

**DATE:** September 26, 2024

**TO:** Rental Housing Committee

**FROM:** Patricia Black, Senior Management Analyst  
Joann Pham, Analyst I  
Anky van Deursen, Division Manager

**SUBJECT:** Annual Update on the Petition Program

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**RECOMMENDATION**

Provide the Rental Housing Committee with an annual informational update on the Petition Program, including a summary of the petitions processed through Fiscal Year 2023-24 as well as related administrative processes pursuant to the Community Stabilization and Fair Rent Act (CSFRA) and the Mobile Home Rent Stabilization Ordinance (MHRSO).

**BACKGROUND**

The Rent Stabilization Division implements the Community Stabilization and Fair Rent Act (CSFRA) and Mobile Home Rent Stabilization Ordinance (MHRSO). Both programs include a petition process for landlords and tenants to request upward adjustments of rent above the allowed annual rent increase and for tenants to request downward adjustments of rent in response to potentially unlawful rent increases, issues of habitability and maintenance concerns, and tenant hardship.

Different types of petitions can be filed with the Division and the overall process includes various steps and requirements that must be undertaken by landlords/tenants as well as by the City. The analysis below provides further information on the Petition Program, including the petition and hearing processes, and includes the following data as requested by the Rental Housing Committee (RHC):

- Overview
- Historical Summary – November 2017 to June 2024
- Types of Petitions
- Petitions Filed in Fiscal Year 2023-24

## **INFORMATION**

### **Overview**

Overall, the volume and complexity of petitions filed with the Rent Stabilization Division has increased significantly since Fiscal Year 2019-20, with Fiscal Year 2023-24 experiencing a record number of petitions filed. Tenants have been and continue to be the primary filer of petitions, with unlawful rent increases and habitability/reduction in housing services being the main types of petitions filed. Petitions that include two or more issues have also significantly increased over the past two years, which has contributed to the increasing complexity and time needed to process the petitions.

Based on the current high volume of petitions so far in Fiscal Year 2024-25, plus the implementation of the One-Time Utility Adjustment Petition process, staff anticipates a high workload related to the Petition Program.

### **Historical Summary – November 2017 to June 2024**

The Rent Stabilization Division began accepting petitions for individual adjustments of rent in November 2017, and the first petition hearing overseen by a Hearing Officer occurred in January 2018. From November 2017 through June 30, 2024, the Rent Stabilization Division processed a total of 244 petitions<sup>1</sup> (see Figure 1 below).

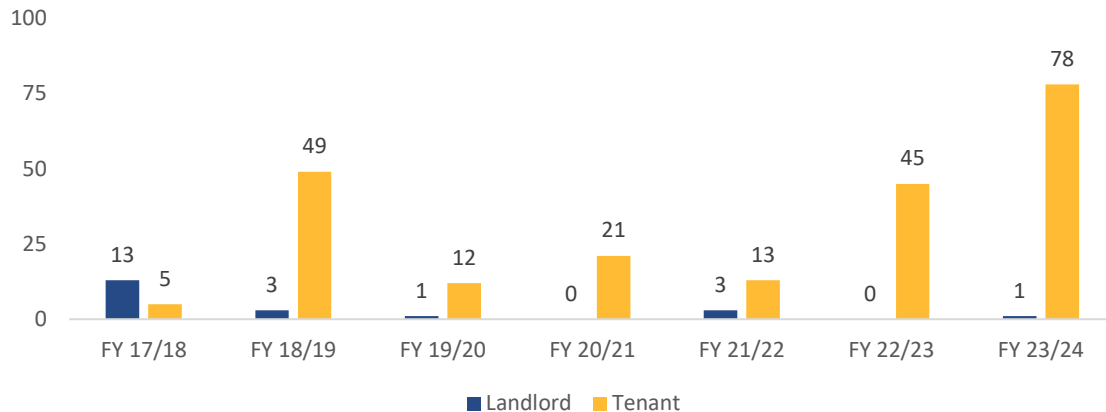
- Two hundred twenty-three (223) petitions (91%) were filed by tenants.
- Twenty-one (21) petitions (9%) were filed by landlords.

During Fiscal Year 2023-24, the Program experienced a 76% increase in petitions compared with Fiscal Year 2022-23 potentially due in part to landlord/tenant outreach efforts, increasing awareness among tenants and landlords. Moreover, Fiscal Year 2022-23 exceeded past filings with an increase in petition filings of 181% compared to Fiscal Year 2021-22.

