

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING
FEBRUARY 27, 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 23, 2020
 - b) Review of Board Minutes from January 30, 2020
4. OPEN FORUM
5. APPEALS*
 - a) L17-0061, Feiner et al., v. Tenants
 - b) T19-0236, Steimetz et al v. Protopappas
 - c) T19-0186/T19-0235 Didrickson v. Commonwealth
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)
 - b) Rent Board Officer Elections (Regulations 8.22.040 C)
7. INFORMATION AND ANNOUNCEMENTS
 - a) Census Presentation (see attached handouts page 5 through 19)
 - b) Discussion of Board Agreements (R. Auguste)
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 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 capital 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

United States[®]
Census
2020



#OaklandCounts

000005

Census Overview

- Every 10 years, U.S. Census Bureau counts every person living in the country.
- Determines the number of seats in the U.S. House of Representatives.
- Used for congressional, state and local redistricting.
- Population data is used to allocate billions in federal funding.
- Key data set for research and planning purposes.

What's new with the 2020 Census?

- First primarily digital Census.
- All addresses will receive a letter in March inviting them to complete the Census online.
- Shorter survey ([link](#)).
 - 9 questions for primary person.
 - 7 questions each for all other members of the household.
 - No citizenship question on the Census.

March 12, 2020

A Message from the Director, U.S. Census Bureau

Dear Resident:

This is your invitation to respond to the **2020 Census**. We need your help to count everyone in the United States by providing basic information about all adults, children, and babies living or staying at this address.

Results from the 2020 Census will be used to:

- Direct billions of dollars in federal funds to local communities for schools, roads, and other public services.
- Help your community prepare to meet transportation and emergency readiness needs.
- Determine the number of seats each state has in the U.S. House of Representatives and your political representation at all levels of government.

Your Census ID is:

Respond by April 1st at:
XXXX.XXXX.gov

The Census Bureau is using the internet to securely collect your information. Responding online helps us conserve natural resources, save taxpayer money, and process data more efficiently. If you are unable to complete your 2020 Census questionnaire online, we will send you a questionnaire in a few weeks for you to complete and mail back.

The census is so important that your response is required by law, and your answers are completely confidential. If you do not respond, we will need to send a Census Bureau in person to your home to collect your answers in person. If you need help completing your 2020 questionnaire, please call toll-free 1-844-330-2020.



800000

United States Census 2020

2020 Census

FAQ INSTRUCTIONS

- Address Verification
- Household Questions
- Demographic Questions
- Final Questions

You will need the materials we mailed to you or left at your door. All the information that you provide will remain confidential.

Where can I find my 12-digit Census ID?

- In the LETTER, click here.
- On the front of the QUESTIONNAIRE, click here.
- Below the barcode on the POSTCARD, click here.
- On the NOTICE of VISIT, click here.

Please Log In

Please enter the 12-digit Census ID found in the materials we mailed to you or left at your door.

Login

If you do not have a Census ID, click here.

- ENGLISH
- ESPAÑOL
- 中文(簡體)
- Tiếng Việt
- 한국어
- РУССКИЙ
- PORTUGUÊS
- 日本語
- TAGALOG
- POLSKIE
- FRANÇAIS
- KERTEL ANSIVEN

#OaklandCounts

2020 Census Challenges

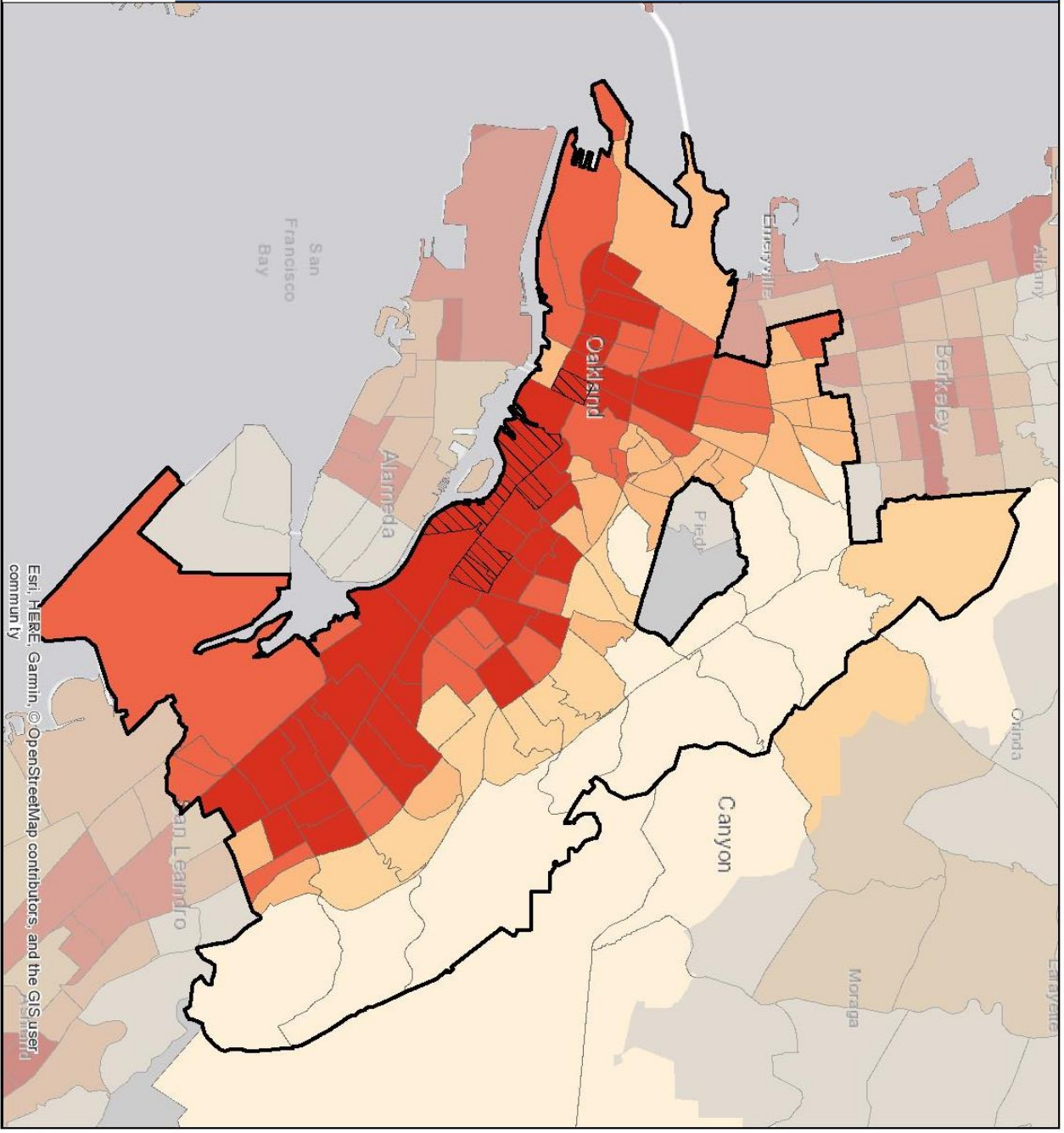
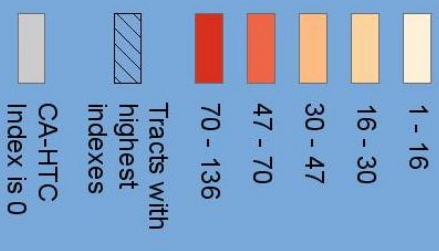
- Lack of digital access.
- Language accessibility.
 - Online and phone response options only available in 13 languages.
 - Form response only available in English and Spanish.
- Distrust in government.
- Oakland is one of the hardest-to-count cities in the country.

Oakland Hard-to-Count Facts

- 57% of population lives in hard-to-count Census tracts.
- Oakland's leading hard-to-count characteristics include:
 - Crowded units
 - Renter-occupied units
 - Multiple families living at the same residence
 - People living below poverty level
 - Substantial unhoused population
 - Limited-English speaking households

Oakland City

California Hard-to-Count Index by Census Tract



Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community

000011

What is asked on the Census?

- How many people live at the address?
- Is the home rented or owned?
- What is your telephone number?
- First and last name of all people living at home.
- Sex of each person.
- Age of each person.

What is asked on the Census? (cont'd)

- Are you of Hispanic, Latino or Spanish origin?
- What is your race?
- How are you related to the primary person?

Start here OR go online at [ipuri.removed](#) to complete your 2020 Census questionnaire.
Use a blue or black pen.

Before you answer Question 1, count the people living in this house, apartment, or mobile-home using our guidelines.

- Count all people, including babies, who live and sleep here most of the time.
- If no one lives and sleeps at this address most of the time, go online at [ipuri.removed](#) or call the number on page 8.

The census must also include people without a permanent place to live, so:

- If someone who does not have a permanent place to live is staying here on April 1, 2020, count that person.

The Census Bureau also conducts counts in institutions and other places, so:

- Do not count anyone living away from here, either at college or in the Armed Forces.
- Do not count anyone in a nursing home, jail, prison, detention facility, etc., on April 1, 2020.
- Leave these people off your questionnaire, even if they will return to live here after they leave college, the nursing home, the military jail, etc. Otherwise, they may be counted twice.

1. How many people were living or staying in this house, apartment, or mobile home on April 1, 2020?

Number of people =

2. Were there any additional people staying here on April 1, 2020 that you did not include in Question 1?
Mark X, all that apply.

- Children, related or unrelated, such as newborn babies, grandchildren, or foster children
- Relatives, such as adult children, cousins, or in-laws
- Nonrelatives, such as roommates or live-in babysitters
- People staying here temporarily
- No additional people

3. Is this house, apartment, or mobile home — Mark ONE box.

- Owned by you, or someone in this household with a mortgage or loan? Include home equity loans.
- Owned by you or someone in this household free and clear (without a mortgage or loan)?
- Rented?
- Occupied without payment of rent?

4. What is your telephone number?
We will only contact you if needed for official Census Bureau business.

Telephone Number

Person 1

5. Please provide information for each person living here. If there is someone living here who pays the rent or owns this house, apartment, or mobile-home, please provide information for that owner or the person who pays the rent does not live here, start by listing any adult living here as Person 1.

What is Person 1's name? Print name below.

First Name

MI

Last Name(s)

6. What is Person 1's sex? Mark ONE box.

Male Female

7. What is Person 1's age and what is Person 1's date of birth? Write 0 as the age.

Age on April 1, 2020

Month

Day

Year of birth

8. What is Person 1's race? Mark X, one or more boxes AND print origins.
Mark X, one or more boxes AND print origins.

- White — Print, for example, German, Irish, English, Italian, Lebanese, Egyptian, etc. ✓
- Black or African Am. — Print, for example, African American, Jamaican, Haitian, Nepitan, Egyptian, Somali, etc. ✓
- American Indian or Alaska Native — Print origin as required or Mark X, one or more boxes AND print origins. American Indian Village or Native Village or Traditional Government; Name (Native or Dena'ina), etc. ✓
- Native Hawaiian or Other Pacific Islander — Print, for example, Hawaiian, Samoan, etc. ✓
- Chinese
- Vietnamese
- Korean
- Japanese
- Other Asian — Print, for example, Filipino, Indian, Vietnamese, etc. ✓
- Other Hispanic or Latino — Print, for example, Mexican, Puerto Rican, Cuban, etc. ✓
- Other race — Print, for example, American Indian or Alaska Native, etc. ✓

9. What is Person 1's Hispanic, Latino or Spanish origin? Mark X, one or more boxes AND print origins.
Mark X, one or more boxes AND print origins.

- Mexican
- Puerto Rican
- Cuban
- Other Hispanic, Latino or Spanish origin — Print, for example, Dominican, Salvadoran, etc. ✓

NOTE: Please answer BOTH Question 8 and 9.

How do I respond?



- Paper form only available during non-response follow up period beginning in May 2020.

Language Accessibility

- Online and phone responses available in 13 languages: English, Spanish, Chinese, Vietnamese, Korean, Russian, Arabic, Tagalog, Polish, French, Haitian Creole, Portuguese, and Japanese.
- Paper Census surveys will only be available in English and Spanish.
- Print and video language guides will be available in 59 non-English languages.

Is it safe to complete the Census?

- Yes! Private information is confidential and protected under Title 13 of the U.S. Code.
- Census responses cannot be used against you by any government agency including law enforcement.
- Census responses cannot be used to determine your eligibility for benefits.

Key Dates

Dates	Activity
Now – March 2020	Awareness stage
Early March	Invitations mailed to all addresses
March 12 th – May 1 st	Self response period open
April 1 st	Census Day
May – July	Non-response follow up period
July 31 st	Final day to submit Census form

#OaklandCounts

How can you help?

- Pledge to complete the Census.
- Signup as a County Census Ambassador.
 - www.acgov.org/census2020
- Encourage family, friends, co-workers and neighbors to complete the Census before April 1, 2020.
- Post and share Census information on social media using #OaklandCounts

#OaklandCounts

Additional Resources

- www.californiacensus.org
- www.oaklandca.gov/census

text **COUNT** to **510-800-5868**

#OaklandCounts

**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**

MINUTES

1. CALL TO ORDER

The HRRRB meeting was called to order at 7:04 p.m. by Chair, A. Graham.

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

Kent Qian
Kelly Rush

Deputy City Attorney
Program Analyst, Rent Adjustment Program

3. CONSENT ITEMS

- a) Approval of Board Minutes from January 9, 2020
Regular Meeting

K. Friedman provides correction on bate stamp
#7. Change "J. Friedman" to "K. Friedman."

K. Friedman motions to approve Rent Board minutes from January 9th, 2020 with the correction provided. T. Hall seconded the motion.

The Board voted as follows: (J. Warner not present for this vote)

Aye: K. Friedman, T. Williams, R. Auguste, T. Hall

Nay: None

Abstain: A. Graham

The motion was passed.

HRRRB Chair, J. Warner arrived at 7:08pm and began chairing the meeting.

4. OPEN FORUM

Nancy Conway

- Factual disputes should be heard through a hearing rather than an Administrative Decision

5. APPEALS

a) T19-0184, Beard v. Meridian Management Group

Appearances:	Nancy Conway	Tenant Representative
	Greg McConnell	Owner Representative

The tenant representative appeared and argued that the refrigerator was a decreased housing service because the noise was loud and prevented the tenant from sleeping. She introduced the fact that the refrigerator was replaced since the petition was filed and therefore this should be determined to be a decreased housing service. She stated that there was ongoing leak even after an attempt to fix the problem. She points to the memorandum that was written by the owner representative and argues that the tenant was not allowed to respond to the memorandum through a hearing. The tenant representative argued that everyone did not get to see the evidence since there was no hearing held and that a hearing should be conducted before a hearing officer with a transcript recorded.

The owner representative appeared and contended that the issues were already or should have already been heard in the prior case. He states that the hearing officer was correct in deciding that the same issues cannot be relitigated due to collateral estoppel or res judicata and claims that the tenant is a serial filer. The owner representative pleaded that the Rent Board either affirm the Hearing Officer's decision or dismiss the appeal altogether. He claims that the Hearing Officer had the opportunity to review the record and that he has the right to submit a memorandum in response to the tenant petition being filed asking for a decision.

After arguments made by both parties, Board questions to the parties and Board discussion, J. Warner motions to remand to the hearing officer to hold a full hearing on the issues raised in the tenant petition. R. Auguste seconded.

K. Friedman proposed a friendly amendment to ask the Hearing Officer to determine if this was a new leak or an ongoing leak. J. Warner accepted the friendly amendment. R. Auguste also accepted the friendly amendment.

R. Auguste proposed a friendly amendment to include the refrigerator as disturbing the quiet enjoyment of the unit and as an issue of fact. J. Warner accepts the friendly amendment

K. Friedman presented a sub motion to remand to the Hearing Officer for purposes of determining if the issue is a new leak or if this was the ongoing leak. T. Williams seconded.

The Board voted on the sub-motion as follows:

Aye: A. Graham, J. Ma Powers, T. Williams, K. Friedman

Nay: T. Hall, R. Auguste

Abstain: None

The motion passed.

J. Warner motioned to request that the Hearing Officer consider factual basis on the refrigerator issue as a decreased housing service. A. Graham seconded.

The Board voted as follows:

Aye: R. Auguste, J. Ma Powers, A. Graham, J. Warner

Nay: T. Hall, T. Williams, K. Friedman

Abstain: None

The motion passed.

b) T17-0221, Kaufman v. Nguyen

Appearances: Michael Kaufman Tenant Appellant
James Vann Tenant Appellant Representative
No appearances by the owner appellee

The tenant representative appeared and contended that the old owner did not serve the RAP notice and there was a prior case that determined that the banking from the prior owner was not valid. He argued that the owners should not be permitted to have a second bite at the apple. The tenant appellant appeared and contended that the case was decided wrong as a matter of law and the prior decision made by Hearing Officer, B. Kong-Brown should be reinstated. He claimed that the increases before the RAP notice was served are unlawful and the banking should be disallowed.

After arguments made by both parties, Board questions to the parties and Board discussion. K. Friedman moved to affirm the Hearing Officer's decision. T. Williams seconded the motion.

J. Warner made a sub motion to postpone this appeal for a later date to receive council on the issue from other jurisdictions before making a decision to resolve this appeal. There was no second to this motion. The motion failed.

K. Friedman withdrew her prior motion.

A. Graham motioned to postpone this appeal to the second full board meeting in March to allow staff to research other jurisdictions with the issue of banking and RAP notice. The first meeting in March should allow for public comment and Board discussion on the findings. K. Friedman seconded.

The Board voted on the sub-motion as follows:

Aye: T. Hall, R. Auguste, J. Ma Powers, A. Graham, T. Williams, K. Friedman, J. Warner

Nay: None

Abstain: None

The motion passed by consensus.

T. Hall proposed a friendly amendment to include looking at past cases that have been decided in Oakland's jurisdiction. A. Graham and K. Friedman accepted the friendly amendment.

c) E18-0012 to 0017, Homes East Bay 4 LLC v. Tenant

Appearances:	Darryl Yorkey	Owner Appellant Representative
	Rocio Toriz	Tenant Appellee Representative

The owner appellant representative appeared and contended that the owner could not start work on the units until all tenants had vacated the property and one tenant did not leave timely which caused some delay. He also provided that granting the extension of time would allow for the reality of the situation which was that permits from the City of Oakland took an extensive amount of time to obtain and that more conditions were discovered that made the work go beyond the initial scope of the work. The owner representative claims that as soon as this information was obtained, they filed the petition.

The tenant appellee representative appeared and contended that the petition was untimely and that tenants did not file a response because they vacated the units where the petition was served. The representative further contended that even though the last tenant did not vacate the unit until approximately March or April of 2018, the owners should have filed the petition in June or July of 2018 rather than November of 2018. The tenant representative provided that the owner was aware of the deadline to submit evidence was 14 days before the hearing and that they were given ample opportunity to submit further documentation. She provided that tenant's counsel was not served with a copy of the appeal and the tenants are still not in possession of the units which has forced them to pay higher rents elsewhere.

After arguments made by both parties, Board questions to the parties and Board discussion. J. Warner motioned to affirm the Hearing Officer's decision based on substantial evidence. A. Graham seconded.

The Board voted on the sub-motion as follows:

Aye: T. Hall, R. Auguste, J. Ma Powers, A. Graham, T. Williams, K. Friedman, J. Warner

Nay: None

Abstain: None

The motion passed by consensus.

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)

No further ad hoc committees were created at this time.

