

**4208 RENT ADJUSTMENTS BY HOUSING PROVIDER PETITION**

- 4208.1 A rent adjustment shall not be implemented pursuant to § 210 (capital improvement), § 211 (services or facilities), § 212 (hardship), or § 214 (substantial rehabilitation) of the Act (D.C. Official Code §§ 42-3502.10, -.11, -.12, or -.14) without prior written approval following an administrative disposition.
- 4208.2 A housing provider who seeks approval of a rent adjustment under any section of the Act referenced in § 4208.1 shall file a petition with the Rent Administrator in accordance with § 3901.
- 4208.3 Each petition for approval of a rent adjustment filed by a housing provider shall be on a form published by the Rent Administrator and contain all information required by § 4209 (hardship), § 4210 (capital improvement), § 4211 (services or facilities), or § 4212 (substantial rehabilitation), as applicable.
- 4208.4 Each housing provider petition form published by the Rent Administrator shall include a brief explanation of the purpose of the petition and a statement that the tenant(s) of the affected rental unit(s) have the opportunity to contest the petition. The form published by the Rent Administrator shall include a list of sources of technical assistance and resource support for housing providers and tenants.
- 4208.5 Within five (5) days of the receipt of a petition for a rent adjustment, the Rent Administrator shall make a preliminary determination that the petition complies with all applicable filing requirements for the type of petition.
- 4208.6 If the Rent Administrator determines that a petition filed by a housing provider does not comply with all applicable filing requirements, the Rent Administrator, in his or her discretion, shall either:
- (a) Dismiss the petition without prejudice; or
  - (b) Grant the housing provider leave to amend the petition, in which case the petition shall be deemed filed on the date it is amended.
- 4208.7 If the Rent Administrator determines that a petition has been properly filed by a housing provider, he or she shall transmit a copy of the petition to the Office of the Tenant Advocate, including any supporting documents, and:
- (a) Transmit the petition and all other documents related to the petition to the Office of Administrative Hearings within ten (10) business days;
  - (b) If it is a hardship petition, prepare an audit report and proposed order in accordance with §§ Error: Reference source not found-Error: Reference source not found, and if exceptions and objections are filed to the audit

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report or proposed order, transmit the petition, the audit report, the proposed order, and all other documents related to the petition to the Office of Administrative Hearings; or

- (c) If it is a substantial rehabilitation petition and all affected units are vacant, review the petition and supporting documentation in accordance with § Error: Reference source not found and issue a final order approving or disapproving the petition.

4208.8 At the same time the Rent Administrator transmits a housing provider's petition to the Office of Administrative Hearings, the Rent Administrator shall also transmit the following:

- (a) The Registration/Claim of Exemption Form for the affected housing accommodation; and
- (b) If the Rent Administrator determines that any tenant's protected status under § 4215 is relevant to the approval or denial, in whole or in part, of the petition a copy of each registration form for status as an elderly tenant or a tenant with a disability, whether or not a claim of qualifying income has been made, that has been filed and not administratively denied, for any current tenant of the housing accommodation.

4208.9 The Rent Administrator, in his or her discretion, may stay a proceeding on a housing provider's petition for a reasonable time to allow for the filing, review, and contest of any application(s) for protected status in accordance with § 4215 if the Rent Administrator determines that protected status is relevant to the approval or denial, in whole or in part, of the petition.

4208.10 Notice that a case has been opened at the Office of Administrative Hearings on a housing provider's petition shall be provided in accordance with 1 DCMR § 2923 and shall include a form, published by the Rent Administrator, notifying tenants of the opportunity to establish an exemption from a rent surcharge or other rent adjustment pursuant to § 224(b) or (i) of the Act (D.C. Official Code § 42-3502.24(b) or (i)) and the standards, including the current qualifying income for exemption from rent surcharges, and procedures by which a tenant may establish protected tenant status as set forth in § 224(d) of the Act (D.C. Official Code § 42-3502.24(d)) and any rules and requirements implemented by the Mayor pursuant to that section.

4208.11 The tenant of each rental unit affected by a housing provider's petition, or a tenant association representing an affected tenant, shall have the opportunity to appear before the Office of Administrative Hearings to contest the petition on any relevant issues.

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- 4208.12 If no tenant or tenant association appears before the Office of Administrative Hearings to contest a housing provider's petition, the petition shall be adjudicated by an Administrative Law Judge on the merits based on evidence produced by the housing provider.
- 4208.13 Notwithstanding §§ 4208.11 and 4208.12, a tenant or tenant association shall have the opportunity to contest a hardship petition only if the tenant or tenant association files exceptions and objections to the proposed order issued by the Rent Administrator, in accordance with § Error: Reference source not found, and no adjudication by the Office of Administrative Hearings shall be required for a hardship petition to which no exceptions and objections have been filed.
- 4208.14 A petition shall be adjudicated before the Office of Administrative Hearings in accordance with 1 DCMR Chapter 28 and 1 DCMR §§ 2920-2941, and the housing provider shall bear the burden of proving its entitlement to the rent adjustment for which it has filed a petition with regard to each issue.
- 4208.15 A final order of the Office of Administrative Hearings approving or denying a petition, in whole or in part, may, within ten (10) business days of its service, be appealed to the Commission in accordance with § 3802 by any person who appeared personally or otherwise as a party in the case and who is aggrieved by the final order. In accordance with § 3805, a housing provider shall not implement a rent adjustment authorized by a final order while an appeal of that order is pending before the Commission.
- 4208.16 A rent adjustment authorized by a final order approving a petition filed under this section, in whole or in part, shall be implemented in accordance with § 4205 and the applicable section of this chapter for the type of the approved petition.
- 4208.17 A tenant of an affected rental unit who receives notice of a petition under § 4208.10 and who fails to contest the housing provider's petition shall not at a later date contest or challenge, by tenant petition under § 4214, the basis of an order of the Rent Administrator or Office of Administrative Hearings approving the housing provider's petition, except as provided in § 4214.6, or may challenge the implementation of the rent adjustment under § 4214.4.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1391 (March 7, 1986); as amended by Notice of Final Rulemaking published at 33 DCR 2656, 2666 (May 2, 1986); as amended by Final Rulemaking published at 68 DCR 012634 (December 3, 2021).