

From: McFarland, Tessa <[REDACTED]>
Sent: Monday, December 18, 2023 1:15 PM
To: Rental Housing Committee <RHC@mountainview.gov>
Cc: van Deursen, Anky <Anky.vanDeursen@mountainview.gov>
Subject: RHC Agenda Item 6.1

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Dear RHC Committee and Staff:

The proposed draft Chapter 13 re utility charges was just published Dec. 18, so the public has had *at most 3 business days* to review the 9 pages of the staff report and the 8 pages of the draft regulation, and this is during a very busy time of year. We request that the RHC allow more time for public review and community input and return to this agenda item in January or February.

Many details of the proposed draft regulation are “TBD” including when Staff will release the necessary forms, and fiscal impact. In addition, the draft regulation does not include the timeframe within which Staff will review the completeness of the OTUA packet, accept the packet, respond to any Tenant response, review the petition and the final administrative determination by Staff.

Also, there should be consideration of utilizing the existing unit registration software and IT infrastructure to streamline the process and preserve resources.

Please consider the following comments:

1. **Ch. 13, Section B. subpart 4:** The information required for the One Time Utility Adjustment (OTUA) petition is redundant to the information required for unit registration including whether the unit is occupied or vacant, if occupied, when the tenancy commenced, length of initial term and initial rent, date and amount of most recent rent increase and current rent. Registration is due in February 2024, therefore all of that data is relevant and also timely for the March 1, 2024 date referenced in Section A. subpart 2.
 - Can Staff utilize the registration information already available to streamline the information gathering rather than instituting an entirely new and costly administrative process? RHC has invested heavily in software and the Rent Stabilization website, and it should be utilized here. (The budget for subscription-based software (\$39,000), and for computer equipment and software (\$107,100) is substantial – see Subfund Expenditure Detail Report 3.31.2023 lines 55201 and 56101.)
 - Also, rather than the contemplated paper notices being mailed to thousands of tenants and housing providers when petition is accepted *and again* when the staff makes its administrative decision (see Section B, subpart 7 and 10), can this information be posted on the Rent Stabilization website, under the “info for tenants” tab or similar? This would reduce bureaucracy, Staff time and speed the process (not waiting for snail mail) and preserve resources, by taking advantage of the IT infrastructure already in place.
2. **Ch. 13, Section B. subparts 4 through 9:** The petition review process contains not a single timeline to which Staff’s review process must adhere to, while still requiring housing providers to complete any corrections in response to Staff feedback “prior to the applicable filing deadline”. This creates uncertainty and delay, and potentially unreasonable punitive deadlines

on housing providers where the reason for delay may be caused by Staff's administrative backlog resulting in untimely feedback.

3. **Ch. 13, Section B, subpart 12:** An upward adjustment takes effect a minimum of 12 months from determination that rent increase is permitted. This time lapse will cause confusion and more work for Staff responding to inquiries when the increase is instituted 12 months later. This is also inconsistent with CSFRA and the Petition regulations which permit an increase at time of determination for increase, and is further inconsistent with a downward adjustment which is effective in 30 days.
4. **Ch. 13, Section B, subpart 2:** The Common Area Utility Charge Deductions should be based on actual property characteristics. What is data supporting the automatic 10% (regardless of whether there are any common utilities at all), plus landscape 5%, pool 5% and laundry 5%?

While we continue to object to the RHC's elimination of RUBS because RUBS is *a pure pass through of the City's ever increasing utility charges* and is *environmentally irresponsible* (data presented at prior RHC meetings shows water use increases when there is no responsibility to pay for water) and therefore places responsibility for conservation on homeowners, we recognize that the RHC and Staff have made their decision regardless. At a minimum, the above comments should be addressed and the draft regulation revised accordingly.

Thank you.

Theresa "Tessa" McFarland | General Counsel

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From: Anil Babbar <[REDACTED]>
Sent: Monday, December 18, 2023 1:46 PM
To: MVRent <MVRent@mountainview.gov>
Cc: van Deursen, Anky <Anky.vanDeursen@mountainview.gov>
Subject: CAA Letter - RHC Meeting December 18th

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Regarding Item 6.1



Anil Babbar
Senior Vice President Of Public Affairs
California Apartment Association

[REDACTED]
[REDACTED]



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Via E-Mail Only

December 18, 2023

Rental Housing Commission
City of Mountain View
500 Castro St,
Mountain View, CA 94041

Chair Keating and Committee Members,

The California Apartment Association (CAA), many of its members in Mountain View, and Mountain View rental housing providers remain unequivocally opposed to the elimination of ratio utility billing (RUBS). An alternative was suggested that would have maintained compliance with CSFRA while allowing the City of Mountain View to meet its environmental and natural resource conservation goals. It is therefore disappointing to have the only tool housing providers had to assist the city in meeting its goals being taken away without any alternative in place. Staff is instead recommending that the Rental Housing Committee approve a one-time adjustment. After a careful review of the staff recommendation, CAA concludes that the proposed petition process is cumbersome, complicated, and prone to errors. Because of that, the approval of the process should be postponed until staff holds outreach sessions with property owners to discuss the concerns and create a streamlined process for approval.

The petition process requires larger properties (over 20 units) to submit their petitions first. By scheduling this group first, the staff is inviting hundreds, if not thousands, of units to act as guinea pigs for a process that hasn't been tested. Any error in the petition process will be multiplied greatly due to the scale of the first phase. Instead, owners of properties with 1-5 units should be prioritized as the first group to submit their petitions. This would enable staff to work with the owners who need assistance on an individual basis. It would also allow staff to identify hurdles in the petition process which can be addressed before the large influx of petitions comes from owners of larger properties.

Section B.13 of the regulations contains language that would preclude a tenant from filing a hardship petition if they are the subject of a utility adjustment petition and section B.14 waives liability for the landlord for any prior overpayment by a tenant related to utility charges billed through RUBS. While this language is appreciated, it is negated by section B.14.i which says, "nothing in this section precludes a tenant from filing civil action to recover overpayment by the tenant of rent related to utility charges". Inclusion of section B.14.i will only invite unnecessary legal challenges that doesn't seem to be the intention of regulations based on the prior two sections.

The common area deduction allowances are vague and excessive. The regulations call for an automatic 10% deduction with additional deductions of 5% for various activities. By separating pool, laundry, and landscaping from the base 10%, you are essentially double counting common area deductions as that base amount can cover a lot of those activities. The base 10% amount has been vaguely described by staff as general maintenance of the property. General maintenance often includes landscaping among other things. And keep in mind that electricity for non-residential portions of the building is on their own meter.

The petition process could be simplified to expedite approvals and relieve staff of the burden of reviewing hundreds of applications, which will remove them from their other important duties. The petition process is redundant in that it asks for data that is already present within the rent registry. And it's excessive in that it is asking for data on every single unit that a petition is submitted for even though staff will use a random sampling to verify the data. An example of the excessive nature of the process is requiring photos of every unit in the petition process to prove the room count is accurate.

Providing more time to review the process will likely lead to additional areas of improvement. This proposed process and draft regulations were only made public three business days before it is to be voted on which gives very little time to obtain and provide feedback, particularly during the holiday periods. And since all the petitions will be reviewed only by a limited number of staff instead of hearing officers, there will be delays and challenges raised with the current process. Therefore, CAA is asking that staff conduct outreach on the process and consider approval of the petition process later when outreach sessions with property owners can be conducted to understand their concerns.

Sincerely,

A handwritten signature in black ink that reads "Anil Babbar". The signature is written in a cursive, flowing style.

Anil Babbar
Senior Vice President of Public Affairs
California Apartment Association