

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
FULL BOARD SPECIAL MEETING  
October 28, 2021  
5:00 P.M.  
Meeting Will Be Conducted Via Zoom**

**AGENDA**

**PUBLIC PARTICIPATION**

The public may observe and/or participate in this meeting in many ways.

**OBSERVE:**

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or AT&T Channel 99 and locating City of Oakland KTOP – Channel 10

- To observe the meeting by video conference, please click on the link below:  
You are invited to a Zoom webinar.

When: Oct 28, 2021 05:00 PM Pacific Time (US and Canada)

Topic: HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD FULL BOARD MEETING- October 28, 2021

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/82136650645>

Or One tap mobile :

US: +16699009128,,82136650645# or +13462487799,,82136650645#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 9128 or +1 346 248 7799 or +1 253 215 8782 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 821 3665 0645

International numbers available: <https://us02web.zoom.us/j/82136650645>

**COMMENT:**

There are two ways to submit public comments.

- To comment by Zoom video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Instructions on how to “Raise Your Hand” are available [here](#).

- To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing “\*9” to speak when Public Comment is taken. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Please unmute yourself by pressing “\*6”.

If you have any questions, please email [BMcGowan@oaklandca.gov](mailto:BMcGowan@oaklandca.gov) .

## HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD SPECIAL MEETING

1. CALL TO ORDER
2. ROLL CALL
3. NOMINATION/ELECTION FOR CHAIR OR TEMPORARY CHAIR PRO TEM
4. OPEN FORUM
5. CONSENT ITEMS
  - a. Approval of Board Minutes—Adoption of AB 361, 10/14/2021 (pp. 3-4)
  - b. Approval of Board Minutes, 10/14/2021 (pp. 5- 9)
6. APPEALS\*
  - a. T19-0272 & T19-0325, Jeffers v. BD Opportunity 1 LP (pp. 24-103)
  - b. T21-0088, Lerer v. Addleman (pp.104-167)
7. INFORMATION AND ANNOUNCEMENTS
  - a. Board Training—Rules of Evidence and Appeals (pp. 10-23)
8. ADJOURNMENT

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*\*Staff appeal summaries will be available on the Rent Adjustment Program's website and the City Clerk's office at least 48 hours prior to the meeting pursuant to O.M.C. 2.20.070.B and 2.20.090*

*\*Pursuant to California Government Code section 54953(e), Housing, Residential Rent and Relocation Board Members, as well as City staff, will participate via phone/video conference, and no physical teleconference locations are required.*

As a reminder, alternates in attendance (other than those replacing an absent board member) will not be able to take any action, such as with regard to the consent calendar.

### **Accessibility:**

Contact us to request disability-related accommodations, American Sign Language (ASL), Spanish, Cantonese, Mandarin, or another language interpreter at least five (5) business days before the event. Rent Adjustment Program (RAP) staff can be contacted via email at [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov) or via phone at (510) 238-3721. California relay service at 711 can also be used for disability-related accommodations.

Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en Español, Cantonés, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov) o llame al (510) 238-3721 o 711 por lo menos cinco días hábiles antes de la reunión.

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 [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov) 或致電 (510) 238-3721 或711 California relay service.

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
FULL BOARD SPECIAL MEETING**

**October 14, 2021**

**4:30 P.M.**

**VIA ZOOM CONFERENCE**

**OAKLAND, CA**

**MINUTES**

**1. CALL TO ORDER**

The Board meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order at 4:50 p.m. by Board Chair D. Ingram.

**2. ROLL CALL**

<b>MEMBER</b>	<b>STATUS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
R. NICKENS, JR.	Tenant		X	
Vacant	Tenant			
C. LIEU	Tenant Alt.			X
H. FLANERY	Tenant Alt.	X		
D. INGRAM	Undesignated	X		
Vacant	Undesignated			
Vacant	Undesignated			
Vacant	Undesignated Alt.			
Vacant	Undesignated Alt.			
T. WILLIAMS	Landlord	X		
N. HUDSON	Landlord	X		
B. SCOTT	Landlord Alt.			X
K. SIMS	Landlord Alt.			X

**Staff Present**

Braz Shabrell  
Harman Grewal  
Briana Lawrence-McGowan  
Susan Ma  
Mike Munson

Deputy City Attorney  
Business Analyst III (HCD)  
Administrative Analyst I (RAP)  
Program Analyst III (RAP)  
KTOP

3. ADOPTION OF RESOLUTION AB 361

- a. H. Flanery moved to adopt Resolution AB 361. Chair Ingram seconded.

The Board voted as follows:

**Aye:** D. Ingram, H. Flanery, N. Hudson

**Nay:** None

**Abstain:** T. Williams

The resolution was adopted.

4. ADJOURNMENT

- a. Chair Ingram moved to adjourn the meeting. H. Flanery seconded. The meeting was adjourned at 4:56 p.m.

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
FULL BOARD SPECIAL MEETING**

**October 14, 2021**

**5:00 P.M.**

**VIA ZOOM CONFERENCE**

**OAKLAND, CA**

**MINUTES**

**1. CALL TO ORDER**

The Board meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order at 5:02 p.m. by Board Chair D. Ingram.

**2. ROLL CALL**

<b>MEMBER</b>	<b>STATUS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
R. NICKENS, JR.	Tenant	X		
Vacant	Tenant			
C. LIEU	Tenant Alt.			X
H. FLANERY	Tenant Alt.	X		
D. INGRAM	Undesignated	X		
Vacant	Undesignated			
Vacant	Undesignated			
Vacant	Undesignated Alt.			
Vacant	Undesignated Alt.			
T. WILLIAMS	Landlord	X		
N. HUDSON	Landlord	X		
B. SCOTT	Landlord Alt.			X
K. SIMS	Landlord Alt.			X

**Staff Present**

Braz Shabrell  
Harman Grewal  
Briana Lawrence-McGowan  
Susan Ma  
Mike Munson

Deputy City Attorney  
Business Analyst III (HCD)  
Administrative Analyst I (RAP)  
Program Analyst III (RAP)  
KTOP

3. WELCOME NEW BOARD MEMBERS

- a. Chair D. Ingram introduced himself as a new member and acting Board Chair and introduced and welcomed new member N. Hudson.

4. OPEN FORUM

- a. Gregory McConnell acknowledged Barbara Kong-Brown’s service as the Senior Hearing Officer with the Rent Adjustment Program, stating that she was always objective, fair, and an excellent Senior Hearing Officer. Mr. McConnell wished Ms. Kong-Brown well and extended his appreciation for her, stating that she will be missed.

5. CONSENT ITEMS

- a. Approval of Board Minutes from the September 23, 2021 Full Board Special Meeting

T. Williams moved to approve the minutes. Chair Ingram seconded.

The Board voted as follows:

**Aye:** D. Ingram, T. Williams, R. Nickens, Jr., N. Hudson

**Nay:** None

**Abstain:** H. Flanery

The motion was adopted.

6. APPEALS

- a. L19-0159, 378 Grand Avenue Associates, LP v. Tenants

Appearances: Victoria Wentworth Tenant  
Ethan Silverstein Tenant Appellant Representative  
Gregory McConnell Owner Respondent Representative

This case involved a previously granted owner petition for rent increases based on capital improvements in which a percentage of costs for work done on the property were passed through to the tenants. Certain types of work do not qualify to be as considered capital improvements and there are a number of requirements that must be met for capital improvement pass throughs to be granted.

The owner’s petition for rent increases based on capital improvements were submitted for six categories of work performed, including a new entry system,

interior painting, light fixtures, boiler replacement, carpet replacement, and roofing. The tenants appealed the hearing decision on the grounds that many of the pass throughs were improper, calculations were improper, and that the Hearing Officer failed to properly analyze for gold plating and primary benefit to the tenants.

The following issues are presented to the Board:

- 1.) Was the pass through for the boiler replacement proper?
- 2.) Did the calculations account for work that was done to areas that were not residential?
- 3.) Did the Hearing Officer in error grant a pass through for work that was not listed in the original petition?
- 4.) Is the finding that no gold plating occurred supported by substantial evidence?
- 5.) Is the finding in this case that the work primarily benefited the tenants supported by substantial evidence?

The tenant representative contended that the owner did not meet the requirements for passing costs through to the tenants for capital improvements because the boiler replacement was unpermitted, costs were passed through for work done on commercial portions of the property, costs were passed through for tiling, which was not listed on the owner's petition, and that the Hearing Officer failed to conduct a proper analysis on gold plating and whether the improvements benefited the tenants.

The owner representative contended that many of the grounds the tenants raised on appeal were not presented at the initial hearing and that tiling was included in the owner's petition as an expense, but it was miscategorized underneath lighting, which was discovered at the hearing and mentioned to the Hearing Officer.

After parties' arguments and questions to the parties, during Board discussion H. Flanery moved to take a 5-minute break at 6:40 p.m. The motion was approved by consensus.

After Board discussion, H. Flanery moved to remand the case back to the Hearing Officer with the following instructions:

1. Regarding the entry system, tenants have met their burden in the gold plating analysis. The Hearing Officer is to analyze evidence presented at the hearing and to apply that evidence to determine whether the property owner has met their burden on the gold plating analysis.
2. Make a determination as to whether or not a permit was required for the boiler. If so, remove all costs related to the boiler.

3. Remove all costs related to tiling since tenants did not receive proper notice of the tiling costs in the petition.
4. Remove costs related to the portion of the roof covering the commercial portion of the property.
5. Remove all costs related to paint, lighting, and carpet due to a lack of substantial evidence from the property owner.

R. Nickens, Jr. seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, H. Flanery, N. Hudson, R. Nickens, Jr.  
**Nay:** None  
**Abstain:** T. Williams

The motion was adopted.

b. T19-0394, Thompson v. Goldstone

Appearances:	Naomi Felomino	Owner Appellant Representative
	Jayi Thompson	Tenant Respondent

This case involved a previously granted tenant petition contesting a rent increase which alleged decreased housing services. The tenant's petition was granted because it was determined by the Hearing Officer that the rent increase was unlawful due to the tenant not being provided sufficient notice. A rent reduction was granted based on decreased housing services due to the condition of the tenant's oven and because the tenant was not provided with a replacement garage door opener after the tenant's opener was lost and a new one was requested.

The owner appealed the rent reduction as it relates to the replacement garage door opener, alleging that the tenant could open the garage manually using a key and that the tenant was issued two garage door openers.

The following issue is presented to the Board:

1. Does the evidence in this case support a reduction for the full value of the tenant's parking space?

The owner representative alleges that the tenant had two garage door opener remotes and that although one was lost, the tenant still had a second remote. The owner representative contended that since the tenant still had one garage



door opener and the ability to open the garage manually using a key, a portion of the rent reduction should not have been granted. The owner representative alleges that documentation was submitted that proves that two remotes were previously issued.

The tenant contended that documentation that proves issuance of two garage door opener remotes does not exist and that the lease agreement states that only one opener was issued. The tenant contended that only one garage door opener was received and when it was reported missing and a new one was requested, it was not provided until 22 months later.

After parties' arguments, questions to the parties and Board discussion, N. Hudson moved to uphold the Hearing Officer's decision based on substantial evidence. R. Nickens, Jr. seconded.

The Board voted as follows:

**Aye:** D. Ingram, T. Williams, N. Hudson, H. Flanery, R. Nickens, Jr.

**Nay:** None

**Abstain:** None

The motion was adopted.

7. Information and Announcements

a. None

8. Adjournment

T. Williams moved to adjourn the meeting. H. Flanery seconded.

The Board voted as follows:

**Aye:** D. Ingram, H. Flanery, N. Hudson, T. Williams, R. Nickens, Jr.

**Nay:** None

**Abstain:** None

The motion was approved. The meeting was adjourned at 7:48 p.m.

## Appeal Hearing Outline

### I. Appellate Body

#### A. Full Board

##### 1. Quorum.

a) Four.

b) One of each category of Board member first time matter comes up.

c) Any four Board members next time matter comes up.

d) Parties may waive requirement for one of each category, but not numerical quorum.

#### B. Appeal Panels

##### 1. Quorum.

a) One of each category on Board member.

2. Should only hear appeals on issues already decided by the Board or more routine cases.

### II. Appeals

#### A. Grounds for Appeal (Reg. 8.22.120B):

1. The decision is inconsistent with Rent Law, the Regulations, or prior Board decisions;

2. The decision is inconsistent with other Hearing Officer decisions;
3. New policy issue;
4. The decision violates federal, state, or local law;
5. The decision is not supported by “substantial evidence”.
6. The Hearing Officer made a procedural error denying sufficient opportunity adequately present claim or respond to opposing party; or
7. Owner denied a fair return.

#### B. Timelines and Deadlines

1. Party must appeal in 15 days after decision + 5 days for mailing.
  - a) If appeal is late, staff dismisses.
2. 10 day notice for appeal hearing.
3. Goal of hearing appeal w/i 30 days (give reasons in writing for each 30 day extension)
4. Postponements of Appeal Hearings
  - a) Granted by Board or staff.
  - b) Only for good cause and in the interest of justice.
    - (1) Illness.

(2) Travel plans scheduled before notice of hearing.

(3) Impractical to appear due to unforeseen circumstances or prearranged plans.

(4) Difficulty or inconvenience in appearing not sufficient.

c) Must be verified.

d) Mutual consent by parties.

e) Request must be submitted at earliest possible time prior to appeal hearing.

#### C. Appeal submissions.

1. Appeal must be on Board form.

2. Must state reason for appeal.

3. Must serve other parties.

4. Staff reviews for deficiency.

a) For example, failure state reasons for appeal.

b) Staff sends deficiency letter.

c) If not corrected, staff dismisses.

5. Limited to 25 pages (record is 2300).

#### D. Reconsideration by staff.

1. If appeal presents minor, facial error, Hearing Officer may be asked to review, correct, and issue corrected decision.

- a) For example, calculation error.

E. Failure to appear.

1. Appellant -- Board may dismiss.
2. Respondent – Board continues with appeal hearing, appellate must still put forward case.

F. Conduct of Appeal Hearing

1. Open and recorded.
2. Parties may be represented or assisted.
3. Parties may have translators, but if City is to provide, request must be made in advance.
4. Presentation.
  - a) Each side gets 15 minutes, unless Board votes otherwise.
  - b) 5 minutes for presentation.
  - c) 5 minutes for rebuttal.
  - d) 5 minutes for Board questions.
5. Comments by members of the public not considered.

6. Additional documents not provided with packet cannot be used.

a) Due process concerns, opposing party has a right to respond.

b) If documents are part of the record, they may be found in case file and referred to.

7. New evidence.

a) No new evidence may be presented at an appeal hearing.

b) Exceptions

(1) As proffer of what evidence might have been presented because party did not have opportunity to present at hearing and that is basis of appeal.

(2) As proffer of good cause for failure to appear.

c) Board does not consider evidence, but rather refers to Hearing Officer if proffer is sufficient.

(1) For example, if evidence is sufficient to constitute good cause for excuse, it is referred to

Hearing Officer to determine veracity. If it is not sufficient cause, no need to refer.

## G. Board's Decision on Appeal

### 1. Voting

- a) Majority of those present required to overturn (provided quorum is present).
- b) Tie vote or no vote upholds decision.

### 2. Written Decision

- a) Staff prepares written decision; comes back Board consideration at subsequent meeting only if Board requests.
- b) Decision must include analysis articulating how the evidence supports the findings and how the findings support the conclusion.

## III. Appeal on the record or de novo.

### A. On the record.

- 1. No new testimony taken or documents submitted.
- 2. Parties allowed to argue and to discuss evidence before the hearing office, but not to submit new evidence.

3. The decisions must be apparent from documents or findings.
4. Parties can agree on what facts are from hearing below.
5. Staff prepares limited portion of record for Board.
  - a) Board may review the file at office or at Board meeting.
6. Record of oral proceedings not available unless:
  - a) Party transcribes or plays portion of hearing.
  - b) Board member listens at office or requests copy of recorded hearing.

B. De novo (new hearing).

1. Board takes new evidence (testimony and or documentary) on entire case or specific issues.
2. De novo or evidentiary hearings by the Board are not recommended:
  - a) Hearing Officers are better equipped to handle evidentiary hearings.
  - b) Board would have to make evidentiary rulings.
3. Must be at subsequent hearing to allow other party to prepare to contest evidence or to submit contrary evidence.



4. Witnesses must be sworn.

a) Representatives cannot testify.

#### IV. Evidence.

A. Decision must be based on preponderance of evidence.

B. Strict rules of evidence don't apply.

C. Board can accept hearsay, but give it appropriate weight.

1. Out of court statement offered for the truth.

2. One person testifying as to what another person says.

3. Primary issue is whether the testimony is reliable because it is not direct.

4. Must be other corroborative evidence.

D. Direct and circumstantial evidence.

1. Direct.

a) I saw her eat a piece of cake.

2. Circumstantial.

a) I saw the cake with a slice out and cake crumbs on her mouth.

E. Documents that are not agreed to as being true and correct should be attested to or certified.

F. Evaluating conflicting evidence.

1. Look at surrounding circumstances.

a) Are there other facts to support one side or the other.

2. Motivation of the person testifying.

3. Credibility of the person testifying.

G. Proffered evidence (offer of proof).

1. This is the evidence I would have presented or would present if I have had the opportunity to do so.

a) I can show why I was late.

V. Addressing Appeal Issues.

A. What issues did party appeal on?

B. Should the Board address issues that are apparent, but that neither party appealed on?

1. For example, when a party plainly missed a time deadline and the decision is in error on this point, but there is no appeal on this issue.

C. The Board should assume that issues not brought forward on appeal that are necessary to support the Hearing Officer's decision were correctly decided.

1. For example, that the tenant timely filed the petition or that the landlord gave the proper notices.

D. Substantial evidence.

1. The appellant who claims there was not substantial evidence supporting the decision has the burden of producing the evidence presented and demonstrating it was not substantial.

E. Findings do not support decision or a conclusion.

1. The findings point to an opposition conclusion.
  - a) Example: The finding states that housing services were decreased, but the conclusion is that no rent decrease was granted.

2. There is an analytical gap between the findings and the conclusion.

- a) The findings do not state “why” the conclusion follows.

- b) Example:

- (1) “The roof work was not a capital improvement.” (Why not?).

- (2) “The roof work was not a capital improvement

*because* it was just the repair of a small leak and not a replacement of the roof.”

## VI. Burdens of Proof.

A. The party with the burden of proof must present evidence to meet that burden.

1. If the party with the burden fails to produce competent evidence, that party loses.

B. Examples of burdens.

1. Landlord.

a) Burden of proving eligibility for rent increase.

b) Exemption.

2. Tenant

a) Rent decrease.

## VII. Options for Decisions.

A. Affirm hearing officer.

1. No action is affirmation.

2. Affirm with recalculation.

a) Staff performs recalculation and it becomes Board decision with or without further review.

B. Reverse hearing officer.

1. Make a new decision.

C. Remand to Hearing Officer.

1. Board gives instructions as to what issues to address.
2. Hearing officer may make new decision or keep existing decision.

### VIII. Decision

A. Decisions must be in writing.

B. Decisions should have findings.

C. The Board should respond to all issues raised on appeal.

D. The Board should articulate the reasons for its decision.

E. Board's decision is final as to City.

F. Decision can only be appealed to court by writ.

1. Court considers only case record.

### IX. Types of Cases for Board.

A. Rent

1. Tenant.

- a) Rent in excess of CPI.
- b) Lack of notice at commencement.
- c) Lack of notice with Rent Increase.
- d) Decreased housing services.

- e) Uncured code violations.
- f) No timely summary after request.
- g) Contests exemption.

2. Landlord

- a) Rent increase.
- b) Exemption from Rent Law.

(1) Board does deal with Just Cause exemptions.

B. Just Cause for Eviction.

1. Protected status.

- a) Senior.
- b) Disabled.
- c) Catastrophically ill.

2. Time for rehabilitation longer than 3 months.

C. Relocation.

1. Amount of relocation benefits for redevelopment or other relocation.

- a) Not code enforcement relocation.

D. Housing Code

1. Interpretations of housing code.

X. Communications With the Board

A. Ex parte communications.

1. Parties communicating with the Board or Hearing Officer outside of the appeal process.

B. Non-parties speaking at Appeal Hearings.

1. Brown Act permits the public to speak on any item on the Board Agenda.
2. Because of due process and fairness considerations, the Board should not consider comments of non-parties at appeal hearings.

401755v2

## CHRONOLOGICAL CASE REPORT

Case No.: T19-0272 & T19-0325

Case Name: Jeffers v. BD Opportunity 1 LP

Property Address: 7123 Holly Street, Unit 1, Oakland, CA

Parties: Colleen Jeffers (Tenant)  
BD Opportunity 1 LP (Owner)

### OWNER APPEAL:

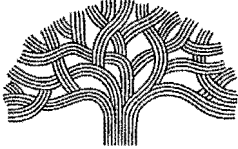
<u>Activity</u>	<u>Date</u>
Tenant Petition filed	April 29, 2019
Owner Response filed	September 09, 2019
Hearing Date	November 7, 2019
Hearing Decision mailed	January 23, 2020
Appeal filed	February 10, 2020
Appeal Decision mailed	December 07, 2020
Remand Decision Emailed	August 09 & 16, 2021
Owner Appeal filed	August 12, 2021

000024



T19-0272 KM/EL

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM  
FOR DATE STAMP

 CITY OF OAKLAND	<b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	APR 29 PM 2:17  <b>TENANT PETITION</b>
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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.**

**Please print legibly**

Your Name <b>Colleen Jeffers</b>	Rental Address (with zip code) <b>7123 Holly St #1 Oakland, CA 94621</b>	Telephone: <b>510-917-2839</b>
		E-mail: <b>jeffers_colleen@yahoo.com</b>
Your Representative's Name	Mailing Address (with zip code)	Telephone:  Email:
Property Owner(s) name(s) <b>BD Opportunity 1 LP</b>	Mailing Address (with zip code) <b>3340 Woodside Terrace Fremont, CA 94539</b>	Telephone:  Email:
Property Manager or Management Co. (if applicable) <b>Pama Management</b>	Mailing Address (with zip code) <b>4900 Santa Anita Ave, Suite 2C El Monte, CA 91731</b>	Telephone: <b>626-575-3070</b>  Email:

Number of units on the property: 6

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

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

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

<input checked="" type="checkbox"/>	(a) The CPI and/or banked rent increase notice I was given was calculated incorrec
<input checked="" type="checkbox"/>	(b) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are)
<input checked="" type="checkbox"/>	(c) I received a rent increase notice before the property owner received approval fr Program for such an increase and the rent increase exceeds the CPI Adjustment and

Rev. 2/10/17

For more information phone (510) 238-3721.  
**Petition prepared by Centro Legal de la Raza**

TENANT PETITION  
**000025**

	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.
<input checked="" type="checkbox"/>	(h) There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance. (Complete Section III on following page)
<input checked="" type="checkbox"/>	(i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page)
	(j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.
	(k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
	(l) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake (OMC 8.22, Article I)
	(m) The owner did not give me a summary of the justification(s) for the increase despite my written request.
	(n) The rent was raised <u>illegally</u> after the unit was vacated as set forth under OMC 8.22.080.

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

Date you moved into the Unit: 2/2013 Initial Rent: \$ 950 /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		
3/9/2019	4/1/2019	\$ 951.39	\$ 1046.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9/2019	10/1/2017	\$ 930.00	\$ 951.39	<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:

**T16-0526**

**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.

Callie Jeff  
Tenant's Signature

4-29-2019  
Date

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

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

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

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

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

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

\_\_\_\_\_  
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): \_\_\_\_\_

**NOTICE OF CHANGE IN TERMS OF  
TENANCY  
(Rent Increase)**

4900 SANTA ANITA AVE., SUITE 2C  
EL MONTE, CA 91731  
Phone: (626) 575-3070  
FAX: (626) 575-7817  
FAX: (626) 575-3084

Resident( s): COLLEEN JEFFERS- and all others in possession of:  
Premises: 7123 HOLLY ST #1  
OAKLAND, CA 94621

**TO RESIDENT(S):**

**PLEASE TAKE NOTICE** that the terms of your month-to month tenancy of the above-described premises are changed in the following respects, as indicated by the Check mark on the line (s) before the applicable paragraph (s)

**Rent Increase of 10% or less-**

Old Rental Amount \$ 951.39  
New Rental Amount \$ 1046

Effective Date: April 1, 2019

Rent Due Date: 1st day of each calendar month

(Pursuant to California Civil Code 827: If this rent increase plus all rent increases during the prior 12 months does not increase the rent by a cumulative amount over 10%, this rent increase notice will be effective in 30 days if personally served upon you or 35 days if served by mail in accordance with Code of Civil Procedure 1013)

**Rent Increase over 10%-**

Old Rental Amount  
New Rental Amount

Effective Date:

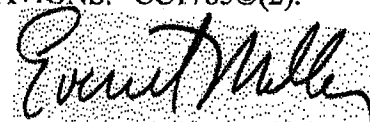
Rent Due Date: 1st day of each calendar month.

(Pursuant to California Civil Code 827: If this rent increase plus all rent increases during the prior 12 months has been increased by a cumulative amount over 10%, this rent increase notice will be effective in 60 days if personally served upon you or 65 days if served by mail in accordance with Code of Civil Procedure 1013)

Except as herein provided, all other terms of your tenancy shall remain in full force and effect.

“AS REQUIRED BY LAW, YOU ARE HEREBY NOTIFIED THAT A NEGATIVE CREDIT REPORT REFLECTING ON YOUR CREDIT RECORD MAY BE SUBMITTED TO A CREDIT REPORTING AGENCY IF YOU FAIL TO FULFILL THE TERMS OF YOUR CREDIT OBLIGATIONS.” CC1785©(2).

Date: February 17, 2019



\_\_\_\_\_  
Landlord



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

**RECEIVED**  
 SEP 09 2019  
 RENT ADJUSTMENT PROGRAM  
**OAKLAND**  
**PROPERTY OWNER**  
**RESPONSE**

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

**CASE NUMBER T19-0272**

Your Name <b>BD OPPORTUNITY 1, LP</b>	Complete Address (with zip code) <b>3340 WOODSIDE TERRACE FREMONT, CA 91751</b>	Telephone: <b>626-575-3070</b>
Your Representative's Name (if any)	Com: <b>INCORRECT ZIP CODE</b>	Email: <b>NEVIN@NAYAMATI.COM</b>
Tenant(s) Name(s) <b>COLLEEN JEFFERS</b>	Com: <b>712 HUNTER ST OAKLAND, CA 94621</b>	Telephone:
Property Address (If the property has more than one address, list all addresses)		Email:
		* Please see attachment A for response explanation, regarding increase
		Total number of units on property <b>6</b>

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 00170248  
 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: 39930813  
 The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: 3/27/13

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

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

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

Rev. 7/12/2019

*owner response*

**000030**

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

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

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

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

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

The tenant moved into the rental unit on \_\_\_\_\_.

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

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

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

Is the tenant current on the rent? Yes \_\_\_\_\_ No \_\_\_\_\_

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

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

### III. EXEMPTION

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

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

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

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

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

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

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

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

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

### IV. DECREASED HOUSING SERVICES

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



**V. VERIFICATION**

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

David S. Nguyen  
Property Owner's Signature

9/8/19  
Date

**IMPORTANT INFORMATION:**

**Time to File**

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

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

**File Review**

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

**Mediation Program**

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

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

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

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

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

\_\_\_\_\_  
Date

Attachment A

The rent increase effective July 1, 2019 for Colleen Jeffers at 7123 Holly St #1, Oakland, CA 94621, has been rescinded and the tenant was notified. The decrease in services are not services, but rather conditions. All items listed either show as being corrected or have been corrected. Discussions have been made with the tenant regarding current condition and maintenance items, and there are no 'services' that need attention. The management team is in the process of repairing minor, non-urgent, items in the tenant's unit.

Given all this information and the status quo, there should be no need for a hearing and this case should be dismissed.

If there are any additional inquiries or needed items, please contact Pama Management at 626-575-3070 x226 or [Nevin@pamamgt.com](mailto:Nevin@pamamgt.com)

RESPONSE to JF 000034

## **PROOF OF SERVICE**

Case Number **T19-0272**

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, 5<sup>th</sup> Floor, Oakland, California 94612.

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

Colleen Jeffers  
7123 Holly Street, #1  
Oakland, CA 94621

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 10, 2019.



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Keith Mason  
Oakland Rent Adjustment Program

000035



Housing and Community Development Department  
Rent Adjustment Program

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

**HEARING DECISION**

**CASE NUMBER:** T19-0272, Jeffers v. BD Opportunity 1, LP  
T19-0325, Jeffers v. BD Opportunity 1, LP

**PROPERTY ADDRESS:** 7123 Holly Street, Unit 1  
Oakland, CA

**DATE OF HEARING:** November 7, 2019

**DATE OF SUBMISSION:** November 21, 2019

**DATE OF DECISION:** January 21, 2020

**APPEARANCES:** Colleen Jeffers, Tenant  
Xavier Johnson, Tenant Representative  
Christina Micciche, Owner Representative

**SUMMARY OF DECISION**

The Tenant's petition is granted.

**INTRODUCTION**

The tenant filed the petition, T19-0325, on June 24, 2019, which contests a rent increase effective July 1, 2019, raising the rent from \$951.39 to \$1,018.16, and a rent increase effective April 1, 2019, raising the rent from \$951.39 to \$1,046.00 on the following grounds:

- The CPI<sup>1</sup> was calculated incorrectly;

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<sup>1</sup> Consumer Price Index

- The increase exceeds the CPI Adjustment and is greater than 10%;
- The rent increase was not approved and exceeded the banked increase;
- No Notice to Tenants of the Residential Rent Adjustment Program Notice (RAP Notice) at Inception or 6 Months Prior; and
- Rent Increase Violates State Law.

The petition also alleges decreased housing services and indicates that she has never received a RAP Notice.

