

RENTAL HOUSING COMMITTEE
RESOLUTION NO. RHC ...
SERIES 2023

A RESOLUTION OF THE RENTAL HOUSING COMMITTEE OF MOUNTAIN VIEW TO ADOPT
AMENDMENTS TO THE REGULATIONS CHAPTER 4 – PETITION PROCESS OF THE COMMUNITY
STABILIZATION AND FAIR RENT ACT (CSFRA)

WHEREAS, Section 1709 of the CSFRA authorize the RHC to establish rules and regulations for administration and enforcement of the CSFRA, including rules and regulations for the Petition Process; and

WHEREAS, the Rental Housing Committee held a publicly noticed meeting on May 22, 2023 and discussed and considered amendments to the CSFRA regulations for the Petition Process

NOW, THEREFORE, BE IT RESOLVED that the Rental Housing Committee hereby adopts amendments to the CSFRA Regulations Chapter 4 – Petition Process as set forth in Exhibit A of this resolution.

Community Stabilization and Fair Rent Act
Interim Petition Regulations

CHAPTER 4
PETITION PROCESS

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A. Petition Purpose

1. Any Landlord, Tenant, group of Tenants, or an authorized representative, who seeks an Individual Rent Adjustment (e.g., an increase or decrease in Rent for one (1) or more Rental Units) must file a Petition for an Individual Rent Adjustment under this Chapter on a form provided by the Rental Housing Committee.
2. A Petition may request an Individual Rent Adjustment for one (1) or more Rental Units. If the Petition requests an Individual Rent Adjustment for more than one (1) Rental Unit, then the Petition may not apply to more Rental Units than the total number of Rental Units located on a single parcel of land or lot.
3. Notwithstanding Subsection (2) of Section (A), if more than one (1) physical structure contains Rental Units on a single parcel of land or lot, then one (1) Petition may be limited to apply only to the Rental Units contained in one (1) of the separate physical structures on the parcel.

B. Authority to File a Petition

A Petition for an Individual Rent Adjustment may be filed by a Landlord, Tenant, or group of Tenants of one (1) or more Rental Units that are subject to the CSFRA, or by an authorized representative of a party eligible to file a Petition.

1. Representation or Assistance to File a Petition. Any party eligible to file a Petition may seek the assistance of or representation by an attorney or any other person or organization designated by the party.
2. Required Documentation of Authorization. To be recognized as an authorized representative of a party filing a Petition, the representative must file an official authorization form provided by the Rental Housing Committee that is signed by each party seeking representation and expressly authorizing the representative to act on behalf of the party with respect to the Petition. The same form may provide continued authorization during a Hearing and/or an appeal that results from the Petition. If the party filing a petition is a group of Tenants, then an authorized representative will be authorized to represent only those Tenants who sign and expressly authorize the representative to act on their behalf.

C. Petition Forms

1. Form Required. Any Petitioner seeking an Individual Rent Adjustment under this chapter must do so on a form provided by the Rental Housing Committee, with supporting documentation as described in Section D.

2. **Incomplete Petition Forms.** Receipt of a Petition does not mean the Petition has been accepted by the Rental Housing Committee, or its designee. Petitions must meet the requirements set forth in this chapter prior to acceptance. A Petition submitted for an Individual Rent Adjustment will not be accepted if the Petition is illegible, incomprehensible, erroneously completed, or substantially incomplete. Submitted Petitions that are not accepted will be returned to the Petitioner and no further action will be taken.

D. Petition Requirements: All Petitions

1. **Documentary Evidence.** Petitioner must provide copies of all documentary evidence that Petitioner expects to present at the hearing. Such copies must be clear, legible, easily readable, and organized by category, following the organization of the petition format.
2. **Witness List.** Petitioner must include a witness list and provide the name, address, and subject matter(s) of testimony of any person the Petitioner expects to testify on behalf of the Petitioner.
3. **Disclosure of Intended Expert Testimony.** If the Petitioner intends to call an expert witness to offer an expert opinion at the hearing, Petitioner must provide the name of each expert witness and must also include a brief narrative statement setting forth the qualifications of the expert and the general substance of the expected expert testimony. If an expert witness report will be submitted at the hearing (e.g., an economic analysis, property appraisal, or property inspection report), one (1) copy of the report must be submitted either together with the Petition or at least ten (10) business days prior to the hearing.
4. **Proof of Notice.** Petitioner must provide proof of delivery of notice to opposing party with submission of Petition, as described in Section I.
5. If any of the documents listed in Section E, F, G, or H exist but are not readily available, then the Petitioner must identify the document to the greatest extent feasible and explain why the document cannot be obtained by Petitioner via ordinary means.
6. **Respondent's Duties. The Hearing Officer will determine the Respondent's duties and deadlines to produce documentary evidence, provide a witness list, and disclose intended expert testimony at the prehearing conference provided for in Section C of Chapter 5 of these CSFRA Regulations.**
7. **Time Limitations on Filing Tenant Petitions. The RHC will not accept petitions for a Downward Adjustment of Rent from a former Tenant of a Covered Unit that are filed more than one hundred eight (180) days after the former Tenant vacated the Covered**

Unit, regardless of whether their tenancy of the Covered Unit was terminated voluntarily or involuntarily.

