

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
PANEL MEETING

April 18, 2019

7:00 P.M.

CITY HALL, HEARING ROOM #2
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. T18-0105, Rachal v. Franko
 - b. T18-0153, Bush v. Dang
 - c. T18-0098, Aruguete v. Ogbeide
5. ADJOURNMENT

Accessibility. This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or Spanish interpreter, please email sshannon@oaklandnet.com or call (510) 238-3715 or California relay service at 711 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantones, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a sshannon@oaklandnet.com o llame al (510) 238-3715 o 711 por lo menos cinco días hábiles antes de la reunión. Se le pide de favor que no use perfumes a esta reunión como cortesía para los que tienen sensibilidad a los productos químicos. Gracias.

會場有適合輪椅出入設施。需要殘障輔助設施, 手語, 西班牙語, 粵語或國語翻譯服務, 請在會議前五個工作天電郵 sshannon@oaklandnet.com

或致電 (510) 238-3715 或 711 California relay

service。請避免塗搽香氛產品，參加者可能對化學成分敏感。

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.: T18-0105
Case Name: Rachal v. Franko
Property Address: 2075 84th Ave., Oakland, CA
Parties: Billie Rachal (Tenant)
Belia Franko (Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	January 16, 2018
Owner Response filed	April 18, 2018
Hearing Decision mailed	August 10, 2018
Owner Appeal filed	August 27, 2018

T18-0105 MS | EL



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

For date stamp.
2018 JAN 16 PM 4:04
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

Your Name <i>Billie Rachal</i>	Rental Address (with zip code) <i>2075 84th 94621</i>	Telephone: <i>510 472-6657</i>
		E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) <i>Mrs Belia Franko</i>	Mailing Address (with zip code) <i>654 Francisco Ct Walnut Creek CA 94598-2213</i>	Telephone: <i>925 788-6009</i>
		Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 1

Type of unit you rent (check one)	<input checked="" type="checkbox"/> House	<input type="checkbox"/> Condominium	<input 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 checked="" 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.

(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.)
(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.
(g) The increase I am contesting is the second increase in my rent in a 12-month period.
(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)
(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: 10-3-2004 Initial Rent: \$ 1200 /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: 11-17-17. 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		
<u>11-17-18</u>	<u>1-1-18</u>	\$ <u>1100</u>	\$ <u>1280</u>	<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 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.

Billie Rachel
Tenant's Signature

1-16-18
Date

[Empty rectangular box]

[Empty rectangular box]

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).

Billie Rachel
Tenant's Signature

1-16-18
Date

VI. IMPORTANT INFORMATION:

Time to File

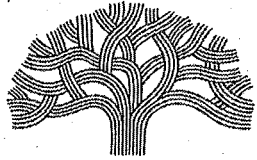
This form must be received at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit.** **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): _____



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

P.O. Box 70243
Oakland, CA 94612-0243
(510) 238-3721

For date stamp.

RENT ADJUSTMENT PROGRAM
2010 APR 18 AM 11:18

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 T18- 0105

Your Name <i>Belia Franko</i>	Complete Address (with zip code) <i>654 Francisco Ct. Walnut Creek, CA 94598</i>	Telephone: <i>925-788-6009</i>
		Email: <i>belia@beliafrankoteam.com</i>
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) <i>Billie Rachal</i>	Complete Address (with zip code) <i>2075 84th Ave. Oakland, CA 94621</i>	
Property Address (If the property has more than one address, list all addresses) <i>2075 84th Ave. Oakland, CA 94621 8351 Bancroft Ave. Oakland, CA 94621</i>		Total number of units on property <i>2</i>

Have you paid for your Oakland Business License? Yes No Lic. Number: *00136642*
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: *043-4567-002*
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: *7/28/2010*

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

Type of unit (Circle One): *2* Houses/ Condominium/ Apartment, room, or live-work
on one parcel

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
	<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"/>
	<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 5/1/09 - *Purchased property on 7/28/10*

The tenant's initial rent including all services provided was: \$ 1,350 / month.

Prior owner rental agreement - I decreased rent to \$1,200
 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? 5/12/17

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	
<u>5/12/17</u>		\$	\$	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<u>11/17/17</u>	<u>1/1/18</u>	\$ <u>1,200</u>	\$ <u>1,280</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

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

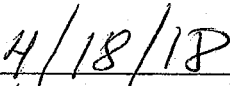
If the petition filed by your tenant claims **Decreased Housing Services**, state your position regarding the tenant's claim(s) of decreased housing services. If you need more space attach a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

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

Sent to Tenant

November 17, 2017

To Billy Rachel

Re: NOTICE of Rent Increase for 2075 84th Ave. Oakland, CA 94621

This is to let you know that effective January 1, 2018 your rent will be increase by 6.9% as per documentation obtained by the City of Oakland Rent Adjustment Program. Please see the documentation attached.

Your effective rent will be $\$1,200 \times 6.9\% = \$1,282.80$.

So you know, I went to the Adjustment Board and they worked out the maximum % increase as per their own rules.

I hope you and your family are doing well. Wishing you a Happy Thanksgiving coming up.

God Bless you and keeps you well,



Belia Franko

654 Francisco Ct.

Walnut Creek, A 94598

925-788-6009

000011

11/17/17

Sent to Tenant

Allowable Annual Rent Increase

The Oakland Rent Adjustment Ordinance (O.M.C. 8.22.070) and Rent Adjustment Program Regulations provide a framework for rent increases in covered rental units. The following is a summary only. For complete information, please consult the Ordinance and Regulations.

Tenants can be given only one rent increase in any 12-month period. An increase cannot happen earlier than 12 months after a tenant's move-in date or 12 months after the last rent increase.

The Oakland Rent Adjustment Ordinance provides for an Allowable Annual Rent Increase based on the regional Consumer Price Index ("CPI"). A new CPI rate takes effect each July 1, and remains in effect for rent increases through June 30 of the following calendar year.

The annual CPI rate for rent increases effective July 1, 2017 through June 30, 2018, is 2.3%. The rate cannot be applied to rent increases that take effect earlier than July 1, 2017.

A property owner can raise the rent above the CPI rate, based on "justifications" listed in the Ordinance and Regulations. One justification is "banking." "Banking" refers to deferred annual CPI rent increases that an owner can carry forward, subject to limitations (See Regs.-Appendix A, 10-5). An increase based on banking cannot be higher than 3X the current year's CPI. The Ordinance also has noticing requirements for giving a rent increase. California law requires that tenants be provided with written advance notice of a rent increase of 30 days (for increases 10% or less) or 60 days (for increases greater than 10%) before the effective date of the increase. NOTE: Oakland rent law prohibits rent increases higher than 10%.

July 1, 2017 = 2.3%

• July 1, 2017: 2.3% x 3 = 6.9% (MAX)

• July 1, 2016: 2.0%

• July 1, 2015: 1.7%

• July 1, 2014: 1.9%

• July 1, 2013: 2.1%

• July 1, 2012: 3.0% - *8% = 2.2%

• July 1, 2011: 2.0%

• July 1, 2010: 2.7%

• July 1, 2009: 0.7%

• July 1, 2008: 3.2%

• July 1, 2007: 3.3%

• May 1, 2006: 3.3%

• May 1, 2005: 1.9%

• May 1, 2004: 0.7%

• May 1, 2003: 3.6%

• July 1, 2002: 0.6%

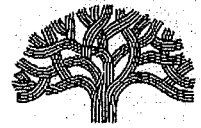
• March 1, 1995 - June 30, 2002: 3% per year

3/2013
3/2012
3/2011

4.7%
6.9%

Roberto's numbers

CITY OF OAKLAND



250 FRANK H. 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: T18-0105, Rachal v. Franko
PROPERTY ADDRESS: 2075 84th Avenue, Oakland, CA
DATE OF HEARING: July 16, 2018
DATE OF DECISION: July 31, 2018
APPEARANCES: Billie Rachal, Tenant
Belia Franko, Owner
Alberta Poplar, Observer

SUMMARY OF DECISION

The Tenant's petition is granted.

ISSUE(S) PRESENTED

1. When, if ever, was the tenant first served with the Notice to Tenants (RAP Notice)?
2. Is the owner able to justify the rent increase if she did not list a justification on the Owner Response?

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000013

INTRODUCTION

The tenant filed a petition which alleges that a rent increase from \$1200.00 to \$1282.60, effective January 1, 2018, exceeds the CPI Rent Adjustment and is unjustified or is greater than 10.

The owner filed a timely response to the petition in which she claimed that the 6.9% increase was based upon the information she received from the Rent Adjustment program. No justification for the rent increase was listed on the petition.

