

Item H-1: AB3088: Tenant Relief Act of 2020

October 21, 2020 | Regular Meeting of the Richmond Rent Board

Item-H-1: AB 3088: Purpose

The bill aims to stabilize the housing situation for tenants, landlords and homeowners, while addressing the impacts that the pandemic has had on housing.

The bill does not relieve tenants, homeowners, or landlords of their financial obligations, but aims to forestall massive social and public health harm by preventing unpaid rental debt from serving as a cause for eviction or foreclosure, preventing negative credit reports as a result.

Item-H-1: AB3088: What are the Components of AB 3088

AB 3088 makes a series of changes to various Civil Codes and Code of Procedures

- Mobile Home Parks
- Anti-Retaliation Statutes
- State Rent Control and Just Cause (AB1482)
- Homeowners Bill of Rights
- Code of Civil Procedure, Notice requirement
- New statute
 - Covid-19 Small Landlord and Homeowner Relief Act
 - Covid-19 Tenant Relief Act of 2020

**Item-H-1:
AB 3088:
Covid-19
Tenant Relief
Act of 2020**

The Covid-19 Tenant Relief Act of 2020 is intended to:

- Coordinate the State's response to Covid-19 rent related evictions.
- Permit the Courts enough time to adjust to the backlog of cases.
- Provide tenants a clear, consistent path of obtaining protection from eviction when they cannot pay rent due to a Covid-19 related issue
- Provide landlords with certainty on when they can collect the rent-debt owed, and create a process whereby its easier for landlords to access the courts to seek the debts owed.

Item-H-1: AB 3088: What does the Act do?

The Act modifies and/or creates the following areas to achieve its goal:

- Amends Summons and Complaints
- Creates Notice of Rights
- Creates two categories of debt
- Amends Notice of Termination of Tenancy for nonpayment of Rent
- Creates Declaration of Covid-19 related financial distress
- Amends Unlawful Detainers Motions
- Amends UD Records
- Prohibits certain evictions
- Amends Small Claims

Item-H-1: Covid-19 Tenant Relief Act of 2020: Summons and Complaint

- As it relates to Summons and Complaint:
 - Will not be issued prior to October 5, 2020 if any portion of UD is related to rent.
 - Likewise, Default Judgments will not be issued prior to October 5, 2020 if any portion of default is based on rent.
 - Landlords must file supplemental cover sheet together with the Summons and Complaint.
 - Landlords may obtain a Summons and Complaint on other grounds.

Item-H-1: Covid-19 Tenant Relief Act of 2020: Notice of Rights

- On or before September 30, 2020, landlords must provide tenants who owe rent between the periods of March 1-Aug. 31st 2020, with a written notice in 12 pt font that explains the tenants rights under State law.
 - The notice must recite verbatim language provided in state law. (1179.04)
 - The notice is separate and distinct from the notice of termination of tenancy
 - Failure to provide this notice invalidates any subsequent notice that is served for during the periods of March 2020-Feb. 1, 2021.

Item-H-1: Covid-19 Tenant Relief Act of 2020: Definitions

- The Act splits rent debt into two categories
 - Protected time period- The time period between March 1, 2020, and August 31, 2020
 - Transition time period- The time period between September 1, 2020, and January 31, 2021.
- It defines the period of which it covers.
 - Covered time period- The time period between March 1, 2020, and January 31, 2021

Item-H-1: Covid-19 Tenant Relief Act of 2020: Notice of Termination of Tenancy for Nonpayment of Rent

- The following apply only to residential notices of termination of tenancy for nonpayment of rent served anytime between March 1, 2020, and January 31, 2021:
 - Must be a 15 day notice, excluding holidays and weekends.
 - Must contain an unsigned copy of a declaration of Covid-19 related financial distress, with verbatim language provided by the state. (1179.02)
 - At the very least, must be in the same language the lease was negotiated
 - Must specify the amount owed and apportion it by month based on the day it became due.
 - Must contain specific verbatim language from State law
 - For notices that seek rent owed during the “protected period” the language comes from 1179.03(b)(4)
 - For notices that seek rent during the transition period, the language comes from 1179.03(c)(4)

Item-H-1: Covid-19 Tenant Relief Act of 2020: Notice of Termination of Tenancy for Nonpayment of Rent Cont'd

- What happens if a landlord's notice doesn't comply with any of these requirements?
 - The landlords notice is defective.
 - If you reach the UD stage, the case may be dismissed and depending on your written lease, a landlord may owe attorneys fess.
 - The notice requirement is also retroactive and applies during the covered period.

