

Community Engagement & Research Update

Proposed Owner Move-In Eviction Regulation

Item I-1 | August 21, 2019 Regular Meeting of the Richmond Rent Board

Presentation Outline

1. Background
 - i. Overview of Existing Laws
 - ii. Impetus for an Owner Move-In Regulation
2. Case Study Research
3. Community Engagement
 - i. Survey Results
 - ii. Workshop Comments
 - iii. Focus Group Comments
4. Analysis of Previously Filed Owner Move-In Eviction Cases
5. Proposed Timeline and Next Steps

Section 1:

BACKGROUND

Background

- At their meeting on May 15, 2019, members of the Rent Board received a presentation concerning a proposed Owner Move-In eviction regulation and directed staff to:
 - (1) Hold at least two workshops to solicit feedback and gather information from community members about a proposed Owner Move-In eviction regulation;
 - (2) Analyze all Owner Move-In eviction cases previously filed with the Rent Program; and
 - (3) Report back to the Board on feedback received from community members and staff recommendations for further discussion and consideration by the Rent Board.
- This item is meant to provide an update to the Board on the considerable amount of community feedback received, as well as present an analysis of Owner Move-In eviction cases filed with the Board through July 1, 2019.

OVERVIEW OF EXISTING OWNER MOVE-IN LAWS

Purpose of an Owner Move-In Eviction

- The owner wants to recover possession of the rental unit as a **Primary Residence** for the owner, or the owner's spouse, children, parents or grandparents.
- An owner in this section is considered an actual person who has at least **50%** recorded ownership.

Restrictions for Owner Move-In Evictions

- An eviction for owner move-in cannot occur if the same owner or chosen relative already lives in a unit on the property, or if a vacancy already exists on the property.

Owner's right to a reasonable accommodation

- At all times an owner can request a reasonable accommodation if the owner or chosen relative is **Disabled** and another unit is necessary to accommodate the person's disability.

OVERVIEW OF EXISTING OWNER MOVE-IN LAWS: NOTICING REQUIREMENTS

**Landlord must
serve proper
notice on the
Tenant**

**A copy of the Owner
Move-In Eviction
notice must be filed
with the Rent
Program**

**Permanent
Relocation
Payment is
required**

- **The Tenant must be served with an Owner Move-In Notice (Termination of Tenancy). The Owner Move-In forms may be downloaded from the Rent Program website.**
- **Owner must give Tenant at least a 60-day written notice, for tenancies of a year or more or 30 days notice for tenancies of less than a year.**
- **Within two (2) days after serving the Tenant a termination of tenancy notice, Landlord must file a copy of the notice with the Rent Program with the completed proof of service. Failure to do so renders the notice of termination null and void. A Tenant may use the landlord's failure to file a copy with the Rent Program as a defense to an eviction lawsuit.**
- **The Landlord must provide Permanent Relocation Payments to the Tenant as determined by the Relocation Ordinance. The relocation assistance amounts depend on the number of bedrooms in the rental unit.**

OVERVIEW OF EXISTING OWNER MOVE-IN LAWS: SPECIFIC REQUIREMENTS

Time to move in and occupancy requirements

The owner or qualifying relative moving in shall move into the Rental Unit within 90 days after the Tenant vacates and must occupy the unit as a primary residence for at least 36 consecutive months.

If the owner or chosen relative fails to occupy the unit within 90 days after the Tenant vacates, the owner shall:

1. Offer the unit to the Tenant who vacated it; and
2. Pay the tenant all reasonable expenses incurred in moving to and from the unit.

Rent cannot be reset to the market rent for the first tenancy after the Owner Move-In Eviction

For controlled rental units, after the owner or owner's relative moves out and the unit is re-rented, the owner must:

Offer the unit to the tenant whose tenancy was terminated for OMI at the amount the tenant was paying at the time of the OMI. If the tenant who was evicted for OMI doesn't want to move back, the landlord must still set the rent to the rent level paid by the evicted tenant.

Permanent Relocation Payment requirements

The owner must pay one-half of the applicable Relocation Payment when the Tenant has informed the owner in writing when the Tenant plans to vacate the unit. The remaining half is due within three business days after the Tenant has vacated the unit.

OVERVIEW OF EXISTING OWNER MOVE-IN LAWS: PROTECTIONS FOR SENIORS OR PEOPLE WITH DISABILITIES

An owner may not evict a Tenant through Owner Move-In if the Tenant meets the following criteria

Special Exemption for owners who are Seniors, have a disability, or are terminally ill

- The tenant has resided in the Rental Unit for at least five (5) years
- AND**
- (1) is at least 62 years old OR
 - (2) Disabled
- OR The Tenant is terminally ill (5 year rule doesn't apply)**
-
- An owner may evict a Tenant who is protected if the owner or chosen relative also meet the criteria and no other units are available.

Impetus for an Owner Move-In Regulation

- In their interactions with Rent Program staff members, community members have raised questions about the Owner Move-In provisions of the Rent Ordinance for which further clarification through regulations is required to further interpret the Rent Ordinance's intent.
- Unlike in other cities with rent control and just cause for eviction policies, Landlords in Richmond are not required to submit documentation to the Rent Program to ensure the provisions of the Rent Ordinance are satisfied.
- Additional regulations could require Landlords to file with the Rent Program proof of occupancy, ownership interest, and offer the first right of refusal to a tenant displaced due to an Owner Move-In eviction.
- Regulations could also clarify the number of Owner Move-In evictions that could take place on a single property within a specific time period.

Case Study Research

To understand the landscape of Owner Move-In eviction policies, staff members reviewed Owner Move-In eviction laws adopted by other jurisdictions that met the following criteria:

- The City is located in California;
- The City has existing rent regulation and just cause for eviction laws; and
- The City currently regulates Owner Move-In evictions.

Cities studied include:

- Berkeley
- Los Angeles
- Oakland
- San Francisco
- San José
- Santa Monica
- West Hollywood

Case Study Research: Common Elements

Case study jurisdictions share common elements regarding Owner Move-Ins:

Landlords must have an ownership interest in the property

- 50% ownership interest (in some jurisdictions the ownership interest varies);
- Individual conducting an Owner Move-In must be a natural person who maintain ownership interest for the purpose of Owner Move-In evictions. LLC's cannot conduct Owner Move-in eviction;
- Jurisdictions may require proof of ownership interest; and
- Jurisdictions may require filing of a Declaration or Certificate of Occupancy.

Primary Residence Requirement

- The owner or qualifying family member moving to the property must reside in the property as their primary residence.

Applicability of Annual General Adjustments (AGAs)

- Annual General Adjustment increases may be applied if the tenant returns to the unit.

Certificate of Occupancy Compliance

- Jurisdictions utilize various remedies for noncompliance of filing the certificate of occupancy within the prescribed timeframe.

Case Study Research: Unique Elements

The following elements of Owner Move-In eviction policies are unique among one or a select number of the jurisdictions studied:

- West Hollywood requires that Landlords must conduct an Owner Move-in Eviction on the newest Tenant if the Landlord or qualifying/enumerated relative can provide proof of a medical necessity.
- Los Angeles and Santa Monica's policies provide that the only one Owner-Move-In eviction can occur on the same property.
- San Francisco and San Jose's policies provide that so as long as Landlords maintain a unit on the property as their primary residence, Landlords may conduct multiple Owner Move-In evictions with qualified or enumerated family members.
- With the exception of San Jose and West Hollywood, Landlords must complete a Certificate/Verification of Owner Occupancy.



