

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
PANEL MEETING  
OCTOBER 17, 2019  
7:00 P.M.  
CITY HALL, HEARING ROOM #1  
ONE FRANK H. OGAWA PLAZA  
OAKLAND, CA**

**AGENDA**

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. APPEALS\*
  - a. T18-0387 Villalobos v. Tran
  - b. T18-0218 Durrett et al. Guiton
5. ADJOURNMENT

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

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

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

---

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

**000001**

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.

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
PANEL MEETING  
OCTOBER 17, 2019  
7:00 P.M.  
CITY HALL, HEARING ROOM #1  
ONE FRANK H. OGAWA PLAZA  
OAKLAND, CA**

**AGENDA**

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. APPEALS\*
  - a. T18-0387 Villalobos v. Tran
  - b. T18-0218 Durrett et al. Guiton
5. ADJOURNMENT

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

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

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

---

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

**000003**

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

service。請避免塗搽香氛產品，參加者可能對化學成分敏感。

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

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

If you will be accompanied by an emotional support animal, then you must provide documentation on letterhead from a licensed mental health professional, not more than one year old, stating that you have a mental health-related disability, that having the animal accompany you is necessary to your mental health or treatment, and that you are under his or her professional care. Service animals and emotional support animals must be trained to behave properly in public. An animal that behaves in an unreasonably disruptive or aggressive manner (barks, growls, bites, jumps, urinates or defecates, etc.) will be removed.

## CHRONOLOGICAL CASE REPORT

Case No.: T18-0387

Case Name: Villalobos v. Tran

Property Address: 2029 E. 19<sup>th</sup> Street, Oakland, CA

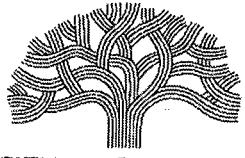
Parties: Roberto A. Acevedo Villalobos (Tenant)  
Vilma G. Renderos (Tenant)  
Larry V. Tran (Owner)  
Xiao Ping Lu (Owner)  
Xavier Johnson (Tenant Representative)

### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	July 23, 2018
Owner Response filed	November 5, 2018
Hearing Decision mailed	March 7, 2019
Owner Appeal filed	March 27, 2019

T18-0387 RC / ~~EA~~ SK

RENT ADJUSTMENT PROGRAM

 CITY OF OAKLAND	<b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp. 2018 JUL 23 PM 12:35
	<b><u>TENANT PETITION</u></b>	

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

**Please print legibly**

Your Name Roberto Acevedo Villalobos	Rental Address (with zip code) 2029 E 19th St. Oakland, CA 94606	Telephone: [REDACTED]
		E-mail: [REDACTED]
Your Representative's Name	Mailing Address (with zip code)	Telephone:  Email:
Property Owner(s) name(s) Larry Tran	Mailing Address (with zip code) 19520 Yuma St. Castro Valley, CA 94506	Telephone: [REDACTED] Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:  Email:

Number of units on the property: 2

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

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

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

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

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

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

Date you moved into the Unit: 10/1/2010 Initial Rent: \$ 1,300 /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: Never. If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. 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:

A previous petition was filed in August 2017, but I do not have a record of the case number

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

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

Are you being charged for services originally paid by the owner?

Yes  No

Have you lost services originally provided by the owner or have the conditions changed?

Yes  No

Are you claiming any serious problem(s) with the condition of your rental unit?

Yes  No

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

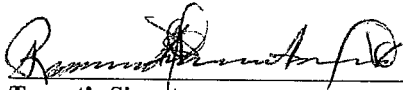
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

Please attach documentary evidence if available.

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

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

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



Tenant's Signature

7/20/2018

Date



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

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

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

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

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

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

\_\_\_\_\_  
Date

## **VI. IMPORTANT INFORMATION:**

### **Time to File**

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit. Mail to:** Oakland Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6<sup>th</sup> 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): \_\_\_\_\_

Roberto Acevedo Villalobos  
 2029 E 19th St., Oakland, CA 94606

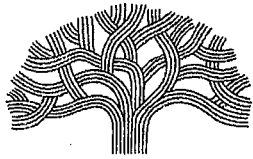
**Addendum A-Decrease in Services/Bad Condition**

Note: I calculated the estimated value of loss of service by weighing how much each problem affected my health and safety of and my ability to live comfortably in the premises.

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
Reduction of parking: we have had 4 spaces since we moved in, owner has reduced us to two spaces	May 5, 2018	May 24, 2018 via letter	N/A	7%
Stove didn't work for two months	Nov. 1, 2017	November 2017, verbally	Jan. 2018	10%
Mold on the bathroom ceiling	Feb. 2017	April 2017	Ineffectively addressed Nov. 2017	4%
Bathroom fan does not work	Feb. 2018	Feb. 2018	N/A	7%
Broken tile in floor	July 2017	July 2017	N/A	3%
Kitchen ceiling does not work. Tenant has put in his own light fixture.	Oct. 2017	Oct. 2017	N/A	3%

Roberto Acevedo Villalobos  
2029 E 19th St., Oakland, CA 94606

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
Electrical gate	2010	Landlord was notified verbally in 2010. Gate was fixed, but not properly. Only closes with force and can no longer be locked.	N/A	4%



CITY OF OAKLAND

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

RECEIVED  
For date stamp.  
01/03/2015  
RENT ADJUSTMENT PROGRAM  
OAKLAND  
**PROPERTY OWNER**  
**RESPONSE**

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

**CASE NUMBER T18 - 0387.**

Your Name <i>Larry Tran</i>	Complete Address (with zip code) <i>19520 Yuma ST. Castro Valley, CA 94546</i>	Telephone: [REDACTED]
Your Representative's Name (if any)	Complete Address (with zip code)	Email: [REDACTED]
Tenant(s) Name(s) <i>Roberto Acevedo Villalobos</i>	Complete Address (with zip code) <i>2029 E19th ST. Oakland, CA 94606</i>	Telephone:
Property Address (If the property has more than one address, list all addresses) <i>2024 E19th ST. Oakland, CA 94606 2031 E19th ST. Oakland, CA 94606</i>	Total number of units on property <i>2.</i>	Email:

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 48829  
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: 020-0209-004-0 <sup>parcel</sup>  
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: 4/29/1999

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>
<u>7</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>7</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>7</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 12-1-2010.

The tenant's initial rent including all services provided was: \$ 1,500. / 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>	
<u>6/1/13</u>	<u>1/1/14</u>	<u>\$ 1,300.</u>	<u>\$ 1,350.</u>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<u>6/1/16</u>	<u>1/1/17</u>	<u>\$ 1,350.</u>	<u>\$ 1,500.</u>	<input type="checkbox"/> Yes <input checked="" 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

10/25/18  
\_\_\_\_\_  
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.

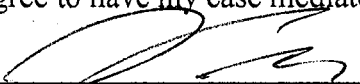
**Mediation Program**

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

10/25/18  
\_\_\_\_\_

Date



250 FRANK OGAWA PLAZA, OAKLAND, CA 94612

CITY OF OAKLAND

Housing and Community Development Department  
Rent Adjustment Program

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

## **HEARING DECISION**

**CASE NUMBER:** T18-0387, Villalobos v. Tran  
**PROPERTY ADDRESS:** 2029 E. 19<sup>th</sup> St., Oakland, CA  
**DATE OF HEARING:** February 15, 2019  
**DATE OF DECISION:** February 28, 2019  
**APPEARANCES:** Roberto A. Acevedo Villalobos (Tenant)  
Vilma G. Renderos (Tenant)  
Larry V. Tran (Owner)  
Xiao Ping Lu (Owner)  
Xavier Johnson (Tenant Representative)  
Noemi Gonzalez (Spanish Interpreter)  
Wei Kuen Tang (Cantonese Interpreter)

## **SUMMARY OF DECISION**

The tenant's petition is partly granted.

## **CONTENTIONS OF THE PARTIES**

Tenant Acevedo Villalobos filed a petition on July 23, 2018, which alleges that he has never received the form Notice to Tenants (RAP Notice); that at present, there exists a health, safety, fire, or building code violation in his unit; and that his housing services have been decreased, as follows:

- Reduced Parking Spaces
- Stove
- Mold
- Bathroom fan

000016



- Broken Floor Tile
- Kitchen Ceiling Light
- Electrical Gate

Owner Tran filed a timely response to the petition, which states that he does not know if the tenant was ever given a RAP Notice, and denies that the tenant's housing services have been decreased.

### THE ISSUES

- (1) When, if ever, did the tenant receive the RAP Notice?
- (2) Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

### EVIDENCE

RAP Notice: At the Hearing, Tenant Acevedo Villalobos ("the tenant") testified that he first received the RAP Notice in November 2018. He had never been given this notice before that time. Owner Tran ("the owner") agreed with this testimony.

Rent History: The parties agreed that the tenant has paid rent, as follows: from February 2016 through December 2017 - \$1,350 per month; from January 2018 through December 2018 - \$1,500 per month; January 2019 - \$1,575; and February 2019 - \$1,560. It is noted from the current rent increase notice<sup>1</sup> that the rent is \$1,560 per month effective January 1, 2019. The additional \$15 paid in February 2019, represents a portion of the Rent Adjustment Program fee, and is not rent.

