

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING**

**DECEMBER 13, 2018
7:00 P.M.
CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. CONSENT ITEMS
 - i. Minutes for approval-November 29, 2018
 - ii. Minutes for review, Board panel meeting, November 15, 2018
4. OPEN FORUM
5. OLD BUSINESS
6. NEW BUSINESS
 - a. Appeal Hearings in:
 - i. L17-0073, Hoang v. Tenants
 - ii. T17-0274, Peters v. Sullivan Mgmt. Co.
 - iii. T17-0201, Shannon v. Bowman
T17-0202, Johnson v. Bowman
T17-0282, Warwick v. Bowman
7. SCHEDULING AND REPORTS
 - a. Discussion of standing committee and/or ad hoc committee
8. ADJOURNMENT

Accessibility. This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or Spanish interpreter, please email sshannon@oaklandnet.com or call (510) 238-

3715 or California relay service at 711 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

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

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

CITY OF OAKLAND

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD

Meeting

November 29, 2018

7:00 p.m.

City Hall, Hearing Room #1

One Frank H. Ogawa Plaza, Oakland, CA

MINUTES

1. CALL TO ORDER

The HRRRB was called to order at 7:05 p.m. by Board Chair Jessie Warner

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
D. Mesaros	Tenant	X		
T. Hall	Tenant Alt.			X
Ed Lai	Homeowner Alt.	X		
R. Stone	Homeowner	X		
M. Cook	Homeowner			X
J. Warner	Homeowner	X		
K. Blackburn.	Homeowner Alt.			X
K. Friedman	Landlord	X		
B. Scott	Landlord Alt.			X

Staff Present

Kent Qian	Deputy City Attorney
Chanee Franklin Minor	Program Manager
Barbara Kong-Brown	Senior Hearing Officer
Kelly Rush	Acting Program Analyst 1

3. CONSENT ITEMS

A. Board Minutes, October, 25, 2018, and November 8, 2018-E. Lai moved to approve the minutes. K. Friedman seconded. The Board voted as follows:

Aye:	D. Mesaros, K. Friedman, R. Stone, J. Warner, E. Lai
Nay:	0
Abstain:	0

000003

The motion was approved by consensus.

4. OPEN FORUM

None

5. NEW BUSINESS

A. Hearing in appeal cases:

i.

a. T17-0328, Guzman v. Mann Edge

Appearances:

Michael Trang Owner Appellant Representative
Cary Clouthier, Esq. Tenant Appellee Representative

The owner appealed a hearing decision which granted restitution for loss of a parking space and conditions related to the garbage. The owner representative contended that the lease agreement only provided for one parking space and there was no intent to give the tenant multiple parking spaces.

The tenant representative contended that the tenants purchased two remote devices shortly after they moved into their unit for a second parking space. The owner representative argued that the second remote was not necessarily for a second space, and could have been provided because the tenant lost the first remote device.

Regarding the garbage, the tenant representative contended that the owner did not provide sufficient garbage bins from June 2016 to June 2017, that there were 4 garbage bins consisting of 3 cubic yards which were decreased in June 2016 and not reinstated until July 2017. The owner representative contended that there were tenant use issues with the garbage containers.

The Board discussed the character of the lease, which had expired from a one year lease to month to month tenancy, that a lease cannot be orally amended but this does not apply to a term of less than one year, which constituted a defacto amendment of the lease. E. Lai moved to affirm the hearing decision. D. Mesaros seconded.

The Board voted as follows:

Aye: R. Stone, D. Mesaros, E. Lai, J. Warner, K. Friedman

No: 0

Abstain: 0

The motion was approved by consensus.

b. L17-0126, DeZarenga v. Tenants

Appearances: Greg McConnell Owner Appellant Representative
No appearance by tenants

The owner appealed from a hearing decision which denied an exemption from the Rent Adjustment Ordinance on the basis of new construction. The owner contended that there was a fire in the two unit subject building which was demolished. Two new units were constructed from the ground up.

The hearing officer stated prior to the construction of the new units a 2 unit residential dwelling existed on the property in the same footprint. The owner appellant contended that the Board has already ruled that this analysis was incorrect. Her interpretation of the law is incorrect and she has ignored the clear language of the Ordinance. The property was "finaled" as new construction, and the certificate of occupancy has been submitted. The Board should reverse this hearing decision and grant the exemption.

The Board discussed the precedent decision in Prager v. Lagos, T16-0683, which rejected the footprint analysis, and there was extensive discussion on the definition of new construction and the need for clarifying this term in the Ordinance. The board distinguished this case because there was no net addition of new units, simply a one for one replacement. D. Mesaros moved to affirm the hearing decision. J. Warner seconded.

The Board voted as follows:

Aye: D. Mesaros, E. Lai, J. Warner,
No: R. Stone, K. Friedman
Abstain: 0

The motion carried.

c. L17-0157, JDW Enterprises v. Tenants

The owner appellant did not appear. J. Warner moved to dismiss the appeal pending a showing of good cause. E. Lai seconded.

The Board voted as follows:

Aye: R. Stone, D. Mesaros, E. Lai, J. Warner, K. Friedman
No: 0
Abstain: 0

The motion was approved by consensus.

6. SCHEDULING & REPORTS

A. Discussion of standing committee and/or ad hoc committee for December 13, 2018, full board meeting

B.

7. ADJOURNMENT

The meeting was adjourned by consensus at 8:25 p.m.

**CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD**

**PANEL MEETING
November 15, 2018
7:00 p.m.
City Hall, Hearing Room #1
One Frank H. Ogawa Plaza, Oakland, CA**

MINUTES

1. CALL TO ORDER

The HRRRB Panel was called to order at 7:00 p.m. by Panel Chair, Mary J. Cook.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
Tanaia Hall	Tenant	X		
Mary J. Cook	Homeowner	X		
Karen Friedman	Owner	X		

Staff Present

Laura Lane	Deputy City Attorney, Office of the City Attorney
Maimoona S. Ahmad	Hearing Officer, Rent Adjustment Program
Kelly Rush	Acting Program Analyst, Rent Adjustment Program

3. OPEN FORUM

No speakers.

4. NEW BUSINESS

- i. Appeal Hearing in cases:
 - a. T16-0271, Tsay v. DeMara
 - b. T17-0336, Xavier v. Advent Properties, Inc.
 - c. T17-0208, Brown v. Parmar

Bianca Brown
No appearance by Owner

Tenant Respondent

The owner appellant did not appear at the hearing. M. Cook dismissed the appeal due to the non-appearance of the appellant.

5. SCHEDULING AND REPORTS

None.

6. ADJOURNMENT

The meeting was adjourned at 7:27 p.m.

CHRONOLOGICAL CASE REPORT

Case No.: L17-0073
Case Name: Hoang v. Tenants
Property Address: 1724 11th Street, Units A & B, Oakland, CA
Parties: Lizzy Herrada-Rios (Tenant Unit B)
Michael Margado (Owner Representative)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Landlord Petition filed	April 19, 2017
Tenant Response filed	June 8, 2017
Hearing Decision mailed	November 13, 2017
Owner Appeal filed	December 4, 2017

47.0003 RE/BC

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721</p>	<p>For date stamp.</p> <p style="text-align: center;">RECEIVED CITY OF OAKLAND RENT ADJUSTMENT PROGRAM</p> <p style="text-align: center;">2017 APR 19 AM 10:39</p> <p style="text-align: center;"><u>LANDLORD PETITION</u> <u>FOR CERTIFICATE OF EXEMPTION</u> (OMC §8.22.030.B)</p>
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Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your claim. Before completing this petition, please read the Rent Adjustment Ordinance, section 8.22.030. A hearing is required in all cases even if uncontested or irrefutable.

Section 1. Basic Information

Your Name <p style="font-size: 24px; text-align: center;">HUY HOANG</p>	Complete Address (with zip code) <p style="font-size: 24px; text-align: center;">225 S. HAMEL Dr. Beverly Hills, CA 90211</p>	Telephone Day: <u>310 259 2913</u>	
Your Representative's Name <p style="font-size: 24px; text-align: center;">MICHAEL MARGADO (VISION PROPERTY MGMT)</p>	Complete Address (with zip code) <p style="font-size: 24px; text-align: center;">4174 35th AVE Oakland, CA 94619</p>	Telephone Day: <u>510 560 4240</u>	
Property Address <p style="font-size: 24px; text-align: center;">1724 (A & B) 11th St. Oakland, CA 94607</p>		Total number of units in bldg or parcel. <p style="font-size: 24px; text-align: center;">2</p>	
Type of units (circle one)	<input type="checkbox"/> Single Family Residence (SFR)	<input type="checkbox"/> Condominium	<input checked="" type="checkbox"/> Apartment or Room
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Assessor's Parcel No. <u>006 002502 300</u>			

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

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

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

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

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


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

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

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

Section 4. Verification Each petitioner must sign this section.

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



Owner's Signature

4/15/2017

Date

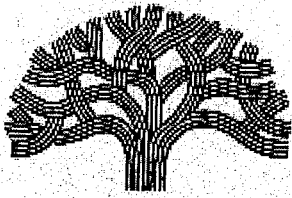
Owner's Signature

Date

Important Information

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

File Review Your tenant(s) will be given the opportunity to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the tenant's Response. Copies of attachments to the Response form will not be sent to you. However, you may review any attachments in the Rent Program Office. Files are available for review by appointment only. For an appointment to review a file, call (510) 238-3721. Please allow six weeks from the date of filing for notification processing and expiration of the tenant's response time before scheduling a file review.



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 JUN -8 PM 1:16

CASE NUMBER L17-0073

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name Lizzy Herrada-Rios	Complete Address (with Zip Code) 1724 11th St. Unit B Oakland, CA 94607	Telephone 510-313-8985
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

2

The unit I rent is:

a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

10/31/2013^{LL}

Date you moved into this unit:

11/1/13^{LL}

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. 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.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

I believe that the landlord's claim to be exempt from the current Rent control ordinance is not only incorrect but irresponsible - the landlord has neglected the property's integrity for years & hired persons whom did incomplete & shotty work to save money rather than care about the individuals who he is providing homes to. In my almost 4 years at 1724 11th St, I have created a home & a community - but have endured so much at the property that, if not for the housing crisis Bay Area natives face!

would have left a long time ago.

My response to his petition comes not just from fear of losing the home my partner & I have created, but also from compassionate reasoning: we are not opposed to raising rent if 1) the increase was compliant with the law and 2) the property was in better shape & duly maintained with the residents in mind. Mr. Huy does not have the families & individuals he rents to in ~~his~~ mind when looking to distance himself from laws that protect us.

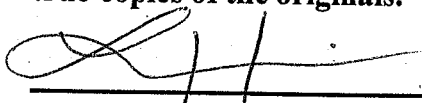
Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?	
		From	To	Yes	No
06/2015	09/01/15	\$ 1,700/mo.	\$ 2,000/mo	<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
		\$	\$	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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.



 Tenant's Signature

6/3/17

 Date

 Tenant's Signature

 Date

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

You cannot get an extension of time to file your Response by telephone.

File Review

You should have received with this letter a copy of the landlord petition.

For an appointment to review a file call (510) 238-3721.

Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment.

???



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: L17-0073, Hoang v. Tenants
PROPERTY ADDRESS: 1724 11th Street A & B, Oakland, CA
DATE OF HEARING: August 31, 2017
DATE OF DECISION: October 19, 2017
APPEARANCES: Michael Margardo, Owner Representative
Lizzy Herrada-Rios, Tenant Unit B

SUMMARY OF DECISION

The owner petition is denied.

CONTENTIONS OF THE PARTIES

On April 19, 2017, the owner filed a *Landlord Petition for Certificate of Exemption* claiming that the building at 1724 11th Street, Units A & B, was newly constructed and therefore exempt from the Ordinance.

Tenant Lizzy Herrada-Rios filed a timely response to the petition, contesting the exemption.

THE ISSUES

1. Are the units in the building located at 1724 11th Street exempt from the Ordinance as new construction?

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EVIDENCE

Building History: The owner representative testified that Huy Hoang, who he represents, purchased the subject property at 1724 11th Street, approximately 6 years ago. The building in question is a two-unit manufactured building that was built in 1987.

The owner representative testified that he believes that prior to the installation of this building, there was a free-standing single family residence on the property. He does not know how large it was.

The owner representative produced a series of documents that he received from the Oakland Planning Department that relates to this property address. He testified that the package of documents he produced were all the documents in the City of Oakland's records regarding this property. One of those documents is a map that shows that a prior building existed on the property before this building was built.¹

Additionally, in the record is an *Application for a Permit to Alter, Repair, Add To or Wreck a Building* from 1951, for the installation of a new roof.² There is also an *Application for a Permit to Alter, Repair, Add To or Wreck a Building* for the installation of asbestos siding.³ It is unclear what date this was issued, but it is obvious that it applies to the prior building on the premises.

The record also contains a letter from a City of Oakland Housing Division Official written in May of 1969, to the then current owner, regarding a series of problems with the unit.⁴ This letter is followed by an August 26, 1970, letter from the City of Oakland, containing a list of violations on the prior building. This document states that the "dwelling units" at the upper rear and in the cellar do not contain a water closet or other required plumbing.⁵

In May of 1971, the City of Oakland's Housing Advisory and Appeals Board issued a *Resolution* regarding the vacated building and declared it to be unsafe and a nuisance.⁶

The record also contains permit requests for demolition of a vacant dwelling and a vacant garage, both of which were dated May 15, 1972.⁷ Those permits were finalized on July 11, 1972.

The owner representative testified that in 1986, a permit was received to install a manufactured duplex.⁸ There were also mechanical, electrical and plumbing permits

¹ Exhibit 1, page 14. All documents were admitted into evidence without objection.

² Exhibit 1, page 18

³ Exhibit 1, page 15

⁴ Exhibit 1, pp 32-34

⁵ Exhibit 1, page 39

⁶ Exhibit 1, pp 40-42

⁷ Exhibit 1, page 19-21

⁸ Exhibit 1, page 25

issued.⁹ He also produced a *Report of Building Record* showing that the mechanical, electrical, and plumbing permits were finalized for those permits.¹⁰ There is no indication that the permit for the entire installation was finalized.

Additionally, he has been trying to get a *Certificate of Occupancy* for the building because no such document was in the record.

The owner's representative further testified that he and the owner have had to jump through a variety of hoops requested by the Planning Department and they still have not been given a *Certificate of Occupancy*. He had to get documents from HUD, because this was a manufactured duplex; he had to pay for multiple inspections; and had to have an architect draw plans.¹¹ He has been told that he should be receiving a *Certificate of Occupancy* in a matter of weeks.

There is no information in the record about the size of the prior building or how it compares to the size of the manufactured unit.

Rental History: Tenant Herrarda-Rios testified that she moved into Unit B in the subject building in October of 2013, at an initial rent of \$1,700 a month. The last rent increase she received was in 2015, increasing her rent to \$2,000 a month.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Are the units located at 1724 11th Street, exempt from the RAP as new construction?

The Oakland Rent Adjustment Ordinance states that dwelling units are not "covered units" under the Ordinance if such units "were newly constructed and received a certificate of occupancy on or after January 1, 1983."¹² The Ordinance states:

"To qualify as a newly constructed dwelling unit, the dwelling unit must be entirely newly constructed or created from space that was formerly entirely non-residential."¹³

An owner has the burden of proof on all elements of a claim for exemption.

Here, the unit is not exempt for two reasons:

First, the owner has not produced a *Certificate of Occupancy* or a finalized building permit for the entire project. While the owner did produce proof that the mechanical, plumbing and electrical permits for the installation was "finalized", there was another permit that had to be finalized in order to establish the completion of these units. While

⁹ Exhibit 1, pp 26-29

¹⁰ Exhibit 1, page 1

¹¹ Exhibit 1, page 8

¹² O.M.C. § 8.22.030(A)(5)

¹³ O.M.C. § 8.22.030(A)(5)

the Board has held that a *Certificate of Occupancy* is not required where there is a “finalized” permit, that finalized permit must be the permit for the entire project.¹⁴ Here, there is neither a finalized permit nor a *Certificate of Occupancy*.

Secondly, the evidence documents that prior to the 2-unit residential building being installed, a prior residential dwelling existed on the property. It is unclear from the record whether this building was a single-family residence or contained multiple units, as the records refer to “units”. Therefore, the question to be decided is whether the prior residential building affects the decision in this case. The case of *Burien, LLC v. Wiley* (2014) 230 Cal.App.4th 1039 is instructive on this issue. In that case the Court of Appeal held that a certificate of occupancy that does “not precede the residential use of the property” does not qualify a property for an exemption from rent control under Costa Hawkins. Civil Code § 1954.52(a)(1).

While in this case Costa Hawkins is not controlling because Costa Hawkins exempts units for which a certificate of occupancy was provided after 1995, and in this case, the building was built in 1986, it is still an instructive decision. The Court in *Burien* held that where there was a prior residential use of a property, a new *Certificate of Occupancy* (or building permit) was not controlling.

In other words, if a property contains residential units that were obviously in existence prior to the new building being built, that property had a prior residential use. In this case, that building was demolished, and new units were built. Therefore, the property does not automatically qualify for an exemption to rent control for newly constructed dwelling units.

In order to qualify for the Section 1954.52(a)(1) exemption or the exemption provided by the Rent Adjustment Ordinance, if the *Certificate of Occupancy* or its functional equivalent existed, the new construction must create new units from space not already being used for residential purposes or from space that was not previously used for residential purposes. (See also *Da Vinci Group v. San Francisco Residential Rent etc. Bd.* (1992) 5 Cal.App.4th 24 (rejecting rent control exemption for a live-work space that received a new certificate of occupancy for residential purposes after legalizing pre-existing residential uses.)

Here, the record shows that the new building was built in a substantially similar area to the demolished building. There is no proof that the footprint of the new building, or any part of the new residential units, exists entirely outside the footprint of the prior building.

For both reasons listed above, these units do not qualify for an exemption based on new construction.

The owner’s claim is denied.

