

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: Under Emergency Resolution No. 22-07, where a landlord previously timely filed a Maintenance of Net Operating Income petition (hereafter MNOI petition) during the Local Emergency, but the petition was either withdrawn or dismissed, the Landlord may request the Rent Board for an Order to have their withdrawn or dismissed Maintenance of Net Operating Income petition reconsidered by the Hearing Examiner. On August 25, 2022, Landlord of 420-430 Golden Gate Ave. in Richmond submitted a Request for Reconsideration of Previously Filed Maintenance of Net Operating Income Petition (hereafter "Request for Reconsideration") for both Petition No. RC20-L023 and No. RC22-L038 (Attachment 1). The Board should consider the Request for Reconsideration for RC20-L023, which was dismissed for failure to submit by the 30-day deadline. Petition No. RC22-L038 is a resubmission of RC20-L023 filed in 2022. RC22-L038 pertains to the same property at 420-430 Golden Gate Ave., which has not been dismissed or withdrawn therefore, does not require reconsideration. Petition No. RC22-L038 submittal was reviewed by Staff conducted a preliminary review of the Petition and a Notice Of Inadequate Documentation was issued (Attachment 4).

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

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|---|--|--|
| <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: Consider for Approval of a Request for Reconsideration of a Previously Filed Maintenance of Net Operating Income Petition during the Local Emergency for 420-430 Golden Gate Avenue – Nicolas Traylor (620-6564).

AGENDA ITEM NO:

F-7.

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To: Members of the Richmond Rent Board
From: Nicolas Traylor, Executive Director
Re: Request for Reconsideration of Previously Filed Maintenance of Net Operating Income Petition - 420-430 Golden Gate Ave.
Date: September 21, 2022

Request for Reconsideration of Previously Filed
Maintenance of Net Operating Income Petition During the Local Emergency

Introduction

Under Emergency Resolution No. 22-07, where a landlord previously timely filed a Maintenance of Net Operating Income petition (hereafter MNOI petition) during the Local Emergency, but the petition was either withdrawn or dismissed, the Landlord may request the Rent Board for an Order to have their withdrawn or dismissed Maintenance of Net Operating Income petition reconsidered by the Hearing Examiner. On August 25, 2022, Landlord of 420-430 Golden Gate Ave. in Richmond submitted a Request for Reconsideration of Previously Filed Maintenance of Net Operating Income Petition (hereafter "Request for Reconsideration") for both Petition No. RC20-L023 and No. RC22-L038 (Attachment 1). The Board should consider the Request for Reconsideration for RC20-L023, which was dismissed for failure to submit by the 30-day deadline. Petition No. RC22-L038 is a resubmission of RC20-L023 filed in 2022. RC22-L038 pertains to the same property at 420-430 Golden Gate Ave., which has not been dismissed or withdrawn therefore, does not require reconsideration. Petition No. RC22-L038 submittal was reviewed by Staff conducted a preliminary review of the Petition and a Notice Of Inadequate Documentation was issued (Attachment 4).

Review of Evidence Submitted for the Request for Reconsideration of Petition No. RC22-023

Under Resolution No. 22-07, in any Request for Reconsideration, the Landlord shall submit relevant evidence demonstrating Good Cause for their failure to pursue their previously timely filed MNOI petition which resulted in either a withdrawal or dismissal of the petition. "Good Cause" means taking reasonable efforts and acting with due diligence to timely pursue a previously timely filed MNOI petition.

Good Cause Requirement

No Landlord's Request for Reconsideration shall be granted unless the Rent Board finds by a Preponderance of the Evidence that the Landlord demonstrated they had Good Cause when failing to pursue their previously timely filed Maintenance of Net Operating Income petition.

In its consideration, the Rent Board shall evaluate the following factors, whenever present, when deciding of Good Cause:

1. Whether the Landlord had a Covid-19 related issue that impacted their ability to pursue their previously timely filed Maintenance of Net Operating Income petition.
2. Whether the Landlord was notified of the consequences of withdrawing their previously timely filed Maintenance of Net Operating Income petition.
3. Whether the Landlord was notified that their previously timely filed Maintenance of Net Operating Income petition lacked completeness prior to the dismissal of their petition.
4. Whether the Landlord sought and/or received any services from a Richmond Rent Program Housing Counselor related to their previously timely filed Maintenance of Net Operating Income petition.
5. The degree of correspondence between the Landlord and any Rent Program staff member related to their previously timely filed Maintenance of Net Operating Income petition.
6. Whether the previously timely filed Maintenance of Net Operating Income petition was dismissed in error.
7. Any other circumstances relevant to the inquiry of Good Cause.

Mr. Smith's Claims of "Good Cause"

In the Request for Reconsideration, dated August 25, 2022, (Attachment 1) for the property owner at 420-430 Golden Gate Ave., Jimmy Smith, indicated that the following Good Causes for failing to pursue their previously filed Maintenance of Net Operating Income petition:

1. COVID-19 related issues that impacted the ability to pursue previously timely filed MNOI Petition.
2. I was not notified of the consequences of withdrawing the previously timely filed MNOI Petition.
3. I was not notified that the previously timely filed MNOI petition lacked completeness prior to the dismissal of the Petition.
4. I sought and received services from a Richmond Rent Program Housing Counselor related to the previously timely filed MNOI Petition.
5. Other circumstances relevant to the inquiry of Good Cause: Please refer to the attached letters from Professional Property Management and the Law Offices of Richard J. Alexander (Attachment 1).

Staff Evaluation of Good Cause Claim

For a previously filed MNOI Petition to be reconsidered under Resolution No. 22-07, a landlord must submit evidence to support their claim of Good Cause. The following is Staff's evaluation of Mr. Smith's claims of Good Cause and supporting evidence:

Good Cause Claim #1 (COVID-19 related issues impacted Mr. Smith's ability to pursue the previously timely filed MNOI Petition): In his attorney's letter, submitted along with the Request for Reconsideration (Attachment 1), Mr. Smith claims that "complete

closure and/or limited operating of most city and government offices due to the COVID pandemic caused the petition packet to be reviewed and returned to Mr. Smith some number of days past the time of response set forth in the regulations for the Rent Program to respond.” The letter also states that “in the middle of the Holidays, December 24, 2020, Christmas Eve, while many relatives were over for Christmas Eve, [Mr. Smith] had to be rushed to the emergency room for immediate care to a hospital that was booked solid due to COVID patients. This unexpected health emergency caused [Mr. Smith] to be out of work through the New Year, preventing [him] from [his] normal duties.” Mr. Smith also mentions that he had ongoing hospital visits through the first half of 2021.

Staff Evaluation of Claim #1: While it is correct that the Rent Program office was closed to in-person service during the period in question, all other services, including counseling and assistance from Hearings Unit staff, remained available to Mr. Smith remotely via phone, email, and Zoom meeting. However, in the filing of the MNOI Petition, which is a more complicated petition, landlords often request and benefit from in-person assistance by Rent Program staff to review documents and petition completeness. While this service was not available to Mr. Smith at the time of the filing of his MNOI petition, the unavailability of in-person services may not be a Good Cause by itself.

Mr. Smith’s claim that COVID-19 impacted him by having to be rushed to a hospital Emergency Room during the holidays (December 24, 2020), because the hospital was booked solid due to COVID patients, would on its face be a Good Cause under Resolution No. 22-07. However, other than a letter/statement from his attorney, no further evidence was submitted to support this claim. Staff remains neutral regarding this claim, but the Board may, if it chooses, give more weight and credibility to Mr. Smith’s claim.

Good Cause Claim #2: In his Request for Reconsideration, Mr. Smith claims that he was not notified of the consequences of withdrawing the previously timely filed MNOI Petition.

Staff Evaluation of Claim #2: Mr. Smith and Administrative Analyst Cynthia Shaw did not discuss withdrawing the petition. They discussed the consequences of dismissal if the incomplete petition was not completed by the November 12, 2020, deadline.

