



DATE: November 13, 2023

CATEGORY: Items Initiated by Committee

DEPT.: Housing Department
Rent Stabilization Division

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

RECOMMENDATION

Provide the Rental Housing Committee (RHC) an annual informational update on the Petition Program including a summary of the petitions processed through Fiscal Year (FY) 2022-23 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

After the CSFRA was passed, City staff performed extensive policy research of, and held discussions with, rent stabilization jurisdictions throughout the region and State to analyze and determine best practices related to hearing and petition administration process, including the hiring and oversight of Hearing Officers. Staff presented this information, along with regulations for the Hearing and Petition Processes (CSFRA Chapters 5, 6 and 7) and provided recommendations for the RHC's consideration during the June 8, 2017 RHC meeting. On July 24, 2017, the RHC adopted regulations governing the petition and hearing processes and the fair return standard of individual rent adjustment petitions under the CSFRA.

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 of 2018. Petition process and hearing administration-related activities were established as quickly as possible to fully implement the CSFRA. As CSFRA Rules and Regulations were adopted and refined, Hearing Officers were routinely provided updates, especially when the changes were related to petitions in the hearing process.

Additionally, the Rental Housing Committee (RHC) was tasked with implementing the Mobile Home Rent Stabilization Ordinance (MHRSO) on behalf of the City Council in October 2021. Rent Stabilization Division staff began administering the MHRSO. The MHRSO allows mobile home tenants, mobile home landlords, as well as mobile home park owners to petition the City for

adjustments in rent through a petition process. The Rent Stabilization Division has implemented this process as outlined in the MHRSO Rules and Regulations.

As part of the administration of the Petition Program, staff provides quarterly data reports which include a graphical overview of petition statuses. This overview shows all petitions received to date as well as a more in-depth review of the current fiscal year and is presented during RHC meetings. To further supplement their knowledge and understanding of the program, the RHC requested annual updates on the petition process. The last petition overview was provided in FY 2022-23 during the December 19, 2022 RHC Meeting (see Attachment 1) and covered petitions received by the Program through November 2022.

ANALYSIS

The petition and hearing process is crucial to administering and implementing the CSFRA and MHRSO. The CSFRA and MHRSO require the City provide landlords and tenants of rent stabilized units and spaces a way to request upward or downward adjustments of rent through a petition process. Landlords and tenants requesting an adjustment in rent do so by filing petitions with the City and entering into a formal process.

This process includes filing forms and supporting documentation with the City, meetings, settlement conferences (if requested), hearings overseen and adjudicated by a Hearing Officer and the issuance of a formal decision by the same Hearing Officer. The process also allows parties to the petition to file appeals with the RHC should they dispute the outcome of the decision.

Petitions vary greatly in type, complexity, number of affected parties, situations and circumstances. The types of petitions available to landlords and tenants include:

Landlord Initiated Petitions

- Maintenance of Net Operating Income (MNOI Petition)
- Specified Capital Improvement Petition

Tenant Initiated Petitions

- Unlawful Rent
- Failure to Maintain Habitable Premise and/or Reduction in Housing Services
- Undue Tenant Hardship
- New or Additional Housing Services Petition

