

Tentative Appeal Decision
Petition M2223001

Rental Housing Committee
Tentative Appeal Decision

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The Rental Housing Committee of the City of Mountain View (the “**RHC**”) finds and concludes the following:

I. Summary of Proceedings

On December 16, 2022, Tenants Elie Sfeir and Deena Donia (“**Petitioners**”) filed a petition for downward adjustment of rent based on unlawful rent (the “**Petition**”) (Hearing Officer’s Exhibit #1) related to the property located at 1075 Space Parkway, Space 203, Mountain View (“**Property**”). The Property is a mobile home owned by V.G. Investments dba Santiago Village Mobile Home Park, which has been represented in the petition proceedings by Ms. Maria Ahmad, the Park manager (“**Respondent**”). Petitioner and Respondent are collectively referred to herein as the “**Parties.**”

The Petition requested a rent reduction and refund of overpaid rent on the basis that Respondent (i) failed to roll back Petitioners’ Rent to the lawful Base Rent after the Mobile Home Rent Stabilization Ordinance (“**MHR**SO”) went into effect on October 28, 2021 and (ii) improperly increased the Petitioners’ Rent by relying on an incorrect Base Rent. Specifically, the Petition alleged that Respondent’s determination of the Base Rent should have been based on the amount of Rent actually paid by Petitioners on March 16, 2021, including rent concessions that were provided by Respondent in the Lease Agreement in effect on that date. As such, the Petition asserted the rent increases imposed by Respondent exceeded those permitted by the MHR

SO. On January 10, 2023, the Parties participated in a voluntary settlement conference, but were unable to settle the Petition. On January 12, 2023, a notice of hearing was issued with a hearing date scheduled for February 24, 2023 at 10:00 AM. On January 13, 2023, Respondent’s counsel, Anthony C. Rodriguez of the Law Office of Anthony C. Rodriguez requested reassignment of the hearing officer assigned to the Petition and requested a postponement of the hearing for good cause. A new hearing officer was assigned, the Prehearing Conference was postponed to March 27, 2023, and the Hearing was postponed to April 10, 2023. On March 14, 2023, Respondent requested further postponement of the hearing for cause; the request was granted and the hearing was postponed to April 10, 2023.

On March 27, 2023, a pre-hearing conference was conducted by the Hearing Officer via Zoom. Petitioners and Respondent (through its authorized representatives Mr. Rodriguez and Ms. Ahmad) were present on the call. Hearing Officer and the Parties discussed the administrative procedure that would be followed at the hearing. A Notice of Hearing Officer’s Written Order and Summary of Pre-Hearing Conference and Notice of the Hearing were served on the Parties on March 27, 2023. (Hearing Officer’s Exhibit #7.)

The hearing was held on April 21, 2023. The hearing record was closed on April 21, 2023. The Hearing Officer issued a decision on May 22, 2023 (“**HO Decision**”). The Hearing Officer’s Decision was served on the parties on May 22, 2023.

A timely appeal of the Decision was received from the Respondent on May 31, 2023 ("**Appeal**").

Procedural Posture

The MHRSO provides that the Rental Housing Committee ("**Committee**") "shall develop regulations to facilitate prompt resolution of Petitions. (MHRSO § 46.10(c).) Chapter 5 (Petition Process) and Chapter 6 (Hearing Procedure) of the MHRSO Regulations establish requirements and procedures for the adjudication of petitions, including appeals from Hearing Officer's decisions on individual adjustment of rent petitions.

MHRSO Regulations Chapter 6, Section H.1.a states, in relevant part, that "Any Party to a Petition may appeal the Decision by requesting an Appeal on a form provided by the Rental Housing Committee...." The Committee "shall affirm, reverse, or modify the Decision of the Hearing Officer, or remand the matters related in the Appeal to the Hearing Officer for further findings of fact and a revised Decision...." (MHRSO Regulations Chapter 6, Section H.5.a.) The decision of the Committee "shall be supported by written findings of fact and conclusions of law." (MHRSO Regulations Chapter 6, Section H.5.b.)

