

## **3829 SETTLEMENTS, STIPULATIONS, AND MEDIATION**

- 3829.1 An appeal, any issue in an appeal, or any liability or remedy under the Act may be resolved or disposed of by settlement, stipulation, or other agreement. This may occur in cases on appeal before the Commission at any time before the issuance of a final decision and order.
- 3829.2 A settlement, stipulation, or other agreement may be reached through the written consent of any or all affected parties, including a mediated agreement reached through mediation proceedings offered by a designated member the Commission's staff.
- 3829.3 Mediation is a process of assisted, informal negotiation which uses a neutral third party, a mediator, to aid the parties in exploring the possibility of settlement. No party may be compelled to accept a settlement or other resolution of a dispute in mediation.
- 3829.4 At any time during case proceedings, the Commission may, on its own or by request of any party, refer a case for mediation to a designated member of its staff, who shall be an attorney, to act as a mediator for the parties to an appeal by the following procedure:
- (a) The Commission shall serve a notice to all parties offering the opportunity for mediation, and shall provide the parties thirty (30) days to respond;
  - (b) Upon the receipt of a response from all parties, if more than one party agrees to mediation, the designated member of the Commission's staff who will serve as the mediator shall schedule a mediation session with the advice of all participating parties; and
  - (c) A party agreeing to mediation may request to reschedule a mediation session at least ten (10) days before it is scheduled for good cause shown.
- 3829.5 If the Commission has received the certified record of a case on appeal, it may, by motion of a party or on its own initiative, grant a continuance of all briefing, hearings, or other argument of the appeal, and may defer the issuance of a final decision and order, while mediation proceedings are pending.
- 3829.6 A member of the Commission's staff who serves as a mediator may speak privately with any party or any representative during the mediation process, and any communications made in the mediation process by or to the designated mediator shall not constitute *ex parte* communications under § 3818.
- 3829.7 No Commissioner shall act as a mediator between parties to an appeal before the Commission.

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- 3829.8 Mediation proceedings conducted by the designated member of the Commission's staff shall be confidential, closed to the public, and not recorded in any manner, with or without the consent of the parties. No statements during a mediation proceeding or any documents prepared exclusively for a mediation proceeding shall become part of the record of an appeal or be admissible in any adjudication under the Act. The designated member of the Commission's staff who acts as a mediator shall not disclose any information learned from his or her participation and shall be screened from internal deliberations on the case.
- 3829.9 Parties agreeing to participate in mediation provided by the Commission's staff shall negotiate in good faith towards resolution of the appeal or an issue on appeal, and any representative appearing at mediation must have authority from the party to resolve the case or issues within the scope of the mediation. Mediation proceedings may be terminated for failure of one or more parties to comply with this subsection.
- 3829.10 Notwithstanding § 3829.8, a mediator may report, without elaboration, to the Commission:
- (a) Whether the parties reached an agreement; and, if not,
  - (b) Whether he or she believes further mediation would be productive.
- 3829.11 A settlement, stipulation, or other agreement, including a mediated agreement, that contains terms for the approval of a rent adjustment for which administrative approval is required under the Rent Stabilization Program, as specified in § 4204, shall be filed with the Commission by the appellant within five (5) days of its execution as an attachment to a motion for the Commission to dismiss the appeal, dismiss an issue on appeal, or accept any stipulation. Any adjustment to the rent charged for a rental unit pursuant to a settlement agreement shall be timely filed with the Rental Accommodations Division in accordance with § 4205.
- 3829.12 An agreement required to be filed with the Commission by § 3829.11 shall be made a part of the record of the case, notwithstanding any terms of the agreement requiring confidentiality or nondisclosure.
- 3829.13 The Commission shall review all settlements, stipulations, or other agreements filed pursuant to § 3829.11 to ensure that the interests of all parties are protected, in consideration of:
- (a) The extent to which the settlement enjoys support among the affected Tenants;
  - (b) The potential for finally resolving the dispute;
  - (c) The fairness of the proposal to all affected persons;

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- (d) The potential saving of litigation costs to the parties; and
- (e) The difficulty of arriving at prompt final evaluation of merits given complexity of the law and the delays inherent in administrative and judicial processes.

3829.14 If the Commission determines that a settlement, stipulation, or other agreement meets the requirements of § 3829.13, the Commission may issue an order dismissing the appeal or issue on appeal.

3829.15 Any order provided under this section may be issued by a single Commissioner.

SOURCE: Final Rulemaking published at 68 DCR 012634 (December 3, 2021).