

HOUSING DIVISION RULES

PART II: MEDIATION AND LEGAL SERVICES PAYMENTS & CONSUMER PRICE INDEX FOR LOT RENT DISPUTES

1. PURPOSE AND AUTHORITY.

Title 10 V.S.A. § 6252 establishes a process whereby a majority of leaseholders of a mobile home park may challenge a proposed lot rent increase. If the proposed increase is more than one percent above the annual increase in the Consumer Price Index, Housing Component, mediation may be requested by a majority of leaseholders filing a petition with the mobile home park owner and the Commissioner of the Department of Housing and Community Affairs within 15 business days. Where a mediated agreement is not reached, leaseholders may attempt to seek relief through civil action pursuant to 10 V.S.A. § 6253.

The Department of Housing and Community Affairs is directed by 10 V.S.A. § 6252(a) to pay the reasonable fees for professional mediation services as established by rules, and is authorized by 10 V.S.A. § 6253(g) to pay for legal representation for mobile park leaseholders who pursue an action in Superior Court. Such payments are to be funded by a portion of payments made by mobile home park owners on September 1 each year (10 V.S.A. § 6254(c)).

Although not required to by statute, the Department wishes to establish by rule the procedure for determining the consumer price index and notifying mobile home park owners of the percentage that is one percent more than the index. This is the threshold that is used to determine whether the leaseholders in a park have the right to request mediation of the proposed increase.

2. DEFINITIONS.

The definitions set forth in this Section 2 shall apply to the rules of the Housing Division, Part II, Mediation and Legal Services Payments & Consumer Price Index for Lot Rent Disputes.

2.1 "Commissioner" means the Commissioner of the Department of Housing and Community Affairs of the Agency of Commerce and Community Development for the State of Vermont.

2.2 "Consumer Price Index" means the United States Consumer Price Index for all Urban Consumers, Housing Component, published by the U.S. Bureau of

Labor Statistics in the periodical "Monthly Labor Review and Handbook of Labor Statistics," as established annually by the Department.

2.3 "Department" means the Department of Housing and Community Affairs of the Agency of Commerce and Community Development for the State of Vermont.

2.4 "Lawyer" means a person licensed to practice law in the courts of the State of Vermont, and may include a professional organization of lawyers such as a partnership, professional corporation or non-profit corporation.

2.5 "Leaseholder" means the holder of a lease for a mobile home lot within a mobile home park.

2.6 "Mobile home park" means any parcel or contiguous lots of land under common ownership or control on which are sited, or which is designed, laid out or adapted to accommodate, more than two mobile homes. A parcel or contiguous lots owned by agricultural employers providing up to four mobile homes for use by full time workers or employees, and a parcel or contiguous lots used solely on a seasonal basis for vacation or recreational mobile homes shall not be considered a mobile home park.

2.7 "Mobile home park owner" means one or more owners, operators, officers, managing agents or other persons with practical authority to establish rules, policies, or other requirements mobile home park.

2.8 "Professional mediator" means a person who has qualified for membership as a practicing dispute resolution professional in the Vermont Mediators Association, the Society of Professionals in Dispute Resolution, the Academy of Family Mediators, or the American Arbitration Association (mediation panelist), or who qualifies under another comparable standard of establishing professional standing that the Commissioner deems is sufficient, and who has completed training provided by the Department, or who has otherwise demonstrated proficiency, in regard to mobile home park law.

2.9 "Reasonable legal fees" means fees determined by the Commissioner to be reasonable after consultation with the Vermont Attorney General's Office and other Vermont state government programs that hire outside attorneys.

2.10 "Reasonable mediation fees" means fees determined by the Commissioner to be reasonable after consultation with Vermont state government and court programs that compensate mediators.

3. USE OF FUNDS FOR PROFESSIONAL MEDIATION AND LEGAL FEES.

3.1 The Commissioner may, by grant, award reasonable fees for professional mediation and legal services to a person who qualifies for such payment in accordance with the definition section of these Rules.

3.2 With respect to legal and professional mediation fees, the Commissioner shall determine a schedule which shall represent a per case grant from which the Commissioner may draw to reimburse qualified individuals for services rendered and permitted expenses incurred.

3.3 In order to qualify to receive payment from the grant, a professional mediator or lawyer must submit to the Commissioner an invoice for services rendered that shall include the dates on which the services were performed with respect to a mobile home park lot rent increase mediation or action in Superior Court, the amount of time in tenths of hours spent on each day for such services, and a summary of the services performed. A professional mediator and lawyer shall maintain records that document the services performed in case the Commissioner requires more detail than is provided in the summary of services.

3.4 If reimbursable service fees or expenses exceed the grant amount, the Commissioner has discretion to award an additional grant to cover such fees or expenses.

4. ESTABLISHING THE CHANGE IN THE CONSUMER PRICE INDEX.

4.1 The Department shall establish on an annual basis the percent that is one percentage point above the change in the Consumer Price Index, as defined in Subsection 2.2 above.

4.2 The Department shall find the annual change in the U.S. Consumer Price Index for all Urban Consumers, Housing Component, published by the U.S. Bureau of Labor Statistics in the periodical "Monthly Labor Review and Handbook of Labor Statistics," or its successor index, for the twelve-month period ending in August of each year. The percent change in the Consumer Price Index shall be rounded to the first decimal place, or tenth of a percent.

4.3 The Department shall then add one percentage point to the percent change in the Consumer Price Index and provide the result to all mobile home park owners and leaseholders' advocates, along with an updated Notice of Proposed Mobile Home Park Lot Rent Increase form. The Department shall make the updated Notice available as soon as possible after the first business day in October. The percent result shall be the threshold that is used to determine whether or not leaseholders in a park may request mediation of a lot rent increase effective during the following calendar year.

5. RETAINING LOT RENT INCREASE INFORMATION.

5.1 The Department shall preserve the registration and rent increase information received from each park owner for a minimum of three years, or until the conclusion of any litigation concerning a lot rent increase, whichever occurs later.