February 11, 2022

The Honorable Anita Bonds

Chairperson, Committee on Housing and Executive Administration

Council of the District of Columbia

1350 Pennsylvania Avenue, NW

Washington, D.C. 20004

**SUBJECT: The Rental Housing Commission’s Reponses to Questions in Advance of the Performance Oversight Public Hearing on Fiscal Years 2021 and 2022 to Date**

Dear Chairperson Bonds:

The Rental Housing Commission has received questions in preparation for the Annual Performance Oversight Public Hearing, scheduled for February 17, 2022. As requested by letter, dated January 21, 2022, the Commission has attached the pre-hearing questions and responses to said questions. The Commission will provide this letter electronically, with enclosures; and forward two (2) hard-copy binders, as requested.

If you have any additional questions or would like any additional information, please contact me at daniel.mayer@dc.gov or (202) 442-7176.

Sincerely,

/s/

Daniel Mayer

General Counsel

Rental Housing Commission

# General Questions

1. Please provide a current organizational chart for the agency, including the number of vacant, frozen, and filled positions in each division or subdivision. Include the names and titles of all senior personnel and note the date that the information was collected on the chart.

**See Attachment 1.**

* 1. Please provide an explanation of the roles and responsibilities of each division and subdivision and how each role and/or responsibility contributes to the mission of the agency.

**The RHC is a small agency that does not have divisions and subdivisions. Instead, the RHC operates through the following 4 programs:**

* **Agency Management – provides for administrative support and the required tools to achieve operational and programmatic results.**
* **Appellate Resolution – resolves appeals by tenants and housing providers to decisions from the Rent Administrator or the Office of Administrative Hearings through written, legal decisions-making or mediation.**
* **Rent Regulation – issues, amends, and rescinds rules and procedures for the administration of the Act and for the resolution of disputes arising under the Act.**
* **Rent Adjustments – Annually publishes a certified notice of allowable adjustments for covered rents.**
	1. Please provide a narrative explanation of any changes to the organizational chart made during the previous year.

**No changes were made during the previous year.**

* 1. Please provide your most current strategic plan and identify each goal and strategy. Explain how each division and subdivision contributes to that plan.

**See Attachment 2 for the current Strategic Planks, adopted for FY22. The Commission does not have divisions and subdivisions.**

1. Please provide a current Schedule A for the agency which identifies each position by program and activity, with the employee’s title/position, salary, fringe benefits, and length of time with the agency. Please note the date that the information was collected. The Schedule A should also indicate if the position is continuing/term/temporary/contract or if it is vacant or frozen. Please separate salary and fringe and indicate whether the position must be filled to comply with federal or local law.

**See Attachment 3, a Position Funding Report, run January 19, 2022 with an effective date as of December 31, 2021. Please note that the Attorney Advisor position 99882 is frozen and was replaced by position 102602. The authorized FTE level is 9. No positions must be filled to comply with federal or local law.**

1. Please list all employees detailed to or from your agency. For each employee identified, please provide the name of the agency the employee is detailed to or from, the reason for the detail, the date of the detail, and the employee’s projected date of return.

**No employees are detailed to or from the Commission.**

1. Please provide the Committee with:
	1. A list of all employees who received or retained cellphones, personal digital assistants, notebooks, laptops, iPads or similar communications devices at agency expense during any part of FY22 and FY22, to date; and the annual cost to the agency for each device;

**Employees assigned communications devices:**

**FY21**

|  |  |  |
| --- | --- | --- |
|  | **Laptops\*** | **Cell Phones\*** |
| **M. Spencer** | **$1,082.00** | **Yes** |
| **L. Gregory** | **$1,082.00** | **Yes** |
| **R. Puttaganta** | **$1,082.00** | **Yes** |
| **D. Mayer** | **$1,082.00** | **Yes** |
| **X.Edwards** | **$1,082.00** | **No** |
| **L.Miles** | **$1,281.00** | **Yes** |

 **\*One-time purchase price, no recurring annual costs**

 **\*\*For FY21; cell phones remained on DHCD Budget**

**FY22**

|  |  |  |
| --- | --- | --- |
|  | **Laptops** | **Cell Phones** |
| **M. Spencer** | **Yes** | **$ 514.14 /yr** |
| **L. Gregory** | **Yes** | **$ 472.89/yr** |
| **R. Puttaganta** | **Yes** | **No** |
| **D. Mayer** | **Yes** | **$ 514.14/yr** |
| **L. Miles** | **Yes** | **$ 514.14/yr** |
| **A Muswwair** | **No** | **$ 514.14/yr** |
| **X. Edwards** | **Yes** | **No** |

**Cell Phone Charges FY 22 to date $550.00; Annual estimate $2,529.45**

* 1. A list of all vehicles owned, leased, or otherwise used by the agency and to whom the vehicle is assigned, as well as a description of all vehicle accidents involving the agency’s vehicles in FY21 and FY22, to date;

**The Commission does not own, lease, or use any vehicles.**

* 1. A list of travel expenses and reimbursements, arranged by employee for FY21 and FY22, to date, including the justification for travel; and

**The Rental Housing Commission did not have any travel expenses or reimbursements in FY21 or FY22 YTD.**

* 1. A list of the total workers’ compensation payments paid in FY21 and FY22, to date, including the number of employees who received workers’ compensation payments, in what amounts, and for what reasons.

