HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
PANEL SPECIAL MEETING
January 7, 2021
5:00 P.M.
Meeting Will Be Conducted Via Zoom Conference

AGENDA

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

OBSERVE:

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

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

Topic: HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD MEETING

Please click the link below to join the webinar:
https://zoom.us/j/96663325345
Or iPhone one-tap :
US: +16699006833,,96663325345# or +13462487799,,96663325345#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799
Webinar ID: 966 6332 5345
International numbers available: https://zoom.us/u/aes4dTL7IX

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" is available at: https://support.zoom.us/hc/en-us/articles/205566129 - Raise-Hand-In-Webinar.

- 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.

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD PANEL SPECIAL MEETING

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. APPEALS*
   a) T18-0156, Romero v. Kim
   b) T20-0037, Vega et al. v. Wash
   c) T19-0335, Reyes v. Olivolo
5. ADJOURNMENT

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. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or Spanish interpreter, please email sshannon@oaklandca.gov or call (510) 238- 3715 or California relay service at 711 by 5:00 P.M. one day before the meeting.

*Staff appeal summaries will be available at the Rent Program website and the Clerk's office at least 72 hours prior to the meeting pursuant to O.M.C. 2.20.080.C and 2.20.090

Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantones, Mandarín o de lenguaje de señas (ASL) por favor envié un correo electrónico a sshannon@oaklandca.gov o llame al (510) 238-3715 o 711 por lo menos cinco días hábiles antes de la reunión.

需要殘障輔助設施, 手語, 西班牙語,

粵語或國語翻譯服務, 請在會議前五個工作天電郵 sshannon@oaklandca.gov 或致電 (510) 238-3715 或 711 California relay service.

CHRONOLOGICAL CASE REPORT

Case Nos.:	T18-0156
Case Name:	Romero v. Kim
Property Address:	3832 East 12th Street, Oakland CA 94601
Parties:	Hyo & Kate Kim (Property Owner) Francisco Coello, (Manager) JK Marquez, (Representative) Brenda Romero, (Tenant) Jackie Zaneri, (Representative)

OWNER APPEAL:

Activity	Date
Tenant Petition filed	February 21, 2018
Owner Response filed	August 31, 2018
Hearing Decision mailed	December 31, 2018
Owner Appeal filed	January 18, 2019
Appellant Brief	February 4, 2019 Type text here
Tenant Response to Appeal	February 25, 2019

Type text here

T18-0156 MS|EL

CITY OF OAKLAND	**CITY OF OAKLAND** **RENT ADJUSTMENT PROGRAM** P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp. RECEIVED CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 2018 FEB 21 PM 2:12 **TENANT PETITION**

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

Please print legibly

Your Name Brenda Romero	Rental Address (with zip code) 3832 E. 12th St., Oakland, CA 94601	Telephone: [redacted] E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone: Email:
Property Owner(s) name(s) Hyo Kim & Kate Kim	Mailing Address (with zip code)	Telephone: Email:
Property Manager or Management Co. (if applicable) Francisco Coello	Mailing Address (with zip code) 4030 Unit B. International Blvd., Oakland, CA 94601	Telephone: [redacted] Email:

Number of units on the property: 3.

Type of unit you rent (check one)	☐ House	☐ Condominium	☑ Apartment, Room, or Live-Work
Are you current on your rent? (check one)	☑ Yes	☐ 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:**

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

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

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

Date you moved into the Unit: July 2004 Initial Rent: $ 1000 /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 From	To	Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
2·5·18	3·1·18	$ 1200	$ 1330	☑ Yes ☐ No	☐ Yes ☑ No
9·5·15	11·1·15	$ 1050	$ 1200	☑ Yes ☐ No	☐ Yes ☑ No
7-1-04	8·1·04	$ 1000	$ 1050	☑ Yes ☐ No	☐ Yes ☑ No
		$	$	☐ Yes ☐ No	☐ Yes ☐ No
		$	$	☐ Yes ☐ No	☐ Yes ☐ No
		$	$	☐ Yes ☐ No	☐ Yes ☐ No

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

Have you ever filed a petition for this rental unit?

- ☐ Yes
- ☑ No

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

_____

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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

Brenda Romero
Tenant's Signature

2·15·18
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): _____

Tenant Petitioner
Brenda Romero
3832 E. 12th St.
Oakland, CA 94601

Addendum A-Decrease in Services

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
There is no heater in the unit	Since move in (July 2004)	Tenant told verbally to the landlord when moved in 2004. Tenant wrote list for landlord when new landlord came in 2015.	N/A	20%
Malfunctioning stove	Since move in	Tenant told verbally to the landlord when moved in 2004. Tenant wrote list for landlord when new landlord came in 2015.	N/A	20%
Stove fan, but instead a hole where it should be	Since move in	Tenant told verbally to the landlord when moved in 2004. Tenant wrote list for landlord when new landlord came in 2015.	N/A	15%
Refrigerator	August 2015	Tenant wrote list for landlord when new landlord came in 2015.	N/A	20%
No screens on windows (eight windows)	Since move in	Tenant told verbally to the landlord when moved in 2004. Tenant wrote list for landlord when new landlord came in 2015.	N/A	10%
The back door does not close fully and does not lock	December 2015	Tenant wrote list for landlord when new landlord came in 2015.	N/A	10%

