

DATE: March 04, 2016

TO: Ms. Anita Bonds, Chairperson,
Committee on Housing and Community Development,
District of Columbia City Council,
Washington, DC

FROM: Terra White Fulham
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Re: D. C. Department of Housing and Community Development, D. C. Department of
Consumer and Regulatory Affairs, and D. C. Rental Housing Commission.

Thank you, Chairperson Bonds and members of the D.C. Committee on Housing and Community Development. My name is Terra White Fulham. Along with my colleagues at Covington, I represent the Taylor Towers Tenant Association in a pending hardship petition matter filed in June 2007.

You heard that correctly. A hardship petition filed in June 2007 – almost **nine** years ago – is still pending today. Today, I do not want to discuss the merits of the underlying hardship petition. Rather, I want to focus on *why* a hardship petition filed nine years ago is still pending, and the performance of the Rental Accommodations Division and the Rental Housing Commission.

The regulations on hardship petitions are not complicated. First, the landlord must submit paperwork to support the requested increase. Second, based on an audit of the paperwork, the Rent Administrator must issue an order granting or denying the hardship petition. Third, if objections are filed, the matter should proceed to the Office of Administrative Hearings (“OAH”) within 45 days. All told, the DC Housing regulations require the Rent Administrator to issue a final decision on a hardship petition within 90 days.

So, why is the Taylor Towers hardship petition still pending nine years later if the process is supposed to take ninety days? The primary answer is this: Significant delay and inaction by the Rental Housing Commission and the Rental Accommodations Division.

In our case, the landlord filed a hardship petition in June 2007, seeking a 29% rent increase. A former Rent Administrator then issued an order largely rejecting the landlord’s request, finding that the documents supported only a 1.1% increase. Both the landlord and tenants filed exceptions and objections to the order. Instead of proceeding to OAH, though, in September 2008, a new Rent Administrator

vacated the first order, instituted a provisional increase of 29%, and indicated a new audit would be requested.

The Tenants, who were proceeding pro se at the time, appealed this decision to the RHC. The landlord filed a motion to dismiss the appeal in March 2009. The RHC held a hearing on the motion to dismiss in April 2009. After the hearing, the RHC did nothing for almost **five** years.

The RHC took no further action until April 2014, when it requested that the landlord and tenants engage in a mediation in June 2014. Because the Tenant Association was trying to engage counsel at the time, it requested a short continuance of the mediation until counsel could be engaged. The RHC directed the Tenant Association to submit a request in writing. The Tenant Association did so, but the RHC failed to act on the request. Upon arrival at the mediation, the Tenant Association again requested a continuance. The RHC inexplicably denied the request and ordered the Tenant Association to participate in the mediation without the assistance of counsel. In other words, after doing *nothing* on the case for five years, the RHC refused to allow a short delay to allow both sides to participate meaningfully in settlement negotiations with the assistance of counsel. No settlement agreement was reached.

Shortly after that failed mediation attempt, in June 2014, the RHC finally issued a decision, which dismissed the appeal and sent the case back to the Rent Administrator. Five years had passed, and the tenants were back where they started. It was at this point, in June 2014, that the tenants retained me and my colleagues to represent them.

Since June 2014, the hardship petition matter has been in an administrative purgatory. When the case went back to the Rent Administrator, we assumed the case would pick up where it left off. That did not happen. Between June 2014 and July 2015, my colleagues and I repeatedly contacted the Rent Administrator to get an update on the status.¹ When we were able to speak to the Rent Administrator during this period, he told us he would “take a look at the case” and follow-up with next steps. No follow-up ever occurred.

After it became clear that the Rent Administrator would not act on his own, the Tenant Association filed a motion to vacate the last Rent Administrator order. We filed that motion in August 2015. And again, *nothing* happened. Since September 2015, we have contacted the Rent Administrator eight times to request status

¹ One of my colleagues or I contacted the Rent Administrator on the following days: August 8, 2014; August 12, 2014; September 9, 2014; March 26, 2015; March 27, 2015; April 10, 2015; June 2, 2015; and June 10, 2015.

updates.² On the three occasions that we reached the Rent Administrator during this period, he told us he would issue a decision by the following week. We are still awaiting a decision, as the ninth anniversary of the petition approaches.

Mr. Tillman Peck, the President of the Taylor Towers Tenant Association, will testify next, and he will explain some of the challenges the tenants have faced as a result of this long-pending hardship petition. Among other things, the tenants – and the housing provider – have had almost a decade of uncertainty due to failure of the RHC and RAD to fulfill their most basic duty: adjudicate matters in a timely fashion. After nine years, the tenants still have not had the opportunity for a meaningful hearing of their position on this petition. As the old adage says, “Justice delayed is justice denied.” In this hardship petition, the Rental Housing Commission and RAD have denied justice to the tenants of Taylor Towers.

² We called the Rent Administrator to get status updates on September 22, 2015; October 28, 2015; October 30, 2015; December 7, 2015; and February 12, 2016. We have requested status updates in writing on December 16, 2015; February 12, 2016; and February 29, 2016.