

Proposed Owner Move-In Regulations

Item H-1

November 18, 2020, Regular Meeting of
the Richmond Rent Board

Statement of the Issue

- At their meeting on October 21, 2020, the Rent Board received a presentation on revised, proposed Owner Move-In eviction regulations.
- The Board briefly discussed proposed Regulation 1009 (C) 1, (which would limit Landlords to one owner move-in eviction per property) in the context of Rent Ordinance. The Board decided to continue discussion of 1009 (C) 1 at the November 18, 2020 Regular Meeting of the Rent Board.
- The Board directed staff to perform additional research on how similar jurisdictions address recording and tracking a Tenant's right of first refusal to re-rent. Staff members have conducted the requested research for the Board's consideration.

Policy Discussion and Direction from the October 21, 2020 Regular Meeting of the Rent Board

- Community feedback shows a strong interest on the part of both Landlords and Tenants to have the Rent Program facilitate communication both in instances when the Tenant has a change to their permanent address and when a Landlord is ready to reoffer the unit for rent.
- In discussing the issue of how involved the Rent Program should be in ensuring the right of first refusal requirements of the Rent Ordinance are met, the Board directed staff to conduct additional research to understand how similar rent control jurisdictions handle the issue of facilitating the update of the change of address between a displaced Tenant and the Landlord.

Right of First Refusal Requirement

How Richmond's "First Right of Refusal" works in a nutshell

The Rent Ordinance bestows a Tenant displaced due to OMI eviction or the Ellis Act with an automatic and indefinite first right of refusal to reoccupy the unit should it ever be returned to the rental market. This right is only extinguished upon a Tenant's failure to affirm their interest in renewing the tenancy after the Landlord has made a good faith effort to contact the Tenant to alert them of the opportunity.

It may take a period of many years for Tenant and Landlords to exercise their rights/responsibilities around "first right of refusal"

Having the indefinite first right of refusal means that Tenants may have to wait many years before a unit becomes available to re-rent after an owner move-in eviction. In some cases, the property may have transferred between several owners before a Tenant could exercise their right of first refusal to re-rent the unit.

Higher compliance is achieved when the Rent Program assists Landlords and Tenants with staying on the same page

The Rent Program could play an important role in being a long-term hub of information for both parties and helping Landlords and Tenants maintain awareness around a Tenant's "right of first refusal."

Case Study Research

- Peer rent control jurisdictions show varying degrees of involvement in terms of the extent to which rent control agencies assist Landlords and Tenants with ensuring that the most up-to-date contact information is available.
- Santa Monica's approach was the most passive, West Hollywood's approach was moderately robust, and Berkeley's was the most active.
- None of the three agencies studied require a Tenant to update their information with their respective Programs.

Case Study Research: Santa Monica

- In Santa Monica, a Tenant is not required to inform the Santa Monica Rent Stabilization Board (RSB) of permanent address changes. However, Santa Monica will record any update in its property file/records.
- The Santa Monica RSB does not involve itself with contacting the Landlord in the case that there is an update of the displaced Tenant's contact information or permanent address.

Case Study Research: West Hollywood

- Landlords must serve an Owner Move-In notice that has language advising the Tenant to notify the Landlord of future address changes.
 - This requirement is contained in the West Hollywood's Rent Stabilization Ordinance.
- The language required in the notice must also advise the Tenant to submit a copy of a notice of interest in re-renting the unit to the West Hollywood Rent Program within 30 days of the notice being served to avoid extinguishing their right of first refusal to re-rent.
- West Hollywood does not contact the Landlord if the Tenant updates their permanent address; Landlords are expected to check with the Rent Program to obtain the Tenant's current address before attempting to make contact.

Case Study Research: Berkeley

- Tenants are not required, but are encouraged, to submit their request for first right of refusal and file their permanent address with the Berkeley Rent Stabilization Program.
- Upon receiving a notice of termination of tenancy for Owner Move-In, both the Landlord and Tenant receive a packet that includes a form for the Tenant to complete to request their first right of refusal. The form indicates that a Tenant should send a copy of the form to their Landlord and recommends that the Tenant also submit a copy with the Berkeley Rent Stabilization Program.
- When a Tenant updates their permanent address, this information is filed in an Owner Move-In file for the property and Rent Program staff forward this updated contact information to the Landlord.

How involved should the Richmond Rent Program be in assisting the facilitation of the Tenant's current contact information between Landlords and Tenants?

**Community Feedback:
Rent Program should be
actively involved**

- The overwhelming sentiment expressed by both Landlords and Tenants The Rent Program should act as a hub of information, and, more specifically, actively inform the Landlord if and when a Tenant's contact information changes.

**The majority of Richmond
Landlords and Tenants rely
on the Rent Program to
explain the often nuanced
details of the Rent
Ordinance**

- As the Rent Ordinance is relatively new to Richmond and the detailed requirements are complex, the Rent Program continues to play a vital role in resolving conflicts and clarifying the requirements of the law for all parties.

