

From: Edie Keating [REDACTED]
Sent: Monday, June 20, 2022 4:53 PM
To: Rental Housing Committee <RHC@mountainview.gov>
Subject: Comments on item 9.1 Base Rent

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Dear RHC -

Tonight, I encourage you to support the staff recommendation regarding base rent.

To begin with a more general question, over time, does this RHC and prior RHCs always favor tenants? No. A clear example is the RHC's creation of a capital expenditure pass through policy, shifting a financial burden onto tenants. Also, the many years the RHC used the housing CPI for AGAs also benefited landlords.

Tonight – in contrast – you have a clear reason to take action that will not please landlords – to accept the staff recommendation regarding base rent. The text of the CSFRA is so clear that your legal advisors cannot recommend a different interpretation.

Is using average rent over the first year of tenancy good or bad for tenants or landlords? It doesn't matter. The main question is what regulation will clarify the letter and the intent of the CSFRA and MHRSO regarding base rent.

Will the City be sued? Possible – and that does not change your job.

Landlords will tell you they are housing providers who care about their tenants. This does not change your job.

Landlords will tell you that there are other definitions that should be in the CSFRA. This does not change that base rent is defined clearly in the CSFRA.

You have some discretion regarding how much is owed to tenants retroactively.

I would like to point out a few possibilities regarding how Mountain View's rental housing market will change after you adopt the staff recommendation.

I do expect that move in concessions will largely go away. This leads most directly to tenants needing to save up for a move in advance. But, what if landlords offered to accept the deposit paid over time?

Another possibility – the landlord could continue to offer 2 months free. But landlords would need to offer the first year of rent at a higher level, so that they are comfortable with lowering the rent in month 13, as required by the text of the CSFRA MHRSO and the regulation you will pass tonight.

Your legal staff has recommended flexibility regarding retroactive return of rent to tenants. I find their recommendation okay. If you wanted to experiment in this section, you might give a range of options to hearing officers, and ask them to include landlord profitability, tenant hardship, evidence of signed documents detailing the concession, and evidence, if any, of a failure to disclose the end of the concession.

Or, you could simply let the MNOI Fair Rate of Return calculation be the remedy for landlords who offered concessions are in a situation of needing to lower their rents, and return prior rent.

I trust the Rental Housing Committee to do its job. This means at least going forward, that you need to adopt the staff recommendation.

Thank you, Edie Keating, Mountain View Resident

From: **Barry Smith** <[REDACTED]>

Date: Thu, Jun 23, 2022 at 6:23 PM

Subject: Mountain View: Rent board seeks to avoid exorbitant rent increases after pandemic

To: Nicole Haines-Livesay <nmhl.rhc@gmail.com>, Emily Ann Ramos <emily00@gmail.com>

Nicole and Emily,

You were both quoted here, so writing to you two.

I think the "actual rent" needs to include some clear thinking about the pandemic effect. If apartments had been renting for \$2400, but then reduced to \$1800 only because of the pandemic, I'm not sure resetting the base to \$1800 makes sense. It would take 6 years @5% caps for landlords to simply return to their pre-pandemic rents.

Most of SF and NYC renters I know fully understood they were getting "a pandemic deal", and it wasn't going to last. I doubt that MV renters thought differently, and assumed it was locked in forever.

Perhaps a better algorithm would be to average the two pre-pandemic years rents, and tack on the 2-3 years of typical increases to determine the appropriate base.

Good luck with this. It's a tricky one.

Thanks,

Barry Smith

Fay Way, Mountain View

<https://www.mercurynews.com/2022/06/23/mountain-view-rent-board-seeks-to-avoid-exorbitant-rent-increases-after-pandemic>

From: McFarland, Tessa <TMcFarland@prometheusreg.com>
Sent: Monday, July 18, 2022 3:26 PM
To: Rental Housing Committee <RHC@mountainview.gov>; susynalmond@yahoo.com; nmhl.rhc@gmail.com; julian.pardo.de.zela@gmail.com; grosas730@gmail.com; matt.grunewald.rhc@gmail.com; emily00@gmail.com
Cc: ktiedemann@goldfarbblipman.com; nsalehi@goldfarbblipman.com; McCarthy, Kimbra <Kimbra.McCarthy@mountainview.gov>; van Deursen, Anky <Anky.vanDeursen@mountainview.gov>
Subject: RHC Meeting July 18, 2022: Agenda Item 7.1

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Dear RHC Committee Members and Staff:

Thank you for bringing the amendment to the RHC (Agenda Item 7.1) for consideration at tonight's meeting. We appreciate the effort on the part of Staff and the RHC Committee Members to be open to amendment on this point. Temporary move in concessions are beneficial for housing providers and for residents because they truly do make moving into housing in Mountain View more affordable.

