



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

**AGENDA**  
**Wednesday, July 15, 2020**

***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)

**Board Chair**  
Lauren Maddock

**Board Vice Chair**  
Emma Gerould

**Boardmembers**  
Alana Grice Conner  
Virginia Finlay  
(Vacant Position)

**ALL BOARDMEMBERS WILL PARTICIPATE VIA VIDEO OR TELECONFERENCE**

***REFER TO PAGE 2 FOR INSTRUCTIONS ON HOW TO PARTICIPATE BY COMPUTER, MOBILE DEVICE, OR PHONE AS A MEMBER OF THE PUBLIC***

**CORONAVIRUS DISEASE (COVID-19) ADVISORY**

Due to the coronavirus (COVID-19) pandemic, Contra Costa County and Governor Gavin Newsom have issued multiple orders requiring sheltering in place, social distancing, and reduction of person-to-person contact. Accordingly, Governor Gavin Newsom has issued executive orders that allow cities to hold public meetings via teleconferencing.

Both <https://www.coronavirus.cchealth.org/> and <http://www.ci.richmond.ca.us/3914/Richmond-Coronavirus-Info> provide updated coronavirus information.

Public comment will be confined to items appearing on the agenda and will be limited to the methods provided below. DUE TO THE SHELTER IN PLACE ORDERS, and consistent with Executive Order N29-20, this meeting will utilize video/teleconferencing

only. The following provides information on how the public can participate in this meeting.

**How to observe and/or participate in the meeting from home:**

***By Computer, Tablet, or Mobile Device:***

Step 1: Tune in to the videoconference at the following link:

<https://us02web.zoom.us/j/89511837378?pwd=d1ZRdXVocTJrbnBqd3pSTzZ5WGhHQT09>

Step 2: Enter the following password: rentboard

***By Telephone:***

Step 1: Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 301 715 8592  
or +1 312 626 6799 or +1 646 558 8656

Step 2: Webinar ID: 895 1183 7378

International numbers available: <https://us02web.zoom.us/j/kmlFZ5iGj>

**How to make a Public Comment during the meeting:**

Members of the public must submit a request to speak during the meeting by sending an email to Rent Board Clerk Cynthia Shaw at [cynthia\\_shaw@ci.richmond.ca.us](mailto:cynthia_shaw@ci.richmond.ca.us) by **3:00 PM on Wednesday, July 15, 2020**. The request must include the following:

- (a) Your Name
- (b) Your Phone Number
- (c) The Item for which you wish to make a Public Comment

Requests for comments received via email during the meeting and up until the public comment period on the relevant agenda item is closed, will be accommodated as is reasonably possible and will be limited to a maximum of one to two minutes, depending on the number of commenters, as more fully described in the Rent Board meeting procedures below. The City cannot guarantee that its network and/or the site will be uninterrupted.

**Accessibility for Individuals with Disabilities**

Upon request, the City will provide for written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services and sign language interpreters, to enable individuals with disabilities to participate in and provide comments at/related to public meetings. Please submit a request, including your name, phone number and/or email address, and a description of the modification, accommodation, auxiliary aid, service or alternative format requested at least two days before the meeting. Requests should be emailed to [cynthia\\_shaw@ci.richmond.ca.us](mailto:cynthia_shaw@ci.richmond.ca.us) or submitted by phone at (510) 620-5552. Requests made by mail to the Rent Program Office, Rent Board meeting, 440 Civic Center Plaza, Suite 200, Richmond, CA 94804 must be received at least two days before the meeting. Requests will be granted whenever possible and resolved in favor of accessibility.

**Effect of Advisory on In-Person Public Participation**

During the pendency of the Executive Order N-29-20, the language in this Advisory portion of the agenda supersedes any language below in the meeting procedures contemplating in-person public comment.

**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.

## 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. PUBLIC FORUM**

**F. RENT BOARD CONSENT CALENDAR**

- |             |   |                     |
|-------------|---|---------------------|
| <b>F-1.</b> | APPROVE the minutes of the June 17, 2020, Regular Meeting of the Richmond Rent Board.         | <i>Cynthia Shaw</i> |
| <b>F-2.</b> | RECEIVE the June 2020 Rent Program Monthly Report.  | <i>Paige Roosa</i>  |
| <b>F-3.</b> | RECEIVE the Rent Program FY 2019-20 Monthly Revenue and Expenditure Report through June 2020. | <i>Paige Roosa</i>  |

**G. CONSIDERATION OF APPEALS**

- |             |   |                         |
|-------------|---|-------------------------|
| <b>G-1.</b> | Appeal Regarding Petition Number RC19-T048. Appellants appeal a Hearing Examiner's Decision that awarded Respondents a rent reduction for decreases in both space and services in the amount of \$9,117 and reduced Respondents' Maximum Allowable Rent (hereinafter, "MAR") by 22%. Specifically, the Hearing Examiner found that Respondents' Rental Unit contained enough mold in a bedroom to render that particular bedroom unusable for a period of three years. Consequently, the Hearing Examiner found that the Respondents' Space and/or Services were decreased and awarded Respondents \$8,269.72 | <i>Charles Oshinuga</i> |
|-------------|---|-------------------------|

in Excess Rent and reduced their MAR by 20%. Additionally, the Hearing Examiner found Appellant caused Respondents to suffer a Decrease in Services where Respondents' Rental Unit contained an inoperable oven, inadequate tub caulking, broken tub spout, and a dysfunctional shower wand. As a result, the Hearing Examiner awarded Respondents an additional \$847.28 in Excess Rent and further reduced their MAR by 2%. On appeal, Appellant challenges the scope of the Hearing Examiner's award, asserting that the Hearing Examiner erred and improperly exercised his discretion. ***This item was continued from June 17, 2020 meeting.***

- G-2.** Appellant appeals a Hearing Examiner's Decision that awarded Respondent Excess Rent in the amount of \$6,198.58, and awarded Excess Rent \$3,428.08 based on a decrease in both space and services. Specifically, the Hearing Examiner found that Respondent was an original occupant entitling her to a Base Rent of \$600, and the Appellant's failure to roll back Respondent's rent resulted in a rent overcharge in the amount of \$6,198.58. Moreover, the Hearing Examiner found multiple habitability issues existed in Respondent's Rental Unit, entitling her to an award of \$3,428.08. On Appeal, Appellant challenges the sufficiency of the evidence and contends Respondent is not an original occupant. *Charles Oshinuga*

## H. REGULATIONS

- H-1.** ADOPT revised Chapter 2 Regulations, concerning the process whereby property owners may seek an exemption or determination of inapplicability of a dwelling unit from provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance. *Paige Roosa*

## I. REPORTS OF OFFICERS

**J. 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).***

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# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 15, 2020

Final Decision Date Deadline: July 15, 2020

**STATEMENT OF THE ISSUE:** The minutes of the June 17, 2020, 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 17, 2020, Regular Meeting of the Richmond Rent Board – Rent Program (Cynthia Shaw 620-5552).

AGENDA ITEM NO:

**F-1.**

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**RICHMOND, CALIFORNIA, June 17, 2020**

The Regular Meeting of the Richmond Rent Board was called to order at 5:00 P.M. via videoconference.

Due to the coronavirus (COVID-19) pandemic, Contra Costa County and Governor Gavin Newsom have issued multiple orders requiring sheltering in place, social distancing, and reduction of person-to-person contact. Accordingly, Governor Gavin Newsom has issued executive orders that allow cities to hold public meetings via teleconferencing.

Public comments were confined to items appeared on the agenda and were limited to the methods provided below. DUE TO THE SHELTER IN PLACE ORDERS, and consistent with Executive Order N29-20, the meeting utilized video/teleconferencing only. The following provides information on how the public participated in this meeting.

The public was able to view the meeting using Zoom at the following link:

[https://us02web.zoom.us/j/84643878930?pwd=K2tSbERJekdxaHVKZXXI  
ma05LbUR0UT09](https://us02web.zoom.us/j/84643878930?pwd=K2tSbERJekdxaHVKZXXI<br/>ma05LbUR0UT09)  
Password: rentboard

**Or By Telephone:**

US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1  
301 715 8592  
or +1 312 626 6799 or +1 646 558 8656  
Webinar ID: 846 4387 8930  
International numbers available:  
<https://us02web.zoom.us/j/kraPQU5EE>

Community members who wished to make a public comment were required to submit their comments via email by 3:00 p.m. on Wednesday, June 17, 2020, to the Rent Board Clerk, Cynthia Shaw at [cynthia\\_shaw@ci.richmond.ca.us](mailto:cynthia_shaw@ci.richmond.ca.us), to be considered into the record.

**PLEDGE TO THE FLAG**

**ROLL CALL**

**Boardmembers Present:** Conner, Finlay, and Duncan.

**Staff Present:** Staff Attorney Charles Oshinuga, Deputy Director Paige Roosa and Executive Director Nicolas Traylor.

**Absent:** Vice Chair Gerould and Chair Maddock.

A motion made by Boardmember Conner to elect Boardmember Finlay to act as Interim Chair in the absence of Vice Chair Gerould and Chair Maddock, seconded by Boardmember Duncan, passed unanimously with Vice Chair Gerould and Chair Maddock absent.

**STATEMENT OF CONFLICT OF INTEREST**

None.

**AGENDA REVIEW**

None.

**PUBLIC FORUM**

Cordell Hindler commented by email, inviting the Rent Board to attend the Contra Costa Mayors conference on August 6<sup>th</sup>, hosted by the City of Walnut Creek, location to be determined. He also mentioned that he feels that the public should be able to return to the Rent Board meetings because it is not fair to have been under shelter in place.

Mary Jones commented by email, regarding the Richmond Housing Authority's performance during COVID-19. She mentioned that she has been trying to reach someone at the Housing Authority of Contra Costa since 4/29/20 and has not been able to get a response.

Marilyn Langlois thanked the Board and staff for their work and for what we do in the community. She is pleased with the decision of the City Council to pass the Fiscal Year 2020-21 Rental Housing Fee. She also thanked Boardmember Duncan for her participation on the Rent Board and mentioned that she will be missed in the community.

**RENT BOARD CONSENT CALENDAR**

On motion of Boardmember Duncan, seconded by Boardmember Conner, the item(s) marked with an (\*) were approved with Vice Chair Gerould and Chair Maddock absent:

\*F-1. Approve the minutes of the May 20, 2020, Regular Meeting of the Richmond Rent Board.

\*F-2. Receive the May 2020 Rent Program Monthly Report.

\*F-3. Receive the Rent Program FY 2019-20 Monthly Revenue and Expenditure Report through May 2020.

\*F-4. Approve amendments to the contract for community legal services with Bay Area Legal Aid, increasing the contract amount by \$56,250 for Fiscal Year 2020-21, and modifying the term to commence on October 1, 2020, through June 30, 2021.

\*F-5. Approve amendments to the contract for community legal services with the Eviction Defense Center, increasing the contract amount by \$93,744 for Fiscal Year 2020-21 and modifying the term to commence on October 1, 2020, through June 30, 2021.

**CONSIDERATION OF APPEALS**

G-1. Staff Attorney Charles Oshinuga presented on the matter of Appeal regarding Petition Number RC19-T048. Appellants appeal a Hearing Examiner’s Decision that awarded Respondents a rent reduction for decreases in both space and services in the amount of \$9,117 and reduced Respondents’ Maximum Allowable Rent (hereinafter, “MAR”) by 22%. Specifically, the Hearing Examiner found that Respondents’ Rental Unit contained enough mold in a bedroom to render that particular bedroom unusable for a period of three years. Consequently, the Hearing Examiner found that the Respondents’ Space and/or Services were decreased and awarded Respondents \$8,269.72 in Excess Rent and reduced their MAR by 20%. Additionally, the Hearing Examiner found Appellant caused Respondents to suffer a Decrease in Services where Respondents’ Rental Unit contained an inoperable oven, inadequate tub caulking, broken tub spout, and a dysfunctional shower wand. As a result, the Hearing Examiner awarded Respondents an additional \$847.28 in Excess Rent and further reduced their MAR by 2%. On appeal, Appellant

challenges the scope of the Hearing Examiner's award, asserting that the Hearing Examiner erred and improperly exercised his discretion. The following individual gave public comment: Sean Smith. All parties of the case were present. The appeal hearing began and the following individuals were present: Emager and Michael Pearce, Susan Barrientos and Jason Banks. Following discussion, Boardmembers Conner, Duncan and Interim Chair Finlay voted, with Vice Chair Gerould and Chair Maddock absent, to continue this item for further discussion to the July 15, 2020, Rent Board Meeting.

