
PROPOSED FINANCIAL RESERVE POLICY

JANUARY 20, 2021, REGULAR MEETING OF THE RICHMOND RENT BOARD | ITEM G-1



RESERVE POLICY BACKGROUND

- The Rent Ordinance ensures the integrity and autonomy of the Rent Board
 - *The Rent Board [shall] “be an integral part of the government of the City [of Richmond],” and “shall exercise its powers and duties under [Chapter 11.100] independent from the City Council, City Manager, and City Attorney, except by request of the [Rent] Board.” – Section 11.100.060(m)*
- The Rent Ordinance requires that the Rent Board adopt its own budget, independent of the City Council, City Manager, and City Attorney – currently the budget is funded solely by the Rental Housing Fee.
- In April 2020, in consideration of the recommendations and best practices presented by Kevin W. Harper CPA & Associates, the Rent Board directed staff to develop a financial reserve policy.
- It is fiscally prudent and consistent with the mandate of the Rent Ordinance for the Rent Board to maintain reserves in an amount necessary to overcome any shortfalls in its ability to cover its annual expenses.

PURPOSE OF A RESERVE POLICY

- The Rent Board provides services that have an impact on quality of life for community members; a reserve policy helps determine how these services can be provided without interruption in the event of unforeseen circumstances or events.
- Reserve funds help ensure that the Board sets aside adequate resources to mitigate the potential negative economic impacts of unforeseen circumstances and emergencies.
- The proposed reserve policy accomplishes three objectives:
 1. Establishes three categories of reserves and creates a procedure whereby those amounts within the reserves may be accessed;
 2. Requires that any amount of the reserves that are appropriated for spending be replenished; and
 3. Sets a maximum cap on the total amount of reserves that can be held at one time and require that any amount in excess of the reserve maximum cap be used to reduce future annual registration fees.

CASE STUDY RESEARCH

Jurisdiction	Policy
City of Richmond	For FY 20/21, the City shall maintain a minimum of 15% of next year's General Fund expenditures.
Santa Monica Rent Stabilization Program	Follows the City of Santa Monica's recommendation to maintain a level of reserves equal to a percentage of the current year's operating budget and the value of earned vacation and sick leave benefits for employees. For FY 20/21 the City's recommendation is a 12% reserve of the current year's operating budget and an amount equal to the earned leave accruals for employees.
Berkeley Rent Stabilization Board	Does not have a formal written policy, but the Berkeley City Auditor's recommendation is that all agencies maintain a reserve of at least 16% of their reoccurring annual operational budget, and that is what is generally cited in the Rent Board's budget report.
Mountain View Rent Stabilization Program	Does not have a formal written policy, but the Rental Housing Committee adopted a reserve in its yearly budget approval, to a total amount of 15% of the budget.
City of San Jose Rent Stabilization Program	Does not have a formal written policy, but reserves are estimated to be 10% to 20% of the total Program budget.

PROPOSED RESERVE POLICY

Name	Purpose	Target Level	Target Level (\$) (based on FY 20/21 budget)
Operating and Stability Reserve	Provide fiscal stability and mitigate loss of service delivery and financial risks associated with unexpected revenue shortfalls during a single fiscal year or during a prolonged recessionary period.	25% of current year budgeted expenses (equivalent to one fiscal quarter)	\$724,061
Catastrophic Legal Event Reserve	Offset unforeseen legal costs that exceed currently allocated legal fees.	50% of any remaining reserve balances after the Operating and Stability Reserve is sufficiently funded at 25% of current year budgeted expenses	Min: \$72,406 Max:\$362,030
Catastrophic Reserve	Mitigate costs associated with unforeseen emergencies, such as a disaster or catastrophic event.	50% of any remaining reserve balances after the Operating and Stability Reserve is sufficiently funded at 25% of current year budgeted expenses	Min: \$72,406 Max:\$362,030 ⁵

PROPOSED RESERVE COMPLIANCE POLICY

- The Rent Board will measure its compliance with the target reserve policy as of June 30 of each year, or as soon as is practical after final year-end account information becomes available.
- During the course of the year, Rent Program staff members shall deliver to the Rent Board monthly variance reports, so that the Rent Board may closely monitor its revenues and expenditures to ensure reserves are, or are projected to be, sufficiently funded and used appropriately.
 - If, based on staff's analysis and forecasting, the target level of Reserves is or is anticipated to be insufficient based upon the target levels, then during the annual budget process, Fund Balance levels shall be provided to the Rent Board as an agenda item for discussion.
 - If the projected year-end Fund Balance is anticipated to be below the minimum reserve amount, a plan to replenish the Reserve shall be established based on the requirements outlined in the reserve policy.

