Redline of Prior Rules

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

NOTICE OF FINAL RULEMAKING

Pursuant to the authority set forth in § 202(a)(1) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3502.02(a)(1)) ("Act" or "Rental Housing Act"), the Rental Housing Commission ("Commission") hereby gives notice of the adoption of the following amendments to Chapter 41 (Coverage and Registration) and Chapter 42 (Rent Stabilization Program) of Title 14 (Housing) of the District of Columbia Municipal Regulations ("DCMR").

The rules relate to title II of the Fairness and Stability in Housing Amendment Act of 2024, effective May 2, 2025 (D.C. Law 25-324; 72 D.C.R. 005848) ("FSHA"). The FSHA, in relevant part, amends §§ 215, 216, and 221 of the Act (D.C. Official Code §§ 42-3502.15, 42-3502.16, & 42-3502.21) to, respectively, reform voluntary agreements, improve procedures for appeals to the Commission, and abolish certificates of assurance of exemption from the Rent Stabilization Program.

A notice of proposed rulemaking was published in the D.C. Register on July 18, 2025. 72 D.C.R. 008078. The reasoning set forth in the preamble of the proposed rulemaking is incorporated herein. The final rules below make only minor, technical corrections or clarifications to the proposed rules, with no changes to the substantive rights of affected persons or to the procedures required by the rules.

The Commission received one set of comments in response to the notice of proposed rulemaking, all of which relate to voluntary agreements in 14 DCMR § 4213. Based on the comments, the Commission has made two clarifications.

First, in § 4213.19(b), the Commission has added language to highlight that coercion and unreasonable rent adjustments are grounds for filing objections and exceptions to a finalized voluntary agreement, rather than the bare cross-reference to § 4213.20. Second, the lead-in language of § 4213.21, defining "coercion," is modified to say "including, but not limited to," consistent with the general rule of statutory construction that the word "including," as used in D.C. Official Code § 42-3502.15(e), is non-exhaustive.

One comment suggested that the Commission should incorporate the principle articulated in *Gomez v. Independence Mgmt. of Delaware, Inc.*, 967 A.2d 1276, 1290 (D.C. 2009), that coercion, like a retaliatory motive under the nearly identical provisions of D.C. Official Code § 42-3505.02, may "taint" an otherwise lawful action. The Commission is not persuaded that this principle should, at this time, be incorporated into 14 DCMR § 4123.21. The parallel retaliation provisions of 14 DCMR § 4303.2 make no reference to this principle. Moreover, as the D.C. Court of Appeals has noted, the statutory phrase "action . . . not otherwise permitted by law" "is confusing at best, and we have had considerable difficulty explaining what it means." *Gomez*, 967 A.2d at 1289; *compare Wilson v. D.C. Rental Hous. Comm'n*, 159 A.3d 1211, 1219 (D.C. 2017) (lease-option letter not coercive where all proposed rent increases were within limits of rent control). Thus, although the reasoning of *Gomez* may apply to coercion claims in the context

of voluntary agreements, the extent to which a coercive motive may "taint" actions, offers, or proposals should be addressed on a case-by-case basis.

The Commission notes one additional, technical correction to the proposed rules. In § 4213.18, the proposed rules erroneously removed the directive that the Rent Administrator shall serve tenants notice of the filing of a final voluntary agreement after confirming facial compliance with all filing and signing procedures. Section 4213.19 continued to refer to "the service of notice of the filing," but the actual service requirement had been deleted along with the provision for automatic approval of certain voluntary agreements under now-repealed § 215(c) of the Act. Section § 4213.17 is modified in the final rules to include the service requirement.

These final rules will take effect upon their publication in the D.C. Register.

Title 14, HOUSING, of the DCMR is amended as follows:

Chapter 38, RENTAL HOUSING COMMISSION, is amended as follows:

Section 3802, FILING AND ARGUING APPEALS, is amended as follows:

Subsection 3802.2 is amended to read as follows:

3802.2 An aggrieved party shall file a notice of appeal within ~~ten (10)~~ thirty (30) days of the issuance of a final order; provided, that if the final order has been served on the party by U.S. mail, an additional five (5) days shall be added to the time to file an appeal. ~~The filing of a notice of appeal by one party shall not extend the time for any other party to file its own notice of appeal (a cross-appeal).~~ If a timely notice of appeal is filed by a party, any other party may file a notice of cross-appeal within fourteen (14) days after the initial notice was filed or within thirty (30) days of the issuance of the final order, whichever period expires later.

