



SUBPOENAS AND SUBPOENAS DUCES TECUM

A **subpoena** is an Order that is issued to require the attendance of a witness to testify at a particular time and place. A **subpoena duces tecum** is an Order that requires a witness to bring documents, books or other items under his, her or their control, that he she or they is bound by law to produce into evidence. See California Code of Civil Procedure Section 1985.

The subpoena process is available to compel the attendance of a witness who may otherwise be uncooperative. See Richmond Rent Regulation 828. Parties to a Rent Board Hearing need not be subpoenaed, as their testimony can be compelled directly by the Hearing Examiner.

How to Obtain a Subpoena

Subpoena to appear. Complete the Application and the Subpoena form. You must name the person you want to testify or, if you want the testimony of an organization's representative, you must describe the subject matter of the desired testimony. [The organization must designate the person or persons most qualified/knowledgeable to testify about that/those matter(s)].

Subpoena to produce documents. Complete the Application and the Subpoena Duces Tecum form. Identify the person or organization believed to have the documents that you wish introduced into evidence, and describe what information those documents may contain.

Both types of subpoenas. You must state why the testimony and documentation are supportive of the issues in your Petition or Objections and why you believe the witness may be unwilling to appear at the Hearing in person or provide the documents voluntarily. The Hearing Examiner assigned to your case will review your application for one or both subpoenas to determine if the witness or documents are relevant to the matter. Richmond Rent Program staff will contact you to clarify or modify your request if it is too broad, too vague or incomplete. If your request is approved as is, the Hearing Examiner will sign the subpoena you prepared. If your request is modified, the Hearing Examiner will revise your subpoena accordingly before signing. Richmond Rent Program staff will telephone you and/or contact you by email to advise you that your subpoena(s) has been issued and is ready to be sent by email or picked up for service.

Service of the Subpoena

The Hearing Examiner provides you with the original subpoena and a copy. You are responsible for serving (delivering) the original subpoena. See California Code of Civil Procedure Section 1987. If you are serving a subpoena duces tecum or serving an organization, you must attach a copy of your application so the witness will know exactly what documents to deliver, or so an organization can designate the most qualified/knowledgeable person(s) to testify. The subpoena should be served as soon as possible to allow the witness a reasonable time for preparation. **The subpoena must be served personally; it cannot be mailed or sent electronically, nor can it be left with someone else** (unless it is an organization) or slipped under a door when the person to be served is not present. The subpoena may, however, be placed in the immediate presence of the person to be served as long as the person is told that the document is a subpoena and that it is being served.

Any person, over the age of 18 years, may serve a subpoena. See Code of Civil Procedure Section 1987(a). You may, at your own expense, hire a private process server. You should provide the server with as much information as possible about the witness, including a physical description and both home and business addresses, if known. After service has been completed, the server must complete the Proof of Service attached to the Subpoena. You are responsible for submitting the completed Proof of Service to the Richmond Rent Program as soon as possible, and in no event later than the date of the Hearing.

Witness Fees

Courts generally require a witness to be offered a fee to appear if requested. The reasonable fee utilized by the Courts is \$35.00 per day, plus \$0.575 or 57.5 cents per mile (a federal reimbursement standard) traveled to and from the Hearing location¹. Certain persons, such as expert witnesses and government employees, are entitled to a higher fee based on a reasonable rate. Contact the Richmond Rent Program if you are uncertain whether your witness falls into this category.

The Richmond Rent Program reserves the right to enforce the Court witness fee amounts as part of the issuance of either a subpoena or a subpoena duces tecum. Be prepared to provide these fees at the time of service payable to the witness. If the witness demands fees upon service and they are not paid at that time, service is improper. If the witness does not ask for fees upon service, service is proper and the witness is required to attend the Hearing; however, the witness is still entitled to the fees and may demand them at any time thereafter. If a witness raises the issue of unpaid fees at the Hearing, the Hearing Examiner may dismiss that witness if the fees are not paid at that time.

¹ No travel fee is required for attendance by telephone conference call.

If you are requesting documents [by way of a subpoena duces tecum], you must bear the expense of any fees that may be charged for producing the documents. Some businesses charge copying and research fees. If you are requesting documents from a business, it is advisable to contact the business to find out the amount of the fees and the time needed to supply the documents. You may need to request that the Hearing be postponed/continued in order to obtain documents from some businesses. If a continuance is granted, the subpoena must indicate the rescheduled time and date.