There were several communications between Mr. Smith and Ms. Shaw that prove that Mr. Smith was made aware of the consequences of not completing the previously timely filed MNOI Petition. On November 5, 2020, Ms. Shaw, after having spoken on the phone with Mr. Smith informing him that the petition lacked completeness for failure to provide a Proof of Service, followed up with an email requesting that the Proof of Service be submitted to complete the petition (Attachment 2).

Good Cause Claim #3: Mr. Smith claims that he was not notified that the previously timely filed MNOI petition lacked completeness prior to the dismissal of the petition.

Staff Evaluation of Claim #3: Mr. Smith’s claim that he was not notified that the previously timely filed MNOI petition lacked completeness prior to the dismissal of the petition is false. For example, on November 5, 2020, Mr. Smith was informed by Cynthia Shaw that he needed to submit a completed petition by November 12, 2020, to avoid the petition being administratively dismissed (Attachment 2). Furthermore, November 25, 2020, Mr. Smith

received a NOTICE OF ADMINISTRATIVE DISMISSAL OF LANDLORD INDIVIDUAL RENT ADJUSTMENT PETITION NO. RC20-L023 (Attachment 3), notifying him that the petition had been Administratively Dismissed for failure to meet the November 12, 2020, deadline and that if he wanted to refile for the Current year of 2019, he had to do so by December 31, 2020.

Good Cause Claim #4: Mr. Smith claims that he sought and received services from a Richmond Rent Program Housing Counselor. Mr. Smith did seek and receive counseling services from Rent Program staff, namely Staff Attorney, Palomar Sanchez. Mr. Sanchez spoke with Mr. Smith in May and August of 2020, advising him of the MNOI Petition process generally.

Staff Evaluation of Claim #4: Mr. Smith did show Good Cause by seeking and receiving counseling on the MNOI Petition process.

Good Cause Claim #5: Mr. Smith claims that there were other circumstances relevant to the inquiry of Good Cause. Mr. Smith claims that he did not file the petition by December 31, 2020, because he did not want to disturb his tenants during the holidays. After having received the Notice of Administrative Dismissal regarding Landlord Petition NO. RC20-L023 on November 25, 2020, Mr. Smith informed Cynthia Shaw that he planned to file the “petition at a later time” and requested that Ms. Shaw document the file [Petition] and advise him if there are steps that must be made by December 31st to preserve the right to file “at a later date”. Because the Rent Program office was closed during the holidays Ms. Shaw responded to Mr. Smith on January 5, 2021, informing him that “Unfortunately, the Hearing Unit cannot keep the Petition open until he decided to move forward” (Attachment 3).

Another Good Cause cited by Mr. Smith through his attorney, Richard J. Alexander, was that the 30-day deadline for submission prior to dismissal is arbitrary and not codified in Rent Board Regulations.

Staff Evaluation of Good Cause Claim #5: Mr. Smith had been previously informed that failure to file by December 31, 2020, would prevent him from being able to include the Current Year of 2019 for his MNOI petition. When Mr. Smith decided not to file the petition because he didn't want to disturb tenant during the holidays, he did so having previously been informed of the consequences of missing the December 31, 2020, deadline. As a result, a claim of Good Cause appears inadequate in this instance because Mr. Smith had previously been informed by Rent Program staff of the consequences of failing to file by December 31, 2020, but still decided to hold off on filing.

Regarding the claim that the 30-day deadline for submission prior to dismissal, while it is correct that Rent Board Regulations do not specify the deadline for submission prior to dismissal, the 30-day deadline meets the general standards for reasonable notice under California Civil Code.

Staff Recommendation

In evaluating the Request for Reconsideration, the Board must find by a Preponderance of the Evidence that the Landlord demonstrated they had Good Cause when failing to pursue their previously timely filed MNOI petition. In this case, Mr. Smith claimed five Good Causes.

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The most compelling of the Good Causes was the health emergency Mr. Smith experienced during the winter break holiday period in 2020. Staff takes no stance on this Good Cause claim. Mr. Smith's claim that he was not notified of the consequences of withdrawing the previously timely filed MNOI Petition is not pertinent, as he did not discuss withdrawing the petition with Rent Program staff, but instead discussed the consequences of dismissal if the incomplete petition was not completed by the deadline provided of November 12, 2020. Rent Program staff objects to Mr. Smith's claim that he was not notified that the previously timely filed MNOI petition lacked completeness prior to the dismissal of the petition, as he was informed by Rent Program staff that he needed to submit a completed petition by November 12, 2020, to avoid the petition being administratively dismissed (Attachment 2). Mr. Smith did meet the Good Cause claim of having sought and received counseling by Rent Program staff, showing that he made a diligent effort to understand the rules and work through the process. Mr. Smith's other Good Cause claim was that he held off on submitting the petition before the deadline of December 31, 2020, due to not wanting to disturb tenants during the holidays (Attachment 3) which Rent Program Staff take no stance on this Good Cause claim. The final Good Cause claim was that the petition was dismissed based on an arbitrary deadline of 30-days. Staff objects to this claim due to California law establishes 30-days as a reasonable deadline for most notices and submissions. Rent Program Staff's objection to any of the Good Cause claims does not disqualify a Landlord's claim to meet the Good Cause standard. The Board may ultimately grant or deny the Request for Reconsideration based on the totality of the Good Cause claims or merely one of the Good Cause claims provided. In Mr. Smith's case, the most compelling Good Cause argument was the health emergency he experienced during the 2020 Holiday period, which also coincided with the last week he had available to meet the deadline for filing for the Current Year of 2019. Rent Program recommends the Board to evaluate the Good Cause claims provided Mr. Smith to approve or deny the Request for Reconsideration.

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Rent Board Request for Reconsideration of Maintenance of Net Operating Income Petition (MNOI)

Property Owner Name(s): OFEK P10 LLC

Original Petition Number: RC20-LO23 and RC22-LO38

Date MNOI Petition was Previously Filed with the Rent Program: 10/7/2020

The Property Owner hereby requests reconsideration of the MNOI Petition for the following reason(s) (Check all that apply):

- Covid-19 related issues that impacted the ability to pursue previously timely filed MNOI Petition.
- I was not notified of the consequences of withdrawing the previously timely filed MNOI petition.
- I was notified that the previously timely filed MNOI petition lacked completeness prior to the dismissal of the petition.
- I sought and received services from a Richmond Rent Program Housing Counselor related to the previously timely filed MNOI Petition.
- Correspondence with the Rent Program staff member related to their previously timely filed MNOI Petition was unclear.
- The previously timely filed MNOI Petition was dismissed in error.

Other circumstances relevant to the inquiry of Good Cause:

Please refer to attached letters from Professional Property Management and the Law Office of Richard J. Alexander *also attached*

Please attach an explanation for each reason selected above.

Evidence. The Property Owner(s) shall submit with their Request for Reconsideration relevant evidence demonstrating Good Cause for their failure to pursue their previously timely filed Maintenance of Net Operating Income Petition which resulted in either a withdrawal or dismissal of the Petition. For purposes of this Regulation, Good Cause shall mean the taking of reasonable efforts and acting with due diligence to timely pursue a previously timely filed Maintenance of Net Operating Income Petition.

Declaration & Signature:

I declare under penalty of perjury under the laws of the State of California that every statement in this Rent Board Request for Reconsideration of Maintenance of Net Operating Income Petition (MNOI) is true and correct to the best of my knowledge and belief.

Signature of Landlord/Property Manager:  Date: 8/24/2022

Printed Name: Jimmy Smith

Rent Program Staff Use Only:

This request has been granted by the Rent Board on: ___/___/___

Executive Director Signature: _____ Staff Initials: _____

Date: ___/___/___

Professional Property Management
5054 El Portal Drive, Suite C
El Sobrante, CA 94803

August 22, 2022

City of Richmond Rent Board
Civic Center
Richmond, CA 94804

RE: 420 Golden Gate Ave, Richmond MNOI package

Dear Mr. Traylor and Ms. Shaw:

Attached is the cover form for the MNOI Covid Emergency relief resolution.

