

CITY OF MOUNTAIN VIEW
RENTAL HOUSING COMMITTEE
RESOLUTION NO. RHC-106
SERIES 2023

A RESOLUTION OF THE RENTAL HOUSING COMMITTEE
OF THE CITY OF MOUNTAIN VIEW
TO ADOPT AMENDMENTS TO THE REGULATIONS CHAPTER 5, HEARING PROCEDURE,
OF THE COMMUNITY STABILIZATION AND FAIR RENT ACT

WHEREAS, Section 1709 of the Community Stabilization and Fair Rent Act (CSFRA) authorizes the Rental Housing Committee to establish rules and regulations for administration and enforcement of the CSFRA, including rules and regulations for the Hearing Procedure; and

WHEREAS, the Rental Housing Committee held a publicly noticed meeting on June 12, 2023 and discussed and considered amendments to the CSFRA regulations for the Hearing Procedure; now, therefore, be it

RESOLVED: that the Rental Housing Committee hereby adopts amendments to the CSFRA Regulations Chapter 5, Hearing Procedure, as set forth in Exhibit A of this Resolution.

The foregoing Resolution was regularly introduced and adopted at a Regular Meeting of the Rental Housing Committee of the City of Mountain View, duly held on the 12th day of June 2023, by the following vote:

AYES: Committee Members Cox, Ma, Madison, Vice Chair Rosas, and Chair Keating

NOES: None

ABSENT: None

ATTEST:

APPROVED:

DocuSigned by:
Anky van Deursen
40CE22E70C3547E

ANKY VAN DEURSEN
PROGRAM MANAGER

DocuSigned by:
Edie Keating
B04DD0034D504B4...

EDIE KEATING
CHAIR

I do hereby certify that the foregoing resolution was passed and adopted by the Rental Housing Committee of the City of Mountain View at a Regular Meeting held on the 12th day of June 2023, by the foregoing vote.

DocuSigned by:
Anky van Deursen
40CE22E70C3547E...

Program Manager
City of Mountain View

AVD/6/CDD/RHC
895-06-12-23rhcr-1

Exhibit: A. CSFRA Regulations Chapter 5, Hearing Procedure

Exhibit A

Community Stabilization and Fair Rent Act

**CHAPTER 5
HEARING PROCEDURE**

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A. Hearing Purpose; Applicability1. Hearing Purpose.

A Hearing Officer will conduct an administrative hearing to resolve the issues raised by a Petition. In accordance with the procedures established by this Chapter, a hearing shall involve the parties to the Petition at issue presenting evidence to the Hearing Officer and testimony from the parties to the Petition at issue and witnesses identified in accordance with Chapter 4, Sections D.2 to D.3. Following a hearing, the Hearing Officer shall issue a written decision on the issues raised in the Petition.

2. Applicability.

A hearing on all Petitions accepted as complete by the Rental Housing Committee or its designee will be scheduled in accordance with the procedures of this Chapter unless:

- a. The Petitioner withdraws the Petition by submitting written notice to the Rental Housing Committee.
- b. Each issue underlying the Petition has been settled by and among each party to the Petition prior to the hearing, as confirmed in writing by each party to the Petition, including, but not limited to, any private, written settlement agreement reached during a Prehearing Settlement Conference in accordance with Chapter 4, Section N.

B. Hearing Officers

1. Designation of Hearing Officers. The Rental Housing Committee shall appoint individuals who meet the criteria established in Chapter 5, Section B.2 to serve as Hearing Officers. The Rental Housing Committee may appoint Hearing Officers by contracting with an independent contractor or a third-party service provider.

2. Selection Criteria. Hearing Officers must meet the following criteria:

- a. Juris Doctor or equivalent degree.
- b. Active or inactive membership in the California State Bar in good standing or other state bar.
- c. Experience:
 - Served as a judge, commissioner, or other judicial officer for more than one (1) year;