### **REGULATIONS**

H-1. The matter to adopt Regulation 608, establishing the 2020 Annual General Adjustment in the amount of 2.9% for tenancies commencing prior to September 1, 2019, was presented by Deputy Director Paige Roosa. The presentation included the statement of the issue, AGA background, proposed Regulation 608, next steps, application of the 2020 AGA in light of the City's rent freeze and the recommended action. Discussion ensued. There were no public comments on this item. A motion by Boardmember Duncan, seconded by Boardmember Conner, to adopt Regulation 608, establishing the 2020 Annual General Adjustment in the amount of 2.9% for tenancies commencing prior to September 1, 2019, passed by the following vote: **Ayes:** Boardmembers Conner, Duncan, and Interim Chair Finlay. **Noes:** None. **Abstentions:** None. **Absent:** Vice Chair Gerould and Chair Maddock.

H-2. The matter to adopt Chapter 3 of the Rent Board Regulations, regarding Rent Board governance, was presented by Executive Director Nicolas Traylor. The presentation included the background, the statement of the issue, discussion, and the recommended action. Discussion ensued. There were no public comments on this item. A motion by Boardmember Conner, seconded by Boardmember Duncan, to adopt Chapter 3 of the Rent Board Regulations, regarding Rent Board governance, passed by the following vote: **Ayes:** Boardmembers Conner, Duncan and Interim Chair Finlay. **Noes:** None. **Abstentions:** None. **Absent:** Vice Chair Gerould and Chair Maddock.

### **REPORTS OF OFFICERS**

Executive Director Nicolas Traylor acknowledged Boardmember Duncan and thanked her for her service while serving on the Rent Board and wished her well in her retirement and new home. Boardmember Duncan responded, thanking staff

members for the patience and time and she thanked everyone on the Rent Board. She also mentioned that she is glad that she was a part of a Board who is fair and willing to help Landlords and Tenants. She also mentioned that she hopes that the City of Richmond recognizes and appreciates the work that the Rent Program staff and the Rent Board is doing for the community.

Executive Director Nicolas Traylor gave a brief report that the City Council adopted the Rent Program FY 20/21 Rental Housing Fee. He also thanked staff and Boardmembers for their work around the budget and fee study. He also thanked staff for the work that they are doing for community and for making a difference during the Shelter in Place. He also thanked staff for providing assistance to Landlords and Tenants with questions and answers about the Eviction Moratorium and Rent Freeze.

Deputy Director Paige Roosa, in response to the request of Vice Chair Gerould at the May 20, 2020 meeting, provided an update on the third annual conference call with Affordable Housing Providers held on Wednesday, May 27, 2020. She also mentioned that they discussed any concerns that the providers had around the rent increase cap at 5% and compliance with Rent Board Regulations. She also mentioned that they heard the concerns from the providers about how some Tenants are still paying their rent when many Tenants are struggling to pay their rent. She added that the providers expressed that it varies from property to property in terms of the percentage of Tenants who are able to pay rent and the Tenants who are struggling to pay rent. She also added that the providers are taking these issues on a case by case basis and the Rent Program looks forward to receiving their spreadsheets of their anticipated 2020 rent increases.

Interim Chair Finlay thanked Boardmember Duncan for her service on the Rent Board and expressed that it has been an absolute delight working with her. Boardmember Conner added that she will be missed dearly and wished her the best.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 6:21 P.M.

Cynthia Shaw and Mónica Bejarano  
Staff Clerks

(SEAL)

Approved:

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Lauren Maddock, Chair

# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 15, 2020

Final Decision Date Deadline: July 15, 2020

**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 2020 Rent Program Monthly Report - Rent Program (Paige Roosa 620-6537).

AGENDA ITEM NO:

**F-2.**

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MEMORANDUM

**TO:** Executive Director Traylor and Members of the Rent Board  
**FROM:** Paige Roosa, Deputy Director  
**DATE:** July 15, 2020  
**SUBJECT:** JUNE 2020 MONTHLY ACTIVITY REPORT

**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**

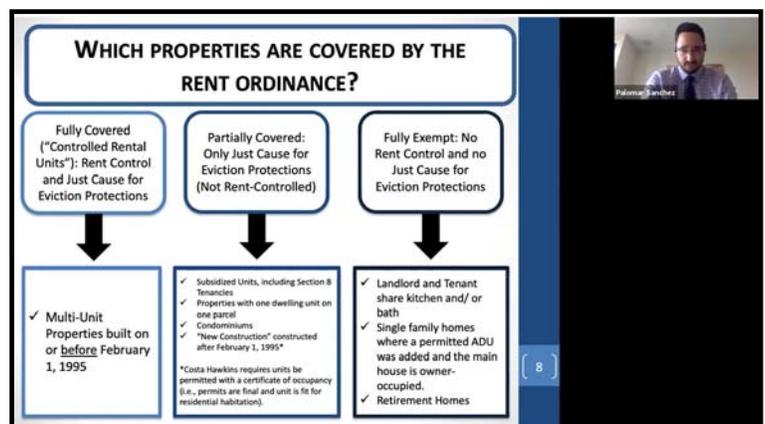
The month of June was a considerably unique one for the Rent Program team and the nation in light of the COVID-19 pandemic and the extension of the mandated Shelter at Home orders. All Rent Program staff continue to carry out all job functions remotely, which presents us with both challenges and opportunities. The content below highlights our activities for the month.

***Public Information Unit staff members hosted a community workshop webinar for Tenants.***

The June Community Workshop, titled “Rights and Responsibilities for Richmond Tenants” was hosted via Zoom Webinar to comply with State and local mandates prohibiting social gatherings. Staff Attorney Palomar Sanchez conducted a workshop for Tenants covering topics such as the City’s current moratorium on certain types of evictions and rent increases, the applicability of the Rent Ordinance to different rental property types, the eight Just Causes for Eviction in Richmond, the Maximum Allowable Rent for controlled rental units in the City, rent control and de-control pursuant to the Costa-Hawkins Rental Housing Act, rent adjustment petitions, and an overview of important California Civil Codes.

Administrative Aide Monica Bejarano and I provided support to staff and community participants. Following the presentation, attendees were provided an opportunity to ask questions of staff using the Zoom Webinar “Q&A” feature. We look forward to continuing to host workshops utilizing videoconferencing technology for future Community Workshops.

Presentation materials, including a recording of the presentation, are accessible at <http://www.ci.richmond.ca.us/3541/Workshops>.



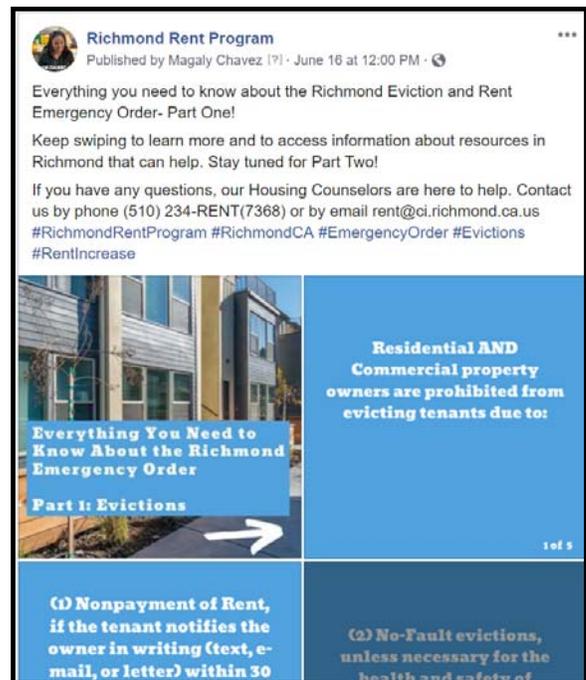
*Public Information Unit staff members published resources and information about the Rent Board's adopted 2020 Annual General Adjustment rent increase.*



On June 17, 2020, the Rent Board adopted the 2020 Annual General Adjustment (AGA) rent increase in the amount of 2.9% for tenancies commencing prior to September 1, 2019. Since then, staff members in the Public Information Unit have been busy updating community resources for Landlord and Tenant use, including the [Maximum Allowable Rent Calculator](#) and [AGA Rent Increase Template](#). The 2020 Annual General Adjustment rent increase must comply with all local emergency orders and may not take effect prior to September 1, 2020. Landlords and Tenants are encouraged to contact the Rent Program if they have any questions about application of the 2020 AGA.

*Rent Program staff members continued to educate the Richmond community about the City's emergency orders and the impacts on Landlord and Tenant rights and responsibilities.*

The demand for services remained constant, with the Rent Program leading community education efforts about the original [Order 29-20](#) prohibiting residential evictions and the [Supplemental Order 34-20](#), which extends eviction protections to commercial tenants and prohibits the issuance of rent increases through July 15, 2020, or any extension of the local emergency. These educational efforts include the development and continual maintenance and updating of a [Coronavirus \(COVID-19\) and Rentals: What Richmond Tenants and Landlords Need to Know fact sheet](#) as well as a Letter Template for Tenants to use to inform their Landlord of their inability to pay rent due to the financial impacts of COVID-19 in [English](#) and [Spanish](#). Staff Attorneys Charles Oshinuga and Palomar Sanchez have continued to collaborate with staff in the City Attorney's Office to develop and enforce both the original and supplemental orders.



Throughout the month of June, Public Information Unit staff members also launched an effective social media educational series about Richmond's emergency order. In five parts, staff provided condensed and simply stated information about how the emergency order impacts evictions, rent payments, and rent increases, explained how the order is enforced, and shared frequently asked questions and answers about the provisions of the order. Public Information Unit staff members will continue to post information using similar methods in the coming months about other relevant topics such as filing petitions, handling habitability problems, and billing and registration requirements.

***Billing and Registration Unit staff members began prepared for the Fiscal Year 2020-21 Rental Housing Fee billing cycle.***

Each year, the Billing and Registration unit sends invoices to over 5,000 Richmond Landlords. Since the Rental Housing Fee is the sole source of revenue for the Rent Program, our financial viability depends on a successful billing cycle. On June 16, 2020, the Richmond City Council adopted the Fiscal Year 2020-21 Rental Housing Fee in the amount of \$124 for partially covered rental units and \$219 for fully covered rental units. To prepare for the dissemination of invoices, staff members in the Billing and Registration Unit initiated efforts in partnership with the City’s IT Department to assess fees to all active rental units, update educational materials, and verify property ownership information. It is anticipated the majority of invoices will be mailed in the month of August.

**Summary of Activities**

**I. Department Unit Activities**

<b>PUBLIC INFORMATION UNIT</b>	<b><i>Occurrences</i></b>
<b>Persons Assisted By Front Office Unit (<i>without referral to an Analyst</i>)</b>	<b>137</b>
<b>Total Consultations Provided by a Rent Program Services Analyst</b>	<b>397</b>
Calls Received ( <i>Phone Counseling Sessions</i> )	178
Emails Received	219
<b>Total Consultations Provided in a Language other than English</b>	<b>65</b>
Consultations Provided in Spanish	65
Legal Service Referral Forms Completed	7
Courtesy Compliance Letters Mailed	5
Community Workshop Webinar Attendees ( <i>06/27/2020</i> ) <i>Rights and Responsibilities for Richmond Tenants</i>	15
<b>Total Hard Copy Notices Processed</b>	<b>5</b>
Hard Copy Rent Increase Notices Processed	3
Hard Copy Termination of Tenancy Notices Processed	2

<b>BILLING AND REGISTRATION UNIT</b>	<b><i>Occurrences</i></b>
<b>Total Consultations with a Billing and Registration Unit Staff Member</b>	<b>57</b>
Phone Call Consultations	11
Email Consultations	46
Enrollment/Tenancy Registration Packets Mailed	1
Enrollment Forms Processed	14
Invoices Generated	15
Payments/Checks Processed	8
Property Information Updated	104
Total Monthly Revenue Collected ( <i>06/01/2020 – 06/30/2020</i> )	\$35,425

## ITEM F-2

<b>BILLING AND REGISTRATION UNIT (continued)</b>	<b>Occurrences</b>
Total Revenue Collected in FY 2019-20 ( <i>through 06/30/2020</i> )	\$2,684,284
Total Revenue Collected in FY 2018-19	\$2,189,836
Total Revenue Collected in FY 2017-18	\$2,173,778

<b>LEGAL UNIT</b>	<b>Occurrences</b>
Public Records Act Requests Received	4
Subpoenas Received	1

<b>HEARINGS UNIT</b>	<b>Occurrences</b>
<b>Total Consultations with Hearings Unit Coordinator</b>	<b>59</b>
Calls/Placed Received ( <i>Regarding Hearings and Petitions</i> )	6
Emails Sent/Received ( <i>Regarding Hearings and Petitions</i> )	53
<b>Total Landlord Petitions Received</b>	<b>0</b>
<b>Total Tenant Petitions Received</b>	<b>1</b>
Tenant Petitions Based on a Decrease in Space, Services, or Habitability Received	1
<b>Total Number of Pending Petition Cases</b> ( <i>“Pending Petition Cases” are defined as those awaiting an objection response, a decision is pending, a decision has been issued with an appeal deadline approaching, or where an upcoming hearing has been scheduled</i> )	<b>23</b>
Pending Tenant Petitions ( <i>As of July 8, 2020</i> )	21
Pending Landlord Petitions ( <i>As of July 8, 2020</i> )	2
<b>Total Number of Cases Closed</b>	<b>1</b>
Decisions Ordered	1

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

<i>Type of Form</i>	<i>Monthly Submissions/ Notices Filed</i>	<i>Prior Month Total</i>	<i>% Change from Prior Month</i>
Agent Authorization	0	0	N/A
Proof of Excess Rent Refund	0	0	N/A
Proof of Permanent Relocation Payment	0	0	N/A
Proof of Temporary Relocation Payment	0	0	N/A
Change in Terms of Tenancy Notices Filed	0	0	N/A
Rent Increase Notices Filed	1	5	<b>(-80%)</b>
Termination Notices Filed <sup>1</sup>	4	6	<b>(-99.6%)</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.

