

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: As staff members continue to serve and engage the public on a daily basis, it has become apparent that many landlords and tenants have questions regarding the applicability of the Rent Ordinance to their unit. In a majority of cases, the answer is straightforward, as the existing exemptions described in the Rent Ordinance squarely fits a given situation; however, there exist a handful of cases where the applicability of the Rent Ordinance is not so straightforward. In these cases, landlords and tenants seek official determinations as to the exempt status of a given unit. Because the current Regulations do not describe a process where such a formal determination can be issued, many landlords and tenants are left without clarity. Staff members are proposing the adoption of Regulations that would provide a process whereby a party can request an administrative determination and a subsequent hearing as to the exempt status of a particular unit or property.

INDICATE APPROPRIATE BODY

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| <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

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

RECOMMENDED ACTION: ADOPT (1) Regulation 205, authorizing Staff to process landlord requests for an administrative determination as to the applicability of the Rent Ordinance to a particular unit or property; (2) Regulation 206, creating an administrative determination process and procedure as it relates to request made to determine the applicability of the Rent Ordinance to a particular unit or property; (3) Regulation 207, authorizing a tenant petition challenging the exempt status of particular unit or property; (4) Regulation 416, authorizing petitions and procedures for rent-withholding based on a landlord's failure to comply with Reporting requirements set forth in Richmond Municipal Code Section 11.100.060(s), including failure to pay the Residential Rental Housing Fee; (5) Regulation 417, describing the parties to a petition brought under Regulation 416; (6) Regulation 418, permitting the Board to initiate a rent withholding process in lieu of a tenant petition; (7) Regulation 419, explaining that the principles of substantial compliance apply to petitions brought under Regulation 416; (8) Regulation 420, describing that if compliance occurs prior to the set hearing, the tenant petition must be dismissed; (9) Regulation 421, creating standards that a Hearing Officer's decision must meet; and (10) Regulation 424, authorizing the use of an escrow account to hold the withheld rent until compliance occurs – Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

AGENDA ITEM NO:

G-4.



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: REGULATIONS ADDING AN ADMINISTRATIVE DECISION AND PETITION AUTHORIZATION PROCESS TO ADDRESS DISPUTES RELATING TO EXEMPT STATUS OF A RENTAL UNIT AND RENT-WITHOLDING FOR NON-COMPLIANT RENTAL UNITS

STATEMENT OF THE ISSUE:

As staff members continue to serve and engage the public on a daily basis, it has become apparent that many landlords and tenants have questions regarding the applicability of the Rent Ordinance to their unit. In a majority of cases, the answer is straightforward, as the existing exemptions described in the Rent Ordinance squarely fits a given situation; however, there exist a handful of cases where the applicability of the Rent Ordinance is not so straightforward. In these cases, landlords and tenants seek official determinations as to the exempt status of a given unit. Because the current Regulations do not describe a process where such a formal determination can be issued, many landlords and tenants are left without clarity. Staff members are proposing the adoption of Regulations that would provide a process whereby a party can request an administrative determination and a subsequent hearing as to the exempt status of a particular unit or property.

In conjunction with the need to provide a process to determine the exempt status of a unit or property, staff members are also proposing a set of Regulations that would permit a tenant to file a petition based on a landlord's failure to comply with reporting requirements as described in Richmond Municipal Code Section 11.100.060(s). These Regulations would use existing petition, hearing, and appeals processes to properly aid in the adjudication of petitions.

RECOMMENDED ACTION:

ADOPT (1) Regulation 205, authorizing Staff to process landlord requests for an administrative determination as to the applicability of the Rent Ordinance to a particular unit or property; (2) Regulation 206, creating an administrative determination process

and procedure as it relates to request made to determine the applicability of the Rent Ordinance to a particular unit or property; (3) Regulation 207, authorizing a tenant petition challenging the exempt status of particular unit or property; (4) Regulation 416, authorizing petitions and procedures for rent-withholding based on a landlord's failure to comply with Reporting requirements set forth in Richmond Municipal Code Section 11.100.060(s), including failure to pay the Residential Rental Housing Fee; (5) Regulation 417, describing the parties to a petition brought under Regulation 416; (6) Regulation 418, permitting the Board to initiate a rent withholding process in lieu of a tenant petition; (7) Regulation 419, explaining that the principles of substantial compliance apply to petitions brought under Regulation 416; (8) Regulation 420, describing that if compliance occurs prior to the set hearing, the tenant petition must be dismissed; (9) Regulation 421, creating standards that a Hearing Officer's decision must meet; and (10) Regulation 424, authorizing the use of an escrow account to hold the withheld rent until compliance occurs – Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

FISCAL IMPACT:

There is no fiscal impact related to this item.