#### Decreased Housing Services:

Parking Spaces: The tenant testified that, when he moved into his unit in the year 2010, he signed a lease which said that he was entitled to 2 parking spaces in the lot behind the subject 2-unit building. The parking lot is large, and there were no lines on the pavement. The tenant and his wife own 4 vehicles, and he began parking all 4 on the premises in exchange for mowing the lawn and doing minor repairs in the building. The owner never complained about this arrangement.

However, in April 2018, the tenant received a letter from the owner saying that he could only park 2 vehicles in the lot. At that time, the owner had lines painted on the lot, with numbers designating the unit assigned to each spot.<sup>2</sup> Since May 5, 2018, he has parked 2 vehicles in the lot, parked the others on the street, and stopped doing the lawn mowing and repairs.

---

<sup>1</sup> Exhibit No. 1A. This Exhibit, and all others to which reference is made in this Decision, were admitted into evidence.

<sup>2</sup> Exhibits 21 and 27 depict the lot before and after lines were added.

The owner testified that the lease specifies 2 parking spaces, and he never gave the tenant permission to park more vehicles. He had lines and unit numbers painted in the lot when a new tenant moved into the other unit in the building.

Stove: The tenant testified that the stove broke down at the end of 2017. It was replaced in January 2018, and there has been no problem since that time.

Mold / Bathroom Fan: The tenant testified that in September 2017, mold began to develop in the bathroom because the exhaust fan was not working well. The tenant reported this problem to the owner at that time. He and his wife cleaned the walls with a soapy towel, but the mold returned. On May 27, 2018, the owner cleaned and painted the walls. Mold then returned, although it is not as bad as it has been. The fan has not worked since that time. The owner said that he would replace the fan if the tenants paid the cost, an estimated \$300 to \$500. The fan was never replaced. The owner testified that he did receive a written notice about the fan, and that he is not responsible to repair or replace the fan.

Floor Tile: The tenant testified as follows: when he moved in, a large ceramic floor tile in the kitchen was partly cracked. The cracks became longer after people had walked on the tile. The tenant notified the owner in July 2017, and took photos at that time.<sup>3</sup> The photos depict large cracks in a floor tile, which have been covered with clear plastic tape. The tile looks the same today as it did in the photos. The owner said that the tenant should replace the floor tile. The owner testified that he was never notified about this problem.

Kitchen Ceiling Light: The tenant testified that, when he moved into his unit, there was a long florescent light in a rectangular fixture on the kitchen ceiling. Approximately 3 years ago, the light stopped working, and he notified the owner. After the owner did not respond to his complaint, the tenant bought a smaller round florescent fixture and installed it in the fixture on the ceiling. The tenant submitted a photo of the new fixture in the old enclosure.<sup>4</sup> The old enclosure appears to be approximately 3 feet long; the new fixture appears to be approximately 10 inches in diameter. The owner then told him that there was no need for him (the owner) to replace a bulb in the original fixture. The owner testified that the tenant replaced the fixture without notifying him.

Electrical Gate: The tenant testified that in the year 2014, the electric gate to the parking area stopped working. The owner testified that the gate was not working when the tenant moved in, and he therefore never gave him a remote control device for the gate.

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

RAP Notice: It is found that the tenant first received the RAP Notice in November 2018.

Decreased Housing Services: Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent<sup>5</sup> and may be corrected by a rent adjustment.<sup>6</sup>

---

<sup>3</sup> Exhibit Nos 37 & 38.

<sup>4</sup> Exhibit No. 41

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

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

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

Where a tenant's petition was filed within this time limit – which is the case here – a tenant can be granted restitution for rent overpayments due to decreased housing services for a maximum of 3 years from the date a petition is filed.<sup>7</sup> The petition was filed on July 23, 2016. Therefore, the tenant is entitled to restitution beginning on August 1, 2015. Further, in order for a tenant's claim for decreased housing services to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs.

Parking Spaces: At the start of his tenancy, the tenant had the right to use 2 parking spaces. When the tenant began to use additional spaces, this was a temporary accommodation that the owner had the right to withdraw at any time. For this reason, the claim is denied.

Stove: The owner replaced the stove within a reasonable time after receiving notice, and the claim is denied.

Mold / Bathroom Fan: An owner has a legal duty to repair habitability defects.<sup>8</sup> He or she cannot require a tenant to make repairs or to refuse to make repairs unless the tenant pays the cost. The owner should reasonably have repaired or replaced the fan by July 1, 2018. Mold is a potential health hazard, and the owner's failure to repair or replace the fan reduces the tenant's housing services by 5%. Because of the current decrease in housing services, the rent is reduced by 5%, being \$78 per month. This rent decrease will remain in effect until the bathroom fan is repaired or replaced, as specified in the Order below. Further, as set forth on the Table below, the tenant has overpaid rent since July 2018.

Floor Tile: The cracked tile would probably have been noticed during a move-in inspection, and during reasonable periodic inspections since that time. Therefore, the owner has always had constructive notice of this condition. The cracked tile makes it difficult to properly clean the kitchen floor and poses a tripping hazard. This condition reduces the tenant's housing services by 2%. Because of the current decrease in housing services, the rent is reduced by 2%, being \$31.20 per month. This rent decrease will remain in effect until the broken tile is replaced, as specified in the Order below. Further, as set forth on the Table below, the tenant has overpaid rent since July 23, 2015.

Kitchen Ceiling Light: The replacement light installed by the tenant would appear to provide less light than bulbs in the substantially larger original fixture. This situation reduces the tenant's housing services by 1%. Because of the current decrease in housing services, the rent is

---

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

<sup>7</sup> Appeal Decision in Case No. T12-0332, Sherman v. Michelsen.

<sup>8</sup> Fairchild v. Park, 90 CA4th 919 (2001)

reduced by 1%, being \$15.60 per month. This rent decrease will remain in effect until the owner replaces the bulbs in the original fixture, as specified in the Order below. Further, as set forth on the Table below, the tenant has overpaid rent since February 2016, when the tenant replaced the original fixture.

Electrical Gate: The parties' testimony was equally credible. The tenant has not sustained his burden of proof, and the claim is denied.

Conclusion: Because of ongoing decreased housing services, the current rent is reduced by \$124.80 per month, to \$1,435.20 per month. Because of past decreased housing services, the tenant overpaid rent in the amount of \$2,467.80. The overpayment is ordered repaid over a period of 12 months.<sup>9</sup> The current rent is temporarily reduced by \$205.58 per month, to \$1,229.62 per month, beginning with the rent payment in March 2019 and ending with the rent payment in February 2020.

The tenant is entitled to begin to deduct the restitution owed from his rent after this Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to the parties.

**VALUE OF LOST SERVICES**

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Bathroom Fan	1-Jul-18	28-Feb-19	\$1,560	5%	\$78.00	7	\$546.00
Floor Tile	1-Aug-15	28-Feb-19	\$1,560	2%	\$31.20	43	\$1,341.60
Kitchen Light	1-Feb-16	28-Feb-19	\$1,560	1%	\$15.60	37	\$577.20
<b>TOTAL LOST SERVICES</b>							<b>\$2,467.80</b>

**RESTITUTION**

MONTHLY RENT	\$1,560
<b>TOTAL TO BE REPAID TO TENANT</b>	<b>\$2,467.80</b>
TOTAL AS PERCENT OF MONTHLY RENT	158%
AMORTIZED OVER 12 MO. BY REG. IS	<b>\$205.58</b>

**ORDER**

1. Petition T18-0387 is partly granted.
2. The Base Rent is \$1,560 per month.
3. The tenant is entitled to reduce the rent per the following restitution order after the Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to the parties.

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

4. Because of the ongoing decrease in housing services, the current rent, before reduction due to rent overpayments, is \$1,435.20 per month.

5. Because of past decreased housing services, the tenant has overpaid rent in the amount of \$2,467.80. This overpayment is adjusted by a rent reduction for 12 months.

6. The current rent is temporarily reduced by \$205.58 per month, to \$1,229.62 per month, beginning with the rent payment in March 2019 and ending with the rent payment in February 2020.

7. In March 2020, if repairs have not been made, the rent will increase to \$1,435.20 per month.

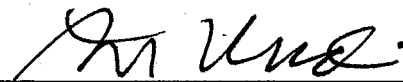
8. When the bathroom fan is repaired or replaced, the owner may increase the rent by \$78 per month, after giving proper notice in accordance with Civil Code Section 827.

9. When the broken floor tile is replaced, the owner may increase the rent by \$31.20 per month, after giving proper notice in accordance with Civil Code Section 827.

10. When bulbs are replaced in the original kitchen ceiling light fixture, the owner may increase the rent by \$15.60 per month, after giving proper notice in accordance with Civil Code Section 827.