**ITEM F-2**

<i>Type of Form (continued)</i>	<i>Monthly Submissions/ Notices Filed</i>	<i>Prior Month Total</i>	<i>% Change from Prior Month</i>
<i>Applicable Just Cause for Eviction – Nonpayment of Rent</i>	1	5	<b>(-80%)</b>
<i>Applicable Just Cause for Eviction – Breach of Lease</i>	0	0	N/A
<i>Applicable Just Cause for Eviction- Withdrawal from Rental Market</i>	0	0	N/A
<i>Applicable Just Cause for Eviction – Owner Move In</i>	0	0	N/A
<i>Applicable Just Cause for Eviction - Nuisance</i>	3	1	200%
<b>Total Online Form Submissions</b>	<b>5</b>	<b>11</b>	<b>(-54.54%)</b>

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# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 15, 2020

Final Decision Date Deadline: July 15, 2020

**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 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 Rent Program FY 2019-20 Monthly Revenue and Expenditure Report through June 2020 – Rent Program (Paige Roosa 620-6537).

AGENDA ITEM NO:

**F-3.**

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**Rent Program**  
**FY2019-20 Monthly Revenue and Expenditure Report**

**ITEM F-3**

CHARACTER	OBJECT	ORIGINAL BUDGET	REVISED BUDGET	Per 1	Per 2	Per 3	Per 4	Per 5	Per 6	Per 7	Per 8	Per 9	Per 10	Per 11	Per 12	ENCUMBRANCES	YTD TOTAL	AVAILABLE BUDGET	% USED		
				Jul-2019	Aug-2019	Sept-2019	Oct-2019	Nov-2019	Dec-2019	Jan-2020	Feb-20	Mar-20	Apr-20	May-20	June-20						
34	LICENSES, PRMITS&FEES	340445	FEES/Admin Fees	(2,923,584.00)	(2,923,584.00)	(48,187.00)	(44,282.00)	(763,258.40)	(1,078,884.70)	(329,458.51)	(88,852.64)	(48,067.50)	(102,702.04)	(86,925.40)	(39,135.00)	(9,642.00)	(35,425.40)	(2,674,820.59)	(248,763.41)	91.5%	
			<b>TOTAL LICENSES, PRMITS&amp;FEES</b>	<b>(2,923,584.00)</b>	<b>(2,923,584.00)</b>	<b>(48,187.00)</b>	<b>(44,282.00)</b>	<b>(763,258.40)</b>	<b>(1,078,884.70)</b>	<b>(329,458.51)</b>	<b>(88,852.64)</b>	<b>(48,067.50)</b>	<b>(102,702.04)</b>	<b>(86,925.40)</b>	<b>(39,135.00)</b>	<b>(9,642.00)</b>	<b>(35,425.40)</b>		<b>(2,674,820.59)</b>	<b>(248,763.41)</b>	<b>91.5%</b>
36	INTEREST INCOME	361701	INT & INVEST/Poolled-All Other	-	-	-	(405.09)	(405.09)	(405.09)	-	-	(4,796.39)	-	(4,796.39)	-	-	-	(9,463.29)	(9,463.29)	100.0%	
			<b>TOTAL INTEREST INCOME</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(405.09)</b>	<b>(405.09)</b>	<b>(405.09)</b>	<b>-</b>	<b>-</b>	<b>(4,796.39)</b>	<b>-</b>	<b>(4,796.39)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(9,463.29)</b>	<b>(9,463.29)</b>	<b>100.0%</b>	
			<b>TOTAL REVENUE</b>	<b>(2,923,584.00)</b>	<b>(2,923,584.00)</b>	<b>(48,187.00)</b>	<b>(44,282.00)</b>	<b>(763,258.40)</b>	<b>(1,079,289.79)</b>	<b>(329,458.51)</b>	<b>(88,852.64)</b>	<b>(52,863.89)</b>	<b>(102,702.04)</b>	<b>(86,925.40)</b>	<b>(43,396.81)</b>	<b>(9,642.00)</b>	<b>(35,425.40)</b>	<b>-</b>	<b>(2,684,283.88)</b>	<b>(239,300.12)</b>	<b>91.8%</b>
40	SALARIES AND WAGES	400001	SALARIES & WAGES/Executive	638,840.00	638,840.00	45,721.34	45,721.34	46,161.77	57,291.13	55,587.34	55,587.34	55,587.34	55,587.34	55,587.34	55,587.34	55,587.34	639,594.30	(754.30)	100.1%		
40	SALARIES AND WAGES	400002	SALARIES & WAGES/Mgmt-Local 21	328,471.00	328,471.00	25,855.14	25,990.20	25,450.00	25,217.18	20,546.80	20,681.85	27,336.55	23,941.91	20,478.58	19,184.38	14,895.81	13,501.88	263,080.28	65,390.72	80.1%	
40	SALARIES AND WAGES	400003	SALARIES & WAGES/Local 1021	193,710.00	193,710.00	6,159.36	5,359.52	5,359.52	5,359.52	14,620.74	14,753.73	16,540.95	15,832.70	15,832.70	15,832.70	15,832.70	150,316.84	43,393.16	77.6%		
40	SALARIES AND WAGES	400006	SALARIES & WAGES/PT- Temp			2,437.82	5,474.22	5,797.13	6,944.06	4,714.16	2,819.75	1,948.20	3,168.38				45,403.04	(45,403.04)	100.0%		
40	SALARIES AND WAGES	400031	OVERTIME/General		5,000.00	525.26	184.56	606.65	490.35	287.50	-	-	-	-	-	-	2,094.32	2,905.68	100.0%		
40	SALARIES AND WAGES	400048	OTHER PAY/Bilingual Pay	7,457.00	7,457.00	508.27	497.16	497.16	507.02	1,455.82	490.90	726.30	1,005.69	913.22	887.34	801.56	9,064.12	(1,607.12)	121.6%		
40	SALARIES AND WAGES	400049	OTHER PAY/Auto Allowance	4,200.00	4,200.00	350.00	350.00	350.00	350.00	350.00	350.00	350.00	350.00	350.00	350.00	350.00	4,200.00	-	100.0%		
40	SALARIES AND WAGES	400050	OTHER PAY/Medical- in Lieu of	2,400.00	2,400.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	1,500.00	900.00	62.5%		
40	SALARIES AND WAGES	400079	COMP ABSENCES/WC-Prof-Mgt-Tec			810.30	675.24	1,215.44	1,080.40	270.10	135.05	135.05	1,006.64				5,328.22	(5,328.22)	100.0%		
			<b>TOTAL SALARIES AND WAGES</b>	<b>1,175,078.00</b>	<b>1,180,078.00</b>	<b>82,567.49</b>	<b>84,452.24</b>	<b>85,637.67</b>	<b>97,439.66</b>	<b>98,032.46</b>	<b>95,018.62</b>	<b>102,824.39</b>	<b>100,992.66</b>	<b>96,381.48</b>	<b>96,441.33</b>	<b>92,214.86</b>	<b>88,578.26</b>	<b>-</b>	<b>1,120,581.12</b>	<b>59,496.88</b>	<b>95.0%</b>
41	FRINGE BENEFITS	400103	P-ROLL BEN/Medicare Tax-ER Shr	15,560.00	15,560.00	1,212.88	1,228.09	1,249.79	1,427.80	1,425.19	1,382.93	1,427.72	1,421.82	1,401.85	1,351.31	1,291.74	16,388.94	(828.94)	105.3%		
41	FRINGE BENEFITS	400105	P-ROLL BEN/Health Insurance Be	196,647.00	196,647.00	12,634.32	12,634.32	10,631.48	12,172.12	12,942.44	11,215.36	11,215.36	11,215.36	11,215.36	10,444.52	10,444.52	137,980.52	58,666.48	70.2%		
41	FRINGE BENEFITS	400106	P-ROLL BEN/Dental Insurance	17,736.00	17,736.00	1,231.50	1,231.50	1,108.35	1,354.65	1,600.95	1,477.80	1,354.65	1,354.65	1,354.65	1,231.50	1,231.50	16,009.50	1,726.50	90.3%		
41	FRINGE BENEFITS	400109	P-ROLL BEN/Employee Assistance	528.00	528.00	36.40	36.40	32.76	40.04	47.32	43.68	43.68	40.04	40.04	40.04	36.40	473.20	54.80	89.6%		
41	FRINGE BENEFITS	400110	P-ROLL BEN/Professional Dev-Mg	6,750.00	6,750.00	823.99	312.75	750.00	98.31	750.00	98.31	750.00	1,436.61	5,199.91	750.00	278.25	5,199.91	1,550.09	77.0%		
41	FRINGE BENEFITS	400111	P-ROLL BEN/Vision	2,316.00	2,316.00	161.00	161.00	144.90	177.10	209.30	193.20	193.20	177.10	177.10	161.00	161.00	2,093.00	223.00	90.4%		
41	FRINGE BENEFITS	400112	P-ROLL BEN/Life Insurance	5,752.00	5,752.00	476.69	295.36	286.66	363.53	354.98	346.28	346.28	318.19	318.19	290.10	291.40	4,005.85	1,746.15	69.6%		
41	FRINGE BENEFITS	400114	P-ROLL BEN/Long Term Disabilit	12,342.00	12,342.00	759.77	766.30	753.23	904.72	885.18	873.75	961.44	872.93	872.93	788.51	788.51	10,100.20	2,241.80	81.8%		
41	FRINGE BENEFITS	400116	P-ROLL BEN/Unemployment Ins	5,472.00	5,472.00	456.00	494.00	494.00	570.00	570.00	532.00	494.00	494.00	494.00	418.00	456.00	5,890.00	(418.00)	107.6%		
41	FRINGE BENEFITS	400117	P-ROLL BEN/Personal/Prof Dev	2,250.00	2,250.00						1,492.81					1,492.81	757.19	66.3%			
41	FRINGE BENEFITS	400121	P-ROLL BEN/Worker Comp-Clerica	11,943.00	11,943.00	724.27	505.27	535.07	640.95	1,289.93	1,204.50	1,124.05	1,236.68	1,241.41	1,091.88	1,382.44	1,178.00	12,154.45	(211.45)	101.8%	
41	FRINGE BENEFITS	400122	P-ROLL BEN/Worker Comp-Prof	64,809.00	64,809.00	4,795.64	4,804.68	4,797.99	5,792.77	5,100.96	5,110.01	5,555.88	5,328.45	5,096.40	5,009.69	4,722.36	4,628.96	60,743.79	4,065.21	93.7%	
41	FRINGE BENEFITS	400124	P-ROLL BEN/CON-MEDICL EE Share	(12,000.00)	(12,000.00)												-	(12,000.00)	0.0%		
41	FRINGE BENEFITS	400127	P-ROLL BEN/OPEB	34,731.00	34,731.00	3,319.21	3,188.76	3,206.83	3,810.28	3,733.41	3,793.54	4,056.06	3,952.58	3,769.24	3,716.16	3,540.27	3,536.93	43,623.27	(8,927.27)	125.6%	
41	FRINGE BENEFITS	400130	P-ROLL BEN/PARS Benefits			17.60	39.36	46.85	58.18	57.56	36.67	25.33	41.20	41.87	20.79	61.72	(12.93)	434.20	(434.20)	100.0%	
41	FRINGE BENEFITS	400131	P-ROLL BEN/CON-OPEB-EE Share	(9,600.00)	(9,600.00)												-	(9,600.00)	0.0%		
41	FRINGE BENEFITS	400149	P-ROLL BEN/PERS-Misc	152,604.00	152,604.00	10,605.24	10,423.59	10,576.58	12,005.22	12,116.37	11,969.35	13,102.61	12,717.07	12,121.22	11,948.82	11,377.53	11,652.51	140,616.11	11,987.89	92.1%	
41	FRINGE BENEFITS	400151	P-ROLL BEN/PERS-Misc (UAL)	232,068.00	232,068.00	18,545.34	16,859.40	16,859.40	18,545.34	21,917.22	21,917.22	20,231.28	20,231.28	18,545.34	18,545.34	16,859.40	16,859.40	225,915.96	6,152.04	97.3%	
			<b>TOTAL FRINGE BENEFITS</b>	<b>739,908.00</b>	<b>739,908.00</b>	<b>55,799.85</b>	<b>52,668.03</b>	<b>55,799.85</b>	<b>58,612.70</b>	<b>62,250.81</b>	<b>60,194.60</b>	<b>62,597.50</b>	<b>59,447.35</b>	<b>58,146.18</b>	<b>56,130.80</b>	<b>53,453.06</b>	<b>52,784.19</b>	<b>683,121.71</b>	<b>56,786.29</b>	<b>92.3%</b>	
42	PROF & ADMIN SERVICES	400201	PROF SVCS/Professional Svcs	43,500.00	49,175.00			4,938.95	4,000.91	493.66	471.48	66.30	24,928.92	774.94	803.79	654.42	13,449.84	50,583.21	(1,408.21)	102.9%	
42	PROF & ADMIN SERVICES	400206	PROF SVCS/Legal Serv Cost	215,000.00	210,000.00	10,416.00	10,416.00	10,416.00	22,916.00	22,916.00	10,416.00	22,916.00	33,332.00	10,416.00	16,666.00	27,082.00	56,256.00	243,748.00	(33,748.00)	116.1%	
42	PROF & ADMIN SERVICES	400242	TRAVEL & TRNG/Mileage	1,000.00	1,000.00							17.07					17.07	982.93	1.7%		
42	PROF & ADMIN SERVICES	400243	TRAVEL & TRNG/Conf, Mtng Trng	2,000.00	2,000.00												-	2,000.00	0.0%		
42	PROF & ADMIN SERVICES	400245	TRAVEL & TRNG/Tuition Rmb/Cer	-	-								800.00				800.00	(800.00)	100.0%		
42	PROF & ADMIN SERVICES	400261	DUES & PUB/Memberships & Dues	6,000.00	6,000.00								544.00	1,046.43			1,590.43	4,409.57	26.5%		
42	PROF & ADMIN SERVICES	400262	DUES & PUB/Books & Subs	200.00	200.00												200.00	0.0%			
42	PROF & ADMIN SERVICES	400271	AD & PROMO/Advertising&Promo	2,000.00	2,000.00		37.00		102.95	126.00	438.60	89.00	89.00	89.00	442.88	484.07	1,898.50	101.50	94.9%		
42	PROF & ADMIN SERVICES	400272	AD & PROMO/Community Events	2,500.00	2,500.00				1,722.10								1,722.10	777.90	68.9%		
42	PROF & ADMIN SERVICES	400280	ADM EXP/Program Supplies			(196.52)	213.84		96.00	208.36	312.04	96.00	96.00	286.46	195.96		1,404.14	(1,404.14)	100.0%		
			<b>TOTAL PROF &amp; ADMIN SERVICES</b>	<b>272,200.00</b>	<b>272,875.00</b>	<b>(196.52)</b>	<b>10,666.84</b>	<b>10,416.00</b>	<b>29,776.00</b>	<b>27,251.27</b>	<b>11,660.30</b>	<b>24,133.55</b>	<b>2,097.73</b>	<b>58,445.92</b>	<b>11,190.94</b>	<b>18,199.13</b>	<b>28,416.45</b>	<b>69,705.84</b>	<b>301,763.45</b>	<b>(28,888.45)</b>	<b>110.6%</b>
43	OTHER OPERATING	400231	OFF EXP/Postage & Mailing	20,000.00	20,000.00	88.20	1,344.50	1,839.55	147.10	87.05	66.95	151.00	1,956.60	16.50	85.65	37.95	17.00	5,838.05	14,161.95	29.2%	
43	OTHER OPERATING	400232	OFF EXP/Printing & Binding																		

