

Chapter 39 Rental Accommodations and Conversion Division (RACD)

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3900 THE RENT ADMINISTRATOR

3900.1 The Rent Administrator shall, in addition to other duties, carry out the administration of the rent stabilization program, including the receipt of complaints,

applications, and petitions arising under Titles II, IV, V, VI, and IX of the Act, and Title V of the Rental Housing Act of 1980 that may be disposed of through administrative proceedings.

3900.2 The Rent Administrator shall establish internal operating procedures for the handling of RACD business.

3900.3 The Rent Administrator shall issue written delegations of authority pursuant to § 204(d) of the Act to hearing examiners to hear administrative petitions and issue decisions and final orders on those petitions; provided, that the Rent Administrator shall delegate authority to issue final decisions and orders only with the formal concurrence of the Commission.

3900.4 The RACD shall be open daily from 8:30 a.m. to 3:30 p.m., except Saturdays, Sundays, and legal holidays.

3900.5 The Rent Administrator shall operate a “Tenant Hot Line” telephone service to provide assistance primarily to low and moderate income tenants in accordance with the provisions of § 705 of the Act.

AUTHORITY: Unless otherwise noted, the authority for this chapter is section 202(a)(1) of the Rental Housing Act of 1985, D.C. Law 6-10, § 202(a)(1), effective July 17, 1985 (codified at D.C. Official Code § 42-3502.02(a)(1) (2001)).

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1351 (March 7, 1986); as amended by Notice of Final Rulemaking published at 33 DCR 2657 (May 2, 1986).

3901 FILING PETITIONS AND OTHER DOCUMENTS

3901.1 All petitions and documents to be filed with the Rent Administrator shall be received in the Department of Consumer and Regulatory Affairs, Rental Accommodations and Conversion Division (RACD) at 941 North Capitol Street, N.E., Room 7100, Washington, D.C. 20002, unless otherwise directed.

3901.2 No fee shall be charged for filing any document with the RACD.

3901.3 All petitions before the Rent Administrator shall be filed on forms provided by the Rent Administrator and accompanied by any supporting documents as required.

3901.4 Each document filed shall be promptly date-stamped and entered into the RACD daily log.

- 3901.5 Each petition filed shall be promptly date-stamped and entered into the appropriate RACD petition log.
- 3901.6 The RACD daily log and petition logs shall be available for public inspection.
- 3901.7 The receipt of a document for filing by RACD shall not constitute a waiver of any failure to comply with the requirements of this subtitle.
- 3901.8 Any pleading or other filing that does not comply with the requirements of this subtitle may be rejected by RACD.
- 3901.9 Unless otherwise required, each filing shall consist of an original and four (4) identical copies of each document submitted.
- 3901.10 No document shall be considered properly filed after the date on which the document is due for filing.
- 3901.11 All pleadings and other filings shall be deemed filed when received and stamped by RACD during business hours on or before the date due.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1351-52 (March 7, 1986).

3902 PROCEDURES UPON FILING PETITION

3902.1 Upon receipt of a petition, the Rent Administrator shall assign a case number to it, using the following prefixes:

DOCUMENT PREFIX

- (a) Tenant Petitions **TP**
- (b) Hardship Petitions **HP**
- (c) Capital Improvement Petitions **CI**
- (d) Petitions for Substantial Rehabilitation **SR**
- (e) Petitions for Changes in
 Related Services and Facilities **SF**
- (f) Case numbers for Voluntary
 Agreements shall be indicated

with the prefix **VA**

(g) Case numbers for Show Cause

hearings shall be indicated

with the prefix **SC**

(h) Case numbers for Compliance hearings shall be indicated with the word “COMPLIANCE”

3902.2 The Rent Administrator shall enter the receipt and acceptance of each petition in a docket, which shall list the petition number, the address of the affected housing accommodation or rental unit, and the date on which the petition is scheduled to be heard before a hearing examiner.

3902.3 Upon receipt of a petition, the Rent Administrator shall, by first class mail, notify the adverse parties named in the petition of their right to a hearing.

3902.4 In the case of tenant petitions, a copy of the petition shall be sent to the housing provider of the housing accommodation.

