

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: December 19, 2018

Final Decision Date Deadline: December 19, 2018

STATEMENT OF THE ISSUE: Collaboration between Richmond Housing Authority, City staff, and stakeholders is needed to streamline the implementation process of the City's housing ordinances, two of which are in draft form.

INDICATE APPROPRIATE BODY

- | | | | | |
|---|---|--|--|---|
| <input type="checkbox"/> City Council | <input type="checkbox"/> Redevelopment Agency | <input type="checkbox"/> Housing Authority | <input type="checkbox"/> Surplus Property Authority | <input type="checkbox"/> Joint Powers Financing Authority |
| <input type="checkbox"/> Finance Standing Committee | <input type="checkbox"/> Public Safety Public Services Standing Committee | <input type="checkbox"/> Local Reuse Authority | <input checked="" type="checkbox"/> Other: <u>Rent Board</u> | |

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|---|--|--|
| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) | | |
| <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Regulation | <input checked="" type="checkbox"/> Other: <u>STUDY AND ACTION SESSION</u> |
| <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: (1) DISCUSS City of Richmond adopted and proposed housing-related ordinances; (2) DIRECT Rent Program staff to meet with City staff for the sole purpose of ascertaining the requested services from the Rent Program; and (3) REPORT back to the Rent Board in January with an update – Rent Board Chair (David Gray 620-5552).

AGENDA ITEM NO:

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AGENDA REPORT

DATE: December 19, 2018

TO: Members of the Rent Board

FROM: Chair David Gray

SUBJECT: PROPOSED COLLABORATION WITH THE RICHMOND RENT BOARD, CITY OF RICHMOND, AND RICHMOND HOUSING AUTHORITY TO IMPLEMENT HOUSING ORDINANCES TO PROTECT RICHMOND RESIDENTS

STATEMENT OF THE ISSUE:

Collaboration between Richmond Housing Authority, City staff, and stakeholders is needed to streamline the implementation process of the City's housing ordinances, two of which are in draft form.

RECOMMENDED ACTION:

(1) DISCUSS City of Richmond adopted and proposed housing-related ordinances; (2) DIRECT Rent Program staff to meet with City staff for the sole purpose of ascertaining the requested services from the Rent Program; and (3) REPORT back to the Rent Board in January with an update – Rent Board Chair (David Gray 620-5552).

FINANCIAL IMPACT OF RECOMMENDATION:

While there is no fiscal impact at this time, implementation of additional ordinances may require Richmond Rent Program staff time. For the Richmond City Council's consideration, City of Richmond and Rent Program staff shall work together to update the Reimbursement Agreement between the City of Richmond and Rent Program to ensure that Rent Program staff time can be reimbursed as deemed appropriate by both parties to ensure fair and equitable housing policy development and implementation.

DISCUSSION:

In December of 2016, the Richmond City Council adopted the Fair Chance Access to Affordable Housing Ordinance (20-16) in order to address the unmet housing needs of formerly incarcerated individuals. The ordinance ensures equal opportunity for applicants with past criminal convictions. Providers of affordable housing (defined as

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any entity that owns, manages, leases or develops housing that has received city, state, or federal funding, tax credits or other subsidies) cannot deny a prospective tenant solely on the basis of the applicant's criminal history.

In September of 2018, a coalition of nonprofit organizations proposed two ordinances for the Richmond City Council's consideration. These ordinances aim to promote greater health equity for all Richmond residents, helping to alleviate the housing crisis, ensure fair and equal housing access, and promote housing affordability.

The Source of Income Anti-Discrimination Ordinance - Would prevent landlords from explicitly refusing to rent to applicants on Section 8 or holders of the Housing Choice Voucher. This ordinance would maximize the utilization of housing assistance programs by further ensuring safeguards to existing rights of tenants from discrimination based on their source of income, or use of other rental subsidies.

The Reusable Tenant Screening Report Ordinance - Would require landlords to accept verified and secure third party tenant screening reports provided by the tenants during the housing application process. This would allow renters to use a single verified background report on rental applications as many times as needed within a 30 day period instead of paying the background check fee with each housing application.

City staff has reviewed both ordinances and requested legal opinions from the City Attorney's Office. However, if the ordinances are to be implemented and enforced by the Rent Program staff, the Rent Program staff needs to be actively engaged in drafting the ordinances. In collaboration with stakeholders, proposed next steps including hosting at least one Study Session with the Rent Board to provide an overview of draft ordinances and implementation strategies. It is anticipated that these ordinances and staffing plans, as well as any other required policy direction, will return to the City Council and Rent Board for consideration by January 2019. Accordingly, it would be prudent for the Rent Program staff to become involved now.

DOCUMENTS ATTACHED:

Attachment 1: Fair Chance Access to Affordable Housing-Ordinance

Attachment 2: Signed Reimbursement Agreement between the City of Richmond and Rent Program

Attachment 3: Source of Income Anti-Discrimination Ordinance – DRAFT

Attachment 4: Reusable Tenant Screening Report Ordinance - DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND
REQUIRING PROVIDERS OF PUBLIC OR SUBSIDIZED HOUSING TO
ENSURE EQUAL OPPORTUNITY FOR HOUSING APPLICANTS WITH
PAST CRIMINAL CONVICTIONS

The Council of the City of Richmond do ordain as follows:

Section I. Amendment of Article VII of the Richmond Municipal Code

Article VII of the Municipal Code of the City of Richmond is hereby amended to add Chapter 7.110. Chapter 7.110 shall read as follows:

Chapter 7.110

FAIR CHANCE ACCESS TO AFFORDABLE HOUSING

Sections:

- 7.110.010 Title**
- 7.110.020 Authority**
- 7.110.030 Findings**
- 7.110.040 Procedure for Use of Criminal History Information in Housing Decisions**
- 7.110.050 Professional Audit Advisory Committee**
- 7.110.060 Notice and Posting Requirements for Housing Providers**
- 7.110.070 Implementation and Enforcement**
- 7.110.080 Records to Be Maintained**
- 7.110.090 Confidentiality**

7.110.010 Title

This Ordinance shall be known as the “Fair Chance Access to Affordable Housing Ordinance”.

