

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD

PANEL MEETING

OCTOBER 3, 2019

7:00 P.M.

CITY HALL, HEARING ROOM #1

ONE FRANK H. OGAWA PLAZA

OAKLAND, CA

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. APPEALS*
 - a. T18-0409 Luther v. CCC Property Management
 - b. T18-0488 Pastore v. Breitkopf
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, Cantonés, 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

* Staff recommendation memos for the appeals will be available at the Rent Program and the Clerk's office at least 48 hours prior to the meeting pursuant to O.M.C. 2.20.070.

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.: T18-0488
Case Name: Pastore v. Breitkopf
Property Address: 3140 E. 27th Street, Oakland, CA
Parties: Julie Pastore (Tenant)
Rajendra Nath (Owner Representative)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	September 9, 2018
Owner Response filed	January 22, 2019
Hearing Decision mailed	May 9, 2019
Owner Appeal filed	May 29, 2019

T18-0488 KM/EL

RECEIVED

SEP -9 2018

City of Oakland Rent Adjustment Program

Tenant Petition

**RENT ADJUSTMENT PROGRAM
OAKLAND**

Case **Petition: 10000**
Property Address **3140 E 27TH ST**

Party	Name	Address	Mailing Address
Tenant	Julie D Pastore	3140 E 27th St Oakland, CA 94601	3140 E 27th St Oakland, 94601
Manager	Rajendra Nath Community Realty Property Management	3577 Fruitvale Ave Oakland, CA 94602	3577 Fruitvale Ave Oakland, 94602
Owner	Paul Breitkopf CRPM c/o Rajendra Nath	3577 Fruitvale Ave Oakland, CA 94602	3577 Fruitvale Ave Oakland, 94602

Rental Property Information

Number of Units	1
Type of unit you rent	House
Are you current on your rent?	Yes

Grounds for Petition

- Rent Increase Exceeds CPI or more than 10%
- No Concurrent RAP Notice
- No RAP Notice at Inception or 6 Months Prior
- Rent Increase Violates State Law
- Exceeds 30% in 5 years

Rental History

When did you move into the unit?	10/1/2010
Initial monthly rent	1500
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?	No
Is your rent subsidized or controlled by any government agency, including HUD (Section 8)?	No
Have you ever filed a petition for your rental unit?	No

**City of Oakland Rent Adjustment Program
Tenant Petition**

Case **Petition: 10000**
Property Address **3140 E 27TH ST**

Rent increases that you want to challenge.

Did you receive a RAP Notice with the notice of rent increase?	Date RAP notice served	Date increase goes into effect	Monthly Rent Increase From	Monthly Rent Increase To	Are you contesting this increase in this petition?
No	9/5/2018	11/1/2018	2000	2800	Yes

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

Mediation

Mediation Requested	Yes
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ure | https://mail.google.com/mail/u/0/?shva=1#search/rent+increase/FMfcgvzKQrNTtCFdVExnnWWqFdmXrpr

rent increase

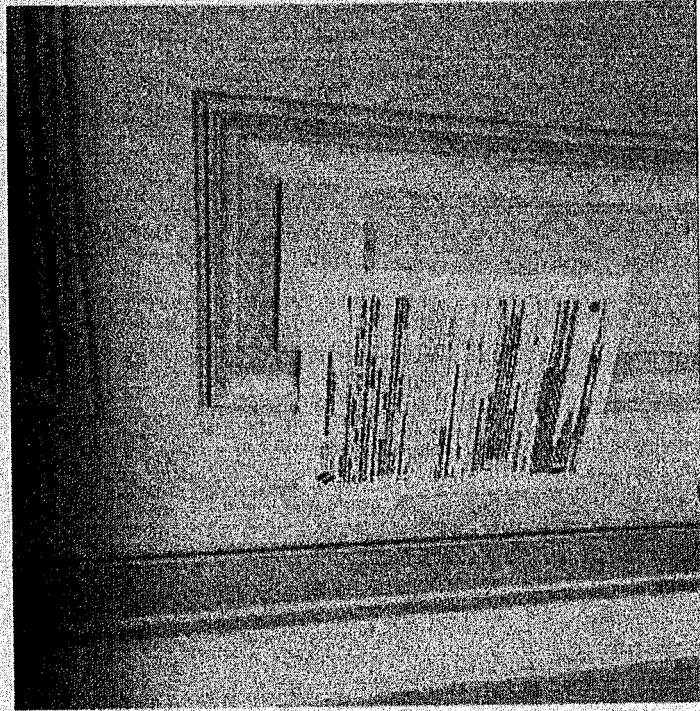
1 of 5 pages

RE: Copy of rent Increase Notice.

Inbox

Rajen Nath
to me

Wed, Sep 5, 6:40 PM (4 days ago)



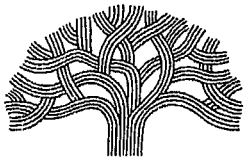
11/516

166

Hangouts

#1

000006



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For date stamp.
RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2019 JAN 22 PM 3:35

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 T18-0488

Your Name PAUL H. BREITKOPF	Complete Address (with zip code) 1735 UNION ST ALAMEDA, CA 94501	Telephone: -	Email:
Your Representative's Name (if any) COMMUNITY REALTY PROPERTY MGMT 3577 FRUITVALE AVE OAKLAND, CA 94602	Complete Address (with zip code) 3577 FRUITVALE AVE OAKLAND, CA 94602	Telephone: -	Email: info@mycommunityreality.com
Tenant(s) Name(s) KENNETH SIEGEL JULIE PASTORE	Complete Address (with zip code) 3140 E 27th ST OAKLAND, CA 94601		
Property Address (If the property has more than one address, list all addresses)		Total number of units on property 1	

Have you paid for your Oakland Business License? Yes No Lic. Number: 00103866

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: 027-0848-010-00

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: 12/19/2012 - MANAGEMENT

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>
11/01/2018	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

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 08/25/2010.

The tenant's initial rent including all services provided was: \$ 1500. / 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? 08/24/2010

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.

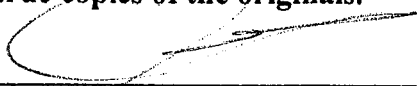
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

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

01/15/2019

Date

IMPORTANT INFORMATION:

Time to File

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

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

File Review

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

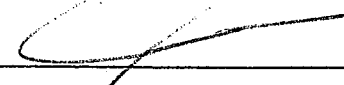
Mediation Program

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

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

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

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



for Property Owner's Signature

01/17/2019

Date



CITY OF OAKLAND

P.O. BOX 70243, OAKLAND, CALIFORNIA 94612-0243

Community and Economic Development Agency
Rent Adjustment Program

(510) 238-3721
FAX (510) 238-3691
TDD (510) 238-3254

NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM

- The City of Oakland has a Residential Rent Adjustment Program ("RAP") (Chapter 8.22 of the Oakland Municipal Code) that covers most residential rental units built before 1983. It does not apply to units rented under section 8, most single family dwellings and condominiums and some other types of units. For more information on which units are covered, call the RAP office. This Program limits rent increases and some changes in terms of tenancy for covered residential rental property in Oakland.
You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase (the CPI increase). A landlord can increase rent more than the CPI rate, but with some limits, for: capital improvements, operating expense increases, debt service, and deferred annual rent increases. You can also complain about other violations of the Rent Adjustment Ordinance. The landlord must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing.
If there is a decrease in the housing services provided to you, this may be considered an increase in your rent. A decrease in housing service includes substantial problems with the condition of a unit.
To contest a rent increase, you must file a petition with the RAP using the Rent Program's form, within sixty (60) days after first receiving written notice of the RAP or within sixty (60) days of receiving a notice of rent increase or change in terms of tenancy, whichever is later. You can obtain information and the petition forms from the Rent Adjustment Program office or online at http://www.oaklandnet.com/government/hcd/rentboard/tenant.html
If you contest a rent increase, you must pay your rent, with the contested increase, until you file a petition. After you file your petition, you may pay only the portion of the increase due to the CPI Rent Adjustment percentage if the CPI increase amount has been stated on the notice of rent increase. If it has not been stated separately, you may pay only the rent you were paying before the notice of rent increase. If the increase is approved and you did not pay the increase as noticed, you will owe the amount of the increase retroactive to the date it would have been effective under the notice.
Eviction controls are in effect in the City of Oakland (the Just Cause for Eviction Ordinance, O.M.C. 8.22.200, et seq.). You cannot be arbitrarily evicted if your rental unit is covered by the Just Cause for Eviction Ordinance. For more information call the Rent Adjustment Office.

Oakland charges landlords a Rent Program Service Fee of \$30 per unit per year. If the landlord pays the fee on time, the landlord is entitled to get half of the fee (\$15) per unit from you. The \$15 you pay for the annual fee is not part of the rent.

The Nuisance Eviction Ordinance (O.M.C. Chapter 8.23) may require that a tenant who commits or permits certain illegal acts in the Rental Unit or on the land on which the unit is located or in the common areas of the rental complex must be evicted. If the owner does not evict, the City Attorney may do so.

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit ____, the unit you plan to rent.
Smoking (circle one) IS or IS NOT permitted in other units of your building. (If both smoking and non-smoking units exist in the tenant's building, attach a list of units in which smoking is permitted.)
Smoking is PROHIBITED in all common areas, both indoors and outdoors.
There (circle one) IS or IS NOT a designated outdoor smoking area. If so located at _____

I received a copy of this notice on 1/24/2010 [Signature]

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.
Baún Thoàng Baúo quyềàn lờii của ngườoìi thueá trong Oakland nàyy củoàng cồu baềng tiềang Viềat. Nềá cồu mồat baún sao, xin goii (510) 238-3721.



Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
CA.Relay Service 711

HEARING DECISION

CASE NUMBER: T18-0488, Pastore v. Breitkopf
PROPERTY ADDRESS: 3140 E. 27th Street, Oakland, CA
DATE OF HEARING: April 11, 2019
DATE OF DECISION: May 1, 2019
APPEARANCES: Julie Pastore, Tenant
Rajendra Nath, Owner Representative

SUMMARY OF DECISION

The Tenant's petition is granted.

INTRODUCTION

The tenant filed the petition on September 9, 2018, which contests the rent increase from \$2,000.00 to \$2,800.00, on the following grounds:

- Rent Increase Exceeds CPI¹ or more than 10%;
- No Concurrent RAP Notice;
- No RAP Notice at Inception or 6 Months Prior;
- Rent Increase Violates State Law; and
- The rent increase exceeds an overall increase of 30% in 5 years;

//

¹ Consumer Price Index

The owner filed an untimely response on January 22, 2019, claiming the unit was exempt from the Rent Ordinance.²

ISSUE(S) PRESENTED

1. Is there good cause for the owner's failure to timely respond to the petition?
2. What is the allowable rent?

EVIDENCE

Owner Response

In January 2019, the owner's representative testified that he went on vacation. He gave the file to a colleague for assistance with filing the response. His colleague was new and not aware of what things were. He thinks that could be the reason why the response was filed late. He went on vacation for the MLK Jr. weekend. He was out of the office starting on Friday, January 18, 2019. After his vacation, he came back and was told by the colleague that he didn't understand the urgency of the deliveries and that he did not file the response on time.

Rental History

The subject unit was initially rented by the tenant on October 1, 2010, at an initial monthly rent of \$1,500.00. The tenant testified that at the inception of the tenancy she was not present at the lease signing and thus is not aware if a RAP Notice was provided. At the inception of the tenancy, the tenant was married, and her then-husband signed the lease.

The tenant did not receive a notice of rent increase. She went to pay her September rent using the online portal and saw on her bill that there was an increase. She contacted the owner's representative to find out what was going on. In response, he emailed her a picture of a door, showing some kind of notice attached.³ The tenant said she doesn't know if the door in the picture is her door.

² Civil Code Section 1954.52

³ Exhibit 1. This Exhibit, and all other Exhibits to which reference is made in this Decision, were admitted into evidence without objection.

During the hearing, the tenant reviewed the text messages in her phone and was able to determine that she learned of the increase on September 4, 2018. The tenant further testified that before she went online to the web portal pay your rent online, on September 4, 2018, she had received no notification that her rent was being increased from \$2,000 to \$2,800.

When the tenant spoke to the owner's representative, he told her the rent increase would not start for two months. The tenant testified that she paid \$2,800.00 for November and December 2018, but for all other months, after the petition was filed, she paid \$2,000.00 and will continue to pay that amount.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Is there good cause for the Owner's failure to respond to the petition?