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# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: July 15, 2020

Final Decision Date Deadline: July 15, 2020

**STATEMENT OF THE ISSUE:** Between 2019 and 2020, owners of 1,087 dwelling units sought a determination of exemption or inapplicability of the Rent Ordinance because the dwelling units were owner occupied, offered "rent-free," or not available for rent. To date, such requests have been processed and granted administratively. Staff members are proposing amendments to Chapter 2 of the Rent Board's regulations to strengthen the policies and procedures by which claims of exemption or inapplicability from the Rent Ordinance are granted or denied to ensure a thorough and consistent process.

## 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:** ADOPT revised Chapter 2 Regulations, concerning the process whereby property owners may seek an exemption or determination of inapplicability of a dwelling unit from provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

AGENDA ITEM NO:

**H-1.**

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# AGENDA REPORT

**DATE:** July 15, 2020

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

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

**SUBJECT:** REVISED CHAPTER 2 RENT BOARD REGULATIONS

## **STATEMENT OF THE ISSUE:**

Between 2019 and 2020, owners of 1,087 dwelling units sought a determination of exemption or inapplicability of the Rent Ordinance because the dwelling units were owner occupied, offered “rent-free,” or not available for rent. To date, such requests have been processed and granted administratively. Staff members are proposing amendments to Chapter 2 of the Rent Board’s regulations to strengthen the policies and procedures by which claims of exemption or inapplicability from the Rent Ordinance are granted or denied to ensure a thorough and consistent process.

## **RECOMMENDED ACTION:**

ADOPT revised Chapter 2 Regulations, concerning the process whereby property owners may seek an exemption or determination of inapplicability of a dwelling unit from provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

## **FISCAL IMPACT:**

While these regulations will require involvement from staff members in the Billing and Registration, Management, and Hearings Units, it is not anticipated that additional FTEs will be required to administer this process. The development of a more robust exemption process is anticipated to bolster compliance with payment of the Rental Housing Fee, which could create a positive fiscal impact on the Program.

**DISCUSSION:**Background and Purpose of Revised Chapter 2 Regulations

Chapter 2 of the Rent Board's adopted regulations, titled "Applicability" was initially adopted in late 2017 to clarify those types of dwelling units fully and partially exempt from the Rent Ordinance. Chapter 2 was later expanded in 2018 to define Rooming and Boarding houses and create a process whereby a property owner could request a determination of, and challenge, a unit's exempt status.

Over 6,000 units in the Rent Program's database of housing units are currently catalogued as conditionally fully exempt from the Rent Ordinance. As described on page 24 of the Board's approved Fiscal Year 2020-21 Rental Housing Fee study, there are currently 5,463 units in the Rent Program's database of housing units that are classified as "Owner Occupied," 250 that are classified as "Rent-Free," and 317 units that are classified as "Not Available for Rent." Between 2019 and 2020, owners of 1,087 dwelling units sought such a determination on these grounds.

In its current form, Chapter 2 does not contemplate a procedure whereby an owner can request a determination of inapplicability because a dwelling unit is owner occupied or does not meet the requirements of a Rental Unit as defined by the Rent Ordinance because there is no Rent exchanged or the unit is not available for rent (and is, instead, for example, used for storage space.) As a result, staff members lack Board-approved policy guidance as it relates to enforcing requirements such as property enrollment, tenancy registration, and payment of the Rental Housing Fee. The proposed regulations would provide this necessary policy guidance, while also establishing exemption procedures for exempt categories of units, including but not limited to hotels, motels, medical care facilities, dormitories, and governmentally subsidized units.

Case Study Research

To understand how requests for exemption are handled in peer rent control jurisdictions, staff members consulted with staff in the City of Berkeley, City of West Hollywood, and City of Santa Monica to learn about their existing policies and procedures. While staff members in these jurisdictions provided valuable insight, Richmond's Rent Program is unique in its regulation of single-unit properties, particularly in terms of the tiered Rental Housing Fee. To that end, the proposed Regulations glean best practices from the case study research where feasible and tailor policies to Richmond as appropriate.

Summary of Proposed Regulations

The proposed regulations would create a process and procedures whereby property owners can obtain a Rent Board ruling on the applicability of the Rent Ordinance on a dwelling unit. The following sections of this report describe the process and exemption standards for various types of dwelling units. The proposed regulations specify that the

Rent Board or Executive Director shall make a determination within 120 calendar days of the filing of the application.

***Proposed Process and Partial Exemption Standards for Hotels, Motels, Inns, Tourist Homes, and Rooming and Boarding Houses (Just Cause for Eviction provisions may still apply)***

To request a Rent Board ruling on the applicability of the rent control provisions of the Rent Ordinance to a hotel, motel, inn, tourist home, or rooming and boarding house, the Landlord would be required to fill out an application on an official Rent Program form and include in their application occupancy records for the past three years for every Rental Unit of the Property for which the applicant seeks an exemption. With the application, the Executive Director or their designee may conduct an investigation and:

- a. Issue a recommendation to the Rent Board regarding the application
- b. Direct a Hearing Examiner to hold a hearing for the purpose of reviewing evidence upon which to make a determination of exemption and issue a recommendation to the Rent Board
- c. Request the Rent Board hold a hearing on the matter and render a decision

In all cases, staff members may independently identify a characteristic that deems the units exempt, absent an application (e.g. the Marriott).

The proposed regulations specify that the Rent Board or Executive Director shall determine that the dwelling unit is exempt from the Rent Control provisions of the Rent Ordinance upon making the following findings:

- The property is a hotel, motel, inn, tourist home, or rooming and boarding house in which Rental Units at the Property are primarily for use by transient guests for period of fewer than 14 calendar days.
- The property owner pays a hotel tax and has approval to operate in the City of Richmond.

***Proposed Process and Full Exemption Standards for Hospital, Convent, Monastery, Extended Medical Care Facility, Asylum, Non-Profit Home for the Aged or Dormitories Owned and Operated by an Accredited Institution of Higher Education***

To request a Rent Board ruling on the applicability of the Rent Ordinance to a hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education, the property owner would be required to fill out an application on an official Rent Program form. With the application, the Executive Director or their designee may conduct an investigation and:

- a. Issue a recommendation to the Rent Board regarding the application

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- b. Direct a Hearing Examiner to hold a hearing for the purpose of reviewing evidence upon which to make a determination of exemption and issue a recommendation to the Rent Board
- c. Request the Rent Board hold a hearing on the matter and render a decision

In all cases, staff members may independently identify a characteristic that deems the units exempt, absent an application (e.g. Kaiser Hospital).

The proposed regulations specify that the Rent Board or Executive Director shall determine that the dwelling unit is exempt from all provisions of the Rent Ordinance upon making the following findings:

- The applicant must be an organization exempt from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code provided that the gross income derived from the subject Property does not constitute unrelated business income as defined in Section 512 of the Internal Revenue Code.
- Housing Services are or will be a necessary part of the social service program at the subject Program, and the Rental Units for which an exemption is sought shall be used for residential housing purposes as part of the social service program.
- The applicant is proceeding and at all relevant times has proceeded in good faith to effectuate the purposes for which the applicant seeks exemption.

### ***Proposed Process and Partial Exemption Standards for Governmentally Subsidized Rental Units (Just Cause for Eviction requirements still apply)***

To request a Rent Board ruling on the applicability of the rent control provisions of the Rent Ordinance to a governmentally subsidized rental unit, the Landlord would be required to fill out an application on an official Rent Program form. The applicant would be required to include in their application documentation that shows that an agreement exists between the applicant and a government entity during the periods in which exemption is sought. In addition, within five business days of filing of an application, the applicant must serve a copy of the submitted application, along with a Rent Board response form, on the occupant(s) for every Rental Unit for which the applicant seeks an exemption. With the application, the Executive Director or their designee may conduct an investigation and:

- a. Issue a recommendation to the Rent Board regarding the application
- b. Direct a Hearing Examiner to hold a hearing for the purpose of reviewing evidence upon which to make a determination of exemption and issue a recommendation to the Rent Board
- c. Request the Rent Board hold a hearing on the matter and render a decision

In all cases, staff members may independently identify a characteristic that deems the units exempt from rent control, absent an application (e.g. Richmond Housing Authority units).

The proposed regulations specify that the Rent Board or Executive Director shall determine that the dwelling unit is exempt from the Rent Control provisions of the Rent Ordinance upon making the following findings:

- The Owner has a written regulatory agreement with a government entity whereby the Owner has agreed to restrict their Rents; or
- A government unit, agency, or authority owns, operates, or manages the Rental Unit; or
- The owner has contracted with a government entity to enter into the Section 8 Housing Choice Voucher program, and the Rental Unit's rents do not exceed the Payment Standard as published by HUD.