11. **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: February 28, 2019



---

Stephen Kasdin  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**  
**Case Number T18-0387**

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**

Larry Tran  
19520 Yuma Street  
Castro Valley, CA 94546

**Owner Representative**

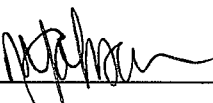
Xiaoping Lu  
19520 Yuma Street  
Castro Valley, CA 94546

**Tenant**

Roberto Acevedo Villalobos  
2029 E 19th Street  
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.

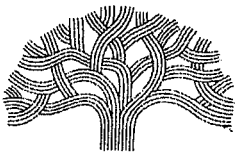
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **March 07, 2019** in Oakland, CA.

  
\_\_\_\_\_  
Nia Johnson

Oakland Rent Adjustment Program

**000022**

RECEIVED

 <b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp <b>MAR 27 2019</b> RENT ADJUSTMENT PROGRAM OAKLAND
	<b><u>APPEAL</u></b>

<b>Appellant's Name</b> XIAOPING Lu		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
<b>Property Address (Include Unit Number)</b> 2029 E 19th ST., Oakland, CA 94606			
<b>Appellant's Mailing Address (For receipt of notices)</b> 19520 Yuma ST. Castro Valley, CA 94546		<b>Case Number</b> T18-0387	
		<b>Date of Decision appealed</b> 3/15/19	
<b>Name of Representative (if any)</b>		<b>Representative's Mailing Address (For notices)</b>	

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

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


For more information phone (510) 238-3721.

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

Submissions to the Board 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 March 25, 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:

<b>Name</b>	Robert A. Acevedo Villalobos
<b>Address</b>	2029 E 19 <sup>th</sup> St.
<b>City, State Zip</b>	Oakland, CA 94606
<b>Name</b>	
<b>Address</b>	
<b>City, State Zip</b>	

	3/15/19
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.



March 25, 2019

Larry Tran  
Xiaoping Lu  
19520 Yuma St.  
Castro Valley, CA 94546

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

To whom may concern:

I am appealing the hearing decision on the math/ clerical errors. The tenant file the complaints and reported the month and years is inconsistency from the conclusion of the hearing decision of the following items: Kitchen Light and Floor Tile.

Tenant reported started the case file T18-0387, Floor Tile dated "July 2017" and Kitchen Light dated October 2017. Versus hearing decision calculation on "Floor Tile" noted August 2015, and "Kitchen Light" noted February 2016. The calculation has a significant 2 to 3 years' differences. The calculation of decrease in services supposedly calculation in the year of 2017.

The value of lost on the floor tiles it should have been only 19 months, and for the kitchen light it should have been only 16 months. The information on the hearing decision versus the petition T18-0387 information it doesn't match up. The information that was submitted from the tenant clearly stated the "broken floor - July 2017" and "kitchen light - October 2017."

Therefore, not sure how and why calculation result start computing from the year of 2015 and 2016?


Sincerely,



Xiaoping Lu

000025

March 25, 2019

Larry Tran  
Xiaoping Lu  
19520 Yuma St.  
Castro Valley, CA 94546  


RECEIVED

MAR 27 2018

RENT ADJUSTMENT PROGRAM  
OAKLAND

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

Documents includes:

- Appeal Form
- Appeal ground – letter of explanations
- Hearing Decision Conclusion (purpose to comparison of month and years).
- Tenant submitted “Addendum A- Decrease in Services/Bad Condition (purpose for comparison of month and year)
- Pictures of proving the completion of all requires repaired in tenant rental home

000026



250 FRANK OGAWA PLAZA, OAKLAND, CA 94612

CITY OF OAKLAND

Housing and Community Development Department  
Rent Adjustment Program

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

## HEARING DECISION

**CASE NUMBER:** T18-0387, Villalobos v. Tran  
**PROPERTY ADDRESS:** 2029 E. 19<sup>th</sup> St., Oakland, CA  
**DATE OF HEARING:** February 15, 2019  
**DATE OF DECISION:** February 28, 2019  
**APPEARANCES:** Roberto A. Acevedo Villalobos (Tenant)  
Vilma G. Renderos (Tenant)  
Larry V. Tran (Owner)  
Xiao Ping Lu (Owner)  
Xavier Johnson (Tenant Representative)  
Noemi Gonzalez (Spanish Interpreter)  
Wei Kuen Tang (Cantonese Interpreter)

## SUMMARY OF DECISION

The tenant's petition is partly granted.

## CONTENTIONS OF THE PARTIES

Tenant Acevedo Villalobos filed a petition on July 23, 2018, which alleges that he has never received the form Notice to Tenants (RAP Notice); that at present, there exists a health, safety, fire, or building code violation in his unit; and that his housing services have been decreased, as follows:

- Reduced Parking Spaces
- Stove
- Mold
- Bathroom fan

000027

- Broken Floor Tile
- Kitchen Ceiling Light
- Electrical Gate

Owner Tran filed a timely response to the petition, which states that he does not know if the tenant was ever given a RAP Notice, and denies that the tenant's housing services have been decreased.

### THE ISSUES

- (1) When, if ever, did the tenant receive the RAP Notice?
- (2) Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

### EVIDENCE

RAP Notice: At the Hearing, Tenant Acevedo Villalobos ("the tenant") testified that he first received the RAP Notice in November 2018. He had never been given this notice before that time. Owner Tran ("the owner") agreed with this testimony.

Rent History: The parties agreed that the tenant has paid rent, as follows: from February 2016 through December 2017 - \$1,350 per month; from January 2018 through December 2018 - \$1,500 per month; January 2019 - \$1,575; and February 2019 - \$1,560. It is noted from the current rent increase notice<sup>1</sup> that the rent is \$1,560 per month effective January 1, 2019. The additional \$15 paid in February 2019, represents a portion of the Rent Adjustment Program fee, and is not rent.

#### Decreased Housing Services:

Parking Spaces: The tenant testified that, when he moved into his unit in the year 2010, he signed a lease which said that he was entitled to 2 parking spaces in the lot behind the subject 2-unit building. The parking lot is large, and there were no lines on the pavement. The tenant and his wife own 4 vehicles, and he began parking all 4 on the premises in exchange for mowing the lawn and doing minor repairs in the building. The owner never complained about this arrangement.

However, in April 2018, the tenant received a letter from the owner saying that he could only park 2 vehicles in the lot. At that time, the owner had lines painted on the lot, with numbers designating the unit assigned to each spot.<sup>2</sup> Since May 5, 2018, he has parked 2 vehicles in the lot, parked the others on the street, and stopped doing the lawn mowing and repairs.

<sup>1</sup> Exhibit No. 1A. This Exhibit, and all others to which reference is made in this Decision, were admitted into evidence.

<sup>2</sup> Exhibits 21 and 27 depict the lot before and after lines were added.

The owner testified that the lease specifies 2 parking spaces, and he never gave the tenant permission to park more vehicles. He had lines and unit numbers painted in the lot when a new tenant moved into the other unit in the building.

Stove: The tenant testified that the stove broke down at the end of 2017. It was replaced in January 2018, and there has been no problem since that time.

Mold / Bathroom Fan: The tenant testified that in September 2017, mold began to develop in the bathroom because the exhaust fan was not working well. The tenant reported this problem to the owner at that time. He and his wife cleaned the walls with a soapy towel, but the mold returned. On May 27, 2018, the owner cleaned and painted the walls. Mold then returned, although it is not as bad as it has been. The fan has not worked since that time. The owner said that he would replace the fan if the tenants paid the cost, an estimated \$300 to \$500. The fan was never replaced. The owner testified that he did receive a written notice about the fan, and that he is not responsible to repair or replace the fan.

Floor Tile: The tenant testified as follows: when he moved in, a large ceramic floor tile in the kitchen was partly cracked. The cracks became longer after people had walked on the tile. The tenant notified the owner in July 2017, and took photos at that time.<sup>3</sup> The photos depict large cracks in a floor tile, which have been covered with clear plastic tape. The tile looks the same today as it did in the photos. The owner said that the tenant should replace the floor tile. The owner testified that he was never notified about this problem.

Kitchen Ceiling Light: The tenant testified that, when he moved into his unit, there was a long florescent light in a rectangular fixture on the kitchen ceiling. Approximately 3 years ago, the light stopped working, and he notified the owner. After the owner did not respond to his complaint, the tenant bought a smaller round florescent fixture and installed it in the fixture on the ceiling. The tenant submitted a photo of the new fixture in the old enclosure.<sup>4</sup> The old enclosure appears to be approximately 3 feet long; the new fixture appears to be approximately 10 inches in diameter. The owner then told him that there was no need for him (the owner) to replace a bulb in the original fixture. The owner testified that the tenant replaced the fixture without notifying him.

Electrical Gate: The tenant testified that in the year 2014, the electric gate to the parking area stopped working. The owner testified that the gate was not working when the tenant moved in, and he therefore never gave him a remote control device for the gate.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

RAP Notice: It is found that the tenant first received the RAP Notice in November 2018.

Decreased Housing Services: Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent<sup>5</sup> and may be corrected by a rent adjustment.<sup>6</sup>

<sup>3</sup> Exhibit Nos 37 & 38.

