

3805 STAY PENDING APPEAL OR JUDICIAL REVIEW

- 3805.1 If a party files a timely notice of appeal with the Commission from a final order of the Rent Administrator or Office of Administrative Hearings, any relief provided by that order shall be stayed. No party shall be required to pay a specific amount of money, including rent refunds, fines, or attorney's fees, required to implement a rent rollback, or permitted to implement a rent increase or take any other action for which administrative approval is required until the Commission disposes of the appeal.
- 3805.2 If a party files a petition for review of a final decision of the Commission to the District of Columbia Court of Appeals, within thirty (30) days of a decision and order by the Commission that affirms a final order, or any other order by the Commission that dismisses the appeal of the final order, the party that seeks or intends to seek judicial review may file a motion with the Commission to request a stay pending judicial review. The party may also request a stay from the District of Columbia Court of Appeals in accordance with D.C. App. R. 18.
- 3805.3 A motion for a stay pending judicial review under § 3805.2 shall inform the Commission whether any related matter is pending in the Courts of the District of Columbia and the status of the matter, including payments into the Court's registry or stays of eviction proceedings, or of any administrative order allowing or requiring payments into an escrow account.
- 3805.4 Any party may request in a motion for a stay or in response to a motion for a stay, or the Commission on its own initiative may order, that the stay be granted only on the condition that a disputed amount of money be guaranteed for later payment in accordance with § 3806.
- 3805.5 If a housing provider files a petition for with the District of Columbia Court of Appeals of a final decision of the Commission that authorizes the housing provider to implement a rent adjustment less than the amount requested by the housing provider in its petition, and the Commission decision approving the adjustment is not stayed pending judicial review, the housing provider shall not charge any affected tenant any rent in excess of the amount authorized in the Commission's decision, in accordance with § 216(l) of the Act (D.C. Official Code § 42-3502.16(l)).
- 3805.6 A motion for a stay pending judicial review shall be decided by a quorum of the Commission within fifteen (15) days. If the Commission does not act on the motion within that time, it shall be deemed denied.
- 3805.7 The Commission shall consider the following factors in deciding a motion for a stay pending judicial review:

District of Columbia Municipal Regulations

- (a) Whether the party filing the motion is likely to succeed on the merits of the appeal;
- (b) Whether and to what degree denial of the stay will cause irreparable injury to the party filing the motion;
- (c) Whether and to what degree granting the stay will injure other parties; and
- (d) Whether the public interest favors granting a stay.

3805.8 The stay of a final order of the Rent Administrator or Office of Administrative Hearings that has been appealed to the Commission shall be automatically lifted, and the relief granted in the final order shall become enforceable, fifteen (15) days after the issuance of a final decision and order by the Commission that affirms the stayed order, or any other order by the Commission that dismisses the appeal of the stayed order, unless a motion for reconsideration or modification is filed pursuant to § 3823.

3805.9 A party may file a tenant petition under § 4214, and fines may be imposed pursuant to § 901 of the Act (D.C. Official Code § 42-3509.01), if any other party takes any action pursuant to an order that is stayed.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1340-41 (March 7, 1986); as amended by Notice of Final Rulemaking published at 33 DCR 2656 (May 2, 1986); as amended by Final Rulemaking published at 68 DCR 012634 (December 3, 2021).