The tenant filed the petition, T19-0272, on April 29, 2019, which contests a rent increase effective April 1, 2019, raising the rent from \$951.39 to \$1,046.00 and a rent increase effective October 1, 2017, raising the rent from \$930.00 to \$951.39, on the following grounds:

- The CPI was calculated incorrectly;
- The increase exceeds the CPI Adjustment and is greater than 10%;
- The rent increase was not approved and exceeded the banked increase;
- No RAP Notice at Inception or 6 Months Prior; and
- Rent Increase Violates State Law.

The petition also alleges decreased housing services and indicates that she has never received a RAP Notice.

The owner only filed a timely response to the tenant petition in T19-0272. The owner did not file an Owner Response to the tenant petition in T19-0325.

### **ISSUE(S) PRESENTED**

1. When, if ever, was the tenant given the RAP Notice?
2. What is the allowable rent?
3. Has the tenant suffered decreased housing services?
4. If so, what, if any, restitution is owed to the tenant, and how does that impact the rent?

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## EVIDENCE

### Rental History

The subject unit was rented by the tenant in February 2013, at an initial rate of \$950.00, per month. The tenant testified that she did not receive a RAP Notice at the inception of her tenancy. She also testified that she did file a petition with the Rent Adjustment Program, previously.<sup>2</sup> After receiving the decision in the prior case, the tenant paid \$930.00, pursuant to the decision. The tenant has not received any rent increase notices from the owner, indicating that the conditions have been restored.

The tenant testified she received the following Notices of Rent Increase:<sup>3</sup>

- \$930.00 to \$951.39, effective October 1, 2017;
- \$951.39 to \$1,046.00, effective April 1, 2019;
- \$951.39 to \$1018.16, effective July 1, 2019; and
- \$951.39 to \$1018.16, effective October 1, 2019.

The tenant testified that she is currently paying \$1,018.16 and has done that for two months. The tenant testified that she also paid \$1051.39 per month for rent as well. The tenant testified that while she could not remember exactly what months she paid what amount, she did have receipts for some of her rent payments.<sup>4</sup> The rent receipts indicate that the tenant made the following rent payments:

Date of Receipt	Amount of Receipt
02/2/17	\$ 950.00
04/03/17	\$ 930.00
07/02/17	\$ 930.00
10/02/17	\$ 930.00
	\$ 951.50
06/24/18	\$ 951.39
11/29/18	\$ 951.56
12/23/18	\$ 951.56
02/23/19	\$ 951.56

<sup>2</sup> T16-0526, Jeffers v. Pama Management.

<sup>3</sup> Exhibit A. This Exhibit, and all other Exhibits to which reference is made in this Decision, were admitted into evidence without objection

<sup>4</sup> Exhibit B.

03/29/19	\$ 49.00
07/21/19	\$ 951.39
	\$1,000.00
09/28/19	\$1,000.00
09/28/19	\$ 18.16

The tenant testified that she has some rent receipts for rental payments; however, she indicated that she did not have every single receipt.<sup>5</sup>

### Decreased Housing Services

#### Water Leaks

The tenant testified that there was a plumbing leak from the upstairs unit into the bathroom in her unit, in October 2016. The tenant testified that she called the property owner when she noticed the leak. She testified that the leak was resolved in two days but that nothing had been done to address the mold and water seepage issues.<sup>6</sup>

A Notice of Violation, dated March 26, 2019, was issued for the subject unit. The subject unit was cited for a violation for water intrusion damage over the front door.<sup>7</sup>

#### Gas Shutoff

The tenant testified that there was an extended gas shut off that resulted in no heat and hot water; additionally, she was unable to use the stove or oven.<sup>8</sup> She testified that she took a picture of the PG&E shutoff notice and sent it via text on March 10, 2019, and that the gas was off for approximately three weeks.

#### Kitchen cabinets and walls

The tenant testified that the cabinet and walls were damaged from the water leak in 2016. The tenant testified that the kitchen cabinets, walls, and baseboards have not

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<sup>5</sup> The parties were allotted additional time to provide documentation regarding rent paid. The respondent was given seven days to provide a rent ledger. The petitioner was given until November 14, 2019, to review and respond. The matter was to be submitted for decision by November 21, 2019.

<sup>6</sup> Exhibit G.

<sup>7</sup> Exhibit D.

<sup>8</sup> Exhibit C.

been addressed since the leak. The tenant further testified that a couple of months ago, the property owner sent someone out who painted the kitchen cabinets. The tenant testified the cabinets were painted without cleaning and that as a result, some of the cabinets are different colors. She admitted that she's reluctant to have guests because of the condition of the cabinets. She also testified that she is still getting leaks as recently as a few days before the hearing. She reported a few days before the hearing that she went to retrieve something in the cabinet, and it was wet. She reported this instance to Rosie, the agent of the owner.

### Windows

The tenant testified that the front-facing windows are not properly sealed and that they let in car exhaust and cold air. The tenant testified that she first noticed the windows were letting in exhaust in early 2017. She notified the previous property management company. The tenant testified that the owner changed all the windows, except for hers. As a result, she has difficulty breathing.

The Notice of Violation, dated March 26, 2019, includes a violation for the front bedroom window, next to the parking lot.<sup>9</sup>

### Infestation

The tenant testified she noticed the roach infestation and reported the condition. She reported that the property owner had someone coming out spraying, but that they only spray one unit. She has not noticed a decrease in the infestation. Additionally, there is a rodent infestation. She was unable to recall the number of mice she has seen in the unit. The tenant testified that she sees a mouse almost every other day.

The subject unit was inspected by the Alameda County Health Care Services Agency, Vector Control Services District. The Request for Services, dated October 4, 2019, indicates that the inspection revealed signs of cockroaches as well as mice droppings.<sup>10</sup>

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<sup>9</sup> Exhibit D.

<sup>10</sup> Exhibit E.



### Rebuttal testimony

The owner's representative offered rebuttal testimony. She testified that she did not know the amount of rent the tenant was paying. She testified that she is a supervisor at the property management company and that the subject unit is not under her supervision, nor is the person who supervises the building. The owner representative indicated that the property she supervises is in Stockton, CA, but that it is not rent-controlled. Furthermore, she testified that she does not supervise any properties subject to a rent ordinance.

The owner representative testified that she was not aware of any of the conditions alleged by the tenant in her petition.

The owner's representative was asked to attend the Hearing, based upon her proximity to the Hearing location. She was initially relocated to supervise the Stockton properties, for three months, but has been there for six months. The owner representative did not have the opportunity to do a site visit of the subject unit. She testified that she had never been to the subject property.

The representative found out about the Hearing, from her boss, DJ, the day before the Hearing. She received documents that had been scanned to her from Nevin, in the legal department. She does not participate in the process or know what the process is to respond to a tenant's petition, and their corporate office handles that.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

The Rent Adjustment Ordinance requires an owner to serve the RAP Notice at the start of a tenancy<sup>11</sup> and, together with any notice of rent increase or change in the terms of a tenancy.<sup>12</sup>

The Hearing Decision issued in the prior petition, T16-0526, was issued on January 25, 2017, and was not appealed. The Hearing Decision is final. Official notice is taken of T16-0526. The Hearing Decision set the base rent at \$950.00, less ongoing decreased housing services in the amount of \$20.00. The decision

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<sup>11</sup> O.M.C. § 8.22.060(A)

<sup>12</sup> O.M.C. § 8.22.070(H)(1)(A)

also found that the tenant had not been served with the RAP Notice. Further, the testimony that she has not received a RAP Notice was undisputed. Accordingly, the tenant was not given written notice of the RAP Program.

### **What is the allowable rent?**

The Rent Adjustment Ordinance requires an owner to serve a RAP Notice at the start of a tenancy<sup>13</sup> and together with any notice of rent increase or change in any term of the tenancy.<sup>14</sup> An owner may cure the failure to give notice at the start of the tenancy. However, a notice of rent increase is not valid if the effective date of increase is less than six months after a tenant first receives the required RAP notice.<sup>15</sup>

Again, Official notice is taken of T16-0526. The Hearing Decision set the base rent at \$950.00, less ongoing decreased housing services in the amount of \$20.00. The tenant's testimony that she never received a notice indicating that the conditions were restored is undisputed. Moreover, the evidence supports the tenant's undisputed testimony that she did not receive a RAP Notice with the Notices of Rent Increase. Accordingly, the rent increases are invalid, and the tenant's base rent remains \$950.00, less ongoing decreased housing services in the amount of \$20.00, or \$930.00.

### **Has the tenant suffered decreased housing services?**

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent<sup>16</sup> and may be corrected by a rent adjustment.<sup>17</sup> However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code, which seriously affects the habitability of the tenant's unit.

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

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<sup>13</sup> O.M.C. Section 8.22.060(A)

<sup>14</sup> O.M.C. Section 8.22.070(H)(1)(A)

<sup>15</sup> O.M.C. Section 8.22.060(C)

<sup>16</sup> O.M.C. § 8.22.070(F)

<sup>17</sup> O.M.C. § 8.22.110(E)

the tenant is noticed or first becomes aware of the decreased housing service; or (2) the date the tenant first receives the RAP Notice.

However, where the RAP Notice has never been given, a tenant can be granted restitution for rent overpayments due to decreased housing services for a maximum of 3 years.<sup>18</sup> Since the evidence established that the tenant did not receive the RAP notice, the tenant is entitled to restitution for up to three years.

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

### Water Leaks

The evidence of the water leaking in the subject unit is undisputed. Moreover, the evidence of water intrusion damages was noted in the Notice of Violation, indicating a violation of the housing or building code, which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 25% rent credit from October 2016, until the violation is abated.

### Gas Shutoff

The evidence of the gas shut off to the subject unit is uncontradicted. Thus, the tenant is entitled to a 50% rent credit for March 2019.

### Kitchen cabinets and walls

The evidence of the damage to the kitchen cabinets and walls in the subject unit is uncontested. Moreover, the evidence of water intrusion damages was noted in the Notice of Violation, indicating a violation of the housing or building code, which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 25% rent credit from October 2016, until the violation is abated.

### Windows

The evidence of the windows needing repair in the subject unit is undisputed. Moreover, the window damage was noted in the Notice of Violation, indicating a violation of the housing or building code, which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 5% rent credit from January 2017 until the violation is abated.

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<sup>18</sup> Appeal Decision in Case No. T06-0051, Barajas/Avalos v. Chu

Infestation

The evidence of the infestation in the subject unit is uncontradicted. Moreover, the evidence of infestation was noted by Vector Control, indicating a condition that affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 10% rent credit from October 2016, until the violation is abated.

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

As indicated above, the legal rent for the unit is \$930.00 per month. The evidence establishes that the tenant paid \$951.39 from October 1, 2017, until September 30, 2019. Further, the evidence establishes that from October 1, 2019, the tenant began paying \$1018.16. Accordingly, the tenant is entitled to restitution for the overpayments of rent in the amount of \$954.31.<sup>19</sup>

Service Lost	From	To	Rent	% Rent	Decrease /month	No. Months	Overpaid
Water Leaks	1-Oct-16	28-Feb-20	\$ 930.00	25%	\$ 232.50	41	\$ 9,532.50
Gas Shutoff	1-Mar-19	31-Mar-19	\$ 930.00	50%	\$ 465.00	1	\$ 465.00
Kitchen cabinets and walls	1-Oct-16	29-Feb-20	\$ 930.00	25%	\$ 232.50	41	\$ 9,532.50
Windows	1-Jan-17	29-Feb-20	\$ 930.00	5%	\$ 46.50	38	\$ 1,767.00
Infestation	1-Oct-16	29-Feb-20	\$ 930.00	10%	\$ 93.00	41	\$ 3,813.00
<b>TOTAL LOST SERVICES</b>							<b>\$ 25,110.00</b>
<b>OVERPAID RENT</b>							
	From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
	1-Oct-17	30-Sep-19	\$951.39	\$930	\$ 21.39	24	\$ 513.36
	1-Oct-19	28-Feb-20	\$1,018.19	\$930	\$ 88.19	5	\$ 440.95
<b>TOTAL OVERPAID RENT</b>							<b>\$ 954.31</b>

The chart above indicates restitution for decreased housing services valued at \$25,110.00. The tenant is also entitled to restitution of overpaid rent in the amount of \$954.31.

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<sup>19</sup> This total assumes that the tenant continued to pay \$1018.16 through February 2020. If that is not the case the numbers should be adjusted by the parties, with jurisdiction reserved.

Restitution is usually awarded over 12 months, but when the tenant is owed 58971% of the monthly rent, it is proper to extend the restitution period to 96 months.<sup>20</sup> Amortized over 96 months, the restitution amount is \$271.50 per month.

Therefore, the tenant's monthly restitution amount is subtracted from the current legal rent of \$950.00, less the previously awarded decreased housing services, for a total of \$658.50. From March 2020 through December 2025, the rent will be \$658.50, less the deduction for ongoing decreased housing services.

### ORDER

1. Petitions T19-0272 and T19-0325 are granted.
2. The base rent for the subject unit is \$950.00 per month before deductions for decreased housing services.
3. The total overpayment by the tenant is \$25,110.00 for past decreased housing services and \$954.31 for overpaid rent, for a total overpayment of \$26,064.31.
4. Due to ongoing conditions, the tenant is entitled to an ongoing decrease in rent in the amount of 65%, in addition to the previously awarded ongoing decrease in housing services.
5. The tenant's rent is stated below as follows:

Base rent	\$ 950.00
Less restitution	\$ 271.50
Less ongoing decreased services <sup>21</sup>	\$ 624.50
Net Rent on March 1, 2020	\$ 54.00

6. The tenant's rent for March 2020, through February 2028, is \$54.00. The rent will revert to the current legal rent of \$930.00 in March 2028.
7. Once the evidence of water intrusion damages, including the kitchen cabinets and walls, as noted in the Notice of Violation, is repaired and after further

<sup>20</sup> Regulations, §8.22.110(F).

<sup>21</sup> This includes the amount previously awarded in T16-0526.

City inspection noting the violation is abated and upon proper notice in accordance with Section 827 of the California Civil Code, the rent can be increased by 50% (\$465.00).

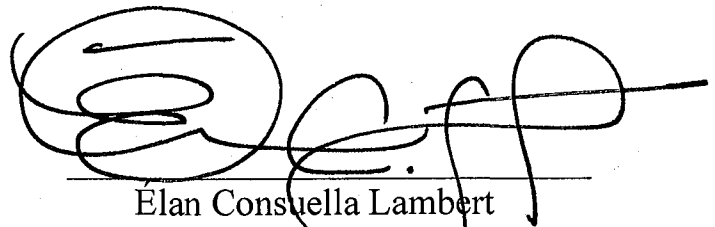
8. Once the windows, as noted in the Notice of Violation, are repaired and after further City inspection, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 5% (\$46.50).

9. Once the infestation is noted to be abated after further inspection by Vector Control, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 10% (\$93.00).

10. If the owner wishes to, they can repay the restitution owed to the tenant at any time. If they do so, the monthly decrease for restitution ends at the time the tenant is provided restitution.

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

Dated: January 21, 2020



Elan Consuella Lambert  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

**Case Number T19-0272; T19-0325**

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

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

**Documents Included**

Hearing Decision

**Manager**

Nevin Iwatsuru, Pama Management  
4900 Santa Anita Avenue Suite 2C  
El Monte, CA 91731

**Owner**

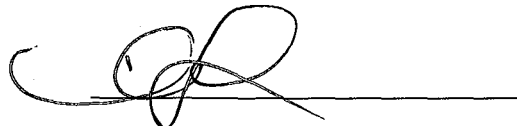
BD Opportunity 1 LP  
3340 Woodside Terrace  
Fremont, CA 94539

**Tenant**

Colleen Jeffers  
7123 Holly Street Unit 1  
Oakland, CA 94621

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 23, 2020** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

**000047**

KMIEL

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM  
For date stamp.

2020 FEB 10 AM 8:57



CITY OF OAKLAND

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

**APPEAL**

<b>Appellant's Name</b> BD Opportunity 1, LP		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
<b>Property Address (Include Unit Number)</b> 7123 Holly Street, Unit 1 Oakland, CA			
<b>Appellant's Mailing Address (For receipt of notices)</b> 4900 Santa Anita Ave Suite 2C El Monte, CA 91731		<b>Case Number</b> T19-0272 & T19-0325	
		<b>Date of Decision appealed</b> January 21, 2020	
<b>Name of Representative (if any)</b> Jesse Carrillo		<b>Representative's Mailing Address (For notices)</b> 4900 Santa Anita Ave Suite 2C El Monte, CA 91731	

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

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

For more information phone (510) 238-3721.




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

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

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

I declare under penalty of perjury under the laws of the State of California that on February 7, 2020, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<b>Name</b>	Colleen Jeffers
<b>Address</b>	7123 Holly Street, Unit 1
<b>City, State Zip</b>	Oakland, CA 94621
<b>Name</b>	Xavier Johnson
<b>Address</b>	7123 Holly Street, Unit 1
<b>City, State Zip</b>	Oakland, CA 94621

	2-10-2020
SIGNATURE OF APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

## Appeal Attached Page

The ruling for T19-0272 and T19-0325 reads a restitution for decreased housing services valued at \$25,110.00. This amount is uneconomical. That is greater than the cash flow from operations for the entire year, and would exceed the budgeted cash flow for the next year. This would leave the operation of the property at a loss, and it would require a decrease in services for the other tenants at this property.

Additionally, from time to time units turn over and for an older building the units require significant capital expenses to completely refurbish the units. No income inhibits the ability of the property to generate any return on investment and generates no funds to pay to make necessary repairs and maintenance. Stretching the negative consequences over time as suggested in the decision only prolongs the financial impact. Such a decision may force the decision to shut down the property and cease providing affordable housing units to the market to stop the negative financial losses.

T19-0272 refers to a rent increase that does not abide by local and state laws. This increase, which was effective April 1, 2019, was rescinded and voided. Case T19-0325 refers to a rent increase that was effective July 1, 2019. This too was rescinded and voided.

The tenant had been provided an RAP Notice in a previous year, related to case T16-0526. In addition, the tenant had filed a petition leading to case T16-0526, making the tenant aware of their rights and opportunities to petition any changes in rent and services. This only leaves services provided to the tenant to be in question.

Conversations and inquiries were made with the tenant, Ms. Jeffers, after the notifications of petitions to the rent increase and alleged decrease in services were received. The tenant was asked if there were any outstanding items that needed repair or maintenance, and the tenant had clearly informed the management company that there were no items remaining. At the time, a contractor was painting the cabinets per the tenant's request. This does not coincide with what the tenant is claiming to be the current condition per the aforementioned cases. The deferred rent recovery itemizes repairs that have already been made to the property to the satisfaction of the tenant. Those rent reductions are punitive because there are no outstanding items according to the tenant, and therefore no reason to reduce the rental income further.

The decision is unnecessarily punitive since all the items claimed by the tenant had already been resolved to the tenant's satisfaction before the hearing.



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

Housing and Community Development Department  
Rent Adjustment Program

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

## Housing, Residential Rent and Relocation Board (HRRRB)

### APPEAL DECISION

**CASE NUMBER:** T19-0272 and T19-0325, Jeffers v. BD Opportunity

**APPEAL HEARING:** September 10, 2020

**PROPERTY ADDRESS:** 7123 Holly Street, Unit 1, Oakland, CA

**APPEARANCES:**

H.J. Long	Owner Appellant Representative
Carlene Jeffers	Tenant Appellee
Xavier Johnson	Tenant Appellee Representative

### Procedural Background

The tenant filed two petitions, one on April 29, 2019, and one on June 24, 2019, contesting five monthly rent increases, on the ground that she never received the RAP notice. She also alleged several decreased housing services, including a plumbing leak in the bathroom, extended gas shutoff, damage to kitchen cabinets, walls and baseboard, improperly sealed windows, and pest infestations. The owner response stated that the increase effective July 1, 2019, had been rescinded and the conditions at issue with the decreased housing services claim had been corrected or were in the process of being corrected.

The hearing officer found that the tenant had never been served with the RAP notice, took official notice of a prior Hearing Decision, which set the tenant's monthly base rent at \$950.00, granted restitution for overpaid rent in the amount of \$954.31, and granted \$25,110 in restitution for decreased housing services.

### Grounds for Appeal

The owner appealed the hearing decision on the grounds that (1) restitution of \$25,110 was greater than the cash flow from operations for the entire year, and would exceed the budgeted cash flow for the next year, leaving the property at a loss resulting in a decrease in services for other tenants at this property, (2) lack of income impedes the owner's ability to make necessary capital expenses to refurbish units after they are vacated, possibly requiring the owner to shut down the property and cease providing affordable housing units to market, (3) the rent increases effective April 1, 2019, and

July 1, 2019, were rescinded, (4) the owner provided the tenant with the RAP notice in a prior case, T16-0526, and (5), after notification of the tenant petition, they asked the tenant if there were any outstanding items that needed repair or maintenance, and she informed the management company that there were no outstanding items.

Appeal Decision

After arguments and rebuttal made by both parties, Board questions to the parties and Board discussion, R. Auguste moved to remand the case to the hearing officer to recalculate the restitution so that the amount for March 2019 does not exceed 100% of the rent and to limit the end date of the restitution period to the date of the hearing decision. R. Stone offered a friendly amendment that the hearing officer also consider the prior decisions of the Board regarding rent reductions for similar housing service reductions so that the decision is consistent with prior decisions, which was accepted by R. Auguste. T. Hall seconded the motion.

The Board voted as follows:

- Aye:** T. Hall, R. Auguste, A. Graham, R. Stone,
- Nay:** K. Friedman, T. Williams
- Abstain:** S. Devuono-Powell

The motion carried.

*Chanee Franklin Minor*  
*Program Manager*  
*HCD/Rent Adjustment Program*

	12/7/20
CHANEE FRANKLIN MINOR	DATE
BOARD DESIGNEE	
CITY OF OAKLAND	
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD	

**PROOF OF SERVICE**

**Case Numbers: T19-0272, T19-0325**

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

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

**Documents Included**

Appeal Decision

**Manager**

Nevin Iwatsuru, Pama Management  
4900 Santa Anita Avenue Suite 2C  
El Monte, CA 91731

**Owner**

BD Opportunity 1 LP  
3340 Woodside Terrace  
Fremont, CA 94539

**Owner Representative**

Grayce Long, Dennis P. Block & Associates, APC  
5437 Laurel Canyon Blvd Floor 2  
Valley Village, CA 90010

**Tenant**

Colleen Jeffers  
7123 Holly Street Unit 1  
Oakland, CA 94621

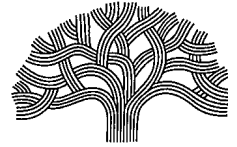
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.  
Executed on **December 07, 2020** in Oakland, CA.



Brittini Lothlen  
Oakland Rent Adjustment Program

**000053**

**REMAND DECISION**

**CASE NUMBER(S):** T19-0272, T19-0325

**CASE NAME:** Jeffers v. BD Opportunity 1, LP

**PROPERTY ADDRESS:** 7123 Holly Street, Unit 1  
Oakland, CA

**DATE OF HEARING:** November 7, 2019

**DATE OF SUBMISSION:** November 21, 2019

**DATE OF DECISION:** January 21, 2020

**DATE OF REMAND DECISION:** August 09, 2021

**PROCEDURAL HISTORY**

A Hearing, in this case, was held on November 7, 2019. A Hearing Decision was issued on January 21, 2019. The Decision found that the Tenant had not been provided the RAP Notice and granted restitution for overpaid rent in the amount of \$954.31 and granted restitution in the total amount of \$25,110.00 for decreased housing services. The landlord filed an Appeal, and on September 10, 2020, The Housing, Residential Rent and Relocation Board (Board) remanded to the Hearing Officer for the following:

1. To recalculate the restitution amount for March 2019 so that it does not exceed 100% of the rent and to limit the end date of the restitution period to the date of the hearing decision; and

2. To consider the prior decisions of the Board regarding rent reductions for similar housing service reductions so that the decision is consistent with prior decisions.

The scope of this remand Decision is limited to these issues.

## **DECISION ON REMAND**

The Hearing Decision is Amended as follows:

### **Restitution**

A Hearing Decision in the prior petition, T16-0526, issued January 26, 2017, and not appealed found that the Tenant had not been served with the Notice to Tenants of Residential Rent Adjustment Program (RAP Notice). At the hearing, no evidence was offered to show that the Tenant had been served the RAP Notice subsequent to the prior decision and prior to filing the petition herein.

The Tenant filed her petitions on April 29, 2019, and June 24, 2019. These matters were scheduled for Hearing on November 7, 2019. A Hearing Decision was issued in this case on January 21, 2020.

The Ordinance places no limit on a tenant's claim for reimbursement for claims related to rent overpayments. The California Code of Civil Procedure limits liability for "actions upon a liability created by statute, other than a penalty or forfeiture" to three years. It is reasonably understood that statutes of limitations look backward from the date a cause of action is filed but does not limit the amount of restitution a person may receive based on the length of time a matter remains pending.

Numerous Hearing Decisions and Appeals Decisions have cited the Board policy to limit restitution to three years. See Huante v. Peinado, T14-0232, in which the Board stated that "The Hearing Decision granted restitution for decreased housing services for up to three years because the Tenant did not receive the notice."<sup>1</sup> See also Barajas v. Chu, T06-0051. In Sherman v. Michelson, T12-0332, the Board stated that the Hearing Officer had granted restitution "for a period of three years prior to the filing of the petition." Furthermore, the Board upheld a finding of more than 36 months of restitution in Titcomb v. Vinyard-Ide, T17-0575. The Board

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<sup>1</sup> The case was affirmed by the Board.

previously found that where a RAP Notice has never been given, a tenant can be granted restitution for rent overpayments due to decreased housing services for a maximum of 3 years. Appeal Decision in Case No. T06-0051, Barajas/Avalos v. Chu.

The Appeal Decision suggests that the restitution period should be limited to the date of the Hearing Decision. The Tenant provided undisputed evidence that a Notice of Violation, indicating that the subject unit violated the housing or building code, affecting the habitability of the Tenant’s unit.

The Owner’s appeal argues that the restitution awarded was greater than the cash flow from operations for the entire year. Notwithstanding that no evidence was presented thereof, the Rent Adjustment Ordinance does not provide authority to consider that information other than in a Petition filed by the Owner for Approval of a Rent Increase based upon Increased Housing Service Costs. No such petition was filed by the Owner herein, the issues were not raised in the response, and no testimony was offered in that regard at the hearing. Based on the foregoing, it is found that the proper limit of restitution is 36 months (three years) prior to filing a tenant petition.

Gas Shutoff

The evidence of the gas shut off to the subject unit remains uncontradicted. Thus, the Tenant is entitled to a rent credit for March 2019, in the amount of \$300.00.

Service Lost	From	To	VALUE OF LOST SERVICES		Decrease /month	No. Months	Overpaid
			Rent	% Rent Decrease			
Water Leaks	1-Oct-16	28-Feb-20	\$ 930.00	25%	\$ 232.50	41	\$ 9,532.50
Gas Shutoff	1-Mar-19	31-Mar-19	\$ 930.00		\$ 300.00	1	\$ 300.00
Kitchen cabinets and walls	1-Oct-16	29-Feb-20	\$ 930.00	25%	\$ 232.50	41	\$ 9,532.50
Windows	1-Jan-17	29-Feb-20	\$ 930.00	5%	\$ 46.50	38	\$ 1,767.00
Infestation	1-Oct-16	29-Feb-20	\$ 930.00	10%	\$ 93.00	41	\$ 3,813.00
<b>TOTAL LOST SERVICES</b>							<b>\$ 24,945.00</b>
<b>OVERPAID RENT</b>							
	From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
	1-Oct-17	30-Sep-19	\$951.39	\$930	\$ 21.39	24	\$ 513.36
	1-Oct-19	28-Feb-20	\$1,018.19	\$930	\$ 88.19	5	\$ 440.95
<b>TOTAL OVERPAID RENT</b>							<b>\$ 954.31</b>



The chart above indicates restitution for decreased housing services valued at \$24,945.00. The Tenant is also entitled to restitution of overpaid rent in the amount of \$954.31.

The restitution period was amortized over 96 months. Accordingly, the restitution amount per month is now \$269.78.

Therefore, the Tenant's monthly restitution amount is subtracted from the current legal rent of \$950.00, less the previously awarded decreased housing services, for a total of \$660.22, for 96 months.

The Hearing Decision is otherwise unchanged.

**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 fifteen (15) calendar days after the 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: 09 August 2021

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Élan Consuella Lambert  
Hearing Officer  
Rent Adjustment Program

## PROOF OF SERVICE BY ELECTRONIC MAIL

Case Number(s): T19-0272, T19-0325

I, the undersigned, state that I am a citizen of the United States and am employed in the City of Oakland and County of Alameda; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Rent Adjustment Program, 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, California 94612. My electronic service address is: [blothlen@oaklandca.gov](mailto:blothlen@oaklandca.gov).

Today, I electronically served the following:


### **Remand Decision**

I electronically served the document(s) listed above to:

[xjohnson@centrolegal.org](mailto:xjohnson@centrolegal.org)  
[dhall@centrolegal.org](mailto:dhall@centrolegal.org)  
[hglongatty@gmail.com](mailto:hglongatty@gmail.com)  
[dennis@evict123.com](mailto:dennis@evict123.com)  
[evict123@gmail.com](mailto:evict123@gmail.com)  
[nevin@goldenmgtinc.com](mailto:nevin@goldenmgtinc.com)  
[Jeffers\\_colleen@yahoo.com](mailto:Jeffers_colleen@yahoo.com)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 16, 2021



Brittini Lothlen  
Administrative Assistant  
Oakland Rent Adjustment Program

*The Law Firm of*  
**DENNIS P. BLOCK & ASSOCIATES, APC**

A Professional Law Corporation  
5437 Laurel Canyon Blvd., Second Floor  
Valley Village, CA 91607  
(323) 938-2868 (Phone)  
(323) 938-6069 (Fax)

08/12/2021

City of Oakland  
Rent Adjustment Program  
4900 SANTA ANITA AVE., SUITE 2C  
EL MONTE, CA 91731

RE: COLLEEN JEFFERS/CITY OF OAKLAND  
7123 HOLLY STREET, #1

Attached is a copy of our appeal. This is also being overnighted to you and the tenant.

