

Item G-1: Proposed Owner Move-In Eviction Regulation

November 20, 2019 | Regular Meeting of the Richmond Rent Board

Item G-1: Background

Under Section 11.100.050(a)(6) of the Rent Ordinance, Landlords may recover possession of a Rental Unit under the Owner Move-In “no-fault” termination of tenancy.

The Rent Ordinance establishes the following requirements, specific to the Owner Move-In provisions of the Ordinance:

- Landlord must be a natural person who has at least a fifty (50) percent recorded ownership interest in the property.
- Landlord may not evict for "owner move-in" if the same Landlord or enumerated relative already occupies a unit on the property, or if a vacancy already exists on the property. At all times a Landlord may request a reasonable accommodation if the Landlord or enumerated relative is disabled and another unit in Richmond is necessary to accommodate the person's disability.

Item G-1: Background (continued)

- The notice terminating tenancy shall contain the name, address and relationship to the Landlord of the person intended to occupy the Rental Unit.
- The Landlord or enumerated relative must intend in good faith to move into the Rental Unit within ninety (90) days after the Tenant vacates.
- Landlord must occupy the Rental Unit as a primary residence for at least thirty-six (36) consecutive months.
- If the Landlord or relative specified on the notice terminating tenancy fails to occupy the unit within ninety (90) days after the Tenant vacates, the Landlord shall:
 1. Offer the unit to the Tenant who vacated it; and
 2. Pay to said Tenant all reasonable expenses incurred in moving to and from the unit.

Item G-1: Background (continued)

Eviction Protections for Elderly or Disabled Tenants

A Landlord may not evict a Tenant if the Tenant (1) has resided in the Rental Unit for at least five (5) years and is either at least 62 years old or Disabled; or (2) is certified as being terminally ill by the Tenant's treating physician. A Landlord may evict a Tenant who qualifies for the exemption if the Landlord or enumerated relative who will occupy the unit also meets the criteria for this exemption and no other units are available.

First Right of Refusal and Rent Reversion

All Tenants displaced due to an Owner Move-In shall have the first right of refusal to return to the unit if it should ever be returned to the market by the Landlord or successor Landlord. The Rent charged shall be the Rent lawfully paid by the Tenant at the time the Landlord served the notice of termination of tenancy.

Item G-1: Statement of the Issue

- At their meeting on August 21, 2019, members of the Rent Board received a presentation of community feedback regarding a proposed Owner Move-In (OMI) eviction regulation, and an analysis of all OMI eviction cases previously filed with the Rent Program.
- The Rent Board directed staff to:
 1. Provide a summary of all evictions from 2017 to present by property type;
 2. Present policy options for the Rent Board's consideration regarding a possible OMI regulation; and
 3. Report on the fiscal impact of administering a proposed OMI regulation
- The requested information has been prepared for the Board's consideration and staff are seeking policy direction from the Board.

Item G-1: Analysis of Termination of Tenancy Notices (Attachment 4)

- Failure to Pay Rent is the most commonly cited Just Cause for Eviction, representing 95.8% of all termination notices filed with the Rent Program.
- OMI eviction notices represent 0.7% of all notices filed.
- More than half (64.5%) of all termination notices have been filed for tenancies occurring in apartment buildings with 60 or more units.
- Generally speaking, OMI evictions have not typically occurred in apartment buildings; however, there has been one instance where an OMI termination notice was filed for a tenancy occurring in an apartment with between 5 and 12 units.
- Important note: The number of termination notices filed with the Rent Program does not reflect the number of Unlawful Detainer or eviction lawsuits filed in court. In some cases, the Tenant may cure the issue for the notice (e.g. the Tenant pays the rent that is due) and the eviction process is not initiated.

Item G-1: Policy Considerations

Consideration #1

If two individuals own a duplex, each holding 50% ownership, may each individual conduct an Owner Move-In eviction on a unit on the property?

Consideration #2

Is the Tenant's first right of refusal to re-rent the Rental Unit, should it ever be placed back on the rental market, indefinite?

Consideration #3

If a Tenant was to re-rent a unit from which they were previously evicted on the grounds of Owner Move-In, in which case, under the first right of refusal provisions of the Rent Ordinance, they would be entitled to pay the Rent they paid at the time they received the notice of termination of tenancy, could the Landlord apply Annual General Adjustment rent increases to that Rent amount?

Consideration #4

Who is required to track the whereabouts of a former Tenant evicted on the grounds of Owner Move-In, to provide them with the first right of refusal if the unit is re-rented?

Item G-1: Policy Considerations

Regulations
requiring Landlords
to submit
supporting
documentation

Unlike in other cities with rent control and just cause for eviction policies, Landlords in Richmond are currently not required to submit documentation to the Rent Program to ensure the provisions of the Rent Ordinance are satisfied.

Possible
regulations
requiring
supporting
documentation

Possible regulations could require Landlords to file with the Rent Program:

- Proof of occupancy
- Proof of Ownership interest
- Proof of an Offer of 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.

Item G-1: Methods of Community Engagement

- 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.
- The Board received a summary of feedback gathered from participants at their meeting on August 21, 2019.



