



REGULAR MEETING OF THE RENT BOARD OF THE CITY OF RICHMOND
CITY COUNCIL CHAMBERS, COMMUNITY SERVICES BUILDING
440 Civic Center Plaza, Richmond, CA 94804

Wednesday, November 15, 2017

Boardmembers

Nancy Combs
Virginia Finlay
Emma Gerould
David Gray
Lauren Maddock

Link to Rent Board Meeting Agendas and Accompanying Materials:
www.ci.richmond.ca.us/3375/Rent-Board

COMMUNICATION ACCESS INFORMATION

This meeting is being held in a wheelchair accessible location. To request disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact Bruce Souble, ADA Coordinator, at (510) 620-6509 at least three business days before the meeting date.

NOTICE TO PUBLIC

The City of Richmond encourages community participation at public meetings and has established procedures that are intended to accommodate public input in a timely and time-sensitive way. As a courtesy to all members of the public who wish to participate in Rent Board meetings, please observe the following procedures:

Public Comment on Agenda Items: Persons wishing to speak on a particular item on the agenda shall file a speaker form with City staff PRIOR to the Rent Board's consideration of the item on the agenda. Once the clerk announces the item, only those persons who have previously submitted speaker forms shall be permitted to speak on the item. Each speaker will be allowed up to two minutes to address the Rent Board.

Public Forum: Individuals who would like to address the Rent Board on matters not listed on the agenda or on items remaining on the consent calendar may do so under Public Forum. All speakers must complete and file a speaker's card with City staff prior to the commencement of Public Forum. The amount of time allotted to individual speakers shall be determined based on the number of persons requesting to speak during this item. The time allocation for each speaker will be as follows: 15 or fewer speakers, a maximum of 2 minutes; 16 to 24 speakers, a maximum of 1 and one-half minutes; and 25 or more speakers, a maximum of 1 minute.

Conduct at Meetings: Richmond Rent Board meetings are limited public forums during which the City strives to provide an open, safe atmosphere and promote robust public debate. Members of the public, however, must comply with state law, as well as the City's laws and procedures and may not actually disrupt the orderly conduct of these meetings. The public, for example, may not shout or use amplifying devices, must submit comment cards and speak during their allotted time in order to provide public comment, may not create a physical disturbance, may not speak on matters unrelated to issues within the jurisdiction of the Rent Board or the agenda item at hand, and may not cause immediate threats to public safety.

City Harassment Policy: The City invites public comment and critique about its operations, including comment about the performance of its public officials and employees, at the public meetings of the City Council and boards and commissions. However, discriminatory or harassing comments about or in the presence of City employees, even comments by third parties, may create a hostile work environment, if severe or pervasive. The City prohibits harassment against an applicant, employee, or contractor on the basis of race, religious creed, color, national origin, ancestry, physical disability, medical condition, mental disability, marital status, sex (including pregnancy, childbirth, and related medical conditions), sexual orientation, gender identity, age or veteran status, or any other characteristic protected by federal, state or local law. In order to acknowledge the public's right to comment on City operations at public meetings, which could include comments that violate the City's harassment policy if such comments do not cause an actual disruption under the Council Rules and Procedures, while taking reasonable steps to protect City employees from discrimination and harassment, City Boards and Commissions shall adhere to the following procedures. If any person makes a harassing remark at a public meeting that violates the above City policy prohibiting harassment, the presiding officer of the meeting may, at the conclusion of the speaker's remarks and allotted time: (a) remind the public that the City's Policy Regarding Harassment of its Employees is contained in the written posted agenda; and (b) state that comments in violation of City policy are not condoned by the City and will play no role in City decisions. If any person makes a harassing remark at a public meeting that violates the above City policy, any City employee in the room who is offended by remarks violating the City's policy is excused from attendance at the meeting. No City employee is compelled to remain in attendance where it appears likely that speakers will make further harassing comments. If an employee leaves a City meeting for this reason, the presiding officer may send a

designee to notify any offended employee who has left the meeting when those comments are likely concluded so that the employee may return to the meeting. The presiding officer may remind an employee or any council or board or commission member that he or she may leave the meeting if a remark violating the City's harassment policy is made.

REGULAR MEETING OF THE RICHMOND RENT BOARD

AGENDA

4:00 PM

A. PLEDGE TO THE FLAG

B. ROLL CALL

C. STATEMENT OF CONFLICT OF INTEREST

D. AGENDA REVIEW

E. PUBLIC FORUM

F. RENT BOARD CONSENT CALENDAR

- | | | |
|-------------|--|--|
| F-1. | APPROVE the minutes of the October 18, 2017, Regular Meeting of the Richmond Rent Board. | <i>Paige Roosa</i> |
| F-2. | RECEIVE letters from community members regarding the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance, RMC 11.100. | <i>Paige Roosa</i> |
| F-3. | RECEIVE AND RECOMMEND TO THE RICHMOND CITY COUNCIL proposed amendments to Chapter 11.102 of the Richmond Municipal Code, and a revised resolution, concerning relocation requirements for Tenants of residential Rental Units. | <i>Michael Roush</i> |
| F-4. | RECEIVE a memorandum from staff concerning the City of Richmond's procurement policies. | <i>Nicolas Traylor
Paige Roosa</i> |

G. REGULATIONS

- G-1.** ADOPT Regulation 17-01, regarding the exemption of approximately 4,283 governmentally subsidized rental housing units (including the Housing Choice Voucher Program, Project-Based Section 8 Program, Low Income Housing Tax Credit Program, and Supportive Housing for the Elderly Program) from the rent control provisions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance. *Nicolas Traylor
Michael Roush*
- G-2.** ADOPT Regulation 17-08, regarding Written Warning Notices to Cease before Terminating Tenancies due to a Breach of Lease or Creating Nuisance. *Michael Roush*
- G-3.** ADOPT Regulation 17-09, regarding the right to raise the Rent up to the Maximum Allowable Rent level, also known as “banking” rent increases, with the limitation, such that the net rent increase in any 12-month period as a result of the application of the current plus any deferred or “banked” AGAs does not exceed five percent (5%) plus the current AGA. This Regulation (17-09) would not become effective until September 1, 2018. *Nicolas Traylor*

H. ADJOURNMENT

Any documents produced by the City and distributed to a majority of the Rent Board regarding any item on this agenda will be made available at the Rent Program Office located on the second floor of 440 Civic Center Plaza and will be posted at www.richmondrent.org.

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AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: November 15, 2017

Final Decision Date Deadline: November 15, 2017

STATEMENT OF THE ISSUE: The minutes of the October 18, 2017, Regular Meeting of the Richmond Rent Board require approval.

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> | |

ITEM

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|---|--|--|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) | | |
| <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Regulation | <input checked="" type="checkbox"/> Other: <u>CONSENT CALENDAR</u> |
| <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: APPROVE the minutes of the October 18, 2017, Regular Meeting – Rent Program (Paige Roosa 620-6537).

AGENDA ITEM NO:

F-1.

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**ITEM F-1
ATTACHMENT 1**

RICHMOND, CALIFORNIA, October 18, 2017

The Regular Meeting of the Richmond Rent Board was called to order at 4:05 PM.

PLEDGE TO THE FLAG

ROLL CALL

Present: Chair Gray, Vice Chair Gerould, Boardmembers Combs, Finlay, Maddock, and Acting Executive Director Paige Roosa
Absent: None.

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Item G-2 was pulled from the consent calendar to be discussed at the end of the meeting.

INTRODUCTIONS FROM RENT PROGRAM STAFF

PUBLIC FORUM

Cordell Hindler proposed that the time of the Rent Board meeting be changed to a later time so as to accommodate more community members. He also invited the board to a Crime Prevention meeting taking place at the recreation center. He also commented on the Brown Act presentation provided to the Boardmembers.

Brian Fisher gave a comment on item G-5, regarding the pass through fees. He asked the Board to consider a partial pass through of the fee so the Landlord and Tenant share the cost of the Rental Housing Fee.

RENT BOARD CONSENT CALENDAR

On motion of Boardmember Maddock, seconded by Vice Chair Gerould, the item(s) marked with an (*) were approved by the unanimous vote of the Rent Board, with item G-2 held over to the end of the meeting:

ITEM F-1 ATTACHMENT 1

*G-1. APPROVE the minutes of the September 20, 2017, Regular Meeting of the Richmond Rent Board.

G-2. APPROVE a contract with Minuteman Press to provide printing and mailing services for a letter mailed to residential rental property owners in an amount not to exceed \$15,000, with a term extending through June 30, 2017 (*moved to the end of the agenda*).

*G-3. RECEIVE memoranda from Executive Directors in peer jurisdictions with rent stabilization policies regarding the impacts of restricting a landlord's ability to "bank" Annual General Adjustment rent increases.

*G-4. RECEIVE a memorandum from Michael Roush, Rent Board Legal Counsel, regarding whether a Landlord who withdraws Rental Units from the rental market in accordance with Rent Board Regulation 17-07 for the purposes of demolition and then constructs affordable housing on the site is nevertheless required to offer such units to displaced tenants who may be ineligible for the affordable housing unit. This item is in response to questions from the Board raised at the September 20, 2017, Regular Meeting.

*G-5. (1) RECEIVE a memorandum from Nicolas Traylor, Executive Director, and Michael Roush, Rent Board Legal Counsel, concerning the status of the "Pass-Through" of the Residential Rental Housing Fee; and (2) DIRECT STAFF to study policy options for a possible "Pass-Through."

*G-6. RECEIVE letters from community members regarding the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance, RMC 11.100.

H. REGULATIONS

H-1. The matter to adopt Regulation 17-08, regarding Written Warning Notices to Cease before Terminating Tenancies due to a Breach of Lease or Creating Nuisance was presented by Legal Counsel Michael Roush. The presentation included information

about what constitutes a nuisance; subleasing provisions; and written warning notice requirements. Discussion ensued. Cordell Hindler, David Sharples, Edith Pastrano, Melvin Willis, and Olivia Lopez gave comments. A motion by Chair Gray seconded by Boardmember Combs, moved to direct staff to revise Regulation 17-08, regarding Written Warning Notices to Cease before Terminating Tenancies due to a Breach of Lease or Creating Nuisance and return in November with a revised regulation. The motion passed unanimously.

RENT BOARD AS A WHOLE

I-1. The matter to approve by motion a Reimbursement Agreement between the Rent Board and the City of Richmond was presented by Acting Executive Director Paige Roosa. Discussion ensued. Boardmember Finlay expressed firm opposition to the short duration of the repayment period. A motion by Chair Gray, seconded by Vice Chair Gerould, moved to continue the Reimbursement Agreement between the Rent Board and the City of Richmond at the end of the meeting. The motion passed unanimously.

I-2. The matter to receive a presentation from Rent Program staff members regarding enrollment and other compliance efforts related to the requirements of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance was presented by Acting Executive Director Paige Roosa. The presentation included a status update of enrolled Rental Units; the number of Rent Program enrollment form submissions by month; number of courtesy compliance, warning, and violation letters sent by Rent Program staff members; number of excess rent and unpaid relocation payment complaints received; amount of excess rent refunded to Tenants; and a qualitative review of inquiries received by the Rent Program; and next steps. Discussion ensued. No action was taken.

I-3. The matter to receive and recommend to the Richmond City Council proposed amendments to Chapter 11.102 of the Richmond Municipal Code, and a revised resolution, concerning relocation requirements for Tenants of residential Rental Units was presented by Legal Counsel Michael Roush. The presentation included a review of

ITEM F-1 ATTACHMENT 1

proposed significant changes, including (1) when relocation payment is required; (2) the amount of the Relocation Payment; (3) distribution of the Relocation Payment to Eligible Tenants; (4) recovery of costs by the City; and (5) a number of housekeeping items. Discussion ensued. A motion by Chair Gray, seconded by Boardmember Maddock, moved to direct staff to revise the proposed amendments to Chapter 11.102 of the Richmond Municipal Code, and a revised resolution, concerning relocation requirements for Tenants of residential Rental Units, consistent with the direction provided by the Board, and for the item to be placed on the Consent Calendar for the next meeting. The motion passed unanimously.

I-4. The matter to receive a proposed syllabus for the anticipated Rent Control and Just Cause for Eviction seminar series, anticipated to be provided to the Rent Board and members of the public in November and December, 2017 was presented by Acting Executive Director Paige Roosa. Discussion ensued. No action was taken.

G-2. The matter to approve a contract with Minuteman Press to provide printing and mailing services for a letter mailed to residential rental property owners in an amount not to exceed \$15,000, with a term extending through June 30, 2017 was presented by Acting Executive Director Paige Roosa. Discussion ensued. A motion by Chair Gray, seconded by Vice Chair Gerould, moved to approve a contract with Minuteman Press to provide printing and mailing services for a letter mailed to residential rental property owners in an amount not to exceed \$15,000, with a term extending through June 30, 2017, and direct staff to prepare a memorandum about the City's existing procurement policies. The motion passed unanimously.

I-1. The matter to approve by motion a Reimbursement Agreement between the Rent Board and the City of Richmond was presented by Acting Executive Director Paige Roosa. Discussion ensued. A motion by Chair Gray, seconded by Boardmember Finlay, moved to direct staff to discuss revised terms with the City and report back with proposed revisions or a new Reimbursement Agreement between the Rent Board and the City of Richmond. The motion passed unanimously.

ADJOURNMENT

There being no further business, the meeting adjourned at
6:50 PM.

Debra Holter, Brenda Ogutu
Staff Clerks

(SEAL)

Approved:

Rent Board Chair

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AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: November 15, 2017

Final Decision Date Deadline: November 15, 2017

STATEMENT OF THE ISSUE: Members of the community have sent letters to the Rent Board and Rent Program staff members. Staff members recommend letters that do not pertain to a specific item on the Rent Board agenda be included as consent items for consideration by the Rent Board.

INDICATE APPROPRIATE BODY

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|---|---|--|--|---|
| <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> | |

ITEM

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|---|--|--|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) | | |
| <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Regulation | <input checked="" type="checkbox"/> Other: <u>CONSENT CALENDAR</u> |
| <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: RECEIVE letters from community members regarding the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance, RMC 11.100 – Rent Program (Paige Roosa 620-6537).

AGENDA ITEM NO:

F-2.

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Paige Roosa

From: Abby Sukarto <abby_sukarto@yahoo.com>
Sent: Thursday, August 24, 2017 1:15 PM
To: Rent Control
Subject: Attn: Lauren Maddock

Hi Lauren,

I went to the special meeting of Richmond Rent Control yesterday and submitted the card to speak to the Rent Boards. However, the meeting was held more than 2.5 h before I had to leave due to other commitment. I would like to provide you my background as a landlord in Richmond and the impacts of the Ordinance to my rental business. I would really appreciate it if you would review my case and provide me with due processing that I am currently seeking for.

The following is the background of my rental property situation.

I am a landlord of a duplex property located on 1724 Bissell Ave, Richmond, CA 94801. I purchased the property on July 5th, 2016, and offered the new rent rate to the long-term tenants. The rate was slightly below the market rate to keep the long-term tenants, cover my basic rental cost and receive a reasonable rate of return. The long-term tenants agreed to the proposed rent increase and signed a 1-year lease (September 1st, 2016 to August 31st, 2017). I learned about the Richmond Rent Control Program on July 19th, 2017, when I was searching online on how to move forward with the unlawful detainer eviction in the city of Richmond after the 3-day notice expired on the tenant that have been habitually late in rent payment for the past 6 months. After knowing the rent control in Richmond, I subsequently registered with the Richmond Rent Control program and submitted the information required as a landlord in the city of Richmond to the Rent Control Program website. I went to the Rent Control office the next day to obtain consultation regarding an eviction and further found out about the base rent. The Agent (Brenda) also gave me the copy of the Ordinance to go through.

The following is my completed actions.

- Returned the excess rent to my tenants on both units within 10 days
- Obtained my rental business license
- Mailed the Residential Rental Inspection form in order to proceed with the next step
- Emailed Eric Govani on how to schedule the inspection and pay the fee for the Fire Prevention Service (It turned out that only 3-unit property requires the Fire Prevention Inspection)
- Submitted the hearing petition for the Maximum Allowable Rent

The following is the responses from the Richmond Rent Control.

- Received a certified mail from the Richmond Rent Control regarding the Richmond Rent Program on August 4th, 2017, and was informed to pay the excess rent to the tenants in 10 days.
- Was informed that the Board Hearing Officer position is not filled yet by phone
(Might take 3-6 months or longer to have the Board Hearing Officer in place and the Richmond rent Control Agents (Nicolas) suggested me to be patient for minimum 6 months in waiting for the hearing.
- Was informed by Nicolas through email and mail, after I sent email to the Richmond Rent Control Program with attention to the Boardmembers that the Hearing Examiner will be filled in 2-4 months and acknowledgement of my request on the maximum Allowable Rent hearing.

My current 2017 rental expense is shown on the following Table.

<u>1724 Bissell Ave, Richmond, CA</u>		
<u>94801</u>		
Monthly expense		
Mortgage	\$ 1,232.39	
Tax property	\$ 508.08	
Recycle service	\$ 90.54	
Insurance	\$ 40.59	
Business license	\$ 19.59	(\$235.10/yr)
Total	\$ 1,891.19	

Additional expense		
Residential housing fee	\$ 196.00	(\$98/unit)
Inspection processing fee	\$ 79.00	
Inspection fee	\$ 314.00	(\$157/unit)
Total	\$ 589.00	
Repair expense (2017)		
Plumbing	\$ 1,999.99	
Crawl door built	\$ 2,134.26	
Door replacement, window trim	\$ 1,667.31	
Pest control	\$ 910.00	
Asbestos inspection	\$ 425.00	
<i>Mold remediation</i>	<i>\$ 5,122.60</i>	
<i>Temporary stay for repair (2 wks)</i>	<i>\$ 7,840.00</i>	<i>(4 tenants, 3 dogs)</i>
<i>Build estimate</i>	<i>\$ 6,000.00</i>	<i>Approx. estimate</i>
<i>Window replacement</i>	<i>\$ 4,000.00</i>	<i>Approx. estimate</i>
Total	\$ 30,099.16	
Base rent 2017		
Rent in Unit A	\$ 1,000.00	(2-bed, 2-bath)
Rent in Unit B	\$ 650.00	(1-bed, 1-bath)
Total rent	\$ 1,650.00	
Annual loss (2017)		
Total rent	\$ 19,800.00	
All expenses	\$ 53,382.41	
Total loss	\$(33,582.41)	

The build back estimate after mold remediation and window replacement to prevent future mold problem are still pending as the estimators are still working on them. The repair work is completed, except for the mold remediation, build back and window replacement. In addition, the mold remediation technician has informed me that it requires 1 week to complete the remediation, possibly another 1 week for build back and the tenants must be out of the units during the remediation and build back. So, I am currently running the rental at severe loss and I would really appreciate it if you would put my case in high priority and provide me with special handling for conditional rent increase hearing.

The reasons of my request for immediate handling of my case are the following.

1. I acquired the property at market value in 2016, while my tenants do not pay market rent in 2017 due the base rent date of July 21st, 2015. Therefore, I am a victim of the Ordinance.
2. The ordinance does not specify that the rent base is applied to owner before or after July 21st, 2015, and so my case should be specially handled due to the circumstances.
3. Tenants' rent has not been increased by the previous owner since 2005 and therefore repair was not conducted by the previous owner due to low rent, as verbally confirmed by my tenants.
4. My rental business in Richmond is at loss since January 2017, as the base rent does not even cover the basic cost of my monthly expense, excluding the the additional fees required by the ordinance and substantial repair.
5. Having to wait till January 2018 to have the Hearing Examiner to start to hold a hearing would put my rental business in a severe loss (approximate loss of \$33,582.41).
6. I paid the rent excess (\$5425) to my tenants within 10 days as required by the Richmond Rental Program, but I do not receive a due processing in a comparable time frame.
7. The Richmond Rent Control does not provide due processing and sufficient staffing in handling rental cases, specifically for landlords. I believe the rent control Ordinance in Richmond has been activated hastily generating significant residential chaos in the city of Richmond.
8. I do not receive a reasonable rate of return from the rental business in Richmond due to the Ordinance since January 2017.

While I am putting together all the necessary actions to comply with the Richmond rent Control Ordinance, I do not receive a due processing from Richmond Rent Control. I believe that the Ordinance is to protect and provide fair treatment for both tenants and homeowners. Therefore, I firmly request that my case should be reviewed and handled with immediate attention due to my special circumstances and severe loss.

I appreciate your studying my case and am looking forward to hearing your feedback.

Abby Sukarto

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Paige Roosa

From: Bob <kasbob@yahoo.com>
Sent: Friday, October 13, 2017 11:50 AM
To: Rent Control
Subject: Fwd: Petition for individual rent increase

Attn.: Boardmembers

Begin forwarded message:

From: Bob <kasbob@yahoo.com>
Subject: **Petition for individual rent increase**
Date: October 12, 2017 at 5:42:25 PM PDT
To: rent@ci.richmond.ca.us

To Whom It May Concern;

Since November 2016 I've periodically contacted the City of Richmond and the Rent Board to petition the Rent Board to forgo returning the rent I charge to the 2015 level because my rents are low in comparison to similar units and I would not receive a reasonable return on my investment.

Numerous times I was told the Rent Board was not set up yet and when it was I went into the office only to be told the Rent Board was not having any hearings.

During this time i've checked other similar properties in the area. I have a copy of a for rent ad that has an almost identical apartment for rent at \$600 more per month than my tenants pay even with the increase I put in place after July 2015. I have one section 8 rental that raised the rent \$100 since 2015 and told me they realize I'm still at the very low end of the market. I've owned and managed my property on 29th St. twenty years. I can not afford to lower the rents. The City of Richmond continues to add more fees, inspection and now rent control. To lower the rents would make it impossible to maintain suitable housing.

The new ordinance says there is a petition process for people in my situation. What is my next step? The people I met with from your office told me I can't go before the Rent Board. What are my options? They didn't seem to know.

Robert Kastner

(510) 610-7093

I'm forwarding this letter again because the first one was not answered. I was advised to attend the meeting that says if I want to address the board, I can only address the subject at hand. I've gone through the minutes. This issue has never been addressed. As I read it my concern is part of the law. I attended a workshop meeting and this was briefly mentioned but he had no clear cut answer. As I said, my rents are very reasonable. I am currently charging \$925 for a 705' Sq. Apt. In July of 2015 the rents ranged from \$835 - \$875. The increase I put in place **does not** cover my increased expenses: taxes, inspections, garbage, maintenance, rent control etc.

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TO: Rent Ordinance Board
 City of Richmond
 440 Civic Center Plaza
 Richmond, CA 94804-1630

DATE: October 16, 2017

RECEIVED

OCT 20 2017

FROM: Leo Garfield 
 3920 Wesley Way
 El Sobrante, CA 94803
 (510) 222-6722

SUBJ: Confusion concern-
 ing the Richmond Fair Rent,
 Just Cause for Eviction and
 Homeowner Protection
 Ordinance Summary

- Item 1. What is the maximum allowable rent? Is it the \$1400 mentioned in Item 2 Example calculation?
- Item 3. Where is the Property Enrollment Application Form? It was not enclosed in my package. Please send via mail, not e-mail. My wife and I have health issues, and are in our late 80's. Also, we have computer deficiencies.
- Item 4. I will not file electronic rental increase notices for the above reason. Everything will be done by mail only.
- Item 6. Please mail the necessary brochures so that I may forward them to my tenants

Point of Intent

My 4-plex is located at 29th and Nevin. There are 4 rental units.

400 -29 th Street	Hispanic occupant	\$850 per month
404 29th Street	African American occupant	\$850 per month
406 29 th Street	African American occupant	\$845 per month
2907 Nevin Ave.	Gay White person	\$850 per month

These are all hard-working people with low incomes, and all but one has been with me for years. I have raised the rent once in 10+ years, and that was \$50 per month for each apartment.

Seemingly, the City Council of Richmond determined that all Landlords are evil, money-grabbing, with no soul; out to take advantage of people. Too bad, too sad, so wrong.

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AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: November 15, 2017

Final Decision Date Deadline: November 15, 2017

STATEMENT OF THE ISSUE: At the October 18, 2017, Regular Meeting, the Rent Board considered proposed amendments to the City's Relocation Ordinance and accompanying Resolution. A copy of the October agenda item is included in Attachment 1. The Board approved a majority of the proposed amendments, but requested several changes be incorporated and the final proposed revisions be presented to the Board at the November 2017 meeting as an item on the Consent Calendar. Staff members have incorporated Rent Boardmembers' proposed changes and are seeking final approval of the proposed amendments before presentation to the City Council for adoption.

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> | |

ITEM

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|---|--|--|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) | | |
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| <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: RECEIVE AND RECOMMEND TO THE RICHMOND CITY COUNCIL proposed amendments to Chapter 11.102 of the Richmond Municipal Code, and a revised resolution, concerning relocation requirements for Tenants of Residential Rental Units – Rent Program (Michael Roush 621-1202).

AGENDA ITEM NO:
F-3.

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AGENDA REPORT

DATE: November 15, 2017

TO: Chair Gray and Members of the Rent Board

FROM: Michael Roush, Legal Counsel

SUBJECT: AMENDMENTS TO THE ORDINANCE AND A REVISED RESOLUTION CONCERNING RELOCATION REQUIREMENTS FOR TENANTS IN RESIDENTIAL RENTAL UNITS

STATEMENT OF THE ISSUE:

At the October 18, 2017, Regular Meeting, the Rent Board considered proposed amendments to the City's Relocation Ordinance and accompanying Resolution. A copy of the October agenda item is included in Attachment 1. The Board approved a majority of the proposed amendments, but requested several changes be incorporated and the final proposed revisions be presented to the Board at the November 2017 meeting as an item on the Consent Calendar. Staff members have incorporated Rent Boardmembers' proposed changes and are seeking final approval of the proposed amendments before presentation to the City Council for adoption.

RECOMMENDED ACTION:

RECEIVE AND RECOMMEND TO THE RICHMOND CITY COUNCIL proposed amendments to Chapter 11.102 of the Richmond Municipal Code, and a revised resolution, concerning relocation requirements for Tenants of Residential Rental Units – Rent Program (Michael Roush 621-1202).

FISCAL IMPACT:

There will be no measurable fiscal impact either to the Rent Board budget or the City's General Fund if these amendments/revisions are adopted. It is not expected that these changes will have a significant financial impact on the administrative of the Rent Program.

DISCUSSION:

Review of Revisions

Revision #1: Deletion of reference to the Richmond Housing Authority

In subsection (l) of section 11.102.020, the definition of “Rent Differential Payment” referred to “fair market rent,” as established by the Richmond Housing Authority, using the payment standards for the Housing Choice Voucher Program. The Board agreed that utilizing fair market rents using the payment standards for the Section 8 program was an appropriate method to establish fair market rent, but was concerned about the reference to the Richmond Housing Authority, should that Authority be dissolved or no longer be in charge of the Section 8 program.

To address that issue, the definition has been revised to delete the reference to the Richmond Housing Authority and instead defines market rent as “established by the payment standards for the Section 8 Housing Choice Voucher Program in the City of Richmond based on rental market information published each year by the U.S. Department of Housing and Urban Development...” Subsection (l) of Section 11.102.02 [Rent Differential Payment], as revised, is attached. This definition will also be reflected in the Resolution under “Rent Differential Payment.”

Revision #2: Tenant and Landlord must agree that a rental unit is “comparable” in the case of temporary relocation due to the need to undertake substantial repairs or a governmental order to vacate, inclusion of comparability metrics, and ability for Tenant, after 120 days, to change his/her mind that a rental unit is “comparable”

Where a Tenant is temporarily displaced due to substantial repairs or due to a governmental order to vacate, the draft Ordinance provides that a Landlord may offer a Tenant a “comparable rental unit” in lieu of making temporary relocation payments. The draft Ordinance, however, contemplated that the Tenant alone would make the decision whether a unit was “comparable.” Furthermore, the draft Ordinance did not provide any guidance as to what criteria should be considered in determining comparability. The Board was concerned that allowing the Tenant alone to make the decision gave too much power to the Tenant and requested that criteria be provided as to the comparability factors. Moreover, there was concern that if a Tenant accepted the landlord’s offer of a comparable unit, the Tenant should be able to change his/her mind after some period of time.

To address these issues, first, the Ordinance has been revised such that the Landlord and the Tenant must agree that the rental unit is comparable and, if the parties cannot agree, the Executive Director of the Rent Program will make the determination, subject to appeal to the Rent Board. Further, if the Executive Director or Rent Board determines the rental unit is comparable and the Tenant nevertheless chooses not to occupy the unit, the Landlord has no further obligation to make temporary relocation or rent

ITEM F-3

differential payments but the Tenant has no further obligation to pay rent until the Tenant reoccupies the unit from which the Tenant was displaced. See subsections (i) and (k) of Section 11.102.030, attached.

Second, the draft Ordinance has been revised to define a comparable rental unit as a rental unit that is similar in size or larger, has the same or additional number of bedrooms, is located in the same geographic area of the City, has similar amenities in the rental unit such as cable television or a washer/dryer, has similar amenities on the rental property itself, such as on-site parking, covered parking, laundry or work out facilities and, as to a tenant who is disabled, the unit is disability accessible and ADA compliant.

Third, the draft, revised Ordinance now provides that after 120 days a tenant for good cause may vacate the comparable unit and thereafter receives Rent Differential Payments until the tenant reoccupies the rental unit from which the tenant was displaced or the tenant has found alternative, permanent housing. As to “good cause”, the Executive Director will make that determination, subject to appeal to the Rent Board. See subsections (j) and (k) of Section 11.102.030, attached.

DOCUMENTS ATTACHED:

Attachment 1 – Proposed Revisions to Draft Relocation Ordinance

Attachment 2 – Proposed Revisions to Draft Relocation Payment Resolution

Attachment 3 – October 18, 2017, Rent Board Agenda Item

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ITEM F-3 ATTACHMENT 1

Additional Proposed Amendments to the City of Richmond Relocation Ordinance (RMC 11.102)

11.102.020 Definitions.

(l) “Rent Differential Payment” means the difference between the lawful Rent that the Tenant was paying at the time of displacement and the fair market rent, as established by the ~~Richmond Housing Authority~~ as payment standards for the Section 8 Housing Choice Voucher Program in the City of Richmond based on rental market information published each year by the U.S. Department of Housing and Urban Development, for a comparable Rental Unit based on the number of bedrooms.