Regards,

HG Long

rec# 553196 - grayce

<b>Encino</b>	<b>Inglewood</b>	<b>Orange</b>	<b>Long Beach</b>	<b>San Bernardino</b>	<b>Ventura</b>	<b>Pasadena</b>
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**000059**



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For date stamp.

**APPEAL**

Appellant's Name <b>BD Opportunity LP</b>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <b>7123 HOLLY Street #1, Oakland, CA 94621</b>			
Appellant's Mailing Address (For receipt of notices) <b>174 Long Esq. Dennis P. Block + Assoc 5437 Laurel Canyon Blvd. 2nd Fl. Valley Village, CA 91607</b>		Case Number <b>719-0272 ; 719-0325</b>	
		Date of Decision appealed <b>August 9, 2021 - Remand</b>	
Name of Representative (if any) <b>HC Long Esq. Dennis P. Block + associates</b>		Representative's Mailing Address (For notices) <b>5437 Laurel Canyon Blvd. Valley Village, CA 91607 2nd Floor</b>	

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

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

For more information phone (510) 238-3721.

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

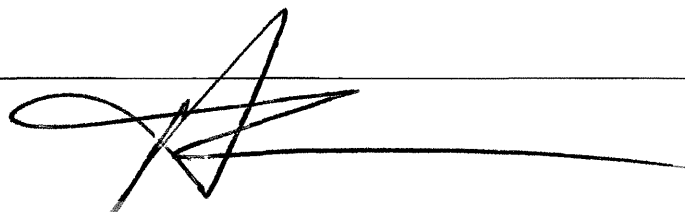
Submissions to the Board must *not* exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject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

Please number attached pages consecutively. Number of pages attached: 41  
*however majority of pages are the hearing decisions*

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

I declare under penalty of perjury under the laws of the State of California that on August 12, 2021, 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: *fedex express*

<u>Name</u>	<i>Holly Jeffers</i>
<u>Address</u>	<i>7123 Holly Street # 1</i>
<u>City, State Zip</u>	<i>Oakland, CA 94621</i>
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	<i>aug 12, 2021</i>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

## **IMPORTANT INFORMATION:**

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

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

For more information phone (510) 238-3721.

The Law Firm of  
**DENNIS P. BLOCK & ASSOCIATES, APC**

A Professional Law Corporation  
5437 Laurel Canyon Blvd., Second Floor  
Valley Village, CA 91607  
(323) 938-2868 (Phone)  
(323) 938-6069 (Fax)

08/11/2021

Via email to:  
hearingsunit@oaklandca.gov  
and federal express

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

Colleen Jeffers  
7123 Holly Street, #1  
Oakland, CA 94621

~~Re: Appeal of Remand Hearing on T19-0272-T19-0325-Jeffers v. BD Opportunity~~

Attn: City of Oakand/Rent Adjustment Program:

This letter is to confirm that my client Bd Opportunity 1, LP is appealing the remand decision rendered on August 9, 2021 by Elan Consuella Lambert for several reasons. Exhibit 1-remand.

First the decision is INCONSISTENT with prior decisions of the Board. We had previously appealed the decision and there was a hearing by the City Council on September 10, 2020. At the appeal hearing at which I attended, the decision T19-0272 and T19-0325 rendered on January 21, 2020 was remanded back so that Ms. Lambert could review the previous decisions. Specifically the decision on January 27, 2017 on T16-0526 rendered by Barbara Kong Brown. Clearly, Ms. Lambert did not review the previous decision. See appeal decision as Exhibit 2 and T16-0526 as Exhibit 3.

The remand ruling is inconsistent and not supported by the facts. In the 2016 case there was a site inspection on January 4, 2017. It is inconceivable that Ms. Lambert would actually believe the tenant that there was water leaks, problems with the kitchen cabinets and walls, infestation and problem with the windows dating back from October of 2016. When in fact she had complained about similar problems to the hearing officer in T16-0526 and it was determined that all items were fixed pursuant to the stipulation in unlawful detainer and there was a site inspection on January 4, 2017 which noted none of the conditions were present. This is a violation of due process and the January 21, 2020 is inconsistent with this prior decision and the facts do not support allowing the tenant a rent abatement from 2016 especially in light of the fact that the owner had already waived over 5,300.00 in rent in the unlawful detainer action.

Continued Next Page ...

Encino	Inglewood	Orange	Long Beach	San Bernardino	Ventura	Pasadena
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**000063**

First of all, I want to stress that I believe that this tenant is "gaming" the system. In 2016, \$5,300.00 in rent owed by Ms Jeffers was waived by the landlord due to court eviction proceedings. This amount does not even incorporate the amount of \$26,041.31 that your hearing officer awarded in January 21, 2020 in the attached decision. The remand decision only adjusted the amount by \$165.00. As such, Ms. Jeffers will have succeeded in having approximately over \$28,000 in rent waived since 2016. Ms. Jeffers will be allowed to live at the property without paying rent until the year 2028! This is completely inequitable and unfair to BD Opportunity Partners and a violation of DUE PROCESS. Counsel for BD Opportunity was not allowed to participate in the remand hearing and to further the arguments that were addressed at the Appeal.

By way of review on July 26, 2016 a stipulation was reached in unlawful detainer no. RG1681715 where Ms. Jeffers was represented by counsel. The stipulation provided for repairs to the unit and an agreed rental amount of \$950.00 per month. Further, approximately \$5300.00 in rent up to July 2016 was waived. Once the repairs were made counsel for Ms. Jeffers sent rent to my office for August 2016 through November 2016. Further, in your compliance hearing decision T16-0526, your own hearing officer at the hearing on January 4, 2017, determined that Ms. Jeffers claims of mice and rodent infestation were already resolved. The only money awarded to Ms. Jeffers in that hearing was a reduction of \$60.00 for lost of laundry use. See stipulation as Exhibit 4.

Ms. Jeffers, in the hearing on November 7, 2019, claimed that she had issues with water leaks, kitchen cabinets, windows and mice since October of 2016, Yet in her hearing on January 2017 she made NO MENTION of any water leaks, mice, cabinet or window issues. Further there was a site inspection where none of these problems complained about by Ms. Jeffers were present. As such, Lamberts decision on January of 2020 is not supported by evidence. She did not adequately review the prior decision before awarding on January 21, 2020 Ms. Jeffers retroactive rent adjustments totalling over \$25,000.00. Further, Ms. Lambert was advised to only award up to the date of the hearing of January 2020 and she failed to address that issue in the remand and she also failed to review the previous decision.

I feel that Ms. Lambert is prejudiced to my client and I would request another officer review this appeal. She is violating my clients due process by awarding more that 3 years worth of rent abatement based on insufficient evidence presented by the tenant. Ms. Lambert is basing her decision merely on the fact that Ms. Jeffers claims she never received a RAP notice. That was addressed in the previous ruling and the rent increase was determined to be invalid. However, that does not mean that MS. Jeffers does not have to pay rent whatsoever for 2017 through 2019. It appears that Ms. Lambert believes that no rent needs to be paid during that time period.

It is also a violation of due process to not allow my client to introduce new and different facts on the appeal. Just because they sent a representative who knew nothing about this tenancy on November 7, 2019 should not cause the tenant to obtain a windfall against the landlord. The city of Oakland has the duty to review the entire file and tenant complaints and landlord responses. Attached please find a copy of the rescission of the rent increase dated August 26, 2019, given to the tenant WHICH INLCUDED A COPY OF THE RAP NOTICE and a copy of the letter with the enclosure was also sent to the City of Oakland. To allow the tenant a three year rent abatement because they claim that they never received a RAP notice is absurd. See exhibit 5 letters.



Our letters are evidence that Ms. Jeffers did receive the RAP notice and this goes to the credibility of the tenant. Ms. Jeffers also stated that she was having problems with the unit since October of 2016 yet she didn't these state these issues in her previous housing hearing and the problems were not evidenced at the site inspection by the City of Oakland on January 4, 2017. The evidence is contradictory and should be weighed against the tenant on appeal.

Attached please find a timeline of all repairs and copies of invoices and or checks to support said repairs will be provided upon request. See exhibit 6. I believe that the rent reductions are not warranted whatsoever in that the landlord always timely makes repairs and fumigates as you can see from the attachments. The tenant should not be allowed to have a windfall because the landlord sent an agent to the hearing on November 7, 2019 without knowledge of the tenancy. Ms. Jeffers was clearly served a copy of the RAP on August 26, 2019 see attached and did not inform the officer at the January 2020 hearing of the same.

Furthermore, Ms. Jeffers as stated in the ruling of January 25, 2017 that habitability issues were addressed in the unlawful detainer handled by my office. I can attest as an officer of the court that repairs were made to Ms. Jeffers unit in 2016 which resulted in our client waiving a large portion of rent and Ms. Jeffers paying the rent of \$950.00 moving forward after the repairs were made. For the hearing officer to now allow a rent abatement during the same time period that the unlawful detainer matter covered is another violation of due process and inconsistent with a stipulated judgment signed by defendant and her attorney which Ms. Jeffers agreed to pay rent up to November 2016. Yet your hearing officer gave a rent reduction from October 2016. Further, Ms. Jeffers agreed with counsel in the stipulation during the eviction that her rent was \$950.00 in 2016. The city of Oakland does not have the authority to void the trial courts decision and lower the rent.

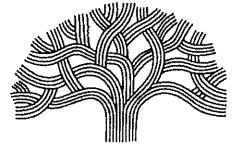
Ms. Lambert was directed on the remand to only award damages up to the date of the decision of January 2020. However, she failed to adjust her numbers and allowed the reductions to February 29, 2020.

Lastly the hearing officer in her ruling states that the evidence is that there was water intrusion was noticed in the Notice of violation from the City dated March 26, 2019. I believe that this is the date where the rent abatement should begin. It is only fair to award the tenant rent abatement from the state of the last violation of March 26, 2019 to the date of the hearing decision on January 21, 2020. Not for three years. I am lastly attaching the ruling of Ms. Lambert of January 21, 2020. I trust that these exhibits of your rulings which put our appeal page limit over 25 pages do not count towards our appeal. Quite frankly the board should take judicial notice of their decisions; however, in this case it does not appear that this happened. See exhibit 7- decision of January 21, 2020 T19-0272

I look forward to the appeal hearing and please advise me of the time and date and the zoom information to joining the hearing. I am also sending a copy of all paperwork to Ms. Jeffers.

Very truly yours,

HG Long  
Attorney for ~~BD Opportunity 1 LP~~

**REMAND DECISION**

**CASE NUMBER(S):** T19-0272, T19-0325

**CASE NAME:** Jeffers v. BD Opportunity 1, LP

**PROPERTY ADDRESS:** 7123 Holly Street, Unit 1  
Oakland, CA

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**DATE OF HEARING:** November 7, 2019

**DATE OF SUBMISSION:** November 21, 2019

**DATE OF DECISION:** January 21, 2020

**DATE OF REMAND DECISION:** August 09, 2021

**PROCEDURAL HISTORY**

A Hearing, in this case, was held on November 7, 2019. A Hearing Decision was issued on January 21, 2019. The Decision found that the Tenant had not been provided the RAP Notice and granted restitution for overpaid rent in the amount of \$954.31 and granted restitution in the total amount of \$25,110.00 for decreased housing services. The landlord filed an Appeal, and on September 10, 2020, The Housing, Residential Rent and Relocation Board (Board) remanded to the Hearing Officer for the following:

1. To recalculate the restitution amount for March 2019 so that it does not exceed 100% of the rent and to limit the end date of the restitution period to the date of the hearing decision; and

2. To consider the prior decisions of the Board regarding rent reductions for similar housing service reductions so that the decision is consistent with prior decisions.

The scope of this remand Decision is limited to these issues.

## DECISION ON REMAND

The Hearing Decision is Amended as follows:

### Restitution

A Hearing Decision in the prior petition, T16-0526, issued January 26, 2017, and not appealed found that the Tenant had not been served with the Notice to Tenants of Residential Rent Adjustment Program (RAP Notice). At the hearing, no evidence was offered to show that the Tenant had been served the RAP Notice subsequent to the prior decision and prior to filing the petition herein.

The Tenant filed her petitions on April 29, 2019, and June 24, 2019. These matters were scheduled for Hearing on November 7, 2019. A Hearing Decision was issued in this case on January 21, 2020. ✕

The Ordinance places no limit on a tenant's claim for reimbursement for claims related to rent overpayments. The California Code of Civil Procedure limits liability for "actions upon a liability created by statute, other than a penalty or forfeiture" to three years. It is reasonably understood that statutes of limitations look backward from the date a cause of action is filed but does not limit the amount of restitution a person may receive based on the length of time a matter remains pending.

Numerous Hearing Decisions and Appeals Decisions have cited the Board policy to limit restitution to three years. See Huante v. Peinado, T14-0232, in which the Board stated that "The Hearing Decision granted restitution for decreased housing services for up to three years because the Tenant did not receive the notice.<sup>1</sup>" See also Barajas v. Chu, T06-0051. In Sherman v. Michelson, T12-0332, the Board stated that the Hearing Officer had granted restitution "for a period of three years prior to the filing of the petition." Furthermore, the Board upheld a finding of more than 36 months of restitution in Titcomb v. Vinyard-Ide, T17-0575. The Board

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<sup>1</sup> The case was affirmed by the Board.

previously found that where a RAP Notice has never been given, a tenant can be granted restitution for rent overpayments due to decreased housing services for a maximum of 3 years. Appeal Decision in Case No. T06-0051, Barajas/Avalos v. Chu.

The Appeal Decision suggests that the restitution period should be limited to the date of the Hearing Decision. The Tenant provided undisputed evidence that a Notice of Violation, indicating that the subject unit violated the housing or building code, affecting the habitability of the Tenant's unit.

The Owner's appeal argues that the restitution awarded was greater than the cash flow from operations for the entire year. Notwithstanding that no evidence was presented thereof, the Rent Adjustment Ordinance does not provide authority to consider that information other than in a Petition filed by the Owner for Approval of a Rent Increase based upon Increased Housing Service Costs. No such petition was filed by the Owner herein, the issues were not raised in the response, and no testimony was offered in that regard at the hearing. Based on the foregoing, it is found that the proper limit of restitution is 36 months (three years) prior to filing a tenant petition.

Gas Shutoff

Y/21

The evidence of the gas shut off to the subject unit remains uncontradicted. Thus, the Tenant is entitled to a rent credit for March 2019, in the amount of \$300.00.

Service Lost	From	VALUE OF LOST SERVICES			Decrease /month	No. Months	Overpaid
		To	Rent	% Rent Decrease			
Water Leaks	1-Oct-16	28-Feb-20	\$ 930.00	25%	\$ 232.50	41	\$ 9,532.50
Gas Shutoff	1-Mar-19	31-Mar-19	\$ 930.00		\$ 300.00	1	\$ 300.00
Kitchen cabinets and walls	1-Oct-16	29-Feb-20	\$ 930.00	25%	\$ 232.50	41	\$ 9,532.50
Windows	1-Jan-17	29-Feb-20	\$ 930.00	5%	\$ 46.50	38	\$ 1,767.00
Infestation	1-Oct-16	29-Feb-20	\$ 930.00	10%	\$ 93.00	41	\$ 3,813.00
<b>TOTAL LOST SERVICES</b>							<b>\$ 24,945.00</b>
<b>OVERPAID RENT</b>							
	From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
Y/21	1-Oct-17	30-Sep-19	\$951.39	\$930	\$ 21.39	24	\$ 513.36
Y/21	1-Oct-19	28-Feb-20	\$1,018.19	\$930	\$ 88.19	5	\$ 440.95
<b>TOTAL OVERPAID RENT</b>							<b>\$ 954.31</b>

The chart above indicates restitution for decreased housing services valued at \$24,945.00. The Tenant is also entitled to restitution of overpaid rent in the amount of \$954.31.

The restitution period was amortized over 96 months. Accordingly, the restitution amount per month is now \$269.78.

Therefore, the Tenant's monthly restitution amount is subtracted from the current legal rent of \$950.00, less the previously awarded decreased housing services, for a total of \$660.22, for 96 months.

The Hearing Decision is otherwise unchanged.

**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 fifteen (15) calendar days after the 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: 09 August 2021

---

Élan Consuella Lambert  
Hearing Officer  
Rent Adjustment Program



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

Housing and Community Development Department  
Rent Adjustment Program

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

## Housing, Residential Rent and Relocation Board (HRRRB)

### APPEAL DECISION

**CASE NUMBER:** T19-0272 and T19-0325, Jeffers v. BD Opportunity

**APPEAL HEARING:** September 10, 2020

**PROPERTY ADDRESS:** 7123 Holly Street, Unit 1, Oakland, CA

**APPEARANCES:**

H.J. Long	Owner Appellant Representative
Carlene Jeffers	Tenant Appellee
Xavier Johnson	Tenant Appellee Representative

### Procedural Background

The tenant filed two petitions, one on April 29, 2019, and one on June 24, 2019, contesting five monthly rent increases, on the ground that she never received the RAP notice. She also alleged several decreased housing services, including a plumbing leak in the bathroom, extended gas shutoff, damage to kitchen cabinets, walls and baseboard, improperly sealed windows, and pest infestations. The owner response stated that the increase effective July 1, 2019, had been rescinded and the conditions at issue with the decreased housing services claim had been corrected or were in the process of being corrected.

The hearing officer found that the tenant had never been served with the RAP notice, took official notice of a prior Hearing Decision, which set the tenant's monthly base rent at \$950.00, granted restitution for overpaid rent in the amount of \$954.31, and granted \$25,110 in restitution for decreased housing services.

### Grounds for Appeal

The owner appealed the hearing decision on the grounds that (1) restitution of \$25,110 was greater than the cash flow from operations for the entire year, and would exceed the budgeted cash flow for the next year, leaving the property at a loss resulting in a decrease in services for other tenants at this property, (2) lack of income impedes the owner's ability to make necessary capital expenses to refurbish units after they are vacated, possibly requiring the owner to shut down the property and cease providing affordable housing units to market, (3) the rent increases effective April 1, 2019, and

July 1, 2019, were rescinded, (4) the owner provided the tenant with the RAP notice in a prior case, T16-0526, and (5), after notification of the tenant petition, they asked the tenant if there were any outstanding items that needed repair or maintenance, and she informed the management company that there were no outstanding items.

Appeal Decision

After arguments and rebuttal made by both parties, Board questions to the parties and Board discussion, R. Auguste moved to remand the case to the hearing officer to recalculate the restitution so that the amount for March 2019 does not exceed 100% of the rent and to limit the end date of the restitution period to the date of the hearing decision. R. Stone offered a friendly amendment that the hearing officer also consider the prior decisions of the Board regarding rent reductions for similar housing service reductions so that the decision is consistent with prior decisions, which was accepted by R. Auguste. T. Hall seconded the motion.

The Board voted as follows:

**Aye:** T. Hall, R. Auguste, A. Graham, R. Stone,  
**Nay:** K. Friedman, T. Williams  
**Abstain:** S. Devuono-Powell

The motion carried.

*Chanee Franklin Minor*  
*Program Manager*  
*HCD/Rent Adjustment Program*

*12/7/20*

\_\_\_\_\_  
CHANEE FRANKLIN MINOR  
BOARD DESIGNEE  
CITY OF OAKLAND  
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD

\_\_\_\_\_  
DATE

**PROOF OF SERVICE**

**Case Numbers: T19-0272, T19-0325**

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

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

**Documents Included**

Appeal Decision

**Manager**

Nevin Iwatsuru, Pama Management  
4900 Santa Anita Avenue Suite 2C  
El Monte, CA 91731

**Owner**

BD Opportunity 1 LP  
3340 Woodside Terrace  
Fremont, CA 94539

**Owner Representative**

Grayce Long, Dennis P. Block & Associates, APC  
5437 Laurel Canyon Blvd Floor 2  
Valley Village, CA 90010

**Tenant**

Colleen Jeffers  
7123 Holly Street Unit 1  
Oakland, CA 94621

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **December 07, 2020** in Oakland, CA.



Brittini Lothlen  
Oakland Rent Adjustment Program



Item 7



# CITY OF OAKLAND

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

Housing and Community Development Department  
Rent Adjustment Program

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

## HEARING DECISION

CASE NUMBER: T16-0526, Jeffers v. Pama Management

PROPERTY ADDRESS: 7123 Holly Street, No. 1, Oakland, CA

DATE OF HEARING: January 4, 2017

DATE OF SITE INSPECTION: January 4, 2017 ✓

DATE OF DECISION: January 25, 2017

APPEARANCES: Colleen Jeffers Tenant  
No appearance by owner

## SUMMARY OF DECISION

The tenant petition is GRANTED IN PART.

### INTRODUCTION

The tenant filed a petition on September 16, 2016, which contests a monthly rent increase from \$950 to \$1,045 effective October 1, 2016.

The basis for the tenant's petition includes the following:

- The rent increase is unjustified or is greater than 10%;
- No six month notice of the existence of the Rent Adjustment Program (RAP) provided;
- No concurrent RAP notice with notice of the rent increase;
- Current code violation;
- Decreased housing services.

3 -

Item 7

The owner did not file a response and did not appear at the Hearing.

### ISSUES

1. Has the tenant received Notice of the Rent Adjustment Program?
2. Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
3. Is there a code violation in the tenant's unit?

### EVIDENCE

#### Rent History/Notice of the Rent Adjustment Program

The tenant testified that she moved into her unit in February 2013 at a monthly rent of \$950.00. She further testified that she has never received the form notice of the existence of the Rent Adjustment Program (RAP). She was involved in a court proceeding with the owner which resulted in a Stipulation and Court Order which provided that the monthly rent was \$950.00, and that she would pay this amount for the months of August, September, October and November 2016. She further testified that she raised issues of habitability in the court hearing. \* \*

#### Decreased Housing Services/Code Violation

##### Illegal Parking

The tenant testified that there are five parking stalls for six units. A tenant in unit A does not have a parking stall and is parking illegally in front of the gate next to her vehicle and it is a fire hazard. She reported this to the manager in August 2013 but nothing has been done.

##### Removal of Laundry Room

The tenant testified that there was a laundry room on the other side of her unit, and she used to do her laundry there. The laundry was removed about a year ago and she now has to go to the laundromat, which is very inconvenient. She goes once a month and does six to seven loads, at \$2.50 per machine with an additional 25 cents for drying. This totals approximately \$16.50 to \$19.25 a month.

##### Rodent Issue

The tenant testified that she had an issue with mice in February 2016, and repairs to patch holes in her unit were not made until mid-December 2016. \*

Item 7

Site Inspection

The Hearing Officer conducted a site inspection on January 4, 2017, and noted that there was a vehicle parked in front of the gate but it did not appear to be a fire hazard. The tenant has a parking space and continues to park in it. There was no laundry room on the premises.

FINDINGS OF FACT AND CONCLUSIONS OF LAWTenant Current in Rent

The tenant's monthly base rent is \$950.00 and she was current in her rent when she filed her petition. She is currently paying \$950.00 monthly.

RAP Notice and Rent Increases

Notice and Filing Requirements: The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy<sup>1</sup> and together with any notice of rent increase.<sup>2</sup>

The owner has not met his burden of proof regarding notice of the RAP to the tenant. The tenant has not received the notice of the Rent Adjustment Program. Section 8.22.060 (C) of the Rent Ordinance states the following:

"An owner who fails to give notice of the existence and scope of the Rent Adjustment Program at the commencement of a tenancy, but otherwise qualifies to petition or respond to a petition filed with the Rent Adjustment Program, will forfeit six months of the rent increase sought unless the owner cured the failure to give the notice. An owner may cure the failure to give the notice at the commencement of a tenancy required by this section and not be subject to the forfeiture of a rent increase if the owner gives the notice at least six months prior to serving the rent increase notice on the tenant or, in the case of an owner petition, at least six months prior to filing the petition.

The rent increase is invalid. The tenant's monthly base rent is \$950.00. ~~XX~~

Code Violation in Tenant's Unit

The tenant did not sustain her burden of proof regarding parking by the tenant in front of the gate. However, the presence of mice in the tenant's unit presents a sanitation issue and is deemed a code violation. This is further reason to deny the rent increase.

<sup>1</sup> O.M.C. Section 8.22.060(A)

<sup>2</sup> O.M.C. Section 8.22.070(H)(1)(A)

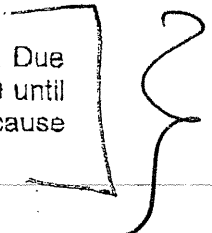
Item 7

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent and may be corrected by a rent adjustment.<sup>3</sup> However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that is required to be provided in a contract between the parties. The tenant has the burden of proving decreased housing services by a preponderance of the evidence. The tenant also has the burden of proving notice to the owner about a complaint and the owner must be afforded a reasonable opportunity to respond to the complaint.

Mice

The issue with rodents in the tenant's unit was resolved in December 2016. Due to the Court Stipulation which provided that the tenant's monthly rent was \$950.00 until December 2016, no compensation for decreased housing services is granted because the issue was resolved in early December 2016.



Laundry Room

The loss of the laundry room constitutes a loss of a service that was originally provided by the owner.

The preferred method of evaluating decreased housing services is consideration of all services provided by an owner and then determining the percentage by which total services provided by the owner have decreased because of the lost housing services. Due to the Court Stipulation, compensation for decreased housing services commenced on December 1, 2016.

Based on the totality of the circumstances and considering the total bundle of housing services, the value of the decreased housing services is stated in the following table.

VALUE OF LOST SERVICES							
Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Laundry Room	12/16	1/17	\$950.00	2%	\$20.00	2	\$40.00
<b>TOTAL LOST SERVICES</b>							<b>\$40.00</b>

<sup>3</sup> O.M.C. Section 8.22.070 (F)


Item 7

- 1. The rent over payment is amortized as follows:

Base Rent	\$950.00
-rent overpayments for past decreased housing service \$40.00	- 40.00
-current decreased housing service-laundry room \$20.00	- \$20.00
Rent payment for February 2017	\$890.00
-Rent payment commencing March 2017	\$930.00

- 2. When the owner restores the laundry room he may increase the tenant's rent by \$20.00 upon proper notice in accordance with Section 827 of the California Civil Code.
- 3. The owner may increase the tenant's rent after six months upon service of the City's form Notice of the existence of the Rent Adjustment Program and Section 827 of the California Civil Code.
- 4. **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.

Date: January 25, 2017

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

Item 7

**PROOF OF SERVICE**

Case Number T16-0526

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**

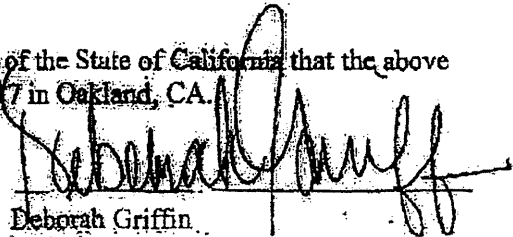
Collen Jeffers  
7123 Holly St #1  
Oakland, CA 94619

**Owner**

Pama Management  
625 Oak St #102  
Stockton, CA 95202

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 01, 2017 in Oakland, CA.

  
Deborah Griffin

MASKED

1 Ubaldo Fernandez  
2 East Bay Community Law Center  
3 2921 Adeline Street  
4 Berkeley, CA 94703  
5 Phone: (510) 548-4040  
6 Fax: (510) 548-2566  
7 ufernandez@ebclc.org

8 Attorney for Defendant Colleen Jeffers

9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA  
10 RENE C. DAVIDSON COURTHOUSE-LIMITED JURISDICTION

11 BD OPPORTUNITY 1 LP,

NO. RG 16 817 152

12 Plaintiff,

STIPULATION

13 v.

AND

14 COLLEEN JEFFERS,

COURT ORDER THEREON

15 Defendant.

16  
17  
18  
19  
20 Plaintiff BD OPPORTUNITY 1 LP, and Defendant COLLEEN JEFFERS hereby  
21 stipulate and agree:

22 1. The parties to this Stipulation are Plaintiff BD OPPORTUNITY 1 LP, and Defendant  
23 COLLEEN JEFFERS.

24 2. The subject premises of this case and Stipulation is 7123 Holly St. Apt. 1, Oakland,  
25 CA 94621.

26 3. The rent for the subject premises is \$950 per month and is due each month on or before  
27 the 5<sup>th</sup> of the month.  
28

- 4 -

1 4. Within 5 days of email transmission of this stipulation signed by Defendant to  
2 Plaintiff's counsel, Plaintiff shall send to Defendant c/o Ubaldo Fernandez at East Bay  
3 Community Law Center, 2921 Adeline Street, Berkley CA, 94703 a copy of this stipulation  
4 signed by Plaintiff and counsel for Plaintiff.

5 5. Plaintiff waives all claims to any rent they may be owed up to July 31, 2016. Rent for  
6 all months prior to and including July, 2016 is deemed paid or waived.

7 6. Plaintiff shall provide receipts for all rent payments made for the duration of the  
8 tenancy.

9 7. Provided Plaintiff performs the conditions of paragraph 5 and 6, above, Defendant  
10 shall pay rent on or before the date it is due for the months of August 2016, September 2016,  
11 October 2016, and November 2016.

12 8. Plaintiff shall dismiss this case within five days of Defendant's tendering of the final  
13 payment referred to in paragraph 7, above.

14 9. The parties agree that Plaintiff shall not seek possession of the unit on the basis of  
15 nonpayment of rent so long as Defendant complies with all of the terms of this Stipulation.  
16 Provided Defendant performs the conditions of paragraph 7, above, Plaintiff will not file any  
17 additional unlawful detainer action on the basis of nonpayment of rent before December 2016.