The Rent Adjustment Ordinance requires an owner to file a response to a tenant petition within 35 days after service of a notice by the Rent Adjustment Program (RA) that a tenant petition was filed.⁴ "If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . ."⁵

The owner's representative testified that he prepared the response. He acknowledged that he did sign and date the response on January 15, 2019. He testified that he was going on vacation for the MLK Jr., holiday weekend and asked a colleague to file the response. He testified that his last day in the office was January 18, 2019. At the hearing, it was found that there was not good cause for the owner's failure to file a response to the petition. Therefore, the owner's participation at the Hearing was limited to cross-examination and summation.⁶

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 tenancy⁷ and together with any notice of rent increase or change in the terms of a tenancy.⁸

⁴ O.M.C. § 8.22.090(B)

⁵ O.M.C. § 8.22.070(C)(2)

⁶ Board Decision in Santiago v. Vega, HRRBT02-0404

⁷ O.M.C. § 8.22.060(A)

⁸ O.M.C. § 8.22.070(H)(1)(A)

There was no evidence that the tenant was provided a RAP Notice at the inception of her tenancy. Moreover, the testimony of the tenant that she did not receive the Notice of Rent Increase or a concurrent RAP Notice is credited. Accordingly, the tenant was not given written notice of the RAP Program.

What is the allowable rent?

The Rent Adjustment Ordinance requires an owner to serve a RAP Notice at the start of a tenancy⁹ and together with any notice of rent increase or change in any term of the tenancy.¹⁰ An owner may cure the failure to give notice at the start of the tenancy. However, a notice of rent increase is not valid if the effective date of increase is less than six months after a tenant first receives the required RAP notice.¹¹

There was no evidence that the owner served the tenant a RAP Notice at the inception of her tenancy. Furthermore, there was no evidence that the tenant was served a RAP Notice with the notice of rent increase that was to be effective November 1, 2018. Therefore, the rent increase given to the tenant is invalid because the tenant was not given the RAP Notice. Accordingly, the tenant's rent is \$2,000.00 per month.

What, if any, restitution is owed to the tenant?

As indicated above, the legal rent for the unit is \$2,000.00 per month. From November 2018 to December 2018, the tenant paid \$2,800.00. Thus, the tenant is entitled to restitution in the amount of \$1,600.00. Restitution is awarded over two months. The restitution amount is \$800.00 per month when amortized over two months.

Therefore, the tenant's monthly restitution amount is subtracted from the current legal rent of \$2,000.00, for a total of \$1,200.00. For June and July 2019, the rent will be \$1,200.00

ORDER

1. Petition T18-0488 is granted.
2. The current base rent for the subject unit is \$2,000.00.

⁹ O.M.C. Section 8.22.060(A)

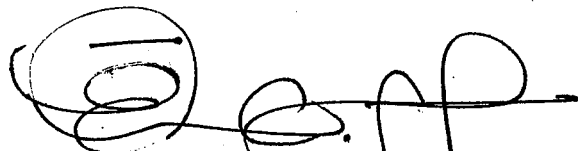
¹⁰ O.M.C. Section 8.22.070(H)(1)(A)

¹¹ O.M.C. Section 8.22.060(C)

3. The total overpayment by the tenant is \$1,600.00 for overpaid rent.
4. The tenant's rent for the months of June and July 2019 is \$1,200.00. The rent will revert to the current legal rent of \$2,000.00 in August 2019.
5. 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.
6. Nothing in this order prevents the owner from increasing the rent according to the laws of the Rent Adjustment Ordinance and the State of California at any time, at least six months after the tenant is served with the RAP Notice.

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

Dated: May 1, 2019



Élan Consuella Lambert
Administrative Hearing Officer
Rent Adjustment Program

000016

PROOF OF SERVICE
Case Number T18-0488

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 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

Manager

Rajendra Nath, Community Realty Property Management
3577 Fruitvale Ave
Oakland, CA 94602

Owner

Paul Breitkopf
1735 Union Street
Alameda, CA 94501

Owner

Paul Breitkopf, Community Realty Property Management
3577 Fruitvale Ave
Oakland, CA 94602

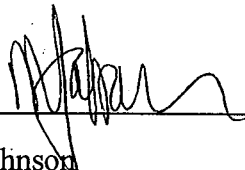
Tenant

Julie D Pastore
3140 E 27th St
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 **May 09, 2019** in Oakland, CA.

000017

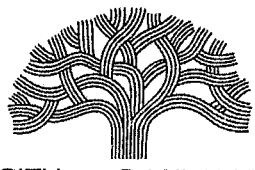


Nia Johnson

Oakland Rent Adjustment Program

EL
KM/KM

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
For date stamp



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

2019 MAY 29 AM 11:28

APPEAL

Appellant's Name Paul Breitkopf		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 3140 E. 27th St. Oakland			
Appellant's Mailing Address (For receipt of notices) 3577 Fruitvale Ave Oakland Ca. 94602		Case Number T18-0488	
		Date of Decision appealed	
Name of Representative (if any) Rajen Nath / Timothy Larsen Jessica Ardell-Smith		Representative's Mailing Address (For notices) 3577 Fruitvale Ave Oakland Ca. 94602	

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.

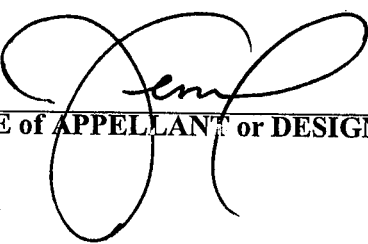
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue 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 05/29, 2019, 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>	Julie Pastore
<u>Address</u>	3140 E. 27th St.
<u>City, State Zip</u>	Oakland, Ca. 94601
<u>Name</u>	Kenneth Siedler
<u>Address</u>	3140 E. 27th St.
<u>City, State Zip</u>	Oakland, Ca. 94601

	5/23/19
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.

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2019 MAY 29 AM 11:28

Rent Board Appeal

5/23/19

Case #T18-0488

To Whom It May Concern,

The property located at 3140 E 27th St. Oakland Ca. is a Single Family Residence. Tenant acknowledged the property is a House on per rent board petition. This property is exempt from rent control and a rent board decision inconsistent with this fact is contrary to California law (Costa-Hawkins) and the Rent Control Ordinance and Regulations provisions exempting single family homes.

Tenants Kenneth Siedler and Julie Pastore entered into a lease for the subject property on August 25, 2010. The lease and RAP Notice were dated and signed on August 24, 2010.

An agent for the Owner, Rajen Nath, posted a rent increase at the subject property on August 29, 2019. He posted the notice and took a picture that was date and time stamped. He mailed a copy of the notice to the subject property on the same day.

The increase was posted and mailed properly. Refusal to accept evidence and testimony from the owner's agent results in a decision contrary to law due to the unit being exempt. We ask that the rent board decision be corrected to reflect these facts and allow the increase to stand.

Sincerely,

Community Realty Property Management

000022



CALIFORNIA
ASSOCIATION
OF REALTORS®

NOTICE OF CHANGE IN TERMS OF TENANCY

(C.A.R. Form CTT, Revised 11/11)

To: Julie Pastore ("Tenant")

and any other occupant(s) in possession of the premises located at:

(Street Address) 3140 E 27th Street (Unit/Apartment #) _____
(City) Oakland (State) CA (Zip Code) 94601 ("Premises").

YOUR TENANCY IN THE PREMISES IS CHANGED AS FOLLOWS: Unless otherwise provided, the change shall take effect 30 days from service of this Notice or on November 1, 2018, whichever is later.

All other terms and conditions of your tenancy shall remain unchanged.

1. Rent shall be \$ 2,800.00 per month.
(NOTE: Pursuant to California Civil Code § 827, if the change increases the rent to an amount that exceeds any rental payment charged during the last 12 months by more than 10%, then the change shall take effect 60 days from service of this Notice or on November 1, 2018, whichever is later.)

2. Security deposit shall be increased by \$ _____.

3. Other: _____

Landlord [Signature] Date 8/28/18
(Owner or Agent) Community Fund LLC

Tenant acknowledges receipt of this notice of change in terms of tenancy.

Tenant Julie Pastore Date _____

Tenant _____ Date _____

4. **DELIVERY OF NOTICE/PROOF OF SERVICE:**
This Notice was served by KARENORA NAIN, on 08/29/2018 (date)
in the following manner: (if mailed, a copy was mailed at OAKLAND (Location))

- A. Personal service. A copy of the Notice was personally delivered to the above named Tenant.
- B. Substituted service. A copy of the Notice was left with a person of suitable age and discretion at the Tenant's residence or usual place of business and a copy was mailed to the Tenant at the Premises.
- C. Post and mail. A copy of the Notice was affixed to a conspicuous place on the Premises and a copy was mailed to the Tenant at the Premises.
- D. Mail. This Notice was mailed to Tenant at the Premises.

(Signature of person serving Notice) [Signature] (Date) 08/29/2018
KARENORA NAIN
(Print Name)

(Keep a copy for your records.)

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525 South Virgil Avenue, Los Angeles, California 90020

CTT REVISED 11/11 (PAGE 1 OF 1)

NOTICE OF CHANGE IN TERMS OF TENANCY (CTT PAGE 1 OF 1)



000023

CITY OF OAKLAND

P.O. BOX 70243, OAKLAND, CALIFORNIA 94612-0243



Community and Economic Development Agency
Rent Adjustment Program

(510) 238-3721
FAX (510) 238-3691
TDD (510) 238-3254

NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM

The City of Oakland has a Residential Rent Adjustment Program ("RAP") (Chapter 8.22 of the Oakland Municipal Code) that covers most residential rental units built before 1983. It does not apply to units rented under section 8, most single family dwellings and condominiums and some other types of units. For more information on which units are covered, call the RAP office. This Program limits rent increases and some changes in terms of tenancy for covered residential rental property in Oakland.

You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase (the CPI increase). A landlord can increase rent more than the CPI rate, but with some limits, for: capital improvements, operating expense increases, debt service, and deferred annual rent increases. You can also complain about other violations of the Rent Adjustment Ordinance. The landlord must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing.

If there is a decrease in the housing services provided to you, this may be considered an increase in your rent. A decrease in housing service includes substantial problems with the condition of a unit.

To contest a rent increase, you must file a petition with the RAP using the Rent Program's form, within sixty (60) days after first receiving written notice of the RAP or within sixty (60) days of receiving a notice of rent increase or change in terms of tenancy, whichever is later. You can obtain information and the petition forms from the Rent Adjustment Program office or online at <http://www.oaklandnet.com/government/hcd/rentboard/tenant.html>

If you contest a rent increase, you must pay your rent, with the contested increase, until you file a petition. After you file your petition, you may pay only the portion of the increase due to the CPI Rent Adjustment percentage if the CPI increase amount has been stated on the notice of rent increase. If it has not been stated separately, you may pay only the rent you were paying before the notice of rent increase. If the increase is approved and you did not pay the increase as noticed, you will owe the amount of the increase retroactive to the date it would have been effective under the notice.

Eviction controls are in effect in the City of Oakland (the Just Cause for Eviction Ordinance, O.M.C. 8.22.200, et seq.). You cannot be arbitrarily evicted if your rental unit is covered by the Just Cause for Eviction Ordinance. For more information call the Rent Adjustment Office.

Oakland charges landlords a Rent Program Service Fee of \$30 per unit per year. If the landlord pays the fee on time, the landlord is entitled to get half of the fee (\$15) per unit from you. The \$15 you pay for the annual fee is not part of the rent.

The Nuisance Eviction Ordinance (O.M.C. Chapter 8.23) may require that a tenant who commits or permits certain illegal acts in the Rental Unit or on the land on which the unit is located or in the common areas of the rental complex must be evicted. If the owner does not evict, the City Attorney may do so.

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit _____, the unit you plan to rent.
- Smoking (circle one) IS or IS NOT permitted in other units of your building. (If both smoking and non-smoking units exist in the tenant's building, attach a list of units in which smoking is permitted.)
- Smoking is PROHIBITED in all common areas, both indoors and outdoors.
- There (circle one) IS or IS NOT a designated outdoor smoking area. If so, it is located at _____

I received a copy of this notice on 11/24/10

此份屋崙 (奧克蘭) 市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

Bản Thông Báo quyền lợi của người thuê ở trong Oakland này cũng có bằng tiếng Việt. Nếu có một bản sao, xin gọi (510) 238-3721.

