

# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: February 20, 2019

Final Decision Date Deadline: February 20, 2019

**STATEMENT OF THE ISSUE:** On December 19, 2018, in conjunction with Richmond City officials, the Chair brought an item before the Rent Board titled "Proposed Collaboration with the Richmond Rent Board, City of Richmond, and Richmond Housing Authority to Implement Housing Ordinances to Protect Richmond Residents." Following the discussion, the Rent Board directed staff to continue to engage with City staff to further discuss City of Richmond adopted and proposed housing-related ordinances, for the sole purpose of ascertaining the requested services from the Rent Program and report back with an update. Staff members have prepared an update for the Board and are seeking further direction.

## INDICATE APPROPRIATE BODY

- |   |   |  |  |   |
|---|---|--|--|---|
| <input type="checkbox"/> City Council               | <input type="checkbox"/> Redevelopment Agency                             | <input type="checkbox"/> Housing Authority     | <input type="checkbox"/> Surplus Property Authority          | <input type="checkbox"/> Joint Powers Financing Authority |
| <input type="checkbox"/> Finance Standing Committee | <input type="checkbox"/> Public Safety Public Services Standing Committee | <input type="checkbox"/> Local Reuse Authority | <input checked="" type="checkbox"/> Other: <u>Rent Board</u> |   |

## ITEM

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

**RECOMMENDED ACTION:** RECEIVE an update concerning the City of Richmond's request for the Rent Program to administer housing-related ordinances and PROVIDE direction to staff – Rent Program (Nicolas Traylor 620-6564).

AGENDA ITEM NO:

**H-2.**



# AGENDA REPORT

**DATE:** February 20, 2018

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

**FROM:** Nicolas Traylor, Executive Director

**SUBJECT:** POLICY RECOMMENDATIONS REGARDING COLLABORATION WITH CITY DEPARTMENTS AND AGENCIES

## **STATEMENT OF THE ISSUE:**

On December 19, 2018, in conjunction with Richmond City officials, the Chair brought an item before the Rent Board titled "Proposed Collaboration with the Richmond Rent Board, City of Richmond, and Richmond Housing Authority to Implement Housing Ordinances to Protect Richmond Residents." Following the discussion, the Rent Board directed staff to continue to engage with City staff to further discuss City of Richmond adopted and proposed housing-related ordinances, for the sole purpose of ascertaining the requested services from the Rent Program and report back with an update. Staff members have prepared an update for the Board and are seeking further direction.

## **RECOMMENDED ACTION:**

RECEIVE an update concerning the City of Richmond's request for the Rent Program to administer housing-related ordinances and PROVIDE direction to staff – Rent Program (Nicolas Traylor 620-6564).

## **FISCAL IMPACT:**

The total fiscal impact of the City's requested "ask" of Rent Program staff is unknown at this time; however, if the Rent Program were to administer and enforce only the Fair Chance Ordinance, for example, it could potentially require an increase in the Rent Program's annual budget anywhere between \$394,768 - \$558,690 (see Programmatic Consideration #3 below).

### DISCUSSION:

#### Background

Established in December 2016 following voter approval of the Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (hereafter “Rent Ordinance”), the Rent Program is a cost-recovery department governed by a five-member Rent Board. Pursuant to the Rent Ordinance, the Rent Program is funded by a Residential Rental Housing Fee (hereafter “Fee”) approved by the City Council in accordance with Section 50076 of the California Government Code.

Recently, City staff members have been directed by the City Council to develop and/or implement three housing-related ordinances: (1) a Fair Chance Access to Affordable Housing Ordinance (RMC 7.100, adopted December 20, 2016), (2) a Fair Tenant Screening Ordinance (not yet adopted), and (3) a Source of Income Anti-Discrimination Ordinance (not yet adopted). In the absence of current staff capacity within the City’s Housing and Community Development Department, and facing pressure from community organizations dissatisfied with the lack of enforcement of Council-adopted Ordinances such as the Fair Chance Access to Affordable Housing Ordinance, City staff members are seeking assistance from Rent Program staff members on the development and implementation of these Ordinances.

