

ORDINANCE NO. 173810

An ordinance amending Section 50.00, Section 91.8607 and Chapters XV and XVI of the Los Angeles Municipal Code relating to the Rent Escrow Account Program (REAP) and the Habitability Enforcement Program (HEP).

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

Section 1. Subdivision 4 of Subsection C of Section 50.00 of the Los Angeles Municipal Code is amended to read:

4. If the City makes the repairs and the property is subject to the Rent Stabilization Ordinance, commencing at Section 151.00 et seq. of this Code, LAHD shall hold a hearing, giving at least ten days notice to the owner, for placement of the property into the Rent Escrow Account Program (REAP), commencing with Section 162.00 of this Code for the purpose of recovery by the City of any costs incurred by it.

Sec. 2. Section 91.8607 of the Los Angeles Municipal Code is amended to read:

**SEC. 91.8607. TENANT SAFETY FOR APARTMENT HOUSES,
EXCEPT FOR RESIDENTIAL CONDOMINIUMS.**

The purpose of this section is to provide minimum security standards for tenants in existing apartment houses, except for residential condominiums as defined in this Code. Owners of all lots developed with an apartment house shall provide lights and locks or metal bars or grilles that comply with the provisions of Sections 91.310.17, 91.1202.1, 91.1203, 91.1205 and Division 67 of this Code in all of the following circumstances:

1. At the time the apartment building is sold or exchanged; or
2. At the time a permit is issued for alterations, repairs or additions which exceed a valuation of \$10,000; or
3. Upon the determination of the Board pursuant to Section 91.8108.3.

No costs incurred as a result of this section may be charged to the tenant or tenants of any properties subject to the Rent Escrow Account Program provisions commencing at Section 162.00 of this Code.

Sec. 3. The definition of "Maximum Adjusted Rent" in Section 151.02 of the Los Angeles Municipal Code is amended to read:

Maximum Adjusted Rent. The maximum rent plus any rent increases subsequently made or granted pursuant to Sections 151.06, 151.07, or 151.08 of this chapter and less any rent reductions required by regulations promulgated by the Commission pursuant to Section 151.08 of this chapter or imposed pursuant to Section 162.00 et seq. of this Code; provided, however, as used in Section 151.06 of this chapter, this term shall not include:

(1) any increase for capital improvement work or rehabilitation work, if the rent increase was approved by the Department on or after January 1, 1981, and the work was begun prior to June 1, 1982; or

(2) any increase for capital improvement work where the application for a rent increase is filed with the Department on or after October 1, 1989; or,

(3) any increase for smoke detectors installed on or after January 1, 1981; or

(4) any increase for rehabilitation work where the application for a rent increase is filed with the Department on or after January 1, 1999.

Sec. 4. Section 151.06.5 of the Los Angeles Municipal Code is repealed.

Sec. 5. Article 2 of Chapter XV of the Los Angeles Municipal Code is repealed.

Sec. 6. Section 153.02 of Article 3 of the Los Angeles Municipal Code is amended to read:

Definitions. The following words and phrases, whenever used in this chapter, shall be construed as defined in this section. Words and phrases not defined here shall be construed as defined in Sections 12.03 and 151.02 and 162.02, if defined there.

General Manager. The General Manager of the Department or his or her designee, including a hearing officer.

Habitability Violation. Any violation of Section 1941.1 of the California Civil Code, or a reduction or elimination of the following services if contracted for by the tenant, or if provided to the tenant at the time the tenant moves into his or her rental unit: elevators, security gates, and air conditioners.

HEP. The Habitability Enforcement Program provided by this article.

Order. Any order or notice to comply, correct or abate a condition or violation issued by the Department, the Department of Building and Safety, the Health Department, the Fire Department, or their successors.

Security Gate. Only those security gates for secured public access, pedestrian building entrances including security screen doors on unit entrances. The term shall not include parking gates, except parking gates at the entrance to underground parking facilities.

Sec. 7. Subdivision 2 of Subsection B of Section 153.03 of the Los Angeles Municipal Code is amended to read:

2. Upon acceptance of the complaint from a tenant or an enforcement agency, if the complaint is supported by an Order, then the complaint shall be treated as a referral to the REAP and rent reduction under Section 162.03, and shall be processed under that section.

Sec. 8. Subdivision 3 of Subsection B of Section 153.03 of the Los Angeles Municipal Code is amended to read:

3. Upon acceptance of the complaint from a tenant, if the complaint is not supported by an Order, the Department will notify the landlord of a HEP filing and indicate the date of the scheduled hearing, which shall be no sooner than thirty days and no later than forty-five days from the date of the Department's

notification. To the extent feasible, the hearing shall be coordinated with any General Manager's hearing scheduled under Section 161.801 et seq.

