

## AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: January 18, 2023

Final Decision Date Deadline: January 18, 2023

**STATEMENT OF THE ISSUE:** On March 17, 2020, Governor Newsom signed Executive Order N-29-20, which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) related to the holding of teleconferenced meetings by City legislative bodies. Among other things, Executive Order N-29-20 suspended requirements that each location from which an official accesses a teleconferenced meeting be accessible to the public. These changes were necessary to allow teleconferencing to be used as a tool for ensuring social distancing. City legislative bodies have held public meetings via videoconference and teleconference pursuant to these provisions since March 2020. These provisions of Executive Order N-29-20 expired on September 30, 2021. Prior to its expiration, California legislators passed Assembly Bill 361 (Rivas), which, among other things, continues to permit public meetings via videoconference and teleconference, where the Board makes findings of the circumstances justifying the continuing need to meet via videoconference and Teleconference. This item requests that the Board review the circumstances of the continued state of emergency posed by the spread of COVID-19, and find that the state of emergency continues to directly impact the ability of the public and members of Board to meet safely in person, that holding public meetings in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination.

### INDICATE APPROPRIATE BODY

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

### ITEM

- |                                                                                       |                                                                                  |                                 |
|---------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) |                                                                                  |                                 |
| <input type="checkbox"/> Public Hearing                                               | <input type="checkbox"/> Regulation                                              | <input type="checkbox"/> Other: |
| <input type="checkbox"/> Contract/Agreement                                           | <input checked="" 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:** ADOPT a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference – Rent Program (Charles Oshinuga 621-1202).

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# AGENDA REPORT

**DATE:** January 18, 2023

**TO:** Chair Finlay and Members of the Rent Board

**FROM:** Charles Oshinuga, General Counsel

**SUBJECT:** Resolution Making Required Findings Pursuant to the Government Code and Directing the Rent Board to Continue to Meet Via Videoconference and Teleconference

## STATEMENT OF THE ISSUE:

On March 17, 2020, Governor Newsom signed Executive Order N-29-20, which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) related to the holding of teleconferenced meetings by City legislative bodies. Among other things, Executive Order N-29-20 suspended requirements that each location from which an official accesses a teleconferenced meeting be accessible to the public. These changes were necessary to allow teleconferencing to be used as a tool for ensuring social distancing. City legislative bodies have held public meetings via videoconference and teleconference pursuant to these provisions since March 2020. These provisions of Executive Order N-29-20 expired on September 30, 2021. Prior to its expiration, California legislators passed Assembly Bill 361 (Rivas), which, among other things, continues to permit public meetings via videoconference and teleconference, where the Board makes findings of the circumstances justifying the continuing need to meet via videoconference and Teleconference. This item requests that the Board review the circumstances of the continued state of emergency posed by the spread of COVID-19, and find that the state of emergency continues to directly impact the ability of the public and members of Board to meet safely in person, that holding public meetings in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination.

## RECOMMENDED ACTION:

ADOPT a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference – Rent Program (Charles Oshinuga 621-1202).

### **FISCAL IMPACT:**

There is no fiscal impact.

### **DISCUSSION:**

#### Background

On March 17, 2020, Governor Newsom signed Executive Order N-29-20, which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) related to the holding of teleconferenced meetings by City legislative bodies. Among other things, Executive Order N-29-20 suspended requirements that each location from which an official accesses a teleconferenced meeting be accessible to the public. These changes were necessary to allow teleconferencing to be used as a tool for ensuring social distancing. City legislative bodies have held public meetings via videoconference and teleconference pursuant to these provisions since March 2020. These provisions of Executive Order N-29-20 expired on September 30, 2021.

Prior to the Expiration of Executive Order N-29-20, on September 16, 2021, Assembly Bill 361 (Rivas), was signed into law by Governor Newsom, amending a portion of the Brown Act (Government Code Section 54953) to authorize the Board, during the state of emergency, to determine that, due to the spread of COVID-19, holding in-person public meetings would present an imminent risk to the health or safety of attendees, and therefore the Board must continue to meet via videoconference and teleconference. Assembly Bill 361 requires that the Board must review and ratify such a determination every thirty (30) days.