18 10. Defendant will be restored as a tenant in good standing upon making all payments  
19 referred to in paragraph 7 of the complaint.

20 11. If Defendant fails to make a payment as required by paragraph 7, above, Plaintiff  
21 shall be entitled, upon 48 hours' written notice, to be taped to the door of the subject premises,  
22 and upon 48 hours' fax notice to Defendant's counsel at (510) 548-2566, to apply to the court *ex*  
23 *parte* for a immediate judgment for possession of the subject premises, for a writ to immediately  
24 issue thereon for possession of the subject premises, and for reasonable attorney's fees for all  
25 reasonable work necessary to enforce the terms of this agreement. Such *ex parte* application by  
26 Plaintiff shall notify Defendant of the date, time, and department of the Alameda County  
27 Superior Court where Plaintiff shall apply for judgment. In the event that Defendant makes the  
28



1 missed payment within 48 hours of its notice, Plaintiff shall not apply for judgment. Instead,  
2 Plaintiff shall withdraw this application immediately.

3 11. If Plaintiff fails to fulfill its promise of paragraph 8, above, Defendant shall be  
4 entitled, upon 48 hours' written notice via email to Plaintiff's counsel at  
5 HGLongAtty@fastevict.com, to apply to the court *ex parte* for an immediate dismissal and for  
6 judgment for reasonable attorney's fees for all reasonable work necessary to enforce the terms of  
7 this agreement. Such *ex parte* application by Defendant shall notify Plaintiff of the date, time,  
8 and department of the Alameda County Superior Court where Defendant shall apply for  
9 judgment. Defendant agrees to proceed immediately for judgment referred to herein.

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1 12. The parties stipulate that this case shall remain permanently masked.


2 13. This document may be executed in counterparts. Facsimile signatures shall be  
3 treated as originals pursuant to California Rule of Court 2.305 and all other applicable laws.

4 14. This is the entire agreement.

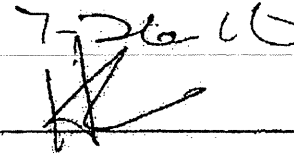
5  
6 Date: \_\_\_\_\_

Date: 7/26/16

7  
8  
9 Colleen Jeffers  
Defendant

  
BD Opportunity 1 LP  
Plaintiff

10  
11  
12  
13  
14 Ubaldo Fernandez  
Attorney for Defendant

  
H.G. Long  
Attorney for Plaintiff

16  
17 IT IS HEREBY ORDERED THAT THIS STIPULATION IS ACCEPTED FOR FILING AND  
18 THAT THE COURT WILL MAINTAIN JURISDICTION OVER ITS TERMS PURUSANT TO  
19 C.C.P. SEC. 664.6.

20  
21  
22 Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE ALAMEDA COUNTY  
SUPERIOR COURT

23  
24  
25 THIS CASE SHALL REMAIN PERMANENTLY MASKED.

26 ORDER TO SHOW CAUSE SET FOR DECEMBER 5, 2016 at 9:00 AM in  
27 DEPARTEMENT 511. IF DISMISSAL OR JUDGMENT HAS BEEN ENTERED, NO  
28 APPEARANCE IS NECESSARY.

Item 4

EAST BAY  
COMMUNITY  
LAW CENTER

July 29, 2016  
Via U.S. Mail

H.G. Long  
Attorney at Law  
474 W. Orange Show RD  
San Bernardino, CA 92408

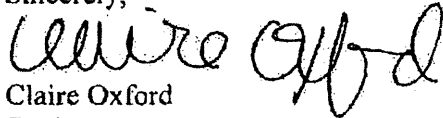
Re: *BD Opportunity 1 LP v. Jeffers*  
Alameda County Superior Court case no.: RG 16 817 152  
Settlement Stipulation

Dear Ms. Long:

Enclosed please find a check for \$3,800, amounting to Ms. Jeffers' rent for August 2016, September 2016, October 2016, and November 2016 at \$950 per month, as per Paragraph 3 of the settlement Stipulation. As this includes Ms. Jeffers' final payment referred to in Paragraphs 7 and 8 of the Stipulation, please dismiss this case within five days, as required by Paragraph 8.

Ms. Jeffers' next rent payment will be on or before December 5, 2016.

Sincerely,



Claire Oxford  
Student Intern  
Supervised by Staff Attorney Ubaldo Fernandez

**Ubaldo Fernandez**

---

J  
**From:** Claire Oxford  
**Sent:** Thursday, July 28, 2016 12:32 PM  
**To:** HGLongAtty; FastEvict23@fastevict.com  
**Cc:** Ubaldo Fernandez  
**Subject:** Rent Payment for BD Opportunity 1 LP v. Jeffers (RG 16 817 152)

Ms. Long,

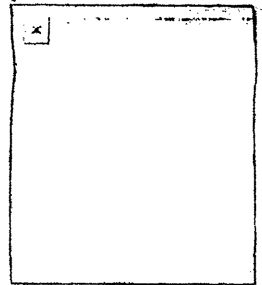
We have a client trust account for Ms. Jeffers' rent and are writing to confirm that is OK for us to send Ms. ~~Jeffers'~~ rent payments to your office and made out to "H.G. Long and Associates". If that is OK, I will mail a check for her rent to H.G. Long & Associates, 474 W. Orange Show RD, San Bernardino, CA 92408. If it is not OK, please advise me on where and to whom I should mail the check. Please also advise to whom the check should be made out.

If we do not hear from you by the end of the day, we will send out a check to you tomorrow.

Best,

Claire

**Claire Oxford**  
Clinical Student  
Supervised by Staff Attorney Ubaldo Fernandez  
East Bay Community Law Center  
2921 Adeline Street  
Berkeley, CA 94703  
t: 510-548-4040  
e: [coxford@ebclc.org](mailto:coxford@ebclc.org)



*25 Years of Justice through  
Education and Advocacy*

**CONFIDENTIALITY NOTE:** This e-mail and any attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of this e-mail or any attachment is prohibited. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system. Thank you for your cooperation.

**PAMA MANAGEMENT INC.**

Item 17

4900 SANTA ANITA AVE., SUITE 2C  
EL MONTE, CA 91731  
(626) 575-3070  
FAX (626) 575-7817  
FAX (626) 575-3084  
BRE # 01998265

26 August, 2019

City of Oakland Rent Adjust Program  
Keith Mason  
250 Frank Ogawa Plaza, Suite 5313  
Oakland, CA 94612-2034

RE: Case No T19-0272 Jeffers v BD Opportunity 1 LP

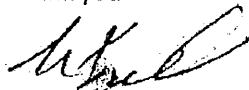
Dear Mr. Mason,

Enclosed are documents being mailed to Ms. Colleen Jeffers (tenant) for a new rent increase effective October 1, 2019. The previous rent increase, which is being petitioned by the tenant, has been rescinded.

Please inform us what needs to be done to formally rescind the rent increase being petitioned, case no T19-0272.

You may contact us at 626-575-3070 x226 or email (preferred) [nevin@pamamgt.com](mailto:nevin@pamamgt.com)

Thank you



Pama Management

5-

000085<sup>23</sup>

Item 17

**PAMA MANAGEMENT INC.**

---

4900 SANTA ANITA AVE., SUITE 20  
EL MONTE, CA 91731  
(626) 575-3070  
FAX (626) 575-7817  
FAX (626) 575-3084  
BRE # 01998265

26 August, 2019

Colleen Jeffers  
7123 Holly St  
Oakland, CA 94621

---

RE: New Rental Increase

Dear Ms. Jeffers:

Enclosed with this letter is a new rental increase that takes effect on October 1, 2019. The previous increase that was proposed for July 1, 2019 is rescinded. Also included is the Notice to Tenants of the Residential Rent Adjustment Program

This new increase utilizes banking for a deferred CPI limited rent increase that was not given in 2018. The city form which calculates banking titled Calculation of Deferred CPI Increases (Banking) is included. Please note, the move-in date is not relevant, the new effective date was October 1, 2017.

Approval from the City of Oakland is not needed to increase rent based on banking. A copy of this rule is included.

A representative of Pama Management should be scheduling a date to inspect your unit to assess the condition. If any repairs or maintenance items are needed, please inform the representative.

If you have any questions or inquiries, please contact us at 626-575-3070 x226 or email [Nevin@pamamgt.com](mailto:Nevin@pamamgt.com)

Thank you



Pama Management

000086<sup>24</sup>

CITY OF OAKLAND



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

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases...
Starting on February 1, 2017, an owner must petition the RAP for any rent increase...
Contesting a Rent Increase: You can file a petition with the RAP to contest unlawful rent increases...
If you contest a rent increase, you must pay your rent with the contested increase until you file a petition...
Oakland has eviction controls...
Oakland charges owners a Rent Program Service Fee per unit per year...
Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords...
The owner \_\_\_ is \_\_\_ is not permitted to set the initial rent on this unit without limitations...

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit \_\_\_\_, the unit you intend to rent.
Smoking (circle one) IS or IS NOT permitted in other units of your building.
There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at \_\_\_\_\_.

I received a copy of this notice on \_\_\_\_\_ (Date) \_\_\_\_\_ (Tenant's signature)

此份屋崙 (奧克蘭) 市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

# CIUDAD DE OAKLAND



P.O. BOX 70243, OAKLAND, CA 94612-2043  
Departamento de Desarrollo Comunitario y Vivienda  
Programa de Ajustes en el Alquiler

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

## AVISO A LOS INQUILINOS DEL PROGRAMA DE AJUSTES EN EL ALQUILER RESIDENCIAL

- Oakland tiene un Programa de Ajustes en el Alquiler (Rent Adjustment Program, RAP) que limita los aumentos en el alquiler (Capítulo 8.22 del Código Municipal de Oakland) y cubre a la mayoría de las unidades residenciales en alquiler construidas antes de 1983. Para más información sobre las viviendas cubiertas, contacte a la oficina del RAP.
- A partir del 1° de febrero de 2017, un propietario debe presentar una petición ante el RAP para todo aumento en el alquiler que sea mayor que el aumento general anual en el alquiler ("aumento CPI") o permitido que los aumentos en el alquiler sean "invertidos". Estos incluyen mejoras de capital y aumentos en los gastos operativos. En lo que respecta a este tipo de aumentos, el propietario puede aumentar su alquiler sólo después de que un funcionario de audiencia haya autorizado el incremento. Ningún aumento anual en el alquiler podrá exceder el 10%. Usted tiene derecho a disputar el aumento en el alquiler propuesto respondiendo a la petición del propietario. No es indispensable que usted presente su propia petición.
- **Cómo disputar un aumento en el alquiler:** Puede presentar una petición ante el RAP para disputar aumentos ilícitos en el alquiler o la disminución de servicios en la vivienda. Para disputar el aumento en el alquiler, debe presentar una petición (1) en un plazo de (90) días a partir de la fecha del aviso de aumento en el alquiler si el propietario también proporcionó este Aviso a los Inquilinos con la notificación del aumento en el alquiler; o (2) en un plazo de 120 días a partir de la fecha de recepción del aviso de aumento en el alquiler si este Aviso a los Inquilinos no fue entregado con la notificación de aumento en el alquiler. Si el propietario no entregó este Aviso a los Inquilinos al inicio del periodo de arrendamiento, deberá presentar una solicitud en un plazo de (90) días a partir de la fecha en que recibió por primera vez este Aviso a los Inquilinos. Encontrará información y formularios disponibles en la oficina del RAP en el Centro de Asistencia de Vivienda: 250 Frank H. Ogawa Plaza, 6° Piso, Oakland; también puede visitar: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>
- Si usted disputa un aumento en el alquiler, debe pagar su alquiler con el aumento disputado hasta que presente la petición. Si el aumento es aprobado y usted no lo pagó, adeudará la suma del incremento retroactivo a la fecha de inicio de vigencia del aumento.
- Oakland tiene controles de desalojo (Ordenanza de Desalojo por Causa Justa y Reglamentos, O.M.C. 8.22) que limitan los motivos de desalojo en las viviendas cubiertas. Para más información contacte la oficina RAP.
- Oakland les cobra a los propietarios una Tarifa de Servicio del Programa de Alquiler (Rent Program Service Fee) por vivienda al año. Si la tarifa se paga a tiempo, el propietario tiene derecho a cobrar la mitad del costo de esta tarifa al inquilino. No se requiere que los inquilinos de viviendas subsidiadas paguen la porción del inquilino de la tarifa.
- Oakland posee una Ordenanza de Protección al Inquilino (Tenant Protection Ordinance, TPO) para impedir el comportamiento abusivo por parte de propietarios y para ofrecerles a los inquilinos recursos legales en instancias donde han sido víctimas de comportamiento abusivo por parte de propietarios (O.M.C. 8.22.600). (Ordenanza del Concejo Municipal No. 13265 C.M.S.)
- El propietario \_\_\_\_ tiene \_\_\_\_ no tiene permitido establecer el alquiler inicial de esta vivienda sin limitaciones (por ejemplo, de conformidad con la Ley Costa-Hawkins). Si el propietario no tiene permitido establecer el alquiler inicial sin limitaciones, el alquiler vigente cuando el inquilino anterior desalojó la vivienda era de \_\_\_\_\_.

26



Item 17

**INFORMACIÓN A LOS INQUILINOS SOBRE LAS POLÍTICAS PARA FUMADORES**

- Fumar (encierre en un círculo) ESTÁ o NO ESTÁ permitido en la Vivienda \_\_\_\_\_, la vivienda que usted pretende alquilar.
- Fumar (encierre en un círculo) ESTÁ o NO ESTÁ permitido en otras viviendas de su edificio. (Si hay disponibilidad de ambas viviendas, fumador y no fumador, en el edificio del inquilino, adjunte una lista de las viviendas en donde se permite fumar.)
- (Encierre en un círculo), HAY o NO HAY un área designada al aire libre para fumar. Se encuentra en \_\_\_\_\_.

Recibí una copia de este aviso el \_\_\_\_\_  
(Fecha) (Firma del inquilino)

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.

**Jeffers Timeline**

Tenant Complaint Date	Item Repair Date	Item (RAP = City of Oakland Rent Adjustment Program / Tenant = Colleen Jeffers)	Relevant Files	
	05/22/2016	Repaired damaged drywall, baseboards, bathroom door. Applied mildew treatment. Replace toilet, kitchen faucet, kitchen range hood, new bathroom ceiling fan, wall furnace thermostat, and P trap piping for kitchen sink. New paint and baseboards.	2016-05-22 Unit Repairs.pdf	Item 1
	05/31/2016	Roach treatment to all six units	2016-05-31 Pest Control.pdf	Item 2
	07/26/2016	Stipulation filed, See ledger card for proof of rent credited, Unlawful detainer RD16817152	2016-07-26 Stipulation, 2020-12-22 ledger card	Item 3
	07/29/2016	Payment proof for the adjusted rent	2016-07-29 Confirmation of Rent Payment per Stipulation	Item 4
	10/14/2016	Violation for unpermitted windows and broken windows, rodent infestation, and hole in wall. Violation was appealed and re-inspected (according to page 10 of document) on 12/5/16.	2016-10-14 Violation and Appeal.pdf 2016-10-14 Violation and Appeal (2).pdf	Item 5
	11/02/2016	Rodent and pest control service to all units	2016-11-02 Pest Control.pdf	Item 6
	01/04/2017	Housing and Community Development Dept, Rent Adjustment Program Hearing Decision	2017-07-04 T16-0526 Hearing Decision	Item 7
	10/11/2017	Periodic pest and rodent treatment	2017-10-11 Pest Control.pdf	Item 8
	11/08/2018	Bought 3 sets of blinds, installed 3 blinds, installed 3 smoke/CO detectors, installed bulbs, replaced 4 door knobs, cleaned trash (in Spanish)	2018-11-8 Unit Maintenance.pdf	Item 9
	11/30/2018	All units had their smoke/CO detectors inspected (in Spanish)	2018-11-30 Inspect Detectors.pdf	Item 10
	02/14/2019	Pest Control/fumigation	2019-02-14 Pest Control.pdf	Item 11
03/10/2019	03/12/2019	Broke concrete and inspected gas lines for apartment building (in Spanish)	2019-03-12 Gas Line Inspection.pdf	Item 12
	03/15/2019	Pest Control	2019-03-15 Pest Control.pdf	Item 13
03/10/2019	03/21/2019	Replaced gas lines/pipes, earthquake shut-off valves, water heater (w/ earthquake straps, shut-off valve, tap line, and supply lines), and venting for water heaters. Supervisor stated the downtime for the gas was 7 days, but if the tenant stated they reported the issues on 3/10/19 and the referenced report shows 3/21/19, it would be 12 days.	2019-03-21 Gas Line Repair.pdf	Item 14
03/25/2019		City violation was issued for broken window, wall above entry door has water intrusion damage, front security door is damaged, and bathroom ceiling fan is not working properly. City records show it was abated  We are missing the document(s) that show when this was corrected	City Violation Summary.pdf 2019-03-25 Violation.pdf	Item 15
	06/12/2019	Pest control services to all units	2019-06-12 Pest Control.pdf	Item 16
	08/26/2019	Letter mailed to RAP and tenant stating the rent increases effective 4/1/19 and 7/1/19 have been rescinded. Letter included RAP notices and banking calculations. No proof of signatures on application form due to PDF file conversion and signing after scanning (technical error). The rent increase effective 10/1/19 would be relevant to case T19-0455. T19-0272 and T19-0325 have had their rent increases rescinded, and that was communicated to RAP	October Rent Banking & Letter to RAP.pdf RE Case T19-0455.msg	Item 17

6-1

	09/06/2019	Pest control services to unit. Cabinets, walls, and ceiling painting - two layers. All of tenant's belongings were covered as to not damage them. Covered all holes in the walls (in Spanish).  It was noted verbally by supervisor and contractor that it has been very difficult to gain entrance to the unit to perform follow up work due to tenant not present, denial of entry, and apartment being messy with trash and belongings in the way	2019-09-06 Pest Control & Painting.pdf	Item 18
	<10/02/2019	Spoke to tenant about rescinding 4/1/19 and 7/1/19 rent increases. Also confirmed verbally with tenant, twice, if any outstanding maintenance items remained - tenant confirmed nothing was outstanding		Item 19
	03/12/2020	New window	2020-03-12 Window.pdf	Item 20
	03/13/2020	Installed new building address numbers, new fence wood, picked up trash, change some door knobs	2020-03-13 Property Maintenance.pdf	Item 21
<6/30/2020	<6/30/2020	Unclogged the tub drain	2020-June Plumbing.pdf	Item 22
	07/13/2020	Fumigation of unit. A thorough and complete fumigation was not possible since tenant left trash and belongings throughout apartment	2020-07-13 Unit not cleaned for fumigation (2).mp4 2020-07-13 Unit not cleaned for fumigation.mp4	Item 23
	08/11/2020	Two new windows	2020-08-11 Window.pdf	Item 24

CITY OF OAKLAND



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

Housing and Community Development Department  
Rent Adjustment Program

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

**HEARING DECISION**

**CASE NUMBER:** T19-0272, Jeffers v. BD Opportunity 1, LP  
T19-0325, Jeffers v. BD Opportunity 1, LP ✓

**PROPERTY ADDRESS:** 7123 Holly Street, Unit 1  
Oakland, CA

**DATE OF HEARING:** November 7, 2019

**DATE OF SUBMISSION:** November 21, 2019

**DATE OF DECISION:** January 21, 2020

**APPEARANCES:** Colleen Jeffers, Tenant  
Xavier Johnson, Tenant Representative  
Christina Micciche, Owner Representative

**SUMMARY OF DECISION**

The Tenant's petition is granted.

**INTRODUCTION**

The tenant filed the petition, T19-0325, on June 24, 2019, which contests a rent increase effective July 1, 2019, raising the rent from \$951.39 to \$1,018.16, and a rent increase effective April 1, 2019, raising the rent from \$951.39 to \$1,046.00 on the following grounds:

- The CPI<sup>1</sup> was calculated incorrectly;

<sup>1</sup> Consumer Price Index

- The increase exceeds the CPI Adjustment and is greater than 10%;
- The rent increase was not approved and exceeded the banked increase;\*
- No Notice to Tenants of the Residential Rent Adjustment Program Notice (RAP Notice) at Inception or 6 Months Prior; and
- Rent Increase Violates State Law.

The petition also alleges decreased housing services and indicates that she has never received a RAP Notice.

The tenant filed the petition, T19-0272, on April 29, 2019, which contests a rent increase effective April 1, 2019, raising the rent from \$951.39 to \$1,046.00 and a rent increase effective October 1, 2017, raising the rent from \$930.00 to \$951.39, on the following grounds:

- The CPI was calculated incorrectly;
- The increase exceeds the CPI Adjustment and is greater than 10%;
- The rent increase was not approved and exceeded the banked increase;
- No RAP Notice at Inception or 6 Months Prior; and
- Rent Increase Violates State Law.

The petition also alleges decreased housing services and indicates that she has never received a RAP Notice.

The owner only filed a timely response to the tenant petition in T19-0272. The owner did not file an Owner Response to the tenant petition in T19-0325.

### **ISSUE(S) PRESENTED**

1. When, if ever, was the tenant given the RAP Notice?
2. What is the allowable rent?
3. Has the tenant suffered decreased housing services?
4. If so, what, if any, restitution is owed to the tenant, and how does that impact the rent?

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## EVIDENCE

### Rental History

The subject unit was rented by the tenant in February 2013, at an initial rate of \$950.00, per month. The tenant testified that she did not receive a RAP Notice at the inception of her tenancy. She also testified that she did file a petition with the Rent Adjustment Program, previously.<sup>2</sup> After receiving the decision in the prior case, the tenant paid \$930.00, pursuant to the decision. The tenant has not received any rent increase notices from the owner, indicating that the conditions have been restored.

The tenant testified she received the following Notices of Rent Increase:<sup>3</sup>

- \$930.00 to \$951.39, effective October 1, 2017;
- \$951.39 to \$1,046.00, effective April 1, 2019;
- \$951.39 to \$1018.16, effective July 1, 2019; and
- \$951.39 to \$1018.16, effective October 1, 2019.

*separate*

The tenant testified that she is currently paying \$1,018.16 and has done that for two months. The tenant testified that she also paid \$1051.39 per month for rent as well. The tenant testified that while she could not remember exactly what months she paid what amount, she did have receipts for some of her rent payments.<sup>4</sup> The rent receipts indicate that the tenant made the following rent payments:

Date of Receipt	Amount of Receipt
02/2/17	\$ 950.00
04/03/17	\$ 930.00
07/02/17	\$ 930.00
10/02/17	\$ 930.00
	\$ 951.50
06/24/18	\$ 951.39
11/29/18	\$ 951.56
12/23/18	\$ 951.56
02/23/19	\$ 951.56

<sup>2</sup> T16-0526, Jeffers v. Pama Management.

<sup>3</sup> Exhibit A. This Exhibit, and all other Exhibits to which reference is made in this Decision, were admitted into evidence without objection.

<sup>4</sup> Exhibit B.

been addressed since the leak. The tenant further testified that a couple of months ago, the property owner sent someone out who painted the kitchen cabinets. The tenant testified the cabinets were painted without cleaning and that as a result, some of the cabinets are different colors. She admitted that she's reluctant to have guests because of the condition of the cabinets. She also testified that she is still getting leaks as recently as a few days before the hearing. She reported a few days before the hearing that she went to retrieve something in the cabinet, and it was wet. She reported this instance to Rosie, the agent of the owner. X →

*New York*

Windows

The tenant testified that the front-facing windows are not properly sealed and that they let in car exhaust and cold air. The tenant testified that she first noticed the windows were letting in exhaust in early 2017. She notified the previous property management company. The tenant testified that the owner changed all the windows, except for hers. As a result, she has difficulty breathing. X →

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The Notice of Violation, dated March 26, 2019, includes a violation for the front bedroom window, next to the parking lot.<sup>9</sup> X →

Infestation

The tenant testified she noticed the roach infestation and reported the condition. She reported that the property owner had someone coming out spraying, but that they only spray one unit. She has not noticed a decrease in the infestation. Additionally, there is a rodent infestation. She was unable to recall the number of mice she has seen in the unit. The tenant testified that she sees a mouse almost every other day.

The subject unit was inspected by the Alameda County Health Care Services Agency, Vector Control Services District. The Request for Services, dated October 4, 2019, indicates that the inspection revealed signs of cockroaches as well as mice droppings.<sup>10</sup> X

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<sup>9</sup> Exhibit D.  
<sup>10</sup> Exhibit E.

Rebuttal testimony

The owner's representative offered rebuttal testimony. She testified that she did not know the amount of rent the tenant was paying. She testified that she is a supervisor at the property management company and that the subject unit is not under her supervision, nor is the person who supervises the building. The owner representative indicated that the property she supervises is in Stockton, CA, but that it is not rent-controlled. Furthermore, she testified that she does not supervise any properties subject to a rent ordinance.

The owner representative testified that she was not aware of any of the conditions alleged by the tenant in her petition.

The owner's representative was asked to attend the Hearing, based upon her proximity to the Hearing location. She was initially relocated to supervise the Stockton properties, for three months, but has been there for six months. The owner representative did not have the opportunity to do a site visit of the subject unit. She testified that she had never been to the subject property.

The representative found out about the Hearing, from her boss, DJ, the day before the Hearing. She received documents that had been scanned to her from Nevin, in the legal department. She does not participate in the process or know what the process is to respond to a tenant's petition, and their corporate office handles that.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

The Rent Adjustment Ordinance requires an owner to serve the RAP Notice at the start of a tenancy<sup>11</sup> and, together with any notice of rent increase or change in the terms of a tenancy.<sup>12</sup>

The Hearing Decision issued in the prior petition, T16-0526, was issued on January 25, 2017, and was not appealed. The Hearing Decision is final. Official notice is taken of T16-0526. The Hearing Decision set the base rent at \$950.00, less ongoing decreased housing services in the amount of \$20.00. The decision

*(why # 20 p 021)*  
*water*

<sup>11</sup> O.M.C. § 8.22.060(A)

<sup>12</sup> O.M.C. § 8.22.070(H)(1)(A)



03/29/19	\$ 49.00
07/21/19	\$ 951.39
	\$1,000.00
09/28/19	\$1,000.00
09/28/19	\$ 18.16

The tenant testified that she has some rent receipts for rental payments; however, she indicated that she did not have every single receipt.<sup>5</sup>

Decreased Housing Services

*March 2016 fixed dates ✓*

Water Leaks

The tenant testified that there was a plumbing leak from the upstairs unit into the bathroom in her unit, in October 2016. The tenant testified that she called the property owner when she noticed the leak. She testified that the leak was resolved in two days but that nothing had been done to address the mold and water seepage issues.<sup>6</sup>

A Notice of Violation, dated March 26, 2019, was issued for the subject unit. The subject unit was cited for a violation for water intrusion damage over the front door.<sup>7</sup>



Gas Shutoff

The tenant testified that there was an extended gas shut off that resulted in no heat and hot water; additionally, she was unable to use the stove or oven.<sup>8</sup> She testified that she took a picture of the PG&E shutoff notice and sent it via text on March 10, 2019, and that the gas was off for approximately three weeks. *10 day*

Kitchen cabinets and walls

The tenant testified that the cabinet and walls were damaged from the water leak in 2016. The tenant testified that the kitchen cabinets, walls, and baseboards have not

*ETM*

<sup>5</sup> The parties were allotted additional time to provide documentation regarding rent paid. The respondent was given seven days to provide a rent ledger. The petitioner was given until November 14, 2019, to review and respond. The matter was to be submitted for decision by November 21, 2019.

<sup>6</sup> Exhibit G.

<sup>7</sup> Exhibit D.

<sup>8</sup> Exhibit C.

also found that the tenant had not been served with the RAP Notice. Further, the testimony that she has not received a RAP Notice was undisputed. Accordingly, the tenant was not given written notice of the RAP Program.

### **What is the allowable rent?**

The Rent Adjustment Ordinance requires an owner to serve a RAP Notice at the start of a tenancy<sup>13</sup> and together with any notice of rent increase or change in any term of the tenancy.<sup>14</sup> An owner may cure the failure to give notice at the start of the tenancy. However, a notice of rent increase is not valid if the effective date of increase is less than six months after a tenant first receives the required RAP notice.<sup>15</sup>

Again, Official notice is taken of T16-0526. The Hearing Decision set the base rent at \$950.00, less ongoing decreased housing services in the amount of \$20.00.

The tenant's testimony that she never received a notice indicating that the conditions were restored is undisputed. Moreover, the evidence supports the tenant's undisputed testimony that she did not receive a RAP Notice with the Notices of Rent Increase. Accordingly, the rent increases are invalid, and the tenant's base rent remains \$950.00, less ongoing decreased housing services in the amount of \$20.00, or \$930.00.

### **Has the tenant suffered decreased housing services?**

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent<sup>16</sup> and may be corrected by a rent adjustment.<sup>17</sup> However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code, which seriously affects the habitability of the tenant's unit.

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

<sup>13</sup> O.M.C. Section 8.22.060(A)

<sup>14</sup> O.M.C. Section 8.22.070(H)(1)(A)

<sup>15</sup> O.M.C. Section 8.22.060(C)

<sup>16</sup> O.M.C. § 8.22.070(F)

<sup>17</sup> O.M.C. § 8.22.110(E)

the tenant is noticed or first becomes aware of the decreased housing service; or (2) the date the tenant first receives the RAP Notice.

However, where the RAP Notice has never been given, a tenant can be granted restitution for rent overpayments due to decreased housing services for a maximum of 3 years.<sup>18</sup> Since the evidence established that the tenant did not receive the RAP notice, the tenant is entitled to restitution for up to three years.