7.110.020 Authority

This Ordinance is adopted pursuant to the powers vested in the City of Richmond under the laws and Constitution of the State of California and the City Charter.

7.110.030 Findings

- (a) The City of Richmond is committed to equity, dignity, and public health.

- (b) The unmet housing needs of formerly incarcerated people in Richmond are an acute challenge to the dignity, public health, and equal opportunity for this population and the broader community.
- (c) A survey of 100 formerly incarcerated Richmond residents found that only fifty-three percent (53%) had stable housing three to eighteen months after their release.
- (d) Research has found that access to housing reduces recidivism, and the lack of housing can be a significant barrier to successful reintegration after incarceration.
- (e) Several cities, including Urbana, Illinois; Madison, Wisconsin; New York, New York; San Francisco, California; Newark, New Jersey; and Seattle, Washington have passed policies that restore rights and remove barriers to housing for people with past criminal convictions.
- (f) On or about April 4, 2016, the United States Department of Housing and Urban Development issued the “Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions” in which it states that “Policies that exclude persons based on criminal history must be tailored to serve the housing provider’s substantial, legitimate, nondiscriminatory interest and take into consideration such factors as the type of the crime and the length of the time since conviction.”
- (g) It has been documented by service providers providing assistance to formerly incarcerated residents in Richmond and national researchers that significant first source housing for people coming out of incarceration is publicly subsidized affordable housing. {See Corinne Carey, *No Second Chance: People with Criminal Records Denied Access to Public Housing*, 36 University of Toledo Law Review 545; Caterina Gouvis Roman and Jeremy Travis, Urban Institute, *Taking Stock: Housing, Homelessness and Prisoner Re-Entry* (2004); and *Every Door Closed: Barriers Facing Parents With Criminal Records*, CLASP and CLS Report (Chapter 3, “Criminal Records and Subsidized Housing: Families Losing the Opportunity for Decent Shelter”).}
- (h) Richmond service providers and national researchers have documented barriers to access to publicly subsidized affordable housing faced by formerly incarcerated residents. {See Corinne Carey, *No Second Chance: People with Criminal Records Denied Access to Public Housing*, 36 University of Toledo Law Review 545; Caterina Gouvis Roman and Jeremy Travis, Urban Institute, *Taking Stock: Housing, Homelessness and Prisoner Re-Entry* (2004); and *Every Door Closed: Barriers Facing Parents With Criminal Records*, CLASP and CLS Report (Chapter 3, “Criminal Records and Subsidized Housing: Families Losing the Opportunity for Decent Shelter”).}
- (i) The City of Richmond General Plan states in the Health and Wellness Element under Policy HW8.4 Inmate Re-Entry and Transition that a goal of the city is to “Support re-entry, transition and integration of former prison inmates and parolees into the community.”
- (j) The City’s Health in All Policies Strategy states that “through a targeted and concerted effort across all city departments, we can make an impact on reducing and eliminating many preventable stressors while at the same time enhancing the many assets and resources that already exist in Richmond to support human health.”

- (k) Homelessness is a critical issue in Richmond, and formerly incarcerated people are disproportionately affected by homelessness.
- (l) Not having a home can prevent a formerly incarcerated person from getting a job, from visiting with his or her children, and from fulfilling other needs that are fundamental to reintegrating with community after incarceration.
- (m) Mass incarceration is a national crisis, and restoring the rights of people affected by mass incarceration is a national priority.
- (n) The United States incarcerates more than twenty-five percent (25%) of the world's prisoners while the country comprises only five percent (5%) of the world's population.
- (o) The City of Richmond has shown a consistent interest in removing barriers faced by people coming home from incarceration, by helping establish the Reentry Success Center and adopting policies like the city's "Ban the Box" ordinance (14-13 N. S.), which removed barriers to employment.
- (p) The City of Richmond, primarily through the Richmond Housing Authority, owns, manages, and/or subsidizes various types of publicly subsidized housing, including Project-based Section 8 units, Section 202 senior housing, Public Housing units, tax-credit financed affordable housing, and housing rented with Section 8 vouchers.
- (q) Formerly incarcerated Richmond residents have done extensive research, community engagement, and program and policy development.
- (r) Research and community engagement by the Safe Return Project has identified a policy gap in the city's treatment of housing providers and their consideration of past convictions that has generated unfair and harmful barriers to housing for people with past convictions.

7.110.040 Definitions

For the purposes of this Article, the following words and phrases shall mean and include:

- (a) "Adverse Action" in the context of housing shall mean to evict, fail or refuse to rent or lease real property to an individual, or fail or refuse to continue to rent or lease real property to an individual, or fail or refuse to add a household member to an existing lease, or to reduce any tenant subsidy. The adverse action must relate to real property in Richmond.
- (b) "Affordable housing" means any residential building in Richmond that has received City, State, or Federal funding, tax credits, or other subsidies connected in whole or in part to developing, rehabilitating, restricting rents, subsidizing ownership, or otherwise providing housing for extremely low income, very low income, low income, and moderate income households.
- (c) "Appeal Hearing Body" shall mean a body authorized by the City Manager or City Council to receive and decide on appeals related to this ordinance and determine any corrective action.

