

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: October 21, 2020

Final Decision Date Deadline: October 21, 2020

STATEMENT OF THE ISSUE: At their meeting on May 15, 2019, members of the Rent Board received a presentation concerning possible Owner Move-In (“OMI”) eviction regulations to help clarify the intent of the Rent Ordinance. Between November 2019 and February 2020, the Board considered case study research, community engagement feedback, and an analysis of OMI notices filed with the Rent Program and provided direction to staff on nine specific policy questions. At their meeting on September 16, 2020, members of the Rent Board received a presentation on proposed OMI Regulations 1009 and 1010 and provided further direction to staff. Proposed Regulation 1010 has been revised in accordance with the Board’s direction. Staff recommend further discussion of Proposed Regulation 1009, specifically 1009 (C) 1 in the context of Richmond Municipal Code Section 11.100.050 (a) (6) (B), prior to further consideration of adoption.

INDICATE APPROPRIATE BODY

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| <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> | |

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|---|--|---------------------------------|
| <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: CONSIDER ADOPTION of proposed Owner Move-In Eviction Regulations 1010 and DISCUSS proposed Owner Move-In Eviction Regulation 1009 in the context of Richmond Municipal Code Section 11.100.050(a)(6)(B) – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

AGENDA ITEM NO:

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AGENDA REPORT

DATE: October 21, 2020

TO: Chair Maddock and Members of the Rent Board

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

SUBJECT: PROPOSED OWNER MOVE-IN EVICTION REGULATIONS

STATEMENT OF THE ISSUE:

At their meeting on May 15, 2019, members of the Rent Board received a presentation concerning possible Owner Move-In (“OMI”) eviction regulations to help clarify the intent of the Rent Ordinance. Between November 2019 and February 2020, the Board considered case study research, community engagement feedback, and an analysis of OMI notices filed with the Rent Program and provided direction to staff on nine specific policy questions. At their meeting on September 16, 2020, members of the Rent Board received a presentation on proposed OMI Regulations 1009 and 1010 and provided further direction to staff. Proposed Regulation 1010 has been revised in accordance with the Board’s direction. Staff recommend further discussion of Proposed Regulation 1009, specifically 1009 (C) 1 in the context of Richmond Municipal Code Section 11.100.050 (a) (6) (B), prior to further consideration of adoption.

RECOMMENDED ACTION:

CONSIDER ADOPTION of proposed Owner Move-In Eviction Regulations 1010 and DISCUSS proposed Owner Move-In Eviction Regulation 1009 in the context of Richmond Municipal Code Section 11.100.050(a)(6)(B) – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

FISCAL IMPACT OF PROPOSED POLICY OPTIONS:

The fiscal impact of administering an Owner Move-In eviction regulation depends on both the degree of administrative duties imposed by the adopted policy and the frequency with which OMI evictions occur. Based on the proposed compliance process approved by the Board at their meeting on February 19, 2020, staff members anticipate that the fiscal impact of administering the OMI compliance process will be approximately 0.1 FTE (Attachment 5). This includes 0.05 FTE of a Staff Attorney to review notices of termination of tenancy and follow up with community members if potential defects are

identified, as well as 0.05 FTE of an Administrative Aide to draft the requisite notices, prepare and send notices of rights and obligations, prepare and mail the OMI postcards, and maintain records. This 0.1 FTE will be absorbed by the existing budget and staff.

DISCUSSION:

Background

Section 11.100.050(a)(6) of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance (Rent Ordinance) provides that a Landlord may seek to recover possession of a rental unit in good faith for the use and occupancy as a Primary Residence by the Landlord or the Landlord's spouse, children, parents, or grandparents.

In their interactions with Rent Program staff members, community members have raised questions about the Owner Move-In provisions of the Rent Ordinance for which further clarification through regulations is required to clarify the Rent Ordinance's intent. These inquiries include questions such as:

- If two individuals own a duplex, each holding 50% ownership, may each individual conduct an Owner Move-In eviction on a unit on the property?
- Is the Tenant's first right of refusal to re-rent the Rental Unit, should it ever be placed back on the rental market, indefinite?
- If a Tenant was to re-rent a unit from which they were previously evicted on the grounds of Owner Move-In, in which case, under the first right of refusal provisions of the Rent Ordinance, they would be entitled to pay the Rent they paid at the time they received the notice of termination of tenancy, could the Landlord apply Annual General Adjustment rent increases to that Rent amount?
- For what length of time is a Landlord or Successor Landlord expected to track the whereabouts of a former Tenant evicted on the grounds of Owner Move-In, to provide them with the first right of refusal if the unit is re-rented?

Unlike in other cities with rent control and just cause for eviction policies, Landlords in Richmond are currently not required to submit documentation to the Rent Program (other than the notice of termination of tenancy) to ensure the provisions of the Rent Ordinance are satisfied. Additional regulations could require Landlords to file with the Rent Program proof of occupancy, ownership interest, and offer the first right of refusal to a tenant displaced due to an Owner Move-In eviction. Regulations could also clarify the number of Owner Move-In evictions that could take place on a single property within a specific time period.

Case Study Research

To better ascertain the regulatory requirements of Owner Move-in Eviction policies in other California cities, staff members reviewed Owner Move-In policies in Berkeley, Oakland, Los Angeles, San Francisco, San Jose, Santa Monica, and West Hollywood.

The Rent Board received a presentation of this research at their meeting on May 15, 2019.

