

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
PANEL MEETING
February 21, 2019
7:00 P.M.
CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. NEW BUSINESS
 - i. Appeal Hearing in Cases:
 - a. T17-0577, Patrick v. Um et al.
 - b. T18-0012, Edwards v. Bay Apt.
 - c. T17-0477, Dobbe v. Marshall
5. ADJOURNMENT

Accessibility. The meeting is held in a wheelchair accessible facility. Contact the office of the City Clerk, City Hall, One Frank Ogawa Plaza, or call (510) 238-3611 (voice) or (510) 839-6451 (TTY) to arrange for the following services: 1) Sign interpreters; 2) Phone ear hearing device for the hearing impaired; 3) Large print, Braille, or cassette tape text for the visually impaired. The City of Oakland complies with applicable City, State and Federal disability related laws and regulations protecting the civil rights of persons with environmental illness/multiple chemical sensitivities (EI/MCS). Auxiliary aids and services and alternative formats are available by calling (510) 238-3716 at least 72 hours prior to this event.

Foreign language interpreters may be available from the Equal Access Office (510) 239-2368. Contact them for availability. Please refrain from wearing **strongly scented products** to this meeting.

Service Animals / Emotional Support Animals: The City of Oakland Rent Adjustment Program is committed to providing full access to qualified persons with disabilities who use service animals or emotional support animals.

If your service animal lacks visual evidence that it is a service animal (presence of an apparel item, apparatus, etc.), then please be prepared to reasonably establish that the animal does, in fact, perform a function or task that you cannot otherwise perform.

If you will be accompanied by an emotional support animal, then you must provide documentation on letterhead from a licensed mental health professional, not more than one year old, stating that you have a mental health-related disability, that having the animal accompany you is necessary to your mental health or treatment, and that you are under his or her professional care.

Service animals and emotional support animals must be trained to behave properly in public. An animal that behaves in an unreasonably disruptive or aggressive manner (barks, growls, bites, jumps, urinates or defecates, etc.) will be removed.

CHRONOLOGICAL CASE REPORT

Case No: T17-0577
Case Name: Patrick v. Um et al
Property Address: 6248 'A' Bromley Avenue, Oakland, CA
Parties: Heidi Patrick (Tenant)

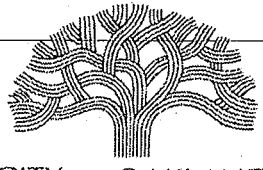
OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	October 18, 2017
Owner Response filed	December 1, 2017
Hearing Decision issued	August 3, 2018
Owner Appeal filed	August 15, 2018

T17-0577 KM/MA

RECEIVED

RECEIVED

 <p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721</p>	For date stamp:
	<p>2017 OCT 18 PM 2:51</p> <p>TENANT PETITION</p>

Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

Please print legibly

Your Name <i>Heidi Patrick</i>	Rental Address (with zip code) <i>6248-A Bromley Ave OAKLAND, Ca 94621</i>	Telephone: <i>510 638-3007 Home</i>
		E-mail: <i>PATRICKHEIDI@ATT.net</i>
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) <i>Tom UM Kong Indg Houn</i>	Mailing Address (with zip code) <i>6248 Bromley Ave OAKLAND, Ca 94621</i>	Telephone: <i>510-969-4848 Houn</i>
		Email: <i>510 677-8585 UM</i>
Property Manager or Management Co. (if applicable) <i>Shaleigh H. Hon</i>	Mailing Address (with zip code) <i>77 8th St Suite 205 OAKLAND, Ca 94607</i>	Telephone: <i>510 969-4848</i>
		Email:

Number of units on the property: 5

Type of unit you rent (check one)	<input type="checkbox"/> House	<input type="checkbox"/> Condominium	<input checked="" type="checkbox"/> Apartment, Room, or Live-Work
Are you current on your rent? (check one)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

If you are not current on your rent, please explain. (If you are legally withholding rent state what, if any, habitability violations exist in your unit.)

I. GROUNDS FOR PETITION: Check all that apply. You must check at least one box. For all of the grounds for a petition see OMC 8.22.070 and OMC 8.22.090. **I (We) contest one or more rent increases on one or more of the following grounds:**

<input type="checkbox"/>	(a) The CPI and/or banked rent increase notice I was given was calculated incorrectly.
<input checked="" type="checkbox"/>	(b) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(c) I received a rent increase notice before the property owner received approval from the Rent Adjustment Program for such an increase and the rent increase exceeds the CPI Adjustment and the available banked rent increase.

<input checked="" type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/>	(e) The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increase(s).
<input type="checkbox"/>	(f) The rent increase notice(s) was (were) not given to me in compliance with State law.
<input type="checkbox"/>	(g) The increase I am contesting is the second increase in my rent in a 12-month period.
<input type="checkbox"/>	(h) There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance. (Complete Section III on following page)
<input type="checkbox"/>	(i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page)
<input type="checkbox"/>	(j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.
<input type="checkbox"/>	(k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
<input type="checkbox"/>	(l) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake. (OMC 8.22, Article I)
<input type="checkbox"/>	(m) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(n) The rent was raised <u>illegally</u> after the unit was vacated as set forth under OMC 8.22.080.

II. RENTAL HISTORY: (You must complete this section)

Date you moved into the Unit: 2009 Initial Rent: \$ _____ /month

When did the owner first provide you with the RAP NOTICE, a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program? Date: 2014. If never provided, enter "Never."

Is your rent subsidized or controlled by any government agency, including HUD (Section 8)? Yes No

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
10-16-17	1-1-18	\$ 1000.00	\$ 1300.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. ~~If both parties agree, you have the option to mediate your complaints before a hearing is held.~~ If the parties do not reach an agreement in mediation, your case will go to a formal hearing before a different Rent Adjustment Program Hearing Officer.

You may choose to have the mediation conducted by a Rent Adjustment Program Hearing Officer or select an outside mediator. Rent Adjustment Program Hearing Officers conduct mediation sessions free of charge. If you and the owner agree to an outside mediator, please call (510) 238-3721 to make arrangements. Any fees charged by an outside mediator for mediation of rent disputes will be the responsibility of the parties requesting the use of their services.

Mediation will be scheduled only if both parties agree (after both your petition and the owner's response have been filed with the Rent Adjustment Program). **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** Rent Board Regulation 8.22.100.A.

If you want to schedule your case for mediation, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff Hearing Officer (no charge).

Herdi Patrick

Tenant's Signature

10-17-17

Date

VI. IMPORTANT INFORMATION:

Time to File

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit. Mail to:** Oakland Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland; **RAP Online Petitioning System:** <http://rapwp.oaklandnet.com/petition-forms/>. For more information, please call: (510) 238-3721.

File Review

Your property owner(s) will be required to file a response to this petition with the Rent Adjustment office within 35 days of notification by the Rent Adjustment Program. When it is received, the RAP office will send you a copy of the Property Owner's Response form. Any attachments or supporting documentation from the owner will be available for review in the RAP office by appointment. To schedule a file review, please call the Rent Adjustment Program office at (510) 238-3721. If you filed your petition at the RAP Online Petitioning System, the owner may use the online system to submit the owner response and attachments, which would be accessible there for your review.

VII. HOW DID YOU LEARN ABOUT THE RENT ADJUSTMENT PROGRAM?

- Printed form provided by the owner
- Pamphlet distributed by the Rent Adjustment Program
- Legal services or community organization
- Sign on bus or bus shelter
- Rent Adjustment Program web site
- Other (describe): _____

* You have 90 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you did not receive a RAP Notice with the rent increase you are contesting but have received it in the past, you have 120 days to file a petition. (O.M.C. 8.22.090 A 3)

Have you ever filed a petition for this rental unit?

- Yes
- No

List case number(s) of all Petition(s) you have ever filed for this rental unit and all other relevant Petitions:

unk 2014 with Tom Um

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for problems in your unit, or because the owner has taken away a housing service, you must complete this section.

- Are you being charged for services originally paid by the owner? Yes No
- Have you lost services originally provided by the owner or have the conditions changed? Yes No
- Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

If you answered "Yes" to any of the above, or if you checked box (h) or (i) on page 2, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include the following:

- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

Please attach documentary evidence if available.

You have the option to have a City inspector come to your unit and inspect for any code violation. To make an appointment, call the City of Oakland, Code of Compliance Unit at (510) 238-3381.

IV. VERIFICATION: The tenant must sign:

I declare under penalty of perjury pursuant to the laws of the State of California that everything I said in this petition is true and that all of the documents attached to the petition are true copies of the originals.

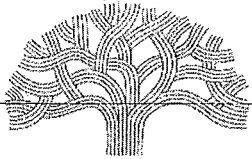
Heidi Patrick
Tenant's Signature

10-17-17
Date

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 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp: DEC 01 2017 RENT ADJUSTMENT PROGRAM OAKLAND
		<u>PROPERTY OWNER</u> <u>RESPONSE</u>

Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T17-0577

Your Name SHALEIGH HILLTON	Complete Address (with zip code) 6248 BROMLEY AVE. OAKLAND, CA 94621	Telephone: 510-969-4848 Email: SHALEIGHHILLTON@YAHOO.COM
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone: Email:
Tenant(s) Name(s)	Complete Address (with zip code)	
Property Address (If the property has more than one address, list all addresses) 6242 - 6244 - 6246 - 6248A - 6248B BROMLEY ave. OAKland, CA 94621		Total number of units on property 5

Have you paid for your Oakland Business License? Yes No Lic. Number: _____
 The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes No APN: _____
 The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: 11/20/2015

Is there more than one street address on the parcel? Yes No

Type of unit (Circle One): House / Condominium / Apartment / room, or live-work

I. JUSTIFICATION FOR RENT INCREASE You must check the appropriate justification(s) box for each increase greater than the Annual CPI adjustment contested in the tenant(s) petition. For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent

Board Regulations. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

You must prove the contested rent increase is justified. For each justification checked on the following table, you must attach organized documentary evidence demonstrating your entitlement to the increase. This documentation may include cancelled checks, receipts, and invoices. Undocumented expenses, except certain maintenance, repair, legal, accounting and management expenses, will not usually be allowed.

<u>Date of Contested Increase</u>	<u>Banking (deferred annual increases)</u>	<u>Increased Housing Service Costs</u>	<u>Capital Improvements</u>	<u>Uninsured Repair Costs</u>	<u>Debt Service</u>	<u>Fair Return</u>
10/17	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Planned to Remodel soon.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you are justifying additional contested increases, please attach a separate sheet.

II. RENT HISTORY If you contest the Rent History stated on the Tenant Petition, state the correct information in this section. If you leave this section blank, the rent history on the tenant's petition will be considered correct

The tenant moved into the rental unit on signed lease on 1/1/2016.

(Existing Tenants from previous owner)

The tenant's initial rent including all services provided was: \$ 1000.00 /month.

Have you (or a previous Owner) given the City of Oakland's form entitled "NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") to all of the petitioning tenants?

Yes No I don't know

If yes, on what date was the Notice first given? _____

Is the tenant current on the rent? Yes No

Begin with the most recent rent and work backwards. If you need more space please attach another sheet.

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
10/16/17	1/1/18	\$ 1000.00	\$ 1300.00	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

If you claim that your property is exempt from Rent Adjustment (Oakland Municipal Code Chapter 8.22), please check one or more of the grounds:

The unit is a single family residence or condominium exempted by the **Costa Hawkins Rental Housing Act** (California Civil Code 1954.50, et seq.). **If claiming exemption under Costa-Hawkins, please answer the following questions on a separate sheet:**

- 1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
- 2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?
- 3. Was the prior tenant evicted for cause?
- 4. Are there any outstanding violations of building housing, fire or safety codes in the unit or building?
- 5. Is the unit a single family dwelling or condominium that can be sold separately?
- 6. Did the petitioning tenant have roommates when he/she moved in?
- 7. If the unit is a condominium, did you purchase it? If so: 1) from whom? 2) Did you purchase the entire building?

The rent for the unit is **controlled, regulated or subsidized** by a governmental unit, agency or authority other than the City of Oakland Rent Adjustment Ordinance.

The unit was **newly constructed** and a certificate of occupancy was issued for it on or after January 1, 1983.

On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** less than 30 days.

The subject unit is in a building that was **rehabilitated** at a cost of 50% or more of the average basic cost of new construction.

The unit is an accommodation in a **hospital, convent, monastery, extended care facility, convalescent home, non-profit home for aged, or dormitory** owned and operated by an educational institution.

The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

IV. DECREASED HOUSING SERVICES

If the petition filed by your tenant claims **Decreased Housing Services**, state your position regarding the tenant's claim(s) of decreased housing services. If you need more space attach a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

V. VERIFICATION

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

Shalagh Hillston
Property Owner's Signature

11/15/17
Date

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), P.O. Box 70243, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open.

You can date-stamp and drop your Response in the Rent Adjustment drop box at the Housing Assistance Center.. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m.

File Review

You should have received a copy of the petition (and claim of decreased housing services) filed by your tenant. When the RAP Online Petitioning System is available, you will be able to view the response and attachments by logging in and accessing your case files. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

Mediation Program

Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. In mediation, the parties discuss the situation with someone not involved in the dispute, discuss the relative strengths and weaknesses of the parties' case, and consider their needs in the situation. Your tenant may have agreed to mediate his/her complaints by signing the mediation section in the copy of the petition mailed to you. If the tenant signed for mediation and if you also agree to mediation, a mediation session will be scheduled before the hearing with a RAP staff member trained in mediation.

If the tenant did not sign for mediation, you may want to discuss that option with them. You and your tenant may agree to have your case mediated at any time before the hearing by submitted a written request signed by both of you. If you and the tenant agree to a non-staff mediator, please call (510) 238-3721 to make arrangements. Any fees charged by a non-staff mediator are the responsibility of the parties that participate. You may bring a friend, representative or attorney to the mediation session. Mediation will be scheduled only if both parties agree and after your response has been filed with the RAP.

If you want to schedule your case for mediation and the tenant has already agreed to mediation on their petition, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff member at no charge.

Shaleigh Hillston

11/15/17

Property Owner's Signature

Date



CITY OF OAKLAND

P.O. BOX 70243, OAKLAND, CA 94612-2043

Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254

HEARING DECISION

CASE NUMBER: T17-0577, Patrick v. Um et al
PROPERTY ADDRESS: 6248 A Bromley Avenue, Oakland, CA
DATE OF HEARING: March 29, 2018
DATE OF DECISION: July 21, 2018
APPEARANCES: Heidi Patrick, Tenant

SUMMARY OF DECISION

The tenant petition is granted.

INTRODUCTION

The tenant filed a petition on October 18, 2017, which contests a monthly rent increase from \$1,000.00 to \$1,300.00 effective January 1, 2018.

The basis for the tenant's petition includes the following:

- The rent increase exceeds the CPI Adjustment and is unjustified or is greater than 10%; and
- No written notice of Rent Program was given to me together with the notice of increase I am contesting.

The owner filed a timely response but failed to appear at the hearing.

ISSUE

1. Is the rent increase valid?

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EVIDENCE

The tenant testified that she moved into the subject property in 2008, at an initial monthly rent of \$1,300.00. In 2010, her rent was lowered to \$900.00 by the prior owner. On October 16, 2017, she received a notice of rent increase, which proposed to increase the monthly rent from \$1,000.00 to \$1,300.00, effective January 1, 2018.¹ She immediately filed a petition contesting the rent increase. At the hearing, she testified that on November 18, 2017, she met with the owner and both parties agreed to a rent increase of \$1,043.00 based on the banked CPI for the prior two years. On February 19, 2018, the owner gave the tenant a new one-year lease at a monthly rent of \$1,043.00. The tenant refused to sign the new lease because the terms stated that the new rental amount would be retroactive to January 1, 2018. She testified that she wanted the new lease to be effective as of March 1, 2018, and she also wanted to change other terms in the new lease. The tenant submitted a copy of the lease into evidence.² To date, she has refused to sign the new lease. The tenant testified that in March of 2018, she began paying \$1,043.00 in rent. Prior to that she was paying \$1,000.00 in rent monthly.

The tenant stated on her petition and testified at the hearing that she first received the notice of the existence of the Rent Adjustment Program (RAP Notice) in 2014 but she did not receive the RAP Notice with the contested rent increase.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Invalid Rent Increase

The Rent Adjustment Ordinance states that an owner seeking a rent increase in excess of the CPI Rent Adjustment or available banking must first petition the Rent Adjustment Program and receive approval for the rent increase before the rent increase can be imposed³.

The owner did not receive approval from the Rent Adjustment Program before raising the rent for the subject property from \$1,000.00 to \$1,300.00 monthly, effective January 1, 2018. Therefore, the contested rent increase is invalid and the tenant's rent remains \$1,000.00. Since the tenant has been paying \$1,043.00 in rent monthly as of March 1, 2018, she is owed restitution for overpayment of rent in the amount of \$258.00 (\$43.00 x 6 months).

The Rent Adjustment Program's jurisdiction is limited to the issues raised in the tenant petition. The only issue listed in the tenant petition is the proposed rent increase from \$1,000.00 to \$1,300.00. Therefore, the Rent Adjustment Program does not have jurisdiction to address the other issues raised by the tenant at the hearing.

¹ Exhibit 1

² Exhibit 2

³ O.M.C. §8.22.065(A)

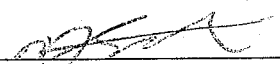
ORDER

1. Petition T17-0577 is granted. The tenant's rent remains \$1,000.00.

2. The tenant is entitled to restitution for overpayment of rent in the amount of \$258.00. The restitution is amortized over six (6) months. Therefore, the tenant's rent will be \$957.00 from September 1, 2018, through February 1, 2019. In March of 2019 the rent will revert to \$1,000.00

Right to Appeal: **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Date: July 21, 2018



Maimoona Sahi Ahmad, Esq.
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number T17-0577

I am a resident of the State of California at least eighteen years of age. I am not a party to the Residential Rent Adjustment Program case listed above. I am employed in Alameda County, California. My business address is 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California 94612.

Today, I served the attached documents listed below by placing a true copy of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Documents Included
Hearing Decision

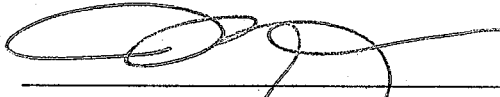
Owner
Tom Um & Kong Ing Houn
6248 Bromley Ave
Oakland, CA 94621

Owner Representative
Shaleigh Hilton
77 8th St Suite 205
Oakland, CA 94607

Tenant
Heidi Patrick
6248 A Bromley Ave
Oakland, CA 94621

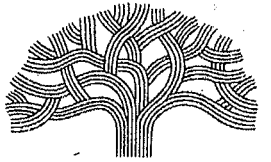
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first class postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 03, 2018 in Oakland, CA.



