurred by displaced households.
- (g) Delayed payment of relocation benefits may impose extreme hardship upon tenants who then must themselves obtain the large sums necessary to relocate. Delayed payment may also require the City to expend City general funds to provide tenants with financial assistance for relocation. Any requirement to pay relocation benefits should contain
 - * disincentives for delayed payment in the form of appropriate penalties.

Sec. 49.1302 Definitions.

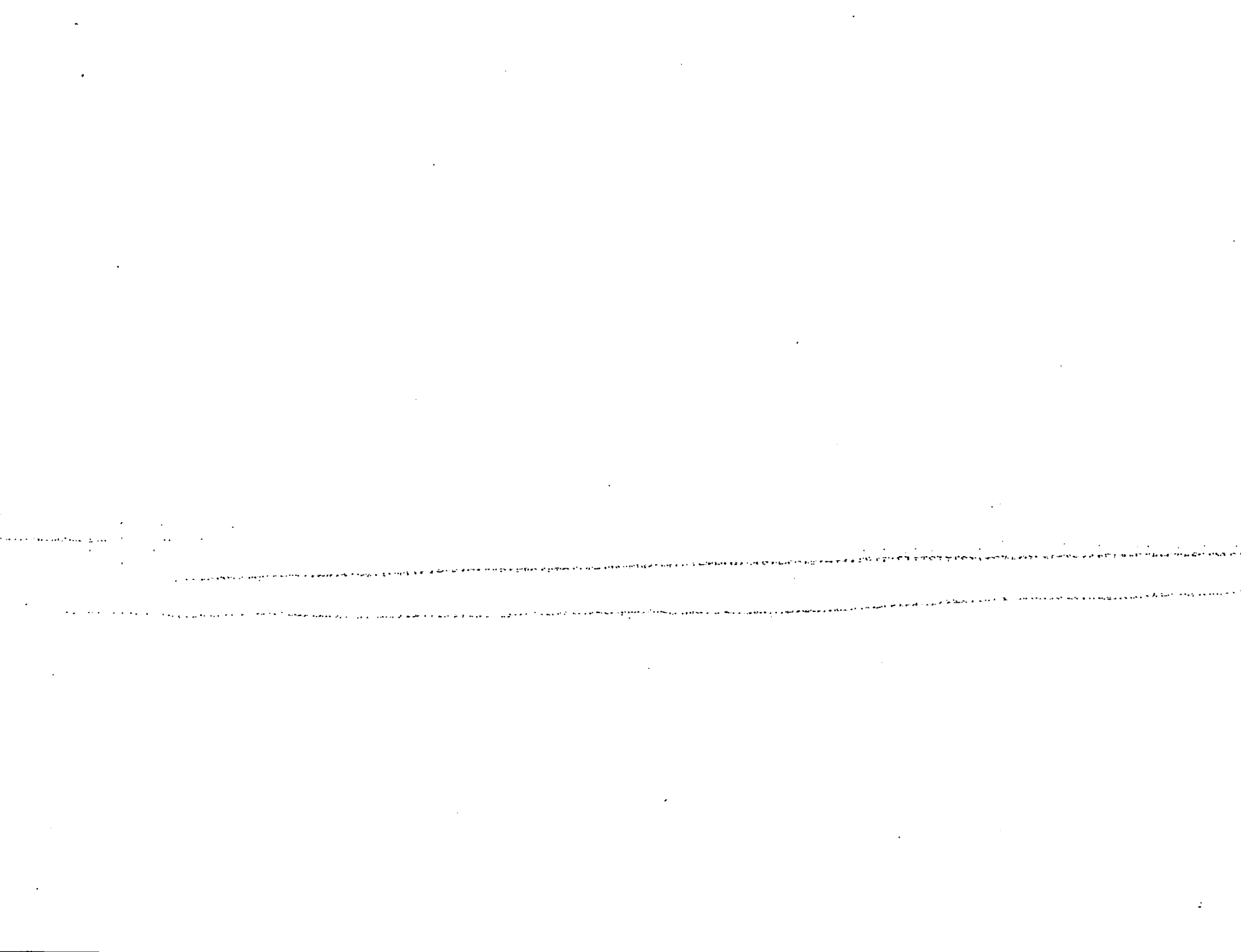
For the purposes of this article, the following definitions apply:

- (a) "Displaced" - a tenant is displaced, within the meaning of this article, if the tenant is ordered to move out of a residential unit or structure by an order to vacate.
- (b) "Order to Vacate" - the first written notice sent by an authorized City official to the owner and posted on the affected property declaring that due to failure to repair or maintain, the unit or structure shall be vacated.
- (c) "Owner" - The owner of the property at the time the order to vacate is issued, and any successor in interest. "Owner" shall also include any person, firm, or other entity who is managing the property on behalf of the owner, if the person, firm or other entity who is managing the property participated in arranging the owner's acquisition of the property. Where an obligation is imposed on the owner by this article, the obligation shall be the joint and several obligation of all owners as defined herein.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____



- 7
- (d) "Residential Unit or Structure" - any dwelling, apartment, room, or place which is the place of permanent or customary and usual abode of any person or household.
 - (e) "Tenant" - any resident of the affected property who is a tenant as that term is used in Chapter 2 of Title 5 of Part 4 of the California Civil Code (Sections 1940, et seq.).
 - (f) "Vacation Date" - the date by which a tenant is required to vacate a unit or structure, pursuant to an order by an authorized City official.

Sec. 49.1303 Relocation Benefits Payable to Displaced Tenants by Owner.

Any tenant who is displaced from any unit or structure which is leased, rented, or occupied for habitable dwelling purposes as a result of an order issued by an authorized City official under Chapter 49 or 50 of the City Code, or any other applicable provision, that the structure is to be vacated due to unsafe or hazardous living conditions shall be entitled to receive relocation benefits from the owner as specified in this article.

Sec. 49.1304 Relocation Benefits - When Payable.

The relocation benefits required hereunder shall be payable within 10 days after the date the order to vacate is first mailed to the owner or posted on the premises, or at least 20 days prior to the vacation date set forth in the order to vacate, whichever occurs later.

Sec. 49.1305 Relocation Benefits - Amount Payable.

The relocation benefits shall be a sum equal to twice the established monthly rental rate for the unit being vacated by the displaced tenant. The relocation benefits shall be paid in addition to the return, as required by law, of any deposit held by the owner.

Sec. 49.1306 Damages for Untimely Payment.

Any owner who does not make timely payment hereunder shall be liable to the tenant for an amount equal to one and one-half times the relocation benefits payable pursuant to Section 49.1305.

9

Sec. 49.1307 When Relocation Benefits Not Payable.

- (a) No relocation benefits shall be payable by the owner to any tenant who has caused or substantially contributed to the condition giving rise to the order to vacate.
- (b) No relocation benefits shall be payable by the owner if the unit or structure became unsafe or hazardous during the tenancy (and no more than six months prior to the order to vacate) as a result of earthquake, flood, fire, act of the public enemy or other disaster not proximately caused by building, plumbing, electrical, mechanical or fire code violations.

Sec. 49.1308 Payment of Relocation Costs by City.

