

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
FULL BOARD REGULAR MEETING**

July 9, 2026

6:00 P.M.

**CITY HALL, HEARING ROOM #1 ONE
FRANK H. OGAWA PLAZA OAKLAND, CA
94612**

AGENDA

PUBLIC PARTICIPATION

The public may observe or participate in this meeting in person or remotely via Zoom.

OBSERVE:

• To observe the meeting by video conference, please click on the link below:

When: **July 9, 2026 06:00 PM Pacific Time (US and Canada)**

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81125809443>

Meeting ID: 811 2580 9443

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Or by telephone: +1 669 900 9128 US (San Jose), +1
669 444 9171 US, +1 253 215 8782 US (Tacoma), +1
346 248 7799 US (Houston), +1 719 359 4580 US, +1
253 205 0468 US, +1 312 626 6799 US (Chicago), +1
360 209 5623 US, +1 386 347 5053 US, +1 507 473
4847 US, +1 564 217 2000 US, +1 646 558 8656 US
(New York), +1 646 931 3860 US, +1 689 278 1000
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The Zoom link is to view, listen and/or participate in the meeting.

PARTICIPATION/COMMENT:

To participate/comment during the meeting, you may appear in person or remotely via Zoom.

Comments on all agenda items will be taken during public comment at the beginning of the meeting. Comments for items not on the agenda will be taken during open forum towards the end of the meeting.

If you have any questions, please email hearingsunit@oaklandca.gov

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HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD MEETING

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT**
 - a. Comments on all agenda items will be made at this time. Comments for items not on the agenda will be taken during open forum.
- 4. CONSENT ITEMS**
 - a. Approval of Board Minutes, 04/23/2026 (pp.3-5)
- 5. RAP PETITION FILING REQUIRMENTS TRAINING (pp.6-22)**
 - a. City Attorney led training.
- 6. EVIDENCE & APPEALS TRAINING (pp.23-36)**
 - a. City Attorney led training.
- 7. BOARD PARTICIPATION IN RAP REIA ENGAGEMENT SESSIONS**
- 8. INFORMATION AND ANNOUNCEMENTS**
- 9. SCHEDULING AND REPORTS**
- 10. OPEN FORUM**
 - a. Comments from the public on all items will be made at this time.
- 11. ADJOURNMENT**

The Rent Adjustment Program and the Clerk's office has at least 72 hours prior to the meeting to post all meeting materials pursuant to O.M.C. 2.20.080.C and 2.20.090.

As a reminder, alternates in attendance (other than those replacing an absent board member) will not be able to take any action, such as with regard to the consent calendar.

Accessibility: Contact us to request disability-related accommodations, American Sign Language (ASL), Spanish, Cantonese, Mandarin, or another language interpreter at least five (5) business days before the event. Rent Adjustment Program (RAP) staff can be contacted via email at RAP@oaklandca.gov or via phone at (510) 238-3721. California relay service at 711 can also be used for disability-related accommodations.

**HOUSING, RESIDENTIAL RENT AND RELOCATION
BOARD
FULL BOARD REGULAR MEETING
April 23, 2026
6:00 P.M.
CITY HALL, HEARING ROOM # 1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA 94612**

MINUTES

1. CALL TO ORDER

a. The Board meeting was administered in person by Nyila Webb from the Rent Adjustment Program (RAP), Housing and 44Community Development Department. Nyila Webb explained the procedure for conducting the meeting. The HRRRB meeting was called to order by Chair Cucullu Lim at 6:00 PM.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
D. INGRAM	Tenant	X		
C. MUNOZ RAMOS	Tenant			X
Vacant	Tenant Alt.			
M. GOOLSBY	Tenant Alt.			X
C. OSHINUGA	Undesignated			X
M. CUCULLU LIM	Undesignated	X		
R. SAMATI	Undesignated	X		
K. BRODFUEHRER	Landlord	X		
C. JACKSON	Landlord			X
Vacant	Landlord Alt.			

**Oliver Luby attended remotely in accordance with the Board's Just Cause provisions, citing sickness.*

Staff Present

Oliver Luby
Jessica Leavitt
Nyila Webb

Deputy City Attorney
Assistant Manager (RAP)
Administrative Analyst II

3. PUBLIC COMMENT

- a. No request submitted online.