Sec. 9. Subsection B of Section 153.03 of the Los Angeles Municipal Code is amended by adding a new subdivision 4 to read:

4. If the complaint is not supported by an Order, the Department shall also refer the complaint for inspection pursuant to Section 161.602.

Sec. 10. Subsection B of Section 153.03 of the Los Angeles Municipal Code is amended by adding a new subdivision 5 to read:

5. In the event the Department determines that the complaint was submitted in bad faith or was frivolous, the complaint shall be denied. The complaint is frivolous if it is either totally and completely without merit, or is submitted for the sole purpose of harassing an opposing party. However, the tenant may appeal the Department's decision to a hearing officer and a hearing will be held on the issue of whether or not the complaint is frivolous - not on the merits of the complaint itself. If a complaint is found to be frivolous by a hearing officer, the tenant will be barred from filing an additional application through the HEP for one year.

Sec. 11. Subdivision 2 of Subsection A of Section 153.04 of the Los Angeles Municipal Code is amended to read:

2. Request the Department to conduct an inspection. This inspection shall be conducted by referral of the complaint for inspection pursuant to Section 161.602. If the inspection reveals that the violation has been repaired or never existed, then the Department shall cancel the proposed hearing. If the results of the inspection support the finding that the habitability violation alleged in the complaint continues to exist, then that evidence shall be submitted to the General Manager at the time of the hearing along with any other evidence supplied by the tenant or the landlord.

Sec. 12. Subsection A of Section 153.05 of the Los Angeles Municipal Code is amended to read:

A. General Manager Determination. The burden is on the tenant to prove that a habitability violation exists, except that where an Order has been issued to correct the violation, the burden is on the landlord to show that the violation never existed, is the fault of the tenant, or has been corrected. If after consideration of the facts presented at the hearing, the General Manager determines that a habitability violation exists, the General Manager will be authorized to issue a rent reduction and a temporary diversion of rents into REAP. The amount of the rent reduction will be based on a schedule approved by the Rent Adjustment Commission.

Sec. 13. Subsection B of Section 153.05 of the Los Angeles Municipal Code is amended to read:

B. Hearing Procedures. To the extent feasible, the Department shall follow procedures and make findings in conformance with Article 1 of Chapter XVI of the Los Angeles Municipal Code.

Sec. 14. Subsection C of Section 153.05 of the Los Angeles Municipal Code is amended to read:

C. Appeals. The landlord may appeal a decision to reduce the rent or accept the property into REAP to the Appeals Board following the procedures set forth in Division 10 of Article 1 of Chapter XVI of this Code.

Sec. 15. Subsection D of Section 153.05 of the Los Angeles Municipal Code is amended to read:

D. Additional Procedures. Should the General Manager order the property accepted into REAP, a rent escrow account will be established. The affected tenants will be notified of their right to pay their monthly rent, minus the approved rent reduction, into the REAP account. Additionally, they will be advised that payment into REAP provides an affirmative defense against eviction by the landlord for non-payment of rent.

Upon placement of the property into REAP, the Department may make a determination of the estimated cost to repair the habitability violation. At any time prior to the accumulation of funds in the escrow account, which equals the estimated repair cost, the landlord may submit evidence that the repair has been made and request reimbursement from the escrow account. These funds shall be released to the landlord,

minus fees associated with the administration of the escrow account. However, if the landlord does not effect the repairs prior to the accumulation of the repair amount, the tenant may make the repairs with the funds held in the escrow account. Once the repairs have been made and all administrative costs have been collected, the rent escrow account will be closed.

Additional payments may be made from the escrow account following the procedures set forth in Section 162.07 B..

Sec. 16. Section 153.05 of the Los Angeles Municipal Code is amended by adding a new Subsection E to read:

E. Exceptions.

1. No rent reduction or action to include the property into REAP will be imposed or initiated for a temporary reduction or elimination of the services, listed under the Habitability Violation definition above, if the landlord can demonstrate that the reduction or elimination was necessary for the repair, replacement or upgrade of the elevator, security gate or air conditioning unit and the repair, upgrade or replacement was completed within a reasonable period of time taking into account all relevant factors.