Tenant Petitioner
Brenda Romero
3832 E. 12th St.
Oakland, CA 94601

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
There is a rodent problem; mice	October 2017	October 2017 verbally	N/A	15%
Carpets are a health concern, need replacing	Since move in	Tenant told verbally to the landlord when moved in 2004. Tenant wrote list for landlord when new landlord came in 2015.	N/A	20%
The cabinets are damaged, they either do not close properly or have no doors at all	December 2015	Tenant wrote list for landlord when new landlord came in 2015.	N/A	10%
The sink is rotting: it has mold around it and under it.	December 2015	Tenant wrote list for landlord when new landlord came in 2015.	N/A	10%
The unit needs to be painted, the walls are damaged	Since move in	Tenant told verbally to the landlord when moved in 2004. Tenant wrote list for landlord when new landlord came in 2015.	N/A	15%
There are doors in the house with no door knobs/handles, or locks	Since move in	Tenant told verbally to the landlord when moved in 2004. Tenant wrote list for landlord when new landlord came in 2015.	N/A	15%

Tenant Petitioner
Brenda Romero
3832 E. 12th St.
Oakland, CA 94601

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
There are no trash bins for trash pick up	February 2017	February 2017 verbally	N/A	10%
House fan is broken	August 2015	Tenant wrote list for landlord when new landlord came in 2015.	N/A	10%
Power outlets don't work (at least two)	Since move in	Tenant told verbally to the landlord when moved in 2004. Tenant wrote list for landlord when new landlord came in 2015.	N/A	15%p

000011

CALIFORNIA ASSOCIATION OF REALTORS®

NOTICE OF CHANGE IN TERMS OF TENANCY

(C.A.R. Form CTT, Revised 11/11)

To: *Brenda Romero* ("Tenant")
and any other occupant(s) in possession of the premises located at:
(Street Address) *3832 E 12th Street* (Unit/Apartment #) _____
(City) *OAKLAND* (State) *CA* (Zip Code) *94601* ("Premises").

YOUR TENANCY IN THE PREMISES IS CHANGED AS FOLLOWS: Unless otherwise provided, the change shall take effect 30 days from service of this Notice or on *March 1, 2018*, whichever is later.

All other terms and conditions of your tenancy shall remain unchanged.

1. **Rent shall be $** *1,330.00* **per month.**
   (NOTE: Pursuant to California Civil Code § 827, if the change increases the rent to an amount that exceeds any rental payment charged during the last 12 months by more than 10%, then the change shall take effect 60 days from service of this Notice or on _____, whichever is later.)
2. **Security deposit shall be increased by $** _____.
3. **Other:** _____

Landlord *Kate Kim* Date *January 16, 2018*
(Owner or Agent) *Kate Kim*

Tenant acknowledges receipt of this notice of change in terms of tenancy.

Tenant _____ Date _____
Brenda Romero

Tenant _____ Date _____

4. DELIVERY OF NOTICE/PROOF OF SERVICE:

This Notice was served by *Francisco Coello*, on *January 16, 2018* (date)
In the following manner: (if mailed, a copy was mailed at _____ (Location))

A. [X] **Personal service.** A copy of the Notice was personally delivered to the above named Tenant.
B. [ ] **Substituted service.** A copy of the Notice was left with a person of suitable age and discretion at the Tenant's residence or usual place of business and a copy was mailed to the Tenant at the Premises.
C. [ ] **Post and mail.** A copy of the Notice was affixed to a conspicuous place on the Premises and a copy was mailed to the Tenant at the Premises.
D. [ ] **Mail.** This Notice was mailed to Tenant at the Premises.

Francisco Coello 2-1-2018
(Signature of person serving Notice) (Date)

Francisco Coello
(Print Name)

(Keep a copy for your records.)

Published and Distributed by:
REAL ESTATE BUSINESS SERVICES, INC.
a subsidiary of the California Association of REALTORS®
525 South Virgil Avenue, Los Angeles, California 90020

Reviewed by _____ Date _____

EQUAL HOUSING OPPORTUNITY

San Leandro CA 94577 Phone: (510)530-1005 Fax: (510)530-0328 3832 E12th Street
Fraser Michigan 48026 www.zipLogix.com

CALIFORNIA ASSOCIATION OF REALTORS®

TENANT ESTOPPEL CERTIFICATE
(C.A.R. Form TEC, Revised 4/11)

Tenant: Brenda Romero.
Premises: 38 32 East 12th, Oakland, CA 94601

To whom it may concern: The undersigned is the Tenant of the above premises and makes the following representations:

1. **LEASE TERMS:**
   A. (☐ if checked) A copy of the Lease is attached hereto.
   B. Date of the Lease: 07-01-2004
   C. Name of the current Landlord: Rafael Cornejo
   D. Name of the current Tenant: Brenda Romero
   E. Current monthly base rent: $ 1,050 , paid through: 1-5 of month
   F. Security deposit: $ 1,000 Other deposits: $
   G. Expiration date of current term: None
   H. Number and Location of Parking Spaces: 1
   I. Number and Location of Storage Spaces: None
   J. Who pays utilities services: **Water:** ☐ Landlord ☒ Tenant; **Electric:** ☐ Landlord ☒ Tenant; **Gas:** ☐ Landlord ☒ Tenant; **Waste Disposal:** ☒ Landlord ☐ Tenant; **Gardener:** ☐ Landlord ☐ Tenant; **Sewer:** ☐ Landlord ☐ Tenant; **Other:** ☐ Landlord ☐ Tenant; **Other:** ☐ Landlord ☐ Tenant.
   K. Who owns appliances: **Stove:** ☐ Landlord ☒ Tenant; **Refrigerator:** ☒ Landlord ☐ Tenant; **Washer/Dryer:** ☐ Landlord ☒ Tenant; **Microwave:** ☐ Landlord ☒ Tenant; **Other:** ☐ Landlord ☐ Tenant.
2. The Tenant represents that the original Lease remains in full force and effect and constitutes the entire agreement between Tenant and Landlord, except for the following modifications, amendments, addendums, assignments, extensions, and/or preferential rights or options to purchase/lease:

   There are no verbal or written agreements or understandings between Landlord and Tenant with respect to the Premises, except as set forth above.
3. Tenant is the actual occupant and is in possession of the Leased Premises. Tenant has not assigned, transferred or hypothecated its interest under the Lease. Any construction, build-out, improvements, alterations, or additions to the Premises required under the Lease have been fully completed in accordance with the plans and specifications described in the Lease.
4. All obligations of Landlord under the Lease have been fully performed and Landlord is not in default under any term of the Lease. Tenant has no defenses, off-sets or counterclaims to the payment of rent or other amounts due from Tenant to Landlord under the Lease.
5. Tenant has not been given any free rent, partial rent, rebates, rent abatements, or rent concessions of any kind, except as follows: None
6. Tenant has not filed and is not the subject of any filing for bankruptcy or reorganization under federal bankruptcy laws or similar state laws.
7. Tenant represents that Tenant: (a) is not in default of the performance of any obligations under the Lease; (b) has not committed any breach of the Lease; and (c) has not received any notice of default under the Lease, which has not been cured.
8. The correct address for notices to Tenant is the Premises above unless otherwise specified in writing.
9. The person signing below represents that he/she is duly authorized by Tenant to execute this Statement in Tenant's behalf.
10. Tenant understands that: (a) a lender may make a loan secured in whole or part by the Premises, and that if Lender does so, Lender's action will be in material reliance on this Estoppel Certificate; and/or (b) a buyer may acquire the Premises or the building in which the Premises is located, and if buyer completes the purchase, buyer will do so in material reliance on this Estoppel Certificate.

Date: 7/20/15 Brenda Romero.
Tenant

Tenant

By Title

Receipt Acknowledged
Date: 7-29-2014

Landlord or Manager
By Title

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REAL ESTATE BUSINESS SERVICES, INC.
a subsidiary of the California Association of REALTORS®
525 South Virgil Avenue, Los Angeles, California 90020

Reviewed by Date

EQUAL HOUSING OPPORTUNITY

8/18/2015

August 18, 2015

To Tenant in Possession:

The owner has informed us that he has no deposit on file for you.

Please review the attached, sign and return to me.

If you have any questions, please call me at 510-336-9200.

We will pick up on Wednesday, **August 19, 2015 at 5PM.**

Thank you.

Varnell Owens
Real Estate Broker
00631087

Hyo Kim and Kate Kim
4030B International BLVD
Oakland, CA 94601

A todos los inquilinos,

Esta carta es para informarles que desde el día de ayer Agosto, 24 2015 la vivienda donde usted reside pasó a ser nuestra propiedad.

El pago tiene que ser entregado para el dia 5 de Septiembre del 2015 en la siguiente direccion 4030B International Blvd (Plaza del Sol) suite B nuestro encargado el Sr. Francisco Coello puede ser contactado al número 510 301-0518 la oficina para ser su pago esta abierta de lunes a Sabado de 10Am a 5Pm los domingos por cita usted es responsable de entregar su pago a tiempo si su pago es recibido el 6 el cobro es del 10% de su renta, sera agregado a su cuenta no se acepta efectivo solo Money orders , cheques personales o Cashier checks por favor hacer su pago a nombre de Kate Kim o Hyo Kim .

Pronto estaremos firmando contratos con todos los residentes el deposito sera requerido en el momento que firme el contrato.

Atentamente

Hyo and Kate Kim

CITY OF OAKLAND	**CITY OF OAKLAND** **RENT ADJUSTMENT PROGRAM** P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp. RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM 2018 AUG 31 PM 2:03 **PROPERTY OWNER RESPONSE**

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

CASE NUMBER T 18- 0156

Your Name	Complete Address (with zip code)	Telephone:
Hyo Kim	12 Stonegate Ct Alamo CA 94507	[redacted] Email: [redacted]
Your Representative's Name (if any)	**Complete Address (with zip code)**	**Telephone:**
Francisco Coello	4030 International Blvd #13 Oakland CA 94601	[redacted] Email: [redacted]
Tenant(s) Name(s)	**Complete Address (with zip code)**	
Brenda Romero	3832 E. 12th St. Oakland, CA 94601	
Property Address (If the property has more than one address, list all addresses)		**Total number of units on property**
3832 E. 12th St. Oakland CA 94601 | 1209 39th Ave Oakland CA 94601		3

Have you paid for your Oakland Business License? Yes ☒ No ☐ Lic. Number: 6020555 2
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: 33-2457-9-2
The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: 8/24/2015

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

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

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

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

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

Date of Contested Increase	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Debt Service	Fair Return
9-5-15	☒	☐	☐	☐	☐	☐
2-5-18	☒	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐	☐

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

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

The tenant moved into the rental unit on 7-1-2004.