**The demographics of
Richmond's Landlord and
Tenant communities
supports the need for the
Rent Program to play a more
active role**

- Richmond is home to a significant number of monolingual Spanish speakers as well as many low-income residents who may lack the necessary resources to assert their legal rights under the Rent Ordinance.
- 92% of Richmond Landlords own fewer than five rental units, suggesting that many Landlords are operating their rental businesses as small, family businesses and would likely benefit from additional support from the Rent Program to make sure they are in compliance with the law.

Staff Recommendation

- Tenants are strongly encouraged (but not required) to update the Rent Program of any changes to their permanent contact information.
- The Rent Program actively assists in facilitating the exchange of this updated contact information between Tenants and Landlords.
- The Rent Program shall conduct an annual mailing to Tenants displaced on the grounds of an Owner Move-In eviction, reminding them of their first right of refusal and the requirement that they must update the Landlord if their contact information changes.
 - The notice shall also remind Tenants that they may opt, and are encouraged, to inform the Rent Program of any changes to their contact information.
 - The notice shall also inform the Tenant of their Maximum Allowable Rent for the unit if it were offered for rent.

Does Section 11.100.050 (a) (6) (B) of the Rent Ordinance harmonize with a policy limiting OMI evictions?

Pursuant to the Board's policy direction, Rent Program Staff drafted regulations that would limit one OMI eviction per property. However, prior to presenting those regulations, Staff recommend that the Board discuss their interpretation of RMC 11.100.050 (a) (6) (B) and whether it harmonizes with the proposed Regulation 1009 (C) 1 and 1009 (C) 4

RMC 11.100.050 (a) (6) (B)

(B) No eviction may take place for an "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.

RMC 11.100.050 (a) (6) (B)

(B) No eviction may take place for an “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.

Per the policy direction provided by the Board, to limit one OMI eviction per property, staff have drafted 1009 (C) 1 and 1009 (C) 4 which clarify RMC 11.100.050 (a) (6) (B) as follows:

If a 50% owner occupies a rental unit on the property (through OMI eviction or moving into vacant unit), that same Landlord cannot perform another OMI eviction whether for themselves or their enumerated relative on the property without a reasonable accommodation.

1009 (C) 1

C. Number of Allowable Evictions Under Richmond Municipal Code Section 11.100.050(a)(6).

A "Landlord" as defined in Richmond Municipal Code Section 11.100.050(a)(6), may, in good faith, evict a Tenant from a Rental Unit for the use and occupancy as a Primary Residence for themselves or for their spouse, children, parents, or grandparents.

1. A Landlord that meets the definition espoused in Richmond Municipal Code Section 11.100.050(a)(6) shall only be permitted to perform one Owner Move-In eviction on the Property for either themselves, their spouse, children, parents, or grandparents.

1009 (C) 4

4. If ~~any~~ Landlord as defined by Richmond Municipal Code Section 11.100.050(a)(6) or an enumerated relative already occupies ~~one a Rental Unit~~ on a Property, that same Landlord, whether on behalf of themselves or their enumerated relative, may not conduct an eviction ~~no eviction~~ pursuant to Richmond Municipal Code Section 11.100.050(a)(6), ~~may take place~~ unless there is a demonstrated need for a Reasonable Accommodation based on a qualifying Disability as defined by Government Code Section 12955.3

Pertinent Section of the Ordinance

RMC 11.100.050 (a) (6) (B)

(6) Owner Move-In. The Landlord seeks to recover possession in good faith for use and occupancy as a Primary Residence by the Landlord, or the Landlord's spouse children, parents or grandparents.

(A) Landlord, as used in this Subsection (a)(6), shall only include a Landlord that is a natural person who has at least a fifty (50) percent recorded ownership interest in the Property.

(B) No eviction may take place for an "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.

Recommended Action

(1) RECEIVE a presentation of policy options and a staff recommendation concerning the extent to which the Rent Program should facilitate the transfer of contact information between Tenants and Landlords to support a Tenant's ability to exercise their right of first refusal to re-rent a unit from which they were previously evicted on the grounds of Owner Move-In; (2) PROVIDE direction to staff concerning proposed Regulation 1010; and (3) CONTINUE DISCUSSION on proposed Regulation 1009 in the context of Richmond Municipal Code Section 11.100.050(a)(6)(B).

Extra Slides

Interpreting RMC 11.100.050 (a)(6)(B)

RMC 11.100.050 (a) (6) (B)

(B) No eviction may take place for an “owner move-in” if the same Landlord or (same) 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.

If the word same applies to both the Landlord and enumerated relative, the proposed regulation 1009 (C) 1 could conflict with RMC 11.100.050 (a) (6) (B)

- ❑ If the same Landlord or same enumerated relative already occupies a unit on the property (or a vacancy exists), that same Landlord may not perform an OMI eviction for themselves on the property.
- ❑ If the same enumerated relative, already occupies a rental unit on the property, the owner would not be able to perform an OMI eviction for that same enumerated relative on the property, but could perform OMI evictions for enumerated relatives who do not already occupy a rental unit on the property.

In other words, a Landlord who already occupies a rental unit on the property is able to perform an unlimited number of OMI evictions for enumerated relatives, as long as those same relatives are not already occupying a rental unit on the property (or there is a vacant unit).