

RICHMOND RENT BOARD REGULATION 17-07
Regarding the Withdrawal of Rental Units from the Rental Market

1. Purpose and Scope.

- (a) The Rent Board of the City of Richmond hereby acts pursuant to Government Code Chapter 12.75 (commencing with Section 7060 et seq.) to establish certain requirements, procedures, restrictions and mitigations concerning the withdrawal of residential Rental Units from rent or lease in accordance with Government Code Section 7060. The Rent Board also acts to protect the health, welfare and safety of its citizens. In adopting these provisions, it is the intent of the Rent Board to accord Tenants the maximum protections which are available pursuant to Government Code Section 7060 and to provide certain additional rights and protections necessary to deal with the housing shortage in the City of Richmond.
- (b) Nothing in this Regulation shall otherwise diminish any power which currently exists or which may hereafter exist in the City to grant or deny any entitlement to the use of, or physical modifications to, real property, including, but not limited to, building, planning, zoning and subdivision map approvals. Nothing in this Regulation shall entitle an owner of property which has been withdrawn from rent or lease to any special consideration in the granting of any entitlement to the use of said property, nor shall the fact that the property may be vacant be considered as a basis for granting any requested change in use.

2. Definitions. For the purposes of this Regulation, the following words and phrases shall have the meanings set forth below.

- (a) "Owner" means only the holder of record title having the entire legal and equitable title to the property, or the successor in interest thereto. It shall not include the lessor, sublessor, agent or representative of the Landlord. It is the intention of this Regulation to permit only the "owner" as defined herein to have and exercise the privileges and responsibilities set forth in this Regulation.
- (b) "Tenant" means any renter, Tenant, subtenant, lessee, or sublessee of a Rental Unit, or successor to a Tenant's interest, or any group of Tenants, subtenants, lessees, or sublessees of any Rental Unit, or any other person entitled to the use or occupancy of such Rental Unit and includes a former Tenant displaced by the withdrawal of an accommodation from rent or lease.
- (c) "Accommodations" means either of the following:
 - i. The Rental Units in any detached physical structure containing four or more residential units.
 - ii. With respect to a detached physical structure containing three or fewer residential Rental Units, the residential Rental Units in that structure and in any other structure located on the same parcel of land, including any detached physical structure specified in subparagraph (i).
- (d) "Rent control" means the system of controls on residential rents and evictions established pursuant to the City of Richmond's Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, including all amendments thereto, and any successor ordinance or charter provision regulating residential rents in Richmond ("Fair Rent Ordinance.")

- (e) "Withdrawal" means the eviction of all Tenants from all Rental Units on a particular property through compliance with the requirements of this Regulation. Such withdrawal results in a removal of Rental Units from the housing market under the terms and conditions set forth in this Regulation, and as such is a limited form of removal by means other than conversion or demolition. To the extent that owners of withdrawn units desire to convert such units to other uses, including but not limited to condominiums, community apartments, stock cooperatives, other forms of owner-occupancy, or other change in use, or to permanently remove them from the rental housing market by demolition, or otherwise remove them by means other than withdrawal, such owners must obtain all required permits and approvals from the City in addition to complying with the provisions of this Regulation.
3. **Restrictions and Responsibilities Concerning Withdrawn Accommodations.** Any accommodations which have been withdrawn from rent or lease and which were subject to rent control at the time of withdrawal shall be subject to the following conditions and restrictions if said accommodation is again offered for rent or lease:
- (a) For all tenancies created after December 31, 2002, and commenced during either of the time periods described in subsections i and ii below, the accommodations shall be offered and rented or leased at the lawful rent in effect at the time any notice of intent to withdraw the accommodations was filed with the Rent Board plus annual general adjustments available under the rent control system.
- i. The five-year period after any notice of intent to withdraw the accommodations is filed with the Rent Board, whether or not the notice of intent is rescinded or the withdrawal of the accommodations is completed pursuant to the notice of intent.
 - ii. The five-year period after the accommodations are withdrawn.
 - iii. This section shall prevail over any conflicting provision of law authorizing the Landlord to establish the rental rate upon the initial hiring of the accommodations.
- (b) If the accommodations are offered again for rent or lease for residential purposes within two years of the date the accommodations were withdrawn from rent or lease, the following provisions shall apply:
- i. The owner of the accommodations shall be liable to any Tenant who was displaced from the property by said withdrawal for actual and punitive damages. Any action by a Tenant pursuant to this paragraph shall be brought within three years of the Tenant's displacement. However, nothing in this paragraph shall preclude a Tenant from pursuing any additional or alternative remedy available under law, including, but not limited to, general damages. Nothing in this paragraph shall limit or otherwise affect any relocation benefits to which the Tenant is entitled under any other law or ordinance.
 - ii. The Board may institute a civil proceeding against any owner who has again offered accommodations for rent or lease subject to this section for exemplary damages for displacement of Tenants. Any action brought by the Board shall be brought within three years of the withdrawal of the accommodations. Nothing in this section shall be construed to limit any other powers of the Board to pursue litigation in any way involving the subject property.