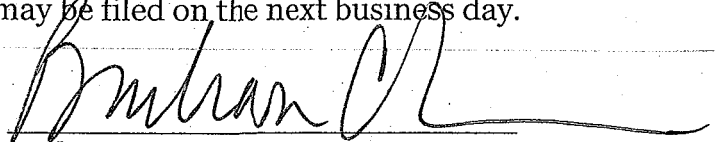
¹⁴ See *Peacock v. Heinemann, Housing, Residential, Rent and Relocation Board, 2008, T08-0297*

ORDER

1. Petition L17-0073 is denied. The units are not exempt from the Rent Adjustment Ordinance.

2. Right to Appeal: **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) 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: October 19, 2017



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number L17-0073

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

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

Tenants

Kathy Brown
1724 11th St #A
Oakland, CA 94607

Lizzy Herrada-Rios
1724 11th St #B
Oakland, CA 94607

Owner

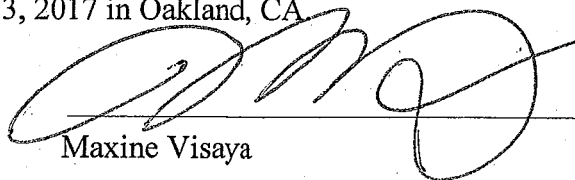
Huy Hoang
225 S. Hamel Dr
Beverly Hills, CA 90211

Owner Representative

Vision Property Mgmt./Michael Margado
4174 35th Ave
Oakland, CA 94619

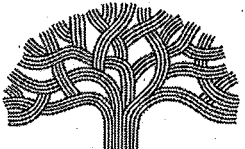
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 13, 2017 in Oakland, CA


Maxine Visaya

000021

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp 2017 DEC -4 AM 9:38
		<u>APPEAL</u>

Appellant's Name Huy Hoang		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1724 11th St. (A and B) Oakland, CA 94607			
Appellant's Mailing Address (For receipt of notices) 225 S. Hamel Dr. Beverly Hills, CA 90211		Case Number L17-0073	
		Date of Decision appealed 10/19/2017	
Name of Representative (if any) Michael Margado		Representative's Mailing Address (For notices) 4174 35th Ave. Oakland, CA 94619	

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.



00022

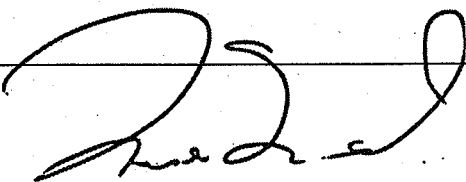
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: 15

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

I declare under penalty of perjury under the laws of the State of California that on December 2nd, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Kathy Brown
Address	1724 11th St. Unit A
City, State Zip	Oakland, CA 94607
Name	Lizzy Herrada Rios
Address	1724 11th St. Unit B
City, State Zip	Oakland, CA 94607

	12/2/2017
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SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

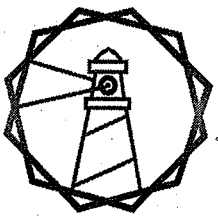
For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

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

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

For more information phone (510) 238-3721.



VISION

PROPERTY MANAGEMENT

Dec. 2, 2017

Explanation for grounds of appeal to Case L17-0073

Hearing Officer Cohen's primary reason for denial of the request for exemption was that a Certificate of Occupancy was not provided to her at the time of the hearing.

In the hearing there were 3 items that Ms. Cohen generously offered extended time to produce after the hearing was over. Those items were the RAP fees receipt for this year; proof that the most current year's business taxes were paid for the subject property; and lastly the Certificate of Occupancy (CO).

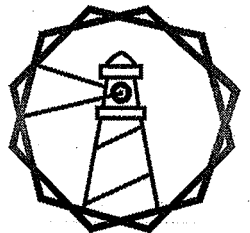
The first two I sent by day's (8/31/2017) end via email to Ms. Cohen. As soon as I the hearing with the tenant in unit B and Ms. Cohen I promptly went back down to the 2nd floor to find out what was holding Mr. Reyes up as long as it had with the promised CO and to see if he'd returned to work. Upset at getting no answer again, I called his supervisor, Principal Inspection Supervisor, David Miles.

Mr. Miles was kind enough to speak with me at length and apologized in no uncertain terms for the errors that Mr. Reyes and the Planning and Building Dept. had made with this case and all the runaround I'd experienced. He listened intently to my whole story, then offered on his own to email Ms. Cohen (which he did, copied me, and I've attached) and inform her that the CO was forthcoming.

On 9/11/17 as Mr. Miles claimed, Inspector Reyes returned to work, sent me the CO with the last page to be signed by the owner. I attained his signature, sent back to Mr. Reyes, as well as the fully executed copy immediately to Ms. Cohen (see attached CO). I've also included other relevant evidence like the timeline and work spent trying to obtain the CO.

4174 35th Ave.
Oakland, CA 94619
510-500-3760

Hello@VPMpropertymanagement.com



000025

Permits for which no major inspection has been approved within 180 days shall expire by limitation. No refund more than 180 days after expiration or final.

1724 11TH ST



CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA • 2ND FLOOR • OAKLAND, CA 94612

1724 11TH ST

Planning and Building Department
www.oaklandnet.com

PH: 510-238-3891
FAX: 510-238-2263
TDD: 510-238-3254

Permit No: RB1702076 Residential Building - Alteration

Permit Issued: 9/11/2017

Job Site: 1724 11TH ST

Schedule Inspection by calling: 510-238-3444

Parcel No: 006 002502300

District:

Project Description: Certificate of occupancy for the foundation system for a manufactured duplex.

Related Permits:

	<u>Name</u>	<u>Applicant</u>	<u>Address</u>	<u>Phone</u>	<u>License #</u>
Owner:	HOANG HUY		3303 CHESTNUT ST OAKLAND, CA		
Owner-Agent:	Michael Margado	X	OAKLAND, CA	510-377-4818	

PERMIT DETAILS:	Residential/Building/Alteration		
General Information			
Green Code Checklist:	Sets Of Plans:	0	Report - Soil/Geotech:
	Structural Calculations:		Energy Calculations (T24): 0
Proposed Building Information			
Building Use:	Duplex	Number Of Stories:	1
Occupancy Group:	R-3 Residential 1 And 2 Units	Number Of Units:	2
Construction Type:	VA - Combustible Construction; 3 Hour Fire Rating	No. of Additional Bedrooms:	
Work Information			
Job Value:	\$0.00		

TOTAL FEES TO BE PAID AT FILING: \$0.00

Plans Checked By _____ Date _____

Permit Issued By R. K. AS Date 9/12/17

Finalized By R. K. AS Date 9/13/17



CITY OF OAKLAND

Permit No: RB1702076

Parcel No: 006 002502300

Job Site: 1724 11TH ST

Page 2 of 3

OWNER-BUILDER DECLARATION

I hereby affirm under penalty of perjury that I am exempt from the Contractors' State License Law for the reason(s) indicated below by the checkmark(s) I have placed next to the applicable item(s) (Section 7031.5, Business and Professions Code: Any city or county that requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for the permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors' State License Law (Chapter 9, commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt from licensure and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500):

I, as owner of the property, or my employees with wages as their sole compensation, will do all of or portions of the work, and the structure is not intended or offered for sale (Section 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who, through employees' or personal effort, builds or improves the property, provided that the improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the Owner-Builder will have the burden of proving that it was not built or improved for the purpose of sale).

I, as owner of the property, am exclusively contracting with licensed Contractors to construct the project (Section 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who builds or improves thereon, and who contracts for the projects with a licensed Contractor pursuant to the Contractors' State License Law).

I am exempt from licensure under the Contractors' State License Law for the following reason: _____

By my signature below I acknowledge that, except for my personal residence in which I must have resided for at least one year prior to completion of the improvements covered by this permit, I cannot legally sell a structure that I have built as an owner-builder if it has not been constructed in its entirety by licensed contractors. I understand that a copy of the applicable law, Section 7044 of the Business and Professions Code, is available upon request when this application is submitted or at the following Web site: <http://www.leginfo.ca.gov/calaw.html>.

RENOVATION REPAIR AND PAINTING ACKNOWLEDGMENT

EPA's Lead Renovation, Repair and Painting Rule (RRP Rule) requires that firms performing renovation, repair, and painting projects that disturb lead-based paint in homes, child care facilities and pre-schools built before 1978 have their firm certified by EPA or use certified renovators who are trained by EPA-approved training providers and follow lead-safe work practices. As the property owner preparing to do work on a Pre-1978 building, I have read the explanation of the RRP Rule and will ensure that any paint disturbing work will be done by or supervised by an RRP certified individual(s). Failure to follow this rule may result in enforcement action by the EPA. For additional information on complying with lead safety requirements, contact the Alameda County Healthy Homes Department at (510) 567-8280 or 1-800-253-2372 or visit <http://www.achhd.org>.

HAZARDOUS MATERIALS DECLARATION

I hereby affirm that the intended occupancy WILL WILL NOT use, handle or store any hazardous, or acutely hazardous, materials. (Checking "WILL" acknowledges that Sections 25505, 25533, and 25534 of the Health and Safety Code, as well as filing instructions were made available to you).

I hereby agree to save, defend, indemnify and keep harmless the City of Oakland and its officials, officers, employees, representatives, agents, and volunteers from all actions, claims, demands, litigation, or proceedings, including those for attorneys' fees, against the City in consequence of the granting of this permit or from the use or occupancy of the public right-of-way, public easement, or any sidewalk, street or sub-sidewalk or otherwise by virtue thereof, and will in all things strictly comply with the conditions under which this permit is granted.

By my signature below, I certify to each of the following:

- I am the property owner or authorized to act on the property owner's behalf.
- I have read this application and the information I have provided is correct.
- I agree to comply with all applicable city and county ordinances and state laws relating to building construction.
- I authorize representatives of this city or county to enter the above-identified property for inspection purposes.

NOTICE: No activities related to the approved work, including storage/use of materials, is allowed within the public right-of-way without an encroachment permit. Dust control measures shall be used throughout all phases of construction.

Michael M Margado

Name (Print)

Signature Owner Agent

09/12/2017

Date

000027



Permit No: RB1702076

Parcel No: 006 002502300

Job Site: 1724 11TH ST

Page 3 of 3

An application for a building permit has been submitted in your name listing yourself as the builder of the property improvements specified. We are providing you with an Owner-Builder Acknowledgment and Information Verification Form to make you aware of your responsibilities and possible risk you may incur by having this permit issued in your name as the Owner-Builder. We will not issue a building permit until you have read, initialed your understanding of each provision, signed, and returned this form to us at our official address indicated. An agent of the owner cannot execute this notice unless you, the property owner, obtain the prior approval of the permitting authority.

OWNER'S ACKNOWLEDGMENT AND VERIFICATION OF INFORMATION

DIRECTIONS: Read and initial each statement below to signify you understand or verify this information.

- MB 1. I understand a frequent practice of unlicensed persons is to have the property owner obtain an "Owner-Builder" building permit that erroneously implies that the property owner is providing his or her own labor and material personally. I, as an Owner-Builder, may be held liable and subject to serious financial risk for any injuries sustained by an unlicensed person and his or her employees while working on my property. My homeowner's Insurance may not provide coverage for those injuries. I am willfully acting as an Owner-Builder and am aware of the limits of my insurance coverage for injuries to workers on my property.
- MB 2. I understand building permits are not required to be signed by property owners unless they are responsible for the construction and are not hiring a licensed Contractor to assume this responsibility.
- MB 3. I understand as an "Owner-Builder" I am the responsible party of record on the permit. I understand that I may protect myself from potential financial risk by hiring a licensed Contractor and having the permit filed in his or her name instead of my own.
- MB 4. I understand Contractors are required by law to be licensed and bonded in California and to list their license numbers on permits and contracts.
- MB 5. I understand if I employ or otherwise engage any persons, other than California licensed Contractors, and the total value of my construction is at least five hundred dollars (\$500), including labor and materials, I may be considered an "employer" under state and federal law.
- MB 6. I understand if I am considered an "employer" under state and federal law, I must register with the state and federal government, withhold payroll taxes, provide workers' compensation disability insurance, and contribute to unemployment compensation for each "employee." I also understand my failure to abide by these laws may subject me to serious financial risk.
- MB 7. I understand under California Contractors' State License Law, an Owner-Builder who builds single-family residential structures cannot legally build them with the intent to offer them for sale, unless all work is performed by licensed subcontractors and the number of structures does not exceed four within any calendar year, or all of the work is performed under contract with a licensed general building contractor.
- MB 8. I understand as an Owner-Builder if I sell the property for which this permit is issued, I may be held liable for any financial or personal injuries sustained by any subsequent owner(s) that result from any latent construction defects in workmanship or materials.
- MB 9. I understand I may obtain more information regarding my obligations as an "employer" from the Internal Revenue Service, the United States Small Business Administration, the California Department of Benefit Payments, and the California Division of Industrial Accidents. I also understand I may contact the California Contractors' State License Board (CSLB) at 1-800-321-CSLB (2752) or www.cslb.ca.gov for more information about licensed contractors.
- MB 10. I am aware of and consent to an Owner-Builder building permit applied for in my name, and understand that I am the party legally and financially responsible for proposed construction activity.
- MB 11. I agree that, as the party legally and financially responsible for this proposed construction activity, I will abide by all applicable laws and requirements that govern Owner-Builders as well as employers.
- MB 12. I agree to notify the issuer of this form immediately of any additions, deletions, or changes to any of the information I have provided on this form.

Licensed contractors are regulated by laws designed to protect the public. If you contract with someone who does not have a license, the Contractors' State License Board may be unable to assist you with any financial loss you may sustain as a result of a complaint. Your only remedy against unlicensed Contractors may be in civil court. It is also important for you to understand that if an unlicensed Contractor or employee of that individual or firm is injured while working on your property, you may be held liable for damages. If you obtain a permit as Owner-Builder and wish to hire Contractors, you will be responsible for verifying whether or not those Contractors are properly licensed and the status of their workers' compensation insurance coverage. Before a building permit can be issued, this form must be completed and signed by the property owner and returned to the agency responsible for issuing the permit. A copy of the property owner's driver's license, form notarization, or other verification acceptable to the agency is required to be presented when the permit is issued to verify the property owner's signature.

Michael M Margado

Name (Print)

Signature Owner Agent

09/12/2017

Date

CERTIFICATE OF OCCUPANCY FOUNDATION SYSTEM

BUILDING PERMIT NO. B8700528

Address or Location of Unit 1722/1724 11TH SE

Legal Description of Real Property 606002502300

DUPLEX

Mobilehome/Manufactured Home Commercial Coach has been affixed to the real property described above by installation on a foundation system pursuant to Health and Safety Code Section 18551.

Owner's Name: HOANG HUY

Owner's Address: 3303 CHESTNUT SE OAKLAND CA.
94608

INSIGNIA OR HUD NUMBER: HWCI43835

SERIAL NUMBER OR VIN: A35C1992CA

MANUFACTURER'S NAME: SILVERCREST INDUSTRIES

YEAR OF MANUFACTURE: 2/26/1987

[Signature] CITY OF OAKLAND 5/11/17 510.238.4215
(Official Approving Installation) (Enforcement Agency) (Date) (Phone Number)

Copy to: OWNER - HCD - BUILDING DEPT. - APPLICANT



STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS
MANUFACTURED HOUSING PROGRAM

THIS SPACE FOR RECORDER USE ONLY

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:
NAME

ADDRESS

CITY, STATE, ZIP CODE

ONLY THE ENFORCEMENT AGENCY MAY RECORD THIS DOCUMENT

NOTICE OF MANUFACTURED HOME, MOBILEHOME OR COMMERCIAL MODULAR -
INSTALLATION ON A FOUNDATION SYSTEM

Recording of this document by the enforcement agency indicates compliance with California Health and Safety Code Section 18551(a). This document is evidence that the enforcement agency has inspected the installation and issued a Certificate of Occupancy, form HCD 513C, for the unit described herein, upon the real property described with certainty below, as of the date of recording. When recorded, this document shall be indexed by the county recorder to the named owner of the real property and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

ALL INFORMATION BELOW MUST BE ENTERED BY THE ENFORCEMENT AGENCY

PROPERTY INFORMATION

REAL PROPERTY OWNER NAME(S) Hoang Huy
MAILING ADDRESS 3363 CHESTNUT SE
OAKLAND ALAMEDA CA 94608
CITY COUNTY STATE ZIP CODE
INSTALLATION ADDRESS (if different) 1722/1724 11TH SE
OAKLAND ALAMEDA CA 94608
CITY COUNTY STATE ZIP CODE

ENFORCEMENT AGENCY INFORMATION

CITY OF OAKLAND
ENFORCEMENT AGENCY (ISSUING PERMIT AND CERTIFICATE OF OCCUPANCY)
250 FRANK H. OGDEN PLZ. #2340
MAILING ADDRESS
OAKLAND ALAMEDA CA 94612
CITY COUNTY STATE ZIP CODE
BB7 00528 (SID) 238-2444
BUILDING PERMIT NO. TELEPHONE NUMBER
 EVIDENCE OF UNIT LEASEHOLDER(S) RELEASE, OR CONSENT TO INSTALLATION
PROVIDED ATTACHED - SEE REVERSE

SIGNATURE OF ENFORCEMENT AGENCY OFFICIAL

DATE

DEALER INFORMATION

NONE
DEALER NAME (if not a dealer sale, write "NONE")
DEALER LICENSE NUMBER
DEALER BUSINESS ADDRESS
CITY COUNTY STATE ZIP CODE

OWNER INFORMATION

SAME
UNIT OWNER (if also property owner, write "SAME")
MAILING ADDRESS
CITY COUNTY STATE ZIP CODE

MANUFACTURED HOME/MOBILEHOME/COMMERCIAL MODULAR UNIT DESCRIPTION

SILVERCREST INDUSTRIES MODEL NAME/NUMBER 2/2L/1987
A38C 1992CA SERIAL NUMBER(S)
LENGTH X WIDTH HWC143835
CA INSIGNIA/SKID LABEL NUMBER(S)
006 062562300 ASSESSOR'S PARCEL NUMBER
HCD REGISTRATION DECAL NUMBER
MCD NUMBER (new MH only)

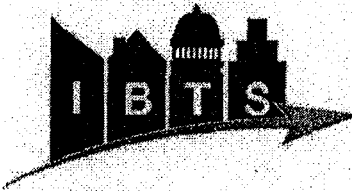
REAL PROPERTY LEGAL DESCRIPTION

PARCEL # 006002562300 DUPLEX

HCD 433A (Rev. 10/2011)

DISTRIBUTION - Original to County Recorder; One Copy to HCD; One Copy to Applicant; One Copy to Enforcement Agency
GENERAL GUIDE AND INSTRUCTIONS ON REVERSE

000030



August 21, 2017

Vision Property Management, INC
Attn: Michael Margado

Subject: Verification for HUD Label Number HWC143835

The following information is provided pursuant to authorization by HUD. According to our records, the subject HUD label number was attached to a home built by Silvercrest Industries, Woodland, CA, completed 02-26-1987 with serial number A3SC1992CA and shipped to Baco Homes, Concord, CA.