2. No rent reduction or action to include the property into REAP will be imposed or initiated if the service reduction or elimination was not within the reasonable control of the landlord to remedy within 20 days of the landlord's receipt of written notice from a tenant of the problem. No rent reduction or REAP action shall be ordered until such time as the service reduction that was the subject of the complaint was within the reasonable control of the landlord to make repairs, or, with respect to underground parking gates only, within 60 days of the landlord's receipt from the tenant of written notice of the problem.

Sec. 17. Section 153.06 of the Los Angeles Municipal Code is repealed.

Sec. 18. Section 154.01 of the Los Angeles Municipal Code is amended to read:

SEC. 154.01. DEFINITIONS. The following words and phrases, whenever used in this article, shall be construed as defined in this section. Words and phrases not defined here shall be construed as defined in Sections 12.03, 151.02, 153.02 and 162.02, if defined there.

Order to Repair. Any order or notice to comply, correct or abate or any substandard order issued by the Department of Building and Safety, the Los Angeles Housing Department, or the Los Angeles County Department of Health Services or any notice of fire and life safety violation issued by the Fire Department.

Sec. 19. Section 155.01 of the Los Angeles Municipal Code is amended to read:

SEC. 155.01. DEFINITIONS. The following words and phrases, whenever used in this article, shall be construed as defined in this section. Words and phrases not defined here shall be construed as defined in Sections 12.03, 151.02, 153.02, 154.01 and 162.02, if defined there.

Delinquent Utility Bill: Any past due electric or water bill deemed delinquent by DWP in master-metered apartment buildings.

DWP: The Department of Water and Power of the City of Los Angeles.

LAHD: The Los Angeles Housing Department.

RSO: Rent Stabilization Ordinance

UMP: The Utility Maintenance Program provided by this article.

Sec. 20. Subsection B of Section 155.03 of the Los Angeles Municipal Code is amended to read:

B. Service and Recordation. LAHD shall follow the procedures for service and recording as set forth in Section 162.00, et seq.

Sec. 21. Subdivision 2 of Subsection A of Section 155.07 of the Los Angeles Municipal Code is amended to read:

2. The building has not also been placed into REAP pursuant to Section 162.00 et seq.; and

Sec. 22. The second paragraph of Section 161.702 of the Los Angeles Municipal Code is amended to read:

The order shall be provided to the owner on a standard form which in plain language states the violations found and the sections of this Code with which the property is not in compliance. The order shall inform the owner that failure to correct the violation may result in additional inspection fees pursuant to Division 9 of this article or rent withholding as provided by Section 161.903.3 for failure to pay those fees, inclusion in REAP and/or rent reduction as specified in Section 162.04, inclusion in the Urgent Repair Program as specified in Section 50.00C or any successor program, relocation assistance as specified in Section 161.805(7), property management training as specified in Section 154.00 of this Code, inclusion in the Receivership Program, increased frequency of inspections as provided by 161.602.1, eviction protections as provided by Sections 151.09 and 161.806, prohibited rent increases as provided by Section 161.807, criminal prosecution or any other enforcement action. If the order declares the building or dwelling unit to be substandard, then it shall comply with California Health and Safety Code Section 17980(d).

Sec. 23. The second paragraph of Section 161.802 of the Los Angeles Municipal Code is amended to read:

The notice shall notify the owner and any affected tenants of the rent reduction and/or inclusion in REAP as specified in Section 162.04, proposed inclusion in the Urgent Repair Program as specified in Section 50.00C or any successor program, proposed relocation assistance as specified in Section 161.805(7), proposed property management training as specified in Section 154.00, proposed inclusion in the Receivership Program, increased frequency of inspections as provide by Section 161.602.1, rent withholding as provided by Section 161.903.3, eviction protections as provided by Sections 151.09 and 161.806, prohibited rent increases as provided by Section 161.807, any fees, costs or penalties pursuant to Division 9 of this article and criminal prosecution.

Sec. 24. Subsection (3) of Section 161.805 of the Los Angeles Municipal Code is amended to read:

(3) Order the building or dwelling units be accepted into REAP.

Sec. 25. The first paragraph of Section 161.805.1 of the Los Angeles Municipal Code is amended to read:

A copy of the decision shall be served on the owner via certified United States mail, postage prepaid, return receipt requested, or in person, and a notice shall be provided to each affected residential unit in the manner prescribed Subdivision (a) of California Health and Safety Code Section 17980.6 and made available to any person requesting a copy. If the decision orders a rent reduction or inclusion into REAP, the decision shall comply with the notice provisions of Section 162.04 of this Code. If the decision includes a requirement for relocation assistance, the decision shall comply with Section 161.805(7) of this Code.

