

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: February 18, 2026

Final Decision Date Deadline: February 18, 2026

STATEMENT OF THE ISSUE: Currently, the Rent Board's regulations allow for the administrative exemption of rental units that are "rent restricted". These exemptions typically involve units that have a Housing Choice Voucher or that are partially subsidized through tax credit. Where a unit is administratively exempt, tenants no longer have access to the Rent Board's petition process and may experience higher rent increases than they otherwise would under rent control. In recent months, the Rent Program has received administrative exemption applications that have resulted in hundreds of fully controlled units being exempt from the rent control provisions. Given these trends of exemptions, the impact it has on tenants' ability to file petitions, and potential higher rent increases, staff finds it prudent to bring these issues before the Rent Board for consideration.

INDICATE APPROPRIATE BODY

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

ITEM

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|---|--|---------------------------------|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) | | |
| <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Regulation | <input 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 proposed Resolution 26-01, temporarily suspending Regulation 202 and Direct staff to agendize a study session where a comprehensive overview of current administrative exemption policies and regulations can be reviewed and its impact understood – Rent Board (Fred Tran 620-6537).

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AGENDA REPORT

DATE: February 18, 2026
TO: Chair Tipton and Members of the Rent Board
FROM: Fred Tran, Deputy Director
SUBJECT: Temporary Suspension of Regulation 202

STATEMENT OF THE ISSUE:

Currently, the Rent Board's regulations allow for the administrative exemption of rental units that are "rent restricted". These exemptions typically involve units that have a Housing Choice Voucher or that are partially subsidized through tax credit. Where a unit is administratively exempt, tenants no longer have access to the Rent Board's petition process and may experience higher rent increases than they otherwise would under rent control. In recent months, the Rent Program has received administrative exemption applications that have resulted in hundreds of fully controlled units being exempt from the rent control provisions. Given these trends of exemptions, the impact it has on tenants' ability to file petitions, and potential higher rent increases, staff finds it prudent to bring these issues before the Rent Board for consideration.

RECOMMENDED ACTION:

ADOPT proposed Resolution 26-01, temporarily suspending Regulation 202 and **Direct** staff to agendize a study session where a comprehensive overview of current administrative exemption policies and regulations can be reviewed and its impact understood.

FISCAL IMPACT:

There is no fiscal impact related to this item at this time.

DISCUSSION:

Receive a PowerPoint presentation from staff discussing the purpose of the Rent Ordinance, Regulation 202, the administrative exemption process, and proposed Resolution 26-01

DOCUMENTS ATTACHED:

Attachment 1 –Proposed Regulation 26-01

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Attachment 2 – Resolution 19-01

Attachment 3 – Rent Board Regulation Chapter 2

Attachment 4 – Regulation 323

RESOLUTION NO. 26-01

**TEMPORARY SUSPENSION OF THE REVIEW AND GRANTING OF EXEMPTIONS
UNDER REGULATION 202, “GOVERNMENTALLY SUBSIDIZED RENTAL UNITS
EXEMPT FROM THE RENT CONTROL PROVISIONS OF THE ORDINANCE”.**

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 (hereinafter, Rent 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, the Rent Ordinance’s stated purpose, in part, is to control rents to the greatest allowable extent under California law; and

WHEREAS, pursuant to Richmond Municipal Code 11.100.030(d)(3), the Rent Ordinance permits the Rent Board to administratively exempt, from its rent-control provisions, governmentally subsidized units that are not otherwise exempt from rent control under Federal and/or State law; 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, in March 2018, multiple administratively exempted LIHTC households received rent increases in excess of ten percent; and

WHEREAS, during the periods of March 2018 through August 2018, Rent Program Executive Director and staff engaged in multiple discussions with affordable housing providers, which ultimately led to

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those providers agreeing to rescind their prior increases and instead set their increases at five percent; and

WHEREAS, in November 7, 2018, the Rent Board created an ad-hoc committee to work alongside Rent Program staff, with the purpose of developing policy options as it related to the continual exemption of affordable housing providers; and

WHEREAS, in February 2019, the Rent Board passed Resolution 19-01, which created additional rules affordable housing providers must follow in order to maintain their administrative exemption from the Ordinance's rent control provisions; and

WHEREAS, in recent months, the Rent Program has received numerous applications requesting an exemption from rent control provisions, on the basis that their rental units are now "rent restricted"; and

WHEREAS, these exemptions request have generally been granted and have resulted in hundreds of fully controlled rental units becoming partially control; and