7. INFORMATION AND ANNOUNCEMENTS

- a) Discussion of language to include in dismissal of a single case that is consolidated with other cases (J. Warner)

J. Warner indicated that this was provided for staff to consider rather than an agenda item for Board discussion.

K. Rush provided that Senior Hearing Officer, B. Kong-Brown has stated that she will bring this topic to a Hearing Officer meeting to discuss adding new language to dismissal forms and orders for dismissals in consolidated cases.

R. Auguste requests that a training on Robert's Rules. She would like this to be prioritized this specific training topic and requests that the facilitator be independent from the City of Oakland. She would like possible dates that this could be considered.

J. Warner made a motion to continue the meeting after 10pm. There was no second. The motion failed.

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

The HRRRB meeting was adjourned at 10:00 p.m. by Chair, J. Warner.

CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD

BOARD PANEL MEETING
January 30, 2020
7:00 p.m.
City Hall, Hearing Room #1
One Frank H. Ogawa Plaza, Oakland, CA

MINUTES

1. CALL TO ORDER

The HRRRB Panel was called to order at 7:05 p.m. by Panel Chair, Ed Lai

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
Ed Lai	Homeowner	X		
Karen Friedman	Landlord Alt.	X		
Hannah Flanery	Tenant Alt.	X		

Staff Present

Oliver Luby	Deputy City Attorney, Office of the City Attorney
Barbara Kong-Brown	Senior Hearing Officer, Rent Adjustment Program
Susan Ma	Program Analyst II, Rent Adjustment Program

3. OPEN FORUM

No Speakers

4. NEW BUSINESS

i. Appeal Hearing in cases

a. **T19-0147, Cheam et al. v. Kuo**

Appearances	Raymond Correa	Owner Appellant Representative
	Sambat Cheam	Tenant Appellee

The owner appealed from a hearing decision granting the tenant restitution for rent overpayment on the grounds that the owner did not meet his burden showing that the RAP notice had been served on the tenant.

Grounds for Appeal

The owner appealed the hearing decision on the following grounds:

- The decision is not supported by substantial evidence;
- The owner was denied a sufficient opportunity to present his claim or respond to the petitioner's claim;
- The decision denies the Owner a fair return on my investment;
- Other

Specifically, the owner contends that he made an agreement with the tenant that the monthly rent would be \$600.00, commencing July 1, 2019, and thought the hearing would be cancelled. He also contends that the rent payments in his records are different from the rent payments provided in the Hearing Decision. They have not calculated the value of the tenant's labor in determining the proper allowable increase. Despite the tenant's statement under penalty of perjury that they were never given the RAP notice, the owner submitted a document on appeal indicating the tenants were given the RAP notice in August 2014, which was signed by at least one of them.

The tenant did not file a response to the owner's appeal. At the appeal hearing the tenant contended that they did not agree on the value of the tenant's work as the on-site manager and told the owner to appear at the hearing. He also denied ever receiving the RAP notice.

Appeal Decision

After questions to the parties and Board discussion, K. Friedman moved to remand the hearing decision on the ground that the Hearing Decision is flawed because the RAP notice was provided to the tenants in 2014. There was no second and the motion failed.

H. Flanery moved to affirm the hearing decision based on substantial evidence. E. Lai seconded.

The Board panel voted as follows:

Aye: H. Flanery, E. Lai,
Nay: K. Friedman
Abstain: 0

The motion carried.

b. L19-0092, Williams v. Tenants

Appearances No appearance by owner appellant

Appeal Decision

E. Lai moved to dismiss the owner appeal subject to a showing of good cause.
K. Friedman seconded.

The Board panel voted as follows:

Aye: H. Flanery, E. Lai, K. Friedman

Nay:

Abstain: 0

5. ADJOURNMENT

The meeting was adjourned at 8:00 p.m.

CHRONOLOGICAL CASE REPORT

Case Nos.: L17-0061
Case Name: Feiner et al v. Tenants
Property Address: 1153 – 63rd St. Oakland, CA
Parties: Michael Feiner, (Property Owner)
Jennifer Shy, (Property Owner)
Daniel Abud, (Tenant)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Landlord Petition filed	March 27, 2017
No Tenant Response filed	-----
Hearing Decision mailed	September 8, 2017
1 st Owner Appeal filed	September 27, 2017
Remand Decision mailed	September 20, 2019
2 nd Owner Appeal filed	October 10, 2019

000030

W17-0061 Rpt JK

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721</p>	<p>For date stamp.</p> <p style="text-align: center;">RECEIVED CITY OF OAKLAND RENT ADJUSTMENT PROGRAM</p> <p style="text-align: center;">2017 MAR 27 AM 10:07</p> <p style="text-align: center;">LANDLORD PETITION FOR CERTIFICATE OF EXEMPTION (OMC §8.22.030.B)</p>
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Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your claim. Before completing this petition, please read the Rent Adjustment Ordinance, section 8.22.030. A hearing is required in all cases even if uncontested or irrefutable.

Section 1. Basic Information

<p>Your Name MICHAEL FEINER JENNIFER SHY</p>	<p>Complete Address (with zip code) PO BOX 86 BERK CA 94701</p>	<p>Telephone Day:</p>
<p>Your Representative's Name</p>	<p>Complete Address (with zip code)</p>	<p>Telephone Day:</p>
<p>Property Address 1153 63rd Street, Units A, B, C</p>		<p>Total number of units in bldg or parcel. 3</p>
<p>Type of units (circle one)</p>	<p>Single Family Residence (SFR)</p>	<p>Condominium</p>
<p>If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?</p>		<p><u>Apartment or Room</u> No</p>

Section 2. Tenants. You must attach a list of the names and addresses, with unit numbers, of all tenants residing in the unit/building you are claiming is exempt.

Section 3. Claim(s) of Exemption: A Certificate of Exemption may be granted **only** for dwelling units that are **permanently** exempt from the Rent Adjustment Ordinance.

New Construction: This may apply to individual units. The unit was newly constructed and a certification of occupancy was issued for it on or after January 1, 1983.

Substantial Rehabilitation: This applies only to entire buildings. An owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project. The average basic cost for new construction is determined using tables issued by the Chief Building Inspector applicable for the time period when the Substantial Rehabilitation was completed.

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RENT ADJUSTMENT PROGRAM
2017 MAR 27 AM 10:01

Single-Family or Condominium (Costa-Hawkins): Applies to Single Family Residences and condominiums only. If claiming exemption under the Costa-Hawkins Rental Housing Act (Civ. C. §1954.50, et seq.), please answer the following questions on a separate sheet.

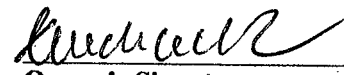
1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
2. Did the prior tenant leave after being a notice of rent increase under Civil Code Section 827?
3. Was the prior tenant evicted for cause?
4. Are there any outstanding violations of building, housing, fire, 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?
8. When did the tenant move into the unit?

I (We) petition for exemption on the following grounds (Check all that apply):

<input checked="" type="checkbox"/>	New Construction
<input checked="" type="checkbox"/>	Substantial Rehabilitation
<input type="checkbox"/>	Single Family Residence or Condominium (Costa-Hawkins)

Section 4. Verification Each petitioner must sign this section.

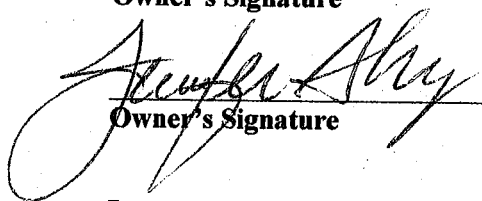
I declare under penalty of perjury pursuant to the laws of the State of California that everything I stated and responded in this petition is true and that all of the documents attached to the petition are correct and complete copies of the originals.



Owner's Signature

3/20/2017

Date



Owner's Signature

3/20/2017

Date

Important Information

Burden of Proof The burden of proving and producing evidence for the exemption is on the Owner. A Certificate of Exemption is a final determination of exemption absent fraud or mistake.

File Review Your tenant(s) will be given the opportunity 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 tenant's Response. Copies of attachments to the Response form will not be sent to you. However, you may review any attachments in the Rent Program Office. Files are available for review by appointment only. For an appointment to review a file, call (510) 238-3721. Please allow six weeks from the date of filing for notification processing and expiration of the tenant's response time before scheduling a file review.

Michael Feiner
Jennifer Shy
P.O. Box 86
Berkeley, CA 94701

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CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 MAR 27 AM 10:01

March 27, 2017

City of Oakland
Rent Adjustment Program
250 Frank H. Ogawa Plaza, Suite ~~5313~~ 6301
Oakland, CA 94612

Re: Landlord Petition for Certificate of Exemption
1153 63rd Street
Oakland, CA 94608

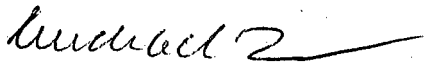
To Whom It May Concern:

Attached is our Landlord Petition for Certificate of Exemption. We are filing this Exemption per the following provisions of the Rent Adjustment Law and Just Cause for Evictions Law:

- **Newly Constructed Dwelling Units.** We lifted this single family home to create a new ground floor with two new apartment dwelling units with 655 square feet each (1,310 square feet total). This work was done under Building Permit #RB1200420 (with RE1200575, RP1200440, RM1200333) issued 2-23-2012 and final approval 6-20-2013. The Assessed Value (per County Assessor) in this time period was \$170,000. Per the attached City of Oakland Building Services Construction Valuation for Building Permits/Cost Index Tables the cost of new construction was \$189,243 (1,310 square feet x \$144.46 per square foot).
- **Buildings That Were Substantially Rehabilitated.** Under the same Building Permit we substantially rehabilitated the existing house. This included: Gutting the interior of the house to install all new electrical, plumbing, heating and finishes; Restoring interior and exterior trim and finish details consistent with those original to this house built in 1896 for both the original house and the two new apartment dwelling units. The existing house is 1,310 square feet total. Per the attached Cost Index Tables the cost of remodel construction was \$98,407 (1,310 square feet x \$75.12 per square foot).

Please do not hesitate to let us know if any further information is required.

Yours,


Michael Feiner

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**City of Oakland
Building Services
Construction Valuation¹
For Building Permits⁴
Effective Aug. 1, 2009**

Community Economic Development Agency
Administration Building
250 Frank Ogawa Plaza - 2nd Floor
Oakland, CA, 94612
510-238-3891

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RENT ARBITRATION PROGRAM

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Occ.	Description ³	Construction Type	Level Ground ²		Hillside Construction		Marshall & Swift 3Q '09
			New	Remodel	New	Remodel	
R3	Custom Residence	V	\$207.53	\$107.92	\$269.79	\$140.29	Section 12 pg 25 (C/e)
	Single Family & Duplex	V	\$144.46	\$75.12	\$187.80	\$97.65	Section 12 pg 25 (C/g)
	Factory/Manufactured home	V	\$43.50	\$22.62	\$56.55	\$29.41	Section 12 pg 26 (CDS/g)
	Finished Habitable Basement Conversion	V	\$96.42	\$50.14	\$125.35	\$65.18	Section 12 pg 25 (S/a)
	Convert non-habitable to habitable	V	N/A	\$43.50	N/A	\$56.55	Section 12 pg 26 (CDS/g)
	Partition Walls	V	N/A	\$16.19	N/A	\$21.05	Section 52 pg 2 (6' wall)
	Foundation Upgrade (l.f.)	V	\$105.37	NA	\$136.98	NA	Section 51 pg 2 (R/24x7.2)
	Patio/Porch/Roof	V	\$24.70	\$12.84	\$32.11	\$16.70	Section 66 pg 2 (Wood)
	Ground Level Decks	V	\$30.49	\$15.85	\$39.64	\$20.61	Section 66 pg 2 (100s/avg)
	Elevated Decks & Balconies	V	\$41.16	\$21.40	\$53.51	\$27.82	Section 66 pg 2 (100s/+1 story)
U1	Garage	V	\$38.42	\$19.98	\$49.95	\$25.97	Section 12 pg 35 (C/a600)
	Carport	V	\$24.70	\$12.84	\$32.11	\$16.70	Section 12 pg 35 (D/a4car)
	Retaining wall (s.f.)	III	\$32.96	NA	\$42.85	NA	Section 55 pg 3 (12'reinf./h)
R2	Apartment (>2 units)	I & II	\$174.69	\$90.84	\$227.10	\$118.09	Section 11 pg 18 (B/g)
		III	\$156.91	\$81.59	\$203.98	\$106.07	Section 11 pg 18 (Dmill/g)
		V	\$127.00	\$66.04	\$165.10	\$85.85	Section 11 pg 18 (D/g)
Non-Residential Occupancy							
A	Church/Auditorium	I & II	\$247.07	\$128.48	\$321.19	\$167.02	Section 16 pg 9 (B/g)
		III	\$182.01	\$94.65	\$236.61	\$123.04	Section 16 pg 9 (B/a)
		V	\$175.93	\$91.48	\$228.71	\$118.93	Section 16 pg 9 (S/g)
A	Restaurant	I & II	\$221.82	\$115.35	\$288.37	\$149.95	Section 13 pg 14 (A-B/g)
		III	\$174.20	\$90.58	\$226.46	\$117.76	Section 13 pg 14 (C/g)
		V	\$166.80	\$86.74	\$216.84	\$112.76	Section 13 pg 14 (D/g)
B	Restaurant <50 occupancy	V	\$145.24	\$75.52	\$188.81	\$98.18	Section 13 pg 17 (C/a)
B	Bank	I & II	\$223.46	\$116.20	\$290.50	\$151.06	Section 15 pg 21 (B/a)
		III	\$182.01	\$94.65	\$236.61	\$123.04	Section 15 pg 21 (C/a)
		V	\$173.02	\$89.97	\$224.93	\$116.96	Section 15 pg 21 (D/a)
B	Medical Office	I & II	\$249.76	\$129.88	\$324.69	\$168.84	Section 15 pg 22 (A/g)
		III	\$243.19	\$126.46	\$316.15	\$164.40	Section 15 pg 22 (B/g)
		V	\$200.73	\$104.38	\$260.95	\$135.69	Section 15 pg 22 (C/g)
B	Office	I & II	\$165.41	\$86.01	\$215.03	\$111.82	Section 15 pg 17 (B/a)
		III	\$120.77	\$62.80	\$157.00	\$81.64	Section 15 pg 17 (C/a)
		V	\$115.34	\$59.98	\$149.94	\$77.97	Section 15 pg 17 (D/a)
E	School	I & II	\$239.11	\$124.34	\$310.84	\$161.64	Section 18 pg 14 (A-B/g)
		III	\$181.96	\$94.62	\$236.55	\$123.00	Section 18 pg 14 (C/g)
		V	\$171.94	\$89.41	\$223.52	\$116.23	Section 18 pg 14 (D/g)
H	Repair Garage	I & II	\$186.25	\$96.85	\$242.13	\$125.91	Section 14 pg 33 (MSG 527C/e)
		III	\$180.70	\$93.96	\$234.91	\$122.15	Section 14 pg 33 (MLG 423C/e)
		V	\$175.14	\$91.07	\$227.68	\$118.39	Section 14 pg 33 (MLG 423D/e)
I	Care Facilities / Institutional	I & II	\$186.04	\$96.74	\$241.85	\$125.76	Section 15 pg 22 (B/a)
		III	\$152.09	\$79.09	\$197.72	\$102.81	Section 15 pg 22 (C/a)
		V	\$146.52	\$76.19	\$190.48	\$99.05	Section 15 pg 22 (D/a)
M	Market (Retail sales)	I & II	\$143.82	\$74.79	\$186.97	\$97.22	Section 13 pg 26 (A/g)
		III	\$117.10	\$60.89	\$152.23	\$79.16	Section 13 pg 26 (C/g)
		V	\$113.19	\$58.86	\$147.15	\$76.52	Section 13 pg 26 (D/g)
S	Industrial plant	I & II	\$157.34	\$81.82	\$204.54	\$106.36	Section 14 pg 15 (B/a)
		III	\$134.38	\$69.88	\$174.69	\$90.84	Section 14 pg 15 (C/a)
		V	\$111.93	\$58.20	\$145.51	\$75.66	Section 14 pg 15 (D/a)
S	Warehouse	I & II	\$96.28	\$50.07	\$125.16	\$65.09	Section 14 pg 26 (A/g)
		III	\$91.77	\$47.72	\$119.30	\$62.04	Section 14 pg 26 (B/g)
		V	\$90.79	\$47.21	\$118.03	\$61.37	Section 14 pg 26 (Cmill/g)
S	Parking Garage	I & II	\$76.31	\$39.68	\$99.20	\$51.59	Section 14 pg 34 (A/g)

¹ Cost per square foot, unless noted otherwise. (l.f. = linear foot; s.f. = square foot); includes 1.3 regional multiplier (see Secc. 99 pg 6 July 2009 Marshall & Swift)
² Hillside construction = slope >20%; multiply by additional 1.3 multiplier
³ Remodel Function of New Construction is a 0.52 multiplier.
⁴ Separate structures or occupancies valued separately.
⁵ Separate fees assessed for E/P/M permits, R.O.W. improvements, Fire Prevention Bureau, Grading Permits, technology enhancement, records management, Excav. & Shoring.

000034



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: L17-0061, Feiner, et al. v. Tenants
PROPERTY ADDRESS: 1153 - 63rd St., Oakland, CA
DATE OF HEARING: August 8, 2017
DATE OF DECISION: August 28, 2017
APPEARANCES: Michael Feiner (Owner)
(No Appearance by any Tenant)

SUMMARY OF DECISION

The owners' petition is partly granted.

CONTENTIONS OF THE PARTIES

The owners filed a petition which seeks a Certificate of Exemption for the subject building on the ground that it has been "newly constructed" and also on the ground of "substantial rehabilitation." No tenant filed a response to the owners' petition.

THE ISSUES

- (1) Is the subject building "newly constructed," and are the rental units in the building exempt from the Rent Adjustment Ordinance on that basis?
- (2) Has the subject building been "substantially rehabilitated?"

EVIDENCE

New Construction: At the Hearing, owner Michael Feiner testified that, prior to construction, there was an existing single-family house. This is known as Unit "A." The owner testified that

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he “gutted” the existing single family house, and increased it in size. He also raised the house, and constructed 2 new units beneath it. These new units are known as Units “B” and “C.” The owner submitted a Building Permit for the house, which was issued on February 23, 2012.¹ The permit describes the work as “Raise Dwelling and Add Two Units Beneath.” The permit was “finalized” on June 27, 2013.

Substantial Rehabilitation: The owners attached to their petition a statement that certain work was done on the subject building and that the building contains a certain number of square feet. The owners submitted no documentation in support of this claim.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

New Construction: The Oakland Rent Adjustment Ordinance² states that dwelling units are not “covered units” under the Ordinance if such units “were newly constructed and received a certificate of occupancy on or after January 1, 1983.” The Board has repeatedly held that a “finalized” building permit is the practical equivalent of a Certificate of Occupancy.³ The dwelling units must be entirely newly constructed or created from space that was formerly entirely non-residential.

The 2 units new units in the subject building meet this requirement. The former single family house – whether it has been enlarged or not – was neither entirely newly constructed nor was it created from space that was formerly entirely non-residential. Therefore, it is found that only the two new units in the subject building – Units “B” and “C” – are exempt from the Rent Adjustment Ordinance on the ground that the units have been “newly constructed.”

Substantial Rehabilitation: O.M.C. 8.22.030(A)(6) states that dwelling units located in “substantially rehabilitated buildings” are not “covered units” under the Rent Ordinance.