Community Engagement

Community engagement around the proposed Owner Move-In eviction regulation occurred in three formats: large-format community workshops, focus groups for Spanish-speaking community members, and the dissemination of a survey, available in hard copy and online in English and Spanish. The Rent Board received a presentation of community engagement results at their meeting on August 21, 2019 (Attachment 1).

Analysis of Owner Move-In Eviction Cases (Notices)

Between February 26, 2017 (the first date an Owner Move-In eviction notice was filed with the Rent Board) and July 1, 2019, 41 notices of termination of tenancy on the grounds of Owner Move-In were filed with the Rent Program. The Rent Board received a presentation of this analysis at their meeting on August 21, 2019 (Attachment 1).

Policy Direction Matrix

Between November 2019 and February 2020, the Board considered case study research, community engagement feedback, and an analysis of OMI notices filed with the Rent Program and provided direction to staff on nine specific policy questions. The Board's policy direction on each of these nine questions is contained in Attachment 3. With this policy direction, staff members have prepared proposed regulations for the Board's consideration and potential adoption (Attachment 4). Community feedback on the proposed regulations is contained in Attachment 6 of this report.

Policy Direction Provide by the Board

At their September 16, 2020 Regular Meeting of the Rent Board, Board members provided the following direction to staff regarding the proposed OMI Regulations:

- 1009(B) 1: Clarify language to explicitly include a Natural Person shall include Owner of a trust, who is both a Trustor and Trustee.
- 1009(D) 5: Clarify language regarding Good Faith requirements, to make clear that consideration of "good faith" by the courts may be considered at the time of the service of a notice of termination pursuant 11.050.100(a) (6).
- 1009(E) Clarify or remove section regarding failure to occupy the rental unit.
- 1010(C) 3: Revise language regarding the change of address/contact information form to include shall contain a statement informing the Tenant that failure to update the Landlord and to remove and/or the Rent Program and add language that the Rent Program may facilitate an update of change of address between

the displaced Tenant and Landlord.

- 1010(B) 2: State that the Rent Program shall send a written courtesy reminder to a Landlord who submitted a notice of termination of tenancy.
- 1010(C): Regarding continued occupancy certification, to revise the language and add other options for certification but to remove including but not limited to a copy of a valid California Driver's License or government issued for identification and provide clarification that after the Landlord has met the obligations can conduct another Owner Move-in on the property in the future.
- Clarify the question regarding the rental rate of a unit after an owner move in, if the Tenant does not exercise the right to first right of refusal. The Board decided to table this discussion regarding the rental rate after an owner move-in, to allow Staff Attorney Charles Oshinuga to research further.
- Clarify that the Protected Status Claim by Tenant be included in the revised Regulations. This would include language that after the Tenant has received the notice that they intend to make that claim.

Staff Recommend Further Discussion of Regulation 1009 (C) 1

Prior to presenting the revised proposed changes to Regulation 1009, the Executive Director, in consultation with Chair Maddock, recommends that the Board discuss Regulation 1009 (C) 1 in the context of Richmond Municipal Code Section 11.100.050 (a) (6) (B). RMC 11.100.050 (a) (6) (B) states:

(B) No eviction may take place for an "owner move-in" if the same Landlord or enumerated relative already occupies a unit on the property, or if a vacancy already exists on the property. At all times a Landlord may request a reasonable accommodation if the Landlord or enumerated relative is Disabled and another unit in Richmond is necessary to accommodate the person's disability.

In particular, the Board should look to this section of the Ordinance to ensure its policy direction around proposed regulation 1009 (C)(1) & (C)(4) are properly harmonized with Richmond Municipal Code Section 11.100.050(a)(B)(6).

Next Steps

Should the Board adopt the proposed regulations, staff members will begin preparing the processes and notices required for enforcement.

DOCUMENTS ATTACHED:

Attachment 1- Revised Proposed Regulation 1009. Owner Move-In Eviction Pursuant Richmond Municipal Code Section 11.100.050(a)(6) – Redlined Version

Attachment 2 – Revised Proposed Regulation 1010. Post-Owner Moves-In Eviction Requirements – Redlined Version

Attachment 3 – Revised Proposed Regulation 1010. Post-Owner Moves-In Eviction Requirements – Clean Version

Attachment 4 – Policy Direction Matrix

Attachment 5 – Community Member Feedback on Proposed Regulations

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1009. Owner Move-In Eviction Pursuant Richmond Municipal Code Section 11.100.050(a)(6)

- A. Purpose of Regulation. Richmond Municipal Code Section 11.100.050(a)(6), permits the eviction of a Tenant where a Landlord who seeks to recover possession of a Rental Unit in good faith for use and occupancy as a Primary Residence for themselves, or for an enumerated qualifying relative. In response to community members' inquiries regarding the application of Richmond Municipal Code Section 11.100.050(a)(6), the purpose of this Regulation is to clarify those circumstances whereby the usage of Richmond Municipal Code Section 11.100.050(a)(6) is appropriate, and to aid the courts in interpreting the provisions of Richmond Municipal Code Section 11.100.050(a)(6).
- B. Definition of Natural Person for Purposes of this Regulation.
1. Only a Natural Person who has at least a 50 percent ownership interest in a Property shall be considered a Landlord.
 2. No corporation, partnership, limited partnership, trust company, as defined in California Financial Code, Section 107, real estate investment trust, as defined in Section 856 of the Internal Revenue Code, or association shall be considered a Natural Person.
 - 2.3. Notwithstanding Regulation 1009(B)(2), a Natural Person shall include an Owner of a Revocable Trust where the Owner is both the Trustor and Trustee, and holds 50% ownership interest in the Property.
- C. Number of Allowable Evictions Under Richmond Municipal Code Section 11.100.050(a)(6).

