

# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Bill Lindsay

Phone: 620-6512

Meeting Date: June 21, 2017

Final Decision Date Deadline: June 21, 2017

**STATEMENT OF THE ISSUE:** Section 11.100.070(b) of the Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance provides no later than June 30 each year, the Board shall announce the percentage by which Rent for eligible Rental Units will be generally adjusted effective September 1 of that year. Adoption of a regulation is necessary to establish the amount of the 2017 Annual General Adjustment applicable to those tenancies that were in effect as of September 1, 2016.

## INDICATE APPROPRIATE BODY

- |   |   |  |  |   |
|---|---|--|--|---|
| <input type="checkbox"/> City Council               | <input type="checkbox"/> Redevelopment Agency                             | <input type="checkbox"/> Housing Authority     | <input type="checkbox"/> Surplus Property Authority          | <input type="checkbox"/> Joint Powers Financing Authority |
| <input type="checkbox"/> Finance Standing Committee | <input type="checkbox"/> Public Safety Public Services Standing Committee | <input type="checkbox"/> Local Reuse Authority | <input checked="" type="checkbox"/> Other: <u>Rent Board</u> |   |

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- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) |  |   |
| <input type="checkbox"/> Public Hearing   | <input type="checkbox"/> Ordinance   | <input type="checkbox"/> Other: <u>Training</u> |
| <input type="checkbox"/> Contract/Agreement   | <input type="checkbox"/> Council As Whole  |   |
| <input type="checkbox"/> Grant Application/Acceptance                                 | <input type="checkbox"/> Claims Filed Against City of Richmond                   |   |
| <input type="checkbox"/> Resolution   | <input type="checkbox"/> Video/PowerPoint Presentation (contact KCRT @ 620.6759) |   |

**RECOMMENDED ACTION:** ADOPT Regulation 17-05, establishing the 2017 Annual General Adjustment in the amount of 3.4% for tenancies commencing prior to September 1, 2016 – Rent Program (Bill Lindsay 620-6512).

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# AGENDA REPORT

## RENT PROGRAM

**DATE:** June 21, 2017

**TO:** Chair Gray and Members of the Rent Board

**FROM:** Bill Lindsay, City Manager

**SUBJECT:** REGULATION REGARDING ESTABLISHMENT OF THE 2017 ANNUAL GENERAL ADJUSTMENT

### STATEMENT OF THE ISSUE:

Section 11.100.070(b) of the Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance provides no later than June 30 each year, the Board shall announce the percentage by which Rent for eligible Rental Units will be generally adjusted effective September 1 of that year. Adoption of a regulation is necessary to establish the amount of the 2017 Annual General Adjustment applicable to those tenancies that were in effect as of September 1, 2016.

### RECOMMENDED ACTION:

ADOPT Regulation 17-05, establishing the 2017 Annual General Adjustment in the amount of 3.4% for tenancies commencing prior to September 1, 2016 – Rent Program (Bill Lindsay 620-6512).

### FISCAL IMPACT:

There is no fiscal impact to the City at this time.

### DISCUSSION:

#### Background

As provided in Section 11.100.070(b)(1) of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance ("Ordinance") the Annual General Adjustment is equal to one hundred percent (100%) of the percentage increase in the Consumer Price Index (All Urban Consumers, San Francisco-Oakland-San Jose region) as reported by

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the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of March of the current year (Attachment 2).<sup>1</sup>

No later than June 30 of each year, the Rent Board must announce the amount of the Annual General Adjustment for the current year. This adjustment is the Maximum Allowable Rent that may take effect September 1 of each year.

### Calculation of the Maximum Allowable Rent

As written, Regulation 17-05 establishes a rent ceiling for Controlled Rental Units, equivalent to the Base Rent plus all applicable Annual General Adjustments. As such, landlords may choose to delay, or “bank” application of an Annual General Adjustment for a particular year without losing the opportunity to use such an increase in the future. The table below illustrates this concept, as well as the compounding effect of such increases.

