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CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL _____

..title

AN ORDINANCE relating to tenant protections; establishing regulations and enforcement provisions related to residential rent increases on properties that do not meet basic maintenance standards; transferring primary enforcement authority for all sections of Title 22, Subtitle 2 of the Seattle Municipal Code (Housing Code) to the Director of the Seattle Department of Construction and Inspections; amending the penalty structure for certain violations of the Housing Code; amending Sections 22.202.010, 22.202.050, 22.204.090, 22.206.180, 22.206.220, 22.206.280, and 22.206.305 of the Seattle Municipal Code; and adding a new Section 22.202.080.

..body

WHEREAS, in September 2014 the City Council adopted Resolution 31546, in which the Mayor and Council jointly convened the Seattle Housing Affordability and Livability Agenda (HALA) Advisory Committee to evaluate potential strategies to make Seattle more affordable, equitable, and inclusive; and in particular to promote the development and preservation of affordable housing for residents of the City; and

WHEREAS, in July 2015, HALA published its Final Advisory Committee Recommendations and the Mayor published *Housing Seattle: A Roadmap to an Affordable and Livable City*, which outlines a multi-prong approach of bold and innovative solutions to address Seattle’s housing affordability crisis; and

WHEREAS, in October 2015 the Council adopted Resolution 31622, which declared the Council’s intent to expeditiously consider strategies recommended by the HALA Advisory Committee; and

WHEREAS, the HALA Advisory Committee’s recommendations include strategies to support and help tenant households; and

1 WHEREAS, according to residential market surveys conducted by Dupre + Scott, the average
2 market rate rent for one bedroom apartment units in Seattle increased by 35 percent
3 between 2011 and 2016; and

4 WHEREAS, residential property owners may increase rents irrespective of the condition of the
5 housing units they own; and

6 WHEREAS, the Rental Registration and Inspection Ordinance, Chapter 22.214 of the Seattle
7 Municipal Code, establishes a checklist of maintenance standards required for rental
8 housing; and

9 WHEREAS, RCW 59.18.060 states “the landlord will at all times during the tenancy keep the
10 premises fit for human habitation”; and

11 WHEREAS, RCW 59.18.070 provides a process and timelines for a tenant to seek correction of
12 defective conditions in a rental housing unit; and

13 WHEREAS, RCW 59.18.085 provides remedies to tenants who rent dwelling units that are
14 condemned or unlawful to occupy; and

15 WHEREAS, Seattle’s housing stock includes renter-occupied units with severe physical
16 problems, including signs of mice and cockroaches, open cracks or holes in the interior,
17 exposed wiring, and other deficiencies that could endanger tenants’ health and safety; and

18 WHEREAS, tenants in rental units where Housing and Building Code violations exist can
19 currently be subject to rent increases, as exemplified by the widely reported experience of
20 tenants at the Charles Street Apartments located at 6511 Rainier Avenue South who
21 received notices of large rent increases, some reported to be in excess of 100 percent,
22 shortly before a City inspection found 225 Housing and Building Code violations on the
23 site; and

1 WHEREAS, the Council finds that prohibiting rent increases until rental units comply with
2 housing code requirements will encourage landlords to comply with those standards and
3 thereby promote the health, safety, and welfare of the general public;

4 NOW, THEREFORE,

5 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

6 Section 1. Subsection 22.202.010.A of the Seattle Municipal Code, which section was
7 last amended by Ordinance 120302, is amended as follows:

8 **22.202.010 Enforcement authority – Rules((;))**

9 A. Enforcement. The Director is hereby designated the City Official to exercise the
10 powers granted by this ((Code)) Title 22 ~~((, except that the Chief of Police is authorized to~~
11 ~~administer and enforce Sections 22.206.180 and 22.206.190 and shall have equal authority with~~
12 ~~the Director for enforcement of SMC Sections 22.206.140 and 22.206.160 B3. In enforcing SMC~~
13 ~~Sections 22.106.180 and 22.206.190, the Chief of Police shall encourage any owner(s) and~~
14 ~~tenant(s) involved to engage in mediation or binding arbitration pursuant to RCW 59.18.315~~
15 ~~through RCW 59.18.350 of the State Residential Landlord Tenant Act to resolve outstanding~~
16 ~~disputes between them)). The Chief of Police shall provide assistance to the Director in~~
17 enforcing Sections 22.206.180 and 22.206.190 when requested by the Director.