- (d) “Arrest” shall mean a record from any jurisdiction that does not result in a conviction and includes information indicating that a person has been questioned, apprehended, taken into custody or detained, or held for investigation by a law enforcement, police, or prosecutorial agency and/or charged with, indicted, or tried and acquitted for any felony, misdemeanor or other criminal offense.
- (e) “Background Check Report” shall mean any criminal history report, including but not limited to those produced by the California Department of Justice, the Federal Bureau of Investigation, other law enforcement agencies, courts, or by any consumer reporting or tenant screening agency.
- (f) “Conviction” shall mean a record from any jurisdiction that includes information indicating that a person has been convicted of a felony or misdemeanor, provided that the conviction is one for which the person has been placed on probation, fined, imprisoned or paroled.
- (g) “Conviction History” shall mean information regarding one or more convictions or unresolved arrests, transmitted orally or in writing or by any other means, and obtained from any source, including but not limited to the individual to whom the information pertains and a Background Check Report.
- (h) “Directly-Related Conviction” shall mean that the conduct for which the person was convicted has a direct and specific negative bearing on the safety of persons or property, given the nature of the housing, and includes one or more of the following: any conviction where state or federal law prohibits the applicant from being eligible for the public housing; any conviction for a crime carried out in the applicant’s home or on the premises where the applicant lived; or any conviction that leads to the applicant becoming a lifetime registered sex offender.
- (i) “Evidence Of Rehabilitation or Other Mitigating Factors” may include, but is not limited to, a person’s satisfactory compliance with all terms and conditions of parole and/or probation; employer recommendations; educational attainment or vocational or professional training since the conviction; completion or active participation in rehabilitative treatment; and letters of recommendation from community organizations, counselors or case managers, teachers, community leaders or parole/probation officers who have observed the applicant since his or her conviction; and the age of person at the time of the conviction. Successful completion of parole, probation, mandatory supervision, or Post Release Community Supervision shall create a presumption of rehabilitation.
- (j) “Housing Provider” shall mean any entity that owns, master leases, manages, or develops Affordable Housing in the City. Any agent, such as a property management company, that makes tenancy decisions on behalf of the above described entities shall also be considered a “Housing Provider.”
- (k) “Inquire” shall mean any direct or indirect conduct intended to gather information from or about an applicant, candidate potential applicant or candidate, or employee, using any mode of communication, including but not limited to application forms, interviews, and background check reports.

7.110.050 Procedures for Use of Criminal History Information in Housing Decisions

- (a) Regarding applicants and individuals applying to be added to a lease for Affordable Housing, and their household members, a Housing Provider shall not, at any time or by any means, inquire about, require disclosure of, or if such information is received, base an Adverse Action in whole or in part on:
 - (1) An Arrest not leading to a Conviction;
 - (2) Participation in or completion of a diversion or a deferral of judgment program;
 - (3) A Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative, by way of example but not limitation, under California Penal Code §§ 1203.4 or 1203.4a, or 1203.1.
 - (4) A Conviction or any other determination or adjudication in the juvenile justice system, or information regarding a matter considered in or processed through the juvenile justice system;
 - (5) A Conviction that is more than two years old, the date of the Conviction being the date of sentencing; or
 - (6) Information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

- (b) The Housing Provider shall not require applicants, and individuals applying to be added to an existing lease, for Affordable Housing to disclose on any housing application the fact or details of any Conviction History or any matter identified in subsections (a)(1)-(6) above. Nor shall the Housing Provider inquire on any housing application about the fact or details of any Conviction History or any matter identified in subsections (a)(1)-(6) above.

- (c) The Housing Provider shall not require applicants, and individuals applying to be added to an existing lease, for Affordable Housing to disclose, and shall not inquire into, Conviction History until the Housing Provider has first:
 - (1) Determined that the applicant is qualified to rent the housing unit under all of the Housing Provider's criteria for assessing applicants except for criteria related to potential past criminal convictions; and
 - (2) Provided to the applicant a conditional lease agreement that commits the unit to the applicant as long as the applicant passes the Conviction History review.

- (d) If and when the Housing Provider requests written consent from the applicant to obtain a background check record of Conviction History, the Housing Provider must also request consent to share the Conviction History record with the applicant and with the City of Richmond (for the purposes of an appeal only), and must offer the applicant an opportunity to provide Evidence of Rehabilitation or Other Mitigating Factors related to convictions within the previous two years.

- (e) In reviewing Conviction History and making a decision related to Affordable Housing based on Conviction History, a Housing Provider shall conduct an individualized assessment, considering only convictions that warrant denial based on state and federal law, and considering the time that has elapsed since the Conviction, whether it

is a Directly-Related Conviction, and any evidence of inaccuracy or Evidence of Rehabilitation or Other Mitigating Factors.

- (f) If a Housing Provider intends to base an Adverse Action related to Affordable Housing on an applicant's or household member's Conviction History, prior to the Adverse Action, the Housing Provider must follow the following steps:
- (1) Notify the applicant of the prospective Adverse Action, providing in written form the following:
 - a. The type of housing sought;
 - b. A copy of the background check;
 - c. For each item of criminal history relied upon, why the Housing Provider believes it has a direct and specific negative bearing on the landlord's ability to fulfill his or her duty to protect the public and other tenants from foreseeable harm;
 - d. What bearing, if any, the time that has elapsed since the applicant's or household member's last offense has on the Housing Provider's decision;
 - e. What evidence the Housing Provider has received from the applicant or household member that shows rehabilitation or mitigation;
 - f. The name and telephone number of the city staff member who the applicant may contact if he or she believes the Housing Provider has violated this Ordinance.
 - (2) Within fourteen (14) calendar days of receiving the notice and Background Check report, the applicant can file for an appeal with the Appeal Hearing Officer. If the applicant files for an appeal, he or she must notify the Housing Provider during the same 14 day period. If the applicant does not file an appeal within 14 days, the Housing Provider can carry out the Adverse Action.
 - (3) Upon receiving an appeal application, the Appeal Hearing Officer must hold a hearing and decide whether to uphold the Housing Provider's decision within ten (10) calendar days of receiving an appeal application.
 - (4) The Housing Provider shall delay any Adverse Action and shall hold the unit open during the time of the appeals process.

7.110.060 Notice and Posting Requirements for Housing Providers

- (a) The Housing Provider shall state in all solicitations or advertisements for the rental or lease of Affordable Housing or on behalf of the Housing Provider that the Housing Provider will consider for tenancy qualified applicants with Conviction History in a manner consistent with the requirements of this Ordinance.
- (b) It shall be unlawful for any Housing Provider to produce or disseminate any advertisement related to Affordable Housing that expresses, directly or indirectly, that any person with an arrest or conviction record will not be considered for the rental or lease of real property or may not apply for the rental or lease of real property, except as required by local, state, or federal law.
- (c) The City shall publish and make available to Housing Providers, in English, Spanish, and all languages spoken by more than five percent (5%) of the City's population, a notice suitable for posting that informs applicants for Affordable Housing of their rights under this Ordinance.

