



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, May 16, 2018

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 Soublet, 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.

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REGULAR MEETING OF THE RICHMOND RENT BOARD

AGENDA

5:00 PM

A. PLEDGE TO THE FLAG

B. ROLL CALL

C. STATEMENT OF CONFLICT OF INTEREST

D. AGENDA REVIEW

E. INTRODUCTIONS FROM RENT PROGRAM STAFF MEMBERS

F. PUBLIC FORUM

G. RENT BOARD CONSENT CALENDAR

- G-1.** APPROVE the minutes of the April 18, 2018, Regular Meeting of the Richmond Rent Board. *Cynthia Shaw*
- G-2.** APPROVE the minutes of the April 23, 2018, Special Meeting of the Richmond Rent Board. *Cynthia Shaw*
- G-3.** RECEIVE letters from community members regarding the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance, RMC 11.100. *Cynthia Shaw*
- G-4.** RESCIND, by motion, Regulation 17-02, regarding Petitions for a Rent Adjustment and Administrative Complaints for Excess Rent, as its been rendered obsolete by Chapter 8 (Subchapter A and B) of the Regulations—Regarding the Petition Process and the Hearing Procedure. *Charles Oshinuga
Michael Roush*
- G-5.** RECEIVE the April 2018 Rent Program Monthly Report. *Paige Roosa*

H. RENT BOARD AS A WHOLE

- H-1.** RECEIVE AND APPROVE the 2017-18 Rent Program Annual Report and DIRECT staff to present the report to the City Council in June 2018. *Nicolas Traylor
Brenda Ogutu*
- H-2.** DISCUSS resident concerns about rent increases, refuse removal, and security at Heritage Park at Hilltop Apartments, a Low Income Housing Tax Credit (LIHTC) development located at 3801-3815 Lakeside Drive, Richmond, CA 94806 and PROVIDE direction to staff. *Nicolas Traylor
Paige Roosa*
- H-3.** RECEIVE a memo from the Executive Director regarding the adoption of a policy permitting a partial pass through of the Rental Housing Fee to be paid by Tenants over a 12-month period and PROVIDE direction to staff. *Nicolas Traylor*

I. REPORTS OF OFFICERS

J. 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.

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: May 16, 2018

Final Decision Date Deadline: May 16, 2018

STATEMENT OF THE ISSUE: The minutes of the April 18, 2018, Regular Meeting of the Richmond Rent Board require approval.

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: Approve the minutes of the April 18, 2018 Regular Meeting – Rent Program (Cynthia Shaw 620-5552).

AGENDA ITEM NO:

G-1.

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RICHMOND, CALIFORNIA, April 18, 2018

The Open Session to Hear Public Comment before Closed Session was called to order at 5:01 P.M.

ROLL CALL

Present: Boardmembers Combs, Finlay, Maddock, and Chair Gray.

Absent: Vice Chair Gerould (*present as of 5:25 P.M.*)

PUBLIC COMMENT BEFORE CLOSED SESSION

Cordell Hindler expressed his gratitude for having an experienced Executive Director at the Rent Program and asked that the Board consider his expertise in Rent Stabilization during the closed session. He also mentioned that the Executive Director will be attending a Neighborhood Council meeting in the future.

ADJOURN TO CLOSED SESSION

The Open Session to Hear Public Comment before Closed Session was adjourned at 5:04 P.M.

CLOSED SESSION

The Regular Meeting of the Richmond Rent Board was called to order at 6:04 P.M.

PLEDGE TO THE FLAG

ROLL CALL

Present: Boardmembers Combs, Finlay, Maddock, Vice Chair Gerould and Chair Gray.

Absent: None.

STATEMENT OF CONFLICT OF INTEREST

None.

REPORT FROM LEGAL COUNSEL ON FINAL DECISIONS MADE IN CLOSED SESSION

Legal Counsel Michael Roush stated that the Rent Board met in closed session to discuss the Executive Director Evaluation. No final action was taken.

AGENDA REVIEW

None.

INTRODUCTIONS FROM RENT PROGRAM STAFF MEMBERS

PUBLIC FORUM

Cordell Hindler invited the Board to community events during the months of April and May including the Crime Prevention meeting. He also mentioned a conversation with Nicolas Traylor regarding the Rent Program providing a presentation on Rent Control to the Richmond Neighborhood Coordinating Council, at their summer meeting.

Several residents from Heritage Park Apartments gave comments on their increased rents and safety concerns on the property. The following community members gave comments: Herman Hudson, Marilyn Tims, Ana Orè, Jacqueline Taylor, Patricia Smith, Marian Laurant, Elda Fontenot, James Daniels, and Jerry Yung.

Ilna Clark expressed a desire for staff to include a complete transcription of public comments in the minutes of the Board packet. She also expressed her concerns about the Fair Return Regulations passed by the Board in March 2018 and that she feels that they will be damaging to property owners especially small property owners.

Chair Gray directed Rent Program Legal Counsel Michael Roush, to address the Heritage Park Apartments community members, and provide information about whether or not the Rent Control provisions apply to the property. Chair Gray thanked all Heritage Park Apartment residents for addressing the Board with their issues and informed them that Rent Program staff will follow up with property management to discuss the increases and any other

concerns mentioned to the Board.

(Chair Gray called a recess at 6:38 PM; the meeting called back to order at 6:45 PM)

RENT BOARD CONSENT CALENDAR

On motion of Vice Chair Gerould, seconded by Boardmember Combs, the item(s) marked with an (*) were approved.

*H-1. Approve the minutes of the March 21, 2018, Regular Meeting of the Richmond Rent Board.

*H-2. Receive letters from community members regarding the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance, RMC 11.100.

RENT BOARD AS A WHOLE

I-1. The matter to receive an update concerning the petition and hearing processes was presented by Hearing Examiner, Paul Cohen. The presentation included information on the petition and hearing processes and a breakdown of petitions filed in 2017 – 2018. Discussion ensued. The following individual gave comment: Ilona Clark. No action was taken.

I-2. The matter to receive and discuss a proposed implementation timeline for rent registration was presented by Executive Director, Nicolas Traylor. The presentation included information about how rent registration works, an overview of the rent registration process, the workload associated with rent registration, what rent registration accomplishes, registration outreach and example forms which included the Tenancy Registration Form, Rent Validation Report, and Landlord and Tenant Notice of Apparent Maximum Allowable Rent and the proposed implementation timeline. Discussion ensued. There were no public comments on this item. No action was taken. The Board received the proposed implementation timeline for rent registration.

I-3. The matter to receive revised Fiscal Year 2018-19 Rent Program budget options and corresponding Rental Housing Fee Study and provide direction to staff was presented by Deputy Director, Paige Roosa. The presentation included the background, proposed budget priorities and themes, proposed fee structure,

proposed revisions to the draft budget, proposed revisions to the draft fee study, rationale for a “Third Tier” for subsidized rental units, proposed budget options and corresponding estimated rental housing fee for Option A, B and C, proposed rental housing fee summary, comparison to peer jurisdictions, partial pass-through of the rental housing fee, staff recommendations, proposed timeline and the recommended action. Discussion ensued. The following individuals gave comments: Ilona Clark, Marilyn Langlois, and David Sharples. The Board received revised Fiscal Year 2018-19 Rent Program budget options and corresponding Rental Housing Fee Study with following direction to staff: to present and discuss the proposed budget options and corresponding estimated rental housing fee options B and C at the upcoming Special Rent Board meeting. No final action was taken.

I-4. The matter to (1) consider approving a revision to the salary of the Executive Director for the remainder of Fiscal Year 2017-18 to the amount for the Executive Director position as reflected in the publicly posted and available Rent Board budget, as approved and adopted by the Richmond Rent Board. (The revised salary for Fiscal Year 2017-18 shall become effective on April 16, 2018) and (2) consider approving the salary of the Executive Director for Fiscal Year 2018-19 to the amount for the Executive Director position in the Richmond Board’s budget for Fiscal Year 2018-19, as that budget, following a public hearing, is approved and adopted by the Richmond Rent Board. The approved salary for the Executive Director for Fiscal Year 2018-19 shall become effective on July 1, 2018. This item was presented by Legal Counsel, Michael Roush. Discussion ensued. The following individual gave comment: Ilona Clark. A motion by Boardmember Finlay, seconded by Boardmember Maddock, to approve and passed by the following vote: **Ayes:** Boardmembers Combs, Finlay, Maddock, Vice Chair Gerould and Chair Gray. **Noes:** None. **Abstentions:** None. **Absent:** None.

REPORTS OF OFFICERS

Executive Director, Nicolas Traylor gave a brief report on the new process of sending letters to tenants who received an eviction notice from their landlord informing them of their rights and the just causes for eviction.

Deputy Director, Paige Roosa invited the community to the upcoming Eviction 101 Community Workshop on April 21st.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:03P.M.

Cynthia Shaw and Andrea Zuniga
Staff Clerks

(SEAL)

Approved:

David Gray, Chair

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AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: May 16, 2018

Final Decision Date Deadline: May 16, 2018

STATEMENT OF THE ISSUE: The minutes of the April 23, 2018, Special Meeting of the Richmond Rent Board require approval.

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: Approve the minutes of the April 23, 2018 Special Meeting – Rent Program (Cynthia Shaw 620-5552).

AGENDA ITEM NO:

G-2.

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RICHMOND, CALIFORNIA, April 23, 2018

The Special Meeting of the Richmond Rent Board was called to order at 6:06 P.M.

PLEDGE TO THE FLAG

ROLL CALL

Present: Boardmembers Combs, Finlay, Maddock

Absent: Vice Chair Gerould and Chair Gray.

(Chair Gray present as of 6:12 P.M.)

A motion made by Boardmember Combs to nominate and elect Boardmember Maddock as temporary Chair, seconded by Boardmember Finlay, passed unanimously with Chair Gray and Vice Chair Gerould Absent.

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

None.

PUBLIC FORUM

Cordell Hindler invited the Rent Board to attend several community events in the month of May including the Library Commission meeting. He also mentioned that he would like the Board to consider revisiting Item I-4, regarding the Executive Director's salary from the April 18th meeting for further consideration.

Linda Newton spoke on the behalf of The Association of United Richmond Housing Providers. She feels the small property owners who fall within the historically low rent contingent should be considered differently for decisions that the staff and Board makes. She expressed concerns about the fair return standards and being fair to her renter. She spoke about one of her tenants being a senior and asked questions about the effect on each unit in regards to an increase for MNOI and Capital Improvements. She feels her ability to make decisions in regards to her property has been restricted due to Rent Control. She also expressed her concerns about the

regulations being difficult to understand and suggested that they be written in a way that is clear and easier to understand.

PUBLIC HEARING

F-1. The matter to (1) adopt revised Fiscal Year 2018-19 Budget Option C; (2) receive and approve the Fiscal Year 2018-19 Residential Rental Housing Fee Study; (3) direct staff to prepare a resolution, consistent with the Rent Board's approved Fee Study and Budget, recommending to the City Council approval of the Fiscal Year 2018-19 Residential Rental Housing Fees in the amount of \$207.00 per Controlled Rental Unit, \$100.00 per Partially Covered Unit, and \$50.00 per Governmentally Subsidized Unit, at the next regularly scheduled meeting; and (4) direct staff to conduct a study of policy options for a possible pass-through of a portion of the Rental Housing Fee to be paid by Tenants and present these options at the Board's Regular Meeting in May was presented by Deputy Director, Paige Roosa. The presentation included information about the background, proposed budget options and corresponding estimated rental housing fee option B and C, a description of the proposed Compliance Officer duties, proposed projects and assignments, examples of noncompliance cases the Compliance Officer would be focusing on, the Rental Housing Fee for each budget option, proposed Rental Housing Fee summary, proposed next steps and recommended action.

Discussion ensued. The following individuals gave comments: Cordell Hindler, Steve McElroy, and Marilyn Langlois. A motion by Boardmember Finlay, seconded by Chair Gray, to adopt revised Fiscal Year 2018-19 Budget Option C; receive and approve the Fiscal Year 2018-19 Residential Rental Housing Fee Study; prepare a resolution, consistent with the Rent Board's approved Fee Study and Budget, recommending to the City Council approval of the Fiscal Year 2018-19 Residential Rental Housing Fees in the amount of \$207.00 per Controlled Rental Unit, \$100.00 per Partially Covered Unit, and \$50.00 per Governmentally Subsidized Unit, at the next regularly scheduled meeting; and to conduct a study of policy options for a possible pass-through of a portion of the Rental Housing Fee to be paid by Tenants and present these options at the Board's Regular Meeting in May. The motion passed by the following vote: **Ayes:** Boardmembers Combs, Finlay, Maddock and Chair Gray. **Noes:** None. **Abstentions:** None. **Absent:** Vice Chair Gerould.

A subsequent motion by Boardmember Combs, seconded by Chair Gray, to close Public Hearing at 6:49 P.M. passed by the following vote: **Ayes:** Boardmembers Combs, Finlay, Maddock and Chair Gray. **Noes:** None. **Abstentions:** None. **Absent:** Vice Chair Gerould.

REPORTS OF OFFICERS

Executive Director, Nicolas Traylor gave a brief report on the Eviction 101 Community Workshop held on April 21, 2018. He also gave an update on volume of cases addressed by the Rent Program Services Analysts, Magaly Chavez and Vickie Medina. He mentioned that they have contacted over a thousand clients each since they joined our staff. He gave an update that the Staff Attorney will start on April 30th and that he will introduce himself at the next Board meeting in May.

Legal Counsel, Michael Roush mentioned the need of a full time Staff Attorney and how his presence will benefit the program and the community. He also informed the Board that he is in the process of responding to the landlord attorneys who wrote letters in response to the Fair Return Regulations and that the response should be completed very soon.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:56 P.M.

Cynthia Shaw and Andrea Zuniga
Staff Clerks

(SEAL)

Approved:

David Gray, Chair

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AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: May 16, 2018

Final Decision Date Deadline: May 16, 2018

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 (Cynthia Shaw 620-5552).

AGENDA ITEM NO:

G-3.

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Ilona Clark submitted the attached to Board Clerk during Public Comment at 4/18/2018 Rent Board meeting.

in consistent with

packet 3/21/18

cap ex - part of operating expenses?

Example of Operating Expenses

Item G-1: Definition of "Operating Expenses"

Included in Operating Expenses

- Reasonable costs of operation and maintenance of the rental unit
- Real property taxes
- Insurance
- Utility costs
- Management expenses
- License, registration, and other public fees
- Landlord-performed labor
- Legal Expenses

NOT Included in Operating Expenses

- Debt service costs and costs for obtaining financing
- Mortgage payments or principal
- Any penalties, fees, or interest assessed for violation of the ordinance or law
- Land lease expenses
- Political contributions
- Depreciation
- Any expenses for which the landlord has already been reimbursed
- Unreasonable increases in expenses since the base year

www.richmondrent.org | ITEM G-1

information presented to the rent board is inaccurate

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: May 16, 2018

Final Decision Date Deadline: May 16, 2018

STATEMENT OF THE ISSUE: On May 24, 2017, the Rent Board approved Regulation 17-02, which set out procedures for petitions related to rent adjustments and administrative complaints based on excessive rent payments. On January 24, 2018, the Rent Board approved a more comprehensive Regulation, embodied in Chapter 8 (Subchapters A and B). Chapter 8 established a more robust procedural process for petitions and hearings, including petitions related to rent adjustments and administrative complaints based on excessive rent. As it stands, Chapter 8 (Subchapters A and B) renders Regulation 17-02 obsolete, as its broad provisions subsume the procedures set out in Regulation 17-02. Thus, Regulation 17-02 is no longer necessary, and to avoid confusion, inconsistency, and/or duplication, staff recommends it be rescinded.

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: RESCIND, by motion, Regulation 17-02, regarding Petitions for a Rent Adjustment and Administrative Complaints for Excess Rent, as its been rendered obsolete by Chapter 8 (Subchapter A and B) of the Regulations– Regarding the Petition Process and the Hearing Procedure - Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

AGENDA ITEM NO:

G-4.

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AGENDA REPORT

DATE: May 16, 2018

TO: Chair Gray and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director
Charles Oshinuga, Staff Attorney

SUBJECT: RESCISSION OF REGULATION 17.02

STATEMENT OF THE ISSUE:

On May 24, 2017, the Rent Board approved Regulation 17-02, which set out procedures for petitions related to rent adjustments and administrative complaints based on excessive rent payments. On January 24, 2018, the Rent Board approved a more comprehensive Regulation, embodied in Chapter 8 (Subchapters A and B). Chapter 8 established a more robust procedural process for petitions and hearings, including petitions related to rent adjustments and administrative complaints based on excessive rent. As it stands, Chapter 8 (Subchapters A and B) renders Regulation 17-02 obsolete, as its broad provisions subsume the procedures set out in Regulation 17-02. Thus, Regulation 17-02 is no longer necessary, and to avoid confusion, inconsistency, and/or duplication, staff recommends it be rescinded.

RECOMMENDED ACTION:

RESCIND, by motion, Regulation 17-02, regarding Petitions for a Rent Adjustment and Administrative Complaints for Excess Rent, as its been rendered obsolete by Chapter 8 (Subchapter A and B) of the Regulations– Regarding the Petition Process and the Hearing Procedure- Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

FISCAL IMPACT:

There is no fiscal impact related to this item.

DISCUSSION:

Background

On May 24, 2017, the Richmond Rent Board adopted Regulation 17-02, which set out procedures for petitions related to rent adjustments and administrative complaints based on excessive rent. On January 24, 2018, the Richmond Rent Board adopted Chapter 8 (Subchapter A and B) of the Regulations. Chapter 8 established a more robust procedural process for petitions and hearings, including petitions related to rent adjustments and administrative complaints based on excessive rent.

Chapter 8 (Subchapter A and B) of the Regulations fully covers the procedures set forth in Regulation 17-02

Regulation 17-02 authorizes petitions and appeals based on rent adjustments and excessive rents. Its provisions require that for petitions on rent adjustment, a hearing must be set within 15 days of receiving the petition, a hearing should be conducted within 45 days thereafter, and a written decision should be issued within 30 days of the close of the hearing. Appeals on rent adjustments must be filed within 20 days of the Rent Board sending a notice of decision to the parties.

Concerning petitions on excessive rent, Regulation 17-02 similarly explains that for petitions on excessive rents, a hearing must be set within 15 business days of receipt of the petition, a hearing should be conducted within 30 days thereafter, and a written decision should be issued within 21 days after the conclusion of the hearing. Appeals on excessive rents must be filed within 15 business days of the Rent Board sending a notice of decision to the parties.

Subsequent to the adoption of Regulation 17-02, the Rent Board adopted a more robust procedural and hearing process codified in Chapter 8 (Subchapter A and B) of the Regulations. Chapter 8 (Subchapter A and B) provides a more thorough procedural process for petitions, hearings, and appeals, including petitions and hearings on rent adjustments and excessive rents. It not only describes how a petitioner files a petition, it modifies the timing by which a petition must be scheduled for a hearing and a hearing must be conducted. Additionally, it modifies the timing by which an appeal must be filed. Chapter 8 (Subchapter A and B) was passed to completely replace Regulation 17-02.

Chapter 8 (Subchapter A and B) of the Regulations renders Regulation 17-02 obsolete, as its broad provisions subsume the procedures set out in Regulation 17-02. Therefore, to avoid conflict, confusion, and duplication, Regulation 17-02 should be rescinded.

Conclusion

Staff members recommend the Rent Board rescind Regulation 17-02 as its field is fully covered by Chapter 8 (Subchapter A and B) of the Regulations, rendering Regulation 17-02 obsolete.

DOCUMENTS ATTACHED:

Attachment 1 – Regulation 17-02- Petitions for a Rent Adjustment and Administrative Complaints for Excess Rents

Attachment 2 –Chapter 8 (Subchapter A and B) of the Regulations –Regarding the Petition Process and the Hearing Procedure

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RICHMOND RENT BOARD REGULATION 17-02

1. Petitions for a rent adjustment.
 - A. A petition for a rent adjustment shall be scheduled for hearing by the appointed hearing officer within 15 business days of the Rent Board's staff receipt of the petition and, as to a landlord filed petition, determination that the declaration of the landlord that the Rental Unit meets all the requirements of the Ordinance is true. The hearing examiner shall use best efforts to conduct the hearing on the petition within 45 days thereafter, recognizing, however, that the timeframe may need to be extended for good cause, for example, the need to conduct a current building inspection and/or the need for adequate time for records to be assembled, produced and reviewed by the party opposing the petition. The hearing examiner shall issue a written decision concerning the petition within 30 days of the close of the hearing; the hearing examiner may allow the parties to file letter briefs before the hearing is closed.
 - B. Any person aggrieved by the decision of the hearing examiner may appeal the decision to the Board by filing an appeal, on a form provided by the Board, within 20 business days from the date the Board sends a notice of the decision to the parties. The Board shall not conduct a de novo hearing on the petition but shall affirm, reverse or modify the decision of the hearing examiner based on the administrative record as set forth in Section 11.100.070 (d)(7), Richmond Municipal Code. The Board shall meet as soon as reasonable in order to consider the appeal and issue a decision. If an appeal is not filed timely in response to the hearing examiner's decision, that decision is final. If an appeal is timely filed, the Board's decision is final but subject to judicial review as set forth in Section 11.100.090, Richmond Municipal Code.
2. Administrative complaints for excess rent.
 - A. A tenant's administrative complaint under Section 11.100.100 (b), Richmond Municipal Code, shall be scheduled for hearing by the appointing hearing officer within 15 business days of the Rent Board's staff receipt of the complaint. For the administrative complaints that have been filed prior to June 1, 2017, the 15 business days shall start June 1, 2017. The hearing examiner shall use best efforts to conduct the hearing on the complaint within 30 days thereafter. The hearing examiner shall issue a written decision concerning the complaint within 21 days of the close of the hearing; the hearing examiner may allow the parties to file letter briefs before the hearing is closed.
 - B. Any person aggrieved by the decision of the hearing examiner may appeal the decision to the Board by filing an appeal, on a form provided by the Board, within 15 business days from the date the Board sends a notice of the decision to the parties. The Board shall not conduct a de novo hearing on the complaint but shall affirm, reverse or modify the decision of the hearing examiner based on the administrative record as compiled by the hearing examiner. The Board shall meet as soon as reasonable in order to consider the appeal and issue a decision. If an appeal is not filed timely in response to the hearing examiner's decision, that decision is final. If an appeal is timely filed, the Board's decision is final but subject to judicial review as set forth in Section 11.100.090, Richmond Municipal Code. The Board will have taken final action within 120 days on any administrative complaints for excess rents that were pending as of June 1, 2017 and on all administrative complaints filed on June 1, 2017 and thereafter.

Chapter 8: Individual Adjustments of Maximum Allowable Rent

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Subchapter A. Petition Process

801. Petitions

(A) Any Landlord or Tenant seeking an individual adjustment of the maximum allowable rent under Section 11.100.070 of the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance must file a petition in accordance with the procedures set forth in this Chapter.

(B) The petitioner must attach to the petition documentation that is adequate to establish eligibility for the rent adjustment that is requested. The necessary documentation will vary according to the petition and is specified in the appropriate regulation and in the petition form. If the necessary documentation is unavailable, the petitioner's verification of the petition or declaration under penalty of perjury may substitute for the unavailable documentation. It is the policy of the Rent Board that each party submit all supporting evidence as early as possible prior to the hearing. The hearing examiner may refuse to accept documentary evidence at the hearing unless there is good cause for petitioner's failure to submit it prior to the hearing.

(C) The petitioner, whether a Landlord or Tenant, has the burden of proof concerning an individual adjustment of the maximum allowable rent; provided, however, that the hearing examiner or Board, in making a decision under this Chapter, retains the discretion to review records, files and order inspections.

802. Previous Recent Hearing

Notwithstanding any other provision of this Chapter, the Board or the Executive Director (or designee) may refuse to hold a hearing and/or grant an individual Maximum Allowable Rent adjustment for a rental unit if an individual hearing has been held and decision made with regard to the recent ceiling for such unit within the previous twelve months.

803. No Petition Filing Fee

There shall be no fee for filing a petition for individual adjustment of the maximum allowable rent. The Board may institute such a fee at a future date, with any waivers and reductions that it deems appropriate.

804. Proper Filing of the Petition

(A) Proper filing of the petition is the responsibility of the petitioner. Provided that the requirements of Regulations 804 (Proper Filing of the Petition) and 805 (Acceptance of Petitions) are satisfied, a petition is deemed properly filed on the date it is received by the Board if it is acceptable.

Board staff will make a preliminary review of each petition after it has been submitted. Petitions that are not signed by the petitioner, illegible, incomprehensible, erroneously completed, incomplete, lack a proof of service on the opposing party or for which the required fees have not been paid will not be considered acceptable.

(B) No Landlord petition for an individual rent adjustment will be accepted for filing unless the unit for which the adjustment is requested has been properly registered and all notices of rent

increases, termination of tenancy, or changes in terms of tenancy filed with the Rent Board for at least 30 days. A unit is considered properly registered only if the completed registration statement has been filed with the Board, and the Rental Housing fee, Business License Tax, (plus any late fees) has been paid in full.

(C) A petition by a former Tenant pursuant to these Regulations shall be commenced within three years from the date the Tenant vacated the unit in question.

(D) No individual rent adjustment proceedings will take place for petitions that are not properly filed. The procedures for determining proper filing and allowing an unacceptable petition to be corrected are set out in Regulation 805 (A) (4) and (B) (4).

805. Petition and Noticing Procedures

(A) For rent increase petitions, the following procedure applies:

(1) Rent increase petitions may be filed under the following regulations: Chapter 9, Sections 903 (Changes in Number of Tenants), 904 (Change in Space or Services/Code Violations), 9XX (Maintenance of Net Operating Income), 9XX (Capital Improvements), 9XX (Restoration of Annual General Adjustment), and 9XX (Historically Low Rent).

(2) A copy of the rent increase petition and, except as provided in Regulation 9XX (Capital Improvements), supporting documentation must be served on the Tenants of all units affected by the petition.

(3) The Landlord shall file with the Board the original petition, two copies of the documentation required by Regulation 801 and by the Regulation pursuant to which the Petition is filed, and a proof of service by first-class mail or in person of the petition and documentation on each affected Tenant. The Landlord may also file an Agreement of Parties and/or Waiver of Right to Hearing.

(4) Board staff shall review the petition and supporting documentation to determine whether they conform with Board regulations and within five (5) business days shall either mail notice to the Landlord that the petition is not acceptable in its current form, with an explanation of its defects (pursuant to Regulation 806 Acceptance of Petitions) or mail a Notice to Opposing Parties to the Tenants and Landlord, as provided in Regulation 809 (Notice to Opposing Parties and Board). For petitions filed pursuant to Regulations 9XX (Maintenance of Net Operating Income), the review period shall be fifteen (15) business days. If a petition is found unacceptable, the Landlord may refile at any time. Acceptance of a petition by Board staff does not mean that the petitioner has submitted adequate documentation to support a decision in petitioner's favor. A Landlord may, at any time prior to submission of the matter for an administrative decision, request that a hearing be held.

