

Attachment 2

DRAFT Text Revising Petition Regulations

1. **Chapter 4 § D(4)**

~~4. Untimely Submissions. All documents, reports, writings, and testimony not submitted or disclosed when submitting the Petition, or with respect to expert witness reports that are not disclosed at least ten (10) business days prior to the hearing, will be excluded from evidence in any hearing, except upon good cause shown for late submission or nondisclosure.~~
~~[deleted]~~

2. **Chapter 4 § K(2)**

~~[deleted]~~

~~2. Acceptance of Response. The Rental Housing Committee or its designee will accept one response from each party to a Petition entitled to respond if received within twenty (20) days of a Petition for an Individual Rent Adjustment that would reduce Rent, or within thirty (30) days of a Petition for an Individual Rent Adjustment that would increase Rent. All other responses will be accepted at the sole discretion of the Rental Housing Committee, or its designee.~~

3. **Chapter 4 § L**

L. **Acceptance of Petition for Upward Rent Adjustment – Fair Rate of Return**

1. Acceptance Prohibited. The Rental Housing Committee cannot accept a Petition for Individual Rent Adjustment to increase Rent in any of the following circumstances:

- ~~1~~a. A Rental Housing Fee or penalty for the Property is due and owing.
- ~~2~~b. The submitted Petition is incomplete or lacks required documentation.
- ~~3~~c. The Property is subject to an uncorrected citation or notice of a violation of any State or local housing, health, or safety laws as issued by a government official or agency.
- ~~4~~d. A previously filed Petition by the petitioner involving the same Rental Unit or Property is presently pending before a Hearing Officer or the Rental Housing Committee. In this instance, the Petitioner may amend a previously accepted Petition so long as the amendment to the Petition

includes a request for an extension of any applicable time limits to review the original Petition.

- 5e. A Petition for ~~Individual Rent Upward~~ Adjustment of Rent involving the same Rental Unit was ~~accepted and adjudicated~~ decided within twelve (12) months of the submission, unless the ~~result of the adjudication is described~~ conditions set forth in Section M exist.
- 6f. A final Rental Housing Committee decision on a Petition for ~~Individual Rent Upward~~ Adjustment of Rent is currently pending before a court of competent jurisdiction, unless the ~~result of adjudication by the Rental Housing Committee or Hearing Officer is described~~ conditions set forth in Section M exist.

2. The Rental Housing Committee or its designee will notify Petitioner in writing within thirty (30) days of ~~filing the petition submission~~ if the Petition is accepted or not accepted, and if not accepted provide an explanation why the Petition was not accepted, including an explanation of any information and/or documentation needed to complete the petition.

4. Chapter 4 § O

[moved to Chapter 5, § I]

5. Chapter 5 § C

C. Notice and Prehearing Procedures

1. Hearings. A Hearing Officer shall be assigned to preside over each Hearing. The Hearing Officer shall have access to the Petition and supporting documentation and any opposing response and supporting documentation prior to the Hearing. The Hearing Officer shall accept argument from all Parties on the claims raised ~~on appeal in the Petition~~ and review relevant supporting documentation.

2. Timing of Hearing. ~~To the extent practicable, the~~ The Hearing shall be scheduled for a date no more than ~~thirty (30) days after the later to occur of:~~ (a) ~~the determination that~~ forty-five (45) calendar days after the acceptance of a Petition ~~is complete; or~~ by the Rental Housing Committee; or (b) thirty (30) calendar days after the completion of a prehearing settlement conference, ~~if applicable~~ whichever is later.

3. Hearing Notice. As soon as practicable after scheduling the date, time, and location of a Hearing, but in no event less than fourteen (14) calendar days prior to the Hearing date, the Rental Housing Committee shall provide written notice to all parties to a Petition that a Hearing has been scheduled. The Hearing notice will include the date, time, and place of the Hearing, as well as a brief description of the Hearing process, including the burden of proof, and the ability to be represented by an attorney, legal worker, Recognized Tenant Organization representative, or other third party at the Hearing.