11.102.030 When Relocation Payment is required.

- (i) Notwithstanding subsections (d) and (e) of this Section 11.102.030, a Landlord, in lieu of making Temporary Relocation Payments or Rent Differential Payments, may offer the Tenant a comparable Rental Unit in the City of Richmond while the work on the displaced Tenant’s Rental Unit is being completed. For the purposes of this subsection (i), a comparable Rental Unit shall mean a Rental Unit that is similar in size to, or larger than, the Tenant’s Rental Unit, has the same, or more than, the number of bedrooms in the Tenant’s Rental Unit, is located in the same general geographic area of the City, has similar amenities in the Rental Unit itself, such as cable television, high speed internet or a washer/dryer, has similar amenities on the Rental property itself, such as on-site parking, covered parking, laundry facilities or a work out area and, as to a Tenant who is Disabled, is disability accessible or otherwise ADA compliant. The Tenant, in the Tenant’s sole discretion, may waive any of these factors in deciding that the Rental Unit is comparable. If the Tenant and Landlord do not agree that a particular Rental Unit is comparable, either may appeal to the Executive Director who will determine, based on the factors set forth above, whether the Rental Unit that the Landlord has offered is a comparable Rental Unit. If the Tenant accepts the offer and occupies the comparable Rental Unit, the Tenant shall pay no more than the lawful Rent the Tenant was paying at the time the Tenant was served with the notice to temporarily terminate the tenancy or at the time the Tenant vacated the Rental Unit if a governmental agency ordered the Rental Unit be vacated and no notice of temporary termination of tenancy was served. If the Tenant accepts the offer, the Landlord shall (i) pay the Tenant’s reasonable and documented moving expenses to the comparable Rental Unit and from the comparable Rental Unit to the Tenant’s Rental Unit and (ii) continue to make Temporary Relocation Payments or Rent Differential Payments until the Tenant has fully occupied the comparable Rental Unit. If the Landlord and the Tenant have not agreed that a particular Rental Unit is comparable, have appealed to the Executive Director or to the Rent Board, the Executive Director or the Rent Board has determined that the Rental Unit is comparable but the Tenant chooses not occupy the comparable Rental Unit, the Landlord shall have no further obligation to make Temporary Relocation Payments or Rent Differential Payments and the Tenant shall have no further

ITEM F-3 ATTACHMENT 1

obligation to pay rent unless and until the Tenant has reoccupied the Rental Unit from which the Tenant was displaced.

(j) If a Tenant has occupied a comparable Rental Unit as provided in subsection (i) of this Section 11.102.030 for at least 120 days, a Tenant for good cause may vacate the comparable Rental Unit and thereafter receive Rent Differential Payments until the Tenant re-occupies the Rental Unit from which the Tenant was displaced or, if the Tenant has found alternative, permanent housing, receive a Permanent Relocation Payment. The Executive Director will determine good cause.

Comment [MR1]: new

(k) The Executive Director's decision under either subsection (i) or (j) of this Section 11.102.030 may be appealed to the Rent Board. Such appeal must be filed within 10 business days of the Executive Director's decision.

Comment [MR2]: new

RESOLUTION NO. 17-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND
ESTABLISHING THE AMOUNT OF THE TEMPORARY RELOCATION PAYMENT,
RENT DIFFERENTIAL PAYMENT AND PERMANENT RELOCATION PAYMENT IN
ACCORDANCE WITH CHAPTER 11.102 OF THE RICHMOND MUNICIPAL CODE
ENTITLED RELOCATION REQUIREMENTS FOR TENANTS OF RESIDENTIAL
RENTAL UNITS**

WHEREAS, the “Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance” initiative was passed by the voters in the City of Richmond on November 8, 2016; and

WHEREAS, the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance requires that landlords seeking to recover possession under certain sections of that ordinance must make relocation payments to each tenant in amounts to be determined by the City Council through a Relocation Ordinance; and

WHEREAS, the provision of such relocation payments shall help to mitigate the challenges faced by tenants who are ordered to vacate a rental unit through no fault of the tenant; and

WHEREAS, the City Council adopted Ordinance No. 22-16 on December 20, 2016 (“the Relocation Ordinance”, codified in Chapter 11.102, Richmond Municipal Code); and

WHEREAS, in accordance with Section 11.102.050 of the Relocation Ordinance, the City Council adopted Resolution 115-16 (“the Relocation Payment Resolution”) to establish relocation payments for displaced tenants; and

WHEREAS, the Richmond Rent Board has recommended that the Relocation Ordinance be amended and that the Relocation Payment Resolution be revised; and; and

WHEREAS, the City Council has introduced Ordinance No. 17-XX to amend the Relocation Ordinance as recommended by the Rent Board and wished to revise the Relocation Payment Resolution as recommended by the Rent Board.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Richmond that pursuant to Chapter 11.102 of the Richmond Municipal Code, entitled Relocation Requirements for Tenants of Residential Rental Units, as amended, and as provided in adopted Rent Board Regulations, Landlords shall provide a Relocation Payment to each Eligible Tenant in the amounts set forth in the Relocation Payment Fee Schedule.

**Section 1. Relocation Payment Fee Schedule
R.M.C. 11.102.050**

“Relocation Payment” means the per unit payment required to be paid by any Landlord on a pro-rata share to an Eligible Tenant who takes action to terminate a tenancy for reasons set forth in Section 11.102.030, separate from any security or other refundable deposits as defined in California Civil Code Section 1950.5.

Permanent Relocation Payment

Amounts shown are for Fiscal Year 2016-17 and shall be adjusted annually, beginning January 1, based on the percentage change in the Consumer Price Index (All Urban Consumers – San Francisco-Oakland-San Jose region) as of November of each year.

Maximum Cap per Unit Type (a) (b)	Owner Move-In (R.M.C. 11.100.050(a)(6))		Withdrawal from Rental Market (R.M.C. 11.100.050(a)(7)) or Substantial Repairs (R.M.C. 11.100.050(a)(5)) or Due to a Governmental Agency's Order for the Tenant to Vacate the Rental Unit	
	Base Amount	Qualified Tenant Household Amount (c)	Base Amount	Qualified Tenant Household Amount (c)
Studio	\$3,400	\$3,950	\$6,850	\$7,850
1 Bedroom	\$5,250	\$6,050	\$10,500	\$12,100
2+ Bedroom	\$7,150	\$8,200	\$14,250	\$16,400

Note:

(a) If a Rental Unit is occupied by one Tenant then the entire per unit Relocation Payment shall be paid to the Tenant. If more than one Tenant occupies the Rental Unit, the total amount of the Relocation Payments shall be paid on a pro-rata share to each Eligible Tenant.

(b) The Relocation Payments will be calculated on a per Rental Unit basis, distributed on a per Tenant basis, and includes a maximum cap per Rental Unit.

(c) A "Qualified Tenant Household" is any household as defined in R.M.C. 11.102.020(i).

Temporary Relocation Payment

Amounts shown are for Fiscal Year 2016-17 and shall be adjusted annually, beginning January 1, based on the percentage change in the Consumer Price Index (All Urban Consumers – San Francisco-Oakland-San Jose region) as of November of each year.

Substantial Repairs (R.M.C. 11.100.050(a)(5)) or Due to Tenant Vacating the Rental Unit Due to a Governmental Agency's Order for the Tenant to Vacate the Rental Unit		
Per Diem Description	Amount	Term (a)
Hotel or Motel	\$145	<i>per day per household</i>
Meal Expenses	\$29	<i>per day per person</i>
Laundry	\$1	<i>per day per household</i>
Pet Accommodations	Cat - \$28	<i>per day per animal</i>
	Dog - \$51	<i>per day per animal</i>

Note:

(a) Applicable amounts shall be paid on a weekly basis, calculated on a daily basis, at a minimum. Alternatively, the Landlord may provide comparable housing located in Richmond as provided in subsection (i) of Section 11.102.030 RMC.

RENT DIFFERENTIAL PAYMENT

(Substantial Repairs (RMC, section 11.100.050 (a)(5) or because a tenant vacated a rental unit due to a governmental agency's order to do so)

Fair Market Rent as determined by the Richmond Housing Authority Payment Standards for its Housing Choice Voucher Program as of July 2017. These amounts may change annually.

0 Bedroom	\$1,363/month
1 Bedroom	\$1,637/month
2 Bedroom	\$2,064/month
3 Bedroom	\$2,866/month
4 Bedroom	\$3,303/month

The Rent Differential Payment shall be calculated by subtracting the lawful rent the tenant was paying at the time the tenant was served with a notice of temporary termination of tenancy or at the time the tenant vacated the rental unit due to a governmental agency order to do so and for which no notice of a termination of tenancy was served from the Fair Market Rent, as set forth above, based on the number of bedrooms of the tenant's rental unit. See Section 11.102.030, Richmond Municipal Code.

Section 2. Resolution No. 115-16 is hereby rescinded.

Section 3. This Resolution shall be effective upon the effective date of Ordinance No. 17-XX N.S.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held _____, 2017, by the following vote:

AYES:

NOES:

**ITEM F-3
ATTACHMENT 2**

ABSTENTIONS:

ABSENT:

CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

OCTOBER 18 AGENDA ITEM
AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: October 18, 2017

Final Decision Date Deadline: October 18, 2017

STATEMENT OF THE ISSUE: At its meeting on December 20, 2016, the Richmond City Council adopted a Relocation Ordinance and Resolution concerning relocation requirements for tenants in residential rental units in order, in part, to implement the voter-approved Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance. Staff is recommending certain amendments to the Ordinance and the Resolution to clarify certain issues and address matters not currently in the Ordinance or Resolution. While the authority to amend the Relocation Ordinance and Resolution ultimately lie with the City Council, it is appropriate that the Rent Board, as the legislative body associated with the City Department responsible for administering the Relocation Ordinance, conduct a review and put forth a recommendation to the City Council.

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> | |

ITEM

- | | | |
|---|--|---------------------------------|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) | | |
| <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Regulation | <input type="checkbox"/> Other: |
| <input type="checkbox"/> Contract/Agreement | <input checked="" 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: RECEIVE AND RECOMMEND TO THE RICHMOND CITY COUNCIL proposed amendments to Chapter 11.102 of the Richmond Municipal Code, and a revised resolution, concerning relocation requirements for Tenants of residential Rental Units – Rent Program (Michael Roush 621-1202).

AGENDA ITEM NO:

I-3.

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AGENDA REPORT

DATE: October 18, 2017

TO: Chair Gray and Members of the Rent Board

FROM: Michael Roush, Legal Counsel

SUBJECT: AMENDMENTS TO THE ORDINANCE AND A REVISED RESOLUTION CONCERNING RELOCATION REQUIREMENTS FOR TENANTS IN RESIDENTIAL RENTAL UNITS

STATEMENT OF THE ISSUE:

At its meeting on December 20, 2016, the Richmond City Council adopted a Relocation Ordinance and Resolution concerning relocation requirements for tenants in residential rental units in order, in part, to implement the voter-approved Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance. Staff is recommending certain amendments to the Ordinance and the Resolution to clarify certain issues and address matters not currently in the Ordinance or Resolution. While the authority to amend the Relocation Ordinance and Resolution ultimately lie with the City Council, it is appropriate that the Rent Board, as the legislative body associated with the City Department responsible for administering the Relocation Ordinance, conduct a review and put forth a recommendation to the City Council.

RECOMMENDED ACTION:

RECEIVE AND RECOMMEND TO THE RICHMOND CITY COUNCIL proposed amendments to Chapter 11.102 of the Richmond Municipal Code, and a revised resolution, concerning relocation requirements for Tenants of residential Rental Units – Rent Program (Michael Roush 621-1202).

FISCAL IMPACT:

There will be no measurable fiscal impact either to the Rent Board budget or the City's General Fund if these amendments/revisions are adopted. It is not expected that these changes will have a significant financial impact on the administrative of the Rent Program.

DISCUSSION:

Background

Measure L, the Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (“Rent Ordinance”), adopted by the voters in November 2016 and codified in Chapter 11.100 of the Richmond Municipal Code, provides that a landlord seeking to recover possession of a rental unit to undertake substantial repairs, due to an “owner move in” or withdrawal of the rental unit from the rental market shall make relocation payments to a displaced tenant. The Rent Ordinance provides the amount of the relocation payment shall be determined by the City Council through a Relocation Ordinance. Section 11.100.050 (b), Richmond Municipal Code.

To that end, on December 20, 2016, the City Council adopted Ordinance 22-16 N.S, establishing relocation requirements for tenants of residential rental units, codified in Chapter 11.102, Richmond Municipal Code (“Relocation Ordinance”). In addition, the City Council also adopted Resolution No. 115-16, establishing the amount of Temporary and Permanent Relocation Payments as created by Chapter 11.102.

As Rent Program staff members have implemented both the Rent Ordinance and Relocation Ordinance, staff members have discovered that certain provisions concerning relocation payments have either not been adequately addressed or need further clarification.

For example, those situations where a tenant is required to vacate a rental unit due to a governmental order to do so are not addressed in either Chapter 11.100 or in Chapter 11.102. For example, the City’s Building or Fire Department may determine that there are such severe health and safety risks in a rental unit that the unit is not habitable and is not safe for a tenant to remain in the unit. In that case, the Department would issue an immediate order to vacate. (The order also directs the owner to take immediate steps to correct the violation so that the unit is habitable and the tenant can re-occupy the unit.) Although this does not occur frequently (about a dozen time each year), the obligations of the landlord to provide relocation payments to the tenant is currently not spelled out expressly in the Ordinances.

Furthermore, certain provisions of Chapter 11.100 are vague. For example, when a tenant must vacate a unit to allow repairs to be made in or to the unit (a temporary termination of the tenancy [see section 11.100.050 (a)(5), RMC] or pursuant to a governmental order to do so) and the landlord believes the repairs will take 60 or fewer days, the language in the Rent Ordinance is vague concerning when the temporary relocation payments must be made, and unclear as to whether or not the tenant must pay rent if the time to complete the repairs exceeds 60 days. See Section 11.100.050 (a) (5) (B), Richmond Municipal Code. In addition, if a landlord must pay temporary relocation benefits, the landlord would pay a tenant at least \$5,250 per month in such payments. Although the tenant would be responsible to pay the landlord rent upon receipt of the temporary relocation benefits, generally a tenant would be the beneficiary

of a significant financial windfall if the temporary relocation payments were to continue for a significant period.

As to a Permanent Relocation Payment, the Relocation Ordinance references the Rent Ordinance that allows for an “owner move in” for the landlord, the landlord’s spouse, child, parent or grandparent. Neither Ordinance, however, includes a landlord’s registered domestic partner as a permitted “owner move in” and neither indicates what the legal relationship, e.g., birth, blood, marriage, etc., between the landlord the relative moving in for the move in must be for the owner move in to be valid. See Section 11.100.050 (a) (6), Richmond Municipal Code.

The Ordinances also do not address whether a landlord is responsible for payment of relocation fees if, through no fault of the Landlord, there is a fire, flood, earthquake or other natural disaster that renders the rental unit uninhabitable, or for relocation payments if the tenant has caused the rental unit to be uninhabitable.

Chapter 11.102 (at subsection (c) of Section 11.102.050) enables the City Council to provide a greater relocation payments to certain “Qualified Tenant Households” (which term is used in the enabling payment schedule resolution but is not currently defined in the Ordinance) and the subsection fails to include a tenant who is terminally ill but (under very limited circumstances) must vacate a rental unit due to an owner move in.

Although Chapter 11.102 does provide that relocation fees are to be paid to the tenant, it does not provide when those fees must be paid. See Section 11.102.070 (b), Richmond Municipal Code.

Finally, Section 11.102.100, Richmond Municipal Code, does provide if the Landlord fails or refuses to provide relocation fees to a tenant, the City may do so and then seek to recover from the landlord its financial outlay (e.g., administrative and investigative costs, attorneys’ fees, etc.). Similarly, if a landlord has violated the Ordinance, the City may pursue its investigate costs, costs of enforcement and reasonable attorneys’ fees. The Ordinance, however, does not provide a procedure for those unpaid costs to be placed as a lien on the landlord’s property.

To address these matters, as well as certain “housekeeping” items, staff proposes certain amendments to Chapter 11.102, as shown in the attached redlined version of the Ordinance, the most significant of which are discussed below.

Significant Proposed Amendments

1. When Relocation Payment is Required (Section 11.102.030)

Staff members propose the Rent Board recommend to the City Council significant amendments to Section 11.102.030 in several respects. First, if a tenant must vacate a rental unit due to substantial repairs (Section 11.100.050 (a)(5), RMC) and the landlord has served a notice of a temporary termination of tenancy, the landlord must inform the

tenant in writing how long the landlord believes the tenant will be displaced while the work is undertaken. If the landlord informs the tenant that the repairs will be completed within 60 days (so that the tenant may re-occupy the rental unit), the landlord is not required to make temporary relocation payments during the period of repairs but the tenant is not required to pay rent. If the repairs take longer than 60 days but less than 120 days, regardless of whether the landlord has told the tenant the repairs will be completed within 60 days, the landlord must make temporary relocation payments and the tenant, upon receipt of temporary relocation payments must pay the lawful rent that was in effect when the tenant was served with the notice of temporary termination. But if the repairs take longer than 120 days, and regardless of what the landlord has told the tenant about how long it will take to make the repairs, the landlord would then be required to make what are called “Rent Differential Payments.” See subsections (a) and (d), Section 11.102.030.

“Rent Differential Payment” is a new defined term (subsection (j), Section 11.102.020) and means the difference between the rent the tenant was paying at the time the tenant was served with the notice to terminate temporarily the tenancy, and the Fair Market Rent (FMR) for a comparable unit (based on the number of bedrooms), as established by the Richmond Housing Authority for payment standards under its Housing Choice Voucher Program (the Section 8 program). For example, under such standards, the FMR for a one bedroom unit in Richmond is \$1,637. If the rent the tenant was paying at the time of displacement was \$1,200 for a one bedroom unit, the landlord would be required to make a Rent Differential Payment of \$437 monthly to the tenant. Moreover, the tenant would not be required to pay rent to the landlord while receiving a Rent Differential Payment. The landlord would continue to make a Rent Differential Payment until the work was completed and the tenant could re-occupy the unit or until the tenant found alternative, permanent housing. In the former case, the tenant would pay the same rent as when the tenant was displaced, subject to lawful adjustments to the rent; in the latter case, the landlord would also be responsible for making a Permanent Relocation Payment to the tenant. See subsections (a) and (d), section 11.102.030.

The goal here is for the landlord as expeditiously as possible to make the repairs to the rental unit so that the tenant may re-occupy the unit. By imposing on the landlord Temporary Relocation Payments (if the repairs were not completed within 60 days), followed by a Rent Differential Payment (if the repairs were not completed within 120 days), with the possibility of a Permanent Relocation Payment if the work was not completed within 120 days and the tenant found alternative, permanent housing, it is believed that landlords will be motivated financially to undertake the repairs in a timely manner.

Second, as mentioned in the “Background” section, there may be instances where a tenant is required to vacate a rental unit due to a governmental order to do so, even though a landlord has not served a notice of temporary termination of tenancy. In that case, somewhat different provisions would apply. The difference is that under those circumstances, the need for Temporary Relocation Payments is likely to arise suddenly, and the need for relocation benefits immediate. Therefore, the obligation for landlords

to make Temporary Relocation Payments begins immediately and the obligation to make Rent Differential Payments (and the potential to make a Permanent Relocation Payment) begins after 60, not 120, days. Again, the goal is to motivate the landlord financially to complete the repairs and have the tenant back in the unit as soon as possible. See subsections (b) and (e), section 11.102.030.

Third, the owner move in Permanent Relocation Payment section is proposed to be amended to include as an owner not only the landlord, the landlord's spouse, child, parent or grandparent but also a landlord's domestic partner and that an enumerated relative may be related to the landlord by blood, birth, adoption, marriage or registered domestic partnership. See Section 11.102.030 (f). Moreover, as provided in the Rent Ordinance, should the landlord or the enumerated relative move out, the displaced tenant will have the right of first refusal to re-occupy the rental unit. The Rent Board, however, will need to adopt subsequent regulations to flesh out the details of this right, for example, whether that right expires after a certain number of years, what rent may be charged if the displaced tenant re-occupies, etc.

Fourth, the Permanent Relocation Payment section concerning the permanent withdrawal of rental units from the rental market is proposed to be amended to be consistent with recently adopted Rent Board Regulation 17-07, adopted September 20, 2017. Regulation 17-07 provides that a tenant who resides in a lower income household, or belongs to a household that has at least one minor child, must be provided one year's, not 120 days', notice before the tenancy may be terminated. (Tenants who are at least 62 or who are disabled also must receive one year's notice.) A displaced tenant also has the right of first refusal for up to ten years if the landlord decides to return the rental unit to the rental market. See Section 11.102.030 (f) and Board Regulation 17-07.

Fifth, and consistent with state law, staff members propose that a landlord not be responsible for relocation payments if a governmental agency has determined the rental unit is not habitable and has ordered the rental unit to be vacated due to (1) a fire, flood, earthquake or other natural disaster that the landlord did not cause or contribute to the condition giving rise to the order to vacate or (2) a tenant, or a tenant's guest, who has caused or substantially contributed to the condition giving rise to the order to vacate. As also provided by state law, either the landlord or tenant may appeal to the Rent Board the governmental agency's determination concerning the landlord's or the tenant's cause/contribution to the condition giving rise to the order to vacate. See Section 11.102.030 (g) and (h).

Finally, as provided in the City Council's resolution establishing the relocation payments, a landlord may provide "comparable housing located in Richmond" to a tenant in lieu of temporary relocation payments. This concept is embodied in the Ordinance, as well as in the revised resolution, with the proviso that it will be the tenant's sole determination whether the rental unit that the landlord offers is "comparable". See Section 11.102.030 (i).

2. Amount of the Relocation Payment (Section 11.102.050).

Subsection (c) of Section 11.102.050 provides the City Council may adopt a greater relocation payment to certain displaced tenants, i.e., tenants who are disabled, senior citizens or are in a household with at least one minor child. For example, in the City Council resolution that establishes the relocation payment fee schedule, for a one bedroom unit, the typical relocation payment with an owner move in is \$5,250; for the displaced tenants described above (identified as “Qualified Tenant Households” in the resolution), the relocation payment is increased to \$6,050. Similarly, in the case of the withdrawal of a rental unit from the rental market, the typical relocation payment for a one bedroom unit is \$10,500; for Qualified Tenant Households, the payment is increased to \$12,100.

Subsection (c) of Section 11.102.050 fails to state, however, that tenants who are terminally ill and must nevertheless vacate when the owner or enumerated relative moving into the unit is also terminally ill (an event this is unlikely to occur many times) are also eligible for an increased relocation payment. To rectify this inconsistency, staff members propose the addition of “Qualified Tenant Household” as a defined term (see subsection (i), Section 11.102.020) that includes such displaced tenants, and revise subsection (c) of Section 11.102.050 consistent therewith. In addition, there may be other instances where tenants are displaced permanently, such as with substantial rehabilitation or capital improvements, and staff is recommending that the resolution establishing the relocation payment schedule be amended to provide the increased payment for tenants who are Qualified Tenant Households yet displaced because the owner or the enumerated relative is terminally ill.

3. Distribution of Relocation Payment to Eligible Tenants (Section 11.102.070).

As to permanent relocation payments arising out of an owner move in or withdrawal of the unit from the rental market, staff proposes that half of such payments be made within three (3) business days after the tenant has informed the landlord that the tenant will vacate the unit on the date provided in the notice to terminate the tenancy and the other half within three (3) business days of the tenant’s having vacated the unit (including removing all of the tenant’s property from the property) on (or within two days after) the agreed upon vacation date. Section 11.102.070 (b). When a landlord must provide Permanent Relocation Payments arising out of substantial repairs or a governmental order to vacate, the full amount of such payments must be made within three (3) business days of the tenant’s removing all the tenant’s property from the rental unit property. Section 11. 102. 070 (c). Temporary Relocation Payments, if required, would be paid as provided in the Resolution adopted by the City Council (generally, weekly, based on daily rates set forth in the Resolution). Section 11.102.070 (d). Rent Differential Payments, if required, would be made on the first of each month as provided in staff members’ recommended revised Council Resolution concerning Relocation Payments. Section 11. 102.070 (d). Additionally, Landlords would be required to file

with the Rent Program within three (3) business days of the payment proof that the payments had been made. Section 11.102.070 (f).

4. Recovery of Costs (Section 11. 102.105).

Under the amendments, if the City or the Rent Board has chosen to provide relocation payments to a tenant because the landlord has failed or refused to do so, and/or the City/Rent Board investigates or pursues an enforcement action due to a person's violation of the Ordinance (see Section 11.102.100), and the landlord fails or refuses to reimburse the City/Rent Board for its financial outlay, a new section has been added to Chapter 11.102 to create a procedure for the City to "lien" the landlord's property and recover these costs through the property tax bill. Section 11.102.105.

5. Housekeeping Items.

The proposed amendments also include housekeeping items. For example, the amendments redefine "Eligible Tenant", "Permanent Relocation Payment" and "Temporary Relocation Payment". See subsections (d), (g) and (o), section 11.102.020. As discussed above, the amendments add "Rent Differential Payment" and "Qualified Tenant Household" as defined terms so those terms are consistent with how the terms are used in the substantive changes discussed above and in the proposed revised Council resolution. The definition of "Rental Unit" is expanded to include any dwelling unit, whether approved as such or not and regardless of how the property is zoned. See subsection (m), 11.102.020. Section 11.102.110 has been revised to reference the correct section of Chapter 11.100 as to the rental units that are exempt under Chapter 11.100.

Conclusion

Although at first glance it might appear the revisions to the Relocation Ordinance and Resolution are significant, a closer look reveals that most of the changes address the "what ifs" arising out of situations where tenants are displaced temporarily due to substantial repairs or uninhabitable conditions or arise out of the need for consistency with the Rent Ordinance or adopted Board regulations. Staff members believe these amendments are warranted and will enable Rent Program staff members to administer the Program more efficiently, provide clear direction to landlords and confer additional protections to tenants. Accordingly, staff members recommend the Rent Board recommend to the Richmond City Council that the amendments to the Relocation Ordinance and a revised Resolution be adopted.

DOCUMENTS ATTACHED:

Attachment 1 – Redlined version of Ordinance No. 22-16, Concerning Relocation Requirements for Tenants of Residential Rental Units

Attachment 2 – “Clean” version of a revised Ordinance Concerning Relocation Requirements for Tenants of Residential Rental Units

Attachment 3 – Redlined version of Resolution No. 115-16 Establishing the Amount of Relocation Payments

Attachment 4 – “Clean” version of a revised Resolution Establishing the Amount of Relocation Payments

OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

ORDINANCE NO. XX-17 N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND
AMENDING SECTION 1 (PART) OR ORDINANCE NO. 22-16 N.S. AND SECTIONS
11.102.020, 11.102.030, 11.102.040, 11.102.050, 11.102.060, 11.102.070, 11.102.080,
11.102.100 AND 11.102.110 OF CHAPTER 11.102 OF THE RICHMOND MUNICIPAL
CODE, AND ADDING SECTION 11.102.105 TO THE RICHMOND MUNICIPAL CODE,
CONCERNING RELOCATION REQUIREMENTS
FOR TENANTS OF RESIDENTIAL RENTAL UNITS**

WHEREAS, the “Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance” initiative was passed by the voters in the City of Richmond on November 8, 2016; and

WHEREAS, the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance requires that landlords seeking to recover possession under certain sections of that ordinance must make relocation payments to each tenant in amounts to be determined by the City Council through a Relocation Ordinance; and

WHEREAS, the provision of such relocation payments shall help to mitigate the challenges faced by tenants who are ordered to vacate a rental unit through no fault of the tenant; and

WHEREAS, on December 20, 2016, the Richmond City Council added Chapter 11.102 to the Richmond Municipal Code to establish the relocation requirements for tenants of residential rental units (the “Relocation Ordinance”); and

WHEREAS, in implementing the Relocation Ordinance, the Rent Program staff has discovered that there are “gaps” or ambiguities in the Ordinance that need to be addressed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND does ordain as follows:

SECTION I. Section 1 of Ordinance No. 22-16 N.S. and Sections 11.102.020, 11.102.030, 11.102.040, 11.102.050, 11.102.060, 11.102.070, 11.102.080, 11.102.100 and 11.102.110 of Chapter 11.102 of the Richmond Municipal Code are amended, and Section 11.102.105 is added to Chapter 11.102, to read as follows:

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“11.102.020 Definitions.

The following terms shall have the following meanings:

Subsection (a) no change.

OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

(b) “Displacement Plan” means a plan provided by the Landlord to satisfy the requirements of Section 11.102.060 (b), which must be approved by the Rent Board~~City~~ prior to service of notice to terminate a tenancy or within a reasonable time, as determined by the Executive Director, following a Tenant’s vacating a Rental Unit pursuant to a governmental agency’s order to vacate and for which no notice to terminate a tenancy was served. ~~The Displacement Plan shall identify any special needs of the displaced Tenants, identify the types of assistance that will be provided and include a commitment to pay for such assistance.~~

Comment [O1]: This is now in section 11.102.060 (b)

Subsection (c), no change.

(d) “Eligible Tenant” means any Tenant entitled to be paid a Relocation Payment pursuant to this Chapter because (i) the Tenant’s~~whose~~ tenancy was~~is~~ terminated for any of the reasons set forth in Section 11.100.050 (a)(5),(6) or (7) of the Richmond Municipal Code or pursuant to an approved Capital Improvement Plan or (ii) the Tenant has vacated a Rental Unit pursuant to a governmental agency’s order to vacate and for which no notice to terminate a tenancy was served~~this Chapter and who shall be paid a Relocation Payment pursuant to this Chapter.~~

Subsections (e) and (f), no change.

(g) “Permanent Relocation Payment” means the payment required to be paid to a Tenant by any Landlord (i) who takes action to terminate a tenancy pursuant to Richmond Municipal Code Section 11.100.050 (a) (6) (Owner Move-in), or Section 11.100.050 (a)(7) (Withdrawal from the Rental Market) or pursuant to an approved Capital Improvement Plan or (ii) when the Tenant has permanently vacated a Rental Unit pursuant to a governmental agency’s order to vacate and for which no notice to terminate a tenancy was served.

Subsection (h), no change.

(i) “Qualified Tenant Household” means a household with a Tenant who is displaced for any reason other than just cause and who (i) is a Senior Citizen, (ii) is Disabled, (iii) has at least one child under the age of 18 years living in the household or, (iv) is displaced due to an owner move in and the Tenant is terminally ill.

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Current subsection (i), no change, but reletter to (j).

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(kj) “Relocation Payment” means the payment required to be paid by any Landlord who takes action to terminate tenancy for any of the reasons set forth in Section 11.102.030 of this Chapter, separate from any security or other refundable deposits as defined in California Civil Code, Section 1950.5.

(l) “Rent Differential Payment” means the difference between the lawful Rent that the Tenant was paying at the time of displacement and the fair market rent, as established by the Richmond Housing Authority as the payment standards for the Housing Choice Voucher Program, for a comparable Rental Unit based on the number of bedrooms.

(mk) “Rental Unit” means any dwelling unit (whether approved as such or not), building, structure, or part thereof, or land appurtenant thereto, or any rental property rented or offered for rent for residential purposes, even if the property itself is not zoned for such use, together with all Housing Services connected with the use or occupancy of such property such as common areas and recreational facilities held out for use by the Tenant.

OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

Current subsection (l), no change, but reletter to (n).

~~(m)~~(o) “Temporary Relocation Payment” means the payment required to be paid to a Tenant by any Landlord (i) who takes action to terminate a tenancy pursuant to Richmond Municipal Code Section 11.100. 050 (a)(5) (Temporarily Vacate in Order to Undertake Substantial Repairs) or pursuant to an approved Capital Improvement Plan or (ii) when the Tenant has temporarily vacated a Rental Unit pursuant to a governmental agency’s order to vacate and for which no notice to terminate a tenancy was served.

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~~(n)~~ (p) “Tenant” means a tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a Rental Housing Agreement to the use or occupancy of any Rental Unit.

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11.102.30 When Relocation Payment is required.

- (a) Subject to subsection (d) of this Section 11.102.030, a Landlord who takes action to temporarily terminate a tenancy for the reasons specified in Section 11.100.050 (a)(5) of the Richmond Municipal Code shall provide to the Tenant pursuant to the requirements of this Chapter (i) a Temporary Relocation Payment, (ii) a Rent Differential Payment if the displacement lasts more than 120 days and (iii) a Permanent Relocation Payment if the displacement lasts more than 120 days and the Tenant finds alternative, permanent housing, shall be provided pursuant to the requirements of this Chapter by any Landlord who takes action to terminate tenancy for the reasons specified in Section 11.100.050(a)(5) of the Richmond Municipal Code, is reproduced in part below:

The Landlord, after having obtained all necessary permits from the City of Richmond, seeks in good faith to undertake substantial repairs which are necessary to bring the property into compliance with applicable codes and laws affecting the health and safety of Tenants of the buildings or where necessary under an outstanding notice of code violations affecting the health and safety of Tenants of the building, and where such repairs cannot be completed while the Tenant resides on the premises.

- (b) Subject to subsection (e) of this Section 11.102.030, if a Tenant has vacated a Rental Unit in compliance with a governmental agency’s order to vacate affecting the health or safety of the Tenant in the Rental Unit, regardless of whether the Landlord has taken action to terminate the tenancy as provided in subsection (a) of this Section 11.102.030, the Landlord shall provide to the Tenant pursuant to the requirements of this Chapter (i) a Temporary Relocation Payment (ii) a Rent Differential Payment if the displacement lasts more than 60 days and (iii) a Permanent Relocation Payment if the displacement lasts more than 60 days and the Tenant finds alternative, permanent housing.

OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

(c) A Landlord shall provide to a Tenant a Temporary Relocation Payment, a Rent Differential Payment (if applicable) or a Permanent Relocation Payment, pursuant to the requirements of an approved Capital Improvement Plan.

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(d) If the Landlord informs the Tenant in writing the work to the Rental Unit will be completed in less than 60 days, the Landlord shall not be required to make a Temporary Relocation Payment and the Tenant shall not be obligated to pay Rent the tenant re-occupies the Rental Unit. If the Landlord informs the Tenant in writing that the work to the Rental Unit will be completed between 60 and 120 days or if the Landlord has informed the Tenant in writing that the work to the Rental Unit will be completed in less than 60 days but the work did not get completed within 60 days, (i) the Landlord shall after 60 days make Temporary Relocation Payments to a Tenant until the Tenant re-occupies the Rental Unit within the 120 day period and (ii) the Tenant, upon receipt of Temporary Relocation Payments, shall pay the lawful Rent in effect when the Landlord served the Tenant with the notice of temporary termination of tenancy, plus any adjustments as permitted under Chapter 11.100 of the Richmond Municipal Code and Rent Board Regulations. If the Landlord informs the Tenant in writing that the work will take longer than 120 days or if the work in fact takes longer than 120 days notwithstanding the Landlord's previously informing the Tenant the work would be completed in less than 120 days, the Landlord shall first make Temporary Relocation Payments to the Tenant as provided in this subsection (d) and, after 120 days, the Landlord shall make Rent Differential Payments to the Tenant until either the Tenant re-occupies the Rental Unit or the Tenant informs the Landlord that the Tenant has found alternative, permanent housing. A- Tenant shall have no obligation to pay Rent to the Landlord when receiving Rent Differential Payments. If the Tenant re-occupies the Rental Unit, the Tenant shall pay the lawful Rent in effect when the Landlord served the Tenant with the notice of temporary termination of tenancy, plus any adjustments to the Rent as permitted under Chapter 11.100 of the Richmond Municipal Code and Rent Board Regulations. If the Tenant finds alternative, permanent housing, the Landlord shall make a Permanent Relocation Payment, in addition to other Relocation Payments or Rent Differential Payments as set forth in this subsection (d).

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(b)

(e) If the Landlord informs the Tenant in writing the work to the Rental Unit will be completed in less than 60 days, the Landlord shall immediately make Temporary Relocation Payments to the Tenant until the Tenant re-occupies the Rental Unit during the 60 day period and the Tenant, upon receipt of the Temporary Relocation Payment, shall be obligated to pay the lawful Rent that was in effect at the time the Tenant was required to vacate the Rental Unit pursuant to a governmental order to do so, plus any adjustments as permitted under Chapter 11.100 of the Richmond Municipal Code and Rent Board Regulations. If the work to the Rental Unit takes longer than 60 days to complete, the Landlord shall make Rent Differential Payments to the Tenant until either the work is completed and the Tenant re-occupies the Rental Unit or the Tenant informs the Landlord the

OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

Tenant has found alternative, permanent housing. A Tenant shall have no obligation to pay Rent to the Landlord when receiving Rent Differential Payments. If the Tenant re-occupies the Rental Unit, the Tenant shall pay the lawful Rent in effect when the Tenant was required to vacate the Rental Unit pursuant to a governmental order to do so, plus any Rent adjustments as permitted under Chapter 11.100 of the Richmond Municipal Code and Rent Board Regulations. If the Tenant finds alternative, permanent housing, the Landlord shall make a Permanent Relocation Payment, in addition to other Relocation Payments or Rent Differential Payments as set forth in this subsection (e).

(f) A Permanent Relocation Payment shall be provided pursuant to the requirements of this Chapter by any Landlord who takes action to terminate a tenancy for the reasons specified in Section 11.100.050(a)(6) or Section 11.100.050(a)(7) of the Richmond Municipal Code, reproduced in part below and/or as specified in Rent Board Regulations:

Owner Move-In. The Landlord seeks to recover possession in good faith for use and occupancy as a Primary Residence by the Landlord, or the Landlord's spouse, registered domestic partner, child, ~~ren~~, parents or grandparents, whether by blood, birth, adoption, marriage, or domestic registered partnership. A Tenant will have the right of first refusal to return to the Rental Unit if the Landlord or enumerated relative vacates the Rental Unit as provided in Rent Board Regulations.

Withdrawal From Rental Market. The Landlord seeks in good faith to recover possession to withdraw all Rental Units of an entire property located in the City of Richmond. The Landlord has filed the documents with the Board initiating the procedure for withdrawing Units from rent or lease under Government Code Section 7060 et. seq. and all regulations passed by the Board, with the intention of completing the withdrawal process and going out of the rental business or demolition of the property. If demolition is the purpose of the withdrawal then the Landlord must have received all needed permits from the City of Richmond before serving any notices ~~t~~Terminating a tenancy based on 11.100.50(a)(7). Tenants shall be entitled to a 120-day notice or a one (1) year notice if in the case (i) a Tenant is defined as a Senior Citizen, as defined in Section 11.102.020, or (ii) the Tenant is disabled, as defined in Section 11.102.020, (iii) the Tenant's household is a lower income household, as defined in California Health and Safety Code section 50079.5 or (iv) the Tenant has at least one minor dependent child residing in the household under Government Code Section 7060.4(6). ~~AT~~Tenants will also have a right of first refusal to return if the Rental Unit is placed back on the market as provided in Rent Board Regulations.

(g) Notwithstanding subsections (a) and (b) of this Section 11.102.030, a Landlord shall not be liable for a Temporary Relocation Payment, a Rent Differential Payment or a Permanent Relocation Payment if the governmental agency that ordered the Rental Unit, or the structure in which the Rental Unit is located, to be vacated determines the Rental Unit or the structure must be vacated as a result of:

OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

1. A fire, flood, earthquake or other natural disaster, or other event beyond the control of the Landlord and the Landlord did not cause or contribute to the condition giving rise to the governmental agency's order to vacate; or
2. Any Tenant, or the guest or invitee of any Tenant, who has caused or substantially contributed to the condition giving rise to the order to vacate;

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(h) In the situations described in paragraphs 1 and 2 of subsection (g) of this section 11.102.030, either a Landlord or a Tenant may appeal to the Rent Board the determination of the governmental agency, following the procedures, to the extent applicable, set forth in Section 11.100.070 (d) , Richmond Municipal Code.

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(i) Notwithstanding subsections (d) and (e) of this Section 11.102.030, a Landlord, in lieu of making Temporary Relocation Payments or Rent Differential Payments may offer the Tenant a comparable Rental Unit in Richmond while the work on the displaced Tenant's Rental Unit is being completed. The Tenant, in the Tenant's sole discretion, will determine whether the Rental Unit that the Landlord offers is a comparable Rental Unit. If the Tenant accepts the offer and occupies the comparable Rental Unit, the Tenant shall pay no more than the lawful Rent the Tenant was paying at the time the Tenant was served with the notice to temporarily terminate the tenancy or at the time the Tenant vacated the Rental Unit if a governmental agency ordered the Rental Unit be vacated and no notice of temporary termination of tenancy was served. If the Tenant accepts the offer, the Landlord shall (i) pay the Tenant's reasonable and documented moving expenses to the comparable Rental Unit and from the comparable Rental Unit to the Tenant's Rental Unit and (ii) continue to make Temporary Relocation Payments or Rent Disfferential Payments until the Tenant has fully occupied the comparable Rental Unit.

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11.102.040 Notice of Entitlement to Tenants/Right of First Refusal

- (a) Any notice to terminate a tenancy temporarily which is served by a Landlord to a Tenant for any of the reasons set forth in subsections (a) or (c) of Section 11.102.030 shall be accompanied by the appropriate completed notice of entitlement to either a Temporary ~~or Permanent~~ Relocation Payment form, a Rent Differential Payment form and a Permanent Relocation Payment form, available on the Rent ProgramCity's website. As to any Tenant who vacates a Rental Unit for any of the reasons set forth in subsection (b) of Section 11.102.030, the Landlord must provide to the Tenant within two business days of the Tenant's vacating the Rental Unit the appropriate completed notice of entitlement to a Temporary Relocation Payment, a Rent Differential Payment form and a Permanent Relocation Payment form,

OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

available on the Rent Program website. The contents of such notice shall include but are not limited to:

(Paragraphs (1) and (2), no change.)

(b) A notice of entitlement to a Temporary Relocation Payment and/or Rent Differential Payment form shall include a summary of the repairs to be undertaken and the estimated duration of relocation. The Landlord shall notify the Tenant when repairs are completed and provide the Tenant with the first right of refusal to re-occupy the unit pursuant to Section 11.100.050 (a)(5)(D), Richmond Municipal Code. If the estimated duration of relocation changes, the Landlord shall provide the Tenant with at least seven days' advance notice of a such change ~~to the anticipated relocation period.~~

(c) All Landlords shall be required to file with the Rent Board a copy of the notice of entitlement described in this section 11.102.040 with the City within one (1) week of serving the Tenant such notice. A proof of service with time and date of service of such notice shall be included with the copy of such notice filed with the Rent Board~~City.~~

~~(b)~~ (Subsection (d), no change.)

11.102.050 Amount of Relocation Payment

(Subsections (a) through (b), no change.)

(c) The City Council may adopt a greater Relocation Payment amount for a Qualified Tenant Household, Disabled and/or Senior Citizen Tenants and/or household with least one child under the age of 18 years.

(d) The Relocation and Rent Differential Payments will be distributed on a pro-rata basis to each Eligible Tenant ~~basis,~~ but may include a maximum cap per Rental Unit.

11.102.060 Fees Required for Relocation Assistance or Displacement Plan Review

(a) For each Rental Unit from which Tenants are displaced for any of the reasons set forth in Section 11.102.030, prior to service of a notice to terminate tenancy or within two business days of a Tenant's vacating the Rental Unit due to a governmental agency's order to vacate and for which no notice to terminate a tenancy was served, the Landlord shall pay to the Rent Board~~City~~ a Relocation Assistance Fee to be used by the Rent Board~~City~~ to pay for counseling or other assistance for Tenants who must relocate for any reason specified in Section 11.102.030 of this Chapter. The amount of the fee shall be determined periodically by a resolution of the City Council.

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OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

(b) In lieu of the fee required by subsection (a) of this Section 11.102.060, a Landlord may prepare a Displacement Plan which must be approved by the Executive DirectorCity prior to service of notice to terminate tenancy or within a reasonable time, as determined by the Executive Director, following a Tenant's vacating a Rental Unit pursuant to a governmental agency's order to do so and for which no notice to terminate a tenancy was served. The Displacement Plan shall identify any special needs of the displaced Tenants, identify the types of assistance that will be provided and include a commitment to pay for such assistance. At the time of submitting the Displacement Plan to the Executive DirectorCity for review and approval, the Landlord shall pay a Displacement Plan Review Fee to the Rent BoardCity for such review and approval. The amount of the fee shall be determined periodically by a resolution of the City Council.

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~~(a)~~ (Subsection (c), no change.)

11.102.070 Distribution of Relocation Payment to Eligible Tenants.

(Subsection (a), no change.)

(b) After taking into account any adjustments in the amount of the Relocation Payment and/or Rent Differential Payment pursuant to Section 11.102.090, when the Tenant has been served with a notice to vacate the Rental Unit under Section 11.100.050 (a) (6) or (7), Richmond Municipal Code, the Landlord shall pay one-half (1/2) of the applicable Permanent Relocation Payment within three business days after when the Tenant has informed the Landlord in writing that of the date when the Tenant will vacate the Rental Unit on the date provided in the notice terminating the tenancy and the other half within three business days after upon certification that the Tenant has vacated the Rental Unit before, on or within two calendar days after the date provided in the notice and the Tenant has removed all of the Tenant's personal property from the Landlord's property, including a storage unit.

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(c) After taking into account any adjustments in the amount of the Relocation Payment and/or Rent Differential Payment pursuant to Section 11.102.090, when the Tenant has informed the Landlord in writing the Tenant has found permanent housing as provided in subsections (d) or (e) of Section 11.102.030, the Landlord shall pay the full amount of the applicable Permanent Relocation Payment within three business days thereof or within three business days after the Tenant has removed all of the Tenant's personal property from the Rental Unit or other property of the Landlord, such as a storage unit, whichever is later.

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(d) After taking into account (i) any adjustment in the amount of the Relocation Payment and/or Rent Differential Payment pursuant to Section 11.102.090 and (ii) subsections (d) and (e) of Section 11.102.030, as to any Tenant who is entitled to receive a Temporary Relocation Payment and/or a Rent Differential Payment as provided in subsections (a), (b) or (c) of Section 11.102.030, the Landlord shall

OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

make such Payment in the amount and as provided in the applicable City Council Resolution.

(e) After taking into account (i) any adjustments in the amount of the Relocation Payment and/or Rent Differential Payment pursuant to Section 11.102.090, as to any Tenant is entitled to receive a Permanent Relocation Payment under subsection (c) of Section 11.102.030, the Landlord must within three business days pay to the Tenant the full amount of the Permanent Relocation Payment in the amount and as provided in the applicable City Council Resolution.

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(f) A Landlord shall within three business days of providing a Tenant with a Temporary Relocation Payment, a Rent Differential Payment or a Permanent Relocation Payment file with the Rent Board a proof of service with the time and date when the Landlord made such Payment.

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11.102.080 Prohibition against agreements and waiver of rights under this Chapter.

No Landlord shall do any of the following with respect to a Tenant Rental Unit(s):

- (a) Enter into an agreement or attempt to enforce an agreement with a Tenant which prohibits or limits the Tenant from participating in the City's public process, including speaking at a meeting of the City Council or any City Commission or Board, submitting written comments to the City, or otherwise communicating with City elected officials, appointed officials and employees on any subject. Any such contractual term which violates this section is against public policy and is void.
- (b) Unless otherwise specially authorized, no Landlord shall attempt to secure from a Tenant any waiver of any provision of this Chapter. Any agreement, whether written or oral, whereby any provision of this Chapter is waived, is against public policy and is void.

(Section 11.102.090 Coordination with other relocation requirement, no change.)

Section 11.102.100 Remedies

(Subsections (a) and (b), no change.)

(c) If a Landlord fails or refuses to provide Relocation Payments required by this Chapter, and City and/or the Rent Board through adopted Regulations chooses to provide such Relocation Payments ~~pay such benefits~~ to a Tenant in the Landlord's place ~~through adopted regulations~~, the City and/or the Rent Board shall have the right to recover from the Landlord as restitution in any legal action such monetary outlays, plus administrative fees, investigative costs, costs of

OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

enforcement, and reasonable attorneys' fees incurred by the City and/or the Rent Board ~~from the Landlord as restitution in any legal action.~~

(d) Any person violating this Chapter shall be required to reimburse the City and/or the Rent Board its full investigative costs, costs of enforcement and reasonable attorneys' fees.

~~(d)~~(e) The recovery of the costs and fees of the items set forth in subsections (c) and (d) of this Section 11.102.100 may also be recovered as provided in Section 11.102.105.

(Subsection (e), no change, but re-letter to subsection (f).)

11.102.105. Recovery of costs.

(a) If (i) the City/Rent Board has chosen to provide Relocation Payments to a Tenant in place of the Landlord as set forth in subsection (c) of Section 11.102.100 and (ii) such Landlord fails or refuses to pay the City/Rent Board for providing Relocation Payments to a Tenant and/or the City's/Rent Board's investigative costs, costs of enforcement, administrative fees and reasonable attorneys' fees, the Director of Finance shall mail the Landlord a final request for payment for the amounts owed. The final request shall include a warning notice that if these unpaid items are not paid within thirty (30) days, they will be placed on the Landlord's real property tax rolls. The warning notice shall include information concerning the additional administrative charges that will become due if a lien is recorded against the Landlord's property, and that the City shall assess the Landlord's property on the next property tax statement if these unpaid items charged to a Landlord according to the most recent property assessment rolls of the County Assessor are unpaid.

(b) If the payment is not made by the Landlord within thirty (30) days, the Director of Finance shall send a certified notice which shall contain the name or names of the Landlord, the address of the property and the amount unpaid.

(c) The notice shall set a time and place for an administrative hearing before the Director of Finance and shall be mailed to each person to whom the described property is assessed on the most recent property assessment rolls of the County Assessor. The notice shall be mailed not less than fifteen (15) days prior to the date of the hearing.

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OCTOBER 18 AGENDA ITEM

ITEM I-3 ATTACHMENT 1

- (d) The Director of Finance shall conduct a hearing. The Director of Finance shall determine whether an assessment should be imposed upon the Landlord's property.
- (e) Afer the hearing, if the Director of Finance approves the unpaid amount against the Landlord's property and the Landlord fails to pay said amount, an assessment on the real property will be recorded with the Recorder of Contra Costa County. The recorded assessment shall carry an additional administrative charge of \$45.00.
- (f) The unpaid amount which remains unpaid by the Landlord shall constitute a special assessment against the property and shall be collected at such time as established by the County Assessor for inclusion in the next property tax assessment.
- (g) The Director of Finance shall turn over to the County Assessor for inclusion in the next property tax assessment the total sum of unpaid amount and administrative charges, plus an assessment charge of \$5.00 as a special assessment against the property. The assessment shall be collected at the same time and in the same manner as municipal taxes are collected. The assessment shall be subordinate to all existing special assessment previously imposed on the property. It shall have priority over other liens except for those State, County, and municipal taxes with which it shall have parity. The assessment shall continue until the assessment and all interest and charges due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

Section 11.102.110. Exceptions

The provisons of this Chapter shall not apply to Rental Units that are exempt ~~underfrom~~ Section ~~11.100.050~~ 11.100.030 (d) (1), (2 or 6) of the Richmond Municipal Code, which Rental Units include certain temporary rentals, small, second units and rental of rooms, as more specifically set forth in Section 11.100.040 of the Richmond Municipal Code.”

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SECTION II. Severability.

If any part or provision of this ordinance, or the application of this ordinance to any person or circumstance, is held invalid, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

OCTOBER 18 AGENDA ITEM

**ITEM I-3
ATTACHMENT 1**

SECTION III. Effective Date. This ordinance shall become effective thirty (30) days after its final passage and adoption.

First read at a regular meeting of the Council of the City of Richmond held , 2017, and finally passed and adopted at a regular meeting thereof held , 2017, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney

ORDINANCE NO. XX-17 N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND
AMENDING SECTION 1 (PART) OR ORDINANCE NO. 22-16 N.S. AND SECTIONS
11.102.020, 11.102.030, 11.102.040, 11.102.050, 11.102.060, 11.102.070, 11.102.080,
11.102.100 AND 11.102.110 OF CHAPTER 11.102 OF THE RICHMOND MUNICIPAL
CODE, AND ADDING SECTION 11.102.105 TO THE RICHMOND MUNICIPAL CODE,
CONCERNING RELOCATION REQUIREMENTS
FOR TENANTS OF RESIDENTIAL RENTAL UNITS**

WHEREAS, the “Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance” initiative was passed by the voters in the City of Richmond on November 8, 2016; and

WHEREAS, the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance requires that landlords seeking to recover possession under certain sections of that ordinance must make relocation payments to each tenant in amounts to be determined by the City Council through a Relocation Ordinance; and

WHEREAS, the provision of such relocation payments shall help to mitigate the challenges faced by tenants who are ordered to vacate a rental unit through no fault of the tenant; and

WHEREAS, on December 20, 2016, the Richmond City Council added Chapter 11.102 to the Richmond Municipal Code to establish the relocation requirements for tenants of residential rental units (the “Relocation Ordinance”); and

WHEREAS, in implementing the Relocation Ordinance, the Rent Program staff has discovered that there are “gaps” or ambiguities in the Ordinance that need to be addressed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND does ordain as follows:

SECTION I. Section 1 of Ordinance No. 22-16 N.S. and Sections 11.102.020, 11.102.030, 11.102.040, 11.102.050, 11.102.060, 11.102.070, 11.102.080, 11.102.100 and 11.102.110 of Chapter 11.102 of the Richmond Municipal Code are amended, and Section 11.102.105 is added to Chapter 11.102, to read as follows:

11.102.020 Definitions.

The following terms shall have the following meanings:

Subsection (a) no change.

(b) “Displacement Plan” means a plan provided by the Landlord to satisfy the requirements of Section 11.102.060 (b), which must be approved by the Rent Board prior to service of notice to terminate a tenancy or within a reasonable time, as determined by the Executive

OCTOBER 18 AGENDA ITEM

ATTACHMENT I-3 ATTACHMENT 2

Director, following a Tenant's vacating a Rental Unit pursuant to a governmental agency's order to vacate and for which no notice to terminate a tenancy was served.

Subsection (c), no change.

(d) "Eligible Tenant" means any Tenant entitled to be paid a Relocation Payment pursuant to this Chapter because (i) the Tenant's tenancy was terminated for any of the reasons set forth in Section 11.100.050 (a)(5),(6) or (7) of the Richmond Municipal Code or pursuant to an approved Capital Improvement Plan or (ii) the Tenant has vacated a Rental Unit pursuant to a governmental agency's order to vacate and for which no notice to terminate a tenancy was served.

Subsections (e) and (f), no change.

(g) "Permanent Relocation Payment" means the payment required to be paid to a Tenant by any Landlord (i) who takes action to terminate a tenancy pursuant to Richmond Municipal Code Section 11.100.050 (a) (6) (Owner Move-in), Section 11.100.050 (a)(7) (Withdrawal from the Rental Market) or pursuant to an approved Capital Improvement Plan or (ii) when the Tenant has permanently vacated a Rental Unit pursuant to a governmental agency's order to vacate and for which no notice to terminate a tenancy was served.

Subsection (h), no change.

(i) "Qualified Tenant Household" means a household with a Tenant who is displaced for any reason other than just cause and who (i) is a Senior Citizen, (ii) is Disabled, (iii) has at least one child under the age of 18 years living in the household or, (iv) is displaced due to an owner move in and the Tenant is terminally ill.

Current subsection (i), no change, but reletter to (j).

(k) "Relocation Payment" means the payment required to be paid by a Landlord for any of the reasons set forth in Section 11.102.030 of this Chapter, separate from any security or other refundable deposits as defined in California Civil Code, Section 1950.5.

(l) "Rent Differential Payment" means the difference between the lawful Rent that the Tenant was paying at the time of displacement and the fair market rent, as established by the Richmond Housing Authority as the payment standards for the Housing Choice Voucher Program, for a comparable Rental Unit based on the number of bedrooms.

OCTOBER 18 AGENDA ITEM

ATTACHMENT I-3

ATTACHMENT 2

(m) “Rental Unit” means any dwelling unit (whether approved as such or not), building, structure, part thereof, or land appurtenant thereto, or any property rented or offered for rent for residential purposes, even if the property itself is not zoned for such use, together with all Housing Services connected with the use or occupancy of such property such as common areas and recreational facilities held out for use by the Tenant.

Current subsection (l), no change, but reletter to (n).

(o) “Temporary Relocation Payment” means the payment required to be paid to a Tenant by any Landlord (i) who takes action to terminate a tenancy pursuant to Richmond Municipal Code Section 11.100.050 (a)(5) (Temporarily Vacate in Order to Undertake Substantial Repairs) or pursuant to an approved Capital Improvement Plan or (ii) when the Tenant has temporarily vacated a Rental Unit pursuant to a governmental agency’s order to vacate and for which no notice to terminate a tenancy was served.

(p) “Tenant” means a tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a Rental Housing Agreement to the use or occupancy of any Rental Unit.

11.100.030 When Relocation Payment is required.

(a) Subject to subsection (d) of this Section 11.102.030, a Landlord who takes action to temporarily terminate a tenancy for the reasons specified in Section 11.100.050 (a)(5) of the Richmond Municipal Code shall provide to the Tenant pursuant to the requirements of this Chapter (i) a Temporary Relocation Payment, (ii) a Rent Differential Payment if the displacement lasts more than 120 days, and (iii) a Permanent Relocation Payment if the displacement lasts more than 120 days and the Tenant finds alternative, permanent housing.

Section 11.100.050(a)(5) of the Richmond Municipal Code is reproduced in part below:

The Landlord, after having obtained all necessary permits from the City of Richmond, seeks in good faith to undertake substantial repairs which are necessary to bring the property into compliance with applicable codes and laws affecting the health and safety of Tenants of the buildings or where necessary under an outstanding notice of code violations affecting the health and safety of Tenants of the building, and where such repairs cannot be completed while the Tenant resides on the premises.

(b) Subject to subsection (e) of this Section 11.102.030, if a Tenant has vacated a Rental Unit in compliance with a governmental agency’s order to vacate affecting the health or safety of the Tenant in the Rental Unit, regardless of whether the Landlord has taken action to terminate the tenancy as provided in subsection (a) of this Section 11.102.030, the Landlord shall provide to the Tenant pursuant to the requirements of this Chapter (i) a Temporary Relocation Payment (ii) a Rent Differential Payment if the displacement lasts more than 60 days and (iii) a Permanent Relocation Payment if the displacement lasts more than 60 days and the Tenant finds alternative, permanent housing.

OCTOBER 18 AGENDA ITEM

ATTACHMENT I-3

ATTACHMENT 2

- (c) A Landlord shall provide to a Tenant a Temporary Relocation Payment, a Rent Differential Payment (if applicable) or a Permanent Relocation Payment, pursuant to the requirements of an approved Capital Improvement Plan.
- (d) If the Landlord informs the Tenant in writing the work to the Rental Unit will be completed in less than 60 days, the Landlord shall not be required to make a Temporary Relocation Payment and the Tenant shall not be obligated to pay Rent the tenant re-occupies the Rental Unit. If the Landlord informs the Tenant in writing that the work to the Rental Unit will be completed between 60 and 120 days or if the Landlord has informed the Tenant in writing that the work to the Rental Unit will be completed in less than 60 days but the work did not get completed within 60 days, (i) the Landlord shall after 60 days make Temporary Relocation Payments to a Tenant until the Tenant re-occupies the Rental Unit within the 120 day period and (ii) the Tenant, upon receipt of Temporary Relocation Payments, shall pay the lawful Rent in effect when the Landlord served the Tenant with the notice of temporary termination of tenancy, plus any adjustments as permitted under Chapter 11.100 of the Richmond Municipal Code and Rent Board Regulations. If the Landlord informs the Tenant in writing that the work will take longer than 120 days or if the work in fact takes longer than 120 days notwithstanding the Landlord's previously informing the Tenant the work would be completed in less than 120 days, the Landlord shall first make Temporary Relocation Payments to the Tenant as provided in this subsection (d) and, after 120 days, the Landlord shall make Rent Differential Payments to the Tenant until either the Tenant re-occupies the Rental Unit or the Tenant informs the Landlord that the Tenant has found alternative, permanent housing. A Tenant shall have no obligation to pay Rent to the Landlord when receiving Rent Differential Payments. If the Tenant re-occupies the Rental Unit, the Tenant shall pay the lawful Rent in effect when the Landlord served the Tenant with the notice of temporary termination of tenancy, plus any adjustments to the Rent as permitted under Chapter 11.100 of the Richmond Municipal Code and Rent Board Regulations. If the Tenant finds alternative, permanent housing, the Landlord shall make a Permanent Relocation Payment, in addition to other Relocation Payments or Rent Differential Payments as set forth in this subsection (d).
- (e) If the Landlord informs the Tenant in writing the work to the Rental Unit will be completed in less than 60 days, the Landlord shall immediately make Temporary Relocation Payments to the Tenant until the Tenant re-occupies the Rental Unit during the 60 day period and the Tenant, upon receipt of the Temporary Relocation Payment, shall be obligated to pay the lawful Rent that was in effect at the time the Tenant was required to vacate the Rental Unit pursuant to a governmental order to do so, plus any adjustments as permitted under Chapter 11.100 of the Richmond Municipal Code and Rent Board Regulations. If the work to the Rental Unit takes longer than 60 days to complete, the Landlord shall make Rent Differential Payments to the Tenant until either the work is completed and the Tenant re-occupies the Rental Unit or the Tenant informs the Landlord the Tenant has found alternative, permanent housing. A Tenant shall have no obligation to pay Rent to the Landlord when receiving Rent Differential Payments. If the Tenant re-occupies the Rental Unit, the Tenant shall pay the lawful Rent in effect when the Tenant was required to vacate the Rental Unit pursuant to a governmental order to do so, plus any Rent adjustments as permitted under Chapter 11.100 of the Richmond Municipal Code and Rent Board Regulations. If the Tenant finds alternative, permanent

OCTOBER 18 AGENDA ITEM

ATTACHMENT I-3

ATTACHMENT 2

housing, the Landlord shall make a Permanent Relocation Payment, in addition to other Relocation Payments or Rent Differential Payments as set forth in this subsection (e).

