

DATE: May 22, 2023

TO: Rental Housing Committee

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SUBJECT: **Amendments to Regulations—CSFRA Chapter 4/MHRSO Chapter 5, Petition Process, and CSFRA Chapter 7/MHRSO Chapter 8, Procedures for Annual General Adjustments**

RECOMMENDATION

1. Amend CSFRA Regulations Chapter 4, Petition Process, to add provisions regarding the determination of a respondent's duties in a petition and to adopt time limitations on former Tenants of Covered Units filing Downward Adjustment of Rent petitions.
2. Amend MHRSO Regulations Chapter 5, Petition Process, to adopt time limitations on former tenants of mobile home spaces or mobile homes filing Downward Adjustment of Rent petitions.
3. Amend CSFRA Regulations Chapter 7, Procedures for Annual General Adjustments, to authorize landlords and tenants of covered units to enter into a voluntary agreement to temporarily reduce the rent for a covered unit.
4. Amend MHRSO Regulations Chapter 8, Procedures for Annual General Adjustments, to authorize park owners or mobile home landlords and mobile home owners or mobile home tenants to enter into a voluntary agreement to temporarily reduce the rent for a covered mobile home space or mobile home.

BACKGROUND

It is consistent with past practices that amendments to regulations are either initiated by the Rental Housing Committee (RHC) or that amendments are identified by staff for recommendation to the RHC. Since both the Community Stabilization and Fair Rent Act (CSFRA) and Mobile Home Rent Stabilization Ordinance (MHRSO) programs are similar in nature, for clarity purposes, it is

commendable to synchronize the language of each of the programs' regulations. The CSFRA empowers the RHC to:

1. "Set Rents at fair and equitable levels to achieve the purposes of this Article," including "the authority to adopt regulations authorizing Rent increases and/or adjustments required by state or federal law." (CSFRA § 1709(d)(1))
2. "Establish rules and regulations for administration and enforcement of this Article." (CSFRA § 1709(d)(2))

Similarly, the MHR SO authorizes the RHC to:

1. "Adopt regulations authorizing rent increases and/or adjustments required by state or federal law." (MHR SO § 46.9(a)(2))
2. "Establish rules and regulations for administration and enforcement of" the Ordinance. (MHR SO § 46.9(a)(3))

ANALYSIS

Regulation Amendments to CSFRA Chapter 4 and MHR SO Chapter 5, Petition Process

Chapter 4 of the CSFRA Regulations and Chapter 5 of the MHR SO Regulations establish the process for all petitions under the CSFRA and MHR SO, respectively. Sections D of the respective chapters establish requirements with which petitioners must comply when filing any petition, including Downward Adjustment of Rent petitions.

CSFRA Regulations Chapter 4, Petition Process

The amendments to Section D of Chapter 4 of the CSFRA Regulations propose to: (1) provide clarity that a Hearing Officer can determine certain requirements for respondents to a petition; and (2) establish a time limitation on how long after vacating a covered unit a former tenant may file a Downward Adjustment of Rent petition.

Specifically, the first proposed amendment would provide that a Hearing Officer can establish a respondent's duties to provide evidence and disclose witnesses and expert testimony at the prehearing conference required for all petitions in Section C of Chapter 5 of the CSFRA Regulations. This provision is already included in the MHR SO Regulations.

The second proposed amendment addresses inquiries staff received with regard to the ability of a former tenant to file a petition. To provide clarity, this amendment would require a former

tenant of a covered unit to file a Downward Adjustment of Rent petition within six (6) months from the date that they vacate the covered unit. A former tenant who fails to file a petition within this time frame would be barred from filing a petition with the RHC for downward adjustment of rent but may pursue other remedies provided for under the CSFRA, including a civil action for overpayment of rent.

MHRSO Regulations Chapter 5, Petition Process

The amendment to Section D of Chapter 5 of the MHRSO Regulations proposes the same language as the proposed amendment to Chapter 4 of the CSFRA Regulations. The amendment establishes a time limitation on how long after vacating a covered mobile home space or mobile home and mobile home owner or mobile home tenant may file a Downward Adjustment of Rent petition. The proposed amendment would require a former tenant of a mobile home space (i.e., a mobile home owner) or of a mobile home (i.e., a mobile home tenant) to file a Downward Adjustment of Rent petition within six (6) months from the date that they vacate the mobile home space or mobile home. A former tenant of a mobile home space or mobile home who fails to file a petition within this time frame would be barred from filing a petition with the RHC for downward adjustment but may pursue other remedies provided for under the MHRSO, including a civil action for overpayment of rent.

