

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: November 16, 2022

Final Decision Date Deadline: November 16, 2022

STATEMENT OF THE ISSUE: On February 20, 2019, the Rent Board adopted Resolution 19-01, which established additional terms of exemption for Low-Income Housing Tax Credit (LIHTC) units from the rent control provisions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance in conformance with Regulation 202. Additionally, Resolution 19-01 requires Rent Program staff to compile a report to the Rent Board on the state of Governmentally Subsidized Rental Units in the City of Richmond based on program data. The Rent Program has prepared the required report for the Rent Board to determine overall compliance of LIHTC developments in Richmond and determine next steps regarding their exemption under Regulation 202.

INDICATE APPROPRIATE BODY

- | | | | | |
|---|---|--|--|---|
| ☐ City Council | ☐ Redevelopment Agency | ☐ Housing Authority | ☐ Surplus Property Authority | ☐ Joint Powers Financing Authority |
| ☐ Finance Standing Committee | ☐ Public Safety Public Services Standing Committee | ☐ Local Reuse Authority | ☒ Other: <u>Rent Board</u> | |

ITEM

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

RECOMMENDED ACTION: RECEIVE the 2020-21 Affordable Housing Report summarizing Low-Income Housing Tax Credit (LIHTC) developments' compliance in Richmond and determine the next steps for LIHTC properties and exemptions under Regulation 202 – Rent Program (Nicolas Traylor, 620-6564).

AGENDA ITEM NO:

H-1.

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AGENDA REPORT

DATE: November 16, 2022

TO: Chair Finlay and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director

SUBJECT: 2020-2021 REPORT ON AFFORDABLE HOUSING AND COMPLIANCE
WITH REGULATION 202 AND RESOLUTION 19-01

STATEMENT OF THE ISSUE:

On February 20, 2019, the Rent Board adopted Resolution 19-01, which established additional terms of exemption for Low-Income Housing Tax Credit (LIHTC) units from the rent control provisions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance in conformance with Regulation 202. Additionally, Resolution 19-01 requires Rent Program staff to compile a report to the Rent Board on the state of Governmentally Subsidized Rental Units in the City of Richmond based on program data. The Rent Program has prepared the required report for the Rent Board to determine overall compliance of LIHTC developments in Richmond and determine next steps regarding their exemption under Regulation 202.

RECOMMENDED ACTION:

RECEIVE the 2020-21 Affordable Housing Report summarizing Low-Income Housing Tax Credit (LIHTC) developments' compliance in Richmond and determine the next steps for LIHTC properties and exemptions under Regulation 202 – Rent Program (Nicolas Traylor, 620-6564).

FISCAL IMPACT:

There is no fiscal impact of receiving this report.

DISCUSSION:

Background

On November 15, 2017, the Rent Board adopted Regulation 202, exempting "Governmentally Subsidized Rental Units" from the Rent Control provisions of the

Richmond Fair Rent and Just Cause for Eviction Ordinance, and Regulation 204, which established the terms for this exemption.

In early 2018, residents at Heritage Park at Hilltop Apartments, a Low-Income Housing Tax Credit (LIHTC) development serving individuals 55 years or older voiced concerns to the Rent Board about receiving rent increases in excess of 10%. In response, the Richmond Rent Board adopted Resolution 19-01 and amended Regulation 204 which established additional terms of exemption for LIHTC developments from the Rent Control provisions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance. Additionally, the Resolution requires Rent Program Staff to compile information on Low-Income Housing Tax Credit (LIHTC) properties in a report that provides the Rent Board a comprehensive overview of compliance during the 2020-21 calendar years. This report will help the Rent Board decide whether to maintain LIHTC properties' exemption from Rent Control, as permitted by Regulation 202. This report will also touch on some of the key services provided to governmentally subsidized Tenants and Affordable Housing Providers and a summary of notices of termination of tenancy filed at the Affordable Housing properties in Richmond for fiscal years 2019-20 and 2020-21.

Contents of Attached Report

1. Introduction and Purpose of this Report.
2. Overview of Richmond's Affordable Housing Stock
3. Overview of Governmentally Subsidized Notices of Termination of Tenancy for FY 2019-20 and 2020-21
4. Overview of Rent Program Services Provided to Governmentally Subsidized Tenants and Affordable Housing Providers
5. Compliance with Regulation 202 and Resolution 19-01
6. Next Steps

Next Steps

This report was compiled by Rent Program staff to allow the Rent Board to determine overall compliance of LIHTC properties from January 2019 – December 2021. Using this information, the Rent Board can discuss whether to move forward with exemption or non-exemption under Regulation 202.

DOCUMENTS ATTACHED:

Attachment 1 – 2020-21 Affordable Housing Report

Attachment 2 – Regulation 202 & 204

Attachment 3 – Resolution 19-01

Attachment 4 – Affordable Housing Matrix

2020-21 AFFORDABLE HOUSING REPORT

CITY OF RICHMOND RENT PROGRAM



Photos courtesy of the City of Richmond Community Development Department



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INTRODUCTION AND PURPOSE OF THIS REPORT

On November 15, 2017, the Richmond Rent Board adopted Regulation 202 and Regulation 204 exempting “Governmentally Subsidized Rental Units” from the rent control provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance. According to Regulation 204, these rental units shall not be exempt in cases where the property owner has failed to substantially comply with timely payment of all owing Residential Housing Fees, payment of Business License Tax, enrollment of all applicable rental units, and all requirements set forth in any regulatory agreement between a developer and/or property owner and a Federal, State, or government entity.

Governmentally subsidized rental units make up 20% of Richmond’s rental housing stock. These rental units include Section 8 voucher rentals, HUD project based Rental Units, and Low-Income Housing Tax Credits (LIHTC).

LIHTC Rental Units are not directly subsidized by the governmental. Instead, construction of LIHTC units is funded through the tax code and state treasury agencies. Rent levels for LIHTC units are linked to household income. However, unlike subsidized housing programs, such as the Section 8 Housing Choice Voucher program, rent adjustments track the Area Median Income (AMI) of a region, rather than an individual household’s income. As such, rent increases in LIHTC units don’t directly correspond to changes in a household’s financial circumstances. Additionally, the California Tax Credit Allocation Committee (TCAC) – the state agency regulating LIHTC - does not regulate the frequency or percentage of rent increases; it only establishes maximum rents by bedroom size and income bracket. Without limitations on the amount of rent increase that can be imposed at any one-time, low-income tenants faced potential “rent shock” that could result in significant financial hardship and even displacement. Residents at Heritage Park at Hilltop Apartments raised this concern at a Rent Board and City Council meetings in early 2018, after they received a rent increase more than 10%.