Maxine Visaya
Oakland Rent Adjustment Program

000015



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

250 Frank Ogawa Plaza, Suite 5313
Oakland, CA 94612
(510) 238-3721

RENT ADJUSTMENT PROGRAM
OAKLAND

For date stamp
RECEIVED
RECORDED
AUG 15 2018
RENT ADJUSTMENT PROGRAM
OAKLAND
APPEAL

Program

Appellant's Name SNALEIGH HILLTON		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 6248A BROMLEY AVE, OAKLAND, CA 94621			
Appellant's Mailing Address (For receipt of notices) 6248 BROMLEY AVE, OAKLAND, CA 94621		Case Number T17-0577	Date of Decision appealed July 21, 2018
Name of Representative (if any)		Representative's Mailing Address (For notices)	

Please select your ground(s) for appeal from the list below. As part of the appeal, an explanation must be provided responding to each ground for which you are appealing. Each ground for appeal listed below includes directions as to what should be included in the explanation.

- 1) There are math/clerical errors that require the Hearing Decision to be updated. *(Please clearly explain the math/clerical errors.)*
- 2) Appealing the decision for one of the grounds below (required):
 - a) The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.)*
 - b) The decision is inconsistent with decisions issued by other Hearing Officers. *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*
 - c) The decision raises a new policy issue that has not been decided by the Board. *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.)*
 - d) The decision violates federal, state or local law. *(In your explanation, you must provide a detailed statement as to what law is violated.)*
 - e) The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.)
- g) The decision denies the Owner a fair return on my investment. (You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.)
- h) Other. (In your explanation, you must attach a detailed explanation of your grounds for appeal.)

we got verbal agreement with Tenant in the amount of \$1043 in (see copy check attached)

Submissions to the Board must not exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 7.

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. • I declare under penalty of perjury under the laws of the State of California that on Aug 14, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Heidi Patrick
Address	6248A Bromley Ave
City, State Zip	OAKLAND, CA 94621
Name	
Address	
City, State Zip	

<i>Shaleen Hillton</i>	08/14/18
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file is a weekend or holiday, the time to file the document is extended to the next business day.

- Appeals filed late without good cause will be dismissed.
- You must provide all the information required, or your appeal cannot be processed and may be dismissed.
- Any response to the appeal by the other party must be received by the Rent Adjustment Program with a proof of service on opposing party within 35 days of filing the appeal.
- The Board will not consider new claims. All claims, except jurisdiction issues, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2018 AUG 15 AM 10: 57

SHALEIGH HILLTON

AKA

KONG INGHOUN

6248 Bromley Avenue

Oakland, CA 94621

Tel: (510) 969-4848

August 14, 18

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
250 Frank Ogawa Plaza, Suite 5313
Oakland, CA 94612
510-238-3721

RE: case number: T17-0577

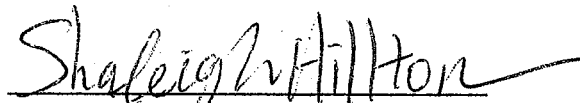
Dear Sir/Madam:

The reason for this appeal is the Tenant agreed to pay rent increase from \$1000.00 to \$1043.00 (see copy check) starting from 03/01/2018 and I accepted it that why I did not appear at the hearing due to it was mutual settled.

Tenant have requested to sign a new lease sometime in January 2018 but I was delayed due to I formed a corporation on my property and took sometime to completed it, However, In March 2018, I gave her a new lease but she did not give it back due to she said she need time to read it, but in fact she went to attend hearing and wait for this decision without let me know, which is not fair to me.

However, I would like to appeal on this decision to have a fair hearing in this matter.

The above statement is true to the best of my knowledge. Thank you.



Shaleigh Hillton aka Kong Ing Houn

000019

Application for Employer Identification Number
(For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.)
▶ Go to www.irs.gov/FormSS4 for instructions and the latest information.
▶ See separate instructions for each line. ▶ Keep a copy for your records.

OMB No. 1545-0003

EIN

Type or print clearly.

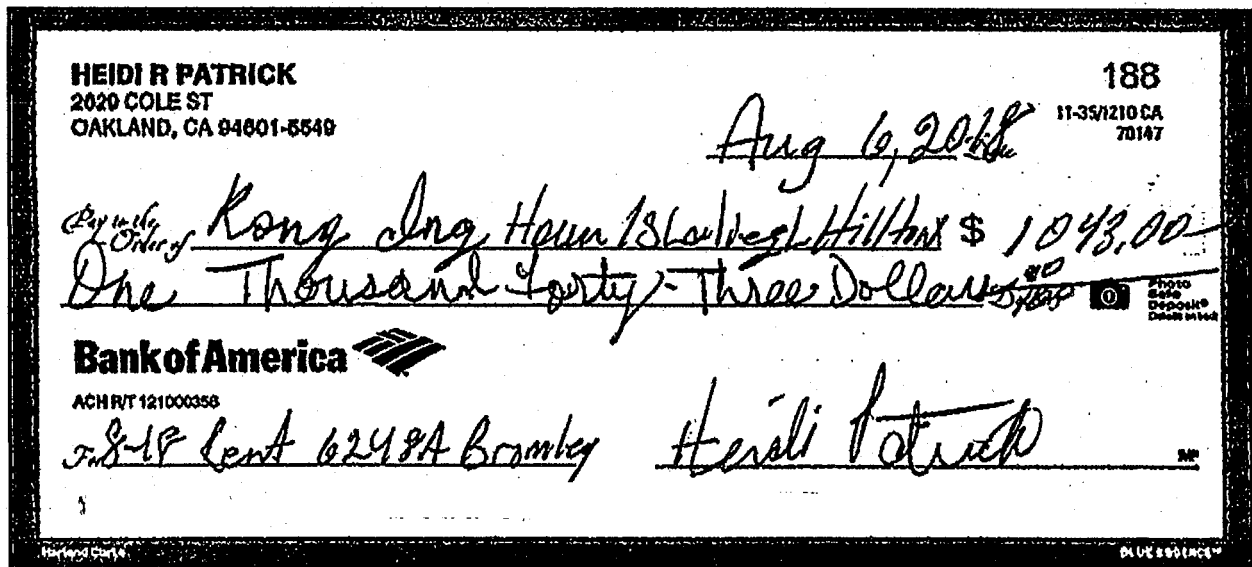
1 Legal name of entity (or individual) for whom the EIN is being requested GOLDEN TWO DRAGONS, INC.		
2 Trade name of business (if different from name on line 1)	3 Executor, administrator, trustee, "care of" name	
4a Mailing address (room, apt., suite no. and street, or P.O. box) 3225 MCLEOD DR, STE 100	5a Street address (if different) (Do not enter a P.O. box.) 4778 DEWEY DR	
4b City, state, and ZIP code (if foreign, see instructions) LAS VEGAS, NV 89121	5b City, state, and ZIP code (if foreign, see instructions) FAIR OAKS, CA 95628	
6 County and state where principal business is located SACRAMENTO COUNTY, CALIFORNIA		
7a Name of responsible party SHALEIGH HILLTON	7b SSN, ITIN, or EIN	
8a Is this application for a limited liability company (LLC) (or a foreign equivalent)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		8b If 8a is "Yes," enter the number of LLC members ▶
8c If 8a is "Yes," was the LLC organized in the United States? <input type="checkbox"/> Yes <input type="checkbox"/> No		
9a Type of entity (check only one box). Caution. If 8a is "Yes," see the instructions for the correct box to check.		
<input type="checkbox"/> Sole proprietor (SSN) _____ <input type="checkbox"/> Partnership _____ <input checked="" type="checkbox"/> Corporation (enter form number to be filed) ▶ 1120 <input type="checkbox"/> Personal service corporation _____ <input type="checkbox"/> Church or church-controlled organization _____ <input type="checkbox"/> Other nonprofit organization (specify) ▶ _____ <input type="checkbox"/> Other (specify) ▶ _____		
<input type="checkbox"/> Estate (SSN of decedent) _____ <input type="checkbox"/> Plan administrator (TIN) _____ <input type="checkbox"/> Trust (TIN of grantor) _____ <input type="checkbox"/> Military/National Guard <input type="checkbox"/> State/local government <input type="checkbox"/> Farmers' cooperative <input type="checkbox"/> Federal government <input type="checkbox"/> REMIC <input type="checkbox"/> Indian tribal governments/enterprises Group Exemption Number (GEN) if any ▶ _____		
9b If a corporation, name the state or foreign country (if applicable) where incorporated	State CALIFORNIA	Foreign country
10 Reason for applying (check only one box)		
<input checked="" type="checkbox"/> Started new business (specify type) ▶ _____ CAPITAL DEVELOPMENT <input type="checkbox"/> Hired employees (Check the box and see line 13.) <input type="checkbox"/> Compliance with IRS withholding regulations <input type="checkbox"/> Other (specify) ▶ _____		
<input type="checkbox"/> Banking purpose (specify purpose) ▶ _____ <input type="checkbox"/> Changed type of organization (specify new type) ▶ _____ <input type="checkbox"/> Purchased going business <input type="checkbox"/> Created a trust (specify type) ▶ _____ <input type="checkbox"/> Created a pension plan (specify type) ▶ _____		
11 Date business started or acquired (month, day, year). See instructions. 03/16/2018	12 Closing month of accounting year SEPTEMBER	
13 Highest number of employees expected in the next 12 months (enter -0- if none). If no employees expected, skip line 14.		14 If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly, check here. (Your employment tax liability generally will be \$1,000 or less if you expect to pay \$4,000 or less in total wages.) If you do not check this box, you must file Form 941 for every quarter. <input type="checkbox"/>
Agricultural 0	Household 0	
15 First date wages or annuities were paid (month, day, year). Note: If applicant is a withholding agent, enter date income will first be paid to nonresident alien (month, day, year) ▶		
16 Check one box that best describes the principal activity of your business.		
<input type="checkbox"/> Construction <input type="checkbox"/> Rental & leasing <input type="checkbox"/> Transportation & warehousing <input type="checkbox"/> Accommodation & food service <input type="checkbox"/> Wholesale-agent/broker <input type="checkbox"/> Real estate <input type="checkbox"/> Manufacturing <input type="checkbox"/> Finance & insurance <input checked="" type="checkbox"/> Other (specify) ▶ CAPITAL DEVELOPMENT		
17 Indicate principal line of merchandise sold, specific construction work done, products produced, or services provided. ASSET MANAGEMENT		
18 Has the applicant entity shown on line 1 ever applied for and received an EIN? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," write previous EIN here ▶		
Third Party Designee	Complete this section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form.	
	Designee's name CHARLEEN GALLETINE	Designee's telephone number (include area code) 800-706-4741
	Address and ZIP code 3225 MCLEOD DR, STE 100, LAS VEGAS, NV 89121	Designee's fax number (include area code) 702-805-0869
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.		Applicant's telephone number (include area code)
Name and title (type or print clearly) ▶ SHALEIGH HILLTON, PRESIDENT		Applicant's fax number (include area code)
Signature ▶ _____		Date ▶ _____



Deposit Overview

Post date	Total deposit amount	# of checks deposited
Aug 13, 2018	\$1,043.00	1

Check



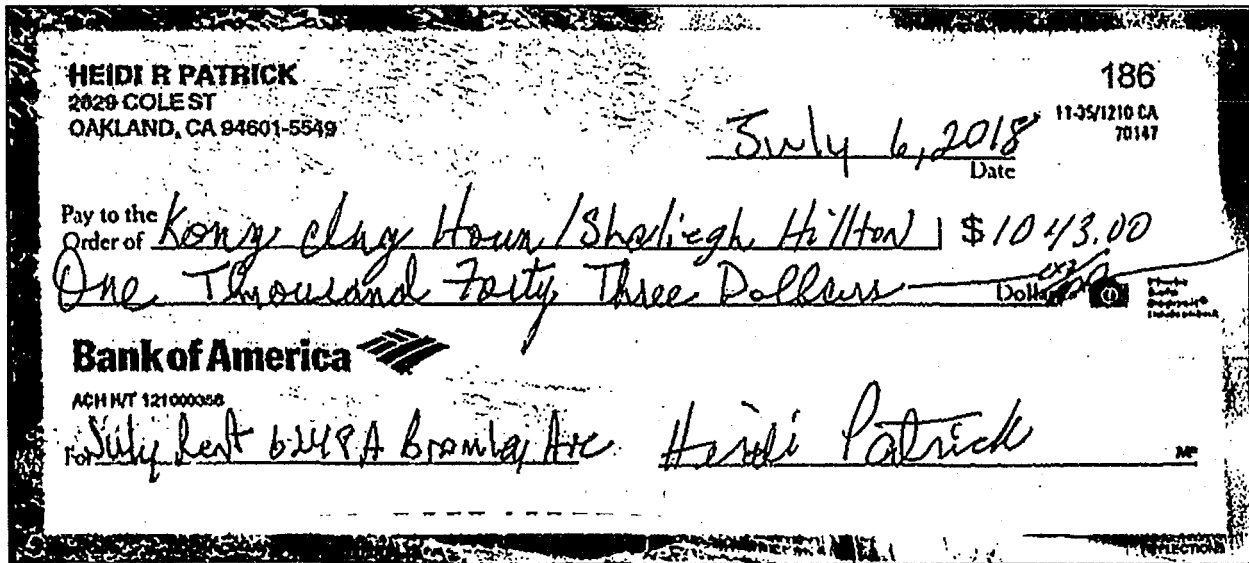
Check #	Check amount	Account #	Routing #
188	\$1,043.00	325042356374	121000358



Deposit Overview

Post date	Total deposit amount	# of checks deposited
Jul 9, 2018	\$1,043.00	1

Check



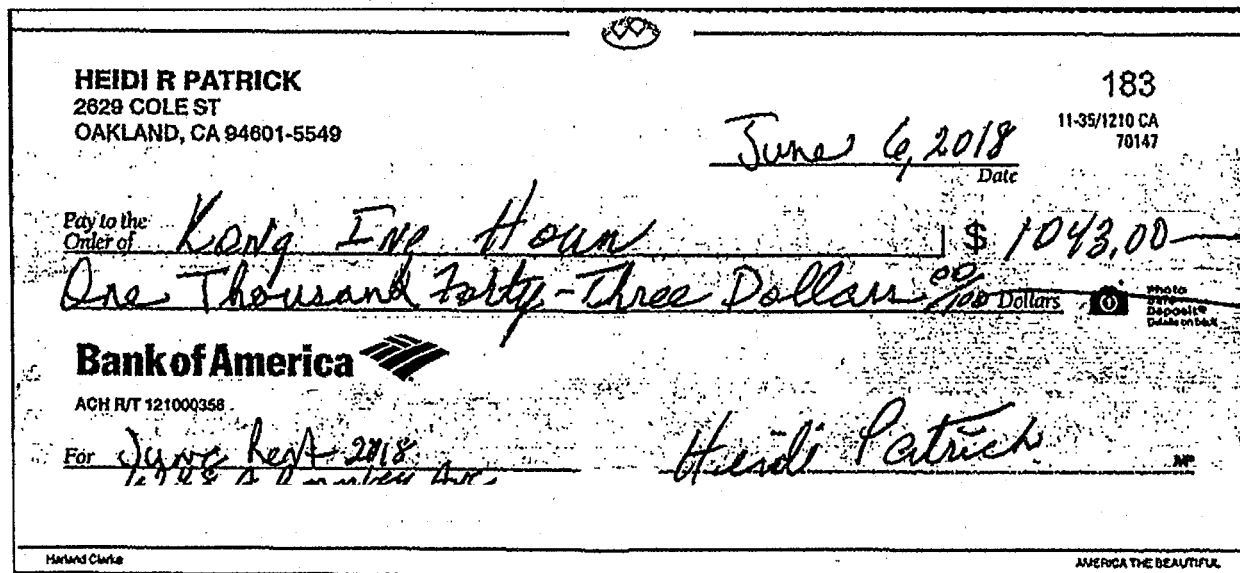
Check #	Check amount	Account #	Routing #
186	\$1,043.00	325042356374	121000358



Deposit Overview

Post date	Total deposit amount	# of checks deposited
Jun 11, 2018	\$1,043.00	1

Check



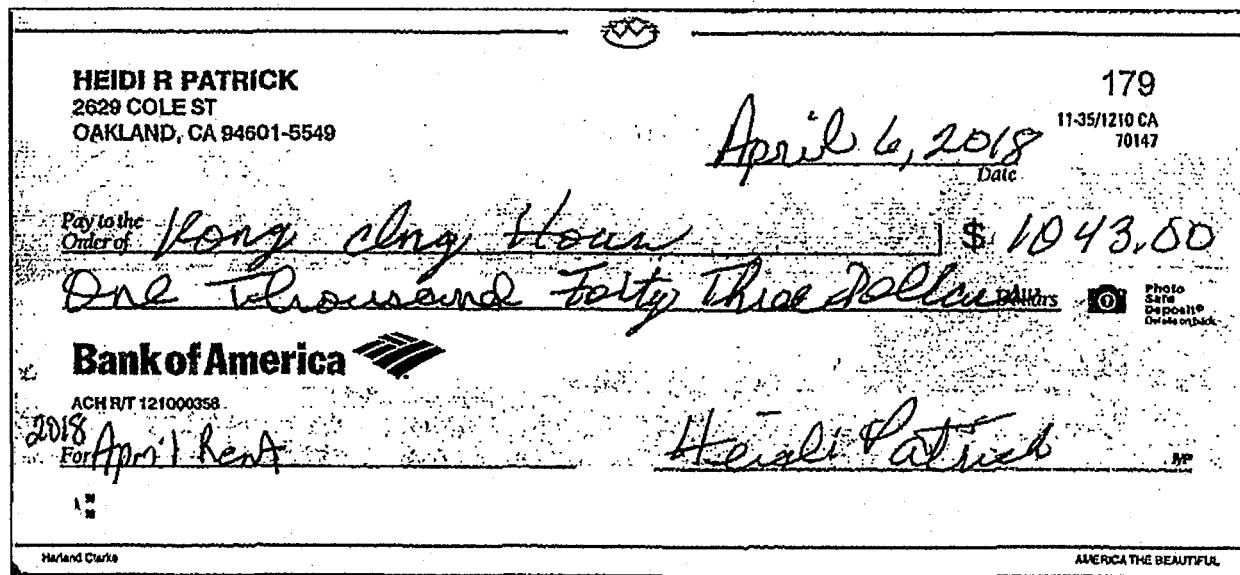
Check #	Check amount	Account #	Routing #
183	\$1,043.00	325042356374	121000358