A new subsection 3802.17 is added to read as follows:

3802.17 The Commission shall issue a decision with respect to an appeal within 120 days of the oral argument or date the case is deemed submitted in accordance with § 3802.14; provided, that failure to meet this requirement shall not deprive the Commission of jurisdiction over the matter or have the effect of affirming or reversing the order under appeal.

Section 3804, RECORD ON APPEAL, is amended as follows:

Subsections 3804.1 through 3804.3 are amended to read as follows:

3804.1 Upon receipt of a notice of appeal pursuant to § 3802.2 or the initiation of a review by the Commission pursuant to § 3808.1, the Clerk shall request in writing that the Rent Administrator or the Office of Administrative Hearings forward the official record of the proceeding, unless the Commission has referred the case to mediation in accordance with § 3829.4, in which case the record shall be requested if mediation is unsuccessful.

3804.2 The Rent Administrator or the Office of Administrative Hearings, within ~~sixty (60)~~ thirty (30) days of the request by the Clerk, shall furnish to the Commission a written or electronic copy of the official record of the proceeding and shall certify that the copy is complete ("certified record").

3804.3 The certified record of a proceeding shall consist of the following:

(a) The final order and any other orders or notices issued by the Rent Administrator or the Office of Administrative Hearings;

(b) The recordings and transcripts~~, if any,~~ of all hearings before the Administrative Law Judge;

(c) All papers and exhibits offered into evidence, if any, at the hearing before the Administrative Law Judge, including any files and documents found in the public record of which the Administrative Law Judge took official notice;

(d) All papers filed by the parties with the Rent Administrator and all papers filed by the parties or the Rent Administrator at the Office of Administrative Hearings; and

(e) Memoranda, if any, of *ex parte* communications as required by § 3916.

Section 3829, SETTLEMENTS, STIPULATIONS, AND MEDIATION, is amended as follows:

Subsection 3829.2 is amended to read as follows:

3829.2 A settlement, stipulation, or other agreement may be reached through the written consent of any or all affected parties, including a mediated agreement reached through mediation proceedings offered by ~~a designated member the Commission's staff~~ the Commission.

Subsections 3829.4 through 3829.6 are amended to read as follows:

3829.4 At any time during case proceedings, the Commission may, on its own or by request of any party, refer a case for mediation to a ~~designated member of its staff, who shall be an attorney, to act as a mediator for the parties to an appeal to a~~ qualified mediator by the following procedure:

(a) The Commission shall serve a notice to all parties offering the opportunity for mediation, and shall provide the parties ~~thirty (30)~~ fifteen (15) days to respond;

(b) Upon the receipt of a response from all parties, if more than one party agrees to mediation, ~~the designated member of the Commission's staff who will serve as the mediator shall schedule a mediation session with the advice of all participating parties~~ or by order of the Commission without written agreement of any party, the case record, to the extent available, shall be transmitted to a designated mediator; and

(c) ~~A party agreeing to mediation may request to reschedule a mediation session at least ten (10) days before it is scheduled for good cause shown.~~ The designated mediator shall, no less than fifteen (15) days after receiving the case, set a date and time for mediation with the agreement of the parties, which shall be no later than twenty-one (21) days from date of the parties' agreement, unless there is good cause for agreement to a later date, or the mediator shall return the case to the Commission if no date and time can be agreed to.

3829.5 If the Commission has ~~received the certified record of a case on appeal~~ issued a scheduling order in accordance with § 3802.9, it may, by motion of a party or on its own initiative, grant a continuance of all briefing, hearings, or other argument of the appeal, and may defer the issuance of a final decision and order, while mediation proceedings are pending.

3829.6 A ~~member of the Commission's staff who serves as a~~ mediator may speak privately with any party or any representative during the mediation process, and any communications made in the mediation process by or to the designated mediator shall not constitute *ex parte* communications under § 3818.

