

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: June 20, 2018

Final Decision Date Deadline: June 20, 2018

STATEMENT OF THE ISSUE: The purpose statement of Regulation 400 should be amended to ensure compliance with Civil Code 1947.7, a California statute that partially governs rent registration requirements promulgated by local jurisdictions. Staff members recommend amending Regulation 400 to contain a statement that clarifies that application of Civil Code 1947.7. In addition, Regulation 402 authorizes the Rent Program to implement rent registration but does not allow for the collection of Tenant information. As it is permitted under Civil Code 1947.7 and necessary to effectuate the purpose of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance ("Rent Ordinance"), staff members are requesting that tenant information be added to the list of registrable items, as well as a statement that would allow staff members to modify the list of registrable items when reasonably necessary.

INDICATE APPROPRIATE BODY

- | | | | | |
|---|---|--|--|---|
| <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

- Presentation/Proclamation/Commendation (3-Minute Time Limit)
- Public Hearing Regulation Other:
- Contract/Agreement Rent Board As Whole
- Grant Application/Acceptance Claims Filed Against City of Richmond
- Resolution Video/PowerPoint Presentation (contact KCRT @ 620.6759)

RECOMMENDED ACTION: AMEND Rent Board Regulation 400 to include a reference to Civil Code 1947.7, as amended, and AMEND Rent Board Regulation 402, authorizing the registration of tenant information and any other information reasonably requested by the Rent Program to effectuate the purpose of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance – Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

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AGENDA REPORT

DATE: June 20, 2018

TO: Chair Gray and members of the Rent Board

FROM: Nicolas Traylor, Executive Director
Charles Oshinuga, Staff Attorney

SUBJECT: AMENDMENTS TO REGULATIONS 400 AND 402

STATEMENT OF THE ISSUE:

The purpose statement of Regulation 400 should be amended to ensure compliance with Civil Code 1947.7, a California statute that partially governs rent registration requirements promulgated by local jurisdictions. Staff members recommend amending Regulation 400 to contain a statement that clarifies that application of Civil Code 1947.7. In addition, Regulation 402 authorizes the Rent Program to implement rent registration but does not allow for the collection of Tenant information. As it is permitted under Civil Code 1947.7 and necessary to effectuate the purpose of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance ("Rent Ordinance"), staff members are requesting that tenant information be added to the list of registrable items, as well as a statement that would allow staff members to modify the list of registrable items when reasonably necessary.

RECOMMENDED ACTION:

AMEND Rent Board Regulation 400 to include a reference to Civil Code 1947.7, as amended, and AMEND Rent Board Regulation 402, authorizing the registration of tenant information and any other information reasonably requested by the Rent Program to effectuate the purpose of the Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance – Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

FISCAL IMPACT:

There is no fiscal impact related to this item.

DISCUSSION:

Background

Staff members have reviewed the existing Regulations and discovered deficiencies that need to be reconciled with the edicts of the Rent Ordinance to ensure effective administration and compliance with the provisions of the Rent Ordinance. To that end, staff members are bringing forth two Regulations to be amended by the Rent Board. Staff members anticipate in the near future it will request the Rent Board consider additional amendments to existing Regulations for clarity and consistency. For now, staff members are proposing the Rent Board amend the following two Regulations:

- 1) Regulation 400 - Purpose
- 2) Regulation 402(A)(1) - Required Rent Registration

The purpose statement in Regulation 400 needs to be clarified to state compliance with Civil Code 1947.7 et seq, as amended.

Since Chapter 4 deals with registration requirements and fees, it elicits the principles set forth in Civil Code 1947.7 et seq. Not only does Code 1947.7 et seq., set forth the meaning of “substantial compliance,” it also partially governs registration requirements. In pertinent part, Civil Code 1947.7(g) authorizes the Rent Program to request that owners provide tenant information and permits the Rent Board to compel owners to provide tenant names. Additionally, Civil Code 1947.7(g) explains that tenant information gathered through a rent registry is confidential information consistent with the information practices act.

To ensure that the Rent Program’s registry and noncompliance findings are consistent with the principles espoused in Civil Code 1947.7 et seq., it is prudent that the Rent Board include a reference to said Civil Code in its Regulation. To that end, Staff is proposing amending Chapter 4’s purpose statement to include a reference to Civil Code 1947.7, et seq., as amended.

Regulation 402(A)(1) must be amended to include tenant name and information.

