

DATE: July 18, 2022

TO: Rental Housing Committee

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SUBJECT: **Amendments to Chapter 2 of the CSFRA Regulations and Chapter 2 of the MHRSO Regulations**

RECOMMENDATION

To review and adopt amendments to the Community Stabilization and Fair Rent Act (“CSFRA” or “the Act”) Regulations and to the Mobile Home Rent Stabilization Ordinance (“MHRSO” or “the Ordinance”) Regulations to further clarify the calculation of Base Rent, where a rent concession offered in the first month of a tenancy was provided by the Landlord¹ (or Park Owner or Mobile Home Landlord) to the Tenant² (or Mobile Home Owner or Mobile Home Tenant) during the initial term of the tenancy.

BACKGROUND

The Rental Housing Committee (RHC) has held several meetings discussing the impact of rent concessions on the calculation of Base Rent, including a Study Session in May and a meeting on June 20, 2022, where the RHC adopted regulations clarifying the calculation of Base Rent when rent concessions are offered during the initial term of the tenancy. At the May meeting, the RHC took straw polls on several issues, including whether all rent concessions should be treated the same. The result of the straw poll was tied when the vote of the alternate was included, but when the vote of the alternate was excluded, the result was that all concessions should be treated the same. Based on the results of the straw polls, staff provided draft regulations for the June RHC meeting, which were adopted by the RHC.

The regulations, adopted by the RHC on June 20, 2022, amended Chapter 2: Definitions of the CSFRA Regulations, Chapter 4: Petition Process of the CSFRA Regulations, Chapter 2: Definitions

¹ Throughout this staff report, the term “Landlord” is used to refer to Landlords, as defined in the CSFRA, and to Mobile Home Park Owners and Mobile Home Landlords, as those terms are defined in the MHRSO.

² Throughout this staff report, the term “Tenant” is used to refer to Tenants, as defined in the CSFRA, and to Mobile Home Owners and Mobile Home Tenants, as those terms are defined in the MHRSO.

of the MHRSO Regulations, and Chapter 5: Petition Process of the MHRSO Regulations (“Adopted Regulations”). The Adopted Regulations defined rent concessions broadly and made no distinction between rent concessions, such as reduced or free rent during the first month of the initial term of the tenancy and rent concessions that reduced rent for the entire initial term of the tenancy. After adoption of the Adopted Regulations, RHC members expressed some desire that the RHC consider treating rent concessions that consist solely of free or reduced rent during the first month differently from other types of rent concessions. However, this discussion occurred after the RHC had concluded the item on the agenda and near the end of the meeting, after most members of the public had left the meeting.

Subsequent to the June RHC meeting, staff, at the request of the RHC Chair, based on the concerns expressed at the June meeting, reviewed options for revising the newly Adopted Regulations to treat rent concessions limited to reduced or free rent during the first month of the tenancy differently from other rent concessions.

PROPOSED AMENDMENTS TO REGULATIONS

Staff has drafted amendments to the Adopted Regulations (the “Proposed Amendments”) to add a new subsection to Chapter 2(b)(ii) of each of the Regulations, Chapter 2, to exclude from the calculation of Base Rent the first month’s free or discounted rent. The Proposed Amendments would define the first month of the initial term to mean the first full calendar month of the initial term of the tenancy, so if the term of the tenancy began on September 15, a rent concession that provided free or discounted rent for the month of October would be excluded from the calculation of Base Rent.

The Proposed Amendments also amend Subsection 2(b)(iii) to clarify how Base Rent is to be calculated if a rent concession is provided in the form of free or discounted rent during the first month. For purposes of calculating the Base Rent, the initial term of the tenancy would exclude the month during which the concession was granted. For example, if the initial term of the tenancy was six months and a rent concession was provided of free rent during the first month, the Base Rent would be calculated based on the average rent paid by the Tenant over five months, excluding the first month of the term.

Finally, the Proposed Amendments to the Regulations, Chapter 2, add a new Subsection (v) to require that Landlords provide Tenants with a Notice of Rent Concession upon entering into the Rental Agreement. The Notice would include the type of concession provided, the amount of the concession provided, and the Landlord’s calculation of the Base Rent. The Notice would be in a form provided by the RHC. The purpose of the Notice is to ensure that both Landlords and Tenants understand the rent concessions and their impact on Base Rent.

RENTAL HOUSING COMMITTEE AUTHORITY

The purpose of the CSFRA is “to promote neighborhood and community stability, healthy housing, and affordability for renters in the City of Mountain View by controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring Landlords a fair and reasonable rate of return on their investment” (CSFRA, § 1700). To achieve this purpose, the CSFRA imposes a system of rent and eviction controls on certain residential properties in the City (CSFRA, §§ 1705, 1706). The CSFRA also establishes the RHC to administer and implement its provisions (CSFRA, § 1709). The Committee is expressly empowered to “[e]stablish rules and regulations for the administration and enforcement” of the Act and has a duty to “[s]et Rents at fair and equitable levels to achieve the purposes” of the Act (*Id.* at Subdivision (d)). The Committee must “issue and follow such rules and regulations as will further the purpose” of the Act (*Id.* at Subdivision (e)).

Similarly, the findings in the MHRSO state that “[t]he city council finds and declares that it is necessary to protect mobile home residents from unreasonable rent increases, while at the same time protecting the right of park owners and mobile home landlords to receive a fair return on their property and rental income sufficient to cover increases” in certain operational costs (MHRSO, § 46.1(g)). As with the CSFRA, the MHRSO imposes a system of rent stabilization on both Mobile Home Space and Mobile Home tenancies and eviction controls on Mobile Home tenancies (MHRSO, §§ 46.5, 46.6, 46.8). The MHRSO also empowers the Committee to “[e]stablish rules and regulations for the administration of” the Ordinance and to “[s]et rents at fair and equitable levels to achieve the purposes of” the Ordinance (MHRSO, § 46.9(a)(1);(3)).

Adoption of the proposed amendments to the Regulations is within the authority of the RHC, under the CSFRA and the MHRSO, as a regulation that sets rents at fair and equitable levels to achieve the purposes of the Act and the Ordinance. The exclusion of rent concessions that are limited to reduced or free rent in the first month of the initial term of the tenancy will provide tenants with a benefit by reducing the expense of moving while allowing landlords to continue to maintain a fair return on their property.

FISCAL IMPACT

The adoption of the Proposed Amendments to Chapter 2 of the CSFRA Regulations and to Chapter 2 of the MHRSO Regulations is not anticipated to impact the budget of the RHC.

PUBLIC NOTICING—Agenda posting.

KMT-NS-AvD/JS/4/CDD/RHC

895-07-18-22M

- Attachments:
1. Draft Resolution to Adopt Amendment to Chapter 2 of the CSFRA Regulations
 2. Draft Resolution to Adopt Amendment to Chapter 2 of the MHRSO Regulations