

Community Stabilization and Fair Rent Act
FAIR RETURN - INFLATION EFFECTS PRIOR TO SEPTEMBER 1, 2016

Chapter 1	General
Chapter 2	Definitions
Chapter 3	Rules of Conduct
Chapter 4	Petition Process
Chapter 5	Hearings Procedure
Chapter 6	Fair Return
Chapter 6.5	Fair Return – Inflation Effects prior to September 1, 2016
Chapter 7	Banking Procedures for Annual General Adjustments
Chapter 8	Tenant Hardship

CHAPTER 6.5
FAIR RETURN
INFLATION EFFECTS PRIOR TO SEPTEMBER 1, 2016

A. Statement of Purpose.

1. Findings.

- a. The Community Stabilization and Fair Rent Act ("CSFRA") guarantees that Landlords are entitled to earn a fair rate of return from a property. The CSFRA authorizes Landlords to seek rent increases via the Annual General Adjustment identified in CSFRA section 1707 and via a Petition for Upward Adjustment of Rent identified in CSFRA section 1710(a) in order to earn a fair rate of return. Although the CSFRA authorizes that the first Annual General Adjustment may be imposed on September 1, 2017, which adjustment accounted for inflationary effects in the previous year, the Rental Housing Committee hereby determines that inflationary effects that were not captured by the first Annual General Adjustment diminished the actual value of Rents received by certain Landlords for certain tenancies as defined in Section B of this Chapter 6.5.
- b. To address the inflation that was experienced during the three hundred eighteen days that elapsed between October 19, 2015, which date is the reference point for the Base Rent under CSFRA section 1702(b), and September 1, 2016, which date is one year prior to the first potential implementation date of the first Annual General Adjustment, the Rental Housing Committee hereby establishes this Chapter 6.5. This Chapter 6.5 creates an expedited petition process through which a Hearing Officer may grant qualifying landlords the authority to impose an increase in Rent upon tenancies identified in this Chapter 6.5. The maximum increase in Rent authorized under this Chapter 6.5 is equal to two and six-tenths

percent (2.6%) of Rent applicable to the tenancy, which percentage equals 318/365^{ths} of the percentage change in the Consumer Price Index - All Urban Consumers for the San Francisco Bay Area between February 2015 and February 2016.

1. Authority. Section 1700 of the Community Stabilization and Fair Rent Act (“Act”) states that one purpose of the voter-approved initiative is to control “excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring Landlords a fair and reasonable return on their investment.” Subsections (d)(1), (d)(2), and (e) of Section 1709, subsection (a) of Section 1710, and subsection (m) of Section 1711 of the Act provide that the Rental Housing Committee has the authority to adopt and shall establish regulations to further the purposes of the Act, including regulations to ensure that Landlords may earn a fair return.
2. Purpose. It is the purpose of this Chapter 6.5 to provide for an expedited petition process for the limited purpose of addressing the diminished actual value of Rents received based on the effects of inflation experienced during the three hundred eighteen day period between October 19, 2015 and September 1, 2016, and ensuring those Landlords may earn a fair return. This Chapter 6.5 allows Landlords to submit a petition that verifies (a) the eligibility of the Landlords, and (b) the tenancy conditions under which the Landlord would have experienced a decrease in the actual value of Rent received based on inflation, in order to allow qualifying Landlords to petition for authorization of a two-and-six-tenths percent (2.6%) increase in Rent, in accordance with state law and the CSFRA.

B. Presumption to Allow Fair Return.

For Landlords, as described in subsections B(1) and B(4) of this Chapter 6.5, that have Covered Rental Units occupied by tenants described in subsections B(2) and B(3), it shall be presumed by a Hearing Officer upon the Landlord's Petition, that a fair return on investment for such Landlord of such Covered Rental Unit(s) requires that the Landlord be allowed to raise the Rent for such Covered Rental Unit(s) by as much as two and six-tenths percent (2.6%).