Item G-1: Requested Policy Direction (Attachment 3)

1. Should a policy exist that allows two individuals who share ownership of a property (each individual has a 50% recorded interest) each be able to conduct an Owner Move-In eviction on a unit on a property? (So, for example, if two individuals own a duplex together, should each individual be able to conduct an Owner Move-In on a unit on the property?)
2. Should an individual who is a beneficiary with at least 50% recorded interest in a trust that owns the property be able to conduct an Owner Move-In eviction?
3. Should a policy 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?
4. When an owner performs an Owner Move-In eviction on a unit that is part of a larger multi-unit building, should a policy exist that would require any future Owner Move-In evictions on the property to occur in that same unit?

Item G-1: Requested Policy Direction (Attachment 3)

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, should a policy exist specifying the amount of time the Tenant has to respond that they would like to exercise their first right of refusal to return to the Rental Unit?
6. If the formerly displaced Tenant moves back into the Rental Unit after several years, should a policy exist that allows the Landlord to include the Annual General Adjustment rent increases in the amount of the rent charged?
7. Should a policy exist that would require the Landlord and/or Rent Program to maintain contact information for a specified period of a formerly displaced Tenant due to an Owner Move-In, in the event that the Rental Unit is placed back on the rental market?
8. Should a policy exist that designates 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?
9. What types of additional forms or documentation should be required for compliance, if any? Should a policy exist that the Rent Program is responsible for monitoring compliance with the Owner Move-In requirements of the Rent Ordinance?

Item G-1: Fiscal Impact

- The fiscal impact will depend on both the degree of administrative duties imposed by the adopted policy and the frequency with which OMI evictions occur.
- An OMI eviction regulation is likely to incur administrative costs associated with developing new forms, creating and disseminating outreach materials, and monitoring compliance with adopted requirements.
- The fiscal impact of an administratively robust OMI regulation will be greater if there is a high number of OMI evictions conducted in a given time period, and lower if there are few OMI evictions conducted.
- Staff members will prepare a detailed fiscal impact analysis of the proposed regulation based on policy direction received by the Board.
- Depending on the degree of administrative complexity, it may be necessary to retain additional administrative staff.

Item G-1: Next Steps

- With policy direction from the Board, staff members anticipate a proposed Owner Move-In eviction regulation would be prepared during the month of December.
- It is anticipated that the proposed regulation will be circulated for community feedback before being brought before the Rent Board for consideration and potential adoption.

Item G-1: Recommended Action

RECEIVE a presentation from Rent Program staff members including a summary of termination of tenancy notices filed with the Rent Program by property type, proposed policy options regarding a proposed Owner Move-In eviction regulation, and an analysis of the anticipated fiscal impact of administering an Owner Move-In eviction regulation, and **PROVIDE** policy direction to staff.

City of Richmond Rent Program

Fiscal Year 2018-19 Annual Report



Staff, Volunteer, and Boardmember Acknowledgements

Rent Program Staff

Nicolas Traylor, Executive Director
Paige Roosa, Deputy Director
Charles Oshinuga, Staff Attorney
Palomar Sanchez, Staff Attorney
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Sarah Schaff, Student Intern
Erika Foster, Student Intern
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Anaise Jean-Philippe, Student Intern
Johana Gurdian, UC Berkeley PSI Intern
Gabby Arreola, UC Berkeley PSI Intern
Han Cheng, UC Berkeley PSI Intern

Rent Board

David Gray, Former Chair
Lauren Maddock, Chair
Emma Gerould, Vice Chair
Virginia Finlay, Boardmember
Nancy Combs, Former Boardmember
Alana Grice Conner, Boardmember
Commieolla Duncan, Boardmember

City Staff

Sue Hartman, IT Director
Randall Narron, Senior Programmer
Roi Evron, GIS Specialist

Volunteers

Nancy Lewis
Brian Lewis



Our Mission: Housing Stability & Healthy Housing

The mission of the Rent Program is to promote neighborhood and community stability, healthy housing, and affordability for Richmond Tenants through the regulating of those Landlord/Tenant matters that reasonably relate to rents and evictions, while maintaining a Landlord's right to a fair return.

The Connection Between Health and Housing



Housing quality has a clear, well documented connection to health:

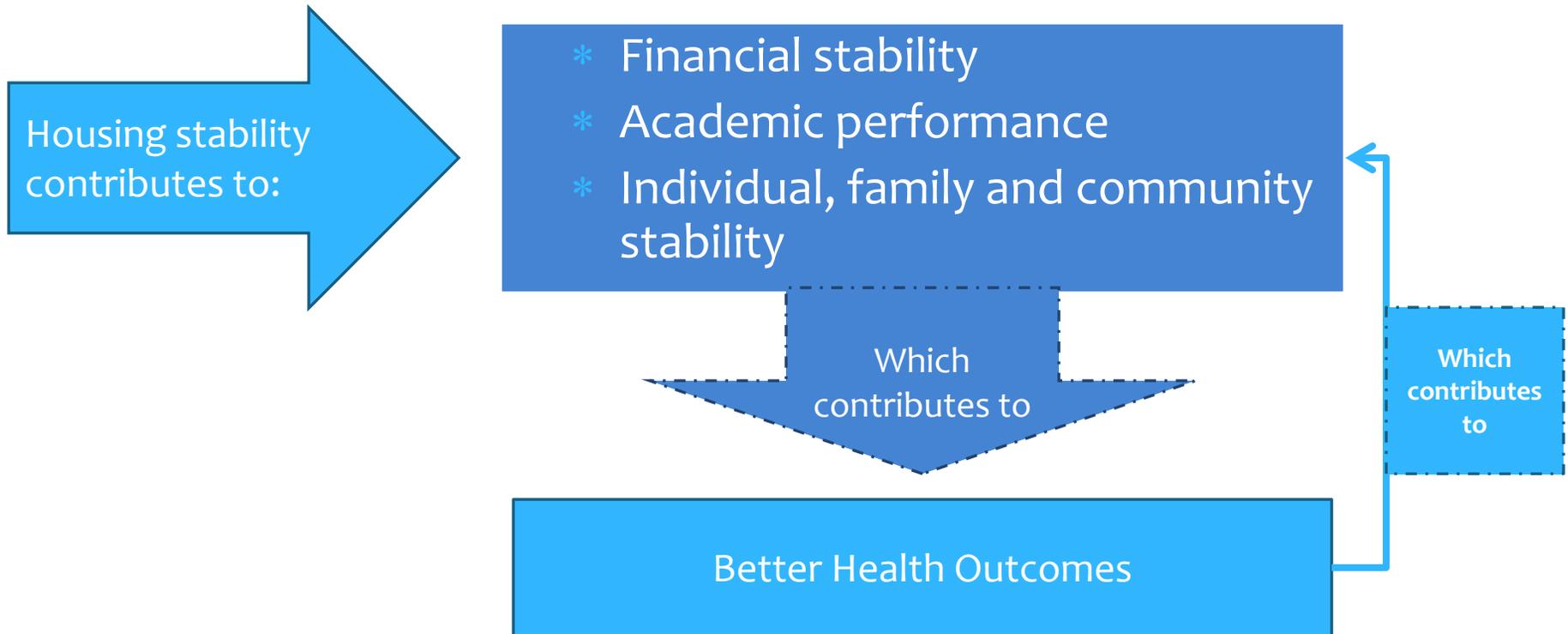
Poor living conditions like mold, inadequate heating, vermin infestations, and other habitability problems are significant physical and psychological stressors with well documented negative effects on our most vulnerable communities members; children, seniors, disabled, and low-income earners.

Recourse for Tenants and Landlords Seeking Healthier Housing

Tenants that are under rent control have the right to petition the Rent Program for a