

Item G-1: Compliance Officer Report

May 15, 2019 | Regular Meeting of the Richmond Rent Board

Item G-1: Statement of the Issue

The Fiscal Year 2018-19 budget included a position for a Rent Program Services Analyst who would also serve as the Program's Compliance Officer. Since September 2018, Rent Program Services Analyst Philip Verma has completed a number of tasks related to compliance with the department's fee and registration requirements.

Staff members have prepared this report detailing the Compliance Officer's activities over the past eight months for presentation to the Rent Board.

Item G-1: Primary Tasks

- **Collection of Past Due Fees**
(Sep – Nov 2018)
- **Property Enrollment and Invoicing**
(Nov 2018 – Apr 2019)
- **Corrections to Rental Housing Database**
(Dec 2018 – Mar 2019)

Item G-1: Collection of Past Due Fees

- Identified which landlords owed the most in terms of Rental Housing Fees for Fiscal Year 2016-17 / 2017-18
- Reached out via phone and email to this group of landlords to let them know the requirements of the Rent Ordinance, including payment of the annual Rental Housing Fees.
- These initial efforts generated approximately \$100,000 in unpaid fees

Item G-1: Property Enrollment and Invoicing

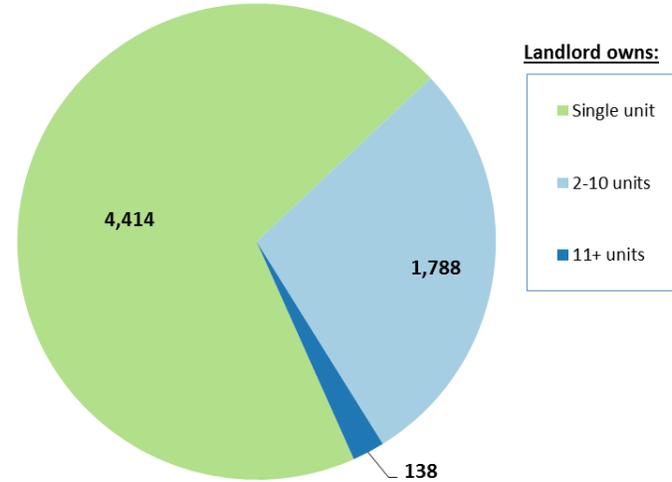
- Developed process for mailing out Enrollment packets to landlords in November/December 2018
- Devised process for removing late fees, as there were many new owners and cases where the Rent Program had incorrect mailing addresses for landlords
- Processed enrollments and issued invoices
- Reviewed incomplete enrollment forms and forms requiring additional research

Item G-1: Corrections to Database

- Added missing records for 618 units fully covered units (= \$217,536 in fees)
- Adjusted records and removed fees for non-residential rental properties
- Combined duplicate owner records
- Updated records of units that were sold in the past year
- Updated records and removed fees for units that are owner-occupied or rent-free

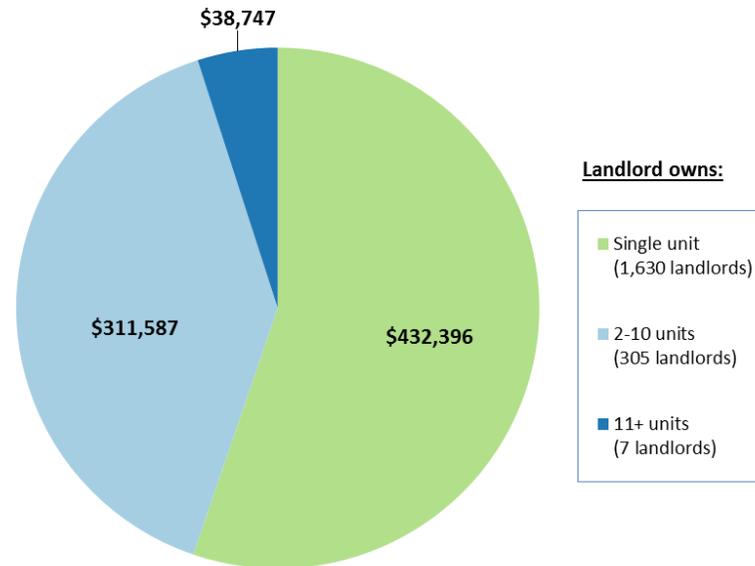
Item G-1: Profile of Landlord Compliance

