

ORDINANCE NO. 184080

An ordinance amending Sections 151.02, 151.07.A.1, 151.07.A.2, 151.07.A.8, and 151.08.D of Article 1 of Chapter XV of the Los Angeles Municipal Code, and adding Section 151.07.A.9 to Article 1 of Chapter XV of the Los Angeles Municipal Code to limit the proportion of costs related to mandatory seismic retrofitting that can be passed from owners to their tenants to 50 percent of the total cost of the work required by Ordinance Number 183893.

WHEREAS, Ordinance Number 183893, which requires mandatory seismic retrofitting of certain buildings in the City, seeks to protect lives and property in the event of a severe earthquake;

WHEREAS, there is a substantial need to protect and maintain affordable housing for renters in the City;

WHEREAS, the average rent for a unit regulated by the Rent Stabilization Ordinance is approximately \$1,800 per month;

WHEREAS, 78% of the tenants in the areas where the soft-story building inventory is located earn incomes that fall at or below the threshold for "low income household";

WHEREAS, Los Angeles currently has the largest number of rent-burdened households in the nation, with 59% of renters rent burdened (that is, paying over 30% of their income towards rent) and 33% severely rent-burdened (that is, paying over 50% of their income for rent);

WHEREAS, renters will be further detrimentally affected if property owners are allowed to pass through 100% of the significant costs incurred by completing the work required by the seismic retrofit ordinance; and

WHEREAS, in order to protect the welfare of renters in the City by maintaining and protecting affordable housing, while at the same time providing for a temporary rent increase to owners so that they may be able to maintain a reasonable return on their rental property while completing the seismic retrofit work that protects the safety of Los Angeles residents and properties, the City has determined that the costs related to any necessary seismic retrofit work performed pursuant to the ordinance should be shared equally by owners and tenants.

NOW, THEREFORE,

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Section 151.02 of Article 1 of Chapter XV of the Los Angeles Municipal Code is amended to add the following definitions of "Average Per Unit Seismic Retrofit Work Cost" and "Seismic Retrofit Work," and to replace the definition of "Related Work" in its entirety as follows:

Average Per Unit Seismic Retrofit Work Cost. An amount determined by dividing the costs associated with Seismic Retrofit Work by the total number of all rental units in a complex with respect to which costs associated with Seismic Retrofit Work were incurred, irrespective of whether all such dwellings are subject to this chapter.

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

Seismic Retrofit Work. The structural analysis and alterations to a building that are necessary to comply with the earthquake hazard reduction requirements of Divisions 93 and 95 of Article 1 of Chapter IX of the Los Angeles Municipal Code.

Sec. 2. Subdivision 1 of Subsection A of Section 151.07 of Article 1 of Chapter XV of the Los Angeles Municipal Code is amended in its entirety to read as follows:

1. The Department, in accordance with such regulations and guidelines as the Commission may establish, shall have the authority to grant adjustments in the rent for a rental unit or units located in the same housing complex upon receipt of an application for an adjustment filed by the landlord of the unit or units if it finds that one or more of the grounds set forth in this Subdivision exist. Nothing in this Section shall prevent the Department from granting rent adjustments under more than one provision of this Section, provided the rent adjustments are for different work or improvements. The Department shall not grant a rent adjustment for a rental unit under more than one provision of this Section for the same work or improvement. The Department shall not process any applications for rent adjustments under this Section if the landlord has not paid all outstanding fees imposed pursuant to Section 151.05, Section 161.352 and Section 161.901 of this Code.

a. That on or after April 1, 1978, the landlord has completed a capital improvement with respect to a rental unit and has not increased the rent to reflect the cost of such improvement. If the Department so finds,

the landlord shall be entitled to a permanent monthly rent increase of 1/60th the average per unit capital improvement cost; provided, however, any rent adjustment for a capital improvement granted by the Department between February 13, 1981, and May 31, 1982, shall terminate after five (5) years.

Except that, for any capital improvement work for which a rent increase application is filed with the Department on or after October 1, 1989 the landlord shall only be entitled to a temporary monthly rent increase of 1/60th of fifty percent (50%) of the average per unit capital improvement cost for a period not to exceed six (6) years.

This temporary monthly surcharge shall not exceed \$55.00 per month for each rental unit unless agreed upon in writing by a landlord and a tenant. If the surcharge, as calculated under the above formula, would exceed \$55.00 per month, then the surcharge period of six (6) years may be extended until the allowable capital improvement expenses are recovered. This surcharge shall not be included as part of the Maximum Adjusted Rent for purposes of calculating the automatic rent adjustment pursuant to Section 151.06 D.

Any capital improvement rent increase or surcharge approved by the Department shall terminate if the Department determines that there has been a complete failure of a capital improvement. The Commission may adopt regulations to implement this provision.

