

RENTAL HOUSING COMMISSION

- 3821.1 Unless an appeal is otherwise dismissed pursuant to an order issued in accordance with this chapter, the Commission shall dispose of all appeals on the merits by issuing a final decision and order [within 120 days after the appeal is noted]. Each final decision and order shall be issued by a majority vote of a quorum of the Commission at a public meeting on the record, in accordance with § 3800.4.
- 3822.3 A remand order of the Commission may direct the Office of Administrative Hearings or the Rent Administrator to [within 60 days of the order]:
- 3827.1 In accordance with the provisions of § 901 of the Act (D.C. Official Code § 42-3509.01), the Commission shall hear and decide appeals involving fines for infractions or violations of the Act. The Commission may impose fines not exceeding five thousand dollars (\$5,000) for each violation.

(a) Housing providers are ineligible to increase rents until the fine is paid.

- 3829.11 A settlement, stipulation, or other agreement, including a mediated agreement, that contains terms for the approval of a rent adjustment for which administrative approval is required under the Rent Stabilization Program, as specified in 14 DCMR § 4204, shall be filed with the Commission by the appellant within five (5) days of its execution as an attachment to a motion for the Commission to dismiss the appeal, dismiss an issue on appeal, or accept any stipulation.

(a) Where the settlement involves a change in the rent, the housing provider will file an amended registration with the Rent Administrator reflecting the previous rent, the new rent the reason for the change.

This will ensure that there is a complete rent history for each apartment and any individual who wishes to view the rent history will be able understand, and if necessary substantiate the rental history of the unit.

Housing provider – a landlord, owner, management agent, lessor, sub-lessor, assignee, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any rental unit within a housing accommodation within the District. ~~and includes any agent of a housing~~

- 3905.2 Captions shall contain the name of the ~~housing provider~~ [owner of the housing accommodation] as listed on the registration statement; provided, however, that if the management agent represents the housing provider in any proceeding, the management agent shall also be listed in the caption and identified as the agent.
- 3908.1 If, prior to the transfer by the Rent Administrator of a tenant petition to the Office of Administrative Hearings, the Rent Administrator determines that the issues

raised in the petition may affect other tenants or all tenants in the housing accommodation, the Rent Administrator may provide written notice and advise the Office of Administrative Hearings of the possible grounds to expand the scope of the proceeding to include all affected tenants.

Unless there is a place on the petition for the filer to explain why the scope of the proceedings should be expanded and an opportunity to present argument on this, section 3908.1 is just lip service.

3909.1 The Rent Administrator may consolidate [or deconsolidate] two (2) or more petitions where they contain identical or similar issues or where they involve the same rental unit or housing accommodation.

3909.2 The Rent Administrator may consolidate [or deconsolidate] petitions on the motion of a party to a petition, if consolidation [or deconsolidation] would expedite the processing of the petition and would not adversely affect the interests of the parties.

There have been occasions where tenant petitions by various tenants in the same housing accommodation have been consolidated at OAH. Because of the years it takes to adjudicate the appeal of a tenant petition, parties to the petition may have to move away from D.C. and are not able to fly back to attend the twenty minute hearing before the Commission. That means that the other parties who live in town and want to get on with their lives are stuck and the appeal sits in limbo.

3915.4 The Rent Administrator shall maintain a file of all advisory opinions that is available for public inspection.

(a.) Advisory opinions shall be available on the RHC website.

3926.4 Any interested party may make a written request that the Rent Administrator conduct a rental history review, for the preceding three years for *any* unit covered by the Act. The Rent Administrator shall respond in writing within 30 days of the request. Where the Rent Administrator finds that the rent has been improperly calculated, the Rent Administrator shall correct the Rental Administrators records and send written notice of the change to the tenant and the owner of the housing accommodation notifying them of the change.

Because there is no meaningful review of the filings housing providers make at RHCD, and tenants can only file tenant petitions for their own apartments, there has to be some way interested tenants can provide some oversight and prevent unscrupulous housing providers from unlawfully increasing rents in the hopes that no one will notice and prevent the illegal rent increase ossifying into the actual rent after three years have elapsed. The fact that inquiries cannot go back more than three should ensure that any such request for review would not be too burdensome for the Rent Administrator and prevent the need for actual litigation.

