

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING
JANUARY 23, 2020
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. CONSENT ITEMS
 - a) Approval of Board Minutes from January 9, 2020
4. OPEN FORUM
5. APPEALS*
 - a) T19-0184, Beard v. Meridian Management Group
 - b) T17-0221, Kaufman v. Nguyen
 - c) E18-0012 to 0017, Homes East Bay 4 LLC v. Tenant
6. ACTION ITEMS
 - a) Formation of additional ad hoc committees, membership and review of issues identified in May 9, 2019, Board meeting (see attached list on page 3)
7. INFORMATION AND ANNOUNCEMENTS
 - a) Discussion of language to include in dismissal of a single case that is consolidated with other cases (J. Warner)
8. COMMITTEE REPORTS AND SCHEDULING
 - a) Report from Ad Hoc Committee – Deferred Maintenance v. Capital Improvement of Dry Rot
 - i. Handout from Dry Rot Committee (see attached handout on page 4)
9. ADJOURNMENT

* Staff recommendation memos for the appeals will be available at the Rent Program and the Clerk's office at least 72 hours prior to the meeting pursuant to O.M.C. 2.20.080.C and 2.20.090.

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@oaklandca.gov or call (510) 238-3715 or California relay service at 711 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantones, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a sshannon@oaklandca.gov 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@oaklandca.gov 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.

Formation of additional ad hoc committees, membership and review of issues identified in May 9, 2019, Board meeting:

- Information about the Building Code and intersection with the Regulations; (e.g. window bars-there is a code that applies to this.)
- Should dry rot be treated differently from other deferred maintenance items?
- Clarification of deferred maintenance v. items that benefit tenants?
- Ambiguous terms in the regulations and in the Ordinance;
- How is the value of the Decreased Housing Services determined?
- What constitutes a burden of proof regarding expenses for capital improvements?
- Effects of AB 1482 on Rent Adjustment Program Ordinance
- Denial of subtenant/roommate constitutes a decreased housing service?
- Seniors on fixed income

Dry Rot - as it relates to capital improvements and deferred maintenance
Met on 10/20/19 @ 6pm

Goals:

- Improve communication to landlords, tenants, and hearing officers on what dry rot is and is not.
- Formalize a way to identify dry rot consistently.
- Determine if we as a body are addressing dry rot appropriately as it as it applies to capital improvement and deferred maintenance

Concerns:

- Individuals identifying dry rot (as it applies to capital improvement and deferred maintenance) may not be correct in their determination
- Dry Rot is considered a condition that develops over time. For this reason, when dry rot is found the repairs are not considered timely and the cause is deemed to be from deferred maintenance. Deferred maintenance precludes anyone from a capital improvement increase.
 - Are there instances where the above logic doesn't hold true?
- Should the presence of dry rot routinely mean that there is deferred maintenance?
- Currently the existence of dry rot removes a property from capitol improvement consideration and classifies the situation as "normal routine maintenance". Should this be % base or remain all or nothing?
- What is the working definition of deferred maintenance?

Conversation points:

3rd party verification should be considered
pictures must be required

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING
JANUARY 9, 2020
7:00 P.M.
CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

MINUTES

1. CALL TO ORDER

The HRRRB meeting was called to order at 7:06 p.m. by Chair, J. Warner.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
T. HALL	Tenant	X		
R. AUGUSTE	Tenant	X		
H. FLANERY	Tenant Alt.			X
C. TODD	Tenant Alt.			X
R. STONE	Homeowner	X		
J. WARNER	Homeowner	X		
A. GRAHAM	Homeowner	X		
E. LAI	Homeowner Alt.			X
J. MA POWERS	Homeowner Alt.			X
K. FRIEDMAN	Landlord	X		
T. WILLIAMS	Landlord	X		
B. SCOTT	Landlord Alt.			X
K. SIMS	Landlord Alt.			X

Staff Present

Ubaldo Fernandez	Deputy City Attorney
Oliver Luby	Deputy City Attorney
Barbara Kong-Brown	Senior Hearing Officer
Kelly Rush	Program Analyst

3. CONSENT ITEMS

- a) Review of Board Minutes from November 21, 2019 Panel Meeting
- b) Review of Board Minutes from December 5, 2019 Panel Meeting
- c) Approval of Board Minutes from December 12, 2019

A. Graham provided correction on bate stamp page 13, "as is" is repeated and repeat should be removed.

K. Friedman provided correction on bate stamp page 4, Edward Lai should be listed as an alternate.

K. Friedman also provided correction on bate stamp page 8, top of the page says the "owner appealed" and grounds indicate that "tenant appealed." Staff will review case and make correction.

A. Graham moved to approve the minutes from the December 12th, 2019 meeting with the corrections provided. R. Stone seconded the motion.

The Board voted as follows:

Aye: K. Friedman, R. Stone, A. Graham, R. Auguste, T. Hall, J. Warner

Nay: None

Abstain: None

The motion was approved by consensus.

4. OPEN FORUM

a) Speaker: James Vann

- Oakland Tenants Union circulated a letter regarding a decision made by the board during the meeting on Nov 14th
- There will be a presentation about AB 1482 on January 14th at the Life Enrichment Committee

5. APPEALS

a) T18-0302, Spencer v. Eagle Environmental Construction

Appearances:	Patsy Spencer	Tenant Appellant
	Ronald Batiste	Owner Appellee

The tenant appellant appeared and provided that she did not

understand what the Rent Adjustment Program (RAP) notice was and that it was given with a letter and new lease with new stipulations. The tenant contended that the conditions in the unit were really bad and there are still serious mold conditions in the unit that are affecting her and her family's health. The appellant also discussed the fact that she doesn't agree with the findings of the Hearing Officer regarding what she should be paying considering what she has gone through. The appellant contended that the owner also claimed in the hearing that she had not paid rent and at the later hearing provided that he found the rent that the tenant had paid.

The owner appeared and contended that he purchased the building in July of 2016. He stated that he hired Eagle Environmental Construction to meet with tenants about concerns and they created punch lists of repairs that were needed. The owner also contended that maintenance is dispatched each time a tenant calls and Terminix is on constant standby. The owner provided that it had been difficult to address issues in the tenant appellant's unit because she would set up meetings and then refuse access to the unit. He also provided that the tenant has only paid two months of rent since the Hearing Decision. The owner stated that the Hearing Officer did a fair job and asks the Board to affirm the Hearing Decision.

A. Graham left meeting at 8:05pm.

After arguments made by both parties, Board questions to the parties and Board discussion, J. Warner motions to remand to the Hearing Officer for full consideration of the prior restitution owed in the tenant's prior case T15-0074. R. Auguste seconded the motion.

K. Friedman made a friendly amendment that the sum may be estimated to the extent possible based on the records that are available.

J. Warner and R. Auguste accept the friendly amendment from J. Friedman.

J. Warner restates the motion to remand to the Hearing Officer for determination of the estimated restitution owed taking into account the Hearing Decision in the prior case T15-0074 and the records that are available. The Hearing Officer has the discretion to determine if a new evidentiary hearing is required and may confirm any statute of limitation that may apply.

The Board voted as follows: (A. Graham not present for vote)

Aye: T. Hall, R. Auguste, K. Friedman, J. Warner

Nay: R. Stone

Abstain: None

The motion passed.

6. ACTION ITEMS

- a) Formation of additional ad hoc committees, membership and review of issues identified in May 9, 2019, Board meeting (see attached list on page 3)

Speaker: James Vann

- Would like to request that issue of seniors on a fixed income be presented as a possible ad hoc committee

T. Hall and R. Auguste would like to add the issue of seniors on a fixed income to the list of possible future committees presented on page #3 in the agenda.

7. INFORMATION AND ANNOUNCEMENTS

- a) Rent Adjustment Program Updates (C. Franklin Minor)

- B. Kong Brown stated that C. Franklin Minor was unable to attend tonight's meeting and has requested that this item be tabled for the next full board meeting.

- b) Legislative Updates (Office of the City Attorney)

- U. Fernandez provided that there are currently no updates on the Efficiency Ordinance as it has not been brought to City Council yet.
- U. Fernandez announced that the Condo Conversion Ordinance will be before the CED Committee on Tuesday, January 14th, 2020.

Speaker: James Vann

- Oakland Tenants Union will make comments at the CED Committee on January 14th.

8. COMMITTEE REPORTS AND SCHEDULING

- a) Report from Ad Hoc Committee – Deferred Maintenance v. Capital Improvement of Dry Rot

J. Warner requests that handout from T. Williams be included in the packet for next meeting. Staff will reach out

to T. Williams for copy.

J. Warner requests the topic of proposed additional of language to be added to dismissals of one petition in a consolidated case with multiple petitions be discussed at the next Rent Board meeting.

K. Friedman requests a report from staff on further Board trainings that were previously discussed. Senior Hearing Officer, B. Kong-Brown, provided that she will discuss with Program Manager, C. Franklin Minor regarding this issue.

9. ADJOURNMENT

The HRRRB meeting was adjourned at 8:36 p.m. by Chair, J. Warner.

CHRONOLOGICAL CASE REPORT

Case Nos.: T19-0184

Case Name: Beard v. Meridian Management Group

Property Address: 1470 Alice Street, #206, Oakland, CA

Parties: James Beard (Tenant)
Lucky Stewart (Owner)
Greg McConnell (Attorney for Owner)

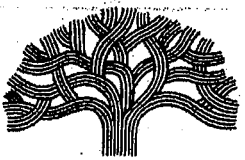
TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	February 4, 2019
Owner Response filed	July 18, 2019
Owner Representative filed Additional Documentation & Renewed Request for Dismissal	September 10, 2019
Administrative Decision issued	September 19, 2019
Tenant Appeal filed	October 8, 2019

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T19-0184 KM/MA

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp. 2019 FEB -4 PM 1:41
	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 James Beard	Rental Address (with zip code) 1470 Alie St #204 Oakland, CA 94612	Telephone: _____ E-mail: _____
Your Representative's Name Nancy Conway	Mailing Address (with zip code) 345 Franklin St San Francisco 94102	Telephone: _____ Email: _____
Property Owner(s) name(s) Russel Flynn	Mailing Address (with zip code) 1145 Bush St San Francisco, CA 94109	Telephone: _____ Email: _____
Property Manager or Management Co. (if applicable) Meridian Management Group	Mailing Address (with zip code) 1145 Bush St San Francisco, CA 94109	Telephone: _____ Email: _____

Number of units on the property: 21

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.
<input checked="" type="checkbox"/> (h) There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance. (Complete Section III on following page)
<input checked="" type="checkbox"/> (i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page)
(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: 3-15-2014 Initial Rent: \$ 1400.00 /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: 3-15-2014. If never provided, enter "Never."

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>11-02-2013</u>	<u>12-1-2013</u>	<u>\$ 1479.87</u>	<u>\$ 1530.19</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes
 No

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

T15-0395 ↓ T16-0374

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.

James Ber
Tenant's Signature

2-2-2019
Date

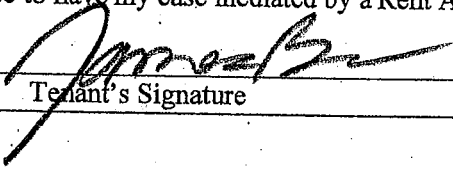
V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

2-2-2019

Date

VI. IMPORTANT INFORMATION:

Time to File

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

File Review

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

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

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

Decrease in services

- ① Refrigerator still makes a loud noise after reporting it since November 2018 emails + video will be provided in the near future. \$50 month reduction is fair judgement until refrigerator gets repaired or replaced.
- ② My Storage unit + parking space leaks water. This is ongoing and was never fixed despite Judge Steve Kasdin's judgement order T16-0374. T16-0374 was partially granted due to extreme water damage to my storage unit. Property Mgmt allow with Representative Greg McConnell promised it got fixed and lied about it. \$100 a month reduction in rent until storage unit gets repaired and water damage fixed.
- ③ The rent increase is in violation of California civil code section 1942.5 and Oakland Municipal code section 8.22.130. Retaliation against tenants for using the RAP and Building Code enforcement is prohibited. Code enforcement case filed in June 4 and action taken in July by code enforcement.

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on River →

④ I received the rent increase notice on 11-2-2018. I have 90 days to file petition. 2-2-2019 falls on a Saturday, this petition is returned on the next business day and filed.

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2019 FEB -4 PM 1:41

TENANT MAINTENANCE REQUEST

All maintenance requests have to be submitted on this form in writing. If there is an emergency called in, it has to be followed up with this form.

If you are experiencing an outage, please call the PG&E Customer Service Line at 1-800-743-5000. If you smell natural gas, or suspect another emergency situation, leave the area immediately and then call 9-1-1 or PG&E at 1-800-743-5000.

Tenant's Name: James Beard
Address: 1470 Alicest 206 Oakland 94612
Street Apt. City State Zip

Phone Numbers: Cell 289-5301 Home _____ E-mail _____

Request: 1 Seal the water leak in storage unit #14. (Fill email photos to Jeannine Robertson)
2 Replace Noisy Refrigerator ASAP

Please indicate whether you have any pets, or other concerns we need to be aware of (alarms, for example) when entering your unit:

I understand that in submitting this maintenance request, I am giving the landlord, agents and/or tradesperson permission to enter my apartment as necessary to inspect the work requested above and complete the work as may be required IF the landlord and/or agents deem it necessary.

