Handling Difficult Tenant Situations

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7. Three Routes to Resolution: (1) Addressing Issues Through the Education and Information Approach (2) Terminating Tenancy via Just Cause for Eviction; (3) Addressing Issues Through Mediation
Rent Control: Rents are regulated. The Maximum Allowable Rent is calculated by taking the **Base Rent** + AGA + any allowable **Individual Petition Adjustment**.

**Annual General Adjustment (AGA):** 100% of the Consumer Price Index in the Bay Area (inflation rate).

**Petition Process:** A mechanism to adjust rent based on the enforcement of the Rent Ordinance.

**Base Rent:** Requires for rents to be rolled back to the rent in effect as of **July 21, 2015**, or the first rent charged for Tenants that moved in after July 21, 2015.

Just Cause for Eviction Protections: a Landlord needs to have one of the eight “**Just Causes**” to terminate tenancy.
Which properties are covered by the Richmond Rent Ordinance?

**Fully Covered (“Controlled Rental Units”): Rent Control and Just Cause Eviction Protections**

- Multi-Unit properties built (permitted with certificate of occupancy) before February 1, 1995

**Partially Covered: Only Just Cause Eviction Protections (Not Rent-Controlled)**

- Subsidized Units/Section 8 Tenancies
- Single family homes
- Condos
- “New Construction” or post Feb.1 of 1995 construction w/Permits and Certificate of Occupancy

**Fully Exempt: Not Rent-Controlled and no Just Cause for Eviction requirements**

- Where Landlord and Tenant share kitchen and or bath
- Single family homes where a small second unit was added w/permits and the main house is owner-occupied.
- Senior Housing
Rent Control

Maximum Allowable Rent ("MAR") starts with the Base Rent.

MAR increases consistently with the allowable Annual General Adjustments (AGAs).

Landlords who defer Annual General Adjustment increases are limited to recovering 5% of past AGA increases plus the current year's AGA.

Approved individual rent adjustments will increase the MAR above the AGAs.

MAR includes:

- Base Rent
- Taken and banked AGAs
- Approved individual rent adjustments
- See petition process for grounds for individual rent adjustments.
Landlords in the City of Richmond must have Just Cause to Evict
The Eight “Just Causes” for Eviction:

Residential tenants can only be evicted for one of the following “Just Causes” (termination notice must state the applicable just cause):

1. **Failure to Pay Rent** (after having been served a 3-day notice to pay or quit)
2. **Breach of Lease** (if a tenant continues to violate the lease after being warned in writing to cease the violation(s))
3. **Nuisance** (if a tenant continues to cause a nuisance after being warned in writing to cease causing the nuisance)
4. **Failure to Give Access** (if a tenant continues to deny a landlord lawful entry per Civil Code 1954, after receiving a written warning to cease denying lawful entry)
5. **Temporarily Vacate in Order to Undertake Substantial Repairs**
6. **Owner Move-In**
7. **Withdrawal from Rental Market**
8. **Temporary Tenancy** (applies to single family homes and condos for up to 12 months)

*Relocation Payment required – See Relocation Ordinance established by the City Council (RMC 11.102)
First: Make Sure You Are in Compliance

If you are not in compliance, you may not be able to evict a problematic tenant, even if you otherwise would have Just Cause to evict.

If you are not in compliance you cannot file a petition to increase the rent; you may not be able to take the Annual General Adjustment rent increase and the Tenant may file a petition to reduce the rent.

Why is it important to be in compliance with the Richmond Rent Ordinance?
What does it mean to be in compliance?