**The Commission did not make any workers’ compensation payments in FY21 or FY22, to date.**

1. For FY21 and FY22, to date, what was the total cost for mobile communications and devices, including equipment and service plans?

**FY21: $6,691.00 (one time purchase of laptops)**

**FY22 to date: $550 (cellular phones and service plan)**

1. For FY21 and FY22, to date, please detail all intra-District transfers to or from the agency.

**See Attachment 4.**

1. For FY21 and FY22, to date, please identify any special purpose revenue funds maintained by, used by, or available for use by the agency. For each fund identified, provide:
	1. The revenue source name and code;
	2. The source of funding;
	3. A description of the program that generates the funds;
	4. The amount of funds generated by each source or program;
	5. Expenditures of funds, including the purpose of each expenditure; and
	6. The current fund balance.

**The Commission does not maintain, use, or have available any special purpose revenue funds.**

1. For FY21 and FY22, to date, please list any purchase card spending by the agency, the employee making each expenditure, and the general purpose for each expenditure.

**FY 2021**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Date** | **Expenditure** | **Vendor** | **Cost** | **Authorized PCard User** |
| **11/20/20** | **General Office Supplies** | **Staples** | **$184.16** | **LaTonya Miles** |
| **04/22/21** | **Paper, Toner & USB Drive** | **Standard Office Supplies** | **$1737.51** | **LaTonya Miles** |
| **06/04/21** | **Training -Daniel Mayer** | **DC Bar**  | **$89.00** | **LaTonya Miles** |
| **06/10/21** | **Adobe Pro DC Subscription** | **Public Performance Management** | **$419.20** | **LaTonya Miles** |
| **09/08/21** | **Accessories-5 New Laptop**  | **Staples** | **$231.51** | **LaTonya Miles** |
| **09/15/21** | **Paper, Toner** | **Standard Office Supplies** | **$2,299.38** | **LaTonya Miles** |
| **09/15/21** | **Postage Stamps** | **United States Postal Service** | **$580.00** | **LaTonya Miles** |
| **09/16/21** | **Office Supplies, Disinfectant, Gloves** | **Total Office Products** | **$1,064.24** | **LaTonya Miles** |

**FY 2022**

**No PCard Purchase to Date**

1. Please list all memoranda of understanding (“MOU”) entered into by your agency during FY21 and FY22, to date, as well as any MOU currently in force. For each, indicate the date on which the MOU was entered and the termination date.

**See Attachment 5. RHC had FY21 MOU’s with DCHR and OCTO. In FY22, RHC was included in the city-wide IT assessment. It has no MOU with DCHR, to date.**

1. Please list the ways, other than MOU, in which the agency collaborated with analogous agencies in other jurisdictions, with federal agencies, or with non-governmental organizations in FY21 and FY22, to date.

**The Commission has not collaborated with analogous agencies in other jurisdictions, with federal agencies, or with non-governmental organizations in FY20 or FY21, to date.**

1. Please provide a table showing your agency’s Council-approved original budget, revised budget (after reprogrammings, etc.), and actual spending, by program and activity, for FY20, FY21, and the first quarter of FY22.
	1. For each program and activity, please include total budget and break down the budget by funding source (federal, local, special purpose revenue, or intra-district funds).

**See Attachment 6.**

* 1. Include any over- or under-spending. Explain any variances between fiscal year appropriations and actual expenditures for FY21 and FY22 for each program and activity code.

**See Attachment 6.**

* 1. Attach the cost allocation plans for FY21 and FY22.

**The Commission has no cost allocation plans for FY21 or FY22.**

* 1. In FY21 or FY22, did the agency have any federal funds that lapsed? If so, please provide a full accounting, including amounts, fund sources (e.g. grant name), and reason the funds were not fully expended.

**The Commission does not have any federal funding.**

1. Please provide as an attachment a chart showing the agency’s federal funding and expenditures by program for FY20, FY21 and FY22, to date.

**The Commission is not supported by any federal funding.**

1. With respect to capital projects, please provide:
	1. A list of all capital projects in the financial plan.
	2. For FY20, FY21, and FY22, an update on all capital projects under the agency’s purview, including a status report on each project, the timeframe for project completion, the amount budgeted, actual dollars spent, and any remaining balances, to date.
	3. An update on all capital projects planned for FY22, FY22, FY23, FY24, and FY25.
	4. A description of whether the capital projects begun, in progress, or concluded in FY20, FY21, or FY22, to date, had an impact on the operating budget of the agency. If so, please provide an accounting of such impact.

