



## PETITION PROCESS - FAQ

### What is a petition and why file?

The Santa Monica Rent Control Law allows tenants and property owners to file petitions to resolve disputes or adjust rent levels. The filing of a petition usually results in the matter being scheduled for a hearing. There are several types of [petitions](#) heard by the Rent Control Board.

### How do I file a petition?

The petition process begins with the completion and filing of a petition. Step-by-step instructions for filing petitions are available online at the following links:

[How to File a Petition for a Rent Decrease](#)

[How to File an Excess Rent Complaint](#)

[How to File a Petition for Determination of a Tenant Not-in-Occupancy](#)

[How to File an Increase Petition](#)

Please follow the instructions carefully. If your petition is not complete or is incorrectly filled out, it cannot be accepted for filing.

### What happens after I file the petition?

After the petition is accepted for filing, it is either sent to the Hearings Department or to a [mediation](#) facilitator. Increase petitions and Base Amenities petitions are sent directly to the Hearings Department.

- Some decrease petitions are sent to a mediation facilitator to attempt resolution and/or clarification of the issues. If mediation is not fully successful, the petition is forwarded to the Hearings Department for scheduling.
- Excess rent complaints are initially reviewed to establish a prima facie case and then sent to a mediation facilitator to attempt settlement of the claims. If mediation is not successful, the petition is forwarded to the Hearings Department.

### How are parties notified of hearings?

Petitions are thoroughly reviewed by the Hearings Department upon receipt. If no changes are required, a hearing is scheduled. A Notice of Hearing is sent to the parties at least ten days prior to the hearing. The notice contains the date, time, and place of the hearing, as well as other important information. Please pay careful attention to the notice.

In some cases, you may be contacted by the Hearings Department prior to the hearing. You may be contacted by the person reviewing your petition if any changes or clarifications to your petition are

needed. If you file a decrease petition, an investigator will, in most cases, contact you to visit your unit before a hearing takes place.

## **When are hearings scheduled?**

Hearings are scheduled Monday through Friday during regular working hours. Hearings are usually scheduled in the morning to allow sufficient time for the hearing. The amount of time required for a hearing varies and can be affected by a number of factors such as the amount of evidence and testimony presented; the number of witnesses; and the complexity of the issues. Hearings may be held via teleconference or videoconference.

## **What will happen at the hearing?**

A Rent Control hearing is not as formal as a hearing or trial in court. The hearing is held before a hearing officer at the Hearings Department and may be attended by any interested party.

The hearing officer will begin the hearing by explaining how the hearing will proceed. Both petitioner (the person who filed the petition) and respondent (the tenant or landlord who disagrees with what is stated in the petition) will have an opportunity to present their cases to the hearing officer. The evidence presented by the parties will form the basis of the hearing officer's decision.

### Attendance

It is essential that the parties attend the hearing. If the petitioner does not appear, the case is normally dismissed. If the respondent does not appear, he or she will miss the opportunity to present his or her case.

### Witnesses Must Attend the Hearing

It is vital that any witness with firsthand knowledge regarding your case attend the hearing and testify. If you believe there is a vital witness who will be unwilling to attend the hearing, the subpoena process is available to compel attendance.

You may submit letters or declarations, but it is possible they will not be considered without the person who wrote the document appearing and testifying at the hearing.

## **What if I can't attend?**

### Continuances

If you find that it is impossible for you to attend the scheduled hearing, you may ask for a continuance in writing from the Hearings Department.

Your written request for continuance must be received no less than 72 hours prior to the hearing. The request should contain a statement of your good cause for continuance, a statement that you contacted the opposing party and alternate dates for hearing.

If you believe you have good cause to request a continuance but are unable to meet the requirements set forth above, you or a representative may request a continuance at the scheduled hearing. In that case, the hearing officer will determine whether or not to continue the hearing.

## What if the issue is resolved before the hearing?

### Withdrawing a Petition

In some cases, all of the issues that led to the petition are resolved before the hearing. If the petitioner is satisfied with the resolution of the matters, he or she may withdraw the petition in writing. Withdrawals must be received by the Hearings Department prior to the scheduled hearing. Withdrawal forms are available at the Rent Control office, or the petitioner may inform the Hearings Department by letter that he or she wishes to withdraw. A Notice of Withdrawal is then sent to the parties. If you later change your mind, you may re-file your petition.

## What kind of evidence do I need?

The petition determines the issues you may address at the hearing, either as petitioner or respondent. Issues not mentioned in the petition cannot be discussed at the hearing. Organize your evidence according to each item to be shown on the petition. Also try to organize the evidence in terms of the dates of events or documents.