4. CONSENT ITEMS

- a. Approval of Board Minutes, 03/12/2026 (pp.)

**Chair Cucullu Lim made a motion to approve the minutes from March 12, 2026.
Vice Chair Samati seconded.**

The Board votes as follows:

Aye: Chair Cucullu Lim, Vice Chair Samati, K. Brodfuehrer, D. Ingram
Nay: None
Abstain:

The Minutes were approved.

5. APPEALS*

- a. T25-0211, Fox v. SG Investments Inc (pp.)

Appearances at appeal: Tenant Appeal

Owner: SG investments, Zachary Chan
Tenant: Maren Fox

Once the parties had time for discussion, the Board asked questions, then deliberated on the case. After consideration, they concluded, and a motion was made.

Chair Cucullu Lim made a motion to reverse the dismal of the petition and instruct there be a hearing on the merits on the grounds that the RAP staff responded to the petitioners attempt to comply with the NOI within the petitioner’s window to cure but failed to inform the petitioner that petitioner’s effort to comply with the NOI was deficient.

Member D. Ingram seconded.

The Board voted as follows:

Aye: Chair Cucullu Lim, Vice Chair Samati, K. Brodfuehrer, D. Ingram
Nay: None
Abstain: None

The motion is approved.

6. INFORMATION AND ANNOUNCEMENTS

- a. Board Member Ingram noted that a recommendation previously submitted to the CED Committee was pulled from the City Administrator's agenda. The item is currently tabled with no indication of when it will be rescheduled.

7. SCHEDULING AND REPORTS

- a. None

8. OPEN FORUM

- a. One speaker card was submitted in person.

9. ADJOURNMENT

- a. Meeting adjourned at 7:23.



RAP Petition Filing Requirements

RENT BOARD TRAINING JULY 2026

DEPUTY CITY ATTORNEY BRAZ SHABRELL

Training Overview

Tenant petitions

- What evidence required?
- Timing of filing

Landlord petitions

- RAP notice
- Organized documentation

Service requirements

Misc. issues

Tenant Petitions

OMC 8.22.090(A)(4):

In order to file a petition or respond to petition, a tenant, including a subtenant contesting overcharges by a primary tenant, must provide the following at the time of filing the petition or response:

- a. A completed tenant petition or response on a form prescribed by the Rent Adjustment Program;
- b. Reserved;
- c. A statement of the services that have been reduced or eliminated, if the tenant claims a decrease in housing services;
- d. A copy of the applicable citation, if the tenant claims the rent increase need not be paid because the covered unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations pursuant to Section 8.22.070D.6; and
- e. Proof of service by first-class mail or in person of the tenant petition or response and any supporting documents on the opposing party (owner, subtenant, or primary tenant).

Decreased Housing Services

“c. A statement of the services that have been reduced or eliminated, if the tenant claims a decrease in housing services.”

B. Decreased Housing Services					
<i>(Complete this section if any of the grounds for petition fall under category B, above)</i>					
<p>List all the conditions that you believe entitle you to a rent decrease. If your petition is based on problems related to your unit, or because the owner has taken away service(s) or is charging for services originally provided by the owner, you must complete this section. If you need more space, attach a separate sheet or an additional copy of this form.</p> <ul style="list-style-type: none"> You are strongly encouraged to submit documentary evidence (photographs, inspection reports, correspondence with your landlord, etc.) together with your petition. Evidence may be submitted up to seven calendar days prior to your hearing. You may wish to have a City inspector come inspect your unit for possible code violations in advance of your hearing. Copies of any inspection report(s) may be submitted in support of your petition. To schedule an inspection, contact the City of Oakland Code Enforcement Unit at (510) 238-3381, or file a complaint online at https://www.oaklandca.gov/services/file-a-complaint-with-code-enforcement. <i>Note: if additional items are cited in an inspection report that were not included in your original petition (below), you must file an additional petition listing those items in order for RAP staff to consider them as a part of your claim.</i> 					
	Description of problem or decreased housing service (list separately):	Date problem or decreased service started: (Month/Day/Year)	Date first notified owner or manager of problem: (Month/Day/Year)	Date problem or service was fixed, if ever: (Month/Day/Year)	What is the dollar value of your claimed loss?
1.					\$

When is copy of citation needed?