- Served as a Hearing Officer or administrative law judge or equivalent position for a public entity for more than three (3) years;
 - Served as an arbitrator and heard at least five arbitration proceedings that required hearing witnesses, examining evidence, and issuing a written decision; or
 - Served as a hearing officer or arbitrator for a binding rental dispute program, and has held that position for more than two (2) years and has issued written decisions in that position.
- d. Completed a Community Stabilization and Fair Rent Act (CSFRA) training and orientation program presented by the City of Mountain View.
- e. Not currently a member of a tenant or landlord advocacy group or trade organization.
- f. Any individuals who own a property in Mountain View that could qualify as a rent-stabilized unit are ineligible to be selected as a Hearing Officer.
3. Disqualification from Cases. A Hearing Officer shall disqualify themselves from hearing a case or can be disqualified by the Rental Housing Committee following the written request of one (1) of the parties if:
- a. The Hearing Officer knows or has reason to know they have a financial interest affected by the determination or award;
 - b. The Hearing Officer is related to one (1) of the parties or their representatives to the third degree;
 - c. The Hearing Officer has been retained or employed by one (1) of the parties within the past two (2) years or has given advice to one of the parties relative to the issues involved in the hearing;
 - d. It appears probable that the Hearing Officer, by reason of bias or prejudice, cannot provide a fair and impartial hearing; or
 - e. The Hearing Officer is a party to the hearing.

A Hearing Officer is not disqualified from hearing a case where one (1) or more of the parties have appeared before the Hearing Officer in an earlier hearing. The parties may waive their right to the disqualification of a Hearing Officer by a written statement accepting the Hearing Officer's services.

4. Hearing Officer Authority. A Hearing Officer shall have the authority to:
 - a. Administer oaths and affirmations;
 - b. Cause the Rental Housing Committee to issue subpoenas for the attendance of persons to testify and to produce books, records, papers, and other material related to the issues raised in a Petition;
 - c. Cause inspections to be made of the property that is the subject of a Petition, in accordance with the procedures of Chapter 5, Section C.5;
 - d. Rule on offers of proof and receive relevant evidence;
 - e. Control the course of the hearing;
 - f. Rule on procedural requests;
 - g. Render decisions on Petitions; and
 - h. Take other action authorized by the rules and regulations adopted by the Rental Housing Committee.

5. Review of Hearing Officers' Performance. The Rental Housing Committee will periodically review the performance of Hearing Officers or, if applicable, of a third-party service provider. In its sole discretion, the Rental Housing Committee will have authority to execute or terminate agreements with Hearing Officers who are independent contractors and/or third-party service providers. The Rental Housing Committee will also provide training for Hearing Officers.

C. Notice and Prehearing Procedures

1. Hearings. A Hearing Officer shall be assigned to preside over each hearing. The Hearing Officer shall have access to the Petition and supporting documentation and any opposing response and supporting documentation prior to the hearing. The Hearing Officer shall accept argument from all parties on the claims raised in the Petition and review relevant supporting documentation.

2. Timing of Hearing. The hearing shall be scheduled for a date no more than: (a) forty-five (45) calendar days after the acceptance of a Petition by the Rental Housing Committee; or (b) thirty (30) calendar days after the completion of a prehearing settlement conference, whichever is later.

3. Hearing Notice. As soon as practicable after scheduling the date, time, and location of a hearing, but in no event less than fourteen (14) calendar days prior to the hearing date, the Rental Housing Committee shall provide written notice to all parties to a Petition that a hearing has been scheduled. The hearing notice will include the date, time, and place of the hearing as well as a brief description of the hearing process, including the burden of proof, and the ability to be represented by an attorney, legal worker, Recognized Tenant Organization representative, or other third party at the hearing.
 - a. Virtual Conference Platform. For the purposes of this Section, “place” shall be defined to include a scheduled meeting on a virtual conference platform, such as Zoom. In the case where the hearing will take place virtually, a link to the virtual hearing shall be provided to the parties and the public at least seventy-two (72) hours prior to the hearing.

4. Hearing Officer Requests for Additional Evidence or Argument.
 - a. Written Request for Additional Evidence from Party with Burden of Proof. The Hearing Officer may request additional evidence or documentation from any party, when that party has the burden to prove its position with respect to one or more aspects of a Petition. If a Hearing Officer requests additional evidence, the request must be documented in a written order, and the order must be promptly provided to all parties to the Petition. Any Hearing Officer request for additional evidence from a party that does not have the burden of proving its position shall be considered a suggestion.

 - b. Subpoenas. A Hearing Officer may, by order or subpoena, require that either party or any other person provide them with any books, records, papers, or other evidence deemed pertinent to the petition or that any witness appear and testify. All documents required under this provision shall be made available to the parties prior to the hearing either in-person at the offices of the Rent Stabilization Program or virtually via electronic mail or other file-sharing service.

The parties to the petition shall have the right to request that the Hearing Officer issue subpoenas on their behalf. Any party making a request for a subpoena from the Hearing Officer must complete an application form, as approved by the Rental Housing Committee or its designee, by filling in all required information and must declare that they are a party to a particular administrative proceeding pending before one of the Hearing Officers. Additionally, the party requesting the subpoena shall be responsible for service of such subpoena. The subpoena shall disclose on its face at whose request it has been issued and that it is issued in the name of the Rental Housing Committee.