EVIDENCE

Rental History

The tenant testified that she moved into the apartment on October 3, 2004, at an initial rent of \$1,350.00. The current owner acquired the building in 2010. At the time, she acquired the building, the tenant's rent was \$1350.00.

Subsequently, the owner reduced the tenant's rent to \$1,200.00, in March 2011. The tenant and the owner signed a new lease on March 1, 2011.

On November 17, 2017, the owner served a Notice of Rent Increase raising the tenant's rent from \$1,200.00 to \$1,282.82. The tenant testified that when she received the Notice of Rent Increase, a copy of the RAP Notice was attached.

The owner testified that the first time she served the RAP Notice was in May 2017. She also testified that she did not serve the tenant a copy of the RAP Notice when they signed the lease in March 2011.

The tenant testified that she is current on her rent and has been paying \$1200.00. The tenant further testified that she has not paid the rent increase amount.

The Owner's Response

The second page of the Owner Response form states, in pertinent part: "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." No justification is checked on that page.

Attached to the owner's response was the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice). The RAP Notice is dated May 12, 2017. During the hearing the tenant acknowledged that was her signature on the form submitted by the owner, and was the same one she received with the increase.

Also, attached to the owner's response was a document titled Allowable Annual Rent Increase. This document indicates that the annual rate for rent increases effective July 1, 2017 through June 30, 2018, is 2.3%. The owner testified that she was told that the maximum she could raise the rent was 6.9%.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

When, if ever, was the tenant given written notice of the Rent Adjustment Program (RAP Notice)?

The Rent Adjustment Ordinance requires an owner to serve the RAP Notice at the start of a tenancy¹ and together with any notice of rent increase or change in the terms of a tenancy.²

The tenant's testimony that she was given a copy of the RAP Notice in May 2017, is undisputed. Likewise, the testimony of the Landlord that she first served the RAP Notice in May 2017, is supported by the documentary evidence submitted by the Landlord.

Can the owner justify a rent increase if his Owner Response did not list a justification for the rent increase?

The owner response does not list a justification for the rent increase. A party has a due process right to know what claims the other party is making. The Rent Adjustment Program mails a copy of the tenant petition to the owner and a copy of the owner's response to the tenant. In this way, each party is afforded due process of law. Because the owner's response did not state a justification for the proposed rent increase, even though the rent increase notice was properly served, and is the within the amount allowable, no rent increase is allowed at this time. Accordingly, the rent remains \$1200.00. As the tenant, has not paid the rent increase, no restitution is due.

//

¹ O.M.C. § 8.22.060(A)

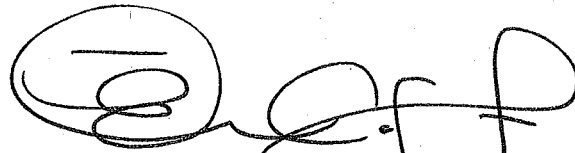
² O.M.C. § 8.22.070(H)(1)(A)

ORDER

1. Petition T18-0105 is granted.
2. The tenant's legal rent is \$1200.00 per month. The rent increase is not valid.
3. Nothing in this Order prevents the owner from increasing the rent at any time, provided the rent increase notice is served pursuant to California Civil Code §827 and the Rent Adjustment Ordinance.

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: August 1, 2018



Élan Consuella Lambert
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number T18-0105

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

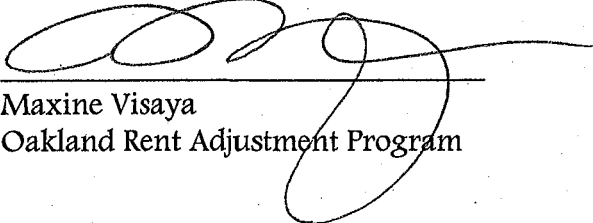
Owner
Belia Franko
654 Francisco Court
Walnut Creek, CA 94598

Owner Representative
Gerard Lam
373 - 9th Street #506
Oakland, CA 94607

Tenant
Billie Rachal
2075 84th Avenue
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 10, 2018 in Oakland, CA.



Maxine Visaya
Oakland Rent Adjustment Program

Oakland

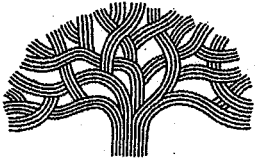
RECEIVED

For date stamp.

AUG 27 2018

RENT ADJUSTMENT PROGRAM
OAKLAND

APPEAL



CITY OF OAKLAND

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

Appellant's Name Belia Franko		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 2075 84th Ave. Oakland, CA 94621			
Appellant's Mailing Address (For receipt of notices) 654 Francisco Ct. Walnut Creek, CA 94598		Case Number 718-0105	
		Date of Decision appealed 8/24/18	
Name of Representative (if any) N/A		Representative's Mailing Address (For notices) N/A	

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: 2 (pp 3+4)

• 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 8/24, 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	Billie Rachal
Address	2075 84th Ave.
City, State Zip	Oakland, CA 94621
Name	
Address	
City, State Zip	

<u>Delia Franks</u>	<u>8/24/18</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

8/24/2018

Case: T18-0105 - AAPEAL

This is the attached explanation to #2-g and h.

On the form PROPERTY OWNER RESPONSE that I submitted to City of Oakland Rent Adjustment Program, dated 4/18/18, I forgot to check mark (#-I) of the form Banking (deferred annual increases) and Fair Return or justification to raise the rent. This was the reason my petition to raise the rent was denied.

Since acquiring the property in 2010, I have not raised the rents to the tenant Billie Rachal. Upon acquisition and assuming the lease, Mrs. Rachal rent was \$1,350, then I lower her rent to \$1,200 and has remained the same since 2010. However, under Oakland Rent Adjustment Ordinance (O.M.C. 8.22.070) and (Regs. – Appendix A, 10-5) Banking (deferred annual increases) and Fair Return, I am allowed to raise the rent as per **Allowable Annual Rent Increase** page attached, and calculation stated, not to exceed 3X the current year's CPI or 3X, 2.3% or 6.9% of \$1,200. **THEREFORE MY JUSTIFICATION TO APPEAL AND TO RAISE THE RENT TO \$1,282.80 PER MONTH EFFECTIVE JANUARY 1, 2018.**

I trust you will find this appeal to your satisfaction. Thank you,



Belia Franko, Owner

654 Francisco Ct.
Walnut Creek, CA
925-788-6009

000020

3

11/17/17

Allowable Annual Rent Increase

The Oakland Rent Adjustment Ordinance (O.M.C. 8.22.070) and Rent Adjustment Program Regulations provide a framework for rent increases in covered rental units. The following is a summary only. For complete information, please consult the Ordinance and Regulations.

Tenants can be given only one rent increase in any 12-month period. An increase cannot happen earlier than 12 months after a tenant's move-in date or 12 months after the last rent increase.

The Oakland Rent Adjustment Ordinance provides for an Allowable Annual Rent Increase based on the regional Consumer Price Index ("CPI"). A new CPI rate takes effect each July 1, and remains in effect for rent increases through June 30 of the following calendar year.

The annual CPI rate for rent increases effective July 1, 2017 through June 30, 2018, is 2.3%. The rate cannot be applied to rent increases that take effect earlier than July 1, 2017.

A property owner can raise the rent above the CPI rate, based on "justifications" listed in the Ordinance and Regulations. One justification is "banking." "Banking" refers to deferred annual CPI rent increases that an owner can carry forward, subject to limitations (See Regs.-Appendix A, 10-5). An increase based on banking cannot be higher than 3X the current year's CPI. The Ordinance also has noticing requirements for giving a rent increase. California law requires that tenants be provided with written advance notice of a rent increase of 30 days (for increases 10% or less) or 60 days (for increases greater than 10%) before the effective date of the increase. NOTE: Oakland rent law prohibits rent increases higher than 10%.

