

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: February 17, 2021

Final Decision Date Deadline: February 17, 2021

STATEMENT OF THE ISSUE: The Rent Ordinance and the City Charter are silent with regards to the status of board, commission or committee members whose terms have expired but who have not been replaced by a new appointee. Vacancies during the interim period—a period where a Rent Board member is either being reappointed or replaced—would cause severe disruption to the operation of the Rent Program and to the effectuation of Measure L. Staff members are therefore recommending that the Board adopt a policy consistent with State law that would permit Boardmembers whose terms have expired to continue serving until they are replaced.

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: ADOPT Regulation 301.5 to permit Boardmembers whose terms have expired to continue serving until they are replaced – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

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AGENDA REPORT

DATE: February 17, 2021

TO: Chair Maddock and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director
Paige Roosa, Deputy Director

SUBJECT: BOARDMEMBER EXPIRATION OF TERM POLICY

STATEMENT OF THE ISSUE:

The Rent Ordinance and the City Charter are silent with regards to the status of board, commission or committee members whose terms have expired but who have not been replaced by a new appointee. Vacancies during the interim period—a period where a Rent Board member is either being reappointed or replaced—would cause severe disruption to the operation of the Rent Program and to the effectuation of Measure L. Staff members are therefore recommending that the Board adopt a policy consistent with State law that would permit Boardmembers whose terms have expired to continue serving until they are replaced.

RECOMMENDED ACTION:

ADOPT Regulation 301.5 to permit Boardmembers whose terms have expired to continue serving until they are replaced – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).

FISCAL IMPACT:

Since the Rent Board is responsible for adopting the annual budget and determining the amount of the Rental Housing Fee, it is imperative from a financial perspective that the Board has a policy that would allow members whose terms have expired to continue serving until they are replaced to avoid disruption of services.

DISCUSSION:

Background

Section 11.100.060(m) of the Rent Ordinance ensures the integrity and autonomy of the Rent Board and mandates that the Rent Board “be an integral part of the government of the City [of Richmond],” further establishing that the Rent Board “shall exercise its

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powers and duties under [Chapter 11.100] independent from the City Council, City Manager, and City Attorney, except by request of the [Rent] Board.”

The Rent Ordinance requires that the Rent Board hold regularly scheduled meetings to ensure the timely performance of its duties; however, both the Rent Ordinance and the City Charter are silent with regards to the status of board, commission or committee members whose terms have expired but who have not been replaced by a new appointee. Vacancies during the interim period—a period where a Rent Board member is either being reappointed or replaced—would cause severe disruption to the operation of the Rent Program and to the effectuation of Measure L.

Proposed Policy and Alignment with State Law

Regulation 301.5 would permit Boardmembers whose terms have expired to continue serving until they are replaced to avoid disruption to Rent Program services. Such a policy is consistent with the City Charter and State law; pursuant to Section 10 of Article IX of the City Charter, the Charter reserves to the City the right to exercise “any and all rights, powers, and privileges heretofore or hereafter granted or prescribed by general laws of the State.” The California Supreme Court in *Hartford Accident & Indemnity Co. v. City of Tulare* (1947) 30 Cal.2d 832, 836, and its progeny, has declared that “a public officer who continues to perform the duties of the office and holds office beyond the term for which he was elected or appointed, holds office until his successor is selected and qualifies. The basis for that rule is public policy against having a vacancy in public office [or] having a gap between successive office holders.”

Next Steps

In accordance with Regulation 323, the proposed regulation would become effective March 19, 2021 (thirty calendar days from the date of the Board meeting) if adopted by the Board.

DOCUMENTS ATTACHED:

Attachment 1 – Resolution and Proposed Regulation 301.5

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ATTACHMENT 1**

**CITY OF RICHMOND RENT BOARD RESOLUTION NO. 21-02
ADOPTING CITY OF RICHMOND RENT BOARD REGULATION 301.5:
EXPIRATION OF TERM**

WHEREAS, on November 8, 2016, Richmond Residents passed ballot initiative Measure L, with 65.27% voting Yes, which established Rent control and Just Cause for Eviction within the City limits of Richmond; and

WHEREAS, Measure L encapsulates the edicts of Rent Control and Just Cause for Eviction within a voter-adopted Ordinance, called “The Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance,” and herein referred to as “Rent Ordinance”; and