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<sup>1</sup> The first MHRSO petition was formally filed with the City on November 16, 2022; a second was filed on April 16, 2024 and not accepted by the Division.

**Figure 1: CSFRA Petitions Received by the Rent Stabilization Division  
(Fiscal Year 2017-18 through Fiscal Year 2023-24)**



### ***Status of Petitions***

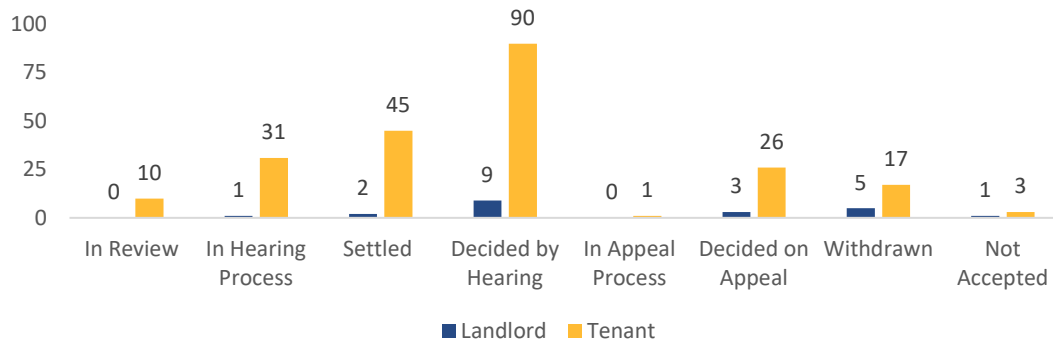
Of the 244 petitions filed with the Division since November 2017:

- Thirty-seven (37) petitions (15%) were active:
  - Ten petitions (4%) were in review.
  - Twenty-six (26) petitions (11%) were in the hearing process.
  - One petition (0.4%) was in the appeal process.
- Twenty-two (22) petitions (9%) were withdrawn by the petitioner.
- Four petitions (2%) were not accepted.<sup>2</sup>
- One hundred seventy-five (175) petitions (72%) completed the hearing and/or prehearing settlement conference process (see Figure 2 below and Attachment 2).
  - Forty-seven (47) petitions (19%) were settled or conciliated.
  - Ninety-nine (99) petitions (41%) were decided by hearing.
  - Twenty-nine (29) petitions (12%) were decided after appeal to the RHC

<sup>2</sup> Of the three petitions not accepted, one Landlord Maintenance of Net Operating Income (MNOI) Petition was not accepted by Hearing Officer Order due to extensive, active code violations on the property (CSFRA Section 1710(a)(1)(B)); one Undue Tenant Hardship Petition was not accepted by Hearing Officer Order due to late filing (CSFRA Regulations Chapter 7(C)(1)(b)); one Unlawful Rent Petition filed by a mobile home owner in Fiscal Year 2017-18 was not accepted because the RHC deemed mobile homes were not covered by the CSFRA on February 26, 2018; and one Hardship Petition filed by a mobile home owner in Fiscal Year 2023-24 was not accepted because the Hardship Petition was filed in response to the mobile home park owner's rent increase pursuant to the Annual General Adjustment (AGA) rather than a banked rent increase (MHRSO Section 46.6(d)).

- Of the 175 completed petitions, 150 petitions (61%) received judgments in favor of the petitioner or were settled through a mutually determined agreement via the prehearing settlement conference or conciliation (tenant hardship petitions filed in response to landlord-initiated petitions are excluded from this analysis).

**Figure 2: Petition Outcomes**  
**(Fiscal Year 2017-18 through Fiscal Year 2023-24)**



### ***Average Time of Petition and Hearing Process per Petition***

Of the 175 petitions with final outcomes (settled, decided by hearing, or decided on appeal), the average time is 87 days from petition acceptance to final outcome.