On December 19, 2018, in conjunction with Richmond City officials, the Chair brought an item before the Rent Board titled “Proposed Collaboration with the Richmond Rent Board, City of Richmond, and Richmond Housing Authority to Implement Housing Ordinances to Protect Richmond Residents.” The discussion of this item centered around educating the Richmond Board on three housing related City Ordinances— Source of Income Anti-Discrimination, Fair Chance Ordinance, and Reusable Tenant Screening Report Ordinances (hereinafter, “housing-related ordinances”). At the conclusion of the item, the Board authorized staff to meet with City officials to ascertain the requested services sought from the Richmond Rent Program.

On January 15, 2019, the Rent Board’s Executive Director, Deputy Director and Staff Attorney met with City officials. There, City officials articulated that they would like the Richmond Rent Board to implement and administer the Fair Chance Ordinance. City officials also inquired as to the Rent Board’s legal position on the matter. The Rent Board’s Staff Attorney explained the legal limitations and concerns related to the Rent Program administering the Fair Chance Ordinance. This report addresses the programmatic considerations of the City’s requested “ask.”

### Programmatic Considerations

***Programmatic Consideration #1: Allocation of Rent Program resources for the development and implementation of housing-related ordinances will detract resources from critical tasks such as enrollment, fee collection, and database development.***

At this point in the Rent Program's development, the effectiveness of the Rent Program and the ability of the Rent Board to carry out its powers and duties rest on the ability of staff to conduct the outreach, education, and processes necessary to charge and collect the Rental Housing Fee and monitor the Maximum Allowable Rent. Currently, due to investments in the Property Enrollment and Tenancy Registration process, which is necessary to generate accurate invoices, less than 35% of Fiscal Year 2018-19 Rental Housing Fee revenue has been collected. Development of a financially stable program is a higher priority at this time than creating additional programs to administer tangential ordinances.

***Programmatic Consideration #2: Hearings for appeals of the adopted and proposed ordinances cannot practically be held within the required deadline with existing Rent Program resources.***

Under the Fair Chance Access to Affordable Housing Ordinance, prospective tenants may appeal to the City's Appeal Hearing Officer. Upon receiving an appeal application, the Appeal Hearing Officer must hold a hearing and decide whether to uphold the housing provider's decision within ten calendar days of receiving an appeal application. Not only would this require the Rent Board to authorize the Hearing Examiner to hold hearings regarding matters unrelated to its powers and duties, it is practically unfeasible for the current Hearing Examiner to hold hearings within the ten-calendar-day deadline due to the demands of the current Hearings Calendar required to enforce the Rent Ordinance. Currently, Rent Adjustment Petition hearings typically have at least a 30-day wait period due to the Hearing Examiner's availability and docket of scheduled hearings.

***Programmatic Consideration #3: The Rent Program does not currently have the staff necessary to administer additional housing-related ordinances.***

Administration of the aforementioned housing-related ordinances will require, at a minimum:

- Developing regulations to implement each ordinance;
- Developing a hearings process;
- Developing an appeals process;
- Conducting outreach and education around each ordinance;
- Training in California Penal Code and other related criminal statutes; and
- Development of program forms.

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The Rent Program's administration of the proposed Housing-Related Ordinances could necessitate the employment of at least one Administrative Aide, one additional Rent Program Services Analyst and one Hearing Examiner, which would cost the Rent Program an estimated \$394,768 - \$558,690 annually.

In addition, it would be prudent for the Program to invest additional resources in outside legal counsel, since administration of additional housing-related ordinances would expose the Rent Program to additional legal risks (e.g. increased writs filed based on each ordinance.)

### Conclusion

While the development and implementation of a Fair Chance Access to Affordable Housing, Fair Tenant Screening Ordinance, and Source of Income Anti-Discrimination ordinances are directives of the City Council and therefore important to the community, the Rent Board's decision to allocate Rent Program resources to these efforts could ultimately result in a disservice to Richmond residents by distracting from the Board's primary duty to administer the Rent Ordinance and govern a Rent Program that is able to adequately serve community members.

Expanding the Rent Board's jurisdiction and Rent Program's services to include other housing-related ordinances contemplated by the City Council should be carefully considered for policy, programmatic, and legal reasons.