<b>Year</b>	<b>Annual General Adjustment for Tenancies Commencing Prior to September 1 of the Previous Year</b>	<b>Cumulative Increase For Tenancies Commencing Prior to September 1, 2015</b>	<b>Rent Ceiling Example For Tenancies Commencing Prior to September 1, 2015 (assumes Base Rent is \$1,000)<sup>2</sup></b>
2016	3.0%	3.0%	\$1,030
2017	3.4%	6.56%	\$1,065 <sup>3</sup>

The “banking” concept is utilized in a number of other jurisdictions with rent control policies, such as the City of Berkeley, East Palo Alto, Oakland, and Santa Monica; however, some cities, such as Los Angeles and West Hollywood, restrict application of the Annual General Adjustment policy to the current 12-month period (Attachment 3).

### Requirement to Provide Excess Rent Refund

In addition, Regulation 17-05 requires any landlord who has received in excess of the Maximum Allowable Rent after December 30, 2016, to provide a refund to the tenant in the form of a cashier’s check. In the event a landlord is notified by the Rent Board of its collection of excess rent, a refund must be provided and proof uploaded to the Rent Program website using the appropriate form at [www.richmondrent.org](http://www.richmondrent.org) within ten business days.

<sup>1</sup> Since the Consumer Price Index is not announced for the San Francisco-Oakland-San Jose region in March, staff established utilization of the amount published in February.

<sup>2</sup> As defined in Section 11.100.070(a) of the Ordinance, the Base Rent is the rent in effect on July 21, 2015, or the first date rent was charged following July 21, 2015.

<sup>3</sup> Reflects compounded Annual General Adjustment increases.

**DOCUMENTS ATTACHED:**

Attachment 1 – Regulation 17-05, Establishing the 2017 Annual General Adjustment

Attachment 2 – Bureau of Labor Statistics Consumer Price Index Table – All Urban Consumers

Attachment 3 – Case Study Matrix

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# ATTACHMENT 1

## **RICHMOND RENT BOARD REGULATION 17-05 Regarding Establishment of the 2017 Annual General Adjustment**

Whereas, the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance (Chapter 11.100, Richmond Municipal Code) provides that no later than June 30 of each year the Board shall announce the percentage by which Rent for eligible Rental Units will be generally adjusted effective September 1 of that year. Section 11.100.070 (b), RMC; and

Whereas, the Annual General Adjustment shall equal one-hundred (100%) percent of the percentage increase in the Consumer Price Index (All Urban Consumers, San Francisco-Oakland-San Jose region, or any other successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics)(CPI) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of March of the current year and

Whereas, on December 30, 2016, Landlords were entitled to increase the Maximum Allowable Rent in an amount not to exceed 3.0% for tenancies in effect prior to September 1, 2015, as provided in Section 11.100.070 (b) (3), RMC, assuming a Landlord served a Tenant with the legally required notice of a rent increase under State law; and

Whereas, the percentage increase in the CPI from 2016-2017, as set forth in recital 2, is 3.4%

**NOW, THEREFORE, THE RICHMOND RENT BOARD ADOPTS THE FOLLOWING  
REGULATION:**

1. The 2017 Annual General Adjustment is not to exceed 3.4%.
2. The cumulative increase in the Maximum Allowable Rent as defined in Section 11.100.030(g), RMC, for tenancies in effect prior to September 1, 2015, is 6.56%.
3. A Landlord may increase Rent by the 2017 Annual General Adjustment for tenancies in effect prior to September 1, 2016, only if the Landlord (a) files a copy of the notice of the rent increase with the Board before serving the Tenant with such notice, (b) serves the Tenant with a legally required notice of a rent increase under State law and (c) thereafter files with the Board a copy of the proof of service of such notice to the Tenant. Section 11.100. 060 (s)(1), RMC.
4. Within ten business days of receipt of notification from the Rent Board or Rent Program staff that a Landlord has charged and collected Rent in excess of the Maximum Allowable Rent, the Landlord shall issue a refund of excess Rent that a Tenant has paid after December 30, 2016, to the Tenant in the form of a cashier's check. Proof of Excess Rent Refund must be filed with the Rent Board using the appropriate online form on the Rent Program website.