II. Summary of Hearing Officer Decision

The Hearing Officer issued a detailed decision on the Petition summarizing the evidence and making findings of fact and conclusions of law.

The Hearing Officer found the following:

1. The MHRSO authorizes the Rental Housing Committee to appoint hearing officers for the limited purpose of hearing and deciding petitions on individual rent adjustments. Therefore, the Hearing Officer did not have jurisdiction or authority to consider arguments regarding the legal validity or constitutionality of the MHRSO.
2. Petitioners' tenancy commenced on November 17, 2020, pursuant to their Lease Agreement. The Renewal Lease Agreement commencing on November 17, 2021 is not relevant because it merely constituted a continuation of the tenancy, not a new tenancy. Therefore, Petitioners' tenancy of the Property commenced before March 16, 2021 and Petitioners were already in possession of the Property at the time that the MHRSO went into effect on October 28, 2021.
3. Pursuant to MHRSO Regulations Chapter 2, section (c)(1), Petitioners' Base Rent is determined by looking at the rent in effect on March 16, 2021. The rent in effect on that date for Petitioners' Space 203 was \$3,595.00 plus utilities as stated in their Lease Agreement.
4. Although the Lease Agreement included an Addendum addressing rental concessions, the provisions of MHRSO Regulations Chapter 2, section (c)(2) do not govern the determination of Petitioners' Base Rent because those regulations are only applicable to tenancies commencing after March 16, 2021.

5. Under MHR SO Section 46.5(e), Petitioners were not entitled to a “rent rollback” because the Rent in effect for their tenancy on October 28, 2021 (\$3,295.00) was not greater than the Base Rent (\$3,595.00).
6. The December 2022 rent increase (from \$3,595.00 to \$3,744.75) imposed by Respondent on Petitioners was valid with regard to frequency, noticing, and service. Respondent complied with both the noticing (30-day written notice) and permitted frequency (one rent increase per 12-month period) requirements of MHR SO Section 46.5(d). Respondent properly served the Notice of Rent Increase for the December 2022 increase on Petitioners; Petitioners did not challenge the manner or timing of service.
7. The amount of the December 2022 rent increase (from \$3,59.00 to \$3,744.75) was correct. The applicable Annual General Adjustment (AGA) was five percent (5%) for the period from September 1, 2022 through August 31, 2023. Based on Petitioners’ Base Rent of \$3,595.00, the allowable increase was \$179.75, resulting in a total monthly rent of \$3,744.75 (i.e., the sum of \$3,595.000 plus \$179.75).

III. Appealed Elements of Hearing Officer Decision

MHR SO Regulations Chapter 5 section H(1)(a) states that “[t]he appealing party must state each claim that he or she is appealing, and the legal basis for such claim, on the Appeal request form.” Section III of this Tentative Appeal Decision identifies the elements of the Decision that are subject to appeal by the Respondent. The Tentative Appeal Decision regarding each appealed element is provided in Section IV of this Tentative Appeal Decision.

The Petitioners raised the following issues on appeal:

1. **The Hearing Officer erred in determining that Petitioners’ Base Rent is \$3,595.00.** Petitioners argue that the Hearing Officer’s interpretation of the definition of Base Rent of MHR SO Regulations Chapter 2, section (c)(1) is incorrect. Petitioners argue that the “Rent in effect” on March 16, 2021 should mean the rent actually paid by the tenant on March 16, 2021, rather than the rent stated in the Lease Agreement that was in effect on that date. Petitioners further assert that the Hearing Officer’s interpretation disadvantages longer term residents and runs counter to the intent of the MHR SO to create stability, fairness, and predictability in the market.
2. **The Hearing Officer erred in holding that the Petitioners were not entitled to a rent rollback.** Petitioners argue that there is a discrepancy in the way the Hearing Officer, when deciding whether Petitioners were entitled to a rent rollback, determined the “rent in effect” on March 16, 2021 (“Rollback Date”) and the effective rent on October 28, 2021 (“Effective Date”). Petitioners allege that if the effective rent on the Effective Date was \$3,295.00 (i.e., the lease rent of \$3,595.00 minus \$300 in concessions per month), then the effective rent on the Rollback Date should have been \$2,614.55 (i.e., the lease

rent of \$3,595.00 minus \$980.45 in concessions per month).

