

Frequently Asked Questions about Capital Improvement Plans

Updated 4/28/2023

1. What is a Capital Improvement Plan (CIP)?

The City's Capital Improvement Policy was established in 2016. The purpose of the policy is to encourage landlords to improve the quality of the City's rental housing stock, ensure that landlords receive a just and reasonable return on their Capital Improvement expenditures, and to provide relocation assistance for tenants who are displaced as a result of improvements to their rental units.

By filing an application for a CIP, landlords may be able to recover the cost of eligible improvements over time by passing them on to the tenants in the form of a pass through. The pass through is calculated by amortizing the cost of the improvement, including interest for the financing the landlord secures, over the useful life of the improvement.

2. Will CIP pass throughs be treated as rent increases?

In a sense, yes, in that a tenant will be paying an additional amount, i.e. the pass through, in addition to other allowable rent increases such as the Annual General Adjustment and available banked rent increases. Significantly, however, CIP pass throughs will not be added to Base Rent, and thus the pass through amount will not be subject to compounding through Annual General Adjustments. Moreover, because CIP pass throughs are considered rent increases, a landlord may increase rent, including any pass through amount, only once every 12 months. This treatment gives tenants all of the protections afforded to rent increases under the Ordinance, while reducing the impact on tenants by precluding compounding the pass through amount in the base rent.

3. When and how often could a CIP pass through be imposed?

Local law limits rent increases to once every 12 months. A CIP pass through is considered a rent increase. Accordingly, such a rent increase may only occur once a year.

4. If a landlord has already increased rent through the Annual General Adjustment process, may that landlord impose a CIP pass through in the same year?

No, CIP pass throughs are considered rent increases. Accordingly, local law limiting rent increases to once every 12 months would apply.

5. Is there an annual dollar or percentage cap on rent increases including CIP pass throughs?

Under local law, rent increases for most rental units are limited to an Annual General Adjustment (AGA), calculated at 70% of the change in the Consumer Price Index. Landlords who do not impose the full AGA, or could not during the moratorium on rent increases, may "bank" the unused portion and implement no more than an additional 3.0% with a future AGA increase. A CIP pass through is effectively another way in which a landlord may exceed the AGA when implementing a rent increase. There is currently no annual dollar or percentage cap the amount of a CIP pass through. However, state law (SB1482) provides that landlords may not increase rent, over the course of any 12-month period, more than 5% plus the percentage change in the cost of living, or 10%, whichever is lower. While there is no judicial guidance on the applicability of this limitation on CIP pass throughs, the 10% limitation likely would

apply to any combination of rent increases including the pass through, and the City's position is that it does, in fact, apply.

6. How are CIP applications processed?

CIP applications are processed by Rent Program staff, as provided for by local law. Staff primarily looks to determine if a) the work done by the landlord meets the definition of Capital Improvements under local law, b) if the landlord has provided sufficient documentation of the work and its costs, and c) if the cost of the work meets a threshold (set at eight times the average rent per unit over the past 12 months multiplied by the number of rental units to be improved).

7. Can CIP pass throughs be appealed?

If a CIP application is approved by staff, any affected tenant or landlord may appeal the staff determination concerning any aspect of the pass through to an independent hearing officer, who would make the final determination.