- You’ve paid the Rental Housing Fee(s).
- You’ve properly enrolled with the Rent Program and registered existing tenancies.
- You are charging lawful rent levels.
- Your rental units are up to code and there are no major habitability problems.
- You have submitted to the Rent Program a copy of any notice of rent increase or notice of termination of tenancy.
Typical Difficult Tenant Situations

- Adding unapproved additional occupants
- Getting a pet or pets without approval
- Damaging or altering the property
- Committing illegal activity on the premises (i.e. drug dealing, etc.)
- Smoking on the premises or in rental unit
- Tenant denying lawful access for repairs, maintenance
- Tenant is not paying rent or not paying rent on time
- Loud music until very late at night
- Smoking in a non-smoking apartment or common areas
- Tenant makes every effort to keep workers, the Landlord or the Landlord’s representatives from going inside the Unit.
- Rent is perpetually late
- Tenant is harassing or threatening co-tenants or the Landlord or Landlord’s representative
- Master Tenant/subtenant or co-tenant disputes where the Landlord is asked to intervene
Typical Difficult Tenant Situations

- Tenant neglects to inform the Landlord about habitability or repair problems (often leading to property damage)
- Landlord/Tenant relationship has become antagonistic
- Tenant is just a difficult, rude, or high maintenance person or has a bloated sense of entitlement
- Tenant leaves debris or belongings in the front yard, in front of their apartment, backyard or common areas
- Hoarding and other mental health issues are suspected
- Tenant never seems to leave the apartment or respond to the door bell
- Complaints of smells are coming from other Tenants and neighbors
- Tenant is unlawfully subletting their unit (and the original Tenant does not appear to be living in the unit)
Tips for Resolving Difficult Tenant Situations

Tip #1: Empower Yourself Through Education

Tip #2: Practice and Use Effective Documentation and Communication Skills

Tip #3: Get expert help
Tip #1: Educate Yourself

- Learn to understand and navigate the Rent Ordinance by contacting a Rent Program Services Analyst
- Learn the Rules: review the Rent Ordinance and Rent Board Regulations that apply
- Invest in a Landlord/Tenant guidebook (e.g. Nolo Press)
- Seek legal counsel (some attorneys will offer a free initial consultation or they charge for a fraction of an hour)

Knowledge is power
Tip #2: Practice and Use Effective Documentation and Communication Skills

<table>
<thead>
<tr>
<th>Problem</th>
<th>Solution</th>
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<tbody>
<tr>
<td>Communication is too informal and personal</td>
<td>Communicate with professionalism and respect (even if it isn’t being given or returned)</td>
</tr>
<tr>
<td>Agreements or understandings are verbal and NOT followed up in writing</td>
<td>Put just about everything in writing, especially any agreements or understandings</td>
</tr>
<tr>
<td>Written communication is lacking in detail or insufficient</td>
<td>Use chronological communication/documentation that sufficiently details incidents or issues</td>
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<tr>
<td>Think of the long-game or big picture when communicating with Tenants</td>
<td>Consider that anything you put in writing can be in front of a judge or jury someday and your credibility may be in question if your writing appears irrational.</td>
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</tbody>
</table>
Tip #3: Get Expert Outside Help

- Get Management Help: Consider hiring a Property Manager
- Get Legal Help: Consider hiring an Attorney
- Get Rent Board Help:
  - Consider Rent Program Mediation
  - Consult with a Rent Program Services Analyst to address situations as they arise

Like all people, landlords can become vulnerable to their success (i.e. don’t get overconfident….know when to get help)
Why get expert help?

To Avoid Eviction Pitfalls

Evictions are highly technical: one technical miss-step can lead to an eviction lawsuit being dismissed.

To Avoid Knowledge Pitfalls

Navigating all of the rules associated with rent control and Just Cause eviction protections can be complicated. Regularly communicating with a Rent Program Services Analyst can save potential miss-steps.

To Avoid Relationship Pitfalls

Some Landlords find having a property management company manage Tenant issues helps avoid personal entanglements and keeps the relationship more professional and business-like.
Options for Addressing Problematic Tenant Situations

Most issues can be resolved through education/information

Mediation avoids costly legal battles and often improves relations

Sometimes eviction is the only viable option

Use your knowledge of Richmond and California law to inform the Tenant of their rights and obligations. Make it official by writing letters to clarify rights and obligations.

When appropriate show a willingness to compromise by requesting Rent Program mediation.