Other Petitions

- Decision Compliance Petition
- Objection to Exemption of a Unit or Property

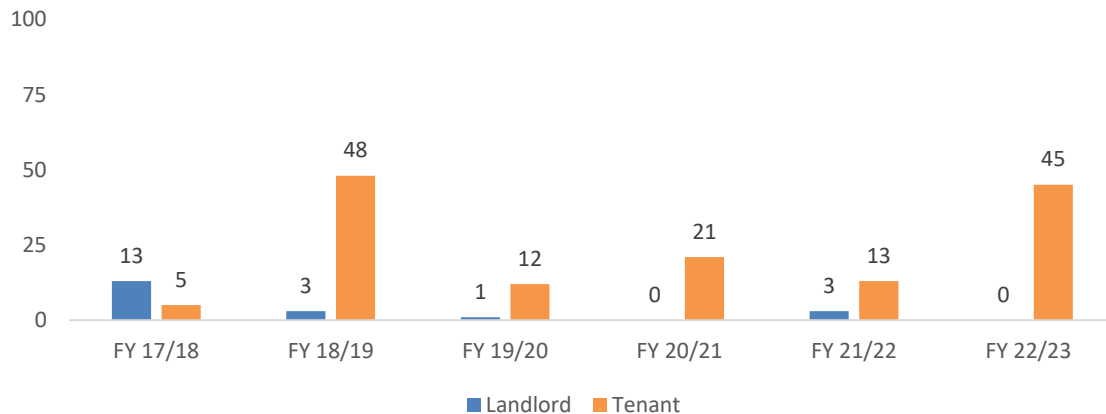
Petitions Summary

From November of 2017 through June 30, 2023, the Rent Stabilization Division processed a total of 165 petitions¹ (see Chart 1 below).

- One hundred and forty five petitions (88%) were filed by tenants
- Twenty petitions (12%) were filed by landlords
- Fifty-two petitions (32%) were filed in FY 2018-19 representing the greatest number of petitions filed during any Fiscal Year
 - Nineteen petitions filed in FY 2018-19 were Undue Tenant Hardship Petitions filed in response to Landlord Petitions

Petition filings stabilized after FY 2018-19 at an average of 16 petitions filed with the program per year. However, in FY 2022-23, 45 petitions were filed, including one MHRSO petition.

**Chart 1. CSFRA Petitions Received by the Rent Stabilization Division
(FY 2017-18 through FY 2022-23)**



¹ One MHRSO petition was formally filed with the City on November 16, 2022.

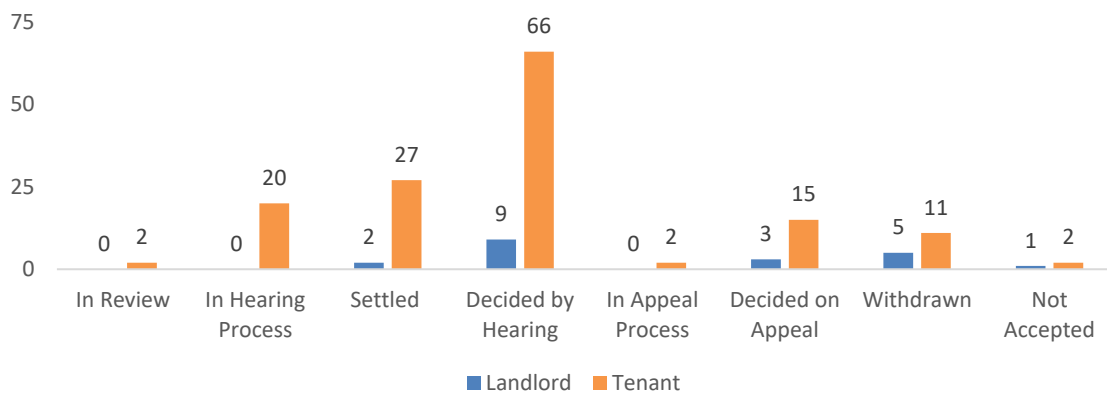
Of the 165 petitions filed with the City since November of 2017:

- One hundred and forty-six petitions (84%) entered the formal hearing process
- Sixteen petitions (10%) were withdrawn by the petitioner
- Three petitions (2%) were not accepted²

As of June 30, 2023, of the 146 petitions that had entered into the formal hearing process:

- Twenty-four (16%) were active
 - Two petitions (1%) were in review
 - 20 petitions (14%) were in the hearing process
 - Two petitions (1%) were in the appeal process
- One hundred and twenty-two (84%) had completed the hearing and/or pre-hearing settlement conference process (see Chart 2 below and Attachment 2).
 - Twenty-nine (24%) were settled or conciliated
 - Seventy-five (61%) were decided by hearing
 - Eighteen (12%) were appealed to the RHC
- One hundred and six (87%) of the individually filed and finalized petitions received judgments in favor of the petitioner or were settled through a mutually determined agreement via the pre-hearing settlement conference or conciliation.