July 1, 2017 = 2.3%
• July 1, 2017: 2.3% x 3 = 6.9% (max)

- July 1, 2016: 2.0%
- July 1, 2015: 1.7%
- July 1, 2014: 1.9%
- July 1, 2013: 2.1%

3/2013 • July 1, 2012: 3.0% - .8% = 2.2%
 3/2012 • July 1, 2011: 2.0% > 4.7%
 3/2011 • July 1, 2010: 2.7%

6.9%

- July 1, 2009: 0.7%
- July 1, 2008: 3.2%
- July 1, 2007: 3.3%
- May 1, 2006: 3.3%
- May 1, 2005: 1.9%
- May 1, 2004: 0.7%
- May 1, 2003: 3.6%
- July 1, 2002: 0.6%
- March 1, 1995 - June 30, 2002: 3% per year

4

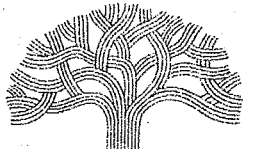
CHRONOLOGICAL CASE REPORT

Case No.: T18-0153
Case Name: Bush v. Dang
Property Address: 2230 Lakeshore Ave., #1, Oakland, CA
Parties: Mary Margaret Bush (Tenant)
Ted Dang (Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	February 14, 2018
Owner Response filed	May 14, 2018
Hearing Decision mailed	August 24, 2018
Owner Appeal filed	August 29, 2018

T18-0153 MS/EL

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp. FEB 14 2018 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

Your Name MARY MARGARET BUSH	Rental Address (with zip code) 2230 Lakeshore Avenue #1 Oakland, CA 94606	Telephone: 510 325-1493
Your Representative's Name	Mailing Address (with zip code)	E-mail: peggybush@comcast.net
Property Owner(s) name(s)	Mailing Address (with zip code)	Telephone:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Email:

Number of units on the property: _____

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 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 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 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)
<input checked="" 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: 2/1/13 Initial Rent: \$ 3000 /month
Current rent \$ 3286

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: 12/12. 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	Yes	No	Yes	No
		\$	\$	Yes	No	Yes	No
		\$	\$	Yes	No	Yes	No
		\$	\$	Yes	No	Yes	No
		\$	\$	Yes	No	Yes	No
		\$	\$	Yes	No	Yes	No
		\$	\$	Yes	No	Yes	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:

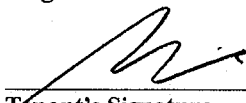
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

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

2-7-18

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 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

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):

5 of the 8 tenants in this building have made complaints against Ted Dang, landlord and these other tenants told me of program.

I am a 70 year old woman living alone. In February 2013 I moved into a one bedroom apartment at 2230 Lakeshore Avenue #1, Oakland, CA. The apartment is on the second floor in the front of the building, facing the lake. On January 17, 2018 the 10 ft. by 10 ft. plate glass window cracked. The crack was a diagonal crack about six feet long. In the middle of the crack was a hole. Fine shards of glass were spread throughout the room - I did not see any BB or rock. I did not have anything to do with the broken window.

I contacted the landlord, Ted Dang, and told him what happened. He said it was my responsibility to replace the window under the lease. My two year lease expired and was renewed for another two years, expiring January 31, 2017. I have been renting month to month since then. There is no clause in the original lease requiring that I replace the plate glass window. I've attached the lease for your consideration.

I filed a complaint with the City of Oakland Planning and Building Department and requested that an inspector look at the window and tell me whether it was a Code violation. I am attaching the Request for Service. Mr. Rojo came out, confirmed Code Violations and issued a Notice of Violation which is also attached for your information.

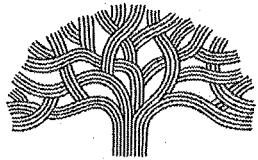
The large broken window creates a safety hazard: at the first tremor from heavy trucks on Lakeshore or an earthquake, the cracked window may fall in and hurt me or anyone else in my apartment or, if it falls out, it may hurt someone on the street. The broken window is the first thing someone sees when they come into the apartment.

The one preliminary estimate to replace the window that I've received so far is \$7500. I'm trying to get another bid.

Thank you.


Mary Margaret Bush

000027



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

P.O. Box 70243
Oakland, CA 94612-0243
(510) 238-3721

For date stamp: **CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

2018 MAY 14 PM 1:54

**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 18-0153

Your Name <i>Ted Dang</i>	Complete Address (with zip code) <i>1305 Franklin St # 500 Oakland CA 94612</i>	Telephone: <i>510 832 2628</i>
		Email: <i>tedd13@aol.com</i>
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) <i>Peggy Bush</i>	Complete Address (with zip code) <i>2230 Lakeshore Ave #1 Oakland CA 94606</i>	
Property Address (If the property has more than one address, list all addresses) <i>2230 Lakeshore Ave</i>		Total number of units on property <i>8</i>

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: *2019*

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>
_____	<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"/>
_____	<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 2/1/13.

The tenant's initial rent including all services provided was: \$ 3000 / 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? 2/1/13

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>	
		\$	\$	<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

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.

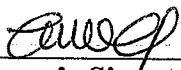
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

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

3/5/18

Date

**LANDLORD'S RESPONSE TO TENANTS PETITION
T18-0153
2230 LAKESHORE AVE, APT 1, OAKLAND, CA 94606**

TENANTS PETITION IS NOT NECESSARY AND UNJUSTIFIED.

PETITION IS BEING FILED AS A CLAIM FOR DECREASED HOUSING SERVICES DUE TO A HOLE IN THE WINDOW.

THE HOLE IN THE WINDOW WAS NOT CAUSED BY ANY ACTION OF LANDLORD. TENANT SAYS IT WAS CAUSED BY A BB FIRED FROM ACROSS THE STREET.

THE DAMAGED WINDOW HAS A HOLE AND CRACK BUT IS STILL STABLE AND PROVIDES PROTECTION FROM THE ELEMENTS.

BECAUSE OF ITS SIZE (7' TALL BY 10' WIDE) AND BEING LOCATED ON THE THIRD FLOOR, THE WORK REQUIRED TO REPLACE IT IS NOT SIMPLE. THE REPLACEMENT GLASS COULD NOT BE CARRIED THROUGH THE BUILDING. A LIFT WOULD BE NECESSARY TO BRING IT UP THE FRONT OF THE BUILDING.

ALTERNATE SOLUTIONS WERE BEING EXPLORED RANGING FROM INSTALLING SMALLER GLASS PANES TO INSTALLING A NEW WINDOW WITH SIDE PANELS.

TENANTS LEASE SAYS THAT TENANT IS RESPONSIBLE FOR RETURNING THE UNIT IN THE SAME CONDITION AS TAKEN.

LANDLORD NEEDED TIME TO DETERMINE WHO IS RESPONSIBLE FOR THE COST. IT WAS DETERMINED THAT THE INSURANCE COMPANY WOULD COVER MOST OF THE COSTS LESS THE DEDUCTIBLE. THE INSURANCE COMPANY WANTED DETAIL COST ESTIMATES FROM SEVERAL CONTRACTORS.

MANY CONTRACTORS WERE CONTACTED. MANY DID NOT RESPOND. CONTRACTORS ARE VERY BUSY. THIS WAS NOT AN EASY JOB AND THERE WAS SIGNIFICANT LIABILITY. THE TENANT WAS INSISTING THAT THE WINDOW BE REPLACED EXACTLY AS IT WAS. THE LANDLORD AND INSURANCE COMPANY AGREED.

THE TENANT HAS FOUND A CONTRACTOR THAT SHE LIKES, A CONTRACT HAS BEEN SIGNED, AND THE WORK IS SCHEDULED.

CITY OF OAKLAND



250 FRANK H. 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: T18-0153, Bush v. Dang

PROPERTY ADDRESS: 2230 Lakeshore Avenue, Unit 1
Oakland, CA

DATE OF HEARING: August 08, 2018

DATE OF DECISION: August 24, 2018

APPEARANCES: Mary Margaret Bush, Tenant
Ted Dang, Owner
Allen Sam, Observer
Carlos Didrickson, Observer
Glenda Didrickson, Observer

SUMMARY OF DECISION

The Tenant's petition is granted.

ISSUE(S) PRESENTED

1. When, if ever, was the tenant given written notice of the Rent Adjustment Program (RAP Notice)?

000032

2. Has the tenant suffered decreased housing services?
3. If so, what, if any, restitution is owed to the tenant and how does that impact the rent?

INTRODUCTION

The tenant filed the petition, on February 14, 2018, which alleged that there is a current health, safety, fire or building code violation in her unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repairs and maintenance and that the owner is providing her with fewer housing services than she received previously. Her decreased service was listed as cracked plate glass window measuring ten feet by ten feet.

The owner filed a timely Owner Response to the tenant petition in which he asserted the petition was unnecessary and unjustified because he did not create the hole in the window and that a contractor had been engaged to repair the window.

EVIDENCE

Rental History

The tenant testified that she moved into the apartment on February 1, 2013, at an initial rent of \$3,000.00. The tenant's petition indicates that she was first given the RAP Notice in December 2012. The tenant testified that her rent is currently \$3,286.89.

Decreased Housing Services

The tenant's petition cites 1 basis upon which her housing services are decreased, a broken window. The tenant testified that when she moved in the window was not damaged. The tenant testified that the window broke on January 17, 2018, and that she notified the landlord on the same day.

The tenant provided a Notice of Violation dated January 24, 2018, which indicates that the tenant's unit was inspected on January 23, 2018. The Notice of violation indicates that there is a hole in the window.