Richmond Landlords by Number of Units Owned



← Indicates total number of units owned in the city, not property type

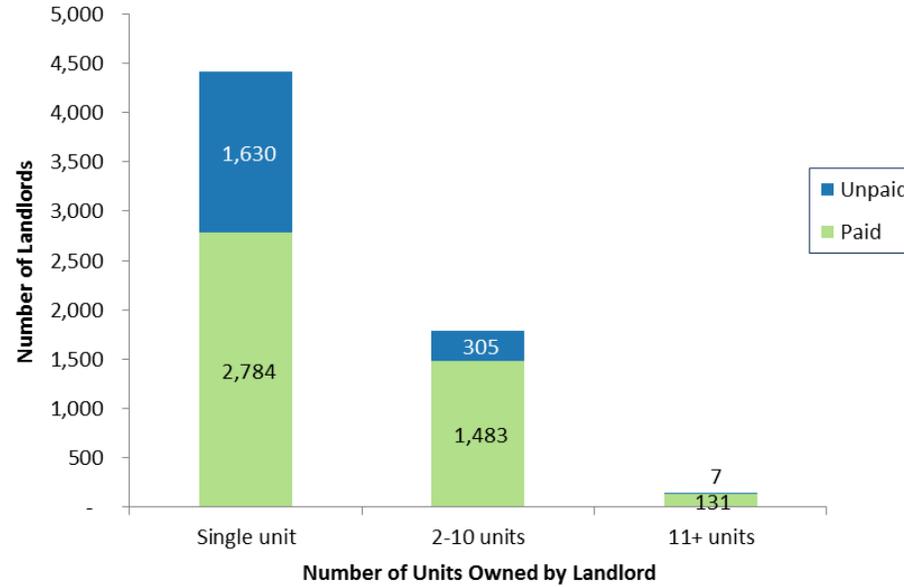
Landlords Who Have Not Paid Any Rental Housing Fees



← Includes fees for FYs 2016-17, 2017-18, and 2018-19

Item G-1: Profile of Landlord Compliance

Rental Housing Fee Payments (by number of landlords)



Unpaid = has not paid any rental housing fees

Paid = has paid fees for one or more fiscal years

Rental Housing Fee Payments (by amount of \$)



Item G-1: Next Steps

- **Targeted Outreach:** by phone or email to landlords that have not paid (particularly those that never paid FY 16-17/17-18 fees)
- **Active Collection Efforts:** final notice letters, small claims actions, outreach to tenants, Board-initiated Rent Withholding Petitions
- **Follow-Up on Returned Mail:** research and updates to owners' mailing addresses
- **Quality Control of Database:** review of property and owner records to ensure accuracy

Item G-1: Recommended Action

RECEIVE a presentation from Rent Program staff members concerning the department's compliance efforts during Fiscal Year 2018-19.

Item H-1: Proposed Owner Move-In Eviction Regulation

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Item H-1: Background

Under Section 11.100.050(a)(6) of the Rent Ordinance, Landlords may recover possession of a Rental Unit under the Owner Move-In “no-fault” termination of tenancy.

