

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
APPEAL PANEL**

**NOVEMBER 15, 2018  
7:00 P.M.  
CITY HALL, HEARING ROOM #1  
ONE FRANK H. OGAWA PLAZA  
OAKLAND, CA**

**AGENDA**

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. NEW BUSINESS
  - A. Appeal Hearing in cases:
    - i. T16-0271, Tsay v. DeMara
    - ii. T17-0336, Xavier v. Advent Properties, Inc.
    - iii. T17-0208, Brown v. Parmar
5. SCHEDULING AND REPORTS
6. 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](mailto: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, Cantonese, Mandarin o de lenguaje de señas (ASL) por favor envíe un correo electrónico a [sshannon@oaklandnet.com](mailto: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](mailto:sshannon@oaklandnet.com) 或致電 (510) 238-3715 或 711 California relay service。請避免塗搽香氛產品, 參加者可能對化學成分敏感。

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

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

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

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

## CHRONOLOGICAL CASE REPORT

Case No.: T16-0271  
Case Name: Tsay v. DeMara  
Property Address: 496 Mandana Blvd., Unit #2, Oakland, CA  
Parties: Angela Tsay (Tenant)  
Keitha DeMara (Owner)  
Ethan DeMara (Owner's son)

### OWNER APPEAL:

| <u>Activity</u>                    | <u>Date</u>      |
|------------------------------------|------------------|
| Tenant Petition filed              | May 26, 2016     |
| No Owner Response filed            |                  |
| Hearing Decision mailed            | October 10, 2016 |
| 1 <sup>st</sup> Owner Appeal filed | October 28, 2016 |
| Appeal Panel Decision mailed       | August 10, 2017  |
| Remand Hearing Decision mailed     | March 6, 2018    |
| 2 <sup>nd</sup> Owner Appeal filed | March 22, 2018   |

File 0271 MCLM

|  |  |
|--|--|
| <b>CITY OF OAKLAND</b><br><b>RENT ADJUSTMENT PROGRAM</b><br>Mail To: P. O. Box 70243<br>Oakland, California 94612-0243<br>(510) 238-3721 | For date stamp.<br>CITY OF OAKLAND<br>RENT ADJUSTMENT PROGRAM<br>2016 MAY 26 PM 3:12 |
|--|--|

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

**TENANT PETITION**

Please print legibly

|   |  |                                  |
|---|--|----------------------------------|
| Your Name<br><i>ANGELA TSAI</i>                   | Rental Address (with zip code)<br><i>496 Marilena Blvd # 2 94613</i>               | Telephone<br><i>510-219-6787</i> |
| Your Representative's Name                        | Mailing Address (with zip code)  | Telephone                        |
| Property Owner(s) name(s)<br><i>Keitha DeMura</i> | Mailing Address (with zip code)<br><i>P.O. Box 5415<br/>Dalyon Creek, CA 94596</i> | Telephone<br><i>925-639-6793</i> |

Number of units on the property: 4

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

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

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

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

Date you moved into the Unit: March 2010 Initial Rent: \$ 1750 /month

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

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

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

| Date Notice Served (mo/day/year)   | Date Increase Effective (mo/day/year) | Amount Rent Increased |         | Are you Contesting this Increase in this Petition?*                 | Did You Receive a Rent Program Notice With the Notice Of Increase?  |
|------------------------------------|---------------------------------------|-----------------------|---------|---|---|
|                                    |                                       | From                  | To      |   |   |
| <i>past waived</i><br>Apr 11, 2016 | 5/1/16                                | \$ 2200               | \$ 2420 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|                                    | 3/1/15                                | \$ 2000               | \$ 2200 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|                                    | 2/1/13                                | \$ 1875               | \$ 2000 | <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            |

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

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

**III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:**

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


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

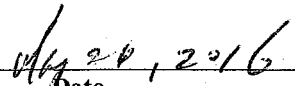
If you answered "Yes" to any of the above, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include at least the following: 1) a list of the lost housing service(s) or serious problem(s); 2) the date the loss(es) began or the date you began paying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

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

**IV. VERIFICATION:** The tenant must sign:

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

  
\_\_\_\_\_  
Tenant's Signature

  
\_\_\_\_\_  
Date

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

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

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

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

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

\_\_\_\_\_  
Tenant's Signature

\_\_\_\_\_  
Date

**VI. IMPORTANT INFORMATION:**

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

**File Review**

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

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

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

Reduced services: Used to have only three tenant cars parked in driveway, now there are four cars, so very inconvenient for parking. Also, no space now with the additional car for the trash/recycling/green cans so those are often just left on sidewalk. We used to have four trash receptacles (one for each unit), but now there are only two, so they are always overflowing and smell and attract raccoons and possums.

There was a City of Oakland blight notice posted on the front door of the property sometime last year, I believe. Most of the issues have not been addressed.



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

CITY OF OAKLAND

Department of Housing and Community Development  
Rent Adjustment Program

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

### HEARING DECISION

**CASE NUMBER:** T16-0271, Tsay v. DeMara  
**PROPERTY ADDRESS:** 496 Mandana Blvd., Unit #2, Oakland, CA 94610  
**DATE OF HEARING:** September 6, 2016  
**DATE OF DECISION:** October 6, 2016  
**APPEARANCES:** Angela Tsay, Tenant  
Keitha DeMara, Owner  
Ethan DeMara, Owner's son

### SUMMARY OF DECISION

The tenant petition is granted in part.

### CONTENTIONS OF THE PARTIES

On May 26, 2016, the tenant filed a petition alleging (1) unjustified rent increases in excess of the CPI Adjustment and/or greater than 10%; (2) no notice of Rent Program was provided with the rent increase notice and at least six months before the effective date of the rent increase; (3) decreased housing services; and (4) code violation.

The owner did not file a written response but appeared at the hearing.

### THE ISSUES

- (1) Did the owner have a good cause for filing no response?
- (2) Are the contested rent increases valid?
- (3) Have the tenant's housing services been decreased, and if so, by what amount?

### EVIDENCE

The tenant moved into the subject unit in March of 2010, an initial monthly rent of \$1,750.00. The subject unit is located in a residential building consisting of four (4) residential units. Prior to the contested rent increases, the monthly rent was \$1,875.00.



### Rent Increases and RAP Notice

The tenant is contesting the following three prior rent increases:

- \$1,875.00 to \$2,000.00, as of February 1, 2013;
- \$2,000.00 to \$2,200.00, as of March 1, 2015;
- \$2,200.00 to \$2,420.00, as of May 1, 2016.

The tenant stated on her petition and testified at the hearing that she has never received the notice of the existence of the Rent Adjustment Program (RAP Notice). She also testified that she did not receive the RAP Notice of any of the contested rent increases. The tenant paid the increases as noticed. This evidence was not disputed and the owner confirmed that she did not know about the RAP Notice.

### No Response by Owner

On May 31, 2016, a Notice of Hearing and Landlord Notification of Tenant Petition was mailed to the owner's address with a proof of service. The Owner Response Form was also included in the mailing. The mail was not returned as non-delivered. The owner testified at the hearing that she received the mail and had the documents with her at the hearing. She apologized for not filing the owner response and testified that this was her first time dealing with the Rent Program.

### Decreased Housing Services

The tenants submitted a list of items as decreased services with her petition. The list was admitted into evidence.<sup>1</sup> At the hearing, the tenant identified the reduction of trash bins as the only item relating to decreased housing services. She testified that about eight months ago, the owner reduced the trash bins from four to two in the 4-unit building, and now the trash overflows. The tenant testified that she called the Waste Management but not the owner. She testified that she did not notify the owner.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### No Good Cause for Filing No Response

The Rent Adjustment Ordinance requires an owner to file a response to a tenant's petition within 35 days after service of a notice by the Rent Adjustment Program that a tenant petition was filed. "If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . ."<sup>2</sup> The owner response was due on July 5, 2016. The owner filed no response. The owner did not provide any reason as to why she did not file a response. The owner does not have a good cause for filing no response. Therefore, the owner is limited to cross-examination and summation.

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<sup>1</sup> Exhibit C

<sup>2</sup> O.M.C. §8.22.070(C)2

No RAP Notice

The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy<sup>3</sup> and together with any notice of rent increase.<sup>4</sup>

Because the owner never provided the RAP notice to the tenant, the contested rent increases are not valid and the rent will roll back to \$1,850.00, the monthly rent amount before the first contested rent increase. The tenant paid all of the rent increases and is entitled to restitution, which is limited to three (3) years prior to the hearing.<sup>5</sup> Therefore, the tenant will receive a credit for rent overpayments for 36 months, from October 1, 2013 to September 1, 2016, as follows:

**OVERPAID RENT**

| From                       | To        | Monthly Rent paid | Max Monthly Rent | Difference per month | No. Months | Sub-total          |
|----------------------------|-----------|-------------------|------------------|----------------------|------------|--------------------|
| 1-May-16                   | 1-Sep-16  | \$2,420           | \$1,875          | \$ 545.00            | 5          | \$ 2,725.00        |
| 1-Mar-15                   | 30-Apr-16 | \$ 2,200          | \$1,875.00       | \$ 325.00            | 14         | \$ 4,550.00        |
| 1-Oct-13                   | 28-Feb-15 | \$ 2,000          | \$1,875.00       | \$ 125.00            | 17         | \$ 2,125.00        |
|                            |           |                   |                  | \$ -                 |            | -                  |
| <b>TOTAL OVERPAID RENT</b> |           |                   |                  |                      |            | <b>\$ 9,400.00</b> |

**RESTITUTION**

|                                  |                           |                  |
|----------------------------------|---------------------------|------------------|
| MONTHLY RENT                     |                           |                  |
| TOTAL TO BE REPAYED TO TENANT    |                           | \$ 9,400.00      |
| TOTAL AS PERCENT OF MONTHLY RENT |                           |                  |
| AMORTIZED OVER                   | MO. BY REG. IS            |                  |
| OR OVER 24                       | MONTHS BY HRG. OFFICER IS | <b>\$ 391.67</b> |

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent<sup>6</sup> and may be corrected by a rent adjustment.<sup>7</sup> 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 is required to be provided in a contract between the parties. "Living with lack of painting, water leaks and defective Venetian blinds may be unpleasant, aesthetically unsatisfying, but does not come with the category of habitability. Such things will not be considered in diminution of the rent."<sup>8</sup> The tenant has the burden of proving decreased housing services by a preponderance of the evidence.

<sup>3</sup> O.M.C. Section 8.22.060(A)

<sup>4</sup> O.M.C. Section 8.22.070(H)(1)(A)

<sup>5</sup> HRRAB Appeal Decisions T06-0051 (*Barajas/Avalos v. Chu*) & T08-0139 (*Jackson-Redick v. Burks*)

<sup>6</sup> O.M.C. §8.22.070(F)

<sup>7</sup> O.M.C. §8.22.110(E)

<sup>8</sup> *Green v. Superior Court* (1974) 10 Cal. 3d 616 at p. 637

In a decreased services case, the tenant must establish she has given the owner notice of the problem and the opportunity to correct the problem before she is entitled to relief.