**Chart 2. Status of Petitions
 (FY 2017-18 through FY 2022-23)**



² Of the three non-accepted petitions, 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)); and one Unlawful Rent Petition filed by a mobile home owner in FY 2017-18 was not accepted because the RHC deemed mobile homes not covered by the CSFRA on February 26, 2018.

Of the 122 petitions with final outcomes (settled, decided by hearing or decided on appeal), the average time, inclusive of any reason for delay, is 82 days from petition acceptance to final outcome. The finalized petition data includes time associated with prehearing settlement conferences, hearings, and/or delays due to requests from affected parties or Hearing Officers. Each step requires due process considerations and coordination of schedules between parties.

Landlord Initiated Petitions

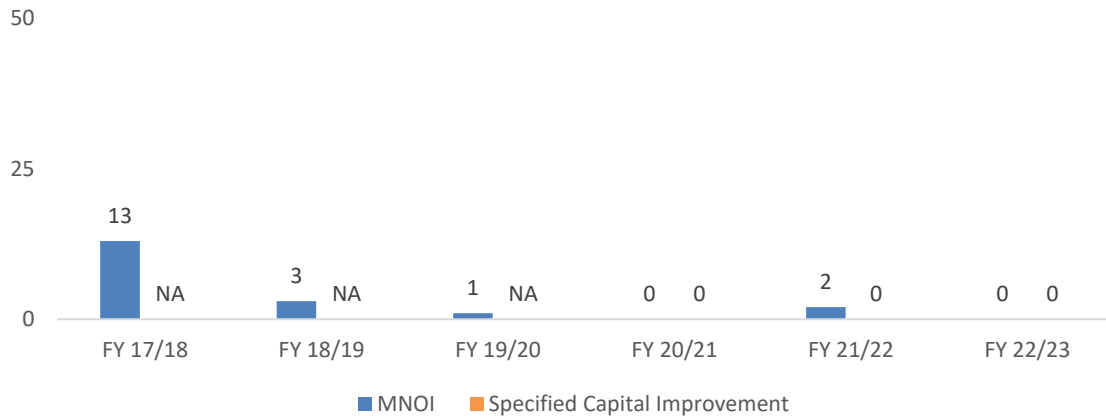
CSFRA and MHRSO regulations allow landlords to file petitions with the City requesting an upward adjustment of rent should they be unable to maintain a fair return on their investment as required under Federal Law. Landlords may file two types of petitions with the City to request an upward adjustment of rent:

- *Maintenance of Net Operating Income (MNOI) Petition*
- *Specified Capital Improvement Petition*

Nineteen (12%) of the 165 petitions filed with the City since November of 2017 were Landlord-Initiated:

- MNOI petitions represent all of the upward adjustment of rent petitions filed with the program
 - Thirteen petitions (68%) entered into the formal hearing process
 - Five petitions (26%) were withdrawn by the petitioner
 - One petition (5%) was not accepted
- Thirteen (84%) have completed the hearing and/or pre-hearing settlement conference process (see Chart 2 above and Attachment 2).
 - Eight (62%) were decided by hearing
 - Two (15%) were settled or conciliated
 - Three (23%) were appealed to the RHC
- Of the 13 petitions, 12 (92%) of the individually filed and finalized petitions received judgments in favor of the petitioner or were settled through a mutually determined agreement via the pre-hearing settlement conference or conciliation.

**Chart 3. Landlord Initiated Petitions Received to Date
 (FY 2017-18 through FY 2022-23)**



Tenant Initiated Petitions

CSFRA and MHRSO regulations allow tenants to file petitions with the City requesting a downward adjustment of rent should their landlord be in violation of a section of the CSFRA or MHRSO or if a banked rent increase may pose an undue tenant hardship.