Sec. 26. The third paragraph of Section 161.807 of the Los Angeles Municipal Code is amended to read:

For a building or dwelling unit that is subject to the RSO, if the landlord applies for an individual rent adjustment pursuant to Section 151.07, any authorized rent adjustment will not take effect for a period of one year after the Department determines that the landlord has complied with the order.

Sec. 27. The second paragraph of Section 161.1002.5 of the Los Angeles Municipal Code is amended to read:

The Board's decision shall be served on the owner by certified United States mail, postage prepaid, return receipt requested, or in person, and a notice shall be provided to each affected residential unit in the manner prescribed by Subdivision (a) of California Health and Safety Code Section 17980.6 and made available to any personal requesting a copy. If the Board's decision orders a rent reduction or inclusion into REAP, it shall comply with the notice provisions of Sections 162.04 and 162.06 of this Code. If the decision includes relocation assistance, the decision shall comply with Section 161.805(7) of this Code.

Sec. 28. Article 2 of Chapter XVI of the Los Angeles Municipal Code is hereby added to read:

SEC. 162.00. TITLE. This article shall be known as the Rent Escrow Account Program of the City of Los Angeles.

SEC. 162.01. 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 enforce the purposes of the Housing Code set forth in Section 161.102 and to encourage compliance by landlords with respect to the maintenance and repair of residential buildings, structures, premises and portions of those buildings, structures and premises.

B. Scope. The provisions of this article shall apply to all residential units in all existing buildings, structures, and premises which contain one or more rental units as defined in Sections 151.02 or 161.301.

C. Notices. Any notices or written decisions required by this article shall be in plain, simple language and need not include the precise wording of this article. Service of notices shall be made in the manner prescribed by Section 161.409.

SEC. 162.02. DEFINITIONS. The following words and phrases, whenever used in this article, shall be construed as defined in this section. Words and phrases not defined here shall be construed as defined in Sections 161.201, 151.02, and 12.03, in that order of priority, if defined there.

ENFORCEMENT AGENCY. The Department of Health Services of the County of Los Angeles, the Departments of Building and Safety, Fire or Housing of the City of Los Angeles, the California Department of Housing and Community Development, their successors, or any other governmental agency that inspects rental units for the purpose of inspecting for compliance with health or safety laws.

ORDER. Any order or notice to comply, correct or abate a condition or violation issued by an Enforcement Agency.

RAC. The Rent Adjustment Commission, or its successor.

REAP. The Rent Escrow Account Program provided in this article, including the escrow account and the rent reduction.

SEC. 162.03. REFERRAL TO REAP. Any City or County agency or any tenant may refer any building or residential unit within the scope of this article to the Department for inclusion in REAP if the following conditions are met:

- i. The building or unit is the subject of one or more Orders;
- ii. The period allowed by the Order for compliance, including any extensions, has expired without compliance; and
- iii. The violation affects the health or safety of the occupants, or, if the unit is subject to the RSO, the violation results in a deprivation of housing services, as defined in Section 151.02, or a habitability violation, as defined in Section 153.02.

In its referral, the City or County agency shall indicate if the violations are of a nature or extent that they are likely to exist in or affect units that have not been inspected. The RAC shall promulgate regulations setting forth criteria for determining when that condition exists.

SEC. 162.04. ACCEPTANCE.

A. Upon receipt of a referral, the Department shall verify that the period allowed for compliance, including any extensions, has expired. If the compliance period has not expired but the conditions set forth in Section 162.03 have otherwise been met, the Department shall hold the referral for processing until after the period expires.

B. Upon receipt of a referral, the Department shall also investigate whether there are other outstanding Orders against the building that also meet the conditions set forth in Section 162.03.

C. After completing its review, the Department shall accept the building or unit into REAP if the conditions set forth in Section 162.03 are met. If there are other Orders that meet the conditions set forth in Section 162.03, the Department shall accept any additional units covered by those Orders into REAP. If the other Orders have not yet expired, the Department may accept the units effective the date the Orders expire. If the referral by a City or County agency indicates that the violations are of a nature or extent that they are likely to exist in or affect all of the units, then any rent reduction for those violations shall apply to all affected units.