A "Landlord" as defined in Richmond Municipal Code Section 11.100.050(a)(6), may, in good faith, evict a Tenant from a Rental Unit for the use and occupancy as a Primary Residence for themselves or for their spouse, children, parents, or grandparents.

1. A Landlord that meets the definition espoused in Richmond Municipal Code Section 11.100.050(a)(6) shall only be permitted to perform one Owner Move-In eviction on the Property for either themselves, their spouse, children, parents, or grandparents.
2. Notwithstanding Regulation 1009(C)(1), a Landlord who has already performed an Owner Move-In for either themselves, their spouse, children, parents, or grandparents, may perform an additional Owner Move-In on the same Property if there is a demonstrated need for a Reasonable Accommodation based on a qualifying Disability as defined by Government Code Section 12955.3
3. The Landlord or enumerated relative must intend to occupy the Rental Unit as their Primary Residence as defined in Richmond Municipal Code Section 11.100.030(h). A Landlord shall only have one Primary Residence.

ITEM I-2 ATTACHMENT 1

4. If ~~any~~ Landlord as defined by Richmond Municipal Code Section 11.100.050(a)(6) or an enumerated relative already occupies ~~one a Rental Unit~~ on a Property, that same Landlord, whether on behalf of themselves or their enumerated relative, may not conduct an eviction no eviction pursuant to Richmond Municipal Code Section 11.100.050(a)(6), ~~may take place~~ unless there is a demonstrated need for a Reasonable Accommodation based on a qualifying Disability as defined by Government Code Section 12955.3
5. No eviction pursuant to Richmond Municipal Code Section 11.100.050(a)(6) is permitted if a vacancy exists on the Property, unless there is a demonstrated need for a Reasonable Accommodation based on a qualifying Disability as defined by Government Code Section 12955.3

D. Good Faith Requirements.

This subsection illustrates, but does not exhaust, the factors that a Superior Court may consider as relevant evidence in determining whether the Landlord is acting or acted in good faith under Richmond Municipal Code Section 11.100.050(a)(6)(D).

1. A Landlord is not acting in good faith if the Landlord or enumerated relative for whom a Tenant has been evicted does not intend to move into the unit within 90 days of the date that the tenant vacates the unit and/or does not intend to thereafter occupy the Rental Unit for at least Thirty-Six (36) consecutive months as their Primary Residence.
2. Where proof is presented that an ownership interest was granted for the primary purpose of qualifying a person as a Landlord for purposes of eviction under Richmond Municipal Code Section 11.100.050(a)(6), the Landlord is not proceeding in good faith.
3. Where the same Landlord attempts to concurrently perform two evictions pursuant to Richmond Municipal Code Section 11.100.050(a)(6), that Landlord is not proceeding in good faith.
4. A Landlord who has served a notice of termination of tenancy under Richmond Municipal Code Section 11.100.050(a)(6) is not proceeding in good faith if the Landlord, at the time of the service of a notice of termination pursuant to Municipal Code Section 11.100.050(a)(6), has other vacant Rental Units on the Property where the Tenant currently resides, unless there exist a demonstrated Reasonable Accommodation, from the date of the notice to quit until the date of judgment of an Unlawful Detainer, unless there exists a demonstrated Reasonable Accommodation. A vacant unit shall include any Rental Unit for which the Landlord has received notice that a Tenant intends to vacate, a Rental Unit where the Landlord has obtained a Writ of Possession-Real Property, and any Rental unit which is otherwise vacant and not currently rented.

ITEM I-2 ATTACHMENT 1

5. The court, in making a determination regarding the presence or absence of Good Faith in an eviction, should consider, along with any other factors deemed relevant, These factors are not intended to be dispositive and the Superior Court should explore these factors within the totality of the factual circumstances before it: whether the Tenant has recently reported violations of Richmond Municipal Code Chapter 11.100, Richmond Rent Board Regulations, and/or Richmond Rent Board Orders to the Rent Program/Rent Board; whether the Landlord has vacant Rental Units in other residential rental properties in the City of Richmond; whether the Landlord has previously attempted to evict these or other Tenants pursuant to Richmond Municipal Code Section 11.100.050(a)(6); whether the Tenant being evicted is paying a low Rent in relation to other units on the property; whether the eviction is an attempt to move the tenant into a higher priced Rental Unit; and any additional relevant information.
6. In making a determination as to whether a wrongful eviction has occurred, the Superior Court should consider a Landlord's failure to comply with any of the provisions set forth in Regulation 1010, as evidence that the contested Owner Move-In was not performed in Good faith.