**The Commission does not have any capital projects.**

1. Please provide a list of all budget enhancement requests (including capital improvement needs) for FY21 and FY22, to date. For each, include a description of the need and the amount of funding requested.

**The Commission had no enhancement requests for FY21 or FY22.**

1. Please list, in chronological order, each reprogramming request and each reprogramming in FY21 and FY22, to date, that impacted the agency, including those that moved funds into the agency, out of the agency, and within the agency. Include the revised, final budget for your agency after the reprogrammings for FY21 and FY22, to date. For each reprogramming, list the date, amount, rationale, and reprogramming number.

**See Attachment 7. There have been no reprogrammings in FY 22, to date.**

1. Please list each grant or sub-grant received by your agency in FY21 and FY22, to date.  List the date, amount, source, purpose of the grant or sub-grant received, and amount expended.
	1. How many FTEs are dependent on grant funding? What are the terms of this funding? If it is set to expire, what plans, if any, are in place to continue funding the FTEs.

**The Commission did not receive any grants or subgrants in FY20 or FY21, to date. No FTE at the Commission is dependent on grant funding.**

1. Please list each contract, procurement, and lease, entered into, extended, and option years exercised by your agency during FY21 and FY22, to date. For each contract, please provide the following information, where applicable:
	1. The name of the contracting party;
	2. The names of the individual principals constituting that contracting party;
	3. The nature of the contract, including the end product or service;
	4. The dollar amount of the contract, including amount budgeted and amount actually spent;
	5. The term of the contract;
	6. Whether the contract was competitively bid and/or the explanation for it being non-competitive or sole source;
	7. The name of the agency’s contract monitor and the results of any monitoring activity; and
	8. The funding source.

**In FY21, the Commission used its purchase card to procure services and goods in the amount of $6,604.84. In FY21, the Commission procured services and goods by entering purchase orders with Xerox for printer and copier services ($6,507.00), Lexis for legal research services ($3,240.00), and Apple for laptop computers ($6,691.00).**

**In FY22, to date, the Commission entered purchase orders with Xerox ($6,445.00) and Lexis ($3,357.00). All funds are local.**

1. Please list all pending lawsuits that name the agency as a party. Identify which cases on the list are lawsuits that potentially expose the District to significant financial liability or will result in a change in agency practices, and describe the current status of the litigation. Please provide the extent of each claim, regardless of its likelihood of success. For those identified, please include an explanation about the issues involved in each case.

**The agency is not a party to any pending lawsuit, or any pending lawsuit is in the process of being dismissed pursuant to the settlement agreement described in response to Question 19 below.**

1. Please list all settlements entered into by the agency or by the District on behalf of the agency in FY21 or FY22, to date, and provide the parties’ names, the amount of the settlement, and if related to litigation, the case name and a brief description of the case. If unrelated to litigation, please describe the underlying issue or reason for the settlement (e.g. administrative complaint, etc.)

**In FY22, the District, through the Office of the Attorney General, entered into a settlement agreement with a former Commission employee, Shari Acosta, to resolve five pending civil and administrative cases:**

**1) *Acosta v. District of Columbia*, 21-CV-0096 (D.C. Ct. App. 2021), appeal from dismissal of *Acosta v. District of Columbia*, 2018 CA 005008 (D.C. Super. Ct. 2018) (complaint for employment discrimination);**

**2) *Acosta v. District of Columbia*, 1-20-CV-01189 (D.D.C. 2020) (complaint for retaliatory termination);**

**3) *Rental Housing Commission v. Office of Employee Appeals*, 2021 CA 001617 P(MPA) (D.C. Super. Ct. 2021), appeal of initial decision in *Acosta v. Rental Housing Commission*, 1601-0020-20 (OEA 2019) (appeal of 20-day suspension);**

**4) Public Employees Relations Board Case No. 20-20 (appeal of determination of non-union position; dismissed as to Commission & Chairperson); and**

**5) *Acosta v. Rental Housing Commission*, 1601-0048-20 (OEA 2020) (appeal of termination).**

**As a result of the settlement signed on February 1, 2022, the employee has resigned voluntarily and released the District from all potential claims, receiving $400,000 from the District’s settlement and judgment fund, inclusive of attorney’s fees.**

1. Please list the administrative complaints or grievances that the agency received in FY21 and FY22, to date, broken down by source. Please describe the process utilized to respond to any complaints and grievances received and any changes to agency policies or procedures that have resulted from complaints or grievances received. For any complaints or grievances that were resolved in FY21 or FY22, to date, describe the resolution.