WHEREAS, where a rental unit has lost its fully controlled status, those tenants no longer have the ability to submit petitions to the Rent Board challenging the rental unit's habitability status, lack of housing services, or other issues impacting the tenant's ability to use and/or occupy the rental unit; and

WHEREAS, where a rental unit has lost its fully controlled status, those tenants may be subject to larger annual rent increase than would otherwise would be under rent control, given that Measure P now limits rent increases to either sixty percent of the Consumer Price Index or three percent, whichever is lower; and

WHEREAS, given the fact that hundreds of rental units have now been administratively exempt from the rent control provisions of the Rent Ordinance, staff finds it prudent to present these issues to the Rent Board and request the Board study the issue with the purpose of creating policy and/or regulations to address both the observed and anticipated consequences of administrative exemptions.

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

1. As described above, the Rent Board has the power to administratively exempt those rental units that are not otherwise exempt under Federal and/or State law; and
2. As described above, the Rent Board's current rules and regulations concerning exemptions have resulted in hundreds of rental units exempt from the Rent Ordinance's rental control provisions; and
3. As described above, those rental units that are administratively exempt from the rent control provisions of the Rent Ordinance cannot seek administrative relief at the Rent Board due to deteriorating conditions in the rental unit, habitability issues, lack of housing services, and/or other issues that may impact the use of the rental unit; and
4. Those rental units that are administratively exempt from the rent control provisions of the Rent Ordinance may be receiving higher rent increases than they otherwise would under rent control,

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as Measure P now limits the rent to either sixty percent of the Consumer Price Index or three percent, whichever is lower; and

5. The Rent Board has the power to remove exemptions entirely or partially, either by amending its existing regulations concerning exemptions or repealing those regulations all together; and
6. Part of the purpose of the Rent Ordinance is to control rents to the greatest extent allowable by law; and
7. Given its purpose and the aforementioned findings, it is both reasonable and necessary for the Rent Board to study this issue and develop policies and/or regulations that will address these issues; and

BE IT FURTHER RESOLVED the City of Richmond Rent Board suspends Regulation 202 for one hundred and eighty (180) days so that it can study the impact that administrative exemptions have had and will have, on tenants, landlords, and the Rent Board; and

BE IT FURTHER RESOLVED, the City of Richmond Rent Board Orders and Directs Rent Program Staff to suspend any processing of exemption applications that relate to an exemption brought under Regulation 202. For those applications that have been received and a decision has not yet been issued, staff shall suspend their decision-making for one hundred and eighty (180) days. For those applications that are received after the passage of this Resolution and Order, staff is to accept the application but not process the application. Staff is to notify all applicants of this Resolution and Order, and that the Rent Board has temporarily suspended staff's ability to process applications brought under Regulation 202. Moreover, staff shall notify all applicants that have brought an application under Regulation 202, that the Rent Board will be studying the impact of the exemptions permitted under Regulation 202, and that the applicant is welcomed to attend all Rent Board meetings to voice their concerns and;

BE IT FURTHER RESOLVED, notwithstanding Regulation 323, this Resolution and Order, shall be effective on the day that a majority of Rent Board members vote to approve it.

The City of Richmond Rent Board at a regular meeting, votes as follows:

AYES:

NOES:

ABSTAINED:

ABSENT:

RENT BOARD CHAIR

APPROVED AS TO FORM:

ATTEST:

STAFF ATTORNEY

RENT BOARD CLERK

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

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

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

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;
 - 1. For purposes of this Regulation 201(B), “non-profit homes for the aged”, shall mean any residential care facility for the elderly, or skilled nursing facility for the elderly, which is currently licensed as a health care facility under California Administrative Code, Title 22, Division 5, Chapter 3, as amended. A skilled nursing facility for the elderly means a health facility or a distinct part of a hospital which provides the following basic services, skilled nursing care, and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. It provides 24-hour in-patient care and, as a minimum, includes medical, nursing, dietary, pharmaceutical services and activity program. Extended medical care facilities and Residential care facilities for the elderly shall not include community care facilities or alcoholic or drug rehabilitation or detoxification centers. A community care facility means a facility which is maintained and operated to provide non-medical residential care. Alcohol and drug rehabilitation or detoxification centers mean recovery houses or other similar facilities providing living arrangements for persons recovering from alcoholism or drug addiction.
- C. Rental Units that are lawful and in full compliance with Richmond Municipal Code Chapter 15.04.610.020, as amended, (formerly known as the “Small, Second Unit Ordinance of the City” (R.M.C § 11.15.04)), if the owner is the Primary Resident of the first, larger single family home; and
- D. 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; Amended December 15, 2021; Amended October 25, 2023]

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:
 - 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(1)(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.
- 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 agendaize 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 Applicability or Exemption Determination

Notwithstanding Regulation 403, both a Landlord and a Tenant may request that an Administrative Decision be rendered regarding the applicability of Richmond Municipal Code Chapter 11.100 on a Rental Unit or a claimed exemption pursuant to Richmond Municipal Code Section 11.100.030(d). All requests for an Administrative Decision regarding applicability and/or exemption must be made on an Official Rent Program form. The applicant must complete the Official Rent form and attach sufficient information and documentation as requested therein. The applicant shall have the burden of proof of demonstrating a claimed exemption or inapplicability of Richmond Municipal Code Chapter 11.00.