WHEREAS, Measure L, among other things, created an independent agency and vested within that agency broad powers of administering and executing the provisions of the Rent Ordinance; and

WHEREAS, this independent agency is the Rent Board and its affiliated agent, the Rent Program; and

WHEREAS, the Rent Board is comprised of five (5) City of Richmond residents who are appointed by the Mayor and City Council; and

WHEREAS, Rent Board members “serve terms of two (2) years and may be reappointed for a total of four (4) full terms for a total of fewer than ten (10) years”; and

WHEREAS, both the Rent Ordinance and the City Charter is silent with regards to the status of board, commission or committee members whose terms have expired but who have not been replaced by a new appointee; and

WHEREAS, vacancies during the interim period—a period where a Rent Board member is either being reappointed or replaced—would cause severe disruption to the operation of the Rent Program and to the effectuation of Measure L; and

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WHEREAS, pursuant to Richmond Municipal Code Section 11.100.060(m), to ensure the integrity and autonomy of the Rent Board, Measure L mandates the Rent Board “be an integral part of the government of the City [of Richmond]” and establishes that the Rent Board “shall exercise its powers and duties under [Chapter 11.100] independent from the City Council, City Manager, and City Attorney, except by request of the [Rent] Board.”; and

WHEREAS, in furtherance of its independence, Measure L vests the Rent Board with the sole power to adopt rules and regulations, necessary to further the purpose of Measure L; and

WHEREAS, pursuant to Richmond Municipal Code Section 11.100.070(h), Measure L requires the Rent Board to hold “regularly scheduled meetings as are necessary to ensure the timely performance of its duties under this Chapter”; and

WHEREAS, the Rent Board finds that its functionality and existence are necessary to further the purpose of Measure L, as Measure L, pursuant to Richmond Municipal Code Section 11.100.060 et.seq., requires a functioning Rent Board; and

WHEREAS, the Rent Board further finds it necessary to hold reoccurring monthly meetings to timely adjudicate various issues on administrative appeal, adopt regulations to better implement the provisions of Measure L, and to review and adopt a required budget necessary to finance the Rent Board’s day-to-day activities; and

WHEREAS, the California Supreme Court in *Hartford Accident & Indemnity Co. v. City of Tulare* (1947) 30 Cal.2d 832, 836, and its progeny, has declared that “a public officer who continues to perform the duties of the office and holds office beyond the term for which he was elected or appointed, holds office until his successor is selected and qualifies. The basis for that rule is public policy against having a vacancy in public office [or] having a gap between successive office holders”; and

WHEREAS, the Rent Board desires to align itself with public policy on the issue of vacancies and preventing gaps between successive office holders; and

WHEREAS, pursuant to Section 10 of Article IX of the Charter of the City of Richmond, the Charter reserves to the City the right to exercise “any and all rights, powers, and privileges heretofore or hereafter granted or prescribed by general laws of the State”; and

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ATTACHMENT 1

WHEREAS, pursuant to Government Code Section 1302, “every officer whose term has expired shall continue to discharge the duties of his office until his successor has qualified”; and

WHEREAS, because the Charter is silent with regards to the status of board, commission or committee members whose terms have expired but who have not been replaced by a new appointee, and the Charter allows for the City to exercise powers under general law, the Rent Board may avail itself to the rights conferred under the provisions of Government Code Section 1302; and

WHEREAS, the Rent Board, exercising its authority through Measure L and consistent with the Charter, seeks to exercise its authorized powers under Measure L, in a manner that is both consistent and mandated by public policy, permissible under Measure L, and separately authorized by Government Code Section 1302; and

WHEREAS, the Rent Board further finds it necessary to the continuation of its functions and effectuation of Measure L, that a Rule and Regulation be adopted to clarify that Rent Board members shall continue to discharge their duties after the expiration of their term until their successor is appointed;

NOW, THEREFORE, BE IT RESOLVED THAT:

THE CITY OF RICHMOND RENT BOARD ADOPTS THE FOLLOWING REGULATION:

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REGULATION 301.5. EXPIRATION OF TERM

- A. Where a Rent Boardmember’s term has expired, that member shall continue to discharge their duties until they are either reappointed, or their successor is appointed.
- B. In the event that a Rent Boardmember who continued to discharge their duties after the expiration of their term is reappointed, the time during which they continued to discharge their duties while awaiting reappointment shall be counted against their overall two-year term.
- C. In no event shall a Rent Board member serve a total of five (5) terms.

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