

Text of Specified CSFRA Regulations

A. Select petition scheduling and timing regulations

1. Chapter 4 § O

O. Summary of Petition Processing

1. To the extent feasible, each Petition for Individual Rent Adjustment accepted by the Rental Housing Committee or its designee will be processed and responses will be accepted in accordance with the following schedule.

Timeline to Process Individual Rent Adjustment Petitions		
	Rent Decrease Petitions	Rent Increase Petitions
	Calendar Days from Date of Submission	
Review of Submission to Determine if Petition Complete	20	30
Mandatory Acceptance of Response to Petition	20	30
Date Set for Prehearing Settlement Conference (if applicable) after Petition Deemed Complete	30	45
Prehearing Settlement Conference Completed	45	60

2. Deadlines identified in Subsection 1 of Section O may be extended for good cause, which may be based on the following, nonexclusive list of factors: complexity of Petition, reasonable requests for continuance, scheduling difficulties, and/or allowing parties adequate time to obtain representation. Any good cause extension by the Rental Housing Committee or its designee will be set forth in writing, and written notice sent to all parties to the Petition by the Rental Housing Committee or its designee.

3. Any failure by the Rental Housing Committee or its designee to act in accordance with this Section O and the timelines set forth therein will not result in an automatic acceptance of a Petition, or grant of an Individual Rent

2. Chapter 5 § B(4)

4. Hearing Officer Authority. A Hearing Officer shall have the authority to:

a. Administer oaths and affirmations;

b. Cause the Rental Housing Committee to issue subpoenas for the attendance of persons to testify and to produce books, records, papers, and other material related to the issues raised in a Petition;

c. Cause inspections to be made of the property that is the subject of a Petition, in accordance with the procedures of Chapter 5, Section (C)(5);

d. Rule on offers of proof and receive relevant evidence;

e. Control the course of the Hearing;

f. Rule on procedural requests;

g. Render Decisions on Petitions; and

h. Take other action authorized by the rules and regulations adopted by the Rental Housing Committee.

3. Chapter 5 § G

G. Burden of Proof

1. The burden of proof for any claims included in a Rent Increase Petition is on the landlord.

2. Tenants have the burden of proving the existence of housing service reductions, Code violations, violations of the CSFRA (including the demand for or retention of unlawful rents), or any claims raised in a Rent Decrease Petition.

3. No individual claims shall be approved by a Hearing Officer unless supported by the preponderance of the evidence in the Hearing record.

B. Select Vega adjustment regulations

1. Chapter 6 § G(2)

2. The Landlord, in a Petition for Upward Adjustment of Rents, may rebut the presumption that the Net Operating Income produced by a property during the Base Year provided a fair return on investment for the property by demonstrating peculiar circumstances unique to the property that caused either the Gross Income or Operating Expenses during the Base Year to differ significantly from either the Gross Income or Operating Expenses of other properties of similar size, quality, and conditions.

2. Chapter 6 § G(3)

3. Vega Adjustment Standard.

a. Defining Unreasonably Low Average Monthly Rent. The Landlord, in a Petition for Upward Adjustment of Rents, will be presumed to have rebutted the presumption that the Net Operating Income produced by a property during the Base Year provided a fair return on investment for the property if the average monthly Rent received in the Base Year for an individual Rent Stabilized Unit in the property was

unusually low. For purposes of this section, unusually low means that the average monthly Rent received for the occupancy and use of the Rent Stabilized Unit was less than the “fair market rents” published by the U.S. Department of Housing and Urban Development for Fiscal Year 2015 for Santa Clara County, as replicated in the table below, for the most similar unit type based on the number of bedrooms.

b. Calculating the Average Monthly Rent Received in the Base Year for an Individual Rent Stabilized Unit. To calculate the average monthly Rent received in the Base Year, divide the sum of all Rent received that relates to one Rent Stabilized Unit by the number of months for which Rent was received for that unit, regardless of the number of tenants occupying, or the number of tenancies for, that Rent Stabilized Unit in the Base Year (e.g., if Unit X was occupied from January 2015 through June 2015 for \$1,000 per month, was vacant in July 2015, and was occupied from August 2015 through December 2015 for \$1,110 per month, then the average monthly Rent received in the Base Year for Unit X would be \$11,550 divided by 11 months of occupancy, or \$1,050 per month of occupancy).

c. Recalculating Base Year Gross Income. If the average monthly Rent received for any individual Rent Stabilized Unit in the property during the Base Year was less than the fair market rents defined in subsection (a) of this Section G(3) above, then the Base Year Gross Income for the property shall be recalculated for purposes of determining the Base Year Net Operating Income by (1) subtracting the actual Rent received from each Rent Stabilized Unit for which the average monthly Rent received was unusually low, and (2) adding the fair market rent for the most similar unit type, for the same dates of occupancy and, in the same geographic area, as described above in subsection (a) of Section G(3).

d. Contesting Recalculation of Base Year Gross Income. One or more Tenants may contest or dispute any recalculation of the Base Year Gross Income for purposes of determining the Base Year Net Operating Income in a Landlord’s Petition for Upward Adjustment of Rents. Tenant arguments contesting or disputing any recalculation of the Base Year Gross Income may include, but are not limited to, evidence or documentation related to the physical condition of the property or any individual Rent Stabilized Unit, the market conditions that relate to the property or any individual Rent Stabilized Unit, and/or any other relevant evidence that a recalculation of the Base Year Gross Income, as contemplated in this Section G, is unnecessary for the landlord to receive a fair return on investment for the property, fails to ensure fairness, or is otherwise contrary to the purposes of the Act.

e. Allocation of Upward Adjustment of Rents. The portion of any Upward Adjustment of Rents that results solely from the Vega Adjustment described in this Section G(3) shall be equally among all Rent Stabilized Units subject to the Petition, subject to the condition that in the interest of justice, a Hearing Officer and/or the Rental Housing Committee may allocate Rent increases in another manner necessary to ensure fairness and further the purposes of the Act.