

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: December 20, 2023

Final Decision Date Deadline: December 20, 2023

STATEMENT OF THE ISSUE: The minutes of the October 25, 2023, Special Meeting of the Richmond Rent Board require approval.

INDICATE APPROPRIATE BODY

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

ITEM

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

RECOMMENDED ACTION: APPROVE the minutes of the October 25, 2023, Special Meeting of the Richmond Rent Board – Rent Program (Cynthia Shaw 620-5552).

AGENDA ITEM NO:

F-2.

This page intentionally left blank

RICHMOND, CALIFORNIA, October 25, 2023

The Special Meeting of the Richmond Rent Board was called to order at 5:04 P.M.

PLEDGE TO THE FLAG

ROLL CALL

Board Members Present: Dockens, Espinoza, Hite, and Chair Cantor.

Staff Present: Executive Director Nicolas Traylor, Deputy Director Fred Tran, and General Counsel Charles Oshinuga.

Absent: Vice Chair Guadalupe.

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

None.

PUBLIC FORUM

None.

RENT BOARD CONSENT CALENDAR

On motion from Board Member Hite, seconded by Board Member Dockens, the item(s) marked with an (*) were approved, with Vice Chair Guadalupe absent.

***F-1.** Approve the minutes of the September 20, 2023, Regular Meeting of the Richmond Rent Board.

***F-2.** Receive the Fiscal Year 2023-24 Monthly Activity Report through September 2023.

***F-3.** Receive the Rent Program FY 2023-24 Monthly Revenue and Expenditure Report through September 2023.

***F-4.** Receive the Budgeted versus Actual Revenue and Expenditures Report for the first quarter ending September 30, 2023.

***F-5.** Approve late fee waiver(s) for October 2023 pursuant to Regulation 425.

CONSIDERATION OF APPEALS

G-1. Before the appeal hearing began, General Counsel Charles Oshinuga gave a brief PowerPoint overview to Board Members on the key concepts in the appeal recommendation since this was the first Appeal heard by the Board. The presentation included information about the Rent Board as an appellate body, the definition of Maximum Allowable Rent (MAR), base rent, and initial rent, rents in general, and excess rent.

General Counsel Charles Oshinuga presented on the matter of an Appeal regarding Petition No. RC22-T167. The Appellant appealed to the Hearing Examiner's Decision that rejected the Appellant's Excess Rent claim of trash and sewer charges awarded to the Appellant of \$245.76 which included increased security alarm charges. Specifically, the Hearing Examiner found that the Appellant failed to demonstrate that the trash and sewer charges were commercially unreasonable. However, the Hearing Examiner did find that the Respondent engaged in rent overcharges when they increased the Appellant's alarm charges by \$5.12 for 48 months. On Appeal, the Appellant contends the following: The Appellant's lease agreement, which was signed by both the Appellant and Respondent states that the Appellant would pay \$0 for trash and sewer each month. All parties to this case were present. The Appellant spoke for 3:08 minutes and was given 5 minutes. The Respondent's Counsel presented for 4:07 minutes and was given 7 minutes. Finally, the Appellant closed for 2 minutes. The Appeal began, and the following individuals presented their cases: Paul Griffin and Andrew VanSlyke (Attorney for FPI Management, Bella Vista Apartments at Hilltop). Discussion ensued. There were no public comments on this item.

After hearing the issues brought on the Appeal and considering the arguments of both parties, a motion was made by Board Member Hite and seconded by Board Member Dockens regarding Petition No. RC22-T167 to reverse all issues and remand back to the Hearing Examiner. Before taking the vote from Board Members, General Counsel Charles Oshinuga suggested that the motion reflects the adoption of the staff's recommendation. A new motion by Board Member Hite, and seconded by Board Member Dockens, to adopt the staff's recommendation to 1) reverse the Hearing Examiner's Decision in

its entirety, including the award of \$245.76, and 2) remand the matter back to the Hearing Examiner for a reevaluation of all claims and issues raised in both the petition and objections. The Hearing Examiner is to first determine whether the alleged sewer and trash charges were impermissible under the lease, the Rent Ordinance, and/or any other applicable law. If the charges were permissible, the Hearing Examiner is to determine whether those charges exceeded the Appellant's Rental Unit's MAR. The Hearing Examiner's evaluation must adhere to the principles laid out in this decision. The Hearing Examiner may, but not required to hold a hearing on the amount of Rent the Appellant actually paid during the initial term of their tenancy, passed by the following vote: **Ayes:** Board Members Dockens, Espinoza, Hite, and Chair Cantor. **Noes:** None. **Abstentions:** None. **Absent:** Vice Chair Guadalupe.

General Counsel Charles Oshinuga thanked all parties for their participation. He explained what the Board approved and informed them that they would be hearing from our office in the upcoming days with a letter on the next steps.

Rent Board Clerk Cynthia Shaw concluded the hearing and informed the parties that they would receive a Notice of Remand Hearing within 10 days and a Rent Board Decision within 30 days. Parties were dismissed for Appeal RC22-T167.