<sup>4</sup> Exhibit No. 41

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

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

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

Where a tenant's petition was filed within this time limit – which is the case here – a tenant can be granted restitution for rent overpayments due to decreased housing services for a maximum of 3 years from the date a petition is filed.<sup>7</sup> The petition was filed on July 23, 2016. Therefore, the tenant is entitled to restitution beginning on August 1, 2015. Further, in order for a tenant's claim for decreased housing services to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs.

Parking Spaces: At the start of his tenancy, the tenant had the right to use 2 parking spaces. When the tenant began to use additional spaces, this was a temporary accommodation that the owner had the right to withdraw at any time. For this reason, the claim is denied.

Stove: The owner replaced the stove within a reasonable time after receiving notice, and the claim is denied.

Mold / Bathroom Fan: An owner has a legal duty to repair habitability defects.<sup>8</sup> He or she cannot require a tenant to make repairs or to refuse to make repairs unless the tenant pays the cost. The owner should reasonably have repaired or replaced the fan by July 1, 2018. Mold is a potential health hazard, and the owner's failure to repair or replace the fan reduces the tenant's housing services by 5%. Because of the current decrease in housing services, the rent is reduced by 5%, being \$78 per month. This rent decrease will remain in effect until the bathroom fan is repaired or replaced, as specified in the Order below. Further, as set forth on the Table below, the tenant has overpaid rent since July 2018.

Floor Tile: The cracked tile would probably have been noticed during a move-in inspection, and during reasonable periodic inspections since that time. Therefore, the owner has always had constructive notice of this condition. The cracked tile makes it difficult to properly clean the kitchen floor and poses a tripping hazard. This condition reduces the tenant's housing services by 2%. Because of the current decrease in housing services, the rent is reduced by 2%, being \$31.20 per month. This rent decrease will remain in effect until the broken tile is replaced, as specified in the Order below. Further, as set forth on the Table below, the tenant has overpaid rent since July 23, 2015.

Kitchen Ceiling Light: The replacement light installed by the tenant would appear to provide less light than bulbs in the substantially larger original fixture. This situation reduces the tenant's housing services by 1%. Because of the current decrease in housing services, the rent is

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

<sup>7</sup> Appeal Decision in Case No. T12-0332, Sherman v. Michelsen.

<sup>8</sup> Fairchild v. Park, 90 CA4th 919 (2001)

reduced by 1%, being \$15.60 per month. This rent decrease will remain in effect until the owner replaces the bulbs in the original fixture, as specified in the Order below. Further, as set forth on the Table below, the tenant has overpaid rent since February 2016, when the tenant replaced the original fixture.

Electrical Gate: The parties' testimony was equally credible. The tenant has not sustained his burden of proof, and the claim is denied.

Conclusion: Because of ongoing decreased housing services, the current rent is reduced by \$124.80 per month, to \$1,435.20 per month. Because of past decreased housing services, the tenant overpaid rent in the amount of \$2,467.80. The overpayment is ordered repaid over a period of 12 months.<sup>9</sup> The current rent is temporarily reduced by \$205.58 per month, to \$1,229.62 per month, beginning with the rent payment in March 2019 and ending with the rent payment in February 2020.

The tenant is entitled to begin to deduct the restitution owed from his rent after this Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to the parties.

**VALUE OF LOST SERVICES**

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Bathroom Fan	1-Jul-18	28-Feb-19	\$1,560	5%	\$78.00	7	\$546.00
Floor Tile	1-Aug-15	28-Feb-19	\$1,560	2%	\$31.20	43	\$1,341.60
Kitchen Light	1-Feb-16	28-Feb-19	\$1,560	1%	\$15.60	37	\$577.20
<b>TOTAL LOST SERVICES</b>							<b>\$2,467.80</b>

**RESTITUTION**

MONTHLY RENT	\$1,560
<b>TOTAL TO BE REPAYED TO TENANT</b>	<b>\$2,467.80</b>
TOTAL AS PERCENT OF MONTHLY RENT	158%
AMORTIZED OVER 12 MO. BY REG. IS	<b>\$205.58</b>

**ORDER**

1. Petition T18-0387 is partly granted.
2. The Base Rent is \$1,560 per month.
3. The tenant is entitled to reduce the rent per the following restitution order after the Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to the parties.

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

4. Because of the ongoing decrease in housing services, the current rent, before reduction due to rent overpayments, is \$1,435.20 per month.

5. Because of past decreased housing services, the tenant has overpaid rent in the amount of \$2,467.80. This overpayment is adjusted by a rent reduction for 12 months.

6. The current rent is temporarily reduced by \$205.58 per month, to \$1,229.62 per month, beginning with the rent payment in March 2019 and ending with the rent payment in February 2020.

7. In March 2020, if repairs have not been made, the rent will increase to \$1,435.20 per month.

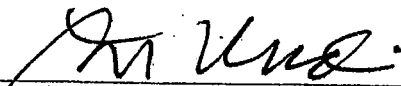
8. When the bathroom fan is repaired or replaced, the owner may increase the rent by \$78 per month, after giving proper notice in accordance with Civil Code Section 827.

9. When the broken floor tile is replaced, the owner may increase the rent by \$31.20 per month, after giving proper notice in accordance with Civil Code Section 827.

10. When bulbs are replaced in the original kitchen ceiling light fixture, the owner may increase the rent by \$15.60 per month, after giving proper notice in accordance with Civil Code Section 827.

11. **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: February 28, 2019



Stephen Kasdin  
Hearing Officer  
Rent Adjustment Program



**PROOF OF SERVICE**

**Case Number T18-0387**

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**

Larry Tran  
19520 Yuma Street  
Castro Valley, CA 94546

**Owner Representative**

Xiaoping Lu  
19520 Yuma Street  
Castro Valley, CA 94546

**Tenant**

Roberto Acevedo Villalobos  
2029 E 19th Street  
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 **March 07, 2019** in Oakland, CA.

---

Nia Johnson

Oakland Rent Adjustment Program

000033

Roberto Acevedo Villalobos  
 2029 E 19th St., Oakland, CA 94606

**Addendum A-Decrease in Services/Bad Condition**

Note: I calculated the estimated value of loss of service by weighing how much each problem affected my health and safety of and my ability to live comfortably in the premises.

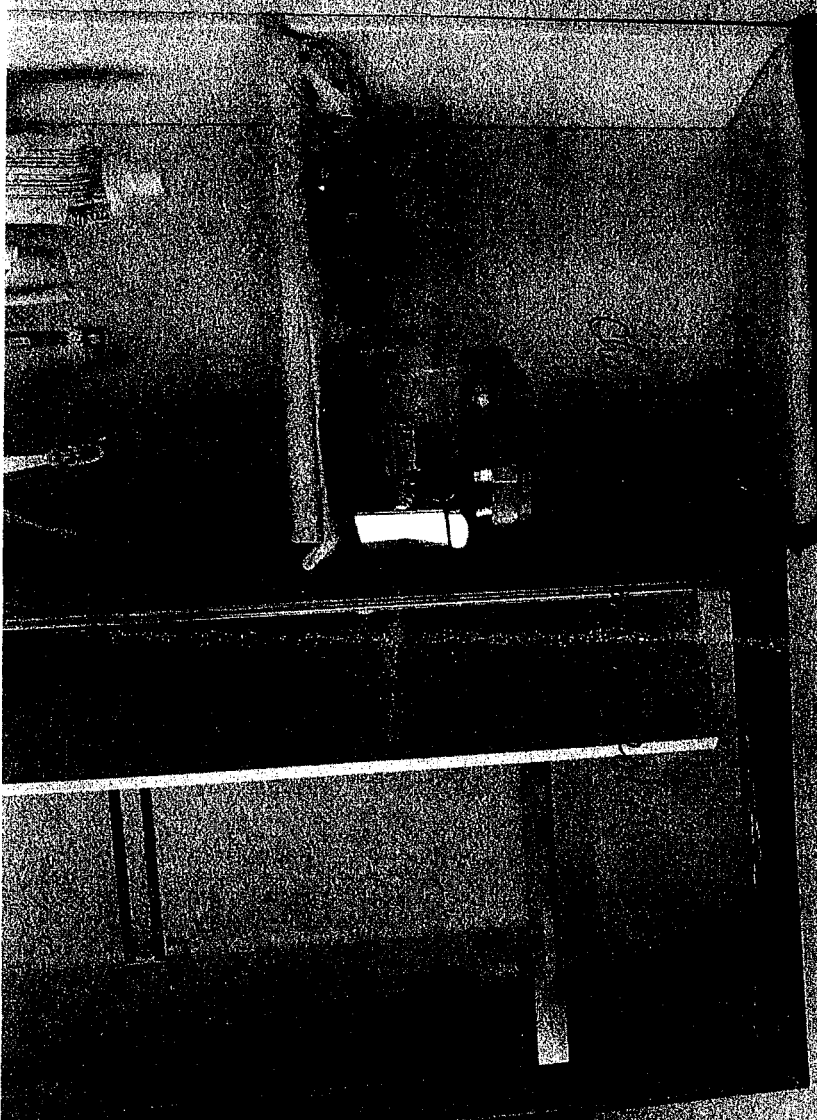
Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
Reduction of parking: we have had 4 spaces since we moved in, owner has reduced us to two spaces	May 5, 2018	May 24, 2018 via letter	N/A	7%
Stove didn't work for two months	Nov. 1, 2017	November 2017, verbally	Jan. 2018	10%
Mold on the bathroom ceiling	Feb. 2017	April 2017	Ineffectively addressed Nov. 2017	4%
Bathroom fan does not work	Feb. 2018	Feb. 2018	N/A	7%
Broken tile in floor	July 2017	July 2017	N/A	3%
Kitchen ceiling does not work. Tenant has put in his own light fixture.	Oct. 2017	Oct. 2017	N/A	3%