~~E. Failure to Occupy the Rental Unit. If the individual specified in the notice terminating tenancy pursuant to Richmond Regulation 11.100.050(a)(6), decides they no longer want to occupy the Rental Unit as their Primary Residence, the Landlord shall immediately offer the Rental Unit back to the Tenant who vacated the Rental Unit. In addition to any other remedies obligated under the City of Richmond Relocation Ordinance, any payment made pursuant to the City of Richmond Relocation Ordinance need not be returned.~~

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1010. Post-Owner Move-In Eviction Requirements

- A. Purpose of Regulation. The purpose of Regulation 1010 is to establish reporting requirements for those Landlords who perform evictions pursuant to Richmond Municipal Code Section 11.100.050(a)(6), so that the Rent Board may adequately discharge its duties under Richmond Municipal Code Chapter 11.100, and effectively monitor the grounds for eviction.
- B. Certifications to Rent Program Required for Eviction or Tenant Vacating Pursuant to Richmond Municipal Code Section 11.100.050(a)(6) (Owner or Relative Move In).
1. Initial certification following vacancy by Tenant. A Landlord who evicts a Tenant pursuant to Richmond Municipal Code Section 11.100.050(a)(6) or where a Tenant vacates following a notice terminating tenancy, whether or not the notice is withdrawn, or other communications stating ~~or otherwise implying~~ that the Landlord seeks recovery of possession of the Rental Unit for purposes of moving into the Rental Unit, must submit to the Rent Program a completed certificate within thirty (30) days of the Tenant's vacating of the unit. This certificate shall be provided by the Rent Program via a Rent Program form and must include the amount of the Tenant's rent on the date the Tenant vacated.
 2. Statement of Occupancy. The Landlord or the designated qualifying relative must move into the Rental Unit within ninety (90) days of the Tenant's vacating of the Rental Unit. Within thirty (30) days of the Landlord or the Landlord's qualifying relative's commencing occupancy of the Rental Unit as a Primary Residence, the Landlord must file, on a Rent Program Form, a Statement of Occupancy attesting to their occupancy in addition to any evidence of occupancy as required by the Rent Program Form. The Rent Program shall send a written courtesy reminder to a Landlord who submitted a notice of termination of tenancy pursuant to Richmond Municipal Code Section 11.100.050(a)(6), of their obligation to move into the subject Rental Unit within ninety (90) days, and their need to submit a Statement of Occupancy to the Rent Program.
- C. Continued Occupancy Certification. Following a Landlord or qualifying relative occupying a unit pursuant to Richmond Municipal Code Section 11.100.050(a)(6), the Landlord must submit a certificate that the Landlord or the Landlord's qualifying relative continues to reside or not reside in the unit as a Primary Residence. The Landlord or the Landlord's qualifying relative must attach proof of residence in the Rental Unit. This proof may be in the form of bank statements, credit card statements, - including but not limited to a copy of a valid California Driver's License or another government-issued form of identification, voided checks, moving expense documents, insurance policies, addressed to the individual showing the address of their Primary Residence/-Rental Unit. This certification must be provided every twelve (12) months from the initial move-in date for thirty-six (36) months following that move-in date. If the Landlord fails to provide the Statement of Occupancy to the Rent Program, fails to move into the Rental,

ITEM I-2 ATTACHMENT 2

or fails to occupy the Rental Unit for thirty-six (36) months, the Rent Program shall make all reasonable efforts to provide the displaced Tenant with such information and inform the displaced Tenant of their rights under Richmond Municipal Code Chapter 11.100. Right of First Refusal Pursuant to Richmond Municipal Code Section 11.100.050(a)(6).

1. Right of First Refusal. Upon service of a notice of termination of tenancy pursuant to Richmond Municipal Code Section 11.100.050(a)(6), or other communications stating or otherwise implying that the Landlord seeks recovery of possession of the Rental Unit for purposes of moving into the Rental Unit, the Landlord shall provide the Tenant a Rent Program form, or its equivalent, describing the Tenant's right to return to the Rental Unit if the Rental Unit is ever re-rented. Additionally, the Rent Program form, or its equivalent, shall instruct the Tenant to indicate whether they would be interested in re-renting the Rental Unit at the same Rent plus all applicable Annual General Adjustments, subject to Regulation 602, if the Rental Unit is offered for Rent. The Tenant shall provide the Landlord, in writing, their interest to return to the Rental Unit if it is ever offered for Rent and shall provide the Rent Program with a copy of the said written notice.
2. Contact information. The Tenant shall inform the Landlord and the Rent Program of their most current address or contact information so as to permit the Landlord to reoffer the Tenant the Rental Unit if it ever should be offered for Rent.
3. Change of Address Form or other Contact Information: The Rent Program shall make available for access a blank change of address/contact information form that the displaced Tenant can use to keep the Rent Program and the Landlord apprised of any future changes of address or contact information. Change of address/contact information form shall contain a statement informing the Tenant that failure to update the Landlord ~~and/or the Rent Program~~ with the most up to date contact information may result in a forfeiture of their right of first refusal. The Rent Program may facilitate an update of the change of address between the displaced Tenant and Landlord. Where the Rent Program chooses to facilitate an update of the displaced Tenant's change of address, the Rent Program shall send the Landlord written notification of the displaced Tenant's new address. This written notification shall be sent to the address that the Landlord performed an eviction pursuant to Richmond Municipal Code Section 11.100.050(a)(6).
4. Maintenance of Tenant Address or other Contact Information. The Landlord shall, and the Rent Program may, maintain the Tenant's contact information until a time of which the Tenant's right of first refusal has either vested or been extinguished. Although the Rent Program may choose to maintain the contact information of the Tenant, it in no way assumes liability for a Landlord's failure to reoffer the Rental Unit to the displaced Tenant, as the Landlord shall have the sole responsibility of meeting their obligation to reoffer a Rental Unit for Rent pursuant to Richmond Municipal Code Section 11.100.050(c), and these Regulations.