DISCUSSION:

Background

Chapter 2 of the Rent Board's adopted Regulations outline which units are fully and/or partially exempt from the Rent Ordinance. However, the current Regulations lack a process whereby a landlord or tenant can challenge the existing exempt status of a rental unit or request an official determination of the applicability of the Rent Ordinance to a particular unit or property. This is an issue. In fact, many landlords and tenants have sought to challenge the applicability of the Rent Ordinance to a unit, but because the Regulations do not describe a process whereby such a decision can be rendered, many landlords and tenants are left unsatisfied with staff member's response to their inquiry. To remedy the situation, staff members are proposing a group of Regulations that would create a procedure for landlords and tenants to avail themselves to determine the applicability of the Rent Ordinance to a given unit.

Additionally, the exempt status of a rental unit often times elicits concerns related to compliance. When a unit is covered by the Ordinance, the landlord must adhere to specific reporting and notice filing requirements that may not have been followed if they were under the impression that a unit is exempt. For instance, if a landlord's property had been operating as an exempt property, but an administrative determination had been issued rendering the property not exempt from the Rent Ordinance, the landlord would owe the Residential Rental Housing Fee (including any late fees) and would need to comply with filing notice of rent increases, terminations, etc., with the Rent Program. When particular issues of noncompliance arise, the Rent Ordinance empowers tenants to withhold rent; however, the Regulations do not describe the procedures by which a

tenant can withhold rent due to a landlord's failure to adhere to the Rent Ordinance's reporting requirements. To address this issue, staff members are proposing a series of Regulations that would create a process whereby a tenant may bring a petition for rent withholding based on a failure to comply with reporting requirements as described in Richmond Municipal Code Section 11.100.060(s).

Regulations creating a process whereby landlords and tenants can request an official administrative determination regarding the applicability of the Rent Ordinance to a particular unit.

To execute its day-to-day task, staff members are authorized to make administrative decisions and determinations on various matters, including whether a unit falls within the purview of the Rent Ordinance. Where the issue is straightforward, administrative decisions regarding whether a unit falls within the purview of the Rent Ordinance are left undisputed. However, where the facts are less clear, a landlord or tenant may disagree with the determination made by a staff member. When such a disagreement arises, there is not currently a process where a landlord or tenant can challenge the determination made by a staff member. Because a determination as to the applicability of the Rent Ordinance vests particular rights and obligations on both landlords and tenants, it is prudent for staff members to create a formal process permitting petitions based on the exempt status of a particular unit or property. To that end, staff members are proposing a series of Regulations to address this issue.

The Regulations would permit a landlord to request a formal administrative determination as to the applicability of the Rent Ordinance to a particular property or unit, and it would create deadlines by which an administrative decision must be issued. The Regulations would also create standards an administrative determination would have to meet before its issuance, and it would authorize staff members to gather the information necessary to determine whether a unit or property falls within the purview of the Rent Ordinance. Finally, it would permit landlords to challenge administrative determinations through the hearing process, and it would allow for tenants to bring petitions challenging the exempt status of a particular unit or property. Such a tenant petition would be brought under a petition for rent-withholding.

The Rent Ordinance authorizes petitions and Rent Board action for Rent Withholding

Richmond Municipal Code Section 11.100.060(s)(2) authorizes tenants and the Rent Board to engage in a rent-withholding process based on failure to adhere to reporting requirements. This section is reproduced below:

“If the Board, after the Landlord has proper notice and after a hearing, determines that Landlord has willfully and knowingly failed to properly report, as described above, any rental increase notices, change of terms of tenancy or tenancy termination, or pay the rental housing fee, the Board may authorize the Tenant of such a non-reporting unit or where

the rent housing fee is unpaid to withhold all or a portion of the rent for the rental unit until such time as the rental housing fee is paid or notice filed.”

