HOMECONNECTICUT
a campaign of the Partnership for Strong Communities

TOOLKIT:
FAIR RENT COMMISSIONS IN CONNECTICUT

(Last Updated 8/15/24)

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Developed in collaboration with:

Connecticut Legal Services
Advancing Justice

Connecticut Fair Housing Center

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INTRODUCTION TO TOOLKIT: FAIR RENT COMMISSIONS IN CONNECTICUT

HOMECONNECTICUT
a campaign of the Partnership for Strong Communities

August 11, 2022

Dear Municipal Leader:

During the past year, residential rents have dramatically increased across the state. For more than 50 years, Connecticut towns have been authorized by state law to create fair rent commissions to address these very issues. Twenty-four towns already have such ordinances, many of them in place for decades. Such commissions are empowered to stop or delay an unconscionable rent increase and also to limit rent to a fair level when there are health or safety violations. Fair rent commissions have been proven to be an important municipal tool to prevent unreasonable rent increases and to buttress housing code enforcement.

In 2022, the Connecticut legislature passed Public Act 22-30, which requires each town with a population greater than 25,000 to adopt a fair rent commission ordinance in accordance with the Fair Rent Commission Act (C.G.S. 7-148b through 7-148f). While covered towns must adopt an ordinance by July 1, 2023, towns are free to act sooner, since existing law already encourages such commissions. The current spate of rent increases, many by out-of-state investors, illustrates the desirability of acting without delay.

This toolkit was developed as a resource for those towns looking for guidance and best practices for adopting a fair rent commission ordinance. We anticipate this toolkit will be reviewed and updated periodically to provide the most up-to-date guidance regarding fair rent commissions in Connecticut.

The authors of this toolkit are available for consultation and technical assistance in the drafting, adoption, and implementation of your town's fair rent commission ordinance. Please feel free to reach out with questions regarding these matters.

This toolkit was developed by HOMEConnecticut[1], with input provided by the Connecticut Conference of Municipalities. The following members of the Drafting Committee are available for consultation:

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Sincerely,
HOMEConnecticut

[1] *HOMEConnecticut, which is a campaign of the Partnership for Strong Communities, works to address Connecticut's affordable housing shortage with the goal to* ***ensure that all Connecticut residents have access to a range of affordable housing choices in all communities in the state.***

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FAIR RENT COMMISSION FACTSHEET

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FAIR RENT COMMISSION FACTSHEET

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What is a Fair Rent Commission (FRC)?
It is a municipal board with the primary power to restrict rental charges in residential housing that are "so excessive as to be harsh and unconscionable." It holds hearings and makes decisions in response to tenant complaints in the same way as other municipal boards.

What did P.A. 22-30 do?
It required each town with a population greater than 25,000 to adopt a fair rent commission ordinance in accordance with the Fair Rent Commission Act (C.G.S. 7-148b through 7-148f).

What standards does a FRC apply?
C.G.S. 7-148c lists 13 standards that must be considered if applicable. The most important are size of the rent increase, the condition of the premises, the landlord's operating costs, the services included in the rent (e.g. heat and utilities), the income of the tenant, and the rents for comparable housing in the town.

What are the most common FRC decisions?

- A rent increase is reduced or denied.
- The landlord is required to phase in a rent increase.
- A rent increase is delayed until the landlord has complied with health and safety requirements or has made necessary repairs.
- The tenant's claim is denied.

Are complaints worked out without a hearing?
They often are. In addition, many FRC decisions are themselves compromises. When rent complaints are driven by the landlord's failure to maintain the property, the commission will often reinforce the town's code enforcement agencies by preventing a rent increase while awaiting compliance with code orders. When a fair rent complaint is generated by poor housing conditions, commissions will often request a code agency to make an inspection.

How expensive is a commission to the town?
Most towns that have fair rent commissions currently use existing staff to support a commission.

How Many Towns Now Have Such Ordinances?

The FRC Act was adopted as an enabling act in 1969. With the expansion under P.A. 22-30, FRC ordinances now exist in 52 towns, of which 45 have populations greater than 25,000. FRC towns include:

Large cities (5): Hartford, New Haven, Stamford, Bridgeport, Waterbury

Mid-size cities (16): Norwalk, Danbury, New Britain, Manchester, Groton, Enfield, Bristol, East Hartford, Mansfield, Meriden, Middletown, New London, Norwich, Shelton, Torrington, Vernon

Suburbs (27): West Hartford, Hamden, Glastonbury, Newington, West Haven, Windsor, Wethersfield, Farmington, Simsbury, Rocky Hill, Bloomfield, Branford, Cheshire, East Haven, Fairfield, Greenwich, Milford, Naugatuck, New Milford, Newtown, Ridgefield, South Windsor, Southington, Stratford, Trumbull, Wallingford, Westport

Why can't tenants just go to court?
With certain exceptions, Connecticut tenants have no right to challenge a rent increase except in a town with a fair rent commission. In the absence of a fair rent commission, a tenant who refuses to accept an increase can either move or risk eviction by refusing to pay the higher rent. Connecticut courts have no general authority to decide whether a rent increase is unconscionable or unfair.

Is this rent control?
No, it is completely different. It does not restrict rents generally and landlords remain free to charge whatever they want. It is triggered only by a tenant complaint and only by a showing by the tenant that the rental charge is unfairly excessive.

FAIR RENT COMMISSION FAQs

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FAIR RENT COMMISSION FAQS

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FAIR RENT COMMISSION BASICS

What is a fair rent commission?
A fair rent commission is a municipal board with the primary power to prevent rental charges in residential housing that are "so excessive, with due regard to all the circumstances, as to be harsh and unconscionable" and to reset such charges to an amount that is "fair and equitable." Fair rent commissions are authorized by the Fair Rent Commission Act, Conn. Genl. Stats. (C.G.S.) 7-148b through 7-148f. That statute also allows commissions to enforce C.G.S. 47a-20 and 47a-23c. Commissions can hold hearings and make decisions in response to tenant complaints in the same way as other municipal boards that can decide individual cases. The Fair Rent Commission Act has, since 1969, authorized towns to adopt such boards by ordinance. P.A. 22-30 required every town with a population of 25,000 or more as of the last decennial census to create its own commission by July 1, 2023.

Are fair rent commissions advisory only?
No, they have the power to make binding decisions, in the same manner that other municipal boards can make binding decisions. Fair rent commission decisions are fully enforceable. Most fair rent commissions, however, encourage conciliation of disputes, and many fair rent complaints are resolved without the need for a formal hearing. The very existence of a fair rent commission often generates a bargaining process that results in agreements between the landlord and the tenant.

Why did the legislature impose this requirement on towns?
It was adopted because, in its absence, there is for most tenants no entity that can resolve a complaint of excessive or unfair rent. The legislature considered requiring fair rent commissions in all towns but, in the end, settled on a requirement only for towns over 25,000. Those 45 towns (26.6% of the state's 169 towns), however, contain almost 80% of all residential rental units in Connecticut.

How many towns had fair rent commission ordinances prior to the adoption of P.A. 22-30?
Twenty-five Connecticut towns already had fair rent commission ordinances, most going back at least 30 years. Eighteen of those towns had populations above 25,000. Seven towns with commissions had fewer than 25,000 people. Those towns are very diverse.

Which towns have pre-2022 fair rent commission ordinances?

Large cities (4):	Hartford, New Haven, Stamford, Bridgeport
Mid-size cities (6):	Norwalk, Danbury, New Britain, Manchester, Groton, Enfield
Suburbs (11):	West Hartford, Hamden, Glastonbury, Newington, West Haven, Windsor, Wethersfield, Farmington, Simsbury, Rocky Hill, Bloomfield
Smaller towns (4):	Colchester, Clinton, Westbrook, Killingworth

Which additional towns were required to create a fair rent commission under P.A. 22-30?

Branford	Mansfield	Newtown	Torrington
Bristol	Meriden	Norwich	Trumbull
Cheshire	Middletown	Ridgefield	Vernon
East Hartford	Milford	Shelton	Wallingford
East Haven	Naugatuck	South Windsor	Waterbury
Fairfield	New London	Southington	Westport
Greenwich	New Milford	Stratford	

By when were towns required to adopt their ordinances?

P.A. 22-30 required that covered towns have their ordinances in place no later than July 1, 2023. That statute also required towns to notify the Commissioner of Housing within 30 days of adoption of their ordinance and provide the Commissioner with a copy of the ordinance. Fair rent commission ordinances for most mandated (and some non-mandated) towns are posted on the Department of Housing's website at https://portal.ct.gov/doh/doh/housing/fair-rent-commission.

How does P.A. 22-30 impact towns without populations below 25,000?

It does not affect them at all, but it may motivate some of them to adopt their own fair rent commission. Six towns with populations below 25,000 have had commissions for many years. At least two towns with population below 25,000 – Killingworth and Windham – have adopted fair rent commission ordinances since P.A. 22-30 was passed. Towns are also explicitly permitted by C.G.S. 7-148b(d) to create joint or regional fair rent commissions so that, without the need for a single-town commission, renters in those towns could obtain the same right to challenge an unconscionable rent increase that is available to renters in larger towns.

How do fair rent commissions differ from traditional rent control?

They are entirely different. Fair rent commissions respond to complaints from individual renters and apply an equitable standard of unconscionability and unfairness to address particularly unfair situations. Rent control, in contrast, regulates the rents in the entire housing market. Rent control systems usually authorize an annual inflation adjustment (e.g., 3%) by which landlords can raise the rent without need for approval, but they require a showing of justification by the landlord and the approval of a municipal rent control board for rent increases above that amount. The market impact of rent control can be quite substantial. Fair rent commissions do not have the same impact on the housing market.

How is a fair rent commission different from a housing authority?

A housing authority manages or builds government-owned public housing. A fair rent commission is a local board that responds to complaints from renters about excessive rental charges.

What is the connection between fair rent commissions and housing code enforcement?

For some towns, the impact of a fair rent commission on code enforcement can be as important as addressing the fairness of rent increases. It is not unusual for a fair rent commission to delay a proposed rent increase, or even lower an existing rent, with or without a proposed increase, until the landlord brings the apartment into compliance with enforcement orders issued by the town's housing or health code agency. In this way, fair rent commissions often support municipal code enforcement and reduce the need for the town to go to court to enforce code orders. Under the Fair Rent Commission Act, a commission is not limited to the unfairness of a rent "increase" but rather of a rent "charge." For example, landlord non-compliance with housing maintenance standards can make a rental charge unfair in relation to maintenance required by the law or by the lease. Or, as another example, costs previously included in the rent could be made into tenant responsibilities. Complaints can thus be made to commissions even in the absence of a proposed rent increase.

WHY ARE FAIR RENT COMMISSIONS NEEDED?

Why can't tenants just go to housing court or some other court if they object to a rent increase?
Courts in Connecticut have no general power to adjudicate the fairness of rents or rent increases. With certain limited exceptions (see below), tenants only have a right to challenge the fairness of a rent increase if they live in a town that has a fair rent commission. In towns without a fair rent commission, the tenant can accept the rent increase or move. Tenants who refuse to pay the increase are likely to face eviction. The failure of the landlord and the tenant to agree on a new rental amount will allow the landlord to evict for "lapse of time," which means that lease has expired ("lapsed") and there is no mutual agreement for the tenant to stay. The tenant will be forced to move.

Which tenants can go to court to initiate a rent challenge?
Unlike other tenants, elderly and disabled renters who live in buildings, complexes or mobile home parks of five or more units in towns without a fair rent commission are allowed to initiate a challenge to a rent increase in court. See C.G.S. 47a-23c(c). In practice, however, this rarely happens, because initiating a judicial proceeding is not practical for most tenants, and especially not for tenants who are elderly or disabled. It is expensive and would be very difficult to do without an attorney. It is thus not a realistic alternative for such tenants. In the 43 years since C.G.S. 47a-23c was adopted, very few court cases have ever been initiated by seniors or disabled tenants under that statute.