D. If the Department accepts the building or unit into REAP, it shall issue a decision setting forth:

1. The date of the Order that has not been complied with and the citing agency;
2. The outstanding violations;
3. The units affected by the decision;
4. The amount of the rent reduction, following the schedule adopted pursuant to Section 162.05. If the rent reduction calculation exceeds the cap set by the schedule, the decision shall describe the calculation and shall state that the rent reduction is limited by the schedule;
5. The date on which the rent reduction will be in effect. If not appealed, that date shall be the first rental payment due 20 days after the date of the decision. If the building is not covered by the RSO, the rent reduction shall not be effective until at least 60 days from the date of the Order;
6. The date on which on which an escrow account will be established;
7. That a non-refundable administrative fee of \$50.00 per residential unit per monthly rent payment shall be collected by the City from the escrow account;
8. A statement describing the tenant protections set forth in Section 162.09; and
9. The landlord's right to appeal and the effect of an appeal, including the stay pending appeal, the retroactivity of a decision on appeal, and the possibility that additional rent reductions may be imposed on appeal, as set forth in Section 162.06.

E. The decision shall be served on the landlord as set forth in Section 161.409 by certified mail, return receipt requested. The decision shall also

be served on all affected tenants after the time for appeal has expired if there is no appeal. If the decision is appealed, it shall not be served on the tenants.

F. Upon accepting a unit or building into REAP, the Department shall consider whether the building should be referred for a periodic inspection pursuant to Section 161.602.

SEC. 162.05. RENT REDUCTION SCHEDULE. The RAC shall adopt by regulation a schedule setting forth the amount by which the rent shall be reduced, taking into account the nature of the violation, the severity of the conditions, and the history of past untenable conditions. The RAC may set a maximum rent reduction if necessary to prevent abandonment of the property or exacerbation of health and safety violations. Pending adoption of the schedule, the Department shall use the schedule adopted pursuant to former Section 151.06.5.

SEC. 162.06. APPEALS.

A. Notice of Appeal. The landlord may request a hearing before the General Manager to appeal any decision placing a unit or building into REAP. The appeal must be filed in writing and received by the Department within 15 calendar days of the date of mailing of the decision. The appeal must be on a form provided by the Department and set forth:

1. The grounds for appeal; and
2. The names and current rents of all of the tenants in units subject to REAP;

If the decision is not appealed within the 15-day appeal period, it will be final.

B. Stay Pending Appeal. If the landlord appeals to the General Manager, the decision shall be stayed pending the appeal.

C. Hearing.

1. The General Manager's hearing shall be set and held within 30 days of the filing of the appeal following the procedures set forth in Division 8 of Article 1 of Chapter XVI of this Code. To the extent feasible,

the hearing shall be coordinated with any General Manager's hearing scheduled under Section 161.801 et seq. The Department shall investigate whether there are other outstanding Orders against the building and, if so, shall provide notice of the hearing to any additional tenants affected by those Orders.

2. Tenants or Enforcement Agencies may present proof that the violations specified in the Order, at the time the Order was issued, affected additional units that have not been inspected, or that there are additional outstanding Orders affecting the same or different units of the building that were not included in the original decision.

3. The landlord may present proof that a rent reduction is not appropriate because the violations were caused by the tenants. The burden shall be on the landlord to prove that the tenants caused the violations.

4. The landlord, any tenant or the Enforcement Agency may present proof that, due to extreme circumstances, acceptance into REAP or the rent reduction would jeopardize the health or safety of the tenants. The landlord has the burden of demonstrating unique, extreme circumstances that make that relief appropriate. The Department shall scrutinize such a request with particular caution when it is not supported by the tenants or the Enforcement Agency.

D. Decision.

1. The General Manager shall issue a decision, as set forth in Division 8 of Article 1 of Chapter XVI of this Code, within ten working days of the hearing.

2. The General Manager may affirm, modify, or reverse the determination of the Department. The General Manager shall find that each of the factors set forth in Section 162.03 exists in affirming the acceptance of a building into REAP. The General Manager may modify or reverse the determination of the Department only upon making written findings setting forth specifically either (i) that the action of the Department was in error or constituted an abuse of discretion, or (ii) there is new, relevant information which was not previously submitted either at the time of the referral to

REAP due to mistake, surprise, inadvertence, lack of notice, or excusable neglect, which information supports a modification or reversal.

3. If the landlord was already in compliance with the Order before the rent reduction effective date, the decision shall be reversed. If the landlord complies with the Order after the appeal is filed but before the hearing on the appeal, the rent reduction may be imposed retroactively for any rental payments that were due between the date set forth in the original decision and the date that the violations were corrected. If the decision is upheld on appeal, the rent reduction shall be effective retroactive to the date set forth in the original decision.

4. If, at the hearing, a tenant or an Enforcement Agency presents proof that the violations specified in the Order, at the time the Order was issued, affected additional units that had not been inspected, or that there are additional outstanding Orders affecting the building that were not included in the original decision, the General Manager may issue a further rent reduction or include additional units in REAP. Further rent reductions may be made effective immediately or may be made effective following the expiration date of the additional Orders if those orders have not been complied with by that date. If the building is not covered by the RSO, the rent reduction shall not be effective until at least 60 days from the date of the Order.

