

# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: June 20, 2018

Final Decision Date Deadline: June 20, 2018

**STATEMENT OF THE ISSUE:** In November 2017, the Rent Board adopted Regulation 17-01, exempting affordable housing from the rent control provisions of the Rent Ordinance. However, residents in some of Richmond's affordable housing developments have recently voiced concerns about large rent increases and housing quality. Given that over 20 percent of the city's rental units receive government assistance through subsidy or tax incentives, it is important to fully consider the specific regulatory requirements of affordable housing, as well as the particular needs of residents.

## 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 presentation of a partial Client Report completed by Graduate Student Fellow Philip Verma, prepared in partial satisfaction for the degree of Master of City Planning, regarding promoting stability and quality in affordable housing developments in Richmond.

AGENDA ITEM NO:  
**H-1.**



# AGENDA REPORT

**DATE:** June 20, 2018

**TO:** Chair Gray and Members of the Rent Board

**FROM:** Nicolas Traylor, Executive Director  
Paige Roosa, Deputy Director  
Philip Verma, Graduate Student Fellow

**SUBJECT:** PRESENTATION AND REPORT ON AFFORDABLE HOUSING AND THE RICHMOND RENT ORDINANCE

## **STATEMENT OF THE ISSUE:**

In November 2017, the Rent Board adopted Regulation 17-01, exempting affordable housing from the rent control provisions of the Rent Ordinance. However, residents in some of Richmond's affordable housing developments have recently voiced concerns about large rent increases and housing quality. Given that over 20 percent of the city's rental units receive government assistance through subsidy or tax incentives, it is important to fully consider the specific regulatory requirements of affordable housing, as well as the particular needs of residents.

## **RECOMMENDED ACTION:**

RECEIVE a presentation of a partial Client Report completed by Graduate Student Fellow Philip Verma, prepared in partial satisfaction for the degree of Master of City Planning, regarding promoting stability and quality in affordable housing developments in Richmond.

## **FISCAL IMPACT:**

There is no fiscal impact related to this item.

## **DISCUSSION:**

### Background

In November 2016, Richmond voters approved The Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance (hereafter referred to as the "Rent Ordinance").

## ITEM H-1

Subsequently, the Rent Board considered how and whether to regulate affordable housing, which comprises over 20 percent of the city's rental stock. While Section 11.100.030(d)(3) of the Rent Ordinance exempts affordable rental units "if applicable federal or state law or administrative regulation specifically exempt such units from municipal rent control" it does not categorically exclude affordable housing. This report for the City of Richmond's Rent Program examines this question in detail, particularly the relationship between the Rent Ordinance and federal and state affordable housing regulations in terms of housing affordability, stability and quality.

### Contents of Attached Report

- History and context of Richmond and federal housing policy, including a description of the primary affordable housing programs
- Characteristics of affordable housing in Richmond, including where it is located, who lives there, and the primary types of inquiries received by the Rent Program
- A review of academic literature regarding resident experiences in affordable housing and the intersection of housing and health
- Analysis of how the Rent Program could approach affordable housing, including a review of legal decisions, policies, and interviews with other jurisdictions' rent programs.

### **DOCUMENTS ATTACHED:**

Attachment 1 – Promoting Stability and Quality in Affordable Housing through the Richmond Rent Program

**Promoting Stability and Quality in Affordable Housing through the  
Richmond Rent Program**

Philip D. Verma

\*\*\*

**CLIENT REPORT**

Submitted in partial satisfaction of the requirements for the degree

of

**MASTER OF CITY PLANNING**

in the

Department of City and Regional Planning

of the

**UNIVERSITY OF CALIFORNIA, BERKELEY**

\*\*\*

**APPROVED**

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Spring 2018

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## Executive Summary

This report for the City of Richmond's Rent Program considers how best to treat affordable housing under the Rent Ordinance, which voters approved in November 2016. *Affordable housing* here refers to rental units that are accessible to low-income households due to receiving government subsidies or tax incentives. Under this definition, over 20 percent of Richmond's rental housing is affordable. Residents of affordable housing often have limited housing options, and therefore limited leverage, when raising concerns in affordable housing. At the same time, there is already a complex set of federal and state rules and administrative structures that govern different types of affordable housing. Understanding the nuances and interactions of these will help the Rent Board and Rent Program better support the needs of residents, while avoiding duplicative requirements that affect Richmond's larger housing affordability and stability goals.

The structure of report is as follows. First, it offers some history and context, both of Richmond and federal housing policy more generally. Racial segregation and discrimination in the mid-20<sup>th</sup> century left their mark on Richmond's geography of housing and jobs. More recently, the foreclosure crisis and rapidly-rising rents across the region have put greater pressure on Richmond's low-income communities of color. Affordable housing is a crucial tool to counteract these pressures. Rent control and 'just cause' eviction protections are another. The aims of developing new affordable housing and regulating existing housing are sometimes in conflict. Applying rent control and just cause to affordable housing is particularly controversial, as the Rent Program found when it began to implement the Rent Ordinance.

Second, the report highlights the nature of Richmond's affordable housing, including where it is located, who lives there, and some of the main inquiries and complaints the Rent Program has received. This preliminary data provides insights into the primary concerns of affordable housing residents in Richmond, which include rent increases, terminations of tenancy, and repairs. It is important to emphasize that the vast majority of HUD-subsidized households in the city are Black and very low-income; around one-fifth include a person with a disability. Given historical and current racialized inequities in Richmond, it is important that the city carefully consider the needs of affordable housing residents and support their right to stable, decent housing.

Finally, the report reviews policies, legal decisions and academic literature about resident rights and health in affordable housing. The general conclusions from the literature and interviews with stakeholders was that adding rent control to affordable housing would be duplicative and time-consuming to administer; it might also disincentivize affordable housing production and provision in Richmond. However, stronger municipal eviction regulations should apply to affordable housing, to ensure that residents are equally protected under the law. Since the Rent Board opted to exempt affordable housing from rent control through Regulation 17-01, a number of concerns have surfaced for residents and program staff. The general challenge is that affordable housing residents cannot use the rent adjustment petition system to address grievances about rent increases, evictions or repairs. There are avenues already for tenants to make complaints, both internally to management companies and externally to oversight agencies. Understanding how these systems work and identifying potential gaps will help the Rent Board and Rent Program better support all Richmond renters through regulation, education or outreach.

## Background

### Local Context: Richmond's Unique Housing History

Located in the northwest corner of the East Bay, the City of Richmond was primarily rural up until the Second World War (D. Graves, 2004). With the expansion of war industries, especially the Kaiser Shipyards, the city's population more than quadrupled between 1940 and 1945, exceeding 100,000 residents by 1945. The Black population grew particularly fast due to immigration to Richmond from the South, increasing from under 300 to 14,000 by the end of the war, and nearly doubling again by 1947 (Rothstein, 2017). The Richmond Housing Authority, established in 1941, soon became one of the country's largest, producing 23,000 housing units in a span of four years (D. Graves, 2004). Public housing in Richmond was explicitly segregated, with temporary housing for Black residents situated near the railroad tracks and the shipyard, and more permanent, more solidly constructed housing located inland for whites. According to the housing authority's then director, this was a way of "keeping social harmony" in a city that was once nearly all-white (cited in Rothstein, 2017, p. 6). After the war ended, approximately half of the city's Black population still lived in temporary war housing. Many new arrivals, unable to obtain loans from the Federal Housing Authority due to discriminatory lending practices, built makeshift housing in unincorporated North Richmond. As white residents increasingly moved out of Richmond into new white-only subdivisions like Rollingwood, Black families began moving into the city's southern, formerly white neighborhoods (Rothstein, 2017). During the 1950s, the city also annexed large tracts of land to the north and east of the historic core, facilitating similar processes of suburban development within the city limits (Further the Work, n.d.). Despite ongoing demographic change, patterns of racial segregation and racialized housing inequities endure today.

Structural economic changes in the postwar era negatively affected Richmond's economy, tax base, and inner-city housing stock. Factories that had once clustered in Richmond began to move south in search of cheaper, vacant land. The Kaiser Shipyards closed soon after the war ended in 1945, while in 1955, Ford closed its large plant in Richmond and moved production to Milpitas (Rothstein, 2017). The city's population decreased from 101,500 in 1947 to 71,900 in 1960 and remained around these levels until the late 1980s. The downtown commercial core also declined during this period, with the opening of Hilltop Mall, far from the downtown, in 1976 (Richmond Chamber of Commerce, 2018). Concurrently, Asian immigrant families began making Richmond their home, followed by Latin American families in the 1980s. While this influx increased the city population and need for city services, Richmond lacked the tax base to fund the public sector, especially after the passage of Proposition 13 in 1978 (Further the Work, n.d.). Crime rates and drug violence remained high in the city throughout the 1980s and 1990s. This contributed to a negative image of the city and discouraged business investment, compounding the city's employment and fiscal challenges (Butt, 1998).

In recent years, the City of Richmond has progressed in several areas, including reductions in homicide rates, improved health outcomes, increased civic engagement and employment, and revitalized parks and public spaces. These improvements have prompted discussions of Richmond's "renaissance" by local media and politicians (Corburn, Curl, Arredondo, & Malagon, 2014). However, residents and housing advocates have raised concerns that these very improvements could lead to gentrification and the displacement of the city's historically

working-class communities of color. Between 2000 and 2013, Richmond lost 12,500 Black residents, a more than 30 percent decrease. Meanwhile, the Black population dropped by 27 percent in Oakland and 23 percent in San Francisco (Moore, Gambhir, & Tseng, 2015). These three cities were historically the main centers of the Bay Area's Black population. Displacement of low-income people of color, especially Black households, from the region's inner core has prompted concerns about the re-segregation of the Bay Area. At the same time, local politicians and journalists reported a more complicated story about demographic change. They noted Black families leaving Richmond due to violence, foreclosures and limited job opportunities, along with the simultaneous in-migration of Asians and Latinos (Roosa, 2016).

The late 2000s foreclosure crisis had a notable impact on housing and tenure in Richmond. Between 2005 and 2015, Richmond went from a majority-owner to a majority-renter city. Given that nationally Black and Latino homebuyers were three times more likely to receive risky loans than their white counterparts, this tenure shift in Richmond has particular implications for racial inequality (Bissell & Moore, 2018). There has also been an increase in cash purchases of homes, a typical sign of real estate speculation. Rising housing costs disproportionately affect Black and Latino households in Richmond, the majority of who are renters. Unsurprisingly, the number of overcrowded households in Richmond nearly doubled over the past decade; the City now has one of the highest rates of crowding in the region (Bissell & Moore, 2018). Given overcrowding's association with poor health and educational outcomes – including respiratory and mental illness, and lower reading and mathematical abilities – this dramatic change could undermine many of the city's equity goals (City of Richmond, 2013). At the same time, it is important to acknowledge Richmond's accomplishments in supporting affordable housing production in a region that has largely struggled to meet production targets (Arredondo, 2018). Between 2007 and 2014, the city permitted 31 percent of its target number of low and very-low income units. Although this may not seem like a high number, Contra Costa County as a whole has only permitted 22 percent of these units. Richmond ranks fourth in the county in terms of the number of permitted low and very-low income units and these units as a percentage of the target (Bissell & Moore, 2018).

### The Rent Ordinance

In response to these regional and local concerns about gentrification and displacement, the Richmond City Council began discussing possible housing policy options in February 2015 (Roosa, 2016). The City Council ultimately adopted an ordinance in August 2015 that included both rent control and “just cause” eviction protections. The California Apartment Association (CAA) quickly launched a successful petition drive to oppose the ordinance. Following the referendum, The City Council repealed the ordinance in November 2015 and advocates opted instead to place a measure on the ballot the following year (Ioffe, 2015). Measure L was approved in November 2016 by over 60 percent of Richmond voters. The CAA filed a subsequent lawsuit against the city, arguing the Ordinance violated due process protections and state law, but ultimately withdrew the suit without prejudice in May 2017 (Katayama, 2017).

The Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (the full name of Measure L, hereafter “Rent Ordinance”) contains two main provisions. The first is rent control, which limits rent increases on multi-unit properties built before 1996 in accordance with the Costa-Hawkins Rental Housing Act. The Base Rent is set as the rent charged in July 2015, with

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subsequent annual increases limited to 100 percent of the change in the Consumer Price Index, a measure of inflation. Landlords of Controlled Rental Units can petition the Rent Board for an individual rent increase, due to increases in property taxes, maintenance costs, or capital improvements, to ensure the Landlord's ability to receive a "fair return" on their rental property investment. Tenants can also submit a petition for a rent adjustment if the landlord has decreased the housing services provided or is not complying with housing, health or safety codes. The just cause provisions, meanwhile, establish eight criteria for terminating tenancy. Four of these address situations where the tenant is at fault, including failure to pay rent, breach of lease, nuisance, and failure to give access. The other four are considered "no-fault" evictions, giving the owner ability to make substantial repairs, move themselves or a qualifying relative into the rental unit, or withdraw the unit from the rental market pursuant to the Ellis Act. In these cases of "no-fault" termination of tenancy, landlords are required to provide either temporary or permanent relocation payments to the tenant in accordance with the City's Relocation Ordinance, contained within Chapter 11.102 of the municipal code.

The Rent Ordinance's passage also required the formation of a Rent Program Department and appointment of a five-member Rent Board. The Rent Program is responsible for implementing the ordinance by monitoring and enforcing compliance with program requirements, counseling landlords and tenants on their rights and responsibilities under the Ordinance and related State laws, and administering hearings for individual rent adjustment petitions and excess rent complaints. The Rent Board, meanwhile, meets monthly to hear testimony from the public, adopt budgets and regulations, and provide policy direction to staff in accordance with the ordinance and in most cases, following recommendations from Rent Program staff members. Since the passage of the Rent Ordinance, one of the main policy questions facing the Rent Program and Rent Board was how and whether to regulate affordable housing, which comprises over 20 percent of the city's rental stock. While the Rent Ordinance exempts affordable rental units "if applicable federal or state law or administrative regulation specifically exempt such units from municipal rent control" (RMC 11.100.030(d)(3)), it does not categorically exclude affordable housing. In this respect, Richmond's ordinance is similar to Los Angeles', which only excludes projects that are owned by HUD or that receive HUD insurance and subsidy, which are categorically exempt under federal law (Gosden, 2018).<sup>1</sup>

This took some affordable housing developers and owners by surprise; many did not realize they would be under rent control until their tenants began receiving postcards from the Rent Program in May 2017. This created considerable confusion for property managers, residents, and owners. Said an asset manager with a local nonprofit developer, "when passing ordinances, most cities speak with the regulatory agencies first, then make changes. Richmond went to the people first, who voted on it, and now have to deal with the consequences" (Harris, 2018). Several developers and owners active in Richmond met with Rent Program staff during Summer 2017 to discuss their concerns about applying rent control and registration fees to affordable housing. The fees were of particular concern because they were applied retroactively for fiscal year 2017. By the time registration fees were assessed in May 2017, their budgets for FY 2017 had already been approved and they were finishing up budgets for FY 2018. Owners, particularly non-profit ones, could not go back and amend the approved budget, nor could they pass along costs to residents.