(d) Housing Providers shall post the notice prominently on their website and at any location under their control that is frequently visited by applicants or potential applicants for the rental or lease of Affordable Housing in Richmond. The notice shall contain the following information:

- (1) A description of those parts of a Conviction History that may not be considered by the Housing Provider under any circumstances (e.g., convictions older than two years);
- (2) A description of the restrictions and requirements of this Act;
- (3) The definition of Evidence of Rehabilitation and Other Mitigating Factors and the timeline under which the applicant or potential applicant has a right to provide such evidence;
- (4) How an individual may report a violation of this Ordinance.

7.110.070 Implementation and Enforcement

- (a) The Ordinance will take effect six months from the date of the passage of the Ordinance. In the six month time period prior to implementation, Housing Providers are required to draft and publish written policies for implementation of the Ordinance.
- (b) The requirements of this ordinance will apply to all new and existing Affordable Housing in the City. The terms of the ordinance will be incorporated into all new and existing contracts between the Housing Provider and the city, state or federal entity providing the subsidy.
- (c) Within six months of the Ordinance's passage, the City Manager is required to identify the Appeal Hearing Officer and staffing for the appeal process, develop notices and other implementation documents, conduct outreach to Housing Providers, an annual budget and funding sources, a penalty system for addressing violations of the Ordinance, and other elements of effective implementation.
- (d) The appeal hearing process shall include the submission of documents from the Housing Provider on why housing was denied to the applicant/appellant to both the Appeal Hearing Officer and the applicant/appellant at least five (5) calendar days prior to the Appeal Hearing. The Housing Provider shall explain the decision with enough specificity for the applicant/appellant to rebut the decision. In addition, the applicant/appellant shall have the right to have an Advocate of their choosing to represent the applicant/appellant at the hearing and may present any relevant witnesses and evidence. Evidence will be considered without regard to the admissibility under the Rules of Evidence applicable to a judicial proceeding. Both the applicant/appellant and the Housing Provider shall be allowed to examine the other party's evidence and to rebut and cross examine the witnesses. Both parties shall also have the opportunity to request a translator and to request any reasonable accommodation needed to participate in the hearing process. Both parties shall also have the right to record the hearing.
- (e) Prior to implementation, Housing Providers are required to provide a written policy of their selection criteria, process, and the appeal process to all tenants.
- (f) The City is required to take appropriate steps to enforce this article and coordinate enforcement, including the investigation of any possible violations of this article. The City may find a violation of this article including that the Housing Provider failed to conduct the individualized assessment.

- (g) The City Manager shall provide quarterly public reports to the City Council on Ordinance implementation including information for each Housing Provider that includes the number and demographics for applicants for available Affordable Housing and, for applicants that were denied, information pertaining to their race, ethnicity, gender, income level, and household type. The information provided for each Housing Provider shall also include the number of leases signed and the number and basis of applicant denials for denials based upon Conviction History. The quarterly reports shall also include information on the number of notices filed with the City regarding private court action and the outcome of the court proceedings.
- (h) Where the City's Appeal Hearing Officer determines that a violation of the Ordinance occurred, the City's Appeal Hearing Officer may issue a determination and order any appropriate relief under this Ordinance.
- (i) After the conclusion of the appeal process, if the appellant retains a private attorney to pursue litigation of the matter, the private attorney who represents the appellant in litigation against the Housing Provider shall provide notice to the City and the Appeal Hearing Officer within ten (10) calendar days of filing court action against the Housing Provider, and inform the City and the Appeal Hearing Officer of the outcome of the court action within ten (10) calendar days of any final judgment.

7.110.080 Records to Be Maintained

- (a) The Housing Provider shall maintain all records required by federal regulations including those specified in 24 CFR §570.506 that are pertinent to the implementation and enforcement of this Ordinance.
- (b) In addition, the Housing Provider must maintain a record for each applicant, participant and beneficiary of their program including, any criminal background check, and determination of eligibility following the Housing Provider's review of the criminal background check.
- (c) In the case that an applicant is denied housing after receiving a conditional lease, the Housing Provider is required to provide access to the applicant's file upon request, including the criminal background check document, for either personal review or to file an appeal.
- (d) The Housing Provider shall maintain full and complete documentation of performance related matters such as benchmarks and deliverables associated with this Ordinance.
- (e) The Housing Provider shall
 - (1) Permit the City to have access to Housing Provider records for the purpose of making an audit, examination or review of performance data pertaining to this Ordinance; and
 - (2) Maintain such records for a period of three years.

7.110.090 Confidentiality

To the fullest extent permitted by law, any information pertaining to an applicant's criminal history obtained in conjunction with the rental, lease, ownership, or sublease process

- (a) Shall remain confidential;

(b) Shall only be shared with the applicant, the Housing Provider, and the Appeal Hearing Officer.

Section II. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

Section III. Effective Date. This Ordinance becomes effective six (6) months after its final passage and adoption.

First read at a regular meeting of the Council of the City of Richmond, California, held _____, and finally passed and adopted at a regular meeting thereof held _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Clerk of the City of Richmond
(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney

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REIMBURSEMENT AGREEMENT

This Reimbursement Agreement (the "Agreement") is entered into on this December 20, 2017, between the Richmond Rent Board (the "Rent Board") and the City of Richmond, a municipal corporation (the "City") to pay for services and advanced funds provided by the City to the Rent Board to carry out its powers, duties, and functions as set forth in Measure L, now codified in Chapter 11.100, Richmond Municipal Code, and in other rent control/eviction protection ordinances adopted by the City ("Rent Program").

