

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: January 19, 2022

Final Decision Date Deadline: January 19, 2022

STATEMENT OF THE ISSUE: The minutes of the December 15, 2021, Regular Meeting of the Richmond Rent Board require approval.

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

- | | | |
|---|--|--|
| <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>CONSENT CALENDAR</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: APPROVE the minutes of the December 15, 2021, Regular Meeting of the Richmond Rent Board – Rent Program (Cynthia Shaw 620-5552).

AGENDA ITEM NO:

F-1.

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RICHMOND, CALIFORNIA, December 15, 2021

The Regular Meeting of the Richmond Rent Board was called to order at 5:00 P.M.

Due to the coronavirus (Covid-19) pandemic, Contra Costa County and Governor Gavin Newsom have issued multiple orders requiring sheltering in place, social distancing, and reduction of person-to-person contact. Accordingly, Governor Gavin Newsom has issued executive orders that allow cities to hold public meetings via teleconferencing.

Public comments were confined to items appeared on the agenda and were limited to the methods provided below. DUE TO THE SHELTER IN PLACE ORDERS, and consistent with Executive Order N29-20, the meeting utilized video/teleconferencing only. The following provides information on how the public participated in this meeting.

The public was able to view the meeting using Zoom at the following link:

<https://us02web.zoom.us/j/83372510696?pwd=TIB0a3FDMVdKeVZZYVNVbjJnRVc0Zz09>
Password: rentboard

Or By Telephone:

US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or
+1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592
Webinar ID: 833 7251 0696

International numbers available:

<https://us02web.zoom.us/j/83372510696?pwd=TIB0a3FDMVdKeVZZYVNVbjJnRVc0Zz09>

Community members who wished to make a public comment were required to submit their comments via email by 3:00 p.m. on Wednesday, December 15, 2021, to the Rent Board Clerk, Cynthia Shaw at cynthia_shaw@ci.richmond.ca.us, to be considered into the record.

PLEDGE TO THE FLAG

ROLL CALL

Boardmembers Present: Conner, Johnson, Vasilas, Vice Chair Mishek, and Chair Finlay.

Staff Present: Staff Attorney Charles Oshinuga, Deputy Director Fred Tran and Executive Director Nicolas Traylor.

Absent: None.

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Executive Director Nicolas Traylor noted for the record a typo in Item F-1, November 17, 2021 Minutes, under Public Forum, to correct the spelling of past through to pass through. Boardmember Conner also noted for the record a second typo in Item F-1 to change the word respectively to respectfully. Since the recommended corrections didn't result in substitutive changes, Executive Director Nicolas Traylor agreed to make the corrections, and no formal action was taken on this item.

PUBLIC FORUM

Cordell Hindler invited the Board to attend the Richmond Rotary Club weekly meeting, held at the Richmond Country Club on December 17, 2021. He also commented on Item F-4 under Consent Calendar regarding AB 361 regarding virtual Rent Board meetings. He expressed that the Board should consider a hybrid model for Rent Board meetings. He mentioned that the City of Berkeley City Council held their meeting utilizing a hybrid model and feels that Richmond Rent Board should also consider a hybrid model. He also expressed that he misses the in-person interaction with Rent Boardmembers in the Council Chambers.

RENT BOARD CONSENT CALENDAR

On motion of Boardmember Conner, seconded by Vice Chair Mishek, the item(s) marked with an (*) were approved unanimously:

*F-1. Approve the minutes of the November 17, 2021, Regular Meeting of the Richmond Rent Board.

*F-2. Receive the Fiscal Year 2021-22 Monthly Activity Report through November 2021.

*F-3. Receive the Rent Program FY 2021-22 Monthly Revenue and Expenditure Report through November 2021.

*F-4. Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that because of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference.

CONSIDERATION OF APPEALS

G-1. Staff Attorney Charles Oshinuga presented on the matter of Appeal regarding Petition numbers RC21-T093/T094/T106. Appellant appeals the Hearing Examiner Decision on Remand that found that Respondents were owed Excess Rent damages due to both an improper retention of Security Deposit and impermissible utility charges. Additionally, Appellant appeals the finding the Respondents were entitled to Relocation payments. Specifically, Appellant asserts that 1) Respondents in the Lower Unit were unauthorized occupants with no relationship to the Appellant and consequently, their petition is “illegitimate”; 2) any claims of Rent overcharges based on utility payments are defeated based on Upper Unit Respondents’ written agreement to pay all the utility bills; 3) Lower Unit Respondents are not entitled to Relocation payments as they were unauthorized occupants; 4) the security deposit is not refundable as Respondents caused more damage than the security deposit would otherwise cover; 5) and the Hearing Examiner was biased and deprived the Landlord of Due Process. There were no public comments on this item. All parties to this case were present. Appellant presented for 5 minutes, then the Respondents presented each for a total of 7 minutes and finally the Appellant closed for 2 minutes. The Appeal began and the following individuals presented their case: Naresh Sharma, Nischal Rajbhandari and Roshan KC. Discussion ensued.