“d. A copy of the applicable citation, if the tenant claims the rent increase need not be paid because the covered unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations pursuant to Section 8.22.070D.6.”

A.	Unlawful Rent Increase(s) <i>(Complete section A on page 3)</i>	<input type="checkbox"/> (A1) I received a rent increase above the allowable amount.
		<input type="checkbox"/> (A2) I received a rent increase that I believe is unlawful because I was not given proper notice, was not properly served, and/or was not provided with the required RAP Notice (“Notice to Tenants of the Residential Rent Adjustment Program”).
		<input type="checkbox"/> (A3) I received a rent increase and do not believe I should be required to pay it because a government agency has cited my unit for serious health, safety, fire, or building code violations. (You must attach a copy of the citation to your petition.)
		<input type="checkbox"/> (A4) Before receiving the rent increase notice, the property owner failed to substantially comply with the annual registration and reporting obligations as required under Oakland Municipal Code, Section 8.22.510.
B.	Decreased Housing Services <i>(Complete section B on page 3)</i>	<input type="checkbox"/> (B1) The property owner is providing me with fewer housing services than I previously received and/or I am being charged for services originally paid for by the owner. (Check this box for petitions based on bad conditions/failure to repair.)
		<input type="checkbox"/> (B2) I am being unlawfully charged for utilities.
C.	Other	<input type="checkbox"/> (C1) My rent was not reduced after: a) a prior rent increase period for capital improvements, or b) after the owner received undeclared capital improvement benefits, or c) after an additional tenant for whom the owner was allowed an increase, vacated from the premises.

Tenant Petition Summary

Completed RAP
form

Proof of service
by “first class mail
or in person”

Timing of Tenant Petitions

Contesting Rent Increase

- If RAP Notice at commencement of tenancy:
 - 180 days from service of increase notice*
- If no RAP Notice at commencement of tenancy:
 - 180 days after first receiving RAP Notice

Decreased Services

- If “discreet” change: w/in 90 days after first noticing or after first receiving RAP Notice, whichever is later.
- If “ongoing” condition: may file at any time (but limited in restitution to 90 days and owner knowledge)

→ Filing date based on receipt by RAP, not postmark. Response date based on date of service.

Landlord Petitions

OMC 8.22.090(B)(1):

In order for an owner to file a response to a tenant petition or to file a petition, the owner must provide the following:

- a. Evidence of possession of a current business tax certificate;
- b. Evidence of payment of the Rent Adjustment Program service fee or evidence of exemption from the fee:
- c.
 - i. Evidence of service of written notice of the existence and scope of the Rent Adjustment Program as required by Section [8.22.060](#) on all tenants in covered units affected by the petition or response;
 - ii. After July 1, 2023, evidence of registration with the Rent Adjustment Program as provided in O.M.C. Section [8.22.510](#) for each affected covered unit in the building prior to the petition or response being filed;
- d. A completed response or petition on a form prescribed by the Rent Adjustment Program;
- e. Organized documentation supporting the owner's claimed justification(s) for the rent increase or supporting any claim of exemption; and
- f. Proof of service by first-class mail or in person of the owner petition or response and any supporting documents on the tenants of all units affected by the petition. Supporting documents that exceed twenty-five (25) pages are exempt from the service requirement, provided that: (1) the owner petition form must be served by first-class mail or in person; (2) the petition or attachment to the petition must indicate that additional documents are or will be available at the Rent Adjustment Program; and (3) the owner must provide a paper copy of supporting documents to the tenant or the tenant's representative within ten (10) days if a tenant requests a paper copy in the tenant's response.