1. Continuous Ownership since October 19, 2015. An eligible Landlord must demonstrate continuous ownership of a Covered Rental Unit described in subsections B(2) and B(3) from October 19, 2015 through the date of the submission of a Petition authorized by this Chapter 6.5.
2. Continuous Tenancy since October 19, 2015. An eligible Landlord must demonstrate that each Covered Rental Unit for which a Rent increase is requested under this Chapter 6.5 has been continuously occupied by the same Tenant household from October 19, 2015 through the date of the submission of a Petition authorized by this Chapter 6.5. For purposes of this Chapter 6.5, continuous occupancy by the same Tenant household shall mean that the Covered Rental Unit

was not subject to vacancy decontrol or any other initial setting of rent without restriction between October 19, 2015 and the Petition submission date.

3. No Rent Increase between October 19, 2015 and December 23, 2016. An eligible Landlord must demonstrate that each Covered Rental Unit for which a Rent increase is requested under this Chapter 6.5 was not subject to any increase in Rent between October 19, 2015 and September 1, 2016, as any such increase in Rent during that period would offset the inflation-based reduction in value of actual Rent received and therefore rebut the presumption that a Landlord's fair return on investment requires a Rent increase as contemplated in this Chapter 6.5.
4. Full Compliance with the CSFRA. Notwithstanding the Landlord- and Tenant-specific conditions identified in subsections B(1) through B(3) of this Chapter 6.5, no Rent increase may be authorized by a Hearing Officer or the Rental Housing Committee if the Landlord has failed to comply with the CSFRA, as stated in CSFRA section 1709(a)(1)(A), or failed to adequately maintain the Covered Rental Unit for which a Rent increase is sought under this Chapter 6.5, as stated in CSFRA section 1709(a)(1)(B).

C. Petition Process.

1. Landlord Petition Required. No Landlord may increase Rent for a Covered Rental Unit based on this Chapter 6.5 except upon the Decision of a Hearing Officer granting an adequately supported Petition requesting such an increase in Rent in compliance with this Chapter 6.5.
 - a. The Landlord Petition must: (i) be submitted on a form provided by the Rental Housing Committee; (ii) affirm the eligibility, as described in subsections B(1) through B(4), for each Rent increase sought under this Chapter 6.5 (*e.g.* per Covered Rental Unit); and (iii) provide adequate supporting documentation of eligibility for each Rent increase under this Chapter 6.5.
 - b. *Presumption of Adequate Supporting Documentation of Eligibility.* The following documents shall be presumed adequate documentation to support eligibility for a Rent increase under this Chapter 6.5, unless contested by one or more Tenants, or otherwise failing to meet the burden of proof identified in CSFRA section 1711(h) (*e.g.* Hearing Officers must reject patently incorrect, incomplete, or fraudulent documentation):
 - i. A copy of a deed or other instrument verifying proof of ownership by the Petitioner-Landlord that was recorded in the official records of Santa Clara County on or before October 19, 2015.
 - ii. A complete rent roll identifying each Covered Rental Unit, its occupant, and every rent increase implemented on or after October 19, 2015.

2. Notice of Acceptance. Within fourteen days of submission to the Rental Housing Committee of a Petition and documentation supporting eligibility, as described in Sections B and C of this Chapter 6.5, the Rental Housing Committee shall notify the Landlord-Petitioner of acceptance of the Petition, or inform the Landlord-Petitioner why the Petition has not been accepted. Staff shall not assess the adequacy of any documentation supporting eligibility, but shall refuse acceptance of a Petition submitted without a document that purportedly supports each eligibility criteria identified in subsections B(1), B(2), and B(3). As noted in subsection C(1)(b)(ii), one document may be submitted to support both the eligibility criteria identified in subsections B(2) and B(3). Each notice of acceptance must identify the date of the scheduled Uncontested Hearing, as described in Section D(1) of this Chapter 6.5, and provide a brief explanation of the procedures for the Hearing and the potential outcome of the Petition.
 - a. Acceptance of the Petition by the Rental Housing Committee does not automatically grant a requested Rent increase.
 - b. Upon acceptance, the Rental Housing Committee shall provide a written notice of acceptance to each Tenant household potentially affected by the Petition.
 - c. The written notice of acceptance provided to potentially affected Tenant households shall inform the Tenant(s) of their right to respond to the Petition and include a copy of the completed Petition; supporting documentation submitted by the Landlord-Petitioner shall be made available for review upon request.
3. Tenant Response. Each Tenant household potentially affected by a Petition submitted in accordance with this Chapter 6.5 may take any combination of the following actions within thirty (30) calendar days of acceptance of a Petition by the Rental Housing Committee. An action described in subsections C(3)(a) and C(3)(b) shall be considered a "Tenant Response" for purposes of Section D of this Chapter 6.5.
 - a. Contest the alleged eligibility for a Rent increase under this Chapter on a form provided by the Rental Housing Committee;
 - b. Request a Hearing before a Hearing Officer to potentially accommodate a claimed Tenant Hardship in accordance with Regulations Chapter 8; or
 - c. Elect not to challenge the Petition or claim a Hardship.