For the proposed amendment, please consider the following comments:

- (1) Consider revision to Exclusions in Paragraph (b) of Chapter 2 to include Rent concessions for more than one month. Also, please consider that it doesn't make sense to regulate the 30 days to the "first full month" as many leases start mid-month and typically rent is prorated accordingly. It would be helpful to hear the rationale for the "first full month" language and for limiting to one month rather than two months temporary rent discount?
- (2) Consider revision to Examples in Paragraph (b) Chapter 2 to adjust example, because if it's one month free concession on a 12 month lease to be consistent with the proposed amendment, it should be "If a Tenant agrees to pay \$1000/month for 12 months for a Rental Unit and the Landlord provides a concession of the 1st full month free, then the Base Rent for the Rental Unit shall be \$1000.00 ((11 x \$1000)/11)."
- (3) Consider revision to Notice of Rent Concession in Paragraph (b) of Chapter 2 such that the notice is limited to the three items in the proposed amendment – required CSFRA lease notices for housing providers are already quite lengthy. Also, we ask that you consider adding that the start date for such notices be for current and new tenancies starting Sept. 1, 2022 or at least 30 days from publication by Staff, to allow sufficient time to put necessary compliance procedures in place.

Thank you for your consideration.

Sincerely,

Tessa

Theresa "Tessa" McFarland | General Counsel

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July 17, 2022

Via Electronic Mail Only

Nicole Haines-Livesay
Chairperson
Mountain View Rental Housing Committee
500 Castro Street
Mountain View, CA 94041

RE: RHC July 18, 2022 Agenda Item 7.1 CSFRA Regulations re Base Rent and Concessions

Dear Chair Haines-Livesay and Committee Members:

The California Apartment Association (CAA) appreciates the continued work by the Mountain View Rental Housing Committee (RHC) members and staff to work with stakeholders on the development of regulations related to the calculation of Base Rent.

The proposed regulation recognizes that up-front rent concessions are a critical tool housing providers use to lease vacant units and reduce barriers for people looking to access rental housing. Additionally, the proposal addresses the concern that when a tenant receives a concession in the form of a free month of rent, the tenant is accustomed to paying the stated rent in their rental agreement each month. When a tenant receives an Annual General Adjustment (AGA), the only change they experience in their periodic payment of monthly rent is the increase allowed by the AGA.

CAA respectfully requests the RHC clarify the following items to ensure consistency and transparency for rental housing providers, their residents, and hearing officers:

1. The regulation only speaks to the landlord offering one month of free rent (the first month). In some instances, landlords might offer more than one month of free rent which can be very helpful to tenants ease their move in costs and help owners provide incentives that respond to market conditions. CAA suggests that the RHC clarify if its intent is to place a limit on the number of free months a landlord can offer under the draft regulation.
2. The example provided in Section II of the “first month” is inconsistent with how many rental housing providers structure their rental agreements. The definition states that the “first month” refers to the first full month following the start date of the rental agreement, with an example given of a rental agreement that starts on September 15. It states that the “first month” is considered October 1-31. However, many rental housing providers have a provision in their rental agreement that, in cases where the tenancy begins mid-month, the first month’s rent covers the first 30 days of tenancy, a prorated amount is charged in the second month, and then non-discounted rent payments commence in the third month. Using the example provided in Section II then, the “first month” would be from September 15 through October 14, a prorated rent would be charged for the period covering October 15 through 31, and non-discounted rent payments on the first of the month

would commence November 1. As written, Section II would unintentionally exclude rental housing providers who structure their rental agreement in this way. CAA recommends revising the regulation to instead provide that a concession in the form of free months of rent provided in the first 60-90 days of the rental agreement is excluded from the base rent calculation.

3. The example cited in Section IV is inconsistent with the proposed regulation. It would be helpful to prevent any misinterpretation if the example were amended to support the proposed amendments, such as: "If a Tenant agrees to pay \$1000/month for 12 months for a Rental Unit and the Landlord provides a concession of the 1st full month free, then the Base Rent for the Rental Unit shall be \$1000.00 $((11 \times \$1000)/11)$." This revised example is critical to ensure correct interpretation otherwise the existing example Section IV creates confusion and is not consistent with the proposed amendment.
4. The notice of rent concession discussed in Section V will be an important tool to ensure compliance, consistency, and transparency. CAA would ask that the notice be published in a timely manner and any changes to the form should be provided to the city's landlords with sufficient time to implement their lease agreements and operating procedures while remaining in compliance with the law.
5. The Base Rent regulation adopted last month bifurcated tenancies before/after September 1, 2022. Will the form created by RHC staff be ready for distribution by end of July so that the forms can be provided by housing providers to current and future residents by the same date, September 1, 2022? Housing providers will need reasonable time to implement the new notices into their operations. Furthermore, it will be helpful to clarify that the notice provisions in Section V will apply only to current and future residents as of a specified future date.

With the minor clarifications outlined in this letter, the RHC's regulation recognizes the importance of one-time concessions and how they are clearly different from a concession that takes the form of an ongoing monthly reduction to the tenant's monthly rent.

CAA appreciates the RHC's commitment to working with stakeholders and taking the time to develop guidelines in this area that promotes housing affordability and flexibility that is consistent with the stated goals of the Community Stabilization and Fair Rent Act.

Sincerely,



Joshua Howard
Executive Vice President, Local Government Affairs
California Apartment Association