Item-H-1: Covid-19 Tenant Relief Act of 2020: Notice of Termination of Tenancy for Nonpayment of Rent Cont'd

- What if a landlord serves a notice based on rent owed that overlaps between the protected and transition time period?
 - The Landlord must serve two separate notices. Each notice must comply with the separate rules governing the protected period and the transition period.

Item-H-1: Covid-19 Tenant Relief Act of 2020: Declaration of Covid-19 related financial distress

- How does a tenant take advantage of the protections under State law?
 - If the Tenant only owes debt during the protected time period, the tenant need only return the signed declaration to the landlord prior to the expiration of the 15day notice of termination of tenancy for the state law protections to attach . Once returned, the Landlord can never evict the tenant for the debt owed during the protected time period.
 - If the tenant owes debt during the transition time period, the tenant must
 - Return the signed declaration to the landlord prior to the expiration of the 15day notice of termination of tenancy ; AND
 - By January 31, 2021, pay 25% of the total amount of rent owed.
 - If the tenant does these two things, the tenant can never be evicted for rent debt owed during the transition time period.

Item-H-1: Covid-19 Tenant Relief Act of 2020: Returning the Declaration

- How does a tenant return the Declaration?
 - Pretty much any verifiable way
 - Send it through mail. Make sure you can track it and it is to the address provided in the notice
 - In person
 - Via email, if the notice provides for email
 - Through the same method the tenant delivers rent, if possible.

Item-H-1: Covid-19 Tenant Relief Act of 2020: High Income Tenant

- Can a Landlord ask the tenant for proof that they have been impacted by Covid-19?
 - Generally, No.
 - Exception, where the Landlord knows that a tenant is a high income tenant
 - High income tenant is a tenant with an annual household income of 130 percent of the median income as published by the Department of Housing and Community Development.
- Can a landlord ask the tenant or third party person for financial information to either prove or disprove that the tenant is or is not a high income tenant?
 - Absolutely NOT.

Item-H-1: Covid-19 Tenant Relief Act of 2020: High Income Tenant, Cont'd

- What happens if the Landlord has independent proof that a tenant is a high income tenant?
 - The landlord must include verbatim state law language in their 15 day notice which explains the tenant's additional obligation as a high income tenant, and need to submit additional documentation demonstrating a covid-19 impact. (1179.02.5(b)(2)(B)
 - Failure to include this statement will result in tenants not having to comply with the additional documentation request.
 - The tenant has the duration of the 15day notice of termination of tenancy to return the declaration and submit additional documentation to demonstrate a covid-19 financial impact.
 - The additional documentation list is contained in state law. (1179.02.5(C) But generally any form of objectively verifiable documentation that demonstrates the Covid related impact is enough to satisfy this requirement, including a letter from an employer.
- What happens if the landlord claims that a tenant is a high income tenant but does not have independent proof?
 - If the matter goes to UD, the landlord must plead and prove as much. If the landlord cannot, then there is a unilateral attorney fees provision for the tenant.

Item-H-1: Covid-19 Tenant Relief Act of 2020: Unlawful Detainers

- What happens if the tenant does not submit the Declaration?
 - The landlord may proceed with the filing of the UD.
- Is there anything the tenant can do?
 - Upon receiving the UD, the tenant may attach, as part of their Answer, the Declaration.
 - Once the court receives the declaration, the court must set a noticed hearing.
 - At the hearing the court must determine whether the failure to submit the documentation was a result of a mistake, inadvertence, surprise, or excusable neglect.
 - If the court finds one of the aforementioned basis, the court must do either of the following:
 - If the UD seeks debt only during the protected time period, the court must dismiss the case
 - If the UD is filed before Feb 1, 2021, and seeks debt during the transition time period, the court must dismiss the case.
 - If the UD is filed after Feb 1, 2021, and seeks debt during the transition time period, the court must give the tenant five days to pay 25% of the rent, and if paid, then dismiss the case.