The tenant's initial rent including all services provided was: $ 1000 / 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.

Date Notice Given (mo./day/year)	Date Increase Effective	Rent Increased From	Rent Increased To	Did you provide the "RAP NOTICE" with the notice of rent increase?
9-5-15	11-5-15	$ 1050	$ 1300	☐ Yes ☒ No
2-5-18	3-5-18	$ 1300	$ 1330	☐ Yes ☒ No
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ No

Please See the attached.

III. EXEMPTION

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

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

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

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

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

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

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

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

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

IV. DECREASED HOUSING SERVICES

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

V. VERIFICATION

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

Property Owner's Signature _____ **Date** 8-29-2017

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

Rev. 3/28/17

OAKLAND RENT BOARD

YEAR	RENT	CPI
2004	1050.00	
2005	1069.95	1.9
2006	1105.26	3.3
2007	1141.73	3.3
2008	1178.27	3.2
2009	1186.52	0.7
2010	1218.55	2.7
2011	1242.92	2
2012	1280.21	3
2013	1307.09	2.1
2014	1331.93	1.9
2015	1354.57	1.7
2016	1381.66	2
2017	1413.44	2.3
2018	1461.50	3.4
2019		
2020		

The banking rule allows the rent of $1,354
However, the tenant agreed to pay only $1,300/mo
on a new signed lease.
In actuality, the tenant has been paying only $1,200/mo.

M

IMPORTANT INFORMATION:

Time to File

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

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

File Review

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

Mediation Program

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

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

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

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

_____ _____

Property Owner's Signature Date

CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA, SUITE 5313, OAKLAND, CA 94612

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER:	**T18-0156, Romero v. Kim**
PROPERTY ADDRESS:	**3832 East 12th Street, Oakland, CA**
DATE OF HEARING:	**September 25, 2018**
DATE OF DECISION:	**November 25, 2018**
APPEARANCES:	**Brenda Romero, Tenant** **Rosalba Romero, Tenant** **Paul Huertas, Interpreter** **Jak Marquez, Attorney for Owner** **Francisco Coello, Witness**

SUMMARY OF DECISION

The Tenant's petition is granted.

INTRODUCTION

The tenant filed the petition on February 21, 2018, which contests the rent increases from 2015 to the present, on the following grounds:

- Rent Increase Exceeds CPI[1] or more than 10%;

[1] Consumer Price Index

- No Pre-Approval of Increase;
- No Concurrent RAP Notice;
- No RAP Notice at Inception or 6 Months Prior;
- Rent Increase Violates State Law; and
- Decreased Housing Services.

The owner's response was due on June 6, 2018. An untimely response was filed by the owner on August 6, 2018.

ISSUE(S) PRESENTED

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

2. Has the tenant suffered decreased housing services?

3. If so, what, if any, restitution is owed to the tenant and how does that impact the rent?

4. Is there a code violation?

EVIDENCE

Rental History

The tenant moved into the subject unit in July 2004, after a verbal agreement for a monthly rent of $1000.00. The tenant testified that she had use of the parking garage when she moved in. The tenant testified that she did not receive a copy of the RAP Notice at the inception of her tenancy. The tenant testified that subsequently, her rent increased to $1050.00, but she was not sure when. The tenant testified that she was not given a copy of the RAP Notice with the increase to $1050.00. After that, the tenant received a notice of rent increase to $1330.00, per month. The manager also told her that there would be an additional cash charge of $150.00 for the garage. The tenant further testified that she did not receive a copy of the RAP Notice concurrent with the rent increase.

The tenant provided rent receipts showing payments of her rent in the amount of $1050.00, in October 2015 and $1200.00 in November 2015.[2] The tenant testified that she contacted the owner and told them that she was unable to pay the increased amount for rent and parking.[3] The owner agreed to accept $1200.00 for her rent but took away her parking.

The tenant provided a copy of the Tenant Estoppel Certificate that she signed.[4] The tenant testified that she does not read in English and that the Estoppel Certificate was completed by, Sonia who works for her owner. The tenant also testified that Sonia read the form to her in Spanish. The form also indicated that she had parking.

The tenant provided a letter that was written by her to the new owner. At the hearing, the letter was translated. The letter, dated March 5, 2018, indicates that the tenant is unable to pay the additional increase of $130.00.

Decreased Housing Services

The tenant stated that she requested an inspection by the City of Oakland, Planning and Building Department.[5] The tenant's unit was inspected on March 9, 2018. The tenant testified that the inspector told her he would come back on April 16, 2018. The inspector returned on April 16, 2018, and indicated that everything had not been done and that he would schedule another inspection on May 16, 2018. On May 16, 2018, the inspector took pictures and left. He did not indicate at that time that he would need to return.

The Notice of Violation was issued March 12, 2018. The owner's handyman testified that several issues were repaired. He further testified that the city inspector came back an inspected after repairs were made. Public record documents indicate that the Notice of Violation was noted to be abated, effective October 9, 2018.[6]

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[2] Exhibit A. This Exhibit, and all other Exhibits to which reference is made in this Decision, were admitted into evidence without objection.
[3] Exhibit B. The tenant provided a letter that was written by her, in Spanish, to the new landlord. At the hearing the letter was translated. The letter indicates that the tenant is unable to pay the additional increase of 130.00. The letter is dated March 5, 2018
[4] Exhibit #. This Exhibit, and all other Exhibits to which reference is made in this Decision, were admitted into evidence without objection.
[5] Exhibit D.
[6] Exhibit F.

