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October 23, 2025

memorandum

To
Mountain View Rental Housing Committee

From
Karen M. Tiedemann, Special Counsel to the Rental Housing Committee
Nazanin Salehi, Special Counsel to the Rental Housing Committee

RE
Appeal of Hearing Officer's Decision Re: Petition Nos. C24250036 and C24250037

RECOMMENDATION

To consider the Tentative Appeal Decision and either accept the Tentative Appeal Decision or modify the Tentative Appeal Decision with instructions to staff citing appropriate evidence in the Hearing Record to support the changes.

BACKGROUND

The instant appeal arises out of a petition for downward adjustment of rent ("Petition") based on failure to maintain a habitable premises/decrease in Housing Services and unlawful rent. The Hearing on the Petition was held on April 25, 2025. The Hearing Officer's Decision was issued on September 2, 2025 and served on the parties on September 5, 2025. ("HO Decision").

Table 1: Relevant Timeline

<u>Date</u>	<u>Action</u>
December 13, 2024	RHC accepted Petition Nos. <u>C24250036 and C24250037</u>
January 21, 2025	Notice of Hearing and Pre-Hearing Conference served on the Parties.
April 4, 2025	Pre-Hearing Conference held.

April 4, 2025	Summary of Pre-hearing Conference Call and Order served on parties.
April 25, 2025	Hearing held.
April 25, 2025	Hearing Officer's Post-Hearing Order issued, and Notice of Post-Hearing Order served on the parties.
July 10, 2025	Hearing Record closed.
September 2, 2025	Hearing Officer's Decision issued.
September 5, 2025	Hearing Officer's Decision served on the parties.
September 19, 2025	Appeal filed by Respondent-Landlord.
October 13, 2025	Tentative Appeal Decision issued and served.
October 23, 2025	Appeal hearing before the Rental Housing Committee.

The first Petition requested a downward adjustment of rent on the basis that the Landlord had failed to maintain the property in a habitable condition and/or improperly decreased Housing Services without a corresponding decrease in Rent in violation of the Community Stabilization and Fair Rent Act ("CSFRA"). Specifically, the Petition was based on the following conditions: (1) infestation of cockroaches in the Affected Unit; (2) infestation of rats in the Affected Unit and on the Property; (3) a partially nonfunctioning stove in the Affected Unit; and (4) an inoperable refrigerator in Affected Unit. (Petitioner's Exh. #1.) The second Petition requested a downward adjustment of rent on the basis that the Respondent unlawfully demanded and retained Rent in excess of the amount permitted by the CSFRA. The bases of the unlawful rent claims was that Respondent was not substantially compliant with the CSFRA in 2022, 2023, and 2025 because they failed to register the Property in 2022. (Petitioner's Exh. #1.)

The Hearing Officer concluded as follows:

1. Petitioners-Tenants demonstrated by a preponderance of the evidence that Respondent-Landlord was not substantially compliant with the requirements of the CSFRA when they imposed rent increases in 2022, 2023, and 2025. The Landlord was ineligible to impose these rent increases because (1) they (and their predecessors in interest) failed to register the Property with the Rent Stabilization Division in 2022 and (2) even after they registered the Property in March 2023, they failed to roll back the unlawfully imposed 2022 rent increase and refund Petitioners all unlawfully collected Rents.
 - a. At the time of the Hearing, the lawful Rent for the Petitioners' unit was \$2,500. Accordingly, Petitioners were entitled to Rent refund of \$16,705.07 in unlawful Rent increases collected by Respondent from August 1, 2022 through August 21, 2025
2. Petitioners met their burden of proof to demonstrate by a preponderance of the evidence that Landlord failed to maintain the Property and their unit in a habitable condition based on a rat infestation. As a result, Petitioners were entitled to a 20 percent Rent reduction, or total Rent refund of \$8,683.33, for the period from April 20, 2023 through September 30, 2024.
3. Petitioners met their burden of proof to demonstrate by a preponderance of the evidence that Landlord failed to maintain the Property and their unit in a habitable condition based on a cockroach infestation. However, given evidence of the Respondent's timely, ongoing, good faith efforts to correct the condition upon notice and the Petitioners' conduct contributing to the condition (i.e., maintenance of the stove's cleanliness), responsibility for the condition rested 70 percent with Petitioner and 30 percent with Respondent.
 - a. Accordingly, As a result, Petitioners were entitled to a 4.2 percent Rent reduction, or a total Rent refund of \$2,964.50, for the period from April 15, 2023 through the date of the Hearing, and an ongoing rent reduction of \$105.00 per month until Respondent corrects the condition.
 - b. Given that the evidence indicates the stove was rendered largely inoperable as a result of the cockroach infestation, Respondent shall be responsible for replacing the stove, but the Parties shall share the cost of the replacement stove. Petitioners will be responsible for 70 percent of the cost and Respondent shall be responsible for 30 percent of the cost.

