

# AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: August 19, 2020

Final Decision Date Deadline: August 19, 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.**

**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. Discussion ensued.

A motion by Boardmember Duncan to approve and modify legal staff's recommendation to modify the Hearing Examiner's award amount based on mold impairment from \$8,269.72, to \$3127.32, and the downward adjustment in the Maximum Allowable Rent from 20% to 0%, failed for lack of a second motion.

A new motion by Boardmember Conner, to approve legal staff's recommendation to modify the Hearing Examiner's award amount based on mold impairment from \$8,269.72, to \$2,190.02, and the downward adjustment in the Maximum Allowable Rent from 20% to 0% and reverse the Hearing Examiner's award of Excess Rent in the amount of \$847.28 to \$0, and corresponding Maximum Allowable Rent reduction of 2% to 0%, seconded by Interim Chair Finlay, failed due to lack of quorum.

Following discussion, a motion by Boardmember Conner, to continue Item G-1, for consideration of this appeal to the July 15, 2020, Rent Board Meeting, seconded by Interim Chair Finlay passed by the following vote: **Ayes:** Boardmembers Conner, Duncan, and Interim Chair Finlay. **Noes:** None. **Abstentions:** None. **Absent:** Vice Chair Gerould and Chair Maddock.

Staff Attorney Charles Oshinuga made a brief statement to the public and the appellants to inform them that the Board has not reached a decision regarding this matter and that the Board is going to continue to debate this matter until they reach a decision at the July 15, 2020, meeting. He also added that the parties can attend the meeting since it is open to the public. The appellant Mr. Pearce asked the Board are the parties allowed to participate in the meeting if they choose to attend. Staff Attorney Charles Oshinuga responded that the parties' participation was required at the meeting held today (June 17<sup>th</sup>), but likely they will not participate in the next meeting (July 15<sup>th</sup>) because all arguments have already been taken and the Board will use that for their consideration. He also added that the Boardmembers who were absent at this meeting will review the recording from this meeting to be prepared. He also added that the Rent Board Chair can decide to allot the parties

additional time to speak before the Board, and for that reason, he recommends the parties attend in the event that occurs.

Interim Chair Finlay made a brief statement to give an explanation to the parties and public about how staff and the Board normally approach and respond to appeal hearings. She addressed the question raised by the individual who made public comment during the hearing about the time it takes for the Board to reach a decision for appeal hearings. She explained that this hearing has taken months to occur, in part due to the Covid-19 pandemic and the challenges with holding these types of hearings. She also mentioned that all Boardmembers received and reviewed almost 1,000 pages of documents and almost 4 hours of testimony. She also added that during the initial hearing, the Hearing Examiner gave an extra 10 days to both parties to provide additional information based on the testimony that was heard during the actual hearing. She wants the public and parties to be aware that the Board does not rush into this process and this process could take a very long time but asked the public to understand that the Board gives their very best consideration to the cases before it. She also apologized that the Board could not agree to a decision at this meeting (June 17, 2020).

Rent Board Clerk Cynthia Shaw concluded and dismissed parties for the appeal hearing held on June 17, 2020, and mentioned that the hearing would be continued to the July 15, 2020 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