



**Proposed Procedural Rules for the Review of “Good Cause” Applications for
Exemption/Certification**

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Preamble

The Pittsburgh Commission on Human Relations (“PghCHR” or “Commission”) has prepared the following rules and procedures pursuant to the authority and responsibility vested in it by the Pittsburgh City Code (“PCC”) Subsections 782.02(b) and (d). Because the City of Pittsburgh’s pre-eviction application review process in the Temporary Eviction Moratorium Ordinance (“TEMO”) appears to be the first of its kind, PghCHR has faced a unique task in creating the rules and procedures.

PghCHR has developed the following rules and procedures after meeting with and receiving input from various stakeholders, including but not necessarily limited to representatives from various community organizations, members of the Pittsburgh legal community, Pittsburgh City Council, and landlord representatives. In addition, PghCHR has reviewed and considered its processes for handling civil rights complaints. Additionally, PghCHR has reviewed eviction restrictions in other municipalities and various sources on agency rulemaking.

PghCHR is inviting public comment and feedback regarding the following rules and procedures. As time and capacity allow, PghCHR will attempt to respond to the comments and feedback that it receives. Regardless of whether PghCHR responds directly to a specific comment, PghCHR will have taken that comment into consideration.

I. Scope of the Commission’s Review Authority Under the Temporary Eviction Moratorium Ordinance (“TEMO”)

Pursuant to Pittsburgh City Code (“PCC”) Subsections 782.02(b) and (d), the Pittsburgh Commission on Human Relations (“PghCHR” or “Commission”) is only responsible for reviewing “requests for exemptions” from landlords to determine whether those landlords have “good cause” to proceed with an eviction. The enforcement of PCC Chapter 782, is not defined by these rules and must be determined elsewhere whether with PghCHR or other appropriate agency of the City of Pittsburgh..

II. Scope of the Commission’s Decision Regarding a Landlord’s Request for an Exemption/Certification that They Have “Good Cause” to Proceed with an Eviction

The PghCHR’s decision of whether a landlord has “good cause” to evict, as defined in PCC Subsection 782.02(b), is not the equivalent of a court’s adjudication of whether a landlord has violated the prohibitions under PCC Chapter 782 or other similar law. Likewise, it is not the equivalent of a court’s adjudication of whether a landlord is entitled to possession, nor is it a determination of whether, under applicable law, an applicant-landlord may evict a tenant(s). Rather, the PghCHR’s decision is whether, based on the specific facts and circumstances presented in the application before them, a reasonable person would reasonably believe that they have “good cause” under PCC Subsection 782.02(b). A finding of good cause by PghCHR would create a rebuttable presumption that the landlord who takes an otherwise lawful action to evict would not be in violation of the ordinance.

III. Stages of the Process for Landlords to Receive a Determination of Whether They Have “Good Cause” to Proceed with an Eviction

There are essentially five stages in the process. Those stages are:

1. Getting to the Process (Referral)
2. Entering the Process (Intake/Application)
3. Inside the Process (Review)
4. Exiting the Process (Determination)
5. Review of the Process (Reconsideration/Appeal)

1. Getting to the Process (Referral)

PghCHR will make bona fide, good faith effort to conduct outreach and information sharing in order to inform landlords of their obligations under the Temporary Eviction Moratorium (“TEM”) and the review process for “good cause” exemptions/certifications. Examples of such outreach and information sharing may include social media posts, traditional media posts, website posts, advertisements, webinars, emails, and meetings with organizations and individuals. Outreach information will likely include information about fair housing rights and responsibilities, as well as eviction diversion related information, such as financial resources and mediation opportunities for landlords and tenants.

PghCHR encourages everyone to share information about the TEM with other people, especially landlords and tenants. Regardless of PghCHR’s outreach efforts, Landlords will remain solely responsible for compliance with the TEM and for getting themselves to the process.

2. Entering the Process (Intake/Application)

a. Overview of Submitting the Application

Landlords will enter the process by submitting a complete application to PghCHR. The primary method for submission will be an online, digital application form. If, as an accommodation, an applicant needs an alternate application format and method of submission, then they may submit an accommodation request to PghCHR by phone or email.

Within the application process, there will be opportunities for the applicant to review information about diversion programs and request a referral to a diversion program, such as financial assistance and mediation programs. Before resorting to eviction, in order to resolve the situation, landlords and tenants alike are encouraged to pursue such avenues.

All applications must include a fully completed and signed application form and all necessary, accompanying documentation. Any incomplete and/or unsigned application will be returned to the

landlord as having sufficient information or basis to determine good cause. Once completed, a landlord may resubmit their application. Any application that involves subject property that appears to be located outside of the actual municipal limits of the City of Pittsburgh will be denied as lack of jurisdiction.