In response to these concerns about possible “rent shock,” the Rent Board amended Regulation 204 and implemented Resolution 19-01. Adopted February 20, 2019, Resolution 19-01 established additional terms of exemption for LIHTC units from the provisions of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance in conformance with Regulation 202. To mitigate “rent shock” for tenants, the resolution provides that the owner of a LIHTC unit may increase the rent up to the maximum allowed by TCAC at any time, so long as the increase does not exceed 5% annually. Additionally, LIHTC providers are required to meet annually with Rent Program staff to review information pertaining to compliance with Regulation 204, housing quality and rents. Rental information must be provided in an editable spreadsheet and include the current and proposed rent within 60 calendar days from the day TCAC releases its permitted Maximum Rent Schedule.

This annual report on Affordable Housing covers the period of July 1, 2020 – June 31, 2021 (eviction data covers FY 2019-20 and 2020-21) and provides the Rent Board an opportunity to consider the overall compliance of LIHTC properties with the Rent Board’s adopted

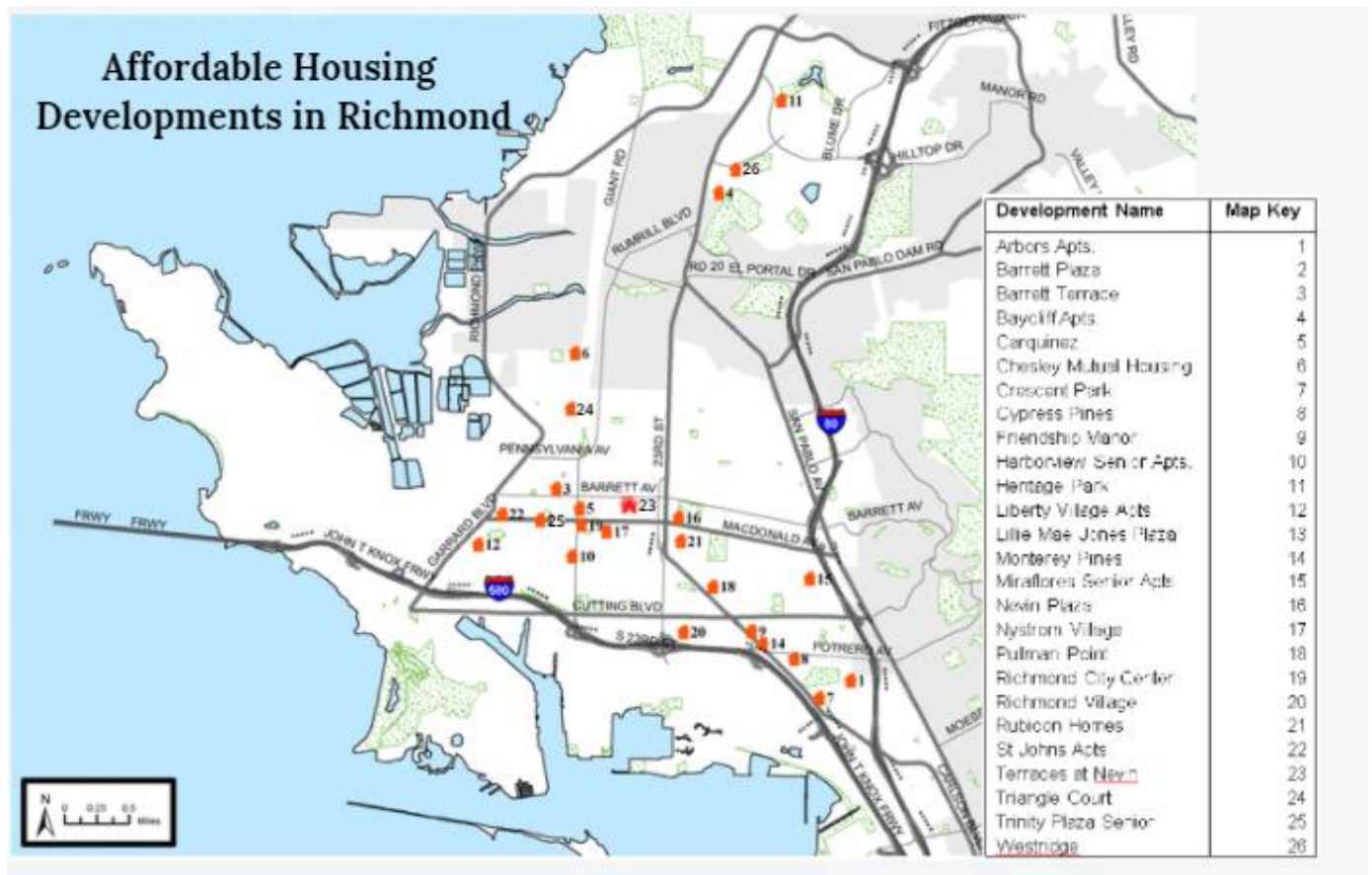
regulations and Resolution 19-01. The Rent Board can use this report to decide whether to maintain the LIHTC Rental Unit Exemption as granted in Regulation 202.

OVERVIEW OF RICHMOND'S AFFORDABLE HOUSING STOCK

Over 20% of Richmond's rental housing stock receives some form of government assistance to provide affordability for low- and moderate-income households. Of the 4,337 governmentally subsidized rental units in Richmond, 2,925 units have been built using Low Income Housing Tax Credits. There are 789 units that receive HUD Project-Based Rental Assistance and 1,215 with Housing Choice Vouchers from the Contra Costa County Housing Authority. Many of the units fall under multiple affordable housing programs, with more than half of the LIHTC units also receiving HUD subsidies.

There are 26 affordable housing properties in Richmond currently, as shown in the map and key below. The map includes both LIHTC and non-LIHTC affordable housing. Most are clustered in the south and west of the city, while there are a few in the north.

Currently, there are five affordable housing projects that have been approved for development. These projects are the Hacienda Rehab (148 units), Quarry Residential (8 units), Metrowalk Phase 2 (150 units), 100 38th Street (133 units), 5620 Central (39 units) and Villas at Renaissance (105 units). In total, these projects will add 335 Very Low-Income



units and 240 Moderate Income units to the affordable housing market.