***Proposed Process and Exemption Standards for Rental Units Fully or Partially exempt from the Rent Ordinance Under the Costa-Hawkins Rental Housing Act, units where the Landlord shares a kitchen and/or bath with the Tenant, and units permitted as Accessory Dwelling Units, as well as Temporary Tenancies described in RMC 11.100.040(a)(1)***

To request a Rent Board ruling on the applicability of the Rent Ordinance to Rental Units exempt from Rent Control under the Costa-Hawkins Rental Housing Act, Rental Units where the Landlord shares a kitchen and/or bath with the Tenant, Rental Units permitted as Accessory Dwelling Units, and units that meet the criteria of a Temporary Tenancy under RMC 11.100.040(a)(1), the Landlord would be required to fill out an application on an official Rent Program form. Within 45 calendar days of the submission of the application, the Executive Director or their designee would be required to make an administrative determination of exempt status of the property. The determination may be appealed to the Hearing Examiner through the petition process (*this process reflects the current Administrative Determination of Exempt Status procedure currently codified in Regulations 205-207*).

***Proposed Process and Exemption Standards for Determining the Applicability of the Rent Ordinance on a Dwelling Unit***

To request a Rent Board ruling on the applicability of the Rent Ordinance to a dwelling unit that the property owner claims does not meet the definition of a Rental Unit in the Ordinance, the Landlord would be required to fill out an application on an official Rent Program form. For all claims of inapplicability, the applicant must demonstrate that they have at least 50% recorded interest in the property. In addition, for claims of owner occupancy, the applicant must demonstrate by a preponderance of evidence that they have resided on the property as their primary residence for a minimum of 120 consecutive days prior to the date of the application.

Within five business days of a completed application, the Rent Program shall mail a copy of the application for exemption to each unit at the Property along with an Official Rent Program notice of filing and Tenant response form.

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Prior to the Rent Board making a final determination, the Executive Director or their designee may:

- Where the facts are not in dispute, issue a recommendation to the Rent Board regarding the application. The recommendation shall be placed on the Consent Calendar, without a hearing, to be approved by the Rent Board.
- Direct a Hearing Examiner to hold a hearing for the purpose of reviewing evidence upon which to make a determination of applicability and issue a recommendation to the Rent Board of affirmation or denial of applicability status.

Hearings concerning the applicability status of a dwelling unit would proceed in a manner consistent with Chapter 8 of the Rent Board Regulations, except for the following instances:

- No “objection form” shall be sent to the parties. Rather, the responding party has 10 business days to return the response form, which Billing and Registration staff members mailed within five business days of receipt of the application.
- A hearing shall be scheduled within 21 calendar days from the date the applicant submitted the application
- At the discretion of the Executive Director, a Rent Program staff member may conduct an inspection of the Property, subject to the consent of the owner or occupant of the property. If an inspection is conducted, staff shall prepare a report detailing their findings and submit the report to the Hearing Examiner. The individual must avail themselves to questions at the hearing from the Hearing Examiner and parties.
- The Hearing Examiner may request a staff members’ presence at the hearing to secure relevant testimony. The Rent Program shall, within 5 business days from the scheduled hearing, notify all parties of the name and title of the Rent Program witness and send a copy of all documentation the witness intends to rely on during the hearing.

Within 30 calendar days from the date of the hearing on an application of Richmond Municipal Code Chapter 11.100, applicability, the Hearing Examiner shall issue a recommendation to the Rent Board to either grant or deny the application. This deadline may be extended by written waiver executed by the applicant.

The Hearing Examiner’s recommendation shall include proposed factual findings and conclusions of law regarding the following:

- The number of units at the subject property, including units on any contiguous lots or parcels in which applicant has at least a fifty percent (50%) interest
- The percentage of ownership interest in the property held by the applicant
- Evidence of the applicant’s occupancy at another address, and the dates of such occupancy

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- Whether the applicant has continuously resided at the property as their Primary Residence beginning at least one hundred twenty (120) calendar days prior to the date of the filing of the exemption application
- Whether the applicant is entitled to receive Rent or has received Rent
- Whether the property has been enrolled or registered within twelve (12) months from the date the applicant submitted their application
- Whether the applicant holds a current business license and/or has registered their Property with the Richmond Rental Inspection Program.

Upon completion by the Hearing Examiner of the recommendation to the Board, the Hearings Unit shall send the applicant and all occupants of the property a copy of the recommendation, and staff shall agendaize the matter for the Rent Board meeting held in the following month. The applicant, any occupant of the property, any authorized representative of the owner or occupant, or any other interested person may file a written response to the recommendation. The response must be received by the Board at least 14 calendar days prior to the date set for Board hearing on the recommendation. Upon a showing of good cause, the Board may accept a later filing of the response/request.

The parties shall present their matter before the Rent Board as follows:

- Oral arguments and presentations by the parties shall not exceed seven minutes per party. The Rent Board Chair may extend the time.
- If any party claims there is new evidence available at the time of the Rent Board hearing which was undiscoverable at the time of the hearing before the Hearing Examiner, that party must make an offer of proof to the Board regarding the evidence and why it was undiscoverable previously. If a majority of Rent Board members find that the offer of proof is sufficient, they may agree to receive the new evidence at the time of the Rent Board hearing, but may limit the time for presenting such evidence.
- If the Rent Board agrees to receive new evidence, and the applicant agrees to waive time deadlines, the Rent Board may refer the matter back to a Hearing Examiner for presentation of the evidence and preparation of a new Recommendation.

The proposed regulations specify that the Rent Board shall determine that the dwelling unit is exempt from the Rent Control provisions of the Rent Ordinance upon making the following findings:

- The applicant owns at least a fifty percent (50%) interest in the Property for which the determination is being sought and has owned fifty percent (50) interest since the date of filing the application
- The unit is a not Rental Unit pursuant to Richmond Municipal Code Section 11.100.030(m)
- There does not exist a Rental Housing Agreement as defined by Richmond Municipal Code Section 11.100.030(k)

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- There is not a person referenced in the application who either receives or who would otherwise be entitled to receive Rent as defined by Richmond Municipal Code Section 11.100.030(j). For purposes of this section, a person who is “entitled to receive” need not actually receive Rent. Rather, they need only to be the one who would receive Rent if Rent was actually paid.
- If the applicant claims the unit is owner-occupied, the owner has resided at the property as their Primary Residence beginning at least one hundred twenty (120) calendar days prior to filing of the application for exemption.

Where the dwelling unit for which the determination is sought has been rented or offered for rent in the same fiscal year in which the applicant filed for a determination of inapplicability, the Rent Board shall find that the provisions of RMC 11.100 apply, and shall only consider the full or partial exempt status of the unit.

Rent Board determinations that the Rent Ordinance does not apply to the dwelling unit are proposed to remain in effect so long as the grounds the Rent Board relied on to make that determination hold true. If the unit becomes a Rental Unit, under the proposed regulations, the Landlord is required to submit a Property Enrollment form listing all Rental Units and complete a Tenancy Registration form for all tenancies in Controlled Rental Units within 30 calendar days of the change in circumstances.

The proposed regulations also reserve the right of Rent Program staff members to perform routine exemption verification activities which may require the property owner to re-submit documentation to substantiate that the determination of inapplicability of RMC 11.100 should be maintained. If staff members are unable to secure the requested documentation to maintain such determination, the property owner may be required to re-apply for such determination consistent with the procedures outlined in this regulation.

### Next Steps

Should the Rent Board elect to adopt the proposed regulations, staff members anticipate completion of the following next steps prior to the regulations becoming effective 30 calendar days following the date of adoption, consistent with Regulation 323:

- Application forms will be developed, translated, and converted to fillable PDFs
- The Rent Program website will be updated to reflect adopted policies and procedures
- Rent Program staff members will be trained on adopted policies and procedures

### **DOCUMENTS ATTACHED:**

Attachment 1 – Proposed Revised Chapter 2 Regulations  
Attachment 2 – Existing Chapter 2 Regulations

**Chapter 2: APPLICABILITY**

**200. Purpose**

The purpose of this Chapter 2 is to describe those categories of properties which are exempt from the provisions of Richmond Municipal Code Section 11.100 et. Seq., and to provide process and procedures whereby Landlords and Tenants can obtain a Rent Board ruling on the applicability of the provisions Richmond Municipal Code Section 11.100 et. Seq., to a Rental Unit.

*[Formerly Regulation 17-01; Adopted November 15, 2017]*

**200.5. Exemption Procedures**

A Rental Unit shall not be considered exempt from the provisions of Richmond Municipal Code Section 11.100 et. Seq., until the Landlord of said Rental Unit has applied for, and received, a determination by the Richmond Rent Board that such Rental Unit is exempt.

**201. Exemption Procedures for Rental Units in Hotels, Motels, Inns, Tourist Homes and Rooming and Boarding Houses (Exemption from Rent Control Only, Just Cause Still Applies)**

- A. Scope of Section. Hotels, motels, inns, tourists homes and rooming and boarding houses shall not be considered exempt from the provisions of Richmond Municipal Code 11.100.et.seq., unless and until the Landlord of the Property has applied for, and received, a determination that such units are exempt or a Rent Program staff member has independently identified a characteristic for the exemption of the aforementioned Rental Unit(s).
- B. Filing of Application and Notice Thereof. Any person seeking an exemption determination under this section must make application on an Official Rent Program form. The applicant must append to their application occupancy records for the past three years for every Rental Unit of the Property for which the applicant seeks an exemption. Failure to provide such records may result in dismissal of the application and any outstanding invoiced Residential Housing Fee shall be due.
- C. Determination. As soon as practicable after the filing of an application, and in no event later than one hundred and twenty (120) days from the date of filing, the Rent Board or Executive Director shall make a determination as to the exempt or non-exempt status of the Rental Unit. Prior to the Rent Board making its final determination, the Executive Director of the Rent Program or their designee may do any of the following:
  - 1. Issue a recommendation to the Rent Board related to the application, for their final determination of affirmation or denial of exempt status.
  - 2. Direct a Hearing Examiner to hold a hearing for the purpose of receiving evidence upon which to make the determination of exemption. In the event that the Hearing Examiner conducts a hearing, the hearing shall be held no later than forty-five (45) days from the filing of the application. At the conclusion of the hearing, the Hearing Examiner shall issue a

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recommendation to the Rent Board for their final determination of affirmation or denial of exempt status.

3. Request the Rent Board hold a hearing on the matter and render a final determination as to the exempt status of the Rental Unit(s) contained in the application.

D. Standards for Exemption. The Rent Board or Executive Director shall determine that the Rental Unit is exempt from only the Rent Control provisions of Richmond Municipal Code Section 11.100.et.seq., upon making the following findings and subject to the provisions set forth in subsection (E):

1. The Property is a hotel, motel, inn, tourist home, or rooming and boarding house in which Rental Units at the Property are primarily for use by transient guests for a period of fewer than fourteen (14) days.
2. The property owner pays a hotel tax and has approval to operate a hotel, motel, etc., within the City limits of Richmond.

E. Exemption Exceptions. A determination of exemption shall not apply to Rental units occupied by an individual in any of the following circumstances:

1. The current occupant has continuously resided on the Property, whether in the Rental Unit currently occupied or in another unit, for at least fourteen (14) days as of the date of the Landlord's filed application; or
2. The current occupant has an oral or written agreement entered into with the Landlord or Landlord's agent to reside in the Rental Unit for a period of fourteen (14) days or more.

F. Burden of Proof. An applicant shall have the burden of proving entitlement to an exemption under this section. The applicant may produce as evidence, the records of occupancy required to be kept and documentation of transient occupancy taxes paid to the City of Richmond under Richmond Municipal Code Chapter 7.88.

G. Effective Date of Exemption. Upon determination by the Rent Board or Executive Director that a Rental Unit is exempt from the Rent Control provisions of Richmond Municipal Code Section 11.100.et.seq., the Landlord shall not be responsible for the Residential Housing Fees application to Fully Covered Units that fall within the exemption period. The Landlord shall still be responsible for the Just-Cause portion of the Residential Housing Fee, if applicable.

H. Expiration of Exemption. If the use of a hotel, motel, inn, tourist home, rooming house or boarding house which has been granted an exemption under this section changes such that the Rental Units on the Property are no longer rented primarily for use by transient guests, or the Rental Unit is being rented to the same occupant for a period of fourteen (14) or more days, the exemption shall automatically expire, and the Landlord shall be invoiced the full Residential Housing Fee for the fiscal year in which the exemption expired. At all times, the Landlord shall adhere to Regulation 403, where applicable. Where an exempt status change has occurred, the Landlord may be required to submit a

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new or revised enrollment and tenancy registration form prior to being considered compliant with the edicts of the Richmond Fair Rent, Just Cause, and Homeowner Protection Ordinance.