- (f) A Permanent Relocation Payment shall be provided pursuant to the requirements of this Chapter by any Landlord who takes action to terminate a tenancy for the reasons specified in Section 11.100.050(a)(6) or Section 11.100.050(a)(7) of the Richmond Municipal Code, reproduced in part below and/or as specified in Rent Board Regulations:

Owner Move-In. The Landlord seeks to recover possession in good faith for use and occupancy as a Primary Residence by the Landlord, or the Landlord's spouse, registered domestic partner, child, parent or grandparent, whether by blood, birth, adoption, marriage, or domestic registered partnership. A Tenant will have the right of first refusal to return to the Rental Unit if the Landlord or enumerated relative vacates the Rental Unit as provided in Rent Board Regulations.

Withdrawal From Rental Market. The Landlord seeks in good faith to recover possession to withdraw all Rental Units of an entire property located in the City of Richmond. The Landlord has filed the documents with the Board initiating the procedure for withdrawing Units from rent or lease under Government Code Section 7060 et. seq. and all regulations passed by the Board, with the intention of completing the withdrawal process and going out of the rental business or demolition of the property. If demolition is the purpose of the withdrawal then the Landlord must have received all needed permits from the City of Richmond before serving any notices terminating a tenancy based on 11.100.50(a)(7). Tenants shall be entitled to a 120-day notice or a one (1) year notice if (i) a Tenant is a Senior Citizen, as defined in Section 11.102.020, (ii) the Tenant is disabled, as defined in Section 11.102.020, (iii) the Tenant's household is a lower income household, as defined in California Health and Safety Code section 50079.5 or (iv) the Tenant has at least one minor dependent child residing in the household. A Tenant will also have a right of first refusal to return if the Rental Unit is placed back on the market as provided in Rent Board Regulations.

- (g) Notwithstanding subsections (a) and (b) of this Section 11.102.030, a Landlord shall not be liable for a Temporary Relocation Payment, a Rent Differential Payment or a Permanent Relocation Payment if the governmental agency that ordered the Rental Unit, or the structure in which the Rental Unit is located, to be vacated determines the Rental Unit or the structure must be vacated as a result of:
1. A fire, flood, earthquake or other natural disaster, or other event beyond the control of the Landlord and the Landlord did not cause or contribute to the condition giving rise to the governmental agency's order to vacate; or
 2. Any Tenant, or the guest or invitee of any Tenant, who has caused or substantially contributed to the condition giving rise to the order to vacate;
- (h) In the situations described in paragraphs 1 and 2 of subsection (g) of this section 11.102.030, either a Landlord or a Tenant may appeal to the Rent Board the determination of the governmental agency, following the procedures, to the extent applicable, set forth in Section 11.100.070 (d) , Richmond Municipal Code.

- (i) Notwithstanding subsections (d) and (e) of this Section 11.102.030, a Landlord, in lieu of making Temporary Relocation Payments or Rent Differential Payments may offer the Tenant a comparable Rental Unit in Richmond while the work on the displaced Tenant's Rental Unit is being completed. The Tenant, in the Tenant's sole discretion, will determine whether the Rental Unit that the Landlord offers is a comparable Rental Unit. If the Tenant accepts the offer and occupies the comparable Rental Unit, the Tenant shall pay no more than the lawful Rent the Tenant was paying at the time the Tenant was served with the notice to temporarily terminate the tenancy or at the time the Tenant vacated the Rental Unit if a governmental agency ordered the Rental Unit be vacated and no notice of temporary termination of tenancy was served. If the Tenant accepts the offer, the Landlord shall (i) pay the Tenant's reasonable and documented moving expenses to the comparable Rental Unit and from the comparable Rental Unit to the Tenant's Rental Unit and (ii) continue to make Temporary Relocation Payments or Rent Differential Payments until the Tenant has fully occupied the comparable Rental Unit.

11.102.040 Notice of Entitlement to Tenants/Right of First Refusal

- (a) Any notice to terminate a tenancy temporarily which is served by a Landlord to a Tenant for any of the reasons set forth in subsections (a) or (c) of Section 11.102.030 shall be accompanied by the appropriate completed notice of entitlement to a Temporary Relocation Payment form, a Rent Differential Payment form and a Permanent Relocation Payment form, available on the Rent Program website. As to any Tenant who vacates a Rental Unit for any of the reasons set forth in subsection (b) of Section 11.102.030, the Landlord must provide to the Tenant within two business days of the Tenant's vacating the Rental Unit the appropriate completed notice of entitlement to a Temporary Relocation Payment, a Rent Differential Payment form and a Permanent Relocation Payment form, available on the Rent Program website. The contents of such notice shall include but are not limited to:

(Paragraphs (1) and (2), no change.)

- (b) A notice of entitlement to a Temporary Relocation Payment and/or Rent Differential Payment form shall include a summary of the repairs to be undertaken and the estimated duration of relocation. The Landlord shall notify the Tenant when repairs are completed and provide the Tenant with the first right of refusal to re-occupy the unit pursuant to Section 11.100.050 (a)(5)(D), Richmond Municipal Code. If the estimated duration of relocation changes, the Landlord shall provide the Tenant with at least seven days' advance notice of asuch change.

- (c) All Landlords shall be required to file with the Rent Board a copy of the notice of entitlement described in this section 11.102.040 within one (1) week of serving the Tenant such notice. A proof of service with time and date of service of such notice shall be included with the copy of such notice filed with the Rent Board.

(Subsection (d), no change.)

11.102.050 Amount of Relocation Payment

(Subsections (a) through (c), no change.)

- (d) The City Council may adopt a greater Relocation Payment amount for a Qualified Tenant Household..
- (e) The Relocation and Rent Differential Payment will be distributed on a pro-rata basis to each Eligible Tenant, but may include a maximum cap per Rental Unit.

11.102.060 Fees Required for Relocation Assistance or Displacement Plan Review

- (a) For each Rental Unit from which Tenants are displaced for any of the reasons set forth in Section 11.102.030, prior to service of a notice to terminate tenancy or within two business days of a Tenant's vacating the Rental Unit due to a governmental agency's order to vacate and for which no notice to terminate a tenancy was served, the Landlord shall pay to the Rent Board a Relocation Assistance Fee to be used by the Rent Board to pay for counseling or other assistance for Tenants who must relocate for any reason specified in Section 11.102.030 of this Chapter. The amount of the fee shall be determined periodically by a resolution of the City Council.
- (b) In lieu of the fee required by subsection (a) of this Section 11.102.060, a Landlord may prepare a Displacement Plan which must be approved by the Executive Director prior to service of notice to terminate tenancy or within a reasonable time, as determined by the Executive Director, following a Tenant's vacating a Rental Unit pursuant to a governmental agency's order to do so and for which no notice to terminate a tenancy was served. The Displacement Plan shall identify any special needs of the displaced Tenants, identify the types of assistance that will be provided and include a commitment to pay for such assistance. At the time of submitting the Displacement Plan to the Executive Director for review and approval, the Landlord shall pay a Displacement Plan Review Fee to the Rent Board for such review and approval. The amount of the fee shall be determined periodically by a resolution of the City Council.

(Subsection (c), no change.)

11.102.070 Distribution of Relocation Payment to Eligible Tenants.

(Subsection (a), no change.)

- (a) After taking into account any adjustments in the amount of the Relocation Payment and/or Rent Differential Payment pursuant to Section 11.102.090, when the Tenant has been served with a notice to vacate the Rental Unit under Section 11.100.050 (a) (6) or (7), Richmond Municipal Code, the Landlord shall pay one-half (½) of the applicable

OCTOBER 18 AGENDA ITEM

ATTACHMENT I-3

ATTACHMENT 2

Permanent Relocation Payment within three business days after the Tenant has informed the Landlord in writing that the Tenant will vacate the Rental Unit on the date provided in the notice terminating the tenancy and the other half within three business days after the Tenant has vacated the Rental Unit before, on or within two calendar days after the date provided in the notice and the Tenant has removed all of the Tenant's personal property from the Landlord's property, including a storage unit.

- (b) After taking into account any adjustments in the amount of the Relocation Payment and/or Rent Differential Payment pursuant to Section 11.102.090, when the Tenant has informed the Landlord in writing the Tenant has found permanent housing as provided in subsections (d) or (e) of Section 11.102.030, the Landlord shall pay the full amount of the applicable Permanent Relocation Payment within three business days thereof or within three business days after the Tenant has removed all of the Tenant's personal property from the Rental Unit or other property of the Landlord, such as a storage unit, whichever is later.
- (c) After taking into account (i) any adjustment in the amount of the Relocation Payment and/or Rent Differential Payment pursuant to Section 11.102.090 and (ii) subsections (d) and (e) of Section 11.102.030, as to any Tenant who is entitled to receive a Temporary Relocation Payment and/or a Rent Differential Payment as provided in subsections (a), (b) or (c) of Section 11.102.030, the Landlord shall make such Payment in the amount and as provided in the applicable City Council Resolution.
- (d) After taking into account (i) any adjustments in the amount of the Relocation Payment and/or Rent Differential Payment pursuant to Section 11.102.090 as to any Tenant is entitled to receive a Permanent Relocation Payment under subsection (c) of Section 11.102.030, the Landlord must within three business days pay to the Tenant the full amount of the Permanent Relocation Payment in the amount and as provided in the applicable City Council Resolution.
- (e) A Landlord shall within three business days of providing a Tenant with a Temporary Relocation Payment, a Rent Differential Payment or a Permanent Relocation Payment file with the Rent Board a proof of service with the time and date when the Landlord made such Payment.

11.102.080 Prohibition against agreements and waiver of rights under this Chapter.

No Landlord shall do any of the following with respect to a Tenant(s):

- (a) Enter into an agreement or attempt to enforce an agreement with a Tenant which prohibits or limits the Tenant from participating in the City's public process, including speaking at a meeting of the City Council or any City Commission or Board, submitting written

comments to the City, or otherwise communicating with City elected officials, appointed officials and employees on any subject. Any such contractual term which violates this section is against public policy and is void.

- (b) Unless otherwise specially authorized, no Landlord shall attempt to secure from a Tenant any waiver of any provision of this Chapter. Any agreement, whether written or oral, whereby any provision of this Chapter is waived, is against public policy and is void.

(Section 11.102.090 Coordination with other relocation requirement, no change.)

Section 11.102.100 Remedies

(Subsections (a) and (b), no change.)

- (c) If a Landlord fails or refuses to provide Relocation Payments required by this Chapter, and City and/or the Rent Board through adopted Regulations chooses to provide such Relocation Payments to a Tenant in the Landlord's place, the City and/or the Rent Board shall have the right to recover from the Landlord as restitution in any legal action such monetary outlays, plus administrative fees, investigative costs, costs of enforcement, and reasonable attorneys' fees incurred by the City and/or the Rent Board.
- (d) Any person violating this Chapter shall be required to reimburse the City and/or the Rent Board its full investigative costs, costs of enforcement and reasonable attorneys' fees.
- (e) The recovery of the costs and fees of the items set forth in subsections (c) and (d) of this Section 11.102.100 may also be recovered as provided in Section 11.102.105.

(Subsection (e), no change, but re-letter to subsection (f).)

11.102.105. Recovery of costs.

- (a) If (i) the City/Rent Board has chosen to provide Relocation Payments to a Tenant in place of the Landlord as set forth in subsection (c) of Section 11.102.100 and (ii) such Landlord fails or refuses to pay the City/Rent Board for providing Relocation Payments to a Tenant and/or the City's/Rent Board's investigative costs, costs of enforcement, administrative fees and reasonable attorneys' fees, the Director of Finance shall mail the Landlord a final request for payment for the amounts owed. The final request shall include a warning notice that if these unpaid items are not paid within thirty (30) days, they will be placed on the Landlord's real property tax rolls. The warning notice shall include information concerning the additional administrative charges that will become due if a lien is recorded against the Landlord's property, and that the City shall assess the Landlord's property on the next property tax statement if these unpaid items charged to a Landlord according to the most recent property assessment rolls of the County Assessor are unpaid.

OCTOBER 18 AGENDA ITEM

ATTACHMENT I-3

ATTACHMENT 2

- (b) If the payment is not made by the Landlord within thirty (30) days, the Director of Finance shall send a certified notice which shall contain the name or names of the Landlord, the address of the property and the amount unpaid.
- (c) The notice shall set a time and place for an administrative hearing before the Director of Finance and shall be mailed to each person to whom the described property is assessed on the most recent property assessment rolls of the County Assessor. The notice shall be mailed not less than fifteen (15) days prior to the date of the hearing.
- (d) The Director of Finance shall conduct a hearing. The Director of Finance shall determine whether an assessment should be imposed upon the Landlord's property.
- (e) After the hearing, if the Director of Finance approves the unpaid amount against the Landlord's property and the Landlord fails to pay said amount, an assessment on the real property will be recorded with the Recorder of Contra Costa County. The recorded assessment shall carry an additional administrative charge of \$45.00.
- (f) The unpaid amount which remains unpaid by the Landlord shall constitute a special assessment against the property and shall be collected at such time as established by the County Assessor for inclusion in the next property tax assessment.
- (g) The Director of Finance shall turn over to the County Assessor for inclusion in the next property tax assessment the total sum of unpaid amount and administrative charges, plus an assessment charge of \$5.00 as a special assessment against the property. The assessment shall be collected at the same time and in the same manner as municipal taxes are collected. The assessment shall be subordinate to all existing special assessment previously imposed on the property. It shall have priority over other liens except for those State, County, and municipal taxes with which it shall have parity. The assessment shall continue until the assessment and all interest and charges due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

Section 11.102.110. Exceptions

The provisions of this Chapter shall not apply to Rental Units that are exempt under Section 11.100.030 (d) (1), (2 or (6) of the Richmond Municipal Code, which Rental Units include certain temporary rentals, small, second units and rental of rooms, as more specifically set forth in Section 11.100.040 of the Richmond Municipal Code.

SECTION II. Severability.

OCTOBER 18 AGENDA ITEM

**ATTACHMENT I-3
ATTACHMENT 2**

If any part or provision of this ordinance, or the application of this ordinance to any person or circumstance, is held invalid, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

SECTION III. Effective Date. This ordinance shall become effective thirty (30) days after its final passage and adoption.

First read at a regular meeting of the Council of the City of Richmond held ____, 2017, and finally passed and adopted at a regular meeting thereof held ____, 2017, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney

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OCTOBER 18 AGENDA ITEM

ITEM ~~I~~H-3 ATTACHMENT 3

RESOLUTION NO. ~~17-XX~~115-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND
ESTABLISHING THE AMOUNT OF THE TEMPORARY RELOCATION PAYMENT,
RENT DIFFERENTIAL PAYMENT AND PERMANENT RELOCATION PAYMENT IN
ACCORDANCE WITH CHAPTER 11.102 OF THE RICHMOND MUNICIPAL CODE
ENTITLED RELOCATION REQUIREMENTS FOR TENANTS OF RESIDENTIAL
RENTAL UNITS**

WHEREAS, the “Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance” initiative was passed by the voters in the City of Richmond on November 8, 2016; and

WHEREAS, the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance requires that landlords seeking to recover possession under certain sections of that ordinance must make relocation payments to each tenant in amounts to be determined by the City Council through a Relocation Ordinance; and

WHEREAS, the provision of such relocation payments shall help to mitigate the challenges faced by tenants who are ordered to vacate a rental unit through no fault of the tenant; and

WHEREAS, ~~the City Council adopted Ordinance No. 22-16 on December 20, 2016~~ ~~a first reading of a~~ “ the Relocation Ordinance” ~~, codified in Chapter (RMC) 11.102, Richmond Municipal Code~~ was approved by the City Council at their meeting on December 6, 2016; and

WHEREAS, in accordance with Section 11.102.050 of the Relocation Ordinance, the City Council adopted Resolution 115-16 (“the Relocation Payment Resolution”) to establish relocation payments for displaced tenants; and

WHEREAS, the Richmond Rent Board has recommended that the Relocation Ordinance be amended and that the Relocation Payment Resolution be revised; and amount of the Permanent and Temporary Relocation Payment shall be determined periodically by a resolution of the City Council; and

WHEREAS, the City Council has introduced Ordinance No. XXX-17 to amend the Relocation Ordinance as recommended by the Rent Board and wished to revise the Relocation Payment Resolution as recommended by the Rent Board.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Richmond that pursuant to Chapter 11.102 of the Richmond Municipal Code, entitled Relocation Requirements for Tenants of Residential Rental Units, as amended, and as provided in adopted Rent Board Regulations. Landlords shall provide a Relocation Payment to each Eligible Tenant in the amounts set forth in the Relocation Payment Fee Schedule.

OCTOBER 18 AGENDA ITEM

**ITEM ~~I~~-3
ATTACHMENT 3**

**Section 1. Relocation Payment Fee Schedule
R.M.C. 11.102.050
Established December 20, 2016**

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“Relocation Payment” means the per unit payment required to be paid by any Landlord on a pro-rata share to an Eligible Tenant who takes action to terminate a tenancy for reasons set forth in Section 11.102.030, separate from any security or other refundable deposits as defined in California Code Section 1950.5.

Permanent Relocation Payment

Amounts shown are for Fiscal Year 2016-17 and shall be adjusted annually, beginning January 1, 2018, based on the percentage change in the Consumer Price Index (All Urban Consumers – San Francisco-Oakland-San Jose region) as of November of each year.

Maximum Cap per Unit Type (a) (b)	Owner Move-In (R.M.C. 11.100.050(a)(6))		Withdrawal from Rental Market; <u>Substantial Rep</u> (R.M.C. 11.100.050(a)(7)) & <u>(R.M.C. 11.100.050(a)(8))</u>	
	Base Amount	Qualified Tenant Household Amount (c)	Base Amount	Qualified Tenant Household Amount (c)
Studio	\$3,400	\$3,950	\$6,850	\$7,850
1 Bedroom	\$5,250	\$6,050	\$10,500	\$12,100
2+ Bedroom	\$7,150	\$8,200	\$14,250	\$16,400

Note:
 (a) If a Rental Unit is occupied by one Tenant then the entire per unit Relocation Payment shall be paid to the Tenant. If more than one Tenant occupies the Rental Unit, the total amount of the Relocation Payments shall be paid on a pro-rata share to each Eligible Tenant.
 (b) The Relocation Payments will be calculated on a per Rental Unit basis, distributed on a per Tenant basis, and includes a maximum cap per Rental Unit.
 (c) A "Qualified Tenant Household" is any household ~~that includes at least one Tenant that is a Senior Citizen, Disabled, or has at least one minor dependent child~~ as defined in R.M.C. 11.102.020(a) and (l)(i).

Sources: ~~City of Santa Monica, 2016; American Community Survey, 2011-2015 (Table B25064).~~

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OCTOBER 18 AGENDA ITEM

**ITEM ~~I~~-3
ATTACHMENT 3**

Temporary Relocation Payment

Amounts shown are for Fiscal Year 2016-17 and shall be adjusted annually, beginning January 1, 2018, based on the percentage change in the Consumer Price Index (All Urban Consumers – San Francisco-Oakland-San Jose region) as of November of each year.

Substantial Repairs or Due to Tenant Vacating the Rental Unit Due to a Government Order to do so
(R.M.C. 11.100.050(a)(5))

Per Diem Description	Amount	Term (a)
Hotel or Motel	\$145	<i>per day per household</i>
Meal Expenses	\$29	<i>per day per person</i>
Laundry	\$1	<i>per day per household</i>
Pet Accommodations	Cat - \$28 Dog - \$51	<i>per day per animal per day per animal</i>

Note:

(a) Applicable amounts shall be paid on a weekly basis, calculated on a daily basis, at a minimum. Alternatively, the Landlord may provide comparable housing located in Richmond as provided in subsection (i) of Section 11.102.030 RMC. ~~In such case, the Landlord shall provide per diem payments until the Tenant and their possessions have been moved into the comparable Rental Unit.~~

~~Sources: City of Santa Monica, 2016; General Services Administration, 2016.~~

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RENT DIFFERENTIAL PAYMENT

(Substantial Repairs (RMC, section 11.100.050 (a)(5) or because a tenant vacated a rental unit due to a governmental agency's order to do so)

Fair Market Rent as determined by the Richmond Housing Authority Payment Standards for its Housing Choice Voucher Program as of July 2017. These amounts may change annually.

<u>0 Bedroom</u>	<u>\$1363/month</u>
<u>1 Bedroom</u>	<u>\$1637/month</u>
<u>2 Bedroom</u>	<u>\$2064/month</u>
<u>3 Bedroom</u>	<u>\$2866/month</u>
<u>4 Bedroom</u>	<u>\$3303/month</u>

The Rent Differential Payment shall be calculated by subtracting the lawful rent the tenant was paying at the time the tenant was served with a notice of temporary termination of tenancy or at the time the time the tenant vacated the rental unit due to a governmental agency order to do so and for which no notice of a termination of tenancy was served from the Fair Market Rent, as set forth above, based on the number of bedrooms of the tenant's rental unit. See Section 11.102.030, Richmond Municipal Code.

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OCTOBER 18 AGENDA ITEM

**ITEM ~~H~~-3
ATTACHMENT 3**

Section 2. Resolution No. 115-16 is hereby rescinded.

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Section 3. This Resolution shall be effective upon the effective date of Ordinance No. 17-XX N.S.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held _____, ~~2017~~December 20, 2016, by the following vote:

AYES:	Councilmembers Beckles, Martinez, McLaughlin, and Vice Mayor Myrick.
NOES:	Mayor Butt.
ABSTENTIONS:	Councilmember Pimplé.
ABSENT:	Councilmember Bates.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

TOM BUTT
Mayor

Approved as to form:

BRUCE GOODMILLER

City Attorney		
State of California	}	
County of Contra Costa		: ss.
City of Richmond	}	

I certify that the foregoing is a true copy of **Resolution No. ~~17-XXXXX-17~~115-16**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on _____, ~~2017~~December 20, 2016.

Pamela Christian, Clerk of the City of Richmond

RESOLUTION NO. 17-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND
ESTABLISHING THE AMOUNT OF THE TEMPORARY RELOCATION PAYMENT,
RENT DIFFERENTIAL PAYMENT AND PERMANENT RELOCATION PAYMENT IN
ACCORDANCE WITH CHAPTER 11.102 OF THE RICHMOND MUNICIPAL CODE
ENTITLED RELOCATION REQUIREMENTS FOR TENANTS OF RESIDENTIAL
RENTAL UNITS**

WHEREAS, the “Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance” initiative was passed by the voters in the City of Richmond on November 8, 2016; and

WHEREAS, the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance requires that landlords seeking to recover possession under certain sections of that ordinance must make relocation payments to each tenant in amounts to be determined by the City Council through a Relocation Ordinance; and

WHEREAS, the provision of such relocation payments shall help to mitigate the challenges faced by tenants who are ordered to vacate a rental unit through no fault of the tenant; and

WHEREAS, the City Council adopted Ordinance No. 22-16 on December 20, 2016 (“the Relocation Ordinance”, codified in Chapter 11.102, Richmond Municipal Code); and

WHEREAS, in accordance with Section 11.102.050 of the Relocation Ordinance, the City Council adopted Resolution 115-16 (“the Relocation Payment Resolution”) to establish relocation payments for displaced tenants; and

WHEREAS, the Richmond Rent Board has recommended that the Relocation Ordinance be amended and that the Relocation Payment Resolution be revised; and; and

WHEREAS, the City Council has introduced Ordinance No. 17-XX to amend the Relocation Ordinance as recommended by the Rent Board and wished to revise the Relocation Payment Resolution as recommended by the Rent Board.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Richmond that pursuant to Chapter 11.102 of the Richmond Municipal Code, entitled Relocation Requirements for Tenants of Residential Rental Units, as amended, and as provided in adopted Rent Board Regulations, Landlords shall provide a Relocation Payment to each Eligible Tenant in the amounts set forth in the Relocation Payment Fee Schedule.

**Section 1. Relocation Payment Fee Schedule
R.M.C. 11.102.050**

“Relocation Payment” means the per unit payment required to be paid by any Landlord on a pro-rata share to an Eligible Tenant who takes action to terminate a tenancy for reasons set forth in Section 11.102.030, separate from any security or other refundable deposits as defined in California Code Section 1950.5.

Permanent Relocation Payment

Amounts shown are for Fiscal Year 2016-17 and shall be adjusted annually, beginning January 1, based on the percentage change in the Consumer Price Index (All Urban Consumers – San Francisco-Oakland-San Jose region) as of November of each year.

Maximum Cap per Unit Type (a) (b)	Owner Move-In (R.M.C. 11.100.050(a)(6))	Withdrawal from Rental Market (R.M.C. 11.100.050(a)(7)) or Substantial Repairs (R.M.C. 11.100.050(a)(5)) or Due to a Governmental Agency's Order to Do So		
	Base Amount	Qualified Tenant Household Amount (c)	Base Amount	Qualified Tenant Household Amount (c)
Studio	\$3,400	\$3,950	\$6,850	\$7,850
1 Bedroom	\$5,250	\$6,050	\$10,500	\$12,100
2+ Bedroom	\$7,150	\$8,200	\$14,250	\$16,400

Note:

(a) If a Rental Unit is occupied by one Tenant then the entire per unit Relocation Payment shall be paid to the Tenant. If more than one Tenant occupies the Rental Unit, the total amount of the Relocation Payments shall be paid on a pro-rata share to each Eligible Tenant.

(b) The Relocation Payments will be calculated on a per Rental Unit basis, distributed on a per Tenant basis, and includes a maximum cap per Rental Unit.

(c) A "Qualified Tenant Household" is any household as defined in R.M.C. 11.102(a) and (l)(i).

Temporary Relocation Payment

Amounts shown are for Fiscal Year 2016-17 and shall be adjusted annually, beginning January 1, based on the percentage change in the Consumer Price Index (All Urban Consumers – San Francisco-Oakland-San Jose region) as of November of each year.

**Substantial Repairs (R.M.C. 11.100.050(a)(5)) or Due to
Tenant Vacating the Rental Unit Due to a Governmental Agency's
Order to Do So**

Per Diem Description	Amount	Term (a)
Hotel or Motel	\$145	<i>per day per household</i>
Meal Expenses	\$29	<i>per day per person</i>
Laundry	\$1	<i>per day per household</i>
Pet Accommodations	Cat - \$28	<i>per day per animal</i>
	Dog - \$51	<i>per day per animal</i>

Note:

(a) Applicable amounts shall be paid on a weekly basis, calculated on a daily basis, at a minimum. Alternatively, the Landlord may provide comparable housing located in Richmond as provided in subsection (i) of Section 11.102.030 RMC.

RENT DIFFERENTIAL PAYMENT

(Substantial Repairs (RMC, section 11.100.050 (a)(5) or because a tenant vacated a rental unit due to a governmental agency's order to do so)

Fair Market Rent as determined by the Richmond Housing Authority Payment Standards for its Housing Choice Voucher Program as of July 2017. These amounts may change annually.

0 Bedroom	\$1,363/month
1 Bedroom	\$1,637/month
2 Bedroom	\$2,064/month
3 Bedroom	\$2,866/month
4 Bedroom	\$3,303/month

The Rent Differential Payment shall be calculated by subtracting the lawful rent the tenant was paying at the time the tenant was served with a notice of temporary termination of tenancy or at the time the tenant vacated the rental unit due to a governmental agency order to do so and for which no notice of a termination of tenancy was served from the Fair Market Rent, as set forth above, based on the number of bedrooms of the tenant's rental unit. See Section 11.102.030, Richmond Municipal Code.

Section 2. Resolution No. 115-16 is hereby rescinded.

Section 3. This Resolution shall be effective upon the effective date of Ordinance No. 17-XX N.S.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held _____, 2017, by the following vote:

AYES:

NOES:

OCTOBER 18 AGENDA ITEM

**ITEM I-3
ATTACHMENT 4**

ABSTENTIONS:

ABSENT:

CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: November 15, 2017

Final Decision Date Deadline: November 15, 2017

STATEMENT OF THE ISSUE: At their October 18, 2017, Regular Meeting, Rent Boardmembers directed staff members to prepare a memorandum summarizing the City's procurement policies, specifically with respect to giving priority to Richmond-based businesses and vendors when soliciting contract services. Staff members prepared a memorandum for the Board's consideration.

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> | |

ITEM

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) | | | |
| <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Regulation | <input checked="" type="checkbox"/> Other: <u>CONSENT CALENDAR</u> | |
| <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: RECEIVE a memorandum from staff concerning the City of Richmond's procurement policies – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

AGENDA ITEM NO:

F-4.

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MEMORANDUM

TO: Chair Gray and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director
Paige Roosa, Project Manager I

DATE: November 15, 2017

SUBJECT: PROCUREMENT POLICIES REGARDING PRIORITIZING RICHMOND
BUSINESSES

Executive Summary

At their October 18, 2017, Regular Meeting, Rent Boardmembers directed staff to prepare a memorandum summarizing the City's procurement policies, specifically with respect to giving priority to Richmond-based businesses and vendors when soliciting contract services.

The Richmond City Council has adopted policies in the form of an Ordinance granting preference for awarding contracts to businesses located within its City limits (Chapter 2.50 of the Municipal Code); however, its provisions apply only to construction and construction-related contracts valued at or above \$100,000, service contracts valued at or above \$50,000, and contracts for the procurement of goods, materials, equipment, furnishings or supplies value at or above \$25,000.

Given the infancy of the Rent Program, staff needs to be flexible in finding service providers who have expertise and experience in the kinds of services the Rent Program needs.

Discussion

Background

Section 11.100.060(q) of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance ("the Ordinance") provides the Board shall procure goods and services as do other City agencies using existing support services within the City as would any other department, provided, however, the Board shall have sole and final approval to employ attorneys, legislative lobbyists, and other professionals, and to approve contracts for such professional services.

With respect to contracts for goods and services not expressly indicated in Section 11.100.060(q) of the Ordinance, staff members have adhered to standard procurement policies.

Intent of the Business Opportunity Ordinance

On December 18, 2012, the Richmond City Council adopted the Richmond Business Opportunity Ordinance (Ordinance No. 16-12)(Attachment 1). The intent of the Ordinance, as

ITEM F-4 ATTACHMENT 1

described in Section 2.50.020 (“Declaration of Policy and Purpose”) is to ensure full and equitable opportunities for Richmond business enterprises, including small and nonprofit businesses, to participate as contractors in the provision of goods and services to the City. Furthermore, the Ordinance provides it is the City’s policy that first preference for awarding contracts be given to businesses located within City limits and to encourage businesses to locate and remain in Richmond and thereby enhance employment opportunities for Richmond residents.

Definition of Richmond Businesses

“Richmond business” is defined in Ordinance No. 16-12 as any business (small, nonprofit or otherwise) which possesses or establishes at least six of the items identified in Section 2.50.040(g)(1-8), such as a valid City of Richmond business license, an operating telephone answered on Richmond premises, or a written agreement for City occupancy or proof of ownership of a Richmond office.

