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December 18, 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. C24250042 and C24250043

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 August 4, 2025. The Hearing Officer's Decision was issued on September 23, 2025 and served on the parties on September 24, 2025. ("HO Decision").

Table 1: Relevant Timeline

<u>Date</u>	<u>Action</u>
June 10, 2025	RHC accepted Petition Nos. C24250042 and C24250043
June 23, 2025	Notice of Hearing and Pre-Hearing Conference served on the Parties.
July 15, 2025	Pre-Hearing Conference held.

July 15, 2025	Summary of Pre-hearing Conference Call and Order served on parties.
August 4, 2025	Hearing held.
August 16, 2025	Hearing Record closed.
September 23, 2025	Hearing Officer's Decision issued.
September 24, 2025	Hearing Officer's Decision served on the parties.
October 1, 2025	Appeal filed by Respondent-Landlord.
December 9, 2025	Tentative Appeal Decision issued and served.
December 18, 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 without a corresponding decrease in Rent in violation of the Community Stabilization and Fair Rent Act ("CSFRA"). Specifically, the Petition was based on the Landlord's failure to remedy secondhand smoke entering the Affected Unit from a neighboring unit on the Property (Petitioner's Exhibit #1.) The second Petition requested a downward adjustment of rent on the basis that the Landlord unlawfully demanded and retained Rent in excess of the amount permitted by the CSFRA. The basis of the unlawful rent claims was that the Landlord had charged Petitioner-Tenant a \$175.00 fee for Petitioner's alleged refusal to allow pest control to enter the Affected Unit to complete an inspection on two separate occasions. (Petitioner's Exhibit #1.)

After the Hearing where both Parties appeared and provided evidence and testimony, the Hearing Officer issued the HO Decision, which concluded:

1. Petitioners-Tenants demonstrated by a preponderance of the evidence that Respondent-Landlord unlawfully increased the Rent for the Affected Unit by charging Petitioners a \$175.00 fee for their alleged failure to allow entry for pest control inspections.

2. Petitioners-Tenants demonstrated by a preponderance of the evidence that Respondent-Landlord failed to maintain the Property and the Affected Unit in a habitable condition due to secondhand smoke from a neighboring unit entering the Affected Unit.
 - a. Petitioners-Tenants were entitled to a twenty percent (20%) Rent reduction for the period from November 6, 2024 through December 6, 2024 and a one hundred percent (100%) Rent reduction for the period from December 7, 2024 through January 8, 2025, for a total Rent refund \$2,648.16.
3. Since Respondent-Landlord was not substantially compliant with the requirements of the CSFRA from November 6, 2024 through January 8, 2025, the rent increase of seven-and-four-tenths percent (7.4%) that went into effect on January 1, 2025 was invalid. At the time of the Hearing, the lawful Rent for the Affected Unit was \$2,195.00. As such, Petitioners-Tenants were entitled to a Rent refund of \$1,296.00 in unlawful Rent collected by Respondent-Landlord through the date of the Hearing, plus any amounts above \$2,195.00 paid on or after September 1, 2025.
4. Finally, the Hearing Officer lacked authority to render a decision based on the Petitioners-Tenants' allegations with respect to: (1) the legality of any entry into the Affected Unit on November 6, 2024 and November 9, 2024; (2) the legality of a "Written Notice to Cease" posted at the Affected Unit on June 9, 2024; or (3) allegations of harassment, retaliation, or discrimination by the Respondent.

The Respondent-Landlord raised the following issue on Appeal:

- A. "Systemic favoritism and bias for the tenant and against the landlord. The hearing officer accepted numerous statements from tenant as fact and basis for their decision while at the same time, apparently, not believing statements made by the landlord. Thus, the hearing officer erred in their petition decisions."

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 December 12, 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.

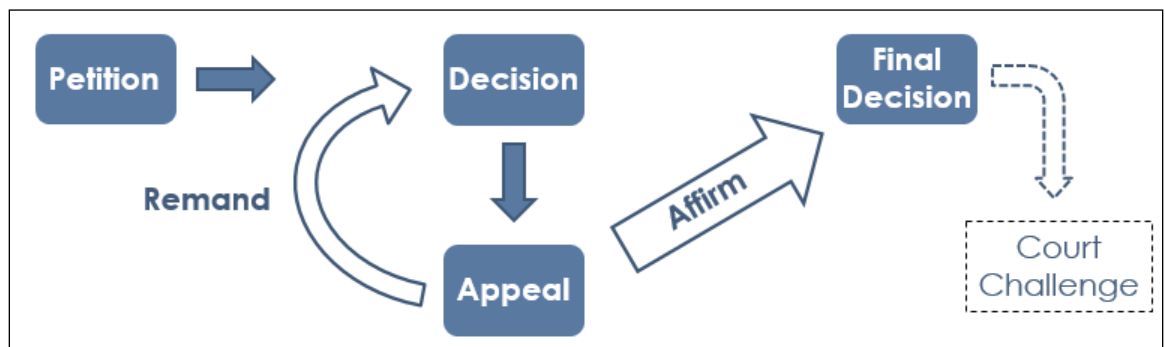
For questions of fact, the RHC's role will be to determine whether the appealed elements of the Hearing Decision are supported by substantial evidence. This process mimics a trial court and an appeal court: the trial court drafts a decision after weighing all the evidence, and the appeal court reviews 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

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’s sole allegation is that the Hearing Officer exhibited systemic favoritism and bias by accepting statements from Tenant while not believing statements made by the Landlord. A careful review of the Hearing Record and the Hearing Officer Decision demonstrates no evidence of bias or partiality by the Hearing Officer.
 1. The presumption of impartiality on the part of a decisionmaker can be overcome only by specific evidence demonstrating actual bias or a particular combination of circumstances creating an unacceptable risk of bias. (*Morongo Band of Mission Indians v. State Water Resources Control Bd.* (2009) 35 Cal.4th 731, 737.) The Appellant fails to satisfy this burden because the Appeal does not even specify which of Petitioner’s statements were (but should not have been) accepted as fact or which of the Respondent’s statements were not (but should have been) accepted as fact by the Hearing Officer.
 2. The review of the recording of the Hearing demonstrates that the Hearing Officer conducted the Hearing in accordance with the requirements of due process, the CSFRA, and the Regulations, and that the Hearing Officer did not make an inappropriate, biased, or impartial comments or statements toward either of the Parties.
 3. Moreover, in weighing the evidence and determining its credibility, the Hearing Officer was merely satisfying one of her central duties as a hearing officer. (*See* CSFRA § 1711(a); CSFRA Regulations, Chapter 6, Section E.4.) Of importance here, the regulations establish that a Hearing Officer has discretion not only to admit or omit evidence, but also to determine whether the evidence is credible or relevant.
 4. Finally, the Hearing Decision itself demonstrates that the Hearing Officer was reasoned and fair in her decision and that she considered evidence and testimony put forth by Respondent in reaching her decision. Each of her conclusions are supported by findings of fact supported by substantial evidence in the Hearing record.

D. Appeal Hearing Procedure

Each party to the Appeal will have an opportunity to present its 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 comments 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. C24250042 and C24250043)

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

- Conclude Agenda Item

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

Agenda posting, posting on the City's website, and email to RHC distribution list.

ATTACHMENTS

1. Tentative Appeal Decision for Petition Nos. C24250042 and C24250043
2. Decision of Hearing Officer (September 23, 2025)
3. Appellant-Landlord Appeal of Decision (October 1, 2025)