



Item H-3: Rental Housing Fee Billing Methodology

June 20, 2018 | Regular Meeting of the Richmond Rent Board

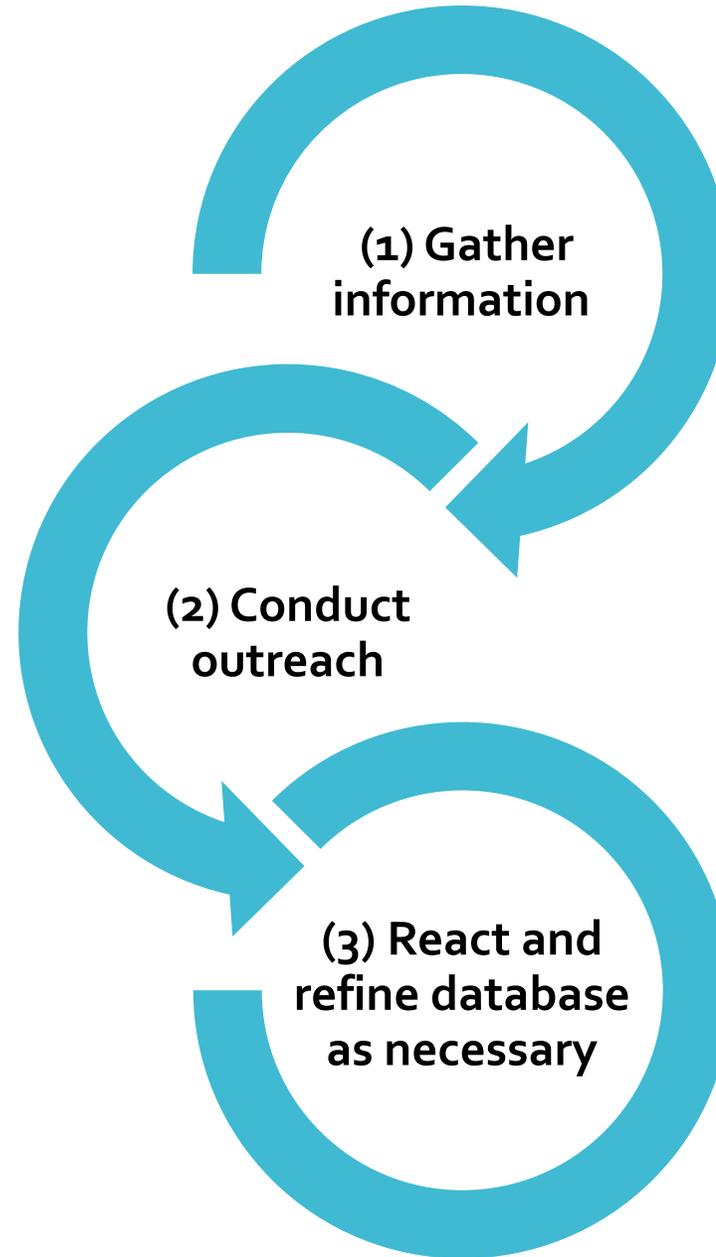
Item H-3: Background

- The Rent Program Department is funded solely by the Residential Rental Housing Fee, which is approved by the City Council on an annual basis following the Rent Board's adoption of the annual Rent Program budget.
- In accordance with Section 11.100.060(l)(1) of the Rent Ordinance, the Residential Rental Housing Fee is paid by all Landlords of Rental Units in the City of Richmond.
- In fall 2017, staff members embarked on the first billing cycle of the Rental Housing Fee, utilizing a proactive approach to solicit the greatest possible compliance.
- Invoices were mailed to approximately 23,500 Rental Units identified in the City's database of total Rental Units.

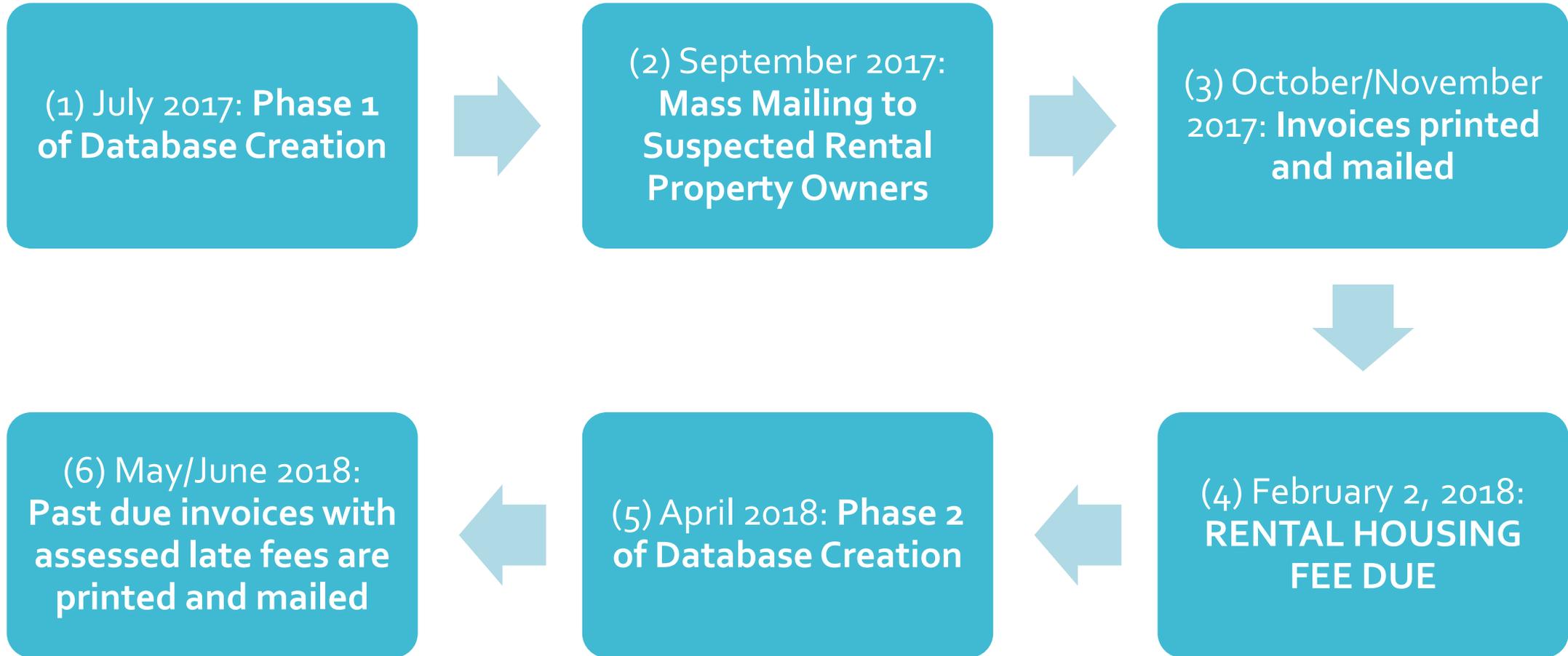
Item H-3: Background (continued)

- The first billing cycle functioned as an additional public education and exemption verification project; approximately 4,087 suspected Rental Units mailed invoices for the Rental Housing Fee have been removed from the database following verification of exemption. This represents a correction rate of approximately 17 percent.
- As of June 8, 2018, approximately 64% of Rental Housing Fee revenue, amounting to about \$1.8 million, has been collected.
- Aggressive compliance efforts are necessary to increase collection rates.
- At the request of the Rent Board Chair, staff members have prepared a presentation describing the methodology used for billing of the Rental Housing Fee to educate the Board and members of the public on the process and sources of correction.