PROPOSED FUNDING AND CONDITIONS FOR USE OF RESERVES

- Funding of all Reserve targets will generally come from committed funds, excess revenues over expenditures, or one-time revenues.
- Reserves shall only be used to address unanticipated, non-recurring (one-time) needs.
 - Reserves shall not normally be applied to recurring annual operating expenditures.
- Reserves may be used to allow for the Rent Board to restructure its operations in a deliberate manner (as might be required in an economic downturn), but such use will only take place in the context of an adopted long-term financial plan.
- Rent Board approval is required before any withdrawals from a reserve fund are initiated.
- Funds will be allocated to the reserves at the end of the fiscal year.
 - Billing of the Rental Housing Fee is proposed to take place shortly after adoption by the City Council (prior to the start of the new fiscal year) to avoid cash-flow shortfalls.

PERIODIC REVIEW OF RESERVE TARGETS

- Compliance with the reserve policy is proposed to be reviewed as part of the annual budget adoption process.
 - During the budget adoption process, Rent Program staff members shall review the current and three-year projected reserves to ensure that they are appropriate given the economic and financial risk factors the Rent Board is subject to.
- Total reserve funds are proposed to be capped at 50% of the annual budget in any current year.
 - If the total reserve funds either exceed 50% of the current year annual budget or are anticipated to exceed 50% of the following year's annual budget, the Executive Director or their designee shall prioritize the use of the excess funds in reducing any subsequent Residential Rental Housing Fee proposal.

STATUS OF EXISTING FUND BALANCES

Category	Amount
Current Revenues (Actual as of end of Q2)	\$2,215,308
Current Expenditures (Actual as of end of Q2)	\$1,184,174
Total Revenues (Projected through end of Q4)	\$2,363,610
Projected Expenditures (Projected through end of Q4)	\$2,264,174
Projected Surplus	\$99,436
Starting Fund Balance (Beginning FY 2020-21)	\$441,530
Projected Unassigned Fund Balance (that may be contributed to reserves at end of Q4)	\$540,966
Proposed Minimum Reserve Balance	\$868,873
Projected Shortfall	-\$327,907

¹¹ Projected revenue assumes that 100% of balances of all payment plans and invoice extensions will be paid and 50% of remaining projected revenue will be collected before the close of the fiscal year.

¹² Projected expenditures assume \$180,000 in expenditures for the months of January-June 2021.

PROPOSED NEXT STEPS

- In accordance with Regulation 323, Resolution 20-02, which contains the Special Revenue Fund Operating Reserve Policy, would become effective February 19, 2021, if adopted by the Board.
- If adopted, staff members will begin preparing reserve balance projections for the Board's consideration as part of the Fiscal Year 2021-22 budget adoption process.

RECOMMENDED ACTION

(1) RECEIVE and ADOPT the Richmond Rent Board Special Revenue Fund Operating Reserve Policy and (2) DIRECT staff to prepare a plan to phase in contributions to the reserves to meet the targeted levels over the next three years for the Board's consideration during the Fiscal Year 2021-22 budget adoption process.

This page intentionally left blank

Adoption of Regulation 1009

January 20, 2021, Regular Meeting of the Richmond Rent Board

Item G-2

Background

- ▶ At their meeting on December 16, 2020, the Rent Board received a presentation on proposed 1009(C)1 in the context of Section 11.100.050(a)(6)(B) of the Rent Ordinance.
- ▶ The Rent Board directed staff to revise proposed Regulation 1009 to reflect the interpretation that Section 11.100.050(a)(6)(B) of the Rent Ordinance does not limit Landlords to one Owner Move-In (OMI) eviction per property, but rather means that if the same Landlord or same enumerated relative already occupies a rental unit on the property, that Landlord or enumerated relative may not perform an OMI eviction for themselves or the enumerated relative on the property.
- ▶ Staff members have revised the proposed regulation based on this policy direction.