Case Study Research: Unique Elements (continued)

The following elements of Owner Move-In policies are unique among one or a select number of the jurisdictions studied:

- San Francisco assesses penalties for failure of a Landlord to file the required Statement of Occupancy and supporting documentation.
- Berkeley prohibits Owner Move-In evictions during the academic year of minor children.



Case Study Research: Degree of Administrative Duties Required by Owner Move-In Evictions



HIGH

The San Francisco Rent Board, Los Angeles Housing and Community Investment Department, and Oakland Rent Adjustment Program require landlords to submit a Declaration or Statement of Occupancy. Landlords must submit proof of continued occupancy after regaining possession of the rental unit. Notice of occupancy must be filed within a specified timeframe (e.g. San Francisco landlords must file a Statement of Occupancy for the five-year period following recovery of possession of the rental unit; Los Angeles landlords must file a statement under penalty of perjury of the continued occupancy of the landlord within 30 days preceding the first and second year anniversary of the tenant(s) vacating the rental unit; and Oakland landlords must file a Certificate Upon Occupancy within 30 days of the initial occupancy by the owner or qualifying relative).

MODERATE

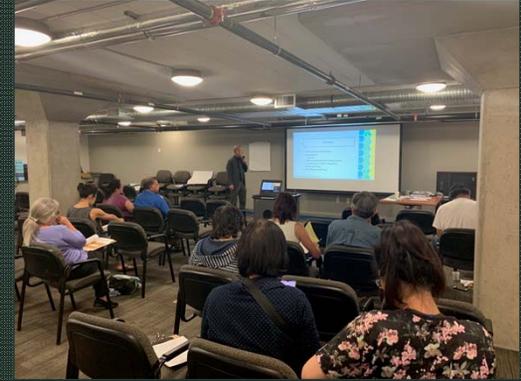
Santa Monica landlords seeking to recover possession of a rental unit must show proof of a recorded interest of 50% ownership (ex., grant deed).

LOW

The Berkeley Rent Stabilization Board, San Jose Housing Department, and West Hollywood Rent Stabilization of Housing Department, do not require landlords to submit a Declaration or Certificate of occupancy that the unit is occupied by the landlord or eligible family member.

Section 3:

COMMUNITY ENGAGEMENT RESULTS



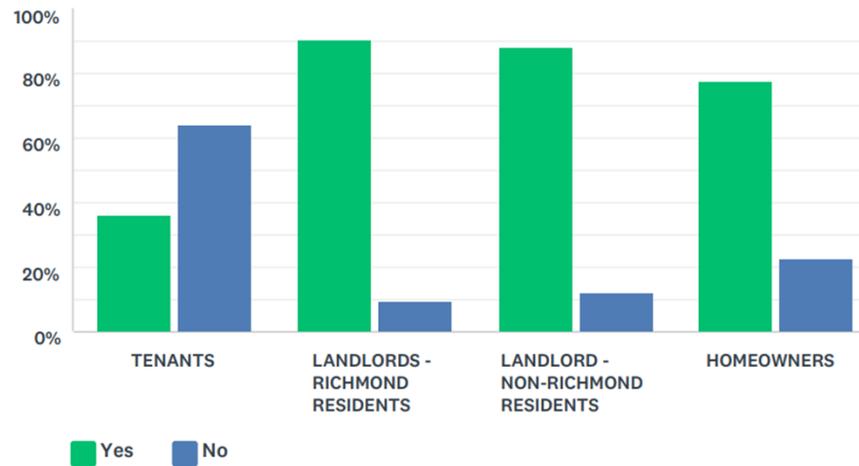
Community Engagement Overview

- Community engagement around the proposed Owner Move-In eviction regulation occurred in three formats:
 1. *Community Workshops* (27 participants)
 2. *Focus Groups for community members who speak Spanish* (18 participants)
 3. *Survey* (281 participants)
- All methods of community engagement solicited feedback on the same nine policy questions.

Policy Question #1:

- Do you think a couple (married or in a registered domestic partnership) who share ownership of a property (each individual has a 50% recorded interest) should each be able to conduct an Owner Move-In eviction on a unit on a property? (So, for example, if a husband and wife own a duplex, should each individual be able to conduct an Owner Move-In on a unit?)

Policy Question #1: Survey Results



	YES	NO	TOTAL
TENANTS	36.17% 17	63.83% 30	23.15% 47
LANDLORDS - RICHMOND RESIDENTS	90.70% 39	9.30% 4	21.18% 43
LANDLORD - NON-RICHMOND RESIDENTS	88.16% 67	11.84% 9	37.44% 76
HOMEOWNERS	77.33% 58	22.67% 17	36.95% 75
Total Respondents	149	54	203

Policy Question #1: Workshop Comments

Tenant Session Comments

- Married couples should not have an advantage over other co-owners of property
- Landlords should have to disclose their intent to conduct an OMI eviction when the Tenant moves in

Landlord Session Comments

- Yes, individuals should be able to add up their interest to meet the 50% requirement
- A couple where each person owns 50% of the property should each be able to conduct an OMI eviction on a rental unit on the property

Policy Question #1: Focus Group Comments

Tenant Focus Group Comments

- Yes, a married couple should each be able to conduct an OMI
- If two brothers have 50% interest in a property and want to do an OMI eviction for two units, that is not fair for the Tenants
- The fact that owners have title in a property should not justify their OMI on a property
- Many owners have high incomes and own various properties. It is not fair that they can request a unit in order to perform an OMI

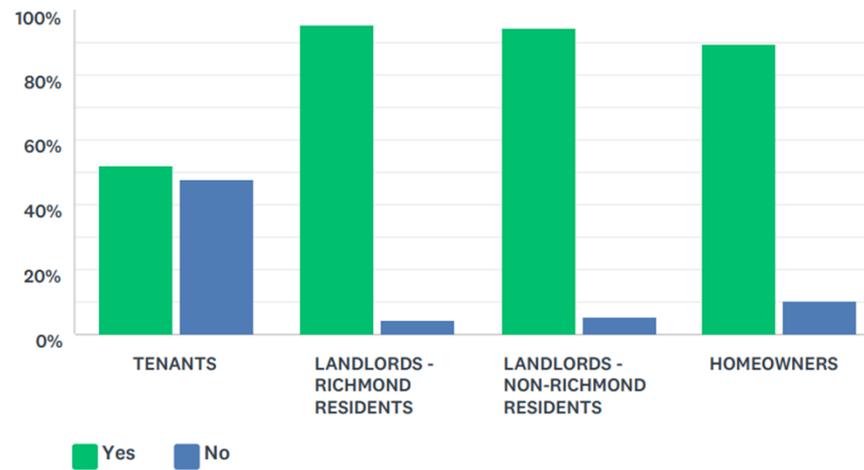
Landlord Focus Group Comments

- Yes, because the owners have different needs
- Yes, whether or not an individual is on the title, the husband and wife should have the right to conduct OMI evictions
- Tenants have more rights than owners
- Selling property with Tenants has been a problem for many owners

Policy Question #2:

- ▶ Do you think an individual who is a beneficiary with at least 50% recorded interest in a trust that owns the property should be able to conduct an Owner Move-In eviction?

