



Office of the City Manager

ACTION CALENDAR
July 10, 2007

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Lisa Caronna, Acting Director, Housing Department

Subject: Rental Housing Safety Program: Administrative Lien Fee

RECOMMENDATION

Conduct a Public Hearing and upon conclusion, adopt a Resolution to increase the administrative lien fee charged to residential rental property owners who are delinquent in paying Rental Housing Safety Program (RHSP) fees from \$75 to \$125 for each delinquent account.

FISCAL IMPACTS OF RECOMMENDATION

The proposed increase to the administrative lien fee is estimated to earn an additional \$25,000 for the FY 2008 RHSP program. This increase is intended to more fully recover the costs associated with the collection of a projected 500 delinquent accounts.

With this increase in revenue, staff projects that the RHSP's budgeted expenditures and revenues for FY 2008 will be in balance, allowing the program to remain financially self-sufficient. Administrative lien fee collections are deposited under 375-8207-341-9906 for delinquent annual per unit/room fees, and 375-8207-341-9903 for delinquent re-inspection fees.

CURRENT SITUATION AND ITS EFFECTS

The proposed expenditure budget for FY 2008 RHSP is \$832,500. The \$35,500 increase in expenditures from the FY 2007 budget of \$797,000 is primarily attributed to employee cost-of-living salary adjustments and increased fringe benefits. To maintain financial independence for the RHSP, the following revenue sources and amounts are programmed for next year, which includes the proposed increase to the administrative lien fee from \$75 to \$125 per delinquent account:

<u>Revenue/Fee</u>	<u>Amount</u>	<u>Description</u>
Re-Inspection Fee	\$ 241,000	Includes ~ \$175,000 projected as liens
Per-Unit Fee	\$ 425,000	Represents 25,000 rental units
Per-Room Fee	\$ 19,000	Represents 2300 rental rooms
Admin. Lien Fee	\$ 62,500	Represents 500 liens @ \$125 each
General Fund	\$ 85,000	Offset by 425 unit citations @ \$200 each
TOTAL	\$ 832,500	

The above represents the projected amounts that will be billed to property owners under the RHSP in FY 2008. The City will collect these amounts either through direct bill payment by property owners or reimbursement by the County upon filing the property liens.

The \$85,000 General Fund subsidy is anticipated to be offset by administrative penalties that will be imposed beginning FY 2008 in accordance with BMC chapter 1.28, on rental property owners who fail to comply with the City's ordinance governing the gas-heating certification program. This program requires owners to have their rental units certified by the local utility company or licensed mechanical contractor as to the proper functioning of all gas-heating appliances every five years.

Administering the RHSP delinquent accounts consumes a considerable amount of staff time and resources in both the Finance and Housing Departments. Staff efforts to collect on delinquent accounts include preparing and mailing past-due notices to property owners, conducting office reviews when delinquent accounts are challenged, and adjusting amounts owed in the City's accounts receivable module as may be necessary. Accounts that remain outstanding by the end of the year are submitted to the County as property liens for which the County retains 1.7% of the lien amount. The lien process requires researching property records to ensure correct identification of the names and addresses of property owner(s), verifying amounts owed, sending final notification of pending lien to owner by certified mail, and completing and compiling lien documentation that the County requires. Additional staff resources may be necessary to respond to and conduct appeals before the City Council when an owner chooses to challenge the proposed lien.

BACKGROUND

City Council adopted Ordinance No. 6,65 H.N.S on August 23, 2001, establishing the RHSP. Initially, the RHSP was financed by inspection fees charged to rental property owners, with the balance subsidized by General Fund and CDBG grant monies. The purpose of the RHSP was to encourage a collaborative effort among property owners, tenants, and the city to improve the safety of rental housing in Berkeley. The RHSP incorporates state-mandated housing code inspections that are conducted in response to tenant complaints with random and selective inspections of tenant-occupied units and buildings to identify existing or potential housing code violations before they compromise the safety and well-being of tenants. The RHSP further requires rental property owners to annually certify that their units meet housing safety standards, and have their units inspected by the local utility company or a licensed mechanical contractor every five years to certify the proper functioning of gas-heating appliances.

Delinquent inspection fees may be recovered through a lien on the property. In FY 2005, Council added the late payment and administrative lien fees to ensure that the cost of imposing liens was recovered, and to encourage timely compliance with the RHSP payment provisions. The current administrative lien fee (\$75 per delinquent account) for the RHSP program was adopted on July 12, 2005 per Resolution No. 62,990 N.S. Since that time, experience with administrative liens has shown that the actual cost is higher.