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ITEM I-2 ATTACHMENT 2

5. Reoffering the Rental Unit for Rent. It shall be the sole responsibility of the Landlord to reoffer the Rental Unit for Rent if it is ever returned to the rental market. In the event that the Landlord offers the Rental Unit for Rent, the Landlord shall inform the Rent Program of their intent to offer the Rental Unit for Rent and send the displaced Tenant a written offer to re-rent the Rental Unit at no more than the same Rent the Tenant was paying at the time of service of the notice of termination plus any applicable Annual General Adjustments subject to the provisions of Richmond Regulation 602. The Landlord shall provide a copy of the written offer letter to the Rent Program within five (5) days from the date the Landlord sent the offer to the Tenant. If the Landlord does not have the displaced Tenant's contact information, the Landlord shall request the Rent Program provide the Landlord with the Tenant's contact information. In such an event, the Rent Program shall seek the written permission of the displaced Tenant to release their contact information to the Landlord. If the displaced Tenant elects not to provide the sought after permission, the Rent Program shall serve as the intermediary, and assist the Landlord in providing the displaced Tenant with the Landlord's written offer for re-renting the Rental Unit to the displaced Tenant.
6. Failure to Respond to Landlord's Offering to Re-Rent the Rental Unit. The Tenant shall have thirty-days (30), plus any applicable time provided under California Code of Civil Procedure 1013(a), as amended, to respond in writing to the Landlord's written offer for re-renting the Rental Unit. Upon responding in writing to the Landlord's offer, the Tenant shall file a copy of their written response with the Rent Program. A Tenant's failure to timely respond to a Landlord's offer to re-rent the Rental Unit that fully adheres to the provisions of Regulation 1010, shall extinguish the Right of First Refusal.

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1010. Post-Owner Move-In Eviction Requirements

- A. Purpose of Regulation. The purpose of Regulation 1010 is to establish reporting requirements for those Landlords who perform evictions pursuant to Richmond Municipal Code Section 11.100.050(a)(6), so that the Rent Board may adequately discharge its duties under Richmond Municipal Code Chapter 11.100, and effectively monitor the grounds for eviction.
- B. Certifications to Rent Program Required for Eviction or Tenant Vacating Pursuant to Richmond Municipal Code Section 11.100.050(a)(6) (Owner or Relative Move In).
1. Initial certification following vacancy by Tenant. A Landlord who evicts a Tenant pursuant to Richmond Municipal Code Section 11.100.050(a)(6) or where a Tenant vacates following a notice terminating tenancy, whether or not the notice is withdrawn, or other communications stating that the Landlord seeks recovery of possession of the Rental Unit for purposes of moving into the Rental Unit, must submit to the Rent Program a completed certificate within thirty (30) days of the Tenant's vacating of the unit. This certificate shall be provided by the Rent Program via a Rent Program form and must include the amount of the Tenant's rent on the date the Tenant vacated.
 2. Statement of Occupancy. The Landlord or the designated qualifying relative must move into the Rental Unit within ninety (90) days of the Tenant's vacating of the Rental Unit. Within thirty (30) days of the Landlord or the Landlord's qualifying relative's commencing occupancy of the Rental Unit as a Primary Residence, the Landlord must file, on a Rent Program Form, a Statement of Occupancy attesting to their occupancy in addition to any evidence of occupancy as required by the Rent Program Form. The Rent Program shall send a written courtesy reminder to a Landlord who submitted a notice of termination of tenancy pursuant to Richmond Municipal Code Section 11.100.050(a)(6), of their obligation to move into the subject Rental Unit within ninety (90) days, and their need to submit a Statement of Occupancy to the Rent Program.
- C. Continued Occupancy Certification. Following a Landlord or qualifying relative occupying a unit pursuant to Richmond Municipal Code Section 11.100.050(a)(6), the Landlord must submit a certificate that the Landlord or the Landlord's qualifying relative continues to reside or not reside in the unit as a Primary Residence. The Landlord or the Landlord's qualifying relative must attach proof of residence in the Rental Unit. This proof may be in the form of bank statements, credit card statements, government-issued form of identification, voided checks, moving expense documents, insurance policies, addressed to the individual at their Primary Residence/This certification must be provided every twelve (12) months from the initial move-in date for thirty-six (36) months following that move-in date. If the Landlord fails to provide the Statement of Occupancy to the Rent Program, fails to move into the Rental, or fails to occupy the Rental Unit for thirty-six (36) months, the Rent Program shall make all reasonable efforts to provide the

ITEM I-2 ATTACHMENT 3

displaced Tenant with such information and inform the displaced Tenant of their rights under Richmond Municipal Code Chapter 11.100.

Right of First Refusal Pursuant to Richmond Municipal Code Section 11.100.050(a)(6).