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

#### Water Leaks

The evidence of the water leaking in the subject unit is undisputed. Moreover, the evidence of water intrusion damages was noted in the Notice of Violation, indicating a violation of the housing or building code, which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 25% rent credit from October 2016, until the violation is abated. X

#### Gas Shutoff

The evidence of the gas shut off to the subject unit is uncontradicted. Thus, the tenant is entitled to a 50% rent credit for March 2019. X 10 8-

#### Kitchen cabinets and walls

The evidence of the damage to the kitchen cabinets and walls in the subject unit is uncontested. Moreover, the evidence of water intrusion damages was noted in the Notice of Violation, indicating a violation of the housing or building code, which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 25% rent credit from October 2016, until the violation is abated. X

#### Windows

The evidence of the windows needing repair in the subject unit is undisputed. Moreover, the window damage was noted in the Notice of Violation, indicating a violation of the housing or building code, which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 5% rent credit from January 2017 until the violation is abated. X

<sup>18</sup> Appeal Decision in Case No. T06-0051, Barajas/Avalos v. Chu

Infestation

The evidence of the infestation in the subject unit is uncontradicted. Moreover, the evidence of infestation was noted by Vector Control, indicating a condition that affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 10% rent credit from October 2016, until the violation is abated. ✓

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

As indicated above, the legal rent for the unit is \$930.00 per month. The evidence establishes that the tenant paid \$951.39 from October 1, 2017, until September 30, 2019. Further, the evidence establishes that from October 1, 2019, the tenant began paying \$1018.16. Accordingly, the tenant is entitled to restitution for the overpayments of rent in the amount of \$954.31.<sup>19</sup> 6570

Service Lost	From	To	Rent	% Rent	Decrease /month	No. Months	Overpaid
Water Leaks	1-Oct-16	28-Feb-20	\$ 930.00	25%	\$ 232.50	41	\$ 9,532.50
Gas Shutoff	1-Mar-19	31-Mar-19	\$ 930.00	50%	\$ 465.00	1	\$ 465.00
Kitchen cabinets and walls	1-Oct-16	29-Feb-20	\$ 930.00	25%	\$ 232.50	41	\$ 9,532.50
Windows	1-Jan-17	29-Feb-20	\$ 930.00	5%	\$ 46.50	38	\$ 1,767.00
Infestation	1-Oct-16	29-Feb-20	\$ 930.00	10%	\$ 93.00	41	\$ 3,813.00
<b>TOTAL LOST SERVICES:</b>							<b>\$ 25,110.00</b>
<b>OVERPAID RENT</b>							
	From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
	1-Oct-17	30-Sep-19	\$951.39	\$930	\$ 21.39	24	\$ 513.36
	1-Oct-19	28-Feb-20	\$1,018.19	\$930	\$ 88.19	5	\$ 440.95
<b>TOTAL OVERPAID RENT:</b>							<b>\$ 954.31</b>

The chart above indicates restitution for decreased housing services valued at \$25,110.00. The tenant is also entitled to restitution of overpaid rent in the amount of \$954.31.

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<sup>19</sup> This total assumes that the tenant continued to pay \$1018.16 through February 2020. If that is not the case the numbers should be adjusted by the parties, with jurisdiction reserved.

Restitution is usually awarded over 12 months, but when the tenant is owed 58971% of the monthly rent, it is proper to extend the restitution period to 96 months.<sup>20</sup> Amortized over 96 months, the restitution amount is \$271.50 per month.

Therefore, the tenant's monthly restitution amount is subtracted from the current legal rent of \$950.00, less the previously awarded decreased housing services, for a total of \$658.50. From March 2020 through December 2025, the rent will be \$658.50, less the deduction for ongoing decreased housing services.

### ORDER

1. Petitions T19-0272 and T19-0325 are granted.
2. The base rent for the subject unit is \$950.00 per month before deductions for decreased housing services.
3. The total overpayment by the tenant is \$25,110.00 for past decreased housing services and \$954.31 for overpaid rent, for a total overpayment of \$26,064.31.
4. Due to ongoing conditions, the tenant is entitled to an ongoing decrease in rent in the amount of 65%, in addition to the previously awarded ongoing decrease in housing services.
5. The tenant's rent is stated below as follows:

Base rent	\$ 950.00
Less restitution	\$ 271.50
Less ongoing decreased services <sup>21</sup>	\$ 624.50
Net Rent on March 1, 2020	\$ 54.00

6. The tenant's rent for March 2020, through February 2028, is \$54.00. The rent will revert to the current legal rent of \$930.00 in March 2028.
7. Once the evidence of water intrusion damages, including the kitchen cabinets and walls, as noted in the Notice of Violation, is repaired and after further

<sup>20</sup> Regulations, §8.22.110(F).

<sup>21</sup> This includes the amount previously awarded in T16-0526.

City inspection noting the violation is abated and upon proper notice in accordance with Section 827 of the California Civil Code, the rent can be increased by 50% \* (\$465.00).

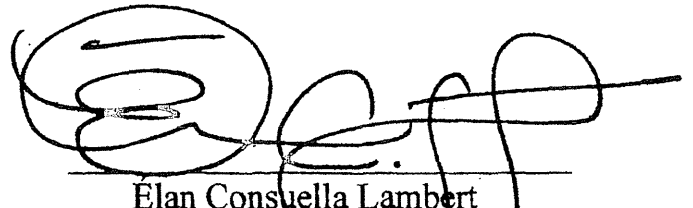
8. Once the windows, as noted in the Notice of Violation, are repaired and after further City inspection, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 5% (\$46.50).

9. Once the infestation is noted to be abated after further inspection by Vector Control, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 10% (\$93.00). \* *Je Jn*

10. If the owner wishes to, they can repay the restitution owed to the tenant at any time. If they do so, the monthly decrease for restitution ends at the time the tenant is provided restitution.

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

Dated: January 21, 2020

  
Elan Consuella Lambert  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**  
**Case Number T19-0272; T19-0325**

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

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

**Documents Included**  
Hearing Decision

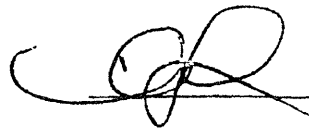
**Manager**  
Nevin Iwatsuru, Pama Management  
~~4900 Santa Anita Avenue Suite 2C~~  
El Monte, CA 91731

**Owner**  
BD Opportunity 1 LP  
3340 Woodside Terrace  
Fremont, CA 94539

**Tenant**  
Colleen Jeffers  
7123 Holly Street Unit 1  
Oakland, CA 94621

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 23, 2020** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

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## CHRONOLOGICAL CASE REPORT

Case No.: T21-0088

Case Name: Lerer v. Addleman

Property Address: 268 Euclid Avenue, Unit 6, Oakland, CA

Parties: Drew Lerer (Tenant)  
Barbara Addleman (Owner)

### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	June 01, 2021
Owner Response filed	June 28, 2021
Administrative Decision Emailed	August 16, 2021
Owner Appeal filed	August 24, 2021





City of Oakland Rent Adjustment Program  
 250 Frank H. Ogawa Plaza, Suite 5313  
 Oakland, CA 94612  
 (510) 238-3721

TR1-0088 EL

**TENANT PETITION**

**RECEIVED**

JUL 1 - 1 2021

RENT ADJUSTMENT PROGRAM  
 OAKLAND

8/3

**Property Address:** 268 EUCLID AV  
**Case:** Petition: 13773  
**Date Filed:** 06-01-2021

**Parties**

Party	Name	Address	Mailing Address	
Owner	Barbara Addleman	225 Carmel Avenue Piedmont, CA 94611	225 Carmel Avenue Piedmont, 94611	(510) 414-0673 addleman@pacbell.net
Tenant	Drew Lerer	270 Euclid Avenue Oakland 6 Oakland, CA 94610		(510) 292-9004 drewlerer@gmail.com

**Number of units on the property** 7

**Type of unit you rent** Apartment, Room or Live-work

**Are you current on your rent?** Yes

**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.)**

**Grounds for Petition**

**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:**

I received a rent increase above the allowable amount.

I received a rent increase that I believe is unlawful because I was not given proper notice, was not properly served, and/or was not provided with the required RAP Notice ("Notice to Tenants of the Residential Rent Adjustment Program").

The property owner is providing me with fewer housing services than I previously received and/or I am being charged for services originally paid for by the owner. (Check this box for petitions based on bad conditions/failure to repair.)

**Rental History**

<b>Date you moved into the Unit</b>	11/1/2021
<b>Initial Rent</b>	\$ 1,500.00 /month
<b>Current Rent</b>	\$ 1,650.00 /month
<b>Is your rent subsidized or controlled by any government agency, including HUD (Section 8)?</b>	No
<b>List the case numbers of any relevant prior Rent Adjustment case(s):</b>	

**List all rent increases that you want to challenge.**

<b>Date you received the notice</b>	<b>Date increase goes into effect</b>	<b>Monthly rent increase From</b>	<b>Monthly rent increase To</b>	<b>Are you Contesting this Increase in this Petition? *</b>	<b>Did You Receive a Rent Program Notice With the Notice Of Increase?</b>
05-01-2021	06-01-2021	\$ 1,636.00	\$ 1,701.00	No	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)*

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

**Description of Decreased or Inadequate Housing Services**

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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.

**Loss of Service**

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**Date Loss Began** 06-01-2021

**Date Owner Was Notified of Loss**

**Estimated Loss**

**Reduced Service Description** Raising parking fee from \$50 to \$115 (see unlawful rent increase). Was informed by tenant attorney that this is unlawful due to the fact that I pay for all services of the unit with one payment.

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**Mediation**

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Mediation is an optional process offered by the Rent Adjustment Program to assist parties in settling the issues related to their Rent Adjustment case as an alternative to the formal hearing process. The purpose of mediation is to find a mutual agreement that satisfies both parties. A trained third party will discuss the issues with both sides, look at relative strengths and weaknesses of each position, and consider both parties' needs in the situation. If a settlement is reached, the parties will sign a binding agreement and there will not be a formal hearing process. If no settlement is reached, the case will go to a formal hearing with a Rent Adjustment Hearing Officer, who will then issue a hearing decision.

Mediation will only be scheduled if both parties agree to mediate. Sign below if you want to request mediation for your case.

**I/We agree to have my/our case mediated by a Rent Adjustment Program staff mediator.**  No

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**Consent to Electronic Service**

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Check the box below if you agree to have RAP staff send you documents related to your case electronically. If all parties agree to electronic service, the RAP will only send documents electronically and not by first class mail.

**I/We consent to receiving notices and documents in this matter electronically at the email address(es) provided in this petition.**  Yes

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**Interpretation Services**

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If English is not your primary language, you have the right to an interpreter in your primary language at the Rent Adjustment hearing and mediation session. You can request an interpreter by completing this section.

**I request an interpreter fluent in the following language at my Rent Adjustment proceeding:**  No

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# Proof of Service Confirmation

## TENANT PETITION

I declare under penalty of perjury under the laws of the State of California that on 06-02-2021 I, **Drew Lerer**, served a copy of the below document(s), and all attached pages, to each opposing party, whose names and addresses are listed below, by United States mail..

Names of Served Document(s)

Tenant Petition

Addressee(s) Information

**Addressee:** Barbara Addleman  
225 Carmel Avenue  
Piedmont CA 94611

Drew Lerer

06-02-2021



06-02-2021

SIGNATURE OF PETITIONER OR  
DESIGNATED REPRESENTATIVE

DATE:

City of Oakland

000109

**RECEIVED**

**JUN 28 2021**

**RENT ADJUSTMENT PROGRAM  
OAKLAND**

Enclosed is my completed response to Tenant Petition #13773  
Filed 06/01/2021 by Drew Lerer  
Case # T21-008

**Please disregard a partial online response was automatically submitted  
in error.**

The following is my completed Property Owner Response to Tenant Petition

**000110**

RECEIVED

JUN 28 2021

RENT ADJUSTMENT PROGRAM  
OAKLAND

Oakland Rent Adjustment Program  
June 24, 2021

I am truly surprised to receive this Petition from my Tenant Drew Lerer, as we have always had a very cordial relationship and I would have expected him to speak to me about the Parking Fee increase before filing a formal complaint.

My apartment building has 7 units and 4 parking spaces. For this reason, the parking spaces have never been tied to the leases of the apartments. These parking spaces have always been made available to tenants on a first-come-first-serve basis when one of the spaces becomes available. Because of the tandem configuration of the parking spaces, they are shared with other tenants. Mr. Lerer moved into my building in 2015 and his lease does **not** include a parking space. Attached as #1 is a copy of his rental agreement and accompanying RAP notice. His name was on a waiting list for a parking space.

After living in the building for 4 years, Mr. Lerer's name was finally at the top of the list to be offered a parking space **for an additional fee** of \$50.00/month. Attached as #2 is an email thread from June of 2019 where I offered Mr. Lerer a parking space for the first time for the additional monthly fee, and he accepted. Following his acceptance, Mr. Lerer regularly paid the additional \$50 parking space fee and began using the parking space.

On May 1, 2021, I exercised my rights as the property owner to increase the parking fee of Mr Lerer's parking space. I gave him a 30 day notice of the parking fee increase which began June 1, 2021. Attached as #3 is a copy of this parking fee rent increase. This parking fee increase did not change or affect his rent for his rental unit in any way.

I have always considered the residential rent separate from the parking fee. Attached as #4 and #5 are copies of the rent increases and accompanying RAP notices that I have given Mr. Lerer for the residential unit. You will see that these rent increases do not include any parking fees. The current rent for the residential unit is \$1,586.00 per month, which is being increased to \$1,616.13, effective August 1, 2021 (See Attachments #4 and #5). The current **and separate** parking fee is \$115.00 per month (See Attachment #3).

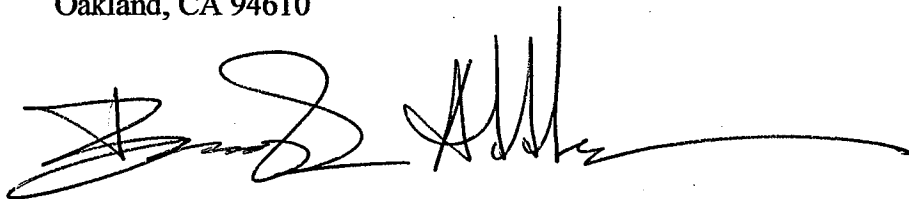
As the parking space was not included with the initial residential rental agreement, it was not a housing service. Instead, the use of the parking space was created through a separate subsequent agreement between us 4 years **after** Mr. Lerer first moved in. My increase in the parking fee is not part of the residential rent, so this increase in the parking fee is not an unlawful rent increase. The Rent Adjustment Program has long held that separate parking agreements and fees are **not** subject to the Rent Adjustment Ordinance. Attached as #6 is a copy of a prior Rent Adjustment Program decision directly on point and supporting my right to increase Mr. Lerer's parking fee without restrictions of the Rent Adjustment Ordinance.

Please note that Mr. Lerer submitted his Petition to the RAP website on June 1, 2021, and has not paid the parking fee increase as of this date.

000111

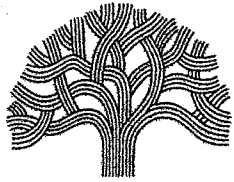
Finally, I have a current Oakland business license and am current with my RAP fee (See Attachments #7 and #8 as proof of this).

Barbara Addleman  
Property Owner  
268 Euclid Ave  
Oakland, CA 94610

A handwritten signature in black ink, appearing to read 'Barbara Addleman', with a long horizontal flourish extending to the right.

000112





CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

250 Frank H. Ogawa Plaza, Suite 5313  
Oakland, CA 94612-0243  
(510) 238-3721  
CA Relay Service 711  
[www.oaklandca.gov/RAP](http://www.oaklandca.gov/RAP)

For Rent Adjustment Program date stamp.

**RECEIVED**

JUN 28 2021

RENT ADJUSTMENT PROGRAM  
CASE NUMBER OAKLAND

**PROPERTY OWNER RESPONSE  
TO TENANT PETITION**

T21-0088

**Please fill out this form as completely as you can.** Use this form to respond to the Tenant Petition you received. By completing this response form and submitting it in the required time for filing, you will be able to participate in the hearing. Failure to provide the required information may result in your response being rejected or delayed. See "Important Information Regarding Filing Your Response" on the last page of this packet for more information, including filing instructions and how to contact the Rent Adjustment Program ("RAP") with questions. Additional information is also available on the RAP website. **CONTACT A HOUSING COUNSELOR TO REVIEW YOUR RESPONSE BEFORE SUBMITTING.** To make an appointment email [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov).

**Rental Unit Information**

268 Street Number      Euclid Avenue Street Name      6 Unit Number      Oakland, CA 94610 Zip Code

Is there more than one street address on the parcel?  Yes  No      If yes, list all addresses: \_\_\_\_\_

Type of unit(s) (check one):  Single family home  Condominium  Apartment, room, or live-work  
Number of units on property: \_\_\_\_\_  
Date acquired property: \_\_\_\_\_

Case number(s) of any relevant prior Rent Adjustment case(s): 0

**Tenant Information**

Name of Tenant Petitioner(s): Drew Lever

Date tenant(s) moved into rental unit: 11-1-15      Initial rent amount: \$ 1500      Is/are tenant(s) current on rent?  Yes  No

**Property Owner Information**

BARBARA First Name      ADDLEMAN Last Name

Company/LLC/ILP (if applicable): \_\_\_\_\_

Mailing address: 225 CARMEL AVE PIEDMONT, CA 94611

Primary Telephone: 510-414-0673      Other Telephone: \_\_\_\_\_      Email: addleman@pachell.net

**Property Owner Representative** (Check one):  No Representative  Attorney  Non-attorney

\_\_\_\_\_  
First Name      Last Name      Firm/Organization (if any)

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_      Email: \_\_\_\_\_

## GENERAL FILING REQUIREMENTS

To file a Response to a Tenant Petition, the property owner must be current on the following requirements and submit supporting documentation of compliance. Property Owner Responses that are submitted without proof of compliance with the below requirements will be considered incomplete and may limit your participation in the hearing.

Requirement	Documentation
<input checked="" type="checkbox"/> Current Oakland business license	Attach proof of payment of your most recent Oakland business license.
<input checked="" type="checkbox"/> Payment of Rent Adjustment Program service fee ("RAP Fee")	Attach proof of payment of the current year's RAP Fee for the subject property.
<input checked="" type="checkbox"/> Service of the required City form entitled "NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") on all tenants	Attach a signed and dated copy of the <u>first</u> RAP Notice provided to the petitioning tenant(s) or check the appropriate box below. <input checked="" type="checkbox"/> I first provided tenant(s) with the RAP Notice on (date): <u>11-1-2015</u> . <input type="checkbox"/> I have never provided a RAP Notice. <span style="float: right;">- with all rent increases</span> <input type="checkbox"/> I do not know if a RAP Notice was ever provided. <span style="float: right;">- also posted in hall</span>

## PROPERTY OWNER CLAIM OF EXEMPTION

If you believe that the subject property is exempt from the Rent Adjustment Ordinance (pursuant to O.M.C. § 8.22.030), check each box below that is the claimed basis of exemption. Attach supporting documentation together with your response form. If you do not claim any exemption, proceed to the "Response to Tenant Petition" section on the following page.

- The unit is a single-family residence or condominium exempted by the Costa Hawkins Rental Housing Act (Civil Code 1954.50, et seq.). **If claiming this exemption, you must answer the following questions. Attach a separate sheet if necessary.**
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. At the time the prior tenant vacated were there any outstanding violations of building housing, fire or safety codes in the unit or building?
  5. Is the unit separately alienable, meaning it can be sold separately from any other unit on the parcel?
  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. (Attach documentation.)
- The unit was newly constructed and issued a Certificate of Occupancy on or after January 1, 1983. (Attach copy of Certificate of Occupancy.)
- The unit is located in a motel, hotel, or rooming/boarding house, which the tenant petitioner has occupied for less than 30 days.
- The unit is in a building that was previously issued a certificate of exemption from RAP based on substantial rehabilitation. (Attach copy of Certificate of Exemption.)
- The unit is an accommodation in a hospital, convent, monastery, extended care facility, convalescent home, non-profit home for the aged, or dormitory owned and operated by an educational institution. (Attach documentation.)

# RESPONSE TO TENANT PETITION

**Use the chart(s) below to respond to the grounds stated in the Tenant Petition.** Enter your position on each claim in the appropriate section(s) below. You may attach any documents, photographs, or other tangible evidence that support your position together with your response form. If you need more space, attach additional copies of this page or state your response in a separate sheet attached to this form.

**A.**

## Unlawful Rent Increase(s)

Complete this section if any of the grounds for the Tenant Petition fall under Category A on the Tenant Petition.

List all rent increases given within the past five years, starting with the most recent increase.

Date tenant given notice of rent increase: (mm/dd/yy)	Date rent increase went into effect: (mm/dd/yy)	Amount of increase:		Did you provide a RAP Notice with the notice of rent increase?		Reason for increase (CPI, banking, or other):
		FROM	TO	YES	NO	
06-04-2021	08-01-2021	\$ 1586	\$ 1616.13	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RAP approved CPI
09-01-2018	11-01-2018	\$ 1534	\$ 1586	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RAP approved CPI
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>	
* 05-02-2021		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>	Parking Fee Increase
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>	

If the Tenant Petition is based on either of the following grounds, state your response in the space below or in a separate sheet attached to this form.

Tenant Petition Grounds	Owner Response
(A2) Tenant did not receive proper notice, was not properly served, and/or was not provided with the required RAP form with rent increase(s).	MR. LERER RECEIVED A 30-DAY NOTICE OF INCREASE TO HIS PARKING FEE. IT IS NOT A RENT INCREASE
(A3) A government agency has cited the unit for serious health, safety, fire, or building code violations.	

**B.**

## Decreased Housing Services

Complete this section if any of the grounds for the Tenant Petition fall under Category B on the Tenant Petition.

Tenant Petition Grounds	Owner Response
(B1) The owner is providing tenant(s) with fewer housing services and/or charging for services originally paid for by the owner.	PARKING SPACE IS NOT PART OF MR LERER'S LEASE AGREEMENT - PAYING PARKING FEE WITH RENT DOES NOT MAKE IT A SERVICE
(B2) Tenant(s) is/are being unlawfully charged for utilities.	

**C.**

## Other

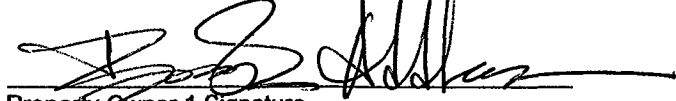
Complete this section if any of the grounds for the Tenant Petition fall under Category C on the Tenant Petition.

Tenant Petition Grounds	Owner Response
(C1) Rent was not reduced after a prior rent increase period for capital improvements.	
(C2) Owner exemption based on fraud or mistake.	
(C3) Tenant's initial rent amount was unlawful because owner was not permitted to set initial rent without limitation (O.M.C. § 8.22.080 (C)).	

**OWNER VERIFICATION**

*(Required)*

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

  
Property Owner 1 Signature

06-23-2021  
Date

\_\_\_\_\_  
Property Owner 2 Signature

\_\_\_\_\_  
Date

**CONSENT TO ELECTRONIC SERVICE**

*(Highly Recommended)*

Check the box below if you agree to have RAP staff send you documents related to your case electronically. If you agree to electronic service, the RAP may send certain documents only electronically and not by first class mail.

I/We consent to receiving notices and documents in this matter from the RAP electronically at the email address(es) provided in this response.

**MEDIATION PROGRAM**

Mediation is an optional process offered by RAP to assist parties in settling the issues related to their Rent Adjustment case as an alternative to the formal hearing process. A trained third party will work with the parties prior to the hearing to see if a mutual agreement can be reached. If a settlement is reached, the parties will sign a binding agreement and there will not be a formal hearing. If no settlement is reached, the case will go to a formal hearing with a Rent Adjustment Hearing Officer, who will then issue a hearing decision.

Mediation will only be scheduled if both parties agree to mediate. Sign below if you agree to mediation in your case.

**I agree to have the case mediated by a Rent Adjustment Program staff mediator.**

\_\_\_\_\_  
Property Owner Signature

\_\_\_\_\_  
Date

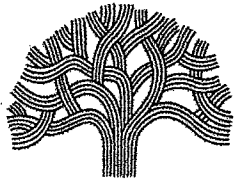
**INTERPRETATION SERVICES**

If English is not your primary language, you have the right to an interpreter in your primary language/dialect at the Rent Adjustment hearing and mediation session. You can request an interpreter by completing this section.

I request an interpreter fluent in the following language at my Rent Adjustment proceeding:

- Spanish (Español)
- Cantonese (廣東話)
- Mandarin (普通话)
- Other: \_\_\_\_\_

**-END OF RESPONSE-**



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

250 Frank H. Ogawa Plaza, Suite 5313  
Oakland, CA 94612-0243  
(510) 238-3721  
CA Relay Service 711  
[www.oaklandca.gov/RAP](http://www.oaklandca.gov/RAP)

For Rent Adjustment Program date stamp.

## PROOF OF SERVICE

**NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR RESPONSE (PLUS ANY ATTACHMENTS) ON THE TENANT(S) PRIOR TO FILING YOUR RESPONSE WITH RAP.**

- 1) Use this PROOF OF SERVICE form to indicate the date and manner of service and the person(s) served.
- 2) Note: Email is not a form of allowable service on a party of a petition or response pursuant to the Ordinance.
- 3) Provide a completed copy of this PROOF OF SERVICE form to the person(s) being served together with the documents being served.
- 4) File a completed copy of this PROOF OF SERVICE form with RAP together with your Response. Your Response will not be considered complete until this form has been filed indicating that service has occurred.

On the following date: 06/25/2021 I served a copy of (check all that apply):

- PROPERTY OWNER RESPONSE TO TENANT PETITION plus 18 attached pages (number of pages attached to Response not counting the Response form or PROOF OF SERVICE)
- Other: \_\_\_\_\_

by the following means (check one):

- United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- Personal Service.** I personally delivered the document(s) to the person(s) at the address(es) listed below or I left the document(s) at the address(es) with some person not younger than 18 years of age.

PERSON(S) SERVED: Personal Delivery

Name	<u>DREW LERER</u>
Address	<u>268 EUCLID AVE #6</u>
City, State, Zip	<u>OAKLAND, CA 94610</u>

U.S. Postal Service

Name	<u>CITY OF OAKLAND - RENT ADJUSTMENT PROGRAM</u>
Address	<u>250 FRANK H. OGAWA PLAZA, STE. 5313</u>
City, State, Zip	<u>OAKLAND, CA 94612-0243</u>

Response by mail, a postmark date does not count as the date it was received. Remember to file a PROOF OF SERVICE form together with your Response.

**Via email:** [hearingsunit@oaklandca.gov](mailto:hearingsunit@oaklandca.gov)

**Mail to:** City of Oakland  
Rent Adjustment Program  
250 Frank H. Ogawa Plaza, Ste. 5313  
Oakland, CA 94612-0243

**File online:** <https://www.oaklandca.gov/services/respond-to-a-tenant-petition-for-the-rent-adjustment-program>

**In person:** TEMPORARILY CLOSED  
City of Oakland  
Dalziel Building, 250 Frank H. Ogawa Plaza Suite  
5313 Reception area  
*Use Rent Adjustment date-stamp to stamp your documents to verify timely delivery and place them in RAP self-service drop box.*

#### **AGREEMENT TO ELECTRONIC SERVICE**

If you have agreed to electronic service from the RAP by signing the Consent to Electronic Service on page 4 of the response, you have agreed to receive electronic service from the Rent Adjustment Program only, and not from the other parties to the case.

#### **AFTER RESPONSE IS FILED**

In most cases, RAP will schedule a hearing to determine whether the Tenant Petition should be granted or denied. You will be mailed a Notice of Hearing indicating the hearing date. If you are unable to attend the hearing, contact RAP as soon as possible. The hearing will only be postponed for good cause.

#### **FILE/DOCUMENT REVIEW**

Either party may contact RAP to review the case file and/or to request copies of any documents pertaining to the case at any time prior to the scheduled hearing.

#### **FOR MORE INFORMATION**

Additional information on the petition and hearing process is located on the RAP website and in the Residential Rent Adjustment Program Ordinance and Regulations (see Oakland Municipal Code 8.22.010 *et seq.*). For more information on rent increases, including the list of the annual allowable CPI rates and calculators for certain justifications, see: <https://www.oaklandca.gov/resources/learn-more-about-allowable-rent-increases>, or you can refer to the Guide on Oakland Rental Housing Law at <https://cao-94612.s3.amazonaws.com/documents/Guide-to-Oakland-Rental-Housing-Law-1.pdf>. You may also contact a RAP Housing Counselor with questions at any time by emailing [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov) or calling (510) 238-3721.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

BARBARA ADDLEMAN

PRINTED NAME



SIGNATURE

6-23-2021

DATE SIGNED

# Lease Agreement - Oakland

Owner rents to Tenants and Tenants rent from Owner the Premises subject to the following terms and conditions.

## Terms of Tenancy

**Owner** Barbara Addleman

**Agent for Rent & Notices** \_\_\_\_\_ (Name)  
225 Carmel Avenue Piedmont, CA 94611 (Address)  
510.414.0673 addleman@pacbell.net (Phone & Email)

**Tenants** Drew G. Lerer (Name) 06/03/1973 (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)

**Premises** 270 Euclid Avenue Oakland, CA 94610 #6 (Address)

**Rent** \$ 1,500.00 per month payable in advance on the First day of each month.

**Parking** Parking space assigned NA. Monthly charge \$ \_\_\_\_\_, payable with monthly rent.

**Storage** Storage space assigned \_\_\_\_\_. Monthly charge \$ \_\_\_\_\_, payable with monthly rent.

**Rent Payments**  Electronic Funds Transfer (EFT)  Personal check  Cashier's check or money order  Cash

**Security Deposit** \$ 1,500.00

**Late Charge** \$ 35.00 if Owner does not receive rent in full within 5 days after the due date.

**Returned Payment** \$ 35.00 in the event any check or other form of payment by Tenant is returned for lack of sufficient funds, a "stop payment" or any other reason.