I. RECITALS

- A. Whereas, Measure L (The Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance) was approved by the voters on November 8, 2016 and became effective on December 30, 2016; and
- B. Whereas, Measure L establishes a Richmond Rent Board, requires the City to perform the duties of the Board during the transition period before Board Members are appointed and an Executive Director is hired, and requires the City to provide infrastructural support to the Board as it would to any other City Department; and
- C. Whereas, all City departments pay a cost allocation for infrastructural and administrative support; and
- D. Whereas, since November 8, 2016, the City has provided to the Rent Board, and continues to provide, the following services, including but not limited to: consultants, employees and staff, start-up costs and fees, overhead, IT services, administrative services, legal assistance; and
- E. Whereas, since November 8, 2016, the City has through its General Fund advanced on behalf of the Board, and continues to advance on behalf of the Board, funds to operate the Rent Program; and
- F. Whereas, the City will charge and collect fees ("Rent Program Fees") to landlords to recover costs for operating the Rent Program, the City Council adopted Rent Program Fees on July 25, 2017, and the Rent Program is beginning to collect but has not yet collected all of the Rent Program Fees; and
- G. Whereas, the City and the Rent Board desire to enter into this Agreement: (1) to set forth activities, services and facilities which the City will provide and make available to the Rent Board in furtherance of Rent Program; and (2) to provide that the Rent Board will reimburse the City for any and all costs and expenses incurred by it on behalf of the Rent Board; and
- H. Whereas, the City and the Rent Board intend that the Rent Program be self-sufficient and not require either permanent funding or cash advances from the General Fund of the City of Richmond; and
- I. Whereas, in taking steps to implement the Fair Rent and Just Cause for Eviction ordinance following voter approval in November 2016, it was necessary for the Rent Program to make expenditures prior to the time when the Rent Program could meet its annual revenue requirements through program registration fees and other funding sources that the Rent

Board may ultimately authorize, and these expenditures were necessarily advanced by the General Fund; and

- J. Whereas, the Rent Board and the City acknowledge that, due to the billing cycle that may be adopted by the Rent Board, the General Fund may need to advance cash from time to time to meet working capital requirements of the Rent Program, and such cash advances are anticipated especially in the early years of the program.

II. AGREEMENTS

In exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Rent Board agree as follows:

1. RECITALS

The parties hereby acknowledge and confirm the Recitals in this Agreement.

2. REIMBURSEMENT

- (a) The City may provide for the Rent Board such staff assistance, supplies, technical services, and other services and facilities of the City as the Rent Board may require in carrying out the Rent Program. Such assistance and services may include the services of City employees and consultants.
- (b) The City may, but is not required to, advance funds to the Rent Board or to expend funds on behalf of the Rent Board to carry out the Rent Program, particularly during the initial months of the Rent Program's operation prior to the receipt of any Rent Program Fees. The Rent Board shall adopt a budget to cover the estimated Rent Program expenditures, including adequate reserves to cover any shortfalls in revenue, based on the level of services reflected in the adopted budget. The City and the Rent Board agree that the City is not required to advance funds to the Rent Board from its General Fund, and that the long term goal is for the Rent Program to fund its operations without advances from the City General Fund.
- (c) The City will establish a separate Rent Program fund for the Rent Board and will keep a separate accounting for all of the Rent Board's revenues, expenditures, and fund balances. The revenues will generally consist of the Rent Program Fees, which will be deposited into this fund. The expenditures will generally consist of services paid, provided, and invoiced by the City and will be directly charged to the Rent Program fund.
- (d) The City will keep records of activities and services undertaken pursuant to this Agreement and the costs thereof in order that an accurate record of the Rent Board's fund balance and liability to the City can be ascertained. The City shall periodically, and at a minimum annually, submit to the Rent Board a statement of the costs incurred by the City in rendering activities and services to the Rent Board pursuant to this Agreement. The City will submit an initial invoice for costs incurred from November 2016 through June 30, 2017.

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ATTACHMENT 2

- (e) From the Rent Program fund, the Rent Board shall reimburse the City for any and all costs incurred for services and facilities provided by the City pursuant to this Agreement, including but not limited to the proration of administrative, overhead, IT, salary and benefits expenses provided, and any other cost allocations for infrastructural and administrative support, as well as consultant, attorney, and risk management expenses attributed to services rendered for the Rent Board.

- (f) It is the express intent of the parties that the City shall be entitled to reimbursement of any and all costs incurred by the City under this Agreement. The Rent Board will make the City whole and reimburse the City's General Fund for all funds that are advanced as soon as possible, and will pay all invoices in a timely manner so long as it has funds available to do so; however, in no instance should amounts invoiced by the City remain unpaid by the Rent Board for more than a two-year period.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first specified herein.

Richmond Rent Board:

By: 
David Gray, Chair

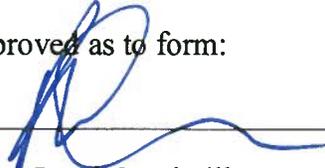
Date: 1/29/18

CITY:

By: 
Bill Lindsay, City Manager

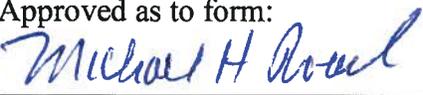
Date: 1/29/18

Approved as to form:


Bruce Reed Goodmiller

City Attorney

Approved as to form:



Rent Board Attorney

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TITLE & PURPOSE

Source of Income Housing Ordinance

Accordingly, the purpose of this chapter is to promote greater health equity for all Richmond Residents by helping to alleviate the housing crisis. This chapter maximizes the utilization of housing assistance programs by further ensuring safeguards to existing rights of tenants to be free of certain discrimination based on their source of income, use of a rental subsidy and to encourage housing providers to participate in the Richmond Housing Authority's Public Housing program and Housing Choice Voucher Program (commonly known as Section 8), and those receiving other forms of public assistance.