The party that is not requesting the subpoena may challenge the subpoena on the basis that the documents or witness testimony requested is not relevant to the issues presented in the petition. Regardless of whether the subpoena is contested by the nonrequesting party, the Hearing Officer may, in the Hearing Officer's sole discretion, decline in whole or in part to issue a subpoena upon a finding that the documents or witness testimony requested is irrelevant.

- c. Argumentation or Briefing. The Hearing Officer may request or arrange a schedule for submission of written arguments in favor of or in opposition to any aspect of a Petition. Lack of submission of argumentation or briefing shall not delay a hearing.
 - d. Timing. A request for additional evidence from the party with the burden of proof may be issued by a Hearing Officer at any time, including during the telephone conference or at the hearing. The Hearing Officer shall identify in the written request a reasonable deadline by which date the party with the burden of proof must respond.
 - e. Options for Response. Each written order requesting additional evidence must include notice that the party may choose: (i) to proceed with the hearing process as scheduled (regardless of whether the party submits additional evidence); (ii) to withdraw the Petition or concede the challenge to the Petition (however, if an entire Petition is withdrawn, it may be revised and resubmitted); or (iii) to request an extension of the deadline included in the written order, therefore, postponing the hearing process in order to submit additional evidence or address other issues, including Code violations.
 - f. Failure to Respond. Failure to respond in writing by the deadline included in a Hearing Officer's written request for additional evidence shall be considered an affirmative election to proceed with the hearing process as previously scheduled and based on the existing submission(s), regardless of whether any additional evidence has been submitted.
5. Telephone Conference.
- a. Conference. Prior to the hearing, the Hearing Officer must hold a telephone conference with the parties and/or their representatives. During the telephone conference the Hearing Officer will explain the hearing process, describe the burden of proof generally applicable to a Petition, and answer relevant questions regarding the Petition and hearing procedures. During the telephone conference, the Hearing Officer may, in the Hearing Officer's sole discretion: (i) briefly review the elements of the Petition and identify relevant supporting evidence or potential lack thereof; (ii) formalize a schedule to submit and/or

respond to evidence or argument submitted by a party to the Petition; or (iii) address any scheduling issues, including requests to postpone the hearing.

- b. Written Order. After the telephone conference, the Hearing Officer will provide a written summary of the conference to all parties. If the Hearing Officer discusses elements of the Petition and requests additional evidence from the party with the burden of proof, then the written order must inform that party of the three (3) options to respond, as described in Section C.4.d of this Chapter 5.
6. Inspection. Hearing Officers may, at their sole discretion, inspect or request an inspection of a property that is the subject of a Petition and hearing. Each party to the hearing must receive written notice and be afforded an opportunity to be present at the property during any inspection performed by a Hearing Officer. Any party to the hearing may waive their right to be present during an inspection by the Hearing Officer. If a proposed inspection date or time cannot be accommodated by one (1) or more parties to the hearing that have not waived their right to be present, then the Hearing Officer may offer alternative dates or times or forego personal inspection by the Hearing Officer.
7. Additional Submissions. Unless otherwise specified in a written order or written request from a Hearing Officer, the Hearing Officer must accept additional submissions of evidence, documentation, or arguments regarding the Petition's claims if received at least ten (10) calendar days prior to the hearing.
8. Prehearing Motions and Accommodation Requests. Prior to the hearing, the parties may submit for consideration prehearing motions and requests for accommodation. Either the Hearing Officer or the Chair of the Rental Housing Committee, with the assistance of the Rental Housing Committee's legal counsel, is authorized to issue decisions and determinations on any prehearing motions and requests for accommodation. As used in this Section C.8, "requests for accommodation" shall include, but shall not be limited to, requests for reasonable accommodation submitted pursuant to the Americans with Disabilities Act (42 U.S.C. § 12132).

D. Postponement Requests

1. Postponement Authorized. Requests for rescheduling of the hearing will be considered if they are for good cause and are received by the Hearing Officer at least seven (7) calendar days before the hearing date. A Hearing Officer may grant a written request for postponement of a hearing received from a party to a hearing if the request for postponement is supported by good cause and postponement serves the interest of justice.