//

FINDINGS OF FACT AND CONCLUSIONS OF LAW

When, if ever, was the tenant given written notice of the Rent Adjustment Program (RAP Notice)?

The Rent Adjustment Ordinance requires an owner to serve the RAP Notice at the start of a tenancy¹ and together with any notice of rent increase or change in the terms of a tenancy.²

The tenant's testimony that she was given a copy of the RAP Notice when she signed the lease is undisputed. Likewise, the testimony of the tenant, that she received a copy of the RAP Notice, is further supported by the owner's petition.

Accordingly, it is found that the tenant was given written notice of the RAP Program on February 1, 2013.

Has the tenant suffered decreased housing services?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is 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 either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant's unit.

There is also a time limit for claiming decreased housing services. If the decreased service is the result of a noticed or discrete change in services provided to the tenant, the petition must be filed within 90 days after of whichever is later: (1) the date the tenant is noticed or first becomes aware of the decreased housing service; or (2) the date the tenant first receives the RAP Notice.

If the decreased housing service is for a condition that is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed. Since the evidence established that the tenant received the RAP Notice in 2013, the tenant is entitled to restitution from January 2018 to August 31, 2018.

¹ O.M.C. § 8.22.060(A)

² O.M.C. § 8.22.070(H)(1)(A)

³ O.M.C. § 8.22.070(F)

⁴ O.M.C. § 8.22.110(E)

For a tenant's claim for decreased housing services to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs, except for those items the owner should have been aware of based upon a reasonable annual inspection.

Broken window

The testimony is undisputed that there is a hole in the tenant's window. Moreover, the hole in the tenant's window is a violation of the housing or building code which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 10% rent credit from January 2018 through August 31, 2018. Additionally, she is entitled to an ongoing rent credit, in the amount of 10%, until the Violation is abated.

What, if any, restitution is owed to the tenant and how does that impact the rent?

As indicated above, the legal rent for the unit is \$3,286.89 per month. Since January 2018, the tenant has been paying that amount.

Service Lost	From	To	VALUE OF LOST SERVICES			No. Months	Overpaid
			Rent	% Rent Decrease	Decrease /month		
Broken window	1-Jan-18	31-Aug-18	\$3,286.89	10%	\$ 328.69	8	\$ 2,629.51
TOTAL LOST SERVICES							\$ 2,629.51
RESTITUTION							
MONTHLY RENT							\$3,287
TOTAL TO BE REPAID TO TENANT							\$ 2,629.51
TOTAL AS PERCENT OF MONTHLY RENT							80%
			AMORTIZED OVER	12	MO. BY REG. IS		\$ 219.13
			OR OVER		MONTHS BY HRG. OFFICER IS		

The chart above indicates restitution for decreased housing services valued at \$2,629.51.

The tenant is entitled to restitution of overpaid rent in the amounts listed above for ongoing decreased housing services. Restitution is usually awarded over a 12-month period.⁵ Amortized over 12 months the restitution amount is \$219.13 per month.

⁵ Regulations, § 8.22.110(F)

Therefore, the tenant's monthly restitution amount is subtracted from the current base rent of \$3,286.89 for a total of \$3,067.76. From September of 2018 to August 2019, the rent will be \$3,067.76, less the deduction for ongoing decreased housing services.

ORDER

1. Petition T18-0153 is granted.
2. The base rent for the subject unit is \$3,286.89 per month before deductions for decreased housing services.
3. The total overpayment by the tenant for past decreased housing services is \$2,629.51.
4. Due to ongoing conditions, the tenant is entitled to a 10% rent decrease.
5. The tenant's rent is stated below as follows:

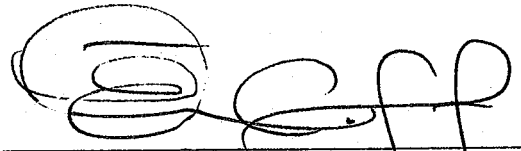
Base rent	\$3,286.89
Less restitution	\$ 219.13
Less ongoing decreased services	\$ 328.69
Net Rent on September 1, 2018	\$2,739.07

6. The tenant's rent for the months of September 2018, through August 2019, is \$2,739.07. The rent will revert to the current legal rent of \$2,739.07, in September 2019.
7. If the owner wishes to, they can repay the restitution owed to the tenant at any time. If they do so, the monthly decrease for restitution ends at the time the tenant is provided restitution.
8. Once the Notice of Violation is abated, after further City inspection, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 10% (\$328.69).

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: August 24, 2018



Elan Consuella Lambert
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number T18-0153

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:

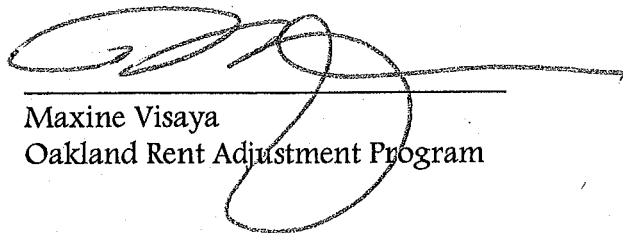
Documents Included
Hearing Decision

Owner
Ted Dang
1305 Franklin Street #500
Oakland, CA 94612

Tenant
Mary Margaret Bush
2230 Lakeshore Avenue #1
Oakland, CA 94606


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 24, 2018 in Oakland, CA.



Maxine Visaya
Oakland Rent Adjustment Program

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	2018 AUG 29 PM 12:56
		<u>APPEAL</u>

Appellant's Name <i>Ted Dang</i>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <i>2230 Lakeshore Ave # 1</i>			
Appellant's Mailing Address (For receipt of notices) <i>1305 Franklin St # 500 Oakland, CA 94612</i>		Case Number <i>718 - 0153</i>	Date of Decision appealed <i>8/24/18</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.)*
 - 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.

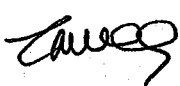
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue 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 _____, 20____, 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:

<u>Name</u>	Margaret Bush
<u>Address</u>	2230 Lakeshore Ave # 1
<u>City, State Zip</u>	Caldland, CA 94606
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	8/29/18
---	---------

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

For more information phone (510) 238-3721.

GROUND FOR APPEAL

2(a) DECISION IS INCONSISTENT WITH RENT BOARD REGULATIONS

TENANT DID NOT SHOW ANY DECREASE IN HOUSING SERVICES. THERE WAS A BB HOLE AND CRACK IN THE WINDOW CAUSED BY AN UNKNOWN THIRD PARTY. BESIDES THIS COSMETIC, THE TENANT HAD FULL ENJOYMENT OF THE PREMISES. THE HABITABILITY OF THE TENANTS UNIT WAS NOT SERIOUSLY AFFECTED.

WHEN WORK WAS APPROVED TO REPLACE THE WINDOW, IT WAS THE TENANT'S DECISION TO DELAY THE WORK UNTIL CONVENIENT. THIS DECISION SHOWS THAT IT WAS NOT THAT URGENT

DECISION NOTES THAT TENANT IS ENTITLED TO RENT CREDIT ONLY UNTIL THE VIOLATION IS ABATED. QUESTION IS WHETHER THE TENANT'S DECISION TO DELAY WORK SHOULD AFFECT NUMBER OF MONTHS INVOLVED.

2(E) DECISION AND CALCULATION OF DECREASE IN HOUSING SERVICES OF 8 MONTHS IS NOT SUPPORTED BY EVIDENCE.

BB HOLE IN WINDOW WAS MADE 1/24/2018
NO EMERGENCY BOARD UP WAS REQUIRED

AFTER CHECKING WITH CONTRACTORS AND INSURANCE COMPANY,
A CONTRACT WITH TENANTS CHOICE OF CONTRACTORS WAS SIGNED
ON 4/25/2018. TOTAL TIME WAS 3 MONTHS.

TENANT CHOSE TO DELAY WORK UNTIL 7/15/2018. DOWN TIME WAS LESS
THAN 6 MONTHS.

CHRONOLOGICAL CASE REPORT

Case No.: T18-0098
Case Name: Aruguete v. Ogbeide
Property Address: 3851 Madrone Ave., Oakland, CA
Parties: Eye Aruguete (Tenant)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	January 9, 2018
Owner Response filed	June 15, 2018
Hearing Decision mailed	August 27, 2018
Owner Appeal filed	September 7, 2018
Tenant Response to Owner Appeal	September 24, 2018

T18-0098 RA/ER

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Griffin, Debra...