Elderly and disabled renters who live in such larger buildings or complexes who refuse to agree to a rent increase can also defend an eviction on the ground that the increase is not fair and equitable. That, however, would be extremely risky for the tenant. In such an action, if the court does not agree with the tenant, the tenant will be evicted. At that point, it would be too late to save the tenancy by agreeing to pay the rent increase. In addition, the filing of an eviction action, regardless of result, may also negatively impact the tenant's credit record, hindering the ability to secure future housing or credit. If a town has a fair rent commission, it is much safer for the tenant to make a rent complaint to the commission and have the commission resolve the matter. If the tenant complies with the commission's decision, there should be no risk of eviction.

HOW BROAD IS THE JURISDICTION OF A FAIR RENT COMMISSION?

Must the tenant have a written lease in order to file a complaint?
No. Leases can be written or oral. Any tenant can file a complaint.

Can a complaint be filed about charges other than the monthly rent?
Yes. C.G.S. 7-148b(a) explicitly provides that the commission's jurisdiction is not limited to the "rent" but includes any "rental charge." That phrase is defined to include "any fee or charge in addition to rent that is imposed or sought to be imposed upon a tenant by a landlord." It is thus clear that commissions can review other associated fees and charges.

Can a tenant file a complaint when there is no rent increase?
Yes. Most complaints are triggered by rent increases, but an increase is not required for a complaint to be filed. The requirement is that the rental "charge" be "so excessive" as to be "harsh and unconscionable." There are a variety of circumstances in which this can occur without a rent increase,

three of which are particularly obvious. One is when the services included in the rent have been explicitly reduced. For example, the landlord could require that utilities or heat once paid by the landlord will in the future be switched to the tenant with no adjustment of the rent or with an adjustment that is less than the cost that is being transferred. Other services included in the rent, like a fitness room or access to an elevator, that are no longer available to the tenant could also form the basis of a complaint. This is functionally a rent increase. A second is when the landlord imposes a new fee for something that previously was not subject to charge, such as a parking fee, or when such a fee is increased. The Fair Rent Commission Act explicitly defines "rental charge" to include "any fee or charge in addition to rent that is imposed or sought to be imposed upon a tenant by a landlord." A third is when the landlord's failure to maintain the building adequately or to provide promised services to the point that the rent has become significantly out of balance with what the tenant is supposed to be receiving under the law or the lease. There can be many other situations in which an existing rental charge has become unconscionable or unfair.

Are any types of housing excluded from fair rent commissions?
The only exclusion explicitly permitted by the Fair Rent Commission Act is for "seasonal" rentals, which are defined as short-term rentals cumulating less than 120 days per year. However, there are some other arrangements that may be excluded by other laws. For example, arrangements that are not subject to the Landlord-Tenant Act under C.G.S. 47a-2 are ordinarily not covered (e.g., nursing homes or transient occupancy in a hotel or motel).

Can towns choose to exclude additional categories of rentals?
No. Exclusions are limited to those contained in the Fair Rent Commission statute itself unless preempted by other laws.

What about month-to-month leases?
They are covered. Month-to-month leases are usually oral, although written month-to-month leases also exist. Although it may sound like these are short-term leases, such leases routinely renew in the absence of the landlord or tenant giving notice that the leasing arrangement is to end. They are subject to fair rent commission jurisdiction.

How about roominghouses?
Yes, roominghouses are covered. Roomers are tenants under the Landlord-Tenant Act, and they have the same rights as other tenants. This distinguishes them from what the statutes call "transient occupants," which usually refers to occupants with another place to live who do not stay more than 30 days. Most roominghouse occupancy is not transient, even though rentals are often on a weekly basis.

Are college dormitories covered?
No. They are excluded from the Landlord-Tenant Act by C.G.S. 47a-2(a)(1). Student-occupied apartments, however, are covered.

Are mobile home parks covered by fair rent commissions?
Yes, they are explicitly covered by C.G.S. 7-148b(b). In mobile home parks, most residents own their home but rent the lot. They are therefore renters and are covered by the landlord-tenant laws, including the Fair Rent Commission Act. If the park resident owns the home and rents the lot, a fair rent complaint would be by the home owner against the park owner. If the park resident rents the home itself, rather than owning it, then a fair rent complaint would be against the owner of the home. This could be the park owner or could be an individual homeowner. In fact, residents of mobile home parks have often been the driving force behind the creation of fair rent commissions in smaller towns. That was the case in Westbrook, Colchester, and Clinton.

Are assisted living facilities covered?
Yes. "Assisted living facilities," which are statutorily known as "managed residential communities" (MRCs), are subject to landlord-tenant laws in all their forms. C.G.S. Sec. 19a-697(a)(18) explicitly provides, as part of the bill of rights of MRC residents, that each resident has "all rights and privileges afforded to tenants under title 47a," which is the Connecticut Landlord-Tenant Act. This includes the right, as a tenant, of access to fair rent commissions in towns which have them. MRC rental agreements usually contain two distinct parts – a portion identified as rent and a portion for support services provided by the MRC. Fair rent commissions can restrict the rent but not the cost of support services.

Assisted living facilities should not be confused with nursing homes, which are regulated medical facilities. MRCs contain independent living apartments but usually have common dining facilities and resident access to on-site independent living support, such as home health care or regular nurse visiting hours. They are essentially rental apartments in which collateral support services are available.

How about condominiums?
Charges to owners of condominium units (e.g., condo fees) are not covered, but rentals of condominiums are covered in the same way as any other rentals.

How about cooperatives?
The status of cooperative is less clear, but it appears that fair rent commissions have jurisdiction over occupancy charges in a cooperative. That is because shareholders in a cooperative are explicitly treated as "lessees" in the eviction statutes if the cooperative documents give the cooperative the same "legal remedies available to a landlord for breach by a tenant" (i.e., they can be evicted under the summary process statutes). See C.G.S. 47a-24. Cooperative residency charges thus appear to be a form of rent under state law.

Does the inclusion of an arbitration clause in a lease prevent the tenant from filing a fair rent complaint?
No. There is nothing in federal arbitration law that precludes a tenant from complaining to a local government agency. This is functionally no different than making a complaint to a local health department or code enforcement agency about the condition of the property.

What if the lease has an escalator clause, scheduling future increases in the rent?
We believe that the commission can address all future increases when the complaint is first filed or require the tenant to file a new complaint at the time a future increase will take effect. We do not believe that the commission is precluded from considering an increase at the time it becomes operational because no complaint was filed at the time of original signing.

What if the apartment is illegal, such as an illegal basement or attic apartment?
In theory, the rent for an illegal apartment (as distinct from an apartment in very bad condition) is zero dollars per month. The commission should accept jurisdiction and order zero rent. This would not be a "suspension" of the rent but rather a finding that the apartment has no rental value. The commission, however, should probably also notify the appropriate municipal agency, which is likely either to order the tenant to vacate or to order the landlord to bring an eviction action to evict the tenant. If such an order is issued, the municipality may have relocation responsibilities under the Uniform Relocation Assistance Act.

How about tenants with government subsidies?

The nature of fair rent commission coverage of tenants with government subsidies depends on the nature of the subsidy program and whether or not it has a preempting effect on the fair rent commission. Most important, commissions can exercise jurisdiction over apartments rented by tenants with Section 8 vouchers (also known as "housing choice vouchers"). Unless the actual rents are set by the government agency, a commission can review charges for unconscionability and unfairness. Even when the actual rent is set by a government agency, the commission may have jurisdiction over the failure to properly maintain the property.

- **Section 8 and RAP:** Apartment rents are not set by these programs, and those rents can always be addressed by fair rent commissions.[2] In regard to tenants with Section 8 vouchers, federal Section 8 regulations provide explicitly that Section 8 determinations of rent reasonableness can be subject to state and local limits on rents. See Code of Federal Regulations, Title 24, Section 982.509 (24 CFR 982.509).[3] The authority to review such rents for unconscionability and unfairness, as with all other private rents, can be essential as to whether a tenant with a Section 8 or a RAP will be able to remain in the apartment. In contrast, the tenant percentage share of income paid by tenants (e.g., Section 8 tenants pay 30% of their income to the landlord as their share of the rent) cannot be changed by a fair rent commission because it is set by other law.
- **Public housing:** Depending on the program, tenants in public housing (i.e., housing owned or operated by housing authorities) may also pay a fixed percentage of income as their share of the rent, but public housing rents are set by government agencies and therefore cannot be changed by a fair rent commission. A fair rent commission does, however, have jurisdiction to take action upon a finding of non-compliance with housing codes.

Can commissions accept complaints if the tenant has already signed a new lease?
Yes. For a variety of reasons, it is not unusual for tenants to sign a lease even when they believe the rent increase is unreasonable. They may be completely unaware of the existence of a fair rent commission in their town until after they have signed their lease, or they may believe that they have no choice because the alternative to agreement is non-renewal or eviction. It Is not unusual for a landlord to threaten eviction if the tenant does not agree to a rent increase. Implicit in the filing of a fair rent complaint, including after a lease is initially signed, is that the tenant does not in fact agree to the rent increase or the rental charge amount. Commissions should accept these complaints and review them under the same standard they apply to other complaints.

Do commissions have jurisdiction over a complaint if the landlord files or has filed an eviction (summary process) action?
Yes, a fair rent commission will still have jurisdiction even if a summary process action has been filed. Fair rent procedures are separate from summary process actions and can proceed at the same time. It does not matter whether the summary process action was started before or after the fair rent

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[2] It is important to understand that those governmental programs regulate the percentage of the tenant's income to be paid by the tenant toward the rent but not the dollar amount of the rent itself that is charged by the landlord. The government program pays the difference. Depending on the program, if the rent set by the landlord is greater than the program is willing or permitted to subsidize, the tenant may be precluded from remaining in the apartment or may have to pay the extra balance on their own. A rollback or reduction of a rent increase by a fair rent commission under those circumstances may thereby make it possible for the tenant to remain in the unit without losing the government subsidy.

[3] The federal regulation reads as follows: "In addition to the rent reasonableness limit under this subpart, the amount of rent to owner also may be subject to rent control limits under State or local law." The regulation uses the word "control" generically to mean rent "limitation," "restriction," or "regulation." Because fair rent commissions can limit rental charges, they are covered by this section.

commission complaint was filed. In either case, the commission has the power to proceed with its case and determine whether the rental charge is excessive as defined in the statute. The commission can also, after a hearing, determine whether a landlord action, including a summary process action, is retaliatory or is in violation of C.G.S. 47a-20. If it makes such a determination, it has the power under C.G.S. 7-148d(b) to issue a cease-and-desist order requiring the landlord to withdraw the case. The commission, however, does not have the power to issue an order directed to the court to stop an eviction. The commission's order must be directed to the landlord. This includes discontinuing any conduct by the landlord that violates a commission decision or implements retaliation against a tenant. For example, the commission could order that a landlord rescind a notice to quit, withdraw a pending summary process action, or move to open a summary process judgment.

Can a commission limit the rent of a tenant in a building with deed-restricted rents (e.g., under Connecticut's Affordable Housing Appeals Act, also known as 8-30g)?
Yes. Zoning or deed restrictions may, either directly or indirectly, impose a maximum rent, but they do not ordinarily preclude lesser rents. There is nothing in these restrictions that prevents a fair rent commission from requiring a lower rent.

Can the fair rent commission take or maintain a complaint if the tenant is behind, or falls behind, in the rent?
Yes. Being current on the rent is not a condition of filing a fair rent commission complaint. However, being behind in the rent may leave the tenant unprotected from an eviction that would otherwise have been deemed retaliatory. Depending on the facts of the case, a prior arrearage may not protect the tenant from a non-payment eviction, but it does not affect the ability of the fair rent commission to hear and decide the complaint. Similarly, a tenant who does not pay rent during the pendency of the fair rent commission proceeding would be vulnerable to an eviction based on non-payment of rent. If, however, the tenant is paying the old rent or offering some other amount as a fair rent while the fair rent complaint is pending, then a non-payment eviction would be retaliatory, and the commission could order the landlord to discontinue such a court case.

Can prospective tenants get a rent reduction by claiming that the rent is too high?
No. Fair rent commissions apply only to tenants, not applicants. A person must already be living in the dwelling unit to be able to complain about an excessive rent. The role of fair rent commissions is to prevent tenants from being forced to move from their existing housing because of excessive rental charges or failures to properly maintain properties. Commissions can reject or moderate rent increases or adjust downward existing rents for an existing tenant. They cannot set the initial rent. Their purpose, in other words, is to stabilize existing tenants in their apartments by limiting the ability of landlords to force them to move by significant increases in rent, decreases in service, or decreases in housing quality, recognizing that moving can pose a hardship to tenants and there may not be other affordable rental options for them. That is the reason that commissions can consider a wide range of factors in making their decisions and also one of the reasons why a commission can reject a rent increase, even if it is below market rent.

