

TITLE 8

DEPARTMENT OF COMMUNITY SERVICES

CHAPTER 5

CITY HOUSING RENTAL ASSISTANCE PROGRAM

§8-5-1 Purpose. The purpose of these rules is to set forth the essential elements of the City's Housing Rental Assistance Program. [Eff 1/1/89, am, ren and comp OCT 04 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-2 Definitions. As used in this chapter:

"Adjusted annual income" means annual income less:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family;
- (3) Unreimbursed medical expenses in excess of 3% of annual income for any elderly family; and
- (4) Child care expenses.

"Agency" means the Department of Community Services, City and County of Honolulu or its representative.

"Annual income" means the anticipated total annual income from all sources for a 12-month period following the date of determination of income computed in accordance with §8-5-4.

"Assets" means net cash value or equity in real property, savings, stocks, bonds, and other forms of capital investment. Assets do not include household furnishings and automobiles for personal use.

"Certificate of Eligibility" or "Certificate" means a document issued by the agency declaring a family to be eligible for participation in the program and stating the terms and conditions for such participation.

"Child care expenses" means the amounts anticipated to be paid by the family for the care of children under thirteen years of age during the period of which annual income is computed, but only where such care is necessary to enable a family member to be gainfully employed or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care but the deduction shall not exceed the amount of income received from any gainful employment.

"City-Assisted project" means any City-designated rental housing project, the construction of which was funded in part or wholly by City funds and where units are set aside for low-income families.

"Dependent" means a member of the family (except foster children or foster adults) other than the head or spouse, who is under eighteen years of age or is a disabled person or handicapped person or is a full-time student.

“Disabled person” means a person with a disability as defined in Section 223 of the Social Security Act (42 U.S.C. §423).

“Displaced person” means a person as defined in HRS chapter 111, or a person whose dwelling has been extensively damaged by fire or natural disaster.

“Dwelling unit” or “Unit” means a room or rooms connected together constituting an independent unit with direct access from the outside of the building or through a common hall and equipped with a complete kitchen and bathroom facilities for the exclusive use of the occupants of the unit.

“Elderly family” means a family whose head or spouse of the head or whose sole member is at least sixty-two years of age; or a family with a member who is a disabled or handicapped person as defined in this section; or two or more elderly, disabled or handicapped persons living together, or one or more such persons living with one or more live-in aides.

“Eligible family” means a low-income family which has been:

- (1) Displaced by governmental action, fire or natural disaster;
- (2) Determined to be homeless; or
- (3) Selected for placement in a City-assisted housing project.

“Family” means:

- (1) Two or more persons sharing residency whose income and resources are available to meet the family’s needs;
- (2) Any elderly family;
- (3) A displaced person; or
- (4) Remaining member of an eligible family, provided that eligibility expires at date of annual reexamination of family income (§8-5-12) if he/she does not otherwise qualify under paragraph (1), (2), or (3) above.

“Family income” means annual income.

“Full-time student” means a person who is in full-time attendance (equal to a full-time day student) under the standards and practices of the educational institution.

“Handicapped person” means a person with a physical or mental impairment which:

- (1) Is expected to be of long-continued and indefinite duration;
- (2) Substantially impedes his or her ability to live independently; and
- (3) Is of such nature that such ability could be improved by more suitable housing conditions.

“Head of the family” means that adult member or emancipated minor of the family who is primarily responsible for the sustenance of the family and is responsible for the lease.

“Homeless family” means any family which is or will be involuntarily displaced as a result of:

- (1) Action by a landlord where:
 - (A) The reason for the landlord’s action is beyond a family’s ability to control or prevent;
 - (B) The action occurs despite the family’s having met all imposed conditions of occupancy; and
 - (C) The action taken is other than a rent increase; or

- (2) Actual or threatened physical violence directed against one or more members of the family by a spouse or other members of the household.

“Housing Quality Standards” or “HQS” means the performance requirement and acceptability criteria for housing units under the agency’s Section 8 Housing Choice Voucher Program.

“HUD” means the U.S. Department of Housing and Urban Development.

