



## INSTRUCTIONS FOR FILING AN APPEAL

*NOTA: SI USTED NO ENTIENDE ESTA APELACIÓN, NO TARDE EN COMUNICARSE CON EL PROGRAMA DE RENTA AL NÚMERO (510) 234-RENT [7368] PARA PEDIR UNA CITA Y RECIBIR UNA EXPLICACIÓN O TRADUCCIÓN.*

<b>Time to Appeal</b>	<p>Any party may Appeal the Decision of the Hearing Examiner within 30 days of its receipt. A decision is presumed to be received within five (5) days of the date it is mailed. Therefore, an Appeal that is filed more than thirty-five (35) days after the date the Hearing Examiner’s decision was mailed will be dismissed unless there is proof that the decision was not received within five (5) days of mailing.</p>
<b>Filing and Limited Review</b>	<p>An Appeal is filed when it is received in the Richmond Rent Board/Program offices. Appeals mailed to the Rent Board are filed on the date the mailed documents are received and stamped by the Program, not the date the Appeal is postmarked. <b>An appeal is limited to a review by the Rent Board of the evidence that was presented at the original hearing on the case. New evidence will generally not be permitted or considered by the Rent Board.</b></p>
<b>How to Appeal</b>	<p>To Appeal the Decision, you must:</p> <ol style="list-style-type: none"> <li>1. Complete the attached Appeal form including the Proof of Service. You must state the specific grounds on which the appeal is based. The Rent Board will not consider an appeal that fails to state specific grounds and supporting arguments.</li> <li>2. Serve the opposing parties with a copy of the completed Appeal form. Service may be made by first-class, certified mail or personal delivery to the opposing parties.</li> <li>3. Complete the attached Proof of Service form indicating that all opposing parties were served copies of the completed Appeal, including any attachments.</li> <li>4. File the completed Appeal and Proof of Service with the Board.</li> </ol>



<p><b>How to Appeal (continued)</b></p>	<p>If your Appeal claims that you had good cause for failing to respond to a petition, to appear at a hearing or that you wish to present evidence that could not have been produced at the hearing, the Board's Executive Director may treat the appeal as a request for reconsideration and refer the matter back to the Hearing Examiner.</p>
<p><b>The Appeal Hearing</b></p>	<p>At least fourteen (14) days before the Appeal Hearing, you will be mailed a notice of the date of the hearing and a copy of the Rent Program Staff's recommendation on how the Board should resolve your Appeal. You will be allowed to submit a written response to the staff recommendation up to seven (7) days before the Appeal Hearing. At the hearing, you will have the opportunity to present written or oral arguments before the Board. After hearing your Appeal, the Board may affirm, reverse, remand or modify the Decision of the Hearing Examiner. Once the Decision is made, the Board will send a Notice of Decision to all of the parties. If you are not satisfied with the Board's Decision, you may file an action in an appropriate Court within ninety (90) days of the decision date.</p>
<p><b>Hearing Outcomes</b></p>	<p>On Appeal, the Board may affirm, reverse, remand or modify the decision of the Hearing Examiner. The Board may conduct a new hearing or may act solely on the basis of the official record before the Hearing Examiner. The decision on Appeal shall be the final decision of the Board, and the Board shall send a notice of the decision to all parties to the Appeal, which shall include a statement of their right to judicial review. Decisions remanded to the Hearing Examiner shall be limited to instances where additional findings of fact are required.</p>
<p><b>Appeal Filed After Deadline</b></p>	<p>Any Appeal shall be filed on a form provided by the Board no later than 30 days after receipt of the notice of the Hearing Examiner's decision. A party is presumed to receive the decision five (5) days after it is mailed. Appeals that are not timely filed shall be dismissed by Rent Program staff without further Board review. A party may file an Appeal to the Executive Director regarding legal staff's dismissal but must include good cause as to why the</p>



<p><b>Good Cause for Untimely Appeal</b></p>	<p>Appeal was not timely filed.</p> <p>Such good cause may include, but is not limited to, the failure of a party to receive the Notice of Decision, the illness of a party, or other emergency which made it impossible for a party to have timely filed. The Executive Director shall grant or deny the request to consider the late-filed Appeal. Should the request be granted, the Board will consider the Appeal according to the terms outlined by this regulation.</p>
<p><b>Specific Grounds for Appeal</b></p>	<p>The Appeal must contain a statement of the specific grounds on which the appeal is based. The Board will not consider an Appeal that fails to state any facts or arguments in support of the grounds alleged in the Appeal. Except for official Rent Board documents potentially in the property file in question, no other documents in support of the Appeal will be accepted after the Appeal deadline unless specifically requested by the Board. The Appeal shall be sent to the Board and opposing parties and their representative. Additionally, appellant(s) shall send a copy of the Appeal to the Hearing Examiner whose decision is being appealed. The Board or staff may order that appeals relating to the same building or property, or different properties of the same landlord, be consolidated. The opposing party shall file any response to the Appeal within 15 days from the date the Appeal is filed.</p>
<p><b>Decision Stayed Pending Appeal</b></p>	<p>The Hearing Examiner's decision shall be stayed pending Appeal. In its decision, the Board shall order the appropriate party to make retroactive payments over a reasonably appropriate period to restore the parties to the positions they would have occupied had the Hearing Examiner's decision been the same as that of the Board or had it not been stayed.</p>
<p><b>Rent Program Report Precedes Appeal</b></p>	<p>The Board will consider appeals of the Hearing Examiners' decisions. At least fourteen (14) calendar days prior to the date set for Board action on the Appeal, a staff report shall be prepared recommending that the decision of the Hearing Examiner be affirmed, modified, reversed or remanded to the examiner for further hearing. Staff may supplement the record by</p>