This letter is not issued by the FHA mortgage insurance program for manufactured housing. If you are interested in learning more about FHA's mortgage insurance requirements for manufactured housing using this certification rather than a HUD label, you should contact your regional Processing and Underwriting Center at the HUD Home Ownership Center (HOC) administering the FHA mortgage insurance program in your area, or at www.hud.gov.

A handwritten signature in black ink that reads "Jackie Cosio". The signature is written in a cursive, flowing style with a long horizontal line extending from the end of the name.

Jackie Cosio
Data Management and Research Team Manager
IBTS
Contractor to HUD
(703) 481-2010 (direct)
(703) 437-6894 (fax)



STATE OF CALIFORNIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS

NOTICE TO ASSESSOR

THIS FORM MUST BE COMPLETED BY THE OWNER OF A MANUFACTURED HOME, MOBILEHOME OR COMMERCIAL MODULAR AND FORWARDED TO THE COUNTY ASSESSOR UPON COMPLETION OF THE INSTALLATION OF THE UNIT ON A FOUNDATION SYSTEM PURSUANT TO SECTION 18551 HEALTH AND SAFETY CODE.

ORIGINAL PURCHASE PRICE FOR:

1. The Basic Unit	\$ <u>120,000</u>	Type of Exterior Wall Covering: <u>Wood</u> (Metal, Wood, etc.)
2. Optional Equipment & Upgrades	\$ <u>0</u>	Type of Roof Covering: <u>Composition</u> (Metal, Wood, Composition, etc.)
3. Subtotal	\$ <u>120,000</u>	Heating Type: <input checked="" type="checkbox"/> Forced Air <input type="checkbox"/> Floor or Wall
4. Accessories & Accessory Structures	\$ _____	Air Conditioning: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Tons _____
5. Other (Specify) _____	\$ _____	Evaporative Cooler: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
6. Delivery & Installation	\$ _____	Built-in Cooktop: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
7. TOTAL SALES PRICE	\$ <u>120,000</u>	Built-in Oven: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

DOES THE BASIC PRICE INCLUDE:

The Towbar(s)	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
Tires & Wheels	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Wheelhubs & Axles	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO

Built-in Dishwasher:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	Refrigerator:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Built-in Wet Bar:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	Roof Overhang (Eaves):	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
Furniture Included:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	Value \$:	_____	Inches _____

LIST NUMBER OF ROOMS:

Bedrooms	<u>6</u>	Dining Room	<u>2</u>
Baths	<u>4</u>	Family Room	<u>0</u>
Kitchen	<u>2</u>	Utility Room	<u>2</u>
Living Room	<u>2</u>	Other Rooms	<u>0</u>

Carport:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	(LENGTH X WIDTH)	_____ X _____
Awning:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	_____ X _____	
Porch:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	_____ X _____	
Garage:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	_____ X _____	
Storage Shed:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	_____ X _____	
Skirting:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	_____ LINEAL FEET	

The sales price as shown does not include any amount for any in-place location.

The Assessor's Parcel Number of the Installation site is 6-25-23

(Signature)
3303 Chestnut St.
Address
Oakland CA 94608
310-259-2913
Telephone

Miles, David to me

Aug 31

FYI

From: Miles, David

Sent: Thursday, August 31, 2017 12:55 PM

To: Cohen, Barbara <BCohen@oaklandnet.com>

Subject: L17-0073 1774 11th ST

Hi Barbara

I received a call from MR Margado about a C of O for 1724 11th ST . That building is unusual , it is a mobile home / manufactured housing. Jorge has been working on the CO and I believe we finally answered all the questions we had , Jorge is on vacation until 9/11 and then Tim low needs to sign the CO . Sorry for the delay , we probably won't have the signed CO for another 3 weeks .

David Miles

Principal Inspection Supervisor

City of Oakland Planning and Building Department

510-238-6214



CITY OF OAKLAND

Revenue Division - Business Tax Section
250 Frank H. Ogawa Plaza, #1320
Oakland, CA 94612
(510) 238-3704 TDD (510) 238-3254
www.oaklandnet.com

Acknowledgement of Payment Received

Date: April 10, 2017

The City of Oakland acknowledges receipt of the following payment on the date printed above.

This payment will be tendered against the following account(s)

Account #: 00133657
Account Name: HOANG HUY
Account Address: 6174 MULHOLLAND HWY HOLLYWOOD, CA 90068-1644
Account Paid: RAP - RENT ADJUSTMENT PROGRAM
Business Address: 1724 11TH ST OAKLAND, CA 94607-1411

Please keep this acknowledgement for your records. Thank you.

Payment received by:



www.oaklandnet.com/bustax.html

000034



CITY OF OAKLAND

Revenue Division - Business Tax Section
250 Frank H. Ogawa Plaza, #1320
Oakland, CA 94612
(510) 238-3704 TDD (510) 238-3254
www.oaklandnet.com

Acknowledgement of Payment Received

2014

RAP Rent Adjustment Program
Discover Card \$60.00

RAP Penalty
Discover Card \$30.00

RAP Interest
Discover Card \$34.20

2015

RAP Rent Adjustment Program
Discover Card \$120.00

RAP Penalty
Discover Card \$60.00

RAP Interest
Discover Card \$46.80

2016

RAP Rent Adjustment Program
Discover Card \$60.00

RAP Penalty
Discover Card \$30.00

RAP Interest
Discover Card \$12.60

2017

RAP Rent Adjustment Program
Discover Card \$136.00

RAP Penalty
Discover Card \$34.00

RAP Interest
Discover Card \$3.40

Total **\$627.00**





CITY OF OAKLAND

Finance Department
Revenue Management Bureau
250 Frank H. Ogawa Plaza, Suite 1320
Oakland, CA 94612
(510) 238-3704 TDD (510) 238-3254
www.oaklandnet.com

BUSINESS CERTIFICATE VERIFICATION

Date: September 05, 2017



DBA: HOANG HUY
Business Address: 1724 11TH ST
OAKLAND, CA 94607-1411

Owner(s) Huy, Hoang
Business Certificate #: 00133656
Expire Date: 12/31/2017

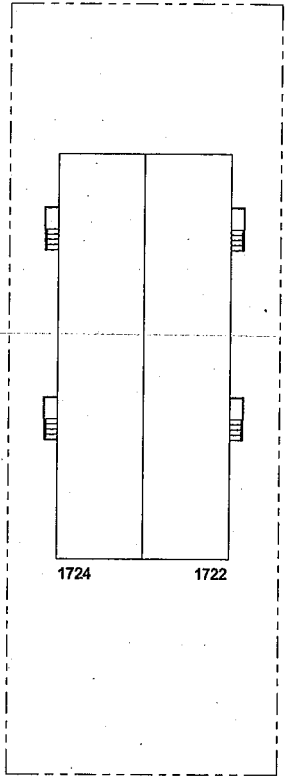
To Whom It May Concern:

This letter serves as notice that the above named business has a current business certificate with the City of Oakland, valid through 12/31/2017.

Sincerely,

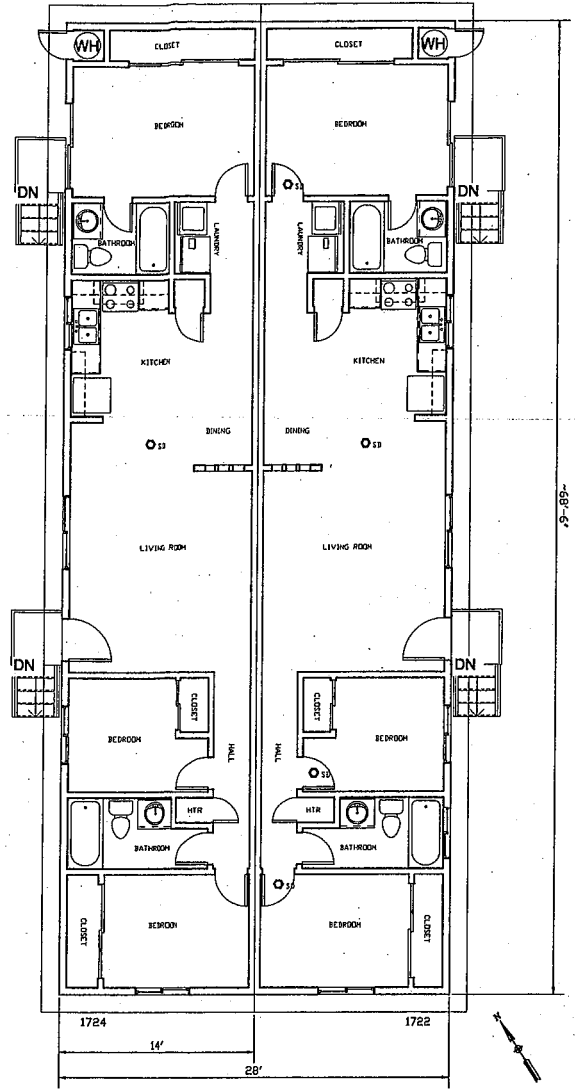
| (510) 238-
City of Oakland Business Tax Section.

1 SITE PLAN



11th STREET

2 FLOOR PLAN



AIRIAL MAPPING



Project Name	1724 A/B 11th ST OAKLAND CA 94607
Project Number	A101
Client	GRUBBIENS
Architect	ALTECH DESIGN GROUP
Design	FLOOR PLAN
Date	JUNE 22, 2017
Scale	AS SHOWN

NO.	Description	Date

ALTECH DESIGN GROUP

3901 CALIFORNIA AVENUE
 FREDERICKSVILLE, VA 22405
 P 541-252-7177
 F 541-252-7178
 WWW.ALTECHDESIGN.COM

905-238-9717
 203-228-1171
 916-441-3632
 602-396-7776
 714-948-2923
 310-309-4565
 408-734-1200
 707-441-2331
 415-435-4000
 214-343-3344
 313-381-1853



For: City of Oakland Rent Adjustment Program
Re: Case Number L14-0073 Hoang Vs. Tenants
Property Address: 1724 11th St. Oakland, CA 94607

Executive Summary

Application for exemption from Oakland's Rent Control Ordinance

Overview

Owner Huy Hoang has hired Vision Property Management, also referred as "VPM," to manage the above-stated duplex. Mr. Hoang has also asked VPM to apply for exemption from the City of Oakland's Rent Control based on the duplex qualifying under the "New Construction" allowance.

Problem

VPM was instructed by the RAP to obtain a certificate of occupancy, (C.O.) in order to fulfill the application/petition for exemption. VPM went to the Building Services Dept. to request the C.O. At that time we were told there was no C.O. on file for that address. We were instructed to pay for an expedited "3R report" in order to discover the history of the building's permitting, building history from its inception. The owner paid for this and waited approximately 2-3 weeks for its arrival. Once it arrived, we were told it still didn't have the C.O. included and that we needed to hire an inspector from the City to go out and create a new housing C.O. with the help of City Inspector Keith Pacheco. Again, the owner paid for an expedited fee to achieve this in a timely manner. Prior to our meeting with Inspector Pacheco, he instructed us to provide him with an As-Built drawing of the building and the grounds by an architect at 11x17 scale at 1/4" - 1" scale. Again, there was significant cost related to this. During this inspection which according to Inspector Pacheco, we were told was a simple inspection that was mainly looking to see if all typical codes related to habitability were present and obviously compliant, and that if so, it would be a simple process to receive the C.O., proved to be anything but that.

Sometime after, approximately a week to ten days, we were then passed off to Inspector Jorge Reyes via email intro from Inspector Pacheco, saying he (Pacheco) could no longer help us after realizing that the home was a manufactured home and Mr. Reyes would have to take over.

Inspector Reyes asked us to "find a medallion, or insignia" anywhere on the building to find its serial number or any other identifying marker to show it was in fact registered with the State of CA and HUD. Again I went out to the property, inspected both the interior and exterior of each unit only to find one "Compliance Certificate" in unit A. When I mentioned this to Mr. Reyes, he insisted that was in error and that there must be a missing one from unit B. He even went so far as to have an additional "Specialist" in manufactured homes come back out to meet me again (all the while we keep asking the tenants to access their units). He then said he could help me no longer with the

4174 35th Ave.
Oakland, CA 94619
(510) 926-4104
Hello@VPMpropertymanagement.com



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process of creating a C.O. and that I would again have to call Sacramento's NorCal office of HUD to speak with a special department that again charges for expediting and re-supplying any missing medallions or insignias from manufactured homes so that again, we can get closer to our end goal of obtaining our C.O. *(Remember, all of these steps were under the promise and expectation from the City of Oakland, that if all these hoops were jumped through properly, albeit we were going in circles and seemingly the left hand of the City's building dept. didn't speak to the right hand, we kept jumping through them!)* The owner did in fact, again, pay for another expedited fee to obtain the missing HUD Label. - Furthermore, when on the phone with one of the Sr. advisors at IBTS, (Institute of Building Technology and Safety) the company that HUD has research and provide these needs, they were able to look up the manufacturer, the home, and the serial number and confirmed with me that the Compliance Certificate that was found in unit A was in fact the ONLY one ever affixed to the building at the time it was built. They do NOT create a serial number for both units and that building was sold as one unit (in two parts) all under the same serial number. The verification letter we paid for was emailed to us within 3 days from IBTS by their team leader and manager Jackie Cosio.

To summarize, we feel the City of Oakland's Building Services Division adversely affected our ability to provide the C.O. to the RAP in a timely manner. We feel the owner and management representation went to extreme lengths in good faith to fulfill the requirements asked of them by the RAP to meet the requirements to completely provide the home's qualifications for rent control exemption under new construction.

Solution

We believe we now have all the evidence that is needed to obtain the C.O. given the most recent conversations and findings from HUD and the IBTS and ask that the RAP demand the 2nd floor, AKA, the City of Oakland Building Services Division, to provide our Owner Mr. Hoang, with the certificate of occupancy in order to finalize the requested exemption from the City of Oakland's Rent Control Ordinance.

Best Regards,

Michael Margado


VP

Vision Property Management, Inc.

(510) 377-4818

michael@vpmpropertymanagement.com

4174 35th Ave.
Oakland, CA 94619
(510) 926-4104
Hello@VPMpropertymanagement.com



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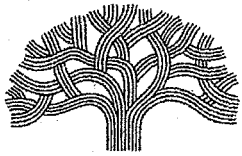
CHRONOLOGICAL CASE REPORT

Case No.: T17-0274
Case Name: Peters v. Sullivan Mgmt.Co.
Property Address: 1721 11th Street, Oakland, CA
Parties: Ben Peters (Tenant)
No appearance by Owner

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	April 26, 2017
Owner Response filed	May 19, 2017
Hearing Decision mailed	November 21, 2017
Owner Appeal filed	December 12, 2017

T17-0274 MS/BC



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 APR 26 AM 10:18

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 <i>Ben Peters</i>	Rental Address (with zip code) <i>1721 11th Street Oakland CA 94607</i>	Telephone: <i>505 847 6327</i>
Your Representative's Name	Mailing Address (with zip code)	E-mail: <i>mr benjamin peters e.gmin@com</i>
Property Owner(s) name(s) <i>REO Homes</i>	Mailing Address (with zip code)	Telephone:
Property Manager or Management Co. (if applicable) <i>Sullivan Management Company</i>	Mailing Address (with zip code) <i>PO Box 24483 Oakland CA 94623</i>	E-mail: <i>operations@smc eastbay com</i>

Number of units on the property: 1-2

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

	rent increase.
<input checked="" type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input checked="" type="checkbox"/>	(e) The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increase(s).
<input checked="" type="checkbox"/>	(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)
<input checked="" type="checkbox"/>	(i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page)
	(j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.
<input checked="" type="checkbox"/>	(k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
<input checked="" type="checkbox"/>	(l) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake (OMC 8.22, Article I)
<input checked="" type="checkbox"/>	(m) The owner did not give me a summary of the justification(s) for the increase despite my written request.
	(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: 9/01/2013 Initial Rent: \$ 2529 /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		
	3/1/17	\$ 2529	\$ 2829	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3/18/17	6/1/17	\$ 2800?	\$ 3795	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<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	<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:

Filed Aug. 12 2015 - settled prior to hearing

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

4/28/2017
Date

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

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

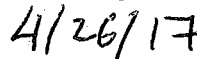
Mediation will be scheduled only if both parties agree (after both your petition and the owner's response have been filed with the Rent Adjustment Program). **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** Rent Board Regulation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

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

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



Tenant's Signature



Date

VI. IMPORTANT INFORMATION:

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

File Review

Your property owner(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the Property Owner's Response. The petition and attachments to the petition can be found by logging into the RAP Online Petitioning System and accessing your case once this system is available. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

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

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

Decrease in Housing Svc.

When we originally rented the property, it had a driveway and back yard.

The landlord did not sufficiently notify us of planned construction activities, after multiple requests.

Their construction activities were a nuisance, and they closed off the driveway and backyard they had rented.

The lot was split, and the construction permit was approved on the condition the driveway had an easement for us to access the back yard.

However, the back unit was sold with a "private driveway" violating the easement and permit conditions.

We can no longer use the shared driveway as the back unit was sold a private driveway and thinks it's theirs only.

This reduction in the driveway and back yard is a decreased housing service. In addition, when I contacted the landlord, ~~they thought~~ ~~they say~~ and in response they retaliated with an almost 50% rent increase.