(5) The notice to the Tenant shall include a notice that the Tenant has a right to object to the petition, and that if the Tenant does not object within twenty-one (21) calendar days of the mailing of the notice, or if the Tenant's objection does not specify one or more

grounds listed in the notice, the rent for the Tenant's unit may be increased by the applicable amount, based on the information in the Landlord's petition and the Board's files. Failure to file an objection may constitute a waiver of the right to a hearing on objections to the petition.

(6) A hearing shall be held on the petition and objections thereto, in accordance with Regulation 821 (Hearing), unless no Tenant files an objection within the time allowed, the Landlord has not requested a hearing and the hearing examiner determines that a decision may be rendered on the petition without hearing live testimony. Notwithstanding any other provision of these regulations, Board staff may, upon notice to all parties, request further documentation and/or schedule a hearing on the petition.

(B) For Tenant petitions, the following procedure applies:

(1) Tenant petitions may be filed pursuant to Chapter 9 (Individual Rent Adjustments), Sections 903 (Changes in Number of Tenants), 904 (Change in Space or Services/Code Violations), 905 (Overcharges) and Rent Withholding Petitions pursuant to Chapter YY.

(2) A copy of the Tenant petition and supporting documentation must be served on the petitioner's Landlord.

(3) The Tenant shall file with the Board the original petition, two copies of the documentation required by Regulation 801 and by the Regulation pursuant to which the petition is filed, and proof of service by first-class mail or in person of the petition and documentation.

(4) Board staff shall review the petition and supporting documentation to determine whether they conform to Board Regulations and within five (5) business days shall either mail notice that the petition is not acceptable in its current form, with an explanation of its defects (pursuant to Regulation 805 Petition and Noticing Procedure) or mail a Notice to Opposing Parties to the Landlord and Tenants, as provided in Regulation 808 (Notice to Opposing Parties and Board). If a petition is unacceptable, the Tenant may refile at any time. Acceptance of a petition by Board staff does not mean that the petitioner has submitted adequate documentation to support a decision in petitioner's favor.

(5) The notice to the Landlord shall include a notice that the Landlord has a right to object to the petition, and that if the Landlord does not object within twenty-one (21) calendar days of the mailing of the notice, or the Landlord's objection does not specify one or more grounds listed in the notice, the rent for the Tenant's unit may be decreased by the applicable amount, based on the information in the Tenant's petition and the Board's files. Failure to file an objection may constitute a waiver of the right to a hearing on objections to the petition

(6) A hearing shall be held on the petition and objections thereto, in accordance with Regulation 821 (Hearing), unless neither the Landlord nor the Tenant requests a hearing within the time allowed and the hearing examiner determines that a decision may be rendered on the petition without hearing live testimony. Notwithstanding any other

provision of these regulations, Board staff may, upon notice to all parties, request further documentation and/or schedule a hearing on the petition.

(C) The time limits set forth in this section will prevail over any other time limits set out elsewhere in these regulations.

806. Supplemental Information

(A) The petitioner shall notify the Board and each opposing party of any material change in the information set forth in the petition, especially a change in the identity of any opposing party, as soon as possible prior to the hearing. When there is a change in the opposing party, the petitioner shall serve the new party in accordance with Sections 805 (Petition and Noticing Procedures). Notice and proof of service shall be in accordance with Section 809 (Notices to Opposing Parties and Board). The new party shall thereafter be provided by the Rent Board with notice of the right to object to the petition.

(B) Changes in or additions to the information set forth on the petition may be grounds for a continuance, and may constitute good cause for delaying final Board action under Section 8XX (Time for Decision) of these regulations.

(C) The party responding to the petition shall notify the Board and each opposing party of any material change in the information set forth in the response to the petition, including any additional objections, as soon as possible prior to the hearing.

807. Parties

Parties are the Landlord of the affected property, the Tenants in each affected rental unit (with all the Tenants in one unit constituting one party), and any representatives designated pursuant to Section 834 (Rights of Parties). The person listed as the Landlord in a Tenant petition for rent adjustment shall be the Landlord party, unless the Board is notified to the contrary.

808. Notices to Opposing Parties and Board

(A) Manner of Notice. Notice(s) to opposing parties shall be served by first-class or certified mail, or by personal service on the party or the party's representative of record. Personal service shall be performed according to state law. Notices to the Board shall include a proof of service that proper notice was given to the opposing parties, by means of a written declaration by the server under penalty of perjury, stating the names and addresses of parties served and the date and manner of such service.

(B) Notice after Petition Filed. The Board shall notify the opposing parties of the filing of a petition and send each opposing party a response form that includes notice that the party has a right to object to the petition, a statement of possible objections, notice that the party's failure to object within the time specified may constitute a waiver of the right to have a hearing on objections to the petition, and a brief description of the hearing process.

(C) Other Notices. The Board shall send a copy of all notices, to each party, and parties shall send to other parties, a copy of all documents or communications filed with the Board after the

filing of the initial petition, except for documents or communications which are filed during the hearing or are confidential.

809. Response to Petition

(A) A party wishing to object to the petition may do so on the form provided within twenty-one (21) calendar days of the mailing of the notice required under Section 808 (B) (Notice after Petition Filed). Failure to respond may constitute a waiver of the respondent's right to object to the petition. Notwithstanding a party's failure to respond, no petition for an individual rent adjustment shall be granted unless the adjustment is authorized by these regulations and supported by a preponderance of the evidence.

(B) Response to Petitions Filed for Violations of Maximum Allowable Rent. In response to a petition filed solely on the basis of violations of the Maximum Allowable Rent, the Landlord may defend as to the issue of such violations of the Maximum Allowable Rent, but may not counterclaim for an increase of the lawful Maximum Allowable Rent. To make such counterclaims, the Landlord must file a separate petition in accordance with Chapter 8, and Section 802 shall not prevent such a petition from being accepted.

810. RESERVED

811. Consolidation

(A) All Landlord petitions pertaining to Tenants in the same building and all petitions filed by Tenants occupying the same building shall be consolidated for hearing unless there is a showing of good cause not to consolidate such petitions.

(B) In its discretion, the Board or the hearing examiner may consolidate petitions pertaining to different buildings on the same property or different properties of the same Landlord.

812. Confidentiality

(A) Documents filed in connection with an individual rent adjustment proceeding shall be public records unless a party receives a determination by the hearing examiner that a particular document shall be confidential. For any such determination of confidentiality to be made it must be demonstrated that the document in question is exempt under the California Public Records Act (Government Code Section 6250 et seq) or that the public interest served by not making the document public clearly outweighs the public interest served by disclosure of the document. Unless otherwise specified by the hearing examiner, documents determined to be confidential will be available for inspection by the opposing party but not by the general public.

(B) A party seeking a determination that a particular document shall be treated as confidential shall make such a request in writing. The request shall be made at the time that the document in question is offered as evidence or is otherwise required to be produced. The hearing examiner may determine that only a portion of the document is to be treated as confidential, and may make such rulings regarding disclosure to both the opposing party and the general public as are consistent with this Section. The request and the ruling thereon shall be included in the record.

813. Expedited Hearings

(A) The Rent Board recognizes that consistency in rulings by the Rent Board and the courts is desirable. Therefore, in order to provide consistency of decisions in cases where both a Rent Board petition and an unlawful detainer action have been filed, the purpose of this Regulation is to ensure that the Rent Board rules on issues which are involved in petitions before it and in unlawful detainer cases prior to the Court ruling on the same issue.

(B) Priority in the scheduling of hearings and in the issuance of decisions shall be given to pending petitions and appeals involving rental units on which eviction proceedings have commenced. An eviction is deemed to commence when either a three (3) or thirty (30) day or less notice to quit has been served. A party may request that a petition or an appeal be given priority by filing a request to expedite, accompanied by a copy of either the notice to quit or the unlawful detainer complaint with the Rent Board and serving a copy of the same on the opposing party.

814 – 820. RESERVED

Subchapter B. Hearing Procedure

821. Hearing

It is the policy of the Rent Board that all petitions and objections be decided on their merits, consistent with due process of law and orderly administrative procedures. The regulations of this Chapter are intended to ensure that each party is given notice of the grounds for a petition and all objections thereto in advance of the hearing so that all parties will be prepared to present their case at the hearing. Accordingly, the hearing shall be limited to the issues raised by the petition and the objections filed thereto, unless the hearing examiner determines that, in the interest of fairness, additional issues or objections should be considered and thereafter takes all necessary steps to ensure that all parties have a full and fair opportunity to respond to new issues, objections or evidence.

822. Hearing Examiner

(A) A hearing examiner shall conduct a hearing to determine whether the individual adjustment petition should be granted. The hearing examiners shall have the following powers with respect to cases assigned to them:

- (1) To administer oaths and affirmations;
- (2) To grant requests for subpoenas and to order the production of evidence;
- (3) To rule upon offers of proof and receive evidence;
- (4) To regulate the course of the hearing and rule upon requests for continuances;
- (5) To call, examine, and cross-examine witnesses, and to introduce evidence into the record;
- (6) To decide the petition administratively without a hearing if no hearing is requested by the petitioner, the responding party fails to timely file objections, and the record is sufficient to render a decision on the petition without hearing live testimony;
- (7) To make and file decisions on petitions in accordance with this Chapter;
- (8) To take any other action that is authorized by this Chapter or other Board Regulation.

823. Evidence and Standard of Proof

(A) The hearing examiner may require either party to a rent adjustment hearing to provide any books, records and papers deemed pertinent. All required documents shall be made available to the parties involved, at least ten (10) days prior to the hearing or its continuation, at the offices of the Board.

(B) If the hearing examiner finds good cause to believe that the Board's current information does not reflect the current condition of the rental unit, the hearing examiner shall conduct or request the City to conduct an appropriate building inspection. Any party may also request the hearing examiner to order such an inspection prior to the hearing.

(C) The hearing examiner need not conduct the hearing according to technical courtroom rules of evidence. Any relevant evidence may be considered if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of business regardless of any common law or statutory rule which might exclude such evidence in court proceedings. The hearing examiner may exclude unduly repetitious or irrelevant evidence.

(E) No adjustment in Maximum Allowable Rent shall be granted unless supported by the preponderance of the evidence submitted at the hearing.

824. Board Action

The Board, on its own motion or on the request of any party, may hold a hearing on any individual adjustment petition without the petition first being heard by a hearing examiner. For purposes of these regulations, the Board shall be considered a hearing examiner when holding a hearing under this Section. In the event that the Board elects to hold a hearing, the decision of the Board shall be the final decision of the Board, except in cases where the Board decision is to send the issue to a hearing examiner for further review.

825. Notice of Hearing

Notice of the time, date and place of hearing shall be mailed to all parties no later than ten (10) days before the scheduled date of the hearing.

826. Continuances

(A) The date and time of the hearing may be continued, either before the hearing or at the hearing, if the hearing examiner finds good cause to do so. Such good cause shall be stated in the record and may include, but is not limited to, the failure of a party to receive notice, the illness of a party or witness or other emergency which makes it impossible for a party or witness to appear on the scheduled date, or the failure of a party to provide the hearing examiner with required pertinent information in a timely manner. Mere inconvenience or difficulty in appearing shall not constitute good cause. Continuances may also be granted upon consent of all parties.

(B) Requests for continuances shall be made as soon as possible. A written request for a continuance and the reasons for it must be received by the Board and all other parties at least 48 hours prior to the scheduled hearing, unless good cause is shown for a later request. The written request shall contain acceptable alternative dates and an explanation of what efforts were made to ascertain the position of the other parties regarding the request for a continuance. The request shall be served on both the Board and all opposing parties in accordance with the requirements of Section 808 (Notices to Opposing Parties and Board).

(C) The hearing examiner may deny a request for a continuance if it has not been made in compliance with subsection (B) of this Section 826 or where a continuance has previously been granted to the requesting party in the same case.

(D) The Board shall notify the parties if a continuance is granted, and the date and place of the rescheduled hearing.

827. Disqualification of Hearing Examiner or Board Member

(A) No hearing examiners or Board members shall take part in any hearing or appeal on a petition for an individual rent adjustment in which the hearing examiner or Board member has a personal financial interest in the outcome (such as being the Landlord of, or a Tenant residing in, the property that is involved in the petition), or a personal bias for or against any party. The hearing examiner's or Board member's general status as a Landlord or Tenant, or political or philosophical beliefs, shall not constitute personal bias.

(B) Hearing examiners or Board members shall disclose to all parties any prior communication with a party concerning the subject of the petition, as well as any possible or apparent personal financial interest or personal bias.

(C) Hearing examiners or Board members may disqualify themselves at any time. In addition, any party may file a written request for disqualification, stating the grounds, with the Executive Director (for hearing examiners) or the Board Chairperson (for Board members) at least 72 hours prior to the hearing. However, if the identity of the hearing examiner or Board member was not known soon enough to allow this, the written request shall be filed as soon as possible but in no event later than the taking of any evidence at the hearing. Any such request shall be ruled upon prior to the taking of any evidence at the hearing.

828. Subpoenas

The hearing examiner may by order or subpoena require that either party or any other person provide her/him with any books, records, papers, or other evidence deemed pertinent to the petition or that any witness appear and testify. All documents required under this provision shall be made available to the parties at least ten (10) days prior to the hearing, at the office of the Board. Parties to the hearing shall have the right to request the hearing examiner to issue subpoenas on their behalf, but the responsibility for service of such subpoenas remains with the requesting party. The subpoena shall disclose on its face at whose request it has been issued and that it is issued in the name of the Board.

829. Stipulations

The parties, by written stipulation filed with the hearing examiner, may agree upon some or all of the facts or evidence involved in the hearing. Stipulations may also be made orally at the hearing. Any fact or evidence which is the subject of a stipulation shall be treated as having been established by a preponderance of the evidence.

830 RESERVED

831. Ex Parte Communications

There shall be no communications regarding any pending case outside of the hearing between the hearing examiner assigned to the case and any party, representative or witness in any case pending before the hearing examiner until the hearing examiner has completed the written decision in that case, except for discussions about requests for continuances, building inspections or determinations of confidentiality, prehearing discussions pursuant to Regulation 832

(Agreement Prior to Hearing), where both parties or their representatives have an opportunity to be present, or orders by the hearing examiner to produce evidence pursuant to Regulation 826 (Subpoenas). There may be communications on any matters with other Board staff.

832. Agreement Prior to Hearing

(A) The parties may make a prehearing agreement. The Board staff may contact the parties in an effort to clarify the issues and/or to reach agreement on the individual adjustment prior to the hearing. Any agreement between the parties prior to a hearing must be approved by the Hearing Examiner in accordance with the provisions of this chapter.

(B) Any agreement made by the parties at the prehearing or hearing shall be made on the record and recorded. The terms of the agreement shall be read to the parties, and the parties shall state that they understand the terms of the agreement, that they do not want a hearing on the petition, and that they voluntarily agree to the terms of the agreement.

(C) Parties shall submit any proposed joint agreement in writing to the Board staff. The hearing examiner shall approve or reject the agreement as soon as possible. Written notice of the determination shall be mailed to the parties. The notice shall contain the reasons for any rejection. The agreement and its approval or rejection shall be entered into the record.

(D) Parties who prior to a hearing reach an agreement on an individual adjustment which is approved by the Hearing Examiner shall be deemed to have waived their rights to a hearing or appeal on the petition. Such an approved agreement shall also be deemed a hearing for the purposes of Section 802 (Previous Recent Hearing) of these regulations.

However, upon demonstration of fraud, misrepresentation, or similarly compelling reasons, either party may request that the hearing examiner withdraw the settlement and set the matter for hearing. If such a request is denied, the party may appeal such denial to the Board.

833. Open Hearings

All individual Maximum Allowable Rent adjustment hearings shall be open to the public.

834. Rights of Parties

(A) All parties to a hearing shall have the right to appear at the hearing and present evidence and argument in person, and/or have assistance from attorneys, legal workers, recognized Tenant organization representatives or any other designated persons. Before a representative is allowed to advocate for, or in any way represent, a party, the party must present to the Board a signed, written statement designating the representative. Representatives shall file written statements with the Board that they are assisting the named party, with the name, address and phone number of the representative. All parties shall also have the right to call, examine, and cross-examine witnesses to request the hearing examiner to issue orders or subpoenas for witnesses or evidence and to exercise any other rights conferred by the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, this Chapter or other Board Regulations.

(B) Unless otherwise specified by regulation or by order of the Rent Board or hearing examiner, any period of notice and any right or duty to do any act or make any response within any period or on a date certain after service of a document shall be extended by five days if the document was served by mail.

(C) Except for the failure to timely file an appeal in accordance with Regulation 842 (Appeal Process) the Rent Board or hearing examiner may relieve a party of the consequences of a failure to perform an act on or before a date certain and allow additional time to perform the act where the party demonstrates that there was a good cause for the failure. Application for this relief shall be made within a reasonable time, in no case exceeding thirty days, after the date certain and shall be accompanied by a sworn declaration attesting to the facts alleged to constitute the good cause.

835. Hearing Record

The official record of the hearing shall include the following: an audio recording of the hearing; all exhibits, papers, and documents required to be filed or accepted into evidence during the proceedings; a list of participants present; a summary of all testimony accepted; a statement of all material officially noticed; all recommended and final decisions, orders, and/or rulings; and the reasons for each final decision, order and/or ruling. This official record shall constitute the exclusive record for the decision on the issues raised at the hearing.

836. Availability of Record

The Board shall make the official record available for inspection and copying by any person and provide a copy of all or part of the official record at a reasonable copying cost.

837. Notice of Decision

The Board shall send a notice of the hearing examiner's decision to all parties to the hearing. Such notice shall include a copy of the findings of fact and law supporting the decision, as well as a statement of their right to and the time limit for any appeal to the Board and/or judicial review of the decision.

838. Finality of Decision

The hearing examiner's decision shall be the final decision of the Board in the event no appeal is made to the Board.

839 – 840 RESERVED

841. Right of Appeal

Any party may appeal a hearing examiner's decision to the Board. On appeal, the Board may affirm, reverse, remand or modify the decision of the hearing examiner. The Board may conduct a new hearing or may act solely on the basis of the official record before the hearing examiner. The decision on appeal shall be the final decision of the Board, and the Board shall send a notice of the decision to all parties to the appeal, which shall include a statement of their right to

judicial review. Decisions remanded to the hearing examiner shall be limited to instances where additional findings of fact are required.

842. Appeal Process

(A) Any appeal shall be filed on a form provided by the Board no later than thirty (30) calendar days after receipt of the notice of the hearing examiner's decision. A party is presumed to receive the decision five (5) business days after it is mailed. The appeal must contain a statement of the specific grounds on which the appeal is based. The Board will not consider an appeal that fails to state any facts or arguments in support of the grounds alleged in the appeal. Except as provided in subsection (E) of this Section 842, no other documents in support of the appeal will be accepted after the appeal deadline unless specifically requested by the Board. The appeal shall be sent to the Board and opposing parties and their representative. Additionally, appellants shall send a copy of the appeal to the hearing examiner whose decision is being appealed. The Board or staff may order that appeals relating to the same building or property, or different properties of the same Landlord, be consolidated. The opposing party shall file any response to the appeal within fifteen (15) calendar days from the date the appeal is filed.

(B) The hearing examiner's decision shall be stayed pending appeal. In its decision, the Board shall order the appropriate party to make retroactive payments over a reasonably appropriate period to restore the parties to the positions they would have occupied had the hearing examiner's decision been the same as that of the Board or had not been stayed.

(C) At least fourteen (14) calendar days prior to the date set for Board action on the appeal, a Board Staff report shall be prepared recommending that the decision of the hearing examiner be affirmed, modified, reversed or remanded to the hearing examiner for further hearing. Board Staff may supplement the record by including matters of which the Board may take official notice, provided that the parties are notified of such matters at least fourteen (14) days prior to the date set for Board action. Any objection to a staff request for official notice of such matters shall be filed no later than seven (7) calendar days prior to the date set for Board action.

(D) At least fourteen (14) calendar days prior to the date set for Board action, all parties shall be notified by mail of the date, time and place set for Board action on the appeal. Copies of the Board Staff recommendation shall be mailed to all parties and their representatives at least 14 days prior to the Board action. Copies of the official record and the staff recommendation shall be available for public review at the Board office at least fourteen (14) days prior to the date set for Board action. Parties may submit written comments to the Board up to seven (7) days prior to the Board action.

(E) At the Board meeting at which action on the appeal is scheduled, each party or the party's representative will be allowed seven (7) minutes to address the Board at the beginning of the hearing in the following order: appellant for five (5) minutes, respondent for seven (7) minutes, appellant for two (2) minutes. For any party addressing the Board who requires translation the allowable times shall be doubled. The Board has the discretion to allow more time.

(F) Unless the Board determines that a de novo hearing is required, the Board's decision will be based exclusively on the record before the hearing examiner. Parties shall be instructed not to discuss or comment upon factual matters or evidence that were not presented to the hearing examiner or officially noticed. Parties may discuss or comment upon the legal matters in question and any other pertinent issues raised by the appeal. The Board shall disregard any discussion or comment regarding factual matters that were not in the record before the hearing examiner or officially noticed. The vote of three (3) Board members is required to affirm, modify, remand or reverse the decision of the hearing examiner. If the Board has not acted on the appeal at two consecutive Board meetings, the appeal is deemed denied.

(G) The Board's decision to affirm, modify, remand or reverse the decision of the hearing examiner shall be supported by written findings of fact and conclusions of law. When the Board votes to adopt the staff recommendation unchanged, the parties to the appeal will be notified only of the Board's decision. When the Board does not adopt the staff recommendation as written, a written decision of the Board shall be mailed to the parties or their representative of record.

(H) Continuances.

Continuances of dates set for Board action on appeals shall be granted by a majority of the Board or by the Executive Director only for good cause shown. A written request and the reasons for it must be received by the Board at least two (2) business days prior to the scheduled hearing, unless good cause is shown for later request. The written request must contain the reasons for the continuance, an explanation of what efforts were made to ascertain the position of the other parties regarding the request for a continuance, and mutually acceptable alternative dates. Copies of this written request must be sent immediately to all other parties and proof of service must accompany the written request filed with the Board.

(I) Reconsideration.

(1) At the discretion of the Executive Director or their designee, an appeal may be treated as a request for reconsideration and referred back to the hearing examiner for such reconsideration only if it is claimed by the appellant that:

- (a) there was good cause for a failure to respond to a petition; or
- (b) there was good cause for a failure to appear at a settlement conference or hearing; or
- (c) the appellant wishes to present relevant evidence that could not, with reasonable diligence, have been discovered and produced at the hearing.

(2) In the event that reconsideration under subsection (K) (1) is ordered, the parties will be so notified within 15 days of the filing of the appeal and, thereafter, all correspondence shall be directed to the hearing examiner. The threshold issue on reconsideration shall be whether a preponderance of the evidence supports the assertion that good cause existed for the failure to respond to a petition or to appear at a hearing or that the newly offered evidence could not, with

reasonable diligence, have been discovered and produced at the hearing. Only if good cause for the failure is found may the hearing examiner reconsider the merits of the petition.

843. Appeal Filing Fee

There shall be a fee of \$75 for filing an appeal to the Board regarding a hearing examiner decision on a petition for individual adjustment of the Maximum Allowable Rent. This fee shall be waived for parties who are low-income as defined by the applicable income limits established for Contra Costa County by the U.S. Department of Housing and Urban Development. The Board may make any additional waivers and reductions that it deems appropriate.

844. Time for Decision

The Board shall take final action on any individual adjustment petition within 120 days following the date of proper filing, unless good cause is responsible for the delay. Good cause may include, but is not limited to, continuances granted, the submission of additional information by the petitioner, the filing of a motion for reconsideration, or a request by a party to disqualify the hearing examiner or Board member(s).

845. Conditions for Obtaining Individual Rent Adjustments

An individual upward adjustment of a Maximum Allowable Rent for a rental unit may be awarded but shall not become effective so long as the Landlord:

- (A) has failed to register any rental unit on the property with the Board;
- (B) has demanded, accepted, received or retained rent in excess of the lawful Maximum Allowable Rent for the affected unit;
- (C) has failed to comply with any order of the Board concerning the affected unit or a former Tenant of the affected unit; or
- (D) has failed to bring the affected rental unit into compliance with the implied warranty of habitability.

846. Notice for Rent Increases

Allowable rent increases pursuant to an individual upward adjustment of the Maximum Allowable Rent shall become effective only after the Landlord, following the decision of the hearing examiner or Board, gives the Tenant at least a thirty (30) day written notice of such rent increase and the notice period expires.

847. Effective Date for Rent Decrease

(A) If the hearing examiner or Board makes a downward individual adjustment of the Maximum Allowable Rent, the rent decrease pursuant to such adjustment shall take effect on the date of the next regularly scheduled rent payment, but no later than thirty (30) days after the date of the decision by the hearing examiner or Board.

(B) Where a rent decrease is reversible after correction of a defect in the unit or violation of the provisions of the Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance or its implementing Board Regulations, the Landlord shall be entitled to reinstatement of the prior rent level, retroactive to the date that the Landlord corrected the situation that warranted the decrease. The Landlord shall notify the Tenant and the hearing examiner of the correction and provide evidence of compliance.

(C) The compliance notice to the Tenant shall include a notice that the Tenant has a right to object, and that if the Tenant does not object within twenty-one (21) calendar days of the mailing of the notice, or if the Tenant's objection does not specify in what way the Landlord is not in compliance, the rent for the Tenant's unit may be increased by the applicable amount, based on the information in the Landlord's notice and the Board's files. Failure to file an objection may constitute a waiver of the right to a compliance hearing.

848. Compliance Hearings

(A) If there is a dispute among any of the parties (or any successor in interest) as to whether there has been compliance with a previously issued decision, the hearings examiner may notice and conduct a hearing to determine whether compliance has in fact occurred, and may issue an appropriate decision which sets forth the extent of compliance, the date of such compliance, and any adjustments to the original decision which are necessary in light of such compliance or non-compliance.

(B) The party or parties (and any successor in interest) who were originally ordered to make repairs, pay back rent, properly register the property, or otherwise comply with an order of the Board, shall be required to demonstrate compliance by a preponderance of the evidence submitted at the compliance hearing.

(C) Any party to the original proceeding (and any successor in interest) may request that a compliance hearing be noticed and held. Such request shall set forth the area of disagreement, and a copy of the request must be served upon all adverse parties (and any successor in interest of any adverse party) by the party requesting the hearing.

(D) The procedures set forth in Subchapter B (beginning with Regulation 821) shall apply to compliance hearings.

849. Board Initiated Hearings

(A) The Rent Board or the Executive Director, who may designate such function to appropriate Board Staff, may initiate a hearing after an investigation by the Rent Board or the Executive Director has resulted in a determination that there are substantial grounds to believe that major violations of the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance or Board Regulations promulgated thereunder have occurred, and that 120 calendar days have passed from the date of the first occurrence of the violations.

(B) The investigation of possible violations of the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance or Board Regulations may be conducted as a result of the

review of the records of the Rent Program or the records of courts and governmental agencies. Investigations of possible violations may also be conducted on the basis of complaints and allegations received orally or in writing by the Executive Director.