Heater

The tenant testified that there was no working heater when she moved into the unit. She reported this issue to the owner at the inception of her tenancy. The tenant wrote a list of things wrong with her unit in 2015. The heater was included on that list. The tenant testified that a new heater was installed a month ago, but that she heater was repaired but that she has not tested it, so she is unable to confirm that it works.

Stove

The tenant reported to the owner that the stove was leaking gas in 2004 and 2015. When she reported the stove malfunction to the owner, the tenant indicated that she was told that according to the new law the owner does not have to provide stove. A new stove was installed about 4 to 5 weeks prior to the hearing.

Kitchen exhaust fan

The tenant reported that the exhaust fan was not working to the owner in 2015. The exhaust fan was replaced 4 to 5 weeks before the hearing as well.

Refrigerator

The refrigerator was not staying cold, and the food was spoiling. The refrigerator stopped working in 2015, and the tenant reported it to the owner at that time. The refrigerator has not been repaired or replaced.

Window Screens

The tenant testified that there are 8 windows without screens. There were screens when she moved in, but they have fallen. The tenant testified that the screens have been missing for about 12 years. The screens were replaced.

Back Door

The tenant notified the owner that the back door was not locking in 2015. The owner has not repaired or replaced the back door.

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Mice

The tenant notified the owner in 2017 about the rodent problem. The owner took no steps to resolve the issue. The tenant fixed the problem herself. She bought rat poison, and there has not been a problem since approximately March 2018.

Carpets

The tenant reported that the carpet was a health concern and needed to be replaced. The tenant told the owner in 2004 and 2015. The carpet is torn, not properly fixed and presents a tripping hazard. The carpet was replaced approximately 12 weeks before the hearing, in June.

Cabinets

The tenant reported that the cabinets were damaged and do not close properly. She reported this to the owner in December 2015. The cabinets have not been repaired or replaced.

Kitchen Sink

The tenant reported that the sink is rotting and has mold around it and under it. This was reported to the owner in December 2015. The owner repaired the sink approximately 4 to 5 weeks before the Hearing.

Walls

The tenant reported that the unit needs to be painted because the walls are damaged. The tenant reported that has been that way since she moved in. She reported that to the owner in 2001 and 2015. There have been no repairs done to the walls.

Doorknobs

The tenant reported that there are doors in the house with no door knobs, handles or locks. The tenant reported this to the owner in 2004 and 2015. There have been no doorknobs repaired or replaced.

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Trash Bins

The tenant reported that there are no trash bins for trash pickup. The bins have been missing since February 2017. The tenant reported the missing trash bins to the owner in February 2017. The tenant reported that 4 months before the hearing, in approximately May 2018, they received new trash bins.

House fan

The tenant testified that the house fan broke in August 2015 and she reported it at that time to the owner. The fan also had lights. The tenant testified that the fan was replaced but that the replacement is only a light but no fan. The light was installed approximately 4 to 5 weeks ago.

Power outlets

The tenant testified that there were at least two outlets that do not work and that she reported that to the owner when she moved in. The tenant also reported that to the owner in 2015. The power outlets have not been completely repaired as two still do not work.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Is there good cause for the Owner's failure to timely respond to the petition?

The Rent Adjustment Ordinance requires an owner to file a response to a tenant petition within 35 days after service of a notice by the Rent Adjustment Program (RA) that a tenant petition was filed.[7] "If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . ."[8]

The owner did not timely respond to the tenant's petition because the tenant's petition lacked the owner's correct address. Therefore, there is good cause for the owner's failure to file a response timely to the petition. Therefore, the owner's participation at the Hearing was not limited to cross-examination and summation.[9]

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[7] O.M.C. § 8.22.090(B)
[8] O.M.C. §8.22.070(C)(2)
[9] Board Decision in Santiago v. Vega, HRRBT02-0404

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[10] and together with any notice of rent increase or change in the terms of a tenancy.[11]

The tenant's testimony that she was not given a copy of the RAP Notice when she agreed to rent the unit is undisputed. Moreover, in correspondence dated August 4, 2018, attached to the owner's response, they admitted that they did not provide the tenant with a copy of the RAP Notice. Accordingly, the tenant was not given written notice of the RAP Program at the inception of her tenancy, or with any subsequent rent increase.

What is the allowable rent?

The Rent Adjustment Ordinance requires an owner to serve a RAP Notice at the start of a tenancy[12] <u>and</u> together with any notice of rent increase or change in any term of the tenancy.[13] 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.[14]

There is no evidence that the tenant was served with a RAP Notice at the inception of her tenancy or with any rent increase. Accordingly, the rent increases are found to be invalid, and the tenant's monthly rent is $1,000.00

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[15] and may be corrected by a rent adjustment.[16] 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

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[10] O.M.C. § 8.22.060(A)
[11] O.M.C. § 8.22.070(H)(1)(A)
[12] O.M.C. Section 8.22.060(A)
[13] O.M.C. Section 8.22.070(H)(1)(A)
[14] O.M.C. Section 8.22.060(C)
[15] O.M.C. § 8.22.070(F)
[16] O.M.C. § 8.22.110(E)

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

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

If the decreased housing service is for a condition that is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed.[17] 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.[18] Since the evidence established that the tenant did not receive the RAP notice, the tenant is entitled to restitution for up to three years before the petition is filed, or from February 2015.