Policy Question #2: Survey Results



	YES	NO	TOTAL
TENANTS	52.17% 24	47.83% 22	22.77% 46
LANDLORDS - RICHMOND RESIDENTS	95.35% 41	4.65% 2	21.29% 43
LANDLORDS - NON-RICHMOND RESIDENTS	94.74% 72	5.26% 4	37.62% 76
HOMEOWNERS	89.33% 67	10.67% 8	37.13% 75
Total Respondents	169	33	202

Policy Question #2: Workshop Comments

Tenant Session Comments

- Yes, 50% interest in a trust seems reasonable
- No, only natural persons should be able to conduct an OMI eviction
- This seems like a loophole – co-owners could evict two long-term tenants out of a duplex
- Couples who have 50/50 ownership should have to live in the same unit

Landlord Session Comments

- Yes, individuals with 50% interest in a trust should qualify for an OMI eviction – otherwise people who inherit the property have to keep it as a rental

Policy Question #2: Focus Group Comments

Tenant Focus Group Comments

- No, a person with 50% ownership in a trust should not have the right to conduct an OMI eviction

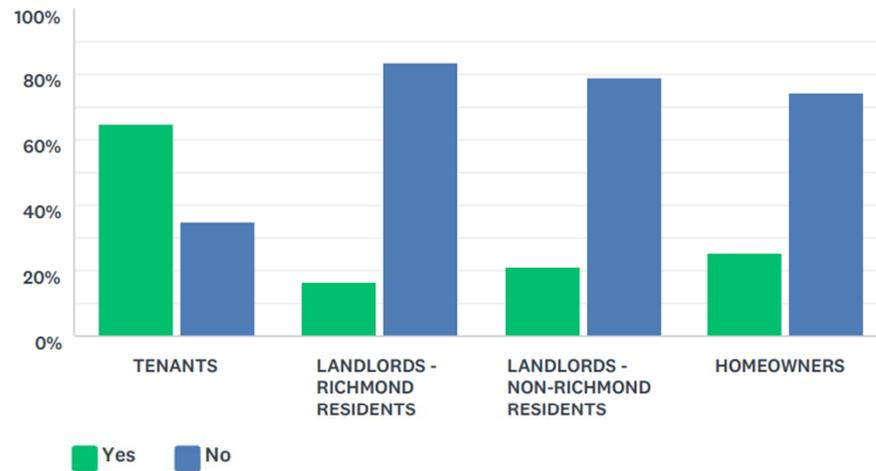
Landlord Focus Group Comments

- Yes, in accordance with the needs of the owner.
- Owners should have the right to return to their property if they are paying for it
- No, all owners in the trust should agree before conducting an OMI
- No, because the owners are paying the money and the trust is making the decisions without the feedback from the owners who have invested money
- Yes, because the owners who invested money in the trust did so with the idea of making money

Policy Question #3:

- Do you think that a policy should be adopted to limit the number of Owner Move-In evictions that may be conducted by an owner or enumerated
- ▶ relative on a single property? In other words, should the Rent Board prohibit owners from conducting an Owner Move-In eviction for themselves in Unit A, for their parent in Unit B, and for a child in Unit C?

Policy Question #3: Survey Results



	YES	NO	TOTAL
TENANTS	65.22% 30	34.78% 16	22.89% 46
LANDLORDS - RICHMOND RESIDENTS	16.67% 7	83.33% 35	20.90% 42
LANDLORDS - NON-RICHMOND RESIDENTS	21.05% 16	78.95% 60	37.81% 76
HOMEOWNERS	25.33% 19	74.67% 56	37.31% 75
Total Respondents	63	138	201

Policy Question #3: Workshop Comments

Tenant Session Comments

- Yes, there should only be one OMI allowed per property, regardless of ownership structure
- There shouldn't be restrictions for moving in family members
- Yes, we should limit the number of OMI evictions to protect Tenants
- Yes, it is not fair for investors to evict Tenants to move in a family member

Landlord Session Comments

- No, there shouldn't be any restrictions – it's the Landlord's property and they should be able to do what they want

Policy Question #3: Focus Group Comments

Tenant Focus Group Comments

- Yes, this should be prohibited because its possible that the owners evict all Tenants in their units
- Performing an OMI for one unit is fair, but doing it for multiple units is unfair
- Yes, concerns about abuse of OMI “just cause” - some owners perform an OMI to rent out the property at a higher price or conduct OMI evictions in bad faith
- Concerns about minimum wage and Tenants losing their rental units through an OMI eviction

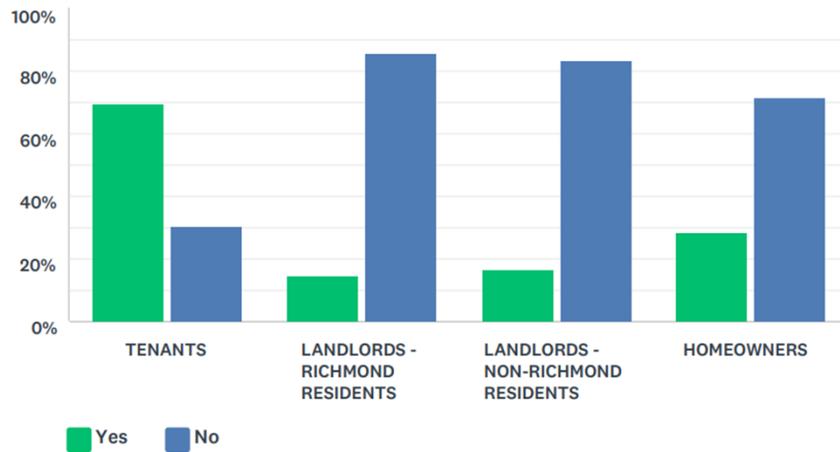
Landlord Focus Group Comments

- No, such a policy should not be adopted
- No, many times the owners want to help their families, and it’s not fair to limit OMI evictions to one rental unit
- No, Most people who buy property do so with the idea of retiring in the future
- Once owners retire, they may not have enough income to cover the costs of their properties

Policy Question #4:

- When an owner performs an Owner Move-In eviction on a unit that is part of a larger multi-unit
- ▶ building, do you think there should be a policy that would require any future Owner Move-In evictions on the property to occur in that same unit, for the duration of the owner's tenure?

Policy Question #4: Survey Results



	YES	NO	TOTAL
TENANTS	69.57% 32	30.43% 14	23.59% 46
LANDLORDS - RICHMOND RESIDENTS	14.29% 6	85.71% 36	21.54% 42
LANDLORDS - NON-RICHMOND RESIDENTS	16.44% 12	83.56% 61	37.44% 73
HOMEOWNERS	28.57% 20	71.43% 50	35.90% 70
Total Respondents	63	132	195

Policy Question #4: Workshop Comments

Tenant Session Comments

- Not sure – concerns about restrictions this would create. What if the owner wants to move into a 2-bedroom unit, but the “OMI unit” is a 1-bedroom?
- There should be a limit to one OMI eviction per property

Landlord Session Comments

- Yes
- Would there be a process in place to make sure that the “OMI unit” is disclosed to future purchasers?
- No, concerns about restrictions this would create. What if “OMI unit” is upstairs and the new owner wants to move downstairs?
- No, rights should be reserved to owners. Landlords should be able to do what they want with their property.
- No, different owners have different needs.