3. **The Hearing Officer erred in holding that the rent increase imposed in December 2021 was valid and that the Petitioners' current rent is \$3,774.75.** Based on the foregoing assertions, Petitioners argue that the rent increase in December 2022 was based on the incorrect Base Rent and was therefore invalid. The Hearing Officer should have ordered that the Respondents roll back the current rent to the Base Rent of \$2,614.55.
4. **Based on the foregoing, the Hearing Officer erred in determining that Petitioners were not entitled to rent refund.** There was a discrepancy between the rent (\$3,295.00) charged on the Effective Date and the correct Base Rent (\$2,614.55) on the Rollback Date. Pursuant to MHRISO Regulations Chapter 5, section G.6.a., Petitioners are entitled to a refund in the amount of rent overpaid from November 2021 (i.e., one year prior to the date of the filing of the petition) through current.

IV. Decision Regarding Appealed Elements

A. The Base Rent Was Correctly Determined to be \$3,595.00.

As outlined above, Petitioners first assert that the Hearing Officer erred in determining that Petitioners' Base Rent is \$3,595.00. Namely, they argue that the correct interpretation of "Rent in effect" on March 16, 2021 should be the Rent actually paid by the tenant on March 16, 2021, rather than the Rent stated in the Lease Agreement that was in effect on that date.

Petitioners' argument raises a question of law: whether the Hearing Officer correctly interpreted the definition of Base Rent for tenancies commencing on or before March 16, 2021. Questions of law – including statutory interpretation – are reviewed de novo, meaning the Rental Housing Committee does not assume the Hearing Officer's ruling is correct but rather exercises its independent judgment on the issue. While the Rental Housing Committee exercises its independent judgment, the review is still based on the evidence in the record of the petition hearing.

Principles of statutory construction provide that the role of an adjudicatory body is to "look first to the words of the statute, giving the language its usual, ordinary meaning." (*Hunt v. Superior Court* (1999) 21 Cal.4th 984, 1000.) If there is no ambiguity in the language, then the plain meaning of the statute governs. (*Id.*) Only when the language in the statute is susceptible to more than one reasonable interpretation is it appropriate to turn to extrinsic tools, such as legislative history, to determine the meaning of the statute. (*Diamond Multimedia Systems, Inc. v. Superior Court* (1999) 19 Cal.4th 1036, 1055.)

Here, the relevant provision is MHRISO Section 46.2(c), which defines Base Rent as follows:

"(c) 'Base Rent' is the reference point from which the lawful Rent shall be determined and adjusted in accordance with this Chapter.

1. The Base Rent for Tenancies that commenced on or before March 16 of the Base Year shall be the Rent in effect on that date.
2. The Base Rent for Tenancies that commenced after March 16 of the Base Year shall be the initial rental rate charged upon initial occupancy, provided that amount is not a violation of this Chapter or any provision of state law. The term ‘initial rental rate’ means only the amount of Rent actually paid by the tenant for the initial term of the Tenancy.”

Since Petitioners’ tenancy commenced in November 2020, MHRSO Section 46.2(c)(1) controls. The Hearing Officer determined that the “Rent in effect” on March 16, 2021 was the rent in the operative Lease Agreement at that time, while Petitioners argue that the “Rent in effect” on that date means the amount that they actually paid to Respondent for the period from March 1, 2021 through March 31, 2021. Both interpretations are reasonable, and the MHRSO does not provide any further guidance as to which was intended. Therefore, Section 46.2(c)(1) is ambiguous because it is susceptible to more than one reasonable construction.