Item H-3: Basic Approach



Overview of Rental Housing Fee Billing Process



Item H-3: Task 1: Database Development

PROCESS

1. Individual Rental Unit records are created in TrakIt, the City's shared property information and case management system.
 - Data sources:
 - Residential Rental Inspection Program data
 - Rent Program enrollment form
 - Inventory of affordable housing developments prepared by Rent Program staff members
2. Rental Housing Fee is assessed on each Rental Unit record

UNANTICIPATED OUTCOMES

- The Residential Rental Inspection Program operates on a three-year inspection cycle; therefore, some data received was "stale" – e.g. there were ownership and rental status changes that were not captured in the database.
- Validation of submission data is not possible using CivicPlus online forms. As such, information in the enrollment form could not be verified prior to submission.

Item H-3: Task 2: Mass Mailing to Suspected Rental Property Owners

PROCESS

1. Rent Program staff mail a packet of information to all owners of suspected rental units, using the following criteria:
 - No Homeowners Tax Exemption was filed with the County; or
 - Site address of the property and owner's mailing address were different
2. Owners are asked to either enroll their Rental Units or complete the Declaration of Owner Occupation and/or Exemption if the property is not rented.
3. Completed owner declaration forms are processed as they are received.

UNANTICIPATED OUTCOMES

- Many property owners who live in their homes may not know about the Homeowner's Tax Exemption; therefore, this is not always a reliable indicator of rental status.
- Some property owners prefer to have their address on file with the County as a PO box. In this case, the site address and mailing address would not match; however, this may not always indicate rented status.

Item H-3: Task 3: Invoices are Printed and Mailed

PROCESS

1. TrakIt generates invoices for all properties for which a Rental Housing Fee has been applied.
2. Staff members print and mail invoices to the owner on record according to the Contra Costa County Assessor's Office.

UNANTICIPATED OUTCOMES

- Owner mailing addresses on file with the County are not always accurate; hundreds of invoices were returned to sender or came back as undeliverable due to incomplete or incorrect address.
- Staff members are verifying mailing addresses on file with the Contra Costa County Assessor's Office with other data sources (e.g. DataTree) and are conducting research to determine how to best reach owners with undeliverable mail.

Item H-3: Task 4: Rental Housing Fee is Due

PROCESS

1. Rental Housing fee was originally due January 2, 2018; staff members extended the deadline to February 2, 2018 in recognition of the holiday closure and backlog of inquiries.
2. Due date is posted on the Rent Program website calendar and the City's Community Calendar
3. Fee payment instructions are posted on the Rent Program website and online payment announcements are published in the City Manager's Weekly Report.

RENTAL HOUSING FEE GRACE PERIOD

The Rental Housing Fee may be
paid without penalty until:

FEBRUARY 2, 2018

After February 2, 2018, the following late payment penalties apply:

1-30 days late: 10%
31-60 day late: 25%
61+ days late: 50%

Visit www.richmondrent.org/billing for payment instructions

(510) 620-6576 | www.richmondrent.org | rent@ci.richmond.ca.us



Item H-3: Task 5: Database Development (continued)

PROCESS

1. Additional unit records are created in TrakIt; fees are assessed on each record
 - Data sources:
 - Rental Units participating in the Section 8 Housing Choice Voucher Program
 - Properties with a “Rental” Business License
2. Late fees are assessed on each record with an outstanding Rental Housing Fee in accordance with the late fees adopted by the City Council.

UNANTICIPATED OUTCOMES

- Many commercial properties have been issued a Rental Business License that is not necessarily a residential business license. On the Business License application form, APN was not consistently recorded; therefore, staff members were unable to verify residential land use as recorded with the County.
 - Unintended benefits: staff members identified multiple Rental Units housed on the same parcel with commercial uses

Item H-3: Task 6: New and “Past Due” Invoices Printed and Mailed

PROCESS

1. Invoices associated with the additional unit records created in TrakIt (see task 5) are printed and mailed to the owner on record.
2. “Past Due” invoices are printed and mailed, along with a letter from the Director explaining the fee and a Declaration of Owner Occupation and/or Exemption (to be completed by the owner if the property is not a Rental Unit.)

UNANTICIPATED OUTCOMES

- Original invoices mailed to an outdated address may have never made it to the owner.
- Owner Declarations for owner occupied properties may have never been completed and returned to the Rent Program for processing.
- Over 500 returned Declarations were submitted incomplete or incorrectly and were unable to be processed. In this case, owners would have received the Past Due invoice despite having returned the form to the Rent Program office.

Item H-3: Next Steps

- Staff members are continuing to process completed Declaration of Owner Occupation and/or Exemption forms.
- In the coming weeks, staff members will mail an additional 1,000+ Rental Housing Fee invoices for past due payment to property owners.
- Unpaid fees will be referred to the Staff Attorney and Compliance Officer for investigation and possible legal action.
- Future Rental Property Enrollment and Tenancy Registration Processes will further refine the database used to generate invoices; this is anticipated to lessen the need for corrections associated with the billing cycle.

Item H-3: Recommended Action

- **RECEIVE** a presentation regarding the methodology employed for the first billing cycle of the Rental Housing Fee – Rent Program (Nicolas Traylor 620-6564.)

**Regulations to be considered by the
Richmond Rent Board Members for
Adoption.**

**Regular Meeting of the Richmond
Rent Board**

June 20, 2018 | City Council Chambers

Legal Principles to keep in mind

- The Richmond Rent Board is empowered to enact rules and regulations to fill up the details of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance (“Rent Ordinance”).
- When Adopting proposed Regulations that Rent Board should always consider whether the Regulation is reasonably necessary to effectuate purpose of Richmond’s Rent Ordinance

Item G-1: AGA Background

- The Rent Ordinance requires the Rent Program to announce the percentage by which a landlord can increase rent in a given 12 month period, beginning on September 1st and ending October 31st of the following year.
- This rent percentage increase is referred to as the Annual General Adjustment or AGA for short
- The AGA reflects 100% of the Consumer Price Index for all urban consumers, measured in the San-Francisco-Oakland-San Jose region (“CPI”).
- The U.S. Department of Labor, Bureau of Labor Statics quarterly publishes the CPI change in a given 12 month period.
- For our purposes, according to the U.S. Department of Labor, Bureau of Labor Statics the CPI change for the annual period beginning in **February and ending in February was 3.6%**

Item G-1: What Does Proposed Regulation 17-11 Do?