000025

T18-0488 KM/EL

RECEIVED

SEP -9 2018

City of Oakland Rent Adjustment Program

Tenant Petition

RENT ADJUSTMENT PROGRAM
OAKLAND

Case Petition: 10000
Property Address 3140 E 27TH ST

Party	Name	Address	Mailing Address
Tenant	Julie D Pastore	3140 E 27th St Oakland, CA 94601	3140 E 27th St Oakland, 94601
Manager	Rajendra Nath Community Realty Property Management	3577 Fruitvale Ave Oakland, CA.94602	3577 Fruitvale Ave Oakland, 94602
Owner	Paul Breitkopf	3577 Fruitvale Ave Oakland, CA 94602	3577 Fruitvale Ave Oakland, 94602

Rental Property Information

Number of Units 1

* Type of unit you rent House *

Are you current on your rent? Yes

Grounds for Petition

- Rent Increase Exceeds CPI or more than 10%
- No Concurrent RAP Notice
- No RAP Notice at Inception or 6 Months Prior
- Rent Increase Violates State Law
- Exceeds 30% in 5 years

Rental History

When did you move into the unit? 10/1/2010

Initial monthly rent 1500

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? No

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

Have you ever filed a petition for your rental unit? No

Full Report

APN	027084801000	Owner Name	BREITKOPF KARL A & A J TRS
Street Number	3140 E 27TH ST	Owner2	
City	OAKLAND CA 94601 2702	Sale Date	5/23/1991
Land Use	1001 SINGLE FAMILY RESIDENCE	Sale Price	\$0.00
Building Sq Ft	988	Bedrooms	3
Thms Bros	650C6	Bathrooms	1
Mail Addr	1451 FERNSIDE BLVD	Mail Addr2	ALAMEDA, CA 94501-3121
Owner Display	KARL A & A J BREITKOPF TRUST	Absent Owner (Y/N)	Y
Owner Last	BREITKOPF	Owner First	KARL A & A J TRS
County	ALAMEDA	Year Built	1920

Plat Image

Plat Image 1

Property Address

3140 E 27TH ST
OAKLAND, CA 94601-2702

Mail Address

1451 FERNSIDE BLVD
ALAMEDA, CA 94501-3121

Mail Crrt

C004

Census Tract	Census Blk Gp	Zoning	Crrt	Latitude	Longitude	Flood Panel	Flood Zone	Flood Map Date
4065.00	3		C020	37.790490	122.219482	065048-0020B	X	9/30/1982

County Use

1100 SINGLE FAMILY RESIDENCE

Stories	1.5	Year Built	1920
Lot Sq Ft	5000	Lot Acres	0.114784205693297
Bldg Sq Ft	988	# of Units	
Rooms	6	Bedrooms	3
Full Baths	1	Half Baths	0
Parking	G	Parking Spaces	
Pool			

Tax Year 2008

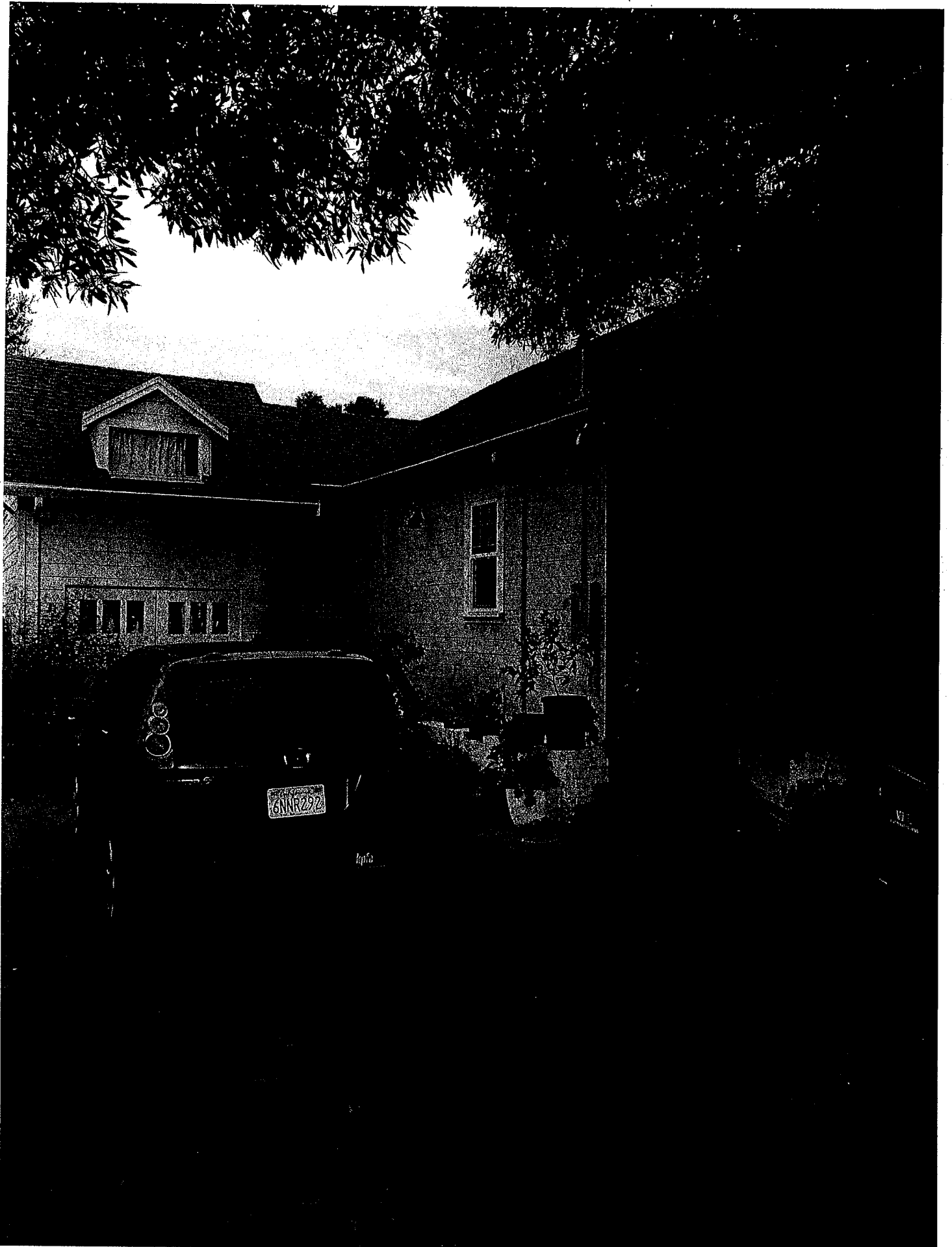
Land Value	Percent Land To Total
\$22,586.00	60.8049535603715

Improvement Value	Percent Impr To Total
\$14,559.00	39.1950464396285

Total Value	Tax Amount
\$37,145.00	\$1,179.78

Sale Number	Sale Date	Sale Price	Sale Code	Sale Code Desc
	5/23/1991	\$0.00		

Sale Number	Document Number	Document Type	Title Company
	91132943		





**RESIDENTIAL LEASE OR
MONTH-TO-MONTH RENTAL AGREEMENT**

(C.A.R. Form LR, Revised 11/08)

Date _____ C.R.P.M Inc. ("Landlord") and
Kennth Siedler, Julie Pastore ("Tenant") agree as follows:

1. PROPERTY:

- A. Landlord rents to Tenant and Tenant rents from Landlord, the real property and improvements described as: 3140 E 27th St, Oakland Ca 94602 ("Premises").
- B. The Premises are for the sole use as a personal residence by the following named person(s) only: Kennth Siedler, Julie Pastore, Deven Siedler (2.5), Bodhi Siedler (5)
- C. The following personal property, maintained pursuant to paragraph 11, is included: Stove or (if checked) the personal property on the attached addendum.

2. TERM: The term begins on (date) August 25, 2010 ("Commencement Date"), (Check A or B):

- A. Month-to-Month: and continues as a month-to-month tenancy. Tenant may terminate the tenancy by giving written notice at least 30 days prior to the intended termination date. Landlord may terminate the tenancy by giving written notice as provided by law. Such notices may be given on any date.
- B. Lease: and shall terminate on (date) July 31, 2011 at 12:00 AM/ PM. Tenant shall vacate the Premises upon termination of the Agreement, unless: (i) Landlord and Tenant have extended this agreement in writing or signed a new agreement; (ii) mandated by local rent control law; or (iii) Landlord accepts Rent from Tenant (other than past due Rent), in which case a month-to-month tenancy shall be created which either party may terminate as specified in paragraph 2A. Rent shall be at a rate agreed to by Landlord and Tenant, or as allowed by law. All other terms and conditions of this Agreement shall remain in full force and effect.

3. RENT: "Rent" shall mean all monetary obligations of Tenant to Landlord under the terms of the Agreement, except security deposit.

- A. Tenant agrees to pay \$ 1,500.00 per month for the term of the Agreement.
- B. Rent is payable in advance on the 1st (or) day of each calendar month, and is delinquent on the next day.
- C. If Commencement Date falls on any day other than the day Rent is payable under paragraph 3B, and Tenant has paid one full month's Rent in advance of Commencement Date, Rent for the second calendar month shall be prorated based on a 30-day period.
- D. PAYMENT: Rent shall be paid by personal check, money order, cashier's check, or other _____, to (name) C.R.P.M Inc. (phone) (510) 530-1005 at (address) 3577 Fruitvale Ave, Oakland, CA 94602 (or at any other location subsequently specified by Landlord in writing to Tenant) (and if checked, rent may be paid personally between the hours of 9:00 and 5:00 on the following days Mon-Fri and Sun by appointment). If any payments is returned for non-sufficient funds ("NSF") or because tenant stops payment, then, after that: (i) Landlord may, in writing, require Tenant to pay Rent in cash for three months and (ii) all future Rent shall be paid by money order, or cashier's check.

4. SECURITY DEPOSIT:

- A. Tenant agrees to pay \$ 1,500.00 as a security deposit. Security deposit will be transferred to and held by the Owner of the Premises, or held in Owner's Broker's trust account.
- B. All or any portion of the security deposit may be used, as reasonably necessary, to: (i) cure Tenant's default in payment of Rent (which includes Late Charges, NSF fees or other sums due); (ii) repair damage, excluding ordinary wear and tear, caused by Tenant or by a guest or licensee of Tenant; (iii) clean Premises, if necessary, upon termination of the tenancy; and (iv) replace or return personal property or appurtenances. **SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF LAST MONTH'S RENT.** If all or any portion of the security deposit is used during the tenancy, Tenant agrees to reinstate the total security deposit within five days after written notice is delivered to Tenant. Within 21 days after Tenant vacates the Premises, Landlord shall: (1) furnish Tenant an itemized statement indicating the amount of any security deposit received and the basis for its disposition and supporting documentation as required by California Civil Code § 1950.5(g); and (2) return any remaining portion of the security deposit to Tenant.
- C. Security deposit will not be returned until all Tenants have vacated the Premises and all keys returned. Any security deposit returned by check shall be made out to all Tenants named on this Agreement, or as subsequently modified.
- D. No interest will be paid on security deposit unless required by local law.
- E. If the security deposit is held by Owner, Tenant agrees not to hold Broker responsible for its return. If the security deposit is held in Owner's Broker's trust account, and Broker's authority is terminated before expiration of this Agreement, and security deposit is released to someone other than Tenant, then Broker shall notify Tenant, in writing, where and to whom security deposit has been released. Once Tenant has been provided such notice, Tenant agrees not to hold Broker responsible for the security deposit.

5. MOVE-IN COSTS RECEIVED/DUE: Move-in funds made payable to C.R.P.M Inc. shall be paid by personal check, money order, or cashier's check.

Category	Total Due	Payment Received	Balance Due	Date Due
Rent from <u>08/25/2010</u> to <u>08/31/2010</u> (date)	\$300.00		\$300.00	08/25/2010
*Security Deposit	\$1,500.00	\$500.00	\$1,000.00	08/25/2010
Other <u>credit check</u>	\$50.00	\$50.00		prev. paid
Other _____				
Total	\$1,850.00	\$550.00	\$1,300.00	08/25/2010

*The maximum amount Landlord may receive as security deposit, however designated, cannot exceed two months' Rent for unfurnished premises, or three months' Rent for furnished premises.

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LR REVISED 11/08 (PAGE 1 OF 6)

Tenant's Initials ([Signature]) (_____)

Landlord's Initials ([Signature]) (_____)

Reviewed by _____ Date _____



RESIDENTIAL LEASE OR MONTH-TO-MONTH RENTAL AGREEMENT (LR PAGE 1 OF 6)

Agent: Michael Marr Phone: 510.530.1005 Fax: 510.530.0328 Prepared using WINForms® software
Broker: Community Realty Property Mgt. 3577 Fruitvale Ave. Oakland, CA 94602 **000029**

6. LATE CHARGE; RETURNED CHECKS:

- A. Tenant acknowledges either late payment of Rent or issuance of a returned check may cause Landlord to incur costs and expenses, the exact amounts of which are extremely difficult and impractical to determine. These costs may include, but are not limited to, processing, enforcement and accounting expenses, and late charges imposed on Landlord. If any installment of Rent due from Tenant is not received by Landlord within 5 (or _____) calendar days after the date due, or if a check is returned, Tenant shall pay to Landlord, respectively, an additional sum of \$ _____ or 10.000 % of the Rent due as a Late Charge and \$25.00 as a NSF fee for the first returned check and \$35.00 as a NSF fee for each additional returned check, either or both of which shall be deemed additional Rent.
- B. Landlord and Tenant agree that these charges represent a fair and reasonable estimate of the costs Landlord may incur by reason of Tenant's late or NSF payment. Any Late Charge or NSF fee due shall be paid with the current installment of Rent. Landlord's acceptance of any Late Charge or NSF fee shall not constitute a waiver as to any default of Tenant. Landlord's right to collect a Late Charge or NSF fee shall not be deemed an extension of the date Rent is due under paragraph 3 or prevent Landlord from exercising any other rights and remedies under this Agreement and as provided by law.