“Live-in aide” means a person who resides with an elderly, disabled or handicapped person or persons and who:

- (1) Is determined by the agency to be essential to the care and well-being of the person(s);
- (2) Is not obligated for support of the person(s); and
- (3) Would not be living in the unit except to provide necessary support services.

“Low income family” means a family whose annual income does not exceed eighty percent of the median income for Honolulu as determined by HUD with adjustments for family size.

“Medical expenses” means those medical expenses which are to be anticipated during the twelve month period for which the annual income is computed, and which are not covered by insurance or otherwise reimbursed (premiums for such insurance may be included as medical expenses.)

“Monthly income” means one-twelfth of the annual income.

“Monthly adjusted income” means one-twelfth of the adjusted annual income.

“Owner” means any person or entity having the legal right to rent or subrent a dwelling unit.

“Private housing” means any privately-owned housing unit.

“Program” means the City Housing Rental Assistance Program.

“Rental assistance agreement” or “Agreement” means a written agreement between the agency and both the owner and the family spelling out the terms and conditions of providing rental assistance payments.

“Rent” means the monthly charge to a tenant for the use of a dwelling unit.

“Rental assistance payments” mean rental payments by the agency on behalf of an eligible family to the owner in accordance with §8-5-10.

“Tenant rent” means the family’s share of the rent.

“Tenant rental assistance agreement” or “Tenant agreement” means a written agreement between the agency and the tenant spelling out the terms and conditions of providing rental assistance payments. [Eff 1/1/89, am, ren and comp

OCT 04 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-3 General application and scope. These rules apply to rental assistance payments made on behalf of eligible families renting housing units. [Eff 1/1/89, am, ren and comp OCT 04 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-4 Determination of family income. (a) Income shall include, but not be limited to:

- (1) The full amount (before any payroll deductions), of wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services;
 - (2) All regular pay, special pay (except as provided in subsection (b)(5)) and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the family or spouse;
 - (3) The net income from operation of a business or profession or from rental of real or personal property;
 - (4) Welfare assistance. This includes payments to families or individuals on the basis of economic need, age, family composition and size, and health of recipient. Reductions in welfare assistance from sanctions imposed by the welfare agency shall continue to be counted as income even if the recipient is no longer receiving the income;
 - (5) Benefits such as social security benefits, supplemental security income, railroad retirement, U.S. military retirement, miners' black lung benefits, veterans administration pensions, retirement pensions into which the individual has made payment, or is eligible to receive payments by virtue of the previous participation by the individual, spouse or head of household, all veterans administration funds, periodic payments for annuities, and periodic payments from insurance policies;
 - (6) Other income such as income from assets (interest, dividends, etc.), unemployment insurance benefits, temporary disability insurance, workers' compensation, severance pay, alimony, child support, regular contributions or gifts, and educational scholarships and grants (costs of tuition, fees, books, equipment, materials, supplies, transportation and school related miscellaneous personal expenses excluded); and
 - (7) Earned income tax credit to the extent it exceeds income tax liability.
- (b) The following items shall not be included as income:
- (1) Casual, sporadic or irregular gifts;
 - (2) Amounts of which are specifically for or in reimbursement of the cost of medical expenses;
 - (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses;
 - (4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans, not used for the above purposes or which are available for subsistence are to be included in income;
 - (5) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
 - (6) Income from employment of children (including foster children) under the age of eighteen years;

- (7) Earnings in excess of \$480 for each full-time student, eighteen years and older, who is a member of the family (excluding the head or co-head of household);
 - (8) Income of a live-in aide as defined in §8-5-2;
 - (9) Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §4601 et seq.) or HRS chapter 111;
 - (10) Foster child care payments; and
 - (11) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) which are made solely to allow participation in a specific program.
- (c) The income shall be determined for the twelve month period. If the circumstances are such that it is not possible to determine a level of income over a twelve month period, a shorter period may be annualized subject to a re-determination at the end of the shorter period. [Eff 1/1/89, am, ren and comp OCT 04 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-5 Eligibility criteria. (a) Eligible applicants include those who qualify as an eligible family as defined in §8-5-2.