- Regulation 17-11 authorizes the Landlords who are in compliance with the Rent Ordinance and other applicable Regulations, to increase rents by no more than 3.6% for tenancies that began prior to September 1, 2017.
- It also reaffirms the three noticing obligations:
 - Prior to increasing rents Landlords must serve tenants with a notice of rent increase in a manner consistent with Civil Code Section 827
 - Serve the Rent Board with a copy of the Rent increase notice
 - File a copy of proof of service of the Rent increase with the Rent Board

Item G-1: Recommended Action

- ADOPT Regulation 17-11, establishing the 2018 Annual General Adjustment in the amount of 3.6% for tenancies commencing prior to September 1, 2017 – Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

Item G-2: Chapterization Background

Administrative Issues with Existing Regulations

Currently, Regulations are:

- Not centralized
- Difficult to locate
- Lack a table of contents or other indexing
- Use differing nomenclature

Item G-2: Proposal

Staff is proposing the Rent Board approve a format that would centralize existing and future Regulations.

It is Staff's opinion that the most optimal format is the Chapter used by other Rent Stabilization and currently used for some of our Regulations.

To that end Staff has converted Regulation 17-01 and Regulation 17-03 into Chapter 2 and is seeking Rent Board direction going forward.

Item G-2: Recommended Action

- APPROVE the Chapterization of Regulation 17-01 and Regulation 17-03 into Chapter 2 and PROVIDE direction to staff regarding how future Chaptered Regulations should be presented to the Rent Board – Rent Program (Nicolas Traylor/Charles Oshinuga 620-6564).

Item G-3: Rent Registry Background

- On February 17, 2018, the Rent Board adopted Chapter 4 of the Regulation, which in part established a Rent Registry.
- Chapter 4 included a general purpose statement and authorized the Rent Program to gather particular information to establish and maintain a rent registry.
- After review, staff found that the purpose statement was missing an important reference to Civil Code Section 1947.7 et seq., and omitted tenant information from the list of gatherable information
- Tenant information is integral in adequately stabilizing rents and enforcing the principles of the Rent Ordinance, and is necessary in effectuating the purpose of the Rent Ordinance.

Item G-3:
Rent Registry-
Civil Code
Section
1947.7(g)

Excerpts from Civil Code Section 1947.7

(g) In those jurisdictions where an ordinance or charter controls, or establishes a system of controls on, the price at which residential rental units may be offered for rent or lease and requires the periodic registration of rents, **and where, for purposes of compliance with subdivision (e) of Section 1954.53, the local agency requires an owner to provide the name of a present or former tenant, the tenant's name and any additional information provided concerning the tenant, is confidential and shall be treated as confidential information within the meaning of the Information Practices Act of 1977** (Chapter 1 (commencing with Section 1798) of Title 1.8 of this part). A local agency shall, to the extent required by this subdivision, be considered an "agency" as defined in subdivision (b) of Section 1798.3. For purposes of compliance with subdivision (e) of Section 1954.53, **a local agency subject to this subdivision may request, but shall not compel, an owner to provide any information regarding a tenant other than the tenant's name.**

Item G-3: What Does Proposed Regulation 400 Do?

Proposed Regulation 400 would clearly bring us in line with the principles espoused in Civil Code Section 1947.7, et seq.

Item G-3: What Does Proposed Regulation 402(A)(1) Do?

Proposed Regulation 402(A)(1)

Permits staff to gather information on how many Tenants occupy a particular unit and Tenant names.

It also grants the Rent Program the discretion of gathering other reasonably requested information.

Item G-3: 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).

Item G-4: Exemption Status Determination- Background

Staff has noticed a considerable uptick in Landlord and Tenant 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.

Compounding the issue is the notion that decisions that affect the exempt/nonexempt status of a Rental Unit will implicate reporting requirements described in Richmond Municipal Code Section 11.100.060(s). The Rent Ordinance authorizes tenant petitions for rent withholding when a landlord fails to comply with Richmond Municipal Code Section 11.100.060(s). Despite the Rent Ordinance authorizing such a petition, we lack Regulations that create a procedure by which a tenant can effectuate the aforementioned right endowed by the Rent Ordinance.

Item G-4:
Richmond
Municipal Code
Section
11.100.060(s)

Richmond Municipal Code Section 11.100.060(s)

Reporting and Fee Payment Requirements.

(1) Within sixty (60) days after the adoption of this Chapter, **all Landlords shall be required to file a copy of all rental increase notices, change of terms of tenancy and tenancy termination notices with the Board before serving the tenant the notice.** A proof of service with time and date of service of notice shall be included with notice filed with the City.

(2) **If the Board, after the Landlord has proper notice and after a hearing, determines that a 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.** After a notice is properly filed or fee paid, the Board shall determine what portion, if any, of the withheld rent is owed to the landlord for the period in which the notice was not properly filed or fee paid. Whether or not the Board allows such withholding, no Landlord who has failed to properly report or pay the fee shall at any time increase Rents for a Rental Unit until such fee or notice is reported. This shall go into effect thirty (30) days after determination of the Board.

Item G-4: What Does Proposed Regulation 205 Do?

Proposed Regulation 205

Proposed Regulation 205 would authorize Landlords to seek a formal administrative determination as to whether or to what extent their Rental Unit(s) fall within the purview of the Rent Ordinance.

Item G-4: What Does Proposed Regulation 206 Do?

Proposed Regulation 206 would create procedural and substantive standards an administrative decision must adhere to and authorize staff to use information it has gathered separate from the information submitted by the Landlord in making its determination.

Item G-4: What Does Proposed Regulation 207 Do?

Proposed Regulation 207 would permit a tenant to challenge the exemption of a Rental Unit by filing a petition for rent withholding as authorized under Richmond Municipal Code Section 11.100.060(s).

Item G-4: What Does Proposed Regulation 416 Do?

Proposed Regulation 416 would create a process via a petition in line with the principles espoused in R.M.C §11.100.060(s).

It would also authorize the rent program to engage in independent investigation to aid in a determination of the exempt status of a Rental Unit

Item G-4: What Does Proposed Regulation 417 Do?