Item-H-1: Covid-19 Tenant Relief Act of 2020: Unlawful Detainer Records

- Will filing a UD during the protected time period hurt tenant's credit record?
 - UD's that are based on nonpayment of Covid-19 rent are restricted , except in very limited circumstances.
 - Exceptions can be found in 1161.2
- Does the state law prohibit any other evictions?
 - Substantial rehab and demolish.

Item-H-1: Covid-19 Tenant Relief Act of 2020: Small Claims

- Beginning March 1, 2021, landlords may pursue Covid-19 related debt in small claims. There are no limits to how much can be sought and how many different cases may be brought
- What about Richmond's grace period?
 - Richmond's grace period begins September 30, 2020 and ends September 30, 2021.
 - This means landlords cannot seek a covid-19 related debt ,which was incurred during the period of the Richmond Order, in small claims until September 30, 2021
- What about the 25% requirement? How does that work with the grace period?
 - That is separate and distinct as it is a requirement under state law. Richmond's grace period will only protect tenants from immediate small claims action. To avail oneself to the protections of state law, the 25% must be paid in accordance with the law.

Item-H-1: Contra Costa County Order

The City of Richmond , City Manager's office has not renewed the Richmond Order and thus the Richmond's Order has expired. The City Attorney's office has indicated that the County's Order will apply in the City of Richmond. The County's Order does the following:

- Prohibits no fault evictions
 - Except for OMI's, health or safety reasons, and Ellis
- Prohibits evictions where tenant allows an unauthorized occupant to live in the dwelling unit, if the occupant is a member of the tenant's immediate family living in the dwelling unit

Item-H-1: Contra Costa County Order Cont'd

The County's Order does the following:

- Prohibits rent increases on residential real property through January 31, 2021, except for the following:
 - Units that fall under Costa Hawkins
 - Units exempted from State law rent control
 - Rent increases where one or more scheduled rent increases occur pursuant to a written rental agreement that was entered into before March 16, 2020.

**Item-H-1:
Recommended
Action**

RECEIVE a presentation on Assembly Bill 3088

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A watercolor illustration of a modern residential street scene. In the foreground, a white car is driving on the left, and a person is jogging on the sidewalk. A person is also riding a bicycle on the sidewalk. In the background, there are modern houses with large windows and balconies, surrounded by lush green trees and a clear blue sky with a few clouds. The overall style is artistic and vibrant.

REVISED CHAPTER 2 REGULATIONS

Item I-1

October 21, 2020, Regular Rent Board Meeting

CHAPTER 2 BACKGROUND

- Chapter 2 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 characterized as conditionally fully exempt from the Rent Ordinance (Owner Occupied, Rent-Free, or Not Offered for Rent)
 - Between 2019 and 2020, owners of 1,087 dwelling units sought such a determination on these grounds.

PURPOSE OF REVISED CHAPTER 2 REGULATIONS

- As currently written, 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 otherwise meet the requirements of a Rental Unit as defined by the Rent Ordinance because there is no rent exchanged or the unit is not offered for rent.
- At its Regular Meetings on July 15 and August 19, 2020, the Rent Board considered and discussed revisions to Chapter 2 Regulations.
- Staff members prepared proposed revisions to these regulations to strengthen the policies and procedures by which claims of exemption or inapplicability from the Rent Ordinance are granted or denied.

PURPOSE OF REVISED CHAPTER 2 REGULATIONS

- The proposed revisions to Chapter 2 of the Board’s regulations clarify that the Administrative Determination process described in Rent Board Regulations 205 and 206 also apply to circumstances where an owner claims that a rental unit is not subject to the Rent Ordinance because it is not offered for rent or offered “rent free.”

EXISTING REGULATION 205

Rent Board Regulation 205. Application for Exemption Determination

Notwithstanding Regulation 403, a Landlord may request that an administrative decision be rendered regarding the applicability of RMC 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.