The Rent Ordinance establishes the following requirements, specific to the Owner Move-In provisions of the Ordinance:

- **Landlord must be a natural person who has at least a fifty (50) percent recorded ownership interest in the property.**
- **Landlord may not evict for "owner move-in" if the same Landlord or enumerated relative already occupies a unit on the property, or if a vacancy already exists on the property. At all times a Landlord may request a reasonable accommodation if the Landlord or enumerated relative is disabled and another unit in Richmond is necessary to accommodate the person's disability.**

Item H-1: Background (continued)

- The notice terminating tenancy shall contain the name, address and relationship to the Landlord of the person intended to occupy the Rental Unit.
- The Landlord or enumerated relative must intend in good faith to move into the Rental Unit within ninety (90) days after the Tenant vacates.
- Landlord must occupy the Rental Unit as a primary residence for at least thirty-six (36) consecutive months.
- If the Landlord or relative specified on the notice terminating tenancy fails to occupy the unit within ninety (90) days after the Tenant vacates, the Landlord shall:
 1. Offer the unit to the Tenant who vacated it; and
 2. Pay to said Tenant all reasonable expenses incurred in moving to and from the unit.

Item H-1: Background (continued)

Eviction Protections for Elderly or Disabled Tenants

A Landlord may not evict a Tenant if the Tenant (1) has resided in the Rental Unit for at least five (5) years and is either at least 62 years old or Disabled; or (2) is certified as being terminally ill by the Tenant's treating physician. A Landlord may evict a Tenant who qualifies for the exemption if the Landlord or enumerated relative who will occupy the unit also meets the criteria for this exemption and no other units are available.

First Right of Refusal and Rent Reversion

All Tenants displaced due to an Owner Move-In shall have the first right of refusal to return to the unit if it should ever be returned to the market by the Landlord or successor Landlord. The Rent charged shall be the Rent lawfully paid by the Tenant at the time the Landlord served the notice of termination of tenancy.

Item H-1: Statement of the Issue

- In the course of their work, staff members have received inquiries from members of the public as to the meaning of the Owner Move-In eviction provisions of the Rent Ordinance.
- Staff members are proposing the development of a regulation or series of regulations to further clarify the intent of the Rent Ordinance, after community engagement and receipt of policy direction from the Board.
 - Rent Board regulations cannot create new laws, but shall further clarify the meaning of the Rent Ordinance.

Item H-1: Areas of Inquiry

Inquiry #1

If two individuals own a duplex, each holding 50% ownership, may each individual conduct an Owner Move-In eviction on a unit on the property?

Inquiry #2

Is the Tenant's first right of refusal to re-rent the Rental Unit, should it ever be placed back on the rental market, indefinite?

Inquiry #3

If a Tenant was to re-rent a unit from which they were previously evicted on the grounds of Owner Move-In, in which case, under the first right of refusal provisions of the Rent Ordinance, they would be entitled to pay the Rent they paid at the time they received the notice of termination of tenancy, could the Landlord apply Annual General Adjustment rent increases to that Rent amount?

Inquiry #4

Who is required to track the whereabouts of a former Tenant evicted on the grounds of Owner Move-In, to provide them with the first right of refusal if the unit is re-rented?

Item H-1: Policy Considerations

Regulations
requiring Landlords
to submit
supporting
documentation

Unlike in other cities with rent control and just cause for eviction policies, Landlords in Richmond are currently not required to submit documentation to the Rent Program to ensure the provisions of the Rent Ordinance are satisfied.

Possible
regulations
requiring
supporting
documentation

Possible regulations could require Landlords to file with the Rent Program:

- Proof of occupancy
- Proof of Ownership interest
- Proof of an Offer of the first right of refusal to a tenant displaced due to an Owner Move-In eviction.
- Regulations could also clarify the number of Owner Move-In evictions that could take place on a single property within a specific time period.

Item H-1: Case Study Research

To understand the landscape of Owner Move-In Evictions, staff members reviewed Owner Move-In eviction laws adopted by other jurisdictions that met the following criteria:

- The City is located in California;
- The City has existing rent regulation and just cause for eviction laws; and
- The City currently regulates Owner Move-In evictions.

