

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: September 21, 2022

Final Decision Date Deadline: September 21, 2022

STATEMENT OF THE ISSUE: Members of the community have sent letters to the Rent Board and Rent Program staff members. Staff members recommend letters that do not pertain to a specific item on the Rent Board agenda be included as consent items for consideration by the Rent Board.

INDICATE APPROPRIATE BODY

- | | | | | |
|---|---|--|--|---|
| <input type="checkbox"/> City Council | <input type="checkbox"/> Redevelopment Agency | <input type="checkbox"/> Housing Authority | <input type="checkbox"/> Surplus Property Authority | <input type="checkbox"/> Joint Powers Financing Authority |
| <input type="checkbox"/> Finance Standing Committee | <input type="checkbox"/> Public Safety Public Services Standing Committee | <input type="checkbox"/> Local Reuse Authority | <input checked="" type="checkbox"/> Other: <u>Rent Board</u> | |

ITEM

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) | | | |
| <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Regulation | <input checked="" type="checkbox"/> Other: <u>CONSENT CALENDAR</u> | |
| <input type="checkbox"/> Contract/Agreement | <input type="checkbox"/> Rent Board As Whole | | |
| <input type="checkbox"/> Grant Application/Acceptance | <input type="checkbox"/> Claims Filed Against City of Richmond | | |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Video/PowerPoint Presentation (contact KCRT @ 620.6759) | | |

RECOMMENDED ACTION: RECEIVE letters from community members regarding the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance, RMC 11.100 – Rent Program (Cynthia Shaw 620-5552).

AGENDA ITEM NO:

F-3.

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Cynthia Shaw

From: [REDACTED]
Sent: Wednesday, August 17, 2022 2:44 PM
To: Cynthia Shaw
Subject: Rent Board Meeting August 17, 2022. Public Forum Item E
Attachments: 20220616_180422.jpg; 20220816_184432.jpg; 20220815_180006.jpg; 20220816_113737.jpg; 20220814_165920.jpg

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Dear rent board members,

RE: SENIORS NEEDS - NOT CORPORATE GREED

I am a caregiver and am writing on behalf of my elderly relative that lives at Heritage Park at Hilltop in Richmond. They got a rent increase notice recently that they can't afford to pay and it is causing anxiety and stress.

They want to know how this increase is warranted. Heritage Park just keeps taking things away from the seniors and does less than when the apartments were first opened. The place looks like a dump with garbage and pigeon poop all over. The pigeons take over balconies and aren't usable. The trash rooms were locked and closed last year. There is no place to put soiled diapers or spoiled food that smells bad, except for the bin the trash service picks up from our apartment door laye at night. The hallway smells like a garbage dump. There are rats and coackroaches in the building.

What happened to the white elephant dumpster in the back lot? Are we supposed to put trash in the junk truck? Are we supposed to open those big doors to the trash compactor and throw stuff in there?

How can rents go up when this place is a mess and they don't care about the rent paying residents? The pictures tell the real story. Does this look like the mission statement on the owners website? How are they improving lives? They might understand profit better than people!

"About USA Properties Fund

Since our beginnings in 1981, our mission has been to create outstanding communities that meaningfully improve the lives of those within and around them. We understand housing as a conduit to addressing other social challenges- including health care, education, energy, and transportation- and we approach each project with equal focus on the bottom line and how we will benefit both our future residents and the cities in which these communities are located".

Rent Board, please do something to help these senior citizens. It's depressing and heart-breaking nobody seems to care about them.

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Cynthia Shaw

From: [REDACTED]
Sent: Wednesday, August 17, 2022 1:50 PM
To: Cynthia Shaw
Subject: AUGUST 17, 2022, PUBLIC COMMENT REQUEST: ITEM 3 PUBLIC FORUM

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Dear Richmond Rent Board Members:

Residents at Heritage Park at Hilltop on Lakeside Drive in Richmond have received rent increase notices of 5.2 percent effective October 2022. This is a 192-unit complex for seniors, that is supposed to be "affordable" living. The rents are not affordable and fair market prices are not fair.

Although U.S.A. Property Fund, the property owner, is in compliance with the consumer price index rent increase, the \$63. monthly increase will be a burden for the senior residents that are on fixed incomes and struggling to pay their rent and bills that include, PG&E, phone, medical, insurance, caregivers, groceries, gas, transportation, etc. Cable and internet prices are astronomical and are considered a luxury. The yearly rent increase will be \$756. Routine car maintenance exceeds this amount. Keeping entertainment services like cable and internet may no longer be doable. Paying for groceries and utilities is already difficult. Our physical and mental health is greatly affected by stress. According to the CDC, "The risk of severe illness from COVID-19 increases with age". Hospitalization and death rates are higher for elders. Financial challenges are a daily reality for those of use on fixed incomes and tight budgets.

Recently, the Rent Board and Richmond City Council have heard numerous complaints from the public regarding the hardship the rent increases would have on Richmond residents. This includes the vulnerable population of senior citizens with limited resources and options.