I wish to document this reduced housing service and record the retaliation we have experienced.

Retaliation is not exempt under state law.



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

For date stamp
RECEIVED
 MAY 19 2017
 OAKLAND RENT ADJUSTMENT
PROPERTY OWNER
RESPONSE

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

CASE NUMBER T -

17 - 0274 MS/BC

Your Name Bally Singh	Complete Address (with zip code) 1669 12 TH ST Suite - 0 OAKLAND 94607	Telephone: 4084574982
		Email: SINGHBALLY@YAHOO.COM
Your Representative's Name (if any) —	Complete Address (with zip code) —	Telephone: —
		Email: —
Tenant(s) Name(s) Ben Peter's	Complete Address (with zip code) 1721 11 TH ST OAKLAND, CA 94607	
Property Address (If the property has more than one address, list all addresses) SFR - 1721 11 TH ST OAKLAND 94607		Total number of units on property 1

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

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

Date on which you acquired the building: 2/13/2012

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 9/1/13.

The tenant's initial rent including all services provided was: \$ 2529 / month.

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

If yes, on what date was the Notice first given? 9/1/13

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>03/15/17</u>	<u>6/1/17</u>	<u>\$ 2800</u>	<u>\$ 2795</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<u>1/26/17</u>	<u>3/1/17</u>	<u>\$ 2529</u>	<u>\$ 2829</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

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)? *NO*
 2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)? *NO*
 3. Was the prior tenant evicted for cause? *NO*
 4. Are there any outstanding violations of building housing, fire or safety codes in the unit or building? *NO*
 5. Is the unit a single family dwelling or condominium that can be sold separately? *YES*
 6. Did the petitioning tenant have roommates when he/she moved in? *YES*
 7. If the unit is a condominium, did you purchase it? If so: 1) from whom? 2) Did you purchase the entire building?
- The rent for the unit is **controlled, regulated or subsidized** by a governmental unit, agency or authority other than the City of Oakland Rent Adjustment Ordinance.
- The unit was **newly constructed** and a certificate of occupancy was issued for it on or after January 1, 1983.
- On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** less than 30 days.
- The subject unit is in a building that was **rehabilitated** at a cost of 50% or more of the average basic cost of new construction.
- The unit is an accommodation in a **hospital, convent, monastery, extended care facility, convalescent home, non-profit home for aged, or dormitory** owned and operated by an educational institution.
- The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

IV. DECREASED HOUSING SERVICES

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

V. VERIFICATION

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

Property Owner's Signature

Date

5/17/17

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.

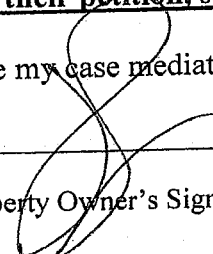
Mediation Program

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.

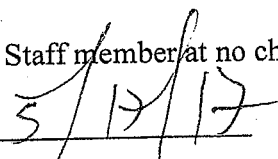
If the tenant did not sign for mediation, you may want to discuss that option with them. You and your tenant may agree to have your case mediated at any time before the hearing by submitted a written request signed by both of you. If you and the tenant agree to a non-staff mediator, please call (510) 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.

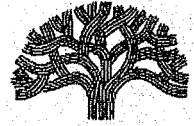
I agree to have my case mediated by a Rent Adjustment Program Staff member at no charge.



Property Owner's Signature



Date



250 FRANK OGAWA PLAZA, SUITE 5313
OAKLAND, CA 94612

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBERS: T17-0274, Peters v. Sullivan Management

PROPERTY ADDRESS: 1721 11th Street, Oakland, CA

DATE OF HEARING: October 17, 2017

DATE OF DECISION: November 16, 2017

APPEARANCES: Ben Peters, Tenant

No appearance by owner

SUMMARY OF DECISION

The tenant's petition is granted in part.

CONTENTIONS OF THE PARTIES

On April 26, 2017, Tenant Ben Peters filed a petition which alleges that he received a rent increase notice that exceeds the CPI Adjustment and is unjustified or is greater than 10%; that he received the rent increase before the property owner received approval from the Rent Adjustment Program (RAP); that no written notice of the Rent Program (*RAP Notice*) was given to him together with the rent increase he is contesting; that no *RAP Notice* was given at least 6 months prior to the rent increase; that the rent increase notice was not given in compliance with state law; that the proposed increase would exceed an overall increase of 30% in 5 years; and that the owner did not give him a summary of the justifications for the increase despite his written request. The tenant also claimed that his housing services have decreased; and, that he wishes to contest an exemption from the Rent Adjustment Ordinance (Ordinance) because the exemption was based on fraud or mistake.

The tenant contested two rent increases, one that raised his rent from \$2,529 to \$2,829, effective March 1, 2017, and one that raised his rent from \$2,800 to \$3,795 a month, effective June 1, 2017. The tenant alleged that he never received the *RAP Notice*.

The tenant's claims regarding conditions include the following: construction activities; loss of driveway and loss of back yard.

On May 19, 2017, the owner filed a timely response to the petition. The owner alleged that the *RAP Notice* was given to the tenant in September of 2013 and with the purported rent increases and that the unit was exempt from the RAP as a single family residence. However, the owner did not appear at the Hearing.

THE ISSUES

1. When, if ever, was the tenant served with the *RAP Notice*?
2. What was the allowable rent?
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?
4. Since the tenant no longer resides in the unit, what is the appropriate remedy?
5. What restitution, if any, is owed between the parties?
6. Can the owner's claim of exemption be considered with no owner present at the Hearing?

EVIDENCE

Rental History: Mr. Peters testified that he moved into the subject unit, a 3 bedroom house, in September of 2013, at an initial rent of \$2,529 a month, including garbage. He moved in with several other people. They were not served with a *RAP Notice* when they moved in.

At some point in August of 2015, an issue arose with the owners about the property. He filed a petition with the Rent Adjustment Program (RAP) and the parties came to an agreement that the rent would remain \$2,529 a month. This settlement was not in writing.

Sometime in February of 2017, the tenant received a rent increase notice by mail purporting to increase his rent from \$2,529 a month to \$2,829, effective March 1, 2017. This rent increase notice is dated January 26, 2017.¹ He did receive a *RAP Notice* with the rent increase notice.

In March of 2017, he did not pay the rent increase. Additionally, he did not pay the rent increase in April of 2017. He was then served with a *Three Day Notice to Pay Rent or Quit* on April 11, 2017.² The notice stated that he had underpaid \$329 in rent for April of 2017.

¹ Exhibit 1. All exhibits referred to in this Hearing Decision were admitted into evidence.

² Exhibit 3

On February 27, 2017, the tenant sent an email to the management company about the rent increase and stated that all increases above 10% require a 60 day notice.³ The owner responded by telling him that the unit was exempt from rent control, but that if he thinks the notice was defective, he would look into it. The owner stated "keep in mind if we do serve another notice, which we will in April it will have a current market rent based on comps."⁴

On approximately March 15, 2017, the tenant was served with a *60 Day Notice of Change of Monthly Rent* purporting to increase his rent from \$2,800 to \$3,795 a month, effective June 1, 2017.⁵ He never paid that increase.

The tenant provided his payment receipts for his rent payments beginning in April of 2017. On April 2, 2017, he paid \$2,529. On April 11, 2017, he paid an additional \$329 (which was paid to satisfy the 3-day notice.) On May 1, 2017, the tenant paid \$2,800 in rent. And in June of 2017, the tenant paid \$2,829.⁶ The tenant believes he is owed \$900 because the rent should never have been more than \$2,529. His overpayments were the extra \$329 paid in April, \$271 in May and \$300 in June. The tenant testified that he moved out on July 7, 2017.

Decreased Services: The tenant testified that the unit is a house and when he moved in there was a large back yard area. There were gardens and trees and grass. There was a driveway on the side that the owner allowed them to use to access the backyard even though the lease said "no parking." When he was moving in, he was told that an in-law unit was being added to the area in the back of the property but that tenants would still have access to the back yard and driveway.

The tenant provided the plan drawings for the property.⁷ This document shows the tenant's unit in the top half of the lot, near the planter area and 11th Street. The plans show the new unit, that was built while the tenant was living in his unit.

The tenant testified that the area where the new unit was located is the area that was their backyard when he moved into the unit. That area, and the driveway that goes along the side of his unit, was taken away from the tenants. Additionally, the deck that was a part of the tenant's unit, was significantly reduced in size. Before this happened, he and his roommates had used the backyard every day for gardening and for general use. The building on this unit began in June of 2015. At the time he moved in, he was told that they would still have access to the backyard and to the driveway. However, the owner sold the back unit and the driveway along with it.

///

³ Exhibit 2, page 1

⁴ Exhibit 6, page 1

⁵ Exhibit 4

⁶ Exhibit 6, pages 1-4

⁷ Exhibit 5

FINDINGS OF FACT AND CONCLUSIONS OF LAW

When, if ever, was the tenant given the RAP Notice?

The Rent Adjustment Ordinance requires an owner to serve the *RAP Notice* at the start of a tenancy⁸ and together with any notice of rent increase or change in the terms of a tenancy.⁹ An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.¹⁰ The owner has the burden of proving that the *RAP Notice* was served¹¹.

The tenant credibly testified that he and his co-tenants were not provided with the *RAP Notice* until January of 2017. There was no conflicting testimony.

What was the allowable rent?

The tenant's rent when he moved into the unit was \$2,529 a month. While the owner has attempted to increase the rent on two occasions, each of those rent increase notices was served without a *RAP Notice*. Since a *RAP Notice* must be served with every rent increase, those rent increase notices were invalid. At all relevant times, the rent remained \$2,529 a month.

Additionally, the rent increase served on January 26, 2017, purporting to increase the rent to \$2,829 a month, effective March 1, 2017, (or 30 days after service is made) was served with less than 60 days' notice. A rent increase greater than 10%, must be served at least 60 days before the rent increase begins. Civil Code § 827. Therefore, this rent increase was invalid for this reason as well.

Have the tenant's housing services been decreased?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹² and may be corrected by a rent adjustment.¹³ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy that is no longer being provided.

The tenant has the burden of proof with respect to each claim.

In a decreased services case, where the *RAP Notice* has been given at the beginning of a tenancy, a tenant is only allowed relief for 90 days prior to the filing of the petition.¹⁴

⁸ O.M.C. § 8.22.060(A)

⁹ O.M.C. § 8.22.070(H)(1)(A)

¹⁰ O.M.C. § 8.22.060 (C)

¹¹ Housing, Residential, Rent and Relocation Board Decision in *Thompson et al v. Peper*, T05-0317

¹² O.M.C. § 8.22.070(F)

¹³ O.M.C. § 8.22.110(E)

¹⁴ Board Decision in Case No. T09-0086, *Lindsey v. Grimsley, et al.* as modified by O.M.C. § 8.22..090(A)(3)(a)(ii)

However, where no *RAP Notice* was served either before the tenant petition was filed, or within 90 days before the tenant petition is filed, the tenant can seek restitution beginning three years before his petition was filed. Here the evidence shows that the *RAP Notice* was served with the *30 Day Notice of Change of Monthly Rent* which was mailed on January 26, 2017. Because it was mailed, an additional 5 days are added. CCP § 1013. Therefore, the notice is considered served on January 31, 2017. Ninety days after January 31, 2017, is May 1, 2017. Since the tenant filed his petition on April 26, 2017, he filed his petition within 90 days of being served the *RAP Notice*. Therefore, his claims for decreased services go back three years from the date of filing his petition.

Condition of back yard, loss of back yard and construction activities: All of the tenant's claims of decreased housing services involve the fact that after he and his co-tenants moved into the unit, the owner built a new unit in the backyard, and decreased the tenants access to the backyard and driveway. However, the tenant testified that he was told before they moved in that this building was being built. Therefore, any decision to move into the unit included knowing that there would be construction going on while they lived there and that their access to the area would be limited.

However, the tenant also testified that they were promised that they would have access to the driveway and the back yard even after the building was built. Therefore, the tenant's housing services decreased. Since the tenant's access to the driveway and backyard was lost in June of 2015. The tenant is entitled to restitution of 5% of the rent for the loss of access to the driveway and the back yard, from June of 2015, until he moved out of the unit. Since no evidence was produced about any rent payment in July of 2017, the tenant's restitution is limited through June 30, 2017.

Since the tenant no longer resides in the unit, what is the appropriate remedy?

The jurisdiction of the RAP limits the authority of the Hearing Officers to set forth the legal rent for the unit; no orders of direct restitution may be made other than reducing the rent in the future.

At the time of the Hearing, the tenant had moved out of the unit. Therefore, an order adjusting the rent is of no value. If the tenant wishes to seek further orders in this matter, he needs to file a claim in a court of competent jurisdiction.

How much restitution is owed to the tenant and how does it impact the rent?

As noted above the tenant's base rent at all relevant times was \$2,529 a month. All rent payments over that amount are overpayments. The tenant is owed \$900 for rent overpayments, as noted on the chart below.

Additionally, according to the chart, the tenant is owed restitution in the amount of \$3,161.25 for past decreased services. The total overpayment (decreased services plus rent overpayments) is \$4,061.25.

Service Lost	VALUE OF LOST SERVICES				Decrease /month	No. Months	Overpaid
	From	To	Rent	% Rent Decrease			
Backyard and driveway	1-Jun-15	30-Jun-17	\$2,529	5%	\$ 126.45	25	\$ 3,161.25
					\$ -		-
TOTAL LOST SERVICES							\$ 3,161.25
OVERPAID RENT							
	From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
	1-Apr-17	30-Apr-17	\$2,858	\$2,529	\$ 329.00	1	\$ 329.00
	1-May-17	31-May-17	\$2,800	\$2,529	\$ 271.00	1	\$ 271.00
	1-Jun-17	30-Jun-17	\$2,829	\$2,529	\$ 300.00	1	\$ 300.00
					\$ -		-
TOTAL OVERPAID RENT							\$ 900.00
RESTITUTION							
						MONTHLY RENT	\$2,529
TOTAL TO BE REPAYED TO TENANT							\$4,061.25

Can the Issue of Exemption Be Decided Without the Owner Present?

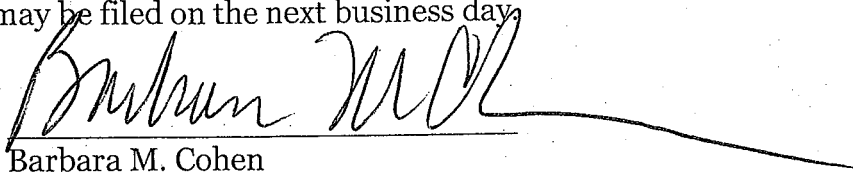
There is an issue regarding whether or not this unit is exempt from the Rent Adjustment Program as a single family residence. However, the owner did not appear at the Hearing. Without the owner providing testimony at the Hearing regarding this unit and the prior tenants who lived in this unit, this issue was not considered.

ORDER

- Petition T17-0274 is granted in part.
- At all relevant times, the tenant's base rent was \$2,529 a month, inclusive of garbage.
- Due to rent overpayments and decreased housing services, the tenant is owed \$4,061.25.
- Since the tenant no longer resides in this unit, no restitution order can be made.
- Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of

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

Dated: November 16, 2016



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T17-0274

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

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

Tenants

Ben Peters
7616 Valley Ford Road
Petaluma, CA 94592

Ben Peters
1721 11th St
Oakland, CA 94607

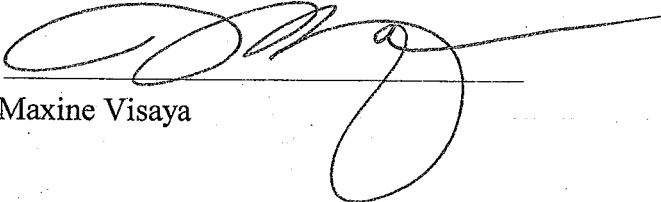
Owner

Bally Singh
1669 12th St Suite O
Oakland, CA 94607

Sullivan Management Company
P.O. Box 24483
Oakland, CA 94623

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

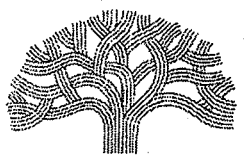
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 21, 2017 in Oakland, CA.


Maxine Visaya

000057

M-5/DC

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	2017 DEC 12 PM 4:32 <p style="text-align: right;">APPEAL</p>
--	--	--

Appellant's Name Bally Singh, Sullivan Management		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Property Address (Include Unit Number) P.O Box 24483, Oakland, CA 94607		
Appellant's Mailing Address (For receipt of notices) same as above		Case Number T-17-0274 Date of Decision appealed Nov 16th 2017
Name of Representative (if any) Bally Singh	Representative's Mailing Address (For notices) same as above	

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.

Rev. 6/22/17

REVIEWED AND APPROVED	
	
INITIAL	DATE

000058

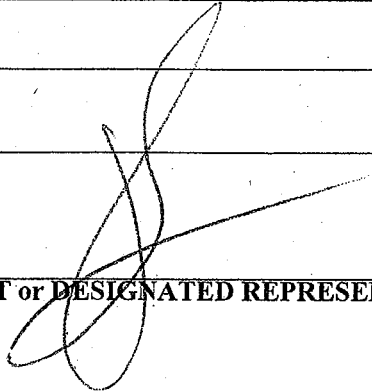
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue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

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

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

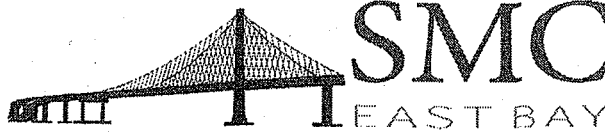
I declare under penalty of perjury under the laws of the State of California that on Dec 11th _____, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	Ben Peters
<u>Address</u>	7616 Valley Ford Road
<u>City, State Zip</u>	Petaluma, CA 9592
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	12/10/17
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

PO BOX 24483
Oakland, CA 94623-1483



Phone: (510) 225-9161
Fax: (510) 550-3640
operations@smceastbay.com

12/10/2017

Sent via Fedex

To: Oakland Rent Board

RE: APPEAL TO T-17-274

~~RESPONSE TO "FINDING OF FACTS AND CONCLUSIONS OF LAW "~~

1) RAP NOTICE

It's our Sullivan Management Policy that we do serve the RAP notice with every kind notice served to tenants i.e 3 days notice to pay or quit , 30 days or 60 days notice of rent increase. The tenants at 1721 11th were served RAP notice with all notices. We serve one notice with all tenants names listed on notice. RAP is attached as **exhibit A** which was signed by all tenants and was serve with every notice.