Roberto Acevedo Villalobos  
2029 E 19th St., Oakland, CA 94606

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
Electrical gate	2010	Landlord was notified verbally in 2010. Gate was fixed, but not properly. Only closes with force and can no longer be locked.	N/A	4%

000035

1  
2  
3  
4



Handwritten note: "The front needs to change to"

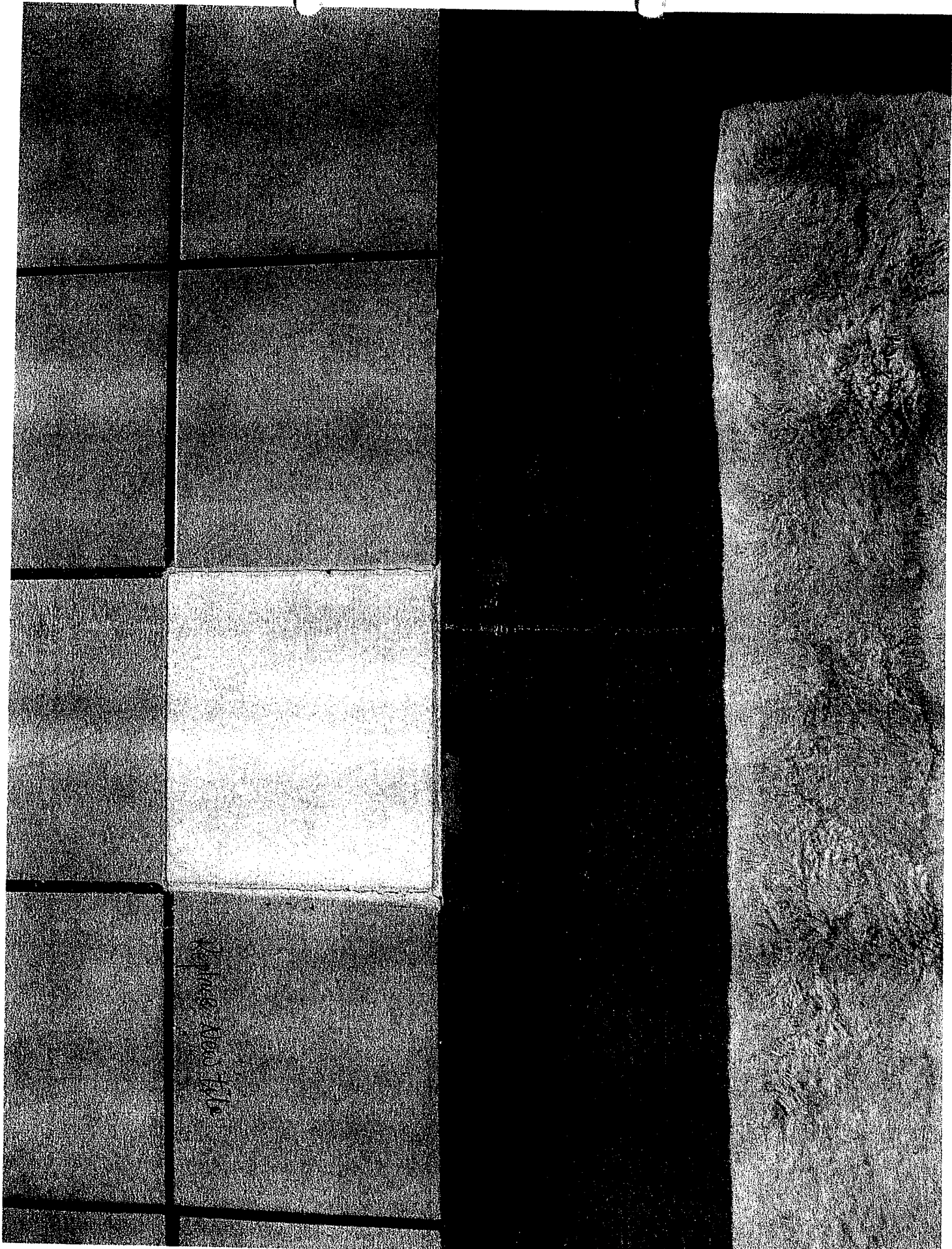


TENNANT

BEST CHANGE THE

2029 E19th ST. Oaklonel CA 94606

000037



2029 E 19<sup>th</sup> ST. Oakland CA 94606 000038



THE KITCHEN TILE ALREADY FIXED  
FIXED BY MARCH 2, 2019

KITCHEN TILE ALREADY  
REPLACE NEW ONE

2029 E 19th St. Oakland, CA 94606.

000039

KITCHEN LIGHT  
REPLACE A NEW  
ONE AND PAINT THE whole kitchen  
FIXED BY MARCH 3, 2019

2029 E 19<sup>th</sup> ST, Oakland, CA 94606

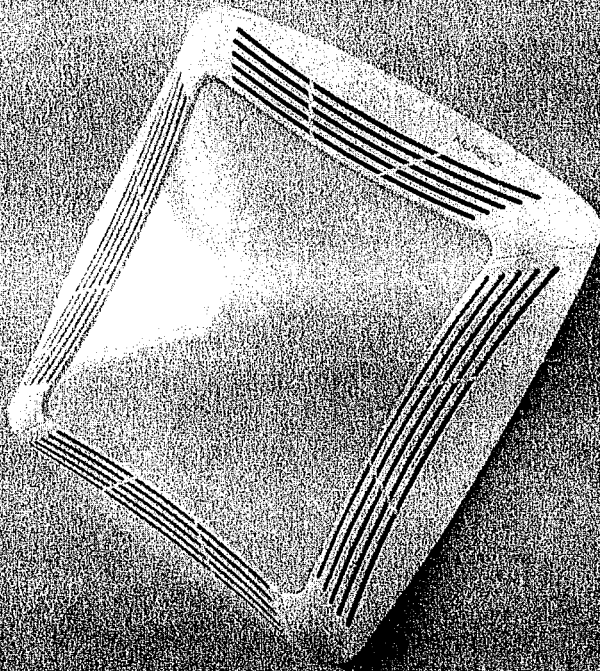
000040



NEW PAN FOR BATHROOM. DONE BY  
MARCH 2019

2029 E 19<sup>th</sup> ST. Oakland CA 94606

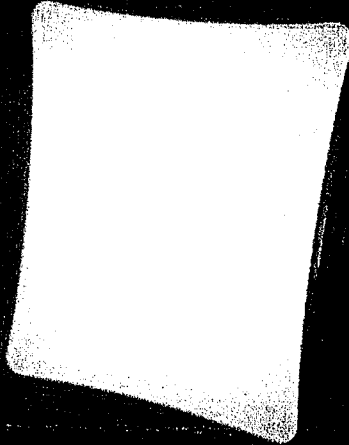
000041



NEW BATHROOM FAN

FIXED BY MARCH 3, 2019

2029 E 19th St. Oakland, CA 94606 000042



2029 E 19<sup>th</sup> ST. Oakland CA 94606

000043

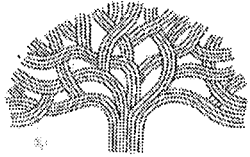
## CHRONOLOGICAL CASE REPORT

Case No.: T18-0218  
Case Name: Durrett et al v. Guiton  
Property Address: 712 56<sup>th</sup> Street, Oakland, CA  
Parties: Soniia Durrett (Tenant)  
No appearance by Owner

### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	April 10, 2018
Owner Response filed	June 21, 2018
Hearing Decision issued	February 7, 2019
Owner Appeal filed	February 14, 2019

T18-0218 Ri/MA



CITY OF OAKLAND

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

For date stamp.

2018 APR 10 PM 2:15

**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 Sonnia Durrett Michaela Holiday Timara Carpenter	Rental Address (with zip code) 712 56th St Oakland, CA 94609	Telephone: [REDACTED]
		Email: [REDACTED]
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) Jessie Guiton Famco	Mailing Address (with zip code) 682 Arimo Ave Oakland, CA	Telephone:
		Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 1

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

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

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

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

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

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

Date you moved into the Unit: July 5, 2013 Initial Rent: \$ 1500 /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: Jan 2015?? 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>1/2017</u>	<u>2/2017</u>	<u>\$ 1522</u>	<u>\$ 1590</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<u>1/2015</u>	<u>3/2015</u>	<u>\$ 1500</u>	<u>\$ 1522</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No



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

Have you ever filed a petition for this rental unit?