Subsections 3829.8 and 3829.9 are amended to read as follows:

3829.8 Mediation proceedings ~~conducted by the designated member of the Commission's staff~~ shall be confidential, closed to the public, and not recorded in any manner, with or without the consent of the parties. No statements during a mediation proceeding or any documents prepared exclusively for a mediation proceeding shall become part of the record of an appeal or be admissible in any adjudication under the Act. The designated ~~member of the Commission's staff who acts as a~~ mediator shall not disclose any information learned from his or her participation and shall be screened from internal deliberations on the case.

3829.9 Parties agreeing to participate in mediation provided by the Commission~~'s staff~~ shall ~~negotiate in good faith towards resolution of the appeal or an issue on appeal, and~~ appear as scheduled, and any representative appearing at mediation must have authority from the party to resolve the case or issues within the scope of the mediation. ~~Mediation proceedings may be terminated for failure of one or more parties to comply with this subsection.~~If one or more parties fails to comply with this subsection, the mediator may terminate mediation and notify the Commission, and the Commission may impose appropriate sanctions for failure to comply without good cause.

Chapter 39, RENTAL ACCOMMODATIONS DIVISION, is amended as follows:

Section 3923, DECISIONS OF THE RENT ADMINISTRATOR, is amended as follows:

Subsection 3923.4 is amended to read as follows:

3923.4 The ~~ten (10)~~ thirty (30) day time limit in which an appeal to the Commission shall be filed, as prescribed in § 216(h) of the Act (D.C. Official Code § 42-3502.16(h)) and § 3802.2 of this title, shall begin to run when the decision becomes final.

Section 3924, RECONSIDERATION OR MODIFICATION OF FINAL ORDERS, is amended as follows:

Subsection 3924.7 is amended to read as follows:

3924.7 The ~~ten (10)~~ thirty (30) day time limit in which an appeal to the Commission shall be filed, as prescribed in § 216(h) of the Act (D.C. Official Code § 42-3502.16(h)) and § 3802.2 of this title, shall begin to run when a motion for reconsideration or modification is granted or denied.

Chapter 41, COVERAGE AND REGISTRATION, is amended as follows:

Section 4105, EXCLUSIONS FROM COVERAGE BY THE ACT, is amended as follows:

Subsection 4105.8 is amended to read as follows:

4105.8 An order by the Rent Administrator denying a non-profit charitable application may be appealed to the Commission within ~~ten (10)~~ thirty (30) days of its issuance, in accordance with § 3802 of this title.

Section 4110, CERTIFICATES OF ASSURANCE is repealed.

Chapter 42, RENT STABILIZATION PROGRAM, is amended as follows:

Section 4208, RENT ADJUSTMENTS BY HOUSING PROVIDER PETITION, is amended as follows:

Subsection 4208.15 is amended to read as follows:

4208.15 A final order of the Office of Administrative Hearings approving or denying a petition, in whole or in part, may, within ~~ten (10)~~ thirty (30) days of its ~~service~~ issuance, be appealed to the Commission in accordance with § 3802 of this title by any person who appeared personally or otherwise as a party in the case and who is

aggrieved by the final order. In accordance with § 3805, a housing provider shall not implement a rent adjustment authorized by a final order while an appeal of that order is pending before the Commission.

Section 4213, RENT ADJUSTMENTS BY VOLUNTARY AGREEMENT, is amended as follows:

Subsection 4213.1 is amended to read as follows:

4213.1 Seventy percent (70%) or more of the tenants of a housing accommodation, not including tenants of units exempt from the Rent Stabilization Program for any reason under § 4106, may enter into a voluntary agreement with the housing provider that, subject to the administrative approval, may:

(a) Establish ~~the~~ reasonable rents for rental units in the housing accommodation;

(b) Alter the provision or levels of related services or facilities; or

(c) Provide for capital improvements or the performance of deferred, ordinary maintenance or repairs.