- a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project.
- b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.⁴

An owner has the burden of proving that a building has been substantially rehabilitated by presenting convincing evidence of construction costs (i.e., invoices and proof of payment) as

¹ Exhibit No. 1, which was admitted into evidence

² O.M.C. Section 8.22.030(A)(5)

³ Peacock, et al. v. Vulcan, T05-0110 & Williams v. Taplin, T12-0112

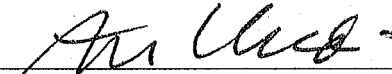
⁴ O.M.C. Section 8.22.030(B)(2)

well as competent evidence of the square footage of the building.⁵ The owners submitted no such documentation. Therefore, this part of the owners' petition is denied.

ORDER

1. Petition L17-0061 is partly granted.
2. The subject building is not exempt from the Rent Adjustment Ordinance on the ground of substantial rehabilitation.
3. Unit "A" is not exempt from the Rent Adjustment Ordinance.
4. The lower Units, "B" and "C," are exempt from the Rent Adjustment Ordinance on the ground of new construction.
5. A Certificate of Exemption for the subject units will be issued upon this Decision becoming final.
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: August 28, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

⁵ Appeal Decisions in Ullman v. Breen, T04-0158 & Rose v. Polanski, T05-0233

PROOF OF SERVICE

Case Number L17-0061

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:

Tenants

Resident
1153 63rd St #C
Oakland, CA 94609

Resident
1153 63rd St #B
Oakland, CA 94609

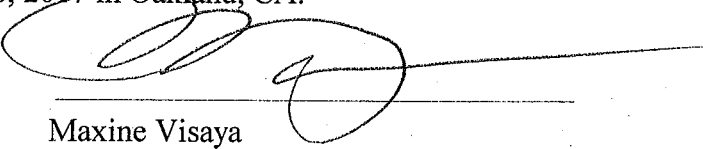
Resident
1153 63rd St #A
Oakland, CA 94609

Owner

Michael Feiner & Jennifer Shy
P.O. Box 86
Berkeley, CA 94701

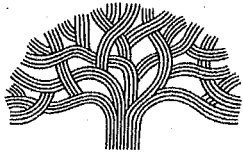
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first 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 08, 2017 in Oakland, CA.



Maxine Visaya

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CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For date stamp.

2017 SEP 27 PM 4:07

APPEAL

Appellant's Name Michael Feiner & Jennifer Shy		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1153 63rd Street, Apartment A, Oakland, CA 94608			
Appellant's Mailing Address (For receipt of notices) POBox 86 Berkeley, CA 94701		Case Number L17-0061	
		Date of Decision appealed September 27, 2017	
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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

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

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

For more information phone (510) 238-3721.

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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: 2

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 27, 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	Daniel Abud
Address	1153 63rd Street, Unit A
City, State Zip	Oakland, CA 94608
Name	
Address	
City, State Zip	

<i>Michael Z...</i> <i>Joseph...</i>	9/27/2017
---	-----------

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

For more information phone (510) 238-3721.

September 27, 2017

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

Case Number:	L17-0061
Property Address:	1153 63 rd Street, Unit A, Oakland, CA 94608
Date of Hearing:	August 8, 2017
Date of Decision:	August 28, 2017
Date of Service:	September 8, 2017
Deadline Date for Appeal:	September 28, 2017

Explanation of grounds for Appeal:

Prior to submitting the original Landlord Petition for Certificate of Exemption we consulted with City of Oakland staff as to what documentation to submit in support of our Petition. The Exemption we filed was for both New Construction of two units and Substantial Rehabilitation of the remaining building. We were granted exemption for newly constructed Units B and C but were denied exemption for Unit A. We were given and relied on ambiguous and contradictory information, so did not understand the process and what was required, and consequently were denied a sufficient and informed opportunity to present the full existing documentation to support our Petition. Today we spoke with Keith Mason who provided clear information. We ask for the opportunity to present this existing documentation in support of our Petition via this Appeal.

The Scope of Work for this project was extensive. The existing single story building was raised to create a new two story building. Both the newly created units and the substantial rehabilitation were in the same building and was achieved through expansion of the existing building. Prior to construction this was a Single-Family house which is exempt under the Costa-Hawkins Rental Housing Act. However, post construction, this Single-Family house was then one of three apartment units. We were told that this might be considered three newly created units – not two newly created units plus substantial rehabilitation of a Single-Family house because the floor plan of the existing house changed significantly. For instance, the existing house was 2 bedrooms plus 1 bathroom, a minimal kitchen and no laundry (washer and dryer). The new unit is 3 bedrooms plus 1 bathroom, a full kitchen and laundry.


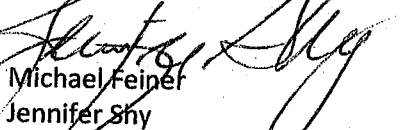
Because the Scope of Work was so extensive, the construction receipts, bank statements, plans and other documentation fill multiple large binders. We asked City of Oakland staff if we were to photocopy every document within these multiple large binders.

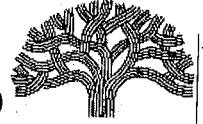
In response we were referred to the paragraph entitled "Substantial Rehabilitation" on the Landlord Petition for Certificate of Exemption. Although this paragraph states "This applies only to entire buildings" we were told that our

Scope of Work fell within this definition. This paragraph goes on to state "An owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project. The average basic cost for new construction is determined using the tables issued by the Chief Building Inspector applicable for the time period when the Substantial Rehabilitation was completed". We were told that in lieu of submitting binders of receipts, bank statements, etc., these Construction Valuation tables would take precedence. We submitted the Construction Valuation tables for the period when the substantial rehabilitation took place, together with an explanation of the Alameda County Assessor's valuation prior to construction, square footage calculations (using the Construction Valuation tables) and the property's City-issued Building Permit with Final Building Inspection approval. For the first time, at our Hearing, we were told that this was not sufficient documentation to support our Petition.

Because we didn't understand the process or the extent of documentation required and were given and relied on ambiguous and contradictory information we were denied a sufficient opportunity to present the full underlying documentation to support our Petition. We respectfully ask for the opportunity to present this existing documentation in support of our Petition via this Appeal.

Thank you,



Michael Feiner
Jennifer Shy



250 FRANK OGAWA PLAZA, ST. 5313, OAKLAND, CA 94612

Department of Housing and Community Development
Rent Adjustment Program

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

REMAND DECISION

CASE NUMBER: L17-0061, Feiner, et al. v. Tenants

PROPERTY ADDRESS: 1153 - 63rd St. Oakland, CA

APPEARANCES: Michael Feiner (Owner)
Jennifer Shy (Owner)
Joshua Safran (Attorney for Owners)
(No Appearance by Tenant)

**DATE OF REMAND
HEARING:** August 30, 2019

**DATE OF REMAND
DECISION:** August 28, 2019

PROCEDURAL HISTORY

This case involves an owner petition for a Certificate of Exemption for a 3-unit building on the grounds of both New Construction and Substantial Rehabilitation. The building had previously been a single family house, to which the owner had added two new units below, as well as somewhat expanding the upstairs portion of the building. The Hearing Decision partly granted the petition.

After the construction, the area that had been the single family house has been called Unit "A." The two new units below are Units "B" and "C." The Hearing Decision held that Units "B" and "C" are exempt from the Rent Adjustment Ordinance as being newly constructed. The Decision further held that one unit - Unit "A" - was not exempt from the Ordinance since it had existed as a single family house before the two new units were added.

The claim of substantial rehabilitation was denied because the owner failed to provide documentation of either the square footage of the building or construction costs.

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The owner appealed the Hearing Decision, and on October 11, 2018 the Board remanded the case to the Hearing Officer to further consider "for Unit A regarding new construction and substantial rehabilitation only."

SUMMARY OF DECISION

Unit "A" is not exempt from the Rent Adjustment Ordinance under the standards for either New Construction or Substantial Rehabilitation.

THE ISSUES

- (1) Is Unit "A" exempt from the Rent Adjustment Ordinance as being "newly constructed"?
- (2) Is Unit "A" exempt from the Rent Adjustment Ordinance as being "substantially rehabilitated"?

EVIDENCE

The owner testified that there was originally a single family house (Unit "A") on the subject property. The owner further testified that he had Unit "A" "completely gutted," and added some additional space to this area, as well as raising the structure and adding 2 new units below (Units "B" and "C"). The owner submitted numerous documents reflecting construction expenses of more than \$300,000 total for all 3 units.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

New Construction: The Rent Adjustment Ordinance¹ states that dwelling units are not "covered units" under the Ordinance if such units "were newly constructed and received a certificate of occupancy on or after January 1, 1983. . . [T]he dwelling unit must be **entirely** newly constructed or created from space that was formerly entirely non-residential." (emphasis added).

Before the construction began, the unit on the second floor (Unit "A") was entirely residential; it was a single family house. Although the new unit is larger than it had been previously, this was not a new unit that was added to the building. It was merely an expansion of an existing residential unit, not a newly constructed unit. Therefore, Unit "A" is a "covered unit" under the Ordinance, and this portion of the owner's petition is denied.

Substantial Rehabilitation: "In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project."² "For the substantial

¹ O.M.C. Section 8.22.030(A)(5)

² O.M.C. Section 8.22.030(B)(2)

rehabilitation exemption, the entire building must qualify for the exemption and not just individual units.”³

If the cost of construction were considered in isolation, the owner probably would meet the 50% threshold for substantial rehabilitation. However, the owner has previously been granted exemption from the Rent Adjustment Ordinance for the 2 new units (“B” and “C”) on the basis of new construction.

Under the Regulations, the entire building must qualify for the substantial rehabilitation exemption. The two new units were newly constructed. Therefore, the question is, were the new units “rehabilitated” when there was nothing to rehabilitate prior to construction?

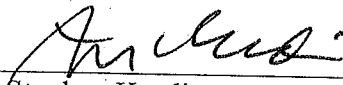
The new units were clearly not part of a “rehabilitation project” and, therefore, the only logical answer to this question is “no.” No part of a building can be rehabilitated unless the entire building is rehabilitated. And since the entire building was not rehabilitated, it cannot be said that Unit “A,” was rehabilitated. The claim of exemption based upon substantial rehabilitation is likewise denied.

ORDER

1. Unit “A” is not exempt from the Rent Adjustment Ordinance as either new construction or substantial rehabilitation.

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.

Dated: September 18, 2019



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

³ Regulations, Section 8.22.030(B)(3)(b)

PROOF OF SERVICE
Case Number L17-0061

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

Michael Feiner & Jennifer Shy
P.O. Box 86
Berkeley, CA 94701

Owner Representative

Joshua Safran
1101 Marina Village Pkwy., Ste. 201
Alameda, CA 94501

Tenant

Daniel Abud, Resident
1153 63rd St #A
Oakland, CA 94609

Tenant

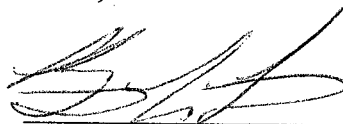
Resident
1153 63rd St #C
Oakland, CA 94609

Tenant

Resident
1153 63rd St #B
Oakland, CA 94609

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 20, 2019** in Oakland, CA.

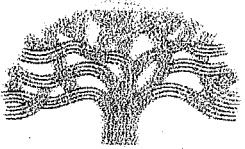


Brittini Lothlen
Oakland Rent Adjustment Program

000046

PE/SK

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	For date stamp 2019 OCT 10 PM 2:25
	<u>APPEAL</u>	

Appellant's Name Michael Feiner Jennifer Shy		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1153 63rd Street, Oakland, CA - Unit A only			
Appellant's Mailing Address (For receipt of notices) PO Box 86 Berkeley, CA 94701		Case Number L17-0061	
		Date of Decision appealed 8/30/2019 [incorrectly dated 8/28/2019]	
Name of Representative (if any) Joshua Safran, Esq.		Representative's Mailing Address (For notices) Joshua Safran Rudder Law Group, LLP 1101 Marina Village Pkwy, Suite 201 Alameda, CA 94501	

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 October 10, 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: Despite there being no "opposing party" whatsoever:

Name	Daniel Abud, Resident
Address	1153 63rd Street #A, Oakland CA 94609
City, State Zip	
Name	
Address	
City, State Zip	

	October 10, 2019
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

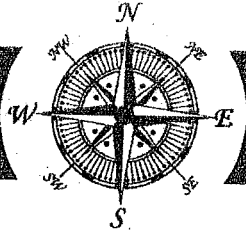
For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

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

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

For more information phone (510) 238-3721.



October 10, 2019

City of Oakland Rent Adjustment Program
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-2043

Administrative Appeal of Remand Decision of "August 28, 2019"

Case: L17-0061, *Feiner*

Property Address: 1153 63rd St., Oakland, CA #A

To Whom It May Concern:

Thank you for the opportunity to present this administrative appeal of the Remand Decision that was made based on the Remand Hearing of August 30, 2019. The Remand Decision indicates that the Remand Decision was made on August 28, 2019, two days before our hearing.¹

This administrative appeal is brought on behalf of our clients, Michael Feiner and Jennifer Shy (the "Owners"), two hardworking individuals who own the property at 1153 63rd Street in Oakland, California (the "Property").

As discussed in greater detail below, and as more than amply documented by the supporting materials submitted by the Owners and the information already in the record, we ask for a determination that Unit A on the Property is exempt from the Rent Adjustment Ordinance on the ground of new construction and/or substantial rehabilitation and authorize issuance of a certificate of exemption for that unit.

I. Background

The Owners purchased the Property in 2001. At that time, the Property was improved with a single-family home. Under California's Costa-Hawkins Rental Housing Act ("Costa-Hawkins"), the Property was exempt, and remains exempt, from rent control because it was a single-family home. *See* Civil Code §1954.52(a)(3)(A). For the same reason, the Property is and was also exempt from rent control under the City of Oakland's ("City's") Residential Rent Adjustment Program ("Rent Program"). *See* Oakland Municipal Code §8.22.030.

Given the City's shortage of housing, the Owners were encouraged to build additional dwelling units on the Property. In 2012, they obtained a building permit

¹ We assume that dating the Remand Decision before the hearing date is one of many errors in the Remand Decision. If it was not an error and the decision was actually made before the hearing, we also appeal the decision for procedural due process violations, including rendering a decision before appellants had an opportunity to be heard.

to substantially remodel the existing dwelling unit (including construction of an additional bedroom, a full kitchen, and a laundry), to raise the building about 3 feet, and to add two new additional dwelling units on the first floor of the existing structure (collectively, the "Project").

The Project was completed in 2013. At that time, the Owners were informed by the City that no certificate of occupancy was required upon completion of the Project. Instead, in lieu of a certificate of occupancy, the Owners were issued a "last finalized permit." That permit indicated that the Owners spent in excess of 50% of the average basic cost for new construction for their Project and that the Owners performed substantial work on each of the three units in the building.

Upon completion of the Project, the Owners applied for a business license to rent out all three units, including the substantially rehabilitated and relocated original unit ("Unit A") and the two new units ("Units B & C"). At that time, the Owners asked whether any additional paperwork was required for compliance with the Rent Program. City staff informed the Owners that no additional paperwork was required because they had "three new units" that were "exempt" from the Rent Program.

About four years later, on March 15, 2017, the Owners received the Notice of Changes to the Rent Adjustment Ordinance ("Notice of Changes"). Page 3 of the Notice of Changes indicated that if Oakland property owners wanted an exemption from the Rent Program based on "Owner Occupancy" or "Substantial Rehabilitation," such owners needed to file a petition for a Certificate of Exemption by June 30, 2017. The Notice of Changes was silent as to both newly constructed units and single-family units.

The Owners subsequently received the City's Landlord Petition for Certificate of Exemption ("Landlord Petition"). The Owners were unclear whether they needed to file the Landlord Petition and, if so, which exemption they should apply for (new construction, substantial rehabilitation, and/or single-family residence/condo).

The Owners diligently followed-up on this issue, engaging in numerous telephone conversations and a few in-person meetings with City staff. They repeatedly explained the development history of the Property and asked if it was necessary for them to apply for an exemption if a newly constructed unit was categorically exempt under both State law and City ordinance. The Owners received different and contradictory responses from City staff. One staff member told them that no Landlord Petition was necessary; a second staff member told them that every owner must submit such a petition if the exemption is for a newly constructed unit; while a third staff member told them that he was not sure but advised the Owners to submit such a petition "just in case."

As part of this diligence, the Owners inquired about which of the boxes they should check on the Landlord Petition as it was not clear which option applied to the Property. Units B & C clearly appeared to be "new construction," while Unit A was: (1) exempt under Costa-Hawkins as a previously existing single-family home; (2)

exempt under Costa-Hawkins for having a "last finalized permit" issued after February 1, 1995; (3) exempt under the Rent Program for being exempt under Costa-Hawkins; and/or, (4) exempt under the Rent Program for being "substantially rehabilitated."

Given the conflicting and various advice received from City staff, the Owners submitted the Landlord Petition with the boxes for "newly constructed" for Units B & C and "substantial rehabilitation" for Unit A, along with supporting paperwork.

After overcoming various procedural hurdles, the Owners' Landlord Petition was ultimately heard by a panel of hearing officers (the "Panel") on August 8, 2017, which issued an appealable decision on August 28, 2017. The Panel held that Units B & C were exempt from the Rent Program because they were "newly constructed." However, it held that Unit A was not exempt because:

"An owner has the burden of proving that a building has been substantially rehabilitated by presenting convincing evidence of construction costs (i.e., invoices and proof of payment) as well as competent evidence of the square footage of the building. The owners submitted no such documentation. Therefore, this part of the owners' petition is denied."

The Owners duly filed a timely administrative appeal which set forth compelling arguments that a certificate of exemption should be issued for Unit A for the following reasons: (1) Unit A is exempt as a single-family home under Costa-Hawkins; (2) if Unit A is deemed to no longer be the original unit, it must be an exempt new unit; and, (3) even if Unit A were not otherwise exempt, it would be exempt as a substantially rehabilitated unit. The Owners briefed these issues in detail in their Owners' Statement for Appeal Hearing of October 11, 2018.

The Appeal Hearing was conducted on October 11, 2018. The Owners' were pleased and encouraged that the Housing, Residential Rent and Relocation Board ("Board") roundly rejected the Panel's finding that the Owners' could not present further evidence regarding the substantial rehabilitation of Unit A on a going forward basis. At the appeal hearing, some members of the Board expressed support for Owners to have the opportunity to present "convincing evidence" to establish that the construction costs met the thresholds for "substantial rehabilitation" without creating any precedent. The Board also discussed the uniqueness of the Owners' situation, specifically whether Unit A should be considered a "newly constructed" unit or a "substantially rehabilitated" unit and, if not, then what happens to the undisputed exempt status of the existing single family home (now, relocated and rehabilitated as the new Unit A) when dwelling units are added to it. The Board issued a Remand Decision (dated 10-26-2018) affirming the RAP exemption for Units B & C and " ... remand[ing] to the hearing officer for Unit A regarding new construction and substantial rehabilitation only" with the caveat that the Remand Decision would not be "precedent setting."

After numerous delays and continuances (over the objection of Owners), the Remand Hearing was held on August 30, 2019. Prior to the Remand Hearing, Owners timely submitted voluminous, exhaustive, and cross-referenced documentary evidence of expenditures to rehabilitate and construct Units A, B and C (construction receipts, bank statements, credit card statements, architectural and structural plans – stamped Approval by City of Oakland, as well as summaries of the proffered documentation to assist the Hearing Officer’s review on remand.) The lack of such documentation was cited as the ground for the Hearing Officer’s original August 28, 2017, denial of the RAP exemption as to Unit A, and had been discussed at the October 11, 2018 Board Appeal Hearing. The Remand Decision, issued September 18, 2019, stated that “[i]f the cost of construction were considered in isolation, the owner probably would meet the 50% threshold for substantial rehabilitation.” However, the hearing officer then concluded that Unit A should not be considered as either New Construction or Substantial Rehabilitation, and so found Unit A not exempt from the RAP.