(b) Where an applicant's projected income is indeterminable, applicant shall not qualify for rental assistance. Instances where projected income is indeterminable are periods immediately preceding notification of unemployment compensation benefits, public assistance, workers' compensation, etc. However, where an applicant's projected income is determinable for a period of less than one year, the applicant shall be eligible to qualify for rental assistance for that period. If such applicant receives rental assistance payments, the agency shall reexamine the applicant's income at the end of such period, notwithstanding any other provisions to the contrary. If upon reexamination the agency determines that the applicant's income is indeterminable, rental assistance payments shall be terminated.

(c) A family with an outstanding balance owed to the agency and/or another governmental agency in connection with:

- (1) Any rental assistance program or
 - (2) Public housing assistance under the United States Housing Act of 1937
- may be declared ineligible for rental assistance until the past due balance is paid in full or a satisfactory arrangement for repayment is made.

(d) An applicant who has assigned, conveyed, transferred, or otherwise disposed of assets within two years prior to date of filing an application for participation in the program shall have the value of such assets included in the determination of family income. [Eff 1/1/89, am, ren and comp OCT 04 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-6 Verification of eligibility. (a) The agency shall determine eligibility of applicants by requiring every applicant to complete an application as prescribed by the agency.

(b) To substantiate eligibility, preference rating, dwelling size and rent to be paid, the information submitted on an application shall be verified. Such verification shall be valid for a period of one hundred twenty days.

(c) If any applicant deliberately misrepresents the information on an application, the agency may cancel such application and/or may turn over such matters to the appropriate authority for investigation and prosecution.

(d) If an applicant is determined to be ineligible, the agency shall promptly state the reasons for its finding in a letter to the applicant.

(e) If there is insufficient funding for the program, the agency may at any time suspend the acceptance or processing of new applications. [Eff 1/1/89, am, ren and comp OCT 04 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-7 Certification of eligibility. (a) If an applicant is determined to be eligible for participation, such applicant shall be issued a certificate.

(b) In selecting eligible families for participation in the program, the agency shall apply the following order of preference:

- (1) Families displaced as a result of governmental action.
- (2) Families displaced as a result of fire or natural disaster provided such applicants apply for assistance within six months of occurrence of the fire/natural disaster.
- (3) Families determined to be homeless.
- (4) Any other family, by order of application, selected for placement in City-assisted projects.

(c) Eligible families shall be briefed on the conditions governing participation in the program including:

- (1) Family responsibilities under the certificate and the agreement;
- (2) How to find a suitable unit;
- (3) Housing quality standards and procedures for compliance with those standards;
- (4) Significant aspects of the applicable State and local laws;
- (5) Significant aspects of Federal, State and local fair housing laws;
- (6) Expiration and extension of certificate; and
- (7) Continued participation when an assisted family moves.

(d) Upon receipt of a certificate, the family shall be responsible for finding an acceptable unit prior to expiration of the certificate. The family may select the dwelling unit which it already occupies if the unit meets the housing quality standards.

(e) The certificate shall expire at the end of sixty days but a family may submit a request for an additional sixty day extension. If the agency determines that the family's failure to find a suitable unit is not due to fault, or lack of diligence on the part of the family and if there is a reasonable possibility that the family may, with additional time, find a suitable unit, the agency may grant an extension. A determination not to grant an extension shall not preclude the family from filing an application for a new

certificate. [Eff 1/1/89, am, ren and comp OCT 0 4 2008] (Auth: RCH §6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-8 Occupancy standards. For the purpose of determining acceptability of a unit proposed for rental by a family, the following occupancy standards shall be used as a guide;

- (1) The dwelling unit should not require more than two persons to occupy the same bedroom except in exceptional or unusual circumstances and each bedroom must have at least one person.
- (2) Every member of the family, regardless of age, shall be counted as a person.
- (3) Age, sex and other factors such as disability of members of the household shall be taken into consideration in determining room space allotment.
- (4) The living room of a unit may be counted as a sleeping room.
- (5) The following ratio shall be used as a guide:

<u>No. of Bedrooms</u>	<u>Persons</u>	
	<u>Minimum</u>	<u>Maximum</u>
0	1	2
1	2	4
2	2	6
3	3	8
4	6	10

[Eff 1/1/89, am, ren and comp OCT 0 4 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-9 Inspection of dwelling unit. (a) The agency shall inspect every unit for compliance with the housing quality standards prior to executing a rental assistance agreement. The owner of the unit shall be notified of any deficiencies which must be corrected to meet the HQS.