2. Good Cause for Postponement. A Hearing Officer must consider the following to be good cause for one (1) postponement and may reasonably decide whether further postponements are warranted. A Hearing Officer may request documentation to verify any of the following:
 - a. Illness of a party, party's representative, or material witness to a party's case;
 - b. Travel beyond the San Francisco Bay Area;
 - c. Any other reason that would make it impractical to appear on the scheduled date, including, but not limited to, unforeseen circumstances or verified prearranged plans which cannot be changed. Mere inconvenience or difficulty in appearing cannot constitute "good cause."

Additionally, requests for rescheduling based on a party's medical emergency or similar significant conflicts may be allowed by the Hearing Officer within seven (7) calendar days of the hearing date if the event was unforeseen and the requester provides immediate notification of the unforeseen event to the Hearing Officer that is supported by reasonable documentation.

3. Hearing Rescheduling. If the Hearing Officer approves a rescheduling request, the hearing will be rescheduled with the originally assigned Hearing Officer, unless that Hearing Officer is unavailable.
4. Effect of Failure to Appear.
 - a. Failure to appear at the hearing by a Petitioner or that party's authorized representative designated in writing to act for the Petitioner shall result in a determination by the Hearing Officer that the Petition has been withdrawn.
 - b. Failure to appear by a responding party without good cause shall result in a determination that the party has waived their right to a hearing, and the Hearing Officer shall rule on the Petition based on the evidence available in the record.

E. Conduct of Hearing

1. Hearing Officer. The Hearing Officer shall control the conduct of the hearing and rule on procedural requests. The hearing shall be conducted in the manner deemed by the Hearing Officer to be most suitable to secure the information and documentation necessary to render an informed decision and to result in a fair decision without unnecessary delay.

2. Hearing Attendance and Participation.
 - a. Hearings shall be open to the public; however, no individual other than a party to the Petition, a party's designated proxy, representative, translator, or a nonparty witnesses may participate in the hearing.
 - b. During a hearing, the Hearing Officer may adopt rules to encourage a timely and business-like hearing, such as requiring the parties, rather than their counsel or other advisors, to be the primary speakers at hearings, with adequate time given to consult with their counsel or advisor, or with a large group encouraging representatives, if any, to be the primary spokespersons.
 - c. Hearings are not meetings subject to the Brown Act or any City of Mountain View implementing ordinances.
3. Ex Parte Communications. There shall be no oral communication outside the hearing between the Hearing Officer and any party or witness unless each opposing party, or their representative, is able to simultaneously communicate with the Hearing Officer, whether in person or via audio/visual technology. All written communication between the Hearing Officer and one (1) or more parties must be promptly provided to all other parties to the hearing.
4. Rules of Evidence. Formal rules of evidence shall not be applicable to hearings on Petitions for individual rent adjustment. At such a hearing, the Petitioner and other affected parties may offer any documents, testimony, written declarations, or other evidence that, in the opinion of the Hearing Officer, is credible and relevant to the requested rent adjustment. The Hearing Officer may consider the results of inspections of the property in question and the results of any other investigations conducted by or at the request of the Hearing Officer. The Hearing Officer shall consider any relevant evidence if it is the sort of evidence which a reasonable person might consider in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objections in civil actions.
5. Records of Hearings. Audio recordings (or video recordings, if ordered by the Hearing Officer) of hearings will be produced and maintained. This audio or video record will be available for review to all parties, and any party may receive a copy of such recording upon payment not to exceed the reasonable cost of producing such copy. The Hearing Officer has the discretion to allow or disallow the making of other records or transcripts.

6. Length of Hearing.
 - a. A hearing schedule shall be established providing for not more than seven (7) hours of hearing with half of the time for the appealing party and the other half for the responding party or parties. The ceiling on the time for each party shall include the time used by the party for cross-examination of witnesses.
 - b. An extension of this time period may be granted by the Hearing Officer for good cause as determined by the Hearing Officer. In no case may the hearing last more than ten (10) hours unless the need for translation results in the need for a longer hearing.
7. Right of Assistance. All parties to a hearing shall have the right to seek assistance in developing their positions, preparing their statements, and presenting evidence from an attorney, tenant organization representative, landlord association representative, translator, or any other person designated by said parties to a hearing.
8. Participation of the Hearing Officer. The Hearing Officer shall at all times in the conduct of the hearings and in otherwise performing the duties of the Hearing Officer act neutrally and impartially as between the landlord and the tenants.
9. Hearing Record. The Hearing Officer shall maintain an official hearing record, which shall constitute the exclusive record for decision. The hearing record and decision shall include:
 - a. A copy of the Petition and documents submitted to support the Petition;
 - b. Any written submissions by the parties;
 - c. All exhibits, papers, and documents offered either before or during the hearing;
 - d. A list of participants present at the hearing;
 - e. A summary of all testimony upon which the decision is based;
 - f. A statement of all materials officially noticed;
 - g. The Hearing Officer's decision;
 - h. All findings of fact and conclusions of law;

