

## **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.

*[Adopted February 21, 2018]*

*[Amended June 20, 2018]*

### **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).

*[Adopted February 21, 2018]*

### **402. Required Rent Registration**

- A. Only tenancies in Controlled Rental Unit(s) need to be Registered with the Richmond Rent Board. A Controlled Rental Unit is properly Registered in accordance with this Chapter if the Landlord or Landlord's representative has:
  - (1) Filed with the Board completed Tenancy Registration Forms provided by the Board for the Controlled Rental Unit and all the Controlled Rental Units on the same property that include:
    - a. The addresses of all Controlled Rental 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 Controlled Rental Unit(s) 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 Controlled Rental Unit and the housing services included in the rent or the reason the Controlled Rental Unit(s) is exempt pursuant to Regulation 201, Regulation 202, and Regulation 203 and has no current Base Rent;
  - e. The number of Tenants occupying the Controlled Rental Unit(s) and Tenants names; and
  - f. Such other information reasonably requested by the Rent Program.
- (2) Paid to the City of Richmond the Residential Rental Housing Fee, Business License Tax, and any other fees due for the Controlled Rental Unit and all the Controlled Rental Units in the same property; and
- (3) Filed with the Board, for the Controlled Rental Unit and all the Controlled Rental 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 603 and Regulation 1001.
- B. In designating a Controlled 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 Controlled Rental Unit. 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 Richmond Fair Rent, Just Cause For Eviction And Homeowner Protection Ordinance and Richmond Rent Board Regulations concerning Registration sufficient to reasonably carry out the intent and purpose of the Richmond Fair Rent, Just Cause For Eviction And Homeowner Protection 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.

*[Adopted February 21, 2018]*

*[Amended September 19, 2018]*

#### **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.

*[Adopted February 21, 2018]*

#### **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.
- 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.

*[Adopted February 21, 2018]*

#### **405. Enrollment and Registration with the Richmond Rent Program**

A. Prior to filing with the Board, or serving any Tenant, any notice of a rent increase, change in terms of tenancy or termination of tenancy, a Landlord must: (1) enroll with the Rent Board all of a Landlord's Rental Units, except for those that are fully exempted from the provisions of the Richmond Fair Rent, Just Cause For Eviction, and Homeowner Protection Ordinance pursuant to Regulation 201, and; (2) complete the Rent Registration requirements for tenancies in Controlled Rental Units pursuant to Regulation 402.

B. A Rental Property is enrolled in accordance with this Chapter if the Landlord or Landlord's representative has:

(1) Filed with the Rent Board completed enrollment forms using the form(s) provided by the Board for each property containing at least one Rental Unit. The form shall request information including:

- a. Property ownership information;

- b. Date of construction, date of property title change, number of units on the property, Business License number, and expiration date;
- c. The type (e.g. single family home unit, Section 8 tenancy, newly constructed unit) and status (e.g. currently rented, not available for rent, owner occupied) of each dwelling unit on the property.
- d. Such other information reasonably requested by the Rent Program.

C. In the event of property title transfer or other substantive change in information reasonably requested on the enrollment form, the Landlord shall file an amended enrollment form with the Board within 30 calendar days of the effective date of the change.

*[Formerly Regulation 17-10; adopted September 20, 2017]*

*[Amended September 19, 2018]*

#### **406. Failure of a Landlord to Enroll, Register, and/or File**

If a Landlord has failed to: (1) enroll a Rental Unit with the Rent Board as provided in Regulation 405; (2) register a tenancy in a Controlled Rental Unit with the Rent Board as provided in Regulation 402 and Regulation 405; and/or (3) file with the Board a notice of a rent increase, change in terms of tenancy, or termination of tenancy as provided in Regulation 603 and Regulation 1001 a Tenant in an unlawful detainer action may obtain from a Rent Program staff member a Certification stating that to the best of the knowledge of the Rent Board staff, the Rental Unit was not enrolled, the tenancy in a Controlled Rental Unit was not registered, and/or the required notice was not filed with the Rent Board in accordance with this Regulation, and assert the aforementioned noncompliance as an affirmative defense in an unlawful detainer action.

*[Formerly Regulation 17-10; adopted September 20, 2017]*

*[Amended September 19, 2018]*

#### **407-415. (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.

*[Adopted June 20, 2018]*

#### **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).

*[Adopted June 20, 2018]*

#### **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.

*[Adopted June 20, 2018]*

#### **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.

*[Adopted June 20, 2018]*

#### **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.

*[Adopted June 20, 2018]*

#### **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. 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.

*[Adopted June 20, 2018]*

#### **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.
- 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.

*[Adopted June 20, 2018]*

#### **425. Waiver of Delinquent Residential Housing Fee Assessment**

- A. Purpose of Regulation.

Pursuant to Richmond City Council Ordinance NO. 16-17 N.S., Section 3, "any Landlord as defined in Section 11.100.030(f) of the Municipal Code of the City of Richmond who fails to file any required statement and pay the amount of the Residential Rental Housing Fee prescribed by City Council resolution within thirty (30) days after it becomes due shall be deemed delinquent and shall be assessed the following late payment fee:

- (1) Ten percent of the Residential Housing Fee if the payment is made within one to thirty days after it became delinquent;
- (2) Twenty-five percent of the Residential Rental Housing Fee if the payment is made within thirty-one to sixty days after it became delinquent; and
- (3) Fifty percent of the Residential Rental Housing Fee if the payment is made more than sixty days after it became delinquent.”

The purpose of Regulation 425 is to both clarify and simplify the Late Fee waiver process, while simultaneously providing for adequate Rent Board transparency and oversight.

