

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: October 18, 2017

Final Decision Date Deadline: October 18, 2017

STATEMENT OF THE ISSUE: Boardmember Maddock asked at the last meeting whether a landlord who demolishes units and then constructs an affordable housing project on the site is nevertheless required to offer such units to displaced tenants notwithstanding that the tenants, due to their income, would not be eligible for an affordable housing unit. Michael Roush, Legal Counsel to the Rent Board, indicated he would provide a response at the Board's next meeting.

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

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|---|--|--|--|
| <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: RECEIVE a memorandum from Michael Roush, Rent Board Legal Counsel regarding whether a Landlord who withdraws Rental Units from the rental market in accordance with Rent Board Regulation 17-07 for the purposes of demolition and then constructs affordable housing on the site is nevertheless required to offer such units to displaced tenants who may be ineligible for the affordable housing unit. This item is in response to questions from the Board raised at the September 20, 2017, Regular Meeting – Rent Program (Michael Roush 621-1202).

AGENDA ITEM NO:

G-4.

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MEMORANDUM

TO: Chair Gray and Members of the Rent Board

FROM: Michael Roush, Legal Counsel

THRU: Nicolas Traylor, Executive Director

DATE: October 18, 2017

SUBJECT: RESPONSE TO QUESTION FROM BOARDMEMBER MADDOCK
CONCERNING THE WITHDRAWAL OF UNITS FROM THE RENTAL
MARKET DUE TO DEMOLITION

Background

At the Rent Board's September 20, 2017 meeting, it considered and approved Board Regulation 17-07 regarding the withdrawal of rental units permanently from the rental market. That Regulation in part requires a landlord who withdraws a rental unit from the market but thereafter, within a ten-year period, decides to return the rental unit to the market to first offer the rental unit to the displaced tenants.

The Regulation also addresses what happens if rental units are demolished and new rental units are constructed on the property. In that case, the Regulation provides that for five years from when the rental units were demolished, the new units are subject to rent control notwithstanding any other provision of law which otherwise exempts newly constructed units from rent control, e.g., the Costa Hawkins Rental Housing Act.

Board member Maddock asked at the last meeting whether a landlord who demolishes units and then constructs an affordable housing project on the site is nevertheless required to offer such units to displaced tenants notwithstanding that the tenants, due to their income, would not be eligible for an affordable housing unit. I indicated I would provide a response at the Board's next meeting.

Discussion

Where rental units are withdrawn from the rental market due to demolition and new rental units are constructed on the same property, neither the Regulation nor State law (the Ellis Act) requires the landlord to offer the new units to displaced tenants. Accordingly, if an affordable housing project were constructed on the site, only those tenants who would be eligible for an affordable housing unit must be offered the newly constructed units. Even though the Regulation provides these new units are subject to rent control for only five years from when the rental units were demolished, the affordable housing restrictions would almost certainly apply beyond that time frame.

If the Board has any further questions or concerns about this matter, please let me know.

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