rent reduction, based on defective housing conditions to compel Landlords to provide safe, healthy and habitable housing.

Landlords of rent controlled properties have the right to petition the Rent Program for a rent increase due capital improvements and increased maintenance costs meant to improve housing conditions.

The Connection Between Housing Stability and Health Outcomes



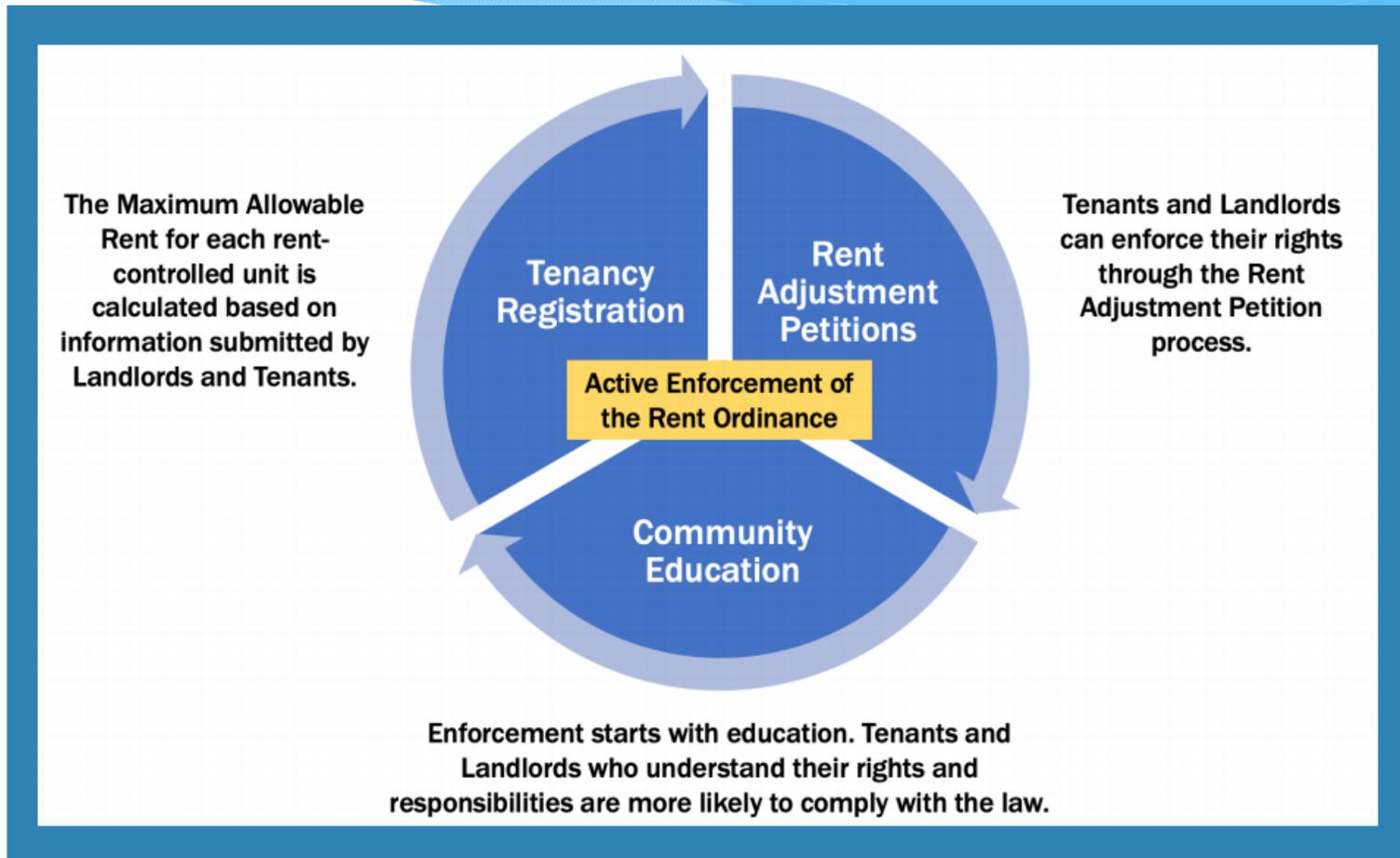
The Connection Between Housing Affordability and Health