I would also like to inform you that nowhere in the regulations could my attorney or I find where it states a deadline of when to submit a MNOI package. We did submit back in October 2020 for review. At that time, there was complete closure and/or limited operating of most city and government offices due to the COVID pandemic, which caused my package to be reviewed and returned to me some number of days past the time of response set forth in the regulations for the board to respond.

In the middle of the Holidays, December 24, 2020, Christmas Eve, while many relatives were over for Christmas Eve, I unexpectedly had to be rushed to the emergency room for immediate care to a hospital that was booked solid due to COVID patients. This was when the COVID vaccine was just becoming available to a certain group of people. This unexpected health emergency caused me to be out of work through the New Year, preventing me from my normal daily duties. I had ongoing hospital visits throughout the first half of 2021.

I pray that this package will be accepted and reviewed so we can all move forward.

Yours Truly,


Jimmy Smith

Richard J. Alexander

-----Attorney at Law-----

August 8, 2022

Richmond Rent Board
440 Civic Center Plaza, 2nd-Floor
Richmond, CA 94804-1630

Attn: Cynthia Shaw
Assistant Administrative Analyst
Hearings Unit

Re: Landlord Petitions RC20-LO23 and RC22-LO38,
420-430 Golden Gate Ave., Richmond, CA 94801

Dear Ms. Shaw:

I represent Professional Property Management, the managing agent for OFEK P10 LLC, the owners of the above-referenced property.

I have been asked to correspond with you regarding the dismissal of Petition RC20-LO23 specifically and the refusal of your office to continue processing the Petition and subsequent submittals. I have reviewed Chapter 8 and 9 of the Rent Board Regulations, your correspondence with Mr. Smith of Professional Property Management, and the other emails, letters and memorandum pertaining to this matter.

As you know, Regulation 902 requires the following of the procedure in Chapter 8 of the Regulations in the processing of any Landlord Petition for Rent Increase or Rent Adjustment.

Reference is made to your letter of November 25, 2020 to the owners and to Mr. Smith that recites pertinent dates. This petition was filed in your office on October 7, 2020. Regulation 805(A)(4) requires completion of a preliminary review within 15 business days of the filing. In this case, that date appears to be October 29, 2020, a deadline imposed on the Rent Board by its own Regulations. That deadline was not met here.

After that, your email of November 5, 2020 provided Mr. Smith 30 days to correct/augment the October 7, 2020 Petition. When there was no response within the thirty days you provided,

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Richmond Rent Board
August 8, 2022

you administratively dismissed the Petition. There is no Regulation that restricts the time for correction/augmentation of a Petition to thirty days. None.

The thirty-day deadline appears to be an arbitrary cut-off, not based upon any Ordinance or Regulation. In fact, Regulation 805(A)(4) goes on to state, "...If a petition is found unacceptable, the Landlord may refile at any time." There is no definition provided as to the meaning of the word "refiling". Does it refer to a new petition, or correction/augmentation of an existing petition?

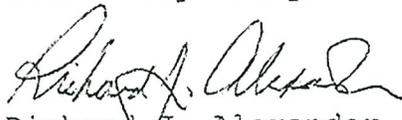
In any event, this Petition was dismissed by your letter of November 25, 2020, in the midst of COVID shutdowns and workplace restrictions. Mr. Smith's previous correspondence and emails speak to his hurdles in pursuing the Petition and subsequent submittals.

The delay in the required initial processing of the Petition and the non-required arbitrary deadline for the Petitioner's response to your November 5, 2020 email are mentioned merely to point out that fairness and equity are bi-lateral, applicable to both sides in this matter.

I am asking that the Petition RC20-L023 and RC22-L038, and the petition that accompanies this letter be addressed by the Rent Board as if timely filed and processed.

If you have any questions or comments regarding this correspondence, please feel free to contact me directly.

Yours very truly,


Richard J. Alexander

RJA/vrg

cc: client

PROFESSIONAL
PROPERTY MANAGEMENT

August 5, 2022

Palomar Sanchez
Nicolas Traylor
City of Richmond Rent Program
440 Civic Center Plaza
Richmond, CA 94804

RE:420-430 Golden Gate Ave, Point Richmond
MNOI Resubmission per Emergency MNOI resolution for RENT INCREASE CAPITAL
IMPROVEMENT

Dear Palomar Sanchez and Nicolas Traylor:

Enclosed you will find a package for MNOI rent increase for major capital improvements for the above mentioned property, under the emergency resolution for MNOI package submission.

Please note, this property was purchased April 2019. The previous owner of the property would only provide a Profit and Loss statement for 2015 and no other documentation covering that year. However, I did print out from the Contra Costa County website a copy of the property tax history in which I included in the package..

Please review and let me know if you have any questions.

The quickest way to reach me would be by email ppm4rent@aol.com and or call my attorney Mr. Richard Alexander at 510.232.9100

Thanks,


Jimmy Smith,
925/255.6320

CC: Richard Alexander, Esq.

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If your property is listed with another broker, please disregard this mailer.

SPECIAL PROOF OF SERVICE¹

I am a resident of Contra Costa County and was, at the time of service, over age
eighteen. On August 25, 2022 (date), I served ONE copy of the LANDLORD PETITION

FOR INDIVIDUAL RENT ADJUSTMENT PETITION AND ATTACHMENTS

Attachment A Attachment B Attachment C Attachment D

BY: (Check appropriate box):

DELIVERING _____ in person to the following individual: [print name of tenant(s)
and/or tenant's representative:]

PLACING MNOI reconsideration form enclosed in a sealed envelope with first-class postage fully paid, into
a U.S. Postal Service mailbox, addressed as follows:
[print name of tenant(s) and/or tenant's representative and address as shown on Envelope:]

City of Richmond Rent Board c/o Cynthia Shaw, Palomar Sanchez and Nicolas Traylor
440 Civic Center Plaza 2nd Floor
Richmond, CA 94804

EMAILING _____ [print name of tenant(s) and/or tenant's representative] Provide
any/all EMAIL ADDRESS(ES):

I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF CALIFORNIA THAT
THE FOREGOING IS TRUE AND CORRECT.

Printed Name: Diana Escobar

Signature:  _____ Date: 8/25/22

¹ This Special Proof of Service form has been created by the Richmond Rent Program solely for use during and in response to the COVID-19 pandemic.

Cynthia Shaw

From: Cynthia Shaw
Sent: Thursday, November 5, 2020 3:30 PM
To: 'professional property'
Subject: RE: Proof of Service Form Re. 420-430 Golden Gate Ave. Landlord Petition for MNOI

Hello Jimmy,

Just following up to see how would you like to proceed in regards to the MNOI Petition you filed for property address 420-430 Golden Gate Ave. Please let me know by Thursday, November 12, 2020, if you would like to proceed with the petition process or not. If no response is received by November 12th, the petition will be administratively closed. If you have additional questions or concerned, feel free to give me a call at the number below.

Thanks,

Cynthia Shaw

Assistant Administrative Analyst | City of Richmond Rent Program
440 Civic Center Plaza, Suite 200, Richmond, CA 94804
Direct Phone: (510) 620-5552 | Main Phone: (510) 234-RENT (7368)
Fax: 510-307-8149 | Website: www.richmondrent.org
Email: cynthia_shaw@ci.richmond.ca.us

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From: Cynthia Shaw
Sent: Thursday, October 29, 2020 10:21 AM
To: 'professional property' <ppm4rent@aol.com>
Subject: RE: Proof of Service Form Re. 420-430 Golden Gate Ave. Landlord Petition for MNOI

Ok. If possible, please let me know by Wednesday of next week so that I'll know how to proceed.

Thanks,
Cynthia

From: professional property [<mailto:ppm4rent@aol.com>]
Sent: Thursday, October 29, 2020 10:01 AM
To: Cynthia Shaw <cynthia_shaw@ci.richmond.ca.us>
Subject: Re: Proof of Service Form Re. 420-430 Golden Gate Ave. Landlord Petition for MNOI

Hi Cynthia,

Once I speak to Palomar, I will be able to make a decision.

