



**City of Mountain View
Rental Housing Committee
Meeting August 21, 2023, Agenda Item Questions**

Item 6.4.1 Appeal of Hearing Officer’s Decision Regarding Petition M2223001

Q: On the item being appealed, by my reading, the crux of the issue is what constitutes “rent” for the purposes of establishing the base rent. The Hearing Officer quotes Chapter 2c1 which states that “The Base Rent for tenancies that commenced on or before March 16, 2021, shall be the rent in effect on March 16, 2021.” and concludes from this that the rent stated in the lease, rather than the actual rent paid which includes concessions, should be used. Can you tell me whether there is a previous appeal or Hearing Officer determination for which this specific rule was applied?

A: This petition is the first that was submitted and appealed under the Mobile Home Rent Stabilization Ordinance and also the first time a petition addresses the question of statutory interpretation regarding the definition of “Rent” for tenancies that commenced on or before March 16, 2021. There are no prior hearing decisions or appeals that could be used to determine precedence.

Item 8.2 Study Session: Rent and the Treatment of Utilities in the CSFRA and Ratio Utility Billing Systems

Q: Is it possible for a third-party to independently calculate what percentage of overall utility use is from common-areas, or is the survey done during the stakeholder meetings the best that can be done?

A: If a landlord uses RUBS, the landlord communicates with the third-party billing service the factors that determine the calculation of each tenant’s utility charge. This includes the percentage, if any, to be deducted from the master bill for common areas. The landlord and third-party billing service then coordinate the type and content of explanation that is communicated to the tenants. Currently this information is only available from the landlord and the third-party billing service.

Q: If we set a max utility amount, I am having trouble seeing how that works without the landlord on average receiving less than 12 x the max. See the second column in the example below. Or, if we set a higher max, then monthly variations in utility bills would need to be considered. Would we need to set a 12-month schedule of max utility bill in Dec, max utility bill in January, etc.? This is not appealing. If appropriate, please provide different examples of how you see max utility working.

A: The option of continuing to allow RUBS if the lease states the maximum amount charged for utilities is not recommended since, as you indicated, this perpetuates fluctuating monthly costs for tenants. The option includes the setting in the lease of one maximum amount per month for utilities over a one-year period. The amount charged to the tenant



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each month can never exceed the maximum monthly amount stated in the lease agreement.

Q: If we choose to allow RUBS with a max amount of various utilities, how would the AGA work? Would we apply AGA to the monthly max utility? Would we apply AGA to the average monthly utility paid, to get the new max utility? $\$1,210.00$ divided by 12 is $\$100.83$. $100.83 + 5\%$ AGA = $\$105.88$ per month, which is lower than the original max utility. Any comments to clarify what “RUBS with a max amount” really means are appreciated. If RHC is interested in RUBS with a max, then do we have the authority to set limits on how RUBS providers do their calculations?

A: This option is only feasible in the initial term of the tenancy and would not work in subsequent years in determining the AGA. After the initial year of tenancy, the AGA can only be imposed on the Base Rent, which would have to be calculated by taking the *actual* rent and utilities paid and dividing by the number of months in the initial term of the tenancy. The RHC has the authority to adopt regulations to set parameters on how RUBS calculations are being made.

Scenario - one apartment			
Lease (new or amended)			
Rent	3000		
max utility gas	120		
max utility water	100		
	Share of actual bill gas for month	Amount billed through RUBS	If max billed each month
Jan	200	120	120
Feb	150	120	120
Mar	100	100	120
Apr	90	90	120



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May	90	90	120
Jun	90	90	120
Jul	90	90	120
Aug	90	90	120
Sep	90	90	120
Oct	90	90	120
Nov	160	120	120
Dec	200	120	120
	1440	1210	1440

- Q: Please confirm – RHC has the ability to require that all utilities which are not individually metered must be included in the main rent, not billed separately.
- A: The RHC has the ability to regulate Utilities that are part of the definition of Rent. This means that if *the landlord* charges utility costs to the tenant, whether separately billed through RUBS for the benefit of the landlord or through a billing process implemented by the landlord themselves, the utility charges are considered part of Rent and subject to the rent increase limitations of the CSFRA. Utilities directly charged to tenants by the utility provider (such as PG&E) are not covered under the CSFRA’s definition of Rent.
- Q: If we clarify that utilities are included in rent, would this work – the RHC provides a default formula for the amount of rent increase to provide for including utilities. We would also allow either landlords or tenants to petition for a different one time rent increase. To reduce landlord petitions, would it work to be a little generous – e.g., one year of utility bills, with a x% markup then divided per unit or per square footage of units. Could we instruct hearing officers to not use the mark up% for petitions?
- A: For the RHC to provide a default formula for the amount of allowed rent increase, including utilities, the AGA requirements need to be adhered to. For the one time rent increase to start including utilities in the amount of rent, staff recommends the following formula: determine the lesser of either the average of charged utility costs over the past 12 months or use the sum of the Santa Clara County Housing Authority Utility Allowances (see attachment 2 of the Memo). The RHC can choose to adopt a different formula and set parameters.



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Q: Could the RHC set possible utility conservation incentives, especially if we include all non-metered utility costs in rent. How could we make it possible for a landlord to provide a conservation incentive to tenants. Something like – If water usage for this 12-month period is under x gallons for this building, then a conservation bonus of \$y for two bedrooms and \$z for one bedrooms will be reimbursed. Could such an incentive be kept separate from rent and the AGA calculation?

A: Landlords are free to provide incentives with regard to conservation efforts with or without CSFRA regulations related to the treatment of Utilities. The RHC does not have the authority to *require* conservation incentives such as the ones enumerated in the question.

Item 8.3 Quarterly Financial Expenditures FY22/23 through June 30, 2023

Q: Please remind me of the meaning of interfund transfer and provide a few examples of items included in this item.

A: The Interfund transfer is a standard 15% allocation standard for indirect costs incurred by the City of Mountain View, for services such as Finance Services, Human Resources, Information Technology, Administration and Management, and Facilities as well as General Liability, Compensated Absences and Equipment Replacement costs.

Q: The Financial Report states: “As of June 30, 2023, 51.8% of the non-personnel budget was spent and a further 37.2% encumbered. This means that \$351,331 of the total budget for Non-Personnel of \$677,840 was spent and a further \$251,832 encumbered. This is below the 100% expenditure amount due mainly due to certain service providers bill on a quarterly basis, and certain Quarter 4 invoices will be received and charged in the first quarter of FY 2023/24. I think this means that these expenses will be charged against the fiscal year ending June 30, 2023. Is this how I should look at “encumbered”?

A: Whether received invoices for FY 2022/23 received after the end of the fiscal year will be charged against FY 2022/23 or against the new FY 2023/24 depends on the time of receipt of these invoices. Anything received later than July 12, 2023, will be booked against the new FY. The term “encumbered” means that the budget is burdened with amounts in signed contracts reflecting maximum amounts (which may or may not be completely paid out, dependent on the services provided).