Despite the authorization of such petitions, the Rent Board currently lacks Regulations that describes the processes and procedures whereby a tenant and/or the Rent Board can exercise the aforementioned right. Given that staff members are proposing Regulations pertaining to the exempt status of a particular unit or property, staff members are anticipating a potential increase in complaint-driven issues. This increase may cascade into a need to address failures to adhere to the reporting requirements set forth in the Rent Ordinance.

Potential for enhanced compliance and tangential consequences

Over the past several months, staff members have continued to engage in efforts to increase compliance with the requirements of the Rent Ordinance and Rent Program. While such efforts have led to an increase in Residential Rental Housing Fee being paid, and greater compliance with particular notices being filed with the Rent Program, staff members recognize that there is much work to be done to increase compliance to a standard comparable to other successful rent programs. Consequently, staff members are working to retain a contract compliance officer in Fiscal Year 2018-19 and revamp its approach in its compliance enforcement. As staff members continue to increase compliance and enforcement-related activities, staff members anticipate there will be an increase in compliant-driven issues. To that end, staff members would like to ensure that the Rent Board and the community at large are in a position to address compliance issues that staff members or Richmond residents may discover. Thus, staff members find a compelling need to put forth Regulations that describe the procedures and processes of a right and obligation that has been conferred by the Ordinance.

Regulations authorizing Tenant Petition for Rent-Withholding

To address these issues, staff members are proposing a series of Regulations that establish procedures whereby the Rent Board or the Tenant can engage in a process to determine whether compliance with reporting requirements were met and whether the withholding of rent is appropriate. Specifically, the Regulations would create a petition and hearing process for rent-withholding based on a failure to adhere to reporting requirements, including a failure to pay Residential Rental Housing Fee, authorize staff members to engage in information gathering to determine whether reporting requirements were adhered to, describe the parties to such a petition, reiterate that the Rent Board is permitted to engage the process separate from the tenant petition, and create standards by which a hearing decision must adhere.

Conclusion

Staff members recommend the Rent Board adopt the aforementioned Regulations to adequately address landlord and tenant concerns regarding the applicability of the Rent

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Ordinance and the myriad issues that are anticipated to arise as staff members engage in greater compliance and enforcement activities.

DOCUMENTS ATTACHED:

Attachment 1 – Chapter 2 containing proposed Regulations 205, 206, and 207..
(Redlined Version)

Attachment 2 – Chapter 2 containing proposed Regulations 205, 206, and 207. (Clean Version)

Attachment 3 – Chapter 4 containing proposed Regulations 416-421, and Regulation 424. (Redlined Version)

Attachment 4 – Chapter 4 containing proposed Regulations 416-421, and Regulation 424. (Clean Version)

ITEM G-4 ATTACHMENT 1

Chapter 2: **APPLICABILITY**

200. Purpose

The purpose of this Chapter 2 is to describe those categories of properties which are exempt from the Ordinance and to provide a process and procedure for those Controlled Rental Units seeking to establish an exemption from this Ordinance.

201. **Rental Units Exempt from both the Rent Control (R.M.C § 11.100.070) and Just Cause for Eviction (R.M.C § 11.100.050) Provisions of the Ordinance.**

The following Rental Units are exempt from both rent control (RMC 11.100.070) and Just Cause for Eviction (RMC 11.100.050) provisions of the Ordinance.

- A. Rental Units in hotels, motels, inns, tourist homes and rooming and boarding houses that are rented primarily to transient guests for a period of fewer than 14 days.
- B. Rental Units in any hospital, convent, monastery, extended medical care facility, asylum, or non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education;
- C. Rental Units for which there is a Temporary Tenancy, as defined in R.M.C § 11.100.030(q);
- D. Rental Units that are lawful and in compliance with the Small, Second Unit Ordinance of the City (R.M.C § 11.15.04) if the Primary Residence is occupied by the property owner; and
- E. Rental Units where the Rental Unit is the Primary Residence of the property owner and the property owner shares with a Tenant(s) a bathroom or kitchen.

202. **Governmentally Subsidized Rental Units Exempt from the Rent Control Provisions of the Ordinance.**

The following Rental Units are exempt from the rent control (RMC 11.100.070), but not the just cause for eviction (RMC 11.100.050) provisions of the Ordinance.

