

Rental Housing Committee
Appeal No. 17180002
Direction to Hearing Officer on Remand

The Rental Housing Committee heard the appeals of the above Petition for an upward adjustment on August 27, 2018 and made the following decisions;

A. 1 The Decision of the Hearing Officer that junior one-bedroom units shall be valued as "efficiencies" for purposes of Regulation Chapter 6, Section G(3) (Vega Adjustment) is **affirmed**.

A.2 The Decision of the Hearing Officer that the Appellant-Landlord met its burden to rebut the presumption that base year gross income provided for a fair return but that a preponderance of the evidence supports Respondent-Tenants' position that a Vega Adjustment is unnecessary for the landlord to receive a fair rate of return, fails to ensure fairness, and is otherwise contrary to the purposes of the CSFRA is **remanded** to the Hearing Officer in order for the Hearing Officer to provide further clarification on the evidence supporting the decision as well as clarification on the weight given to the evidence submitted by the Appellant-Landlord rebutting the evidence submitted by the Respondent-Tenants regarding the condition and location of the units subject to the Vega adjustment. In reconsidering the Vega adjustment the Hearing Officer should only consider the units that are appropriately subject to a Vega adjustment as set out in Table 4 of the Tentative Decision provided to the RHC.

B. The Decision of the Hearing Officer calculating the base year adjusted gross income is **remanded** to be reconsidered if any adjustments are necessary resulting from other items in the decision remanded to the Hearing Officer.

C. The Decision of the Hearing Officer calculating petition year adjusted gross income is **remanded** to the Hearing Officer for the limited purpose of showing the calculation of the petition year adjusted gross income with appropriate reference to evidence in the record that supports such calculation.

D. The Decision of the Hearing Officer to exclude California Apartment Association membership renewal costs is **modified** to state that such costs are not a business license fee; the expense is **remanded** to the Hearing Officer for the limited purpose of re-categorizing the costs as one or more types of operating expense based on a preponderance of the evidence in the record.

E. The Decision of the Hearing Officer calculating the base year management expenses is **affirmed**. However, the Hearing Officer may recalculate the base year management expenses if any adjustments are necessary resulting from other items in the decision remanded to the Hearing Officer.

F. The Decision of the Hearing Officer calculating the petition year management expenses is **remanded** to the Hearing Officer for the limited purpose of calculating the presumed reasonable management expenses in accordance with Regulation Chapter 6, Section E(1)(g) and verifying whether petition year management expenses submitted in the Petition are greater than or equal to the presumed reasonable petition year management expenses.

G.1 The Decision of the Hearing Officer calculating base year ordinary repair, replacement, and maintenance costs is **remanded** to the Hearing Officer for the purpose of reviewing the appropriate categorization of salary expenses as ordinary repair, replacement and maintenance expenses versus management expenses and for the purpose of: (1) including or excluding all or a portion of salary/labor costs based on a preponderance of evidence in the record; and (2) clarifying whether a preponderance of the evidence in the record supports the exclusion of identified expenses as either reimbursed or reimbursable pursuant to Regulation Chapter 6, Section E(2)(d).

G.2. The Decision of the Hearing Officer calculating petition year ordinary repair, replacement, and maintenance costs is **remanded** to the Hearing Officer for the purpose of reviewing the appropriate categorization of salary expenses as ordinary repair, replacement and maintenance expenses versus management expenses and for the purposes of: (1) including or excluding all or a portion of salary/labor costs based on a preponderance of evidence in the record; and (2) clarifying whether a preponderance of the evidence in the record supports the exclusion of identified expenses as either reimbursed or reimbursable pursuant to Regulation Chapter 6, Section E(2)(d).

H.1 The Decision of the Hearing Officer calculating base year capital improvements is **remanded** to the Hearing Officer for the limited purpose of explaining the basis for the determination that the pavers were not a necessary costs and were unrelated to electrical wiring issues and to what extent the cost of the pavers are included and excluded from capital improvements with reference to the exclusion of over improvements in Regulation Chapter 6, Section F(2)(d).

H.2. The Decision of the Hearing Officer calculating petition year capital improvements is **remanded** to the Hearing Officer for the limited purpose of explaining why the elevator expenses were excluded from capital improvements and clarifying whether and to what extent the parking lot resurfacing is an eligible capital improvement as well as the inclusion of any re-calculated base year capital improvements that carryover to the petition year.

I. The Decision of the Hearing Officer calculating total base and petition year operating expenses is **remanded** to the Hearing Officer for the limited purposes of: (1) incorporating the calculations and revisions described above; and (2) clarifying whether a preponderance of the evidence in the record indicates that the \$1,100 check to P.W. Stephens Environmental may have been counted twice.

J. The Decision of the Hearing Officer to equally allocate any rent increase allowed under the maintenance of net operating income calculation is **remanded**, for the Hearing Officer

to explain why the allocation of the rent increase equally among all units at the property supports the interest of justice and provides the Appellant-Landlord with a fair rate of return.