Policy Question #4: Focus Group Comments

Tenant Focus Group Comments

- Unsure – such a policy would affect the families that live in the units
- If there is no just reason, an owner should not be able to perform an OMI on multiple units
- If an owner has multiple units, they have them for the purpose of making money

Landlord Focus Group Comments

- No, annual increases aren't enough to make updates to the property worth undertaking
- No. If the property is sold, buyers don't want to inherit problems

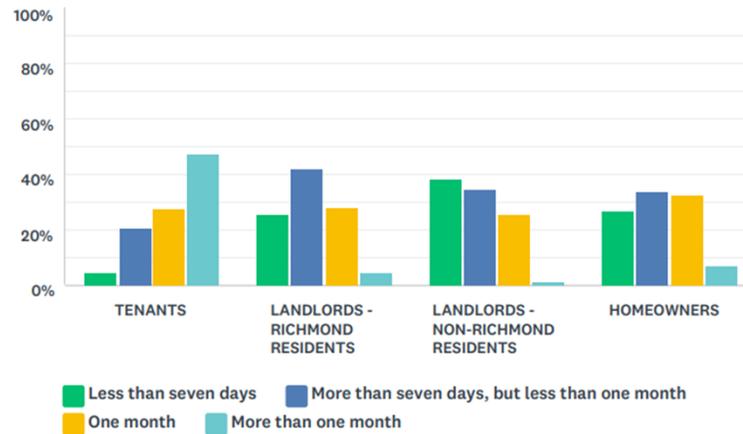
Policy Question #5:

When a Landlord notifies a former Tenant displaced due to Owner Move-In that

- ▶ the Rental Unit has been placed back on the rental market, how much time do you think the Tenant should have to respond that they would like to exercise their first right of refusal to return to the Rental Unit?

Policy Question #5: Survey Results

Answered: 197 Skipped: 39



	LESS THAN SEVEN DAYS	MORE THAN SEVEN DAYS, BUT LESS THAN ONE MONTH	ONE MONTH	MORE THAN ONE MONTH	TOTAL
TENANTS	4.55% 2	20.45% 9	27.27% 12	47.73% 21	22.34% 44
LANDLORDS - RICHMOND RESIDENTS	25.58% 11	41.86% 18	27.91% 12	4.65% 2	21.83% 43
LANDLORDS - NON-RICHMOND RESIDENTS	38.67% 29	34.67% 26	25.33% 19	1.33% 1	38.07% 75
HOMEOWNERS	27.03% 20	33.78% 25	32.43% 24	6.76% 5	37.56% 74
Total Respondents	53	63	54	27	197

Policy Question #5: Workshop Comments

Tenant Session Comments

- Less than a month
- A couple of months
- There's a difference between responding to the Landlord and moving back into the unit – Tenants should have one month to respond, and 2-3 more months to move back in

Landlord Session Comments

- 10 days
- One week
- It takes time to locate a Tenant and notify them –this could create a long period of vacancy
- Landlords should be required to mail a letter to the Tenant's last known address, then wait 7 days

Policy Question #5: Focus Group Comments

Tenant Focus Group Comments

- 90 days is fair for the Tenants
- 60 days (mirrors 60-day termination notice)
- No less than 30 days
- Two months is fair in order to know what the rent will be
- Concerns – if the Tenant doesn't respond promptly, owner can lose out on months of rent

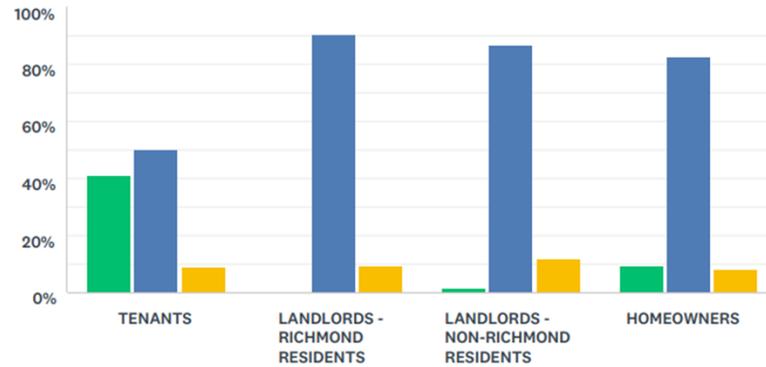
Landlord Focus Group Comments

- 1 day
- What happens if the Tenant has passed away after vacating? What happens to the unit if it returns to the rental market?
- The Tenant should not have time to respond.

Policy Question #6:

- If the formerly displaced Tenant moves back into the Rental Unit after several years, do you think
- ▶ the Landlord should be able to include the Annual General Adjustment rent increases in the amount of the rent charged?

Policy Question #6: Survey Results



■ No - the Landlord should only be able to charge the amount of Rent that the Tenant was paying when they moved out.
■ Yes - the Landlord should be able to charge the Rent that the Tenant was paying when they moved out, plus any Annual General Adjustment (AGA) Rent Increases that haven't been applied.
■ OTHER

	NO - THE LANDLORD SHOULD ONLY BE ABLE TO CHARGE THE AMOUNT OF RENT THAT THE TENANT WAS PAYING WHEN THEY MOVED OUT.	YES - THE LANDLORD SHOULD BE ABLE TO CHARGE THE RENT THAT THE TENANT WAS PAYING WHEN THEY MOVED OUT, PLUS ANY ANNUAL GENERAL ADJUSTMENT (AGA) RENT INCREASES THAT HAVEN'T BEEN APPLIED.	OTHER	TOTAL
TENANTS	40.91% 18	50.00% 22	9.09% 4	22.34% 44
LANDLORDS - RICHMOND RESIDENTS	0.00% 0	90.70% 39	9.30% 4	21.83% 43
LANDLORDS - NON-RICHMOND RESIDENTS	1.33% 1	86.67% 65	12.00% 9	38.07% 75
HOMEOWNERS	9.46% 7	82.43% 61	8.11% 6	37.56% 74
Total	26	151	20	197

Policy Question #6: Workshop Comments

Tenant Session Comments

- No, the Tenant should be able to move back and pay the amount of rent they were paying, without AGA rent increase added
- The Landlord's compliance should be considered. Had they enrolled? If they weren't enrolled/registered, then they wouldn't be eligible for the AGAs

Landlord Session Comments

- Yes, not allowing the Landlord to take the AGAs wouldn't be fair to Landlords after many years
- Yes, the Landlord should be able to bring the rent up to market rate to make repairs

Policy Question #6: Focus Group Comments

Tenant Focus Group Comments

- Yes, the Landlord should be able to apply the AGAs
- The banking regulation would help make it fair because the increase wouldn't be applied all at once

Landlord Focus Group Comments

- The owner should have the right to increase the rent proportional to the market price – it should be raised in accordance with the current cost of living
- The Tenant should be required to return the amount that they were paid in Permanent Relocation Payment if they are able to return to the unit

Policy Question #7:

- How long do you think the Landlord and/or Rent Program should be required to maintain contact
- ▶ information for a formerly displaced Tenant due to an Owner Move-In, in the event that the Rental Unit is placed back on the rental market?