For the purposes of this provision, Seismic Retrofit Work shall not qualify as a Capital Improvement.

EXCEPTION:

This paragraph shall not apply in the following circumstances:

If the rental unit is the subject of a notice of noncompliance sent to the Franchise Tax Board pursuant to Section 17274 of the Revenue and Taxation Code, and the work is to correct the violations that were the subject of the Notice.

If the rental unit is the subject of a notice of rent reduction or a notice of acceptance into the Rent Escrow Account Program issued pursuant to Section 162.00, *et seq.* of this Code, and the work is to correct the conditions that caused the placement.

If the rental unit is the subject of a criminal conviction related to the landlord's failure to comply with a citation or order issued by the Department, the Department of Building and Safety, Fire

Department, or Department of Health with respect to the subject rental unit, and the work is to correct the conditions that caused the conviction.

b. That on or after April 1, 1978, the landlord has completed rehabilitation work with respect to a rental unit and has not increased the rent to reflect the cost of the improvement. If the Department so finds, the landlord shall be entitled to a permanent monthly rent increase of 1/60th of the average per unit rehabilitation cost; provided, however, any rehabilitation work begun prior to June 1, 1982, shall be entitled to rent increases of 1/36 of the average per unit rehabilitation cost. Moreover, any rental adjustment for rehabilitation work granted by the Department between February 13, 1981 and May 31, 1982, shall terminate after 3 years.

Except that, for any rehabilitation work for which a rent increase application is filed with the Department on or after January 1, 1999, the landlord shall only be entitled to a temporary monthly rent increase of 1/60th of the average per unit rehabilitation cost for a period not to exceed five years, provided, however, where the landlord has obtained a rehabilitation loan, the landlord shall only be entitled to a temporary monthly rent increase amortized over the life of the loan which is calculated based only on the loan's principal.

This temporary monthly surcharge shall not exceed \$75.00 per month or 10% of the Maximum Adjusted Rent, whichever is less, for each rental unit unless agreed upon in writing by a landlord and a tenant. If the surcharge, as calculated under the above formula, would exceed \$75.00 per month or 10% of the Maximum Adjusted Rent, whichever is less, then the surcharge period of five years may be extended until the allowable rehabilitation expenses are recovered. If the landlord receives a loan made with public funds to do the rehabilitation work, and that loan allows for deferment of the loan repayment, the surcharge shall also be deferred for the same amount of time. This surcharge shall not be included as part of the Maximum Adjusted Rent for purposes of calculating the automatic rent adjustment pursuant to Section 151.06 D.

Any rehabilitation rent increase or surcharge approved by the Department shall terminate if the Department determines that there has been a complete failure of the rehabilitation work. The Commission may adopt regulations to implement this provision.

For the purposes of this Paragraph, work required for compliance with Section 91.8805 of this Code shall not be eligible as rehabilitation work.

For the purposes of this provision, Seismic Retrofit Work shall not qualify as Rehabilitation Work.

c. That on or after the effective date of this amendment, the landlord has completed Primary Renovation Work and any Related Work in conformance with a Tenant Habitability Plan accepted by the Department and has not increased the rent to reflect the cost of such improvement. For the purposes of this provision, any portion of the Primary Renovation Work and Related Work paid for with public funds is not eligible for this monthly rent increase until the landlord is immediately obligated to repay the public funds.

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

(i) 100% of the Average Per Unit Primary Renovation Work Cost amortized in accordance with a term schedule established by the Commission and an interest rate corresponding to the monthly composite rate for average yields from the sale of ten-year constant maturity U.S. government securities plus one full percentage point; or

(ii) 10% of the Maximum Adjusted Rent at the time an application for a rent increase was filed.

The maximum 10% rent increase permissible under this provision may be imposed no more than once during the tenancy of any tenant household with an annual income at or below 80% of the Area Median Income as established by the U.S. Department of Housing and Urban Development for the Los Angeles-Long Beach primary metropolitan statistical area. For all other tenants, the Commission may promulgate regulations with respect to the number of times during any tenancy that the maximum 10% rent increase may be imposed.

For the purposes of this provision, costs associated with Primary Renovation Work shall include the documented incurred costs for Primary Renovation Work, Related Work, and temporary relocation of tenants undertaken in accordance with an accepted Tenant Habitability Plan.

Any rent increase granted pursuant to this provision shall be imposed in two equal increments over a two-year period. Upon receipt of the Department's approval of a primary renovation rent increase, the landlord may impose the first increment after providing notice to each affected tenant pursuant to Section 827 of the California Civil Code. The second increment may be imposed no earlier than 12 calendar months

after the first increment is imposed and after providing notice to each affected tenant pursuant to Section 827 of the California Civil Code.