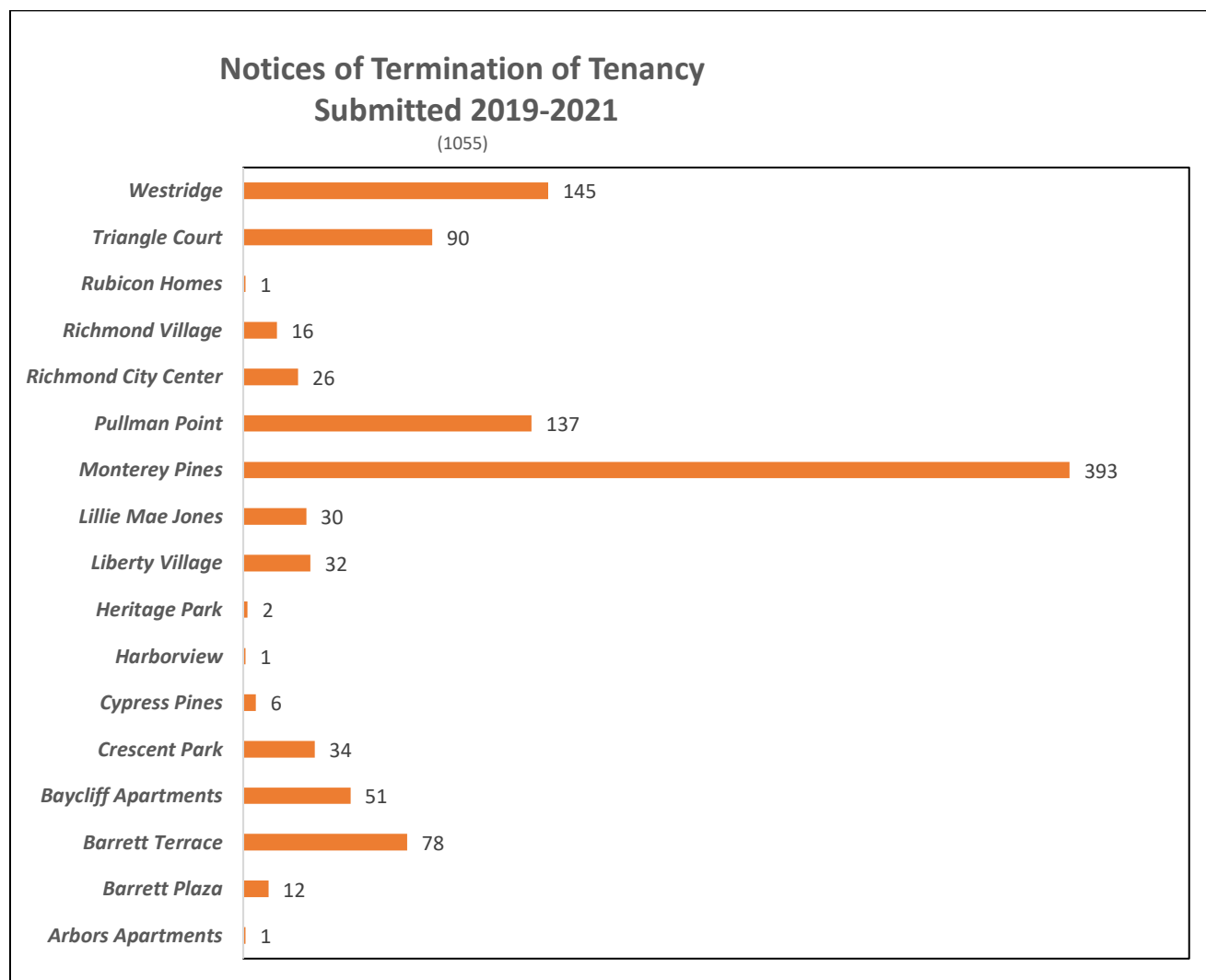
Figure 1: Affordable Housing Developments in Richmond, Source: City of Richmond Rent Program, 2021

OVERVIEW OF GOVERNMENTALLY SUBSIDIZED NOTICES OF TERMINATION OF TENANCY FROM FY 2019-20 and 2020-21

Under the Richmond Rent Ordinance and Rent Board Regulations, Landlords in Richmond, are required to submit to the Rent Program any notice of termination of tenancy served on a Tenant within 2-business days of having served the notice on the Tenant. Since the 2019-20 Affordable Housing Report did not include eviction related data, this report will include eviction data for both 2019-20, and 2020-21. During these two fiscal years, the Rent Program logged 1055 notices of termination of tenancy across 17 affordable housing properties. The highest number of notices of termination of tenancy came from Monterey Pines, with 393 notices filed with the Rent Program over the two fiscal years, followed by Westridge (145) and Pullman Point (137).

In fiscal year 2020-21, the total number of notices of termination of tenancy filed with the Rent Program for all Rental Units dropped significantly (approximately 70%) due to the Tenant Protection Act of 2020, which prohibited most evictions for non-payment of rent for Tenants experiencing financial hardship caused by the COVID-19 pandemic. Although not detailed in this report, submission of notices of termination of tenancy of governmentally subsidized rental units also decreased by around 70% in fiscal year 2020-21.

During the COVID-19 pandemic, the Rent Program continued to monitor and perform outreach related to notices of termination of tenancy submitted for governmentally subsidized tenancies. Notices that were not in compliance with local, state, or federal eviction moratoria, the City of Richmond's Urgency Ordinance, or the requirement to have Just Cause to evict were flagged and a courtesy compliance letter sent to both to the Landlord/property management and the Tenant. Additionally, virtually all notices of termination of tenancy submitted to the Rent Program for governmentally subsidized Rental Units resulted in an informational letter being sent to the Tenant and Landlord/property management regarding the requirement to have Just for Eviction and to contact the Rent Program for any eviction related questions. The letter also provided both parties with information about local and state Emergency Rent Relief Programs.



Source: City of Richmond Rent Program, 2022

OVERVIEW OF RENT PROGRAM SERVICES PROVIDED TO GOVERNMENTALLY SUBSIDIZED TENANTS AND AFFORDABLE HOUSING PROVIDERS

Tenants and Landlords of partially covered Rental Units (exempt from the Rent Control provision of the Richmond Rent Ordinance but covered by the requirement to have Just Cause to evict) such as governmentally subsidized units, single family dwellings, condominiums, and post February 1, 1995, permitted construction, receive counseling from the Rent Program on eviction related issues, habitability problems, temporary and permanent relocation assistance, and other Landlord/Tenant issues. As part of the counseling process, in many cases, informal mediation is utilized to bring the Affordable Housing Providers and governmentally subsidized Tenants together to understand each other rights. Informal mediation occurs when during a counseling session, housing counselors recognize that a situation is ripe for mediation. Resolution of disputes is often

achieved through “shuttle diplomacy” usually by phone, between management and the Tenant. During fiscal year 2020-2021, the Rent Program conducted over 500 counseling sessions for Affordable Housing Providers and governmentally subsidized Tenants. Additionally, over 70 legal service referrals were made on behalf of governmentally subsidized Tenants over the last two fiscal years. In response to resident complaints, Rent Program staff have also made site visits to Affordable Housing properties, such as Crescent Park, Pullman Point and Heritage Park at Hilltop, to educate Tenants and management about eviction protections and to address habitability, health and safety, nuisance complaints and management issues. Finally, each governmentally subsidized Tenant who receives a notice of termination of tenancy receive outreach and education in the form of an informational letter informing them that the Rent Program has received a notice regarding the termination of tenancy they received and what their rights are under the Just Cause for Eviction provisions of the Rent Ordinance. As a result, over 1,000 informational letters regarding eviction protections were sent to governmentally subsidized Tenants and Affordable Housing Providers during fiscal years 2019-20 and 2020-21. This eviction related outreach often results in Affordable Housing Providers and governmentally subsidized Tenants contacting the Rent Program for additional information, counseling, or legal assistance referrals.