Housing instability, insecurity and unaffordability leads to:

Having to pay a higher share of one's income on rent means having less money left over for food, medicine, healthcare and utility costs.

Unhealthy tradeoffs where people have to choose between paying rent, food, basic living costs and adhering to prescriptions.

Rent Ordinance Enforcement



Enforcement Mechanism 1: Property Enrollment & Tenancy Registration

5,277

**Property
Enrollment
packets
mailed**

3,002

**Properties
Enrolled**

1,684

**Consultations
with Billing &
Registration
staff**

Enforcement Mechanism 2: Counseling, Mediation & Community Education

Knowledge and understanding of Landlord and Tenant rights and responsibilities is key to enforcing the Rent Ordinance and effectuating it's purpose: to promote healthy, stable and affordable housing.

8,345

Counseling
sessions
conducted

406

Community
Workshop
participants

94

Households
referred to
legal
services

67

Mediations
held between
tenants and
landlords

Enforcement Mechanism 3: The Rent Adjustment Petition Process

Tenants and Landlords can file petitions to enforce their rights under the Rent Ordinance.

832

Consultations
with the
Hearings Unit
Coordinator

31

Settlement
Agreements
reached

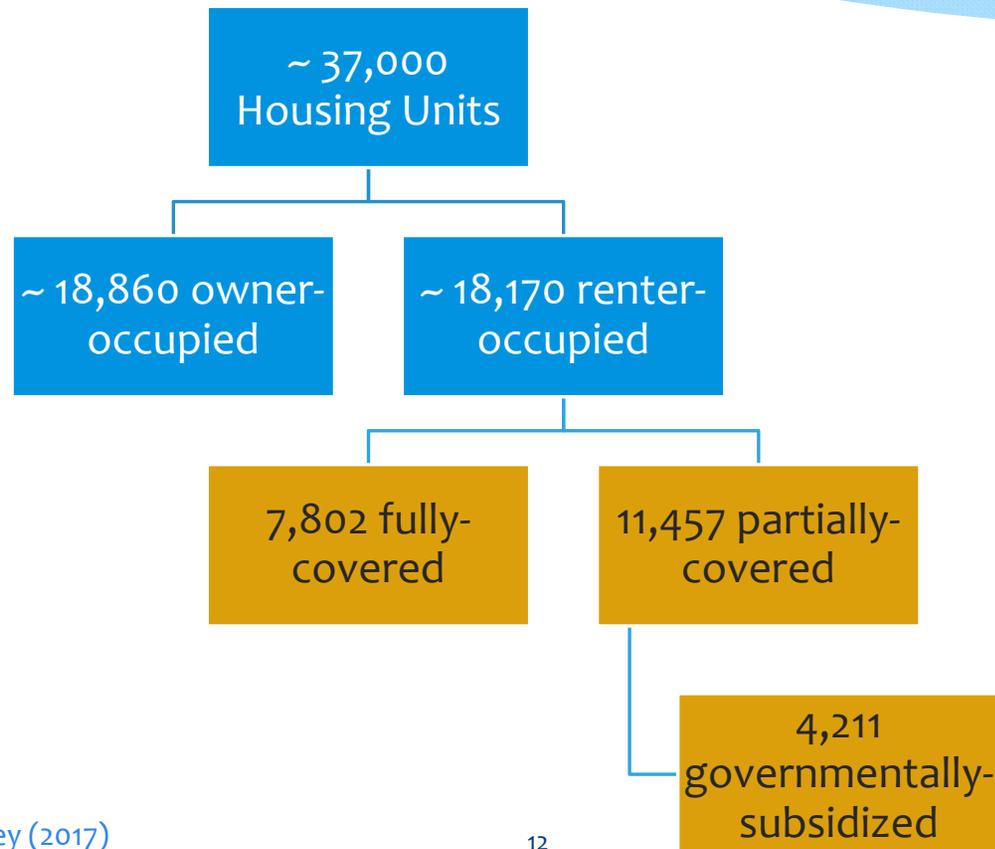
8

Individual
rent
decreases
ordered

2

Individual
rent increases
ordered

Profile of Rental Housing



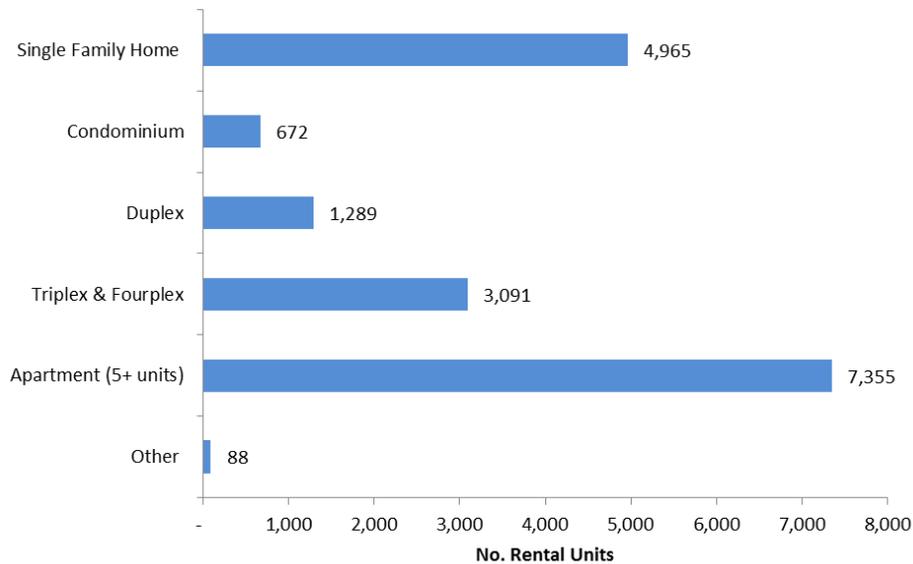
Data Sources

American Community Survey (2017)

Rent Program (Feb 2019)

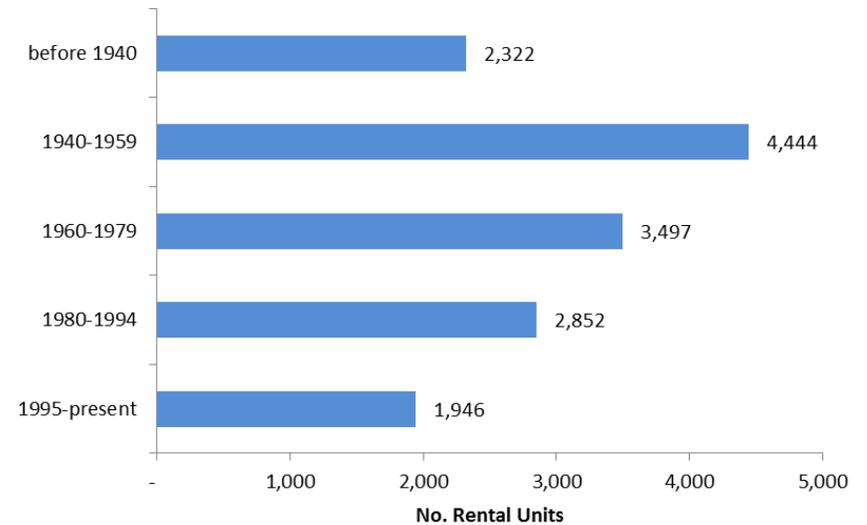
Rental Housing Profile: Housing Age & Type