APPLICATION FOR SUBPOENA/SUBPOENA DUCES TECUM

Petition Number: _____ Property Address: _____

Applicant (person applying for subpoena): _____

The Applicant is the: Tenant Landlord Other - Telephone: () _____

Applicant Email or Business Email Address: _____

Scheduled hearing date/time: _____

CHECK ONE BOX:

- I am applying for a Subpoena to compel the attendance of an individual.

- I am applying for a Subpoena to compel the attendance of an organization’s representative(s), to testify about the matters described below.

- I am applying for a Subpoena Duces Tecum to compel the delivery of documents.

- I am applying for a Subpoena and a Subpoena Duces Tecum to compel both the attendance of a witness AND the delivery of documents by that witness.

Name of the witness (individual or organization) to be subpoenaed:

What direct knowledge does this witness have to support your case? (This question does not need to be answered if you are requesting only documents).

What documents does this witness possess or control that support your case? (you must specify the exact item(s) to be produced)

How is this witness or documentation significant to the issues in this case?

Why do you believe this witness would be unwilling to voluntarily appear or provide documents?

Contact Information for Witness/Organization:

Address(es): _____

Telephone Numbers(s): _____

Email or Business Email Address: _____

DECLARATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Further, I understand that it is my duty to furnish any reasonably requested witness fees and to see to it that the Subpoena is properly served and a copy is returned to the Richmond Rent Program.

Signature: _____ Date: _____

SUBPOENA/SUBPOENA DUCES TECUM

Petition No. _____ Property Address: _____

TO: _____

FROM: **The Richmond Rent Program**

RE: **YOU ARE ORDERED TO APPEAR AS A WITNESS and/or
TO PRODUCE DOCUMENTS**

The Richmond Rent Program has authorized a subpoena and/or subpoena duces tecum to appear on the following date and time at the following location (unless you make a special agreement with the applicant or Hearing Examiner for this subpoena/subpoena duces tecum). Note: Hearings will be by telephone conference call during the period of Shelter-in-Place due to the COVID-19 pandemic.

Address: 440 Civic Center Plaza, 2nd Floor, Richmond, CA

YOU ARE:

- Ordered to appear in person.

- Ordered to appear by telephone conference call (see note below).

- Not required to appear in person if you produce the records described in the accompanying application in compliance with Evidence Code Sections 1560 and 1561.

- Ordered to appear in person and to produce the records described in the accompanying application. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena.

- Ordered, as an organization, to designate the most qualified/knowledgeable person or persons to appear and testify on the organization's behalf about the matters described in the accompanying application.

This procedure is authorized by California Evidence Code sections 1560(b), 1561 and 1562 and California Code of Civil Procedure Section 2020.310(e).

440 Civic Center Plaza, Richmond, CA 94804-1630 [www.richmondrent.org]
Telephone: (510) 234-RENT [7368] Fax: (510) 307-8149 [rent@ci.richmond.ca.us]

IF YOU HAVE ANY QUESTIONS ABOUT WITNESS FEES OR THE TIME OR DATE FOR YOU TO APPEAR, CONTACT THE APPLICANT BEFORE THE DATE LISTED ABOVE. You may be entitled to receive a witness fee and mileage actually traveled both ways to the Hearing, as provided by law.

Applicant: _____ Telephone: (____) _____

Hearing Examiner use only:

Hearing Examiner - Signature

Date:

Name:

Hearing Unit Coordinator Telephone: (510) 620-5552

Comments (if any):

Note: Telephone Conference Calls are replacing Hearings as a result of the COVID-19 pandemic to keep all parties and witnesses safe in the administration of the Hearing process.

**PROOF OF SERVICE
SUBPOENA/SUBPOENA DUCES TECUM**

I, the undersigned, served the (check one):

- Subpoena
- Subpoena Duces Tecum with the supporting application
- Both a Subpoena and Subpoena Duces Tecum with the supporting application

by personally delivering a copy to the person served as follows:

Name of person served

Address where served

Date and Time of Delivery

Witness fees were offered or requested in the Amount of: \$_____.

I received this subpoena for service on: _____
(date)

I am (check one):

- Not a registered California process server.
- A registered California process server.
- An employee or independent contractor of a registered California process server. exempt from registration under Bus. & Prof. Code sec. ___ 22350(b) or ___ 22451.
- A California Sheriff or Marshal.

Name: _____ Street Address: _____

City _____ State _____ Zip Code _____ Telephone _____
County of Registration & Registration Number (if applicable): _____

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

Signature: _____ Date: _____