

AGENDA ITEM REQUEST FORM

Department: Rent Program

Department Head: Nicolas Traylor

Phone: 620-6564

Meeting Date: September 30, 2025

Final Decision Date Deadline: September 30, 2025

STATEMENT OF THE ISSUE: At its August 27, 2025, the Rent Board directed staff to amend Chapter 8 of the Rent Board Regulation to increase effectiveness and efficiency of the petition and hearing process. As directed, on September 17, 2025, staff amended several regulations contained in Chapter 8 of the Rent Board Regulation, and presented those amendments to the Rent Board for possible adoption. After reviewing the proposed amendments, the Rent Board directed staff to create a separate regulation that provided parties additional time to respond to notices sent by staff. The Rent Board also directed staff to place these proposed amendments on the consent calendar. As directed, staff has included changes and placed this item on the consent calendar.

INDICATE APPROPRIATE BODY

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|---|---|--|--|---|
| <input type="checkbox"/> City Council | <input type="checkbox"/> Redevelopment Agency | <input type="checkbox"/> Housing Authority | <input type="checkbox"/> Surplus Property Authority | <input type="checkbox"/> Joint Powers Financing Authority |
| <input type="checkbox"/> Finance Standing Committee | <input type="checkbox"/> Public Safety Public Services Standing Committee | <input type="checkbox"/> Local Reuse Authority | <input checked="" type="checkbox"/> Other: <u>Rent Board</u> | |

ITEM

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| <input type="checkbox"/> Presentation/Proclamation/Commendation (3-Minute Time Limit) | | | |
| <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Regulation | <input checked="" type="checkbox"/> Other: <u>Consent Calendar</u> | |
| <input type="checkbox"/> Contract/Agreement | <input type="checkbox"/> Rent Board As Whole | | |
| <input type="checkbox"/> Grant Application/Acceptance | <input type="checkbox"/> Claims Filed Against City of Richmond | | |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Video/PowerPoint Presentation (contact KCRT @ 620.6759) | | |

RECOMMENDED ACTION:

AMEND the following Chapter 8 Regulations:

1. Regulation 801: Amended to clarify that the Petitioner carries the burden of proof and establishes the burden of proof as Preponderance of the Evidence.
2. Regulation 804: Amended to clarify that the preliminary review of a petition is limited to procedural content and not substantive content. Additionally, the amendment would clarify the basis of finding a petition unacceptable and describes the steps a Petitioner would need to take to fix a petition that is found unacceptable. Finally, the Regulation would allow for staff to administratively dismiss, without prejudice, those petitions that have been found to be unacceptable and left uncorrected.
3. Regulation 822: Allows for the Hearing Examiner to decide a petition without a hearing where the Record contains sufficient undisputed facts.
4. Regulation 844: Increases the time for a Hearing Examiner to issue their decision from 120 days to 150 days.

Adopt the following Regulation:

Regulation 801.5: Extension of Deadlines: Where staff is required to send a notice to a party and sends the notice by mail, any imposed deadline to respond to the notice shall be extended by five (5) calendar days. – Rent Program (Nicolas Traylor 620-6564).

AGENDA ITEM NO:

F-2.

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AGENDA REPORT

DATE: September 30, 2025

TO: Chair Tipton and Members of the Rent Board

FROM: Nicolas Traylor, Executive Director

SUBJECT: AMENDING CHAPTER 8 RENT BOARD REGULATIONS

STATEMENT OF THE ISSUE:

At its August 27, 2025, the Rent Board directed staff to amend Chapter 8 of the Rent Board Regulation to increase effectiveness and efficiency of the petition and hearing process. As directed, on September 17, 2025, staff amended several regulations contained in Chapter 8 of the Rent Board Regulation, and presented those amendments to the Rent Board for possible adoption. After reviewing the proposed amendments, the Rent Board directed staff to create a separate regulation that provided parties additional time to respond to notices sent by staff. The Rent Board also directed staff to place these proposed amendments on the consent calendar. As directed, staff has included changes and placed this item on the consent calendar.