COMPLIANCE WITH REGULATION 202 AND RESOLUTION 19-01

24 out of 26 properties (92%) paid fees for the 2020-2021 fiscal year. The only providers that did not pay fees for fiscal year 2020-2021 was Harborview and the Terraces at Nevin. Collection efforts are underway for these two properties. Additionally, 18 (69%) of the 26 properties required to enroll have completed a property enrollment form and filed it with the Rent Program. As part of the resolution 19-01, LIHTC providers are required to submit spreadsheets of rent increases. Of the 26 properties, 13 are exempt from submitting their spreadsheets. Of the 13 properties that aren’t exempt, the Rent Program has received 10 (77%) spreadsheets. Properties that have multiple layers of subsidy such as properties that receive tax credit and Section 8 were not required to submit spreadsheets showing their proposed rent increases. These properties are designated in the table below as Not Applicable (N/A). Only properties that are solely subsidized by LIHTC are required to submit spreadsheets. Multiple emails were sent to follow up with non-compliant providers. **(See Table 1- Summary of Compliance with Resolution 19-01)**

Table 1: Summary of Compliance with Resolution 19-01

Source: City of Richmond Rent Program, 2020

Property	FY 2020-2021		Submitted Rent Increase Spreadsheets showing rent increases at or below 5%
	Enrolled	Paid	
Arbors Apartments	Y	Y	Y
Barrett Plaza	N	Y	N/A
Barrett Terrace	N	Y	N/A
Baycliff Apartments	Y	Y	Y
Carquinez	Y	Y	Y
Chesley Mutual	N	Y	Y
Crescent Park	Y	Y	Y
Cypress Pines	Y	Y	N/A
Friendship Manor	Y	Y	N/A
Harborview	Y	N	Y
Heritage Park	Y	Y	Y
Liberty Village	N	Y	Y
Lillie Mae Jones	N	Y	N
Miraflores	Y	Y	N/A
Monterey Pines	Y	Y	Y
Nevin Plaza	Y	Y	N/A
Nystrom Village	Y	Y	N/A
Pullman Point	Y	Y	N/A
Richmond City Center	N	Y	Y
Richmond Village	Y	Y	N
Rubicon Homes	Y	Y	N/A
St Johns Apartments	Y	Y	N/A
The Terraces	N	N	N/A
Triangle Court	Y	Y	N/A
Trinity Plaza	Y	Y	N/A
Westridge	Y	Y	N

NEXT STEPS

This report was compiled by Rent Program staff to allow the Rent Board to determine overall compliance of LIHTC properties from July 1, 2020– June 31, 2021. Using this information, the Rent Board can discuss whether to move forward with exemption or non-exemption under Regulation 202. The Rent Program anticipates providing the Rent Board with the 2021-22 Affordable Housing Report within the current fiscal year.

Chapter 2: APPLICABILITY

200. Purpose

The purpose of this Chapter 2 is to describe those categories of properties which are exempt from the Ordinance and to provide a process and procedure for those Controlled Rental Units seeking to establish an exemption from this Ordinance.

[Formerly Regulation 17-01; Adopted November 15, 2017]

201. Rental Units Exempt from both the Rent Control (R.M.C § 11.100.070) and Just Cause for Eviction (R.M.C § 11.100.050) Provisions of the Ordinance

- A. Rental Units in hotels, motels, inns, tourist homes and rooming and boarding houses that are rented primarily to transient guests for a period of fewer than 14 days;
- B. Rental Units in any hospital, convent, monastery, extended medical care facility, asylum, or non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education;
- C. Rental Units for which there is a Temporary Tenancy, as defined in R.M.C § 11.100.030(q);
- D. Rental Units that are lawful and in compliance with the Small, Second Unit Ordinance of the City (R.M.C § 11.15.04) if the Primary Residence is occupied by the property owner; and
- E. Rental Units where the Rental Unit is the Primary Residence of the property owner and the property owner shares with a Tenant(s) a bathroom or kitchen.

[Formerly Regulation 17-03; Adopted July 19, 2017]

201.5 Rooming and Boarding Houses

- A. For purposes of Regulation 201, Rooming and Boarding house(s) shall mean any building or portion thereof other than a hotel containing at least five (5) rooms individually offered for rent or rented to at least five tenants under separate Rental Housing Agreements.
- B. Where any building, structure, or part thereof is considered a Rooming and Boarding house, each room shall be treated as an individual Rental Unit and must be individually registered with the Rent Program, in a manner consistent with Chapter 4 of these Regulations.
- C. Use of a single Rental Housing Agreement shall not be dispositive in determining whether a building, structure, or part thereof is a Rooming and Boarding house. Rather, the following factors shall be considered by the Rent Program when determining whether a building, structure, or part thereof is a Rooming and Boarding house:

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- a. Whether the Landlord or Tenant maintains control over Tenant Replacement;
- b. Whether there is a single or multiple Rental Housing Agreement(s);
- c. The relationship between the Tenants of the Rooming and Boarding house;
- d. How Rent is distributed, collected, and/or paid to the Landlord;
- e. Access to common areas and/or housing services; and
- f. The period of occupancy set forth in each single or multiple Rental Housing Agreement.

This is not an exhaustive list and the Rent Program may consider other evidence that has a tendency to prove or disprove that a particular building, structure, or part thereof is a Rooming and Boarding house.

[Adopted July 18, 2018]

202. Governmentally Subsidized Rental Units Exempt from the Rent Control Provisions of the Ordinance

The following rental units are exempt from the rent control (RMC 11.100.070), but not the just cause for eviction (RMC 11.100.050) provisions of the Ordinance.