Yes

No

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

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

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

Are you being charged for services originally paid by the owner?

Yes  No

Have you lost services originally provided by the owner or have the conditions changed?

Yes  No

Are you claiming any serious problem(s) with the condition of your rental unit?

Yes  No

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

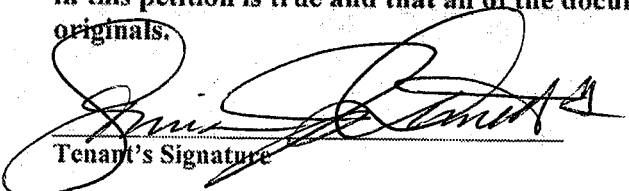
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

Please attach documentary evidence if available.

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

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

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

  
Tenant's Signature

4/10/2018  
Date

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

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

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

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

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

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

\_\_\_\_\_  
Date

## **VI. IMPORTANT INFORMATION:**

### **Time to File**

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit. Mail to:** Oakland Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6<sup>th</sup> 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): \_\_\_\_\_



List Problems (that I can think of)

Dates

Sink (Kitchen) Badly leaks

1/2015

Sink (Bathroom) no hot water pressure

7/2013

Bath tub water no pressure

7/2013

Mold (Bathroom) all throughout

1/2014

Mold (Kitchen Sink) underneath

1/2015

Mold (Laundry room)

1/2016

Water heater's corrosion (Heavy)

7/2013

7/2013 Lack of insulation down stairs make my daughters Bathroom & FREEZING  
7/2013 Heater does not heat whole house room

Bathroom mirror fell off

1/2015

1/2015 Fences (backyard) fallen in or missing pieces

7/2013 Bamboo grows wildly; damaged back stairs

7/2013 Back stairs rotten

1/2015 Mice or rodent problems

1/2015 No smoke detectors

7/2013 No carbon monoxide detectors

1/2015 Side gate lock only works from 1 side

7/2013 Trees and other vegetation never trimmed

1/2015 Kitchen sink rotten (underneath)

1/2015 Kitchen drawer face fell off

(page 1 of 2)

We s'  
h.

Laundry room

4/2016  
7/2013

Water heater's corrosion (Heavy)

7/2013

Lack of insulation down stairs

Bathroom & FREEZ  
room

7/2013

Heater does not heat whole house

Bathroom mirror fell off

1/2015

1/2015

Fences (backyard) fallen in or missing pieces

7/2013

Bamboo grows wildly; damaged back stairs

7/2013

Back stairs rotten

1/2015

Mice or rodent problems

1/2015

No smoke detectors

7/2013

No carbon monoxide detectors

1/2015

Side gate lock only works from 1 side

7/2013

Trees and other vegetation never trimmed

1/2015

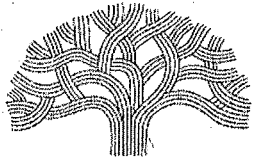
Kitchen sink rotten (underneath)

1/2015

Kitchen drawer face fell off

(page 2 of 2)

\* We started to notify the landlord or her handy man several times in 2015. He finally came out in May 2015, after a sewer pipe broke in the backyard and spewed sewage into the backyard and into the street for months. The pipe was fixed, but when I asked to show more area of interest, I was told that he would come back later, but he never did



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For date stamp, use  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM

2018 JUN 21 AM 8:47

**PROPERTY OWNER**  
**RESPONSE**

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

**CASE NUMBER T18-0218**

Your Name <i>Jessie Guiton</i>	Complete Address (with zip code) <i>682 Arimo Ave. Oakland, CA 94610</i>	Telephone: [REDACTED]
Your Representative's Name (if any) —	Complete Address (with zip code) —	Email:
Tenant(s) Name(s) <i>Terrance Carpenter</i>	Complete Address (with zip code) <i>712-56<sup>th</sup> St. Oakland, CA 94610</i>	Telephone:
Property Address (If the property has more than one address, list all addresses) <i>712, 706-56<sup>th</sup> St. 5601, 5605 Dover St.</i>	Total number of units on property <i>4</i>	Email:

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 00042146  
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: 3/1/85

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 6-10-13.

The tenant's initial rent including all services provided was: \$ 1500.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled "NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") to all of the petitioning tenants?

Yes  No  I don't know

If yes, on what date was the Notice first given? 6-10-13

28.5  
25.98

Is the tenant current on the rent? Yes  No

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

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
<u>2-1-18</u>	<u>3-1-18</u>	\$ <u>1500.00</u>	\$ <u>1590.00</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

### III. EXEMPTION

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

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

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

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

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

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

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

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

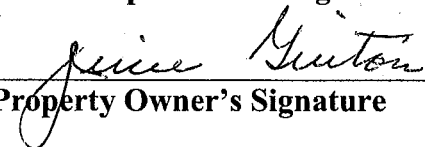
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

### IV. DECREASED HOUSING SERVICES

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

### V. VERIFICATION

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

  
\_\_\_\_\_  
Property Owner's Signature

6-18-18  
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

RECEIVED  
CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

2018 JUN 21 AM 8:46

JESSIE GUITON  
682 Arimo Avenue  
Oakland, CA 94610

June 18, 2018

City of Oakland  
Rent Adjustment Program  
P. O. Box 70243  
Oakland, CA 94612-0243

Dear Mr. Costa:

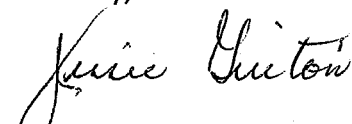
This correspondence is written in response to that received from the Rent Adjustment Program, Case No. T18-0218, in which you transmitted a list of problems filed by Durrett et al for property at 712 – 56<sup>th</sup> Street, Oakland. (Durrett is not a tenant. The current tenant is Terrance Carpenter)

The individual who filed this complaint was a tenant in my property from 2013 to 2016. She moved from the property in early 2016 and during her stay she had no complaints regarding the condition of the property. She moved due to a conflict with her live in partner according to the statement she made to me. She moved into another property that I manage. Her partner remained a tenant at 712 – 56<sup>th</sup> Street and has done so up until this time with no complaints. It is noted that the dates of the complaint for the period 2013 to 2015 are subsequent to Durrett's move out. Durrett moved from 3932 Lusk Street owing for rent and damages to the unit. She did not give notice of her intent to move from that location.

As stated above her live-in partner remained in the home. He has never reported to me that there are issues with the home. He has been habitually late paying his rent (every month). He has not paid rent for the month of June and therefore has now been sent a Three Day Notice to Pay or Quit.

I am at a loss to understand the basis or rationale for the "complaint" by a former tenant. I trust that the foregoing provides sufficient information to conclude this matter.

Sincerely,



Jessie Guiton

000055



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

CITY OF OAKLAND

Housing and Community Development Department  
Rent Adjustment Program

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

## **HEARING DECISION**

**CASE NUMBER:** T18-0218, Durrett et al v. Guiton  
**PROPERTY ADDRESS:** 712 56<sup>th</sup> Street, Oakland, CA  
**DATE OF HEARING:** September 26, 2018  
**DATE OF DECISION:** January 29, 2019  
**APPEARANCES:** Soniia Durrett

### **SUMMARY OF DECISION**

The tenant's petition is granted in part.

### **CONTENTIONS OF THE PARTIES**

On April 10, 2018, the tenant filed a petition contesting two rent increases and claiming that her housing services have decreased. The basis for the tenant's petition includes the following:

- The rent increase notices were not given to me in compliance with State law;
- 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;
- The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner; and
- I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake.

The owner filed a timely response denying the allegations but failed to appear for the Hearing. The Hearing was properly noticed and proceeded without the presence of the owner.

000056



## THE ISSUES

- (1) When, if ever, did the tenant receive the form Notice to Tenants (RAP Notice)?
- (2) Are the contested rent increases valid?
- (3) Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

## EVIDENCE

### Rent History and RAP Notice

The tenant moved into the subject unit in July of 2013, at an initial monthly rent of \$1,500.00. A copy of the original lease for the subject property was received into evidence.<sup>1</sup> The subject unit is located in a residential building consisting of four (4) units. The tenant stated on her petition and testified at the hearing that she received a notice of rent increase on March 15, 2016, raising her rent from \$1,500.00 to \$1,522.50 per month effective May 1, 2016. On December 15, 2016, she received another notice of rent increase raising her rent from \$1,522.50 to \$1,590.00 per month effective February 1, 2017. The tenant testified that she received the RAP Notice with both rent increase notices. She submitted copies of the rent increase notices and the RAP Notices into evidence.<sup>2</sup>

At the hearing, the tenant testified that she paid the increased rent of \$1,590.00 from February 2017 through July 2018. She testified that she began withholding rent in August of 2018, and will continue to withhold rent until repairs to the unit are completed.