WHAT FACTORS DOES A FAIR RENT COMMISSION CONSIDER?

What is the legal standard that fair rent commissions apply?
Under C.G.S. 7-148c and 7-148d, a rental charge must be **"so excessive, with due regard to all the circumstances, as to be harsh and unconscionable,"** and the commission is authorized to reset an excessive rental charge to an amount that is **"fair and equitable."** The commission is, at its core, a

board that applies an equitable or fairness standard to determine when relief should be provided. In some sense, it acts as the conscience of the community in regard to the fairness of rents. In doing so, the Fair Rent Commission Act requires the commission to consider thirteen "circumstances" (or factors) "as are applicable."

Is the standard applied differently if the tenant is elderly or disabled?
If the rental increase involves a tenant (or a family member living in the household) who resides in a building, complex, or mobile manufactured home park with five or more units and who is either sixty-two years of age or older or disabled, the application of the standard is actually simpler, because the commission must only find that the proposed increase is not **"fair and equitable."** In other words, the commission does not have to apply the "so excessive…as to be harsh and conscionable" test but instead moves directly to whether or not the increase is "fair and equitable." That distinction results from C.G.S. 47a-23c. Subsection (c) of that statute provides explicitly that the rent of such a tenant "may be increased only to the extent that such increase is fair and equitable."

What are the thirteen circumstances?
The following circumstances are numbered in C.G.S. 7-148c as follows:

(1) The rents charged for the same number of rooms in other housing accommodations in the same and in other areas of the municipality;
(2) The sanitary conditions existing in the housing accommodations in question;
(3) The number of bathtubs or showers, flush water closets, kitchen sinks and lavatory basins available to the occupants thereof;
(4) Services, furniture, furnishings and equipment supplied therein;
(5) The size and number of bedrooms contained therein;
(6) Repairs necessary to make such accommodations reasonably livable for the occupants accommodated therein;
(7) The amount of taxes and overhead expenses, including debt service, thereof;
(8) Whether the accommodations are in compliance with the ordinances of the municipality and the general statutes relating to health and safety;
(9) The income of the petitioner and the availability of accommodations;
(10) The availability of utilities;
(11) Damages done to the premises by the tenant, caused by other than ordinary wear and tear;
(12) The amount and frequency of increases in rental charges;
(13) Whether, and the extent to which, the income from an increase in rental charges has been or will be reinvested in improvements to the accommodations.

How do commissions commonly approach these factors?
First, commissions do not treat all thirteen numbered factors as equally important in each case. The commission's task is to apply its judgment to weigh and balance them, in light of all the circumstances in regard to the particular complaint. In some cases, one factor may be dominant (e.g., a large rent increase, or the landlord's failure to comply with code enforcement orders). In other cases, the commission may find multiple factors to be of substantial importance. Some factors may favor the tenant; others may favor the landlord. The commission's job is to weigh and balance from a perspective of fairness. Second, the literal wording of some of the circumstances, as originally written in 1969, may at times seem a bit dated. **In practice, commissions often apply the factors in groupings, such as the following:**

- Size and history of rent increases (#12)
- Condition of the premises, including whether the premises are substandard (#2, #6, #8, #11, #13)

- Landlord operating costs (#7)
- Facilities and services included in the rent (#10)
- Comparable rents in the neighborhood and municipality (#1, #3, #4, #5)
- Income of the tenant and the availability of places to which the tenant can afford to move (#9)

Can a commission consider other circumstances?
Yes. The statute does not preclude consideration of other circumstances if they are relevant to the determination of what is excessive, fair, and equitable. Indeed, in some instances consideration of other circumstances can be essential.

Can a town make up its own standard?
No. The statutory standard is mandatory.

Is there a formula for weighing the factors?
No, it is within the discretion and judgment of the commission. The commission serves as the conscience of the community in assessing when rental charges are sufficiently unfair to require adjustment. This involves balancing all factors that are applicable – both those favoring the tenant and those favoring the landlord – to reach a decision. In every case, some factors are likely to be more important than others. In some cases, a single factor may be so significant as to outweigh all other factors. That may not be true in other cases. It is the function of the fair rent commission to resolve these issues fairly.

If the commission finds that rental charges are harsh and unconscionable, what can it do?
It can limit the rent to an amount that is "fair and equitable." In setting that amount, C.G.S. 7-148d requires that the same thirteen circumstances, if applicable, be applied.

What commission orders are most common?
Commissions have considerable discretion to fashion a result that is fair and equitable. For example, a commission can:

- Reduce the rent increase or rental charge to an amount that it determines is fair and equitable.
- Phase in a rent increase over time.
- Condition a rent increase or lower a rental charge until the landlord complies with housing code orders, other property maintenance standards, or other requirements. In this way, for example, when health and safety issues are raised, commissions can buttress health and safety code enforcement.
- Deny relief to the tenant (i.e., by upholding the rental charge).

Who bears the burden of proof?
The tenant bears the burden of proof that the rental charge is harsh and unconscionable or unfair and inequitable. On other issues, it will depend on who has access to the information.

How are these circumstances proven to the commission?
It is usually up to the parties to provide the commission with evidence upon which it can base a decision. If, however, a tenant objects to a rental charge based on the condition of the premises, it is common for a commission to request that a town health or safety inspector (e.g., a housing, health, building, or fire code official) inspect the premises in the same manner as if a complaint had been made with the inspection agency by the tenant. One advantage of the inspection request coming from the commission (rather than from the tenant) is that it is more likely that the report will be available in time for the commission's hearing.

If a proposed rent increase keeps the rent within the Section 8 fair market rent (FMR) limits, does that mean that the rent increase cannot be excessive or unfair?
No. While the Section 8 FMRs are one factor that can be considered by a commission, there are multiple reasons why they are not decisive and should not be given excessive weight. First, the rents of similar properties represent only one of the thirteen numbered statutory factors to be considered under C.G.S. 7- 148c and 7-148d. For example, they ignore the size of the increase, which is one of the most significant factors that is usually considered. Second, the fair market rents assume an apartment with no significant code violations. Third, they assume that heat and electricity are included in the rent. Fourth, they are not limited to the rents of tenants already in place but include "asking" rents for new tenants, which are often higher. Fifth, they are based on a larger geographical area than the part of the town where the apartment is located. Comparable rents, even if known exactly, are only one of the factors that a fair rent commission can consider.

Can the commission use the rents charged by the landlord in other properties owned by that same landlord elsewhere in the town to justify approving a rent increase?
Nothing in the statute explicitly prohibits this, but it is not appropriate for landlords to use their own properties to justify rent increases or excessively high rental charges.

In considering other rents for comparison purposes, is the commission limited to rents within the town?
C.G.S. 7-148c includes, as one factor, the rents charged for "the same number of rooms in other housing accommodations in the same and in other areas of the municipality." To the extent that the rent of other properties is applicable, commissions will usually look to similar areas within their own town. Nothing in the statute, however, limits the commission to their own town. In practice, this has become most significant in complaints from mobile home park residents, since there may be no other mobile home parks in the town, or no other parks other than those owned by the same park owner. Moreover, mobile home park rents are unique, because the resident is usually responsible only for "ground rent," because they are renting only the land and not the house, making it impossible to compare them with apartment rents anywhere in the town. In such a case, a commission that would like to consider similar mobile home park rents would necessarily have to look to parks in nearby towns.

How does the new state law requiring advance notice of rent increases impact fair rent commissions?
Section 17 of P.A. 24-143 provides that "no rent increase for a dwelling unit shall be effective" unless the landlord has given the tenant "written notice of the proposed increase" at least 45 days before the date on which the increase is proposed to take effect.[4] There is a reduced notice requirement for month-to-month leases and leases shorter than one month, for which the advance notice period is reduced to one term of the lease (e.g., the minimum notice would be one week if the landlord is proposing an increase in a week-to-week rent). The requirement that the notice be in writing applies, even if the lease itself is oral. The law applies to all leases entered into, renewed, or extended after

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[4] *The full text of Section 17 reads: "(NEW) (Effective October 1, 2024, and applicable to rental agreements entered into, renewed or extended on or after October 1, 2024) No rent increase for a dwelling unit shall be effective unless the landlord has given the tenant of such dwelling unit written notice of the proposed increase not less than forty-five days before the day on which the increase is proposed to take effect, except in the case of a lease with a term of one month or less, such notice shall be given a number of days equivalent to the length of a full term of such lease. A tenant's failure to respond to such notice shall not constitute the tenant's agreement to such proposed increase. Nothing in this section shall be construed to (1) allow a landlord to increase the rent during the term of a rental agreement, or (2) alter any notice requirements concerning increases in rent imposed by federal law."*

October 1, 2024. It thus applies to nearly all rent increase complaints received by fair rent commissions after that date. The statute is explicit that the tenant's failure to respond to the notice does not constitute agreement to the increase. Nothing in Section 17 prevents a tenant from filing a fair rent commission complaint.

There are at least two practical impacts for fair rent commissions. First, the law may impact the effective date of a rent increase permitted by the commission. The law does not prevent the commission from allowing a rent increase, but it does preclude a commission from authorizing the increase to take effect until written notice has been given and the required number of days has passed. Second, since commissions by statute can "receive complaints relative to rental charges," they can accept complaints about rent increases implemented by landlords without having provided the required advance notice and can order corrective action, such as a refund or a rent credit.

WHAT SORTS OF PROCEDURAL ISSUES ARISE FOR FAIR RENT COMMISSIONS?

What is the difference between a "hearing" on a fair rent complaint and a commission "meeting"?
A "hearing" on a fair rent commission complaint is part of a public fair rent commission "meeting." Most commission meetings consist of two parts. One part is the "hearing" on the complaint, in which the parties present their cases and the parties and their witnesses testify under oath. Members of the public can watch and listen, but they cannot speak unless they are called as witnesses. The other part is the "deliberation" portion, which occurs after the hearing is completed. The members of the commission discuss what they have heard and then vote to adopt a decision. Both the hearing and deliberation portion of the meeting are conducted in public, which means that the public can watch. The public, however, does not have the right to speak in either portion of the meeting.

Must the commissions hearings be public?
Yes. They have to be, because commissions are municipal agencies and are subject to the state Freedom of Information Act. Under that act, both the hearing itself and the commission's deliberation are open to the public to observe.

Doesn't the commission have to go into executive session to talk about confidential matters, such as landlord operating statements or tenant claims of insufficient income?
Connecticut law requires the meetings of all government agencies to be open to the public. See C.G.S. 1-225. Executive sessions are a narrow exception and are disfavored. As long ago as 1996, the state Freedom of Information Commission ruled that fair rent commission deliberation sessions must be conducted in open meeting.[5]

Can the parties be represented by attorneys?
Yes. Attorneys, however, are not required, and most parties – especially most tenants – participate without an attorney. Commissions should make sure that parties without attorneys are not unfairly disadvantaged. As with other administrative agencies, a certain amount of structure and formality is required at hearings, but fair rent commissions hearings are much less formal than court hearings. Testimony, however, is under oath.

Can parties be represented by someone who is not an attorney?

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[5] *See Reilly v. Norwalk Fair Rent Commission, FIC #95-222, https://www.state.ct.us/foi/1996FD/19960612/FIC1995-222.htm.*

In general, the answer is "yes." Fair rent commissions are administrative agencies, not courts, and representatives do not have to be attorneys. However, such representation usually requires the consent of the commission. This can be given in the fair rent commission ordinance itself if it allows parties to be represented by the person of their choice or by the commission's own practice.

Can the commission hear cases from the same building as a single case?
Yes. If multiple dwelling units in the same building or complex complain about the same rent increase or the same conditions, the commission can group them together for a hearing. It will, however, still have to decide each case individually and allow witnesses to present testimony speaking to specific units or situations. For issues that are common to all units, the commission can allow one or more tenants to speak for all of them and can apply such testimony to the entire group of cases. This allows all cases raising the same or related issues against the same landlord to be heard in a single hearing.

