Handling Difficult Housemate Situations

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Overview of the Richmond Rent Ordinance
The Richmond Rent Ordinance (RMC 11.100)

Rent Control: Rents are regulated. The Maximum Allowable Rent is calculated by taking the Base Rent + Annual General Adjustments (cost-of-living increase) + any allowable Individual Rent Adjustment that is ordered by a Hearing Examiner.

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

Just Cause for Eviction Protections: a Landlord needs to have one of the eight “Just Causes” to terminate tenancy

1) Failure to pay rent
2) Breach of Lease
3) Nuisance
4) Failure to Give Access
5) Temporarily Vacate in Order to Undertake Substantial Repairs
6) Owner-Move-in/Owner Relative Move-In
7) Withdrawal from the Rental Market (Ellis Act)
8) Temporary Tenancy

Base Rent: Requires rents to be rolled back to the rent in effect as of July 21, 2015, or the first rent charged in full for Tenants that moved in after July 21, 2015
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
Rents Are Stabilized, Regulated, and Adjustable Via The Rent Adjustment Petition Process

- Rents are Stabilized Via The Maximum Allowable Rent (“MAR”). The MAR starts with the Base Rent.
- The Base Rent is the Rent actually paid on July 21, 2015 or the Rent amount paid after that date.
- The MAR includes:
  - Base Rent
  - Taken and banked AGAs
  - Approved Individual Rent Adjustments

- Landlords who defer Annual General Adjustment increases are limited to recovering 5% of past AGA increases plus the current year’s AGA.
- Individual Rent Adjustments are approved through the petition process and will increase the MAR.
- The MAR increases consistently with the allowable Annual General Adjustments (AGAs) for tenancies commencing prior to Sept. 1 of the previous year.
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” (a 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 California Civil Code Section 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)
**Replacing Housemates**

**Question #1:** I need to replace a housemate who is leaving. The Landlord says they have to be able to qualify (financially) to pay the entire rent or they will deny them. My proposed housemate does not make enough money to pay the entire rent. To be able to afford the rent I need to find a housemate soon, but the Landlord says I’ll be evicted if I have my proposed housemate move in without my permission. Can I be evicted?
Tenancies cannot be terminated based on a Tenant's sublease of the unit if the following requirements are met:

- The Tenant continues to reside in the Rental Unit as his, or their primary residence.
- The new housemate replaces one or more departed Tenant(s) under the Rental Housing Agreement on a one-for-one basis.
- The Landlord has unreasonably withheld the right to sublease following written request by the Tenant.
  - If the Landlord fails to respond to the Tenant in writing within fourteen (14) days of receipt of the Tenant's written request, the Tenant's request shall be deemed approved by the Landlord.

Keep in Mind:
- A Landlord's reasonable refusal of the Tenant's written request may not be based on the proposed additional occupant's lack of creditworthiness, if that person will not be legally obligated to pay some or all of the Rent to the Landlord.
- A Landlord's reasonable refusal of the Tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a Rental Unit exceed the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health & Safety Code Section 17922.
Question #2: I am the Master-Tenant and have 3 housemates. One of my housemate’s is really difficult to get along with, plays music late at night and often pays rent late. I want him to move. Can I terminate my housemate’s tenancy?
A common misconception is that Master-Tenants/housemates can evict without having Just Cause as defined by the Rent Ordinance. In other words Master-Tenants cannot evict for reasons such as:

- They are rude, cold or have an attitude with you and you don’t get along well.
- They are not as tidy as you are.
- Because you don’t like their politics, etc.

Master-tenants CAN evict subtenants in Richmond, but may only do so if they have one of the eight Just Causes for Eviction enumerated in the Richmond Rent Ordinance.

Master-tenants must follow the same noticing requirements as rental property owners: Master Tenants must submit a copy of any Notice of Termination of Tenancy served on the tenant to the Rent Program within 2-days of having served the subtenant. Any warning notices related to breach of lease or nuisance must also be submitted to the Rent Program at the time that the Notice of Termination of Tenancy is submitted.

Important Note: Unless all of the occupants are on separate rental/lease agreements, if one of the housemates doesn’t pay their portion, the rental property owner can evict ALL of the occupants for non-payment of rent.
Eviction Process
Flowcharts: A Complex Process
(Act with Caution)
Subtenant fails to pay rent

Master-Tenant serves subtenant with 3-day Notice to Pay or to Quit

Master-Tenant must file a copy of the notice with the Rent Board. Failure to do so is a complete defense to an eviction lawsuit.