Regulation Amendments to CSFRA Chapter 7 and MHRSO Chapter 8: Procedures for Annual General Adjustments.

In CSFRA- and MHRSO-covered properties, rent increases are limited to the annual general adjustment (AGA) and may not be increased beyond this amount. Additionally, both the CSFRA and MHRSO limit rent increases to no more than one increase per 12-month period and no more than ten percent (10%) in any 12-month period.

CSFRA Regulations Chapter 7, Procedures for Annual General Adjustments

During the COVID-19 pandemic, some landlords were actively working with their tenants to reduce rents to provide relief from the economic impacts of the pandemic. At its May 4, 2020 meeting, the RHC adopted regulations allowing landlords to temporarily reduce rents and afterwards return rents to the amounts charged under their underlying rental contract without running afoul of the CSFRA. The regulations permit landlords and tenants to enter into a voluntary short-term agreement without changing the other terms of the rental agreement to temporarily reduce the rent during the pandemic or for such other term as agreed upon by the parties. Upon termination of such an agreement, the rent could be returned to the rent prior to the voluntary reduction. The COVID-19 voluntary adjustment regulations terminate six (6) months after the rescission of the California Governor's Proclamation of a State of Emergency dated March 4, 2020 in response to the COVID-19 pandemic.

Both prior to and since the end of the Governor’s proclaimed State of Emergency related to the COVID-19 pandemic, both landlords and tenants alike have expressed an interest in having permanent regulations that allow for them to temporarily reduce the rent in relation to tenant hardships or other events as agreed upon by the parties. The amendments to Chapter 7 of the CSFRA Regulations propose to make permanent the ability of a landlord and a tenant of a covered unit to enter into a written voluntary agreement to temporarily reduce the tenant’s rent. In addition, the amendments would require that a landlord provide a tenant with thirty (30) days’ notice prior to reinstating the tenant’s prevoluntary agreement rent pursuant to terms of the voluntary agreement. The landlord would be required to file copies of both the voluntary agreement and the notice of reinstatement of rent with the RHC within a specified number of days. Finally, the proposed regulations clarify that a tenant may file a petition for downward adjustment of rent even if there is a voluntary agreement to temporarily reduce rent in effect for the covered unit at the time.

MHRSO Regulations Chapter 8, Procedures for Annual General Adjustments

Since the MHRSO was adopted by City Council on September 28, 2021 and went into effect on October 28, 2021, no corresponding regulations were adopted by the RHC for the MHRSO at its May 4, 2020 meeting as the law was not yet in existence.

Similar to the text of the proposed amendments to the CSFRA Regulations Chapter 7, the amendments to Chapter 8 of the MHRSO Regulations propose to authorize a mobile home park owner and a mobile home owner or a mobile home landlord and a mobile home tenant to enter into a written voluntary agreement to reduce the rent for a covered mobile home space or mobile home, respectively. Upon expiration of the voluntary agreement, the mobile home park owner or mobile home landlord may reinstate the mobile home owner’s or mobile home tenant’s prior rent without running afoul of the requirements in Sections 46.5 and 46.6 of the MHRSO. As with the CSFRA Regulations, the mobile home park owner or mobile home landlord would be required to provide the mobile home owner or mobile home tenant with thirty (30) days’ written notice prior to reinstating the prior rent and would be required to file copies of the voluntary agreement and notice of reinstatement of rent with the RHC. Finally, a mobile home owner or mobile home tenant would continue to be able to file a petition for downward adjustment of rent even if there is a voluntary agreement to temporarily reduce rent in effect for the covered mobile home space or mobile home.

FISCAL IMPACT

The adoption of the proposed amendments to Chapter 4 and Chapter 7 of the CSFRA Regulations is not anticipated to impact the CSFRA budget of the RHC. The adoption of the proposed

amendments to Chapter 5 and Chapter 8 of the MHRSO Regulations is not anticipated to impact the MHRSO budget of the RHC.

PUBLIC NOTICING—Agenda posting.

AVD-KMT-NS/KG/6/CDD/RHC
847-05-22-23M-1

- Attachments:
1. Draft Resolution to Adopt Amendment to Chapter 4 of the CSFRA Regulations
 2. Draft Resolution to Adopt Amendment to Chapter 7 of the CSFRA Regulations
 3. Draft Resolution to Adopt Amendment to Chapter 5 of the MHRSO Regulations
 4. Draft Resolution to Adopt Amendment to Chapter 8 of the MHRSO Regulations