



November 5, 2015

City of Oakland
1 Frank Ogawa Plaza, 2nd floor
Oakland, CA 94612

Note: This letter was presented to Oakland's Mayor, city council members, and administration formalizing EBRHA's position regarding the garbage and recycling contract, and the issues property owners face as providers of housing. Turn to page 6 to learn more.

Dear Councilmembers & Mayor Schaaf,

On October 14, 2015 representatives of multifamily housing owners and managers met with Councilmember Dan Kalb to discuss an array of concerns related to rental housing. During that meeting the subject of the implementation of the City of Oakland's new garbage contract was discussed. We thank Mr. Kalb for meeting with us and listening to our concerns. This letter in follow-up to that meeting is to share those concerns with the Mayor and other members of the City Council and to demand that the Oakland City Council act to alleviate the severe burdens and nuisance imposed upon property owners, tenants and other Oakland residents by particular provisions of its new contract.

Push/Pull Rates

Prior to the implementation of the new contract, Waste Management employees would enter upon a property being serviced and push or pull the garbage collection container(s) to the curb where a specially outfitted vehicle would lift and empty the container. The container was then returned to its original location on the property. This process would normally take between 5 and 7 minutes and the container would not occupy the streetscape during any time other than that required for the pickup. The cost of this service was included in the regular garbage bill and was not a separate item.

Under the new contract it has become the responsibility of the property manager to push/pull the collection container to the curb and leave it there for pickup by Waste Management. This has proven to be problematic on crowded streets in that the container must remain in this location and occupy sidewalk or sought after parking space, until Waste Management arrives to make the pickup. As there is no fixed time for the arrival of Waste Management, the carts or dumpsters tend to occupy the streetscape for extended periods of time. This imposes an adverse impact on residents of visual blight, sanitation nuisance and competition for scarce parking spaces. It also creates the risk that a runaway dumpster on a driveway incline or hill may cause bodily injury or property damage.

Making matters worse, the cost of the push/pull service has now become an itemized cost that is in addition to the regular cost of trash collection. Earlier this month multifamily rental owners received their first bills for collection services that included these new charges. The bills were dated October 7, 2015 with the increase backdated to take effect October 1, 2015. While it is self evident that backdating an undisclosed rate increase is an astonishingly unfair business practice, the scale of the increase under the new contract is absolutely outrageous. Many rental owners have received bills with rate increases in excess of 500%, amounting to several thousand dollars additional cost per month. Needless to say, this has caused a great deal of consternation and anger.

Attached are redacted copies of bills recently received by rental owners so that you may get a feel for the dramatic increases resulting from the new garbage contract.

Compost Services

In the months leading up to the agreement entered into between the City of Oakland, Waste Management and California Waste Solutions, public hearings were held to discuss the types of trash collection services being contemplated by the Council. Among these was a new mandate that all multifamily housing provide compost services. During the hearings representatives of multifamily housing owners and managers provided testimony that the logistics of the one size fits all composting mandate that was being contemplated by the Council would create hygienic and other nuisance issues. Among other things, we pointed out that in buildings where there is limited choice as to the location of the bins, nuisance issues would arise because tenants do not want compost bins to be located near their bedroom or kitchen windows. We agreed with them on this, as did City staff, per its consultant's report which recommended that multifamily composting should remain optional.

Unfortunately our testimony was essentially ignored. Consequently as the program is being implemented the predicted problems of foul odors, flies, maggots and rodents, have already presented themselves and the



complaints from tenants have begun. Unless changes are made to the compost mandate to address these issues, tenants are being needlessly exposed to nuisance conditions and multifamily property owners are being needlessly placed at risk of habitability and nuisance claims.

Transparency and Accountability to the Public

In addition to the above, we are concerned about the lack of transparency in the contract negotiations between the City of Oakland, Waste Management and California Waste Solutions. While we understand that negotiations were challenging and fraught with controversy, it is not clear to us that these negotiations were made with the interests of Oakland residents as the overriding concern. It is also not clear that the new rates being billed to residents, businesses and multifamily housing owners bear a clear relationship to the cost of the trash removal services being provided.

In particular, imbedded in the contract is a large dollar item referred to as a Franchise Fee. While this fee is clearly part of the new rate structure, it appears to provide no benefit to Oakland consumers of trash removal services. There was no public discussion as to how the ratepayers benefit from the inclusion of this item

Public Disclosure

Notwithstanding our participation in public meetings related to the contract, we continue to be surprised in its implementation. In particular, the rates being billed for the push/pull service have come as a complete surprise. These rates were never disclosed during any public meeting. Nor did the consultant hired by the City to explain to rental owners the workings of the new program ever disclose any such impending charges. Indeed, during public meetings it was disclosed that the new rates might be 40% higher than the old. There was never any discussion of rate increases exceeding 100% or 200% let alone 500% or more.

In our meeting with Councilmember Kalb there was discussion that the reason the push/pull rates are so high is because Waste Management would rather not provide this service at all. That their disproportionately high rates are designed to push Oakland rental owners into seeking such services elsewhere. If this is the case, it suggests a lack of good faith on their part in the negotiating process.

New Push/Pull Rates Should Be Suspended

With regard to the new garbage contract we feel that the City of Oakland has failed in its obligation to look out for the interests of Oakland rate payers and residents. The exorbitant new charges required by the new push/pull service bear no clear relationship to the cost of the service being provided. They are unfair and well beyond the ability of many properties to bear.

Accordingly, we demand that the City work with Waste Management to come up with fair and equitable pricing for this service. We further demand that in the interim the assessment and collection of all fees related to the push/pull service be suspended and all payments already made to Waste Management for this service be returned to the customer. We also demand that the City work with multifamily rental owners and renters to correct all contract provisions that unfavorably impact on the quality of life in Oakland neighborhoods.

Sincerely,

WAYNE C. ROWLAND

President, East Bay Rental Housing Association

cc: City Administrator, Sabrina Landreth
City Attorney, Barbara Parker
City Auditor, Brenda Roberts