Trash bins: The tenant testified at the hearing that she did not notify the owner of this problem but called the Waste Management instead. Therefore, the tenant is not entitled to relief and this claim is denied. However, the owner is now on notice to address the issue of trash bins.

### ORDER

1. Tenant Petition T15-0632 is granted in part.
2. The rent increases are not valid. The monthly rent is \$1,875.00.
3. The monthly base rent of \$1,875.00 is temporarily reduced by \$391.67, to \$1,483.33, due to rent overpayments. The total amount of credit is \$9,400.00 and this amount is adjusted by a rent decrease for the next twenty-four (24) months, beginning November 1, 2016, through October 1, 2018.
4. If the owner wishes to pay the tenant restitution in a lump sum (\$9,400.00), the owner may do so.
5. The claim for decreased housing services is denied.

Right to Appeal: **This decision is the final decision of the Rent Adjustment Program.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of the decision. The date of service is shown on 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: October 6, 2016



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**Linda M. Moroz**, Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

**Case Number T16-0271**

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

**Tenant**

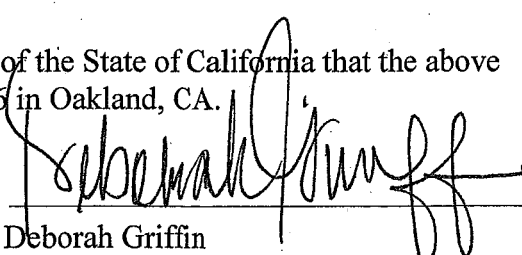
Angela Tsay  
496 Mandana Blvd. #2  
Oakland, CA 94610

**Owner**

Keitha DeMara  
P.O. Box 5715  
Walnut Creek, CA 94596

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 October 10, 2016 in Oakland, CA.

  
Deborah Griffin

2016 OCT 28 PM 3:41

**APPEAL**

**City of Oakland  
Residential Rent Adjustment Program**

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

**Appellant's Name**

*Keith C. DeMora*

Landlord

Tenant

**Property Address (Include Unit Number)**

*496 Mendocino Blvd # 2  
Oakland, Ca. 94610*

**Appellant's Mailing Address (For receipt of notices)**

*P.O. Box 5715  
Walnut Creek, Ca. 94596*

**Case Number**

*716-0271*

**Date of Decision appealed**

*Oct 6, 2016*

**Name of Representative (if any)**

**Representative's Mailing Address (For notices)**

**I appeal the decision issued in the case and on the date written above on the following grounds:**  
(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

1.  **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
2.  **The decision is inconsistent with decisions issued by other hearing officers.** You must identify the prior inconsistent decision and explain how the decision is inconsistent.
3.  **The decision raises a new policy issue that has not been decided by the Board.** You must provide a detailed statement of the issue and why the issue should be decided in your favor.
4.  **The decision is not supported by substantial evidence.** You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.
5.  **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** You must explain how you were denied a sufficient opportunity 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.
6.  **The decision denies me a fair return on my investment.** You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.

7.  Other. You must attach a detailed explanation of your grounds for appeal. Submissions to the Board are limited to 25 pages from each party. Number of pages attached  Please number attached pages consecutively.

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on \_\_\_\_\_, 200\_\_\_\_, 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:

|                        |                     |
|------------------------|---------------------|
| <b>Name</b>            | Angela Tsay         |
| <b>Address</b>         | 496 Mandana Blvd #2 |
| <b>City, State Zip</b> | Oakland, Ca. 94610  |
| <b>Name</b>            |                     |
| <b>Address</b>         |                     |
| <b>City, State Zip</b> |                     |

|  |             |
|--|-------------|
| Keitha C. Demora   | 10-28-16    |
| <b>SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE</b> | <b>DATE</b> |

**IMPORTANT INFORMATION:**

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

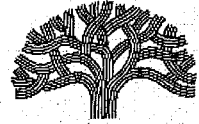
- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment Program by 3:00 p.m. on the 8th day before the appeal hearing.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.

RE. Appeal 496 Mandana Blvd #2  
Case # T 16-0271

- 5 mos. rent paid \$2200.<sup>00</sup> not \$2420.<sup>00</sup>  
(as per. rent checks)
- \$100.<sup>00</sup> increase for 2nd. Tenant  
added to lease, as per lease.  
Aug 2012 thru October 2016.

Please expect Decision of Oct  
6, 2016

Thank You  
Ketha W. W. W.  
955-639-6793



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

Housing and Community Development Department  
Rent Adjustment Program

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

**HOUSING RESIDENTIAL RENT AND RELOCATION BOARD  
APPEAL PANEL DECISION**

**Case Number:** T16-0271, Tsay v. DeMara

**Property Address:** 496 Mandana Blvd., No. 2  
Oakland, CA

**Date of Appeal Hearing:** July 20, 2017

**Appearances:**

|                 |                                |
|-----------------|--------------------------------|
| Keitha DeMara   | Owner Appellant                |
| Jill Broadhurst | Owner Appellant Representative |
| Angela Tsay     | Tenant Appellee                |

Procedural Background

The tenant filed a petition which contested three rent increases on the following grounds:

- The increases exceed the CPI Adjustment and are unjustified or greater than 10%;
- She has not received notice of the Rent Adjustment Program at least six months prior to the date of the effective date of the rent increases;
- She did not receive the RAP notice concurrently with the rent increases;
- There is a code violation;
- The proposed rent increases would exceed an overall increase of 30% in five years.

The tenant also claimed decreased housing services.

The owner did not file a response but appeared at the Hearing. The Hearing Decision stated there was no good cause for the owner's failure to file a response, and the owner was not allowed to present evidence. The rent increases were invalidated. The Hearing Decision granted restitution which totaled \$9,400, and included \$2,725 from May 2016 to September 2016 based on a tenant monthly rent payment of \$2,420 instead of \$2,200. The tenant's claim for decreased housing services was denied.



### Grounds for Appeal

The owner filed an appeal on the grounds that the Hearing Decision is incorrect in awarding the tenant \$2,725 for a rent overpayment from May to September 2016 because the tenant paid \$2,200 monthly in rent for five months from May to September 2016, not \$2,420.

### Appeal Decision

The owner stated that this was her first time dealing with the RAP and she did not understand the RAP process for filing a response. The tenant was asked if she paid the increase from \$2,200 to \$2,420 for the months in question and she stated that she did not recall how much she paid. The owner stated that she had copies of the tenant's checks for this time period which verified that the tenant only paid \$2,200 monthly for this time period. D. Madison stated that in the interest of fairness it is not unreasonable to submit evidence of the amount that was actually paid by the tenant.

D. Mesaro stated that the Hearing Officer assumed the tenant paid the rent increase without evidence of the actual amount paid and if the tenant did not pay the increased amount which is more than a difference of \$1,000, it is not fair.

E. Lai moved to remand the Hearing Decision for the limited purpose of calculating the amounts that the tenant actually paid for the five-month period from May to September 2016. D. Madison offered a friendly amendment to remand the hearing decision to re-calculate the rents for the five-month period with new evidence limited to actual payments by the tenant for this period. The amendment was accepted by E.Lai.

The Board panel voted as follows;

Aye: D. Madison, D. Mesaros

Nay: E. Lai

Abstain: 0

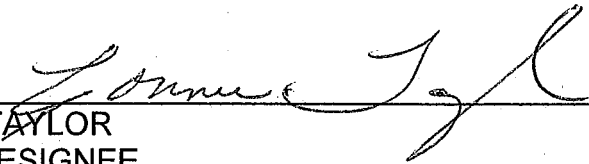
The motion carried.

### NOTICE TO PARTIES

**This decision is the final decision of the City of Oakland.**

Pursuant to Ordinances No. 9510 C.M.S. of 1977 and 10449 C.M.S. of 1984, modified in Article 5 of Chapter 1 of the Municipal Code, the City of Oakland has adopted the ninety (90) day statute of limitations period of Civil Procedure, Section 1094.6.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE NINETY (90) DAYS FROM THE DATE OF MAILING OF THIS DECISION WITHIN WHICH TO SEEK JUDICIAL REVIEW OF THE DECISION OF THIS BOARD IN YOUR CASE.

  
\_\_\_\_\_  
CONNIE TAYLOR  
BOARD DESIGNEE  
CITY OF OAKLAND  
HOUSING, RESIDENTIAL RENT AND  
RELOCATION BOARD

DATE 8/3/17

**PROOF OF SERVICE**

**Case Number T16-0271**

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 APPEAL PANEL DECISION by placing a true copy of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:**

**Tenant**

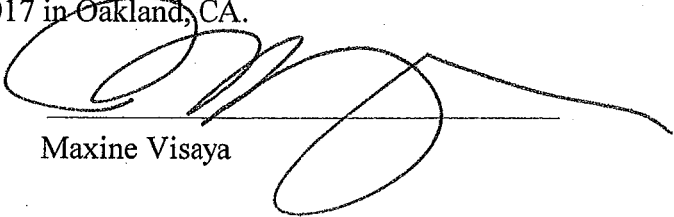
Angela Tsay  
496 Mandana Blvd. #2  
Oakland, CA 94610

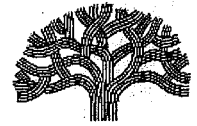
**Owner**

Keitha DeMara  
P.O. Box 5715  
Walnut Creek, CA 94596

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 10, 2017 in Oakland, CA.

  
Maxine Visaya



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

**CITY OF OAKLAND**

Department of Housing and Community Development  
Rent Adjustment Program

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

### **REMAND HEARING DECISION**

**CASE NUMBER:** T16-0271, Tsay v. DeMara  
**PROPERTY ADDRESS:** 496 Mandana Blvd., Unit #2, Oakland, CA 94610  
**DATE OF HEARING:** October 24, 2017  
**DATE OF DECISION:** February 21, 2018  
**APPEARANCES:** Keitha DeMara, Owner  
Ethan DeMara, Owner's son  
No Appearance by Tenant

### **BACKGROUND AND SUMMARY OF APPEAL DECISION**

A Hearing Decision in this case was issued on October 6, 2016, which granted in part the Tenant Petition. The Hearing Decision held the following: (1) the rent increases were not valid and the restitution was ordered due to rent overpayments; and (2) the claim for decreased housing services was denied.

The owner appealed on the grounds that the Hearing Decision was incorrect in awarding the tenant \$2,725 for a rent overpayment from May to September 2016 because the tenant paid \$2,200.00 monthly in rent and not \$2,420.00, which was the amount used in the calculation of overpayment.

An Appeal hearing was conducted on July 20, 2017. The Board remanded the Hearing Decision back to the hearing officer for the limited purpose to re-calculate the amount of overpayment based on the amount that the tenant actually paid for rent for the five-month period from May to September of 2016. The scope of this Remand Hearing Decision is limited to this issue.