7. PARKING: (Check A or B)

A. Parking is permitted as follows: garage/driveway

The right to parking is is not included in the Rent charged pursuant to paragraph 3. If not included in the Rent, the parking rental fee shall be an additional \$ _____ per month. Parking space(s) are to be used for parking properly licensed and operable motor vehicles, except for trailers, boats, campers, buses or trucks (other than pick-up trucks). Tenant shall park in assigned space(s) only. Parking space(s) are to be kept clean. Vehicles leaking oil, gas or other motor vehicle fluids shall not be parked on the Premises. Mechanical work or storage of inoperable vehicles is not permitted in parking space(s) or elsewhere on the Premises.

OR B. Parking is not permitted on the Premises.

8. STORAGE: (Check A or B)

A. Storage is permitted as follows: N/A

The right to storage space is, is not, included in the Rent charged pursuant to paragraph 3. If not included in the Rent, storage space fee shall be an additional \$ _____ per month. Tenant shall store only personal property Tenant owns, and shall not store property claimed by another or in which another has any right, title or interest. Tenant shall not store any improperly packaged food or perishable goods, flammable materials, explosives, hazardous waste or other inherently dangerous material, or illegal substances.

OR B. Storage is not permitted on the Premises.

9. UTILITIES: Tenant agrees to pay for all utilities and services, and the following charges: All Utilities

except _____, which shall be paid for by Landlord. If any utilities are not separately metered, Tenant shall pay Tenant's proportional share, as reasonably determined and directed by Landlord. If utilities are separately metered, Tenant shall place utilities in Tenant's name as of the Commencement Date. Landlord is only responsible for installing and maintaining one usable telephone jack and one telephone line to the Premises. Tenant shall pay any cost for conversion from existing utilities service provider.

10. CONDITION OF PREMISES: Tenant has examined Premises and, if any, all furniture, furnishings, appliances, landscaping and fixtures, including smoke detector(s).

(Check all that apply:)

A. Tenant acknowledges these items are clean and in operable condition, with the following exceptions: _____

B. Tenant's acknowledgment of the condition of these items is contained in an attached statement of condition (C.A.R. Form MIMO).

C. Tenant will provide Landlord a list of items that are damaged or not in operable condition within 3 (or _____) days after Commencement Date, not as a contingency of this Agreement but rather as an acknowledgment of the condition of the Premises.

D. Other: _____

11. MAINTENANCE:

A. Tenant shall properly use, operate and safeguard Premises, including if applicable, any landscaping, furniture, furnishings and appliances, and all mechanical, electrical, gas and plumbing fixtures, and keep them and the Premises clean, sanitary and well ventilated. Tenant shall be responsible for checking and maintaining all smoke detectors and any additional phone lines beyond the one line and jack that Landlord shall provide and maintain. Tenant shall immediately notify Landlord, in writing, of any problem, malfunction or damage. Tenant shall be charged for all repairs or replacements caused by Tenant, pets, guests or licensees of Tenant, excluding ordinary wear and tear. Tenant shall be charged for all damage to Premises as a result of failure to report a problem in a timely manner. Tenant shall be charged for repair of drain blockages or stoppages, unless caused by defective plumbing parts or tree roots invading sewer lines.

B. Landlord Tenant shall water the garden, landscaping, trees and shrubs, except: _____

C. Landlord Tenant shall maintain the garden, landscaping, trees and shrubs, except: _____

D. Landlord Tenant shall maintain _____

E. Tenant's failure to maintain any item for which Tenant is responsible shall give Landlord the right to hire someone to perform such maintenance and charge Tenant to cover the cost of such maintenance.

F. The following items of personal property are included in the Premises without warranty and Landlord will not maintain, repair or replace them: _____

Tenant's Initials ([Signature]) (_____)
Landlord's Initials (_____) (_____)

Reviewed by _____ Date _____



12. NEIGHBORHOOD CONDITIONS: Tenant is advised to satisfy him or herself as to neighborhood or area conditions, including schools, proximity and adequacy of law enforcement, crime statistics, proximity of registered felons or offenders, fire protection, other governmental services, availability, adequacy and cost of any wired, wireless internet connections or other telecommunications or other technology services and installations, proximity to commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, cemeteries, facilities and condition of common areas, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Tenant.

13. PETS: Unless otherwise provided in California Civil Code § 54.2, no animal or pet shall be kept on or about the Premises without Landlord's prior written consent, except: No Pets

14. (If checked) NO SMOKING: No smoking is allowed on the Premises. If smoking does occur on the Premises, (i) Tenant is responsible for all damage caused by the smoking including, but not limited to, stains, burns, odors and removal of debris; (ii) Tenant is in breach of this Agreement; (iii) Tenant, Authorized Guests, and all others may be required to leave the Premises; and (iv) Tenant acknowledges that in order to remove odor caused by smoking, Landlord may need to replace carpet and drapes and paint entire Premises regardless of when these items were last cleaned or replaced. Such actions and other necessary steps will impact the return of any security deposit.

15. RULES/REGULATIONS:
A. Tenant agrees to comply with all Landlord rules and regulations that are at any time posted on the Premises or delivered to Tenant. Tenant shall not, and shall ensure that guests and licensees of Tenant shall not, disturb, annoy, endanger or interfere with other tenants of the building or neighbors, or use the Premises for any unlawful purposes, including, but not limited to, using, manufacturing, selling, storing or transporting illicit drugs or other contraband, or violate any law or ordinance, or commit a waste or nuisance on or about the Premises.

B. (If applicable, check one)
 1. Landlord shall provide Tenant with a copy of the rules and regulations within _____ days or _____.
OR 2. Tenant has been provided with, and acknowledges receipt of, a copy of the rules and regulations.

16. (If checked) CONDOMINIUM; PLANNED UNIT DEVELOPMENT:
A. The Premises is a unit in a condominium, planned unit development, common interest subdivision or other development governed by a homeowners' association ("HOA"). The name of the HOA is _____.
Tenant agrees to comply with all HOA covenants, conditions and restrictions, bylaws, rules and regulations and decisions. Landlord shall provide Tenant copies of rules and regulations, if any. Tenant shall reimburse Landlord for any fines or charges imposed by HOA or other authorities, due to any violation by Tenant, or the guests or licensees of Tenant.

B. (Check one)
 1. Landlord shall provide Tenant with a copy of the HOA rules and regulations within _____ days or _____.
OR 2. Tenant has been provided with, and acknowledges receipt of, a copy of the HOA rules and regulations.

17. ALTERATIONS; REPAIRS: Unless otherwise specified by law or paragraph 29C, without Landlord's prior written consent, (i) Tenant shall not make any repairs, alterations or improvements in or about the Premises including: painting, wallpapering, adding or changing locks, installing antenna or satellite dish(es), placing signs, displays or exhibits, or using screws, fastening devices, large nails or adhesive materials; (ii) Landlord shall not be responsible for the costs of alterations or repairs made by Tenant; (iii) Tenant shall not deduct from Rent the costs of any repairs, alterations or improvements; and (iv) any deduction made by Tenant shall be considered unpaid Rent.

18. KEYS; LOCKS:
A. Tenant acknowledges receipt of (or Tenant will receive prior to the Commencement Date, or _____):
 1 key(s) to Premises, _____ remote control device(s) for garage door/gate opener(s),
 _____ key(s) to mailbox, _____
 _____ key(s) to common area(s), _____
B. Tenant acknowledges that locks to the Premises have, have not, been re-keyed.
C. If Tenant re-keys existing locks or opening devices, Tenant shall immediately deliver copies of all keys to Landlord. Tenant shall pay all costs and charges related to loss of any keys or opening devices. Tenant may not remove locks, even if installed by Tenant.

19. ENTRY:
A. Tenant shall make Premises available to Landlord or Landlord's representative for the purpose of entering to make necessary or agreed repairs, decorations, alterations, or improvements, or to supply necessary or agreed services, or to show Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers, or contractors.
B. Landlord and Tenant agree that 24-hour written notice shall be reasonable and sufficient notice, except as follows: 48-hour written notice is required to conduct an inspection of the Premises prior to the Tenant moving out, unless the Tenant waives the right to such notice. Notice may be given orally to show the Premises to actual or prospective purchasers provided Tenant has been notified in writing within 120 days preceding the oral notice that the Premises are for sale and that oral notice may be given to show the Premises. No notice is required: (i) to enter in case of an emergency; (ii) if the Tenant is present and consents at the time of entry or (iii) if the Tenant has abandoned or surrendered the Premises. No written notice is required if Landlord and Tenant orally agree to an entry for agreed services or repairs if the date and time of entry are within one week of the oral agreement.
C. (If checked) Tenant authorizes the use of a keysafe/lockbox to allow entry into the Premises and agrees to sign a keysafe/lockbox addendum (C.A.R. Form KLA).

20. SIGNS: Tenant authorizes Landlord to place FOR SALE/LEASE signs on the Premises.

21. ASSIGNMENT; SUBLETTING: Tenant shall not sublet all or any part of Premises, or assign or transfer this Agreement or any interest in it, without Landlord's prior written consent. Unless such consent is obtained, any assignment, transfer or subletting of Premises or this Agreement or tenancy, by voluntary act of Tenant, operation of law or otherwise, shall, at the option of Landlord,

Tenant's Initials ([Signature]) _____
Landlord's Initials ([Signature]) _____
Reviewed by _____ Date _____



terminate this Agreement. Any proposed assignee, transferee or sublessee shall submit to Landlord an application and credit information for Landlord's approval and, if approved, sign a separate written agreement with Landlord and Tenant. Landlord's consent to any one assignment, transfer or sublease, shall not be construed as consent to any subsequent assignment, transfer or sublease and does not release Tenant of Tenant's obligations under this Agreement.

- 22. **JOINT AND INDIVIDUAL OBLIGATIONS:** If there is more than one Tenant, each one shall be individually and completely responsible for the performance of all obligations of Tenant under this Agreement, jointly with every other Tenant, and individually, whether or not in possession.
- 23. **LEAD-BASED PAINT (if checked):** Premises was constructed prior to 1978. In accordance with federal law, Landlord gives and Tenant acknowledges receipt of the disclosures on the attached form (C.A.R. Form FLD) and a federally approved lead pamphlet.
- 24. **MILITARY ORDNANCE DISCLOSURE:** (If applicable and known to Landlord) Premises is located within one mile of an area once used for military training, and may contain potentially explosive munitions.
- 25. **PERIODIC PEST CONTROL:** Landlord has entered into a contract for periodic pest control treatment of the Premises and shall give Tenant a copy of the notice originally given to Landlord by the pest control company.
- 26. **METHAMPHETAMINE CONTAMINATION:** Prior to signing this Agreement, Landlord has given Tenant a notice that a health official has issued an order prohibiting occupancy of the property because of methamphetamine contamination. A copy of the notice and order are attached.
- 27. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Landlord nor Brokers, if any, are required to check this website. If Tenant wants further information, Tenant should obtain information directly from this website.)

28. POSSESSION:

- A. Tenant is not in possession of the premises. If Landlord is unable to deliver possession of Premises on Commencement Date, such Date shall be extended to the date on which possession is made available to Tenant. If Landlord is unable to deliver possession within 5 (or 15) calendar days after agreed Commencement Date, Tenant may terminate this Agreement by giving written notice to Landlord, and shall be refunded all Rent and security deposit paid. Possession is deemed terminated when Tenant has returned all keys to the Premises to Landlord.
- B. Tenant is already in possession of the Premises.

29. TENANT'S OBLIGATIONS UPON VACATING PREMISES:

- A. Upon termination of this Agreement, Tenant shall: (i) give Landlord all copies of all keys or opening devices to Premises, including any common areas; (ii) vacate and surrender Premises to Landlord, empty of all persons; (iii) vacate any/all parking and/or storage space; (iv) clean and deliver Premises, as specified in paragraph C below, to Landlord in the same condition as referenced in paragraph 10; (v) remove all debris; (vi) give written notice to Landlord of Tenant's forwarding address; and (vii)
- B. All alterations/improvements made by or caused to be made by Tenant, with or without Landlord's consent, become the property of Landlord upon termination. Landlord may charge Tenant for restoration of the Premises to the condition it was in prior to any alterations/improvements.
- C. **Right to Pre-Move-Out Inspection and Repairs:** (i) After giving or receiving notice of termination of a tenancy (C.A.R. Form NTT), or before the end of a lease, Tenant has the right to request that an inspection of the Premises take place prior to termination of the lease or rental (C.A.R. Form NRI). If Tenant requests such an inspection, Tenant shall be given an opportunity to remedy identified deficiencies prior to termination, consistent with the terms of this Agreement. (ii) Any repairs or alterations made to the Premises as a result of this inspection (collectively, "Repairs") shall be made at Tenant's expense. Repairs may be performed by Tenant or through others, who have adequate insurance and licenses and are approved by Landlord. The work shall comply with applicable law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. (iii) Tenant shall: (a) obtain receipts for Repairs performed by others; (b) prepare a written statement indicating the Repairs performed by Tenant and the date of such Repairs; and (c) provide copies of receipts and statements to Landlord prior to termination. Paragraph 29C does not apply when the tenancy is terminated pursuant to California Code of Civil Procedure § 1161(2), (3) or (4).