Before voting on the legal recommendation, Chair Finlay recommended polling Boardmembers for their comments on the recommendation before voting.

The following comments were made by Boardmembers regarding recommendation #1 to affirm the Hearing Examiner’s findings that Appellant engaged in improper utility charges, and the consequent award of \$1,951.81, Boardmember Conner commented that she was not sure about her vote yet, Boardmember Johnson said yes, ready to vote and agree with recommendation, Boardmember Vasilas commented that he was unsure about voting, and unclear about the recommendation, Vice Chair Mishek has further

questions before voting and Chair Finlay agreed to discuss the recommendation further before voting. After polling the Boardmembers for comments, the Board agreed to discuss this recommendation further before voting.

The following comments were made by Boardmembers regarding recommendation #2 to affirm, the Hearing Examiner's findings that Respondents Roshan KC and Dipika Dahal were entitled to Relocation payments and subsequent award of \$6,486, as the Record contains substantial evidence to support the finding that Appellants took an action to terminate Respondents Roshan KC and Dipika Dahal's tenancy for purpose of Owner Move-In. Boardmember Conner commented that was not sure about her vote yet, Boardmember Johnson said would like to wait before voting, Boardmember Vasilas commented that he would vote no, Vice Chair Mishek commented that she was undecided and Chair Finlay agreed to discuss the recommendation further before voting and to move on to the next recommendation. After polling the Boardmembers for comments, the Board agreed to discuss the recommendation further before voting.

The following comments were made by Boardmembers regarding recommendation #3 to reverse the portion of the Hearing Examiner's decision that awarded Respondents Roshan KC and Dipika Dahal \$699.39 in security deposit, as Respondents Roshan KC and Dipika Dahal did not file a Petition asserting Appellant improperly withheld their security deposit. The award of \$699.39 should be reversed to \$0. All Boardmembers agreed to vote yes on the recommendation without further discussion.

The following comments were made by Boardmembers regarding recommendation #4 to reverse the portion of the Hearing Examiner's decision that awarded Nischal and Monika Rajbhandari \$699.39 in security deposit, as the Record does not contain Substantial Evidence that Respondents met their burden of proof of demonstrating that 1) the Security Deposit was paid to the Appellant, 2) the amount which was paid, and 3) that the Appellant retained the amount despite the conditions of the Rental Unit not exceeding the cumulative effects of ordinary wear and tear or preexisting the tenancy. The award of \$699.39 should be reversed to \$0. Boardmember Johnson commented that she would like to wait before voting, Boardmember Conner agreed to the recommendation, Boardmember Vasilas agreed to the recommendation, Vice Chair Mishek commented that she would

like to wait before voting, and Chair Finlay agreed to discuss the recommendation further before voting. After polling the Boardmembers for comments, the Board agreed to discuss this recommendation further before voting.

Further discussion ensued. After hearing the issues brought on appeal and considering the arguments of all parties on appeal, the Board voted on the following in four parts:

A motion by Vice Chair Mishek, seconded by Boardmember Johnson to affirm the Hearing Examiner's findings that Appellant engaged in improper utility charges, and the consequent award of \$1,951.81, passed by the following vote: **Ayes:** Boardmembers Johnson, Vasilas, Vice Chair Mishek and Chair Finlay. **Noes:** Boardmember Conner. **Abstentions:** None. **Absent:** None.

A motion by Vice Chair Mishek, seconded by Boardmember Johnson to affirm the Hearing Examiner's findings that Respondents Roshan KC and Dipika Dahal were entitled to Relocation payments and subsequent award of \$6,486, as the Record contains substantial evidence to support the finding that Appellants took an action to terminate Respondents Roshan KC and Dipika Dahal's tenancy for purpose of Owner Move-In., passed by the following vote: **Ayes:** Boardmembers Conner, Johnson, Vice Chair Mishek and Chair Finlay. **Noes:** Boardmember Vasilas. **Abstentions:** None. **Absent:** None.