Deposit Overview

Post date	Total deposit amount	# of checks deposited
Apr 17, 2018	\$1,043.00	1

Check



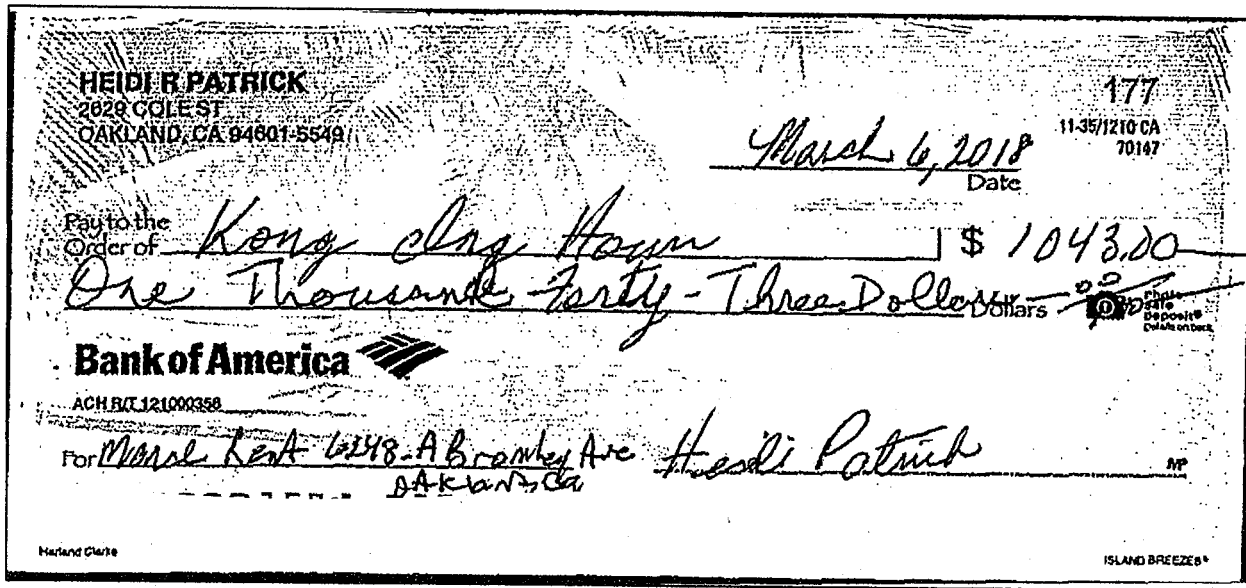
Check #	Check amount	Account #	Routing #
179	\$1,043.00	325042356374	121000358



Deposit Overview

Post date	Total deposit amount	# of checks deposited
Mar 12, 2018	\$1,043.00	1

Check



Check #	Check amount	Account #	Routing #
177	\$1,043.00	325042356374	121000358

CHRONOLOGICAL CASE REPORT

Case No. T18-0012
Case Name: Edwards v. Bay Apt. Advisors
Property Address: 261 Fairmount Ave., Unit #20, Oakland, CA
Parties: John Edwards (Tenant)
No Appearance by Owner

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	November 22, 2017
Owner Response filed	March 20, 2018
Site Inspection conducted	May 22, 2018
Hearing Decision issued	August 10, 2018
Tenant Appeal filed	August 17, 2018

T18-0012 RCLM

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2017 NOV 22 AM 10:15

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>For date stamp.</p>
---	------------------------

Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name JOHN R. EDWARDS	Rental Address (with zip code) 261 FAIRMOUNT AVE APT. 20 OAKLAND, CA 94611	Telephone 415-513-7531 (H) 510-213-9284 (W)
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) BAY APT ADVISORS/ THE OWNER'S AGENT	Mailing Address (with zip code) 201 19th ST OAKLAND, CA 94612	Telephone 510-879-7200

Number of units on the property: 32

Type of unit you rent (circle one)	House	Condominium	<input checked="" type="radio"/> Apartment Room, or Live-Work
Are you current on your rent? (circle one)	<input checked="" type="radio"/> Yes	<input type="radio"/> No	Legally Withholding Rent. You must attach an explanation and citation of code violation.

I. GROUNDS FOR PETITION: Check all that apply. You must check at least one box. For all of the grounds for a petition see OMC 8.22.070 and OMC 8.22.090. **I (We) contest one or more rent increases on one or more of the following grounds:**

<input type="checkbox"/>	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/>	(e) A City of Oakland form notice of the existence of the Rent Program was not given to me at least six months before the effective date of the rent increase(s) I am contesting.
<input checked="" type="checkbox"/>	(f1) The housing services I am being provided have decreased. (Complete Section III on following page)
<input type="checkbox"/>	(f2) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input type="checkbox"/>	(g) The contested increase is the second rent increase in a 12-month period.
<input type="checkbox"/>	(h) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the enhanced notice was not filed with the RAP.
<input type="checkbox"/>	(i) My rent was not reduced after the expiration period of the rent increase based on capital improvements.
<input type="checkbox"/>	(j) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
<input type="checkbox"/>	(k) I wish to contest an exemption from the Rent Adjustment Ordinance (OMC 8.22, Article I)

II. RENTAL HISTORY: (You must complete this section)

Date you moved into the Unit: 11-6-2012 Initial Rent: \$ 995.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 11-6-2012. If never provided, enter "Never."

- Is your rent subsidized or controlled by any government agency, including HUD (Section 8)? Yes No

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. You must check "Yes" next to each increase that you are challenging.

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
8/24/2017	10/1/2017	\$1017.48	\$1040.88	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 60 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you never got the RAP Notice you can contest all past increases.

List case number(s) of all Petition(s) you have ever filed for this rental unit: NONE

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for service problems, you must complete this section.

- Are you being charged for services originally paid by the owner? Yes No
- Have you lost services originally provided by the owner or have the conditions changed? Yes No
- Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

If you answered "Yes" to any of the above, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include at least the following: 1) a list of the lost housing service(s) or serious problem(s); 2) the date the loss(es) began or the date you began paying for the service(s); and 3) how you calculate the dollar value of lost problem(s) or service(s). Please attach documentary evidence if available.

To have a unit inspected and code violations cited, contact the City of Oakland, Code Compliance Unit, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, CA 94612. Phone: (510) 238-3381

IV. VERIFICATION: The tenant must sign:

I declare under penalty of perjury pursuant to the laws of the State of California that everything I said in this petition is true and that all of the documents attached to the petition are true copies of the originals.

John Edwards
Tenant's Signature

10-11-17
Date

V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal hearing before a Rent Adjustment Program Hearing Officer the same day.

You may choose to have the mediation conducted by a Rent Adjustment Program Hearing Officer or select an outside mediator. Rent Adjustment Program Hearing Officers conduct mediation sessions free of charge. If you and the owner agree to an outside mediator, please call (510) 238-3721 to make arrangements. Any fees charged by an outside mediator for mediation of rent disputes will be the responsibility of the parties requesting the use of their services.

Mediation will be scheduled only if both parties agree (after both your petition and the owner's response have been filed with the Rent Adjustment Program). **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** Rent Board Regulation 8.22.100.A.

If you want to schedule your case for mediation, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff Hearing Officer (no charge).

John Edwards
Tenant's Signature

10-11-17
Date

VI. IMPORTANT INFORMATION:

Time to File This form must be received at the offices of the City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612 within the time limit for filing a petition set out in the Rent Adjustment Ordinance, Oakland Municipal Code, Chapter 8.22. Board Staff cannot grant an extension of time to file your petition by phone. For more information, please call: (510) 238-3721.

File Review

The owner is required to file a Response to this petition within 35 days of notification by the Rent Adjustment Program. You will be mailed a copy of the Landlord's Response form. Copies of documents attached to the Response form will not be sent to you. However, you may review these in the Rent Program office by appointment. For an appointment to review a file call (510) 238-3721; please allow six weeks from the date of filing before scheduling a file review.

VII. HOW DID YOU LEARN ABOUT THE RENT ADJUSTMENT PROGRAM?

- Printed form provided by the owner
- Pamphlet distributed by the Rent Adjustment Program
- Legal services or community organization
- Sign on bus or bus shelter
- Other (describe): _____

RE: 261-269 Fairmount Ave

John Edwards <johnredwards1@gmail.com>

Sun, Oct 23, 2016 at 12:01 PM

To: BAA Property Management <management@bayaptadvisors.com>, jkelly@bayaptadvisors.com

Hello Tyler:

Thanks for your response to my email and thanks for letting me know that you work as a team at Bay Apartment Advisors. I am however, quite alarmed and dismayed at some of your responses. I have again included Mr. Kelly in my reply because I want to be quite clear that the answers you provided he is aware of and in complete agreement with which is reflective of Bay Apartment Advisors' vision of managing the property and not that of a "wayward" staff person as is often the case claimed by senior management when systemic issues are exposed in the future.

Tyler's response: **(PARKING)**

<<If there are any vehicles parked in the red zones of the complex that pose a safety issue please feel free to contact myself or Bay Apartment Advisors and we will deal with the situation. Parking is never going to be perfect in apartment living. We share so much of the same space in our community and one would like to think there is trust amongst neighbors, but that is not always the case. People are going to break the rules and we will respond when they do. Having someone towed, while sometimes merited, is not going to be our first response. My advice would be for you to be concerned with the parking spot associated with your lease and leave any other parking issues to me. In the short time we have managed the building five spots have been released and people may try to take advantage of those transitions. Once again, if it is a safety issue, please let us know. We will check with the owner to see if he would like to have the lines repainted.>>

In other words Bay Apartment Advisors is electing not to enforce its own rules that are clearly displayed with the 5 tenant only parking signs. This is not the first "open parking" property where I lived. It is the first property where management chooses not to enforce the parking rules despite continued problems. At what point do you actually start to enforce the rules? Since Bay Apartment Advisors has decided not to enforce the parking rules I will hold Bay Apartment Advisors liable for all future professional and personal disruptions including lost wages and lost value of entertainment tickets bought that were not used because I was blocked in. Additionally, if I arrive and someone has either parked in my spot or is blocking egress to my spot I will simply park anywhere and expect nothing will happen except may be a note on my car if that.

Tyler's response:

<<I was unaware of the walkway light near your apartment, when I looked the bright flood light was on so I didn't notice the non-functioning light. I will take a look and create a work order.>>

Unclear how you missed these but I have attached photos outside of units 20 and 18 1/2.

Tyler's response

<<I didn't see a photo of the storm drain in your email, but I will look into that. >>

A simple walk along the storm drain will reveal how clogged it is. Is this not part of your job?

Tyler's response:

<<The window slats to Unit 18 were replaced on Friday. We offered to replace them the day of the attempted break-in, Friday 10.14.16, but needed permission to enter and did not hear back from the tenant. One of our maintenance staff did what he could to secure the window that day. After not hearing back or being granted permission to enter for a week our guy found a way to replace the slats from the outside of the unit to address the safety concern.>>

So again I feel that this is really outside of what I need to be involved in. My intention was simply to draw attention to how that unit "looks" and hence the probability of attracting opportunistic criminals onto the property since this side of building is exposed to those taking the public stairs down towards Richmond Blvd and 30th and the homeless folks who frequent the City owned property with the brush and trees. Additionally, the louver was missing prior to the attempted break in and my theory as I stated was removed by the tenant as a way to have his cats go in and out of this unit. Again folks are free to live as they see fit within the parameters of their lease.

Tyler's response:

<<Concerning you picking up trash, we agree, and don't want you, Deb, or anyone else picking up garbage that is not their own.>>

<<Vetting and selecting appropriate vendors takes time. We want to hire a good value for the owner but also a company that will do a great job for the tenants and property. We have a contract in place with a vendor to clean the property and they have already been scheduled to start work. Thank you for letting us know about the chair, I will see about scheduling a junk pickup. As for the other trash, once again this is a community. I would love to believe that our tenants or neighbors wouldn't litter in and on their own home, but it happens. I will request that our landscapers pay extra attention to litter. >>

To be quite clear, you are stating that it is not your direct responsibility to clean the property that is, you do not pick up any litter that may be in the parking lot, under the stairs on the east side of 261, empty the trash and recycle containers in the laundry room etc. and that a company has been hired to do this with an undisclosed start date. Did I get this correct? If yes, I would like to request that a notification be sent to all tenants informing them that as property manager you do not clean so that expectations of your job as manager are clear. The tenants that I have spoken to are all under the impression that cleaning the property is part of your direct responsibility but apparently we are mistaken.

Tyler's response:

<<I called waste management some time ago to get the pickup dates for the compost bin and was told it is emptied on Thursdays, not Wednesdays. If I roll it out and then have a long day at work, it may remain on the sidewalk until I return. If tenants need to use it during that time it is still accessible and easy to find. If it makes it any easier to accept, just know that on Thursdays the compost bin will be near the front of the property.>>

I am confused by this response. You were told that pick was on Thursdays for the food scraps container but still put the scraps container out on Wednesday morning because why? Be clear that my complaint is that the food scraps container was on the side walk for 48 hours not just 10 or so hours. I will not accept 48 hours as reasonable or acceptable. And with a property that already has litter issues you actually expect that tenants will walk out to the sidewalk to use the container that has been on the sidewalk for 48 hours? How can this possibly be your answer and a good idea?

No other property on the bloc as food scrap container issues. So gain your response makes absolutely no sense to me.

Tyler's response:

~~<<The spill in the laundry room was not ignored. It was dry laundry soap and yes, I walked through it, which allowed me to ascertain that it was not a slip hazard. The room was cleaned as soon as the proper cleaning supplies were acquired.>>~~

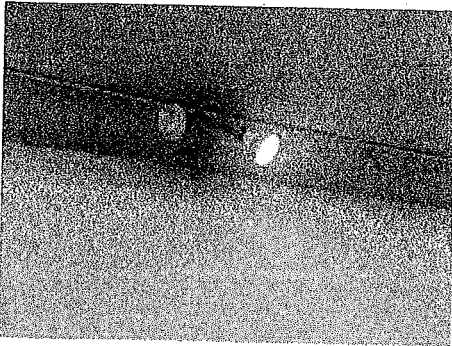
I am flummoxed at this response. If I am to understand your response, slipping and falling is a priority but cleanliness not so much. Be advised that the standard is not "Did Tyler not slip and fall" but is the situation to the common person reasonable. I am going with having a spill for 8 days is not reasonable. Additionally, am I to believe that a broom, dust pan, paper towels and water were not available for 8 days? Really? Deb or I could have easily cleaned that spill up with a broom, a dust pan, paper towels and water. It was laundry detergent. You know the thing that dissolves in water that you put in the washing machine to clean clothing that people then wear after drying. I am going to go with no special process needed. You can't possibly be serious and if you are may the gods help us the tenants here at 261-269 Fairmount Ave.

So there are few things that I can do:

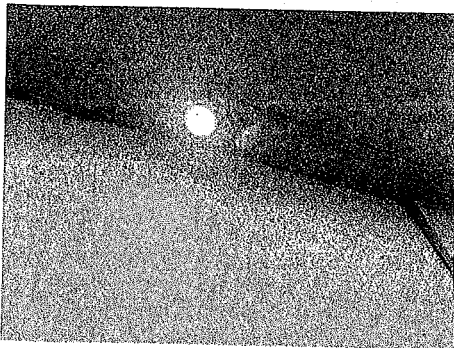
- 1) Regulate my own emotional response to living in filth as guided by the owner and Bay Apartment Advisors.
- 2) Continue my own plans of getting the heck out of here
- 3) While living here continue to bring these issues to your attention in ways that garner effective, reasonable responses and actions up to and including emails to yourself, to Mr. Kelly, complaints to the City of Oakland and Council Woman Lynette Gibson McElhaney, the media and social media such as Yelp.

[Quoted text hidden]

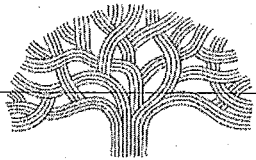
2 attachments



IMG_1143.JPG
1349K



IMG_1142.JPG
1396K



CITY OF OAKLAND

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
P.O. Box 70243
Oakland, CA 94612-0243
(510) 238-3721

For date stamp.

2018 MAR 20 PM 12:11

PROPERTY OWNER
RESPONSE

Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T 18-0012

Your Name <i>The DaSilva Family Trust</i>	Complete Address (with zip code) ██████████ ██████████ <i>201 19th Street Suite 200 Oakland, CA 94612</i>	Telephone: <i>924.0399</i> <i>510.██████████</i>
Your Representative's Name (if any) <i>Tyler Kellner</i>	Complete Address (with zip code) <i>261 Fairmount Avenue Unit 28 Oakland, CA 94612</i>	Telephone: <i>510.924.0399</i> Email: <i>tkellner@bayaptadvisors.com</i>
Tenant(s) Name(s) <i>John Edwards</i>	Complete Address (with zip code) <i>261 Fairmount Avenue Unit 20 Oakland, CA 94612</i>	COPY
Property Address (If the property has more than one address, list all addresses) <i>261-269 Fairmount Avenue, Oakland, CA 94612</i>	Total number of units on property <i>33</i>	

Have you paid for your Oakland Business License? Yes No Lic. Number: 00060561
The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes No APN: 010-0806-002-02
The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: 02/09/2004

Is there more than one street address on the parcel? Yes No

Type of unit (Circle One): House / Condominium / Apartment room, or live-work

I. JUSTIFICATION FOR RENT INCREASE You must check the appropriate justification(s) box for each increase greater than the Annual CPI adjustment contested in the tenant(s) petition. For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent

Board Regulations. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

You must prove the contested rent increase is justified. For each justification checked on the following table, you must attach organized documentary evidence demonstrating your entitlement to the increase. This documentation may include cancelled checks, receipts, and invoices. Undocumented expenses, except certain maintenance, repair, legal, accounting and management expenses, will not usually be allowed.

<u>Date of Contested Increase</u>	<u>Banking (deferred annual increases)</u>	<u>Increased Housing Service Costs</u>	<u>Capital Improvements</u>	<u>Uninsured Repair Costs</u>	<u>Debt Service</u>	<u>Fair Return CPI</u>
<u>10/01/17</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you are justifying additional contested increases, please attach a separate sheet.

→ Only CPI.

II. RENT HISTORY If you contest the Rent History stated on the Tenant Petition, state the correct information in this section. If you leave this section blank, the rent history on the tenant's petition will be considered correct

The tenant moved into the rental unit on Nov. 6th 2012.

The tenant's initial rent including all services provided was: \$ 995.00 + 75.00 = \$1,070.00 month.

Have you (or a previous Owner) given the City of Oakland's form entitled "NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") to all of the petitioning tenants?
 Yes No I don't know

If yes, on what date was the Notice first given? Nov. 6th 2012

Is the tenant current on the rent? Yes No

Begin with the most recent rent and work backwards. If you need more space please attach another sheet.

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
<u>08/24/2017</u>	<u>10/01/2017</u>	\$ <u>1,017.48</u>	\$ <u>1,040.88</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

If you claim that your property is exempt from Rent Adjustment (Oakland Municipal Code Chapter 8.22), please check one or more of the grounds:

The unit is a single family residence or condominium exempted by the **Costa Hawkins Rental Housing Act** (California Civil Code 1954.50, et seq.). **If claiming exemption under Costa-Hawkins, please answer the following questions on a separate sheet:**

1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?
3. Was the prior tenant evicted for cause?
4. Are there any outstanding violations of building housing, fire or safety codes in the unit or building?
5. Is the unit a single family dwelling or condominium that can be sold separately?
6. Did the petitioning tenant have roommates when he/she moved in?
7. If the unit is a condominium, did you purchase it? If so: 1) from whom? 2) Did you purchase the entire building?

