

A RESOLUTION

16-880

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 14, 2006

To declare the existence of an emergency with respect to the need to permit the Rent Administrator, and those persons exercising authority delegated by the Rent Administrator, to retain authority to issue final orders in cases in which they have held evidentiary hearings before October 1, 2006.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Rent Administrator Hearing Authority Emergency Declaration Resolution of 2006.”

Sec. 2. (a) The authority of the Rent Administrator to hold hearings and issue decisions in administrative cases arising under the Rental Housing Act of 1985, effective July 17, 1985, (D.C. Law 6-10; D.C. Official Code § 42-3501 *et seq.*), was transferred to the Office of Administrative Hearings (“OAH”) on October 1, 2006 pursuant to section 6(b-1)(1) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03(b-1)(1)) (“OAH Act”). The Rent Administrator’s power to delegate that authority to hearing examiners also expired as of that date.

(b) In preparation for the transfer, the Rent Administrator, the Rental Accommodations and Conversion Division of the Department of Consumer and Regulatory Affairs (“RACD”), and the OAH have undertaken a coordinated effort to ensure that the transfer of responsibility will occur smoothly, with proper regard for the interests of both tenants and housing providers and the prompt and efficient disposition of all administrative cases arising under the Rental Housing Act.

(c) The Rent Administrator and the hearing examiners at RACD have encountered extraordinary challenges in their efforts to issue final decisions in all the rental housing cases in which they have held evidentiary hearings before October 1, 2006. Illness and retirements of hearing examiners are among the factors that have made it impossible for final decisions to be issued in all such cases before the transfer of jurisdiction.

(d) As of October 1, 2006, there were approximately 125 cases in which a hearing examiner in RACD has held a full evidentiary hearing but has not issued a final decision. If

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those cases are transferred to OAH, significant delays will result. The Administrative Law Judge assigned to the case by OAH either must listen to the recording of the already-completed hearing, or may need to conduct a new hearing if the recording is unavailable or inaudible in part.

(e) As of October 1, 2006, OAH assumed responsibility for more than 200 additional cases that already have been filed at RACD, but have not received a hearing. OAH's ability to issue prompt decisions in those cases, as well as in the cases filed with OAH after October 1, 2006, will be severely compromised if the Administrative Law Judges also must devote their time to deciding cases that already have been heard by hearing examiners at RACD.

(f) Allowing hearing examiners at RACD to retain the authority to issue final orders in cases in which they already have held hearings will help to ensure that the claims of tenants and housing providers in these important matters are decided quickly and efficiently.

(g) The Council finds that there is a critical and prompt need to amend the OAH Act to avoid serious delays in the adjudication of administrative hearings conducted under the Rental Housing Act so that the Rent Administrator and the RACD hearing examiners may retain the authority to issue final orders in cases that they have heard before October 1, 2006.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Rent Administrator Hearing Authority Emergency Amendment Act of 2006 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.