- A. Rental Units in which a Tenant household holds a Section 8 Housing Choice Voucher and where the rent not does exceed the Payment Standard as published by the U.S. Department of Housing and Urban Development.
- B. Rental Units for which the rent is subsidized by the Project-Based Section 8 Program
- C. Rental Units that are “rent restricted” in a Low Income Housing Tax Credit Program Project. “Rent Restricted” means the rent charged for the unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.
- D. Rental Units for which the rent is subsidized by the Section 202 Supportive Housing for the Elderly Program

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E. Rental Units that are “rent restricted” under a regulatory agreement between a governmental agency and a property owner. “Rent Restricted” means the rent charged for the unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.

203. Other Rental Units Exempt from the Rent Control Provisions of the Ordinance.

In addition to Rental Units that are exempt from rent control under R.M.C § 11.100.030 (d)(1)(2)(4) (5) and (6), Rental Units which a governmental unit, agency or authority owns, operates or manages are exempt from the rent control provisions of the Ordinance. Section 11.100.030 (d)(3), Richmond Municipal Code.

204. Exemption Only Applies if Rental Unit is in Compliance with Applicable Laws and Regulations.

The exemption from rent control (RMC 11.100.070) as described in ~~Section-Regulation~~ 202 and ~~Section-Regulation~~ 203 of this Regulation only applies so long as the Rental Unit is in compliance with all applicable laws and regulations, and for which there is in effect (a) a Tenant with a Section 8 Housing Choice Voucher in the Rental Unit, (b) the Rental Unit is in a Project-Based Section 8 Program, and/or (c) the Rental Unit is rent restricted under a regulatory agreement and/or declaration of restrictive covenants.

Nothing in this section shall preclude Tenants residing in Rental Units described in ~~Section Regulation 202-of this Regulation~~ from seeking advice or assistance from the Rent Program concerning applicable provisions of the Ordinance and utilizing the remedies provided in the Ordinance to the extent permitted by Federal, State, and local law.

205. Application for Exemption Determination.

Notwithstanding Regulation 403, a Landlord may request that an administrative decision be rendered regarding the applicability of R.M.C. 11.100 et.seq (Fair Rent, Just Cause For Eviction, and Homeowner Protection Ordinance) on a property or unit owned or occupied by the requesting party. All requests for an administrative decision regarding exemption must be made on an approved Rent Program form. The Landlord must complete the approved form and attach sufficient information and documentation demonstrating a claimed exemption. The Landlord shall have the burden of proof of demonstrating a claimed exemption.

206. Issuing an Administrative Decision on Exemption Status.

A. In rendering an administrative decision, the Executive Director or assigned staff member may conduct an independent investigation into the underlying facts and rely on information and documentation obtained thereof.

B. All administrative decisions under this Regulation must be made in writing, provide an explanation of the basis for the decision with citations to R.M.C. 11.100 et.seq (Fair Rent, Just Cause For Eviction, and Homeowner Protection Ordinance), and adequately describe the evidence relied on in reaching the decision.

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- C. All administrative decisions under this Regulation must be rendered within 30 business days from the date of application. The Rent Program shall notify the Landlord and all Tenants in the affected unit, of its exemption determination.
- D. If the Landlord disagrees with the Executive Director or assigned staff member's administrative decision, the Landlord may, within 15 days from the date of the administrative decision plus any additional time permitted under California Code of Civil Procedure Section 1013(a), as amended, file a request for hearing on exemption status. The hearing shall be conducted in accordance with the rules and procedures set forth in Chapter 8 of these Regulations.

207. Challenging a Rental Unit's Exempt Status.

- A. Where a Rental Unit has been determined to be or treated as an exempt Rental Unit, a Tenant occupying said Rental Unit or his or her designee, may challenge the Rental Unit's exemption status by filing a Tenant petition for rent withholding, pursuant to Chapter 4 of these Regulations. Such a petition shall not be granted if the challenged Rental Unit has been determined exempt pursuant to Regulation 206, unless the Tenant can demonstrate that there has been a material change in facts after the first hearing was held, or that the information supplied by the Landlord in support of the exemption was misleading and/or false.

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ITEM G-4 ATTACHMENT 2

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- D. Rental Units for which the rent is subsidized by the Section 202 Supportive Housing for the Elderly Program
- E. Rental Units that are “rent restricted” under a regulatory agreement between a governmental agency and a property owner. “Rent Restricted” means the rent charged for the unit is affordable for a qualifying Tenant pursuant to the Regulatory Agreement.

