



Legislation Text

File #: 67500, Version: 1

**Fiscal Note**

No City appropriation required.

**Title**

Amending Section 32.04 (4)(e)4. to permit an earlier start date for rent abatement, when such earlier date may be verified.

**Body**

DRAFTER'S ANALYSIS: Under current ordinances, if a landlord does not correct a rent impairing violation by the due date in the order of the Building Inspection Division, the tenant is entitled to seek abatement for a portion of their rent. The period of time of rent abatement starts is the date the orders were issued by the Building Inspection Division. This proposal allows for an earlier start date if it can be verified by the hearing examiner that the violation existed on an earlier date, as shown by the greater weight of credible evidence. For example, an earlier date for damage by fire may be able to be verified by a public record of the date of the fire.

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The Common Council of the City of Madison do hereby ordain as follows:

Paragraph 4. entitled "Decision" of subdivision (e) entitled "Procedure" of subsection (4) entitled "Authorization of Rent Abatement" of Section 32.04 "Rent Abatement" of the Madison General Ordinances is amended as follows:

"4. Decision.

- a. If, on the evidence at the hearing, the Rent Abatement Hearing Examiner finds that the landlord failed to comply with an order of the Building Inspection Division or Public Health Madison and Dane County to correct by the original due date a "rent impairing" violation as that term is defined in Sec. 32.04(4)(b), the Hearing Examiner shall order that rent be abated retroactive to the earlier of either the date of the initial inspection, or the date that the violation first existed as established by the greater weight of credible evidence, in order to effectuate the purpose of this Ordinance and to provide fair and equitable compensation to the tenant(s) for the diminished value of the rented premises due to the landlord's continued violation of the City of Madison's building/housing codes. Any such abatement shall be established in accordance with the Schedule of Rent Impairing Violations in Sec. 32.04(4)(d). In setting the exact percentage of abatement the Hearing Examiner shall consider the nature, extent and seriousness of the particular condition(s), the total number of rent impairing violations at issue, the length of time the condition(s) existed and the extent to which the condition(s) deprive the tenant(s) of full use of the rented premises. If the Hearing Examiner finds that the landlord's failure to comply with the order of the Building Inspection Division or Public Health Madison and Dane County by the due date was caused by factors wholly outside the landlord's control and if the Hearing Examiner further finds that the landlord has taken affirmative steps to minimize the impact of the uncorrected rent-impairing condition(s) on the tenant(s), any sums reasonably expended by the landlord in that regard should be considered in setting the percentage of abatement and may operate to reduce the final abatement percentage below the minimum percentage listed for the item(s) in the Schedule of Rent Impairing Violations in Sec. 32.04(4)(d). The Hearing

Examiner shall not authorize rent abatement for any condition(s) found to be caused either negligently or willfully by the tenant or ~~his/her~~ their guests, nor shall abatement be ordered for any period of time after the tenant has unreasonably refused entry to the landlord for the purpose of correcting the condition(s) giving rise to the violation(s).”