(C) If an investigation by the Rent Board or the Executive Director has found substantial grounds to believe that major violations of the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance or Board Regulations have occurred, a notice of a prehearing shall be prepared and served on the Landlord and Tenants of the affected units. The notice of prehearing shall state clearly the sections(s) of the Ordinance or Regulations which has allegedly been violated, along with a brief statement of the evidence found during the investigation which supports the determination that an alleged violation has occurred. The notice shall also set forth a proposed order which may be rendered against the alleged violator.

(D) The procedures set forth in Subchapter B (beginning with Regulation 821) shall apply to Board-initiated hearings.

(E) At a Board initiated hearing, the Executive Director or designee shall present the Board's case. The issues in the hearing shall be disposed of in a final decision and order of a hearing examiner, which may be appealed to the Rent Board.

(F) Intervention by any current Landlord, current Tenant, former Tenant and former Landlord shall be permitted. Intervention by any other person or entity may be allowed upon a showing that some right, interest, liability or obligation of the person or entity seeking to intervene may be materially affected as a result of the hearing. Requests to intervene shall be made in writing, and should be filed and served upon all parties at least five (5) business days before the hearing. However, upon a showing of a substantial interest in the outcome, requests to intervene may be made and acted upon at any time prior to the conclusion of the hearing.

850 RESERVED

851. Deposit of Disputed Rents into Escrow

The Rent Program does not currently have an escrow process. Once the Executive Director establishes an escrow process, regulations 852 – 857 shall apply.

852. Standards to Be Applied to Escrow Determinations

In deciding whether or not to require the payment disputed amounts in escrow, the hearing examiner or the Board shall consider:

- (A) The likelihood that the party requesting the escrow account will prevail on the merits;
- (B) The likely sum or sums involved;
- (C) The likely length of the escrow;
- (D) The likelihood that either party may be prejudiced by the creation of denial of an escrow account;
- (E) The desires of the parties;

- (F) The Tenant's rent payment history, including any reasons for late or nonpayment of rent;
- (G) The parties' history of compliance or noncompliance with the Fair Rent, Just Cause of Eviction and Homeowner Protection Ordinance, Board Regulations and Orders of the Board; and
- (H) All other relevant facts which may affect the right of the Tenant not to be required to pay rent in excess of that which is lawful.

853. Requiring Deposit of Disputed Rents into Escrow Pending Hearing

(A) Whenever a petition for individual rent adjustment is filed and it is alleged, or reasonably appears from the circumstances, that the rent charged or demanded by the Landlord is in excess of that permitted by the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance and Board Regulations, any party to the proceedings may make a written request for an order requiring the deposit of rent into an escrow account. Said request shall be made on a form approved by the Executive Director or designee.

(B) Upon receipt of such written request, the hearing examiner shall, at a prehearing conference, consider whether an escrow account should be established and may order that reasonably disputed amounts be paid into escrow pending the hearing and the hearing examiner's decision on the petition. The hearing examiner may also condition any continuance or later scheduling of a hearing upon an agreement that rent shall be either paid to the Landlord and/or into escrow as may be appropriate.

(C) Pending the hearing examiner's decision on the petition, an order by the hearing examiner creating, modifying or terminating an escrow account may be appealed to the Board.

(D) Any party requesting creation of an escrow account shall serve a copy of the request on all other parties to the case.

854. Establishment of Escrow Accounts Pending Appeal

(A) Within twenty (20) calendar days of the date of mailing of the final decision of the hearing examiner to the parties, any party may make written application to the Board for an order concerning the disposition of any funds held in escrow or creation of an escrow account pending appeal. Any such request shall be made on a form approved by the Executive Director or designee. During the period within which such an application can be made and pending action on said application, no disbursement of funds held in escrow shall be made.

(B) Upon receipt of such written application, the Executive Director or designee may:

- (1) Continue, terminate, or modify any escrow created by the hearing examiner; or
- (2) Order that reasonably disputed amounts be paid into escrow pending the decision on any appeal.

(C) In the event that the party applying for the escrow order does not file an appeal within thirty-five (35) calendar days of the date of mailing of the hearing examiner's final decision to the parties, any order requiring the maintenance or creation of an escrow account shall automatically

be dissolved unless otherwise ordered by the hearing examiner. Upon such dissolution, the funds held in escrow shall be disbursed in accordance with the final decision of the hearing examiner.

(D) Within twenty-one (21) calendar days of the date of mailing of the appeal, any non-appealing or cross-appealing party may make written application to the Board for an order concerning the disposition of any funds held in escrow or creation of an escrow account pending appeal. Any such request shall be made on a form approved by the Board. During the period within which such an application can be made and pending action on said application, no disbursement of funds held in escrow shall be made.

(E) Upon receipt of such written application, the Board may:

- (1) Continue, terminate, or modify any escrow created by the hearing examiner; or
- (2) Order that reasonably disputed amounts be paid into escrow pending the decision on the appeal.

(F) Any party requesting creation of an escrow account shall serve a copy of the request on all other parties to the case.

(G) In the decision on appeal, the Board shall order disbursement of any funds held in escrow to the appropriate party.

855. Landlord's Compliance with Rent Overcharge Refund Order Subject to Appeal

(A) A Tenant who accepts a full refund of rent overcharges, pursuant to Regulation 8XX, after receiving written notification that acceptance of the refund will extinguish the Tenant's right to appeal the amount of rent overcharges, is deemed to have waived the right to appeal the amount of the refund order. The written notification shall be in language approved by the Board.

(B) Notwithstanding a Tenant's appeal of the hearing examiner's decision, the Landlord's tender of the full amount of rent overcharges as ordered by the hearing examiner shall constitute compliance with the refund order provided that the amount tendered, if not accepted by the Tenant, is deposited into an escrow account established and maintained by the Rent Board. If, on appeal, the Rent Board modifies the hearing examiner's decision and orders additional amounts refunded, a Landlord who has tendered the full amount of the original refund order remains in compliance with the refund order so long as the Landlord tenders to the Tenant the additional amount of rent overcharges within 30 days of the date of the Rent Board's decision on appeal.

856. Disbursement of Funds Held in Escrow

Upon issuance of an order of the hearing examiner or the Board, the Executive Director or designee, shall cause the funds held in escrow to be disbursed in accordance with the order. Any interest which has accrued on the funds shall be disbursed and distributed in the same proportion as the principal.

857. Effects of Escrow Accounts on Eviction Actions

A Tenant's deposit of rent into an escrow account pursuant to an order of the hearing examiner or the Board shall be a defense to any action brought by the Landlord for nonpayment of that rent.

I, the undersigned, hereby certify that the foregoing Regulation was duly adopted and passed by the Richmond Rent Board in a special meeting assembled on January 24, 2018, by the following vote:

AYES: Boardmembers Combs, Finlay, Maddock, and Chair Gray.

NOES: None.

ABSENT: Vice Chair Gerould.

ABSTENTIONS: None.

CYNTHIA SHAW
Cynthia Shaw, Rent Board Clerk

DAVID GRAY
David Gray, Chair

Approved as to form:

MICHAEL ROUSH
Michael Roush
Rent Board Legal Counsel

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

I certify that the foregoing is a true copy of **Chapter 8: Individual Adjustment of Maximum Allowable Rent**, finally passed and adopted by the Rent Board of the City of Richmond at a regular meeting held on January 24, 2018.


Cynthia Shaw, Rent Board Clerk

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AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: May 16, 2018

Final Decision Date Deadline: May 16, 2018

STATEMENT OF THE ISSUE: The Monthly Activity Report is designed to provide members of the Rent Board and Richmond community with a summary of the Rent Program's activities for the month. With a now fully-staffed department, staff members find it timely to begin producing such reports on a monthly basis.

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 the April 2018 Rent Program Monthly Report - Rent Program (Paige Roosa 620-6537).

AGENDA ITEM NO:

G-5.

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M E M O R A N D U M

TO: Chair Gray and Members of the Rent Board

FROM: Paige Roosa, Deputy Director

DATE: May 16, 2018

SUBJECT: APRIL 2018 MONTHLY ACTIVITY REPORT

Introduction

The Monthly Activity Report is designed to provide members of the Rent Board and Richmond community with a summary of the Rent Program's activities for the month. With a now fully-staffed department, staff members find it timely to begin producing such reports on a monthly basis. It is anticipated the form, content, and detail of this report will evolve over time. Feedback concerning this report may be submitted via email to rent@ci.richmond.ca.us or by calling (510) 234-RENT (7368).

Summary of Activities

I. Counseling and Community Engagement

<i>Monthly Activity</i>	<i>Occurrences</i>
Phone Call Consultations	648
Walk-In Consultations (includes appointments)	196
Email Responses	364
Total Consultations	1,208
Courtesy Compliance Letters Mailed	13
Warning Letters Mailed	2
Direct Referrals to Legal Service Providers	7
Declaration of Exemption Processed	20
Mediations Held	2
Community Workshop Attendees (Evictions 101 - Tenant Oriented)	25

III. Fee Collection

<i>Monthly Activity</i>	<i>Occurrences</i>
April Revenue Collected (through the week of April 23, 2018)	\$41,724
Total Revenue Collected	\$1,769,251 (60.5% of budgeted)
Invoices Generated	5,010

ITEM G-5

II. Filing of Notices

<i>Type of Form</i>	<i>Monthly Submissions</i>
Enrollment	50
Excess Rent Complaint	2
Proof of Excess Rent Refund	10
File a Notice of a Change in Terms of Tenancy	2
File a Rent Increase Notice (for Rent-Controlled Units)	28
File a Notice of Termination of Tenancy	41
<i>Applicable Just Cause for Eviction – Nonpayment of Rent</i>	39
<i>Applicable Just Cause for Eviction – Breach of Lease</i>	1
<i>Applicable Just Cause for Eviction – Nuisance</i>	1
Agent Authorization	8
Petition for Maximum Allowable Rent Increase or Decrease	8
Proof of Permanent Relocation Payment Form	0
Proof of Temporary Relocation Payment Form	0
Unpaid Permanent Relocation Complaint	0
Unpaid Temporary Relocation Complaint	0
Total Form Submissions	149

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: May 16, 2018

Final Decision Date Deadline: May 16, 2018

STATEMENT OF THE ISSUE: Section 11.100.060(e)(6) of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (Rent Board Powers and Duties) requires the Rent Board to report annually to the City Council on the status of rental housing covered by the Rent Ordinance. Staff members are seeking approval of the 2017-18 Annual Report prior to its presentation 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

- 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: RECEIVE AND APPROVE the 2017-18 Rent Program Annual Report and DIRECT staff to present the report to the City Council in June 2018 – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

AGENDA ITEM NO:

H-1.

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AGENDA REPORT

DATE: May 16, 2018

TO: Chair Gray and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director
Paige Roosa, Deputy Director
Brenda Ogutu, Graduate Student Fellow

SUBJECT: 2017-18 RENT PROGRAM ANNUAL REPORT

STATEMENT OF THE ISSUE:

Section 11.100.060(e)(6) of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (Rent Board Powers and Duties) requires the Rent Board to report annually to the City Council on the status of rental housing covered by the Rent Ordinance. Staff members are seeking approval of the 2017-18 Annual Report prior to its presentation to the City Council.

RECOMMENDED ACTION:

RECEIVE AND APPROVE the 2017-18 Rent Program Annual Report and DIRECT staff to present the report to the City Council in June 2018.

FISCAL IMPACT:

There is no fiscal impact related to this item.

DISCUSSION:

Background

Section 11.100.060(e)(6) of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (Rent Board Powers and Duties) requires the Rent Board to report annually to the City Council on the status of rental housing covered by the Rent Ordinance. At a minimum, the report must include a summary of the number of notices served, the basis upon which they were served, the amount of rent increases, and the addresses for which they were served.

Contents of the 2017-18 Annual Report

The 2017-18 Annual Report is the Rent Program's first annual report. As such, staff members sought to include additional information about the purpose and basic principles of the Ordinance, as well as key elements of the Rent Program Department.

More specifically, the report includes the following chapters:

- A letter from the Executive Director
- Acknowledgments of staff members and volunteers
- Rent Program mission statement
- Overview of the Rent Ordinance
- Development of the Rent Program
- Rent Regulations basics
- Elements of active enforcement
- Goals for Fiscal Year 2018-19
- An appendix containing a list of all discernible rental property addresses served rent increases between December 24, 2016, and December 14, 2017.

Next Steps

If approved by the Rent Board at the May 16, 2018, Regular Meeting, staff members anticipate the Annual Report will be presented to the City Council in June 2018.

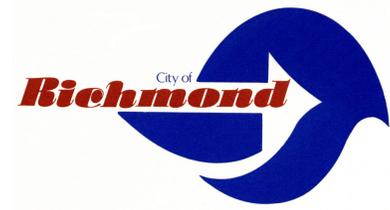
DOCUMENTS ATTACHED:

Attachment 1 – 2017-18 Rent Program Annual Report



STABILITY

RICHMOND RENT PROGRAM 2017-18 ANNUAL REPORT



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CITY OF RICHMOND RENT PROGRAM

Physical Location:

**440 Civic Center Plaza, Suite 200 (Second Floor)
Richmond, CA 94804**

Phone:

(510) 234-RENT (234-7368)

Email:

rent@ci.richmond.ca.us

Website:

www.richmondrent.org



This report was created in accordance with Section 11.100.060(e)(6) of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance, which requires the Rent Board to report annually to the City Council of the City of Richmond on the status of rental housing covered by the Ordinance.

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LETTER FROM THE DIRECTOR



DEAR RICHMOND COMMUNITY MEMBERS,
I have the privilege of presenting to you the Rent Program's first annual report. At its core, the Rent Program is about preserving community stability and empowering residents to use state and local housing laws to inform their actions and settle disputes. The Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance is a community stabilization Ordinance, where Tenants are afforded reasonable and predictable rent increases, and Landlords are entitled to a fair return.

Renters in Richmond, as in most Bay Area cities, have been grappling with housing insecurity resulting from an inflated rental housing market. The Richmond Rent Ordinance and the Rent Program were put in place by Richmond voters to stabilize this inflated market.

Prior to rent control being in place in Richmond, many tenants had limited housing stability. Tenants could be evicted without cause or be displaced through a significant rent increase. Tenants in Richmond are now protected from unwarranted evictions and excessive rent increases. The Richmond Rent Ordinance affords landlords the right to evict tenants who don't pay rent, continually violate their lease agreement, cause damage or nuisance, to move into their own property as their primary residence, or withdraw the unit from the rental market in accordance with the Ellis Act. Homeowners of single family homes or condominiums can also create Temporary Tenancies, where they can temporarily contract to rent to a tenant for up to a year, with the right to move back into their home without having to pay relocation assistance. Landlords are also afforded annual cost-of-living rent increases, tied to 100% of the Consumer Price Index. Finally, Landlords can also petition the Rent Board for an individual rent increase above the annual cost-of-living increase, when they are not receiving a fair return.

The Rent Program opened to the public on January 3, 2017, under the guidance of, and with support from, several talented City staff members in the City Manager's Office. Without their initial investment and support, the Rent Program would not have been able to thrive and grow into a fully-operative Department that will continue to achieve impactful milestones that will serve the Richmond community for years to come.

(Continued -->)

LETTER FROM THE DIRECTOR

As Executive Director, one of my primary goals is to “actively enforce” the Rent Ordinance. Active enforcement is achieved through rent registration and tracking of the Maximum Allowable Rent level. Another key aspect of active enforcement is robust rent registration, outreach, and community education. Registering and tracking rent levels requires landlords to record all new tenancies and initial rent levels with the Rent Program. A law is only as strong as it is enforced. The key to strong enforcement of the Richmond Rent Ordinance is ensuring that landlords and tenants are informed about the maximum rent that may be charged. To this end, rent registration is key.

A 2012 Study prepared for the City of Los Angeles Rent Stabilization Program revealed that tenants in cities with rent registration and rent tracking are much less likely to be overcharged in rent than cities without rent registration/tracking. The study also found that in cities without rent registration/tracking, 27% of tenants were overcharged, whereas in cities with rent registration/tracking, only 5% of tenants were overcharged in rent. We have a long way to go before we reach that level of compliance, but we are taking the necessary steps to get there.

The Richmond Rent Program is also tasked with collecting and monitoring termination of tenancy and rent increase notices. This requirement supports active enforcement of the Rent Ordinance. All tenants who receive rent increase notices must also receive a Rent Program brochure from the Landlord and all tenants who are served notices of termination of tenancy receive an informational letter from the Rent Program about their rights under the Just Cause for eviction provisions of the Rent Ordinance. I believe that over time, once landlords and tenants are knowledgeable about their rights and responsibilities, many disputes will be prevented. Nevertheless, some landlord/tenant disputes are complex and can benefit from the assistance of mediation. One of the greatest opportunities presented by the Rent Program is the possibility of bringing tenants and landlords together in a safe space to mediate disputes and reduce conflict. In my previous role as a Program Manager for the City of Berkeley Rent Stabilization Board, one of my greatest accomplishments was the establishment of a successful informal and formal mediation program. I look forward to applying these practices in Richmond to empower tenants and landlords to know their rights and responsibilities and reach a common ground. I hope you find this report informative and enlightening.



ACKNOWLEDGEMENTS



The Rent Program would like to recognize the following City staff members and volunteers, who provided critical leadership, policy development, and administrative support to the launch and early development of the Richmond Rent Program.

In particular, the Rent Program would like to acknowledge the critical role played by staff in the City Manager's Office to successfully launch the Rent Program. Without their leadership and guidance, the Rent Program would not be what it is today.

RENT PROGRAM STAFF:

- Andrea Zuniga
- Brenda Ogutu
- Charles Oshinuga
- Cynthia Shaw
- Magaly Chavez
- Mariah Fairley
- Moises Serano
- Nicolas Traylor
- Paige Roosa
- Paul Cohen
- Philip Verma
- Ramona Howell
- Vickie Medina

CITY STAFF:

- Alex Walker-Griffen
- Bill Lindsay
- Coreyana Whatley
- David Padilla

CITY STAFF:

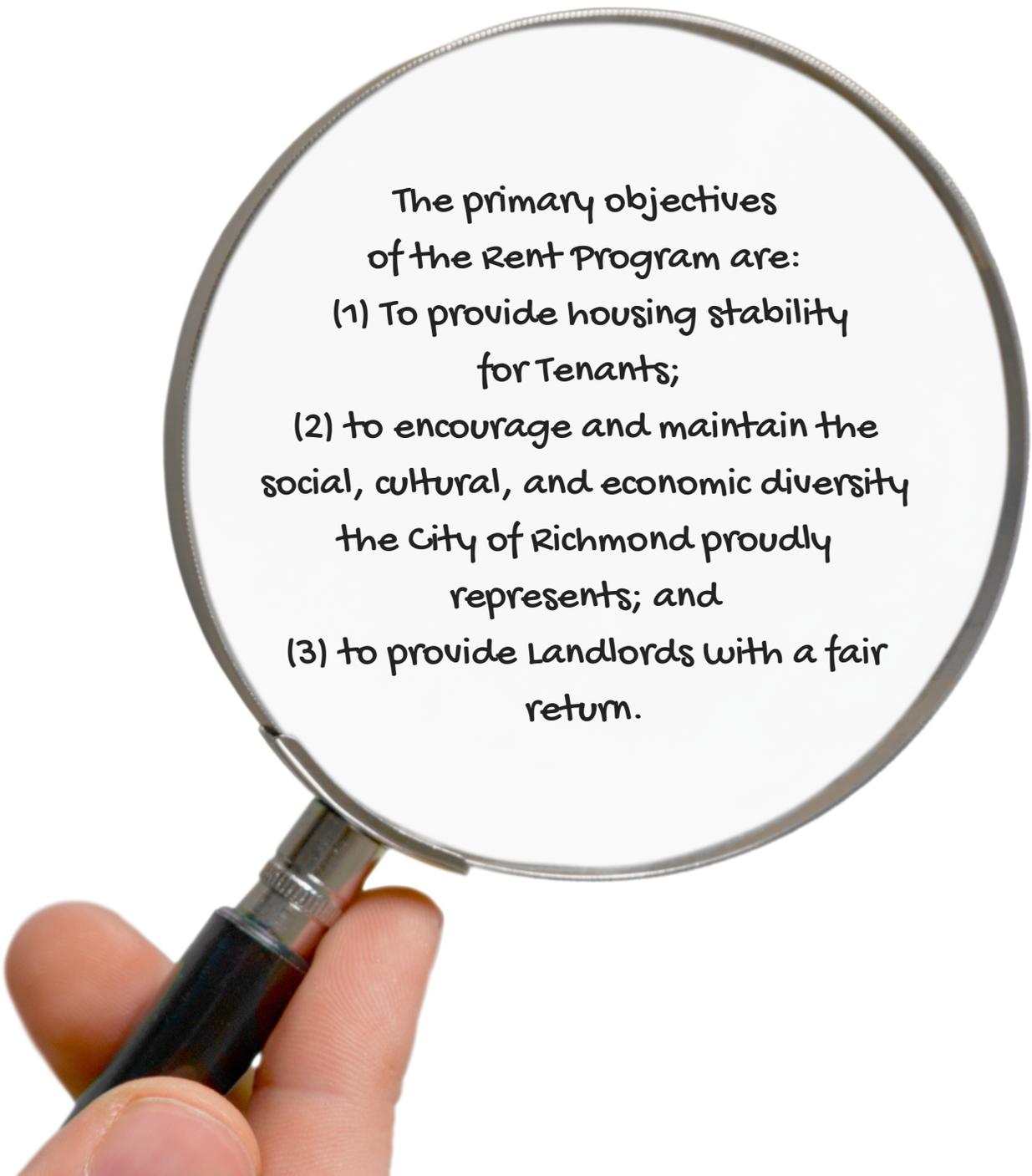
- Gabino Arredondo
- Miguel Flores
- Mike Uberti
- Randall Narron
- Saïdy Brizuela
- Shané Johnson
- Shasa Curl
- Sherry Drobner
- Sofia Perez-Leon
- Sue Hartman
- Sue Kadlec
- Trina Jackson

VOLUNTEERS:

- Daniel Tu
- Jorge Morales Martinez
- Lynn Tu
- Brian Lewis
- Lynne Therriault

MISSION STATEMENT

The mission of the Rent Program is to strengthen the community by providing housing stability for Richmond residents. The Rent Program strives to ensure housing stability for Richmond residents by limiting rent increases and protecting tenants in good standing from unwarranted, arbitrary, discriminatory, or retaliatory evictions while providing Landlords with a fair return.

A hand holding a magnifying glass over text. The magnifying glass is held by a hand from the bottom left, and the lens is focused on the text in the center of the page. The text is written in a handwritten style.

The primary objectives
of the Rent Program are:

- (1) To provide housing stability
for Tenants;
- (2) to encourage and maintain the
social, cultural, and economic diversity
the City of Richmond proudly
represents; and
- (3) to provide Landlords with a fair
return.

THE RICHMOND RENT ORDINANCE

PURPOSE

In November 2016, a majority of City of Richmond voters approved Ballot Measure L, establishing the Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (“Rent Ordinance”) in Chapter 11.100 of the City’s Municipal Code.

The stated purpose of this Ordinance is to promote neighborhood and community stability, healthy housing, and affordability for renters in the City of Richmond by controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while providing Landlords a fair and reasonable return.

THE RICHMOND RENT ORDINANCE

Richmond voters approve Ballot Measure L

In November 2016, a majority of City of Richmond voters approved Ballot Measure L, establishing the Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (“Rent Ordinance”) in Chapter 11.100 of the City’s Municipal Code.

Multifamily properties built before 1995 are rent-controlled

For all multifamily properties (two or more dwelling units on one parcel), annual rent increases are limited to the change in the Consumer Price Index, one of the most widely used measures of inflation. The increase is set at 100% of the Consumer Price Index (typically 1 - 3% per year).

The Maximum Allowable Rent is equal to the rent paid on July 21, 2015 (or the first date the Tenant moved in) plus all annual rent increases.

Landlords and Tenants may petition the Rent Board for an individual adjustment in the Maximum Allowable Rent.

Just Cause for Eviction requirements apply to most rental units and tenants

Landlords may only terminate a tenancy, end a lease, or evict a tenant for one of eight “just causes,” such as failure to pay rent, nuisance/damaging the property, Withdrawal from the Rental Market (Ellis Act) and Owner Move-In. Depending on the applicable “Just Cause” for eviction, the Landlords may be required to provide the Tenant with a Relocation Payment, in accordance with the City’s Relocation Ordinance and Relocation Payment Fee Schedule.

THE RICHMOND RENT ORDINANCE

Landlords must file Rent Increase and Termination notices with the Rent Program

Landlords must file rent increase and termination of tenancy notices with the Rent Program within two business days after service on the tenant. Failure to do so may be asserted as a complete defense to an Unlawful Detainer (eviction) lawsuit.

Landlords must enroll all rental units and pay the rental housing fee

As required by the Rent Board regulation, landlords must enroll all Rental Units with the program. Online enrollment is accessible at richmondrent.org/enroll. The Rent Program Department is designed to be a cost-recovery department, without financial assistance from the City's General Fund. The Department is funded by the Rental Housing Fee, which must be paid by all Richmond Landlords on an annual basis.

The Rent Board is the Rent Program's appointed governing body

The Rent Ordinance requires the appointment of a five-member Rent Board comprised of Richmond residents. No more than two members may own or manage property or act as realtors. The Rent Board meets on the third Wednesday of each month to establish policy, receive comments from members of the public, and hear appeals to Rent Adjustment Petition decisions made by the Rent Program Hearing Examiner. Each year, the Rent Board approves a budget for the Rent Program Department and recommends the amount of the Rental Housing Fee to the City Council. The City Council approves the Rental Housing Fee.

A RENT PROGRAM IS BORN

The Rent Program Department

The Rent Program Department was established by the Rent Ordinance and is housed in the Community Services Building at Richmond City Hall. Refer to page 9 for more information.

Building a Strong Team

The Rent Program Department is staffed by eight full-time staff members, two Administrative Student Interns, and two Graduate Student Fellows. Refer to page 10 for more information.

Each Unit has a critical function

The Rent Program Department is organized into four main units: (1) a Management Unit, (2) Staff Attorney, (3) Public Information and Compliance Unit, and (4) Hearings Unit. Each unit performs critical functions. Refer to pages 11-12 for more information.

A budget to support our mission

The Rent program budget allows the department to effectively carry out its duties and functions. Refer to page 13 for more information.