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

Parking

The testimony is undisputed that at the inception of her tenancy the tenant had use of a garage. The tenant's use of the garage was restricted when she was unable to pay the invalid rent increase. Accordingly, the tenant is entitled to a 10% rent credit from the November 2015 until the use of the garage is returned to her.

Heater

The testimony is undisputed that the heater in the unit did not work. Moreover, the lack of heat is violation of the housing or building code which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 10% rent credit from February 1, 2015, until the violation was abated in October 2018.

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[17] O.M.C. § 8.22.090(A)(3)
[18] Appeal Decision in Case No. T06-0051, Barajas/Avalos v. Chu

Stove

The testimony is undisputed that the stove needed repair. Moreover, the stove is 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 February 1, 2015, until the violation was abated in October 2018.

Kitchen exhaust fan

The testimony is undisputed that the exhaust fan needed repair. Moreover, the kitchen exhaust fan is violation of the housing or building code which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 1% rent credit from February 1, 2015, until the violation was abated in October 2018

Refrigerator

The testimony is undisputed that the refrigerator needs to be replaced. Moreover, the stove is 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 February 1, 2015, until the refrigerator is repaired and/or replaced.

Window Screens

The testimony is undisputed that the window screens need to be replaced. Moreover, the carpet was noted in the Notice of Violation issued for the tenant's unit. Thus, the tenant is entitled to a 1% rent credit from February 1, 2015, until the violation was abated in October 2018

Back Door

The testimony is undisputed that the back door needs to be repaired or replaced. Moreover, a non-functioning door is a violation of the housing or building code which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 1% rent credit from February 1, 2015, until the door is repaired and/or replaced.

Mice

There is no disputed that a rodent infestation is 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 October 2017 until March 2018 when she resolved the infestation.

Carpets

The testimony is undisputed that the tenant reported the problem with the carpet and that the owner had more than a reasonable opportunity to repair and/or replaced the carpet and failed to do so. Moreover, the carpet was noted in the Notice of Violation issued for the tenant's unit. Thus, the tenant is entitled to a 1% rent credit from February 1, 2015, until the violated was abated in October 2018.

Cabinets

The testimony is undisputed that the cabinet doors need to be repaired and/or replaced. Moreover, the stove is 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 December 1, 2015, until the refrigerator is repaired and/or replaced.

Kitchen Sink

The testimony is undisputed that the sink need to be repaired and/or replaced. Moreover, the stove is violation of the housing or building code which affects the habitability of the tenant's unit. Thus, the tenant is entitled to a 1% rent credit from February 1, 2015, until the violated was abated in October 2018.

Walls

The testimony is undisputed that the walls need to be repaired and/or replaced. Moreover, the owner has had notice of the problem and more than a reasonable opportunity to make needed repairs. Thus, the tenant is entitled to a 1% rent credit from February 1, 2015, until the walls are repaired and/or replaced.

Doorknobs

The testimony is undisputed that the doorknobs, handles, and locks need to be repaired and/or replaced. Moreover, the owner had notice of the problem and more than a reasonable opportunity to make needed repairs. Thus, the tenant is entitled to a 1% rent credit from February 1, 2015, until the walls are repaired and/or replaced.

Trash Bins

The owner had notice of the problem and more than a reasonable opportunity to make needed repairs. Thus, the tenant is entitled to a 1% rent credit from February 1, 2017, until the trash cans were replaced in May 2018.

House fan

The testimony is undisputed that the fan needed to be repaired and/or replaced. Moreover, the owner had notice of the problem and more than a reasonable opportunity to make needed repairs. Thus, the tenant is entitled to a 1% rent credit from August 1, 2015, until the violated was abated in October 2018.

Power outlets

The testimony is undisputed that the power outlets need to be repaired and/or replaced. Moreover, the owner had notice of the problem and more than a reasonable opportunity to make needed repairs. Thus, the tenant is entitled to a 1% rent credit from February 1, 2015, until the outlets are repaired and/or replaced.

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 $1000.00 per month. In 2015, the tenant paid $1,050.00 per month until November 2015 when she began paying $1200.00 per month. She is currently paying that amount.

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VALUE OF LOST SERVICES							
Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Parking	1-Nov-15	31-Dec-18	$1,000	10%	$ 100.00	38	$ 3,800.00
Heater	1-Feb-15	31-Oct-18	$1,000	10%	$ 100.00	45	$ 4,500.00
Stove	1-Feb-15	31-Oct-18	$1,000	5%	$ 50.00	45	$ 2,250.00
Kitchen fan	1-Feb-15	31-Oct-18	$1,000	1%	$ 10.00	45	$ 450.00
Refrigerator	1-Feb-15	31-Dec-18	$1,000	5%	$ 50.00	47	$ 2,350.00
Window screens	1-Feb-15	31-Oct-18	$1,000	1%	$ 10.00	45	$ 450.00
Back door	1-Feb-15	31-Dec-18	$1,000	1%	$ 10.00	47	$ 470.00
Mice	1-Oct-17	31-Mar-18	$1,000	5%	$ 50.00	6	$ 300.00
Carpets	1-Feb-15	31-Oct-18	$1,000	1%	$ 10.00	45	$ 450.00
Cabinets	1-Dec-15	31-Dec-18	$1,000	1%	$ 10.00	37	$ 370.00
Kitchen sink	1-Feb-15	31-Oct-18	$1,000	1%	$ 10.00	45	$ 450.00
Walls	1-Feb-15	31-Dec-18	$1,000	1%	$ 10.00	47	$ 470.00
Door knobs	1-Feb-15	31-Dec-18	$1,000	1%	$ 10.00	47	$ 470.00
Trash bins	1-Feb-17	31-May-18	$1,000	1%	$ 10.00	16	$ 160.00
House fan	1-Feb-15	31-Oct-18	$1,000	1%	$ 10.00	45	$ 450.00
Power outlets	1-Feb-15	31-Dec-18	$1,000	5%	$ 50.00	47	$ 2,350.00
						TOTAL LOST SERVICES	**$ 19,740.00**