- iii. Any owner who offers accommodations again for rent or lease shall first offer the unit for rent or lease to the Tenant displaced from that unit by the withdrawal, if the Tenant has advised the owner in writing within 30 days of the displacement of his or her desire to consider an offer to renew the tenancy and has furnished the owner with an address to which that offer is to be directed. That Tenant or former Tenant may advise the owner at any time during the period of eligibility for renewed tenancy of any change in address to which the offer is to be directed. The owner shall also notify the Board of the owner's intent to again offer the accommodations for rent or lease at the time the Tenant is notified. In addition to the notice required to be given to the Tenant, the Board shall be deemed to be an agent of the Tenant and may request that an offer to renew the tenancy be extended to the Tenant. However, nothing in this section shall be construed to relieve the owner of the obligation to directly contact the Tenant or former Tenant and to advise the Tenant that said accommodations are again offered for rent or lease. Notice shall be on a Rent Program form.
- iv. If the owner offers the accommodations for rent or lease pursuant to this Section 3(b), and the Tenant has advised the owner of a desire to consider an offer to renew the tenancy, then the owner shall offer to reinstitute a rental agreement or lease on terms permitted by law to that displaced Tenant. The terms shall be substantially equivalent to those formerly existing during the tenancy. This offer shall be deposited in the United States mail, by registered or certified mail with postage prepaid, addressed to the displaced Tenant at the address furnished to the owner as provided in this subsection, and shall describe the terms of the offer. A copy of the notice with proof that it has been mailed to the displaced Tenant shall be filed with the Board at the time notice is mailed to the Tenant. The displaced Tenant shall have 30 days from the deposit of the offer in the mail to accept by personal delivery of that acceptance or by deposit of the acceptance in the United States mail by registered or certified mail with postage prepaid. The Board upon learning of the owner's intent to again offer the accommodation for rent or lease shall also attempt to notify each Tenant by mail and may further publish notices or advertisements in newspapers or use other reasonable means to attempt to notify the Tenants of the availability of the accommodations.
- (c) An owner who offers accommodations again for rent or lease within ten years of the date on which they are withdrawn shall notify the Board of an intention to offer the accommodations again for residential rent or lease. A copy of the notice served on the Board shall also be mailed by the owner to each Tenant at that Tenant's last known address. The Board may also attempt to notify each Tenant by mail and may further publish notices or advertisements in newspapers or use other reasonable means to attempt to notify the Tenants of the availability of the accommodations. If the displaced Tenant so requests in writing within 30 days after the owner has notified the Board of the intent to again offer the premises for rent or lease, the owner shall offer to reinstitute a rental agreement or lease on terms permitted by law to that displaced Tenant. In the event that the owner fails to comply with this subsection, the owner shall be liable to any affected Tenant for general damages and punitive damages in an amount which does not exceed the contract rent for six months.
- (d) If the accommodations are demolished, and new accommodations are constructed on the same property, and offered for rent or lease within five years of the date the accommodations were withdrawn from rent or lease, the newly constructed accommodations shall be subject to rent control notwithstanding any provision of law which otherwise exempts newly constructed units. The Board shall have the power to set rents which will provide a fair return and the Landlord shall

have the burden of establishing by competent evidence that the rent schedule proposed by the Landlord is necessary to provide a fair return.