<sup>1</sup> See 24 CFR Part 246 for more details on what types of subsidies are excluded from local rent control <https://www.law.cornell.edu/cfr/text/24/part-246>

Stakeholders asserted that the fees would lead to a negative cash flow for projects, while duplicating services already provided in-house (Harris, 2018). In response to these concerns, the Rent Board considered whether to exempt affordable housing from the Rent Ordinance. Some of the research contained in this report helped inform the Rent Board's decision in November 2017 to exempt affordable rental units from the rent control provisions of the Ordinance, but not from the just cause for eviction and fee payment requirements of the law. Although many jurisdictions in California exempt affordable units from rent control, the large proportion of affordable units in Richmond has required staff members to carefully consider the impact and possible ramifications of exemption. The Board ultimately approved a partial exemption, but there is much work to be done to support residents of affordable housing in Richmond.

### Affordable Housing Types and Trends

The broad term “affordable housing” encompasses a range of subsidy and incentive programs at the federal, state and local level. This report will use this terminology to refer to rental units that are accessible to low-income households due to government subsidies or tax incentives. Importantly, not all housing in this category is actually affordable to very low-income households and there is also market-rate housing that is affordable without government supports. However, this report still uses “affordable housing” as the most comprehensible and inclusive terminology for policymakers and the public.

Nationally and in Richmond, the two most prominent sources of affordable housing are the Section 8 Program (and its various subtypes) and Low-Income Housing Tax Credits (LIHTC). In 1973, the federal government ceased direct funding of new housing production, relying more on state and local agencies, as well as private investors and developers (Orlebeke, 2000). The expansion of Section 8, LIHTC, and other programs has been the subject of considerable debate, particularly about the increased reliance on public-private partnerships. Although these arrangements enable governments to share financial risk, leverage investment, and utilize private-sector efficiencies and skills, they can reduce housing access for vulnerable groups, increase overall costs, and reduce accountability (HUD Office of Policy Development and Research, 2015). Section 8 and LIHTC are quite different in terms of administration, rent determinations, and oversight. Some background on the different sources of housing assistance is therefore helpful when considering the application of rent control and just cause for eviction policies on these programs.

#### Section 8 Program and Subtypes *2,527 units in Richmond*

Section 8 is funded through HUD and comprises three subtypes. When the program began in 1974, it subsidized new construction and substantial rehabilitation of low-income housing. In 1983, the Reagan administration ended this program; today **Project-Based Section 8** (sometimes known as “NC/SR” or “PBRA”) is a preservation-only program that funds the operations and maintenance of existing units. HUD replaced PBRA with a new form of Section 8: **Housing Choice Vouchers (HCVs)**. Rather than funding new development, vouchers are a demand-side strategy designed to help low-income tenants access to the private rental market. Unlike PBRA, HCVs are administered by local public housing authorities (PHAs), which receive their allocations from HUD. PHAs may allocate up to 20 percent of their vouchers to help finance

new housing development or rehabilitation. To add to the semantic confusion, these are commonly referred to as “**project-based vouchers**” (PBVs). Despite these distinctions, these three subtypes of Section 8 share income eligibility and rent determinations. The program is designed to serve very low-income households, and participants generally spend no more than 30 percent of their income on rent (Schwartz, 2010).

#### Low-Income Housing Tax Credit (LIHTC) Program

*2,702 units in Richmond<sup>2</sup>*

LIHTC’s administration and structure are quite different from HUD programs. LIHTC began in 1986 and is now the primary funding source for affordable housing production in the U.S. The program produced nearly 3 million units between 1987 and 2015, according to HUD.<sup>3</sup> Unlike other federal housing programs, LIHTC is administered by the Internal Revenue Service (IRS), which is part of the Treasury Department. This is because LIHTC is not a subsidy program; rather, it is an incentive that uses the tax code to encourage banks and other for-profit entities to invest in affordable housing in exchange for lower tax liability.<sup>4</sup> The Treasury Department distributes the credits to state Housing Finance Agencies (HFAs), which then give them to housing developers to help raise equity. Unlike Section 8 and other HUD programs, in which the rent charged is calculated as a percentage of household income, LIHTC uses Area Median Income (AMI) to determine eligibility and rent (Schwartz, 2010). Some LIHTC residents therefore end up spending more than 30 percent of their income on rent. This is especially true if household income decreases, since management companies are not required to recalculate the rent so long as the household remains income-eligible for the unit (Maddock, 2017). Statewide, around 44 percent of LIHTC residents are considered rent-burdened, meaning more than 30 percent of their income goes to rent (HUD Office of Policy Development and Research, 2018). Therefore, although LIHTC has been successful in creating below-market rate housing, on its own it does not reach very low-income households with the greatest housing need (Schwartz, 2010).<sup>5</sup> That said, developers frequently combine tax credits with other funding sources, especially Section 8, to reach lower-income households. This is certainly true in Richmond, where over half of LIHTC units receive a HUD subsidy as well.

#### Rental Assistance Demonstration (RAD)

*155 Units Converted*

The trends towards devolution and private investment in federally-funded affordable housing have continued with HUD’s Rental Assistance Demonstration (RAD). RAD allows public housing authorities (PHAs) to convert their funding stream from annual appropriations—which have never been sufficient to cover costs—to long-term Section 8 contracts. This in turn allows

<sup>2</sup> This total includes LIHTC units with Section 8 subsidies, so there is overlap between the two figures. See “*Affordable Housing in Richmond*” and *Appendix A1* for a more detailed breakdown of units.

<sup>3</sup> For more details and data on LIHTC, see <https://www.huduser.gov/portal/datasets/lihtc.html>.

<sup>4</sup> There are two types of housing tax credits: 9 percent credits (which are more valuable and awarded through a competitive application process) and 4 percent credits, which are worth less but do not undergo a competitive process. In both types, LIHTC developers can either set aside a minimum 20 percent of units to households earning less than 50 percent AMI, or 40 percent of units below 60 percent AMI. The rent is then set at 30 percent of that threshold.

<sup>5</sup> HUD defines “very low income” as a household earning below 50 percent AMI.

the PHAs to take on debt and, in some cases, seek LIHTC investors to rehab or rebuild distressed units. In cases where a RAD project uses tax credits, ownership must transfer to private entity (Hanlon, 2017). RAD, which the Richmond Housing Authority is currently using on two properties, has also been the subject of intense debate.<sup>6</sup> Concerns about resident rights and long-term affordability under RAD led HUD to include fairly comprehensive rules around mortgage terms, automatic contract renewals, one-to-one unit replacement, and residents' right to return (Smetak, 2014). Many PHAs have enthusiastically embraced the program; initial evaluations have shown that the program is accomplishing its goals of stabilizing and renovating the nation's public housing stock. However, since RAD is still a new program, continued research, monitoring and advocacy will be important to ensure its long-term effectiveness (Hanlon, 2017).

## Methodology

The findings in this report rely on a variety of sources. These include academic studies, policy documents, internal Rent Program data, and publicly-available data on demographics, neighborhood conditions and public health. Interviews with a range of stakeholders complemented these initial findings, highlighting issues that were apparent from other sources.

## Literature and Policy Review

A review of relevant literature and policies helped set context and frame the problem of resident rights in affordable housing. The literature review covered three primary topics: the evolution of federal housing policies over the past forty years, resident rights in affordable housing, and the relationship between housing and health. Academic articles, advocacy reports, and government documents helped form the key policy questions in this report. Similarly, in-depth analysis of federal policies, court cases and other cities' rent ordinances helped inform the findings in this report.

## Data Sources

Analysis of secondary data from the American Community Survey (ACS), the Department of Housing and Urban Development (HUD), the California Tax Credit Allocation Committee (TCAC), and the Centers for Disease Control (CDC) helped provide context about demographics, rental housing stock, health conditions, and affordable housing units. In 2017, Rent Program staff compiled the City's first complete database of affordable housing units, including public housing, tax-credit housing, and units with various types of HUD subsidies. This data helped staff and Rent Board members understand the landscape of affordable housing in the city and guided the legal and policy research for this report.

In addition, an analysis of the Rent Program's inquiry log highlighted some of the main issues facing Richmond's affordable housing residents and the concentration of inquiries from specific developments. Since the Rent Program opened in January 2017, staff has received thousands of calls and in-person visits from both landlords and tenants wanting to know more about how the Rent Ordinance affects them. Since housing type (e.g. market-rate or affordable) was not noted consistently during the early months of the program, the data on affordable housing is likely incomplete. Nevertheless, it offers a preliminary snapshot of some of the main issues staff encountered during the first year of the program. Continued monitoring and tracking of

<sup>6</sup> The two RHA properties that have converted through RAD are Friendship Manor and Triangle Court.

affordable housing inquiries will provide useful data as the Rent Program works with owners, tenants and property managers of these units.

**Interviews**

To identify solutions to these challenges, the Rent Program reached out to various stakeholders, including legal advocates, affordable housing developers and managers, and directors of similar programs in other California cities. **Table 1** contains a list of individuals interviewed for this report. All interviews were conducted by phone—with the exception of the housing authority—and lasted between 30 minutes and one hour. Three of them asked to be referred to only by their organization or agency, rather than by name.

**Table 1. List of Interviewees**

<b>Name</b>	<b>Title</b>	<b>Affiliation</b>
<b>Gabino Arredondo</b>	Health and Wellness Coordinator	Richmond City Manager’s Office
<b>Susan Gosden</b>	Senior Management Analyst	Los Angeles Rent Stabilization Division
<b>Grayling Harris</b>	Asset Manager	Community Housing Development Corporation (CHDC)
<b>Desiree Hensley</b>	Associate Professor	University of Mississippi School of Law
<b>Jennifer Kauffman</b>	Management Analyst	Alameda Rent Program
<b>Lauren Maddock</b>	Board Member	Richmond Rent Board (also a project developer with Mercy Housing)
<b>Steve McElroy</b>	Vice President	The John Stewart Company
<b>Oraneet Shikmah Orevi</b>	Staff Attorney	Bay Area Legal Aid
<b>Victor Ramirez</b>	Manager	East Palo Alto Rent Stabilization Program
<b>Lina Velasco</b>	Planning Manager	City of Richmond, Planning Division
-	-	California Affordable Housing Initiatives, Inc. (CAHI)
-	-	TCAC Compliance Program
-	-	Richmond Housing Authority

## Affordable Housing in Richmond

### Overall Profile

Approximately 21 percent of Richmond’s estimated 20,018 rental units are rent-restricted in some way, either through HUD subsidies, tax credits, or local regulatory agreements.<sup>7</sup> *Appendix AI* contains a detailed breakdown of the 25 affordable housing developments and the various funding sources for each. As

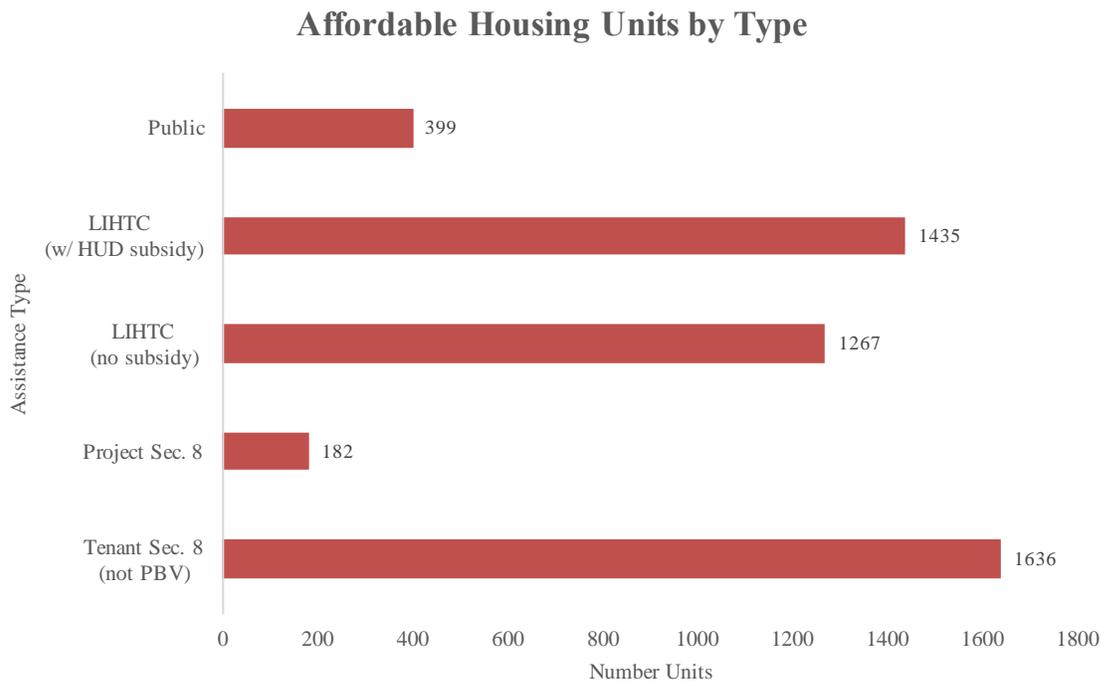
*Figure 1* indicates, LIHTC is the most primary funding source for affordable housing in Richmond, encompassing 2,702 units. Over half of these units also receive HUD subsidies, namely HCVs, but also project-based Section 8, Section 202 (for the elderly) and Section 236 (mortgage interest subsidy) assistance. Combining HUD subsidies with tax credits helps finance affordable housing development and provides deeper affordability for residents. It also affects the rights and rules under which the tenant operates. A resident of a LIHTC development that also receives a project-based voucher would primarily deal with the local housing authority to deal with inspections and income recertification, rather than the management company (TCAC Compliance Program Management, 2018). In addition, there are over 1,600 households with Housing Choice Vouchers on the private market. This estimate does not include tenant-based vouchers that are project-based, which are included in the “LIHTC with HUD subsidy” category. Finally, there are an estimated 182 project-based Section 8 units that operate through direct contracts with HUD and 399 public housing units administered by the Richmond Housing Authority. This last figure includes 155 units that have undergone RAD conversions at Friendship Manor and Triangle Court. These units now have project-based vouchers, with additional financing through tax credits, Community Development Block Grant (CDBG) Section 108 loans, and HOME Investment Partnership Program funds. Since they received tax credits, Friendship Manor and Triangle Court are currently managed by RHA Housing Corporation, a nonprofit affiliate of the housing authority.<sup>8</sup> The other two RHA projects, Nystrom Village and Nevin Plaza, may undergo a RAD conversion or else a Section 18 demolition/disposition process within the next two years (Richmond Housing Authority, 2018).

