



## REGULAR MEETING OF THE RENT BOARD OF THE CITY OF RICHMOND

CITY COUNCIL CHAMBERS, COMMUNITY SERVICES BUILDING  
440 Civic Center Plaza, Richmond, CA 94804

**Wednesday, July 17, 2019**

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### **Boardmembers**

Alana Grice Conner  
Virginia Finlay  
Emma Gerould  
Commieolla Duncan  
Lauren Maddock

***Link to Rent Board Meeting Agendas and Accompanying Materials:***

[www.ci.richmond.ca.us/3375/Rent-Board](http://www.ci.richmond.ca.us/3375/Rent-Board)

### **COMMUNICATION ACCESS INFORMATION**

This meeting is being held in a wheelchair accessible location. To request disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact Bruce Soublet, ADA Coordinator, at (510) 620-6509 at least three business days before the meeting date.

### **NOTICE TO PUBLIC**

The City of Richmond encourages community participation at public meetings and has established procedures that are intended to accommodate public input in a timely and time-sensitive way. As a courtesy to all members of the public who wish to participate in Rent Board meetings, please observe the following procedures:

**Public Comment on Agenda Items:** Persons wishing to speak on a particular item on the agenda shall file a speaker form with City staff **PRIOR** to the Rent Board's consideration of the item on the agenda. Once the clerk announces the item, only those persons who

have previously submitted speaker forms shall be permitted to speak on the item. Each speaker will be allowed up to two minutes to address the Rent Board.

Public Forum: Individuals who would like to address the Rent Board on matters not listed on the agenda or on items remaining on the consent calendar may do so under Public Forum. All speakers must complete and file a speaker's card with City staff prior to the commencement of Public Forum. The amount of time allotted to individual speakers shall be determined based on the number of persons requesting to speak during this item. The time allocation for each speaker will be as follows: 15 or fewer speakers, a maximum of 2 minutes; 16 to 24 speakers, a maximum of 1 and one-half minutes; and 25 or more speakers, a maximum of 1 minute.

Conduct at Meetings: Richmond Rent Board meetings are limited public forums during which the City strives to provide an open, safe atmosphere and promote robust public debate. Members of the public, however, must comply with state law, as well as the City's laws and procedures and may not actually disrupt the orderly conduct of these meetings. The public, for example, may not shout or use amplifying devices, must submit comment cards and speak during their allotted time in order to provide public comment, may not create a physical disturbance, may not speak on matters unrelated to issues within the jurisdiction of the Rent Board or the agenda item at hand, and may not cause immediate threats to public safety.

City Harassment Policy: The City invites public comment and critique about its operations, including comment about the performance of its public officials and employees, at the public meetings of the City Council and boards and commissions. However, discriminatory or harassing comments about or in the presence of City employees, even comments by third parties, may create a hostile work environment, if severe or pervasive. The City prohibits harassment against an applicant, employee, or contractor on the basis of race, religious creed, color, national origin, ancestry, physical disability, medical condition, mental disability, marital status, sex (including pregnancy, childbirth, and related medical conditions), sexual orientation, gender identity, age or veteran status, or any other characteristic protected by federal, state or local law. In order to acknowledge the public's right to comment on City operations at public meetings, which could include comments that violate the City's harassment policy if such comments do not cause an actual disruption under the Council Rules and Procedures, while taking reasonable steps to protect City employees from discrimination and harassment, City Boards and Commissions shall adhere to the following procedures. If any person makes a harassing remark at a public meeting that violates the above City policy prohibiting harassment, the presiding officer of the meeting may, at the conclusion of the speaker's remarks and allotted time: (a) remind the public that the City's Policy Regarding Harassment of its Employees is contained in the written posted agenda; and (b) state that comments in violation of City policy are not condoned by the City and will play no role in City decisions. If any person makes a harassing remark at a public meeting that violates the above City policy, any City employee in the room who is offended by remarks violating the City's policy is excused from attendance at the meeting. No City employee is compelled to remain in attendance

where it appears likely that speakers will make further harassing comments. If an employee leaves a City meeting for this reason, the presiding officer may send a designee to notify any offended employee who has left the meeting when those comments are likely concluded so that the employee may return to the meeting. The presiding officer may remind an employee or any council or board or commission member that he or she may leave the meeting if a remark violating the City's harassment policy is made.

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## REGULAR MEETING OF THE RICHMOND RENT BOARD

### AGENDA

5:00 PM

**A. PLEDGE TO THE FLAG**

**B. ROLL CALL**

**C. STATEMENT OF CONFLICT OF INTEREST**

**D. AGENDA REVIEW**

**E. SWEARING IN OF NEW BOARDMEMBERS**

**F. ELECT CHAIR AND VICE CHAIR**

**G. PUBLIC FORUM**

**H. RENT BOARD CONSENT CALENDAR**

**H-1.** APPROVE the minutes of the June 19, 2019, Regular Meeting of the Richmond Rent Board. *Cynthia Shaw*

**H-2.** RECEIVE the June 2019 Rent Program Monthly Report. *Paige Roosa*

**H-3.** RECEIVE the Rent Program FY 2018-19 Monthly Revenue and Expenditure Report through June 2019. *Paige Roosa*

**I. RENT BOARD AS A WHOLE**

**I-1.** RECEIVE training in the requirements of the Ralph M. Brown Act and the requirements of the Rosenberg Rules of Order. *Charles Oshinuga*

**J. REGULATIONS**

**J-1.** AMEND Regulation 842 to do either of the following: Option A: Within 15 business days after the date to file an appeal has expired, allow the Executive Director or assigned Designee to treat *Charles Oshinuga*

appeals as requests for reconsideration, where there is a clear misapplication of the law, the law has changed, there is a problem with the Record, or any other matter where reconsideration would be appropriate considering administrative efficacy. This amendment would also clarify that the Executive Director or assigned Designee is the individual who grants a request for reconsideration and not the Hearing Examiner.

Option B: Amend Regulation 842 to allow the Executive Director or assigned Designee to send a matter back to the Hearing Examiner within a reasonable period of time without the requirement of a Rent Board Order, where the issue involves a clear misapplication of the law, a problem with the Record, or a change in the law or any other matter appropriate for reconsideration. In such an event, the Executive Director or assigned Designee must submit a written Order of Reconsideration with specific instructions identifying the good cause underlying the granting of reconsideration and the parameters of the hearing on reconsideration.

- J-2.** RECEIVE a presentation on possible Rent Board governance regulations and PROVIDE direction to staff.

*Paige Roosa*

## **K. REPORTS OF OFFICERS**

## **L. ADJOURNMENT**

***Any documents produced by the City and distributed to a majority of the Rent Board regarding any item on this agenda will be made available at the Rent Program Office located on the second floor of 440 Civic Center Plaza and will be posted at [www.richmondrent.org](http://www.richmondrent.org).***

# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 17, 2019

Final Decision Date Deadline: July 17, 2019

**STATEMENT OF THE ISSUE:** The minutes of the June 19, 2019, Regular Meeting of the Richmond Rent Board require approval.

## INDICATE APPROPRIATE BODY

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

## ITEM

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

**RECOMMENDED ACTION:** APPROVE the minutes of the June 19, 2019 Regular Meeting of the Richmond Rent Board – Rent Program (Cynthia Shaw 620-5552).

AGENDA ITEM NO:

**H-1.**

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**RICHMOND, CALIFORNIA, June 19, 2019**

The Regular Meeting of the Richmond Rent Board was called to order at 5:12 P.M.

**PLEDGE TO THE FLAG**

**ROLL CALL**

**Present:** Boardmembers Finlay, Maddock, and Vice Chair Gerould.

**Absent:** None.

**STATEMENT OF CONFLICT OF INTEREST**

None.

**AGENDA REVIEW**

On motion of Boardmember Finlay, seconded by Vice Chair Gerould, a request to move Item F-3 from the Consent Calendar for discussion before Item G-1 under Regulations, passed by the following vote: **Ayes:** Boardmembers, Finlay, Maddock and Vice Chair Gerould. **Noes:** None. **Abstentions:** None. **Absent:** None.

**PUBLIC FORUM**

Cordell Hindler mentioned that he spoke with the North and East Neighborhood Council and they agreed to have Executive Director Nicolas Traylor provide a presentation on Rent Control at their meeting during the week of June 24<sup>th</sup>. He also invited the Rent Board to attend community events that will be held in the months of July and September. He also mentioned that he discussed the possibility of Executive Director Nicolas Traylor presenting on Rent Control at their meeting in the fall with his Neighborhood Council. He is still working on the logistics and will provide more information at a later date.

**RENT BOARD CONSENT CALENDAR**

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

\*F-1. Approve the minutes of the May 15, 2019, Regular Meeting of the Richmond Rent Board.

\*F-2. Approve the minutes of the May 30, 2019, Special Meeting of the Richmond Rent Board.

\*F-4. Receive the May 2019 Rent Program Monthly Report.

\*F-5. Receive the Rent Program FY 2018-19 Monthly Revenue and Expenditure Report through May 2019.

\*F-6. Approve an amendment to the contract for translation services with Document Tracking Services increasing the amount by \$15,000, to a total not to exceed \$34,999, and extending the term to June 30, 2020.

\*F-7. Approve an amendment to the contract for community legal services with the Eviction Defense Center modifying the Service Plan to specify that the Eviction Defense Center will serve at least 30 Richmond Tenants per month, increasing the contact amount by \$125,000 for Fiscal Year 2019-20, to a total not to exceed \$237,500, and extending the term to June 30, 2020.

\*F-8. Approve amendments to the contract for community legal services with Bay Area Legal Aid (1) modifying the Service Plan with respect to the number of participants assisted at legal clinics, provided legal representation, and referred to peer legal services agencies; (2) increasing the contact amount by \$75,000 for Fiscal Year 2019-20, to a total not to exceed \$100,000; and (3) extending the term to June 30, 2020.

### **REGULATIONS**

\*F-3. The matter to receive letters from community members regarding the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance, RMC 11.100 **was moved from the Consent Calendar for discussion before Item G-1 under Regulations.** Boardmember Finlay requested to remove this item from the Consent Calendar because a vendor submitted a letter to the Board asking for clarification regarding a Landlord installing a solar system on their property to stabilize electric costs for their tenants. Boardmember Finlay directed staff to continue to review the letter and to conduct research on the solar system issue and prepare a report to present to the Board for discussion of a possible

Regulation in future.

G-1. The matter to amend Chapter 8 of the Rent Board Regulations to: (1) amend Regulation 835 to create parameters guiding both how the Record is to remain open and when the Record must be closed; (2) add Regulation 841.5 to articulate the Standard of Review on appeal; and (3) amend Regulation 842 to allow the Executive Director or assigned designee to treat appeals as requests for reconsideration where there is a clear misapplication of the law, the law has changed, there is a problem with the Record, or any other matter where reconsideration would be appropriate considering administrative efficacy (this amendment would also clarify that the Executive Director or assigned designee is the individual who grants a request for reconsideration and not the Hearing Examiner) was presented by Staff Attorney, Charles Oshinuga. The presentation included the statement of the issue, record background, a proposal by staff addressing parameters of the record, background that included standard of review on appeal, a proposal by staff addressing the standard of review, background that included treating an appeal as a request for reconsideration, a proposal by staff addressing treatment of appeals as a request for reconsideration and the recommended action. Discussion ensued. There were no public comments on this item. A motion by Boardmember Maddock, seconded by Vice Chair Gerould, to (1) approve the amendment to Regulation 835 to create parameters guiding both how the Record is to remain open and when the Record must be closed; (2) add Regulation 841.5 to articulate the Standard of Review on appeal; and (3) direct staff to amend Regulation 842 to reflect that the order be issued within 15 days after the 35 day appeal period has expired passed by the following vote: **Ayes:** Boardmembers, Finlay, Maddock and Vice Chair Gerould. **Noes:** None. **Abstentions:** None. **Absent:** None.

G-2. The matter to adopt Regulation 607, establishing the 2019 Annual General Adjustment in the amount of 3.5% for tenancies commencing prior to September 1, 2018, was presented by Staff Attorney, Charles Oshinuga. The presentation included the statement of the issue, background information on the Annual General Adjustment (AGA), staff's proposal regarding the 2019 AGA, and the recommended action. Discussion ensued. There were no public comments on this item. A motion by Vice Chair Gerould, seconded by Boardmember Maddock, to approve Regulation 607, establishing the 2019 Annual General Adjustment in the amount of 3.5% for tenancies commencing prior to September 1, 2018, passed by the following vote: **Ayes:**

Boardmembers, Finlay, Maddock and Vice Chair Gerould. **Noes:** None. **Abstentions:** None. **Absent:** None.

G-3. The matter to adopt an amendment to Regulation 805 A (4), Petition and Noticing Procedures, to extend the staff review period from five to ten business days was presented by Deputy Director, Paige Roosa. The presentation included the statement of the issue, background of the current process that included an excerpt of the current process flow chart, the proposed amendment and the recommended action. Discussion ensued. There were no public comments on this item. A motion by Boardmember Finlay, seconded by Vice Chair Gerould, to amend Regulation 805 A (4), Petition and Noticing Procedures, to extend the staff review period from five to ten business days, passed by the following vote: **Ayes:** Boardmembers, Finlay, Maddock and Vice Chair Gerould. **Noes:** None. **Abstentions:** None. **Absent:** None.

G-4. The matter to rescind Regulation 605(C), and allow for the Rent Program to establish policies to enhance Landlords' ability to bring themselves into compliance with the Rent Ordinance's prohibition on retention of rents in excess of the Maximum Allowable Rent, was presented by Executive Director, Nicolas Traylor. The presentation included the statement of the issue, background and discussion, the proposed rescission of Regulation 605 (C), and the recommended action. Discussion ensued. There were no public comments on this item. A motion by Boardmember Finlay, seconded by Boardmember Maddock to rescind Regulation 605(C), and allow for the Rent Program to establish policies to enhance Landlords' ability to bring themselves into compliance with the Rent Ordinance's prohibition on retention of rents in excess of the Maximum Allowable Rent and direct staff to draft a policy to include alternative payment methods to allow secure electronic payment systems to assist Landlords in returning any excess rent amounts to the Tenant and return the policy to the Board for approval, passed by the following vote: **Ayes:** Boardmembers, Finlay, Maddock and Vice Chair Gerould. **Noes:** None. **Abstentions:** None. **Absent:** None.

### **RENT BOARD AS A WHOLE**

H-1. The matter to direct staff to negotiate and execute a contract with a Collection Services Agency, utilizing a contingency-based payment plan, was presented by Deputy Director, Paige Roosa. The presentation included background information including a chart of Richmond Landlords by numbers of units owned and Landlords who have not paid any Rental

Housing Fees for FYs 2016-17, 2017-18 and 2018-19, a chart of Rental Housing Fee Payments (by number of Landlords) and Rental Housing Fee Payments (by amount of \$), information about why utilizing services from a collection agency is recommended, the proposed scope of services, a proposed timeline, and the recommended action. Discussion ensued. There were no public comments on this item. A motion by Vice Chair Gerould, seconded by Boardmember Finlay, to direct staff to negotiate and execute a contract with a Collection Services Agency, utilizing a contingency-based payment plan, and to take into consideration best business practices concerning collection agency practices, credit reporting process, and prohibiting selling owner contact information to 3<sup>rd</sup> parties passed by the following vote: **Ayes:** Boardmembers, Finlay, Maddock and Vice Chair Gerould. **Noes:** None. **Abstentions:** None. **Absent:** None.