Subsection 4213.3 is amended to read as follows:

4213.3 A Proposed Voluntary Agreement, when filed with the Rent Administrator and served in accordance with §§ 4213.4, shall include:

(a) The current rent charged, as lawfully calculated and properly filed with the Rental Accommodations Division, and the proposed rent for each rental unit, including the proposed dollar amount and percentage of each rent adjustment, if applicable;

(b) The current and proposed provision or levels of related services or facilities;

(c) Any provisions for capital improvements or performance of deferred, ordinary maintenance or repairs, including the scope and costs of the work to be performed;

(d) All other conditions by which the tenants and housing provider will be bound, including:

(1) Any consideration or promises exchanged to induce the approval of any party to the voluntary agreement and copies of any written agreement(s) to those conditions; and

(2) Any other contracts or agreements that are conditioned on the signing or approval of the voluntary agreement, including agreements for the exercise, waiver, or assignment of rights under the Tenant Opportunity to Purchase Act of 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3404.01 *et seq.*) or for the settlement or dismissal of any pending or anticipated civil or administrative cases or claims, and copies of any such contracts or agreements;

(e) An explanation of why any changes proposed under paragraphs (a), (b), or (c) are not being sought through a hardship, capital improvement, services or facilities, or substantial rehabilitation petition.

(~~e~~f) A list of all rental units, including vacant units, noting whether the rental unit is covered by the Rent Stabilization Program or exempt, and all tenants in the housing accommodation by name and rental unit number or identifying letter, including whether the resident(s) of any unit are employees of the housing provider, and, for covered rental units, a space for each tenant's signature and telephone number and a space for each tenant to approve or disapprove of the agreement;

(~~f~~g) A list of any rental units for which the housing provider has notice that the unit is occupied by an elderly tenant or tenant with a disability, the name of each tenant in the unit, and the current rent charged for the unit;

(~~g~~h) A timeline for the commencement and completion of any work to be performed through the voluntary agreement, which may be estimated and nonbinding if a binding timeline is not a term of the agreement; and

(~~h~~i) A copy of D.C. Official Code § 42-3502.15 and this section.

Subsection 4213.4 is amended to read as follows:

4213.4 Prior to or simultaneously with the filing of a Proposed Voluntary Agreement with the Rent Administrator, the party initiating an application shall:

(a) Serve a copy of the Proposed Voluntary Agreement upon each tenant in the affected housing accommodation, without regard to any exemption from the Rent Stabilization Program, and the housing provider if the initiating party is not the housing provider, accompanied by a letter briefly explaining the purpose of the application, stating the amount of the proposed rent adjustment for the recipient unit, if any, and notifying the tenant of the opportunity to comment on or contest the application provided by this section; and

(b) Transmit a copy of the Proposed Voluntary Agreement to the Office of the Tenant Advocate and the Housing Provider Ombudsman.

Subsection 4213.8 is amended to read as follows:

4213.8 After the proper filing of a Proposed Voluntary Agreement, the Rent Administrator shall issue a brief notice of the following in accordance with § 4213.5:

(a) The date of filing of the application;

(b) The time periods provided by this section for negotiation, revision, and signing of the voluntary agreement;

(c) That any affected person may contest the application as provided in § 4213.~~19~~18 and the time period to do so; and

(d) The process to claim an exemption as an elderly tenant or tenant with a disability or to waive that exemption under § 224 of the Act (D.C. Official Code § 42-3502.24) and § 4215 of this chapter.

Subsection 4213.12 is amended to read as follows:

4213.12 After the expiration of the Cooling-off Period, the initiating party may begin collecting signatures of tenants to approve or reject the Proposed Voluntary Agreement, including any modifications made during the Cooling-off Period. If the version circulated for signatures is different from the initial Proposed Voluntary Agreement, the initiating party shall also file a copy of the modified Proposed Voluntary Agreement with the Rent Administrator including all information required by § 4213.3, other than paragraph (~~h~~i). No tenant shall be requested to sign a modified Proposed Voluntary Agreement without being notified in writing that modifications have been made since the original filing and being given an opportunity to review the entire agreement. ~~All s~~Signatures given to approve or reject the Proposed Voluntary Agreement ~~shall~~ may be in ink~~;~~ or electronic ~~signatures shall not be valid~~.