### **Types of Petitions**

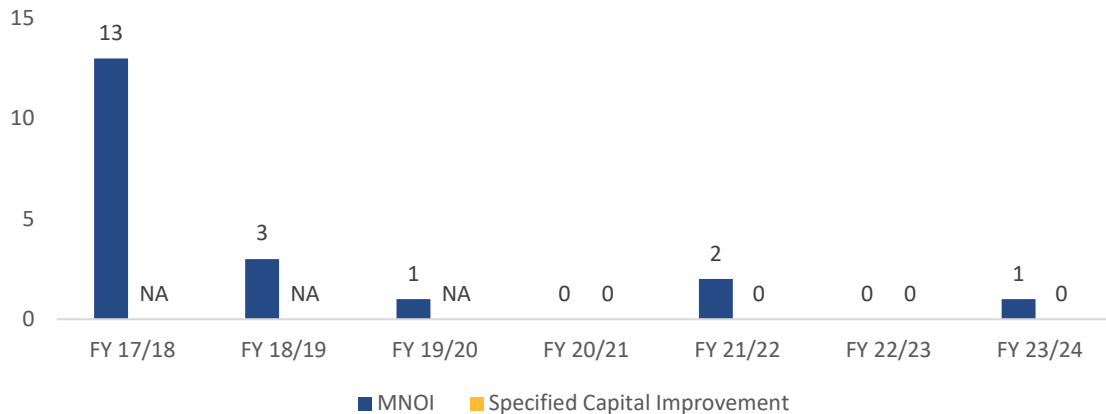
#### ***Landlord Initiated Petitions***

Landlords may file two types of petitions with the City to request an upward adjustment of rent:

1. Maintenance of Net Operating Income (MNOI) Petition; and
2. Specified Capital Improvement Petition.

Twenty-one (21) petitions (9%) of the 244 petitions filed with the Division since November of 2017 were landlord initiated petitions (see Figure 3 below).

**Figure 3: Landlord Initiated Petitions Received to Date  
 (Fiscal Year 2017-18 through Fiscal Year 2023-24)**



#### *Outcomes of Landlord Initiated Petitions*

- Fifteen (15) petitions (71%) entered into the formal hearing process.
  - One petition remains active.
- Of the 14 finalized petitions, 12 petitions (86%) received judgments in favor of the petitioner or were settled through a mutually determined agreement via the prehearing settlement conference or conciliation.

#### ***Tenant Initiated Petitions***

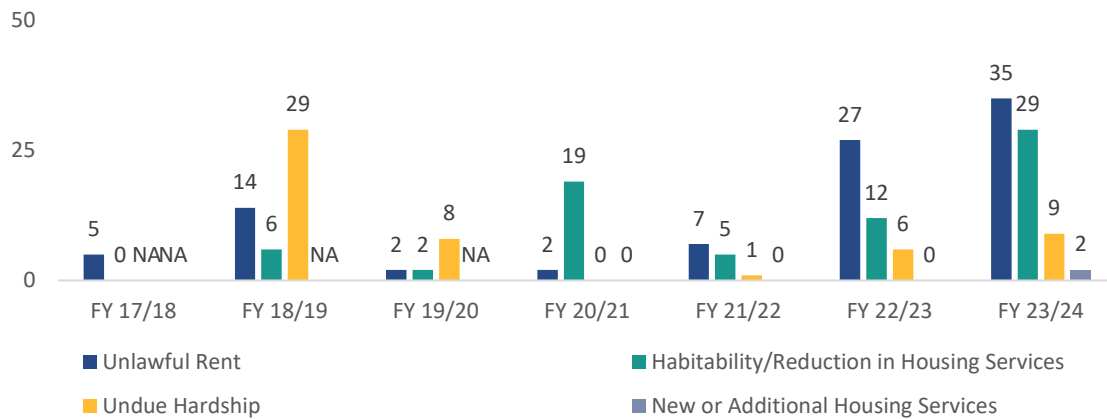
Tenants may file downward adjustment of rent petitions for three reasons:

- Unlawful rent;
- Failure to maintain habitable premises and/or reduction in housing services; and
- Undue tenant hardship.

In Fiscal Year 2020-21, the RHC adopted regulations for an additional petition process allowing tenants and landlords to jointly file a New or Additional Housing Services Petition for an increase of rent or one-time payment from tenant to landlord in order to cover, or partially cover, increased costs in defined categories such as the addition of a pet or occupant or a renovation beyond those necessary to maintain code standards. The process provides a way for tenants to request changes to their housing agreement or unit for an additional associated cost above their lawfully allowable rent while still in compliance with the CSFRA and MHRSO. Tenants must initiate the New or Additional Housing Services Petition process.

Two hundred twenty-three (223) petitions (91%) of the 244 petitions filed with the City since November of 2017 were tenant-initiated (see Figure 4 below).

