

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: December 21, 2022

Final Decision Date Deadline: December 21, 2022

STATEMENT OF THE ISSUE: The Richmond Voters passed Measure P (Attachment 1) on the November 8, 2022, ballot by 56%. Measure P amends the existing Ordinance and the provisions of the Richmond Municipal Code ("RMC") section 11.100.070(b). The annual rent increase limitation for regulated units, will decrease from 100% of inflation to 60% of inflation, as measured by the Consumer Price Index, or a flat 3%, whichever is less. The passage of Measure P necessitates the amendment of Chapter 6: Rent Board Regulations (Annual General Adjustments of Maximum Allowable Rents).

INDICATE APPROPRIATE BODY

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| ☐ 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:
- ☐ 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 an update from the Executive Director, Nicolas Traylor on Measure P being passed by voters on the November 8, 2022 ballot and DIRECT staff to draft amendments to Chapter 6 of Rent Board Regulations to be in alignment with Measure P– Rent Program (Nicolas Traylor, 620-6564). ***This item was continued from the November 16, 2022, meeting.***

AGENDA ITEM NO:

H-2.

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AGENDA REPORT

DATE: December 21, 2022

TO: Chair Finlay and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director

SUBJECT: THE PASSAGE OF MEASURE P ON THE NOVEMBER 8, 2022, BALLOT

STATEMENT OF THE ISSUE:

The Richmond Voters passed Measure P (Attachment 1) on the November 8, 2022, ballot by 56%. Measure P amends the existing Ordinance and the provisions of the Richmond Municipal Code ("RMC") section 11.100.070(b). The annual rent increase limitation for regulated units, will decrease from 100% of inflation to 60% of inflation, as measured by the Consumer Price Index, or a flat 3%, whichever is less. The passage of Measure P necessitates the amendment of Chapter 6: Rent Board Regulations (Annual General Adjustments of Maximum Allowable Rents).

RECOMMENDED ACTION:

RECEIVE an update from the Executive Director, Nicolas Traylor on Measure P being passed by voters on the November 8, 2022 ballot and DIRECT staff to draft amendments to Chapter 6 of Rent Board Regulations to be in alignment with Measure P– Rent Program (Nicolas Traylor, 620-6564).

FISCAL IMPACT:

There is no fiscal impact of receiving this report.

DISCUSSION:

In Richmond, certain residential rental units' rental rates are controlled by Richmond's Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance. As originally written and adopted by Richmond voters in November of 2016, Landlords are entitled to an annual rent increase equivalent to "one hundred (100%) percent of the percentage increase in the Consumer Price Index (All Urban Consumers, San Francisco-Oakland-San Jose region, or any successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of

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March of the current year.” The Annual General Adjustment for 2022 is five-point two (5.2%) percent.

Measure P will cap rent increases for controlled units at three percent (3%) or sixty percent (60%) of the local consumer price index, whichever is lower.

Measure P has a phase in period, which would extend from the effective date of the Measure P through August 31, 2023.

The Measure will become effective ten (10) days after the vote is declared by the City Council. Chapter 6: Rent Board Regulations must be amended after the effective date of Measure P to be in alignment with the amended law.

DOCUMENTS ATTACHED:

Attachment 1- Measure P initiative measure to be submitted directly to the voters

Attachment 2- Chapter 6: Rent Board Regulations as currently adopted

MEASURE P
INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

ORDINANCE NO. _____ N.S.

AN ORDINANCE OF THE PEOPLE OF THE CITY OF RICHMOND APPROVED AT THE
GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2022, AMENDING THE
FAIR RENT, JUST CAUSE FOR EVICTION AND HOMEOWNER PROTECTION
ORDINANCE TO LIMIT RENT INCREASES FOR REGULATED UNITS TO 3% OR 60%
OF THE CONSUMER PRICE INDEX, WHICHEVER IS LESS

The People of the City of Richmond do ordain as follows:

SECTION 1. Title and Purpose.

TITLE. This Ordinance may be cited as the RICHMOND ANNUAL ALLOWABLE
RENTAL ADJUSTMENT ORDINANCE.

PURPOSE. In Richmond, certain residential rental units' rental rates are controlled by
Richmond's Fair Rent, Just Cause For Eviction And Homeowner Protection Ordinance. As
written, Landlords are entitled to an annual rent increase equivalent to "one hundred (100%)
percent of the percentage increase in the Consumer Price Index (All Urban Consumers, San
Francisco-Oakland-San Jose region, or any successor designation of that index that may later be
adopted by the U.S. Bureau of Labor Statistics) as reported and published by the U.S.
Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of March of
the current year." The Annual General Adjustment for 2022 is five point two (5.2%) percent.