Your own testimony is important evidence. Organize the presentation of your testimony prior to the hearing. You may use notes during the hearing to aid in your presentation.

You should be prepared to tell the hearing officer, in your own words, what happened or what you want to prove. For example, if you are asking for a rent decrease, be prepared to prove what service has been lost or what repairs need to be made.

Be ready to tell what happened, in the order in which it happened: First this, then this, then that.

It is also important to provide evidence in addition to your own testimony of what you seek to prove, if possible. If there are important witnesses with knowledge about your case, they should appear at the hearing to testify. Remember, a letter, report or written declaration is not sufficient proof for the hearing officer to use when making a decision without the testimony of a person with firsthand knowledge (e.g., someone who knows something because they were there when it happened).

Documents are also important. Submit them in pdf format to the Hearings Department by email before the hearing or provide copies at our City Hall Office. Organize the evidence materials according to the points they prove. Examples of documents that could be important include rental agreements, changes of terms of tenancy, notices, rent receipts, ledgers, bills, checks, statements of work done, any citations from the Health Department or Building and Safety. If you provide hard copies, please provide three copies of any document you wish to submit at the hearing. One copy will go into the file, one to the opposing party and one is for your file. Be prepared at the hearing to show the original document, if available, if it is requested by the hearing officer.

Interpreter: The Rent Control Board will provide an interpreter if necessary for you or your witnesses. There is no charge. In order to get this service, you must request an interpreter from the Hearings Department (310)458-8751 immediately after you receive notice of the hearing.

## How do I get the evidence I need?

A detailed instruction sheet on how to subpoena witnesses and documents, as well as the necessary forms, is available at the Rent Control office.

When you have completed the forms as provided in the instruction sheet, you must have the subpoena signed by the supervisor of the Hearings Department. Allow one day for the review and signing of the form by the supervisor.

To subpoena a witness, the signed subpoena must be served at least five days prior to the date of the hearing. The person serving the subpoena must personally hand a copy of the subpoena to the person to be served. It is important to retain the original subpoena. The person serving the subpoena must be at least 18 years of age and not a party to the case. The proof of service must then be completed by the person serving. Both the proof of service and the original subpoena should be presented to the hearing officer at the hearing.

Please note that subpoenaed witnesses are entitled to a witness fee of \$35 and 20¢ per mile. It is your responsibility to pay those fees. If the subpoenaed witness demands the fees from the person serving the subpoena, the fees must be paid on the spot. Otherwise, the service will not be considered effective, and the witness will not be compelled to appear at the hearing.

You may also want to subpoena documents or records. In that case, you must complete a Subpoena Duces Tecum. Instructions on obtaining a Subpoena Duces Tecum are available at the Rent Control office. The process for serving the subpoena is the same as for service of the personal subpoena, except that if you are serving an entity, such as a utility company, you may serve any representative at any location of that entity. In the case of public utilities and banks, be prepared to wait four to six weeks for documents after the service of the subpoena.

## How does the hearing work?

The hearing normally proceeds in the following order:

1. Petitioner's case - presentation of witnesses, documents and other relevant evidence to prove the allegations in the petition;
2. Cross-examination of petitioner;
3. Respondent's Case - presentation of witnesses and evidence to rebut or refute petitioner's evidence;
4. Cross-examination of respondent;
5. Rebuttal by petitioner;
6. Closing arguments.

Both the petitioner and the respondent have the right to representation at the hearing. You may be represented by an attorney, a tenant representative or anyone you choose to help present your case.

It is not necessary to have a lawyer or representative unless you choose to do so.

Both the petitioner and the respondent have the right to present evidence. The evidence may include the testimony of the parties, the testimony of witnesses with first-hand knowledge, any relevant documents, photographs, etc. The hearing office will determine the relevance of any evidence submitted.

Both the petitioner and the respondent have the right to cross-examine the opposing party. Cross-examination means asking direct questions of the opposing party regarding their evidence.

Petitioner may rebut or refute the evidence presented by the respondent (that is, explain why he or she feels it is not correct).

The hearing officer has the responsibility and duty to conduct the hearing in an impartial and fair manner. The goal of the hearing officer is to obtain all of the necessary evidence to make a competent decision.

The hearing officer will explain the procedures at the beginning of the hearing. The hearing officer may assist in getting evidence into the record by asking questions of witnesses.

The entire hearing is recorded. The recording is part of the public record of the case and is the only official record of the proceedings. The recording may be reviewed after the hearing by making an appointment with the Hearings Department. Arrangements may be made through the Rent Control office to obtain copies of the recording.

### Testimony

The regulations provide that all testimony at hearings must be given under oath or by affirmation and is subject to penalties for perjury.