3902.5 In the case of petitions filed by a housing provider, the housing provider shall provide for each tenant in the housing accommodation one (1) copy of the petition, and a postage paid envelope addressed to each tenant by name which contains the return address of the RACD. The copies shall be mailed to the tenants by the Rent Administrator.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1352-53 (March 7, 1986).

3903 RIGHT TO A HEARING AND DISPOSITION OF PETITIONS WITHOUT HEARINGS

3903.1 The parties to petitions before the Rent Administrator have a right to a hearing in accordance with the provisions of the Act and chapter 40 of this title.

3903.2 The Rent Administrator on his or her motion may dismiss any petition that does not state a claim for which relief can be granted under the Act.

3903.3 The Rent Administrator shall dismiss a petition for adjustment of rent if a ruling on the same issue has been made for the same housing accommodation or rental unit within six (6) months prior to the filing of the petition, unless that previous ruling dismissed a former petition without prejudice to refileing.

3903.4 The Rent Administrator may refuse to accept for filing, or may dismiss, a petition in the following circumstances:

- (a) If it is not properly filed;
- (b) If it is not on the prescribed form pursuant to § 3901.3;
- (c) If it is not prepared in accordance with the instructions of the Rent Administrator;
- (d) If it is not accompanied by documents where required; or
- (e) If it is not signed by the party, or authorized representative of the party, filing the petition.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1353 (March 7, 1986).

3904 PARTIES

3904.1 Individual tenants involved in any proceeding shall be individually identified.

3904.2 If a tenant association seeks to be a party, the hearing examiner shall determine the identity and number of tenants who are represented by the association.

3904.3 If a majority of the tenants are represented by the association, the association shall be listed in the caption.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1354 (March 7, 1986).

3905 CAPTIONS

3905.1 In order to achieve uniformity of pleadings before the Rent Administrator in all contested proceedings arising under the Act, and to ensure that the rights and liabilities of proper parties in interest are secured, all cases arising from complaints and petitions shall be properly captioned as provided in this section.

3905.2 Captions shall contain the name of the housing provider 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.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1354 (March 7, 1986).

3906 SUBSTITUTION OR ADDITION OF PARTIES

3906.1 Upon the death of a party, or the dissolution, reorganization, or change of ownership or interest of a party, or a change in the registration statement resulting from an amendment filed under § 4103, the hearing examiner may, upon the motion of a party or upon the hearing examiner's own motion, substitute or add a person, partnership, or corporation.

3906.2 If it appears to the Rent Administrator that the identity of the parties has been incorrectly determined, the Rent Administrator may substitute or add the correct parties on his or her own motion.

3906.3 No substitution or addition of parties may occur unless all necessary parties are provided an opportunity to file written arguments in support of or opposition to a motion for substitution or addition of parties.

3906.4 A hearing on the motion for addition or substitution of parties may be scheduled at the discretion of the hearing examiner.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1354 (March 7, 1986).

3907 INTERVENORS

3907.1 There shall be no intervenors as a matter of right in RACD proceedings, but intervenors may be permitted to participate in a hearing if the proceeding will directly affect their rights or duties and is otherwise appropriate.

3907.2 A request to intervene shall be by motion stating the reasons why intervention should be permitted.

3907.3 Intervenors shall be considered full parties and shall have the same rights and duties as a party to a petition, with the following exceptions:

- (a) Intervenors shall not have an independent right to a hearing; and
- (b) Intervenors may participate only with respect to issues affecting them, as determined by the hearing examiner.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1355 (March 7, 1986).

3908 EXPANDING THE SCOPE OF A PROCEEDING

3908.1 If the hearing examiner determines that the issues raised in a tenant petition affect other tenants or all tenants in the housing accommodation, the hearing examiner may expand the scope of the proceeding to include all affected tenants; provided, that notice shall be given to the additional tenants that they have the right to participate in the proceeding.

3908.2 The notice to other tenants shall state the issues to be decided in the proceeding and that any decision shall be binding upon them.

3908.3 The hearing examiner shall also provide notice to the housing provider of the determination to expand the scope of the proceeding.