30. **BREACH OF CONTRACT; EARLY TERMINATION:** In addition to any obligations established by paragraph 29, in the event of termination by Tenant prior to completion of the original term of the Agreement, Tenant shall also be responsible for lost Rent, rental commissions, advertising expenses and painting costs necessary to ready Premises for re-rental. Landlord may withhold any such amounts from Tenant's security deposit.

31. **TEMPORARY RELOCATION:** Subject to local law, Tenant agrees, upon demand of Landlord, to temporarily vacate Premises for a reasonable period, to allow for fumigation (or other methods) to control wood destroying pests or organisms, or other repairs to Premises. Tenant agrees to comply with all instructions and requirements necessary to prepare Premises to accommodate pest control, fumigation or other work, including bagging or storage of food and medicine, and removal of perishables and valuables. Tenant shall only be entitled to a credit of Rent equal to the per diem Rent for the period of time Tenant is required to vacate Premises.

32. **DAMAGE TO PREMISES:** If, by no fault of Tenant, Premises are totally or partially damaged or destroyed by fire, earthquake, accident or other casualty that render Premises totally or partially uninhabitable, either Landlord or Tenant may terminate this Agreement by giving the other written notice. Rent shall be abated as of the date Premises become totally or partially uninhabitable. The abated amount shall be the current monthly Rent prorated on a 30-day period. If the Agreement is not terminated, Landlord shall promptly repair the damage, and Rent shall be reduced based on the extent to which the damage interferes with Tenant's reasonable use of Premises. If damage occurs as a result of an act of Tenant or Tenant's guests, only Landlord shall have the right of termination, and no reduction in Rent shall be made.

33. **INSURANCE:** Tenant's or guest's personal property and vehicles are not insured by Landlord, manager or, if applicable, HOA, against loss or damage due to fire, theft, vandalism, rain, water, criminal or negligent acts of others or any other cause. **Tenant is**

Tenant's Initials () ()
Landlord's Initials () ()

Reviewed by Date



advised to carry Tenant's own insurance (renter's insurance) to protect Tenant from any such loss or damage. Tenant shall comply with any requirement imposed on Tenant by Landlord's insurer to avoid: (i) an increase in Landlord's insurance premium (or Tenant shall pay for the increase in premium); or (ii) loss of insurance.

34. **WATERBEDS:** Tenant shall not use or have waterbeds on the Premises unless: (I) Tenant obtains a valid waterbed insurance policy; (II) Tenant increases the security deposit in an amount equal to one-half of one month's Rent; and (III) the bed conforms to the floor load capacity of Premises.

35. **WAIVER:** The waiver of any breach shall not be construed as a continuing waiver of the same or any subsequent breach.

36. **NOTICE:** Notices may be served at the following address, or at any other location subsequently designated:

Landlord: C.R.P.M Inc.

3577 Fruitvale Ave

Oakland Ca, 94602

Tenant: Kenneth Siedler, Julie Pastore

3140 E 27th St

Oakland Ca, 94602

37. **TENANT ESTOPPEL CERTIFICATE:** Tenant shall execute and return a tenant estoppel certificate delivered to Tenant by Landlord or Landlord's agent within 3 days after its receipt. Failure to comply with this requirement shall be deemed Tenant's acknowledgment that the tenant estoppel certificate is true and correct, and may be relied upon by a lender or purchaser.

38. **TENANT REPRESENTATIONS; CREDIT:** Tenant warrants that all statements in Tenant's rental application are accurate. Tenant authorizes Landlord and Broker(s) to obtain Tenant's credit report periodically during the tenancy in connection with the modification or enforcement of this Agreement. Landlord may cancel this Agreement: (I) before occupancy begins; (II) upon disapproval of the credit report(s); or (III) at any time, upon discovering that information in Tenant's application is false. A negative credit report reflecting on Tenant's record may be submitted to a credit reporting agency if Tenant fails to fulfill the terms of payment and other obligations under this Agreement.

39. **MEDIATION:**

A. Consistent with paragraphs B and C below, Landlord and Tenant agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to court action. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action.

B. The following matters are excluded from mediation: (i) an unlawful detainer action; (ii) the filing or enforcement of a mechanic's lien; and (iii) any matter within the jurisdiction of a probate, small claims or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the mediation provision.

C. Landlord and Tenant agree to mediate disputes or claims involving Listing Agent, Leasing Agent or property manager ("Broker"), provided Broker shall have agreed to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to such Broker. Any election by Broker to participate in mediation shall not result in Broker being deemed a party to this Agreement.

40. **ATTORNEY FEES:** In any action or proceeding arising out of this Agreement, the prevailing party between Landlord and Tenant shall be entitled to reasonable attorney fees and costs, except as provided in paragraph 39A.

41. **C.A.R. FORM:** C.A.R. Form means the specific form referenced or another comparable form agreed to by the parties.

42. **OTHER TERMS AND CONDITIONS; SUPPLEMENTS:** Interpreter/Translator Agreement (C.A.R. Form ITA); Keysafe/Lockbox Addendum (C.A.R. Form KLA); Lead-Based Paint and Lead-Based Paint Hazards Disclosure (C.A.R. Form FLD)

The following ATTACHED supplements are incorporated in this Agreement: Item #40 to be deleted

43. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the parties are incorporated in this Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed except in writing. This Agreement is subject to California landlord-tenant law and shall incorporate all changes required by amendment or successors to such law. This Agreement and any supplement, addendum or modification, including any copy, may be signed in two or more counterparts, all of which shall constitute one and the same writing.

44. **AGENCY:**

A. **CONFIRMATION:** The following agency relationship(s) are hereby confirmed for this transaction:

Listing Agent: (Print firm name) _____

is the agent of (check one): the Landlord exclusively; or both the Landlord and Tenant.

Leasing Agent: (Print firm name) _____

(if not same as Listing Agent) is the agent of (check one): the Tenant exclusively; or the Landlord exclusively; or

both the Tenant and Landlord.

B. **DISCLOSURE:** (if checked): The term of this lease exceeds one year. A disclosure regarding real estate agency relationships (C.A.R. Form AD) has been provided to Landlord and Tenant, who each acknowledge its receipt.

45. **TENANT COMPENSATION TO BROKER:** Upon execution of this Agreement, Tenant agrees to pay compensation to Broker as specified in a separate written agreement between Tenant and Broker.

Tenant's Initials (KS) (_____)

Landlord's Initials (CRPM) (_____)

Reviewed by _____ Date _____



3140 E 27th St

Premises: Oakland, Ca 94602

Date: August 24, 2010

46. **INTERPRETER/TRANSLATOR:** The terms of this Agreement have been interpreted for Tenant into the following language: _____ Landlord and Tenant acknowledge receipt of the attached interpreter/translator agreement (C.A.R. Form ITA).

47. **FOREIGN LANGUAGE NEGOTIATION:** If this Agreement has been negotiated by Landlord and Tenant primarily in Spanish, Chinese, Tagalog, Korean or Vietnamese, pursuant to the California Civil Code Tenant shall be provided a translation of this Agreement in the language used for the negotiation.

48. **OWNER COMPENSATION TO BROKER:** Upon execution of this Agreement, Owner agrees to pay compensation to Broker as specified in a separate written agreement between Owner and Broker (C.A.R. Form LCA).

49. **RECEIPT:** if specified in paragraph 5, Landlord or Broker, acknowledges receipt of move-in funds.

Landlord and Tenant acknowledge and agree Brokers: (a) do not guarantee the condition of the Premises; (b) cannot verify representations made by others; (c) cannot provide legal or tax advice; (d) will not provide other advice or information that exceeds the knowledge, education or experience required to obtain a real estate license. Furthermore, if Brokers are not also acting as Landlord in this Agreement, Brokers: (e) do not decide what rental rate a Tenant should pay or Landlord should accept; and (f) do not decide upon the length or other terms of tenancy. Landlord and Tenant agree that they will seek legal, tax, insurance and other desired assistance from appropriate professionals.

Tenant agrees to rent the Premises on the above terms and conditions.

Tenant [Signature] Kenneth Siedler Date August 24th, 2010
Address 3140 E 27th St City Oakland State Ca Zip 94602
Telephone _____ Fax _____ E-mail _____

Tenant _____ Julie Pastore Date _____
Address 3140 E 27th St City Oakland State Ca Zip 94602
Telephone _____ Fax _____ E-mail _____

GUARANTEE: In consideration of the execution of this Agreement by and between Landlord and Tenant and for valuable consideration, receipt of which is hereby acknowledged, the undersigned ("Guarantor") does hereby: (i) guarantee unconditionally to Landlord and Landlord's agents, successors and assigns, the prompt payment of Rent or other sums that become due pursuant to this Agreement, including any and all court costs and attorney fees included in enforcing the Agreement; (ii) consent to any changes, modifications or alterations of any term in this Agreement agreed to by Landlord and Tenant; and (iii) waive any right to require Landlord and/or Landlord's agents to proceed against Tenant for any default occurring under this Agreement before seeking to enforce this Guarantee.

Guarantor (Print Name) _____
Guarantor _____ Date _____
Address _____ City _____ State _____ Zip _____
Telephone _____ Fax _____ E-mail _____

Landlord agrees to rent the Premises on the above terms and conditions.

Landlord [Signature] Landlord _____
C.R.P.M Inc.

Address _____
Telephone _____ Fax _____ E-mail _____

REAL ESTATE BROKERS:

- A. Real estate brokers who are not also Landlord under this Agreement are not parties to the Agreement between Landlord and Tenant.
- B. Agency relationships are confirmed in paragraph 44.
- C. **COOPERATING BROKER COMPENSATION:** Listing Broker agrees to pay Cooperating Broker (Leasing Firm) and Cooperating Broker agrees to accept: (i) the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS; or (ii) (if checked) the amount specified in a separate written agreement between Listing Broker and Cooperating Broker.

Real Estate Broker (Listing Firm) _____ DRE Lic. # _____
By (Agent) _____ Date _____
Address _____ City _____ State _____ Zip _____
Telephone _____ Fax _____ E-mail _____

Real Estate Broker (Leasing Firm) _____ DRE Lic. # _____
By (Agent) C.R.P.M Inc. DRE Lic. # _____ Date _____
Address 3577 Fruitvale Ave City Oakland State Ca Zip 94602
Telephone (510) 530-1005 Fax (510) 530-0328 E-mail crpm@aol.com

THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.
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Reviewed by _____ Date _____



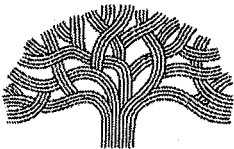
CHRONOLOGICAL CASE REPORT

Case No.: T18-0409
Case Name: Luther v. CCC Property Management
Property Address: 1724 6th Ave., #6, Oakland, CA
Parties: Briah Luther (Tenant)
Adrian Gebhart (Tenant)
John Tse (Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	July 31, 2018
Owner Response filed	December 3, 2018
Hearing Decision mailed	May 2, 2019
Owner Appeal filed	May 21, 2019

T18-0409 KM/BC

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp...
	<u>TENANT PETITION</u>	

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 BRIA H LUTHER	Rental Address (with zip code) 1724 6th Ave #6 Oakland, Ca 94606	Telephone: E-mail: (5)
Your Representative's Name N/A at the moment	Mailing Address (with zip code) Same as above	Telephone: Email:
Property Owner(s) name(s) John Tse Connie Louie	Mailing Address (with zip code) PO Box 184, Orinda Ca 94563	Telephone: Email:
Property Manager or Management Co. (if applicable) CCC Property Management	Mailing Address (with zip code) P.O. Box 184 Orinda, Ca 94563	Telephone: Email:

Number of units on the property: 9

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 checked="" 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.

000036

	(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.)
X	(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).
X	(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.
X	(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)
X	(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: 1/1/2014 Initial Rent: \$ 1195.00 /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: _____ . If never provided, enter "Never."

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
7/29/18	8/1/18	\$ 1259.00	\$ 1330.00	<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	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes
 No

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

7/31/18

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): _____

Delete

Provide 1) A description of each lost service 2) an explanation of how you calculate the

dollar value of each lost service.

What is the estimated dollar value of the lost service or problem?

Date loss of this service began

Select month

Select day

Select year

Please attach documentary evidence if available



File name

2018-07-31 (3).png

See photos attached

Delete

2018-07-31 (6).png

Delete

2018-07-31 (3).png

Delete

2018-07-31 (2).png

Delete

2018-07-31 (4).png

Delete

2018-07-31 (5).png

Delete

2018-07-31 (8).png

Delete

2018-07-31 (7).png

Delete

Screenshot_20180729-190230_Gallery.jpg

Delete

Screenshot_20180729-190235_Gallery.jpg

Delete

Screenshot_20180729-193739_Gallery.jpg

Delete

2018-07-31 (10).png

Delete

2018-07-31 (9).png

Delete

Add another lost service

Problems

Are you claiming any serious problems with the condition of your unit?

YesNo

What is the estimated dollar value of the lost service?

