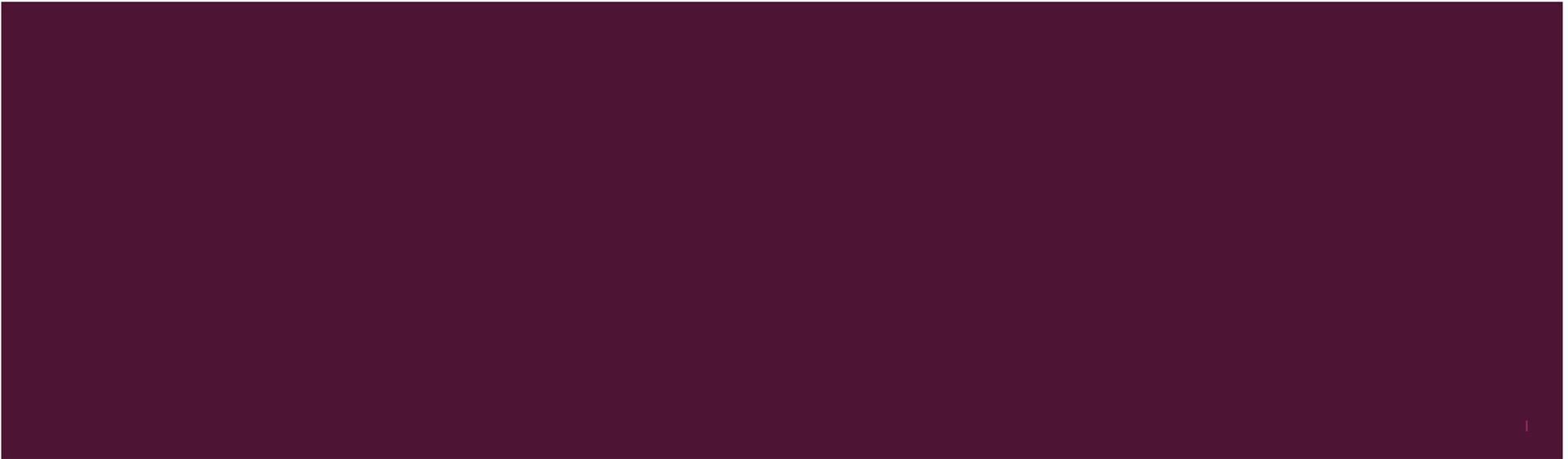

ALTERNATIVE PROPOSAL FOR CHAPTER 2 REGULATIONS

ITEM G-1 | AUGUST 19, 2020, REGULAR MEETING OF THE RICHMOND RENT BOARD



SUMMARY OF ALTERNATIVE PROPOSAL

- Alternative proposal would clarify that the Administrative Determination process described in Regulations 205 and 206 would not only address disputes concerning full or partial applicability of the Rent Ordinance, but would be used to address all claims of inapplicability or exemption from the Rent Ordinance.

CURRENT REGULATION 205

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.

CURRENT REGULATION 206

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.

HISTORIC PROCESS FOR CLAIMS OF EXEMPTION OR INAPPLICABILITY

1. Owner fills out a Declaration of Owner Occupancy/Exemption
2. Declaration is administratively approved
3. Program reserves right to periodically audit claims of exemption or inapplicability

Problem: What happens when facts are in dispute? What is due process?

PREVIOUSLY PROPOSED PROCESS FOR CLAIMS OF EXEMPTION OR INAPPLICABILITY

1. Owner fills out application
2. Executive Director or designee conducts an investigation and:
 1. 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.
 2. 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.
 1. *Proposed process fast-tracks the application for review by Rent Board*

ALTERNATIVE PROPOSED PROCESS FOR CLAIMS OF EXEMPTION OR INAPPLICABILITY

1. Owner fills out application
 1. Claims of owner occupancy for single family homes and condominiums are administratively approved upon showing of four consecutive months of two different utility bills where the unit has not been a rental since December 30, 2016
2. For all other claims of exemption or inapplicability:
 1. Executive Director or designee conducts an investigation and issues an Administrative Determination of Exempt Status within 60 calendar days
 1. Either party can appeal the Administrative Determination through the Petition to Determine Exempt Status
 2. Hearing Examiner's decision can be appealed to the Rent Board

PROPOSED METHODS OF INVESTIGATION

- Review of property records
- Send questionnaire to property/occupant and property owner asking additional questions
- Possible site visit
- Review of third party records (voter registration, reverse directory, etc.)

RECOMMENDED ACTION

RECEIVE a presentation containing an alternative proposal to 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 and PROVIDE direction to staff – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

INDICIA OF PRIMARY RESIDENCE (AS ARTICULATED IN RMC 11.100)

- The individual carries on basic living activities at the subject premises for extended periods
- The subject premises are listed with other public agencies, including Federal, State and local taxing authorities as their primary residence
- Utilities are billed to and paid by the individual at the subject premises
- Homeowner's tax exemption for the individual has not been filed for a different property
- The occupant is not registered to vote at any other location
- Ownership must be held in the name of the individual claiming Primary Residence and not held by a Limited Liability Corporation or other corporate structure