**Term of Tenancy** The term of this Agreement is for 1 YEAR beginning on 11/1/15 and ending on 11/1/16.  
 (Term) (Date) (Date)

At which time this Lease shall terminate without further notice. Any holding over thereafter shall result in Resident being liable to Owner/Agent for daily rental damages equal to the current market value of the unit, divided by 30. A "month-to-month" tenancy subject to the terms and conditions of this agreement shall be created only if Owner/Agent accepts rent from Resident thereafter, and if so accepted, tenancy may be terminated by Resident after service upon the Owner/Agent of a written 30-day Notice of Termination. Except as prohibited by law, that month-to-month tenancy may be terminated by the Owner/Agent by service upon the Resident of a written 60-day notice of termination of tenancy. However, Civil Code Section 1946.1 provides that "if any tenant or resident has resided in the dwelling for less than one year", the Owner/Agent may terminate the tenancy by service upon the Resident of a written 30-day notice.

**Pets** Approved pets NO PETS

**Owner's Utilities** Owner pays for WATER & GARBAGE

**Tenant's Utilities** Tenant pays for PG&E

**Appliances & Fixtures** Owner provides Refridgerator, Stove

## General Terms and Conditions of Tenancy

**Use and Occupancy** The Premises are to be occupied and used only as a private residence by Tenants, without Owner's prior written consent, subject to applicable state and local laws. Occupancy by additional persons for more than two weeks in any six-month period is prohibited without Owner's written consent. Violation of the provisions of this Section is a substantial violation of a material term of the tenancy and is a just cause for eviction.

I have reviewed this page \_\_\_\_\_ (Tenant initials)



**Lease Agreement - Oakland**

- Possession** If Owner is unable to deliver possession of the Premises at the beginning of the Term, Tenant will have the right to terminate this Agreement upon proper notice as required by law. Owner will not be liable for any resulting damage. If Tenant fails to take possession of the Premises, Tenant will still be responsible for paying rent and complying with all other terms of this Agreement.
- Rent** Rent will be paid in full to Owner or Owner's agent without offsets, deductions or credits. Tenant bears the risk of loss or delay of any mailed payment. Owner reserves the right to refuse any partial payment. Payment will be applied to any outstanding obligation of Tenant to Owner, notwithstanding any other designation by Tenant.
- Late Payments** Tenant will pay Owner a late charge if rent is not received on time. By accepting a late charge, Owner does not waive the right to insist on payment of the rent in full on the due date. Tenant and Owner agree that the late charge represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. Tenant and Owner agree that paying rent more than five days late on three separate occasions in any 12-month period is a substantial violation of a material term of the tenancy and is a just cause for eviction.
- Returned Payments** Tenant will pay Owner a returned payment fee in the event any check or other form of payment offered by Tenant to Owner in payment of rent or any other amount due under this Agreement is returned for lack of sufficient funds, a "stop payment" or any other reason. Tenant and Owner agree that this amount represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. A returned check may constitute late payment of rent. In the event of a returned check, Owner reserves the right to demand payment by money order or certified funds for the current and all future payments.
- Individual Liability** Each person who signs this Agreement, whether or not they remain in possession of the Premises, will be jointly and severally liable for the full performance of this Agreement, including the payment of all rent due and the payment of costs to remedy damages to the Premises caused by Tenant, guests or invitees.
- Failure to Pay** As required by law, Tenant is notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations, such as your obligations under the terms of this Agreement.
- Security Deposit** Tenant may not apply the security deposit to the last month's rent or to any other sum due under this Agreement. Within twenty-one (21) days after Tenant has vacated the Premises, Owner will furnish Tenant with an itemized written statement of the reasons for, and the dollar amount of, any of the security deposit retained by the Owner, along with a check or direct bank deposit (if permitted by landlord and tenant) for any deposit balance. As of 2013, California law permits the landlord (or manager) and the tenant to mutually agree to have the security deposit returned to the former tenant by electronic funds transfer and to have the statement that itemizes the deductions along with the copies of the documents verifying the deductions to be sent to the tenant by electronic means. Agreement must be made after either party has served a notice of termination.
- Under Section 1950.5 of the California Civil Code, Owner may withhold only that portion of Tenant's security deposit necessary to: (1) remedy any default by Tenant in the payment of rent; (2) repair damages to the Premises exclusive of ordinary wear and tear; and (3) clean the Premises if necessary. Under state and local law, no interest payments are required on security deposits.
- Subletting** Tenant will not sublet any part of the Premises or assign this agreement without the prior written consent of Owner. The named Tenants are the only "Original" Tenants. No person other than the named Tenants will be permitted to regularly or continuously use or occupy the Premises unless all of the following conditions are met: 1) Tenant notifies Owner in writing, signed by every Tenant, stating a request to have a new person occupy the Premises; 2) said prospective occupant completes and gives to Owner Owner's rental application; 3) Owner approves of the prospective occupant's creditworthiness and references from prior landlords; and 4) the new occupant signs Owner's Change of Tenant Agreement for such occupancy before occupying the Premises, which agreement will include a provision that the new occupant will abide by and perform all the obligations of this Agreement. The rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises.
- In the event that Owner consents to any sub-tenancy, it is hereby agreed that the Original Tenant may not charge more to the sub-tenant(s) than that proportional share of the rent which is being charged by and paid to Owner. No action or inaction or acceptance of rent or knowledge on the part of Owner will be deemed to be a waiver of the provision of this Section on the part of Owner and will not be deemed an approval of any person as a "sub-tenant" for any purpose.
- Parking** The assigned parking space is for the exclusive use of the Tenants and may be used for the parking of motor vehicles only. No vehicle longer than 20 feet may be parked in the Space. Any motor vehicle maintenance or repair performed in the Space, or any other use of the property without the prior consent of Owner, is prohibited.
- Owner will not be liable for any damage done by bursting, leaking or running of any gas or water or any plumbing fixture in, above, upon or about the parking lot; for damage by water, snow or ice being upon or coming off the lot; damage arising from acts or neglect of other occupants of the lot or other motor vehicles; or theft or vandalism by others. It is encouraged that Tenants purchase insurance to cover the above-mentioned instances.

I have reviewed this page \_\_\_\_\_ (Tenant initials)

DL

## Lease Agreement - Oakland

- Storage** Tenants release Owner from any liability for loss or damage to Tenants' property while stored on the Premises. Any property stored in designated storage areas shall be removed on or before the date of termination of tenancy. In the event such property is not so removed, Owner may dispose of same without any liability to Tenants. Tenants waive any rights as defined in Civil Code Section 1980 et. seq. Owner reserves the right to inspect all such storage areas and require necessary removal or clean up as deemed necessary for the health and safety of the Premises, the building and/or its occupants. No storage of any kind will be permitted on fire escapes or in other common areas.
- Condition of Premises** Tenant agrees to: (1) keep the Premises clean and sanitary and in good repair and, upon termination of the tenancy, to return the Premises to Owner in a condition identical to that which existed when Tenant took occupancy, except for ordinary wear and tear; (2) immediately notify Owner of any defects or dangerous conditions in and about the Premises of which they become aware; and (3) reimburse Owner, on demand by Owner, for the cost of any repairs to the Premises damaged by Tenant or Tenant's guests or invitees through misuse or neglect.
- Appliances and Fixtures** Tenant acknowledges that all appliances, window and floor coverings, attached light fixtures, and other attached or semi-attached items are the property of Owner.
- Pets** Only Approved Pets are allowed on or about the Premises. Owner may require a photo of all Approved Pets. No other animals are allowed even temporarily or with a guest, without Owner's prior written consent, excepting guide, service or signal dogs pursuant to California Civil Code Sections 54.1 and 54.2. Stray animals shall not be kept or fed in or around the Building. Strays can be dangerous and Owner must be notified immediately of any strays in or around the Building.
- Approved Pets are not permitted outside Tenant's unit unless on a leash. Tenant agrees to immediately clean up any defecation in a sanitary manner. If Tenant fails to prevent any infestations of fleas, ticks, or other creatures, Tenant may be charged for cleaning, de-fleaing, deodorizing or shampooing any portion of the building or Premises. Tenant shall not permit the pets to cause any discomfort, annoyance, nuisance, or in any other way inconvenience any other Tenant. Any "mess" created by the Pet(s) shall immediately be cleaned up by Tenant. Tenant shall be liable to Owner, and shall defend Owner, hold Owner harmless, and indemnify Owner for all injuries, damages, expenses, losses or obligations of any kind incurred by or in connection with the pet.
- Trash** Tenant agrees to dispose of their ordinary household trash by placing it in the Waste Management containers for periodic collection. Tenant agrees to dispose of extraordinary trash, such as damaged furniture, broken appliances and the like, by immediately hauling it to the dump themselves or by paying someone else to remove it. In the event that Tenant's trash is left outside the Premises, Owner will arrange to have it removed at Tenant's expense.
- Owner's Access** California law allows Owner to enter the Premises for certain purposes during normal business hours. Owner will provide written notice to Tenant prior to entering the Premises whenever required by state law (Civil Code Section 1954).
- Extended Absences** Tenant agrees to notify Owner in the event that Tenant will be away from the Premises for 14 consecutive days or more. During each absence, Owner may enter the Premises at times reasonably necessary to maintain the property and inspect for damage and needed repairs.
- Quiet Enjoyment** Tenant will be entitled to quiet enjoyment of the Premises. Tenant and Tenant's guests or invitees will not use the Premises or adjacent areas in such a way as to: (1) violate any law or ordinance, including laws prohibiting the use, possession or sale of illegal drugs; (2) commit waste or nuisance; or (3) annoy, disturb, inconvenience or interfere with the quiet enjoyment and peace and quiet of any other tenant or nearby resident.
- Repairs and Alterations** Tenant will not, without Owner's prior written consent, alter, re-key or install any locks to the Premises or install or alter any burglar alarm system. Tenant will provide Owner with a key or keys capable of unlocking all such re-keyed or new locks as well as instructions on how to disarm any altered or new burglar alarm system.
- Except as provided by law or as authorized by the prior written consent of Owner, Tenant will not make or allow to be made any installation or modification of cable or telephone wiring, decorations (such as painting and wallpapering), alterations, or repairs (inclusively, "Changes") to the Premises. Tenant agrees to pay all costs of correcting any unauthorized Changes.
- Financial Responsibility** Tenant agrees to accept financial responsibility for any loss or damage to personal property belonging to Tenant and Tenant's guests and invitees caused by theft, fire or any other cause. Owner assumes no liability for any such loss. Owner recommends that Tenant obtain a renter's insurance policy from a recognized insurance firm to cover Tenant's liability, personal property damage and damage to the Premises.
- Water-filled Furniture** No waterbed or other item of water-filled furniture will be kept on the Premises.
- Smoke Detectors** The Premises are equipped with functioning smoke detection devices. Tenant will be responsible for testing the devices weekly and immediately reporting any problems, maintenance or need for repairs to Owner. Tenant will not remove their batteries or otherwise disable them.

DL

I have reviewed this page \_\_\_\_\_ (Tenant initials)

### Lease Agreement - Oakland

**Attorney Fees** In any action or legal proceeding to enforce any part of this Agreement, each party will be responsible for their own attorneys' fees and court costs, subject to local rent control ordinances and regulations that may apply.

**Megan's Law** Pursuant to Section 290.46 of the California Penal Code, information about specified registered sex offenders is made available to the public via an internet web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and the ZIP code in which he or she resides.

**Notices** Any required notices may be delivered to Tenant at the Premises and to Owner or Agent for Rent and Notices.

**Validity of Each Part** If any portion of this Agreement is held to be invalid, its invalidity will not affect the validity or enforceability of any other provision of this Agreement.

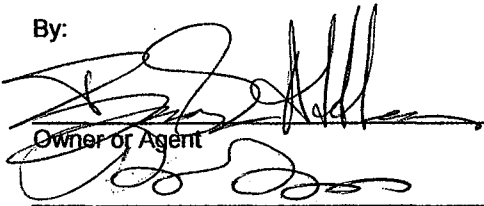
**Captions and Headings** The captions and headings in this Agreement are included to improve readability and are not part of the terms or provisions of this Agreement.


**Application** Any rental application or related document submitted by Tenant is incorporated herein as though set forth in full. Any misrepresentations contained therein will be considered a substantial violation of a material term of the tenancy and is a just cause for eviction.

**Attachments** The following attachments are incorporated as part of this Agreement:  
 Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards  
 Move-In-Move-Out Checklist

**Entire Agreement** This document and Attachments identified above constitute the entire Agreement between the parties, and no promises or representations, other than those contained here and those implied by law, have been made by Owner or Tenant. Any modifications to this Agreement must be in writing signed by Owner and Tenant except that Owner may change the terms of the tenancy and this Agreement pursuant to Civil Code Section 827.

By:

 8/27/2015  
 Owner or Agent Date

 8/27/15  
 Tenant Date

_____	Date	_____	Date
Tenant		Tenant	
_____	Date	_____	Date
Tenant		Tenant	
_____	Date	_____	Date
Tenant		Tenant	
_____	Date	_____	Date
Tenant		Tenant	

<u>Receipt</u>	
By signing above, Owner acknowledges having received, and Tenant acknowledges payment of, the following:	
Security Deposit:	\$ <u>1,500.00</u>
Rent:	\$ _____ for the period _____ to _____
Other:	\$ <u>25.00</u> for <u>Credit &amp; Criminal Check</u>
Total received:	\$ _____ payment method _____

I have reviewed this page \_\_\_\_\_ (Tenant initials)



## CITY OF OAKLAND



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

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

### NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

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

#### TENANTS' SMOKING POLICY DISCLOSURE

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

I received a copy of this notice on \_\_\_\_\_

8/27/15  
(Date)

[Signature]  
(Tenant's signature)

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

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

BaÙn Thoàng BaÙo quyean li cua ngi thue trong Oakland naøy cung co baeng tieng Viet. N co mot baÙn sao, xin goi (510) 238-3721.

Hi Barbara,

Thank you so much for contacting me. I am doing well thanks for asking. I am happy for our 268ers but also sad to see them go. You have done an amazing job of finding lovely people to live here. It is such a nice community.

Thanks for offering me the garage space. That sounds great. I do own a little smart car and though my car fits in more parking spaces than most, it would be great to have to be able to park close as well as have additional storage space. Let me know how I should coordinate. I know that Kathryn and Nate were interested in sharing a their space with me if that is possible.

Hope you are enjoined this lovely weather.

Best,

Drew

On Thu, Jun 20, 2019 at 5:29 PM Barbara Addleman <[addleman@pacbell.net](mailto:addleman@pacbell.net)> wrote:

Hiya Drew,  
Hope you are doing well?

As you may have heard, David and Ling have bought a new home and so have Maria & Angelica!  
Both are moving out next week.

This means you, then Karen are up for garage space if you are interested?  
I don't think you own a car, but wanted to give you first refusal beofre moving on down the list!  
The charge is an additional \$50.00/month

Let me know your thoughts,  
Barbara  
510.414.0673

**P** Please consider the environment before printing this email

--  
Gmail mobile

--  
Drew Lerer

Re: garage space?

---

From: Barbara Addleman (addleman@pacbell.net)

To: drewlerer@gmail.com

Date: Sunday, June 23, 2019, 12:58 PM GMT-8

---

Hiya Drew,

Congratulations on your wedding! Wow!

I hope that the immigration process goes smoothly for you...I know it can be long and tedious.

It would be lovely if you two stay in the building!

The 2 bedroom will be \$2700.00/month

Starting July 1 you will have the shared parking garage with Kathryn and Nathan for \$50.00/month

Let me know you interest in #1 as I will need to post the ads in the next few days.

All the best,

Barbara

**P** Please consider the environment before printing this email

On Friday, June 21, 2019, 07:59:57 PM PDT, Drew Lerer <drewlerer@gmail.com> wrote:

Lovely, thank you so much, Barbara! I will spread the word about the available spaces in our lovely building. I just married my overseas sweetheart from Colombia. We met at my friends wedding a few years ago and now are in the process of going through immigration so that she can come to the United States (she lives in Colombia). How much would the two bedroom apartment be to rent?

Thanks again. Have a great week and hope you are enjoying this lovely weather. The new paint in the apartment looks great BTW.

On Thu, Jun 20, 2019 at 11:46 PM Barbara Addleman <addleman@pacbell.net> wrote:

Hey Drew,

thanks for responding so quickly!

Yes, you will be sharing the space with Nathan and Kathryn! (Karen will be with Slawek!)

I will get you a set of keys by July 1.

More to come!

Barbara

PS If you know anyone looking for 1 or 2 bedroom apt, let me know!

**P** Please consider the environment before printing this email

On Thursday, June 20, 2019, 5:55:32 PM PDT, Drew Lerer <drewlerer@gmail.com> wrote:

**30 Day Notice  
Change in Monthly Parking Fees  
268 Euclid Ave., Oakland, CA 94610**

**TO: Drew Lerer  
Unit #7**

Notice is hereby given that thirty (30) days after service upon you of this Notice, or **June 1, 2021**, whichever is later, your monthly payable fee for parking space is payable in advance on or before the First day of each month, **will be the sum of \$115.**

This increase is in compliance with the City of Oakland and the East Bay Rental Housing Association: "Parking fees or other terms may be changed by Owner/Agent upon thirty (30) days notice unless a shorter period is required for reasons of health and safety."

**Date: May 2, 2021**

Barbara Addleman  
Owner

## 60 Day Notice of Change of Monthly Rent

**TO: Drew Lerer**  
(Residents)

for the premises located at 268 Euclid Avenue, Oakland, CA 94610

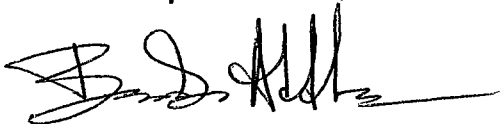
**UNIT: #6**

Notice is hereby given, in accordance with Civil Code Section 827, that thirty (30) days after service upon you of this Notice, or **November 1, 2018**, whichever is later, your monthly payable rent is payable in advance on or before the First day of each month, **will be the sum of \$1586.00**, instead of \$1534.00, the current monthly rent.

*Except as herein provided, all other terms of your tenancy shall remain in full force and effect.*

*A negative credit report reflecting on your credit history may be submitted to a credit reporting agency if you breach the terms of your obligations.*

**DATE:** September 1, 2018



Barbara Addleman  
Owner



CITY OF OAKLAND



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

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983.
Starting on February 1, 2017, an owner must petition the RAP for any rent increase that is more than the annual general rent increase ("CPI increase") or allowed "banked" rent increases.
Contesting a Rent Increase: You can file a petition with the RAP to contest unlawful rent increases or decreased housing services.
If you contest a rent increase, you must pay your rent with the contested increase until you file a petition.
Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units.
Oakland charges owners a Rent Program Service Fee per unit per year.
Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600).
The owner [X] is [ ] is not permitted to set the initial rent on this unit without limitations (such as pursuant to the Costa-Hawkins Act).

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit #3 or property, the unit you intend to rent.
Smoking (circle one) IS or IS NOT permitted in other units of your building.
There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at

I received a copy of this notice on 16 December 2019
(Date) (Tenant's signature)

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

CITY OF OAKLAND



**NOTICE TO OAKLAND RESIDENTIAL TENANTS  
OF NEW TENANT PROTECTION ORDINANCE**

On November 5, 2014, the Oakland City Council adopted the Tenant Protection Ordinance (TPO), which prohibits various harassing behaviors by owners against tenants – thereby bolstering existing laws and leases that protect tenants. The TPO creates remedies that could be enforced by private civil rights of action.

The TPO prohibits actions by owners or their agents done in bad faith, such as:

- Influence or attempt to influence a tenant to vacate a rental unit through fraud, intimidation or coercion
- Threaten by word or gesture with physical harm
- Fail to perform repairs and maintenance required by written contract or by State, County, or municipal housing, health or safety laws, or threatens to do so.

**FILING A CLAIM OF HARASSMENT**

Violations of the TPO may be enforced by civil remedies. **Claims of harassment cannot be filed with the Rent Adjustment Program.**

For information on how to file a claim of harassment in court, contact the following organization for legal advice and consultation:

Centro Legal de la Raza Clinics  
250 Frank H. Ogawa Plaza, 6<sup>th</sup> Floor (Housing Assistance Center)  
Oakland, CA 94612  
(510) 437-1554

Legal clinics are held in the Housing Assistance Center, Mondays, Tuesdays and Wednesdays from 9:30 a.m. to 12:00 noon, on a first-come, first-served basis.

- The entire TPO can be found on Rent Adjustment Program Website at [www2.oaklandnet.com](http://www2.oaklandnet.com).
- Copies of the Ordinance can be obtained at the Housing Assistance Center.

For more information and referrals, call (510) 238-3721.

# 30 Day Notice of Change of Monthly Rent

**To: Drew Lerer  
Unit #6**

(Resident)

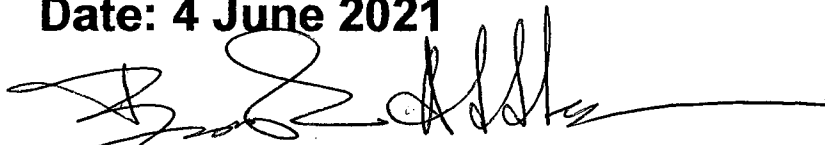
For the premises located at:  
268 Euclid Avenue, Oakland, CA 94610

Notice is hereby given, in accordance with Civil Code Section 287, that thirty (30) days after service upon you of this Notice, or on **August 1, 2021**, whichever is later, your monthly rent payable in advance, on or before the First day of each month, **will be the sum of \$1,616.13**, instead of the current rent of \$1586.00

The Oakland Rent Adjustment Ordinance provides for an Allowable Annual Rent Increase based on the regional Consumer Price Index ("CPI"). A new CPI rate takes effect each July 1 and remains in effect for rent increases through June 30 of the following calendar year.

**The annual CPI rate for rent increases effective July 1, 2021, through June 30, 2022, is 1.9%.** The rate cannot be applied to rent increases that take effect earlier than July 1, 2021. (See attached for further RAP information)

**Date: 4 June 2021**



**Barbara Addleman**  
Owner

CITY OF OAKLAND



250 Frank Ogawa Plaza, Suite 5313, Oakland, CA 94612-2034  
Department of Housing and Community Development  
Rent Adjustment Program

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

**NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM**

- Oakland has a Rent Adjustment Program (“RAP”) that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. For more information on which units are covered, contact the RAP office.
- Starting on February 1, 2017, an owner must petition the RAP for any rent increase that is more than the annual general rent increase (“CPI increase”) or allowed “banked” rent increases. These include capital improvements and operating expense increases. For these types of rent increases, the owner may raise your rent only after a hearing officer has approved the increase. No annual rent increase may exceed 10%. You have a right to contest the proposed rent increase by responding to the owner’s petition. You do not have to file your own petition.
- **Contesting a Rent Increase:** You can file a petition with the RAP to contest unlawful rent increases or decreased housing services. To contest a rent increase, you must file a petition (1) within ninety (90) days of the notice of rent increase if the owner also provided this Notice to Tenants with the notice of rent increase; or (2) within 120 days of the notice of rent increase if this Notice to Tenants was not given with the notice of rent increase. If the owner did not give this Notice to Tenants at the beginning of your tenancy, you must file a petition within ninety (90) days of first receiving this Notice to Tenants. Information and the petition forms are available from the RAP drop-in office at the Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6th Floor, Oakland and at: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>.
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. If the increase is approved and you did not pay the increase, you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance (“TPO”) to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)
- The owner \_\_\_ is \_\_\_ is not permitted to set the initial rent on this unit without limitations (such as pursuant to the Costa-Hawkins Act). If the owner is not permitted to set the initial rent without limitation, the rent in effect when the prior tenant vacated was \_\_\_\_\_.

**TENANTS’ SMOKING POLICY DISCLOSURE**

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

I received a copy of this notice on \_\_\_\_\_ (Date) \_\_\_\_\_ (Tenant’s signature)

此份屋崙 (奧克蘭) 市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。  
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

CITY OF OAKLAND



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

Community and Economic Development Agency  
Rent Adjustment Program

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

Housing, Residential Rent  
and Relocation Board (HRRRB)

APPEAL DECISION

**CASE NUMBER:** T09-0168, Yaranon v. Lantz

**PROPERTY ADDRESS:** 443 Lee St, #204, Oakland, California

**DATE OF APPEAL HEARING:** February 25, 2010

**APPEARANCES:** Tenant-appellant Anna Yaranon appeared and argued her own case. Landlord-appellee Edgar A. Lantz appeared and argued his own case.

Procedural Background:

The tenant filed a petition that contests a rent increase which the tenant claims exceeds the Consumer Price Index (C.P.I.) adjustment, and is unjustified. A significant portion of the alleged rent increase is an increase in the fee for a parking space in the subject building.

The landlord filed a response, in which he alleges that the parking space in question is solely voluntary and is not a part of the tenant's monthly rent. The landlord contends that the only rent increase is in the amount of the current CPI Rent Adjustment.

Hearing Decision

When the tenant moved into her unit, there were no available parking spaces in the subject building. The tenant put her name on a waiting list, and a parking space became available nearly one year later. At that time, the parties agreed that the tenant would pay an additional amount for this parking space. The Hearing Decision denied the tenant petition, finding that use of the parking space

000133

was not included in the original rental agreement. Therefore, parking was not a housing service, but was a separate contract between the parties. Since the charge for the space is not part of the rent, an increase in the parking fee is not a rent increase.

Grounds for Appeal

The tenant filed an appeal which contends that the Hearing Decision was incorrect because she was told at the start of her tenancy that she would pay an additional \$20 per month for a parking space when a space became available. Therefore, parking was always a part of her housing services and an increase in the parking charge is a rent increase. The landlord denies that there was such an agreement. Rather, tenants are told that parking is available on a "first come, first served" basis, and that the rate is set when tenant reaches the top of the waiting list, is offered a parking space, and accepts the space.

Appeal Decision

The Board heard and considered the issue of whether the parking space was a housing service, as defined by the Rent Adjustment Ordinance, and affirms the Hearing Decision.


Action taken by the following vote:

Ayes: M. Bowje, A. Flatt, S. Sanger, B. Scott  
Nay: J. Edouard, G. Mayer  
Abstain: None

**NOTICE TO PARTIES**

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

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

  
BARBARA KONG-BROWN  
HOUSING, RESIDENTIAL RENT AND  
RELOCATION BOARD DESIGNEE

  
Date.

**PROOF OF SERVICE**

**Case Number T09-0168**

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, 5<sup>th</sup> Floor, Oakland, California 94612.

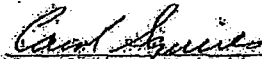
Today, I served the attached Appeal Decision by placing a true copy of it in a sealed envelope in City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5<sup>th</sup> Floor, Oakland, California, addressed to:

Edgar A. Lantz  
5339 Broadway #400  
Oakland, CA 94618

Ajina Yaranon  
443 Lee St. #204  
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 Friday, March 26, 2010, in Oakland, California.

  
Carol Squires  
Oakland Rent Adjustment Program

Attachment #7

CITY OF OAKLAND  
BUSINESS TAX CERTIFICATE

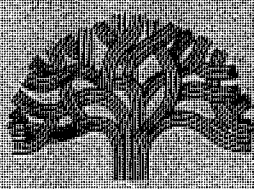
ACCOUNT  
NUMBER  
00105633

DBA  
ADDLEMAN BARBARA A TR

BUSINESS LOCATION  
270 EUCLID AVE  
OAKLAND, CA 94610-3125

BUSINESS TYPE  
M Rental - Apartment

The issuing of a Business Tax Certificate is for revenue purposes only. It does not relieve the taxpayer from the responsibility of complying with the requirements of any other agency of the City of Oakland and/or any other ordinance, law or regulation of the State of California or any other governmental agency. The Business Tax Certificate expires on December 31st of each year. Per Section 204130(a) of the O.M.C. you are allowed a renewal grace period until March 31st the following year.



EXPIRATION DATE  
12/31/2021  
Starting January 1, 2021 Assembly Bill 1017 requires the presentation of gender-based characteristics of business establishments. A full portion is available in English or other languages going to <http://www.oaklandca.gov/publicaffairs>



BARBARA ADDLEMAN  
225 CARMEL AVE  
PIEDMONT, CA 94611-4009

A BUSINESS TAX CERTIFICATE IS REQUIRED FOR EACH BUSINESS LOCATION AND IS NOT VALID FOR ANY OTHER ADDRESS.

ALL OAKLAND BUSINESSES MUST OBTAIN A VALID ZONING CLEARANCE TO OPERATE YOUR BUSINESS LEGALLY. RENTAL OF REAL PROPERTY IS EXCLUDED FROM ZONING.

PUBLIC INFORMATION ABOVE THIS LINE TO BE CONSPICUOUSLY POSTED!





## 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](http://www.oaklandnet.com)

### Acknowledgement of Payment Received

Date: January 29, 2021

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 #: 00105631  
 Account Name: ADDLEMAN BARBARA A TR  
 Account Address: 225 CARMEL AVE PIEDMONT, CA 94611-4009  
 Account Paid: M - RESIDENTIAL RENTAL PROPERTY  
 Business Address: 270 EUCLID AVE OAKLAND, CA 94610-3126

Please keep this acknowledgement for your records. Thank you.

Payment received by: MD

<b>2021</b>	
Business Tax	
<i>Credit Card</i>	\$1,953.00
BT Recordation and Tech	
<i>Credit Card</i>	\$3.00
BT SB1186 (AB1379)	
<i>Credit Card</i>	\$4.00
RAP Rent Adjustment Program (M)	
<i>Credit Card</i>	\$707.00
<b>Total</b>	<b>\$2,667.00</b>





**ADMINISTRATIVE DECISION**

**CASE NUMBER** T21-0088

**CASE NAME:** Lerer v. Addleman

**PROPERTY ADDRESS:** 270 Euclid Avenue, Unit 6  
Oakland, CA

**PARTIES:** Drew Lerer, Tenant  
Barbara Addleman, Owner

**SUMMARY OF DECISION**

The Tenant’s petition is granted.

