



Rent Stabilization Program

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Mountainview.gov/mobilehomes

MOBILE HOME RENT STABILIZATION ACT (MHRSO) REQUEST FOR APPEAL OF PETITION HEARING DECISION

Communications and submissions during the COVID-19 Pandemic: To the extent practicable, all communications, submissions and notices shall be sent via email or other electronic means.

Any Party to a petition may appeal a Petition Hearing Decision by *-serving this written Request for Appeal on all parties and then filing a copy of the completed form with the City within ten (10) calendar days after the mailing of the Petition Hearing Decision.* If no Appeals are filed within ten (10) calendar days, the Petition Hearing Decision is considered final.

I hereby Appeal the Petition Hearing Decision for the following Petition to the Rental Housing Committee:

Petition Case Number: M22230001

Name of Hearing Officer: E. Alexandra DeLateur Decision Date: May 22, 2023

For the following Property Address, including Space Number(s), if applicable:

<u>1075</u>	<u>Space Park Way</u>	<u>203</u>
<small>(Street Number)</small>	<small>(Street Name)</small>	<small>(Space Number)</small>

Person Appealing the Petition Hearing Decision (*if more than one person is appealing the petition hearing decision, attach their contact information as applicable*):

Name: Elie Sfeir Phone: [REDACTED]

Mailing Address: 1075 Space Park Way Spc 203 Email: [REDACTED]

I am: A Mobile Home Owner or Tenant affected by this petition. A Mobile Home Park Owner or Landlord affected by this petition.

Reason for Appeal:

Please use the back side of this form to clearly identify what issue and part of the Petition Hearing Decision is the subject of the appeal (include section headings and subheadings, as necessary). Thoroughly explain the grounds for the appeal. For each issue you are appealing, provide the legal basis why the Rental Housing Committee should affirm, modify, reverse, or remand the Petition Hearing Decision. (*continue on the next page; add pages if needed*)

Filing Instructions:

Once you have completed this form and attached all relevant documents, **serve all parties with complete copies** before formally filing the Appeal with the Rental Housing Committee of the City of Mountain View either via email (preferred method) to patricia.black@mountainview.gov or by mailing to 500 Castro Street, Mountain View, CA 94041 to the attention of Patricia Black.

Declaration:

I (we) declare under penalty of perjury under the laws of the State of California that the foregoing and all attached pages, including documentation, are true correct, and complete.

Signature: Date: May 31 2023

Print Name: Elie Sfeir

Reason for Appeal

I am appealing all 3 decisions made by the hearing officer in Section "IX Decision" on page 9 of the Notice of Decision:

1. The lawful monthly Base Rent for Petitioners' Space 203 is \$3,595.00; and
2. The current legal monthly rent is \$3,774.75; and
3. Neither Petitioners nor Respondents are ordered to make any payments to the other party.

Reasons for the appeal are detailed in the attached document.

Proof of Service of Request for Appeal of Petition Hearing Decision

I declare that I am over eighteen years of age, and that I served one copy of the attached Appeal of Petition Hearing Decision on the **affected party(ies) listed below by:**

Personal Service

Delivering the documents in person on the ____ day of _____, 20____, at the address(es) or location(s) above to the following individual(s).

Mail

Placing the documents, enclosed in a sealed envelope with First-Class Postage fully paid, into a U.S. Postal Service Mailbox on the ____ day of _____, 20____, addressed as follows to the following individual(s).

Email

Emailing the documents on the 31 day of May, 2023, at the email address(es) as follows to the following individual(s).

Respondents

RESPONDENT NAME

RESPONDENT ADDRESS

RESPONDENT EMAIL



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Executed on this 31 day of May, 2023

Signature: Elie Sfeir

Print Name: Elie Sfeir

Address: 1075 Space Park Way Spc 203 Mountain View, CA, 94043

I am appealing all 3 decisions made by the hearing officer in Section "IX Decision" on page 9 of the Notice of Decision as listed here:

IX. DECISION

Based on the above discussion applying the law to the facts of this matter, IT IS HEREBY ORDERED that:

1. The lawful monthly Base Rent for Petitioners' Space 203 is \$3,595.00; and
2. The current legal monthly rent is \$3,774.75; and
3. Neither Petitioners nor Respondent are ordered to make any payments to the other party.

The reasons for the appeal are detailed in the Arguments section below.

Facts

1. My First lease term was a 12 months term starting Nov 17th 2020
Pre-concessions rent: \$3595.00
Concessions of 25% over the 12-month term, broken down as a concession of \$980.45 per month 11 months, to avoid prorating the partial first and last months.
Average monthly rent paid during this term: \$2696.25.
I paid \$2614.55 for 11 months from December 2021 to October 2022.
2. My Second lease term was a 12 month term starting Nov 17th 2021
Pre-concessions rent: \$3595.00
Concessions of \$300 per month over the 12-month term.
Average monthly rent paid during this term: \$3295.00
3. Current term starting 17th Nov 2022 rent increased to is \$3,774.75 calculated by the landlord based on the Pre-concessions rent: \$3595.00 + 5% increase
4. Over the span of 13 months between October 2021 to November 2022, my effective rent increased by more than \$1100 per month.
5. For the 24 months period spanning Nov 2020 to Dec 2022, I had concessions for 23 months and only paid the Pre-concessions rent of \$3595.00 for 1 out of the 24 months.