### Decreased Housing Services

With her petition, the tenant submitted a list of decreased housing services. At the hearing, the tenant testified that a City Inspector from Code Enforcement Services conducted an inspection of the property on June 29, 2018, and issued a Notice of Violation on July 24, 2018, citing violations for many of the decreased housing services listed in the tenant petition. The tenant testified that in response to the Notice of Violation, the owner made several repairs to the unit in August of 2018. On September 17, 2018, the City Inspector conducted a Re-Inspection of the property and informed the tenant that the repairs were completed incorrectly and were not in compliance with Code Enforcement. The tenant testified that she has not yet received anything in writing from the City Inspector following the Re-Inspection on September 17, 2018.

The tenant testified as follows regarding each of the decreased housing services she listed in her petition:

Kitchen Sink: The tenant testified that her kitchen sink and faucet have been leaking since approximately January of 2015 and the cabinet underneath the sink has

---

<sup>1</sup> Exhibit 1

<sup>2</sup> Exhibit 3

mold. She notified the owner of the leak in 2015 but the owner failed to make repairs at that time. The leak and associated mold were also cited in the Notice of Violation issued on July 24, 2018. The tenant testified that the owner finally repaired the leak on August 15, 2018, but did not address the mold.

Low Water Pressure: The tenant testified that there has been no hot water pressure in the bathroom sink and bathtub since she moved into the unit in July of 2013. She complained about the low water pressure many times but the owner failed to address the issue. The low water pressure was also cited in the Notice of Violation issued on July 24, 2018. In response to the Notice Violation, the owner installed new piping in the bathroom on August 15, 2018. The new piping resolved the low water pressure issue but now the new pipes under the bathroom sink leak.

Mold in Bathroom: The tenant testified that there has been mold in the bathroom since approximately January of 2015. She has complained about the mold many times to the owner. The bathroom mold was also cited in the Notice of Violation issued on July 24, 2018. On August 15, 2018, the owner painted over the mold, and replaced the bathroom cabinet. However, the new bathroom sink is not centered and the new sink faucet leaks.

Mold in Laundry Room: The tenant testified that there has been mold in the laundry room since approximately January of 2016. She believes the mold is due to the leak in the kitchen, which seeped into the laundry room. She has complained about the mold many times to the owner. The mold in the laundry room was also cited in the Notice of Violation issued on July 24, 2018. The tenant testified that the owner has still not addressed the issue and mold is still present in the laundry room.

Water Heater: The tenant testified that the water heater is old and heavily corroded. The water heater was also cited in the Notice of Violation issued on July 24, 2018 due to a leak. The owner replaced the water heater on August 15, 2018. However, during the re-inspection on September 17, 2018, the City Inspector verbally informed the tenant that the water heater was installed incorrectly.

Lack of Insulation/Lack of Heat: The tenant testified that there was a cold draft in the bathroom and her daughter's room since approximately January of 2015, and the heater never sufficiently heated that part of the house. She testified that the owner finally sealed the bathroom in August of 2018, and that has resolved the draft issue. She has not needed to use the heater since the bathroom was sealed, so she doesn't know if the heater will now sufficiently heat the entire house.

Bathroom Mirror: The tenant testified that the bathroom mirror fell down in May of 2015 and the owner finally replaced it in August of 2018.

Fence: The tenant testified that the backyard fence was in disrepair and a portion of the fence fell down in January of 2014. The fence was also cited in the Notice of Violation issued on July 24, 2018. On August 15, 2018, the owner removed the fence.

Overgrown Vegetation: The tenant testified that bamboo was growing wildly in the backyard, to the point that it was causing damage to the rear staircase, and the trees and other vegetation in the yard were never trimmed. The overgrown vegetation was also cited in the Notice of Violation issued on July 24, 2018. The owner finally chopped down the overgrown bamboo and trimmed the overgrown vegetation on August 15, 2018.

Backstairs: The tenant testified that the rear staircase is dilapidated, rotting, and damaged by the overgrown bamboo. The dilapidated staircase was also cited in the Notice of Violation issued on July 24, 2018. The owner still has not made any repairs and the staircase needs to be replaced.

Rodents: The tenant testified that there was a rodent infestation in the house but she hasn't seen any rodents since approximately 2016, after she became more mindful of not leaving garbage out.

Smoke/CO Detectors: The tenant testified that the smoke/CO detectors have not been working since 2015, but she never notified the owner of this issue prior to filing her petition. The lack of working smoke/CO detectors was also cited in the Notice of Violation issued on July 24, 2018. In response to the Notice of Violation, the owner replaced the smoke/CO detectors on August 15, 2018.

Side Gate Lock: The tenant testified that the lock on the side gate doesn't work properly. It has a double sided key lock but the lock only works from the inside. The lock has not worked properly since approximately January of 2016. The gate lock was also cited in the Notice of Violation issued on July 24, 2018. The tenant testified that the owner has still not repaired the lock.

Kitchen Drawer: The tenant testified that the front of one of the kitchen drawers fell off in approximately January of 2015 and she ended up fixing it herself in March of 2018. She testified that the drawer still opened and closed, the front was just missing.

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

### **Timeliness of Petition Contesting Rent Increases**

For a petition contesting a rent increase, the petition must be filed within ninety (90) days after the date the owner serves the rent increase notice or the date the tenant first receives written notice of the RAP Notice, whichever is later.<sup>3</sup>

It is undisputed that the tenant received the RAP Notice with both contested rent increase notices. To be considered timely, the tenant's petition contesting the 2016, and 2017 rent increases should have been filed within ninety (90) days after the rent increase notice. The tenant did not file her petition until April 10, 2018, more than ninety

---

<sup>3</sup> O.M.C. Section 8.22.090A(2)

(90) days after the most recent rent increase notice, which was issued on December 15, 2016. Therefore, the tenant's petition contesting the rent increases is denied as untimely. Before consideration of any decreased housing services, the tenant's base rent is \$1,590.00 monthly. Since the tenant has been withholding rent since August of 2018, the owner is owed compensation for rent underpayments in the amount of \$11,130.00 (\$1,590.00 x 7 months).

#### Timeliness of Decreased Housing Service Claim

The Oakland Rent Ordinance provides that for a petition claiming decreased housing services:

- a. If the decreased housing is the result of a noticed or discrete change in services provided to the tenant, the petition must be filed within ninety days of whichever of the following is later:
  - i. The date the tenant is noticed or first becomes aware of the decreased housing service; or
  - ii. The date the tenant first receives the RAP Notice.
- b. If the decreased housing is ongoing, the tenant may file a petition at any point but is limited in restitution for ninety (90) days before the petition is filed and to the period of time when the owner knew or should have known about the decreased housing service.<sup>4</sup>

Bathroom mirror (2015) and Kitchen Drawer (2015): The tenant received the RAP Notice on March 15, 2016. To be considered timely, these claims should have been filed within ninety days after March 15, 2016, which would have been June 15, 2016. The tenant's petition was filed on April 10, 2018. Therefore, these claims are denied as untimely.

#### Decreased Housing Services

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent<sup>5</sup> and may be corrected by a rent adjustment.<sup>6</sup> However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy, or one that is required to be provided in a contract between the parties, or a violation of the housing or building code which seriously affects the habitability of the tenant's unit. Further, an owner must be given notice of a problem, and a reasonable opportunity to make repairs, before a claim of decreased housing services will be granted.

Additionally, the tenants have the burden of proof with respect to each claim.

Kitchen Sink: The tenant testified credibly that her kitchen sink and faucet have been leaking since approximately January of 2015 and the leaks were not repaired until

<sup>4</sup> O.M.C. Section 8.22.090(A)(3)

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

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

August 15, 2018. This claim affects the habitability of the unit and the tenant is entitled to restitution for past decreased housing services. Since the tenant received the RAP Notice, restitution shall be limited to ninety (90) days prior to the filing of the petition on April 10, 2018.<sup>7</sup> Therefore, the tenant is entitled to a 2% rent decrease from January 2018 to August 2018, when the leak was repaired. (See chart below)

Low Water Pressure: The tenant testified credibly that there was never any hot water pressure in the bathroom sink and bathtub since she moved into the unit in 2013. The owner installed new piping on August 15, 2018, which resolved the low water pressure issue but the pipes were installed incorrectly and they leak. This claim affects the habitability of the unit and the tenant is entitled to an ongoing rent decrease of 2% until the new pipes are installed correctly and any associated leaks are repaired. The tenant is also entitled to compensation for past decreased housing services regarding the low water pressure as of January 2018. (see chart below)

Mold in Kitchen, Laundry Room, Bathroom: The tenant testified credibly that there is mold in the kitchen, laundry room, and bathroom and it has not been remediated properly. This claim affects the habitability of the unit and the tenant is entitled to an ongoing rent decrease of 5% until the mold in the unit is remediated. The tenant is also entitled to compensation for past decreased housing services regarding the mold as of January 2018. (see chart below).

Water Heater: The tenant testified credibly that the water heater was old and leaking. The owner replaced the water heater on August 15, 2018, but it was installed incorrectly. This claim affects the habitability of the unit and the tenant is entitled to an ongoing rent decrease of 2% until the water heater is installed correctly. The tenant is also entitled to compensation for past decreased housing services regarding the water heater as of January 2018. (see chart below).