Thanks,

Jimmy

-----Original Message-----

From: Cynthia Shaw <cynthia_shaw@ci.richmond.ca.us>

To: professional property <ppm4rent@aol.com>

Sent: Thu, Oct 29, 2020 9:52 am

Subject: RE: Proof of Service Form Re. 420-430 Golden Gate Ave. Landlord Petition for MNOI

Hello Jimmy,

I recommend that you speak with one of our housing counselors to answer your questions. I know in the past you spoken with Palomar Sanchez. I will forward your questions to him, for further follow up.

Also, do you plan to continue with the petition process for this property? I know the last time we spoke, you were going to submit a completed packet along with a proof of service form. Please let me know as soon as possible to avoid an administrative dismissal of the petition. If you have additional questions regarding the petition, feel free to give me a call at the number below.

Thanks,

Cynthia Shaw

Assistant Administrative Analyst | City of Richmond Rent Program

440 Civic Center Plaza, Suite 200, Richmond, CA 94804

Direct Phone: (510) 620-5552 | Main Phone: (510) 234-RENT (7368)

Fax: 510-307-8149 | Website: www.richmondrent.org

Email: cynthia_shaw@ci.richmond.ca.us

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Cynthia

From: professional property [<mailto:ppm4rent@aol.com>]

Sent: Wednesday, October 28, 2020 3:13 PM

To: Cynthia Shaw <cynthia_shaw@ci.richmond.ca.us>

Subject: Re: Proof of Service Form Re. 420-430 Golden Gate Ave. Landlord Petition for MNOI

Hello Cynthia,

I have a few questions, that maybe you can help me with.

1. we can hold the charge of the passthrough and implementing it ... assuming till next year
2. If the rent increase can be banked, or we can submit rent increase in few months, or we need to wait till next September? CPI adjustment
3. Does the passthrough count part of the max rent increase annually (no more than 10%)

Thanks,

Jimmy

-----Original Message-----

From: Cynthia Shaw <cynthia_shaw@ci.richmond.ca.us>

To: ppm4rent@aol.com <ppm4rent@aol.com>

Sent: Mon, Oct 19, 2020 12:05 pm

Subject: Proof of Service Form Re. 420-430 Golden Gate Ave. Landlord Petition for MNOI

Hello Jimmy,

It was a pleasure speaking with you this morning. Please find attached the Proof of Service Form for completion and to be returned along with entire Landlord Petition. As mentioned, once we receive the completed Petition, it will be submitted for review by the Hearing Examiner for further analysis. If you have additional questions or concerns, please give me a call at the number below or reply to this email.

Thanks,

Cynthia Shaw

Assistant Administrative Analyst | City of Richmond Rent Program

440 Civic Center Plaza, Suite 200, Richmond, CA 94804

Direct Phone: (510) 620-5552 | Main Phone: (510) 234-RENT (7368)

Fax: 510-307-8149 | Website: www.richmondrent.org

Email: cynthia_shaw@ci.richmond.ca.us

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Cynthia Shaw

From: Cynthia Shaw
Sent: Tuesday, January 5, 2021 6:28 PM
To: 'professional property'
Cc: Palomar Sanchez
Subject: RE: ADMINISTRATIVE DISMISSAL RE. PETITION NO. RC20-L023
Attachments: ADMINISTRATIVE DISMISSAL - RC20-L023 - Final.pdf

Hi Jimmy,

I hope this email finds you well and that you had a wonderful holiday. This document was sent to all parties, which includes the Tenant's. Unfortunately, the Hearings Unit cannot keep the Petition open until you decide to move forward. As mentioned in the letter, if you would like to pursue this matter in the future, you may do so by completing the Landlord Individual Rent Adjustment Petition. If you have additional questions or concerns regarding this notice, feel free to give me a call at the number below or reply to this email.

Thanks,

Cynthia Shaw

Assistant Administrative Analyst | City of Richmond Rent Program
440 Civic Center Plaza, Suite 200, Richmond, CA 94804
Direct Phone: (510) 620-5552 | Main Phone: (510) 234-RENT (7368)
Fax: 510-307-8149 | Website: www.richmondrent.org
Email: cynthia_shaw@ci.richmond.ca.us

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From: professional property [mailto:ppm4rent@aol.com]
Sent: Monday, December 28, 2020 9:22 PM
To: Cynthia Shaw <cynthia_shaw@ci.richmond.ca.us>; Palomar Sanchez <palomar_sanchez@ci.richmond.ca.us>
Subject: Re: ADMINISTRATIVE DISMISSAL RE. PETITION NO. RC20-L023

On Monday, December 28, 2020, 09:15:58 PM PST, professional property <ppm4rent@aol.com> wrote:

Hello cynthia,

I'm not sure if you sent my tenants a letter about this, but the plan is to pause this petition for major capital improvement rent increase , and not disturb my tenants during the holidays and covid 19. I plan to pick it up at later time.

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ATTACHMENT 3**

Please document the file and advise if there are steps that must be made by the 31st to preserve this right at a later date.

Thanks
Jimmy

On Wednesday, November 25, 2020, 08:01:24 AM PST, Cynthia Shaw <cynthia_shaw@ci.richmond.ca.us> wrote:

Hello Jimmy,

Please find attached a Notice of Administrative Dismissal regarding Landlord Petition No. RC20-L023, pertaining to property address 420-430 Golden Gate Ave., Richmond. If you have any questions or concerns regarding this notice, feel free to give me a call at the number below or reply to this email.

Thank you,

Cynthia Shaw

Assistant Administrative Analyst | City of Richmond Rent Program

440 Civic Center Plaza, Suite 200, Richmond, CA 94804

Direct Phone: (510) 620-5552 | Main Phone: (510) 234-RENT (7368)

Fax: 510-307-8149 | Website: www.richmondrent.org

Email: cynthia_shaw@ci.richmond.ca.us

The Rent Program is now on [Facebook](#) and [Instagram](#) - follow us to stay in touch!

To learn more about our upcoming Workshops and for up to date information

about the Richmond Rent Program, sign up for our email listserv: [Sign Up Here!](#)



NOTICE OF INADEQUATE DOCUMENTATION

PETITION NO. RC22-L038

February 8, 2022

TO PETITIONER(S): OFEK P10 LLC c/o Jimmy Smith, Professional Prop. Mgmt.

RE PROPERTY LOCATED AT: 420-430 Golden Gate Ave., Richmond.

The Hearings Unit has conducted a preliminary review of your Individual Rent Adjustment Petitions with Attachment A (MNOI) and found the following issues:

The Landlord Packet and the Attachment A (MNOI) are required documents to submit this Petition as well as the Proof of Service that the Petition has been sent to all affected tenants. The Petition must also pertain to one building. A Petition concerning more than one building would require one Petition per building (Fillable Landlord Petition form and Attachment A attached).

Assuming your Petition concerns only one building with 20 Rental Units, the Petition is still inadequate because it fails to provide income and operating expenses (with supporting documentation) for both the Base Year (2015) and the Current Year (2021). A statement of income and expenses is a starting point for the analysis. The income and expenses must be supported in full. For instance, I would need to receive the property tax statements for the 2014-2015, 2015-2016, 2020-2021 and 2021-2022 fiscal tax years to confirm that one operating expense line item.

Capital improvements paid for in 2019 or 2020 (as demonstrated by documents submitted) cannot be used to calculate amortized capital expenses in the Current Year (2021). Only a complete set of information focused on solely the Base Year and the Current Year can be used to determine whether an adjustment of rents is required for the Maintenance of Net Operating Income (MNOI).

The Inadequate Petition submitted also suggests that you would like to adjust the Base Year income or expenses. This can only be achieved with comprehensive income and expense information, concerning the property, prior to and leading up to the Base Year. This has not been achieved to date by an owner that purchased the property after the Base Year.

Questions can be submitted should you need further clarification. **Thirty (30) days will be given to correct the Petition unless a request for additional time is timely received.**

Be advised that all documents submitted to the Rent Program in connection with this matter must be served on the opposing parties.

