

**MEMORANDUM**

Rent Stabilization Program
Community Development Department

DATE: March 28, 2022

TO: Members of the Rental Housing Committee

FROM: Karen M. Tiedemann, Special Counsel to the Rental Housing Committee
Nazanin Salehi, Special Counsel to the Rental Housing Committee
Anky van Deursen, Program Manager

SUBJECT: Draft Amendments to Chapters 2 and 11 of CSFRA Regulations

RECOMMENDATION

1. Amend CSFRA Regulations Chapter 2: Definitions to clarify the definition of "Base Rent."
2. Amend CSFRA Regulations Chapter 11: Registration to add requirement that Landlords provide Notice of Applicability of Community Stabilization and Fair Rent Act (CSFRA) at the commencement of a new Tenancy.

BACKGROUND AND ANALYSIS

The following changes are being proposed to provide greater clarity and to bring the CSFRA Regulations into alignment with the MHRSO Regulations.

A. CSFRA Chapter 2 Amendment

Chapter 2 of the CSFRA Regulations provide definitions of terms commonly used throughout the Regulations. The proposed amendments to Chapter 2 seeks to clarify the definition (and calculation) of "Base Rent" as the term is used throughout the Regulations.

Recently, program administration has received several questions from both Landlords and Tenants about the calculation of Base Rent where the Landlord has provided a rent concession or reduction during the initial term of the Tenancy. During the pandemic especially, Landlords have sought to increase occupancy rates at their properties by providing prospective Tenants with rent concessions. For instance, some Landlords have offered several months rent-free to boost leasing and occupancy. However, upon expiration of the initial term of these tenancies, there has been confusion about what constitutes the Base Rent, leading to the imposition of rent increases greater than the Annual General Adjustment. As such, the proposed amendment

provides additional guidance on how to calculate Base Rent where a rent concession or reduction has been provided and paid during the initial term of the tenancy.

Currently, the definition in Chapter 2 provides the Base Rent for tenancies commenced on or after October 19, 2015, is the "initial rent rate charged upon initial occupancy," and that "initial rental rate" means "only the amount of Rent actually paid by the Tenant for the initial term of the tenancy." The proposed amendment would add the following clarification:

"If a temporary rent concession or reduction is provided by the Landlord during the initial term of the tenancy, the 'initial rental rate' shall be the average amount of Rent actually required to be paid by the Tenant during the initial term of the tenancy. For example, if a Tenant agrees to pay \$1000/month for 12 months for a Rental Unit and the Landlord provides a concession of two free months, then the Base Rent for the Rental Unit shall be \$833.33 $((10 \times \$1000)/12)$."

This proposed amendment is aligned with the information that program administration has been providing to landlords and tenants who have reached out with questions. It would not constitute a change in the way the program has previously enforced the relevant provisions of the CSFRA and the Regulations.

B. CSFRA Chapter 11 Amendment

At the November 15, 2021, meeting, the RHC adopted Chapter 11 of the Regulations for the Mobile Home Rent Stabilization Ordinance (MHRSO). Chapter 11 of the MHRSO Regulations requires Mobile Home Landlords to provide Mobile Home Tenants and Owners with a "Notice of Applicability of the Mobile Home Rent Stabilization Ordinance" at the outset of each tenancy. The Notice of MHRSO Applicability is intended to ensure that Mobile Homeowners and Tenants are aware of the MHRSO, including their and their landlord's rights and obligations under the law.

Staff is proposing to amend Chapter 11 of the CSFRA Regulations to Landlords of Rental Units to provide a similar notice – "Notice of Applicability of Community Stabilization and Fair Rent Act (CSFRA)" – at the commencement of each new Tenancy. Beginning May 1, 2022, Landlords will be required to provide each new Tenant with a Notice, in a form prescribed by the RHC, that includes the following information:

- The existence and scope of the CSFRA;
- Whether the Rental Unit is fully or partially exempt from the CSFRA, and the basis for the claimed exemption; and
- The Tenant's right to petition against certain increases.

A copy of the Notice must be filed with the RHC upon the Landlord's initial registration and each subsequent change in the tenancy. Additionally, Landlords would be required to provide each

affected Tenant with a copy of the Notice within fifteen (15) days after the expiration or inapplicability of an exemption.

The proposed amendment is intended to increase tenant awareness of their rights and obligations under the CSFRA and increase enforcement of tenant's rights. In particular, the requirement that a landlord provide information about any claimed exemption should facilitate the utility of the exemption petition process that the RHC recently adopted and that program administration is implementing.

FISCAL IMPACT

The adoption of the proposed amendments to Chapter 2 and Chapter 11 of the CSFRA Regulations is not anticipated to impact the budget of the RHC.

PUBLIC NOTICING—Agenda posting.

ATTACHMENTS

1. Draft Resolution to Adopt Amendment to Chapter 2 of the CSFRA Regulations
Exhibit A: Amendment to Chapter 2
2. Draft Resolution to Adopt Amendment to Chapter 11 of the CSFRA Regulations
Exhibit A: Draft Amendment to Chapter 11

RENTAL HOUSING COMMITTEE
RESOLUTION NO. RHC - ___
SERIES 2022

A RESOLUTION OF THE RENTAL HOUSING COMMITTEE OF MOUNTAIN VIEW
AMENDING REGULATIONS: CHAPTER 2: DEFINITIONS, OF THE COMMUNITY
STABILIZATION AND FAIR RENT ACT (CSFRA)

WHEREAS, CSFRA section 1709(d) authorizes the Rental Housing Committee to establish rules and regulations for administration and enforcement of the CSFRA; and

WHEREAS, the Rental Housing Committee has held a publicly noticed meeting on March 28, 2022, and solicited input to clarify the definition of Base Rent in furtherance of the CSFRA; and

NOW, THEREFORE, BE IT RESOLVED by the Rental Housing Committee that amendments to Chapter 2 (Definitions), as set forth in Exhibit A, are hereby adopted.

Community Stabilization and Fair Rent Act Regulations

Amendment to Chapter 2 – Definitions

Paragraph (b) of Chapter 2 of the CSFRA Regulations is amended as follows:

"(b) **Base Rent.** The Base Rent is the reference point from which the lawful Rent shall be determined and adjusted in accordance with the Act.

(1) Tenancies Commencing on or before October 19, 2015. The Base Rent for tenancies that commenced on or before October 19, 2015, shall be the Rent in effect on October 19, 2015.

(2) Tenancies Commencing After October 19, 2015. The Base Rent for tenancies that commenced after October 19, 2015, shall be the initial rental rate charged upon initial occupancy, provided that amount is not in violation of the Act or any provision of State law. The term "initial rental rate" means only the amount of Rent actually required to be paid by the Tenant for the initial term of the tenancy.

(i) Rent Concession. If a temporary rent concession or reduction is provided by the Landlord during the initial term of the tenancy, the "initial rental rate" shall be the average amount of Rent actually required to be paid by the Tenant during the initial term of the tenancy. For example, if a Tenant agrees to pay \$1000/month for 12 months for a Rental Unit and the Landlord provides a concession of two free months, then the Base Rent for the Rental Unit shall be \$833.33 $((10 \times \$1000)/12)$."