

Housing Department
Rent Stabilization Division

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TO: Rental Housing Committee

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SUBJECT: Tenant Anti-Retaliation and Anti-Harassment Protections

PURPOSE

Review and offer feedback on draft Community Stabilization and Fair Rent Act (CSFRA) and Mobile Home Rent Stabilization Ordinance (MHRSO) regulations providing protections against tenant retaliation and harassment.

BACKGROUND

The Rental Housing Committee's (RHC) Fiscal Year 2024-25 work plan included an item to hold a [Study Session on Anti-Harassment/Retaliation, which was held on March 27, 2025](#). Since the enactment of the Community Stabilization and Fair Rent Act (CSFRA) in 2016 and the Mobile Home Rent Stabilization Rent Ordinance (MHRSO) in 2021, staff and RHC members have received information from CSFRA/MHRSO residents—particularly more vulnerable residents, including seniors, disabled persons, and undocumented residents—that they have experienced retaliatory and/or harassing behavior by landlords, property managers, and park owners using certain methods, tactics, or actions such as threats, coercion, fraud, misrepresenting information, or intimidation.

During the March Study Session, the RHC reviewed federal, State, and local policies of comparable jurisdictions and reviewed the following definitions:

- Retaliation: The use of certain methods or behaviors by a landlord against a tenant in response to the tenant exercising or asserting certain rights related to their rental unit or tenancy.

Example: A landlord turns off a tenant's water and electricity in response to the tenant complaining about substandard conditions in their rental unit.

- Harassment: The use of certain methods or behaviors (by landlords, in this context), such as threats, coercion, fraud, or intimidation, to: (1) prevent a tenant's exercise or assertion of their rights; (2) interfere with a tenant's use and quiet enjoyment of the tenant's rental unit (or the common areas or services or amenities); or (3) generally make the tenant's life difficult.

Example: A landlord might delay necessary repairs to encourage a tenant to leave the unit so they can charge initial market rent to the new tenant.

The RHC approved the definitions and directed staff to bring back anti-retaliation and anti-harassment regulations covering CSFRA and MHRSO tenants for its consideration in a future meeting.

RHC Authority

Pursuant to both the CSFRA and the MHRSO, the RHC is authorized to “adopt rules and regulations for the administration and enforcement” of the Act and the Ordinance. (Article XVII, § 1709(d)(2); Chapter 46, § 46.9(a)(2)). The CSFRA and the MHRSO also require the RHC to “issue and follow such rules and regulations as will further the purposes” of the Act and Ordinance. (Article XVII, § 1709(e); Chapter 46, §46.9(a)(3)). As discussed in the March Study Session, the RHC has the authority to adopt regulations specific to CSFRA and MHRSO tenants to address retaliation and harassment because:

- Both CSFRA and MHRSO explicitly prohibit retaliation.
- Both CSFRA and MHRSO have the underlying intent of prohibiting actions by a landlord that may result in arbitrary evictions, i.e. evictions that are not allowed under just cause protections.

Since retaliatory or harassing behavior may cause tenants to move so the unit can be re-rented, prohibit tenants from exercising their rights, or result in an unlawful rent, anti-retaliation and harassment provisions further the purposes of the CSFRA and the MHRSO.

ANALYSIS

The recommended full text of the draft regulations is included in Attachments 1 and 2, which add definitions to Chapter 2 of the Regulations and introduce a new Chapter 14 (Anti-Retaliation and Anti-Harassment) for both the CSFRA and MHRSO. The proposed sections are based on staff research informed in part by best practices from policies of comparable jurisdictions. The Analysis section provides a summary of the recommended regulations.

The recommended regulations 1) prohibit landlords, including mobile home landlords, property managers, or their agents from retaliating or harassing CSFRA/MHRSO residents; 2) define

“harassment” and “retaliation”; 3) provide a list of behaviors or actions that constitute harassment or retaliation; and 4) stipulate remedies and enforcement measures for violations.

Modify Existing Chapter 2: Add Definitions

Definitions relevant to the Anti-Retaliation and Harassment provisions are recommended to be added, such as “Bad Faith”, “Harassment”, and “Retaliation”. Specific categories of individuals, including “Disabled”, “Child”, “Senior”, and “Terminally Ill”, are also defined.