**EVIDENCE**

At the Remand Hearing the owner testified that the tenant paid \$2,200.00 per month for rent from May 1, 2016, through September 1, 2016. The owner submitted copies of three checks, dated May 25, July 26, and September 27, 2016. Each check was made by the tenant, Angela Tsay, and payable to the owner, Keitha DeMara, and was for the amount of \$2,200.00. The copies of checks were admitted into evidence.<sup>1</sup>

**No Appearance by Tenant**

On October 2, 2017, an Order Re New Hearing Date was mailed to the tenant's address with a proof of service. The Order set the Remand Hearing date for October 24, 2017, at 2:00 p.m. The mail was not returned as non-delivered. The Order was properly served. The tenant did not appear at the hearing and did not contact this office prior to the hearing.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**Re-calculation of Rent Overpayment**

Based on the undisputed evidence submitted by the owner, the tenant paid \$2,200.00 for rent from May to September of 2016. Therefore, the amount of overpayment for the five-month period from May 1, 2016, to September 1, 2016, is corrected as follows:

| <b>OVERPAID RENT</b>       |           |                   |                  |                      |            |                    |
|----------------------------|-----------|-------------------|------------------|----------------------|------------|--------------------|
| From                       | To        | Monthly Rent paid | Max Monthly Rent | Difference per month | No. Months | Sub-total          |
| 1-May-16                   | 1-Sep-16  | \$2,200           | \$1,875          | \$ 325.00            | 5          | \$ 1,625.00        |
| 1-Mar-15                   | 30-Apr-16 | \$2,200           | \$1,875          | \$ 325.00            | 14         | \$ 4,550.00        |
| 1-Oct-13                   | 28-Feb-15 | \$2,000           | \$1,875          | \$ 125.00            | 17         | \$ 2,125.00        |
|                            |           |                   |                  | \$ -                 |            | -                  |
| <b>TOTAL OVERPAID RENT</b> |           |                   |                  |                      |            | <b>\$ 8,300.00</b> |

| <b>RESTITUTION</b> |                                  |             |
|--------------------|----------------------------------|-------------|
|                    | MONTHLY RENT                     | \$1,875     |
|                    | TOTAL TO BE REPAYED TO TENANT    | \$ 8,300.00 |
|                    | TOTAL AS PERCENT OF MONTHLY RENT | 443%        |
| AMORTIZED OVER     | MO. BY REG. IS                   |             |
| OR OVER 24         | MONTHS BY HRG. OFFICER IS        | \$ 345.83   |

<sup>1</sup> Exhibit A

**ORDER**

1. The restitution amount is corrected and the total amount of credit due to rent overpayment is \$8,300.00.

2. The monthly base rent of \$1,875.00 is temporarily reduced by \$345.83, to \$1,529.17, for the next twenty-four (24) months as shown in the calculation table above.

3. If the owner wishes to pay the tenant restitution in a lump sum (\$8,300.00), the owner may do so.

**Right to Appeal: This decision is the final decision of the Rent Adjustment Program.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of the decision. The date of service is shown on 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: February 21, 2018



---

Linda M. Moroz, Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**  
**Case Number T16-0271**

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

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

**Documents Included**

Remand Hearing Decision

**Owner**

Keitha DeMara  
P.O. Box 5715  
Walnut Creek, CA 94596

**Tenant**

Angela Tsay  
496 Mandana Blvd. #2  
Oakland, CA 94610

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 Mar 6, 2018 in Oakland, CA.

  
\_\_\_\_\_  
Maxine Visaya  
Oakland Rent Adjustment Program



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

For date stamp:  
 2018 MAR 22 PM 3:07

APPEAL

|   |  |   |   |
|---|--|---|---|
| Appellant's Name<br><i>Keitha DeMara</i>  |  | <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant |   |
| Property Address (Include Unit Number)<br><i>496 Mandana Blvd # 2 Oakland</i>                   |  |   |   |
| Appellant's Mailing Address (For receipt of notices)<br><i>P.O. Box 5715 W. Creek Ca. 94596</i> |  | Case Number<br><i>716-0271</i>  | Date of Decision appealed<br><i>March 4, 2018</i> |
| Name of Representative (if any)<br><i>Ethan DeMara</i>  |  | Representative's Mailing Address (For notices)<br><i>Same as Above</i>    |   |

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.)

*Tenant did not appear @ last hearing*

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.  
 Number of pages attached: 1 page

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

I declare under penalty of perjury under the laws of the State of California that on March 23, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

|                        |                            |
|------------------------|----------------------------|
| <b>Name</b>            | <u>Angela Tsay</u>         |
| <b>Address</b>         | <u>496 Mandela Blvd #2</u> |
| <b>City, State Zip</b> | <u>Oakland, Ca 94610</u>   |
| <b>Name</b>            |                            |
| <b>Address</b>         |                            |
| <b>City, State Zip</b> |                            |

|  |                |
|--|----------------|
| <u>Keitha DeMara</u>                                       | <u>3/22/18</u> |
| <b>SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE</b> | <b>DATE</b>    |

ev. 6/22/17

## **IMPORTANT INFORMATION:**

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

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

2018 MAR 22 PM 3:07

Case # T16-0291

1. 24 mos from first decision  
not added to second decision
2. (credited) paid 20 mos @ 1483.30  
instead of \$1529.17
2. ~~Owing 5 mo. Kent increased  
of \$2.13~~

Keitha Deller

3-22-2018

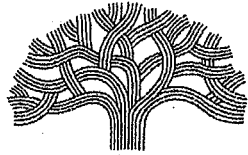
## CHRONOLOGICAL CASE REPORT

Case No.: T17-0336  
Case Name: Xavier v. Advent Properties  
Property Address: 2 Whitmore Place, #3, Oakland, CA  
Parties: Orlando Xavier (Tenant)  
P. Ryan Frank (Agent for Owner)  
Tommy Suh (Agent for Owner)

### TENANT APPEAL:

| <u>Activity</u>         | <u>Date</u>      |
|-------------------------|------------------|
| Tenant Petition filed   | May 31, 2017     |
| Owner Response filed    | August 4, 2017   |
| Hearing Decision mailed | January 2, 2018  |
| Tenant Appeal filed     | January 22, 2018 |

T17-0336 NS/BC



CITY OF OAKLAND

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

RECEIVED  
 For date stamp.  
 2017 MAY 31 PM 2:05

**TENANT PETITION**

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

**Please print legibly**

|   |  |   |
|---|--|---|
| Your Name<br>ORLANDO XAVIER   | Rental Address (with zip code)<br>2 WHITMORE PLACE #3<br>OAKLAND CA, 94611   | Telephone:<br>707-888-2310              |
|   |  | E-mail:<br>TODERDE@SBCGLOBAL.NET        |
| Your Representative's Name  | Mailing Address (with zip code)  | Telephone:                              |
|   |  | Email:                                  |
| Property Owner(s) name(s)<br>LACEY M. CARROLL                                   | Mailing Address (with zip code)<br>P.O. BOX 215387<br>SACRAMENTO CA, 95821   | Telephone:<br>415-828-2646              |
|   |  | Email: KCARROLL<br>PROPERTIES@GMAIL.COM |
| Property Manager or Management Co.<br>(if applicable) ADVENT<br>PROPERTIES INC. | Mailing Address (with zip code)<br>1600 MACARTHUR BLVD.<br>OAKLAND CA, 94602 | Telephone:<br>510-250-7918              |
|   |  | Email: PM@ADVENT<br>PROPERTIESINC.COM   |

Number of units on the property: 6

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

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

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

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

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

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

Date you moved into the Unit: JUNE 1998 Initial Rent: \$ 700-00 /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: 2-21-2017 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 |  |  |
|  |  | \$                    | \$ | <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 | <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:

T10-0109 AND T10-0159

**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:

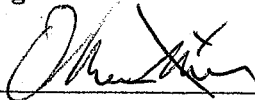
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

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

5-31-2017

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

5-31-2017

Date

#### **VI. IMPORTANT INFORMATION:**

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

#### **File Review**

Your property owner(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the Property Owner's Response. The petition and attachments to the petition can be found by logging into the RAP Online Petitioning System and accessing your case once this system is available. 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.

#### **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): \_\_\_\_\_





# ADVENT

PROPERTIES, INC.

BUY | SELL | PROPERTY MANAGEMENT

May 30, 2017

2 Whitmore Place  
Oakland CA 94612

**RE: Construction Work on Property**

Dear Residents of 2 Whitmore Place,

If anyone has personal items in the garage, please remove them immediately. A construction crew will be on site making repairs in the next day or two. Anything left in the garage will be picked up and disposed of by the construction crew.

Sincerely,

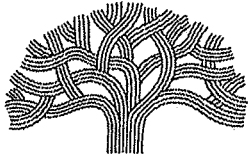
Darryl Glass  
General Manager  
[pm@adventpropertiesinc.com](mailto:pm@adventpropertiesinc.com)  
Direct: 510.500.7531  
Office: 510.250.7918

THIS WAS LEFT ON ALL TENANTS DOORS SOMEWHERE  
BETWEEN 2:00 PM AND 6:00 PM ON MAY 30 2017!

Report from Orlando Xavier at 2 whitmore place apt # 3 Oakland 94611

April 20th called Advent properties about my bedroom floor and bathroom floors sinking/soft area and creaking and also about failed repairs on kitchen sink which has black mold growing all around it and counter top area near sink. we keep cleaning up but it immediately returns someone from Advent over the past 10 months has come 2 times to fix this by applying but not cleaning out the old dirt and mold he just seems to slap it on the new grout over dirt. on April 21st received call from Ryan at Advent saying they would send someone to have a look at floors and re-grout kitchen for a 3rd time, never heard from anyone. by May 5th call Ryan of Advent again and asked when someone would come to make repairs and he could not remember my request! had to say every thing over again and again Ryan of Advent said they would send someone and again nothing no one contact me about the kitchen sink or looked at the floors. then May 30 at 1:30pm I received call from Tom of Advent properties and he tell me I need to move out of my whole apartment, bedroom and bathroom take my stuff out of my storage space and move my car out of the parking space in the garage by June 1st so they can make repairs to my bedroom, bathroom and the garage. I say to them I have received no written notice and you can't tell me verbally without a written notice, they can do that without give me more time than that 32 hours. that is not enough time I have to work, but he seems not to care that me and my wife have a life and responsibilities. now I have to take time off from work to deal with this moving our without any advance written notice. I am not being evicted at least not yet? but I still have to pay the full rent on a place that me and my wife can't stay at. then at 6 pm I come home and there is a letter on our door from Advent which was not there at 2 pm when I left saying.

that repairs to garage are being made in a day or two (see copy) "anything left in the garage will be picked up and disposed of by the construction crew" this sound to me like harassment and a threat! they are going to throw away our personal items out of our storage space. first it was verbal notice and then after I protest a magical written notice shows up! I ask tenants in # 2 and 6 and they say the something can they give such sort notice on major construction # 2 has stuff in the garage too. this legal to give a people less than 32 hours move there items with no advance written construction schedule and no posted permits from the city of Oakland nothing written saying how long the work will take? I have already found out from an attorney that no they can not give such a notice without a detail explanation of why! I also asked if we would get temporary rent reduction for loss of service and a was told by Tom of Advent NO we still have to pay the same rent. please I am so stressed out about this and having to take a day off from work to move all our stuff. my wife is gone out of town for the until June 11 for work which leaves me stuck taking care of this. we have to be on the streets and find a place to live? so far Advent has NOT given us nothing in writing saying what they are going to do about our living situation! where do we go if not in our apartment that we are still paying full rent on? this has to be crazy illegal what Advent is doing to us!