3908.4 Tenants and the housing provider shall have a reasonable opportunity to present any arguments in support of or opposition to the hearing examiner's determination.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1355 (March 7, 1986).

3909 CONSOLIDATION OF PETITIONS

3909.1 The Rent Administrator may consolidate 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 petitions on the motion of a party to a petition, if consolidation would expedite the processing of the petition and would not adversely affect the interests of the parties.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1355-56 (March 7, 1986).

3910 DELEGATION OF AUTHORITY OF HEARING EXAMINERS

3910.1 Hearing examiners shall conduct fair and impartial hearings and take necessary actions to avoid delay in the disposition of petitions and other matters.

3910.2 Hearing examiners shall have all powers necessary to carry out the purposes of § 3910.1 in accordance with § 3900.3, unless otherwise limited by law including, but not limited to, the authority to do the following:

- (a) Administer oaths and affirmations;
- (b) Issue subpoenas in accordance with § 204(h) of the Act and this subtitle;
- (c) Convene hearings as appropriate and regulate the course of the hearing, maintain decorum, and exclude from the hearing any disruptive person(s);
- (d) Exclude witnesses, other than parties, during the examination of other witnesses;
- (e) Rule on the use of discovery procedures as appropriate;
- (f) Rule on offers of proof and receive relevant evidence;
- (g) Rule on all motions;
- (h) Rule on all contested issues;
- (i) Request the filing of memoranda of law and the presentation of oral arguments with respect to any contested issue or any question of law;
- (j) Order the production of evidence and the appearance of witnesses whose testimony would be relevant and material;
- (k) Impose penalties, as provided by law and this subtitle; and
- (l) Hold prehearing conferences for the settlement, and simplification of contested issues.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1356 (March 7, 1986).

3911 SERVICE OF NOTICE

3911.1 All documents required to be served upon any person under this subtitle shall be served upon that person, or shall be served upon the representative designated by that person or by law to receive service of documents.

3911.2 When a party has a representative of record as provided in § 4004, service shall be made upon the representative.

3911.3 Service upon a person shall be completed in accordance with § 904 of the Act.

3911.4 Actual receipt of service shall bar any claim of defective service, except for a claim with respect to the timeliness of service.

3911.5 Service by mail shall be complete upon mailing.

3911.6 Pleadings and other documents shall be served on the other parties prior to or at the same time as filed with the hearing examiner.

3911.7 Proof of service of pleadings and other documents to parties shall meet the following requirements:

(a) Be submitted in writing; and

(b) Shall show the date, person served, address at which service was made, and the manner of service.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1357 (March 7, 1986).

3912 COMPUTATION OF TIME

3912.1 In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated time period begins to run shall not be included.

3912.2 The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the next day which is not a Saturday, Sunday, or a legal holiday.

3912.3 When the time period prescribed or allowed is ten (10) days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

3912.4 Legal holidays shall be those provided in D.C. Official Code § 1-612.02 (2001).

3912.5 If a party is required to serve papers within a prescribed period and does so by mail, three (3) days shall be added to the prescribed period to permit reasonable time for mail delivery.

3912.6 The RACD, for good cause shown, may enlarge the time prescribed, either on motion by a party or on its own initiative.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1357-58 (March 7, 1986).

3913 CONCILIATION OF DISPUTES AND THE CONCILIATION SERVICE

3913.1 Either a housing provider or a tenant may initiate a request for conciliation of a dispute arising under the Act or this subtitle.

3913.2 A request for conciliation of a dispute shall be filed on a form provided by the Rent Administrator.

3913.3 A request for conciliation of a dispute shall be filed with the RACD Conciliation Service established by § 503 of the Act. The Conciliation Service shall do the following:

(a) Utilize a knowledge of the Act, this subtitle, and, if applicable, an Apartment Improvement Program building improvement plan, and other specific information about the circumstances of the dispute to assist the parties in arriving at a mutually acceptable explanation of the dispute and to assist the parties in developing a mutually acceptable settlement or resolution of the dispute;

(b) Advise both the housing provider and the tenant of their rights and obligations under the Act, this subtitle, and other applicable D.C. laws;

(c) Advise both the housing provider and the tenant of circumstances surrounding the dispute which constitute violations of the Act, this subtitle, and other D.C. laws; and

(d) Refer disputes relating to a building improvement plan that are not resolved by conciliation to a partnership committee of the Apartment Improvement Program.