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2. Regulation 804: Amended to clarify that the preliminary review of a petition is limited to procedural content and not substantive content. Additionally, the amendment would clarify the basis of finding a petition unacceptable and describes the steps a Petitioner would need to take to fix a petition that is found unacceptable. Finally, the Regulation would allow for staff to administratively dismiss, without prejudice, those petitions that have been found to be unacceptable and left uncorrected.
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4. Regulation 844: Increases the time for a Hearing Examiner to issue their decision from 120 days to 150 days.

Adopt the following Regulation:

Regulation 801.5: Extension of Deadlines: Where staff is required to send a notice to a party and sends the notice by mail, any imposed deadline to respond to the notice shall be extended by five (5) calendar days. – Rent Program (Nicolas Traylor 620-6564).

FISCAL IMPACT:

There is no fiscal impact related to this item.

DISCUSSION:

Background

Hearing staff are constantly trying to determine ways to improve the level of service provided while maintaining their efficiency. Hearing staff members have requested that certain regulations contained in Chapter 8 of the Rent Board regulation be amended to improve the hearing process. These proposed amendments are a few in a series of amendments that Rent Program staff intend to bring to the Rent Board. Below are the proposed amendments to the first series of regulations:

Issue #1: Regulation 801 currently does not explain the standard of proof required in a hearing.

Proposed Amendment to Regulation 801: Staff's proposed amendments would clarify that the Petitioner carries the burden of proof, which is measured by the Preponderance of Evidence Standard. The amendment also provides a definition of the preponderance of evidence.

Issue #2: Regulation 804 establishes the procedures for filing a petition. However, it does not allow for administrative dismissal of those petitions that fail to meet the procedural filing requirements.

Proposed Amendment to Regulation 804: Staff's proposed amendments would do clarify the following:

1. Limit preliminary review of petitions to procedural defects rather than the actual substance of the petition
2. Clarify various areas where a petition may be deemed unacceptable (i.e lack of jurisdiction, failure to provide proof of service, lack of signature, etc.)
3. Establishes procedures that must be undertaken by staff when a petition is found unacceptable and creates deadlines wherein a petitioner must correct an unacceptable petition.
4. Allows for the dismissal of those unacceptable petitions that are not corrected within the required time. Also clarifies that dismissals alone do not prevent the Petitioner from filing a new petition with the same claims. Finally, limits administrative dismissals to the preliminary review process.

ITEM F-2

5. Prevents the hearing examiner from engaging in the preliminary review process and requires that the hearing examiner only begin reviewing the matter after either the Respondent's response is received, or the Respondent fails to file a response.

Issue #3: The Hearing Examiner may issue a decision without holding a hearing but to do so certain elements must first be met. The elements are as such that the ability to issue administrative decisions is non-existent. To counterbalance the Hearing Examiner's inability to dismiss matters, staff is recommending amending the regulations to make it easier for the Hearing Examiner to issue administrative decisions.

Proposed Amendment to Regulation 822 and 844: Clarify that a Hearing Examiner may issue an administrative decision if the Record contains sufficient undisputed facts to render a decision. Additionally, the amendment would give the Hearing Examiner 30 additional days to render their decision. Finally, the amendment would remove, from the Hearing Examiner, the power to issue subpoena to conform more closely with the Rent Ordinance.