Must each witness be sworn in individually?
No. Nothing prohibits all potential witnesses from standing and being sworn in as a group.

Can one tenant or a tenant union file a complaint on behalf of other tenants?
It depends. If multiple tenants want to file a complaint over the same or similar issues, they will usually file separate complaints, which the commission can investigate and then schedule so as to be heard together. Some towns now allow collective complaints by multiple tenants in the same the complex. Some towns are now also looking into the possibility of a tenant association or union filing a group complaint for multiple tenants. It is our belief that this can be done, but it requires a framework in which all tenants who will be covered by the complaint indicate to the commission their consent to the filing (e.g., by signing a joint complaint), are given separate notice by the commission of all aspects of the proceeding, and are given an opportunity to present their own separate issues at the hearing, since there may be issues (e.g., the condition of the tenant's apartment or the tenant's income) that require individualized information from the tenant.

When does a commission make its decision?
It depends, and different commissions may have different practices. Once the hearing is completed, commissions usually move directly into the deliberation portion of the meeting so as to be able to decide the case the same day. In unusual instances, however, a decision may have to wait for a subsequent event (e.g., a housing code inspection), particularly if the commission needs additional information in order to decide the complaint. Commissions usually try to complete deliberation at the same meeting as the hearing, because the evidence will be fresh in their minds, both parties will appreciate a quick decision, and failure to dispose of the action on the same day may create delays and procedural problems.

What rent do tenants pay while the complaint is pending?
The Fair Rent Commission Act is silent on this question, and different commissions have different practices. We believe that the only proper answer is that the tenant should pay the last agreed-upon rent or the amount of the last rent prior to the increase complained of. Rent is a contract based on the agreement of the landlord and the tenant, and a rent increase cannot take effect until a disagreement has been resolved. Paying the last agreed-upon rent should also protect the tenant from facing eviction based on non-payment of rent while the complaint is pending. The landlord cannot impose a rent increase unilaterally while a complaint is pending before the commission. The best practice is for commission staff to include information about the interim rent to be paid in the notice it sends to both parties upon the filing of a complaint.

The Fair Rent Commission Act speaks of rent being paid into escrow. Do most tenants pay rent to the commission in escrow?
No. Rent escrows are rare. The Fair Rent Commission Act mandates the use of a municipal escrow account only if the commission suspends the payment of all rent while waiting for the landlord to comply with orders to make repairs required by the code agency. The tenant's responsibility in that situation would be to continue to pay the landlord either the last agreed-upon rent, the last rent before a disputed rent increase, or some other interim rent set by the commission. While a commission could require escrow payments in other circumstances, nothing in the state statute requires the commission to do so, and most do not.

Can interest be earned on funds in an escrow account, and to whom does it accrue?
The Fair Rent Commission Act is silent on these matters. An interest-bearing account is not required, but the best practice would be for the escrow account to earn interest. Such interest would be paid to the account itself, and not specifically to either party. It would be distributed to the parties, at the end of the fair rent commission proceeding, in conjunction with any other funds held in the escrow account.

How are the funds that accrue in an escrow account to be distributed?
Their distribution is up to the commission. Depending on the reason for the escrow and the disposition of the complaint, the funds could be paid entirely to the landlord, entirely to the tenant, or to some allocation between them. Particularly if the escrow was based upon landlord failure to comply with code enforcement orders, it is likely that some portion of the escrow – possibly even all – will be paid to the tenant. In cases involving only the size of a proposed rent increase in which the commission does not reduce the rent, it is likely that it will be paid entirely to the landlord.

Who gets to testify at a fair rent commission hearing?
Each commission sets its own procedures. Fair rent commission hearings are usually run like other administrative hearings. They are less formal than court hearings but must still be orderly and structured. The parties can each testify and can call witnesses. Anyone testifying can be questioned by commission members or by the parties themselves (or by their representative, if they have one). The tenant (who is the complainant) and the tenants' witnesses usually go first, after which the landlord and the landlord's witnesses would usually testify. Testimony is ordinarily under oath. The commission can also hear testimony from other witnesses with relevant information (such as a municipal housing code inspector who has inspected the property), even if not called by a party. Members of the public do not have a right to testify.

Are expert witnesses required?
No. The parties, or other individual witnesses, can testify as to matters within their own knowledge. For example, the tenant or the landlord can testify as to the condition of the premises, the history of past rent increases, or other rents in the neighborhood. If testimony is in conflict, it is up to commission members to decide whom to believe. On some objective matters, however, evidence may be needed. For example, a landlord who claims to be losing money without a large rent increase may be expected to present documentary evidence of income and expenditures. Some fair rent commissions routinely ask landlords to provide cost information, sometimes even in advance of the hearing.

Do fair rent commissions need an appraiser?
No. Commissions deal with rentals, not home purchases. More important, if comparative rents are an issue, it is up to the parties to bring such comparables to the attention of the commission. For a number of reasons, comparable rents can be difficult to establish, because the condition of the apartment and of the building itself are an important part of comparability, as is the precise location

of the property being compared and whether services, such as heat and utilities, are included in the rent. So is the distinction between rents of existing tenants and the "asking" prices for new tenants.

Do the parties have to testify?
As a practical matter, the tenant must testify or otherwise provide evidence, since the tenant must show the excessive nature of the rental charge. The commission's decision must be based on the evidence before it. If the landlord does not appear at the hearing or otherwise provide testimony, the commission must make its decision based on what the tenant or other witnesses provide.

Does evidence have to be documented in writing?
Not necessarily. The testimony of the parties themselves is evidence.

Can commission members collect their own evidence?
Commission members can rely on their own general experience and knowledge, but specific evidence cannot be gathered by commission members unless they participate in the hearing as a witness and recuse themselves from the decision-making process. For example, if a commission member were to try to determine comparable market rents by calling landlords and real estate agents and collecting information, that person could not also sit as a commission member deciding the case. He or she could be a witness in the case, but would have to recuse as a commission member. In contrast, nothing precludes the commission itself from gathering information, as long as it is presented in the hearing record and the parties are given an opportunity to question it. For example, a commission could have a staff member conduct a comparative rent survey, with the staff member then testifying at the hearing. Indeed, it is common for a commission to request a property inspection from the town's own code enforcement agency and accept the resulting report as evidence or have the inspector testify at the hearing.

Can the commission do an on-site inspection of the building or the apartment?
Yes, as long as the parties are notified of the inspection and allowed to be present. Commissions do not usually make such inspections, but nothing precludes them from doing so.

What if a party refuses to produce written evidence of something important, like the property's revenue and costs or the tenant's income?
To some extent, it depends on the relevance of the evidence. The commission has the power to subpoena evidence from the parties. This power, however, is not usually exercised, since there are other ways to deal with the absence of many kinds of evidence. For example, if a landlord claims that a rent increase is necessary to cover increased costs but fails or refuses to provide the commission with a breakout of income and expenditures, the commission could assume that the increase is not necessary to cover costs. It would, however, still need to consider other factors affecting the fairness of the increase. Similarly, if a tenant claims to have insufficient income to pay a rent increase but refuses to disclose income, the commission could assume that the tenant can afford the increase but would still have to consider other reasons why the increase might be unconscionable, such as the size of the increase.

Can alternates and commission staff participate in the commission's deliberations on a case, even if they cannot vote?
Persons who are not members of the commission with voting rights cannot vote. We believe that commissions have the discretion, unless prohibited by the ordinance or commission rules, to permit alternates or staff to participate in deliberations.

Should commission hearings be recorded?
Yes. There is no need for a stenographer, but both the hearing and deliberation portions of the

meeting should be either audio- or video-taped. There is no need for a transcript unless an appeal is taken.

Should a commission decision be reduced to writing?
Oral commission decisions must be reduced to writing. There are two principal purposes for written decisions, even if the parties are present for the commission's oral discussion of the complaint and for the motion that is voted on to dispose of the case. The first is that the parties need to know clearly what the decision is. A written decision can avoid later disputes as to what the commission has decided. Second, although appeals are uncommon, a written statement of reasons will help protect the commission's decision on appeal, even though courts are usually willing to review the transcript of the hearing and meeting to search for the commission's reasons.[6] The best practice is for a written statement of the decision itself and a brief summary of the reasons for the decision. In addition to reducing the risk of a reversal on appeal, it also discourages the losing party from taking an appeal in the first place.

Who should write the decision?
Commissions vary in how a written decision is prepared and approved. Decisions are usually made orally during the deliberation portion of the meeting at which the case was heard. An oral decision is announced but a decision will not have been written at the time. In theory, a decision could be written after the meeting as a draft decision and brought back to the commission for approval at the next meeting. Most commissions do not do that, however, in part because it imposes a delay (often a month) that neither party wants and partly because the commission membership present at the next meeting may not be the same as at the meeting when the case was heard. Instead, after the meeting, a municipal staff member who was present at the meeting (or, if there is no staff, the commission's chairperson or secretary), write the decision and have it reviewed and OK'd by the commission chair. It is then sent to the parties as the decision of the commission. It would not ordinarily be brought back to the commission for additional approval unless someone objects to the write-up. This seems to have been accepted as a satisfactory procedure.

How detailed should a written decision be?
There appears to be a wide variation in municipal practices. A written decision should state the actual decision of the commission on all issues before it and, at least briefly, the primary reasons for the decision (e.g., why an increase was approved, denied, or modified). If the decision is conditional (e.g., a rent reduction until certain repairs are made), it should say how the trigger will be activated (e.g., how it will be determined that the repairs have been completed). If a rent increase is to be phased in, it should state the phase-in dates and amounts. One or two paragraphs will usually be sufficient. Some commissions, however, prefer to state a conclusion as to each of the thirteen statutory factors, but that is not necessary.

Should commission decisions and minutes be posted on the town's website?
The commission is subject to the Freedom of Information Act. Its posting obligation should be the same as for other municipal agencies.

How long does a fair rent commission decision last?
A commission can incorporate into its final decision the duration of the decision. Twelve months is a common duration, but it can be shorter or longer. Some fair rent ordinances specify the duration of the decision (e.g., twelve months), unless the commission designates a different duration in a particular case. During the time the decision is in effect, a party who wants to modify the decision

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[6] *See, for example, Soundview Property Renewal, LLC v. Fair Rent Commission, 2010 WL 2397031 (2010), and Valle v. New Haven Fair Rent Commission, 2023 WL 2495586 (2023).*

must petition the commission for permission. After the time limit of the decision, the decision is no longer in effect. If the landlord raises the rent after the decision has expired, the tenant would have to file a new complaint.

How far back can a fair rent commission extend?
The statute is silent on this question. It is clear from practice, however, that a fair rent commission decision can apply back at least to the month in which the complaint was filed. Beyond that, it is less clear. We think that the commission can go back farther, particularly in regard to substandard conditions that existed before the filing of the complaint. A safer way for the commission to proceed in such a case, however, would be to reduce the rent prospectively because of the pre-complaint condition.

Does a sale of the property terminate a fair rent commission decision?
No. The decision continues in effect, even if the property is sold. In that sense, it is analogous to a code compliance order or a zoning commission decision, which is not vacated by a sale of the property. If the commission wants to minimize any risk of a contrary conclusion, it can file its decisions on the town's land records, which would remove any doubt as to a new purchaser's knowledge of the decision prior to purchase.

Can the parties appeal?
Yes, either party can appeal to the Superior Court. Such appeals will be heard on the court's housing docket (which in many parts of the state is called the "housing court"). Appeals from fair rent commissions, however, have not been common.

How much time do parties have to appeal?
The Fair Rent Commission Act fails to state the time for appeal, so many commission ordinances set a maximum number of days (often 30 days). If the ordinance does not have a limit, the commission should set a limit itself in its decision. The best practice is that the time should be measured from the sending of the written decision to the parties.

Is the town involved if an appeal of a fair rent commission decision is taken?
Yes. The commission is a municipal administrative agency, and appeals from agency decisions are taken against the agency (or the municipality). Thus, even though a fair rent commission complaint is tenant vs. landlord, an appeal from a fair rent commission decision will be the losing party vs. the commission (or the municipality). As a result, the municipality, usually through the town attorney, will have to represent the commission on the appeal.