H-2. The matter to approve the proposed staff evaluation plan for the Rent Program and direct staff to begin implementing the evaluation plan beginning in Fiscal Year 2019-20, was presented by Executive Director, Nicolas Traylor. The presentation included the statement of the issue, a general plan, staff evaluations templates to model the City's, information about the proposed 360-degree evaluation of the Executive Director, information about who would evaluate the Executive Director and how this evaluation would be tied to any proposed salary adjustment, and the recommended action. Discussion ensued. There were no public comments on this item. A motion by Vice Chair Gerould, seconded by Boardmember Maddock, to approve the proposed staff evaluation plan for the Rent Program and direct staff to begin implementing the evaluation plan beginning in Fiscal Year 2019-20, passed by the following vote: **Ayes:** Boardmembers Finlay, Maddock and Vice Chair Gerould. **Noes:** None. **Abstentions:** None. **Absent:** None.

### **REPORTS OF OFFICERS**

Executive Director Nicolas Traylor acknowledged former Rent Board Chair, David Gray and thanked him on the behalf of staff for his service and leadership while serving as Chair of the Rent Board.

Vice Chair Gerould, Boardmember Maddock, and Boardmember Finlay also acknowledged David Gray for his service as the Rent Board Chair, noting that they enjoyed working with him. They also mentioned that he brought a lot of knowledge and passion about the City of Richmond to the Rent Board and that

**ITEM H-1  
ATTACHMENT 1**

they appreciate all the work he has done. They also mentioned that he will be missed and wished him and his family the best of luck in their future endeavors.

Former Chair, David Gray responded, saying thank you to everyone on the Board and staff members. He also mentioned that it has been a privilege and honor to have worked with staff and Boardmembers and to have the trust and the confidence of Mayor Butt and the City Council to Chair Richmond's Rent Board.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 7:02 P.M.

Cynthia Shaw and Bailey Maher  
Staff Clerks

(SEAL)

Approved:

\_\_\_\_\_  
Emma Gerould, Vice Chair

# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 17, 2019

Final Decision Date Deadline: July 17, 2019

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

## INDICATE APPROPRIATE BODY

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

## ITEM

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

**RECOMMENDED ACTION:** RECEIVE the June 2019 Rent Program Monthly Report - Rent Program (Paige Roosa 620-6537).

AGENDA ITEM NO:

**H-2.**

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## MEMORANDUM

**TO:** Members of the Rent Board

**FROM:** Paige Roosa, Deputy Director

**DATE:** July 17, 2019

**SUBJECT:** JUNE 2019 MONTHLY ACTIVITY REPORT

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**Introduction**

The Monthly Activity Report is designed to provide members of the Rent Board and Richmond community with a summary of the Rent Program's activities for the month. It is anticipated that the format, content, and detail of this report will evolve over time. Feedback concerning this report may be submitted via email to [rent@ci.richmond.ca.us](mailto:rent@ci.richmond.ca.us) or by calling (510) 234-RENT (7368).

**June Agency Highlights**

*The Rent Program collected over \$180,000 in Rental Housing Fee revenue during the month of June, allowing the Agency to close the 2018-19 Fiscal Year with revenue exceeding expenditures.* Aggressive collection efforts in the latter half of the 2018-19 fiscal year allowed the Rent Program to close the 2018-19 fiscal year with a surplus of over \$120,000. This amount is a preliminary estimate; fiscal year 2018-19 invoices mailed during the fiscal year will continue to be credited to the 2018-19 fiscal year through October. The Government Finance Officers Association recommends governmental agencies maintain operating reserves at 17% of total budgeted expenditures. As such, surplus revenue collected in the fiscal year 2018-19 fiscal year will help to build up such reserves. Collection efforts are ongoing. On June 24, 2019, staff members released a Request for Proposals for collection agency services, consistent with the Board's direction at their meeting on June 19, 2019, to collect all outstanding revenue. We will continue to keep the Board apprised of our progress.

*Rent Program staff engaged community members at the City's annual Juneteenth celebration to spread the word about the Rent Ordinance.*

Richmond's annual Juneteenth celebration at Nicholl Park, like the Cinco de Mayo festival, presents a unique opportunity for the Rent Program to engage community members who may not otherwise be aware of the Program's existence. On Saturday, June 15, 2019, Rent Program Services Analyst Philip Verma, Administrative Student Intern Moises Serano, Administrative Analyst Cynthia Shaw, Staff Attorney Charles Oshinuga, Executive Director Nicolas Traylor and I hosted a table alongside other City departments to distribute information and promotional materials about the Rent Ordinance and Rent Program.



*The June Community Workshop, designed specifically for Richmond realtors and property managers, provided an overview of local and state housing laws relevant to real estate and property management professionals.*

The June Community Workshop was attended by 41 community members and covered topics such as applicability of the Rent Ordinance to various types of properties, rent increase and termination of tenancy requirements, the eviction process in Richmond, how the Rent Ordinance applies to rental properties for which ownership is transferred or in the case of foreclosure, the Relocation Ordinance, Rent Adjustment Petition Process, and relevant California civil codes. Rent Program Services Analyst Vickie Medina led a detailed, technical presentation on the Rent Ordinance tailored to issues and situations experienced by real estate and property management professionals. Following the presentation, community members were provided an opportunity to ask questions of staff. Presentation materials are accessible at <http://www.ci.richmond.ca.us/3541/Workshops>.

**Summary of Activities**

**I. Department Unit Activities**

<b>FRONT OFFICE UNIT</b>	<b><i>Occurrences</i></b>
<b>Persons Assisted By Front Office Unit (<i>without referral to an Analyst</i>)</b>	<b>165</b>
Declarations of Exemption Processed	21
Enrollment Forms Processed	38
Hard Copy Termination Notices Processed	14
Hard Copy Rent Increase Notices Processed	6

<b>PUBLIC INFORMATION UNIT</b>	<b><i>Occurrences</i></b>
<b>Total Consultations Provided by a Rent Program Services Analyst</b>	<b>413</b>
Calls Received ( <i>Phone Counseling Sessions</i> )	218
Walk-Ins ( <i>Includes Appointments</i> )	105
Emails Received	90
<b>Total Consultations Provided in a Language other than English</b>	<b>80</b>
Consultations Provided in Spanish	78
Consultations Provided in Cantonese	2
Legal Service Referral Forms Completed	6
Informal Mediations Conducted	2
Courtesy Compliance Letters Mailed	4
Invoices Generated	12
Community Workshop Attendees ( <i>6/29/19 – Realtor and Property Manager-Focused Workshop</i> )	41
Tenants Assisted	80
Landlords Assisted	51

## ITEM H-2

PUBLIC INFORMATION UNIT (continued)	Occurrences
Property Managers Assisted	7
Attorneys Assisted	1
Process Servers Assisted	1
Realtors Assisted	3
Prospective Purchasers of Rental Property Assisted	2

BILLING AND REGISTRATION UNIT	Occurrences
<b>Total Consultations with a Billing and Registration Unit Staff Member</b>	<b>134</b>
Phone Call Consultations	91
Walk-In Consultations	2
Email Consultations	41
Enrollment/Tenancy Registration Packets Mailed	103
Enrollment Forms Processed	121
Invoices Generated	955
Payments/Checks Processed	105
Compliance Actions ( <i>reviewing records, exemption statuses, owner addresses</i> )	81
Property Information Updated	458
Payments Returned	2
Refunds Issued	2
Total Monthly Revenue Collected (06/01/19 - 06/30/19)	\$181,017
Total Revenue Collected in FY 2018-19 ( <i>through 06/30/19</i> )	\$2,191,879
Total Revenue Collected in FY 2017-18 (07/01/17 - 06/30/18)	\$1,878,330

LEGAL UNIT	Occurrences
Public Records Act Requests Received	1
Owner Move-In Termination Notices Reviewed	3
Withdrawal from Rental Market Notices Reviewed	1

HEARINGS UNIT	Occurrences
<b>Total Consultations with Hearings Unit Coordinator</b>	<b>48</b>
Calls/Placed Received ( <i>Regarding Hearings and Petitions</i> )	9
Walk-Ins ( <i>Regarding Hearings and Petitions</i> )	8
Emails Sent/Received ( <i>Regarding Hearings and Petitions</i> )	31
<b>Total Tenant Petitions Received</b>	<b>4</b>
Tenant Petition Based on Multiple Grounds Received	2

## ITEM H-2

HEARINGS UNIT (continued)	Occurrences
Tenant Petition for Failure to Pay Relocation Payment Petitions Received	2
<b>Total Other Petitions/Submissions Received</b>	<b>1</b>
Requests for a Continuance of the Hearing Process Received	1
<b>Total Number of Cases Closed</b>	<b>8</b>
Decisions Ordered	3
Cases Settled	4
Petitions Withdrawn	1

### II. Online Notices Filed with the Rent Program

Type of Form	Monthly Submissions/ Notices Filed	Prior Month Total	% Change from Prior Month
Proof of Excess Rent Refund	0	4	-100%
Change in Terms of Tenancy Notices Filed	16	12	33.3%
Rent Increase Notices Filed	79	78	1.3%
Termination Notices Filed <sup>1</sup>	210	181	16%
<i>Applicable Just Cause for Eviction – Nonpayment of Rent</i>	192	168	14.3%
<i>Applicable Just Cause for Eviction – Breach of Lease</i>	12	10	20%
<i>Applicable Just Cause for Eviction – Nuisance</i>	2	1	100%
<i>Applicable Just Cause for Eviction – Owner Move In</i>	3	0	100%
<i>Applicable Just Cause for Eviction – Failure to Give Access</i>	1	0	100%
Agent Authorization	7	0	100%
<b>Total Online Form Submissions</b>	<b>312</b>	<b>275</b>	<b>13.4%</b>

<sup>1</sup> Note: Termination Notices filed with the Rent Program does not indicate the number of Unlawful Detainer (eviction) lawsuits filed in court. In some cases, the Tenant may cure the issue for the notice (e.g. Tenant pays the rent that is due) and the eviction process is not initiated.

# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 17, 2019

Final Decision Date Deadline: July 17, 2019

**STATEMENT OF THE ISSUE:** The Rent Program receives monthly variance reports from the City of Richmond Finance Department. These reports provide useful information on the Rent Program's revenues and expenditures throughout the fiscal year. Finance Department staff members have agreed to provide these reports to staff on a schedule that will permit them to be included in the agenda for the Rent Board's regularly scheduled meetings.

## INDICATE APPROPRIATE BODY

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

## ITEM

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

**RECOMMENDED ACTION:** RECEIVE the Rent Program FY 2018-19 Monthly Revenue and Expenditure Report through June 2019 – Rent Program (Paige Roosa 620-6537).

AGENDA ITEM NO:

**H-3.**

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# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 17, 2019

Final Decision Date Deadline: July 17, 2019

**STATEMENT OF THE ISSUE:** Legislative bodies in the State of California must adhere to the Ralph M. Brown Act, found in Section 54950-54963 of the California Government Code. Education regarding the Ralph M. Brown Act is necessary for all members of the Rent Board. Additionally, because the Rent Board is a legislative body, to conduct its business in a consistent and fair manner, it is important to be familiar with Rosenberg's Rules of Order. To ensure efficiency and compliance with the Brown Act, staff members intend to bi-annually provide Board members training in both the Brown Act and Rosenberg's Rules of Order.

## 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 training on the Brown Act and Rosenberg's Rules of Order – Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

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

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# AGENDA REPORT

**DATE:** July 17, 2019

**TO:** Members of the Rent Board

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

**SUBJECT:** Brown Act and Rules of Rosenberg Training

**STATEMENT OF THE ISSUE:**

Legislative bodies in the State of California must adhere to the Ralph M. Brown Act, found in Section 54950-54963 of the California Government Code. Education regarding the Ralph M. Brown Act is necessary for all members of the Rent Board. Additionally, because the Rent Board is a legislative body, to conduct its business in a consistent and fair manner, it is important to be familiar with Rosenberg's Rules of Order. To ensure efficiency and compliance with the Brown Act, staff members intend to bi-annually provide Board members training in both the Brown Act and Rosenberg's Rules of Order.

**RECOMMENDED ACTION:**

RECEIVE training on the Brown Act and Rosenberg's Rules of Order (Nicolas Traylor/Charles Oshinuga 620-6564).

**FISCAL IMPACT:**

There is no fiscal impact related to this item.

**DISCUSSION:**

Receive a PowerPoint and oral presentation on the Brown Act and Rosenberg's Rules of Order.

**DOCUMENTS ATTACHED:**

Attachment 1 – Rosenberg Rules of Order simplified handout

Attachment 2 – Rosenberg Rules of Order materials.

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**ROSENBERG'S RULES OF ORDER  
CHEAT SHEET**

**ITEM I-1  
ATTACHMENT 1**

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn" (Only needed prior to the end of the agenda)	No	Yes	No	No	Majority
Recess	"I move that we recess until..."	No	Yes	No	Yes	Majority
Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Suspend further consideration of	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question" or "Call the question"	No	Yes	No	No	2/3
Postpone consideration of	"I move we postpone this matter until..."	No	Yes	Yes	Yes	Majority
Introduce a motion	"I move that..." or "I move to..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by..." (You can also ask for a friendly amendment, which is less formal; if mover and second concur, no vote needed)	No	Yes	Yes	Yes	Majority
Refer to a Committee	"I move that the question be referred to a committee for more study"	No	Yes	Yes	Yes	Majority

The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Object to considering some undiplomatic or improper matter	"I object to consideration of this question" (This would generally just be used if something is not on the agenda)	Yes	No	No	No	2/3
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..." (Only a member of the prevailing side can make a motion to reconsider)	Yes	Yes	Only if original motion	No	Majority
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).

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# Rosenberg's Rules of Order

REVISED 2011

*Simple Rules of Parliamentary Procedure for the 21st Century*

*By Judge Dave Rosenberg*



## MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

## VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

### About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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### ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

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## INTRODUCTION

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The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

### Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

### The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

### The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

**First**, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

**Second**, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

**Third**, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

**Fourth**, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

**Fifth**, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

**Sixth**, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

**Seventh**, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

**Eighth**, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

**Ninth**, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

**Tenth**, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

## Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move . . . ”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

## The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

**The basic motion.** The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

**The motion to amend.** If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

**The substitute motion.** If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

### Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

**First**, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

**Second**, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

**Third**, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**Motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

**Motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

**Motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

**Motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**Motion to limit debate.** The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

**NOTE:** A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

### Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

**Motion to limit debate.** Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

### Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

*How does this work in practice?*

*Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

### The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

## Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

**Order.** The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

**Call for orders of the day.** This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

**Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

## Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

**Rule One:** Tell the public what the body will be doing.

**Rule Two:** Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.



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# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 17, 2019

Final Decision Date Deadline: July 17, 2019

**STATEMENT OF THE ISSUE:** On June 19, 2019, the Rent Board directed staff members to amend Regulation 842 to include a specific time whereby a request for reconsideration must be heard. Consistent with Rent Board direction, staff members are proposing amendments to Regulation 842 that would describe when the Executive Director or assigned Designee may treat an appeal as a request for reconsideration, and the time in which such a request must be heard.

## INDICATE APPROPRIATE BODY

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

## ITEM

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

## RECOMMENDED ACTION: AMEND Regulation 842 to do either of the following:

Option A: Within 15 business days after the date to file an appeal has expired, allow the Executive Director or assigned Designee to treat appeals as requests for reconsideration, where there is a clear misapplication of the law, the law has changed, there is a problem with the Record, or any other matter where reconsideration would be appropriate considering administrative efficacy. This amendment would also clarify that the Executive Director or assigned Designee is the individual who grants a request for reconsideration and not the Hearing Examiner.