DOCUMENTS ATTACHED:

Attachment 1 –Redline Version of Amended Regulations Contained in Chapter 8 of the Rent Board Regulations

Attachment 2 –Clean Version of Amended Regulations Contained in Chapter 8 of the Rent Board Regulations

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CHAPTER 8: PETITION PROCESS & HEARING PROCEDURES

800. (RESERVED)

801. Petitions

- A. Any Landlord or Tenant seeking an individual adjustment of the maximum allowable rent under Section 11.100.070 of the Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance must file a petition in accordance with the procedures set forth in this Chapter.
- B. The petitioner must attach to the petition documentation that is ~~adequate sufficient to meet their burden of proof as described in Section (C) of this regulation, to establish eligibility for the rent adjustment that is requested.~~ The necessary documentation will vary according to the petition and is specified in the appropriate regulation and in the petition form. If the necessary documentation is unavailable, the petitioner's verification of the petition or declaration under penalty of perjury may substitute for the unavailable documentation. It is the policy of the Rent Board that each party submits all supporting evidence as early as possible prior to the hearing. The hearing examiner may refuse to accept documentary evidence at the hearing unless there is good cause for petitioner's failure to submit it prior to the hearing.
- C. The petitioner, whether a Landlord or Tenant, has the burden of proof concerning an individual adjustment of the maximum allowable rent. The burden of proof shall be the Preponderance of the Evidence standard. Preponderance of the Evidence means that the party who has the burden of proof must provide evidence that is more likely to be true than not true and, when compared to the other side, outweighs, preponderates over, or is more than the evidence on the other side. Although the Respondent does not have the burden of proof, they may, if they choose, submit evidence that counters Petitioner's evidence and/or favors their own position. ; provided, however, the hearing examiner or Board, in making a decision under this Chapter, retains the discretion to review records, files and order inspections.

[Adopted January 24, 2018]

801.5 Extension of deadlines

- ~~C.~~ Where staff is required to send a notice to a party and sends the notice by mail, any imposed deadline to respond to the notice shall be extended by five (5) calendar days. There shall be no extension of deadlines if staff sends the required notice by email. In the case where staff sends the required notice by both mail and email, there shall be no extension of deadlines. All deadlines shall be measured from the date that staff sends the notice.

[Adopted January 24, 2018]

804. Proper Filing of the Petition

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A. Proper filing of the petition is the responsibility of the petitioner. Provided that the requirements of Regulations 804 (Proper Filing of the Petition) and 805 (Acceptance of Petitions) are satisfied, a petition is deemed properly filed on the date it is received by the Board if it is acceptable. Board staff will make a preliminary review of each petition after it has been submitted. Preliminary review of each petition shall not consider the substance of the petition but rather, shall consider whether the petition has satisfied the procedural requirements of filing. For instance, Petitions that are not signed by the petitioner, illegible, incomprehensible, erroneously completed, incomplete, lack a proof of service on the opposing party or for which the required fees have not been paid will not be considered acceptable. Additionally, petitions where the impacted unit does not fall within the Rent Board’s jurisdiction will not be considered acceptable.

A. _____

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B. No Landlord petition for an individual rent adjustment will be accepted for filing unless the unit for which the adjustment is requested has been properly registered and all notices of rent increases, termination of tenancy, or changes in terms of tenancy filed with the Rent Board for at least 30 days. A unit is considered properly registered only if the completed registration statement has been filed with the Board, and the Rental Housing fee, Business License Tax, (plus any late fees) has been paid in full.

C. Where staff finds a petition unacceptable, staff shall send a written notice of “Incomplete Petition” to the petitioner, informing the petitioner of the basis of their finding and identifying any procedural defects. The notice shall also inform the Petitioner that they have ten (10) business days to refile their petition with the requested corrections. Finally, the notice shall inform the Petitioner that failure to refile their petition within the requisite amount of time shall result in an administrative dismissal. The Petitioner may make a written request for additional time to refile their petition. Where a Petitioner makes such a request, staff shall respond, in writing, that their request has been granted and they shall have an additional five (5) business days to refile their petition.

D. Where a Petitioner fails to correct an unacceptable petition within the requisite time, dismissal of the petition occurs as a natural consequence. Staff need not take formal action to dismiss the petition, but rather, the dismissal occurs after the Petitioner’s time to refile expires. After the Petitioner time to refile expires, staff shall send a Notice of Administrative Dismissal to the Petitioner. Additionally, the notice shall inform the Petitioner that the dismissal is without prejudice, meaning the Petitioner may file a new petition with the same claims, unless either barred by the statute of limitations or, in the case of Maintenance of Net Operating Income, the calendar has changed, thereby changing the claimed Current Year. The Administrative Dismissal shall only be utilized during the preliminary review process. Once a petition is accepted, the matter can no longer be administratively dismissed.