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Nothing in this section shall preclude Tenants residing in Rental Units described in Regulation 202 from seeking advice or assistance from the Rent Program concerning applicable provisions of the Ordinance and utilizing the remedies provided in the Ordinance to the extent permitted by Federal, State, and local law.

205. Application for Exemption Determination.

Notwithstanding Regulation 403, a Landlord may request that an administrative decision be rendered regarding the applicability of R.M.C. 11.100 et.seq (Fair Rent, Just Cause For Eviction, and Homeowner Protection Ordinance) on a property or unit owned or occupied by the requesting party. All requests for an administrative decision regarding exemption must be made on an approved Rent Program form. The Landlord must complete the approved form and attach sufficient information and documentation demonstrating a claimed exemption. The Landlord shall have the burden of proof of demonstrating a claimed exemption.

206. Issuing an Administrative Decision on Exemption Status.

- A. In rendering an administrative decision, the Executive Director or assigned staff member may conduct an independent investigation into the underlying facts and rely on information and documentation obtained thereof.

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- B. All administrative decisions under this Regulation must be made in writing, provide an explanation of the basis for the decision with citations to R.M.C. 11.100 et.seq (Fair Rent, Just Cause For Eviction, and Homeowner Protection Ordinance), and adequately describe the evidence relied on in reaching the decision.
- C. All administrative decisions under this Regulation must be rendered within 30 business days from the date of application. The Rent Program shall notify the Landlord and all Tenants in the affected unit, of its exemption determination.
- D. If the Landlord disagrees with the Executive Director or assigned staff member's administrative decision, the Landlord may, within 15 days from the date of the administrative decision plus any additional time permitted under California Code of Civil Procedure Section 1013(a), as amended, file a request for hearing on exemption status. The hearing shall be conducted in accordance with the rules and procedures set forth in Chapter 8 of these Regulations.

207. Challenging a Rental Unit's Exempt Status.

- A. Where a Rental Unit has been determined to be or treated as an exempt Rental Unit, a Tenant occupying said Rental Unit or his or her designee, may challenge the Rental Unit's exemption status by filing a Tenant petition for rent withholding, pursuant to Chapter 4 of these Regulations. Such a petition shall not be granted if the challenged Rental Unit has been determined exempt pursuant to Regulation 206, unless the Tenant can demonstrate that there has been a material change in facts after the first hearing was held, or that the information supplied by the Landlord in support of the exemption was misleading and/or false.

ITEM G-4 ATTACHMENT 3

Chapter 4: REGISTRATION ~~AND FEES OF BASE RENT AND RENT INCREASES~~

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.

401. Establishment of Base Rent

- A. The rent in effect on July 21, 2015 is the Base Rent. If there was no rent in effect on that date, the Base Rent is the rent charged on the first date that rent was charged after that date.
- B. For tenancies that commenced after July 21, 2015, the Base Rent is the initial rental rate in effect on the date the tenancy begins. "Initial rental rate" is defined under Section 700(B).

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

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

403. Changes in Exempt Status

- A. Within sixty (60) calendar days of the date a Rental Unit formerly exempt from the rent control provisions of the Ordinance (Section 11.100.030(d) (1)-(6)) becomes a Controlled Rental Unit under the Ordinance, the Landlord shall file an initial registration statement, or an amended registration statement if an initial registration statement has been previously filed, for the Rental Unit.

- B. Within sixty (60) calendar days of the date a Controlled Rental Unit becomes exempt from rent control under the Ordinance, the Landlord shall notify the Board in writing of the exempt status of the Rental Unit and the basis for the exemption.

- C. Within thirty (30) calendar days after the filing of a new rent registration statement, the Board shall provide a true and correct copy of said statement to the occupant of the respective unit.

404. Notification of Changes of Name or Address of Landlord and/or Property Manager

- A. Within sixty (60) calendar days of any change in the owner and/or property manager of a Rental Unit, the Landlord shall notify the Board in writing of the change.

- B. Within sixty (60) calendar days of any change in the address of the owner and/or property manager of a Rental Unit, the Landlord shall notify the Board in writing of the change.

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C. The Board shall send all notices to the Landlord at the most current address provided by the Landlord. Failure to receive a notice as a result of noncompliance with this section shall not be a good cause for purposes of waiving penalties owed to the Board.

