

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

December 18, 2019 | Regular Meeting of the Richmond Rent Board

# Item G-1: Background

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.

## Item G-1: Background (continued)

- 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.

# Item G-1: Background (continued)

## Eviction Protections for Elderly or Disabled Tenants

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.

## First Right of Refusal and Rent Reversion

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.

# Item G-1: Statement of the Issue

- 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.

## Item G-1: Analysis of Termination of Tenancy Notices (Attachment 4)

- 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

Regulations  
requiring Landlords  
to submit  
supporting  
documentation

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:

Possible  
regulations  
requiring  
supporting  
documentation

- 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.



## 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.



## Item G-1: Requested Policy Direction (Attachment 3)

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?

## Item G-1: Requested Policy Direction (Attachment 3)

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?

## Item G-1: Fiscal Impact

- 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.**

## 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.

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UNDERSTANDING THE  
CALIFORNIA ANTI-GOUGING  
AND EVICTION PROTECTION  
LAW (AB 1482) IN RICHMOND  
(ITEM NO. G-2)

Presented by Rent Program Staff Attorney  
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# WHAT IS AB 1482?

AB 1482 is an anti-rent gouging law that places rent caps and the requirement to have just cause to evict for tenancies of 12 months or more.

- ▶ To address rent gouging, on October 8, 2019, Governor Gavin Newsom signed Assembly Bill 1482 (“AB 1482”), enacting statewide limitations on rent increases in California, which will take effect on January 1, 2020.
- ▶ Under AB 1482:
  - ▶ Annual rent increases in cities that do not have existing rent control laws will be limited to 5% plus the percentage change in the cost of living (local inflation) but not to exceed a total of 10%.
    - ▶ The cost-of-living increase will be tied to the Consumer Price Index (CPI) in each metropolitan area.
    - ▶ For example, if the inflation rate is 3.5%, a landlord could raise rent by as much as 8.5%. If the inflation rate is 6%, a landlord could only raise rent by as much as 10%.
  - ▶ AB 1482 requires that rents be rolled back to the amount paid by the Tenant on March 15, 2019.
  - ▶ Rent may not be increased more than twice over a 12-month period (unless the total sum of such increases does not exceed the annual rent cap).
  - ▶ Evictions are prohibited without Just Cause for Tenants that have lived in a unit for at least one year.
- ▶ AB 1482 added three new California Civil Codes:
  - 1) Civil Code 1946.2 – Mainly discusses just causes for eviction and relocation payment(s).
  - 2) Civil Code 1947.12 – Mainly discusses rent increase limitations.
  - 3) Civil Code 1947.13 – Mainly discusses initial rental rates for affordable housing.

# DOES AB 1482 OVERRIDE THE RICHMOND RENT ORDINANCE?

## AB 1482 DOES NOT:

- ▶ Overrule or affect the Richmond Rent Ordinance.
- ▶ Apply to Rent Ordinances adopted prior to September 1, 2019. (This is specific to eviction protections). This is also true for Ordinances adopted or amended after September 1, 2019, if that Ordinance's just causes are "more protective." (Criteria for this is expressly stated in the law.)
- ▶ Affect Ordinances that restrict annual increases in the rental rate at an amount less than that provided under the new State law. (This is specific to rent restrictions)

# WHICH PROPERTIES ARE COVERED BY AB 1482?

Multi-Unit  
Properties that are  
at least 15 years  
old

Corporate owned  
Single-Dwelling  
Units (i.e. Certain  
Single Family  
Homes and  
Condos)

Multi-Unit  
Properties that are  
at least 15 years  
old

- ▶ Apartments and other multi-unit properties containing two units or more which are at least 15 years old.
  - ▶ This is a rolling date. For example, units built in 2006 will be covered in 2021, units built in 2007 will be covered in 2022, etc.
  - ▶ Thus, apartments constructed in the future would not fall under the rent cap until fifteen (15) years after they are built.
- ▶ Single-dwelling units (i.e. some single family homes, condos, etc.) where the single dwelling unit is owned by a corporation, a real estate investment trust, or a limited liability company in which at least one member is a corporation.
- ▶ This means that in Richmond, for properties that are generally exempt from the rent control provisions of the Ordinance, as of January 1, 2020, multi-unit properties built between February 1, 1995 and March 5, 2005 as well as single family homes owned by corporations/LLCs would be potentially covered by AB 1482.

# WHICH PROPERTIES ARE EXEMPT FROM AB 1482?

Non-corporate owned single family homes and condos are exempt

Various Owner Occupied properties are exempt

Building younger than 15 years (rolling date).

Other Exemptions

- ▶ Single dwellings/units that can be sold separately from other units (i.e. single family homes, condos, etc.).
  - ▶ Except when owned by a corporation, real estate investment trust, or limited liability corporation in which at least one member is a corporation.
  - ▶ Notice of the exempt status must be provided to the tenant(s). This requirement only applicable for tenancies commenced or renewed on or after July 1, 2020, otherwise such notice is optional.
- ▶ Duplexes are exempt when one of the units is occupied by the owner from the beginning of the tenancy.
- ▶ Housing accommodations where the tenant shares bathroom or kitchen facilities with the owner who maintains the property as their principal residence.
- ▶ Single family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including but not limited to, an accessory dwelling unit or junior accessory dwelling unit.
- ▶ Buildings constructed within the past fifteen (15) years.
  - ▶ This is a rolling date. For example, units built in 2006 will be covered in 2021, units built in 2007 will be covered in 2022, etc.
  - ▶ Thus, apartments constructed in the future would not fall under the rent cap until fifteen (15) years after they are built.
- ▶ Dormitories for any school, hotels, non-profit hospitals, religious facilities, extended care facilities, licensed care facilities for the elderly, adult residential facilities, transient and tourist hotels, subsidized housing and affordable housing and any properties fully covered under the Richmond Rent Ordinance.