4. Hearing Officer Requests for Additional Evidence or Argument.
a. Written Request for Additional Evidence from Party with Burden of Proof. The Hearing Officer may request additional evidence or documentation from any party, when that party has the burden to prove its position with respect to one or more aspects of a Petition. If a Hearing Officer requests additional evidence, the request must be documented in a written order and the order must be promptly provided to all parties to the Petition. Any Hearing Officer request for additional evidence from a party that does not have the burden of proving its position shall be considered a suggestion.

~~4. Requests for Information or Documents from Hearing Officer. Along with or after written notice of the Hearing is provided to each party to the Petition, the Hearing Officer may request additional information or documentation from any party to the Petition. The Hearing Officer may request any information or documentation be submitted to the Hearing Officer prior to or at the b.~~ Argumentation or Briefing. The Hearing Officer may request or arrange a schedule for submission of written arguments in favor of or in opposition to any aspect of a Petition. Lack of submission of argumentation or briefing shall not delay a Hearing.

c. Timing. A request for additional evidence from the party with the burden of proof may be issued by a Hearing Officer at any time, including during the telephone conference or at the Hearing. The Hearing Officer shall identify in the written request a reasonable deadline by which date the party with the burden of proof must respond.

d. Options for Response. Each written order requesting additional evidence must include notice that the party may choose: (i) to proceed with the Hearing process as scheduled (regardless of whether the party submits additional evidence); or (ii) to withdraw the Petition or concede the challenge to the Petition (however, if an entire Petition is withdrawn, it

may be revised and resubmitted); or (iii) to request an extension of the deadline included in the written order, therefore postponing the Hearing process in order to submit additional evidence or address other issues, including code violations.

e. Failure to Respond. Failure to respond in writing by the deadline included in a Hearing Officer's written request for additional evidence shall be considered an affirmative election to proceed with the Hearing process as previously scheduled and based on the existing submission(s), regardless of whether any additional evidence has been submitted.

5. Telephone Conference.

a. Conference. Prior to the Hearing, the Hearing Officer must hold a telephone conference with the parties and/or their representatives. During the telephone conference the Hearing Officer will explain the Hearing process, describe the burden of proof generally applicable to a Petition, and answer relevant questions regarding the Petition and Hearing procedures. During the telephone conference the Hearing Officer may, in his or her sole discretion: (i) briefly review the elements of the Petition and identify relevant supporting evidence or potential lack thereof, (ii) formalize a schedule to submit and/or respond to evidence or argument submitted by a party to the Petition, or (iii) address any scheduling issues, including requests to postpone the Hearing.

b. Written Order. After the telephone conference, the Hearing Officer will provide a written summary of the conference to all parties. If the Hearing Officer discusses elements of the Petition and requests additional evidence from the party with the burden of proof, then the written order must inform that party of the three options to respond, as described in subsection C(4)(d) of this Chapter 5.

56. Inspection. Hearing Officers may, at their sole discretion, inspect or request an inspection of a property that is the subject of a Petition and Hearing. Each party to the Hearing must receive written notice and be afforded an opportunity to be present at the property during any inspection performed by a Hearing Officer. Any party to the Hearing may waive their right to be present during ~~the~~an inspection by the Hearing Officer. If a proposed inspection date or time cannot be accommodated by one or more parties to the Hearing that have not waived their right to be present, then the Hearing Officer may offer alternative dates or times or forego personal inspection by the Hearing Officer.