0

Problem description

Date problem(s) began

//

Delete

What is the estimated dollar value of the lost service?

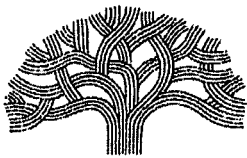
600

Problem description

Upon moving into my unit, I was told that it was renovated, and there would be more renovations in order to insulate the windows. I have received Monthly increases since my move-in date (from \$1195-1215, and then 1215-1259), and still have not had my windows insulated. I emailed on July 18, 2017 about the various things that needed to be addressed, and the window insulation has never been responded to or fixed. I reminded that he said it would be done by the second year of living here, a year which I received an increase of rent from 1195 to 1215.

Date problem(s) began

000041



CITY OF OAKLAND

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

For date stamp.

RECEIVED
DEC 03 2018
RENT ADJUSTMENT PROGRAM
**OAKLAND 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 - T18-0409

Your Name John TSC CCU PROPERTY MGMT	Complete Address (with zip code) PO BOX 184 ORINDA, CA 94563	Telephone:
		Email:
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) BRANT LUTHER + CO	Complete Address (with zip code) 1724 6TH AVE #6 OAKLAND, CA 94606	
Property Address (If the property has more than one address, list all addresses) 1724 6TH AVE, OAKLAND 94606		Total number of units on property 9

Have you paid for your Oakland Business License? Yes No Lic. Number: 0016060
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: 7/1/13.

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>
9/1/18	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<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 ~~7/1/14~~ 11/25/13

The tenant's initial rent including all services provided was: \$ 1195 / 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? 7/12/16 / 7/29/18 (REISSUED 7/30/18)

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>	
7/30/18	9/1/18	\$ 1259	\$ 1330	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7/12/16	9/1/16	\$ 1215	\$ 1259	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7/28/15	9/1/15	\$ 1195	\$ 1215	<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

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

11/21/10

IMPORTANT INFORMATION:

Time to File

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

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

File Review

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

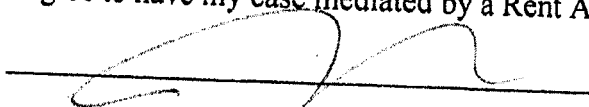
Mediation Program

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

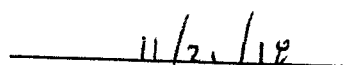
If the tenant did not sign for mediation, you may want to discuss that option with them. You and your tenant may agree to have your case mediated at any time before the hearing by submitted a written request signed by both of you. If you and the tenant agree to a non-staff mediator, please call (510)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

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

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



Property Owner's Signature



Date

CCC Management, llc

CCC Property Management, llc
PO Box 184
Orinda, CA 94563
925-259-3035(office)

RAP/Board Briah Luther

Oakland, Ca 94612-0243

Subject: RAP Response to Briah Luther's Claims

Nov 21, 2018

I would like to start by providing some notes regarding this tenant 1st and then I will address the 5 items she is claiming.

The tenant had had numerous run ins with the on sites at this building. I believe she has an authority issue and does not want to abide by the rules. She has had people on top of the roof suntanning and using drugs when the roof is only for emergencies. There is no railing on the roof and its dangerous. In addition, on one drunken night, the tenant and her friends got mad at the on site and through a cabinet behind his car that he parks in the driveway. She has blocked emergency exits in the emergency stairway with her bike without notifying anyone. She has blocked the driveway with her car without notifying the on-site. Most recently, she does not properly dispose of her recycling even after the on-site has complain to her regarding properly placing the items in the bins.

- 1) This is a service charge for additional work, rate is below the required time needed to replace the lock. Time has to been taken to wait for the mailman and have him unlock the main panel so a new lock can be replaced. This was not the 1st time the tenant has locked herself out.
- 2) The toilet was replaced during a routine maintenance inspection, the toilet was leaking and it was replaced. Another routine inspection on 12/15/17 found that the new toilet was loose on one side and the toilet was rotated 45 degrees. Under the contract, the tenant has to safeguard the unit and notify the owner of any problems immediately.

- SEE
ATTACHMENT
1

000046

CCC Management, llc

Somehow, the tenant damaged the flange of the toilet by wobbling the toilet and continued to use it. **No email ever received.**

- 3) I was contacted regarding mold causing a plugged shower, I have never heard of such a thing. I asked her to check with Julio, the on-site manager, to see if it was something else. Julio does not perform repairs.

ATTACHED
1A

She had a drainage backup before and we cleared it one time and it was full of pet and human hair. We did not charge the 1st time.

In this case, I was out of town and either way she would have to cover the charge for the clearing. (Part of the rental contract section 11) I asked her to contact a plumber, we are not obligated to clear lines if the tenants are responsible for the damage. Also, we have not had any other clogs in the building as she has claimed. She is the only one with a pet and a plug bathtub. After this incident, I have noticed that she has installed a debris screen in the tub.

- 4) Regarding pest infestation, we were notified regarding pest on 7/7/18 and we responded immediately the following week on Thursday with treatment. We noted that there was food and debris all over the kitchen and that needed also to be address to eradicate the roaches.

What we realized after was that she had already contacted the Alameda county vector control prior to her email to me. They visited her unit on 6/21/18 but we were not contacted until 7/7/18.

We were again contacted on Aug 26, 2018 regarding roach and mice issues and we contacted Terminix to come on Sept 11, 2018 to address both. Terminix baited again for roaches and I sealed off the building to prevent mice from entering. Since the kitchen cabinets could not be sprayed, we thought we would come back on September 17, 2018 and we found that the lock was changed and we were locked out. We requested the key and eventually we received a copy. We attempted a 3rd time to enter the unit between 11/5/18-11/9/18 to spray. I did a quick inspection on 11/5/18 prior to Terminix arriving and found that the lower cabinets were still not emptied. (See Attachment (I contacted Terminix and they said they can not do the service until everything was cleared.

(ISS)
ATTACH 2

(2nd)
ATTACHED
3, 3A, 3B

Also, her unit is not clean as she has described. There is food debris everywhere and there is a dog in the unit, which probably contributes to the problem.

ATTACH
4A, 4B

000047

CCC Management, llc

- 5) The timing of the increase was corrected the following day on July 30th. We incorrectly ^{- attached} inputted the wrong month for the start of the increase, which was handed out on July 29th. It was a clerical error and it was corrected. The rent increase and rap sheet were served within the required 30 day requirement.

If you have any further questions, please do not hesitate to call the following number 925-259-3035.

John Tse

CCC Property Management

000048

copy and pasted from online version (which services were shut down)

7/18/17 - ~~example~~

TEENANTS COMPLAINTS
All estimated dollars

What is the estimated dollar value of the lost service or problem? Calculated by looking up averages online
10

Reduced Service description

1) Mail Key replacement : 2/25/17 & 3/6/2017 ; Average cost: 10.00 I needed a replacement mail key, and emailed him. I received no response. I sent another email, and he tried to charge 20.00- 75.00 for a legally required service. In the email response, there is an email exchange where I try to explain that it is my legal right to obtain US mail, but never received a response or the service. I replaced it myself.

Date loss of this service began
2017/2/25

Delete

What is the estimated dollar value of the lost service or problem?
348

Reduced Service description

1) Loss of plumbing services: toilet replacement ; Average cost: 348 I sent an email about another replacement for my toilet. This was a service provided when I moved in, because the toilet wobbles when you sit down. The replacement given still wobbled, and it was lower in quality and has a smell to it. He came in, but did not replace it. He said I would need to pay for it myself. This issue is still unresolved.

Date loss of this service began
2017/7/18

Delete

What is the estimated dollar value of the lost service or problem?
191

Reduced Service description

1) Loss of plumbing service: went without a shower for multiple weeks 6/20/18, 6/30/18 email response : average cost \$141-214 This service is a service I have had in the past, as have other tenants. I messaged the landlord when I received a clog with black gunk (which I originally thought was mold) on 6/20/18 when it became apparent it would need to be snaked. He responded saying it was pet hair and told me to check in with someone else on the property. The person on the property also agreed with me: we would need him to come in and snake the bathtub again, but also explained the black gunk clogging the bathtub is the rust from the piping. I emailed again on Jun 30th, as he did not make any effort to come in and fix the issue himself. I did not receive a response for days, and I rented a snake myself and learned how to unclog the drain of the rusted gunk by July 3, 2018. He responded July 5th, stating he would not do the repair without a fee. I emailed back that it was fixed.

Date loss of this service began

2018/6/20

Delete

What is the estimated dollar value of the lost service or problem?

550.00

Reduced Service description

4) 1) mice and cockroach infestation in apartment: 7/18/17 & 7/7/18 Upon moving in, there has been a yearly pest control maintenance. Starting in July of 2017, I noticed there was mice droppings and sounds. I emailed him notifying him. He did not send an exterminator. He gave the advice to get some cats. The person who does some maintenance on the property has been caring for feral cats in an effort to reduce the mice population. He also put out a couple of traps, but that did not solve the issue. Since he has chosen not to deal with the problem after being notified, I have tried multiple tactics to reduce pest and mice infestation: bought traps, clean morning and nightly and reduce clutter. I even borrowed a cat from a friend, which did catch one mouse. This has still not resolved the issue. As of July 2018, it has become clear I had an infestation. I sent another email stating this was a legal issue of habitability. He responded, and came in. He did not get an exterminator as requested, and said I would have to get one myself. I contacted Alameda County Vector Control, and they came in to inspect. They found places where mice have chewed through the walls, as well as there is a roach infestation. They said this was the landlord's responsibility, and they are in the process of reaching out to him directly in order to stop the infestation through mediation since he will not do it after multiple requests.

Date loss of this service began

2017/7/18

Delete

What is the estimated dollar value of the lost service or problem?

852

Reduced Service description

5) On July 29th, 2018, I received a 30 day Notice of change in Monthly Rent. It was incorrectly dated 7/10/18 and said it begins on 8/1/18 Although not a loss of service, I am providing documentation with timestamps of the illegal notice to increase rent due to the amount and having only a 2 day notice of time frame. The notice was an increase of 71 dollars a month. From 1259 to 1330. I calculated that a year's month of increase would be 852. I contacted the Rent Adjustment Program department, and was instructed to file a petition since it was illegal. She also instructed me to pay only the 1259 for August rent. It should be noted that other tenants in the building has been given this document and expected an increased amount of rent without 30 day notice.

Date loss of this service began

2018/7/29

000050



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 5313 • OAKLAND, CALIFORNIA 94612-2034

Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
CA Relay Service 711

HEARING DECISION

CASE NUMBER: T18-0409, Luther v. CCC Property Management
PROPERTY ADDRESS: 1724 6th Avenue, Apt. #6, Oakland, CA
DATE OF HEARING: February 27, 2019
DATE OF DECISION: April 24, 2019
APPEARANCES: Briah Luther, Tenant
Adrian Gebhart, Tenant
John Tse, Owner

SUMMARY OF DECISION

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

CONTENTIONS OF THE PARTIES

The tenant¹ filed a petition on July 31, 2018, contesting a rent increase on the grounds that the CPI and/or banked rent increase was calculated incorrectly; that the property owner did not serve the required form Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice) at least 6 months prior to the effective date of the rent increase; and the rent increase notice was not given in compliance with State law. The tenant also claimed that there are current health, safety, fire or building code violations in the unit and that their housing services have been decreased. Their list of decreased services include mice and cockroach infestations; a mail key replacement; toilet replacement; and shower problems.

The owner filed a timely response to the tenant petition claiming that the rent increase was justified by banking and denying that their housing services had decreased.

At the Hearing, the tenant withdrew their claim regarding the rent increase.

THE ISSUES

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

¹ The tenant uses they/them pronouns. Therefore, throughout this Decision, references to the tenant will include the use of they/them pronouns.

2. What documents are admissible into evidence?
3. Have the tenant's housing services decreased, and if yes, by what percentage of the total housing services provided by the owner?
4. What, if any, restitution is owed between the parties and how does it affect the rent?

EVIDENCE

Briah Luther testified that they moved into the rental unit in December of 2013 at an initial rent of \$1,195 a month.² They did not receive the *RAP Notice* when they moved in, but did receive it with their first rent increase in 2015. The tenant is currently paying rent of \$1,330 a month. The lease states: "Tenant shall immediately notify Landlord, in writing, of any problem, malfunction or damage. Tenant shall be charged for all repairs or replacements caused by Tenant, pets, guest or licensees of tenant, excluding ordinary wear and tear."

Documentary Evidence: The tenant brought a *Vector Control Report* to the Hearing. They testified that the report was just provided to them the day immediately prior to the Hearing and they had not had time to produce it to the *RAP* prior to the Hearing.

Decreased Services: The tenant produced a list of decreased services with their petition. This list was admitted into evidence as Exhibit 1.