Option B: Amend Regulation 842 to allow the Executive Director or assigned Designee to send a matter back to the Hearing Examiner within a reasonable period of time without the requirement of a Rent Board Order, where the issue involves a clear misapplication of the law, a problem with the Record, or a change in the law or any other matter appropriate for reconsideration. In such an event, the Executive Director or assigned Designee must submit a written Order of Reconsideration with specific instructions identifying the good cause underlying the granting of reconsideration and the parameters of the hearing on reconsideration – Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

AGENDA ITEM NO:

**J-1.**

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# AGENDA REPORT

**DATE:** July 17, 2019

**TO:** Members of the Rent Board

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

**SUBJECT:** PROPOSED AMENDMENTS TO REGULATION 842 CONCERNING  
REQUESTS FOR RECONSIDERATION

## **STATEMENT OF THE ISSUE:**

On June 19, 2019, the Rent Board directed staff members to amend Regulation 842 to include a specific time whereby a request for reconsideration must be heard. Consistent with Rent Board direction, staff members are proposing amendments to Regulation 842 that would describe when the Executive Director or assigned Designee may treat an appeal as a request for reconsideration, and the time in which such a request must be heard.

## **RECOMMENDED ACTION:**

AMEND Regulation 842 to do either of the following:

Option A: Within 15 business days after the date to file an appeal has expired, allow the Executive Director or assigned Designee to treat appeals as requests for reconsideration, where there is a clear misapplication of the law, the law has changed, there is a problem with the Record, or any other matter where reconsideration would be appropriate considering administrative efficacy. This amendment would also clarify that the Executive Director or assigned Designee is the individual who grants a request for reconsideration and not the Hearing Examiner.

Option B: Amend Regulation 842 to allow the Executive Director or assigned Designee to send a matter back to the Hearing Examiner within a reasonable period of time without the requirement of a Rent Board Order, where the issue involves a clear misapplication of the law, a problem with the Record, or a change in the law or any other matter appropriate for reconsideration. In such an event, the Executive Director or assigned Designee must submit a written Order of Reconsideration with specific instructions identifying the good cause underlying the granting of reconsideration and

the parameters of the hearing on reconsideration– Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

**FISCAL IMPACT:**

There is no fiscal impact related to this item.

**DISCUSSION:**

Background

On January 24, 2018, the Rent Board adopted Chapter 8 of the Regulations, titled “Petition Process and Hearing Procedures.” This Chapter establishes substantive and procedural rules whereby a Landlord or Tenant may file a petition on various claims. After adopting these series of Regulations in January 2018, staff members worked vigorously to acquire adequate staffing and institutional knowledge to properly implement the provisions of Chapter 8 of the Regulations. In August 2018, the Rent Program officially began processing petitions for hearings. To date, the Rent Program has processed and heard 63 Landlord or Tenant petitions and seven appeals.

When a party appeals a matter, it may take as much as several months before the matter is brought before the Rent Board. As it stands now, where staff members identify a problem with the Record in a matter on appeal, staff members cannot remedy the error administratively, but rather must send the matter to the Rent Board for an Order of Remand to address the issue of the Record. The result is that the parties may end up waiting several months before the issue can be resolved by the Rent Board, whereas staff members could have administratively remedied the issue within thirty days. To address this issue, on June 19, 2019, staff members brought the matter before the Board and recommended the Board amend Regulation 842 to allow the Executive Director or assigned Designee to send a matter back to the Hearing Examiner without the requirement of a Rent Board Order, where the issue involves a clear misapplication of the law, a problem with the Record, or a change in the law or any other matter appropriate for reconsideration. The proposed amendments also added a requirement that when the Executive Director or their Designee treats and/or grants a request for reconsideration, it must be followed by a written Order of Reconsideration. The Board agreed with the amendments but decided to postpone the adoption of said amendments and directed staff members to include language that required any determination of reconsideration be made within 15 days after the time to appeal has expired.

General Overview of Appeals Processing and Proposed Reconsideration Process

Pursuant to the Board’s adopted regulations, any party to a petition may file an appeal with the Rent Board within thirty days (thirty-five days if mailed) of the issuance of the Hearing Examiner’s decision. Appeals are both filed with and processed by the Board Clerk. After the 35<sup>th</sup> day has elapsed, the Board Clerk provides the appeal to the Staff Attorney. The Staff Attorney begins reviewing the file by reading the information

contained in the Rent Program's appeal forms, reviewing all the documentary evidence contained in the Record, listening to all of the oral testimony contained in the audio recording of the hearing, and researching applicable law that will guide the analysis on the issues presented. The Staff Attorney may also consult with attorneys in neighboring jurisdictions if the issues presented are nuanced. As such, the amount of time required for the Staff Attorney to conduct such a review varies depending on the issues presented (a single issue on security deposit will likely take less time than one of Maintenance of Net Operating Income). After the review is complete, the Staff Attorney writes a recommendation to the Rent Board and all the parties. This process is then repeated for the next appeal file in the queue.

During the review process, the Staff Attorney may find issues warranting reconsideration by the Hearing Examiner. For instance, the Record may be incomplete due to an error in the audio recording of the hearing, or there may exist a clear misapplication of the law. Despite the parties not having requested reconsideration, the Staff Attorney may forward the file to the Executive Director or their Designee with a summary of the issues that may warrant treating that specific appeal as a request for reconsideration. In those instances, the Executive Director or their Designee reviews the various issues and decides whether there is good cause to treat the issue as a basis for granting reconsideration. Where reconsideration is granted, the Executive Director or their Designee issues a written Order to all parties explaining the basis of reconsideration, the scope of the issues to be reconsidered, and a modified schedule for hearing, if necessary.

Given the above process, a strict time limit to discover issues warranting reconsideration may be unworkable. For instance, a change in the law that impacts the matter may occur well after the appeal has been filed and reviewed. In such a circumstance, parties would have to wait the additional time to appear before the Rent Board to have their matter remanded to the Hearing Examiner, as the Rent Program would not have the ability to quickly order the matter be reconsidered due to a change in the law. Additionally, a strict time limit could remove a right of a party due to the staff member's inaction. For instance, if a party has specifically requested for reconsideration and staff does not reach the issue within the specified time, the consequence would be that the matter not be reconsidered but rather placed on the track of an appeal.

Proposed Amendments to Regulation 842 to Permit the Executive Director or Assigned Designee to Treat an Appeal as a Request for Reconsideration

To address the aforementioned potential issues and remain consistent with Board direction, staff members have prepared two options for the Board's consideration:

Option A: Amend Regulation 842 to allow the Executive Director or assigned Designee, within 15 days after the date to file an appeal has expired, to send a matter back to the Hearing Examiner without the requirement of a Rent Board Order, where the issue involves a clear misapplication of the law, a problem with the Record, or a change in the law or any other matter appropriate for reconsideration. In such an event, the Executive

Director or assigned designee must submit a written Order of Reconsideration with specific instructions identifying the good cause underlying the granting of reconsideration, the parameters of the hearing on reconsideration, and require the hearing be rescheduled within 60 days.

Option B: Amend Regulation 842 to allow the Executive Director or assigned Designee to send a matter back to the Hearing Examiner within a reasonable period of time without the requirement of a Rent Board Order, where the issue involves a clear misapplication of the law, a problem with the Record, or a change in the law or any other matter appropriate for reconsideration. In such an event, the Executive Director or assigned Designee must submit a written Order of Reconsideration with specific instructions identifying the good cause underlying the granting of reconsideration and the parameters of the hearing on reconsideration

Conclusion

Staff members recommend the Rent Board adopt one of the two options presented in this report.

**DOCUMENTS ATTACHED:**

Attachment 1 – Option A: Regulation 842 of the Rent Board Regulations (Redline Version)

Attachment 2 – Option A: Regulation 842 of the Rent Board Regulations (Clean Version)

Attachment 3 – Option B: Regulation 842 of the Rent Board Regulations (Redline Version)

Attachment 4 – Option B: Regulation 842 of the Rent Board Regulations (Clean Version)

**ITEM J-1  
ATTACHMENT 1  
OPTION A**

**842. Appeal Process**

- A. Any appeal shall be filed on a form provided by the Board no later than thirty (30) calendar days after receipt of the notice of the hearing examiner's decision. A party is presumed to receive the decision five (5) business days after it is mailed. The appeal must contain a statement of the specific grounds on which the appeal is based. The Board will not consider an appeal that fails to state any facts or arguments in support of the grounds alleged in the appeal. Except as provided in Section 842(E), no other documents in support of the appeal will be accepted after the appeal deadline unless specifically requested by the Board. The appeal shall be sent to the Board and opposing parties and their representative. Additionally, appellants shall send a copy of the appeal to the hearing examiner whose decision is being appealed. The Board or staff may order that appeals relating to the same building or property, or different properties of the same Landlord, be consolidated. The opposing party shall file any response to the appeal within fifteen (15) calendar days from the date the appeal is filed.
- B. The hearing examiner's decision shall be stayed pending appeal. In its decision, the Board shall order the appropriate party to make retroactive payments over a reasonably appropriate period to restore the parties to the positions they would have occupied had the hearing examiner's decision been the same as that of the Board or had not been stayed.
- C. At least fourteen (14) calendar days prior to the date set for Board action on the appeal, a Board Staff report shall be prepared recommending that the decision of the hearing examiner be affirmed, modified, reversed or remanded to the hearing examiner for further hearing. Board Staff may supplement the record by including matters of which the Board may take official notice, provided that the parties are notified of such matters at least fourteen (14) days prior to the date set for Board action. Any objection to a staff request for official notice of such matters shall be filed no later than seven (7) calendar days prior to the date set for Board action.
- D. At least fourteen (14) calendar days prior to the date set for Board action, all parties shall be notified by mail of the date, time and place set for Board action on the appeal. Copies of the Board Staff recommendation shall be mailed to all parties and their representatives at least 14 days prior to the Board action. Copies of the official record and the staff recommendation shall be available for public review at the Board office at least fourteen (14) days prior to the date set for Board action. Parties may submit written comments to the Board up to seven (7) days prior to the Board action.
- E. At the Board meeting at which action on the appeal is scheduled, each party or the party's representative will be allowed seven (7) minutes to address the Board at the beginning of the hearing in the following order: appellant for five (5) minutes, respondent for seven (7) minutes, appellant for two (2) minutes. For any party addressing the Board who requires translation the allowable times shall be doubled. The Board has the discretion to allow

**ITEM J-1  
ATTACHMENT 1  
OPTION A**

more time.

- F. Unless the Board determines that a de novo hearing is required, the Board's decision will be based exclusively on the record before the hearing examiner. Parties shall be instructed not to discuss or comment upon factual matters or evidence that were not presented to the hearing examiner or officially noticed. Parties may discuss or comment upon the legal matters in question and any other pertinent issues raised by the appeal. The Board shall disregard any discussion or comment regarding factual matters that were not in the record before the hearing examiner or officially noticed. The vote of three (3) Board members is required to affirm, modify, remand or reverse the decision of the hearing examiner.
- G. The Board's decision to affirm, modify, remand or reverse the decision of the hearing examiner shall be supported by written findings of fact and conclusions of law. When the Board votes to adopt the staff recommendation unchanged, the parties to the appeal will be notified only of the Board's decision. When the Board does not adopt the staff recommendation as written, a written decision of the Board shall be mailed to the parties or their representative of record.
- H. Continuances of dates set for Board action on appeals shall be granted by a majority of the Board or by the Executive Director only for good cause shown. A written request and the reasons for it must be received by the Board at least two (2) business days prior to the scheduled hearing, unless good cause is shown for later request. The written request must contain the reasons for the continuance, an explanation of what efforts were made to ascertain the position of the other parties regarding the request for a continuance, and mutually acceptable alternative dates. Copies of this written request must be sent immediately to all other parties and proof of service must accompany the written request filed with the Board.

I. Reconsideration.

- 1) At the discretion of the Executive Director or their designee, an appeal may be treated as a request for reconsideration and referred back to the ~~H~~hearing ~~E~~examiner for such reconsideration only if it is claimed by the appellant that:
  - a) There was good cause for a failure to respond to a petition; or
  - b) There was good cause for a failure to appear at a settlement conference or hearing; or
  - c) The appellant wishes to present relevant evidence that could not, with reasonable diligence, have been discovered and produced at the hearing.
  - e)d) The decision resulted from a clearly inaccurate application of the law; hearing staff members discovered a problem with the record; the underlying legal standard upon which the decision is based changed before final disposition of the case, including matters subject to a pending petition for writ of administrative mandamus; or any other reason the case should be remanded for reconsideration for administrative efficiency.

**ITEM J-1  
ATTACHMENT 1  
OPTION A**

- 2) In the event that the Executive Director or their Designee finds good cause exists to treat the Appeal as a request for reconsideration, the Executive Director or their Designee shall, within 15 days from the day to file an appeal has expired, issue an Order of Reconsideration, which shall describe the basis of granting reconsideration, the scope of issues to be reconsidered by the Hearing Examiner, and modified procedures, if any, of the hearing process to expedite the matter for a hearing on reconsidered issues. The Rent Program shall send the Order of Reconsideration to reconsideration under subsection (K) (l) is ordered, the all parties will be so notified within 15 days of the filing of the appeal and, schedule a hearing consistent with the Order of Reconsideration within 60 days from the day the Order of Reconsideration was issued. period a hearing on the reconsidered issues. thereafter, all correspondence shall be directed to the hearing examiner. The threshold issue on reconsideration shall be whether a preponderance of the evidence supports the assertion that good cause existed for the failure to respond to a petition or to appear at a hearing or that the newly offered evidence could not, with reasonable diligence, have been discovered and produced at the hearing. Only if good cause for the failure is found may the hearing examiner reconsider the merits of the petition.

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**ITEM J-1  
ATTACHMENT 2  
OPTION A**

**842. Appeal Process**

- A. Any appeal shall be filed on a form provided by the Board no later than thirty (30) calendar days after receipt of the notice of the hearing examiner's decision. A party is presumed to receive the decision five (5) business days after it is mailed. The appeal must contain a statement of the specific grounds on which the appeal is based. The Board will not consider an appeal that fails to state any facts or arguments in support of the grounds alleged in the appeal. Except as provided in Section 842(E), no other documents in support of the appeal will be accepted after the appeal deadline unless specifically requested by the Board. The appeal shall be sent to the Board and opposing parties and their representative. Additionally, appellants shall send a copy of the appeal to the hearing examiner whose decision is being appealed. The Board or staff may order that appeals relating to the same building or property, or different properties of the same Landlord, be consolidated. The opposing party shall file any response to the appeal within fifteen (15) calendar days from the date the appeal is filed.
- B. The hearing examiner's decision shall be stayed pending appeal. In its decision, the Board shall order the appropriate party to make retroactive payments over a reasonably appropriate period to restore the parties to the positions they would have occupied had the hearing examiner's decision been the same as that of the Board or had not been stayed.
- C. At least fourteen (14) calendar days prior to the date set for Board action on the appeal, a Board Staff report shall be prepared recommending that the decision of the hearing examiner be affirmed, modified, reversed or remanded to the hearing examiner for further hearing. Board Staff may supplement the record by including matters of which the Board may take official notice, provided that the parties are notified of such matters at least fourteen (14) days prior to the date set for Board action. Any objection to a staff request for official notice of such matters shall be filed no later than seven (7) calendar days prior to the date set for Board action.
- D. At least fourteen (14) calendar days prior to the date set for Board action, all parties shall be notified by mail of the date, time and place set for Board action on the appeal. Copies of the Board Staff recommendation shall be mailed to all parties and their representatives at least 14 days prior to the Board action. Copies of the official record and the staff recommendation shall be available for public review at the Board office at least fourteen (14) days prior to the date set for Board action. Parties may submit written comments to the Board up to seven (7) days prior to the Board action.
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**ITEM J-1  
ATTACHMENT 2  
OPTION A**

more time.