Landlord Petitions

GENERAL FILING REQUIREMENTS	
<p>To file a petition, the property owner must be current on the following requirements and submit supporting documentation of compliance. Owner petitions that are submitted without proof of compliance with the below requirements will be considered incomplete.</p>	
Requirement	Documentation
<input type="checkbox"/> Current Oakland business license	Attach proof of payment of your most recent Oakland business license.
<input type="checkbox"/> Payment of Rent Adjustment Program service fee ("RAP Fee") or evidence of exemption from the RAP Fee	Attach proof of payment of the current year's RAP Fee for the subject property or evidence of exemption from the RAP Fee (e.g., Certificate of Occupancy).
<input type="checkbox"/> Service of the required City form entitled "NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") on all tenants	<p>Attach a signed and dated copy of the <u>first</u> RAP Notice provided to the tenant(s) subject to this petition or check the appropriate box below*.</p> <input type="checkbox"/> I first provided tenant(s) with the RAP Notice on (date): _____. <input type="checkbox"/> I have never provided a RAP Notice. <input type="checkbox"/> I do not know if a RAP Notice was ever provided. <p><i>*If RAP Notice was first provided on or after September 21, 2016, RAP Notice must be provided in English, Spanish, and Chinese. If petition applies to multiple tenants, please provide this information on a separate sheet for each tenant.</i></p>
<p>Evidence of registration for all affected cover units (check one of the following boxes)</p> <input type="checkbox"/> On _____, I/we used all reasonable diligence in preparing my annual registration statement, reviewed it and submitted it to the Rent Adjustment Program, and, to the best of my knowledge, the information contained in the statement was true and complete. To the extent I was unable, despite the use of reasonable diligence, to ascertain the exact information to be reported, I provided the most accurate approximation possible based on information and belief where possible or, where such approximation was not feasible, I stated that the information was unknown.	<p>To support this declaration, I am providing:</p> <input type="checkbox"/> If property not registered online: Copy of the Property Registration and Residential Unit Registration forms submitted to RAP for the affected covered unit in the building.
<input type="checkbox"/> The subject property is exempt from the registration requirement	<input type="checkbox"/> If property registered online: Copy of a document containing the registration data related to property registration and residential unit registration of the affected covered unit since the registration was done online.
	<p>OR</p> <p>Declaration of Exemption:</p> <input type="checkbox"/> The residential property involved in this petition matter is not covered by either the city's Rent Adjustment Ordinance or the Just Cause Ordinance. Thus, the subject unit(s) are not subject to the registration requirements under the Oakland Municipal Code, Section 8.22.090.B.1.c.ii.

NOTE: copy of RAP notice not required

OMC 8.22.060(B):

Evidence of Giving Notice. When filing an owner's response to a tenant petition or an owner's petition for a rent increase, the owner must submit evidence that the owner has given the notice required by this Section to the affected tenants in the building under dispute in advance of the filing....This evidence can be a statement of compliance given under oath, however, the tenant may controvert this statement at the hearing. An owner's filing the notice in advance of petition or response prevents the owner's petition or response from being dismissed, but the owner may still be subject to the rent increase forfeiture if the notice was not given at the commencement of the tenancy or within the cure period set out in Section [8.22.060\(C\)](#).

Attach a signed and dated copy of the first RAP Notice provided to the tenant(s) subject to this petition or check the appropriate box below*.

- I first provided tenant(s) with the RAP Notice on (date): _____.
- I have never provided a RAP Notice.
- I do not know if a RAP Notice was ever provided.

**If RAP Notice was first provided on or after September 21, 2016, RAP Notice must be provided in English, Spanish, and Chinese. If petition applies to multiple tenants, please provide this information on a separate sheet for each tenant.*

“Organized documentation”

“e. Organized documentation supporting the owner's claimed justification(s) for the rent increase or supporting any claim of exemption”