- (a) In the event the owner fails, neglects or refuses to pay a displaced tenant relocation benefits due pursuant to Sections 49.1303 through 49.1305, the City may, within budgetary limitations, make payment of such relocation benefits as the Manager of the Building Inspections Division, or the Manager's designee, determines is necessary to assist the displaced tenant to relocate, up to the amount payable by the owner under Section 49.1305.
- (b) Any displaced tenant who needs relocation benefits because an owner fails to pay benefits due hereunder shall apply to the Manager of the Building Inspections Division for benefits no later than 15 days after the vacation date. The Manager, or the Manager's designee, shall grant benefits only if he determines that the tenant is eligible for benefits from the owner and shall take into consideration the amount needed by the tenant to secure alternative housing. Any applicant aggrieved by the decision of the Manager, or the Manager's designee, to grant or not grant benefits, or as to the amount granted, may appeal the decision to the Relocation Benefits Committee, which Committee shall consist of three members of the Housing Code Advisory and Appeals Board appointed by the Board chairman, by submitting a written notice of appeal containing a brief statement of the grounds for appeal to the Manager within ten (10) days from the date of the Manager's decision. The Committee shall hold an informal hearing on the appeal within fifteen (15) days after the notice of appeal is received by the Manager, and shall issue a written decision within five (5) days after the hearing. The Committee's decision shall be final.

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

- ~~4~~
- (c) The City may recover from the owner any amount paid to a tenant pursuant to this section. This City shall also be entitled to recover from the owner an additional amount equal to one-half the amount so paid as a penalty for failure to make timely payment to the displaced tenant and City's actual costs (including direct and indirect costs) of administering the provision of benefits to the displaced tenant.
 - (d) Any amounts paid by the City and any applicable penalties and administrative costs may also be placed as a lien against the property.
 - (e) Prior to instituting any action to collect from the owner relocation benefits paid pursuant to this section, or to impose a lien therefor, the City shall send to the owner by first class mail, postage prepaid, at the owner's address as shown on the last equalized assessment roll, an itemized accounting of all benefits paid by the City to the owner's tenants. If the owner contends that not all of the benefits are chargeable to the owner, because the recipients were not displaced tenants, no benefits were payable pursuant to Section 49.1307, or on other grounds, the owner shall submit a written appeal to the Director of the Planning and Development Department within twenty (20) days after mailing to him of the itemized accounting. The Director, or the Director's designee, which may be the Relocation Benefits Committee described in Section 49.1308(b), shall hold an informal hearing for the purpose of determining the amount of benefits paid which are chargeable to the owner, and shall add thereto the fifty percent (50%) penalty for lack of timely payment to the tenant(s) and the City's administrative costs. The decision of the Director shall be final. Failure to receive the itemized accounting shall not relieve the owner of any obligation to the City.
 - (f) Nothing contained in this article shall require the City to pay any relocation benefits to any tenant.
 - (g) The damages which a displaced tenant may receive under Section 49.1306 shall be reduced by the amount of any benefits received from the City.

Sec. 49.1309 Emergency Payments.

If there are fewer than ten days between the first posting or mailing of the order to vacate and the vacation date, the City may

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

5

advance relocation benefits to the tenants and recover them from the owner as provided in this article. No penalty or administrative costs shall be payable by the owner if reimbursement is made to the City within thirty (30) days after an itemized accounting from the City is mailed as set forth in Section 49.1308(e) or, if an appeal from the accounting is taken pursuant to Section 49.1308 (e) within thirty (30) days after the decision of the Director on the appeal is mailed to the owner.

Sec. 49.1310 Remedies Cumulative.

The remedies hereunder are cumulative and in addition to any other remedies available under law.

Sec. 49.1311 Attorney Fees.

In any action brought by a tenant or the City to recover benefits payable hereunder, the Court shall also award reasonable attorney fees.

Sec. 49.1312 Summary of Provisions.

Any order to vacate issued to an owner or tenant shall be accompanied by a summary of the provisions of this article. Failure to provide a summary shall not relieve any person of the obligations imposed by this article.

Sec. 49.1313 Establishment of Relocation Benefits Account.

- (a) The City Council shall establish a special reimbursable account designated for relocation assistance for displaced tenants. Payments shall be made out of said account upon the demand of the Director of Planning and Development or the Manager of the Building Inspections Division to defray the costs and expenses which may be incurred by the City in causing the payment of relocation benefits to displaced tenants of abated structures.
- (b) Maintenance of Reimbursable Account. The City Council may at any time transfer to the reimbursable account, out of any money in the general fund of the City, such sums as it may deem appropriate in order to expedite the provisions of relocation assistance. All funds recovered from any property owner under this article shall be paid to the City Treasurer of the City, who shall credit the same to the reimbursable account.