Proposed Regulation 417 describes the parties to a petition for rent withholding as the petitioner, the landlord, any tenant whose unit would be affected by the petition, and the Rent Board, represented by a designated staff.

Item G-4: What Does Proposed Regulation 418

Because the Rent Board may be a party to a petition based on Rent Withholding, Regulation 418 permits the Rent Board to initiate the hearing process for rent withholding in lieu of a tenant petition.

Item G-4: What Does Proposed Regulation 419 Do?

Proposed Regulation 419 reiterates that the standard of substantial compliance as described by State law applies in these matters.

Item G-4: What Does Proposed Regulation 420 Do?

Proposed Regulation 420 explains that if a landlord who has allegedly failed to comply with the reporting requirements described in the Rent Ordinance, brings his/herself into compliance prior to a hearing, the petition must immediately be dismissed and no hearing may take place.

Item G-4: What Does Proposed Regulation 421 Do?

Proposed Regulation 421 reiterates the standards laid out in Richmond Municipal Code Section 11.100.060(s), namely that before a Hearing Examiner can order a Tenant to withhold Rent, the Hearing Examiner must first find that a Landlord's noncompliance was knowingly and willful.

In the event the Hearing Examiner orders the Tenant to withhold rent, such an order will not take effect until 30 days from the date the order was mailed, unless the landlord brings his/herself into compliance. If the landlord chooses to appeal, the order will be stayed pending appeal.

Finally, proposed Regulation 421 explains that where the Rent Board is a party to a petition, an appeal may be made directly to Superior Court.

Item G-4: What Does Proposed Regulation 424 Do?

Proposed Regulation 424 confirms that the Chapter 8 Regulations regarding escrow apply to petitions filed for rent withholdings. It also explains that an order to pay into escrow a particular amount is not an endorsement of the legality behind the amount charged.

Item G-4: 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 with Staff's suggested modification to change "business" days to "calendar" days, 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, which authorizes a tenant petition challenging the exempt status of particular unit or property, with Staff's suggested modification to delete the phrase "after the first hearing was held"

Item G-4: Cont'd Recommended Action

- (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 which creates standards that a Hearing Officer's decision must meet, with Staff's recommended modification to delete the phrase "Notwithstanding Regulation 421(B); 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).

Item G-1: Proposed AGA Regulation

Proposed Regulation 17-11

Richmond Municipal Code Section 11.100.070(a), establishes the Base Rent Ceiling as the Rent that was in effect on July 21, 2015, or, for tenancies that began after July 21, 2015, the rent that was charged at the inception of the tenancy, plus any adjustments of the Base Rent granted by the Board.

The 2018 Annual General Adjustment is not to exceed 3.6%.

The Annual General Adjustment granted by this Regulation shall become effective on September 1, 2018, provided that the landlord is otherwise entitled to the adjustment pursuant to the provisions of the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance, and any other applicable Regulation.

Where the landlord is entitled to the adjustment pursuant to the provisions of the Richmond Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance, and any other applicable Regulation, the Annual General Adjustment granted by this Regulation does not automatically provide for a rent increase. A Landlord may increase Rent by the 2018 Annual General Adjustment for tenancies in effect prior to September 1, 2017, only if the Landlord (a) files a copy of the notice of the rent increase with the Board after serving the Tenant with such notice, (b) serves the Tenant with a legally required notice of a rent increase under State law and (c) thereafter files with the Board a copy of the proof of service of such notice to the Tenant, consistent with Richmond Municipal Code Section 11.100.060(s).

Item G-3: Proposed Regulation 400

Proposed Regulation 400

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.

Item G-3: Proposed Regulation 402(A)(1)

Proposed Regulation 402(A)(1)

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.

Item G-4: Proposed Regulation 205

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.

Item G-4: Proposed Regulation 206

206. Issuing an Administrative Decision on Exemption Status.

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.

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.

All administrative decisions under this Regulation must be rendered within 30 business calender days from the date of application. The Rent Program shall notify the Landlord and all Tenants in the affected unit, of its exemption determination.

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

Item G-4: Proposed Regulation 207

207.Challenging a Rental Unit's Exempt Status.

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: Proposed Regulation 416

416. Authorization of Petitions for Rent Withholding.

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.

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.

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

Item G-4: Proposed Regulation 417

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).

Item G-4: Proposed Regulation 418

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.

Item G-4: Proposed Regulation 419

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.

Item G-4: Proposed Regulation 420

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

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.

Item G-4: Proposed Regulation 421

421. Decisions on Tenant Petitions for Rent Withholding.

At the conclusion of the hearing, the Hearing Examiner shall issue a written decision in a manner consistent with Chapter 8 of these Regulations.

~~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.

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.

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.

Item G-4: Proposed Regulation 424

424. Escrow Account for Rent Withholdings

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.

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.

ITEM H-1: Affordable Housing in Richmond

Presentation to Richmond Rent Board

June 20, 2018

Philip Verma, MCP

Outline

- Key terms
- Overview of main affordable housing programs
- Data on affordable housing and residents in Richmond
- Rent increases and rent burden in affordable housing

Key Terms

- **Affordable housing:** rental units that that are accessible to low-income households due to government subsidies and/or tax incentives
- **Area Median Income (AMI):** median household income within a given geography, determined annually by HUD
 - AMI (4-person household) in Alameda/Contra Costa: \$104,400
- **Rent-Burdened:** household that pays > 30% of income to rent (*severe rent burden > 50% income*)
- **Rent Shock:** a sudden and significant increase in monthly rent payments that can lead to substantial financial hardship and displacement

Section 8

approx. 2,500 units

A federal HUD program that subsidizes monthly rent payments for very low-income households



Barrett Terrace (CHDC)