Use your knowledge of the eviction process to follow the correct steps/process.
Addressing Issues Through the Just Cause for Eviction Process

- When going the eviction route, proceed with caution:
  - Whether in a Rent Controlled city or non-rent controlled city, evictions are highly technical. Consider hiring an attorney with eviction experience.
  - The Rent Ordinance has special noticing requirements. Landlord must provide the Rent Program with a copy of any eviction notice within two days of having served the Tenant.
Addressing Issues Through the Just Cause for Eviction Process

- Each type of Just Cause termination of tenancy has a slightly different process.

- For example, evicting for lease violations, denying lawful Landlord entry or causing a nuisance requires a **written warning notice** prior, with an opportunity to correct the problem, prior to moving forward with a formal eviction notice.

- Evicting for criminal activity in most cases does not require a written warning notice prior to the issuance of an eviction notice, but there are other restrictions, such as having some documentation via a police report that criminal activity was probable.
Tenant fails to pay rent

Landlord serves tenant with 3-day notice to quit

Tenant must respond with their affirmative defense(s) to eviction lawsuit within 5-days of having been served the lawsuit.

Tenant responds with affirmative defenses within the 5-day deadline

Judge or jury trial is held

Tenant wins: remains in unit

Landlord wins: awarded possession of unit

Settlement

Tenant fails to respond within 5-day deadline

Landlord files request for default judgement

If approved, default judgement is entered against the tenant.

Tenant fails to pay rent within the 3-day notice period

Landlord files eviction lawsuit

If tenant does not move voluntarily, landlord asks the court to issue Writ of Possession. Sheriff serves tenant with 5-day Notice to Vacate.

Court mails notice of Hearing (trial) date

Tenant responds with affirmative defenses within the 5-day deadline

1st Alternative

2nd Alternative

Landlord must file a copy of the notice with the rent board. Failure to do so is a complete defense to an eviction lawsuit.

Tenant must respond with their affirmative defense(s) to eviction lawsuit within 5-days of having been served the lawsuit.

Sheriff evicts tenant. Tenant is escorted from property and may not return.
Tenant violates lease or commits nuisance or fails to give access

Landlord must give tenant a written warning notice to cease violation(s). Warning must give tenant reasonable time to correct of no less than 5-days.

Tenant violates same or similar provision within 12 months of the first violation(s).

No additional warning is required before landlord can serve a 3-day notice to perform or quit.

Tenant responds with affirmative defenses within the 5-day deadline

Tenant must respond with their affirmative defense(s) to the eviction lawsuit within 5-days of having been served the lawsuit.

Landlord files eviction lawsuit

Tenant fails to perform (correct lease violation).

Landlord serves tenant with a 3-day notice to perform or quit.

Tenant responds with affirmative defenses within the 5-day deadline

Tenant fails to respond within 5-day deadline

Landlord files request for default judgement

If approved, default judgement is entered against the tenant.

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Tenant wins: remains in unit

Landlord wins: awarded possession of unit

Process generally takes 5 to 12 weeks

Sheriff evicts tenant. Tenant is escorted from property and may not return

If tenant does not move voluntarily, landlord asks court to issue Writ of Possession. Sheriff serves tenant with 5-day Notice to Vacate

Tenant is escorted from property and may not return
Tenant commits a violent or drug related crime as defined by Regulation 17-08 *

No additional warning is required before landlord can serve a 3-day notice to quit.

Landlord serves tenant with 3-day notice to quit.

Tenant fails to move out within the 3-day notice period

* (1) Landlord must comply with State law before initiating termination of tenancy. 
(2) Landlord has reported the activity to law enforcement. 
(3) Law enforcement has investigated the activity, and 
(4) law enforcement has advised the Landlord there is probable cause that the Tenant has engaged in criminal activity.

Court mails notice of Hearing (trial) date

Tenant fails to respond within 5-day deadline

Landlord files eviction lawsuit

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Settlement

 Tenant fails to move out within the 3-day notice period
Addressing Issues Through the Education and Information Approach

Study the law(s).

Consult with a Rent Program Services Analyst to gain more nuanced understanding of the Rent Ordinance and applicable California law.