Is the non-appealing party a necessary party to the appeal?
It appears that non-appealing parties are not necessary parties to an appeal, but they commonly are participants. For example, in an appeal by the landlord, the landlord may take the appeal against both the municipality and the tenant, thereby making the tenant a party to the appeal. If the landlord appeals only against the commission, the tenant may seek to intervene (particularly if the tenant has a lawyer). It is possible, however, for an appeal to involve only the losing party (the appellant) and the municipality.

How does the court decide whether or not to sustain the commission's decision?
Courts will not ordinarily overturn a commission decision unless the commission has made mistakes "of law." It will otherwise defer to the commission's judgment. Three principles apply. First, administrative agencies have broad discretion and will be upheld if they could reasonably have reached the decision that they reached. Judges hearing an appeal, in other words, do not decide how they themselves would have decided the case if they were members of the commission but rather,

based on the record before the commission, whether a commission could reasonably have reached the decision it reached. Second, a reviewing court will look at the transcript of the hearing and deliberation to try to identify the reasons for the commission's decision, even if they are not stated by the commission. Third, because the commission is a municipal board made up of lay people, the courts will not be overly technical in imposing requirements.[7] As a result, it is difficult for either party to win an appeal in court unless the commission has made procedural mistakes or had no rational basis for the decision that it made.

RETALIATION

Can a fair rent commission protect a tenant against retaliation?
Yes. Protection of a complainant from retaliation for having filed a complaint with the commission is a very important function of the commission itself. C.G.S. 7-148d(b) explicitly authorizes the issuance by the commission of a cease-and-desist order to prevent retaliation. C.G.S. 7-148f explicitly authorizes fines for violating orders of a commission. A commission cannot issue a cease-and-desist order or a fine, however, without first providing a hearing on that issue to the landlord.

Does the protection against retaliation apply only if the tenant wins the case?
No, it applies even if the tenant loses. The protection against retaliation is intended to allow tenants to file a complaint without fear of punishment or of eviction without cause. For example, if the commission rejects a tenant complaint concerning a rent increase and the tenant thereafter pays the increase, the tenant cannot be evicted other than for cause. A refusal to retain the tenant under those circumstances is presumptively retaliatory and not permitted.

Can a landlord start or continue an eviction against a tenant who has filed a complaint with a fair rent commission?
Not without good cause. During the pendency of the fair rent commission action and the six-month period after it has been decided, the landlord cannot bring or maintain a summary process action based on the no-fault grounds of "lapse of time" or "no longer has a right or privilege to occupy." That would violate C.G.S. 47a-20, which the Fair Rent Commission Act allows commissions to enforce through a cease-and-desist order and fines. C.G.S. 47a-20 does not require proof of retaliatory motive – it is a flat six-month prohibition after certain events that trigger its applicability, including the filing of a good faith complaint with a fair rent commission and the issuance of a fair rent commission order. No proof of retaliation is required.[8] Under that statute, the six-month period begins upon a good faith filing of a fair rent complaint and then extends if the commission enters an order (such as a decision). C.G.S. 47a-20 applies not only to evictions but also to an increase in rent or a decrease in services. Under a different statute – C.G.S. 47a-33 – the six-month limit on evictions does not apply if the landlord's actual motivation is retaliation.

Does this mean that the landlord can retaliate once six months have passed?
No. If the landlord's actual motive is retaliation because the tenant has come to the commission, there is no time limit. Under C.G.S. 7-148d(b), if the commission determines that the landlord has retaliated "in any manner against a tenant because the tenant has complained to the commission," it can order the landlord to cease and desist. This extended time period is likely to come into play in at least two common circumstances. First, the commission can issue a cease and desist order against retaliation, including a retaliatory eviction or an increase in the rent contrary to the commission's

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[7] *See, for example, Southview Property Renewal, LLC v. Fair Rent Commission of the City of New Haven, 2010 WL 2397031 (2010).*

[8] *See Correa v. Ward, 91 Conn. App. 142 (2005).*

order, during the term of its own order (which is likely to be twelve months). It can also issue such an order if the landlord attempts to evict for non-payment of rent if the tenant has paid the old rent or the last agreed-upon rent during the pendency of the fair rent commission proceeding or if, after the commission has decided the case, the tenant makes rent payments in the amount determined to be fair and equitable by the decision of the fair rent commission for whatever length of time the commission's decision is in effect. Such conduct would be presumptively retaliatory. Second, the commission can act if the landlord engages in conduct when the commission's order expires, if the landlord's motive is the tenant's prior complaint to the commission.

Can a landlord get rid of a tenant who has filed a complaint by refusing to renew or extend the tenant's lease solely because the lease has expired?
No. Such non-extension cannot occur during the term of the commission's decision because the decision effectively extends the lease. Such conduct is also inherently retaliatory if it occurs during the six months after the commission's decision and potentially retaliatory if it occurs at a later time. The landlord is not precluded, however, from proposing a rent increase once the commission's decision has expired, although the tenant could at that time file a new commission complaint based on the proposed increase.

What then is the relationship between a decision in favor of the tenant and the duration of the tenant's last lease? Why isn't the commission's decision limited to the length of the last lease?
The commission's decision supersedes any contrary duration of the proposed leasing. Any other approach would result in landlords offering only month-to-month leases and claiming that all fair rent commission decisions are for one month only. A commission decision lasts for as long as the commission orders (or the ordinance provides, if there is a provision in the commission ordinance) and, to the extent that it would otherwise conflict with the lease, supersedes the lease. This is the case in regard to both the amount of the rent and the length of the lease and, depending on the particular decision, may affect other aspects of the lease as well. The decision thereby prevents the landlord from terminating the tenancy before the order expires, except for cause. The commission decision would not otherwise affect what the lease says. Thus, the parties can treat the other clauses as continuing in effect, or they can agree that some or all of the other clauses will cease to apply. In the absence of agreement to the contrary, the unaffected clauses would presumably remain in effect.

How can a commission stop a landlord from proceeding with a retaliatory eviction?
A commission can issue a cease-and-desist order to stop any retaliatory behavior by a landlord, including the bringing or maintenance of an eviction, or any other conduct that violates its orders. A hearing must be held before a cease-and-desist order can be issued. In the case of an eviction action that has already been filed in court, the order must be directed to the landlord. It cannot be directed to the court; but, if properly presented to a court, it is reasonable to expect the court would honor it.

Is it sufficient for the commission to leave enforcement of a cease-and-desist order to the tenant?
No, it is not sufficient. Although there is no formal legal requirement that the commission take any action after issuing an order, the failure to enforce its orders – especially those prohibiting retaliation or limiting a rent increase – will seriously undercut its authority and, in practice, incentivize landlords to ignore commission orders. The failure to prevent retaliation will discourage tenants from filing complaints in the first place, since they will fear that filing a complaint -- even filing and winning a complaint – will only get them evicted. The commission thus has an interest in assuring enforcement of its orders that goes beyond the interest of the individual tenant. Moreover, tenants are unlikely to have either an attorney and or the skill or capacity to enforce a commission order on their own. This makes it a necessity for the commission to assure that its rent limitation orders and its cease-and-

desist orders are complied with.

How can a commission enforce its cease-and-orders and its other decisions?
It can do so in at least three ways:

- The commission (or the municipality on behalf of the commission) can petition the court or otherwise bring a civil action to enjoin violation of the commission's order. Violation of a court order would be enforceable by the court as a contempt of court. It can bring a civil action to collect a fine.
- If a cease-and-desist order applies to the landlord's bringing or maintaining a retaliatory eviction, the commission can make sure that the court is aware of the order.
    - It can provide the tenant with a certified copy of the cease-and-desist order so that the tenant can present it to the court.
    - It can file in the eviction action a certified copy of the cease-and-desist order so that the eviction court would know that a cease-and-desist order has been issued.
- The commission (or the municipality, on behalf of the commission) can also consider attempting to intervene in the eviction case for the purpose of vindicating its order and assuring compliance.

The commission can also turn a violation of its orders over to a housing prosecutor for enforcement of a fine under C.G.S. 7-148f of between $25 and $100 per offense. The first five days of non-compliance are considered one "offense." If the offense continues for more than five days after the order is issued (e.g., a refusal to reduce a rent increase to the amount authorized by the commission), then every day becomes a new offense and the fine becomes a daily fine.

DRAFTING A FAIR RENT COMMISSION ORDINANCE

What resources are available to help a town without a fair rent commission ordinance draft a fair rent commission ordinance?

The Fair Rent Commission Toolkit, which has been circulated by the Connecticut Conference on Municipalities (CCM), includes a model ordinance and explanatory notes. It was created under the sponsorship of the Partnership for Strong Communities and can now be found on the website of the State of Connecticut Department of Housing at **https://www.pschousing.org/sites/default/files/inline-files/FRC-Toolkit%20-%20updated%202023.11.04.pdf**.

The drafters of the Toolkit are available for informal consultation and for training of municipal staff and commissioners. They are Atty. Dahlia Romanow (**DRomanow@ctfairhousing.org**) and Atty. Sarah White (**SWhite@ctfairhousing.org**) of the Connecticut Fair Housing Center and Atty. Raphael Podolsky (**RPodolsky@ctlegal.org**) of Connecticut Legal Services. Towns can also look at ordinances that have been adopted by other towns. Many are posted on the Department of Housing's website. See **https://portal.ct.gov/DOH/DOH/Housing/Fair-Rent-Commission**.

What are the necessary elements of a fair rent commission ordinance?
The primary necessity is that the ordinance adopt the state Fair Rent Commission Act. Some towns do this by reference to the state statute (C.G.S. 7-148b through 7-148f). Some do it by copying the text of the state statute into the ordinance. Other than that, the only necessary elements are to identify (1) who appoints the members of the commission and (2) the number and terms of the commissioners.

How detailed are most ordinances?
The degree of detail varies widely. The practical difference is in how much is to be controlled by the ordinance and how much is left to the commission itself. In practice, there appear to be two types of ordinances:

- **Minimum ordinance**: A few ordinances contain only the bare necessary elements referred to above, i.e., adoption of the state statute by cross-reference or by copying the language of the state statute into the ordinance, identification of the appointing authority, and establishment of the number and terms of commission members.
- **Detailed ordinance:** Most ordinances include a more comprehensive framework for their fair rent commission. Such ordinances may include complaint-filing and hearing procedures, time deadlines, staffing (if any), appeal procedures, and other matters.

Do commissions adopt rules of procedure?
Some commissions have adopted separate rules of procedure. To some extent, these overlap the more detailed ordinances, but they may also include detailed provisions about meeting procedure and staff responsibility.

How large are fair rent commissions?
Existing fair rent commissions vary from 3 to 9 members. Most have either 5 or 7.

Who names the members of the commission?
The appointing authority is usually either the municipal executive, particularly in the larger towns (sometimes with confirmation by the legislative body required), or the town's legislative body.

Do commission ordinances balance landlords and tenants?
Most do but some do not. The Fair Rent Commission Act leaves it to each town to decide on how or whether to balance a fair rent commission as between landlords, tenants, and homeowners. There is no requirement that a commission have any landlords or tenants. Existing ordinances seem to choose one of three approaches:

- **An equal number of landlords and tenants:** This number might or might not be specified in the ordinance. Since all existing commissions have an odd number of members, this approach means that at least one member of the commission will have to be neither a landlord nor a tenant, i.e., a homeowner who is not also a landlord.
- **A minimum number of landlords and tenants:** Some ordinances include a specific minimum number. For example, a five-member commission could be required to have at least one landlord and one tenant. In that case, the other three members could be landlords, tenants, or non-landlord homeowners in any combination.
- **No requirement:** Some ordinances are silent on the question of balancing, leaving the matter to the appointing authority as to the balance of landlords, tenants, and neither. Any mixture would be acceptable.

Most ordinances that include landlord-tenant balances do so as to appointments made to the commission. Most do not require that the balance be maintained at every hearing, as long as a quorum of members is present, because of the difficulty created in producing the exact balance when some commissioners are absent.

Are commission members required to have special expertise?
No. The background of members is left to the municipal appointing authority. In reality, commissions are intended to be made up of lay people, not experts, because their role is to apply a standard

based on fairness and conscionablity. When professionals in particular fields are members of the commission (e.g., real estate agents or appraisers) it is important they set aside at least part of their expertise when deciding cases, because as commission members they must apply the statutory fair rent commission standards, a portion of which are equitable in nature. For example, a rent increase can be at or below market rents but still be unconscionable or inequitable as to the particular tenant or the particular apartment.