The rent for the unit is **controlled, regulated or subsidized** by a governmental unit, agency or authority other than the City of Oakland Rent Adjustment Ordinance.

The unit was **newly constructed** and a certificate of occupancy was issued for it on or after January 1, 1983.

On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** less than 30 days.

The subject unit is in a building that was **rehabilitated** at a cost of 50% or more of the average basic cost of new construction.

The unit is an accommodation in a **hospital, convent, monastery, extended care facility, convalescent home, non-profit home for aged, or dormitory** owned and operated by an educational institution.

The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

IV. DECREASED HOUSING SERVICES

If the petition filed by your tenant claims **Decreased Housing Services**, state your position regarding the tenant's claim(s) of decreased housing services. If you need more space attach a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

V. VERIFICATION

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

Property Owner's Signature

Date

3/15/18

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), P.O. Box 70243, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open.

You can date-stamp and drop your Response in the Rent Adjustment drop box at the Housing Assistance Center. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m.

File Review

You should have received a copy of the petition (and claim of decreased housing services) filed by your tenant. When the RAP Online Petitioning System is available, you will be able to view the response and attachments by logging in and accessing your case files. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

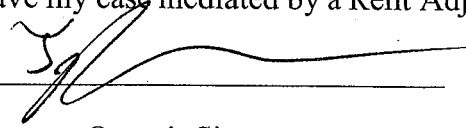
Mediation Program

Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. In mediation, the parties discuss the situation with someone not involved in the dispute, discuss the relative strengths and weaknesses of the parties' case, and consider their needs in the situation. Your tenant may have agreed to mediate his/her complaints by signing the mediation section in the copy of the petition mailed to you. If the tenant signed for mediation and if you also agree to mediation, a mediation session will be scheduled before the hearing with a RAP staff member trained in mediation.

If the tenant did not sign for mediation, you may want to discuss that option with them. You and your tenant may agree to have your case mediated at any time before the hearing by submitted a written request signed by both of you. If you and the tenant agree to a non-staff mediator, please call (510) 238-3721 to make arrangements. Any fees charged by a non-staff mediator are the responsibility of the parties that participate. You may bring a friend, representative or attorney to the mediation session. Mediation will be scheduled only if both parties agree and after your response has been filed with the RAP.

If you want to schedule your case for mediation and the tenant has already agreed to mediation on their petition, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff member at no charge.



Property Owner's Signature

3/15/18

Date



City of Oakland
Rent Adjustment Program
P.O. BOX 70243
Oakland, CA 94612

March 15, 2018

Re: Property Owner Response, Case No. T18-0012.

Dear Rent Adjustment Program and Mr. Robert Costa,

Please see our responses below to Mr. Edward's petition from November 22, 2017, and proof of payment for this year's Business License Renewal and RAP fees.

1. Re: General upkeep of the property.

While we appreciate when Mr. Edwards lets us know about burnt out lightbulbs or his thoughts on the property, they do not qualify him as a "defacto resident manager". There is a lot that goes on that Mr. Edwards does not see, and for every lightbulb or citing of trash he brings up, there are far more that he never knows about. In fact, several of his complaints were about the city-owned empty lot that abuts the property (and is in fact close to his unit) and the sidewalk area near the entrance to the property, which is public property. We want those areas to look nice and be clean as well, but they are not part of the property we manage and are cleaned according to the City of Oakland's schedule. In regards to the leaves and trash that blows onto the property, we doubled the frequency of service from our landscaper starting in October of 2017, so the property has been looking much better and the requests for a better maintained property from tenants did not go unheard.

2. Re: Laundry room hours.

A sign was posted to satisfy the request of a tenant who lives near the laundry room because tenants were using the machines at late hours, making it difficult for them to sleep. The night of the day that Mr. Edwards notified us about the sign we amended it to include a footnote on the operating hours that state "unless otherwise noted in your lease." Which means Mr. Edwards is not subject to decreases in service. This was not about a restriction or loss of service; it was about trying to get people to stop using the laundry room at late hours. As mentioned, it was changed the night that he emailed us about it, so it is quite possible he wasn't effected at all.



3. Re: Parking

This complaint is largely based on older issues about the parking space that was previously assigned to Mr. Edwards. It was a space that was often blocked by tenants or their guests stopping by quickly to grab something or unload groceries, etc. We do address these issues when able, but they often happen so quickly the tenant moves their car before we can find out to whom it belongs. However, we offered to allow Mr. Edwards to change parking spaces to a spot that is not commonly blocked or its access interrupted...and at the same rate he was previously paying, \$75.00, which is \$25.00 under market. In our opinion this is more of an increase in services because he received a better spot for the same amount of money. The parking lines are indeed faded, however they are still quite visible and there is no question where one space ends and another begins. This is just a cosmetic issue, we agree it's time for a repainting, but don't believe it justifies a decrease in service. The lighting in the parking lot currently comes from the building exterior lights, about two-dozen of them, which do a fairly good job of illumination. We know there used to be power to three light poles in the center of the parking lot that no longer function. We've looked into it extensively and it would require cutting into the concrete and installing underground pipe to run new wiring. This would be a substantial project which would require permits, temporary loss of access to the parking spaces, and an overall nuisance to the tenants, so the owner has elected to not restore power to those three lights. As Mr. Edwards mentioned, this change was made over five years ago, so we it may not be relevant to the most recent increase. This winter, two additional lights were added to the exterior near the pedestrian walkway, and the light at the entrance to the property was repaired, so all in all, the lighting has actually improved.

4. Re: Dollar value of lost problem(s) or service(s).

Once again we would like to say that we do appreciate mindful tenants like Mr. Edwards who want the property to look it's best. We do as well, and work towards that goal as much as we can, with the owner's permission, and in a timely manner. There is often a disconnect between tenants and property managers with the expectation of the timing of things. Even little changes like getting a new landscaper to improve services can take months by the time we acquire 2-3 bids, have one approved by the owner, and give a fair notice to the vendor we are terminating. The property is 6 years older than when Mr. Edwards moved in, this is true, but we feel like we are doing well managing the property and don't believe his petition justifies the cancellation of his standard CPI rent increase.



BAY APARTMENT
ADVISORS

Brokerage and Management

Thank you for your time,

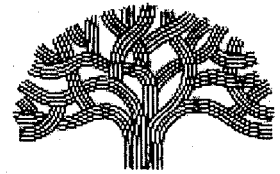
Tyler Kellner

-Bay Apartment Advisors

510.924.0399 | management@bayaptadvisors.com

Bay Apartment Advisors

CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA, SUITE 5313, OAKLAND, CALIFORNIA 94612

Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254

NOTICE OF SITE INSPECTION

File Number and Name: T18-0012, Edwards v. Bay Apartment Advisors
Property Address: 261-269 Fairmount Ave., Oakland, CA

After the Hearing in this matter, which was held on May 16, 2018, the Hearing Officer determined that she needs to inspect the property to adequately render a decision in this matter. The inspection will be limited to the outside common areas, laundry, and a parking lot.

The site inspection will take place on the following date and time:

Date: May 22, 2018
Time: 3:30 p.m.

No testimony is allowed at the inspection.

Request to Change Date. A request for a change in the date or time of the inspection must be made on a form provided by the Rent Adjustment Program. The party requesting the continuance must try to get an agreement for alternate dates with the opposing parties. If an agreement cannot be reached, check the appropriate box on the Request. A change will be granted only for good cause. A second request for a change of date will be granted only for exceptional circumstances.

Dated: May 16, 2018

A handwritten signature in black ink, appearing to read "L. Moroz", written over a horizontal line.

Linda M. Moroz
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T8-0012

I am a resident of the State of California at least eighteen years of age. I am not a party to the Residential Rent Adjustment Program case listed above. I am employed in Alameda County, California. My business address is 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, California 94612.

Today, I served the attached **NOTICE OF SITE INSPECTION** by placing a true copy of it in a sealed envelope in City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, California, addressed to:

Tenant

John Edwards
261 Fairmount Ave., Unit #20
Oakland, CA 94612

Owner

The DaSilva Family Trust
201 19th St., Suite 200
Oakland, CA 94612

Owner Representative

Tyler Kellner
261 Fairmount Ave., Unit #28
Oakland, CA 94612

I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first class postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **May 16, 2018**, in Oakland, California.



Linda M. Moroz
Hearing Officer
Oakland Rent Adjustment Program



250 FRANK H. OGAWA PLAZA, SUITE 5313, OAKLAND, CA 94612

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254

HEARING DECISION

CASE NUMBER: T18-0012, Edwards v. Bay Apartment Advisors
PROPERTY ADDRESS: 261 Fairmount Ave., Unit #20, Oakland, CA
DATE OF HEARING: May 16, 2018
DATE OF INSPECTION: May 22, 2018
DATE OF DECISION: July 20, 2018
APPEARANCES: John Edwards, Tenant
No Appearance by Owner

SUMMARY OF DECISION

The Tenant Petition is denied.

CONTENTIONS OF THE PARTIES

On November 22, 2017, the tenant filed a Tenant Petition, contesting a single rent increase and alleging decreased and loss of housing services.

On March 20, 2018, the owner filed a response, which alleged that the contested rent increase was for the CPI amount only and addressed each issue identified in tenant petition as decreased or loss of housing services. The owner did not appear at the hearing.

ISSUES

- (1) Is the contested rent increase valid?
- (2) Have the tenant's housing services decreased, and if so, by what amount?

000042

EVIDENCE

Background

The entire property consists of two residential buildings with a total of thirty-three (33) residential units. The tenant moved into his unit on November 6, 2012, at an initial monthly rent of \$995.00. The tenant's current rent prior to the contested rent increase was \$1,017.48.

Rent Increase

The tenant stated on his petition that on August 24, 2017, he was served a rent increase notice which proposed to increase the monthly rent from \$1,017.48 to \$1,040.88, effective October 1, 2017. The owner's response stated that the rent increase was for the CPI amount only. The tenant paid the increase and began paying \$1,040.88, effective October 1, 2017.

RAP Notice

The tenant stated on his petition that he received the first notice of the existence of the Rent Adjustment Program (RAP Notice) when he moved into the subject unit on November 6, 2012, and he also stated that he received the RAP Notice with the contested rent increase.

Decreased Housing Services/Serious Condition of the Rental Unit

With his petition, the tenant submitted a list of problems that the tenant identified as decreased housing services.¹ At the hearing the tenant testified to the following issues:

1. Lack of maintenance of common areas: The tenant testified that he is not happy with overall upkeep and maintenance of the property. He testified that the ground is not being cleaned, trash not being picked up, light bulbs not changed in walkways, and that the bushes need trimming, laundry room needs to be cleaned and the trash needs to be picked up.
2. Decrease of Laundry Room hours. The tenant testified that the reduction of hours in the laundry room would be reduction in service. Tenant's lease states laundry room hours from 7:00 a.m. to 10:00 p.m. The new notice in the laundry room states hours from 8:00 a.m. to 8:00 p.m. but includes a footnote which states "unless otherwise noted in your lease."
3. Parking: The tenant testified that this issue resolved because he was assigned better parking space. Therefore, this issue will not be addressed in this Hearing Decision because it is moot.

¹ Exhibit A

No Appearance by the Owner

On February 13, 2018, a Notice of Hearing was mailed to the parties identified on the tenant petition with a proof of service. The mail was not returned as non-delivered. The Notice of Hearing was properly served. On May 16, 2018, the Hearing Officer waited until 10:15 a.m. for the owner to appear and then proceeded with the hearing as scheduled. The owner did not appear and did not contact the office.

Site Inspection

On May 22, 2018, at 3:00 p.m., the Hearing Officer conducted a site inspection of the outside common areas and observed the following:

- the laundry room was clean, the floors were mopped and the machines looked clean
- the lines dividing the parking stalls and letters identifying the stalls were slightly faded but still clearly visible
- there was no trash around the property; the trash cans were neatly stacked against the retaining wall at the back of the parking lot; there was no garbage outside the trash bins
- there was no trash on the outside staircases located on the sides of the building and underneath the outside staircases; there were some leaves blown in and trapped underneath the staircase but it did not look like they were there because these spaces were not regularly maintained
- green bushes above the fence located on top of the retaining wall were hanging over the fence from the neighbors' property but the bushes are about 30 feet above the ground, leaning over the fence but does not obstruct anything

Overall, the common areas of the entire property looked like it is regularly cleaned and maintained

FINDINGS OF FACT AND CONCLUSIONS OF LAW

CPI Rent Increase is Valid

An owner may impose CPI Rent Adjustment on or after July 1, 2002. CPI and Banking Rent Adjustments are not subject to petition.²

The allowable CPI for the year of July 1, 2017 to June 30, 2018 is 2.3%, which is \$23.40 of \$1,017.48, the tenant's rent prior to the proposed rent increase. The new rent with the CPI totals \$1,040.88. The CPI was properly calculated and the new proposed rent increase is valid. Because the tenant paid the increased amount, there is no rent underpayment.

² O.M.C. §8.22.070B

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered an increase in rent³ and may be corrected by a rent adjustment.⁴ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or a service that was provided and is no longer being provided or one that is required to be provided in a contract between the parties. "Living with lack of painting, water leaks and defective Venetian blinds may be unpleasant, aesthetically unsatisfying, but does not come with the category of habitability. Such things will not be considered in diminution of the rent."⁵ The tenant has the burden of proving decreased housing services by a preponderance of the evidence.

In a decreased services case, the tenant must establish he has given the owner notice of the problems and the opportunity to fix the problems before he is entitled to relief.

Lack of Outside Maintenance: There was no evidence that the common outside areas at the property are not being regularly cleaned and maintained. Dissatisfaction with the property management regarding the level of cleaning does not warrant a reduction in rent. Therefore, this claim is denied.

Decrease Laundry Room Hours: The tenant's hours when he can do the laundry did not decrease because the new sign clearly states "unless otherwise noted in your lease". This means that the tenant's hours remain the same as when he first moved in. Therefore, there was no decrease in housing service and this claim is denied.

Parking: Because the tenant was assigned better parking spot, this issue resolved. Therefore, this claim is denied.

ORDER

1. The Tenant Petition T18-0012 is denied.
2. Effective October 1, 2017, the tenant's new base rent is \$1,040.88 per month.
3. The claim for decreased housing services is denied.

Right to Appeal: **This decision is the final decision of the Rent Adjustment Program.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of the decision. The date of service is shown on

³ O.M.C. §8.22.070(F)

⁴ O.M.C. §8.22.110(E)

⁵ *Green v. Superior Court* (1974) 10 Cal. 3d 616 at p. 637

the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: July 20, 2018



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number T18-0012

I am a resident of the State of California at least eighteen years of age. I am not a party to the Residential Rent Adjustment Program case listed above. I am employed in Alameda County, California. My business address is 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California 94612.

Today, I served the attached documents listed below by placing a true copy of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Documents Included
Hearing Decision

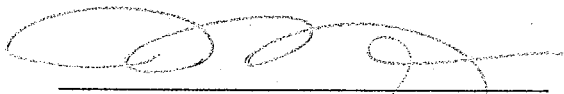
Owner
The DaSilva Family Group
201 19th Street Ste. 200
Oakland, CA 94612

Owner Representative
Tyler Kellner
261 Fairmount Avenue Unit 28
Oakland, CA 94612

Tenant
John R. Edwards
261 Fairmount Avenue #20
Oakland, CA 94611

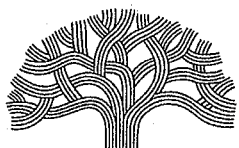
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first class postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 10, 2018 in Oakland, CA.



Maxine Visaya
Oakland Rent Adjustment Program

2018 AUG 17 PM 1:56

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp.
		<u>APPEAL</u>

Appellant's Name JOHN EDWARDS		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 261 FAIRMOUNT AVE APT 20 OAKLAND, CA 94611			
Appellant's Mailing Address (For receipt of notices) 261 FAIRMOUNT AVE APT 20 OAKLAND, CA 94611		Case Number T18-0012	
		Date of Decision appealed 8-14-18	
Name of Representative (if any)		Representative's Mailing Address (For notices)	

Please select your ground(s) for appeal from the list below. As part of the appeal, an explanation must be provided responding to each ground for which you are appealing. Each ground for appeal listed below includes directions as to what should be included in the explanation.

1) There are math/clerical errors that require the Hearing Decision to be updated. (Please clearly explain the math/clerical errors.)

2) Appealing the decision for one of the grounds below (required):

- a) The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. (In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.)
- b) The decision is inconsistent with decisions issued by other Hearing Officers. (In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)
- c) The decision raises a new policy issue that has not been decided by the Board. (In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.)
- d) The decision violates federal, state or local law. (In your explanation, you must provide a detailed statement as to what law is violated.)
- e) The decision is not supported by substantial evidence. (In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)

For more information phone (510) 238-3721.

- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.)
- g) The decision denies the Owner a fair return on my investment. (You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.)
- h) Other. (In your explanation, you must attach a detailed explanation of your grounds for appeal.)

Submissions to the Board must not exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: _____.

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •
 I declare under penalty of perjury under the laws of the State of California that on 8-15-17, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	TYLER WELNER OWNER REPRESENTATIVE
Address	261 FAIRMOUNT AVENUE UNIT 28
City, State Zip	OAKLAND, CA 94612
Name	THE DaSILVA FAMILY GROUP
Address	201 19 th ST SUITE 200
City, State Zip	OAKLAND, CA 94612

John Edwards	8/14/18
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file is a weekend or holiday, the time to file the document is extended to the next business day.

- Appeals filed late without good cause will be dismissed.
- You must provide all the information required, or your appeal cannot be processed and may be dismissed.
- Any response to the appeal by the other party must be received by the Rent Adjustment Program with a proof of service on opposing party within 35 days of filing the appeal.
- The Board will not consider new claims. All claims, except jurisdiction issues, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

For more information phone (510) 238-3721.

August 16th, 2018

City of Oakland
Rent Adjustment Program
250 Frank Ogawa Plaza Suite 5313
Oakland, CA 94612

RE: Appeal Hearing Decision Case # T18-0012 Edwards v. Bay Apartment Advisors

I am appealing the hearing officer's decision to deny my petition based on the following:

Grounds 2(e)

The decision is not supported by substantial evidence.

1. The hearing officer has made a procedural error and has based her decision on evidence that she observed during a site visit on May 22, 2018 as documented in the hearing decision. The notification for the site inspection is dated May 18, 2018 giving Bay Apartment Advisors at least 48 hours making any corrections or cleanings.

The hearing officer did not consider the emails submitted into evidence with my original petition demonstrating multiple conversations between myself and Bay Apartment Advisors. These emails demonstrate a consistent pattern for over one year of me complaining about the resident manager's poor job performance and what is to be expected of the resident manager. Implicit in the rental agreement is that the resident manager will address issues of cleanliness, habitability and safety on the property to include peaceful and quiet enjoyment. It is quite clear in the emails that for more than one year the resident manager viewed these type of issues not to be his responsibility. In addition at no point in time did the Bay Apartment Advisors disagree with issues that I complained about i.e. issues were not occurring. In every single issue that I brought up was eventually addressed. It is not my job as a tenant to consistently bring up issues when there is a resident manager on the property.