Scope of Provisions

It is important to note the provisions of the Business Opportunity Ordinance apply only to three categories of contracts funded by the City, as defined in Chapter 2.50.030 (“Scope and Goals”), :

1. Construction and construction-related contracts valued at or above \$100,000
2. Service contracts valued at or above \$50,000
3. Contracts for the procurement of goods, materials, equipment, furnishings, or supplies valued at or above \$25,000

As such, the Rent Board’s recent approval of a contract with Minuteman Press for Printing and Mailing Services, for example, would not have been subject to the rating incentives provided in the Business Opportunity Ordinance because the amount of that contract was not to exceed \$15,000.

Rating Incentives

Central to the Business Opportunity Ordinance are rating incentives applicable to Richmond Businesses. These rating incentives, as defined in Chapter 2.50.070 (“Rating Incentives”) are as follows:

1. Five percent (5%) or five point rating incentive to bids submitted by Richmond business prime contractors;
2. Five percent (5%) or five point rating incentive to bids submitted by Richmond business joint ventures where the Richmond small business or Richmond small nonprofit

ITEM F-4 ATTACHMENT 1

business partner is allocated a minimum of twenty-five percent (25%) of the total contract amount

3. Five percent (5%) or five point rating incentive to bids submitted by prime contractors, including joint ventures, that utilize a minimum of twenty-five percent (25%) of the total contract dollar amount allocated to Richmond businesses and of which at least ten percent (10%) of that amount is allocated to Richmond small businesses or Richmond small nonprofit businesses.

The rating incentives shall not cumulatively equal more than ten percent (10%) or ten points for each procurement.

Conclusion

Given the infancy of the Rent Program, staff needs to be flexible in finding service providers who have expertise and experience in the kinds of services the Board needs. In most cases, such providers may not be available in Richmond. As to future contracts for goods and materials, staff will continue to employ the City's procurement policies to ensure that Richmond businesses are provided a fair opportunity to submit proposals for such goods and materials.

Attachments

Attachment 1 – City of Richmond Business Opportunity Ordinance (Ordinance No. 16-12)

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ORDINANCE NO. 16-12 N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND
AMENDING CHAPTER 2.50 TO THE RICHMOND MUNICIPAL CODE ENTITLED
BUSINESS OPPORTUNITY ORDINANCE**

SECTION I

Chapter 2.50 entitled “**RICHMOND BUSINESS OPPORTUNITY ORDINANCE**” of the Richmond Municipal Code is hereby amended as follows:

Sections:

- 2.50.010 Findings.**
- 2.50.020 Declaration of Policy and Purpose.**
- 2.50.030 Scope and goals.**
- 2.50.040 Definitions.**
- 2.50.050 Powers and duties of the City.**
- 2.50.060 Powers and responsibilities of contractors.**
- 2.50.070 Rating incentives.**
- 2.50.080 Compliance.**
- 2.50.090 Exceptions.**
- 2.50.100 Monitoring Compliance.**
- 2.50.110 Duration of chapter.**

2.50.010 Findings.

The City Council of the City of Richmond hereby finds that it is in the best interest of the City of Richmond to have a healthy local business community. The City Council also finds that Richmond businesses, particularly small and nonprofit businesses, often encounter obstacles to obtaining financing and credit; to obtaining bonding and insurance and to maintaining their economic viability.

2.50.020 Declaration of policy and purpose.

(a) It is the policy of the City to ensure full and equitable opportunities for Richmond business enterprises, including small and nonprofit businesses, to participate as contractors in the provision of goods and services to the City. Policies and programs that enhance the opportunities and entrepreneurial skills of Richmond businesses, Richmond small businesses and Richmond nonprofit businesses will best serve the public interest because the growth and development of such businesses will have a significant positive impact on the economic health of the City. Moreover, businesses in Richmond need to be encouraged because there are fewer businesses in the Richmond area than in comparable parts of the Bay Area and because the businesses that do exist in Richmond tend to be smaller and more fragile than businesses located in other parts of the San Francisco Bay Area.

(b) It is the City's policy that first preference for awarding contracts be given to businesses located within its City limits. The public interest is served by continuing to encourage businesses, including small and nonprofit businesses, to locate and remain in Richmond through the provision of a preference to Richmond businesses, Richmond small businesses and Richmond nonprofit businesses in the award of City contracts.

(c) The City is instituting rating incentives for Richmond businesses, Richmond small businesses and Richmond nonprofit businesses in the award of City contracts in order to encourage businesses to locate and remain in Richmond and thereby enhance employment opportunities for persons living in Richmond. In effect, the rating incentives are intended to promote the growth and development of Richmond businesses, Richmond small businesses and Richmond nonprofit businesses and to assist these businesses in contributing to the economic health of the City. The rating incentives should not unduly hamper non-Richmond businesses in the contracting process, and parallels the ratings incentives awarded in many other jurisdictions.

(d) Because many Richmond businesses are small and may not have the resources, capability or experience to act as prime contractors or to provide specialty services, it is the policy of the City to encourage qualified prime contractors to use Richmond businesses, Richmond small

businesses and Richmond nonprofit businesses as subcontractors to participate and gain experience in a way that will enhance their ability to compete for contracts on their own.

2.50.030 Scope and goals.

(a) The provisions of this chapter shall apply to three categories of contracts funded by the City: (1) construction and construction-related contracts valued at or above one hundred thousand dollars (\$100,000); (2) service contracts valued at or above fifty thousand dollars (\$50,000); and (3) contracts for the procurement of goods, materials, equipment, furnishings or supplies valued at or above twenty-five thousand dollars (\$25,000).

(b) In accordance with the findings in Section 2.50.010, the evidence supports the conclusion that Richmond businesses, Richmond small businesses and Richmond nonprofit businesses have been disadvantaged when competing for contracts.

(c) In order to eliminate the disparity between available and utilized Richmond businesses, including small and nonprofit businesses, the City is establishing a goal to achieve an adequate level of Richmond business participation in City contracts. The goal is that a minimum of twenty-five percent (25%) of the total contract dollar amount for all contracts covered by this chapter is allocated to Richmond businesses and/or Richmond nonprofit businesses and that a minimum of ten percent (10%) of that percentage be allocated to Richmond small businesses and/or Richmond small nonprofit businesses.

2.50.040 Definitions.

As used in this chapter:

(a) "Contract" means any contract or agreement between the City and a person to provide or procure labor, goods, materials, equipment, furnishings, supplies or services to, for or on behalf of the City. Except as otherwise specifically defined in this section a contract does not include:

(1) Awards made by the City with a federal or state grant where the grant requirements do not permit local preferences;

(2) City general fund grants to a nonprofit entity where the City offers assistance, guidance or supervision on a project or program and the recipient of the grant award uses the monies to provide services to the community;

(3) Sales transactions where the City sells its personal or real property;

(4) Gifts of materials, equipment, supplies or services to the City; or

(5) Contracts exempted from the provisions of Chapter 2.52 of the Richmond Municipal Code.

(b) "Contract Awarding Authority" or "CAA" means the City officer, department, employee or legislative body authorized and empowered by law to enter into contracts on behalf of the City.

In the case of an agreement with a contractor to perform or fund the performance of construction-related services, the term "contract awarding authority" or "CAA" shall mean the contractor receiving funds from the City to perform or fund the performance of such services.

(c) "Contractor" or "Prime Contractor" means any person who submits a bid or proposal to perform, performs any part of, agrees with a person to provide services in relation to or enters into any contract subject to this chapter with CAA's for public works or improvements to be performed, or for goods or services or supplies to be purchased at the expense of the City or to be paid out of monies deposited in the treasury or out of trust monies under the control of, or collected by, the City.

(d) "Good faith effort" means the steps undertaken to comply with the goals and requirements of this chapter and shall include the following mandatory activities, as determined by the City:

(1) Attending any pre-solicitation or pre-bid meetings scheduled by the City to inform all prime contractors of the Richmond business, Richmond small business and Richmond nonprofit business requirements for the project for which the contract will be awarded;

(2) Listing any Richmond businesses, Richmond small businesses and/or Richmond nonprofit businesses that will be participating in the project for which the contract will be awarded;

(3) Advertising, not less than twenty (20) calendar days before the date the bids are to be opened by the CAA, in one or more daily or weekly newspapers, trade association publications, trade journals or other media as specified by the City. This subsection applies only if the City gave public notice of the project for which the contract will be awarded not less than thirty (30) calendar days prior to the date the bids are opened;

(4) Following up initial solicitations of interest by contacting Richmond businesses, Richmond small businesses and Richmond nonprofit businesses to determine with certainty whether such businesses are interested in performing specific items for the contract; and

(5) Negotiating in good faith with Richmond businesses, Richmond small businesses and Richmond nonprofit businesses and not unjustifiably rejecting as unsatisfactory bids or proposals prepared by any such businesses.

(6) Good faith effort shall also include the following non-mandatory activities for which the contractor must accomplish at least two of five of the following, as determined by the City:

(A) Identifying specific items of work to be performed by Richmond businesses, Richmond small businesses and/or Richmond nonprofit businesses in order to increase the likelihood of meeting the business goals and intent of this chapter, including breaking down contracts into smaller units;

(B) Providing written notice of its interest in bidding on the contract to the number of Richmond businesses, Richmond small businesses and Richmond nonprofit businesses required to be notified by the project specifications for the project for which the contract will be awarded. Written notice shall specify which items of work the prime contractor has identified pursuant to subsection (A), above. This notice shall be provided to any such Richmond businesses, Richmond small businesses and Richmond nonprofit businesses not less than twenty (20) calendar days prior to the opening of bids by the CAA. These solicitations shall include a description of the specific items of work to be performed by the Richmond businesses, Richmond small businesses and Richmond nonprofit businesses and all related conditions of the work including the City Engineer's estimate and specifications for the items for which the bid is solicited. The City shall make available to the contractor a list or a source of lists of enterprises which have been certified as Richmond businesses, Richmond small businesses and Richmond nonprofit businesses not less than twenty (20) calendar days prior to bid opening;

(C) Making the project plans, specifications, and in the case of a construction, design or engineering contract, the City Engineer's estimate available for review by interested Richmond businesses, Richmond small businesses and Richmond nonprofit businesses;

(D) Requesting assistance from Richmond community organizations; Richmond contractor or professional groups; local, state or federal business assistance offices; or other organizations that provide assistance in the recruitment and placement of Richmond businesses, Richmond small businesses and Richmond nonprofit businesses, if any are available; and

(E) Assisting interested Richmond businesses, Richmond small businesses and Richmond nonprofit businesses in obtaining bonds, lines of credit, or insurance required by the City or contractor.

(e) "Joint venture" means and may be referred to as an "association" of two or more businesses, one of which must be a Richmond small business and/or Richmond small nonprofit business, acting as a prime contractor and performing or providing services on a contract, in which each joint venture or association partner combines property, capital, efforts, skill and/or knowledge. Richmond businesses, Richmond small businesses and Richmond nonprofit businesses participating in joint ventures shall have a commensurate share of the profit or loss to be realized from the joint venture. The joint venture shall be allowed to count the entire amount of the work performed by the Richmond business, Richmond small business and/or Richmond nonprofit business partner in determining whether the joint venture meets the business goals of this chapter. In order to be considered a Richmond business joint venture, the joint venture must conform to pertinent laws which govern the creation of such business arrangements and first be certified by the City as provided in Section 2.50.050(c).

(f) "Person" means one or more individuals, partnerships, associations, organizations, trade or professional associations, corporations, nonprofit corporations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers or any combination thereof, including any official, agent or employee of the City.

(g) "Richmond business" means any business (small, nonprofit or otherwise) which possesses or establishes all of the following at least six (6) months before bids or proposals are opened:

(1) A written agreement for City occupancy or proof of ownership of a Richmond office;

(2) Proof that business is transacted in the Richmond office;

(3) A conspicuously displayed business sign at the Richmond business premises except where the business operates out of a residence;

(4) Proof that the office is appropriately equipped for the type of business for which certification as a Richmond business is sought. Where equipment, such as computers, and reproduction and communications machines are typically and routinely used in a non-Richmond location, comparable equipment shall be installed and routinely used at the Richmond office. A Richmond office that is used solely or primarily for meetings shall not comply, unless such activities are the sole or principal use of the principal non-Richmond office;

(5) A valid City of Richmond business license;

- (6) An operating telephone that, when answered by a person, is answered only on the Richmond premises;
- (7) Proof that the Richmond office is the principal office of the business where the predominant office work of the business is performed; and
- (8) When the Richmond office is a branch or supplementary office of a multi-location business, proof that the Richmond office is staffed by at least one full time equivalent employee (minimum thirty (30) hours per week), or that the Richmond office is staffed by at least one full time equivalent employee at least as many hours per week as the principal non-Richmond office.
- (h) "Richmond nonprofit business" means any Richmond business or Richmond small business which is a public benefit organization certified by the City as an organization formed for purposes other than generating a profit and in which no part of the organization's income is distributed to its directors or officers. A Richmond nonprofit business must be incorporated by the State, treated as a corporate entity under the law and be on file with the Internal Revenue Service. Richmond nonprofit businesses must apply for tax exempt status at both the federal and State levels. Any and all profits accrued must be retained by the organization for its goals, preservation, maintenance and/or growth. Profits generated cannot personally benefit shareholders, individuals, corporate officers or trustees. To seek Richmond nonprofit business certification, any such Richmond based organizations will apply to the City pursuant to the rules and regulations adopted pursuant to this chapter.
- (i) "Richmond small business" means any Richmond business that is certified as a small business by the California Department of General Services, or as a Disadvantaged Business Enterprise by the California Unified Certification Program.
- (j) "Subcontractor" means any person providing labor, goods or services to a prime contractor for profit, if such goods or services are procured or used in fulfillment of the contractor's obligations arising from a contract with the City.
- (k) "Supplier" means any person who submits a bid or proposal or enters into a contract for the supplying of goods, materials, equipment, furnishings or supplies.

2.50.050 Powers and duties of the City.

In addition to the duties and powers given to the City, as set forth elsewhere in the Richmond Municipal Code, the City shall have the following duties and powers:

- (a) The City shall notify Richmond businesses, Richmond small businesses and Richmond nonprofit businesses of contracting and procurement opportunities under this chapter by appropriate means designed to maximize awareness of these opportunities.
- (b) The City shall have the exclusive power to certify businesses as bona fide Richmond businesses, Richmond small businesses and Richmond nonprofit businesses, and may rely on outside organizations such as the California Department of General Services and the California Unified Certification Program for any such certification.
- (c) The City shall have the exclusive power to certify Richmond business joint ventures. In order for the City to make its determination:
- (1) The joint venture shall submit a written request for certification with its bid and provide the City with a full account of the nature of the business, the local ownership interest, the basis for creation of the joint venture, and the responsibilities of the interested parties.
- (2) The joint venture shall submit a written agreement creating the joint venture and, in the case of construction contracts, a joint venture license.
- (3) The joint venture shall provide the City with any further information or documents the City requests to assist the City in determining whether the joint venture is bona fide. The information received from such a joint venture shall demonstrate that the Richmond business, Richmond small business and/or Richmond nonprofit business has a commensurate share of responsibility and profit or loss to be realized from the joint venture.
- During the term of a contract with a joint venture, or within twelve (12) months after the termination of any such contract, the City shall have the right to review the joint venture's records to determine whether the joint venture is being carried out as a bona fide Richmond business joint venture. The City may investigate whether the joint venture partners are sharing equitably in the profit or loss of the entity and whether they are performing tasks commensurate with their share of the joint venture.
- (d) The City shall initiate and investigate complaints arising from a failure to comply with any of the requirements and intent of this chapter, rules and regulations adopted pursuant to this chapter, or contract provisions pertaining to Richmond business participation.
- (e) During the term of a contract covered by this chapter, or within twelve (12) months after the termination of any such contract, where there is a prime contractor and one or more Richmond

business, Richmond small business or Richmond nonprofit business subcontractors, the City shall have the right to review any records of the contractors and subcontractors to verify that any subcontract is bona fide, that any subcontractor is actually performing the work of their subcontract, and that the contractor and subcontractor are in compliance with requirements and intent of this chapter, rules and regulations adopted pursuant to this chapter, or contract provisions pertaining to Richmond business participation.

(f) All contracts with the City for the purpose of contracting with businesses to perform contracts, shall require compliance with the provisions of this chapter in awarding and administering such contracts, except where prohibited by state or federal law or regulation.

(g) The requirements of this chapter are separate from those imposed by the federal government or the State as a condition of financial assistance or otherwise. However, the City shall enforce the imposition of Federal Minority Business Enterprise, Women Business Enterprise, Disadvantaged Business Enterprise, and Disabled Veteran Business Enterprise requirements in addition to the requirements of this chapter whenever such federal requirements are warranted.

(h) Consistent with the contracting and purchasing procedures prescribed in Chapter 2.52 of the Richmond Municipal Code (Contracting and Purchasing Procedures) and Article V, Section 2 of the Bylaws of the Richmond Community Redevelopment Agency (Contract Authority), as the same may be amended, the CAA may award, or recommend approval of an award of, a contract that has an estimated value of greater than five thousand dollars (\$5,000), but less than (1) one hundred thousand dollars (\$100,000) for construction and construction-related contracts, (2) fifty thousand dollars (\$50,000) for service contracts and (3) twenty-five thousand dollars (\$25,000) for the procurement of goods, materials, equipment, furnishings or supplies, to a Richmond small business or Richmond small nonprofit business as long as the CAA obtains price quotations from two or more Richmond small businesses or Richmond small nonprofit businesses. If the estimated cost to the CAA is less than five thousand dollars (\$5,000) for the contract, or a greater amount as administratively established by the City Manager, the CAA shall obtain at least two price quotations from any responsible contractors and suppliers whenever there is reason to believe a response from a single source is not a fair and reasonable price.

2.50.060 Powers and responsibilities of prime contractors and subcontractors.

Prime contractors and subcontractors shall have the following powers and responsibilities:

(a) Each contractor and subcontractor shall have responsibility for monitoring its compliance with the provisions of this chapter, the rules and regulations adopted pursuant to this chapter, and contract provisions pertaining to Richmond business participation, including obtaining and analyzing reports, conducting preliminary investigations to determine compliance or noncompliance with this chapter, and taking any other action which may be appropriate to assure that all contractors and subcontractors comply with these provisions.

(b) Each contractor shall be responsible for meeting all of its Richmond business, Richmond small business and Richmond nonprofit business participation goals as specified in each relevant section of the chapter. The contractor shall be given an opportunity to demonstrate that it has made a "good faith effort" to ensure that the goals are met, and to ensure compliance with the requirements and intent of this chapter.

(c) Each contractor shall have the right to make field inspections, to review documents, monitor and interview such individual commercial tenants, employers and subcontractors as necessary to verify the accuracy of reports and to otherwise monitor compliance with the requirements and intent of this chapter.

(d) Each contractor and subcontractor shall cooperate with monitoring efforts of the City including, but not limited to, providing all relevant records and documents, assisting field or site inspections, and other monitoring efforts deemed necessary by the City.

(e) Each contractor shall designate a staff person who shall have the primary responsibility for ensuring that its responsibilities as outlined in each relevant section of the chapter are being met.

(f) Whenever contract supplements, amendments, or change orders are made which cumulatively increase the total dollar value of a contract by more than ten percent (10%), the contractor shall comply with those provisions of this chapter that applied to the original contract with respect to the supplement, amendment or change order.

2.50.070 Rating incentives.

Whenever a bid process is utilized in awarding a contract, the following rating incentives shall apply:

- (a) A five percent (5%) or five point rating incentive to bids submitted by Richmond business prime contractors;
- (b) A five percent (5%) or five point rating incentive to bids submitted by Richmond business joint ventures where the Richmond small business or Richmond small nonprofit business partner is allocated a minimum of twenty-five percent (25%) of the total contract amount;
- (c) A five percent (5%) or five point rating incentive to bids submitted by prime contractors, including joint ventures, that utilize a minimum of twenty-five percent (25%) of the total contract dollar amount allocated to Richmond businesses and of which at least ten percent (10%) of that amount is allocated to Richmond small businesses or Richmond small nonprofit businesses.

Notwithstanding anything above to the contrary, rating incentives shall not cumulatively equal more than ten percent (10%) or ten points for each procurement.

2.50.080 Compliance.

- (a) In submitting bids for projects for which a contract will be awarded pursuant to this chapter, prime contractors shall do the following:
 - (1) Demonstrate in their bid that they have used good faith efforts to utilize Richmond businesses, Richmond small businesses and/or Richmond nonprofit businesses; and
 - (2) Identify the particular Richmond businesses, Richmond small businesses and/or Richmond nonprofit businesses and suppliers to be utilized in performing the contract, specifying for each such business the dollar value of the participation, the type of work to be performed and such information as may be reasonably required to determine the responsiveness of the bid.
- (b) During the term of the contract, any failure to comply with the level of Richmond business, Richmond small business and/or Richmond nonprofit business participation specified in the contract shall be deemed a material breach of the contract.
- (c) The CAA shall use good faith efforts to solicit bids or proposals from Richmond businesses, Richmond small businesses and/or Richmond nonprofit businesses.
- (d) The City is empowered to take actions to ensure compliance with the provisions of this chapter. The actions which the City is empowered to take may include, but are not limited to:
 - (1) Ordering the suspension of the selection process for the award of contract;
 - (2) Intervening in the selection process to correct contracting practices which hinder business opportunities for Richmond businesses, Richmond small businesses and Richmond nonprofit businesses;
 - (3) Declaring the contractor or any subcontractor to be nonresponsive and ineligible to receive the award of contract or in the case of any subcontractor, to participate in the contract as a subcontractor;
 - (4) Subject to the rules and regulations adopted pursuant to this chapter, declaring an existing contract terminated;
 - (5) Subject to the rules and regulations adopted pursuant to this chapter, imposing penalties in the form of liquidated damages. The liquidated damages shall be in an amount equal to the contractor's net profit on the contract, or ten percent (10%) of the total amount of the contract or one thousand dollars (\$1,000), whichever is greatest, said amount to be determined by the City. All liquidated damages assessed shall be payable to the City upon demand and may be set off against any monies due to the contractor from any contract with the City and the City shall have the right to withhold payment due the contractor;
 - (6) Subject to Section 2.52.700, et. seq. of the Richmond Municipal Code, disqualifying the contractor or any subcontractor from eligibility for providing goods or services to the City for a period not to exceed five (5) years. Any business disqualified under this subsection shall have a right to review and reconsideration by the City Manager after two (2) years upon a showing of corrective action indicating that violations are not likely to recur; or
 - (7) Not awarding any contracts to a contractor or subcontractor that is disqualified from doing business with the City under the provisions of this subsection.

2.50.090 Exceptions.

- (a) The City shall waive the Richmond business rating incentives and good faith efforts requirements of this chapter under the following circumstances:

- (1) Whenever the City finds, with the advice of the CAA, that needed goods or services are available only from a sole source and the prospective contractor is not currently disqualified from doing business with the City or from doing business with any governmental agency based on a failure to comply with this chapter or other City requirements;
 - (2) If the CAA certifies in writing to the City that:
 - (A) Pursuant to the contract, it is necessary to respond to an emergency which endangers the public health or safety, and
 - (B) There is no time to apply the rating incentives and no Richmond businesses, Richmond small businesses or Richmond nonprofit business capable of performing the emergency work are immediately available;
 - (3) Any certification submitted pursuant to this provision shall be made prior to the contract being submitted for City Council review and approval or ratification.
- (b) The City shall waive the Richmond business rating incentives for contracts in excess of one million dollars (\$1,000,000) whenever a CAA establishes that:
- (1) Sufficient qualified Richmond businesses, Richmond small businesses and Richmond nonprofit businesses capable of providing the needed goods and services required by the contract are unavailable, and sufficient qualified businesses located outside of the area capable of providing the needed goods and services required by the contract are available; or
 - (2) The application of the rating incentives will result in significant additional costs to the City if the waiver of the rating incentive is not granted.
- (c) This provisions of this chapter shall not apply where local preferences are prohibited by state or federal law or regulation.

2.50.100 Monitoring compliance.

- (a) The City shall monitor compliance with and will submit a report annually by no later than October 1 of each year, or more frequently upon request of the City Council, to the City Council on the status of the implementation of this chapter. Compliance will be measured from the initial day of performance and shall continue for the duration of the project for which a contract will be awarded pursuant to this chapter. The City shall issue an exit report for any contract which includes Richmond business, Richmond small business and/or Richmond nonprofit business participation as a joint venture partner. The purpose of the exit report is to ensure that such businesses are actually performing services on joint ventures.
- (b) In cases where the City has cause to believe that a contractor or subcontractor acting in good faith has failed to comply with any of the requirements and intent of this chapter, rules and regulations adopted pursuant to this chapter, or contract provisions pertaining to Richmond business, Richmond small business and/or Richmond nonprofit business participation, the City shall notify the CAA and shall attempt to resolve the noncompliance through conciliation. The City shall be empowered to require the contractor or subcontractor to participate in alternative dispute resolution to resolve the noncompliance. If the noncompliance cannot be resolved, the City shall submit to the City Manager and the contractor or subcontractor a written finding of noncompliance. The City Manager shall give the contractor or subcontractor an opportunity to appeal the finding, and if the City Manager concurs with the finding of the City, the City Manager shall take such action as will effectuate the purposes of this chapter, including the actions permitted in Section 2.50.080(d).
- (c) In cases where the City has reason to believe that a contractor or subcontractor has willfully or in bad faith failed to comply with any of the provisions of this chapter, rules and regulations adopted pursuant to this chapter, or contract provisions pertaining to Richmond business, Richmond small business or Richmond nonprofit business participation, the City shall be empowered to conduct an investigation and require the contractor or subcontractor to participate in alternative dispute resolution to resolve the noncompliance. If the alternative dispute resolution is not successful, and after affording the contractor or subcontractor notice and an opportunity to be heard, the City may take action as will effectuate the purposes of this chapter, including the actions permitted in Section 2.50.080(d).

2.50.110 Duration of chapter.

The provisions of this chapter shall remain in effect until December 31, 2016. On that date, the provisions shall cease to exist unless the City Council acts to renew the provisions of this chapter.

SECTION 2

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 3

This Ordinance shall be effective 30 days after passage and adoption.

First read at a regular meeting of the Council of the City of Richmond, California, held, December 4, 2012, and finally passed and adopted at a regular meeting thereof held December 18, 2012, by the following vote:

- AYES: Councilmembers Bates, Boozé, Butt, Ritterman, Vice Mayor Rogers, and Mayor McLaughlin.
- NOES: None.
- ABSTENTIONS: None.
- ABSENT: Councilmembers Beckles.

DIANE HOLMES
 CLERK OF THE CITY OF RICHMOND
 (SEAL)

Approved:

GAYLE MCLAUGHLIN
 Mayor

Approved as to form:

BRUCE REED GOODMILLER
 City Attorney

State of California }
 County of Contra Costa } : ss.
 City of Richmond }

I certify that the foregoing is a true copy of Ordinance No. 16-12 N.S., finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on December 18, 2012.

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: November 15, 2017

Final Decision Date Deadline: November 15, 2017

STATEMENT OF THE ISSUE: The Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance provides that rental units in which governmentally subsidized tenants reside are exempt from the rent control provisions of the Ordinance but only if applicable federal, state or administrative regulations specifically exempt such units from municipal rent control. The Ordinance does not provide for a similar express exemption for such units as to the just cause provisions of the Ordinance. This regulation will specifically exempt certain subsidized rental units from the rent control provisions of the Ordinance in Section 11.100.070 but specifically does not exempt such units from the just cause provisions provided in Section 11.100.050.

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> | |

ITEM

- Presentation/Proclamation/Commendation (3-Minute Time Limit)
- Public Hearing Regulation Other:
- Contract/Agreement Rent Board As Whole
- Grant Application/Acceptance Claims Filed Against City of Richmond
- Resolution Video/PowerPoint Presentation (contact KCRT @ 620.6759)

RECOMMENDED ACTION: ADOPT Regulation 17-01, regarding the exemption of approximately 4,283 governmentally subsidized rental housing units (including the Housing Choice Voucher Program, Project-Based Section 8 Program, Low Income Housing Tax Credit Program, and Supportive Housing for the Elderly Program) from the rent control provisions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance – Rent Program (Nicolas Traylor/Michael Roush 620-6564).

AGENDA ITEM NO:

G-1.

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AGENDA REPORT

DATE: November 15, 2017

TO: Chair Gray and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director
Michael Roush, Legal Counsel

SUBJECT: EXEMPTION OF SUBSIDIZED UNITS FROM THE RENT CONTROL PROVISIONS OF THE FAIR RENT, JUST CAUSE FOR EVICTION, AND HOMEOWNER PROTECTION ORDINANCE

STATEMENT OF THE ISSUE:

The Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance provides that rental units in which governmentally subsidized tenants reside are exempt from the rent control provisions of the Ordinance but only if applicable federal, state or administrative regulations specifically exempt such units from municipal rent control. The Ordinance does not provide for a similar express exemption for such units as to the just cause provisions of the Ordinance. This regulation will specifically exempt certain subsidized rental units from the rent control provisions of the Ordinance in Section 11.100.070 but specifically does not exempt such units from the just cause provisions provided in Section 11.100.050.

RECOMMENDED ACTION:

ADOPT Regulation 17-01, regarding the exemption of approximately 4,283 governmentally subsidized rental housing units (including the Housing Choice Voucher Program, Project-Based Section 8 Program, Low Income Housing Tax Credit Program, and Supportive Housing for the Elderly Program) from the rent control provisions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance - Rent Program (Nicolas Traylor/Michael Roush 620-6564).

FISCAL IMPACT:

The adoption of Regulation 17-01 would exempt approximately 4,283 governmentally subsidized housing units from the rent control provisions of the Ordinance, reducing the possible demand for upward and downward adjustments of the Maximum Allowable Rent and the need for hearings associated with these tenancies. It is important to note, however, that tenants residing in these units would still have access to mediation and

counseling services, both of which are already accounted for in the amended Fiscal Year 2017-18 Rent Program Budget adopted by the Board on September 20, 2017.

DISCUSSION:

Background

The Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance (“Ordinance”) provides generally that all residential rental units in the City of Richmond are “controlled rental units” and hence subject to the rent control provisions of the Ordinance except those rental units that are expressly exempt pursuant to Section 11.100.030 (d) of the Richmond Municipal Code.

One category of rental units that is exempt from the rent control provisions of the Ordinance are “*rental units in which governmentally subsidized tenants reside but only if applicable federal, state or administrative regulation specifically exempts such units from municipal rent control.*” Section 11.100.030 (d) (3), Richmond Municipal Code.

