Item G-1: Proposed Owner Move-In Eviction Regulation

November 20, 2019 | Regular Meeting of the Richmond Rent Board
Under Section 11.100.050(a)(6) of the Rent Ordinance, Landlords may recover possession of a Rental Unit under the Owner Move-In “no-fault” termination of tenancy.

The Rent Ordinance establishes the following requirements, specific to the Owner Move-In provisions of the Ordinance:

- Landlord must be a natural person who has at least a fifty (50) percent recorded ownership interest in the property.
- Landlord may not evict for "owner move-in" if the same Landlord or enumerated relative already occupies a unit on the property, or if a vacancy already exists on the property. At all times a Landlord may request a reasonable accommodation if the Landlord or enumerated relative is disabled and another unit in Richmond is necessary to accommodate the person's disability.
The notice terminating tenancy shall contain the name, address and relationship to the Landlord of the person intended to occupy the Rental Unit.

The Landlord or enumerated relative must intend in good faith to move into the Rental Unit within ninety (90) days after the Tenant vacates.

Landlord must occupy the Rental Unit as a primary residence for at least thirty-six (36) consecutive months.

If the Landlord or relative specified on the notice terminating tenancy fails to occupy the unit within ninety (90) days after the Tenant vacates, the Landlord shall:

1. Offer the unit to the Tenant who vacated it; and
2. Pay to said Tenant all reasonable expenses incurred in moving to and from the unit.
A Landlord may not evict a Tenant if the Tenant (1) has resided in the Rental Unit for at least five (5) years and is either at least 62 years old or Disabled; or (2) is certified as being terminally ill by the Tenant's treating physician. A Landlord may evict a Tenant who qualifies for the exemption if the Landlord or enumerated relative who will occupy the unit also meets the criteria for this exemption and no other units are available.

All Tenants displaced due to an Owner Move-In shall have the first right of refusal to return to the unit if it should ever be returned to the market by the Landlord or successor Landlord. The Rent charged shall be the Rent lawfully paid by the Tenant at the time the Landlord served the notice of termination of tenancy.
At their meeting on August 21, 2019, members of the Rent Board received a presentation of community feedback regarding a proposed Owner Move-In (OMI) eviction regulation, and an analysis of all OMI eviction cases previously filed with the Rent Program.

The Rent Board directed staff to:
1. Provide a summary of all evictions from 2017 to present by property type;
2. Present policy options for the Rent Board’s consideration regarding a possible OMI regulation; and
3. Report on the fiscal impact of administering a proposed OMI regulation

The requested information has been prepared for the Board’s consideration and staff are seeking policy direction from the Board.
Failure to Pay Rent is the most commonly cited Just Cause for Eviction, representing 95.8% of all termination notices filed with the Rent Program.

OMI eviction notices represent 0.7% of all notices filed.

More than half (64.5%) of all termination notices have been filed for tenancies occurring in apartment buildings with 60 or more units.

Generally speaking, OMI evictions have not typically occurred in apartment buildings; however, there has been one instance where an OMI termination notice was filed for a tenancy occurring in an apartment with between 5 and 12 units.

Important note: The number of termination notices filed with the Rent Program does not reflect the number of Unlawful Detainer or eviction lawsuits filed in court. In some cases, the Tenant may cure the issue for the notice (e.g. the Tenant pays the rent that is due) and the eviction process is not initiated.
Item G-1: Policy Considerations

Consideration #1
If two individuals own a duplex, each holding 50% ownership, may each individual conduct an Owner Move-In eviction on a unit on the property?

Consideration #2
Is the Tenant’s first right of refusal to re-rent the Rental Unit, should it ever be placed back on the rental market, indefinite?

Consideration #3
If a Tenant was to re-rent a unit from which they were previously evicted on the grounds of Owner Move-In, in which case, under the first right of refusal provisions of the Rent Ordinance, they would be entitled to pay the Rent they paid at the time they received the notice of termination of tenancy, could the Landlord apply Annual General Adjustment rent increases to that Rent amount?