EXPLANATION: These terms and additional categories are currently not defined in Chapter 2. State and Federal laws, as well as comparable jurisdictions, include these additional terms and categories of individuals. Adding these terms and categories to the CSFRA/MHRSO regulations will cover a more comprehensive range of issues and tenants.

Add New Chapter 14: Anti-Retaliation and Anti-Harassment Regulations

A. Purpose

These regulations support the purpose of the CSFRA and MHRSO by identifying which tenant actions are protected; identifying which actions may constitute harassment and/or retaliation by a landlord (as defined below); and providing tenant protections against such behavior.

B. Applicability

These regulations are applicable to landlords, as defined by CSFRA Section 1702(j), and Mobilehome landlords, as defined in MHRSO Section 46.2(k), including employees, (sub)contractors, agents, or anyone acting on behalf of the landlord or Mobilehome landlord.

EXPLANATION: Section B clarifies: (1) that the protections in this Chapter apply only to tenants who reside in CSFRA and MHRSO covered Rental Units (because the RHC only has jurisdiction over these tenancies) and (2) that the owner of a Property cannot use their agent(s) to bypass the prohibitions in this Chapter and may be liable for the retaliatory or harassing conduct of their agent(s).

C. Anti-Retaliation Provisions

This Section prohibits Retaliation, and provides examples of tenant-protected activities that a court may consider when determining if a landlord has retaliated in violation of the CSFRA/MHRSO or these Regulations, such as:

- Requesting repairs or maintenance.
- Complaining about the condition of the Rental Unit or Housing Services.
- Filing a petition as authorized by CSFRA Section 1710/MHRSO Section 46.10(b)

- Exercising a legal right allowed by state or local law.
- Requesting reasonable accommodation.

EXPLANATION: While State law (Civil Code Section 1942.5) prohibits a landlord from retaliating against a tenant for exercising their rights, it does not provide specific examples of activities that constitute a tenant asserting or exercising their rights.

This Section provides examples of “protected activities” to help landlords and Tenants better understand retaliatory behavior and discourage landlords from retaliating against tenants. To ensure comprehensiveness, staff reviewed: (1) local, State, and federal laws that give tenants specific rights and protections, and (2) other jurisdictions’ anti-retaliation ordinances and policies.

This Section also establishes a rebuttable presumption that an action taken by a landlord against a tenant is retaliation if it occurs within 180 days of the tenant engaging in a protected activity, which aligns with State law. The purpose of this presumption is to shift the burden of proof to the landlord, requiring them to demonstrate that their action was based on valid legal grounds and was not connected to the tenant’s exercise or assertion of their rights.

D. Anti-Harassment Provisions

This Section prohibits Harassment and provides examples of actions that a landlord is undertaking, but can also include things that they don’t do, but should do, such as refusing to accept or acknowledge receipt of a tenant’s lawful rent payment.

The following are examples of landlord behavior a court may consider when determining if a landlord has harassed a tenant in Bad Faith in violation of the CSFRA/MHRSO or these regulations:

- Violate or threaten to violate the covenant of quiet enjoyment.
- Violate the warranty of habitability.
- Perform and complete all repairs and maintenance in a timely manner, as required by federal, state, or local laws.
- Abuse the right to access a rental unit.
- Violate or interfere with a tenant’s right of privacy.
- Misrepresentation in order to force the tenant to vacate the Rental Unit.
- Violate any law prohibiting discrimination.
- Interfere with a tenant’s right to organize or attend a tenant organization.
- Other repeated acts or omissions to substantially interfere with tenant’s rights.

EXPLANATION: Harassing behaviors are often either undertaken by landlords with the intent to pressure their tenants to vacate their Rental Units or result in such displacement.

Therefore, the purpose of defining which actions or omissions by a landlord qualify as harassment is to reduce displacement pressures and informal evictions by helping tenants better understand their rights and landlords better comprehend their responsibilities.

Furthermore, State law does not include specific examples of harassment, which can make it difficult for tenants to prove in court that they have been subject to harassment. The recommended Regulations provide clear examples of behaviors that qualify as harassment, which tenants can cite in discussions with their landlords and/or in court to defend their rights.

All of the comparison jurisdictions reviewed as part of the due diligence process that have adopted local tenant anti-harassment ordinances, regulations, or policies include a non-exhaustive list of harassing behaviors, as shown above. To ensure that the list of harassing behaviors was as comprehensive as possible, staff reviewed tenant anti-harassment ordinances and policies for at least 28 other jurisdictions in the State.