4. Petitioners did not meet their burden of proof to demonstrate by a preponderance of the evidence that there was a defective condition in the unit's refrigerator rendering it inoperable

The Landlord raised the following three issues on appeal:

- A. The Hearing Officer erred or abused her discretion in assigning 30 percent of the responsibility to the Landlord for the cockroach infestation. The evidence in the record shows consistent, professional remediation efforts undertaken in good faith by the Landlord. Further, the decision is internally inconsistent in that it finds the infestation predated the Landlord's ownership to early 2022 but it attributes partial fault to the Landlord based on remodeling work performed in early and late 2023 (namely, the installation of new countertops and a stove).
- B. The Hearing Officer erred or abused her discretion in assigning 100 percent fault to the Landlord for the rodent infestation. The Hearing Officer overlooked evidence in the record showing that the contract with Clark Pest Control was revised in January 2024 to allow for a rat exclusion inspection and failed to consider reasonable efforts taken in good faith by Landlord to address the issue. The Hearing Officer should have applied a comparative responsibility analysis to the rat infestation issue, as she did with the cockroach infestation issue.
- C. The Hearing Officer erred or abused her discretion in failing to consider evidence of Landlord's capital improvements to the Petitioner's unit. The record reflects Landlord invested approximately \$70,000 to \$80,000 in upgrades to the unit, demonstrating their good faith commitment to habitability and compliance with Civil Code §§ 1941.1 et seq. By disregarding these improvements in its allocation of liability, the Hearing Officer failed to balance statutory obligations with equitable considerations.

All other elements of the appeal are discussed in the Tentative Appeal Decision, as noted in Section C of this report below. All parties to the Appeal are entitled to respond to the Tentative Appeal Decision. Responses to the Tentative Appeal Decision were due on October 17, 2025. To the extent responses are received, staff may provide a supplement to this report addressing the responses.

ANALYSIS

A. Role of the RHC

The role of the RHC is not to re-weigh evidence submitted in support of or opposition to the Petition, unless the RHC chooses to hear the appeal "*de novo*" pursuant to Regulation Chapter 5, Section H.5.a. *De novo* review would require the RHC to open the Hearing Record and hold a new, formal hearing. Staff does not recommend *de novo* review for this

Appeal because there is sufficient evidence in the Hearing Record on which the Committee may base its decision.

For questions of law (including statutory interpretation), the RHC must exercise its independent judgment without assuming that the Hearing Officer's ruling is correct or affording deference to the Hearing Officer's interpretation. Even though the RHC exercises its independent judgment, its review is still based on the evidence in the Hearing Record for the Petition hearing.

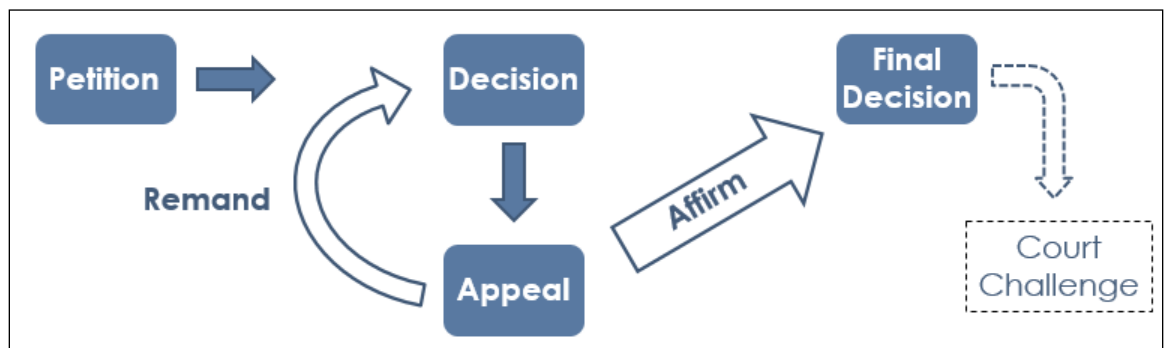
For questions of fact, the RHC's role will be to determine whether the appealed elements of the Hearing Decision are supported by substantial evidence. This process mimics a trial court and an appeal court: the trial court drafts a decision after weighing all the evidence, and the appeal court reviews the decision to verify whether the decision was adequate. Legally, reviewing whether substantial evidence exists to support an appealed element of the decision simply means that there is adequate information in the record to support the decision. Stated differently, substantial evidence means that a reasonable person reviewing the evidence could have reached the same decision. Substantial evidence does not mean that the RHC members (or RHC staff or special counsel) would have reached the same conclusion if they were present for every aspect of the Hearing.

B. Review: Affirming, Reversing, and/or Remanding the Appealed Elements of the Decision After Remand

Petitions define the scope of the Hearing Officer's review. Appeals define the scope of RHC's review of the Hearing Decision. The portions of the Hearing Decision that were not appealed by any party are considered final. The Tentative Appeal Decision reviews only those portions of the Hearing Decision that were appealed by the parties.

The process for an appeal may result in multiple appeal hearings before the RHC if a Hearing Decision is remanded to the Hearing Officer. A summary graphic visualizing the appeal procedure is provided below.