The emails also clearly demonstrate my continuous effort to get the resident manager to do his job. The emails clearly indicate that changes only started to occur after I started to include Joel Kelly the president of Bay Apartment Advisors in the email exchanges. Email #2 clearly shows an ongoing effort for over one year to have issues addressed that continued to be problematic that needed to be have addressed by the resident manager and not I as the tenant. Email #4 clearly outlines all the things that I did as a tenant to get the resident manager to do his job.

All of the issues that the hearing officer noted that were not problematic on her May 22, 2018 site visit were a direct result of my ongoing and consistent effort to get the resident manager to do his job.

The entire property and all of the tenants have benefitted from my efforts of constantly taking pictures and emailing Bay Apartment Advisors of tasks that were clearly the resident manager's job to complete.

It is because of my efforts that:

- trash is more or less routinely cleaned up and cleaning company that actually cleans is now cleaning the property. The resident manager were perfectly content to pay for sloppy work. I am paying rent the rent increase goes to maintenance of the property why should I pay an increase when I have been the person ensuring that the property has been well

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maintained which is the resident manager's job and which he clearly did not do for over one year.

- The trees were trimmed
- The laundry room is routinely cleaned
- The current laundry room sign is a direct result of me emailing Bay Apartment Advisors that the original sign which arbitrarily changed the laundry hours represented a reduction in services based on my lease and I would need a reduction in rent if the laundry hours were being changed. It was my actions that resulted in the new laundry sign with the asterisk indicating "unless otherwise indicated in your lease"

My petition is based on:

The above issues are the responsibility of the resident manager not I as a tenant. I did significant part of the resident manager's job for at least one year in maintaining the cleanliness and addressing safety issues on the property. It is these past occurrences that my petition is based on as outlined in the emails submitted with my original petition. The current status of the property is not in dispute although I did take recent photos as continued evidence of my complaints as there seems to be slippage occurring.

None of the content of my emails submitted with my original petition was mentioned in the hearing officer's decision and as such I can only assume that the content was not considered in the hearing officer's decision.

While it may seem that these things may be viewed as "light" they directly impact my safety and security. In email number 4, I clearly state that my unit was broken into. There have been 3 fires on the property one of which occurred less than 10 feet away from my unit. I pay my city and state taxes and I pay my rent on time every month. These issues impact the perception of the property and the perception of opportunistic criminals who view an unkempt property as a target because no one cares.

2. Grounds 2(h)
Other

Bay Apartment Advisors did not appear for the hearing. As a result I was denied the opportunity to question Bay Apartment Advisors response to my petition and I was never sent a copy of Bay Apartment Advisors' response denying me the opportunity to rebut their response at the hearing.

Sincerely,



John R. Edwards
261 Fairmount Ave
Apt. 20
Oakland, CA 94611

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7018 1130 0000 9952 2808

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$3.45
\$	\$2.75
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.71
\$	
Total Postage and Fees	\$8.91
\$	



Sent To: **TYLER KELLNER**
 Street and Apt. No., or PO Box No.: **261 FAIRMOUNT AVE APT 28**
 City, State, ZIP+4®: **OAKLAND, CA 94611**

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

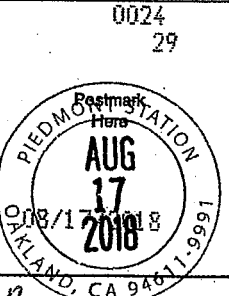
7018 1130 0000 9952 2815

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For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$3.45
\$	\$2.75
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.71
\$	
Total Postage and Fees	\$8.91
\$	



Sent To: **THE DA SILVA FAMILY GROUP**
 Street and Apt. No., or PO Box No.: **2019 ST SUITE 200**
 City, State, ZIP+4®: **OAKLAND, CA 94612**

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

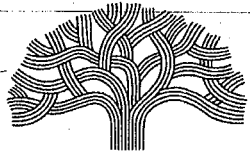
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CHRONOLOGICAL CASE REPORT

Case No.: T17-0477
Case Name: Dobbe v. Marshall
Property Address: 5556 Taft Avenue, Oakland, CA
Parties: Roel Dobbe (Tenant)
Rosalie Marshall (Owner)
Dennis Whipp (Owner Representative)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	August 16, 2017
Owner Response filed	December 14, 2017
Hearing Decision issued	May 22, 2018
Owner Appeal filed	June 7, 2018



CITY OF OAKLAND

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
P.O. Box 70243
Oakland, CA 94612-0243
(510) 238-3721

For date stamp
RECEIVED
AUG 16 2017
OAKLAND RENT ADJUSTMENT
TENANT PETITION

Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

Please print legibly

T17-0477 MS/SK

Your Name <i>Roel Dobbe</i>	Rental Address (with zip code) <i>5556 TAFT AVE OAKLAND, CA 94618-1519</i>	Telephone: <i>510 684 5310</i>
Your Representative's Name <i>N.A.</i>	Mailing Address (with zip code)	E-mail: <i>roeldobbe@gmail.com</i>
Property Owner(s) name(s) <i>Rosalie Marshall</i>	Mailing Address (with zip code) <i>9 ALTA AVE PIEDMONT, CA 94611</i>	Telephone: <i>510 499 0586</i>
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Email: <i>rosaliemarshall@comcast.net</i>
		Telephone:
		Email:

Number of units on the property: 2

Type of unit you rent (check one)	<input type="checkbox"/> House	<input type="checkbox"/> Condominium	<input checked="" type="checkbox"/> Apartment, Room, or Live-Work
Are you current on your rent? (check one)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<i>It's a duplex with two units, that have their own house number</i>

If you are not current on your rent, please explain. (If you are legally withholding rent state what, if any, habitability violations exist in your unit.)

I. GROUNDS FOR PETITION: Check all that apply. You must check at least one box. For all of the grounds for a petition see OMC 8.22.070 and OMC 8.22.090. **I (We) contest one or more rent increases on one or more of the following grounds:**

<input type="checkbox"/>	(a) The CPI and/or banked rent increase notice I was given was calculated incorrectly.
<input checked="" type="checkbox"/>	(b) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input checked="" type="checkbox"/>	(c) I received a rent increase notice before the property owner received approval from the Rent Adjustment Program for such an increase and the rent increase exceeds the CPI Adjustment and the available banked rent increase.

<input checked="" type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input checked="" type="checkbox"/>	(e) The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increase(s).
	(f) The rent increase notice(s) was (were) not given to me in compliance with State law.
<input checked="" type="checkbox"/>	(g) The increase I am contesting is the second increase in my rent in a 12-month period.
<input checked="" type="checkbox"/>	(h) There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance. (Complete Section III on following page)
	(i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page)
	(j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.
	(k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
	(l) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake. (OMC 8.22, Article I)
<input checked="" type="checkbox"/>	(m) The owner did not give me a summary of the justification(s) for the increase despite my written request.
	(n) The rent was raised <u>illegally</u> after the unit was vacated as set forth under OMC 8.22.080.

II. RENTAL HISTORY: (You must complete this section)

Date you moved into the Unit: January 16, 2015 Initial Rent: \$ 2850 /month

When did the owner first provide you with the RAP NOTICE, a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program? Date: NEVER. If never provided, enter "Never."

Is your rent subsidized or controlled by any government agency, including HUD (Section 8)? Yes No

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
7/29/2016	9/1/2016	\$ 2850	\$ 2950	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5/7/2017	6/1/2017	\$ 2950	\$ 3100	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8/4/2017	9/1/2017	\$ 3100	\$ 3250	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 90 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you did not receive a *RAP Notice* with the rent increase you are contesting but have received it in the past, you have 120 days to file a petition. (O.M.C. 8.22.090 A 3)

Have you ever filed a petition for this rental unit?

- Yes
- No

List case number(s) of all Petition(s) you have ever filed for this rental unit and all other relevant Petitions:

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for problems in your unit, or because the owner has taken away a housing service, you must complete this section.

- Are you being charged for services originally paid by the owner? Yes No
- Have you lost services originally provided by the owner or have the conditions changed? Yes No
- Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

If you answered "Yes" to any of the above, or if you checked box (h) or (i) on page 2, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include the following:

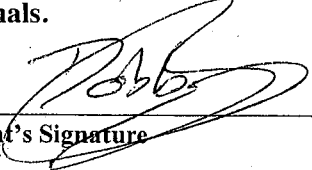
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

Please attach documentary evidence if available.

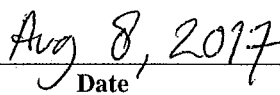
You have the option to have a City inspector come to your unit and inspect for any code violation. To make an appointment, call the City of Oakland, Code of Compliance Unit at (510) 238-3381.

IV. VERIFICATION: The tenant must sign:

I declare under penalty of perjury pursuant to the laws of the State of California that everything I said in this petition is true and that all of the documents attached to the petition are true copies of the originals.



Tenant's Signature



Date

Empty rectangular box for additional information or notes.

Empty rectangular box for additional information or notes.


V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal hearing before a different Rent Adjustment Program Hearing Officer.

You may choose to have the mediation conducted by a Rent Adjustment Program Hearing Officer or select an outside mediator. Rent Adjustment Program Hearing Officers conduct mediation sessions free of charge. If you and the owner agree to an outside mediator, please call (510) 238-3721 to make arrangements. Any fees charged by an outside mediator for mediation of rent disputes will be the responsibility of the parties requesting the use of their services.

Mediation will be scheduled only if both parties agree (after both your petition and the owner's response have been filed with the Rent Adjustment Program). **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** Rent Board Regulation 8.22.100.A.

If you want to schedule your case for mediation, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff Hearing Officer (no charge).



Tenant's Signature

August 8, 2017

Date

VI. IMPORTANT INFORMATION:

Time to File

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit. Mail to:** Oakland Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland; **RAP Online Petitioning System:** <http://rapwp.oaklandnet.com/petition-forms/>. For more information, please call: (510) 238-3721.

File Review

Your property owner(s) will be required to file a response to this petition with the Rent Adjustment office within 35 days of notification by the Rent Adjustment Program. When it is received, the RAP office will send you a copy of the Property Owner's Response form. Any attachments or supporting documentation from the owner will be available for review in the RAP office by appointment. To schedule a file review, please call the Rent Adjustment Program office at (510) 238-3721. If you filed your petition at the RAP Online Petitioning System, the owner may use the online system to submit the owner response and attachments, which would be accessible there for your review.

VII. HOW DID YOU LEARN ABOUT THE RENT ADJUSTMENT PROGRAM?

- ____ Printed form provided by the owner
- ____ Pamphlet distributed by the Rent Adjustment Program
- Legal services or community organization (UC BERKELEY)
- ____ Sign on bus or bus shelter
- ____ Rent Adjustment Program web site
- ____ Other (describe): _____

Attachments:

1. Bathroom Problem
 - a. Explanation
 - b. Email threads for Bathroom Problem
2. All Lease Agreements
 - a. January 2015 – Initial Lease
 - b. September 2016 – Lease Extension
 - c. June 2017 – New Lease
3. Correspondence around Rent Increases
 - a. September 2016 – Lease Extension with Rent Increase
 - b. June 2017 – New Lease with Rent Increase
 - c. August 2017 – Proposed Rent Increase

① a. Explanatio: Bathroom Problem

August 8, 2017

Description of problem for Rent Petition

1) State of the bathroom - leakage and mold formation: caulk around the bathtub and its surrounding walls has worn over time and water is leaking into walls and onto floor. This creates issues of slippery floors and may lead to structural damage of the walls. Lastly, the leaking water contributes to humidity which is a source for mold formation that has shown up on the ceiling.

It may also be the case that the bathroom has insufficient ventilation. There is no forced ventilation. The bathroom window and door are always open to ensure natural ventilation, but this is not enough to prevent mold formation.

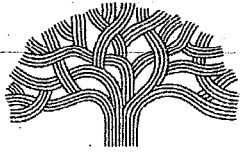
2 and 3) See attachments:

- May 31, 2017 - first notice of problem after personal inspection and notification to landlord.
- No response until a reminder on June 20, 2017. Landlord promises to address issue after July 4, 2017, due to health issue.
- No action, reminders sent on July 10, 2017 and July 24, 2017.
- On July 24, 2017, landlord responds that she will come by with caulking material and "I will demonstrate [caulking] and give them [caulking material] to you when I see you", implying that we should fix it ourselves. After a visit, no materials are brought and instead landlord starts blaming tenants for the situation.
- On August 4, 2017, landlord proposes a rent increase claiming that "there is more "wear and tear" on the premises".

4) Dollar value for recaulking:

- 2 hours of plumbing service at \$100 per hour.
- \$50 of materials.
- Dollar value of improving ventilation: we do not know what is needed and how much it would cost.

000060



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**
P.O. Box 70243
Oakland, CA 94612-0243
(510) 238-3721

For date stamp.

Recvd. by RAP
Dec. 14, 2017

PROPERTY OWNER
RESPONSE

Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T17-0477

Your Name <i>Rosalie Marshall</i>	Complete Address (with zip code) <i>9 Alta Ave. Piedmont CA. 94611</i>	Telephone: <i>(510) 499-0586</i>
		Email: <i>rosaliemarshall@comcast.net</i>
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) <i>Roel Dobbe</i>	Complete Address (with zip code) <i>5556 Taft Ave. Oakland, CA. 94618</i>	
Property Address (If the property has more than one address, list all addresses)		Total number of units on property <i>2</i>

Have you paid for your Oakland Business License? Yes No Lic. Number: *00037411*
The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes No APN: *0037412*
The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: ___/___/___.

Is there more than one street address on the parcel? Yes No .

Type of unit (Circle One): House / Condominium / Apartment / room, or live-work

I. JUSTIFICATION FOR RENT INCREASE You must check the appropriate justification(s) box for each increase greater than the Annual CPI adjustment contested in the tenant(s) petition. For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent

Board Regulations. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

You must prove the contested rent increase is justified. For each justification checked on the following table, you must attach organized documentary evidence demonstrating your entitlement to the increase. This documentation may include cancelled checks, receipts, and invoices. Undocumented expenses, except certain maintenance, repair, legal, accounting and management expenses, will not usually be allowed.

Date of Contested Increase	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Debt Service	Fair Return
7/29/2016	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>False</i> → 9/1/2016	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9/1/2016	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8/31/2017	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5/31/2017	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5/31/2018	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you are justifying additional contested increases, please attach a separate sheet.

II. RENT HISTORY If you contest the Rent History stated on the Tenant Petition, state the correct information in this section. If you leave this section blank, the rent history on the tenant's petition will be considered correct

The tenant moved into the rental unit on _____

The tenant's initial rent including all services provided was: \$ _____ / month.

Have you (or a previous Owner) given the City of Oakland's form entitled "NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") to all of the petitioning tenants?
 Yes _____ No _____ I don't know _____

If yes, on what date was the Notice first given? _____

Is the tenant current on the rent? Yes _____ No _____

Begin with the most recent rent and work backwards. If you need more space please attach another sheet.

Date Notice Given (mo./day/year)	Date Increase Effective	Rent Increased		Did you provide the "RAP NOTICE" with the notice of rent increase?
		From	To	
5/15/2017	5/31/2018	\$ New Lease	\$ 3,100	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9/1/2016	8/31/2017	\$ 2,850	\$ 2,950	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
1/16/2015	8/31/2016	\$ New Lease	\$ 2,850	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

see: EXHIBIT A & details

Note: I was not aware of the Need for "RAP" Notice.

III. EXEMPTION

If you claim that your property is exempt from Rent Adjustment (Oakland Municipal Code Chapter 8.22), please check one or more of the grounds:

The unit is a single family residence or condominium exempted by the **Costa Hawkins Rental Housing Act** (California Civil Code 1954.50, et seq.). **If claiming exemption under Costa-Hawkins, please answer the following questions on a separate sheet:**

1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?
3. Was the prior tenant evicted for cause?
4. Are there any outstanding violations of building housing, fire or safety codes in the unit or building?
5. Is the unit a single family dwelling or condominium that can be sold separately?
6. Did the petitioning tenant have roommates when he/she moved in?
7. If the unit is a condominium, did you purchase it? If so: 1) from whom? 2) Did you purchase the entire building?

The rent for the unit is **controlled, regulated or subsidized** by a governmental unit, agency or authority other than the City of Oakland Rent Adjustment Ordinance.

The unit was **newly constructed** and a certificate of occupancy was issued for it on or after January 1, 1983.

On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** less than 30 days.

The subject unit is in a building that was **rehabilitated** at a cost of 50% or more of the average basic cost of new construction.

The unit is an accommodation in a **hospital, convent, monastery, extended care facility, convalescent home, non-profit home for aged, or dormitory** owned and operated by an educational institution.

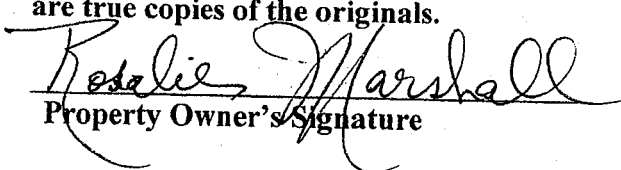
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

IV. DECREASED HOUSING SERVICES

If the petition filed by your tenant claims **Decreased Housing Services**, state your position regarding the tenant's claim(s) of decreased housing services. If you need more space attach a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

V. VERIFICATION

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.


Property Owner's Signature


Date

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), P.O. Box 70243, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open.

You can date-stamp and drop your Response in the Rent Adjustment drop box at the Housing Assistance Center.. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m.

File Review

You should have received a copy of the petition (and claim of decreased housing services) filed by your tenant. When the RAP Online Petitioning System is available, you will be able to view the response and attachments by logging in and accessing your case files. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

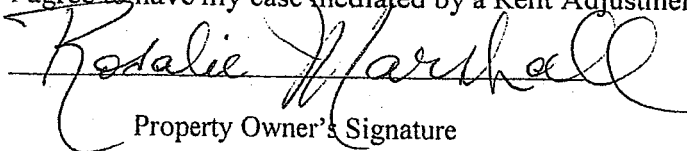
Mediation Program

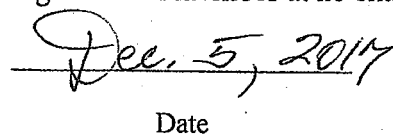
Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. In mediation, the parties discuss the situation with someone not involved in the dispute, discuss the relative strengths and weaknesses of the parties' case, and consider their needs in the situation. Your tenant may have agreed to mediate his/her complaints by signing the mediation section in the copy of the petition mailed to you. If the tenant signed for mediation and if you also agree to mediation, a mediation session will be scheduled before the hearing with a RAP staff member trained in mediation.