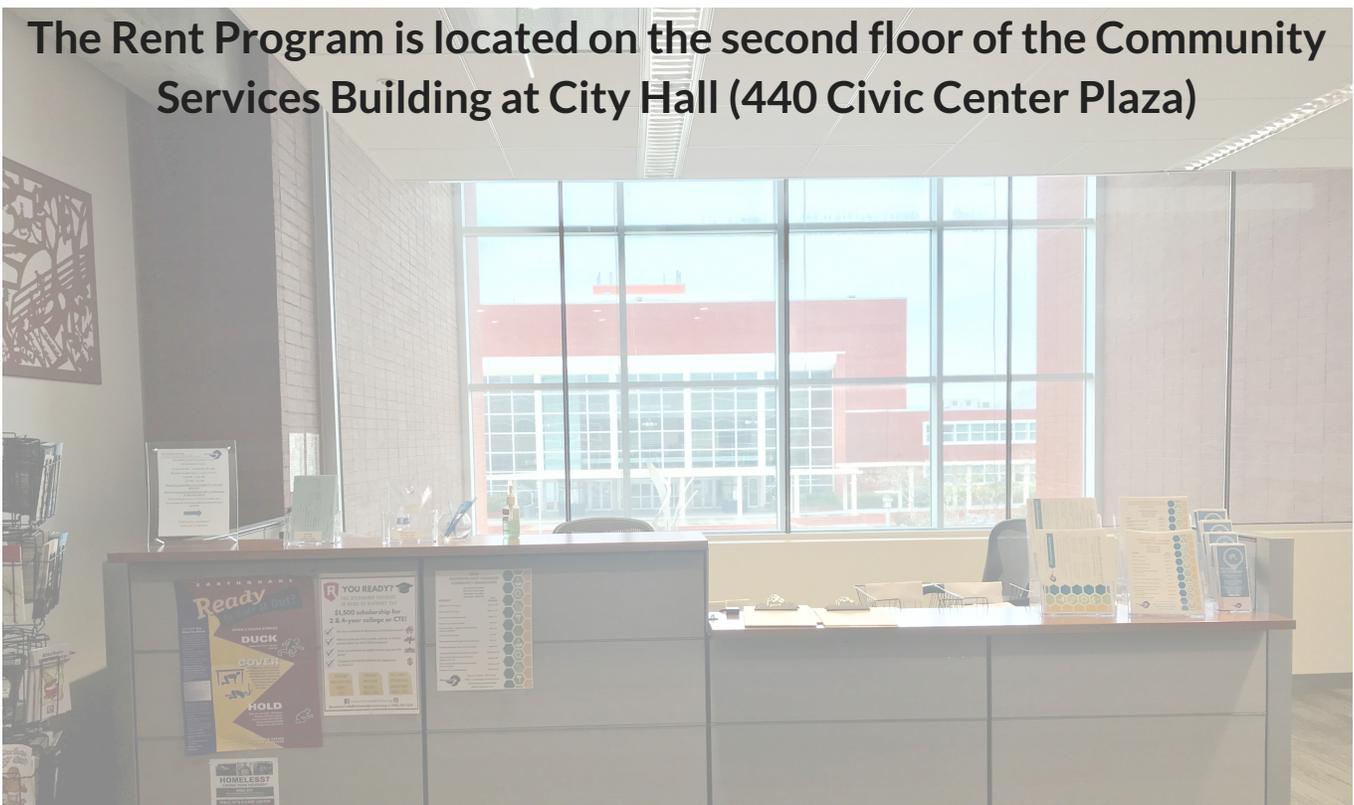
THE RENT PROGRAM DEPARTMENT

A law is only as strong as it is enforced. The Rent Program Department opened on January 3, 2017, to administer the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance.

The Rent Program Office is located on the second floor of the Community Services Building at Richmond City Hall. The Office is open Monday through Friday, and offers the following services to Richmond community members:

- Holistic counseling on the requirements of the Rent Ordinance and California state law, as well as Landlord and Tenant rights and responsibilities (note the Rent Program does not provide legal advice);
- Informal and formal mediation services to resolve disputes between Tenants and Landlords;
- Referrals to community services agencies, particularly for those in need of legal assistance;
- Online support and assistance with the completion of online Rent Program forms (such as enrollment and filing of rent increase and termination of tenancy notices); and
- Support throughout the Individual Rent Adjustment Petition process.

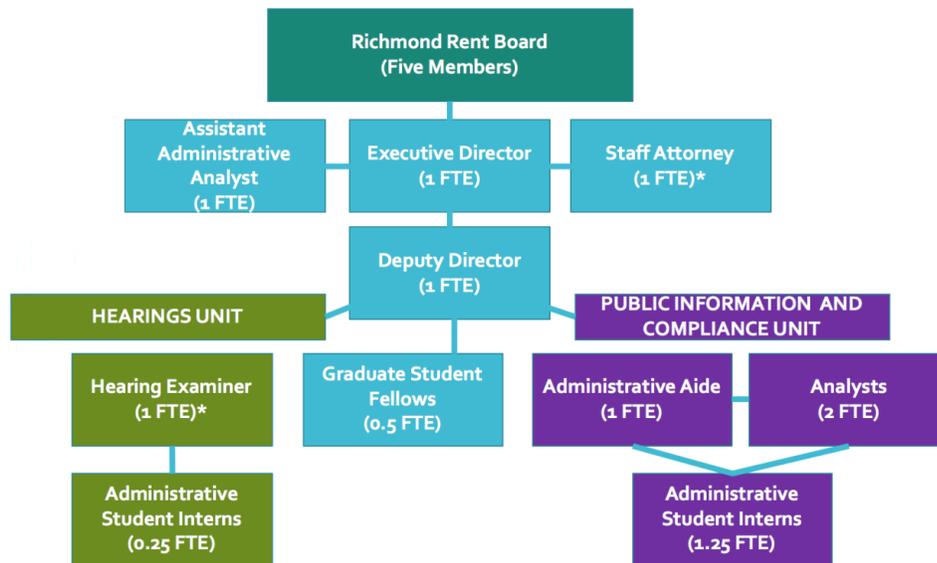
The Rent Program is located on the second floor of the Community Services Building at City Hall (440 Civic Center Plaza)



BUILDING A STRONG TEAM

Strong enforcement of the Rent Ordinance requires Public Information and Compliance and Hearings Units, led and supported by an Executive Management team. The following pages describe each unit's functions and duties.

CURRENT ORGANIZATIONAL CHART



*Positions hired in April 2018



EACH UNIT HAS CRITICAL FUNCTIONS

The Management Unit supports the Rent Board, oversees daily operations, and conducts policy research.

The Management Unit is responsible for policy research, which includes conducting surveys and studies to help guide administrative improvements and the formation of sound public policy. The Management Unit also monitors and works with other rent control jurisdictions to prepare for and inform legislation and the promulgation of regulations. The Management Unit oversees all personnel-related issues (hiring, training, discipline in conformance with MOU's, etc.). Management staff members also provide support to the Rent Board, coordinating Rent Board meeting agendas, and preparing minutes and reports for all Rent Board meetings. Additionally, the Management Unit conducts payroll, purchasing, finance and accounting and administrative workflow processes. Central to the Management Unit's duties are preparation, adoption, monitoring and reporting of the annual Rent Program budget.

The Staff Attorney provides critical support to the Rent Board and staff members.

The general duties of the Staff Attorney include representing the Board in litigation, advising the Director and the Rent Board on legal matters, reviewing and opining on decisions on appeal, coordinating responses to public record act requests, training Rent Program Services Analysts, providing counseling support and quality control, supervising investigations and lawsuits for non-compliance, reviewing contracts, and responding to legal challenges to the Ordinance and applicable regulations. The Staff Attorney is also responsible for drafting rent regulations.

EACH UNIT HAS CRITICAL FUNCTIONS

The Public Information and Compliance Unit educates community members through comprehensive counseling and outreach, and conduct registration and billing outreach

The Public Information and Compliance Unit is responsible for conducting outreach to tenants and landlords, which includes counseling landlords and tenants on rights and responsibilities under the Richmond Rent Ordinance and California law. Outreach also includes conducting monthly community educational workshops, developing and updating the “Guide to Rent Control in Richmond” and other informational handouts. The Unit is responsible for assisting landlords and tenants with the rent adjustment petition process, facilitating mediation sessions, billing and collecting registration fees and conducting registration/billing outreach.

The Hearings Unit oversees adjudication of all Rent Adjustment Petitions and supports legal aspects of the Rent Program.

The Hearings Unit includes a Hearing Examiner, who is responsible for conducting hearings and issuing decisions, including conducting settlement conferences, acting as a back-up resource in terms of interpretation of the Ordinance and Rent Board Regulations, assisting with drafting public information documents, developing and revising petition forms, and, along with other senior staff, conducting mediations.

A BUDGET TO SUPPORT OUR MISSION

Personnel Costs: \$978,953

- 1 Executive Director
- 1 Deputy Director
- 1 Staff Attorney
- 1 Hearing Examiner
- 1 Assistant Administrative Analyst
- 2 Rent Program Services Analysts
- 1 Administrative Aide
- 2 Administrative Student Interns
- 2 Graduate Student Fellows

Legal Costs: \$430,000

- Contract Legal Counsel
- Community Services Agency Contracts
- Additional Legal Counsel

Other Operating Expenses: \$301,425

- Professional Services Contracts
- Postage and Mailing
- Copying and Duplicating
- Copy Machine Rental
- Office Supplies

Cost Pool/Risk Management: \$181,710

- General Liability
- Space at City Hall
- Worker's Compensation

IT Expenses: \$48,183



\$2.4 M

GRAND TOTAL
(including 17%
operating and 8% risk
reserves)
for FY 2017-18

RENT REGULATION BASICS

Unit Enrollment & Tenancy Registration

Landlords must enroll all Rental Units and register all Tenancies with the Rent Program.

Landlords must file notices with the Rent Program

Landlords are required to file all notices of rent increase, termination of tenancy, and change of terms of tenancy notices with the Rent Program within two business days after service on the Tenant. Landlords of rental units NOT covered by rent control (but subject to just cause for eviction requirements) are only required to file termination of tenancy and change in terms of tenancy notices with the Rent Program. Notices are reviewed by Rent Program staff members for compliance with the Ordinance.

The Maximum Allowable Rent is adjusted once per year

In June, the Rent Board adopts and announces the Annual General Adjustment (AGA). The AGA is effective on September 1. Staff members create a rent increase notice template each year to assist Landlords with calculation of the Maximum Allowable Rent.

Landlords and Tenants may petition the Rent Board for an Individual Rent Adjustment

Aside from the Annual General Adjustment rent increase, Landlords may petition the Rent Board for an increase in the Maximum Allowable rent if they are not receiving a fair return or due to an increase in space, services, or the number of occupants, among other factors. Tenants may petition the Rent Board for a decrease in the Maximum Allowable Rent due to a decrease in space or service, or because of habitability problems.

BUILDING AN ACCURATE RENTAL HOUSING DATABASE

MONITORING THE STATUS OF RENTAL HOUSING IS REQUIRED BY THE RENT ORDINANCE

Section 11.100.060(e) of the Rent Ordinance provides that the Rent Board shall report annually on the status of rental housing covered by the Ordinance. At a minimum, the report must include the number of notices served, the basis upon which they were served (e.g. rent increase, termination of tenancy, etc.), the amount of the rent increases, and the addresses for which the notices were served. The Rent Program office keeps a record of all these notices.

The following sections of this report focus on the number of rent increase and termination of tenancy notices in 2017, including pertinent information such as the total number of notices served, basis upon which they were served, and other relevant details. Unless otherwise specified, data extracts are as of December 26, 2016 through December 20, 2017.

CONSTRUCTING A DATABASE OF RENTAL UNITS IN THE CITY OF RICHMOND

To effectively enforce the Ordinance, Rent Program staff members compiled data from various sources, including the County Assessor's office, the City's Residential Rental Inspection program, and other City records.

Over the past six months, Rent Program staff members, with assistance from the IT Department, have refined the database of Rental Units in the City of Richmond, most notably through the completion of an exemption verification project of single family homes in the City to accurately identify units that are truly rented. Efforts are underway to retain additional resources to bring property owners into compliance.



UNITS REGULATED BY THE RENT PROGRAM DEPARTMENT

FULLY COVERED UNITS

9,558

Fully Covered Units are those subject to the Rent Control and Just Cause for Eviction provisions of the Ordinance. This includes all multi-unit residential rental units that received a certificate of occupancy prior to February 1, 1995, in accordance with the Costa-Hawkins Rental Housing Act (a California state law.)

PARTIALLY COVERED UNITS

10,460

Partially Covered Units are those exempt from the Rent Control provisions of the Ordinance but still subject to the Just Cause for Eviction requirements of the Ordinance. This includes properties exempt from Rent Control due to the Costa-Hawkins Rental Housing Act (single family homes, condominiums, and post 2/1/1995 construction), as well as Governmentally Subsidized Rental Units and Small Second Dwelling Units (also known as Accessory Dwelling Units.)

GOV SUBSIDIZED UNITS

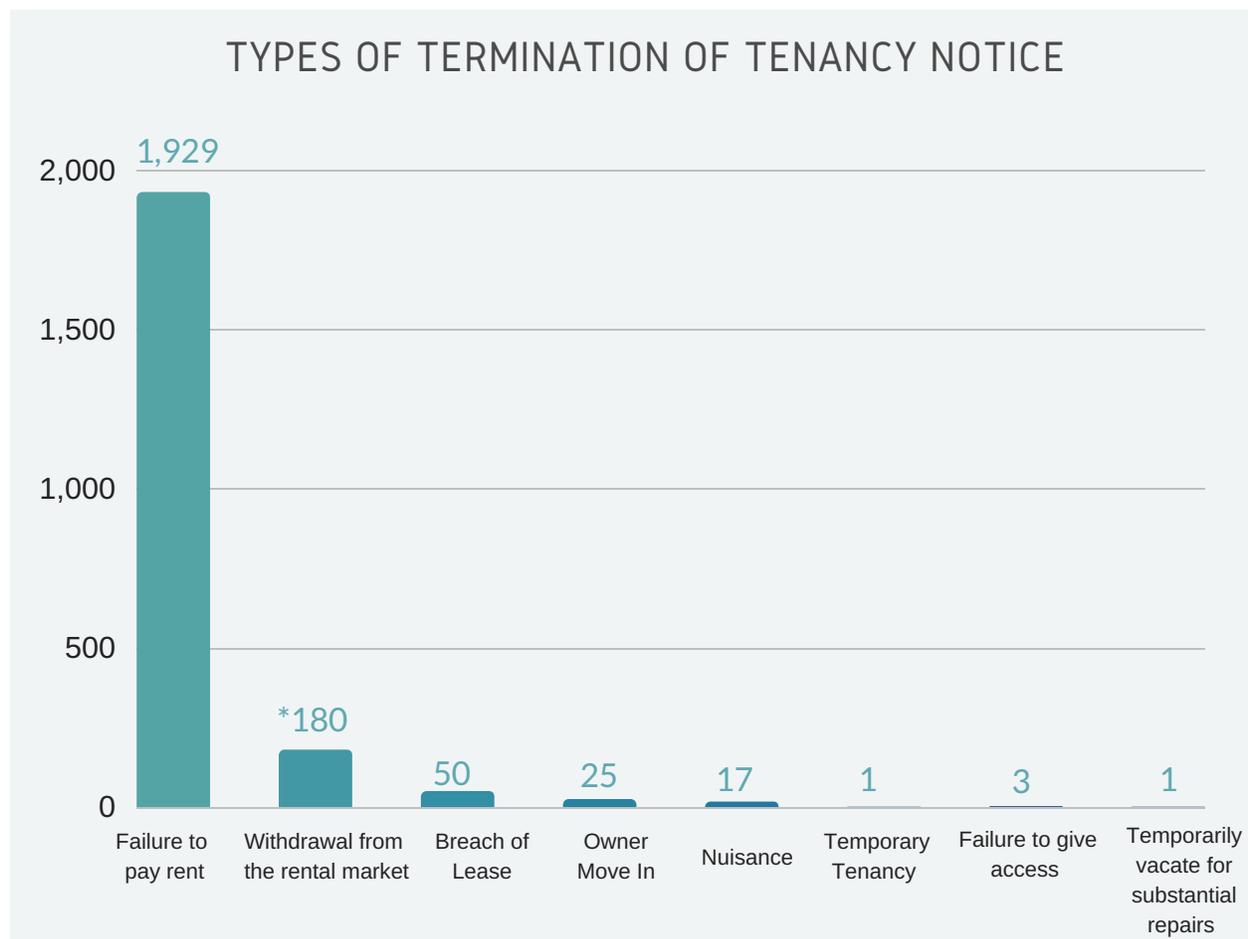
4,211

Governmentally Subsidized Rental Units are exempt from Rent Control because rent levels are already regulated by a governmental agency. These units are still subject to the Just Cause for Eviction requirements of the Rent Ordinance. These units include those where the tenant household has a Section 8 Housing Choice Voucher and the rent does not exceed the Payment Standard as published by the U.S. Department of Housing and Urban Development, units subsidized by the Project-Based Section 8 Program, units that are "rent restricted" in a Low Income Housing Tax Credit Program Project, and units subsidized by the Section 202 Supportive Housing for the Elderly Program.



TERMINATION OF TENANCY: BY THE NUMBERS

Between January 31, 2017, and December 20, 2017, approximately 2,206 termination of tenancy notices were filed with the Rent Board. The table below illustrates the number of each type of termination of tenancy notice filed with the Rent Board during this time period:

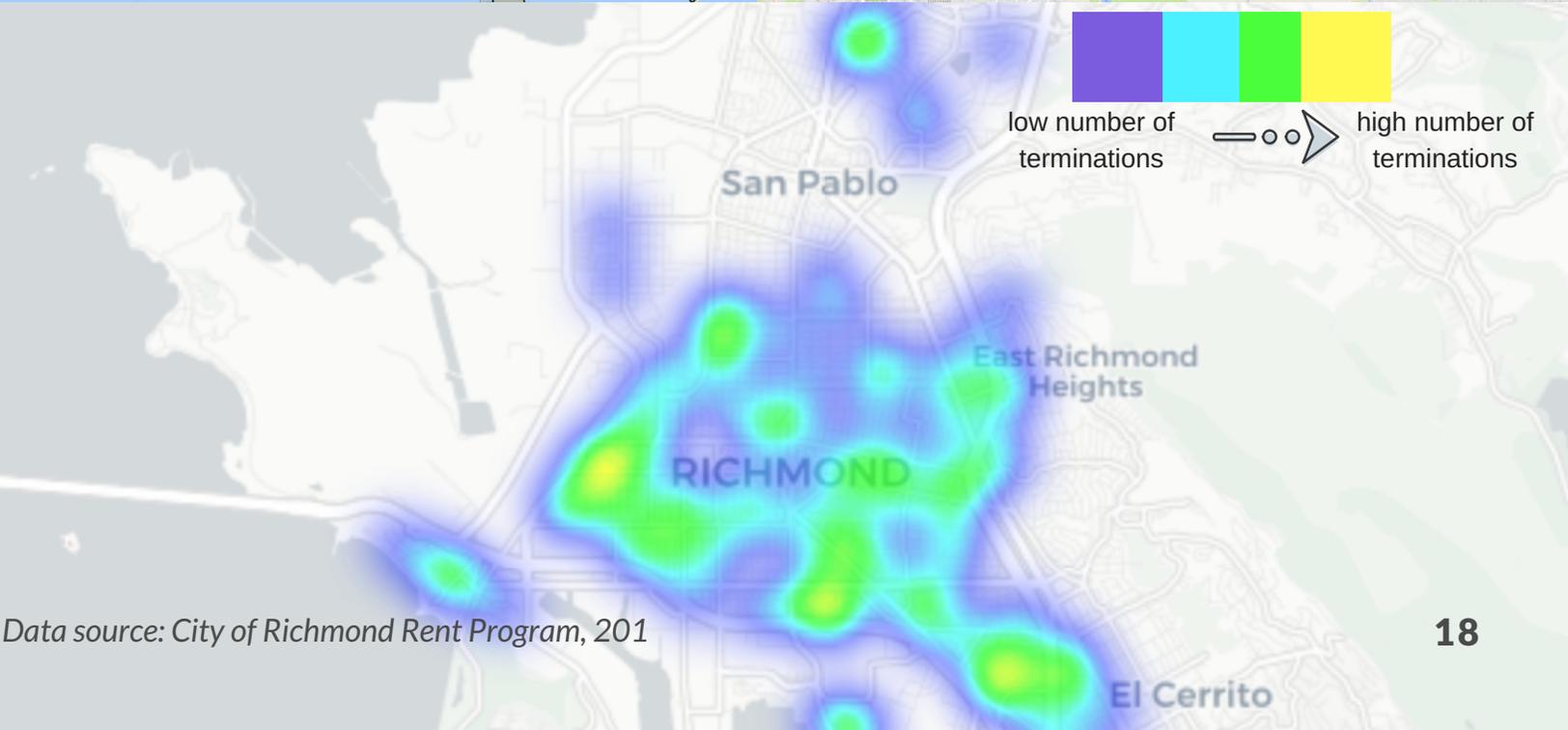
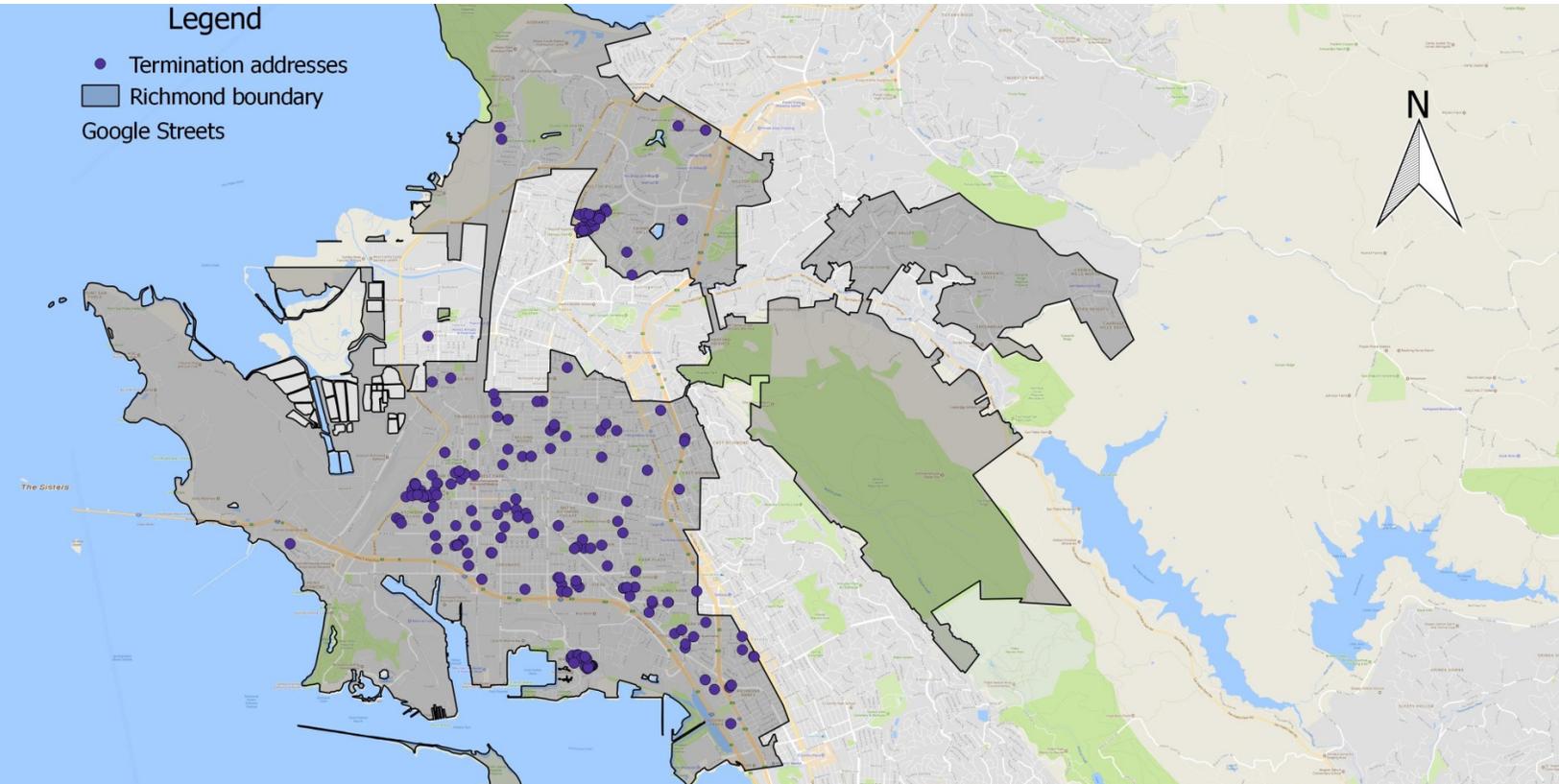


*The relatively high number of units withdrawn from the rental market is largely due to the sale of condominiums at the Cove in Marina Bay. There were approximately 97 units that were withdrawn from the rental market at the Cove and sold to homeowners.



~2,206

RICHMOND HOUSEHOLDS WERE SERVED WITH A TERMINATION OF TENANCY NOTICE IN 2017. APPROXIMATELY 88% WERE FOR NONPAYMENT OF RENT.



RENT INCREASES: BY THE NUMBERS

Landlords can apply the Annual General Adjustment rent increase each year

Under the Richmond Rent Ordinance, Landlords have a right to the Annual General Adjustment (cost of living) rent increase. The Annual General Adjustment (AGA) is equal to 100% of the change in Community Price Index. In 2016, the AGA was 3.0% and in 2017, it was 3.4%. The Annual General Adjustment rent increase takes effect September 1 of each year.

The average rent increase associated with the 2016 AGA was \$38

Between December 27, 2016, and September 25, 2017, approximately 1,092 households were served a rent increase notice in accordance with the 2016 Annual General Adjustment of 3.0%. The average rent increase was \$37.