**INTRODUCTION**

**Reason for Administrative decision:** An Administrative Decision is a decision issued without a hearing. The purpose of a hearing is to allow the parties to present testimony and other evidence to allow resolution of disputes of material fact. However, in this case, sufficient uncontested facts have been presented to issue a decision without a hearing, and there are no material facts in dispute. Therefore, an administrative decision, without a hearing, is being issued.

**BACKGROUND**

On June 1, 2021, the Tenant filed the petition herein alleging that the rent increase exceeds the allowable amount and is unlawful because there was no proper notice, the notice was not properly served, and/or that the RAP Notice (Notice to Tenants

of the Residential Rent Adjustment Program) was not provided with the rent increase.

The Owner filed a timely response. The response acknowledged that the Tenant was provided the RAP Notice at the inception of his tenancy in 2015 and with every rent increase.

The Owner acknowledged that the Tenant did not receive parking at the inception of his tenancy and was initially offered parking in 2019 at the rate of \$50.00 per month.

The Owner's response indicated that she had provided notice on May 1, 2021, to increase the Tenant's parking from \$50.00 to \$115.00, per month effective June 1, 2021. The Owner also indicated that the Tenant had been issued a Notice of Increase, increasing the rent from \$1,568.00 to \$1,616.13, effective August 1, 2021.

### **RATIONALE FOR ADMINISTRATIVE DECISION**

The Rent Ordinance<sup>1</sup> defines "rent" as "the total consideration charged or received by an Owner in exchange for the use or occupancy of a Covered Unit **including all Housing Services provided to the tenant.**" (emphasis added).

It is undisputed that the total consideration charged or received by an Owner in exchange for the use of the subject unit in May 2021 was \$1,618.00 and included parking. Accordingly, the Tenant's rent in May 2021 was \$1,618.00.

The Owner admitted that she served a Notice of Rent Increase, with an effective date of June 1, 2021, indicating the total consideration charged the Owner was going to be increased from \$1,618.00 to \$1,683.00, or \$65.00. It is uncontested that a rent increase of \$65.00 exceeds the applicable CPI Rent Adjustment of 2.7%, or \$43.69. Further, the rent increase has an effective date of June 1, 2021, which falls during the Local Emergency.<sup>2</sup> Therefore, the rent increase is void and unenforceable as a matter of law.

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<sup>1</sup> O.M.C. Section 8.22.020.

<sup>2</sup> Ordinance No. 13589 CMS, effective March 27, 2020.

The Rent Ordinance<sup>3</sup> also states that for notices for rent increases based on the CPI rent adjustment or banking that “an Owner must include: (a) The amount of the CPI Rent Adjustment; and (b) The amount of any Banking increase.”<sup>4</sup>

Effective July 1, 2021, the CPI rent adjustment is 1.9%. Thus, effective Jul 1, 2021, the Owner is entitled to raise the Tenant’s rent in the maximum amount of \$30.74.

Neither notices of rent increase provided by the Owner specify the dollar amount of the increase and its corresponding percentage amount. Therefore, both notices are also invalid on this basis. Additionally, the notice incorrectly states the Tenant’s current rent as \$1,568.00 instead of \$1,618.00, including parking. The Tenant’s rent remains \$1,618.00.

### **ORDER**

1. Petition T21-0088 is granted.
2. The Hearing scheduled for August 23, 2021, is canceled.

**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 fifteen (15) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.



Dated: August 9, 2021

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Élan Consuella Lambert  
Hearing Officer

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<sup>3</sup> O.M.C. Section 8.22.070

<sup>4</sup> In T18-0226, Baragano v. Discovery Investments, it was held this requires stating the dollar amount of the increase, as well as the percentage.

# Rent Adjustment Program

## PROOF OF SERVICE BY ELECTRONIC MAIL

Case T21-0088

I, the undersigned, state that I am a citizen of the United States and am employed in the City of Oakland and County of Alameda; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Rent Adjustment Program, 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, California 94612. My electronic service address is: [blothlen@oaklandca.gov](mailto:blothlen@oaklandca.gov).

Today, I electronically served the following:

### **Administrative Decision**

I electronically served the document(s) listed above to:

Barbara Addleman: [addleman@pacbell.net](mailto:addleman@pacbell.net)

Drew Lerer: [drewlerer@gmail.com](mailto:drewlerer@gmail.com)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 16, 2021

*Brittini Lothlen*

Brittini Lothlen

Administrative Assistant

Oakland Rent Adjustment Program

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

<b>Appellant's Name</b> Barbara Addleman		<input checked="" type="checkbox"/> <b>Owner</b> <input type="checkbox"/> <b>Tenant</b>	
<b>Property Address (Include Unit Number)</b> 270 Euclid Avenue, Unit 6, Oakland, CA 94610			
<b>Appellant's Mailing Address (For receipt of notices)</b> 225 Carmel Avenue, Piedmont, CA 94610		<b>Case Number</b> T21-0088	
		<b>Date of Decision appealed</b> August 9, 2021	
<b>Name of Representative (if any)</b> Fried & Williams LLP Steven C. Williams		<b>Representative's Mailing Address (For notices)</b> 1901 Harrison Street, 13th Floor Oakland, CA 94612	

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

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

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

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

**Submissions to the Board must not exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal.** Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 21.

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

I declare under penalty of perjury under the laws of the State of California that on August 24, 2021, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<b><u>Name</u></b>	Drew Lerer
<b><u>Address</u></b>	270 Euclid Avenue, #6
<b><u>City, State Zip</u></b>	Oakland, CA 94610
<b><u>Name</u></b>	
<b><u>Address</u></b>	
<b><u>City, State Zip</u></b>	

 <p>DocuSigned by: 36C63772E1AA4C5...</p>	8/24/2021
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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 the information required, or your appeal cannot be processed and may be dismissed.
- Any response to the appeal by the other party must be received by the Rent Adjustment Program with a proof of service on opposing party within 35 days of filing the appeal.
- The Board will not consider new claims. All claims, except jurisdiction issues, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

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

Appeal to Case Number T21-0088  
Property: 270 Euclid Avenue, Unit 6  
Owner/Appellant: Barbara Addleman  
Tenant: Drew Lerer

Owner submits the following in support of her appeal:

- (1) **PRIOR RAP DECISIONS AND RENT ORDINANCE INTERPRETATIONS MAKE IT VERY CLEAR THAT HOUSING SERVICES ADDED AFTER THE TENANCY COMMENCES ARE NOT SUBJECT TO RENT CONTROL**

“A decrease in housing service **must be a service provided at the inception of the tendency** [sic] either by contract or implied by law.” Emphasis added. (See RAP Decision for Petitions T08-0146, T08-0151, T08-0158, T08-0159, T08-0160, T08-0161, T08-0162, T08-0167, T08-0168, T08-0170, T08-0171, T08-0172, T08-0173, T08-0174, T08-0175, T08-0181, and T08-0190, a copy of which is attached hereto as Exhibit “A”).

This interpretation was subsequently and conclusively confirmed in the RAP Decision for Petition T09-0168. (See copy of this decision attached hereto as Exhibit “B”). In fact, RAP Decision T09-0168 had facts **identical** to this case. In Petition T09-0168, the tenant challenged a notice increasing the rent for a parking space. The Hearing Officer in that case found:

“If a garage parking space had been included in the original rental agreement, the total amount paid would clearly be the “base rent,” even if a parking charge were separately itemized. However, that is not the case here. **The original agreement did not include parking. A parking space became available nearly a year after the tenant moved in and, at that time, the parties agreed that the tenant would pay an additional charge of \$20 for use of the parking space.** If the tenant ever decides that she no longer wishes to use the parking space, she would not pay the additional charge. **I find that the parking space was the subject of a separate contract between the parties, and the charge for this space is not part of the rent.**”

\* \* \*

**The charge for use of a parking space is not part of the rent, and the Rent Adjustment Program has no jurisdiction to decide any question regarding the use of, or charge for, this space.”**

Emphasis added. (See Exhibit “B”).

The facts here mirror the facts in T09-0168. Tenant Lerer challenges a June 1, 2021 notice increasing the rent for a parking space by \$65. It is undisputed that the original agreement executed in 2015 did **not** include parking. (See the rental agreement attached as Exhibit “C”). It is undisputed that a parking space became available nearly 4 years after Tenant Lerer moved in,

and at that time, Owner and Tenant Lerer agreed that Tenant Lerer would pay an additional charge of \$50 for the use of the parking space. (See the written communications confirming the parking agreement attached as Exhibit “D”). It is undisputed that effective June 1, 2020, Owner increased only Tenant’s parking charge to \$115. (See parking increase notice attached as Exhibit “E”).<sup>1</sup> Tenant Lerer rented the parking space under a separate agreement, which was not part of Tenant Lerer’s base residential rent. The Rent Adjustment therefore has no jurisdiction over this increase. (See Exhibit “B”). Notwithstanding identical facts, the Hearing Officer’s decision in this case directly contradicts prior RAP decisions and should be overturned and the increased parking charge affirmed.

To justify her decision, the Hearing Officer cites to the Rent Adjustment Ordinance definition of “rent.” However, the definition of “rent” is identical to what it was when all of the prior RAP decisions cited herein were rendered. The Appeal Board may take judicial notice of the current and prior versions of the Rent Adjustment Ordinance. **The law has not changed** and does not warrant or support any new or contradictory interpretation or decision.

Consistent decisions and interpretations of the Rent Adjustment Ordinance and Rules and Regulations is detrimental to promote evenhanded, predictable, and consistent interpretations of the ordinance and rules, and to foster reliance on RAP decisions and contribute to the actual and perceived integrity of the RAP process. In fact, the first two grounds in the RAPs own Appeal form (Sections 2(a) and 2(b)) authorize appeals based on prior inconsistent RAP decisions. The RAP must uphold these principles and recognize and embrace prior interpretations and decisions. Inconsistent and directly contradictory decisions, as is the case here, are dangerous and detrimental to tenants and landlords alike and should not be encouraged, condoned, or upheld. Therefore, the decision in this petition should be overturned and the parking increase affirmed.

(2) THE HEARING OFFICER EXCEEDED HER AUTHORITY BY RULING ON A RENT INCREASE THAT WAS GIVEN AFTER TENANT’S PETITION WAS FILED AND WAS NOT EVEN AT ISSUE OR CHALLENGED BY TENANT AND DID SO WITHOUT ANY HEARING.


The tenant RAP petition form requires tenants to list **all** the rent increases they are contesting. Here, Tenant’s petition was filed on June 1, 2021, and challenged exactly one rent increase: the \$65 parking fee increase that was given on May 1, 2021 with a June 1, 2021 effective date. Accordingly, the Tenant’s own petition defined and limited the scope of the challenge and petition.

On June 4, 2021, **after** Tenant’s petition was filed, Owner gave a base rent increase notice with an August 1, 2021, effective date. (See rent increase notice attached hereto as Exhibit “F”). A copy of this base rent increase notice was filed with the Owner’s response to the petition to show that the parking fee is separate and distinct from the base rent. It was not filed to invite the Hearing Officer to opine or rule on its validity. Nor was it even challenged by Tenant’s petition.

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<sup>1</sup> Exhibits “B” through “E” attached hereto were timely submitted to the Rent Adjustment Program as evidence in opposition to Tenant Lerer’s petition. This evidence clearly dictates a different outcome. The decision is contrary to the substantial evidence submitted by Owner.

Yet the Hearing Officer invalidated this uncontested notice, without a hearing, and denied Owner her due process right to respond, explain, or contest any objection to it. The Hearing Officer exceeded her authority by ruling on issues beyond the scope of Tenant's petition. Accordingly, the decision should be overturned in its entirety.

DocuSigned by:  
  
36C63772E1AA4C5...

8/24/2021

CITY OF OAKLAND



P.O. BOX 70243, OAKLAND, CALIFORNIA 94612-0243

Community and Economic Development Agency  
Rent Adjustment Program

(510) 238-3721  
FAX (510) 238-3691  
TDD (510) 238-3254

## HEARING DECISION

**CASE NUMBER:** T08-0146, Garbe v. Kumana  
T08-0151, Lloyd, et al. v. Kumana  
T08-0158, Hebald v. Kumana  
T08-0159, Vigil v. Kumana  
T08-0160, Rodgers v. Kumana  
T08-0161, Bressemer v. Kumana  
T08-0162, Baker v. Raymond Apartments  
T08-0167, Churchill v. Kumana  
T08-0168, Chaisson v. Kumana  
T08-0170, Pearlman v. Kumana  
T08-0171, Cundiff v. Kumana  
T08-0172, Gunderson v. Kumana  
T08-0173, Ye v. Kumana  
T08-0174, Jarosz v. Kumana  
T08-0175, White v. Kumana  
T08-0181, Kelly v. Kumana  
T08-0190, Woodruff v. Kumana

Property Address: 1461 Alice St., Oakland, CA 94612  
Date of Decision: July 22, 2008

Decision Summary: The landlord acted reasonably under the circumstances.  
The tenant petitions are denied.

### PROCEDURAL HISTORY

The cases were consolidated and came on regularly for hearing on July 16, 2008. Gerald Pearlman represented tenant Adam Pearlman. Tenant Amanda Garbe represented herself. The remaining tenants listed above were represented by tenant Selian Hebald, who also represented himself. Christina Dabis, Esq., represented the landlord, Sarosh Kumana.

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## ALLEGATIONS

The petitions in this case all allege claims for decreased housing services arising from intermittent hot water service. Three of the petitioners contested the annual CPI increase. Mr. Hebald also claimed a decrease in housing services for the lack of a video security camera.

## DECISION

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

#### CPI Increase

The tenants may not contest the annual CPI increase unless the landlord is not eligible for any increase. The increases complained of are 3.3%, the current annual CPI rate, rounded to the nearest dollar.

The tenants acknowledge that the landlord gave the appropriate notices. The tenants raise no other reason why the CPI increase should be disallowed. Therefore, the tenants' claims contesting the annual CPI increase were denied on the record of the hearing.

#### Video Surveillance

Tenant Hebald claimed a decrease in housing services for a nonfunctional video surveillance camera. The camera was not functional at the time Mr. Hebald moved in. Although the tenant stated that the video camera was a consideration in his decision of into the apartment, he never directly discussed the video camera with the owner or any of his agents prior to reaching the agreement to rent the apartment. He assumed that the camera functioned. **A decrease in housing service must be a service provided at the inception of the tendency either by contract or implied by law.** Provision of video security is not required by law and it was not in the contemplation of both parties at the time the contract was created. Therefore, the video surveillance is not part of the services the landlord agreed to provide. Lack of video surveillance is not a **decrease** in housing services. This claim is denied.

#### Intermittent Hot Water

Tenants Hebald and Garbe testified on the hot water issue, as did the owner, Sarosh Kumana, and his resident manager, Matthew Slagle. The testimony was not in contradiction on any of the major points. Discrepancies in the testimony were caused by innocent mis-recollection of details rather than deliberate falsehood. Therefore, the testimony of all of the witnesses is credited in the main. A fair summary of the testimony provides the following history.

The building is an 82 unit residential building built in approximately 1920. The hot water boiler that supplies the entire building, including the units of all of the petitioning tenants, failed on May 14, 2007. There was a conflict in the testimony

regarding how long the boiler was out of service. Nonetheless, the landlord testified credibly and without contradiction that immediately upon being notified of the problem, he began the process to replace it. The boiler was replaced within the week. Regardless of how long the boiler was out of service, it is clear the landlord acted promptly and reasonably to repair the condition.

The crux of the dispute between the parties arises from the subsequent events. For the nine months after the boiler was replaced, hot water service went out intermittently. Each time there was a complaint of no hot water, management sent a maintenance person or licensed contractor, as appropriate to address the problem. Each time, Mr. Kumana believed that the problem had been resolved. However, the pilot light kept going out and the problem continued until the new boiler was again replaced under warranty. During that period, Mr. Kumana testified that a number of solutions were tried unsuccessfully. Among other things, the control circuit board for the boiler was replaced. The installation of the new boiler was complete on April 29, 2008. There have been no complaints about the hot water since that time.

Mr. Kumana testified credibly that his records do not list every complaint received regarding the hot water. Matthew Slagle, the resident manager, testified that he does not keep a record of every call received. The testimony of the tenants and the resident manager and the records of the owner with regard to the number of times complaints regarding lack of hot water were made or received vary. Ms. Garbe testified that the hot water was out about once a week for nine months, my calculation approximately 36 times. Mr. Hebard testified that on average there was no hot water three times per month over the nine-month period for a total of 27 occasions. Mr. Slagle, the building's resident manager, estimated that the hot water without about 25 times over the nine-month period.

The landlord raised as an issue the tenants' lack of appropriate notice regarding problems in the building. However, it was clear from the testimony of everyone concerned that the landlord was aware of the extent of the problems with the hot water from the installation of the first new boiler to its replacement in April 2008. At no time during the approximately 9-month period were the tenants dispossessed of their unit and were able to occupy their units for residential purposes during the entire period.

In *Golden Gateway Center v. Residential Rent Stabilization*, (1999) 73 Cal.App.4th 1204, 87 Cal.Rptr.2d 332, the Court held that:

"a landlord who undertakes to perform reasonably necessary repair and maintenance work on rental property, which has the effect of temporarily interfering with or preventing the tenant's full use of housing services, but does not substantially interfere with the right to occupancy of the premises as a residence, does not effectuate a

decrease in housing services within the meaning of the San Francisco rent control ordinance.”

Id. at p. 1206.

The Oakland Rent Adjustment Ordinance provisions regarding decreases in housing services are sufficiently similar to the San Francisco ordinance for the holding in the Golden Gateway case to be applicable to the current case.

Applying this rule, the initial replacement of the boiler was a necessary repair which had the effect of preventing the tenants from having full use of housing services, but did not substantially interfere with the rights of occupancy to the premises as a residence. This means that the week without hot water is not a compensable decrease in housing services within the meaning of Oakland's Rent Adjustment Ordinance.

At what point, if any, did the landlord's actions in continuing to try to repair the hot water system over a nine-month period become so unreasonable that the Golden Gateway doctrine no longer applies? There is very little evidence in the record on the reasonableness of the landlord's actions in continuing to try to make repairs. Mr. Kumana testified that his management team responded to all tenant complaints of lack of hot water submitted by computer. Mr. Kumana sent different licensed contractors to the site to repair the boiler. He also testified that each time, he thought that the attempted repairs were successful. Mr. Kumana's manager testified that he responded to all tenant complaints submitted to him and that he learned how to relight the boiler's pilot flame and did so as required. This testimony regarding the attempted repairs was uncontroverted and moreover, was supported by the testimony of the tenants. Ms. Garbe testified that when she got up in the morning and found no hot water, by the time she came home the hot water service had been restored. Mr. Hebald testified that every time he made a telephone call to the management company complaining about the hot water, they responded and made the repair. Clearly, the landlord was not ignoring the problem although he was unable to resolve it for nine months. Apparently his brand new boiler turned out to be a lemon.

The tenants have the initial burden of proving a decrease in housing services. The burden then shifts to the landlord to prove his attempted repairs were reasonable. On the present record, the landlord's uncontradicted testimony, supports the conclusion that the landlord acted reasonably in continuing to try to make repairs to the new boiler for 9 months rather than immediately replace the boiler a second time.

Finally, I note that the effect on the tenants was an inconvenience, but the actual interference with their tenancies was minimal. The Rent Adjustment Program has no jurisdiction to award damages for the inconvenience the tenants suffered,



only restitution for the loss of service.<sup>1</sup> Even if the landlord were totally unjustified, the effect on rents would be very small. As a measure of restitution for decreases in housing services, the Board reduces the rent by the percentage reduction in the total package of services received. If the hot water were unavailable for 10 full days, plus 4 hours per day for another 25 days, the total estimated decrease in housing services would be approximately .263%. This represents a maximum average recovery \$2.63 per month per \$1000 of rent.

We need not reach the remaining issues raised by the landlord as the tenant petitions are denied

**This decision is the final decision of the Rent Adjustment Program Staff.**



RICK NEMCIK-CRUZ  
Program Manager

**Dated: July 22, 2008**

Revised 11/12/08

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<sup>1</sup> McHugh v. Santa Monica Rent Control Bd., (1989)49 Cal.3d 348,777 P.2d 91, 261 Cal.Rptr. 318.

CITY OF OAKLAND



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

Community and Economic Development Agency  
Rent Adjustment Program

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

**HEARING DECISION**

**CASE NUMBER:** T09-0168, Yaranon v. Lantz  
**PROPERTY ADDRESS:** 443 Lee St., #204, Oakland, CA  
**APPEARANCES:** Anna Yaranon (Tenant)  
Edgar A. Lantz (Owner)  
**DATE OF HEARING:** November 24, 2009  
**DATE OF DECISION:** December 14, 2009

**SUMMARY OF DECISION**

The tenant petition is denied.

**CONTENTIONS OF THE PARTIES**

The tenant filed a petition that contests a rent increase which the tenant claims exceeds the Consumer Price Index (C.P.I.) adjustment, and is unjustified. The significant portion of the alleged rent increase is an increase in the fee for a parking space in the subject building.

The owner filed a response to the tenant petition, in which he alleges that the parking space in question is solely voluntary and is not included in her monthly rent. The owner contends that the only rent increase is in the amount of the current C.P.I. Rent Adjustment.

**THE ISSUE**

Is the parking space in the garage of the subject building a part of the tenant's housing services?

000154

## EVIDENCE

The tenant petition challenges a rent increase from \$643.01 to \$662.37 per month, effective October 1, 2009.<sup>1</sup> These amounts include a CPI increase of \$4.36 per month and an increase in the parking charge from \$20 to \$35 per month.

At the Hearing, the parties agreed to the following facts:

- (1) The tenant moved into her unit on or about August 1, 1997.
- (2) At that time, the tenant inquired about parking in the parking lot in the building and the owner told her that no spaces were currently available. However, the tenant was told that she could place her name on a waiting list, which she did.
- (3) A parking space in the building lot became available in the Spring of 1998 and the tenant began parking in the lot – and paying \$20 per month over and above her rent – in April 1998.
- (4) On or about August 27, 2009, the owner delivered to the tenant two documents:
  - (a) A document entitled “Total Monthly Charges,” which includes a parking space fee of \$35 per month<sup>2</sup> and;
  - (b) A notice which states that the rent would increase from \$623.01 to \$627.37 per month, effective October 1, 2009.<sup>3</sup>
- (5) The tenant has continued to pay \$643.01 each month, which includes \$20 for the parking space.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Oakland Rent Adjustment Ordinance<sup>4</sup> defines “rent” as “the total consideration charged or received by an owner in exchange for the use or occupancy of a covered unit including all housing services provided to the tenant.”

If a garage parking space had been included in the original rental agreement, the total amount paid would clearly be the “base rent,” even if a parking charge were separately itemized. However, that is not the case here. The original agreement did not include parking. A parking space became available nearly a year after the tenant moved in and, at that time, the parties agreed that the tenant would pay an additional charge of \$20 for

<sup>1</sup> These amounts exclude a monthly charge of \$1.25 for one-twelfth of the Rent Program Service fee, which is not considered to be “rent.”

<sup>2</sup> Exhibit 1A. This Exhibit, and all others to which reference is made in this Decision, were admitted into evidence without objection.

<sup>3</sup> Exhibit 1B.

<sup>4</sup> O.M.C. Section 8.22.020

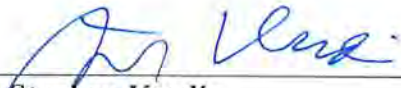
use of the parking space. If the tenant ever decides that she no longer wishes to use the space, she would not pay the additional charge. I find that the parking space was the subject of a separate contract between the parties, and the charge for this space is not part of the rent.

The remainder of the challenged rent increase is \$4.36 per month. This is .07% of \$623.01, the amount of the rent excluding the parking charge. Since this rent increase is the current CPI Adjustment, the challenge to this amount is denied.<sup>5</sup>

**ORDER**

1. Petition T09-0168 is denied.
2. The rent for the unit, not including a parking space in the garage of the subject building, is \$627.37 per month.
3. The charge for use of a parking space is not part of the rent, and the Rent Adjustment Program has no jurisdiction to decide any question regarding the use of, or charge for, this space.
4. 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: December 14, 2009

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

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

# Lease Agreement - Oakland

Owner rents to Tenants and Tenants rent from Owner the Premises subject to the following terms and conditions.

## Terms of Tenancy

**Owner** Barbara Addleman (Name)

**Agent for Rent & Notices** 225 Carmel Avenue Piedmont, CA 94611 (Address)  
510.414.0673 addleman@pacbell.net (Phone & Email)

**Tenants** Drew G. Lerer (Name) 06/03/1973 (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)

**Premises** 270 Euclid Avenue Oakland, CA 94610 #6 (Address)

**Rent** \$ 1,500.00 per month payable in advance on the First day of each month.

**Parking** Parking space assigned NA Monthly charge \$ \_\_\_\_\_ payable with monthly rent.

**Storage** Storage space assigned \_\_\_\_\_ Monthly charge \$ \_\_\_\_\_ payable with monthly rent.

**Rent Payments**  Electronic Funds Transfer (EFT)  Personal check  Cashier's check or money order  Cash

**Security Deposit** \$ 1,500.00

**Late Charge** \$ 35.00 if Owner does not receive rent in full within 5 days after the due date.

**Returned Payment** \$ 35.00 in the event any check or other form of payment by Tenant is returned for lack of sufficient funds, a "stop payment" or any other reason.

**Term of Tenancy** The term of this Agreement is for 1 YEAR beginning on 11/1/15 and ending on 11/1/16.  
 (Term) (Date) (Date)

At which time this Lease shall terminate without further notice. Any holding over thereafter shall result in Resident being liable to Owner/Agent for daily rental damages equal to the current market value of the unit, divided by 30. A "month-to-month" tenancy subject to the terms and conditions of this agreement shall be created only if Owner/Agent accepts rent from Resident thereafter, and if so accepted, tenancy may be terminated by Resident after service upon the Owner/Agent of a written 30-day Notice of Termination. Except as prohibited by law, that month-to-month tenancy may be terminated by the Owner/Agent by service upon the Resident of a written 90-day notice of termination of tenancy. However, Civil Code Section 1946.1 provides that "if any tenant or resident has resided in the dwelling for less than one year", the Owner/Agent may terminate the tenancy by service upon the Resident of a written 30-day notice.

**Pets** Approved pets NO PETS

**Owner's Utilities** Owner pays for WATER & GARBAGE

**Tenant's Utilities** Tenant pays for PG&E

**Appliances & Fixtures** Owner provides Refridgerator, Stove

## General Terms and Conditions of Tenancy

**Use and Occupancy** The Premises are to be occupied and used only as a private residence by Tenants, without Owner's prior written consent, subject to applicable state and local laws. Occupancy by additional persons for more than two weeks in any six-month period is prohibited without Owner's written consent. Violation of the provisions of this Section is a substantial violation of a material term of the tenancy and is a just cause for eviction.

I have reviewed this page \_\_\_\_\_ (Tenant Initials)

## Lease Agreement - Oakland

- Possession** If Owner is unable to deliver possession of the Premises at the beginning of the Term, Tenant will have the right to terminate this Agreement upon proper notice as required by law. Owner will not be liable for any resulting damage. If Tenant fails to take possession of the Premises, Tenant will still be responsible for paying rent and complying with all other terms of this Agreement.
- Rent** Rent will be paid in full to Owner or Owner's agent without offsets, deductions or credits. Tenant bears the risk of loss or delay of any mailed payment. Owner reserves the right to refuse any partial payment. Payment will be applied to any outstanding obligation of Tenant to Owner, notwithstanding any other designation by Tenant.
- Late Payments** Tenant will pay Owner a late charge if rent is not received on time. By accepting a late charge, Owner does not waive the right to insist on payment of the rent in full on the due date. Tenant and Owner agree that the late charge represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. Tenant and Owner agree that paying rent more than five days late on three separate occasions in any 12-month period is a substantial violation of a material term of the tenancy and is a just cause for eviction.
- Returned Payments** Tenant will pay Owner a returned payment fee in the event any check or other form of payment offered by Tenant to Owner in payment of rent or any other amount due under this Agreement is returned for lack of sufficient funds, a "stop payment" or any other reason. Tenant and Owner agree that this amount represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. A returned check may constitute late payment of rent. In the event of a returned check, Owner reserves the right to demand payment by money order or certified funds for the current and all future payments.
- Individual Liability** Each person who signs this Agreement, whether or not they remain in possession of the Premises, will be jointly and severally liable for the full performance of this Agreement, including the payment of all rent due and the payment of costs to remedy damages to the Premises caused by Tenant, guests or invitees.
- Failure to Pay** As required by law, Tenant is notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations, such as your obligations under the terms of this Agreement.
- Security Deposit** Tenant may not apply the security deposit to the last month's rent or to any other sum due under this Agreement. Within twenty-one (21) days after Tenant has vacated the Premises, Owner will furnish Tenant with an itemized written statement of the reasons for, and the dollar amount of, any of the security deposit retained by the Owner, along with a check or direct bank deposit (if permitted by landlord and tenant) for any deposit balance. As of 2013, California law permits the landlord (or manager) and the tenant to mutually agree to have the security deposit returned to the former tenant by electronic funds transfer and to have the statement that itemizes the deductions along with the copies of the documents verifying the deductions to be sent to the tenant by electronic means. Agreement must be made after either party has served a notice of termination.
- Under Section 1950.5 of the California Civil Code, Owner may withhold only that portion of Tenant's security deposit necessary to: (1) remedy any default by Tenant in the payment of rent; (2) repair damages to the Premises exclusive of ordinary wear and tear; and (3) clean the Premises if necessary. Under state and local law, no interest payments are required on security deposits.
- Subletting** Tenant will not sublet any part of the Premises or assign this agreement without the prior written consent of Owner. The named Tenants are the only "Original" Tenants. No person other than the named Tenants will be permitted to regularly or continuously use or occupy the Premises unless all of the following conditions are met: 1) Tenant notifies Owner in writing, signed by every Tenant, stating a request to have a new person occupy the Premises; 2) said prospective occupant completes and gives to Owner Owner's rental application; 3) Owner approves of the prospective occupant's creditworthiness and references from prior landlords; and 4) the new occupant signs Owner's Change of Tenant Agreement for such occupancy before occupying the Premises, which agreement will include a provision that the new occupant will abide by and perform all the obligations of this Agreement. The rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises.
- In the event that Owner consents to any sub-tenancy, it is hereby agreed that the Original Tenant may not charge more to the sub-tenant(s) than that proportional share of the rent which is being charged by and paid to Owner. No action or inaction or acceptance of rent or knowledge on the part of Owner will be deemed to be a waiver of the provision of this Section on the part of Owner and will not be deemed an approval of any person as a "sub-tenant" for any purpose.
- Parking** The assigned parking space is for the exclusive use of the Tenants and may be used for the parking of motor vehicles only. No vehicle longer than 20 feet may be parked in the Space. Any motor vehicle maintenance or repair performed in the Space, or any other use of the property without the prior consent of Owner, is prohibited.
- Owner will not be liable for any damage done by bursting, leaking or running of any gas or water or any plumbing fixture in, above, upon or about the parking lot; for damage by water, snow or ice being upon or coming off the lot; damage arising from acts or neglect of other occupants of the lot or other motor vehicles; or theft or vandalism by others. It is encouraged that Tenants purchase insurance to cover the above-mentioned instances.