Within (ten 10) business days from the date of the receipt of the application, a representative of PghCHR will review a landlord's application for exemption and send a notification of PghCHR's decision regarding the application. PghCHR will send a copy of the decision by regular mail and email to the contact addresses provided by the applicant.

b. The Application Form

On the Application Form itself, the applicant-landlord must include the following information. If any of the information is missing, PghCHR will return the application:

1. The Applicant's Full Name
2. The Full Name of the Person/Entity that holds title to the subject property—and indicate if the title holder is different from the Applicant
3. Contact Information for the Applicant—Mailing Address, Email Address, Phone Number(s), and Fax Number (if applicable)
4. Contact Information for the Title Holder (if different from the Applicant)--Mailing Address, Email Address, Phone Number(s), and Fax Number (if applicable)
5. Contact Information for the Subject Tenant(s) -- Mailing Address, Email Address, Phone Number(s), and Fax Number (if applicable)
6. The Complete Legal Address for the Subject Property of the proposed eviction
7. If the lease is oral, then a then a mark/indication in the box next the statement that the lease is oral
8. If a Notice to Quit has already been given to the tenant(s), then a mark/indication in the box next the statement that the Notice to Quit has already been given to the tenant(s)
9. An indication of at least one basis under PCC Subsection 782.02(b), for which the "good cause" exemption/certification is sought (the Applicant may choose more than one of the three (3) bases). Those bases are: a) Non-Payment of rent/fees unrelated to COVID-19; b) Imminent threat to health and safety presented by the tenant; c) Other material breach of lease or other compelling reason to effect a residential eviction during the pandemic.
10. A mark/indication in the box next to the statement that the reason(s) sought for the eviction are not discriminatory, retaliatory, or otherwise contrary to tenants' rights under the federal Fair Housing Act ("FHA") and the Pittsburgh City Code ("PCC").
11. A detailed statement of the facts supporting the basis/bases for seeking the exemptions. That statement must include the facts and basis/bases for eviction. The statement must conform to the following requirements:

- i. All facts must be explained with specific details sufficient to support one or more of the bases for exemption.
 - ii. Any allegations of lease violations must identify and summarize the exact provisions of the lease that the landlord alleges that the tenant(s) violated.
 - iii. Simply stating that a tenant behaved illegally or unlawfully will not suffice. Any allegations of the violation a law, code, or ordinance be supported by a detailed statement of specific actions taken by the tenant and how those actions violated the law—, code or ordinance.
12. A mark/indication in the box next to the statement that the applicant verifies that, to the best of person’s knowledge, information, and belief, everything in the application form, as well as any accompanying and/or subsequent documentation and states, are true, and providing false information will result in a rejection of the application and may subject the Applicant to penalty under applicable law, including 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.
13. The Applicant’s Signature—PghCHR will accept digital signatures

c. Accompanying Documentation

The following documents are mandatory. If the applicable, mandatory document(s) is/are not included with the application form, then the application will be rejected:

1. If the lease is written, then a complete copy of the entire written lease, as well as any amendments and/or supplements thereto, which include but are not necessarily limited to tenant rules.
2. If the lease is oral, then a full, complete, and detailed written explanation of the entire lease, as well as any amendments and/or supplements thereto, which include but are not necessarily limited to tenant rules.

The following are potential or optional documents that may be included with the Application Form. Please note that if any of the following documents exist but the landlord does not include them with their application packet, then there will be less evidence for the reviewer to consider when making their determination. The reviewer will be looking at and considering both the weight and amount of relevant evidence:

3. Copy(ies) of any notice(s) of alleged lease violation(s) that have been given to the tenant(s) and that are relevant to the landlord’s alleged reasons for a “good cause” eviction.
4. Copy(ies) of any written communication(s) with the tenant(s), such as e-mails, text messages, and/or letters and that are relevant to the landlord’s alleged reasons for a “good cause” eviction.

5. Copy(ies) of record(s), such as maintenance, repair, account statement(s), payment/non-payment of rent or fees, alleged lease violation(s), etc., that are relevant to the landlord's alleged reasons for a "good cause" eviction.

3. Inside the Process: Reviewing Applications for Exemption/Certification

Within ten (10) business days from the date of the receipt of the application, a PghCHR representative will review the application for both completeness and substantive claims and information. The PghCHR Representative will attempt to contact the tenant, using the provided contact information, to give them an opportunity to verify or contradict the applicant's statements.

As stated above, all applications must include a fully completed and signed application form and all necessary, accompanying documentation. Any incomplete and/or unsigned application will be returned as the landlord having not provided sufficient information or basis to determine good cause. In other words, if an application is missing any of the mandatory information outlined in detail above in these rules and procedures, then the application will be returned.

Any application that involves a subject property that appears not to be located within the actual municipal limits of the City of Pittsburgh will be denied as lack of jurisdiction.

4. Exiting the Process (Determination)

- a. The Decision of Whether a Landlord has "Good Cause"

As stated above, within ten (10) business days from the date of the receipt of the application, a representative of PghCHR will review a landlord's application for exemption and send a notification of PghCHR's decision regarding the application. PghCHR will send a copy of the decision by regular mail and email to the contact addresses provided by the applicant.

The decision of whether the landlord has "good cause" to proceed with an eviction will rest on the evaluation of the application and any supporting documentation.