Consideration #4
Who is required to track the whereabouts of a former Tenant evicted on the grounds of Owner Move-In, to provide them with the first right of refusal if the unit is re-rented?
Item G-1: Policy Considerations

Unlike in other cities with rent control and just cause for eviction policies, Landlords in Richmond are currently not required to submit documentation to the Rent Program to ensure the provisions of the Rent Ordinance are satisfied.

Possible regulations could require Landlords to file with the Rent Program:

- Proof of occupancy
- Proof of Ownership interest
- Proof of an Offer of the first right of refusal to a tenant displaced due to an Owner Move-In eviction.
- Regulations could also clarify the number of Owner Move-In evictions that could take place on a single property within a specific time period.
To understand the landscape of Owner Move-In Evictions, staff members reviewed Owner Move-In eviction laws adopted by other jurisdictions that met the following criteria:

- The City is located in California;
- The City has existing rent regulation and just cause for eviction laws; and
- The City currently regulates Owner Move-In evictions.

Cities studied include:

- Berkeley
- Los Angeles
- Oakland
- San Francisco
- San José
- Santa Monica
- West Hollywood

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Item G-1: Methods of Community Engagement

- Community engagement around the proposed Owner Move-In eviction regulation occurred in three formats:
  1. Community Workshops (27 participants)
  2. Focus Groups for community members who speak Spanish (18 participants)
  3. Survey (281 participants)

- All methods of community engagement solicited feedback on the same nine policy questions.

- The Board received a summary of feedback gathered from participants at their meeting on August 21, 2019.
1. Should a policy exist that allows two individuals who share ownership of a property (each individual has a 50% recorded interest) each be able to conduct an Owner Move-In eviction on a unit on a property? (So, for example, if two individuals own a duplex together, should each individual be able to conduct an Owner Move-In on a unit on the property?)

2. Should an individual who is a beneficiary with at least 50% recorded interest in a trust that owns the property be able to conduct an Owner Move-In eviction?

3. Should a policy be adopted to limit the number of Owner Move-In evictions that may be conducted by an owner or enumerated relative on a single property? In other words, should the Rent Board prohibit owners from conducting an Owner Move-In eviction for themselves in Unit A, for their parent in Unit B, and for a child in Unit C?

4. When an owner performs an Owner Move-In eviction on a unit that is part of a larger multi-unit building, should a policy exist that would require any future Owner Move-In evictions on the property to occur in that same unit?
5. When a Landlord notifies a former Tenant displaced due to Owner Move-In that the Rental Unit has been placed back on the rental market, should a policy exist specifying the amount of time the Tenant has to respond that they would like to exercise their first right of refusal to return to the Rental Unit?

6. If the formerly displaced Tenant moves back into the Rental Unit after several years, should a policy exist that allows the Landlord to include the Annual General Adjustment rent increases in the amount of the rent charged?

7. Should a policy exist that would require the Landlord and/or Rent Program to maintain contact information for a specified period of a formerly displaced Tenant due to an Owner Move-In, in the event that the Rental Unit is placed back on the rental market?

8. Should a policy exist that designates who should hold the burden of maintaining contact information for the formerly displaced Tenant, in the event the Rental Unit is placed back on the rental market?

9. What types of additional forms or documentation should be required for compliance, if any? Should a policy exist that the Rent Program is responsible for monitoring compliance with the Owner Move-In requirements of the Rent Ordinance?
The fiscal impact will depend on both the degree of administrative duties imposed by the adopted policy and the frequency with which OMI evictions occur.

An OMI eviction regulation is likely to incur administrative costs associated with developing new forms, creating and disseminating outreach materials, and monitoring compliance with adopted requirements.

The fiscal impact of an administratively robust OMI regulation will be greater if there is a high number of OMI evictions conducted in a given time period, and lower if there are few OMI evictions conducted.

Staff members will prepare a detailed fiscal impact analysis of the proposed regulation based on policy direction received by the Board.

