

DATE: October 20, 2009

TO: Mayor and City Council

FROM: City Attorney

SUBJECT: Approval of Fees to be Charged for Costs Incurred in 2008 for Administering the Residential and Mobilehome Rent Stabilization Ordinances

RECOMMENDATION

It is recommended that the City Council approve the following:

1. Adopt the attached resolution amending the Master Fee Resolution to reflect the revised fees as follows:
 - a) A fee of \$1.26 per residential dwelling unit to recover costs incurred in 2008 for administering the Hayward Residential Rent Stabilization Ordinance.
 - b) A fee of \$4.83 per mobilehome space to recover costs incurred in 2008 for administering the Hayward Mobilehome Rent Stabilization Ordinance.

SUMMARY

This report outlines the bases for the imposition of fees to be charged for costs incurred in 2008 for administering the Residential Rent Stabilization Ordinance ("Residential Ordinance") and the Mobilehome Space Rent Stabilization Ordinance ("Mobilehome Ordinance"). A fee of \$1.26 per residential dwelling unit is proposed for administering the Residential Ordinance, and a fee of \$4.83 per mobilehome space is proposed for administering the Mobilehome Ordinance.

BACKGROUND

This agenda report provides information on the calculation of fees to recover calendar year 2008 costs of administering the City's rent stabilization ordinances (jointly "Rent Ordinances"). The Residential Rent Stabilization Ordinance's program fee ("rental unit fee") is imposed annually on the residential rental units that are subject to the Residential Rent Stabilization Ordinance. The Mobilehome Space Rent Stabilization Ordinance's annual program fee ("mobilehome space fee") is

imposed on mobilehome spaces that are subject to the Mobilehome Space Rent Stabilization Ordinance.

Both fees are based on rent stabilization program administration costs incurred during the previous calendar year and are service fees that are not subject to the voter or property owner approval procedures contained in Proposition 218, which the voters adopted at the November 1996 election. Costs that can be attributed exclusively to one ordinance or the other are so attributed. Costs common to the administration of both ordinances are divided proportionately based on the number of residential units or mobilehome spaces in the City that are subject to the ordinances. The majority of the rent program costs are recovered through the imposition of these fees.

The Residential Ordinance and the Mobilehome Ordinance both call for collection of fees to cover the costs of the programs. In fact, the fees proposed herein, and historically, cover approximately 30% of the actual costs of the programs. On July 29, 2008, the City Council adopted a fee policy that seeks cost recovery more in line with the actual cost of providing the related services. In order to achieve cost recovery of 80% of actual costs, it will be necessary to increase fees substantially in the next budget cycle. To be precise, as part of the FY 2011 budget presentation, staff will recommend that fees for these programs be stepped up to 40% of actual costs, with the goal of achieving 80% over a five-year period. The City Manager and Finance Director concur in this graduated approach to alleviating the burden on the General Fund and shifting it to the recipients of the services.

DISCUSSION

A. The Rental Unit Fee.

There are an estimated 45,000 residential units in Hayward, of which approximately 8,917 are subject to the rental unit fee. These include rental units currently subject to rent controls, as well as those which are no longer subject to rent limitations because they have gone through the decontrol procedures set forth in the Residential Ordinance ("decontrolled rental units"), or partially decontrolled pursuant to state law when certain vacancies occur. Decontrolled rental units remain subject to the Residential Ordinance's good cause for eviction standards.

The proposed 2008 yearly rental unit fee is \$1.26 per unit. This fee was calculated by allocating the costs of administering the Residential Ordinance for 2008 among the 8,917 rental units assumed to be subject to the rental unit fee. The data used to calculate this fee is summarized in Attachments A and B of this report.

The yearly rental unit fees for the last five years are as follows: The 2001 fee was \$1.45, the 2002 fee was \$.88, the 2003 fee was \$.58, the 2004 fee was \$.70, the fee for 2005 was \$.81, the fee for 2006 was \$.93, and the fee for 2007 was 1.38. This year's fee is due to costs being correctly attributed directly to administering the Residential Ordinance. These costs vary from year to year based on the costs of mediators or arbitrators retained to resolve particular disputes.

Over the course of the year, the 2008 rental unit fee will result in a monthly cost of approximately \$.11 per unit. This figure is approximately the same per-month, per-rental unit as last year. The

Residential Ordinance allows the landlord to pass through up to fifty percent (50%) of the rental unit fee to tenants, which amounts to approximately \$.06 per month for each rental unit.

B. The Mobilehome Space Fee.

There are approximately 2,270 mobilehome spaces in the City of Hayward that are subject to the Mobilehome Ordinance. The proposed 2008 mobilehome space fee is \$4.83 per mobilehome space. This fee was calculated by allocating the 2008 costs of administering the Mobilehome Ordinance among the 2,270 mobilehome spaces subject to the mobilehome space fee. The data used to calculate this fee is summarized in Attachments A and B of this report.

