

Change of Rental Status: How to Request an Administrative Determination of Inapplicability

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City of Richmond
Rent Program

Workshop Overview

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Determination:
The Definition

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Definition: Administrative Determination

The Richmond Fair Rent Ordinance, Just Cause for Eviction and Homeowner Protection Ordinance (RMC 11.100) requires that all rental units in the City of Richmond enroll with the Rent Program and comply with all effective laws, regulations, and required fees.

Once enrolled rental units are classified as either "Partially Covered," and subject to only the Just Cause portion of the Ordinance or "Fully-Covered," and subject to both the Just Cause and the Rent Control portions of the Ordinance.

The Administrative Determination is the process in which the owner of a unit may request an exemption. If granted the exemption may change the status of a fully-covered unit to either partially-covered or completely exempt or change the status of a partially-covered unit to completely exempt. Claims are not permanent and may change as the circumstances change.

For more information on Rent Control and Just Cause for Eviction Protections please see workshop title "Rights and Responsibilities for Richmond Landlords and Tenants."

Administrative Determination: The Five Types

[Rent Board Regulation 205](#) provides that Landlords and Tenants may request a decision of the applicability of the Rent Ordinance. As such, the Rent Program offers five different types of Determinations that accommodate all legal requests.

1. Declaration of Owner Occupancy
2. Request for an Administrative Determination of Inapplicability due to Owner Occupancy
3. Request for an Administrative Determination of Inapplicability because the Property is Not Offered for Rent or Offered "Rent Free"
4. Request for an Administrative Determination of Exempt Status
5. Petition to Determine Exempt Status

Next we will ask: **Which form is right for your situation?**

Please be aware that knowing which form to use can be complicated. The Rent Program offers housing counselors who can answer all your questions.

Type of Form

When to Use this Form

Declaration of Owner Occupancy

Use only for a single-family home or condominium when:

1. The current owner never rented the property AND
2. The current owner now resides at the property as their primary residence.

Example:

You recently purchased a house, and you received an invoice from the Richmond Rent Program asking you to pay a Rental Housing Fee. You just purchased the house for your residence and had no knowledge that the previous owner used the property as a rental. The Rent Program still classifies this property as a rental and fees may still be owed.

Did you know: The Rental housing Fee *is* legally transferable through the sale of a property and the new owner may be liable for outstanding fees.

Type of Form

When to Use this Form

Request for Administrative Determination of Inapplicability due to Owner Occupancy

Use this form for any unit that:

1. Has been previously rented by the current owner AND
2. When this unit is now occupied by the owner as their primary residence.

Example:

The tenants formerly residing in one of the two units of a duplex were evicted for non-payment of rent, a Just Cause. The owner decides to occupy the now vacant unit as their primary residence. The owner would claim full exemption for the occupied unit of the duplex with the request of Inapplicability due to Owner Occupancy. The second unit would remain fully-covered.

Type of Form

Request for Administrative Determination of Inapplicability due to the unit NOT being available for rent or due to the owner collecting no rent.

When to Use this Form

Use this form for any unit that:

1. The owner maintains the property but is not collecting any rent.
 1. The unit is vacant, and not available.
Please note, holding a property vacant for vacancy's sake or for the sale of a property may not qualify to be determined as "not available." An example, of "not available" might be a year long construction project.
 2. The unit is occupied, but the Landlord collects no rent.

Example: A father/owner would like to allow his daughter to live in the unit. The father/owner collects no rent (that is, the father/owner pays the mortgage, taxes, all the maintenance, and collects no money and requires no maintenance).

Did you know: Rent is defined as "all periodic payments and all nonmonetary considerations." This definition means that most labor or indirect support that benefit Owner *will* be considered rent. Examples include (but are not limited to): tenant labor, maintenance, payments of the property taxes, etc.

Type of Form

Request for Administrative Determination of Exempt Status

When to Use this Form

Use this form for any unit that is improperly enrolled as per [Richmond Rent Board Regulations 205 & 206](#):

1. If the status of the unit has changed due to the circumstances OR
2. If the Rent Program has your status mis-enrolled.
 1. A “Fully-Covered” unit is now “Partially-Covered” or fully exempt.
 2. A “Partially-Covered” is now fully exempt.

Example: You recently purchased a property with two units, a main house and an unpermitted second dwelling unit (ADU). You plan to rent out both units, and both units are currently listed as “fully-covered.” Before you rent out the ADU unit, you reconstruct the ADU with a proper ADU permit issued by the City of Richmond Building Department. The ADU should now be considered “partially-covered.” You would use this form to claim the exemption for the ADU from Rent Control and make the ADU subject to only Just Cause.

Type of Form

When to Use this Form

Petition to Determine Exempt Status

Use this form for any unit:

1. If you filed an Administrative Determination and you want to appeal a denied determination.
 1. You have 30 days after the denial to file the petition.
 2. The petition will go before the Rent Program's Hearing Examiner who will reach a decision regarding the appeal.

Example: A Rent Program Administrator determined your claim of full exemption for "Not Available for Rent" was insufficient and denied your request. You may appeal the decision through the petition process.

Burden of Proof: Documentation and Evidence

All claims for Administrative Determination for Exempt Status will require a minimum of two types of documentation:

- 1) The correct form properly filled out AND
- 2) Evidence to support the claim.

All claims place the ***burden of proof*** on the applicant.

This means in addition to the form the flier must add additional documentation to support this claim. This evidence must support the claim to threshold that convinces the Administrator that the claim is more believable than not.

Did you know: That delays and denials are most often caused by a lack of supporting documentation that should be included in initial claim.

Burden of Proof: Examples

The specific documentation required will vary depending on which of the five Administrative Determinations for Exemption is being filed. The forms offer examples and Rent Program Housing Counselors can assist if you have questions.

General Examples of Proof:

- Grant Deed
- 4 Consecutive months of the following:
 - PG&E Bill
 - Cable Bill
 - Bank Statements
- Insurance policies
- Notarized statements
- Moving receipts
- Post Office Change of Address

How to File: Process

- ▶ All forms can be found on our [Website](#).
- ▶ All Claims must be completed by the owner on record or their authorized agent.
- ▶ All submission can be filed:
 1. In-Person by coming to the Rent Program offices located at 440 Civic Center Plaza, on the 2nd floor.
 2. Via mail to:
 - Attn: Billing and Registration
 - Richmond Rent Program
 - 440 Civic Center Plaza, Suite 200
 - Richmond, CA 94804
 3. Via email to rent@ci.Richmond.ca.us
- ▶ **Under Review**: Once a Claim of Administrative Determination is made a property will be marked “under review” and any potential late fees will not be charged.
- ▶ Please be aware that the review process can take up to several months. We ask for patience and continued communication throughout the review process.

THANK YOU!

Richmond Rent Program

510-234-RENT (7368)

rent@ci.richmond.ca.us

Or

Visit us at:

www.richmondrent.org