<sup>7</sup> For details on estimates, see “Fiscal Year 2018-19 Budget and Rental Housing Fee Study” (Rent Program report to Rent Board, April 23, 2018)

[https://www.ci.richmond.ca.us/DocumentCenter/View/46388/Compiled-Item-F-1\\_4-23-18](https://www.ci.richmond.ca.us/DocumentCenter/View/46388/Compiled-Item-F-1_4-23-18)

<sup>8</sup> See Resolution No. 87-14, adopted October 7, 2014 <http://www.ci.richmond.ca.us/Archive/ViewFile/Item/6211>

Figure 1. Number of Affordable Units by Type



Source: Richmond Rent Program, 2017; HUD, 2017

### Resident Characteristics

To contextualize the needs of affordable housing residents, this report profiles LIHTC and HUD-assisted households. HUD provides a report on residents in public housing, project-based Section 8, and with Housing Choice Vouchers. This data exists at the city and census tract level and includes information about race, income, age, family composition and disability, among other characteristics. The data on LIHTC, a more indirectly-administered program, is less granular and consequently less detailed. HUD’s Office of Policy Development and Research provides a national report about LIHTC residents, with state-level data. The report acknowledges significant underreporting of certain individual characteristics; race and ethnicity, for example, are not required on HUD’s LIHTC Tenant Data Collection Form (HUD Office of Policy Development and Research, 2018). The tract-level data shows that over 75 percent of Richmond’s HUD-assisted households are extremely low-income; a similar percentage are Black. HCVs and public housing serve a higher proportion of disabled and senior residents, in comparison to project-based Section 8, which has a far higher share of households with children. Since LIHTC demographic statistics are reported for California as a whole, they may not be accurate for Richmond’s context; however, a few notable characteristics emerge. Nearly half of households in LIHTC units are extremely low-income, a significant but smaller figure compared to Section 8 and public housing (including at the state level). Over 40 percent of LIHTC households are rent-burdened, while over 12 percent are severely rent-burdened (see **Box 1**).

**Table 2. Profile of HUD-Assisted Households in Richmond**

	<b>Project-Based Section 8</b>	<b>Housing Choice Vouchers</b>	<b>Public Housing</b>
	<i>924 households</i>	<i>1622 households</i>	<i>406 households</i>
<b>Extremely low income (&lt; 30% AMI)</b>	79%	75%	75%
<b>Very low income (&lt; 50% AMI)</b>	96%	94%	90%
<b>Black</b>	73%	78%	77%
<b>Hispanic</b>	17%	8%	14%
<b>Asian/Pacific Islander</b>	7%	7%	3%
<b>White</b>	1%	6%	5%
<b>Head of household 62+</b>	15%	34%	28%
<b>Household member with disability</b>	9%	27%	30%
<b>Households with children</b>	57%	35%	35%
<b>Female-headed household</b>	79%	79%	68%

Source: HUD Picture of Subsidized Households, 2017

**Box 1. Profile of LIHTC Residents in California** (as of December 2015)

- **Race:** 31.1% Hispanic, 20.3% White, 13.9% Black, 10.8% Asian
- **Income:** 46.4% of households are extremely low income (< 30% AMI), 79.5% are very low income (< 50% AMI)
- **Rent Burden:** 44.2% of households are rent-burdened (> 30% of income to rent), 12.3% are severely rent-burdened (> 50% of income)
- **Disability:** 5.3% of residents are disabled
- **Other Subsidies:** 37.9% households receive a rental subsidy. Nearly half of these are Section 8 vouchers.

Source: HUD Office of Policy Development and Research, 2018

**Neighborhood Characteristics**

The City of Richmond contains a high concentration of both LIHTC and Section 8 units, especially in its centrally-located, lower-income neighborhoods. Central Richmond has historically had a lower median household income compared to other parts of the city, in addition to high levels of unemployment, violence and environmental hazards. This geographic concentration reflects what many researchers have observed: both people and place-based affordable housing programs have perpetuated segregation, especially for communities of color (DeLuca et al., 2013; Tegeler, 2005). *Appendix A2* illustrates this point through maps and charts of affordable housing developments and subsidized households in Richmond. The Iron Triangle

houses 11 affordable housing developments, while Richmond Annex contains seven, including several of the city's largest. Lastly, there are three large developments in the Hilltop area to the north.<sup>9</sup> TCAC's opportunity maps categorize all these tracts as lower-resource areas. It is important to note that TCAC categorizes most of Richmond as "low-resource," with the exception of Point Richmond and neighborhoods in the hills. Most of these tracts are also considered racially-segregated, with over 90 percent of residents being people of color in a majority of cases.

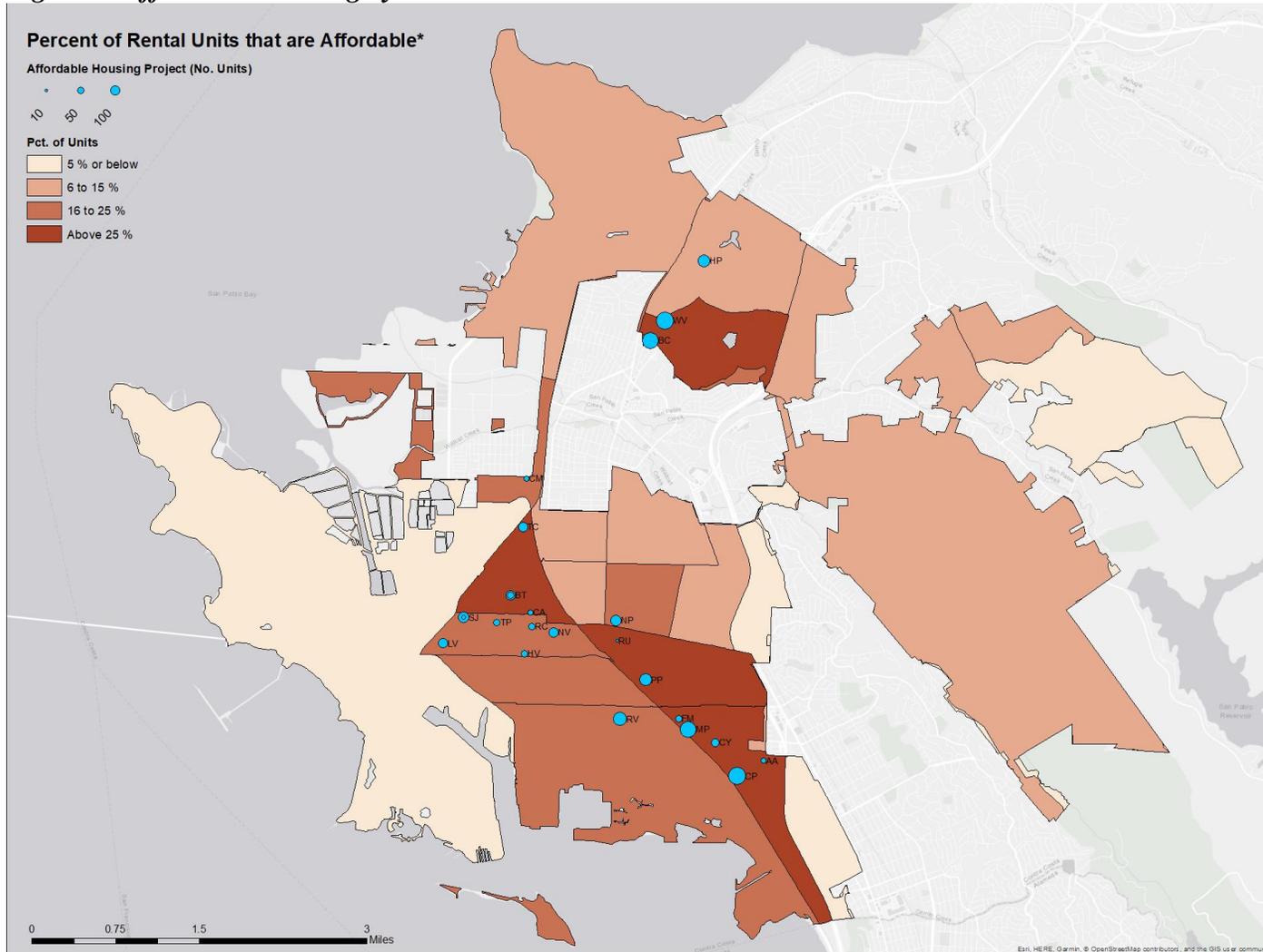
There are some similar trends with Housing Choice Vouchers in the private market, that is, those that are not located in LIHTC or other projects. HCV households are concentrated in central and south Richmond, including the Iron Triangle, Marina Bay, and the Civic Center area (see

*Figure 2*). Four census tracts have more than 200 voucher households each, representing between 20 and 30 percent of the rental stock in those neighborhoods.<sup>10</sup> To further understand the characteristics of neighborhoods where HCV households end up, *Appendix A2* includes a few graphs comparing voucher concentrations with key health and demographic indicators. Generally, Richmond households with a Housing Choice Voucher live in lower-opportunity, segregated neighborhoods with lower environmental health conditions. Statistical tests reveal a moderate but significant association between the number of vouchers and these indicators. In terms of public health, people in these neighborhoods also experience higher rates of asthma and blood pressure, and worse mental health. While there are many possible causal explanations for these associations, together, these findings suggest that Richmond's affordable housing residents are more likely to live in neighborhoods where they are exposed to health stressors and have limited economic and educational opportunities. As staff members and Board members consider policies concerning affordable housing units, it is important to understand the stressors and challenges residents of affordable housing in Richmond face.

<sup>9</sup> The Iron Triangle is defined here as Contra Costa Census Tracts 3760 and 3770. Richmond Annex is defined as tracts 3810 and 3820 and the Hilltop area as tracts 3650.03 and 3671.

<sup>10</sup> These are census tracts 3740, 3760, 3790 and 3800.

Figure 2. Affordable Housing by Census Tract



Source: Richmond Rent Program, 2017; HUD, 2017 (see *Appendix A2* for key to project abbreviations)

Note: Affordable housing refers to deed-restricted housing (LIHTC, project-based HUD) and tenant-based vouchers

**Main Issues Facing Residents**

An analysis of the Rent Program’s inquiry log from January to October 2017 provided an opportunity to identify leading concerns expressed by affordable housing residents who contacted the Rent Program. Many landlords and property managers of affordable developments and units also contacted the Rent Program with questions and concerns. During this period in 2017, staff received 99 inquiries regarding affordable housing, both in-person and by phone. This is likely an underestimate, since the program’s initial case management system did not ask about housing type. Therefore, this analysis only captures cases where the person mentioned living in affordable housing or where addresses matched the Rent Program’s inventory of developments. In cases where the same person contacted the program multiple times, it was only counted once. Furthermore, based on interactions with residents at community events, staff found that many mistakenly believed the Rent Program does not assist tenants in affordable housing units and therefore have not sought help. As education and outreach efforts continue, the Rent Program should continue to monitor the main issues facing affordable housing residents to best allocate resources and develop policies as needed.

As the tables below indicate, about twice as many tenants called as landlords. There were also several calls from property managers at LIHTC developments, as well as realtors and prospective buyers of buildings with current Section 8 residents. Among tenants, the primary concerns were the legality of rent increases, termination notices, and repairs that had not been addressed. Landlords were primarily concerned with understanding whether and how the ordinance applied to their units, whether they had to enroll and pay the Rental Housing Fee, and the just cause for eviction protections. Specific affordable housing developments also stand out in this analysis; Monterey Pines, Baycliff Apartments, and Heritage Park at Hilltop Apartments—all LIHTC developments managed by for-profit entities—collectively represent a third of the inquiries. Housing Choice Vouchers on the private market account for another 40 percent. Many tenants with concerns about evictions and rent increases in affordable housing also had complaints about conditions and repairs that had not yet been addressed by the landlord.

**Table 3. Number of Inquiries by Identity and Issue (Jan-Oct 2017)**

	<b>Tenant</b>	<b>Landlord</b>
Rent increase	19	3
Eviction	16	8
Repairs	14	0
General ordinance	6	8
Program enrollment	0	5
Other	6	3
<b>Total</b>	<b>61</b>	<b>27</b>

Source: Richmond Rent Program, 2017

**Table 4. Number and Type of Tenant Inquiries by Development (Jan-Oct 2017)**

<b>Development</b>	<b>Total</b>	<b>Primary Issue</b>
<b>Monterey Pines</b>	17	Eviction
<b>Baycliff</b>	10	Rent Increase
<b>Heritage Park</b>	6	Rent Increase
<b>Pullman Point</b>	4	Rent Increase
<b>Lillie Mae Jones</b>	3	Repairs
<b>Richmond Village</b>	3	Eviction
<b>St. Johns Apartments</b>	3	Eviction
<b>Liberty Village</b>	2	Repairs
<b>Cypress Pines (formerly Deliverance Temple)</b>	2	Eviction
<b>Housing Choice Vouchers (on private market)</b>	41	Eviction

Source: Richmond Rent Program, 2017

## Reframing Affordable Housing Debates

Since the federal government ceased direct funding of new housing production in 1973, Section 8 and LIHTC have grown considerably in size and scope (Orlebeke, 2000). These programs operate within the private housing market to build new units or subsidize existing ones, so that they are more affordable to lower-income households. Administration and oversight of these programs has also shifted increasingly to state and local governments. This shift over the past forty years has prompted extensive debate within academic and policy circles. Especially as federal funding for rental housing has decreased, there has been much discussion of how best to use limited resources to address concentrated poverty, racial segregation, and rising rent burdens (Tegeler, 2005). However, these discussions have not adequately considered residents’ experiences or health in different types of affordable housing. This section of the report aims to re-center tenants’ perspectives and well-being within debates over affordable housing priorities.