2) WHAT WAS THE ALLOWABLE RENT:

Plases exhibit B. Tenants were given \$300 rent credit during construction period and have additionally allowed same rent credit of \$300 even after the Feb 2015, to be extended to Feb 2016. At the top that we didn't revoke the credit until beginning of 2017.

Tenants was aware with new construction and lot split. All was done with city permits and county approvals. Plans were shared with all tenants.

3) DECREASED SERVICES:

Please see exhibit B, tenants were aware of decreased services and as a result we have given them \$300 rent credit and notice was served to raise rent by taking off rent credit \$300. Tenant agree to it and paid the correct rent \$2829/ Month.

Lastly, we wasn't aware of the fact that we do need to appear for a hearing even if tenants were moved out.

Please allow us to appear to the appeal hearing to present all evidence and emails/copies and give us a chance to defend ourselves.

Thanks
Bally Singh

000060

Exhibit A

CITY OF OAKLAND
P.O. BOX 70243, OAKLAND, CALIFORNIA 94612-0243
Community and Economic Development Agency (510) 238-3721
Rent Adjustment Program FAX (510) 238-6181
TDD (510) 238-3254

NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM

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

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

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

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

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

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

Oakland charges landlords a Rent Program Service Fee of \$30 per unit per year. If the landlord pays the fee on time, the landlord is entitled to get half of the fee (\$15) per unit from you. The \$15 you pay for the annual fee is not part of the rent. The Nuisance Eviction Ordinance (O.M.C. Chapter 8.23) may require that a tenant who commits or permits certain illegal acts on the Rental Unit or on the land on which the unit is located or in the common areas of the rental complex **must** be evicted. If the owner does not evict, the City Attorney may do so.

TENANTS' SMOKING POLICY DISCLOSURE

Smoking (circle one) IS or **IS NOT** permitted in Unit U/L, the unit you plan to rent.

Smoking (circle one) IS or **IS NOT** permitted in other units of your building. (If both smoking and non-smoking units exist in the tenant's building, attach a list of units in which smoking is permitted.)

Smoking is **PROHIBITED** in all common areas, both indoors and outdoors.

There (circle one) IS or **IS NOT** a designated outdoor smoking area. It is located at _____

I received a copy of this notice on 9/11/13

此份屋崙 (奧克蘭) 市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.
Baùn Thòàng Baùn qyeàñ lòiì cuà ngòòzi thueà trong Oakland nàoy cuông còu bàeng tieàng Việät. Nềà còu mốt baùn sao, xin goi (510) 238-3721.
Rev. 4/9/08

[Handwritten signatures]

[Handwritten signature] Initi.



City of
Oakland
Rent Adjustment
Program



Exemptions

Overview

The RAP covers all property used for residential rental housing with several exceptions. The three most common exemptions from RAP are:

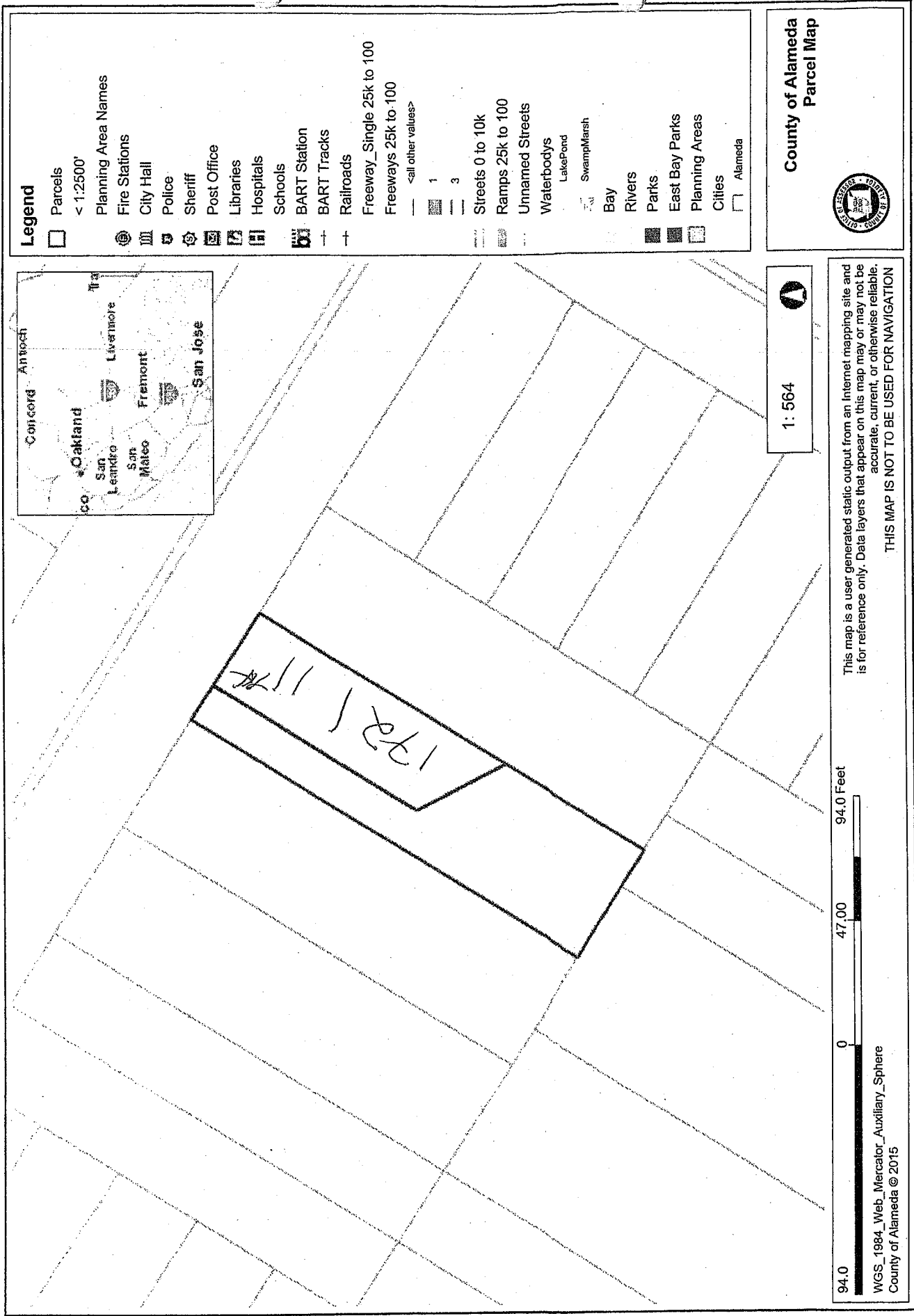
1. that the unit is government subsidized housing.
2. that the unit is newly construction units (built after January 1, 1983)
3. the unit is a single family home or condominium exempt under the Costa Hawkins Rental Housing Act (Cal. Govt. C. §1954.50, et seq.)

If a property is exempt from RAP, none of the rules regarding Rent Adjustment apply. But, the rules about eviction controls (Just Cause for Evictions) may still apply.

For more information about exemptions from the Rent Adjustment Ordinance or the Just Cause for Evictions Ordinance, please see the Laws page

The following units are exempt from the RAP:

- Subsidized Housing.
- Motels, hotels if occupancy not more than 30 days.
- Hospital, dormitory, extended care facility, etc.
- Non-profit cooperative owned and occupied by majority of residents.
- New construction (built after January 1st, 1983)
- Substantial rehabilitation.
- 3 units or less owner occupied properties.
- The unit that an owner occupies in any building.
- Non-profit facility-homeless/substance abuse treatment.
- Unit in trust for developmental disabled.
- Shared facilities with owner and tenants (bath/kitchen).
- Costa Hawkins-Single family home or condominium.
- Vacant units



Legend

- Parcels
- < 1:2500'
- Planning Area Names
- Fire Stations
- City Hall
- Police
- Sheriff
- Post Office
- Libraries
- Hospitals
- Schools
- BART Station
- BART Tracks
- Railroads
- Freeway_Single 25k to 100
- Freeways 25k to 100
- <all other values>
- 1
- 3
- Streets 0 to 10k
- Ramps 25k to 100
- Unnamed Streets
- Waterbodies
- Lake/Pond
- Swamp/Marsh
- Bay
- Rivers
- Parks
- East Bay Parks
- Planning Areas
- Cities
- Alameda

**County of Alameda
Parcel Map**



1: 564

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

94.0 0 47,000 94,000 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
County of Alameda © 2015

2016 - 2017 Assessment Information

Parcel Number:	6-25-65
Assessor's Map: (Map image is not to scale)	Map Disclaimer
Use Code:	1100
Description	Single family residential homes used as such
Land	\$222,339.00
Improvements	\$518,792.00
Fixtures	0
Household Personal Property	0
Business Personal Property	0
Total Taxable Value	
	\$741,131.00
Exemptions	
Homeowner	\$7,000.00
Other	0
Total Net Taxable Value	\$734,131.00

[Additional Assessment Information](#) | [Property Tax Information](#)

Adobe Acrobat Reader is required to view the maps. Click [here](#) to download.

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Exhibit B

Addendum to Rental/ Lease Agreement: 1721 11th Street, Oakland Ca 94607

This Addendum to Rental Agreement is to acknowledge and accept the construction on the above mentioned property. There will be construction being done at the rear of the property located at 1721 11th Street, Oakland Ca 94607, for an undetermined amount of time.

There will be a \$300 monthly credit to the agreed upon rent stated in the Rental/Lease Agreement for the entire term of the lease, or until construction is finished, whichever comes first. Parking will not be provided during the term of the lease.

I hereby acknowledge and accept the terms of this Addendum.

X [Signature]

Date: 9/1/13

X Sara Amic

Date: 9/1/13

X [Signature]

Date: 9/1/13

X _____

Date: _____

X _____

Date: _____

OAKLAND RENT STABILIZATION ORDINANCE

8.22.030 EXEMPTIONS

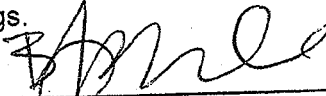
1. Certificate of Exemption

- A. A certificate of exemption is a determination by the Rent Adjustment Program that a dwelling unit or units qualify for an exemption and, therefore, are not covered units. An owner may obtain a certificate of exemption by claiming and proving an exemption in response to a tenant petition or by petitioning the Rent Adjustment Program for such an exemption. A certificate of exemption may be granted only for dwellings units that are permanently exempt from the Rent Adjustment Ordinance as new construction, substantial rehabilitation, or by state law (Costa Hawkins.)
- B. For purposes of obtaining a certificate of exemption or responding to a tenant petition by claiming an exemption from Chapter 8.22, Article 1, the burden of proving and producing evidence for the exemption is on the owner. A certificate of exemption is a final determination of exemption absent fraud or mistake
- C. Timely submission of a certificate of exemption previously granted in response to a petition shall result in dismissal of the petition absent proof of fraud or mistake regarding the granting of the certificate. The burden of proving such fraud or mistake is on the tenant.

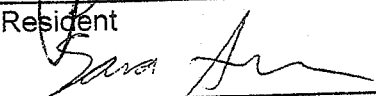
2. Exemptions for Substantially Rehabilitated Buildings

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


By signing, below the resident(s) acknowledges that the property located at **1721 11th Street, Oakland, CA 94607** is exempt from the Oakland Rent Control Ordinance due to Substantially Rehabilitated Buildings.


Resident

9/1/13
Date


Resident

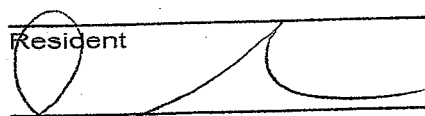
9/1/13
Date


Resident


9/1/13
Date

Resident

Date


Owner / Agent

9/1/13
Date

 Initials

CONSOLIDATED CHRONOLOGICAL CASE REPORT

Case No.: T17-0201, T17-202 & T17-0282

Case Name: Shannon v. Bowman
Johnson v. Bowman
Warwick v. Bowman

Property Address: 360 Park View Terrace, #302, #606, & #107, Oakland, CA

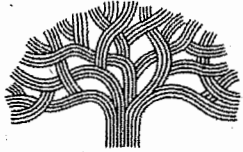
Parties: Carol Shannon (Tenant)
Kelly Johnson (Tenant)
Brian Warwick (Tenant)
James Vann (Tenant Representative)
Greg Bowman (Owner)
Evan Bowman (Manager)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenants Shannon & Johnson Petition filed	March 24, 2017
Tenant Warwick Petition filed	May 1, 2017
Owner Response filed for Shannon & Johnson	May 25, 2017
Owner Response filed for Warwick	June 22, 2017
Hearing Decision mailed to all parties (Hearing Officer certified Decision for Appeal)	January 16, 2018
Owner Appeal filed	February 5, 2018
Tenant filed a response to Owner's Appeal	December 5, 2018

T17-0201 KM/BRB

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

2017 MAR 24 AM 11:46

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 <i>Carol Shannon</i>	Rental Address (with zip code) <i>315 Park View Terrace, #302 Oakland CA 94610</i>	Telephone: <i>510-844-0209</i>
Your Representative's Name	Mailing Address (with zip code)	E-mail: <i>cshannon500@gmail.com</i>
Property Owner(s) name(s) <i>GREGG Bowman</i>	Mailing Address (with zip code) <i>360 Grand Ave. #145 Oakland CA 94610</i>	Telephone:
Property Manager or Management Co. (if applicable) <i>Evan Bowman</i>	Mailing Address (with zip code) <i>315 Park View Terrace, #706 Oakland CA 94610</i>	Email: <i>bowman.apartments@gmail.com</i>
		Telephone: <i>925-788-4704</i>
		Email: <i>pondeko.apartments@gmail.com</i>

Number of units on the property: 39

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

Rev. 2/10/17

For more information phone (510) 238-3721.

1

000068

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: 3/1/2006 Initial Rent: \$ 1300 /month

When did the owner first provide you with the RAP NOTICE, a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program? Date: 7/2/2013. 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>2/2/2017</u>	<u>3/1/2017</u>	\$ <u>1444</u>	\$ <u>1555</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes
 No

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

T13-0252

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.

Carol Shannon
Tenant's Signature

March 24, 2017
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

Your property owner(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the Property Owner's Response. The petition and attachments to the petition can be found by logging into the RAP Online Petitioning System and accessing your case once this system is available. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

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

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

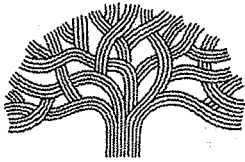
Carol Shannon
315 Park View Terrace
Oakland, CA 94610

Tenant-Petitioner is challenging the proposed capital improvement rent increase on a number of grounds, including:

1. The work was not completed within the time frame provided on the notice;
2. Tenant-Petitioner is informed and believes the work was not paid for in the time frame provided on the notice;
3. The landlord has not issued the notice of capital improvement pass through in a timely fashion with respect to some and/or all of the alleged capital improvements;
4. Tenant-Petitioner is informed and believes that the work contained done that is the subject of this notice of rent increase does not constitute a "capital improvement" that may be passed along to a Tenant.

Landlord improperly assessed a \$40 late fee related to this invalid rent increase which Tenant is also challenging in this Petition.

While there are ongoing habitability violations and decreased services, Tenant-Petitioner is only contesting the capital improvement rent increase notice (and associated causes of action) at this time. Tenant-Petitioner is not waiving her right to challenge these violations and decreased services at a later time as the investigation into both is ongoing at this time.



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For date stamp.

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2017 MAY 25 PM 4:13

PROPERTY OWNER

RESPONSE

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

CASE NUMBER T - 17-0201

Your Name <i>Gregg Bowman</i>	Complete Address (with zip code) <i>360 Grand Ave. #145 Oakland, CA 94610</i>	Telephone: <i>510-390-6377</i>
		Email: <i>bowman.apartments@gmail.com</i>
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) <i>Carol Shannon</i>	Complete Address (with zip code) <i>315 Park View Terrace #302 Oakland, CA 94610</i>	
Property Address (If the property has more than one address, list all addresses) <i>315 Park View Terrace, Oakland, CA</i>		Total number of units on property <i>39</i>

Have you paid for your Oakland Business License? Yes No Lic. Number: 000024056
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: 10-770-5-1
The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: 1/1/08

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 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>
3/1/17	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

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

The tenant moved into the rental unit on 3/1/2006

The tenant's initial rent including all services provided was: \$ 1300 / month.

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

If yes, on what date was the Notice first given? 7/2/2013

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>	
1/30/17	3/1/17	\$ 1444	\$ 1555	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/30/15	1/1/16	\$ 1374	\$ 1444	<input type="checkbox"/> Yes <input type="checkbox"/> No
6/30/11	8/1/11	\$ 1350	\$ 1400	<input type="checkbox"/> Yes <input type="checkbox"/> No
70/30/08	12/1/08	\$ 1325	\$ 1350	<input type="checkbox"/> Yes <input type="checkbox"/> No
8/31/07	10/1/07	\$ 1300	\$ 1325	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

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

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

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

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

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

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

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

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

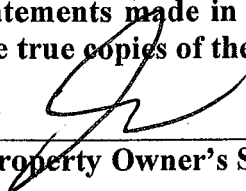
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

IV. DECREASED HOUSING SERVICES

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

V. VERIFICATION

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



Property Owner's Signature

5/25/17

Date

Gregg Bowman
360 Grand Ave #145
Oakland, CA 94610

RE: Case T-17-0201

Response to Tenant Petitioner: (4 items)

1. All work was completed and paid for prior to the 30 day notice given to the tenant on January 30, 2017.
2. Tenant is misinformed.
3. Copies of notices issued are attached and date stamped and were submitted as required.
4. The capital improvement invoices are attached and meet the requirements.

There are no ongoing habitability issues.