Prior to determining that additional units not included in the original decision pursuant to Section 162.04 D will be subject to inclusion in REAP or rent reduction, the General Manager shall, if requested by the landlord, continue the hearing as to the additional units in order to provide the landlord with notice and an opportunity to be heard. The General Manager may issue a decision as to the rental units included in the original decision prior to the continued hearing date or may wait and issue one decision covering all of the units.

5. If the General Manager finds that the violations are of such a nature or extent that they are likely to be found in or affect several units, the General Manager may order the rent reduction extended to additional units that were not included in the original decision without proof of an outstanding Order for those units. The decision shall set forth the findings justifying extending the rent reduction to additional units.

Prior to determining that additional units not included in the original decision pursuant to Section 162.04 D will be subject rent reduction, the General Manager shall, if requested by the landlord, continue the hearing as to the additional units in order to provide the landlord with notice and an opportunity to be heard. The General Manager may issue a decision as to the rental units included in the original decision prior to the continued hearing date or may wait and issue one decision covering all of the units.

6. The General Manager may also refer the building for a periodic inspection pursuant to Section 161.602.1. If the building has already had a periodic inspection within the past three years, the General Manager may order the landlord to pay an inspection fee pursuant to Section 161.901.

7. Under extreme circumstances, the Department may delay, reduce, stay or deny the rent reduction or escrow account, notwithstanding that the conditions set forth in Section 162.03 have been met, when to do otherwise would jeopardize the health or safety of the tenants or would violate the constitutional rights of any person. The mere reduction of income available to make repairs shall not constitute extreme circumstances. If the Department grants that relief, the decision shall set forth the circumstances supporting it in detail.

E. Appeal of General Manager's Decision. The landlord, any tenant or the Enforcement Agency may appeal to the Appeals Board within ten calendar days after service of the General Manager's decision, following the procedures set forth in Division 10 of Article 1 of Chapter XVI and Section 162.06 A.

If the appeal is denied, the Appeals Board shall not waive any retroactive reduction imposed pursuant to Section 162.06 D 3.

If the General Manager's decision imposed additional rent reductions that were not included in the original acceptance, and if the violations on which those reductions were based had not been corrected by the time the appeal was filed, then the Appeals Board shall impose a retroactive rent reduction as set forth in Section 162.06 D 3.

SEC. 162.07. ESCROW ACCOUNT.

A. Establishment of Account.

1. Within five working days after the decision accepting a building into REAP has become final, the Department shall establish as part of the REAP Trust Fund an account for the building into which tenants may deposit rent payments. The Department shall mail notification to all tenants of the existence of the account, including an explanation of how payments may be deposited into the account. The Department shall provide a receipt to each tenant making a deposit. The Department shall provide, at least once a month, a periodic report to the landlord concerning the activity in the account. The records of the account shall be reasonably available to the landlord or any interested party, or their representatives, in accordance with the regulations, including the provision for payment of reasonable fees, as the Commission may promulgate.

B. Withdrawals from Escrow Account.

1. The Department 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.

2. A landlord, any tenant, any Enforcement Agency, any interested party, and any creditor may apply to the General Manager for a release of funds from the escrow account, in accordance with the regulations the RAC shall enact. Withdrawals may be for the following reasons, in addition to other reasons adopted by regulation:

a. When necessary to prevent a significant diminution of an essential service to the building, including utilities;

b. When necessary for the correction of deficiencies, including but not limited to those that caused the acceptance into REAP;

c. When, to the extent legally permissible, requested by a tenant who has performed or wishes to repair conditions that affect the tenant's health and safety, that result in a deprivation of housing

services, as defined in Section 151.02, or that result in a habitability violation, as defined in Section 153.02. Those repairs are not limited to the repair of violations that caused the acceptance into REAP;

d. When requested by a tenant who wishes to or has relocated from the unit or building. These withdrawals are not limited to the amount of relocation assistance permitted by the RSO;

e. When requested by a tenant who has sustained expenses due to uninhabitable conditions; or

f. When ordered by a court.