### Resident Experience and Rights

Responding to the retrenchment of public funding for housing over the past forty years, market-based solutions have successfully leveraged private capital and incentivized production of affordable housing using private funds. Yet a closer look at resident experiences in these developments highlights several tensions in terms of ensuring housing quality and tenants’ rights in private housing designed for public benefit (Smetak, 2014). A key question is therefore whether and how state and local government can “fill the accountability gap caused by privatization” (Lee, 2015, p. 762). This report considers these questions, particularly with respect to housing stability and quality. Given their mandate to address the “shortage of decent, safe, affordable, and sanitary housing in the City of Richmond” as stated in the Rent Ordinance, the Rent Board and Rent Program are in a unique position to address some of these issues.

Studies evaluating affordable housing programs have typically focused on their economic effectiveness, neighborhood effects, and impact on participants' lives. For example, proponents of LIHTC have emphasized its flexibility and effectiveness at producing low-income units, while critics have highlighted high transaction costs and vulnerability to changes in financial markets (Schwartz, 2010). Analyses of the Housing Choice Voucher program have focused principally on the socioeconomic characteristics of the neighborhoods where participants end up living. Specifically, they evaluate how successful vouchers are at providing low-income households full access to the private rental market. In general, it appears that HCVs have helped low-income households reduce their rent burdens, and reducing the number of overcrowded households and risk of homelessness; however, the program has been less successful at promoting access to higher-income neighborhoods with better-performing schools (Ellen, 2017). Nationally, most voucher-holders, especially Black and Latino households, end up in low-income, segregated neighborhoods (DeLuca, Garboden, & Rosenblatt, 2013). Similarly, concerns that LIHTC rules actually further concentrated poverty and racial segregation prompted a 2015 Supreme Court ruling and a HUD regulation on fair housing.<sup>11</sup> The Tax Credit Allocation Committee (TCAC), California's HFA, recently developed an "Opportunity Mapping Methodology" to guide the LIHTC allocation process towards neighborhoods that would improve economic mobility and child development.<sup>12</sup> Lastly, a smaller body of research has looked at the impact of project and tenant-based housing assistance programs on the surrounding neighborhood. Many of these studies have attempted to assess the potential impact of affordable housing provision on property values and crime rates (Diamond & McQuade, 2016; Ellen, 2017).

These people and place-based questions are important to address, especially in the context of limited resources. What has been largely missing from this discussion, however, is the impact of different affordable housing models on residents' rights or experiences (Hensley, 2014; Teater, 2011). The decentralization of authority and increased reliance on market incentives have arguably reduced low-income residents' ability to organize for fair treatment and better living conditions (Lee, 2015). Under public housing law, residents have the right to continued occupancy, administrative grievance procedures, and participation in governance through resident councils. These federal rights extend to project-based Section 8 and other HUD multifamily housing, but not to HCVs or LIHTC (Orevi, 2018). Channels of communication between residents and PHAs are likely to be more limited in private settings, while dispersed ownership may make tenant mobilization harder (Lee, 2015). Public housing authorities overseeing HCVs tend to avoid involvement with landlord-tenant disputes, for example. LIHTC tenants, meanwhile, have the right to sue the IRS and state HFA to enforce the development's land use restriction agreement, but this right is not disclosed in tenant's leases. Moreover, such a case would be far more legally complex than an administrative grievance hearing (Hensley, 2014). Despite these changes, there are also examples of agencies and developers incorporating resident rights into practice. For example, HUD made resident outreach and participation a key requirement of the RAD conversion process. Many PHAs using RAD have also prioritized resident education and oversight in the process (Hanlon, 2017). Lastly, many mission-driven entities managing LIHTC properties incorporate on-site resident services, which can help improve residents' treatment and experiences (Maddock, 2017).

<sup>11</sup> See *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc.* 576 U.S. \_\_\_\_ (2015) and HUD's "Affirmatively Furthering Fair Housing" Final Rule.

<sup>12</sup> For more on TCAC's opportunity methodology and maps, see <http://www.treasurer.ca.gov/ctcac/opportunity.asp>

Limited grievance and oversight mechanisms can have negative implications for residents' experiences in affordable housing. Analyzing the effectiveness of these programs from the resident perspective, rather than just their macro social or economic effects, is therefore critical. In general, low-income residents have limited housing options and less leverage over landlords who fail to make repairs or ignore tenant protections, particularly when a household is unable to pay the rent on time each month. This is especially true for residents with Section 8 vouchers, which operate almost entirely within the private market (Desmond, 2016). Tenants searching for a unit with a voucher often find limited housing options due to low credit scores, source of income discrimination, and the bureaucratic requirements of the program, including a 60-day time limit for searching.<sup>13</sup> Many end up accepting a sub-optimal unit or neighborhood to prevent their voucher from expiring. Rather than allowing low-income prospective tenants full and free access to the private market, vouchers thus provide entry into a "Section 8 submarket" in lower-income neighborhoods with lower-quality units (E. Graves, 2016). Importantly, HUD bases its Fair Market Rents (FMR) for Section 8 units on the region, not the individual city or neighborhood. This was theoretically designed to facilitate greater social mobility for voucher holders within a housing authority's jurisdiction. In practice, however, it can produce windfalls for landlords in low-income neighborhoods, rather than greater access to opportunity for tenants (Desmond, 2016). Richmond is within HUD's Oakland-Fremont Metro FMR Area, which includes all of Alameda and Contra Costa Counties. The 2018 two bedroom FMR is \$2,329. The most recent ACS median rent estimate for a two bedroom unit in Richmond, meanwhile, is \$1,350; Zillow and Apartment List, which base their estimates on rental listings provide much higher figures for 2018, at \$2,390 and \$2,639, respectively.<sup>14</sup> Housing Authority staff typically negotiate with participating landlords to determine the reasonable rent using its FMR-based payment standard and an assessment of comparable units in the area (Richmond Housing Authority, 2018).

A recent qualitative study of the HCV program examined how all these dynamics play out on the ground for residents. It aimed to understand voucher households' "perceptions, explanations and beliefs about the services, processes and outcomes of the HCV program" (Teater, 2011, p. 507). Participants in the study identified barriers with the program, including disrespect from PHA staff, stigma from landlords, income rules that discourage work, and an ineffective inspection process. With regards to LIHTC, there is also little academic or government research on the experiences of LIHTC residents, more than 30 years after the program began. This contrasts sharply with both Section 8 and public housing residents, whose lives have been documented extensively in urban sociology and other social science literature. The Turner Center for Housing Innovation at UC Berkeley will shortly be releasing the results of an in-depth survey it conducted with more than 200 LIHTC residents across California in 2017.

<sup>13</sup> California state law prohibits source of income discrimination but Section 8 subsidies are not considered income under this law.

<sup>14</sup> ACS tends to underestimate market rents, since it self-reported and includes all renters. Estimates that use official rental listing data (Zillow, Zumper, Apartment List) tend to overestimate rents, since their datasets skew towards luxury and high-end listings. See Apartment List's discussion of this issue for more.  
<https://www.apartmentlist.com/rentonomics/apartment-list-new-rent-methodology/>

## Public Health

The effect of affordable housing on resident health has also been overlooked within these policy debates (Human Impact Partners, Advancement Project, & National People's Action, 2012). Yet housing affordability, stability and quality are clear *social determinants of health*, social and economic forces that affect people's health over their lifetime (Los Angeles County Department of Public Health, 2015). For example, high housing costs can act as a chronic mental health stressor and force low-income families to make difficult tradeoffs in terms of food, healthcare and housing quality. Similarly, foreclosures, evictions and general housing insecurity can result in more frequent feelings of depression, anxiety and hopelessness and are also positively associated with parental stress, behavioral issues in children, and teen pregnancy (Desmond & Kimbro, 2015; Los Angeles County Department of Public Health, 2015). Lastly, poor housing conditions negatively affect both physical and mental health. For example, lead poisoning from old paint and pipes can result in neurological damage, learning disabilities and increased aggression (Bashir, 2002). There are also chronic respiratory stressors in indoor environments, including mold, dust mites, inadequate ventilation, poor quality heating, and construction materials that emit chemicals. Experts have emphasized the importance of cumulative impact of these problems, which over the life course act as a "multiple housing deprivation" (Howden-Chapman, 2004, p. 163). This impact is especially pronounced for people who are exposed to environmental health stressors as children. A recent study by the Los Angeles County Department of Public Health emphasized the serious health effects of the three dimensions of housing: *affordability, stability and quality* (Los Angeles County Department of Public Health, 2015). The interactions between these social determinants produce and reinforce health inequities.

It is perhaps unsurprising, then, that stable, good-quality affordable housing can improve health outcomes. More affordable rents and lower rent burdens increase resources for families to spend on goods and services that result in improved health outcomes. Since this is a relatively new area of research, there are fewer studies highlighting the specific health benefits of affordable housing. A recent public health study found that low-income adults who lived in public or project-based housing had lower levels of psychological distress and improved health relative to their peers who were on a waitlist for assistance (Fenelon et al., 2017). Interestingly, the study found no significant difference between people with tenant-based vouchers and unsubsidized renters on the private market. Studies have also revealed that housing is an especially important predictor of health outcomes for people with special needs. Housing stability is the most important predictor of HIV health outcomes and can help reduce hospital admissions and length of stay for people struggling with mental health issues and homelessness (Parekh & Krutsick, 2017). This may be especially true for LIHTC developments, which often incorporate on-site resident support services. Finally, newer affordable housing projects—primarily built using tax credits—are often higher-quality than other private or public housing available to low-income households. Well-built and maintained affordable housing can therefore support broader health equity goals by limiting exposure to lead-based paint, allergens, and other unsafe conditions (Maqbool, Viveiros, & Ault, 2015). These findings underscore the importance of stable, good-quality affordable housing for the broader health and well-being of lower-income people and communities.

During the past few decades, researchers, advocates and policymakers from the housing and public health spheres have sought to bring the two closer together. Public health advocates have

advocated for greater attention to health concerns within housing policies, especially LIHTC. Recent reports have argued that public and private healthcare resources should be used more to fund tax-credit developments. They have also highlighted the importance of locating developments in neighborhoods with better health outcomes, and suggested incorporating health impact assessments into tax credit allocation plans (Parekh & Krutsick, 2017; Shi, Samuels, & Pollack, 2017). The federal government has also emphasized the link between health and housing through more intersectional policies and frameworks. The Clinton administration, for example, emphasized lead remediation in public housing and housing supports for medically-vulnerable groups. A decade later, the Obama administration linked health and housing more explicitly. HUD's 2010 strategic plan advocated greater coordination with the Department of Health and Human Services and planned to incorporate health metrics into its policies and grants. In addition, the passage of the Affordable Care Act in 2010 encouraged a cross-sector collaboration through a "Health in All Policies" (HiAP) approach that addressed the social determinants of health (Bostic, Thornton, Rudd, & Sternthal, 2012). The Affordable Care Act established several councils to think about these health issues across various policy domains, including housing and urban development.

In 2014, Richmond became the first city in the United States to adopt a HiAP framework, ordinance, and strategy.<sup>15</sup> Richmond's government, in collaboration with community partners and academics, examined the root social causes of health inequities. One of the creators of the city's strategy asserted that HiAP "creates a clear narrative showing that structural conditions like housing have both short and long-term impacts on families" (Arredondo, 2018). The HiAP framework identified cumulative toxic stressors and structural racism as underlying sources of health disparities between different racial or income groups (Corburn et al., 2014). The first concept recognized that people biologically embody social and environmental stressors like violence, pollution, eviction and discrimination. Moreover, these stressors can intersect and compound health inequities, hence their cumulative nature. For example, a person who loses days of work due to a pollution-induced asthma attack may fall behind on rent and face an eviction. Additionally, the focus on structural racism highlights how "seemingly neutral policies and practices can function in racist ways by disempowering communities of color and perpetuating unequal historic conditions" (Corburn et al., 2014, p. 628). The city's official HiAP strategy and ordinance identified the residential and built environment as one of its six intervention areas. Specific health stressors included habitability issues like indoor air quality, inadequate heating and ventilation, lead-based paint, rodent and pest infestations and noise. The strategy also highlighted the health impacts of high housing costs and eviction: stress, crowding, loss of social networks, homelessness, and increased risk of low quality housing (City of Richmond, 2013). Richmond's visionary approach to health policy provides a useful framework regarding the role of local governments in supporting residents' health and well-being, including in affordable housing.

<sup>15</sup> The latest version of the Health in All Policies Ordinance (No. 27-15, adopted December 2015) amended RMC 9.15 <http://www.ci.richmond.ca.us/ArchiveCenter/ViewFile/Item/6999>

## Applying the Rent Ordinance to Affordable Housing

The Rent Ordinance exempts affordable rental units “only if applicable federal or state law or administrative regulation specifically exempt such units from municipal rent control” (RMC 11.100.030(d)(3)), but it does not categorically exclude affordable housing. This statement required regulatory clarification by the Rent Board, based on an analysis conducted by Rent Program staff members and feedback from affordable housing stakeholders and community members. On November 15, 2017, the Rent Board unanimously voted to adopt Regulation 17-01, “Exemption of Subsidized Units from the Rent Control Provisions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance.” The Rent Board based its decision on a comparison of rent determinations and eviction protections under HUD, LIHTC and the rent ordinance. More information on this can be found in *Appendix B1*.

### Rent Control

As discussed in an earlier section of this report, different affordable housing programs link rental rates to household income in distinct ways. Households who meet HUD’s eligibility requirements generally pay no more than 30 percent of their income on rent. These programs target very low-income families, seniors and people with disabilities; for example, 75 percent of Section 8 vouchers must go to extremely low-income households earning less than 30 percent of the Area Median Income (AMI) (Schwartz, 2010). LIHTC’s eligibility rules and rent determinations are more complicated, since they are based on AMI, rather than household income. State tax-credit agencies allow annual rent increases based on changes in AMI and CPI (inflation), regardless of income changes. In cases where a LIHTC resident also receives Section 8 assistance, the tenant portion of rent would still be 30 percent of their income and HUD or the housing authority would pay the difference.

