

DATE: August 22, 2022

TO: Rental Housing Committee

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

SUBJECT: **Amendments to CSFRA Regulations Chapter 5, Hearing Procedures, and
Amendments to MHRSO Regulations Chapter 6, Hearing Procedures**

RECOMMENDATION

To review and adopt amendments to CSFRA Regulations Chapter 5: Hearing Procedures, and MHRSO Regulations Chapter 6: Hearing Procedures, to expressly authorize Hearing Officers and the Chair of the Rental Housing Committee to issue decisions on prehearing motions and accommodation requests, including requests for reasonable accommodation pursuant to the Americans with Disabilities Act.

AUTHORITY

The Community Stabilization and Fair Rent Act (CSFRA) authorizes the Rental Housing Committee (RHC) to do the following:

- “Establish rules and regulations for the administration of” the CSFRA. (CSFRA Section 1709(d)(2).)
- “Appoint Hearing Officers to conduct hearings on Petitions for Individual Rent Adjustment pursuant to” the CSFRA. (CSFRA Section 1709(d)(4).)
- “Adjudicate Petitions pursuant to Sections 1710 and 1711 [of the CSFRA] and issue decisions with orders for appropriate relief pursuant” to the CSFRA. (CSFRA Section 1709(d)(5).)

Similarly, the Mobile Home Rent Stabilization Ordinance (MHRSO) empowers the RHC to:

- “Establish rules and regulations for the administration and enforcement of” the MHRSO. (MHRSO Section 46.9(a)(3).)
- “Appoint Hearing Officers to conduct hearings on Petitions for Individual Rent Adjustment.” (MHRSO Section 46.9(a)(5).)
- “Adjudicate Petitions and issue decisions with orders for appropriate relief.” (MHRSO Section 46.9(a)(6).)

BACKGROUND

Chapter 5 of the CSFRA Regulations and Chapter 6 of the MHRSO Regulations outline the procedures for hearings on petitions for Individual Rent Adjustment. The proposed amendments to Chapter 5 of the CSFRA Regulations and Chapter 6 of the MHRSO Regulations seek to expressly authorize both Hearing Officers and the Chair of the RHC to decide and issue decisions on prehearing motions and accommodation requests.

The proposed amendments arise out of a recent and ongoing Individual Rent Adjustment petition. First, the Respondent to the petition submitted a prehearing motion arguing that the petition should be dismissed based on the legal doctrine of *res judicata*, which bars rehearing of the same claims between the same parties where the claims have already been adjudicated and a final decision issued. Thereafter, in the same Petition, the Petitioner submitted a request for reasonable accommodation pursuant to the Americans with Disabilities Act.

While it is anticipated that Hearing Officers will typically make and issue decisions on these types of prehearing motions and accommodation requests, the proposed amendments also authorize the Chair of the RHC, with the assistance of the RHC's legal counsel, to make and issue such decisions. Authorizing the Chair to make and issue these decisions will provide an additional option where either the Hearing Officer is unavailable or where it would be more appropriate for the Chair to issue the decision. For instance, if a prehearing motion is made to disqualify a Hearing Officer, the Chair would be better positioned, with the assistance of legal counsel, to decide this issue. Furthermore, the amendments will allow any sensitive requests from a party to a petition—such as disability-related reasonable accommodation requests that contain private medical information—to be considered confidentially.

FISCAL IMPACT

The adoption of the proposed amendments to Chapter 5 of the CSFRA Regulations and Chapter 6 of the MHRSO Regulations is not anticipated to have any fiscal impact.

PUBLIC NOTICING—Agenda posting.

NS/AvD/8/CDD/RHC/814-08-22-22M-2

- Attachments:
1. Draft Resolution to Adopt Amendment to Chapter 5 of the CSFRA Regulations
Exhibit A: Amendment to Chapter 5—Hearing Procedures
 2. Draft Resolution to Adopt Amendment to Chapter 6 of the MHRSO Regulations
Exhibit A: Amendment to Chapter 6—Hearing Procedures