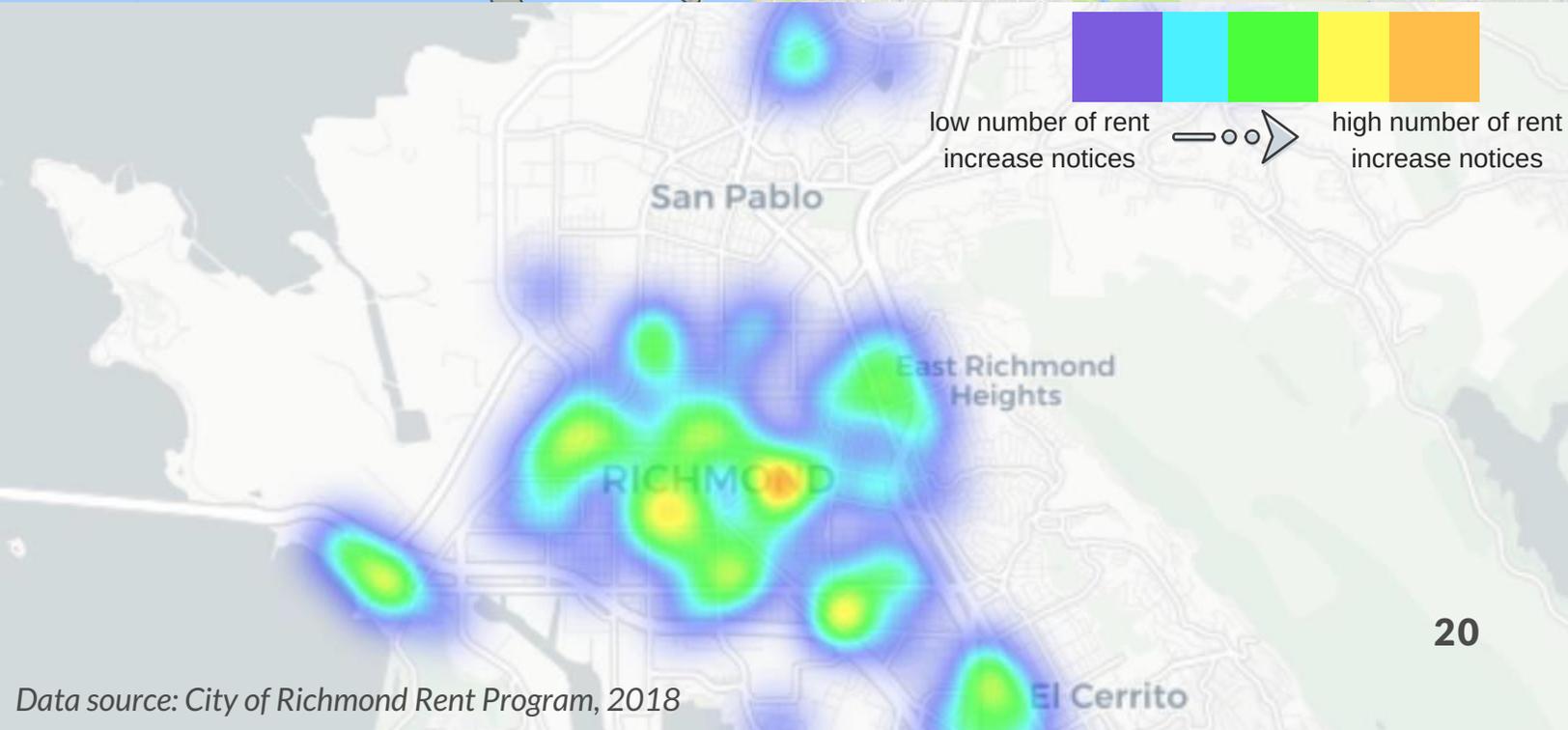
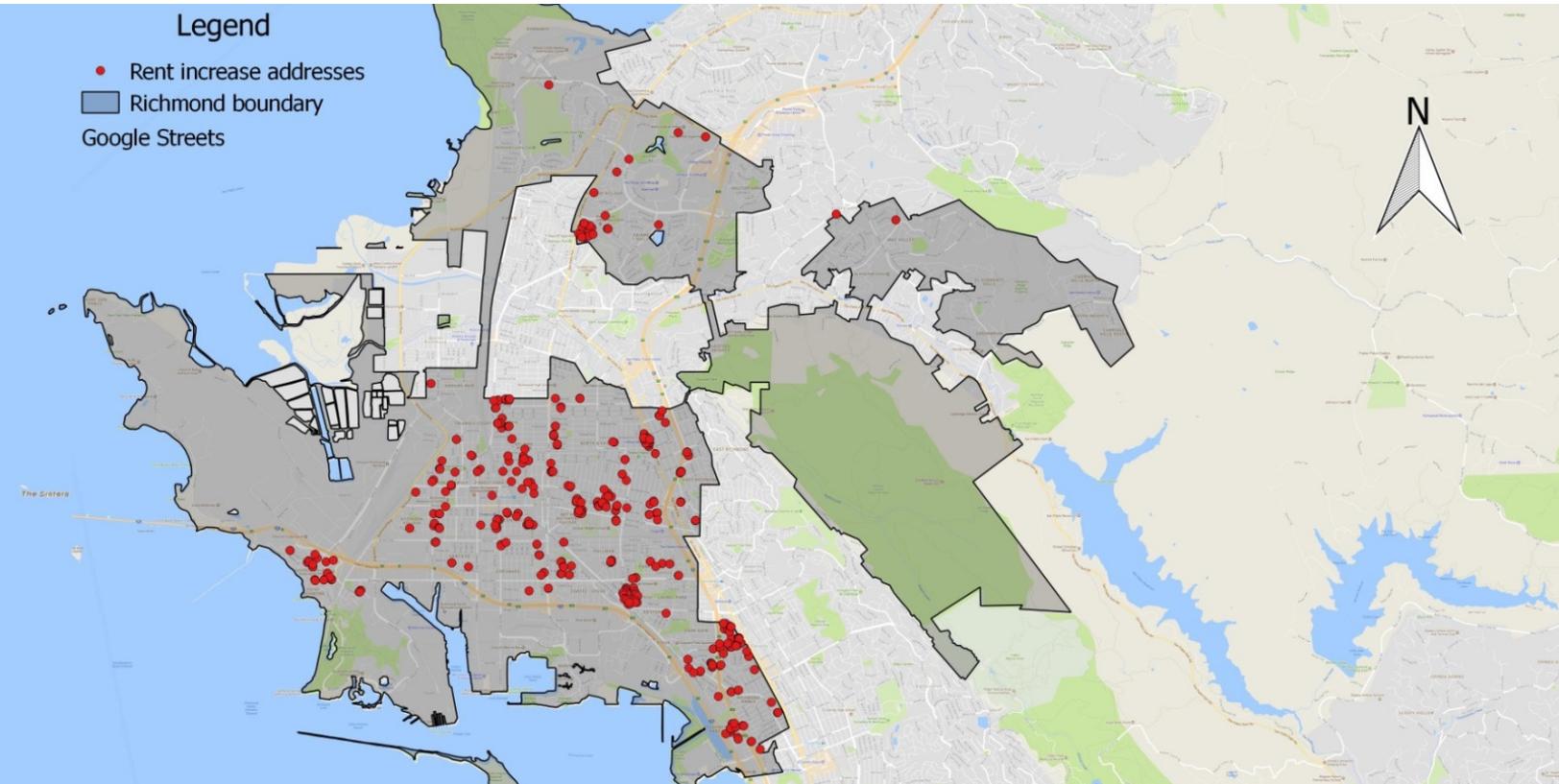
The average rent increase associated with the 2017 AGA was \$47

Between July 3, 2017, and May 6, 2018, approximately 2,568 rent-controlled households were served a rent increase notice in accordance with the 2017 Annual General Adjustment of 3.4% (could be combined with the 2016 AGA of 3.0% for qualifying tenancies.) The average rent increase was \$43.



~3,660

**RENT-CONTROLLED HOUSEHOLDS
RECEIVED A RENT INCREASE BETWEEN
JANUARY 2017 AND MAY 2018.
COLLECTIVELY, THESE INCREASES AMOUNT TO OVER
\$1.8 MILLION PAID BY TENANTS ANNUALLY.**

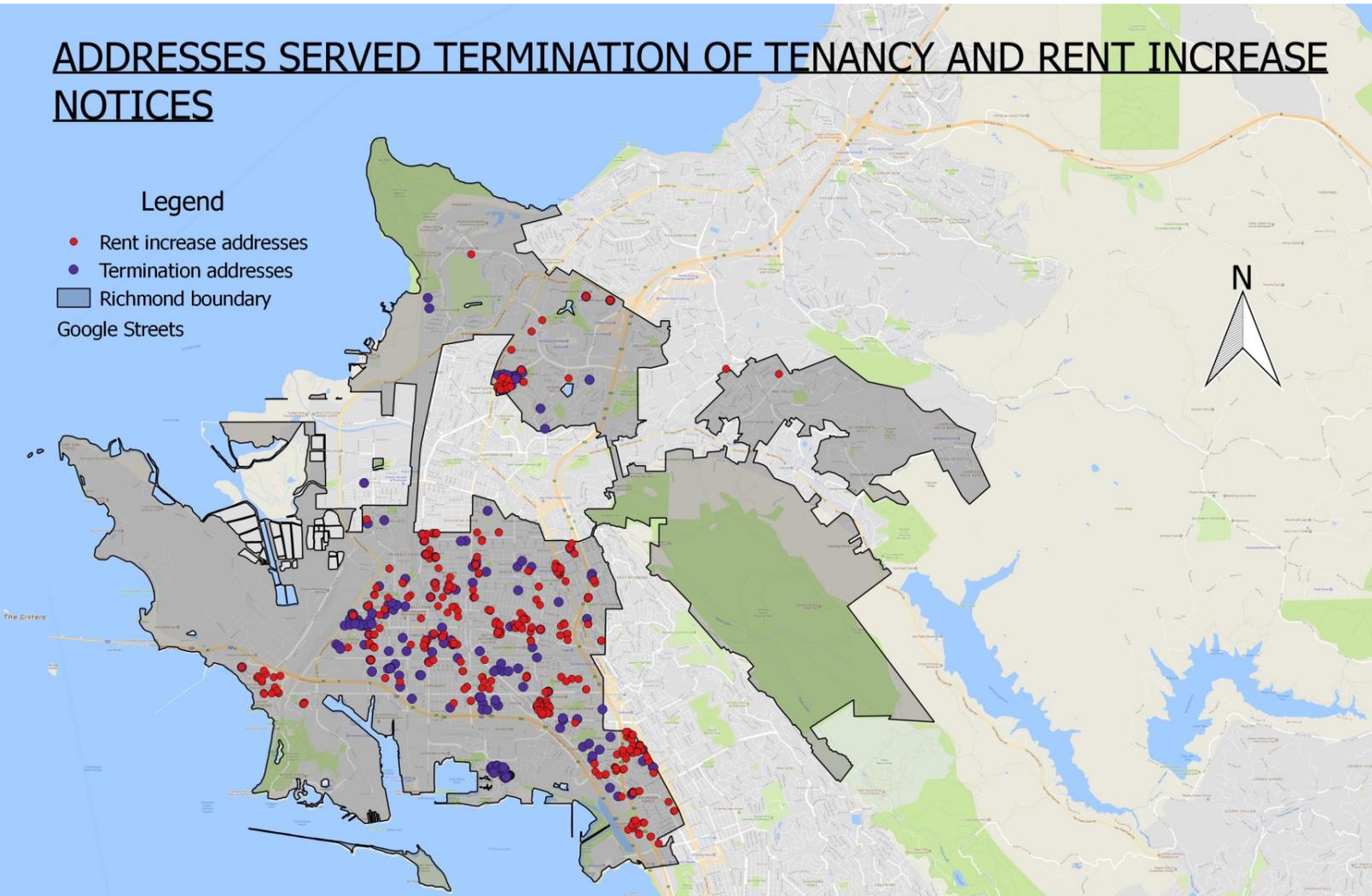


RENT INCREASE AND TERMINATION OF TENANCY NOTICES ARE SERVED THROUGHOUT THE CITY

ADDRESSES SERVED TERMINATION OF TENANCY AND RENT INCREASE NOTICES

Legend

- Rent increase addresses
- Termination addresses
- ▭ Richmond boundary
- Google Streets



ELEMENTS OF ACTIVE ENFORCEMENT

Active enforcement includes four critical elements:

Element #1: Tenancy Registration & Tracking the Maximum Allowable Rent

To ensure transparency of the Maximum Allowable Rent for each rent-controlled unit in the City, the Rent Program will maintain a database of current tenancies and the Maximum Allowable Rent for each tenancy.

Tenancy registration is expected to launch in 2018.

Element #2: Comprehensive Counseling

The Rent Program Department provides counseling to Landlords, Tenants, and community members on the requirements of the Rent Ordinance, as well related local and State laws, at the Rent Program office, as well as by phone and email. The Rent Program Department employs two Rent Program Services Analysts, who function as Housing Counselors.

Element #3: Extensive Outreach and Community Education

Rent Program staff members host monthly Community Workshops at City Hall, and communicate about upcoming events and meetings with over 1,600 subscribers to the Rent Program email list (listserv). Staff members also meet with stakeholder and community groups to discuss policy matters.

Element #4: An Active Rent Board

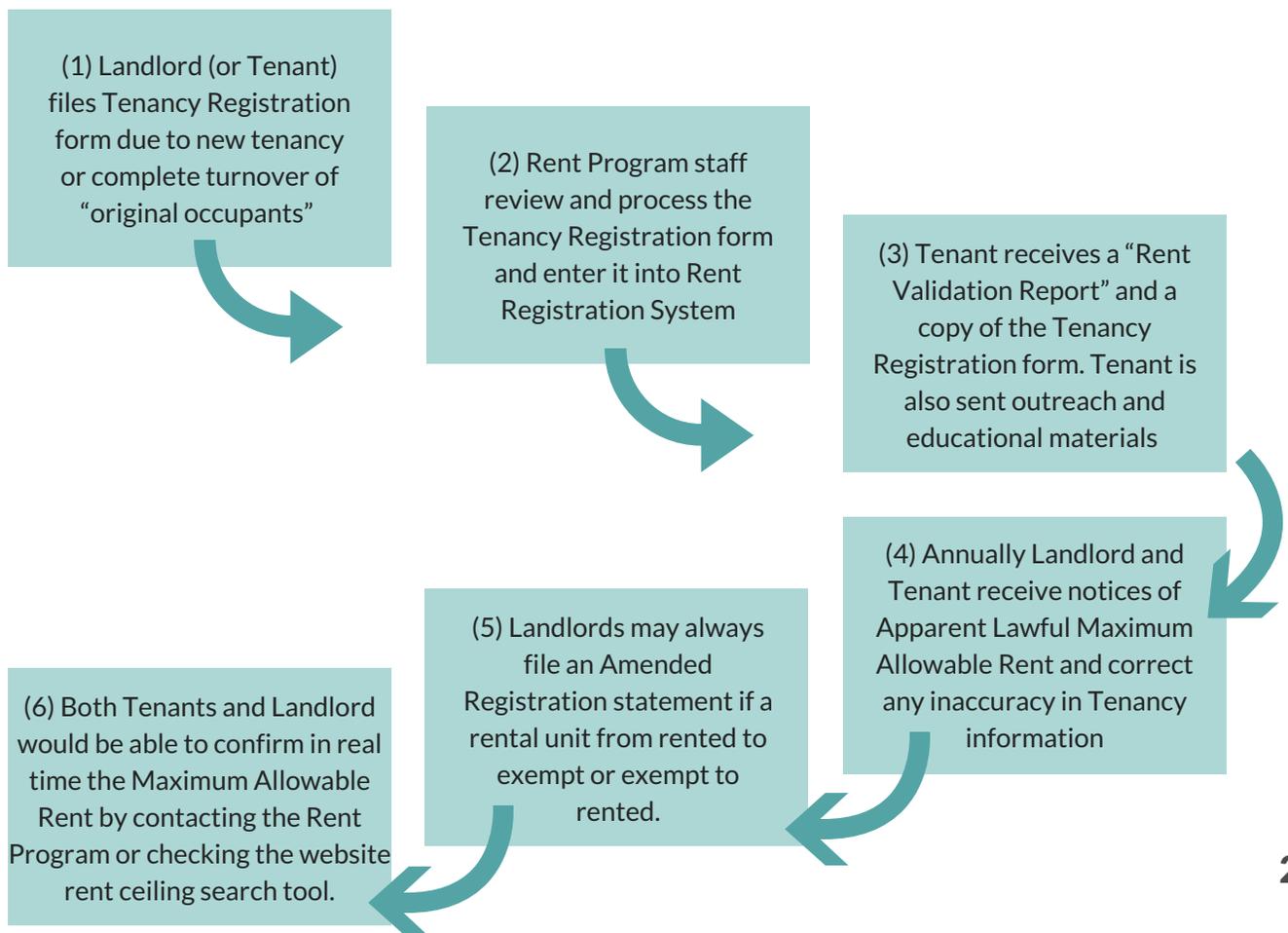
The Rent Board consists of five Richmond residents appointed by the Mayor with the concurrence of the City Council. Boardmembers volunteer their time to weigh in on critical policy and fiscal issues relevant to the Rent Program and Richmond residents. The Rent Board meets at least once per month. All meetings are open to the public.

ELEMENT #1: RENT REGISTRATION AND TRACKING OF THE MAXIMUM ALLOWABLE RENT

Since the inception of the Rent Program Department in January 2017, Landlords have been required to enroll all rental units with the Rent Program using the online form at richmondrent.org/enroll.

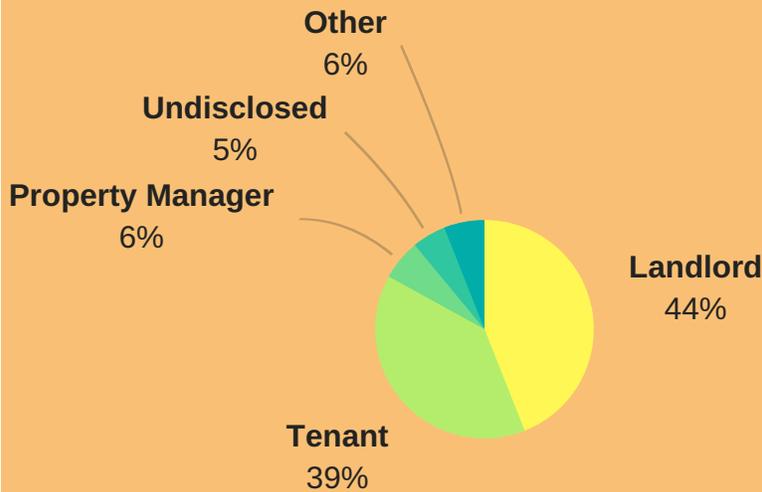
In 2018, staff members anticipate the launch of tenancy registration, which will allow the Department to track the rent levels associated with each rent-controlled tenancy in the City of Richmond.

PROPOSED RENT REGISTRATION PROCESS:



ELEMENT #2: COMPREHENSIVE COUNSELING

Who Calls the Rent Program Office?

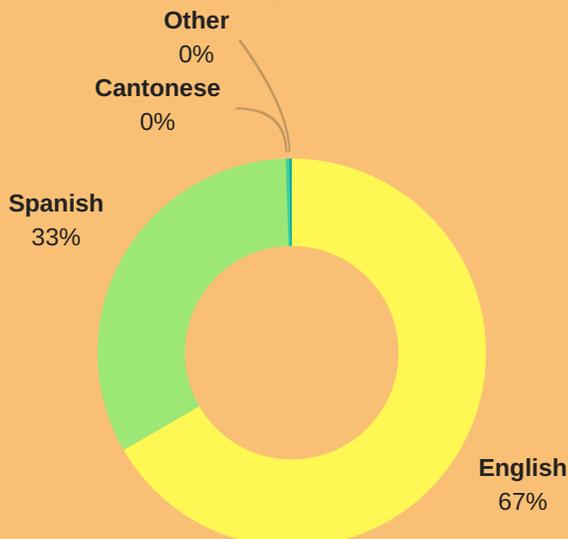


Source: City of Richmond, August 2017
n= 1,904

In Fiscal Year 2017-18, the Rent Program provided over 2,600 counseling sessions to a diverse group of residents and community members, including Tenants, Landlords, Property Managers, Attorneys, Realtors, and Process Servers.

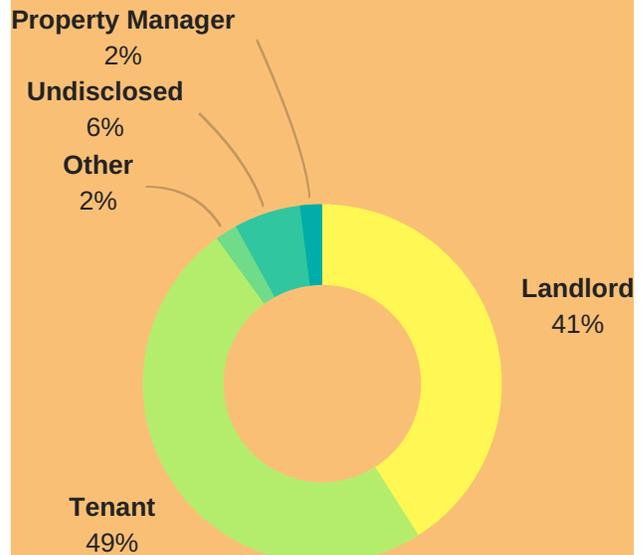
Approximately one-third of visitors to the Rent Program office prefer to receive counseling in Spanish.

Preferred Language of Individuals who visited Rent Program Office



Source: City of Richmond Rent Program, August 2017
n= 1,174

Who Visits the Rent Program Office?



Source: City of Richmond, August 2017
n= 1,259

ELEMENT #3: EXTENSIVE OUTREACH AND COMMUNITY EDUCATION

Community engagement, education, and outreach are critical to increasing compliance and community awareness of the requirements of the Rent Ordinance and related policies. Currently, the Rent Program has 1,600+ subscribers to the Rent Program email list. In addition to the development of the Rent Program website and Rent Program Brochure (in English and Spanish), in the first eight months of the Rent Program, interim staff hosted and attended several workshops, festivals, and events.



Tabling at Festivals/Events

- Cinco de Mayo (May 7, 2017)
- Juneteenth (June 17, 2017)
- National Night Out (August 1, 2017)

2018 COMMUNITY WORKSHOP CALENDAR

10:00 AM - 12:00 PM
City Council Chambers
440 Civic Center Plaza
Richmond, CA 94804

January 13: Landlord 101 in Richmond
February 17: Tenant 101 in Richmond
March 17: Evictions 101 (Landlord-Oriented)
April 21: Evictions 101 (Tenant-Oriented)
May 12: Security Deposits - Rights and Responsibilities (Landlord-Oriented)
June 9: Tenant 101 in Richmond
July 14: Realtor/Property Manager Workshop

August 18: Habitability Issues (Tenant-Oriented)
September 15: Habitability Issues (Landlord-Oriented)
October 20: Handling Difficult Tenant Situations
November 10: Handling Difficult Housemate Situations
December 8: Evictions 101 (Landlord-Oriented)

WELL-ATTENDED WORKSHOPS



The Rent Program held several large-format Community Education Workshops in Spring and Summer 2017, as well as computer support sessions. In December, staff members held two Community Workshops to solicit community feedback regarding standards for changes in the Maximum Allowable Rent. Events averaged 68 attendees each.

Richmond Rent Program Community Workshops

SETTING STANDARDS FOR CHANGES IN THE MAXIMUM RENT

Monday, December 4, 2017 6:00 PM - 7:30 PM City Council Chambers 440 Civic Center Plaza Richmond, CA 94804	Saturday, December 9, 2017 10:00 AM - 12:00 PM City Council Chambers 440 Civic Center Plaza Richmond, CA 94804
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All are invited to attend and provide feedback on topics such as:

- Rules and standards for increasing or decreasing rents for rent-controlled rental units
- How the Rent Board defines a "fair rate of return" on rental property investments
- Calculating rent reductions due to problems with the rental unit (pests, broken appliances, etc.)

Space is limited - RSVP today:
<https://rentprogram.eventbrite.com>



www.richmondrent.org
rent@ci.richmond.ca.us
510-620-6576

Talleres Comunitarios del Programa de Renta de la Ciudad de Richmond

ESTABLECIENDO NORMAS PARA CAMBIOS EN LA MÁXIMA RENTA

Lunes 4 de diciembre de 2017 6:00 PM - 7:30 PM Sala de Justicia del Concilio de la Ciudad 440 Civic Center Plaza Richmond, CA 94804	Sábado 9 de diciembre de 2017 10:00 AM - 12:00 PM Sala de Justicia del Concilio de la Ciudad 440 Civic Center Plaza Richmond, CA 94804
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Todos son invitados para asistir y proporcionar comentarios tales como:

- Reglas y normas para aumentar o disminuir rentas para unidades bajo control de rentas
- Como la Junta de Renta define una "tasa de retorno justa" en inversiones de propiedades de renta
- Calculando reducciones de renta debido a problemas con la unidad de renta (pestes, electrodomésticos defectuosos, etc.)

Espacio limitado - Confirme su asistencia hoy:
<https://rentprogram.eventbrite.com>



www.richmondrent.org
rent@ci.richmond.ca.us
510-620-6576

ELEMENT #4: AN ACTIVE RENT BOARD

THE RENT BOARD ESTABLISHES POLICY AND BUDGETARY PRIORITIES, HEARS APPEALS TO RENT ADJUSTMENT PETITION DECISIONS, AND ENSURES COMMUNITY CONCERNS ARE REFLECTED IN POLICY DECISIONS

The Rent Board consists of five Richmond residents who meet at least once per month to review, comment upon, and adopt regulations and an annual operating budget, among other activities.

In the future, once the Hearings Unit is fully operational, the Rent Board will hear and decide upon appeals of rent adjustment decisions made by the Rent Board's Hearing Examiner. Rent adjustment decisions include both increases in the Maximum Allowable Rent due to increases in space, services, or the number of occupants, or the Landlord's inability to achieve a fair return, as well as decreases in the Maximum Allowable Rent due to decreases in space, services, or habitability concerns. The Board may reverse, affirm, or remand the Hearing Examiner's decision.



LOOKING AHEAD

FISCAL YEAR 2018-19 GOALS

- Establish a robust rent registration and rent tracking system.
- Increase collection of the Rental Housing Fee through aggressive compliance efforts.
- Establish a fully operational hearings unit with online forms in multiple languages.
- Successfully train the Rent Program Services Analysts and other senior staff on how to conduct formal mediations.
- Publish the “Guide to Rent Control in Richmond” in multiple languages.
- Expand the use of innovative outreach tools: create informational/info-graphic educational videos, establish a social media presence, and conduct “targeted” outreach to problem properties
- Work collaboratively with other City departments to improve housing inspection options and strengthen affordable housing policy.
- Improve the Rent Program website and develop online registration of new tenancies.

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: May 16, 2018

Final Decision Date Deadline: May 16, 2018

STATEMENT OF THE ISSUE: Residents at Heritage Park at Hilltop Apartments, a 192-unit Low Income Housing Tax Credit (LIHTC) development for individuals age 55 years or older, have voiced concerns about recent rent increases effective July 1, 2018, and issues associated with refuse removal and security of the premises. At the request of the Rent Board Chair, staff members have prepared a report detailing their research and outreach efforts to date to inform a discussion among members of the Board about appropriate next steps for adequately addressing resident concerns – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

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 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: DISCUSS resident concerns about rent increases, refuse removal and security at Heritage Park at Hilltop Apartments, a Low Income Housing Tax Credit (LIHTC) development located at 3801-3815 Lakeside Drive, Richmond, CA 94806 and PROVIDE direction to staff – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

AGENDA ITEM NO:

H-2.

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AGENDA REPORT

DATE: May 16, 2018

TO: Chair Gray and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director
Paige Roosa, Deputy Director

SUBJECT: RESIDENT CONCERNS AT HERITAGE PARK AT HILLTOP APARTMENTS

STATEMENT OF THE ISSUE:

Residents at Heritage Park at Hilltop Apartments, a 192-unit Low Income Housing Tax Credit (LIHTC) development for individuals age 55 years or older, have voiced concerns about recent rent increases effective July 1, 2018, and issues associated with refuse removal and security of the premises. At the request of the Rent Board Chair, staff members have prepared a report detailing their research and outreach efforts to date to inform a discussion among members of the Board about appropriate next steps for adequately addressing resident concerns – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

RECOMMENDED ACTION:

DISCUSS resident concerns about rent increases, refuse removal and security at Heritage Park at Hilltop Apartments, a Low Income Housing Tax Credit (LIHTC) development located at 3801-3815 Lakeside Drive, Richmond, CA 94806 and PROVIDE direction to staff.

FISCAL IMPACT:

While there is no discernable fiscal impact associated with this discussion item, there may be fiscal impacts associated with actions directed by the Board. For example, if the Board directs staff members to conduct more targeted outreach to these properties, it may be necessary to allocate additional funds to the Community Education line item in the budget.