Graphic 1: Visualization of Appeal Procedure



C. Tentative Appeal Decision – Appeal Elements

The Tentative Appeal Decision recommends affirming the HO Decision in its entirety:

- A. Appellant-Landlord first alleges that the Hearing Officer erred or abused her discretion by attributing thirty percent (30%) fault to the Landlord for the cockroach infestation.
 - 1. While the Hearing Officer’s decision does conclude that the cockroach infestation started before the Landlord became the owner of the property, the Landlord may may be held liable for the failures of its predecessor-in-interest to substantially comply with the requirements of the CSFRA. This is especially true here where the Landlord knew of the defects before completing the purchase.
 - 2. Additionally, it is also not inconsistent for the Hearing Officer to have concluded that the issue predated Landlord’s ownership of the Property *and* that Landlord contributed to the persistence of the issue. It is reasonable to conclude that there was an ongoing cockroach infestation at the time that Landlord acquired the Property, and that its acts and omissions after it obtained ownership and control exacerbated the problem or at the very least, allowed it to persist longer than reasonably justified by the circumstances.
 - 3. Although the Landlord put forth credible evidence that the Tenant’s actions contributed to the persistence of the cockroach infestation, there is still substantial evidence in the record to support the Hearing Officer’s conclusion that this fact did not entirely absolve the Landlord of fault for the persistence of the cockroach infestation. The Landlord’s act or omissions also contributed to the condition, and therefore the Hearing Officer’s comparative fault allocation is appropriate.
- B. Appellant-Landlord also argues that the Hearing Officer erred or abused her discretion by finding that the Landlord was one hundred percent (100%) at fault for the rat infestation in the unit.
 - 1. First, the CSFRA does not require a Hearing Officer to consider unsuccessful efforts by the Landlord to correct an uninhabitable condition. Therefore, even if the record demonstrates that the contract with Clark Pest Control was revised in January 2024 to allow for a rat exclusion inspection and that Landlord took reasonable efforts in good faith to address the issue (i.e., placement of traps in the Affected Unit), there is also substantial evidence in the record to demonstrate that the Landlord should have taken more aggressive action to permanently correct the issue but failed to do so.
 - 2. Additionally, the Hearing Officer was not required to apply a comparative liability analysis to this issue because Landlord did not present any evidence

either before or during the Hearing to demonstrate that Petitioners' actions contributed in any manner to the rat infestation.

- C. Finally, the Landlord contends that the Hearing Officer should have taken into consideration the approximately \$70,000 to \$80,000 in upgrades that it made to the Petitioners' unit. However, a Hearing Officer appointed by the Committee to conduct a hearing upon an individual rent adjustment petition authorized by the CSFRA is not a court of equity. While the Hearing Officer may consider legal defenses, neither the CSFRA nor the Regulations authorize a Hearing Officer to fashion an equitable remedy, except in one limited circumstance that is not met here. Moreover, even if the Hearing Officer was authorized to consider equitable defenses or fashion an equitable remedy, the Landlord offers no authority for its assertion that the renovations that it made to the unit constitute an equitable defense to the issues raised in the Petition.

D. Appeal Hearing Procedure

Each party to the Appeal will have an opportunity to present their arguments to the RHC and respond to the other party's presentation. As noted above, the parties are not allowed to present new evidence. Likewise, the public may provide comment to the RHC before it hears any appeals. (Cal. Gov. Code § 54954.3(a).) Finally, RHC members may have questions for staff and/or the parties. The following schedule for the appeal hearing is proposed to facilitate the orderly participation of all parties.

Schedule of Appeal(s) of Hearing Decisions(s)

- Public Comment Period applicable for all Appeals on the agenda
- Appeal Hearing (CSFRA Petition Nos. C24250036 and C24250037)

Staff Report & Presentation	
Appellant-Tenant Presentation of Argument	10 minute maximum
Respondent-Landlord Presentation of Argument	10 minute maximum
Appellant-Tenant Presentation of Rebuttal	5 minute maximum
Respondent-Landlord Presentation of Rebuttal	5 minute maximum
RHC Question and Answer with Staff	
RHC Question and Answer with Appellant-Tenant	
RHC Question and Answer with Respondent-Tenants	
RHC Deliberations and Decision	

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| <ul style="list-style-type: none">• Conclude Agenda Item |
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FISCAL IMPACT

Adoption of the Tentative Appeal Decision, as drafted, could potentially lead to litigation, which would have fiscal impacts. Notably, one purpose of appealing a Hearing Decision to the RHC (As opposed to directly appealing to the courts) is to ensure that Hearing Decisions are legally defensible, and so the appeal process to the RHC reduces the overall risk of legal liability and litigation expenses. As discussed above, the Tentative Appeal Decision recommends upholding the Hearing Decision in its entirety. If the RHC accepts the Tentative Appeal Decision, the Hearing Decision will be final.

PUBLIC NOTICING

See agenda posting for October 23, 2025, RHC meeting.

ATTACHMENTS

1. Tentative Appeal Decision for Petitions Nos. C24250036 and C24250037
2. Decision of Hearing Officer (September 2, 2025)
3. Appellant-Landlord Appeal of Decision (September 19, 2025)