Additionally, the capital improvement increase the tenant is contesting is more than \$10 per month below the allowable increase as noted on the "Enhanced notice to tenants for capital improvements." Part of the work on the boiler system passed through on the notice was two months beyond the 24-month pass through period. That amount totals about \$3 per month. I brought this to the attention of a RAP board representative when I filed the Enhanced notice and was assured that provided the remainder of the work justified the increase, there was not need to correct the forms.

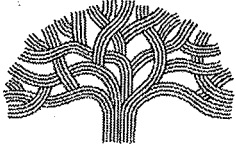
Sincerely,

Gregg Bowman

000076

T17-0202 KM/BKB

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	2017 MAR 24 PM 2:33 For date stamp
	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 Kelly Johnson	Rental Address (with zip code) 315 Park View Terrace, 606 Oakland, CA 94610	Telephone: 415-531-2951
		E-mail: kcjohnson02@hotmail.com
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) Gregg Bowman	Mailing Address (with zip code) 360 Grand Ave, 145 Oakland, CA 94610	Telephone: 510-390-6377
		Email: circleswim@aol.com
Property Manager or Management Co. (if applicable) Evan Bowman	Mailing Address (with zip code) 315 Park View Terrace, 106 Oakland, CA 94610	Telephone: 925-788-4704
		Email: pondeleo.apartments@gmail.com

Number of units on the property: 39

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

Rev. 2/10/17

For more information phone (510) 238-3721.

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RENT ARBITRATION PROGRAM

2017 MAR 21 PM 2:33

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: October 2, 2011 Initial Rent: \$ 1490.00 /month

When did the owner first provide you with the RAP NOTICE, a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program? Date: 10/1/2015. 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		
1/29/2017	3/1/2017	\$ 1625	\$ 1850	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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


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

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

3/24/2017

Date

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

Your property owner(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the Property Owner's Response. The petition and attachments to the petition can be found by logging into the RAP Online Petitioning System and accessing your case once this system is available. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

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

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

* See notes in Activity log.

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

For date stamp.
 RECEIVED
 CITY OF OAKLAND
 RENT ARBITRATION PROGRAM
 2017 MAY 25 PM 4:13
PROPERTY OWNER
RESPONSE

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

CASE NUMBER T - 17-0202

Your Name <i>Bregg Bowman</i>	Complete Address (with zip code) <i>360 Grand Ave #145 Oakland, CA 94610</i>	Telephone: <i>510-390-6377</i>
		Email: <i>bowman.apartments@gmail.com</i>
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) <i>Kelly Johnson</i>	Complete Address (with zip code) <i>315 Park View Terrace #606 Oakland, CA 94610</i>	
Property Address (If the property has more than one address, list all addresses) <i>315 Park View Terrace, Oakland, CA</i>		Total number of units on property <i>39</i>

Have you paid for your Oakland Business License? Yes No Lic. Number: *000024056*
 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: *10-770-5-1*
 The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. Please provide proof of payment.

Date on which you acquired the building: *1/1/08.*

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>
1/20/17	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3/1/17	<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 10/2/2011.

The tenant's initial rent including all services provided was: \$ 1550 / 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? 10/1/15

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>	
1/30/17	3/1/17	\$ 1700	\$ 1850	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8/30/15	10/1/15	\$ 1635	\$ 1700	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
12/30/13	2/1/14	\$ 1550	\$ 1635	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

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

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

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

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

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

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

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

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

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

IV. DECREASED HOUSING SERVICES

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

V. VERIFICATION

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

Property Owner's Signature

5/25/17

Date

Gregg Bowman
360 Grand Ave #145
Oakland, CA 94610

RE: Case T-17-0202

Regarding grounds for petition (item b); there appears to be a mistake on the TENANT PETITION regarding the amount of the rent increase. A copy is attached showing the existing rent as \$1700 (her monthly rental amount including parking) to the new rent of \$1850, an increase of \$150 per month which is clearly less than the 10% maximum rent increase for capital improvements.

Regarding the second item (c), the notice and work was completed prior to February 1, 2017 thus prior to the current approval process took place, so no pre-petition was required.

Sincerely,

Gregg Bowman

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>For date stamp: 2017 MAY -1 AM 10:39</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly **T17-0282 KM/LM**

Your Name Brian Warwick	Rental Address (with zip code) 315 Park View Terrace #107 Oakland, CA 94610	Telephone 510-717-9205
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Gregg Bowman	Mailing Address (with zip code) 360 Grand Ave #145 Oakland, CA 94610	Telephone 510-390-6377

Number of units on the property: **39**

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

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

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

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

Date you moved into the Unit: October 2014 Initial Rent: \$ 1700+\$75 parking/month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 1/31/17. If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>1/31/17</u>	<u>2/1/17</u>	<u>\$ 1835</u>	<u>\$ 1975</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

List case number(s) of all Petition(s) you have ever filed for this rental unit: N/A

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

IV. VERIFICATION: The tenant must sign:

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

[Signature]
Tenant's Signature

4/30/17
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

- Printed form provided by the owner
- Pamphlet distributed by the Rent Adjustment Program
- Legal services or community organization
- Sign on bus or bus shelter
- Other (describe): 250 Frank Ogawa Plaza



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

For date stamp.
 CI
 RENT ADJUSTMENT PROGRAM
 2017 JUN 22 PM 4:05
PROPERTY OWNER
RESPONSE

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

CASE NUMBER T - 17-0282

Your Name <i>GREGG BOWMAN</i>	Complete Address (with zip code) <i>366 GRAND AVE #145</i>	Telephone: <i>(510) 390-6377</i>
		Email: <i>BOWMAN.APARTMENTS@GMAIL.COM</i>
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) <i>ELIZABETH COVER & BRAN WADWICK</i>	Complete Address (with zip code) <i>315 PARK VIEW TERRACE #107 OAKLAND CA 94610</i>	
Property Address (If the property has more than one address, list all addresses)		Total number of units on property <i>39</i>

Have you paid for your Oakland Business License? Yes No Lic. Number: *000024056*
 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: *16-770-5-1*
 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: *111108*

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>
1/26/17	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<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 OCT 25, 2013.

The tenant's initial rent including all services provided was: \$ 1775 / 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? 8/24/15

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>	
8/24/15	11/1/15	\$ 1775	\$ 1885	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
1/29/17	3/1/17	\$ 1835	\$ 1975	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

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

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

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

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

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

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

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

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

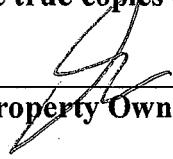
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

IV. DECREASED HOUSING SERVICES

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

V. VERIFICATION

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



Property Owner's Signature

6/22/17

Date

File Review

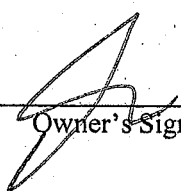
Your tenant(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. **You will be sent a copy of the Tenant's Response. Copies of attachments to the Response form will not be sent to you. However, you may review any attachments in the Rent Program Office. Files are available for review by appointment only.** 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. Once available, the petition and attachments to the petition can be found by logging into the RAP Online Petitioning System and accessing your case.

Mediation Program

If you are interested in submitting your dispute to mediation, please read the following information carefully. To request mediation, all petitioners must sign the form that follows. Voluntary mediation of rent disputes is available to all parties involved in Rent Adjustment proceedings. Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. Mediation will be scheduled only if both you and your tenant(s) agree and after both a petition and a response have been filed with the Rent Adjustment Program. You may elect to use a Rent Adjustment Program staff Hearing Officer acting as mediator or an outside mediator. Staff Hearing Officers are available to conduct mediation free of charge. 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. If you are unable to resolve your dispute after a good faith attempt at mediation, you will be given a priority hearing presided by a Hearing Officer other than your mediator.

IF YOU WANT TO SUBMIT YOUR CASE TO MEDIATION, PLEASE CHECK THE APPROPRIATE BOX AND SIGN.

- I agree to have my case mediated by a Rent Adjustment Program staff Hearing Officer (no charge).
- I agree to have my case mediated by an outside mediator (fees to be paid by the parties).



Owner's Signature (for mediation request)

6/22/17

Date

Owner's Signature (for mediation request)

Date

Gregg Bowman
360 Grand Ave #145
Oakland, CA 94610

RE: Case T-17-0282

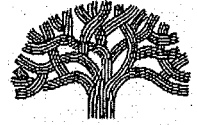
Regarding grounds for petition (item a); Notices were both timely and given in accordance with the RAP requirements at the time of notice. Attached are invoices to back up the amounts shown on the "Enhanced Notice to Tenants for Capital Improvements." Additionally there appears to be a mistake tenant petition regarding the rent increase that is contested. The TENANT lists date Notice served as 1/31/17. Actual service was 1/29/17. Date Increase Effective is listed as 2/1/17 where as the copy of the actual notice clearly shows the March 1, 2017 date.

Regarding grounds for petition (item c); there is no vacancy rent control in Oakland and the building is a multi family apartment, not a condominium or Single family residence were applicable Costa-Hawkins may or may not be applicable.

Sincerely,


Gregg Bowman

000092



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

CITY OF OAKLAND

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

**CASE NUMBER: T17-0201, Shannon v. Bowman
T17-0202, Johnson v. Bowman
T17-0282, Warwick v. Bowman**

PROPERTY ADDRESS: Oakland, CA

DATE OF HEARING: August 1, 2017

DATE OF DECISION: January 5, 2018

APPEARANCES:	Kelly Johnson	Tenant
	Brian Warwick	Tenant
	Carol Shannon	Tenant
	James Vann	Tenant Representative
	Gregg Bowman	Owner
	Evan Bowman	Manager
	Nicholas Koskinen K & H Builders, Inc., General Contractor	

SUMMARY OF DECISION

The tenants' petition is GRANTED.

INTRODUCTION

Tenants Shannon and Johnson filed petitions on March 24, 2017. Tenant Warwick filed a petition on May 1, 2017, to contest a rent increase. The owner filed a timely response to the tenant petitions.

The tenants contest the capital improvement pass-through for the windows and that the exterior work was not completed by February 1, 2017, but 21, March 2017, and that the work for the boiler falls outside the 24 month period prior to the effective date of the

increase. Tenant Shannon contends that the toilet installation was not complete until March 21, 2017.

The owner contends that he is entitled to a capital improvement pass-through for window replacements, toilet replacements, and work on a boiler. The windows were replaced and paid for on January 31, 2017, and the exterior paint was touch-up of the outside.

Regarding Ms. Shannon's toilet, the installation of the toilet was complete and functional and the only problem with the toilet was one that was created by her. Regarding the boiler, the owner contends that exclusion of the boiler is immaterial and does not affect the rent increase although he claims \$5,818 for work regarding the boiler.

ISSUES

1. Is tenant Warwick's petition timely filed?
2. Is the owner entitled to a rent increase based on capital improvements?

The above referenced cases were consolidated for hearing.

EVIDENCE

Timeliness-Tenant Warwick

Tenant Warwick's petition and testimony indicates that he received notice of the rent increase on January 31, 2017, concurrent with the form notice of the existence of the Rent Adjustment Program and he filed his petition on May 1, 2017. Effective September 1, 2016, the Rent Ordinance states that a tenant petition may be filed within 90 days after he was served with a RAP notice.¹ He filed his petition on the 89th day, which is one day within the 90 day time frame. His petition is timely filed and may be considered.

Tenants' Current Rents

Tenant Johnson contests a rent increase effective March 1, 2017, from \$1,625.00 to \$1,850.00. She paid \$1,850.00 in March and has paid \$1,625.00 since then. She also pays \$75.00 month for parking

Tenant Warwick contests a rent increase effective February 1, 2017, from \$1,835.00 to \$1,975.00. He is paying \$1,900.00 plus \$75.00 for parking as of March 1, 2017.

Tenant Shannon contests a rent increase effective March 1, 2017, from \$1,444.00 to \$1,555.00. She paid \$1,555.00 for one month. She is currently paying \$1,444.00. This information was undisputed.

¹ O.M.C. Section 8.22.090 (A)(3)

Capital Improvements

Windows

The owner representative testified that the subject building consists of 39 units. KH Builders, Inc., was the contractor. The owner testified that the windows were single pane, not tempered and there were some complaints of leakage, and a couple of the windows fell out a year ago. The contractor replaced windows at a cost of \$1,710.98 per window. The owner obtained building permit number B1605823 on December 19, 2016, for replacement of 176 windows.² The tenants questioned the cost of the windows. The contractor testified that the windows did not have bells or whistles, were not extravagant; that they were made of pine, and factory painted, not gold plated, and were required by Betty White. The windows were installed and paid for on January 31, 2017. The only work remaining was exterior paint, which was not completed until March 2017 due to heavy rains in February 2017. However, payment for the exterior paint was done in January 2017.

The owner also obtained building permit number P1603396 for replacement of 35 toilets.³ The subject property is a historic designated building.⁴ The contractor replaced 119 Pella windows in all the units, did interior and exterior paint of the windows, and installed 35 toilets (contractor invoice). The owner and contractor testimony at the Hearing indicates that 39 toilets were installed.

The owner also replaced the toilets with current conventional toilets that involved new plumbing. He replaced the old toilets which required 3.5 gallons to flush to 1.6 gallons per local and state requirements.

The owner provided the following vendor statements which indicated that the work was completed and paid for on January 31, 2017:⁵

<u>Vendor</u>	<u>Task</u>	<u>Amount</u>
KH Builders Inc	Replace windows	\$182,510
	Prepare/paint int./ext. windows	\$ 16,780
	Openings, sills, brick molds/casings	
	Permits	\$ 3,369.41
	Markup/procurement-permits	\$ 606.49
	Remove/replace 35 toilets	\$31,950
	Toilet permit cost	3,138.42

² Ex. No. 15

³ Ex. No. 16

⁴ The subject property is a historic designated building. The owner repaired the rear staircase and upgraded the façade with seismic improvements for safety reasons and the contractor pinned the terra cotta so that it would not fall off; he did not include this cost in his capital improvement pass-through

⁵ Ex. Nos. 1-2

Markup/procurement-permits	564.92
Kruse Heating	
Cooling Boiler repair	\$5,818 ⁶

The owner did not include the staircase or façade costs in the capital improvement pass-through costs which totaled \$23,590. The total paid for the windows and toilets was \$238,919.24, and \$5,818 for the boiler, which were paid by January 31, 2017.

The owner submitted copies of the following cancelled checks:

<u>Check No.</u>	<u>Payee</u>	<u>Amount</u>	<u>Date paid</u>
3722 ⁷	KH Builders	\$140,457	12/9/16
3733 ⁸	"	\$98,461.38	1/30/17

The owner did not provide a "final permit" for the work done.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Capital Improvements: A rent increase in excess of the C.P.I. Rent Adjustment may be justified by capital improvement costs.⁹ Credit for capital improvements will only be given for those improvements which have been completed and paid for within the twenty-four (24) month period prior to the date of the proposed rent increase.

Capital improvement costs are those improvements which materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. The improvements must primarily benefit the tenant rather than the owner. Capital improvement costs are to be amortized over a certain period, divided equally among the units which benefited from the improvement. The reimbursement of capital expense must be discontinued at the end of the amortization period.¹⁰

The owner is not required to obtain the tenants' consent or to consult with the tenants to do a capital improvement. Nor is he required to obtain the tenants' approval for selection of a contractor.

The owner expended capital improvement costs for window replacements and toilets totaling \$238,919.24. KH Builders, obtained permits for the window replacements and the toilet replacements but there was no final inspection and the permits were not "finalized" by the City inspector. Inspections are required to ensure that the construction is proceeding according to approved plans and project conditions of approval, and that all current code standards are being met. This will help to ensure personal safety and value

⁶ This work was done in April 2014 and falls outside the 24-month period

⁷ Ex. No. 9

⁸ Ex. No. 10

⁹ O.M.C. Section 8.22.070(C)

¹⁰ Exhibit 1, Appendix A, Rent Adjustment Board Regulations

of the improvement. Periodic inspections must be scheduled until the project is completed and the City gives final approval.

To pass on a capital improvement cost, the improvement must be "completed." Regulations Appendix § 10.2.1. The Oakland Building Code provides that "all construction or work for which a permit is required shall be subject to inspection by the Building Official in accordance with and in the manner provided by this Code and the Oakland Building Construction Code...." O.M.C. § 15.08.140.

The owner has expended substantial sums for the window and toilet replacements. However, there is no evidence that a final inspection was done by the City of Oakland. Without a final inspection, the window and toilet replacements have not been "completed." This is particularly true because the City can demand that the work be redone and inspected, where the proper permits were not completed. Where permits are required for capital improvements the improvement is not complete until the permit is "finaled". The owner may not pass-through the costs for the window and toilet replacements until he obtains a "finaled" permit for the work done.

This case is Certified for Appeal on the issue of whether a "finaled" permit is required for a capitalimprovement pass-through.

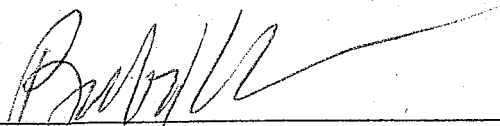
ORDER

1. The tenants' petitions are granted.
2. Tenant Johnson overpaid rent totaling \$150.00. Her current rent is \$1,700.00 (includes \$75.00 for parking). Her rent for February 1, 2018, is \$1,550.00. Commencing March 1, 2018, her current rent is \$1,700, including \$75.00 for parking.
3. Tenant Warwick overpaid rent totaling \$140.00. His current rent is \$1,835(includes \$75.00 for parking). His rent for February 1, 2018, is \$1,695.00. Commencing March 1, 2018, his current rent is \$1,835.00, including \$75.00 for parking.
4. Tenant Shannon overpaid rent totaling \$111.00. Her current rent is \$1,444.00 \$1,835. Her rent for February 1, 2018, is \$1,333.00. Commencing March 1, 2018, his monthly rent is \$1,444.00.
5. The capital improvement pass-through may not be granted pending a "finaled" building permit from a City building inspector.
6. The undersigned hearing officer certifies this case for appeal on the issue of whether a "finaled" permit is required for a capital improvement pass-through.

Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff. Either party may appeal this decision by filing a properly completed appeal using

the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: January 9, 2018.