(b) The agency shall inspect each unit at least annually and at such other times as may be necessary to assure that the unit is being properly maintained. If the agency determines that a unit does not meet the HQS and the owner has failed to take corrective action after being duly notified, the agency may exercise its rights including abatement of rental assistance payments. If the family prefers to move to another unit and the agency terminates the agreement with the owner, the family shall be issued a certificate as long as the family is determined to be eligible. [Eff 1/1/89, am, ren and comp OCT 0 4 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-10 Rental assistance payments. (a) Upon determination that a family is eligible for participation in the program and the unit meets the housing quality standards, a rental assistance agreement will be executed with the family and the owner of the unit. The agency shall make rental assistance payments to the owner on behalf of the eligible family in accordance with the agreement. No payments shall be made for any unit that is occupied by an owner or if the unit does not meet HQS.

(b) The monthly amount of rental assistance payments shall be the lower of: the difference between thirty per cent of the family's monthly adjusted income, as defined in the rules and the established rent, or \$170.00.

(c) The agency's financial obligations under this part shall be limited to making rental assistance payments on behalf of eligible families.

(d) In no event shall a family receive assistance from more than one of the following programs: Section 8 Housing Voucher, Federal, State rent supplements, City Housing Rental Assistance, Section 23 housing assistance or any other government housing subsidy.

(e) Rental assistance payments shall terminate upon:

(1) Determination of the family's ineligibility to participate in the program. Such determination shall be made in accordance with applicable policies.

(2) Anticipated depletion of funds for the program. Families and owners shall be given sixty days advance written notice of the agency's intent to cancel the agreement and terminate payment. [Eff 1/1/89, am, ren and comp OCT 0 4 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-11 Continued eligibility and income adjustment. (a) A family's eligibility for rental assistance payments continues if the family meets the requirements governing eligibility, or until the family's share of the rent equals the rent for the dwelling unit it occupies or depletion of program funds.

(b) A family must report any changes in family composition. A family may request an adjustment to tenant rent and rental assistance payments due to a decrease in family income. The increase in rental assistance payments shall be effective the first of the month following the request. If tenant rent is decreased, the family shall report any subsequent increase in family income prior to the next annual reexamination.

(c) Any decrease in housing assistance payments resulting from interim examination of family income shall be effective the first day of the second month following the effective date of income change. [Eff 1/1/89, am, ren and comp OCT 0 4 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-12 Reexamination of family income. (a) Reexamination of a family's income, composition and extent of medical or other unusual expenses incurred by the family shall be made at least annually.

(b) Appropriate determination shall be made by the agency on the amount of tenant rent and rental assistance payment. [Eff 1/1/89, am, ren and comp OCT 0 4 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-13 Family moves. If an eligible family wishes to move to another unit and wishes to continue participating in the program, a certificate may be issued if the family has fulfilled its obligations under the program and has legally terminated the existing rental agreement with the owner. [Eff 1/1/89, am, ren and comp OCT 0 4 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-14 Eviction. The owner shall not evict any family unless the owner complies with the requirements of the State of Hawaii Landlord-Tenant Code. [Eff 1/1/89, am, ren and comp OCT 0 4 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-15 Disqualification from participation. If the agency determines that a family or owner has violated program policies and requirements, such family or owner may be disqualified from participation in the program for such period as deemed appropriate by the agency. The family or owner shall be notified in writing of the disqualification and shall be entitled to a hearing except for situations involving failure of the unit to meet the housing quality standards. [Eff 1/1/89, am, ren and comp OCT 0 4 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-16 Informal settlement of disputes. In the event a family or an owner disputes any action taken by the agency and claims that such actions adversely affect the rights, duties, welfare or status of said family or owner, such family or owner may present a written complaint to the agency so that the dispute may be discussed informally and settled without a hearing. (The complaint must be filed within fifteen calendar days from the date on the written notification.) A summary of the discussion shall be prepared within seven business days and one copy shall be given to the complainant. The summary shall specify the names of the participants, dates of meetings, the nature of the proposed disposition of the dispute and the specific reasons therefore, and shall specify the procedures by which a hearing under subsection 8-5-17 may be obtained if the complainant is not satisfied. [Eff 1/1/89, am, ren and comp OCT 0 4 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-17 Hearing on dispute. (a) If a complainant is not satisfied with the disposition of a dispute through an informal discussion, the complainant may submit a written request for a hearing to the agency within fifteen calendar days after receipt of the written summary of the informal discussion.