405-15. (RESERVED)

416. Authorization of Petitions for Rent Withholding.

A. Tenants seeking authorization to withhold rent pursuant to R.M.C §11.100.060(s), must file a petition provided by the Rent Program. If the petition to withhold rent is based on a Landlord's failure to pay the Residential Rental Housing Fee and such a petition implicates the exemption status of the challenged Rental Unit or property, the Tenant shall include a brief statement describing the basis of the petition and the evidence relied on to substantiate the assertion that there has been a failure to pay the Residential Rental Housing Fee.

B. A copy of any rent withholding petition based on a failure to pay the Residential Rental Housing Fee that implicates the exemption status of the challenged Rental Unit or property, shall be forwarded to the Executive Director and the Executive Director shall investigate or direct a Rent Program Staff member(s) to investigate the basis for the petition and prepare a report stating the findings of the investigation. Such investigation may include, but is not limited to, inspection of the property, investigation of public's records, and any other reasonable means ascertaining the status of the property.

C. Submittal of petitions, conducting of hearings, and requesting appeals must be performed in a manner consistent with Chapter 8 of these Regulations

417. Parties

Specific only to petitions brought under Regulation 416 or Regulation 206, the parties to a proceeding on a rent withholding petition shall be the petitioner, the Tenants of any affected unit, the Landlord, and the Rent Board as represented by the administrative staff member(s).

418. Board Action in lieu of Tenant Petition

Pursuant to R.M.C § 11.100.060(s) and this Regulation, in lieu of the a Tenant petition filed under Regulation 416, the Board is authorized to initiate the rent withholding process or may continue with a proceeding initiated by a Tenant even if the petitioner requests a dismissal, or fails to prosecute the petition.

419. Failure to Comply with Reporting Requirements Set Forth in Richmond Municipal Code Section 11.100.060(s)

In determining whether a Landlord has failed to comply with reporting requirements set out in Richmond Municipal Code Section 11.100.060(s), the Hearing Officer shall apply the criteria for substantial compliance consistent with Civil Code 1947.7, et.seq, as amended.

420. Compliance with Reporting Requirements Set Forth in Richmond Municipal Code Section 11.100.060(s), Prior to a Hearing

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Prior to the hearing, if the Hearing Examiner determines that the Landlord has complied with the reporting requirements set out in Richmond Municipal Code Section 11.100.060(s), and as specifically alleged by the petition or the action, the petition shall be dismissed and all parties shall be notified of the dismissal.

421. Decisions on Tenant Petitions for Rent Withholding.

- A. At the conclusion of the hearing, the Hearing Examiner shall issue a written decision in a manner consistent with Chapter 8 of these Regulations.
- B. Notwithstanding Regulation 421(B), the Hearing Examiner's written decision shall contain findings of fact and legal conclusions. If the Hearing Examiner determines that the Landlord has willfully and knowingly failed to meet the reporting obligations set forth in Richmond Municipal Code Section 11.100.060(s), and/or specified in the Petition, the Hearing Examiner shall issue an order directing the Landlord to comply with said reporting obligations, including payment of the Residential Rental Housing Fee, and authorize the petitioning Tenant(s) to withhold payment of rent beginning with the next regularly scheduled rent payment after the effective date of the order, until such time as all affected units on the property are brought into compliance. Any rent withheld pursuant to this section may be paid into escrow pursuant to Regulation 424.
- C. Rent withholding orders shall become effective 30 days following the date on which the decision is mailed to the parties unless, within that time, the Landlord complies with the reporting requirements alleged to have been violated or asserts a timely appeal. Where a Landlord files an appeal, the rent withholding order will be stayed pending appeal.
- D. Notwithstanding the appeals process set forth in Chapter 8 of these Regulations, in the event that the Rent Board initiates a hearing pursuant to Regulation 849 or is a party to a hearing based on a petition relating to reporting requirements set forth in Richmond Municipal Code Section 11.100.060(s), a Hearing Examiner's decision on the issues presented shall be considered final and the parties administrative remedies deemed exhausted.