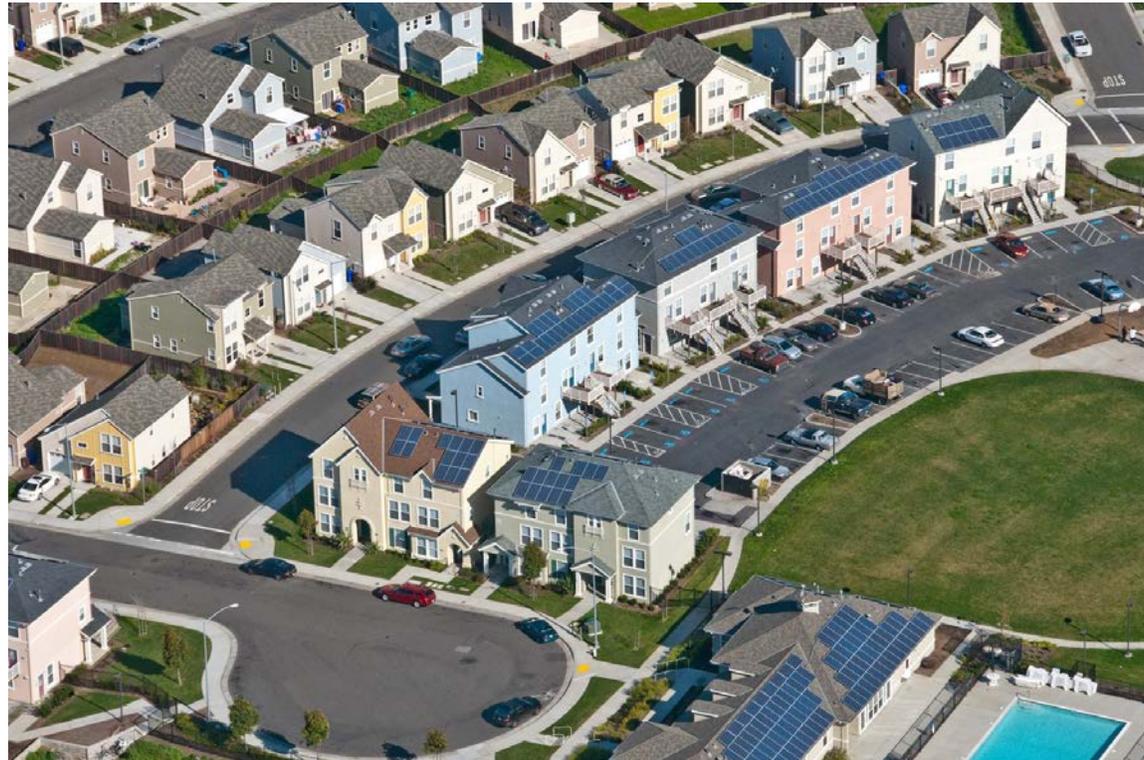
Section 8 Rules and Administration

- **Income eligibility:** primarily for extremely low-income households (< 30% AMI)
- **Rent determination:** 30% of household income
- **Rent adjustments:** tenant must recertify annually and with any changes to income
- **Administration:**
 - Project-based rental assistance: direct contracts with HUD
 - Housing Choice Vouchers: managed by RHA
 - *Tenant-based voucher:* tenant searches on private market for eligible unit
 - *Project-based voucher:* Housing Authority allowed to allocate up to 20% of its vouchers to specific units

Low-Income Housing Tax Credits (LIHTC)

approx. 2,700 units

A federal program that uses the tax code to incentivize developers to build and rehab housing for low-income families



Richmond Village Apartments (McCormack Baron Salazar)

<https://www.richmondvillageapts.com/photogallery.aspx>

LIHTC Rules and Administration

- **Income eligibility:** developer sets aside either...
 - 20% of units below 50% AMI **OR** 40% of units below 60% AMI
- **Layering:** LIHTC frequently combined with other financing
- **Rent determination:** max. rent set at 30% of the chosen AMI threshold
- **Rent adjustments:** based on annual changes to AMI
- **Administration:**
 - Treasury Department/IRS
 - California Tax Credit Allocation Committee (TCAC)

AMI = Area Median Income

Inspections and Grievances

Project-Based Section 8

- Overseen by HUD, grievances handled through CA Affordable Housing Initiatives (CAHI)
- Subject to inspections every 1-3 yrs. following Uniform Physical Conditions Standards (UPCS)

Housing Choice Vouchers

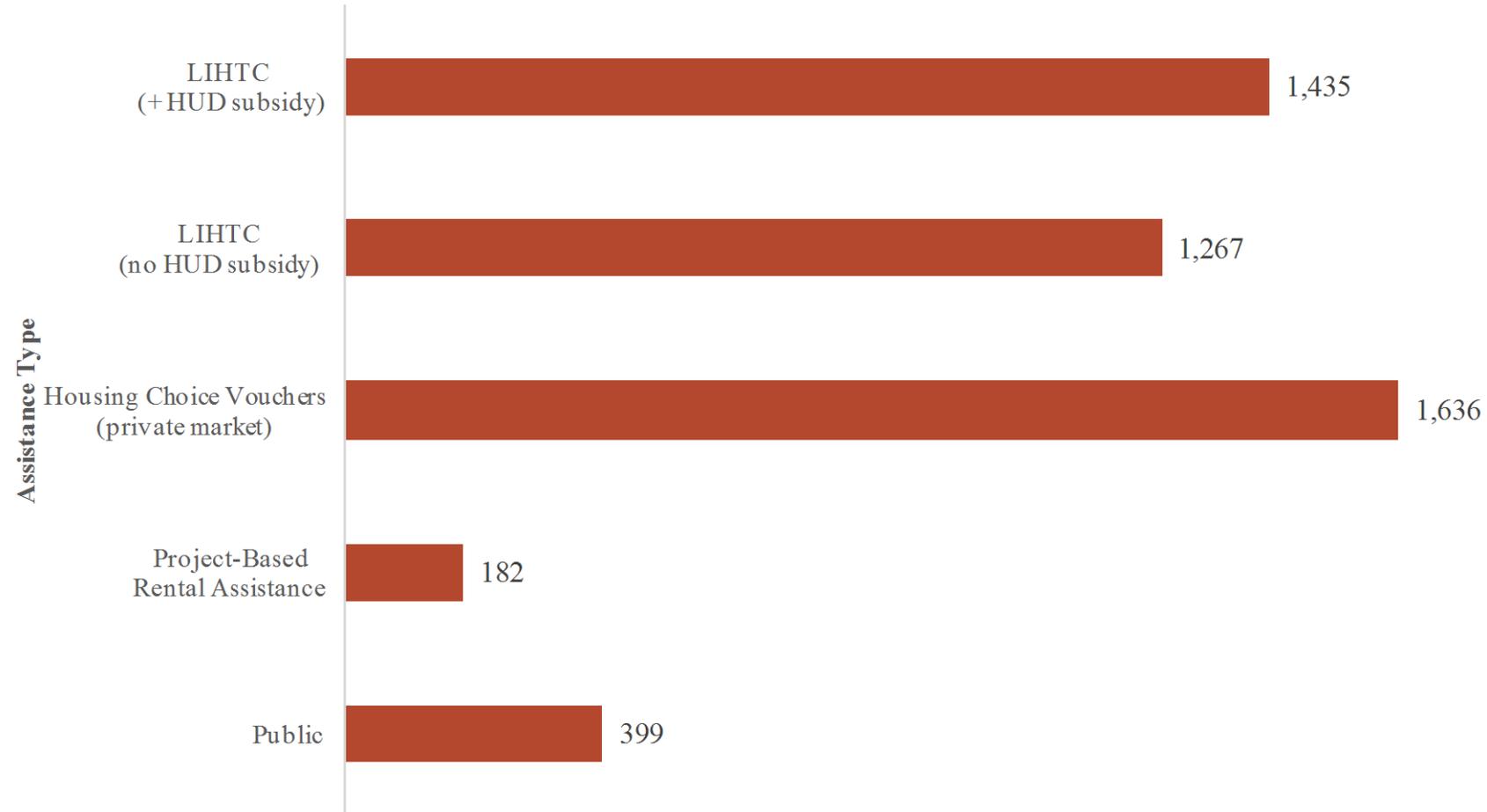
- Inspections and grievances handled by Housing Authority
- Subject to annual Housing Quality Standards (HQS) inspections