I have reviewed this page \_\_\_\_\_ (Tenant initials) BL

## Lease Agreement - Oakland

- Storage** Tenants release Owner from any liability for loss or damage to Tenants' property while stored on the Premises. Any property stored in designated storage areas shall be removed on or before the date of termination of tenancy. In the event such property is not so removed, Owner may dispose of same without any liability to Tenants. Tenants waive any rights as defined in Civil Code Section 1980 et. seq. Owner reserves the right to inspect all such storage areas and require necessary removal or clean up as deemed necessary for the health and safety of the Premises, the building and/or its occupants. No storage of any kind will be permitted on fire escapes or in other common areas.
- Condition of Premises** Tenant agrees to: (1) keep the Premises clean and sanitary and in good repair and, upon termination of the tenancy, to return the Premises to Owner in a condition identical to that which existed when Tenant took occupancy, except for ordinary wear and tear; (2) immediately notify Owner of any defects or dangerous conditions in and about the Premises of which they become aware; and (3) reimburse Owner, on demand by Owner, for the cost of any repairs to the Premises damaged by Tenant or Tenant's guests or invitees through misuse or neglect.
- Appliances and Fixtures** Tenant acknowledges that all appliances, window and floor coverings, attached light fixtures, and other attached or semi-attached items are the property of Owner.
- Pets** Only Approved Pets are allowed on or about the Premises. Owner may require a photo of all Approved Pets. No other animals are allowed even temporarily or with a guest, without Owner's prior written consent, excepting guide, service or signal dogs pursuant to California Civil Code Sections 54.1 and 54.2. Stray animals shall not be kept or fed in or around the Building. Strays can be dangerous and Owner must be notified immediately of any strays in or around the Building.
- Approved Pets are not permitted outside Tenant's unit unless on a leash. Tenant agrees to immediately clean up any defecation in a sanitary manner. If Tenant fails to prevent any infestations of fleas, ticks, or other creatures, Tenant may be charged for cleaning, de-fleaing, deodorizing or shampooing any portion of the building or Premises. Tenant shall not permit the pets to cause any discomfort, annoyance, nuisance, or in any other way inconvenience any other Tenant. Any "mess" created by the Pet(s) shall immediately be cleaned up by Tenant. Tenant shall be liable to Owner, and shall defend Owner, hold Owner harmless, and indemnify Owner for all injuries, damages, expenses, losses or obligations of any kind incurred by or in connection with the pet.
- Trash** Tenant agrees to dispose of their ordinary household trash by placing it in the Waste Management containers for periodic collection. Tenant agrees to dispose of extraordinary trash, such as damaged furniture, broken appliances and the like, by immediately hauling it to the dump themselves or by paying someone else to remove it. In the event that Tenant's trash is left outside the Premises, Owner will arrange to have it removed at Tenant's expense.
- Owner's Access** California law allows Owner to enter the Premises for certain purposes during normal business hours. Owner will provide written notice to Tenant prior to entering the Premises whenever required by state law (Civil Code Section 1954).
- Extended Absences** Tenant agrees to notify Owner in the event that Tenant will be away from the Premises for 14 consecutive days or more. During each absence, Owner may enter the Premises at times reasonably necessary to maintain the property and inspect for damage and needed repairs.
- Quiet Enjoyment** Tenant will be entitled to quiet enjoyment of the Premises. Tenant and Tenant's guests or invitees will not use the Premises or adjacent areas in such a way as to: (1) violate any law or ordinance, including laws prohibiting the use, possession or sale of illegal drugs; (2) commit waste or nuisance; or (3) annoy, disturb, inconvenience or interfere with the quiet enjoyment and peace and quiet of any other tenant or nearby resident.
- Repairs and Alterations** Tenant will not, without Owner's prior written consent, alter, re-key or install any locks to the Premises or install or alter any burglar alarm system. Tenant will provide Owner with a key or keys capable of unlocking all such re-keyed or new locks as well as instructions on how to disarm any altered or new burglar alarm system.
- Except as provided by law or as authorized by the prior written consent of Owner, Tenant will not make or allow to be made any installation or modification of cable or telephone wiring, decorations (such as painting and wallpapering), alterations, or repairs (inclusively, "Changes") to the Premises. Tenant agrees to pay all costs of correcting any unauthorized Changes.
- Financial Responsibility** Tenant agrees to accept financial responsibility for any loss or damage to personal property belonging to Tenant and Tenant's guests and invitees caused by theft, fire or any other cause. Owner assumes no liability for any such loss. Owner recommends that Tenant obtain a renter's insurance policy from a recognized insurance firm to cover Tenant's liability, personal property damage and damage to the Premises.
- Water-filled Furniture** No waterbed or other item of water-filled furniture will be kept on the Premises.
- Smoke Detectors** The Premises are equipped with functioning smoke detection devices. Tenant will be responsible for testing the devices weekly and immediately reporting any problems, maintenance or need for repairs to Owner. Tenant will not remove their batteries or otherwise disable them.

I have reviewed this page \_\_\_\_\_ (Tenant Initials) DL

## Lease Agreement - Oakland

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I have reviewed this page \_\_\_\_\_ (Tenant Initials) DL



### Lease Agreement - Oakland

**Attorney Fees** In any action or legal proceeding to enforce any part of this Agreement, each party will be responsible for their own attorneys' fees and court costs, subject to local rent control ordinances and regulations that may apply.

**Megan's Law** Pursuant to Section 290.46 of the California Penal Code, information about specified registered sex offenders is made available to the public via an internet web site maintained by the Department of Justice at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and the ZIP code in which he or she resides.

**Notices** Any required notices may be delivered to Tenant at the Premises and to Owner or Agent for Rent and Notices.

**Validity of Each Part** If any portion of this Agreement is held to be invalid, its invalidity will not affect the validity or enforceability of any other provision of this Agreement.


**Captions and Headings** The captions and headings in this Agreement are included to improve readability and are not part of the terms or provisions of this Agreement.

**Application** Any rental application or related document submitted by Tenant is incorporated herein as though set forth in full. Any misrepresentations contained therein will be considered a substantial violation of a material term of the tenancy and is a just cause for eviction.

**Attachments** The following attachments are incorporated as part of this Agreement:  
 Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards  
 Move-In-Move-Out Checklist

**Entire Agreement** This document and Attachments identified above constitute the entire Agreement between the parties, and no promises or representations, other than those contained here and those implied by law, have been made by Owner or Tenant. Any modifications to this Agreement must be in writing signed by Owner and Tenant except that Owner may change the terms of the tenancy and this Agreement pursuant to Civil Code Section 827.

By:

  
 Owner or Agent 8/27/2015  
 Date 8/27/15

_____ Tenant	_____ Date	_____ Tenant	_____ Date
_____ Tenant	_____ Date	_____ Tenant	_____ Date
_____ Tenant	_____ Date	_____ Tenant	_____ Date
_____ Tenant	_____ Date	_____ Tenant	_____ Date

#### Receipt

By signing above, Owner acknowledges having received, and Tenant acknowledges payment of, the following:

Security Deposit: \$ 1,500.00

Rent: \$ \_\_\_\_\_ for the period \_\_\_\_\_ to \_\_\_\_\_

Other: \$ 25.00 for Credit & Criminal Check

Total received: \$ \_\_\_\_\_ payment method \_\_\_\_\_

I have reviewed this page \_\_\_\_\_ (Tenant initials) BL

CITY OF OAKLAND



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

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

### NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

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

#### TENANTS' SMOKING POLICY DISCLOSURE

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

I received a copy of this notice on \_\_\_\_\_

(Date)

(Tenant's signature)

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

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

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

Hi Barbara,

Thank you so much for contacting me. I am doing well thanks for asking. I am happy for our 268ers but also sad to see them go. You have done an amazing job of finding lovely people to live here. It is such a nice community.

Thanks for offering me the garage space. That sounds great. I do own a little smart car and though my car fits in more parking spaces than most, it would be great to have to be able to park close as well as have additional storage space. Let me know how I should coordinate. I know that Kathryn and Nate were interested in sharing a their space with me if that is possible.

Hope you are enjoined this lovely weather.

Best,

Drew

On Thu, Jun 20, 2019 at 5:29 PM Barbara Addleman <[addleman@pacbell.net](mailto:addleman@pacbell.net)> wrote:

Hiya Drew,  
Hope you are doing well?

As you may have heard, David and Ling have bought a new home and so have Maria & Angelical  
Both are moving out next week.

This means you, then Karen are up for garage space if you are interested?  
I don't think you own a car, but wanted to give you first refusal beofre moving on down the list!  
The charge is an additional \$50.00/month

Let me know your thoughts,  
Barbara  
510.414.0673

**P** Please consider the environment before printing this email

—  
Gmail mobile

—  
Drew Lerer

Re: garage space?

From: Barbara Addleman (addleman@pacbell.net)

To: drewlerer@gmail.com

Date: Sunday, June 23, 2019, 12:58 PM GMT-8

Hiya Drew,  
Congratulations on your wedding! Wow!  
I hope that the immigration process goes smoothly for you...I know it can be long and tedious.

It would be lovely if you two stay in the building!  
The 2 bedroom will be \$2700.00/month

Starting July 1 you will have the shared parking garage with Kathryn and Nathan for \$50.00/month

Let me know you interest in #1 as I will need to post the ads in the next few days.  
All the best,  
Barbara

**P** Please consider the environment before printing this email

On Friday, June 21, 2019, 07:59:57 PM PDT, Drew Lerer <drewlerer@gmail.com> wrote:

Lovely, thank you so much, Barbara!. I will spread the word about the available spaces in our lovely building. I just married my overseas sweetheart from Colombia. We met at my friends wedding a few years ago and now are in the process of going through immigration so that she can come to the United States (she lives in Colombia). How much would the two bedroom apartment be to rent?

Thanks again. Have a great week and hope you are enjoying this lovely weather. The new paint in the apartment looks great BTW.

On Thu, Jun 20, 2019 at 11:46 PM Barbara Addleman <addleman@pacbell.net> wrote:

Hey Drew,  
thanks for responding so quickly!  
Yes, you will be sharing the space with Nathan and Kathryn! (Karen will be with Slawek!)  
I will get you a set of keys by July 1.  
More to come!  
Barbara  
PS If you know anyone looking for 1 or 2 bedroom apt, let me know!

**P** Please consider the environment before printing this email

On Thursday, June 20, 2019, 5:55:32 PM PDT, Drew Lerer <drewlerer@gmail.com> wrote:

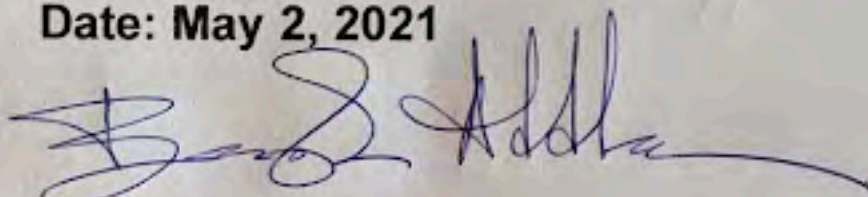
**30 Day Notice**  
**Change in Monthly **Parking Fees****  
268 Euclid Ave., Oakland, CA 94610

**TO: Drew Lerer**  
**Unit #7**

Notice is hereby given that thirty (30) days after service upon you of this Notice, or **June 1, 2021**, whichever is later, your monthly payable fee for parking space is payable in advance on or before the First day of each month, **will be the sum of \$115.**

This increase is in compliance with the City of Oakland and the East Bay Rental Housing Association: "Parking fees or other terms may be changed by Owner/Agent upon thirty (30) days notice unless a shorter period is required for reasons of health and safety."

**Date: May 2, 2021**



Barbara Addleman  
Owner

# 30 Day Notice of Change of Monthly Rent

To: Drew Lerer  
Unit #6

(Resident)

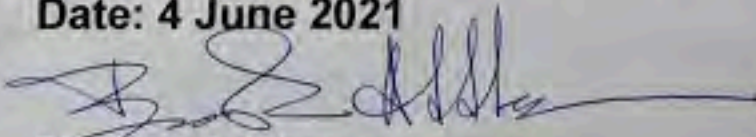
For the premises located at:  
268 Euclid Avenue, Oakland, CA 94610

Notice is hereby given, in accordance with Civil Code Section 287, that thirty (30) days after service upon you of this Notice, or **on August 1, 2021**, whichever is later, your monthly rent payable in advance, on or before the First day of each month, **will be the sum of \$1,616.13**, instead of the current rent of \$1586.00

The Oakland Rent Adjustment Ordinance provides for an Allowable Annual Rent Increase based on the regional Consumer Price Index ("CPI"). A new CPI rate takes effect each July 1 and remains in effect for rent increases through June 30 of the following calendar year.

**The annual CPI rate for rent increases effective July 1, 2021, through June 30, 2022, is 1.9%.** The rate cannot be applied to rent increases that take effect earlier than July 1, 2021. (See attached for further RAP information)

**Date: 4 June 2021**



Barbara Addleman  
Owner

## CITY OF OAKLAND



250 Frank Ogawa Plaza, Suite 5313, Oakland, CA 94612-2034  
 Department of Housing and Community Development  
 Rent Adjustment Program

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

### NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. For more information on which units are covered, contact the RAP office.
- Starting on February 1, 2017, an owner must petition the RAP for any rent increase that is more than the annual general rent increase ("CPI increase") or allowed "banked" rent increases. These include capital improvements and operating expense increases. For these types of rent increases, the owner may raise your rent only after a hearing officer has approved the increase. No annual rent increase may exceed 10%. You have a right to contest the proposed rent increase by responding to the owner's petition. You do not have to file your own petition.
- **Contesting a Rent Increase:** You can file a petition with the RAP to contest unlawful rent increases or decreased housing services. To contest a rent increase, you must file a petition (1) within ninety (90) days of the notice of rent increase if the owner also provided this Notice to Tenants with the notice of rent increase; or (2) within 120 days of the notice of rent increase if this Notice to Tenants was not given with the notice of rent increase. If the owner did not give this Notice to Tenants at the beginning of your tenancy, you must file a petition within ninety (90) days of first receiving this Notice to Tenants. Information and the petition forms are available from the RAP drop-in office at the Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6th Floor, Oakland and at: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>.
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. If the increase is approved and you did not pay the increase, you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)
- The owner \_\_\_ is \_\_\_ is not permitted to set the initial rent on this unit without limitations (such as pursuant to the Costa-Hawkins Act). If the owner is not permitted to set the initial rent without limitation, the rent in effect when the prior tenant vacated was \_\_\_\_\_.

#### TENANTS' SMOKING POLICY DISCLOSURE

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

I received a copy of this notice on \_\_\_\_\_ (Date) \_\_\_\_\_ (Tenant's signature)

此份屋翁(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.

EXHIBIT F - 2



## MEMORANDUM

**Date:** October 22, 2021

**To:** Members of the Housing, Residential & Relocation Board (HRRRB)

**From:** Oliver Luby, Deputy City Attorney

**Re:** Appeal Summary for T19-0272, T19-0325  
Jeffers v. BD Opportunity 1 LP

**Appeal Hearing Date:** October 28, 2021

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Property Address: 7123 Holly Street, Unit 1

Appellant/Owner: BD Opportunity 1 LP

Respondent/Tenant: Jesse Carrillo

### PROCEDURAL BACKGROUND

The tenant filed two petitions, claiming she never received the notice of the existence of the Rent Adjustment Program, and contesting the following monthly rent increases:

a. Petition filed April 29, 2019

- Rent increase served 9/2019<sup>1</sup> from \$930.00 to \$951.39;
- Rent increase served 3/9/19 from \$951.39 to \$1,046.00.

b. Petition filed June 24, 2019

- Rent increase served 9/2017 from \$930.00 to \$951.39;
- Rent increase served 3/9/19 effective 4/1/19, from \$951.39 to \$1,046.00;
- Rent increase served 5/15/19 effective 7/1/19, from \$951.39 to \$1,018.16.

The tenant also claimed several decreased housing services, including the following:

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<sup>1</sup> The later petition clarified that this date was a typo and should have been 9/20/17 instead of 9/20/19.



- Plumbing leak in bathroom;
- Extended gas shutoff;
- Kitchen cabinets, walls, and baseboard damaged;
- Front facing windows not properly sealed.

The owner representative filed a Property Owner Response on September 9, 2019, stating that the rent increase effective July 1, 2019 was rescinded, the decreased services are not services but are conditions, which had all been corrected or were in the process of being corrected, and there were no services that currently needed attention. On August 28, 2019, the owner also filed documentation showing that the July 1, 2019 rent increase had been rescinded, and that the tenant had been served with a new rent increase notice on or around August 26, 2019 that included an attached RAP Notice.

A hearing on the petitions was held on November 7, 2019. The hearing officer issued a decision in January 2020 finding that the tenant had never been served with a RAP Notice, setting the tenant's monthly base rent at \$950.00, and granting \$25,110.00 in restitution for decreased housing services as follows:

- 25% rent reduction for water leaks starting in October 2016 through the present (ongoing until abated);
- 50% rent reduction for gas shutoff in March 2019;
- 25% rent reduction for damaged kitchen cabinets and walls starting in October 2016 through the present (ongoing until abated);
- 5% rent reduction for inadequately sealed front windows starting in January 2017 through the present (ongoing until abated);
- 10% rent reduction for roach and rodent infestation starting in October 2016 through the present (ongoing until abated).

The hearing officer also found that the tenant was entitled to restitution for overpaid rent in the amount of \$954.31.

The owner filed an appeal on February 10, 2020, on various grounds. On September 10, 2020, the appeal was heard the HRRRB. The Board remanded the case to the hearing officer to recalculate the restitution. Specifically, the Board directed that (1) the restitution for March 2019 not exceed 100% of the rent, (2) the end date of the restitution period is limited to the hearing date, and (3) the hearing officer consider prior decisions of the Board regarding rent reductions for similar housing service reductions so that the decision is consistent with prior decisions.

### **RULING ON THE CASE AFTER REMAND**

The Hearing Officer issued a Remand Decision on August 9, 2021, which (1) revised the restitution award for the period of March 2019, reducing the rent decrease for the gas shutoff from \$465 to \$300, for a total rent decrease amount for that month of \$904.50 (approximately 97% of the \$930 monthly rent) and a total restitution award of \$24,945 and (2) considered prior decisions of the Board regarding on the policy of limiting restitution to three years. The Decision did not consider prior Board decisions

regarding rent reductions for similar decreased housing services. Despite mentioning the Board direction limiting the end of the restitution period to the hearing date, the Decision retained the end dates of the various restitution awards that occurred after the date of November 2019 hearing, including February 28, 2020 (water leaks) and February 29, 2020 (kitchen cabinets and walls, windows, and infestation).

### **GROUNDINGS FOR APPEAL**

The owner timely appealed the Remand Decision on the grounds that (1) the decision is inconsistent with prior decisions of the Board, (2) the decision is inconsistent with decisions issued by other Hearing Officers, (3) the decision raises a new policy issue that has not been decided by the Board, (4) the decision violates federal, state or local law, (5) the decision is not supported by substantial evidence, and (4) denial of sufficient opportunity to respond to petitioner's claim. The owner contends (1) the Remand Decision did not consider the Hearing Decision in T16-0526, *Jeffers v. Pama Management*, which, while ruling on similar decreased housing services, was not appealed to the Board, (2) the original January 2020 Hearing Decision in this case is inconsistent with T16-0526, (3) the tenant already received a rent waiver in 2016 pursuant to a stipulation related to a court filing and should not receive further rent abatement for periods of 2016, (4) the January 2020 Hearing Decision is not supported by substantial evidence, (5) due process is violated by not allowing the owner to introduce new evidence on appeal, (6) the owner's representative at the 2019 hearing knew nothing about the tenancy, (7) the tenant did receive a RAP notice, and (8) the beginning date of the rent reduction period should be March 26, 2019, from the Notice of violation from the City.

### **ISSUES**

1. Did the Remand Decision consider prior decisions of the Board regarding rent reductions for similar housing service reductions so that the decision is consistent with prior decisions, as directed by the Board's Appeal Decision?
2. Did the Remand Decision revise the end date of the restitution award to be no later than the date of the hearing decision, as directed by the Board's Appeal Decision?

### **APPLICABLE LAW AND PAST BOARD DECISIONS**

#### **1. Applicable Law**

- a. O.M.C. 8.22.110, RAP Regulations, HEARING PROCEDURE

## F. Decisions of the Hearing Officer

“3. If a decrease in Rent is granted, the Hearing Officer shall state when the decrease commenced, the nature of the service decrease, the value of the decrease in services, and the amount to which the rent may be increased when the service is restored. When the service is restored, any Rent increase based on the restoration of service may only be taken following a valid change of terms of tenancy notice pursuant to California Civil Code Section 827. A Rent increase for restoration of decreased Housing Services is not considered a Rent Increase for purposes of the limitation on one Rent increase in twelve (12) months pursuant to OMC 8.22.070 a. (One Rent increase Each Twelve Months).”

## 2. Past Board Decisions

### a. Restitution Calculation for Decreased Housing Service

T18-0438, Martinez v. Carino

Board remanded case to recalculate restitution period to end as of the date of the Hearing, rather than the date of the Hearing Decision.

T18-0153, Bush v. Dang

Board reduced restitution for broken window from 10% to 5%.

T13-0093, Mackey v. Ahmetspahic

Board affirmed hearing decision which granted restitution of 4% for rodents and 0.5% for a broken electrical outlet

T13-0001, Baragano v. Discovery Inv.

Board affirmed hearing decision which granted 3% rent reduction for condition of the carpet.

T12-0348, Smith v. Lapham Company

Board affirmed hearing decision which granted 5% rent reduction for a broken kitchen faucet and broken shower door.

T13-0014, Lao v. Leung

Board affirmed hearing decision which granted tenant \$75.00/month for 4 months for loss of use of kitchen because owner removed kitchen to comply with city code enforcement program.

T14-0243, Katz v. Urosevic

Board remanded hearing decision for clarification of standards for decreased housing services that do not include code violations.

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**MEMORANDUM**

**Date:** October 22, 2021  
**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)  
**From:** Oliver Luby, Deputy City Attorney  
**Re:** Appeal Summary in T21-0088, Lerer v. Addleman  
**Appeal Hearing Date:** October 28, 2021

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Property Address: 270 Euclid Avenue, Unit 6, Oakland, CA  
Appellant/Owner: Barbara Addleman  
Respondent/Tenant: Drew Lerer

**BACKGROUND**

On June 1, 2021, tenant Drew Lerer filed a petition contesting a monthly rent increase from \$1,636 to \$1,701, effective June 1, 2021, based on \$65 increase in the existing \$50 fee for parking.

The owner filed a timely response, asserting that current monthly rent is \$1,586 and that there is a separate monthly parking fee of \$50 that was increased by \$65.

**RULING ON THE CASE**

The hearing officer issued an Administrative Decision on August 16, 2021 on the basis that the total consideration for the unit charged by the owner was not in dispute. The Decision granted the tenant's petition, finding that (1) the rent prior to the increase was \$1,618 (\$1,568 + \$50) and (2) the \$65 increase exceeded the applicable CPI Rent Adjustment. The Decision further referenced a notice of rent increase indicated by the owner of \$1,568 to \$1,616.13, effective August 1, 2021, which the Decision opined was defective and invalid.

## **GROUNDNS FOR APPEAL**

On August 24, 2021, the owner timely appealed the hearing officer's decision on the grounds that (1) the decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board, (2) the decision is inconsistent with decisions issued by other Hearing Officers, (3) the decision is not supported by substantial evidence, and (4) denial of sufficient opportunity to respond to petitioner's claim. The owner specifically contends that (1) a decreased housing service can only exist if the service was provided at the inception of the tenancy, based on a 2008 hearing decision<sup>1</sup> that was not appealed to the Rent Board, (2) the parking fee is for a separate agreement that the parties entered into after tenant had been renting the unit for years, and (3) the hearing officer exceeded the scope of the petition by ruling on a rent increase effective for August 1, 2021, that was issued after the petition and not challenged by the tenant.

## **ISSUES**

1. May the owner increase the tenant's parking fee without limitation, or is the parking fee considered part of the tenant's rent?
2. Did the Administrative Decision state the correct amount of current rent prior to the contested increase, based upon undisputed facts as asserted by the petition and response?
3. May a hearing officer's decision on a petition rule on matters outside the scope of the petition?

## **APPLICABLE LAW AND PAST BOARD DECISIONS**

### **Applicable Law**

#### **a. Rent defined**

O.M.C. § 8.22.020- Definitions.

““Housing Services” means all services provided by the owner related to the use or occupancy of a covered unit, including, but not limited to, insurance, repairs, maintenance, painting, utilities, heat, water, elevator service, laundry facilities, janitorial service, refuse removal, furnishings, parking, security service, employee services, and any other benefits or privileges permitted the tenant by agreement, whether express or implied, including the right to have a specific number of occupants and the right to one-for-one replacement of

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<sup>1</sup> T08-0146 et seq, Various tenants v. Kumana.

roommates, regardless of any prohibition against subletting and/or assignment.”

““Rent” means the total consideration charged or received by an owner in exchange for the use or occupancy of a covered unit including all housing services provided to the tenant.”

**b. Rent Increases**

O.M.C. § 8.22.065 (Rent adjustments in general), subsection A.

“Notwithstanding any other provision of this Chapter, owners may increase rents only for increases based on the CPI Rent Adjustment or Banking, or by filing a petition to increase rent in excess of that amount. Any rent increase not based on the CPI Rent Adjustment or Banking that is not first approved by the Rent Adjustment Program is void and unenforceable.”

**c. Hearing Officer Decision Limited to Issues Raised by Petition**

O.M.C. § 8.22.110 (Hearing procedures), subsection A (Hearing Officer).

“A hearing shall be set before a Hearing Officer to decide the issues in the petition.”

RAP Regulation § 8.22.110.F.1.

“The Hearing Officer shall make written findings of fact and issue a written decision on petitions filed.”

**d. Administrative Decisions**

O.M.C. § 8.22.111.F.1.

“Notwithstanding the acceptance of a petition or response by the Rent Adjustment Program, if any of the following conditions exist, a hearing may not be scheduled and a Hearing Officer may issue a decision without a hearing:

- a. The petition or response forms have not been properly completed or submitted;
- b. The petition or response forms have not been filed in a timely manner;
- c. The required prerequisites to filing a petition or response have not been met;

d. A certificate of exemption was previously issued and is not challenged by the tenant; or

e. The petition and response forms raise no genuine dispute as to any material fact, and the petition may be decided as a matter of law.”

### Past Board Decisions

#### **a. Parking Fees Considered Part of Rent**

T01-0376, Millar v. Black Oak Properties

The owner served the tenant with separate rent increases for parking and for the apartment unit. The Board held that the owner was not entitled to the rent increase because he had previously increased the tenant’s rent, and the Rent Ordinance defines a rental unit to include all the housing services provided with the unit. The Appeal Decision noted, “Housing Services are defined to include parking.” The Board opined: “Where the landlord rents a rental unit and a parking space to the tenant, the parking is part of the housing services, even where the parking is separately charged. Under such circumstances, an increase in the separate parking fee is an increase in rent.”

T19-0424, Thornton v. Joyce

The tenant contested a rent increase exceeding CPI which consisted of separate increases for parking and the unit. The Hearing Decision found that the parking is part of the housing services even if billed separately and denied the rent increase on the basis that the owner did not petition for a rent increase in excess of CPI. Board affirmed the Hearing Decision,

#### **b. Hearing Officer Decision Limited to Scope of Petition**

T10-0093, Davis v. Dorntge

Board affirmed hearing decision which did consider problem with utility bill because it was not raised in the petition.

T10-0116, Nunez v. Advent Props.

Board affirmed hearing decision which did not consider decreased housing services, which tenant argued should be awarded because of award to another tenant in a separate petition, because tenant’s petition did not allege decreased housing services.



**c. Calculation Error**

T02-040, Santiago v. Vega

Board affirmed hearing decision with corrections for calculation errors.

T16-0313, Novela v. Lee

Board remanded hearing decision for staff recalculation and correction of clerical error.

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