**The Commission did not receive any new administrative complaints or grievances in FY21 or FY22, to date. See response to Question 19, above, regarding administrative complains or grievances resolved in FY22.**

1. Please describe the agency’s procedures for investigating allegations of sexual harassment or misconduct committed by or against its employees. List and describe any allegations received by the agency in FY21 and FY22, to date, whether or not those allegations were resolved.

**The Commission follows the policy, guidance, and procedures outlined for District agencies that are outlined in Mayor’s Order 2017-313, dated December 18, 2017. The Commission did not receive any allegations of sexual harassment or misconduct in FY21 or FY22, to date.**

1. Please list and describe any ongoing investigations, audits, or reports on the agency or any employee of the agency, or any investigations, studies, audits, or reports on the agency or any employee of the agency that were completed during FY21 and FY22, to date.

**There are no ongoing investigations, audits or reports on the Commission or any Commission employee.**

**Shari Acosta reported to The Board of Ethics and Government Accountability (BEGA) that members of the RHC requested and collected money for food from the staff. In FY21, BEGA conducted an informal investigation pursuant to the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01, et seq.) and determined that there was not a violation of the Code of Conduct. BEGA closed the investigation.**

1. Please describe any spending pressures or any reimbursements pursuant to contract or other obligations where remitting reimbursement exceeded thirty (30) days the agency experienced in FY21 and any anticipated spending pressures for the remainder of FY22. Include a description of the pressure and the estimated amount. If the spending pressure was in FY21, describe how it was resolved, and if the spending pressure is in FY22, describe any proposed solutions.

**The Commission had no spending pressures in FY21 or FY22, to date.**

1. Please provide a list of all studies, research papers, reports, and analyses that the agency prepared or contracted for during FY21 and FY22, to date. Please state the status and purpose of each. Please submit a hard copy to the Committee if the study, research paper, report, or analysis is complete.

**The Commission did not prepare or contract for any studies, research papers, reports, or analyses during FY21 or FY22, to date.**

1. Provide a list of all publications, brochures and pamphlets prepared by or for the agency during FY21 and FY22 to date.

**The Commission generally publishes decisions, orders, and notices on the following sites: Lexis Advance (paid legal research service); RHC website (public access); and Office of Open Government meeting calendar (public access). In FY22, the Commission published updated regulations (discussed below in agency-specific question 6) and a public guidance memorandum by its General Counsel, altering regulated stakeholders to critical changes taking effect as the COVID-19 rent freeze lifted.**

1. Please provide a copy of the agency’s FY21 performance plan. Please explain which performance plan objectives were completed in FY21 and whether they were completed on time and within budget. If they were not, please provide an explanation.

**See Attachment 8.**

**FY21 was the first year the Commission attempted to officially measure its performance on a quarterly basis. The Commission created the FY21 performance plan with assistance, but, simply stated, the plan was too complicated, too ambitious, and required too many data points. With assistance from the Office fo the City Administrator’s Performance Management team, the Commission finalized a simpler and more effective plan for FY22 and created internal tools to capture the data in real time so we can ensure quality inputs on a quarterly basis.**

1. Please provide a copy of your agency’s Strategic Plan for FY21 and FY22.

**See Attachment 2 for the Commission’s FY22 Strategic Planks. The Commission did not have a Strategic Plan for FY21.**

1. Please provide the number of FOIA requests for FY21 and FY22, to date, that were submitted to your agency. Include the number granted, partially granted, denied, and pending. In addition, please provide the average response time, the estimated number of FTEs required to process requests, the estimated number of hours spent responding to these requests, and the cost of compliance.

**The Commission did not receive any FOIA requests for FY21 or FY22, to date.**

1. Please provide a copy of your agency’s FY22 performance plan as submitted to the Office of the City Administrator and any accomplishments pursuant to that plan.

**See Attachment 9.**

1. Please separately list each employee whose salary was $100,000 or more in FY21 and FY22, to date. Provide the name, position number, position title, program, activity, salary, and fringe. In addition, state the amount of any overtime or bonus pay received by each employee on the list.

**See Attachment 10.**

1. Please list in descending order the top overtime earners in your agency in FY21 and FY22, to date. For each, state the employee’s name, position number, position title, program, activity, salary, fringe, and the aggregate amount of overtime pay earned.

**No overtime was paid in FY21 or FY22, to date.**

1. For FY21 and FY22, to date, please provide a list of employee bonuses or special pay granted that identifies the employee receiving the bonus or special pay, the amount received, and the reason for the bonus or special pay.

**No bonus or special pay was granted in FY21 or FY22, to date.**

1. Please provide each collective bargaining agreement that is currently in effect for agency employees. Please include the bargaining unit and the duration of each agreement. Please note if the agency is currently in bargaining and its anticipated completion.