Due to historic levels of inflation, rent-controlled tenants in Richmond are set to receive an
unprecedented rent increase. The historically high level of inflation has highlighted the need to
ensure Richmond tenants are not forced to grapple with both rising prices of goods and services
and rent increases that are inconsistent with the City's goal of protecting residents from
excessive rent increases. As Such, this Ordinance would cap rent increases for controlled units at
three percent (3%) or sixty percent (60%) of the local consumer price index, whichever is lower.

SECTION 2. Findings.

This Ordinance is exempt from the California Environmental Quality Act, Public Resources
Code section 21000 et seq. ("CEQA"), since in accordance with CEQA Guidelines Section
15061, subd. (b)(3), it can be seen with certainty that there is no possibility that the activity
authorized herein may have significant effect on the environment. Additionally, CEQA review
does not apply when a measure is placed on the ballot and approved by the voters.

SECTION 3. Conflicting Measures.

This measure is intended to be comprehensive. It is the intent of the people of City of Richmond
that in the event this measure and one or more measures relating to the Fair Rent, Just Cause For

Eviction And Homeowner Protection Ordinance appear on the same ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than any other measure appearing on the same ballot regarding the Fair Rent, Just Cause for Eviction and Homeowner Protection Act, this measure shall take effect to the extent not in conflict with said other measure or measures.

SECTION 4. Liberal Construction.

This measure shall be liberally construed to effectuate its purpose.

SECTION 5. Effective Date.

This ordinance shall be effective only if approved by a majority of the voters at the November 8, 2022, Statewide General Election and shall go into effect ten (10) days after the vote is declared by the City Council. The limitation on rent escalation stated in this Amendment shall be effective immediately upon the effective date. Over the phase-in period which extends through August 31, 2023, no tenant's rent on a controlled unit shall be higher than what it was on August 31, 2022, plus a 3% increase. After the partial year of phase-in, the regular provisions of this Amendment shall apply.

SECTION 6. Savings Clause.

If any provision, sentence, clause, section, or part of this ordinance is found to be unconstitutional, illegal, or invalid by a court of competent jurisdiction, such unconstitutionality, illegality, or invalidity shall affect only such provision, sentence, clause, section, or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is declared that this ordinance would have been adopted had such unconstitutional, illegal, or invalid provision, sentence, clause, section, or part not been included.

SECTION 7. Fair Rent, Just Cause For Eviction And Homeowner Protection Ordinance Amendments.

Chapter 11.100.070 subdivision (b) of the Richmond Municipal Code is hereby amended as follows. Added text is shown as double underlined type; deleted text is shown as strikethrough type.

(b)Annual General Adjustment. No later than June 30 each year, the Board shall announce the percentage by which rent for eligible Rental Units will be generally adjusted effective September 1 of that year.

(1)The Annual General Adjustment shall be equal to ~~one hundred~~ sixty (1060%) percent of the percentage increase in the Consumer Price Index (All Urban Consumers, San

Francisco-Oakland-San Jose region, or any successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of March of the current year, or three (3%) percent, whichever is lower.

(2) Subparagraph 1 of this Subsection notwithstanding, in no event shall the Annual General Adjustment be less than zero percent (0%).

(3) ~~For the period between the effective date of this Charter and the first Annual General Adjustment announced September 1, the landlord may increase the Maximum Allowable Rent to include one Annual General Adjustment for September 2016.~~ Notwithstanding any previously issued rent increase, the Annual General Adjustment for 2022 is three (3%) percent. In the event a landlord issued a rent increase on or after September 1, 2022 in excess of 3%, that tenant's rent shall be adjusted to their Maximum allowable rent on August 31, 2022, plus three (3%) percent.

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Chapter 6: ANNUAL GENERAL ADJUSTMENTS OF MAXIMUM ALLOWABLE RENTS

600. Purpose

The Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance (Chapter 11.100, Richmond Municipal Code) provides that no later than June 30 of each year the Board shall announce the percentage by which Rent for eligible Rental Units will be generally adjusted effective September 1 of that year. It further provides that the Annual General Adjustment shall equal one-hundred (100%) percent of the percentage increase in the Consumer Price Index (All Urban Consumers, San Francisco-Oakland-San Jose region, or any other successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics)(CPI) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of March of the current year.