Rental Units by Housing Type



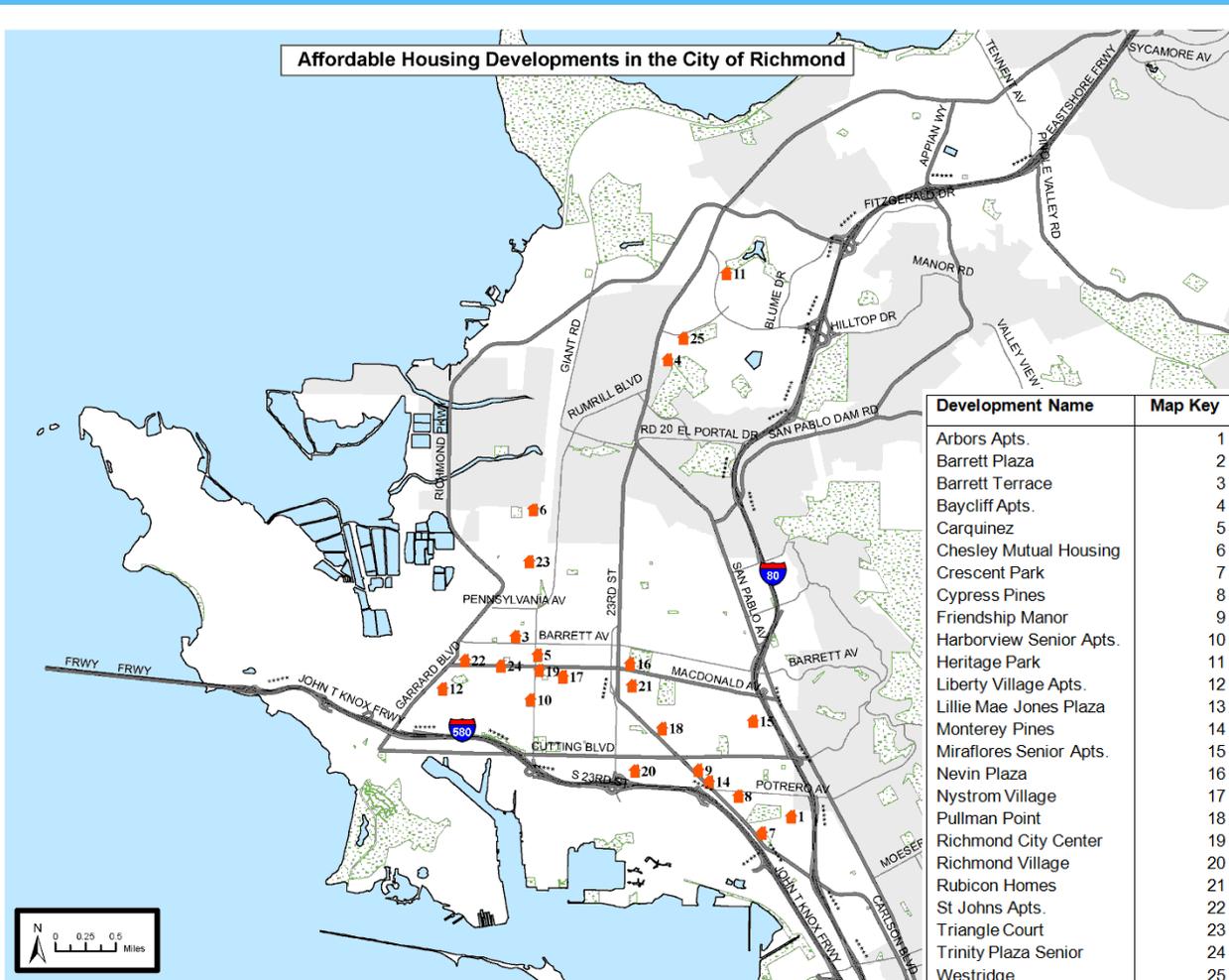
Based on available data for 17,460 units

Rental Units by Year of Construction



Based on available data for 15,061 units

Rental Housing Profile: Affordable Housing

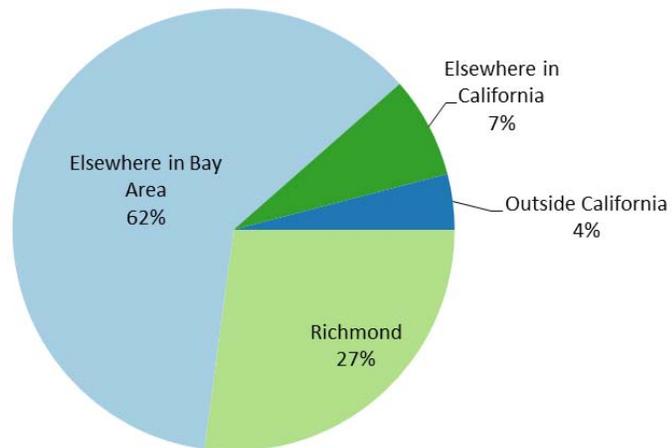


Development Name	Map Key
Arbors Apts.	1
Barrett Plaza	2
Barrett Terrace	3
Baycliff Apts.	4
Carquinez	5
Chesley Mutual Housing	6
Crescent Park	7
Cypress Pines	8
Friendship Manor	9
Harborview Senior Apts.	10
Heritage Park	11
Liberty Village Apts.	12
Lillie Mae Jones Plaza	13
Monterey Pines	14
Miraflores Senior Apts.	15
Nevin Plaza	16
Nystrom Village	17
Pullman Point	18
Richmond City Center	19
Richmond Village	20
Rubicon Homes	21
St Johns Apts.	22
Triangle Court	23
Trinity Plaza Senior	24
Westridge	25