As mentioned in prior Rent Board meetings, staff members find rent registration necessary to effectuate the purposes of the Rent Ordinance. An integral piece of information in developing an effective registry is tenant information. Tenant information allows staff to determine the applicability of vacancy rent increases permitted by the Costa-Hawkins Rental Housing Act by allowing staff members to determine when all original occupants have vacated the Rental Unit. In addition, rent registration allows for the creation of a comprehensive inventory of the Rent Ceilings among all Controlled Rental Units, the validity of rent increases, and more accurately monitor eviction rates. Even the State has anticipated the integral nature of this information to a rent registry’s success, and pursuant to Civil Code 1947.7(g), has authorized the Rent Board to

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request that owners provide tenant information and permits the Rent Board to compel owners to provide tenant names.

Furthermore, because Regulation 402(A)(1) does not currently identify tenant information as an element of rent registration, the Rent Board cannot launch rent registration in an effective manner. Staff members therefore propose an amendment to Regulation 402(A)(1) that includes the number of tenants occupying the unit and tenant names.

Additionally, to avoid possible future occurrences where the Rent Program must continuously seek approval from the Rent Board to gather pertinent and anticipated information through its registry, staff members are also recommending an additional amendment to Regulation 402(A)(1), to include a phrase that would permit staff to reasonably request information not specifically delineated in Regulation 402(A)(1). This would allow staff members the flexibility of addressing fluid issues on the ground.

Conclusion

For the aforementioned reasons, staff members are proposing amendments to Regulation 400 to broaden its purpose statement and to Regulation 402(A)(1), authorizing staff members to collect tenant information, namely the tenant's name and the number of tenant occupants residing in a dwelling unit, and include a general statement that would allow staff to gather additional pertinent information that is reasonably requested.

DOCUMENTS ATTACHED:

Attachment 1 – Regulation 400 (Redlined Version)

Attachment 2 – Regulation 400 (Clean Version)

Attachment 2 – Regulation 402 (Redlined Version)

Attachment 2 – Regulation 402 (Clean Version)

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Chapter 4: REGISTRATION AND FEES

400. Purpose

The Rent Board finds that in order to monitor compliance with Annual General Adjustments and provide for Individual Rent Adjustments as required under the Rent Ordinance it is essential that registration of Rental Units include information on Base Rents and notification of increases. The purpose of this Chapter 4 is to enable the Rent Board to monitor and control allowable rents as mandated by the Ordinance, and to charge and collect fees for the purposes of covering the cost of administering the Ordinance. All registration requirements are subject to California Civil Code Section 1947.7 et.seq, as may be amended.

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ATTACHMENT 2**

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402. Required Rent Registration

A. A Rental Unit is properly registered in accordance with this Chapter if the Landlord or Landlord's representative has:

- (1) Filed with the Board completed registration statements on the form(s) provided by the Board for the unit and all the units in the same property that include:
 - a. The addresses of all units on the same property;
 - b. The name and address of the Landlord and/or property manager;
 - c. The date the current tenancy began and, for all tenancies that began after December 30, 2016, an explanation of the circumstances of the termination of the previous tenancy sufficiently detailed to demonstrate whether the unit qualifies for a vacancy rent increase or not, as described in Chapter 7 Vacancy Rent Increases;
 - d. The Base Rent currently in effect for each individual unit and the housing services included in the rent or the reason the Rental Unit is exempt from rent control and has no current Base Rent;
 - e. The number of Tenants occupying the unit and Tenants names; and
 - f. Such other information reasonably requested by the Rent Program.

- (2) Paid to the City of Richmond the Rental Housing Fee, Business License Tax, and any penalties due for the unit and all the units in the same property; and
- (3) Filed with the Board, for the unit and all the units in the same property, notification of all termination of tenancies, subsequent changes in the provision of Housing Services, and rent increases if required pursuant to Regulation 17-10.

B. In designating a Rental Unit as properly registered, the Board's intent is to facilitate the rent registration and individual adjustment of Maximum Allowable Rent processes and the dissemination of information regarding the registration of Rental Units. Such designation shall not be construed as the Board's certification of the lawful Base Rent, current Maximum Allowable Rent or any other information provided on the rent registration statement. Nothing in this Regulation shall preclude the Board nor any person from challenging the accuracy of any information provided in any registration statement or declaration in the context of any proceeding or action.

C. A Landlord shall be found in substantial compliance with registration requirements when:

- (1) The Landlord has made a good faith effort to comply with the Ordinance and regulation concerning registration sufficient to reasonably carry out the intent and purpose of the Ordinance and Regulations; and

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ATTACHMENT 3**

- (2) The Landlord has cured any defect in compliance in a timely manner after receiving notice of a deficiency from the Board.

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ATTACHMENT 4**

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(2)

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