~~67.~~ Additional Submissions. ~~The~~ Unless otherwise specified in a written order or written request from a Hearing Officer ~~shall,~~ the Hearing Officer must accept additional submissions of ~~arguments and evidence,~~ documentation, ~~or arguments~~ regarding the Petition's claims ~~up to if received at least~~ ten (10) calendar days prior to the Hearing, ~~so long as two (2) complete copies of the submission are provided to the Hearing Officer and a complete copy of the submission is provided by the submitting party to all other parties to the Petition.~~

6. Chapter 5 § E(3)

E. Conduct of Hearing

3. Ex Parte Communications. There shall be no oral communication outside the Hearing between the Hearing Officer and any party or witness unless each opposing party, or their representative, ~~except at a prehearing conference, if any, to clarify and resolve issues.~~ All discussion during the Hearing shall be recorded ~~is able to~~ simultaneously communicate with the Hearing Officer, whether in person or via audio/visual technology. All written communication ~~from between~~ the Hearing Officer to a party after the Hearing has commenced shall be ~~and one or more parties must be~~ promptly provided to all other parties, ~~or if the party has a proxy,~~ to the proxy ~~Hearing.~~

7. Chapter 5 § E(10)

E. Conduct of Hearing

10. Closing and Reopening of Hearing Record.

a. At the Hearing, the Hearing Officer shall estimate the date when the Hearing record will be closed and shall provide notice to the parties when the Hearing record is closed, at which time no further evidence or arguments may be entered into the Hearing record, unless the record is reopened and all parties to the Hearing have an opportunity to review and object. A Hearing Officer may not close the Hearing record prior to the Hearing date unless the Petition is withdrawn.

~~10.Reopening of Hearing Record~~b. The Hearing Officer may reopen the Hearing record when she or he believes that further evidence should be considered to resolve a material issue, where the Hearing record has been closed ~~and where a final Decision has not yet been issued by the Hearing Officer.~~ In those circumstances, ~~the parties may waive further Hearing by agreeing in writing to allow additional exhibits into evidence~~ each party must receive a true and accurate copy of any additional submission to be considered by the

Hearing Officer, as well as an opportunity to respond and/or object to the additional submission.

8. Chapter 5 § F(1)(a)

~~GF.~~ **Decision**

1. Time for Issuance.

- a. The Hearing Officer shall issue, and have mailed, a written Decision to all parties within thirty (30) calendar days after the date the Hearing record is closed, which Decision is based on the Hearing record, in accordance with Chapter 5, Section (E)(9).

9. Chapter 5 § H(5)(d)

H. Appeals to Rental Housing Committee

5. Rental Housing Committee Ruling on Appeal.

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- d. If the Rental Housing Committee remands all or a portion of an appealed decision to a Hearing Officer, the Hearing Officer shall issue, and have mailed, a written revised Decision to all parties within forty-five (45) calendar days after the date an order from the Rental Housing Committee is delivered to the Hearing Officer and the parties.

10. ~~9.~~ **Chapter 5 § I**

~~OI.~~ **Summary of Petition ~~Processing and Hearing Process~~**

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

<u>Timeline to Process Individual Rent Adjustment Petitions</u>		
	Rent Decrease Petitions	Rent Increase Petitions
	Calendar Days (from Date of Submission <u>date of Petition acceptance by RHC unless noted</u>)	
Review Notice of Acceptance or Non-Acceptance of Submission to Determine if Petition Complete by RHC	<u>30</u> <u>30 days of submission to RHC</u>	
Date Set for Prehearing Settlement Conference (<i>if applicable</i>) after Petition Deemed Complete	30	45
Prehearing Settlement Conference Completed	45	60
<u>Telephone Conference held by Hearing Officer</u>	<u>45</u>	<u>60</u>
<u>Hearing Date</u>	<u>45</u>	<u>45 days from acceptance if Prehearing Settlement Conference not requested</u> <u>30 days from Prehearing Settlement Conference</u>
<u>Decision Delivered</u>	<u>30 days from closing of Hearing record</u>	
<u>Appeal Deadline</u>	<u>10 days from delivery of Decision</u>	
<u>Decision post-Remand Delivered</u>	<u>45 days from RHC order remanding Decision</u>	

2. Deadlines identified in Subsection 1 of Section ~~Θ-I~~ 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 ~~Θ-I~~ and the timelines set forth ~~therein~~ herein will not result in ~~an~~ automatic acceptance of a Petition, or grant of an Individual Rent Adjustment.