Is there a required political party distribution?
Yes, fair rent commissions are government agencies subject to the Minority Representation Act (C.G.S. 9-167a), which limits the maximum number of members of a board who can be registered in the same political party. For example, no more than four members of a five-member board can belong to the same party, nor can more than five members of the same party be members of a seven-member board

How expensive are fair rent commissions?
Fair rent commissioners, like commissioners of most other local boards, are not paid. In most locations, towns use existing staff to provide whatever support for fair rent commissions is needed. While particularly large towns might consider adding an employee if large numbers of complaints are received, most medium-sized towns do not.

What kind of staff support is needed?
A staff person would ordinarily have to receive the complaints, notify the parties, schedule a hearing and post a hearing notice, arrange for a room, manage the recording of proceedings, and send out the decision. In practice, a staff person often plays an intermediary role between the parties to see if an agreement can be worked out. Unless the commission is receiving a large number of complaints, these tasks can usually be assigned to an existing staff person. If a complaint includes issues related to compliance with housing maintenance codes, the commission would usually request an inspection by the municipality's own code enforcement division, which is well within the usual scope of that division. Some commissions may want a town attorney representative to be present at commission hearings, especially during the first few hearings before a new commission, to make sure that the hearings run smoothly.

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FAIR RENT COMMISSION MODEL ORDINANCE

TOOLKIT:
FAIR RENT COMMISSIONS IN CONNECTICUT

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(Last updated 8/10/24)

HOMECONNECTICUT
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FAIR RENT COMMISSION MODEL ORDINANCE

Section 1. Creation of Fair Rent Commission

(a) Pursuant to and in conformity with C.G.S. §§ 7-148b through 7-148f, 47a-20 and 47a-23c, there is hereby created a Fair Rent Commission ("Commission") for the purpose of controlling and eliminating excessive rental charges for housing accommodations within the town, and to carry out the purposes, duties, responsibilities and all provisions of the above described sections and any other sections of the statutes, as they may be amended from time to time, pertaining to fair rent commissions.

(b) The Commission shall consist of seven (7) members and three (3) alternates, all of whom shall be residents of the [Town/City of _____]. Of the seven (7) regular members, at least two (2) shall be landlords and two (2) shall be tenants. Among the alternate members, at least one (1) shall be a landlord and one (1) shall be a tenant.

The members and alternates shall be appointed by the [Town Council/Mayor]. A quorum shall consist of four (4) members or seated alternates. Members of the commission shall serve without compensation.

(c) Members of the Commission shall be appointed for staggered terms of four (4) years. Vacancies on the Commission shall be filled, within a reasonable time, in the manner of original appointment for the unexpired portion of the term. Any member of the Commission may be reappointed in the manner of original appointment.

Section 2. Powers of the Commission

(a) The Commission's powers shall include the power to:

(1) Receive complaints, inquiries, and other communications concerning alleged excessive rental charges and alleged violations, including retaliation, of C.G.S. §§ 7-148b to 7-148f, inclusive, C.G.S. § 47a-20, C.G.S. 21-80a and C.G.S. § 47a-23c in housing accommodations, except those accommodations rented on a seasonal basis, within its jurisdiction, which jurisdiction shall include mobile manufactured homes and mobile manufactured home park lots. "Seasonal basis" means housing accommodations rented for a period or periods aggregating not more than 120 days in any one calendar year. "Rental charge" includes any fee or charge in addition to rent that is imposed or sought to be imposed upon a tenant by a landlord, and includes any charge that is already in effect;

(2) Make such studies and investigations regarding rental housing within the [town/city] as are appropriate to carry out the duties and responsibilities delegated hereunder, and subject to the terms, limitations and conditions set forth herein;

(3) Conduct hearings on complaints or requests for investigation submitted to it by any person, subject to the terms, limitations and conditions as set forth herein;

(4) Compel the attendance of persons at hearings, issue subpoenas and administer oaths, issue orders and continue, review, amend, terminate or suspend any of its orders and decisions;

(5) Determine, after a hearing as set forth herein, whether or not the rent for any housing accommodation is so excessive as to be harsh and unconscionable;

(6) Determine, after a hearing as set forth herein, whether the housing accommodation in question fails to comply with any municipal ordinance or state statute or regulation relating to health and safety;

(7) Determine, after a hearing as set forth herein, whether a landlord has engaged in retaliation in violation of Section 6 below and make such orders as are authorized herein;

(8) Order a reduction of any excessive rent to an amount which is fair and equitable, and make such other orders as are authorized herein;

(9) Order the suspension or reduction of further payment of rent by the tenant until such time as the landlord makes the necessary changes, repairs or installations so as to bring such housing accommodation into compliance with any municipal ordinance or state statute or regulation relating to health and safety;

(10) Establish an escrow account with a local bank or financial institution into which it shall deposit all rent charges or other funds paid to it pursuant to Section 5 herein; and

(11) Carry out all other provisions of C.G.S. §§ 7-148b to 7-148f, inclusive, C.G.S. § 47a-20, 21-80a and C.G.S. § 47a-23c as now existing and as hereinafter amended, as they apply to fair rent commissions.

Section 3. Determination of Excessive Rent

(a) In determining whether a rental charge or a proposed increase in a rental charge is so excessive, with due regard to all the circumstances, as to be harsh and unconscionable, the Commission shall consider such of the following circumstances as are applicable to the type of accommodation:

(1) The rents charged for the same number of rooms in other housing accommodations in the same and in other areas of the municipality;
(2) The sanitary conditions existing in the housing accommodations in question;
(3) The number of bathtubs or showers, flush waste closets, kitchen sinks and lavatory basins available to the occupants thereof;
(4) Services, furniture, furnishings and equipment supplied therein;
(5) The size and number of bedrooms contained therein;
(6) Repairs necessary to make such accommodations reasonably livable for the occupants accommodated therein;
(7) The amount of taxes and overhead expenses thereof;

(8) Whether the accommodations are in compliance with the ordinances of the [town/city] and the General Statutes of the State of Connecticut relating to health and safety;
(9) The income of the petitioner and the availability of accommodations;
(10) The availability of utilities;
(11) Damages done to the premises by the tenant, caused by other than ordinary wear and tear;
(12) The amount and frequency of increases in rental charges; and
(13) Whether, and the extent to which, the income from an increase in rental charges has been or will be reinvested in improvements to the accommodations.

Nothing in this section shall preclude the Commission from considering other relevant circumstances.

(b) The rent of a tenant protected by C.G.S. § 47a-23c who files a complaint with the Commission pursuant to C.G.S. § 47a-23c(c)(2) may be increased only to the extent that such increase is fair and equitable, based on the criteria set forth in C.G.S. § 7-148c.

Section 4. Procedures and Hearing on Complaints

(a) Upon the filing of a complaint, the Commission shall promptly notify all parties in writing of the receipt of the complaint. Such notice shall also inform the parties that the landlord is prohibited from retaliating against the tenant due to the filing of the complaint. It shall also inform the parties that, until a decision on the complaint is made by the Commission, the tenant's liability shall be for the amount of the last rent prior to the increase complained of or, if there is no such increase, the last agreed-upon rent, and that an eviction based upon non-payment of rent cannot be initiated against a tenant who continues to pay the last agreed-upon rent during the pendency of the fair rent commission proceeding.

(b) If a complaint alleges housing conditions that violate a housing, health, building or other code or statute, the Commission shall notify the appropriate municipal office or agency, which may then concurrently exercise its own powers. In addition, the Commission may request that the appropriate municipal official or agency promptly investigate and provide a report to the Commission.

(c) If two or more complaints are filed against the same landlord by tenants occupying different rental units in the same building, complex, or mobile home park that appear to raise the same or similar issues, the Commission may consolidate such claims for hearing.

(d) The Commission or municipal staff may, to the extent practicable, encourage the parties to the complaint to reach a mutually satisfactory resolution through informal conciliation. Municipal staff may serve as informal conciliators. Any agreement to resolve the complaint shall be in writing and signed by the parties.

(e) A hearing on the complaint shall be scheduled no later than thirty (30) days after the filing of the complaint, unless impracticable. Written notice of the date, time, and place of the hearing shall be given to the parties to the complaint at least ten (10) days prior to the hearing by first class and certified mail and, if practicable, by electronic mail.

(f) All parties to a hearing shall have the right to be represented, to cross-examine witnesses, to examine documents introduced into evidence, and to call witnesses and introduce evidence. The testimony taken at a hearing shall be made under oath. Hearings shall be recorded.

(g) In the event that there is insufficient time to complete a hearing or for other cause, the Commission shall have the power to adjourn the hearing to another time and date.

(h) No sale, assignment, transfer of the housing accommodation in question or attempt to evict the tenant shall be cause for discontinuing any pending proceeding nor shall it affect the rights, duties and obligations of the Commission or the parties.

Section 5. Rent Reduction Order and Repairs

(a) The Commission shall render its decision at the same meeting at which the hearing on the complaint is completed or within thirty (30) days following such date, unless impracticable. In accordance with the state Freedom of Information Act, both the hearing itself and the deliberation by the Commission shall be open to observation by the public. Until a decision on the complaint is made by the Commission, the tenant's liability shall be for the amount of the last rent prior to the increase complained of or, if there is no such increase, the last agreed-upon rent.

(b) If the Commission determines after a hearing that the rental charge or proposed increase in the rental charge for any housing accommodation is so excessive, based on the standards and criteria set forth in Section 3, as to be harsh and unconscionable, it may order that the rent be limited to such an amount as it determines to be fair and equitable, effective the month in which the tenant filed the complaint. A Commission's orders may include, but are not limited to, a reduction in a rental charge or proposed rent increase; a delay in an increased rental charge until specified conditions, such as compliance with municipal code enforcement orders, have been satisfied; or a phase-in of an increase in a rental charge, not to exceed a fair and equitable rent, in stages over a period of time. Commission orders shall be effective for at least one (1) year from the date of issuance, unless the Commission otherwise orders.

(c) If the Commission determines after a hearing that a housing accommodation fails to comply with any municipal ordinance or state statute or regulation relating to health and safety, the Commission may order the suspension or reduction of further payment of rent by the tenant until such time as the landlord makes the necessary changes, repairs or installations so as to bring the housing accommodation into compliance with such laws, statutes, or regulations. If the Commission's order constitutes a complete suspension of all rent, the rent during such period shall be paid to the Commission to be held in escrow subject to such ordinances or provisions as may be adopted by the town, city or borough. Upon the landlord's full compliance with such ordinance, statute or regulation for which payments were made into such escrow, the Commission shall determine after hearing such distribution of the escrowed funds as it deems appropriate.

Section 6. Retaliation

(a) No landlord shall engage in retaliatory actions. Retaliatory actions by a landlord include but are not limited to the following:

(1) Engaging in any action prohibited by C.G.S. § 47a-20 or § 21-80a within six months after any event listed in such statutes, including but not limited to within six months after the tenant has filed a complaint with the Commission;

(2) Refusing to renew the lease or other rental agreement of any tenant; bringing or maintaining an action or proceeding against the tenant to recover possession of the dwelling unit; demanding an increase in rent from the tenant; decreasing the services to which the tenant has previously been entitled; or verbally, physically or sexually harassing a tenant because a tenant has filed a complaint with the fair rent commission;

(3) Engaging in any other action determined by the Commission, after a hearing, to constitute landlord retaliation as set forth in C.G.S. 7-148d(b).

(b) In the initial notice scheduling a hearing or conciliation on a complaint, and in its notice of decision, the Commission shall include notice, in plain language, to landlords and tenants that retaliatory actions against tenants are prohibited.

(c) Any tenant who claims that the action of his or her landlord constitutes retaliatory action may file a notice of such claim with the Commission. If the Commission determines, after a hearing, which hearing shall be expedited, that a landlord has retaliated in any manner against a tenant because the tenant has complained to the Commission, the Commission may order the landlord to cease and desist from such conduct and order the landlord to withdraw or remediate such conduct as has already occurred.