If the tenant did not sign for mediation, you may want to discuss that option with them. You and your tenant may agree to have your case mediated at any time before the hearing by submitted a written request signed by both of you. If you and the tenant agree to a non-staff mediator, please call (510) 238-3721 to make arrangements. Any fees charged by a non-staff mediator are the responsibility of the parties that participate. You may bring a friend, representative or attorney to the mediation session. Mediation will be scheduled only if both parties agree and after your response has been filed with the RAP.

If you want to schedule your case for mediation and the tenant has already agreed to mediation on their petition, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff member at no charge.


Property Owner's Signature


Date

For more information phone (510)-238-3721.

TO: City of Oakland, Hearing Officer
FROM: Rosalie Marshall, Landlord
RE: Case # T17-0477,
filed by Roel Dobbe, tenant

RECEIVED
DEC 11 2017
CITY OF OAKLAND
COMMUNITY DEVELOPMENT DEPARTMENT

December 5, 2017

Dear Hearing Officer,

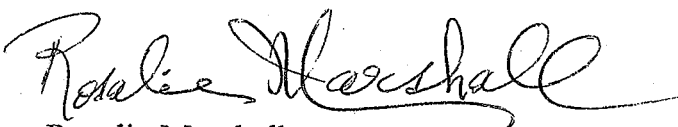
I am sorry for the delay in my response to my tenant's petitions, in **Case # T17-0477**, dated September 28, 2017. I was not aware of your letter or its content, as I have been very ill since last April 2017 and during that time I have had two consecutive yet different surgeries, at Stanford Medical Hospital Center.

I have already sent my medical records to Ms. Sullivan. One surgery took place on May 2, 2017 and the other, more complex surgery, took place recently on November 7, 2017. You are welcome to call my surgeons, as the information is on the medical records. Please understand that pre-conditions and post-recoveries from both have been difficult; I have not been able to keep up with mail correspondences. My daughter, Roslyn Paine from Denver, first noticed the mail from the City of Oakland on November 6, 2017; she called and spoke to Ms. Sullivan, on Nov. 7, 2017 to update her.

Enclosed are the required completed Form, my Responses to tenant's claims and the Exhibits A-D which contain all documentation supporting my responses. In consideration of my health problems and surgeries, I truly appreciate your understanding, as it is vital that both tenant and landlord have their fair representation at the Hearing, on Thursday, January 25, 2018.

Thank you for your understanding.

Sincerely,


Rosalie Marshall

~~To: City of Oakland, Hearing Officer~~

From: Rosalie Marshall, landlord.

RE: Case Number: T17-0477

filed by Roel Dobbe, tenant.

December 5, 2017

Landlord Responses to Tenant's "Grounds for Petition"

I Issues Regarding Rent Increases.

Correct Rent History per Leases.

Tenant claims that rent was increased in 2 months, July 29, 2016-Sept. 1, 2016 from \$2,850-\$2,950 is **False** and information on other increases are **Not Accurate**.

(1) Jan. 16, 2015-August 31, 2016 ___ \$2,850/mo. Rent of \$2,850 stayed the same for 18 months, not 2 months. Tenants were: Roel Dobbe & Britt Moller.

(2) Sept. 1, 2016-Aug. 31, 2017 _____ \$2,950/mo. Tenants were: Roel Dobbe & Britt Moller. Increase by \$100 or 3.5% increasing rent from \$2,850-\$2,950/mo. was calculated from:

a. ___ 2.0% CPI increase for the year 2016-2017.

b. ___ .85% Banking/CPI deferred 8 months annual increase from
January 2016-August 31, 2016.

c. ___ .65% Capital Improvement: deferred cost of new Stove for \$850.00

(3) May 31, 2017-May 31, 2018 _____ \$3,100/mo. Market Value for 2Bd in Rockridge area increased by 6.8%. Therefore, a New Lease with potential new tenants was established to reflect the new Market Value at \$3,350. I had tenants,

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Meghan Timothy Bruss, who offered me **\$3,350**. See enclosed documentation. Since Roel begged me to start the New Lease for him and his new roommates, and assured me they would be excellent tenants, I executed a new Lease for Roel and his new roommates Taryn Elliott and Jonathan Lee, at **below Market Value of \$3,100/mo.** That has been a loss of \$200/mo. (or \$2,400 for the year) to me, than had I rented to the potential tenants Meghan and Timothy Bruss for \$3,350/mo.

Rent for Roel and his roommates was set at and still is \$3,100. The \$150 or 3.4% rent increase from \$2,950-\$3,100/mo. was calculated from:

- a. 3% which is less than the Market Value increase of 6.8%, New Lease increase for the year 2016-2017.
- b. .4% Increase Housing Service Costs: Increase in Property Taxes by \$293.26 from \$9,153.56-\$9,446.82 and increase in RAP increase by \$76 from \$60-\$136.

(3) Aug. 4, 2017-Sept. 1, 2017 _____ Tenant's claim that the rent was raised to **\$3,250/mo. is FALSE**, as such **increase was never implemented**. The fact is that due to tenant's breach of Contract, that is, the addition of a new Tenant, Ariel, Roel's girlfriend, who is not on the Lease, I addressed the issue of possibly raising the rent to \$3,250. Though, Ariel personally told me she was living at the premises, Roel denied the fact. As I was ill, I told Roel that I would address this issue later, but in the meantime the rent would **stay the same at \$3,100**.

In conclusion, the rent remained the same and it was never raised to \$3,250/mo.

See: Emails dated August 4, 2017 and August 8, 2017 _____ **EXHIBIT A**

II Issues Regarding Serious Health, Safety, Fire, or Building Violation Serious Problem(s) with the Condition of Apartment, p. 2 of Form; and Attached Tenant's Description of "State of the Bathroom: Leakage, Mold, Worn Walls Over Time".

Regarding Bathroom Problems, Tenant's claims are FALSE:

Bathroom was completely reframed, re-plastered, retiled and repainted in August of 2013, due to some dry rot discovered in the enclosed shower walls. Both

interior shower walls and its exterior wall facing driveway were fully opened to access, reframe, re-plaster, and retile the bathroom. Exterior wall was closed, re-stucco, and repainted. Documentation of materials and contractor, Carlos Beltran, bills are enclosed as part of EXHIBIT B. Tenants at the time were Anne and Curtis Poff; they can be contacted at (510)229-7965, for on-sight verification. For further information of my character as a landlord, please contact the current tenants in Upper Unit, Norren and Shaun McInnis, at (415)913-9695.

The tenant's claim that the "bathtub shower walls have worn over time and water is leaking onto floor...creating slippery floors...structural damage of the walls" is **FALSE**. Its reconstruction was done only 3 and 1/2 years ago, in August of 2013, of which the tenant himself has been the occupant for the last 2 years. If the reconstructed bathroom is in as dilapidated condition as he claims, then I will hold the **tenant, and his roommates, liable for all its damages in the span of only 2 years!** Aside from his claims, making accusations to depict a conscientious landlord as "slum landlord" is not only ethically wrong but the accusations are lawful grounds for a lawsuit, for defamation of character.

For the records, I, as the landlord, brought up the issue of the importance of maintaining the bathroom clean, upon a personal inspection on April 18, 2017, not May 31, 2017 as claimed by tenant; then I followed up with a reminder email, dated May 9, 2017, which is enclosed in EXHIBIT B. I reminded Roel and his roommates that they must maintain the bathroom as clean as I rented to them, and restore it in its original condition. Therefore, I urged them to remove the accumulated mold in between the tiles and open the bathroom window to allow moisture to exit. I added, to let me know if they did not wish to do the cleaning, so I would arrange for a housekeeper to clean it, at their cost. The conversation is re-iterated in my email of May 9, 2017. Unfortunately, the tenant has twisted a "tenant responsibility housekeeping issue" into a "landlord exaggerated mold issue and structural damage to the walls" which does not exist!

See Email, May 9, 2017

EXHIBIT B

III Tenants Claims of Landlord's Lack of Response regarding Bathroom Problems are FALSE.

List of Contractors at the Premise for Repairs:

(1) Bathroom:

Superior Plumbing made necessary repairs on April 18, April 19, and June 6.

April 18, 2017: Bathroom toilet was unclogged.

April 19, 2017: Bathroom shower was fixed.

June 6, 2017: Bathroom Leaking faucet was repaired.

See Attached Documentation, Superior Plumbing” _____ **EXHIBIT C**

(2) Main Door:

August 1, 2017: Door Lock Realigned by handyman, Andrea Salvadei.

See Attached copy of Check dated August 1, 2017 _____ **EXHIBIT C.**

(3) Kitchen Fixture;

August 1, 2017: Kitchen Fixture was replaced by handyman, Andrea Salvadei.

See Attached copy of Check dated August 1, 2017 _____ **EXHIBIT C**

(4) New Screen Door:

New Screen Door replaced by handyman, Peter Shaper.

See Attached copy of check dated August 24, 2017 _____ **EXHIBIT C.**

(5) New Laundry Room Fixture replaced by Andrea Salvadei.

(6) New Lamps replaced in Bathroom.

(7) Dishwasher was in working condition, but Tenant did not know how to operate it.

(8) Filler, Paint, Caulking provided to tenant to repair holes in walls, caused by tenant.

Items #5, #6, #7 are all covered in **Email dated July 24, 2017.**

See: _____ **EXHIBIT C**

IV Landlord's Claim of Money Owed from Tenant.

(1) Tenant owes Landlord **\$620 in late rent penalties**, as specified by Contract, dated May 31, 2017, item #6A, p.2. Rent due July 1, 2017 was not deposited by July 5th, but was deposited late. Rent due on December 1, 2017 was not deposited on Dec. 5th, and has not been received yet, as of Dec. 11th. According to Lease Contract, rent deposited after the 5th of the month, incurs a penalty of \$310 for each month rent is paid late.

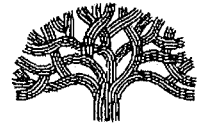
(2) Tenant owes Landlord **\$134.79 in utility reimbursement**, which was due on July 4, 2017.

See: _____ **EXHIBIT D**

Total Owed to Landlord is \$754.79, due Feb. 1, 2018.

CITY OF OAKLAND

250 FRANK OGAWA PLAZA, SUITE 5313, OAKLAND, CA 94612



Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254

HEARING DECISION

CASE NUMBER: T17-0477, Dobbe v. Marshall
PROPERTY ADDRESS: 5556 Taft Avenue, Oakland, CA
DATE OF HEARING: March 26, 2018
DATE OF INSPECTION: March 26, 2018
DATE OF DECISION: May 1, 2018
APPEARANCES: Roel Dobbe, Tenant
Rosalie Marshall, Owner
Dennis Whipp, Owner Representative

SUMMARY OF DECISION

The tenant's petition is granted. The legal rent for the unit is set forth in the Order below.

CONTENTIONS OF THE PARTIES

Tenant Dobbe filed a petition on August 16, 2017, contesting a rent increase from \$3,100 to \$3,250, effective September 1, 2017, which he claimed violated the Rent Adjustment Ordinance (Ordinance) on the following grounds:

1. The increase exceeds the CPI Adjustment and is unjustified or is greater than 10%;
2. He received the rent increase notice before the owner received approval from the Rent Adjustment Program (RAP) for such an increase;
3. No written notice of the Rent Program (*RAP Notice*) was given together with the notice of increase;

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4. No *RAP Notice* was given to him at least six months before the effective date of the increase;
5. This is the second rent increase in a 12 month period; and,
6. The owner did not give him a summary of justifications despite his written request.

The tenant also contested all prior rent increases given since he moved into the unit and claimed he had never received the *RAP Notice*.

Additionally, the tenant claimed decreased housing services relating to leakage and mold formation in the bathroom.

The owner filed a late response to the tenant petition on December 14, 2017, in which the owner claimed banking, capital improvements and increased housing service costs as justifications for the rent increases. The owner did not respond to the questions about the *RAP Notice* in her response. Additionally, the owner denied the tenant's claims of decreased housing services.

THE ISSUES

1. Was there good cause for the failure of the owner to timely respond to the tenant petition?
2. When, if ever, was the tenant provided the *RAP Notice*?
3. Were the rent increases valid and what is the base rent?
4. Have the tenant's housing services decreased?
5. Can the owner split utilities?
6. What, if any, restitution is owed to the tenant and how does it affect the rent?

EVIDENCE

Owner Response: The owner testified that she had serious medical problems in the summer and fall of 2017 which resulted in two hospitalizations and surgeries. She was not able to keep up with her mail during this time. At some point during her illness, in approximately November of 2017, her daughter found the mail and she saw that there was a letter from the Rent Adjustment Program. The owner responded to the tenant petition as soon as she was able after getting out of the hospital.

Rental History: The tenant testified that he moved into the rental unit in January of 2015 at an initial rent of \$2,850 a month. He moved in with Britt Moller. They were not served the *RAP Notice* when they moved in, or at any time over the course of his tenancy until after January of 2018, when a mediation was held in this case. Their lease was provided, with no *RAP Notice* attached.¹ The lease was for a period of 18 months.

¹ Exhibit 1, pages 1-8. All Exhibits referred to in this Hearing Decision were admitted into evidence without objection.

In the summer of 2016, the tenant and the owner had several communications about the rent as the lease period was coming to an end. The parties agreed to a rent of \$2,950 a month, after the owner proposed a higher increase. A *Lease Extension Addendum* was signed by the parties in July of 2016, extending the lease through August 31, 2017, and starting the new rent as of September of 2016.²

In April of 2017, Britt Moller moved out of the unit and the tenant began to look for a new roommate. Both Mr. Moller and the tenant notified the owner that Mr. Dobbe intended to stay and find a new roommate, but the owner listed the unit on Craigslist as a new rental that same month. Ms. Marshall showed the unit to several people during this time period. On May 1, 2017, the tenant informed Ms. Marshall that he found new roommates. The owner sent a letter purporting to nullify the September 2016 lease amendment and informed the tenant that he should move out of the unit as of May 31, 2017.³

A series of phone and email communications occurred between the tenant and the owner, and ultimately Ms. Marshall agreed that the tenant could stay on with two new roommates as long as he agreed to a rent of \$3,100 a month effective June of 2017. A new lease was prepared by the owner for Dobbe, Taryn Elliott and Jonathan Lee (his new roommates).⁴ The tenant has been paying \$3,100 monthly since then and will continue to do so until he gets a Hearing Decision in this matter.

The tenant further testified that on August 4, 2017, Ms. Marshall sent him an email purporting to increase the rent to \$3,250 a month based on the mistaken belief that Dobbe's girlfriend was also living in the unit.⁵ The tenant did not pay that rent increase.

The owner testified that no *RAP Notice* was given when the tenants moved in or at any time before January of 2018. She did not know about the requirement to serve a *RAP Notice* on her tenants.

The owner's testimony as to the rent increases was substantially the same as the tenant's testimony. She believed she was entitled to an increase greater than the CPI based on banking. She provided no documentary support for either her claim of capital improvements or increased housing service costs. She increased the rent to \$2,950 in September of 2016, and the parties signed the lease addendum.

The owner testified that when Britt Moller moved out of the unit, Dobbe informed her he wanted to stay in the unit and get a new roommate. Before he found the new roommates, she listed the unit for rent on *Craigslist* because she felt that she had to have the unit rented if Dobbe didn't find a roommate.⁶ She further testified that in her mind the lease with Dobbe and Moller was null, because Moller moved out.

² Exhibit 1

³ Exhibit 2

⁴ Exhibit 3

⁵ Exhibit 4b, page 21

⁶ Exhibit 8 is the *Craigslist* listing for the property.

She further testified that she found someone who was willing to rent the unit for \$3,350 a month and believed that she could tell Dobbe he had to move out, because she found someone who would rent the unit at a higher rent.⁷ Dobbe never informed her that he wanted to move out. She testified that she informed him “to find a tenant or I have to rent it to someone else.” Tape recording at 44:00-44:14.

However, she negotiated with Dobbe when he found Elliot and Lee, and a new contract was written effective June 1, 2017. She increased the rent to \$3,100 a month, based on banking and her belief that because there were new roommates, a new lease was required.

She further testified that the rent increase to \$3,250 was just “in the air” and she proposed the increase because she believed that Dobbe’s girlfriend was living in the unit and causing more wear and tear on the unit. Dobbe never paid this amount and the owner did not pursue it because Dobbe assured her that his girlfriend was not living in the unit.

Decreased Housing Services:

Bathroom: The tenant testified when he moved in, the bathroom was in good condition. In May of 2017, before Elliot and Lee moved into the unit with him, the owner pointed out to him some staining and mold in the bathroom tile that she wanted him to clean or she would charge him to have it cleaned. He took action and cleaned those areas, but noticed that there was an ongoing problem with the caulking around the bathtub enclosure, where there is a hole and water leaks out when the shower is in use. He pointed out this problem to the owner, who suggested he fix it himself.⁸

The tenant further testified that he did not feel capable of doing the job himself, and informed the owner.

The owner testified that in August of 2013, before Dobbe moved in, she had the bathroom remodeled down to the studs. When she visited the property in May of 2017, she saw that there was mold in the bathroom. She informed Dobbe by email that it was his responsibility to remove the mold, as this was not present when she rented the unit to him. If he did not clean it, she would send someone to do it and charge him for the work.⁹ The owner testified she was never informed about a hole in the caulk.

The Hearing Officer inspected the unit on March 26, 2018. At the Inspection, an approximate one inch hole in the caulk was present between the tub and the rail for the sliding glass door. When the shower was turned on briefly, water accumulated on the outside of the bathtub. It is likely that had the water continued to run, the water would have leaked onto the floor.

⁷ Exhibit 9 is the application to rent that the owner received after her *Craigslist* posting, while Dobbe was a tenant.

⁸ See email dated May 31, 2017, in which tenant wrote “there are several places where the caulk has worn down...” Exhibit 4 (a) page 1.

⁹ Exhibit 6, page 1

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Was there good cause for the failure of the owner to timely respond to the tenant petition?

The Rent Adjustment Ordinance requires an owner to file a response to a tenant petition within 35 days after service of a notice by the Rent Adjustment Program (RAP) that a tenant petition was filed.¹⁰ "If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . ."¹¹ The file in this case shows that the *Tenant Petition* and accompanying documents were served on the owner on September 28, 2017. The owner responded to the petition on December 14, 2017.

The owner acknowledged receiving the *Tenant Petition*. However, she was in the hospital on two occasions in the spring and fall of 2017 and had two surgeries. There was good cause for the owner's late filing of a response. The owner was allowed to fully participate at the Hearing.

When, if ever, was the tenant first served with the RAP Notice?

The Rent Adjustment Ordinance (Ordinance) requires an owner to serve the *RAP Notice* at the start of a tenancy¹² and together with any notice of rent increase or change in the terms of a tenancy.¹³ An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.¹⁴

It is uncontested that the tenant did not received the *RAP Notice* until January of 2018. Not only did tenant Dobbe testify that he never received it, but the Owner admitted at the Hearing that she did not know about the *RAP Notice* until after the *Tenant Petition* was filed. Therefore, all rent increases given to the tenant were invalid.