Owners now appeal the “August 28, 2019” Remand Decision. The first Hearing Decision’s sole basis for denying the exemption for Unit A was that Owners did not present convincing evidence of construction costs and the square footage of the building. Owners cured that failure, and submitted such convincing evidence. The remand hearing officer concedes that Owners probably have met the City’s threshold, pursuant to the City’s Construction Valuation Tables. The documentary evidence submitted to the City (and accepted by the Hearing Officer) in support of Owners’ exemption for Unit A can and should be applied to a determination under New Construction or Substantial Rehabilitation, as the Board sees fit.

II. Legal Discussion for Appeal

The sole issue on remand should have been resolved with a finding that a certificate of exemption should be issued for Unit A for the following reasons:

A. Unit A Should Be Exempt as New Construction

The Property consisted of a single family house with an existing legally exempt status. Two dwelling units were added to the same structure and have been granted exempt status. If this new building is to be considered a newly-formed “triplex,” then Unit A should be considered New Construction because a triplex did not previously occupy this space. Additionally, the single family house was raised (to allow the construction of two new ground floor dwelling units) and Unit A now occupies “... space that was not previously used for housing.” *Castellanos v. Greer*, T01-0107; see also *Buggs v. Bay Property*, T16-0377.

If this building is to be considered a single family house with an attached duplex, the existing exempt status of the single family house never changed and the duplex units have been granted exempt status.

B. If Unit A Is Not "New Construction," It Should Be Exempt as a Substantially Rehabilitated Unit

Owners have presented substantial convincing and undisputed evidence of Owners' construction costs and building square footage, and the Hearing Officer on remand agreed that Owners probably meet the monetary threshold.

The Board received a Memo dated September 12, 2018 from Barbara Kong-Brown – Re: Request for Information Regarding Hearing Decisions on New Construction. None of the cases cited have exactly the same set of circumstances as Owners' situation. However, the cases reflect the Board's discretionary authority and provide guidance.

This Board has the discretionary authority to find that Unit A is exempt whether New Construction or Substantial Rehabilitation are applied (without creating precedent), or by acknowledging the unique circumstances of this situation.

It is clear that these unique circumstances more broadly implicate City of Oakland rental housing policy and policy goals, which include "encouraging rehabilitation of rental units [and] encouraging investment in new residential property in the [C]ity." At the Board hearing Stone acknowledged that Owners' circumstances – adding additional dwelling units to an existing legally exempt single family home – may raise a policy question for the City of Oakland to consider. Stone stated "I am very concerned that we not create a precedent of any kind where secondary units are discouraged because it places the entire building under rent control."

Owners and their counsel intend to submit a Public Records Act request to determine whether similar circumstances have arisen and the manner in which they were addressed under the RAP.

III. Preservation of Issues on Administrative Appeal

While it appears that the Board rejected or ignored the Owners' arguments that Unit A should be exempt as a single-family home under Costa-Hawkins and apparently disallowed it as an issue on remand, we hereby reassert and preserve that claim here for purposes of judicial review.

Further, we wish to maintain our arguments previously made on the record as to the significant and pervasive due process violations that have plagued the Owners' administrative appeals to date. On multiple occasions, the Owners were given authoritative and, yet, conflicting guidance by staff and by hearing officers and the Board on a host of issues that implicate the Owners' fundamental property rights in the Property. At various times, City officials, including most recently members of the Board, attempted to use the Owners' alleged noncompliance with various procedural strictures of the administrative process to deprive them of their property rights in the Property.

Specifically, the Panel took action to deprive the Owners' of their property rights by holding that Unit A was not exempt simply because the Owners had not presented the overwhelming evidence of "substantial rehabilitation" in their possession in a procedural manner that satisfied the Panel. Luckily for the Owners, this holding was rejected by a majority of the Board who remanded this matter to afford the Owners further opportunity to present their evidence. However, we note that the losing minority on the Board echoed a preferred approach to that taken by the Panel.

This insistence on strict compliance with procedural rules that are both unknown to members of the public and inconsistent (both internally and with the forms and advice promulgated by Staff) is Kafkaesque. It is also a violation of basic Due Process. As a fundamental matter of Due Process, a public agency cannot arbitrarily and capriciously create and impose new procedural criteria on a property owner to deny such an owner an important property right. Due Process requires that the Owners receive meaningful notices of their rights and a meaningful opportunity to be heard.

Based on the (somewhat incoherent) reasonings shared by members of the Panel and Board who favored the strict adherence approach in this matter, it is the conclusion of Owners' counsel that the procedural requirements they favor are far more draconian, unforgiving, and confusing than those used by the California court system. We note, for the record, that even the courts provide clear and repeated warnings to pro se parties regarding their procedural rights and obligations along with pervasive warnings to hire an attorney to help them navigate through the process. We also note that the courts provide multiple opportunities for pro se parties to avoid being penalized for rules they were not aware of or did not understand. We would expect the City of Oakland's rent adjustment program to be at least as clear and as forgiving as the judiciary of the State of California. We believe the courts would, too.

To this end, we preserve for the record the Owners' objections to the arbitrary evidentiary standards promulgated by the Panel, the Board, and staff and maintain our Due Process objections to how each and every step of this administrative appeal process has been conducted.

Further, we incorporate by reference herein all prior submittals by Owners into the record in these proceedings as well as the transcripts maintained of all hearings in which Owners participated in this matter. The RAP's arbitrary restrictions on a page limit for this appeal unfairly precludes Owners from resubmitting all of those materials, but we rely on them. These materials are all already within the custody and control of the Board. Out of an abundance of caution and fear of the RAP's arbitrary evidentiary rules, we specifically designate as part of the record the entirety of the electronic recording of the Remand Hearing conducted before Stephen Kasdin on August 30, 2019, as part of the record to be submitted with this Appeal.

Further, we note for the record that while the RAP provides an "Appeals Decision Index" of precedential Administrative Decisions online, it does not actually provide the underlying decisions to the public in any meaningful way. We will be compelled to seek these decisions through a public records act request. We, therefore, reserve our right to cite such additional decision as may be applicable upon actually receiving the body of precedential decisions that the Board relies upon which, while apparently readily available to the RAP staff, are not at all readily available to the public.

Further, Owners wish to express to the Board their grave concern about the accuracy of the Proofs of Service issued by the Residential RAP department, attached to the various hearing decisions and appeal decisions mailed to Owners over the past 2.5 years. In the RAP's mailings there have been significant "lag times" between the dates on the POS, the Pitney-Bowes meter stamp on the mailed envelope (not a USPS cancellation, and thus not necessarily an accurate reflection of when the envelope was *actually deposited* into the U.S. Mail), and the time it then took for Owners to receive a mailing that had supposedly been deposited into the U.S. Mail "that same day" as the date on the POS. In light of the limited time to file an appeal, the RAP and Board surely understands that it is of the utmost importance to potential appellants that the sworn representations on the POS by a RAP representative are, in fact, accurate.

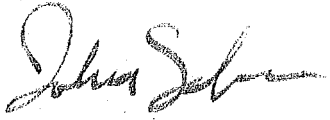
Most recently, Owners had 20 calendar days from the date of the Remand Decision POS to submit this Appeal. For reasons unknown to Owners and seemingly within the control of the City of Oakland RAP Department, this time to appeal was significantly truncated, as set forth below:

- September 18, 2019 - the date of the Remand Decision by the Hearing Officer (although page one of the Remand Decision incorrectly states the "Date of Remand **Decision**" as August 28, 2019 - we assume an error as the hearing was held on August 30.)
- September 20, 2019 - the date on the Proof of Service of the Remand Decision. The POS states under penalty of perjury that Brittini Lothlen placed the envelope "in a City of Oakland mail collection receptacle for mailing on [that] date" and "[u]nder that practice an envelope placed in the mail collection receptacle ... *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.*" (emphasis added)
- September 24, 2019 - the Pitney-Bowes date stamp on the mailing envelope (an internal City meter, not a USPS cancellation)
- October 4, 2019 - *10 days later* ... actual receipt in the U.S. Mail by Owners (in Berkeley) and their attorney (in Oakland).

For all of these reasons, the Hearing Officer should authorize issuance of a certificate of exemption for Unit A.

We look forward to discussing these issues with you at our administrative appeal hearing.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Joshua Safran".

Joshua Safran, Esq.

CHRONOLOGICAL CASE REPORT

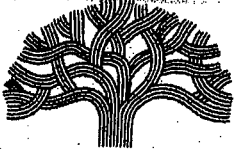
Case No.: T19-0236
Case Name: Steimetz et al v. Protopappas
Property Address: 1080 23rd Avenue, Unit 104, Oakland, CA
Parties: Keiko Steimetz, (Tenant)
John Reed, (Tenant)
John Protopappas, (Property Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	March 27, 2019
No Owner Response filed	-----
Hearing Decision mailed	November 21, 2019
Owner Appeal filed	January 10, 2020
Tenant Response to Appeal filed	February 14, 2020

000058

T19-0236 RE/EL

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp: JUN 27 PM 2:43
	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 Keiko Steimetz John Reed	Rental Address (with zip code) 1080 23 ^{1/2} ave #104 Oakland 94606	Telephone: E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone: Email:
Property Owner(s) name(s) John Photopoulos Madison Park 155 Grand ave #104 Oakland 94612	Mailing Address (with zip code)	Telephone: Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: Email:

Number of units on the property: 38

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

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

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

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

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

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

Date you moved into the Unit: 2/1/12 Initial Rent: \$ 2100 /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: Approximately 2016. If never provided, enter "Never."

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

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

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

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

Have you ever filed a petition for this rental unit?

- Yes
 No

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

Request for Service: Tenant Complaint

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?
Have you lost services originally provided by the owner or have the conditions changed?
Are you claiming any serious problem(s) with the condition of your rental unit?

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

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

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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

Tenant's Signature (handwritten signature)

Date 3/27/19

[Empty rectangular box]

[Empty rectangular box]

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

Time to File

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

File Review

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

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

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

Problem Description (13078)

Stove burners not working?
kitchen faucet leaking
toilet not functioning properly
broken window(how did this
happen)

OK

D/2

Tenant Petition: 1080 23rd A #104

List of Attachments / Supporting ~~Doc~~ Documents

A. Letter to Madison Park re problems with unit.
sent via certified mail 12/31/18 (with copy
of certified mail receipt.

B. Email from Gloria Holland acknowledging
receipt of 12/31/18 letter. and requesting
permission to enter unit and make repairs.

C. Email from Keiko ^{Stametz} Daniels dated 02/01/19
asking Nikko Yang, Madison ~~Park~~ Park / 1080 10th's
maintenance person, about his whereabouts.
Mr Yang was scheduled to begin making
repairs on ~~February 1st, 2019~~
January 2, 2019

D. Email from Nikko Yang to Keiko
Daniels regarding his failure to keep
his appointment with us. As noted
he was suppose to contact ~~to~~ us for
a follow up. HE NEVER DID. He
lives at the 1080 10th and is our
neighbor.

Tenant Petition. 1080 23rd Av #104
List of Attachments / Supporting Documents

D. Emails between Nikko Yang (Madison Park /
1080 Maintenance Man) Continued

D 1/2: Nikko Yang introduces himself
on January 2nd. Nothing happens
~~during~~ during the entire
month.

A copy of the work order
is provided

Tenant Petition 1080 23rd Av #104
List of Attachments / Supporting Documents

E. Former Manager ~~Bob~~ Bob Huff
confirms on 02/27/19 at 8:58 AM
that he informed current manager
Elicia Holland how to shut off
water to our unit.

26 Days elapsed from Nikko
Yang's Feb 1, 2019 email informing
us of his inability to shut off
the water to our unit.

Tenant Petition: 1080 23rd Av #104
Attachment

III Description of Decreased or Inadequate Housing Services

1) List of Lost housing services or problems
in our letter ~~dated~~ ~~to~~ sent December 31, 2018
we noted the following problems:

1) our kitchen oven is broken. It caught fire.

rented | Our unit was ~~rented~~ with a functioning oven. Since December we have not been able to cook.

2) the kitchen sink has a leaking pipe. Because the 1080 23rd Av. building is a converted factory, the plumbing is jerry rigged. We cannot shut off the water flow to our unit. The maintenance person — Niko doesn't know how to ~~to~~ shut off the water. As a result, we do not have a kitchen sink.

Our unit was rented with a functional kitchen sink.

Tenant Petition: 1080 23rd Av #104

III Description of Decreased or Inadequate Housing Services

3) The toilet does not function properly.

Our unit was rented with a functioning toilet. Since December, the toilet handle has been broken. The only way to flush the toilet is to keep the top of the water reservoir off and pull the ~~lever~~ lever. The toilet reservoir and bowl is coated with a thick black mold that resist cleaning.

4) We have a broken window in our main living area.

Ø The 1080 lofts is adjacent to the railroad tracks. Our unit abuts these tracks. The windows have been painted over with graffiti. Criminal activity is common on the tracks. Since December we have had to endure the cold and rain. Our unit is considerably ~~colder~~ colder and wetter due to the broken window.

Tenant Petition: 1060 23rd Av #109

#2

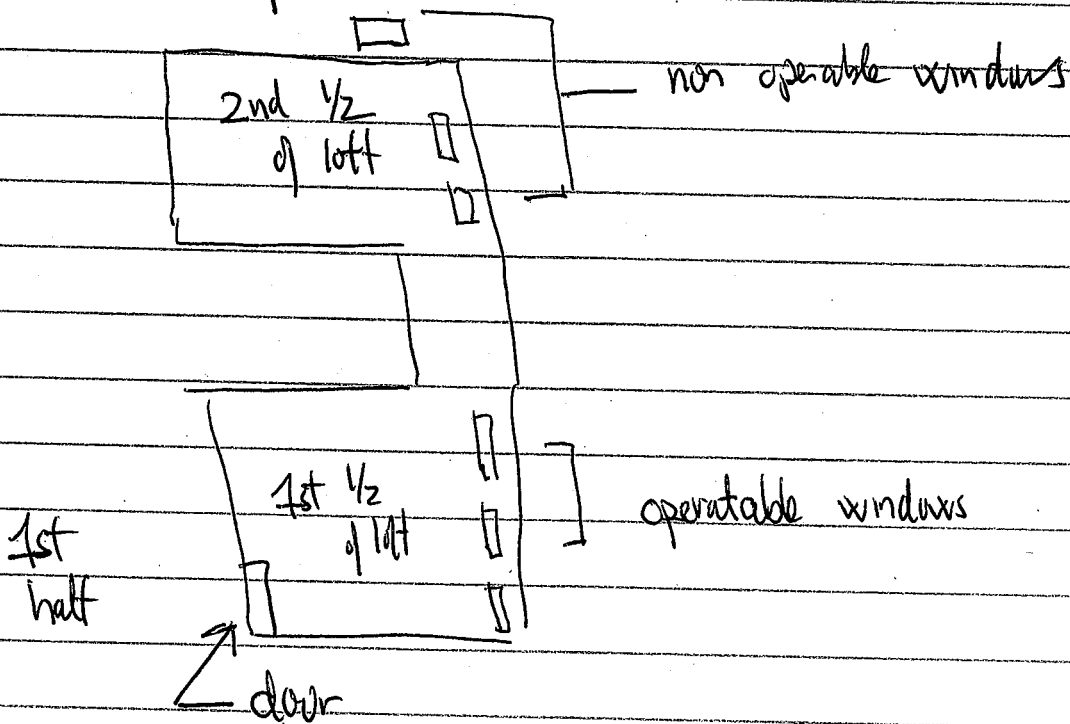
III Description of Decreased or Inadequate Services.

~~4~~

5. Non-operable windows.

One half of the windows in the loft do not open or close. Consequently the loft does not provide adequate ~~ventilation~~ ventilation. As noted in inspector Barron's report, this lack of functioning windows creates a hazard. There is no means of escape in the event of a fire for those in the second or back portion of the loft.

~~6. Lack of~~



Tenant Petition: 10800 23rd Av # 104

III Description of Decreased or Inadequate Services

6. Lack of Smoke Detector. Detector

The unit does not have a functioning smoke detector. The smoke ~~det~~ ~~detector~~ detector is locate some 20 feet on the wall. When our oven caught fire, the smoke detector ~~failed~~ failed to work.

7. Refrigerator.

Our refrigerator ~~has a~~ ~~wa~~ has the freezer on top and the refrigerator on the bottom. There is a waterfall in the refrigerator. Water flows from the center of the top of the ~~fire~~ refrigerator and freezes at the bottom of the refrigerator. It is at a quarter of water a day.

8. Improperly locking security gate and door.

Our unit is adjacent to the back door of the building. The gate to the street does not close 100% of the time. Once the gate is accessed, there is another door. This door has been kicked in and never repaired.

000070
4/5

Tenant Petition: 1080 23rd Av #~~104~~ 104

III Description of Decreased or Inadequate Housing Services

8. ~~inadequate~~ Inadequate locking Security Gate ~~and~~ and Door.

We rented our unit based on the belief that the building would be kept secure. Earlier this year there was a homeless woman who was forcibly removed by Oakland PD.

Filed 3/27/19

Name: John Reed
Keiko Sternetz

Old address (address
at time of
complaint)

1080 23^{1/2} ave #104
Oakland, CA 94606

New address :

1943 Tyler St.
San Pablo CA 94806

Filed on March 27, 2019
@ 2:38 pm.

email

Phone

000072

III Description of Lost Services

- 2) The date the ~~the~~ problems began.
- a) Issues with the stove, the toilet, fire detector, the window and sink began in December 2019. We have paid for the services since 2012.
 - b) Issues with the back door security gate have been ongoing. We've notified new manager Ms Holland on or around November 2019.

the unit was rented with non function windows.

- 3) ELICIA Holland / Madison Park were notified via certified mail about an window, toilet, kitchen sink and oven. Elicia received an email

- 4) Public policy dictates, as well as California statutes regarding the habitability of rental units, that Madison Park cannot rent a unit ~~if~~ lack adequate plumbing or weather proofing / protections or ~~if~~ adequate security doors. It has knowingly done so, ~~since~~ since December 2019. Therefore, Madison Park should be free to disgorge our rent for January, February and March 2019. It should not

profit from its violation of law and public policy.

000073



CITY OF OAKLAND

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

Planning and Building Department

Bureau of Building

Building Permits, Inspections and Code Enforcement Services

inspectioncounter@oaklandnet.com

(510) 238-6402

FAX: (510) 238-2959

TDD: (510) 238-3254

NOTICE OF VIOLATION

3/11/19

Certified and Regular mail

To: P&D 23RD AVENUE Associates . LLC
Care of : Madison Park Financi
155 Grand Ave 950
Oakland CA 94612

Code Enforcement Case No.: 1900836

Property: 1080 23rd Ave - Unit 104

Parcel Number: 19-100-2-1

Re-inspection Date/Correction Due Date: 4/16/19

Code Enforcement Services inspected your property on 3/8/19 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 **Hugo Barron**, who is assigned to your case, before the re-inspection date shown above to schedule an inspection. Your inspector is available by phone at 510-238-6612 and by email at hbarron@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.