The yearly mobilehome space fees imposed for the prior five years are as follows: The 2001 fee was \$1.14, the 2002 fee was \$1.88, the 2003 fee was \$.68, the 2004 fee was \$1.21, the 2005 fee was \$.89, the 2006 fee was \$.91, and the 2007 fee was \$3.29. These costs vary from year to year based on the costs of mediators or arbitrators retained to resolve particular disputes.

Over the course of the year, the 2008 mobilehome space fee will result in a monthly cost of approximately \$.40 per space. This year's fee is due to costs being correctly attributed directly to administering the Mobilehome Ordinance. As with the rental unit fee, a mobilehome park owner may pass through up to fifty percent (50%) of the mobilehome space fee to mobilehome park resident-tenants, which amounts to approximately \$.20 per month for each mobilehome space.

FISCAL IMPACT

There is no known fiscal impact as a result of the recommended action.

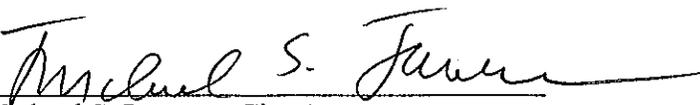
PUBLIC CONTACT

Not applicable.

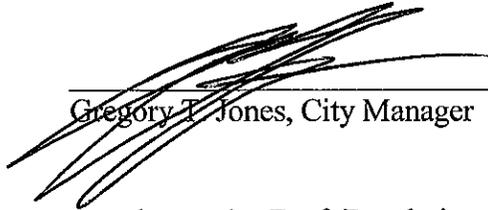
NEXT STEPS

The letters to the mobilehome park and residential owners will go out on or before October 23, 2009. Fees are to be received and shall be delinquent if not received on or before 5 p.m. on November 23, 2009.

Prepared by:


Michael S. Lawson, City Attorney

Approved by:



Gregory T. Jones, City Manager

Attachment 1 – Draft Resolution

Attachment A – Calculation of Fees

Attachment B – Administration Fees

HAYWARD CITY COUNCIL

MST
10/9/09

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION NO. 09-084, THE
MASTER FEE RESOLUTION FOR FISCAL YEAR 2009-2010,
RELATING TO THE CITY ATTORNEY DEPARTMENT,
ESTABLISHING TIME FOR PAYMENT OF RENT
STABILIZATION FEES

BE IT RESOLVED by the City Council of the City of Hayward that Section II
of Resolution No. 09-084, the Master Fees Resolution for fiscal year 2009/2010, is hereby
amended to read as follows:

“II. CITY ATTORNEY

“Rent Stabilization Administration

- | | |
|--|--------|
| “1. Annual Fee per Residential Dwelling Unit | \$1.26 |
| “2. Annual Fee per Mobilehome Space | \$4.83 |

“The fees set forth herein shall be payable immediately and shall be delinquent if not received
by the Rent Review Office on or before 5 p.m., on November 23, 2009.

IN COUNCIL, HAYWARD, CA _____, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

ATTACHMENT A

CALCULATION OF FEES TO RECOVER CALENDAR YEAR 2008 COSTS OF ADMINISTERING THE RESIDENTIAL AND MOBILEHOME RENT STABILIZATION ORDINANCES

The proposed residential rental unit and mobilehome space fee this year is based on costs incurred during calendar year 2008. These fees are calculated as follows:

STEP 1. DETERMINE TOTAL COSTS OF ADMINISTERING BOTH RENT ORDINANCES.

The City spent a total of \$10,600.00 administering both ordinances during calendar year 2008. An additional \$11,615.72 is charged pursuant to the City's cost allocation plan for overhead costs, for a total program expenditure of \$22,215.72.

STEP 2. DEDUCT EXPENDITURES SPECIFICALLY RELATED TO EITHER ORDINANCE.

Costs specifically attributable to one ordinance or the other are identified where possible and then deducted as follows:

STEP 2A. Mobilehome Ordinance Expenditures. A total of \$8,633.30 was attributable solely to the mobilehome ordinance in 2008, exclusive of litigation costs related to the mobilehome ordinance and minor expenses.

STEP 2B. Residential Ordinance Expenditures. A total of \$1,966.20 was attributable solely to the residential ordinance in 2008 to compensate hearing officers for conducting arbitrations or mediations under the residential ordinance and minor expenses.

STEP 2C. Subtract Step 2A and Step 2B Costs. Subtracting the sum of the costs directly attributable to one ordinance or another (\$10,600.00) from the total amount spent on administering both ordinances (\$22,215.72), leaves \$11,615.72 in common costs.

STEP 3. DIVIDE COMMON COSTS.