**Figure 4: Tenant Initiated Petitions Received by Type  
(Fiscal Year 2017-18 through Fiscal Year 2023-24)**



#### *Outcomes of Tenant Initiated Petitions*

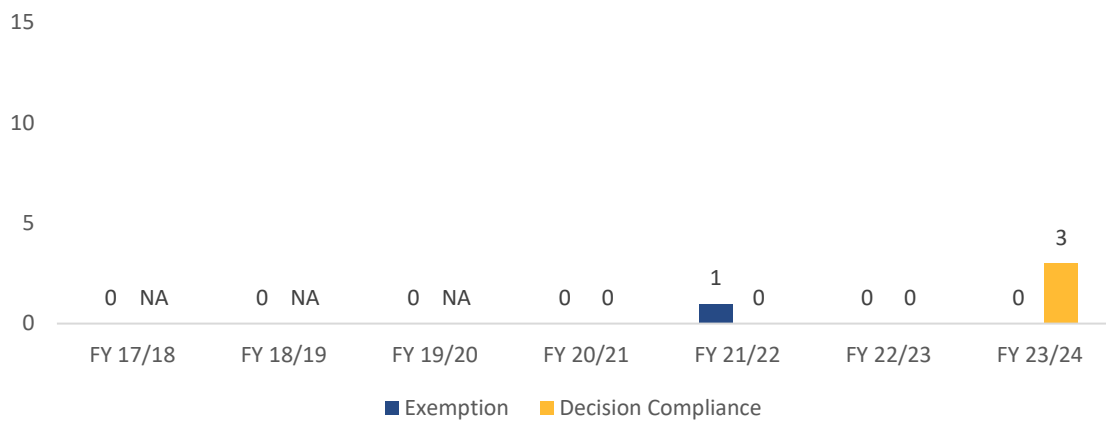
- One hundred ninety-seven (197) petitions (88%) entered the formal hearing process.
  - 36 petitions remain active.
- One hundred thirty-two (161) petitions (72%) completed the hearing and/or prehearing settlement conference process (see Figure 2 above and Attachment 2).
- Of the 161 completed petitions, 138 petitions (62%) received judgments in favor of the petitioner or were settled through a mutually determined agreement via the prehearing settlement conference or conciliation (tenant hardship petitions filed in response to landlord-initiated petitions are excluded from this analysis).

#### ***Other Petitions***

In Fiscal Year 2021-22, the RHC adopted regulations providing landlords or tenants a process to object to staff's determination of exemption of a unit or property (Exemption Petition) from being covered under the CSFRA or MHRISO. One Exemption Petition was filed through Fiscal Year 2023-24 by a property owner. The petition was denied by the Hearing Officer.

In Fiscal Year 2022-23, Decision Compliance Petitions were instituted to address allegations of non-compliance with a decision issued by a Hearing Officer. As of June 30, 2024, three Decision Compliance Petitions were filed by Tenants against Landlords alleging non-compliance with the award guidelines as determined by the Decisions. Two of the petitions were granted by Hearing Officers and the Compliance Decisions issued further remedies to the parties. One petition was denied (see Figure 5 below).

**Figure 5: Other Petitions Received by Type  
(Fiscal Year 2017-18 through Fiscal Year 2023-24)**



### ***One-Time Utility Adjustment Petitions***

In 2023, the RHC discussed the issue of the use of Ratio Utility Billing Systems (RUBS) and other similar systems used to distribute property-wide utility costs among tenants. Many CSFRA properties use RUBS because the apartments lack individual meters for some utilities to directly charge each household for utility costs. When RUBS is used, the utility costs are charged separately from the rent which is not allowed under the CSFRA, and the utility costs can be high and fluctuate widely from month to month.

On December 18, 2023, the RHC adopted regulations further clarifying that utilities are part of rent for units fully covered by the Community Stabilization and Fair Rent Act (CSFRA). Utilities for fully covered units are subject to the rent increase limitations of the CSFRA and the use of RUBS will no longer be allowed. The RHC also adopted a One-Time Utility Adjustment Petition process to allow landlords to discontinue the use of RUBS and to incorporate utility costs into the total rent.

All property owners of fully covered units are required to submit a One-Time Utility Petition to the Rent Stabilization Division by August 31, 2025. Staff will provide updates to the RHC regarding the process during the fiscal year per the Committee's request.