[Formerly Regulation 17-05; adopted June 21, 2017]

601. Conditions for taking the Annual General Adjustment

A. A Landlord may increase Rent by the Annual General Adjustment, only if the Landlord:

- (1) Serves the Tenant with a legally required Notice of a Rent increase under State law;
- (2) Files a copy of the Notice of the Rent increase and Proof of Service of such notice with the Board in a manner consistent with Regulation 603; and
- (3) Is in full compliance with the provisions of the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance, including Rent Board Final Decisions and Orders; and
- (4) Is otherwise entitled to the adjustment pursuant to the provisions of the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance, and any other applicable Regulation.

[Formerly Regulation 17-05; adopted June 21, 2017; amended December 16, 2020]

602. Banking

- A. A Landlord may, but is not required to, increase Rent by the Annual General Adjustment as provided by Chapter 6 of these Regulations.
- B. To the extent a Landlord has not increased Rent up to the Maximum Lawful Rent level, the Landlord shall have the ability to apply deferred Annual General Adjustment rent increases; however, if the proposed rent increase for the Tenant household exceeds the current year Annual General Adjustment plus five percent (5.0%) of the rental amount charged to the Tenant household at any time during the 12 months prior to the effective date of the proposed increase, either in and of itself or when combined with any other rent increases for the 12 months prior to the effective date of the increase, the proposed rent increase shall be void.

- C. In the event that a current year's Annual General Adjustment exceeds five percent (5.0%), a Landlord may not apply any deferred Annual General Adjustment increases until the next Annual General Adjustment increase less than five percent (5.0%) is effective.
- D. "Banking" of Annual General Adjustment Increases shall be calculated based on compound addition. For example, an increase of three percent (3.0%) plus three point four percent (3.4%) is equal to a combined increase of six point five six percent (6.56%), not six point four percent (6.4%).
- E. Nothing in this Regulation shall preclude a Landlord from petitioning for a Rent Increase in excess of the Annual General Adjustment.
- F. This Regulation shall become effective September 1, 2018.

[Formerly Regulation 17-09; adopted December 20, 2017; Amended November 14, 2018]

603. Notices of Rent Increase

A. Controlled Rental Units.

Landlords of Controlled Rental Units, as defined in the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance (Chapter 11.100, Richmond Municipal Code, Section 11.100.030 (d), except those Rental Units that are "exempt" pursuant to Rent Board regulation, or are described in 603(B) of this Regulation, shall file with the Board within ten (10) business days *after* the Landlord has served a Tenant with a notice of a rent increase, a copy of such notice with a proof of service, including time and date of service, using, absent extraordinary circumstances, the appropriate online form on the Rent Program website. If a Landlord does not file with the Board the notice and proof of service as provided in this Section, the rent increase shall be deemed null and void.

B. Rental Units Exempt from the Rent Control Provisions of the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance.

Landlords of Rental Units (a) which a government unit, agency, or authority owns, operates or manages, (b) in which governmentally subsidized Tenants reside if applicable federal or state law or administrative regulation specifically exempts such Units from rent control, (c) exempt from rent control pursuant to the Costa-Hawkins Rental Housing Act (California Civil Code, section 1954.52) or (d) that are permitted, small second housing units built in compliance with the Small, Second Unit Ordinance of the City of Richmond (Section 15.04.810, RMC) [Section 11.100.030 (d) (3)(4) and (5)] are **not** required to file with the Board a copy of a notice of rent increase.

*[Formerly Regulation 17-10; adopted September 20, 2017]
[Amended September 19, 2018]*

604. (RESERVED)

605. Annual General Adjustment Order for 2017

The percentage increase in the CPI from 2016-2017 is 3.4%, and thus the following Annual General Adjustment applies:

- A. The 2017 Annual General Adjustment is not to exceed 3.4%.
- B. The cumulative increase in the Maximum Allowable Rent as defined in Section 11.100.030(g), RMC, for tenancies in effect prior to September 1, 2015, is 6.56%.
- C. A Landlord may increase Rent by the 2017 Annual General Adjustment for tenancies in effect prior to September 1, 2016, only if the Landlord is in compliance with Regulation 601.