E. Petition Requirements: Downward Rent Adjustment—Failure to Maintain Habitable Premises

A Petition for an Individual Rent Adjustment that would reduce Rent based on an alleged failure to maintain habitable premises must include:

1. City Report. If available, a copy of any relevant City code inspection report from the City of Mountain View department responsible for the residential rental inspection program;
2. Valuation. Petitioner's determination of the estimated value of the failure to maintain habitable premises, including the basis for any such determination;
3. Dates. The dates when the failure began and ended, if applicable;
4. Agreement. A copy of the Rental Housing Agreement, if available; and
5. Rents. The amount of the Base Rent and Current Rent.
6. Notice to Landlord. Tenant must demonstrate that the landlord was provided with reasonable notice (by providing proof of written notice) and opportunity to correct the conditions that form the basis of this petition.

F. Petition Requirements: Downward Rent Adjustment—Decrease in Housing Services or Maintenance

A Petition for an Individual Rent Adjustment that would reduce Rent based on an alleged reduction in Housing Services, including maintenance, must include:

1. Explanation. A statement setting forth the nature of the decrease in Housing Services or failure of maintenance for which the downward adjustment is sought and the date on which the Landlord was given notice of the conditions or problems, or the time frame in which the Landlord had knowledge or should have had knowledge of the conditions or problems, providing the basis for the petition;
2. Notice to Landlord. Tenant must demonstrate that the landlord was provided with reasonable notice (by providing proof of written notice) and opportunity to correct the conditions that form the basis of this petition;

3. Valuation. Petitioner's determination of the estimated value of the decrease in Housing Services or failure to maintain the premises including the basis for such determination;
4. Dates. The dates when the decrease in Housing Services or failure to maintain the premises began and ended, if applicable;
5. Agreement. A copy of the Rental Housing Agreement, if available; and
6. Rents. The amount of the Base Rent and Current Rent.

G. Petition Requirements: Downward Rent Adjustment—Unlawful Rent

A Petition for an Individual Rent Adjustment that would reduce Rent based on the alleged collection of unlawful Rents must include:

1. Itemization of Payments. An itemization of each payment to the Landlord that includes excessive or unlawful rents. Each itemization should identify each of the following:
 - a. the approximate date of payment and the dates for which the payment was applicable;
 - b. the form of payment (e.g., cash, electronic funds transfer, goods, or services);
 - c. the Landlord to whom the Payment was made (e.g., current or previous Landlord of Rental Unit); and
 - d. the alleged amount of overpayment.
2. Documentation of Payments. Copies of all receipts, cancelled checks, or similar documentation available to the Petitioner to establish the alleged payment and acceptance of unlawful Rent by the Landlord.
3. Other Occupants. The name(s) and contact information (current address, e-mail address, and telephone number, if available) of each person(s) who lived in the Rental Unit during the period(s) in which unlawful Rents were accepted by the Landlord.
4. Agreements. A copy of each Rental Housing Agreement, if available, and any other written agreement between the Landlord and Tenant(s) related to the Rent and/or the Rental Unit that was in effect during the period(s) in which unlawful Rents were accepted by the Landlord (including a security deposit, finder's fee, broker's fee, or other agreement, or contract for services in lieu of all or a portion of Rent).

5. Notices; Other Documents. A copy of each notice altering the amount of Rent due for the Rental Unit and any other document, or correspondence that is relevant to the Petition.
6. Limitations on Unlawful Rent Petitions. Where a Petition for an Individual Rent Adjustment would reduce rent based on the alleged collection of unlawful Rents related to “rent concessions,” as that term is defined in Chapter 2 of these Regulations, the following limitations shall apply:
 - a. For rent concessions provided for a Tenancy that commenced before September 1, 2022, a Tenant shall be entitled to a rollback to the Base Rent and a refund of only the Rent that was overpaid within one (1) year prior the date of the filing of the Petition.
 - b. For rent concessions provided for a Tenancy that commenced on or after September 1, 2022, the Tenant shall be entitled to a rollback to the Base Rent and a refund of any Rent that was overpaid, subject to applicable statutes of limitations in State law.
 - c. A former Tenant may file a Petition for an Individual Rent Adjustment based on the alleged collection of unlawful Rent related to “rent concessions” so long as the Petition is filed within six (6) months of the date that the Tenant vacated the Rental Unit.