Subsections 4213.16 through 4213.25 are amended to read as follows:

4213.16 A Final Voluntary Agreement, when filed with the Rent Administrator, shall include:

(a) All the terms and information required by § 4213.3, other than paragraph (~~h~~i);

(b) A certification that the agreement was entered into voluntarily and that no form of ~~duress, harassment, intimidation,~~ coercion~~, fraud, deceit, or misrepresentation of material fact or law~~, as defined in § 4213.22, was employed by any party involved in securing any signature;

(c) A certification that the agreement is complete and includes all terms and conditions by which the housing provider and any tenant is bound, that no

further consideration or promises have been exchanged or provided to induce any party to sign the Proposed Voluntary Agreement, and that all parties have signed the same, complete agreement;

(d) Written comments submitted by any tenant of a rental unit in the housing accommodation that is exempt from the Rent Stabilization Program;

(~~d~~e) The signatures of:

(1) The housing provider;

(2) Each tenant agreeing to the terms of the voluntary agreement, which shall be not less than seventy percent (70%) of the ~~eligible~~ tenants of rental units covered by the Rent Stabilization Program; and

(3) Each tenant electing to sign to indicate his or her disapproval of the terms of the voluntary agreement;

(~~e~~f) A certification that the filing party made a good faith effort to obtain the signature, whether agreeing to or disapproving the Proposed Voluntary Agreement and without regard to any exemption from the Rent Stabilization Program, of each tenant for whom a signature is not filed, or that a resident is an employee of the housing provider and disqualified from signing; and

(g) A certification that a translated copy of each required form published by the Rent Administrator and each document required by paragraph (a) has been provided to each tenant that the initiating party knows or reasonably should know ~~does not speak English as their primary language and who has a limited ability or no ability to read, speak, write, or understand English, if such tenant's primary language is Spanish, Chinese, Vietnamese, Korean, French, or Amharic~~ primarily speaks Spanish or ~~otherwise~~ a language covered by the current, annual notice published by the Commission pursuant to § 4300.23.

4213.17 After the filing of a Final Voluntary Agreement, the Rent Administrator shall dismiss, with or without prejudice~~, without a hearing~~, any application for approval of a voluntary agreement if it is apparent without an evidentiary hearing that the filing party has not complied with the requirements of §§ 4213.2-4213.16. If the application is not denied on these grounds, the Rent Administrator shall serve notice on each tenant and the housing provider that the Final Voluntary Agreement has been filed and that exceptions and objections may be filed in accordance with § 4213.18.

~~4213.18 Pursuant to § 215(c) of the Act (D.C. Official Code § 42-3502.15(c)), if a Final Voluntary Agreement is filed with the Rent Administrator that is not denied under § 4213.17, and the only terms of the agreement are to adjust the rent for each rental~~

~~unit within a housing accommodation by the same, specified percentage, notwithstanding any exemption provided by § 224(i) of the Act (D.C. Official Code § 42-3502.24(i)), the Rent Administrator shall issue a final order approving the voluntary agreement and serve the order upon the housing provider and each affected tenant. If the Final Voluntary Agreement contains terms to any other effect, the Rent Administrator shall serve notice on each tenant and the housing provider that the Final Voluntary Agreement has been filed and giving notice of the opportunity to file exceptions and objections in accordance with § 4213.19.~~

4213.~~19~~18 Within thirty (30) days of the service of notice of the filing of a Final Voluntary Agreement, the housing provider and any tenant of the affected housing accommodation may file with the Rent Administrator a clear and concise statement of exceptions and objections to the approval of the application.

4213.~~20~~19 Exceptions and objections filed pursuant to § 4213.18 may contest whether the application should be approved or denied based on the following issues:

(a) Whether the initiating party complied with all requirements of §§ 4213.2-4213.16 and whether any failure of compliance was remedied;

(b) Whether the application must be denied ~~for any reason~~ based on coercion or unreasonable rent adjustments, as provided in § 4213.~~21~~20;

(c) Whether the housing accommodation is properly registered and the housing provider has all required business licenses;

(d) Whether, pursuant to § 4216.4, substantial violations of the Housing Regulations existed on the date that the application for approval of the voluntary agreement was initiated and have not yet been abated;

(e) Whether the voluntary agreement was filed as or any term of the agreement constitutes a retaliatory action prohibited by § 502 of the Act (D.C. Official Code § 42-3505.02) and § 4303 of this title; or

(f) Any other violation of § 215 of the Act (D.C. Official Code § 42-3502.15) or this section.