LIHTC

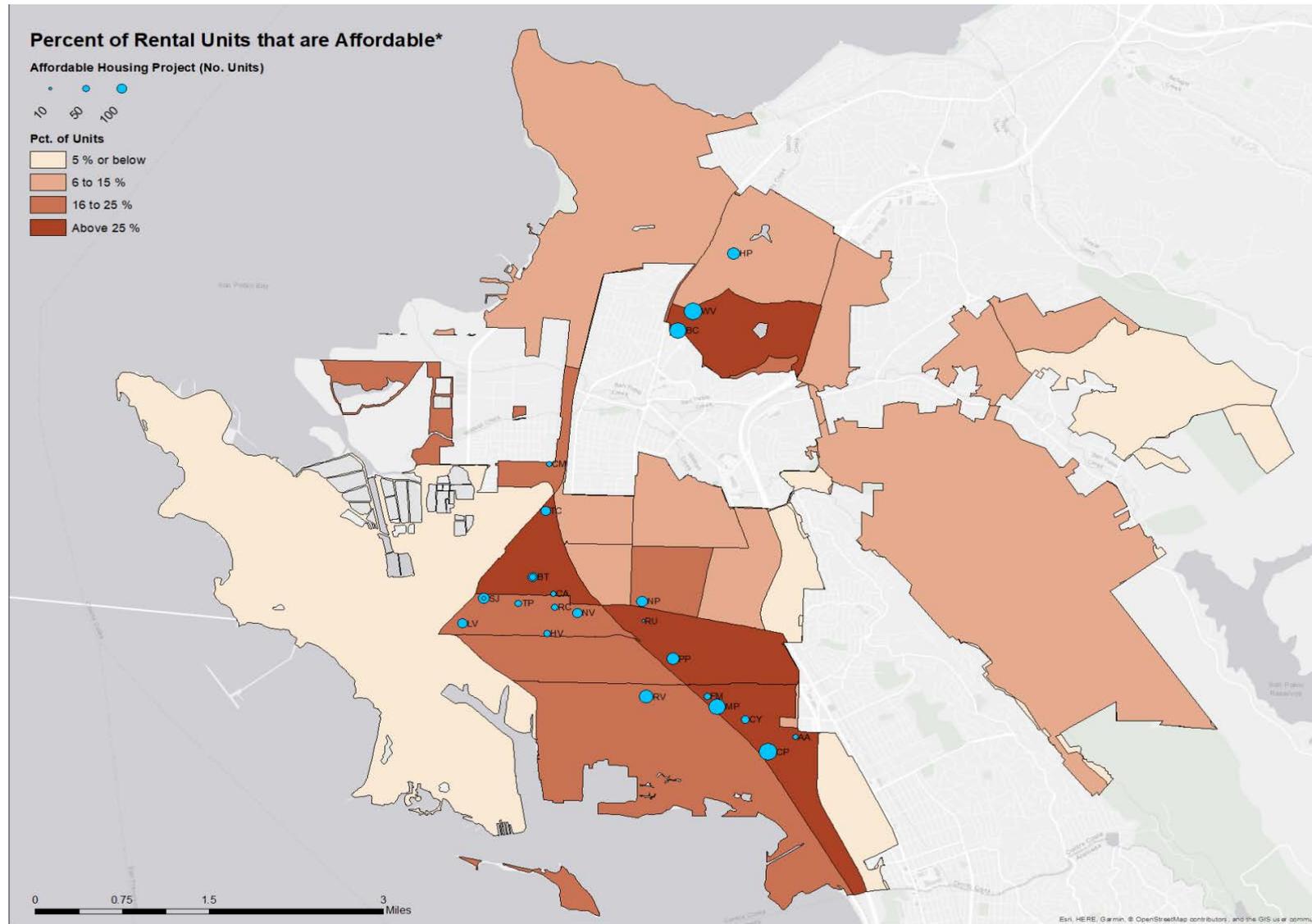
- Inspections and grievances handled by TCAC's Compliance Program
- Subject to inspections every 3 yrs. during 15-yr. compliance period – also uses UPCS

Types of Affordable Housing in Richmond

Affordable Housing Units by Type



Geography of Affordable Housing



Source: Richmond Rent Program (2017), HUD Picture of Subsidized Households (2017)

Section 8 Households in Richmond

	Project-Based Rental Assistance	Housing Choice Vouchers	<i>Richmond</i> <i>(all households)</i>
Number of Households in Richmond	924	1,622	34,949
Avg. Annual Income	\$14,640	\$12,996	\$75,456
Pct. Black	73%	78%	17%
Pct. Hispanic/Latino	17%	8%	45%
Pct. female-headed with children	51%	33%	7%