18 * * *

19 Section 2. Section 22.202.050 of the Seattle Municipal Code, last amended by Ordinance
20 122397, is amended as follows:

21 **22.202.050 Housing and Abatement Accounting ~~((Unit;))~~ unit**

22 A restricted accounting unit designated as the "Housing and Abatement Account" is
23 established in the Construction and Land Use Fund from which account the Director is hereby

1 authorized to pay the costs and expenses incurred for the repair, alteration, improvement,
2 vacation and closure, removal or demolition of any building, structure, or other dangerous
3 condition pursuant to the provisions of this ~~((Code))~~ Title 22, or pursuant to any other ordinance
4 administered and enforced by the Director declaring any building, structure or premises to be a
5 public nuisance and ordering the abatement thereof. Money from the following sources shall be
6 paid into the Housing and Abatement Accounting Unit:

7 * * *

8 F. Fines and penalties collected pursuant to ~~((subsections A, B, D, E, F, and G of~~
9 ~~Section))~~ Section 22.208.150 and subsections 22.206.280.A, 22.206.280.B, 22.206.280.D,
10 22.206.280.E, and 22.206.280.F ~~((and Section 22.208.150)).~~

11 Section 3. A new Section 22.202.080 is added to the Seattle Municipal Code as follows:

12 **22.202.080 Service of notices**

13 All written notices required by this Chapter 22.202 to be provided to or served on tenants
14 by property owners, and by tenants on property owners, shall be documented in such a manner as
15 to confirm the date on which the notice was received.

16 Section 4. Section 22.204.090 of the Seattle Municipal Code, last amended by Ordinance
17 115671, is amended as follows:

18 **22.204.090 “H((:))”**

19 ~~((A:))~~ "Habitable room" means space in a building occupied, used, designed, or
20 intended to be used for living, sleeping, eating, or cooking. Bathrooms, toilet compartments,
21 closets, halls, laundry rooms, storage or utility space, and similar areas are not habitable
22 rooms.

1 ~~((B-))~~ "Hazard" means a condition that exposes any person to the risk of illness, bodily
2 harm, or loss of or damage to possessions.

3 ~~((C-))~~ Historic. See "Building, historic."

4 ~~((D-))~~ "Hotel" means a building ~~((which))~~ that contains six ~~((6))~~ or more guest rooms
5 and is intended for occupancy by transients.

6 ~~((E-))~~ "Housekeeping unit" means a housing unit of one ~~((1))~~ or more rooms, used for
7 living, sleeping, and cooking and sharing a common bathroom.

8 ~~((F-))~~ "Housing costs" means the compensation or fees paid or charged, usually
9 periodically, for the use of any housing unit. For purposes of this Chapter 22.204, housing
10 costs include rent and any periodic or monthly fees for other services such as storage and
11 parking paid to the landlord by the tenant. Housing costs do not include utility charges that are
12 based on usage and that the tenant has agreed in the rental agreement to pay, unless the tenant
13 was not obligated to pay utility charges under the terms of the previous rental agreement.

14 "Housing unit" means any dwelling unit, housekeeping unit, guest room, dormitory, or
15 single room occupancy unit.

16 Section 5. Section 22.206.180 of the Seattle Municipal Code, last amended by Ordinance
17 124919, is amended as follows:

18 **22.206.180 Prohibited acts by owners ~~((-))~~**

19 ~~((A-))~~ Except as otherwise specifically required or allowed by this ~~((Code))~~ Title 22 or
20 by the Washington State Residential Landlord-Tenant Act, chapter 59.18 RCW, it is unlawful
21 for any owner to:

22 ~~((1-))~~ A. Change or tamper with any lock or locks on a door or doors used by the
23 tenant; or