Rent Adjustment Program JAN - 9 2018

Tenant Petition 8905

RENT ADJUSTMENT PROGRAM
OAKLAND

Housing and
Community
Development

Case Number Not Assigned

Case Management

Applicant Information

Print/Oracle BI

Tenant Applicant Eve Aruguete
3851 Madrone Ave
Oakland, CA 94619
Phone: (213) 568-9380
Email: Eve_a1@yahoo.com

Resources

Filer Eve Aruguete
3851 Madrone Ave
Oakland, CA 94619
Phone: (213) 568-9380
Email: Eve_a1@yahoo.com

Public Dashboard

Rental Property Information

Type of unit you rent * Apartment, Ro

Number of Units 2

Approximate range of units in the building 2-4 Units (Dupl

Are you current on your rent? Yes No

- Housing and Community Development

- Case Management

- Print/Oracle BI

- Resources

- Public Dashboard

If you are not current on your rent, please explain.

Rent Adjustment Program

Griffin, Debora... ▾

(If you are legally withholding rent state what, if any, habitability violations exist in your unit.)

Rental History

When did you move into the unit?

Initial monthly rent

When did the property owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)?

Did the property owner provide you with a RAP Notice, a written notice of the existence of the Rent Adjustment Program?

Yes No

Is your rent subsidized or controlled by any government agency, including HUD (Section 8)?

Yes No

Have you ever filed a petition for your rental unit?

Yes No

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

Mediation Requested

Yes No

Save

Cancel

Grounds for Petition

Add · Remove

- Decrease in Services
- Exemption Based on Fraud or Mistake

2 records

Rent Increase

Add · Remove

- | | | | | | | |
|--------------------------|-----------------|----------------|-----------|-------------------|-----------------|-------|
| <input type="checkbox"/> | NOTICE
GIVEN | NOTICE
DATE | EFFECTIVE | INCREASED
FROM | INCREASED
TO | CONTE |
|--------------------------|-----------------|----------------|-----------|-------------------|-----------------|-------|

No tenant rental increment infoes to show...

0 records

Loss of Services

Add · Remove

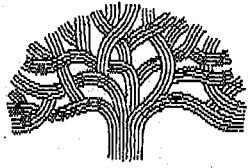
- | | | | | | |
|--------------------------|-----------------------------------|-------------------|----------------|-----------------------------|---------------|
| <input type="checkbox"/> | REDUCED
SERVICE
DESCRIPTION | ESTIMATED
LOSS | NOTICE
DATE | LOSS
BEGAN
ON
DATE | DATE
STAMP |
|--------------------------|-----------------------------------|-------------------|----------------|-----------------------------|---------------|

No tenant lost service infoes to show...

0 records

For more information regarding the Rent Adjustment Program, Please contact: City of Oakland, Rent Adjustment Program, Dalziel Building 250 Frank H. Ogawa Plaza Suite -

RECEIVED



CITY OF OAKLAND

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

For date stamp.

JUN 15 2018

RENT ADJUSTMENT PROGRAM

**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 - 18-0098

Your Name FESTUS OBEIDE, Trustee THE DONNA RAË PITTMAN	Complete Address (with zip code) 2935 BAYWALK RD ALAMEDA, CA 94502	Telephone: 510-967-6060
		Email: [Handwritten email address]
EVE ARUGUEIE	3851 MADRONE AVE OAKLAND, CA 94619	
Property Address (If the property has more than one address, list all addresses) 3851 MADRONE AVE OAKLAND, CA 94619		Total number of units on property 1

Have you paid for your Oakland Business License? Yes No Lic. Number: 00011659
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: EXEMPTED
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: 08/06/15.

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>
_____	<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"/>
_____	<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 _____.

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.

<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>	
		\$ _____	\$ _____	<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

III EXEMPTIONS

X THE UNIT IS A SINGLE FAMILY RESIDENCE WITH A FINISHED BASEMENT.

QUESTIONS

1- NO

2- NO

3- NO

4- NO

5- NO

6- YES

7- NOT A CONDOMINIUM

THE DELAY of OUR RESPONSE was BECAUSE WE DID NOT RECEIVE THE COMPLAINT DUE TO OUR ADDRESS BEING INCOMPLETE (we are in Suite 1) at THE TIME of MAILING.

HOWEVER, OUR RESPONSE IS THAT WE ARE EXEMPT.
(SEE DOCUMENTS ATTACHED).

Property Location

Address:	3851 MADRONE AVE	City:	OAKLAND	Zip:	94619-2731
APN#:	030-1968-005-00	Use Code:	Single Family Residence	County:	Alameda
Tract:	HIGH STREET TERRACE	Census Tract:	4079.00	Zone:	
Map Page/Grid:	650/ G6	Legal Desc:	MAP 22 PG 92 BLK 18 PART OF LOT 24,25		
Total Assessed Value:	225,942	Tax Amount:	4,171.52		
Percent Improvement:	29.00	Tax Year:	2017		

Current Owner Information

Current Owner:	PITTMAN, DONNA R/OGBEIDE, FESTUS E TR	Owner Address:	2935 BAYWALK RD
City, State, Zip:	ALAMEDA, CA, 94502-7912	Owner Occupied:	No
Last Transaction:	08/06/2015	Deed Type:	quitclaim/deed of trust
Amount:		Document:	0000216762

Last sale Information

Transferred From:	BUTTS	Seller Address:	
Recording / Sale Date:	01/13/1988 /	Prior Recording / Sale Date:	/
Most Recent Sale Price:	137,000	Prior Sale Price:	
Document Number:	0000009229	Prior Document No.:	
Document Type:	high liability	Prior Document Type:	

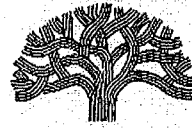
Lender Information

Lender:	GREAT AMERICAN FED'L SAVI	Full/Partial:	F
Loan Amount / 2nd Trust Deed:	123,000 / 0	Loan Type:	conventional variable

Physical Information

Building Area:	961	# of Bedrooms:	2	Lot Size:	3,800
Additional:	0	# of Bathrooms:	1.00	Year Built / Effective:	1937 / 1937
Garage:	0	# of Stories:	1	Heating:	
First Floor:	0	Total Rooms:	6	Cooling:	
Second Floor:	0	# of Units:	1	Roof Type:	
Third Floor:	0	Garage/Carport:	Yes /	Construction/Quality:	Wood Frame / 6
Basement Finished:	0	Fireplaces:	0	Building Shape:	L-Shaped
Basement Unfinished:	0	Pool/Spa:	No	View:	

CITY OF OAKLAND



250 FRANK H. 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: T18-0098, Aruguete v. Ogbeide
PROPERTY ADDRESS: 3851 Madrone Avenue, Oakland, CA
DATE OF HEARING: July 09, 2018
DATE OF DECISION: August 1, 2018
APPEARANCES: Eve Aruguete, Tenant

SUMMARY OF DECISION

The tenant's petition for decreased housing services is granted in part.

ISSUE(S) PRESENTED

1. Is the subject unit exempt from the Rent Adjustment Program?
2. When, if ever, was the tenant given written notice of the Rent Adjustment Program (RAP Notice)?
3. Has the tenant suffered decreased housing services?

4. If so, what, if any, restitution is owed to the tenant and how does that impact the rent?

INTRODUCTION

The tenant filed the petition on January 9, 2018, which alleges that her housing services have decreased. The petition did not describe the decreased housing services claimed. On April 11, 2018, the tenant provided a description of the decrease housing services. The owner filed an untimely response on June 15, 2018, claiming he was exempt from the Ordinance and the RAP fee. Attached to the untimely was response was evidence of the owner's business license. The owner did not appear at the hearing.

EVIDENCE

Rental History

The tenant moved into the apartment on August 4, 2016. At the inception of her tenancy her unit consisted of a single-family residence including an unfinished basement, she had exclusive use of all the space and her rent was \$2,600.00.

The tenant indicated in her petition that the RAP Notice was provided. There was no evidence when the RAP notice was provided to the tenant.

The tenant testified that around September 9, 2017, she discussed reducing her rent with the owner, and initially offered to pay \$1600.00 per month. The owner proposed \$1800.00 per month. The tenant testified that she started paying the landlord \$1,800 for rent effective October 1, 2017. The tenant was unclear if she and landlord came to an agreement on that amount, and she has been paying that amount since October 2017.

Subsequently, the owner demanded rent in the amount of \$2,200.00. On November 29, 2017, the tenant sent the owner a letter confirming that she was accepting his offer to pay \$1800.00, per month as rent.

The tenant also testified that she discussed dividing the utilities with the owner because he does not want to install new meters.¹

Decreased Housing Services

The tenant's petition cites that her housing services were decreased. The tenant testified that her housing services were decreased beginning in July 2017 when the owner started to convert her basement into another unit with a kitchen and bathroom. She testified that there are tenants residing in that space now and she no longer has use of the basement.