Write emails/letters using the knowledge gained from studying the law. Actually quoting the law is very effective and difficult to argue with.
Addressing Issues Through the Mediation Approach

- Many issues can be resolved through mediation, for example:
  - Tenant is behind on their rent. An owner can request Rent Program mediation to negotiate a repayment plan.
  - Tenant gets a pet, but lease does not allow it. Rather than going through a potential costly eviction process, Landlord can request mediation to negotiate a Rent Board approved rent increase for the addition of a pet.
  - Tenant damages the property and says they don’t have the money at the time to pay for the damage. Landlord can request mediation to negotiate a payment plan or a change in when the rent is due (e.g. Social Security checks don’t arrive until the 7th of each month).
  - Tenant gets an additional roommate without the Landlord’s permission. Landlord can request mediation to negotiate a Rent Board approved rent increase up to 15% for each additional occupant.
  - Tenant files a rent reduction petition, claiming a decrease in habitability. Landlord can request mediation to negotiate a rent reduction to avoid a Rent Board hearing.
Rent Program’s Role As Neutral Mediator

- Rent Program mediators are trained and certified to conduct mediations in an neutral, non-advocacy manner.

- Mediation can be either informal or formal
  - Informal mediation includes “shuttle diplomacy” over the phone/email.
  - Formal mediation means holding an actual mediation session where the Landlord and Tenant sit with a mediator. Sometimes shuttle diplomacy is used during negotiations.
  - Issue discussed in mediation are confidential and both parties must agree what is discussed cannot be used in court.
  - Rent Program mediators will draft a written agreement for both parties to sign.
Upcoming Rent Program Workshops

2018

RICHMOND RENT PROGRAM COMMUNITY WORKSHOPS
City Council Chambers
440 Civic Center Plaza
Richmond, CA 94804
10:00 AM - 12:00 PM

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<tr>
<th>WORKSHOP</th>
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<tr>
<td>Landlord 101 in Richmond</td>
<td>January 13th</td>
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<tr>
<td>Tenant 101 in Richmond</td>
<td>February 17th</td>
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<tr>
<td>Evictions 101 (Landlord Oriented)</td>
<td>March 17th</td>
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<tr>
<td>Evictions 101 (Tenant Oriented)</td>
<td>April 21st</td>
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<tr>
<td>Security Deposits - Rights and Responsibilities (Landlord Oriented)</td>
<td>May 12th</td>
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<tr>
<td>Tenant 101 in Richmond</td>
<td>June 9th</td>
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<tr>
<td>Realtor and Property Manager Focused Workshop</td>
<td>July 14th</td>
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<tr>
<td>Handling Habitability Issues (Tenant Oriented)</td>
<td>August 18th</td>
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<tr>
<td>Handling Habitability Issues (Landlord Oriented)</td>
<td>September 19th</td>
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<tr>
<td>How to Handle Difficult Tenant Situations (Landlord Oriented)</td>
<td>October 20th</td>
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<tr>
<td>How to Handle Difficult Housemate Situations (Tenant Oriented)</td>
<td>November 10th</td>
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<tr>
<td>Evictions 101 (Landlord Oriented)</td>
<td>December 8th</td>
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Space is limited - RSVP today:
https://rentprogram.eventbrite.com
richmondent.org/workshops
rent@ci.richmond.ca.us

2019

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City Council Chambers
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<tr>
<td>Rights and Responsibilities for Richmond Landlords</td>
<td>February 23rd</td>
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<tr>
<td>Navigating the Eviction Process in Richmond (Tenant Oriented)</td>
<td>March 30th</td>
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<tr>
<td>Navigating the Eviction Process in Richmond (Landlord-Oriented)</td>
<td>April 27th</td>
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<tr>
<td>Security Deposits - Rights and Responsibilities for Richmond Landlords and Tenants</td>
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<td>July 27th</td>
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<tr>
<td>Rights and Responsibilities for Richmond Tenants</td>
<td>August 31st</td>
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<td>Navigating the Eviction Process in Richmond (Landlord-Oriented)</td>
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THANK YOU

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