

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: June 19, 2019

Final Decision Date Deadline: June 19, 2019

STATEMENT OF THE ISSUE: Regulation 805 A (4) provides that staff members shall review a petition and accompanying documentation to deem the petition complete or incomplete within five business days. Staff members are proposing an amendment to Regulation 805 A (4) to extend the review period for petitions, with the exception of MNOI petitions, from five to ten business days, to allow adequate time for a thorough review.

INDICATE APPROPRIATE BODY

- | | | | | |
|---|---|--|--|---|
| <input type="checkbox"/> City Council | <input type="checkbox"/> Redevelopment Agency | <input type="checkbox"/> Housing Authority | <input type="checkbox"/> Surplus Property Authority | <input type="checkbox"/> Joint Powers Financing Authority |
| <input type="checkbox"/> Finance Standing Committee | <input type="checkbox"/> Public Safety Public Services Standing Committee | <input type="checkbox"/> Local Reuse Authority | <input checked="" type="checkbox"/> Other: <u>Rent Board</u> | |

ITEM

- Presentation/Proclamation/Commendation (3-Minute Time Limit)
- Public Hearing Regulation Other:
- Contract/Agreement Rent Board As Whole
- Grant Application/Acceptance Claims Filed Against City of Richmond
- Resolution Video/PowerPoint Presentation (contact KCRT @ 620.6759)

RECOMMENDED ACTION: ADOPT an amendment to Regulation 805 A (4), Petition and Noticing Procedures, to extend the staff review period from five to ten business days – Rent Program (Nicolas Traylor/Paul Cohen 620-6564).

AGENDA ITEM NO:
G-3.



AGENDA REPORT

DATE: June 19, 2019

TO: Chair Gray and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director
Paul Cohen, Hearing Examiner
Cynthia Shaw, Assistant Administrative Analyst (Hearings Coordinator)

SUBJECT: AMENDMENT TO REGULATION 805 A (4), REGARDING PETITION AND NOTICING PROCEDURES

STATEMENT OF THE ISSUE:

Regulation 805 A (4) provides that staff members shall review a petition and accompanying documentation to deem the petition complete or incomplete within five business days. Staff members are proposing an amendment to Regulation 805 A (4) to extend the review period for petitions, with the exception of MNOI petitions, from five to ten business days, to allow adequate time for a thorough review.

RECOMMENDED ACTION:

ADOPT an amendment to Regulation 805 A (4), Petition and Noticing Procedures, to extend the staff review period from five to ten business days – Rent Program (Nicolas Traylor/Paul Cohen 620-6564).

FISCAL IMPACT:

There is no fiscal impact related to this item.

DISCUSSION:

Background:

On January 24, 2018, the Rent Board adopted Regulation 805, regarding Petition and Noticing Procedures. This section establishes administrative requirements for reviewing supporting documents pertaining to each Petition and ensures that all parties are notified in a timely matter.

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In August 2018, the Hearings Unit began processing petitions. Since then, the number of petitions received for processing has steadily increased. In accordance with Regulation 805 A (4), staff members conduct a thorough review of each submitted petition. This review typically requires the gathering of reports or documents from other City departments, including the Fire Department, Planning Department, Residential Rental Inspection Program, Business License Division, and Code Enforcement Unit.

Justification for the Proposed Amendment to Regulation 805 A (4)

When a petition is received, a file is prepared including reports from various city departments including the Fire Department, Planning Department, Residential Rental Inspection Program, Business License Division, and Code Enforcement Unit. Most of this research requires that staff members contact each department to request property-specific documents or photos related to the case. It may take several days for departments to respond with pertinent information.

Once the petition has been reviewed and information has been compiled by the Hearings Coordinator, the petition is submitted to the Hearing Examiner to deem it complete or incomplete. If the petition is deemed complete, a Notice of Right to Object is mailed to the opposing party, with a due date to respond within 21 days of the date of the Notice. If the petition is considered incomplete and not acceptable in its current form, a Notice of Incomplete Petition is mailed to the Petitioner and opposing party with an explanation as to what is missing. The Petitioner is then given the opportunity to correct the defects within a reasonable time.

In the course of their work, staff members have encountered a need for additional time to review documents in cases where staff members have approved leave and/or the Hearings Unit is closed due to holidays. The proposed additional five business days will allow for these administrative contingencies.

Staff Recommendation

Staff members recommend amending Regulation 805 A (4), Petition and Noticing Procedures, to extend the staff review period from five to ten business days to allow for a thorough review by staff including the collection of other City Department reports and documents.

DOCUMENTS ATTACHED:

Attachment 1 – Proposed Amendments to Regulation 805 A (4) (Redline Version)

Attachment 2 – Proposed Amendments to Regulation 805 A (4) (Clean Version)