- A. Rental units in which a tenant household holds a Section 8 Housing Choice Voucher and where the rent not does exceed the Payment Standard as published by the U.S. Department of Housing and Urban Development.
- B. Rental units for which the rent is subsidized by the Project-Based Section 8 Program
- C. Rental units that are “rent restricted” in a Low Income Housing Tax Credit Program Project. “Rent Restricted” means the rent charged for the unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.
- D. Rental units for which the rent is subsidized by the Section 202 Supportive Housing for the Elderly Program
- E. Rental units that are “rent restricted” under a regulatory agreement between a governmental agency and a property owner. “Rent Restricted” means the rent charged for the unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.

[Formerly Regulation 17-01; Adopted November 15, 2017]

203. Other Rental Units Exempt from the Rent Control Provisions of the Ordinance

In addition to rental units that are exempt from rent control under R.M.C § 11.100.100.030 (d)(1)(2)(4) (5) and (6), rental units which a governmental unit, agency or authority owns, operates or manages are exempt from the rent control provisions of the Ordinance. Section 11.100.030 (d)(3), Richmond Municipal Code.

[Formerly Regulation 17-01; Adopted November 15, 2017]

204. Maintaining an Exemption Pursuant to Regulation 202: Compliance with Applicable Laws and Regulations

A. Notwithstanding Regulation 202, Rental Units described in Regulation 202 shall not be exempt from Section 11.100.070 of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance where the property owner has failed to substantially comply with all of the applicable provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, Rent Board Orders, Regulations, and/or Resolutions, as well as the Implied Warranty of Habitability as described in Civil Code 1941.1, and Richmond Municipal Code Section 6.40.040. This includes, but is not limited to, a property owners obligation to comply with the following:

- (1) Timely payment of all owing Residential Rental Housing Fee. For purposes of this provision, a payment shall be considered timely where a property owner remits payment of the Residential Rental Housing Fee within 30 calendar days from the date the Rent Program sends the invoice. Where there is a dispute in the amount owed, payment shall be considered timely where the owner remits payment of the Residential Rental Housing Fee within 30 calendar days from the date the Rent Program sends the amended invoice. However, where the dispute is wholly concerned with assessed late fees, payment shall be considered timely where the owner remits payment of the Residential Rental Housing Fee within 5 calendar days from the date the Rent Program sends the amended invoice or 30 calendar days from the date the Rent Program sent the initial invoice, whichever is later. If a dispute does not result in an amended invoice, payment shall be due within 30 calendar days from the date the Rent Program sent the initial invoice;
- (2) Payment of the Business License Tax pursuant to Richmond Municipal Code Section 11.100.060(l)(1);
- (3) Enrollment of all applicable Rental Units pursuant to Regulation 405(B);
- (4) All of the applicable provisions set forth in Resolution 19-01; and
- (5) Any and all requirements set forth in any regulatory agreement executed between a developer and/or property owner and a Federal, State, or government entity.

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- B. Where Rent Program Staff members have determined a property owner has failed to comply with any of the obligations set forth in Regulation 204(A), Rent Program Staff members shall immediately notify the property owner in writing of the obligation(s) the property owner has failed to satisfy. The written notification must identify the specific obligation(s) the property owner has failed to satisfy and provide the property owner up to 60 calendar days from the date of mailing of the notification to bring itself into compliance with the identified obligation(s). If a property owner fails to timely comply with the obligation(s) identified in the Rent Program Staff member's written notification, Rent Program Staff members may agendize an item of noncompliance for the next regularly scheduled Rent Board meeting. The agenda item shall include an identification of the specific property that has failed to comply, specific findings of noncompliance, a recommendation of the removal of the exemption contained in Regulation 202 as it relates to the noncompliant property, and any other information Rent Program staff member(s) deems relevant.
- C. In addition to Regulation 204(A), Rental Units described in Regulation 202 shall not be exempt from Section 11.100.070 of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance where there is no longer in effect (a) a tenant with a Section 8 Housing Choice Voucher in the Rental Unit, (b) the Rental Unit is no longer in a Project-Based Section 8 Program, and/or (c) the Rental Unit is no longer rent restricted under a regulatory agreement and/or declaration of restrictive covenants.
- D. Nothing in Regulation 204(A) and/or Regulation 204(B) shall preclude tenants residing in Rental Units described in Regulation 202 from seeking advice or assistance from the Rent Program concerning applicable provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance and utilizing the remedies provided in the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance to the extent permitted by Federal, State, and local law.

*Formerly Regulation 17-01; Adopted November 15, 2017]
[Amended February 20, 2019]*

205. Application for Exemption Determination

Notwithstanding Regulation 403, a Landlord may request that an administrative decision be rendered regarding the applicability of R.M.C. 11.100 et. seq (Fair Rent, Just Cause For Eviction, and Homeowner Protection Ordinance) on a property or unit owned or occupied by the requesting party. All requests for an administrative decision regarding exemption must be made on an approved Rent Program form. The Landlord must complete the approved form and attach sufficient information and documentation demonstrating a claimed exemption. The Landlord shall have the burden of proof of demonstrating a claimed exemption.

[Adopted June 20, 2018]

Resolution No. 19-01

ESTABLISHING ADDITIONAL TERMS OF EXEMPTION FOR
LOW-INCOME HOUSING TAX CREDIT PROVIDERS FROM
THE RENT CONTROL PROVISIONS OF RICHMOND FAIR
RENT, JUST CAUSE FOR EVICTION, AND HOMEOWNER
PROTECTION ORDINANCE PURSUANT TO REGULATION
202.

WHEREAS, on November 8, 2016, the voters in the City of Richmond passed, by initiative, the “Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance”; and

WHEREAS, on November 15, 2017, the Richmond Rent Board adopted Regulation 202 and Regulation 204(formerly Regulation 17-01) exempting “governmentally subsidized Rental Units” from the rent control provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance; and

WHEREAS, there are approximately 4,283 Rental Units in Richmond that receive Low-Income Housing Tax Credits (LIHTC) and/or direct subsidies from the Department of Housing and Urban Development (HUD), including the Housing Choice Voucher and Project-Based Section 8 programs. These units represent approximately 20 percent of Richmond’s rental housing stock and represent a critical aspect of housing affordability in the city; and

WHEREAS, of the 4,283 governmentally subsidized Rental Units in Richmond, 2,702 Rental Units receive LIHTC funding; and

WHEREAS, maximum rents in LIHTC Rental Units are determined annually by the California Tax Credit Allocation Committee (TCAC) based on Area Median Income for Oakland-Fremont, CA HUD Metro FMR Area, which contains Alameda and Contra Costa Counties; and