Signed: James B Date: 1-9-2019 Time: 5PM
(Tenant on Lease)

After completing the items above, deliver this notice to the Manager of your building. (DROP BOX IN LOBBY)

* ————— * ————— * ————— MANAGEMENT ————— USE ONLY ————— * ————— *

Received by: _____ Date: _____ Time: _____

Work Completed By _____ Date: _____

Charge Cost To Tenant: _____ Yes _____ No

Reason to Charge: _____

Action Taken: _____

Comments: _____



CITY OF OAKLAND

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2019 FEB -4 PM 1:41

250 FRANK H. OGAWA PLAZA ▪ SUITE 2340 ▪ OAKLAND, CALIFORNIA 94612-2031

Planning and Building Department

(510) 238-6402

Bureau of Building

FAX: (510) 238-2959

Building Permits, Inspections and Code Enforcement Services

TDD: (510) 238-3254

inspectioncounter@oaklandnet.com

NOTICE OF VIOLATION

June 4, 2018

Certified and Regular mail

To: ALICE B BUILDING LP
1717 POWELL ST 300
SAN FRANCISCO CA 94133-2843

Code Enforcement Case No.: 1604229
Property: 1470 ALICE ST, OAKLAND 94612
Parcel Number: 008 062702700

Re-inspection Date/Correction Due Date: 7/11/18

Code Enforcement Services inspected your property on na and confirmed:

- that the violations of the Oakland Municipal Code (OMC) identified below are present and need to be addressed as specified under "Required Actions". Photographs of the violations are enclosed where applicable.
- that work was performed without permit or beyond the scope of the issued permit and you are receiving this Notice of Violation because you did not get the required permit within three (3) days of receiving the Stop Work Order. You must contact the inspector indicated below before the Re-inspection Date to stop further code enforcement action.
- Investor Owned Program - Per OMC 8.58
- Foreclosed and Defaulted Properties - Per OMC 8.54

At this point, no fees or other charges have been assessed for these violations. To stop further code enforcement action, you are advised to correct the above violations and contact Inspector **Wing Loo**, who is assigned to your case, before the re-inspection date shown above to schedule an inspection. Your inspector is available by phone at 510-238-6219 and by email at wloo@oaklandnet.com.

If the Property Owner Certification is included in this notice you may also complete the form and include photographs of the corrected violations.

Note: If a complaint is filed regarding the same or similar violation(s) and it is confirmed within 24 months from the date of this notice an immediate assessment of \$1,176.00 will be charged as a Repeat Violation. In addition, if violation(s) remain uncorrected after you receive a 30-day Notice of Violation, further enforcement action(s) will include additional fees.

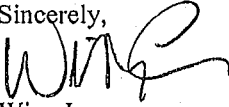
- If you do not contact your inspector to discuss why you cannot comply or if applicable, complete the Property Owner Certification form and the re-inspection verifies that all violations have not been corrected, you may be charged for inspection and administrative costs, which can total \$2,665.00.
- The City may also abate the violations and charge you for the contracting and administrative costs, which can also total over \$1,000.00.
- Priority Lien fees in the amount of \$1,349.00 may be assessed if fees are not paid within 30 days from the date of the invoice. Charges may be collected by recording liens on your property and adding the charges to your property taxes or by filing in Small Claims Court.
- The Notice of Violation may be recorded on your property with associated fees for processing and recording.

You have a right to appeal this Notice of Violation. You must complete the enclosed appeal form and return it with supporting documentation in the enclosed envelope. If Code Enforcement Services does not receive your written Appeal within the appeal deadline dated: 7/11/18 you will waive your right for administrative review. *Note: Incomplete appeals including, but not limited to an oral notification of your intention to appeal, a written appeal postmarked but not received by us within the time prescribed or a written appeal received by us without a filing fee are not acceptable and will be rejected.*

Note: The appeal period may be reduced based on prior noticing i.e., Courtesy notice, Repeat Violation and the Property Owner Certification on record.

If you choose to file an appeal no further action can be taken by Code Enforcement Inspectors until you have had the opportunity to be heard by an independent Administrative Hearing Examiner pursuant to the Oakland Municipal Code Section 15.08.380 (B)(3) and a Final Decision is determined. An appeal will be scheduled within 60 days from the end of the appeal period. A filing fee in the amount of \$110.00 is due at the time of submittal. Payments may be made in person at the Bureau of Building, 250 Frank Ogawa Plaza, 2nd Floor, or by phone by calling 510-238-4774 (Please include the receipt number and date on your appeal). MasterCard and Visa are accepted.

Investor-Owned Residential Property OMC 8.58	Foreclosed and Defaulted OMC 8.54
<p>Administrative/Civil penalties will be Assessed for failure to abate (OMC Sections 8.24.020, 1.08.60, 1.12). Penalties may be assessed for up to 21 days at \$1,000 a day. You will be notified separately if penalties have accrued.</p> <p>Nuisance Abatement Lien (Notice of Violation) A Nuisance Abatement Lien may be filed with the Alameda County Clerk-Recorder for recordation on the property title which shall have the force, effect and priority of a Judgment Lien. The Nuisance Abatement Lien may be foreclosed by an action brought by the City of Oakland for a money judgment.</p> <p>(Priority Lien) (OMC 8.58.430) A Constructive notice of the pendency of a collection action for an Assessment to all other interested parties shall be established on the date a lien is recorded by the Alameda County Clerk-Recorder</p>	<p>Civil penalties will be Assessed for failure to abate (OMC Sections 8.24.020, 1.08.60, 1.12). Penalties may be assessed for up to 21 days at \$1,000 a day. You will be notified separately if penalties have accrued.</p> <p>(Priority Lien) (OMC 8.54.430) A Constructive notice of the pendency of a collection action for an Assessment to all other interested parties shall be established on the date a lien is recorded by the Alameda County Clerk-Recorder</p>

Sincerely,

 Wing Loo
 Specialty Combination Inspector
 Planning and Building Department

Enclosures as applicable:

- | | | |
|---|--|--|
| <input type="checkbox"/> Blight brochure | <input type="checkbox"/> Residential Code Enforcement brochure | <input type="checkbox"/> Vehicular Food Vending brochure |
| <input type="checkbox"/> Property Owner Certification | <input type="checkbox"/> Mold and Moisture brochure | <input type="checkbox"/> Pushcart Food Vending brochure |
| <input type="checkbox"/> Lead Paint brochure | <input type="checkbox"/> Undocumented Dwelling Units brochure | <input type="checkbox"/> Smoke Alarms brochure |
| <input type="checkbox"/> Photographs | <input type="checkbox"/> Stop Work brochure | <input type="checkbox"/> Condominium Conversion brochure |

cc:

Administrative Hearing Fees

Filing Fee	\$ 110.00
Conduct Appeals Hearing	Actual Cost Appeal (Fee charged only if Appellant loses appeal)
Processing Fee	\$ 931.00
Reschedule Hearing	\$ 329.00

Fee Includes 9.5% Records Management Fee and 5.25% Technology Enhancement Fee

Property Address: 1470 ALICE ST, OAKLAND 94612

Complaint #: 1604229

Property Maintenance (Blight) - (Checklist of Violations attached)

Description of Violation	Required Action	OMC Section

Building Maintenance (Housing)

Description of Violation	Required Action	OMC Section
The apartment building does not have a resident manager who resides at this address.	Provide a resident manager.	15.08.230.R

Zoning

Description of Violation	Required Action	OMC Section

July 16, 2018,

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2019 FEB -4 PM 1:41

To : ALL TENANTS AND OCCUPANTS

IMPORTANT UPDATE CONTACT NUMBER OF RESIDENT MANAGER IS (805)757-2196

1470 Alice Street Oakland Ca 94612

RE: APPOINTMENT OF RESIDENT MANAGER

We are pleased to inform that effective as of July 1 2018, Elina Bedoya has joined the management team of 1470 Alice Street, Oakland ,Ca 94612, as your resident onsite manager. As stated she will be joining the team of Joanna and Steve. Please continue to work with Joanna and Steve for all your maintenance requests and building needs.

All rents are due on before the first of the month in the lobby box. Cash or partial payments will not be accepted. Payment will only be accepted in the form of personal check, guaranteed check made payable to : Alice B. Building L.P. . Payment will only be accepted from Tenants whose name is on lease agreement. Only one check per apartment . We will not accept checks from unauthorized occupants.

The staff for your property is as follows:

Offsite management : Joanna and Steve (415)819-5995 email: 1470alice@gmail.com

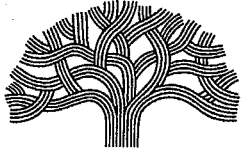
Resident manager : Elina Bedoya (805)757-2196

Thank you for your cooperation.

Jeanne Robertson, Property supervisor

000021

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612-0243 (510) 238-3721	For date stamp 2019 JUL 18 AM 11:37
		<p align="center"><u>PROPERTY OWNER</u> <u>RESPONSE</u></p>

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 T19 -0184 *KM/MA*

Your Name Lucky Stewart Alice B. Building, LP	Complete Address (with zip code) 1145 Bush St. San Francisco, CA 94109	Telephone: Email:
Your Representative's Name (if any) Greg McConnell JR McConnell The McConnell Group	Complete Address (with zip code) 300 Frank Ogawa Plaza #460 Oakland, CA 94612	Telephone: 510-834-0400 Email:
Tenant(s) Name(s) James Beard	Complete Address (with zip code) 1470 Alice St. #206 Oakland, CA 94612	
Property Address (If the property has more than one address, list all addresses) 1470 Alice St. Oakland, CA 94612		Total number of units on property <p align="center">22</p>

Have you paid for your Oakland Business License? Yes No Lic. Number: 00190859
 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.**

* proof will be provided prior to hearing

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes No APN: 8-627-27
 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.**

* proof will be provided prior to hearing

Date on which you acquired the building: 4 / 15 / 16

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

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

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

I. JUSTIFICATION FOR RENT INCREASE You must check the appropriate justification(s) box for each increase greater than the Annual CPI adjustment contested in the tenant(s) petition. For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

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

* Tenant is not contesting a rent increase. Tenant claims decreased housing services.

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

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

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

The tenant moved into the rental unit on 3/15/14

The tenant's initial rent including all services provided was: \$ 1,400.00 / month.

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

If yes, on what date was the Notice first given? 3/15/14

Is the tenant current on the rent? Yes No

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

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
10/25/18	12/1/18	\$ 1,479.87	\$ 1,530.19	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/25/17	12/1/17	\$ 1,450.85	\$ 1,479.87	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/1/16	12/1/16	\$ 1,400.00	\$ 1,450.85	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

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

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

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

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

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

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

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

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

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

IV. DECREASED HOUSING SERVICES

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

Owner denies all tenant allegations. These issues are stale; they have been heard and denied in multiple cases, including T16-0734 and T17-0419.

Please see attachment A. (PAGE 5)

Owner respectfully requests this case be dismissed.

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

7/17/19

Date

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open.

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

File Review

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

Mediation Program

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

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

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

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

Property Owner's Signature

Date

T19-0184; Beard v. Alice B. Building, LP
Attachment A

Landlord Response to tenant claims:

Landlord respectfully demands that this petition be dismissed. The claims in this petition were heard and decided upon in T16-0228, T16-0734 and T17-0419. Tenant dismissed T16-0228 and T16-0734 was denied by RAP Hearing Officer Kasdin. His decision was affirmed by Administrative Appeal dismissal with prejudice. T17-0419 was denied by RAP Hearing Officer Cohen and affirmed on appeal. These decisions have been finalized and are unreviewable per the doctrine of res judicata.

For the record:

1. Landlord disputes storage area claim and will defend issue at hearing. Issues was included in T16-0734 and denied by RAP via Hearing Officer decision with affirmation by Administrative appeal dismissal with prejudice. Issues was also included in T17-0419 and denied by RAP via Hearing Officer decision with affirmation on appeal.
2. Landlord contests all claims of code violations and service reductions.
3. Landlord denies each and every allegation in petition and reserves the right to supplement the response prior to hearing and provide additional testimony at hearing.

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2019 JUL 18 AM 11:37



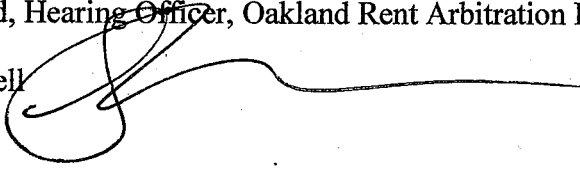
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CITY OF OAKLAND
RENT ARBITRATION PROGRAM

km/ma

THE McCONNELL GROUP 2019 SEP 10 PM 4:44
Consultants and Advocates

Memorandum

To: Maimoona Ahmed, Hearing Officer, Oakland Rent Arbitration Program

From: Gregory McConnell 

Date: 9/10/19

Subject: T19-0814; Additional Documentation

Owner has requested that this case be dismissed, however, Owner retains the right to defend this petition.

Owner is on vacation and cannot participate in the preparation for this case. We are submitting the attached documentation currently available on Owner's behalf. Owner reserves the right to submit further documentation up to seven (7) days prior to the hearing. If we still have not received the necessary documents, Owner will request a continuance.

Thank You.

Nov 2, 2018
December 10, 2018

NOTICE OF CHANGE IN TERMS OF TENANCY

James Beard
1470 Alice Street , #206
Oakland, CA 94612

Re: Rent Increase - Oakland Municipal Code, Chapter 8.22

Dear James Beard

While no one likes a rental increase, the cost of operating a building has risen in excess of the increase allowed by the City Ordinance. We value you as a tenant and hope you will understand the necessity for this increase.

Therefore, you are hereby notified, in accordance with Civil Code Section 827, that thirty (30) days after service upon your of this notice, or December 1, 2018, whichever is later. Your current monthly payment calculations are to be found on page two.

Please make your check payable to Alice B. Building, LP, per the following schedule to be submitted to the Resident Manager:

- | | | |
|----|--|-------------------|
| 1) | December 1-31, 2018 | \$1,564.19 |
| 2) | January 1, 2019 - November 30, 2019 | \$1,530.19 |

All rents are due and payable in advance on the 1st day of each and every month. Additionally, a late charge as outlined in your lease will be charged for any delinquent payment of rent.

Furthermore, please find duplicate notices for the City of Oakland's Rent Adjustment Program. Please enclose the loose copy with your signature along with your next rent payment. The signed notice is recommended by the Oakland Rent Adjustment Program.

Owner reserves the right to bank any and all allowable rent increases under provisions of the RRAO and can be added to any future increases and transferred to any future Owners.

Owner may apply any payment by Tenant to any obligation of Tenant to Owner, notwithstanding any dates or other direction from Tenant that accompanies any such payment. Any attempt by Tenant to allocate a payment in any other way shall be null and void.