Section 7. Appeals

Any person aggrieved by any order or decision of the Commission may appeal to the Superior Court within thirty (30) days of the issuance of the written notice of the decision to the parties. Such notice shall include notice of the right to appeal, the court to which an appeal may be taken, and the time in which an appeal must be filed. Unless otherwise directed by the Commission or the court, the filing of an appeal shall not stay any order issued by the Commission.

Section 8. Failure to Comply with Commission Orders

(a) Any person who violates any order of rent reduction or rent suspension by demanding, accepting or receiving an amount in excess thereof while such order remains in effect, and no appeal pursuant to § 7-148e is pending, or who violates any other provision of this chapter or C.G.S. § 47a-20 or 21-80a or who refuses to obey any subpoena, order or decision of the Commission pursuant thereto shall be fined not less than $25 nor more than $100 for each offense. If such offense continues for more than five days, it shall constitute a new offense for each day it continues to exist thereafter.

(b) The Commission, in its own name or through the municipality, may bring a civil action to any court of competent jurisdiction or take any other action in such a court to enforce any order of the Commission made pursuant to this subchapter, or to enjoin a violation or threatened violation of any order of the Commission.

ANNOTATIONS TO FAIR RENT COMMISSION MODEL ORDINANCE

TOOLKIT:
FAIR RENT COMMISSIONS IN CONNECTICUT

ANNOTATIONS TO FAIR RENT COMMISSION MODEL ORDINANCE

HOMECONNECTICUT
a campaign of the Partnership for Strong Communities

The Fair Rent Commission Model Ordinance is intended to be a "best practices" guide for towns adopting their own ordinances. All fair rent commission ordinances must comply with the requirements of the Fair Rent Commission Act (C.G.S. §§ 7-148b through 7-148f), but that act leaves room for procedural variations among the towns. For example, it does not designate the number of members a fair rent commission is to have.

Based on our knowledge and experience with fair rent commission ordinances and practices, the Model Ordinance incorporates both statutory requirements and supplementary provisions we believe are beneficial for a fair rent commission carrying out its duties under the act. This Annotation explains why particular provisions are required or recommended. The Annotation follows the section numbers in the Model Ordinance and should be read in conjunction with that document.

Section 1. Creation of Fair Rent Commission

- **Statute**: C.G.S. § 7-148b(b)
- **Subsection (a)**: This subsection enacts the ordinance and broadly states the purpose of the commission. The phrase "to control and eliminate excessive rental charges" comes from C.G.S. § 7-148b(b). The definitions in C.G.S. § 7-148b(a) can be found in Section 2(a)(1) of the Model Ordinance. The statute leaves membership, terms, appointing authority, and similar matters to the municipality to determine. Those can be found in Subsection (b) of this section.
- **Subsection (b)**:
    - **Number of members and alternates**: With one exception, all existing commissions have either five (12 commissions), seven (7 commissions), or nine (4 commissions) members. The Model is written for seven members and three alternates as the best size for a commission. It may be easier for a town to fill all slots in a smaller commission, but a seven-member commission makes it easier to deal with member absences. As is common, the Model requires that all commission members be residents of the municipality and that they serve without compensation.
    - **Landlord/tenant distribution**: The Model recommends that a seven-member commission include at least two landlords and two tenants and that alternates include at least one landlord and one tenant. The remaining members of the commission could be landlords, tenants, or others, meaning a person who is neither a landlord nor a tenant, i.e., a single-family homeowner who is not a landlord. For a five-member commission, a minimum of at least one landlord and one tenant is recommended.

The existing ordinances vary widely in how – or whether – membership among landlords, tenants, and others is explicitly balanced. The Model is intended to provide towns with flexibility but also to ensure that some members will bring their perspective as either a landlord or a tenant. The requirements for membership adopted by existing ordinances include:

- **Equal number of landlords and tenants**: This could be a specific number of each or simply a requirement that the number be equal. Since all commissions have an odd number of members, this approach effectively results in at least one member of the commission being neither a landlord nor a tenant.
- **Minimum number of landlords and tenants**: This approach assures that some minimum number of members will be either a landlord or a tenant. It does not require exact equality of membership between landlords and tenants and does not preclude all commission members being landlords, tenants, or others.
- **No minimum**: This alternative has no minimum requirements for either participation or balance, i.e., the members of the commission, without restriction, may be landlords, tenants, or others.
- One commission (New Haven) requires a minimum number of tenants with no minimum requirement for landlords.

  - **Appointing authority**: The appointing authority is ordinarily the Mayor or the municipality's legislative body. The Model expresses no preference as to this choice.

- **Model Subsection (c) – Terms**: The Model recommends four-year terms, with initial appointments staggered. The most common terms under existing ordinances are two, three, or four years. The Model recommends four-year terms for greater stability.

Section 2. Powers of the Commission

- **Statute**: C.G.S. §§ 7-148b, 7-148c, and 7-148d
- **Summary**: The Model identifies eleven categories of powers based on the statute and various existing ordinances. The list is not exclusive, and commissions have other powers ancillary to their functions, similar to other municipal boards.
- **Subpart (1) – Range of powers**:
  - **Commission jurisdiction**: The Model Ordinance follows C.G.S. § 7-148b in excluding only what the statute calls "seasonal" rentals of 120 days or less. Based on the statutory definition, this exclusion is not really "seasonal" but rather "short-term," i.e., units that are rented out for no more than 120 days per year. These are the only rentals that the Fair Rent Commission Act authorizes an ordinance to exclude from commission jurisdiction, and that is in fact the rule followed by most existing ordinances. Commission jurisdiction regarding C.G.S. §§ 47a-20 (retaliatory conduct) and 47a-23c (seniors and persons with disabilities in buildings and complexes with five or more units) is specifically referenced in C.G.S. § 7-148b(b). C.G.S. § 21-80a is the companion retaliation statute to § 47a-20 in mobile home parks. Mobile home parks are explicitly included in the Fair Rent Commission Act under C.G.S. § 7-148b.
  - **Definitions**: The definitions of "seasonal basis" and "rental charge" are taken from C.G.S. § 7-148b(a), which makes clear that a "rental charge" does not have to be a new or increased rental payment and that complaints can be based on a reduction in services or substandard conditions.
  - **Subparts (2) through (11) – Explicit powers**: This is a listing of powers commonly exercised by fair rent commissions.

Section 3. Determination of Excessive Rent

- **Statute**: C.G.S. §§ 7-148c and 47a-23c
- **Subsection (a) – Statutory factors**: This subsection lists the statutory "circumstances" (i.e., factors or criteria) the commission must consider if they "are applicable to the type of accommodation." The Model makes explicit that other applicable circumstances can be considered if relevant.
    - **Interpretation of factors**: The Model Ordinance recites the exact statutory language of the factors. Not all factors are necessarily of equal importance, and the significance of various factors depends on the individual case. The statute was written in 1969 and some factors may feel dated, but commissions commonly apply a common sense meaning. The factors are often interrelated, and it may be helpful to group them as follows:
        - Size and history of rent increases (Item #12);
        - Landlord operating costs (Item #7);
        - Condition of the premises, including whether it is substandard (Items #2, #6, #8, #11, and #13);
        - Comparable rents in the neighborhood and municipality (Item #1);
        - Facilities and services included in the rent (#3, #4, #5, and #10);
        - The tenant's income and the availability of alternative housing (Item #9).
    - **Relationship to C.G.S. § 7-148d**: Under C.G.S. § 7-148d(a), these same factors are used by the commission to set a fair and equitable rent.
    - **Relationship to commission decision-making**: Section 5(b) of this Annotation identifies common commission decisions and orders that arise from the application of these factors.
- **Subsection (b) – Complaints under § 47a-23c**: This subsection makes explicit that these same 13 factors are applied in complaints originating under C.G.S. § 47a-23c, which protects elderly and disabled tenants in buildings with five or more units and allows their rents to be increased "only to the extent that such increase is fair and equitable, based on the criteria set forth in section 7-148c." It also specifically authorizes such tenants to bring a complaint to their local fair rent commission.

Section 4. Procedures and Hearing on Complaints

- **Subsection (a) – Immediate notice**: The Model requires that the initial notice upon the filing of the complaint inform the parties that retaliation is prohibited. It also states that the tenant can continue to pay the last agreed-upon rent (or the last rent before a disputed rent increase) and that a landlord cannot initiate or maintain eviction proceedings against a tenant for non-payment of rent or lapse of time who continues to pay this rent while the complaint is pending. This is an important requirement that addresses the problem of landlords attempting to avoid commission jurisdiction or discourage tenant complaints by trying to evict tenants. The commission has the power to prevent retaliatory conduct, and notice is critical to deter retaliation. While the statute is silent as to what rent is to be paid, substantive law is clear that "rent" cannot be set unilaterally but only through an agreed-upon contract. The filing of the complaint inherently demonstrates the absence of agreement.
- **Subsection (b) – Housing code violations**: This subsection incorporates the common practice of commissions requesting code inspections and reports by the municipality's relevant agency if the tenant's complaint claims code-related violations or problems with

conditions as a reason for objecting to the rental charge. The code agency will typically conduct an inspection; issue corrective orders to the landlord under the agency's own authority, if appropriate; and notify the commission of the result of the inspection, of any orders that have been issued, and of compliance with such orders if it occurs.

- **Subsection (c) – Consolidation of complaints for hearing**: This subsection incorporates the common practice of consolidating complaints for a hearing when multiple tenants in the same complex file complaints that appear to raise similar issues (e.g., the same rent increase demanded from many units or shared problems with conditions). The commission may continue to treat complaints individually even if the hearings are consolidated. This practice encourages a more efficient presentation of evidence to the commission and minimizes redundancy.
- **Subsection (d) – Conciliation**: This subsection incorporates the common practice of attempting to resolve complaints by the agreement of the parties prior to a hearing through informal conciliation. The Model makes explicit that conciliation is appropriate and encouraged, including through participation of municipal staff.
- **Subsection (e) – Timing of hearings**: This subsection requires that a hearing on the complaint be scheduled within 30 days of the filing of the complaint unless impracticable. This benefits both the tenant and the landlord by minimizing the pendency period. It also encourages the code agency to promptly carry out its inspection and produce at least an initial report, and for the parties to at least begin informal conciliation. Nothing precludes a hearing from being continued or rescheduled if sufficient information is not yet available. The Model also requires ten days' notice of the hearing, using both first-class and certified mail as well as email, if practicable. The use of multiple methods of notice increases the likelihood that the parties receive the notice.
- **Subsection (f) – Hearing procedure**: The procedures in this subsection are common practice among existing commissions. Hearings do not have the formality or rigidity of a court hearing, but it is important that they be orderly, that all parties are heard, and that an adequate record is retained.
- **Subsection (g) – Continuances**: The ability to continue the hearing is necessary when information is incomplete or more time is needed for a decision.
- **Subsection (h) – Transfer of the property**: The Model makes explicit that a landlord cannot avoid commission jurisdiction by transferring title. The commission's decision concerning the complainant will apply to the new owner. The landlord also cannot avoid commission jurisdiction by attempting to evict the tenant. The filing of an eviction action does not deprive the commission of jurisdiction or prevent the commission from asserting jurisdiction.

Section 5. Rent Reduction Order and Repairs

- **Statute**: C.G.S. § 7-148d(a)
- **Subsection (a) – Determination that rent is excessive**
    - **Time to render decision**: This section clarifies that a commission can, but is not required to, render its decision at the same commission meeting as the hearing. Commissions commonly do this if the hearing provides all information needed to decide. The memories of commission members are fresh, and all members who have heard the evidence are present. The commission otherwise has 30 days to decide. The time is measured from the date of the completion of the hearing. If the commission is waiting for additional information, it should continue the hearing, and the 30 days will not begin to run until the continued hearing is completed.