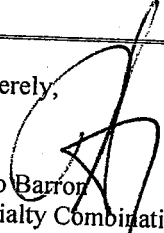
You have a right to appeal this Notice of Violation. You must complete the enclosed appeal form and return it with supporting documentation in the enclosed envelope. If Code Enforcement Services does not receive your written Appeal within the appeal deadline dated: **4/16/19** you will waive your right 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 8.24.020.1.08.601.12). 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,


Hugo Barron
Specialty Combination Inspector
Planning and Building Department

Enclosures as applicable:

- Blight brochure
- Property Owner Certification
- Lead Paint brochure
- Photographs

- Residential Code Enforcement brochure
- Mold and Moisture brochure
- Undocumented Dwelling Units brochure
- Stop Work brochure

- Vehicular Food Vending brochure
- Pushcart Food Vending brochure
- Smoke Alarms brochure
- 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: 1080 23rd Ave - Unit 104

Complaint #: 1900836

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

Description of Violation	Required Action	OMC Section

Building Maintenance (Housing)

Description of Violation	Required Action	OMC Section
1.- Bedroom window has a fixed pane and does not meet the requirement for emergency egress window.	Install a window that meets egress	15.08.240
2.- Bedroom area (mezzanine) light fixture exhibit loose box.	Repair or replace in approved manner.	15.08.260.C
3.- One window in the main level has a broken glass.	Replace in approved manner.	15.08.230.O
4.- Toilet does not work properlt.	Repair or replace in approved manner.	15.08.230.D
5.- Exterior entry door to the building facing 23 rd Ave has a damaged jam.	Repair or replace in approved manner.	15.08.230.O
6.- Hallway light fixture serving the entry to the building facing 23 rd Ave does not work.	Repair or replace in approved manner.	15.08.260.C
7.- Laundry room ceiling has incomplete ceiling repair.	Repair or replace in approved manner.	15.08.230.O
8.- Smoke detector in the unit does not work.	Repair or replace in approved manner.	15.08.230.O
9.- Kitchen sink base cabint is water damage and plumbing serving the fixture is wrong and leaks.	Repair or replace in approved manner.	15.08.230.O

Zoning

Description of Violation	Required Action	OMC Section

~~529 Elenrock Ave~~
~~LA~~

~~ADDA~~
000076

=====

CIVIC CENTER OAKLAND
 201 13TH ST OFC
 OAKLAND
 CA
 94612-9991
 0555220009

12/31/2018 (800)275-8777 9:38 AM

=====

Product Description	Sale Qty	Final Price
---------------------	----------	-------------

PM 2-Day (Domestic) (SANDY, UT 84093) (Weight: 2 Lb 7.60 Oz) (Expected Delivery Date) (Thursday 01/03/2019) (USPS Tracking #) (9505 5104 5546 8365 2995 22)	1	\$10.15
Insurance (Up to \$50.00 included)	1	\$0.00
First-Class Mail Letter (Domestic) (OAKLAND, CA 94612) (Weight: 0 Lb 1.40 Oz) (Estimated Delivery Date) (Wednesday 01/02/2019)	1	\$0.71
Certified (@@USPS Certified Mail #) (70170190000042472491)	1	\$3.45
Return Receipt (@@USPS Return Receipt #) (9590940306075183255777)	1	\$2.75

Total \$17.06

Debit Card Remit'd \$17.06
 (Card Name: MasterCard)
 (Account #:XXXXXXXXXX0633)
 (Approval #:
 (Transaction #:658)
 (Receipt #:025771)
 (Debit Card Purchase:\$17.06)
 (Cash Back:\$0.00)
 (AID:A0000000042203 Chip)
 (AL:Debit)
 (PIN:Verified Union Bank Debit)

Includes up to \$50 insurance

Text your tracking number to 28777
 (2USPS) to get the latest status.
 Standard Message and Data rates may
 apply. You may also visit www.usps.com
 USPS Tracking or call 1-800-222-1811.

Save this receipt as evidence of
 insurance. For information on filing
 an insurance claim go to
<https://www.usps.com/help/claims.htm>

Preview your Mail
 Track your Packages
 Sign up for FREE @
www.informedelivery.com

All sales final on stamps and postage
 Refunds for guaranteed services only
 Thank you for your business

HELP US SERVE YOU BETTER

7017 0390 0000 4247 2491

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

OAKLAND OFFICIAL USE

Certified Mail Fee	\$3.45	0009
Extra Services & Fees (check box, add fee as appropriate)	\$0.75	26
<input type="checkbox"/> Return Receipt (hardcopy)	\$1.00	Postmark Here
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.71	12/31/2018
Total Postage and Fees	\$0.91	
Sent to Madison Park		
Street and Apt. No., or PO Box No. 155 Grand Ave Suite #9		
City, State, ZIP+4® Oakland, CA 94612		

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

000077

VIA CERTIFIED MAIL AND EMAIL: 7017 0190 0000 4247 2491
and elecia@mpfcorp.com

SENT TO:
Madison Park
155 Grand Ave., Ste. 950
Oakland, CA 94612

Ms. Elicia Holland
elecia@mpfcorp.com

Dear Madison Park Team, Elicia Holland, Resident Manager
1080 23rd Ave. Oakland, CA 94606,

We have yet to receive any response to you concerning our letter sent to you via USPS certified mail, tracking number 7017 0190 0000 4247 2484, dated and sent on December 11, 2018 and delivered to you on December 14, 2018 (Please see attachments #1 and #2).

We have been expediently participatory in our efforts to clearly and concisely understand our time line for Madison Park's rental increase and/or rental lease renewal for our unit at 1080 23rd Ave., No. 104, Oakland, CA 94606. These attempts have been made since our initial letter sent on November 9, 2018 and received by you on November 14, 2018 via USPS certified mail tracking number 7017 1000 0000 5634 1122 (attachment #3 and #4).

An "action required notice," dated November 26, 2018 was posted on our door on December 1, 2018 (see attachment #5). On December 4, attached to our rent check, a second request was issued to have a copy of our lease (Please see attachment #6).

On December 11, 2018 (see attachment #1), via USPS Certified Mail tracking number 7017 0190 0000 4247 2824, we made a third request for a copy of our original lease as well as asked for three inquiries concerning our rental increase and/or rental lease renewal. We would be most appreciative for your response.

In addition, please note that we would like the following repairs to made:

1. Our kitchen oven has only one working burner;
2. The kitchen sink is leaking and as a result we are unable to use the kitchen faucet;
3. The toilet does not function properly; and,
4. There is a broken window.

This is our fourth request for our lease.

Sincerely,


John Reed


Keiko Steimetz


000078

Sent from mobile

----- Original message -----

From: keiko daniels <>
Date: 12/30/18 9:43 PM (GMT-08:00)
To: Elecia Holland <elecia@mpfcorp.com>
Subject: 1080 23rd ave. #104

Please see attached.
Thank you.

Elecia Holland <elecia@mpfcorp.com>
To: keiko daniels <keikokimi@gmail.com>

Mon, Dec 31, 2018 at 8:34 AM

Keiko,

Can you also please provide the best contact number for you all, or do we have permission to enter to make repairs if no one is home.

Elecia Holland
Property Manager
510-504-9057
elecia@mpfcorp.com

Received

From: keiko daniels
Sent: Sunday, December 30, 2018 9:43 PM
To: Elecia Holland
Subject: 1080 23rd ave. #104

Please see attached.
Thank you.

keiko daniels <keikokimi@gmail.com>
Draft To: Elecia Holland <elecia@mpfcorp.com>

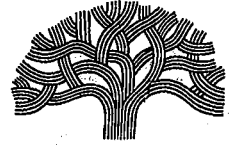
Tue, Jan 1, 2019 at 12:47 PM

Dear Eleicia Holland,

Thank you for e-mail.

[Quoted text hidden]

3



HEARING DECISION

CASE NUMBER: T19-0236, Steimetz et. al. v. Protopappas
PROPERTY ADDRESS: 1080 23rd Avenue, Unit 104,
Oakland, CA
DATE OF HEARING: September 18, 2019
DATE OF DECISION: November 21, 2019
APPEARANCES: Keiko Steimetz, Tenant
John Reed, Tenant

SUMMARY OF DECISION

The Tenant's petition is granted.

INTRODUCTION

The tenant filed the petition, T19-0236, on March 27, 2019, which alleges decreased housing services and indicates that they received a RAP Notice in 2016.

The owner did not file an Owner Response to the tenant petition and did not appear at the Hearing. There was proper notice of the hearing to the owner, which proceeded in his absence.

ISSUE(S) PRESENTED

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

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

EVIDENCE

Rental History

The subject unit was initially rented by Keiko Steimetz and John Reed on February 2, 2012, at \$2,100.00 per month. They moved out of the unit on April 2, 2019. At the time they moved out, their rent was \$2,339.43. Rent was paid for March 2019; no rent was paid for the month of April 2019. The tenant testified that her rent was increased approximately three times during her tenancy.

The tenant's petition indicated that she received the RAP Notice in approximately 2016. At the hearing, the tenant was unable to recall receiving the RAP Notice.

Decreased Housing Services

A City of Oakland inspector inspected the tenant's property on March 8, 2019, and issued a Notice of Violation on March 11, 2019.¹ On April 16, 2019, the subject property was scheduled for re-inspection. The tenant was unable to provide details about the re-inspection as it occurred after she vacated the unit.

Oven

The tenant testified that the oven worked at the inception of her tenancy in 2012. The tenant testified that there was a problem with the oven and the burners. The problem started in December 2018. The tenant testified that she reported the stove problem to the owner on December 31, 2018.

Kitchen sink

The tenant testified that at the inception of her tenancy, there was a faucet, running water, and a working drain. The tenant testified that subsequently, the faucet

¹ Exhibit 8. This Exhibit, and all other Exhibits to which reference is made in this Decision, were admitted into evidence without objection

stopped working. The tenant testified that the maintenance guy removed the drain and put a bucket under the sink. The tenant testified that the maintenance guy, Nikko, came in response to the certified letter the tenant sent to the owner on December 31, 2018. The sink was not repaired when the tenant vacated the unit on April 2, 2019. Additionally, the Notice of Violation indicates the kitchen sink needs to be repaired or replaced.²

Toilet

The tenant testified that the toilet was in working order at the inception of her tenancy. The tenant testified that the toilet stopped working slowly over time, about one year ago. The toilet started leaking, the tank came off, and they were using a string to flush the toilet. The tenant notified the owner that the toilet stopped working when she sent the certified letter in December 2018. The tenant testified that the toilet was not repaired before she moved out. Additionally, the Notice of Violation indicates the toilet needs to be repaired or replaced.

Smoke detector

The tenant testified that the smoke detector was functioning at the inception of her tenancy. She also testified that the smoke detector was never triggered during her tenancy. The tenant testified that the smoke detector was about 25 to 30 feet in the air. The tenant testified that she notified the owner about the problem with the smoke detector about a week before the Notice of Violation was issued, approximately March 2, 2019. The tenant testified that the smoke detector was not repaired before she moved out. Additionally, the Notice of Violation indicates the smoke detectors do not work.

Broken window

The tenant testified that the subject unit has a broken window. The tenant also testified that there were no broken windows at the inception of the tenancy and that the window was not repaired when she moved out. The December 2018 letter was the first time she reported the broken window to the owner. Additionally, the Notice of Violation indicates the window needs to be repaired or replaced.

//

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² Exhibit 8.

Refrigerator

The tenant testified that the refrigerator was properly functioning at the inception of her tenancy. The tenant testified that the refrigerator began leaking in the middle. They placed a bowl in the interior of the refrigerator to catch what was leaking. The December 2018 letter was the first time that the refrigerator problem was reported to the owner. The refrigerator was not repaired and/or replaced when they moved out.

Security gate

The tenant testified that the security gate was broken at the inception of the tenancy. The tenant also testified that the owner repaired it and that it was subsequently broken again, almost immediately. The tenant said that the gate looked like someone tried to pry it open. The tenant testified that the gate worked for about one month out of her entire tenancy.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

The Rent Adjustment Ordinance requires an owner to serve the RAP Notice at the start of a tenancy³ and, together with any notice of rent increase or change in the terms of a tenancy.⁴

The tenant's statement under penalty of perjury that they were given a copy of the RAP Notice in 2016 is undisputed. Accordingly, the tenants were first given written notice of the RAP Program in 2016.

Has the tenant suffered decreased housing services?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent⁵ and may be corrected by a rent adjustment.⁶ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the

³ O.M.C. § 8.22.060(A)

⁴ O.M.C. § 8.22.070(H)(1)(A)

⁵ O.M.C. § 8.22.070(F)

⁶ O.M.C. § 8.22.110(E)

tenancy or a violation of the housing or building code, which seriously affects the habitability of the tenant's unit.

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

If the decreased housing service is for an ongoing condition (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed.⁷ Since the evidence established that the tenant did receive the RAP notice at the inception of her tenancy, the tenant is limited to restitution for 90 days before her petition was filed.

For a tenant's claim for decreased housing services to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs.

Oven

The testimony that the oven stopped working, and that the owner was notified on December 31, 2018, is credited. Likewise, the testimony of the tenant that the oven was not repaired when she moved out of the unit is also credited. Thus, the tenant is entitled to a 3% rent credit from January 2019 to March 2019.

Kitchen sink

The testimony that the faucet and drain were removed and that the owner was notified on December 31, 2018, is undisputed. Further, the Notice of Violation issued on March 11, 2019, indicates that the building inspector indicated that the kitchen sink requires repair or replacement. Thus, the tenant is entitled to a 2% rent credit from January 2019 to March 2019.

Toilet

The testimony that the toilet required repair, and that the owner was notified on December 31, 2018, is uncontradicted. Further, the Notice of Violation issued on March 11, 2019, states that the building inspector indicated that the toilet requires

⁷ O.M.C. § 8.22.090(A)(3)

repair or replacement. Thus, the tenant is entitled to a 2% rent credit from January 2019 to March 2019.

Smoke detector

The Notice of Violation issued on March 11, 2019, indicates that the building inspector indicated that the smoke detector does not work. Thus, the tenant is entitled to a 1% rent credit for March 2019.

Broken window

The testimony that there was a broken window, and that the owner was notified on December 31, 2018, is credited. Further, the Notice of Violation issued on March 11, 2019, indicates that the building inspector indicated that the window requires repair or replacement. Thus, the tenant is entitled to a 1% rent credit from January 2019 to March 2019.

Refrigerator

The testimony that the refrigerator was leaking, and that the owner was notified on December 31, 2018, is uncontradicted. Likewise, the testimony of the tenant that the refrigerator was not repaired when she moved out of the unit is also uncontradicted. Thus, the tenant is entitled to a 5% rent credit from January 2019 to March 2019.

Security gate

The testimony that the security required repair, and that the owner was notified on December 31, 2018, is undisputed. Further, the Notice of Violation issued on March 11, 2019, states that the building inspector indicated that the security gate requires repair or replacement. Thus, the tenant is entitled to a 1% rent credit from January 2019 to March 2019.

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

As indicated above, the tenant is entitled to restitution of overpaid rent in the for the oven, kitchen sink, toilet, broken window, refrigerator, security gate. As noted in the chart below, the tenant is entitled to restitution of \$1,005.95 for these conditions.

Service Lost	From	To	VALUE OF LOST SERVICES		Decrease /month	No. Months	Overpaid
			Rent	% Rent			
Oven	1-Jan-19	31-Mar-19	2,339.43	3%	\$ 70.18	3	\$ 210.55
Kitchen Sink	1-Jan-19	31-Mar-19	2,339.43	2%	\$ 46.79	3	\$ 140.37
Toilet	1-Jan-19	31-Mar-19	2,339.43	2%	\$ 46.79	3	\$ 140.37
Smoke detector	1-Mar-19	31-Mar-19	2,339.43	1%	\$ 23.39	1	\$ 23.39
Broken window	1-Jan-19	31-Mar-19	2,339.43	1%	\$ 23.39	3	\$ 70.18
Refrigerator	1-Jan-19	31-Mar-19	2,339.43	5%	\$ 116.97	3	\$ 350.91
Security gate	1-Jan-19	31-Mar-19	2,339.43	1%	\$ 23.39	3	\$ 70.18
					\$ -		-
TOTAL LOST SERVICES							\$1,005.95

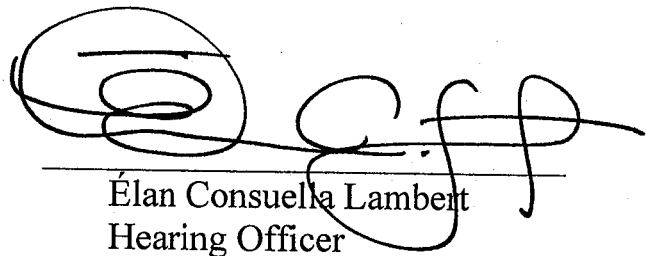
Usually, restitution is awarded against future rent. Here, the tenant has vacated the unit. Accordingly, the tenant is owed \$1,005.95.

ORDER

1. Petition T19-0236 is granted.
2. The total overpayment by the tenant is \$1,005.95 for past decreased housing services.
3. The owner owes restitution to the tenants in the amount of \$1,005.95 for the overpayment of rent from January 2019 to March 2019.

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: November 21, 2019


 Élan Consuelia Lambert
 Hearing Officer
 Rent Adjustment Program

000086

PROOF OF SERVICE

Case Number T19-0236

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

John Protopappas,
Madison Park
155 Grand Avenue Suite 950
Oakland, CA 94612

Tenant

John Reed
1080 23rd Avenue Unit 104
Oakland, CA 94606

Tenant

John Reed
1943 Tyler Street
San Pablo, CA 94806

Tenant

Keiko Steimetz
1943 Tyler Street
San Pablo, CA 94806

Tenant

Keiko Steimetz
1080 23rd Avenue Unit 104
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 **November 21, 2019** in Oakland, CA.



Brittni Lothlen
Oakland Rent Adjustment Program

000087



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

For date stamp
RECEIVED
JAN 14 2020
RENT ADJUSTMENT PROGRAM
OAKLAND APPEAL

Appellant's Name P&D 23rd Avenue Association LLC		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1080 23rd Avenue, #104, Oakland, CA 95113			
Appellant's Mailing Address (For receipt of notices) 155 Grand Avenue, Suite 104 Oakland, CA 94612		Case Number T19-0236	
		Date of Decision appealed November 21, 2019	
Name of Representative (if any) Lerna Kazazic, Esq.		Representative's Mailing Address (For notices) Pahl & McCay 225 W. Santa Clara Street, Suite 1500 San Jose, CA 95113	

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.)*

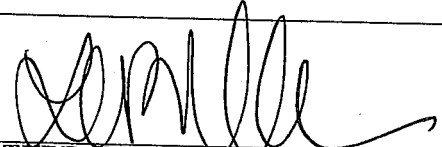
For more information phone (510) 238-3721.

- 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: 19.

• 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 January 10, 2020, 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	John Reed
Address	1569 Solano Avenue, #407 1943 Tyler Street
City, State Zip	Solano Avenue - Berkeley, CA 94707 Tyler Street - San Pablo, CA 94806
Name	Keiko Steimetz
Address	1569 Solano Avenue, #407 1943 Tyler Street
City, State Zip	Solano Avenue - Berkeley, CA 94707 Tyler Street - San Pablo, CA 94806

	1/10/20
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

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- 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.
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- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

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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
RECEIVED
 JAN 10 2020
 RENT ADJUSTMENT PROGRAM
 APPEAL

Appellant's Name P&D 23rd Avenue Association LLC		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1080 23rd Avenue, #104, Oakland, CA 95113			
Appellant's Mailing Address (For receipt of notices) 155 Grand Avenue, Suite 104 Oakland, CA 94612		Case Number T19-0236	
		Date of Decision appealed November 21, 2019	
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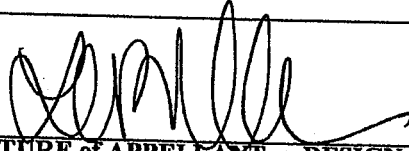
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• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. • I declare under penalty of perjury under the laws of the State of California that on January 10, 2020, I placed a copy of this form, and all attached 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	John Reed
Address	1569 Solano Avenue, #407 1943 Tyler Street
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Name	Keiko Steimetz
Address	1569 Solano Avenue, #407 1943 Tyler Street
City, State Zip	Solano Avenue - Berkeley, CA 94707 Tyler Street - San Pablo, CA 94806

	11/10/20
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

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

For more information phone (510) 238-3721.