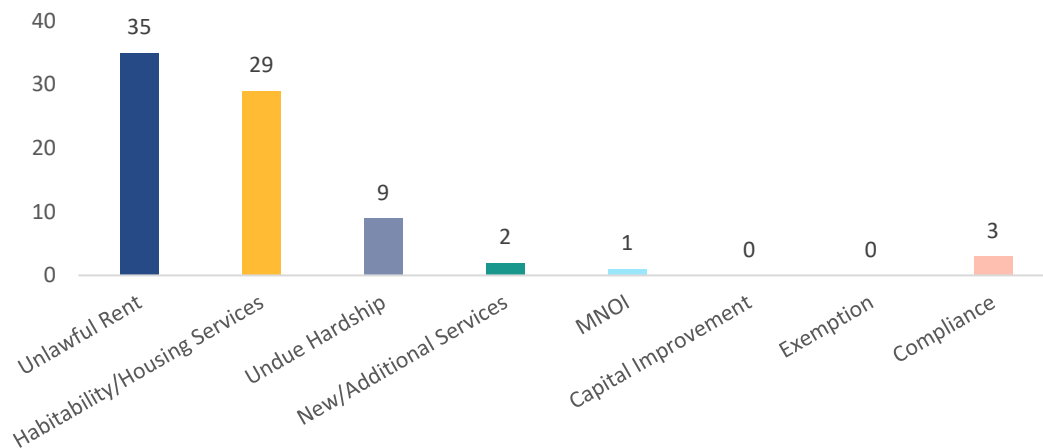
### **Petitions Filed in Fiscal Year 2023-24**

As noted above, there was a significant increase in tenant petitions during Fiscal Year 2023-24. Additionally, the petitions have increased in complexity. This has resulted in an increase in the time needed to process petitions. To address this issue, during its October 16, 2023 meeting, the RHC extended amended the petition hearing time frames for both the CSFRA and MHRSO (see CSFRA Regulations, Chapter 5, and MHRSO Regulations Chapter 6, "Hearing Procedures").

Seventy-nine (79) petitions were filed in Fiscal Year 2023-24 (see Figure 6 below). This is a 76% increase in petition filings compared to Fiscal Year 2022-23.

- 78 petitions were filed by tenants.
- One MNOI Petition was filed by a landlord.

**Figure 6: Petitions Received in Fiscal Year 2023-24 by Type**



### ***Status of Fiscal Year 2023-24 Petitions***

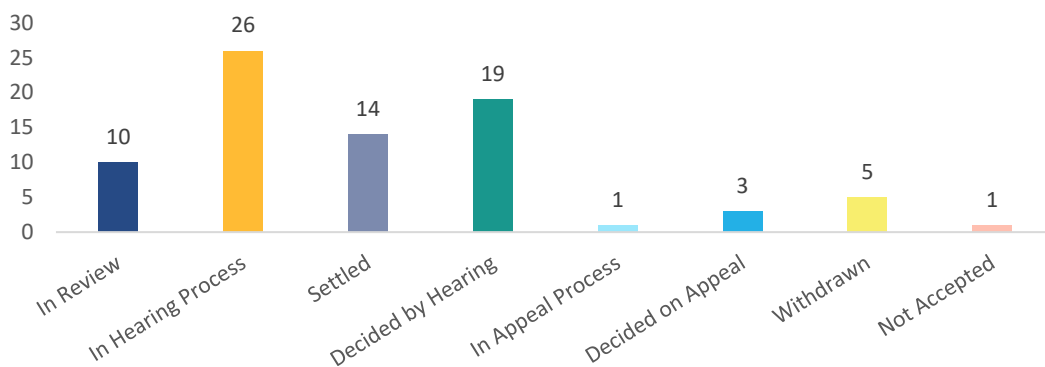
As of June 30, 2024, out of the 79 petitions filed in Fiscal Year 2023-24 (see Figure 7 below):

- Thirty-seven (37) petitions (47%) were active:
  - Ten petitions (13%) were in review.
  - Twenty-six (26) petitions (33%) were in the hearing process.
  - One petition (1%) was in the appeal process.



- Five petitions (6%) were withdrawn by the petitioner.
- One petition (1%) was not accepted.
- Thirty-six petitions were completed.