D. Hearing.

Upon acceptance by the Rental Housing Committee, each Petition submitted under this Chapter 6.5 shall be scheduled for Hearing by a Hearing Officer to be held between 30 and 45 calendar days from the date the Notice of Acceptance is sent.

1. **Uncontested Hearing.** If no Tenant Response is received within thirty (30) calendar days of the notice of acceptance by the Rental Housing Committee, then a Hearing on the Petition will be held by a Hearing Officer on the date identified in the notice of acceptance of the Petition.
 - a. *Hearing.* During the Hearing, the Hearing Officer must review the adequacy of the Petition and supporting documentation in light of the burden of proof identified in CSFRA section 1711(h), and in accordance with CSFRA section 1711(e) and this Chapter 6.5.
 - b. *Decision.* Within fourteen (14) calendar days from the date of the Hearing, the Hearing Officer must issue a written Decision either granting or rejecting the Rent increase requested in the Petition, which Decision shall include findings of fact and conclusions of law that support the Decision.
 - c. *Appeal.* The Decision of the Hearing Officer shall be final unless the Landlord-Petitioner or an affected Tenant files a timely appeal to the Rental Housing Committee in accordance with Regulation Chapter 5, Section (H).
2. **Contested Hearing.** If a Tenant Response is received within thirty (30) calendar days of the notice of acceptance by the Rental Housing Committee, then a new Hearing shall be scheduled for a date no later than thirty (30) calendar days of receipt by the Rental Housing Committee of the Tenant Response. A Hearing for a Petition under this Chapter 6.5 for which a Tenant Response has been received shall be held in accordance with Regulation Chapter 5, subsection C(3) through Regulation Chapter 5, Section H, and Chapter 5 shall govern the Hearing, Decision, and Appeal procedures.

E. Summary of Chapter 6.5 Petition Process.

Timeline to Process a Fair Return Petition Addressing Inflation Effects Prior to September 1, 2016	
Review of Submission to Determine if Petition is Complete	Within 14 Calendar Days of Submission to the City
Notice of Acceptance Sent to Landlord and Tenant(s). (Identifies Scheduled Date of Hearing if Uncontested.)	
Deadline for Tenant Response to Petition	Within 30 Calendar Days of Notice of Acceptance from City
Date of Uncontested Hearing.	Within 45 Calendar Days of Notice of Acceptance
Date of Contested Hearing	Within 30 Days of Submission of Tenant Response to City
Notice of Decision Sent	Within 14 Calendar Days of Uncontested Hearing

1. To the extent feasible, each Petition for Individual Rent Adjustment accepted by the Rental Housing Committee or its designee under this Chapter 6.5 will be processed and responses will be accepted in accordance with the preceding schedule.
2. Deadlines identified in subsection 1 of Section E may be extended for good cause, which may be based on the following, non-exclusive list of factors: complexity of Petition, reasonable requests for continuance, scheduling difficulties, and/or allowing parties adequate time to obtain representation.
3. Any good cause extension by the Rental Housing Committee or its designee will be set forth in writing, and written notice sent to all parties to the Petition by the Rental Housing Committee or its designee. Any failure by the Rental Housing Committee or its designee to act in accordance with this Section E and the timelines set forth therein will not result in an automatic acceptance of a Petition, or grant of an Individual Rent Adjustment.

F. Sunset Provision.

This Chapter 6.5 is repealed and no new Petitions under this Chapter 6.5 will be accepted as of June 1, 2019. Any Rent increase authorized by a Petition submitted under this Chapter 6.5 must be first imposed by December 31, 2020 or it shall be forfeit.