**Attachment 4, the Non-Compensation Collective Bargaining Agreement between the District of Columbia Government and AFGE, Local 2725, covering Compensation Units 1 and 2, dated December 13, 1988, effective through September 30, 1990.**

**Attachment 5, The Compensation Collective Bargaining Agreement between the District of Columbia Government and AFGE, Local 2725, covering Compensation Units 1 and 2.**

**The District is in bargaining with AFGE, Local 2725 on behalf of numerous agencies including the Commission.**

1. If there are any boards or commissions associated with your agency, please provide a chart listing the names, confirmation dates, terms, wards of residence, and attendance of each member. Include any vacancies. Please also attach agendas and minutes of each board or commission meeting in FY21 or FY22, to date, if minutes were prepared, or the explanation why minutes were not prepared to not available. Please inform the Committee if the board or commission did not convene during any month.

**There are no other boards or commissions associated with the Commission. The Commission meets irregularly to hold hearings in cases, vote to adopt decisions in cases, or vote to adopt implementing regulations.**

1. Please list all reports or reporting currently required of the agency in the District of Columbia Code or Municipal Regulations. Provide a description of whether the agency is in compliance with each requirement, and if not, why not (e.g. the purpose behind the requirement is moot, etc.).

**The Chair of the Commission is required by D.C. Official Code § 42-3502.01a(1)(E) to transmit, within 90 days of the close of each fiscal year, a report “on the operations” of the Commission to the Mayor and the Council. This was completed on time following the end of FY20 and the end of FY21.**

1. Please provide a list of any training or continuing education opportunities made available to agency employees. For each additional training or continuing education program, please provide the subject of the training, the number of agency employees that were trained, the names of the trainers, and the total cost of each, if a procurement was made, the name of the contractor and the basis for the non-competitive award, if applicable.

**The Department of Human Resources’ Center for Learning & Development (CLD) coordinates numerous training programs and activities for District government agencies and employee. Employees at the Commission have received training in several areas. Information regarding the subject of the various trainings, the names of the trainers, and the number of Commission employees that were trained can be found by contacting that office.**

**Further, attorneys at the Commission occasionally receive invitations to attend trainings conducted or sponsored by the Office of the Attorney General, including on-demand, online trainings through the Practicing Law Institute. The Commission has also paid for continuing legal education courses for attorneys put on by the D.C. Bar.**

**In FY21, the Commission spent $89 for General Counsel Daniel Mayer to attend the D.C. Bar Government Law Institute continuing legal education webinar.**

1. Does the agency conduct annual performance evaluations of all its employees? Who conducts such evaluations? What steps are taken to ensure that all agency employees are meeting individual job requirements?

**Yes, the Chairperson regularly informs employees of their performance.**

**Employees are evaluated following the process established by the Department of Human Resources. An overall performance rating is a culmination of the ratings assigned to each performance expectation.**

**The process for evaluating agency attorneys is set forth in Chapter 36 (Legal Service) of the District Personnel Manual (DPM) and included coordination between each agency, the Mayor’s Office of Legal Counsel (MOLC) and the Department of Human Resources (DCHR), as appropriate.**

# Racial Equity Questions

1. In the context of your agency and its mission, what are three areas, programs, or initiatives where you see the most opportunity to address racial inequity?

**• Legal Intern Recruitment**

**• Community Outreach and Education**

1. Do you think there are any areas/programs where your department has had some success in building racial equity over the past year? Which areas/programs?

**The Rental Housing Act applies generally to all rental housing and its rent stabilization provisions apply to buildings based on size and age and does not specifically address race issues. The RHC recognizes that non-white residents of the District are more likely to be renters instead of homeowners, and, to that extent, enforcement of the Act’s numerous tenant protections likely has an impact on racial inequity by preserving stability and affordability for communities of color. The RHC also gives particular attention and consideration when parties before it are unrepresented by legal counsel, which may often occur where there are language, cultural, or economic barriers.**

**However, the RHC did not identify racial equity as a focus point for its operations over the past year. The RHC will continue to evaluate how its operations might contribute to racial inequity.**

# Agency-Specific Questions

1. Please provide a list of the Commission’s accomplishments for FY21 and FY22, to date.

**In FY21, the Commission:**

1. **Hired new program support staff**
2. **Published a Second Proposed Rulemaking**
3. **Held a public meeting for stakeholder to discuss proposed regulatory changes**
4. **Hearing cases through virtual format**
5. **Published a Third Proposed Rulemaking**
6. **Refreshed technology to improve telework capacity**
7. **Enhanced partnerships with other agencies**

**In FY22, to date, the Commission:**

1. **Published a Final Rulemaking**
2. **Assisted the Rental Accommodations Division with essential form updates**
3. The Commission is responsible for deciding appeals to decisions of the Rent Administrator and the Office of Administrative Hearings (OAH).
4. What is the Commission’s current total appeals caseload?