Sec. 49.1314 Applicability to Residential Hotel Units.

Tenants of residential hotel units, as defined in Chapter 73 of this code, may apply to the City for relocation benefits pursuant to Section 49.1308(b) if the relocation benefits payable under Chapter 73 are not timely paid to the tenant by the owner. The maximum benefits payable by the City shall be twice the monthly rental for the residential hotel unit. The City may recover from the owner any sums paid, plus a fifty percent penalty for untimely payment, and City's actual administrative costs, as provided in Section 498.1308 (c).

Sec. 49.1315 Exceptions.

The provisions of this article shall not apply to property owned by the City of Sacramento, the Sacramento Redevelopment Agency, the Sacramento Housing Authority, the County of Sacramento, the State of California, or any other governmental entity.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

HOUSING AND DANGEROUS BUILDINGS - CITY

Staff Includes:

- (1) Building Inspector III
- (3) Field Inspectors
- (2) Clericals

Statistics for January 1, 1988 - January 1, 1989

<u>Item</u>	<u>Number of Cases</u>	<u>Total Units</u>	<u>Open Cases</u>	<u>Closed Cases</u>
Dangerous Buildings	96	230	78	18
Housing Cases	<u>184</u>	<u>365</u>	<u>65</u>	<u>119</u>
Total Housing/DB Cases	280	595	143	137
Cases Secured by City	31	90		
Cases Demolished by City	13	45		

1989 Statistics

(January 1, 1989 - July 14, 1989)

	<u>Central</u>	<u>South</u>	<u>North</u>	<u>Total Cases</u>
Outstanding Complaints (Not Inspected)	50	55	50	155 (Complaint Backlog)
	<u>Dangerous Buildings</u>	<u>Housing Cases</u>		
Active Cases	126	246		372
	<u>Housing Dangerous Buildings</u>	<u>S.H.R.A.</u>		
Active Permits	221	93		314
Average Phone Calls Per Day				113

FEE RECOMMENDATIONS

1. Utilize reinspection fee for each site visit after the first inspection. Collect at time of permit issuance or lien.
2. Institute a hearing fee for Housing codes Board hearings. Collect through invoice or lien.
3. Continue the 12% contract administration fee. Collect through demo invoice or lien.
4. Continue collecting for title search costs. Collect through invoice or lien.
5. Initiate a direct charge for attorney services. Collect through invoice or lien.
6. If REAP program is adopted, initiate a REAP administrative charge to be collected from REAP accounts, upon deposit.
7. If Relocation Program is adopted, include administrative charge. Collect through invoice or lien.
8. If Receivership Program is adopted, include a receivership oversight charge, to be added to court costs for recovery.
9. Initiate invoice collection system to allow immediate invoicing for services and more rapid collection of fees against previous owners if lien process occurs after change of ownership.



9

DEPARTMENT OF
PLANNING AND DEVELOPMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
ROOM 200
SACRAMENTO, CA
95814-2998

BUILDING INSPECTIONS
916-449-5716

PLANNING
916-449-5604

October 30, 1989

Budget and Finance Committee
Transportation and Community Development Committee

Honorable Members in Session:

SUBJECT: Recommendation of Housing Program Committee
Report by the Housing Code Advisory & Appeals Board


SUMMARY:

The Housing Code Advisory and Appeals Board, at its regular meeting of October 11, 1989, held a public hearing to review the report and recommendations of the Housing Program Committee. That report is before your joint Committees today.

RECOMMENDATION:

The Housing Code Advisory and Appeals Board, by unanimous vote, recommends approval of the recommendation contained in the "Review of Housing Programs to Remedy Substandard Multiple Rentals".

Respectfully submitted.


Chairperson, Housing Code
Advisory and Appeals Board



November 14, 1989
All Districts