- i. All recommended or final decisions, orders, or rulings; and
 - j. A recording of the hearing in a format determined by the Rental Housing Committee.
10. Closing and Reopening of Hearing Record.
- a. At the hearing, the Hearing Officer shall estimate the date when the hearing record will be closed and shall provide notice to the parties when the hearing record is closed, at which time no further evidence or arguments may be entered into the hearing record, unless the record is reopened and all parties to the hearing have an opportunity to review and object. A Hearing Officer may not close the hearing record prior to the hearing date unless the Petition is withdrawn.
 - b. The Hearing Officer may reopen the hearing record when they believe that further evidence should be considered to resolve a material issue where the hearing record has been closed. In those circumstances, each party must receive a true and accurate copy of any additional submission to be considered by the Hearing Officer as well as an opportunity to respond and/or object to the additional submission.

F. Decision

1. Time for Issuance.
 - a. The Hearing Officer shall issue, and have mailed, a written decision to all parties within thirty (30) calendar days after the date the hearing record is closed, which decision is based on the hearing record, in accordance with Chapter 5, Section E.9.
 - b. The decision of the Hearing Officer shall be final unless a party files a timely appeal to the Rental Housing Committee in accordance with Chapter 5, Section H.
2. Decision Contents. The decision shall include findings of fact and conclusions of law which support the decision, in addition to the information specified below.
 - a. For Rent Decrease Petitions:
 - The amount of the rent adjustment attributable to each failure to maintain habitable premises, decrease in housing services or maintenance, or demand for or retention of unlawful rent claimed in the Petition;

- The basis for each rent adjustment ordered;
- The duration of the downward adjustment; and
- The amount of any rent allowed to be restored upon the correction of each condition that provided a basis for the adjustment.
- A requirement that the Landlord provide at least thirty (30) days notice to any affected Tenants prior to the restoration of rent.

b. For Rent Increase Petitions:

- The amount of the rent increase, if any, for each unit;
- The basis for the rent adjustment calculation;
- A list of any unresolved City Code violation complaints, if any; and
- An explanation of any adjustments to the income and expense amounts claimed in the Petition that are made for the purpose of the fair return calculation, if applicable.

c. For All Petitions:

- A summary of the issues raised by the Petition and evidence submitted;
- Any conditions which are placed on the award, including conditions and limitations imposed for violation of the CSFRA or other City ordinances;
- The date on which any adjustment to the rent is effective for each unit;
- An explanation of the basis for the decision with citations to the CSFRA, as applicable; and
- The cover page of the decision will provide that the date the decision is issued is the date of the mailing. For the purposes of this Chapter, “mailing” includes both physical transmission of correspondence via the United States Postal Service, or other courier service, and electronic transmission of correspondence to a recipient’s provided email address.
- Information regarding the availability of the compliance hearing process as set forth in Section J of this Chapter 5 of the Regulations.

3. Applicability of Decision. The decision of a Hearing Officer shall not apply to a tenant who has not filed a Petition or has not been included as a party to a landlord's Petition.
4. Effective Date of Rent Adjustments. Unless otherwise set by the Hearing Officer, any rent increases allowed in a decision shall not be effective until all of the following are completed: (a) the landlord provides notice to the tenant of such increase pursuant to Civil Code Section 827; and (b) twelve (12) months have passed since the last increase in the tenant's rent. In the event of a rent decrease, the decision shall specify the effective date of the rent decrease.

G. Burden of Proof

1. The burden of proof for any claims included in a Rent Increase Petition is on the landlord.
2. Tenants have the burden of proving the existence of housing service reductions, Code violations, violations of the CSFRA (including the demand for or retention of unlawful rents), or any claims raised in a Rent Decrease Petition.
3. No individual claims shall be approved by a Hearing Officer unless supported by the preponderance of the evidence in the hearing record.

H. Appeals to Rental Housing Committee

1. Timely Appeals.
 - a. Any party to a Petition may appeal the decision by requesting an appeal on a form provided by the Rental Housing Committee. The appealing party must state each claim that they are appealing and the legal basis for such claim on the appeal request form.
 - b. If no party requests an appeal within ten (10) calendar days after the mailing date of the decision, the decision will be considered a final decision.
 - c. Any Hearing Officer decision that is appealed before a decision is final shall be subject to an appeal hearing before the Rental Housing Committee. The Rental Housing Committee may accept late appeals in its sole discretion, but only upon finding that the untimely appeal request is supported by good cause and postponement serves the interest of justice.
 - d. Untimely Appeals.
 - (1) If an appeal is filed more than ten (10) calendar days after the mailing date of the decision, the Rental Housing Committee may accept the late appeal,

in the Rental Housing Committee's sole discretion, but only upon finding that the untimely appeal request is supported by good cause and postponement serves the interest of justice.