#### Discussion

COVID-19 continues to pose a serious threat to public health and safety. There are now Approximately 40,080 confirmed cases of COVID-19 and at least 192 deaths in the City of Richmond. That is an increase of approximately 801 confirmed Covid cases and an increase in 1 Covid-related death in 30 days. As indicated by the numbers, it still remains the case that the City of Richmond has one of the highest infection rate total and the third highest death total in Contra Costa County.

As of today, health officials are concerned that the new Covid-19 variant is more communicable and has the potential to lead to increases in Covid-19 related deaths. Additionally, the infection rate in the City of Richmond has increased as Richmond resident are still getting sick and are at risk of dying from Covid-19. Consequently, city officials remain vigilant, as they send out emails advising employees of the need for social distancing, constant mask wearing, and vaccinations. As prior months have demonstrated, Covid-19 is resilient and its infection rates can increase given any lapse of vigilance in the community, especially during the winter season. Additionally, City Council has continued to pass its Resolution under AB 361, rightfully finding that holding

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public meetings in the Council Chambers would pose an imminent risk to the health and safety of the public.

Given the aforementioned statements and the fact that this Board holds meetings in the same chamber as Council, it's clear that holding Board meetings in person would still present imminent risks to the health and safety of the public and members of Board. Therefore, public meetings cannot safely be held in person at this time.

The attached Resolution would enable the Board to continue to hold public meetings via videoconference and teleconference in order to continue to socially distance and limit the spread of COVID-19.

Lastly, and of importance, despite the rise of COVID-19 infection rates, Governor Newsom has announced that California will be ending its Covid-19 State of Emergency on February 28, 2023. The ending of the State of Emergency will directly impact how, legislative bodies meet virtually. As of today, rent program staff members are in contact with City staff to coordinate the safest way to conduct in-person meetings.

### Recommended Action

Given the continual presence and impact of Covid-19, the need to take adequate precautions to limit the spread of the virus and subsequent death, remains great. As such, staff members recommend that the Board adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City policy bodies shall continue to meet via videoconference and teleconference.

### **DOCUMENTS ATTACHED:**

Attachment 1 – Resolution 23-01

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RESOLUTION NO. 23-01

**MAKING FINDINGS TO ALLOW CONTINUED USE OF TELECONFERENCING FOR  
MEETINGS OF THE RICHMOND RENT BOARD PURSUANT TO THE PROVISIONS OF AB  
361**

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**WHEREAS**, in response to the COVID-19 pandemic, the Governor adopted a series of Executive Orders allowing the legislative bodies of local governments to meet remotely via teleconference through September 30, 2021 so long as other provisions of the Ralph M. Brown Act were followed; and

**WHEREAS**, on September 16, 2021, the Governor signed into law as an urgency measure, AB 361 a bill that amends the Brown Act to allow local policy bodies to continue to meet by teleconferencing during a state of emergency without complying with restrictions in state law that would otherwise apply, provided that the policy bodies make certain findings at least once every 30 days; and

**WHEREAS**, the Richmond Rent Board is a local governmental body that was established as an independent agency and vested with broad powers of administering and executing the provisions of the Fair Rent, Just Cause, and Homeowner Protection Ordinance; and

**WHEREAS**, pursuant to Richmond Municipal Code Section 11.100.060(m), to ensure the integrity and autonomy of the Rent Board, Measure L mandates the Rent Board “be an integral part of the government of the City [of Richmond]”, and establishes that the Rent Board “shall exercise its powers and duties under [Chapter 11.100] independent from the City Council, City Manager, and City Attorney, except by request of the [Rent] Board”; and

**WHEREAS**, as an independent agency, the Richmond Rent Board operates independent from and is not subject the City of Richmond City Council’s Resolutions governing boards, commissions, and other local policy bodies; and