EXISTING REGULATION 206

Rent Board Regulation 206. Issuing an Administrative Decision on Exempt 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 RMC 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 made 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 Civil Code of 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.

PROPOSED PROCESS

- For units claimed to be not offered for rent (including owner occupied) or offered “rent free,” the proposed process mirrors the current Request for Administrative Determination process:
 - STEP 1: Fill out an application on official Rent Program form
 - STEP 2: Within 90 days (this is an expansion of the current timeline, which allows for 30 days) of the submission, the Executive Director or their designee issues an administrative determination of exempt status
 - STEP 3: The determination may be appealed to the Hearing Examiner through the petition process, and further appealed to the Rent Board

SUMMARY OF PROPOSED AMENDMENTS TO REGULATION 205

- Both a Landlord or Tenant may request that an Administrative Decision be rendered regarding the applicability of RMC 11.100 on a unit.
- The applicant shall have the burden of proof of demonstrating a claimed exemption or inapplicability of RMC 11.100.

SUMMARY OF PROPOSED AMENDMENTS TO REGULATION 206

- All Administrative Determinations shall consider the purpose of the Rent Ordinance, any relevant evidence tending to prove or disprove material facts, previous compliance with RMC 11.100, paid Business License Tax, if any, and the rental history of the subject Rental Unit.
- Evidentiary findings that must be made prior to reaching an ultimate conclusion of applicability:
 1. Whether the applicant owns at least a 50% interest in the Property (and has since the application was filed)
 2. Whether the unit meets the definition of a Rental Unit pursuant to RMC 11.100.030(m)
 3. Whether there exists a Rental Housing Agreement as defined by RMC 11.100.030(k)
 4. Whether there is a person referenced in the application who either receives or who would otherwise be entitled to receive Rent as defined in the Rent Ordinance.
 5. If the applicant claims that the unit is owner-occupied, whether the owner has resided at the property as their Primary Residence beginning at least 120 days prior to filing of the application.

SUMMARY OF PROPOSED AMENDMENTS TO REGULATION 206

- Where the challenged Rental Unit has been rented or offered for rent in the same fiscal year in which the applicant has filed an application for determination of RMC 11.100 applicability or exemption, the Executive Director or assigned staff member shall find that the provisions of RMC 11.100 apply, and shall only consider whether the unit is fully or partially covered.
- All administrative decisions must be rendered within 90 calendar days from the date of application.

NEXT STEPS

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

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).

Proposed Owner Move-In Eviction Regulations

October 21, 2020 | Regular Meeting of the Richmond Rent Board

Item I-2:

Statement of the Issue and Background

- On September 16, 2020, Staff members presented proposed regulations for the Board's consideration and potential adoption. At that meeting, the Board directed staff to make a series of revisions to the proposed regulations.
- With these revisions made, Staff members have prepared the revised proposed regulations for the Board's consideration and potential adoption.
- Staff recommend further discussion of Proposed Regulation 1009, specifically 1009 (C) 1 and 1009 (C) 4 in the context of Richmond Municipal Code Section 11.100.050 (a) (6) (B), prior to further consideration of adoption.

Revisions to Regulation 1009: Owner Move-In Eviction Pursuant RMC 11.100.050(a)(6)

1009(B) 1: Clarify language to explicitly include a Natural Person shall include an Owner of a trust, who is both a Trustor and Trustee.

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.

Revisions to Regulation 1009: Owner Move-In Eviction Pursuant RMC 11.100.050(a)(6)

1009(D) 5: Clarify language regarding Good Faith requirements, as it relates to vacancies.

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 Accomodation; ~~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.

**Revisions to Regulation 1009:
Owner Move-In Eviction Pursuant
RMC 11.100.050(a)(6)**

1009(E): Clarify or remove section regarding failure to occupy the rental unit.

~~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.~~

Discussion on Proposed Regulations
that limit the number of Owner Move-
In evictions to one per property

Does Section 11.100.050 (a) (6) (B) of the Rent Ordinance harmonize with a policy limiting OMI evictions?