BARBARA KONG-BROWN, ESQ.
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Numbers T17-0201, T17-0202, & T17-0282

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

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

Tenant

Carol Shannon
315 Parkview Terr #302
Oakland, CA 94610

Kelly Johnson
315 Park View Terr #606
Oakland, CA 94610

Brian Warwick
315 Park View Ter #107
Oakland, CA 94610

Tenant Representative

James Vann
251 Wayne Ave.
Oakland, CA 94606

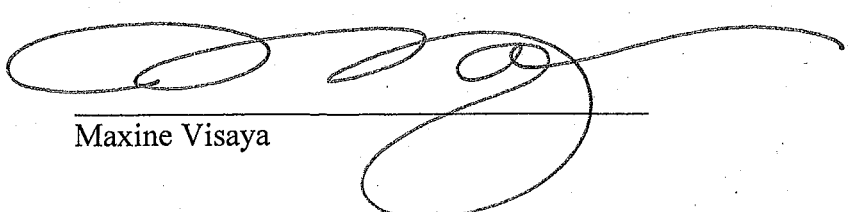
Owner

Evan Bowman
315 Parkview Terr #106
Oakland, CA 94610

Gregg Bowman
360 Grand Ave #145
Oakland, CA 94610

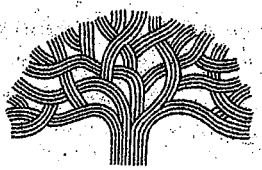
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 16, 2018 in Oakland, CA.



Maxine Visaya

000099

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp: 2018 FEB -5 PM 1:54
	<u>APPEAL</u>	

Appellant's Name GREGG BOWMAN, PARTNER		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Property Address (Include Unit Number) 315 PARK VIEW TERRACE, OAKLAND CA 94610		
Appellant's Mailing Address (For receipt of notices) 360 GRAND AVE #145 OAKLAND, CA 94616		Case Number T17-0201, T17-0202, T17-0282
		Date of Decision appealed 2/5/18
Name of Representative (if any)		Representative's Mailing Address (For notices)

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

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

For more information phone (510) 238-3721.

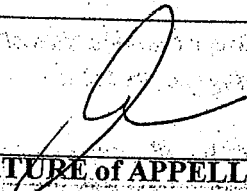
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: 3

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

I declare under penalty of perjury under the laws of the State of California that on FEB 5TH, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	CAROL STANNON	BRADY WISNICK
Address	315 PARK VIEW TER #302	315 PARK VIEW TER #107
City, State Zip	OAKLAND, CA 94610	OAKLAND, CA 94610
Name	KELLY JOHNSON	JAMES UANO
Address	315 PARK VIEW TER #606	315 251 WAYNE AVE
City, State Zip	OAKLAND, CA 94610	OAKLAND, CA 94606

	<u>2/5/18</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

OWNER'S APPEAL of HEARING DECISION

CASE NUMBERS: T17-0201, Shannon v. Bowman
T17-0202, Johnson v. Bowman
T17-0282, Warwick v. Bowman

Property address: 315 Park View Terrace, Oakland

Dated: February 5, 2018

In the Hearing Decision issued January 9, 2018, the Hearing Officer agreed that Owner had finished all construction and paid the contractor timely, but she concluded that the finished capital improvements must also be "finaled," in order to be considered "completed," within the meaning of the rent control laws. Significantly, she certified this issue for appeal, stating, "This case is Certified for Appeal on the issue of whether a 'finaled' permit is required for a capital improvement pass-through."

Owner submits that common sense, fairness, and controlling law require that this case be reversed and that the tenants be required to share the cost of capital improvements that were fully completed and paid for – and of which the tenants had the full benefit – on or before January 31, 2017.

Grounds for appeal. Under legally-applicable regulations of the City of Oakland and the undisputed facts in this case, the construction on which the disputed rent increases were based was both "completed" and "paid for" in a timely manner; and, therefore, the rent increases based on these capital improvements are in compliance with applicable regulatory law and must be approved.

1. There is no legal or factual dispute that the costs of the construction were "paid for" in a timely manner, as required by the Oakland Rent Adjustment Program Regulations. As the Hearing Officer correctly noted in the Hearing Decision:

"Credit for capital improvements will only be given for those improvements which have been completed and paid for within the twenty-four (24) month period prior to the date of the proposed rent increase."

(Hearing Decision, page 4, first paragraph under "Findings of Fact and Conclusions of Law; quoting from City of Oakland, Rent Adjustment Program Regulations, Appendix A, Section 10.2.1.)

The evidence in the record establishes, and the Hearing Decision confirms, that the owner paid for capital improvements totaling \$238,919.24 on or before the January 31, 2017, legal deadline. There is no evidence offered nor in the record to dispute this uncontested fact, and the Hearing Officer agreed. Therefore, the only legal question remaining – and the one certified for appeal – is whether the project was legally "completed" by the deadline, within the meaning of the rent control regulations.

OWNER'S APPEAL of HEARING DECISION

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T17-0202, Johnson v. Bowman
T17-0282, Warwick v. Bowman

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Grounds for appeal. Under legally-applicable regulations of the City of Oakland and the undisputed facts in this case, the construction on which the disputed rent increases were based was both "completed" and "paid for" in a timely manner, and, therefore, the rent increases based on these capital improvements are in compliance with applicable regulatory law and must be approved.

1. There is no legal or factual dispute that the costs of the construction were "paid for" in a timely manner, as required by the Oakland Rent Adjustment Program Regulations. As the Hearing Officer correctly noted in the Hearing Decision:

"Credit for capital improvements will only be given for those improvements which have been completed and paid for within the twenty-four (24) month period prior to the date of the proposed rent increase."

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The evidence in the record establishes, and the Hearing Decision confirms, that the owner paid for capital improvements totaling \$238,919.24 on or before the January 31, 2017, legal deadline. There is no evidence offered nor in the record to dispute this uncontested fact, and the Hearing Officer agreed. Therefore, the only legal question remaining – and the one certified for appeal – is whether the project was legally "completed" by the deadline, within the meaning of the rent control regulations.

2. **Common sense and established law make it clear that the construction of a project is "completed" when it has been "completed according to the terms and conditions set forth in the contract documents."** The evidence in this case is uncontradicted that the construction was completed timely and in accordance with the contract documents by January 31, 2017. The Opinion of the Hearing Officer acknowledges that the construction was completed in this manner. However, she concluded that, for purposes of the rent control ordinance, it is *not* sufficient for a construction project to be considered technically "completed" when all construction has been "completed in accordance with the construction contract," but only when it is later approved by a final inspection. The Hearing Officer cited no legal authority for this legal conclusion and appropriately certified the legal question for appeal.

As set forth following, it is respectfully submitted that there exists no such legal authority, that the Hearing Officer's definition of "completed" *is not the law in the City of Oakland*, and that the Decision should be reversed.

(i) The Dictionary of Construction defines "final completion" as follows:

"final completion – Definition

"A term applied for a project that has been completed according to the terms and conditions set forth in the contract documents."

<http://www.dictionaryofconstruction.com/definition/final-completion.html>

(ii) The Dictionary of Construction defines "completion date" as follows:

"completion date – Definition

"The date . . . when the work in a building, or a designated portion thereof, is sufficiently complete, in accordance with the contract documents, so that the owner [and hence tenants] can occupy the work or a designated portion thereof for the use for which it is intended."

<http://www.dictionaryofconstruction.com/definition/completion-date.html>

(iii) US Legal provides a definition of "certificate of final completion," which makes it clear that such certificate *is totally separate from and comes only after a construction project is already fully "complete,"* as follows:

"Certificate of Final Completion Law and Legal Definition

"Certificate of final completion is a legal document verified by an architect, contractor, or owner of a construction project that the project is finally complete and is ready for final payment."

<https://definitions.uslegal.com/c/certificate-of-final-completion/>

In construing statutes and regulations, words are legally to be given their reasonable, common sense, commonly-understood, and generally-accepted meaning. Owner respectfully urges that this standard must be applied here, in interpreting the word "completed" – so that, quite literally, "construction is completed when it is completed." The above definitions provide exactly this definition.

3. **Fairness** also requires that the common sense and legally-required use of the term **"completed"** must be applied here because it confirms the reasonable intent of the regulations and fairness to the parties. The regulations make the policy of the City of Oakland clear that tenants should be responsible for their portion of capital expenses, once construction is actually completed, so that the tenants have received the full benefit of such improvements. This is a reasonable rule, and it is good public policy. In this case, final inspection was completed without any corrective work being required, thereby recognizing that the construction was fully completed so that the tenants had the benefit of such improvements on or before January 31, 2017. Accordingly, such final approval confirmed and validated that the construction completed by January 31, 2017, was, indeed, finished in accordance with the construction contracts and the applicable legal regulations and legally "completed," within the meaning of the rent control regulations.

Conclusion. Based on the above, Owner respectfully submits that the decision of the Hearing Officer is erroneous, as a matter of law, in requiring that the construction be both "completed," as appropriately defined, and thereafter also "finalized." The evidence is clear that the construction was "completed and paid for" timely, in accordance with the applicable regulations and the policy of the City of Oakland. Accordingly, Owner respectfully submits that the decision of the Hearing Officer should be reversed and that the rent increases in compliance with the applicable regulations and should be affirmed.

Respectfully submitted,

February 5, 2018



Gregg Bowman, Owner



March 11

11:53 AM

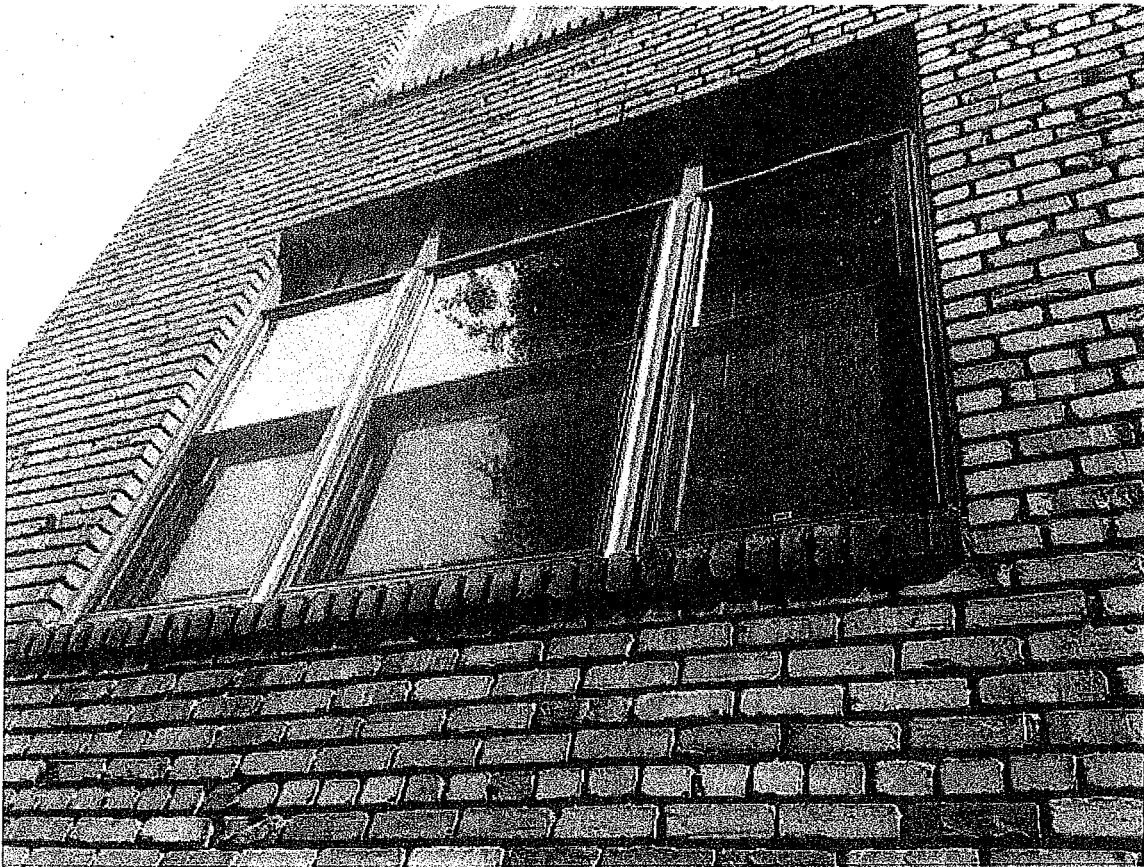
RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2017 JUL 21 AM 11:18

Case # T 17-0282 - For Appeal
Brian Warwick

2018 DEC -5 PM 2:46

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM



Evidence of work not complete as of 3/11/17
(white caulking substance)

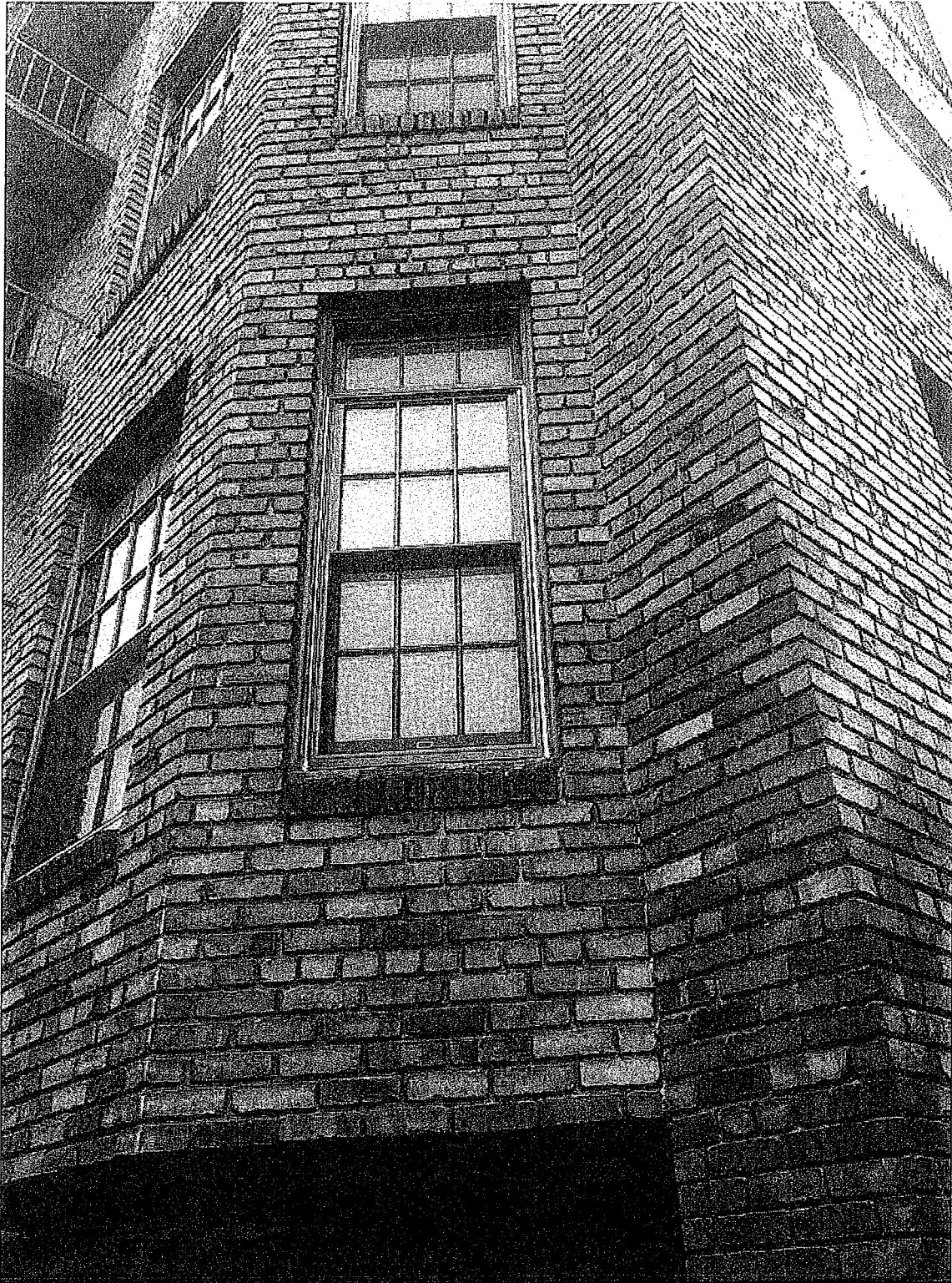


000106



March 11
11:52 AM

Details



000107

Case #T17-0282 - for Appeal
Brian Warwick



March 11
11:52 AM

Details



Case # T 17-0282 - For Appeal
Brian Warwick



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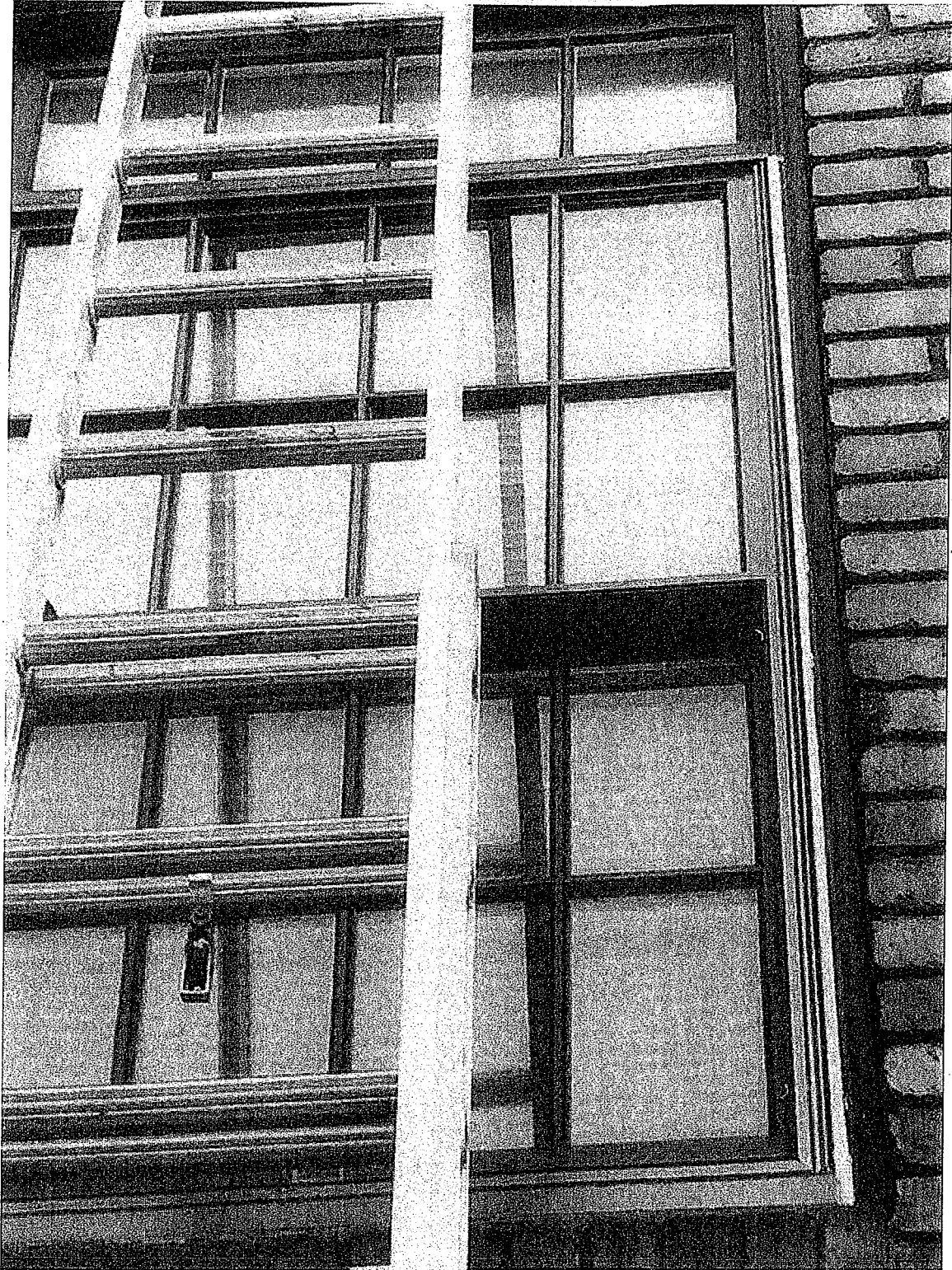