Garage

The tenant testified that on July 9, 2017, she lost the use of her basement office, which was in the garage, when the owner asked her to move her office upstairs to accommodate the construction. She testified that she still had the use of the half the basement which was the storage/laundry room.

Storage/Laundry Room

The tenant also testified that on September 4, 2017, she lost use of the storage/laundry room. The tenant testified that the landlord did create a new shared laundry for her and the other tenants.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Exemption

Costa-Hawkins: The Costa-Hawkins Rental Housing Act² provides that a dwelling or unit which is separately alienable from any other dwelling or unit is exempt from local rent control, except under certain circumstances. The Oakland Rent Adjustment Ordinance specifically states that if a unit is covered under Costa-Hawkins it is exempt from the Ordinance.³

¹ The issue of utilities pursuant to OMC Regulation 10.1.10 was not raised by the tenant in her petition and as such was not addressed herein.

² Civil Code Section 1954.52(a)(3)

³ O.M.C. Section 8.22.030(A)(7)

Exceptions to the Application of Costa-Hawkins:

A single-family residence is exempt from local rent control laws unless one or more of the following situations applies:

- (1) The tenancy began before January 1, 1996
- (3) The prior tenant was evicted for no cause
- (4) The prior tenant vacated after being given a notice of rent increase
- (5) There were serious health, safety, fire or building code violations for which the owner was cited, and which were not corrected for six months before the start of the current tenancy.

The tenant's testimony that she rented a single-family residence including and unfinished basement is undisputed. Likewise, the tenant's testimony that there are now tenants living in the finished basement is also undisputed. Therefore, the subject unit was a single-family house. However, now that there are tenants are living in the basement, the house is no longer a single-family residence. Therefore, the house is no longer exempt from the application of the Oakland Rent Adjustment Ordinance.

When, if ever, was the tenant given written notice of the Rent Adjustment Program (RAP Notice)?

The Rent Adjustment Ordinance requires an owner to serve the RAP Notice at the start of a tenancy⁴ and together with any notice of rent increase or change in the terms of a tenancy.⁵

The tenant's petition states that she received the RAP Notice. However, the tenant's testimony that she was not given a copy of the RAP Notice when she signed the lease is undisputed. Accordingly, it is found that the tenant was not been given written notice of the RAP Program.

Has the tenant suffered decreased housing services?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent⁶ and may be corrected by a rent adjustment.⁷

⁴ O.M.C. § 8.22.060(A)

⁵ O.M.C. § 8.22.070(H)(1)(A)

⁶ O.M.C. § 8.22.070(F)

⁷ O.M.C. § 8.22.110(E)

However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant's unit.

There is also a time limit for claiming decreased housing services. If the decreased service is the result of a noticed or discrete change in services provided to the tenant, the petition must be filed within 90 days after of whichever is later: (1) the date the tenant is noticed or first becomes aware of the decreased housing service; or (2) the date the tenant first receives the RAP Notice.

If the decreased housing service is for a condition that is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed.⁸ However, where the RAP Notice has never been given, a tenant can be granted restitution for rent overpayments due to decreased housing services for a maximum of 3 years.⁹ Since the evidence established that the tenant did not receive the RAP Notice, the tenant is entitled to restitution for up to three years.

For a tenant's claim for decreased housing services to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs, except for those items the owner should have been aware of based upon a reasonable annual inspection.

The tenant's testimony was that she negotiated with the landlord for a permanent reduction in her rent to compensate her for the loss of use of the basement. Accordingly, it is found that the parties negotiated rent reduction for the loss of use of the basement compensates the tenant and therefore she has no decrease in housing services. As there is no decrease in housing services, no restitution is due.

ORDER

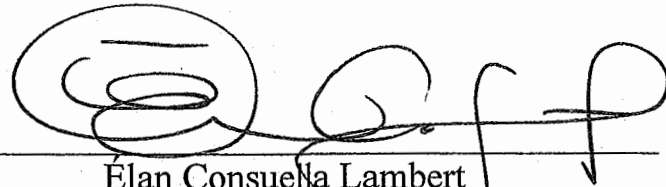
1. Petition T18-0098 is granted in part.
2. The current legal rent for the subject unit is \$1,800.00 per month.

⁸ O.M.C. § 8.22.090(A)(3)

⁹ Appeal Decision in Case No. T06-0051, Barajas/Avalos v. Chu

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: August 1, 2018

A handwritten signature in black ink, appearing to read 'Elan Consueña Lambert', written over a horizontal line.

Elan Consueña Lambert
Administrative Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number T18-0098

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
Festus Obeide
2935 Baywack Road
Alameda, CA 94502

Owner
Festus Ogbeide
Gao Associates
3035 Chapman St Apt. #1
Oakland, CA 94601

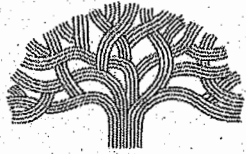
Tenant
Eve Aruguete
3851 Madrone Ave
Oakland, CA 94619

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 27, 2018 in Oakland, CA.


Maxine Visaya
Oakland Rent Adjustment Program

000058



CITY OF OAKLAND

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

For date stamp

RECEIVED

SEP -7 2018

RENT ADJUSTMENT PROGRAM
OAKLAND
APPEAL

Appellant's Name FESTUS OGBEIDE		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 3851 MADRONS AVE OAKLAND, CA 94619			
Appellant's Mailing Address (For receipt of notices) 3035 CHAPMAN ST. STE 1 OAKLAND, CA 94601		Case Number T-18-0698, Aruzeta v. Ogbide	Date of Decision appealed 8-1-18
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.)*

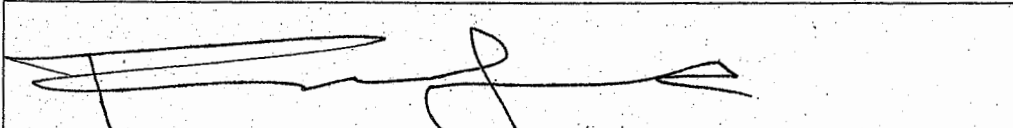
For more information phone (510) 238-3721.

- 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 _____, 20____, 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:

<u>Name</u>	EVE ARUGUETE
<u>Address</u>	3851 MADRONE AVE
<u>City, State Zip</u>	OAKLAND, CA 94619
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	09/04/18
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.

EXPLANATION

To: CITY of OAKLAND
Housing and Community
Development Department
Rent Adjustment Program

THE GROUNDS FOR MY APPEAL ARE BASED ON PARAGRAPH 2e and 2f OF YOUR APPEAL FORM:

The tenant's "DECREASE IN HOUSING SERVICES" was the temporary disruption and inconvenience of construction, for which the tenant was compensated by a \$1,000/mo TEMPORARY REDUCTION IN RENT.

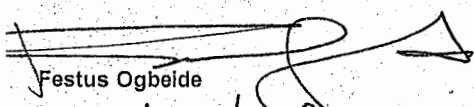
The only "HOUSING SERVICES" lost by the tenant was a storage area in the basement (and not stipulated in the lease). The cost of storage for comparable square footage is approximately \$165/mo. I have VOLUNTARILY reduced the tenant's rent by \$400/mo.

Convenient access to the laundry area has been restored, which, in turn restores the ESSENTIALS and SPECIFICS of the LEASE AGREEMENT.

IN RESPONSE TO THE ISSUES PRESENTED in the HEARING DECISION:

- 1 - The owner believed that the property, being a SINGLE FAMILY RESIDENCE (SFR) with an ACCESSORY DWELLING UNIT (ADU) (without a separated address or separate utilities) was exempt from RAP.
- 2 - In light of the owner's understanding of issue #1, he believed that NO RAP NOTICE WAS REQUIRED.
- 3 - The tenant's DECREASE IN HOUSING SERVICES was TEMPORARY and COMPENSATED FOR by a TEMPORARY REDUCTION of RENT of \$1,000/mo, until alterations to the basement were completed.
- 4 - There is NO NEGATIVE IMPACT on the tenant; she is now enjoying a \$400/mo savings from her \$2,600/mo lease on a house that Commands \$3,000/mo any where in the neighborhood.