If you have questions about your case and to learn about your rights under the Rent Ordinance and Rent Regulations, please consult with a Rent Program Services Analyst at 510-234-RENT (7368) during business hours Monday through Friday from 9:00 a.m. to 12:00 p.m. & 1:00 p.m. to 4:00 p.m. If you have questions regarding this notice, or the hearing and petition process, please contact the Rent Program's Hearing Unit Coordinator, Cynthia Shaw at 510-620-5552.

440 Civic Center Plaza, Richmond, CA 94804-1630 [www.richmondrent.org]
Telephone: (510) 234-RENT [7368] Fax: (510) 307-8149 [rent@ci.richmond.ca.us]

SPECIAL PROOF OF SERVICE¹

I AM A RESIDENT OF _____ COUNTY AND WAS, AT THE
TIME OF SERVICE, OVER AGE EIGHTEEN. ON _____ (DATE), I
SERVED ONE COPY OF THE _____ BY: (CHECK
APPROPRIATE BOX):

- DELIVERING** _____ **IN PERSON TO THE FOLLOWING INDIVIDUAL:**
[PRINT NAME OF TENANT(S) OR LANDLORD AND/OR TENANT'S OR LANDLORD'S
REPRESENTATIVE:]

- PLACING** _____ **ENCLOSED IN A SEALED ENVELOPE WITH FIRST-CLASS
POSTAGE FULLY PAID, INTO A U.S. POSTAL SERVICE MAILBOX, ADDRESSED AS FOLLOWS:**
[PRINT NAME OF TENANT(S) OR LANDLORD AND/OR TENANT'S OR LANDLORD'S
REPRESENTATIVE:]

- EMAILING** _____ [PRINT NAME OF TENANT(S) OR LANDLORD AND/OR TENANT'S
OR LANDLORD'S REPRESENTATIVE:] [PROVIDE ANY/ALL EMAIL ADDRESS(ES):]

**I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF
CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.**

Signature: _____ Date: _____

Printed Name: _____

¹ This Special Proof of Service form has been created by the Richmond Rent Program solely for use during and in response to the COVID-19 pandemic.



Landlord Petition for Individual Rent Adjustment

NOTA: SI USTED NO ENTIENDE ESTA PETICIÓN, NO TARDE EN COMUNICARSE CON EL PROGRAMA DE RENTA AL NÚMERO (510) 234-RENT [7368] PARA PEDIR UNA CITA Y RECIBIR UNA EXPLICACIÓN O TRADUCCIÓN.

Street #	Street Name	Zip Code

**Richmond
Property
Address**

Are any petitions for this property currently pending? Yes No Unknown

If yes, describe petition(s): _____

Total number of residential units on property, including exempt and owner-occupied units _____

See Page 2 ←

For all units for which increases are requested, list the unit designations, the names of all tenants in the unit, the beginning date of the tenancy, and the **current** rent being charged. (Rent increases can be granted only for units that are currently registered, i.e., **not** exempt.) Attach additional sheets if necessary.

Interpretation will be needed in the following language (Spanish or Other _____).

***Please Note:** Rent Increases for MNOI **MUST** be allocated among **ALL** Units

Grounds for Petition	Check	Reason(s)	Form
	<input type="checkbox"/>	Maintenance of Net Operating Income (MNOI) <i>(Capital Improvement Expenses included in Operating Expenses)</i>	Attachment A
	<input type="checkbox"/>	Increase in Number of Occupants	Attachment B
	<input type="checkbox"/>	Change in Space or Services	Attachment C
	<input type="checkbox"/>	Restoration of Annual General Adjustments (AGAs)	Attachment D
	<input type="checkbox"/>	Increase in Security Deposit Due to Addition of Pet(s)	Attachment E

Staff Use Only:

Petition No. RC _____

**Landlord
Information /
Agent
Information
(if applicable)**

Owner

Name: _____ Phone: (_____)_____

Business Address: _____

City, State, Zip: _____

Bus. Email: _____

Owner

Name: _____ Phone: (_____)_____

Business Address: _____

City, State, Zip: _____

Bus. Email: _____

Agent

Name: _____ Phone: (_____)_____

Business Address: _____

City, State, Zip: _____

Bus. Email: _____

Tenant Information
(Reproduce this page as needed)

Individual Unit Address	Current Tenants	Date Tenancy Began (mm/dd/yy)	Base Rent (Rent paid on 7/21/15 or the first time the Tenant paid rent if they moved in after that day)	Current Rent
	Name: / / Phone (If Known): \$	/ /	\$	\$
	Name: / / Phone (If Known): \$	/ /	\$	\$
	Name: / / Phone (If Known): \$	/ /	\$	\$
	Name: / / Phone (If Known): \$	/ /	\$	\$
	Name: / / Phone (If Known): \$	/ /	\$	\$

I (We) declare that each unit included in this petition has been properly enrolled and registered with the Richmond Rent Program for at least 30 days and is in compliance with The Richmond Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance, Regulations and applicable state and local housing, Business License Tax, building, health and safety codes. I (We) declare under penalty of perjury under the laws of the State of California that the foregoing and all attached pages, including attached documentation, are true and correct to the best of my knowledge.

Declaration
(Must be signed by
an owner of
record)

Signature: _____

Print Name: _____

Date: ____/____/____

Signature: _____

Print Name: _____

Date: ____/____/____

Signature (Agent): _____

Print Name: _____

Date: ____/____/____

Note: All signatures must be original and all petitioning tenants must sign the Certification section of the petition.

California Civil Code Section 1947.7(g) provides in relevant part that:

A jurisdiction like the Richmond Rent Program is an Agency, which requires an owner to provide the name of a present or former tenant, where the tenant's name and any additional information provided concerning the tenant is confidential and shall be treated as confidential information within the meaning of the Information Practices Act of 1977. To comply, the Agency may request, but shall not compel, an owner to provide any information regarding a tenant other than the tenant's name.

SPECIAL PROOF OF SERVICE¹

I am a resident of _____ County and was, at the time of service, over age eighteen. On _____ (date), I served ONE copy of the LANDLORD PETITION

FOR INDIVIDUAL RENT ADJUSTMENT PETITION AND ATTACHMENTS

Attachment A Attachment B Attachment C Attachment D Attachment E

BY: (Check appropriate box):

DELIVERING _____ in person to the following individual: [print name of tenant(s) and/or tenant's representative:]

PLACING _____ enclosed in a sealed envelope with first-class postage fully paid, into a U.S. Postal Service mailbox, addressed as follows:
[print name of tenant(s) and/or tenant's representative and address as shown on Envelope:]

EMAILING _____ [print name of tenant(s) and/or tenant's representative] Provide any/all EMAIL ADDRESS(ES):

I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

Printed Name: _____

Signature: _____ Date: _____

¹ This Special Proof of Service form has been created by the Richmond Rent Program solely for use during and in response to the COVID-19 pandemic.

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Landlord Attachment A
Petition for Rent Increase under Fair Return Standard:
Maintenance of Net Operating Income (MNOI)

Amortized Costs of Capital Improvements included in Operating Expenses

Introductory Information

A landlord is entitled to a Fair Return on rental property. Pursuant to the City's Rent Ordinance, the Rent Board has adopted fair return regulations (Chapter 905, posted on the Rent Program website).

1. Presumption of Base Year Net Operating Income

It shall be presumed that the net operating income received by the landlord in the Base Year provided a Fair Return. This presumption may be rebutted on the basis of Regulation Section 905(A) (5) in which case an adjusted Base Year Net Operating Income shall be used.

2. Fair Return

A landlord has the right to obtain a net operating income equal to the Base Year (2015) net operating income adjusted by 100% of the percentage increase in the Consumer Price Index (CPI), since the Base Year. It shall be presumed this standard provides a Fair Return.

3. Base Year

(a) Calendar year 2015 is the Base Year.

(b) In the event that a prior determination of the allowable Rent is made pursuant to a Fair Return petition, if a subsequent petition is filed, the Base Year shall be the year that was considered as the "current year" in the prior petition.

4. Current Year

The "current year" shall be the calendar year preceding the petition.