<input type="checkbox"/> Capital Improvements	<p><i>Allows pass-through to tenant(s) of a portion of costs spent on qualifying capital improvements. Improvements must primarily benefit the tenant(s), and do not include repairs made as a result of deferred maintenance or serious code violations. Pass-through costs are limited to 70% of actual costs (plus interest), divided equally among all affected units, and amortized over a defined period of time based on the expected useful life of the improvement (see amortization schedule found in the Regulations).</i></p>	<ul style="list-style-type: none"> ✓ Improvements meet the description of capital improvements set forth in the Regulations. ✓ Improvements completed and paid for within 24 months prior to petition filing date. ✓ Complete Worksheet A on page 4 of this petition. ✓ Attach documentation demonstrating the specific work done, date(s) of completion, full costs and proof of payment (such as invoices, receipts, estimates, cancelled checks, etc.), copies of any permits (indicating date(s) issued and finalized), and evidence of any reimbursement (such as insurance or subsidies). Documentation should be organized by type of improvement. Work limited to specific unit(s) should be distinguished from building-wide improvements.
<input type="checkbox"/> Uninsured Repair Costs	<p><i>Allows pass-through of costs for work done to secure compliance with state or local law as to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent not reimbursed by insurance proceeds. Calculated and applied like capital improvements.</i></p>	<ul style="list-style-type: none"> ✓ Repairs completed and paid for within 24 months prior to petition. ✓ Insurance proceeds insufficient to cover full amount of required repair costs. ✓ Complete Worksheet A on page 4 of this petition. ✓ Attach documentation required for petitions based on capital improvements (see above), plus evidence of all insurance claims, estimates, and proceeds.
<input type="checkbox"/> Increased Housing Service Costs	<p><i>Allows a rent increase above the CPI where there has been an increase in the total of net operating costs related to the use or occupancy of the property. Calculated by comparing 2 most recent years of all net costs, averaged monthly and divided by the number of units and average gross monthly income. Replaces CPI increase for current year; applies to all units. Property tax is NOT considered a housing service cost.</i></p>	<ul style="list-style-type: none"> ✓ Complete Worksheet B on page 5 of this petition. ✓ Attach documentation of ALL income and expenses* related to the subject property for the two most recent consecutive years (including all information requested by Worksheet B). Documentation of all expenses is required, not solely for expenses that have increased. Documentation should be organized by category and year. *Note: Expenses do not include mortgage payments or property taxes.
<input type="checkbox"/> Fair Return	<p><i>Allows a rent increase where owner is being denied a fair return on investment in the property, as measured by the net operating income (NOI). Cannot be combined with any other grounds for increase. Replaces CPI increase for all years; applies to all units.</i></p>	<ul style="list-style-type: none"> ✓ Complete Worksheet C on page 6 of this petition. ✓ Attach organized documentation of gross income (including total of gross rents lawfully collectable from property at 100% occupancy, plus any other consideration received or receivable) and gross costs* (e.g., property taxes, housing service costs, and amortized cost of capital improvements) for the subject property for the current and base year (2014). If information about 2014 is not available the Hearing Officer may authorize use of a different year if good cause is shown. *Note: Costs do not include mortgage expenses.
<input type="checkbox"/> Banking	<p><i>Refers to deferred allowable annual rent increases. Annual CPI increases that were not fully applied may be carried over (“banked”) for up to 10 years. Increases based solely on banking do not require prior approval, but such increases may be sought in</i></p>	<ul style="list-style-type: none"> ✓ Increase would not exceed 3x the current CPI or the amount permitted by Oakland law (whichever is lower), or constitute an overall increase of >30% over the past 5 years. ✓ Complete Worksheet D on page 7 of this petition.

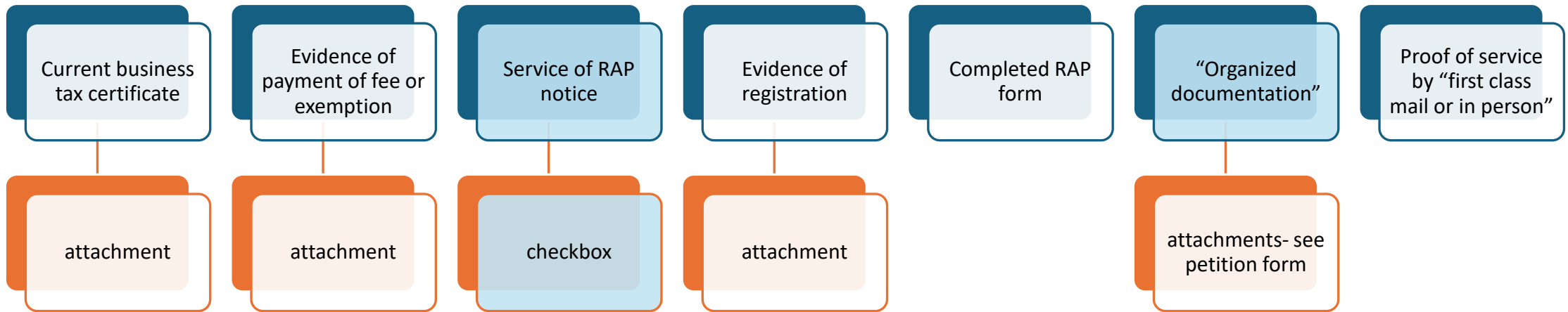
“Organized documentation”