Sincerely,


Festus Ogbeide

9/24/18

000062

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RECEIVED

 <p>CITY OF OAKLAND</p>	<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721</p>	<p>For date stamp</p> <p>SEP -7 2018</p> <p>RENT ADJUSTMENT PROGRAM OAKLAND <u>APPEAL</u></p>
	<p>RECEIVED</p>	

SEP 24 2018

Appellant's Name		RENT ADJUSTMENT PROGRAM OAKLAND		<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Tenant
FESTUS OGBEIDE					
Property Address (Include Unit Number)					
3851 MADRONE AVE OAKLAND, CA 94619					
Appellant's Mailing Address (For receipt of notices)				Case Number	
3035 CHAPMAN ST. STE 1				T-18-0098, Aruzette v. Ogbiede	
OAKLAND, CA 94601				Date of Decision appealed	
				8-1-18	
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):

COPY

- 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.)*
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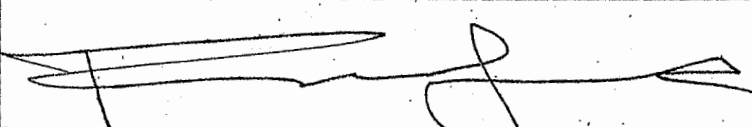
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• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •
 I declare under penalty of perjury under the laws of the State of California that on _____, 20____, I placed a copy of this form, and all attached pages, 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:

<u>Name</u>	EVE ARUGUETE
<u>Address</u>	3851 MADRONE AVE
<u>City, State Zip</u>	OAKLAND, CA 94619
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	09/04/18
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

COPY²

PROOF OF SERVICE
Case Number T18-0098

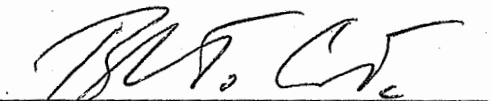
I am a resident of the State of California at least eighteen years of age. I am not a party to the Residential Rent Adjustment Program case listed above. I am employed in Alameda County, California. My business address is 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California 94612.

Today, I served the attached **DEFICIENCY NOTICE AND APPEAL ACKNOWLEDGMENT LETTER** 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, 5th Floor, Oakland, California, addressed to:

Festus Ogbeide
3035 Chapman Street, Ste. #1
Oakland, CA 94601

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 September 14, 2018 in Oakland, California.



Roberto F. Costa
Oakland Rent Adjustment Program

TO: DEPT of HOUSING and
COMMUNITY DEVELOPMENT
RENT ADJUSTMENT PROGRAM

FROM: FESTUS OGBRIDE

CASE No. 718-0098

ATT: ROBERTO COSTA
PROGRAM ANALYST

DEAR MR COSTA,

I APOLOGIZE FOR the OVERSIGHT of NOT CHECKING the
APPROPRIATE BOXES.

THANK YOU for the OPPORTUNITY to RE-SUBMIT THE
APPEAL CORRECTLY.

I AM ALSO RE-SUBMITTING MY EXPLANATIONS, by
FAX and U.S. POSTAL SERVICE.

AGAIN, THANK YOU for YOUR FORBEARANCE,



EXPLANATION

To: CITY of OAKLAND
Housing and Community
Development Department
Rent Adjustment Program

THE GROUNDS FOR MY APPEAL ARE BASED ON PARAGRAPH 2e and 2f OF YOUR APPEAL FORM:

The tenant's "DECREASE IN HOUSING SERVICES" was the temporary disruption and inconvenience of construction, for which the tenant was compensated by a \$1,000/mo TEMPORARY REDUCTION IN RENT.

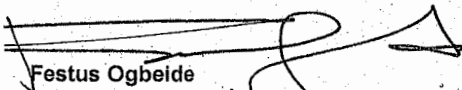
The only "HOUSING SERVICES" lost by the tenant was a storage area in the basement (and not stipulated in the lease). The cost of storage for comparable square footage is approximately \$165/mo. I have VOLUNTARILY reduced the tenant's rent by \$400/mo.

Convenient access to the laundry area has been restored, which, in turn restores the ESSENTIALS and SPECIFICS of the LEASE AGREEMENT.

IN RESPONSE TO THE ISSUES PRESENTED in the HEARING DECISION:

- 1 - The owner believed that the property, being a SINGLE FAMILY RESIDENCE (SFR) with an ACCESSORY DWELLING UNIT (ADU) (without a separated address or separate utilities) was exempt from RAP.
- 2 - In light of the owner's understanding of issue #1, he believed that NO RAP NOTICE WAS REQUIRED.
- 3 - The tenant's DECREASE IN HOUSING SERVICES was TEMPORARY and COMPENSATED FOR by a TEMPORARY REDUCTION of RENT of \$1,000/mo, until alterations to the basement were completed.
- 4 - There is NO NEGATIVE IMPACT on the tenant; she is now enjoying a \$400/mo savings from her \$2,600/mo lease on a house that Commands \$3,000/mo any where in the neighborhood.

Sincerely,


Festus Ogbeide

9/04/18

000067

TO: DEPT of HOUSING and
COMMUNITY DEVELOPMENT
RENT ADJUSTMENT PROGRAM

FROM: FESTUS OGBENDE

CASE No. 718-0098

ATTN: ROBERTO COSTA
PROGRAM ANALYST

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2010 SEP 19 AM 9:48

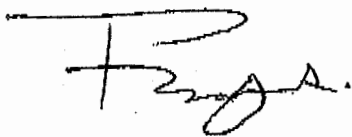
DEAR MR COSTA,

I APOLOGIZE FOR THE OVERSIGHT OF NOT CHECKING THE
APPROPRIATE BOXES.

THANK YOU FOR THE OPPORTUNITY TO RE-SUBMIT THE
APPEAL CORRECTLY.

I AM ALSO RE-SUBMITTING MY EXPLANATIONS, BY
FAX and U.S. POSTAL SERVICE.

AGAIN, THANK YOU FOR YOUR FORBEARANCE,



Tenant Response to Owner Appeal

Petition 8905 / Case number T18-0098

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2018 SEP 24 PM 1: 27

I, Eve Aruguete, am responding to listed grounds for appeal from the building owner, Festus Ogbeide.

Key

Quotes from owner's appeal statement are in bold blue.

A document submitted as evidence is alerted in yellow highlights.

The tenant's "DECREASE IN HOUSING SERVICES" was the temporary disruption and inconvenience of construction, for which the tenant was compensated by a \$1000/mo TEMPORARY REDUCTION IN RENT.

This is a totally false statement. I was never compensated with any payment or benefit for the construction. Please see enclosed cancelled checks. My cancelled checks show I paid \$2,600/mo until October 2017, after that I started paying \$1800. The construction ran from July – Dec 2017.

The only "HOUSING SERVICES" lost by the tenant was a storage area in the basement (and not stipulated in the lease). The cost of storage for comparable square footage is approximately \$165/mo. I have VOLUNTARILY reduced the tenant's rent by \$400/mo.

As was shown in the previous hearing, the space lost was approximately 499 sq ft, about 34% of the total square footage of the house (see Floorplan and photos from previous hearing). Right now Festus is charging the downstairs tenants \$1400/mo for the area he claims is only worth \$165 (see downstairs lease agreement).

The fact that the downstairs space was not stipulated in the lease has no bearing as NO rooms were described in the lease. (see Lease from previous hearing)

Convenient access to the laundry area has been restored, which, in turn restores the ESSENTIALS and SPECIFICS of the LEASE AGREEMENT.

I am only contesting the loss of space aka "services". There are no rooms described, nor are there "essentials" or "specifics" in the lease (see Lease from previous hearing).

1-The owner believed that the property, being a SINGLE FAMILY RESIDENCE (SFR) with an ACCESSORY DWELLING UNIT (ADU) (without separated address or separate utilities) was exempt from RAP.

Festus didn't obtain a permit for the unit he built. This building has 2 units. There are 2 people living in what was my basement. They have a separate lease agreement (see enclosed downstairs lease agreement). They have their own entrance, kitchen and bathroom. The utilities and the address are shared because the second unit had not been reported to any government agencies.

4 – There is NO NEGATIVE IMPACT on the tenant; she is now enjoying a \$400/mo savings from her \$2600/mo lease on a house that commands \$3000/mo any where in the neighborhood.

If I was paying what Festus is demanding (\$2200) I could not afford to live in my home. I first rented the house with another person and we each paid \$1300. That individual moved. Now that I've lost the space downstairs I can no longer rent to roommates. \$1800 is over ½ my income but I am willing to do it because I have experienced so much housing insecurity in Oakland.

Regarding the notion that a comparable property "commands \$3000" is irrelevant. Festus would like me to leave so he could possibly get more rent from a new tenant. I have a "target on my back". I need the Rent Adjustment Program backed up by Oakland rental law to help me stay in my home.

Please disregard this appeal and revert to Officer Lambert's original decision.