EXHIBIT A

000094



Housing and Community Development
 Department
 Rent Adjustment Program
 250 Frank H. Ogawa Plaza, Suite 5313
 Oakland, CA 94612
 (510) 238-3721

AM

For date stamp.

**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 -

Your Name P & D 23rd Ave Assoc LLC	Complete Address (with zip code) 1080 23rd Ave Oakland CA 94606	Telephone: Email:
Your Representative's Name (if any) VERNA KAZAZIC	Complete Address (with zip code) 255 W Santa Clara Suite 1500 San Jose CA 95113	Telephone: Email:
Former Tenant(s) Name(s) JOHN PLED KEIKO STEIMETZ	Complete Address (with zip code) 1080 23rd Ave # 104 Oakland CA 94606	Telephone: Email:
Property Address (If the property has more than one address, list all addresses)		Total number of units on property 27

Have you paid for your Oakland Business License? Yes No Lic. Number: 00002912
 The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. Please provide proof of payment.

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

Date on which you acquired the building: 11/92

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

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

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

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

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

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

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

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

The tenant moved into the rental unit on _____.

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

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

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

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

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

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

III. 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

7/26/19
Date

IMPORTANT INFORMATION:

Time to File

250 Frank Ogawa Plaza
Suite 5313

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

EXHIBIT A

000099

**CITY OF OAKLAND
BUILDING CERTIFICATE OF OCCUPANCY**

1080

No. 40745 BD Live/Work Studio 1-6 1992

THIS IS TO CERTIFY that the GROUP R-1/B-2 TYPE V-N 3 STORY building

at 1080 23rd. Avenue which is owned

by 23rd Avenue Partners
1155 5th. Street Suite 101
Oakland, Ca. 94607

In FIRE ZONE _____ USE ZONE M-30 OHC Variance No. _____ Dated _____

Building Permit No. B9003121 Building Completion Date 9-11-91 has been inspected

and the following occupancy thereof is hereby authorized:
Occupancies:

		Number Habitable Rooms
Cellar		
Basement		
1st. Story	<u>10 - Live/Work Studios With Bathrooms</u>	
" " Story	<u>1 - Work Shop with Bathroom, One Storage Room</u>	
2nd. Story	<u>7 - Live/Work Studios with Bathrooms</u>	<u>10</u>
3rd. Story	<u>7 - Live/Work Studios with Bathrooms</u>	<u>7</u>
_____ Story		<u>7</u>
Add Story _____ as necessary		
Prior Cert. of Occup. _____ Date _____		TOTAL <u>24</u>
Prior Cert. of Occup. void on _____	Rental Units (Yes or No) <u>Yes</u>	
Re-Insp. Dates _____	License (Yes or No) _____	

[Signature]
Chief Building Inspector

The Certificate of Occupancy shall not be construed as authority to violate, cancel, alter or set aside any of the provisions or requirements of any laws or ordinances of the City of Oakland nor shall such issuance thereafter prevent requiring corrections of errors or of violations of any applicable law or ordinance of the City of Oakland.

Necessary licenses shall be obtained, as this Certificate does not of itself constitute a license.



PAHL & McCAY
A Professional Law Corporation

Stephen D. Pahl
Karen K. McCay
Fenn C. Horton III
Catherine Schlomann Robertson
Servando R. Sandoval
Ginger L. Sotelo
Theresa C. Baccerra
Sonia S. Shah

Helene A. Simvoulakis-Panos
John A. List
Eric J. Stephenson
Lerna Kazazic
Stephanie Drell

Sarahann Shapiro
Special Counsel

225 West Santa Clara, Suite 1500, San Jose, California 95113-1752 • Tel: 408-286-5100 • Fax: 408-286-5722

2530 Wilshire Blvd., Suite 200, Santa Monica, California 90403-4663 • Tel: 424-217-1830 • Fax: 424-217-1854

FACSIMILE COVER SHEET

DATE: July 29, 2019

TOTAL NO. OF PAGES: 7 (including this cover sheet)

ATTENTION: RENT ADJUSTMENT PROGRAM

COMPANY: CITY OF OAKLAND

FACSIMILE NO.: 510-238-6181

TELEPHONE NO.:

FROM: LERNA KAZAZIC

CLIENT NAME: P&D 23rd Avenue Associates,
LLC

MATTER NO.:
4693.003

**IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION,
CALL: (408) 286-5100 AND ASK FOR: Estella Chavarria**

MESSAGE: Please see the attached PROPERTY OWNER RESPONSE w/Exhibit to tenants
John Reed/Keiko Steimetz.

CONFIDENTIALITY NOTICE

The documents accompanying this transmission contain confidential information belonging to the sender and are privileged. This information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying or distribution of, or taking any action in reliance on, the contents of this information is strictly prohibited. If you are not the intended recipient of this telecopy, please telephone us immediately to arrange for the return of the original documents to us.

Fax Send

Page 1

Date /Time : JUL-29-2019 12:04PM MON
Model Name : WorkCentre 3325
Machine Serial Number : LA6280937

No.	Name/Number	StartTime	Time	Mode	Page	Result
168	915102386181	07-29	12:00PM	03'02	G3	007/007.OK

000102

EXHIBIT B

000103

Reed/Daniels
1569 Solano Ave., #407
Berkeley, CA 94707

January 3, 2019

VIA FIRST CLASS AND CERTIFIED MAIL: 7014 1820 0001 4940 8946

John Protopappas, President & CEO
Madison Park
155 Grand Ave., Ste. 950
Oakland, CA 94612

RE: Hearing Decision: T10-0236, Steimetz et al v Protopapas
Demand for Payment of \$1,005.95

Dear Mr. Protopappas,

As you should be aware T19-0236, Steimetz et. al v Protopappas was decided on November 21, 2019. Pursuant to the rules governing Oakland's Housing and Community Development Program's Rent Adjust Program, Madison's Park's right to appeal the above noted decision expired 20 calendar days after service of the decision. Ms. Brittni Lothlen of the Oakland Rent Adjustment Program served all parties on November 21, 2019.

In light of the finality of the above noted decision, I would be most appreciative if you would be so kind as to immediately arrange for Ms. Keiko Daniels, formerly known as Keiko Steimetz, and I to receive the \$1,005.95 we are owed pursuant to the above noted decision of Rent Adjustment Program.

Please send our check to the above noted address to alleviate our need to go to court in order to enforce the above noted judgment.

Sincerely,


John Reed


Keiko (Steimetz) Daniels

Encl: Hearing Decision Case T19-0236

000104

CITY OF OAKLAND



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

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T19-0236, Steimetz et. al. v. Protopappas
PROPERTY ADDRESS: 1080 23rd Avenue, Unit 104,
Oakland, CA
DATE OF HEARING: September 18, 2019
DATE OF DECISION: November 21, 2019
APPEARANCES: Keiko Steimetz, Tenant
John Reed, Tenant

SUMMARY OF DECISION

The Tenant's petition is granted.

INTRODUCTION

The tenant filed the petition, T19-0236, on March 27, 2019, which alleges decreased housing services and indicates that they received a RAP Notice in 2016.

The owner did not file an Owner Response to the tenant petition and did not appear at the Hearing. There was proper notice of the hearing to the owner, which proceeded in his absence.

ISSUE(S) PRESENTED

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

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

EVIDENCE

Rental History

The subject unit was initially rented by Keiko Steimetz and John Reed on February 2, 2012, at \$2,100.00 per month. They moved out of the unit on April 2, 2019. At the time they moved out, their rent was \$2,339.43. Rent was paid for March 2019; no rent was paid for the month of April 2019. The tenant testified that her rent was increased approximately three times during her tenancy.

The tenant's petition indicated that she received the RAP Notice in approximately 2016. At the hearing, the tenant was unable to recall receiving the RAP Notice.

Decreased Housing Services

A City of Oakland inspector inspected the tenant's property on March 8, 2019, and issued a Notice of Violation on March 11, 2019.¹ On April 16, 2019, the subject property was scheduled for re-inspection. The tenant was unable to provide details about the re-inspection as it occurred after she vacated the unit.

Oven

The tenant testified that the oven worked at the inception of her tenancy in 2012. The tenant testified that there was a problem with the oven and the burners. The problem started in December 2018. The tenant testified that she reported the stove problem to the owner on December 31, 2018.

Kitchen sink

The tenant testified that at the inception of her tenancy, there was a faucet, running water, and a working drain. The tenant testified that subsequently, the faucet

¹ Exhibit 8. This Exhibit, and all other Exhibits to which reference is made in this Decision, were admitted into evidence without objection

stopped working. The tenant testified that the maintenance guy removed the drain and put a bucket under the sink. The tenant testified that the maintenance guy, Nikko, came in response to the certified letter the tenant sent to the owner on December 31, 2018. The sink was not repaired when the tenant vacated the unit on April 2, 2019. Additionally, the Notice of Violation indicates the kitchen sink needs to be repaired or replaced.²

Toilet

The tenant testified that the toilet was in working order at the inception of her tenancy. The tenant testified that the toilet stopped working slowly over time, about one year ago. The toilet started leaking, the tank came off, and they were using a string to flush the toilet. The tenant notified the owner that the toilet stopped working when she sent the certified letter in December 2018. The tenant testified that the toilet was not repaired before she moved out. Additionally, the Notice of Violation indicates the toilet needs to be repaired or replaced.

Smoke detector

The tenant testified that the smoke detector was functioning at the inception of her tenancy. She also testified that the smoke detector was never triggered during her tenancy. The tenant testified that the smoke detector was about 25 to 30 feet in the air. The tenant testified that she notified the owner about the problem with the smoke detector about a week before the Notice of Violation was issued, approximately March 2, 2019. The tenant testified that the smoke detector was not repaired before she moved out. Additionally, the Notice of Violation indicates the smoke detectors do not work.

Broken window

The tenant testified that the subject unit has a broken window. The tenant also testified that there were no broken windows at the inception of the tenancy and that the window was not repaired when she moved out. The December 2018 letter was the first time she reported the broken window to the owner. Additionally, the Notice of Violation indicates the window needs to be repaired or replaced.

//

//

² Exhibit 8.

Refrigerator

The tenant testified that the refrigerator was properly functioning at the inception of her tenancy. The tenant testified that the refrigerator began leaking in the middle. They placed a bowl in the interior of the refrigerator to catch what was leaking. The December 2018 letter was the first time that the refrigerator problem was reported to the owner. The refrigerator was not repaired and/or replaced when they moved out.

Security gate

The tenant testified that the security gate was broken at the inception of the tenancy. The tenant also testified that the owner repaired it and that it was subsequently broken again, almost immediately. The tenant said that the gate looked like someone tried to pry it open. The tenant testified that the gate worked for about one month out of her entire tenancy.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

The Rent Adjustment Ordinance requires an owner to serve the RAP Notice at the start of a tenancy³ and, together with any notice of rent increase or change in the terms of a tenancy.⁴

The tenant's statement under penalty of perjury that they were given a copy of the RAP Notice in 2016 is undisputed. Accordingly, the tenants were first given written notice of the RAP Program in 2016.

Has the tenant suffered decreased housing services?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent⁵ and may be corrected by a rent adjustment.⁶ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the

³ O.M.C. § 8.22.060(A)

⁴ O.M.C. § 8.22.070(H)(1)(A)

⁵ O.M.C. § 8.22.070(F)

⁶ O.M.C. § 8.22.110(E)

tenancy or a violation of the housing or building code, which seriously affects the habitability of the tenant's unit.

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

If the decreased housing service is for an ongoing condition (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed.⁷ Since the evidence established that the tenant did receive the RAP notice at the inception of her tenancy; the tenant is limited to restitution for 90 days before her petition was filed.

For a tenant's claim for decreased housing services to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs.

Oven

The testimony that the oven stopped working, and that the owner was notified on December 31, 2018, is credited. Likewise, the testimony of the tenant that the oven was not repaired when she moved out of the unit is also credited. Thus, the tenant is entitled to a 3% rent credit from January 2019 to March 2019.

Kitchen sink

The testimony that the faucet and drain were removed and that the owner was notified on December 31, 2018, is undisputed. Further, the Notice of Violation issued on March 11, 2019, indicates that the building inspector indicated that the kitchen sink requires repair or replacement. Thus, the tenant is entitled to a 2% rent credit from January 2019 to March 2019.

Toilet

The testimony that the toilet required repair, and that the owner was notified on December 31, 2018, is uncontradicted. Further, the Notice of Violation issued on March 11, 2019, states that the building inspector indicated that the toilet requires

⁷O.M.C. § 8.22.090(A)(3)

repair or replacement. Thus, the tenant is entitled to a 2% rent credit from January 2019 to March 2019.

Smoke detector

The Notice of Violation issued on March 11, 2019, indicates that the building inspector indicated that the smoke detector does not work. Thus, the tenant is entitled to a 1% rent credit for March 2019.

Broken window

The testimony that there was a broken window, and that the owner was notified on December 31, 2018, is credited. Further, the Notice of Violation issued on March 11, 2019, indicates that the building inspector indicated that the window requires repair or replacement. Thus, the tenant is entitled to a 1% rent credit from January 2019 to March 2019.

Refrigerator

The testimony that the refrigerator was leaking, and that the owner was notified on December 31, 2018, is uncontradicted. Likewise, the testimony of the tenant that the refrigerator was not repaired when she moved out of the unit is also uncontradicted. Thus, the tenant is entitled to a 5% rent credit from January 2019 to March 2019.

Security gate

The testimony that the security required repair, and that the owner was notified on December 31, 2018, is undisputed. Further, the Notice of Violation issued on March 11, 2019, states that the building inspector indicated that the security gate requires repair or replacement. Thus, the tenant is entitled to a 1% rent credit from January 2019 to March 2019.

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

As indicated above, the tenant is entitled to restitution of overpaid rent in the for the oven, kitchen sink, toilet, broken window, refrigerator, security gate. As noted in the chart below, the tenant is entitled to restitution of \$1,005.95 for these conditions.

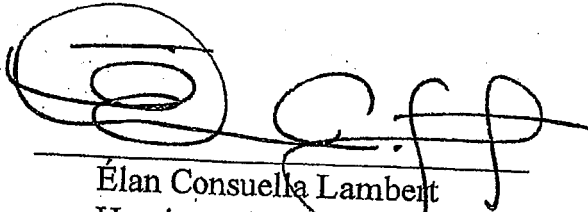
Service Lost	From	To	VALUE OF LOST SERVICES			Decrease Month	No. Months	Overpaid
			Rent	% Rent				
Oven	1-Jan-19	31-Mar-19	2,339.43	3%	\$ 70.18	3	\$ 210.55	
Kitchen Sink	1-Jan-19	31-Mar-19	2,339.43	2%	\$ 46.79	3	\$ 140.37	
Toilet	1-Jan-19	31-Mar-19	2,339.43	2%	\$ 46.79	3	\$ 140.37	
Smoke detector	1-Mar-19	31-Mar-19	2,339.43	1%	\$ 23.39	1	\$ 23.39	
Broken window	1-Jan-19	31-Mar-19	2,339.43	1%	\$ 23.39	3	\$ 70.18	
Refrigerator	1-Jan-19	31-Mar-19	2,339.43	5%	\$ 116.97	3	\$ 350.91	
Security gate	1-Jan-19	31-Mar-19	2,339.43	1%	\$ 23.39	3	\$ 70.18	
					\$ -		-	
TOTAL LOST SERVICES							\$1,005.95	

Usually, restitution is awarded against future rent. Here, the tenant has vacated the unit. Accordingly, the tenant is owed \$1,005.95.

ORDER

1. Petition T19-0236 is granted.
2. The total overpayment by the tenant is \$1,005.95 for past decreased housing services.
3. The owner owes restitution to the tenants in the amount of \$1,005.95 for the overpayment of rent from January 2019 to March 2019.

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.


 Élan Consuella Lambert
 Hearing Officer
 Rent Adjustment Program

Dated: November 21, 2019

PROOF OF SERVICE
Case Number T19-0236

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

John Protopappas,
Madison Park
155 Grand Avenue Suite 950
Oakland, CA 94612

Tenant

John Reed
1080 23rd Avenue Unit 104
Oakland, CA 94606

Tenant

John Reed
1943 Tyler Street
San Pablo, CA 94806

Tenant

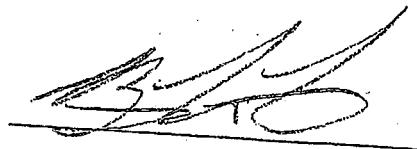
Keiko Steimetz
1943 Tyler Street
San Pablo, CA 94806

Tenant

Keiko Steimetz
1080 23rd Avenue Unit 104
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 **November 21, 2019** in Oakland, CA.



Brittini Lothlen
Oakland Rent Adjustment Program

000112

EXHIBIT A

000113



Stephen D. Pahl
Karen K. McCay
Fenn C. Horton
Catherine S. Robertson
Servando R. Sandoval
Ginger L. Sotelo
Theresa C. Becerra

Sonia S. Shah
Helene A. Simvoulakis-Panos
John A. List
Eric J. Stephenson
Lerna Kazazic
Stephanie Drell
Sarahann Shapiro
Special Counsel

225 West Santa Clara St., Suite 1500, San Jose, California 95113-1752 • Tel: 408-286-5100 • Fax: 408-286-5722
2530 Wilshire Blvd., Suite 200, Santa Monica, California 90403-4663 • Tel: 424-217-1830 • Fax: 424-217-1854

Reply to: San Jose Office
Sender's Direct Dial No.: (408) 918-2831
Sender's Email Address: lkazazic@pahl-mccay.com

January 10, 2020

Via Electronic & U.S. Mail

Robert F. Costa
City of Oakland Housing & Community Development Department
Rent Adjustment Program Analyst II
Rent Adjustment Program
250 Frank Ogawa Plaza, Suite 5313
Oakland, CA 94612
RCosta@oaklandca.gov

RECEIVED

JAN 10 2020

RENT ADJUSTMENT PROGRAM
OAKLAND

Re: T-10-0236, Steimetz et al. v. Protopapas

Dear Mr. Costa:

This office represents P&D 23rd Avenue Associates, LLC ("Owner"), owner of the real property located at 1080 23rd Avenue in Oakland, California. The purpose of this letter is to provide supporting evidence as to the basis of the Appeal submitted by Owner to the November 21, 2019 decision in Case No. T19-0236, Steimetz et al. v. Protopappas.

On July 18, 2019, Owner received notice of the Petition filed by Petitioners. On July 29, 2019, Owner's counsel responded to the Petition via fax sent to the Rent Adjustment Program. A copy of the Property Owner Response, Fax Cover Sheet, and Fax Send summary are attached hereto as Exhibit A. The Property Owner Response indicated that that building was built in 1992 and is therefore exempt under Oakland Municipal Code Section 8.22.030(5). A copy of the City of Oakland Building Certificate of Occupancy, dated January 6, 1992, was attached thereto.