Petitioners assert that their interpretation of Section 46.2(c)(1) is the correct one because to hold otherwise would disadvantage longer term tenants. For example, they argue, for a 12-month lease of \$1,000 per month with a 25% rental concession, the Base Rent for someone whose tenancy started on March 15, 2021 would be \$1,000 while the Base Rent for someone whose tenancy started on March 17, 2021 would be \$770.83. Petitioners argue that this application of the MHRSO results in an arbitrary distinction between tenancies that commenced before March 16, 2021, and those that commenced after. In essence then, Petitioners argue that in interpreting Section 46.2(c)(1), the Hearing Officer should have looked to the language of “only the amount of Rent actually paid by the tenant” in Section 46.2(c)(2).

However, Petitioners’ argument ignores several important facts. For one, the March 16, 2021 date was not arbitrarily chosen, but rather was the date upon which the City Council began discussing adoption of the Mobile Home Rent Stabilization Ordinance. The Rollback Date of March 16, 2021 is intended to undo any potential predatory rent increases that were imposed on tenants in anticipation of the passage of rent stabilization.

Second, if the Base Rent for tenancies commencing on or before March 16, 2021 was intended to be the same as the Base Rent for tenancies commencing after March 16, 2021, then the drafters of the MHRSO would not have included two distinct definitions of Base Rent. And if the Base Rent for tenancies commencing on or before March 16, 2021 was intended to be determined in the same manner as the Base Rent for tenancies commencing after March 16, 2021, then the drafters of the MHRSO could have mirrored the language of Section 46.2(c)(2) in (c)(1) by stating that the “The Base Rent for Tenancies that commenced on or before March 16 of the Base Year shall be only the amount of Rent actually paid by the tenant on that date.” Instead, the language chosen was the “Rent in effect” on March 16, 2021 indicating a different intent.

Finally, and perhaps most importantly, the Committee lacks jurisdiction to regulate rental concessions that were provided prior to the Rollback Date. The language of “only the amount of

Rent actually paid by the tenant during the initial term of the tenancy” in Section 46.2(c)(2) is what the Committee sought to clarify when it passed the regulations regarding rental concessions in MHRSO Chapter 2, section (c)(2). Those regulations clarify that the term “initial rental rate” includes rental concessions, where those rental concessions are provided during the initial term of the tenancy for a tenancy that commenced after March 16, 2021. (MHRSO Regulations, ch. 2, section (c)(2)(a).) The Committee did not adopt similar language providing that the “Rent in effect” would also include rental concessions. This further evidences the intent that for tenancies commencing on or before March 16, 2021, the lease agreement governs the determination of the Base Rent.

B. Petitioners Are Not Entitled to Rent Rollback Because Respondent Did Not Increase their Rent Improperly After March 16, 2021.

While the Hearing Officer did make an error in her determination of Petitioners’ Rent on the Effective Date, she correctly determined that Petitioners would not be entitled to a rollback.

Petitioners assert that they were entitled to a rent rollback pursuant to MHRSO Section 46.5(e), which provides:

“A Park Owner or Mobile Home Landlord that collected Rent in excess of the Base Rent after March 16 of the Base Year and prior to the effective date of this Chapter shall be liable to the tenant for any corresponding overpayment and the Rent shall be adjusted to reflect the lawful Rent allowed pursuant to this Chapter and any implementing regulations adopted by the Committee.”

Petitioners believe they are entitled to a rent rollback and corresponding refund because their Rent on November 1, 2022 was greater than their rent on the Rollback Date. They base their argument on their interpretation of the definition of Base Rent, as outlined in the prior section. However, as explained in Section A, “Rent in effect” means the rent as stated in the operative Lease Agreement. The Rent in Petitioners’ Lease Agreement on March 16, 2021 - their Base Rent - was \$3,595.00. Petitioners paid \$2,614.55 per month from March 16, 2021 through October 28, 2021, therefore Respondent did not “collect[] Rent in excess of the Base Rent after March 16 of the Base Year and prior to the effective date of” the MHRSO.