**B. Scope and Applicability.**

Any Landlord that is subject to an imposition of Late Fees assessed in a manner consistent with Richmond City Council Ordinance 16-17 N.S., as amended, may request the waiver of such Late Fees assessments. However, Regulation 425 does not apply to the waiver of the Residential Rental Housing Fee as the Residential Rental Housing Fee must be assessed in accordance with Richmond Municipal Code Section 11.100.060(l) and shall not be waived.

**C. Required Forms.**

The Rent Program shall make available on its website and at its office, a Late Fee waiver form. All Late Fee waiver requests shall be made on this Official Rent Program form. At a minimum, the form shall contain the requestors name, contact information, amount sought to be waived, and stated basis for the waiver.

**D. Process and Procedures of Late Fee Waiver Request.**

1. Where a Landlord has submitted a completed Official Rent Program form for a Late Fee waiver, the Executive Director shall, within thirty (30) calendar days, review the request in a manner consistent with Regulation 425(E). After making the necessary findings, the Executive Director shall, except where otherwise specified, prepare a written recommendation to the Rent Board to either grant or deny the Late Fee waiver request. The written recommendation must contain a brief statement either granting or denying, in part or in whole, the Late Fee Waiver request, and a stated basis for the decision.
2. At the end of each month, Rent Program staff members shall compile the Late Fee waiver requests and accompanying written recommendations into a spreadsheet to be agendaized for the following Regular Rent Board meeting. At a minimum, the spreadsheet shall contain sections describing the date of request, the reason for the request, a recommendation to either approve or deny the request, and the total amount waived. Landlord’s personal information shall be redacted from the spreadsheet and any other attached documents that are presented to the Rent Board.

3. Rent Program staff members shall ensure that the Executive Director's written recommendation and accompanying spreadsheet is placed on the Consent Calendar of the Rent Board agenda. Upon a majority vote, Rent Boardmembers may pull the item from the Consent Calendar for further discussion related to the Executive Director's written recommendation.

E. Standard for Consideration and Approval of Late Fee Waiver.

No Late Fee waiver request shall be granted unless there is a sufficient demonstration of Good Cause. The Executive Director shall be responsible for evaluating whether a properly submitted Late Fee waiver request contains enough facts to establish that Good Cause exist to grant the waiver request. For the purposes of this Regulation, Good Cause shall mean the taking of reasonable efforts and acting with due diligence to remit timely payment of the Residential Rental Housing Fee. In their consideration, the Executive Director must evaluate the following factors, whenever present, when making a determination of Good Cause:

1. Whether the failure to remit timely payment was due to a Rent Program billing error, such as an incorrect address, an incomplete invoice, or an invoice sent to the wrong owner;
2. Whether the requestor is a successor in interest who has not received an invoice.
3. Whether the requestor is experiencing a financial hardship that is caused by circumstances beyond the Landlord's control;
4. Whether the requestor experienced a medical emergency, medical treatment, hospitalization, or death in the family within the billing period;
5. Whether the requestor had submitted a request for an Administrative Determination of Exempt/Applicability Status within the billing period;
6. Whether the requestor's Tenant(s) have experienced a COVID-19 related financial hardship that has impacted the Tenant's ability to pay Rent;
7. Late payment History
8. Any other circumstances relevant to the inquiry of Good Cause.

Where the Executive Director determines that failure to remit timely Residential Rental Housing Fee payment was due in part to a Rent Program billing error as described in Regulation 425(E)(1) & Regulation 425(E)(2), such a determination shall constitute Good Cause and the requestor's Late Fees assessment must be waived. Late Fee waivers granted on the basis of a Rent Program billing error shall not be subjected to the provisions of Regulation 425(D).

F. Good Cause and Late Payment History.

Notwithstanding Regulation 425(D) and Regulation 425(E), where a requestor has made timely payments in the prior two (2) fiscal years, their request shall be ministerially granted. Such requests do not require a showing of Good Cause and shall not be subjected to the provisions of Regulation 425(D) and Regulation 425(E). Conversely, requestors who have received at least two (2) Late Fee waiver request grants in the prior

three (3) fiscal years, shall have their current fiscal year Late Fee waiver request and accompanying Executive Director's written recommendation reviewed by the Rent Board, under the "Rent Board as a Whole" agenda item.

G. Late Fee Waiver Amounts.

In the event that the Late Fee waiver request is granted, the Late Fee shall be waived in a discretionary amount that is subject to the following:

1. Rent Program billing error- 100% of the assessed Late Fee shall be waived.
2. Timely payments in the two (2) prior fiscal years- 100% of the assessed Late Fee shall be waived.
3. One (1) Late Fee waiver request granted in the prior three (3) fiscal years- Late Fee assessment shall be reduced to at least a 10% percent assessment as described in Richmond City Council Ordinance NO. 16-17 N.S., Section 3, paragraph (1).
4. Two (2) Late Fee waiver requests granted in the prior three (3) fiscal years- Late Fee assessment shall be reduced to at least a 25% percent assessment as described in Richmond City Council Ordinance NO. 16-17 N.S., Section 3, paragraph (2).
5. Three (3) Late Fee waiver requests granted in the prior three (3) fiscal years- Late Fee assessment shall not be reduced.

For purposes of this section, a grant of a Late Fee waiver request based on a Rent Program billing error shall not count towards a "Late Fee waiver request grant" as described in Regulation 425(G)(3), (G)(4) & (G)(5).

H. Construction.

Regulation 425 shall be liberally construed as to achieve its stated purpose. Rent Program staff members may take reasonable steps to expedite a Landlord's Late Fee waiver request where appropriate. In no event shall a Landlord's Late Fee waiver request be granted until they have remitted full payment of the underlying Residential Rental Housing Fee.

*[Adopted November 17, 2021]*