



EDWIN M. LEE
MAYOR

JUNE 29, 2016

DAVID GRUBER
PRESIDENT

ROBERT A. COLLINS
ACTING EXECUTIVE DIRECTOR

NOTICE OF PUBLIC HEARING

CALVIN ABE
DAVE CROW
SHOBA DANDILLAYA
RICHARD HUNG
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
KENT QIAN
DAVID WASSERMAN

DATE: JULY 12, 2016
TIME: 7:00 P.M.
**PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70, LOWER LEVEL
SAN FRANCISCO, CALIFORNIA**

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON PROPOSED AMENDMENTS TO RULES AND REGULATIONS SECTIONS 4.14 AND 6.16, AND PROPOSED NEW RULES AND REGULATIONS SECTION 10.15. THE INTENT OF THE AMENDMENTS IS TO ESTABLISH A SINGLE PROCEDURE FOR TENANTS TO REQUEST FINANCIAL HARDSHIP RELIEF FROM CAPITAL IMPROVEMENT PASSTHROUGHS, WATER REVENUE BOND PASSTHROUGHS, UTILITY PASSTHROUGHS, AND OPERATING AND MAINTENANCE EXPENSE RENT INCREASES, INCLUDING A SINGLE STANDARD FOR DETERMINING TENANT HARDSHIP BASED ON THE SAME HARDSHIP GUIDELINES CURRENTLY IN EFFECT FOR CAPITAL IMPROVEMENT PASSTHROUGH HARDSHIP APPLICATIONS. IF THE BOARD ADOPTS SECTION 10.15, THEN RULES AND REGULATIONS SECTIONS 4.14(I) AND 6.16(g)(iii) WOULD REQUIRE AMENDMENT TO CONFORM TO THE NO-HEARING PROCEDURES FOR ALL TENANT HARDSHIP APPLICATIONS UNDER NEW SECTION 10.15.

You may either comment at the Public Hearing and/or submit written comments. If you would like to submit written comments, it is requested that they be received at the Department no later than **5 p.m. on Wednesday, July 6, 2016**, so that the Commissioners can receive your comments and review them prior to the hearing. Written comments may also be submitted at the hearing. Please submit 13 copies of your comments in order to facilitate their distribution. You will be able to address the Commissioners during the public comment period at the hearing.

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**PROPOSED AMENDMENTS TO THE RENT BOARD RULES AND REGULATIONS
REGARDING ESTABLISHMENT OF A SINGLE PROCEDURE FOR TENANTS TO REQUEST
FINANCIAL HARDSHIP RELIEF FROM CAPITAL IMPROVEMENT PASSTHROUGHS,
WATER REVENUE BOND PASSTHROUGHS, UTILITY PASSTHROUGHS, AND OPERATING
AND MAINTENANCE EXPENSE RENT INCREASES.**

[additions in double underline; deletions in strikethrough]

– Add the following new Section 10.15:

Section 10.15 Tenant Financial Hardship Applications

A tenant may seek relief from payment of the following types of rent increases or passthroughs on the grounds of financial hardship by filing a Tenant Financial Hardship Application with the Board: Capital Improvement Passthrough; Water Revenue Bond Passthrough; Utility Passthrough; and, Operating and Maintenance Expense Increase. The Rent Board shall prepare a hardship application form and make it available in multiple languages.

(a) Applicability and Time of Filing

(1) With respect to any Capital Improvement Passthrough certified pursuant to Section 37.7 of the Ordinance, a tenant may file a Tenant Financial Hardship Application with the Board at any time after receipt of the notice of rent increase or decision of the Administrative Law Judge, whichever is earlier. Payment of the capital improvement passthrough(s) set forth in the hardship application shall be stayed from the date of filing until a decision is made on the Tenant Financial Hardship Application.

(2) With respect to a Water Revenue Bond Passthrough or a Utility Passthrough based on a Utility Passthrough Calculation Worksheet filed with the Rent Board, a tenant may file a Tenant Financial Hardship Application with the Board within one year of the effective date of the passthrough. Payment of such passthrough(s) set forth in the hardship application shall be stayed from the date of filing until a decision is made on the Tenant Financial Hardship Application.

(3) With respect to an Operating and Maintenance Expense Increase or Utility Passthrough based on a Utility Passthrough Petition, a tenant may file a Tenant Financial Hardship Application with the Board within one year of the effective date of the increase or

passthrough. The hardship application cannot be filed until the tenant receives the notice of rent increase or decision of the Administrative Law Judge, whichever is earlier. Payment of the operating and maintenance increase or utility passthrough set forth in the hardship application shall be stayed from the date of filing until a decision is made on the Tenant Financial Hardship Application.

(b) Tenant Financial Hardship Application Standards and Process

(1) Standards for Establishing Financial Hardship. A tenant will qualify under Section 10.15 for relief from payment of a certified Capital Improvement Passthrough, Water Revenue Bond Passthrough, Utility Passthrough and/or Operating and Maintenance Expense Increase if the tenant demonstrates that one of the following financial hardship situations applies:

(A) Tenant is a recipient of means-tested public assistance, such as Social Security Supplemental Security Income (SSI), General Assistance (GA), Temporary Assistance for Needy Families (TANF), CalFresh (SNAP/Food Stamps) or California Work Opportunity and Responsibility to Kids (CalWORKS); or,

(B) Gross household income is less than 80% of the current Unadjusted Area Median Income (AMI) as published by the U.S. Department of Housing and Urban Development (HUD) for the "Metro Fair Market Rent Area" that includes San Francisco; and rent charged is greater than 33% of gross household income; and assets, excluding non-liquid assets and retirement accounts, do not exceed asset amounts permitted by the Mayor's Office of Housing when determining eligibility for below market rate (BMR) home ownership; or,

(C) Exceptional circumstances exist, such as excessive medical bills.