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

Subtenant responds with affirmative defenses within the 5-day deadline

Master-Tenant files request for default judgement

If approved, default judgement is entered against the Subtenant

Subtenant fails to respond within 5-day deadline

Master-Tenant files eviction lawsuit

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

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

Subtenant wins: remains in unit

Judge or jury trial is held

Settlement

Master-Tenant wins: awarded possession of unit

Court mails notice of Hearing (trial) date

1st Alternative

2nd Alternative
Sub-tenant violates lease or commits nuisance or fails to give access

Sub-tenant violates lease or commits nuisance or fails to give access

Master-tenant 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.

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

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

No additional warning is required before Master-Tenant can serve a 3-day Notice to Perform or Quit.

Sub-tenant responds with affirmative defenses within the 5-day deadline

Sub-tenant responds with affirmative defenses within the 5-day deadline

Master-tenant files eviction lawsuit

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Sub-tenant fails to perform (correct lease violation).

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Master-tenant wins: awarded possession of unit

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2nd Alternative

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

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Question #3: I live with 3 other housemates. The total rent is $3000. The Master-Tenant has the biggest room with its own bathroom. I have to share a bathroom with the other housemate and our rooms are about 20% smaller than the Master-Tenant’s room. We each pay $1000. Is that fair or legal? How are rent levels for housemates regulated by the Rent Board?
Master Tenants who sublet their entire unit cannot charge a subtenant more rent than is lawfully due to the Landlord. If the Master Tenant receives, accepts or retains Rent in excess of that which is actually and lawfully due and payable to the Landlord of the Controlled Rental Unit, the Master Tenant shall be responsible to the subtenant(s) for all such Rent Overcharges.

Rent levels charged to roommates must be proportional to the space, services and amenities available to those roommates.

- When a Master-tenant subleases a portion of a Controlled Rental Unit, the subtenant shall not pay more than the proportional share of the total current Rent paid to the Landlord by the Master Tenant for the space and housing services to which the subtenant is entitled to under the Rental Housing Agreement. A Master Tenant’s violation of this section shall not constitute a basis for eviction under Richmond Municipal Code Section 11.100.0

- An appropriate proportional share of a subtenant’s Rent may be calculated based on the square footage shared with and/or exclusively occupied by the subtenant; (for instance, dividing the total Rent in equivalent proportions amongst all occupants); or any other method of proportioning the Rent such that the subtenant(s) do not pay more Rent than the proportional share of the total Rent which is actually and lawfully due and paid to the Landlord by the Master Tenant.

Example: if the Maximum Allowable Rent is $1,000; a Master-Tenant can’t charge a subtenants more than $1000 in total.

Example: if total rent is $1,000; a Master-Tenant can’t charge two subtenants $500 each and pay no rent.
Right to Maintain The Same Number of Housemates Through A Tenancy

**Question #4:** When I moved into my apartment in 2016, the original occupancy level was 3 people. In 2018, one of the housemates vacated and myself and the remaining housemates wanted to replace her so we could all continue to pay each of our portion of the rent. Our Landlord has said that she doesn’t want 3 people living in the unit anymore, claiming that we are causing too much damage to the apartment with 3 occupants. Can the Landlord deny our replacement roommate? Can we do anything about this?
Tenants may have a right to a rent reduction if the Rental Property Owner/Landlord reduces the number of occupants allowed to live in your unit.

- Tenants have a right to maintain the same number of occupants in the unit as existed on July 21, 2015 or the number of occupants that existed for tenancies that started after that date.
- If the Landlord reduces the number of occupants below the base occupancy level, a Tenant may file a petition to reduce the rent. The rent would be reduced by the percentage of the number of occupants denied.
- Conversely, if a Tenant increases the number of occupants more than the number of tenants occupying the unit on July 21, 2015 or on the first date rented after July 21, 2015, a Landlord may petition the Rent Board for up to a 15% rent increase for each additional occupant. Additional occupants do not include mothers, fathers, children, spouses, grandparents, grandchildren, legal guardians and attendants for the disabled.
Question #5: I have an ongoing dispute with my housemates regarding household responsibilities. Every time I bring the issue up in conversations, the messy housemate(s) gets defensive or aggressive (accuses me of various offenses or bad behaviors). Then I started texting and emailing my housemates about issues. My frustration and disgust with the situation was apparent in those emails. Now I have an text/email war with my housemates. What suggestions do you have for improving our situation?
The keys to establishing a productive and respectful relationship with housemate is:

- Establish the ground rules from the beginning. Sublease agreements are often the first and best tool for documenting any master-tenant/sub-tenant agreements.