**Figure 7: Status of Fiscal Year 2023-24 Petitions as of June 30, 2024**



#### *Outcomes of Completed Petitions in Fiscal Year 2023-24*

- Thirty-six (36) petitions (46%) had completed the hearing and/or prehearing settlement conference process (see Figure 2 above and Attachment 2).
  - Fourteen petitions (18%) were settled or conciliated.
  - Nineteen (19) petitions (24%) were decided by hearing.
  - Three petitions (4%) were decided after appeal to the RHC.
- Of the 36 petitions, 32 (89%) received judgments in favor of the petitioner or were settled through a mutually determined agreement via the prehearing settlement conference or conciliation.

#### ***Trends in Petition Filings in Fiscal Year 2023-24***

##### *Multi-Issue Petition Filings*

As with Fiscal Year 2022-23, petition filings with multiple issues for single units and/or the filing of multiple petitions by single units also increased. For example, multiple units filed both Unlawful Rent and Failure to Maintain Habitable Property Petitions. These petitions often contain

interrelated issues necessitating property inspection requests, the involvement of legal assistance to support landlords and tenants through the petition and hearing process, and interpretation and translations support. Consequentially, this increased the complexity of the process and required additional time to analyze and make a determination on the petition.

In previous years, petition filings focused on single issues and each type of petition had a separate form causing petitioners with multiple issues to complete multiple forms. In response to this change in filings, staff created a single petition form to be used for different types of tenant petitions, such as for Unlawful Rent, Failure to Maintain Habitable Property, and Reduction in Housing Services, which was made available for use in October 2023.

Of the seventy-nine (79) petitions filed in Fiscal Year 2023-24, forty (40) petitions (51%) had multiple issues.

#### *Petition Filings Requiring Translation and Interpretation*

Petitions requiring translation and interpretation support also increased in Fiscal Year 2023-24 with requests made for support in Spanish, Mandarin and Russian. Of the seventy-nine (79) petitions filed in Fiscal Year 2023-24, twenty-eight (28) petitions (35%) required non-English interpretation and translation support.

These trends are shown in Table 1 below.

**Table 1: Trends in Multi-Issue Tenant Petition Submissions  
(Fiscal Year 2021-22 through Fiscal Year 2023-24)**

Fiscal Year	Total Number of Petitions	Percent of Petitions with Multiple or Complex Issues	Percent of Petitions Requiring Translation and Interpretation
<b>2021-22</b>	16	13% (2 of 16)	19% (3 of 16)
<b>2022-23</b>	45	31% (14 of 45)	33% (15 of 45)
<b>2023-24</b>	79	51% (40 of 79)	35% (28 of 79)

#### *Concessions and Substantial Compliance Regulations*

Amendments and adoptions of regulations correlated with an increase in petition filings.

- At the July 18, 2022 RHC Meeting, the RHC adopted regulations to clarify the definition of Base Rent includes concessions provided in the initial term of tenancy, except for certain exclusions and limitations set by the RHC. As a result, Tenants can file unlawful rent petitions related to concessions received in their initial term of tenancy to recalculate the base rent.

- At the September 25, 2023 RHC Meeting, the RHC adopted regulations clarifying requirements for properties to maintain substantial compliance with the CSFRA and MHRSO and providing various enforcement mechanisms to maximize compliance. One of these mechanisms included mailing noncompliance letters to Landlords. If the property remained substantially noncompliant after 30 days from the first noncompliance letter, staff would mail a second round of noncompliance letters to Landlords with copies sent to affected Tenants.

The trends in petition filings regarding concessions and substantial compliance issues since Fiscal Year 2022-23 are shown in Table 2 below.

**Table 2: Trends in Unlawful Rent Petitions regarding Concessions or Substantial Compliance (Fiscal Year 2022-23 through Fiscal Year 2023-24)**

Fiscal Year	Total Number of Petitions	Percent of Petitions regarding Concessions	Percent of Petitions regarding Substantial Compliance
<b>2022-23</b>	45	38% (17 of 45)	24% (11 of 45)
<b>2023-24</b>	79	13% (10 of 79)	30% (24 of 79)

## **CONCLUSION**

Staff will continue to perform program modifications throughout Fiscal Year 2024-25 to best assist the community and effectively administer the program, including streamlining processes, hiring additional Hearing Officers and Facilitators, updating self-help resources for potential petitioners, and simplifying petition materials.

**PUBLIC NOTICING** - Agenda posting, posting on the City's website, and email to distribution list.

Attachments:   1.   RHC Memo Dated November 13, 2023  
                      2.   Overview of Petitions Received through Fiscal Year 2023-24