G-2. General Counsel Charles Oshinuga presented the matter of Appeal regarding Petition No. RC23-T169. The Appellant appealed to the Hearing Examiner's Decision that rejected a claim of Excess Rent due to the Respondent's alleged improper Rent increase notice which awarded the Appellant \$632.70 due to Respondent's excessive rent charge. Specifically, the Hearing Examiner found that the Appellant failed to demonstrate by preponderance of the evidence that Respondent's 2021 rent increase notice was void due to Respondent's alleged failure to file a copy of said rent increase notice with the Rent Program. The Hearing Examiner reviewed the Respondent's multiple rent charges and found that the Respondent charged the Appellant excessive rents in the amount of \$632.70. On appeal, the Appellant contended the following: the evidence was insufficient. There were emails dated January 2023 submitted that addressed the matter after the fact. The Rent increase notice was supposed to be submitted in 2020/2021. Supposedly there was an error submitting the rent increase to the rent board and she wasn't initially privy to. She also mentioned if the rent increase was submitted it would have been rejected because the

amount was incorrect. She requested to have everything re-evaluated and reconsidered. All parties to this case were present. The Appellant presented for 2:15 minutes and was given 5 minutes. Then, the Respondent's Counsel presented for 3:57 minutes and was given 7 minutes. Finally, the Appellant closed for 2:02 minutes and was given 2 minutes. The Appeal began, and the following individuals presented their cases: Whitney Smith and Andrew VanSlyke (Attorney for FPI Management, Bella Vista Apartments at Hilltop). Discussion ensued. There were no public comments on this item.

After hearing the issues brought on the Appeal and considering the arguments of both parties, a motion was made by Board Member Hite, and seconded by Chair Cantor to accept staff's recommendation failed due to lack of a quorum.

A new motion made by Board Member Hite, and seconded by Board Member Dockens to adopt staff's recommendation to 1) affirm, in part, the Hearing Examiner's Decision that found the Appellant failed to meet their burden in demonstrating that the Respondent failed to timely file their 2021 rent increase notice and 2) reverse, in part, the Hearing Examiner's Decision that found the Respondent charged the Appellant rent in excess of the Maximum Allowable Rent, as the Hearing Examiner applied the incorrect analysis when evaluating Appellant's Maximum Allowable Rent and 3) remand the matter back to the Hearing Examiner for a determination of Appellant's Maximum Allowable Rent and whether the Rent was in excess of the Maximum Allowable Rents. The Hearing Examiner's evaluation must adhere to the principles laid out in this decision. The Hearing Examiner may, but is not required to, hold a hearing on the limited issue of Rent the Appellant actually paid during the initial term of their tenancy, passed by the following vote: **Ayes:** Board Members Dockens, Espinoza, Hite, and Chair Cantor. **Noes:** None. **Abstentions:** None. **Absent:** Vice Chair Guadalupe.

Chair Cantor summarized what the Board voted on regarding affirming that the recommendation in part, reversing it in part, and remanding the matter back to the Hearing Examiner to determine the Appellant's Maximum Allowable Rent (MAR).

Rent Board Clerk Cynthia Shaw concluded the hearing and informed parties that they would receive a Notice of Remand Hearing within ten days and a Rent Board Decision within 30 days. Parties were dismissed for Appeal RC23-T169.

General Counsel Oshinuga stated the remand hearing is at the discretion of the Hearing Examiner. If the Hearing Examiner determines that a hearing is unnecessary, he will decide based on the record. He also added that the Rent Board Decision will be provided no later than 30 days, and it will be based on what was decided at the appeal hearing held tonight.

REGULATIONS

H-1. The matter to amend Chapter 2 Regulations to include a definition of nonprofit homes for the aged, residential care facilities for the elderly, and other related dwellings, was presented by General Counsel Charles Oshinuga. The presentation included the statement of the issue, the fiscal impact, discussion regarding the background and purpose of revised Chapter 2 Regulations, amended Regulation 201, and the recommendation action. There were no public comments on this item. Discussion ensued. A motion by Board Member Hite, and seconded by Board Member Espinoza, to adopt the amendment to Chapter 2 Regulations to include a definition of nonprofit homes for the aged, residential care facilities for the elderly, and other related dwellings, passed by the following vote: **Ayes:** Board Members Dockens, Espinoza, Hite, and Chair Cantor. **Noes:** None. **Abstentions:** None. **Absent:** Vice Chair Guadalupe.

REPORTS OF OFFICERS/SCHEDULING

The Deputy Director gave a brief report about the live webinar scheduled for Friday, October 27, 2023, at 10:00 AM, titled “Handling Habitability Issues in Richmond”.

Chair Cantor confirmed the date of the next Regular Rent Board meeting since it may interact with the Thanksgiving Holiday. General Counsel Oshinuga confirmed that it will be held on Wednesday, November 15, 2023, and no other meetings will be held that month. Chair Cantor also asked if the date for the December meeting was available. Rent Board Clerk Cynthia Shaw confirmed that it will be held on Wednesday, December 20, 2023. Board Clerk Shaw also added that we should confirm everyone’s availability since the meeting is the week before Christmas. General Counsel Oshinuga mentioned that at the November 15th meeting staff can adgendiz an item for the Board to discuss moving or canceling the December meeting. He also added the Ordinance requires the Board to meet once a year, and it’s discretionary in terms of what the Board decides. Chair Cantor asked if an option could be included to change the December meeting date to earlier in the month. General Counsel Oshinuga responded that the

Board will have an open discussion at the November meeting and direct staff.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:00 P.M.

Cynthia Shaw
Staff Clerk

(SEAL)

Approved:

Rent Board Chair