- I. Scope of Exemption. The granting of an exemption shall not in any way deprive the then current occupants of the effected property of any of the protections they may have under the Just Cause provisions of Richmond Municipal Code Section 11.100.050. The exemption set forth in this Regulation shall only apply to the Rent Control provisions of Richmond Municipal Code Section 11.100.et.seq.

## **202. Rooming and Board Houses**

- A. Definition. For purposes of Regulation 201, Rooming and Boarding house(s) shall mean any building or portion thereof other than a hotel containing at least five (5) rooms individually offered for rent or rented to at least five tenants under separate Rental Housing Agreements.
- B. Registration and Fee. Where any building, structure, or part thereof is considered a Rooming and Boarding house, each room shall be treated as an individual Rental Unit and must be individually registered with the Rent Program, in a manner consistent with Chapter 4 of these Regulations, and pay a fully covered Residential Housing Fee for the fiscal year.
- C. Indica of Rooming and Boarding House. Use of a single Rental Housing Agreement shall not be dispositive in determining whether a building, structure, or part thereof is a Rooming and Boarding house. Rather, the following factors shall be considered by the Rent Program when determining whether a building, structure, or part thereof is a Rooming and Boarding house:
  1. Whether the Landlord or Tenant maintains control over Tenant Replacement;
  2. Whether there is a single or multiple Rental Housing Agreement(s);
  3. The relationship between the Tenants of the Rooming and Boarding house;
  4. How Rent is distributed, collected, and/or paid to the Landlord;
  5. Access to common areas and/or housing services; and
  6. The period of occupancy set forth in each single or multiple Rental Housing Agreement.

This is not an exhaustive list and the Rent Program may consider other evidence that has a tendency to prove or disprove that a particular building, structure, or part thereof is a Rooming and Boarding house.

*[Adopted July 18, 2018]*

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**203. Exemption procedures for hospital, convent, monastery, extended medical care facility, asylum, or non-profit home for the aged or dormitory owned and operated by an accredited institution of higher education**

- A. Scope of Section. Hospitals, convents, monasteries, extended medical care facilities asylums, non-profit homes for the aged, and dormitory owned and operated by an accredited institution of higher education shall not be considered exempt from the provisions of Richmond Municipal Code 11.100.et.seq., unless and until either Landlord of the Property has applied for, and received, a determination that such units are exempt or a Rent Program staff member has independently identified a characteristic for the exemption of the aforementioned Rental Unit(s).
- B. Definition. For purposes of this Regulation 203, “non-profit homes for the aged,” shall mean any extended medical care facility, residential care facility, or skilled nursing facility which is currently licensed as a health care facility under California Administrative Code, Title 22, Division 5, Chapter 3, as amended. A skilled nursing facility means a health facility or a distinct part of a hospital which provides basic services, skilled nursing care, and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. It provides 24-hour in-patient care and, as a minimum, includes medical, nursing, dietary, pharmaceutical services and activity program.

Extended medical care facilities and Residential care facilities shall not include community care facilities or alcoholic or drug rehabilitation or detoxification centers. A community care facility means a facility which is maintained and operated to provide non-medical residential care. Alcohol and drug rehabilitation or detoxification centers mean recovery houses or other similar facilities providing living arrangements for persons recovering from alcoholism or drug addiction.

- C. Determination. As soon as practicable after the filing of an application, and in no event later than one hundred and twenty (120) days from the date of filing, the Rent Board or Executive Director shall make a determination as to the exempt or non-exempt status of the Rental Unit. Prior to the Rent Board making its final determination, the Executive Director of the Rent Program or their designee may do any of the following:
- a. Issue a recommendation to the Rent Board related to the application, for their final determination of affirmation or denial of exempt status.
  - b. Direct a Hearing Examiner to hold a hearing for the purpose of receiving evidence upon which to make the determination of exemption. In the event that the Hearing Examiner conducts a hearing, the hearing shall be held no later than forty-five (45) days from the filing of the application. At the conclusion of the hearing, the Hearing Examiner shall issue a recommendation to the Rent Board for their final determination of affirmation or denial of exempt status.
  - c. Request the Rent Board hold a hearing on the matter and render a final determination as to the exempt status of the Rental Unit(s) contained in the application.

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- D. Standard of Exemption. To qualify for an exemption under this Regulation, an applicant must meet the following requirements:
- i. The applicant must be an organization exempt from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code provided that the gross income derived from the subject Property does not constitute unrelated business income as defined in Section 512 of the Internal Revenue Code.
  - ii. Housing Services are or will be a necessary part of the social service program at the subject Program, and the Rental Units for which an exemption is sought shall be used for residential housing purposes as part of the social service program.
  - iii. The applicant is proceeding and at all relevant times has proceeded in good faith to effectuate the purposes for which the applicant seeks exemption.
- E. Duration of Exemption. The exemption shall last only so long as the applicant either uses the Rental Unit as a hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education, or the applicant gives up the exemption, whichever is sooner. The Rent Board may, after notice and hearing, revoke any exemption upon a showing that any of the conditions upon which the exemption was based no longer exists.
- F. Scope of Exemption. The granting of an exemption shall not in any way deprive the then current occupants of the effected property of any of the protections they may have under the Just Cause provisions of Richmond Municipal Code Section 11.100.050. The exemption set forth in this Regulation shall only apply to the Rent Control provisions of Richmond Municipal Code Section 11.100.et.seq.

## **204. Exemption Procedures for Governmentally Subsidized Rental Units.**

- A. Scope of Section. The following Rental Units shall not be considered exempt from the provisions of Richmond Municipal Code 11.100.et.seq., unless and until the Landlord of the Property has applied for, and received, a determination that such units are exempt or a Rent Program staff member has independently identified a characteristic for the exemption of the aforementioned Rental Unit(s):
1. Rental Units in which a Tenant household holds a Section 8 Housing Choice Voucher and where the Rent not does exceed the Payment Standard as published by the United States Department of Housing and Urban Development.
  2. Rental Units for which the Rent is subsidized by the Project-Based Section 8 Program
  3. Rental Units that are “rent restricted” in a Low-Income Housing Tax Credit Program Project. “Rent Restricted” means the rent charged for the Rental Unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.

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4. Rental Units for which the Rent is subsidized by the Section 202 Supportive Housing for the Elderly Program
5. Rental Units that are “Rent Restricted” under a regulatory agreement between a governmental agency and a property owner. “Rent Restricted” means the rent charged for the unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.
6. Rental Units which a governmental unit, agency, or authority, owns, operates or manages.

B. Filing of Application and Notice Thereof. Any person seeking an exemption determination under this section must make application on the Official Rent Program form. The applicant must appendage to their application documentation evidencing an agreement between the applicant and a government entity during the periods in which exemption is sought. Failure to provide such records may result in dismissal of the application and any outstanding invoiced Residential Housing Fee shall be due. Additionally, within **five** business days of filing of an application, the applicant must serve a copy of the submitted application, along with a Rent Board response form, on the occupant(s) for every Rental Unit for which the applicant seeks an exemption.

C. Determination. As soon as practicable after the filing of an application, and in no event later than one hundred and twenty (120) days from the date of filing, the Rent Board or Executive Director shall make a determination as to the exempt or non-exempt status of the Rental Unit. Prior to the Rent Board making its final determination, the Executive Director of the Rent Program or their designee may do any of the following:

1. Issue a recommendation to the Rent Board related to the application, for their final determination of affirmation or denial of exempt status.
2. Direct a Hearing Examiner to hold a hearing for the purpose of receiving evidence upon which to make the determination of exemption. In the event that the Hearing Examiner conducts a hearing, the hearing shall be held no later than forty-five (45) days from the filing of the application. At the conclusion of the hearing, the Hearing Examiner shall issue a recommendation to the Rent Board for their final determination of affirmation or denial of exempt status.
3. Request the Rent Board hold a hearing on the matter and render a final determination as to the exempt status of the Rental Unit(s) contained in the application.

D. Standards for Exemption. The Rent Board or Executive Director shall determine that the Rental Unit is exempt from only the Rent Control provisions of Richmond Municipal Code Section 11.100.et.seq., upon making the following findings and subject to the provisions set forth in subsection (E):

1. The Owner has a written regulatory agreement with a government entity whereby the Owner has agreed to restrict their Rents; or

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2. A governmental unit, agency, or authority owns, operates, or manages the Rental Unit; or
  3. The Owner has contracted with a government entity to enter into the Section 8 Housing Choice Voucher program, and the Rental Units' Rents do not exceed the Payment Standard as Published by the United States Department of Housing and Urban Development.
- E. Exemption Exceptions. A determination of exemption shall not apply to any Rental units under this section that fail to comply with the full provisions of Regulation 205.
- F. Burden of Proof. An applicant shall have the burden of proving entitlement to an exemption under this section. To make a prima facie showing of an exemption, the applicant must demonstrate either a regulatory agreement whereby the applicant's Rents are restricted, the applicant is a government entity that owns or manages the Rental Unit or the applicant is enrolled in the Section 8 Housing Choice Voucher Program. Failure to make a prima facie showing shall constitute insufficient evidence in meeting the burden of proof.
- G. Effective Date of Exemption. Upon determination by the Rent Board that a Rental Unit is exempt from the Rent Control provisions of Richmond Municipal Code Section 11.100.et.seq., the Landlord shall only be responsible for the partially-covered invoiced Residential Housing Fees that fall within the exemption period.
- H. Duration of Exemption. The Rental Rent shall automatically lose its exemption if there is no longer in effect a Tenant with a Section 8 Housing Choice Voucher in the Rental Unit, the Rental Unit is no longer in a Project-Based Section 8 Program, and/or the Rental Unit is no longer rent restricted under a regulatory agreement and/or declaration of restrictive covenants. Landlords remain obligated under Regulation 403 to notify the Richmond Rent Program of a change of circumstance impacting their exempt status.
- I. Scope of Exemption. The granting of an exemption shall not in any way deprive the then current occupants of the affected property of any of the protections they may have under the Just Cause provisions of Richmond Municipal Code Section 11.100.050. The exemption set forth in this Regulation shall only apply to the Rent Control provisions of Richmond Municipal Code Section 11.100.et.seq.

### **205. Maintaining an Exemption Pursuant to Regulation 204: Compliance with Applicable Laws and Regulations**

- A. Maintenance of Exemption. Notwithstanding Regulation 204, Rental Units described in Regulation 204 shall not be exempt from Section 11.100.070 of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance where the property owner has failed to substantially comply with all of the applicable provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, Rent Board Orders, Regulations, and/or Resolutions, as well as the Implied Warranty of Habitability as described in Civil Code 1941.1, and Richmond Municipal Code Section 6.40.040. This includes, but is not limited to, a property owners obligation to comply with the following:

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1. Timely payment of all owing Residential Rental Housing Fee. For purposes of this provision, a payment shall be considered timely where a property owner remits payment of the Residential Rental Housing Fee within 30 days from the date the Rent Program sends the invoice. Where there is a dispute in the amount owed, payment shall be considered timely where the owner remits payment of the Residential Rental Housing Fee within 30 days from the date the Rent Program sends the amended invoice. However, where the dispute is wholly concerned with assessed late fees, payment shall be considered timely where the owner remits payment of the Residential Rental Housing Fee within 5 business days from the date the Rent Program sends the amended invoice or 30 days from the date the Rent Program sent the initial invoice, whichever is later. If a dispute does not result in an amended invoice, payment shall be due within 30 days from the date the Rent Program sent the initial invoice;
  2. Payment of the Business License Tax pursuant to Richmond Municipal Code Section 11.100.060(1)(1);
  3. Enrollment of all applicable Rental Units pursuant to Regulation 405(B);
  4. All of the applicable provisions set forth in Resolution 19-01, as amended; and
  5. Any and all requirements set forth in any regulatory agreement executed between a developer and/or Property Owner and a Federal, State, or government entity.
- B. Where Rent Program Staff members have determined an Owner has failed to comply with any of the obligations set forth in Regulation 205(A), Rent Program Staff members shall immediately notify the Owner in writing of the obligation(s) the Owner has failed to satisfy. The written notification must identify the specific obligation(s) the Owner has failed to satisfy and provide the Owner up to 60 days from the date of mailing of the notification to bring itself into compliance with the identified obligation(s). If an Owner fails to timely comply with the obligation(s) identified in the Rent Program Staff member's written notification, Rent Program Staff members may agendaize an item of noncompliance for the next regularly scheduled Rent Board meeting. The agenda item shall include an identification of the specific Property that has failed to comply, specific findings of noncompliance, a recommendation of the removal of the exemption contained in Regulation 204 as it relates to the noncompliant Property, and any other information Rent Program staff member(s) deems relevant.
- C. In addition to Regulation 205(A), Rental Units described in Regulation 204 shall not be exempt from Section 11.100.070 of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance where there is no longer in effect (a) a tenant with a Section 8 Housing Choice Voucher in the Rental Unit, (b) the Rental Unit is no longer in a Project-Based Section 8 Program, and/or (c) the Rental Unit is no longer rent restricted under a regulatory agreement and/or declaration of restrictive covenants.
- D. Nothing in Regulation 205(A) and/or Regulation 205(B) shall preclude Tenants residing in Rental Units described in Regulation 204 from seeking advice or assistance from the Rent

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Program concerning applicable provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance and utilizing the remedies provided in the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, and accompanying Rent Board Regulations, to the extent permitted by Federal, State, and local law.

