

Community Stabilization and Fair Rent Act
**BANKING PROCEDURES FOR UNIMPLEMENTED ANNUAL GENERAL
ADJUSTMENTS**

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CHAPTER 7
**BANKING PROCEDURES FOR UNIMPLEMENTED ANNUAL GENERAL
ADJUSTMENTS**

A. Purpose.

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 ("AGA") identified in CSFRA section 1707, as well as via a Petition for Upward Adjustment of Rent. Subsection (d) of CSFRA section 1707 authorizes a Landlord to accumulate one or more AGAs to be implemented at a later date. Subsection (d) of CSFRA section 1707 and subsections (d)(1) through (d)(3) and subsection (e) of CSFRA section 1709 authorize the Rental Housing Committee to issue rules and regulations related to the rent increases, AGAs, banking, and tenant hardships.

B. Notice.

1. Mandatory Notice to Tenant. In addition to the notice requirement identified in California Civil Code section 827, or any successor legislation, any notice requesting an increase in Rent greater than the Annual General Adjustment identified for the current calendar year must include the following:
 - a. Identification of the requested increase in monthly Rent due, including the actual increase as well as calculation of the dollar increase as a percentage of the Rent due immediately prior to the imposition of the proposed Rent increase; and
 - b. The following text, in at least 12 point font (if notice is printed):

"The rent increase requested in this notice exceeds the annual general adjustment authorized for the current year. Landlords may save ("bank") annual general adjustments that were not imposed in previous years and implement them with the current annual general adjustment in accordance with the Community Stabilization and Fair Rent Act section 1707 and implementing regulations. Rent may only be increased once every twelve months and rent increases cannot exceed ten percent (10%) of the rent actually charged in the previous year. If you believe the rent increase requested in this notice is incorrect or excessive, you can (a) contact your landlord to discuss the increase, and/or (b) file a petition with Rental Housing Committee. For more information, you can contact the Mountain View Rental Housing Helpline at (650) 282-2514 or CSFRA@housing.org."

1. Notice to City. A copy of any notice required by this section B of Chapter 7 must be submitted to the City within seven (7) days of delivery to a Tenant.
2. Application. This section B of Chapter 7 is not applicable to Rent increases authorized by the Decision of a Hearing Officer or the Rental Housing Committee pursuant to a Petition for Upward Adjustment of Rent in accordance with CSFRA section 1710(a).

C. Tenant Hardship.

Any Tenant household receiving a notice requesting an increase in Rent greater than the Annual General Adjustment identified for the current calendar year may claim that the requested increase would cause an undue hardship on the Tenant household and request relief, in accordance with this section C of Chapter 7.

1. Petition Required. Any Tenant household claiming a hardship must do so on a form provided by the Rental Housing Committee, with supporting documentation as described in subsection (C)(2) of this Chapter 7.
 - a. Contents of Petition. The hardship Petition must: (i) be submitted on a form provided by the Rental Housing Committee; (ii) clearly identify the hardship claimed under subsection (C)(2) of this Chapter 7; and (iii) provide adequate supporting documentation of the hardship as described in subsection (C)(2) of this Chapter 7.
 - b. Petition Due Date. Hardship Petitions should be submitted as early as possible after receipt by the Tenant of a notice of rent increase to allow for potential relief. **[OPTIONS: (i) Hardship Petitions received after the effective date of a rent increase will be rejected. (ii) Hardship Petitions received within ten (10) calendar days of the effective date of a rent increase cannot alter the first month of the requested rent increase. Hardship Petitions received more than 10 calendar days after the effective date of the requested rent increase will be rejected.]**

