

# 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.<sup>1</sup>

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

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<sup>1</sup> 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.<sup>2</sup>

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.

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<sup>2</sup> 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.



Comparison Matrix of Various Affordable Housing Policies and Programs

November 2017

Program	Housing Choice Vouchers (Tenant-based Section 8)	Project-Based Multifamily <sup>1</sup>	LIHTC	Richmond Rent Ordinance
<b>Administered by:</b>	<b>Housing Authority (HA)</b>	<b>HUD</b>	<b>CA Tax Credit Allocation Committee (TCAC)</b>	<b>Richmond Rent Program</b>
<b>Termination of Tenancy</b>	<ul style="list-style-type: none"> <li>- Termination allowed for material noncompliance with lease, criminal activity, property damage, “<a href="#">other good cause</a>” (as defined by states/localities)<sup>2</sup></li> <li>- Good cause can include <a href="#">business or economic reasons</a>, such as wanting to increase rents beyond HUD limits<sup>3</sup></li> </ul>		<ul style="list-style-type: none"> <li>- Properties must have ‘<a href="#">good cause</a>’ eviction requirements within their deed restrictions<sup>4</sup></li> <li>- No standard definition of ‘good cause’ within federal or state LIHTC regulations, determined by courts on <a href="#">case-by-case basis</a><sup>5</sup></li> </ul>	<ul style="list-style-type: none"> <li>- Set of 8 reasons for “just cause” evictions</li> <li>- Relocation payments required for no-fault evictions</li> </ul>
<b>Rent Regulation</b>	<ul style="list-style-type: none"> <li>- HUD bases tenant rent on 30% income standard, tenants <a href="#">recertify</a> annually<sup>6</sup></li> <li>- Government portion (paid by HUD or HA) based on <a href="#">Fair Market Rent</a><sup>7</sup></li> <li>- Resident must report income changes between recertifications → HA or project is required to recalculate accordingly</li> </ul>		<ul style="list-style-type: none"> <li>- Rents based on income brackets (pct. Area Median Income), as opposed to direct pct. of household income (as in HUD)<sup>8</sup></li> <li>- Management companies look at past 2 years of gross income and ask employers about potential future raises<sup>9</sup></li> <li>- Not required to immediately recalculate rent if income changes</li> </ul>	<ul style="list-style-type: none"> <li>- Rent control applies to most multifamily units built before 1996</li> <li>- Sets base rent to July 2015 levels and allows for subsequent increases based on Consumer Price Index (CPI)</li> </ul>
<b>Habitability</b>	<ul style="list-style-type: none"> <li>- <a href="#">Housing Quality Standards</a> (HQS) inspections by HA: fairly strict standards<sup>10</sup></li> <li>- HQS may also make residents wary of reporting problems for fear of losing housing, especially in tight markets<sup>11</sup></li> </ul>	<ul style="list-style-type: none"> <li>- HUD’s Real Estate Assessment Center (REAC) inspects properties and releases <a href="#">physical inspection score</a><sup>12</sup></li> <li>- If a project <a href="#">scores</a> below 70, HUD can recapture funds or fire management companies<sup>13</sup></li> </ul>	<ul style="list-style-type: none"> <li>- Compliance section at TCAC inspects properties annually during first <a href="#">15 years</a> only<sup>14</sup></li> <li>- No monitoring after this 15-year period, even though affordability term much longer</li> <li>- Inspection of <a href="#">20% randomly selected units</a>, mostly looking for physical or severe habitability problems<sup>15</sup></li> </ul>	<ul style="list-style-type: none"> <li>- <i>For controlled units:</i> petition process for downward rent adjustment if substantial deterioration of unit or lack of services</li> <li>- <i>For non-controlled units:</i> program staff will refer case to Richmond Rental Inspection Program or Building Official</li> </ul>
<b>Grievances and Oversight</b>	<ul style="list-style-type: none"> <li>- Right to <a href="#">informal review or hearing</a> with HA to dispute voucher termination or rent calculations<sup>16</sup></li> <li>- HA does not usually get involved in landlord-tenant disputes</li> </ul>	<ul style="list-style-type: none"> <li>- Right to <a href="#">informal meeting</a> with property manager to discuss termination of assistance, rent calculations, etc.<sup>17</sup></li> <li>- Tenant protections are minimal within these meetings</li> </ul>	<ul style="list-style-type: none"> <li>- TCAC Compliance Section has some authority but many tenants <a href="#">do not know</a> what LIHTC or TCAC are<sup>18</sup></li> <li>- Most complaints or issues dealt with internally (through management or development company)<sup>19</sup></li> <li>- LIHTC regulations are within tax code, making it harder for residents to <a href="#">bring claims</a> against management<sup>20</sup></li> </ul>	<ul style="list-style-type: none"> <li>- Rent Program has authority to issue warning notices to landlords about termination of tenancy, habitability, or illegal rent increases</li> <li>- Petition process for controlled units</li> </ul>