- F. Unless the Board determines that a de novo hearing is required, the Board's decision will be based exclusively on the record before the hearing examiner. Parties shall be instructed not to discuss or comment upon factual matters or evidence that were not presented to the hearing examiner or officially noticed. Parties may discuss or comment upon the legal matters in question and any other pertinent issues raised by the appeal. The Board shall disregard any discussion or comment regarding factual matters that were not in the record before the hearing examiner or officially noticed. The vote of three (3) Board members is required to affirm, modify, remand or reverse the decision of the hearing examiner.
- G. The Board's decision to affirm, modify, remand or reverse the decision of the hearing examiner shall be supported by written findings of fact and conclusions of law. When the Board votes to adopt the staff recommendation unchanged, the parties to the appeal will be notified only of the Board's decision. When the Board does not adopt the staff recommendation as written, a written decision of the Board shall be mailed to the parties or their representative of record.
- H. Continuances of dates set for Board action on appeals shall be granted by a majority of the Board or by the Executive Director only for good cause shown. A written request and the reasons for it must be received by the Board at least two (2) business days prior to the scheduled hearing, unless good cause is shown for later request. The written request must contain the reasons for the continuance, an explanation of what efforts were made to ascertain the position of the other parties regarding the request for a continuance, and mutually acceptable alternative dates. Copies of this written request must be sent immediately to all other parties and proof of service must accompany the written request filed with the Board.

I. Reconsideration.

- 1) At the discretion of the Executive Director or their designee, an appeal may be treated as a request for reconsideration and referred back to the Hearing Examiner for such reconsideration only if it is claimed by the appellant that:
  - a) There was good cause for a failure to respond to a petition; or
  - b) There was good cause for a failure to appear at a settlement conference or hearing; or
  - c) The appellant wishes to present relevant evidence that could not, with reasonable diligence, have been discovered and produced at the hearing.
  - d) The decision resulted from a clearly inaccurate application of the law; staff members discovered a problem with the record; the underlying legal standard upon which the decision is based changed before final disposition of the case, including matters subject to a pending petition for writ of administrative mandamus; or any other reason the case should be remanded for reconsideration for administrative efficiency.

**ITEM J-1  
ATTACHMENT 2  
OPTION A**

- 2) In the event that the Executive Director or their Designee finds good cause exists to treat the appeal as a request for reconsideration, the Executive Director or their Designee shall, within 15 days from the day to file an appeal has expired, issue an Order of Reconsideration, which shall describe the basis of granting reconsideration, the scope of issues to be reconsidered by the Hearing Examiner, and modified procedures, if any, of the hearing process to expedite the matter for a hearing on reconsidered issues. The Rent Program shall send the Order of Reconsideration to all parties and, schedule a hearing consistent with the Order of Reconsideration within 60 days from the day the Order of Reconsideration was issued.

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**ITEM J-1  
ATTACHMENT 3  
OPTION B**

**842. Appeal Process**

- A. Any appeal shall be filed on a form provided by the Board no later than thirty (30) calendar days after receipt of the notice of the hearing examiner's decision. A party is presumed to receive the decision five (5) business days after it is mailed. The appeal must contain a statement of the specific grounds on which the appeal is based. The Board will not consider an appeal that fails to state any facts or arguments in support of the grounds alleged in the appeal. Except as provided in Section 842(E), no other documents in support of the appeal will be accepted after the appeal deadline unless specifically requested by the Board. The appeal shall be sent to the Board and opposing parties and their representative. Additionally, appellants shall send a copy of the appeal to the hearing examiner whose decision is being appealed. The Board or staff may order that appeals relating to the same building or property, or different properties of the same Landlord, be consolidated. The opposing party shall file any response to the appeal within fifteen (15) calendar days from the date the appeal is filed.
- B. The hearing examiner's decision shall be stayed pending appeal. In its decision, the Board shall order the appropriate party to make retroactive payments over a reasonably appropriate period to restore the parties to the positions they would have occupied had the hearing examiner's decision been the same as that of the Board or had not been stayed.
- C. At least fourteen (14) calendar days prior to the date set for Board action on the appeal, a Board Staff report shall be prepared recommending that the decision of the hearing examiner be affirmed, modified, reversed or remanded to the hearing examiner for further hearing. Board Staff may supplement the record by including matters of which the Board may take official notice, provided that the parties are notified of such matters at least fourteen (14) days prior to the date set for Board action. Any objection to a staff request for official notice of such matters shall be filed no later than seven (7) calendar days prior to the date set for Board action.
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**ITEM J-1  
ATTACHMENT 3  
OPTION B**

more time.

- F. Unless the Board determines that a de novo hearing is required, the Board's decision will be based exclusively on the record before the hearing examiner. Parties shall be instructed not to discuss or comment upon factual matters or evidence that were not presented to the hearing examiner or officially noticed. Parties may discuss or comment upon the legal matters in question and any other pertinent issues raised by the appeal. The Board shall disregard any discussion or comment regarding factual matters that were not in the record before the hearing examiner or officially noticed. The vote of three (3) Board members is required to affirm, modify, remand or reverse the decision of the hearing examiner.
- G. The Board's decision to affirm, modify, remand or reverse the decision of the hearing examiner shall be supported by written findings of fact and conclusions of law. When the Board votes to adopt the staff recommendation unchanged, the parties to the appeal will be notified only of the Board's decision. When the Board does not adopt the staff recommendation as written, a written decision of the Board shall be mailed to the parties or their representative of record.
- H. Continuances of dates set for Board action on appeals shall be granted by a majority of the Board or by the Executive Director only for good cause shown. A written request and the reasons for it must be received by the Board at least two (2) business days prior to the scheduled hearing, unless good cause is shown for later request. The written request must contain the reasons for the continuance, an explanation of what efforts were made to ascertain the position of the other parties regarding the request for a continuance, and mutually acceptable alternative dates. Copies of this written request must be sent immediately to all other parties and proof of service must accompany the written request filed with the Board.

I. Reconsideration.

- 1) At the discretion of the Executive Director or their designee, an appeal may be treated as a request for reconsideration and referred back to the ~~H~~hearing ~~E~~examiner for such reconsideration only if it is claimed by the appellant that:
  - a) There was good cause for a failure to respond to a petition; or
  - b) There was good cause for a failure to appear at a settlement conference or hearing; or
  - c) The appellant wishes to present relevant evidence that could not, with reasonable diligence, have been discovered and produced at the hearing.
  - e)d) The decision resulted from a clearly inaccurate application of the law; hearing staff members discovered a problem with the record; the underlying legal standard upon which the decision is based changed before final disposition of the case, including matters subject to a pending petition for writ of administrative mandamus; or any other reason the case should be remanded for reconsideration for administrative efficiency.

ITEM J-1  
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OPTION B

- 2) In the event that the Executive Director or their Ddesignee finds good cause exists to treat the aAppeal as a request for reconsideration, the Executive Director or their Ddesignee shall, within a reasonable time period, issue an Order of Reconsideration, which shall describe the basis of granting reconsideration, the scope of issues to be reconsidered by the Hearing Examiner, and modified procedures, if any, of the hearing process to expedite the matter for a hearing on reconsidered issues. The Rent Program shall send the Order of Reconsideration to reconsideration under subsection (K) (l) is ordered, the all parties will be so notified within 15 days of the filing of the appeal and schedule a hearing consistent with the Order of Reconsideration, within a reasonable time period., schedule a hearing on the reconsidered issues. thereafter, all correspondence shall be directed to the hearing examiner. The threshold issue on reconsideration shall be whether a preponderance of the evidence supports the assertion that good cause existed for the failure to respond to a petition or to appear at a hearing or that the newly offered evidence could not, with reasonable diligence, have been discovered and produced at the hearing. Only if good cause for the failure is found may the hearing examiner reconsider the merits of the petition.

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**ITEM J-1  
ATTACHMENT 4  
OPTION B**

**842. Appeal Process**

- A. Any appeal shall be filed on a form provided by the Board no later than thirty (30) calendar days after receipt of the notice of the hearing examiner's decision. A party is presumed to receive the decision five (5) business days after it is mailed. The appeal must contain a statement of the specific grounds on which the appeal is based. The Board will not consider an appeal that fails to state any facts or arguments in support of the grounds alleged in the appeal. Except as provided in Section 842(E), no other documents in support of the appeal will be accepted after the appeal deadline unless specifically requested by the Board. The appeal shall be sent to the Board and opposing parties and their representative. Additionally, appellants shall send a copy of the appeal to the hearing examiner whose decision is being appealed. The Board or staff may order that appeals relating to the same building or property, or different properties of the same Landlord, be consolidated. The opposing party shall file any response to the appeal within fifteen (15) calendar days from the date the appeal is filed.
- B. The hearing examiner's decision shall be stayed pending appeal. In its decision, the Board shall order the appropriate party to make retroactive payments over a reasonably appropriate period to restore the parties to the positions they would have occupied had the hearing examiner's decision been the same as that of the Board or had not been stayed.
- C. At least fourteen (14) calendar days prior to the date set for Board action on the appeal, a Board Staff report shall be prepared recommending that the decision of the hearing examiner be affirmed, modified, reversed or remanded to the hearing examiner for further hearing. Board Staff may supplement the record by including matters of which the Board may take official notice, provided that the parties are notified of such matters at least fourteen (14) days prior to the date set for Board action. Any objection to a staff request for official notice of such matters shall be filed no later than seven (7) calendar days prior to the date set for Board action.
- D. At least fourteen (14) calendar days prior to the date set for Board action, all parties shall be notified by mail of the date, time and place set for Board action on the appeal. Copies of the Board Staff recommendation shall be mailed to all parties and their representatives at least 14 days prior to the Board action. Copies of the official record and the staff recommendation shall be available for public review at the Board office at least fourteen (14) days prior to the date set for Board action. Parties may submit written comments to the Board up to seven (7) days prior to the Board action.
- E. At the Board meeting at which action on the appeal is scheduled, each party or the party's representative will be allowed seven (7) minutes to address the Board at the beginning of the hearing in the following order: appellant for five (5) minutes, respondent for seven (7) minutes, appellant for two (2) minutes. For any party addressing the Board who requires translation the allowable times shall be doubled. The Board has the discretion to allow

**ITEM J-1  
ATTACHMENT 4  
OPTION B**

more time.

- F. Unless the Board determines that a de novo hearing is required, the Board's decision will be based exclusively on the record before the hearing examiner. Parties shall be instructed not to discuss or comment upon factual matters or evidence that were not presented to the hearing examiner or officially noticed. Parties may discuss or comment upon the legal matters in question and any other pertinent issues raised by the appeal. The Board shall disregard any discussion or comment regarding factual matters that were not in the record before the hearing examiner or officially noticed. The vote of three (3) Board members is required to affirm, modify, remand or reverse the decision of the hearing examiner.
- G. The Board's decision to affirm, modify, remand or reverse the decision of the hearing examiner shall be supported by written findings of fact and conclusions of law. When the Board votes to adopt the staff recommendation unchanged, the parties to the appeal will be notified only of the Board's decision. When the Board does not adopt the staff recommendation as written, a written decision of the Board shall be mailed to the parties or their representative of record.
- H. Continuances of dates set for Board action on appeals shall be granted by a majority of the Board or by the Executive Director only for good cause shown. A written request and the reasons for it must be received by the Board at least two (2) business days prior to the scheduled hearing, unless good cause is shown for later request. The written request must contain the reasons for the continuance, an explanation of what efforts were made to ascertain the position of the other parties regarding the request for a continuance, and mutually acceptable alternative dates. Copies of this written request must be sent immediately to all other parties and proof of service must accompany the written request filed with the Board.

I. Reconsideration.

- 1) At the discretion of the Executive Director or their designee, an appeal may be treated as a request for reconsideration and referred back to the Hearing Examiner for such reconsideration only if it is claimed by the appellant that:
  - a) There was good cause for a failure to respond to a petition; or
  - b) There was good cause for a failure to appear at a settlement conference or hearing; or
  - c) The appellant wishes to present relevant evidence that could not, with reasonable diligence, have been discovered and produced at the hearing.
  - d) The decision resulted from a clearly inaccurate application of the law; staff members discovered a problem with the record; the underlying legal standard upon which the decision is based changed before final disposition of the case, including matters subject to a pending petition for writ of administrative mandamus; or any other reason the case should be remanded for reconsideration for administrative efficiency.

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- 2) In the event that the Executive Director or their Designee finds good cause exists to treat the appeal as a request for reconsideration, the Executive Director or their Designee shall, within a reasonable time period, issue an Order of Reconsideration, which shall describe the basis of granting reconsideration, the scope of issues to be reconsidered by the Hearing Examiner, and modified procedures, if any, of the hearing process to expedite the matter for a hearing on reconsidered issues. The Rent Program shall send the Order of Reconsideration to all parties and schedule a hearing consistent with the Order of Reconsideration within a reasonable time period.

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# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 17, 2019

Final Decision Date Deadline: July 17, 2019

**STATEMENT OF THE ISSUE:** Section 11.100.060 of the Rent Ordinance establishes a general framework for Rent Board composition, conduct, powers and duties, and qualifications. Since March 2017, the Rent Board has operated under these basic provisions. Additional regulations could provide greater clarity as to qualifications for Rent Board members, managing conflicts of interest, vacancies, the effective date of adopted regulations, Boardmember suspension, and public meeting decorum and procedure. Staff members have proposed particular topics where regulations could be created to clarify the intent of the Rent Ordinance and are requesting policy direction from the Rent Board, should it desire to promulgate additional regulations in this realm.

## INDICATE APPROPRIATE BODY

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

## ITEM

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

**RECOMMENDED ACTION:** RECEIVE a presentation on possible Rent Board governance regulations and PROVIDE direction to staff – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

AGENDA ITEM NO:  
**J-2.**

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# AGENDA REPORT

**DATE:** July 17, 2019

**TO:** Members of the Rent Board

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

**SUBJECT:** RENT BOARD GOVERNANCE POLICIES

**STATEMENT OF THE ISSUE:**

Section 11.100.060 of the Rent Ordinance establishes a general framework for Rent Board composition, conduct, powers and duties, and qualifications. Since March 2017, the Rent Board has operated under these basic provisions. Additional regulations could provide greater clarity as to qualifications for Rent Board members, managing conflicts of interest, vacancies, the effective date of adopted regulations, Boardmember suspension, and public meeting decorum and procedure. Staff members have proposed particular topics where regulations could be created to clarify the intent of the Rent Ordinance and are requesting policy direction from the Rent Board, should it desire to promulgate additional regulations in this realm.

**RECOMMENDED ACTION:**

RECEIVE a presentation on possible Rent Board governance regulations and PROVIDE direction to staff – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

**FISCAL IMPACT:**

There is no fiscal impact related to this item.