Please be advised that pursuant to Oakland Rent Adjustment Program Rules and Regulations, the Owner considers you to be the only authorized Original Occupant to occupy the above premises.

Information and advice regarding this notice are available from the Oakland Rent Adjustment Program located at 250 Frank H. Ogawa Plaza, 6th Floor, Oakland, CA, 94612.

Sincerely,

Jeanne Robertson
Property Supervisor

Enclosures - Two RAP Notices (One on the back of this notice and one loose copy for return signature) and Decision Summary

cc: Resident Manager
Accounting Department
Tenant File

141 #206

See Reverse Side for Calculations

1470 Alice Street
December 10, 2018

#206

Rent Increase Calculations

Effective December 1, 2018

Your current base rent on your apartment is	\$1,479.87
CPI Rent Increase shall be	<u>50.32</u>

Therefore, effective December 1, 2018, the new base rent on your apartment will be **\$1,530.19**

Therefore, effective December 1, 2018, the new monthly base rent on your apartment will be **\$1,530.19**

Additionally, your portion of the Rent Adjustment Program Service Fee is Due in December **34.00**

Payment for the month of December 1, 2018 **\$1,564.19**

Note: Refer to Page 1 for the schedule of subsequent payments due.

141 #206



Meridian Management Group

December 10, 2018

Mailed
12/14/18

James Beard
1470 Alice Street #206
Oakland, CA 94612

Dear Mr. Beard,

This letter is in response to your email dated December 7, 2018, which stated:

I'm requesting a written summary explaining why the rent increase received on November 2 exceeds Oaklands cpi. Your cooperation in this matter would be greatly appreciated.

Your rent increased \$50.32, which is 3.4% of your then current rent amount of \$1479.87. This is not in excess of the current allowable amount per the City of Oakland Rent Adjustment Program. Your current lawful rent is \$1530.19. There is a one time charge of \$34.00 dollar added December 1, 2018 which is the allowable passthru of the rent board fee.

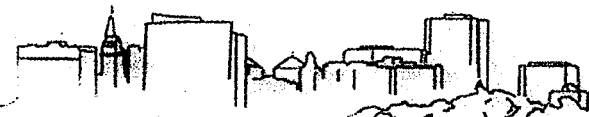
Thank you,

Jeanne Robertson
Meridian Management Group
614 Grand Avenue, Suite 206
Oakland, CA 94610
P. (510) 444-9700
F. (510) 338-3651
Jrobertson@mmgprop.com

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CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
ARBITRATION
2019 SEP 10 PM 4:44

000030

Km/ma



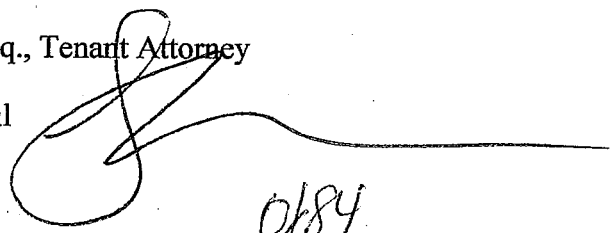
THE McCONNELL GROUP
Consultants and Advocates

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2019 SEP 10 PM 4:45

Memorandum

To: Maimoona Ahmed, Hearing Officer, Oakland Rent Arbitration Program

Cc: Barbara Kong Brown, Senior Hearing Officer, Oakland Rent Arbitration Program
James Beard, Tenant
Nancy Conway, Esq., Tenant Attorney

From: Gregory McConnell 

Date: 9/10/19

Subject: Renewed Request for Dismissal: T19-0814; Beard v. Stewart *0/84*

Owner respectfully repeats his demands that this petition be dismissed. The claims in this petition were heard and decided upon in T16-0228, T16-0734, T17-0419 and T18-0134.

This tenant is a serial filer who is abusing the system.

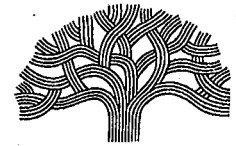
Tenant is not current on rent. Tenant has not been paying rent as stipulated in previous decisions, and therefore does not have standing to be heard before the RAP. Based upon T16-0734 and subsequent CPI increases Tenant should be paying \$1,479.87 per month prior to the currently contested increase.

The rent increase in question is a CPI increase based on a RAP decided/approved base rent. The legitimacy of this rent can be decided administratively without the need for a lengthy hearing.

Tenant's claims of decreased housing services regarding the garage storage unit has been heard and decided repeatedly in the cases mentioned above.

For these reasons, Owner respectfully demands this petition be dismissed by Administrative Decision.

Thank You.



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

Housing and Community Development
Department Rent Adjustment Program

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

ADMINISTRATIVE DECISION

CASE NUMBER: T19-0184 Beard v. Meridian
PROPERTY ADDRESS: 1470 Alice Street, Unit 206, Oakland, CA
PARTIES: James Beard, Tenant
Lucky Stewart, Owner
Greg McConnell, Attorney for Owner

INTRODUCTION

The tenant filed a petition on February 4, 2019, contesting a single rent increase from \$1,479.87 to \$1,530.19, effective December 1, 2019, and alleging decreased housing services due to a water leak in the garage storage unit/parking space, and a loud refrigerator. The tenant also stated that he first received the RAP Notice in 2014, and he also received the RAP Notice with the contested rent increase.

The owner filed a timely response, alleging that the proposed rent increase does not exceed the allowable CPI amount and that the decreased housing service claims were already decided in prior hearing decisions.

REASON FOR ADMINISTRATIVE DECISION

An Administrative Decision is a decision issued without a hearing. The purpose of a hearing is to allow resolution of disputes of material fact. However, in this case, sufficient uncontested facts have been presented to issue a decision without a hearing and there are no material facts in dispute. Therefore, an Administrative Decision is being issued.

CPI Rent Increase is Valid

Pursuant to the Rent Adjustment Ordinance, CPI and Banking Rent Adjustments are not subject to petition.¹ A tenant may not petition to contest a rent increase justified in an amount up to and including the CPI Rent Adjustment.²

¹ O.M.C. §8.22.070(B)
² O.M.C. §8.22.070(B)(2)

The Tenant Petition lists a single rent increase, served on November 2, 2018, proposing to increase the tenant's rent from \$1,479.87 to \$1,530.19, effective December 1, 2018. The allowable CPI for the year of July 1, 2018, to June 30, 2019, is 3.4%, which is \$50.32 of \$1,479.87, the tenant's rent prior to the proposed rent increase. The new rent with the CPI Adjustment totals \$1,530.19. The CPI was properly calculated and the proposed increase does not exceed the allowable CPI of 3.4%. Therefore, the CPI rent increase is valid.

Decreased Housing Service Claims

Leak in Garage Storage Unit/Parking Space: Official Notice is taken of the Hearing Decision in Case Number T16-0734, Beard v. Stewart, a prior case which involved the same parties and the same subject property. In that case, the tenant complained about a leak in the garage storage unit/parking space and was granted restitution. As this claim was already raised and addressed in the prior case, it is dismissed.

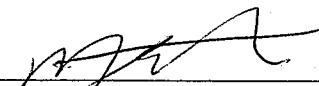
Loud Refrigerator: The tenant stated in his petition, under penalty of perjury, that "his refrigerator makes a loud noise". The tenant did not claim any other issues with the functionality of his refrigerator. A loud refrigerator does not constitute a decrease in housing services. This is a frivolous claim and is denied.

ORDER

1. Tenant Petition T19-0184 is dismissed.
2. Effective December 1, 2018, the tenant's new base rent is \$1,530.19 monthly.
3. The decreased housing service claims are denied.
4. The hearing scheduled for September 23, 2019, is cancelled.

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: September 17, 2019



Maimoona S. Ahmad
Hearing Officer
Rent Adjustment Program

000033²

PROOF OF SERVICE
Case Number T19-0184

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

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

Documents Included

Administrative Decision

Owner

Russel Flynn,
Meridian Management Group
1145 Bush Street
San Francisco, CA 94109

Owner Representative

Greg McConnell,
The McConnell
300 Frank Ogawa Plaza, #460
Oakland, CA 94612

Tenant

James Beard
1470 Alice Street Unit 206
Oakland, CA 94612

Tenant Representative

Nancy Conway
345 Franklin Street
San Francisco, CA 94102

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **September 19, 2019** in Oakland, CA.

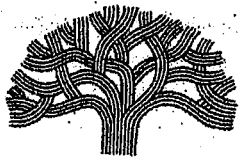


Brittini Lothlen
Oakland Rent Adjustment Program

000034

KM/MA

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	2019 OCT For State Stamp: 31
	APPEAL	

RECEIVED
CITY OF OAKLAND
ARBITRATION PROGRAM
OCT - 8 PM 3:31

Appellant's Name James Beard		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant
Property Address (Include Unit Number) 1470 Alice St, #206 Oakland, CA 94612		
Appellant's Mailing Address (For receipt of notices)		Case Number T19-0184
		Date of Decision appealed 9-17 9-17-2019
Name of Representative (if any) Nancy Conway	Representative's Mailing Address (For notices) 345 Franklin St San Francisco, CA 94102	

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

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

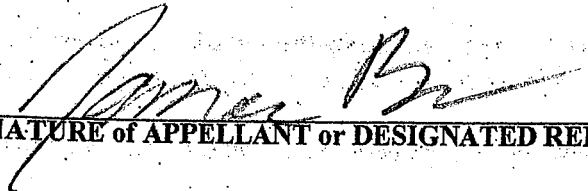
For more information phone (510) 238-3721.

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

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

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •
 I declare under penalty of perjury under the laws of the State of California that on 10-7, 2019, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Russel Flynn
Address	1145 Bush St
City, State Zip	San Francisco, CA 94109
Name	The McConnell Group
Address	300 Frank Ogawa Plaza #460
City, State Zip	Oakland, CA 94612

	10-7-19
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

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

James Beard tenant T19-0184

I was denied a sufficient opportunity to present my claim due to the rent board not allowing me to respond to Mr. Greg McConnell's false claims and evidence tampering. Mr. McConnell showed up prior to the hearing T19-0184 and got this case administratively dismissed despite overwhelming evidence including photographs, 6 months of email exchange between the owner and I, and video evidence showing dangerous water intrusion that still has not been addressed or fixed yet. This is a hazardous substandard condition to live in.

Please consider making another hearing date to listen to and record all evidence and testimony. Also the landlord has been maliciously prosecuting me with eviction notices that are retaliatory since I filed this petition and they are afraid of the truth coming out on live tape. Also previous cases have been erased on tape T16-0228 in order to hide evidence + testimony exposing the owners to criminal activity and I'd like to request that the city attorney and Rebecca Kaplan get involved and investigate this **000038** and untrustworthy involvement.

This decision violates local and state laws. Decreasing housing service is a form of harassment for bidden by the Oakland Tenant Protection Ordinance & Rent adjustment Board aka Oakland RAP. Evidence clearly shows that the landlord is refusing to fix the hazardous water intrusion and damage done and is trying to force me to move out. As long as this rent board continues to decrease my housing service along with other tenant housing services, the more unlawful eviction cases will rise along with the homeless rate in Oakland.

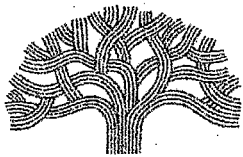
CHRONOLOGICAL CASE REPORT

Case No.: T17-0221
Case Name: Kaufman v. Nguyen
Property Address: 4016 Kansas St., Apt. 'D', Oakland, CA
Parties: Michael Kaufman (Tenant)
Jennifer Nguyen (Owner)
James E. Vann (Tenant Representative)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	March 30, 2017
Owner Response filed	May 25, 2017
Hearing Decision issued	September 12, 2017
1 st Tenant Appeal filed	September 29, 2017
Tenant submitted Appeal Summary	June 5, 2018
Remand Hearing Decision issued	January 16, 2019
2 nd Tenant Appeal filed	February 5, 2019

000040



CITY OF OAKLAND

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

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 MAR 30 PM 4:40
TENANT PETITION

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

Please print legibly

T17-0221 RC/SK

Your Name Michael Kaufman	Rental Address (with zip code) 4016 Kansas St Apt D Oakland, CA 94619	Telephone: ----- E-mail:
Your Representative's Name James Vann	Mailing Address (with zip code) 251 Wayne Ave Oakland, CA 94606	Telephone: 510-763-0142 Email:
Property Owner(s) name(s) Jennifer Nguyen	Mailing Address (with zip code) 88 Eureka Sq Pacifica, CA 94044	Telephone: ----- Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: Email:

Number of units on the property: 4

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

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

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

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

Rev. 2/10/17

For more information phone (510) 238-3721.

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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: 7-23-2013 Initial Rent: \$ 1,250.00 /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: 7-24-16 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		
2-9-17	4-1-17	\$ 1250.00	\$ 1273.75	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2-9-17	4-1-17	\$ 1273.75	\$ 1295.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2-9-17	4-1-17	\$ 1250.00	\$ 1275.00	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* 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:

T16-0482

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.

Michael Kaufman
Tenant's Signature

3-30-17
Date

Rent increase notice of 2-9-17 attached.

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): _____



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

For date stamp.
RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 MAY 25 PM 2:25
PROPERTY OWNER
RESPONSE

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

CASE NUMBER T - 717 - 0221

Your Name <i>Jennifer Nguyen</i>	Complete Address (with zip code) <i>3718 Green Acre Rd Oakland CA 94619</i>	Telephone: _____ Email: _____
Your Representative's Name (if any) <i>Michach Kaufman</i>	Complete Address (with zip code) <i>4016 Kansas St Apt. D Oakland CA 94619</i>	Telephone: _____ Email: _____
Tenant(s) Name(s) →	Complete Address (with zip code)	
Property Address (If the property has more than one address, list all addresses)		Total number of units on property

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: 1/19/46

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

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

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

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

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

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

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

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

The tenant moved into the rental unit on 7/23/2013

The tenant's initial rent including all services provided was: \$ 1,250 / month.