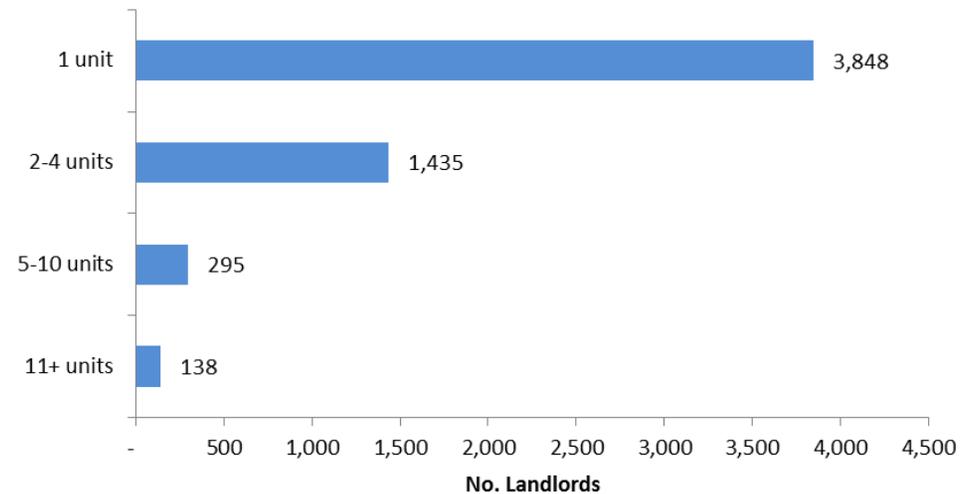
- ### Subsidy Types
- LIHTC (tax credits): **2,782**
 - Project-Based Rental Assistance: **991**
 - Housing Choice Vouchers: **1,686**

Rental Housing Profile: Richmond Landlords

Where do Richmond's Landlords Live?

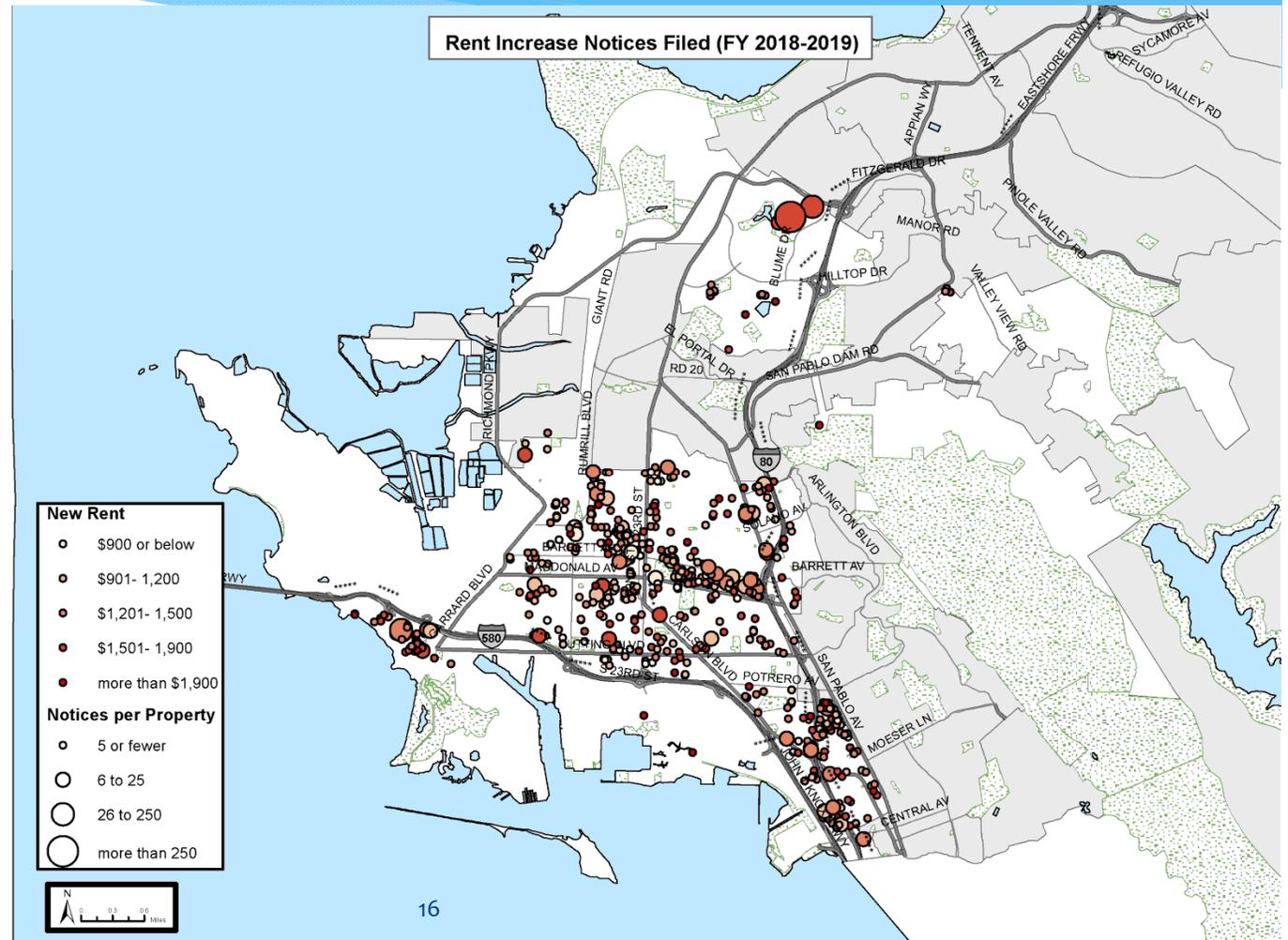


How Many Units do Landlords in Richmond Own?