Rodents and cockroaches: Briah Luther testified that prior to July of 2017, the owner had annual pest control services and the unit was fine. At some point the regular pest control stopped. Then, in July of 2017, Luther became alerted to the fact that there were rodents in the unit. This came to the tenant's attention after seeing rodent droppings and hearing sounds of rodents in the walls after returning from a 10 day vacation. The tenant sent an email to Connie and John, the owners, at clouie.ccc@gmail.com, on July 18, 2017, informing them about the presence of mice in the unit.³ This email address was given to Luther when the tenant moved in, as a way to communicate with the owners. In response to the email, someone installed mouse traps throughout the hallways. However, this did not solve the problem.

The tenant further discussed the rodent problem with the on site manager, Julio. Julio told them to get a cat to solve the problem. Also, Julio informed Luther that he would install traps in the hallways. At one point, the tenant did borrow a cat, and the cat caught a rodent. Luther had ongoing communication with Julio at least 5-6 times over the course of the year and informed him that the traps were not solving the problem.

From July 2017 through July 2018, Luther had sporadic experiences with rodents that got worse over time. There would be sounds in the walls, and droppings in the unit. This would occur approximately monthly at first. There are still mice in the unit. At the time

² Exhibit 6 is the lease.

³ Exhibit 2. This document is the same document as Exhibit 4, page 1. The owner objected to the admission of exhibit 2 on the grounds that he did not get the email. The objection was overruled.

of the Hearing, both tenants hear mice in the unit nightly and see droppings on a regular basis.

Then, in July of 2018, the tenant also started seeing cockroaches in the unit. They contacted the owners by email on July 7, 2018, telling them there were “pests” in the apartment.⁴ On July 9, 2018, in response to an email from the owner, Luther responded that the “pests” were cockroaches. Luther placed monitor traps in the unit and found many cockroaches.

In response to the email from Luther, the owner came to the unit in July of 2018 and told the tenant that the cockroaches were coming because of the dog in the unit and that the tenant would have to pay for pest control. In response, Luther contacted *Vector Control*.

The tenant produced a report from *Vector Control* regarding the rodent and cockroach problems.⁵ The report notes that on July 31, 2018, an inspection for cockroaches in the unit was done and the findings state:

“I observed live German cockroaches in the kitchen in monitors she (Ms. Gebhart) had set. She showed me the gel bait that was given to her by owner to apply. On exterior I observed that all the crawlspace vent shields do not have screen and some are at ground level providing opportunity for rodents to enter. There are also some larger gaps near foundation.”

The report further indicates that there was a problem with a different tenant feeding cats in the area.

In August of 2018, the inspector contacted the owner to inform him of the problems. The owner denied to *Vector Control* any knowledge of the mice or cockroach problem, although he later said that there were issues with mice in November of 2017 and they were taken care of with trapping. He was advised that “exclusion measures would prevent the problem from re-occurring.”

The *Vector* report further indicates that in September of 2018, the inspector received another call from Ms. Gebhart who told the inspector that “she is still hearing noise in the walls and heard something in the stove last week. She has also seen a few live cockroaches in her unit.” At a visit to the unit on September 11, 2018, the inspector found over 10 cockroaches in glue monitors and was told about ongoing problems with mice. The inspector found that the walls still had access points for the mice.

Between September and November of 2018 there were ongoing communications between the tenants, the owner and *Vector Control* with disputes arising about whether or not adequate pest control was occurring, whether the tenants were not responsive to *Notices to Enter* and whether or not the owner could charge the tenant for pest control.

⁴ Exhibit 4, page 6

⁵ Exhibit 3

Further inspections were done by *Vector Control* in February of 2019. On February 26, 2019, the inspector wrote:

“I inspected the unit and observed mouse droppings on the living room floor and in the lower kitchen cupboard. I checked the right end cupboard and observed more droppings than the last time I checked with a hole in the corner that appears to be chewed by rodents. I inspected the exterior and observed ½ inch screen with gaps placed in some areas.”

The tenant further testified that there have been inconsistent responses to her complaints from the owner and some efforts have been made to respond to the *Vector* report but the owner has not followed through as instructed by *Vector*.

The tenant testified they continue to see cockroaches in the unit. They take steps to make sure all food is packaged and sealed and continues to keep the unit clean.

The owner denies receiving the email from Briah Luther dated July 18, 2017, regarding mice in the unit, but acknowledges that the email address belongs to Connie, his wife. He has no reason to believe that Connie did not receive this email. He first received any notice of mice in approximately July of 2018 but does not remember the details. He never heard from Julio that the tenant was complaining about mice. Once he knew about the mice, he set out traps in the hallway and basement but didn't set traps in her unit. He found rodents that month, in July of 2018, and considered the matter resolved because Julio told him that no other mice were found. He also met with *Vector Control* in July of 2018 and followed their directions to cover up the access points within the month. The owner denies knowing that there were ongoing problems with mice.

The owner further testified that he has *Terminix* coming to the building on a quarterly basis to treat for cockroaches and pests. They don't go to every unit on a quarterly basis, the treatment is rotated between the tenants but each unit is treated at least once a year, and sometimes twice. *Terminix* did not do rodent control in this case. He did not hire *Terminix* to do rodent control because he thought the problem was resolved, even though a *Terminix* employee informed him of rodents in a different unit. The last time there was treatment in the tenant's unit by *Terminix* was on September 11, 2018, when *Terminix* treated around the hinges of the cabinets. He has not had it treated since because he tried to get into the unit but was not successful.

The owner further testified that on September 17, 2018, he tried to re-enter the unit with *Terminix* to do a full treatment but discovered that the locks had been changed and he could not enter. He is trying to pass the cost of this visit from *Terminix* on to the tenant because he was locked out of the unit. He felt that this was intentional because the tenant had replaced an unlocking knob with a locked knob.

The owner further testified that he posted a *Notice to Enter* to spray the unit on multiple days in November, but when he got there, the unit was not properly prepared for treatment.

The tenant testified that they had locked themselves out of the unit in early September of 2018 and called a locksmith. The locksmith couldn't replace the key, and instead changed the lock. The tenant mailed a copy of the key to the owner both on September 5, 2018 and again in October of 2018 after being informed that the owner did not receive the first key.⁶

Additionally, the tenant testified that on September 11, 2018, they took the entire day off of work to be present at the unit for the day at the time the owner claimed that he could not get into the unit. While the tenant had left the unit for about an hour, during that time they left the door to the unit open so the owner could get in. The owner testified that he was able to access the unit on September 11, 2018, and that it was the September 17, 2018, visit where he could not access the apartment because the door was locked.

The tenant produced an email to the Vector Control inspector dated September 16, 2018, which states: "I got a notice yesterday afternoon that there will be Terminix coming on 9/17/18 from 10-3 p.m. I am following the checklist in order to make sure the house is prepared. Is there anything else I need to do on my end? I am happy to help in whatever ways." The tenant testified that they were not present on September 17, 2018, but expected the owner to let himself in with the key that had been sent.

With respect to the November 2018, *Notice to Enter*, the tenant testified that they contacted the owner to find out what day the owner was coming so they didn't have to be absent from work for 4 days. As a teacher who works nearby, the tenant did not want to miss work, but was able to get to the unit in minutes if necessary, because the school is nearby.

The tenant produced an email to the owner dated November 2, 2018, which states the following:

"I received the Pest Control notice under the door on 11/1/2018. The notice says it is for the rescheduled Pest Control, and provided the dates of 11/5-11/9/18 and requests that all cabinets in kitchen be cleared.

The questions I have that help inform us to properly prepare are:

1. Which company is providing the service?
2. What is the specific date (or dates) that you have the company coming to 1724 6th Ave units?
3. Will I be given the documentation for this service.

I look forward (sp) to hearing your response in a timely manner, as the dates you provided are for this coming week."⁷

There was no response to this email, so the tenant was not sure what date the owner was coming. Nonetheless, the vast majority of the unit was prepared for the service, and the

⁶ Exhibit 7 are copies of the proof of mailing of the keys.

⁷ Exhibit 3, p 18

tenant had simply forgotten to clean out the bottom cabinet. Had there been a text or phone call, the tenant could have left their job, which is only a few minutes away, and come and fix the problem. Instead, no information was provided.

The owner testified that he doesn't normally respond to emails, and prefers to receive letters from his tenants.

The tenant further testified that they have never been informed that they could not communicate with the owner through texts and emails, and had been doing so since they rented the unit originally.

Mail key replacement: The tenant testified that when they moved into the unit, they were given a single key for the mailbox. In February of 2017 their car was broken into and their keys were stolen, so the tenant did not have access to their mail on a regular basis. They wrote to the owner asking for a new mailbox key and were told the charge would be \$75. The tenant had no access to the mailbox for several months. The tenant then hired a friend in May of 2017, who was able to change the mailbox lock without charge.

Toilet: The tenant withdrew the complaint about the toilet at the Hearing.

Shower: The tenant testified that from June 2018 through July of 2018 her shower drain got clogged and the water was not draining at all. The tenants could not shower at all. At first the tenant thought it was mold but it turned out that there was rust in the pipes. The tenant tried Liquid Plumber and it did not solve the problem. When the tenant communicated with the owner, which was by text on June 20, 2018, the owner blamed the clogged pipes on the tenant's dog.⁸ The tenant does not wash their dog in the bathtub and has no understanding of why the dog gets blamed. Ultimately, the tenants purchased a snake and was ultimately able to fix the problem themselves in July of 2018. The tenants were without access to a shower for about four weeks.

The owner testified that he got some kind of text or email from the tenant about this problem.⁹ He sent his onsite manager into the unit who did not see any mold. He decided that this problem must have been caused by the tenant because her email referred to mold in the shower, and he has never heard of such a thing. Plus, about a year and a half prior, he had cleared her drain and there was a lot of hair. Finally, because he sees that her dog sheds on her clothes, he assumed that the dog was responsible for the clogged dog. He "would not be surprised" if she does bathe her dog in the tub. He has never seen her bathe her dog in the tub. He has never seen pipes close enough to have the water not drain. The owner made no attempt to try to repair this issue other than to provide the tenant cost estimates for providing a plumber. The

⁸ Exhibit 4, page 4

⁹ See Exhibit 5, page 2, which is a text from the tenant saying "Hey John, it is Briah at 6th Ave apartments. Currently the plumbing for the bathtub is clogged with mostly black mold and will need to be unclogged...." He replied: "Your text doesn't make sense, if cleaned properly than it shouldn't clog. We pulled lots of hair the last time we cleaned it. Could be pet hair. You may need to contact a plumber."

owner further testified that he is not there to maintain the unit or to resolve issues that the tenants cause.

The owner produced photographs of the tenant's unit and claimed that the photographs show debris all over the tenants unit and that the unit is unkempt.

The photographs show the following:

1. An open cabinet with some supplies and a water bowl for a dog (Exhibit 5, p. 5)
2. Cleaning supplies under the sink cabinet (Exhibit 5, p. 6)
3. Some flecks on the handle of the tenant's stove (exhibit 5, p. 7)
4. An area in the kitchen with a vacuum cleaner, a cabinet with a dog bowl on top and a bin. (Exhibit 5, p. 8).

The owner testified that the flecks on the handle are food debris and that he produced two of the photographs to show that the unit was not ready for pest control on the day he took the photographs (November 5, 2018).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

The Rent Adjustment Ordinance requires an owner to serve the *RAP Notice* at the start of a tenancy¹⁰ and together with any notice of rent increase or change in the terms of a tenancy.¹¹ An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.¹²

The owner has the burden of proof to establish that *RAP Notices* have been served.

The tenant credibly testified that no *RAP Notice* was served with the lease but that one was served with the first rent increase in 2015. It is found that the tenant received the *RAP Notice* in 2015.

What documents are admissible into evidence?

The RAP requires that all documents be provided to the RAP at least 14 days prior to the date of the Hearing, absent good cause. In this case, both parties produced documents prior to the Hearing, but on the day of the Hearing, the tenant produced a copy of the *Vector Control Report*. The tenant credibly testified that they did not have a copy of the report prior to the day before the Hearing and this testimony is supported by the fact that the report date was February 26, 2019.

Since the tenant did not have access to the report prior to the day before the Hearing, there was no way to provide the report to the RAP 14 days before the Hearing.

¹⁰ O.M.C. § 8.22.060(A)

¹¹ O.M.C. § 8.22.070(H)(1)(A)

¹² O.M.C. § 8.22.060 (C)

Therefore, there was good cause for the late production and the *Vector Control* report was admitted into evidence.

Have the tenant's housing services decreased, and if yes, by what percentage of the total housing services provided by the owner?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹³ and may be corrected by a rent adjustment.¹⁴ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy that is no longer being provided.

In a decreased housing services case tenants must establish that the tenants had given the owner notice of the problems and the opportunity to fix the problems before they are entitled to relief. Additionally, there is a time limit for claiming decreased housing services. Once the tenant is served with a *RAP Notice*, a tenant petition must be filed within 90 days after the decrease in service begins. However, if it is a continuing problem, the tenant can file at any time, but is only entitled to restitution beginning 90 days before the petition is filed and for the period of time the owner knew or should have known about the condition.¹⁵

Since the tenant was served with the *RAP Notice* in 2015, their claim begins 90 days before the petition was filed, or May 2, 2018.