- c. Burden of Proof. No relief can be granted to a hardship Petition unless it is supported by the preponderance of the evidence supporting the claimed hardship.
- 2. Hardship Conditions Defined. Any Tenant household claiming a hardship must demonstrate that one or more of the following conditions apply to either one or more Tenants in the household, or to the household generally (as specified below).
 - a. Inadequate Household Income. Any Tenant household whose household income does not exceed one hundred percent (100%) of the median household income for Santa Clara County as adjusted for household size according to the United States Department of Housing and Urban Development shall be presumed a hardship.
 - b. Families with Children. Any Tenant household whose household income does not exceed one-hundred-and-twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the United States Department of Housing and Urban Development, and which household is the primary residence of one or more dependent children under the age of 18 shall be presumed a hardship.
 - c. Senior Household. Any Tenant household whose household income does not exceed one-hundred-and-twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the United States Department of Housing and Urban Development, and which household is the primary residence for one or more persons who are at least 62 years of age shall be presumed a hardship.
 - d. Persons with Disabilities. Any Tenant household whose household income does not exceed one-hundred-and-twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the United States Department of Housing and Urban Development, and which household is the primary residence for one or more persons with a disability, as defined in Section 12955.3 of the Government Code, shall be presumed a hardship.
 - e. Persons who are Terminally Ill. Any Tenant household whose household income does not exceed one-hundred-and-twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the United States Department of Housing and Urban Development, and which household is the primary residence for one or more persons who are terminally ill, as confirmed in writing by the individual's licensed medical care provider, shall be presumed a hardship.

- f. Other Hardship. Any Tenant household whose household income does not exceed one-hundred-and-twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the United States Department of Housing and Urban Development, and which household demonstrates other extenuating circumstances may request such circumstances be considered hardship for purposes of subsection (C)(6) of this Chapter 7.
- 3. Petition Process. Within fourteen days of submission to the Rental Housing Committee of a Petition and documentation supporting eligibility, as described in Section C of this Chapter 7, the Rental Housing Committee shall notify the Tenant-Petitioner of acceptance of the Petition, or inform the Tenant-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 a finding of Tenant hardship. One document may be submitted to support more than one eligibility criteria identified in subsection C(2). Each notice of acceptance must identify the date of the scheduled Uncontested Hearing, as described in Section C(5) of this Chapter 7, and provide a brief explanation of the procedures for the Hearing and the potential outcome of the hardship Petition.
 - a. Effective Date of Rent Increase. Submission of a Petition does not alter the effective date of a duly noticed Rent increase. Acceptance of the Petition by the Rental Housing Committee does not automatically grant any requested relief from or response to a proposed Rent increase.
 - b. Notice of Acceptance. Upon acceptance, the Rental Housing Committee shall provide a written notice of acceptance to each Landlord potentially affected by the Petition. The written notice of acceptance provided to a potentially affected Landlord shall inform the Landlord of their right to respond to the Petition and include a copy of the completed Petition; supporting documentation submitted by the Tenant-Petitioner shall be made available for review upon request.
 - c. Pre-Hearing Settlement Conferences Encouraged. Upon acceptance, the Rental Housing Committee shall encourage the Tenant-Petitioner and each Landlord potentially affected by the Petition to voluntarily participate in a Pre-Hearing Settlement Conference, as described in Section N of Chapter 3.
- 4. Landlord Response. Each Landlord potentially affected by a Petition submitted in accordance with this Chapter 7 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)(5)(a) and (C)(5)(b) shall be considered a "Landlord Response" for purposes of subsection (C)(6) of this Chapter 7.