- 1 ~~((2-))~~ B. Remove any door, window, fuse box, or other equipment, fixtures, or
2 furniture; or
- 3 ~~((3-))~~ C. Request, cause, or allow any gas, electricity, water, or other utility service
4 supplied by the owner to be discontinued; or
- 5 ~~((4-))~~ D. Remove or exclude a tenant from the premises except pursuant to legal
6 process; or
- 7 ~~((5-))~~ E. Evict, increase rent, reduce services, increase the obligations of a tenant, or
8 otherwise impose, threaten, or attempt any punitive measure against a tenant for the reason
9 that the tenant has in good faith reported violations of this ~~((Code))~~ Title 22 to the Seattle
10 Department of Construction and Inspections or to the Seattle Police Department, or otherwise
11 asserted, exercised, or attempted to exercise any legal rights granted tenants by law and arising
12 out of the tenant's occupancy of the building; or
- 13 ~~((6-))~~ F. Enter a tenant's housing unit or premises except:
- 14 ~~((a-))~~ 1. At reasonable times with the tenant's consent, after giving the tenant:
15 ~~((1-))~~ a. at least two days' notice of intent to enter for the purpose of
16 inspecting the premises, making necessary or agreed repairs, alterations or improvements, or
17 supplying necessary or agreed services; or
- 18 ~~((2-))~~ b. at least one day's notice for the purpose of exhibiting the
19 dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors;
20 or
- 21 ~~((b-))~~ 2. In an emergency; or
- 22 ~~((c-))~~ 3. In case of abandonment as defined by state law; or

1 ~~((7-))~~ G. Prohibit a tenant or the tenant's authorized agent or agents, if accompanied by
2 the tenant, from engaging in the following activities when related to building affairs or tenant
3 organization:

4 ~~((a-))~~ 1. Distributing leaflets in a lobby and other common areas and at or under
5 tenants' doors;

6 ~~((b-))~~ 2. Posting information on bulletin boards, provided that tenants comply
7 with all generally applicable rules of the landlord governing the use of such boards. Such rules
8 cannot specifically exclude the posting of information related to tenant organizing activities if
9 the rules permit posting of other types of information by tenants;

10 ~~((c-))~~ 3. Initiating contact with tenants;

11 ~~((d-))~~ 4. Assisting tenants to participate in tenant organization activities;

12 ~~((e-))~~ 5. Holding meetings, including political caucuses or forums for speeches
13 of public officials or candidates for public office, unattended by management, conducted at
14 reasonable times and in an orderly manner on the premises, held in any community rooms or
15 recreation rooms if these rooms are open for the use of the tenants; provided that the tenant
16 complies with all other generally applicable rules of the landlord governing the use of such
17 rooms. Any generally applicable rules must be written and posted in or near such a room. If a
18 community or recreation room is not available, meetings may take place in common areas
19 which include a laundry room, hallway, or lobby; provided all generally applicable rules of the
20 landlord governing such common areas and applicable fire and safety codes are followed; or

21 H. Increase the periodic or monthly housing costs to be charged a tenant by 10 percent
22 or more over the periodic or monthly housing costs charged the same tenant for the same

1 housing unit and the same services for any period or month during the preceding 12-month
2 period without giving the tenant at least 60 days prior written notice of the cost increase; or

3 I. Increase the periodic or monthly housing costs to be charged a tenant by less than 10
4 percent over the periodic or monthly housing costs charged the same tenant for the same
5 housing unit and the same services for any period or month during the preceding 12-month
6 period without giving the tenant at least 30 days prior written notice of the cost increase; or

7 J. Increase the periodic or monthly housing costs to be charged a tenant by any amount if
8 the Director has determined the housing unit does not comply with the requirements of
9 subsections 22.214.050.L and 22.214.050.M.

10 1. When a tenant is notified of a pending increase in periodic or monthly
11 housing costs, if the tenant believes the housing unit has defective conditions and does not
12 meet the requirements of subsections 22.214.050.L and 22.214.050.M, the tenant may ask the
13 owner to delay the housing costs increase.

14 2. A request from a tenant to delay the housing costs increase must be in
15 writing, must describe the defective conditions, and must be sent to the landlord within ten
16 days of the date the tenant received the notice of housing costs increase.

17 3. After written notice to the owner has been provided, and before the housing
18 costs increase takes effect, the tenant or owner may request an inspection from the Director.

19 4. Upon inspection, if the Director determines the unit meets the requirements
20 of subsections 22.214.050.L and 22.214.050.M or that the conditions violating subsections
21 22.214.050.L and 22.214.050.M were caused by the tenant, the housing costs increase shall
22 take effect on the date specified in the notice of the housing costs increase.