CITY OF OAKLAND

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

For date stamp.  
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RENT ARBITRATION PROGRAM  
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**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 TIF- 0336**

|  |   |  |
|--|---|--|
| Your Name<br><i>The Carol Revocable Trust</i>  | Complete Address (with zip code)<br><i>2264 Rakston Rd<br/>Sacramento CA 95821</i>  | Telephone:<br><br>Email:   |
| Your Representative's Name (if any)<br><i>Advent Properties Inc</i>  | Complete Address (with zip code)<br><i>1600 MacArthur Blvd<br/>Oakland CA 94602</i> | Telephone:<br><i>510-250-7918</i><br>Email:<br><i>info@adventpropertiesinc.com</i> |
| Tenant(s) Name(s)<br><i>Orlando Xavier</i>   | Complete Address (with zip code)<br><i>2 Whitmore Pl 3<br/>Oakland CA 94612</i>     |  |
| Property Address (If the property has more than one address, list all addresses)<br><i>2 Whitmore Place<br/>Oakland CA 94612</i> | Total number of units on property<br><i>6</i>                                       |  |

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

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

Date on which you acquired the building:   1  /  1  /  .

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

**III. EXEMPTION**

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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

8-4-17  
\_\_\_\_\_  
Date

**IMPORTANT INFORMATION:**

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RENT ARBITRATION PROGRAM

**Time to File**

This form **must be received** by the Rent Adjustment Program (RAP), P.O. Box 170243, 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.

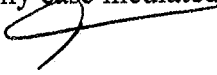
**Mediation Program**

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.

  
\_\_\_\_\_

8-4-17  
\_\_\_\_\_

Property Owner's Signature

Date



**ADVENT**  
PROPERTIES, INC.

BUY | SELL | PROPERTY MANAGEMENT

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RENT ARBITRATION PROGRAM

2017 AUG -4 PM 4:23

PROPERTY OWNER'S RESPONSE TENANT CLAIM FOR DECREASED HOUSING SERVICES

I notified Mr. Xavier on May 30, 2017, that we had received our permit to perform major repairs to the building and that due to the nature of the repairs he would be displaced temporarily. Mr Xavier refused to believe what I told him and insisted on a written notice, which was given to him on June 03.

Mr Xavier asked about a rent reduction to which I replied he would not get one as we would be paying for his temporary accommodations. The proposed start date for the repairs was on June 08, which is 5 days after he was given written notice.

It should be noted that I recently was made aware Mr. Xavier has refused to vacate the premises.

Tommy Suh  
Advent Properties Inc.



Tommy Suh &lt;pm3@adventpropertiesinc.com&gt;

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RENT ARBITRATION PROGRAM**2 Whitmore - Orlando Xavier**

2017 AUG -4 PM 4: 24

PCDirector &lt;pcd@adventpropertiesinc.com&gt;

Fri, Jul 28, 2017 at 12:38 PM

To: Darryl Glass &lt;pm@adventpropertiesinc.com&gt;

Cc: SPManager &lt;pm3@adventpropertiesinc.com&gt;, Ryan Frank &lt;pcs@adventpropertiesinc.com&gt;

Tommy,

Here is a break down, to the best of my recollection, of my interactions with Orlando Xavier regarding maintenance requests in his unit during April and May.

- 4/19/17
  - Tenant emailed Darryl Glass directly requesting repairs.
  - Myself and D created workorders below once we were able to get in touch with the tenant regarding PTE (which was not granted - PTE was only granted for appliance repair vendor, he did not authorize advent properties maintenance techs to enter).
  - In this workorder request the tenant also mentioned a common area dryer that was in need of repair. It was subsequently replaced.
- 5/04/17
  - W/O 13042 submitted by D based on conversation with tenant.
  - Job Description: kitchen light, hallway light and door bell
  - Materials were purchased on 5/03/17. Leads me to believe that workorder was created retroactively for invoicing purposes.
  - Invoice: submitted 5/04/17. "labor:1.5hr, installed a light fixture in kitchen, installed a light switch for hallway light and installed door beel. i patch up some holes in kitchen ceiling (tenant said he was going to paint it)"
- 5/12/17
  - W/O 13118 submitted by myself based on conversation with tenant.
  - Job Description: 3 burners out on range. Please troubleshoot.
  - Invoice: work completed 5/16/17 (4 days following request).
  - I recall working with the tenant on this one and had to follow up with multiple requests to obtain make/model information from the tenant before sending out the appliance repair vendor which led to the 4 day delay in the appointment. The photos sent by the tenant (cannot locate at this time) displayed a range that appeared to be heavily soiled with grease and led me to believe that tenant behavior was leading to the issues with his stove. That said, the tenant was not charged for the repairs following the appointment because the vendor was unable to determine that tenant behavior contributed to the issue.
- 5/12/17
  - W/O 13119 submitted by myself based on conversation with tenant.
  - Job Description: - Sink caulking has not held up. Mildew traces as well as on other areas of countertop that was caulked. - Use ANTI-MILDEW CAULKING.
  - Invoice: 07/14/2017 11:41AM Canceled Tenant reports no issue by *Delisha Francis*
  - If this is the workorder that the tenant is claiming was not resolved, both Delisha and Jefferson confirmed that the tenant reported directly to them that there was no real issue with the sink or the caulking upon further research. Jefferson was in the unit on 5/3/17 for the repairs to his kitchen, hallway light, and door bell. The tenant did not report an issue with the sink while Jefferson was in the unit for the other repairs. He also recalls that the sink did not have any obvious issues based on a visual inspection. Delisha followed up with the tenant after noting that there was no invoice for the workorder that had not been closed out and documented a phone conversation with the tenant in which he reported directly to her that there was no longer an issue with the sink or caulking at which point the workorder was closed.
- There were no additional workorders submitted by the tenant after this point online, by phone, or by email. If a problem existed at this point he was no longer cooperating with maintenance staff to seek a resolution as multiple attempts to follow up were made and the tenant still reported "no issue" with the sink..

Please let me know if you have any questions or concerns after reviewing the breakdown.

**Ryan Frank**  
Property Care Director  
Advent Properties, Inc.



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

CITY OF OAKLAND

Department of Housing and Community Development  
Rent Adjustment Program

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

## HEARING DECISION

**CASE NUMBER:** T17-0336, Xavier v. Advent Properties  
**PROPERTY ADDRESS:** 2 Whitmore Place, #3, Oakland, CA  
**DATE OF HEARING:** October 30, 2017  
**DATE OF INSPECTION:** November 14, 2017  
**DATE OF DECISION:** January 2, 2018  
**APPEARANCES:** Orlando Xavier (Tenant)  
P. Ryan Frank (Agent for Owner)  
Tommy Suh (Agent for Owner)

## SUMMARY OF DECISION

The tenant's petition is partly granted.

## CONTENTIONS OF THE PARTIES

The tenant filed a petition on May 31, 2017, which alleges that his housing services have been decreased because the floors in the bedroom and bathroom of his unit are sinking and there is mold around the kitchen sink. Additionally, the tenant alleges a decrease in housing services caused by notices from the owner for him to move items from his unit and garage due to needed repairs, and further alleges that he was first given the form Notice to Tenants (RAP Notice) on February 21, 2017.

The owners filed a response to the petition, which denies that the tenant's housing services have been decreased.

/



## THE ISSUE

Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

## EVIDENCE

RAP Notice: At the Hearing, the tenant testified that he first received the RAP Notice on February 21, 2017. The owner's agents testified that the tenant was given the RAP Notice on June 3, 2016. Neither party submitted a copy of the Notice that was claimed to have been given to the tenant.

Rent History: The tenant testified that his rent was last increased in the year 2014, to \$1,048 per month. The owner's agents testified that they have only been managing the subject building for approximately one year, that the tenant's rent has not been increased since their management began, and that they have no records from past years.

### Decreased Housing Services:

#### Floors:

The Tenant's Testimony: The tenant testified that on April 19, 2017, he noticed that areas on the bedroom and bathroom floors, as well as the entry to the bathroom, sank when he stepped on them. He then sent an email to the owner, and the next day he was called by Ryan Frank. On May 30, 2017, the owner's agent told the tenant that he would need to move out so that the needed work could be done. The owner told him that floor joists were causing the floors to sink, and needed to be repaired. However, the tenant did not move out because he was not given written notice. At the Hearing, the tenant stated that he would move out if he was given proper notice.

On June 1, 2017, the tenant moved everything out of his master bedroom into the living room and began sleeping in the smaller bedroom because he was concerned that the floor in the master bedroom was unsafe. Mr. Frank inspected his unit on September 14, 2017. The tenant testified that the floor remains in the same condition.

The Owner's Testimony: Mr. Suh testified that, after inspection of the tenant's unit, he concluded that it was necessary for the tenant to temporarily move so that the floors could be repaired. He therefore sent a letter to the tenant dated June 3, 2017.<sup>1</sup> At the Hearing, the tenant testified that he received this letter.

The letter states, in part: "Due to concerns regarding your health and safety, you . . . must temporarily vacate your unit no later than Wednesday, June 08, 2017. Repairs need to be made to the structure directly beneath your unit to make it safe so you can reoccupy your unit. These

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<sup>1</sup> Exhibit No. 7. This Exhibit, and all others to which reference is made in this Decision, were admitted into evidence without objection.

repairs are anticipated to take a minimum of 15 days. When the repairs are completed you can move back into your unit. . .

“[Y]ou will be paid \$500 for short notice vacation . . . You are also entitled to reimbursement for reasonable moving and storage costs. You will also be reimbursed for temporary housing accommodation costs . . .”

The tenant again refused to vacate his unit. The owner then concluded that the floor joists under the unit could be replaced from below, and there was no need for the tenant to move. This work has been done, and the owner does not believe that there is still a problem with the floors.

Inspection: On November 14, 2017, the tenant’s unit was inspected by Maimoona S. Ahmad, a Hearing Officer with the Rent Adjustment Program. Following her inspection, Ms. Ahmad prepared a Declaration, a copy of which is attached as Attachment “A.” This Declaration states, in part: “I walked through the entire master bedroom. The floor of the master bedroom was carpeted. During my walkthrough, I observed three soft spots in the room where the floor dipped and creaked as I walked over it.

I then proceeded to walk to the master bathroom. The entire floor in the bathroom creaked loudly as I walked over it, and I observed a soft spot in the bathroom floor right in front of the door leading to the bathroom.”