Pursuant the Board's policy direction, Rent Program Staff drafted regulations that would limit one OMI eviction per property. However, prior to presenting those regulations, Staff recommend that the Board discuss their interpretation of RMC 11.100.050 (a) (6) (B) and whether it harmonizes with the proposed Regulation 1009 (C) 1 and 1009 (C) 4

RMC 11.100.050 (a) (6) (B)

(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.

RMC 11.100.050 (a) (6) (B)

(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.

Per the policy direction provided by the Board, to limit one OMI eviction per property, staff have drafted 1009 (C) 1 and 1009 (C) 4 which clarify RMC 11.100.050 (a) (6) (B) as follows:

If a 50% owner occupies a rental unit on the property (through OMI eviction or moving into vacant unit), that same Landlord cannot perform another OMI eviction whether for themselves or their enumerated relative on the property without a reasonable accommodation.

1009 (C) 1

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.

1009 (C) 4

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

Revisions to Regulation 1010: Post Owner Move-In Eviction Requirements

1010(C) 3: Revise language regarding the change of address/contact information form to include a statement informing the Tenant that failure to update the Landlord may result in forfeiture of their first right of refusal. The revision also removes the requirement to update the Rent Program and adds language that the Rent Program may facilitate an update of change of address between the displaced Tenant and Landlord.

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).

Revisions to Regulation 1010: Post Owner Move-In Eviction Requirements

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 for Owner Move-In

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.

Revisions to Regulation 1010: Post Owner Move-In Eviction Requirements

1010(C): Regarding continued occupancy certification, to revise the language and add other options for certification of occupancy and remove the language that says “including but not limited to a copy of a valid California Driver’s License or government issued form of identification.”

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 the at 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,

Clarification on rental rate after an Owner Move-In Eviction

Regulation 701 (A) (1) (a) clarifies that while Landlords are allowed to reset the rent for new tenancies consistent with the Costa Hawkins Act, Costa Hawkins also allows for a prohibition on resetting rents to market following a vacancy that resulted from a no-fault termination of tenancy under California Civil Code 1946.

701. Vacancy Rent Levels

A. Commencing July 21, 2015, a Landlord may establish the initial rent rate for all new tenancies consistent with Civil Code Section 1954.50, et seq. as amended, and any Board regulations enacted consistent therewith, except where any of the following applies:

(1)

- a. The previous tenancy has been terminated by the Landlord pursuant to Civil Code Section 1946, or;

Clarification on rental rate after an Owner Move-In Eviction

Regulation 701 (A) (1) (5) further clarifies that an Owner Move-In eviction is treated as a non-voluntary vacancy or no-fault eviction pursuant to Civil Code 1946, thereby attaching the prohibition on resetting the rent for the first intervening tenancy after the Owner Move-In eviction.

701. Vacancy Rent Levels

A. Commencing July 21, 2015, a Landlord may establish the initial rent rate for all new tenancies consistent with Civil Code Section 1954.50, et seq. as amended, and any Board regulations enacted consistent therewith, except where any of the following applies:

(5) The prior Tenant was the spouse, registered domestic partner, child, parent or grandparent of a Landlord who recovered possession of the unit pursuant to RMC 11.100.050(a)(6).

Clarification on rental rate after an Owner Move-In Eviction

Regulation 707 (B) clarifies that the rent level for the tenancy following an Owner Move-In eviction shall be no more than the Maximum Allowable Rent, plus any subsequent increases authorized by the Rent Board for the Tenant who vacated (as a result of the OMI eviction).

B. A Landlord who serves a 30 or 60-Day Notice of Termination of Tenancy pursuant to Richmond Municipal Code section 11.100.050(A)(6) for the purpose of recovering possession of the unit for their own use or occupancy as a principle residence or the principle residence of a qualifying relative may rescind the notice or stop eviction proceedings but, if the Tenant vacates within one year of the date of service of the notice, the tenancy is presumed to have been terminated by the Landlord as a result of the notice. The rental rate for the next tenancy established in the vacated unit shall be no more than the Maximum Allowable Rent under the Ordinance for the Tenant who vacated, plus any subsequent increases authorized by the Rent Board.

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).

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