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

If yes, on what date was the Notice first given? 7/24/2016

Is the tenant current on the rent? Yes No

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

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
<u>2.9.17</u>	<u>4.4.17</u>	\$ <u>1250</u>	\$ <u>1320.82</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

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

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

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

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

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

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

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

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

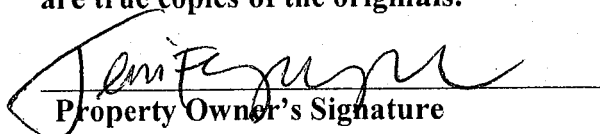
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

IV. DECREASED HOUSING SERVICES

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

V. VERIFICATION

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


Property Owner's Signature

5.9.17
Date

IMPORTANT INFORMATION:

Time to File

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

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

File Review

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

Mediation Program

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

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

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

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

Property Owner's Signature

Date

4

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

Dear Hearing Officer:

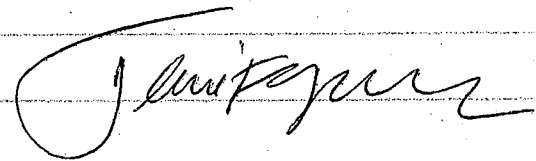
My Tenant Michael Kaufman

has been paying \$1,273.75 since
April 1, 2017.

Please adjust my increase
accordingly through your
decision. I am due \$1,320
through banking justification

RECEIVED
CITY OF OAKLAND
DHCD/ON

2017 MAY 25 PM 2:30



5-26-17

000049

Rent Increase Notice

(60 DAY NOTICE)

Date: February 9, 2017

From: Jennifer Nguyen

Tenant's Name: Michael Kaufman

4016 Kansas Street Oakland Ca. 94619 APT #D

This notice is to inform you that there will be an increase of 5.6% from \$1,250 to \$1,320. This will take effect on April 1, 2017.

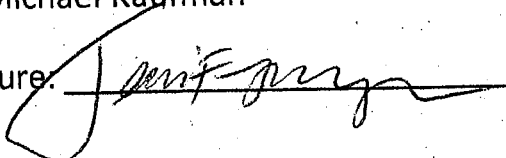
Justification for rent increase:

You moved into 4016 Kansas St Apt. D on 7/23/2013. I am using banked rent increases for the following anniversaries:

- **(7/23/14 @ 1.9%), (7/23/2015 @ 1.7%) and (7/23/16 @ 2.0%) as allowed by the Rent Adjustment Program. I am also including the notice of the Residential Rent Adjustment Program to this notice.**

If you have any questions regarding this matter, please contact me

Tenants Name: Michael Kaufman

Landlord's Signature: 

Date: 2-9-17

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CITY OF OAKLAND



P.O. BOX 70243, OAKLAND, CA 94612-2043
Department of Housing and Community Development
Rent Adjustment Program

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. It does not apply to subsidized units, most single family dwellings, condominiums and some other types of units. For more information on which units are covered, contact the RAP office.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase ("CPI increase"). An owner can increase rent more than the CPI rate, but with limits, for: capital improvements, operating expense increases, and deferred annual rent increases ("banking"). No annual rent increase may exceed 10%. The owner must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing. If the owner decreases your housing services, this may be an increase in your rent. Decreased housing services include substantial problems with the condition of a unit.
- To contest a rent increase, you must file a petition with the RAP within sixty (60) days of whichever is later: (1) the date the owner served the rent increase notice; or (2) the date you first received this Notice To Tenants. Information and the petition forms are available from the RAP office: 250 Frank H. Ogawa Plaza, 6th Fl., Oakland, CA 94612 or: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. After your petition is filed, if the rent increase notice separately states the amount of the CPI rate, you have to pay your rent plus the CPI increase. If the CPI rate has not been stated separately, you may pay the rent you were paying before the rent increase notice. If the increase is approved and you did not pay it you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Your payment for the annual fee is not part of the rent. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)

TENANTS' SMOKING POLICY DISCLOSURE

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

I received a copy of this notice on 9.9.17
(Date)

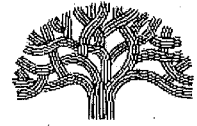
Michael Kaufman
(Tenant's signature)

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

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

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

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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: T17-0221, Kaufman v. Nguyen
PROPERTY ADDRESS: 4016 Kansas St., #D, Oakland, CA
DATE OF HEARING: August 18, 2017
DATE OF DECISION: September 8, 2017
APPEARANCES: Michael Kaufman (Tenant)
Jennifer Nguyen (Owner)
James E. Vann (Tenant Representative)

SUMMARY OF DECISION

The tenant's petition is denied.

CONTENTIONS OF THE PARTIES

The tenant filed a petition on March 30, 2017, which alleges that proposed rent increases from \$1,250 to \$1,273.75 and from \$1,273.75 to \$1,295 per month, effective April 1, 2017, exceed the CPI Adjustment and are unjustified or are greater than 10%; that the CPI or banked rent increase was calculated incorrectly; and that he did not receive the form Notice to Tenants (RAP Notice) together with either contested rent increase.

The owner filed a response to the petition, which alleges that the tenant was given a rent increase notice from \$1,250 to \$1,320.82, effective April 1, 2017; that the tenant was given a RAP Notice together with this rent increase notice; and that the proposed rent increase is justified by Banking.

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THE ISSUES

- (1) What is the amount of the proposed rent increase?
- (2) Did the tenant receive the RAP Notice together with the subject rent increase notice?
- (3) Is a rent increase based upon Banking justified and, if so in what amount?

EVIDENCE

The Proposed Rent Increase: At the Hearing, the parties agreed that the tenant was given a rent increase notice which states that the rent would be increased from \$1,250 to \$1,320 per month, effective April 1, 2017.¹

RAP Notice: The tenant testified that he received the RAP Notice in July 2016 and together with the rent increase notice described in the prior paragraph.

Rent History: Both the petition and response state that the tenant moved into the subject rental unit on July 23, 2013, at a rent of \$1,250 per month. The tenant testified that he paid rent of \$1,275 per month since April 2017, and that he would continue to pay this amount until he receives a Hearing Decision in this case.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Proposed Rent Increase: It is found that the rent increase at issue in this case is from \$1,250 to \$1,320 per month, effective April 1, 2017.

RAP Notice: It is found that the tenant received the RAP Notice in the year 2016 and also together with the contested rent increase notice.

Banking: An owner is allowed to bank rent increases and use them in subsequent years, subject to certain limitations.² The parties agree on the dates and rent amounts entered into the Banking calculations shown on the attached Table. The method of calculation on this Table has been approved by the Rent Board.³ Therefore, as set forth in this Table, the maximum rent for the tenant's unit is \$1,321.31 per month, effective April 1, 2017. This is slightly more than the amount stated in the rent increase notice. Since a rent increase cannot be more than what is stated in a notice of rent increase, the rent is \$1,320 per month, effective April 1, 2017.

Rent Underpayments: The tenant paid rent of \$1,275 per month for the 6 months from April through September 2017. This is an underpayment of \$45 per month, a total of \$270. The underpayment is ordered repaid over a period of 3 months.⁴ The rent is temporarily increased by \$90 per month, to \$1,410 per month, beginning with the rent payment in October 2017 and ending with the rent payment in December 2017.

¹ Exhibit No. 1, which was admitted into evidence without objection.

² O.M.C. Section 8.22.070(C); Regulations Appendix, Section 10.5.1

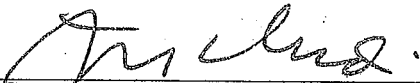
³ Appeal Decision, Case No. 98-02, et al. Merlo v. Rose Ventures III et al. The Board has designated this decision to be a Precedent Decision.

⁴ Regulations, Section 8.22.110(F)

ORDER

1. Petition T17-0221 is denied.
2. The rent, before a temporary increase due to underpaid rent, is \$1,320 per month, effective April 1, 2017. However, the tenant has underpaid rent in the total amount of \$270. This underpayment is adjusted over a period of 3 months.
3. The rent is temporarily increased by \$90 per month, to \$1,410 per month, beginning with the rent payment in October 2017 and ending with the rent payment in December 2017.
4. In January 2018, the rent will return to \$1,320 per month.
5. The Anniversary Date for future rent increases is April 1.
6. **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: September 8, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

CITY OF OAKLAND

Department of Housing and Community Development
 Rent Adjustment Program
<http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment/>

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

CALCULATION OF DEFERRED CPI INCREASES (BANKING)

Initial move-in date	23-Jul-2013	MUST FILL IN D9, D10, D11 and D14	Case No.:	T17-0221	CHANGE YELLOW CELLS ONLY
Effective date of increase	1-Apr-2017		Unit:		
Current rent (before increase and without prior cap. improve pass-through)	\$1,250				
Prior cap. imp. pass-through					
Date calculation begins	23-Jul-2013	If the planned increase includes other than banking put an X in the box→			
Base rent when calc. begins	\$1,250				

ANNUAL INCREASES TABLE

Year Ending	Debt Serv. or Fair Return increase	Housing Serv. Costs increase	Base Rent Reduction	Annual %	CPI Increase	Rent Ceiling
7/23/2016				2.0%	\$ 25.91	\$ 1,321.31
7/23/2015				1.7%	\$ 21.65	\$ 1,295.40
7/23/2014				1.9%	\$ 23.75	\$ 1,273.75
7/23/2013				-	-	\$1,250

Calculation of Limit on Increase

Prior base rent	\$1,250.00
Banking limit this year (3 x current CPI and not more than 10%)	6.0%
Banking available this year	\$ 71.31
Banking this year + base rent	\$ 1,321.31
Prior capital improvements recovery	\$ -
Rent ceiling w/o other new increases	\$ 1,321.31

PROOF OF SERVICE

Case Number T17-0221

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

Michael Kaufman
4016 Kansas St #D
Oakland, CA 94619

Owner

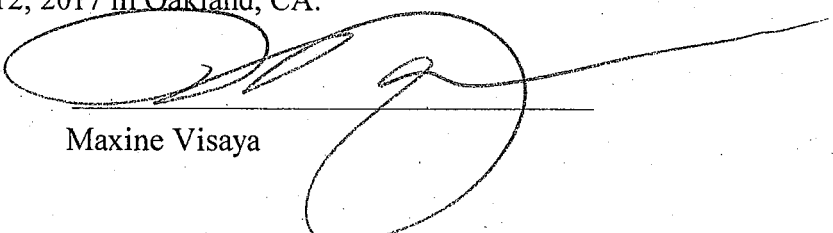
Jennifer Nguyen
88 Eureka Sq
Pacifica, CA 94044

Tenant Representative

James Vann
251 Wayne Ave
Oakland, CA 94606

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 12, 2017 in Oakland, CA.


Maxine Visaya

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

For date stamp
2017 SEP 29 PM 2:45

APPEAL

Appellant's Name Michael Kaufman		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 4016 Kansas St Apt D, Oakland, CA 94619			
Appellant's Mailing Address (For receipt of notices) 4016 Kansas St Apt D, Oakland, CA 94619		Case Number T17-0221	
		Date of Decision appealed September 8, 2017	
Name of Representative (if any) James Vann		Representative's Mailing Address (For notices) 251 Wayne Ave, Oakland, CA 94606	

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: _____

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
 September 29, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Jennifer Nguyen
Address	88 Eureka Sq
City, State Zip	Pacifica, CA 94044
Name	
Address	
City, State Zip	

<i>Michael Kaufman</i>	<i>9-29-17</i>
------------------------	----------------

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.

Appeal of Decision of RAP Case T17-0221 heard on 8/18/17 by Hearing Officer Stephen Kasdin and decided on 9/8/17 with date of service of 9/12/17. This Appeal is filed on 9/29/17

Background for this Appeal

This case is a re-litigation of RAP Case No. T16-0482, heard on 12/8/16 by Hearing Officer Barbara Kong Brown, Esq., and decided in favor of the Tenant, Michael Kaufman, on 12/28/16.

That older case involved the Property Owner demanding banking to increase the rent from a previously signed 2014 lease, and also demanding continuing rent increases for 2015 and a new increase in 2016.

The result of that case was that, since I, the Tenant, had not been given a timely "Notice to Tenants of the RAP", the rent increase demands going back to 2014 were not proper and the Tenant's rent, my rent, should revert to the amount, \$1,250.00, listed in the signed lease.

Now, for this case, T17-0221, the Property Owner is again demanding an increase based on the same banking rejected in case T16-0482, this time for years, 2014 and 2015. The rent increase demanded is \$70 dollars or a 5.6% increase.

I have already, in April 2017, voluntarily increased my rent by the then allowed CPI of 2%. I am now paying \$1,275 per month. I do not want to pay the unfair and previously litigated and rejected rent increase to \$1,320.

Reasons for Appeal

A. Section "Contentions of the Parties" is wrongly stated.

A.1. I did not contend that "Tenant did not receive RAP Notice together with either contest rent increase."

A.2. I did contend (see attached note delivered to Hearing Officers and parties dated 8/18/17) that the Rap Notice, only first received in July 2016, did not and could not cover the years 2014-2015 and 2015-2016. These are the years that are now being referenced for banking.

A.3. I did contend that I did not dispute the 2017 2% rent increase and was paying that increase, but this contention was not listed in the "Contentions of the Parties."

A.4. I did contend that the decision of Case T16-0482, heard on 12/8/16 by hearing officer Barbara Kong Brown, Esq. determined that the RAP Notice's date of July 2016, did not allow increases of rent based on banking 2014 or 2015, but this contention was not listed in the "Contentions of the Parties."

This last contention, and any reference to prior Case T16-0482 is completely absent from the "Contentions of the Parties" section of the current Case T17-0221 being appealed. That prior case's decision was specifically referenced in both my 8/18/17 note delivered at the hearing and in my original petition, filed 3/30/17.