**DISCUSSION:**

Background

Section 11.100.060 of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (Rent Ordinance) establishes basic provisions governing the Rent Board. Subsections include *(the following is a summary of these provisions, a full excerpt is contained in Attachment 1)*:

## ITEM J-2

- a. Composition – the Rent Board is comprised of five Richmond residents
- b. Eligibility – No more than two members of the Rent Board may own or manage rental property or act as realtors. Anyone nominated to the Board must be in compliance with the Rent Ordinance and all other local, state and federal housing laws
- c. Full Disclosure of Hearings – Nominees shall submit a verified statement listing their interests and dealings in real property during the previous three years
- d. Term of Office – Boardmembers shall serve terms of two years and may be reappointed for a total of four terms for a total of fewer than 10 years
- e. Powers and Duties – Establishes the powers and duties of the Board, such as, but not limited to, establishing a Base Rent, making adjustments in rent increases and decreases, issuing orders, rules, and regulations, conducting hearings, charging fees, collecting notices of rent increase and termination of tenancy, and reporting annually to the City Council on the status of rental housing covered under the Rent Ordinance
- f. Rules and Regulations – The Board shall issue rules and regulations to further the purpose of the Rent Ordinance
- g. Community Education – The Board shall publicize the Rent Ordinance through the creation of a brochure so that all Richmond residents have the opportunity to become informed about their legal rights and duties
- h. Meetings – The Board holds regularly scheduled meetings to ensure the timely performance of its duties
- i. Quorum – Three Boardmembers constitutes a quorum
- j. Voting – The affirmative vote of three Boardmembers is required for a decision
- k. Dockets – The Board maintains in its office all hearing dockets
- l. Financing – The Board finances its reasonable and necessary expenses through charging an annual Residential Rental Housing Fee
- m. Integrity and Autonomy of Board – The Board (Rent Program) operates as an integral part of the government of the City, but exercises its powers and duties independent from the City Council, City Manager, and City Attorney except by request of the Board
- n. Budget – Prior to July 1 each year, the Board holds a public hearing and adopts an annual budget for the ensuing fiscal year

## ITEM J-2

- o. Personnel – The Board assesses annually that sufficient number of staff are employed as is necessary to perform its function
- p. Board Legal Work – The Board hires legal staff to represent and advise the Board and its staff in any civil matters, actions, or proceedings
- q. Contracts and Purchases – The Board procures goods and services as do other City agencies using existing support services within the City
- r. Conforming Regulations – The Board has the authority to enact replacement regulations consistent with the intent and purpose of any portion of the Rent Ordinance that is declared invalid or unenforceable by decision of a court of competent jurisdiction
- s. Reporting and Fee Payment Requirements – The Board may authorize the withholding of rent from Tenants of Rental Units for which the Rental Housing Fee has not been paid or for which a notice of rent increase or termination of tenancy has not been filed

Additional regulations could provide greater clarity as to qualifications for Rent Board members, managing conflicts of interest, vacancies, the effective date of adopted regulations, Board member suspension, and public meeting decorum and procedure.

### Possible Rent Board Governance Policies

The Rent Board is authorized under Section 11.100.060(f) of the Rent Ordinance to enact additional regulations to govern itself. Such regulations are commonplace in peer jurisdictions with rent boards, and could address policy questions such as:

- If a Boardmember does not own or manage rental property themselves, but an immediate family member has interest or manages real property or is a realtor, does the Boardmember “count” as one of two members who may own or manage rental property or act as realtors under Section 11.100.060(b) of the Rent Ordinance?
- What constitutes a conflict of interest for a Boardmember?
- Can Boardmembers file Rent Adjustment Petitions? How should this process work as to avoid bias or perception of bias?
- How should vacancies be handled?
- Should rules and regulations issued by the Board continue to become effective immediately upon adoption, or should such policies become effective 30 days after adoption and/or a “second reading”?

## ITEM J-2

- What are the grounds for Boardmember suspension? On a related note, what is the process if a Boardmember's eligibility is questioned? For example, what if a Boardmember violates a local, state, or federal housing law, or is themselves not in compliance with the Rent Ordinance?
- What policies should govern Boardmember decorum and procedure during public meetings? For example, when is the agenda packet to be published? Where are meetings to be held, and when? What types of items may be heard in closed session?
- How would the Board like correspondence addressed to the Board to be handled? If correspondence is profane or potentially slanderous or libelous, should such correspondence be included in Rent Board agendas?

### Established Regulations in Peer Jurisdictions

Examples of established regulations in the cities of Berkeley, San Francisco, and Santa Monica are included as Attachments 2 – 4 of this report. These examples are not meant to limit the scope of such regulations, but are meant to illustrate the types of regulations that may be established to govern Rent Board activities.

### Recommended Action

Specifically, staff members are requesting policy direction from the Rent Board concerning the following questions:

- Does the Board wish to enact regulations governing its activities?
- Which, if any, areas of regulation would the Board like to explore?
- How, if at all, would the Board prefer staff members bring forth proposed policy options for the Board's consideration? (E.g. piecemeal or comprehensive)

### **DOCUMENTS ATTACHED:**

Attachment 1 – Richmond Municipal Code Section 11.100.060

Attachment 2 – City of Berkeley Rent Board Regulations 601 – 690

Attachment 3 – City of San Francisco Rent Board Regulations Part 2: Board Organization and Procedures

Attachment 4 – City of Santa Monica Rent Board Regulations Chapter 1: Rules for Board Meetings

render the Landlord liable to the Tenant for actual damages, including damages for emotional distress, in a civil action for wrongful eviction. The Tenant or the Rent Board may seek injunctive relief and money damages for wrongful eviction. A Tenant prevailing in an action for wrongful eviction shall recover costs and reasonable attorney's fees.

11.100.060 **Richmond Rent Board**

(a) **Composition.** There shall be in the City of Richmond a Rent Board. The Board shall be made up of Richmond residents. The Board shall consist of five Board Members appointed by the City Council. The Board shall elect annually as chairperson one of its members to serve in that capacity.

(b) **Eligibility.** Duly qualified residents of the City of Richmond are eligible to serve as Members of the Board. There shall be no more than two members that own or manage any rental property or are realtors. Anyone nominated to this board must be in compliance with this Chapter and all other local, state and federal laws regulating the provision of housing.

(c) **Full Disclosure of Holdings.** Nominees for the position of Board Member shall submit a verified statement listing all of their interests and dealings in real property, including but not limited to its ownership, sale or management, during the previous three (3) years. The Board may promulgate additional regulations.

(d) **Term of Office.** Board Members shall serve terms of two (2) years and maybe reappointed for a total of four (4) full terms for a total of fewer than ten (10) years.

(e) **Powers and Duties.** The Board shall have the following powers and duties:

- (1) Establish a Base Rent under Section 11.100.070 (a).
- (2) Make adjustments in the Rent Increase and Decreases in accordance with Section 11.100.070.
- (3) Set Rents at fair and equitable levels in order to achieve the intent of this Chapter.
- (4) Issue orders, rules and regulations, conduct hearings and charge fees as set forth below.
- (5) Make such studies, surveys and investigations, conduct such hearings, and obtain such information as is necessary to carry out its powers and duties.
- (6) Report annually to the City Council of the City of Richmond on the status of rental housing covered by this chapter. Reports shall include a summary of the numbers of notices served, the basis upon which they were served, the amount of the Rent increases and the addresses for which they were served.
- (7) Charge and collect registration fees, including penalties for late payments.

- (8) Collect and/or receive copies of notices of termination of tenancy and changes in terms of tenancy.
- (9) A searchable database will be created so that service of notice may be determined as well information for the reports described above.
- (10) Administer the withdrawal process for the removal of Rental Units from rental housing market under sections 11.100.050 (a)(6) and (7).
- (11) Administer oaths and affirmations and subpoena witnesses.
- (12) Establish rules and regulations for deducting penalties and settling civil claims under Section 11.100.100.
- (13) Refer violations of this Chapter to appropriate authorities for prosecution.
- (14) Seek injunctive and other civil relief under Section 11.100.100 - 110.
- (15) Any other duties necessary to administer and enforce this Chapter.

(f) **Rules and Regulations.** The Board shall issue and follow such rules and regulations, including those which are contained in this Chapter, as will further the purposes of the Chapter. The Board shall publicize its rules and regulations prior to promulgation on its website and any other appropriate medium. All rules and regulations, internal staff memoranda, and written correspondence explaining the decisions, orders, and policies of the Board shall be kept in the Board's office and shall be available to the public for inspection and copying.

(g) **Community Education.** The Board shall publicize this Chapter so that all residents of Richmond will have the opportunity to become informed about their legal rights and duties under this Chapter. The Board shall prepare a brochure which fully describes the legal rights and duties of Landlords and Tenants under The Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance. The brochure shall also include helpful information for homeowners. The brochure will be available to the public, and each Tenant of a Rental Unit shall receive a copy of the brochure from his, her or their Landlord. Landlords shall provide the brochure at the commencement of the tenancy and with each notice of rent increase. This brochure will be made available for download from the City of Richmond website and/or other appropriate technology. Information about the Ordinance shall be made available in all other languages that are requested by the community.

(h) **Meetings.** The Board shall hold such regularly scheduled meetings as are necessary to ensure the timely performance of its duties under this Chapter. All regular and special meetings shall be called and conducted in accordance with state law. There shall be minimally one (1) meeting a year so that the Board may comply with 11.100.070.

(i) **Quorum.** Three (3) Members shall constitute a quorum for the Board.

(j) **Voting.** The affirmative vote of three (3) Members of the Board is required for a decision, including all motions, regulations, and orders of the Board.

(k) **Dockets**. The Board shall maintain and keep in its office all hearing dockets.

(l) **Financing**. The Board shall finance its reasonable and necessary expenses by charging Landlords annual registration fees in amounts deemed reasonable by the Board. The Board is also empowered to request and receive funding when and if necessary from any available source for its reasonable and necessary expenses.

(1) **Residential Rental Housing Fee**. All Landlords shall pay a business license fee if required by Richmond Municipal Code plus a Residential Rental Housing Fee. The City shall charge the Residential Rental Housing Fee at the same time as the business license fee. The amount will be determined by the City Council after a recommendation by the Board is provided to the City Council. The City Council will vote on the recommendation at the next regularly scheduled meeting. The budget shall be funded by the Rental Housing Fee.

(2) This fee shall become due within thirty (30) days of inception of new tenancy if no fee was paid the prior year. Ongoing tenancies shall have fees collected at the same time as the City business license each year.

(m) **Integrity and Autonomy of Board**. The Board shall be an integral part of the government of the City, but shall exercise its powers and duties under this Chapter independent from the City Council, City Manager, and City Attorney, except by request of the Board. The City shall provide infrastructural support on an ongoing basis as it would with any other department. During the transition period before the Board Members are appointed and an Executive Director is hired, the City shall take whatever steps necessary to perform the duties of the Board and implement the purpose of this Chapter.

(n) **Budget**. The Board shall, prior to July 1 of each year, hold a public hearing on a proposed budget and adopt an annual budget for the ensuing fiscal year. At least thirty-five days prior to the beginning of each fiscal year, the Board's Executive Director shall submit to the Board the proposed budget as prepared by the Executive Director. After reviewing the same and making such revisions as it may deem advisable, the Board shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten days prior to said hearing, by at least one insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public in the office of the Board at least ten days prior to said hearing. The City Council and the City Manager shall have no authority to oversee, supervise, or approve this budget. Upon final adoption, the budget shall be in effect for the ensuing fiscal year and the amounts stated therein shall be and become appropriated by the Board for the respective objects and purposes therein specified. At any meeting after the adoption of the budget the Board may amend or supplement the budget by the affirmative votes of at least three members. Copies of the adopted budget and any amendments or supplements shall be filed with the City Clerk, and City Manager. Necessary adjustments to city administrative procedures shall be made.

(o) **Personnel**. The Board shall review and assess yearly that sufficient number of staff are employed, including an Executive Director, hearing examiners, housing counselors and legal staff, as may be necessary to perform its function efficiently in order to fulfill the purpose of this Chapter. The Executive Director shall be hired by the Board. All employees of

the Board shall be hired, terminated, suspended, and demoted in accordance with the Charter and implementing provisions of the Municipal Code.

(p) **Board Legal Work.** Legal staff hired by the Board shall represent and advise the Board, its Members, and its staff in any civil matters, actions, or proceedings in which the Board, its Members, or its staff, in or by reason of their official capacity, are concerned or are a party. The Board may, in its sole discretion, and without approval of the City Council, retain private attorneys to furnish legal advice or representation in particular matters, actions or proceedings.

(q) **Contracts and Purchases.** The Board shall procure goods and services as do other City agencies using existing support services within the City as would any other department, i.e. Finance, Information Technology, and Public Works among others. Provided, however, that the Board shall have sole and final authority to employ attorneys, legislative lobbyists, and other professionals, and to approve contracts for such professional services.

(r) **Conforming Regulations.** If any portion of this Chapter is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by state or federal legislation, the Board and not the City Council shall have authority to enact replacement regulations consistent with the intent and purpose of the invalidated provision and applicable law. Such replacement regulations shall supersede invalidated or unenforceable provisions of this Chapter to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to rent control matters as enumerated in this Chapter.

(s) **Reporting and Fee Payment Requirements.**

(1) Within sixty (60) days after the adoption of this Chapter, all Landlords shall be required to file a copy of all rental increase notices, change of terms of tenancy and tenancy termination notices with the Board before serving the tenant the notice. A proof of service with time and date of service of notice shall be included with notice filed with the City.

(2) If the Board, after the Landlord has proper notice and after a hearing, determines that a Landlord has willfully and knowingly failed to properly report, as described above, any rental increase notices, change of terms of tenancy or tenancy termination, or pay the Rental Housing fee, the Board may authorize the Tenant of such a non-reporting unit or where the Rent housing fee is unpaid to withhold all or a portion of the Rent for the Rental Unit until such time as the Rental Housing fee is paid or notice filed. After a notice is properly filed or fee paid, the Board shall determine what portion, if any, of the withheld Rent is owed to the Landlord for the period in which the notice was not properly filed or fee paid. Whether or not the Board allows such withholding, no Landlord who has failed to properly report or pay the fee shall at any time increase Rents for a Rental Unit until such fee or notice is reported. This shall go into effect thirty (30) days after determination of the Board.

(3) Further, failing to pay the fee or filing a copy of a notice before the filing of an unlawful detainer is a complete defense to an unlawful detainer. No Board action is required for defense to be alleged or litigated in an unlawful detainer.

(t) In the event the establishment of the Board under this Section is adjudged to be invalid for any reason by a court of competent jurisdiction, the City Council shall designate one or more City departments, agencies, boards, or commissions to perform the duties of the Board prescribed by this Chapter.

11.100.070 **Rent Control; Right of Reasonable Return for Landlords**

(a) **Establishment of Base Rent.** Beginning the effective date of this Chapter, no Landlord shall charge Rent for any Controlled Rental Units in an amount greater than the Rent in effect on July 21, 2015 except for increases expressly allowed under this Chapter. The Rent in effect on that date is the Base Rent. If there was no Rent in effect on July 21, 2015, the Base Rent shall be the Rent that was charged on the first date that Rent was charged following July 21, 2015. For tenancies commencing after the adoption of this Chapter, the Base Rent is the initial rental rate in effect on the date the tenancy commences. As used in this Subsection, the term "initial rental rate" means only the amount of Rent actually paid by the Tenant for the initial term of the tenancy. The Base Rent is the reference point from which the Maximum Allowable Rent shall be adjusted upward or downward in accordance with Section 11.100.070 (c).

(b) **Annual General Adjustment.** No later than June 30 each year, the Board shall announce the percentage by which Rent for eligible Rental Units will be generally adjusted effective September 1 of that year.

(1) The Annual General Adjustment shall be equal to one hundred (100%) percent of the percentage increase in the Consumer Price Index (All Urban Consumers, San Francisco-Oakland-San Jose region, or any successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of March of the current year.

