

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: June 19, 2019

Final Decision Date Deadline: June 19, 2019

STATEMENT OF THE ISSUE: Subsection (C) of Rent Board Regulation 605 requires Landlords who have charged Excess Rent after December 30, 2016, to refund any overcharges via a cashier check, within 10 days of receipt of notification from the Rent Board or Rent Program staff. The requirement to refund Excess Rent within 10 days in the form of a cashier's check does not provide the flexibility for Landlords and Tenants to effectively remedy this violation of the Rent Ordinance. Therefore, staff members are recommending rescission of this provision to allow Landlords and Tenants to enter into alternative methods of repayment, such as repayment plans or rent reductions.

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> | |

ITEM

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

RECOMMENDED ACTION: RESCIND Regulation 605(C), and allow for the Rent Program to establish policies to enhance Landlords' ability to bring themselves into compliance with the Rent Ordinance's prohibition on retention of rents in excess of the Maximum Allowable Rent – Rent Program (Nicolas Traylor 620-6564).

AGENDA ITEM NO:
G-4.



AGENDA REPORT

DATE: June 19, 2019
TO: Chair Gray and Members of the Rent Board
FROM: Nicolas Traylor, Executive Director
SUBJECT: RESCISSION OF REGULATION 605(C): PAYMENT OF EXCESS RENT

STATEMENT OF THE ISSUE:

Subsection (C) of Rent Board Regulation 605 requires Landlords who have charged Excess Rent after December 30, 2016, to refund any overcharges via a cashier check, within 10 days of receipt of notification from the Rent Board or Rent Program staff. The requirement to refund Excess Rent within 10 days in the form of a cashier's check does not provide the flexibility for Landlords and Tenants to effectively remedy this violation of the Rent Ordinance. Therefore, staff members are recommending rescission of this provision to allow Landlords and Tenants to enter into alternative methods of repayment, such as repayment plans or rent reductions.

RECOMMENDED ACTION:

RESCIND Regulation 605(C), and allow for the Rent Program to establish policies to enhance Landlords' ability to bring themselves into compliance with the Rent Ordinance's prohibition on retention of rents in excess of the Maximum Allowable Rent – Rent Program (Nicolas Traylor 620-6564).

FISCAL IMPACT:

There is no fiscal impact related to this item.

DISCUSSION:

Background

The Rent Ordinance became effective December 30, 2016, and, in part, required Landlords to roll back their rents to levels either charged on July 21, 2015, or the amount of rent paid at the inception of a tenancy that began after July 21, 2015. *Richmond Municipal Code Section 11.100.070(a)*. This new rent level is considered the Base Rent level. The Rent Ordinance further explained that collection and/or retention

of rents above the Base Rent is an excessive rent violation and requires the Landlord return to the Tenant the total amount of rent either collected or retained in excess of the Base Rent. *Richmond Municipal Code Section 11.100.100* The immediate result of these provisions was that many Landlords found themselves owing their Tenants some amount of money; however, Tenants had no means of enforcing this right as the Rent Board had yet to be formed.

Adhering to the provisions of the Rent Ordinance, in March 2017, the City Council appointed five members to the Rent Board. In June 2017, the Board adopted Regulation 605, which established the Annual General Adjustment for 2017 at 100% of the CPI or 3.4%. Recognizing the absence of a petition process that would enable Tenants to enforce excess rent damages, the Rent Board sought to create strict rules to compel Landlords to meet their obligations under the Rent Ordinance and pay the amount that was collected in excess of the Base Rent. Consequently, the Rent Board added Subsection C of Regulation 605 to establish the rule that Landlords must refund rent overcharges within 10 days and in the form of a cashier's check. By limiting the method of payment to cashier's check, the Rent Program could guarantee the propriety of the funds and more readily monitor those who had paid. By requiring payment be made within 10 business days, the regulation sought to achieve expeditious return of any rents collected in excess of the Base Rent.

Today, circumstances have changed. The Rent Program's petition process is fully operational, allowing for Tenants to enforce their rights regarding excessive rent. Additionally, Landlords' circumstances have changed, as many of them are now educated on the requirements of the Rent Ordinance and often come into the Rent Program to address potential excessive rent issues. Given the change in circumstances, staff members assert that it is reasonable to allow Landlords more flexibility in bringing themselves into compliance with the Rent Ordinance as it pertains to excessive rent.

Proposed Recession of Regulation 605(C)

Many Landlords have visited the Richmond Rent Program and admitted they have collected rents in excess of the Maximum Allowable Rent. Often times the excessive rent owed exceeds \$5,000. Many Landlords do not have \$5,000 on hand nor can they readily obtain that amount within 10 days; however, that is the only remedy offered under Regulation 605(C). Recognizing the change in circumstances from January 1, 2017, until now, staff members believe that Regulation 605(C) offers an inflexible solution to a multifaceted issue. To be able to adequately address the issue of excess rents, Landlords need a way to return the monies owed through other methods, such as a repayment agreement, a reduction of Tenant's rent going forward until the amount owed is satisfied, partial payment of the amount owed combined with the reduction of rent, etc. These methods would achieve the purpose of Richmond Municipal Code Section 11.100.100, as the Tenant would still be receiving the total amount of excessive rent collected and/or retained. To be clear, this rescission would not disturb the Rent Ordinance's edict whereby a Tenant cannot waive any provisions of the Rent

ITEM G-4

Ordinance. This principle continues to remain in full force under this offered rescission, because a Tenant still cannot waive the amount of money owed. The Tenant could only agree to modify the method of payment and the form of repayment.

Conclusion

To ensure adequate flexibility and enhance Landlords' ability to repay excess rent monies owed, staff members recommend the Rent Board rescind the provisions of Regulation 605(C).

DOCUMENTS ATTACHED:

Attachment 1 – Proposed Recession of Regulation 605(C)-Redline

Attachment 2 – Proposed Recession of Regulation 605(C)-Clean

ITEM G-4 ATTACHMENT 1

605. Annual General Adjustment Order for 2017

The percentage increase in the CPI from 2016-2017 is 3.4%, and thus the following Annual General Adjustment applies:

- A. The 2017 Annual General Adjustment is not to exceed 3.4%.
- B. The cumulative increase in the Maximum Allowable Rent as defined in Section 11.100.030(g), RMC, for tenancies in effect prior to September 1, 2015, is 6.56%.
- C. A Landlord may increase Rent by the 2017 Annual General Adjustment for tenancies in effect prior to September 1, 2016, only if the Landlord is in compliance with Regulation 601.

~~Within ten business days of receipt of notification from the Rent Board or Rent Program staff that a Landlord has charged and collected Rent in excess of the Maximum Allowable Rent, the Landlord shall issue a refund of excess Rent that a Tenant has paid after December 30, 2016, to the Tenant in the form of a cashier's check. Proof of Excess Rent Refund must be The 2017 Annual General Adjustment is not to exceed 3.4%.~~

**ITEM G-4
ATTACHMENT 2**

605. Annual General Adjustment Order for 2017

The percentage increase in the CPI from 2016-2017 is 3.4%, and thus the following Annual General Adjustment applies:

- A. The 2017 Annual General Adjustment is not to exceed 3.4%.
- B. The cumulative increase in the Maximum Allowable Rent as defined in Section 11.100.030(g), RMC, for tenancies in effect prior to September 1, 2015, is 6.56%.
- C. A Landlord may increase Rent by the 2017 Annual General Adjustment for tenancies in effect prior to September 1, 2016, only if the Landlord is in compliance with Regulation 601.