



**City of Mountain View
Rental Housing Committee
Meeting October 16, 2023, Agenda Item Questions**

Item 5.1 Appeal Hearing

Q: Why were the conditions in the living room deemed to be unhealthy for the petitioner's mother, but not for the petitioner? Is it because the unsafe nature of the conditions was established for the mother on advice of her doctor, but no such advice was sought for the petitioner?

A: Correct. The evidence in the record provided by the petitioner was about his mother's health, not his own.

Q: The staff report says the petitioner was not entitled to a rent refund because he had withheld the rent payment, even though he continued to live in the property. Did he eventually pay the rent? What did he pay?

A: Petitioner never paid rent for February 2023.

Q: Is the property currently registered? Did this have any impact on the petition?

A: The property is registered, and the fees are paid. This has no impact on the petition.

Q: Do you have a copy of the mold attachment referred to in the lease?

A: In the Hearing Record, the Lease is Respondent's Exhibit #2. The mold addenda is provided in the lease document. See pages 10-11.

Item 6.1 Study Session Rent and the treatment of Utilities in CSFRA/RUBS

Q: Do we have any documented examples where landlords, through the distribution of utility bills, have collected more than the cost of utility bills? (I am not asking about a markup added by the RUBS provider that is kept by the RUBS provider.)

A: Staff does not have any documented examples. There is no way to determine if this has happened without collecting all of the bills for a property and all of the bills to the tenants of that property and comparing the two.

Q: I note the 4-year limit for tenants to claim overcharges for utilities. Considering that, would this be a viable basis for tenants to petition for return of utility billing?

Tenant would establish utility they paid in their first 12 months of tenancy that was not individually metered. They would apply the AGA (s) to that amount. For the last four



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years of their tenancy, if their utility charges that are not individually metered exceed the calculated rolled forward base utility amount, they would be due a refund of the difference.

- A: Not all tenants have access to the utility bills from the first 12 months of their tenancy. To get a rent refund, each month of the last four years of the tenancy will need to be compared to the “one-time utility adjustment” amount to determine if they overpaid on a monthly basis.
- Q: Does the RHC have the right to request a download of utility billing from Conserve by month by unit for amounts Conserve billed for Mountain View CSFRA properties? Does the RHC have the right to request a by property by month download from PG&E or other utilities? If no, could we request if we had a consent form from landlords?
- A: The RHC cannot request a download of utility billing from Conserve for each property because Conserve is a private company. These would need to be requested from the landlord and/or property management company. The RHC could submit a Public Records Act request(s) to any public utility’s company, but there is no guarantee that the public utility company will disclose all of the information requested or how long the request will take to process. This information would be more easily requested from the landlord/property management.
- Q: How did the Santa Clara County Housing Utility Allowances come about? Do they specifically address rental units without individual metering, where the cost of the utilities must be included in the rent? Do they apply only to rent controlled units?
- A: The Santa Clara County Housing Utility Allowances are published by the Housing Authority of the County of Santa Clara. The schedule is determined by the Housing Authority for rental units under the Section 8 Housing Voucher payment standard and is based on the region's fair market rent. Section 8 Housing Vouchers can be used for any available rental, including CSFRA units. Since these standards are based on the region’s fair market rent and costs, they may be considered as a reasonably objective standard to be used for other purposes, such as recommended for the transition from a RUBS system.
- Q: Why is there a discounting for common areas in Options A and B but not in Option C?
- A: In Option C the common areas are automatically excluded when calculating the square footage per rental unit. The square footage, not being used to calculate each rental unit, is the square footage of the common areas.