For each claimed basis of "good cause" in the application, PghCHR will decide whether the applicant provided sufficient information to establish "good cause" under that basis. PghCHR will note that decision regarding the basis in the notice that they send to the applicant and tenant. If an Applicant lists multiple bases pursuant to PCC Subsection 782.02(b), then the application may meet one, more than one, or none of the bases for "good cause."

When assessing any claimed basis/bases for "good cause," PghCHR will be making an individualized assessment based on the specific facts and circumstances of the application in front of them. For each basis, PghCHR will be looking for whether the landlord has a "reasonable belief" that there is "good cause" to evict.

After completing their review of the application, the PghCHR representative will send their review and proposed decision to their supervisor. The supervisor will assess the review and proposed decision for compliance with PCC Subsection 782.02(b) and these rules and procedures, as well as whether the

information presented support's the representative's conclusion(s). If the supervisor disagrees with the representative's conclusion(s), then they will hold a supervisory conference with the representative and reach a decision. At the end of the review, the PghCHR will decide whether, based on the specific facts and circumstances presented to it, the applicant-landlord has demonstrated that they have a "reasonable belief" that they have "good cause" to evict the subject tenant.

As previously stated in these rules and procedures, the PghCHR's decision of whether a landlord has a "reasonable belief" of "good cause" to evict, as defined in PCC Subsection 782.02(b), is not the equivalent of a court's adjudication of whether a landlord has violated the prohibitions of PCC Chapter 782 or other similar law. Likewise, it is not the equivalent of a court's adjudication of whether a landlord is entitled to possession of the subject property, nor is it a determination of whether, under applicable law, an applicant-landlord may evict a tenant(s). Rather, the PghCHR's decision is whether, based on the specific facts and circumstances presented in the application before them, a reasonable person would reasonably believe that they have "good cause" under PCC Subsection 782.02(b).

b. Notification of the Decision

Once PghCHR has reached a decision on the application for exemption/certification, PghCHR will send a copy of the notice of decision to the Applicant and a copy to the Tenant. PghCHR will send the applicant's copy to the e-mail address provided and by regular mail to the Applicant's provided mailing address. PghCHR will send a copy of the notice of decision by regular mail to the tenant at the tenant provided on the application form. PghCHR will notify both the landlord and the tenant of the decision regarding the application for exemption/certification.

5. Review of the Process (Reconsideration)

A decision regarding the application will not be a final adjudication regarding whether or not the landlord actually has "good cause" to proceed with the eviction. Rather, the decision will create a "rebuttable presumption" that the applicant-landlord has probable cause to proceed with an eviction based on the applicable "good cause" basis/bases in PCC Subsection 782.02(b). As a rebuttable presumption, at a judicial proceeding regarding either an alleged violation of the TEMO or a landlord-tenant complaint, either party to that proceeding may present evidence to rebut the presumption established by the Commission's decision.

A decision that the landlord has not established a rebuttable presumption of probable cause to proceed with a "good cause" is not the equivalent of a determination that the landlord lacks "good cause." Rather, it simply means that the application and accompanying documentation have not established for the reviewer the rebuttable presumption. It may be possible that the applicant-landlord does have and may be able to later establish "good cause."

If an applicant-landlord has received a decision that the landlord has not established a rebuttable presumption of probable cause to proceed with a "good cause" eviction, then, within ten (10) business days of receipt of the decision, that applicant may request reconsideration from the PghCHR. The applicant requesting reconsideration should submit documents that directly dispute the facts of the determination. In order to be valid, the request must assert a non-frivolous argument—with

supporting reasoning—that the decision was contrary to the law or presented information. If the PghCHR grants the reconsideration request, then the PghCHR’s Executive Director will schedule an informal meeting with the applicant, at which the applicant may present their argument and reasoning, along with supporting information, in more detail. Should the reconsideration successfully defeat the original facts, the Commission may reverse its decision. Within five (5) business days of that meeting, the PghCHR shall notify the applicant of the Executive Director’s decision. A copy of that decision will be sent to the applicant by regular mail and, if provided, by email. A copy will also be sent to the subject tenant by regular mail.

If the applicant does not submit a reconsideration request, the PghCHR will inform the applicant and tenant of the end of the reconsideration period. The applicant and tenant may choose to argue against the Commission’s determination in later court proceedings regarding the eviction and/or alleged violations by the landlord of the TEMO.

If a landlord has received a decision that the landlord has not established a rebuttable presumption of “good cause,” the landlord is not precluded from submitting a new application for a “good cause” exemption/certification regarding the same subject property and tenant(s). However, absent new information in the new application, the landlord should not anticipate a different outcome.

Because the PghCHR’s decision regarding the application, including any decision(s) regarding reconsideration, are not final adjudications, and because the applicant-landlord may submit a new application and/or request reconsideration for the same subject property and the same subject tenant(s), the decision is not appealable.

IV. Confidentiality

The Application Form and documents submitted to PghCHR are confidential to that parties engaged in the process and PghCHR staff assigned to review it. PghCHR will secure confidential information such as sensitive medical information, social security numbers, confidential commercial or financial information, trade secret information, non-relevant personally identifiable information of named parties under its current standard confidentiality policies and in requirement with relevant law.