1. **Right of First Refusal.** Upon service of a notice of termination of tenancy pursuant to Richmond Municipal Code Section 11.100.050(a)(6), or other communications stating or otherwise implying that the Landlord seeks recovery of possession of the Rental Unit for purposes of moving into the Rental Unit, the Landlord shall provide the Tenant a Rent Program form, or its equivalent, describing the Tenant's right to return to the Rental Unit if the Rental Unit is ever re-rented. Additionally, the Rent Program form, or its equivalent, shall instruct the Tenant to indicate whether they would be interested in re-renting the Rental Unit at the same Rent plus all applicable Annual General Adjustments, subject to Regulation 602, if the Rental Unit is offered for Rent. The Tenant shall provide the Landlord, in writing, their interest to return to the Rental Unit if it is ever offered for Rent and shall provide the Rent Program with a copy of the said written notice.
2. **Contact information.** The Tenant shall inform the Landlord and the Rent Program of their most current address or contact information so as to permit the Landlord to reoffer the Tenant the Rental Unit if it ever should be offered for Rent.
3. **Change of Address Form or other Contact Information:** The Rent Program shall make available for access a blank change of address/contact information form that the displaced Tenant can use to keep the Rent Program and the Landlord apprised of any future changes of address or contact information. Change of address/contact information form shall contain a statement informing the Tenant that failure to update the Landlord with the most up to date contact information may result in a forfeiture of their right of first refusal. The Rent Program may facilitate an update of the change of address between the displaced Tenant and Landlord. Where the Rent Program chooses to facilitate an update of the displaced Tenant's change of address, the Rent Program shall send the Landlord written notification of the displaced Tenant's new address. This written notification shall be sent to the address that the Landlord performed an eviction pursuant to Richmond Municipal Code Section 11.100.050(a)(6).
4. **Maintenance of Tenant Address or other Contact Information.** The Landlord shall, and the Rent Program may, maintain the Tenant's contact information until a time of which the Tenant's right of first refusal has either vested or been extinguished. Although the Rent Program may choose to maintain the contact information of the Tenant, it in no way assumes liability for a Landlord's failure to reoffer the Rental Unit to the displaced Tenant, as the Landlord shall have the sole responsibility of meeting their obligation to reoffer a Rental Unit for Rent pursuant to Richmond Municipal Code Section 11.100.050(c), and these Regulations.

ITEM I-2
ATTACHMENT 3

5. Reoffering the Rental Unit for Rent. It shall be the sole responsibility of the Landlord to reoffer the Rental Unit for Rent if it is ever returned to the rental market. In the event that the Landlord offers the Rental Unit for Rent, the Landlord shall inform the Rent Program of their intent to offer the Rental Unit for Rent and send the displaced Tenant a written offer to re-rent the Rental Unit at no more than the same Rent the Tenant was paying at the time of service of the notice of termination plus any applicable Annual General Adjustments subject to the provisions of Richmond Regulation 602. The Landlord shall provide a copy of the written offer letter to the Rent Program within five (5) days from the date the Landlord sent the offer to the Tenant. If the Landlord does not have the displaced Tenant's contact information, the Landlord shall request the Rent Program provide the Landlord with the Tenant's contact information. In such an event, the Rent Program shall seek the written permission of the displaced Tenant to release their contact information to the Landlord. If the displaced Tenant elects not to provide the sought after permission, the Rent Program shall serve as the intermediary, and assist the Landlord in providing the displaced Tenant with the Landlord's written offer for re-renting the Rental Unit to the displaced Tenant.

6. Failure to Respond to Landlord's Offering to Re-Rent the Rental Unit. The Tenant shall have thirty-days (30), plus any applicable time provided under California Code of Civil Procedure 1013(a), as amended,, to respond in writing to the Landlord's written offer for re-renting the Rental Unit. Upon responding in writing to the Landlord's offer, the Tenant shall file a copy of their written response with the Rent Program. A Tenant's failure to timely respond to a Landlord's offer to re-rent the Rental Unit that fully adheres to the provisions of Regulation 1010, shall extinguish the Right of First Refusal.

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**OWNER MOVE-IN POLICY DIRECTION MATRIX
OCTOBER 21, 2020**

Options highlighted reflect policy directives received by the Rent Board at its November 20, 2019, December 18, 2019, January 15, 2020, and February 19, 2020, Regular Meetings.

POLICY QUESTION	OPTION 1	OPTION 2	OPTION 3
1. Should a policy exist that allows two individuals who share ownership of a property (each individual has a 50% recorded interest) <u>each</u> be able to conduct an Owner Move-In eviction on a unit on a property? (So, for example, if two individuals own a duplex together, should each individual be able to conduct an Owner Move-In on a unit on the property?)	No Only one Owner Move-In Eviction should be permitted to take place on the property.	Yes Each individual owner who holds 50% interest in the property should be able to conduct an Owner Move-In eviction on the property.	Yes A Landlord or qualified family member may conduct an Owner Move-In, if the Landlord possesses legal title to at least 50% recorded interest in the rental property. Property may not be combined to satisfy the 50% recorded interest in a property. An Owner Move-In may not occur if a tenant has a minor child and the Owner Move-In occurs during the academic year.
2. Should an individual who is a beneficiary with at least 50% recorded interest in a trust that owns the property be able to conduct an Owner Move-In eviction?	No Only natural persons should be able to conduct an Owner Move-In eviction.	Yes, with limitations An owner of a property that is held in a Revocable Living Trust may conduct an Owner Move-In eviction, but only if the owner is both the trustor and trustee. An owner of a property that is held in a Trust may conduct an Owner Move-In eviction, with the exclusion of Real Estate Investment Trusts, LLCs with a Corporate Members, Corporations, or Land Trusts. <i>Note: In all cases, the owner must hold at least 50% interest in the property in accordance with section 11.100.050(a)(6)(A) of the Rent Ordinance</i>	
3. Should a policy be adopted to limit the number of Owner Move-In evictions that may be conducted by an owner or enumerated relative on a single property? In other words, should the Rent Board prohibit owners from conducting an Owner Move-In eviction for themselves in Unit A, for their parent in Unit B, and for a child in Unit C?	No Unlimited Owner Move-In evictions can be conducted so as long as the owner or relative resides on the property as his or her primary residence.	Yes Owners may conduct one Owner-Move In eviction once every three years.	Yes No more than one owner or qualified family member with 50% ownership can move to the property even if the other family member lives on the property. This must be the owner or qualified family members' primary residence. <i>(Option modified to reflect Rent Board direction provided at the February 19, 2020, Regular Meeting)</i>
4. When an owner performs an Owner Move-In eviction on a unit that is part of a larger multi-unit building, should a policy exist that would require any future Owner Move-In evictions on the property to occur in that same unit?	No Owner Move-In evictions should be able to be conducted on any unit on the property, regardless of whether an Owner Move-In eviction has occurred on the property previously.	Yes When an owner lives in the building as a primary resident, the owner may move to another unit because of a reasonable accommodation. <i>Note: On September 16, 2020, Rent Program staff recommended removing policy question 4, due to legal concerns.</i>	Yes If an owner has recovered possession of the unit, future landlords may not recover possession for an Owner Move-In of any other unit on the property. Owners must select a unit which becomes the designated owner move-in unit.
5. When a Landlord notifies a former Tenant displaced due to Owner Move-In that the Rental Unit has been placed back on the rental market, how much time do you think the Tenant should have to respond that they would like to exercise their first right of refusal to return to the Rental Unit?	Yes The Tenant should have up to seven days to respond.	Yes The Tenant should have up to one month to respond.	Yes The Tenant should have up to one year to respond.