**206. Exemption Procedures for Temporary Tenancies, Rental Units that are Alleged to fall within the Costa-Hawkins Rental Housing Act, Rental Units where Landlord Shares a Kitchen and/or Bathroom with Tenant, and Rental Units that are permitted as Accessory Dwelling Units.**

- A. Scope of Section. Rental Units that either contain a Temporary Tenancy pursuant to Richmond Municipal Code section 11.100.030(q) and 11.100.040(a), are alleged to fall within the provisions of the Costa-Hawkins Rental Housing Act, are permitted as Accessory Dwelling Units, and/or Landlord is alleged to share a kitchen or bathroom with the Tenant, shall not be considered exempt from the provisions of Richmond Municipal Code 11.100.et.seq., unless and until the Landlord of the Property has applied for, and received, a determination that such Rental Units are exempt.
- B. Filing of Application and Notice Thereof. Any person seeking an exemption determination under this section must submit an application for an administrative determination of exemption qualification.
- C. Application for Exemption Determination. A Landlord may request that an administrative decision be rendered regarding the applicability of R.M.C. 11.100 et. seq (Fair Rent, Just Cause For Eviction, and Homeowner Protection Ordinance) on a property or unit owned or occupied by the requesting party. All requests for an administrative decision regarding exemption must be made on an Official Rent Program form. The Landlord must complete the approved form and attach sufficient information and documentation demonstrating a claimed exemption. The Landlord shall have the burden of proof of demonstrating a claimed exemption.
- D. Issuing an Administrative Decision on Exemption Status. The Executive Director or their designee shall make an administrative determination of exempt status of the property within forty-five (45) days from the date the Rent Program received the application for exempt status. In rendering an administrative decision, the Executive Director or assigned staff member may conduct an independent investigation into the underlying facts and rely on information and documentation obtained thereof. All administrative decisions rendered under this section shall adhere to the following:
1. All administrative decisions must be made in writing, provide an explanation of the basis for the decision with citations to R.M.C. 11.100 et.seq (Fair Rent, Just Cause For Eviction, and Homeowner Protection Ordinance), and adequately describe the evidence relied on in reaching the decision.

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2. All administrative decisions must be rendered within 30 days from the date of application. The Rent Program shall notify the Landlord and all Tenants in the affected unit, of its exemption determination.
- E. Request for a Hearing. If the applicant disagrees with the Executive Director or assigned staff member's administrative decision, the applicant may, within 15 days from the date of the administrative decision plus any additional time permitted under California Code of Civil Procedure Section 1013(a), as amended, file a request for hearing on exemption status. The hearing and any subsequent appeal shall be conducted in accordance with the rules and procedures set forth in Chapter 8 of these Regulations. In the event the matter goes to a hearing and the adjudicator grants an exemption, the adjudicator's decision shall specify the conditions necessary to maintain the exemption.
- F. Scope of Exemption. The scope of exemptions granted under this Regulation shall be the following:
1. Temporary Tenancy: Exemptions granted on the grounds of Temporary Tenancy, shall only apply to the Rent Control provisions of Richmond Municipal Code Section 11.100.et.seq.
  2. Rental Units lawfully permitted as Accessory Dwelling Units: Rental Units found to be exempt as lawfully permitted Accessory Dwelling Units shall be exempt from the entire Chapter of Richmond Municipal Code. 11.100.
  3. Rental Unit where property owner shares a bathroom or kitchen with Tenant: Rental Units found to be exempt on the basis that Landlord shares a kitchen and/or bathroom with the Tenant(s) shall be exempt from the entire Chapter of Richmond Municipal Code. 11.100.
  4. Rental Units exempt under the Costa Hawkins Rental Housing Act: Rental Units found to be exempt on the basis of the Costa Hawkins Rental Housing Act, shall only be exempt from the Rent Control provisions of Richmond Municipal Code Section 11.100.et.seq.
- G. Final Decision of the Rent Board. All administrative decisions rendered under this Regulation which are not proceeded by a filing of a request for hearing on exemption status in accordance with Regulation 206(E), shall be the final decision of the Rent Board.

### **207. Procedures for Determining the Applicability of Richmond Municipal Code Chapter 11.100.**

- A. Scope of Section. The full provisions of Richmond Municipal Code Chapter 11.100, shall apply to all buildings, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for residential purposes, unless and until the Landlord of the Property has applied for, and received, a determination that Richmond Municipal Code Chapter 11.100, does not apply to the Property because either the applicant is not a Landlord as defined by Richmond Municipal Code Section 11.100.030(f) and/or the unit is solely occupied by the Property Owner.

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- B. Filing of Application. Determination of the applicability of Richmond Municipal Code Chapter 11.100, shall be made on a fiscal year basis. Once a unit has been rented or offered for rent in a given fiscal year, the provisions of Richmond Municipal Code Chapter 11.100, shall apply for the entire fiscal year, regardless of whether the Landlord has failed to rent the unit, no longer rents the unit, or has become the sole occupant of the unit. Additionally, any person may seek a determination as to the applicability of Richmond Municipal Code Chapter 11.100, to an inhabited dwelling unit. To seek a determination under this section, the applicant must make application on an Official Rent Program form. The applicant must fully complete the form, attaching any and all Rent Program requested documentation. Failure to provide requested documentation, as indicated on the Official Rent Program form, may result in the application being deemed incomplete or dismissed and any outstanding invoiced Residential Housing Fee shall be immediately due. If the application is deemed dismissed, or withdrawn, the applicant may refile one hundred twenty (120) days or more after the dismissal and/or withdrawal.
- C. Notice. Within five business days of a completed application, the Rent Program shall mail a copy of the application for exemption to each unit at the Property along with an Official Rent Program notice of filing and Tenant response form.
- D. Determination. As soon as practicable after the filing of an application, and in no event later than one hundred and twenty (120) days from the date of filing, the Rent Board shall make a final determination as to application of Richmond Municipal Code Chapter 11.100, on the challenged unit. Prior to the Rent Board making its final determination, the Executive Director of the Rent Program or their designee may do any of the following:
1. Where the facts are not in dispute, the Executive Director or their designee may prepare a recommendation to the Rent Board recommending that the application be granted without a hearing. The recommendation shall be for the Rent Board's final determination of application of Richmond Municipal Code Chapter 11.100, without a hearing, and may be placed on the consent calendar.
  2. If upon review of the application, the Executive Director or their designee determines that there are disputed facts or issues of law which are relevant to resolve application of Richmond Municipal Code Chapter 11.100, the Executive Director or their designee shall not prepare a recommendation to the Rent Board but shall instead refer the matter to a Hearing Examiner. Where the matter is referred to the Hearing Examiner, the hearing shall proceed in a manner consistent with Chapter 8 of the Richmond Rent Board Regulations, except for the following instances:
    - i. No "Objection" shall be sent to the parties. Rather, the responding party has ten (10) business days to return the response form, which Rent Program staff members mailed in a manner consistent with Regulation 207(C), of this Chapter.
    - ii. A Hearing shall be scheduled within twenty-one (21) days from the date the applicant submitted their application.

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- iii. At the discretion of the Executive Director, a Rent Program staff member may conduct an inspection of the Property, subject to the consent of the Landlord or lawful occupant on the Property. If an on-site inspection is conducted, that individual shall prepare a staff report detailing the results of the inspection and submit the report to the Hearing Examiner and all parties named in the submitted application. Additionally, that individual must make themselves available at the hearing for questioning by the parties and Hearing Examiner.
- iv. The Hearing Examiner may require Rent Program staff member's presence at the hearing to secure relevant testimony. If such a requirement is deemed necessary, the Rent Program must, within five business days (5) from the scheduled hearing, notify all parties of the name and title of the Rent Program witness, and send a copy of all documentation the witness intends to rely on during the hearing.
- v. Within thirty (30) days from the date of the hearing on an application of Richmond Municipal Code Chapter 11.100, applicability, the Hearing Examiner shall issue a recommendation to the Rent Board to either grant or deny the application. This deadline may be extended by written waiver executed by the applicant. The Hearing Examiner's recommendation shall include proposed findings of facts and conclusions of law that refer to the following specific subjects:
  - a) the number of units at the subject property, including units on any contiguous lots or parcels in which applicant has at least a fifty percent (50%) interest;
  - b) The percentage of ownership interest in the property held by the applicant;
  - c) Evidence of the applicant's occupancy at another address, and the dates of such occupancy;
  - d) Whether the applicant has continuously resided at the property as their Primary Residence beginning at least one hundred twenty (120) days prior to the date of the filing of the exemption application;
  - e) Whether the applicant is entitled to receive Rent or has received Rent;
  - f) Whether the property has been enrolled or registered within twelve (12) months from the date the applicant submitted their application; and
  - g) Whether the applicant holds a current business license and/or has registered their Property with the Richmond Rental Inspection Program.

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- vi. Upon completion by the Hearing Examiner of the recommendation to the Board, the Hearings Unit shall send the applicant and all occupants at the Property a copy of the recommendation, and the Rent Program shall agendaize the matter for the Rent Board meeting held in the following month.
- E. Rent Board Consideration. Matters to be adjudicated by the Rent Board under this Regulation shall be adjudicated in a manner consistent with Rent Board Regulation Chapter 8 except in the following instances:
1. Notice. Rent Program staff members shall set the matter for consideration as soon as is practicable, so long as the date for consideration is within the one hundred and twenty (120) days deadline set forth above. At least ten business days prior to the date set for Board consideration, the Board shall give notice to the applicant and all occupants of the property of the date, time and place for Board meeting.
  2. Response to Recommendation. The applicant, any occupant of the Property, any authorized representative of either Landlord or occupant, or any other interested person may file a written response to the recommendation. The response must be received by the Board at least seventy-two hours prior to the date set for Board hearing on the recommendation. Upon a showing of good cause, the Board may accept a later filing of the response/request.
  3. Continuances. Continuance requests will be considered by the Board where the requesting party has complied with the requirements of Richmond Rent Board Regulation 826 and the Rent Board has sufficient time within the one hundred and twenty (120) day deadline to decide the case, unless the time is waived by the applicant.
  4. Presentation by Parties. The parties shall present their matter before the Rent Board as follows:
    - i. The applicant and any occupant of the Property are parties.
    - ii. The parties may offer oral argument and the presentation shall not exceed five minutes per person. The Rent Board's Chair may extend the time.
    - iii. If any party claims that there is new evidence available at the time of the Rent Board hearing which was undiscoverable at the time of the hearing before the Hearing Examiner, that party must make an offer of proof to the Board regarding the evidence and why it was undiscoverable previously. If a majority of Rent Board members find that the offer of proof is sufficient, they may agree to receive the new evidence at the time of the Rent Board hearing, but may limit the time for presenting such evidence.
    - iv. If the Rent Board agrees to receive new evidence, and the applicant agrees to waive time deadlines, the Rent Board may refer the matter

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back to a Hearing Examiner for presentation of the evidence and preparation of a new Recommendation.

- v. Decision. The Rent Board's decision shall be based upon the hearing record and Recommendation prepared by the hearing examiner, the responses to the Recommendation and any oral argument presented to the Rent Board. The Board may adopt, reverse, reverse and remand or modify the Hearing Examiner's recommendation. Remand of the matter may only be ordered if there remains sufficient time to permit such a procedure, or if the applicant executes a waiver of time deadlines sufficient to permit an additional hearing before the hearing examiner. The Rent Board's decision must be supported by findings of fact and conclusions of law.
- F. Standards for Determining the Application of Richmond Municipal Code Chapter 11.100. In determining the application of Richmond Municipal Code Chapter 11.100, the Rent Board shall consider the purpose of the Rent Ordinance, any relevant evidence tending to prove or disprove a materially disputed facts, previous compliance with Richmond Municipal Code Chapter 11.100, and the rental history of the challenged unit. Additionally, to make a determination that the Richmond Municipal Code Chapter 11.100, does not apply to the unit, the Rent Board must find the following:
- i. The applicant owns at least a fifty percent (50%) interest in the Property for which the determination is being sought and has owned fifty percent (50) interest since the date of filing the application;
  - ii. The unit is a not Rental Unit pursuant to Richmond Municipal Code Section 11.100.030(m)
  - iii. There does not exist a Rental Housing Agreement as defined by Richmond Municipal Code Section 11.100.030(k)
  - iv. There is not a person referenced in the application who either receives or who would otherwise be entitled to receive Rent as defined by Richmond Municipal Code Section 11.100.030(j). For purposes of this section, a person who is “entitled to receive” need not actually receive Rent. Rather, they need only to be the one who would receive Rent if Rent was actually paid.
  - v. If the applicant claims the unit is owner-occupied, the owner has resided at the property as their Primary Residence beginning at least one hundred twenty (120) days prior to filing of the application for exemption.
- G. Exceptions to Application Determination. Where the challenged unit has been rented or offered for rent in the same fiscal year in which the applicant has filed an application for determination of Richmond Municipal Code Chapter 11.100 applicability, the Rent Board shall find that provisions of Richmond Municipal Code

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Chapter 11.100 apply and shall only consider whether the Just Cause provisions apply or both the Rent Control and Just Cause provisions apply.