Policy Question #7: Survey Results

Answered: 193 Skipped: 43



	LESS THAN ONE YEAR	ONE TO FIVE YEARS	SIX TO TEN YEARS	MORE THAN TEN YEARS	TOTAL
TENANTS	14.29% 6	69.05% 29	11.90% 5	4.76% 2	21.76% 42
LANDLORDS - RICHMOND RESIDENTS	55.81% 24	41.86% 18	2.33% 1	0.00% 0	22.28% 43
LANDLORDS - NON-RICHMOND RESIDENTS	62.16% 46	36.49% 27	1.35% 1	0.00% 0	38.34% 74
HOMEOWNERS	50.68% 37	38.36% 28	9.59% 7	1.37% 1	37.82% 73
Total Respondents	94	83	13	3	193

Policy Question #7: Workshop Comments

Tenant Session Comments

- Three years
- Forever, since the Tenant has the first right of refusal forever

Landlord Session Comments

- The Tenant should file an address with the Rent Program that is maintained by the Rent Program for five years
- It should be the Tenant's responsibility to update their address with the old owner if they move. Once the Tenant moves out, it's not the Landlord's responsibility to maintain the Tenant's contact information

Policy Question #7: Focus Group Comments

Tenant Focus Group Comments

- 90 days
- Five years for the Rent Program and the owner
- What would happen if the Tenant's contact information changes?
- A minimum of 3 years is fair

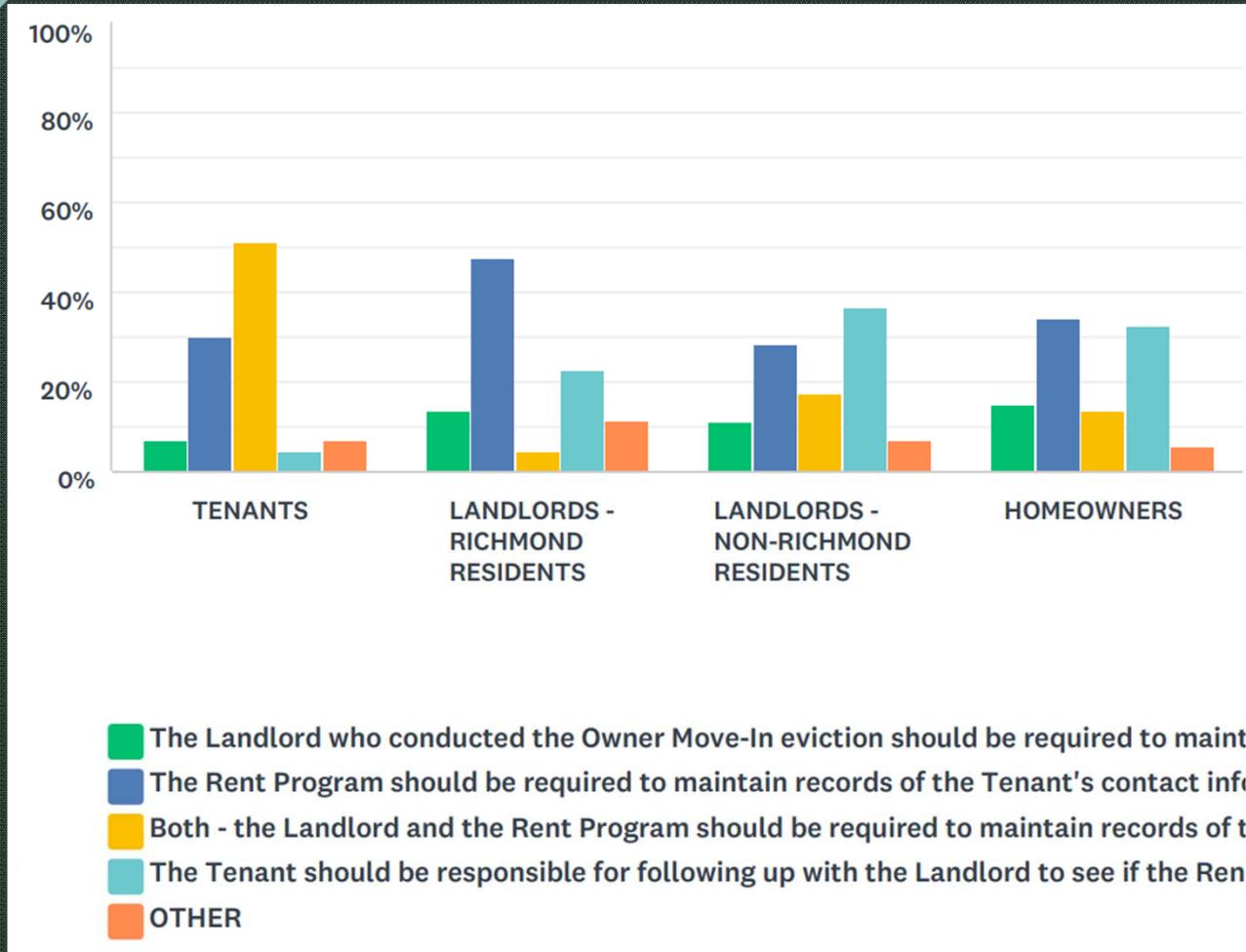
Landlord Focus Group Comments

- If the Tenants move to a different address, the owners would have a difficult time finding the Tenants
- 36 months is enough time, if you use certified mail
- One year of information saved is enough
- What happens if a Tenant passes away or is deported?
- If there are three people on the contract, do all three people have to be notified?

Policy Question #8:

- Who should hold the burden of maintaining
▶ contact information for the formerly displaced
Tenant, in the event the Rental Unit is placed back
on the rental market?

Policy Question #8: Survey Results



Policy Question #8: Survey Results

	THE LANDLORD WHO CONDUCTED THE OWNER MOVE-IN EVICTION SHOULD BE REQUIRED TO MAINTAIN RECORDS OF THE TENANT'S CONTACT INFORMATION.	THE RENT PROGRAM SHOULD BE REQUIRED TO MAINTAIN RECORDS OF THE TENANT'S CONTACT INFORMATION, WHICH THE LANDLORD COULD ACCESS IN THE EVENT THE RENTAL UNIT IS PLACED BACK ON THE RENTAL MARKET.	BOTH - THE LANDLORD AND THE RENT PROGRAM SHOULD BE REQUIRED TO MAINTAIN RECORDS OF THE TENANT'S CONTACT INFORMATION.	THE TENANT SHOULD BE RESPONSIBLE FOR FOLLOWING UP WITH THE LANDLORD TO SEE IF THE RENTAL UNIT HAS BEEN PLACED BACK ON THE RENTAL MARKET.	OTHER	TOTAL
TENANTS	6.98% 3	30.23% 13	51.16% 22	4.65% 2	6.98% 3	21.83% 43
LANDLORDS - RICHMOND RESIDENTS	13.64% 6	47.73% 21	4.55% 2	22.73% 10	11.36% 5	22.34% 44
LANDLORDS - NON-RICHMOND RESIDENTS	10.81% 8	28.38% 21	17.57% 13	36.49% 27	6.76% 5	37.56% 74
HOMEOWNERS	14.86% 11	33.78% 25	13.51% 10	32.43% 24	5.41% 4	37.56% 74
Total Respondents	24	62	43	53	15	197

Policy Question #8: Workshop Comments

Tenant Session Comments

- The Rent Program should maintain contact information for the formerly displaced Tenant, as it will keep everybody honest

Landlord Session Comments

- The Rent Program should have the burden of maintaining records

Policy Question #8: Focus Group Comments

Tenant Focus Group Comments

- The Rent Program should maintain this information
- There are many properties being rented that the Rent Program does not know about
- The owner and Rent Program should manage this information

Landlord Focus Group Comments

- The owner and Rent Program should be responsible for maintaining contact information for the Tenant

Policy Question #9:

- What types of additional forms or documentation, if any, do you think the Rent Program should administer to assist with monitoring compliance with the Owner Move-In requirements of the Rent Ordinance?