**OWNER MOVE-IN POLICY DIRECTION MATRIX
OCTOBER 21, 2020**

Options highlighted reflect policy directives received by the Rent Board at its November 20, 2019, December 18, 2019, January 15, 2020, and February 19, 2020, Regular Meetings.

POLICY QUESTION	OPTION 1	OPTION 2	OPTION 3
6. If the formerly displaced Tenant moves back into the Rental Unit after several years, should a policy exist that allows the Landlord to include the Annual General Adjustment rent increases in the amount of the rent charged?	No The initial rent when the Tenant moves back into the unit should be the amount of Rent that the Tenant was paying when they moved out.	Yes The initial rent when the Tenant moves back into the unit can be up to the Maximum Allowable Rent for the unit (calculated by adding each year's AGA to the Tenant's Base Rent, as if their tenancy had never been terminated.) This circumstance would be exempt from the Board's adopted banking limitations (Regulation 602).	Yes, but only after a properly-noticed rent increase The initial rent when the Tenant moves back into the unit should be the amount of Rent that the Tenant was paying when they moved out; however, the Landlord may increase the rent (with proper notice) up to the Maximum Allowable Rent (calculated by adding each year's AGA to the Tenant's Base Rent, as if their tenancy had never been terminated) subject to the Board's adopted banking limitations (Regulation 602).
7. How long do you think the Landlord and/or Rent Program should be required to maintain contact information for a formerly displaced Tenant due to an Owner Move-In, in the event that the Rental Unit is placed back on the rental market?	Yes Tenant's contact information should be maintained for a period of one year.	Yes Tenant's contact information should be maintained for a period of three years.	Yes Tenant's contact information should be maintained for as long as the obligation exists. <i>(Option modified to reflect Rent Board direction provided at the December 18, 2019, Regular Meeting)</i>
8. Who should hold the burden of maintaining contact information for the formerly displaced Tenant, in the event the Rental Unit is placed back on the rental market?	The Landlord who conducted the Owner Move-In eviction should be required to maintain records of the Tenant's contact information.	The Rent Program should be required to maintain records of the Tenant's contact information, which the Landlord could access in the event the Rental Unit is placed back on the rental market.	Both - the Landlord and the Rent Program should be required to maintain records of the Tenant's contact information. <i>The Board also directed staff to include in the proposed regulation that it shall be the sole responsibility of the Landlord to notify the Rent Program if the Rental Unit is placed back on the market.</i>
9. What types of additional forms or documentation should be required for compliance, if any? Should a policy exist that the Rent Program is responsible for monitoring compliance with the Owner Move-In requirements of the Rent Ordinance?	No Compliance forms are not required.	Yes (a) Landlords shall be required to complete a Statement of Occupancy Following Service of Owner or Relative Move-In Eviction Notice within 90 days of service of the notice of Termination of Tenancy, and shall be required to re-submit this form annually for a minimum of three years following the date upon which the Landlord moved into the unit. (b) Landlords shall be required to serve to the Tenant, along with the notice of termination of tenancy, a blank form for the Tenant's completion in which the Tenant can give notice to the Landlord of their interest in renewing the tenancy if the unit should ever be returned to the Rental Market. This form would only need to be completed once by the Tenant (if they are interested in renewing their tenancy), but would need to be re-submitted if there is a change in the Tenant's current contact information. The Tenant would be required to mail the completed form to the Landlord and file a copy with the Rent Program.	

Cynthia Shaw

From: S. Terris <soozieterr@gmail.com>
Sent: Tuesday, October 13, 2020 9:12 PM
To: Cynthia Shaw
Cc: Susan C Terris
Subject: Revised Proposed Owner Move-In Eviction Regulations - written comments

To: Rent Board Clerk Cynthia Shaw

Dear Ms. Shaw,

i'm writing to comment on the Revised Proposed Owner Move-In Eviction Regulations. I am a tenant living in Richmond, CA.

I'm disappointed to read these regulations. Why? Because as a Berkeley tenant, I experienced a tenant's nightmare. I lived in a rent-controlled apartment complex for 6 months when it was purchased by a group of new owners. These new owners dealt with us in a very dishonest and unkind manner - they deceived us. These owners knew just what they were doing to force us out. We were all working people, neighborly and good tenants; one was a couple with a new baby. These owners chose deceit in order to force us out, and they forced us out in the most unpleasant way possible. There really was no legal recourse for us. They were avoiding their legal responsibility to pay the tenants a move-out fee, which at the time was required if owners wanted to move in.