DISCUSSION:

Background

Heritage Park at Hilltop Apartments is a 192-unit development located at 3801-3815 Lakeside Drive, Richmond, CA 94806. The property is owned by Hilltop Group LP, operating as USA Properties Fund, whose corporate office is in Roseville, CA.

According to the Density Bonus Agreement between the City of Richmond and Hilltop Group LP recorded February 28, 2001, 50% of the Lower Income Household Units must be rented to Senior Citizen Lower Income Households. "Lower Income Household," as defined in the Density Bonus Agreement, means households of Lower Income as defined in Section 50079.5 of the California Health and Safety Code which is a household whose median income is equal to or less than 80% of the area median income, and is considered to be able to afford rent that does not exceed 30 percent of 60 percent of the area median income (Attachment 1.)

Construction of Heritage Park at Hilltop was financed, in part, with \$584,766 in tax-exempt bonds (TCAC # CA-2000-884). According to the Richmond Housing Authority, 94 households at Heritage Park possess a project-based Section 8 Housing Choice Voucher.

At the April 23, 2018, Special Meeting of the Richmond Rent Board and May 1, 2018, Regular Meeting of the Richmond City Council, more than a dozen residents from Heritage Park at Hilltop Apartments voiced their concerns about recent rent increase notices and maintenance on the premises. Specifically, residents commented on the financial burden posed by a rent increase in excess of ten percent, as well as the perceived lack of refuse removal on the premises and inadequacy of security systems.

On November 15, 2017, the Rent Board adopted 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 (Attachment 2). For this reason, as well as the fact that Heritage Park at Hilltop Apartments was constructed in 2000 and is therefore exempt from rent regulation pursuant to the Costa-Hawkins Rental Housing Act, the Rent Program Department does not currently regulate the Maximum Allowable Rent at Heritage Park at Hilltop Apartments.

Overview of the Low Income Housing Tax Credit Program

The Low Income Housing Tax Credit (LIHTC) program is codified in Section 42 of the Internal Revenue Code and exists to support the private construction of affordable housing. Since 1986, the LIHTC program has supported the construction of over two million rental units.

LIHTC is not a subsidy program, but works through the tax code and state treasury agencies. According to their website, the California Tax Credit Allocation Committee “facilitates the investment of private capital into the development of affordable rental housing for low-income Californians. TCAC allocates federal and state tax credits to the developers of these projects. Corporations provide equity to build the projects in return for the tax credits. TCAC verifies that the developers have met all the requirements of the program and ensures the continued affordability and habitability of the developments for the succeeding 55 years.”¹ Land use agreements are recorded against each credit project to ensure compliance. According to the California Housing Partnership Corporation, the LIHTC compliance period for Heritage Park at Hilltop Apartments ends in 2054 (Attachment 3).

Maximum Rent Levels in LIHTC Properties

The LIHTC program, like other affordable housing programs, links the affordability of a unit to household income; however, unlike *subsidized* housing programs, such as the Section 8 Housing Choice Voucher program, rent adjustments do not account for increase, decreases, or stagnation, in household income.

According to the 2000 LIHTC Program Annual Report² (the year Heritage Park at Hilltop was awarded tax-exempt bonds):

The LIHTC program has both rent and income restrictions. Since 1989, rents on tax credit units cannot exceed 30% of an imputed income based on 1.5 persons per bedroom (i.e., in a two-bedroom unit, the income of a three-person household is used to calculate rent, regardless of the actual family size of the household). Federal Law requires that the initial incomes of households in tax credit units cannot exceed either 60% or 50% of the area median income, adjusted for household size. When a project developer or sponsor is allocated tax credits, they irrevocably elect one of the following minimum federal set-aside requirements:

- 1. A minimum of 40% of the units must be both rent-restricted and occupied by households whose incomes are 60% or less of the area median gross income, adjusted for family size; or*
- 2. A minimum of 20% of the units must be both rent-restricted and occupied by households whose incomes are 50% or less of the area median gross income, adjusted for family size.*

It is important to note TCAC rent and income limits in Richmond are based on a combined Area Median Income (AMI) for Alameda and Contra Costa Counties, including much wealthier jurisdictions than Richmond. According to the Heritage Park at

¹ “California Tax Credit Allocation Committee, 2018.” Accessed 5/9/18. <
<http://www.treasurer.ca.gov/ctcac/tax.asp>>

² California Tax Credit Allocation Committee, 2000. “2000 Annual Report.” Accessed 5/9/18. PDF. <
<http://www.treasurer.ca.gov/ctcac/annual/2000.pdf>>

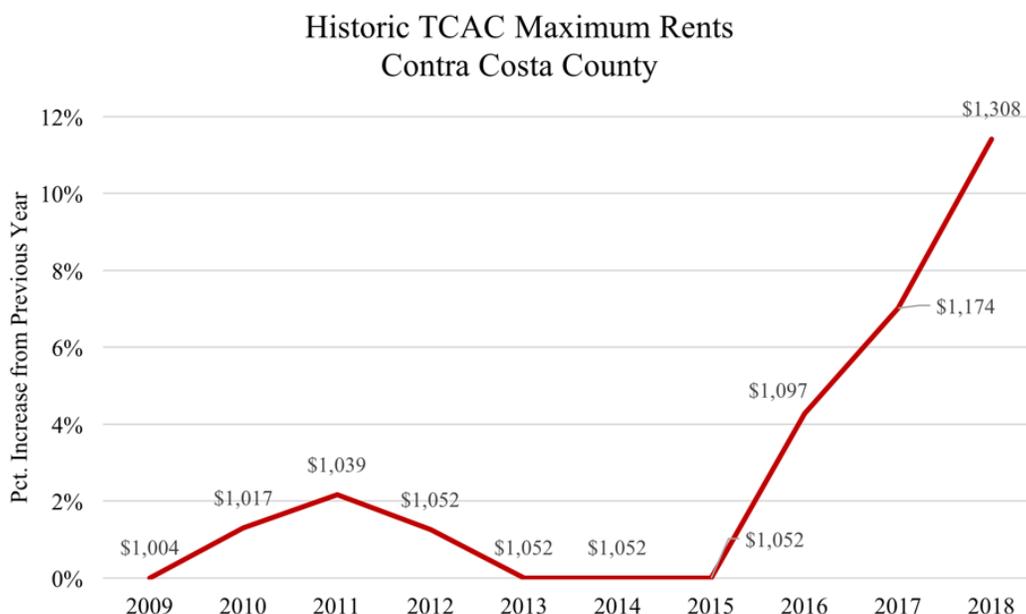
Hilltop 2016-17 Annual Monitoring Report, the average annual income of residents as of the date of most recent certification (all of which took place in 2016 or 2017) was \$23,289 (Attachment 4).

2018 Maximum Rent Levels and Potential Impact on Residents

On April 1, 2018, the California Tax Credit Allocation Committee published the 2018 maximum income levels and maximum rents for rental units in developments constructed utilizing Low Income Housing Tax Credits (LIHTCs). Limits are published by county and are incorporated below.

To understand the magnitude of maximum rent charges in LIHTC properties, staff members examined maximum rent levels for one- and two- bedroom units over the past decade. Staff members discovered that for LIHTC properties placed on the market on or before December 31, 2008, changes in maximum rent levels for one- and two-bedroom units far exceeded rent increases permitted by the Annual General Adjustment, or cost-of-living increase, to which rent-controlled rental units in the City are subject. Specifically, a comparison of 2016, 2017, and 2017 published Maximum Rents indicate 2016 maximum rents were a 4% increase from the prior year; 2017 maximum rents represented a 7% increase from the prior year; and 2018 maximum rents represent a 12% increase from the prior year.

This 12% increase from 2017-2018 is more than three times the Annual General Adjustment rent increase amounts for 2016 and 2017, to which rent-controlled units are subject. It is important to consider that these increases came after six years of minimal increases averaging 1 percent per year. The chart below illustrates how these increases applied to a one bedroom unit rented to a household earning 60% of the AMI.



Source: TCAC Historical Income and Rent Limits, 2018
<http://www.treasurer.ca.gov/ctcac/compliance/limits.asp>

Revised per HUD Notice
Effective: April 1, 2018

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
2018

Maximum Income Levels
For Projects Placed in Service on or before 12/31/2008
Including HERA Special Limits

County	One Person	Two Person	Three Person	Four Person	Five Person	Six Person	Seven Person	Eight Person
CONTRA COSTA								
100% Income Level	\$81,400	\$93,000	\$104,600	\$116,200	\$125,500	\$134,800	\$144,100	\$153,400
60% Income Level	\$48,840	\$55,800	\$62,760	\$69,720	\$75,300	\$80,880	\$86,460	\$92,040
55% Income Level	\$44,770	\$51,150	\$57,530	\$63,910	\$69,025	\$74,140	\$79,255	\$84,370
50% Income Level	\$40,700	\$46,500	\$52,300	\$58,100	\$62,750	\$67,400	\$72,050	\$76,700
45% Income Level	\$36,630	\$41,850	\$47,070	\$52,290	\$56,475	\$60,660	\$64,845	\$69,030
40% Income Level	\$32,560	\$37,200	\$41,840	\$46,480	\$50,200	\$53,920	\$57,640	\$61,360
35% Income Level	\$28,490	\$32,550	\$36,610	\$40,670	\$43,925	\$47,180	\$50,435	\$53,690
30% Income Level	\$24,420	\$27,900	\$31,380	\$34,860	\$37,650	\$40,440	\$43,230	\$46,020

Revised per HUD Notice
Effective: April 1, 2018

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
2018

Maximum Rents for Projects From Ceilings Post-1989 and Those from the Pre-1990
Ceilings That Elected with the Secretary of the Treasury* to use the Post-1989 Rents
**(See IRC Section 42 - Section 13142(c) of the Omnibus Budget Reconciliation Act of 1993)*
For Projects Placed in Service on or before 12/31/2008
Including HERA Special Limits

County	Efficiency	1 BR	2 BR	3 BR	4 BR	5 BR
CONTRA COSTA						
100% Income Level	\$2,034	\$2,180	\$2,614	\$3,020	\$3,370	\$3,718
60% Income Level	\$1,221	\$1,308	\$1,569	\$1,812	\$2,022	\$2,231
55% Income Level	\$1,119	\$1,199	\$1,438	\$1,661	\$1,853	\$2,045
50% Income Level	\$1,017	\$1,090	\$1,307	\$1,510	\$1,685	\$1,859
45% Income Level	\$915	\$981	\$1,176	\$1,359	\$1,516	\$1,673
40% Income Level	\$814	\$872	\$1,046	\$1,208	\$1,348	\$1,487
35% Income Level	\$712	\$763	\$915	\$1,057	\$1,179	\$1,301
30% Income Level	\$610	\$654	\$784	\$906	\$1,011	\$1,115

Actions Undertaken by Rent Program Staff Members to date

In response to concerns voiced by residents of Heritage Park, Rent Program staff members have taken the following actions:

- Communicated with the Vice President of Operations and Regional Manager of USA Properties Fund about the concerns voiced by residents at the Rent Board and City Council meetings and inform them of the Rent Board's intent to discuss this matter at the Regular Meeting in May;
- Participated in a meeting with residents hosted by Vice Mayor Willis to more fully understand their concerns;
- Scheduled a meeting on Friday, May 18, 2018, to discuss the new rent maximums published by TCAC with affordable housing providers; and,
- Referred legal concerns to Centro Legal de la Raza for follow up.

In addition, staff members are in the process of organizing monthly calls with affordable housing stakeholders to discuss relevant issues specific to affordable housing providers and managers.

At their meeting in June, Rent Boardmembers are scheduled to receive a presentation from Philip Verma, a Rent Program Graduate Student Fellow, concerning research and recommendations for ways in which the Rent Program can support residents and providers of affordable housing in Richmond.

Conclusion

According to the California Tax Credit Allocation Committee Compliance Program Manager, TCAC does not regulate the frequency or the percentage of changes in the maximum rent for LIHTC units; it only provides a rent limit that an owner cannot exceed. LIHTC property owners may raise rent any time during the lease period if the limit is not exceeded. As such, without additional limitations on the amount of the rent increase that can be imposed at any one time, low-income tenants on fixed incomes, such as the residents of Heritage Park at Hilltop Apartments, may experience "rent shock" that results in potential displacement or significant financial hardship.

DOCUMENTS ATTACHED:

Attachment 1 – Density Bonus Agreement between the City of Richmond and Hilltop Group, L.P., dated February 28, 2001

Attachment 2 – Rent Board Regulation 17-01

Attachment 3 – Affordable Housing Matrix

Attachment 4 – 2016-17 Heritage Park at Hilltop Annual Monitoring Report (tenant names and unit numbers redacted)

Recording requested by and when recorded mail to:

Planning Manager
Richmond Planning Dept
2600 Barrett Avenue
Richmond, CA 94804



CONTRA COSTA Co Recorder Office
STEPHEN L. WEIR, Clerk-Recorder
DOC- 2001-0047030-00

Wednesday, FEB 28, 2001 14:30:27
FRE \$0.00

Ttl Pd \$0.00

Nbr-0000267184

rrc/R9/1-21

Free Recording Requested
In Accordance With
Government Code 6103

DENSITY BONUS AGREEMENT

This Density Bonus Agreement (this "Agreement") is made between the City of Richmond ("City") and Hilltop Group, L.P., a California Limited Partnership ("Owner") and is dated for reference purposes September 20, 1999. The Owner has requested and the City has authorized a project density not to exceed 192 Units, as that term is defined herein, at a ratio of 45 Units per net acre subject to the terms and conditions of this Agreement. The density bonus relates to a multifamily rental housing project known as Heritage Park at Hilltop and located on the real property legally described in Exhibit A of this Agreement, attached hereto and incorporated herein consisting of approximately 5.808 acres, with a street address of 3801 Lakeside Drive, Richmond, California 94806 and bearing Assessor's Parcel Number 405-373-022,008 (the "Project"). This Agreement is intended to constitute the agreement required by City Municipal Code Section 15.04.810.057. Accordingly, in consideration of the density bonus and the requirements of the City Municipal Code, the Owner and the City hereby agree as follows:

Section 1. Definitions.

a. Unless the context otherwise requires, capitalized terms used in this Agreement shall have the following meanings:

"Affordable Housing Units" means housing units affordable to Low Income Households and Very Low Income Households through the Affordable Housing Density Bonus program pursuant to California Government Code Section 65915.

"Agreement" means this Regulatory Agreement between the City and the Owner.

"Area Median Gross Income" means the median gross income of the area in which the Project is located as published by the California Department of Housing and Community Development ("HCD"), including adjustments for family size.

"Assumption Agreement" shall have the meaning assigned in Section 13 hereof.

"Code" means those provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto.

"Compliance Period" means the period of 30 consecutive taxable years beginning with the Effective Date.

"Effective Date" means the date the Project first receives occupancy permits.

"Gross Rent" means all amounts paid by a Tenant for rent, determined in a manner consistent with Section 42(g)(2) of the Code and prescribed by HCD. If the Tenant pays utilities directly, Gross Rent shall include any utility allowance prescribed by the Secretary and HCD.

"Income" means the income of a Tenant determined in a manner consistent with HCD requirements.

"Lower Income Household" means households of Lower Income as defined in Section 50079.5 of the California Health and Safety Code which is a household whose median income is equal to or less than 80% of the area median income, and is considered to be able to afford rent that does not exceed 30 percent of 60 percent of the area median income.

"Low-income" means, with respect to any Tenant, an income level not exceeding 50% or 60% of Area Median Gross Income, as provided in Section 4b hereof.

"Low-income Tenant" means a Tenant who, when the Tenant originally occupied the Unit, had an income qualifying as Low-Income. For so long as the Tenant occupies the particular Unit, the Tenant will remain a Low-Income Tenant if the Tenant's Income, upon the most recent income certification, does not exceed 140% of Low-Income.

"Low-Income Unit" means a Unit in the Project that is occupied by a Low-Income Tenant, is Rent-Restricted and meets the other requirements of Section 42 of the Code.

"Municipal Code" means the City Municipal Code.

"Owner" means Hilltop Group, L.P., a California Limited Partnership, or successors.

"Project" means the residential rental housing project known as Heritage Park at Hilltop and located on the real property described in Exhibit A.

"Qualified Low-Income Housing Project" means a residential rental project meeting the requirements of Section 4 hereof.

"Rent-Restricted" means, with respect to any Unit, that the Gross Rent with respect to such Unit is not more than 30% of the imputed income limitation applicable to such Unit pursuant to Section 42(g)(2),(C) of the Code.

"Secretary" means the Secretary of the Treasury of the United States.

"Senior Citizens" means Qualifying Residents as defined in Section 51.2 of the California Civil Code as meaning individuals of age 55 or older if living in a senior citizen Housing Development other than a mobile home.

"Service" means the United States Internal Revenue Service and any successor thereto.

"Tax Credit" means the low-income housing tax credit under the provisions of Section 42 of the Code.

"Tenant" means the individual or individuals entitled to occupy a Unit in the Project by lease or other legal relationship with the Owner.

"Unit" means any unit in the Project consisting of an accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation; provided, however, that single room occupancy units used on a nontransient basis may be treated as Units.

"Very Low Income Household" means households of very low income as defined in Section 50105 of the California Health and Safety Code which is a household whose median income is equal to or less than 50% of the Area Median Gross Income and is considered to be able to afford rent that does not exceed 30 percent of 50 percent of the area median income.

b. Any term or phrase which is used in this Agreement and not defined herein shall have the meaning, if any, assigned thereto in Section 42 of the Code. Any term or phrase which is defined herein shall, unless the context shall clearly indicate otherwise, be interpreted in a manner consistent with the provisions and requirements of Section 42 of the Code and the Municipal Code.

Section 2. Term.

a. This Agreement shall terminate on the last day of the Compliance Period (the "Term").

b. Notwithstanding subsection a. of this Section 2, this Agreement shall terminate with respect to any building in the Project on the date such building is acquired by foreclosure or instrument in lieu of foreclosure unless the Secretary determines that such acquisition is part of an arrangement a purpose of which is to terminate such period; provided, however, that, except for eviction for good cause, the Tenant of any Low-Income Unit shall be entitled to occupy such Unit in accordance with the provisions of this Agreement for a period of three years following such termination.

Section 3. Filing. This Agreement shall be recorded prior to issuance of occupancy permits as a restrictive covenant in the official records of the County of Contra Costa in which the Project is located.

Section 4. Qualified Low-Income Housing Project.

a. The Owner shall maintain the Project in compliance with the Municipal Code throughout the Term of this Agreement. To this end, and without limitation, the Owner shall:

(i) operate the Project such that 50% of the total Lower Income Household Units, or 95 Units, will be rented to Senior Citizen Lower Income Households;

(ii) assure that Units in the Project are (A) available for use by the general public, (B) suitable for occupancy and (C) used on other than a transient basis; and

(iii) vacant Units shall be marketed in a commercially reasonable manner and shall be offered on a first come first served basis subject to the terms and conditions of this Agreement all in accordance with City Affirmative Marketing Policies and Procedures attached hereto as Exhibit B and incorporated herein by reference.

(iv) operate the Project such that 34 of the above referenced 95 Units will be two bedroom Units and 61 units will be one bedroom Units located throughout the Project.

b. The Owner may not refuse to lease a Unit in the Project to a prospective Tenant who holds a voucher or certificate of eligibility for assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended, because of the status of such prospective Tenant as the holder of such voucher or certificate.

c. The Project shall be a single phase project and initial occupancy shall occur on or before 18 months from the Effective Date.

Is TCAC monitoring for senior-status?

Section 5. Annual Determinations: Low-Income Units. Upon initial occupancy at least annually thereafter, the Owner shall determine and certify the Income of each Tenant and shall maintain books and records all in compliance with California Tax Credit Allocation Committee section 10337 attached hereto as Exhibit C and incorporated herein by reference. If, upon any such annual certification, the Tenant of a Senior Citizen Lower Income Household Unit who was, at the last income certification, a Senior Citizen Lower Income Household, is found no longer to be a Senior Citizen Lower Income Household, such Unit will continue to be treated as a Senior Citizen Lower Income Household Unit until the next available Unit of comparable or smaller size in the Project (i) is rented to a person who is not a Senior Citizen Lower Income Household Tenant or (ii) is rented without being Rent-Restricted. A Senior Citizen Lower Income Household Unit that has been vacated will continue to be treated as a Senior Citizen Lower Income Household Unit provided that (I) reasonable attempts are made to rent the Unit and (II) no other Units of comparable or smaller size in the Project are rented to persons who are not Senior Citizen Lower Income Household Tenants or are rented without being Rent-Restricted. In no case will a Unit be treated as a Senior Citizen Lower Income Household Unit if all the Tenants of the Unit are students (as determined under Section 151(c)(4) of the Code), none of whom is entitled to file a joint income tax return; provided, however, that such rule shall not apply to the types of students identified at Section 42(i)(3)(D) of the Code, or any successor to such provision, as applicable to the Project.

Section 6. Compliance Monitoring. The Owner acknowledges that the City including the Richmond Redevelopment Agency may monitor the Owner's and the Project's compliance with the requirements of this Agreement. The Owner agrees (I) to maintain records that substantiate and document such compliance, and (II) to take all actions and provide all information reasonably required by the City or the Richmond Redevelopment Agency to monitor such compliance.

Section 7. Notification of Noncompliance. The Owner agrees to notify the City or the Richmond Redevelopment Agency if there is a determination by the Service that the Project is not a "qualified low-income housing project" within the meaning of Section 42(g) of the Code. Notification to the City or the Richmond Redevelopment Agency will be made within ten business days of receipt of any such determination.

Section 8. Remedies. In the event the Owner defaults in its obligations under this Agreement and such default is not cured within a reasonable time period, the remedies of the City and the Tenants shall include, but are not limited to, the following:

- a. applying to any court for specific performance of any of the obligations herein set forth;
- b. securing the appointment of a receiver to operate the Project in a manner consistent with this Agreement, including subsections a and b of this Section 9;
- c. suit against the Owner for damages or for the disgorgement of rents collected in excess of those which would have been received had the owner complied with the requirements of this Agreement; and
- d. such other relief as may be appropriate.

Section 9. Enforceability. This Agreement may be enforced by the City or its designee. The City, or its designee, shall be entitled to reasonable attorneys' fees and other legal costs in any judicial or administrative action in which such party shall prevail.

Section 10. No Conflicting Agreements. The Owner warrants that it is not bound by and will not execute any other agreement with provisions that bind it to violate the provisions of this Agreement; provided, however, that this Agreement may be subordinated, if required, to any lien or encumbrance of any banks or other institutional lenders to the Project.

Section 11. Successors Bound. This Agreement and the covenants and conditions contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Owner and its successors and assigns and all subsequent owners of the Project or any interest therein, and the City and its successors and assigns, for the Term of this Agreement, without regard to whether any such parties shall have executed an Assumption Agreement with respect hereto. Upon termination of this Agreement, the covenants and

conditions contained herein shall expire, except that the requirement of Section 2c hereof, with respect to the continuation of occupancy and rent restrictions for three years following certain termination of this Agreement, shall remain in effect.

Section 12. Amendments; Waivers. Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated except-by written agreement executed and acknowledged by each of the parties hereto including the City or their successors and duly recorded in the official records of the county in which this Agreement is recorded. Any waiver of any provision of this Agreement shall not be deemed to be an amendment hereof.

Section 13. Assignment by Owner. The Owner may not sell or otherwise dispose of any portion of any building in the Project unless it disposes of the entire building to the same person. Upon sale or transfer of the Project, the Owner shall be relieved of all obligations under the Agreement and the transferee shall succeed to and be bound by all of the Owner's rights and obligations. Prior to any transfer of the Project, the Owner shall notify the City and provide the name(s) and address(es) of the prospective successor owner and operator. The Owner shall require, as a condition precedent to any sale, transfer or exchange or any other disposition of the Project prior to termination of this Agreement, that the purchaser or successor assume, in writing, in an Assumption Agreement acceptable to the City, the Owner's obligations hereunder and under Section 42 of the Code and applicable regulations, which Assumption Agreement shall be delivered to the City in executed, recordable form prior to any such sale, transfer or exchange. The Owner agrees that any sale, transfer or exchange of the Project without execution of an Assumption Agreement or otherwise in contravention of the provisions of this Section 14 shall be voidable at the discretion of the City. Changes in the constituents of the Owner shall not constitute a default under this Agreement.

Section 14. Notices. All notices, certificates or other communications shall be sufficiently given and shall be deemed received on the second day following the date on which the same have been mailed by certified mail, postage prepaid, or sent by other method which produces evidence of delivery thereof, addresses as follows:

To the City:

Richmond Redevelopment Agency and
330 25th Street
Richmond, CA 94804
(510) 307-8140

To the Owner:

Hilltop Group, L.P.
1740 E. Garry Ave., Suite 105
Santa Ana, CA 92705

The City and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

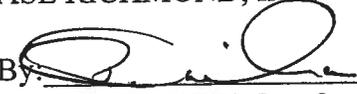
Section 17. Severability. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized representatives, as of the day and year first written above.

HILLTOP GROUP, L.P., a California limited partnership

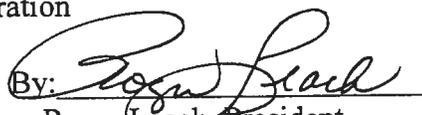
By: General Partner

By: ASL RICHMOND, INC.

By: 
Roger Davila, V. P. - Operations

By: General Partner

By: VALLEY WEST AFFORDABLE HOUSING CORPORATION, a California corporation

By: 
Roger Leach, President

CITY OF RICHMOND

By: _____
Mayor

Attest: _____
City Clerk

Approved as to Form:

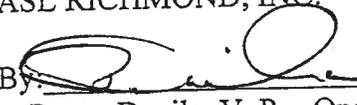
City Attorney

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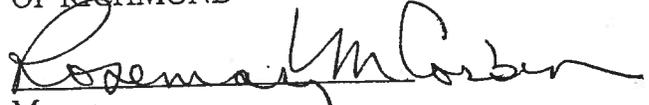
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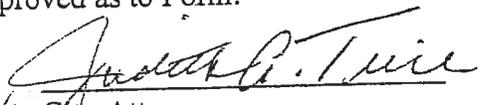
HILLTOP GROUP, L.P., a California limited partnership

By: General Partner
By: ASL RICHMOND, INC.
By: 
Roger Davila, V. P. - Operations

By: General Partner
By: VALLEY WEST AFFORDABLE HOUSING CORPORATION, a California corporation
By: 
Roger Leach, President

CITY OF RICHMOND

By: 
Mayor
Attest: 
City Clerk

Approved as to Form:

Asst. City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

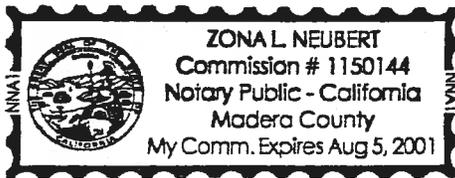
State of California

County of Madera

On Jan. 3, 2000 before me, Zona L. Neubert
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Roger Leach
NAME(S) OF SIGNER(S)

personally known to me - **OR** - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Zona L. Neubert
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER

TITLE(S)

- PARTNER(S) LIMITED
- GENERAL

- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

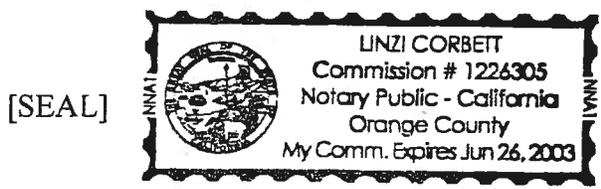
SIGNER(S) OTHER THAN NAMED ABOVE

ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF ORANGE

On this 21 day of Dec in the year 1999 before me, Linzi Corbett
personally appeared Roger Davilla, personally known to me (or proved to me on
the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the
within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~
authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or
the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

Given under my hand and official seal this 21 day of Dec, 1999



Linzi Corbett
Notary Public

My Commission Expires:
6/26/2003

STATE OF CALIFORNIA)
)ss
COUNTY OF CONTRA COSTA)

On July 31, 2000, before me, LINDA L. THOMAS, a Notary Public in and for the State, personally appeared ROSEMARY M. CORBIN, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacities, and that her signature on the instrument the persons, or the entity upon behalf of which the person acted, executed the same.