[Formally Regulation 17-05; Adopted June 21, 2017]

[Amended June 19, 2019]

606. Annual General Adjustment Order for 2018

The percentage increase in the CPI from 2017-2018, is 3.6% and thus the following Annual General Adjustment shall apply:

- A. The 2018 Annual General Adjustment is not to exceed 3.6%.
- B. The Annual General Adjustment granted by this Regulation shall become effective on September 1, 2018, provided that the landlord is otherwise entitled to the adjustment pursuant to the provisions of the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance, and any other applicable Regulation.
- C. Where the landlord is entitled to the adjustment pursuant to the provisions of the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance, and any other applicable Regulation, the Annual General Adjustment granted by this Regulation does not automatically provide for a rent increase. A Landlord may increase Rent by the 2018 Annual General Adjustment for tenancies in effect prior to September 1, 2017, only if the Landlord is in compliance with Regulation 601.

[Formerly Regulation 17-11; adopted June 20, 2018]

607. Annual General Adjustment Order for 2019

The percentage increase in the CPI from 2018-2019, is 3.5% and thus the following Annual General Adjustment shall apply:

- A. The 2019 Annual General Adjustment is not to exceed 3.5%.

- B. The Annual General Adjustment granted by this Regulation shall become effective on September 1, 2019, provided that the Landlord is otherwise entitled to the adjustment pursuant to the provisions of the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance, and any other applicable Regulation.
- C. Where the Landlord is entitled to the adjustment pursuant to the provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, and any other applicable Regulation, the Annual General Adjustment granted by this Regulation does not automatically provide for a rent increase. A Landlord may increase Rent by the 2019 Annual General Adjustment for tenancies in effect prior to September 1, 2018, only if the Landlord is in compliance with Regulation 601.

[Adopted June 19, 2019]

608. Annual General Adjustment Order for 2020

The percentage increase in the CPI from 2019-2020, is 2.9%. Subject to any existing Citywide or Statewide rent increase moratorium, the following Annual General Adjustment shall apply:

- A. The 2020 Annual General Adjustment is not to exceed 2.9%.
- B. The Annual General Adjustment granted by this Regulation shall become effective on September 1, 2020, provided that the Landlord is in full compliance with all applicable provisions of the provisions of the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance, outstanding Rent Board and/or Hearing Examiner Orders, and any other applicable Regulation.
- C. Where the Landlord is entitled to the adjustment pursuant to the provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, and any other applicable Regulation, the Annual General Adjustment granted by this Regulation does not automatically provide for a rent increase. A Landlord may increase Rent by the 2020 Annual General Adjustment for tenancies in effect prior to September 1, 2019, only if the Landlord is in compliance with Regulation 601, and has complied with any existing Rent Board and/or Hearing Examiner Order.

[Adopted June 17, 2020]

609. Annual General Adjustment Order for 2021

The percentage increase in the CPI from 2020-2020¹ is 1.6%. Subject to any existing Citywide, Countywide, or Statewide rent increase moratorium, the following Annual General Adjustment shall apply:

- A. The 2021 Annual General Adjustment is not to exceed 1.6%.

- B. The Annual General Adjustment granted by this Regulation shall become effective on September 1, 2021, provided that the Landlord is in full compliance with all applicable provisions of the provisions of the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance, outstanding Rent Board and/or Hearing Examiner Orders, and any other applicable Regulation.
- C. Where the Landlord is entitled to the adjustment pursuant to the provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, and any other applicable Regulation, the Annual General Adjustment granted by this Regulation does not automatically provide for a rent increase. A Landlord may increase Rent by the 2021 Annual General Adjustment for tenancies in effect prior to September 1, 2020, only if the Landlord is in compliance with Regulation 601, and has complied with any existing Rent Board and/or Hearing Examiner Order.

[Adopted May 19, 2021]

610. Annual General Adjustment Order for 2022

The percentage increase in the CPI from 2021-20202 is 5.2%, and thus, the following Annual General Adjustment shall apply:

- D. The 2022 Annual General Adjustment is not to exceed 5.2%.
- E. The Annual General Adjustment granted by this Regulation shall become effective on September 1, 2022, provided that the Landlord is in full compliance with all applicable provisions of the provisions of the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance, outstanding Rent Board and/or Hearing Examiner Orders, and any other applicable Regulation.
- F. Where the Landlord is entitled to the adjustment pursuant to the provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance, and any other applicable Regulation, the Annual General Adjustment granted by this Regulation does not automatically provide for a rent increase. A Landlord may increase Rent by the 2022 Annual General Adjustment for tenancies in effect prior to September 1, 2021, only if the Landlord is in compliance with Regulation 601, and has complied with any existing Rent Board and/or Hearing Examiner Order.

[Adopted April 20, 2022]

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