In the above Richmond regulations, I see the seeds of a future tenant's nightmare. From what I read, there seems to be a lot of room for the potential of deceit by an owner. I am concerned that the burden of proof of potential deceit is put on the tenants, who in the first place were already in a marginalized position. What tenant would want to move back in a previous apartment after 3 years of living elsewhere? I see no tenant protection here. This regulation clearly favors owners.

**ITEM I-2
ATTACHMENT 5**

I know there are also honest and good owners who really do need to move a family member into their dwelling. For them, it is certainly an understandable regulation.

From my vantage point as a tenant, the regulation is written with far too much wiggle room for potential monkey business for my comfort.

Thank you sincerely for listening to my comment.

Susan C Terris

soozieterr@gmail.com

“One touch of nature makes the whole world kin.”

Shakespeare

ITEM I-2 ATTACHMENT 5

Turner Newton
6323 W Dry Creek Road
Healdsburg, CA 95448
925-209-6878
htnewton@gmail.com

By Email

October 15, 2020

Richmond Rent Board
440 Civic Center Plaza, 2nd Floor
Richmond, CA 94804

Re: Owner Move-In Eviction Proposed Regulations

Dear Rent Board Members:

I own two single family homes in Richmond on one legal lot and as such the homes are subject to Richmond Just Cause for Eviction regulations. Due to the age of the homes, they are exempt from rent control pursuant the Costa-Hawkins Rental Housing Act.

In reading through the most recent draft of the proposed regulations pertaining to owner move-in evictions, the regulations impose a form of rent control on properties that are exempt from rent control under the Costa-Hawkins Rental Housing Act.

Specifically, Paragraph 5 of the latest draft of the proposed regulations requires an owner to "send the displaced Tenant a written offer to re-rent the Rental Unit at no more than the same Rent the Tenant was paying at the time of service of the notice of termination plus any applicable Annual General Adjustments...". The effect of this language is that, if any owner of an exempt rent controlled unit were to terminate the lease of a tenant in accordance with the requirements of the proposed regulations, then at such time as the subject rental unit were to be re-rented, the owner would be required to offer the former tenant the rental unit at same rent the tenant was paying at the time of service of the termination notice "plus any applicable Annual General Adjustments". Since rent control exempt properties are not subject to Annual General Adjustments, the owner of an exempt unit would be required to offer the unit to the former tenant at exactly the same rent that the tenant was paying at the time of service of notice of the lease termination, no matter how many years in the past the tenant had relocated.

I assume the intention of the regulations is not to impose rent control in violation of existing law. Therefore, would it not make sense to amend the proposed regulations to provide that if a tenant is displaced from a rental unit that is exempt from rent control, then at such time as the unit is re-rented the owner must offer the unit to the former tenant at the then fair market rent?

I am not a lawyer, but it may be that if the regulations are adopted as written they could be found to be in violation of California Civil Code 1954.52.

**ITEM I-2
ATTACHMENT 5**

If I have missed something in my reading or interpretation of the proposed regulations that leads to a different conclusion than reflected above, please clarify.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Turner Newton", with a long horizontal flourish extending to the right.

Turner Newton

Cynthia Shaw

From: Doss & Felix <doss_felix@yahoo.com>
Sent: Thursday, October 15, 2020 4:00 PM
To: Cynthia Shaw
Subject: please forward to Richmond Rent Board Members RE: OMI

Dear Rent Board Members

Thanks for the opportunity to add my 2 cents. I appreciate the time and energy you devote to this program.

RE: OMI evictions My questions or suggestions are in yellow or (****)below.

Please be mindful that some of us bought property as part of family planning. We are little fish. It is unnerving to think that we won't be able to move our relatives into the rental property when the time comes. When planning for multiple generations and their futures, we in 1988, when the property was purchased, pictured ownership as ownership. We assumed once the mortgage was paid, we would be in charge of our own destinies and not joined forever at the hip to our customers whom we strive to serve as best we can. We have essentially become responsible for our customers'/tenants' wellbeings and futures. We are fair and thoughtful housing providers. All these provisions assume we are not. Even though I oppose the notion of Richmond Rent Program as a necessary entity and think it is now redundant given the CA State rules, I will work within the system. Please understand that this is impactful of families. One needs to consider elderly parents, in-laws, grown children, disabled grown children. We are the sandwich generation. Please note the following suggestions/Questions to your proposed points:

5. ...send the displaced Tenant a written offer to re-rent the Rental Unit at no more than the same Rent the Tenant was paying at the time of service of the notice of termination plus any applicable Annual General Adjustments (****and any MNOI settlements occurring in that time) subject to the provisions of Richmond Regulation 602. ...

6. Failure to Respond to Landlord's Offering to Re-Rent the Rental Unit. The Tenant shall have thirty-days (30), plus any applicable time provided under California Code of Civil Procedure 1013(a), as amended,, to respond in writing to the Landlord's written offer for re-renting the Rental Unit. Upon responding in writing to the Landlord's offer, the Tenant shall file a copy of their written response with the Rent Program. A Tenant's failure to timely respond to a Landlord's offer to re-rent the Rental Unit that fully adheres to the provisions of Regulation 1010, shall extinguish the Right of First Refusal (****.How many days does tenant have to pay deposit and start paying rent???) Recommend the tenant has 30 days to take occupancy and submit deposit and rent. And what if they can no longer afford the unit? Should they not fill out an application to verify that they have the necessary funds?)

Thanks for your time and efforts. They are appreciated.

J A Doss