4101.3 The registration requirements of this chapter shall be satisfied for any newly established rental unit, any converted rental unit subject to § 208(b) of the Rental Housing and Sale Act of 1980 (D.C. Official Code § 42-3402.08(b)), any rental unit that ceases to be excluded from the Act under § 205(e) of the Act (D.C. Official Code § 42-3502.05(e)) and § 4105 of this chapter, or any rental unit that has not been previously, properly registered only if the following occurs:

~~(a) The housing provider of the rental unit and housing accommodation properly completes and files with the Rent Administrator a new Rent Stabilization Registration Form or Claim of Exemption Form in the manner prescribed by § 4102; and~~

~~(b) The housing provider timely complies with the posting or mailing requirements of § 4101.6 to provide notice to tenants.~~

4103.1 Each housing provider of a rental unit or units covered by the Act shall file an amendment to the Registration/Claim of Exemption form provided by the Rent Administrator in the following circumstances:

- (a) Within thirty (30) days after a person becomes the housing provider of a rental unit or housing accommodation covered by the Act;
- (b) Within thirty (30) days after the termination of the exempt status of a rental unit or housing accommodation;
- (c) Within thirty (30) days after any change in the ownership or management of a registered housing accommodation;
- (d) Within thirty (30) days after the implementation of any rent increase or decrease allowed pursuant to §§ 210, 212, 214 or 215 of the Act, or any substantial change in the related services or facilities pursuant to § 211 of the Act; or
- (e) Within thirty (30) days after the implementation of any vacant accommodation rent increase pursuant to § 213 of the Act.

Section 4103.1 should be left alone. If a housing provider wants to withhold this information from tenants for some reason, the amended registration on file with the Rent Administrator is the only place a tenant can obtain this information short of litigation. Moreover, there is no good reason for deleting this portion of the regulations.

4101.5 All Rent Stabilization Registration Forms and Claim of Exemption Forms filed with the Rent Administrator under the Act and this chapter shall be available for public inspection in the Housing Resource Center of the Department of Housing and Community Development and by the **internet-accessible database maintained by the Rent Administrator** in accordance with § 203c of the Act (D.C. Official Code § 42-3502.03c) and § 3900.9 of this title.

It is important that this information actually be available on the internet. Inserting the language into the regulations, but failing to actually make it available on the internet is very unfair to tenants who are largely responsible for enforcing the Act. It is very difficult to go out to RACD if you work. You need to take at least half a day off to obtain information that the housing providers have at

their fingertips, and the information doesn't qualify for a FOIA request because it is technically available, and even if you could FOIA the information, RACD charges twenty-five cents a page for copies.

4101.6 A housing provider who files a Rent Stabilization Registration Form or Claim of Exemption Form under the Act shall, within ~~fifteen (15) days~~ **on the same day the form was filed** ~~of the filing date~~, as indicated by the Rental Accommodations Division date-stamp, provide a true copy of the form bearing the registration or exemption number from the Rent Administrator to all tenants of the housing accommodation as follows:

There can be no benign reason for withholding this information from tenants for two weeks.

- (a) If the housing accommodation to which the form applies contains multiple rental units and common elements that are owned, managed, or maintained by the housing provider, **by posting the copy at the front door, front desk or mail room of** ~~in a conspicuous place~~ at the rental unit or housing accommodation and keeping the copy posted in that place for the duration of its validity, until a new or amended filing is required by § 4103; or

“Conspicuous place” is too subjective. For example, a laundry room may be conspicuous place for some tenants who do not have washers and dryers in their apartments, and an inconspicuous for tenants in the same housing accommodation who do have laundry equipment in their units. Additionally, the regulation should be clear the landlord is not free to fashion their own manner of “posting.” My landlord keeps a notice, in the laundry room of a building where there are washers and dryers in the apartments, that amended registrations are available for viewing in the management office and can be viewed during business hour. This is exactly when most tenants are at their place of business. Tenants shouldn't have to take time off from their jobs just to view information that they are entitled to know. Additionally, a notice that never changes does not inform that there is a new amended registration to view so a tenant would have to ask (during business hours) if anything had been filed that day. This is unnecessarily burdensome, for no good reason.

- (b) If the housing accommodation to which the form applies consists of a single rental unit, or no suitable location is available at the housing accommodation for posting as described in paragraph (a):
- (1) By sending the copy to each tenant of the rental unit or housing accommodation by U.S. mail or a commercial delivery service by any method that includes a certificate of mailing; or
 - (2) By personal service.