No rent increase or notice to change the terms of the tenancy can be given to the tenants with an effective date any earlier than six months after the tenants are first given the *RAP Notice*.

Were the rent increases valid and what is the base rent?

As noted above, all rent increase notices must be served with a *RAP Notice*. Therefore, all the rent increases given were invalid. This is true even though the owner had the tenant sign a new lease with each rent increase. Parties cannot agree to violate a rent

¹⁰ O.M.C. § 8.22.090(B)

¹¹ O.M.C. § 8.22.070(C)(2)

¹² O.M.C. § 8.22.060(A)

¹³ O.M.C. § 8.22.070(H)(1)(A)

¹⁴ O.M.C. § 8.22.060 (C)

control ordinance.¹⁵ Nor can parties agree to violate a law established for a public reason.¹⁶

Additionally, the rent may only be increased once in every twelve month period. O.M.C. § 8.22.070(A)(1). The addition of new tenants does not alter the original tenant's rights to rent increases limited by the Ordinance. Until all original tenants move out, the owner may not increase the rent to market rate.

The tenant's base rent is \$2,850 a month, the initial rent when he moved in. He is entitled to restitution as noted in the chart below.

It is not necessary to discuss the owner's claim of banking, since all rent increases were served without the *RAP Notice*.¹⁷

Have the tenant's housing services decreased and if yes, in what amount?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹⁸ and may be corrected by a rent adjustment.¹⁹ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy that is no longer being provided.

There is a time limit for claiming decreased housing services. Once the tenant is served with a *RAP Notice*, a tenant petition must be filed within 90 days after the decrease in service begins. However, where no *RAP Notice* was ever provided, the tenant can contest any decrease in services.²⁰

The tenant claimed that there is an ongoing problem with the caulking in his bathroom. This is a changed condition from when he moved in. The tenant established that there is a small hole in caulking and that he notified the owner about the caulking. While the owner denies knowing that there was a "hole," the evidence shows that the tenant complained about the caulking throughout the bathroom. Once on notice, it was the owner's responsibility to inspect. The hole causes water to accumulate on the bathtub and it is more likely than not that this water would leak onto the floor, causing a potential dangerous condition.

¹⁵ *Gombiner v. Swartz*, 167 Cal. App. 4th 1365 (2008)

¹⁶ A law established for a public reason cannot be contravened by a private agreement. *Gruzen v. Henry*, 84 Cal. App. 3rd 515 (1978)

¹⁷ The owner also claimed increased housing service costs and capital improvements on her petition, but at the Hearing, her only claimed justification was banking. No evidence to support either an increased housing service costs or capital improvements was filed by the owner. Additionally, effective February 1, 2017, for any rent increase that exceeds the CPI or banked increases, an owner had to file an *Owner Petition* with the Rent Adjustment Program and seek approval prior to increasing the rent.

¹⁸ O.M.C. § 8.22.070(F)

¹⁹ O.M.C. § 8.22.110(E)

²⁰ O.M.C. § 8.22.090(A)(3)(a)(ii)

Nonetheless, this is a minor defect; therefore, the tenant is entitled to an ongoing rent decrease of 1% of the rent, until the problem is repaired. Additionally, the tenant is entitled to restitution of overpaid rent for this condition beginning in June of 2017, one month after he informed the owner about the problem. See chart below.

What, if any, restitution is owed to the tenant and how does it affect the rent?

The tenant is entitled to restitution of all overpaid rent, beginning with the rent increase that began in September of 2016. The tenant's rent, before consideration of restitution and decreased services is \$2,850 a month. Due to the finding of decreased services, the tenant is entitled to an ongoing rent decrease of 1% (\$28.50) until the repair to the bathroom caulking is made. Therefore, the current legal rent, before consideration of restitution, is \$2,821.50 a month.²¹

Additionally, as noted on the chart below, the tenant has overpaid rent of \$4,242 which includes the rent overpayments of \$3,900 and the overpayment associated with the decreased services claim of \$342.

VALUE OF LOST SERVICES							
Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Bathroom caulking	1-Jun-17	31-May-18	\$2,850	1%	\$ 28.50	12	\$ 342.00
TOTAL LOST SERVICES							\$ 342.00
OVERPAID RENT							
From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total	
1-Sep-16	31-May-17	\$2,950	\$2,850	\$ 100.00	9	\$ 900.00	
1-Jun-17	31-May-18	\$3,100	\$2,850	\$ 250.00	12	\$ 3,000.00	
TOTAL OVERPAID RENT							\$ 3,900.00
RESTITUTION							
MONTHLY RENT						\$2,850	
TOTAL TO BE REPAID TO TENANT						\$ 4,242.00	
TOTAL AS PERCENT OF MONTHLY RENT						149%	
AMORTIZED OVER			12	MO. BY REG. IS		\$ 353.50	

An overpayment of this size is normally adjusted over a period of 12 months.²² For now \$353.50 a month is subtracted from the current legal rent of \$2,821.50 for a total rent of

²¹ At the Inspection, the owner said she would repair the caulk. If she did already do the repair, the tenant is entitled to the ongoing rent decrease until the owner serves the rent increase notice as noted below.

²² Regulations, Section 8.22.110(F)

~~\$2,468 a month. From June of 2018 through May of 2019, the tenant's rent is \$2,468 a month.~~

If the owner repairs the bathroom caulking, she can increase the rent by \$28.50 a month, after giving proper notice pursuant to Civil Code § 827.

The owner may otherwise be entitled to a rent increase, if it is served with an effective date at least six months after the tenant was served with a copy of the *RAP Notice* and is served according to the State law and the Rent Ordinance. If such a rent increase notice is served during the course of the restitution order, the tenant's monthly restitution should be deducted from the new base rent.

If the owner wishes to, the owner can pay the restitution owed to the tenant in one lump sum. If she does so, the tenant must stop deducting the restitution.

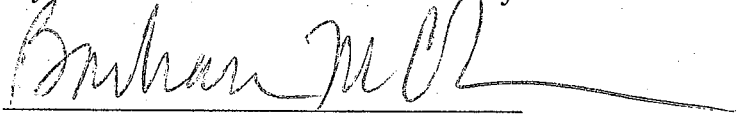
ORDER

1. Petition T17-0477 is granted.
2. The tenant was not served with the *RAP Notice* until January of 2018. All rent increases are invalid.
3. The tenant's base rent is \$2,850 a month.
4. The tenant is entitled to an ongoing rent decrease of 1% due to the hole in the bathroom caulking. The current legal rent, before consideration of restitution is therefore \$2,821.50.
5. The owner owes restitution to the tenant of \$4,242 for rent overpayments and for decreased services. This overpayment is adjusted by a rent decrease for the next 12 months in the amount of \$353.50 a month.
6. The tenant's rent for the months of June 2018 through May 2019 is \$2,468 per month. The rent reverts to \$2,821.50 a month in June of 2019 (if the repair has not been made and/or a rent increase notice has not been sent).
7. If the owner wishes to, she can repay the restitution owed to the tenant at any time. If she does so, the monthly decrease for restitution ends at the time the tenant is provided restitution.
8. If the owner repairs the bathroom caulking, she can increase the rent by \$28.50 a month, providing she serves the rent increase notice pursuant to Civil Code § 827.
9. The owner may otherwise be entitled to a rent increase, if it is served with an effective date at least six months after the tenant was served with a copy of the *RAP Notice* and is served according to the State law and the Rent Ordinance. If such a rent increase notice

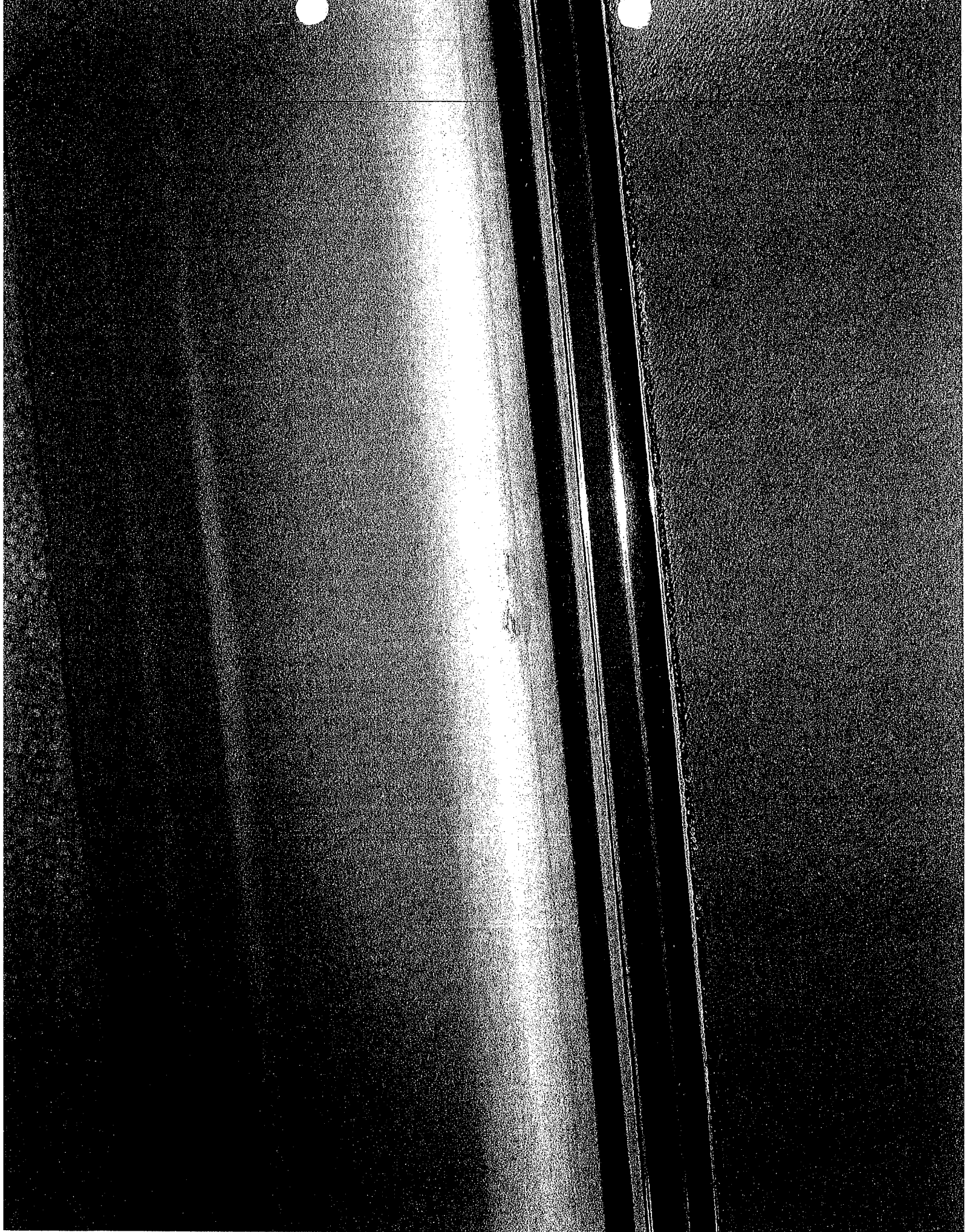
is served during the course of the restitution order, the tenant's monthly restitution should be deducted from the new base rent.

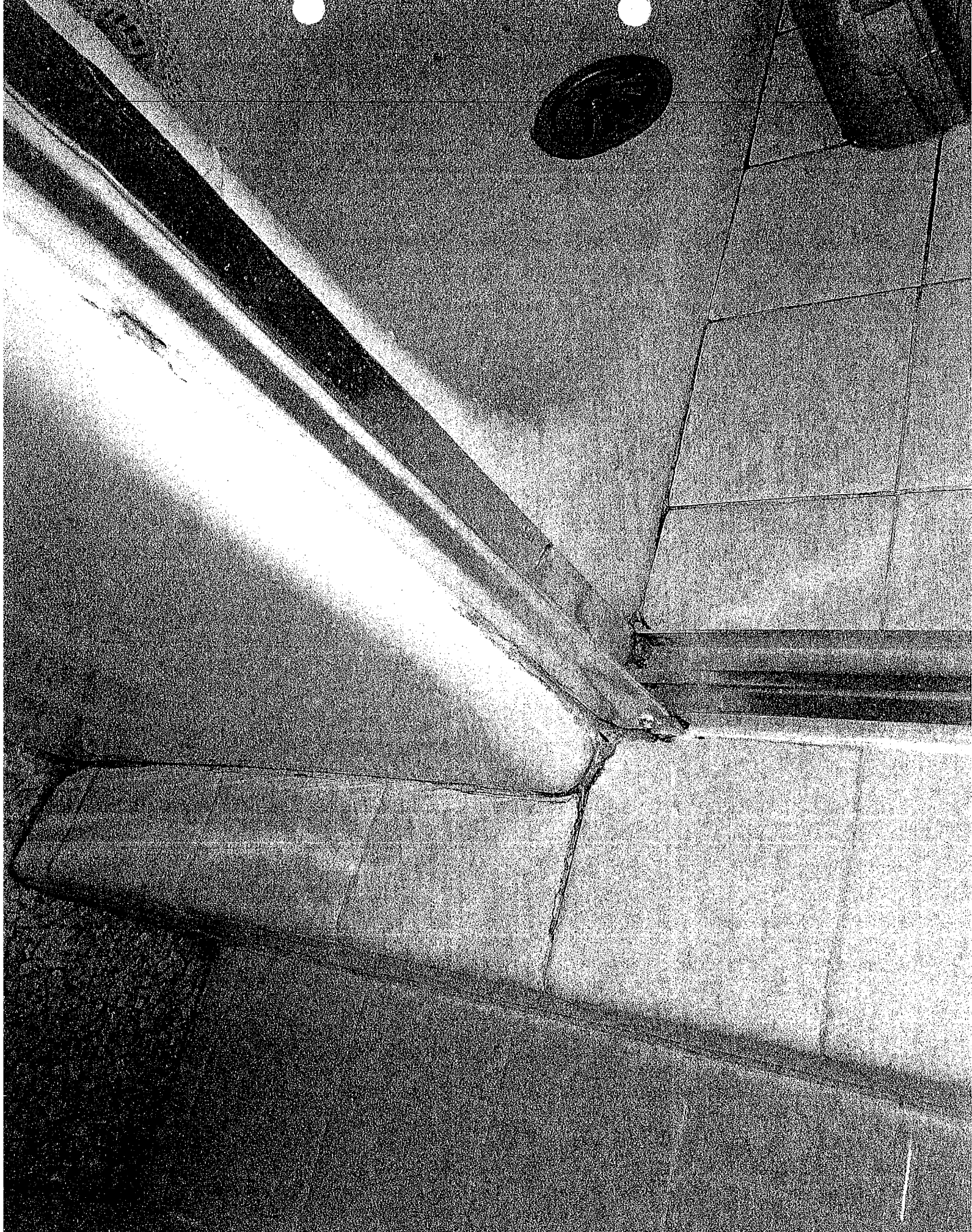
10. **Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: May 1, 2018