3. Upon receipt of an application for release of funds, the General Manager shall hold a hearing following the procedures set forth in Division 8 of Article 1 of Chapter XVI of this Code. The General Manager shall order the release of funds from the escrow account where it has been demonstrated to the satisfaction of the General Manager that the conditions set forth in paragraph 2 above, or other conditions enacted by regulation, have been met. When necessary to address an imminent threat to the health or safety of the occupants, or to prevent the termination of utilities, the General Manager may release funds without a hearing or on shortened notice. The RAC shall promulgate regulations governing expedited releases. Any aggrieved party may appeal the General Manager's decision to the Appeals Board following the procedures set forth in Division 10 of Article 1 of Chapter XVI of this Code.

4. If a building is in more than one escrow program of the Department (including REAP, UMP, URP or HEP), disbursement of funds in excess of the \$50.00 administrative fee to make repairs, to address the health and safety of the occupants, or to preserve essential services, shall be given priority over expenditures for other purposes.

5. The pendency of an unlawful detainer action or an unlawful detainer judgement shall not prevent the disbursement of funds to a tenant. The General Manager shall take into account the facts and circumstances of the unlawful detainer action.

6. The General Manager shall deny the application where it determines that the application is intended, in whole or in part, to circumvent the provisions of this article. A debt incurred subsequent to notice to a creditor that the building was 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.

SEC. 162.08. TERMINATION OF REAP.

A. After receiving notice that all orders have been complied with and all violations have been corrected, including but not limited to those that caused the placement into REAP and any subsequent orders or violations, the Department may recommend to the City Council the termination of the rent reductions if it finds:

1. All orders affecting the units and the common areas have been signed off by the appropriate Enforcement Agency; and
2. There are no other outstanding Orders affecting the units or common areas of the building as set forth in Section 162.03 iii.

B. The Department may also review an application from a landlord to terminate the rent reduction for certain units, notwithstanding the continuation of violations affecting other units, if the conditions set forth in Subsection A are met for those units. The landlord may only submit one application for each property. The Department shall scrutinize with particular care any application, and recommend termination only if it finds that only minor violations remain in the other units.

C. The Department may recommend termination of the escrow account if, in addition to the findings in Subsection A or B, it finds that any outstanding and non-appealable electric service and/or water charges pertaining to the property have been paid to the satisfaction of the Department of Water and Power of the City of Los Angeles.

D. If the City Council terminates the escrow account, any funds in that account shall be paid in the following order:

1. Any administrative fees pursuant to Section 162.07 B 1 that have not yet been collected,

2. Any outstanding fees and penalties imposed pursuant to Article 1 of Chapter XVI of this Code,

3. Any outstanding rent registration fees in an RSO building and any penalties pertaining thereto pursuant to Section 151.05.

Any remaining funds shall be returned to the current landlord.

E. As a condition of terminating the escrow account, the City Council may order an expedited systematic inspection pursuant to Section 161.805(6) and impose inspection fees and administrative costs pursuant to Sections 161.901 through 161.903. The City Council may also condition termination of the escrow account on payment of those fees or any other unpaid fees under Subsection D.

F. If the City Council terminates the rent reduction, the rent will be restored to the original level 30 days after the Department mails the tenants notice of the restoration.

G. Monitoring Program. The City Council by resolution may release a building from REAP, and include the following conditions:

1. That the landlord pay any outstanding and non-appealable electric service and/or water charges pertaining to the property into REAP, to the satisfaction of the Department of Water and Power of the City of Los Angeles;

2. That the landlord pay all outstanding rent registration fees and any penalties pertaining thereto, to the satisfaction of the Rent Stabilization Division of the L.A.H.D. and any inspection fees, added inspection costs or administrative costs to the satisfaction of the Code Enforcement Division of the L.A.H.D.; and

3. That the landlord prepay for two annual inspections, beyond the initial inspection and re-inspection included in the Systematic Code Enforcement Fee pursuant to Section 161.352, to the Los Angeles Housing

Department, for each property which was included in the REAP, in an amount of \$120.00 per inspection.

SEC. 162.09. TENANT PROTECTIONS.

A. Evictions.

1. 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 with respect to Section 151.09 A 1 of this Code or Section 1159 et seq. of the California Code of Civil Procedure. 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 the payments had been made to and accepted by the landlord.

2. While a unit is in REAP, before bringing an action to recover possession on the basis of nonpayment of rent, the landlord shall have a duty to verify in writing with the Department that the tenant has not paid his or her rent to the Department. The Department shall respond within three business days to any request for verification. The landlord shall not bring an action to recover possession on the basis of nonpayment of rent without making this inquiry or if the tenant or the Department presents proof that the tenant has paid the rent demanded to the Department. The violation of this section shall not be a misdemeanor.