3913.4 Neither party to a dispute brought before the Conciliation Service shall be compelled to attend a session or participate in any proceeding of the Conciliation Service.

3913.5 The results of an attempt to conciliate a dispute shall not be binding upon either party, except where an agreement is developed voluntarily as a result of the conciliation.

3913.6 Voluntary agreements reached during conciliation shall not prevent the Rent Administrator from enforcing the provisions of the Act or this subtitle.

3913.7 The proceedings of the Conciliation Service shall be informal, voluntary, and non-adversarial. No formal evidence shall be offered or accepted.

3913.8 Admissions of responsibility by either party or other stipulations required as an essential condition for making an agreement shall not be admissible in any adjudicatory proceedings under the Act, this subtitle, or any other administrative or judicial proceedings under provisions of District of Columbia law.

3913.9 Each tenant petition shall be reviewed by the Conciliation Service to determine if it involves issues that could be resolved through conciliation.

3913.10 If issues that may be resolved through conciliation are presented in a tenant petition, the Conciliation Service shall discuss with the tenant the conciliation of the matters raised in the tenant petition. If the tenant agrees, the Conciliation Service shall contact the housing provider.

3913.11 Immediately prior to the hearing in any tenant petition, the Rent Administrator or the Rent Administrator's designee shall offer to assist the parties in resolving the dispute through conciliation. If conciliation fails, upon mutual consent of the parties, the housing provider and the tenant may submit any dispute for arbitration.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1358-59 (March 7, 1986).

3914 ARBITRATION

3914.1 By mutual agreement, both the housing provider and the tenant(s) who are parties to a dispute under this Act, may file with the Rent Administrator, on a form provided by the Rent Administrator, a request for arbitration of any dispute not satisfactorily conciliated under § 503 of the Act and § 3913 of this subtitle.

3914.2 Parties may waive the conciliation process and mutually agree to have the dispute arbitrated pursuant to this section and § 504 of the Act.

3914.3 An arbitration recommendation, issued pursuant to the Arbitration Panel's recommendation, shall not be binding on the parties unless both parties demonstrate their acceptance by signing it. The Rent Administrator shall approve agreements entered into by the parties under the panel's recommendation.

3914.4 The Rent Administrator shall designate three (3) members of the RACD staff, other than those who heard the dispute under § 503 of the Act, to serve as members of the Arbitration Panel.

3914.5 The Arbitration Panel shall schedule and conduct an arbitration hearing at a time convenient to the parties.

3914.6 The Arbitration Panel shall issue a written recommendation to resolve the dispute within ten (10) days of the arbitration request.

3914.7 Any agreement accepted and entered into by the parties, pursuant to the Arbitration Panel's recommendation, shall not be appealable to the Commission.

3914.8 Any arbitration agreement accepted and entered into by the parties, pursuant to the Arbitration Panel's recommendation, shall be enforceable by a court of competent jurisdiction, upon application by the Rent Administrator or the parties.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1359-60 (March 7, 1986).

3915 ADVISORY OPINIONS

3915.1 The Rent Administrator may issue at the request of any person an advisory opinion on issues of first impression relating to specific proposed actions.

3915.2 Advisory opinions shall not address an issue currently pending before the Rent Administrator or the Commission in a hearing or other adjudicative proceeding.

3915.3 Each inquiry shall meet the following requirements:

- (a) Be submitted in writing;
- (b) Specifically request an advisory opinion;
- (c) Contain a signed statement of proposed action, of all relevant facts and of the author's interpretation of the law or regulations; and
- (d) Accompanied by any relevant documents.

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

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1360 (March 7, 1986).

3999 DEFINITIONS

3999.1 The provisions of § 3899 of chapter 38 of this title and the definitions set forth in that section shall be applicable to this chapter.