(2) Subparagraph 1 of this Subsection notwithstanding, in no event shall the Annual General Adjustment be less than zero percent (0%).

(3) For the period between the effective date of this Charter and the first Annual General Adjustment announced September 1, the landlord may increase the Maximum Allowable Rent to include one Annual General Adjustment for September 2016.

(c) **Petitions.** Upon receipt of a petition by a Landlord and/or a Tenant, the Maximum Allowable Rent of individual Controlled Rental Units may be adjusted upward or downward in accordance with the procedures set forth elsewhere in this Section. The petition shall be on the form provided by the Board and shall include a declaration by the Landlord that the Rental Unit meets all requirements of this Chapter. Notwithstanding any other provision of this Section, the Board or hearing examiner may refuse to hold a hearing and/or grant a Rent

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13.76.120, however, the noticed increase shall remain inoperative until a decision is rendered on the landlord's petition.

**(B)** Petitions filed under this section shall be expedited so that a hearing on the petition is held within 30 days of filing and a decision rendered within 30 days of the hearing. The parties shall be given at least 15 days notice of the hearing.

**(C)** Except as provided in subsection (B), proceedings on petitions filed under this section shall be conducted according to all provisions of Chapter 12, Subchapter B. A determination that a tenant is not a tenant in occupancy must be supported by a preponderance of the evidence presented to the hearing examiner. If the owner makes a prima facie showing that the unit is not continuously occupied by the individual as a residence, the burden of proving that the unit is the usual place of return and not a secondary residence or used primarily for commercial, office, or storage, except as provided in Section 524 (D), shall shift to the tenant. If the hearing examiner determines that the tenant is not a tenant in occupancy, any rent increase noticed by the landlord shall become effective on the date specified in the notice or the date on which rent is next due following service of the hearing examiner's decision, whichever is later.

[Effective Date: 05/22/03]

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## 526 - 599 (RESERVED)

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### 601. Adoption, Amendment and Repeal of Regulations

It is the purpose of this article to establish basic minimum procedural requirements for adoption, amendment or repeal of Rent Stabilization Board Regulations. The provisions of this article shall not be superseded or modified by any subsequently adopted regulation except to the extent that such regulation shall do so expressly.

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### 602. First and Second Readings and Effective Date of Regulation or Repeal

**(A)** There shall be a first and second reading of all proposed regulations and orders of repeal. At any meeting at which a proposed regulation has been placed on the agenda for second reading, the Board may adopt, amend, or repeal the regulation. Except as provided in Regulation 608, a regulation of an order or repeal shall become effective upon publication under Regulation 607 unless a later date is prescribed in the regulation or order. This subsection shall not apply to the adoption of any Annual General Adjustment.

(B) Prior to the first or second reading, the Board may make changes to a proposed regulation and may adopt the proposed regulation with the changes following the second reading without having to notice additional readings of the proposed regulation.

[Revised Regulation 603 effective April 19, 1991.]

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### **603. Notice of Proposed Action**

For any proposed revision of a regulation which the Board, in its discretion, determines that public comment should be solicited, the Board may direct that notice of the proposed revisions be given in the following manner:

(A) Mailed to every person who has filed a written request for notice of regulatory actions with the Board.

(B) When appropriate in the judgment of the Board, mailed to any person or group of persons whom the Board believes to be interested in the proposed action.

(C) Published in one or more newspapers serving the City of Berkeley in such form and manner as the Board shall prescribe.

The failure to mail notice to any person as provided in this section shall not invalidate any action taken by the Board pursuant to this article.

[Revised Regulation 603 effective April 19, 1991.]

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### **604. (RESERVED) [Regulation 604 rescinded effective April 19, 1991.]**

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### **605. Hearing**

The Board may, in its discretion, choose to hold a formal or informal public hearing concerning proposed adoption, amendment or repeal of a regulation. If a public hearing is held, statements, arguments, or contentions, either oral or in writing, or both shall be permitted. If the Board elects not to hold a public hearing, Board may, afford any interested person or his or her duly authorized representative, the opportunity to present statements, arguments or contentions in writing.

[Revised Regulation 605 effective April 19, 1991.]

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**606. (RESERVED) [Regulation 606 rescinded effective April 19, 1991.]**

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**607. Publication of Regulations**

Within five (5) business days of the adoption, amendment or repeal of any regulation, the Board shall cause to be published in one or more newspapers serving the City of Berkeley, a concise summary of the regulation or repeal order. The Board may, in its discretion, cause the entire text of the regulation or repeal order to be published.

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**608. Emergency Regulations and Orders of Repeal**

**(A)** The provisions of Regulations 602 through 606 shall not apply to an emergency regulation or order of repeal adopted pursuant to this subdivision.

**(B)** If the Board makes a finding that the adoption of a regulation or order of repeal is necessary for the immediate preservation of public peace, health and safety or general welfare, the regulation or order of repeal may be adopted as an emergency regulation or order of repeal. The Board shall also have the authority to enact an emergency regulation or repeal an existing regulation to respond to changes in state or federal law that otherwise affect the administration and/or legality of any section of Berkeley Municipal Code Chapter 13.76. Any finding of an emergency or change in state or federal law shall include a written statement which contains a description of the specific facts showing the need for immediate action. The enactment of an urgency statute or ordinance shall not, in and of itself, constitute a need for immediate action.

**(C)** The emergency regulation or order of repeal shall become effective upon adoption by the Board notwithstanding the provisions of Regulation 602 or upon any later date specified by the Board as part of the regulation or order of repeal.

**(D)** No regulation or order of repeal adopted as an emergency action shall remain in effect for more than 180 days unless the Board has complied with Regulations 602 through 605, inclusive, prior to the adoption of the emergency regulation or order of repeal, or has, within the 180 day period, completed the regulation adoption or repeal process by formally adopting the emergency regulation or order of repeal or any amendments thereto, pursuant to the provisions of Regulations 602 through 605.

**(E)** In the event an emergency regulation is adopted as an amendment to an existing regulation, upon failure of the Board to comply with subdivision (D), above, the regulation as it existed prior to such emergency amendment shall thereupon become effective.

**(F)** In the event a regulation is originally adopted as an emergency regulation and the Board fails to comply with subdivision (d), above, such failure shall constitute repeal of said regulation.

**(G)** In the event an order of repeal is originally adopted as an emergency order of repeal and the Board fails to comply with subdivision (D), above, the regulation as it existed prior to such emergency order of repeal shall thereupon become effective.

**(H)** The Board shall make reasonable efforts to notify the public and local media of the pendency of any emergency regulation or order of repeal prior to the adoption thereof.

[Revised Regulation 608 effective April 19, 1991.] [Revised Regulation 608 effective April 19, 1991; Amended subsection (B) to make clear that regulation may be used to adopt or repeal regulations if state or federal law changes in a way that affects administration and/or legality of Rent Ordinance (amended on 10/15/18).]

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**609 - 630 (RESERVED) [Regulation 630 rescinded effective April 19, 1991.]**

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### **631. Effective Date of Rules and Regulations**

Rules and regulations adopted by the Board shall become effective on the date of publication under Regulation 607, unless a later date is specified by the Board.

[Revised Regulation 631 effective April 19, 1991.]

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### **632. Application of New Regulations and Amendments to Existing Regulations to Actions Pending Before the Board**

Unless otherwise stated, all newly adopted regulations and amendments to existing regulations shall apply to all petitions and appeals pending before the Board at the time of adoption or amendment.

[Effective April 10, 1992.]

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**633 - 689 (RESERVED)**

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### **690. Litigation by Commissioner**

**(A) Litigation v. Rent Stabilization and Eviction for Good Cause Ordinance.** Any Commissioner of the Berkeley Rent Stabilization Board who is a plaintiff or petitioner in any court action challenging the validity or seeking to enjoin the enforcement of any part of the Rent Stabilization and Eviction for Good Cause Ordinance shall be deemed to have breached his or her public trust of office and to

have thereby faithfully indicated an inability to faithfully discharge her or his duties and responsibilities as a Commissioner.

**(B) Suspension.** Upon a finding by the Board that any member is a plaintiff or petitioner in any court action prohibited by this rule, the Board shall immediately suspend said Commissioner from the Board, with such suspension subject to review and rescission by the City Council. If the suspended Commissioner is not present when the Board suspends, said Commissioner shall be promptly notified in writing of said suspension.

**(C) Right to Hearing.** Any Commissioner suspended pursuant to this rule has a right to request in writing a hearing before the Board, at which the suspended Commissioner may ask the Board to reinstate said Commissioner or rescind the suspension. The hearing shall be held within 15 days of receipt of the written request, and a final decision shall be made within 15 days of the hearing. The Board shall make every effort to expedite the hearing process by holding the hearing at its earliest opportunity at the request of the suspended Commissioner, particularly where the litigation status of the suspended Commissioner is the reason for the request for reinstatement. At the hearing, the suspended Commissioner shall have the right to be represented by counsel or a representative, to present evidence and make arguments.

**(D) Rescission of Suspension.** If, after the hearing, or at any subsequent hearing, the Board concludes that it incorrectly found that the suspended Commissioner was a plaintiff or petitioner to a court action prohibited by this rule, the Board shall immediately rescind the suspension.

**(E) Reinstatement.** If, after the hearing, or at any subsequent hearing, the Board finds that the suspended Commissioner is no longer a plaintiff or petitioner to any such prohibited court action, and that said Commissioner will be able to faithfully discharge the duties and responsibilities of being a Rent Stabilization Board Commissioner, the Board shall reinstate said member. In making this determination, the Board shall consider all evidence and factors relevant to said Commissioner's involvement in the litigation.

**(F) Plaintiff or Petitioner.** For purposes of this rule, a Commissioner shall be deemed to be a plaintiff or petitioner to a court action if the Commissioner is:

- (1) a named plaintiff or petitioner;
- (2) a general partner in a partnership which is named plaintiff or petitioner;
- (3) an officer or director in a corporation or unincorporated association which is a named plaintiff or petitioner; or
- (4) a trustee of a trust which is a named plaintiff or petitioner.

**(G) Effective Date.** This rule shall take effect immediately upon approval by a majority of the Board and the City Council after it is publicized by the Board.

[Effective Date: November 3, 1980.]

[Original policy adopted 9/30/80. Modified and approved by City of Berkeley Council on 10/14/80.  
Adopted by the Board on October 29, 1980.]

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**691 - 699 (RESERVED)**

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[Rent Stabilization Board](#), 2125 Milvia Street, Berkeley, CA 94704

Questions or comments? Email: [rent@cityofberkeley.info](mailto:rent@cityofberkeley.info) Phone: (510) 981-7368

(510) 981-CITY/2489 or 311 from any landline in Berkeley

TTY: (510) 981-6903

1 CITY AND COUNTY OF SAN FRANCISCO  
2 RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
3

4  
5 **RULES AND REGULATIONS**  
6

7 \* \* \* \* \*

8 Amending Sections 6.10 and 12.17  
9 **Effective Date: September 11, 2018**  
10

11  
12 Rent Board Office: 25 Van Ness Avenue, Suite 320  
13 San Francisco, California 94102-6033  
14  
15 Office Hours: 8:00 a.m. – 5:00 p.m. Monday – Friday  
16 Phone Counseling Hours: 9:00 a.m. – Noon, 1:00 p.m. – 4:00 p.m.  
17  
18 Telephone: (415) 252.4602 (Counseling)  
19 FAX: (415) 252.4699  
20  
21 Website: [www.sfrb.org](http://www.sfrb.org)  
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1 **PART II BOARD ORGANIZATION AND PROCEDURES**

2 **Section 2.10 Election of Officers**  
3 (Amended February 21, 1989)

4 The members of the Board, including alternates, shall elect from among themselves a  
5 President and Vice-President for a term not to exceed one year. The election of each officer  
6 shall require a vote of the majority of the members. At the end of his or her one year term,  
7 neither the President or Vice-President will be eligible to hold the same office until at least one  
8 year after the expiration of their term.

9 The election of officers may be held at a regular or special meeting of the Board,  
10 provided notice of such an election is mailed to the members and alternates at least ten (10)  
11 days prior to the meeting at which the election will be held. The President or any two members  
12 may call a special meeting for the election of officers, if needed, or call for such an election at a  
13 regular Board meeting, provided the notice required in this section is given.

14 **Section 2.11 Board Alternates**  
15 (Amended February 21,1989)

16 Alternates may participate in discussion and deliberations and may preside over appeal  
17 hearings, but will only be allowed to vote when the member for whom the alternate serves as  
18 alternate is not present or has been excused from consideration of or voting on a matter by the  
19 Board.

20 **Section 2.12 Decisions by the Board**

21 A decision of the Board shall require a majority of all the members of the Board. All  
22 decisions of the Board shall be recorded by roll call vote and a record of such actions shall be  
23 available to the public. Each member present at a meeting shall vote either for or against any  
24 question put to a vote, unless excused from voting by a motion adopted by a majority of the  
25 members present.

26 **Section 2.13 Board Meetings**  
27 (Amended June 17, 1986; June 18, 1991; January 18, 1994;  
28 new section (e) added; amended March 23, 2004)

- (a) The Board shall meet on the first Tuesday of each month at 6:00 p.m. at Room

1 70, Lower Level, 25 Van Ness Avenue, San Francisco, California, 94102 except (i) when that  
2 day falls on a legal holiday or election day, the meeting shall be held on the next Tuesday which  
3 is neither a legal holiday nor an election day, or (ii) when the Board designates an alternate date  
4 or place for the meeting, the meeting shall be held on the designated date and at the designated  
5 place.

6 (b) The Board shall meet at such other times as necessary to stay current with the  
7 workload or tend to administrative matters.

8 (c) Special meetings may be held any time, upon compliance with Charter provision  
9 3.500.

10 (d) Meetings shall be open to the public, except that any member may require that  
11 matters for which meetings in executive session are allowed by law be discussed and  
12 considered in executive session, provided all votes of the members shall be matters of public  
13 record.

14 (e) For purposes of testimony at Public Hearings before the Board, members of the  
15 public shall be limited to testimony of three minutes duration. The Board shall have the authority  
16 to waive this limitation at its discretion.

17 **Section 2.14 Agenda**

18 Except for meetings in executive session, the agenda for each meeting of the Board shall  
19 be sent to each member and alternate with notice of the meeting. Notices of meetings and  
20 agendas shall be prepared and filed with the Public Library in the manner and within the times  
21 required by law. Matters on any meeting's agenda may be considered and decided out of the  
22 order on which they appear on the agenda upon approval of the members present. Except  
23 where prohibited by public notice requirements, the Board may, at any meetings, consider and  
24 decide matters not on the agenda for that meeting if the members present unanimously approve.

25 **Section 2.15 Per Diem Compensation**

26 (Amended September 21, 1999; amended March 23, 2004;  
27 amended August 24, 2004)

28 Each member shall receive \$75.00 for each Board meeting attended if the meeting lasts

1 for six hours or more in a single twenty-four hour period, and \$70.00 if the meeting lasts less  
2 than six hours in a single twenty-four hour period. If a member or the alternate is not in  
3 attendance for an entire meeting, compensation shall be determined by reference to the actual  
4 aggregate time the member was in attendance in proportion to the total time of the meeting.

5 **Section 2.16 Financial Disclosure and Conflict of Interest Statement**

6 Pursuant to the conflict of interest code adopted by the Board pursuant to Government  
7 Code Section 87300 and approved by the Board of Supervisors, all members shall disclose all  
8 present holdings and interests in real property, including interests in corporations, trusts, or other  
9 entities with real property holdings, in accordance with applicable state law.