Given these different affordability rules, the Rent Board considered whether rent control should apply to the approximately 4,211 units of affordable housing in Richmond. While there are no federal or state laws requiring that cities exempt these units from rent control, the Rent Program’s Executive Director strongly recommended that the board do so to avoid regulatory duplication and reduce administrative complexity.<sup>16</sup> Most California jurisdictions with rent control exempt affordable housing, including Berkeley, San Francisco, San Jose, and Mountain View, for several reasons. First, rents in these units are already regulated, in that rents are tied directly or indirectly to household income. Although this does not guarantee that a family can afford the rent long-term, especially in the case of the LIHTC program, adding municipal rent control would not fundamentally change this issue if the rent charge consumes a large portion of a household’s monthly income. Furthermore, affordable housing stakeholders argued that rent increases in affordable housing would seldom be more than what rent control would allow, except in the case of HUD authorizing an Operating Cost Adjustment Factor (OCAF) for a Section 8 renewal contract (McElroy, 2018). In this case, the tenant portion would still be 30 percent of income but the government portion would go up. Moreover, a municipal rent program would likely not have the authority to adjust the housing authority’s portion of a Section 8 rent, since they are determined by federal guidelines. Experiences from peer cities echo this challenge;

<sup>16</sup> See “Exemption Of Subsidized Units From The Rent Control Provisions Of The Fair Rent, Just Cause For Eviction, And Homeowner Protection Ordinance” (Agenda Report to Rent Board, November 15, 2017) <https://www.ci.richmond.ca.us/DocumentCenter/View/45177/111517-Item-G-1>

while East Palo Alto's rent ordinance initially covered affordable housing, the city amended this in 2010, due to difficulties with implementation and conflicts with federal regulations, especially Section 8 (Ramirez, 2018).

One concern raised regarding rent increases in the LIHTC program is a scenario in which AMI increases rapidly due to gentrification or other forces, but low-income households' incomes remain stagnant. In this case, eligibility levels and rents would increase, potentially pushing out low-income households over time and replacing them with slightly higher-income occupants (Hensley, 2018). LIHTC rent and income limits in Richmond are based on a combined AMI for Alameda and Contra Costa Counties, which encompass much wealthier jurisdictions than Richmond. For example, maximum rents allowed by TCAC have increased 24 percent from 2015 to 2018, including a 12 percent jump from 2017 to 2018. However, this came after six years of minimal increases averaging 1 percent per year. For more data on historic AMIs and how Richmond compares to the region in terms of household income, see *Appendix A2*. Although households in LIHTC projects were theoretically saving money during those years, competing expenses like healthcare, education and transportation may exhaust those minimal savings, especially for households with low or fixed incomes, and a large rent increase like this may be untenable for them. It is important to recognize that this is a maximum rent; it is not obligatory. Some mission-driven developers, for example, have internal policies limiting annual rent increases to 10 percent and capping rent at 45 percent of household income. From the government side, San Francisco imposes additional regulatory agreements on LIHTC developments to prevent large rent increases, even when TCAC allows it. In these cases, the city is putting money or land into development projects and can therefore require this regulatory agreement as a condition of the financing support (Maddock, 2017).

On the other hand, applying rent control to LIHTC could have negative consequences for new affordable housing development. Since rents in LIHTC developments increase based on TCAC rent schedules, adding local rent control would make underwriting new projects more complicated. This could potentially reduce affordable housing development in Richmond. Developers also argued that the high registration fees will diminish new affordable housing in the city and make it harder to maintain the existing stock (Harris, 2018). Existing LIHTC developments might also find that without these increases, they would not generate enough revenue to cover their debt-service agreements with lenders (Maddock, 2017). Finally, the Executive Director raised concerns that imposing rent control to affordable housing could lead to legal challenges based on contract rights or pre-emption. Given these considerations, the Rent Board ultimately decided to exempt affordable housing from rent control through Regulation 17-01.<sup>17</sup>

### Eviction Protections

Whereas most California jurisdictions with rent control and just cause for eviction policies typically exempt affordable housing from limitations on the amount of rent that may be charged, the applicability of just cause eviction protections is more variable. Part of this is a result of eviction protections that vary by city. For example, Alameda has a more moderate rent

<sup>17</sup> However, if a unit is out of compliance with its regulatory agreement, the the Rent Board may remove the rent control exemption. For full text of Regulation 17-01, see <https://www.ci.richmond.ca.us/DocumentCenter/View/45316/17-01>

stabilization program and more limited eviction protections than Richmond's; it also exempts all units with a regulatory agreement from the ordinance (Kauffman, 2018). San Jose's Tenant Protection Ordinance covers all buildings with three or more units, so affordable housing developments would be subject to just cause for eviction requirements, while HCV households in a single-family home would not. Los Angeles is perhaps the strictest. It exempts affordable housing from the rent ordinance only if it has a government regulatory agreement for a minimum of 55 years, TCAC's current minimum affordability standard (Gosden, 2018).

To analyze the impact of applying just cause for eviction protections on affordable housing developments, it is important to first understand the existing eviction protections in different types of affordable housing. Regulations generally include eviction protection provisions, either in their subsidy contracts or deed restriction agreements. Termination of tenancy in HUD-subsidized housing, both project and tenant-based, requires "good cause." These "good causes" include material noncompliance with lease, criminal activity, alcohol abuse, and property damage, among others. HUD's definition of "good cause" is quite broad. Its Housing Assistance Payment (HAP) contracts state that this can include "a business or economic reason for termination of tenancy (such as sale of the property, renovation of the unit, the owner's desire to rent the unit for a higher rent)." The definition of "good cause" in tax-credit housing is even broader. Developments receiving tax credits must have good cause eviction regulations within their deed restrictions. However, there is no standard definition of good cause within federal or state LIHTC regulations; rather, it is determined by courts on a case-by-case basis (National Housing Law Project, 2017; TCAC Compliance Program Management, 2018). According to one affordable housing owner, most legal actions in their developments are for noncompliance with recertification, failure to report income changes, or nonpayment of rent. Stakeholders expressed that owners tend not to take legal action for a lease violation unless it entails illegal activities like drug trafficking, gun violence or intense physical altercations (Harris, 2018; McElroy, 2018). Legal advocates, however, have expressed concerns about evictions for de minimus breaches of the lease as a way around new protections. They allege that landlords have changed parking rules and improperly characterized home care as subletting as a way to evict long-time, low-income tenants (Orevi, 2018).

Unlike the rent control portion of the Rent Ordinance, which could arguably conflict with federal and state affordability requirements, local just cause for eviction provisions strengthen tenant protections in affordable housing. Richmond's Rent Ordinance does not allow a landlord to terminate a tenancy for business or economic reasons. A landlord may not evict a tenant to rent at a higher rate; indeed, this is one of the main purposes of just cause protections. Courts in California have ruled that where local ordinances offer stricter eviction protections than federal requirements, local regulation prevails. In *Barrientos v. 1801-1825 Morton LLC* (2009), the U.S. Court of Appeals for the Ninth Circuit held that a landlord in Los Angeles could not terminate a voucher-holder's tenancy for business or economic reasons, because it violated the city's Rent Stabilization Ordinance. While the building owner argued that federal and state regulations preempted L.A.'s ordinance, HUD submitted an amicus brief to the court stating that its definition of good cause was deliberately broad and that where local regulations prohibit a termination of tenancy for business reasons, these apply to subsidized units equally. The circuit court's decision stated that Section 8 was designed to integrate with the rental market; therefore, "Congress could not have intended for assisted tenants to be less well-off than unassisted tenants in rent control areas such as Los Angeles." Subsequent cases, including *Crisales v. Estrada*

(2012) and *Anchor Pacifica Management Co. v. Green* (2012), have upheld the applicability of local regulations to units subsidized with federal subsidies or local redevelopment funds.

Given these precedents and the importance of protecting affordable housing residents in good standing from unnecessary, unwarranted, discriminatory, or arbitrary eviction, the Rent Board voted to subject affordable rental units to the Rent Ordinance's just cause for eviction provisions, as well as enrollment and fee payment requirements. One outstanding concern regarding this applicability is whether actions that are themselves not considered just cause to evict but are in violation of a lease could be used to terminate tenancy. Specifically, the Rent Ordinance generally allows tenants to write to the landlord request a one-for-one tenant replacement; if the landlord does not respond within 14 days, the request is automatically granted. Residents of affordable housing are typically prohibited from subletting a bedroom in a subsidized or deed-restricted unit, since they would profit off this assistance and presumably not include this income as part of their income for rent determinations. In addition, this would circumvent the waitlists for these units, potentially violating federal fair housing law. Although violating the lease is a just cause for eviction per the City's Rent Ordinance, affordable housing stakeholders are not sure how a court would decide in this matter (Harris, 2018; McElroy, 2018). Especially in the current political climate around housing and homelessness in the Bay Area, judges are unlikely to evict for issues other than nonpayment of rent or illegal activity (Maddock, 2017). At the same time, if a tenant followed the local noticing requirements for subleasing, the owner of an affordable unit could respond within 14 days and explain why this was not allowed under federal regulation. This is an issue that the Rent Board should pay attention to, as it may require further clarification through regulation.

## Housing Quality and Grievance Procedures

The Richmond Rent Program has received numerous complaints from tenants in affordable housing, from both residents with Housing Choice Vouchers and those living in LIHTC developments. One of the challenges that results from the exemption of affordable housing from rent control is that residents of these units cannot use the petition process to adjust their rents or put pressure on noncompliant landlords. Richmond tenants who are covered by rent control can file a petition to decrease the maximum allowable rent if there has been a substantial reduction in services, living space, furnishings, or housing quality. Specifically, tenants in controlled units can request a rent increase based on breach of the Implied Warranty of Habitability, as outlined in California Civil Code 1941.1. This is a key benefit of a robust rent control system that is typically overshadowed by debates over its effects on the housing market (Blumgart, 2015). The system gives tenants more leverage than they would otherwise have to enforce their right to decent housing. Therefore, although exempting affordable housing from rent control is sensible to city administration and housing developers, it puts these residents in a difficult position. As the city's own HiAP strategy noted, "Many tenants are reluctant to complain to landlords about physically unsafe conditions because they fear they will be evicted, and will be unable to find other affordable housing" (City of Richmond, 2013). Part of the research process for this report was to understand existing tenant protection and oversight systems at the state and local level. Having a clear assessment of challenges, rights and remedies in different types of affordable housing will help the Rent Program work with landlords, tenants and property managers to resolve issues as they arise.

### Housing Choice Vouchers

Tenants with Housing Choice Vouchers face a unique set of issues. As noted previously, the instability they face within the private rental market can lead them to accept substandard units or not report conditions to the housing authority (Desmond, 2016). This is perhaps more extreme in cities without just cause for eviction requirements, but staff counselors' experiences have shown this is to be a problem in Richmond as well. Landlords who participate in the Section 8 program must undergo a Housing Quality Standards (HQS) inspection before the contract is approved by the housing authority and every year thereafter. HQS can be a double-edged sword for residents. On the one hand, it theoretically improves the overall quality of housing by holding the termination of the HAP contract as leverage. On the other, this puts tenants in a difficult position, especially in tight housing markets. If an owner fails HQS but indicates they will fix the problem, the housing authority abates the rent payment until they make the repairs. If they do not make repairs, a notice goes out to the tenant that they can either get a transfer voucher to find a new apartment or stay in their home and pay the difference (Richmond Housing Authority, 2018). The latter is often not an option for low-income tenants, which might explain why conditions are the most common reason why voucher-holders across the country move (DeLuca et al., 2013). Additionally, qualitative evidence from other cities has shown distrust of the HQS process and inspectors themselves, by both landlords and tenants (E. Graves, 2016; Teater, 2011).

There is also the possibility that landlords might use HQS failure to opt out of Section 8 or remove a tenant without going through the formal eviction process. According to Los Angeles' Rent Stabilization Division, this is a clear loophole in federal Section 8 rules that local agencies cannot easily close. In these sorts of cases, L.A.'s staff typically provide legal referrals and encourage tenants to work with their Section 8 advisor to issue a transfer voucher if the repairs are not made (Gosden, 2018). Indeed, Rent Program staff members have observed landlords in the Section 8 program utilize this approach to evict tenants with Housing Choice Vouchers. An attorney with Bay Area Legal Aid in Richmond stated, "we feel strongly that a landlord should not be rewarded for failing to do their job...They're causing the problem and then trying to terminate the tenant based on this" (Orevi, 2018). She argued that a landlord should not be able to terminate tenancy for nonpayment of the full contract rent if the termination of Section 8 assistance was due to a habitability problem caused by the landlord's neglect. However, she acknowledged that this issue has not yet been litigated. The L.A. Municipal Code also previously included a provision stating, "It shall be unlawful for any landlord to terminate or fail to renew a rental assistance contract with the Housing Authority of the City of Los Angeles (HACLA), and then demand that the tenant pay rent in excess of the tenant's portion of the rent under the rental assistance contract" (LAMC Sec 151.04B). After a successful 2006 lawsuit by the landlord association, the city amended this provision to state that the landlord may not demand the excess rent for 90 days after serving notice of termination.<sup>18</sup> One of the challenges is that the housing authority needs participating landlords for the HCV program to work. Staff in various cities brought this up as a consideration when asked about regulating Section 8 tenancies through the Rent Program. According to the Alameda Rent Program, "One of the reasons Section 8 units are exempt is that we were worried about adding additional restrictions that would discourage individual landlords from participating in the program" (Kauffman, 2018). At the same time,

<sup>18</sup> See *Apartment Association of Los Angeles County Inc. v. City of Los Angeles* (136 Cal.App.4th 119)

loopholes around municipal and federal tenant protections undermine housing affordability and stability aims.

### Project-Based Section 8

Project-based Section 8 is subject to HUD’s comparably rigorous inspection system, the Real Estate Assessment Center (REAC). HUD uses REAC for both public housing and project-based developments that have direct contracts with the Office of Multifamily Housing. Projects are scored on a scale from 1 to 100, with 60 as a minimum passing score. The frequency of REAC inspections depends on a project’s past scoring. If a project scores 90 or above, inspections happen every 3 years; projects between 80 and 89 are inspected every 2 years, while those below 80 are inspected annually (McElroy, 2018). As **Table 5** indicates, all of Richmond’s multifamily projects currently have scores above 60, mostly in the 80s and 90s. Barrett Plaza and Monterey Pines are the two exceptions to this, with scores in the 60s and 70s. Looking at the past three inspections available on HUD’s REAC report, Arbors, Crescent Park, Deliverance Temple, Rubicon and St John’s also scored below 70 in recent years.