“e. Organized documentation supporting the owner's claimed justification(s) for the rent increase or supporting any claim of exemption”

<input type="checkbox"/> Banking	<i>Refers to deferred allowable annual rent increases. Annual CPI increases that were not fully applied may be carried over (“banked”) for up to 10 years. Increases based solely on banking do not require prior approval, but such increases may be sought in</i>	<ul style="list-style-type: none"> ✓ Increase would not exceed 3x the current CPI or the amount permitted by Oakland law (whichever is lower), or constitute an overall increase of >30% over the past 5 years. ✓ Complete Worksheet D on page 7 of this petition.
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	<i>conjunction with petitions based on other grounds/justifications.</i>	<ul style="list-style-type: none"> ✓ Attach documentation of tenant’s rental history, including proof of current rent amount and all other information requested by Worksheet D.
<input type="checkbox"/> Additional Occupant(s)	<i>Allows a rent increase in an amount up to 5% for additional occupants above the base occupancy level. Does not apply to certain additional occupants who are covered family members, legal guardians, and/or caretakers/attendants of existing tenants/occupants. See O.M.C. § 8.22.020 for more details.</i>	<ul style="list-style-type: none"> ✓ Total number of occupants has increased above the base occupancy level as defined by O.M.C. § 8.22.020. ✓ Additional occupant(s) not exempted from increase due to relationship with existing tenant/occupant. ✓ Attach documentation demonstrating base occupancy level and the addition of non-exempt occupant(s).
<input type="checkbox"/> Tenant Not Residing in Unit as Principal Residence	<i>If the tenant(s) no longer reside in the unit as their principal residence, an owner may increase the rent by any amount. See O.M.C. § 8.22.070.C.1.f and the implementing regulations of the Rent Adjustment Ordinance, § 8.22.020 (“Principal Residence”).</i>	<ul style="list-style-type: none"> ✓ Attach evidence showing that the Tenant does not reside in the unit as their principal residence as of the date the petition is filed.

Landlord Petition Summary



Proof of Service

- Tenants required to serve “opposing party” (8.22.090(A)(4)(e))
 - May be owner, sublessor, or representative/agent (property manager)
 - May be addressed to an LLC (no requirement to name human person)
 - Not required to serve both owner and property management
 - Not governed by formal state law service requirements (e.g. CCP § 416.10)
- Certified mail can still be considered “first class.” The problem is when signature required for delivery.
 - For purposes of 8.22.090, petition should be considered filed.*
 - RAP should consider amending ordinance, issuing service regs, and/or clarifying on POS form that parties should not use mail that requires a signature for delivery.

POS form
completed→

Presumption that filing
requirement met.

Proof of Service



Prior to 2020, parties only required to submit petition. RAP served opposing party. No requirement to serve O/P with copy of evidence.



“Efficiency Ordinance” (13618 CMS) passed Oct. 2020 shifted burden of service from RAP onto parties in the interest of reducing processing times, so petitions could be heard in more timely manner. Goal was to reduce admin processing time.



Miscellaneous Issues

- Notice to Tenants/Property Owner form included in petition packet does NOT need to be filed
- Review by Housing Counselor option
- Online filing platform
- Impact of tenant petition filing cut-off under 8.22.090(A)(2) on underlying increase and subsequent petitions