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

- *Unlawful Rent*
- *Failure to Maintain Habitable Premise and/or Reduction in Housing Services*
- *Undue Tenant Hardship*

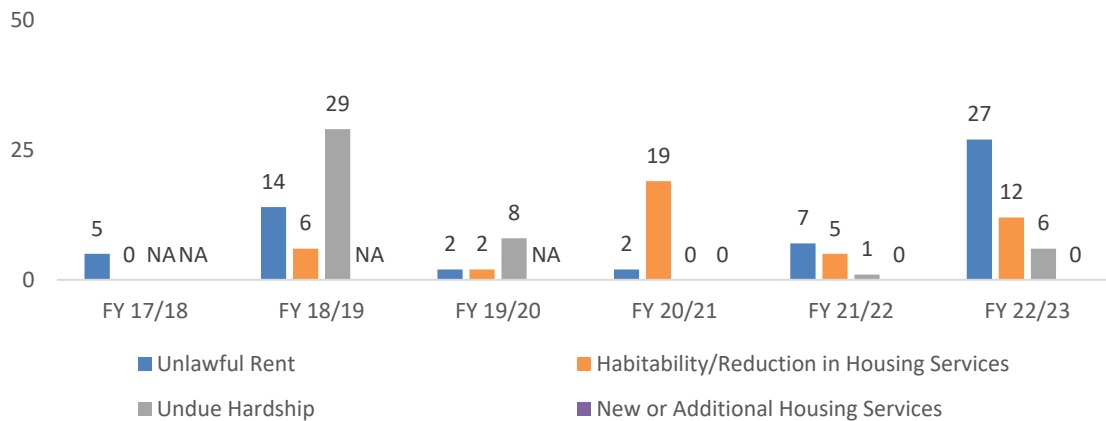
In FY 2020-21 the RHC adopted regulations for an additional petition process allowing tenants and landlords to file a New or Additional Housing Services Petition (joint petition) for an increase of rent or one-time payment from tenant to landlord in order to cover, or partially cover, increased costs in defined categories. Tenants must initiate the process.

One-hundred and forty-five (88%) of the 165 petitions filed with the City since November of 2017 were Tenant-Initiated:

- One hundred thirty-two petitions (91%) entered into the formal hearing process
 - Twenty-four (16%) were active
 - Two petitions (1%) were in review
 - 20 petitions (14%) were in the hearing process
 - Two petitions (1%) were in the appeal process

- Eleven petitions (8%) were withdrawn by the petitioner
- Two petitions (1%) were not accepted
- One hundred and eight (74%) had completed the hearing and/or pre-hearing settlement conference process (see Chart 2 above and Attachment 2).
 - Sixty-six (61%) were decided by hearing
 - Twenty-seven (27%) were settled or conciliated
 - Fifteen (14%) were appealed to the RHC
- Of the 108 petitions, 94 (87%) of the individually filed and finalized petitions received judgments in favor of the petitioner or were settled through a mutually determined agreement via the pre-hearing settlement conference or conciliation.