The itemization of personnel cost and duties, and non-personnel costs to file and process a property lien is as follows:

<u>Staff/Item</u>	<u>Cost Calculation</u>	<u>Amount Per Lien</u>
Housing Inspector	1.0 hr. @ \$38.52/hr. plus 54% FB	\$ 59.32
Office Specialist II	1.0 hr. @ \$24.55/hr. plus 54% FB	\$ 37.81
Hsg. Inspector Supervisor	.25 hr. @ \$43.78/hr. plus 54% FB	\$ 16.87
Non-Personnel: Mail	Certified/Regular mail	\$ 6.00
Non-Personnel: Title Report	Ave. Cost per lien: 37 Title Reports	<u>\$ 5.00</u>
Total Cost Per Lien		\$125.00

Housing Inspector: Research case records to verify delinquent charges and initiate lien process.

Office Specialist II: Manage database of delinquent accounts, confirm owner information, prepare and mail lien notices, follow up on owner inquiries and appeals.

Housing Inspector Supervisor: Conduct office reviews upon owner request and provide final approval to submit lien requests.

RATIONALE FOR RECOMMENDATION

The proposal to increase the administrative lien fee is intended to more fully recover the costs of collection activities associated with delinquent RHSP accounts. Moreover, the proposal supports the RHSP goal of maintaining financial self-sufficiency, while placing the burden of program costs onto owners of rental properties who require additional staff resources in the effort to obtain program compliance.

ALTERNATIVE ACTIONS CONSIDERED

One option available to recoup the costs associated with collection of delinquent RHSP bills and to balance next year's budget is to increase the annual per unit/room fees charged for each rental unit/room. However, this option would penalize all rental property owners including the majority who comply with program requirements and remit their payments in a timely fashion. If revenue from all fees imposed by the RHSP falls short of projections, staff may find it necessary to return to Council with the recommendation to increase the annual per unit/room fee.

CONTACT PERSON

Carlos Romo, Housing Inspector Supervisor, Housing Department, 981-5440
Ted Katayama, Senior Management Analyst, Housing Department, 981-5429

Attachments:

- 1: Resolution
- 2: Notice of Public Hearing
3. Performance Update: FY 2006-2007

RESOLUTION NO. ##,###-N.S.

ADMINISTRATIVE LIEN FEE: RENTAL HOUSING SAFETY PROGRAM

WHEREAS, the Rental Housing Safety program (RHSP) was established by Council per Ordinance No. 6,651–N.S. on August 23, 2001; and

WHEREAS, Council adopted the current administrative lien fee for delinquent RHSP accounts per Resolution No. 62,990–N.S. on July 12, 2005; and

WHEREAS, the City has established the goal of financial self-sufficiency for the RHSP program; and

WHEREAS, Council conducted a public hearing on increasing the administrative lien fee for the RHSP program on July 10, 2007.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Administrative Lien Fee for the Rental Housing Safety Program is hereby adopted as set forth below with an effective date of November 1, 2007.

Rental Housing Safety Program accounts that remain outstanding after 60 days from the initial billing date shall be considered delinquent and filed with the County of Alameda as a lien on the property. The amount of the lien shall include an administrative processing fee of \$125, which is in addition to the initial billed amount and applicable late payment fees.

**NOTICE OF PUBLIC HEARING - BERKELEY CITY COUNCIL
CITY COUNCIL CHAMBERS, 2134 MARTIN LUTHER KING JR. WAY
FEE INCREASE
TUESDAY, JULY 10, 2007 AT 7:00 P.M.**

The Housing Department is proposing the following fee increase for the City of Berkeley's Rental Housing Code Enforcement Program effective November 1, 2007:

Administrative Lien Fee—Increase fee from \$75 to \$125 for each delinquent account that is filed as a lien with the County of Alameda in order to collect the outstanding debt.

For further information, please contact Carlos Romo at (510) 981-5440 or Ted Katayama at (510) 981-5429.

Information supporting these fee adjustments shall be available 10 days prior to the City Council meeting. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet. Comments received no later than Monday, 7/2 will be included in Council agenda packets. Comments received thereafter will be submitted to Council as supplemental communications at the meeting. For further information, call Pamyla Means, MMC, City Clerk, 981-6900. FAX: (510) 981-6901. TDD: (510) 981-6903.

If you challenge the above in Court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing.

Pamyla Means, MMC, City Clerk

**Government Code Section 6062(a)
Publication Dates: June 29 & July 5, 2007**

**RENTAL HOUSING SAFETY PROGRAM
PERFORMANCE UPDATE: FY 2006-2007
JUNE 2007**

1. REACTIVE/COMPLAINT INSPECTION PROGRAM

Description: The Reactive or Complaint Inspection Program refers to the state-mandated housing code inspections that are conducted in response to tenant complaints or requests made by other City Departments. The rules governing local applications and enforcement of the state housing code are mandated in Title 24 of the State health and Safety Code, and Title 25 of the Housing and Community Development State law, and the City's adopted Berkeley Housing Code, BMC Section 19.40.