FINDINGS:

- a) The City of Richmond General Plan Program states in the 5th Cycle Housing Element Goal H-4: Equal Housing Access for All that it will, "Strive to achieve equal housing access for all people regardless of race, religion, gender, marital status, age, ancestry, national origin, color, sexual orientation, familial status, source of income, or disability."
- b) The City of Richmond General Plan Program states in the 5th Cycle Housing Element Policy H-4.1.1: Housing Choice Voucher Program that it will, "Continue to administer the City's Section 8 Housing Choice Voucher Program and maximize the program's utilization. Continue monitoring key program performance indicators such as attrition rates, fail-to-lease ratios, and waitlist size. Continue to work with local affordable housing developers to provide project-based vouchers. Respond to any future Notices of Funding Availability (NOFA) and apply for more vouchers."
- c) The General Plan of the City of Richmond states in the Policy H-4.2: Discrimination Prevention that it seeks to "Identify, monitor and prevent discriminatory housing practices."
- d) The General Plan of the City of Richmond states in the 5th Cycle Housing Element, Policy H2.7: Balanced Neighborhoods that it seeks to "Encourage a balance of housing incomes within neighborhoods to ensure a healthy mix of affordable and market rate housing and to deconcentrate poverty." Research shows that Section 8 and source of income discrimination can contribute to maintaining economically segregated neighborhoods, which is counter to the goals of the City's General Plan (Austin Tenants' Council, "Voucher Holders Need Not Apply: An Audit Report on the Refusal of Housing Choice Vouchers by Landlords in the Austin MSA.")
- e) The General Plan of the City of Richmond states in the 5th Cycle Housing Element Goal H-3: Expanded Housing Opportunities for Special Needs Groups that it seeks to, "Promote the expansion of housing opportunities for all special needs groups, including seniors, female-headed households, persons with disabilities, first-time homebuyers, large families, former prison inmates reentering the workforce, and homeless individuals and families." Nationwide, half (51 percent) of the households that received voucher assistance in 2016 were elderly or disabled, and nearly half (44 percent) have minors in the home (Center for Budget Policy and Priorities, 2017).
- f) As stated in the Health in All Policies Ordinance (Chapter 9.15) and Strategy document, The City of Richmond is committed to achieving the highest level of health for all Richmond residents. Good health is in the interest of everyone in Richmond and the region, since being healthy enhances quality of life, improves workforce productivity, increases the capacity for learning, strengthens families and communities, supports environmental sustainability and helps reduce stress and feelings of insecurity.

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- g) Action 4F in the Health in All Policies Strategy has the goal to, “Protect neighborhoods from gentrification that leads to the displacement of residents.”
- h) Action 4H in the Health in All Policies Strategy has the goal to, “Develop homelessness prevention program & enhance temporary and emergency shelter for families.”
- i) The Richmond Housing Authority owns, manages, and/or subsidizes various types of publicly subsidized housing, including Project-based Section 8 units, section 202 senior housing, public housing units, tax-credit financed affordable housing, and housing rented with Section 8 workers. Publicly supported affordable housing programs are essential to meeting the housing needs of low-income Richmond residents.
- j) RHA can assist 1851 families, but currently has ~ 1701 units under lease. Many tenants who qualify for Section 8 rental assistance are unable to benefit from it. This results in a significant loss of income for the RHA and housing challenges for those residents. (Conversation with Richmond Housing, August 2018)
- k) The RHA waitlist includes 838 people from when it was opened in 2013 and an additional 1000 were added when the waitlist was opened in November, 2017. (Conversation with Richmond Housing, August 2018)
- l) The Richmond Housing Authority, which administers the Section 8 rent subsidy program, reports a shortage of housing providers participating in the Section 8 program and that many tenants who qualify for Section 8 rental assistance are unable to benefit from it because of the unavailability of participating housing providers.
- m) Richmond residents who are Section 8 voucher holders report difficulty in finding housing due to a smaller number of properties open to Section 8 holders. Other jurisdictions in the United States have seen upwards of 12 percent increase in acceptance of Section 8 Housing Choice Vouchers when similar ordinances have been passed barring the refusal to accept Section 8 Housing Choice Vouchers to pay for apartments.
- n) Richmond Section 8 voucher holders frequently report that housing providers say that Section 8 voucher holders are not accepted because “previous Section 8 voucher holders previously damaged their property.” In these instances, housing providers’ perception of Section 8 holders prevents them from accessing housing opportunities without giving the individual a chance to share references or demonstrate the ability to pay rent.
- o) It is not uncommon to find postings for apartments that state that they do not accept Section 8.
- p) Research shows that in desirable housing markets, Section 8 holders have limited mobility and are concentrated in neighborhoods with lower health outcomes (Center for Budget Priorities and Policies, 2015)
- q) For Section 8 holders, the median rent in Richmond is unaffordable. According to Zillow, the median rent for a 2 bedroom apartment in Richmond in May 2017 was \$2,211. The payment standard for Section 8 Housing Choice Voucher holders during this same time was \$1,893.
- r) As stated in the Health in All Policies strategy Action 4F, a lack of affordable housing or the increased use of deteriorated housing can have serious health implications. The difficulty of finding decent, stable housing for Section 8 holders in Richmond is an acute challenge to the dignity, public health, and equal opportunity for this population and the broader community.
- s) California Government Code §12921 prohibits housing discrimination based on source of income as defined by §12955(p)(1), which does not protect Housing Choice voucher holders as established by case law (SABI v. Sterling, 183 Cal.App.4th 916 (2010)); and California and federal law further requires the City of Richmond to identify impediments to providing affordable housing and to develop strategies for removing those impediments. In order to fulfill its commitment to fair housing, to increase affordable housing opportunities, and to fulfill its legal obligations it is necessary to prohibit housing discrimination based on source of income.