A motion by Boardmember Conner, seconded by Boardmember Johnson to reverse the portion of the Hearing Examiner's decision that awarded Respondents Roshan KC and Dipika Dahal \$699.39 in security deposit, as Respondents Roshan KC and Dipika Dahal did not file a Petition asserting Appellant improperly withheld their security deposit. The award of \$699.39 should be reversed to \$0, passed by the following vote: **Ayes:** Boardmembers Conner, Johnson, Vasilas, Vice Chair Mishek and Chair Finlay. **Noes:** None. **Abstentions:** None. **Absent:** None.

A motion by Boardmember Conner to reverse the portion of the Hearing Examiner's decision that awarded Nischal and Monika Rajbhandari \$699.39 in security deposit, as the Record does not contain Substantial Evidence that Respondents met their burden of proof of demonstrating that 1) the Security Deposit was paid to the Appellant, 2) the amount which was paid, and 3) that the Appellant retained the amount despite the conditions of the Rental Unit not exceeding the cumulative effects of ordinary wear and tear or

preexisting the tenancy. The award of \$699.39 should be reversed to \$0, failed for lack of a second motion.

A new motion by Boardmember Conner, seconded by Vice Chair Mishek to reverse the portion of the Hearing Examiner's decision that awarded Nischal and Monika Rajbhandari \$699.39 in security deposit, as the Record does not contain Substantial Evidence that Respondents met their burden of proof of demonstrating that 1) the Security Deposit was paid to the Appellant, 2) the amount which was paid, and 3) that the Appellant retained the amount despite the conditions of the Rental Unit not exceeding the cumulative effects of ordinary wear and tear or preexisting the tenancy. The award of \$699.39 should be reversed to \$0, passed by the following vote:

Ayes: Boardmembers Conner, Johnson, Vasilas, Vice Chair Mishek and Chair Finlay. **Noes:** None. **Abstentions:** None. **Absent:** None.

Staff Attorney Charles Oshinuga, recommended that the Board state for the record that they did not find any findings of the Appellant claim of bias to set a precedence for future appeal cases.

A motion by Chair Finlay, seconded with a friendly amendment by Boardmember Conner, that based on the record the Board found no evidence of bias on the part of the Hearing Examiner. A second friendly amendment by Vice Chair Mishek and accepted by Boardmember Conner and Chair Finlay, to add that all the aforementioned facts, the Record did not support Appellant's contention of bias and deprivation of Due Process, passed by the following vote: **Ayes:** Boardmembers Conner, Johnson, Vasilas, Vice Chair Mishek and Chair Finlay. **Noes:** None. **Abstentions:** None. **Absent:** None.

Rent Board Clerk Cynthia Shaw concluded and dismissed the parties for Appeal RC21-T093/T094/T106 and informed them that they will receive a decision within 30 days.

REGULATIONS

H-1. The matter to amend Regulation 201(D), to reflect the changes and retitling of Small Second Unit Ordinance to Richmond Municipal Code Section 15.04.610.020, titled "Accessory Dwelling Units and Junior Dwelling Units" was presented by Deputy Director Fred Tran. The presentation included the statement of the issue, fiscal impact, background, discussion, and the recommended action. Discussion ensued. There were no public comments on this item. A motion by

Boardmember Vice Chair Mishek, seconded by Boardmember Johnson, a friendly amendment by Boardmember Conner, and accepted by Vice Chair Mishek, to amend Regulation 201(D), to reflect the changes and retitling of Small Second Unit Ordinance to Richmond Municipal Code Section 15.04.610.020, titled “Accessory Dwelling Units and Junior Accessory Dwelling Units”, passed by the following vote: **Ayes:** Boardmembers Conner, Johnson, Vasilas, Vice Chair Mishek and Chair Finlay. **Noes:** None. **Abstentions:** None. **Absent:** None.

REPORTS OF OFFICERS

Board Clerk Cynthia Shaw reminded Boardmembers to look out for an email from the City Clerk’s office to complete their form 700 by April 2022.

ADJOURNMENT

There being no further business, the meeting adjourned at 7:27 P.M.

Cynthia Shaw
Staff Clerk

(SEAL)

Approved:

Virginia Finlay, Rent Board Chair

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