Depending on the degree of administrative complexity, it may be necessary to retain additional administrative staff.
Item G-1: Next Steps

- With policy direction from the Board, staff members anticipate a proposed Owner Move-In eviction regulation would be prepared during the month of December.

- It is anticipated that the proposed regulation will be circulated for community feedback before being brought before the Rent Board for consideration and potential adoption.

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Item G-1: Recommended Action

RECEIVE a presentation from Rent Program staff members including a summary of termination of tenancy notices filed with the Rent Program by property type, proposed policy options regarding a proposed Owner Move-In eviction regulation, and an analysis of the anticipated fiscal impact of administering an Owner Move-In eviction regulation, and PROVIDE policy direction to staff.
City of Richmond Rent Program

Fiscal Year 2018-19 Annual Report
### Staff, Volunteer, and Boardmember Acknowledgements

#### Rent Program Staff
- Nicolas Traylor, Executive Director
- Paige Roosa, Deputy Director
- Charles Oshinuga, Staff Attorney
- Palomar Sanchez, Staff Attorney
- Paul Cohen, Hearing Examiner
- Philip Verma, Services Analyst
- Vickie Medina, Services Analyst
- Magaly Chavez, Services Analyst
- Cynthia Shaw, Administrative Analyst
- Ramona Howell, Administrative Aide
- Michelle Arriaga, Administrative Aide
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- Moises Serano, Student Intern
- Bailey Maher, Student Intern
- Sarah Schaff, Student Intern
- Erika Foster, Student Intern
- Jose Jaimez, Student Intern
- Anaise Jean-Philippe, Student Intern
- Johana Gurdian, UC Berkeley PSI Intern
- Gabby Arreola, UC Berkeley PSI Intern
- Han Cheng, UC Berkeley PSI Intern

#### Rent Board
- David Gray, Former Chair
- Lauren Maddock, Chair
- Emma Gerould, Vice Chair
- Virginia Finlay, Boardmember
- Nancy Combs, Former Boardmember
- Alana Grice Conner, Boardmember
- Commieolla Duncan, Boardmember

#### City Staff
- Sue Hartman, IT Director
- Randall Narron, Senior Programmer
- Roi Evron, GIS Specialist

#### Volunteers
- Nancy Lewis
- Brian Lewis
Our Mission: Housing Stability & Healthy Housing

The mission of the Rent Program is to promote neighborhood and community stability, healthy housing, and affordability for Richmond Tenants through the regulating of those Landlord/Tenant matters that reasonably relate to rents and evictions, while maintaining a Landlord’s right to a fair return.
Poor living conditions like mold, inadequate heating, vermin infestations, and other habitability problems are significant physical and psychological stressors with well documented negative effects on our most vulnerable communities members; children, seniors, disabled, and low-income earners.

The Connection Between Health and Housing

Housing quality has a clear, well documented connection to health:
Tenants that are under rent control have the right to petition the Rent Program for a rent reduction, based on defective housing conditions to compel Landlords to provide safe, healthy and habitable housing.

Landlords of rent controlled properties have the right to petition the Rent Program for a rent increase due capital improvements and increased maintenance costs meant to improve housing conditions.
The Connection Between Housing Stability and Health Outcomes

Housing stability contributes to:

- Financial stability
- Academic performance
- Individual, family and community stability

Which contributes to

Better Health Outcomes
The Connection Between Housing Affordability and Health

Housing instability, insecurity and unaffordability leads to:

Having to pay a higher share of one’s income on rent means having less money left over for food, medicine, healthcare and utility costs.

Unhealthy tradeoffs where people have to choose between paying rent, food, basic living costs and adhering to prescriptions.
Rent Ordinance Enforcement

The Maximum Allowable Rent for each rent-controlled unit is calculated based on information submitted by Landlords and Tenants.

Tenancy Registration

Rent Adjustment Petitions

Active Enforcement of the Rent Ordinance

Community Education

Tenants and Landlords can enforce their rights through the Rent Adjustment Petition process.