## Footnotes and References

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- <sup>1</sup> 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
- <sup>2</sup> 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](https://www.hud.gov/sites/documents/DOC_35654.PDF).
- <sup>3</sup> National Housing Law Project (NHLP), “Barrientos v. 1801-1825 Morton, LLC”, accessed October 18, 2017, <http://nhlp.org/node/1130>.
- <sup>4</sup> NHLP, “Good Cause Eviction,” accessed November 7, 2017, <http://nhlp.org/resourcecenter?tid=106>
- <sup>5</sup> Tenants Union of Washington State, “Low Income Housing Eviction,” accessed October 27, 2017, <http://www.tenantsunion.org/en/rights/low-income-housing-eviction>.
- <sup>6</sup> HUD, “HUD Multifamily Occupancy Handbook Chapter 7,” November 2013, accessed November 1, 2017, <https://www.hud.gov/sites/documents/43503C7HSGH.PDF>.
- <sup>7</sup> HUD, “Fair Market Rents,” accessed November 7, 2017, <https://www.huduser.gov/portal/datasets/fmr.html>.
- <sup>8</sup> Alex Schwartz, *Housing Policy in the United States* (New York: Routledge, 2010).
- <sup>9</sup> Interview with Lauren Maddock, October 23, 2017.
- <sup>10</sup> HUD, “Housing Quality Standards – Frequently Asked Questions”, accessed November 7, 2017, [https://www.hud.gov/sites/documents/DOC\\_9143.PDF](https://www.hud.gov/sites/documents/DOC_9143.PDF).
- <sup>11</sup> Schwartz, *Housing Policy in the United States*.
- <sup>12</sup> HUD, “Physical Inspection Scores,” accessed November 3 2017, <https://www.huduser.gov/portal/datasets/pis.html>.
- <sup>13</sup> HUD, “Physical Requirements,” [https://www.hud.gov/sites/documents/21514\\_preoccphysical.doc](https://www.hud.gov/sites/documents/21514_preoccphysical.doc)
- <sup>14</sup> California Tax Credit Allocation Committee, “Compliance Online Reference Manual”, accessed October 27, 2017, <http://www.treasurer.ca.gov/ctcac/compliance/manual/manual.pdf>.
- <sup>15</sup> 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>.
- <sup>16</sup> 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/>.
- <sup>17</sup> South Carolina Appleseed Legal Justice Center.
- <sup>18</sup> Hensley, “Out in the Cold.”
- <sup>19</sup> Interview with Lauren Maddock, October 23, 2017.
- <sup>20</sup> 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

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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				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	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	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			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	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	
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<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
<b>SUM</b>				<b>975</b>		<b>683</b>	<b>95</b>	<b>2,702</b>	<b>374</b>	<b>399</b>		<b>3,414</b>				

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
<b>TOTAL</b>	<b>99</b>

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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