    - **Open meetings**: The state Freedom of Information Act (C.G.S. § 1-200 et seq.) applies to municipal agencies. Both the hearing portion of the meeting and the commission's deliberations must be open to the public.
    - **Rent liability**: The Model limits tenant liability to the last rent prior to the increase complained of or, if the excessive rental charge is not an increase, to the last agreed-upon rent. Holding the tenant liable for a larger amount that was not agreed upon creates a difficult situation for the tenant and discourages complaints. If the tenant loses, the tenant will be liable for the increase going forward. If the tenant wins, the decision is effective retroactive to the month in which the tenant filed the complaint.
- **Subsection (b) – Reduction of rent orders**
    - **Effective date of rent reduction order**: Upon a finding of harsh and unconscionable rent, the statute directs the commission to set a rent that is fair and equitable. The Model makes the order retroactive to the month in which the tenant filed the complaint.
    - **Common decisions and orders**: To help commissioners understand the kind of orders that can be issued other than a denial of the complaint, the Model identifies some of the most common ones as examples: a reduction in the rental charge, a delay of a rental increase pending correction of defective conditions, or a phase-in of a rental increase. Note that under the statute (and therefore under the Model ordinance), the commission's jurisdiction is not limited to rent increases but rather to any "rental charge." There are at least two types of situations in which the commission may find a rental charge unconscionable, even though it is not a rental increase. One is a reduction in services, such as when a service previously paid by the landlord (e.g., electricity) is transferred to the tenant. The second is when the landlord's failure to repair defective conditions or adequately maintain the property devalues the rental so as to make the existing rental unconscionable. Other situations may arise as well.
    - **Duration of commission orders**: The Model adopts the best practice of specifying a duration for commission orders, which the commission can modify in particular cases. The Model recommends one year, which is the most commonly set duration. This means that a rent reduction will last for one year. Nothing precludes the landlord from seeking a modification sooner, but, after one year, the landlord need not return to the commission to propose a rent increase. A tenant who objects to an increase would have to file a new complaint with the commission.
    - **Written decisions**: Although a commission decision may initially be made orally on motion, it should always be reduced to a written decision, with at least a brief statement of the reasons.
- **Subsection (c) – Correction of code violations and escrow payments**
    - **Suspension or reduction of rent payments**: If the commission finds after hearing that the property fails to comply with state or local health and safety codes, statutes, or regulations, it can reduce or suspend the rent until the landlord complies. Such an order can be part of an interim or a final decision. A commission order can be based on an order of a code enforcement agency, but a code enforcement agency order is not required. A commission order can also be based on evidence it receives at its own hearing.
    - **Escrowing of payments**: The Fair Rent Commission Act, and therefore the Model Ordinance, requires the escrow of rent payments to the municipality only in limited circumstances. Escrow payments are required only if the commission orders the suspension of any further payment of rent. Escrow is not required if the rent is reduced rather than suspended while the landlord brings the property into compliance with codes. If the rent is reduced, the amount should be what the

commission determines is fair and equitable. In practice, most commissions have been reluctant to assume responsibility for the receipt and management of escrow payments and are more likely to reduce rather than suspend rent. A rent reduction avoids the statute's escrow requirement, however, since escrow is only required if the obligation to pay the landlord is also suspended. If escrowing is not ordered, the tenant pays the amount ordered to the landlord rather than to the commission.

- **Payout of escrowed payments**: If payments are escrowed, the commission should order the distribution of the escrowed funds once the landlord fully brings the property into compliance with codes as ordered by the commission. Escrowed funds can be released to the landlord, the tenant, or divided between them as the commission determines is equitable in light of the circumstances.

Section 6. Retaliation

- **Statute**: C.G.S. §§ 7-148b(b), 7-148d(b), 7-148f, 47a-20, and 21-80a
- **Subsection (a) – Retaliatory actions**: The Fair Rent Commission Act explicitly gives the commission authority to act on complaints of retaliation because of the filing of a complaint to the commission or under C.G.S. § 47a-20. C.G.S. § 21-80a is the equivalent of § 47a-20 for residents in mobile home parks, which are covered by the Fair Rent Commission Act pursuant to C.G.S. § 7-148b(b). The Model ordinance spells out retaliation in more detail:
  - **Engaging in any action prohibited by C.G.S. §§ 47a-20 or 21-80a**: These statutes do not require retaliatory motive but instead bar certain actions for six months after the occurrence of one of five trigger events:
    - A good faith attempt by the tenant to remedy any condition violating health or safety codes or violation of any other state statute, explicitly including the filing of a complaint with a fair rent commission;
    - The filing by a municipal agency or official of any notice, complaint, or order regarding a violation;
    - A good faith request by the tenant to the landlord to make repairs;
    - A good faith institution by the tenant of a Housing Code Enforcement Act action under C.G.S. § 47a-14h; or
    - The tenant's organizing or joining a tenants' union.

    Under the wording of C.G.S. §§ 47a-20 and 21-80a, these statutes apply to any good faith complaint to a fair rent commission, and it is not necessary for the complaint to be related to code violations.
  - **Refusing to renew the lease**, bringing an eviction, raising the rent, reducing services, or harassing the tenant because the tenant filed a complaint with the commission.
  - **Engaging in any other action** determined by the commission, after a hearing, to violate C.G.S. § 7-148d.
- **Subsection (b) – Notice concerning retaliation**: The Model Ordinance requires both the notice of a hearing or conciliation and the notice of the decision to include the prohibition against retaliation.
- **Subsection (c) – Commission jurisdiction**: The Model Ordinance explicitly authorizes the tenant to notify the commission of retaliation and to request relief. The tenant does not need to initiate a new proceeding but can raise the issue during the complaint process or, as part of the case, after the commission's order on the original fair rent complaint has been issued. The commission can also act to prevent retaliation, even if the tenant has not prevailed in the action before the commission. A cease-and-desist order issued by the

commission can include the landlord's withdrawing or remediating the challenged retaliatory conduct.

Section 7. Appeals

- **Statute**: C.G.S. § 7-148e
- **Time for appeal**: The statute authorizes appeals to the Superior Court but does not impose a time limit on taking an appeal, leaving unclear what the time limit is. The Model Ordinance provides a limit of 30 days, measured from the date of the written notice. While many commission decisions will initially be made orally at the hearing, the parties will not necessarily be present, nor will the reasons for the decision be stated. Parties cannot be expected to take an appeal without a formal notice. The Model requires that the notice of decision also include information about the right to appeal.
- **Rental liability during an appeal**: The issuance of a decision by the commission, as a practical matter, changes the presumption as to what amount of rent the tenant should be paying during further proceedings. The Model Ordinance incorporates the rule that the commission's decision is effective during an appeal, unless the commission itself or the court to which the decision has appealed issues a contrary order.

Section 8. Failure to Comply with Commission Orders

- **Statute**: C.G.S. § 7-148f
- **Subsection (a) – Criminal penalties**: This subsection is taken directly from C.G.S. § 7-148f. For consistency with C.G.S. § 47a-20, C.G.S. § 21-80a is added.
- **Subsection (b) – Civil remedies**: This subsection makes clear that the commission, in its own name or through the municipality, can seek to enforce its orders civilly.

FAIR RENT COMMISSION ACT

TOOLKIT:
FAIR RENT COMMISSIONS IN CONNECTICUT

FAIR RENT COMMISSION ACT P.A. 22-30

HOMECONNECTICUT
a campaign of the Partnership for Strong Communities

FAIR RENT COMMISSION ACT
As amended through October 1, 2022
(Subsection headings added by editor)

Sec. 7-148b. Creation of fair rent commission. Powers.

(a) **Definitions.** For purposes of this section and sections 7-148c to 7-148f, inclusive, "seasonal basis" means housing accommodations rented for a period or periods aggregating not more than one hundred twenty days in any one calendar year and "rental charge" includes any fee or charge in addition to rent that is imposed or sought to be imposed upon a tenant by a landlord.

(b) **Powers.** Any town, city or borough may, and any town, city or borough with a population of twenty-five thousand or more, as determined by the most recent decennial census, shall, through its legislative body, adopt an ordinance that creates a fair rent commission. Any such commission shall make studies and investigations, conduct hearings and receive complaints relative to rental charges on housing accommodations, except those accommodations rented on a seasonal basis, within its jurisdiction, which term shall include mobile manufactured homes and mobile manufactured home park lots, in order to control and eliminate excessive rental charges on such accommodations, and to carry out the provisions of sections 7-148b to 7-148f, inclusive, section 47a-20 and subsection (b) of section 47a-23c. The commission, for such purposes, may compel the attendance of persons at hearings, issue subpoenas and administer oaths, issue orders and continue, review, amend, terminate or suspend any of its orders and decisions. The commission may be empowered to retain legal counsel to advise it.

(c) **Report of adoption of ordinance.** Any town, city or borough required to create a fair rent commission pursuant to subsection (b) of this section shall adopt an ordinance creating such commission on or before July 1, 2023. Not later than thirty days after the adoption of such ordinance, the chief executive officer of such town, city or borough shall (1) notify the Commissioner of Housing that such commission has been created, and (2) transmit a copy of the ordinance adopted by the town, city or borough to the commissioner.

(d) **Joint fair rent commissions.** Any two or more towns, cities or boroughs not subject to the requirements of subsection (b) of this section may, through their legislative bodies, create a joint fair rent commission.

Sec. 7-148c. Considerations in determining rental charge to be excessive. In determining whether a rental charge or a proposed increase in a rental charge is so excessive, with due regard to all the circumstances, as to be harsh and unconscionable, a fair rent commission shall consider such of the following circumstances as are applicable to the type of accommodation:

(1) **Rents of comparable dwelling units.** The rents charged for the same number of rooms in other housing accommodations in the same and in other areas of the municipality;

(2) **Sanitary conditions.** The sanitary conditions existing in the housing accommodations in question;

(3) **Plumbing facilities.** The number of bathtubs or showers, flush water closets, kitchen sinks and lavatory basins available to the occupants thereof;

(4) **Services supplied.** Services, furniture, furnishings and equipment supplied therein;

(5) **Bedrooms.** The size and number of bedrooms contained therein;

(6) **Condition of the premises.** Repairs necessary to make such accommodations reasonably livable for the occupants accommodated therein;

(7) **Landlord's costs.** The amount of taxes and overhead expenses, including debt service, thereof;

(8) **Health and safety compliance.** Whether the accommodations are in compliance with the ordinances of the municipality and the general statutes relating to health and safety;

(9) **Income of tenant.** The income of the petitioner and the availability of accommodations;

(10) **Utilities.** The availability of utilities;

(11) **Tenant-caused damage.** Damages done to the premises by the tenant, caused by other than ordinary wear and tear;

(12) **Size and frequency of rent increase.** The amount and frequency of increases in rental charges;

(13) **Reinvestment in property.** Whether, and the extent to which, the income from an increase in rental charges has been or will be reinvested in improvements to the accommodations.

Sec. 7-148d. Order for limitation on amount of rent. Suspension of rent payments. Cease and desist orders for retaliatory actions.

(a) **Commission orders after hearing.** If a commission determines, after a hearing, that the rental charge or proposed increase in the rental charge for any housing accommodation is so excessive, based on the standards and criteria set forth in section 7-148c, as to be harsh and unconscionable, it may order that the rent be limited to such an amount as it determines to be fair and equitable. If a commission determines, after a hearing, that the housing accommodation in question fails to comply with any municipal ordinance or state statute or regulation relating to health and safety, it may order the suspension of further payment of rent by the tenant until such time as the landlord makes the necessary changes, repairs or installations so as to bring such housing accommodation into compliance with such ordinance, statute or regulation. The rent during said period shall be paid to the commission to be held in escrow subject to ordinances or provisions adopted by the town, city or borough.

(b) **Retaliation.** If the commission determines, after a hearing, that a landlord has retaliated in any manner against a tenant because the tenant has complained to the commission, the commission may order the landlord to cease and desist from such conduct.

Sec. 7-148e. Appeal. Any person aggrieved by any order of the commission may appeal to the

superior court for the judicial district in which the town, city or borough is located. Any such appeal shall be considered a privileged matter with respect to the order of trial.

Sec. 7-148f. Penalty for violations. Any person who violates any order of rent reduction or rent suspension by demanding, accepting or receiving an amount in excess thereof while such order remains in effect, and no appeal pursuant to section 7-148e is pending, or violates any other provision of sections 7-148b to 7-148e, inclusive, and section 47a-20, or who refuses to obey any subpoena, order or decision of a commission pursuant thereto, shall be fined not less than twenty-five dollars nor more than one hundred dollars for each offense. If such offense continues for more than five days, it shall constitute a new offense for each day it continues to exist thereafter.