If a housing provider fails to satisfy the notice requirements of section 4101.6 within thirty days of filing, any rent increase contemplated by the amended registration is forfeit.

4102.6 Each Rent Stabilization Registration Form or Claim of Exemption Form shall contain:

- (a) The name, street address (not including mailbox services or post office box addresses), and telephone number of the owner of the housing accommodation, **the management agent of the housing accommodation** including, ~~if claiming the small landlord or cooperative exemptions pursuant to §§ 4107 or 4108,~~ each person with an interest, directly or indirectly, in the housing accommodation; and

4103.1 A housing provider of a rental unit or units covered by the Act shall file an amendment to the Rent Stabilization Registration Form or Claim of Exemption Form, on a form provided by the Rent Administrator, in the following circumstances:

- (a) Within thirty (30) days after any change in the ownership of a registered housing accommodation; or
- (b) Within thirty (30) days after any change in the management **or managing agent** of a registered housing accommodation; or
- (c) Within thirty (30) days after any change that causes a housing accommodation to no longer be exempt from the Rent Stabilization Program.

4103.3 A housing provider who files an amendment to a Rent Stabilization Registration Form or Claim of Exemption Form as required by § 4103.1 or who files a new form as required by § 4103.2 shall post or mail a date-stamped copy of the amendment form or the new form in accordance with § 4101.6.

4103.4 A housing provider who fails to file an amendment to or a new Rent Stabilization Registration Form or Claim of Exemption Form when required by § 4103.1 or .3 or to provide notice to tenants in accordance with § 4101.6 shall be deemed to have failed to register the rental unit or housing accommodation from the date on which the change in circumstances required housing provider to file the required form. The housing provider shall be deemed properly registered on the date on which the required form is date-stamped by the Rent Administrator; ~~provided, that the housing provider timely~~ complies with the notice requirements of § 4101.6.

If a housing provider fails to satisfy the notice requirements of section 4101.6 within thirty days of filing, for any rent increase forfeits that rent increase.

A. 4104 DEFECTIVE REGISTRATION

4104.1 The Rent Administrator shall review each Rent Stabilization Registration Form or Claim of Exemption Form after accepting it for filing in accordance with § 4102.9

in order to determine if the form has been properly completed. If, at the time of filing or subsequent to filing, the Rent Administrator determines that the form is defective under § 4104.3, the Rent Administrator shall notify the housing provider in writing of the specific defect(s) and allow the housing provider thirty (30) days to correct the defect(s).

A copy of the notice to the housing provider shall be available for public inspection in the Housing Resource Center of the Department of Housing and Community Development and by the internet-accessible database maintained by the Rent Administrator in accordance with § 203c of the Act (D.C. Official Code § 42-3502.03c) and § 3900.9 of this title.

4104.7 If a Rent Stabilization Registration Form or Claim of Exemption Form does not contain the ownership **and management agent** information or street address of a registered agent for service of process that is required by § 4102.6, the Rent Administrator shall issue a written notice requiring that an amendment to the form be filed, within thirty (30) days of the notice, that provides the required ownership or agent information and the relationship between the owner(s) and the housing provider filing the form.

4111.1 The tenant of any rental unit covered by the Act, as provided by § 4100.3, shall have the right to request, in writing, no more than one time in each calendar year, that the housing provider disclose, within ten (10) business days of the request:

- (a) The amount of each rent increase implemented for the rental unit during the preceding three (3) years from the date of the request; and
- (b) If the rental unit is subject to the Rent Stabilization Program, for each rent increase disclosed pursuant to paragraph (a):
 - (1) The type of the rent adjustment that was implemented;
 - (2) If a vacancy adjustment was implemented pursuant to § 213(a)(2) of the Act (D.C. Official Code § 42-3502.13(a)(2)) prior to the applicability date of the Vacancy Increase Reform Amendment Act of 2018 (D.C. Law 22-223), the identification of the substantially identical rental unit used; and
 - (3) If prior administrative approval was required for the rent adjustment, the case number of the petition or application and the date on which the approval became final.
 - (4) **A housing provider may not increase rent for tenants apartment until they have responded to the tenant's written request.**

4111.4 A housing provider of a rental unit covered by the Act shall maintain a compilation of the records described in § 4111.2 for inspection by the tenant in:

- (a) A publicly accessible area of the housing accommodation at which the housing provider or **managing** agent is regularly present;
- (b)

4111.6 The tenant of any rental unit covered by the Act shall have the right to request, no more than once per year, that the housing provider provide, within ten (10) business days of the request and without charge:

- (a) A completed copy of the form described in § 4111.3; and
- (b) A complete copy of the compilation of the records described in § 4111.2.

