

**DATE:** October 16, 2023

**TO:** Rental Housing Committee

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**SUBJECT: Amendments to CSFRA Regulations, Chapter 5: Hearing Procedure, and MHRSO Regulations, Chapter 6: Hearing Procedure: Hearing Timeline**

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**RECOMMENDATIONS**

Amend CSFRA Regulations Chapter 5: Hearing Procedure, and MHRSO Regulations Chapter 6: Hearing Procedure, to revise existing timelines in the petition process.

**AUTHORITY**

The Community Stabilization and Fair Rent Act (CSFRA) empowers the Rental Housing Committee (“RHC” or “Committee”) to:

“Establish rules and regulations for administration and enforcement of this Article.” (CSFRA § 1708(d)(2).)

Similarly, the Mobile Home Rent Stabilization Ordinance (MHRSO) authorizes the RHC to:

“Establish rules and regulations for administration and enforcement of” the Ordinance. (MHRSO § 46.9(a)(3).)

The RHC adopted regulations to provide rules and regulations for hearing procedures (*See, generally*, CSFRA Regulations, Chapter 5; MHRSO Regulations, Chapter 6).

**BACKGROUND**

The CSFRA requires the City provide landlords and tenants of rent-stabilized units a way to request upward or downward adjustments of rent through a petition process. Landlords and tenants requesting an adjustment in rent do so by filing petitions with the City and entering into a formal process. The process also allows parties to the petition to file appeals with the RHC should they dispute the outcome of the decision. In 2017, staff presented, and the RHC adopted,

regulations to administer the petition process and hearing process under the CSFRA (CSFRA Reg. Ch. 4, Petition Process, and Ch. 5, Hearing Procedure).

When the existing regulations were initially adopted in 2017, the time frames and deadlines for the petition/hearing processes were based on best practices from peer jurisdictions. Because the CSFRA was a new program, no petitions had yet been decided through the petition process at the time of adoption.

The RHC also adopted regulations for the implementation of hearing procedures for petitions filed pursuant to the Mobile Home Rent Stabilization Ordinance (MHRSO Reg., Ch. 6) shortly after adoption of the MHRSO in 2021. These regulations mirror the regulations for the CSFRA; therefore, the time frame changes are proposed to be applicable to petitions filed under both laws.

Since 2017, staff has implemented the hearing procedures as required by the Regulations for numerous petitions and has determined that some of the timelines are no longer feasible given the complexity of the petitions currently being processed. The amendments to Chapter 5 of the CSFRA Regulations and Chapter 6 of the MHRSO Regulations are being proposed in accordance with staff's long-standing practice of recommending changes to the Committee to address issues that have been raised to staff in its day-to-day operations. The following analysis will explain the recommendations to adjust the time needed to fully and appropriately decide petitions.

## **ANALYSIS**

The Rent Stabilization Division began receiving petitions in November 2017. Since this time, 185 petitions have been filed with the City. Initially, the majority of petitions filed with the Division were either landlord-initiated petitions or tenant petitions filed in response to landlord submittals. Although landlord petitions are multifaceted, the current timelines were, on the most part, able to be met by Hearing Officers and staff. Other types of petitions filed by tenants included banked rent increase tenant hardship petitions, rent rollback petitions, and single-issue habitability petitions.

The following steps outline the typical petition process:

1. Petitioner files and serves the petition.
2. Staff accepts or rejects the petition.
3. City staff serves notice to all parties of the scheduled Prehearing Meeting and Hearing.
4. The Prehearing Meeting is held.
5. The Hearing Officer issues a Prehearing Meeting Summary and Order.

6. The Hearing is held.
7. The Hearing Officer issues the Written Decision.

The Petition Program experienced a significant increase in tenant petitions during Fiscal Year 2022-23, which correlated with an increase in community awareness of the tenant protections under the CSFRA. The increase in awareness is correlated with the extensive outreach performed by staff through the COVID-19 Eviction Prevention Program. The Eviction Prevention Program fostered a sense of trust in the services provided through the Rent Stabilization Division among community members. This provided tenants an avenue to address their concerns and access their rights under the CSFRA and MHRSO. The increase in the filing of petitions in general also coincided with an increase in the filing of multiple petitions for single units and/or the filing of petitions with complex issues for single units. For example, multiple units filed Unlawful Rent and Failure to Maintain Property petitions. These petitions also required translation and inspection services both of which increased the length of time required to complete the process.

This trend in increased complexity has continued in Fiscal Year 2023-24 with nearly half of the petitions filed this fiscal year having multiple issues or tenants filing multiple petitions to cover the variety of issues needing to be addressed. These petitions often contain interrelated issues and consequentially increase the complexity required to analyze and decide the petitions. Additionally, staff has seen an increase in property inspections requests, legal representation of parties, and interpretation and translation needs, factors which lead to an increase in the time needed to fully and appropriately adjudicate petitions.

The trends in complexity of petition submissions since Fiscal Year 2017-18 are shown in Table 1, below.

**Table 1: Trends in Complexity of Petition Submissions,  
Fiscal Year 2017-18 through Fiscal Year-To-Date (FYTD) 2023-24**

Fiscal Year	Total Number of Petitions	Percent of Filing with Multiple Petitions and/or Complex Issues	Percent of Petitions Requiring Translation and Interpretation
<b>FY 2017-18</b>	18	39% (7 of 18)	-0-
<b>FY 2018-19</b>	51	37% (19 of 51)	-0-
<b>FY 2019-20</b>	12	-0-	-0-
<b>FY 2020-21</b>	21	5% (1 of 21)	-0-
<b>FY 2021-22</b>	16	13% (2 of 16)	19% (3 of 16)
<b>FY 2022-23</b>	45	33% (15 of 45)	33% (15 of 45)
<b>FY 2023-24 FYTD</b>	27	52% (14 of 27)	52% (14 of 27)

## **PROPOSED AMENDMENTS**

In order to address the challenges outlined above and continue to effectively administer the petition and hearing processes, staff proposes the following amendments to the timelines for hearing procedures.