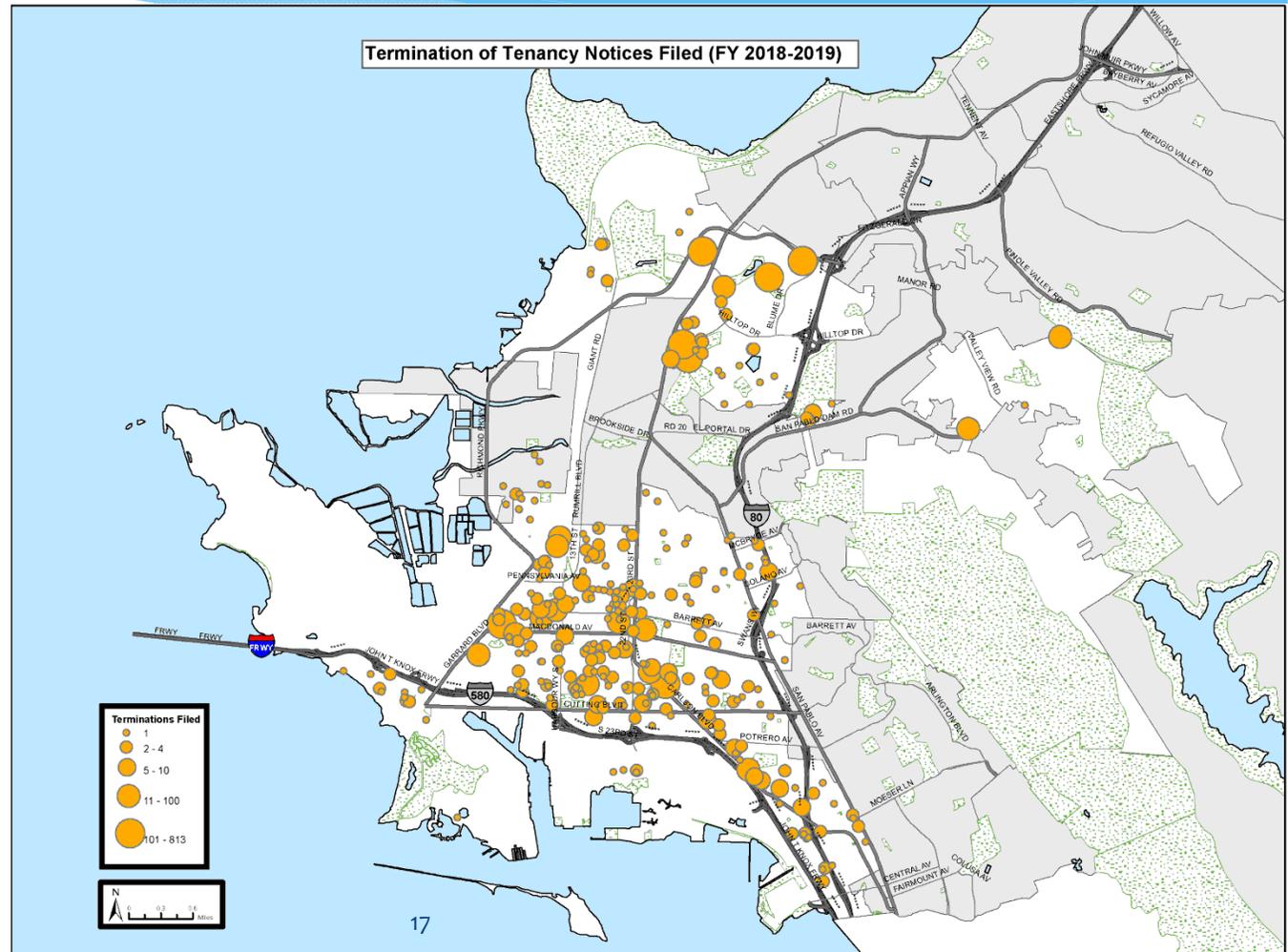
Rent Increase Notice Analysis

- 2,476 notices filed
- \$56 median increase
- \$1,525 median new rent



Termination of Tenancy Notice Analysis

- 4,211 notices filed during FY 2018-2019
- Around 75% from larger apartments (5+ units)
- *Top neighborhoods:* Hilltop, Fairmede, Iron Triangle, Pullman



Termination of Tenancy Notice Analysis

Just Cause for Eviction	Notices Filed	Percentage of Total
Nonpayment of Rent	4,063	96.50%
Breach of Lease	105	2.50%
Nuisance	15	0.35%
Owner Move-In	14	0.33%
Withdrawal from Rental Market	5	0.11%
Failure to Give Access	4	0.09%
Temporarily Vacate: Repairs	4	0.09%
Temporary Tenancy	1	0.02%
Total	4,211	100%

Fiscal Year 2018-19 Financial Summary

- * **\$2.25 million in budgeted expenses**
 - * **\$2.05 million in actual expenses**
 - * **\$2.19 million in Rental Housing Fee revenue collected**
-
- * **\$143 thousand contributed to the Agency's operating reserves**

Recommended Action

RECEIVE AND APPROVE the 2018-19 Rent Program Annual Report and DIRECT staff to present the report to the City Council.

References

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