4. Notice Requirements.

- (a) An owner who intends to withdraw an accommodation from rent or lease shall provide the following notices. None of the notices permitted or required by this Section 4 shall be valid if served or filed prior to December 30, 2016.
- i. No less than 120 days prior to the date upon which the accommodation is to be withdrawn, the owner shall provide written notice to each Tenant on the property of the owner's intent to withdraw said accommodation. Said notice shall contain a statement that the accommodation is withdrawn, that all of the accommodations on the parcel are being withdrawn, the date upon which the accommodation is to be withdrawn, that the owner has paid all fees due the City or the Board, and a statement that all Tenants are entitled to a Relocation Payment and the amount thereof pursuant to the City's Ordinance concerning Relocation Requirements for Tenants of Residential Rental Units (Chapter 11.102, Richmond Municipal Code) and implementing resolution ("Relocation Ordinance/Resolution"). The owner shall determine whether a member of the household of each unit can speak English and seek appropriate assistance in communicating the importance of the contents of the notice to any household whose members cannot speak English. The notice shall be served on each Tenant by either personal service or certified mail, return receipt requested. The notice shall advise the Tenant of the Tenant's rights to regain possession of the premises and to damages as set forth in Section 3 of this Regulation. A copy of this notice shall be filed with the Board. The notice shall be accompanied by stamped postcards addressed to the owner and the Board by which the Tenant can represent whether he or she qualifies for relocation assistance. The notice shall be on a Rent Program form. A notice stating the owner's intent to withdraw the accommodation from rent or lease shall not be valid unless the Tenants of all of the units on the property are also served with notice that each of their units is to be withdrawn from rent or lease and unless all fees due the City or the Board pursuant to Section 7 of this Regulation have been paid.
 - ii. A notice of termination of tenancy having an effective date no earlier than 120 days after the date of service shall also be served on each Tenant at the same time the notice stating the intent to withdraw the premises from rent or lease is served on the Tenant.
 - iii. Not less than 120 days prior to the date upon which the accommodations are to be withdrawn, the owner shall notify the Board of the intention to withdraw those accommodations from rent or lease. The notice shall be on a Rent Program form, and shall contain statements, under penalty of perjury, providing information on the number of accommodations, the address or location of those accommodations, the name(s) of the Tenant(s) of the accommodations and the rent applicable to each Rental Unit. The notice required to be filed by this subsection shall be maintained by the Board in files other than those maintained pursuant to the Fair Rent Ordinance. The information contained in the notice required by this Section 4 (a) respecting the name(s) of the Tenant(s), the rent applicable to any unit, or the total number of units, is confidential and shall be treated as confidential information for the purposes of the Information Practices Act of 1977, as contained in Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division

3 of the Civil Code. The Board shall, to the extent required by the preceding sentence, be considered an "agency" as defined by subdivision (b) of Section 1798.3 of the Civil Code.

- iv. At the time the notice specified in Regulation (4)(a)(iii) is filed with the Board the owner shall record with the County Recorder a memorandum of the notice required by Regulation (4)(a)(iii) summarizing its provisions, other than the confidential provisions, on a Rent Program form. The owner shall also file and record a certificate, on a Rent Program form, that actions have been initiated as required by this Regulation and other applicable law to terminate any existing tenancies. If the owner has satisfied the requirements of Regulation (4)(a)(iii) and this Regulation (4)(a)(iv), the date upon which the accommodations are withdrawn from rent or lease for the purposes of this Regulation is 120 days from the date of delivery in person or by first-class mail of that notice to the Board. If the notice has not been given and recorded as specified herein, the date upon which the accommodations are withdrawn shall be 60 days after the memorandum summarizing the notice is recorded with the County Recorder.
- v. At the time notice is given to the Board as required in Regulation (4)(a)(iii), the owner shall notify any Tenant to be displaced that the Board has been notified pursuant to Regulation (4)(a)(iii), that the notice specified the name of the Tenant and the amount of rent paid by the Tenant as an occupant of the accommodation and the amount of rent the owner specified in the notice to the Board. The notice shall also contain a statement of the Tenant's rights to regain possession and to damages, in the event the accommodation is again offered for rent or lease, under Section (3) of this Regulation. A copy of the notice shall be filed with the Board with proof of service upon each Tenant.
- vi. Not less than 120 days prior to the date upon which the accommodations are to be withdrawn, the owner shall provide two copies of a notice containing language substantially identical to the following: "I assert that I have lived in this unit at least one year prior to having been notified that I am to be evicted from this unit under the City of Richmond's Ellis Act Policy. I further assert that I am a disabled person under the meaning of California Government Code Section 12955.3. It is my understanding that I am entitled to one year's notice prior to surrendering this unit to its owner." With this notice, the Tenant shall be enabled by the owner to assert to both the owner and the Board that he/she/they are disabled.
- vii. Not less than 120 days prior to the date upon which the accommodations are to be withdrawn, the owner shall provide two copies of a notice containing language substantially identical to the following: "I assert that I have lived in this unit at least one year prior to having been notified that I am to be evicted from this unit under the City of Richmond's Ellis Act Policy. I further assert that I am 62 years or older. It is my understanding that I am entitled to one year's notice prior to surrendering this unit to its owner." With this notice, the Tenant shall be enabled by the owner to assert to both the owner and the Board that he/she/they are 62 years or older.
- viii. Not less than 120 days prior to the date upon which the accommodations are to be withdrawn, the owner shall provide two copies of a notice containing language substantially identical to the following: "I assert that I have lived in this unit at least one year prior to having been notified that I am to be evicted from this unit under the City of Richmond's Ellis Act Policy. I further assert that I have minor children residing in the

household. It is my understanding that I am entitled to one year's notice prior to surrendering this unit to its owner." With this notice, the Tenant shall be enabled by the owner to assert to both the owner and the Board that he/she/they have minor children residing in the household.