FY 2007 Performance Update:

- Number of cases carried over from FY 2006: 114
- Number of new cases opened: 168
- Number of cases closed or certified as complied: 156
- Number of initial inspections conducted: 154
- Number of re-inspections conducted: 344
- Number of courtesy inspections: 75
- Number of office reviews conducted: 185
- Number of cases that were charged a re-inspection fee: 72
- Number of cases that are going through lien process: 48

2. PROACTIVE INSPECTION PROGRAM

Description: The Proactive Inspection Program refers to the systematic inspections of rental units that are performed on multi-unit rental properties intended to identify potential or existing housing code violations before they become serious health and safety risks to tenants. This component was incorporated into the overall RHSP program (BMC Section 12.48), adopted by City Council on July 24, 2002.

FY 2007 Performance Update:

- Number of cases carried over from FY 2006: 89
- Number of new cases opened: 122
- Number of cases closed or certified as complied: 127
- Number of initial inspections conducted: 99
- Number of re-inspections conducted: 154
- Number of courtesy inspections: 20
- Number of office reviews conducted: 25

- Number of cases that were charged a re-inspection fee: 29
- Number of cases that are going through lien process: 6

3. SELF-CERTIFICATION SAFETY CHECKLIST

Description: As adopted in the BMC, Section 12.48, the Self-Certification Safety Checklist program requires owners of rental properties to annually inspect their units to certify that specific housing safety standards are being met using the City's annual self-certification safety checklist, Schedule A.

FY 2007 Performance Update:

- Conducted outreach efforts including: developing code enforcement link on City's website; advising property owners and tenants of checklist requirements via Rent Board's quarterly newsletter; and attaching informational material with annual per unit/room billing statement.
- To date, code enforcement unit has received no complaints from tenants regarding failure of landlords to provide them completed self-certified safety checklist or landlords misrepresenting information on completed checklist.

4. GAS-HEATING CERTIFICATION PROGRAM

Description: As adopted in the BMC, Section 19.40, the Gas-Heating Certification Program requires all owners of residential rental properties in Berkeley to obtain certification from a local gas/electric utility company, or a licensed mechanical contractor as to the proper functioning of gas heating appliances in each rental unit or room. This certification is required every five years as scheduled by the City. Certification must be completed on City of Berkeley's RHSP Gas-Heating Certification – Schedule B.

FY 2007 Performance Update:

- Created five districts in Berkeley (A-E), each representing approximately 20% of the rental units/rooms in Berkeley.
- Sent all rental property owners in District A notices of gas-heating certification requirement indicating due date for compliance is June 30, 2007.
- Developed action plan for the issuance of citations for violating local ordinance governing the gas-heating certification requirement.
- Developed action plan for convening administrative hearings for property owners who dispute the administrative citation issued.
- May 2007 – owners of 1,518 rental properties in District A were sent notices reminding them that the City has not yet received copies of Schedule B for all rental units/rooms.
- July 2007 – citations will be issued to all owners in District A who failed to meet compliance deadline of June 30, 2007.

- Beginning September 2007, administrative hearings will be conducted for those owners disputing the administrative citation.
- November 2007 – all rental property owners in District B will be sent notices of gas-heating certification requirement indicating due date for compliance is June 30, 2008.

5. ANNUAL PER UNIT/ROOM FEES

Description: Owners of all residential rental buildings, and residential hotels and boarding houses with five or more rooms are required to pay an annual fee for each rental unit/room. This revenue is intended to offset the cost to administer and operate the proactive inspection component of the RHSP with its emphasis on outreach and education, and the safety standard and gas-heating certification components. Council adopted the current per unit and per room fee schedule in September 2003, per Resolution No 62,231–N.S. Late penalty fees were adopted per Resolution No. 62,990–N.S. on July 12, 2005.

FY 2007 Performance Update:

- Developed comprehensive database of rental units and rooms in Berkeley, including single-family homes and duplexes, with the interdepartmental team effort involving Finance, Information Technology and Housing Departments.
- November 2, 2006 – Finance Department sent out annual bills to approximately 6,700 rental properties representing 25,348 units and approximately 100 properties representing 2,283 rooms.
- December 26, 2006 – Finance Department sent out notices to owners who were 30 days delinquent in paying annual fee, adding 10% penalty fee.
- January 29, 2007 – Finance Department sent out notices to owners who were 60 days delinquent in paying annual fee, adding 20% penalty fee.
- March 2007 – Code Enforcement mailed out lien notices to property owners who are delinquent in paying annual fee. Notice was sent by certified and regular mail.
- Beginning May 2007 – Code Enforcement began process to verify list of delinquent accounts that will be subjected to lien process. Currently 347 delinquent accounts.
- July 2007 – Code Enforcement finalizes lien list and submits to Finance Department. Conduct public hearings before Council for those property owners who file an appeal.