Petitioners correctly point out that the Hearing Officer erred in determining Petitioners’ Rent on the Effective Date. The HO Decision incorrectly states: “In this case, the effective rent on the effective date of the MHRSO (October 28, 2021) [\$3,295.00] was not greater than the Base Rent, i.e. the rent in effect on March 16, 2021 [\$3,595.00].” This an error on the part of the Hearing Officer. The Lease Agreement that was in effect on March 16, 2021 did not expire until November 16, 2021, which is after the Effective Date of the MHRSO. The \$3,295.00 figure cited in the HO Decision did not come into the picture until after the Effective Date of the MHRSO when the Renewal Lease Agreement started on November 17, 2021. However, this error is trivial and does not alter the outcome of the petition. The same Lease Agreement and same rental amount were in effect on both the Rollback Date and the Effective Date; Respondent was not obligated to roll back Petitioners once the MHRSO went into effect.

C. The December 2022 Rent Increase is Valid and Petitioners' Rent is \$3,774.75.

The rent increase imposed by Respondent on Petitioners beginning December 1, 2022 was valid, and therefore Petitioners current Rent is \$3,774.75.

Petitioners do not dispute that the rent increase imposed in December 2022 was properly noticed and served by the Respondent. Rather, their argument that the December 2022 rent increase was invalid is based solely on their assumption that the Hearing Officer incorrectly determined the Base Rent to be \$3,595.00. As explained in Section A, the Committee independently reached the same conclusion as the Hearing Officer about the determination of Petitioners' Base Rent. Based on a Base Rent of \$3,595.00 and the five percent (5%) Annual General Adjustment for the period from September 1, 2022 through August 21, 2023, the amount of the December 2022 rent increase (\$179.75 per month) was correct. The record also supports the Hearing Officer's findings that (i) the rent increase complied with the MHRSO's limit of one rent increase per 12-month period, (ii) the rent increase was properly noticed pursuant to state law requirements and (iii) the notice of the rent increase was properly served.

Respondent legally and validly increased Petitioners rent to \$3,774.75 beginning December 1, 2022. Respondent has not imposed since that time and cannot impose a rent increase until twelve months have elapsed from the prior increase. Therefore, Petitioners current lawful rent remains \$3,774.74.

D. Petitioners are Not Entitled to a Rent Refund.

The Hearing Officer correctly determined that Petitioners are not entitled to a rent refund under the MHRSO. Assuming Petitioners' Base Rent is \$3,595.00, Respondent has not collected any Rent in excess of the Petitioners' lawful Rent since March 16, 2021. Section B above explains why Petitioners are not entitled to a rent refund for the period from March 16, 2021 through October 28, 2021.

Petitioners signed a Renewal Lease Agreement which commenced on November 17, 2021. The amount of Rent as stated in that Renewal Lease Agreement was \$3,595.00, but the Renewal Lease Agreement also provided for concessions of \$300 per month spread over the 12-month term of the lease. Based on the provision for concessions, Petitioners actually paid \$3,295.00 per month from November 17, 2021 through November 16, 2022. Thus, Respondent did not collect from Petitioners Rent above the "lawful Rent allowed pursuant to" the MHRSO for the period from November 17, 2021 through November 30, 2022. Since Respondent properly increased Petitioners' Rent on December 1, 2022 and Petitioners have paid only the amount noticed, Petitioners are also not entitled to a rent refund for any month beginning December 1, 2022.

V. Conclusion

As detailed above, the RHC denies the appeal in part and affirms the Decision in its entirety:

1. Petitioners' Base Rent is \$3,595.00.
2. Petitioners are not entitled to a rent rollback or any rent refund for overpayment.

3. Petitioners' current lawful monthly rent is \$3744.74.