- ix. Not less than 120 days prior to the date upon which the accommodations are to be withdrawn, the owner shall provide two copies of a notice containing language substantially identical to the following: "I assert that I have lived in this unit at least one year prior to having been notified that I am to be evicted from this unit under the City of Richmond's Ellis Act Policy. I further assert that my household is a lower income household as that term is defined in California Health and Safety Code, section 50079.5. It is my understanding that I am entitled to one year's notice prior to surrendering this unit to its owner." With this notice, the Tenant shall be enabled by the owner to assert to both the owner and the Board that he/she/resides in a lower income household.
- x. If the Tenant is i) disabled, at least 62 years of age, has minor children residing in the household and/or the Tenant's household is a lower income household and (ii) has lived in his/her/their accommodations for at least one year prior to the date of delivery of the notice of intent to withdraw to the Board, then the date of withdrawal of the accommodations of that Tenant shall be extended to one year after the date of delivery of the notice to the Board, provided that the Tenant gives written notice of his, her, or their entitlement to an extension to the owner within 60 days of the date of delivery to the Board of the notice of intent to withdraw.

5. Financial Mitigation of Adverse Impact on Displaced Persons.

- (a) The Tenants of any residential Rental Unit who are required to move as a result of the Landlord's withdrawal of the accommodation from rent or lease shall be entitled to Permanent Relocation Payment as provided in the Richmond Relocation Ordinance (RMC 11.102.)
- (b) The Landlord may rescind the notice of intent to withdraw the accommodation from rent or lease and the notice of termination of tenancy prior to any release of Permanent Relocation Payment to Eligible Tenants (as those terms are defined in Chapter 11.102, Richmond Municipal Code) by serving written notice stating such rescission on the Tenants. Subsequent to the release of any portion of the Permanent Relocation Payment to an Eligible Tenant, the Landlord may rescind the notice of intent to withdraw the accommodation from rent or lease and the notice of termination of tenancy only upon the written agreement of the Tenants to remain in possession of the Rental Unit. If the Eligible Tenants remain in possession of the Rental Units after service of a Landlord's written notice of rescission of the eviction, the Tenants shall provide an accounting to the Landlord of the amount of the Permanent Relocation Payment expended, return to the Landlord that portion of the Permanent Relocation Payment not expended, and assign to the Landlord all rights to recover the amount of Permanent Relocation Payment paid to third parties.
- (c) Failure of the owner to make any payment specified herein shall be a defense to any action to recover possession of a Rental Unit based upon the owner's intent to withdraw the accommodation from rent or lease. In addition, if Tenants of a Rental Unit who qualify for relocation assistance have vacated the unit as a result of a notice of intent to withdraw the accommodation from rent or lease, and the owner fails to make any payment specified herein, the

owner shall be liable to the Tenants for three times the amount of the payment as well as reasonable attorneys fees.

6. **Recordation of Notice Regarding Continued Applicability of Controls.** Within 20 days of receipt of a notice issued by an owner pursuant to Section (4)(a) of this Regulation, the Board may cause to be recorded with the County Recorder a notice which shall recite the fact that the Richmond Rent Board has determined to apply the constraints adopted pursuant to Government Code Section 7060.2 to successors in interest to the subject property. The notice shall specifically describe the real property where the accommodations are located, the date upon which the owner will withdraw the accommodations from rent or lease and the dates during which the constraints adopted pursuant to Government Code Section 7060.2 shall apply. If the date upon which the accommodations are to be withdrawn is subsequently altered or modified, the Board may record an amended notice. The filing of the notice described in this section shall not be construed as a finding by the Board that the actual or proposed withdrawal of the accommodations has been approved by the Board.
7. **Fees Payable to the City of Richmond or Richmond Rent Board.** The City or the Board may establish fees which shall be paid by any owner who exercises the privilege to withdraw accommodations from rent or lease. The City or the Board may set the fee so as to recover all costs of administering this Regulation. The fees shall be paid prior to the service of the notice set forth in Section 4 of this Regulation. In addition, prior to the service of the notice set forth in Section 4 of this Regulation, the owner shall have paid all business license taxes, Rental Inspection Fees, and Fire Prevention Services Fees, and all fees connected to the Fair Rent Ordinance, such as the Rental Housing Fee and any inspection fees. Failure to pay the fees prior to service of the notice shall invalidate the notice.
8. **Eviction Requirements.** In any action to recover possession of an accommodation subject to the terms of this Regulation, it shall be a defense if the owner has not fully satisfied all of the requirements of this Regulation including, but not limited to, compliance with all notice requirements, payment of fees to the City or the Board, and payment of the Relocation Payment to displaced Tenants.
9. **Severability.** If any provision of this Regulation is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Regulation which can be given effect without the invalid provision and therefore the provisions of this Regulation are severable.