**Table 5. REAC Inspection Scores for Richmond’s HUD Multifamily Projects**

	<b>REAC Inspection Score<sup>19</sup></b>	<b>Date of Last Inspection</b>	<b>No. HUD Project-Based Units</b>
<b>Arbors Apts.</b>	93b	9/2/2014	23
<b>Barrett Plaza Townhouses</b>	74c*	4/5/2016	58
<b>Barrett Terrace Apts.</b>	82c*	3/6/2015	114
<b>Crescent Park</b>	93c*	1/25/2016	341
<b>Deliverance Temple</b>	87c	4/5/2016	82
<b>Monterey Pines<sup>20</sup></b>	68c*	12/15/2016	0
<b>Pullman Point</b>	85c*	11/3/2016	192
<b>Rubicon Homes</b>	95b	6/30/2014	10
<b>St John’s Apts.</b>	96c*	8/12/2014	155

Source: HUD Office of Multifamily Housing Programs, 2018; Richmond Rent Program, 2017

<sup>19</sup> The letters and symbols after the numerical score indicate the following: b (non-life threatening health and safety deficiencies), c (at least one life threatening health and safety deficiency), \* (at least one inoperable smoke detector). For more, see <http://www.lomod.org/OwnersAgents/reacinspectioncores.aspx> and <https://www.hud.gov/sites/dfiles/Housing/documents/california.pdf>

<sup>20</sup> Monterey Pines does not currently have any project-based Section 8 units. It previously had a HUD-financed loan, which is why there was a REAC inspection. After the recent resyndication of tax credits, all units are below 60% AMI, meaning that they will not be subject to REAC in the future.

Residents of project-based HUD developments have similar grievance rights to people living in public housing. The first step in both HUD and LIHTC projects is typically to meet with the property manager or the project supervisor, if the complaint is with the property manager. The tenant may write to the supervisor that they want a grievance hearing, which the supervisor in most cases is required to acknowledge within ten business days. The supervisor's decision must be based on the signed lease and house rules, as well as the law (Harris, 2018). If a resident in a project-based Section 8 unit is dissatisfied, they can then contact HUD's Office of Multifamily Housing Programs directly or contact California Affordable Housing Initiatives (CAHI). CAHI monitors tenant files and the physical status of almost 600 project-based Section 8 properties in Northern California. When a tenant complains, CAHI's Contact Center will get in touch with site staff, then follow up with the central management office if site staff are unresponsive. Most of the complaints are related to maintenance issues, followed by rent determinations. CAHI staff will review complaints and determine whether there is a violation of federal regulations or fair housing law, particularly the provisions in HUD Handbook 4530.3 "Occupancy Requirements of Subsidized Multifamily Housing Programs." If staff are unable to resolve a dispute to the resident's satisfaction, the resident would have to pursue independent legal action (California Affordable Housing Initiatives, 2018). One concern specific to project-based Section 8 that emerged in discussions with legal advocates was management companies responding to maintenance requests by sending inspectors to look for any minor lease violations on which they could terminate tenancy (Orevi, 2018).

### **LIHTC**

One of the main challenges for LIHTC is maintaining building quality and oversight once the compliance period has ended. A project must be rent-restricted for 55 years under TCAC regulations but the initial compliance period only lasts for fifteen years (in the case of a re-syndication of tax credits for the development, this period resets.) During the compliance period, owners are expected to inspect all units on the property annually and certify this to TCAC. State compliance officers will also inspect a development's common areas and 20 percent of randomly-selected units every three years (California Tax Credit Allocation Committee, 2017; Hensley, 2014). LIHTC units must adhere to Uniform Physical Conditions Standards, which can be less strict than HQS (Maddock, 2017). After the compliance period ends, inspections happen every five years. If TCAC identifies noncompliant properties, they issue a report listing the problems and typically give ownership 30 days to fix them. Although most of the time owners make the necessary repairs, if they do not, TCAC reports this noncompliance to the Internal Revenue Service (IRS). TCAC has no influence over what happens next, since tax credits are a federal IRS function (TCAC Compliance Program Management, 2018). The LIHTC system to some degree assumes investors will pressure owners and management companies to keep up good conditions, for fear of having the IRS recapture the tax credits. However, this is a fairly indirect system in comparison with HUD's recapture mechanisms, for example.

This arrangement also creates significant variability in the quality of a LIHTC project and its services. Projects that have more proactive on-site resident services operated by third parties are often better managed, as there is a healthy tension there between the property management and resident services staff (Maddock, 2017). Greater separation between these two functions—including third-party resident services providers—can help tenants feel more comfortable bringing up concerns. These resident services are more common among developments receiving competitive 9 percent tax credits, since these services increase a project's score in the application

process. Projects financed with non-competitive 4 percent credits tend not to offer as many amenities, since developers only have to promise to meet minimum affordability requirements to receive the tax credits (Maddock, 2017). Additionally, developers seeking 9 percent credits are often more experienced and are therefore more familiar with TCAC regulations and compliance procedures (TCAC Compliance Program Management, 2018). If LIHTC residents are dissatisfied with the internal grievance process, they can also call TCAC's Compliance Program and speak with a dedicated manager who works with tenants. Not every state has such a system; HFAs can take complaints from residents, but are not required to do so (Hensley, 2018). This is a useful mechanism but many tenants and advocates are not very familiar with LIHTC rules. LIHTC lease agreements can be around 50 pages long and compliance procedures may not be immediately clear from TCAC's website (Maddock, 2017).

## Conclusions

When Richmond voters approved Measure L in November 2016, they approved a broad ordinance that required significant clarification. The question of how the Rent Ordinance should apply to different types of affordable housing is an important one, given that over 20 percent of Richmond's rental housing is affordable through a subsidy or deed restriction. Additionally, many affordable housing residents would have difficulty finding alternative housing in the broader private market, due to their race, socioeconomic status, disability, or family composition. Promoting these residents' rights to affordable, stable and good-quality housing is therefore important for supporting equity and public health goals.

In researching and writing this report, several themes emerged. First, "affordable housing" is a broad term that encompasses many types of assistance and oversight structures. Different types of affordable housing face distinct sets of concerns. Housing instability and poor quality emerged as key concerns for households with tenant-based vouchers, while LIHTC residents struggle more often with rising rents and cost burdens. Understanding the nuances of these programs is vital for crafting local policies and strategies to support residents. Additionally, discussions with various stakeholders highlighted the importance of mission-driven owners and property managers, which often incorporate more holistic resident services and tenant protections. Second, there are already a number of processes and forums for tenants in different types of affordable housing to lodge grievances. The Rent Program only learned about these through the process of conducting research for this report. Having this basic information will help staff better assist affordable housing residents who call or come into the office.

Finally, education and communication are vital for everyone involved. Early on, miscommunication and mixed messages from the Rent Program regarding affordable housing created confusion and challenges for both developers and residents. More than a year later, the Rent Program has built stronger working relationships with owners and property managers. It also has initiated conversations with other departments and agencies to educate them about the Rent Ordinance and strategize together how to improve housing quality and stability in Richmond more holistically. As Richmond's Rent Program continues to develop, it will likely continue to receive inquiries and complaints from residents in affordable housing. It is important for all stakeholders – other city agencies, developers, and legal advocates – to continue communicating with and educating the Rent Program about what is happening on the ground. Centering tenants' issues in data collection and outreach efforts will help ensure that some of

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Richmond's most vulnerable residents are protected and treated fairly in affordable housing. At the same time, it is important for the City of Richmond and the Rent Board to keep long-term affordability goals in mind as it develops regulations and strategies for affordable housing. Continued dialogue and creative solutions that are tailored to Richmond's unique history and diverse communities will support long-term housing affordability, stability and quality.

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Appendix A1

CITY OF RICHMOND DRAFT EXISTING DEED-RESTRICTED AFFORDABLE HOUSING

Basic Information				Subsidy										Ownership and		
DEVELOPMENT NAME	ADDRESS	YEAR BUILT (s)	APN	PROJECT-BASED SECTION B Direct Contract with HUD	SECTION B CONTRACT EXPIRATION	TENANTS WITH A HOUSING CHOICE VOUCHER (TENANT BASED SECTION B)	SECTION 202 UNITS	SECTION 42 (LIHTC) UNITS	SECTION 236 UNITS	PUBLIC HOUSING UNITS/UNITS OWNED BY THE RICHMOND HOUSING AUTHORITY	BELOW MARKET RATE "MARK" UNITS	TOTAL SUBSIDIZED UNITS	COMPLIANCE END YEAR (LIHTC PROPERTIES ONLY)	REGULATORY AGREEMENT AND DATES OF RECORDING	OWNER ON RECORD NAME & ADDRESS	OWNERSHIP ENTITY
Data Source	Regulatory Agreements, Restrictive Covenants, 2015-2022 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, 2015-2022 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 Creeley Avenue	1965	509-390-004	23	8/31/26		35				36	2063		ARBORS PRESERVATION LP	John Stewart Company (County), Resources for Community Development (RCD)(California Housing Partnership Corporation)
2	Barrett Plaza Townhouses	740 Barnett Ave, Richmond, CA 94801	1975	534-392-001	58	12/31/31			58			58	2070		BARRETT PLAZA HOUSING CORP	Community Housing Development Corporation, Managed by CHDC
3	Barrett Terrace Apartments	708 Barnett Ave, Richmond, CA 94801	1975	538-440-001	114	12/31/21			114			115			BARRETT TERRACE HOUSING CORP	Community Housing Development Corporation, Managed by CHDC
4	BayCliff Apartments	288 Lancaster Dr, Richmond, CA 94806	1977	414-300-006			118	342				342	2059	Regulatory Agreement and Declaration of Restrictive Covenants 11/29/06	FF Hills LP	FF Hills LP
5	Carquinez	400 Harbour Way, Richmond, CA 94801	1980	540-420-003			30	39				36	2064	Regulatory Agreement and Declaration of Restrictive Covenants 11/24/06	Carquinez Associates	Carquinez Associates
6	Chesley Mutual Housing	802 Chesley Ave, Richmond, CA 94801	2005 (s)	561-251-003				30				30	2059	Regulatory Agreement and Declaration of Restrictive Covenants 12/27/08	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	12/31/26	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	2/28/37		82				82	2070	Regulatory Agreement - Federal and State Credits (12/09/03) & HAP Contract 10/0/09	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 (s)	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 (s)	405-373-022			94	95				192	2054	No Reg Agreement, but we have Density Bonus Agreement 02/28/03	HILLTOP GROUP LP	Hilltop Group LP
12	Liberty Village Apartments	298 W Clansdor Ave, Richmond, CA 94801	1942	538-012-003				100				100	2068	Regulatory Agreement 11/01/00	LIH LIBERTY VILLAGE LP	LIH Liberty Village LLC
13	Lille Mae Jones Plaza	120 Macdonald Ave, Richmond, CA 94801	2011 (s)	538-181-037			18					26	2065	Regulatory Agreement and Declaration of Restrictive Covenants (no date of recording), Modification of Regulatory Agreement and Declaration of Restrictive Covenants 05/07/20	LILLE MAE JONES PLAZA LP	East Bay Asian Local Development Corp (County), CHDC of North Richmond (California Housing Partnership Corporation)
14	Monterey Place Apartments	480 S 37th St, Richmond, CA 94804	1971	513-185-011			50	124				124	2070	Regulatory Agreement and Declaration of Restrictive Covenants 12/20/03	Monterey Venture LP	Apartment Management Consultants LLC
15	Neville Plaza	2400 Neville Avenue, Richmond, CA 94804	1973	515-261-001						142		142			Richmond Housing Authority	Richmond Housing Authority
16	Nyctrom Village	222 Marina Way South, Richmond, CA 94804	1950	544-112-001						102		102			Richmond Housing Authority	City of Richmond Housing Authority Managed by John Stewart
17	Pullman Point (Formerly Richmond Townhouses)	2989 Pullman Ave, Richmond, CA 94804	1973	513-010-019	192	7/29/24		199		192		199	2056	First Amendment to First Amendment and Restated Regulatory Agreement 12/06/13	CARLSON BULLEWARD LP	Primary Owner - Community Housing Development Corporation and Limited Partner John Stewart Company
18	Richmond City Center Apartments	1000 Macdonald Ave	1994	540-460-009			14	63				63	2067		RICHMOND HOLDING ASSOCIATES LP	Richmond Housing Associates
19	Richmond Village (Formerly Easter Hill)	700 S 38th St, Richmond, CA 94804	2009 (s)	549-240-001			60	241				241	2060 & 2061	Regulatory Agreement and Declaration of Restrictive Covenants - Easter Hill Phase I (12/24/04), Regulatory Agreement and Declaration of Restrictive Covenants - Easter Hill Phase II (11/21/06)	Richmond Housing Authority	Richmond Housing Authority (County), McCormick Baron, Salazar, Inc. (California Housing Partnership Corporation)
20	Rubicon Homes	2500 Bissell Ave, Richmond, CA 94804	1950	515-312-004	10	8/31/27	OH 202 project - lease matured		10			10			Rubicon Programs Incorporated	Rubicon Programs Incorporated

Basic Information				Subsidy											Ownership and	
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 (LHIC) 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 (LHIC PROPERTIES ONLY)	REGULATORY AGREEMENT AND DATE(S) OF RECORDING	OWNER ON RECORD NAME & ADDRESS	OWNERSHIP ENTITY
<b>Data Source</b>	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
21	St Johns Apartments	121 W Macdonald Ave, Richmond, CA 94801	1990	538-011-002	155	6/30/13		158				158	2068	Regulatory Agreement 17/22/13	ST JOHN'S PARTNERS LP	US Residential Corporation
22	Triangle Court (RAD Conversion)	80 Triangle Court, Richmond, CA 94801	1988	561-280-007			75				98	98	2066	Regulatory Agreement and Declaration of Restrictive Covenants 12/22/13	Richmond Housing Authority	Richmond Housing Authority
23	Trinity Plaza Senior Apartments (Formerly MacDonald Senior Apartments)	350 & 410 Macdonald Ave, Richmond, CA 94805	2009 (c)	538-210-027			64	66				66	2062	Regulatory Agreement and Declaration of Restrictive Covenants 10/12/07	Richmond Labor & Love Comm Dev	Richmond Labor & Love Community Development (County); Related Development Company of California, LLC (California Housing Partnership Corporation)
24	VUE @ 3600 (Formerly Summit at Hilltop)	3600 Sierra Ridge Road	1990	405-400-013								96		Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants 17/15/10	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	975		55	394	374		399	481	2065	Regulatory Agreement and Declaration of Restrictive Covenants 13/25/16	Merito Westridge Affordable Partner	Alliance Residential Company (County); Klein Financial Corp/Merito Capital
<b>SUM</b>							<b>483</b>	<b>95</b>	<b>2,702</b>	<b>374</b>	<b>399</b>	<b>3,414</b>				

