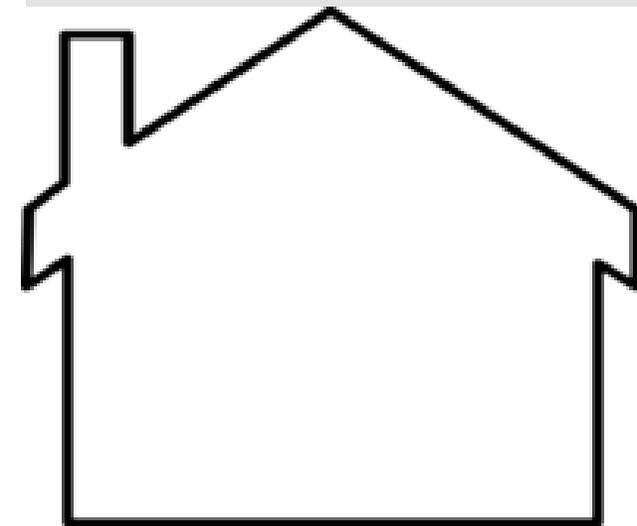


Item G-1: Regulation 17-01 Regarding Governmentally Subsidized Housing Units

Regular Meeting of the Richmond Rent Board | November 15, 2017



Regulation 17-01: Purpose

Adoption of Regulation 17-01 would:

- 1. *Conditionally exempt* governmentally subsidized housing units from the rent control portions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance**
- 2. Clarify that these units are still subject to the Ordinance , including the following requirements:**
 - Landlords must have 'just cause' to evict
 - Landlords must enroll with Rent Program and pay Rental Housing Fee
 - Landlords must file termination and change in terms of tenancy notices (excludes rent increase notices)

Regulation 17-01: Definition of “Governmentally Subsidized Housing”

Definition of

“Governmentally subsidized housing”

- Housing constructed and/or operated with assistance from a governmental program for the provision of affordable housing.
- This includes:
 - **2,702** Low Income Housing Tax Credit units
 - **1,552** Housing Choice Voucher (Section 8) units
 - **975** Project-Based Section 8 units
 - **469** units subsidized by other HUD Programs (Section 202 & Section 236)
 - **399** units owned by the Richmond Housing Authority
 - **96** “Below Market Rate” BMR Units

Regulation 17-01: Background

- As written, governmentally subsidized rental units are not expressly exempt from any portion of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance.
- There are policy reasons for *conditionally exempting* such units from limits on the Maximum Allowable Rent, since the rents for these units are already regulated by a governmental entity.
- If Regulation 17-01 is adopted, Tenants and Landlords of governmentally subsidized housing will still have access to most Rent Program services.
 - Preliminary analysis of Rent Program inquiries indicates there is demand for such services.

Regulation 17-01: Definition of “Conditionally Exempt”

- If Regulation 17-01 is adopted, governmentally subsidized rental units would be exempt from rent control (RMC 11.100.070) ONLY if specific conditions are met:
 1. *For all Tenants in subsidized housing:* The rental rate for the unit complies with applicable laws and regulations governing the amount of rent that may be charged for that particular unit
 2. *For Tenants in a LIHTC or BMR development:* The rent for the unit is “affordable” for a qualifying Tenant pursuant to the Regulatory Agreement or Declaration of Restrictive Covenants
 3. *For Tenants with a Housing Choice Voucher:* The rent for the unit does not exceed the Payment Standard established by HUD

Regulation 17-01: Summary of Policy Considerations

1. Subsidized “affordable” rent levels are already stabilized

Rent levels in such units are inherently stabilized and deemed “affordable” in that the rent levels are already regulated under another complex scheme.

2. Double regulation of rents is infeasible

Applying additional rent restrictions and regulations to the affordable housing or subsidized housing regulatory scheme will make it so complex to administer the Rent Program and Housing Authority that doing so would be practically infeasible and potentially damaging to both agencies. For example, where a tenant has a Housing Choice Voucher and their rent is a function of their income, determining the Maximum Allowable Rent would be excessively burdensome, with no particular benefit to tenants or landlords.

3. There may be legal risks of attempting to regulate rents already restricted by HUD or regulatory agreements

Landlords of these developments could legally challenge the Board’s decision to impose the rent control provisions on subsidized rental units, where regulatory agreements are already in place.

Regulation 17-01: Summary of Policy Considerations (continued)

4. It is common to exempt governmentally subsidized units from rent control

Most Rent Programs in the State of California do not attempt to further regulate the amount of rent that may be charged among governmentally-subsidized, rent-restricted housing units. Conversations with program administrators in peer jurisdictions highlighted that governmentally subsidized units are typically exempt from rent control (but not just cause for eviction) specifically because of the legal and administrative complications of double-regulation.

5. Subsidized Tenants and Landlords will still have access to most Rent Program services

Although tenants in these units would not have recourse to file a downward rent adjustment petition, they would still have access to the Rent Program's counseling, mediation and referral services, especially in terms of the just cause for eviction provisions of the Ordinance.



Regulation 17-01: Fiscal Impact



- The exemption of governmentally subsidized units from rent control is expected to reduce the demand for upward and downward adjustments of the Maximum Allowable Rent, reducing the number of hearings and associated costs.
- Tenants in governmentally subsidized units would still have access to mediation and counseling services, both of which are already accounted for in the Rent Program Budget.

Regulation 17-01: 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