000069

GAO ASSOCIATES

3035 CHAPMANS ST #1 • OAKLAND • CA 94601
PHONE (510) 436 - 6060 • FAX (510) 436 - 5609

RENTAL AGREEMENT

LANDLORD: GAO Associates TENANT: Taylor Renee Williams
Festus Ogbuide Travis Marshall Johnson
PROPERTY: 3851 Madrone St, Oakland, CA Downstairs

IN CONSIDERATION of mutual covenants and agreements herein contained. Landlord hereby rents to Tenant and Tenant hereby rents from Landlord the above described property under the following terms.

1. TERM. This Rental Agreement shall be for a month-to-month tenancy. Unless prohibited by law this agreement may be terminated by either party or modified by Landlord upon service of 30 days written notice.

2. RENT. The rent shall be \$ 1400 per month and shall be due on or before the 1st day of each month. If rent is received more than 5 days late, a late charge of \$ 140 shall be paid.

3. PAYMENT. Payment must be received by Landlord on or before the due date at the following address:
3035 Chapman St #1, Oakland, CA 94601

or such place as designated by Landlord in writing. ~~Tenant agrees to pay a late charge of \$ 50.00 and Landlord may require future payment in cash, money order or certified funds. Tenant is hereby notified that default of financial obligations under this agreement may be reported to credit reporting companies and may result in derogatory information on Tenant's credit report.~~

4. DEFAULT: In the event of Tenant defaults under any terms of this agreement. Landlord may recover possession as provided by Law and seek monetary damages.

5. SECURITY. Landlord acknowledges receipt of the sum of \$ 1,600 as a security deposit. The deposit may not be used as last month's rent. Landlord may withhold from the security deposit amounts necessary to cover unpaid rent, damages to the premises caused by the Tenant beyond ordinary wear and tear and cleaning of the premises, if necessary. Within three weeks after Landlord retakes possession of the premises, Landlord shall furnish Tenant with statement itemizing the amounts withheld with explanation and returning any unused portion of the deposit to Tenant.

6. UTILITIES. Tenant agrees to pay all utility charges on the property except: Garbage.

7. MAINTENANCE. Tenant has examined the premises and has found them to be clean, safe and in good repair and condition with the exception of the following:

Tenant agrees to return the premises to Landlord at the termination of the tenancy in same clean, safe, good repair and condition with the exception for normal wear and tear.

000070

AUGUST 2017 RENT - PAID IN TWO CHECKS

View Check: 000559 Amount: \$2,100.00 Date: 7/25/2017

[Print Check](#)

Check Front

EVE ARGUETE
3851 MADRONE AVE.
OAKLAND, CA 94619

569
90-7415/2222

7/29/17

PAY TO THE ORDER OF DONNA RAE PITTMAN TRUST \$ 2,100.00
Two thousand ~~and~~ one hundred ~~and~~ 00/100

FIRST ENTERTAINMENT CREDIT UNION
6745 FERRIS LANE DRIVE - HOLYWOOD, CA 90222

FOR August Rent 500 Siller

Check Back

DEPOSITED TO ACCOUNT OF
WITHIN NAMED PAYEE
FOR DEPOSIT ONLY
JPMorgan Chase Bank, N.A.

View Check: 000560 Amount: \$500.00 Date: 8/8/2017

[Print Check](#)

Check Front

EVE ARGUETE
3851 MADRONE AVE.
OAKLAND, CA 94619

560
90-7415/2222

8/11/17

PAY TO THE ORDER OF DONNA RAE PITTMAN TRUST \$ 500.00
Five hundred and 00/100

FIRST ENTERTAINMENT CREDIT UNION
6745 FERRIS LANE DRIVE - HOLYWOOD, CA 90222

FOR rent August Siller

Check Back

DEPOSITED TO ACCOUNT OF
WITHIN NAMED PAYEE
FOR DEPOSIT ONLY
JPMorgan Chase Bank, N.A.

000072

SEPTEMBER 2017 RENT CHECK

View Check: 000563 Amount: \$2,600.00 Date: 9/8/2017

[Print Check](#)

Check Front

EVE ARGUETE
3851 MADRONE AVE.
OAKLAND, CA 94619

563
00-74153222

9/7/17

PAY TO THE ORDER OF DONNA RAE PITHMAN \$ 2600.00
TWO THOUSAND SIX HUNDRED 00/100 DOLLARS

FIRST ENTERTAINMENT CREDIT UNION
4711 Forest Lake Drive - Redwood, CA 94068

FOR SEAT RENT SADAM

Check Back

Morgan Chase Bank 090701 748765 9437000207

CREATED TO ACCOUNT OF
WITHIN NAMED PAYEE
FOR DEPOSIT ONLY

OCTOBER 2017 RENT CHECK

View Check: 000566 Amount: \$1,800.00 Date: 10/10/2017

[Print Check](#)

Check Front

EVE ARGUETE
3851 MADRONE AVE.
OAKLAND, CA 94619

566
00-74153222

Oct 4 2017

PAY TO THE ORDER OF DONNA RAE PITHMAN \$ 1800.00
One thousand eight hundred 00/100 DOLLARS

FIRST ENTERTAINMENT CREDIT UNION
4711 Forest Lake Drive - Redwood, CA 94068

FOR #445290724 SADAM

Check Back

CREATED TO ACCOUNT OF
WITHIN NAMED PAYEE
FOR DEPOSIT ONLY
JPMorgan Chase Bank, N.A.

000073

NOVEMBER 2017 RENT CHECK

View Check: 000567 Amount: \$1,800.00 Date: 11/7/2017

Print Check

Check Front

EVE ARUGUETE
3851 MADRONE AVE.
OAKLAND, CA 94619

567
90-7415/222

Nov 1, 2017
DATE

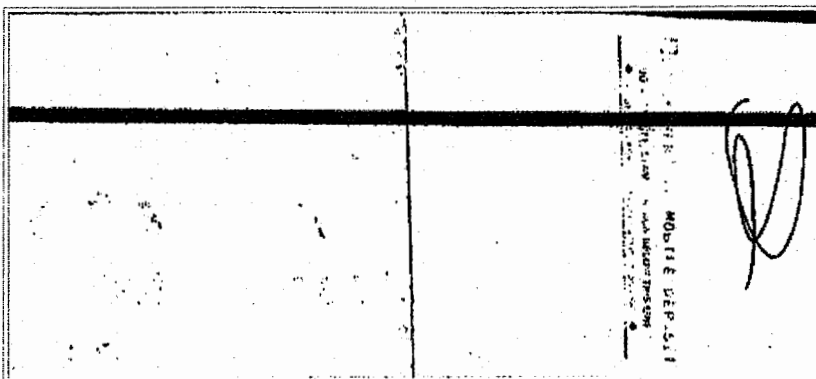
PAY TO THE ORDER OF Donna Pittman Trust \$ 1800⁰⁰
One thousand and eight hundred ⁰⁰/₁₀₀

FIRST ENTERTAINMENT
CREDIT UNION
8733 Powell Lane Drive • Millwood, CA 94566

FOR Nov Rent [Signature]

TT445290724

Check Back



DECEMBER 2017 RENT CHECK

View Check: 000000569 Amount: \$1,800.00 Date: 12/11/2017

Print Check

Check Front

EVE ARUGUETE
3851 MADRONE AVE.
OAKLAND, CA 94619

569
90-7415/222

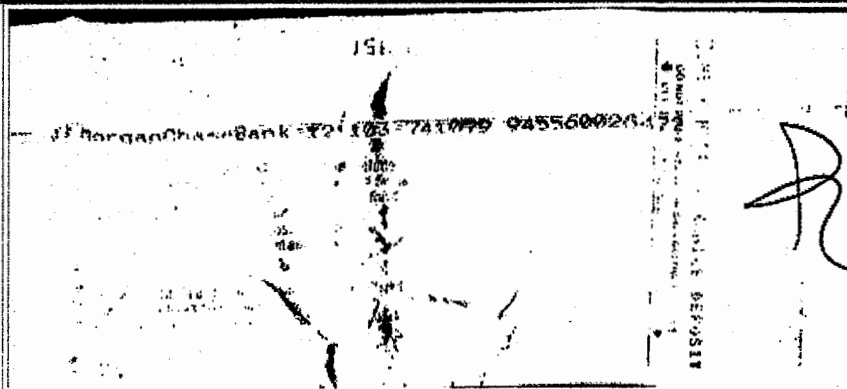
12/29/17
DATE

PAY TO THE ORDER OF Donna Rae Pittman Trust \$ 1800⁰⁰
One thousand eight hundred ⁰⁰/₁₀₀

FIRST ENTERTAINMENT
CREDIT UNION
8733 Powell Lane Drive • Millwood, CA 94566

FOR Dec Rent [Signature]

Check Back



000074