B. Section "The Issues" is partly stated wrongly.

B.1. The issue is not "What is the amount of the proposed rent increase?" This issue should be which of the three proposed rent increases are valid:

- (1) the one labeled in the rent increase notice as 7/23/14 for 1.9%,
- (2) the one labeled in the rent increase notice as 7/23/15 for 1.7%,
- (3) the one labeled in the rent increase notice as 7/23/16 for 2.0%,

B.2. The issue is not "Did the tenant receive the RAP Notice together with the subject rent increase notice?" The issue is whether the RAP notice was delivered in a timely manner with respect to years 2014 & 2015. The last issue, "Is a rent increase based upon Banking justified and, if so in what amount?", is the correct issue.

C. Section "Evidence" is wrongly stated.

"The Proposed Rent Increase" only states the sum of three rent increases. The hearing dealt extensively with the three rent increases, not just the sum. The tenant emphasized that the sum must be broken down into the three separate rent increases, all demanded at the same time. This is left out of this "Evidence" section.

D. Section "Findings of Fact and Conclusions of Law" is wrongly stated.

D.1. "The Proposed Rent Increase" should not be found as one sum, but based on evidence from

- (1) the Owner's Rent Increase Notices, and
- (2) the tenant's filed petition, and
- (3) the tenant's argument at the hearing (see 8/18/17 note)

it should be found that there are three rent increases in one, and that two of them are being protested and appealed.

D.2. The "Banking" finding in this decision references O.M.C Section 8.22.070(C). But this finding does not take into account O.M.C. Section 8.22.070 (H.3) or the finding of the prior Case T16-0482.

D.3. Prior Case T16-0482 found that banked rent increases for 7/23/14 and 7/23/15 were invalid due to violation of O.M.C. 8.22.060 (A), 8.22.070(H.1) and 8.22.060(C).

D.4. Current Case T17-0221 should also find that banking is invalid for those prior years based on O.M.C. 8.22.070(H.3) since no RAP Notice was delivered in those years. This O.M.C section states:

O.M.C. 8.22.070 Rent adjustments for occupied covered units

...
H. Notice Required to Increase Rent or Change Other Terms of Tenancy.

...
3. A rent increase is not permitted unless the notice required by this section is provided to the tenant. An owner's failure to provide the notice required by this section invalidates the rent increase or change of terms of tenancy. This remedy is not the exclusive remedy for a violation of this provision. If the owner fails to timely give the tenant a written summary of the basis for a rent increase in excess of the CPI Rent Adjustment, as required by Subsection 8.22.070H.1.c., the amount of the rent increase in excess of the CPI Rent Adjustment is invalid.

For these reasons I appeal this case. Michael Kaufman *M Kaufman* Date: 9-29-17

Remarks of Michael Kaufman to be given at a hearing on 8/18/17 of RAP Case No. T17-0221 filed on 5/25/17.

This case is a re-litigation of RAP Case No. T16-0482, heard on 12/8/16 by hearing officer Barbara Kong Brown, Esq., and decided in favor of the Tenant, Michael Kaufman, on 12/28/16.

That older case involved the Property Owner demanding banking to increase the rent from a previously signed 2014 lease, and also demanding continuing rent increases for 2015 and a new increase in 2016.

The Property Owner provided a "Notice to Tenants of the RAP" for the first time only on July 24th, 2016, the same day the Property Owner demanded the increase in rent from prior years, thus prompting the Tenant's petition which resulted in RAP Case T16-0482

The result of that case was that, since I, the Tenant, had not been given a timely "Notice to Tenants of the RAP", the rent increase demands going back to 2014 were not proper and the Tenant's rent, my rent, should revert to the amount, \$1,250.00, listed in the signed lease.

Now, for this case, T17-0221, the Property Owner is again demanding an increase based on the same banking rejected in case T16-0482, this time for years, 2014, 2015 and 2016. The rent increase demanded is \$70 dollars or a 5.6% increase.

I have already, in April 2017, voluntarily increased my 2017 rent by the allowed CPI of 2%. I am now paying \$1,275 per month. I do not want to pay the unfair and previously litigated and rejected rent increase to \$1,320.

Sincerely,
Michael Kaufman
323-632-2980

Michael Kaufman

000062

Summary Tenant's Appeal of Case T17-0216 - 6/05/18

Appeal of Case T17-0221; Date of Hearing: 8/18/17; Date of Decision: 9/8/17; Date of Appeal Hearing: 6/21/18

This appeal is based on the fact that I, Michael Kaufman (the tenant), only received a RAP notice in July 24, 2016, but the owner is demanding banking for 2014, 2015 and 2016. This appeal is also based on the fact that Hearing Officer Kasdin ignored my previous case, T16-0482, held on the exact same issues. That case was decided in my favor on 12/28/16 by Hearing Officer Kong Brown. I have included that decision in my submissions.

Therefore Mr. Kasdin's 2017 decision should be overturned and the 2016 decision of Ms. Kong Brown should be re-instated.

That 2016 case involved the owner demanding banking to increase the rent from a previously signed 2014 lease, and also demanding continuing rent increases for 2015 and a new increase in 2016.

I signed a lease with the owner in 2014. I only received a RAP notice in July 2016, but the owner demanded banking for 2014, 2015 and 2016.

The date of the RAP notice and the denials of the owner's demands were found to be correct in Ms. Kong Brown's decision of case T16-0482.

My appeal statement in this current case, T17-0221, states in detail each of Mr. Kasdin's mistakes:

- the four mistakes Mr. Kasdin made in the "Contention of the Parties" section of his decision,
- the two mistakes Mr. Kasdin made in "The Issues" section of his decision,
- the major mistake Mr. Kasdin made in the "Evidence" section of his decision
- the four mistakes Mr. Kasdin made in the "Findings of Fact and Conclusions of Law" section of his decision

Each of these eleven mistakes is detailed in my appeal statement. Mr. Kasdin decision in T17-0221 did not follow the Oakland Municipal Code law which states in O.M.C. 8.22.070 (H3):

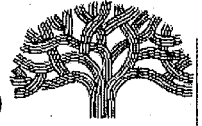
"H. Notice Required to Increase Rent or Change Other Terms of Tenancy ...

"H3. A rent increase is not permitted unless the notice required by this section is provided to the tenant. An owner's failure to provide the notice required by this section invalidates the rent increase or change of terms of tenancy."

The owner provided a "Notice to Tenants of the RAP" for the first time only on July 24th, 2016, the same day that the owner demanded the increase in rent from prior years, thus prompting my petition which resulted in RAP Case T16-0482, which was decided in my favor.

The result of that case was that, since I, the tenant, had not been given a timely "Notice to Tenants of the RAP", the rent increase demands going back to 2014 were not proper and the tenant's rent, my rent, should revert to the amount, \$1,250.00, listed in the signed lease.

Now, in this case, T17-0221, the owner is again demanding an increase based on the same banking rejected in case T16-0482, this time for years, 2014, 2015 and 2016. The rent increase demanded is \$70 dollars or a 5.6% increase. Mr. Kasdin not only decided incorrectly to allow this increase, but also decided that I should pay back rent of \$270, thus temporarily increasing my rent by \$90. In April 2017 I voluntarily increased my 2017 rent by the allowed CPI of 2%. I am now paying \$1,275 per month. The decision of Mr. Kasdin is wrong for the numerous reasons stated in my appeal statement. The decision of Ms. Kong Brown should be reinstated.



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

Department of Housing and Community Development
Rent Adjustment Program

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

REMAND DECISION

CASE NUMBER: T17-0221, Kaufman v. Nguyen
PROPERTY ADDRESS: 4016 Kansas St., #D, Oakland, CA
APPEARANCES: Michael Kaufman (Tenant)
Jennifer Nguyen (Owner)
James E. Vann (Tenant Representative)
DATE OF HEARING: August 18, 2017
DATE OF HEARING:
DECISION: September 8, 2017

PROCEDURAL HISTORY

A Hearing in this case was held on August 18, 2017. A Hearing Decision was issued on September 8, 2017. The Decision denied the tenant's challenge to a rent increase that was based upon Banking. The tenant filed an Appeal, and on June 21, 2018, the Board remanded the case to the Hearing Officer "with direction to determine specifically the issue of law as to whether a properly served RAP Notice cures the defect of prior improperly served notices or failure to serve RAP Notice such as that the landlord may then claim banking of rent increases that were not taken in the past."

SUMMARY OF DECISION

The tenant petition is denied.

THE ISSUE

May an owner be granted a full Banking increase if rent increases in prior years were improperly served or served without a RAP Notice?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

If an owner chooses to increase rents less than the annual CPI Adjustment permitted by the Ordinance, any remaining CPI Rent Adjustment may be carried over to succeeding twelve (12) months periods ("Banked"). However, the total of CPI Adjustments imposed in any one Rent increase, including the current CPI Rent Adjustment, may not exceed three times the allowable CPI Rent Adjustment on the effective date of the Rent increase notice.¹ In no event may any banked CPI Rent Adjustment be implemented more than ten years after it accrues.²

Facts needed to calculate banked increases are: (1) The date of the start of tenancy or eleven years before the effective date of the increase at issue, whichever is later; (2) the lawful base rent in effect on said date; (3) The lawful rent in effect immediately before the effective date of the current proposed rent increase; and (4) the date(s) and amount(s) of any intervening changes to the base rent between dates (1) and (3). This calculation applies in all banking cases, unless the tenant proves that the owner did not have the right to take a rent increase in a particular year – by contract, waiver, or other reason.³

The Rent Adjustment Ordinance states: If an owner chooses to increase rents less than the annual CPI Adjustment permitted by the Ordinance, any remaining CPI Rent Adjustment may be carried over to succeeding twelve (12) months periods.⁴ The literal language seems to imply that rent increases in each prior year must be considered. However, such an approach would almost inevitably lead to problems of proof. People often do not recall whether rent was raised in particular years in the 11-year period, or the amount of the rent increases.

Therefore, the Board decided that the most reasonable, consistent approach to Banking is to make a calculation considering only the Base Rent in the appropriate year, any existing capital improvement pass-through, and the current rent. Under this approach, it does not matter if the rent was raised in a particular year, or the amount of any past rent increase. The only exception is if the base rent was changed during the years considered in the calculation. A Table was developed using this approach (Attached as Attachment "A"). The method of calculation on this Table has been approved by the Board,⁵ and has been used for many years.

There is no mention in the Ordinance regarding the legality of rent increases in prior years. One cannot assume that this was an oversight by City Council.

¹ Regulations Appendix, Section 10.5.1

² Regulations Appendix, Section 10.5.3

³ Appeal Decision, Case No. 98-02, et al. Merlo v. Rose Ventures III, et al. The Board has designated this decision to be a Precedent Decision.

⁴ Regulations Appendix, Section 10.5.1

⁵ Appeal Decision, Case No. 98-02, et al. Merlo v. Rose Ventures III, et al. The Board has designated this decision to be a Precedent Decision.

The Ordinance contains several references to the RAP Notice:

- (1) The Rent Adjustment Ordinance requires an owner to serve a RAP Notice at the start of a tenancy⁶ and together with any notice of rent increase or change in any term of the tenancy.⁷ An owner may cure the failure to give notice at the start of the tenancy. However, a notice of rent increase is not valid if the effective date of increase is less than six months after a tenant first receives the required RAP notice.⁸ This is the only penalty under the Ordinance for failure to provide a RAP Notice.
- (2) If an owner does not give the RAP Notice together with a notice of rent increase, the notice of rent increase or change of terms of tenancy is invalid.⁹ However, the Ordinance is silent regarding whether an owner may bank the CPI Annual Adjustment. Presumably, if City Council wanted to prohibit Banking for years in which the RAP Notice was not given, such wording would have been added to the Ordinance.

Another section of the Ordinance states: “[O]wners may increase rents only for increases based on the CPI Rent Adjustment or Banking.”¹⁰ An owner must otherwise file a petition seeking approval for a rent increase. Again, there is no mention of any limitation on Banking based upon failure to provide a RAP Notice in the past.

There is no language in the Ordinance that would allow consideration of whether RAP Notices were given to tenants in prior years. The only penalty for failure to provide the Notice is a 6-month delay in imposing a rent increase.

It is therefore found that an owner’s failure to have given the RAP Notice in past years does not affect the owner’s right to a full Banking increase.

DECISION

1. An owner’s failure to have given the RAP Notice in past years does not affect the owner’s right to a full Banking increase.
2. **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 this decision. The date of service is shown on the attached Proof of Service. If the last day to file is a weekend or holiday, the appeal may be filed on the next business day.

⁶ O.M.C. Section 8.22.060(A)

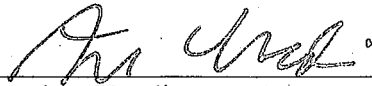
⁷ O.M.C. Section 8.22.070(H)(1)(A)

⁸ O.M.C. Section 8.22.060(C)

⁹ O.M.C. Section 8.22.070(H)(3)

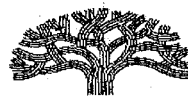
¹⁰ O.M.C. Section 8.22.965

Dated: January 11, 2019



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

CITY OF OAKLAND



Department of Housing and Community Development
 Rent Adjustment Program
<http://rapwp.oaklandnet.com/about/rap/>

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

CALCULATION OF DEFERRED CPI INCREASES (BANKING)

Initial move-in date		MUST FILL IN D9, D10, D11 and D14	Case No.:		CHANGE YELLOW CELLS ONLY
Effective date of increase			Unit:		
Current rent (before increase and without prior cap. improve pass-through)					
Prior cap. imp. pass-through					
Date calculation begins					
Base rent when calc. begins					

ANNUAL INCREASES TABLE

Year Ending	Debt Serv. or Fair Return Increase	Housing Serv. Costs increase	Base Rent Reduction	Annual %	CPI Increase	Rent Ceiling
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				-	-	\$0

Calculation of Limit on Increase

Prior base rent	D9 needs a value
Banking limit this year (3 x current CPI and not more than 10%)	#N/A
Banking available this year	\$ -
Banking this year + base rent	\$ -
Prior capital improvements recovery	\$ -
Rent ceiling w/o other new increases	\$ -

Notes:

1. You cannot use banked rent increases after 10 years.
2. CPI increases are calculated on the base rent only, excluding capital improvement pass-throughs.
3. The banking limit is calculated on the last rent paid, excluding capital improvement pass-throughs.
4. Debt Service and Fair Return increases include all past annual CPI adjustments.
5. An Increased Housing Service Cost increase takes the place of the current year's CPI adjustment.
6. Past increases for unspecified reasons are presumed to be for banking.
7. Banked annual increases are compounded.
8. The current CPI is not included in "Banking", but it is added to this spreadsheet for your convenience.