OVERPAID RENT						
From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Feb-15	31-Oct-15	$1,050	$1,000	$ 50.00	9	$ 450.00
1-Nov-15	31-Dec-18	$1,200	$1,000	$ 200.00	38	$ 7,600.00
					TOTAL OVERPAID RENT	**$ 8,050.00**

RESTITUTION			
		MONTHLY RENT	$1,000
		TOTAL TO BE REPAID TO TENANT	$ 27,790.00
		TOTAL AS PERCENT OF MONTHLY RENT	2779%
AMORTIZED OVER	60	MO. BY REG. IS	**$ 463.17**
OR OVER		MONTHS BY HRG. OFFICER IS	**TRUE**

The chart above indicates restitution for decreased housing services valued at $19,740.00. The tenant is also entitled to restitution of overpaid rent, going back three years from the date of the petition, in the amount of $8,050.00.

Restitution is usually awarded over a 12-month period, but when the tenant is owed 2781% of the monthly rent, it is proper to extend the restitution period to 60 months.[19] Amortized over 60 months, the restitution amount is $463.17 per month.

Therefore, the tenant's monthly restitution amount is subtracted from the current legal rent of $1,000.00 for a total of $536.83. From January 2019 through December 2023, the rent will be $536.83, less the deduction for ongoing decreased housing services.

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[19] Regulations, §8.22.110(F).

ORDER

1. Petition T18-0156 is granted.

2. The base rent for the subject unit is $1000.00 per month before deductions for decreased housing services.

3. The total overpayment by the tenant is $19,740.00 for past decreased housing services and $8,050.00 for overpaid rent, for a total overpayment of $27,810.00.

4. Due to ongoing conditions, the tenant is entitled to a 24% rent decrease.

5. The tenant's rent is stated below as follows:

Base rent	$1,000.00
Less restitution	$ 463.17
Less ongoing decreased services	$ 240.00
Net Rent on September 1, 2018	$ 296.83

6. The tenant's rent for the months of January 2019, through December 2023, is $296.83. The rent will revert to the current legal rent of $1,000.00, in January 2024.

7. Once the parking is returned, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 10% ($100.00).

8. Once the refrigerator is repaired and/or replaced, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 5% ($50.00).

9. Once the back door is repaired and/or replaced, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 1% ($10.00).

10. Once the cabinets are repaired and/or replaced, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 1% ($10.00).

11. Once the walls are repaired and/or replaced, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 1% ($10.00).

12. Once the door knobs are repaired and/or replaced, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 1% ($10.00).

13. Once the power outlets are repaired and/or replaced, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 5% ($50.00).

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

Dated: November 26, 2018

Élan Consuella Lambert
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number T18-0156

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

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

Documents Included
Hearing Decision

Owner
Hyo & Kate Kim
4030 International Blvd #B
Oakland, CA 94601

Manager
Francisco Coello
4030 International Blvd #B
Oakland, CA 94601

Owner Representative
JK Marquez
Dowling & Marquez, LLP
625 Market Street, 4th Floor
San Francisco, CA 94105

Tenant
Brenda Romero
3832 East 12th Street
Oakland, CA 94601

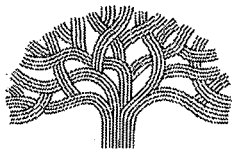
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first 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 31, 2018** in Oakland, CA.

Claudette M. Campos
Oakland Rent Adjustment Program

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2019 JAN 18 PM 3:56



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 Hyo Kim and Kate Kim	☒ **Owner** ☐ **Tenant**
Property Address (Include Unit Number) 3832 East 12th Street, Oakland CA 94601	
Appellant's Mailing Address (For receipt of notices) C/O Jak Marquez, Esq. Dowling & Marquez, LLP 625 Market St, 4th Floor, San Francisco CA 94105	**Case Number** T18-0156 **Date of Decision appealed** 11/26/2018, decision mailed 12/31/2018
Name of Representative (if any) Jak Marquez, attorney for Appellants Dowling & Marquez, LLP	**Representative's Mailing Address (For notices)** 625 Market Street, 4th Floor San Francisco CA 94105

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

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

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

a) ☐ **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.).*

b) ☐ **The decision is inconsistent with decisions issued by other Hearing Officers.** *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*

c) ☐ **The decision raises a new policy issue that has not been decided by the Board.** *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.).*

d) ☒ **The decision violates federal, state or local law.** *(In your explanation, you must provide a detailed statement as to what law is violated.)*

e) ☒ **The decision is not supported by substantial evidence.** *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

Rev. 6/18/2018

f) ☐ **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** (*In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.*)

g) ☐ **The decision denies the Owner a fair return on my investment.** (*You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.*)

h) ☐ **Other.** (*In your explanation, you must attach a detailed explanation of your grounds for appeal.*)

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

• **You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed.** •
I declare under penalty of perjury under the laws of the State of California that on January 18, 2019, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Brenda Romero
Address	3832 East 12th Street, Oakland CA 94601
City, State Zip	
Name	
Address	
City, State Zip	

	January 18, 2019
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	**DATE**

For more information phone (510) 238-3721.