For the purposes of this provision, Seismic Retrofit Work shall not qualify as Primary Renovation Work.

EXCEPTION:

This paragraph shall not apply in the following circumstances:

If the rental unit is the subject of a notice of noncompliance sent to the Franchise Tax Board pursuant to Section 17274 of the Revenue and Taxation Code, and the work is to correct the violations that were the subject of the Notice.

If the rental unit is the subject of a notice of rent reduction or a Notice of Acceptance into the Rent Escrow Account Program issued pursuant to Section 162.00, *et seq.* of this Code, and the work is to correct the conditions that caused the placement.

If the rental unit is the subject of a criminal conviction related to the landlord's failure to comply with a citation or order issued by the Department, the Department of Building and Safety, Fire Department, or Department of Health with respect to the subject rental unit, and the work is to correct the conditions that caused the conviction.

If the rental unit is the subject of a citation or order from a government agency to abate hazardous materials and the citation or order is issued before the acceptance of a Tenant Habitability Plan by the Department.

d. That on or after the effective date of this amendment, the landlord has completed Seismic Retrofit Work and any Related Work in conformance with a Tenant Habitability Plan accepted or waived by the Department and has not increased the rent to reflect the cost of such improvement. For the purposes of this provision, any portion of the Seismic Retrofit Work and Related Work paid for with public funds is not eligible for this monthly rent increase until the landlord is immediately obligated to repay the public funds.

If the Department so finds, the landlord shall be entitled to a temporary monthly rent surcharge that shall be 50% of the Average Per Unit Seismic Retrofit Work Cost amortized over 120 months in accordance with a term schedule established by the Commission and an interest rate corresponding to the monthly composite rate for average yields from the

sale of ten-year constant maturity U.S. government securities plus one full percentage point; provided, however, that any rent adjustment for Seismic Retrofit Work granted by the Department shall terminate after ten (10) years.

Except that a temporary monthly rent surcharge shall not exceed \$38.00 per month for each rental unit unless agreed upon in writing by and between a landlord and a tenant. If the temporary monthly rent surcharge, as calculated under the above formulas, would exceed \$38.00 per month, then the temporary monthly rent surcharge period of ten (10) years may be extended until the allowable Seismic Retrofit Work expenses are recovered. This temporary monthly rent surcharge shall not be included as part of the Maximum Adjusted Rent for purposes of calculating the automatic rent adjustment pursuant to Subsection D of Section 151.06.

For the purposes of this provision, costs associated with Seismic Retrofit Work shall include the documented incurred costs for Seismic Retrofit Work, Related Work, and temporary relocation of tenants undertaken in accordance with an accepted Tenant Habitability Plan.

For the purposes of this provision, if a landlord obtains and/or receives, at any time, compensation for any portion of the money spent on Seismic Retrofit Work, including, but not limited to, insurance, court-awarded damages, federal or state subsidies, grants, cash rebates, and federal or state tax credits (other than tax deductions and depreciation), this compensation must be deducted from the cost (or remaining cost) of the Seismic Retrofit Work before amortizing the costs among the units.

EXCEPTION:

This paragraph shall not apply in the following circumstances:

If the rental unit is the subject of a notice of noncompliance sent to the Franchise Tax Board pursuant to Section 17274 of the Revenue and Taxation Code, and the work is to correct the violations that were the subject of the Notice.

If the rental unit is the subject of a notice of rent reduction or a Notice of Acceptance into the Rent Escrow Account Program issued pursuant to Section 162.00, *et seq.* of this Code, and the work is to correct the conditions that caused the placement.

If the rental unit is the subject of a criminal conviction related to the landlord's failure to comply with a citation or order issued by the Department, the Department of Building and Safety, Fire Department, or Department of Health with respect to the subject

rental unit, and the work is to correct the conditions that caused the conviction.

If the rental unit is the subject of a citation or order from a government agency to abate hazardous materials and the citation or order is issued before the acceptance of a Tenant Habitability Plan by the Department.

Sec. 3. Subdivision 2 of Subsection A of Section 151.07 of Article 1 of Chapter XV of the Los Angeles Municipal Code is amended in its entirety to read as follows:

2. Procedures for Departmental Review of Adjustment Requests.

a. **Applications.** An application for a rent adjustment under this subsection shall be made within twelve months after the completion of the work. The application shall be filed with the Department upon a form and with the number of copies prescribed by the Department and shall include, among other things, the addresses and unit numbers of the unit or units for which an adjustment was requested. If the rent adjustment request is the result of the same Capital Improvement, Primary Renovation Work, Seismic Retrofit Work, or Rehabilitation Work, the application may include all rental units in a housing complex for which an application for a rent increase is filed.