Policy Direction Provided by the Rent Board Concerning Regulation 1009

- ▶ Since their meeting on September 16, 2020, the Board has directed staff members to incorporate the following revisions to proposed Regulation 1009:
 1. 1009(B)1: Clarify language to explicitly specify that a Natural Person shall include Owner of a trust, who is both a Trustor and Trustee.
 2. 1009(D)5: Clarify language regarding Good Faith requirements, to make clear that consideration of “good faith” by the courts may be considered at the time of the service of a notice of termination pursuant to 11.100.050(a)(6).
 3. 1009(E): Clarify or remove a section regarding failure to occupy the rental unit.
 4. Revise Regulation 1009 to clarify that if a same Landlord or same enumerated relative already occupies a rental unit on the property, that same Landlord or same enumerated relative may not perform an owner move-in for themselves or the enumerated relative on the property.

Summary of Proposed Regulation 1009

Section of Proposed Reg. 1009	Purpose
A	Describes the purpose of the Regulation
B	Clarifies the definition of a “natural person”
C	Clarifies limitations on allowable OMI evictions that may take place on a property
D	Contains an illustrative list of factors for the courts to consider when evaluating a Landlord’s good faith in terminating a tenancy on the grounds of an Owner Move-In eviction.

Section A of Proposed Regulation 1009: Purpose

- ▶ Section 11.100.050(a)(6) of the Rent Ordinance permits the eviction of a Tenant where a Landlord seeks to recover possession of a Rental Unit in good faith for use and occupancy as a Primary Residence for themselves, or for an enumerated qualifying relative.
- ▶ In response to community members' inquiries regarding the application of this section of the Rent Ordinance, the purpose of Regulation 1009 is to clarify those circumstances whereby the usage of Section 11.100.050(a)(6) of the Rent Ordinance is appropriate, and to help the court interpret the Owner Move-In sections of the Rent Ordinance.
 - ▶ Courts look to the Rent Board regulations for guidance in interpreting the Rent Ordinance.

Section B of Proposed Regulation 1009: Definition of Natural Person

1. Only a Natural Person who has at least a 50 percent ownership interest in a Property shall be considered a Landlord.
2. No corporation, partnership, limited partnership, or trust company as defined in California Financial Code, Section 107, real estate investment trust as defined in Section 856 of the Internal Revenue Code, or association shall be considered a Natural Person.
3. Notwithstanding Regulation 1009(B)(2), a Natural Person shall include an Owner of a Revocable Trust where the Owner is both the Grantor and Grantee, and holds 50% ownership interest in the Property.

Section C of Proposed Regulation 1009: Number of Allowable Evictions

1. A Landlord who occupies one of the dwelling units on the Property shall be prohibited from performing an OMI eviction on behalf of themselves to recover possession of any other dwelling unit on the Property
2. Where an enumerated relative occupies a unit on the Property, a Landlord shall be prohibited from performing an OMI eviction on behalf of that same enumerated relative to recover possession of any other dwelling unit on the Property.
3. A Landlord may perform an OMI eviction on behalf of either themselves or an enumerated relative, regardless of whether that Landlord or that same enumerated relative already occupies a unit on the Property, if there is a demonstrated need for a Reasonable Accommodation.
4. The Landlord or enumerated relative must intend to occupy the Rental Unit as their Primary Residence for at least 36 consecutive months following recovery of possession. A Landlord shall only have one Primary Residence.
5. No OMI evictions are permitted if a vacancy exists on the Property, unless there is a demonstrated need for a Reasonable Accommodation based on a qualifying Disability as defined by Government Code Section 12955.3

Summary of Proposed Regulation 1009: Illustrative Examples of “Good Faith”

1. A Landlord is not acting in good faith if the Landlord or enumerated relative for whom a Tenant has been evicted does not intend to move into the unit within 90 days of the date that the tenant vacates the unit and/or does not intend to thereafter occupy the Rental Unit for at least 36 consecutive months as their Primary Residence.
2. Where proof is presented that an ownership interest was granted for the primary purpose of qualifying a person as a Landlord for purposes of an OMI eviction, the Landlord is not proceeding in good faith.
3. A Landlord who has served a termination notice for OMI is not proceeding in good faith if the Landlord, at the time of the service of the notice of termination of tenancy, has other vacant Rental Units on the Property where the Tenant currently resides, unless there exists a demonstrated Reasonable Accommodation.
 1. A vacant unit shall include any Rental Unit for which the Landlord has received notice that a Tenant intends to vacate, a Rental Unit where the Landlord has obtained a Writ of Possession-Real Property, and any Rental unit which is otherwise vacant and not currently rented.