Kitchen Sink: The tenant testified that, for more than 3 years, there has been an ongoing problem with mold in the grout around the kitchen sink and counter top. The mold returns, despite frequent cleaning. The tenant submitted photographs that he had taken several months before the Hearing.<sup>2</sup> These photos reflect dark areas around the sink and between the tiles on the counter top. On April 19, 2017, he sent an email regarding this situation to Mr. Frank, who called him the next day. However, the owner has done nothing to correct this problem.

Mr. Frank testified that, after receiving the tenant’s email, he created a work order for a repair person to inspect the counter top and sink. The repair person then inspected these areas, and told Mr. Frank that there was nothing wrong other than the need to clean the grout. Ms. Ahmad states in her Declaration: “I walked into the kitchen and inspected the kitchen sink and counter top, specifically the grout areas on the counter top. I did not observe any mold in the kitchen.”

Notices to Move for Repairs: In addition to the letter described above, the owner also gave the tenant a notice to move his car and belongings from his parking space below the building so that leaks could be repaired. The tenant removed all items from the garage on May 31, 2017. The repairs were made on or about June 7, and the tenant returned his belongings soon after that time. The tenant claims that he was given too short a notice in this regard, which resulted in temporary loss of his parking space and storage area.

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<sup>2</sup> Exhibit Nos. 5 & 6.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

RAP Notice: The Rent Adjustment Ordinance requires an owner to serve a RAP Notice at the start of a tenancy<sup>3</sup> and together with any notice of rent increase or change in any term of the tenancy.<sup>4</sup> Neither party produced a RAP Notice that the tenant received, and the testimony of the parties was equally credible. Therefore, the owner has not sustained its burden of proof on this issue. It is found that the tenant first received the RAP Notice on February 21, 2017.

Decreased Housing Services: Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent<sup>5</sup> and may be corrected by a rent adjustment.<sup>6</sup> However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant's unit.

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

If the decreased housing service is for a condition that is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed.<sup>7</sup> Further, in order for a tenant's claim for decreased housing services to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs.

The tenant first received the RAP Notice on February 21, 2017, more than 90 days before filing his petition on May 31, 2017. Therefore, in accordance with the Regulations and Board decision,<sup>8</sup> the tenant can only be granted relief on his claims for decreased housing services beginning 90 days before the date on which he filed his petition. Allowable claims of decreased housing services therefore begin on March 2, 2017.

Floors: There are two competing policies in this case. The first is the owner's rights and whether the owner acted reasonably in exercising or failure to exercise these rights.

Civil Code Section 1954 states, in pertinent part: "A landlord may enter the dwelling unit . . . [t]o make necessary or agreed repairs, decorations, alterations or improvements. . . [T]he landlord shall give the tenant reasonable notice in writing of his or her intent to enter . . . Twenty-four hours shall be presumed to be reasonable notice in absence of evidence to the contrary." Therefore, the owner could have compelled the tenant to temporarily vacate the unit in order to properly repair the floors. The owner did not exercise this right.

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<sup>3</sup> O.M.C. Section 8.22.060(A)

<sup>4</sup> O.M.C. Section 8.22.070(H)(1)(A)

<sup>5</sup> O.M.C. Section 8.22.070(F)

<sup>6</sup> O.M.C. Section 8.22.110(E)

<sup>7</sup> O.M.C. Section 8.22.090(A)(3)

<sup>8</sup> Appeal Decision in Case No. T09-0086, Lindsey v. Grimsley, et al.

The second policy is enforcement of a tenant's rights to a safe rental unit. Oakland Municipal Code Section 15.08.340(C) states, in part: "Residential . . . buildings . . . shall be deemed Substandard and a Public Nuisance when they are or contain structural hazards. Structural hazards shall include . . . Defective, damaged, or deteriorated flooring, floor supports . . . and their load-bearing connections."

The tenant first notified the owner that there were soft spots in the floor on or about April 19, 2017. On or about May 30, the owner told the tenant that he needed to temporarily vacate the unit so that repairs could be made; there was no written notice at that time. The tenant did not vacate, and on June 1 moved out of the master bedroom and began sleeping in the smaller bedroom. He also moved all furniture out of the master bedroom.

On June 3, the owner gave the tenant a written notice to temporarily vacate the unit so that needed repairs could be made. Further, the tenant was given a reasonable offer of compensation if he moved out. The tenant again refused to vacate, and the owner arranged for the floors to be repaired from below. However, based upon the findings of Ms. Ahmad, this repair effort was not entirely successful. Ms. Ahmad noted three soft spots on the floor of the master bedroom, as well as a soft spot at the entry to the bathroom and a loud creaking sound when she walked in the bathroom.

It is found that the tenant should reasonably have moved out within one month of receiving proper written notice from the owner, being July 1, 2017. Under this analysis, the tenant's housing services were decreased by 20% from May 1 – when the owner should have given the tenant written notice to vacate – until July 1.

The problem has persisted to date, and the owner should have taken steps to properly repair the floors. It is also found that the 3 soft spots in the bedroom do not reasonably prevent the tenant from using the room as a bedroom, and he has always used the bathroom. However, soft and creaking floors certainly do make living in the unit quite unpleasant, and the condition decreases the tenant's housing services. Therefore, it is found that the tenant's housing services have been decreased by 10% from July through January 2018, and ongoing.

Because of the current decrease in housing services, the rent is reduced by 10%, being \$104.80 per month, to \$943.20 per month. This rent decrease will remain in effect until the floors in the unit are repaired so there are no soft or unsound areas, as specified in the Order below.

Further, as set forth on the Table below, the tenant has overpaid rent in the amount of \$1,152.80. The overpayment is ordered repaid over a period of 12 months.<sup>9</sup> The rent is temporarily reduced by \$96.07 per month, to \$847.13 per month, beginning with the rent payment in February 2018 and ending with the rent payment in January 2019.

Kitchen Sink: The testimony of the parties was in direct conflict. Therefore, the findings of Ms. Ahmad, a neutral observer, is credited. Ms. Ahmad saw no mold and, for this reason, the claim is denied.

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<sup>9</sup> Regulations, Section 8.22.110(F)

Notices to Move for Repairs: The tenant never moved out after receiving the letter regarding the floors. Therefore, this letter had no effect upon his housing services. Further, Civil Code Section 1954 states, in pertinent part: "A landlord may enter the dwelling unit . . . [t]o make necessary or agreed repairs, decorations, alterations or improvements. . . [T]he landlord shall give the tenant reasonable notice in writing of his or her intent to enter . . . Twenty-four hours shall be presumed to be reasonable notice in absence of evidence to the contrary." The owner in this case gave far more than the required notice.

With regard to the tenant having to move his car and items from the garage for approximately one week, a Decision of a California Court of Appeal that interpreted a claim of decreased housing services in San Francisco is instructive. The Court stated:

[A] landlord who undertakes to perform reasonably necessary repair and maintenance work on rental property, which has the effect of temporarily interfering with or preventing the tenant's full use of housing services, but does not substantially interfere with the right to occupancy of the premises as a residence, does not effectuate a decrease in housing services within the meaning of the San Francisco rent control ordinance."<sup>10</sup>

This was the situation in the present case. The tenant lost use of the garage for a relatively short period of time so that necessary repairs could be made. Therefore, this claim is denied.

**VALUE OF LOST SERVICES**

| Service Lost               | From     | To        | Rent    | % Rent Decrease | Decrease /month | No. Months | Overpaid          |
|----------------------------|----------|-----------|---------|-----------------|-----------------|------------|-------------------|
| Floors                     | 1-May-17 | 30-Jun-17 | \$1,048 | 20%             | \$209.60        | 2          | \$419.20          |
| Floors                     | 1-Jul-17 | 31-Jan-18 | \$1,048 | 10%             | \$104.80        | 7          | \$733.60          |
| <b>TOTAL LOST SERVICES</b> |          |           |         |                 |                 |            | <b>\$1,152.80</b> |

**RESTITUTION**

|                                      |                   |
|--------------------------------------|-------------------|
| MONTHLY RENT                         | \$1,048           |
| <b>TOTAL TO BE REPAYED TO TENANT</b> | <b>\$1,152.80</b> |
| TOTAL AS PERCENT OF MONTHLY RENT     | 100%              |
| AMORTIZED OVER 12 MO. BY REG. IS     | <b>\$96.07</b>    |

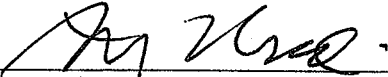
**ORDER**

1. Petition T17-0336 is partly granted.
2. The Base Rent is \$1,048 per month.

<sup>10</sup> Golden Gateway Center v. San Francisco Residential Rent Stabilization and Arbitration Board, 73 Cal. App. 4<sup>th</sup>, 1204, 1206 (1999).

3. Because of an ongoing decrease in housing services, the current rent, before reduction due to rent overpayments, is \$943.20 per month.
4. Because of past decreased housing services, the tenant has overpaid rent in the amount of \$1,152.80. This overpayment is adjusted by a rent reduction for 12 months.
5. The rent is temporarily reduced by \$96.07 per month, to \$847.13 per month, beginning with the rent payment in February 2018 and ending with the rent payment in January 2019.
6. In February 2019, the rent will increase to \$943.20 per month.
7. When the floors in the unit are repaired so there are no soft or unsound areas, the owner may increase the rent by \$104.80 per month, after giving proper notice in accordance with the Rent Adjustment Ordinance and Civil Code Section 827.
8. The owner may otherwise be eligible for a rent increase.
9. **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: January 2, 2018

  
\_\_\_\_\_  
Stephen Kasdin  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

**Case Number T17-0336**

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

**Tenant**

Orlando Xavier  
2 Whitmore Pl #3  
Oakland, CA 94611

**Owner**

Lacey M. Carroll  
P.O. Box 215387  
Sacramento, CA 95821

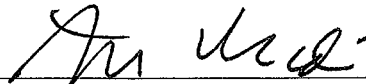
The Carrol Revocable Trust  
2264 Ralston Rd  
Sacramento, CA 95821

**Owner Representative**

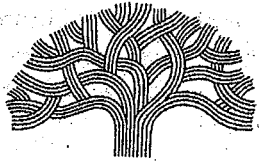
Advent Properties Inc.  
1600 MacArthur Blvd.  
Oakland, CA 94602

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 January 02, 2018 in Oakland, CA.



Stephen Kasdin



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For date stamp  
2018 JAN 22 PM 3:26

APPEAL

|  |  |   |  |
|--|--|---|--|
| Appellant's Name<br><b>ORLANDO XAVIER</b>  |  | <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant |  |
| Property Address (Include Unit Number)<br><b>2 WHITMORE PLACE APT. #3<br/>OAKLAND CA 94611</b>               |  |   |  |
| Appellant's Mailing Address (For receipt of notices)<br><b>2 WHITMORE PLACE APT. #3<br/>OAKLAND CA 94611</b> |  | Case Number<br><b>T17-0336</b>  |  |
|  |  | Date of Decision appealed<br><b>1/2/2018</b>                              |  |
| 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.)


*Request to submit new evidence*

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.  
 Number of pages attached: 11.

