



Staff Agency
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SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

November 16, 1981

Housing Authority of the
City of Sacramento
Sacramento, California

CITY MANAGER'S OFFICE
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Honorable Members in Session:

SUBJECT Appellate Procedure on Section 8 Fair Market Rents

BACKGROUND

Under the Section 8 Program, Agency staff must establish the total fair market rent to be received by a Section 8 landlord for his rental property. The difference between the fair market rent and the tenant portion of the rent constitutes the Section 8 subsidy. These fair market rents are established by the staff after due consideration of other comparable rentals of similar type, size, location and condition.

From time to time, rental owners object to the amount established by the Agency staff after its review of the property. Of course, the staff attempts to conciliate such differences but a full resolution cannot be achieved in all instances.

Accordingly, it is suggested that an appellate procedure be established which will allow landlords who object to the setting of the fair market rent by the staff to have a full hearing before a committee of the Commission which will give them an opportunity to show that the staff determination was arbitrary, capricious or without foundation.

It is important to note that the attached appellate rules which it is urged that you adopt, establish the burden of proof upon the landlord; that is, it would be the burden of the landlord to establish that the staff decision was not supported by substantial evidence or was arbitrary and capricious. While this is a high standard for the landlord to meet, staff feels it is important that the vast number of these decisions not result in an excessive number of appeals. Such a standard would tend to prevent this occurrence.

APPROVED
SACRAMENTO HOUSING AUTHORITY
CITY OF SACRAMENTO

11-17-81
All Districts

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RECOMMENDATION

The staff recommends: 1) adoption of the attached resolution adopting criteria for hearing Section 8 fair market rent disputes; and 2) designation of the Commission or Commission subcommittee as the official hearing body for resolving such disputes.

Respectfully submitted,

William H. Edgar

WILLIAM H. EDGAR
Interim Executive Director

TRANSMITTAL TO COUNCIL:

Walter J. Slise

WALTER J. SLISE, City Manager

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81-101

RESOLUTION NO.

ADOPTED BY THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO
ON DATE OF

November 17, 1981

APPROVING AND ADOPTING APPELLATE PROCEDURE ON
SECTION 8 FAIR MARKET RENTS AND DESIGNATING
THE OFFICIAL HEARING BODY FOR SUCH APPEALS

BE IT RESOLVED BY THE HOUSING AUTHORITY OF THE CITY
OF SACRAMENTO:

Section 1. The Housing Authority hereby approves
and adopts the "Rules for Appellate Procedure Concerning Estab-
lishment of Fair Market Rents on Section 8 Cases", attached
hereto as Exhibit "A".

Section 2. The Authority hereby designates the
Housing and Redevelopment Commission, or a duly appointed sub-
committee thereof, as the Official Hearing Body for resolution
of such disputes.

CHAIRMAN

ATTEST:

SECRETARY

APPROVED
SACRAMENTO HOUSING AUTHORITY
CITY OF SACRAMENTO

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EXHIBIT "A"

RULES FOR APPELLATE PROCEDURE CONCERNING
ESTABLISHMENT OF FAIR MARKET RENTS ON SECTION 8 CASES

1. An owner may appeal from a determination by Agency staff of the fair market rental for his Section 8 unit by filing a notice with the Agency Clerk not more than five (5) business days after the setting of the rent and notice thereof to the owner.
2. The Agency Clerk shall establish a hearing on the appeal at the next regularly scheduled monthly meeting of the Committee (presently the second Friday of each month) or such earlier date as the Clerk is able to arrange with the members of the Committee.
3. At the hearing, the staff shall present the finding which it reached relating to the rent on the owner's property and such evidence as it has which tends to support that finding. Then the owner shall have an opportunity to present such evidence as he may have as to the arbitrariness or lack of foundation of the Agency's finding.
4. The staff finding as to the amount of the fair market rent on the owner's property shall be sustained by the Committee unless it shall find by a majority vote of the members present and hearing the evidence that:
 - (a) The setting of the fair market rent by the staff was arbitrary and capricious; or
 - (b) There was no substantial evidence supporting the staff's finding.
5. The determination of the Committee upon the appeal shall be final and binding on the parties. There shall be no further appeal from that decision.
6. Agency Counsel may represent the staff position before the Committee in the appellate procedure if the owner is represented by Counsel or is himself licensed as an attorney. The Committee may also from time to time present legal questions to the Agency Counsel relative to the proceedings.
6. Testimony before the Committee may be sworn or unsworn and preserved by tape recording or other method or not in the discretion of the Committee.