E. Remedies and Enforcement

This Section includes provisions informed by best practices in comparable jurisdictions (See Attachment 3) and outlines the grievance process for tenants to undertake in the event they believe that a landlord has violated the provisions.

1. Anti-Retaliation/Harassment information will be included in the CSFRA/MHR SO Information Sheet as required by Chapter 7 of the Regulations. Landlords are required to provide this Information Sheet to every new tenant and with each rent increase notice.
2. A tenant experiencing a violation can file a claim in court or other appropriate venue, but only after they give the landlord written notice describing the alleged violation. This allows the landlord to correct the issue.
3. A tenant can submit a report to the RHC using a specified form developed by staff. According to current case law, the RHC lacks the authority to resolve complaints through a petition process (CSFRA Sections 1710 and 1711 and MHR SO Section 46.10) or to enforce these regulations. Instead, the RHC will use the report to monitor the situation and provide counseling and resources for tenants and landlords about the issue.
4. A tenant can assert that a landlord's violation constitutes an affirmative defense in an unlawful detainer or other action by a landlord.
5. A rental unit's vacancy caused by a violation of the CSFRA/MHR SO (such as a landlord's bad faith eviction of a tenant for owner move-in or without a valid just cause) or its Regulations can only be re-rented at the lawful Rent in effect at the time of vacancy.

6. Damages and monetary awards are specified in case of violation of these Regulations.

EXPLANATION: This Section requires landlords to inform their tenants about the CSFRA/MHRSO, including anti-retaliation and anti-harassment provisions. The purpose of this notice is to ensure that tenants are aware of their rights and understand that they can contact the Rent Stabilization Division if they believe their rights have been violated.

This Section also details how tenants can file anti-retaliation and harassment violation claims with the court. Granting remedies for violations of these provisions provides tenants a greater ability to enforce their rights and receive compensation for damages.

To ensure fairness and deter abuse of these provisions by tenants, the recommended Regulations:

- Require a tenant (or anyone authorized to act on behalf of a tenant) to provide a landlord with written notice of the alleged action constituting retaliation or harassment and a reasonable time to correct the violation before filing a lawsuit (Section E.6.a.); and
- Provide that a court may award a prevailing landlord attorneys' fees if the court determines that the tenant's case lacked any merit and the tenant filed the lawsuit in bad faith (e.g., to annoy or harass the landlord).

Just as the RHC lacks the authority to adjudicate or enforce anti-retaliation and anti-harassment regulations when a landlord undertakes retaliatory/harassing behavior against a tenant, the RHC also lacks the authority to regulate harassment of a landlord by a tenant. Potential remedies available to a landlord include actions to recover possession of the rental unit, civil or criminal restraining orders, or other criminal actions – none of which the RHC has authority to govern under the CSFRA or the MHRSO. If a landlord believes that they are being harassed by their tenant, the landlord may have legal remedies under state law to address such a situation and should confer with their legal counsel to determine what remedies may be available to them.

F. Non-Waivability

The protections provided by the CSFRA/MHRSO or its Regulations cannot be waived by the tenant in any written or oral rental agreement, or in any other type of agreement, such as a settlement agreement.

EXPLANATION: This section clarifies that any attempts to bypass these protections by requiring tenants to waive their rights can be invalidated by a court or a State or federal

government agency. These tenant protections are consistent with the prohibition on waiver established by:

- CSFRA Section 1713: “Any provision of a Rental Housing Agreement, whether oral or written, which purports to waive any provision of this Article established for the benefit of the tenant, shall be deemed to be against public policy and shall be void.”
- MHRSO Section 46.11(a): Any waiver of the rights and responsibilities created by this chapter shall be deemed void as against public policy.”

G. Partial Invalidity

If any provision of the Regulations is invalid, this shall not affect other provisions or applications of these Regulations.

NEXT STEPS

Following feedback from the RHC, staff will implement the Committee’s recommendations and submit regulations for approval by the RHC at a future meeting.

FISCAL IMPACT—This Rental Housing Committee Study Session has no fiscal impact.

PUBLIC NOTICING—Agenda posting, posting on the City’s website, and email to RHC distribution list.

Attachments:

1. CSFRA Regulations Proposed Additions Chapter 2 and new Chapter 14
2. MHRSO Regulations Proposed Additions Chapter 2 and new Chapter 13
3. Summary comparison of jurisdictions’ Remedies and Enforcement provisions