- (2) The Rental Housing Committee shall make a determination about whether to accept the late appeal at a regularly occurring meeting following the filing of the late appeal. At that meeting, the Rental Housing Committee shall provide the affected parties with an opportunity to make an oral argument in a length not to exceed five (5) minutes per party and present any documentary evidence supporting their position.
- (3) Within five (5) calendar days after the above-mentioned hearing, the Rental Housing Committee or designee shall issue a Notice of Acceptance or Denial of Appeal to the affected parties.

2. Appeal Hearing Scheduling and Notice.

- a. Upon receipt of a complete appeal form that states one (1) or more claims, an appeal hearing shall be scheduled. To the extent practicable, the appeal hearing shall be scheduled no more than thirty (30) days after the determination that an appeal form is complete. Appeal hearings shall be scheduled at regularly occurring meetings of the Rental Housing Committee.
- b. As soon as practicable after scheduling the appeal hearing, but in no event less than fourteen (14) calendar days prior to the appeal hearing date, written notice shall be provided to all parties to an appeal that an appeal hearing has been scheduled.
- c. An appeal hearing can only be held with a quorum of the Rental Housing Committee present, and scheduled appeal hearings shall be rescheduled as necessary to obtain a quorum.

3. Legal Advice for Rental Housing Committee; Tentative Decisions.

- a. At any point prior to an appeal hearing or issuing a decision, the Rental Housing Committee may, in its sole discretion, request and receive oral and/or written legal advice regarding an appeal, which advice shall be considered confidential between legal counsel and the Rental Housing Committee.
- b. Regardless of any legal advice received and at its sole discretion, the Rental Housing Committee may issue a tentative decision no less than ten (10) calendar days prior to the date set for an appeal hearing. If issued, the tentative decision must include all elements of a final decision as defined in Section F.2, as applicable, and state whether the decision of the Hearing Officer, or any aspect

of the decision, is tentatively affirmed, reversed, modified, or remanded in accordance with Section H.5. Any tentative decision shall be provided to each party to the appeal hearing.

- c. The parties may file supplemental written material to respond to the tentative decision at least five (5) calendar days prior to the appeal hearing date. The parties shall also simultaneously serve the supplemental materials on the other parties in the case by email (if available) and the address of record in the Petition.

4. Standard of Review.

- a. The Rental Housing Committee shall only review the claims raised in the appeal of the decision.
- b. The appeal shall be based on the hearing Record, and the Rental Housing Committee shall neither hear nor find facts beyond those presented to the hearing Officer, unless a majority of the Rental Housing Committee determines a *de novo* hearing shall be conducted. The scope of any *de novo* review may be limited to issues specified by a majority of the Rental Housing Committee.
- c. The Rental Housing Committee shall consider the Hearing Officer's decision final with respect to matters not raised in the appeal.

5. Rental Housing Committee Ruling on Appeal.

- a. The Rental Housing Committee shall affirm, reverse, or modify the decision of the Hearing Officer, or remand the matters raised in the appeal to a Hearing Officer for further findings of fact and a revised decision, if applicable:
 - Unless the Rental Housing Committee determines that it should hold a *de novo* hearing, the Rental Housing Committee's decision shall be based upon the hearing record, any information submitted in connection with appeal, and any testimony heard by the Rental Housing Committee.
 - If the Rental Housing Committee determines to hold a *de novo* hearing, the hearing shall be conducted in the manner set forth in Chapter 5, Section E.
- b. The Rental Housing Committee's decision to affirm, reverse, or modify the decision of the Hearing Officer shall be supported by written findings of fact and conclusions of law. When the Rental Housing Committee affirms the decision of the Hearing Officer, it adopts the findings of fact and conclusions of law in the Hearing Officer's decision, unless the motion to affirm states otherwise.