- Don’t be too informal. While it is fine to talk things out and resolve issues verbally (if verbal discussions are productive), any verbal agreement or understanding should be memorialized in writing.

- Make sure you are charging lawful or being charged lawful rents. Remember: rents must be proportionally divided based on space, services and amenities. If the whole unit is being sublet, the sub-tenant cannot be charged more rent that is otherwise lawfully due the Landlord (owner).

- If there is a debate in the household regarding “rights and responsibilities,” consider contacting a Rent Program Services Analyst via email with all housemates copied on the email to engender transparency and trust. You can also set up a housemate/Rent Program Staff conference call so that everyone gets on the same page.

- If the relationship has deteriorated to the point where communication isn’t working, consider Rent Program mediation. Not all cases are ripe for mediation, but it is worth investigating.
Question #6: I live in a 2-bedroom apartment with 3 other tenants. As one of the four original tenants, I paid a quarter of the security deposit directly to the Landlord. I am moving out and asked my Landlord when I could expect my security deposit. The landlord told me that he wasn’t required to return the security deposit until the unit becomes completely vacant and all keys are returned. Is this true? If so, how can I get my security deposit back so I can use that money for a new security deposit in my next place?
Answer to Question #6

A vacating housemate may have to wait until all the rental unit is completely vacant and keys returned to receive deposit from the Landlord. That is why most housemates get their security deposit reimbursed by the replacement housemate.

- Under California law, Civil Code Section 1950.5, a Landlord is not required to return the security deposit until 21 days after the unit is completely vacant and the keys are returned.
- In rotating housemate situations, housemates who vacate can end up waiting a long time before seeing their security deposits, unless as is common practice, the incoming housemate pays the outgoing housemate the portion of the deposit the vacating housemate paid. If housemates do not use this practice, vacating tenants are advised to give the landlord a permanent address to send the deposit and keep in touch with the remaining housemates so they can let the tenant know when the apartment has become completely vacant. Make sure to get agreements for handling the security deposit and how much each housemate has paid in writing.
- Generally, any deduction from the security deposit for any vacating housemate is negotiated with the remaining housemates based on any damage or necessary cleaning resulting from the vacating housemates tenancy. Often master-tenants, acting as the “landlord,” step into the role of determining any lawful deductions from a vacating housemate.
Summary of Best Practices with Housemates

- Empower yourself through education (learn about how rent control and eviction protections work in Richmond).
- Practice effective, respectful and professional communication. Keep the emotions in your written communications in check. Anything you right could be in front of a judge someday.
- Be transparent regarding rights and responsibilities
  - If there is a dispute, email a Rent Program Services Analyst and copy your housemates on the email so they can learn about the law while you are.
- Establish ground rules from the beginning. Written sublease agreements are often the first and best tool for documenting agreements and obligations.
- Consider mediation and or legal counsel if you have determined that you can’t handle the situation without expert help.
Addressing Issues Through the Mediation Approach

Many issues can be resolved through mediation, for example:

- The Sub-tenant and Master-tenant disagree on how the total rent should be proportioned. Either party may request mediation to establish the appropriate rent level amount for each housemate.

- A Master-tenant or a representative housemate in group-living situations can mediate many issues with a landlord, on behalf of the group. Examples of cases ripe for mediation: mediating rent reductions due to habitability problems or reduction in space or services, payment plans (if behind on the rent), asking for additional services (and a corresponding Rent Board authorized rent increase, etc.).

- Housemates want to get additional roommates: Housemates or Master-Tenant can request mediation with the owner of the property to negotiate a Rent Board approved rent increase of up to 15% for each additional occupant.

- If the central issue is conflicting personalities of particular housemates, the Rent Program cannot mediate such personality conflicts, but may refer such cases to other community mediation programs such as SEEDS.
Rent Program’s Role As a Neutral Mediator

- Rent Program mediators are trained and certified to conduct mediations in a 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.
- Issues discussed in mediation are confidential and both parties must agree that what is discussed cannot be used in Court.
- Rent Program mediators may 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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THANK YOU

Please visit [www.richmondrent.org](http://www.richmondrent.org) to access additional information and resources.

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