H. Petition Requirements: Upward Rent Adjustment—Fair Rate of Return

A Petition for an Individual Upward Rent Adjustment shall include relevant evidence necessary to support each claim raised in the Petition, as described in the Petition form. Relevant evidence for individual claims that may be raised through an Upward Rent Adjustment Petition may include:

1. The requested Rent increase for each Rental Unit;
2. The proposed effective date of Rent increase;
3. A description of the facilities on the property, including the number of Rental Units, number of bedrooms and bathrooms for each Rental Unit, and an explanation of other relevant facilities and Housing Services;
4. A description of the allocation of utility costs;
5. The purchase date and purchase price;
6. A Rent roll identifying current Rents received itemized by Unit;

7. Documentation of Base Year and Petition Year Operating Expenses, sorted by category, and labeled in order to enable prompt location of any expense documents;
8. Income and expense summaries for three (3) years preceding the Petition;
9. A description and documentation of property tax increases or decreases for Base Year and Petition Year;
10. A description and documentation of unavoidable increases and/or decreases in Maintenance Costs and Operating Expenses;
11. The cost of planned or completed Capital Improvements to any Rental Unit (as distinguished from ordinary repair, replacement, and maintenance), but only where such Capital Improvements are necessary to bring the Property into compliance or maintain compliance with applicable local codes affecting health and safety, and where such Capital Improvement costs are amortized over the life of the improvements as defined under the CSFRA and implementing Regulations;
12. A description and documentation of increases or decreases in the number of tenants occupying the Rental Unit, living space, furniture, furnishing, equipment, or other Housing Services provided, or occupancy rules to which the Petition applies;
13. A description and documentation of any substantial deterioration of the Rental Unit other than that resulting from normal wear and tear;
14. Confirmation that the Landlord provides adequate Housing Services, and substantially complies with applicable State rental housing laws, local housing codes, health and safety codes, and the Rental Housing Agreement;
15. A description of Rent increases or decreases per Rental Unit during the occupancy of the current Tenant for each Rental Unit to which the Petition applies; and
16. Any additional explanation relevant to justify the Petition (including any expert documentation prepared in support of the Petition).

I. Petitioner Notice of Submission

Upon submitting a Petition to the Rental Housing Committee or its designee, the Petitioner must provide a copy of the Petition form described in Section C and an informational notice form produced by the Rental Housing Committee to any party that may oppose a Petition. Landlord must provide notice to a Tenant of each Rental Unit to which the Petition applies at the address of each affected Unit, and a Tenant must provide notice to a Landlord of the Rental Unit to which the Petition applies at the address of lessor in Rental Agreement, if

any, or at the address of an authorized property manager, or any other person entitled to receive rent, if any, or at the address where rent is typically delivered.

J. Consolidation of Petitions

At the sole discretion of the Rental Housing Committee, or its designee, any Petition may be consolidated with any other Petition related to the: (1) same Rental Unit; or (2) one (1) or more other Rental Unit(s) located in the same structure as the Rental Unit.

K. Petition Response

1. Right to Respond. A party to a Petition, or that party's authorized representative, may submit a response to a Petition.
2. Failure to Respond. A failure to respond by a party to a Petition does not waive that party's right to appear and present evidence at a hearing before a Hearing Officer or the Rental Housing Committee.
3. Landlord Acknowledgement and Correction of Condition. If a Landlord responds to a Petition for an Individual Rent Adjustment that would reduce Rent with any of the following, then the Rental Housing Committee or its designee may dismiss the Petition upon verification of items a. through c., as applicable, by the Petitioner:
 - a. An affirmative acknowledgement of the condition underlying the Petition (e.g., inhabitable premises, reduced Housing Services or maintenance, or receipt of unlawful rents);
 - b. Proof of correction of the underlying condition (e.g., correction of condition or return of unlawful rent); and
 - c. Compensation for period of underlying condition, if applicable.

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:
 - a. A Rental Housing Fee or penalty for the Property is due and owing.
 - b. The submitted Petition is incomplete or lacks required documentation.

- 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.
 - 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.
 - e. A Petition for Upward Adjustment of Rent involving the same Rental Unit was decided within twelve (12) months of the submission, unless the conditions set forth in Section M exist.
 - f. A final Rental Housing Committee decision on a Petition for Upward Adjustment of Rent is currently pending before a court of competent jurisdiction, unless the 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 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.

M. Acceptance of Petitions: Dismissal Prohibited

Notwithstanding any other provision of these Regulations, a Petition for Individual Rent Adjustment will not be dismissed if any of the following circumstances exists:

- 1. The grounds upon which the Petitioner seeks an Individual Rent Adjustment could not have been raised at the prior hearing;
- 2. Currently available evidence that supports an Individual Rent Adjustment was not available for good reason at the time of a prior hearing;
- 3. An Individual Rent Adjustment was not sought and could not have applied to the particular Rental Unit(s) to which the Petition applies; or
- 4. The Rental Housing Committee or its designee has explicitly stated in a prior written decision that the prohibition against filing a Petition within twelve (12) months of adjudication will not apply to the Petitioner.

N. Prehearing Settlement Conference

1. Prior to a hearing regarding a Petition for an Individual Rent Adjustment, a voluntary prehearing settlement conference may be scheduled with a Settlement Conference Facilitator.
2. The purpose of the settlement conference is to provide an expeditious mechanism for the parties to resolve their differences informally, with the assistance of a skilled intermediary.
3. No record shall be made of any act, statement, or occurrence during the prehearing settlement conference.
4. Any settlement agreement entered into through the prehearing settlement conference will be a private record not subject to public disclosure.
5. If the parties fail to reach an agreement on any issue underlying a Petition for Individual Rent Adjustment, the unresolved underlying issue(s) will be set for hearing.