Policy Question #9: Survey Results



Policy Question #9: Survey Results

	A FORM COMPLETED BY THE LANDLORD ASSERTING THAT THE LANDLORD OR ENUMERATED RELATIVE HAS MOVED INTO THE RENTAL UNIT	A FORM COMPLETED BY THE LANDLORD PROVING THEIR 50% OR MORE OWNERSHIP INTEREST IN THE RENTAL PROPERTY	A FORM COMPLETED BY THE LANDLORD PROVING THAT THE DISPLACED TENANT WAS OFFERED THE FIRST RIGHT OF REFUSAL TO RETURN TO THE RENTAL UNIT, IN THE EVENT THAT THE RENTAL UNIT IS PLACED BACK ON THE RENTAL MARKET	A FORM COMPLETED BY THE TENANT INDICATING THEIR INTEREST IN RE-RENTING THE UNIT IF IT IS EVER PLACED BACK ON THE RENTAL MARKET	A FORM COMPLETED BY THE LANDLORD CERTIFYING THAT THE LANDLORD HAS OCCUPIED THE RENTAL UNIT IN WHICH THEY CONDUCTED THE OWNER MOVE-IN EVICTION (THIS FORM WOULD BE SENT TO AND COMPLETED BY THE LANDLORD EVERY 12 MONTHS FOR 36 CONSECUTIVE MONTHS)	A FORM COMPLETED BY THE LANDLORD INDICATING THAT THE LANDLORD HAVE MOVED OUT OF THE RENTAL UNIT IN WHICH THEY CONDUCTED THE OWNER MOVE-IN EVICTION, AND THEIR REASON(S) FOR DOING SO	OTHER	TOTAL
TENANTS	73.81% 31	54.76% 23	73.81% 31	73.81% 31	66.67% 28	61.90% 26	14.29% 6	96.70% 176
LANDLORDS - RICHMOND RESIDENTS	52.50% 21	25.00% 10	20.00% 8	52.50% 21	17.50% 7	22.50% 9	20.00% 8	46.15% 84
LANDLORDS - NON-RICHMOND RESIDENTS	57.35% 39	20.59% 14	23.53% 16	39.71% 27	19.12% 13	19.12% 13	22.06% 15	75.27% 137
HOMEOWNERS	55.07% 38	31.88% 22	28.99% 20	43.48% 30	30.43% 21	31.88% 22	20.29% 14	91.76% 167
Total Respondents	107	60	69	96	62	61	35	182

Policy Question #9: Workshop Comments

Tenant Session Comments

- All of the examples provided should be recorded with the Rent Program
- Concerns about validity – just because a form was submitted doesn't mean the information is accurate/true
- Oakland requires proof of residency annually
- Rent Program should require proof of a Landlord's disability/age if they assert those protections
- Trust/partnership agreements should be submitted
- Questions about what types of documents would be used to prove residency
- Proof of relative's relationship should be required to be submitted to the Rent Program

Landlord Session Comments

- The Rent Program already asks for a lot of information – the City should have ownership interest information already
- Tenant should provide interest first right of refusal form to the Rent Program
- Forms of proof of residency could include utility bill, drivers license
- Good to ask for proof of residency but it shouldn't be too burdensome for the Landlord to complete
- Annual recertification after an OMI makes sense, but when would it be mailed? How would the Rent Program keep track?
- If a Tenant says they do not want to re-rent the unit after the owner moves out, would that mean that the first right of refusal goes away?
- What happens if the Tenant has moved out of state? It seems unnecessary to have to contact them.

Policy Question #9: Focus Group Comments

Tenant Focus Group Comments

- The owner and Rent Program should turn in documents to the Rent Program
- There should be a form with the same questions for the Landlord and Tenant that is turned in to the Rent Program
- Documentation proving that the Landlord still lives in the unit should be required:
 - PG&E bill, for example
 - DMV documents
 - Bank statements
 - Telephone statements
- If a couple has a son/daughter after vacating the unit, can the whole family return to the unit if it is re-rented?
- The Rent Program should put a stop to owners who evict in order to make more money on their units

Landlord Focus Group Comments

- A form completed by the Landlord asserting that the Landlord or enumerated relative has moved into the unit seems the most reasonable
- There shouldn't be any forms required

Section 4:

ANALYSIS OF PREVIOUSLY FILED OMI NOTICES

Analysis of Owner Move-In Evictions

- Between February 26, 2017 (the first date an Owner Move-In eviction notice was filed with the Rent Board) and July 1, 2019, 41 notices of termination of tenancy on the grounds of Owner Move-In were filed with the Rent Program.
- More than half of all Owner Move-In termination of tenancy notices have been served to Tenants residing in Single Family Homes and have been conducted for the purposes of an owner moving into the unit themselves (as opposed to moving in a relative).

Analysis of Owner Move-In Evictions

Types of Properties on Which Owner Move-In Termination Notices Have Been Served:

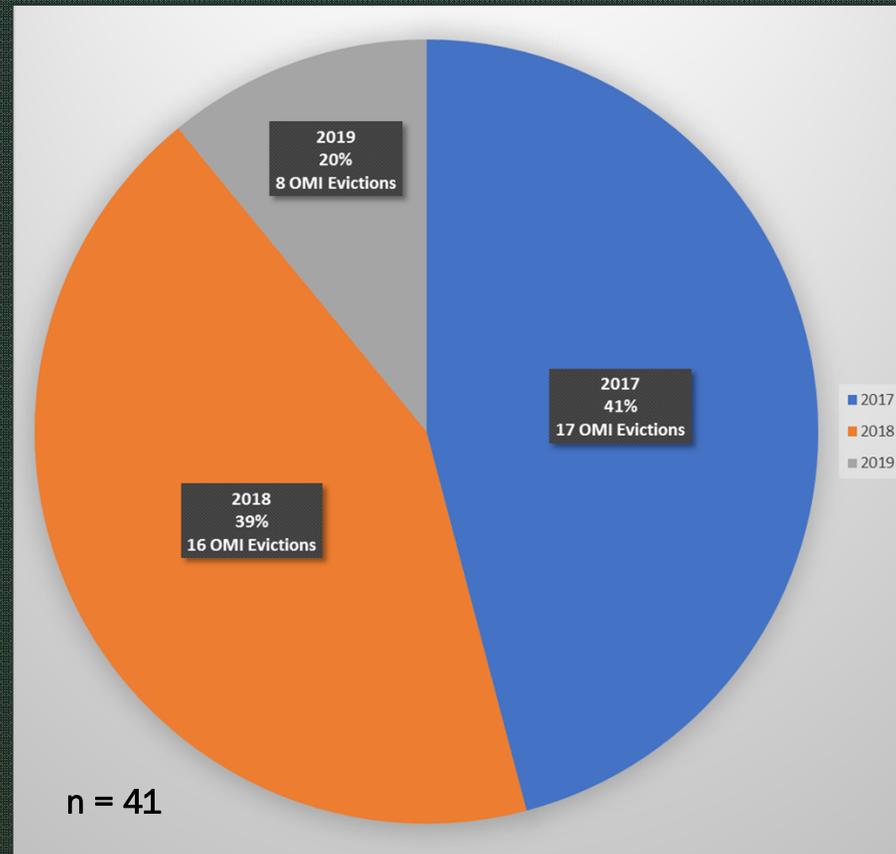
Property Type	Occurrences	Percent of Total
Single Family Home	23	57%
Duplex	5	12%
Triplex	2	5%
Fourplex	6	15%
Apartment Building	1	2%
Multifamily Combo	1	2%
Commercial Retail Conversions	3	7%
Total	41	100%

Type of Individual Specified to Move into the Rental Unit on the Notice of Termination of Tenancy:

Individual	Occurrences	Percent of Total
Owner	25	60%
Relative (Child)	6	15%
Relative (Parent)	6	15%
Relative (Spouse)	2	5%
Relative (Grandparent)	0	0%
Unspecified	2	5%
Total	41	100%

