

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Bill Lindsay

Phone: 620-6512

Meeting Date: July 19, 2017

Final Decision Date Deadline: July 19, 2017

STATEMENT OF THE ISSUE: Section 11.100.060(s)(1) of the Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance requires all Landlords file with the Board a copy of all notices concerning rent increases, termination of tenancies, and changes in terms of tenancy prior to service on a tenant. The adoption of a regulation is necessary to clarify which types of Rental Units must file each type of notice with the Board, and establish a reasonable timeframe in which landlords are required to do so.

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 checked="" type="checkbox"/> Regulation | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Contract/Agreement | <input type="checkbox"/> Rent Board 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 17-04, regarding the filing with the Board of notices of rent increases and termination of tenancies and enrolling Rental Units with the Board – Rent Program (Michael Roush 621-1202).

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AGENDA REPORT

RENT PROGRAM

DATE: July 19, 2017

TO: Chair Gray and Members of the Rent Board

FROM: Michael Roush, Legal Counsel

SUBJECT: REGULATION REGARDING THE REQUIREMENT TO FILE NOTICES OF RENT INCREASES AND TERMINATION OF TENANCIES WITH THE RENT BOARD AND ENROLLING RENTAL UNITS WITH THE RENT BOARD

STATEMENT OF THE ISSUE:

Section 11.100.060(s)(1) of the Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance requires all Landlords file with the Board a copy of all notices concerning rent increases, termination of tenancies, and changes in terms of tenancy prior to service on a tenant. The adoption of a regulation is necessary to clarify which types of Rental Units must file each type of notice with the Board, and establish a reasonable timeframe in which landlords are required to do so.

RECOMMENDED ACTION:

ADOPT Regulation 17-04, regarding the filing with the Board of notices of rent increases and termination of tenancies and enrolling Rental Units with the Board – Rent Program (Michael Roush 621-1202).

FISCAL IMPACT:

While there is no measurable fiscal impact to the City at this time, the provisions of Regulation 17-04 affect the administrative requirements of Rent Program staff members. For example, if Landlords of non-Rent Controlled units are not required to file notices of rent increases with the Rent Board, staff members will receive significantly fewer form submissions.

DISCUSSION:

Background

Section 11.100.060(s)(1) of the Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (“Ordinance”) requires “all Landlords” to file with the Board a copy of all notices concerning rent increase, termination of tenancies, and changes in terms of tenancy prior to service on a tenant. Clarification in the form of a regulation is necessary to establish a clear policy regarding which types of units must file with the Board certain types of notices. For example, the Rent Board must determine, based on an interpretation of the Ordinance and desired outcome, if landlords of rental units exempt from rent control still must file all notices of rent increases with the Rent Board before serving such notices on the tenant.

Requirements for Owners of Non-Rent-Controlled Rental Units

As written, Regulation 17-04 exempts non rent-controlled units from the requirement to file notices of rent increases with the Rent Board. These units include, but are not limited to, units exempt from the Costa-Hawkins Rental Housing Act, such as single family residences, or rental units owned and/or managed by the Richmond Housing Authority.

Owners of non-rent-controlled rental units would still be required to file all notices of termination of tenancy and change in the terms of tenancy (absent those regarding rent increases) with the Rent Board prior to service on the tenant. In addition, owners of such units shall be required, within two business days of service on the tenant, to file a copy of the notice with a proof of service with the Rent Board. Absent extraordinary circumstances, the filing of such notices must be completed online, using the appropriate online form at www.richmondrent.org.

Requirements for Owners of Rent-Controlled Rental Units

As written, Regulation 17-04 requires landlords of Controlled Rental Units, as defined in Section 11.100.030(d) of the Ordinance, to file all notices of rent increases, changes in the terms of tenancy, and termination of tenancies with the Rent Board prior to service on the Tenant and within two business days of service on the tenant to file a copy of the notice with a proof of service with the Rent Board. Absent extraordinary circumstances, the filing of such notices must be completed online, using the appropriate online form at www.richmondrent.org.

Enrollment Requirement

In addition to establishing requirements for filing of notices, Regulation 17-04 also requires all Landlords, prior to filing with the Board, or serving any tenant, with any notice of a rent increase, change in terms of tenancy, or termination of tenancy notice, to enroll all Rental Units with the Rent Board using the Enrollment Form

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at www.richmondrent.org, absent extraordinary circumstances which preclude a Landlord from accessing the online form.

Consequences of Failing to Enroll or File Notice with the Rent Board

Section 11.100.060(s)(3) of the Ordinance provides that a landlord's failure to pay the Rental Housing Fee or file a copy of a required notice with the Rent Board before the filing of an unlawful detainer provides a tenant with a complete defense in an unlawful detainer. As such, Regulation 17-04 establishes that a tenant in an unlawful detainer action may obtain from a Rent Program staff member a Declaration stating that the rental unit was not enrolled and/or the required notice was not filed with the Rent Board in accordance with the Ordinance and this Regulation.