March 14

12:02 PM

Edit

Case #T17-0282 - For Appeal
Brian Warwick



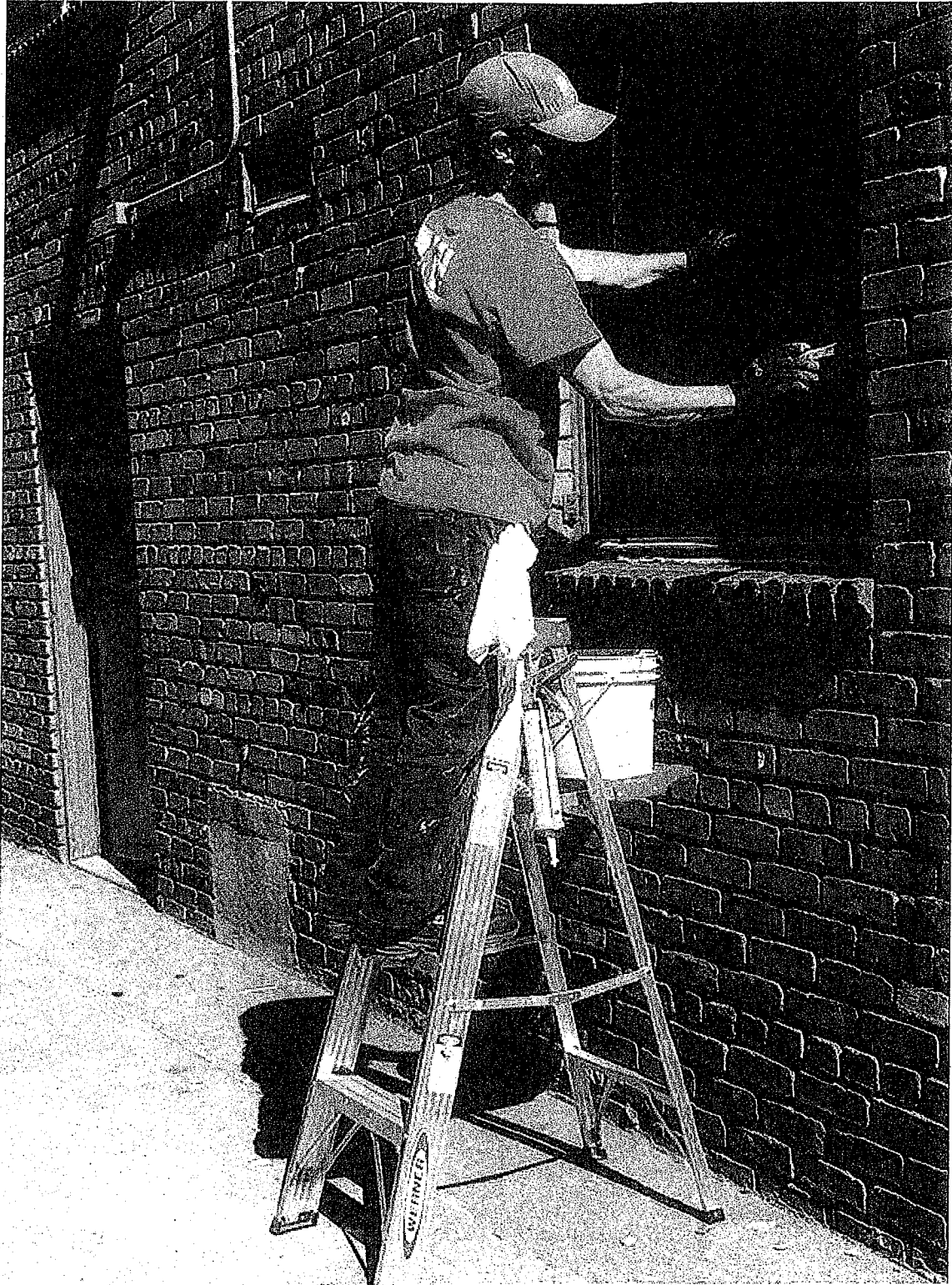
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March 14

12:02 PM

Edit



Case #T17-0282-For Appeal
Brian Warwick



000110

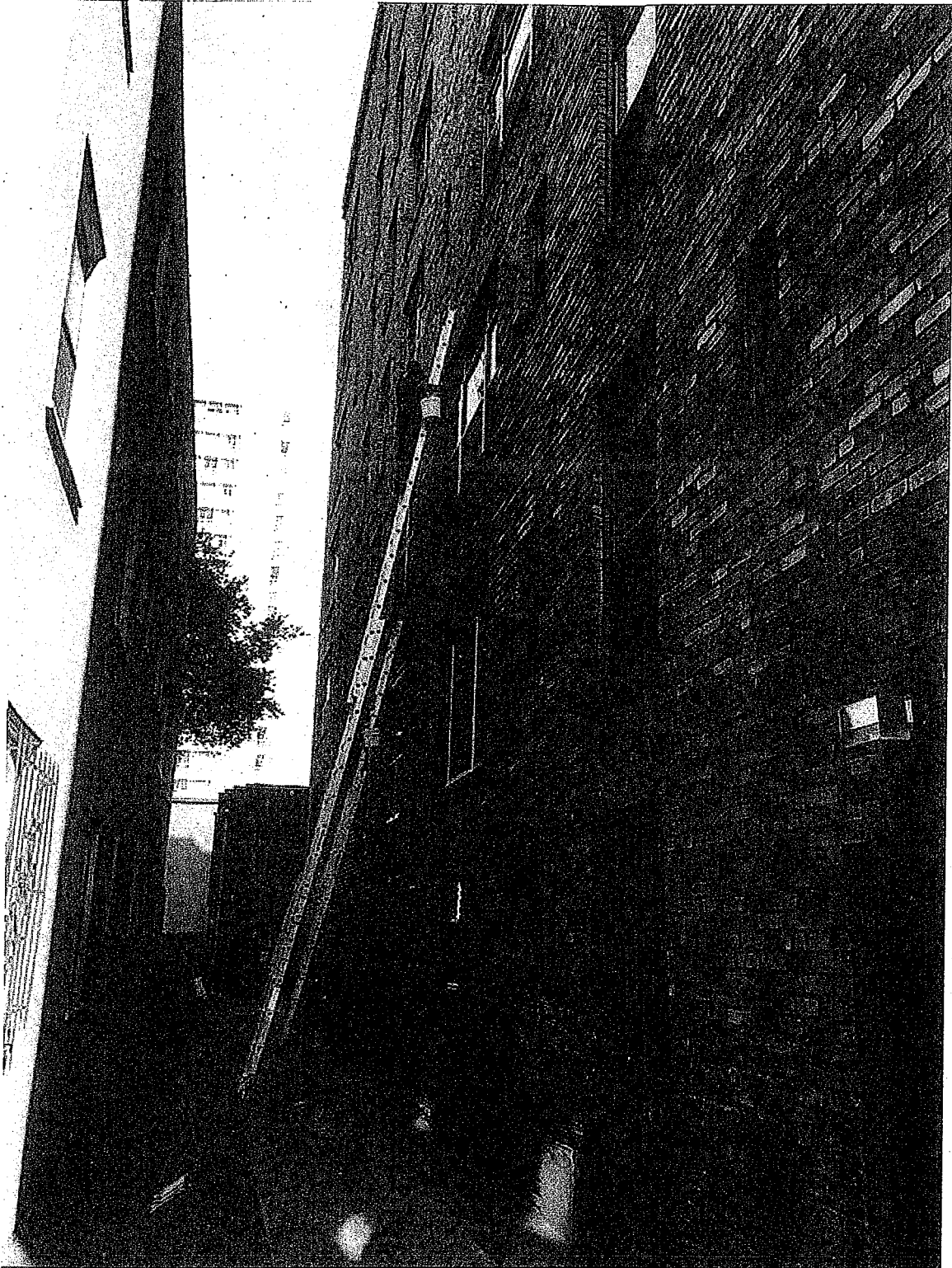


March 15

1:38 PM

Details

Case # T17-0282
Brian Warwick



000111



March 17
6:42 PM

Details



Case # T17-0282
Brian Warwick



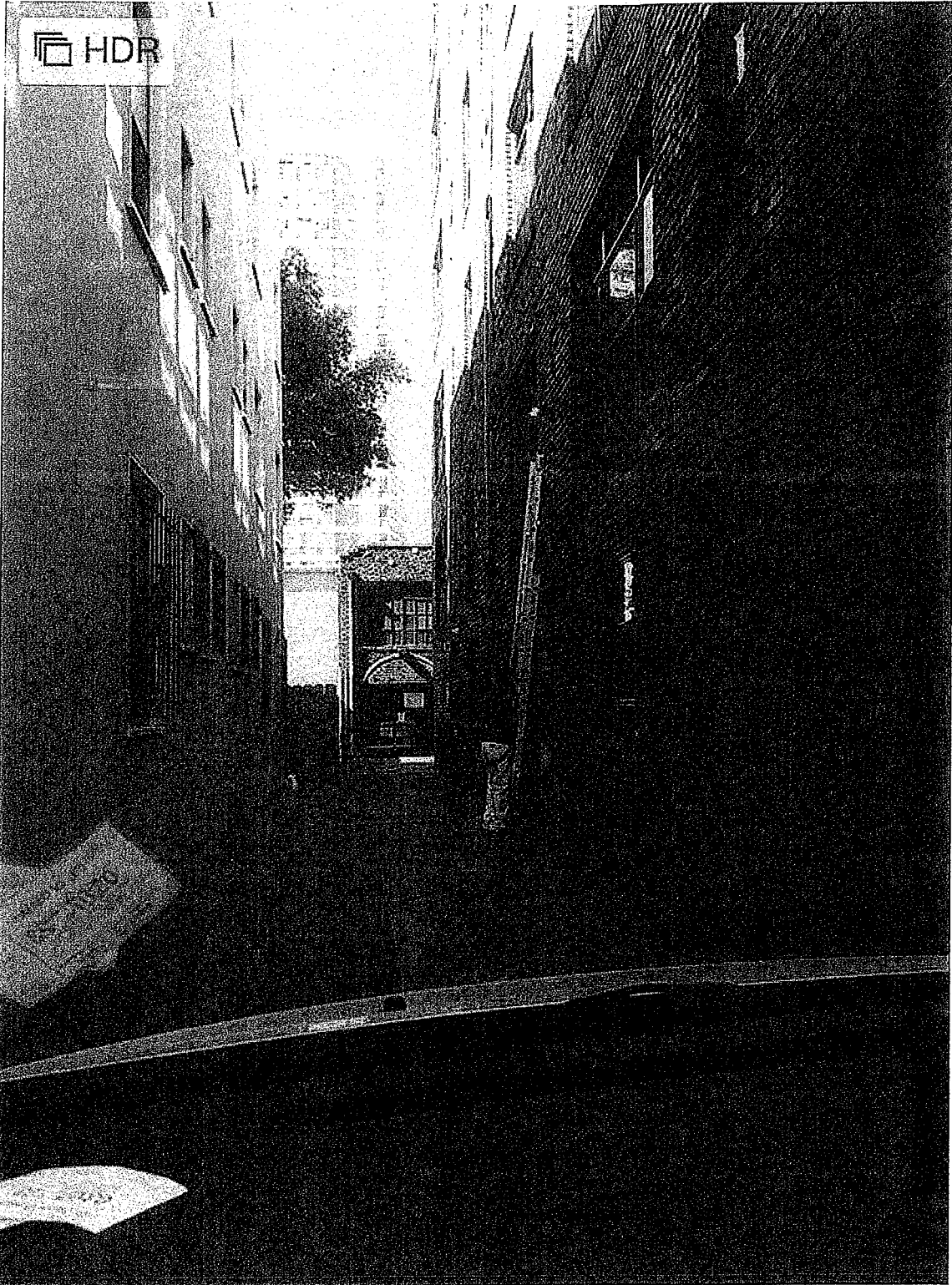
000112



March 23

3:09 PM

Edit



Case # T11-0282
 Brian Warwick



000113

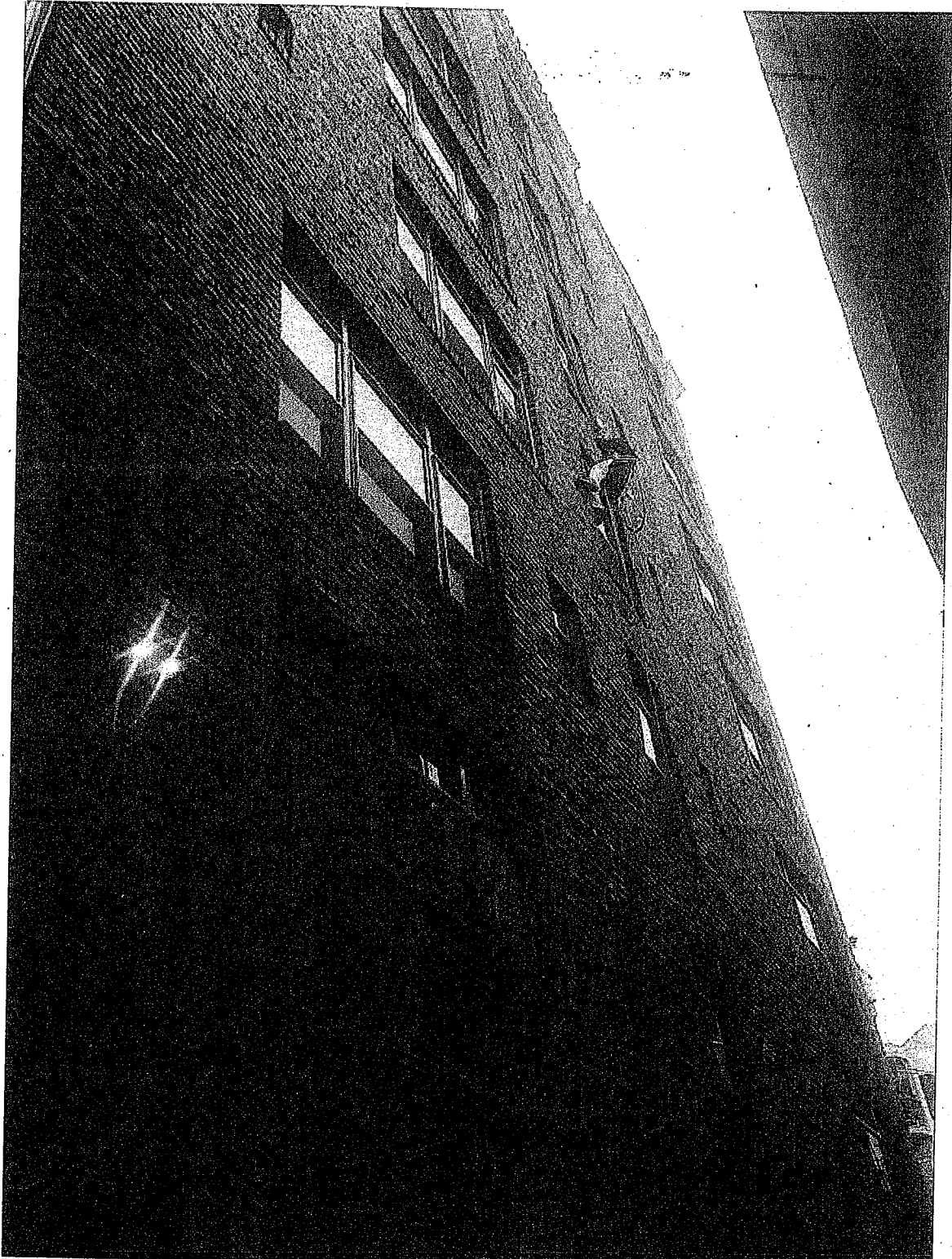


March 23

5:22 PM

Details

Case #T17-0282
Brian Warwick



000114