# AB 1482 REQUIRES LANDLORDS TO HAVE JUST CAUSE TO EVICT.

For properties covered by AB 1482, evictions without “just cause” are prohibited.

There are two types of just cause:  
(1) At-fault and  
(2) No-fault

- ▶ For tenants that have lived in a unit for at least one year, AB 1482 prohibits evictions and non-renewals of leases without “just cause.”
- ▶ “At Fault” Just Causes include:
  - ▶ (1) Default in payment of rent; (2) breach of a material term of the lease; (3) Maintaining, committing, or permitting a nuisance; (4) Committing waste; (5) Tenant refuses to execute extension or renewal of lease for additional term of similar duration with similar provisions (if lease terminated on or after 1/1/2020); (6) Criminal activity; (7) Assignment or subletting in violation of the lease; (8) Refusal to allow the owner entry if authorized under Civ. Codes 1954 or 1101.5; (9) Using the premises for an unlawful purpose as described in CCP § 1161(4); (10) Employee, agent or licensee’s failure to vacate after termination; and (11) When tenant fails to deliver possession after providing written notice of their intent to terminate or when the tenant makes an offer to surrender that is accepted by the landlord and fails to deliver possession.
- ▶ “No Fault” Just Causes include:
  - ▶ (1) Owner/owner’s family (spouse, domestic partner, children, grandchildren, parents or grandparents) intend to occupy the property\*; (2) Withdrawing the property from the rental market (Ellis Act); (3) Owner’s compliance with: an order issued by a government agency or court relating to habitability that necessitates vacating, an order by a government agency or court to vacate, or a local ordinance that necessitates vacating the property; or (4) the intent to demolish or substantially remodel the property.

# AB 1482 REQUIRES LANDLORDS TO PAY RELOCATION ASSISTANCE

For no-fault evictions, a Landlord must pay tenants one month's rent in relocation assistance

- ▶ The amount of relocation assistance shall be equal to one month's rent that was in effect when the owner issued the notice to terminate the tenancy.
- ▶ The landlord can either make a direct payment or waive in writing the payment of the final month of the tenancy, prior to the rent becoming due. Failure to pay relocation assistance renders the notice of termination void.
- ▶ Any relocation assistance shall be provided within 15 calendar days of service of the notice.
- ▶ AB 1482 relocation payment requirements do not apply to properties exempt from AB 1482.

# THE RICHMOND RENT PROGRAM: OUTREACH AND EDUCATION ON AB 1482

The Rent Program is charged with conducting community outreach and education on all pertinent laws that intersect with the Richmond Rent Ordinance

- The Richmond Rent Ordinance Section 11.100.060(g) requires the Board (through its administrative arm: the Rent Program) to provide community education on the Rent Ordinance. To effectively understand their rights and responsibilities under the Rent Ordinance, Landlords and Tenants must also understand their rights as they pertain to state and federal law.
  - *For example, a single family home that is owned by a corporation may fall under the just cause protections under the Richmond Rent Ordinance but would be exempt from rent regulation under the Richmond Rent Ordinance. But because it is owned by a corporation, the rent regulation aspect would fall under AB 1482.*
- In preparation for counseling Tenants and Landlords who may be dually covered by AB 1482, and the Richmond Just Cause for eviction rules, Rent Program housing counselors will utilize the holistic counseling approach that is currently used when counseling members of the public on state laws that intersect with the Richmond Rent Ordinance.

# THE RICHMOND RENT PROGRAM: OUTREACH AND EDUCATION ON AB 1482

## Staff Training

- ▶ Prior to engaging in robust outreach and counseling on AB 1482, Rent Program staff must be trained on how the new law works and how it intersects with the Richmond Rent Ordinance.
  - ▶ Staff trainings on AB 1482 have been conducted in anticipation of the new law going into effect on January 1, 2020.

## Informational Handout on AB 1482 specific to Richmond

- ▶ To aid in educating community members about AB 1482, Rent Program staff members have created an informational handout for Richmond Landlords and Tenants (Attachment 1). This handout will be published on the Rent Program website, be available to the public at the Rent Program office, at workshops and community events, on social media and provided to participants during counseling sessions.

## Additional Community Outreach: Community Workshop on AB 1482 and Social Media/Website info

- ▶ Posting on social media and informational videos may also be utilized to provide information about how AB 1482 works in the context of Richmond's Rent Ordinance.
- ▶ The Rent Program's Public Information Unit will conduct a workshop specific to AB 1482 and how it interacts with the Richmond Rent Ordinance on Saturday, January 18, 2020 from 10am-12pm in the Richmond City Council Chambers. The presentation on AB 1482 will also be accessible on the Rent Program website at [www.richmondrent.org](http://www.richmondrent.org).