[Adopted June 20, 2018]

206. Issuing an Administrative Decision on Applicability or Exemption Status

1. In rendering an Administrative Determination, the Executive Director or assigned staff member may conduct an independent investigation into the underlying facts and rely on information and documentation obtained thereof.
2. All Administrative Determinations rendered under this Regulation must be made in writing, provide an explanation of the basis for the decision with citations to Richmond Municipal Code Chapter 11.100, and adequately describe the evidence relied on in reaching the decision.
3. All Administrative Determinations rendered under this Regulation shall consider the purpose of the Rent Ordinance, any relevant evidence tending to prove or disprove material facts, previous compliance with Richmond Municipal Code Chapter 11.100, paid Business License Tax, if any, and the rental history of the subject Rental Unit.
4. For those Administrative Determinations evaluating claims of the application of Richmond Municipal Code Chapter 11.100, the Executive Director or assigned staff member must make the following evidentiary findings prior to reaching an ultimate conclusion of applicability:
 1. Whether the applicant owns at least a fifty percent (50%) interest in the Property for which the determination is being sought and has owned fifty percent (50) interest since the date of filing the application;
 2. Whether the unit is a Rental Unit pursuant to Richmond Municipal Code Section 11.100.030(m)

3. Whether there exist a Rental Housing Agreement as defined by Richmond Municipal Code Section 11.100.030(k)
 4. Whether there is a person referenced in the application who either receives or who would otherwise be entitled to receive Rent as defined by Richmond Municipal Code Section 11.100.030(j). For purposes of this section, a person who is “entitled to receive” need not actually receive Rent. Rather, they need only to be the one who would receive Rent if Rent was actually paid.
 5. If the applicant claims the unit is owner-occupied, whether the owner has resided at the property as their Primary Residence beginning at least one hundred twenty (120) days prior to filing of the application for exemption.
5. Where the challenged Rental Unit has been rented or offered for rent in the same fiscal year in which the applicant has filed an application for determination of Richmond Municipal Code Chapter 11.100 applicability or exemption, the Executive Director or assigned staff member shall find that the provisions of Richmond Municipal Code Chapter 11.100 apply and shall only consider whether the Just Cause provisions apply or both the Rent Control and Just Cause provisions apply.
6. All administrative decisions under this Regulation must be rendered within 90 calendar days from the date of application. The Rent Program shall notify the applicant and impacted part of its Administrative Determination. If the applicant or impacted party disagrees with the Executive Director or assigned staff member’s Administrative Determination, the applicant or impacted party may, within 15 calendar days from the date of the Administrative Determination plus any additional time permitted under California Code of Civil Procedure Section 1013(a), as amended, file a request for hearing on the issues raised in the application. The hearing and any potential appeal shall be conducted in accordance with the rules and procedures set forth in Chapter 8 of these Regulations. For purpose of this section, impacted party shall include those persons who are either the Landlord or occupant of the subject Rental Unit.

[Adopted June 20, 2018; Amended October 21, 2020]

207. Challenging a Rental Unit’s Exempt Status

- A. Where a Rental Unit has been determined to be or treated as an exempt Rental Unit, a Tenant occupying said Rental Unit or his or her designee, may challenge the Rental Unit’s exemption status by filing a Tenant petition for rent withholding, pursuant to Chapter 4 of these Regulations. Such a petition shall not be granted if the challenged Rental Unit has been determined exempt pursuant to Regulation 206, unless the Tenant can demonstrate that there

has been a material change in facts, or that the information supplied by the Landlord in support of the exemption was misleading and/or false.

[Adopted June 20, 2018]

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Chapter 3: RENT BOARD

323. Effective Date of Adopted Regulations and Resolutions

Where the Rent Board by majority vote adopts a Regulation or Resolution, the effective date of the adopted Regulation or Resolution shall be thirty (30) calendar days from the date of the Board meeting where the Rent Board adopted said Regulation or Resolution.

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