**WHEREAS**, given its degree of independence and autonomy from City Council, the City of Richmond Rent Board has separately considered the current state of health guidance related to public meetings in Contra Costa County and finds it necessary to continue with remote meetings for the next 30 days to promote public health and safety; and

**WHEREAS**, in its future considerations of whether remote meetings are still necessary, the City of Richmond Rent Board shall consider and take into account the City of Richmond City Council’s decision on whether to continue remotely, prior to reaching its ultimate findings on the issue; and

**WHEREAS**, the entire State of California remains under a proclaimed state of emergency as declared by the Governor of the state of California related to the COVID-19 pandemic; and

**WHEREAS**, the California Department of Public Health continues to require the use of face coverings for the unvaccinated in indoor settings in order to help stop the spread of the virus. The Health Officer for Contra Costa County published “Recommendations for Safely Holding Public Meetings” on September 20, 2021. Those recommendations “strongly recommend” on-online meetings, that local agencies should provide options for the public to participate without having to attend meetings in

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**ATTACHMENT 1**

person, and that social distancing should be used, including six feet of spacing between all in attendance; and

**WHEREAS**, without limiting any requirements under applicable federal, state or local pandemic-related rules, orders or directives of the Health Officer of Contra Costa County, who has previously advised that for group gatherings indoors, such as meetings of city council's, boards and commissions, people can increase safety and greatly reduce risks to health and safety of attendees from COVID-19 by maximizing ventilation, wearing well-fitting masks, using physical distancing where the vaccination status of attendees is not known, and considering holding the meeting remotely if feasible, especially for long meetings, with many attendees with unknown vaccination status and where ventilation may not be optimal; and

**WHEREAS**, the City of Richmond has maintained its declaration of a local emergency due to the COVID-19 pandemic and recommends masks wearing, vaccinations and social distancing while indoors; and

**WHEREAS**, the City of Richmond Rent Board has met remotely during the COVID-19 pandemic and can continue to do so in a manner that allows public participation and transparency while minimizing health risks to members, staff, and the public who would be present with in-person meetings while this emergency continues.

**NOW, THEREFORE, BE IT RESOLVED**, That the City of Richmond Rent Board finds as follows:

1. As described above, the State of California, and the City of Richmond remains in a state of emergency due to the COVID-19 pandemic. At this meeting the City of Richmond Rent Board has considered the circumstances of the state of emergency; and
2. As described above State and County, and local officials continue to recommend measures to promote physical distancing and other social distancing measures, in some settings; and
3. As described above meetings of this body in person would present imminent risks to the safety of attendees, and the state of emergency continues to directly impact the ability of members to meet safely in public; and:

**BE IT FURTHER RESOLVED** That the City of Richmond Rent Board approves the continued use of teleconferencing for public meetings of City legislative bodies for the next 30 days based on the findings required by Government Code Section 549539(e), as amended by AB 361; and

**BE IT FURTHER RESOLVED**, That at least for the next 30 days, meetings of the City of Richmond Rent Board will continue to occur exclusively by teleconferencing technology (and not by any in-person meetings or any other meetings with public access to the places where any policy body member is present for the meeting). Such meeting of the City of Richmond Rent Board that occur by teleconferencing technology will provide an opportunity for members of the public to address the body and will otherwise occur in a manner that protects the statutory and constitutional rights of the public attending the meeting via teleconferencing, and;



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**BE IT FURTHER RESOLVED** That the Executive Director of the Rent Program is directed to place a resolution substantially similar to this resolution on the agenda of a future meeting of the City of Richmond Rent Board within the next 30 days.

**APPROVED** by the City of Richmond Rent Board at a regular meeting on January 18, 2023 by the following vote:

**AYES:**

**NOES:**

**ABSTAINED:**

**ABSENT:**

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**RENT BOARD CHAIR**

**APPROVED AS TO FORM:**

**ATTEST:**

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**GENERAL COUNSEL**

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**RENT BOARD CLERK**

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