<p><b>Rent Program Report Precedes Appeal (continued)</b></p>	<p>including matters of which the Board may take official notice, provided that the parties are notified of such matters at least fourteen (14) days prior to the date set for Rent Board action. Any objection to a staff request for official notice shall be filed no later than seven (7) calendar days prior to the date set for Rent Board action.</p>
<p><b>Notice of Appeal Hearing</b></p>	<p>At least fourteen (14) days prior to the date set for Rent Board action, all parties shall be notified by mail of the date, time and place set for Rent Board action on the Appeal (generally a regular meeting of the Rent Board as a separate agenda item). Copies of the staff recommendation shall be mailed to all parties and their representatives at least fourteen (14) days prior to the Rent Board action. Copies of the official record and the staff recommendation shall be available for public review at the Public Information Unit of the Rent Board at least fourteen (14) days prior to the date set for Rent Board action. Parties may submit written comments to the Rent Board up to seven (7) days prior to the Rent Board action.</p>
<p><b>Limited Presentations at Rent Board Appeal Hearing</b></p>	<p>At the Rent Board regular meeting at which action on the Appeal is scheduled, each party or their representative will be allowed seven (7) minutes to address the Board at the beginning of the hearing in the following order: appellant for five (5) minutes, respondent for seven (7) minutes, appellant for two (2) minutes.</p>
<p><b>Focus on Hearing Record</b></p>	<p>Unless the Board determines that a de novo (new) hearing is required, the Board's decision will be based exclusively on the record that was before the Hearing Examiner. Parties shall be instructed not to discuss or comment upon factual matters or evidence that were not presented to the Hearing Examiner or officially noticed. Parties may discuss or comment upon the legal matters in question and any other pertinent issues raised by the Appeal. The Board shall disregard any discussion or comment regarding factual matters that were not in the record before the Hearing Examiner or officially noticed. A majority vote taken by no less than three Rent Board members is required to affirm, modify,</p>



<p><b>Focus on Hearing Record (continued)</b></p>	<p>remand or reverse the decision of the Hearing Examiner. If the Board has not acted on the Appeal at two consecutive Board meetings, the Appeal is deemed denied.</p>
<p><b>Rent Board Decision – What to Expect</b></p>	<p>The Rent Board's decision to affirm, modify, remand or reverse the decision of the Hearing Examiner shall be supported by written findings of fact and conclusions of law. When the Board votes to adopt the staff recommendation unchanged, the parties to the Appeal will be notified only of the Board's decision. When the Board does not adopt the staff recommendation as written, a written decision of the Board shall be mailed to the parties or their representative of record.</p>
<p><b>Request for a Continuance of a Rent Board Appeal Hearing</b></p>	<p>Continuances of dates set for Rent Board action on appeal shall be granted by a majority of the Board or by the Executive Director only for good cause shown. A written request and the reasons for it must be received by the Rent Program at least two (2) business days prior to the scheduled Rent Board action, unless good cause is shown for a later request. The written request must contain the reasons for the continuance, an explanation of what efforts were made to ascertain the position of the other parties regarding the request for a continuance and mutually acceptable alternative dates offered by the Rent Program. Copies of this written request must be sent immediately to all other parties and a proof of service must accompany the request filed with the Board.</p>
<p><b>Request for Reconsideration of a Hearing Examiner's Decision</b></p>	<p>Procedures for Reconsideration include:</p> <p>(1) At the discretion of the Executive Director or his or her designee, an Appeal may be treated as a request for reconsideration and referred back to the Hearing Examiner only if it is claimed by the appellant that:</p>



**Request for  
Reconsideration  
of a Hearing  
Examiner's  
Decision  
  
(continued)**

(a) there was good cause for a failure to respond to a petition; (b) there was good cause for a failure to appear at a settlement conference or hearing; (c) he, she or they she wishes to present relevant evidence that could not, with reasonable diligence, have been discovered and produced at the hearing; or (d) the decision resulted from a clearly inaccurate application of the law.

(2) In the event that reconsideration is ordered, the parties will be so notified within 60 days of the filing of the Appeal and, thereafter, all correspondence shall be directed to the Hearing Examiner. The threshold issue on reconsideration shall be whether a preponderance of the evidence supports the assertion that good cause existed for the failure to respond to a petition or to appear at a settlement conference or hearing or that the newly offered evidence could not, with reasonable diligence, have been discovered and produced at the hearing. Only if good cause is found may the Hearing Examiner reconsider the merits of the petition.

(3) If the matter is reconsidered by the Hearing Examiner and the appellant does not then wish to Appeal the new decision, the appellant may, within 30 days of receipt of the decision upon reconsideration, request refund of the Appeal filing fee and, upon said request, the filing fee shall be refunded. If the appellant wishes to contest the decision following reconsideration, he or she may file a supplemental Appeal, so stating, within 30 days after receipt of the decision after reconsideration. No filing fee shall be required for such supplemental Appeal. Any other party may also Appeal the decision after reconsideration within 30 days after its receipt.