

# PASADENA RENTAL BOARD

## DECEMBER 20, 2023

Agenda Item No. 2: Petition Process and Hearing Procedure Regs

## NO. 2: PURPOSE

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Consider the first draft of the Pasadena Rental Housing Board Regulations Chapter 5: Petition Process and Chapter 6: Hearing Procedures, provide the public with an opportunity to comment on the draft regulations, and provide Staff with feedback on the draft regulations.

# BACKGROUND: INDIVIDUAL RENT ADJUSTMENTS

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- Charter Amendment Section 1813 allows Landlords and Tenants to file petitions for Individual Rent Adjustment:
  - ▣ Upward Adjustment of Rent – Fair Rate of Return Petition
  - ▣ Downward Adjustment of Rent – Failure to Maintain Habitable Premises
  - ▣ Downward Adjustment of Rent – Decrease in Housing Services/Maintenance
  - ▣ Downward Adjustment of Rent – Unlawful Rent
- Charter Amendment Section 1814 establishes basic parameters for the petition process and hearings and appeals on petitions

# BACKGROUND: BOARD AUTHORITY

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- Charter Amendment authorizes the Board to:
  - ▣ Appoint Hearing Officers to conduct hearings on Petitions (1814(e)(4))
  - ▣ Delegate authority to adjudicate petitions and act as body that reviews and adjudicates appeals on Hearing Officer decisions (1814(e)(5))
  - ▣ Establish procedures and timelines for hearings on petitions, including appeals (1814(e)(6))
  - ▣ Establish procedures and timelines for rent withholding (1814(e)(7))
  - ▣ Issue rules and regulations for petitions not enumerated in the Charter Amendment (1814(e)(8))
  - ▣ Administer oaths and affirmations and subpoena witnesses and relevant documents (1814(e)(9))

# PROPOSED REGULATIONS: CHAPTER 5

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- Chapter 5 generally sets out pre-hearing requirements for filing a petition
  - ▣ All Petitions must be filed on a form created and provided by the Board
  - ▣ All Petitions must provide the required supporting documentation
  - ▣ The regulations outline the grounds for rejection of the petition by Rent Stabilization Department staff
  - ▣ Petitions for the same property may be consolidated to efficiency
- Section F outlines requirements for all Petitions, including documentary evidence, witnesses, testimony and notices

# PROPOSED REGULATIONS: CHAPTER 5

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- Sections G through I explain the allegations, information and documentation for the three types of downward adjustment Petitions
- Section J provides the requirements for an upward adjustment Petition
- Section L authorizes any affected Party to respond to a Petition
  - ▣ A written response is not necessary to appear at the Hearing on Petition
- Section M provides for a voluntary Prehearing Settlement Conference
  - ▣ Intended to allow parties to resolve issues without need for Hearing

# PROPOSED REGULATIONS: CHAPTER 5

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- Section O explains Petition forms and documentation submitted are public record
  - ▣ Party may request that documents be kept confidential if they can demonstrate that they are exempt under the Public Records Act
- Section P provides effective date of Regulations would be 30 days after establishment of BOTH rental registry and petitions/hearings database
  - ▣ Estimated to occur within 6 months of Board's adoption of regulations
  - ▣ Staff recommends this effective date because the technology is necessary

# PROPOSED REGULATIONS: CHAPTER 6

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- Chapter 6 outlines the procedural rules related to Hearings and Appeals on Petitions
  - ▣ All Petitions that are accepted as complete by the Board will be scheduled for Hearing before a Hearing Officer appointed by the Board
  - ▣ Hearing Officers may administer oaths and affirmations, conduct/cause inspections, rule on evidentiary/procedural requests, control the course of the Hearing and render decision on Petitions
- Section D provide for timing of the Hearing, date/time/location of Hearing, prehearing requests, Prehearing Conference, inspections, prehearing motions and accommodations requests and more

# PROPOSED REGULATIONS: CHAPTER 6

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- Section F outlines conduct of Hearing
  - ▣ Who may attend and participate in the Hearing
  - ▣ Formal rules of evidence do not apply
  - ▣ All Hearings must be audio/video recorded
  - ▣ Hearing Officer must maintain official Hearing record, which is exclusive record for Hearing Officer's decision
- Section G establishes parameters for Hearing Officer's decision
  - ▣ Deadline for issuance of the decision
  - ▣ Contents of the Hearing Officer's decision
  - ▣ Procedures for Tenant withholding of Rent

# PROPOSED REGULATIONS: CHAPTER 6

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- Section H establishes burden of proof
  - ▣ No Petition will be granted unless supported by preponderance of evidence
  - ▣ Burden of proof is on the party filing the Petition
- Section I establishes procedures for Appeals of Hearing Officer decisions to the full Board
  - ▣ Board may affirm, reverse, modify or remand Hearing Officer decision
  - ▣ Board decision on Appeal must be supported by written findings
  - ▣ Board will issue Tentative Appeal Decision before Appeal Hearing
  - ▣ Standard of review is “substantial evidence” unless majority of Board elects to conduct *de novo* hearing
  - ▣ Parties will have opportunity to present oral arguments
  - ▣ Board will decide to accept or modify Tentative Appeal Decision
  - ▣ Board decision is final unless timely judicial action challenging decision is filed

# PROPOSED REGULATIONS: CHAPTER 6

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- Section J provides for Compliance Hearings before Hearing Officer
  - ▣ Ongoing dispute/disagreement between parties to Petition or Appeal about compliance with Hearing Officer's decision or Board's Appeal Decision
  - ▣ Burden of proof on Landlord to demonstrate compliance with order to perform maintenance, restore Housing Services, reduce/refund Rent, etc.
  - ▣ Compliance determinations may be appealed to the full Board
- Section K provides that any deadlines in regulations may be extended for good cause
- Section L recommends the same effective date as in Chapter 5

# RECOMMENDATION

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