Cities studied include:

- Berkeley
- Los Angeles
- Oakland
- San Francisco
- San José
- Santa Monica
- West Hollywood



Item H-1: Case Study Research: Common Elements

Case study jurisdictions share common elements regarding Owner Move-Ins:

Landlords must have an ownership interest in the property

- 50% ownership interest (in some jurisdictions the ownership interest varies);
- Individual conducting an Owner Move-In must be a natural person who maintain ownership interest for the purpose of Owner Move-In evictions. LLC's cannot conduct Owner Move-in eviction;
- Jurisdictions may require proof of ownership interest; and
- Jurisdictions may require filing of a Declaration or Certificate of Occupancy.

Primary Residence Requirement

- The owner or qualifying family member moving to the property must reside in the property as their primary residence.

Applicability of Annual General Adjustments (AGAs)

- Annual General Adjustment increases may be applied if the tenant returns to the unit.

Certificate of Occupancy Compliance

- Jurisdictions utilize various remedies for noncompliance of filing the certificate of occupancy within the prescribed timeframe.

Item H-1: Case Study Research: Unique Elements

The following elements of Owner Move-In eviction policies are unique among one or a select number of the jurisdictions studied:

- West Hollywood requires that Landlords must conduct an Owner Move-in Eviction on the newest Tenant if the Landlord or qualifying/enumerated relative can provide proof of a medical necessity.
- Los Angeles and Santa Monica's policies provide that the only one Owner-Move-In eviction can occur on the same property.
- San Francisco and San Jose's policies provide that so as long as Landlords maintain a unit on the property as their primary residence, Landlords may conduct multiple Owner Move-In evictions with qualified or enumerated family members.
- With the exception of San Jose and West Hollywood, Landlords must complete a Certificate/Verification of Owner Occupancy.



Item H-1: Case Study Research: Unique Elements (continued)

The following elements of Owner Move-In policies are unique among one or a select number of the jurisdiction studied:

- San Francisco assesses penalties for failure of a Landlord to file the required Statement of Occupancy and supporting documentation.
- Berkeley prohibits Owner Move-In evictions during the academic year of minor children.



Case Study Research: Degree of Administrative Duties Required by Owner Move-In Evictions

HIGH

MODERATE

LOW



The San Francisco Rent Board, Los Angeles Housing and Community Investment Department, and Oakland Rent Adjustment Program require landlords to submit a Declaration or Statement of Occupancy. Landlords must submit proof of continued occupancy after regaining possession of the rental unit. Notice of occupancy must be filed within a specified timeframe (ex., San Francisco landlords must file a Statement of Occupancy for the five-year period following recovery of possession of the rental unit; Los Angeles landlords must file a statement under penalty of perjury of the continued occupancy of the landlord within 30 days preceding the first and second year anniversary of the tenant(s) vacating the rental unit; and Oakland landlords must file a Certificate Upon Occupancy within 30 days of the initial occupancy by the owner or qualifying relative).

Santa Monica Rent Control Board landlords seeking to recover possession of a rental unit must show proof of a recorded interest of 50% ownership (ex., grant deed).

West Hollywood Rent Stabilization and Housing requires landlords to provide a 60-Day notice to tenant(s) to terminate tenancy for owner or relative occupancy.

The Berkeley Rent Stabilization Board and San Jose Housing Department do not require landlords to submit a Declaration or Certificate of occupancy that the unit is occupied by the landlord or eligible family member.

Item H-1: Next Steps

- **Staff members are seeking direction from the Rent Board with respect to Owner Move-In no fault evictions.**
- **Staff members propose conducting at least two community workshops on Owner-Move-In policy options. The purpose of the community workshops is to gain feedback from the community to be presented to the Board along with any proposed regulations.**

Item H-1: Recommended Action

RECEIVE a presentation from Rent Program staff members concerning proposed Owner Move-In regulations and **DIRECT** staff to hold at least two workshops to solicit feedback from community members concerning Owner Move-In evictions - Rent Program (Nicolas Traylor/Paige Roosa 620-6564).