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

Notes:  
(a) Information was obtained from the Contra Costa County Assessor, The Planning and Building Services Departments  
(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

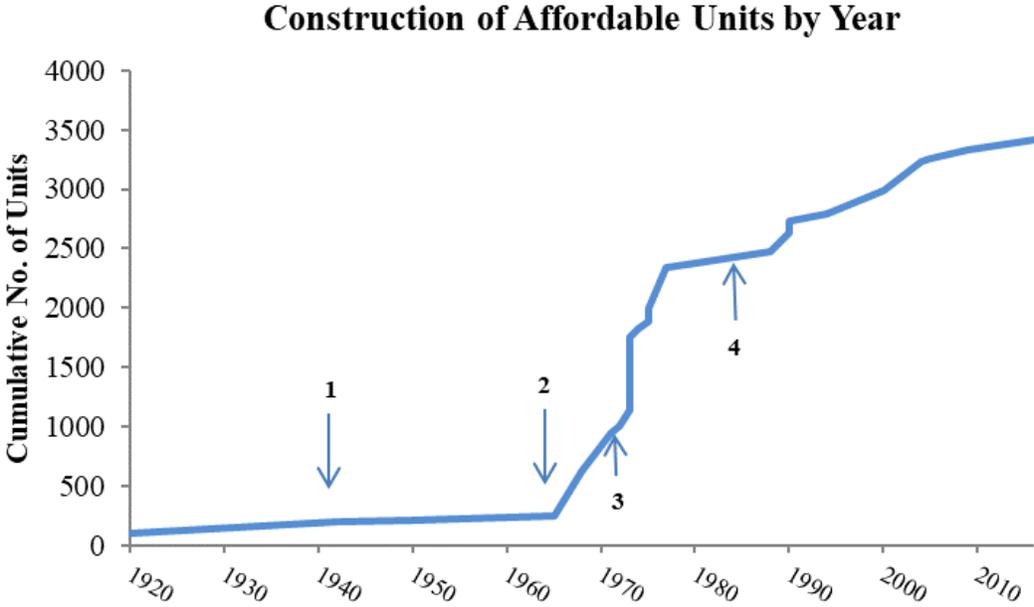
DEFINITIONS	
LHIC	Low Income Housing Tax Credit
Section 8 - Project Based	Units Subsidized by Section 8 Program
Section 8 - Tenant Based	Tenants with a Section 8 Voucher
Section 202 (Senior)	Section 202 Supportive Housing for the Elderly Program
Section 236	Preservation of

## Appendix A2 - Profile of Affordable Housing in Richmond

**Table 1. Project Abbreviation Key**

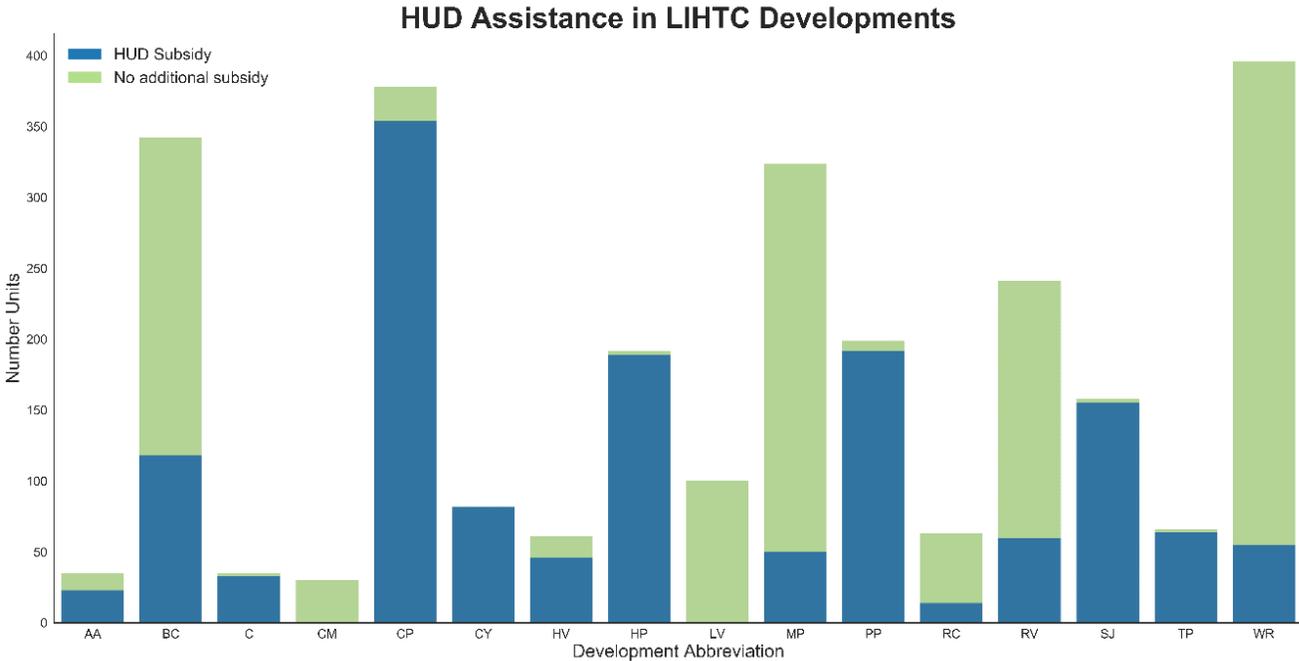
<b>Abbreviation</b>	<b>Project Name</b>
AA	Arbors Apartments
BP	Barrett Plaza
BT	Barrett Terrace
BC	Baycliff Apartments
CA	Carquinez
CM	Chesley Mutual
CP	Crescent Park
CY	Cypress Pines (formerly Deliverance Temple)
FM	Friendship Manor
HP	Heritage Park
HV	Harborview Senior Apts.
LM	Lillie Mae Jones
LV	Liberty Village
MP	Monterey Pines
NP	Nevin Plaza
NV	Nystrom Village
PP	Pullman Point
RC	Richmond City Center Apts.
RV	Richmond Village
RU	Rubicon Homes
SJ	St. Johns Apartments
TC	Triangle Court
TP	Trinity Plaza Senior Apts.
WR	Westridge Apts.

Figure 1. Construction of Affordable Units by Year



Source: Richmond Rent Program, 2017  
 Key: 1) 1941 – RHA established; 2) 1961-68 – HUD implements a range of construction assistance programs  
 3) 1973/74 - Federal government places moratorium on new housing and establishes Section 8;  
 4) 1986 - Congress creates LIHTC through tax reform act

Figure 2. HUD Assistance in LIHTC Developments



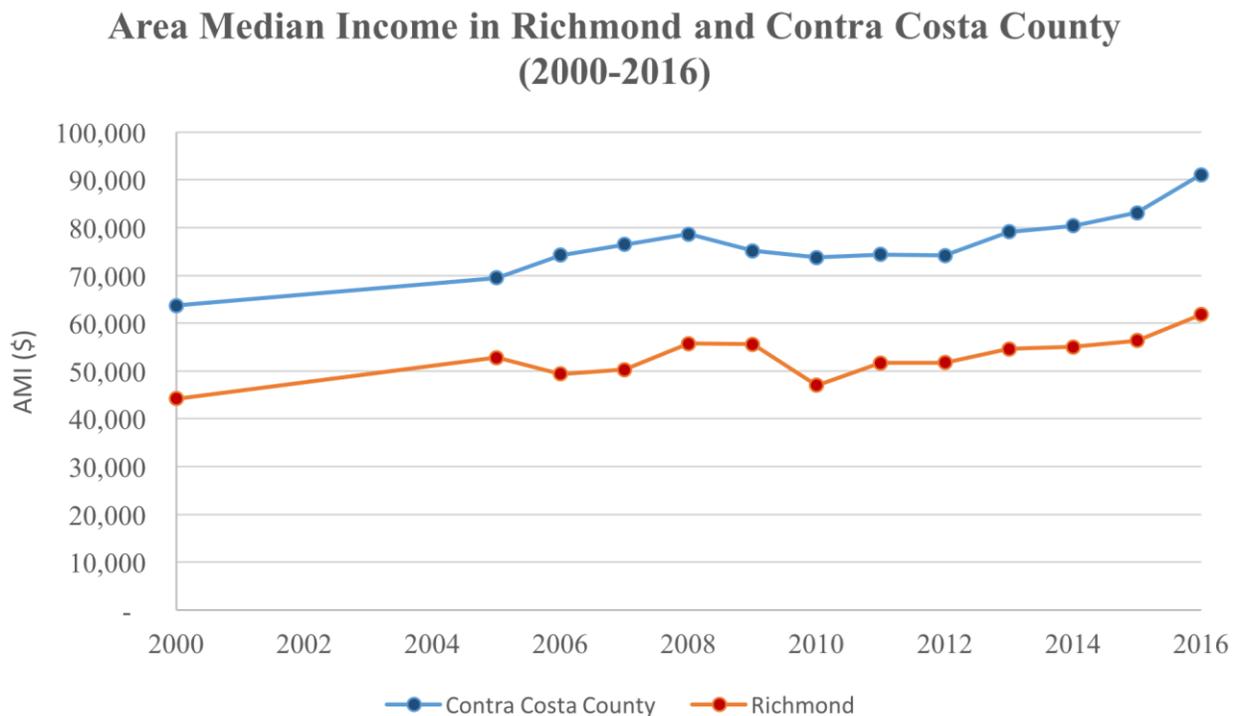
Source: Richmond Rent Program, 2017 (see Appendix A1 for more information on subsidy types)

**Table 2. Comparison of City, County and TCAC Regional AMI (\$)**

Household Size	Contra Costa County	Richmond	TCAC Median Income <sup>1</sup>
<b>1</b>	45,971	40,057	81,400
<b>2</b>	96,702	67,718	93,000
<b>3</b>	110,411	70,069	104,600
<b>4</b>	121,340	71,815	116,200
<b>5</b>	104,394	74,388	125,500
<b>6</b>	103,000	60,811	134,800
<b>Overall AMI</b>	91,045	61,814	N/A

Source: ACS 1-Year Estimates (Table B19019, 2016); TCAC Income Limits (2018)

**Figure 3. Area Median Income in Richmond and Contra Costa County (2000-2016)**

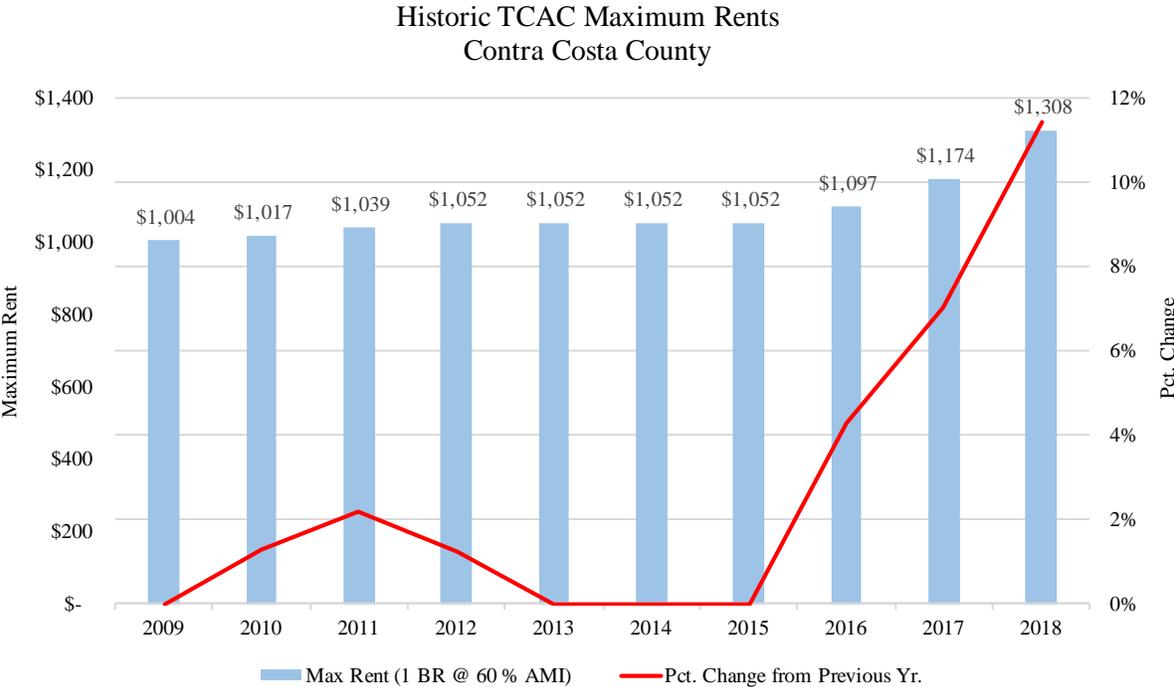


Source: ACS 1-Year Estimates (Table B19019, 2005-2016); U.S. Census (Table P053, 2000)

<sup>1</sup> These income limits are for projects placed in service prior to 2008 in the Oakland-Fremont HUD Metro FMR Area. 50 or 60% AMI limits in LIHTC projects would be based on this estimate.