- (b) The written request shall contain each of the following:
- (1) Name, address and telephone number of the complainant;
 - (2) A designation of the specific statutory provision, rule, or order in question, together with a statement of the dispute involved;
 - (3) A statement of the complainant's position of contention;

- (4) A memorandum of points and authorities, containing a full discussion of reasons or legal authorities in support of such position or contention, may be required by the agency when it is determined that such memorandum will be helpful to settle the dispute; and
- (5) The action or relief sought.
- (c) The director or the director's duly authorized representative shall conduct the hearing.
- (d) The notice and conduct of hearing and the request for judicial review shall be made pursuant to HRS chapter 91. [Eff 1/1/89, am, ren and comp OCT 04 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-18 Equal opportunity requirements. Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), Executive Order 11063 and all rules, regulations, and requirements issued pursuant thereto. [Eff 1/1/89, am, ren and comp OCT 04 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

§8-5-19 Severability. If any rule, section, sentence, clause or phrase of the rules and regulations or its application to any person or circumstances or property is held to be unconstitutional or unenforceable, the remaining portions of these rules and regulations or the application of these rules and regulations to other persons or circumstances or property shall remain in full force and not be affected. The agency hereby declares that it would have adopted these rules and regulations, and each and every rule, section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other rules, sections, sentences, clauses, or phrases is declared invalid, unconstitutional, or unenforceable. [Eff 1/1/89, am, ren and comp OCT 04 2008] (Auth: RCH §6-302, ROH §6-45.3, ROH §6-45.6, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-45.3, ROH §6-45.4, ROH §6-45.6)

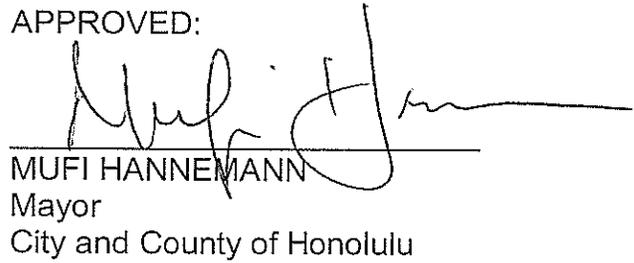
DEPARTMENT OF COMMUNITY SERVICES
CITY AND COUNTY OF HONOLULU

Chapter 5. City Housing Rental Assistance Program rules, was adopted on September 9, 2008, following a public hearing on August 28, 2008 after public notice was given on July 25 and July 26, 2008, in the Honolulu Star-Bulletin Public Hearings.

These Rules shall take effect ten days after filing with the City Clerk of the City and County of Honolulu.

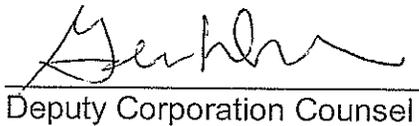

DEBORAH KIM MORIKAWA
Director
Department of Community Services

APPROVED:


MUFU HANNEMANN
Mayor
City and County of Honolulu

Dated: SEP 22 2008

APPROVED AS TO FORM
AND LEGALITY:


Deputy Corporation Counsel

FILED:


DENISE DE COSTA
City Clerk

Dated: 9-24-08