WHEREAS, the methodology employed by HUD to calculate Contra Costa County’s Area Median Income may not accurately reflect Area Median Income for Richmond Tenants. For purposes of this Resolution, Tenant shall have the same meaning as provided in Richmond Municipal Code Section 11.100.030(r); and

WHEREAS, in March 2018, Tenants at multiple LIHTC developments received rent increases in excess of ten (10) percent, the maximum rent permitted by TCAC for the year; and

WHEREAS, throughout the course of their work, Rent Program staff have also heard grievances from Tenants in LIHTC Rental Units regarding habitability, security, and other issues; and

WHEREAS, due to LIHTC’s exemption pursuant to Regulation 202, Tenants living in these units cannot use the Rent Program’s petition system to request rent adjustments and resolve grievances in this manner; and

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WHEREAS, Rent Program staff convened 13 of the city's affordable housing providers for a conference call on May 18, 2018, to discuss these concerns and potential solutions; and

WHEREAS, in early June 2018, six affordable housing providers, representing approximately 63 percent of the deed-restricted units in the City of Richmond, submitted letters to the Rent Program indicating their willingness to limit annual rent increases in LIHTC Rental Units; and

WHEREAS, on June 20, 2018, the Rent Board appointed two of its members to an ad hoc committee to develop an agreement with LIHTC providers in conjunction with Rent Program staff to limit rent increases in these units and address other concerns raised by Tenants; and

WHEREAS, in communication with Rent Program staff, affordable housing providers have indicated their preference to voluntarily cap annual rent increases at 6 percent (6%) and noted that TCAC maximum rents have historically increased by around 2 or 3 percent per year; and

WHEREAS, at an August 24, 2018 meeting with Tenants of affordable housing and Tenant representatives, many expressed concerns about large rent increases leading to displacement and homelessness, particularly for low-income seniors and others on fixed incomes; and

WHEREAS, at this same meeting, Tenants of affordable housing and Tenant representatives expressed a strong willingness to participate in a Rent Board-initiated mediation process to resolve habitability and other concerns with management; and

WHEREAS, while the Tenants and Tenant representatives in attendance expressed concerns that any rent increase would pose a financial hardship, they indicated they preferred a flat percentage cap of 2 percent (2%) on annual rent increases; and

WHEREAS, to date, affordable housing providers and Tenants of affordable housing and their representatives have not agreed on the appropriate percentage of annual rent increases; and

WHEREAS, on November 7, 2018, the Ad Hoc committee convened and determined it prudent to present the Rent Board with various policy options related to the continual exemption of LIHTC Rental Units pursuant to Regulation 202;

NOW, THEREFORE, BE IT RESOLVED, that the owner of a LIHTC Rental Unit may increase the rent up to the maximum allowed by TCAC at any time, so long as the increase does not exceed five (5) percent during any 12-month period;

BE IT FURTHER RESOLVED, while LIHTC properties' rents are not regulated by the Rent Board, Rent Program staff shall meet annually with LIHTC providers to gather information pertaining to compliance with Regulation 204, housing quality, and rents; the rent information shall be provided in an editable spreadsheet and include the current and proposed rent. This meeting shall occur no later than 60 calendar days from the day TCAC releases its permitted Maximum Rent Schedule; and

ITEM H-1 ATTACHMENT 3

BE IT FURTHER RESOLVED, the Rent Program shall issue an annual report to the Rent Board on the state of governmentally subsidized Rental Units in the City of Richmond, based on program data. This report shall include recommendations to the Board regarding compliance and housing quality, and may be compiled as a section of the Rent Program's Annual Report presented to the City Council; and

BE IT FURTHER RESOLVED, at the same meeting the Rent Board receives the Annual Report, the Rent Board shall consider the LIHTC complied Rent data and make findings of the overall compliance of LIHTC properties and whether continual exemption of these properties is achieving the purpose of the Rent Ordinance; and

BE IT FURTHER RESOLVED, in the event a majority of Rent Board members find substantial noncompliance among LIHTC Rental Unit(s) and/or continued exemption of these LIHTC Rental Unit(s) does not achieve the purpose of the Rent Ordinance, the Rent Board shall consider at its next regularly scheduled meeting whether to maintain the LIHTC Rental Unit exemption as described in Regulation 204; and

BE IT FURTHER RESOLVED, in the event that a majority of Rent Board members vote to remove the exemption of a LIHTC Rental Unit(s), Rent Board staff shall within 10 business days charge the non-exempt LIHTC Rental Unit(s) a Rental Housing Fee equivalent to the amount charged for fully covered units, or partially covered units where applicable, for the same fiscal year in which the exemption was removed, less any fees already paid, and apply the full provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, as permitted by State law.

BE IT FURTHER RESOLVED, that LIHTC providers who comply with the policies stated herein and Regulation 204, shall pay a Residential Rental Housing Fee as determined by an annual Rental Housing Fee Study approved by the Rent Board and adopted by the City Council, and maintain their exemption under Regulation 202; and

BE IT FURTHER RESOLVED, that the Tenants of governmentally subsidized Rental Units have the same rights as other Richmond Tenants to request counseling and mediation services from the Rent Program to resolve potential breaches of California Civil Code 1941.1 or other issues that implicate termination of a tenancy; and

BE IT FURTHER RESOLVED, that in no case shall a LIHTC provider be permitted to avail itself to the benefit of the provisions of this Resolution 19-01 and Regulation 202, unless that LIHTC provider has fully resolved any past and/or currently due Residential Rental Housing Fees and is otherwise in compliance with the Enrollment requirements pursuant to Regulation 405 and the requirements set forth in Regulation 204; and

BE IT FURTHER RESOLVED, that the Rent Program staff is authorized to develop rules and procedures to implement the counseling, enrollment, and mediation services associated with the purpose of this Resolution; and

ITEM H-1
ATTACHMENT 3

Dated: February 20, 2019

Adopted by the Richmond Rent Board of the City of Richmond by the following vote:

AYES: Boardmembers Finlay, Maddock, Vice Chair Gerould and Chair Gray.

NOES: None.

ABSENT: None.

ABSTENTIONS: None.