- a. Request a Hearing before a Hearing Officer on a form provided by the Rental Housing Committee to either contest the alleged hardship eligibility of the Tenant household or propose an alternate means of relief; and/or
 - b. File a Petition for Upward Adjustment in accordance with CSFRA section 1709(a); and/or
 - c. Withdraw the proposed Rent increase; and/or
 - d. Elect not to challenge the Petition and await the Decision of the Hearing Officer.
5. Hearing. Upon acceptance by the Rental Housing Committee, each Petition submitted under this Chapter 7 shall be scheduled for Hearing by a Hearing Officer to be held between 30 and 60 calendar days from the date the Notice of Acceptance is sent.
- a. Uncontested Hearing. If no Landlord Response is received and the noticed Rent increase is not withdrawn 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.
 - i. *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 7.
 - ii. *Decision*. Within fourteen (14) calendar days from the date of the Hearing, the Hearing Officer must issue a written Decision either confirming the hardship petition by granting one or more forms of relief identified in subsection (C)(3) or rejecting the hardship petition, which Decision shall include findings of fact and conclusions of law that support the Decision.
 - iii. *Appeal*. The Decision of the Hearing Officer shall be final unless the Tenant-Petitioner or an affected Landlord files a timely appeal to the Rental Housing Committee in accordance with Regulation Chapter 5, Section (H).
 - b. Contested Hearing. If a Landlord 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 Landlord Response. A Hearing for a Petition under this Chapter 7 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.

- c. Withdrawal. If a Landlord withdraws the noticed Rent increase, the hardship Petition shall be deemed withdrawn and a notice of withdrawal shall be delivered to the Tenant-Petitioner and Landlord.
6. Relief from Hardship. Upon demonstrating the existence of one or more hardship conditions identified in subsection (C)(2), a Hearing Officer shall consider the Tenant household's hardship condition as one factor when determining whether and to what extent any of the potential relief identified by this subsection (C)(6) is appropriate. Any relief granted under this subsection (C)(6) must be documented by the Decision of a Hearing Officer granting an adequately supported Tenant hardship Petition. No relief granted under this subsection (C)(6) shall be applied so as to deprive a Landlord from the ability to earn a fair return.
 - a. Prohibit Implementation of Requested Rent Increase. In accordance with CSFRA section 1707(e), a Hearing Officer may restrict or prohibit the ability of a Landlord to impose one or more accumulated or banked AGAs.
 - b. Phase-In Period. Notwithstanding CSFRA section 1707(b), which precludes more than one rent increase per twelve-month period, a Hearing Officer may authorize a phase-in period for a proposed rent increase, during which period rent is increased incrementally from month to month until the full rent increase is in effect, which incremental increase shall be considered one increase effective on the first date that increased rent is due for purposes CSFRA section 1707(b).
 - c. Other Relief. A Hearing Officer may provide for such other relief that ensures fairness and furthers the purposes of the CSFRA to a Tenant household that would experience a hardship if the proposed rent increase were imposed based on the qualifying condition of the household.
7. Summary of Tenant Hardship Petition Process.

Timeline to Process a Tenant Hardship Petition	
Review of Submission to Determine if Petition is Complete	Within 14 Calendar Days of Submission to the City
Notice of Acceptance Sent to Tenant and Landlord. (Identifies Scheduled Date of Hearing if Uncontested.)	
Deadline for Landlord Response to Petition	Within 30 Calendar Days of Notice of Acceptance from City
Date of Uncontested Hearing.	Within 60 Calendar Days of Notice of Acceptance
Date of Contested Hearing	Within 30 Days of Submission of

	Landlord Response to City
Notice of Decision Sent	Within 14 Calendar Days of Uncontested Hearing

- a. To the extent feasible, each Tenant hardship Petition accepted by the Rental Housing Committee or its designee will be processed and responses will be accepted in accordance with the preceding schedule.
- b. Deadlines identified in subsection (C)(7) 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.
- c. 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 subsection (C)(7) and the timelines set forth therein will not result in an automatic acceptance of a Petition, or grant of a Tenant hardship or grant of relief from a lawful, duly noticed Rent increase.

D. Partial Invalidity.

If any provision of this Chapter 7, or the application thereof to any person or circumstance, is held invalid, this invalidity shall not affect other provisions or applications of this Chapter 7 or these Regulations that can be given effect without the invalid provision or application, and to this end the provisions of this Regulation are declared to be severable. The Regulation shall be liberally construed to achieve the purposes of the Act.