FACT: Heritage Park at Hilltop is a LIHTC property: The Low-Income Housing Tax Credit (LIHTC) established under the Tax Reform Act of 1986, is the largest source of federal assistance for developing affordable rental housing and has financed about 2.9 million rental units. LIHTCs encourage private-equity investment in low-income housing through tax credits. Developers of awarded projects typically attempt to obtain funding for their projects by attracting third-party investors willing to invest in the project (provide up-front cash) in exchange for the ability to claim tax credits. The developer sells an ownership interest in the project to one or more investors, or in many instances, to a syndicator acting as an intermediary between the developer and investors.

FACT: U.S.A. PROPERTIES FUND, ROSEVILLE, CALIFORNIA HAS THIRD PARTY INVESTORS

Please read this informative report by McKinsey & Company and decide if the 5.2 rent increase is equitable, necessary and if profit margins and investors' interests are factors in the rent increase at Heritage Park at Hilltop. Keep in mind that other LIHTC property developers in Contra Costa County actually have affordable rents, which are 50% lower than Heritage Park at Hilltops' rent. Example: Affordable, 1 bedroom \$750. Not Affordable 1 bedroom \$1,200-1,500. Other senior complexes that are truly affordable have long waitlists. Heritage Park has had amenities reduced or closed during the Covid-19 pandemic. Why should we pay more now when we aren't getting more? Last week 3 garbage dumpsters were removed by the corporate office without any notice to the residents. Our smaller garbage bins in the community areas were already removed. We have had an overflow of garbage for years that is a serious public health and safety issue. Why

are our needs and health concerns being ignored and the corporate giants' desire for greater profits are being honored?

FACT: Once a niche investment approach thought to come at the expense of returns, environmental, social, and governance (ESG) investing—or strategies that align with a company’s ESG values—has grown into a \$30 trillion market as of 2019, according to a McKinsey & Co. report: Issues like energy consumption, greenhouse gas emissions, climate change, resource scarcity, health and safety, diversity and inclusion, and effective board oversight are all having a greater effect on the financial performance of companies and investors have taken notice. The 2019 Global Impact Investing Network (GIIN) Annual Impact Investor Survey results show the increasing scale and maturity of the impact investing industry. This most recent report includes responses from 266 leading impact investing organizations worldwide that manage \$239 billion of the more than \$502 billion U.S. market. One major underutilized strategy that could enable companies to significantly boost their ESG performance and mitigate ESG related risks is tax credit investments. By repurposing and redirecting a company’s estimated tax payments into qualified tax advantaged investments, companies can achieve triple bottom line results and fulfill their ESG commitments.

TAX CREDITS EXPLAINED

A tax credit is a type of government sponsored tax incentive that can reduce a company’s tax liability dollar-for-dollar. The federal government uses tax credits to incentivize corporate taxpayers to invest in certain types of projects that produce economic, environmental, or social benefits. For these projects, the tax credit is an important source of capital, but many project developers do not have enough taxable income to take advantage of the tax credits themselves. In such cases, the developer may monetize the tax credit by attracting a “tax equity” investor, usually a corporate tax paying investor partner.

Tax equity is a term that is used to describe a passive equity ownership interest in a qualified project, where an investor receives a return, based not only on cash flow from the project, but also on tax benefits. In such a transaction, a partnership is typically formed among the parties to facilitate the investment and the allocation of tax credits, deductions, and distributions. The specifics of each partnership vary by project, tax credit type, and transaction structure.

In practice, a tax equity investment uses the same dollars that are earmarked to satisfy a company’s tax liability. The funds are repurposed and then invested into qualified projects that generate tax credits, such as a solar farm or an affordable housing project. The tax benefits generated from the project flow back to the investor, eliminating a corresponding amount of tax liability. Typically, the investor also receives a cash return generated through earnings from the project.

Sincerely,

Richmond Resident - Fed up with Unfair Rent Increases

Cynthia Shaw

From: [REDACTED]
Sent: Tuesday, August 16, 2022 11:03 PM
To: Nicolas Traylor; Charles Oshinuga; vfinlay@richmondrent.org; smishek@richmondrent.org; aconner@richmondrent.org; cjohnson@richmondrent.org; mvasilas@richmondrent.org
Cc: Cynthia Shaw
Subject: Request for MNOI filing beyond the following year of the current year