DOCUMENTS ATTACHED:

Attachment 1 – Regulation 17-04, Regarding the Filing with the Board of Notices of Rent Increases and Termination of Tenancies and Enrolling Rental Units with the Board

Attachment 2 – Case Study Matrix

RICHMOND RENT BOARD REGULATION 17-04

Regarding the Filing with the Board of Notices of Rent Increases and Termination of Tenancies and Enrolling Rental Units with the Board

1. **Notices of Rent Increase – Controlled Rental Units.** Landlords of Controlled Rental Units, as defined in the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance (Chapter 11.100, Richmond Municipal Code, Section 11.100.030 (d), except those Rental Units that are “exempt” pursuant to Rent Board regulation, or are described in Section 2 of this Regulation, shall file with the Board a copy of all notices of rent increase *before* serving the Tenant such notice, using the appropriate online form on the Rent Program website. Within two (2) business days *after* the Landlord has served a Tenant with a notice of a rent increase, the Landlord shall file with the Board a copy of such notice with a proof of service, including time and date of service. Absent extraordinary circumstances, such form shall be filed using the appropriate online form on the Rent Program website.

2. **Notices of Rent Increase – Rental Units Exempt from the Rent Control Provisions of the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance.** Landlords of Rental Units (a) which a government unit, agency, or authority owns, operates or manages, (b) in which governmentally subsidized Tenants reside if applicable federal or state law or administrative regulation specifically exempts such Units from rent control, (c) exempt from rent control pursuant to the Costa-Hawkins Rental Housing Act (California Civil Code, section 1954.52) or (d) that are permitted, small second housing units built in compliance with the Small, Second Unit Ordinance of the City of Richmond (Section 15.04.810, RMC) [Section 11.100.030 (d) (3)(4) and (5)] are **not** required to file with the Board a copy of a notice of rent increase.

3. **Notices of Termination of Tenancy or Change in Terms of Tenancy – All Rental Units.** Landlords of Controlled Rental Units and Landlords of Rental Units as described in Section 2 of this Regulation shall file with the Board a copy of all notices of termination of tenancy and change in terms of tenancy *before* serving the Tenant such notice, using the appropriate online form on the Rent Program website. Within two (2) business days *after* service of the notice on the Tenant of a termination of tenancy or change in terms of tenancy, the Landlord shall file a copy of such notice, with a proof of service of the notice, including time and date of service. Absent extraordinary circumstances, such form shall be filed using the appropriate online form on the Rent Program website.

4. **Definition of Notice of Termination of Tenancy.** “Notice of Termination of Tenancy” as used in this Regulation shall mean any notice served on a Tenant in accordance with State law which seeks to recover possession of a Rental Unit. This includes, but is not limited to, three-day notices to pay rent or quit, notices to perform covenant or quit, and all other termination notices permitted under State law.

5. **Enrollment with the Richmond Rent Program.** Prior to filing with the Board, or serving any Tenant, with any notice of a rent increase, change in terms of tenancy or termination of tenancy, a Landlord must enroll with the Rent Board all of a Landlord’s Controlled Rental Units and those Rental Units set forth in Section 2 of this Regulation. Absent extraordinary circumstances, the enrollment form must be completed and submitted online, using the form on the Rent Program website.

6. **Failure of a Landlord to Enroll or File.** If a Landlord has not enrolled the Landlord’s Rental Units with the Board as provided in this Regulation, and/or has not filed with the Board a notice of a rent increase, change in terms of tenancy or termination of tenancy as provided in this Regulation, a Tenant in an unlawful detainer action may obtain from a Rent Program staff

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City of Richmond Rent Program
Case Study Comparisons: Filing Notices with the Rent Board

	BERKELEY	EAST PALO ALTO	LOS ANGELES	OAKLAND	SANTA MONICA	WEST HOLLYWOOD	RICHMOND (PROPOSED)
Timeline to File Notices with the Rent Board:	<i>Notice to Quit/Termination of Tenancy/Summons and Complaint:</i> Within 10 days of service on the Tenant.	<i>Notice to Quit/Termination of Tenancy/Summons and Complaint:</i> Within 5 days of service on the Tenant.	<i>Notice to Quit/Termination of Tenancy:</i> The landlord must file a Declaration of Intent to Evict with the City prior to service on the Tenant.	<i>Notice of Rent Increase Based in Whole or in Part to California Improvements:</i> within 10 working days of service on the Tenant. <i>Notice of Termination of Tenancy:</i> Within 10 days of service on the Tenant.	<i>Notice of Termination of Tenancy (not including 3-day notices to pay rent or vacate)</i> within 3 days of service on the Tenant.	<i>Notice to Quit/Termination of Tenancy/Summons and Complaint:</i> Within 5 days of service on the Tenant.	<i>Notice of Rent Increase or Change in Terms of Tenancy (Controlled Rental Units):</i> Prior to service on the Tenant, and within 2 business days of service on the Tenant. <i>Notice to Quit/Termination of Tenancy:</i> Prior to service on the Tenant, and within 2 business days of service on the Tenant.
Section Reference	Rent Board Regulation 1312	Rent Stabilization Ordinance Section 14.04.160	LAMC §151.09 C.5	Residential Rent Adjustment Program Ordinance Section 8.22.070 (H)(1)(d)(ii) Just Cause for Eviction Ordinance Section 8.22.360(B)(7)	Santa Monica Rent Control Charter Amendment, Section 1806(e)	Rent Stabilization Ordinance, Section 17.52.070	Rent Board Regulation 17-04

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