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DEFINITIONS:

- A. "Affordable Housing" means any residential building in Richmond that has received City, State, or Federal fundings, tax credits, and other subsidies connected in whole or in part to developing, rehabilitating, restricting rents, subsidizing ownership, or otherwise providing housing for extremely low income, very low income, low income, and moderate income households.
- B. "Source of Income" means all lawful sources of income or rental assistance program, homeless assistance program, security deposit assistance program or housing subsidy program, including but not limited to the Section 8 Housing Choice Voucher Program. Source of income includes any requirement of any such program or source of income or rental assistance.
- C. "Section 8" refers to the federal housing choice voucher program for income-qualified households. It assists very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. Local PHA pay the housing provider the amount equal to the difference between the tenant portion of the rent (30 percent of adjusted income, 10 percent of gross income, or the portion of welfare assistance designated for housing) and the contract rent. HUD pays the PHA an administration fee to cover costs of running the program, including accepting and reviewing applications, recertifying eligibility, and inspecting the rental units. Housing choice vouchers are administered locally by the RHA. The RHA receives federal funds from the U.S. Department of Housing and Urban Development (HUD) to administer the voucher program. The participant is free to choose any housing that meets the requirements of the program, and is not limited to units located in subsidized housing projects.
- D. "Housing Provider" shall mean any individual or entity that owns, master leases, manages, or develops Affordable Housing or market-rate housing in the City. Any agent, such as a property management company, that makes tenancy decisions on behalf of the above described entities shall also be considered a "Housing Provider."
- E. "Inquire" shall mean any direct or indirect conduct intended to gather information about source of income from or about an applicant, candidate potential applicant or candidate, or employee, using any mode of communication, including but not limited to application forms, interviews, and background check reports.

ORDINANCE:

Prohibited Activity. It shall be unlawful for any Housing Provider, person or persons to do any of the following acts wholly or partially because of a person's actual or perceived [race, color, ancestry, national origin, place of birth, sex, age, religion, creed, disability, sexual orientation, gender identity] source of income

1. To interrupt, terminate, or fail or refuse to initiate or conduct any transaction in real property, including, but not limited to, the rental thereof; to require different terms for such transaction; or falsely to represent that an interest in real property is not available for transaction;
2. To include in the terms or conditions of a transaction in real property any clause, condition or restriction;

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3. To refuse or restrict facilities, services, repairs or improvements for any tenant or lessee;

4. To make, print, publish, advertise or disseminate in any way, or cause to be made, printed or published, advertised or disseminated in any way, any notice, statement or advertisement with respect to a transaction in real property, or with respect to financing related to any such transaction, which unlawfully indicates preference, limitation or discrimination based on source of income.

Prohibited Economic Discrimination. It is unlawful for any person to use a financial or income standard for the rental of housing that does either of the following:

1. Fails to account for any rental payments or portions of rental payments that will be made by other individuals or organizations on the same basis as rental payments to be made directly by the tenant or prospective tenant;

2. Fails to account for the aggregate income of persons residing together or proposing to reside together or an aggregate income of tenants or prospective tenants and their cosigners or proposed cosigners or proposed cosigners on the same basis as the aggregate income of married persons residing together or proposing to reside together.

Records to Be Maintained

- A. The Housing Provider must maintain records of all Section 8 applicant denials and the reason for denial.
- B. The Housing provider shall maintain such records for a period of three years from the date of the application.
- C. The Housing Provider shall permit the City access to these records for the purpose of making an audit, examination or review of performance data pertaining to this Ordinance

Civil Injunctive Relief

Any aggrieved person may enforce the provisions of this chapter by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of this chapter may be enjoined there from by any court of competent jurisdiction. An action for injunction under this section may be brought by any aggrieved person, by the city attorney, the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class and the prevailing party may also recover court costs and reasonable attorney's fees.

Exceptions.

- 1. Nothing in this chapter shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law.

Severability.

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If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

Effective Date.

This Ordinance becomes effective six (6) months after its final passage and adoption.

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ITEM I-1 ATTACHMENT 4

TITLE & PURPOSE

Fair Tenant Screening Ordinance

The purpose of this chapter is to promote neighborhood and community stability, fair and equal housing access, and affordability for renters in the City of Richmond by ensuring transparency in costs incurred by prospective tenants for tenant screening reports required by landlords as part of rental housing application processes. This chapter would require landlords to accept a verified and secure third party tenant screening report provided by tenants when applying for rental housing. Prospective tenants would be able to use this report as many times as needed within a thirty day period for a single fee paid to third party companies who provide this service.

FINDINGS:

- a) The City of Richmond, like other Bay Area jurisdictions, is facing a shortage of affordable housing.
- b) Approximately one half of the Richmond residents are renters, and the percentage of overburdened Richmond renters increased from 34 percent in 2000 to 46 percent in 2015.
- c) Application fees for rental housing create additional cost burdens for renters seeking new housing, often resulting in the exclusion of low-income people from applying for multiple housing options due to hardship of affording these fees. These fees are compounded with other deposits and advance rental payments which are often required in a competitive housing market.
- d) Rental housing application fees are used by landlords to purchase tenant screening reports from third-party companies that are used to evaluate and select tenants for their rental properties. Tenant screening reports contain information about an applicant's credit, eviction, and criminal history, among other characteristics. Housing providers may purchase criminal background reports from countless private consumer reporting agencies. There are well over 600 companies offering consumer reports for residential tenant screening.
- e) Applicants who apply for housing with multiple housing providers pay repeated screening fees for reports from different sources containing similar information. It is well documented that tenant screening reports often contain misleading, incomplete, or inaccurate information, such as information collected on someone with the same name, or information relating to expunged records, that may be unfairly used as a basis for denial of a prospective tenant's application.
- f) Prospective landlords frequently do not provide applicants with a copy of their tenant screening report or a reason for denial of their application, and this lack of transparency creates a challenge for prospective tenants to dispute potential errors and ensure the fair consideration of their application.
- g) In accordance with the City's Fair Chance Access to Affordable Housing Ordinance (Chapter 7.110 of Article VII), this law would help ensure that affordable housing providers aren't improperly inquiring about prospective tenants' prior conviction status.
- h) The excessive costs and lack of transparency associated with tenant screening reports particularly impact Section 8 voucher holders, whose housing choices are already severely constrained by the shortage of housing providers participating in the Section 8 program.
- i) Private screening companies are governed by the federal Fair Credit Reporting Act (FCRA) and state consumer protection laws. Under these laws, individuals have the right to know what information is included in the files of consumer reporting agencies, be told if information in a consumer report has been used to take adverse action against them, and dispute incomplete or

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inaccurate information within a report. Consumer reporting agencies are also required to correct or delete inaccurate, incomplete, or unverifiable information under the FCRA.