Arguments

In the 3 sub-sections below i will explain the grounds for my appeal for each of the 3 decisions respectively:

1) Base Rent

The RHC should reverse the Petition Hearing Decision to by setting the base rent \$2614.55 for the following reasons:

a) The decision disadvantages longer term residents

Based on the following highlighted extract from the Notice of Decision Page 7 and 8: Section: VIII. DISCUSSION Subsection B.

The hearing officer is considering the base rent on Mar 16th 2021 to be the Pre-concessions rent of \$3,595.00.

The MHRSO states, “[T]he Base Rent for tenancies that commenced on or before March 16, 2021 shall be the Rent in effect on March 16, 2021.” MHRSO Regulations, Chapter 2, section (c)(1) The rent in effect for Petitioners’ Space 203 was \$3,595.00 plus utilities as stated in their Lease Agreement. Although there was an Addendum regarding rental concessions, the definitions of the MHRSO do not address concessions for tenancies commencing on or before March 16, 2021 in the definition

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of Base Rent. This is particularly clear because the next subsection regarding tenancies commencing after March 16, 2021 makes very explicit reference to rental concessions and how to calculate Base Rent incorporating those rental concessions. Therefore, the Petitioner’s Base Rent is \$3,595.00 for the purpose of the MHRSO.

The decision of the hearing officer heavily penalizes and disadvantages leases starting before Mar 16th 2021.

The tactic of giving out extensive concessions became more prevalent during the Covid-19 pandemic to circumvent reductions of rents. As such the number of leases with concessions significantly increased a few months after the start of the Covid-19 pandemic in March 2020. So it is safe to assume that there is a significant number of leases providing concessions starting around mid 2020 to mid 2022 for both existing and new residents.

The decision of the hearing officer uses the pre-concessions rent as the base rent for tenancies starting before the 16th of March 2021.

In contrast tenancies that started after 16 of March 2021 will have their concessions factored in the base rent according to the MHRSO.

As a result a lease with the exact same term will have a vastly different base rent depending if it is in effect before or after March 16 2021.

To demonstrate the significant difference in base rent, I am providing an example from Chapter 2 of the MHRSO. For a 12-month lease of \$1,000 per month and a 25% rent discount, given two scenarios: one for a tenancy that began after March 16, 2021, and another for one that began before.

- **Scenario 1: If this tenancy started on March 17, 2021**

According to the:

MHRSO Chapter2 -> c. Base Rent. -> (2) -> (d) Examples -> 3)

The Base rent will be **\$770.83**

<https://www.mountainview.gov/home/showpublisheddocument/3808/637974777014070000>

3.) Example 3: If the Mobile Home Landlord provides a twenty-five percent (25%) discount over the course of the twelve (12) months, then the **Base Rent for the Mobile Home shall be Seven Hundred Seventy Dollars and Eighty-Three Cents (\$770.83)** $((1 \times \$1000 + (11 \times \$750))/12)$. In this example, the first month's reduction would be excluded from the calculation.

- **Scenario 2: If this tenancy started on March 15, 2021**

According to the decision made by the hearing officer to exclude all concessions.

The base rent will be **\$1000 (29.7% higher than \$770.83 in the first scenario)**

The decision made by the hearing officer to use the pre-concession rent as the base rent for tenancies that started before March 16, 2021:

- A. Will greatly disadvantage and heavily penalize existing Mountain view residents that had leases prior to March 16th 2021.
- B. Runs counter to the spirit and intent of the MHRSO which was to create stability, fairness and predictability in the market.
- C. Is Discriminatory against residents with leases prior March 16th 2021.
- D. Limits the MHRSO to only protect a minority of Mountain View renters, as the residents with leases starting after March 16th 2021 inevitably constitute a smaller portion compared the ones with leases prior to March 16th 2021

Using the pre-concession rent as the base rent is contrary to the MHRSO. As the the MHRSO should:

- A. Not disadvantage nor penalize existing Mountain view residents that had leases prior to March 16th 2021.
- B. Create stability, fairness and predictability in the market.
- C. Not discriminate against residents with leases prior March 16th 2021.
- D. Not be limited to only protect a minority of Mountain View renters.

Therefore the RHC should reverse the Petition Hearing Decision so base rent is not set as the pre-concession rent.

b) Incorrect Assumption

The following assumption by the hearing officer is incorrect. see highlighted extract from the Notice of Decision section: IV. SUMMARY OF THE EVIDENCE on page3:

as a violation of the ordinance and sought a rent refund. Petitioner's calculation of base rent uses a formula considering rental concessions for Base Rent in the amended Regulations, Chapter 2 "Definitions," section (c) for tenancies commencing after March 16, 2021.