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

I declare under penalty of perjury under the laws of the State of California that on Jan 22, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

|                        |   |
|------------------------|---|
| <b>Name</b>            | Advent Properties Inc. (owner representative) |
| <b>Address</b>         | 1600 MacArthur Blvd.                          |
| <b>City, State Zip</b> | Oakland CA 94602                              |
| <b>Name</b>            | Lacey M. Carroll                              |
| <b>Address</b>         | <del>PO Box 215387</del> PO Box 215387        |
| <b>City, State Zip</b> | Sacramento CA 95821                           |

|   |           |
|---|-----------|
|  | 1/22/2018 |
|---|-----------|

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

For more information phone (510) 238-3721.

## **IMPORTANT INFORMATION:**

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

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

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

Request for appeal on the following grounds:

1) Clerical/Math errors:

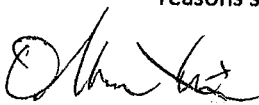
- a) Garage: The Board has determined in previous cases that the loss of garage/garage access is a reduction in services (T11-0101& T14-0046). Since I have had no access to my garage parking space since June 1, 2017, this should not be considered "temporary" as stated in the Hearing Decision. Since repairs have been completed, I still have not been allowed to use garage parking, nor has any other tenant who previously had a garage parking space. Therefore, the Hearing Decision should have included an adjustment in rent for this loss.
- b) Notice to Vacate: The notice to vacate was never in reference to repairs of the floors in the bedroom (see attached p.2). It was for "health and safety" in regards to repairs being made to the floor/ceiling joists at the patio/garage due to water damage from an exterior leak. It was determined that we did not need to vacate for the repairs to be made. Advent never contacted me about making repairs to the bedroom/bathroom floors. Somehow, these two things became conflated at the Hearing.
- c) Floors: The sub-floor in the Master Bedroom is damaged to a point of being unsafe; therefore there should have been a greater adjustment than for simply making "living in the unit quite unpleasant" as stated in the Hearing Decision.

2(f)) I was denied a sufficient opportunity to present my claim:

- a) Floors: Because the bedroom was carpeted (per Declaration prepared after inspection on 11/14/2017 by Maimoona S. Ahmad), there was no way to fully inspect the sub-floor. Since I am a tenant, I was unable to take responsibility for tearing up the carpet, and at no time did Advent make any effort to do anything more than walk across the floors. Therefore, I was unable to prove the uninhabitability of the Master Bedroom. The building has now been sold, and the new property management company promptly pulled up the carpet in order to properly inspect the sub-floor (on 1/9/2018), and I am now submitting pictures of the "soft spots" which reveal that there is substantial damage to the sub-floor which make it unsafe to occupy the master bedroom (see attached pp.3-6).

2(h)) Other; Request to submit new evidence:

- a) Due to the disarray of having vacated our master bedroom, I was unable to find until recently a letter from Charlotte Wood dated 1/21/2017 showing that plans to repair the garage began well before my complaints about the floor in the master bedroom (see attached p.7). This substantiates my claim that the notice to vacate for repairs to the garage had nothing to do with repairs to the floor inside the unit.
- b) Copy of the construction permit from the City of Oakland to "Replace roofing and repair damaged framing at patio above garage", approved 6/1/2017 (see attached pp.8pp-0-11). This also substantiates my claim that the notice to vacate had nothing to do with repairs inside my unit.
- c) Pictures of the severe damage of the subfloor, unavailable at the time of the original Petition for reasons stated above in 2(f) (see attached pp.3-6).

  
Orlando Xavier

1/22/2018



# ADVENT

PROPERTIES, INC.

June 03, 2017  
Orlando Xavier and all current Occupants  
2 Whitmore Place, Unit 3  
Oakland, California 94612

RE: Notice of Impending Construction and Relocation

Dear Orlando,

Due to concerns regarding your health and safety, you and all occupants residing in your unit must temporarily vacate your unit no later than Wednesday, June 08, 2017. Repairs need be made to the structure directly beneath your unit to make it safe so you can reoccupy your unit. These repairs are anticipated to take a minimum of 15 days. When the repairs are completed you can move back into your unit.

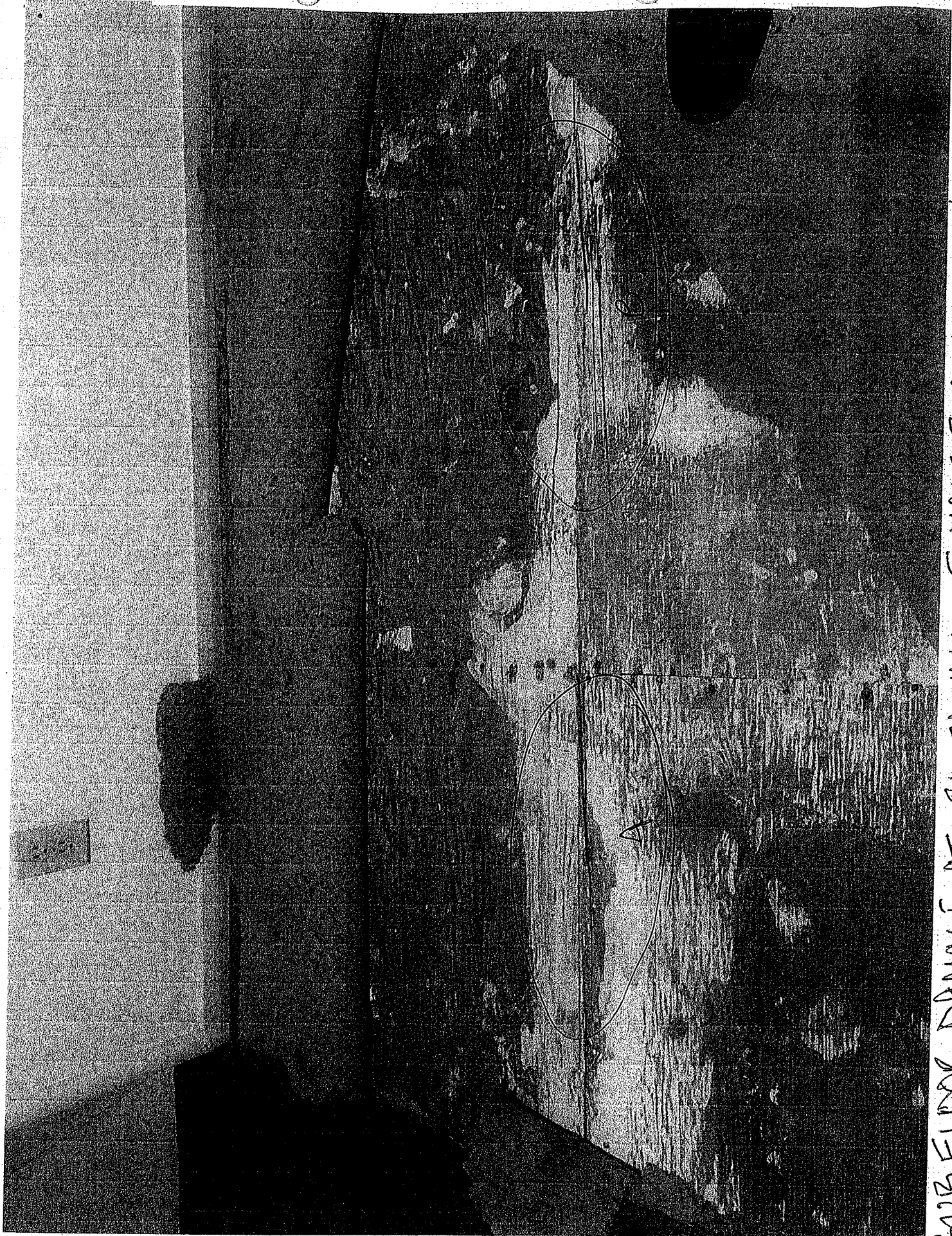
Although you will not be able to occupy your unit while repairs are ongoing, you may be able to go back to your unit to retrieve items if the contractor on site determines it is safe to do so. Advance notice of your intent is required.

As per the the City of Oakland, you will be paid \$500 for short notice vacation (due to health and safety reasons). You are also entitled to reimbursement for reasonable moving and storage costs. You will also be reimbursed for temporary housing accommodation costs (ie: hotel or motel payments) until it has been determined it is safe for you to move back in. Payment shall be made to you within 5 days of submitting your demand for reimbursement (invoices/receipts required).

If you have any questions, please do not hesitate to ask.

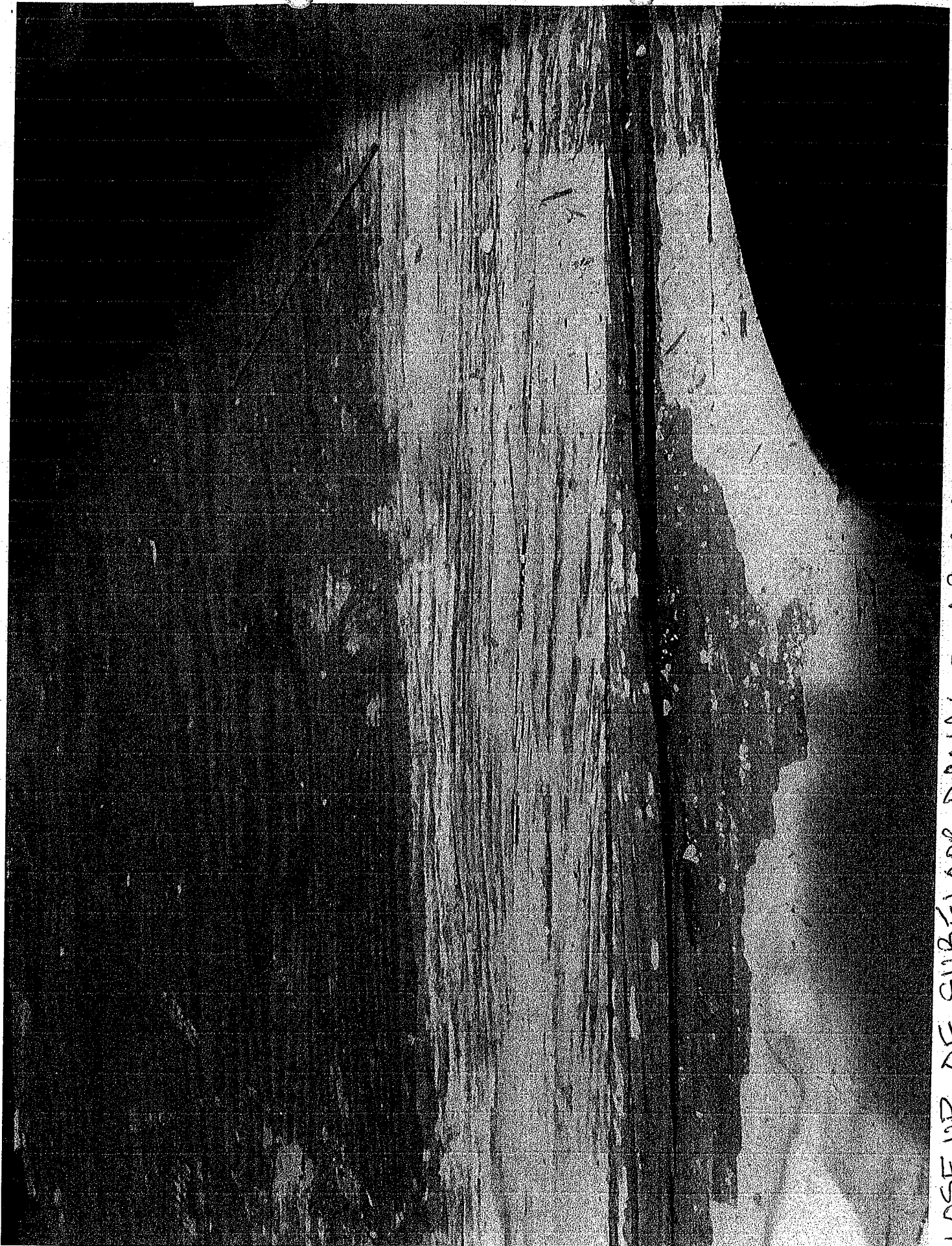
Sincerely,

Tommy Suh  
Senior Project Manager  
Advent Properties Inc.  
pm3@adventpropertiesinc.com  
510-27-0856