1 5. If the Director determines that the unit does not meet the requirements of
2 subsections 22.214.050.L and 22.214.050.M, the housing costs increase shall not take effect until
3 the Director determines that the housing unit complies with the those requirements.

4 6. If a tenant paid the increased housing costs amount prior to a determination by
5 the Director that the housing unit was not in compliance with the requirements of subsections
6 22.214.050.L and 22.214.050.M, or prior to correction of the conditions that were out of
7 compliance, the owner shall refund to the tenant the amount by which the housing costs paid
8 exceeded the amount of housing costs otherwise due, or provide a credit against the tenant's
9 housing costs for the next rental period. The refund or credit shall be prorated to reflect the
10 period that the housing unit was determined to be in compliance with the requirements of
11 subsections 22.214.050.L and 22.214.050.M. If the owner elects to provide a refund, the refund
12 shall be paid to the tenant before the beginning of the next rental period.

13 7. When calculating a pro-rata amount to be credited or refunded, a 30-day month
14 shall be used.

15 8. If a tenant discovers a new housing condition that the tenant believes fails to
16 comply with the requirements of subsections 22.214.050.L and 22.214.050.M more than ten days
17 after receiving notice of a housing costs increase, but before the effective date of the increase, the
18 tenant may request a delay in the effective date of the increase by providing written notice of the
19 defective condition to the owner within ten days of the discovery and by asking the Department
20 of Construction and Inspections to inspect the housing unit. If the Department determines the
21 housing unit is not in compliance with the requirements of subsections 22.214.050.L and
22 22.214.050.M, the effective date of the rent increase shall be delayed until compliance is

1 achieved, as determined by the Department. The owner shall provide a pro-rata credit or refund
2 to the tenant according to subsections 22.206.180.J.6 and 22.206.180.J.7.

3 9. If a tenant denies access to the tenant's housing unit to conduct an inspection,
4 the increase in housing costs shall take effect on the date access to the dwelling unit was denied
5 by the tenant, or on the effective date of the housing costs increase identified in the notice of the
6 housing costs increase, whichever is later.

7 ~~((B. The following rebuttable presumptions shall apply in any proceeding to collect a~~
8 ~~civil penalty for violation of subsection 22.206.180.A.5.~~

9 ~~1. Any owner who takes any action listed in subsection 22.206.180.A.5 within~~
10 ~~90 days after a tenant has in good faith reported violations of this Code (Chapter 22.206) to the~~
11 ~~Seattle Department of Construction and Inspections or to the Seattle Police Department, or~~
12 ~~otherwise asserted, exercised or attempted to exercise any legal rights granted tenants by law~~
13 ~~and arising out of a tenant's occupancy of the building, or within 90 days after any inspection~~
14 ~~or proceeding by a governmental agency resulting from such legal right asserted, exercised or~~
15 ~~attempted to be exercised by a tenant, creates a rebuttable presumption affecting the burden of~~
16 ~~proof that the action was taken for the reason that the tenant had in good faith reported~~
17 ~~violations of this Code to the Seattle Department of Construction and Inspections or to the~~
18 ~~Seattle Police Department or otherwise asserted, exercised or attempted to exercise any legal~~
19 ~~rights granted the tenant by law; except that, if at the time an owner gives a notice of~~
20 ~~termination of tenancy pursuant to chapter 59.12 RCW, the tenant is in arrears in rent or in~~
21 ~~breach of any other lease or rental obligation, there is a rebuttable presumption that the~~
22 ~~landlord's action is neither a reprisal nor retaliatory action against the tenant.~~

1 2. A tenant who makes a complaint or report to a governmental authority about
2 an owner or owner's property within 90 days after notice of a proposed increase in rent or
3 other action in good faith by the owner creates a rebuttable presumption that the complaint or
4 report was not made in good faith, unless the complaint or report was that the proposed
5 increase in rent or other action was unlawful, in which case no such presumption applies.

6 3. The rebuttable presumption under subsection 22.206.180.B.1 shall not apply
7 with respect to an increase in rent if the owner, in a notice to the tenant of an increase in rent,
8 specifies reasonable grounds for said increase and the notice of said increase does not violate
9 subsection 7.24.030.A.)