CYNTHIA SHAW
Cynthia Shaw, Rent Board Clerk

DAVID GRAY

David Gray, Chair

Approved as to form:

CHARLES OSHINUGA

Charles Oshinuga, Rent Board Legal Counsel

State of California }
County of Contra Costa :ss.
City of Richmond }

CITY OF RICHMOND, CALIFORNIA																
DRAFT EXISTING DEED-RESTRICTED AFFORDABLE HOUSING																
Basic Information				Subsidy Type(s) and Expiration											Ownership and Management	
Development Name	Address	Year Built (a)	APN	Project-based Section 8: Direct Contract with HUD	Section 8 Contract Expiration	Tenants with a Housing Choice Voucher (Tenant-based Section 8)	Section 202 Units	Section 42 (LIHTC) Units	Section 236 Units	Public Housing Units/Units Owned by the Richmond Housing Authority	Below Market Rate "BMR" Units	Total Subsidized Units	Compliance End Year (LIHTC Properties Only)	Regulatory Agreement and Date(s) of Recording	Owner on Record Name & Address	Ownership Entity
Data Source	Regulatory Agreements; Restrictive Covenants; 2015-2023 Housing Element	ParcelQuest (County Assessor Data)	ParcelQuest (County Assessor Data)	HUD; California Housing Partnership Corporation	California Housing Partnership Corporation	Richmond Housing Authority	Richmond Housing Authority	HUD	Richmond Housing Authority	Richmond Housing Authority; ParcelQuest (County Assessor Data)	Regulatory Agreement	Regulatory Agreements; Restrictive Covenants; 2015-2023 Housing Element; California Housing Partnership Corporation	California Housing Partnership Corporation	Housing Division; Contra Costa County Recorder	ParcelQuest (County Assessor Data)	ParcelQuest (County Assessor Data); California Housing Partnership Corporation
1	Arbors Apartments	5127-5331 Creely Avenue	1965	509-190-004	23	8/31/2026		35				36	2063	Regulatory Agreement and Declaration of Restrictive Covenants (10/31/06); First Amendment to Regulatory Agreement (11/03/08); Second Amendment to Regulatory Agreement (4/22/14)	ARBORS PRESERVATION LP	John Stewart Company (County); Resources for Community Development (RCD)(California Housing Partnership Corporation)
2	Barrett Plaza Townhouses	740 Barrett Ave, Richmond, CA 94801	1975	534-392-001	58	12/31/2031			58			58	2070		BARRETT PLAZA HOUSING CORP	Community Housing Development Corporation, Managed by CHDC.
3	Barrett Terrace Apartments	700 Barrett Ave, Richmond, CA 94801	1975	538-440-001	114	12/31/2031			114			115			BARRETT TERRACE HOUSING CORP	Community Housing Development Corporation, Managed by CHDC.
4	Baycliff Apartments	2300 Lancaster Dr, Richmond, CA 94806	1977	414-300-005			118	342				342	2059	Regulatory Agreement and Declaration of Restrictive Covenants (7/29/04)	FF Hills LP	FF Hills LP
5	Carquinez	400 Harbour Way, Richmond, CA 94801	1980	540-420-003			33	35				36	2064	Regulatory Agreement and Declaration of Restrictive Covenants (11/14/08)	Carquinez Associates	Carquinez Associates
6	Chesley Mutual Housing	802 Chesley Ave, Richmond, CA 94801	2005 (c)	561-251-003				30				30	2059	Regulatory Agreement and Declaration of Restrictive Covenants (12/17/03)	CHESLEY AVE LTD PARTNERSHIP	Community Housing Development Corporation Managed by Eden Housing
7	Crescent Park	5000 Hartnett Ave, Richmond, CA 94804	1968	509-242-003	341	12/31/2026	13	378				378	2062	Regulatory Agreement and Declaration of Restrictive Covenants (07/06/07)	CRESCENT PARK EAH LP	EAH Housing
8	Cypress Pines (formerly Deliverance Temple)	4312 Potrero Ave, Richmond, CA 94804	1974	509-370-028	82	2/28/2037		82				82	2070	Regulatory Agreement - Federal and State Credits (12/09/03) & HAP Contract (10/09)	DT Venture LP	MRK Partners, Inc.
9	Friendship Manor (RAD Conversion)	564 Stege Avenue, Richmond, CA 94804	1972 (b)	513-171-007			43			57		57	2069	Regulatory Agreement and Declaration of Restrictive Covenants (12/22/15)	Richmond Housing Authority	City of Richmond Housing Authority Managed by John Stewart
10	Harborview Senior Apartments	25 Harbour Way, Richmond, CA 94801	2016 (c)	538-430-020			46	61				62	2068	Regulatory Agreement and Declaration of Restrictive Covenants (08/15/14)	RICHMOND PACIFIC ASSOCIATES	Richmond Pacific Associates
11	Heritage Park at Hilltop	3811 Lakeside Drive, Richmond, CA 94806	2000 (c)	405-373-022			94	95	192			192	2054	No Reg Agreement, but we have Density Bonus Agreement (2/28/01)	HILLTOP GROUP LP	Hilltop Group LP
12	Liberty Village Apartments	298 W Chanslor Ave, Richmond, CA 94801	1942	538-012-003				100				100	2068	Regulatory Agreement 11/01/00	LIH LIBERTY VILLAGE LP	LIH Liberty Village LLC