- c. The decision of Rental Housing Committee shall be final unless a party files a timely judicial action to challenge the ruling.
 - d. If the Rental Housing Committee remands all or a portion of an appealed decision to a Hearing Officer, the Hearing Officer shall issue, and have mailed, a written revised decision to all parties within forty-five (45) calendar days after the date an order from the Rental Housing Committee is delivered to the Hearing Officer and the parties.
6. Presentation of Appeals of Hearing Officer Decisions to the Rental Housing Committee. This Section H.6 of Chapter 5 defines the timing and order of the presentation of any timely appeals to be heard by the Rental Housing Committee from an Appellant and a Respondent. The Rental Housing Committee may, by a majority vote of the members of the Rental Housing Committee who will vote on the appeal(s), approve an alternative format or different time period for the presentation of the appeals on the current meeting agenda.
- a. Definitions. For purposes of this Section H.6 of Chapter 5, the following definitions apply; all other capitalized terms are defined by the Act.
 - “Appellant” refers collectively to either the Landlord, or the Tenant(s), to a petition who first appeals the decision of a Hearing Officer in accordance with this Chapter 5. For example, if a Tenant is the first party to appeal the decision, then all Tenants who are parties to the decision shall be deemed the Appellant, including their authorized representatives and legal counsel.
 - “Respondent” is defined as the party that is not the Appellant. For example, if a Landlord is the Appellant, then all Tenants who are parties to the decision shall collectively be deemed the Respondent, including their authorized representatives and legal counsel. Similarly, if one (1) or more Tenants are the Appellant, then the Landlord, the Landlord’s authorized representatives and legal counsel shall collectively be deemed the Respondent.
 - b. Presentations. In addition to any written submissions, the Appellant and the Respondent are each entitled, but are not required to, orally present their position to the Rental Housing Committee through an Argument and a Rebuttal in accordance with the following procedures. The presentation of Argument and Rebuttal by an Appellant or Respondent is in addition to, and shall be heard after, the general public comment period pertaining to all appeals of Hearing Officer decisions on the agenda for a meeting of the Rental Housing Committee, and shall be heard after any staff report regarding the appeal, if applicable.

- c. Argument. The Appellant and Respondent are each entitled to ten (10) minutes to orally present their position regarding the appeal to the Rental Housing Committee. The ten (10) minute Argument limitation per Appellant and per Respondent is applicable regardless of the number of individuals who may be aligned with or represented by the Appellant or Respondent. The Argument time limit is exclusive of any questions posed by members of the Rental Housing Committee.
- d. Rebuttal. In addition to the Argument, the Appellant and Respondent are each entitled to five (5) minutes to orally respond to or otherwise rebut an Argument offered by the other party to the appeal. The five (5) minute Rebuttal limitation per Appellant and per Respondent is applicable regardless of the number of individuals who may be aligned with or represented by the Appellant or Respondent. The Rebuttal time limit is exclusive of any questions posed by members of the Rental Housing Committee.
- e. Order of Arguments and Rebuttals. The Appellant shall be the first to present their Argument and the first to present their Rebuttal. The Appellant and Respondent are each responsible for organizing the presentation of their respective Argument and Rebuttal; the Rental Housing Committee is not responsible for subdividing the time allotted for an Argument or Rebuttal.
- f. Summary of Appeals Presentations. To the extent feasible, any Rental Housing Committee meeting that includes one (1) or more appeals of a Hearing Officer decision as an agenda item shall be heard in the following order:

Agenda Item No.: Appeal(s) of Hearing Officer Decision(s)	
<ul style="list-style-type: none"> • Public comment period applicable for all appeals on the agenda • First appeal 	
Staff Report (if applicable)	
Appellant Presentation of Argument	10-minute maximum
Respondent Presentation of Argument	10-minute maximum
Appellant Presentation of Rebuttal	5-minute maximum
Respondent Presentation of Rebuttal	5-minute maximum
Committee Deliberation and Decision	
<ul style="list-style-type: none"> • Second appeal 	
Staff Report (if applicable)	
Appellant Presentation of Argument	10-minute maximum
Respondent Presentation of Argument	10-minute maximum
Appellant Presentation of Rebuttal	5-minute maximum
Respondent Presentation of Rebuttal	5-minute maximum
Committee Deliberation and Decision	

I. Summary of Petition and Hearing Process

- To the extent feasible, each Petition submitted to the Rental Housing Committee or its designee will be processed and a hearing held in accordance with the following schedule.