LIHTC Households in California

HUD Data

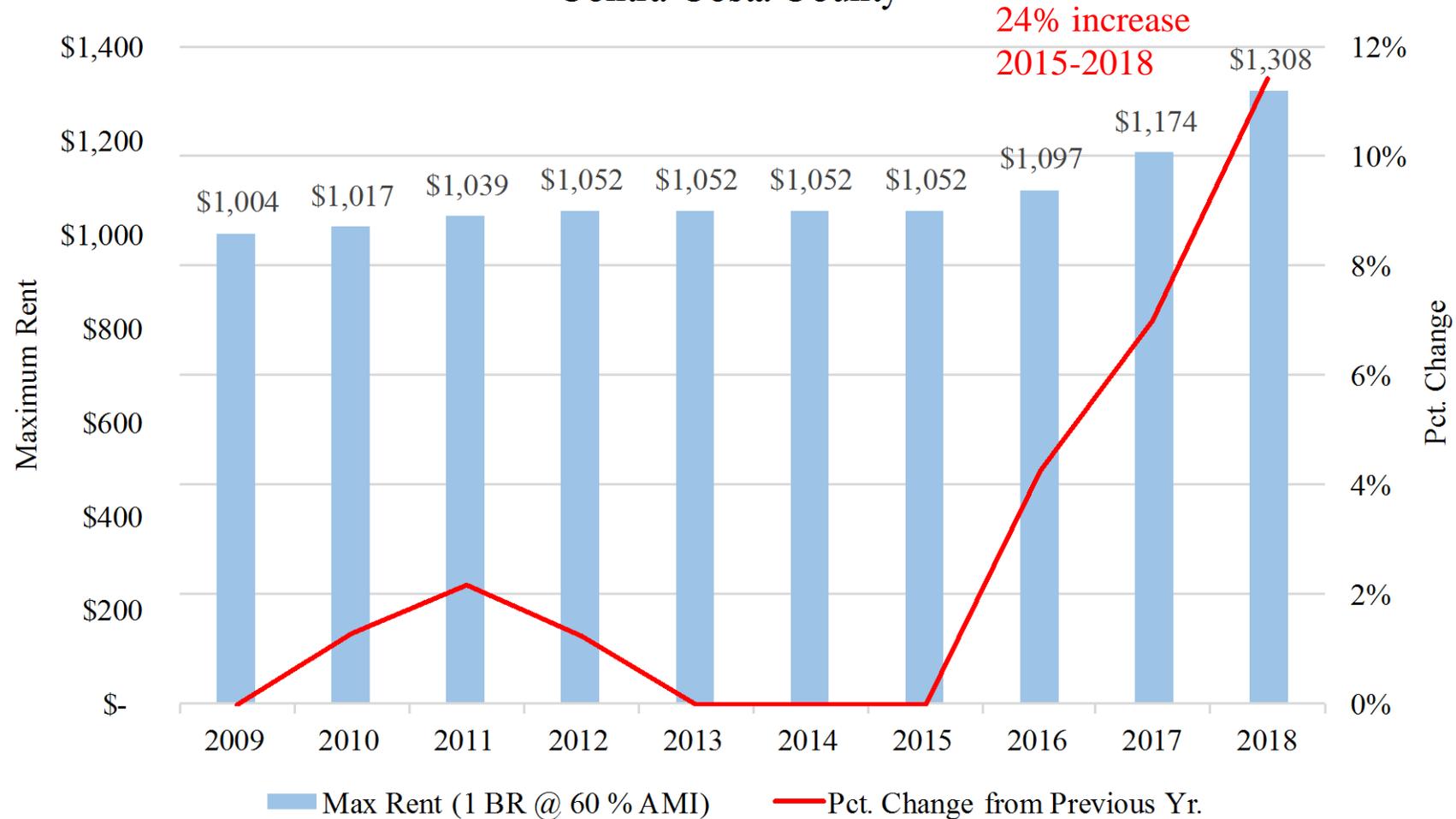
- **Race:** 31% Hispanic, 20% White, 14% Black, 11% Asian
- **Income:** ~ 80 % are very low income (< 50% AMI)
- **Rent Burden:** 44% are rent burdened, 12% are severely rent-burdened

Turner Center Survey

- **Family:** 75% lived with children
- **Past Housing:** 20% previously homeless, 20% experienced forced move
- **Employment:** 58% were employed – primarily in low-wage jobs with few benefits
- **Long-Term Tenancy:** 54% were unit's original inhabitants

Permitted Rent Ceilings in LIHTC

Historic TCAC Maximum Rents Contra Costa County



Recommended Action

RECEIVE a presentation of a partial Client Report completed by Graduate Student Fellow Philip Verma, prepared in partial satisfaction for the degree of Master of City Planning, regarding promoting stability and quality in affordable housing developments in Richmond.

Item H-2: Rent Increases in Tax Credit Properties

June 20, 2018 | City Council Chambers

Item H-2: Background

- At the April 23, 2018, Special Meeting of the Richmond Rent Board and May 1, 2018, Regular Meeting of the Richmond City Council, several residents of Heritage Park at Hilltop Apartments, a Tax Credit property constructed in 2000, voiced concerns about:
 1. Recent rent increases served to Tenants in excess of 10% effective July 1, 2018;
 2. Perceived lack of refuse removal on the premises; and,
 3. Inadequacy of security systems.
- Security and refuse removal concerns have been referred to the Police Department, Code Enforcement Unit, and Centro Legal de la Raza, as appropriate.
- Rental Units in Tax Credit, Section 8, and other “affordable” developments are exempt from limits on the amount of rent that may be charged pursuant to Regulation 17-01, adopted by the Rent Board on November 15, 2017.

HERITAGE PARK AT HILLTOP APARTMENTS

3811 Lakeside Drive, Richmond, CA 94806

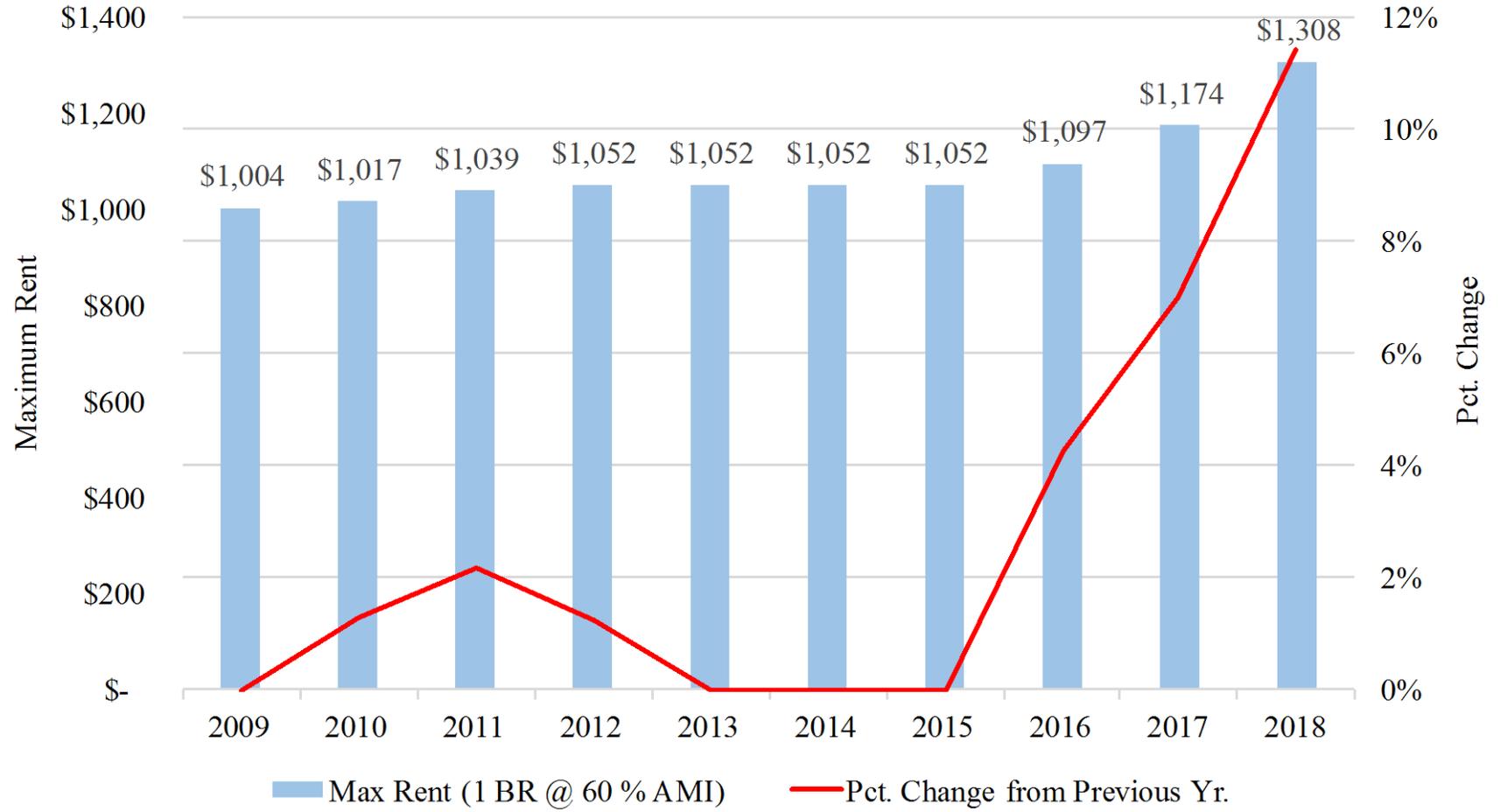
- Heritage Park at Hilltop Apartments is one of 16 “affordable” housing developments in the City of Richmond financed with Low Income Housing Tax Credits (Section 42 of the Internal Revenue Code).
- Consists of 192 units rented to individuals age 55 years and older
- According to the Density Bonus Agreement between the City of Richmond and Hilltop Group LP, 50% of Lower Income Household Units must be rented to Senior Citizen Lower Income Households.
- “Lower Income Household” means a household whose income is equal to or less than 80% of the Area Median Income (AMI), and is considered able to afford rent that does not exceed 30% of 60% of the AMI.