ATTACHMENT 000968

PROOF OF SERVICE
Case Number T17-0221

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

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

Documents Included
Remand Decision

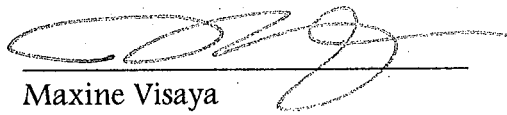
Owner
Jennifer Nguyen
88 Eureka Sq
Pacifica, CA 94044

Tenant
Michael Kaufman
4016 Kansas St #D
Oakland, CA 94619

Tenant Representative
James Vann
251 Wayne Ave
Oakland, CA 94606

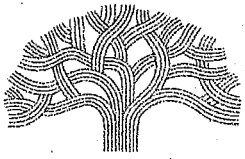
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 16, 2019 in Oakland, CA.



Maxine Visaya
Oakland Rent Adjustment Program

000069

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp 2019 FEB -5 PM 4:08
	<u>APPEAL</u>	

Appellant's Name Michael Kaufman		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 4016 Kansas St, Apt. D, Oakland CA 94619			
Appellant's Mailing Address (For receipt of notices) Same		Case Number T17-0221	Date of Decision appealed 1-16-19
Name of Representative (if any) James E. Vann		Representative's Mailing Address (For notices) 251 Wayne Ave, Oakland CA 94606	

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

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

For more information phone (510) 238-3721.

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

Submissions to the Board must *not* exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 1.

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •
 I declare under penalty of perjury under the laws of the State of California that on Feb 5, 2019, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Jennifer Nguyen
Address	88 Eureka Sq.
City, State Zip	Pacifica CA 94044
Name	
Address	
City, State Zip	

<u>Michael Kaufman</u>	<u>Feb 5, 2019</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

Summary of Tenant's Appeal of Remand Decision in Case T17-0221 –2/05/19

Appeal of Case T17-0221; Date of Hearing: 8/18/17; Date of Decision: 9/8/17; Date of Appeal Hearing: 6/21/18,
Date of Appeal Hearing Remand Decision: 1/16/19

This appeal is based on the fact that I, Michael Kaufman (the tenant), only received a RAP notice in July 24, 2016, but the owner is demanding banking for 2014, 2015 and 2016. This appeal is also based on the fact that Hearing Officer Kasdin ignored my previous case, T16-0482, held on the exact same issues. That case was decided in my favor on 12/28/16 by Hearing Officer Kong Brown.

Therefore Mr. Kasdin's 2017 decision should be overturned and the 2016 decision of Ms. Kong Brown should be re-instated.

That 2016 case involved the owner demanding banking to increase the rent from a previously signed 2014 lease, and also demanding continuing rent increases for 2015 and a new increase in 2016.

I signed a lease with the owner in 2014. I only received a RAP notice in July 2016, but the owner demanded banking for 2014, 2015 and 2016.

The date of the RAP notice and the denials of the owner's demands were found to be correct in Ms. Kong Brown's decision of case T16-0482.

My appeal of Hearing Officer Kasdin remand decision emphasized each of the mistakes made in his decision. But that decision did not reference or correct any of those mistakes. Therefore it should be reversed.

My appeal of Hearing Officer Kasdin remand decision did not reference or counter Hearing Officer Kong Brown's decision in T16-0482.

The fact that my rent is being increase is based on banking for years prior to receipt of the RAP notice is not consistent with the RAP law and should be reversed and the decision of Ms. Kong Brown should be reinstated.

CONSOLIDATED CHRONOLOGICAL CASE REPORT

Case Nos. & Names E18-0012 through E18-0017
 Homes East Bay 4 LLC v. Tenants

Property Address: 1218 Miller Ave., Unit #s 303, 302, 301, 106, 101 &304,
 Oakland, CA

Parties: Bally Singh (Agent for Owner)
 David Martin (Attorney for Owner)
 Liver Guzman (Witness for Owner)
 Juan Martinez (Witness for Owner)
 Marvin Merida (Witness for Owner)
 Gary Sinick (Tenant)
 Rocio Toriz (Attorney for Tenants)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Owner Petitions filed for all cases	November 14, 2018
No Tenant Responses filed	-----
Hearing Decision mailed to all parties	May 31, 2019
Owner Appeal filed for all cases	June 20, 2019

000073

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E18-0012 RM/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA. 94612 Mail: P.O. Box 70243, Oakland, CA 94612-0243 (510) 238-3721 Phone (510) 238-6181 Fax	For date stamp RENT ADJUSTMENT PROGRAM OAKLAND <u>OWNER PETITION</u> <u>TO EXTEND TIME OF TENANT</u> <u>VACANCY TO MAKE REPAIRS</u>
--	---

Please Fill Out This Form Completely. If you need more space you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: E-mail: _____
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: E-Mail: _____
Tenant(s) names (s) Josh Picard & peter James	Address of unit being repaired (with zip code) 1218 Miller Ave (# 303), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	Current Address (if known) (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No _____ Business License #: 00204530
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. (Provide proof of payment.)

Have you paid the Rent Adjustment Program (RAP) Service Fee? Yes No _____
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. (Provide proof of payment.)

Date of Termination notice to tenant: 60 days notice issued date Nov 19th, 2017 and Org repairs completion date Dec 1st 2018.

I (We) will need to extend the time to complete repairs to the following date: Dec 30, 2019

Reason for delay in completing repairs:

Please attach organized documentation and a separate sheet with a full explanation of reason for delay.

Verification

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

Landlord's Signature

11/13/2018

Date

Major Construction is in progress, and ETA for completion is Dec 2019 due to fact that Tenants didn't moved until April 2018. They all were paid relocation funds in May 2018.
Please see scope of work

RE: 1218 Miller Ave 94601

All building codes compliance of the total 28,000 sf of buildings

SCOPE OF WORK

1. Complete interior demolition (Drywall, Stair, floors and subfloors, this will include all dump fees)
2. Prepare first floor structural temp framing support in preparation for footing excavation
3. Footing exaction
4. Under plumbing Installation
5. Rebar installation
6. Concrete installation
7. Moment-resisting frame and steel beam welding connection
8. Existing framing removal in preparation for new lay out framing
9. Temp shoring removal
10. Structural framing
11. Waste plumbing
12. Drywall stoking
13. Pre-rock mechanical chases
14. Pre insulate and pre rock corridors in preparation for new electrical feeders from unit to main switch gear
15. Electrical
16. Mechanical (by others)
17. Plumbing
18. Window preparation
19. Insulation
20. R.C Chanel
21. Drywall
22. Tape, top skim & texture to 1 and 3rd floor 2nd will stay with fire tape and primer only.
23. Hardy backer to shower areas
24. Tile
25. Gypcrete installation to 2nd and 3rd floor
26. Paint
27. Cabinet and top installation
28. Interior trim
29. Flooring (laminare flooring)
30. Clean up and final acceptance

000075

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E18-0013 KM/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA. 94612 Mail: P.O. Box 70243, Oakland, CA 94612-0243 (510) 238-3721 Phone (510) 238-6181 Fax	For date stamp RENT ADJUSTMENT PROGRAM OAKLAND <u>OWNER PETITION</u> <u>TO EXTEND TIME OF TENANT</u> <u>VACANCY TO MAKE REPAIRS</u>
--	---

Please Fill Out This Form Completely. If you need more space you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Davtime Telephone: _____ E-mail: _____
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: _____ E-Mail: _____
Tenant(s) names (s) Melissa Aros & Tommy Phavong	Address of unit being repaired (with zip code) 1218 Miller Ave (# 302), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	<u>Current Address (if known)</u> (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No _____ Business License #: 00204530
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. (Provide proof of payment.)

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

Landlord's Signature

11/13/2018

Date

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Please see scope of work

RE: **1218 Miller Ave 94601**

All building codes compliance of the total 28,000 sf of buildings

SCOPE OF WORK

1. Complete interior demolition (Drywall, Stair, floors and subfloors, this will include all dump fees)
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3. Footing exaction
4. Under plumbing Installation
5. Rebar installation
6. Concrete installation
7. Moment-resisting frame and steel beam welding connection
8. Existing framing removal in preparation for new lay out framing
9. Temp shoring removal
10. Structural framing
11. Waste plumbing
12. Drywall stoking
13. Pre-rock mechanical chases
14. Pre insulate and pre rock corridors in preparation for new electrical feeders from unit to main switch gear
15. Electrical
16. Mechanical (by others)
17. Plumbing
18. Window preparation
19. Insulation
20. R.C Chanel
21. Drywall
22. Tape, top skim & texture to 1 and 3rd floor 2nd will stay with fire tape and primer only.
23. Hardy backer to shower areas
24. Tile
25. Gypcrete installation to 2nd and 3rd floor
26. Paint
27. Cabinet and top installation
28. Interior trim
29. Flooring (laminare flooring)
30. Clean up and final acceptance

000077

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NOV 14 2018

E18-2014 KM/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA. 94612 Mail: P.O. Box 70243, Oakland, CA 94612-0243 (510) 238-3721 Phone (510) 238-6181 Fax	For date stamp RENT ADJUSTMENT PROGRAM OAKLAND <p align="center"><u>OWNER PETITION</u></p> <p align="center"><u>TO EXTEND TIME OF TENANT VACANCY TO MAKE REPAIRS</u></p>
--	--

Please Fill Out This Form Completely. If you need more space you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: _____ E-mail: _____
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: _____ E-Mail: _____
Tenant(s) names (s) Jessica & Gregory Chen	Address of unit being repaired (with zip code) 1218 Miller Ave (# 301), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	<u>Current Address (if known)</u> (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No _____ Business License #: 00204530
 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. (Provide proof of payment.)

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 Landlord's Signature

11/13/2018

 Date

Major Construction is in progress, and ETA for completion is Dec 2019 due to fact that Tenants didn't moved until April 2018. They all were paid relocation funds in May 2018. Please see scope of work

RE: 1218 Miller Ave 94601

All building codes compliance of the total 28,000 sf of buildings

SCOPE OF WORK

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15. Electrical
16. Mechanical (by others)
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23. Hardy backer to shower areas
24. Tile
25. Gypcrete installation to 2nd and 3rd floor
26. Paint
27. Cabinet and top installation
28. Interior trim
29. Flooring (lamine flooring)
30. Clean up and final acceptance

000079

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NOV 14 2018

E18-0015 KM/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA. 94612 Mail: P.O. Box 70243, Oakland, CA 94612-0243 (510) 238-3721 Phone (510) 238-6181 Fax	For date stamp RENT ADJUSTMENT PROGRAM OAKLAND <u>OWNER PETITION</u> <u>TO EXTEND TIME OF TENANT</u> <u>VACANCY TO MAKE REPAIRS</u>
--	---

Please Fill Out This Form Completely. If you need more space you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: _____ E-mail: _____
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: _____ E-Mail: _____
Tenant(s) names (s) Gary Sinick	Address of unit being repaired (with zip code) 1218 Miller Ave (# 106), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	<u>Current Address (if known)</u> (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No Business License #: 00204530
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. (Provide proof of payment.)

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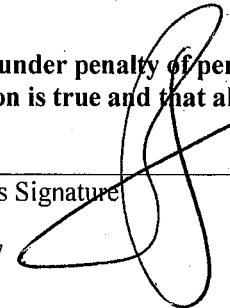
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11/13/2018
Date _____

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Please see scope of work

RE: 1218 Miller Ave 94601

All building codes compliance of the total 28,000 sf of buildings

SCOPE OF WORK

1. Complete interior demolition (Drywall, Stair, floors and subfloors, this will include all dump fees)
2. Prepare first floor structural temp framing support in preparation for footing excavation
3. Footing exaction
4. Under plumbing Installation
5. Rebar installation
6. Concrete installation
7. Moment-resisting frame and steel beam welding connection
8. Existing framing removal in preparation for new lay out framing
9. Temp shoring removal
10. Structural framing
11. Waste plumbing
12. Drywall stoking
13. Pre-rock mechanical chases
14. Pre insulate and pre rock corridors in preparation for new electrical feeders from unit to main switch gear
15. Electrical
16. Mechanical (by others)
17. Plumbing
18. Window preparation
19. Insulation
20. R.C Chanel
21. Drywall
22. Tape, top skim & texture to 1 and 3rd floor 2nd will stay with fire tape and primer only.
23. Hardy backer to shower areas
24. Tile
25. Gypcrete installation to 2nd and 3rd floor
26. Paint
27. Cabinet and top installation
28. Interior trim
29. Flooring (laminatе flooring)
30. Clean up and final acceptance

000081

RECEIVED

NOV 14 2018

E18.0016 KM/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA. 94612 Mail: P.O. Box 70243, Oakland, CA 94612-0243 (510) 238-3721 Phone (510) 238-6181 Fax	For date stamp RENT ADJUSTMENT PROGRAM OAKLAND <u>OWNER PETITION</u> <u>TO EXTEND TIME OF TENANT</u> <u>VACANCY TO MAKE REPAIRS</u>
--	--

Please Fill Out This Form Completely. If you need more space you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: _____ E-mail: _____
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: _____ E-Mail: _____
Tenant(s) names (s) Kevin Friedrichsen	Address of unit being repaired (with zip code) 1218 Miller Ave (# 101), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	<u>Current Address (if known)</u> (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No Business License #: 00204530
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. (Provide proof of payment.)

Have you paid the Rent Adjustment Program (RAP) Service Fee? Yes No
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. (Provide proof of payment.)

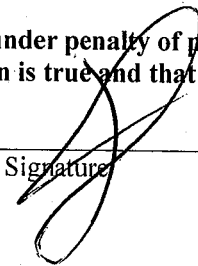
Date of Termination notice to tenant: 60 days notice issued date Nov 19th, 2017 and Org repairs completion date Dec 1st 2018.