5. CPI (Consumer Price Index)

The CPI shall be the annual CPI for all items, for all urban consumers, for the San Francisco Bay Area (https://www.bls.gov/regions/west/news-release/consumerpriceindex_sanfrancisco.htm#tablea).

6. Limits of Allowable Rent Increases in Any One Year

If the amount of any rent increase granted pursuant to a fair return petition exceeds 15%, the portion in excess of 15% shall be deferred to the next year or years.

In a subsequent year, deferred amounts of the allowable rent increase may be implemented, subject to the 15% ceiling on allowable increases within a year.

An interest allowance on the deferred amount shall be allowed based on the standard set forth in Section 905 (A)(6)(b)(ix) of the Rent Board's Regulation.

I. General Information About the Property

1. Street Address: _____
2. Parcel Number(s): _____
3. Year Property Purchased by Current Owner: _____
4. Total Number of Units on the Property: _____
5. Total Number of Units Affected by Proposed Rent Increase: _____
6. Are there Rental Units that are Partially or Fully Exempt? Number of Exempt Rental Units and Basis for Exemption: _____

II. Landlord Information

7. Name: _____
8. Phone(s): (____) _____
9. Business Address: _____
10. City, State, Zip: _____
11. Business E-mail: _____

III. Agent Information (if applicable)

12. Name: _____
13. Phone(s): (____) _____
14. Business Address: _____
15. City, State, Zip: _____
16. Business E-mail: _____

IV. Services

17. Please Check The Applicable Boxes
(Identify the manner in which each service is paid)

Type of Service	Paid by Landlord, but not passed through to Tenants	Tenants pay service directly	Landlord pays service and passes cost through to Tenants
Gas			
Electricity			
Water			
Sewer			
Garbage			
Other:			

**V. Changes to
Services**

18. Briefly describe the services provided to the rental units. Include all services provided and state which services are provided without additional charge:

19. If there have been any changes to the services listed above or in the responsibility for their payment since the base year, please explain:

20. Calculation of Net Operating Income

**VI. Income and
Expense
Explanation
and
Calculations**

Net operating income shall be calculated by subtracting operating expenses from gross rental income.

A. Gross Rental Income

Gross rental income shall include:

Scheduled rental income at one hundred percent (100%) occupancy plus all other income or consideration received or in connection with the use or occupancy of the Rental Unit.

If there is a change in the number of rental units between the Base Year & Current Year, the rental income and expenses for the same number of units shall be used in calculating the net operating income for both periods. The purpose of this provision is to provide a fair compensation between the Base Year and the Current Year.

Vacant or owner-occupied rental units at the time a petition is filed, that provided rental income in the Base Year, shall count toward the calculation of gross rental income in the Current Year. The Rent Program shall attribute rental income calculated on the basis of average rents for comparable units at the property that were most recently rented. If there are no such rental units, rents as a result of vacancy decontrol within the past two years may be used. If no comparable units on the property were rented within the last two years, initial rents for comparable units in the City may be used if there is no other basis for its calculation.

B. Gross Rental Income Shall Not Include:

- (1) Utility charges that are sub-metered, for gas, electricity or water;
- (2) Charges for refuse disposal, sewer service or other services (which are either provided solely on a cost pass-through basis if they are regulated by state or local law);
- (3) Charges for laundry services; and
- (4) Storage charges.

C. Claim for Base Rent Adjustment

A claim may be made for a Base Year Rent Adjustment if the Base Year Rent and/or earlier rent amounts were disproportionately low. A Base Year Rent Adjustment will be considered if the evidence supporting a requested adjustment is provided and sufficiently compelling enough to warrant a Hearing on the issue. The Rent Program may allow Landlord to submit an independent comparable rent appraisal at the expense of the Petitioner to assist in the review of a Base Year Rent Adjustment Claim.

Landlords or Tenants may rebut the presumption that the Base Year net operating income provided a fair return. If a claim is made on this basis, the petitioner must complete the corresponding pages 19-22 at the end of this Attachment.

Check here if a claim for a Base Year Rent Adjustment is included in this Attachment and complete pages 19-22 of this Attachment.

VII. Operating Expenses

Operating expenses include: [See Regulation Chapter 905 (A)(6)(b)]

Reasonable costs of operation and maintenance of the Rental Unit, including:

1. Management Expenses;
2. Utility Costs except a utility that was passed through to the tenant(s) in violation of the Richmond Rent Ordinance [Section 11.100.070 (f)];
3. Real Property Taxes;
4. Insurance;
5. License, Registration and other Public Fees;
6. Landlord-performed Labor;
7. Legal Expenses;
8. The Amortized Costs of Capital Improvements; and
9. Other Reasonable Operating Expenses.

Operating expenses shall not include the following: [See Regulation Chapter 905(A)(6)(c)]

1. Mortgage principal or interest payments or other debt service costs and costs associated with obtaining financing;
2. Any penalties, fees or interest assessed or awarded for violation of any provision of this chapter or of any other provision of law;
3. Land lease expenses;
4. Political contributions and payments to organizations or individuals which are substantially devoted to legislative lobbying purposes;
5. Depreciation;
6. Any expenses for which the Landlord has been reimbursed by any utility rebate or discount, Security Deposit, insurance settlement, judgment for damages, settlement or any other method or device;
7. Unreasonable increases in expenses since the Base Year;
8. Expenses associated with the provision of master-metered gas and electricity services;
9. Expenses which are attributable to unreasonable delays in performing necessary maintenance or repair work or the failure to complete necessary replacements. (For example if a roof replacement is unreasonably delayed, the full cost of the roof replacement would be allowed; however, if interior water damage occurred as a result of the unreasonable delay, that expense would not be allowable to support a fair return); and
10. Unreasonable Expenses.

VIII. Income and Operating Expense Worksheet

Annual Total		
(Insert Base and Current Years)	Base Year (2015)**	Current Year (2021)
Rental Income	\$	\$
1. Gross scheduled rental income (monthly rent in effect on July 21, 2015 times 12) including uncollected rent.	\$	\$
2. Portion Attributable to Vacancy Fees (indicate what fee is for):	\$	\$
3. Late fees	\$	\$
4. List fees, other than utilities, collected for services & amenities not included in rent	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$
Other Income (list separately by type)*:		
8.	\$	\$
9.	\$	\$
10.	\$	\$
Fees for Utilities		
11. Gas	\$	\$
12. Electricity	\$	\$
13. Water	\$	\$
14. Sewer	\$	\$
15. Garbage & Recycling	\$	\$
Other (list separately by type)		
16.	\$	\$
17.	\$	\$
18. Total Income	\$	\$
(add only lines 1 and 3-17)		
*Interest earned by Landlord on Tenant security deposits, other interest or investment income.	**(or an alternative year in the event of extenuating circumstances)	

**ITEM F-7
ATTACHMENT 4**

IX. Operating Expenses Worksheet (Insert Base and Current Years)	Annual Total	
	Base Year (2015)	Current Year (2021)
1. Assessments	\$	\$
2. Real Property Taxes	\$	\$
3. License Tax/Fee	\$	\$
4. Rent Board Registration Fees	\$	\$
5. Insurance	\$	\$
6. Accounting	\$	\$
7. Legal (explain types of legal expenses)	\$	\$
8. Manager /Management Services	\$	\$
9. Security	\$	\$
10. Office Supplies	\$	\$
12. Normal Repairs	\$	\$
13. Owner-Performed Labor	\$	\$
14. Plumbing Maintenance	\$	\$
15. Pool Maintenance	\$	\$
16. Landscape Maintenance	\$	\$
17. Other Maintenance	\$	\$
18. Parking Lot/Street Maintenance	\$	\$
19. Gas (separately metered only)	\$	\$
20. Electricity (separately metered only)	\$	\$
21. Water	\$	\$
22. Sewer	\$	\$
23. Amortized portion of Capital Expense [from page _____; column (i)]	\$	\$
Other (list separately by type):		
24. Vandalism Repairs	\$	\$
25. Uninsured Damages	\$	\$
26.	\$	\$
Additional operating expense items can be listed for this worksheet using separate page(s) as needed.		
27. TOTAL OPERATING EXPENSES	\$	\$