**The Commission has a total of 19 cases currently pending:**

 **Appeals awaiting Certified Record (from OAH): 0**

 **Appeals without Scheduled Mediation Date: 0**

 **Appeals without Scheduled Hearing Date: 2**

 **Appeals Scheduled for Hearing: 4**

 **Appeals Scheduled for Mediation: 4**

 **Appeals Pending Decision: 9**

 **Total: 19**

1. How many cases were opened by the Rental Housing Commission in FY21 and FY22, to date? Please include a breakdown of the status of those cases (*e.g.*, number of appeals filed, appeals heard, cases settled, and cases decided)?

 **FY21 FY22**

 **Number of Appeals Filed: 6 1**

 **Number of Appeals Heard: 10 2**

 **Cases Settled: 1 1**

 **Non-Dispositive Procedural Orders: 10 1**

 **Cases Decided/Dismissed: 11 6**

1. Were there any trends in the subject matter of cases filed with the Commission?

**Claims of Housing Code violations, rent concessions, improper registration of housing accommodations, and retaliation against tenants continue to be common issues raised in notices of appeal. Because many of these cases remain pending, the Commission cannot comment in detail as to the issues raised.**

1. Among the decisions issued, how many OAH and Rent Administrator decisions were affirmed? How many were reversed? How many were appealed to the ~~DC Superior Court~~ District of Columbia Court of Appeals (DCCA)? Of those cases appealed, how many RHC decisions were overturned, reversed, or remanded? How many were upheld?

 **FY21 FY22**

 **Affirmed: 2 3**

 **Reversed: 0 0**

 **Affirmed/Reversed in Part: 0 1**

 **Dismissed by Procedural Orders: 6 2**

 **Remanded: 1 2**

 **Appealed to DCCA: 2 1**

**All dispositive orders during FY21 and FY22 to date have been on appeal from OAH.**

**One Commission decision that was appealed to the DCCA in FY21 was summarily affirmed; one appeal filed in FY21 is stayed pending the resolution of an earlier appeal (filed FY20) that is awaiting a decision; and one filed in FY22 has not yet been argued. One additional appeal (filed FY20) is awaiting a decision.**

1. Please provide the breakdown of the types of cases brought before the Commission.

 **FY21 FY22**

 **Tenant Petition (TP): 6 1**

 **Notice to Vacate (NV): 0 0**

 **Hardship Petition (HP): 0 0**

 **Voluntary Agreement (VA): 0 0**

 **Capital Improvement (CI): 0 0**

 **Services and Facilities (SF): 0 0**

 **Show Cause (SC): 0 0**

1. What was the average amount of days in FY21 for the Commission to resolve a case? If relevant, please differentiate between different types of cases and stages of Commission review of cases.

**FY21 average days from hearing to decision: 120 days**

1. How does this number compare to FY19? and FY20?

**FY19: 293 days**

**FY20: 344 days**

1. What additional measures could the Commission take to streamline its processing of cases?

**The Commission endeavors to issue decisions within 120-180 days of holding its hearing on a case, on average. However, each case presents unique considerations and varying degrees of complexity, and the Commission must balance between prioritizing work on simpler cases that might be decided faster and work on cases that will likely not be resolved within the target time. The Commission observes that the Model Appellate Time Standards for state appellate courts suggest that 75% of civil matters should be resolved in 390 days (from filing to decision) in cases, like those of the Commission, where appeals are heard by right, rather than by permission of the court.**

**The Commission’s rulemaking, discussed below in response to Question 6, revised the procedures for arguing appeals. These new procedures apply to cases filed after December 31, 2021. The new procedures allow more time for parties to write briefs, which the Commission anticipates will help clarify the legal issues that need to be resolved in each case, and allow parties to waive oral argument, which will likely save time in some cases.**

**The Commission and Office of Administrative Hearings have also recently set up procedures for the Commission to electronically access case records when an appeal is filed. This should greatly expedite the initial processes before a case is submitted for decision.**

**Finally, as discussed further below in response to Question 8, the Commission supports B24-461, the Rental Housing Fair Opportunity for Appeal Amendment Act of 2021. The bill provides clear and manageable timelines for parties and the Commission, gives the Commission more authority to strengthen its mediation offerings, and the requirement for OAH to provide transcripts would expedite the Commission’s review of many cases.**

1. How much did the RHC spend on mediation services during FY21 and FY22 to date? How long does a typical mediation take to resolve? Do you put a deadline on them? In your answer, please briefly describe the mediation process.