Witness my hand and official seal.



Linda L. Thomas

LINDA L. THOMAS
Notary Public

[attached to Density Bonus Agreement between City of Richmond and Hilltop Group, L.P., dated September 20, 1999. Ms. Corbin executed as Mayor of the City of Richmond.]

Exhibit A

4. The land referred to in this Commitment is described as follows:

REAL PROPERTY in the City of Richmond, County of **Contra Costa**, State of California, described as follows:

Parcel L-3 and a portion of Parcels L and L-1 as shown on the Parcel Map MS 770-80, filed March 25, 1982, in Book 100 of Parcel Maps, at Page 16, Contra Costa County Records, described as follows:

Beginning at a point in the westerly line of Lakeside Drive which bears South 29° 39' 56" West, 27.00 feet from the City of Richmond Standard Street Monument in Lakeside Drive at the South end of the Course "N 38° 30' 04" West, 226.86 feet, M-M", as said Monument and Course are shown on Parcel Map MS 770-80, recorded March 25, 1982 in Book 100 of Parcel Maps, at Page 16, Contra Costa County Records.

Running thence along the westerly line of Lakeside Drive, along the arc of a curve to the right, the Center of which bears South 29° 39' 56" West, 37.00 feet, through a central angle of 62° 05' 24", an arc distance of 40.10 feet; thence along the arc of a tangent curve to the left, the radius of which is 57 feet, through a central angle of 174° 46' 20", an arc distance of 173.87 feet; thence, leaving said westerly line of Lakeside Drive and running easterly along the arc of a curve to the left, the center of which bears North 05° 32' 53" East, 332.00 feet, through a central angle of 7° 09' 47", an arc distance of 41.51 feet to the easterly corner of Lot L-3; thence South 35° 50' 12" East, 210.26 feet to the northerly line of Hilltop Mall Road; thence westerly along said northerly line South 60° 00' 00" West, 117.12 feet; thence along the arc of a tangent curve to the left, the radius of which is 782 feet, through a central angle of 19° 37' 38", an arc distance of 267.88 feet; thence leaving said northerly line and proceeding westerly along the arc of a tangent curve to the right, the radius of which is 40 feet, through a central angle of 84° 20' 42", an arc distance of 58.88 feet to the northerly line of Hillview Drive; thence along said northerly line, tangent to the preceding course, North 55° 16' 56" West, 32.20 feet; thence westerly along the arc of a tangent curve to the left, the radius of which is 841 feet, through a central angle of 19° 00' 00", an arc distance of 278.89 feet; thence, tangent to the preceding course, North 74° 16' 56" West, 50.13 feet; thence, leaving said northerly line and proceeding along the arc of a tangent curve to the right, the radius of which is 40 feet, through a central angle of 90° 00' 00", an arc distance of 62.83 feet to the easterly line of Hilltop Drive; thence, along said easterly line, tangent to the preceding course, North 15° 43' 04" East, 2.26 feet; thence, along the arc of a tangent curve to the left, the radius of which is 1,051 feet, through a central angle of 19° 03' 17", an arc distance of 349.53 feet; thence, leaving said easterly line and running North 73° 19' 56" East, 243.51 feet to the westerly line of Lakeside Drive; thence, along said westerly line, southeasterly along the arc of a curve to the left, the center of which bears North 68° 36' 36" East, 332.00 feet, through a central angle of 38° 56' 40", an arc distance of 225.66 feet, to the point of beginning.

Said Parcel is also shown on the Lot line adjustment, Resolution No. 86-6, recorded December 5, 1986, Series No. 86-219963, Official Records.

EXCEPTING THEREFROM:

"Excepting and reserving to Grantor, its successors and assigns all oil, gas and other hydrocarbons, geothermal resources as defined in Section 6903 of the California Public Resources Code and all other minerals, whether similar to those herein specified or not, within or that may be produced from the property and the adjoining streets, roads and highways; provided, however that all rights and interest in the surface of the property are hereby conveyed to Grantee, no right or interest of any kind therein, express or implied, being excepted or reserved to Grantor except as hereinafter expressly set forth, and provided further that Grantor shall not, in exercising such rights, do anything which will damage the surface of the property or any structures thereon, and shall not conduct any drilling or other operations of any kind in the five hundred (500) feet below the surface of the property.

Also excepting and reserving to Grantor, its successors and assigns, the sole and exclusive right from time to time to drill and maintain wells and supporting works into or through the property and the adjoining streets, roads and highways below a depth of five hundred (500) feet and to produce, inject, store and remove from and through such wells or works, oil, gas, water and other substances of whatever nature, including the right to perform below said depth any and all operations deemed by Grantor necessary or convenient for the exercise of such" as rights reserved in the Deed from Standard Oil Company of California, recorded November 12, 1973, Book 7089, Page 131, Official Records.

A.P.Nos.: 405-373-008 and 022

Attachment A

CITY OF RICHMOND, CALIFORNIA

AFFIRMATIVE MARKETING POLICIES AND PROCEDURES**Statement of Policy:**

In accordance with HOME regulations (Section 92.351 (b)) and in furtherance of the City of Richmond's commitment to non-discrimination and equal opportunity in housing, the City of Richmond has established procedures to affirmatively market units rehabilitated and constructed under the HOME program. These procedures are similar to previous HUD approved policies and procedures for the City's Rental Rehabilitation Program.

The City of Richmond is committed to the goals of affirmative marketing which will be implemented in the HOME Program through a specific set of steps that the City and participating owners and community housing development organizations (CHDOs) will follow. These goals will be reached through the following procedures:

Informing the public, potential tenants, and owners about Federal fair housing laws and affirmative marketing policies;

Through its Redevelopment Agency/Housing & Community Development Division, the City of Richmond will inform the public, potential tenants and homeowners, and property owners about this policy and fair housing laws.

The City of Richmond's Redevelopment Agency in cooperation with participating CHDOs will:

inform the general public by:

placing a public notice in the West County Times and the Oakland Tribune

inform potential tenants by:

providing informational flyers about the rehabilitation programs to tenants in buildings scheduled for rehabilitation

inform potential homeowners by:

distributing informational flyers about first-time homebuyer opportunities through neighborhood councils, churches, private industry council office, Contra Costa County Legal Services Foundation, participating non profit and CHDOs and public service announcements and news articles on home-ownership opportunities

inform owners by:

mailing letters to property owners who will participate in the program

Requirements for owners and community housing development organizations to inform the general renter public and first-time homebuyers about available rehabilitated and newly constructed units;

It is the City of Richmond's policy to require substantial steps by project owners (including CHDOs) to carry out affirmative marketing. Owners should provide for costs associated with these requirements in their planned operating costs and City's subsidy decisions, which by necessity will take these costs into account. Owners of small projects, with limited management staff, may seek waivers of these requirements on a case by case basis from the City. The City will carry out the following requirements when waivers are given:

If it is feasible to advertise in advance of selecting a tenant, without holding units off the market, participating property owners will be required to make information on the availability of units known through:

the placement of flyers describing the availability of units in the offices of the Department of Housing and Community Development;

advertisements in the West County Times (applies only to projects of five or more units);

notifying the Richmond Housing Authority, requesting that staff inform applicants on its waiting list about upcoming vacancies.

The City will emphasize to owners that to the extent feasible without holding units off the market, they make information about upcoming vacancies to the general public after special outreach efforts are underway.

Special Outreach

To inform and solicit applications from persons in the housing market area who are not likely to apply for units without special outreach, the City of Richmond has established methods which property owners (including CHDOs) must use in order to reach this objective.

Owners should contact the Richmond Housing Authority which will inform applicants on its waiting list about the available vacancies.

Owners should contact the Redevelopment Agency which will, in turn, will inform potential applicants of agencies who can inform them of available vacancies.

Owners should contact community organizations such as neighborhood councils, churches, fair housing groups, churches and appropriate local organizations to advise of the availability of units and homeownership opportunities for first-time homebuyers.

The City will require that owners begin their special outreach activities immediately upon learning that a vacancy will occur. Owners of rental property have been asked to request a 30-day notification from tenants intending to move so that special outreach to Blacks, Hispanics and Vietnamese can begin before notification to the general public. While owners may not always have early notice from tenants, we hope the 30-day period will be the norm.

Recordkeeping

The City of Richmond will require that owners (including CHDOs) keep records on:

1. the racial, ethnic, and gender characteristics of tenants and applicants;
2. activities undertaken to inform the general renter and first-time homebuyer public; specifically
 - a. copies of advertisements placed in the West County Times
 - b. copies of flyers or other printed informational material used to announce rental or first-time homeownership opportunities
 - c. dates on which the owner contacted the Redevelopment Agency Housing and Community Development Division
 - d. dates on which the owner contacted the Richmond Housing Authority
3. activities to be undertaken for special outreach.

Assessment and Corrective Action

The affirmative marketing efforts of property owners will be assessed by the Department of Community Development as follows.

To determine if good faith efforts have been made:

Examine records we have required owners to maintain on action they have taken and compare them with the actions they were required to take. If we find that the required actions have been carried out as specified, we will assume that the owners have made good faith efforts to carry out these procedures.

To determine results:

Assess property owners's affirmative marketing efforts in relation to whether or not persons from the variety of racial and ethnic groups in the Richmond area have, in fact, applied for and/or become tenants in the rehabilitated units. If we find they have, we will assume that owners have carried out procedures two and three effectively;

EXHIBIT C

Tax Credit Allocation Committee Compliance Section 10337

- (c) Compliance monitoring procedure. As required by Section 42(m), allocating agencies are to follow a compliance monitoring procedure to monitor all Credit projects for compliance with provisions of Section 42. The procedure does not address documents, forms and other records that may be required of the project owner by the IRS. Compliance with Section 42 is the sole responsibility of the owner of the building for which the Credit is allowable. The Committee's obligation to monitor projects for compliance with the requirements of Section 42 does not place liability on the Committee for any owner's noncompliance, nor does it relieve the owner of its responsibility to comply with Section 42. The Committee's compliance monitoring procedure is based upon current regulations issued by the IRS effective June 30, 1993, as follows:
- (1) Record keeping. The owner of a Credit project is required to retain records for each qualified low income building in the project for each year in the compliance period showing: the total number of residential rental units in the building (including the number of bedrooms, and unit size in square feet); the percentage of residential rental units in the building that are low-income units; the rent charged for each unit (including utility allowance); the number of household members in each unit; notation of any vacant units; move-in dates for all units; tenant's (i.e., household) income; documentation to support each household's income certification; the eligible basis and qualified basis of the building at the end of the first year of the Credit period; and, the character and use of any nonresidential portion of the building included in the building's eligible basis.
 - (2) Record Retention. For each qualified low-income building in the project, and for each year of the compliance period, owners and the Committee are required to retain records of the information described above in "record keeping requirements."
 - (A) Owners shall retain documents according to the following schedule:
 - (i) for at least six years following the due date (with extensions) for filing the federal income tax return for that year (for each year except the first year of the Credit period) and,
 - (ii) for the first year of the Credit period, at least six years following the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.
 - (B) The Committee shall retain records of noncompliance, or failure to certify, for at least six years beyond the Committee's filing of the respective IRS noncompliance Form 8823. Should the Committee require submission of copies of tenant certifications and records, it shall retain them for three years from the end of the calendar year it receives them. Should it instead review tenant files at the management office of the subject project, it shall retain its review notes and any other pertinent information for the same three-year period. The Committee shall retain all other project documentation for the same three-year period.
 - (3) Certification requirements. Under penalty of perjury, a Credit project owner is required to annually, during each year of the compliance period, meet the certification requirements of U.S. Treasury Regulations 26 CFR 1.42-5(c), in addition to the following requirements:
 - (A) the project met all terms and conditions recorded in its Regulatory Agreement, if applicable;

- (B) the applicable fraction (as defined in IRC Section 42(c)(1)(B) met all requirements of the Credit allocation as specified on IRS Form(s) 8609 (Low-Income Housing Credit Allocation Certification);
 - (C) no change in ownership of the project has occurred during the reporting period;
 - (D) the project has not been notified by the IRS that it is no longer a "qualified low-income housing project" within the meaning of Section 42 of the IRC;
 - (E) no additional tax-exempt bond funds or other Federal grants or loans with interest rates below the applicable federal rate have been used in the Project since it was placed in service; and,
 - (F) report the number of units that were occupied by Credit eligible households during the reporting period.
- (4) Status report, file and site inspection. Pursuant to current IRS regulations, the Committee, or its designee, shall annually perform tenant file inspections on a minimum of twenty percent (20%) of all occupied projects, and shall review and inspect the annual income certification and supporting documentation, rent records, utility allowance documentation and any other information, of at least twenty percent (20%) of the units in said projects. Each year the Committee shall select projects for which site inspections will be conducted. The projects shall be selected using guidelines established by the Executive Director for such purpose. Advance notice shall not be given of the Committee's selection process, or of which tenant records will be inspected at selected projects; however, an owner shall be given reasonable notice prior to a project inspection.
- (A) A Notice of Intent to Conduct Compliance Inspection and a Project Status Report (PSR) form will be delivered to the project owner within a reasonable period before an inspection is scheduled to occur. The completed PSR form shall be submitted to the Committee by the owner prior to the compliance inspection. The Committee will review the information submitted on the PSR for compliance with income, rent and other requirements prior to performing the tenant file inspection.
 - (B) In addition, each project undergoing a file inspection may be subject to a physical inspection to assure compliance with codes and for habitability. Unit inspections shall not be performed unless deferred maintenance of the project common areas suggests that units may not be fit for occupancy. Owners shall be notified of the inspection results.
 - (C) The Committee may perform its status report, file inspection procedures and physical inspection on Credit projects even if other governmental agencies also monitor those projects. The Committee's reliance on other review findings may alter the extent of the review, solely at the Committee's discretion and as allowed by IRS regulations. The Committee may rely on reports of site visits prepared by lenders or other governmental agencies, at its sole discretion. The Committee shall, whenever possible, coordinate its procedures with those of other agencies, lenders and investors.
 - (D) Should IRS compliance monitoring regulations change and impose additional responsibilities on the Committee, the Committee shall follow such regulations without being first required to change this section. The Committee shall, however, notify all project owners in a timely manner of any such requirements that may be imposed by the IRS.

- (5) Notification of noncompliance. The Committee shall notify owners in writing if the owner is required to submit documents/information related to the inspection of tenant files. If the Committee does not receive the information requested, is not permitted or otherwise is unable to inspect and review project files, or discovers noncompliance with Section 42 as a result of its review, the owner shall be notified in writing before any notice is sent to the IRS.
- (6) Correction period. It is the intention of the Committee that owners be given every reasonable opportunity to correct any noncompliance. Owners shall be allowed an opportunity to supply missing tenant file documents or to correct other noncompliance within a correction period no longer than ninety (90) days from the date of written notice by the Committee to the owner. With good cause, the Committee may grant up to a six-month extension of the correction period upon receipt of a written justification from the owner.
- (7) IRS and FTB notification. All instances of noncompliance, whether corrected or not, shall be reported by the Committee to the IRS. This shall be done within forty-five (45) days following the termination of a correction period allowed by the Committee, pertaining to IRS Form 8823.

END OF DOCUMENT

**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.

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				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				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	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)			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			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									142			Richmond Housing Authority	Richmond Housing Authority
16	Nystrom Village	222 Marina Way South, Richmond, CA 94804	1920									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	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			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)			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	10	8/31/2027							10			Rubicon Programs Incorporated	Rubicon Programs Incorporated
21	St Johns Apartments	121 W Macdonald Ave, Richmond, CA 94801	1990			155		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			75						98	2069	Regulatory Agreement and Declaration of Restrictive Covenants (12/22/15)	Richmond Housing Authority	Richmond Housing Authority

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
23	Trinity Plaza Senior Apartments (formerly MacDonald 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)
24	VUE @ 3600 (formerly Summit at Hilltop) 3600 Sierra Ridge Road	1990	405-490-013								24	24		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		3,342				

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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**Heritage Park at Hilltop
2016 - 2017 Annual Monitoring Report
Report Period: July 1, 2016 - June 30, 2017
For: City of Richmond - Community Redevelopment Agency/Housing Division**

Tenant Paid Rent	Rental Assistance (All RBSI)	UA	Gross Rent	Maximum Allowed Gross Rent	Date of Move-In	Current Income	Last Certification
\$217	\$1,228	\$39	\$256	\$1,174	03/09/15	\$10,989	9/1/16
\$1,356		\$52	\$1,408	\$1,408	04/09/10	\$23,805	4/1/17
\$1,356		\$52	\$1,408	\$1,408	05/06/00	\$39,403	5/1/17
\$215	\$1,230	\$39	\$254	\$1,174	11/27/12	\$10,987	11/1/16
\$580	\$865	\$39	\$619	\$1,174	04/01/06	\$28,764	4/1/17
\$254	\$1,173	\$39	\$293	\$1,174	07/01/13	\$13,180	7/1/16
\$1,130		\$39	\$1,169	\$1,174	08/01/12	\$18,756	8/1/16
\$359	\$1,138	\$39	\$398	\$1,174	12/01/16	\$14,812	
\$347	\$783	\$39	\$386	\$1,174	09/03/14	\$16,031	9/1/16
\$217	\$1,228	\$39	\$256	\$1,174	02/19/14	\$10,922	2/1/17
\$202	\$928	\$39	\$241	\$1,174	08/12/08	\$11,164	8/1/16
\$220	\$1,225	\$52	\$272	\$1,408	09/07/05	\$5,167	9/1/16
\$326	\$1,122	\$39	\$365	\$1,174	06/07/16	\$15,238	6/1/17
\$1,130		\$39	\$1,169	\$1,174	05/11/00	\$40,663	5/1/17
\$263	\$1,234	\$39	\$302	\$1,174	06/02/06	\$8,825	6/1/17
\$1,356		\$52	\$1,408	\$1,408	10/18/07	\$32,928	10/1/16
\$1,356		\$52	\$1,408	\$1,408	05/27/14	\$30,692	5/1/17
\$1,130		\$39	\$1,169	\$1,174	04/04/08	\$18,790	4/1/17
\$252	\$1,193	\$39	\$291	\$1,174	03/07/16	\$12,084	3/1/17
\$219	\$1,226	\$39	\$258	\$1,174	10/27/00	\$10,630	10/1/16
\$260	\$1,185	\$39	\$299	\$1,174	12/18/04	\$12,900	12/1/16
\$466	\$1,031	\$39	\$505	\$1,174	07/13/16	\$19,044	
\$242	\$1,203	\$39	\$281	\$1,174	05/03/13	\$12,019	5/1/17
\$1,130		\$39	\$1,169	\$1,174	03/01/08	\$24,469	3/1/17
\$1,130		\$39	\$1,169	\$1,174	10/01/09	\$55,204	10/1/16
\$195	\$1,605	\$52	\$247	\$1,408	03/12/09	\$10,740	3/1/17
\$1,130		\$39	\$1,169	\$1,174	10/01/02	\$30,423	10/1/16
\$291	\$1,154	\$39	\$330	\$1,174	12/03/12	\$13,968	11/1/16
\$1,130		\$39	\$1,169	\$1,174	09/17/10	\$18,548	9/1/16
\$201	\$1,599	\$52	\$253	\$1,408	10/01/10	\$10,617	10/1/16
\$1,130		\$39	\$1,169	\$1,174	04/01/11	\$13,281	4/1/17
\$1,130		\$39	\$1,169	\$1,174	08/18/05	\$33,496	8/1/16
\$160	\$1,285	\$39	\$199	\$1,174	12/27/11	\$8,843	12/1/16
\$1,130		\$39	\$1,169	\$1,174	04/01/13	\$21,457	4/1/17
\$1,130		\$39	\$1,169	\$1,174	04/09/14	\$68,709	4/1/17
\$1,130		\$39	\$1,169	\$1,174	01/10/14	\$29,774	1/1/17
\$1,130		\$39	\$1,169	\$1,174	11/03/09	\$42,726	11/1/16
\$193	\$1,252	\$39	\$232	\$1,174	01/10/03	\$10,078	1/1/17
\$1,356		\$52	\$1,408	\$1,408	06/25/12	\$16,011	6/1/17
\$1,130	\$0	\$39	\$1,169	\$1,174	11/07/16	\$28,522	10/1/16
\$1,130		\$39	\$1,169	\$1,174	06/23/06	\$42,000	6/1/17
\$248	\$1,197	\$39	\$287	\$1,174	05/21/09	\$12,045	5/1/17
\$481	\$964	\$39	\$520	\$1,174	05/25/00	\$16,928	5/1/17
\$1,130		\$39	\$1,169	\$1,174	11/27/13	\$36,279	11/1/16
\$217	\$1,228	\$39	\$256	\$1,174	05/18/01	\$10,981	5/1/17
\$1,356		\$52	\$1,408	\$1,408	02/02/12	\$28,497	2/1/17
\$367	\$1,078	\$39	\$406	\$1,174	04/01/16	\$9,121	4/1/17
\$209	\$1,236	\$39	\$248	\$1,174	12/06/11	\$10,732	12/1/16

**ITEM H-2
ATTACHMENT 4**

Tenant Paid Rent	Rental Assistance (All RBSI)	UA	Gross Rent	Maximum Allowed Gross Rent	Date of Move-In	Current Income	Last Certification
\$574	\$871	\$39	\$613	\$1,174	05/20/01	\$26,138	5/1/17
\$1,130		\$39	\$1,169	\$1,174	05/02/12	\$23,219	5/1/17
\$1,130		\$39	\$1,169	\$1,174	05/31/13	\$34,633	5/1/17
\$1,130		\$39	\$1,169	\$1,174	09/26/16	\$38,464	
\$318	\$1,127	\$52	\$370	\$1,408	10/01/05	\$14,608	10/1/16
\$1,130		\$39	\$1,169	\$1,174	10/14/13	\$20,399	10/1/16
\$436	\$1,014	\$39	\$475	\$1,174	06/08/00	\$20,699	6/1/17
\$1,130		\$39	\$1,169	\$1,174	06/21/10	\$36,053	6/1/17
\$265	\$1,232	\$39	\$304	\$1,174	06/14/17	\$10,999	
\$353	\$1,092	\$39	\$392	\$1,174	11/03/08	\$19,440	11/1/16
\$768	\$729	\$39	\$807	\$1,174	03/31/17	\$33,931	
\$1,356		\$52	\$1,408	\$1,408	12/01/09	\$40,859	12/1/16
\$542	\$903	\$39	\$581	\$1,174	04/11/13	\$25,770	4/1/17
\$1,130		\$39	\$1,169	\$1,174	07/20/12	\$30,902	7/1/16
\$1,356		\$52	\$1,408	\$1,408	11/04/08	\$51,027	11/1/16
\$1,130		\$39	\$1,169	\$1,174	08/01/13	\$35,688	8/1/16
\$1,356		\$52	\$1,408	\$1,408	07/24/13	\$71,227	5/1/17
\$1,356		\$52	\$1,408	\$1,408	04/16/10	\$32,013	4/1/17
\$1,130		\$39	\$1,169	\$1,174	05/06/06	\$18,895	6/1/17
\$340	\$1,105	\$39	\$379	\$1,174	11/26/02	\$20,940	11/1/16
\$10	\$1,435	\$39	\$49	\$1,174	05/22/15	\$0	6/1/17
\$816	\$936	\$52	\$868	\$1,408	05/25/00	\$24,387	5/1/17
\$242	\$888	\$39	\$281	\$1,174	07/10/15	\$12,719	7/1/16
\$1,356		\$52	\$1,408	\$1,408	02/12/16	\$36,674	2/1/17
\$355	\$1,445	\$52	\$407	\$1,408	04/30/14	\$15,848	4/1/17
\$300	\$1,197	\$39	\$339	\$1,174	04/24/17	\$12,396	
\$1,130	\$908	\$39	\$1,169	\$1,174	11/23/16	\$33,857	
\$1,130		\$39	\$1,169	\$1,174	10/15/07	\$18,201	10/1/16
\$699	\$431	\$39	\$738	\$1,174	08/09/03	\$20,532	8/1/16
\$873	\$927	\$52	\$925	\$1,408	04/20/16	\$37,956	4/1/17
\$569	\$876	\$39	\$608	\$1,174	01/15/08	\$25,482	1/1/17
\$391	\$1,409	\$52	\$443	\$1,408	10/16/09	\$19,959	10/1/16
\$815	\$630	\$39	\$854	\$1,174	05/20/15	\$34,812	5/1/17
\$1,356		\$52	\$1,408	\$1,408	10/03/16	\$34,824	
\$1,356		\$52	\$1,408	\$1,408	04/05/12	\$21,716	4/1/17
\$1,130		\$39	\$1,169	\$1,174	06/20/17	\$29,232	
\$283	\$1,162	\$39	\$322	\$1,174	09/16/13	\$13,466	9/1/16
\$753	\$744	\$39	\$792	\$1,174	02/01/06	\$33,136	2/1/17
\$1,356		\$52	\$1,408	\$1,408	05/06/06	\$34,797	5/1/17
\$447	\$683	\$39	\$486	\$1,174	08/01/02	\$19,050	8/1/16
\$639	\$806	\$39	\$678	\$1,174	11/25/15	\$28,685	11/1/16
\$215	\$1,230	\$39	\$254	\$1,174	11/19/05	\$10,952	11/1/16
\$1,130		\$39	\$1,169	\$1,174	04/24/13	\$49,868	4/1/17
\$1,356		\$52	\$1,408	\$1,408	07/01/05	\$22,932	7/1/16
\$1,130		\$39	\$1,169	\$1,174	02/18/10	\$32,679	2/1/17
\$269	\$1,228	\$39	\$308	\$1,174	03/24/17	\$10,749	
\$345	\$1,155	\$0	\$345	\$1,174	11/18/16	\$15,752	
\$1,130		\$39	\$1,169	\$1,174	03/22/13	\$24,754	3/1/17
\$746	\$751	\$39	\$785	\$1,174	02/22/17	\$30,788	
\$644	\$801	\$39	\$683	\$1,174	04/04/13	\$30,972	4/1/17
\$217	\$1,228	\$39	\$256	\$1,174	03/16/09	\$10,405	3/1/17
\$1,356		\$52	\$1,408	\$1,408	04/14/17	\$35,831	
\$213	\$1,232	\$39	\$252	\$1,174	10/18/13	\$10,708	10/1/16