X. Allowances for Capital Improvements

The Amortized Costs of Capital Improvements. Operating expenses include the amortized costs of capital improvements plus an interest allowance to cover the amortization of those costs. A capital improvement shall be any improvement to a unit or property which materially adds to the value of the property, appreciably prolongs its useful life or adapts it to a new use and has a useful life of more than one year and a direct cost of \$250.00 or more per unit. Allowances for capital improvements shall be subject to the following conditions:

1. The amortization period shall be in conformance with the schedule adopted by the Rent Board See Section 905(A)(6)(b)(viii), as provided on pages 9-10, unless it is determined that an alternate period is justified based on the evidence presented in the hearing.
2. Capital improvement costs do not include costs incurred to bring the Rental Unit into compliance with a provision of the Richmond Municipal Code or state law where the original installation of the improvement was not in compliance with code requirements. See Richmond Rent Adjustment Regulations Chapter 9, Section 905(A)(6)(b)(viii).
3. At the end of the amortization period, the allowable monthly rent shall be decreased by any amount of a rent increase attributable to the capital improvement.
4. Portions of fair return rent increases that are attributable to capital improvements expire at the end of the amortization period.

Example of a Capital Improvement with Amortized Expenses and an Interest Allowance:

Owner filed a Petition on July 1, 2017 for an Individual Rent Adjustment for a roof that was completed covering a four-rental unit building. The cost of the Capital Improvement was \$20,000 benefiting all four units in the building. The amortization period for a roof is ten (10) years according to the below tables. The applicable interest allowance based on the Primary Mortgage Survey is 3.88% + 2% for this example. The calculation of the capital improvement per month is:

Capital Improvement Cost	Interest Allowance	Period	Total Principal & Interest – Life of Improvement	Total Interest – Life of Improvement
\$20,000	5.88%	10 yrs. 120 mos.	\$26,500.52*	\$6,500.52

Annual Amortized Cost	Monthly Amortized Cost	# of Units	Monthly Cost per Unit
\$2,650.05	\$220.84	4	\$55.21

*This Amortization Calculator is available on the Richmond Rent Program website at www.richmondrent.org. The Excel formula for calculating the Total Principal & Interest for the Life of the Improvement will be provided upon request at the time of a Hearing.

XI. Amortization Period of Capital Improvements/Expenses	
In amortizing capital improvements/expenses, the following schedule shall be used to determine the amortization period of the capital improvements and expenses. Improvements add to the health & safety of the rental unit.	Years
<i>Appliances</i>	
Air Conditioners*	10
Refrigerator*	5
Stove*	5
Garbage Disposal	5
Water Heater*	5
Dishwasher	5
Microwave Oven	5
Washer/Dryer	5
Fans*	5
Cabinets*	10
Carpentry	10
Counters*	10
Doors*	10
Knobs	5
Screen Doors	5
Fencing and Security*	5
Management	5
Tenant Assistance	5
<i>Structural Repair and Retrofitting</i>	
Foundation Repair*	10
Foundation Replacement*	20
Foundation Bolting*	20
Iron or Steel Work	20
Masonry-Chimney Repair*	20
Shear Wall Installation*	10
Electrical Wiring*	10
Elevator*	20
<i>Fencing</i>	
Chain	10
Block	10
Wood	10
<i>Fire Systems</i>	
Fire Alarm System*	10
Fire Sprinkler System*	20
Fire Escape*	10

<i>Flooring/Floor Covering</i>	
Hardwood	10
Tile and Linoleum	5
Carpet	5
Carpet Pad	5
Subfloor	10
<i>Fumigation Tenting*</i>	
Furniture	5
Automatic Garage Door Openers*	10
<i>Gates</i>	
Chain Link	10
Wrought Iron	10
Wood	10
<i>Glass</i>	
Windows*	5
Doors*	5
Mirrors	5
<i>Heating*</i>	
Central	10
Gas	10
Electric	10
Solar	10
Insulation	10
<i>Landscaping</i>	
Planting	10
Sprinklers	10
Tree Replacement	10
<i>Lighting</i>	
Interior*	10
Exterior*	5
<i>Locks*</i>	
Locks*	10
Mailboxes*	10
Meters*	10
<i>Plumbing</i>	
Fixtures*	10
Pipe Replacement*	10
Re-Pipe Entire Building*	20
Shower Doors*	5

<i>Painting</i>	
Interior	5
Exterior	5
<i>Paving</i>	
Asphalt	10
Cement	10
Decking	10
Plastering	10
Sump Pumps*	10
Railings*	10
<i>Roofing*</i>	
Shingle/Asphalt	10
Built-up, Tar and Gravel	10
Tile	10
Gutters/Downspouts	10
<i>Security*</i>	
Entry Telephone Intercom	10
Gates/Doors	10
Fencing	10
Alarms	10
Sidewalks/Walkways*	10
Stairs	10
Stucco	10
Tilework	10
Wallpaper	5
<i>Window Coverings*</i>	
Drapes	5
Shades	5
Screens	5
Awnings	5
Blinds/Mini-blinds	5
Shutters	5

*Capital Improvements generally concern any change or addition to a unit or property which materially adds to the value of the property, appreciably prolongs its useful life or adapts it to a new use and has a useful life of more than one year and a direct cost of \$250 or more per unit.

The * items are likely capital improvements. Other items may depend on the circumstances.

XII. Interest Allowance

If an amount was reported as an amortized portion of expenses on page 7, line 23 of the Base Year or current operating expense table above, complete this section.

An interest allowance may be calculated on the cost of amortized expenses. The interest allowance shall be the interest rate equivalent to the "average rate" for a thirty-year fixed rate on home mortgages plus two percent (2%). The "average rate" shall be the rate Freddie Mac last published in its weekly Primary Mortgage Market Survey (PMMS) as of the date of the initial petition. <http://www.freddiemac.com/pmms/archive.html>

1. Completed Capital Improvement and Expense Worksheet (Base Year)

(a) Item #	(b) Description of Expense	(c) # of Units Impacted By Expense If not all units	(d) Initial Cost	(e) Interest Rate Allowed*	(f) Amortization Period (years)*	(g) Interest Amount	(h) Total Cost [Principal + Interest]	(i) Annual Cost	(j) Monthly Cost	(k) Monthly Cost Per Unit
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$

*Use the amortization table in this Attachment and the information about interest rates posted on the Rent Board's website using the excel spreadsheet posted on the Board's website at www.richmondrent.org. Fill in columns (a) through (f) and then columns (g) through (k) will fill in automatically.

Total for Base Year: \$ _____
[add amounts in column (d)]

2. Completed Capital Improvement and Expense Worksheet (Current Year)

(a) Item #	(b) Description of Expense	(c) # of Units Impacted By Expense If not all units	(d) Initial Cost	(e) Interest Rate Allowed*	(f) Amortization Period (years)*	(g) Interest Amount	(h) Total Cost [Principal + Interest]	(i) Annual Cost	(j) Monthly Cost	(k) Monthly Cost Per Unit
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$

*Use the amortization table in this Attachment and the information about interest rates posted on the Rent Board's website using the excel spreadsheet posted on the Board's website at www.richmondrent.org. Fill in columns (a) through (f) and then columns (g) through (k) will fill in automatically.

Total for Current Year: \$ _____

XIII. Blank Worksheet (Optional – Available for Petitioner Use)

XIV. Owner Performed Labor

Landlord-performed labor shall be compensated at reasonable hourly rates. However, no Landlord-performed labor shall be included as an operating expense unless the Landlord submits documentation showing the date, duration, and nature of the work performed. There shall be a maximum allowed under this provision of five percent (5%) of gross income unless the Landlord demonstrates that greater services were performed for the benefit of the residents.