4111.7 A housing provider, without regard to whether a rental unit is claimed to be exempt from the Rent Stabilization Program, shall not increase the rent charged for a rental unit if the housing provider:

- (a) ~~Willfully~~ **Knowingly** fails to comply with any requirement of this section; or

Willful is a get out of jail free card because it is almost impossible to prove.

- (b) Fails to comply with any requirement of this section within ten (10) days of any written notice that the housing provider has failed to comply with the requirement.

4200.12 Authorization to adjust the rent that is or that may be charged, including the implementation of a rent surcharge, for a rental unit shall be valid as follows:

- (a) Authorization for an adjustment, other than a vacancy adjustment, shall expire twelve (12) months after the date it becomes authorized by either its publication as the annual adjustment of general applicability or by order of the Rent Administrator or Office of Administrative Hearings approving the adjustment, as applicable;
- (b) A vacancy adjustment shall be implemented only **after the notice requirement of 4101.6 are satisfied** ~~at the time the vacancy occurs, in accordance with § 4205.6;~~
- (c) Failure to implement a rent adjustment within the time allowed shall result in the forfeiture of the right to the rent adjustment; and

- (d) The prohibition on implementation of multiple rent adjustments within a (12) month period, as provided by § 4200.6, shall not excuse the failure, or extend the allowable time, to implement a rent adjustment.
- (d) A vacancy adjustment shall be implemented only at the time the housing provider takes possession of the rental unit from the prior tenant, in accordance with § 4205.6(b); or
- (e) **Upon the death of the tenant**

This is an important part to add because is not addressed in the Act or the Regulations and there is no D.C. case law on this. The only time I've seen it referenced, the Commission has had to refer to a New Jersey case.

- (b) If the rental unit is vacant:
 - (1) For a vacancy adjustment, the date the housing provider takes possession of the rental unit from the prior tenant; **the date of death of the prior tenant**, provided that the housing provider files a Notice of Adjustment of Rent Charged within thirty (30) days, in accordance with § 4207.4; or

This is important to add because it has not been previously addressed in the regulations, and a date of death in the District is an objectively verifiable date.

4207 VACANCY RENT ADJUSTMENTS

- 4207.1 A vacancy rent adjustment, authorized by § 213 of the Act (D.C. Official Code § 42-3502.13), is an increase in the rent that may be charged to a new tenant for a rental unit that may be implemented when the unit becomes vacant.
- 4207.2 A vacancy adjustment shall be authorized only if a tenant vacates a rental unit:
 - (a) On the tenant's own initiative or **upon the death of the tenant; or**
- 4207.3 Notwithstanding § 4205.8, a housing provider may implement an increase in the rent that may be charged for a rental unit pursuant to a vacancy adjustment at any time a vacancy occurs, unless the rent charged for the rental unit was increased by a vacancy adjustment or conditional or final hardship rent surcharge has been authorized within the preceding twelve (12) months.
- 4207.4 A vacancy adjustment shall become authorized and shall be deemed implemented **on the day the housing rents it to the next tenant and collects the new rent** on which ~~a housing provider retakes possession of the rental unit in accordance with § 4207.2; provided, that the housing provider shall file a Certificate of Notice of Adjustment in Rent Charged with the Rental Accommodations Division within thirty (30) days, in accordance with § 4204.10.~~

As written, the new regulation would allow a landlord to claim a vacancy increase and withhold the unit from the market..

4207.5 The amount of a vacancy adjustment shall be no greater than, ~~at the election of the housing provider, either:~~

(a) ~~— Ten percent (10%) of the rent charged to the previous tenant for the vacated rental unit; or~~

(b) One percent for each year the previous tenant occupied the unit with a cap at ~~ten (10) years~~, twenty percent (20%) of the rent charged to the previous tenant.

The purpose of a vacancy increase is to offset the cost to the housing provider of getting the unit ready to re-rent and back on the market, not to create a windfall for the landlord or vacancy de-control. If a tenant vacates a unit after one or two years, the housing provider has relatively little to do other than clean to get a unit rent-ready. If the previous tenant has lived there for twenty years, the landlord will likely have more work to make the apartment ready to rent.