

Resolution No. 20 – 003

A resolution of the Rent Control Board of the City of Santa Monica approving revisions to administrative hearing processes and procedures as provided for by Regulation 15020.

The Rent Control Board of the City of Santa Monica (“The Board”) resolves as follows:

WHEREAS, Board Regulation 15020 provides that in the event of a declared emergency the Administrator may temporarily suspend or alter any aspect of the administrative decision process to the extent necessitated by the emergency; and

WHEREAS, the federal, state, and local governments have all declared a state of emergency affecting Santa Monica arising out of the COVID-19 pandemic; and

WHEREAS, under the federal, state, and local declared emergency, the Board must act in a manner consistent with the need to prevent transmission of the highly-contagious coronavirus that causes COVID-19, which entails compliance with the social distancing guidelines propounded by the United States Centers for Disease Control; and

WHEREAS, pursuant to these guidelines, City Hall, where the Board has its offices, and where the Board conducts its business, is closed to the public, and all City bodies and departments, including the Board, are required to limit or entirely avoid all in-person meetings or events; and

WHEREAS, in order to comply with these social distancing guidelines and resulting requirements, the Board has been conducting administrative hearings by videoconference and teleconference; and

WHEREAS, Board staff has encountered at least one person who lacks the equipment and personal wherewithal to meaningfully participate in a hearing conducted by videoconference or teleconference, and

WHEREAS, the Administrator has determined that, because it would be inappropriate to exclude a person from availing him- or herself from the hearings process merely because he or she is unable to access that process, and

WHEREAS the Administrator determined, on September 23, that in the rare case in which a person cannot participate in the hearings process when the process is conducted by electronic means, but a hearing is required to avail oneself of a substantive right under the Rent Control Law and the public health emergency precludes in-person hearings, it is appropriate to conduct the hearing by written declarations submitted by the parties, and

WHEREAS, Regulation 15020 requires the Administrator to place on the agenda of the first meeting of the Board occurring after she has suspended or altered any administrative decision process or procedure an Administrative Item setting forth, in writing, which processes, procedures, or regulations have been altered or suspended, for the Board to accept, reject, or modify; and

WHEREAS the suspension or modification of any administrative decision process or procedure implemented by the Administrator will automatically expire if not approved or modified by the Board in the form of a resolution at the first Board meeting occurring after the Administrator took such action,

NOW THEREFORE BE IT RESOLVED that the Rent Control Board of the City of Santa Monica hereby approves the following amendments to the administrative decision processes implemented by the Administrator:

- In the event that the Hearing Department Manager determines that a party to an administrative hearing to be held by a hearing examiner cannot meaningfully participate in the hearing by electronic means, the hearing may be held by written declarations, under penalty of perjury, submitted by the parties.
- In the event of a hearing by written declaration, the parties must be advised that no decision will be based on any statement in any declaration that is not made by the personal knowledge of the declarant.
- The parties to a hearing by written declaration may be, but are not required to be, represented by counsel. Any such counsel need not execute a declaration to the extent that any statement made by such counsel is limited to legal argument and not the presentation of evidence.
- Each party to a hearing by written declaration must submit their declaration under penalty of perjury, together with any submitted documents and argument by counsel, to the hearing examiner and to the opposing side by no later than the date specified in the hearing notice sent to the parties by the Hearings Department. Each party will then have ten days, excluding Saturdays, Sundays, holidays, and City Hall closed Fridays to respond to the materials submitted by the opposing party, if they wish to do so. The response must also be in the form of a written declaration including only statements of facts known personally by the declarant, and may also include documents and argument by counsel. The parties must not include, and the hearing examiner must not consider, any argument or evidence that is not strictly responsive to the opposing party's original submission.

PASSED, APPROVED, AND ADOPTED this 8th day of October, 2020.

s/Naomi Sultan
Naomi Sultan, Vice-Chair

ATTEST:



Lonnie Guinn,
Board Secretary