<u>Timeline to Process Individual Rent Adjustment Petitions</u>		
	Rent Decrease Petitions	Rent Increase Petitions
	Calendar Days (from date of Petition acceptance by the Rental Housing Committee unless noted)	
Notice of Acceptance or Nonacceptance of Submission by the Rental Housing Committee	30 days of submission to the Rental Housing Committee	
Date Set for Prehearing Settlement Conference (<i>if applicable</i>) after Petition Deemed Complete	30	45
Prehearing Settlement Conference Completed	45	60
Telephone Conference held by Hearing Officer	45	60
Hearing Date	45 days from acceptance if Prehearing Settlement Conference not requested 30 days from Prehearing Settlement Conference	
Decision Delivered	30 days from closing of hearing record	
Appeal Deadline	10 days from delivery of Decision	
Decision Postremand Delivered	45 days from Committee order remanding decision	

- Deadlines identified in Section I.1 may be extended for good cause, which may be based on the following, nonexclusive list of factors: complexity of Petition, reasonable requests for continuance, scheduling difficulties, and/or allowing parties adequate time to obtain representation. Any good-cause extension by the Rental Housing Committee or its designee will be set forth in writing, and written notice sent to all parties to the Petition by the Rental Housing Committee or its designee.

3. Any failure by the Rental Housing Committee or its designee to act in accordance with this Section I and the timelines set forth herein will not result in automatic acceptance of a Petition or grant of an Individual Rent Adjustment.

J. Compliance Hearings

1. Request for Compliance Hearing. If there is an ongoing dispute among the parties as to whether there has been compliance with a previously issued decision on an Individual Rent Adjustment petition, any of the parties to the original proceeding may request that a Compliance hearing be noticed and held.
 - a. Form and Contents. Such request shall be submitted to the Rental Housing Committee, or its designee, in writing on a form provided by the Rental Housing Committee for this purpose. The request shall set forth the area(s) of disagreement and may be accompanied by supporting documents and any other evidence in support of the requesting party's position.
 - b. Service. A copy of the request shall be served upon all adverse parties by the party requesting the hearing.
 - c. No Fee. There shall be no filing fee for compliance hearings.
2. Timing of Hearing.
 - a. Within ten (10) days of receipt of a request for a compliance hearing, the Rental Housing Committee, or its designee, shall mail a notice to all affected parties, stating that the request has been filed and attaching a copy of the request and all supporting documentation thereto. The notice shall also advise the affected parties that they may file an objection to the request and shall advise them of the procedures for doing so.
 - b. Within ten (10) business days of the date of the notice described in paragraph (a), any affected party may file a written statement objecting to the request. The statement shall set forth the basis for the objection and may be accompanied by relevant documents or other evidence in support of the objection.
 - c. Upon receipt of a written request for a compliance hearing and written objection(s), the Rental Housing Committee, or its designee, shall assign the request to a Hearing Officer and schedule a hearing to take testimony and resolve any factual disputes regarding compliance. The procedures set forth in Sections C through F of this Chapter shall apply to compliance hearings.

- d. If the Rental Housing Committee does not receive any written statements of objection, the Rental Housing Committee, or its designee, shall assign the request to a Hearing Officer to evaluate the statements and evidence submitted to determine whether the request should be granted, partially granted or denied.
3. Burden of Proof. The Landlord who was originally ordered to make repairs, pay back rent, properly register the Rental Unit, or otherwise comply with an order of the Hearing Officer or the Rental Housing Committee, shall be required to demonstrate compliance by a preponderance of the evidence submitted at the compliance hearing.
 - a. Documentation. A Landlord may demonstrate compliance with the Decision by submitting copies of appropriate documentation. Such documentation shall include, but is not limited to, the following:
 - i. Copies of vendor receipts, invoices, or cancelled checks that identify the nature and costs of the services performed and materials used.
 - ii. If the work was performed by the Landlord or the Landlord's employee, a statement under penalty of perjury identifying the person(s) who performed the work describing the work performed and stating the date of performances, in addition to the documentation described in subparagraph (i).
 - iii. If the documentation described in subparagraph (i) is unavailable, a statement under penalty of perjury providing the information described in subparagraph (ii), and further stating the reasons why supporting documentation is unavailable.
4. Compliance Decision. The Hearing Officer shall issue an appropriate decision with sets forth the extent of compliance, the date of such compliance, and any adjustments to the original decision which are necessary in light of such compliance.
 - a. Repeated or Continued Violations. Where there is credible evidence of repeated or continued violations of provisions of the Act or the Regulations by any party, the Hearing Officer may fashion an equitable remedy, including, but not limited to, submittal of rent records and receipts on a quarterly basis.
5. Right of Appeal of Compliance Determinations. Any affected party may appeal the compliance decision by the Hearing Officer to the Rental Housing Committee. The procedures set forth in Section H of this Chapter shall apply to appeals of compliance decisions.