SUB FLOOR DAMAGE AT SOUTH WALL OF MASTER BEDROOM (7-ADJAC)





CLOSE UP OF SUBFLOOR DAMAGE - AREA A



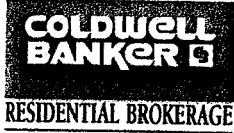
CLOSEUP OF SUBFLOOR DAMAGE - AREA B





SUBFLOOR DAMAGE AT NORTH WALL OF MASTER BEDROOM





2633 Ocean Ave  
San Francisco, CA 94132  
Direct 415.334.1880  
Fax 415.587.7835

January 21, 2017

*Delivered 1-23-2017*

Mr. Orlando Xavier  
2 Whitmore Place, Unit 3  
Oakland, CA 94611

**Re: Architect Visit**

Dear Mr. Xavier,

Ms. Carroll is beginning the steps necessary to repair the leak at the garage. On Tuesday, January 24<sup>th</sup> at 1:00 p.m. an architect will be visiting the property to draw up plans for the work. He needs to view all areas above the garage, including your unit. Kindly have your unit ready for viewing on that day. Although the inspection will take at least 1 hour, I will ask the architect to first walk through your apartment, so we minimize the amount time we are in your space.

Thank you in advance for your cooperation. Please call me if you have any questions.

Best regards,

A handwritten signature in black ink, appearing to read 'Charlotte Wood', written in a cursive style.

Charlotte Wood  
Coldwell Banker, SF Lakeside- St. Francis Woods  
415 338-0236 office  
650 219-6729 cell/text  
BRE # 01477611

Cc: Lacey Carroll

T17-0336 Orlando Xavier v. Advent Properties Request for Appeal page 8

Record ID: B1702381

Menu Reports Help

Application Type: Non-Residential Building - Repair

Address: 2 WHITMORE PL

Parcel No: 013 110800504

Description of Work: Replace roofing and repair damaged framing at patio above garage for multi unit building.

File Date: 06/01/2017

Application Status: Issued

Job Value: \$50,000.00

Total Fee Assessed: \$2,726.90

Total Fee Invoiced: \$1,560.02

Balance: \$0.00

**IF THIS IS A PRIORITY LIEN, REFER TO THE LIEN BALANCE BELOW**

Owner Name: CARROLL KEVIN P TR

Owner Address: 2725 VISTA GRANDE, FAIRFIELD, CA 945341737

| Contact Info: | Name                 | Organization Name         | Contact Type | Relationship |
|---------------|----------------------|---------------------------|--------------|--------------|
|               | <u>Michael James</u> | <u>MICHAEL JAMES C...</u> | Applicant    | Contractor-E |

| Licensed Professionals Info: | Primary | License Number | License Type | Name | Business |
|------------------------------|---------|----------------|--------------|------|----------|
|                              |         | <u>572910</u>  | Contractor   |      | MICHAEL  |

| Workflow Status: | Task                      | Assigned To   | Status | Status D |
|------------------|---------------------------|---------------|--------|----------|
|                  | <u>Application Intake</u> |               | OTC    | 06/01/20 |
|                  | Plan Routing              |               |        |          |
|                  | Plan Check Review         |               |        |          |
|                  | Zoning Review             |               |        |          |
|                  | Zoning Inspecti...        |               |        |          |
|                  | Fire Marshal Re...        | Hilda Ortiz   |        |          |
|                  | Constr.Recyclin...        | Patrick Hayes |        |          |
|                  | CP Permit Compl...        |               |        |          |
|                  | Final Check               |               |        |          |
|                  | <u>Permit Issuance</u>    |               | Issued | 06/01/20 |
|                  | <u>Inspection</u>         |               |        |          |
|                  | Certificate of ...        |               |        |          |
|                  | Post Constructi...        |               |        |          |

No record(s) updated by expression.

**Custom Fields: App Spec Info\_BLD\_RBB\_REP**

GENERAL INFORMATION

|                           |                       |                        |
|---------------------------|-----------------------|------------------------|
| Sets of Plans             | Tree Removal Involved | Structural Calculation |
| <u>3</u>                  |                       | <u>2</u>               |
| Energy Calculations (T24) | Green Code Checklist  | Report - Soil/Geotech  |
| <u>0</u>                  | -                     | -                      |

Report - Drainage/Hydrology Building Major Project

WORK INFORMATION

Public Art

CERTIFICATE OF OCCUPANCY INFORMATION

Certificate of Occupancy Number Certificate of Occupancy Issue Date

BUILDING INFORMATION

Number of Buildings on Lot

Construction Type 1

VB - Combustible Construction; No Fire Rating

Number of Stories

Occupancy Group 1

R-2 Residential > 2 Units

Number of Units

Building Use 1

Apartment > 5 Units

Number of Bedrooms

Construction Type 2

Occupancy Group 2

Floor Area (sq ft)

Building Use 2

Conditioned Floor Area (sq ft)

Occupancy Group 3

Occupied Floor Area (Non-Res) (sq ft)

Building Use 3

Fire Sprinklers

Reason for Fire Sprinklers

Assess Fire Fee

PREPAID INSPECTIONS

Prepaid Inspections Additional Prepaid Inspections Total Prepaid Inspections

8

8

Jobsite Visits

EBMUD COMPLIANCE CERTIFICATE

EBMUD Certificate Type

EBMUD Compliance Certificate #

EBMUD Compliance Certificate Issue Date

EBMUD Compliance Certificate Expiration Date

PROPERTY INFORMATION

Historical Rating Very High Fire Hazard Severity Zone Zoning  
RU-3

KEY DATES

Application Expiration Date 11/30/2017  
Permit Expiration Date 11/30/2017

App Spec Info\_BLD\_RBB\_REP(ARCHIVE)

ARCHIVE INFORMATION Archive Offsite  
No

Plan Box Number Plan Date Requested Plan Date Received

Plan Comment

Document Box Number Document Date Requested Document Date Received

Document Comment

BLD\_RBB\_REP

GENERAL HOLDS

Hold Issuance Hold Final  
Hold Foundation Hold Certificate of Occupancy  
Hold First Floor Post Construction Monitoring Required  
Hold Frame

Hold(s) Applied By

Reason for Hold(s)

IMPACT AFFORDABLE HOUSING

Affordable Housing impact Fee Calculation

IMPACT CAPITAL IMPROVEMENTS

Capital Improvements Impact Fee Calculation

**IMPACT TRANSPORTATION**

Transportation Impact Fee

Calculation

**IMPACT JOB**

Job Impact Fee

Calculation

**SPECIAL INSPECTIONS**

**Special Inspection Inspection Stage Comment**

**Prescriber**

Foundation System Foundation Bolts in concrete

Calvin Le

**BOND INFORMATION**

**Date Received Bond Type Form of Security Issuing Company Reference Number Security**

**IMPACT AFFORDABLE HOUSING**

**Category Calculation for Fee (Number) Reason Impact Zone (Number) Unit - Net Added (I**

**IMPACT CAPITAL IMPROVEMENTS**

**Category Calculation for Fee (Number) Reason Impact Zone (Number) Unit - Net Added (I**

**IMPACT TRANSPORTATION**

**Category Calculation for Fee (Number) Reason Impact Zone (Number) Unit - Net Added (I**

**IMPACT JOB**

**Category Calculation for Fee (Number) Reason Impact Zone (Number) Unit - Net Added (I**

|                                       |                       |                         |           |        |
|---------------------------------------|-----------------------|-------------------------|-----------|--------|
| <b>Scheduled/Pending Inspections:</b> | Inspection Type       | Scheduled Date          | Inspector | Status |
| <b>Resulted Inspections:</b>          | Inspection Type       | Inspection Date         | Inspector | Status |
| <b>Application Comments:</b>          | By                    | Comment                 |           | Date   |
| <b>Condition Status:</b>              | Name                  | Short Comments          | Status    | Ap     |
|                                       | <u>PARCEL COMMENT</u> | Applicant came in wi... | Complied  | 01/    |
| <b>Initiated by Product:</b>          | AV360                 |                         |           |        |

## CHRONOLOGICAL CASE REPORT

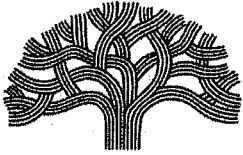
Case No.: T17-0208  
Case Name: Brown v. Parmar  
Property Address: 849 Milton Street, Oakland, CA  
Parties: Bianca Brown (Tenant)  
Koonal Parmar (Owner)

### OWNER APPEAL:

| <u>Activity</u>         | <u>Date</u>       |
|-------------------------|-------------------|
| Tenant Petition filed   | March 27, 2017    |
| No Owner Response filed |                   |
| Hearing Decision mailed | February 23, 2018 |
| Owner Appeal filed      | March 9, 2018     |

T17-0208 KM/BKB

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM

|  |  |  |
|--|--|--|
| <br>CITY OF OAKLAND | <b>CITY OF OAKLAND</b><br><b>RENT ADJUSTMENT PROGRAM</b><br>P.O. Box 70243<br>Oakland, CA 94612-0243<br>(510) 238-3721 | For date stamp:<br>2017 MAR 27 AM 9:44 |
|  | <b>TENANT PETITION</b>   |  |

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<br><b>Bianca Brown</b>                      | Rental Address (with zip code)<br><b>849 Milton St. Oakland<br/>Ca. 94607</b> | Telephone:<br><b>510 992 6449</b>   |
| Your Representative's Name                            | Mailing Address (with zip code)   | E-mail:<br><b>djtofu3@gmail.com</b> |
| Property Owner(s) name(s)<br><b>Koonal Parmar</b>     | Mailing Address (with zip code)<br><b>823 21st St.<br/>Oakland, Ca 94607</b>  | Telephone:<br><b>510 493 2544</b>   |
| Property Manager or Management Co.<br>(if applicable) | Mailing Address (with zip code)   | Email:<br><b>koonal@hotmail.com</b> |
|   |   | Telephone:                          |
|   |   | Email:                              |

Number of units on the property: 2

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

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

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

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

|   |  |
|---|--|
|   | rent increase.   |
|   | (d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)   |
|   | (e) The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increase(s).  |
|   | (f) The rent increase notice(s) was (were) not given to me in compliance with State law.   |
|   | (g) The increase I am contesting is the second increase in my rent in a 12-month period.   |
| 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: 3/1/13 Initial Rent: \$ 1600 /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 |  |  |
|  |  | \$                    | \$ | <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 | <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

3/27/19  
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.