This is incorrect, because in [the MHRSO -> Chapter 2 "Definitions," section \(c\) -> Subsection \(2\) -> \(b\) Exclusion -> 1](#)) provides a method to calculate the base then by averaging and excluding months.

On the other hand the base rent I used was simply the rent in effect (rent changed and paid) on March 16th 2021: **\$2614.55** as per Subsection (1) for the definition for Tenancies Commencing on or before March 16, 2021. **Therefore the RHC should reverse the Petition Hearing Decision by setting the base rent \$2614.55**

(1) Tenancies Commencing on or before March 16, 2021. The Base Rent for tenancies that commenced on or before March 16, 2021 shall be the Rent in effect on March 16, 2021.

c) Rent rollback must equal the rent charged on March 16, 2021

The petition form I filed in November 2022 (M2223001 Petition A - Unlawful Rent) provided by the City of Mountain view, clearly specifies that the rent rollback must equal the **rent charged** on March 16, 2021,

In my case case this amount was **\$2614.55**

Therefore the RHC should reverse the Petition Hearing Decision to set the base rent \$2614.55

See Unlawful Rent Petitions (Petition A)

Link: [MHRSO Forms, Notices, and Filing Requirements Resident Petition A – Unlawful Rent](#)

II. Ground(s) for Petition

This Petition is to recover unlawfully paid rent on the following basis(es): *(check each box that applies)*

Annual General Adjustment of Rent was unlawfully imposed.

Proposed rent increase unlawful.

More than one rent increase was imposed within a 12-month period.

Rent roll back was not implemented. As of March 16, 2021 rent for units / spaces subject to the roll back must equal the **rent charged on March 16, 2021** (or the initial rent amount if the tenancy began after March 16, 2021).

d) Discrepancy regarding effective rent.

Based on the the following highlighted extract from the Notice of Decision Page8
Section: VIII. DISCUSSION Subsection B.

Committee. "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

The Hearing officer calculated the **effective rent** on October 28, 2021 to be \$3,295.00.

\$3,295.00 is the rent that was actually paid for October 28, 2021 .

\$3,295.00 is obtained by subtracting \$300 in concessions from the pre-concession rent of \$3,595.00.

Using the same logic as above, to determine the **effective rent** on March 16th 2021, we can conclude that it should be **\$2614.55**.

\$2614.55 is the rent that was was actually paid for March 16 2021

\$2614.55 is obtained by subtracting \$980.45 in concessions from the pre-concession rent of \$3,595.00.

In other words since the hearing officer considered that the **effective rent** on October 28, 2021 is \$3,295.00, they should have also considered the **effective rent** on March 16 2021 to be **\$2614.55**

And based on [the MHRSO -> Chapter 2 "Definitions," section \(c\) -> Subsection \(1\)](#), the Base rent should be the **rent in effect** on March 16th 2021 thus **\$2614.55**, as demonstrated above. **Therefore the RHC should reverse the Petition Hearing Decision by setting the base rent \$2614.55**

(1) Tenancies Commencing on or before March 16, 2021. The Base Rent for tenancies that commenced on or before March 16, 2021 shall be the **Rent in effect on March 16, 2021.**

2) Current Rent

The Current lawful legal rent should be the base rent **\$2614.55**.

The rent increase to \$3,774.75 in November 2022 was based on the incorrect base rent and therefore is not valid.

Therefore the RHC should reverse the Petition Hearing Decision by setting the current rent to \$2614.55

3) Payments to other parties

Based on the [MHRSO Chapter 5 - Petition Process -> G. Petition Requirements: Downward Rent Adjustment—Unlawful Rent -> 6. Limitations on Unlawful Rent Petitions -> a.](#)

Rollback to the base rent are limited to 12 months from the date the petition was filed.

Since I filed the petition in Nov 2022, I am eligible for a rollback up to Nov 2021

- a. For rent concessions provided for a Tenancy that commenced before September 1, 2022, a Mobile Home Owner or Mobile Home Tenant shall be entitled to a rollback to the Base Rent and a **refund of only the Rent that was overpaid within one (1) year prior the date of the filing of the Petition.**

The "Workbook A" I previously provided calculates the refund and rollback amount of excess rent I paid since Nov 2021 up until April 2023: **\$14946.85**.

This amount should be increased by \$1160.20 per month (Amount of rent paid: \$3,774.75 minus base rent: \$2,614.55) for each month from April 2023.

Therefore the RHC should reverse the Petition Hearing Decision by granting the refund of excess rent payment made since Nov 2021.

Summary

The RHC should reverse the Petition Hearing Decision by:

- 1) setting the base rent **\$2614.55**
- 2) setting the current rent to **\$2614.55**
- 3) granting the refund of excess rent payment made since Nov 2021.