418-423. (RESERVED)

424. Escrow Account for Rent Withholdings

- A. Consistent with Regulations 852 through 857, where a Hearing Examiner issues an order to withhold rent, the Hearing Examiner may also order that all withheld rent be paid into an escrow account maintained by the Board to be collected and held until such a time the Landlord complies with the Hearing Examiner's decision. When the Hearing Examiner has received sufficient proof that the Landlord has complied with the Hearing Examiner's order, the Hearing Examiner shall determine what, if any, portion of the withheld rent is owed to the Landlord and shall have the monies distributed from the escrow account accordingly.

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B. In no event shall the amount of rent ordered to be withheld and deposited into escrow be construed as a determination of the lawfulness of the amount of rent being demanded or charged by the Landlord.

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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.

401. Establishment of Base Rent

- A. The rent in effect on July 21, 2015 is the Base Rent. If there was no rent in effect on that date, the Base Rent is the rent charged on the first date that rent was charged after that date.
- B. For tenancies that commenced after July 21, 2015, the Base Rent is the initial rental rate in effect on the date the tenancy begins. "Initial rental rate" is defined under Section 700(B).

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

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

403. Changes in Exempt Status

- A. Within sixty (60) calendar days of the date a Rental Unit formerly exempt from the rent control provisions of the Ordinance (Section 11.100.030(d) (1)-(6)) becomes a Controlled Rental Unit under the Ordinance, the Landlord shall file an initial registration statement, or an amended registration statement if an initial registration statement has been previously filed, for the Rental Unit.
- B. Within sixty (60) calendar days of the date a Controlled Rental Unit becomes exempt from rent control under the Ordinance, the Landlord shall notify the Board in writing of the exempt status of the Rental Unit and the basis for the exemption.
- C. Within thirty (30) calendar days after the filing of a new rent registration statement, the Board shall provide a true and correct copy of said statement to the occupant of the respective unit.

404. Notification of Changes of Name or Address of Landlord and/or Property Manager

- A. Within sixty (60) calendar days of any change in the owner and/or property manager of a Rental Unit, the Landlord shall notify the Board in writing of the change.
- B. Within sixty (60) calendar days of any change in the address of the owner and/or property manager of a Rental Unit, the Landlord shall notify the Board in writing of the change.

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- C. The Board shall send all notices to the Landlord at the most current address provided by the Landlord. Failure to receive a notice as a result of noncompliance with this section shall not be a good cause for purposes of waiving penalties owed to the Board.

405-15. (RESERVED)

416. Authorization of Petitions for Rent Withholding.

- A. Tenants seeking authorization to withhold rent pursuant to R.M.C §11.100.060(s), must file a petition provided by the Rent Program. If the petition to withhold rent is based on a Landlord's failure to pay the Residential Rental Housing Fee and such a petition implicates the exemption status of the challenged Rental Unit or property, the Tenant shall include a brief statement describing the basis of the petition and the evidence relied on to substantiate the assertion that there has been a failure to pay the Residential Rental Housing Fee.
- B. A copy of any rent withholding petition based on a failure to pay the Residential Rental Housing Fee that implicates the exemption status of the challenged Rental Unit or property, shall be forwarded to the Executive Director and the Executive Director shall investigate or direct a Rent Program Staff member(s) to investigate the basis for the petition and prepare a report stating the findings of the investigation. Such investigation may include, but is not limited to, inspection of the property, investigation of public's records, and any other reasonable means ascertaining the status of the property.
- C. Submittal of petitions, conducting of hearings, and requesting appeals must be performed in a manner consistent with Chapter 8 of these Regulations

417. Parties

Specific only to petitions brought under Regulation 416 or Regulation 206, the parties to a proceeding on a rent withholding petition shall be the petitioner, the Tenants of any affected unit, the Landlord, and the Rent Board as represented by the administrative staff member(s).

418. Board Action in lieu of Tenant Petition

Pursuant to R.M.C § 11.100.060(s) and this Regulation, in lieu of the a Tenant petition filed under Regulation 416, the Board is authorized to initiate the rent withholding process or may continue with a proceeding initiated by a Tenant even if the petitioner requests a dismissal, or fails to prosecute the petition.

419. Failure to Comply with Reporting Requirements Set Forth in Richmond Municipal Code Section 11.100.060(s)

In determining whether a Landlord has failed to comply with reporting requirements set out in Richmond Municipal Code Section 11.100.060(s), the Hearing Officer shall apply the criteria for substantial compliance consistent with Civil Code 1947.7, et.seq, as amended.

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