Staff analyzed a variety of factors to inform the amendments, including:

- Length of time required to process and decide petitions.
- Number of petitions filed with the program.
- Number of documents requiring translation.
- Scheduling challenges between parties to the petition, translators, interpreters, and Hearing Officers.
- Inspections requests from parties and Hearing Officers.
- Legal representation among parties.
- Number of hearing date changes.
- Number of decision extensions required to be sent to the parties.
- Review of appeal deadlines and feedback from parties.
- Feedback from MEP translators and Hearing Officers.

Tables 2 and 3 below summarize current and proposed timelines for processing individual rent adjustment petitions. To view the proposed regulations, see Attachment 1, Exhibit A: Section I of Chapter 5 of the CSFRA Regulations, and Attachment 2, Exhibit A: Section I of Chapter 6 of the MHRSO Regulations. The proposed amendments to Chapter 5 of the CSFRA Regulations and Chapter 6 of the MHRSO Regulations also include formatting revisions which are nonsubstantive.

**Table 2: Current and Proposed Hearing Procedure  
Time Frames for Rent Decrease Petitions**

	<b>Current Timeline: Rent Decrease Petitions<sup>1</sup></b>	<b>Proposed Timeline: Rent Decrease Petitions</b>
<b>Notice of Acceptance or Nonacceptance of Submission by the RHC</b>	30	No proposed change
<b>Date Set for Prehearing Settlement Conference (<i>if applicable</i>) after Petition Deemed Complete</b>	30	No proposed change
<b>Prehearing Settlement Conference Completed</b>	45	No proposed change
<b>Telephone Conference held by Hearing Officer</b>	45	No proposed change
<b>Hearing Held</b> (No Settlement Conference Requested)	45 days from acceptance	60 days from acceptance
<b>Hearing Held</b> (Settlement Conference Unable to Resolve Petition)	30 days from Prehearing Settlement Conference	60 days from Prehearing Settlement Conference
<b>Decision Delivered</b>	30 days from closing of hearing record	60 days from closing of hearing record
<b>Appeal Deadline</b>	10 days from delivery of Decision	15 days from delivery of Decision
<b>Decision on Remand Delivered</b>	45 days from RHC order remanding decision	60 days from RHC order remanding decision
<b>Notice of Acceptance of Decision Compliance Petition</b>	10 days from submission to the RHC	15 days from submission to the RHC

<sup>1</sup> Calendar Days from date of Petition acceptance by the Rental Housing Committee unless noted.

**Table 3: Current and Proposed Hearing Procedure Time Frames  
for Rent Increase Petitions**

	Current Timeline: Rent Increase Petitions <sup>2</sup>	Proposed Timeline: Rent Increase Petitions
<b>Notice of Acceptance or Nonacceptance of Submission by the RHC</b>	30	No proposed change
<b>Date Set for Prehearing Settlement Conference (<i>if applicable</i>) after Petition Deemed Complete</b>	45	No proposed change
<b>Prehearing Settlement Conference Completed</b>	60	No proposed change
<b>Telephone Conference held by Hearing Officer</b>	60	No proposed change
<b>Hearing Held</b> (No Settlement Conference Requested)	45 days from acceptance	60 days from acceptance
<b>Hearing Held</b> (Settlement Conference Unable to Resolve Petition)	30 days from Prehearing Settlement Conference	60 days from Prehearing Settlement Conference
<b>Decision Delivered</b>	30 days from closing of hearing record	60 days from closing of hearing record
<b>Appeal Deadline</b>	10 days from delivery of Decision	15 days from delivery of Decision
<b>Decision on Remand Delivered</b>	45 days from RHC order remanding decision	60 days from RHC order remanding decision
<b>Notice of Acceptance of Compliance Petition</b>	10 days from submission to the RHC	15 days from submission to the RHC

Additional actions taken by staff to impact petition processing times may include reviewing the feasibility of hiring additional hourly Hearing Officers, inspectors, and translators to best support the influx of complex petitions.

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<sup>2</sup> Calendar Days from date of Petition acceptance by the Rental Housing Committee unless noted.

### Impact on Parties

The recommended amendments do not require more time for the process; rather, they allow more time for the process to be completed if needed. Not every petition will require the use of the extended time frames as not every petition will be complicated or require translations and/or inspections. This flexibility simply allows additional processing and decision time if needed.

For petitions with habitability concerns, the proposed timeline adjustments do not impact the requirements under the law for property owners to address habitability concerns in violation of health and safety codes. No changes in the timeline for the adjudication of Tenant Hardship Petitions are recommended at this time. The Tenant Hardship Petition process is outlined in Chapter 7 of the CSFRA and Chapter 8 of the MHRSO Regulations.

### FISCAL IMPACT

The adoption of amendments to Chapter 5 of the CSFRA Regulations is not anticipated to impact the CSFRA budget of the RHC. The adoption of amendments to Chapter 6 of the MHRSO Regulations is not anticipated to impact the MHRSO budget of the RHC.

**PUBLIC NOTICING**—Agenda posting.

PB-JP-AvD-KMT-NS/KG/8/HSN/RHC  
847-10-16-23M-2

- Attachments:
1. Resolution to Adopt Amendments to Chapter 5 of the CSFRA Regulations  
Exhibit A: Amendments to Chapter 5: Hearing Procedure
  2. Resolution to Adopt Amendments to Chapter 6 of the MHRSO Regulations  
Exhibit A: Amendments to Chapter 6: Hearing Procedure