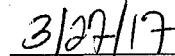
You may choose to have the mediation conducted by a Rent Adjustment Program Hearing Officer or select an outside mediator. Rent Adjustment Program Hearing Officers conduct mediation sessions free of charge. If you and the owner agree to an outside mediator, please call (510) 238-3721 to make arrangements. 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 City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612 within the time limit for filing a petition set out in the Rent Adjustment Ordinance, Oakland Municipal Code, Chapter 8.22. Board Staff cannot grant an extension of time to file your petition by phone. For more information, please call: (510) 238-3721.

### **File Review**

Your property owner(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the Property Owner's Response. The petition and attachments to the petition can be found by logging into the RAP Online Petitioning System and accessing your case once this system is available. 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.

## **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): friend phoning lawyer in SF

March 24, 2017

To Whom It May Concern:

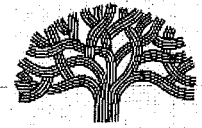
This letter is submitted as part of the petition for Koonal Parmar. The original lease for the upper unit I rent out did not state that the utilities would be shared. As is legally required, I found out this year. I have been a resident in the unit since March 1<sup>st</sup>, 2013. I have been paying services out of unit the entire time and want this changed.

This has created issues with the lower unit which as March 24<sup>th</sup>, 2017 refuses to pay their share of utilities, leaving me to pay their share and mine to keep the utilities on.

I request mediation, the landlord to reimbursement for utilities I had to pay for the other unit and an updated agreement that allows me to take the other unit's share of utilities out of my rent.

Bianca Brown

There is nothing in the lease that states that utilities are shared.



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

CITY OF OAKLAND

Housing and Community Development Department  
Rent Adjustment Program

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

## HEARING DECISION

**CASE NUMBER:** T17-0208, Brown v. Parmar  
**PROPERTY ADDRESS:** 849 Milton Street, Oakland, CA  
**DATE OF HEARING:** August 24, 2017  
**DATE OF DECISION:** January 23, 2018  
**APPEARANCES:** Bianca Brown Tenant  
No appearance by Owner

### SUMMARY OF DECISION

The tenant's petition is GRANTED IN PART.

### INTRODUCTION

Tenant Bianca Brown filed a petition on March 27, 2017, which claims a code violation and decreased housing services, which includes payment of shared utility bills.

### THE ISSUE

1. Has the tenant been illegally charged for utilities and, if so what amount of restitution is owed to the tenant?

### EVIDENCE

#### Decreased Housing Services/Code Violation

##### Sharing of Utility Bills

The tenant testified that she moved into the subject unit in March 2013 at a monthly rent of \$1,600.00. As of September 2016, she has been paying \$1,692.00

monthly. She does not know if she has received the Notice of the Rent Adjustment Program from the owner. The tenant testified that there is only one meter for the two units.

The P.G.E. bill is billed directly to the tenant. The tenant testified that she has been paying the utility bills since September 2016 and provided copies of a utility bill totaling \$338.67 dated January 15, 2007, and payment of \$280.00 for the previous statement.<sup>1</sup> The tenant testified that she paid these bills and the downstairs tenant refused to pay her share.

The tenant also provided an agreement dated May 22, 2017, signed by the parties, as a result of a mediation conducted by S.E.E.D.S. which provided that the P.G.E. bills would be divided equally among the total number of adults living in the building, and the E.B.M.U.D. bills would be divided 60% to the tenant and 40% to the tenant in the downstairs unit. The settlement agreement also provided that when the P.G.E. meter is separated, the downstairs tenant would set up her own account and pay their bill directly to P.G.E.<sup>2</sup>

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Notwithstanding the settlement agreement, the owner may not divide the utility bill among tenants when there is only one meter and the tenants live in separate units. Such an arrangement constitutes a violation of the Rent Adjustment Ordinance. The rules regarding splitting of utility bills when tenants live in separate units is addressed by the Rent Adjustment Ordinance as follows:

#### **Utility Costs**

Section 10.1.10 of the Rent Ordinance states the following:

“When more than one rental unit shares any type of utility bill with another rental unit, it is illegal to divide up the bill between units. Splitting the costs of utilities among tenants who live in separate units is prohibited by the Public Utilities Commission code and Rule 18 of PG&E. The best way to remedy the bill is to install individual meters. If this is too expensive, the owner should pay the utility bill himself/herself and build the cost into the rent.”

A utility is defined as public **utility** b(1):a service (as light, power, or water) provided by a public **utility** (2):equipment or a piece of equipment to provide such service or a comparable.<sup>3</sup> Utilities include water, trash and sewer. The tenant has overpaid utility charges.

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<sup>1</sup> Ex. NO.3

<sup>2</sup> Ex. Nos. 1-2

<sup>3</sup> Merriam-Webster Dictionary

The tenant has been paying utility charges since September 2016 but the only objective evidence of the amount of the bills paid was the bill dated January 15, 2017, totaling \$618.67. She has overpaid \$618.67 for the utility bills.

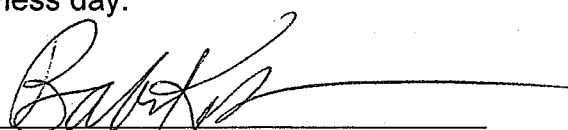
**ORDER**

1. The tenant petition is granted. The owner may not divide up the utility bill among tenants.
2. The tenant has overpaid \$618.67 in utility bills.
3. The rent overpayment is amortized as follows:

|   |            |
|---|------------|
| Base Rent   | \$1,692.00 |
| -Overpayment of utility bills-<br>\$688.67/6=\$114.78                           | - \$114.78 |
| Current rent payment commencing<br>February 1, 2018, and ending July 1,<br>2018 | \$1,577.22 |

4. On August 1, 2018, the monthly rent returns to \$1,692.00.
5. **Right to Appeal:** **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: January 23, 2018



**Barbara Kong-Brown, Esq.**  
Senior Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

**Case Number T17-0208**

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

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

**Documents Included**

Hearing Decision

**Owner**

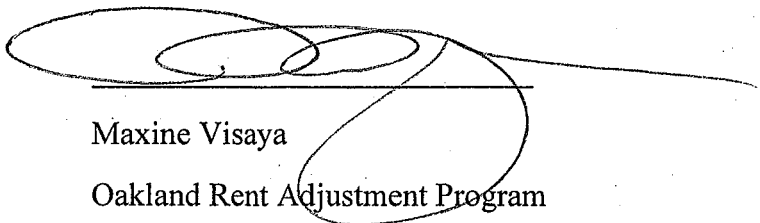
Koonal Parmar  
823 21st St  
Oakland, CA 94607

**Tenant**

Bianca Brown  
849 Milton St.  
Oakland, CA 94607

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 Feb 23, 2018 in Oakland, CA.



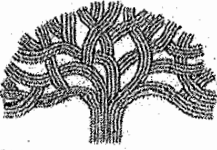
Maxine Visaya

Oakland Rent Adjustment Program

**RECEIVED**

**MAR - 9 2018**

**RENT ADJUSTMENT PROGRAM  
OAKLAND**

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

|   |  |   |  |
|---|--|---|--|
| Appellant's Name<br><b>Koonal Parmar</b>  |  | <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant                           |  |
| Property Address (Include Unit Number)<br><b>849 Milton St, Oakland Ca 94607</b>                          |  |   |  |
| Appellant's Mailing Address (For receipt of notices)<br><b>4164 Mac Arthur Blvd<br/>Oakland, Ca 94619</b> |  | Case Number<br><b>T17-0208</b>  |  |
|   |  | Date of Decision appealed<br><b>Jan. 23, 2018</b>   |  |
| Name of Representative (if any)<br><b>Karen Marguardt</b>   |  | Representative's Mailing Address (For notices)<br><b>4164 Mac Arthur Blvd<br/>Oakland, Ca 94619</b> |  |

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 are limited to 25 pages from each party. Please number attached pages consecutively.  
 Number of pages attached: 1

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

I declare under penalty of perjury under the laws of the State of California that on 3/7, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

|                        |                   |
|------------------------|-------------------|
| <b>Name</b>            | Bianca Brown      |
| <b>Address</b>         | 849 Milton St.    |
| <b>City, State Zip</b> | Oakland, Ca 94607 |
| <b>Name</b>            |                   |
| <b>Address</b>         |                   |
| <b>City, State Zip</b> |                   |

|  |          |
|--|----------|
| DocuSigned by:<br><br><small>4DDDB90AD53B48E...</small> | 3/6/2018 |
|--|----------|

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

For more information phone (510) 238-3721.

Koonal Parmar  
c/o Marquardt Property Management  
Karen Marquardt  
4164 MacArthur Blvd.  
Oakland, CA 94619

Case T17-0208

Brown v. Parmar

March 7, 2018

I am appealing the decision for the following two reasons:

Reason 1)(f) I am appealing this decision because: I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.

I was not aware that this case existed until my new property manager, Karen Marquardt, received the decision from the tenant, Bianca Brown.

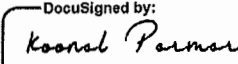
The address used is not my address, so I never received notice of the petition, which would have allowed me the opportunity to present the following information.

On October 10, 2017 the tenant, her attorney and I entered into stipulation of settlement of unlawful detainer action. This agreement was endorsed and filed with the County of Alameda on October 22, 2017. In this settlement agreement, the tenant agreed to pay the partial amount for the utilities. I was unaware that this was against the Rent Board ordinance. Why would an official of the court draw up an agreement to do something that is not allowed by the Rent Board? And then, why would the court endorse it?

I think this was an act to further delay my ability to receive fair rent for this unit. If the rent board is going to require me to return the utilities payments to the tenant then, in fairness, should not the Rent Board have given me an increase on the base rent? I feel that if I had been given notice of the Rent Board hearing I would have been able to present information on this. The tenant moved in on March 1, 2013. The tenant had permission for two occupants. There are four people living there, in that unit.

Reason 2)(g) The decision denies the Owner a fair return on my investment

If this is supposed to be fair, then I should be given an increase on the base rent. I have hired a professional property management company to help me with the management. They will be increasing the rent to cover all the utilities. In addition, the management cost is an increase of expenses so, should the tenant not cover that cost?

DocuSigned by:  
  
4DDDB90AD53B48E...

3/6/2018