10 **Section 2.17 Conflict of Interest**

11 No member of the Board or member of the staff of the Board may participate in the  
12 consideration or decision of any case in which such person has any personal interest, including  
13 an equity interest, an interest as a landlord, tenant or management person, or is related by blood  
14 or marriage or adoption to a landlord or tenant involved.

15 **Section 2.18 Waiver of Regulations**

16 (Amended August 29, 1989; September 27, 1994)

17 The Board may grant exception to these regulations for good cause shown in the interest  
18 of justice or to prevent hardship. If a majority of the board votes to accept a landlord or tenant  
19 appeal on the basis of financial hardship, they may delegate their authority to hear and decide  
20 such a claim to an Administrative Law Judge, subject to the right of appeal to the board.

21 **Section 2.19 Advisory Opinions**

22 No advisory opinion, oral or written, shall be given by the Board, or any of its members,  
23 except upon the vote of a majority of the Board.

24 **Section 2.20 Index of Decisions**

25 The Board shall establish and continuously maintain a file of decisions and opinions  
26 issued by Administrative Law Judges and the Board, properly indexed as to subject matter and  
27 available for public inspection in the Board office between the hours of 9 a.m. - 5 p.m. on  
28

1 weekdays, excluding holidays. Copies of decisions and opinions may be reproduced at the  
2 expense of the person requesting the copies, at a price equal to the cost of such reproduction to  
3 the Board, as determined by the Executive Director. Funds so received shall be deposited with  
4 the Controller.

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**CHAPTER 1**

**RULES FOR BOARD MEETINGS**

**1000. Quorum**

Three Boardmembers shall constitute a quorum of the Board. The affirmative vote of three members of the Board is required for a decision, including all motions, regulations, and orders of the Board.

**1001. Agenda**

The Secretary to the Board shall prepare the agenda. The agenda, with all supporting matters shall be delivered to the Boardmembers one week prior to the Thursday Board Meeting to which it pertains and shall be made available to the public no later than three o'clock on the Wednesday preceding the scheduled Board Meeting; providing, however, that at any time prior to the hour set for the meeting, any Boardmember, the Board's Counsel or the Administrator, may direct any matter he or she deems urgent to be placed upon the agenda; provided, further, that any item of public interest or concern added to the agenda after its publication to the general public shall not be considered unless it is accompanied by a full explanation by the advocate of such item and until after a majority of the Board has voted to do so. Matters directed to be placed on the Agenda by Boardmembers shall be listed thereon in order of receipt of such direction.

**1002. Time and Place for Holding Regular Meeting**

- (a) The Santa Monica Rent Control Board does hereby establish meetings on the first, second, fourth and/or fifth Thursday of each month at 7:00 p.m. However, if any such Thursday falls on any day designated by law by the City Council or by the Rent Control Board as a day for public feast, Thanksgiving or holiday, or if a change in the date for a regular meeting is reasonably necessary for the Board to perform its duties, the Board shall give the public reasonable notice of the alternative date for the meeting, which shall be preferably held on a Thursday. Regular meetings shall commence at 7:00 p.m., unless the agenda includes a closed-session item, in which case the meeting shall commence at 6:00 p.m.
- (b) The City Council Chamber in City Hall is established as the location for holding the Board's regular meetings held on the first, second, fourth and/or fifth Thursday of each month. If, for any reason, the City Council Chamber is unavailable for a particular regular meeting, the Board shall give the public reasonable notice of the alternative site of the meeting. If, however, the City Council Chamber becomes permanently unavailable, the Board shall, with reasonable notice, amend this regulation to set forth the new location(s) of its regular meetings.

[1002 Amended 5/29/86; Effective 5/29/86]  
[1002(a) Amended 1/27/00; Effective 2/11/00]  
[1002(a)-(b) Amended 10/13/11; Effective 10/21/11]  
[1002(a) Amended 11/8/18; Effective 11/15/18]

**1003. Meetings to be Public -- Exception for Closed Sessions**

- (a) All regular, adjourned regular, and special meetings of the Rent Control Board shall be public; provided, however, that the Rent Control Board may hold Closed Sessions during a regular or special meeting, from which the public may be excluded, for the purpose of considering the matters referred to in §§54956.7-54957.10 of the California Government Code relating to Closed Sessions of the legislative body, or pursuant to other provisions of law.

The above section is specifically limited by the following:

## ITEM J-2 ATTACHMENT 4

- (1) Restrictions in Closed Sessions do not apply to meetings of committees of the Rent Control Board consisting of less than a quorum of its members.
  - (2) Closed Sessions may not be held to consider the broad category of "personnel" matters.
  - (3) Closed Sessions relating to personnel are limited to those relating to the appointment, employment, evaluation of performance, or dismissal of an employee or to hear complaints or charges brought against such employee.
  - (4) Closed Sessions may not be held to determine the compensation of employees not represented by a collective bargaining organization.
- (b) The general categories permitting Closed Sessions shall include, but not be limited to:
- (1) Consider the employment, performance evaluation, or dismissal of an employee, or to hear charges brought against such person unless the employee in question requests a public hearing, in which event a public hearing shall be permitted.
  - (2) Discuss with the Board counsel pending, proposed or anticipated litigation where the threat of litigation is likely or would be likely, if discussed in an open meeting.
  - (3) Meeting with Attorney General, District Attorney, Sheriff or Chief of Police (or their Deputies) on matters "posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities."
  - (4) Instruct Board staff and/or authorized negotiators concerning salaries, salary schedules or compensation paid in the form of fringe benefits prior to or during negotiations with employee organizations.
  - (5) Negotiate and have discussions with employee organization representatives following intervention of a state labor conciliator in a labor dispute.
  - (6) Instruct Board staff and authorized negotiators concerning purchase, sale, exchange or lease of real property for the purpose of giving instructions regarding the price and terms of payment.
  - (7) Consider those matters which by law are properly subject to Closed Sessions.
- (c) No member of the Rent Control Board, employee, or any other person present during a Closed Session of the Rent Control Board shall disclose to any person the content or substance of any discussion which took place during said closed session unless the Rent Control Board shall authorize the disclosure of such information by majority vote, or unless such disclosure is required, and only to the extent so required, by the provisions of §54957.2 of the California Government Code.
- (d) At any given meeting, no more than one Commissioner may appear at open or closed sessions of the Board's meetings by teleconference, subject to limitations and noticing requirements imposed by Government Code § 54953. A Commissioner wishing to appear by teleconference must so notify the Board Secretary at the earliest possible moment, but no later than 72 hours before the time at which the meeting is scheduled to begin.

[1003 Amended 6/12/97; Effective 6/20/97]  
[1003(a) Amended 10/13/11; Effective 10/21/11]  
[1003(d) Adopted 11/8/18; Effective 11/15/18]

**1004. Board Correspondence**

(a) Non-Board Items

Written communications addressed to the Board, the subject matter of which comes within the jurisdiction of any other Board, Commission or Department of the City, may be referred to such Body or Department, or both, by the Secretary, and such communications shall not be placed on the Board agenda.

Any person submitting a written communication to the Board which is subsequently referred another Board, Commission, or Department of the City shall be notified of such referral by the Secretary. If dissatisfied with either the action of the Secretary or the action of the Body or Department to which the communication was referred, such person may appeal to the Board.

- (b) The Secretary is authorized to open all mail or other written communications collectively addressed to the Board and to give it immediate attention to the end that all administrative business referred to in said communications which does not necessarily require Board action may be acted upon between Board Meetings.

(c) Board Items

Correspondence collectively addressed to the Board shall be received and opened by the Secretary, transmitted to the appropriate officer having jurisdiction, and placed on the agenda if Board action is deemed appropriate by the Secretary, except in the following circumstances:

- (1) No communication containing material which:
- (i) Is profane;
  - (ii) Is in the nature of a criminal or civil slander, or is potentially slanderous or libelous;
  - (iii) Advocates or opposes the candidacy of any person or party for any elective office;
  - (iv) Is primarily an advertisement or promotion or has as a substantial purpose the advancement of any cause the major benefit of which is private and not public; or
  - (v) Does not necessitate Board action, shall be place upon any Board agenda.

(d) Availability to the Public

- (1) Correspondence addressed to individual Boardmembers shall not be opened by the Secretary unless authorized to do so by individual Boardmembers. Such communications shall not become public records until received and filed by the Board at a regular, special or adjourned meeting of the Board, or retained or used as provided in §6250 of the California Government Code.
- (2) Correspondence received in the Secretary's or other Board offices after twelve o'clock noon on Mondays prior to the Board Meeting shall not be placed on the agenda unless it concerns a matter to be considered by the Board at the next regular meeting or is determined by the Secretary to be an urgent matter which should be brought to the immediate attention of the Board.

## ITEM J-2 ATTACHMENT 4

- (3) Correspondence shall not be read aloud at a Board Meeting unless requested by a majority vote of the Board. No item which is exempted by §6254 of the California Government Code shall be disclosed or treated as a public record.

### **1005. Order of Business**

- (a) STANDARD ORDER. The Board will ordinarily consider and dispose of its business in the following order:
  - (1) Call to Order. The Chair will call the meeting to order, and the Board Secretary will call the roll.
  - (2) Closed Session. The Board will recess to closed session to consider items on the closed-session agenda. Closed session will ordinarily be held between 6:00 p.m. and 7:00 p.m.
  - (3) Reconvene to Open Session. The Chair will call the open session to order and invite the Board and public to salute the flag.
  - (4) Report of Closed Session. The General Counsel, or other person called upon by the Chair to do so, will provide a report of the Board's closed session.
  - (5) Approval of Minutes. The Board will review the previous meeting's minutes. If the minutes are accurate, the Board will approve them. If the minutes are inaccurate, the Board will correct any inaccuracies and approve the minutes as corrected.
  - (6) Special Agenda Items. The Chair, any member of the Board, or the Board Administrator, will make relevant announcements, present commendations or awards, introduce special guests, or conduct other brief business of a like nature.
  - (7) Public Comment. Members of the public will be given the opportunity to directly address the Board on any item of interest to the public that is within the Board's subject-matter jurisdiction; however, members of the public wishing to address the Board on specific agenda items should address the Board on those items when they are under consideration by the Board. In order to address the Board, any member of the public should inform the Board secretary of his or her name and the issue to be discussed, using a slip provided for the purpose. The speaker must be given three minutes to speak, unless the Board permits a longer or shorter period, or another period is required by regulation.
  - (8) Continued Business. The Board will consider any unconcluded items from previous Board Meeting agendas.
  - (9) Consent Calendar. The Board will consider all consent items as a group by a single motion to approve the consent calendar. Because the consent calendar includes only items of a noncontroversial nature that do not require a public hearing, such as receiving reports or making technical, non-substantive changes to regulations, the title to the individual consent items will not be read unless a request to do so is made by a member of the Board. Public discussion is permitted only if the item is removed from the consent agenda and a specific request to be heard is made.
  - (10) Jurisdictional Items. The Board will consider matters in which the Board is required to make a decision concerning an individual application or appeal.

## ITEM J-2 ATTACHMENT 4

- (11) Public Hearings. As specifically required by law, or as previously agreed by the Board, the Board will hold a public hearing on the adoption or substantive amendment of any regulation or rule, or the adoption of a resolution necessary to implement any regulation or rule.
  - (12) Administrative Items. The Board will consider issues placed on the agenda by the Administrator. Examples of administrative items include the adoption or amendment of regulations, rules, or resolutions not specifically required by law or not previously suggested for discussion by the Board itself, the presentation of proposed budgets, and matters of a like nature.
  - (13) Reports of Committees. A subcommittee of the Board will present a report of its findings and recommendations, if any, to the entire Board and to the public.
  - (14) Board Discussion Items. A member of the Board, having caused an issue to be placed on the Board's agenda, will succinctly state the issue for the Board's consideration. No final Board action may be taken on anything arising under this part of the agenda. The Secretary must list items in this part of the agenda in the order in which they were received.
  - (15) Written Communications. The Board will receive written communication from the public. The Board Secretary must list all written communications on the agenda in the order in which they were received at the Board's offices, together with a succinct statement of their subject matter. The Board will not discuss the written communication except at the request of a Board member. The discussion may be limited in duration by a majority vote of the Board.
  - (16) Adjournment. The Board will adjourn, and will remain adjourned until its next regularly-scheduled meeting unless an emergency or special meeting is called before the next regularly-scheduled meeting.
- (b) The Board may alter the order of its agenda for an individual meeting, except the call to order and adjournment, by majority vote.

[1005 Amended 8/13/92; Effective 8/20/92]  
[1005 Amended 4/14/94; Effective 4/23/94]  
[1005 Amended 6/12/97; Effective 6/20/97]  
[1005 Amended 10/13/11; Effective 10/21/11]  
[1005 Amended 3/13/14; Effective 3/19/14]

### **1006. Preparation of Minutes**

The Secretary shall have exclusive responsibility for preparation of the minutes, and any directions for changes in the minutes shall be made only by a majority action of the Board.

### **1007. Reading of Minutes**

Unless the reading of the minutes of a Board Meeting is ordered by a majority vote of the Board, such minutes may be approved without reading if the Secretary has previously furnished each Boardmember with a copy.

### **1008. Presiding Officer**

The Chairperson shall be the Presiding Officer at all meetings of the Rent Control Board. In the absence

## ITEM J-2 ATTACHMENT 4

of the Chairperson, the Vice-Chairperson shall preside. In the absence of both the Chairperson and the Vice-Chairperson, the Secretary shall call the Board to order whereupon a temporary Presiding Officer shall be elected by the Boardmembers present to serve until the arrival of the Chairperson or Vice-Chairperson or until adjournment.

### **1009. Powers and Duties of Presiding Officer**

#### (a) Participation

The Chairperson or Vice-Chairperson or such other member presiding may move, second and debate from the chair, subject only to such limitations of debate as are imposed upon members of the Board by these rules and shall not be deprived of any of the rights or privileges of a Boardmember by reason of his/her acting as Presiding Officer.

#### (b) Duties

The Presiding Officer shall preserve order at all regular, adjourned regular, and special meetings of the Board. Such officer shall state each question coming before the Board, announce the decisions of the Board on all subjects, rule on all evidentiary matters and decide all questions of order; subject, however, to an appeal by the Board, whereupon a majority vote of the Board on any question of order shall govern and determine conclusively such evidentiary ruling or question of order.

#### (c) Signing of Documents

The Presiding Officer shall sign all Resolutions and other documents necessitating his/her signature which were adopted in his/her presence, unless he/she is unavailable, in which case the signature of the alternate Presiding Officer may be used. The Administrator shall execute all contracts on behalf of the Board unless otherwise ordered by the Board. Prior to Board authorization each contract shall be reviewed by the Board's counsel as to the form and legality.

### **1010. Sworn Testimony**

(a) The Presiding Officer may require any person addressing the Board to be sworn as a witness and to testify under oath, and the Presiding Officer shall so require if directed to do so by a majority vote of the Board. Any member of the Board may request that anyone appearing before the Board on any matter shall be sworn. On receipt of such a request, all proceedings shall be suspended and the Board will, without debate, immediately vote on whether the individual should be sworn. A majority vote of the members present shall determine whether the speaker shall be placed under oath. All oaths and affirmations will be administered by the Secretary.

(b) The Board shall have the power and authority to compel the attendance of witnesses, to examine them under oath, and to compel the production of evidence before it. Subpoenas may be issued in the name of the Board and be attested by the Secretary.

### **1011. Rules of Debate**

#### (a) Getting the Floor

Every Boardmember desiring to speak shall first address the Chair, gain recognition by the Presiding Officer, and shall confine himself/herself to the question under debate, avoiding personalities and indecorous language.