Item H-2: Background (continued)

Item H-2: Background (continued)

Historic TCAC Maximum Rents
Contra Costa County



Item H-2: Background (continued)

At the May 16, 2018, Regular Meeting of the Richmond Rent Board, the Board discussed concerns voiced by residents at Heritage Park and provided the following direction to staff members:

1. Attend the conference call with affordable housing providers organized by staff to discuss the implications of the 2018 Rent Maximums published by the Tax Credit Allocation Committee (TCAC) and solicit proposals regarding how to remedy “rent shock” in Tax Credit developments;
2. Discuss the situation at Heritage Park with the Richmond Housing Authority to see what support can be provided in terms of Housing Choice Vouchers (Section 8); and
3. Provide the Board with a memorandum describing the legal options available to the Rent Board to address the rent increases at Heritage Park at Hilltop Apartments.

Item H-2: Capacity of the Richmond Housing Authority to provide assistance

- The capacity of the Richmond Housing Authority to provide assistance is extremely limited at this time, for the following reasons:
 1. Admission in the Housing Choice Voucher (Section 8) program is by wait list only.
 - There is no preference on the waitlist for “rent burdened” households, so, a Heritage Park household, if on the waitlist, would have to wait until the application reached the top for admission.
 2. All Richmond wait lists are currently closed with over 1,000 households waiting for assistance.
 3. The Richmond Housing Authority (RHA), and other housing authorities in the Bay Area, are currently facing a shortfall of Housing Choice Vouchers and there is a possibility RHA will not have sufficient funding to continue to support all existing contracts. In response, RHA has ceased issuing additional Housing Choice Vouchers.

Item H-2: May 2018 Meeting with Affordable Housing Providers

- On May 18, 2018, Rent Program staff members hosted a conference call with a majority of affordable housing providers in Richmond with the primary purpose of soliciting proposals regarding how providers can ensure Tenants in Tax Credit properties will be sheltered from “rent shock” in lieu of the Rent Board rescinding its exemption of LIHTC units from rent control.
- In response, affordable housing providers developed a proposal to limit the amount of a rent increase that may be imposed in any 12-month period.

Item H-2: Proposal from Affordable Housing Providers

- In lieu of rescinding the exemption of LIHTC units from rent control, which would only address properties NOT exempt from rent control pursuant to the Costa-Hawkins Rental Housing Act, a majority of affordable housing providers propose the following:
- Affordable housing providers will voluntarily agree to limit rent increases served in any 12-month period in Tax Credit developments to the lesser of:
 1. The maximum rent permitted by the State Tax Credit Allocation Committee (TCAC)
 - OR-
 2. The Annual General Adjustment percentage rent increase for that year plus no more than five percent of deferred rent increases.
- One of the benefits of such a voluntary agreement is its broad applicability to properties regardless of status under the Costa-Hawkins Rental Housing Act.

Item H-2: Affordable Housing Providers in Support of Proposed Agreement

The following affordable housing providers expressed a voluntary willingness to comply with the previously described limitation on rent increases:

- **USA Properties Fund** (Heritage Park at Hilltop)
- **The John Stewart Company** (Arbors, Friendship Manor, Triangle Court, Pullman Point, Rubicon Homes)
- **EAH Housing** (Crescent Park)
- **MRK Partners** (Monterey Pines, Cypress Pines)
- **Fairfield Residential** (Baycliff Apartments)
- **Klein Financial Corporation** (Westridge at Hilltop Apartments)
- Supporting affordable housing providers represent approximately 63% (2,119 out of 3,342) of deed-restricted Rental Units in the City of Richmond, and 78% (2,119 out of 2,702) of Rental Units financed through the Low Income Housing Tax Credit Program.

Item H-2: Proposed Next Steps

- Staff members recommend the Board appoint an ad-hoc committee comprised of two Boardmembers to work with staff members to develop an agreement to formalize the proposal brought forth by Low Income Housing Tax Credit (LIHTC) housing providers.
- An ad-hoc committee of fewer than three Boardmembers would have greater flexibility to work with staff members in a more expeditious manner, since the requirements of the Brown Act would not apply.
- Together with staff, the ad-hoc committee would then present the agreement to the Rent Board as a whole for approval.

Item H-2: Recommended Action

- (1) RECEIVE an update regarding rent increases in Low Income Housing Tax Credit (LIHTC) properties and (2) APPOINT an ad hoc Rent Board committee (consisting of two Boardmembers) to work with staff to develop an agreement with Low Income Housing Tax Credit (LIHTC) providers that would limit rent increases applied in any twelve-month period to Rental Units in LIHTC developments to the lesser of (a) the maximum rent permitted by the State Tax Credit Allocation Committee or (b) the Annual General Adjustment percentage rent increase for that year plus no more than five percent of deferred rent increases – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).