**Chart 4. Tenant Initiated Petitions Received by Type
 (FY 2017-18 through FY 2022-23)**

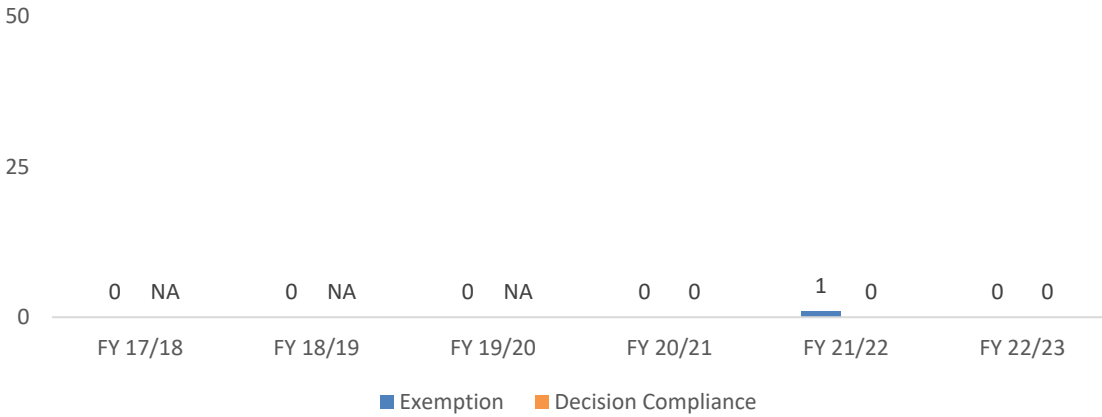


Other Petitions

In Fiscal Year 2021-22, the RHC adopted regulations providing landlords or tenants a process to object to Staff’s determination of exemption or non-exemption of a unit. One Exemption Petition has been filed through FY 2022-23 by a property owner with the petition request being denied by the Hearing Officer.

In Fiscal Year 2022-23, Decision Compliance Petitions were developed in the event there were ongoing disputes related to compliance with a decision issued by a Hearing Officer. No Decision Compliance Petitions have been filed as of June 30, 2023.

**Chart 5. Other Petitions Received by Type
 (FY 2017-18 through FY 2022-23)**



Petitions Filed in Fiscal Year 2022-23

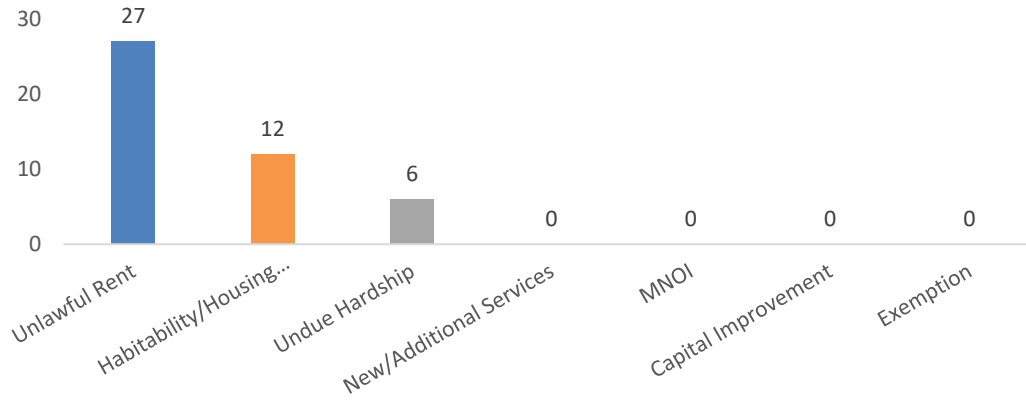
The Petition Program experienced a significant increase in tenant petitions during Fiscal Year (FY) 2022-23, which correlated with an increase in community awareness of the tenant protections under the CSFRA. The increase in awareness is correlated with the extensive outreach performed by Staff through the COVID-19 Eviction Prevention Program. The Eviction Prevention Program fostered a sense of trust in the services provided through the Rent Stabilization Division among community members. This provided tenants an avenue to address their concerns and access their rights under the CSFRA and MHRSO.

Forty-five petitions were filed in FY 2022-23. This is a 181% increase in petition filings compared to FY 2021-22.

- All petitions in FY 2022-23 were filed by tenants (see Chart 5 below).
 - Twenty-seven for Unlawful Rent (60%)
 - Twelve for Failure to Maintain Habitable Premise and/or Reduction in Housing Services (27%)
 - Six for Tenant Hardship (13%)

- No New or Additional Housing Services, MNOI, Specified Capital Improvement or Exemption Petitions were filed with the City in FY 2022-23