Incomplete filings

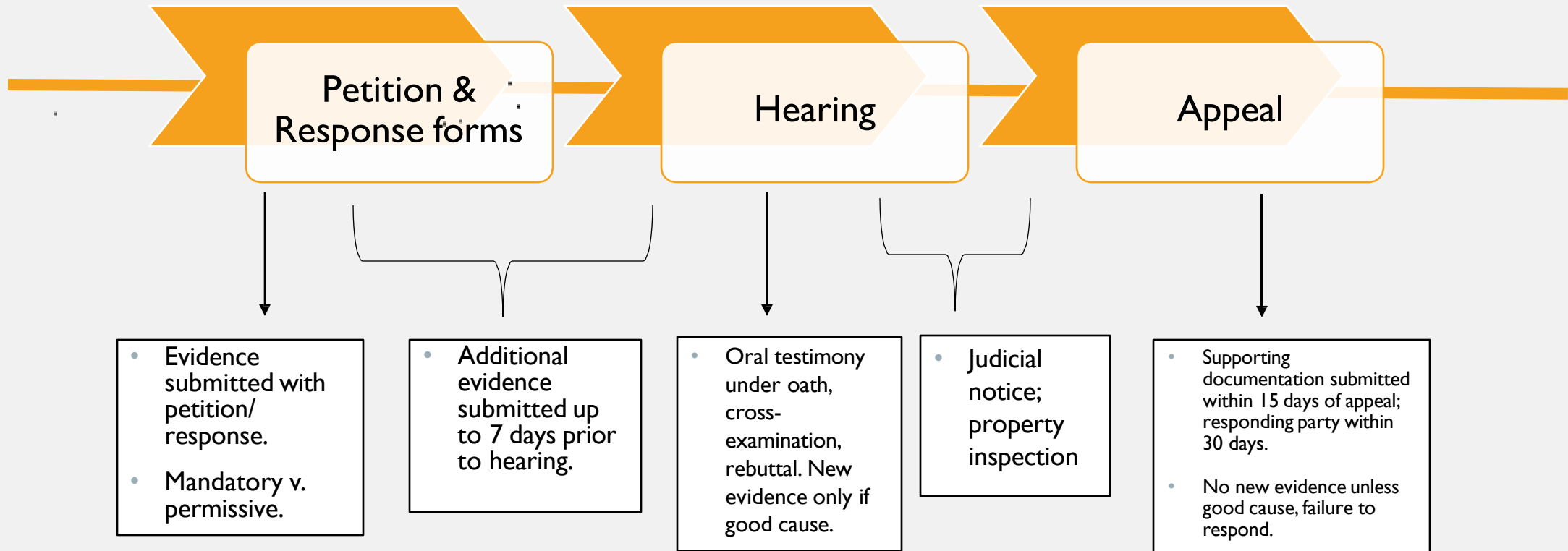
May be dismissed or denied

RAP staff *may* send a deficiency notice with opportunity to cure/correct, but this is not required in RAO or regs.

EVIDENCE & APPEALS

Rent Board Training July 2026
Deputy City Attorney Braz Shabrell

TIMELINE FOR EVIDENCE SUBMISSION



**EVIDENCE REQUIRED
WITH PETITION OR RESPONSE
(OMC 8.22.090)**

Tenants

- Completed petition or response form
- For petitions contesting increase due to code violations (8.22.090A4d) → copy of citation

Landlords

- Current City business license
- Payment of RAP fee
- Service of RAP Notice prior to petition being filed*
- Compliance with Rent Registry
- Documentation supporting justification for increase or exemption

IMPACT OF INCOMPLETE OR UNTIMELY EVIDENCE

- Petition or Response may be deemed incomplete and dismissed
- RAP may issue an Administrative Decision
- Owner Response dismissed if filing requirements not met
- Evidence not served on other party or not timely filed may be disregarded.
- Non-responding party prohibited from calling or examining witnesses or introducing oral or written evidence and is limited to cross-examination unless good cause for failure to file response

HEARINGS (OMC 8.22.110)

Purpose

- Determine facts
- Witness testimony
- Weigh conflicting evidence
- Due process (opportunity to be heard)

Procedure (OMC 8.22.110)

- Opportunity to call witnesses, present exhibits, cross-examine, rebut evidence
- Formal rules of evidence do not apply
- Oral testimony must be under oath

JUDICIAL NOTICE

- Hearing Officer may take “official notice” of “any generally accepted technical or scientific matter within the agency's special field, and of any fact which may be judicially noticed by the courts[.]” (Gov’t Code § 11515)
- Laws, Regulations, legislative acts, official documents, common knowledge.