I (We) will need to extend the time to complete repairs to the following date: Dec 30, 2019

Reason for delay in completing repairs:
Please attach organized documentation and a separate sheet with a full explanation of reason for delay.

Verification

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

Landlord's Signature _____


11/13/2018
Date _____

Major Construction is in progress, and ETA for completion is Dec 2019 due to fact that Tenants didn't moved until April 2018. They all were paid relocation funds in May 2018.
Please see scope of work

RE: 1218 Miller Ave 94601

All building codes compliance of the total 28,000 sf of buildings

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RECEIVED

NOV 14 2018

E18-0017 KM/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA. 94612 Mail: P.O. Box 70243, Oakland, CA 94612-0243 (510) 238-3721 Phone (510) 238-6181 Fax	For date stamp RENT ADJUSTMENT PROGRAM OAKLAND <u>OWNER PETITION</u> <u>TO EXTEND TIME OF TENANT</u> <u>VACANCY TO MAKE REPAIRS</u>
--	--

Please Fill Out This Form Completely. If you need more space you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Your Name Homes East Bay 4 LLC	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: E-mail:
Your Representative's Name Bally Singh	Mailing Address (with zip code) 1669 12th St, Ste O, Oakland, CA 94607	Daytime Telephone: E-Mail:
Tenant(s) names (s) Adriel Wong & Ignacio	Address of unit being repaired (with zip code) 1218 Miller Ave (# 304), Oakland, CA	Telephone Day: _____ Evening: _____
Tenant(s) names (s)	Current Address (if known) (with zip code)	Telephone: Day: _____ Evening: _____

Have you paid for your Oakland Business License? Yes No _____ Business License #: 00204530
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. (Provide proof of payment.)

Have you paid the Rent Adjustment Program (RAP) Service Fee? Yes No _____
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. (Provide proof of payment.)

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Landlord's Signature

11/13/2018

Date

Major Construction is in progress, and ETA for completion is Dec 2019 due to fact that Tenants didn't moved until April 2018. They all were paid relocation funds in May 2018. Please see scope of work

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30. Clean up and final acceptance

000085



CITY OF OAKLAND

Planning & Building Department

BUILDING SERVICES

250 Frank H. Ogawa Plaza 2nd Floor Oakland, CA 94612

Telephone (510) 238-3444

www.oaklandnet.com

Fax (510) 238-7287

PERMIT RECORD CARD

COMMERCIAL & MULTI-UNIT RESIDENTIAL

California Building, Residential, Electrical, Plumbing, Mechanical, Energy and Green Building Codes

Oakland Building, Planning Sustainability, Fire and Municipal Codes

Address:	1218 MILLER AVE, Oakland, CA 94601	Suite:		APN:	020 010400800
Description:	Legalize (9) joint live-work units To abate CE#1700282			Issued:	12/28/2017
				Building Use:	To Be Determined In Field
				Occupancy:	R-7 Live / Work JLWQ
				Type:	VB - Combustible Constructio
Owner:	Homes East Bay 4 Llc C/O Bally Singh			Stories:	3
Contractor:	CARLOS & BROTHERS			# units:	9
				Sprinkler:	
Permits:	B1702409	AMR1700218	E1704490		
Allocated Inspections	999			3	

SPECIAL INSPECTION LIST (checked items are required)

Reinforced Concrete, Gunite, Grout & Mortar				Structural Wood					
CONCRETE	GUNITE	GROUT	MORTAR	Aggregate Test	Shear Wall Nailing	Structural Observations			
				Reinforcing Test	Eng. Lumber Insp.	Sample and Test Components			
				Mix Designs	Structural Steel/Welding				
				Reinforcing Place	Sample and Test (list specific numbers below)				
				Batch Plant Insp.	Shop Material Identification				
				Cast Samples	Welding Inspection		SHOP	FIELD	
				Compression Tests	Ultrasonic Inspection				
				Anchors	High-Strength Bolting				
				Test Panels	A325	A490	N	X	F
				Precast/Pre-stressed Concrete				Metal Deck Welding Inspection	
PILES	POST-TENSION	PRE-TENSION	GLADDING	Aggregate Test	Reinforcing Steel Welding Insp	Placement Insp			
				Reinforcement Test	Metal Stud Welding Inspection	Sample & Test			
				Placement Insp.	Concrete Inset Welding Inspection				
				Tendon Test	Structural Masonry				
PIERS	POST-TENSION	PRE-TENSION	GLADDING	Mix Designs	Special Inspection Stresses Used				
				Reinforcement Place	Preliminary Acceptance (masonry units, wall prisms)				
				Insert Placement	Subsequent Tests (mortar, grout, field wall prisms)				
				Concrete Batching	Placement Inspection of Units				
				Concrete Placement	Fireproofing				
				Installation Insp.	Placement Inspection	Thickness Test			
				Cast Samples	Density Tests	Inspection Batching			
				Compression Test	Mastic & Intumescent Coatings				
Green Building Cert.				C&D Tracking					
HERS Verification				Site Drainage					
PSL (sewer lateral Cert)				Grading		Seismic Force Resistive System			
						Special Case			

Additional Instructions/Inspections Required:

000086

KIA

INSPECTOR NOTES

date
sign BUILDING

9/18/18 OK TO POUR FOUNDATIONS, GRADE BEAMS, TIE-BEAMS FOR INTERIOR WALLS - TYPE G SHEAR-. OK TO POUR POST BASES PER 2/12. OK TO POUR STAIR LANDING FOOTERS

12/18/18 under floor shear detail SZ OK to receive 2nd side sheathing. tv

1-9-19 C/M S.I. req'd for rebar epoxy anchors of seismic elements before city inspt. KSP

date
sign ZONING

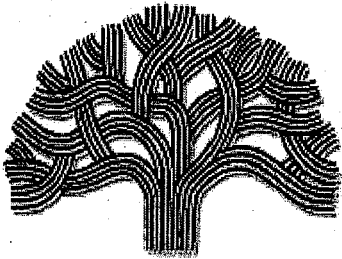
1	FOUNDATION Major Inspection	2	FIRST FLOOR Major Inspection	3	FRAME Major Inspection	4	FINAL Major Inspection	5	SITE
ELECTRICAL		ELECTRICAL		ELECTRICAL		ELECTRICAL		PRE-CONSTRUCTION	
E 10	CONSTRUCTION POWER	E 20	UNDERFLOOR	E 30	SUBPANEL/ FEEDER	E 40	SMOKE & CO ALARMS	S 50A	PRE-CON MEETING
E 11	UFER	E 21	CABLE PROTECTION	E 31	WALLS	E 41	EQUIPMENT/ DEVICES	S 50B	OBSTRUCT/ ENCROACH
E 12	UNDERGROUND/ CONDUIT/ CABLE	E 22	EXTERIOR WIRING	E 32	BOX MAKE-UP	E 42	UTILITY RELEASE/ TRANSFORMER	S 50C	SURVEY/ ELEVATION
E 13	SINGLE SERVICE			E 33	SUSPENDED CEILING	E 43	ENERGY/ CAL GREEN	S 50D	GRADING
E 14	SERVICE RACEWAY			E 38	ROUGH	E 86	FINAL ELECTRICAL	S 50E	CREEK PROTECTION
PLUMBING		PLUMBING		PLUMBING		PLUMBING		INFRASTRUCTURE	
P 10	UNDERGROUND	P 20	UNDERFLOOR	P 30	DWV-PIPING	P 40	ROOF DRAINS	S 50G	TREE PROTECTION
P 11	BACKWATER VALVE	P 21	DRAINS (FIRE/ CONDEN/ MISC)	P 31	GAS PIPING	P 41	GAS TEST	S 50H	VEGETATION CLEARING
P 12	INTERCEPTOR (SO)	P 22	FLOOR RECEPTORS	P 32	WATER PIPING/ SERVICE	P 42	UTILITY RELEASE	S 50I	DUST & EROSION CONTROL
P 13	INTERCEPTOR (GREASE)			P 33	TUB/ SHOWER PAN	P 43A	ENERGY CODE/ CAL GREEN	S 50K	C6 & RAINWATER RUNOFF
				P 34	BACKFLOW DEVICES	P 44	CHLORINATION/ SI REPORTS	S 50L	EXCAVATION/ SHORING
				P 38	ROUGH	P 86	FINAL PLUMBING	S 50M	TRAFFIC CONTROL & PARKING
MECHANICAL		MECHANICAL		MECHANICAL		MECHANICAL		INFRASTRUCTURE	
M 10	UNDERGROUND	M 20	UNDERFLOOR DUCTS	M 30	SUSPEND CEILING/ VAV/ COILS	M 40	REGISTERS/ GRILLS	PZ 50	SEWER/ BACKWATER
M 11	RADIANT/ COILS	M 21	RADIANT/ COILS	M 31	DAMPER (FIRE, CEILING, SMOKE)	M 41	EQUIPMENT	PZ 51	DRAINAGE STORM-DRAIN
				M 32	MU AIR/ OUTDOOR AIR	M 42	ROOF ACCESS/ GUARDS	PZ 52	HARDSCAPE
				M 33	DUCT (TYPE I HOOD)	M 43	ENERGY COMPLY FORMS	PZ 53	FIRE ACCESS
				M 34	DETECTORS (DUCT, CO)	M 44	CAL GREEN	PZ 54	FINAL INFRASTRUCTURE
				M 35	EXHAUST DUCTS	M 45	SI REPORTS (EQ. BALANCE)	PZ 86	C3 FACILITY
				M 38	ROUGH	M 86	FINAL MECHANICAL	G 6	GRADING
BUILDING		BUILDING		BUILDING		BUILDING		GRADING	
B 10	SURVEY / STAKING	B 20	GARAGE PAD ELEVATION	B 30	ROOF FRAMING & NAILING	B 40	DECK / RETAIN WALL	GR 50	SUBGRADE
B 11	SETBACKS	B 21	FIRST FLOOR ELEVATION	B 31	ZONING ROUGH	B 41	ZONING CONDITIONS	GR 51	PAD-ELEVATION
RB 12	SP INSPECT REPORT	B 22	SP INSPECT REPORT	B 32	SP INSPECT REPORT	B 42	SP INSPECT REPORT	GR 86	SP INSPECT REPORT
B 13	PIERS	B 23	ACCESSIBILITY	B 33	FIRE RATED ASSEMBLY	B 43	SIGNAGE	GR 7	FINAL GRADING
B 14	FOOTING / GRADE BEAM			B 33A	SHAFT CONSTRUCTION	B 44	ACCESSIBILITY	FM 50	FIRE MARSHALL
B 15	EMBEDMENTS			B 34	SHEAR WALL BRACING	B 45	ENERGY/ HERS (FORMS, REPORT)	FM 51	FIRE SPRINKLER
				B 35	SUSPENDED CEILING	B 45A	GPR COMPLIANCE	FM 52	OK TO CONCEAL
B 16	SLAB FLOOR / VAPOR BARRIER	B 24	FLOOR FRAMING	B 35A	FLOOR & WALL FRAMING	B 46	SMOKE & CO ALARMS	FM 53	FIRE ALARM
B 17	WP PROTECTION & DRAINAGE	B 25	INSULATION	B 36	INSULATION	B 47	RECYCLING CDSR	FM 54	STAND PIPE/ DRAIN
B 18	MASONRY WALLS			B 37	LATH/ EXTERIOR COVERING			FM 55	EMERGENCY LIGHTING
				B 37A	WP MEMBRANE			FM 86	FIRE/ SMOKE DAMPER
				B 37B	EGRESS / SAFETY GLAZING			FM 86	FINAL FIRE (510) 238-3851
				B 38	OK TO COVER	B 48	OK TO OCCUPY	G 8	PLANNING
				B 39	TUB / SHOWER WALL			ZC 58	ROUGH
				B 39A	GYP SUM WALLBOARD			ZC 59A	LANDSCAPE/ HARDSCAPE
				B 39B	FIRE SAFING	B 86	FINAL BLDG	ZC 59B	SITE IMPROVEMENTS
1	FOUNDATION APPVD	2	FIRST FLOOR APPVD	3	FRAME APPVD	4	FINAL CRAFTS	ZC 86	FINAL ZONING
								G 99	PROJECT FINAL

000088

P/B



Update Results



CITY OF OAKLAND

Record Detail with Inspection Log

Record ID: B1702409

Description: Legalize (9) joint live- work units To abate CE#1700282

APN: 020 010400800

Address: 1218 MILLER AVE

Unit #:

Date Opened: 6/2/2017

Record Status: Reinstated

Record Status Date: 7/6/2018

Job Value: \$2,947,292.00

Requestor: Carlos Correa

Business Name: CARLOS & BROTHERS

License #: 954523

Inspection Date	Inspector Name	Inspection Type	Status / Result	Result Comments
6/20/2017	Robert Bernal	Field Check	Need More Info on Plans	Date: 6/20/2017 Summary: Sanborn, PTS and Accela do-not show records of the buildings conversion to live/work units. All walls, electrical, plumbing and mechanical systems were installed without permits, inspections and approvals. The floors and ceilings appear to be original along with the windows. All work is required to be exposed for inspections. If you believe the structure was converted to live/work spaces with permits, inspections and approvals, please provide the documentation to your code enforcement inspector. The plans submitted reflect proposed work with a revision required to show how headroom is going to be achieved through the stair landings and stairs. The 2nd floor, designated as storage, has 7' or 6' headroom, plus or minus, throughout. The stair landings have beams and floor elevation changes that reduce the headroom to 6' plus or minus. Other areas of the stairs lack the required 6'8" clearances. The left-side of the structure shows alterations to allow for light and ventilation. The neighboring property has a structure built up to this structure and it is assumed that the alterations to achieve light and ventilation, will be to the sides of the neighboring structure. The rear of the structure, shown as being on the property line, abuts a parking lot for businesses. OK to plan check after revisions made.
9/18/2018	Dave Velez	Foundation	Partial	

000089

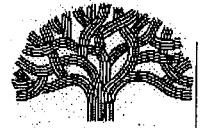
12/4/2018	Tam Vo	Frame	Partial
1/9/2019	Keith Pacheco	Frame	Not Pass

OK to pour foundations, grade beams and tie beams for interior walls only. Exterior walls to come. OK to pour landing for rear unit stairs and footers for beams per detail 2/S2. Date: 12/4/2018 Under floor first side shear and anchors ok to cover with second side . Repeat inspection when ready .