4213.~~21~~20 An application under this section shall be denied if:

(a) All or part of any tenant's approval of a Final Voluntary Agreement has been induced by coercion~~, including duress, harassment, intimidation, fraud, deceit, or misrepresentation of material facts, of the tenant's legal rights or obligations, or of the housing provider's legal rights or obligations~~; or

~~(b) The Final Voluntary Agreement contradicts the purposes of the Act as stated in § 102 of the Act (D.C. Official Code § 42-3501.02); or~~

(~~a~~b) The Final Voluntary Agreement results in unreasonable rent adjustments for any rental unit ~~or inequitable treatment of specific tenants or rental units or classes of tenants or rental units~~.

4213.21 For the purposes of this section, coercion shall include, but is not limited to:

(a) The knowing circulation of inaccurate information;

(b) Frequent calls or visits over the objection of that household; or

(c) An act or threat not otherwise permitted by law that seeks to:

(1) Recover possession of a rental unit;

(2) Increase rent;

(3) Decrease services;

(4) Increase the obligation of a tenant or cause undue or unavoidable inconvenience;

(5) Harass a tenant; or

(6) Violate the privacy of the household;

(d) Refusal to honor a lease provision;

(e) Refusal to renew a lease or rental agreement; or

(f) Any other form of threat.

4213.22 For the purposes of ~~§ 4213.21(c)~~ this section, the reasonableness of any proposed rent adjustments for a rental unit in a Final Voluntary Agreement shall be determined in consideration of the following factors, as may be relevant:

(a) The cost, scope, and nature of any alterations in the provision or levels of related services or facilities in proportion to the amount of the rent adjustments and to the rents for comparable rental units;

(b) Provisions, if any, for capital improvements, the performance of deferred, ordinary maintenance or repairs, and the status or establishment of any replacement reserve fund maintained by the housing provider;

(c) Other costs stated in the Final Voluntary Agreement;

(d) The housing provider's rate of return on the housing accommodation, as defined in § 4209.8;

(e) The reason why any changes proposed are not being sought through a hardship, capital improvement, services or facilities, or substantial rehabilitation petition;

(~~e~~f) Current rents for comparable rental units in housing accommodations physically ~~proximate~~ near to the subject housing accommodation;

(~~f~~g) The impact of any provisions on the tenants in terms of any inconvenience due to construction or relocation;

(~~g~~h) The proposed financial costs to tenants, including whether tenants have or will have a rent burden greater than thirty percent (30%) of their monthly household incomes;

(~~h~~i) Other terms and conditions agreed to by the housing provider and tenants, as required to be filed under § 4213.3(d);

(~~i~~j) Whether any proposed disparities between tenants or classes of tenants or rental units in the percentage or amount by which the rents will be adjusted are inequitable or justified; and

(~~j~~k) The purposes of the Act as stated in § 102 of the Act (D.C. Official Code § 42-3501.02).

4213.23 For the purposes of § 4213.22 (ji), reduced rent adjustments for rental units occupied by elderly tenants and tenants with disabilities, whether or not the tenants qualify for an exemption pursuant to § 224(i) of the Act (D.C. Official Code § 42-3502.24(i)) and § 4215.2 of this chapter or have previously filed an application to register for protected status under § 4215, shall not be deemed inequitable or unjustified disparities in rent adjustments.

4213.24 If no exceptions and objections to a Final Voluntary Agreement are filed within thirty (30) days in accordance with § 4213.~~19~~18, the Rent Administrator, within five (5) business days of the expiration of that time, shall issue a final order approving the application and serve the final order upon the housing provider and each affected tenant in the housing accommodation.

4213.25 If exceptions and objections to a Final Voluntary Agreement are filed within thirty (30) days in accordance with § 4213.~~19~~18, the Rent Administrator, within fifteen (15) days of the expiration of that time, shall transfer the record of the voluntary

agreement application to the Office of Administrative Hearings for a hearing and decision on each issue raised in the exceptions and objections.

Subsection 4213.29 is amended to read as follows:

4213.29 A final order of the Rent Administrator or the Office of Administrative Hearings approving or denying an application under this section may, within ~~ten (10)~~ thirty (30) days of its issuance, be appealed to the Commission in accordance with § 3802 of this title by any party to the case that is aggrieved by the final order. In accordance with § 3805, a housing provider shall not implement a rent adjustment authorized by a final order while an appeal of that order is pending before the Commission.