**The Commission did not spend any money to contract for mediation services in FY21 or FY22, to date. The Commission employees one, full-time staff person who handles all mediation functions, including notices, scheduling, summaries, creating, reviewing, and approving the settlement documents. The Commission does not separately budget or track the incidental operating costs of this function.**

**The time of a typical mediation can last from 4 hours to 36 hours, depending upon the willingness of the parties to engage in good faith. There are no time constraints placed on the mediation; the mediator observes the conduct of the parties and determines if either side is willing to move or is intransigent. Sometimes a cooling-off period is appropriate, after which the parties may return to the negotiating table. Parties have returned as many as five times before reaching a settlement.**

**The Commission’s mediation process is designed to be informal and flexible. In the past, the Commission’s mediation program was constrained to the day of the hearing in a particular case. Now, mediation is scheduled for all cases prior to and independently of the Commission’s hearing. If the mediator recognizes that there is a possibility of a settlement, the mediator is now allowed to continue until it is clear to continue to work toward settlement until it is clear that it has become an effort in futility.**

**Because stakeholders, more often than not, come to the negotiation table angry and resolute, they tend to be very emotional, based on their perceived position in the matter. The mediator must build trust among all parties, help them understand that the Commission’s only objective is to settle the case, and help them see that the other side may also have meritorious claims. Unlike the mediation program used by the DCCA, the Commission does not limit mediation to cases where both sides are represented by counsel. While this may reduce the overall success rate of the program, it provides an opportunity to unrepresented parties that would not otherwise exist. The Commission is in the process of revising its mediation notices to better serve unrepresented parties who are generally less familiar with their rights and obligations, court processes, and the give-and-take of legal negotiations.**

**Further, as discussed below in response to Question 8, the Commission expects that within 30 days of the enactment of B24-461, the Rental Housing Fair Opportunity for Appeal Amendment Act of 2021, it will recruit a Pro Bono Mediation Counsel Panel and Pro Bono Mediators modeled after the DCCA’s program.**

1. The Commission is tasked with issuing, amending, and rescinding regulations required to enforce the Rental Housing Act of 1985 (RHA). For FY21 and FY22 to date, please list and describe:
	1. The issued regulations
	2. The amended regulations
	3. The rescinded regulations

**On December 3, 2021, the Commission published a final rulemaking to amend all of Chapters 38-44 of Title 14 of the DCMR. The amended rules took effect on December 31, 2021, the same day the District’s COVID-19 rent freeze ended.**

**This 200-page rulemaking represents the culmination of six years of work internally, with interagency partners at DHCD, OAH, and OTA, and through three rounds of public comment on proposed versions of the rulemaking. The amended rules incorporate over 20 legislative amendments to the RHA that have taken effect since 2004, decades of case law interpreting the RHA, and dozens of major and minor procedural changes to clarify and improve case handling by RAD, OAH, and the Commission.**

**Significant topics addressed include: abolition of rent ceilings and regulation of rents charged; conversion of certain rent adjustments to rent surcharges; implementation of age and disability rent reductions; clarification of standards for housing provider petitions and voluntary agreements; clarification of the role of RAD in processing petition intake and of OAH in adjudicating petitions; and contents of notices to vacate.**

**The full text of the rulemaking is available on the Commission’s website and through the Office of Documents and Administrative Issuances.**

1. Please list out the top 3 concerns expressed to the Commission by:
	1. Tenants
	2. Housing management companies
	3. Housing providers

**Without characterizing any particular group’s priorities, the Commission sees that several issues were raised repeatedly by advocates on both the tenant and housing provider sides. The Commission received the most comments on the following 3 issues:**

1. **Definition and consistency of usage of terminology including rent, rent charged, rent adjustment, and rent surcharge, following rent ceiling abolition and rent concession legislation;**
2. **Timing for implementing rent increases; and**
3. **Process and standards for approval of voluntary agreements.**
4. Are there any other legislative changes to the Rental Housing Act of 1985 that the RHC would recommend in order to improve the effectiveness and/or efficiency of administering the act? Please describe them.

**The Commission supports B24-461, the Rental Housing Fair Opportunity for Appeal Amendment Act of 2021. For example, granting statutory authority that allows the Commission to order mediation will give the Commission the same authority that the Office of Administrative Hearings and the D.C. Court of Appeals regarding mediation. Within 30 days of passage, the Commission will recruit a Pro Bono Mediation Counsel Panel and Pro Bono Mediators modeled after the D.C. Court of Appeals’ program. You can find more information at** [**https://www.dccourts.gov/court-of-appeals/appellate-mediation**](https://www.dccourts.gov/court-of-appeals/appellate-mediation)**. Further, providing a reasonable amount of time for parties to elect to file an appeal and clearly state the basis for an appeal will likely create more opportunity for the Commission to review decisions and clarify the applicable legal standards under the Rental Housing Act.**

**The Commission also believes, based on its work to update the implementing regulations and its work with the Rental Accommodations Division to make corresponding changes to the forms that are required for housing providers to comply with the Act, that the numerous disclosures requirements in the Act are unclear and often redundant. The database, registration, rent increase, new and annual disclosure, and age/disability protection sections each contain various requirements that should be reviewed in totality and clarified.**

**Clarifications to the timing and process for claiming elderly and disability exemptions and for adjusting the rent based on those exemptions would also help the public and agencies. Additionally, updates to the Act reflecting and clarifying the role of OAH would be an improvement. The RHC has attempted to solve some of these ambiguities through its rulemaking process, but several commenters on those rules have noted that difficulties remain.**

**We recognize there has been significant public interest in major substantive reform of the Act, but it would not be appropriate for the RHC to take a policy position on those issues. If the Council intends to introduce any major amendments to the Act, the RHC is pleased to offer its staff to provide informal technical and legal advice.**

1. Please describe in detail the process by which the commission will establish the allowable rent increase under the Rental Housing Act in the calendar year 2022.