ITEM G-3 ATTACHMENT 1

805. Petition and Noticing Procedures

A. For rent increase petitions, the following procedure applies:

- (1) Rent increase petitions may be filed under the following regulations: Chapter 9, Sections 903 (Changes in Number of Tenants), 904 (Change in Space or Services/Code Violations), 905 (Maintenance of Net Operating Income), 9XX (Capital Improvements), 912 (Restoration of Annual General Adjustment), and 9XX (Historically Low Rent).
- (2) A copy of the rent increase petition and, except as provided in Regulation 9XX (Capital Improvements), supporting documentation must be served on the Tenants of all units affected by the petition.
- (3) The Landlord shall file with the Board the original petition, two copies of the documentation required by Regulation 801 and by the Regulation pursuant to which the Petition is filed, and a proof of service by first-class mail or in person of the petition and documentation on each affected Tenant. The Landlord may also file an Agreement of Parties and/or Waiver of Right to Hearing.
- (4) Board staff shall review the petition and supporting documentation to determine whether they conform with Board regulations and within five (5) business days shall either mail notice to the Landlord that the petition is not acceptable in its current form, with an explanation of its defects (pursuant to Regulation 806 Acceptance of Petitions) or mail a Notice to Opposing Parties to the Tenants and Landlord, as provided in Regulation 809 (Notice to Opposing Parties and Board). For petitions filed pursuant to Regulations 9XX (Maintenance of Net Operating Income), the review period shall be fifteen (15) business days. If a petition is found unacceptable, the Landlord may refile at any time. Acceptance of a petition by Board staff does not mean that the petitioner has submitted adequate documentation to support a decision in petitioner's favor. A Landlord may, at any time prior to submission of the matter for an administrative decision, request that a hearing be held.
- (5) The notice to the Tenant shall include a notice that the Tenant has a right to object to the petition, and that if the Tenant does not object within twenty-one (21) calendar days of the mailing of the notice, or if the Tenant's objection does not specify one or more grounds listed in the notice, the rent for the Tenant's unit may be increased by the applicable amount, based on the information in the Landlord's petition and the Board's files. Failure to file an objection may constitute a waiver of the right to a hearing on objections to the petition.
- (6) A hearing shall be held on the petition and objections thereto, in accordance with Regulation 821 (Hearing), unless no Tenant files an objection within the time allowed, the Landlord has not requested a hearing and the hearing examiner determines that a decision may be rendered on the petition without hearing live testimony. Notwithstanding

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any other provision of these regulations, Board staff may, upon notice to all parties, request further documentation and/or schedule a hearing on the petition.

B. For Tenant petitions, the following procedure applies:

- (1) Tenant petitions may be filed pursuant to Chapter 9 (Individual Rent Adjustments), Sections 903 (Changes in Number of Tenants), 904 (Change in Space or Services/Code Violations), 911 (Overcharges) and Rent Withholding Petitions pursuant to Chapter 4.
- (2) A copy of the Tenant petition and supporting documentation must be served on the petitioner's Landlord.
- (3) The Tenant shall file with the Board the original petition, two copies of the documentation required by Regulation 801 and by the Regulation pursuant to which the petition is filed, and proof of service by first-class mail or in person of the petition and documentation.
- (4) Board staff shall review the petition and supporting documentation to determine whether they conform to Board Regulations and within ~~five (5)~~ ten (10) business days shall either mail notice that the petition is not acceptable in its current form, with an explanation of its defects (pursuant to Regulation 805 Petition and Noticing Procedure) or mail a Notice to Opposing Parties to the Landlord and Tenants, as provided in Regulation 808 (Notice to Opposing Parties and Board). If a petition is unacceptable, the Tenant may refile at any time. Acceptance of a petition by Board staff does not mean that the petitioner has submitted adequate documentation to support a decision in petitioner's favor.
- (5) The notice to the Landlord shall include a notice that the Landlord has a right to object to the petition, and that if the Landlord does not object within twenty-one (21) calendar days of the mailing of the notice, or the Landlord's objection does not specify one or more grounds listed in the notice, the rent for the Tenant's unit may be decreased by the applicable amount, based on the information in the Tenant's petition and the Board's files. Failure to file an objection may constitute a waiver of the right to a hearing on objections to the petition.
- (6) A hearing shall be held on the petition and objections thereto, in accordance with Regulation 821 (Hearing), unless neither the Landlord nor the Tenant requests a hearing within the time allowed and the hearing examiner determines that a decision may be rendered on the petition without hearing live testimony. Notwithstanding any other provision of these regulations, Board staff may, upon notice to all parties, request further documentation and/or schedule a hearing on the petition.

C. The time limits set forth in this section will prevail over any other time limits set out elsewhere in these regulations.

[Adopted January 24, 2018]

**ITEM G-3
ATTACHMENT 1**

ITEM G-3 ATTACHMENT 2

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- (4) Board staff shall review the petition and supporting documentation to determine whether they conform with Board regulations and within five (5) business days shall either mail notice to the Landlord that the petition is not acceptable in its current form, with an explanation of its defects (pursuant to Regulation 806 Acceptance of Petitions) or mail a Notice to Opposing Parties to the Tenants and Landlord, as provided in Regulation 809 (Notice to Opposing Parties and Board). For petitions filed pursuant to Regulations 9XX (Maintenance of Net Operating Income), the review period shall be fifteen (15) business days. If a petition is found unacceptable, the Landlord may refile at any time. Acceptance of a petition by Board staff does not mean that the petitioner has submitted adequate documentation to support a decision in petitioner's favor. A Landlord may, at any time prior to submission of the matter for an administrative decision, request that a hearing be held.
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- (3) The Tenant shall file with the Board the original petition, two copies of the documentation required by Regulation 801 and by the Regulation pursuant to which the petition is filed, and proof of service by first-class mail or in person of the petition and documentation.
- (4) Board staff shall review the petition and supporting documentation to determine whether they conform to Board Regulations and within ten (10) business days shall either mail notice that the petition is not acceptable in its current form, with an explanation of its defects (pursuant to Regulation 805 Petition and Noticing Procedure) or mail a Notice to Opposing Parties to the Landlord and Tenants, as provided in Regulation 808 (Notice to Opposing Parties and Board). If a petition is unacceptable, the Tenant may refile at any time. Acceptance of a petition by Board staff does not mean that the petitioner has submitted adequate documentation to support a decision in petitioner's favor.
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[Adopted January 24, 2018]