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- Q: Staff recommends that the new regulations go into effect immediately, but that the rollout of the one-time utility adjustment will need to be staggered. What happens for properties that are in the process of transition? Does RUBS remain in force until the one-time adjustment amount is certified for a property?
- A: Yes. Allocation and billing of utilities will continue as it currently is until the one-time adjustment is certified for the property. Staff would recommend that tenants who overpay in the interim be authorized to receive a refund of any overpayment.
- Q: Which health and safety codes would allow installing submeters to fall under the capital improvement upward increase process?
- A: There are no building or safety codes that require the installation of submeters for existing properties. However, the RHC could provide that a property wanting to update to comply with the California Green Building Code, could recover the costs via a capital improvement petition.
- Q: How much time/effort/money would it cost to do a sampling to check the cost of installing remote submeters in a few example properties?
- A: That information is not available. Staff would have to research and seek quotes and/or estimates. Properties need to be identified that are willing to participate.
- Q: Have we been provided with a ballpark estimate of how much the RUBS providers make in fees per unit?
- A: In discussions with ConService, staff learned that they are charging a fee of \$5 per month per bill, in accordance with SB7 (which states the maximum rate). It is the choice of the landlord to either pay that fee or bill it to the tenant (in Oregon it is forbidden to charge the tenant). This fee should be mentioned in the lease. According to ConService, this fee is lower than the PGE monthly fee charge.
- Q: Would a lease with included utilities that lists \$0 for water and electricity be allowed?
- A: Yes. The landlord is not required to recover the cost of utilities from tenants. This is a business choice.
- Q: Do we have a histogram for the slides showing the distribution of properties over the staggered timeline buckets?
- A: Please see data below from 2019.



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Number of Units on Property	Number of Properties	Approximate Number of Units Affected
1-5 Units	272 properties	1069
6-20 Units	282 properties	2920
>20 Units	154 properties	10,862

Q: Regarding Option B, does staff need direction on what defines "room"?

A: Staff recommends using a definition or "room" that is similar to the one used by San Francisco. RHC can provide direction if that is in fact the definition of room that the RHC wants to use.

7.1 CSFRA Regulations CH5 and MHRSO Regulations CH6: Hearing Timelines

Q: What happens if an action goes over the stated timeline (e.g. didn't hold a hearing by 45 days)? Has it ever happened?

A: Staff serves notices of delay on the parties that inform the parties of the delay and/or cause for postponement. Yes, this has happened, and is happening more frequently because of the short timeframes currently in the regulations. This leads to confusion and places undue stress on the parties.

Q: How often does staff feel that they need to take roughly the maximum allowed timeline (e.g., are hearing decisions taking close to the 30 days currently)?

A: Essentially, even under ideal circumstances, the current timeframes for decisions put a lot of pressure on the administration process. With an ideal petition, the hearing internal timeframes are roughly as follows:

1. Decision sent for internal review – Within 15 to 20 days of record closing
2. Internal review – 5 to 10 days
3. Decision served on parties – between Days 25 and 30

With any kind of complexity, the timeframes become too tight for staff and hearing officers to complete the process within the 30-day window. Because we are seeing increased complexity in the petitions as well as in the need for translations, hearing decisions with complex issues are frequently taking longer than the 30 days as currently outlined by the timeframes.



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- Q: Can we get an example or two of petitions that have slipped past the deadlines?
- A: Example: Tenant filed petition A and petition B. Petition A had multiple claims of unlawful rent with unlawful verbal rent increases and no roll back. The documentation was also by money order with months paid sometimes in batches. Petition B had multiple serious code violations along with incidents requiring PD involvement. Inspections were requested to be completed prior to the hearing. Additionally, the tenant and the property owner both required translations of all documents as well as interpretation support during the hearing. Also, the tenant obtained legal representation and the legal representation required additional time and information to properly support their client. These petitions are for the same unit and the hearings were held in a consolidated hearing. Under the current timeframe, the hearing officer would need to provide a consolidated decision within approximately 10 days for the 30-day deadline to be met because of the internal processes that need to occur (internal review and translations) under circumstances such as this.
- Q: Can we also have an example of the times a simpler petition takes to hit each of the phases?
- A: Example: A single-issue unlawful rent petition with clear documentation, no additional compliance issues, no legal representation, and no request for translations or inspections with no additional scheduling issues between parties hits the targeted timelines as outlined currently by the regulations.
- Q: Maybe also an e.g., about what makes a given petition more likely to take time (what issues might be interrelated).
- A: As outlined in the staff report, single-item petitions requiring translations and interpretations, inspections and/or where a party is represented by legal counsel, increase the time needed to adequately adjudicate the petition. Additionally, we are experiencing an increase in the number of units filing more than one petition at a time for more than one reason (i.e. a unit files an unlawful rent petition and a habitability petition – these petitions are heard at the same time and as the regulations are currently written, the hearing officer’s decision for both petitions must be sent within that 30 day window of the record closing. This is proving very difficult for the hearing officers as well as for the internal review process.