10 Section 6. Subsection 22.206.220.A of the Seattle Municipal Code, which section was
11 last amended by Ordinance 122397, is amended as follows:

12 **22.206.220 Notice of violation((;))**

13 A. Except as otherwise required by law, ((;))the Director is authorized to inspect or
14 otherwise investigate any building, ((;)) premises, or actions of a landlord or tenant
15 ((which)) that the Director has reason to believe may not be in compliance with the standards
16 and requirements of Sections 22.206.010 through ((22.206.170, and Section)) 22.206.200. If
17 the standards and requirements of Sections 22.206.010 through ((22.206.120, Sections
18 22.206.150 through 22.206.170 or of Section)) 22.206.200 have not been met, the Director
19 may issue a notice of violation to the owner and/or other person responsible for the violation
20 pursuant to this ((section)) Section 22.206.220. The notice of violation shall:

21 1. Identify each violation of the standards and requirements of this
22 ((Code))Title 22 and the corrective action necessary to bring the building and premises into
23 compliance; and

2. Specify a time for compliance.

* * *

Section 7. Section 22.206.280 of the Seattle Municipal Code, last amended by Ordinance 122855, is amended as follows:

22.206.280 Civil enforcement proceedings and penalties ((~~7~~))

In addition to any other remedy that may be available at law or equity, the following are available:

A. ~~((Except for violations of Section 22.206.180, a))~~ Any person violating or failing to comply with any requirement of this ~~((Code))~~ Title 22 shall be subject to a cumulative civil penalty in an amount not to exceed:

1. ~~((One Hundred Fifty Dollars (\$150.00)))~~ \$150 per day for each housing unit in violation, and ~~((One Hundred Fifty Dollars (\$150.00)))~~ \$150 per day for violations in the common area or on the premises surrounding the building or structure, from the date the violation begins, for the first ten ~~((10))~~ days of noncompliance; and ~~((Five Hundred Dollars (\$500.00)))~~ \$500 per day for each housing unit in violation, and ~~((Five Hundred Dollars (\$500.00)))~~ \$500 per day for violations in the common area or on the premises surrounding the building or structure, for each day beyond ten ~~((10))~~ days of noncompliance until compliance is achieved. In cases where the Director has issued a notice of violation, the violation will be deemed to begin, for purposes of determining the number of days of violation, on the date compliance is required by the notice of violation. In addition to the per diem penalty, a violation compliance inspection charge equal to the base fee set by Section 22.900B.010 shall be charged for the third inspection and all subsequent inspections until compliance is

1 achieved. Notwithstanding the provisions of Section 22.202.050, the compliance inspection
2 charges shall be deposited in the General Fund(~~(; or)~~) .

3 2. (~~One Hundred Dollars (\$100.00))~~ \$100 per day from the date a tenant fails
4 to reimburse The City of Seattle for emergency relocation assistance as required by subsection
5 (~~D of Section~~) 22.206.265.D until the date the relocation assistance is repaid to The City of
6 Seattle.

7 3. (~~One Hundred Dollars (\$ 100.00))~~ \$100 per day for any person who
8 provides false or misleading information to the Director and as a result of the false or
9 misleading information is paid emergency relocation assistance by The City of Seattle for
10 which the person would not otherwise be eligible, from the date the person receives the
11 emergency relocation assistance until the date the relocation assistance is repaid to The City of
12 Seattle.

13 B. Any person who does not comply with an emergency order issued by the Director
14 pursuant to this Chapter 22.206 shall be subject to a cumulative civil penalty of up to (~~One~~
15 ~~Thousand Dollars (\$1,000.00))~~ \$1,000 per day from the date set for compliance until the
16 Director certifies that the requirements of the emergency order are fully complied with.