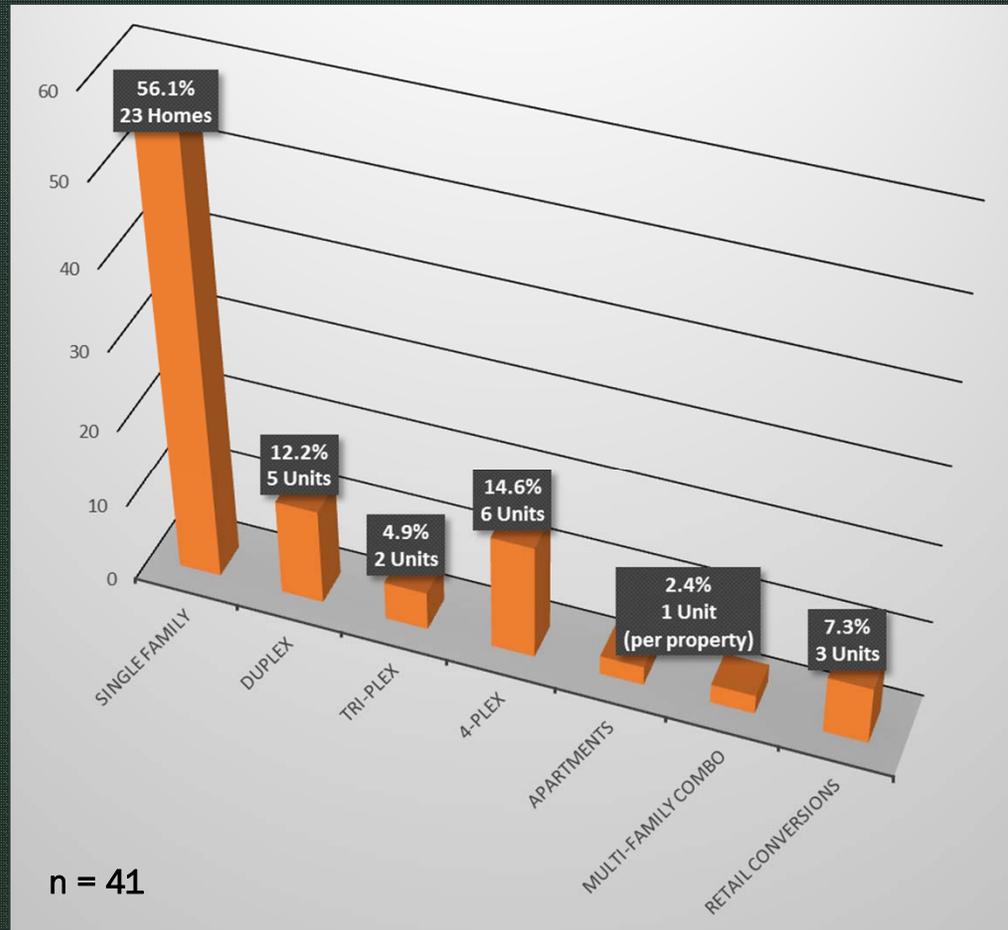
Analysis of Owner Move-In Evictions

Owner Move-In Eviction Notices Filed by Year



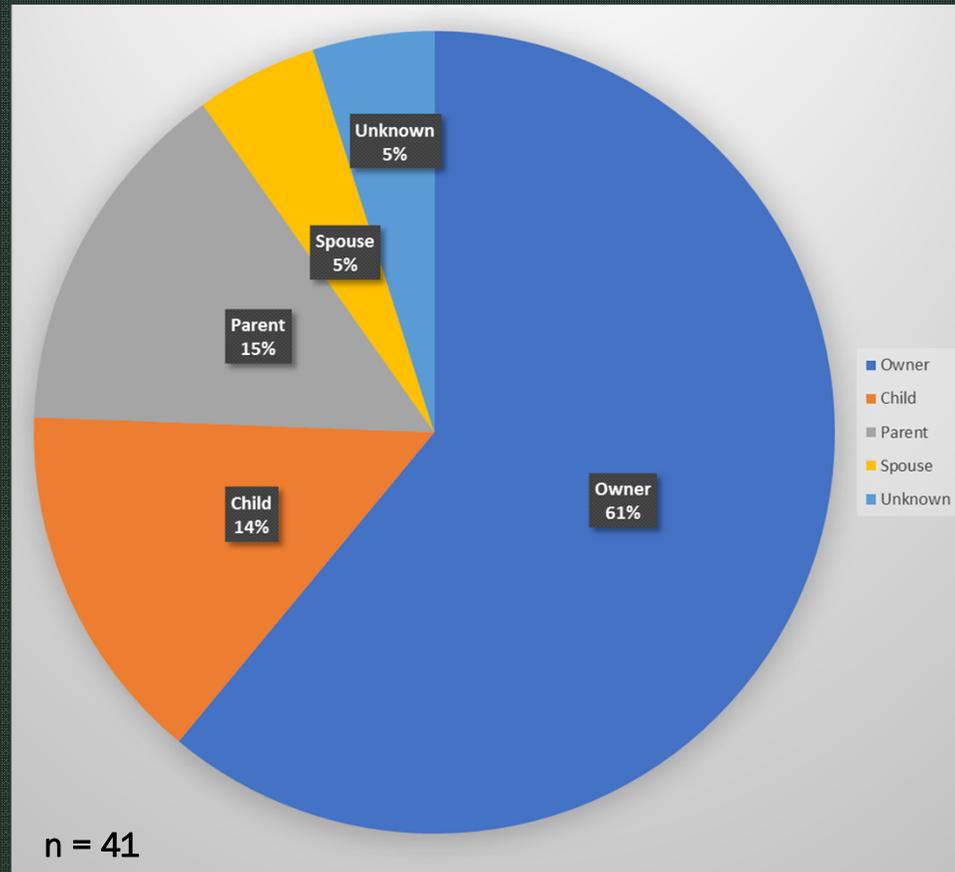
Analysis of Owner Move-In Evictions

Owner Move-In Eviction Notices Filed by Property Type



Analysis of Owner Move-In Evictions

Owner Move-In Eviction Notices Filed By Owner/Relative Type



Section 5:

PROPOSED TIMELINE AND NEXT STEPS

Proposed Policy Adoption Timeline

Rent Board receives preliminary report from staff and directs staff to conduct community engagement and analyze OMI notices filed with the Board since establishment of the Rent Program

Rent Board receives community engagement update and analysis of OMI notices filed with the Rent Board

Staff members present a proposed regulation for the Rent Board's consideration and potential adoption



Staff members conduct community workshops, focus groups, and disseminate a survey. Staff members also analyze OMI notices filed with the Board since establishment of the Rent Program

Rent Board provides policy direction to staff members

Recommended Action

RECEIVE a presentation from staff members concerning community feedback regarding a proposed Owner Move-In eviction regulation and an analysis of Owner Move-In eviction cases filed with the Rent Program through July 1, 2019, and PROVIDE direction to staff – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

REGULAR MEETING OF THE RICHMOND RENT BOARD

August 21, 2019 | City Council Chambers

ITEM G-1: GENERAL OVERVIEW OF APPEAL PROCESS

Rent Board Appeals

Overview of Terms

Appeal- To seek review of a hearing examiner's decision by the Rent Board.

Appellant- The party who appeals the hearing examiner's decision

Respondent- The party responding to the appeal

De novo- "anew", hearing a case anew

Remand- Send a matter back to the hearing examiner with specific directions

Affirm- To confirm, ratify, or approve a hearing examiner's decision

Reverse- Overturn a hearing examiner's decision

Record- Any and all evidence submitted and admitted during the hearing with the hearing examiner.