<http://www.treasurer.ca.gov/ctcac/rentincome/18/income/01-income-limits-pis-before-123108.pdf>

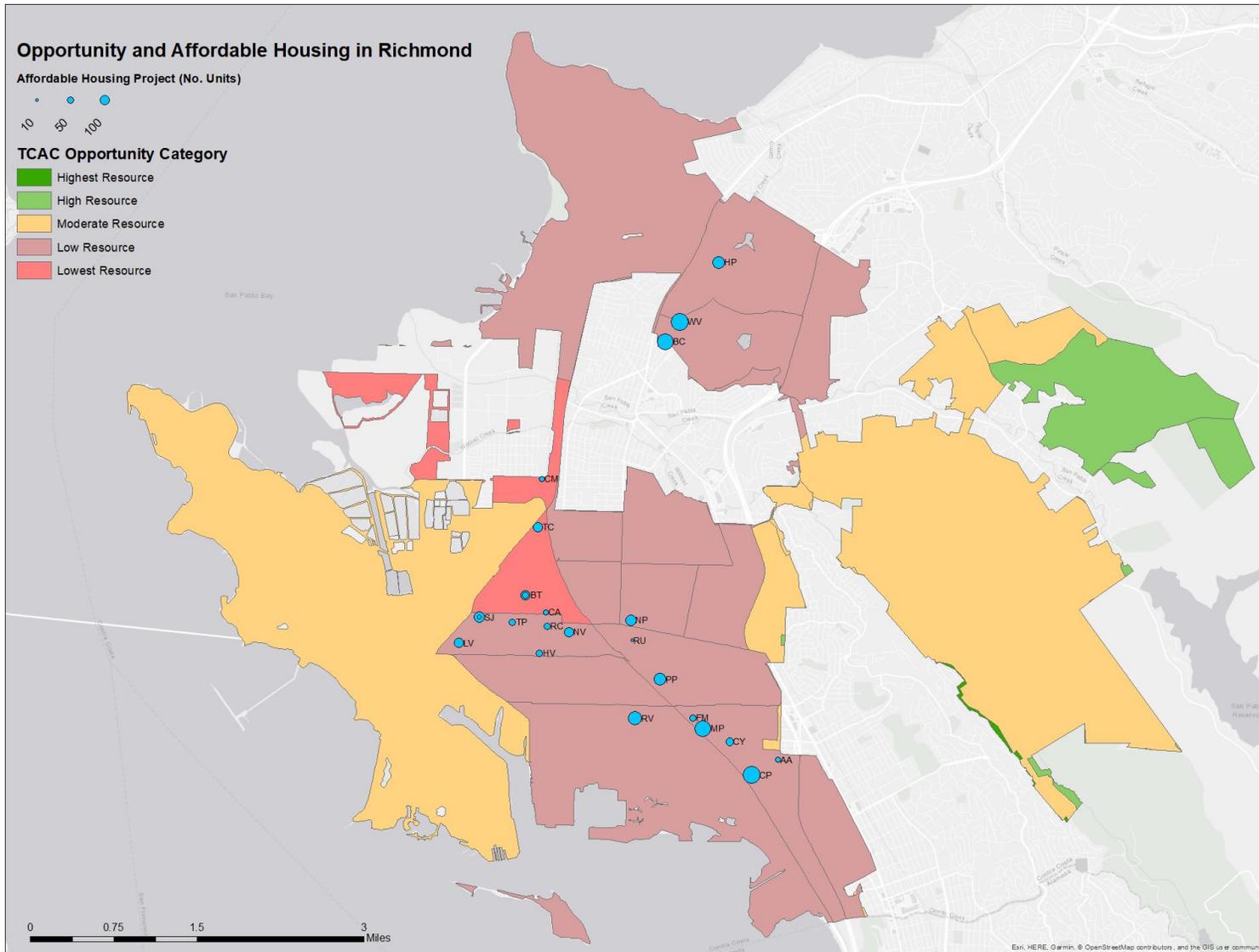
**Figure 4. TCAC Maximum Rent (2009-2018)**



Source: TCAC, 2018

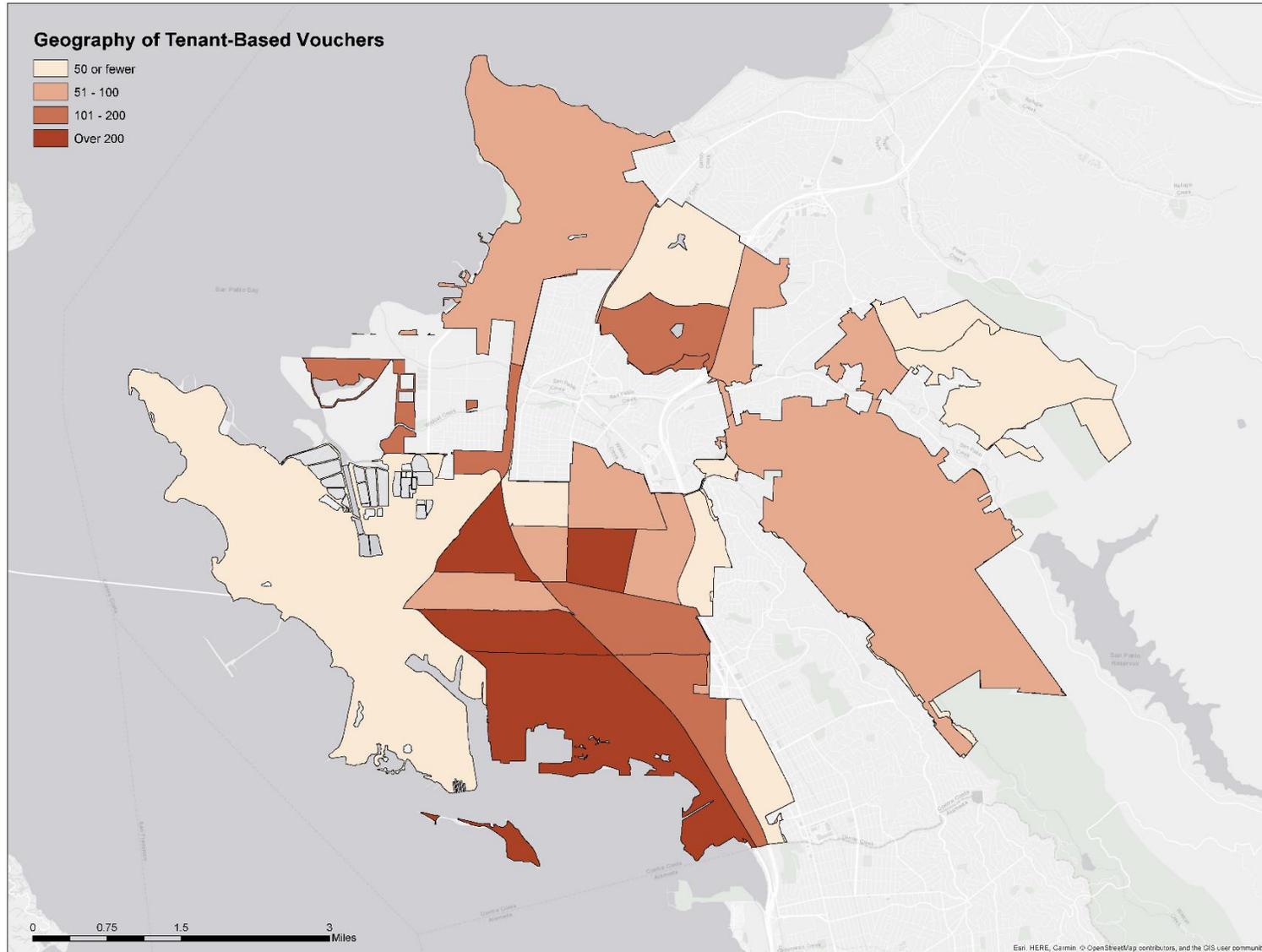
Note: This data labels note the maximum rent (at 60% AMI) for a one-bedroom unit placed into service prior to 12/31/08. For more, see <http://www.treasurer.ca.gov/ctcac/compliance/limits.asp>.

Figure 5. Opportunity and Affordable Housing in Richmond



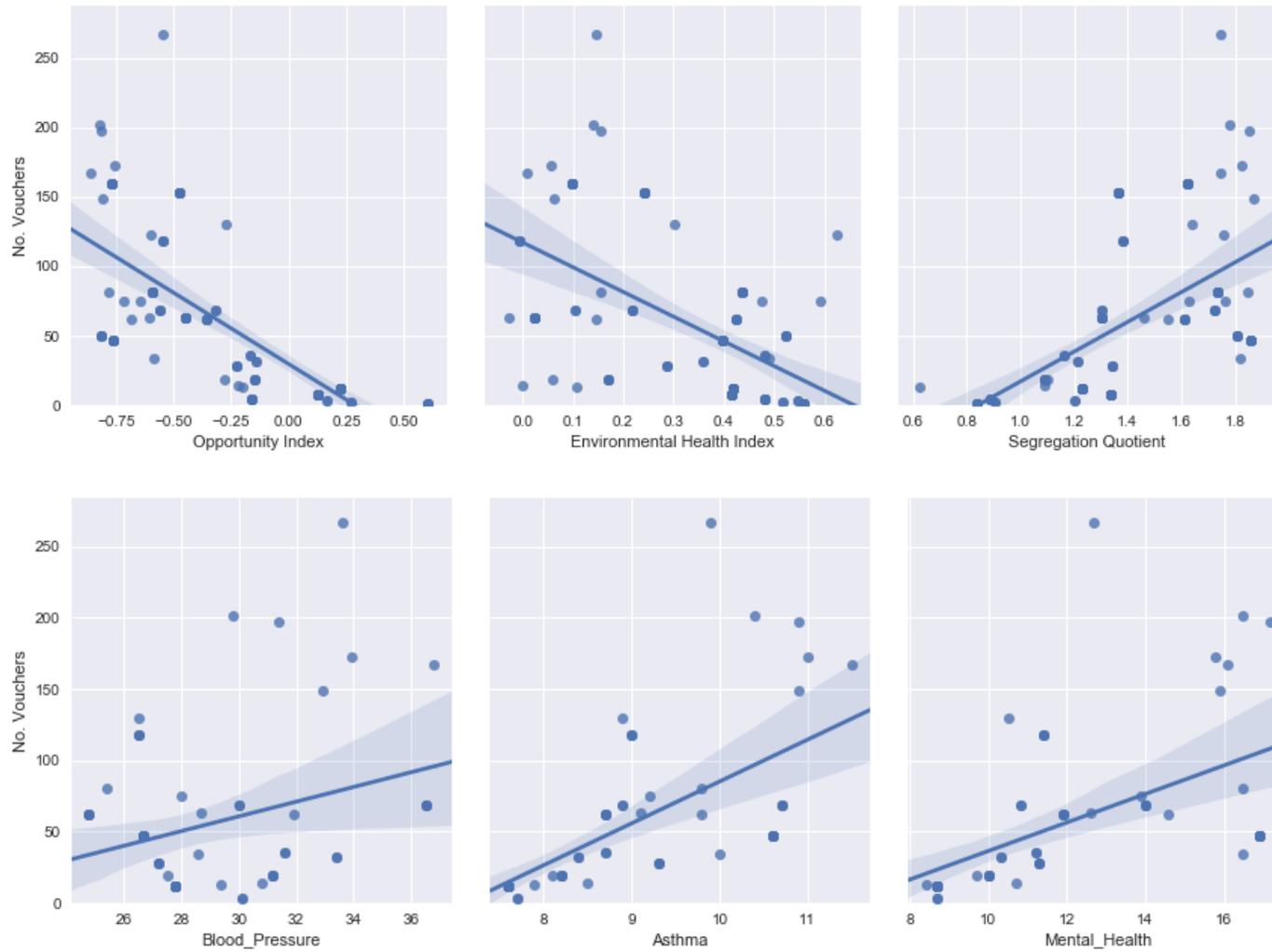
Source: Richmond Rent Program, 2017; TCAC “Opportunity Maps”, 2017

Figure 6. Geography of Tenant-Based Vouchers in Richmond



Source: HUD "Picture of Subsidized Households", 2017

Figure 7. Demographic, Environmental and Health Characteristics of Section 8 Neighborhoods



Source: HUD “Picture of Subsidized Households”; TCAC “Opportunity Maps”; Centers for Disease Control “500 Cities” (all 2017)

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

## References

- <sup>1</sup> This category refers to multifamily housing administered through direct contracts with HUD, including project-based Section 8, Section 202 (senior) and Section 236 (mortgage interest subsidy) housing
- <sup>2</sup> U.S. Department of Housing and Urban Development (HUD) “HUD Multifamily Occupancy Handbook Chapter 8,” November 2013, accessed November 1, 2017, [https://www.hud.gov/sites/documents/DOC\\_35654.PDF](https://www.hud.gov/sites/documents/DOC_35654.PDF).
- <sup>3</sup> National Housing Law Project (NHLP), “Barrientos v. 1801-1825 Morton, LLC”, accessed October 18, 2017, <http://nhlp.org/node/1130>.
- <sup>4</sup> NHLP, “Good Cause Eviction,” accessed November 7, 2017, <http://nhlp.org/resourcecenter?tid=106>
- <sup>5</sup> Tenants Union of Washington State, “Low Income Housing Eviction,” accessed October 27, 2017, <http://www.tenantsunion.org/en/rights/low-income-housing-eviction>.
- <sup>6</sup> HUD, “HUD Multifamily Occupancy Handbook Chapter 7,” November 2013, accessed November 1, 2017, <https://www.hud.gov/sites/documents/43503C7HSGH.PDF>.
- <sup>7</sup> HUD, “Fair Market Rents,” accessed November 7, 2017, <https://www.huduser.gov/portal/datasets/fmr.html>.
- <sup>8</sup> Alex Schwartz, *Housing Policy in the United States* (New York: Routledge, 2010).
- <sup>9</sup> Interview with Lauren Maddock, October 23, 2017.
- <sup>10</sup> HUD, “Housing Quality Standards – Frequently Asked Questions”, accessed November 7, 2017, [https://www.hud.gov/sites/documents/DOC\\_9143.PDF](https://www.hud.gov/sites/documents/DOC_9143.PDF).
- <sup>11</sup> Schwartz, *Housing Policy in the United States*.
- <sup>12</sup> HUD, “Physical Inspection Scores,” accessed November 3 2017, <https://www.huduser.gov/portal/datasets/pis.html>.
- <sup>13</sup> HUD, “Physical Requirements,” [https://www.hud.gov/sites/documents/21514\\_preoccphysical.doc](https://www.hud.gov/sites/documents/21514_preoccphysical.doc)
- <sup>14</sup> California Tax Credit Allocation Committee, “Compliance Online Reference Manual”, accessed October 27, 2017, <http://www.treasurer.ca.gov/ctcac/compliance/manual/manual.pdf>.
- <sup>15</sup> Desiree Carole Hensley, “Out in the Cold: The Failure of Tenant Enforcement of the Low-Income Housing Tax Credit,” SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, September 3, 2014), accessed October 17, 2017, <https://papers.ssrn.com/abstract=2491366>.
- <sup>16</sup> South Carolina Appleseed Legal Justice Center, “Grievance Procedures in Public Housing, Subsidized Housing and Section 8 Programs”, October 2012, accessed November 3, 2017, <http://www.scjustice.org/brochure/grievance-procedures/>.
- <sup>17</sup> Interview with Oraneet Shikmah Orevi, February 20, 2018.
- <sup>18</sup> Hensley, “Out in the Cold.”
- <sup>19</sup> Interview with Lauren Maddock, October 23, 2017.
- <sup>20</sup> Hensley, “Out in the Cold.”