(2) Procedures for Filing. A Tenant Financial Hardship Application must be filed:

(A) By each occupant in the unit who is 18 years of age or older, except not by any subtenant who pays rent to the master tenant (the gross income of the master tenant must include the amount of the subtenant's rent payment);

(B) Under penalty of perjury, stating that the tenant qualifies under one of the standards in Section 10.15(b)(1)(A), (B), or (C);

(C) With documentation demonstrating the tenant's qualifications; and,

(D) With an acknowledgment that the Rent Board will provide a copy of the Tenant Financial Hardship Application to the landlord.

(3) Hearing Options, Decision.

(A) A decision on the Application will be issued administratively by a Rent Board Administrative Law Judge unless a hearing is requested by the landlord within fifteen days of the date the completed Tenant Financial Hardship Application is mailed to the landlord by the Rent Board, or unless a Rent Board Administrative Law Judge otherwise determines that a hearing is needed.

(B) Landlord Request for Hearing, Procedures.

(i) A landlord's request for a hearing on the Application shall specify the claim(s) in the Application that the landlord disputes, and attach any relevant documentation.

(ii) A Rent Board Administrative Law Judge will review any landlord request for hearing, to determine whether a hearing is necessary to resolve disputed facts.

(iii) If the landlord's request for a hearing is granted, it will be the landlord's burden to demonstrate that the tenant's financial hardship eligibility under Section 10.15(b)(1) criteria, as stated in the Application, has not been established.

(iv) If it is determined that a hearing as requested by the landlord is not needed to determine the facts, a decision on the Application will be issued administratively by a Rent Board Administrative Law Judge.

(4) Term of Relief. Relief from payment of a certified capital improvement passthrough, water revenue bond passthrough, utility passthrough and/or operating and maintenance expense increase may be for an indefinite period, or for a limited period of time, all subject to the landlord's request to reopen the case if the landlord has information that the tenant is no longer eligible.

(5) Change in Tenant Eligibility Status. If a tenant is granted relief from payment of a certified capital improvement passthrough, water revenue bond passthrough, utility passthrough and/or operating and maintenance expense increase under Section 10.15, and

subsequently the tenant is no longer eligible for such relief:

(A) The tenant shall notify the Rent Board of this changed eligibility status in writing within 60 days, with a copy to the landlord.

(B) Whether or not the tenant notifies the Rent Board and landlord as provided in Section 10.15(b)(5)(A), the landlord may notify the Rent Board if the landlord has information that the tenant is no longer eligible, with a copy to the tenant.

(C) Upon receipt of notice under Section 10.15(b)(5)(A) or (B), a Rent Board Administrative Law Judge shall decide whether to grant or deny the previously granted relief. That decision may be made administratively by a Rent Board Administrative Law Judge without a hearing unless the Administrative Law Judge determines that a hearing is needed, or unless the landlord or tenant requests a hearing. Any such hearing shall be promptly scheduled.

(6) Any decision granting or denying the Tenant Financial Hardship Application, or any subsequent decision on a previously granted Tenant Financial Hardship Application, may be appealed to the Rent Board. Appeals of decisions on a tenant's hardship application shall be governed by Ordinance Section 37.8(f). The Rent Board's final decision will be subject to judicial review by writ of administrative mandamus in the San Francisco Superior Court.

(c) Notice to Tenants Regarding Tenant Financial Hardship Applications

The Rent Board shall provide written notice in multiple languages of the Tenant Financial Hardship Application procedures to each affected unit with a copy of the landlord's capital improvement petition, utility passthrough petition, and operating and maintenance petition. The Rent Board shall include notice of the Tenant Financial Hardship Application procedures on the utility passthrough worksheet and water revenue bond passthrough worksheet. The Rent Board shall also provide written notice in multiple languages of the Tenant Financial Hardship Application procedures to each affected unit with each Administrative Law Judge decision regarding capital improvement passthroughs, utility passthroughs and operating and maintenance rent increases.

– Amend Section 4.14 to conform it to the new no-hearing procedures for all tenant hardship applications under new Section 10.15.

Section 4.14 Water Revenue Bond Passthrough

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(l) A tenant may file a hardship application with the Board requesting relief from all or part of a water revenue bond passthrough pursuant to Section 10.15. Any hardship application must be filed within one year of the effective date of the water revenue bond passthrough(s). Payment of the water revenue bond passthrough(s) set forth in the hardship application shall be stayed until a decision is made by the Administrative Law Judge ~~after a hearing~~ on the tenant's hardship application. Appeals of decisions on a tenant's hardship application shall be governed by Ordinance Section 37.8(f).

– Amend Section 6.16 to conform it to the new no-hearing procedures for all tenant hardship applications under new Section 10.15.

Section 6.16 Utility Passthrough

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(g)(iii) A tenant who receives a utility passthrough under this subsection (g) may file a hardship application with the Board pursuant to Section 10.15 within one year of the effective date of the passthrough, and may be granted relief from all or part of such passthrough based on hardship. Payment of the utility passthrough set forth in the hardship application shall be stayed until a decision is made by the Administrative Law Judge ~~after a hearing~~ on the tenant's hardship application. Appeals of decisions on a tenant's hardship application shall be governed by Ordinance Section 37.8(f).