Stayed: To put on hold

Rent Board Appeals

Appeal Process

- 30 days from the day of receipt of notice of hearing examiner's decision
- A party is presumed to have received the hearing examiner's decision 5 business days after it is mailed

Rent Board Appeals

Appeal Steps

- Appeals must be made on a Rent Program form.
 - Make sure to identify the specific ground your appeal is based on. The Board cannot consider an appeal that fails to state specific grounds of the appeal and specific facts/arguments supporting those grounds.*(Regulation 842 (A))*
 - The Appeal is limited to the record and is not an opportunity to re-litigate the issue unless otherwise specified by the Rent Board. Appeal and supporting documentation must be based on the Record.*(Regulation 842 (A))*

Rent Board Appeals

Submitting Appeal Form

- Once the appeals form is completed:
 - Send or personally submit the form to the Rent Program
 - Send a copy to the Respondent and their representative
 - Send a copy to the hearing examiner

Rent Board Appeals

Responding to an Appeal

- The Respondent must respond within 15 days from the date the appeal was filed
 - The response need not be on a Rent Program form, but it is highly encouraged that Respondents use a Rent Program form to submit a response
 - The Response is limited to the record and is not an opportunity to re-litigate the issue unless otherwise specified by the Rent Board
 - Send a copy to the Appellant and their representative

Rent Board Appeals

What happens when an Appeal is filed?

- Staff will prepare a recommended action to the Board, to either remand, modify, reverse, or affirm the hearing examiner's decision. (*Regulation 842 (C)*)

Rent Board Appeals

General Structure of an Appeal Hearing?

- Each party is allowed 7 minutes to present argument (*Regulation 842 (E)*)
 - Appellant argues first and is given 5 minutes
 - Respondent argues next and is given 7 minutes
 - Appellant has the last word and is given 2 minutes
- Where translation is required, that party shall have double the time to argue. (*Regulation 842 (E)*)
- The Board may allow more time to any party at its discretion (*Regulation 842 (E)*)
- Appellant carries the burden of proof of demonstrating substantial evidence exists to overturn the Hearing Examiner's decision

Rent Board Appeals

Standard of Review on Appeal?

- Substantial Evidence:
 - Under the Substantial Evidence standard, the Board shall not reweigh the evidence nor second guess the factual findings of the Hearing Examiner, even if there was contrary evidence in the Record. Instead, the Board shall look only to the evidence contained in the Record which supports the prevailing party, and determine whether there existed Substantial Evidence in the Record to support the Hearing Examiner's findings.
- De Novo
 - A De Novo hearing means a new hearing that contemplates an entire, new proceeding of the matter in question, in the same manner in which the matter was originally heard, as if the previous hearing had never occurred.

Rent Board Appeals

Appeal Hearing that is not De Novo

- Arguments must be based exclusively on the Record before the hearing examiner
- Parties shall not discuss or comment on factual matters or evidence not presented to the hearing examiner or officially noticed by Staff
- Parties may discuss legal matters and any pertinent issues on appeal
- The Board cannot consider any discussions, comments, or evidence brought up during the hearing that is not part of the Record

Rent Board Appeals

De Novo Appeal Hearing

- If the Board elects to conduct a hearing De Novo, then a new hearing on the matter will commence.
 - Parties will be permitted to call witnesses
 - Parties will be permitted to present evidence that was not presented at the prior hearing
 - Parties will be permitted to discuss factual matters that were not discussed at the hearing
 - Parties will not be permitted to exceed the scope of the petition in which the matter was brought
- Where the Board elects a De Novo hearing, the Board may continue the matter to give parties appropriate time to prepare their matter.

Rent Board Appeals

Ruling on an Appeal

- After hearing arguments from both sides, the Board will take a vote.
 - 3 Board members are required to affirm, modify, remand, or reverse the decision of a hearing examiner
- Any decision the Board reaches must be supported by written findings of facts and conclusions of law.
 - However, the Board may vote to adopt Staff's recommendation unchanged. In that case, the parties to the appeal will be notified only of the Board's decision
 - When the Board does not adopt staff recommendation as written, a written decision of the Board must be mailed to all parties

Rent Board Appeals

Decorum

- Each party is to be respectful and not interrupt one another
- Parties must solely address the Rent Board, unless there is a De Novo hearing where parties are permitted to engage in cross examination
- Address the Rent Board respectfully
- In the event that you hear a comment that you disagree with, hold your response until it is your time to address the Rent Board
- Be aware that the Rent Board may interrupt you at anytime with questions of its own

Item J-1: Rent Program Policy on Return of Excess Rent

August 21, 2019 | Regular Meeting of the Richmond Rent Board

Item J-1: Background

- In June 2017, the Board adopted Regulation 605, which established the Annual General Adjustment for 2017 at 100% of the CPI or 3.4%.
- Recognizing the absence of a petition process that would enable Tenants to enforce excess rent damages, the Rent Board sought to create strict rules to compel Landlords to meet their obligations under the Rent Ordinance and pay the amount that was collected in excess of the Base Rent.
- Consequently, the Rent Board added Subsection C of Regulation 605 to establish the rule that Landlords must refund rent overcharges within 10 days and in the form of a cashier's check.
- By limiting the method of payment to cashier's check, the Rent Program could guarantee the propriety of the funds and more readily monitor those who had paid.
- By requiring payment be made within 10 business days, the regulation sought to achieve expeditious return of any rents collected in excess of the Maximum Allowable Rent.

Item J-1: Background (continued)

- When Regulation 605 (C) was adopted, the Rent Program's petition process had yet to be established.
- With the Rent Program's petition process fully operational, Tenants can enforce their rights by filing a Excess Rent Petition.
- Additionally, Landlords' circumstances have changed, as many of them are now educated on the requirements of the Rent Ordinance and often come into the Rent Program to address potential excessive rent issues.
- Nevertheless, some Landlords were late to coming into compliance with the "Rent Rollback" and only recently discovered that they owed thousands of dollars in Excess Rent to their Tenants.
- Recognizing that circumstances have changed, on June 19, 2019, the Richmond Rent Board rescinded Regulation 605 (C) to allow Landlords more flexibility in bringing themselves into compliance with the Rent Ordinance as it pertains to excessive rent.
- Staff was directed by the Board to present the new Excess Rent Refund Policy that will be disseminated to the public.
- The new policy will be posted on the Rent Program website and included in educational outreach materials, including but not limited to the Guide to Rent Control and Eviction Protections in Richmond.

Item J-1: New Excess Rent Return Policy

- While Landlords may still opt to return in full via one payment any Excess Rent charged, the new policy allows the following:
 - Under the new Rent Board policy, a Landlord who owes excess rent must still return all excess rent owed to the Tenant, but may upon agreement of the Tenant, have the excess rent returned to the Tenant via a repayment agreement, a reduction of Tenant's rent going forward until the amount owed is satisfied, partial payment of the amount owed combined with the reduction of rent, and other calculable forms of repayment.
 - Under the Rent Ordinance (Richmond Municipal Code Section 11.100.100), Tenants cannot waive any provisions of the Rent Ordinance, which means that under any repayment plan Tenants cannot waive the amount of excess rent owed. The Tenant can only agree to modify the method of payment and the form of repayment.
 - As is prudent practice, Landlords and Tenants are encouraged to document any agreement in writing.
 - Tenants who choose not to agree to a repayment plan or whose Landlords fail to adhere to a previously agreed upon repayment plan, may still file an Excess Rent petition with the Rent Program to compel the Landlord to refund any excess rent owed.

Item J-1: Recommended Action

RECEIVE Oral Update on Rent Program's policy on Excess Rent Refunds, (Nicolas Traylor/Paige Roosa 620-6564).