Because the proceedings are recorded, it is important not to interrupt the testimony of someone else. It is helpful to keep a pencil and paper handy for making notes about a witness' testimony. This way you will remember any questions you had or points you want to make.

Everyone will have the opportunity to speak. Interruptions only serve to delay the proceedings. An orderly proceeding ensures a good record of the case upon which the hearing officer will base the decision.

### **What happens after the hearing?**

The hearing officer will not make a decision at the time of the hearing. It takes time to review the facts and make a decision. Within approximately 30 days of the hearing, the hearing officer will issue a written decision based on the evidence presented. Remember, no evidence presented after the hearing can be considered. The parties (petitioner and respondent) will each receive a copy of the decision. The decision will set forth in detail the hearing officer's reasons for the decision. The decision will also state what, if anything, is required for compliance with the decision.

### **What if I don't agree with the decision?**

Any party may appeal the hearing officer decision if they disagree with it. The appeal form is included with the decision when it is mailed to the parties. The appeal must be filed within ten days of the date of the decision. The Board may consider late appeals if the appellant can show good cause for why the appeal was not filed in a timely manner.

If no appeal is filed, the hearing officer's decision becomes the final decision of the Board.

## **What do I write in the appeal form ?**

In the appeal form, you must specify the basis on which you believe that the hearing officer erred in his or her decision. You may attach additional pages to the appeal form if necessary.

## **May I attach evidence to the appeal form?**

The Board can review the record and all the evidence submitted at the hearing so it is not necessary to submit any evidence with your appeal. Evidence not submitted at the hearing cannot be considered by the Board. In an appeal, the Board acts as an appellate body. It bases its decision on the record developed during the hearing(s) and the arguments included in the appeal; for this reason, it cannot accept any new evidence. A limited exception to this rule is for evidence obtained after the hearing that could not have been obtained sooner through the exercise of reasonable diligence, and that bears directly on a material disputed fact. Do not submit any evidence with the appeal unless it was already submitted into the record at the hearing(s) on the matter, or it is new evidence that meets this limited exception.

## **What happens after I file my appeal?**

After you file your appeal, the Board's legal staff will review the appeal and prepare a staff report for the Board on the points that you have raised. At least ten days prior to the Board meeting at which the appeal will be considered, you will be notified of the date, time, and place of the meeting and receive a copy of the staff report. You will also have an opportunity to respond to the staff report in writing; you will be notified of the deadline for submission of your written response. You may also choose to respond to the staff report in person at the hearing.

The Board members will receive the appeal, the staff report, the hearing officer's decision, and other relevant documents prior to the Board meeting.

## **When are Board meetings usually scheduled?**

Appeals are heard during the Board's general meetings, which are usually held on the second Thursday evening of every month at the City Council's chambers on the second floor of City Hall at 7 p.m. If you wish to address the Board on your appeal, please try to arrive 15 minutes before the start of the meeting, and notify the Board Secretary that you intend to speak on your item.

You are not required to address the Board, or attend the meeting in order for your appeal to be considered by the Board.

## **Can I ask for my appeal to heard on a different date?**

If you are unable to attend the meeting for which the appeal has been scheduled, you may request a continuance in writing at least 72 hours prior to the meeting unless good cause is shown for a later request. Your request must state the reasons you cannot make the scheduled meeting. In your request, you must also provide acceptable alternative dates as well as the specific efforts you made to ascertain the position of the other parties to the matter regarding the continuance. Copies of the written request must be sent immediately to the other parties with proof of such service.

Requests for a continuance will only be granted for good cause by the Administrator of the Rent Control Agency or a majority of the Board.

## **What happens at the Board meeting on my appeal?**

Legal staff will first provide an oral report to the Board on the appeal(s) filed in the matter. The Board will then allow any parties who have asked to speak on the matter to address the Board. Appellant(s) will be allowed to address the Board first, and will be given five minutes to do so, unless additional time is granted by a majority of the Board. Parties other than the appellant will be allowed three minutes to address the Board.

After you have made your remarks, Commissioners may ask you follow up questions. After all the parties in attendance have made their remarks, the Board will deliberate on the merits of the appeal in public and reach a decision. The Board may affirm, modify, or reverse the decision, or remand the matter to the hearing officer.

You will also receive a written notification of the Board's decision in the mail.

## **What if I only want to notify the Board that I have complied with the decision?**

Do not file an appeal if you only want to notify the hearing officer that you have complied with the decision (e.g. you as landlord have repaired the conditions for which the hearing officer granted a decrease). Instead, contact the Hearings Department at 310-458-8751 and request a compliance determination. Hearings staff will explain the procedure for verification of compliance and restoration of the lawful rent to the maximum allowable rent permitted under the rent control law for the unit in question.