3. Regardless whether the unit is covered by the RSO, until the unit is removed from REAP and for 180 days thereafter, or until expiration of the period called for under Section 161.806, if applicable, whichever is later, the landlord may bring an action to recover possession of the unit only upon the grounds set forth in Section 151.09 A.

4. If the dominant intent of a landlord in seeking to recover possession of a rental unit is retaliation for the tenant's or an Enforcement Agency's exercise of rights or duties under this article, and if the tenant is not in default as to the payment of rent, then the landlord may not recover possession of a rental unit in any action or proceeding or cause the tenant to quit voluntarily. Until the unit is removed from REAP and for one year

thereafter, the landlord shall have the burden of proving that any action to recover possession, other than one based on nonpayment of rent, is not brought for the purposes of retaliation.

5. In any action by a landlord to recover possession of a rental unit, the tenant may raise as a defense any grounds set forth in this section. If the tenant is the prevailing party, he or she shall be entitled to recover reasonable attorneys' fees and expenses.

B. Rent Increases. Until the unit is removed from REAP and for one year thereafter, or until expiration of the period called for under Section 161.807, if applicable, whichever is later, the landlord or any subsequent landlord shall not increase the rent for the current or any subsequent tenants. If the unit is covered by the RSO, after expiration of this period, no rent increase shall be allowed for reimbursement of a capital improvement or cited rehabilitation work for any corrections necessary to comply with the Order that resulted in the placement into REAP or any additional Orders issued while in REAP.

C. Civil Actions. Any landlord who violates any of the provisions of this section or who retaliates against a tenant for the tenant's or an Enforcement Agency's exercise of rights or duties under this article shall be liable in a civil action for damages and a penalty of \$1,000 per violation, together with reasonable attorneys' fees and expenses. Any judgment awarded in such an action may be collected from the escrow account upon application as set forth in Section 162.07 B.

SEC. 162.10. CONTACT WITH TENANTS. The Department may contact the tenants of any property before or after placement into REAP. This contact may be in person or by mail or by both, and the Department may contract with other persons or organizations to carry out this activity. During this 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 building is accepted into REAP, and of their legal rights with respect to eviction and rent increases under the provisions of this article and the RSO.

SEC. 162.11. RECORDING OF REAP ORDER AND

TERMINATION OF REAP. After the decision accepting the building into REAP becomes final, the Department shall file and record with the County Recorder of the County of Los Angeles a certificate legally describing the real property and stating that the subject building has been placed into REAP and that the owner of the building has been so notified. After the building has been removed from REAP, the Department shall file and record with the County Recorder a certificate terminating the above-recorded status of the subject building. The Department may, by regulation, provide for the reimbursement to the Department from the escrow trust account for the fees and costs incurred.

(57744)

Sec. 29. The City Clerk shall certify to the passage of this ordinance and cause it to be published by posting for ten days in three public places in the City of Los Angeles as follows: one copy on the bulletin board located at the Main Street entrance to the City Hall of the City of Los Angeles; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department in the City; and one copy on the bulletin board located at the Temple Street entrance to the Hall of Records in the City.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles of February 9, 2001, and was passed at its meeting of FEB 16 2001.

J. MICHAEL CAREY, City Clerk

By Maria Kosenich
Deputy

Approved FEB 28 2001

[Signature]
Mayor

Approved as to Form and Legality

January 2, 2001
James K. Hahn, City Attorney

By Basia Jankowski
BASIA JANKOWSKI
Deputy City Attorney

File No. CF 97-1303-S6

DECLARATION OF POSTING ORDINANCE

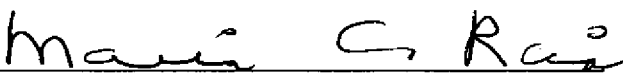
I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 173810 - Amended 50.00 & 91.8607 of the L.A.M.C. relating to REAP and HEP - a copy of which is hereto attached, was finally adopted by the Council of the City of Los Angeles on Feb. 16, 2001, & under direction of said Council & said City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles, on March 7, 2001, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: one copy on the bulletin board at the Main Street entrance to City Hall of said City, one copy on the bulletin board on the ground level at the Los Angeles Street entrance to the Los Angeles Police Department in said City, & one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles in said City.

The copies of said ordinance posted as aforesaid were kept posted continuously & conspicuously for ten days, or more, beginning March 7, 2001 to and including April 16, 2001.

I declare under penalty of perjury that the foregoing is true & correct.

Signed this 7th day of March 2001 at Los Angeles, California.


Maria C. Rico, Deputy City Clerk

Effective Date: April 16, 2001
(Rev. 2/95)

C.F. 97-1303-S15