- H. Burden of Proof. An applicant shall have the burden of demonstrating the provisions of Richmond Municipal Code Chapter 11.100, do not apply to the unit. The applicant may produce as evidence, sworn testimony, Schedule E tax records of the Property, photographs, video, or any other forms of tangible or intangible evidence that is found to be relevant.
- I. Effective Date of Rent Board's Determination of Richmond Municipal Code Chapter 11.100 Application. The Rent Board's applicability determination of the provisions of Richmond Municipal Code Chapter 11.100, shall be effective thirty (30) days from the date of the Rent Board meeting where the Rent Board made said determination. Such determination shall be the final determination of the Rent Board and subject only to judicial review as codified in Code of Civil Procedure Section 1084 et.seq, as amended, and/or Code of Civil Procedure Section 1094.5. .
- J. Expiration of Determination. Rent Board determinations that Richmond Municipal Code Chapter 11.100 does not apply to the unit shall remain in effect so long as the grounds the Rent Board relied on to make a determination that Richmond Municipal Code Chapter 11.100 does not apply to the unit still hold true. If the unit becomes a Rental Unit, the Landlord shall complete a Property Enrollment form listing all Rental Units and complete a Tenancy Registration form for any tenancies in Controlled Rental Units within 30 days of the change in circumstances. Rent Program staff reserve the right to perform routine exemption verification activities which may require the property owner to re-submit documentation to substantiate that the determination of inapplicability of Richmond Municipal Code Chapter 11.100 should be maintained. If Rent Program staff are unable to secure the requested documentation to maintain such determination, the property owner may be required to re-apply for such determination consistent with the procedures outlined in this regulation.

## **207. Challenging a Rental Unit's Exempt Status**

~~A. Where a Rental Unit has been determined to be or treated as an exempt Rental Unit, a Tenant occupying said Rental Unit or his or her designee, may challenge the Rental Unit's exemption status by filing a Tenant petition for rent withholding, pursuant to Chapter 4 of these Regulations. Such a petition shall not be granted if the challenged Rental Unit has been determined exempt pursuant to Regulation 206, unless the Tenant can demonstrate that there has been a material change in facts, or that the information supplied by the Landlord in support of the exemption was misleading and/or false.~~

*[Adopted June 20, 2018]*

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**Chapter 2: APPLICABILITY**

**200. Purpose**

The purpose of this Chapter 2 is to describe those categories of properties which are exempt from the Ordinance and to provide a process and procedure for those Controlled Rental Units seeking to establish an exemption from this Ordinance.

*[Formerly Regulation 17-01; Adopted November 15, 2017]*

**201. Rental Units Exempt from both the Rent Control (R.M.C § 11.100.070) and Just Cause for Eviction (R.M.C § 11.100.050) Provisions of the Ordinance**

- A. Rental Units in hotels, motels, inns, tourist homes and rooming and boarding houses that are rented primarily to transient guests for a period of fewer than 14 days;
- B. Rental Units in any hospital, convent, monastery, extended medical care facility, asylum, or non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education;
- C. Rental Units for which there is a Temporary Tenancy, as defined in R.M.C § 11.100.030(q);
- D. Rental Units that are lawful and in compliance with the Small, Second Unit Ordinance of the City (R.M.C § 11.15.04) if the Primary Residence is occupied by the property owner; and
- E. Rental Units where the Rental Unit is the Primary Residence of the property owner and the property owner shares with a Tenant(s) a bathroom or kitchen.

*[Formerly Regulation 17-03; Adopted July 19, 2017]*

**201.5 Rooming and Boarding Houses**

- A. For purposes of Regulation 201, Rooming and Boarding house(s) shall mean any building or portion thereof other than a hotel containing at least five (5) rooms individually offered for rent or rented to at least five tenants under separate Rental Housing Agreements.
- B. Where any building, structure, or part thereof is considered a Rooming and Boarding house, each room shall be treated as an individual Rental Unit and must be individually registered with the Rent Program, in a manner consistent with Chapter 4 of these Regulations.
- C. Use of a single Rental Housing Agreement shall not be dispositive in determining whether a building, structure, or part thereof is a Rooming and Boarding house. Rather, the following factors shall be considered by the Rent Program when determining whether a building, structure, or part thereof is a Rooming and Boarding house:

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- a. Whether the Landlord or Tenant maintains control over Tenant Replacement;
- b. Whether there is a single or multiple Rental Housing Agreement(s);
- c. The relationship between the Tenants of the Rooming and Boarding house;
- d. How Rent is distributed, collected, and/or paid to the Landlord;
- e. Access to common areas and/or housing services; and
- f. The period of occupancy set forth in each single or multiple Rental Housing Agreement.

This is not an exhaustive list and the Rent Program may consider other evidence that has a tendency to prove or disprove that a particular building, structure, or part thereof is a Rooming and Boarding house.

*[Adopted July 18, 2018]*

## **202. Governmentally Subsidized Rental Units Exempt from the Rent Control Provisions of the Ordinance**

The following rental units are exempt from the rent control (RMC 11.100.070), but not the just cause for eviction (RMC 11.100.050) provisions of the Ordinance.

- A. Rental units in which a tenant household holds a Section 8 Housing Choice Voucher and where the rent not does exceed the Payment Standard as published by the U.S. Department of Housing and Urban Development.
- B. Rental units for which the rent is subsidized by the Project-Based Section 8 Program
- C. Rental units that are “rent restricted” in a Low Income Housing Tax Credit Program Project. “Rent Restricted” means the rent charged for the unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.
- D. Rental units for which the rent is subsidized by the Section 202 Supportive Housing for the Elderly Program
- E. Rental units that are “rent restricted” under a regulatory agreement between a governmental agency and a property owner. “Rent Restricted” means the rent charged for the unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.

*[Formerly Regulation 17-01; Adopted November 15, 2017]*

**203. Other Rental Units Exempt from the Rent Control Provisions of the Ordinance**

In addition to rental units that are exempt from rent control under R.M.C § 11.100.100.030 (d)(1)(2)(4) (5) and (6), rental units which a governmental unit, agency or authority owns, operates or manages are exempt from the rent control provisions of the Ordinance. Section 11.100.030 (d)(3), Richmond Municipal Code.

*[Formerly Regulation 17-01; Adopted November 15, 2017]*

**204. Maintaining an Exemption Pursuant to Regulation 202: Compliance with Applicable Laws and Regulations**

A. Notwithstanding Regulation 202, Rental Units described in Regulation 202 shall not be exempt from Section 11.100.070 of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance where the property owner has failed to substantially comply with all of the applicable provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, Rent Board Orders, Regulations, and/or Resolutions, as well as the Implied Warranty of Habitability as described in Civil Code 1941.1, and Richmond Municipal Code Section 6.40.040. This includes, but is not limited to, a property owners obligation to comply with the following:

- (1) Timely payment of all owing Residential Rental Housing Fee. For purposes of this provision, a payment shall be considered timely where a property owner remits payment of the Residential Rental Housing Fee within 30 calendar days from the date the Rent Program sends the invoice. Where there is a dispute in the amount owed, payment shall be considered timely where the owner remits payment of the Residential Rental Housing Fee within 30 calendar days from the date the Rent Program sends the amended invoice. However, where the dispute is wholly concerned with assessed late fees, payment shall be considered timely where the owner remits payment of the Residential Rental Housing Fee within 5 calendar days from the date the Rent Program sends the amended invoice or 30 calendar days from the date the Rent Program sent the initial invoice, whichever is later. If a dispute does not result in an amended invoice, payment shall be due within 30 calendar days from the date the Rent Program sent the initial invoice;
- (2) Payment of the Business License Tax pursuant to Richmond Municipal Code Section 11.100.060(1)(1);
- (3) Enrollment of all applicable Rental Units pursuant to Regulation 405(B);
- (4) All of the applicable provisions set forth in Resolution 19-01; and
- (5) Any and all requirements set forth in any regulatory agreement executed between a developer and/or property owner and a Federal, State, or government entity.

- B. Where Rent Program Staff members have determined a property owner has failed to comply with any of the obligations set forth in Regulation 204(A), Rent Program Staff members shall immediately notify the property owner in writing of the obligation(s) the property owner has failed to satisfy. The written notification must identify the specific obligation(s) the property owner has failed to satisfy and provide the property owner up to 60 calendar days from the date of mailing of the notification to bring itself into compliance with the identified obligation(s). If a property owner fails to timely comply with the obligation(s) identified in the Rent Program Staff member's written notification, Rent Program Staff members may agendaize an item of noncompliance for the next regularly scheduled Rent Board meeting. The agenda item shall include an identification of the specific property that has failed to comply, specific findings of noncompliance, a recommendation of the removal of the exemption contained in Regulation 202 as it relates to the noncompliant property, and any other information Rent Program staff member(s) deems relevant.
- C. In addition to Regulation 204(A), Rental Units described in Regulation 202 shall not be exempt from Section 11.100.070 of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance where there is no longer in effect (a) a tenant with a Section 8 Housing Choice Voucher in the Rental Unit, (b) the Rental Unit is no longer in a Project-Based Section 8 Program, and/or (c) the Rental Unit is no longer rent restricted under a regulatory agreement and/or declaration of restrictive covenants.
- D. Nothing in Regulation 204(A) and/or Regulation 204(B) shall preclude tenants residing in Rental Units described in Regulation 202 from seeking advice or assistance from the Rent Program concerning applicable provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance and utilizing the remedies provided in the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance to the extent permitted by Federal, State, and local law.

*Formerly Regulation 17-01; Adopted November 15, 2017]  
[Amended February 20, 2019]*

### **205. Application for Exemption Determination**

Notwithstanding Regulation 403, a Landlord may request that an administrative decision be rendered regarding the applicability of R.M.C. 11.100 et. seq (Fair Rent, Just Cause For Eviction, and Homeowner Protection Ordinance) on a property or unit owned or occupied by the requesting party. All requests for an administrative decision regarding exemption must be made on an approved Rent Program form. The Landlord must complete the approved form and attach sufficient information and documentation demonstrating a claimed exemption. The Landlord shall have the burden of proof of demonstrating a claimed exemption.

*[Adopted June 20, 2018]*

**206. Issuing an Administrative Decision on Exemption Status**

- A. In rendering an administrative decision, the Executive Director or assigned staff member may conduct an independent investigation into the underlying facts and rely on information and documentation obtained thereof.
- B. All administrative decisions under this Regulation must be made in writing, provide an explanation of the basis for the decision with citations to R.M.C. 11.100 et.seq (Fair Rent, Just Cause For Eviction, and Homeowner Protection Ordinance), and adequately describe the evidence relied on in reaching the decision.
- C. All administrative decisions under this Regulation must be rendered within 30 calendar days from the date of application. The Rent Program shall notify the Landlord and all Tenants in the affected unit, of its exemption determination.
- D. If the Landlord disagrees with the Executive Director or assigned staff member's administrative decision, the Landlord may, within 15 calendar days from the date of the administrative decision plus any additional time permitted under California Code of Civil Procedure Section 1013(a), as amended, file a request for hearing on exemption status. The hearing shall be conducted in accordance with the rules and procedures set forth in Chapter 8 of these Regulations.

*[Adopted June 20, 2018]*

**207. Challenging a Rental Unit's Exempt Status**

- A. Where a Rental Unit has been determined to be or treated as an exempt Rental Unit, a Tenant occupying said Rental Unit or his or her designee, may challenge the Rental Unit's exemption status by filing a Tenant petition for rent withholding, pursuant to Chapter 4 of these Regulations. Such a petition shall not be granted if the challenged Rental Unit has been determined exempt pursuant to Regulation 206, unless the Tenant can demonstrate that there has been a material change in facts, or that the information supplied by the Landlord in support of the exemption was misleading and/or false.

*[Adopted June 20, 2018]*

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