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(b) Questions to Staff

Every Boardmember desiring to question Board staff shall, after recognition by the Presiding Officer, address his/her questions to the Administrator, the Board's counsel, or any staff member then present on the dais. If either the Administrator or the Board's counsel feels another staff member who is not located on the dais could best respond to the Boardmember's question, he or she may direct the question to a member of his/her staff in the audience for that purpose.

(c) Interruptions

(1) A Boardmember, once recognized, shall not be interrupted when speaking unless:

- (i) called to order by the Presiding Officer;
- (ii) a point of order or a personal privilege is raised by another Boardmember; or
- (iii) the speaker chooses to yield to a question by another Boardmember.

(2) If a Boardmember, while speaking, is called to order, he/she will cease speaking until the question of order is determined and, if determined to be in order, he/she may proceed.

(3) Members of the staff after recognition by the Presiding Officer shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.

(d) Points of Order

The Presiding Officer shall determine all points of order subject to the right of any Boardmember to appeal to the Board. If an appeal is taken, the question shall be, "Shall the decision of the Presiding Officer be sustained?" A majority vote shall conclusively determine such question of order.

(e) Point of Personal Privilege

The right of a Boardmember to address the Board on a question of personal privilege shall be limited to cases in which his/her integrity, character or motives are questioned or where the welfare of the Board is concerned. A Boardmember raising a point of personal privilege may interrupt another Boardmember who has the floor only if the Presiding Officer recognizes the privilege.

(f) Privilege of Closing Debate

The Boardmember moving the introduction or adoption of a Resolution or Motion, shall have the privilege of closing the debate, after other members of the Board have been given the opportunity to speak.

(g) Motion to Reconsider

A motion to reconsider any action taken by the Board may be made only by a Boardmember of the prevailing side and may be made only on the same day the action is taken and shall have precedence over all other motions or while a member has the floor and said motion shall be debatable.

(h) Calling for the Question

Neither the moving party nor the party seconding any motion is allowed to call for the question.

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(i) Limitation of Debate

No Boardmember shall be allowed to speak more than once upon any particular subject until every other Boardmember desiring to do so shall have spoken. Each Boardmember speaking on any item on the agenda shall be limited to ten (10) minutes per item to state his/her opinion and his/her views.

**1012. Remarks of Boardmembers and Synopsis of Debate**

A Boardmember may request through the Presiding Officer for the privilege of having an abstract of his/her statement on any subject under consideration by the Board entered in the minutes. If the Board consents thereto, such statement shall be entered in the minutes.

**1013. Protest Against Board Action**

Any Boardmember shall have the right to have the reasons for his/her dissent from, or his/her protest against any action of the Board entered in the minutes. Such dissent or protest to be entered in the minutes shall be made in the following manner: "I would like the minutes to show that I am opposed to this action for the following reasons . . ."

**1014. Rules of Order**

- (a) Except as otherwise provided in this Chapter, the City Charter, other rules adopted by the Board, or applicable provisions of State law, the procedures of this Board shall be governed by the latest revised edition of Robert's Rules of Order.
- (b) These Board rules, or any one thereof, may be suspended by a vote of two-thirds (2/3) of the Boardmembers.

**1015. Failure to Observe Rules of Order**

Rules adopted to expedite the transaction of the business of the Board in an orderly fashion are deemed to be procedural only and the failure to strictly observe such rules shall not affect the jurisdiction of the Board or invalidate any action taken at a meeting that is otherwise held in conformity with law.

**1016. Addressing the Board**

(a) Public Comment

Pursuant to the Brown Act, public comment is permitted on all agenda items and the public shall have an opportunity to comment on any matter which is not on the agenda but is within the Rent Control Board's jurisdiction. However, members of the public do not have the right to give comments outside the scope or unrelated to the agenda item under consideration. Additionally, members of the public should strive to avoid unduly reiterating their own or others' comments.

(b) Registration

Each person wishing to address the Board regarding items on the agenda where public discussion is permitted shall register his/her request to speak with the Secretary preferably prior to the start of the Board meeting, and to any discussion of that item. Each member of the public is encouraged, but not required, to provide his/her name and address. Except for public hearings, registration to speak is permitted after discussion of a particular agenda item has

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commenced. All persons wishing to speak at public hearings must register prior to the opening of the public hearing.

(c) Manner of Addressing the Board

- (1) Each person desiring to address the Board shall:
  - (i) step up to the microphone in front of the rail;
  - (ii) preferably state his/her name and home address for the record;
  - (iii) state the subject he/she wishes to discuss;
  - (iv) state whom he/she is representing if he/she represents an organization or other persons; and
  - (v) For public hearings, and jurisdictional items and proceedings, if the speaker is the applicant or appellant, unless further time is granted by majority vote of the Board, shall limit his/her remarks to five (5) minutes, for all other items, unless further time is granted by a majority vote of the Board, shall limit his/her remarks to three (3) minutes per item, except as limited by section 1016 (d).
- (2) All remarks shall be addressed to the Board as a whole and not to any member thereof.
- (3) No questions shall be asked of a Boardmember or a member of the Board staff without permission of the Presiding Officer.

(d) Discretion to Limit Duration and Number of Speakers

- (1) Where more than one person desires to speak on a particular item, it shall be within the discretion of the Presiding Officer to limit the number and duration of presentations to not less than ten (10) minutes for each side giving equal time for each position or side.
- (2) It is recommended that a spokesperson for each side be chosen prior to the meeting and the Secretary shall advise persons of this recommendation. If a spokesperson has not been selected prior to the meeting, the item may be called and the Presiding Officer may either pass the item or grant a recess to permit the selection of a spokesperson.
- (3) The Presiding Officer may also determine which persons have a predominant or proprietary interest in an item and permit such persons to speak first. If the Presiding Officer determines that more than one person desiring to speak has a predominant or proprietary interest, the person having the burden of proof on the matter should be called to speak first.
- (4) Nothing in this section shall be deemed to preclude the Presiding Officer or a majority of the Boardmembers present from allowing debate on any matter.

(e) Persons Speaking on More Than One Item

Any person wishing to speak on more than one item shall limit his/her remarks to three (3) minutes (five (5) minutes on public hearings) on the item he/she considers most important, two (2) minutes on the item he or she considers next most important, and one (1) minute on any other item unless a greater or lesser time is set by a majority vote of the Board. This subsection does not apply with respect to an applicant or appellant speaking on a Jurisdictional Proceeding item.

(f) After Motion

After a motion has been made or a public hearing has been closed, no member of the public shall address the Board from the audience on the matter under consideration without first securing permission to do so by a majority vote of the Board.

[1016 Amended 6/12/97; Effective 6/20/97]

[1016 Amended 10/13/11; Effective 10/21/11]

**1017. Rules of Decorum**

(a) Boardmembers

- (1) When the Board is in session, the members must preserve order and decorum, and a member shall neither by conversation nor otherwise delay or interrupt the proceedings or the peace of the Board nor disturb any member while speaking nor refuse to obey the orders of the Presiding Officer.
- (2) Members of the Board shall not leave their seats during a meeting without first obtaining the permission of the Presiding Officer.

(b) Employees

Members of the Board staff and employees shall observe the same rules of order and decorum as are applicable to the Board, with the exception that members of the Board staff who are not seated at the Board table may leave their seats during a meeting without first obtaining the permission of the Presiding Officer.

(c) Persons Addressing the Board

- (1) No person other than a member of the Board and the person having the floor shall be permitted to enter into discussions either directly or through a member of the Board, without permission of the Presiding Officer.
- (2) No questions shall be asked of a Boardmember except through the Presiding Officer.
- (3) All remarks shall be addressed to the Board as a body and not to any one Boardmember.
- (4) Any person making impertinent, slanderous or profane remarks, speaks in a loud, abusive or threatening way, or who becomes boisterous while addressing the Board, or who engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of a Board meeting, shall be called to order by the Presiding Officer and if such conduct continues, may, at the discretion of the Presiding Officer, be barred from further audience before the Board during that meeting.

(d) Members of the Audience

- (1) When the Board is in session, all persons present must preserve safety and order. Members of the public should sit in the audience sitting area, unless addressing the Board or leaving the chambers where the Board meeting is being held. They should not block the aisles with personal belongings and should not bring audible equipment into the chambers including cellular telephones or pagers. Members of the public may not, except when testifying on or participating in an agenda item, enter the well area, which is the open area directly in front of the dais and extending outward from it to a line running between the points on the Secretary's desk and the podium nearest to the audience.

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- (2) Any person who disrupts the meeting shall be called to order by the Presiding Officer. Disruptions shall include but not be limited to handclapping, stamping of feet, whistling, using profane language, yelling, interrupting individual Boardmembers or the Secretary when the Board is in session, and blocking the audience or camera view of the proceeding. If such conduct continues, the Presiding Officer may request the Sergeant at Arms to remove the person from chambers.
  - (3) Any persons carrying placards, signs, posters, packages, bundles, suitcases, or other large objects shall not allow them to obstruct any person's view of the proceedings. The Presiding Officer may request any person carrying such objects to remove them from the hearing room or place them on the floor during the meeting, and the person carrying such objects shall comply with the Presiding Officer's request.
  - (4) No literature of whatever nature or kind shall be distributed during the meeting unless the person seeking to do so has notified the Secretary of his or her intent prior to the meeting. Literature may only be distributed during the first ten minutes after the meeting has been called to order.
- (e) Persons Authorized to be Within Rail
- No person except members of the Board, staff and recognized representatives of the news media shall be permitted within the rail without the consent of the Presiding Officer.
- (f) Enforcement of Decorum
- The Chief of Police or such member or members of the Police Department as he/she may designate, shall be Sergeant at Arms of the Board and shall carry out all orders given by the Presiding Officer (through the Secretary) for the purpose of maintaining order and decorum at the Board meetings. Any Boardmember may move to require the Presiding Officer to enforce the rules, and the affirmative vote of a majority of the Board shall require him/her to do so.

[1017 Amended 6/12/97; Effective 6/20/97]  
[1017(d)(1)-(4) Amended 10/13/11; Effective 10/21/11]

### **1018. Voting Procedure**

Any vote of the Board, including a roll call vote, may be registered by the members by answering "AYE" for an affirmative vote or "NO" for a negative vote upon his/her name being called by the Secretary. Unless a member of the Board states that he/she is not voting, silence shall be recorded as an affirmative vote.

### **1019. Disqualification for Conflict of Interest**

- (a) Any Boardmember who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state or have the Presiding Officer state the nature of such disqualification in an open meeting.
- (b) Where no thoroughly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Boardmember affected, be decided by other Boardmembers.
- (c) A Boardmember who is disqualified by reason of conflict of interest in any matter shall not remain in his/her seat during the debate and vote on such matter, but shall request and be given the permission of the Presiding Officer to step down from the table and leave the Board Chamber.

- (d) A Boardmember stating such disqualification shall not be counted as part of a quorum and shall be considered absent for the purpose of determining the outcome of any vote on such matter.

**1020. Failure to Vote**

Every Boardmember is entitled to vote unless disqualified by reason of conflict of interest.

**1021. Tie Vote**

Tie votes shall be lost motions and may be reconsidered.

**1022. Changing Vote**

A member may change his/her vote only if he/she makes a timely request to do so immediately following the announcement of the vote by the Secretary and prior to the time that the next item in the order of business is taken up.

**1023. Motion Procedures**

- (a) The Secretary or Presiding Officer will read the title.
- (b) A report will be presented by staff, if called for by the Presiding Officer.
- (c) Board members may ask questions of staff.
- (d) The public—or in the case of a jurisdictional item, the affected parties—will address the Board, subject to any limitations set forth in the Charter or Board regulations, or time limits imposed by the Board after a vote.
- (e) After all members of the public wishing to address the Board have done so, the Presiding Officer will announce the close of discussion by the public.
- (f) The Board may publicly deliberate.
- (g) A Commissioner may make a motion, or the Presiding Officer may ask for a motion. If the motion is seconded, the motion is before the Board.
- (h) The Board will discuss the motion that is before it.
- (i) The maker of the motion will have a chance for further discussion.
- (j) The Presiding Officer will restate the motion.
- (k) The Board will vote on the motion. If more than one motion is before the Board, the Board must vote on the last-made motion first, then proceed in reverse order to the first-made motion.

[1023 Amended 3/13/14; Effective 3/19/14]

**1024. Regulations and Resolutions**

- (a) The Presiding Officer, before calling for a motion on the adoption of any regulation or resolution,

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shall first inquire if there is anyone who desires to be heard on said proposed regulation or resolution. All persons desiring to be heard must have registered with the Secretary, prior to the discussion of the regulation item they wish to speak on and the Presiding Officer will call upon speakers from that list.

- (b) At the time adoption of a regulation or resolution, it shall be read in full unless, after the reading of the title thereof, the further reading thereof is waived by a unanimous vote of the Boardmembers present. Such consent may be expressed by a statement by the Presiding Officer that "If there is no objection, the further reading of the regulation or resolution shall be waived."

## **1025. Prior Approval by Administrative Staff**

All regulations and resolutions and contract documents shall, before presentation to the Board, have been approved as to form and legality by the Board's counsel, and shall have been examined for administration by the Administrator or his or her authorized representative.

## **1026. Informal Meetings**

The Board, subject to notice and other requirements imposed by law, may hold informal meetings in the Council Chambers of the City Hall at such times as may be designated in order for a special meeting. At any such informal meeting, the Board shall not take any formal motion, resolution, ordinance, nor any other action required by law to be taken by the Board. Such informal sessions shall be devoted exclusively to the presentation and exchange of information.

## **1027. Adjournment**

All Board Meetings shall adjourn at eleven o'clock p.m., unless two-thirds (2/3) of the Boardmembers vote otherwise.

## **1028. Record of Meetings**

All public meetings of the Board shall be electronically recorded. The recording shall be made by the Secretary and shall be part of the records of the Board. The use of other recording or television equipment is permitted so long as it is not disruptive of the meeting.

[1028 Amended 10/13/11; Effective 10/21/11]

## **1029. Interpretation and Modification of the Rules**

These rules shall be interpreted liberally in order to provide for the optimum in the free interchange of information and public debate without any unnecessary waste of time or duplication of effort.

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[Chapter 1 Adopted 1/10/85; Effective 2/5/85]  
[1002 Amended 5/29/86; Effective 5/29/86]  
[1005 Amended 8/13/92; Effective 8/20/92]  
[1005 Amended 4/14/94; Effective 4/23/94]  
[1003 Amended 6/12/97; Effective 6/20/97]  
[1005 Amended 6/12/97; Effective 6/20/97]  
[1016 Amended 6/12/97; Effective 6/20/97]  
[1017 Amended 6/12/97; Effective 6/20/97]

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[1002(a) Amended 1/27/00; Effective 2/11/00]  
[1002(a)-(b) Amended 10/13/11; Effective 10/21/11]  
[1003(a) Amended 10/13/11; Effective 10/21/11]  
[1005 Amended 10/13/11; Effective 10/21/11]  
[1016 Amended 10/13/11; Effective 10/21/11]  
[1017(d)(1)-(4) Amended 10/13/11; Effective 10/21/11]  
[1028 Amended 10/13/11; Effective 10/21/11]  
[1005 Amended 3/13/14; Effective 3/19/14]  
[1023 Amended 3/13/14; Effective 3/19/14]  
[1002(a) Amended 11/8/18; Effective 11/15/18]  
[1003(d) Adopted 11/8/18; Effective 11/15/18]