Chart 5. Petitions Received in FY 2022-23 by Type



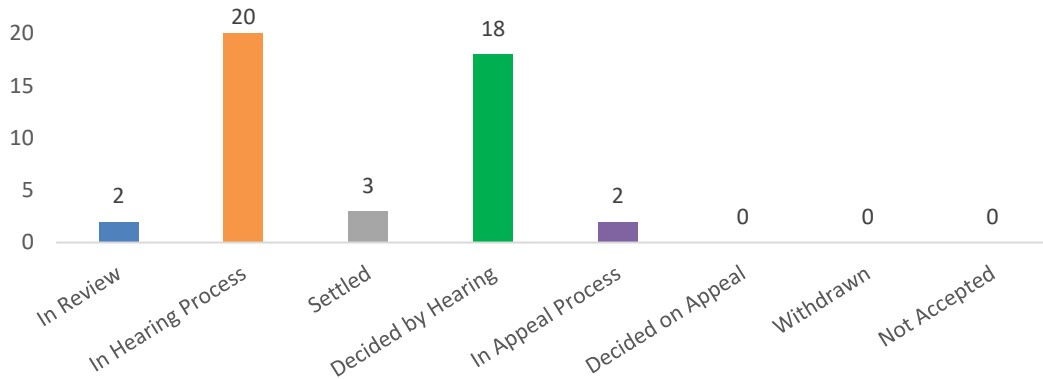
As of June 30, 2023, out of the 45 petitions filed in FY 2022-23:

- Twenty-four (16%) were active
 - Two petitions (1%) were in review
 - 20 petitions (14%) were in the hearing process (20 petitions)
 - Two petitions (1%) were in the appeal process
- Zero petitions (0%) were withdrawn by the petitioner
- Zero petitions (0%) were not accepted

- Twenty-one (47%) had completed the hearing and/or pre-hearing settlement conference process (see Chart 2 above and Attachment 2).
 - Eighteen (85%) were decided by hearing
 - Three (14%) were settled or conciliated
 - Two (10%) were appealed to the RHC

- Of the 21 petitions, 14 (67%) of the individually filed and finalized petitions received judgments in favor of the petitioner or were settled through a mutually determined agreement via the pre-hearing settlement conference or conciliation.

Chart 6. Status of FY 2022-23 Petitions as of June 30, 2023



The increase in the filing of petitions in general also coincided with an increase in the filing of multiple petitions for single units and/or the filing of petitions with multiple issues for single units. For example, multiple units filed both Unlawful Rent and Failure to Maintain Property petitions. These petitions often contained interrelated issues and consequentially increased the complexity required to analyze and decide the petitions. Additionally, Staff has seen an increase in property inspections requests, legal representation of parties, and interpretation and translation needs.

Out of all tenant petitions filed in FY 2022-23, 14 (31%), had multiple issues. The trends in multi-issue tenant petition submissions are shown in Table 1, below.

**Table 1: Trends in Multi-Issue Tenant Petition Submissions
 (FY 2021-22 through FY 2022-23)**

Fiscal Year	Total Number of Petitions	Percent of Filing with Multiple Petitions and/or Complex Issues	Percent of Petitions Requiring Translation and Interpretation
FY 2021-22	16	13% (2 of 16)	19% (3 of 16)
FY 2022-23	45	31% (14 of 45)	33% (15 of 45)

During its Oct. 16, 2023 meeting, the RHC amended the Hearing timeframes for both the CSFRA and MHRSO (see CSFRA Reg. Ch. 5 and MHRSO Reg. Ch. 6 – Hearing Procedures) in order to better address issues presented by complex petitions.

The trends in both the increasing number of petitions being filed with the City and petitions filed with multiple issues are anticipated to continue in FY 2023-24. Staff will continue to perform program modifications throughout Fiscal Year 2023-24 to best assist the community and effectively administer the Program including releasing a combined petition for Unlawful Rent,

Failure to Maintain Habitable Premises, and Reduction in Housing Services or Maintenance issues for tenants, assessing staffing levels and hiring additional Hearing Officers.

PUBLIC NOTICING

Agenda posting.

- Attachments:
1. RHC Memo (December 19, 2022)
 2. Overview of Petitions Received through FY 2022-23