The notice of the Petition included a Notice of Settlement Conference and Hearing which was set to take place on September 18, 2019. This date was placed on Owner's counsel's calendar and was later removed, due to an internal error with calendaring within the office. For this reason, neither Owner nor Owner's counsel appeared on the date of the hearing.

On January 10, 2020, Owner received a letter from Petitioners, dated January 3, 2020, with a demand for payment in the amount of \$1,005.965, attached hereto as Exhibit B. The

000114

Robert F. Costa
January 10, 2020
Page 2

demand included a Hearing Decision, dated November 21, 2019, based on the subject case. Prior to this date, Owner had never received a copy of this Hearing Decision.

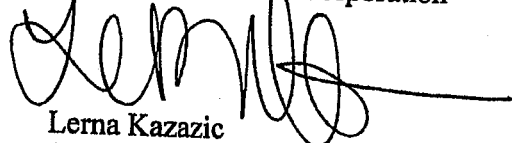
The Hearing Decision alleged that the Owner did not file an Owner Response to the tenant petition; however, the Owner Response was submitted to the City, as demonstrated by **Exhibit A**. It appears that for some unknown reason, **the City did not receive the Property Owner's Response that was properly submitted with fax confirmation**, and therefore did not serve the Hearing Decision later on Owner's counsel, as demonstrated by the Proof of Service. The Hearing Officer also did not consider this Response in the evaluation of their decision, nor the Certificate of Occupancy demonstrating that the subject property is exempt from the Oakland Residential Rent Adjustment Program.

Owner is now appealing this decision on the basis that the decision is inconsistent with OMC Chapter 8.22, since the property is exempt from the Oakland Residential Rent Adjustment Program, and on the basis that Owner was denied a sufficient opportunity to respond to petitioner's claim, as the City appears to not have received the Owner's response, nor was Owner present at the hearing.

For the reasons stated above, Owner is respectfully requesting that the City allow Owner to re-submit the Property Owner Response, that was not previously considered, and should the City decide to set another hearing, to appear at the hearing and present the Certificate of Occupancy demonstrating that the property is exempt under the Oakland Residential Rent Adjustment Program.

Sincerely,

PAHL & McCAY
A Professional Law Corporation



Lerna Kazazic

LK/ec
Enclosures
cc: Client

*4693/006 - 00738175.DOCX.1

000115

Costa, Robert

RECEIVED

From: Lerna Kazazic <lkazazic@pahl-mccay.com>
Sent: Friday, January 10, 2020 2:13 PM
To: Costa, Robert
Subject: T10-0236/ Steimetz et al v. Protopappas
Attachments: Letter to Roberto F. Costa City of Oakland Analyst II - 1-10-20 (0073819....pdf)

JAN 10 2020

**RENT ADJUSTMENT PROGRAM
OAKLAND**

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Mr. Costa:

I am submitting the attached Letter and Appeal in response to the hearing decision for Case No. T10-0236. The Owner is appealing the decision in this case. The appeal and attachments thereto clearly state the grounds for the appeal. Further, the letter demonstrates the good cause for allowing staff to consider the appeal, although the Hearing Decision is dated November 21, 2019.

There is good cause of review this appeal on two bases:

- 1) This office submitted a Property Owner Response on July 29, 2019, via fax, to the Rent Adjustment Program and the Hearing Decision states that no response was received from the Owner. A copy of the Fax Send summary, confirming that the fax was sent, is enclosed with the appeal attachments. The Property Owner Response, that was submitted, contained a copy of the Certificate of Occupancy dated in 1992, demonstrating that the property is exempt from Oakland rent control.
- 2) This office had an internal scheduling error and the hearing date was removed from calendar. For this reason, neither Owner nor Owner's counsel had an opportunity to appear and present the Certificate of Occupancy enclosed with the above-mentioned Property Owner Response.

Please let me know if you require any further information to process this appeal.

Best,

 **PAHL & McCAY**
A Professional Law Corporation
CELEBRATING 30 YEARS

Lerna Kazazic
Pahl & McCay, a Professional Law Corporation
225 West Santa Clara, Suite 1500, San Jose, California 95113
2530 Wilshire Blvd. Suite 200, Santa Monica, California 90403
Direct: (408) 918-2831 Direct Fax: (408) 282-5722
General San Jose: (408) 286-5100 General LA: (424) 217-1830
Email: lkazazic@pahl-mccay.com



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Special Counsel

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Reply to: San Jose Office
Sender's Direct Dial No.: (408) 918-2831
Sender's Email Address: lkazazic@pahl-mccay.com

January 10, 2020

Via Electronic & U.S. Mail

Robert F. Costa
City of Oakland Housing & Community Development Department
Rent Adjustment Program Analyst II
Rent Adjustment Program
250 Frank Ogawa Plaza, Suite 5313
Oakland, CA 94612
RCosta@oaklandca.gov

Re: T-10-0236, Steimetz et al. v. Protopapas

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000117

Robert F. Costa
January 10, 2020
Page 2

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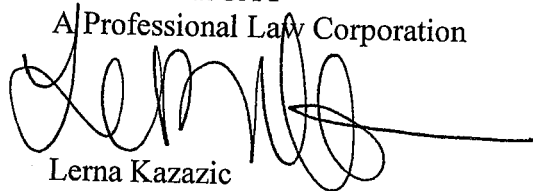
The Hearing Decision alleged that the Owner did not file an Owner Response to the tenant petition; however, the Owner Response was submitted to the City, as demonstrated by Exhibit A. It appears that for some unknown reason, **the City did not receive the Property Owner's Response that was properly submitted with fax confirmation**, and therefore did not serve the Hearing Decision later on Owner's counsel, as demonstrated by the Proof of Service. The Hearing Officer also did not consider this Response in the evaluation of their decision, nor the Certificate of Occupancy demonstrating that the subject property is exempt from the Oakland Residential Rent Adjustment Program.

Owner is now appealing this decision on the basis that the decision is inconsistent with OMC Chapter 8.22, since the property is exempt from the Oakland Residential Rent Adjustment Program, and on the basis that Owner was denied a sufficient opportunity to respond to petitioner's claim, as the City appears to not have received the Owner's response, nor was Owner present at the hearing.

For the reasons stated above, Owner is respectfully requesting that the City allow Owner to re-submit the Property Owner Response, that was not previously considered, and should the City decide to set another hearing, to appear at the hearing and present the Certificate of Occupancy demonstrating that the property is exempt under the Oakland Residential Rent Adjustment Program.

Sincerely,

PAHL & McCAY
A Professional Law Corporation



Lerna Kazazic

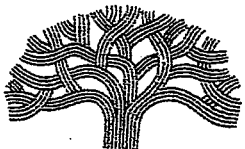
LK/ec
Enclosures
cc: Client

*4693/006 - 00738175.DOCX.1

000118

PC/EI

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

 CITY OF OAKLAND CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp: 4 PM 3:42
		Response: <u>APPEAL</u>

Respondent

Appellant's Name John Reed and Keiko Stometz		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1080 23rd Av. #104 (Former) Oakland, CA 94606		1943 Tyler St. San Francisco, CA 94116 (Current)	
Appellant's Mailing Address (For receipt of notices) 225 W. Santa Clara St, Ste 1500 SJ, CA 95113 - L. KAZAZIC		Case Number T19-0236	Date of Decision appealed Nov 21, 2019
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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

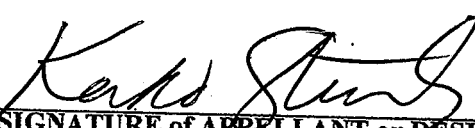
For more information phone (510) 238-3721.

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

Submissions to the Board must not exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 6

• 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. 14, 2020 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	John Protopappas, Madison Park
Address	155 Grande ave Suite #950
City, State Zip	Oakland, Calif 94612
Name	Lerna Kazazic, Esq. / Pahl and McCay
Address	225 W. Santa Clara St Suite #1500
City, State Zip	San Jose, Ca 95117

	<u>2/14/2020</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

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

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

1. THE DECISION TO PERMIT APPELLANT'S APPEAL TO BE HEARD IS INCONSISTENT WITH THE RENT ADJUSTMENT'S RULES OF PROCEDURE AS EMBEDDED IN CITY OF OAKLAND'S RENT ADJUSTMENT PROGRAM TENANT PETITION AND OTHER FORMS ASSOCIATED WITH HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT.

Respondent's filed their complain on 3/27/19. *Appellant failed to file a response.* Pursuant to page 4 of the City of Oakland's Rent Adjustment Program Tenant Petition, page 4 Section 6:

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.

Appellant failed to file a response. A copy of Page 4 is attached as Exhibit 1. How is it possible for the Appellant to file a response hundreds of days later?

Hearing Officer Ms. Élan Consueulla Lambert noted in the introduction of the decision for this matter:

There
The owner did not file an Owner Response to the tenant petition and did not appear at the hearing. ~~The~~ was proper notice of the hearing to the owner, which proceeded in his absence.

Page 1 of the Hearing Decision is Exhibit 2.

2. TO THE EXTENT THAT THE DECISION TO PERMIT APPELLANT TO APPEAL IS PREMISED ON APPELLANT'S CLAIM TO HAVE FAXED ITS RESPONSE TO THE OAKLAND RENT ADJUSTMENT BOARD, FAX FILING VIOLATES THE RULES OF PROCEDURE EMBEDDED IN THE OAKLAND RENT ADJUSTMENT BOARD'S FORM.

The
~~A true and correct copy~~ of Oakland Rent Adjustment Board's website regarding responding to a petition provides:

Property Owner and Tenant Responses may be completed online or a PDF version may be downloaded and mailed to the address listed below....

There is no provision for fax service. Please also see Exhibit 1, Time to File, Ways to Submit. (emphasis in the original). Thus, Appellant never filed a response because Appellant elected to use an authorized mode of service.

3. THE DECISION TO PERMIT APPELLANT'S APPEAL TO BE HEARD IS INCONSISTENT WITH THE DECISION ISSUED BY THE HEARING OFFICER

On November 21, 2019, hearing officer Élan Consueulla Lambert note, amongst other things:

This decision is the final decision of the Rent Adjust 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. (emphasis in the original)

See Exhibit 3. Brittni Lothlen served all parties on November 21, 2019. Appellant was properly served. Appellant missed the deadline to appeal by months.

4. THE DECISION TO PERMIT APPELLANT'S APPEAL TO BE HEARD IS INCONSISTENT WITH THE RULES OF PROCEDURE GOVERNING THE OAKLAND RENT ADJUSTMENT BOARD'S APPEALS PROCEDURE. SUCH RULES ARE EMBEDDED IN ITS FORMS.

Page 3 of the Appeals form provides, in part, "... (a)ny response to the appeal by the other party must be received by the Rent Adjustment Program with a proof of service on the opposing party within 35 days of filing the appeal.

See Exhibit 4. However, the Rent Adjustment Program permitted this matter to be heard *prior* to the expiration of the 35 days and without providing Respondent the opportunity to reply. The program's decision clearly violates Respondent's due process rights and raises Constitutional concerns. We were not heard regarding our challenge and response to Appellant's moving papers.

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

Time to File

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

File Review

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

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

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

(3)

5-000124



HEARING DECISION

CASE NUMBER: T19-0236, Steimetz et. al. v. Protopappas
PROPERTY ADDRESS: 1080 23rd Avenue, Unit 104,
Oakland, CA
DATE OF HEARING: September 18, 2019
DATE OF DECISION: November 21, 2019
APPEARANCES: Keiko Steimetz, Tenant
John Reed, Tenant

SUMMARY OF DECISION

The Tenant's petition is granted.

INTRODUCTION

The tenant filed the petition, T19-0236, on March 27, 2019, which alleges decreased housing services and indicates that they received a RAP Notice in 2016.

The owner did not file an Owner Response to the tenant petition and did not appear at the Hearing. There was proper notice of the hearing to the owner, which proceeded in his absence.

ISSUE(S) PRESENTED

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

④

000125
Exhibit 2

Service Lost	From	To	VALUE OF LOST SERVICES		Decrease /month	No. Months	Overpaid
			Rent	% Rent			
Oven	1-Jan-19	31-Mar-19	2,339.43	3%	\$ 70.18	3	\$ 210.55
Kitchen Sink	1-Jan-19	31-Mar-19	2,339.43	2%	\$ 46.79	3	\$ 140.37
Toilet	1-Jan-19	31-Mar-19	2,339.43	2%	\$ 46.79	3	\$ 140.37
Smoke detector	1-Mar-19	31-Mar-19	2,339.43	1%	\$ 23.39	1	\$ 23.39
Broken window	1-Jan-19	31-Mar-19	2,339.43	1%	\$ 23.39	3	\$ 70.18
Refrigerator	1-Jan-19	31-Mar-19	2,339.43	5%	\$ 116.97	3	\$ 350.91
Security gate	1-Jan-19	31-Mar-19	2,339.43	1%	\$ 23.39	3	\$ 70.18
					\$ -		-
TOTAL LOST SERVICES							\$1,005.95

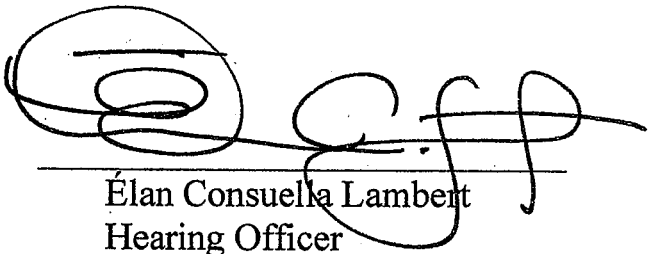
Usually, restitution is awarded against future rent. Here, the tenant has vacated the unit. Accordingly, the tenant is owed \$1,005.95.

ORDER

1. Petition T19-0236 is granted.
2. The total overpayment by the tenant is \$1,005.95 for past decreased housing services.
3. The owner owes restitution to the tenants in the amount of \$1,005.95 for the overpayment of rent from January 2019 to March 2019.

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: November 21, 2019


 Élan Consuelia Lambert
 Hearing Officer
 Rent Adjustment Program

(5)

71 Page
 0001263
 Exhibit 3

IMPORTANT INFORMATION:

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

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

For more information phone (510) 238-3721.

3

(6)

000127
Exhibit 4

CONSOLIDATED CHRONOLOGICAL CASE REPORT

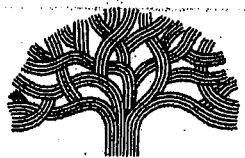
Case No.: T19-0186, T19-0235
Case Name: Didrickson v. Commonwealth Company
Property Address: 2230 Lakeshore Ave., Unit #7, Oakland, CA
Parties: Glenda Didrickson, (Tenant)
Carlos Didrickson, (Tenant)
Allen Sam, (Property Manager)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	February 5, 2019
Tenant Petition filed	March 26, 2019
Owner Response filed	July 11, 2019
Hearing Decision mailed	December 23, 2019
Tenant Appeal filed	January 13, 2020
Owner Response to Appeal filed	January 15, 2020
Tenant Narrative filed	January 15, 2020

T19-0186 PC/MA

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION 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 -5 AM 11:50
	<u>TENANT PETITION</u>	

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

Please print legibly

Your Name Carlos & Glenda Didrickson	Rental Address (with zip code) 2230 Lakeshore Av #7 Oakland Ca 94606	Telephone:
		E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) Commonwealth Co Ted Dang	Mailing Address (with zip code) 1305 Franklin St Oakland Ca 94612 Suite 500	Telephone:
		Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 8

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, 2006)
(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: December 2006 Initial Rent: \$ 2,500.00 /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: Nov. 2012 If never provided, enter "Never."

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

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

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

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

T13, T14, T15, T16, T17, T18

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.

Blenda Didriksen
Tenant's Signature Carls D. D.

Feb 5, 2019
Date

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- 1) gas heater not working from Nov. 2018 to Jan 31, 2019 (repaired 1-31-19)
- 2) patio not replaced - patio boards removed Feb 2017, with NO legal permit.
- 3) bedroom vent leaks rainwater when heavy rain.
- 4) patio door handle broken, patio door frame separates from Glass.

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RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

RECEIVED
FEB 5 11:50

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 opportunity to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal hearing before a different Rent Adjustment Program Hearing Officer.

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

Time to File

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

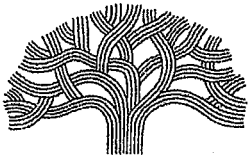
File Review

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

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

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

RC/MA



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For date stamp
RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2019 JUL 11 PM 2:10

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 T19-0186

Your Name 421 Associates	Complete Address (with zip code) 1305 Franklin Ste #500 Oakland CA 94612	Telephone:
		Email:
Your Representative's Name (if any) Allen Sam	Complete Address (with zip code) 1305 Franklin Ste #500 Oakland CA 94612	Telephone: 510-832-2628
		Email:
Tenant(s) Name(s) Carlos & Blenda Didrickson	Complete Address (with zip code) 2230 Lakeshore Ave #7 Oakland CA 94612	
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: 8/15/12

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>
7/1/18	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

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

The tenant moved into the rental unit on 12/15/06.

The tenant's initial rent including all services provided was: \$ 2500 / 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? 9/17/2012

Is the tenant current on the rent? Yes No

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

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
5/14/18	7/1/18	\$ 2983.31	\$ 3084.74	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3/25/17	7/1/17	\$ 2699.14	\$ 2983.31	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

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

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

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

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

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

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

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

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

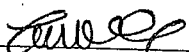
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

IV. DECREASED HOUSING SERVICES

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

V. VERIFICATION

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



Property Owner's Signature

7/11/19

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

Commonwealth Companies

– REAL ESTATE –

BRE#: 0442390

July 11th, 2019

City of Oakland
Rent Adjustment Program
PO Box 70243
Oakland, CA 94612

RE: T19-0186

Commonwealth Companies recently received a notice from the City of Oakland dated June 26th, 2019 regarding Case No. T19-0186, notifying us that one of our residents, Carlos & Glenda Didrickson has filed a petition to the Rent Adjustment Board alleging a decrease in housing services, specifically citing the four issues below:

1. Gas Heater not working from Nov. 2018 – Jan. 2019
2. Patio not replaced – patio boards removed Feb. 2017 with no legal permit
3. Bedroom vent leaks rainwater when heavy rain
4. Patio door handle broken, patio door frame separates from glass

Our position for each issue:

1. Gas Heater not working from Nov. 2018 – Jan. 2019

By tenant's own admission, we successfully repaired the gas heater. Coordination between residents and contractors proved to be difficult due to a variety of reasons:

- a. Resident's insistence on being present for all work.
- b. Resident's refusal to communicate via email or phone.
- c. Ownership not receiving notice of malfunction from tenant in a timely manner. Claims malfunction in November, but verbal notice from manager not received until December, and written notice not received until January.
- d. Difficulty in aligning time when tenants would be present and contractor's availability.
- e. Multiple visits required. First contractor we hired was unable to fix the heater, which exacerbated the issue. We were able to find another contractor who was able to fix the heater.

2. Patio not replaced

The City of Oakland inspected the patio years ago and ruled that it was not up to code. Current owner was unaware that the previous owner installed the patio without any permits. This issue was addressed in Case No. T17-0327, ruling in favor of the tenant. Effective July 1, 2017, tenant was granted an ongoing rent decrease of \$298.33 unless the patio was properly rebuilt. The owner has honored the ruling of the Rent Adjustment Board since the day it took effect.

3. Bedroom vent leaks rainwater when heavy rain

MNJ Roofing and AT Mechanical independently address the roofing and venting systems in the past to complete repairs. In April 2019, our in-house repairman inspected the unit and verified that the bedroom vent was in working order and no longer leaking. We received no follow-up from the tenants since that time.