17 C. Any property owner who fails to deposit relocation assistance as required by
18 subsections (~~F and G of Section~~) 22.206.260.F and 22.206.260.G shall be subject to a
19 cumulative civil penalty of:

20 1. For each tenant with a household income during the preceding (~~twelve~~
21 ~~(12))~~ 12 months at or below (~~fifty (50))~~ 50 percent of the median family income for whom
22 the property owner did not deposit relocation assistance as required by subsection (~~G of~~
23 ~~Section~~) 22.206.260.G:

1 a. ~~((Three Thousand Three Hundred Dollars (\$3,300.00)))~~ \$3,300, plus

2 b. ~~((One Hundred Dollars (\$100.00)))~~ \$100 per day from the date such

3 deposit by the property owner is required until the date the property owner pays to the City the

4 penalty provided for in subsection ~~((C1a))~~ 22.206.280.C.1.a; or

5 2. For each tenant with a household income during the preceding ~~((twelve~~

6 ~~))12((~~) months greater than ~~((fifty ~~(~~))50((~~)) percent of the median family income for whom

7 the property owner did not deposit relocation assistance as required by subsection ~~((G of~~

8 ~~Section))~~ 22.206.260.G, ~~((One Hundred Dollars (\$100.00)))~~ \$100 per day from the date such

9 deposit is required until the date on which the relocation assistance required by subsections ~~((F~~

10 ~~and G of Section))~~ 22.206.260.F and 22.206.260.G is deposited with The City of Seattle.

11 D. Any owner of housing units who violates ~~((subsection C6 of Section 22.206.160))~~

12 subsection 22.206.160.C.6 shall be subject to a civil penalty of ~~((not more than Two Thousand~~

13 ~~Five Hundred Dollars (\$2,500.00)))~~ \$3,500.

14 E. Anyone who obstructs, impedes, or interferes with an attempt to inspect a building

15 or premises pursuant to the authority of an inspection warrant issued by any court or an

16 attempt to inspect a housing unit after consent to inspect is given by a tenant of the housing

17 unit shall be subject to a civil penalty of not more than ~~((One Thousand Dollars (\$1,000.00)))~~

18 \$1,000.

19 F. ~~((Any person who violates or fails to comply with subsections A5, A6, or A7 of~~

20 ~~Section 22.206.180~~ shall be subject to a cumulative civil penalty of up to Five Hundred

21 ~~Dollars (\$500.00) per violation per day. Each day that a separate action or inaction occurs that~~

22 ~~is a violation of subsections A5, A6 or A7 of Section 22.206.180~~ constitutes a separate

23 ~~violation.~~

1 G.) Civil actions to enforce this Chapter 22.206 shall be brought exclusively in Seattle
2 Municipal Court, except as otherwise required by law or court rule. The Director shall request
3 in writing that the City Attorney take enforcement action. The City Attorney shall, with the
4 assistance of the Director, take appropriate action to enforce this Chapter 22.206. In any civil
5 action filed pursuant to this ~~((chapter))~~ Chapter 22.206, the City has the burden of proving by
6 a preponderance of the evidence that a violation exists or existed. The issuance of a notice of
7 violation or an order following a review by the Director is not itself evidence that a violation
8 exists.

9 ~~((H))~~G. The violator may show, in mitigation of liability, that correction of the
10 violation was commenced promptly upon receipt of notice, but that compliance within the
11 time specified was prevented by an inability to obtain necessary materials or labor, inability to
12 gain access to the subject building, or other condition or circumstance beyond the control of
13 the violator, and upon a showing of the above described conditions, the court may enter
14 judgment for less than the maximum penalty.

15 Section 8. Section 22.206.305 of the Seattle Municipal Code, enacted by Ordinance
16 120302, is amended as follows:

17 **22.206.305 Tenant's private right of action ~~(())~~**

18 Nothing in this ~~((Code))~~ Title 22 is intended to affect or limit a tenant's right to pursue a
19 private right of action pursuant to ~~((Chapter))~~ chapter 59.18 RCW for any violation of
20 ~~((Chapter))~~ chapter 59.18 RCW for which that chapter provides a private right of action. When
21 an owner commits an act prohibited by ~~((SMC Sections 22.206.180 A1, 22.206.180 A2, or~~
22 ~~22.206.180 A7))~~ Section 22.206.180, a tenant has a private right of action against the owner for
23 actual damages caused by the prohibited act. To the extent that actual damages are unliquidated

1 or difficult to prove, a court may award liquidated damages of up to (~~One Thousand Dollars~~
2 (~~\$1,000.00~~)) \$3,000 instead of actual damages. Such damages when awarded are to be on a per
3 incident, rather than a per tenant₂ basis. The prevailing party in any such action may recover
4 costs of the suit and attorney fees.

5