Because no federal or state law or regulation exempts these rental units from municipal rent control, if the Board intends to exempt governmentally subsidized rental units from the rent control provisions of the Ordinance, the Board must do so through the adoption of an administrative regulation. It is important to recognize the proposed exemption of subsidized rental units from the rent control provisions of the Ordinance would NOT exempt these units from the just cause for eviction provisions of the Ordinance and related requirements, such as the requirement to file notices of termination of tenancy with the Rent Program, enrollment, and fee payment requirements.

For the purposes of this analysis and Regulation 17-01, “governmentally subsidized housing” means housing constructed and/or operated with assistance from a governmental program for the provision of affordable housing. It is important to recognize that the rental rates regulated by the Tax Credit Allocation Committee in LIHTC developments are not subsidized in the same manner as rents for tenants in HUD programs are; rather, the rents in LIHTC developments are set at levels presumed to be affordable for qualifying households. If a Tenant in a LIHTC rental unit experiences a change in income, the rental rate for the unit does not change.

Inventory of Governmentally- Subsidized Rental Housing in the City of Richmond

At its June 21, 2017, meeting, the Rent Board received a presentation from staff members regarding affordable rental housing developments in the City of Richmond. The presentation included an inventory of subsidized housing in the City.

This analysis concluded there are approximately 3,318 governmentally subsidized housing units in 24 housing developments in the City of Richmond. As Rent Program staff members have become aware of additional affordable housing units in the City, such as the existence of 96 “Below Market Rate” rental units in an otherwise market-

rate developments, this inventory has continued to be updated. An updated inventory is included in Attachment 3.¹

Most affordable rental housing developments in the City were constructed and operate using multiple forms of subsidy. For example, a project constructed with Low Income Housing Tax Credits may also receive funding from the Project-Based Section 8 Program through a direct contract with HUD and house tenants with a Housing Choice Voucher administered by the Richmond Housing Authority.

Therefore, as the Board considers exemption of different types of subsidized units from the rent control provisions of the Ordinance, it is important to understand that a single development may be operating with multiple forms of subsidy, and the complexities this poses with respect to administration.

A. Proposed Exemption of Subsidized Rental Units from the Rent Control Provisions of the Ordinance

The Board may consider multiple policy reasons for exempting governmentally subsidized rental units from the rent control provisions of the Ordinance. First, rent levels in such units are inherently stabilized and deemed “affordable” in that the rent levels are already regulated under another complex scheme. Second, attempting to have the Ordinance regulate rents in addition to the regulatory scheme will make it more complex for Rent Program staff to administer the Program. For example, determining the Maximum Allowable Rent where the tenant’s share of the rent is tied to household income, household size and number of bedrooms would be, if not infeasible, certainly burdensome, with no particular benefit to tenants or landlords. Third, landlords of these projects could challenge in court the Board’s decision to impose the rent control provisions of the Ordinance on rental units in the projects on grounds that applying the rent control provisions interfere with contractual rights and/or are pre-empted. Fourth, where there is a governmental subsidy or a regulatory agreement as to rents in place, it is typical in rent control jurisdictions that such rental units are exempt from rent control. Although tenants in these units would not have recourse to file a downward rent petition, they would still have access to the Rent Program’s counseling, mediation and referral services, especially as to eviction protections (discussed in more detail below under Section B.

1. Housing Choice Voucher Program Units

The Housing Choice Voucher Program is a federal government program that assists very low income households, seniors and the disabled to afford decent and safe housing in the private market. Households may choose any housing that meets the

¹ The 4,283 *total* subsidized housing units figure includes (a) all 3,414 deed-restricted affordable housing units identified in the inventory of affordable housing developments contained in Attachment 3; PLUS (b) 1,552 active Housing Choice Vouchers; MINUS (c) the 683 Housing Choice Voucher units located within the affordable housing developments contained in Attachment 3.

requirements of the program and are not limited to rental units located in subsidized housing projects.

Housing choice vouchers are typically administered locally by public housing authorities. In the City of Richmond, the Housing Choice Voucher Program is administered by the Richmond Housing Authority. The Housing Authority receives federal funds from the US Department of Housing and Urban Development (HUD) to administer the program. Landlords who participate in the program are paid a housing subsidy directly by the Authority, using HUD funds, and the participating household then pays the difference between the actual rent and the amount of the household subsidy.

According to the May 2017 Housing Choice Voucher Delinquency Report, there are 1,552 active Housing Choice Voucher units, out of a total 1,851 possible Voucher units.²

Generally, the rent the landlord participating in the program may charge is based on what is called the "Payment Standard", which is established by HUD based on "fair market rents." Payment Standards vary by location and the number of bedrooms. For example, in Richmond, the current Payment Standard for a one-bedroom unit is \$1,637/month. A household's share of the monthly rent, however, is tied to the household's adjusted monthly income, with a floor of 30% and a ceiling of 40%.

Accordingly, even if the HUD-established fair market rents and/or the Payment Standards increase, thereby providing additional rent to the landlord, if the household's adjusted monthly income does not change, the household continues to pay the same monthly rent than before the increase. Because rental units assisted with tenant-based Section 8 assistance will have their rents adjusted in accordance with procedures established by the Housing Authority based on the type of voucher the tenant has, any increase in rent as to the household is based on the household's monthly income.

As such, it is recommended rental units in which households hold a Section 8 Voucher should be exempt from the rent control provisions of the Ordinance, so long as the rent does not exceed the Payment Standard. If the rent exceeds the Payment Standard, then the exemption will no longer apply.

2. Project-Based Section 8 Units

The Project-Based Section 8 program is a similar federally-funded program that assists low income households; however, unlike the Housing Choice Voucher Program, which allocates Section 8 Vouchers to tenants, the Project-Based Section 8 Voucher Program allocates Vouchers to units and the subsidy remains with the rental unit.

² The wait list for Richmond Section 8 Voucher and Project-Based Voucher Programs will be open between November 27, 2017, until December 1, 2017. A random lottery will be held to place 1,000 applicants on each wait list. This is an online application process only. Interested persons may visit <http://www.ci.richmond.ca.us/86/Housing-Authority> for more information.

The Project-Based Section 8 Program provides a similar type of subsidy as does the Housing Choice Voucher Program; the household's monthly rent is tied to the household's adjusted monthly income and the number of bedrooms in the unit. Because tenants in rental units receiving Project-Based Section 8 assistance have their rents adjusted as provided in the Section 8 Renewal Policy Guide and the Housing Assistance Program contract, it is recommended rental units in a Project Based Section 8 Program should also be exempt from the rent control provisions of the Ordinance, so long as the rent does not exceed the Payment Standard. If the rent exceeds the Payment Standard, then the exemption will no longer apply.

A number of affordable housing developments in the City of Richmond are subsidized through participation in the Project-Based Section 8 Program through direct contracts with HUD. In addition, HUD regulations permit a Housing Authority to "Project-Base" 20 percent of its Housing Choice Vouchers.

According to the inventory of governmentally-subsidized rental housing units prepared by Rent Program staff members and presented to the Board in June, there are approximately 975 Project-Based Section 8 Units in affordable housing developments funded through a direct contract with HUD, and 683 Tenants with a Housing Choice Voucher from the Richmond Housing Authority residing in affordable developments.

3. Rental Units in the Low Income Housing Tax Credit Program

The Low Income Housing Tax Credit (LIHTC) Program is currently the country's most extensive affordable housing program. The program was added to the Section 42 of the Internal Revenue Code in the mid 1980's to encourage private property owners with an incentive to create and maintain affordable housing. In the City of Richmond, there are approximately 2,702 LIHTC units spread across 16 subsidized housing developments in the City.

The LIHTC program works through a subsidy mechanism. The IRS allocates funds to each state and each state sets up an agency to allocate tax credits to developers. Investors purchase income tax credits in qualified properties that have received a state allocation, creating cash equity for owners that reduce the cost of project development. In return, the owner agrees to rent a specific number of rental units to qualified households at specified rents.

Under the program, either at least 20% of the units must be occupied by households whose income is at or below 50% of the area median income or at least 40% of the units must be occupied by households whose income is at below 60% of the area median income. As to the restricted units, the rents are published annually by the State's Tax Credit Allocation Committee and are designed to have households in those restricted units pay no more than 30% of the household's adjusted monthly income for rent. For example, for 2017, the maximum income level of a two person household at the 30% of the AMI is \$25,050; at 60% of the AMI, \$50,100. The maximum rent for a

one bedroom unit for a two person household with a household income at 30% of the AMI is \$578; at 60% of the AMI, \$1,174.

Since rents for households in affordable units in a LIHTC development are a function of the household's income, and are regulated by agreements between the property owner and the Tax Credit Allocation Committee to remain "affordable" for the qualifying tenant household, it is recommended rent-restricted units in a LIHTC development should also be exempt from the rent control provisions of the Ordinance.

This exemption from the rent control provisions of the Ordinance would only apply to tenancies in which the tenant qualifies for the "affordable" rent. In the event a Tenant no longer qualifies (e.g. their income exceeds the limit for that particular unit), and is required to pay market rent, the tenancy would then become subject to the rent control provisions.

4. Rental Units in the Section 202 Supportive Housing for the Elderly Program

The Section 202 Supportive Housing for the Elderly Program is authorized under Section 202 of Housing Act of 1959 and expands the supply of affordable housing with supportive services, such as meals, housecleaning and transportation, for the elderly. Private non-profit organizations and nonprofit consumer cooperatives that meet certain federal requirements are the only eligible applicants to operate this program. Project rental assistance funds are provided to the operators to cover the difference between the HUD approved cost for the project and the tenants' contributions towards rent.

As with other HUD sponsored programs, the tenant's rent is capped at no more than 30% of the tenant's monthly adjusted income. Typically, the annual income for households in this program is less than \$10,000.

For these reasons, it is recommended rental units in the Section 202 Program be exempt from the rent control provisions of the Ordinance. Moreover, units in this program may already be exempt as this project may be considered a "non-profit home for the aged" (Section 11.100.030 (d) (2), RMC), and therefore fully exempt from the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance in accordance with Rent Board Regulation 17-03. As such, this Regulation 17-01 would make it such that *for-profit* homes for the aged participating in the Section 202 Program would only be exempt from the rent control provisions of the Ordinance, and still subject to the just cause for eviction requirements. There is only one development in Richmond that has Section 202 rental units: Heritage Park at Hilltop (95 units).

5. Regulatory Agreements between a Governmental Agency and a Property Owner

Within the City of Richmond, there are also rental units within a larger rental complex whose rents are regulated through an agreement between a governmental agency,

such as the former Richmond Community Redevelopment Agency, and a property owner. For example, in the 240 unit multifamily housing development located at VUE Apartments (formerly Summit at Hilltop Apartments), 96 of the units are required to be rented at “below market rate” (BMR) rents. Similar to the regulatory agreements involved with LIHTC projects, these agreements provide for affordable rents to lower income households. For the reasons expressed above, it is recommended that these units likewise be exempt from the rent control provisions of the Ordinance.

B. Subsidized Rental Units Are Not Exempt from the Just Cause Provisions of the Ordinance

The Ordinance provides that no landlord shall take action to terminate any tenancy, including serving any notice to quit or other eviction notice, or bringing any action to recover possession of a rental unit except for “just cause” (e.g. failure to pay rent, breach of lease, nuisance or failure of the tenant to give the landlord access to the rental unit.) “Rental Unit” is includes any building or any other rental property rented or offered for rent for residential purposes, together with all housing services connected therewith. Section 11.100.030 (m), Richmond Municipal Code.

Unlike the definition of a Controlled Rental Unit, which exempts certain rental units from rent control, the Ordinance does not exempt rental units in which governmentally subsidized tenants reside from the just cause for eviction provisions.

Moreover, there does not appear to be any conflict between the just cause provisions of the Ordinance and the good cause provisions of the regulatory schemes that govern the tenancies in these rental units. For example, when a tenant moves into a rental unit under the Low Income Housing Tax Credit Program, the tenant is provided with a “Resident Notification Letter” that provides in part that “Your landlord may not evict you without good cause. Good cause is generally serious or repeated violations of the terms of your lease. The landlord must state the good cause in any notice seeking to terminate your tenancy.” Another document given to these tenants, “Notice—Good Cause Eviction Procedures,” provides notice to the tenant that the tenant has the right to continue living in the rental unit unless the tenant does something that gives the landlord “good cause” to evict. The Notice identifies examples of good cause to include failure to pay rent, failure to cooperate with legal recertification (as to household income) requirements and engaging in illegal activity on the premises. These “good cause” provisions are consistent with the “just cause” provisions of the Ordinance.

Landlords of subsidized rental units may question why, given the protections that are already in place for tenants in these units, these units should also not be exempt from the just cause provisions of the Ordinance. There are sound policy reasons for doing so: (1) there is no preemption; ; (2) the Ordinance/Board Regulation better defines what a landlord’s obligations are when terminating a tenancy for just cause; (3) exempting these units from the just cause provisions would create a double standard; and (4) not exempting these units is important to outreach purposes.

ITEM G-1

The Ordinance does not exempt such units and there is no federal or state law or regulation that expressly exempts such units from the just cause provisions of a municipal rent control ordinance. Accordingly, the Ordinance is not preempted by federal or state law.

The Ordinance and Board Regulation (Regulation 17-08, also on the Board's agenda) more precisely informs a landlord what a landlord must do in order to evict a tenant concerning certain just cause reasons. For example, if there is a breach of a lease, the Ordinance and Regulation require the landlord to provide a written warning notice to the tenant that informs the tenant that the failure to cure the breach may result in eviction proceedings, that includes sufficient details of the breach to allow a reasonable person the opportunity to comply, and that includes sufficient information necessary to determine the date, time and place of the breach. Although some landlords with tenants in subsidized units may follow a similar process, there is no guarantee such warning notices will be provided to the tenant without requiring landlords to comply with the Ordinance and Regulation. Similarly, by requiring landlords to comply with Board Regulation 17-10, concerning the filing of notices of termination of tenancy with the Rent Program, staff will be better able to answer questions from tenants in subsidized units who receive these notices and often call the Rent Program concerning the notices.

Moreover, Board Regulation 17-08 reflects the "one strike and you are out" rule that applies in subsidized rental units for documented criminal activity or violent or abusive behavior. Accordingly, the fact that these units are not exempt from the just cause provisions of the Ordinance will not act as a hindrance for a landlord who needs to proceed swiftly to remove a dangerous tenant from a rental unit.

If these units were exempt from the just cause provisions could lead to weaker eviction standards for tenants in these units and hence could create a double standard with tenants in subsidized rental units receiving less protection than tenants in non-subsidized units.

By not exempting these rental units from the just cause provisions, landlords must submit all eviction notices with the Rent Program, which is an effective tool for preventing unlawful or illegal evictions and is also an important outreach and educational tool. That is, if the eviction process does not conform to the Ordinance, the landlord and the tenant receive notices from the Rent Program staff concerning the requirements of the Ordinance and their respective rights. An exemption from the Ordinance in its entirety would also eliminate staff's ability to provide advice to tenants of governmentally subsidized rental units concerning any aspect of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance. A preliminary review of data concerning the nature of inquiries received by the Rent Program indicates there is demand for assistance among residents of subsidized housing developments (Attachment 4).

DOCUMENTS ATTACHED:

Attachment 1 – Regulation 17-01

Attachment 2—Comparison Matrix

Attachment 3 – Draft Inventory of Affordable Housing Projects in the City of Richmond
(November 2017)

Attachment 4 – Inquiries Concerning Subsidized Housing Units (as of October 5, 2017)

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ITEM G-1 ATTACHMENT 1

RICHMOND RENT BOARD REGULATION 17-01

Regarding the Exemption of Certain Rental Units from Rent Control (RMC 11.100.070)

1. Purpose

The Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance (“Ordinance”) provides that rental units in which governmentally subsidized Tenants reside are exempt from the rent control provisions of the Ordinance only if applicable federal, state or administrative regulations specifically exempt such units from municipal rent control. Section 11.100.030 (d)(3), Richmond Municipal Code. The purpose of this Regulation is to clarify the exemption from the rent control provisions of the Ordinance to certain rental units in which governmentally subsidized tenants reside because the rents for these units are already regulated through governmental regulation. Such units would still be subject to the just cause provisions of the Ordinance under Section 11.100.050.

2. Rental Units in Which Governmentally Subsidized Tenants Reside That are Exempt from the Rent Control Provisions of the Ordinance

The following rental units are exempt from the rent control (RMC 11.100.070), but not the just cause for eviction (RMC 11.100.050) provisions of the Ordinance.

- A. Rental units in which a tenant household holds a Section 8 Housing Choice Voucher and where the rent not does exceed the Payment Standard as published by the U.S. Department of Housing and Urban Development.
- B. Rental units for which the rent is subsidized by the Project-Based Section 8 Program
- C. Rental units that are “rent restricted” in a Low Income Housing Tax Credit Program Project. “Rent Restricted” means the rent charged for the unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.
- D. Rental units for which the rent is subsidized by the Section 202 Supportive Housing for the Elderly Program
- E. Rental units that are “rent restricted” under a regulatory agreement between a governmental agency and a property owner. “Rent Restricted” means the rent charged for the unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.

3. Other Rental Units That are Exempt from the Rent Control Provisions of the Ordinance

In addition to rental units that are exempt from rent control under Section 11.100.100.030 (d)(1)(2)(4) (5) and (6), Richmond Municipal Code, as implemented by Rent Board Regulation 17-03, rental units which a governmental unit, agency or authority owns, operates or manages are exempt from the rent control provisions of the Ordinance. Section 11.100.030 (d)(3), Richmond Municipal Code.

4. Exemption Only Applies if Rental Unit is in Compliance with Applicable Laws and Regulations

The exemption from rent control (RMC 11.100.070) as described in Section 2 of this Regulation 17-01 only applies so long as the rental unit is in compliance with all applicable laws and regulations, and for which there is in effect (a) a tenant with a Section 8 Housing Choice Voucher in the rental unit, (b) the rental unit is in a Project-Based Section 8 Program, and/or (c) the rental unit is rent restricted under a regulatory agreement and/or declaration of restrictive covenants.

**ITEM G-1
ATTACHMENT 1**

Nothing in this regulation shall preclude tenants residing in rental units described in Section 2 of this Regulation 17-01 from seeking advice or assistance from the Rent Program concerning applicable provisions of the Ordinance and utilizing the remedies provided in the Ordinance to the extent permitted by Federal, State, and local law.

I, the undersigned, hereby certify that the foregoing Regulation was duly adopted and passed by the Richmond Rent Board in a regular meeting assembled on November ___ 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Rent Board Clerk

David Gray, Chair

Approved as to form:

Michael Roush, Legal Counsel

State of California }
County of Contra Costa } : ss.
City of Richmond }

Comparison Matrix of Various Affordable Housing Policies and Programs

November 2017

Program	Housing Choice Vouchers (Tenant-based Section 8)	Project-Based Multifamily ¹	LIHTC	Richmond Rent Ordinance
Administered by:	Housing Authority (HA)	HUD	CA Tax Credit Allocation Committee (TCAC)	Richmond Rent Program
Termination of Tenancy	<ul style="list-style-type: none"> - Termination allowed for material noncompliance with lease, criminal activity, property damage, “other good cause” (as defined by states/localities)² - Good cause can include business or economic reasons, such as wanting to increase rents beyond HUD limits³ 		<ul style="list-style-type: none"> - Properties must have ‘good cause’ eviction requirements within their deed restrictions⁴ - No standard definition of ‘good cause’ within federal or state LIHTC regulations, determined by courts on case-by-case basis⁵ 	<ul style="list-style-type: none"> - Set of 8 reasons for “just cause” evictions - Relocation payments required for no-fault evictions
Rent Regulation	<ul style="list-style-type: none"> - HUD bases tenant rent on 30% income standard, tenants recertify annually⁶ - Government portion (paid by HUD or HA) based on Fair Market Rent⁷ - Resident must report income changes between recertifications → HA or project is required to recalculate accordingly 		<ul style="list-style-type: none"> - Rents based on income brackets (pct. Area Median Income), as opposed to direct pct. of household income (as in HUD)⁸ - Management companies look at past 2 years of gross income and ask employers about potential future raises⁹ - Not required to immediately recalculate rent if income changes 	<ul style="list-style-type: none"> - Rent control applies to most multifamily units built before 1996 - Sets base rent to July 2015 levels and allows for subsequent increases based on Consumer Price Index (CPI)
Habitability	<ul style="list-style-type: none"> - Housing Quality Standards (HQS) inspections by HA: fairly strict standards¹⁰ - HQS may also make residents wary of reporting problems for fear of losing housing, especially in tight markets¹¹ 	<ul style="list-style-type: none"> - HUD’s Real Estate Assessment Center (REAC) inspects properties and releases physical inspection score¹² - If a project scores below 70, HUD can recapture funds or fire management companies¹³ 	<ul style="list-style-type: none"> - Compliance section at TCAC inspects properties annually during first 15 years only¹⁴ - No monitoring after this 15-year period, even though affordability term much longer - Inspection of 20% randomly selected units, mostly looking for physical or severe habitability problems¹⁵ 	<ul style="list-style-type: none"> - <i>For controlled units:</i> petition process for downward rent adjustment if substantial deterioration of unit or lack of services - <i>For non-controlled units:</i> program staff will refer case to Richmond Rental Inspection Program or Building Official
Grievances and Oversight	<ul style="list-style-type: none"> - Right to informal review or hearing with HA to dispute voucher termination or rent calculations¹⁶ - HA does not usually get involved in landlord-tenant disputes 	<ul style="list-style-type: none"> - Right to informal meeting with property manager to discuss termination of assistance, rent calculations, etc.¹⁷ - Tenant protections are minimal within these meetings 	<ul style="list-style-type: none"> - TCAC Compliance Section has some authority but many tenants do not know what LIHTC or TCAC are¹⁸ - Most complaints or issues dealt with internally (through management or development company)¹⁹ - LIHTC regulations are within tax code, making it harder for residents to bring claims against management²⁰ 	<ul style="list-style-type: none"> - Rent Program has authority to issue warning notices to landlords about termination of tenancy, habitability, or illegal rent increases - Petition process for controlled units

Footnotes and References

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- ¹ This category refers to multifamily housing administered through direct contracts with HUD, including project-based Section 8, Section 202 (senior) and Section 236 (mortgage interest subsidy) housing
- ² U.S. Department of Housing and Urban Development (HUD) “HUD Multifamily Occupancy Handbook Chapter 8,” November 2013, accessed November 1, 2017, https://www.hud.gov/sites/documents/DOC_35654.PDF.
- ³ National Housing Law Project (NHLP), “Barrientos v. 1801-1825 Morton, LLC”, accessed October 18, 2017, <http://nhlp.org/node/1130>.
- ⁴ NHLP, “Good Cause Eviction,” accessed November 7, 2017, <http://nhlp.org/resourcecenter?tid=106>
- ⁵ Tenants Union of Washington State, “Low Income Housing Eviction,” accessed October 27, 2017, <http://www.tenantsunion.org/en/rights/low-income-housing-eviction>.
- ⁶ HUD, “HUD Multifamily Occupancy Handbook Chapter 7,” November 2013, accessed November 1, 2017, <https://www.hud.gov/sites/documents/43503C7HSGH.PDF>.
- ⁷ HUD, “Fair Market Rents,” accessed November 7, 2017, <https://www.huduser.gov/portal/datasets/fmr.html>.
- ⁸ Alex Schwartz, *Housing Policy in the United States* (New York: Routledge, 2010).
- ⁹ Interview with Lauren Maddock, October 23, 2017.
- ¹⁰ HUD, “Housing Quality Standards – Frequently Asked Questions”, accessed November 7, 2017, https://www.hud.gov/sites/documents/DOC_9143.PDF.
- ¹¹ Schwartz, *Housing Policy in the United States*.
- ¹² HUD, “Physical Inspection Scores,” accessed November 3 2017, <https://www.huduser.gov/portal/datasets/pis.html>.
- ¹³ HUD, “Physical Requirements,” https://www.hud.gov/sites/documents/21514_preoccphysical.doc
- ¹⁴ California Tax Credit Allocation Committee, “Compliance Online Reference Manual”, accessed October 27, 2017, <http://www.treasurer.ca.gov/ctcac/compliance/manual/manual.pdf>.
- ¹⁵ Desiree Carole Hensley, “Out in the Cold: The Failure of Tenant Enforcement of the Low-Income Housing Tax Credit,” SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, September 3, 2014), accessed October 17, 2017, <https://papers.ssrn.com/abstract=2491366>.
- ¹⁶ South Carolina Appleseed Legal Justice Center, “Grievance Procedures in Public Housing, Subsidized Housing and Section 8 Programs”, October 2012, accessed November 3, 2017, <http://www.scjustice.org/brochure/grievance-procedures/>.
- ¹⁷ South Carolina Appleseed Legal Justice Center.
- ¹⁸ Hensley, “Out in the Cold.”
- ¹⁹ Interview with Lauren Maddock, October 23, 2017.
- ²⁰ Hensley, “Out in the Cold.”

CITY OF RICHMOND, CALIFORNIA
DRAFT EXISTING DEED-RESTRICTED AFFORDABLE HOUSING

Basic Information				Subsidy Type(s) and Expiration											Ownership and Management	
DEVELOPMENT NAME	ADDRESS	YEAR BUILT (a)	APN	PROJECT-BASED SECTION 8: Direct Contract with HUD	SECTION 8 CONTRACT EXPIRATION	TENANTS WITH A HOUSING CHOICE VOUCHER (TENANT-BASED SECTION 8)	SECTION 202 UNITS	SECTION 42 (LIHTC) UNITS	SECTION 236 UNITS	PUBLIC HOUSING UNITS/UNITS OWNED BY THE RICHMOND HOUSING AUTHORITY	BELOW MARKET RATE "BMR" UNITS	TOTAL SUBSIDIZED UNITS	COMPLIANCE END YEAR (LIHTC PROPERTIES ONLY)	REGULATORY AGREEMENT AND DATE(S) OF RECORDING	OWNER ON RECORD NAME & ADDRESS	OWNERSHIP ENTITY
Data Source	Regulatory Agreements; Restrictive Covenants; 2015-2023 Housing Element	ParcelQuest (County Assessor Data)	ParcelQuest (County Assessor Data)	HUD; California Housing Partnership Corporation	California Housing Partnership Corporation	Richmond Housing Authority	Richmond Housing Authority	HUD	Richmond Housing Authority	Richmond Housing Authority; ParcelQuest (County Assessor Data)	Regulatory Agreement	Regulatory Agreements; Restrictive Covenants; 2015-2023 Housing Element; California Housing Partnership Corporation	California Housing Partnership Corporation	Housing Division; Contra Costa County Recorder	ParcelQuest (County Assessor Data)	ParcelQuest (County Assessor Data); California Housing Partnership Corporation
1	Arbors Apartments	5127-5331 Creely Avenue	1965	509-190-004	23	8/31/2026		35				36	2063	Regulatory Agreement and Declaration of Restrictive Covenants (10/31/06); First Amendment to Regulatory Agreement (11/03/08); Second Amendment to Regulatory Agreement (4/22/14)	ARBORS PRESERVATION LP	John Stewart Company (County); Resources for Community Development (RCD)(California Housing Partnership Corporation)
2	Barrett Plaza Townhouses	740 Barrett Ave, Richmond, CA 94801	1975	534-392-001	58	12/31/2031			58			58	2070		BARRETT PLAZA HOUSING CORP	Community Housing Development Corporation, Managed by CHDC.
3	Barrett Terrace Apartments	700 Barrett Ave, Richmond, CA 94801	1975	538-440-001	114	12/31/2031			114			115			BARRETT TERRACE HOUSING CORP	Community Housing Development Corporation, Managed by CHDC.
4	Baycliff Apartments	2300 Lancaster Dr, Richmond, CA 94806	1977	414-300-005			118	342				342	2059	Regulatory Agreement and Declaration of Restrictive Covenants (7/29/04)	FF Hills LP	FF Hills LP
5	Carquinez	400 Harbour Way, Richmond, CA 94801	1980	540-420-003			33	35				36	2064	Regulatory Agreement and Declaration of Restrictive Covenants (11/14/08)	Carquinez Associates	Carquinez Associates
6	Chesley Mutual Housing	802 Chesley Ave, Richmond, CA 94801	2005 (c)	561-251-003				30				30	2059	Regulatory Agreement and Declaration of Restrictive Covenants (12/17/03)	CHESLEY AVE LTD PARTNERSHIP	Community Housing Development Corporation Managed by Eden Housing
7	Crescent Park	5000 Hartnett Ave, Richmond, CA 94804	1968	509-242-003	341	12/31/2026	13	378				378	2062	Regulatory Agreement and Declaration of Restrictive Covenants (07/06/07)	CRESCENT PARK EAH LP	EAH Housing
8	Deliverance Temple	4312 Potrero Ave, Richmond, CA 94804	1974	509-370-028	82	2/28/2037		82				82	2070	Regulatory Agreement - Federal and State Credits (12/09/03) & HAP Contract (10/09)	DT Venture LP	MRK Partners, Inc.
9	Friendship Manor (RAD Conversion)	564 Stege Avenue, Richmond, CA 94804	1972 (b)	513-171-007			43			57		57	2069	Regulatory Agreement and Declaration of Restrictive Covenants (12/22/15)	Richmond Housing Authority	City of Richmond Housing Authority Managed by John Stewart
10	Harborview Senior Apartments	25 Harbour Way, Richmond, CA 94801	2016 (c)	538-430-020			46	61				62	2068	Regulatory Agreement and Declaration of Restrictive Covenants (08/15/14)	RICHMOND PACIFIC ASSOCIATES	Richmond Pacific Associates
11	Heritage Park at Hilltop	3811 Lakeside Drive, Richmond, CA 94806	2000 (c)	405-373-022			94	95	192			192	2054	No Reg Agreement, but we have Density Bonus Agreement (2/28/01)	HILLTOP GROUP LP	Hilltop Group LP
12	Liberty Village Apartments	298 W Chanslor Ave, Richmond, CA 94801	1942	538-012-003				100				100	2068	Regulatory Agreement 11/01/00	LIH LIBERTY VILLAGE LP	LIH Liberty Village LLC