Enforcement starts with education. Tenants and Landlords who understand their rights and responsibilities are more likely to comply with the law.
Enforcement Mechanism 1: Property Enrollment & Tenancy Registration

- 5,277 Property Enrollment packets mailed
- 3,002 Properties Enrolled
- 1,684 Consultations with Billing & Registration staff
Knowledge and understanding of Landlord and Tenant rights and responsibilities is key to enforcing the Rent Ordinance and effectuating it’s purpose: to promote healthy, stable and affordable housing.

Enforcement Mechanism 2:
Counseling, Mediation & Community Education

- Counseling sessions conducted: 8,345
- Community Workshop participants: 406
- Households referred to legal services: 94
- Mediations held between tenants and landlords: 67
Tenants and Landlords can file petitions to enforce their rights under the Rent Ordinance.

- 832 Consultations with the Hearings Unit Coordinator
- 31 Settlement Agreements reached
- 8 Individual rent decreases ordered
- 2 Individual rent increases ordered
Profile of Rental Housing

~ 37,000 Housing Units

~ 18,860 owner-occupied

~ 18,170 renter-occupied

7,802 fully-covered

11,457 partially-covered

4,211 governmentally-subsidized

Data Sources
American Community Survey (2017)
Rent Program (Feb 2019)
Rental Housing Profile: Housing Age & Type

Based on available data for 17,460 units

- Single Family Home: 4,965 units
- Condominium: 672 units
- Duplex: 1,289 units
- Triplex & Fourplex: 3,091 units
- Apartment (5+ units): 7,355 units
- Other: 88 units

Based on available data for 15,061 units

- before 1940: 2,322 units
- 1940-1959: 4,444 units
- 1960-1979: 3,497 units
- 1980-1994: 2,852 units
- 1995-present: 1,946 units
Rental Housing Profile: Affordable Housing

Subsidy Types
- LIHTC (tax credits): 2,782
- Project-Based Rental Assistance: 991
- Housing Choice Vouchers: 1,686
Rental Housing Profile: Richmond Landlords

Where do Richmond's Landlords Live?

- Richmond: 27%
- Elsewhere in California: 7%
- Elsewhere in Bay Area: 62%
- Outside California: 4%

How Many Units do Landlords in Richmond Own?

- 1 unit: 3,848 units
- 2-4 units: 1,435 units
- 5-10 units: 295 units
- 11+ units: 138 units
Rent Increase Notice Analysis

- 2,476 notices filed
- $56 median increase
- $1,525 median new rent
Termination of Tenancy Notice Analysis

- 4,211 notices filed during FY 2018-2019
- Around 75% from larger apartments (5+ units)
- Top neighborhoods: Hilltop, Fairmede, Iron Triangle, Pullman
## Termination of Tenancy Notice Analysis

<table>
<thead>
<tr>
<th>Just Cause for Eviction</th>
<th>Notices Filed</th>
<th>Percentage of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nonpayment of Rent</td>
<td>4,063</td>
<td>96.50%</td>
</tr>
<tr>
<td>Breach of Lease</td>
<td>105</td>
<td>2.50%</td>
</tr>
<tr>
<td>Nuisance</td>
<td>15</td>
<td>0.35%</td>
</tr>
<tr>
<td>Owner Move-In</td>
<td>14</td>
<td>0.33%</td>
</tr>
<tr>
<td>Withdrawal from Rental Market</td>
<td>5</td>
<td>0.11%</td>
</tr>
<tr>
<td>Failure to Give Access</td>
<td>4</td>
<td>0.09%</td>
</tr>
<tr>
<td>Temporarily Vacate: Repairs</td>
<td>4</td>
<td>0.09%</td>
</tr>
<tr>
<td>Temporary Tenancy</td>
<td>1</td>
<td>0.02%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4,211</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>
Fiscal Year 2018-19
Financial Summary

- $2.25 million in budgeted expenses
- $2.05 million in actual expenses
- $2.19 million in Rental Housing Fee revenue collected

- $143 thousand contributed to the Agency’s operating reserves
RECEIVE AND APPROVE the 2018-19 Rent Program Annual Report and DIRECT staff to present the report to the City Council.
References