Rodents: The tenant has established an ongoing problem with mice in her unit since July of 2017, about which she immediately complained. The owner's claim that somehow the tenant's email is not a "written" communication about conditions, as required by the lease, is not convincing. An email is a written communication and in this case there is ample evidence that the parties have communicated by both email and text throughout her tenancy and that this was a valid email address for the ownership. Additionally, the tenant informed the onsite manager about the problem multiple times in 2017. If it is true that Julio did not inform the owner, this issue is not the responsibility of the tenant. The tenant has adequately informed the owner and his agents of this problem.

The owner was again put on notice of the problem with mice by the *Vector Control* report and his interaction with the inspector. The inspector indicates in the report that the owner did not adequately prevent access for the rodents. At the inspection there were evident gaps in the screens allowing mice to continue to enter.

The owner admitted he did not hire *Terminix* to do any rodent control on this property. Yet the owner did not adequately respond to the tenant's concerns and there is proof that at the time of the Hearing, there were still rodents in the tenant's unit. This is a

¹³ O.M.C. § 8.22.070(F)

¹⁴ O.M.C. § 8.22.110(E)

¹⁵ O.M.C. § 8.22.090(A)(3)(b)

habitability violation and it is the responsibility of the owner to take adequate measures. Therefore, the tenant is entitled to an ongoing 10% rent decrease for this condition, until the owner establishes that he has hired a rodent control company to do complete abatement of the current rodent situation. As noted on the chart below, the tenant has overpaid rent based on this ongoing condition since May 2, 2018, for which she is entitled to restitution.

Cockroaches: Again, the tenant has established an ongoing problem with cockroaches in her unit, which has not been adequately addressed by the owner. The owner's attempt to shift the blame for this problem to the tenant or their dog is not convincing. The owner produced photographs which he claimed showed an unkempt home, but these photographs do not show an unkempt unit. While it is possible that there is a small amount of grease on the tenant's stove, it seems more likely than not that the some portion of the stove's coating is chipping off, exposing the steel. The other photographs of the tenant's unit shows that the unit is clean.

Further, the owner's claim that the tenant did not make the unit available for treatment on September 17, 2018, is also not convincing. The tenant convincingly testified that they sent the owner a copy of the new key for the lock the tenant had to replace in early September of 2018. They provided evidence of the mailing of the key. That the owner did not get the key is not the fault of the tenant. Therefore, the tenant is not responsible for the fact that the owner could not access the unit on that date. In fact, the tenant had sent an email to the *Vector Control* inspector the day before this schedule inspection to confirm that the unit was prepared. The owner may not pass the cost of this missed visit to the tenant because the tenant sent him a key to the unit to access the space.

The owner did establish that the unit was not completely prepared for treatment in November of 2017, when he returned to do treatment because the lower cabinets were not emptied. However, he did not attempt to reach the tenant, who works just minutes away, to have them return to fix the problem, which would have taken less than 5 minutes.

While the owner has established that he has each unit treated for cockroaches once annually, and occasionally more than once annually, the ongoing presence of cockroaches in the tenant's unit makes clear that this irregular treatment is not sufficient. The tenant is entitled to an ongoing rent decrease of 7% for this condition until the owner provides quarterly treatment for cockroaches in this unit and the situation is abated. Note that if the tenant does not provide access after appropriate notice is given, this ongoing rent decrease can end (with proper notice as noted below.) Additionally, the tenant is entitled to restitution of overpaid rent for this condition since May 2, 2018, as noted on the chart below.

Mail key replacement: This matter was resolved by the tenant in May of 2017, far more than 90 days before the petition was filed. Therefore, the tenant's claim is untimely and this claim is denied.

Toilet: The tenant withdrew the complaint about the toilet at the Hearing.

Shower: The tenant established that there was a problem with the bathroom shower drain for a month in June through July of 2018. She informed the owner immediately, who, without investigation, blamed the dog for the problem. Even after sending his onsite manager to look at the situation, the owner refused to do any work without charging the tenant for it. Ultimately, the tenant resolved the problem after a month of not being able to use the shower because the water would not drain.

While an owner can require a tenant to pay for repairs caused by the tenant's own actions, the owner cannot refuse to adequately maintain property. And the owner cannot assume that the problem is a tenant's responsibility without actually doing the work and discovering in what way the tenant may have been responsible. Mere conjecture or assumption is not sufficient, as was the case here. The proper procedure would have been for the owner to hire a plumber to repair the problem and if on the plumber's determination, the clog was caused by the tenant's actions, to seek payment from the tenant for the cost.

The owner should have repaired this problem within days of being notified. He did not. Therefore, the tenant is entitled to restitution of overpaid rent for the period of time she was without use of her shower, of 7% of the rent, as noted on the chart below. There is no ongoing rent decrease because the tenant repaired this matter.

What, if any, restitution is owed between the parties and how does it affect the rent?

The tenant's base rent is \$1,330 a month. The tenant is entitled to an ongoing 17% rent decrease because of the rodents and cockroaches, bringing their current legal rent to \$1,103.90, effective May 1, 2019, before consideration of restitution.

Additionally, the tenant is entitled to restitution for overpaid rent, as noted on the chart below.

The total restitution owed to the tenant is \$2,806.30.

An overpayment of this size is normally adjusted over a period of 12 months.¹⁶ The restitution deduction is \$233.86 a month. The tenant is entitled to begin to deduct the restitution owed from their rent after this Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to the parties.

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¹⁶ Regulations, Section 8.22.110(F)

VALUE OF LOST SERVICES							
Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Rodents	2-May-18	30-Apr-19	\$1,330	10%	\$ 133.00	12	\$ 1,596.00
Cockroaches	2-May-18	30-Apr-19	\$1,330	7%	\$ 93.10	12	\$ 1,117.20
Plumbing	20-Jun-18	20-Jul-18	\$1,330	7%	\$ 93.10	1	\$ 93.10
TOTAL LOST SERVICES							\$ 2,806.30
RESTITUTION							
MONTHLY RENT							\$1,330
TOTAL TO BE REPAID TO TENANT							\$ 2,806.30
TOTAL AS PERCENT OF MONTHLY RENT							211%
AMORTIZED OVER				12	MO. BY REG. IS		\$ 233.86

However, should the owner provide rodent control measures by blocking all access points and confirming with a rodent control professional that there are no further rodents in the tenant's unit, the owner can increase the rent by 10% (\$133 a month.) Further after two quarters of providing regular pest control service for cockroaches in the tenant's unit the owner can increase the rent by 7% (\$93.10 a month.) If the tenant does not allow access to the unit after proper notice, or does not adequately prepare for the pest control, the owner can increase the rent with proper notice. **In order to increase the rent after repairs, the owner must provide the necessary notice pursuant to Civil Code § 827.**

Additionally, if the owner wishes to pay the tenant the restitution in one lump sum, he has the authority to do so. If the owner pays the tenant restitution, the tenant must stop deducting the restitution.

ORDER

1. Petition T18-0409 is granted in part.
2. The tenant's base rent is \$1,330 a month before consideration of restitution and decreased services.
3. Due to ongoing conditions, the tenant is entitled to a 17% rent decrease. The tenant's current legal rent, effective May 1, 2019, before consideration of restitution, is \$1,103.90 a month.
4. Due to past decreased services, the tenant is owed restitution of \$2,806.30 through April 30, 2019. This overpayment is adjusted by a rent decrease for 12 months in the amount of \$233.86 a month.

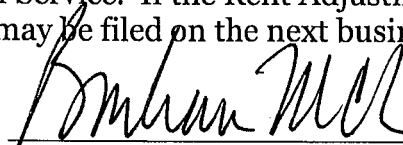
5. The tenant is entitled to reduce the rent per the restitution order after the Hearing Decision becomes final.

6. If the owner wishes to, he can repay the restitution owed to the tenant at any time. If he does so, the monthly decrease for restitution ends at the time the tenant is provided restitution.

7. If the owner provides professional rodent control and fixes all rodent access points and confirms that there are no more rodents in the tenant's unit through a professional, then the owner can increase the rent by 10% (\$133 a month.) If the owner provides quarterly cockroach treatment for two quarters, and confirms with a professional that there are no cockroaches in the tenant's unit, he can increase the rent by 7% (\$93.10 a month.) However, if the tenant does not make the unit available for pest control after adequate notice, the owner can increase the rent for this condition. **In order to increase the rent after repairs the owner must provide the necessary notice pursuant to Civil Code § 827.**

8. **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: April 24, 2019



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number T18-0409

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 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

Connie Louie
P.O. Box 184
Orinda, CA 94563

Owner

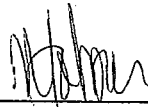
John Tse, CCC Property Management
P.O. Box 184
Orinda, CA 94563

Tenant

Briah Luther
1724 6th Avenue #6
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 **May 2, 2019** in Oakland, CA.



Nia Johnson

Oakland Rent Adjustment Program

000063



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

RECEIVED
 MAY 21 2019
 RENT ADJUSTMENT PROGRAM
 OAKLAND APPEAL

Appellant's Name John Tse		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) X 1724 6th Ave, Oakland, CA 94563			
Appellant's Mailing Address (For receipt of notices) PO Box 184, Orinda, Ca 94563		Case Number T18-0409	Date of Decision appealed 4/24/19 executed 5/2/19
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.)*

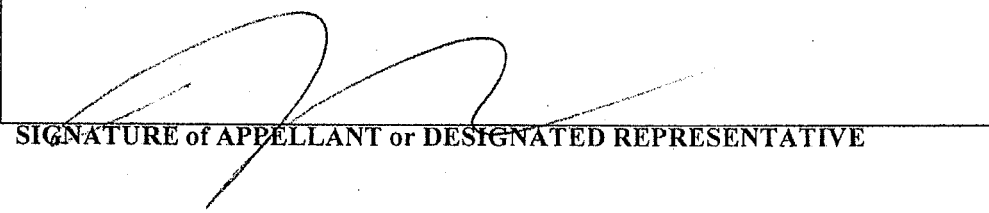
For more information phone (510) 238-3721.

- 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: 5.

• 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 MAY 27, 2019, 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	Briah Luther
Address	1724 6th Ave
City, State Zip	Oakland, CA 94563
Name	
Address	
City, State Zip	

	5/20/19
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.

Appeal to Case Number T18-0409, Luther v. CCC Property Management

Property Address: 1724 – 6th Ave, Apt # 6, Oakland, CA

Date of Hearing: February 27, 2019

Date of Decision April 24, 2019

The owner appeals the decision based on the following grounds:

1. Decision is inconsistent with OMC Chapter 8.22 Rent Board Regulations or prior decision of the board

a. Violation of OMC 8.22 D. Time of Hearing and Decision

- *The specific OMC 8.22 rules that the hearing officer violated was the admission of additional submissions by the tenant the day of the hearing. Per Notice of Hearing, Order to Produce Evidence, all proposed tangible evidence is to be submitted to RAP not less than 14 days prior to the hearing.*
- I was given a copy of the Vector Control Report at the hearing and I was made to accept the report in the hearing, even though I had no chance to review what the report contained.
- The hearing officer seemed unprepared for the hearing; it seemed that there were discussions between the hearing officer and the tenant the day prior to the hearing.
- The RAP website was not updated the day prior to the hearing with any updated information or new evidence. There was no additional information posted.

b. Violation of section 8.22.090 B. owner petition and owner responses to tenant Petitions

- *The hearing officer did not use my response letter for her judgement.*
- *She mentioned right from the start she was not using the letter in this hearing. There was no explanation for this. Upon further research, I still don't see any reason why she did not use my response.*
- In my response letter, I provided timeframes for treating and trying to retreat the unit on 3 separate attempts.
- We attempted many times to take care of the problem but tenant hindered the progress of the work.
- We were not given a chance to inspect and treat the unit because we were locked out and/or the tenant was not ready for treatment.

2. Decision is inconsistent with decisions issued by other Hearing officers

The tenant claim for reduction in service was \$852, however, the hearing officer increased the amount close to \$3000. This amount is excessive and not consistent with penalties assessed on

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other cases according to your floor analyst at RAP. We request that RAP provide hearing reports similar to this case for the last 2 years to compare the assessment for this case. This will be a request to show that it is inconsistent with decisions issued by other Hearing Officers. We are requesting this because we tried to find them on your new website and it still inaccessible and no one at your office have been able to provide support.

Conclusion

I feel that the hearing officer is biased and had already made her decision on this case prior to the hearing. RAP is paid by both parties and the hearing officer is supposed to be non-partisan. The hearing officer did not review the owner's response letter. However, she took all claims by the tenant as truth.

In the report by vector control, the tenant reported in Nov 2018 that she no longer heard mice, however, the hearing officer assessed the penalty for the entire 12 months. Again, without being able to enter, we should not be penalized for not being able to treat. We have tried to enter twice after the February 27, 2019 hearing with proper notice and continue to be denied.

We have successfully managed close to 50 units in Oakland for the last 6 years. We do not have these problems. We normally address the issue quickly and get them resolved. We have never had so many issues gaining entry for treatment. Normally tenants are happy and accommodating.