**ITEM H-2
ATTACHMENT 4**

Tenant Paid Rent	Rental Assistance (All RBSI)	UA	Gross Rent	Maximum Allowed Gross Rent	Date of Move-In	Current Income	Last Certification
\$263	\$867	\$39	\$302	\$1,174	07/31/14	\$12,665	7/1/16
\$217	\$1,228	\$39	\$256	\$1,174	08/13/12	\$10,922	8/1/16
\$226	\$1,219	\$39	\$265	\$1,174	11/01/02	\$11,174	11/1/16
\$714	\$731	\$39	\$753	\$1,174	01/26/01	\$30,849	1/1/17
\$1,130		\$39	\$1,169	\$1,174	10/26/06	\$15,360	10/1/16
\$213	\$1,232	\$39	\$252	\$1,174	11/01/10	\$11,115	9/1/16
\$1,356		\$52	\$1,408	\$1,408	07/01/02	\$33,933	7/1/16
\$215	\$1,282	\$39	\$254	\$1,174	12/19/16	\$9,007	
\$498	\$947	\$39	\$537	\$1,174	04/12/13	\$18,768	4/1/17
\$223	\$1,222	\$39	\$262	\$1,174	01/11/13	\$10,703	1/1/17
\$1,130		\$39	\$1,169	\$1,174	11/23/15	\$39,186	11/1/16
\$1,130		\$39	\$1,169	\$1,174	04/26/13	\$22,668	4/1/17
\$1,130		\$39	\$1,169	\$1,174	02/07/12	\$29,876	2/1/17
\$484	\$888	\$39	\$523	\$1,174	04/27/00	\$12,696	4/1/17
\$1,130		\$39	\$1,169	\$1,174	04/06/01	\$53,000	4/1/17
\$1,130		\$39	\$1,169	\$1,174	12/30/13	\$35,112	12/1/16
\$1,130		\$39	\$1,169	\$1,174	01/29/10	\$22,485	1/1/17
\$1,130		\$39	\$1,169	\$1,174	12/06/13	\$18,712	12/1/16
\$1,130		\$39	\$1,169	\$1,174	08/13/09	\$39,000	8/1/16
\$1,130		\$39	\$1,169	\$1,174	04/29/05	\$22,242	4/1/17
\$288	\$1,209	\$39	\$327	\$1,174	04/07/17	\$32,364	
\$440	\$1,005	\$39	\$479	\$1,174	08/16/05	\$28,526	8/1/16
\$217	\$913	\$39	\$256	\$1,174	01/11/16	\$10,749	1/1/17
\$1,130		\$39	\$1,169	\$1,174	04/15/16	\$30,177	4/1/17
\$1,130		\$39	\$1,169	\$1,174	11/15/13	\$20,465	11/1/16
\$211	\$1,234	\$39	\$250	\$1,174	05/09/16	\$10,749	5/1/17
\$217	\$1,228	\$39	\$256	\$1,174	04/04/16	\$10,989	4/1/17
\$1,130		\$39	\$1,169	\$1,174	05/28/10	\$34,588	5/1/17
\$1,130		\$39	\$1,169	\$1,174	03/06/17	\$29,033	
\$470	\$975	\$39	\$509	\$1,174	02/13/08	\$21,905	2/1/17
\$1,130		\$39	\$1,169	\$1,174	04/17/13	\$27,125	4/1/17
\$1,130		\$39	\$1,169	\$1,174	05/01/06	\$20,766	5/1/17
\$380	\$1,065	\$39	\$419	\$1,174	05/08/15	\$19,144	5/1/17
\$1,130		\$39	\$1,169	\$1,174	07/01/11	\$21,096	7/1/16
\$264	\$1,181	\$39	\$303	\$1,174	09/17/10	\$12,697	9/1/16
\$1,130		\$39	\$1,169	\$1,174	09/28/01	\$24,996	9/1/16
\$447	\$998	\$39	\$486	\$1,174	04/26/00	\$23,256	4/1/17
\$1,130		\$39	\$1,169	\$1,174	06/10/00	\$29,184	6/1/17
\$323	\$1,122	\$39	\$362	\$1,174	04/27/04	\$16,794	4/1/17
\$1,130		\$39	\$1,169	\$1,174	08/23/12	\$21,055	8/1/16
\$1,130		\$39	\$1,169	\$1,174	07/29/11	\$40,165	7/1/16
\$261	\$1,184	\$39	\$300	\$1,174	01/06/05	\$12,659	1/1/17
\$211	\$1,237	\$39	\$250	\$1,174	06/11/14	\$10,949	6/1/17
\$305	\$1,140	\$39	\$344	\$1,174	05/21/09	\$14,517	5/1/17
\$1,130		\$39	\$1,169	\$1,174	07/12/13	\$31,503	7/1/16
\$1,130		\$39	\$1,169	\$1,174	06/25/07	\$27,472	6/1/17
\$1,130		\$39	\$1,169	\$1,174	05/01/01	\$17,137	5/1/17
\$213	\$1,232	\$39	\$252	\$1,174	09/15/08	\$10,708	9/1/16
\$392	\$1,053	\$39	\$431	\$1,174	11/20/09	\$8,160	11/1/16
\$685	\$760	\$39	\$724	\$1,174	05/02/00	\$27,513	5/1/17
\$1,130		\$39	\$1,169	\$1,174	05/21/09	\$22,219	5/1/17
\$252	\$1,641	\$52	\$304	\$1,408	07/24/09	\$20,360	7/1/16
\$203	\$1,597	\$52	\$255	\$1,408	04/01/04	\$9,646	4/1/17

**ITEM H-2
ATTACHMENT 4**

Tenant Paid Rent	Rental Assistance (All RBSI)	UA	Gross Rent	Maximum Allowed Gross Rent	Date of Move-In	Current Income	Last Certification
\$252	\$1,193	\$39	\$291	\$1,174	11/01/12	\$12,460	11/1/16
\$1,130	\$782	\$39	\$1,169	\$1,174	03/13/17	\$26,861	
\$344	\$1,101	\$39	\$383	\$1,174	12/01/15	\$16,424	12/1/16
\$1,130		\$39	\$1,169	\$1,174	09/08/15	\$27,385	9/1/16
\$200	\$1,245	\$39	\$239	\$1,174	05/04/00	\$11,163	5/1/17
\$142	\$1,303	\$39	\$181	\$1,174	11/21/14	\$34,944	11/1/16
\$1,130		\$39	\$1,169	\$1,174	12/16/10	\$21,381	12/1/16
\$1,356		\$52	\$1,408	\$1,408	11/30/12	\$42,447	11/1/16
\$1,130		\$39	\$1,169	\$1,174	03/07/14	\$40,114	3/1/17
\$1,356		\$52	\$1,408	\$1,408	03/28/11	\$18,000	2/1/17
\$364	\$1,081	\$39	\$403	\$1,174	10/01/02	\$12,729	10/1/16
\$1,356		\$52	\$1,408	\$1,408	02/04/16	\$39,340	2/1/17
\$314	\$1,131	\$52	\$366	\$1,408	11/18/05	\$14,886	11/1/16
\$84	\$1,361	\$39	\$123	\$1,174	12/16/03	\$5,520	12/1/16
\$386	\$1,063	\$39	\$425	\$1,174	06/12/00	\$18,419	6/1/17
\$517	\$928	\$39	\$556	\$1,174	10/19/00	\$21,590	10/1/16
\$1,130	\$661	\$39	\$1,169	\$1,174	10/07/03	\$18,176	10/1/16
\$1,130		\$39	\$1,169	\$1,174	07/30/07	\$22,274	7/1/16
\$219	\$1,226	\$39	\$258	\$1,174	09/13/12	\$11,147	9/1/16
\$200	\$1,220	\$39	\$239	\$1,174	09/19/06	\$10,673	9/1/16
\$1,130	\$1,220	\$52	\$1,182	\$1,408	07/21/08	\$24,328	7/1/16
\$1,356		\$39	\$1,395	\$1,174	06/30/14	\$31,824	7/1/16
\$219	\$1,226	\$52	\$271	\$1,408	09/27/04	\$10,960	9/1/16
\$1,356	\$911	\$39	\$1,395	\$1,174	03/04/05	\$42,750	3/1/17
\$1,356		\$52	\$1,408	\$1,408	02/05/13	\$19,500	2/1/17
\$1,130		\$52	\$1,182	\$1,408	06/22/00	\$17,662	6/1/17
\$1,130		\$39	\$1,169	\$1,174	01/27/17	\$38,448	
\$1,130	\$914	\$39	\$1,169	\$1,174	10/22/10	\$20,304	10/1/16
\$1,130		\$39	\$1,169	\$1,174	03/27/13	\$46,440	3/1/17
\$1,130		\$39	\$1,169	\$1,174	03/24/11	\$34,299	3/1/17
\$1,130		\$39	\$1,169	\$1,174	09/22/16	\$28,135	
\$484	\$961	\$39	\$523	\$1,174	02/15/08	\$12,679	2/1/17
\$501	\$1,299	\$39	\$540	\$1,174	08/28/03	\$22,513	8/1/16
\$542	\$903	\$52	\$594	\$1,408	10/20/11	\$23,198	10/1/16

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: May 16, 2018

Final Decision Date Deadline: May 16, 2018

STATEMENT OF THE ISSUE: Section 11.100.060 (l)(1) of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance ("Rent Ordinance") provides that "All Landlords shall pay a business license fee if required by the Richmond Municipal Code plus a Residential Rental Housing Fee." The Rent Program budget is funded by the Rental Housing Fee. At the April 18, 2018 Regular Meeting, the Rent Board directed staff to draft a policy report regarding a possible pass-through of a portion of the Rental Housing Fee to Tenants. To that end, the Executive Director has prepared a policy report 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

- 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: RECEIVE a memo from the Executive Director regarding the adoption of a policy permitting a partial pass through of the Rental Housing Fee to be paid by Tenants over a 12-month period and PROVIDE direction to staff – Rent Program (Nicolas Traylor 620-6564).

AGENDA ITEM NO:

H-3.

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AGENDA REPORT

DATE: May 16, 2018

TO: Chair Gray and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director

SUBJECT: POLICY CONSIDERATIONS FOR A RENTAL HOUSING FEE PASS-THROUGH

STATEMENT OF THE ISSUE:

Section 11.100.060 (l)(1) of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (“Rent Ordinance”) provides that “All Landlords shall pay a business license fee if required by the Richmond Municipal Code plus a Residential Rental Housing Fee.” The Rent Program budget is funded by the Rental Housing Fee. At the April 18, 2018 Regular Meeting, the Rent Board directed staff to draft a policy report regarding a possible pass-through of a portion of the Rental Housing Fee to Tenants. To that end, the Executive Director has prepared a policy report for the Board’s consideration.

RECOMMENDED ACTION:

RECEIVE a memo from the Executive Director regarding the adoption of a policy permitting a partial pass through of the Rental Housing Fee to be paid by Tenants over a 12-month period and PROVIDE direction to staff – Rent Program (Nicolas Traylor 620-6564).

FISCAL IMPACT:

The tasks associated with implementing a partial pass-through of the Residential Housing Fee (hereinafter, “Fee”) would likely increase overall program expenditures. The estimated cost to administer a pass-through of the Fee is expected to be at least 0.25 full time employee (FTE) in a counseling position. Based on a salary of a Rent Program Services Analyst, 0.25FTE would amount to a \$32,000 increase in salary and benefit costs. This \$32,000 cost estimate is based on the costs associated with reviewing and processing pass-through notices, addressing eligibility disputes, handling petitions based on unauthorized fees/charges, and assisting tenants who may have received a notice of termination of tenancy resulting from non-payment of the pass-through Fee. Such an increase would need to be offset by either an increase in the Fee

of ~\$4/unit or a reduction in other key agency activities, namely compliance, outreach, and rent registration. Reducing resources for outreach and rent registration would negatively impact overall compliance with both the Rent Ordinance itself as well as collection of the Fee.

DISCUSSION:

Background

Most rent stabilization programs cover their operating costs by charging an annual per-unit fee to landlords covered by the program. The Fee proposed for the City of Richmond for the 2018 – 2019 Fiscal Year is \$207 for fully covered units which equates to \$17.25 a month. If a pass-through policy is adopted it would only apply to fully covered units, since Landlords of partially covered units could presumably increase the rent to cover the cost of the Fee. Some cities allow landlords to charge the tenant part of this fee, typically half, in addition to the allowable rent ceiling. This agenda report will examine the policy arguments in favor of and against establishing such a pass-through policy.

Fee Pass-Through Policy Considerations

1. Arguments Against Pass-Through

A Pass-Through of the Fee would likely increase staff costs potentially leading to an increase in the Rental Housing Fee (and the amount that is passed on to Tenants)

Implementing a pass-through policy would increase staff costs and therefore the Fee itself. The impact is two-fold. First, the increase in staff costs would likely increase the Fee in future years and would require shifting current budgeted resources away from integral activities, such as compliance/enforcement. Preliminary estimates suggest it will take between 0.25 FTE to 0.5 FTE to administer the pass-through. This would amount to an additional ~\$4 to \$8 in annual Fees per unit. Tenants would therefore also pay an additional amount if a portion of the Fee (e.g. 50%) were passed on to them.

Administering a pass-through would add complexity to counseling and lead to unnecessary disputes

Beyond the monetary and transactional costs associated with administering a pass-through of the Rental Housing Fee, a pass-through adds an additional layer of complexity to counseling, which would lead to an increase in a counselor's workload. An increase in workload would include, but would not be limited to the following: determining whether or not the pass-through of the Fee applies to a particular tenancy, counseling Landlords who mistakenly attempt to evict for non-payment of the Tenant's portion of the Fee, and counseling Tenants who receive notices of termination of tenancies for failing to pay

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their portion of the Fee. Some Landlords may also (unlawfully) deduct pass-through Fees not paid by the Tenants from the security deposit, leading to an increase in petitions to recover unlawfully held security deposits, or mistakenly include the pass-through Fee in the calculation of the Maximum Allowable Rent, resulting in increased counseling cases to resolve those miscalculations.

At this time any policy that diminishes resources targeted for compliance could negatively impact both Landlords and Tenants

Since the Rent Program has only collected 60% of the potential Fees to date, the top priority for the agency at this time is increasing compliance with the Fee. Implementing a pass-through policy at this time would diminish resources needed for compliance. Once the Rent Program has reached compliance rates comparable to established Rent Programs (90%-95% compliance rate) and fewer resources are needed for compliance, a pass-through may be a policy for the Rent Board to reconsider. Shifting resources away from compliance, outreach and rent registration, diminishes the Rent Program's ability to collect the Fees necessary to fund the Program, which could potentially increase the Fee in future years.

There are avenues in place for Landlords who are not receiving a Fair Return: An MNOI rent increase petition and other Landlord rent adjustment petitions

In the case of landlords who have unusually high costs (including the cost of the Rental Housing Fee), the Rent Program regulations enable landlords to apply for an Individual Rent Adjustment for Maintenance of Net Operating Income. If the fee of \$207 per unit per year contributes to an inability to maintain the same inflation-adjusted Net Operating Income (NOI) as the owner had in 2015, they will receive an increase in the Maximum Allowable Rent level sufficient to cover that cost as well as any other increased costs that result in a decrease in NOI. In the case of landlords who charged a rent significantly below market in the Base Year, the Rent Board may adopt regulations that enable these landlords to apply for an Individual Rent Adjustment that will adjust their Base Rent taking into consideration 2015 market rents for the affected units.

The Fee may be tax-deductible for Landlords

Expenses related to operating a residential rental business, such as the Rental Housing Fee, are typically tax deductible, which provides an additional means for offsetting the cost of the Fee. On the other hand, Tenants cannot deduct the pass-through of the Fee on their taxes.

Although there is a possibility that the Costa-Hawkins

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With vacancy decontrol in effect Landlords can recover Fees through vacancy rent increases

Rental Act will be repealed in November of this year, Landlords currently have the ability to reset rents to market following a voluntary vacancy or complete turnover of original occupants. This allows the Fee paid by the Landlord to be offset by a vacancy rent increase(s). If the Costa Hawkins Rental Act is repealed and the Rent Board decided to adopt "full rent control" or vacancy control, a pass-through of the Rental Housing Fee would arguably be more appropriate since Landlords would not be able to reset rents between tenancies.

Eviction related concerns: Unlawful attempts to evict due to non-payment of the Fee by the Tenant

Another concern is that some Tenants may be served a 3-day notice to pay rent or quit for not paying the Fee. While the Fee is not considered Rent (it is a surcharge) and is not part of the Maximum Allowable Rent level, some Landlords may not know this and may attempt to evict a Tenant for nonpayment of the Fee.

Landlords and Tenants could incur legal cost associated with attempts to evict for failure to pay the pass-through

Both Landlords and Tenants would likely incur financial burdens associated with litigating such non-payment cases. While some Tenants may receive legal assistance or representation, other Tenants may fail to access legal representation, and may be unable to navigate the complexities of the eviction process. For instance, some tenants may fail to timely respond to an unlawful detainer or respond to the unlawful detainer but miss their court dates, either of which would result in a default judgement and eviction.

Some Tenants may just move out rather than fight an eviction

Some Tenants, especially undocumented tenants may just vacate in fear of having to expose themselves by going to court.

Increased outreach to mitigate unlawful pass-through related eviction attempts add to Program costs

To address this situation, the Rent Program would need to engage in robust outreach and education for both Landlord and Tenants to help mitigate such unlawful attempts to evict due to non-payment of the pass-through Fee. This additional outreach would add to the costs of administering the pass-through, which as mentioned before either increases the budget and therefore the Rental Housing Fee or takes away resources from other key activities such as compliance.

Establishing a pass-through policy may lead to

Implementing the pass-through of Fees may lead to confusion concerning whether or not the Fee is part of the Maximum Allowable Rent level. The Maximum Allowable

miscalculations of the Maximum Allowable Rent which would increase the need to devote staff time and resources to resolving such disputes

Rent level is calculated by multiplying the base or initial rent by the Annual General Adjustment. The miscalculation of the Maximum Allowable Rent would occur if a Landlord included the pass-through Fee amount in the calculation of the Maximum Allowable Rent. For example, if the pass-through Fee were \$8 per month and a Tenant's Maximum Allowable Rent were \$1000, landlords might apply the Annual General Adjustment percentage (e.g. 3%) to \$1008 instead of to \$1000. This minor miscalculation could lead to an increased need for Program staff to assist tenants and landlords with correcting the calculation and resolving rent overcharges that resulted from the miscalculation. This would increase the need for counseling and mediation resources, and would likely lead to increased petitions and hearings. The impact would result in an increase in staff costs, which would need to be offset by an increase in the Fee or reduction in other key services.

As a "start-up," the Richmond Rent Program should not be devoting its limited organizational bandwidth to implementing a complex administrative task that is difficult to enforce

In Berkeley, where a limited pass-through policy for pre-1996 tenancies has been in place for many years and where robust outreach and education on their pass-through is done, Berkeley's housing counselors still devote a notable portion of their time dealing with the aftermath of, and correcting for MAR miscalculations. The Berkeley Rent Stabilization Program has been around for over 40 years and has a staff of over 20 FTE (and a budget of over \$5,000,000 annually). The Richmond Rent Program has half the budget and staff compared to Berkeley and is a start-up with compliance deficiencies one would expect a new rent control program to have. Additionally the Richmond Rent Program has many organizational programs to still under development (e.g. rent registration, compliance projects and the hearings program). Adding an additional administrative program that does not significantly increase levels of compliance but rather, increases staffing costs/burdens, is not advisable at this time and works against our primary mission.

An unenforceable pass-through policy may only lead to increased conflict between Landlords and Tenants

As a surcharge in addition to the rent, the Landlord is not entitled to evict for non-payment, so the Fee could be subject to resistance from some Tenants. One could easily imagine the lack of enforceability could lead to a rising the level of conflict between Landlords and Tenants, with the Rent Program in the middle of having to mediate or assist in resolving a problem that it helped create.

2. Arguments To Support A Limited Pass-Through

A pass-through of \$8.63 is presumably affordable to many Tenant households

All tenants benefit from the Rent Program and its services and presumably many would be able to afford to pay an additional \$8.63 a month. The charge will increase tenant awareness of the program and give tenants a stake in keeping program costs down. While the Rent Board could establish a policy exempting low-income Tenants from paying the pass-through, this could create a disincentive to renting to low-income Tenants. It is also important to note that the pass-through would likely not apply to Section 8 tenancies in accordance with HUD regulations. Additionally, although any increase in rent for a low-income tenant can lead to a financial strain, it is currently unknown whether an \$8-\$9 per monthly surcharge would actually lead to the kind of housing instability that could cause displacement or financial suffering.

A pass-through of the Fee is about fairness when it comes to funding the Rent Program since Tenants benefit significantly from rent controls and eviction protections

Another argument for allowing a limited pass-through is promoting fairness. The primary beneficiaries of rent controls and eviction protections are Tenants. Without rent controls and eviction protections, Tenants in Richmond were vulnerable to the upward swings in the market, which resulted in many experiencing rent shock and rent increases that far outweighed an \$8.63 increase in monthly expenses. An \$8.63 increase in monthly expenses for tenants is a small price to pay for the numerous important services provided by the Rent Program.

It is worth the cost of administering a pass-through because fairness in funding the Program only strengthens and protects the Rent Ordinance

Although it may potentially move resources away from other Program activities or cause the Fee to increase, the cost of administering the pass-through may be worth it. With time, the administrative cost associated with implementing the pass-through would be incorporated into the budget to share the cost of funding the Rent Program between Landlords and Tenants equally. This concept could insulate the agency from scrutiny and lead to more Landlord support for the Program.

Recommendation

While staff supports the concept of sharing the costs of the Rent Program between Landlords and Tenants, at this time administering a pass-through policy may not be in the interest of the Rent Program. The strongest argument against a pass-through at this particular time is that it would increase Program costs due to its complexity, thereby detracting from key Program activities, namely compliance and outreach, which during the startup period is the most important priority for the agency.

Agency priorities aside, there are additional compelling arguments against a pass-through. Those arguments include that Richmond Landlords currently operate under vacancy decontrol, which presumably provides adequate opportunities for Landlords to use vacancy/market rent increases to offset the Fee. Furthermore, Landlords who are not receiving a Fair Return can include payment of the Fee as an operating expense as a part of a Maintenance of Net Operating Income rent increase petition.

Additionally, the Fee may be tax-deductible, which provides Landlord another avenue for offsetting the cost of the Fee. Tenants would not be able to deduct a pass-through of the Fee from their taxes.

From an administrative perspective, establishing a pass-through policy would be complicated to administer, would add to Program costs and potentially drive up the Fee. As has happened in other jurisdictions that allow for a pass-through of the Fee, some Landlords will mistakenly calculate the pass-through surcharge as part of the Maximum Allowable Rent, resulting in Tenants being overcharged and leading to more staff resources (counseling, mediation, unnecessary excessive rent petitions being filed) being devoted to assist Landlords and Tenants with correcting miscalculations and or mediating rent overcharge refunds.

Staff recommends that the decision to implement a pass-through policy should be reconsidered in the future, if the following conditions apply:

- 1) If Costa-Hawkins or Vacancy Decontrol is repealed: This November, California voters may decide to repeal the Costa Hawkins Rental Act, which would allow the Richmond Rent Board to implement “full rent control” or vacancy control. If and when vacancy decontrol is prohibited and Landlords were unable to reset the rent to market between tenancies, a pass-through of the Rental Housing Fee should be brought back to the Board for serious reconsideration. Even if Costa Hawkins remains the law of the land, the Rent Board- could always reconsider a pass-through policy, when doing so would not detract from our fundamental need to achieve higher compliance with the Rental Housing Fee.
- 2) Once the Richmond Rent Program has achieved levels of compliance comparable to established rent control cities, a pass-through policy would not detract from our primary start-up goal of achieving compliance with the Rental Housing Fee.

Policy Recommendations If and When the Board Decides to Adopt A Pass Through of the Fee

Option 1: Allow a 50% pass-through of the Fee (\$8.63/month or \$9 if the Board elects to round the Fee to the nearest dollar) that applies only to tenancies that started on or before July 21, 2015 (where no vacancy rent increase has been taken since the implementation of rent control). The Board can institute a waiver of the pass-through for low-income Tenants. Under such a policy, once the landlord has had at least one vacancy rent increase post-July 21, 2015, the pass-through would no longer apply to that unit going forward (as it is likely that most vacancies would result in rent increases far exceeding the \$17.25 monthly cost of the Fee).

Concerns Regarding a Waiver of the Pass-Through for Low-income Tenants: The Board is advised to avoid any pass-through policy that requires income verification for low-income Tenants. Income verification is intrusive to Tenants and takes significant staff time, which would likely cost the program more than it would save Landlords and could result in driving up Fees still further. Additionally, exempting low-income Tenants from paying a portion of the Rental Housing Fee may create a disincentive to renting to low-income Tenants, which is contrary to Fair Housing Law.

Option 2: Allow a pass-through of approximately \$4 per month or 25% of the Fee. The Board could decide whether or not the pass-through would only be applicable to tenancies that started on or before July 21, 2015 or to tenancies that have started post July 21, 2015.

Under this proposal, 25% of the Fee would be passed on to the all rent controlled Tenants regardless of their income status. This would amount to approximately \$4.31/month. To keep the calculation simple, the Board would be advised to round down to \$4.00 per month. Because there would be no need to verify income, administering the pass-through would be less complicated to keep staff costs down.

The table on the following page contains a comparison of pass-through policies in comparable jurisdictions with actively-enforced rent programs.

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Table of Pass-Through of Registration Fees For Rent Control Programs Similar to Richmond's

Jurisdiction	Program Budget (FY 17-18)	APPLICABLE RENTAL UNITS	FY 2017-18 Fees (per unit)	monthly pass-through amount	Portion of fee passed through to tenants
ACTIVELY ENFORCED RENT PROGRAMS					
Berkeley	\$5,125,740	19,093	\$270.00	\$11.00/month	50% only to pre-1996 Tenants; City may reimburse low-income tenants
Santa Monica	\$5,181,693	27,542	\$198.00	\$8.25/month	50% Waiver for low-income Tenants
East Palo Alto	\$427,415	2,325	\$222.00	\$9.75/month	50%
PROPOSED Richmond OPTION 1	\$2,804,925	9,558 fully covered units; 10,460 partially covered units	\$207.00 for fully covered units; \$100 for partially covered units; \$50 for governmentally-subsidized units	OPPTION 1: \$8.63/month (\$9/month if Board decides to round up)	50% Waiver for low-income tenants
Proposed Richmond option 2	\$2,804,925	9,558 fully covered units; 10,460 partially covered units	\$207.00 for fully covered units; \$100 for partially covered units; \$50 for governmentally-subsidized units	OPPTION 2: \$4.31/month (\$4/month if the Board decides to round down)	25% Would apply to all rent controlled tenants regardless of income

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