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Hi,

I am, [REDACTED], the landlord of [REDACTED], Richmond, CA 94801 since July 2016. I had filed MNOI for the current year of 2017 and received a rent increase in 2019. On the settlement agreement of MNOI dated on 1/22/2019, further repair were agreed to be completed. Thus, repair and capital improvement closed to the amount of \$60,000 were conducted and completed in 2019. I borrowed money from various financial institutions to finish all the work as stated on the settlement agreement and beyond, and thus I fulfilled my duties as a landlord and the agreement. I did plan on filing MNOI in the following year; however, I was going through a substantial hardship since the beginning of 2020. My partner, who had been battling Hodgkin lymphoma cancer for the last 15 years, was diagnosed for secondary cancer of leukemia. He was hospitalized for undergoing high-dose chemotherapy, in and out of ICU, never came home and passed away that year. I was his only caregiver, and so my time was filled with receiving phone/ facetime updates from nurses, doctors and physical therapists when visitors were not allowed in the hospital, visiting him in the hospital everyday and eventually staying overnights with him in the hospital, looking for clinical trials nationwide, calling his insurance company and filing grievance, seeking help from Managed Care and other agencies regulating California health care, advocating for his care in the hospital, and consulting with doctors nationwide for his treatment options. After he passed away, I took care all his estate matters as he was the only child and his parents were no longer alive. I also had to seek numerous (20-30) legal counsels from two states for resolving his business matters. In addition to handling all my partner's after death matters and grieving my loss, I work full time as a scientist, have to take care of my other rental property needs, and my son. With this life event requiring significant amount of time and efforts to deal with and, most of the time, prolonging to years, I really did not have time to file MNOI in time for the Richmond's property.

In 2022 when things start to subside, I reviewed the MNOI application and was surprised that the current year on the MNOI application form was printed as 2021, instead of blank, which can be filled with the current year that landlords would like to file. The counselor from Richmond Rent Control informed me that I could certainly file MNOI for the current year of 2019, but the application would be denied due to late filing and filing MNOI beyond the following year would be against the law. I spoke in public forum of the Rent Board Meeting on 6/15 requesting to be given grace period of time of filing MNOI for the current year of 2019 and 2021, as a result of the death of my partner. Even though I am at the year where the current year of 2021 for MNOI application can still be filed, I would lose 2019 rent increase when I file MNOI for the current year of 2021. I also listened to the recording of the meeting on 6/23 and 7/20, and reviewed Resolution No. 22-07, Adopted Rent Board Regulations Chapter 9, and Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance. I do not find a regulation stating that landlords would be denied for fair return when the MNOI application is submitted after the deadline. I also could not find anywhere on the Ordinance and Regulations Chapter 9 stating about the deadline of MNOI application, other than the definition of the current year, which is the year preceding the application. It is also stated that under the definition of the current year that "the current year CPI" should be the annual CPI for the current year. Therefore, filing MNOI application beyond the following year of the current year would not affect the calculation of any current year in MNOI application. The regulation that I found in both Adopted Rent Board Regulations Chapter 9 and Rent Control Ordinance is the following.

On Adopted Rent Board Regulations Chapter 9, Section 905 for Maintenance of Net Operating Income (MNOI) Fair Return Standard states the following.

(12) Constitutional Right to a Fair Return.

No provision of this regulation shall be applied so as to prohibit the Board from granting an individual rent adjustment that is demonstrated by the Landlord to be necessary to meet the requirements of this ordinance and/or constitutional Fair Return requirements.

On Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, Chapter 11.100.070 for Rent Control; Right of Reasonable Return for Landlords states the following.

(k) No provision of this chapter shall be applied so as to prohibit the Board from granting an individual rent adjustment that is demonstrated by the Landlord to be necessary to provide the Landlord with a fair return on investment. Necessity shall be defined in regulations promulgated by the Board. Limits on the total increase per month and length of monthly increase shall be promulgated by the Board through regulations.

The statements above clearly stated that landlords shall be granted for the fair return of their investments when they are able to show the rent adjustment to be necessary. By dismissing my MNOI application due to filing beyond the following year of the current year would be a violation of a constitutional right to a fair return.

If I have misread, misunderstood and missed the statements made above, please correct me and provide me with the clarification. In the meantime, I would like to have these questions answered and provided with rationales.

1. What are the consequences of filing MNOI not in timely manner, besides tenants not knowing the exact year of getting rent increase? I believe that a delay in filing MNOI by landlords actually benefits tenants significantly in having their rent increased in much later time. In addition, after attending the meetings and hearing all the meeting recordings, I still don't get a clear answer of why MNOI can only be filed on the following year of the current year.
2. If MNOI application is denied due to landlords not fulfilling the due process, isn't it against the ordinance that landlords are denied for the right to receive the return of their investment? I believe this opens up a potential lawsuit.
3. Why is Resolution No.22-07 only catered to MNOI application filed in timely manner? This Resolution excludes landlords with late MNOI filing, resulting in denying the right of a fair return to landlords and thus violating the Rent Ordinance and Adopted Rent Board Regulation Chapter 9. There should be exception for landlords undergoing hardship or extension of filing time period of MNOI in general. I could not agree more with multiple speakers expressing the high degree of complexity on MNOI application in Richmond that longer period of time in filing MNOI is necessary. Keeping in mind, hardship does not only happen during pandemic or any local/ state/ federal emergency. Hardship happens to anyone at any time and thus the regulation should cover broader audience and circumstances to avoid the same matter brought up in the future.

Please review my concerns and responds to me in a timely manner. I appreciate it.



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