Basic Information					Subsidy Type(s) and Expiration										Ownership and Management		
Development Name		Address	Year Built (a)	APN	Project-based SECTION 8: Direct Contract with HUD	SECTION 8 CONTRACT EXPIRATION	TENANTS WITH A HOUSING CHOICE VOUCHER (TENANT- BASED SECTION 8)	SECTION 202 UNITS	SECTION 42 (LIHTC) UNITS	SECTION 236 UNITS	PUBLIC HOUSING UNITS/UNITS OWNED BY THE RICHMOND HOUSING AUTHORITY	BELOW MARKET RATE "BMR" UNITS	TOTAL SUBSIDIZED UNITS	COMPLIANCE END YEAR (LIHTC PROPERTIES ONLY)	REGULATORY AGREEMENT AND DATE(S) OF RECORDING	OWNER ON RECORD NAME & ADDRESS	OWNERSHIP ENTITY
Data Source		Regulatory Agreements; Restrictive Convenents; 2015-2023 Housing Element	ParcelQuest (County Assessor Data)	ParcelQuest (County Assessor Data)	HUD; California Housing Partnership Corporation	California Housing Partnership Corporation	Richmond Housing Authority	Richmond Housing Authority	HUD	Richmond Housing Authority	Richmond Housing Authority; ParcelQuest (County Assessor Data)	Regulatory Agreement	Regulatory Agreements; Restrictive Convenents; 2015- 2023 Housing Element; California Housing Partnership Corporation	California Housing Partnership Corporation	Housing Division; Contra Costa County Recorder	ParcelQuest (County Assessor Data)	ParcelQuest (County Assessor Data); California Housing Partnership Corporation
13	Lillie Mae Jones Plaza	120 Macdonald Ave, Richmond, CA 94801	2011 (c)	538-181-037			18						26	2065	Regulatory Agreement and Declaration of Restrictive Covenents (no date of recording); Modification of Regulatory Agreement and Declaration of Restrictive Covenants (05/07/10)	LILLIE MAE JONES PLAZA LP	East Bay Asian Local Development Corp (County); CHDC of North Richmond (California Housing Partnership Corporation)
14	Miraflores	150 S. 45th St, Richmond, CA 94804	2017	513-321-001			79		79				80				Eden Housing & CHDC
15	Monterey Pines Apartments	680 S 37th St, Richmond, CA 94804	1971	513-185-011			50		324				324	2070	Regulatory Agreement and Declaration of Restrictive Covenents (12/20/01)	Monterey Venture LP	Apartment Management Consultants LLC
16	Nevin Plaza (d)	2400 Nevin Avenue, Richmond, CA 94804	1973	515-261-001							105		105			Richmond Housing Authority	Richmond Housing Authority
17	Nystrom Village (d)	222 Marina Way South, Richmond, CA 94804	1920	544-112-001							82		82			Richmond Housing Authority	City of Richmond Housing Authority Managed by John Stewart
18	Pullman Point (formerly Richmond Townhouses)	2989 Pullman Ave, Richmond, CA 94804	1973	513-010-019	192	2/29/2024			199	192			199	2058		CARLSON BOULEVARD LP	Primary Owner -Community Housing Development Corporation and Limited Partner John Stewart Company
19	Richmond City Center Apartments	1000 Macdonald Ave	1994	540-460-009			14		64				64	2067	First Amendment to First Amended and Restated Regulatory Agreement (2/05/13)	RICHMOND HOUSING ASSOCIATES LP	Richmond Housing Associates
20	Richmond Village (formerly Easter Hill)	700 S 26th St, Richmond, CA 94804	2004 (c)	549-240-001			60		241				241	2060 & 2061	Regulatory Agreement and Declaration of Restrictive Covenants - Easter Hill Phase I (2/24/04); Regulatory Agreement and Declaration of Restrictive Convenants - Easter Hill Phase II (11/12/04)	Richmond Housing Authority	Richmond Housing Authority (County); McCormack Baron, Salazar, Inc. (California Housing Partnership Corporation)
21	Rubicon Homes	2500 Bissell Ave, Richmond, CA 94804	1950	515-312-004	26	8/31/2027		Old 202 project - lease matured		26			10			Rubicon Programs Incorporated	Rubicon Programs Incorporated
22	St Johns Apartments	121 W Macdonald Ave, Richmond, CA 94801	1990	538-011-002	155	6/30/2033			158				158	2068	Regulatory Agreement (7/22/15)	ST JOHNS PARTNERS LP	US Residential Corporation

Basic Information					Subsidy Type(s) and Expiration										Ownership and Management		
Development Name		Address	Year Built (a)	APN	Project-based Section 8: Direct Contract with HUD	Section 8 Contract Expiration	Tenants with a Housing Choice Voucher (Tenant- based Section 8)	Section 202 Units	Section 42 (LIHTC) Units	Section 236 Units	Public Housing Units/Units Owned by the Richmond Housing Authority	Below Market Rate "BMR" Units	Total Subsidized Units	Compliance End Year (LIHTC Properties Only)	Regulatory Agreement and Date(s) of Recording	Owner on Record Name & Address	Ownership Entity
Data Source		Regulatory Agreements; Restrictive Covenants; 2015-2023 Housing Element	ParcelQuest (County Assessor Data)	ParcelQuest (County Assessor Data)	HUD; California Housing Partnership Corporation	California Housing Partnership Corporation	Richmond Housing Authority	Richmond Housing Authority	HUD	Richmond Housing Authority	Richmond Housing Authority; ParcelQuest (County Assessor Data)	Regulatory Agreement	Regulatory Agreements; Restrictive Covenants; 2015- 2023 Housing Element; California Housing Partnership Corporation	California Housing Partnership Corporation	Housing Division; Contra Costa County Recorder	ParcelQuest (County Assessor Data)	ParcelQuest (County Assessor Data); California Housing Partnership Corporation
23	Triangle Court (RAD Conversion)	980 Triangle Court, Richmond, CA 94801	1988	561-280-007			75				98		98	2069	Regulatory Agreement and Declaration of Restrictive Covenants (12/22/15)	Richmond Housing Authority	Richmond Housing Authority
24	Trinity Plaza Senior Apartments (formerly MacDonald Senior Apartments)	350 & 410 Macdonald Ave, Richmond, CA 94806	2009 (c)	538-210-027			65		66				66	2063	Regulatory Agreement and Declaration of Restrictive Covenants (10/12/07)	Richmond Labor & Love Comm Dev	Richmond Labor & Love Community Development (County); Reloated Development Company of California, LLC (California Housing Partnership Corporation)
25	VUE @ 3600 (formerly Summit at Hilltop)	3600 Sierra Ridge Road	1990	405-490-013			10					96	96		Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants (7/15/10)	US Reif Sierra Ridge Road	US Reif Sierra Ridge Road
26	Westridge Apartments	2490 Lancaster Dr, Richmond, CA 94806	1973	414-310-008 & 414-310- 007			55		396			79	480	2069	Regulatory Agreement and Declaration of Restrictive Covenants (3/19/16)	Menlo Westridge Affordable Partner	Alliance Residential Company (County); Klein Financial Corp/Menlo Capital
SUM					991		773	95	2,782	390	342		3,517				

SECTION 8 HOUSING CHOICE VOUCHERS ADMINISTERED BY RICHMOND HOUSING AUTHORITY (as of May 2017)	
Category	Number
Number of Units with Active Voucher	1,552
Total Possible Vouchers	1,851

- Notes:
- (a) Refers to the "Effective Date" as recorded by the Contra Costa County Assessor. The Planning and Building Services Departments utilizes the "Effective Date" rather than the "Year Built" since "Effective Date" indicates when the building was fit for occupancy.
- (b) Associated with the parent address of 603 South 37th Street.
- (c) The Costa-Hawkins Rental Housing Act (California Civ. Code 1954.50) exempts units which received a certificate of occupancy after February 1, 1995, from rent control (restrictions on a maximum allowable rent).
- (d) Excludes 37 NAR units at Nevin and 18 NAR units at Nystrom

DEFINITIONS	
LIHTC	Low Income Housing Tax Credit
Section 8 - Project Based	Units Subsidized by Section 8 Program
Section 8 - Tenant Based	Tenants with a Section 8 Voucher
Section 202 (Senior)	Section 202 Supportive Housing for the Elderly Program
Section 236	Presevation of Affordable Housing Program

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