Basic Information				Subsidy Type(s) and Expiration											Ownership and Management	
DEVELOPMENT NAME	ADDRESS	YEAR BUILT (a)	APN	PROJECT-BASED SECTION 8: Direct Contract with HUD	SECTION 8 CONTRACT EXPIRATION	TENANTS WITH A HOUSING CHOICE VOUCHER (TENANT-BASED SECTION 8)	SECTION 202 UNITS	SECTION 42 (LIHTC) UNITS	SECTION 236 UNITS	PUBLIC HOUSING UNITS/UNITS OWNED BY THE RICHMOND HOUSING AUTHORITY	BELOW MARKET RATE "BMR" UNITS	TOTAL SUBSIDIZED UNITS	COMPLIANCE END YEAR (LIHTC PROPERTIES ONLY)	REGULATORY AGREEMENT AND DATE(S) OF RECORDING	OWNER ON RECORD NAME & ADDRESS	OWNERSHIP ENTITY
Data Source	Regulatory Agreements; Restrictive Covenants; 2015-2023 Housing Element	ParcelQuest (County Assessor Data)	ParcelQuest (County Assessor Data)	HUD; California Housing Partnership Corporation	California Housing Partnership Corporation	Richmond Housing Authority	Richmond Housing Authority	HUD	Richmond Housing Authority	Richmond Housing Authority; ParcelQuest (County Assessor Data)	Regulatory Agreement	Regulatory Agreements; Restrictive Covenants; 2015-2023 Housing Element; California Housing Partnership Corporation	California Housing Partnership Corporation	Housing Division; Contra Costa County Recorder	ParcelQuest (County Assessor Data)	ParcelQuest (County Assessor Data); California Housing Partnership Corporation
13	Lillie Mae Jones Plaza	120 Macdonald Ave, Richmond, CA 94801	2011 (c)	538-181-037		18						26	2065	Regulatory Agreement and Declaration of Restrictive Covenants (no date of recording); Modification of Regulatory Agreement and Declaration of Restrictive Covenants (05/07/10)	LILLIE MAE JONES PLAZA LP	East Bay Asian Local Development Corp (County); CHDC of North Richmond (California Housing Partnership Corporation)
14	Monterey Pines Apartments	680 S 37th St, Richmond, CA 94804	1971	513-185-011		50		324				324	2070	Regulatory Agreement and Declaration of Restrictive Covenants (12/20/01)	Monterey Venture LP	Apartment Management Consultants LLC
15	Nevin Plaza	2400 Nevin Avenue, Richmond, CA 94804	1973	515-261-001								142			Richmond Housing Authority	Richmond Housing Authority
16	Nystrom Village	222 Marina Way South, Richmond, CA 94804	1920	544-112-001								102			Richmond Housing Authority	City of Richmond Housing Authority Managed by John Stewart
17	Pullman Point (formerly Richmond Townhouses)	2989 Pullman Ave, Richmond, CA 94804	1973	513-010-019	192	2/29/2024		199	192			199	2058		CARLSON BOULEVARD LP	Primary Owner - Community Housing Development Corporation and Limited Partner John Stewart Company
18	Richmond City Center Apartments	1000 Macdonald Ave	1994	540-460-009		14		63				63	2067	First Amendment to First Amended and Restated Regulatory Agreement (2/05/13)	RICHMOND HOUSING ASSOCIATES LP	Richmond Housing Associates
19	Richmond Village (formerly Easter Hill)	700 S 26th St, Richmond, CA 94804	2004 (c)	549-240-001		60		241				241	2060 & 2061	Regulatory Agreement and Declaration of Restrictive Covenants - Easter Hill Phase I (2/24/04); Regulatory Agreement and Declaration of Restrictive Covenants - Easter Hill Phase II (11/12/04)	Richmond Housing Authority	Richmond Housing Authority (County); McCormack Baron, Salazar, Inc. (California Housing Partnership Corporation)
20	Rubicon Homes	2500 Bissell Ave, Richmond, CA 94804	1950	515-312-004	10	8/31/2027	Old 202 project - lease matured		10			10			Rubicon Programs Incorporated	Rubicon Programs Incorporated
21	St Johns Apartments	121 W Macdonald Ave, Richmond, CA 94801	1990	538-011-002	155	6/30/2033		158				158	2068	Regulatory Agreement (7/22/15)	ST JOHNS PARTNERS LP	US Residential Corporation
22	Triangle Court (RAD Conversion)	980 Triangle Court, Richmond, CA 94801	1988	561-280-007		75						98	2069	Regulatory Agreement and Declaration of Restrictive Covenants (12/22/15)	Richmond Housing Authority	Richmond Housing Authority
23	Trinity Plaza Senior Apartments (formerly MacDonal Senior Apartments)	350 & 410 Macdonald Ave, Richmond, CA 94806	2009 (c)	538-210-027		64		66				66	2063	Regulatory Agreement and Declaration of Restrictive Covenants (10/12/07)	Richmond Labor & Love Comm Dev	Richmond Labor & Love Community Development (County); Reloated Development Company of California, LLC (California Housing Partnership Corporation)

Basic Information				Subsidy Type(s) and Expiration											Ownership and Management	
DEVELOPMENT NAME	ADDRESS	YEAR BUILT (a)	APN	PROJECT-BASED SECTION 8: Direct Contract with HUD	SECTION 8 CONTRACT EXPIRATION	TENANTS WITH A HOUSING CHOICE VOUCHER (TENANT-BASED SECTION 8)	SECTION 202 UNITS	SECTION 42 (LIHTC) UNITS	SECTION 236 UNITS	PUBLIC HOUSING UNITS/UNITS OWNED BY THE RICHMOND HOUSING AUTHORITY	BELOW MARKET RATE "BMR" UNITS	TOTAL SUBSIDIZED UNITS	COMPLIANCE END YEAR (LIHTC PROPERTIES ONLY)	REGULATORY AGREEMENT AND DATE(S) OF RECORDING	OWNER ON RECORD NAME & ADDRESS	OWNERSHIP ENTITY
<i>Data Source</i>	<i>Regulatory Agreements; Restrictive Covenants; 2015-2023 Housing Element</i>	<i>ParcelQuest (County Assessor Data)</i>	<i>ParcelQuest (County Assessor Data)</i>	<i>HUD; California Housing Partnership Corporation</i>	<i>California Housing Partnership Corporation</i>	<i>Richmond Housing Authority</i>	<i>Richmond Housing Authority</i>	<i>HUD</i>	<i>Richmond Housing Authority</i>	<i>Richmond Housing Authority; ParcelQuest (County Assessor Data)</i>	<i>Regulatory Agreement</i>	<i>Regulatory Agreements; Restrictive Covenants; 2015-2023 Housing Element; California Housing Partnership Corporation</i>	<i>California Housing Partnership Corporation</i>	<i>Housing Division; Contra Costa County Recorder</i>	<i>ParcelQuest (County Assessor Data)</i>	<i>ParcelQuest (County Assessor Data); California Housing Partnership Corporation</i>
24	VUE @ 3600 (formerly Summit at Hilltop) 3600 Sierra Ridge Road	1990	405-490-013								96	96		Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants (7/15/10)	US Reif Sierra Ridge Road	US Reif Sierra Ridge Road
25	Westridge Apartments 2490 Lancaster Dr, Richmond, CA 94806	1973	414-310-008 & 414-310-007			55		396				401	2069	Regulatory Agreement and Declaration of Restrictive Covenants (3/19/16)	Menlo Westridge Affordable Partner	Alliance Residential Company (County); Klein Financial Corp/Menlo Capital
SUM				975		683	95	2,702	374	399		3,414				

SECTION 8 HOUSING CHOICE VOUCHERS ADMINISTERED BY RICHMOND HOUSING AUTHORITY (as of May 2017)	
Category	Number
Number of Units with Active Voucher	1,552
Total Possible Vouchers	1,851

- Notes:**
- (a) Refers to the "Effective Date" as recorded by the Contra Costa County Assessor. The Planning and Building Services Departments utilizes the "Effective Date" rather than the "Year Built" since "Effective Date" indicates when the building was fit for occupancy.
 - (b) Associated with the parent address of 603 South 37th Street.
 - (c) The Costa-Hawkins Rental Housing Act (California Civ. Code 1954.50) exempts units which received a certificate of occupancy after February 1, 1995, from rent control (restrictions on a maximum allowable rent).

DEFINITIONS	
LIHTC	Low Income Housing Tax Credit
Section 8 - Project Based	Units Subsidized by Section 8 Program
Section 8 - Tenant Based	Tenants with a Section 8 Voucher
Section 202 (Senior)	Section 202 Supportive Housing for the Elderly Program
Section 236	Presevation of Affordable Housing Program

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ITEM G-1 ATTACHMENT 4

Inquiries to Richmond's Rent Program Regarding Subsidized Housing

Preliminary Analysis as of October 5, 2017

Between January 3 and October 5, 2017, the Richmond Rent Program received **99 inquiries** regarding housing with LIHTC, Project-Based Section 8 and Housing Choice Vouchers. Nearly two-thirds (61) were from tenants, although we received more than 30 inquiries from landlords and property managers who wanted more explanation of how the Rent Ordinance fit with Section 8 and LIHTC regulations. Tenants called about a range of issues, from general questions of what was covered under the rent ordinance to specific complaints about rent increases, eviction notices, and severe habitability concerns.

Inquiry Category	No. Inquiries
Eviction	30
Rent increase	21
Habitability	14
General ordinance	14
Landlord enrollment	10
Other	10
TOTAL	99

Development	Total No. Inquiries	Primary Inquiry Category
Monterey Pines	17	Eviction
Baycliff	10	Rent increase
Heritage Park	6	Rent increase
Pullman Point	4	Rent increase
Lillie Mae Jones	3	Repairs
Richmond Village	3	Eviction
St John's Apartments	3	Eviction
Liberty Village	2	Repairs
Deliverance Temple	2	Eviction
Crescent Park	2	Eviction
Westridge Apartments	2	Repairs
Richmond City Center Apts.	2	Eviction
Triangle Court	1	Repairs
<i>Housing Choice Vouchers (various)</i>	41	Eviction

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AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: November 15, 2017

Final Decision Date Deadline: November 15, 2017

STATEMENT OF THE ISSUE: At its meeting on October 18, 2017, the Rent Board considered Regulation 17-08, regarding written warning notices to cease before terminating a tenancy due to a breach of lease or creating a nuisance. Following discussion, the Board directed staff to return with a revised regulation at the November Rent Board meeting.

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> | |

ITEM

- | | | |
|---|--|---------------------------------|
| <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 17-08, regarding Written Warning Notices to Cease before Terminating Tenancies due to a Breach of Lease or Creating Nuisance – Rent Program (Michael Roush 621-1202).

AGENDA ITEM NO:

G-2.

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AGENDA REPORT

DATE: November 15, 2017

TO: Chair Gray and Members of the Rent Board

FROM: Michael Roush, Legal Counsel

SUBJECT: REGULATION REGARDING WRITTEN WARNING NOTICES
REGARDING TERMINATION OF TENANCY FOR BREACH OF LEASE
OR NUISANCE

STATEMENT OF THE ISSUE:

At its meeting on October 18, 2017, the Rent Board considered Regulation 17-08, regarding written warning notices to cease before terminating a tenancy due to a breach of lease or creating a nuisance. Following discussion, the Board directed staff to return with a revised regulation at the November Rent Board meeting.

RECOMMENDED ACTION:

ADOPT Regulation 17-08, regarding Written Warning Notices to Cease before Terminating Tenancies due to a Breach of Lease or Creating Nuisance – Rent Program (Michael Roush 621-1202).

FISCAL IMPACT:

There is no fiscal impact to the Rent Program by adopting this Regulation. The staff time to administer this part of the Ordinance is already part of the Board's adopted budget.

DISCUSSION:

Purpose

Sections 11.100.050(a)(2-4) and (d) of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance ("Rent Ordinance") establishes requirements for Landlords to provide Tenants an opportunity to cure problems before the Landlord can act to terminate a tenancy due to certain "just cause" reasons for eviction. Specifically, the Rent Ordinance requires that a Landlord must serve a written warning notice to

ITEM G-2

cease prior to seeking to terminate tenancy due to the tenant's breach of lease, nuisance, or failure to give access. The written warning notice must:

- a) Be served by the Landlord within a reasonable period prior to serving a notice to terminate tenancy;
- b) Shall inform the Tenant that a failure to cure may result in the initiation of eviction proceedings;
- c) Shall inform of the Tenant of the right to request a reasonable accommodation and the contact information for the Rent Board;
- d) Shall include sufficient details allowing a reasonable person to comply;
- e) Shall include any information necessary to determine the date, time, place, witnesses present and other circumstances.

A "written warning notice to cease" as referenced in the Rent Ordinance, and as interpreted by Rent Program staff members, is in addition to, and distinct from, notices established by State law, such as 3-day Notices to Perform Covenant or Quit (see, e.g., Civil Code, section 1161(3)). See Attachment 2

Regulation 17-08 seeks to preserve the intent of such provisions while clarifying that Landlords maintain the ability to proceed with termination of tenancy when the actions of a Tenant pose an immediate threat to health and safety. For example, if a Tenant commits a criminal act, such as assault, the Landlord would not be required to provide the Tenant with a written warning notice and reasonable amount of time for the Tenant to cure the violation, and could instead proceed with a three-day notice (Code of Civil Procedure Section 1161(4)) (See Attachment 2).

Background

At its meeting on October 18, 2017, the Rent Board considered Regulation 17-08, regarding written warning notices to cease before terminating a tenancy due to a breach of lease or creating a nuisance. The Board raised several concerns, primarily about Section 3 of the Regulation, which would allow a landlord to initiate terminating a tenancy without providing a written warning to cease for a tenant, a member of the tenant's household or a person under the control of the tenant who engages in criminal activity, including drug related criminal activity.

Boardmembers and members of the public expressed concern that the Ordinance, as drafted, vested too much discretion in the Landlord and could be used by a Landlord as a ruse to evict a Tenant or punish a Tenant for behavior over which the Tenant had no control. The Board also expressed concern about allowing a landlord to initiate eviction proceedings without providing an additional written warning notice to cease if a Tenant breached the lease twice within a 24-month period but the breaches concerned different terms of a lease, or the tenant created a nuisance twice in a 24-month period but the nuisances were different. In addition, the Board was concerned that the Regulation did not provide adequate guidance as to how long a Tenant would have to cure the breach or the nuisance following the serving of the written notice to cease before the landlord

could serve a written notice to terminate. Finally, although the Regulation is consistent with State law, and provides that a person who is a victim of domestic violence cannot be terminated, except under limited circumstances such as the victim allowing the person who engaged in the violence to visit the property, the State statute protects a larger group of criminal activity victims and the Board felt those categories ought to be expressly identified as well. See Code of Civil Procedure, section 1161.3, subdivision (b).

Discussion of Revisions to Proposed Regulation 17-08

To address the issues described above, the proposed Regulation 17-08 has been revised in several respects, as outlined below:

Revision #1: Distinguishing between a Tenant and guests under the Tenant's control

First, the Regulation will distinguish between a Tenant and members of the Tenant's household or a guest/invitee of the Tenant. As to the Tenant him/herself, a Landlord may initiate an action to terminate a tenancy immediately, i.e., without serving a written warning to cease, only if the Tenant has engaged in criminal activity that threatens another's health, safety or right to peaceful enjoyment, has engaged in or threatened violent or abusive behavior to other members of the Tenant's household or other Tenants, and the criminal activity or violent or abusive behavior has been reported to law enforcement. See subsection (a) of Section 3 of Regulation 17-08.

Abusive or violent behavior includes verbal as well as physical abuse or violence, including the use of racial epithets or other language that is customarily used to intimidate. Threatening refers to oral or written threats or physical gestures that communicate to a reasonable person an intent to abuse or intent to commit violence. See subsections (e) and (f) of Section 3 of Regulation 17-08.

As to a member of the Tenant's household or a guest or invitee of the Tenant, a Landlord may initiate an action to terminate a tenancy immediately only (1) when the person engages in the activity or behavior described above, e.g., criminal activity that threatens another's health, safety or right to peaceful enjoyment, (2) the criminal activity or the violent or abusive behavior has been reported to law enforcement, and (3) the Tenant fails to provide proof to the landlord within 24 hours from the time of the report to law enforcement that the person has been removed from the household or, following the person's removal from the household, the Tenant has allowed the person to return to the household. See subsection (b) of Section 3 of Regulation 17-08

The Board, however, should be aware that Tenants in federally subsidized rental units may be subject to more stringent standards. In a 2002 United States Supreme Court case, *Department of HUD v. Rucker*, the Supreme Court upheld provisions of leases following federal regulations that implement federal law, that permit tenancies to be terminated without a warning notice to cease, if a Tenant, a member of the Tenant's household, a guest of a Tenant or a person under the control of the Tenant engages in

criminal activity. See Attachment 3. In addition, Tenants who have leases with a “Crime Free Lease Addendum” may also have agreed that their tenancies may be terminated without a written warning to cease based on certain criminal activity. See Attachment 4.

Revision #2: Omission of “two-strikes within a 24-month period” provisions

Second, the “two strikes within a 24-month period and you are out” provisions concerning breaches of the lease or creating a nuisance have been deleted. If a Tenant breaches different terms of a lease, or creates different nuisances, the Landlord will be required to provide separate written warning notices to cease for each breach or nuisance. It is only if the same legally valid, material breach, or if the same nuisance, is repeated within a one-year period, may a landlord immediately take steps to initiate an eviction proceeding. See subsection (a) or Section 2, and deleted subsection (c) of Section 4 of Regulation 17-08.

Revision #3: Quantification of a “reasonable period”

Third, the Regulation has been revised to provide that a landlord must serve the written notice to cease a “reasonable time period” prior to serving a 3-day notice to terminate tenancy, and that a “reasonable time period” means either not less than three business days or, if it is not reasonable that the time period to cure the breach or abate the nuisance can be accomplished within three business days, then the tenant must start to cure the breach or abate the nuisance within three business days and thereafter diligently pursue the cure or abatement. In addition, the specific language of Section 11.100.050 (a) RMC has been spelled out in the Regulation, e.g., the notice must say the failure to cure may result in the landlord’s initiating an eviction proceeding, rather than simply referencing the Municipal Code section. See subsection (a) of Section 2 and subsection (b) of Section 4 of Regulation 17-08.

Revision #4: Expansion of protections for victims of sexual assault, stalking, human trafficking, or abuse of an elder or dependent

Fourth, in addition to prohibiting a landlord from evicting a tenant who is a victim of an act of domestic violence, except in very limited circumstances, the Regulation provides similar protection to victims of sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult. See Section 7 of Regulation 17-08. These provisions also track a federal statute, the Violence Against Women Reauthorization Act of 2013.

DOCUMENTS ATTACHED:

- Attachment 1 – Revised Proposed Regulation 17-08
- Attachment 2 – Civil Code of Procedures Section 1161
- Attachment 3 – U.S. Supreme Court case, *Dept. of HUD v. Rucker et al*
- Attachment 4 – Crime Free Lease Addendum

ITEM G-2 ATTACHMENT 1

RICHMOND RENT BOARD REGULATION 17-08

Regarding Written Warning Notices to Cease before Terminating Tenancies due to a Breach of Lease or Creating Nuisance

1. Purpose

The purpose of this Regulation 17-08 is to clarify provisions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance concerning termination of a tenancy for a breach of the lease or creating a nuisance, and the necessity of, in most situations, providing a written warning notice to cease.

2. Termination of a Tenancy for Breach of Lease

The Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance (Chapter 11.100, Richmond Municipal Code) provides that a Landlord may terminate a tenancy if a Tenant has continued, after written notice to cease, to substantially violate the material terms of a rental agreement, provided such terms are reasonable, legal and have been accepted in writing by the Tenant or made part of the rental agreement. Section 11.100.050 (a) (2), RMC. Some behavior, however, may warrant a Landlord to initiate the termination of a tenancy immediately without providing a written notice to cease. This Regulation would provide that authority.

(a) Notices to cease concerning violations of the material terms of a rental agreement. Except for those items identified in Section 3 of this Regulation, if a Tenant violates the material terms of a rental agreement, the Landlord must provide the tenant with a Written Warning Notice to Cease. The Landlord must serve the written notice within a reasonable time period prior to serving a notice to terminate a tenancy. For purposes of this subsection (a), a reasonable time period shall mean either not less than three (3) business days or, if it is not reasonable that the time period to cure the violation can be accomplished within three (3) business days, that the Tenant has started to cure the violation within three business days and thereafter diligently pursues the cure of the violation. The written notice shall inform the Tenant (i) that the failure to cure the violation may result in the landlord's initiating an eviction proceeding, (ii) of the right to request a reasonable accommodation and (iii) the contact number for the Rent Board. The written notice shall also include sufficient details allowing a reasonable person to comply and shall also include any information necessary to determine the date, time, place, witnesses present and other circumstances concerning the reason for the notice. See Section 11.100.050 (d), RMC. If the Tenant violates the same or substantially the same material terms of the rental agreement within twelve (12) months from the date the tenant received the initial Written Warning Notice to Cease, the Landlord need not serve a further Written Warning Notice to Cease but may take action to terminate the tenancy as provided by State law. As to Tenants who violate Section 3 of this Regulation, a landlord need not serve a Written Warning Notice to Cease for a violation of the terms of the lease but may take action immediately to terminate the tenancy as provided by State law.

(b) Regarding the tenant's right to sublease. Section 11.100.050(a)(2)(i) RMC provides: If (i) a tenant requests the landlord in writing to sublease the rental unit, (ii) the tenant continues to reside in the rental unit as the tenant's primary residence, (iii) the sublease replaces one or more departed tenants under a rental housing agreement on a one for one basis and (iv) the landlord fails to respond to the tenant in writing within fourteen (14) *calendar* days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord.

(1) A landlord's reasonable refusal of the tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a rental unit exceeds the maximum number of occupants as determined under Section 503(b) of

ITEM G-2 ATTACHMENT 1

the Uniform Housing Code as incorporated by California Health and Safety Code Section 17922, as described below:

- i. Every residential rental unit must have at least one room that is at least 120 square feet; other rooms used for living must be at least 70 square feet; and any room used for sleeping must increase the minimum floor area by 50 square feet for each occupant in excess of two. Different rules apply in the case of "efficiency units." (See 1997 Uniform Housing Code Section 503(b), Health and Safety Code Section 17958.1.)
- ii. The standard shall be two occupants per bedroom plus one additional occupant.

3. Termination of a Tenancy for Engaging in Criminal Activity, including Drug-related Criminal Activity.

(a) A landlord may initiate an action to terminate a tenancy (e.g. service of a 3-day notice) immediately without providing a written warning notice to cease (1) if a tenant (i) has engaged in criminal activity, including drug-related criminal activity, in or near the tenant's rental unit that threatens the health, safety or right to peaceful enjoyment of the property by other members of the tenant's household or by other tenants, (ii) has engaged in or threatened violent or abusive behavior to other members of the tenant's household or to other tenants or (iii) has permitted the rental unit to be used for, or to facilitate criminal activity, including drug related criminal activity, that threatens the health, safety or right to peaceful enjoyment of the property by other members of the tenant's household or by other tenants and (2) the criminal activity or the violent or abusive behavior has been reported to law enforcement and there is an official report, such as a police report, to document the criminal activity or the violent or abusive behavior.

(b) A landlord may initiate an action to terminate a tenancy (e.g. service of a 3- day notice) immediately without providing a written warning notice to cease if (1) a member of the tenant's household or a guest or invitee of the tenant engages in the activity or behavior set forth in paragraphs (i), (ii) or (iii) of subsection (a) of this Section 3, and (2) the activity or behavior has been reported to law enforcement and there is an official report, such as a police report, to document the criminal activity or the violent or abusive behavior, and (3) the tenant fails to provide proof to the landlord within 24 hours from the time of the report to law enforcement that the person engaged in the activity or behavior has been removed from the tenant's household, or the tenant has provided proof that the person engaged in the activity or behavior has been removed from the tenant's household, but the individual has returned to the tenant's household.

(c) For purposes of this Regulation, "criminal activity" shall include prostitution as defined in Penal Code, section 647 (b), criminal street gang activity as defined in Penal Code section 186.20 and following, assault and battery, as defined in Penal Code, sections 240 and 242, burglary as defined in Penal Code section 459, the unlawful use and discharge of firearms as prohibited under Penal Code section 245, sexual offenses as defined In Penal Code sections 261 and following and 286 or any other behavior that involves the imminent or actual threat to the health of safety of the landlord or other tenants or actual property damage in excess of \$5,000.

ITEM G-2 ATTACHMENT 1

(d) For purposes of this Regulation, “drug-related criminal activity” includes, but is not limited to, the illegal manufacture, sale, distribution, use or possession with the intention to manufacture, sell, distribute or use a controlled substance as defined in Section 102 of the Controlled Substance Act [21 USC 802} and/or as defined in Health and Safety Code, Section 11350, except as may be permitted under State and local law.

(e) For purposes of this Regulation, “abusive or violent behavior” includes verbal as well as physical abuse or violence, including the use of racial epithets or other language, written or oral that is customarily used to intimidate.

(f) For purposes of this Regulation, “threatening” refers to oral or written threats or physical gestures that communicate to a reasonable person an intent to abuse to intent to commit violence.

4. Termination of a Tenancy for Creating a Nuisance

(a) Definition. A “nuisance,” as used in this Regulation, is any conduct that constitutes a nuisance as defined in subsection 4 of Section 1161 of the Civil Code of Procedure or causing substantial damage to the rental unit. Nuisance also includes conduct by the Tenant occurring on the property that substantially interferes with the use and enjoyment of neighboring properties (including other Rental Units on the property) that rises to the level of a nuisance as defined in subsection 4 of Section 1161 of the Code of Civil Procedure.

(b) Violations for Creating a Nuisance within a 12 Month Period. If a tenant engages in conduct that constitutes a nuisance, the landlord must provide the tenant with a Written Warning Notice to Cease. The landlord must serve the written warning notice within a reasonable time period prior to serving a notice to terminate a tenancy. For purposes of this subsection (b), a reasonable time period shall mean either not less than three business days or, if it is not reasonable that the time period to abate the nuisance can be accomplished within three business days, the tenant has taken steps to abate the nuisance within three business days and thereafter diligently pursues the abatement of the nuisance. The written warning notice shall inform the tenant (i) that the failure to abate the nuisance may result in the landlord’s initiating an eviction proceeding, (ii) the right to request reasonable accommodation and (iii) the contact number for the Rent Board. The written warning notice shall also include sufficient details allowing a reasonable person to comply and shall also include any information necessary to determine the date, time, place, witnesses present and other circumstances concerning the reasons for the notice. See §11.100.050 (d), RMC. If the Tenant creates the same or substantially similar nuisance within 12 months from the date the Tenant received the initial Written Warning Notice to Cease, the Landlord need not serve a further Written Warning Notice to Cease, but may take action to terminate the tenancy as provided by State law.

5. **Substantial Damage to the Rental Unit.** Except as provided in subsection (c) of Section 3 of this Regulation, notice that the Tenant has willfully caused substantial damage to the rental unit must give the Tenant at least forty-five (45) days after service of the written warning notice to repair the damage or pay the landlord for the reasonable cost of repairing such damage.

6. **Illegal Use of the Rental Unit or the Property on which the Rental Unit is located.** A person who illegally sells a controlled substance in the rental unit or on the property on which the rental property is located, or uses the rental unit or the property on which the rental property is located to further that illegal purpose, is deemed to have committed the illegal act in the rental unit or on

ITEM G-2
ATTACHMENT 1

the property on which the rental unit is located, in accordance with subsection 4 of Section 1161 of the Civil Code of Procedure.

7. Victims of Certain Criminal Activity. Notwithstanding subsection (a) and (b) of Section 3 of this Regulation, a Landlord shall not take any action to terminate a tenancy under Section 11.100.050 (a)(3) RMC against a victim of domestic violence as defined in Section 6211 of the California Family Code, or against a victim of sexual assault, stalking, human trafficking or abuse or an elder or dependent adult unless (a) the victim has otherwise engaged in conduct constituting criminal activity, drug-related criminal activity, abusive or violent behavior (actual or threatened) or a nuisance, or (b) the provisions of subdivision (b) of section 1161.3 of the California Code of Civil Procedure apply.

8. Requirement to File the Written Warning Notice to Cease with the Rent Board.

If a Landlord seeks to terminate a tenancy on the grounds of breach of lease, nuisance or failure to give access (paragraphs (2), (3) and (4) of subsection (a), Section 11.100.050 RMC), the landlord shall file with the Rent Board, within two business days of service on the tenant of such notice of termination of tenancy, a proof of service that such notice of termination of tenancy, along with a copy of the Written Warning Notice(s), if applicable, was served on the tenant.

I, the undersigned, hereby certify that the foregoing Regulation was duly adopted and passed by the Richmond Rent Board in a regular meeting assembled on November ____ 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Rent Board Clerk

David Gray, Chair

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CODE OF CIVIL PROCEDURE - CCP
PART 3. OF SPECIAL PROCEEDINGS OF A CIVIL NATURE [1063 - 1822.60] (Part 3 enacted 1872.)

TITLE 3. OF SUMMARY PROCEEDINGS [1132 - 1179a] (Title 3 enacted 1872.)

CHAPTER 4. Summary Proceedings for Obtaining Possession of Real Property in Certain Cases [1159 - 1179a] (Chapter 4 enacted 1872.)

1159. Every person is guilty of a forcible entry who either:

1. By breaking open doors, windows, or other parts of a house, or by any kind of violence or circumstance of terror enters upon or into any real property; or,
2. Who, after entering peaceably upon real property, turns out by force, threats, or menacing conduct, the party in possession.

The "party in possession" means any person who hires real property and includes a boarder or lodger, except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

(Amended by Stats. 1976, Ch. 712.)

1160. Every person is guilty of a forcible detainer who either:

1. By force, or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether the same was acquired peaceably or otherwise; or,
2. Who, in the night time, or during the absence of the occupant of any lands, unlawfully enters upon real property, and who, after demand made for the surrender thereof, for the period of five days, refuses to surrender the same to such former occupant.

The occupant of real property, within the meaning of this subdivision, is one who, within five days preceding such unlawful entry, was in the peaceable and undisturbed possession of such lands.

(Enacted 1872.)

1161. A tenant of real property, for a term less than life, or the executor or administrator of his or her estate heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:

1. When he or she continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him or her; provided the expiration is of a nondefault nature however brought about without the permission of his or her landlord, or the successor in estate of his or her landlord, if applicable; including the case where the person to be removed became the occupant of the premises as a servant, employee, agent, or licensee and the relation of master and servant, or employer and employee, or principal and agent, or licensor and licensee, has been lawfully terminated or the time fixed for occupancy by the agreement between the parties has expired; but nothing in this subdivision shall be construed as preventing the removal of the occupant in any other lawful manner; but in case of a tenancy at will, it must first be terminated by notice, as prescribed in the Civil Code.
2. When he or she continues in possession, in person or by subtenant, without the permission of his or her landlord, or the successor in estate of his or her landlord, if applicable, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, the name, telephone number, and address of the person to whom the rent payment shall be made, and, if payment may be made personally, the usual days and hours that person will be available to receive the payment (provided that, if the address does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name

and address provided, the notice or rent is deemed received by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner), or the number of an account in a financial institution into which the rental payment may be made, and the name and street address of the institution (provided that the institution is located within five miles of the rental property), or if an electronic funds transfer procedure has been previously established, that payment may be made pursuant to that procedure, or possession of the property, shall have been served upon him or her and if there is a subtenant in actual occupation of the premises, also upon the subtenant.

The notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the landlord or the successor in estate of his or her landlord, if applicable, he or she shall be deemed to be holding by permission of the landlord or successor in estate of his or her landlord, if applicable, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during that year, and the holding over for that period shall be taken and construed as a consent on the part of a tenant to hold for another year.