Illustrative Examples of “Good Faith” (continued)

4. The court, in making a determination regarding the presence or absence of good faith in an eviction, should consider, along with any other factors deemed relevant:
 - ▶ Whether the Tenant has recently reported violations of the Rent Ordinance, Richmond Rent Board Regulations, and/or Richmond Rent Board Orders to the Rent Program/Rent Board
 - ▶ Whether the Landlord has vacant Rental Units in other residential rental properties in the City of Richmond
 - ▶ Whether the Landlord has previously attempted to evict the Tenant or other Tenants based on OMI
 - ▶ Whether the Tenant being evicted is paying a low Rent in relation to other units on the property
 - ▶ Whether the eviction is an attempt to move the tenant into a higher priced Rental Unit, and any additional relevant information.
5. In making a determination as to whether a wrongful eviction has occurred, the Superior Court should consider a Landlord’s failure to comply with any of the provisions set forth in Regulation 1010, as evidence that the contested OMI was not performed in good faith

Proposed Next Steps

- ▶ In accordance with Regulation 323, proposed Regulation 1009 would become effective February 19, 2021 if adopted by the Board.
- ▶ If adopted, senior staff will update informational materials and ensure that housing counselors are trained on the new regulation prior to its effectiveness.

Recommended Action

ADOPT revised proposed Regulation 1009, clarifying the definition of a natural person, the number of allowable evictions, and good faith requirements as they relate to Owner Move-In (OMI) evictions pursuant to Section 11.100.050(a)(6) of the Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance.

This page intentionally left blank

**CORRECTED BUDGETED VERSUS
ACTUAL REPORT:
Q2**

January 20, 2021, Regular Meeting of the Richmond Rent Board

Item F-5



PURPOSE OF BUDGETED VERSUS ACTUAL REPORTS

- A key element of an effective budget process is monitoring actual results against the budget throughout the year.
- This is done on a quarterly basis to allow management time to make adjustments if necessary to expenditures, policies or operations.
- The best way to monitor budget vs. actual results is to prepare a quarterly financial report that is reviewed by management and the Board.
- Staff members have researched and prepared explanations of variances at or below 25 percent in the report.

DESCRIPTION OF VARIANCES

- The greatest variances between budgeted and actual expenses in the second quarter of the 2020-21 fiscal year are due in large part to the ongoing effects of the Covid-19 pandemic.
 - All workshops and community events are now held remotely, eliminating the need for refreshments, promotional materials, and supplies.
- The pandemic has also delayed the process of filling vacancies in the Public Information Unit as well as projects that were budgeted to occur in the second quarter, such as the printing and mailing of the Guide to Rent Control.
- Management staff are working diligently to fill vacant positions and make progress on projects that have been delayed by the pandemic.
- At this time, staff members do not recommend making any amendments to the existing budget.

CORRECTIONS TO PUBLISHED REPORT

- The year-to-date variance between budgeted and actual expenditures for total salaries and wages is **\$90,492**, not \$89,446
 - Cell was not calculating correctly
- The year-to-date variance between budgeted and actual expenditures for benefits is - **\$177,192**, not \$656.
 - Cell was duplicating the quarterly figure, not reflecting YTD
- Actual year-to-date expenditures are \$33,200 less than budgeted expenditures (not \$208,689 less)
- The year-to-date variance between the excess revenue we were budgeted to have collected and actual excess revenue is \$184,701 less (not \$360,190 less)
 - Excess revenue is not a surplus – this reflects a current excess that is anticipated to be depleted by expenditures in the third and fourth quarters of the fiscal year

RECOMMENDED ACTION

RECEIVE the corrected budgeted versus actual revenue and expenditures report for the second quarter ending December 31, 2020.

This page intentionally left blank