B-E. To promote unbiased hearings, the Hearing Examiner shall not be part of the preliminary review process, and shall only begin reviewing the petition after either 1) staff has received

the Respondent's response to the petition or, 2) the Respondent's time to respond has expired as described in Regulation 809, whichever is earlier.

~~E.F.~~ A petition by a former Tenant pursuant to these Regulations shall be commenced within three years from the date the Tenant vacated the unit in question.

~~D.G.~~ No individual rent adjustment proceedings will take place for petitions that are not properly filed. The procedures for determining proper filing and allowing an unacceptable petition to be corrected are set out in Regulation 805(A)(4) and 805(B)(4).

[Adopted January 24, 2018]

805. Petition and Noticing Procedures

A. For rent increase petitions, the following procedure applies:

- (1) Rent increase petitions may be filed under the following regulations: Chapter 9, Sections 903 (Changes in Number of Tenants), 904 (Change in Space or Services/Code Violations), 905 (Maintenance of Net Operating Income), and 912 (Restoration of Annual General Adjustment).
- (2) A copy of the rent increase petition and supporting documentation must be served on the Tenants of all units affected by the petition.
- (3) The Landlord shall file with the Board the original petition, two copies of the documentation required by Regulation 801 and by the Regulation pursuant to which the Petition is filed, and a proof of service by first-class mail or in person of the petition and documentation on each affected Tenant. The Landlord may also file an Agreement of Parties and/or Waiver of Right to Hearing.
- (4) Board staff shall review the petition and supporting documentation to determine whether they conform with Board regulations ~~and within ten (10) business days shall either mail notice to the Landlord that the petition is not acceptable in its current form, with an explanation of its defects (pursuant to Regulation 805 Petition and Noticing Procedures) or mail a Notice to Opposing Parties to the Tenants and Landlord, as provided in Regulation 808 (Notice to Opposing Parties and Board). For petitions filed pursuant to Regulation 905 (Maintenance of Net Operating Income), the review period shall be fifteen (15) business days. If a petition is found unacceptable, the Landlord may refile at any time as described in Regulation 804.~~ Acceptance of a petition by Board staff does not mean that the petitioner has submitted adequate documentation to support a decision in petitioner's favor. A Landlord may, at any time prior to submission of the matter for an administrative decision, request that a hearing be held.
- (5) The notice to the Tenant shall include a notice that the Tenant has a right to object to the petition, and that if the Tenant does not object within twenty-one (21) calendar days of the mailing of the notice, or if the Tenant's objection does not specify one or more grounds listed in the notice, the rent for the Tenant's unit may be increased by the applicable amount, based on the information in the Landlord's petition and the Board's

files. Failure to file an objection may constitute a waiver of the right to a hearing on objections to the petition.

- (6) A hearing shall be held on the petition and objections thereto, in accordance with Regulation 821 (Hearing), unless the Hearing Examiner finds Regulation 822(A)(6) to be applicable. ~~no Tenant files an objection within the time allowed, the Landlord has not requested a hearing and the hearing examiner determines that a decision may be rendered on the petition without hearing live testimony.~~ Notwithstanding any other provision of these regulations, Board staff may, upon notice to all parties, request further documentation and/or schedule a hearing on the petition.

