



Proposed Rent Board Late Fee Waiver Policy

**Regular Meeting of the
Richmond Rent Board**

August 18, 2021

Nicolas Traylor-Executive Director

Item G-1

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Statement of the Issue

- Pursuant the Rent Ordinance, Landlords are required to pay a Rental Housing Fee per Rental Unit. Landlords who fail to pay the Rental Housing Fee in a timely manner are assessed a late fee penalty. In 2018, after a fee study was completed, the Richmond City Council passed a late fee schedule that established the following assessments: a 10% late fee after being 30-days late, a 25% late fee after 60- days and a 50% late fee after 90-days from the date of the original invoice.
- Subsequent to the adoption of the late fee schedule, the Rent Program established an internal late fee waiver policy consistent to policies in similar rent control agencies. This policy has allowed the Executive Director their designee to administratively waive late fees under particular circumstances.
- Since its inception the Rent Program has waived \$142,644.40 in late fees through its administrative waiver process. \$25,682 in late fees were waived prior to the pandemic and \$116,962 in late fees were waived during the COVID-19 pandemic.
- In light of the fact that the Rent Board has full authority over the Rent Program budget/spending (fees collected and/or waived), and in the interest of public transparency, staff **recommend that all late waive approvals and/or denials be subject to Rent Board approval.**

Fiscal Impact

- There is no fiscal impact in terms of increased staff costs. Collection of the Rental Housing Fee would not be impacted, as Landlords would still be required to pay the Rental Housing Fee (minus the late fees) prior to the Rent Board approving a waiver.

Background-Integrity and Autonomy of the Rent Board

- The Rent Ordinance establishes both the integrity and autonomy of the Rent Board by mandating that the Rent Board “be an integral part of the government of the City [of Richmond],” and “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.”
- The Rent Ordinance further vests the Rent Board with the sole power to oversee and adopt its own budget, while establishing that “the City Council and the City Manager shall have no authority to oversee, supervise, or approve this budget.”
- The Rent Program budget is comprised only of reasonable and necessary expenses to achieve the purpose of the Rent Ordinance and is currently funded in whole by the Rental Housing Fee charged to all Landlords in an amount deemed necessary and reasonable by the Rent Board and approved by the City Council.

Background Continued-Current Internal Late Fee Policy

- In its efforts to collect the fees, staff members have encountered various issues concerning Landlords' nonpayment of the fees:
 - Within the continuous process of refining Richmond's rental housing database, the Rent Program regularly discovers Rental Units that have not been enrolled since the inception of the Program or that have changed status from non-rented to rented over the years, without informing the Rent Program.
 - In other cases, some Landlords claim to not have received an invoice because of a billing, mailing or clerical error.
 - Finally, some owners assert a financial hardship, health issues, or other reasonable basis for not paying the Rental Housing Fee on time. Given these various circumstances surrounding nonpayment of the fees, the Rent Program adopted an internal policy regarding assessing late fees.

- Under the current internal policy, the Executive Director or his/her designee may waive all or some of the late fees based on the criteria described above and listed in Request for Late Fee Waiver form (Attachment 1).

Attachment 1

(Request to Remove Late Fees Form)



Request to Remove Late Fees

Property Owner Name: _____
 FRJC #: _____
 Property Owner Phone Number or Email: _____

The Property Owner has requested the removal of late fees on their account totaling \$ _____ for the following reason:

- New Owner, did not receive invoice
- Wrong Mailing Address
- Owner believed property was exempt from the Rent Ordinance
- Financial hardship, caused by circumstances beyond the Landlord's control, such as natural disaster, destruction or major damage to the Rental Property not due to the Landlords actions, bankruptcies and disputes over ownership of the property.
- Hospitalizations or medical treatments of the Landlord or Landlord's family during the fee billing period, or a death in the family within the fee billing period
- The landlord was billed for a fewer number of units because of errors in property records maintained by the Rent Program where the error was not attributable to information supplied by the Landlord. The penalties are waived only for unbilled units; the billed units should be paid on time.
- A previously enrolled property was not billed as a result of staff error.
- An invalid or erroneous account number was assigned, which resulted in billing errors or improper crediting of payments by the landlord.
- The determination of whether or not the property was subject to the Ordinance required an analysis through the existing Administrative Determination of Exempt Status process. Penalties will be waived only while the determinations pending. If the Landlord raised the issue requiring administrative determination, penalties will be waived only from the date of the first written contact with the Board in which the issue was raised. Waiver of penalties will not be granted if the staff determines that the issue raised is already settled and/or has no substantial merit. If the issue was raised by Rent Board staff, the waiver period commences on the date on which the administrative determination was requested by the staff. In all situations in which a determination was requested, the waiver period terminates when the Landlord is notified of the determination regarding the status of his/her property.
- The property owner was unable to collect some or all of the rent due to the COVID-19 pandemic and the resulting hardship led to non-payment of the Rental Housing Fee. In this case, the property owner must declare under penalty of perjury, in detail, how COVID-19 has impacted their business (i.e. how many month's tenants didn't pay rent, illness in the family or self, etc.)
- Other: _____

This request has been conditionally granted by the Rent Program, provided the owner pays the Rental Housing Fee before _____
(10 business days unless new owner or incorrect mailing address - then 30 days)

 Executive/Deputy Director Signature / Staff Initials _____
 Date

History and Purpose of Waiving Late Fees

- Since the inception of the Rent Program, \$142,644.40 in late fees has been waived. Prior to the COVID-19 Pandemic, \$25,682 in late fees were waived. During the COVID-19 Pandemic, \$116,962 in late fees were waived.
- Late fee waivers during the pandemic have increased, presumably because non-compliance with the Rent Ordinance can prevent a Landlord from terminating a tenancy or raising the rent, both issues that have become paramount for many Landlords. During the pandemic, the Rent Program's compliance rate has increased by over 5% from 90% to 95.6%
- Every Landlord who has requested a late fee waivers has either received a partial or full granting of their request.

The Need for Rent Board Oversight and Public Accountability

- The current Rent Program internal policy lacks a requirement of Rent Board approval, and/or Rent Board oversight.
- To ensure the appropriate level of Rent Board oversight and public accountability, staff members are seeking direction and feedback from the Rent Board with regard to drafting a proposed Rent Board late fee waiver regulation that would achieve the proper degree of oversight and accountability.

General Late Fee Waiver Policy Proposal

- 1) Rent Program staff receives a request for a late fee waiver from Landlord.
- 2) The Executive Director or his or her designee reviews the late fee waiver requests and issue a recommendation for Rent Board to approve the waiver, in full or in part, or deny the waiver, based on the Landlords reason for requesting the waiver and their payment history.
- 3) Rent Program staff compiles the late fee waiver requests for each month and places that list on the consent calendar for the following month's Rent Board meeting.
- 4) Rent Board members review a spreadsheet with details on each request (date of request, the reason(s) for request, a recommendation to the Board to approve or deny the request, and total amount waived). Each Late Fee Waiver Request form would be included as attachments for the Board's review.
- 5) Rent Board members vote to approve recommended waivers or may pull individual Request from the consent calendar for further discussion.

Next Steps

- Upon direction provided by the Rent Board, Rent Program staff will draft proposed regulation(s) that clarify the policy for waiving late fees and provide standards to when late fees waivers should be approved in whole or in part.

Recommended Action

- (1) **RECEIVE** presentation on proposed Rent Board Late Fee Waiver Policy and (2) **DIRECT** staff to prepare proposed regulation(s) to clarify the policy for waiving late fees, including setting standards as to when late fees should be approval in whole or in part – Rent Program (Nicolas Traylor/510-620-6564).