**The Act requires the Commission to publish three determinations by March 1 of each year:**

1. **The percent change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (“CPI-W”) for the statistical area that includes the District of Columbia during the prior calendar year;**
2. **The Social Security Cost of Living Adjustment (“COLA”) for the current year; and**
3. **The qualifying income for elderly tenants (age 62+) and tenants with a disability (“protected tenants”) to be exempt from certain rent adjustments (petition-based surcharges and voluntary agreements)**

**The CPI-W is determined by taking the average of each bi-monthly publication from the Bureau of Labor Statistics (“BLS”) in the prior calendar year and the same for the year before that; *i.e.*, the increase of the 2021 average CPI-W over by the 2020 average CPI-W gives the allowable 2022 rent increase. The Commission uses series report CWURS35ASA0, which can be accessed through “data tools” on BLS’s website. The Act allows an additional 2% rent increase above the CPI-W, except for protected tenants (without regard to income). The general annual rent adjustment may not exceed 10%.**

**The Social Security COLA is announced by the Social Security Administration each October. Protected tenants’ rents may only be increased by the lesser of the COLA or CPI‑W, and in either case the rent increase may not exceed 5%.**

**The qualifying income for additional rent exemptions for protected tenants is based on the Area Median Income (“AMI”) for the statistical region that includes the District of Columbia. The Department of Housing and Urban Development (“HUD”) publishes AMI data in April of each year. Because of the difference in HUD’s and the Commission’s publication schedules, income limits for DHCD programs that also rely on AMI will differ slightly. The Act’s income limits are based on family size and set at 60% of AMI.**

1. Discuss any matters related to the COVID-19 public health emergency that have affected the operations, caseloads, and cases handled by the Commission during FY21 and FY22, to date.

**The COVID-19 public heath emergency affected the Commission like it did other government agencies and administrative courts throughout the country. We adjusted to remote operations to provide for the safe delivery of services to litigants and to ensure a safe working environment for our employees. We also had employees contract COVID-19, rendering them unable to work for a few days. The Commission has operated in a mostly-remote posture since the beginning of the COVID-19 pandemic. Parties have been encouraged to file all documents via email, and in-office staffing has been minimal. All hearings and public meetings have been conducted via WebEx. The Commission’s caseloads, review of cases, and drafting of decisions has not been significantly affected, as all staff and Commissioners are able to access records and legal research sources remotely.**

**The Commission does not have any information on whether COVID-19 has impacted the operations and caseload of the Office of Administrative Hearings, which would affect the number of appeals filed with the Commission. However, the number of appeals filed has been below average during FY20, FY21 and FY22.**

1. What is the status of the commissioners currently serving on the Commission? Please provide a chart with the names of all currently serving commissioners and their terms.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name** | **Position** | **Last Confirmed** | **Current Term to Expire** | **Holdover Period Until** |
| **Michael Spencer** | **Chairperson/Chief Administrative Judge** | **July 10, 2018** | **July 18, 2021** | **January 14, 2022** |
| **Lisa Gregory** | **Commissioner/Administrative Judge** | **December 15, 2020** | **July 18, 2023** | **January 14, 2024** |
| **Rupa Ranga Puttagunta\*** | **Commissioner/Administrative Judge** | **November 5, 2019** | **July 18, 2022** | **January 14, 2023** |

**\*See response to Question 12.**

1. Are there any vacancies on the commission? Are any vacancies anticipated? How long can a commissioner continue to serve in that position after their term has expired? Please cite any relevant statutory or legal authority for your answer.

**Chairman Spencer has been renominated by Mayor Bowser for a new, 3-year term to end July 18, 2024. See PR24-554 (introduced January 19, 2022).**

**Commissioner Ranga Puttagunta was nominated by President Biden and, on February 2, 2022, confirmed by the Senate to be an Associate Judge on the D.C. Superior Court. Her last day with the Commission will be February 17, 2022.**

**The Commission requires a quorum of two confirmed members to hear and decide cases, promulgate rules, or exercise any other power of the Commission. See D.C. Code § 42-3502.02(b)(2)(A).**

**Pursuant to § 2(c) of the Confirmation Act of 1978 (D.C. Law 2-142, D.C. Official Code § 1‑523.01(c)), a person appointed by the Mayor to a position that requires the advice and consent of the Council (including the Commission) may serve in a hold-over capacity for 180 days after the expiration of his or her term.**