3. When he or she continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him or her, and if there is a subtenant in actual occupation of the premises, also, upon the subtenant. Within three days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed, then no notice, as last prescribed herein, need be given to the lessee or his or her subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of his or her unlawful detention of the premises underlet to him or her or held by him or her.

4. Any tenant, subtenant, or executor or administrator of his or her estate heretofore qualified and now acting, or hereafter to be qualified and act, assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of his or her lease, or maintaining, committing, or permitting the maintenance or commission of a nuisance upon the demised premises or using the premises for an unlawful purpose, thereby terminates the lease, and the landlord, or his or her successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of the demised premises under this chapter. For purposes of this subdivision, a person who commits or maintains a public nuisance as described in Section 3482.8 of the Civil Code, or who commits an offense described in subdivision (c) of Section 3485 of the Civil Code, or subdivision (c) of Section 3486 of the Civil Code, or uses the premises to further the purpose of that offense shall be deemed to have committed a nuisance upon the premises.

5. When he or she gives written notice as provided in Section 1946 of the Civil Code of his or her intention to terminate the hiring of the real property, or makes a written offer to surrender which is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice, without the permission of his or her landlord, or the successor in estate of the landlord, if applicable.

As used in this section, tenant includes any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

This section shall become operative on January 1, 2012.

(Amended (as amended by Stats. 2009, Ch. 244, Sec. 5) by Stats. 2011, Ch. 128, Sec. 2. Effective January 1, 2012. Section operative January 1, 2012, by its own provisions.)

1161.1. With respect to application of Section 1161 in cases of possession of commercial real property after default in the payment of rent:

(a) If the amount stated in the notice provided to the tenant pursuant to subdivision (2) of Section 1161 is clearly identified by the notice as an estimate and the amount claimed is not in fact correct, but it is determined upon the trial or other judicial determination that rent was owing, and the amount claimed in the notice was reasonably estimated, the tenant shall be subject to judgment for possession and the actual amount of rent and other sums found to be due. However, if (1) upon receipt of such a notice claiming an amount identified by the notice as an estimate, the tenant tenders to the landlord within the time for payment required by the notice, the amount which

Cite as: 535 U. S. ____ (2002)

1

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

Nos. 00–1770 and 00–1781

DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT, PETITIONER

00–1770

v.

PEARLIE RUCKER ET AL.

OAKLAND HOUSING AUTHORITY, ET AL.,
PETITIONERS

00–1781

v.

PEARLIE RUCKER ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[March 26, 2002]

CHIEF JUSTICE REHNQUIST delivered the opinion of the Court.

With drug dealers “increasingly imposing a reign of terror on public and other federally assisted low-income housing tenants,” Congress passed the Anti-Drug Abuse Act of 1988. §5122, 102 Stat. 4301, 42 U. S. C. §11901(3) (1994 ed.). The Act, as later amended, provides that each “public housing agency shall utilize leases which . . . provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant’s household, or any guest or other person under the tenant’s control, shall be cause for

termination of tenancy.” 42 U. S. C. §1437d(l)(6) (1994 ed., Supp. V). Petitioners say that this statute requires lease terms that allow a local public housing authority to evict a tenant when a member of the tenant’s household or a guest engages in drug-related criminal activity, regardless of whether the tenant knew, or had reason to know, of that activity. Respondents say it does not. We agree with petitioners.

Respondents are four public housing tenants of the Oakland Housing Authority (OHA). Paragraph 9(m) of respondents’ leases, tracking the language of §1437d(l)(6), obligates the tenants to “assure that the tenant, any member of the household, a guest, or another person under the tenant’s control, shall not engage in . . . [a]ny drug-related criminal activity on or near the premise[s].” App. 59. Respondents also signed an agreement stating that the tenant “understand[s] that if I or any member of my household or guests should violate this lease provision, my tenancy may be terminated and I may be evicted.” *Id.*, at 69.

In late 1997 and early 1998, OHA instituted eviction proceedings in state court against respondents, alleging violations of this lease provision. The complaint alleged: (1) that the respective grandsons of respondents William Lee and Barbara Hill, both of whom were listed as residents on the leases, were caught in the apartment complex parking lot smoking marijuana; (2) that the daughter of respondent Pearlle Rucker, who resides with her and is listed on the lease as a resident, was found with cocaine and a crack cocaine pipe three blocks from Rucker’s apartment;¹ and (3) that on three instances within a 2-

¹In February 1998, OHA dismissed the unlawful detainer action against Rucker, after her daughter was incarcerated, and thus no longer posed a threat to other tenants.

Opinion of the Court

month period, respondent Herman Walker’s caregiver and two others were found with cocaine in Walker’s apartment. OHA had issued Walker notices of a lease violation on the first two occasions, before initiating the eviction action after the third violation.

United States Department of Housing and Urban Development (HUD) regulations administering §1437d(l)(6) require lease terms authorizing evictions in these circumstances. The HUD regulations closely track the statutory language,² and provide that “[i]n deciding to evict for criminal activity, the [public housing authority] shall have discretion to consider all of the circumstances of the case” 24 CFR §966.4(l)(5)(i) (2001). The agency made clear that local public housing authorities’ discretion to evict for drug-related activity includes those situations in which “[the] tenant did not know, could not foresee, or could not control behavior by other occupants of the unit.” 56 Fed. Reg. 51560, 51567 (1991).

After OHA initiated the eviction proceedings in state court, respondents commenced actions against HUD, OHA, and OHA’s director in United States District Court. They challenged HUD’s interpretation of the statute under the Administrative Procedure Act, 5 U. S. C. §706(2)(A), arguing that 42 U. S. C. §1437d(l)(6) does not require lease terms authorizing the eviction of so-called “innocent”

²The regulations require public housing authorities (PHAs) to impose a lease obligation on tenants:

“To assure that the tenant, any member of the household, a guest, or another person under the tenant’s control, shall not engage in:

“(A) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the PHA’s public housing premises by other residents or employees of the PHA, or

“(B) Any drug-related criminal activity on or near such premises.

Any criminal activity in violation of the preceding sentence shall be cause for termination of tenancy, and for eviction from the unit.” 24 CFR §966.4(f)(12)(i) (2001).

tenants, and, in the alternative, that if it does, then the statute is unconstitutional.³ The District Court issued a preliminary injunction, enjoining OHA from “terminating the leases of tenants pursuant to paragraph 9(m) of the ‘Tenant Lease’ for drug-related criminal activity that does not occur within the tenant’s apartment unit when the tenant did not know of and had no reason to know of, the drug-related criminal activity.” App. to Pet. for Cert. in No. 01–770, pp. 165a–166a.

A panel of the Court of Appeals reversed, holding that §1437d(l)(6) unambiguously permits the eviction of tenants who violate the lease provision, regardless of whether the tenant was personally aware of the drug activity, and that the statute is constitutional. See *Rucker v. Davis*, 203 F. 3d 627 (CA9 2000). An en banc panel of the Court of Appeals reversed and affirmed the District Court’s grant of the preliminary injunction. See *Rucker v. Davis*, 237 F. 3d 1113 (2001). That court held that HUD’s interpretation permitting the eviction of so-called “innocent” tenants “is inconsistent with Congressional intent and must be rejected” under the first step of *Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U. S. 837, 842–843 (1984). 237 F. 3d, at 1119.

We granted certiorari, 533 U. S. 976 (2001), 534 U. S. ___ (2001), and now reverse, holding that 42 U. S. C. §1437d(l)(6) unambiguously requires lease terms that vest local public housing authorities with the discretion to evict tenants for the drug-related activity of household members and guests whether or not the tenant knew, or should have known, about the activity.

That this is so seems evident from the plain language of

³Respondents Rucker and Walker also raised Americans with Disabilities Act claims that are not before this Court. And all of the respondents raised state-law claims against OHA that are not before this Court.

Opinion of the Court

the statute. It provides that “each public housing authority shall utilize leases which . . . provide that . . . any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant’s household, or any guest or other person under the tenant’s control, shall be cause for termination of tenancy.” 42 U. S. C. §1437d(l)(6) (1994 ed., Supp. V). The en banc Court of Appeals thought the statute did not address “the level of personal knowledge or fault that is required for eviction.” 237 F. 3d, at 1120. Yet Congress’ decision not to impose any qualification in the statute, combined with its use of the term “any” to modify “drug-related criminal activity,” precludes any knowledge requirement. See *United States v. Monsanto*, 491 U. S. 600, 609 (1989). As we have explained, “the word ‘any’ has an expansive meaning, that is, ‘one or some indiscriminately of whatever kind.’” *United States v. Gonzales*, 520 U. S. 1, 5 (1997). Thus, any drug-related activity engaged in by the specified persons is grounds for termination, not just drug-related activity that the tenant knew, or should have known, about.

The en banc Court of Appeals also thought it possible that “under the tenant’s control” modifies not just “other person,” but also “member of the tenant’s household” and “guest.” 237 F. 3d, at 1120. The court ultimately adopted this reading, concluding that the statute prohibits eviction where the tenant “for a lack of knowledge or other reason, could not realistically exercise control over the conduct of a household member or guest.” *Id.*, at 1126. But this interpretation runs counter to basic rules of grammar. The disjunctive “or” means that the qualification applies only to “other person.” Indeed, the view that “under the tenant’s control” modifies everything coming before it in the sentence would result in the nonsensical reading that the statute applies to “a public housing tenant . . . under the tenant’s control.” HUD offers a convincing explanation for the grammatical imperative that “under the ten-

ant's control" modifies only "other person": "by 'control,' the statute means control in the sense that the tenant has permitted access to the premises." 66 Fed. Reg. 28781 (2001). Implicit in the terms "household member" or "guest" is that access to the premises has been granted by the tenant. Thus, the plain language of §1437d(l)(6) requires leases that grant public housing authorities the discretion to terminate tenancy without regard to the tenant's knowledge of the drug-related criminal activity.

Comparing §1437d(l)(6) to a related statutory provision reinforces the unambiguous text. The civil forfeiture statute that makes all leasehold interests subject to forfeiture when used to commit drug-related criminal activities expressly exempts tenants who had no knowledge of the activity: "[N]o property shall be forfeited under this paragraph . . . by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner." 21 U. S. C. §881(a)(7) (1994 ed.). Because this forfeiture provision was amended in the same Anti-Drug Abuse Act of 1988 that created 42 U. S. C. §1437d(l)(6), the en banc Court of Appeals thought Congress "meant them to be read consistently" so that the knowledge requirement should be read into the eviction provision. 237 F.3d, at 1121–1122. But the two sections deal with distinctly different matters. The "innocent owner" defense for drug forfeiture cases was already in existence prior to 1988 as part of 21 U. S. C. §881(a)(7). All that Congress did in the 1988 Act was to add leasehold interests to the property interests that might be forfeited under the drug statute. And if such a forfeiture action were to be brought against a leasehold interest, it would be subject to the pre-existing "innocent owner" defense. But 42 U. S. C. §1437(d)(1)(6), with which we deal here, is a quite different measure. It is entirely reasonable to think that the Government, when seeking to transfer private property to itself in a forfeiture proceeding, should be subject to an

Opinion of the Court

“innocent owner defense,” while it should not be when acting as a landlord in a public housing project. The forfeiture provision shows that Congress knew exactly how to provide an “innocent owner” defense. It did not provide one in §1437d(l)(6).

The en banc Court of Appeals next resorted to legislative history. The Court of Appeals correctly recognized that reference to legislative history is inappropriate when the text of the statute is unambiguous. 237 F. 3d, at 1123. Given that the en banc Court of Appeals’ finding of textual ambiguity is wrong, see *supra*, at 4–6, there is no need to consult legislative history.⁴

⁴ Even if it were appropriate to look at legislative history, it would not help respondents. The en banc Court of Appeals relied on two passages from a 1990 Senate Report on a proposed amendment to the eviction provision. 237 F. 3d, at 1123 (citing S. Rep. No. 101–316 (1990)). But this Report was commenting on language from a Senate version of the 1990 amendment, which was never enacted. The language in the Senate version, which would have imposed a different standard of cause for eviction for drug-related crimes than the unqualified language of §1437d(l)(6), see 136 Cong. Rec. 15991, 16012 (1990) (reproducing S. 566, 101st Cong., 2d Sess., §§521(f) and 714(a) (1990)), was rejected at Conference. See H. R. Conf. Rep. No. 101–943, p. 418 (1990). And, as the dissent from the en banc decision below explained, the passages may plausibly be read as a mere suggestion about how local public housing authorities should exercise the “*wide* discretion to evict tenants connected with drug-related criminal behavior” that the lease provision affords them. 237 F. 3d, at 1134 (Sneed, J., dissenting).

Respondents also cite language from a House Report commenting on the Civil Asset Forfeiture Reform Act of 2000, codified at 18 U. S. C. §983. Brief for Respondents 15–16. For the reasons discussed *supra* at 6–7, legislative history concerning forfeiture provisions is not probative on the interpretation of §1437d(l)(6).

A 1996 amendment to §1437d(l)(6), enacted five years after HUD issued its interpretation of the statute, supports our holding. The 1996 amendment expanded the reach of §1437d(l)(6), changing the language of the lease provision from applying to activity taking place “on or near” the public housing premises, to activity occurring “on or off” the public housing premises. See Housing Opportunity Program Extension Act of

Nor was the en banc Court of Appeals correct in concluding that this plain reading of the statute leads to absurd results.⁵ The statute does not *require* the eviction of any tenant who violated the lease provision. Instead, it entrusts that decision to the local public housing authorities, who are in the best position to take account of, among other things, the degree to which the housing project suffers from “rampant drug-related or violent crime,” 42 U. S. C. §11901(2) (1994 ed. and Supp. V), “the seriousness of the offending action,” 66 Fed. Reg., at 28803, and “the extent to which the leaseholder has . . . taken all reasonable steps to prevent or mitigate the offending action,” *ibid.* It is not “absurd” that a local housing authority may sometimes evict a tenant who had no knowledge of the drug-related activity. Such “no-fault” eviction is a common “incident of tenant responsibility under normal landlord-tenant law and practice.” 56 Fed. Reg., at 51567. Strict liability maximizes deterrence and eases enforcement difficulties. See *Pacific Mut. Life Ins. Co. v. Haslip*, 499 U. S. 1, 14 (1991).

And, of course, there is an obvious reason why Congress would have permitted local public housing authorities to conduct no-fault evictions: Regardless of knowledge, a tenant who “cannot control drug crime, or other criminal activities by a household member which threaten health or safety of other residents, is a threat to other residents

1996, §9(a)(2), 110 Stat. 836. But Congress, “presumed to be aware” of HUD’s interpretation rejecting a knowledge requirement, made no other change to the statute. *Lorillard v. Pons*, 434 U. S. 575, 580 (1978).

⁵For the reasons discussed above, no-fault eviction, which is specifically authorized under §1437d(l)(6), does not violate §1437d(l)(2), which prohibits public housing authorities from including “unreasonable terms and conditions [in their leases].” In addition, the general statutory provision in the latter section cannot trump the clear language of the more specific §1437d(l)(6). See *Green v. Bock Laundry Machine Co.*, 490 U. S. 504, 524–526 (1989).

Opinion of the Court

and the project.” 56 Fed. Reg., at 51567. With drugs leading to “murders, muggings, and other forms of violence against tenants,” and to the “deterioration of the physical environment that requires substantial governmental expenditures,” 42 U. S. C. §11901(4) (1994 ed., Supp. V), it was reasonable for Congress to permit no-fault evictions in order to “provide public and other federally assisted low-income housing that is decent, safe, and free from illegal drugs,” §11901(1) (1994 ed.).

In another effort to avoid the plain meaning of the statute, the en banc Court of Appeals invoked the canon of constitutional avoidance. But that canon “has no application in the absence of statutory ambiguity.” *United States v. Oakland Cannabis Buyers’ Cooperative*, 532 U. S. 483, 494 (2001). “Any other conclusion, while purporting to be an exercise in judicial restraint, would trench upon the legislative powers vested in Congress by Art. I, §1, of the Constitution.” *United States v. Albertini*, 472 U. S. 675, 680 (1985). There are, moreover, no “serious constitutional doubts” about Congress’ affording local public housing authorities the discretion to conduct no-fault evictions for drug-related crime. *Reno v. Flores*, 507 U. S. 292, 314, n. 9 (1993) (emphasis deleted).

The en banc Court of Appeals held that HUD’s interpretation “raise[s] serious questions under the Due Process Clause of the Fourteenth Amendment,” because it permits “tenants to be deprived of their property interest without any relationship to individual wrongdoing.” 237 F. 3d, at 1124–1125 (citing *Scales v. United States*, 367 U. S. 203, 224–225 (1961); *Southwestern Telegraph & Telephone Co. v. Danaher*, 238 U. S. 482 (1915)). But both of these cases deal with the acts of government as sovereign. In *Scales*, the United States criminally charged the defendant with knowing membership in an organization that advocated the overthrow of the United States Government. In *Danaher*, an Arkansas statute forbade discrimination

among customers of a telephone company. The situation in the present cases is entirely different. The government is not attempting to criminally punish or civilly regulate respondents as members of the general populace. It is instead acting as a landlord of property that it owns, invoking a clause in a lease to which respondents have agreed and which Congress has expressly required. *Scales* and *Danaher* cast no constitutional doubt on such actions.

The Court of Appeals sought to bolster its discussion of constitutional doubt by pointing to the fact that respondents have a property interest in their leasehold interest, citing *Greene v. Lindsey*, 456 U. S. 444 (1982). This is undoubtedly true, and *Greene* held that an effort to deprive a tenant of such a right without proper notice violated the Due Process Clause of the Fourteenth Amendment. But, in the present cases, such deprivation will occur in the state court where OHA brought the unlawful detainer action against respondents. There is no indication that notice has not been given by OHA in the past, or that it will not be given in the future. Any individual factual disputes about whether the lease provision was actually violated can, of course, be resolved in these proceedings.⁶

We hold that “Congress has directly spoken to the pre-

⁶The en banc Court of Appeals cited only the due process constitutional concern. Respondents raise two others: the First Amendment and the Excessive Fines Clause. We agree with Judge O’Scannlain, writing for the panel that reversed the injunction, that the statute does not raise substantial First Amendment or Excessive Fines Clause concerns. *Lyng v. Automobile Workers*, 485 U. S. 360 (1988), forecloses respondents claim that the eviction of unknowing tenants violates the First Amendment guarantee of freedom of association. See *Rucker v. Davis*, 203 F. 3d 627, 647 (2000). And termination of tenancy “is neither a cash nor an in-kind payment imposed by and payable to the government” and therefore is “not subject to analysis as an excessive fine.” *Id.*, at 648.

Opinion of the Court

cise question at issue.” *Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U. S., at 842. Section 1437d(l)(6) requires lease terms that give local public housing authorities the discretion to terminate the lease of a tenant when a member of the household or a guest engages in drug-related activity, regardless of whether the tenant knew, or should have known, of the drug-related activity.

Accordingly, the judgment of the Court of Appeals is reversed, and the cases are remanded for further proceedings consistent with this opinion.

It is so ordered.

JUSTICE BREYER took no part in the consideration or decision of these cases.

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**ITEM G-2
ATTACHMENT 4**

CRIME FREE LEASE ADDENDUM

In consideration of the execution or renewal of a lease of the dwelling unit identified in the lease, Owner and Resident agree as follows:

1. Resident, any members of the resident's household or a guest or other person under the resident's control agree to live a "Crime Free Lifestyle" and shall not engage in criminal activity, including drug-related criminal activity, on or near the said premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use of a controlled substance (as defined in Section 102 of the Controlled Substance Act [21 U.S.C. 802]).

2. Resident, any member of the resident's household or a guest or other person under the resident's control shall not engage in any act intended to facilitate criminal activity, including drug-related criminal activity, on or near the said premises.

3. Resident or members of the household will not permit the dwelling unit to be used for, or to facilitate criminal activity, including drug-related criminal activity, regardless or whether the individual engaging in such activity is a member of the household, or a guest.

4. Resident, any member of the resident's household or a guest, or another person under the resident's control shall not engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance as defined in Health & Safety Code '11350, et seq., at any locations, whether on or near the dwelling unit premises or otherwise.

5. Resident, any member of the resident's household, or a guest or another person under the resident's control shall not engage in any illegal activity, including: prostitution as defined in Penal Code '647(b); criminal street gang activity, as defined in Penal Code '186.20 et seq.; assault and battery, as prohibited in Penal Code '240; burglary, as prohibited in Penal Code '459; the unlawful use and discharge of firearms, as prohibited in Penal Code '245; sexual offenses, as prohibited in Penal Code '269 and 288, or any breach of the lease agreement that otherwise jeopardizes the health, safety and welfare of the landlord, his agent or other tenant or involving imminent or actual serious property damage.

6. **VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY.** A single violation of any of the provisions of this added addendum shall be deemed a serious violation and a material and irreparable non-compliance. It is understood that a single violation shall be good cause for termination of the lease. Unless otherwise provided by law, proof of violation shall not require criminal conviction, but shall be by a preponderance of the evidence.

7. In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of the addendum shall govern.

8. This LEASE ADDENDUM is incorporated into the lease executed or renewed this day between Owner and Resident.

Resident Signature Date:_____

Resident Signature Date:_____

Resident Signature Date:_____

Property Manager's Signature Date:_____ Property_____

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AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: September 20, 2017

Final Decision Date Deadline: September 20, 2017

STATEMENT OF THE ISSUE: The Board shall decide whether or not to adopt a “banking” regulation, with limitations, such that landlords will be able to take 5% of deferred Annual General Adjustment (AGA) increases in addition to the current years AGA increase within any 12 month period, to raise the rent up to the Maximum Allowable Rent level, with proper notice under state law.

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> | |

ITEM

- | | | |
|---|--|---------------------------------|
| <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 17-09, regarding the right to raise the Rent up to the Maximum Allowable Rent level, also known as “banking” rent increases, with the limitation, such that the net rent increase in any 12-month period as a result of the application of the current plus any deferred or “banked” AGAs does not exceed five percent (5%) plus the current AGA. This Regulation (17-09) would not become effective until September 1, 2018 – Rent Program (Nicolas Traylor 620-6564).

AGENDA ITEM NO:

G-3.

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AGENDA REPORT

DATE: November 15, 2017
TO: Chair Gray and Members of the Rent Board
FROM: Nicolas Traylor, Executive Director
SUBJECT: BANKING OF ANNUAL GENERAL ADJUSTMENT RENT INCREASES

STATEMENT OF THE ISSUE:

The Board shall decide whether or not to adopt a “banking” regulation, with limitations, such that landlords will be able to take 5% of deferred Annual General Adjustment (AGA) increases in addition to the current years AGA increase within any 12 month period, to raise the rent up to the Maximum Allowable Rent level, with proper notice under state law.

RECOMMENDED ACTION:

ADOPT Regulation 17-09, regarding the right to raise the Rent up to the Maximum Allowable Rent level, also known as “banking” rent increases, with the limitation, such that the net rent increase in any 12-month period as a result of the application of the current plus any deferred or “banked” AGAs does not exceed five percent (5%) plus the current AGA. This Regulation (17-09) would not become effective until September 1, 2018 – Rent Program (Nicolas Traylor/Michael Roush 620-6564).

FISCAL IMPACT:

If banking of deferred AGA increases is prohibited, staff research indicates that a prohibition on banking will make it more challenging for staff to calculate the Maximum Allowable Rent (MAR) and make program administration more difficult. If program administration is more difficult, Program costs will increase. Furthermore, staff research has concluded and the Executive Director has determined, after consulting with Executive Directors in peer rent control agencies, that the added administrative complexity caused by prohibiting banking would lead the Richmond Rent Program to develop into a passively enforced “compliant driven” rent control agency, with much of its emphasis and resources devoted to hearings and less resources devoted to “active enforcement” of the Ordinance through rent registration and extensive and robust outreach.

DISCUSSION:

Background

The Board has received an extensive presentation on the policy considering for adopting a banking policy, including testimonials and letters from both the Richmond Rent Program Executive Director and Executive Directors of the East Palo Alto, Berkeley and Santa Monica Rent Programs. The Board was also provided with an oral analysis on banking by subject matter expert Dr. Stephen Barton, as well as a legal analysis by the Rent Program's legal counsel, Michael Roush asserting that the Board has legal authority to establish a banking policy through a rent regulation.

Proposed Regulation

Landlords may apply deferred Annual General Adjustment rent increases; however, the net rent increase (of the current year's AGA and any deferred AGA rent increases) in any one twelve-month period shall not exceed five percent (5%).

In the event that a current year's Annual General Adjustment exceeds five percent (5%), a Landlord may not apply any deferred Annual General Adjustment increases until the next Annual General Adjustment increase less than five percent (5%) is effective.

Lastly, Regulation 17-09 clarifies that the calculation of banked Annual General Adjustment Increases is based on simple, not compound interest. For example, an increase of three percent (3.0%) plus three point four percent (3.4%) is equal to a combined increase of six point four percent (6.4%), not six point five six percent (6.56%).

The effective date of Regulation 17-09 is proposed to be September 1, 2018, to avoid conflict with the Rent Board's adopted Regulation 17-05, which allows for a combined rent increase of 6.56 percent for tenancies in effect prior to September 1, 2015, to account for both the 2016 and 2017 Annual General Adjustment rent increases.

DOCUMENTS ATTACHED:

Attachment 1 – Draft Regulation 17-09

Attachment 2 – Letter from Jay Kelekian, Executive Director of the Berkeley Rent Board

ITEM G-3
ATTACHMENT 1

RICHMOND RENT BOARD REGULATION 17-09

Regarding the right of Landlords to raise the Rent up to the Maximum Allowable Rent level, also known as “banking” rent increases, under certain limitations

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

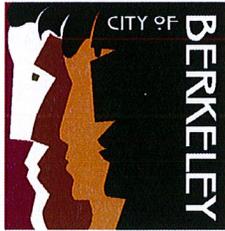
Whereas, on December 30, 2016, Landlords were entitled to increase the Maximum Allowable Rent in an amount not to exceed 3.0% for tenancies in effect prior to September 1, 2015, as provided in Section 11.100.070 (b) (3), RMC, assuming a Landlord served a Tenant with the legally required notice of a rent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

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

Whereas, in recognition that some Landlords may elect not to impose in any given year the full amount of the Annual General Adjustment but have concerns that if they do not, they will lose the opportunity to impose some or all of the Annual General Adjustment in a subsequent year or years, the Board, by this Regulation, providing Landlords the right to raise Rent up to the Maximum Allowable Rent to address those concerns, but include limitations such that to protect tenants, the application of any deferred Annual General Adjustment rent increases for which the Landlord was eligible but chose not to apply shall not exceed five percent (5.0%) plus the current year’s Annual General Adjustment in any one twelve-month period.

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

1. A Landlord may, but is not required to, increase Rent by the Annual General Adjustment as provided by Board Regulation.
2. To the extent a Landlord has not increased Rent up to the Maximum Lawful Rent level, the Landlord shall have the ability to apply deferred Annual General Adjustment rent increases; however, the net rent increase in any one twelve-month period shall not exceed the current year Annual General Adjustment Rent Increase plus five percent (5.0%) of the Rent charged at any time during the preceding 12-month period.
3. In the event that a current year’s Annual General Adjustment exceeds five percent (5.0%), a Landlord may not apply any deferred Annual General Adjustment increases until the next Annual General Adjustment increase less than five percent (5.0%) is effective.
4. “Banking” of Annual General Adjustment Increases shall be calculated based on simple addition, without compounding. For example, an increase of three percent (3.0%) plus three point four percent (3.4%) is equal to a combined increase of six point four percent (6.4%), not six point five six percent (6.56%).



Rent Stabilization Program

October 18, 2017

Nicolas Traylor, Executive Director
Richmond Rent Program
440 Civic Center Plaza, 2ns Floor
Richmond, CA 94804

Dear Mr. Traylor:

Thank you for the opportunity to comment on the proposed regulation related to the “banking” of annual general adjustments being considered by the Richmond Rent Board. With legitimate concerns raised on both sides, I can appreciate how confusing and difficult a decision like this one is for the Board.

I have had the opportunity to read the staff report as well as the letters submitted by Tracy Condon and Victor Ramirez. I found both of their comments to be accurate. Santa Monica’s law operates very similar to Berkeley’s and I am personally familiar with the extreme peril that poorly crafted “banking” regulations placed the East Palo Alto Program in, a few years back.

The Richmond Board is faced with balancing the risk of causing the displacement of tenants receiving a large rent increase on one hand and, in the alternative, potentially forcing owners who otherwise would defer raising the rent from taking that increase for fear of losing the ability to do so in the future. Theoretically, prohibiting banking could place the Board at greater risk of an owner claiming they are being denied a fair return on their investment. Not allowing banking also potentially either precludes future administrative changes, or makes their implementation more complicated and costly.

I have administered rent stabilization programs for roughly 25 of my 33 years as a civil servant. Over that period, similar to what I read in Ms. Condon’s letter, I have had dozens of owners tell me, anecdotally, that they do **not** annually increase the rent for their tenants. Most of these owners have indicated that they “probably would” increase the rent annually if they were to permanently lose the ability to take the increase, resulting in higher rents paid by sitting tenants.

During that same 33 year period, with the exception of the court mandated “Searle” inflation increase in 1991 (when the Board increased rents by over 25%), I have only had conversations with one tenant indicating they were probably no longer able to afford their unit because the owner was taking several years of “banked AGA’s”.

Under Berkeley's ordinance, landlords, with proper notice, are able to raise the rent to the maximum allowable rent, regardless of the percentage increase or potential impact on the tenant. In reviewing the material presented in your agenda packet, I notice that an option was presented which attempts to address the concern about a large one-time increase potentially resulting in the displacement of tenants. By allowing the owner to receive the banked AGA in the future but limiting the maximum amount in which rents could go up in any individual year, seems to address the interests and concerns of both landlords and tenants.

Some cities have prohibited banking in one form or another. These cities, generally allow Annual General Adjustments (AGA's) greater than the CPI (sometimes 2 or 3 times higher), so the potential impact leading to tenant displacement is higher while, generally, the necessity for allowing the owner to charge full AGA's in order to receive a fair return is not as compelling. The risk of tenant displacement is far greater in these types of settings than what is being proposed in Richmond.

Clearly every community must decide what system of implementation is best to meet their unique set of needs. In Berkeley, we have found that annual registration of rental units is the cornerstone to an effective rent control program. From our perspective, while registration does add some costs, the benefits far exceed the additional charges. As I understand the situation, Richmond does not yet have, but is considering adding, a rent registry in the future. If this is the case, then I wanted to be clear that not allowing banking would add additional hurdles, complexities and costs to implementing an effective registration system. It will not be impossible but it will either be more costly or less effective than having a system that allows easy calculation of the maximum lawful rent for each unit.

I apologize for the late submittal of this letter. I would be happy to answer any questions Board members may have or elaborate further if the Board believes it would be of assistance.

Best wishes.



Jay Kelekian,
Executive Director