The applicant shall produce at the request of the Department such records, receipts or reports as the Department may deem necessary to make a determination on the adjustment request. Failure to produce requested items shall be sufficient basis to terminate the rent adjustment proceedings. All applications shall be accompanied by a declaration stating that the above information is true and correct.

An application for a rent adjustment under this subsection shall be accompanied by a \$25.00 filing fee. The landlord shall not recover this filing fee from any tenant. The requirement to pay this fee shall not apply to the first application for the housing complex made by a landlord within a calendar year pursuant to this subsection.

b. **Notice.** Upon receipt of a completed rent adjustment application under the provisions of Subsections a, b, c, d, or e of Section 151.07(A)(1) of this Code, the Department shall notify the tenant or tenants of the subject unit or units by mail of the receipt of such application, the amount of the requested rent increase, the landlord's justification for the request, a tenant's right to submit written objections to the adjustment request within 10 days of the date of mailing such notice, and of the address to which the objections may be mailed or delivered.

c. The Department shall, within 60 days of the receipt of a completed application, make a determination on the application for rent adjustment. The determination shall be either to approve, modify, or disapprove the requested rent adjustment. Copies of the findings and determination of the Department shall be mailed by the Department to the applicant and all affected tenants. Said findings and determination shall provide that any rent increases approved on or after January 1, 1981 for capital improvements, rehabilitation work begun prior to June 1, 1982, or Seismic Retrofit Work shall not be included as part of the Maximum Adjusted Rent for purposes of computing rent increases pursuant to Section 151.06 of this chapter.

Sec. 4. Subdivision 8 of Subsection A of Section 151.07 of Article 1 of Chapter XV of the Los Angeles Municipal Code is amended to read as follows:

8. The Commission shall promulgate regulations to establish the health, safety, and habitability standards which shall be followed for any Capital Improvement, Primary Renovation Work, Seismic Retrofit Work, Related Work, or Rehabilitation Work performed while a tenant is residing in the rental unit. These regulations shall include, but not be limited to, provisions regarding advanced notification, security, fire standards, pest control, the operation of dangerous equipment, utility interruptions, the use of potentially dangerous construction materials, and the protection of tenants and their property from exposure to natural elements.

Sec. 5. A new Subdivision 9 is added to Subsection A of Section 151.07 of Article 1 of Chapter XV of the Los Angeles Municipal Code to read as follows:

9. The Commission shall have the authority to adopt any regulations necessary to implement this section.

Sec. 6. Subsection D of Section 151.08 of Article 1 of Chapter XV of the Los Angeles Municipal Code is amended to read as follows:

D. The Commission may promulgate regulations extending the amortization period for rent adjustments granted by the Department pursuant to Section 151.07 A. of this chapter, where the Capital Improvement, Seismic Retrofit Work, and/or Rehabilitation Work has been funded or subsidized through a federal, state or City housing program.

Sec. 7. **URGENCY CLAUSE.** The City finds and declares that this ordinance is required for the immediate protection of the public peace, health, and safety for the following reasons: Geologists have advised that the City of Los Angeles may experience a strong earthquake at any time; that many of the multifamily buildings are of soft-story construction that cannot withstand an earthquake of significant magnitude; and that without proper retrofitting these buildings pose a significant threat to the health

and safety of the residents of Los Angeles, as well as to their property. At the same time, 78% of the tenants in the areas where the soft-story building inventory is located earn incomes that fall at or below the threshold for “low income household”. Los Angeles currently has the largest number of rent-burdened households in the nation, with 59% of renters rent burdened (that is, paying over 30% of their income towards rent) and 33% severely rent-burdened (that is, paying over 50% of their income for rent). These renters will be further burdened and detrimentally affected if property owners are allowed to pass through 100% of the costs incurred by completing the work required by the seismic retrofit ordinance. In order to balance the need to protect the residents and property owners in Los Angeles from the devastating effects of an earthquake with the need to preserve housing that is affordable to residents who are already rent-burdened, the City Council must take quick action to prevent the housing costs to escalate as property owners begin the seismic retrofit work required by Ordinance Number 183893. For all of these reasons, the amendments to the Los Angeles Municipal Code Sections 151.02, 151.07 and 151.08 shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.


Sec. 8. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members, at its meeting of FEB 10 2016.

HOLLY L. WOLCOTT, City Clerk

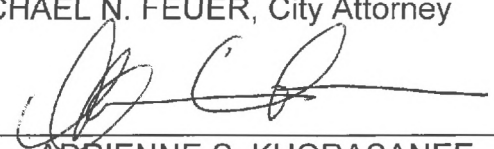
By  Deputy

Approved 12 FEB 2016


Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
ADRIENNE S. KHORASANEE
Deputy City Attorney

Date 1/22/16

File No. 14-0268-S7 and 14-1697-S2