Lack of Insulation/Lack of Heat: The tenant testified there was a cold draft in the bathroom and her daughter's room and the heater did not heat that portion of the house adequately due to the draft. This issue was resolved once the owner sealed the bathroom in August of 2018. Lack of adequate heat affects the habitability of the unit and the tenant is entitled to a 5% rent decrease for past decreased housing services from January 2018 through August 2018, when the bathroom was sealed. (see chart below).

Fence: The tenant testified that the backyard fence was in disrepair and a portion of the fence fell down in January of 2014. On August 15, 2018, the owner removed the fence. A falling fence is a safety hazard, therefore, the tenant is entitled to a 2% rent decrease for past decreased housing services from January 2018 through August 2018, when the fence was removed (see chart below).

Overgrown Vegetation: The tenant testified that bamboo was growing wildly in the backyard, to the point that it was causing damage to the rear staircase. The owner

---

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

finally chopped down the overgrown bamboo and trimmed the overgrown vegetation on August 15, 2018. This claim affects the habitability of the unit and the tenant is entitled to a 1% rent decrease for past decreased housing services from January 2018 through August 2018, when the bamboo was chopped down. (see chart below).

Backstairs: The tenant testified that the rear staircase is dilapidated and rotting. The staircase was also cited in the Notice of Violation issued on July 24, 2018. This claim affects the habitability of the unit and the tenant is entitled to an ongoing rent decrease of 5% until the staircase is repaired. The tenant is also entitled to compensation for past decreased housing services regarding the staircase as of January 2018. (see chart below).

Rodents: The tenant testified that she has not observed any rodents in the house since 2016, after she became more mindful of not leaving garbage out. Since the rodents are no longer an issue, compensation for this claim is denied.

Smoke/CO Detectors: The tenant testified that she did not notify the owner of the broken smoke/CO detectors prior to filing her petition and the owner replaced the smoke/CO detectors on August 15, 2018, after she received notice of this issue. Therefore, compensation for this claim is denied.

Side Gate Lock: The tenant testified that the side gate lock has not worked properly since approximately January of 2016. The gate lock was also cited in the Notice of Violation issued on July 24, 2018, and the owner has still not repaired the lock. This claim affects the habitability of the unit and the tenant is entitled to an ongoing rent decrease of 2% until the side gate lock is repaired. The tenant is also entitled to compensation for past decreased housing services regarding the side gate lock as of January 2018. (see chart below).

**VALUE OF LOST SERVICES**

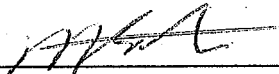
Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Kitchen Sink	1-Jan-18	1-Aug-18	\$1,590.00	2%	\$ 31.80	8	\$ 254.40
Low Water Pressure	1-Jan-18	1-Feb-19	\$1,590.00	2%	\$ 31.80	14	\$ 445.20
Mold in Unit	1-Jan-18	1-Feb-19	\$1,590.00	5%	\$ 79.50	14	\$ 1,113.00
Water Heater	1-Jan-18	1-Feb-19	\$1,590.00	2%	\$ 31.80	14	\$ 445.20
Lack of Insulation	1-Jan-18	1-Aug-18	\$1,590.00	5%	\$ 79.50	8	\$ 636.00
Fence	1-Jan-18	1-Aug-18	\$1,590.00	2%	\$ 31.80	8	\$ 254.40
Overgrown Vegetation	1-Jan-18	1-Aug-18	\$1,590.00	1%	\$ 15.90	8	\$ 127.20
Backstairs	1-Jan-18	1-Feb-19	\$1,590.00	5%	\$ 79.50	14	\$ 1,113.00
Side Gate	1-Jan-18	19-Feb-19	\$1,590.00	2%	\$ 31.80	14	\$ 445.20
<b>TOTAL LOST SERVICES</b>							<b>\$ 4,833.60</b>

## ORDER

1. Tenant Petition T18-0218 is partly granted.
2. The portion of the petition contesting prior rent increases is denied as untimely. The tenant's base rent is \$1,590.00 monthly.
3. Due to ongoing decreases in housing services, the tenant's rent is reduced by 16% (\$254.40). The tenant's current legal rent is \$1,335.60 a month.
4. Due to past decreased services, the tenant is owed restitution in the amount of \$4,833.60. Because the tenant withheld rent, the tenant also owes the owner \$11,130.00 for underpayment of rent. Therefore, the owner is owed a net \$6,296.40 for rent underpayments. The amount owed to the owner shall be amortized over a period of twelve (12) months for a monthly additional rent payment of \$524.70.
5. The tenant's rent for the months of March 2019 through February 2020 is \$1,860.30. Her rent will revert to \$1,335.60 a month in March of 2020, if no repairs are made and/or rent increase notices are served.
6. If the owner fixes the leaks in the new bathroom pipes, she can increase the rent by 2% (\$31.80 per month); should the owner remediate the mold in the unit, she can increase the rent by 5% (\$79.50 per month); should the owner install the water heater correctly, she can increase the rent by 2% (\$31.80 per month); should the owner repair the backstairs, she can increase the rent by 5% (\$79.50 per month); should the owner repair the side gate lock, she can increase the rent by 2% (\$31.80 per month). In order to increase the rent after repairs the owner must provide the necessary notice pursuant to Civil Code § 827.

**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: January 29, 2019

  
\_\_\_\_\_  
**Maimoona Sahi Ahmad**  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**  
**Case Number T18-0218**

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

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

**Documents Included**  
Hearing Decision

**Owner**

Jessie Guiton  
682 Arimo Ave  
Oakland, CA 94610

**Tenants**

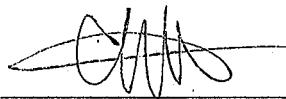
Soniia Durrett  
712 56th St  
Oakland, CA 94609

Michaela Holiday  
712 56th St  
Oakland, CA 94609

Terrance Carpenter  
712 56th St  
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 **February 7, 2019** in Oakland, CA.

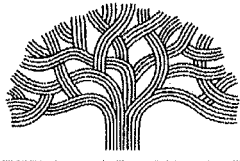


---

Claudette M. Campos  
Oakland Rent Adjustment Program

**000064**





CITY OF OAKLAND

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

**RECEIVED**  
For date stamp.  
**FEB 14 2019**  
**RENT ADJUSTMENT PROGRAM  
OAKLAND  
APPEAL**

Appellant's Name <i>Julie Sutton</i>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <i>712-56<sup>th</sup> Street, Oakland</i>			
Appellant's Mailing Address (For receipt of notices) <i>682 Arimo Ave.</i>		Case Number <i>T18-0218</i>	Date of Decision appealed <i>1-29-19</i>
Name of Representative (if any) —		Representative's Mailing Address (For notices)	

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

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

For more information phone (510) 238-3721.

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

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

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •  
 I declare under penalty of perjury under the laws of the State of California that on 2-15, 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:

<b>Name</b>	<i>Serrenae Carpenters</i>
<b>Address</b>	<i>712-56<sup>th</sup> Street</i>
<b>City, State Zip</b>	<i>Oakland, CA 94608</i>
<b>Name</b>	<i>Sonija Ansett</i>
<b>Address</b>	<i>712-56<sup>th</sup> Street</i>
<b>City, State Zip</b>	<i>Oakland, CA 94608</i>

<i>Jessie Guiton</i>	<i>2-14-19</i>
<b>SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE</b>	<b>DATE</b>

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.**

JESSIE GUITON  
682 Arimo Avenue  
Oakland, CA 94610

February 14, 2019

RECEIVED  
CITY OF OAKLAND  
DHCD/ONI

2019 JAN 14 PM 4: 14

FEB

(KR)

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

APPEAL OF RENT ADJUSTMENT PROGRAM DECISION – T18-0218 – DURRETT v GUITON

Gentlemen:

I am appealing the information the Rent Board used to make their decision and therefore, the decision. While the decision is in my favor I believe it is only appropriate for me to let you know that the information that was used was not correct.

Most importantly I was not notified of the hearing date. I was not present at the hearing for that reason.

Ms. Durrett was not a tenant at the time the complaint was filed. Not any of the decreased housing services that were claimed were brought to my attention by the tenant (Mr. Carpenter).

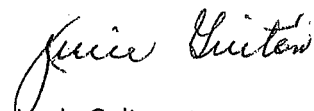
Mr. Carpenter had a court hearing and it was ruled that he had to pay all the rent that he had withheld. He paid \$3,180.00. The total amount owed that you used in your decision was incorrect.

It was stated in your decision that the side yard lock was an issue. It was an issue because the tenant insisted on using a double-deadbolt lock. That kind of lock is illegal and was explained to the tenant by the city inspector. We asked the tenant to remove the lock and it was removed for a while but was replaced after the inspection.

As of this date the tenant has not allowed us to come make the change to the vent on the water heater. Another inspection will be scheduled once the tenant allows us to come in to make the change. All of the other repairs have been made, as of this date, and approved by the city inspector.

If you need additional information please contact me immediately.

Sincerely,



Jessie Guiton

CC: Terrence Carpenter

000068