4. Patio door handle broken, patio door frame separates from glass

Quoting from the hearing decision dated February 6th, 2019 on case T18-0305:

"In T17-0327, the Hearing Officer conducted a site inspection again held that the repair was sufficient and the door operated far better than it was in prior inspection. *This claim was denied in T17-0327 and the decision became final when the tenants dismissed their appeal on October 10th, 2018.*"

In April 2019, our in-house repairman inspected the unit and verified that the patio door and the handle was functioning without issue. We received no follow-up from the tenants since that time.

We hope that after reviewing the evidence, as well as all previous judgments between Commonwealth and the Didricksons, that the Hearing Officer will come to the conclusion that we have been acting in good faith and complying with each and every part of the previous rulings.

Commonwealth Companies

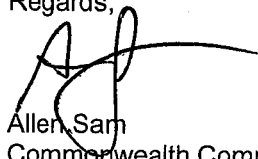
– REAL ESTATE –

BRE#: 0442390

We request that the owner be paid for the outstanding rent amount of \$2847.10 (not including any late fees or interest accrued). Attached to the letter is a chart of rent payments as of January 2018, which includes all the adjustments provided from the rulings of T17-0327, T18-0238, T18-0305, and the pending case of T19-0186. We feel that this back rent is properly owed to us based on prior judgments, but have held off on pursuing the difference while this case is being appealed again, and do not wish to complicate the matter until the Rent Adjustment Board confirm the previous Final Decision.

We also request the City of Oakland consider issuing sanctions to the Didricksons to prevent any further attempts at appealing the Rent Adjustment Board's ruling regarding the patio. This multi-year dispute has already been heard and ruled on multiple times, with several in-person mediation sessions between both parties in front of a hearing officer. The Didricksons continue to appeal and act as if these previous hearings were somehow unjust, despite any new evidence or rationale. At this point it's just a waste of time and resources for all parties, and shows a complete lack of respect towards the process and judgments of the Rent Adjustment Board.

Regards,



Allen Sam
Commonwealth Companies

	Base Rent	Patio Adjustment	Other Adjustments	Rent Owed	Resident Payment	Notes	Difference
Jan-18	\$2,983.31	\$298.33	\$167.03	\$2,517.95	\$2,517.95	past rent overpayment adj.	\$0.00
Feb-18	\$2,983.31	\$298.33	\$167.03	\$2,517.95	\$2,517.54	past rent overpayment adj.	\$0.41
Mar-18	\$2,983.31	\$298.33	\$167.03	\$2,517.95	\$2,517.54	past rent overpayment adj.	\$0.41
Apr-18	\$2,983.31	\$298.33	\$167.03	\$2,517.95	\$2,517.54	past rent overpayment adj.	\$0.41
May-18	\$2,983.31	\$298.33	\$167.03	\$2,517.95	\$2,517.54	past rent overpayment adj.	\$0.41
Jun-18	\$2,983.31	\$298.33	\$167.03	\$2,517.95	\$2,517.54	past rent overpayment adj.	\$0.41
Jul-18	\$3,084.74	\$298.33	\$167.03	\$2,619.38	\$2,517.54	past rent overpayment adj.	\$101.84
Aug-18	\$3,084.74	\$298.33	\$167.03	\$2,619.38	\$2,517.54	past rent overpayment adj.	\$101.84
Sep-18	\$3,084.74	\$298.33	\$167.03	\$2,619.38	\$2,517.54	past rent overpayment adj.	\$101.84
Oct-18	\$3,084.74	\$298.33	\$149.17	\$2,637.24	\$2,517.54	tarp ruling reimbursement	\$119.70
Nov-18	\$3,084.74	\$298.33		\$2,786.41	\$2,517.54		\$268.87
Dec-18	\$3,084.74	\$298.33		\$2,786.41	\$2,517.54		\$268.87
Jan-19	\$3,084.74	\$298.33		\$2,786.41	\$2,517.54		\$268.87
Feb-19	\$3,084.74	\$298.33		\$2,786.41	\$2,517.54		\$268.87
Mar-19	\$3,084.74	\$298.33		\$2,786.41	\$2,517.54		\$268.87
Apr-19	\$3,084.74	\$298.33		\$2,786.41	\$2,517.54		\$268.87
May-19	\$3,084.74	\$298.33		\$2,786.41	\$2,517.54		\$268.87
Jun-19	\$3,084.74	\$298.33		\$2,786.41	\$2,517.54		\$268.87
Jul-19	\$3,084.74	\$298.33		\$2,786.41	\$2,517.54		\$268.87
							\$2,847.10

NOTE: July 2018 base rent increase of 3.4% from \$2983.31 to \$3084.74 per the City of Oakland allowable CPI adjustment

T19:0235 PC/MA



CITY OF OAKLAND

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
 250 Frank H. Ogawa Plaza, Ste. 5313
 Oakland, CA 94612-0243
 (510) 238-3721

For date stamp.
 26 PM 2:21

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 Carlos & Glenda Oidrickson	Rental Address (with zip code) 2230 Lakeshore Av. Oakland Cal #7 94606	Telephone: _____ E-mail: _____
Your Representative's Name	Mailing Address (with zip code)	Telephone: _____ Email: _____
Property Owner(s) name(s) Commonwealth Inc Ted Dang	Mailing Address (with zip code) 1305 Franklin St. Oak Cal Suite 500 94612	Telephone: _____ Email: _____
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: _____ Email: _____

Number of units on the property: 8

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

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

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

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

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

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

Date you moved into the Unit: Dec 2006 Initial Rent: \$ 2500.00 /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: Nov 2012 If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. 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>8-13-18</u>	<u>UNKNOWN</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	<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:

T-13 - T-14 - T-15 - T-16 - T-17 - T-18

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.

Carly Didi
Tenant's Signature

3-26-19
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

Time to File

This form must be received at the offices of the 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, 250 Frank H. Ogawa Plaza, Ste. 5313, 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; or through the **RAP Online Petitioning System:** <https://apps.oaklandca.gov/rappetitions/Petitions.aspx>. For more information, 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): _____

The following is verification of health and safety violations previously reported on numerous petitions with the Oakland Rent Adjustment Board.

Please refer to the following pages of written report of health and safety violations at 2230 Lakeshore Ave Oakland Ca 94606 unit 7

- 1) no legal permit to remove the patio deck
- 2) no legal permit to install heating duct on the roof above bedroom.
- 3) Oakland building inspector found the following violations
 - 3a) water dripping from heater duct in the bedroom
 - 3b) sliding patio frame handle broken, and the frame shows a large gap - door frame separates from glass door
 - 3c) main electrical breaker trips if the stove (oven) and microwave or dishwasher and tv are on
 - 3d) no smoke/carbon dioxide detector in living room.

These have been on going violations that have been reported on numerous petitions and verified by a qualified Oakland Building Inspector

We are requesting that any past increase previously allowed during these violation issues be reexamined based on these issues never having been properly repaired/replaced.

I Requested A Dismissal of Appeal on Oct 10 2018 After speaking To the CO OWNER of the property of 2230 Lakeshore Ave, JOHN WILLIAMS ABOUT REPLACING THE PATIO DECK AND He SAID THAT he would TALK TO ted Dang. and still no patio Deck Replaced As of this Date

Carls Daduke Blendalidinkeen

WE ARE IN

MAILED TO Wrong APT ... sent TO APT 5 --- APT 7

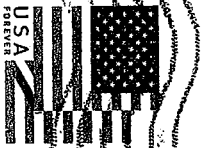
000145

Commonwealth Companies

REAL ESTATE
1305 Franklin Street, Suite 500
Oakland, CA 94612

OAKLAND CA 94612

04 JAN 2019 PM 3 1

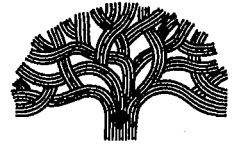


Carlos & Glenda Pedersen
2230 Lakeshore Ave #15
Oakland CA 94606



94606-105105





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

Housing and Community Development
Department Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T19-0186, Didrickson v. Commonwealth Company
T19-0235, Didrickson v. Commonwealth Company

PROPERTY ADDRESS: 2230 Lakeshore Ave., Unit #7, Oakland, CA

DATE OF HEARING: September 24, 2019

DATE OF DECISION: December 20, 2019

APPEARANCES: Glenda Didrickson, Tenant
Carlos Didrickson, Tenant
Allen Sam, Property Manager

SUMMARY OF DECISION

The Tenant Petition is denied.

CONTENTIONS OF THE PARTIES

On February 5, 2019, the tenants filed a Tenant Petition, alleging code violations and decreased housing services. On March 26, 2019, the tenants filed another Tenant Petition alleging additional decreased housing services.

On July 11, 2019, the owner filed a timely response, denying the allegations.

ISSUES

(1) Have the tenants' housing services decreased, and if so, by what amount?

EVIDENCE

Background and Rent History

The tenants' unit is located in a residential building consisting of eight (8) units. The tenants moved into their unit in December of 2006, at an initial monthly rent of \$2,500.00. The tenants filed several petitions in the past that addressed the same issues raised in the current petition, including setting the base rent, reduction for certain

decreased housing services and ongoing reduction due to the loss of the deck.¹ Official Notice is taken of the prior cases and Orders in those cases will be honored.

RAP Notice

It is undisputed that the tenants received their first notice of the existence of the Rent Adjustment Program (RAP Notice) in 2012 and they also received the RAP Notice with subsequent rent increases.

Prior Hearing Decisions Regarding Decreased Housing Services

At the time of the hearing, the parties agreed that the loss of the wooden patio deck, issues with the patio door and handle, and heating vent leak were previously raised, addressed, and adjudicated in cases T15-0374, T16-0175, T17-0327, T18-0238, and T18-0305. As such, the only remaining issues to be addressed are as follows: (1) Gas Heater; (2) CO/Smoke Detector; and (3) Electric Breaker.

Gas Heater: The tenants testified that their gas heater stopped working in November of 2018, and wasn't repaired until January 31, 2019. They reported the issue to the owner in November of 2018, and the owner attempted repairs but the gas heater stopped working again. A new contractor was hired and the gas heater was repaired on January 31, 2019.

The property manager testified that he was not notified of the issue with the gas heater until December of 2018. He further testified that the repair required multiple visits and the delay in completing repairs was due to difficulty coordinating repairs with the tenants. He confirmed that the gas heater was repaired on January 31, 2019.

CO/Smoke Detectors: The tenants testified that an Inspector from the City of Oakland Code Enforcement Services conducted an inspection of the subject unit on March 11, 2019, and noted that a CO/Smoke detector was missing in the living room. The owner installed a CO/Smoke detector in July of 2019, but installed it on the support beam instead of the ceiling.

The property manager testified that he was not aware that the CO/Smoke detector in the living room was missing until the inspection on March 11, 2019. Prior to that, it was his understanding that all CO/Smoke detectors were in working order. Once he became aware of the issue, he attempted to coordinate installation of a new CO/Smoke detector on multiple occasions but the tenants were unresponsive and it was very difficult to schedule a time with them to install the CO/Smoke detector. He was eventually able to coordinate repairs and a CO/Smoke detector was installed in the living room and in the hallway in July of 2019.

Electric Breaker: The tenants testified that the electric breaker short circuits if the stove, dishwasher, and television are all on at the same time. The property manager

¹ T15-0374, T16-0175, T17-0327, T18-0238 and T18-0305.

testified that his electrician looked at the problem and told him that the tenants are overloading the circuit breaker. If the tenants don't turn everything on at once, they won't have any issues with the circuit breaker.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered an increase in rent² and may be corrected by a rent adjustment.³ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or a service that was provided and is no longer being provided or one that is required to be provided in a contract between the parties. The tenants have the burden of proving decreased housing services by a preponderance of the evidence.

In a decreased services case, the tenants must establish they have given the owner notice of the problems and the opportunity to fix the problems before they are entitled to relief.

Gas Heater: The property manager testified credibly that he was notified of this issue in December of 2019 and the gas heater was repaired in January of 2019. The property manager was responsive and any delay in completing repairs was due to difficulty coordinating and communicating with the tenants. The property manager's response was reasonable and compensation for this claim is denied.

CO/Smoke Detectors: A CO/Smoke detector was installed in the living room after the property manager was notified that it was missing. The property manager testified credibly that the delay in installing the CO/Smoke detector was due to difficulty communicating and coordinating with the tenants, who insisted on being present for all repairs. The issue has been resolved and compensation for this claim is denied.

Electric Breaker: The tenants testified that the circuit breaker short circuits if multiple appliances are on at the same time. The property manager testified credibly that the tenants are overloading the circuit breaker, and if they stop turning everything on at once, the circuit breaker won't short circuit. This issue does not affect the habitability of the unit, and compensation for this claim is denied.

ORDER


1. The Tenant Petitions T19-0186 and T19-0235 are denied.
2. The claims for decreased housing services are denied.

² O.M.C. §8.22.070(F)

³ O.M.C. §8.22.110(E)

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: December 20, 2019



Maimoona S. Ahmad
Hearing Officer
Rent Adjustment Program

000149

PROOF OF SERVICE

Case Number T19-0186; t19-0235

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

Ted Dang, 421 Associates
1305 Franklin Street Suite 500
Oakland, CA 94612

Owner Representative

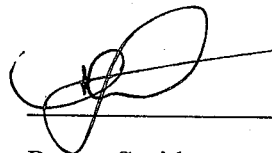
Allen Sam
1305 Franklin Street #500
Oakland, CA 94612

Tenant

Carlos & Glenda Didrickson
2230 Lakeshore Avenue Unit 7
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 **December 23, 2019** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

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CITY OF OAKLAND
OFFICE OF THE HEARING OFFICER

	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp. 2020 JAN 13 AM 9:50
		<u>APPEAL</u>

Appellant's Name CARLOS Glenda Didrickson		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 2230 Lakeshore Ave #7 OAKLAND, CA. 94606			
Appellant's Mailing Address (For receipt of notices) SAME		Case Number T19-0186 T19-0235	Date of Decision appealed 1-13-2020
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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

PLEASE Refer to Letter Dated 1-14-20

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.)

(PLEASE Refer to Letter Dated 1-14-20)

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

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •

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

Name	TEO DANG 421 ASSOCIATES
Address	1305 FRANKLIN ST. SUITE 500
City, State Zip	OAKLAND, CA. 94612
Name	Allen Sam
Address	1305 FRANKLIN ST. ST 500
City, State Zip	OAKLAND, CA 94612

Carlos Diederich Blenky Dick	1-13-20
---------------------------------	---------

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

BOYE

W Please Refer to Letter Dated 1-14-20 which Refers to
Me trying to get copies of AUDIO FOR THE SEPT 24 HEARING IN 2014
AND Discrepancies in the Hearing Decision - WAS DENIED TO
SPEAK ABOUT UNRESOLVED ISSUES ALONG WITH THE BUILDING INSPECTOR'S
REPORT ON HEALTH & SAFETY VIOLATIONS

Carls Rind

1-13-20

Commonwealth Management
- REAL ESTATE -
BRE#: 00821583

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2020 JAN 15 AM 11:57

January 15th, 2020

City of Oakland
Rent Adjustment Program
PO Box 70243
Oakland, CA 94612

RC/MA

RE: T19-0186 & T19-0235 Appeal Response

421 Associates recently received a copy of an appeal dated January 13th, 2020 from Carlos & Glenda Didrickson, protesting the decisions of previous cases T19-0186 & T19-0235. They allege the decisions made by the Rent Adjustment Board is not supported by substantial evidence.

Ironically, their appeal lacks in anything substantive to respond to.

On the appeal that we received dated 1-13-2020, they attached a letter dated 1-13-2020 asking the reader to refer to "the letter dated 1-14-2020" – which was not included. They either forgot to or decided not to include "the letter dated 1-14-2020". It is also possible that the letter wasn't written yet (assuming that the dates on all the documents are accurate). There seemed to be plenty of space on the letter attached for Carlos & Glenda Didrickson to state their case, but they elected not to.

421 Associate's position on the matters previously adjudicated by the RAP Board remain consistent. We continue to comply with all the terms of the previous decisions, and will defend ourselves against further appeals.

421 Associates expects that Carlos & Glenda Didrickson will continue to appeal as long as they have the ability to, as they have had for several years now. We reluctantly participate out of respect for the RAP Board's procedural process, but we hope the RAP Board can review the progression of this dispute over time, and see how silly and redundant having to deal with this situation has become.

Regards,


Allen Sam
Commonwealth Management

PS: We have attached our copy of the appeal sent to us by the Didricksons for your review.

January 14, 2020

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

RC/MA

Ms. Chanée F. Minor
Manager/Director
Oakland Rent Adjustment Program
250 Frank Ogawa Plaza, Suite 5313
Oakland, Calif. 94612

2020 JAN 15 PM 1:03

Regarding: Appeal T19-0186
Appeal T19-0235

Dear Ms. Minor:

In response to my tenant petitions submitted in the above-referenced matters, your office sent me a copy of the hearing decision denying both petitions.

In seeking to appeal that decision, however, I have experienced a number of administrative obstacles and logistical road blocks, making my appeal efforts extremely difficult.

For that reason, I am contacting you for your assistance. First, the proof of service is dated December 23, 2019 and was actually mailed on ~~December~~ December 26, 2019. However, I did not receive the decision until December 30, 2019.

On that day, I contacted Mr. Robert Costa and asked that he arrange for me to receive copies of both petitions, the landlord responses and an audio copy of the hearing proceedings. Mr. Costa then informed me that I should contact Ms. Maxine Visaya for that purpose.

Again, on the very same day, I contacted Ms. Visaya via voice mail and e-mail, requesting the above-referenced documents and a copy of the audio disk recording. Later, not having heard anything from Ms. Visaya for several days, I sent another voice mail message and e-mail notification regarding my urgent need to receive this documentation.

Finally, on January 7, 2020, Ms. Visaya sent me an e-mail notification, indicating that she no longer handled the requested duties and urged me to contact Ms. Cindy Jay for assistance. Consequently, on that day I contacted Ms. Cindy Jay via voice mail and e-mail. And after getting no response from her, I contacted her again two days later.

On the morning of Friday, January 10, 2020, I still had not been contacted regarding my request; so I decided to come down to your office. Facing a filing deadline of January 13, 2020, I now had only three days to file my appeal.

After coming down to the RAP office, I informed your front desk of my dilemma and my urgent need to obtain the requested documents and audio. However, instead of receiving help I was turned away. Specifically, I was informed that the office was closed and that they could not assist me.

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Frustrated and confused, I called Mr. Robert Costa and informed him that I still had received no assistance. Eventually, a few hours later, Mr. Costa contacted me and asked me to return to the RAP office. Later that afternoon, I came in, paid for everything and left. However, an hour later, I discovered that the audio disk was blank. I tested the disk on my laptop, home entertainment system and my car stereo system-nothing! I then contacted Ms. Cindy Jay.

At about 4:20 p.m., Ms. Cindy Jay informed me that she would prepare another copy for me and that I could come in on Monday, January 13, 2020. She explained further that it was just too late to give me the disk on that day.

Of course, January 13, 2020 was my official filing deadline. What does this all mean? From December 30, 2019 through January 13, 2020, a period of two weeks, I could not get anyone in your department to honor my reasonable request for document/record copies.

It also means that it was not until January 13, 2020, my actual filing deadline, that I finally received everything I had previously requested. Accordingly, given this unexpected and unfortunate set of circumstances and events ~~and events~~, I am requesting additional time (fifteen days) in order to provide my submissions to the Board/Rent Adjustment Program.

Your consideration and prompt attention to this request are greatly appreciated.

Sincerely,



Carlos Didrickson

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