**CPI-All Urban Consumers (Current Series)**  
**Original Data Value**

**Series Id:** CUURA422SA0,CUUSA422SA0  
**Not Seasonally Adjusted**  
**Series Title:** All items in San Francisco-Oakland-San Jose,  
**Area:** San Francisco-Oakland-San Jose, CA  
**Item:** All items  
**Base Period:** 1982-84=100  
**Years:** 2007 to 2017

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2015		254.910		257.622		259.117		259.917		261.019		260.289	258.572	256.723	260.421
2016		262.600		264.565		266.041		267.853		270.306		269.483	266.344	263.911	268.777
2017		271.626		274.589											

**Calculation of 2017 Annual General Adjustment**

Year	Month	CPI
2015	Feb	254.910
2016	Feb	262.600
2017	Feb	271.626

**Change 2016-2017**

Index Difference	9.026
Percent Change 2016-2017	3.4%

**Cumulative Change 2015-2017**

Index Difference	16.72
Cumulative Change 2015-2017	6.56%

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City of Richmond Rent Program | Case Study Comparisons: “Banking” Annual General Adjustment Rent Increases

	BERKELEY	EAST PALO ALTO	LOS ANGELES	OAKLAND	SANTA MONICA	WEST HOLLYWOOD	RICHMOND (PROPOSED)
Application of the Annual General Adjustment – Can AGA Increases Be “Banked,” such that there is a Maximum Ceiling, not to exceed all applicable Annual General Adjustments?	<p>YES.</p> <p>Rent may be increased so long as the Tenant is noticed in accordance with California Civil Code Section 827(b).<sup>1</sup></p>	<p>YES, with limitations.</p> <ul style="list-style-type: none"> <li>• Rent increases may not exceed 10% in any 12-month period.</li> <li>• A written notice of banking must be given to the tenant by <b>February 1</b> in the program year for which an AGA is authorized and will not be used that lists which, if any, authorized AGAs have not been taken.</li> <li>• A landlord may not bank more than three AGAs during a tenant’s occupancy.</li> </ul>	<p>NO.</p> <p>The annual increase may be imposed only if twelve (12) months or more have elapsed since the last such rent increase. The increase is neither cumulative nor retroactive.</p>	<p>YES, with limitations.</p> <ul style="list-style-type: none"> <li>• An owner may increase the rent on a covered unit occupied continuously by the same tenant only once in a 12-month period.</li> <li>• No individual rent increase can exceed the existing rent by more than ten percent in any 12-month period.</li> <li>• No series of rent increases in any five-year period can exceed 30 percent for any rent increases based on the CPI Rent Adjustment, with exceptions.</li> </ul>	<p>YES.</p> <p>Rent may be increased so long as the Tenant is noticed in accordance with California Civil Code Section 827(b).<sup>1</sup></p>	<p>NO.</p> <p>The annual general adjustment announced by the Commission each year shall be available only for annual rent increases which first become effective at any time during the period of September first of the year in which the adjustment is announced through August thirty-first of the following year.</p>	<p>YES.</p> <p>The annual adjustment is cumulative. Rent may be increased so long as the Tenant is noticed in accordance with California Civil Code Section 827(b).<sup>1</sup></p>
Section Reference	The Berkeley Rent Board Mailbag <sup>2</sup>	Rent Stabilization Ordinance, Section 14.04.100	RAC Regulation 360.00	Residential Rent Adjustments and Eviction Ordinance, Section 8.22.065 & Section 8.22.070	Santa Monica Rent Board Regulations, Chapter 3	Rent Stabilization Ordinance, Section 17.36.050	Rent Board Regulation 17-05

<sup>1</sup> Section 827(b) of the California Civil Code of Procedures requires 30 days’ notice for rent increases of 10 percent or less of the rental amount charged to that tenant at any time during the 12 months prior to the effective date of the increase, or 60-days’ notice for rent increases more than 10 percent.

<sup>2</sup> [http://www.ci.berkeley.ca.us/Rent\\_Stabilization\\_Board/Home/FAQs\\_AGA\\_and\\_other\\_rent\\_increases.aspx](http://www.ci.berkeley.ca.us/Rent_Stabilization_Board/Home/FAQs_AGA_and_other_rent_increases.aspx)

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