The common costs of both rent ordinances are allocated by determining the total number of units subject to each ordinance and then establishing a ratio of the number of residential units to mobilehome spaces. Based upon records of the City and the Alameda County Assessor, there are approximately 11,187 dwellings covered by one ordinance or another. There are 2,270 mobilehome spaces which amount to approximately twenty percent (20%) of this total. The remaining eighty percent (80%) is comprised of 8,917 rental units, both controlled and decontrolled, covered by the residential ordinance. Dividing the common costs (\$11,615.72) in accordance with this ratio results in \$2,323.14 or twenty percent (20%) being attributable to the mobilehome ordinance and \$9,292.58 or eighty percent (80%) being attributable to the residential ordinance.

STEP 4. TOTAL AMOUNT ALLOCATED TO EACH ORDINANCE.

STEP 4A. Costs Allocated to the Mobilehome Ordinance. Mobilehome spaces subject to the mobilehome ordinance will be responsible for \$10,956.44 (\$2,323.14 plus \$8,633.30) in expenditures.

STEP 4B. Costs Allocated to the Residential Ordinance. Residential units subject to the residential ordinance will be responsible for \$11,258.78 (\$9,292.58 plus \$1,966.20) in expenditures.

STEP 5. DIVIDE THE AMOUNT ATTRIBUTABLE TO EACH ORDINANCE BY THE NUMBER OF SUBJECT RESIDENTIAL UNITS OR MOBILEHOME SPACES.

STEP 5A. To determine the fee for each mobilehome space, \$10,956.44 is divided by the number of mobilehome spaces subject to the ordinance (2,270), to yield a fee of \$4.83 per mobilehome space. Mobilehome park owners may pass along up to one-half of the fee to mobilehome park tenants.

STEP 5B. To determine the fee for each residential unit, \$11,258.78 is divided by the number of residential units subject to the ordinance (8,917), to yield a fee of \$1.26 per residential unit. Landlords are permitted to pass along up to one-half of the fee to tenants.

ATTACHMENT B

**ADMINISTRATION FEES
Mobilehome Rent Stabilization Ordinance**

1993 Mobilehome Space Fee - \$	37.91
1994 Mobilehome Space Fee - \$	8.84
1995 Mobilehome Space Fee - \$	9.19
1996 Mobilehome Space Fee - \$	7.40
1997 Mobilehome Space Fee - \$	3.20
1998 Mobilehome Space Fee - \$	2.26
1999 Mobilehome Space Fee - \$	3.14
2000 Mobilehome Space Fee - \$	1.68
2001 Mobilehome Space Fee - \$	1.14
2002 Mobilehome Space Fee - \$	1.88
2003 Mobilehome Space Fee - \$.68
2004 Mobilehome Space Fee - \$	1.21
2005 Mobilehome Space Fee - \$.89
2006 Mobilehome Space Fee - \$.91
2007 Mobilehome Space Fee - \$	3.29

Breakdown of 2008 Administration Fees

Total Cost of Administration \$22,215.72
(Residential and Mobilehome)

Costs Attributable to Both Ordinances (Common Costs)

Residential	\$ 9,292.58
Mobilehome	\$ 2,323.14

Total \$11,615.72

Costs Attributable to Mobilehome Ordinance (Direct Costs)

Hearing Officers	\$ 8,017.30
Publications	\$ 125.00
Printing	\$ 491.00

Total \$ 8,633.30

Total Costs Attributable to Mobilehome Ordinance

Common Costs	\$ 2,323.14
Direct Costs	\$ 8,633.30

Total \$10,956.44

Total Costs Divided by Number of Mobilehome Spaces (2,270) \$ 4.83

ADMINISTRATION FEES
Residential Rent Stabilization Ordinance

1993 Rental Unit Fee - \$7.82
 1994 Rental Unit Fee - \$8.58
 1995 Rental Unit Fee - \$8.13
 1996 Rental Unit Fee - \$5.84
 1997 Rental Unit Fee - \$3.79
 1998 Rental Unit Fee - \$2.87
 1999 Rental Unit Fee - \$1.97
 2000 Rental Unit Fee - \$0.77
 2001 Rental Unit Fee - \$1.45
 2002 Rental Unit Fee - \$0.85
 2003 Rental Unit Fee - \$ 0.58
 2004 Rental Unit Fee - \$0.70
 2005 Rental Unit Fee - \$0.81
 2006 Rental Unit Fee - \$0.93
 2007 Rental Unit Fee - \$1.38

Breakdown of 2008 Administration Fees

Total Cost of Administration \$22,215.72
 (Residential and Mobilehome)

Costs Attributable to Both Ordinances (Common Costs)

Residential \$ 9,292.58
 Mobilehome \$ 2,323.14

Total \$11,615.72

Costs Attributable to Residential Ordinance (Direct Costs)

Printing \$1,966.20

Total \$1,966.20

Total Costs Attributable to Residential Ordinance

Common Costs \$ 9,292.58
 Direct Costs \$ 1,966.20

Total \$11,258.78

Total Costs Divided by Number of Residential Units (8,917) \$1.26