Date: 1/9/2019 Correction notice as follows. Special inspection is required to be performed by a structural engineer for reinforcing steel, epoxy anchors, And all seismic elements including plywood nailing, fasteners and straps. This special inspection is supposed to precede city approval with letter or copy of to be received by city inspector. Structural plans our combined details for foundation and under first floor shear walls as well as above first frame floor shear walls. I am unable to determine if all above floor shear walls are supposed to have sheer walls beneath them extending to foundation. Current inspection does not confirm compliance with all elements of sheer wall as designed and shown on plans. Special inspection reports are required at next scheduled city inspection.

For real-time, direct access to information via the Internet, 24 hours a day - <https://aca.accela.com/oakland>

000090 **2B1**



250 FRANK OGAWA PLAZA, #5313 OAKLAND, CA 94612 CITY OF OAKLAND

Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
CA RELAY 711

HEARING DECISION

CASE NUMBERS: E18-0012 through E18-0017, Homes East Bay 4 LLC
v. Tenants

PROPERTY ADDRESS: 1218 Miller Ave., Units 303, 302, 301, 106. 101 & 304, Oakland,
CA

DATE OF HEARING: April 16, 2019

DATE OF DECISION: May 21, 2019

APPEARANCES: Bally Singh (Agent for Owner)
David Martin (Attorney for Owner)
Liver Guzman (Witness for Owner)
Juan Martinez (Witness for Owner)
Marvin Merida (Witness for Owner)
Gary Sinick (Tenant)
Rocio Toriz (Attorney for Tenants)

SUMMARY OF DECISION

The owner's petitions are denied.

CONTENTIONS OF THE PARTIES

The owner filed petitions on November 14, 2018, pursuant to Oakland Municipal Code (O.M.C.) Section 8.22.360(A)(10) which allege that more time will be needed to complete repairs to the subject rental units until December 30, 2019.

THE ISSUE

Is there a valid reason to allow the owner additional time to complete repairs to the subject units?

000091

EVIDENCE

At the Hearing, Mr. Singh testified that in the Fall of 2016, there was a fire in the subject 11-unit building, after which PG&E turned off all electricity and gas. The building was then “red-tagged” by the City, which declared it to be uninhabitable. All tenants have since moved out of the building, but left most of their possessions. The owner bought the subject building in September or October 2017. The last tenant moved out in May 2018, and no tenant has moved back into his or her unit.

Mr. Singh further testified that the prior owner had construction plans drawn, and building permits were taken out. He did not know what work was done before the current owner bought the building. The current owner is using the same plans, although there have been several changes. Construction by the current owner began in May or June 2018.

A lot of work has been done on the foundation and partial electric wiring and plumbing has been installed, along with some framing, sheer walls, and windows. Much work remains to be done, including the removal of a 5-foot section on the first floor, due to setback requirements. Prior to the Hearing, the owner had submitted no documents. The construction project has been delayed due to problems with building permits.

The Notice of Hearing sent to the parties states in part: “All proposed evidence, including but not limited to documents and pictures, must be submitted to the Rent Adjustment Program not less than fourteen (14) days prior to the Hearing. . . Proposed evidence presented later may be excluded from consideration.”

At the Hearing, Mr. Singh testified that the failure to submit proposed evidence was “an oversight.” He then submitted copies of the following documents;

- (1) A 3-page Permit Record Card from the City Planning & Building Department.¹ The first page of this document states that a Building Permit was issued for the subject building on December 28, 2017, for the purpose of legalizing 9 joint live-work units.

The second page, entitled “Inspector Notes,” contains 3 hand-written entries. The first of these entries, dated September 18, 2018, states, in part: “OK to pour foundation.”

The third page, which states various types of construction and has areas on which a Building Inspector can note inspections, is entirely blank.

- (2) A 2-page document from the City Inspection Services agency regarding the subject building, entitled “Record Detail with Inspection Log.”²

¹ Exhibit Nos. 1A through 1C. These documents were marked for identification at the Hearing, but were not admitted into evidence. At that time, this Hearing Officer stated that a determination as to their admissibility would be determined at a later date, and be set forth in the Hearing Decision.

² Exhibits marked 2A & 2B. These proposed exhibits were produced following a 25-minute pause to allow the owner to obtain further documentation from the Inspection Services agency.

The first page of this document states, in part: "Date: 6/20/2017 . . . All walls, electrical, plumbing and mechanical systems were installed without permits, inspections and approvals. . . . All work is required to be exposed for inspections. . . . OK to pour foundations, grade beams and tie beams for interior walls only. The second page states, in part:

"12/4/2018 – Under floor first side shear and anchors ok to cover with second side. Repeat inspection when ready."

"1/9/2019 – Correction notice as follows. Special inspection is required to be performed by a structural engineer. . . This special inspection is supposed to precede city approval with letter or copy of to be received by city inspector. Current inspection does not confirm compliance with all elements of sheer wall as designed and shown on plans. Special inspection reports re required at next scheduled city inspection."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

O.M.C. Section 8.22.360(A)(10) – a subsection of the "Just Cause for Eviction" Ordinance – states that one ground for evicting a tenant is when

The Owner of record, after having obtained all necessary permits from the City of Oakland on or before the date upon which notice to vacate is given, seeks in good faith to undertake substantial repairs that cannot be completed while the unit is occupied . . .

Upon recovery of possession of the rental unit, the owner of record shall proceed without unreasonable delay to effect the needed repairs. The tenant shall not be required to vacate in excess of three months; provided, however, that such time period may be extended by the Rent Board upon application by the landlord. . .

The owner's petitions are denied for two reasons. First, the owner's reason for not submitting documentation is not legally sufficient. For this reason alone, the petitions should be denied. Further, an original building permit was taken out in late 2017, soon after the owner purchased the building. The owner's petition was not filed until November 2018, and seeks an extension of time to make repairs until December 30, 2019. This is an additional reason to deny the petitions.

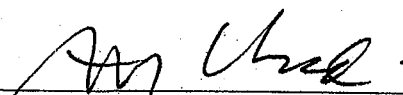
ORDER

1. Petitions E18-0012 through E18-0017 are denied.
3. **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

000093

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

Dated: May 21, 2019



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number E18-0012

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

Today, I served the attached documents listed below by placing a true copy 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
Homes East Bay 4 LLC
1669 12th Street Suite O
Oakland, CA 94607

Owner Representative
Bally Singh
1669 12th Street Suite O
Oakland, CA 94607

Owner Representative
David w Martin
5350 James Ave
Oakland, CA 94618

Tenant
Josh Picard
1218 Miller Avenue #303
Oakland, CA 94601


Tenant
Peter James
1218 Miller Avenue #303
Oakland, CA 94601

Tenant Representative
Rocio Toriz
428 13th St 8th Floor
Oakland, CA 94612

000095

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

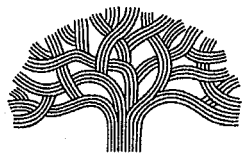
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **May 31, 2019** in Oakland, CA.



Nia Johnson

Oakland Rent Adjustment Program

000096



CITY OF OAKLAND

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

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APPEAL

Appellant's Name Homes East Bay 4 LLC		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1218 Miller Avenue, Unit #s 101, 106, 301, 302, 303, 304			
Appellant's Mailing Address (For receipt of notices) 1669 12th Street, Suite O Oakland, CA 94607		Case Number E18-0012 through E18-0017	
		Date of Decision appealed May 21, 2019	
Name of Representative (if any) Michael J. McLaughlin, Esq.		Representative's Mailing Address (For notices) McLaughlin Sanchez LLP 605 Market Street, Suite 300 San Francisco, CA 94105	

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

- 1) There are math/clerical errors that require the Hearing Decision to be updated. *(Please clearly explain the math/clerical errors.)*
- 2) Appealing the decision for one of the grounds below (required):

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

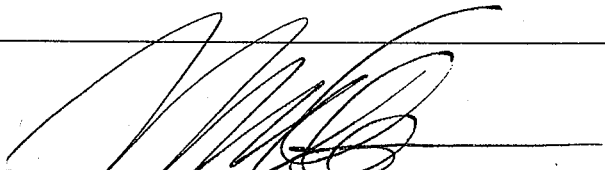
For more information phone (510) 238-3721.

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

Submissions to the Board must *not* exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 2.

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •
 I declare under penalty of perjury under the laws of the State of California that on _____, 20____, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	See attached Proof of Service
Address	
City, State Zip	
Name	
Address	
City, State Zip	

	6/20/2019
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

ATTACHMENT A

In his Hearing Decision, the hearing officer stated the following two grounds for denying Petitioner's Petitions to Extend Time of Tenant Vacancy to Make Repairs ("Petitions"): (1) that the owner failed to submit documentation to the Rent Board more than 14 days before the hearing on the Petitions and (2) that the owner did not file the Petitions until November 2018 despite an original building permit being issued in late 2017.

The Alleged Failure to Timely Submit Documents to the Rent Board

Petitioner did not fail to timely submit the required documents necessary to find sufficient reason to grant his request that the Rent Board extend the time that the tenants needed to be out of possession. In his Petitions, the owner provided the Rent Board the factual basis for why the rehabilitation work did not begin until May or June 2018. The delay was caused by one tenant's refusal to move after the expiration of a 60-day notice terminating tenancy. The Petitions also provided the entire scope of work that needed to be done before the units would be suitable for re-occupancy. That scope of work included 30 substantial items of work. The only documents that were not submitted prior to the hearing were documents relating to the project's permits. But those permit documents were not necessary for the Rent Board to determine that the work would take longer than 90 days to complete. The permit documents do not tend to support or contradict the owner's conclusion that the scope of work would require more than 90 days to complete and that the tenants would need to be out of possession for a longer period. Finally, the issuance of permits is a prerequisite to an effective notice terminating tenancy under Section 8.22.360(a)(10), and thus evidence of the permits was not required in order to establish the need for an extension of time. Thus, the owner's Petitions should have been granted.

The Alleged Delay in Seeking an Extension of Time for Tenant Vacancy

Petitioner did not unreasonably delay in petitioning the Rent Board for an extension of the time for the tenants to be out of possession to make repairs. The owner began construction in or about May/June 2018. One of the tenant's refused to move out of his unit after the expiration of the 60-day notice period following service of a notice terminating his tenancy. It was that recalcitrant tenant's refusal to move that led to the owner's several-month delay in starting the work following the date it took title to the building.

Moreover, it was only after construction/demolition was well underway, and the owner's licensed contractor opened the walls in the building, that the contractor discovered that the building's condition did not match the existing plans. The owner's contractor was required by state law to submit revised plans and to wait for the City of Oakland's approval of those revised plans before continuing the construction/demolition work. During the construction/demolition process, the owner's licensed contractor was required to seek approval for two revised plans based on his discovery of the building's

condition. Each of those revisions to the owner's plans took between one and two months to obtain City of Oakland approval. Up until the time the owner's licensed contractor began the construction/demolition, the owner had no knowledge - and could not have known - that the building's condition would require revisions to the initial plans and that additional time would be necessary. There was little or no delay between the expansion of the scope of work and the request for approval of revised plans and the date the owner filed its Petitions. Thus, there was no unreasonable delay and the owner's Petitions should have been granted.

1 **PROOF OF SERVICE - CIVIL**

2 I declare that I am a citizen of the United States, over the age of eighteen years and not a
3 party to the within cause; my business address is 605 Market Street, Suite 300, San Francisco, CA
4 94105. On the date last listed below I served true copies of the foregoing **APPEAL** on the
5 interested parties in said action:

6 Kevin Friedrichsen
7 1218 Miller Ave #101
8 Oakland CA 94601

Gary Sinick
1218 Miller Ave #106
Oakland CA 94601

9 Gregory Chen
10 Jessica Chen
11 1218 Miller Ave #301
12 Oakland CA 94601

Melissa Aros
Tommy Phavong
1218 Miller Ave #302
Oakland CA 94601

13 Peter James
14 Josh Picard
15 1218 Miller Ave #303
16 Oakland CA 94601

Adriel Wong
Ignacio
1218 Miller Ave #304
Oakland CA 94601

17 in the manner set forth below:

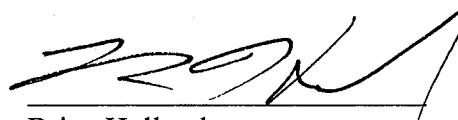
18 **BY UNITED STATES MAIL:** I caused true and correct copies of the above document,
19 by following ordinary business practices, to be placed and sealed in envelopes addressed to the
20 above addressees with United States First Class Mail postage fully prepaid thereon and for
21 collection and mailing with the United States Postal Service in the ordinary course of business,
22 correspondence placed for collection on a particular day, which is deposited with the United
23 States Postal Service that same day.

24 **BY OVERNIGHT MAIL:** I caused a true and correct copy of the above document, by
25 following ordinary business practices, to be placed and sealed in an envelope addressed to the
26 above addressee and for collection and mailing with the United States Postal Service's Express
27 Mail service in the ordinary course of business, correspondence placed for collection on a
28 particular day, which is deposited with the United States Postal Service that same day.

BY MESSENGER SERVICE: I caused a true and correct copy of the above document
to be delivered to the parties in such cause by hand delivery by placing same in a sealed envelope
addressed to the above addressee and providing same to a professional messenger service for
service.

BY ELECTRONIC SERVICE: I caused the above document to be electronically served
to the above addressee at the email address shown. The file transmission was reported as
complete.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct, and that this declaration was executed at San Francisco, California
on June 20, 2019.


Brian Holland