B. For Tenant petitions, the following procedure applies:

- (1) Tenant petitions may be filed pursuant to Chapter 9 (Individual Rent Adjustments), Sections 903 (Changes in Number of Tenants), 904 (Change in Space or Services/Code Violations), 911 (Overcharges) and Rent Withholding Petitions pursuant to Chapter 4.
- (2) A copy of the Tenant petition and supporting documentation must be served on the petitioner's Landlord.
- (3) The Tenant shall file with the Board the original petition, two copies of the documentation required by Regulation 801 and by the Regulation pursuant to which the petition is filed, and proof of service by first-class mail or in person of the petition and documentation.
- (4) Board staff shall review the petition and supporting documentation to determine whether they conform to Board Regulations as described in Regulation 804. ~~and within five (5) business days shall either mail notice that the petition is not acceptable in its current form, with an explanation of its defects (pursuant to Regulation 805 Petition and Noticing Procedures) or mail a Notice to Opposing Parties to the Landlord and Tenants, as provided in Regulation 808 (Notice to Opposing Parties and Board). If a petition is unacceptable, the Tenant may refile at any time.~~ Acceptance of a petition by Board staff does not mean that the petitioner has submitted adequate documentation to support a decision in petitioner's favor.
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~~without hearing live testimony.~~ Notwithstanding any other provision of these regulations, Board staff may, upon notice to all parties, request further documentation and/or schedule a hearing on the petition.

- C. The time limits set forth in this section will prevail over any other time limits set out elsewhere in these regulations.

[Adopted January 24, 2018; Amended June 19, 2019]

822. Hearing Examiner

- A. A hearing examiner shall conduct a hearing to determine whether the individual adjustment petition should be granted. The hearing examiners shall have the following powers with respect to cases assigned to them:
- (1) To administer oaths and affirmations;
 - (2) To ~~grant requests for subpoenas and to~~ order the production of evidence;
 - (3) To rule upon offers of proof and receive evidence;
 - (4) To regulate the course of the hearing and rule upon requests for continuances;
 - (5) To call, examine, and cross-examine witnesses, and to introduce evidence into the record;
 - (6) To decide the petition administratively without a hearing if the Record contains sufficient undisputed facts ~~no hearing is requested by the petitioner, the responding party fails to timely file objections, and the record is sufficient~~ to render a decision on the petition without hearing live testimony;
 - (7) To make and file decisions on petitions in accordance with this Chapter;
 - (8) To take any other action that is authorized by this Chapter or other Board Regulation.

[Adopted January 24, 2018]

844. Time for Decision

The ~~Board Hearing Examiner~~ shall take final action on any individual adjustment petition within ~~15~~20 days following the date of proper filing, unless good cause is responsible for the delay. Good cause may include, but is not limited to, continuances granted, the submission of additional information by the petitioner, the filing of a motion for reconsideration, or a request by a party to disqualify the hearing examiner, ~~or Board member(s).~~

[Adopted January 24, 2018]

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- C. The petitioner, whether a Landlord or Tenant, has the burden of proof concerning an individual adjustment of the maximum allowable rent. The burden of proof shall be the Preponderance of the Evidence standard. Preponderance of the Evidence means that the party who has the burden of proof must provide evidence that is more likely to be true than not true and, when compared to the other side, outweighs, preponderates over, or is more than the evidence on the other side. Although the Respondent does not have the burden of proof, they may, if they choose, submit evidence that counters Petitioner's evidence and/or favors their own position.

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 - (2) To order the production of evidence;
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 - (4) To regulate the course of the hearing and rule upon requests for continuances;
 - (5) To call, examine, and cross-examine witnesses, and to introduce evidence into the record;

- (6) To decide the petition administratively without a hearing if the Record contains sufficient undisputed facts to render a decision on the petition without hearing live testimony;
- (7) To make and file decisions on petitions in accordance with this Chapter;
- (8) To take any other action that is authorized by this Chapter or other Board Regulation.

[Adopted January 24, 2018]

844. Time for Decision

The Hearing Examiner shall take final action on any individual adjustment petition within 150 days following the date of proper filing, unless good cause is responsible for the delay. Good cause may include, but is not limited to, continuances granted, the submission of additional information by the petitioner, the filing of a motion for reconsideration, or a request by a party to disqualify the hearing examiner.

[Adopted January 24, 2018]

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