Owner Performed Labor – Base Year					
Date	Hours	Hourly Rate	Units Impacted	Type of Work	
Owner Performed Labor – Current Year					
Date	Hours	Hourly Rate	Units Impacted	Type of Work	

XV. Planned Capital Improvements

To encourage necessary capital improvements and expenses, a Landlord may include anticipated future expenses for the amortized cost of capital improvements and expenses in a fair return petition. An allowance shall be made for anticipated expenses that the Landlord intends to incur during the twenty-four month period following the date of a final Rent Program determination. This procedure should not be used for anticipated expenses for ordinary maintenance and repairs. The portion of any allowable rent increase attributable to the capital improvement and expense shall not go into effect until completion has been documented to the Rent Program.

Complete this table only if you are seeking preliminary approval for improvements you plan to complete within the next twenty-four (24) months. A rent increase cannot be granted until the improvements are completed and documentation of the cost of the improvements has been reviewed and approved by the Rent Program staff.

Column:

- (b) - Identify capital improvements and expenses you plan to complete within twenty four (24) months.
- (c) - List each unit that will benefit from the capital improvement/expense.
- (b) - Provide the date you expect to complete each capital improvement/expense.
- (d) - State the estimated cost of each improvement/expense.

(a) Item #	(b) Description of Expense & Estimated Date of Completion	(c) # of Units Impacted By Expense If not all units	(d) Initial Cost	(e) Interest Rate Allowed*	(f) Amortization Period (years)*	(g) Interest Amount	(h) Total Cost [Principal + Interest]	(i) Annual Cost	(j) Monthly Cost	(k) Monthly Cost Per Unit
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$
			\$	%		\$	\$	\$	\$	\$

*Use the amortization table in this Attachment and the information about interest rates posted on the Rent Board's website using the excel spreadsheet posted on the Board's website at www.richmondrent.org. Fill in columns (a) through (f) and then columns (g) through (k) will fill in automatically.

Proposed Total Capital Expenses \$ _____

**XVI. Net
Operating
Income (NOI)**

Net Operating Income = Income – Operating Expenses:

	Base Year (2015)	Current Year (2021)
1. Total Annual Income	\$ _____	\$ _____
2. Annual Operating Expenses	\$ _____	\$ _____
3. Current Net Annual Operating Income (Income – Operating Expenses):	\$ _____	\$ _____
4. CPI [Annual Average CPI]	<u>258.572</u>	<u>309.721</u>
5. Percent Annual Increase in CPI Base Year to Current Year [Current Year Annual Average CPI – Base Year Annual Average CPI divided by Base Year Annual Average CPI]		<u>19.78%</u>
6. Fair Net Annual Operating Income = Base Year Net Operating Income Adjusted by CPI Increase [Line 3 Base Year + Line 5 percent]		\$ _____
7. Fair Net Annual Operating Income Minus Current Net Operating Income = Allowable Rent Increase [Line 3 Current Year – Line 6]		\$ _____
8. Allowable Rent Increase/Unit/Month (Line 7 divided by Number of Units divided by 12 months)		\$ _____

***XVII. Monthly
Rents for each
Rental Unit
(Initial Rent,
Previous, Current,
and Proposed
Rent)***

Data for Each Rental Unit

List the monthly rent, including all fees, charged each tenant, for the twelve (12) months preceding the date of the petition. If the rent was raised during the twelve-month period preceding the petition, including the amount of any fees, list each rent charged and indicate the date each raise was implemented. Provide the year and amount of any unused Annual General Adjustments authorized by the Rent Board that have been banked with proper notice to each tenant for future rent increases.
Attach all documentation supporting this income.

A Monthly Rent Worksheet and a Proposed Rent Worksheet are provided on pages 17 – 18 for your convenience.

XVIII. Monthly Rent Worksheet

Unit #	Rent	AGA Increase	Date of Increase	AGA Taken (%)	AGA Deferred (%)	Other Charges (Please specify)	Comment
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	
	\$	\$		%	%	\$	

XX. CLAIM FOR ADJUSTMENT OF BASE YEAR NET OPERATING INCOME AND ASSOCIATED RENT ADJUSTED CLAIM

Landlords or Tenants may present evidence to rebut the presumption that the base year net operating income provided a fair return. Grounds for rebuttal of the presumption shall be based on at least one of the following findings:

1. Check this box if you are requesting a base rent adjustment in your maintenance of net operating fair return claim.
2. Check the factors below that are applicable to your claim.

A. Exceptional Expenses in the Base Year. The landlord's operating expenses in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating operating expenses in order that the base year operating expenses reflect average expenses for the property over a reasonable period of time. Check which factor(s) contributed to your claim:

- (i) Extraordinary amounts were expended for necessary maintenance and repairs
- (ii) Maintenance and repair expenditures were exceptionally low as to cause inadequate maintenance or significant deterioration in the quality of services provide
- (iii) Other expenses were unreasonably high or low notwithstanding the application of prudent business practices.

B. Exceptional Circumstances in the Base Year. The gross income during the base year was disproportionately low due to exceptional circumstances. In such instances, adjustments may be made in calculating base year gross rental income consistent with the purpose of analyzing base year net operating income. Check which factor(s) contributed to your claim:

- (i) The gross income during the base year was lower than it might have been because some residents were charged reduced rent.
- (ii) The gross income during the base year was significantly lower than normal because of the destruction of the premises and/or temporary relocation for construction or repairs.
- (iii) The pattern of rent increases in the years prior to the base year were less than increases in the CPI.
- (iv) Base year rents were disproportionately low in comparison to the base year rents of comparable rental units in the City of Richmond.
- (v) Other exceptional circumstances

[Petitioners submitting a claim based on this factor may be required to pay for an independent appraisal by an appraiser approved by the City of Richmond].

C. Explanation for Basis in Support of Claim for Adjustment of Base Year Rent.

XXI. Income and Operating Expense Worksheet With Adjustment of Base Year Amounts		
Annual Total		
(Insert Base and Current Years)	Base Year (2015)	Current Year (2021)
<u>Rental Income</u>	\$	\$
1. Gross scheduled rental income (monthly rent in effect on July 21, 2015 times 12) including uncollected rent.	\$	\$
2. Portion Attributable to Vacancy	\$	\$
Fees (indicate what fee is for):		
3. Late fees	\$	\$
4. List fees, other than utilities, collected for services & amenities not included in rent	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$
<u>Other Income (list separately by type)*:</u>		
8.	\$	\$
9.	\$	\$
10.	\$	\$
<u>Fees for Utilities</u>		
11. Gas		
12. Electricity	\$	\$
13. Water	\$	\$
14. Sewer	\$	\$
15. Garbage & Recycling	\$	\$
<u>Other (list separately by type)</u>		
16.	\$	\$
17.	\$	\$
18. <u>Total Income</u>	\$	\$
(add only lines 1 and 3-17)		
*Interest earned by Landlord on Tenant security deposits, other interest or investment income.		

XXIII. Calculation of Fair Return Rent Adjustment with Adjustments of Base Year Amount:

	Base Year (2015)	Current Year (2021)
1. Proposed Adjusted/Total Income*	\$ _____	\$ _____
2. Operating Expenses	\$ _____	\$ _____
3. Net Operating Income (Income – Operating Expenses):	\$ _____	\$ _____
4. CPI [Annual Average CPI]	<u>258.572</u>	<u>309.721</u>
5. Percent Annual Increase in CPI Base Year to Current Year [Current Year Annual Average CPI – Base Year Annual Average CPI divided by Base Year Annual Average CPI]		<u>19.78%</u>
6. Fair Net Annual Operating Income = Base Year Net Operating Income Adjusted by CPI Increase [Line 3 Base Year + Line 5 percent]		\$ _____
7. Fair Net Annual Operating Income Minus Current Net Operating Income = Allowable Rent Increase [Line 3 Current Year – Line 6]		\$ _____
8. Allowable Rent Increase/Unit/Month (Line 7 divided by Number of Units divided by 12 months)		\$ _____

* This MNOI calculation requires a determination of an adjustment to the Base Year Total Income prior to completing this form. The proof provided in support of the Exceptional Circumstances required on Page 19 sections 2 (A) and 2 (B) of this form will determine if an adjustment is appropriate. A proposed Base Year Total Income adjustment can be provided as a starting point.