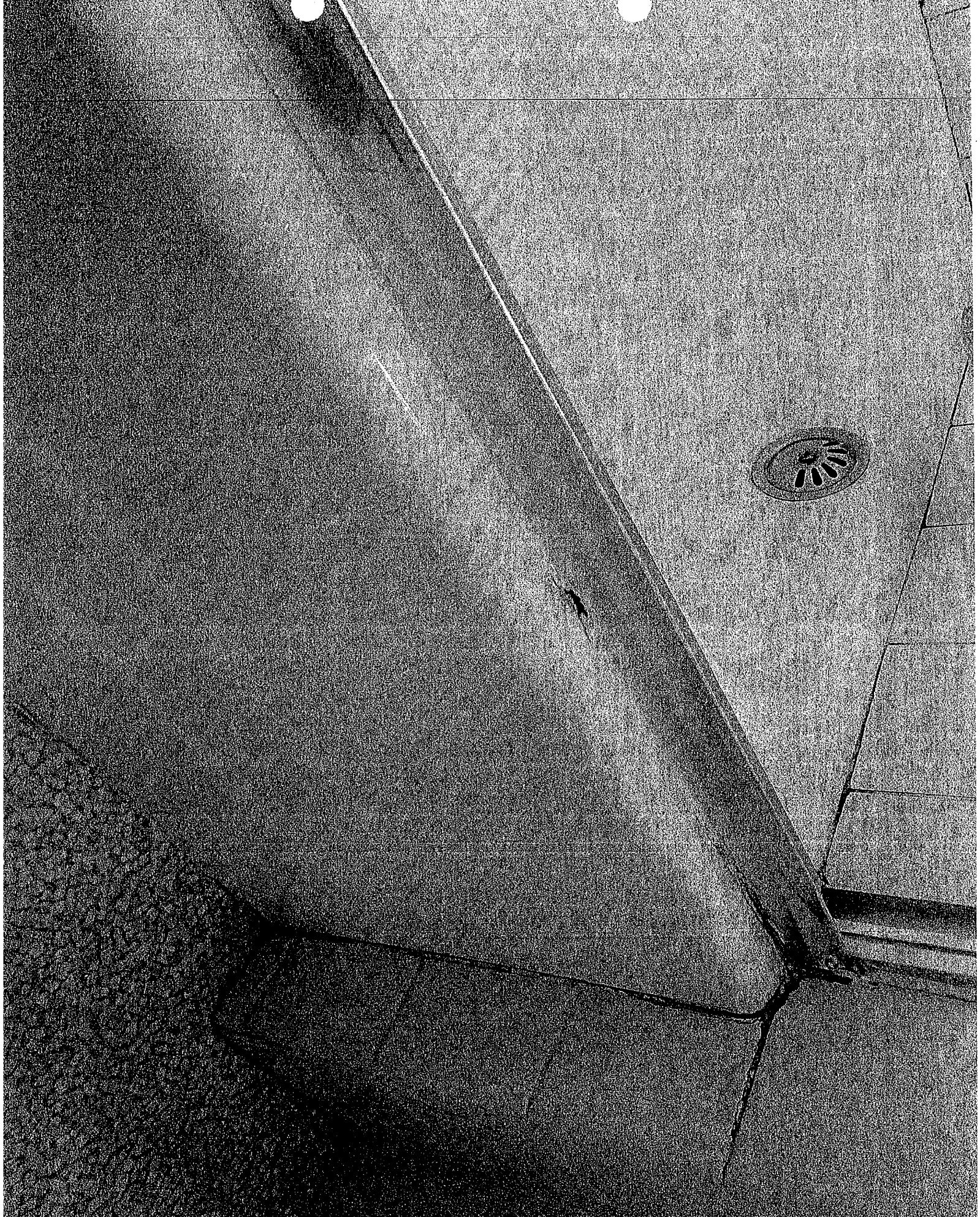


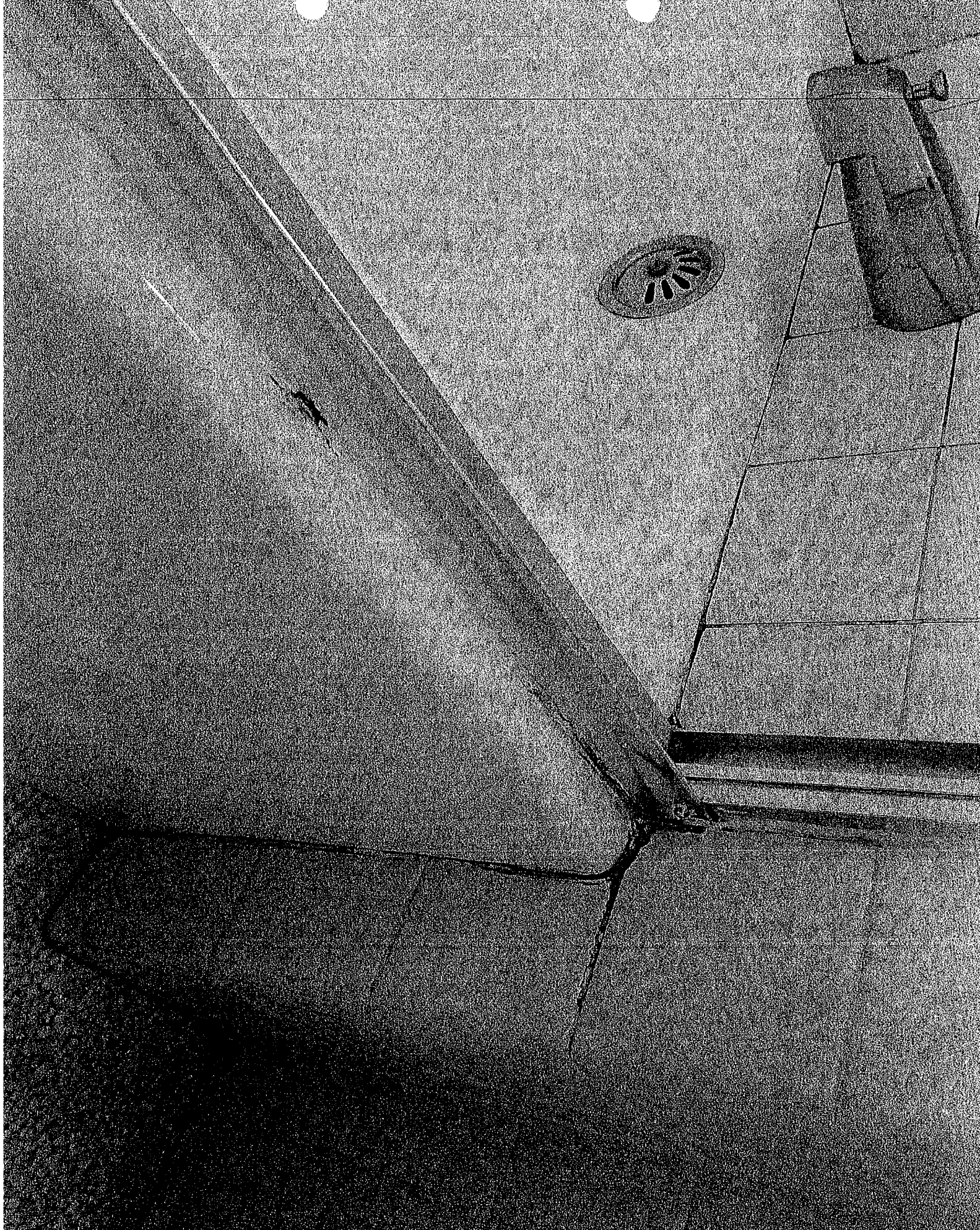
Barbara M. Cohen
Hearing Officer
Rent Adjustment Program





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PROOF OF SERVICE

Case Number T17-0477

I am a resident of the State of California at least eighteen years of age. I am not a party to the Residential Rent Adjustment Program case listed above. I am employed in Alameda County, California. My business address is 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California 94612.

Today, I served the attached documents listed below by placing a true copy of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Documents Included

Hearing Decision

Owner

Rosalie Marshall
9 Alta Ave
Piedmont, CA 94611

Owner Representative


Dennis Whipp
519 San Pedro Cove
San Rafael, CA 94901

Tenant

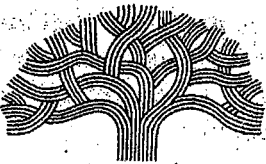
Roel Dobbe
5556 Taft Ave
Oakland, CA 94618

I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first class postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 22, 2018 in Oakland, CA.



Maxine Visaya
Oakland Rent Adjustment Program



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

250 Frank Ogawa Plaza, Suite 5313
Oakland, CA 94612
(510) 238-3721

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

2018 JUN -7 PM 3:41

APPEAL

Appellant's Name <i>Rosalie Marshall</i>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <i>5556 Taft Ave., Oakland, CA. 94618</i>			
Appellant's Mailing Address (For receipt of notices) <i>9 Alta Ave., Piedmont CA. 94611</i>		Case Number <i>T17-0477</i>	Date of Decision appealed <i>June 7, 2018</i>
Name of Representative (if any)		Representative's Mailing Address (For notices)	

Please select your ground(s) for appeal from the list below. As part of the appeal, an explanation must be provided responding to each ground for which you are appealing. Each ground for appeal listed below includes directions as to what should be included in the explanation.

- 1) There are math/clerical errors that require the Hearing Decision to be updated. *(Please clearly explain the math/clerical errors.)*
- 2) Appealing the decision for one of the grounds below (required):
 - a) The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.) See: Appeal #1, Attached Letter*
 - b) The decision is inconsistent with decisions issued by other Hearing Officers. *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*
 - c) The decision raises a new policy issue that has not been decided by the Board. *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.)*
 - d) The decision violates federal, state or local law. *(In your explanation, you must provide a detailed statement as to what law is violated.) See: Appeal #3, Attached Letter*
 - e) The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.) See: Appeal #2, Attached Letter*

For more information phone (510) 238-3721.

- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.)
- g) The decision denies the Owner a fair return on my investment. (You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.)
- h) Other. (In your explanation, you must attach a detailed explanation of your grounds for appeal.)

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: _____

You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.

I declare under penalty of perjury under the laws of the State of California that on June 7, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Roel Dobbe (petitioner)
Address	*Note: Roel Dobbe has left the premises.
City, State Zip	
Name	Despite my requests to provide me with his new employment and personal information, Roel Dobbe has not provided it to me yet.
Address	My only way to provide him with a copy of my "Appeal" was to send it to his personal email: roeldobbe@gmail.com
City, State Zip	

"Proof of Service" by email is attached.

<i>Rosalie Marshall</i>	6/7/2018
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file is a weekend or holiday, the time to file the document is extended to the next business day.

- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Any supporting argument or documentation to be considered by the Board must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal.
- Any response to the appeal by the other party must be received by the Rent Adjustment Program with a proof of service on opposing party within 35 days of filing the appeal.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

For more information phone (510) 238-3721.

Proof of Service to Petitioner

ROSALIE MARSHALL <rosaliemarshall@comcast.net>

6/7/2018 2:24 PM

URGENT ATTENTION!...APPEAL to ORDERS

To Roel Dobbe <roeldobbe@gmail.com>

Dear Roel,

Please read the attached documents: (1) Appeal Form and (2) "APPEAL to ORDERS" Letter, so that you may be up to date with the status of the issues. Thank you for your attention.

Rosali Marshall

- Taft, Letter of APPEAL to City of Oakland.docx (28 KB)
- Appeal Form page 1.pdf (868 KB)
- Appeal Form, page 2.pdf (944 KB)
- Appeal Form, page 3.pdf (526 KB)

Rosalie Marshall

9 Alta Ave.

Piedmont, CA 94611

To: City of Oakland

From: Rosalie Marshall, landlord

RE: Case No. T17-0477, Dobbe vs. Marshall

Appeal of Decision of Rent Adjustment Program

June 5, 2018

APPEAL OF ORDERS

(1) ORDER THAT THE TENANT'S BASE RENT IS \$2,850/MO.

The order that starting June 1, 2018 the base rent should be **\$2,850/mo.** is **no longer valid.** The rent of \$2,850/mo. was established with the original Tenant/Petitioner, Roel Dobbe, on January 1, 2015. On **June 1, 2017** the rent was established at **\$2,950/mo.** with Roel Dobbe, as the master tenant, and his new 2 roommates, Jonathan Lee and Taryn Elliott. Since Roel Dobbe **left the premises in May 2018,** the remaining tenants are **not** entitled to a rent of \$2,850/mo. which was established three and one-half years before they moved in the premises. I have consulted Mr. Clifford Fried, a real estate attorney whose expertise is landlord and tenant issues, who assured me that the current tenants' base rent is based on the June 1, 2017 lease of \$2,950/mo., which is when they came in as tenants, plus the 2018 CPI increase to a total rent of **\$3,018/mo. starting June 1, 2018.** He asserted that a **"landlord has no obligation to reduce the rent to a date that was paid in the past"**. See attached letter, page 2. His statement is supported by the ordinance Code 8.22.080, part G, which states:

"An owner may not set an initial Rent to a Tenant that is more than the lawful Rent that had been charged to the previous Tenant on the date that Tenant vacated, plus any allowable CPI rent adjustment."

Though at the Hearing, Roel Dobbe did say on the recorded tape that he was "moving to New York in May", I am assuming that the Hearing Officer, Ms. Cohen,

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~~inadvertently made an error and assumed that Roel Dobbe was staying as the master tenant and therefore the rent would revert back to his original rent of 2015.~~

As of June 2018, the current Tenants, Jonathan Lee and Taryn Elliott, have disregarded the above Code 8.22.080, part G, and deliberately reverted the rent to that which was paid by Roel Dobbe in 2015. Since Roel Dobbe left the premises, I would appreciate your **revision** that the base rent be rightfully set at \$2,950/mo. + CPI increase, which is a total of **\$3,018/mo. starting June 1, 2018**, as confirmed by Mr. Fried and the Ordinance Code.

(2) DECREASE in HOUSING SERVICES:

The decrease in housing services is **false**. The minor defect, referred by the tenant as a “small hole in the caulking” was never reported to me via text or email or phone call by the tenant, until the day of the meeting with the Hearing Officer, Ms. Cohen, on March 26, 2018. The “small hole in the caulking” was **repaired** soon after. Attached is the copy of the payment made to the handyman on April 13, 2018. This confirms that the “small hole in the caulking” was a very temporary condition and that it didn’t last a year. Roel Dobbe’s own taped comment at the meeting that “Ms. Marshall has always been a good and conscientious landlord” affirms my prompt attention to repairs. Furthermore, a “**small hole in the caulking**” does **not** meet the City of Oakland code criteria as a “**loss of a service that seriously affects the habitability of a unit**”. Therefore, due to the preceding reasons, the decrease of housing services **not qualify** for re-imburement of **\$342 to tenant** and should be totally **removed** as a penalty to the landlord.

The current tenants, Jonathan Lee and Taryn Elliott, disregard this fact and have deducted the proportioned amount from their June rent.

(3) RESTITUTION of RENT:

The restitution in rents to the tenant, Roel Dobbe, from 2015-2018 which totals the huge sum of \$3,900 is a **violation** of the “**Due Process Clause**” in the California Constitution, Article I, section 1, and a **violation** of the “**Due Process Clause**” in the United States Constitution, 14th Amendment.

It is true that due to lack of knowledge, I failed to provide the tenant, Roel Dobbe, with a RAP Notice in 3 languages. However, since the City of Oakland has **never**

informed me, or other paying member, of the mandatory RAP Form, I believe it should take some responsibility and alleviate such a severe penalty assessed to the landlord. After all, if the landlord is legally bound to pay the annual RAP fee to the City, is not the City simultaneously legally bound to its members to simply **include** a RAP Notice with the Annual RAP Fee Statement mailing, to inform its members of the severe consequences of this ordinance?

In light of the facts that (1) the ordinance is extremely unreasonable and punitive to the landlord, and (2) the City takes **no** responsibility to keep its paying members well informed, I would appreciate your consideration to make the landlord's penalty less severe; that is, at least 1/2 of \$3,900 or **\$1,900**.

The current Tenants, Jonathan Lee and Taryn Elliott, have totally disregarded the fact that any and all reimbursements go to the petitioner, Roel Dobbe, and **not** directly to them, so that they may benefit from a lower rent. Consequently, once again they have deducted the proportioned amounts set by the Hearing Officer, who mistakenly thought that Roel Dobbe was still residing on the property, and made a direct deposit to my account in the sum of **\$2,468** as the **June rent**. I informed them that the amount was not acceptable, but they refused to co-operate.

In addition, they have allowed the residence of a subleasee, Eric Parsonnet, into the premises, without my approval, while disregarding my decision that he is not a financially qualified subtenant, based on his very weak income.

I deeply appreciate your efforts in reviewing my appeals and reconsidering the penalties. The outcome will also help get the records straight for the current tenants, Jonathan Lee and Taryn Elliott, who have disregard for the ordinances, assume they can benefit from the reimbursements which are only due to Roel Dobbe, and assume all the power to take over my premises by allowing a sublease without my approval; in essence, they are violating the Lease. I appreciate your help in a resolution to these issues as soon as possible.

Thank you for your attention.

Sincerely,

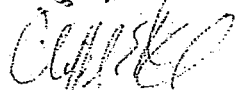
A handwritten signature in cursive script that reads "Rosalie Marshall".

Rosalie Marshall

Lastly, I would like to make it clear that should you decide to continue to reside at the premises, Ms. Marshall has declined your requests to: (1) waive her rights to annual CPI increases which she is entitled to; (2) waive any late payment fees; (3) reduce the rent to a date that was paid in the past, as she has no obligation to do so. Therefore, your rent would be based on the May 7, 2017 lease plus the CPI increase to a total rent of \$3,018/mo. as of June 1, 2018.

If you decide to vacate when your lease terminates on May 31, 2018, let Ms. Marshall know by the end of April, so that you can schedule a pre-move out inspection concerning your security deposit. Thank you.

Sincerely,



Clifford Fried, Esq.

cc: Rosalie Marshall

1901 Harrison Street, 14th Floor, Oakland, CA 94612
Tel 510-625-0100 Fax 510-550-3621

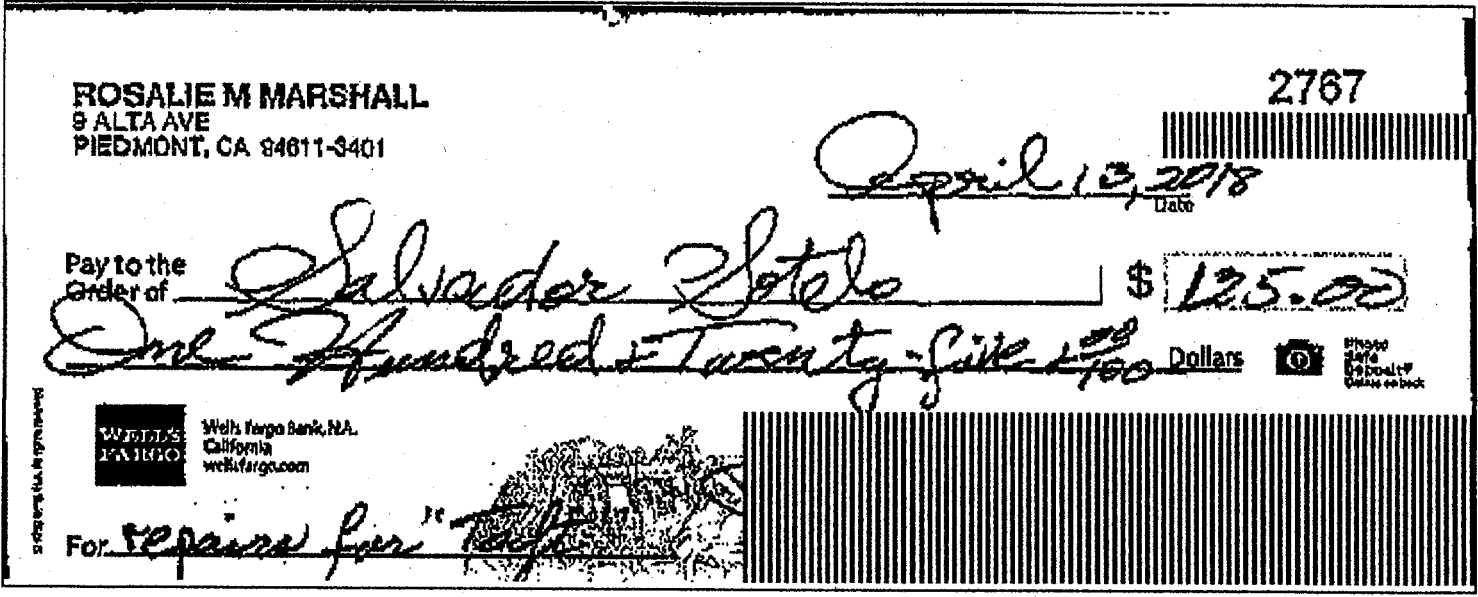
625 Market Street, 4th Floor, San Francisco, CA 94105
Tel 415-421-0100 Fax 415-762-5435

www.friedwilliams.com

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Skip to main content
Check Details

Check Number	2767
Date Posted	04/16/18
Check Amount	\$125.00



For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

Sullivan, Margaret

RECEIVED
CITY OF OAKLAND
RENT REGISTRATION PROGRAM

From: Taryn Elliott <taryn713@gmail.com>
Sent: Thursday, January 10, 2019 5:49 PM
To: Sullivan, Margaret.
Cc: Jonathan Lee; Roel Dobbe
Subject: Request to postpone appeal hearing, Cas T17-0477

2018 JAN 10 PM 6: 02

Hi Ms. Sullivan,

My name is Taryn Elliott, and I am emailing in regards to the Appeal Hearing for Case T17-0477. I am one of the tenants at 5556 Taft Avenue along with Jonathan Lee and Roel Dobbe (whose name appears on the case file).

I am emailing to request a postponement to the hearing because we never received a copy of the appeal documents from the other party, Ms. Marshall. I would also like to receive a copy of the appeal documents.

On Sunday 1/6, I received a notice in the mail informing us that the hearing on the appeal to this case will be held on January 17th. (The notice was sent on December 18th but we were traveling for the holidays and did not see it until 1/6.) This was the first notification that my roommates and I had received that Ms. Marshall had submitted an appeal. I called Ms. Sullivan to ask if we should have received a copy of the appeal documents, and I learned that on the appeal petition, Ms. Marshall had written that Roel no longer lives at the premises and did not leave a forwarding address, so she had sent the appeal documents only to his email. Roel is currently working on a postdoc in New York City and has a subletter living with us. However, Jonathan Lee and I are also tenants on the lease at 5556 Taft Avenue and should have received a copy of the appeal documents by mail back in June when the appeal was submitted according to the appeal form.

Please let me know if it will be possible to postpone the appeal and to send us a copy of the appeal documents.

Thanks,
Taryn Elliott