HEARING OR ADMINISTRATIVE DECISIONS

- Must be based entirely on evidence placed into the record. (*OMC 8.22.110D3*)
- Hearing Officers must make written findings of fact. (*Regs OMC 8.22.110F1*).
- Hearing Officer weighs witness credibility, burden of proof, availability of evidence, direct versus substantial evidence, etc.

APPEALS

- Appeal is based on the record as presented to Hearing Officer. (OMC 8.22.120B4).
- Board generally should not consider new evidence.
- Exceptions: good cause for failure to respond or appear at hearing, or evidence “could not have been available” at Hearing Officer proceeding.



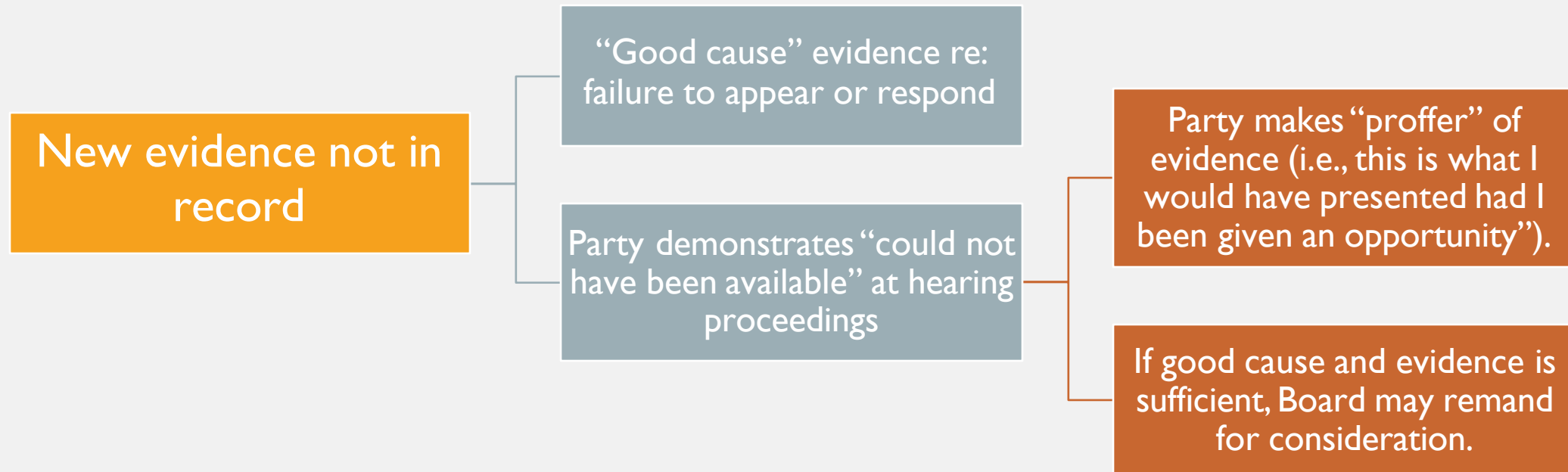
REQUEST FOR APPEAL

Party makes proffer of evidence (this is what I would have presented if given opportunity) → Board determines if evidence is significant and good cause exists.

BOARD SHOULD NOT SOLICIT OR ASK
PARTIES ABOUT EVIDENCE OUTSIDE OF
RECORD, INCLUDING TESTIMONY

PARTY ARGUMENTS \neq TESTIMONY

EVIDENCE ON APPEAL



STANDARD OF REVIEW

- Hearing Officer findings must be supported by substantial evidence.



EVIDENCE → FINDINGS → CONCLUSION

STANDARD OF REVIEW

Hearing Officer

- “Preponderance of evidence.”
- Party w/ BOP must convince HO >50% chance what they’re saying is true.
- HO weighs evidence, including credibility.

Board

- “Substantial evidence.”
- Reasonable person could come to same conclusion.
- Appellant has burden of presenting evidence and demonstrating it was not substantial.

JUDICIAL REVIEW



- Decision must be supported by findings, findings must be supported by evidence.
- Court may overturn decision if findings not supported by substantial evidence in light of whole record.
- Deferential.

QUESTIONS?