- j) The General Plan of the City of Richmond states in the Policy H-4.2: Discrimination Prevention that it seeks to “Identify, monitor and prevent discriminatory housing practices.”
- k) The City of Richmond General Plan Program states in the 5th Cycle Housing Element Goal H-4: Equal Housing Access for All that it will, “Strive to achieve equal housing access for all people regardless of race, religion, gender, marital status, age, ancestry, national origin, color, sexual orientation, familial status, source of income, or disability.”
- l) As stated in the Health in All Policies Ordinance (Chapter 9.15) and Strategy document, The City of Richmond is committed to achieving the highest level of health for all Richmond residents. Housing insecurity and the challenges of finding housing in a competitive market is a major source of chronic stress which can lead to reduced health outcomes.

DEFINITIONS:

- A. "Prospective tenant" means a tenant, subtenant, lessee, sublessee or any other person who has applied for residential housing that is governed under this chapter.
- B. "Housing Provider" shall mean any entity that owns, master leases, manages, or develops Affordable Housing or market-rate housing in the City. Any agent, such as a property management company, that makes tenancy decisions on behalf of the above described entities shall also be considered a "Housing Provider."
- C. "Consumer reporting agency" shall mean any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers, such as their rental history, conviction history, or employment history, for the purpose of furnishing consumer reports to third parties.
- D. "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.
- E. "Reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge by the consumer reporting agency, which contains all of the following: (a) A consumer credit report prepared by one of the national credit bureaus within the past thirty days; (b) a report containing the prospective tenant's criminal history; (c) a report containing the prospective tenant's eviction history; and (d) an employment verification.
- F. "Conviction History" shall mean information regarding one or more convictions or unresolved arrests, transmitted orally or in writing or by any other means, and obtained from any source, including but not limited to the individual to whom the information pertains and a tenant screening report. Conviction History that may be considered by a housing provider is limited to Richmond's Fair Chance Access to Affordable Housing Ordinance (Chapter 7.110 of Article VII).
- G. "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.
- H. "Adverse action" refers to any action by a Housing Provider that is unfavorable to the interests of a prospective tenant. Examples of common adverse actions by Housing Providers in regard to the rental application process include: failing or refusing to rent or lease real property to an

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individual with or without cause, requiring a co-signer on the lease, requiring a deposit that would not be required for another applicant, requiring a larger deposit than might be required for another applicant, and raising the rent to a higher amount than for another applicant. Other adverse actions in the context of housing include: evicting a tenant, failing or refusing to add a household member to an existing lease, or reducing any tenant subsidy. The adverse action must relate to real property in Richmond.

- I. "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

ORDINANCE:

Required acceptance of comprehensive reusable tenant screening reports.

- A. Housing Providers shall accept a comprehensive reusable tenant screening report made available to the Housing Provider as part of a prospective tenant's application for housing.
- B. The Housing Provider may not charge a fee to the prospective tenant for access to a comprehensive reusable tenant screening report.
- C. A Housing Provider may conduct its own screening of prospective tenants in addition to the comprehensive reusable tenant screening report. A housing provider may not charge the prospective tenant for a separate screening report.

Notice to prospective tenants.

- A. Housing Providers shall notify all prospective tenants of the requirement for the Housing Provider to accept a comprehensive reusable tenant screening report that is initiated by a prospective tenant in lieu of a non-reusable screening report that is initiated by the Housing Provider at an additional cost to the prospective tenant. The notice to prospective tenants must be included in the following:
 1. Any printed or electronic rental housing application form;
 2. Any website or online listing(s) maintained by the Housing Provider advertising the rental of a dwelling unit or as a source of information for current or prospective tenants must include a statement on the property's home page stating that the Housing Provider will accept a comprehensive reusable tenant screening report furnished directly by a consumer reporting agency.
- B. Housing Providers shall notify a prospective tenant in writing or electronically of the following information prior to obtaining any information about the prospective tenant or collecting any application fees:
 1. The landlord's tenant screening policy or criteria;
 2. If another screening is conducted by the Housing Provider in addition to the comprehensive reusable tenant screening, the name and address of the consumer reporting agency used to conduct the screening and the prospective tenant's rights to obtain a free copy of the consumer report in the event of a denial or other adverse action, and to dispute the accuracy of information appearing in the consumer report.

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Adverse action.

If a Housing Provider takes an adverse action against a prospective tenant based on any information provided by the consumer reporting agency, the Housing Provider shall provide notice in writing or electronically, of the adverse action to the prospective tenant that states the reasons for the adverse action. The adverse action notice must contain all information as may be required under the federal Fair Credit Reporting Act, the California Consumer Credit Reporting Agencies Act, or the California Investigative Consumer Credit Reporting Agencies Act.

Records to be maintained.

- A. The Housing Provider must maintain records of all adverse actions taken against any prospective tenant, as well as records of notices of adverse action sent in fulfillment of this Ordinance's requirements.
- B. The Housing Provider shall maintain such records for a period of three years from the date of the application.
- C. The Housing Provider shall permit the City access to these records for the purpose of making an audit, examination or review of performance data pertaining to this Ordinance

Remedies/Penalties.

Any landlord or prospective landlord who violates this Ordinance may be liable to the prospective tenant for an amount not to exceed one hundred dollars.

Civil Injunctive Relief.

Any aggrieved person may enforce the provisions of this chapter by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of this chapter may be enjoined there from by any court of competent jurisdiction. An action for injunction under this section may be brought by any aggrieved person, by the city attorney, the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class and the prevailing party may also recover court costs and reasonable attorney's fees.

Exceptions.

Nothing in this chapter shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law.

Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

This section does not limit a prospective tenant's rights or the duties of a screening service as otherwise provided in the federal Fair Credit Reporting Act, the California Consumer Credit Reporting Agencies Act, or the California Investigative Consumer Credit Reporting Agencies Act.

Effective Date.

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This Ordinance becomes effective six (6) months after its final passage and adoption.

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