

**Resolution No. 19-01**

ESTABLISHING ADDITIONAL TERMS OF EXEMPTION FOR LOW-INCOME HOUSING TAX CREDIT PROVIDERS FROM THE RENT CONTROL PROVISIONS OF RICHMOND FAIR RENT, JUST CAUSE FOR EVICTION, AND HOMEOWNER PROTECTION ORDINANCE PURSUANT TO REGULATION 202.

**WHEREAS**, on November 8, 2016, the voters in the City of Richmond passed, by initiative, the “Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance”; and

**WHEREAS**, on November 15, 2017, the Richmond Rent Board adopted Regulation 202 and Regulation 204(formerly Regulation 17-01) exempting “governmentally subsidized Rental Units” from the rent control provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance; and

**WHEREAS**, there are approximately 4,283 Rental Units in Richmond that receive Low-Income Housing Tax Credits (LIHTC) and/or direct subsidies from the Department of Housing and Urban Development (HUD), including the Housing Choice Voucher and Project-Based Section 8 programs. These units represent approximately 20 percent of Richmond’s rental housing stock and represent a critical aspect of housing affordability in the city; and

**WHEREAS**, of the 4,283 governmentally subsidized Rental Units in Richmond, 2,702 Rental Units receive LIHTC funding; and

**WHEREAS**, maximum rents in LIHTC Rental Units are determined annually by the California Tax Credit Allocation Committee (TCAC) based on Area Median Income for Oakland-Fremont, CA HUD Metro FMR Area, which contains Alameda and Contra Costa Counties; and

**WHEREAS**, the methodology employed by HUD to calculate Contra Costa County’s Area Median Income may not accurately reflect Area Median Income for Richmond Tenants. For purposes of this Resolution, Tenant shall have the same meaning as provided in Richmond Municipal Code Section 11.100.030(r); and

**WHEREAS**, in March 2018, Tenants at multiple LIHTC developments received rent increases in excess of ten (10) percent, the maximum rent permitted by TCAC for the year; and

**WHEREAS**, throughout the course of their work, Rent Program staff have also heard grievances from Tenants in LIHTC Rental Units regarding habitability, security, and other issues; and

**WHEREAS**, due to LIHTC’s exemption pursuant to Regulation 202, Tenants living in these units cannot use the Rent Program’s petition system to request rent adjustments and resolve grievances in this manner; and

**WHEREAS**, Rent Program staff convened 13 of the city's affordable housing providers for a conference call on May 18, 2018, to discuss these concerns and potential solutions; and

**WHEREAS**, in early June 2018, six affordable housing providers, representing approximately 63 percent of the deed-restricted units in the City of Richmond, submitted letters to the Rent Program indicating their willingness to limit annual rent increases in LIHTC Rental Units; and

**WHEREAS**, on June 20, 2018, the Rent Board appointed two of its members to an ad hoc committee to develop an agreement with LIHTC providers in conjunction with Rent Program staff to limit rent increases in these units and address other concerns raised by Tenants; and

**WHEREAS**, in communication with Rent Program staff, affordable housing providers have indicated their preference to voluntarily cap annual rent increases at 6 percent (6%) and noted that TCAC maximum rents have historically increased by around 2 or 3 percent per year; and

**WHEREAS**, at an August 24, 2018 meeting with Tenants of affordable housing and Tenant representatives, many expressed concerns about large rent increases leading to displacement and homelessness, particularly for low-income seniors and others on fixed incomes; and

**WHEREAS**, at this same meeting, Tenants of affordable housing and Tenant representatives expressed a strong willingness to participate in a Rent Board-initiated mediation process to resolve habitability and other concerns with management; and

**WHEREAS**, while the Tenants and Tenant representatives in attendance expressed concerns that any rent increase would pose a financial hardship, they indicated they preferred a flat percentage cap of 2 percent (2%) on annual rent increases; and

**WHEREAS**, to date, affordable housing providers and Tenants of affordable housing and their representatives have not agreed on the appropriate percentage of annual rent increases; and

**WHEREAS**, on November 7, 2018, the Ad Hoc committee convened and determined it prudent to present the Rent Board with various policy options related to the continual exemption of LIHTC Rental Units pursuant to Regulation 202;

**NOW, THEREFORE, BE IT RESOLVED**, that the owner of a LIHTC Rental Unit may increase the rent up to the maximum allowed by TCAC at any time, so long as the increase does not exceed five (5) percent during any 12-month period;

**BE IT FURTHER RESOLVED**, while LIHTC properties' rents are not regulated by the Rent Board, Rent Program staff shall meet annually with LIHTC providers to gather information pertaining to compliance with Regulation 204, housing quality, and rents; the rent information shall be provided in an editable spreadsheet and include the current and proposed rent. This meeting shall occur no later than 60 calendar days from the day TCAC releases its permitted Maximum Rent Schedule; and

**BE IT FURTHER RESOLVED**, the Rent Program shall issue an annual report to the Rent Board on the state of governmentally subsidized Rental Units in the City of Richmond, based on program data. This report shall include recommendations to the Board regarding compliance and housing quality, and may be compiled as a section of the Rent Program's Annual Report presented to the City Council; and

**BE IT FURTHER RESOLVED**, at the same meeting the Rent Board receives the Annual Report, the Rent Board shall consider the LIHTC complied Rent data and make findings of the overall compliance of LIHTC properties and whether continual exemption of these properties is achieving the purpose of the Rent Ordinance; and

**BE IT FURTHER RESOLVED**, in the event a majority of Rent Board members find substantial noncompliance among LIHTC Rental Unit(s) and/or continued exemption of these LIHTC Rental Unit(s) does not achieve the purpose of the Rent Ordinance, the Rent Board shall consider at its next regularly scheduled meeting whether to maintain the LIHTC Rental Unit exemption as described in Regulation 204; and

**BE IT FURTHER RESOLVED**, in the event that a majority of Rent Board members vote to remove the exemption of a LIHTC Rental Unit(s), Rent Board staff shall within 10 business days charge the non-exempt LIHTC Rental Unit(s) a Rental Housing Fee equivalent to the amount charged for fully covered units, or partially covered units where applicable, for the same fiscal year in which the exemption was removed, less any fees already paid, and apply the full provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, as permitted by State law.

**BE IT FURTHER RESOLVED**, that LIHTC providers who comply with the policies stated herein and Regulation 204, shall pay a Residential Rental Housing Fee as determined by an annual Rental Housing Fee Study approved by the Rent Board and adopted by the City Council, and maintain their exemption under Regulation 202; and

**BE IT FURTHER RESOLVED**, that the Tenants of governmentally subsidized Rental Units have the same rights as other Richmond Tenants to request counseling and mediation services from the Rent Program to resolve potential breaches of California Civil Code 1941.1 or other issues that implicate termination of a tenancy; and

**BE IT FURTHER RESOLVED**, that in no case shall a LIHTC provider be permitted to avail itself to the benefit of the provisions of this Resolution 19-01 and Regulation 202, unless that LIHTC provider has fully resolved any past and/or currently due Residential Rental Housing Fees and is otherwise in compliance with the Enrollment requirements pursuant to Regulation 405 and the requirements set forth in Regulation 204; and

**BE IT FURTHER RESOLVED**, that the Rent Program staff is authorized to develop rules and procedures to implement the counseling, enrollment, and mediation services associated with the purpose of this Resolution; and