Rev. 6/18/2018

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San Francisco, California 94105
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Attorneys for Appellants
HYO KIM, KATE KIM

CITY OF OAKLAND

HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT

RENT ADJUSTMENT PROGRAM

In re: 3832 East 12th Street, Oakland CA Brenda Romero, petitioner, v. Hyo Kim, Kate Kim, respondents.	Case No.: T18-0156 **APPELLANTS' APPEAL BRIEF and SUPPORTING DOCUMENTS**

Owners and Appellants Hyo Kim and Kate Kim ("Appellants") submit the following legal brief and supporting documentation in support of their appeal of the Hearing Officer's Decision ("Decision") in the above referenced matter, regarding the rental unit located at 3832 12th Street, Oakland, California ("subject premises").

Appellants appeal on two specific grounds: (1) the decision violates federal, state or local law and (2) the decision is not supported by substantial evidence. The appeal relates to both a finding of an illegal rent increase imposed by Appellants arising from the parties' execution of a

new written rental agreement in October 2015 as well a finding of a decrease in housing services for the alleged loss of use of the garage at the property.

1. **The parties' execution of a new written rental agreement in October 2015 constituted a novation of the prior oral rental agreement, establishing a new base rent, which was within the maximum allowable increase based upon the 2005 initial base rent.**

The Decision indicates that the Appellants improperly imposed several rent increases, including an increase to $1,300.00 in October 2015 and a second increase to $1,330.00, in 2018, without compliance with O.M.C. §8.22.060(A) (RAP notice required at the start of tenancy) and O.M.C. §8.22.070(H)(1)(A) (RAP notice required with any notice of rent increase or change in terms of tenancy).

The testimony of the tenant petitioner is that her initial base rent was $1,000.00 at the time of her move into the subject premises (Hearing audio recording, at 9:32), it was increased by Appellants' predecessor in interest at some unknown time prior to Appellants' purchase (Hearing audio recording, at 1:23:30) and then was increased to $1,300.00 by Appellants at the time of execution of the 2015 written lease agreement (Hearing audio recording, 1:24:00). The tenant petitioner testified that she has been paying $1,200.00/month from 2015 to the present time. (Hearing audio recording, 1:25:45), with the consent of Appellants (Hearing audio recording, at 1:30:30).

However, as testified to by the parties, and acknowledged by the tenant petitioner (Hearing transcript 1:24:00), the parties entered into a new written rental agreement as of October 2015, thereby establishing a new base rent at $1,300.00/month, which itself was within the annual allowable increases based on the prior base rent of $1,000.00/month established at the start of the tenancy on July 1, 2005 (See Month to Month Rental Agreement, attached hereto as Exhibit 1).

The execution of a new written rental agreement, between the tenant petition and Appellants, constituted a novation. "Novation is made by contract, and is subject to all the rules

GARAGE / PARKING HOUSING SERVICE

Regarding the claim of loss of use of parking, the decision found: "The testimony is undisputed that at the inception of her tenancy the tenant had use of a garage." (Decision, page 8). This finding in contrary to both state law regarding the conclusive presumption of tenant estoppel certificates and contrary to the testimony both of petitioner and the Appellants' property manager that petitioner continues to have use of a parking space at the property containing the subject premises.

Petitioner's Exhibit B, admitted into evidence at the hearing, included a tenant estoppel certificate, signed by the petitioner at the time of Appellants' purchase of the property containing the subject premises. (Hearing audio recording, at 31:00 and at 1:42:00). The tenant estoppel is attached hereto as Exhibit 2. Set forth in the tenant estoppel is the tenant's acknowledgment that she has parking at the property. In fact, upon cross-examination at the hearing, the tenant stated that she continues to park at the property in one of three parking spaces and she has been parking in that area since she first moved into the property. (Hearing audio recording, at 1:43:30).

The tenant estoppel does not state that she has use or possession of any garage at the property and also indicates that she does not have dedicated storage. The tenant is bound by the statements set forth in the tenant estoppel.

> The facts recited in a written instrument are conclusively presumed to be true as between the parties thereto, or their successors in interest; but this rule does not apply to the recital of a consideration.

Cal. Evidence Code § 622

> "An 'estoppel certificate' (or 'offset statement') is a signed certification of various matters with respect to a lease [citation]. An estoppel certificate binds the signatory to the statements made and estops that party from claiming to the contrary at a later time." (Greenwald & Asimow, Cal. Practice Guide: Real Property Transactions (The Rutter Group 1998) § 7.292, p. 7–73.) Black's Law Dictionary defines "estoppel certificate" as "[a] signed statement by a party, such as a tenant or a mortgagee, certifying for the benefit of another party that a certain statement of facts is correct as of the date of the statement, such as that a lease exists, that there are no defaults and that rent is paid to a certain date.

GARAGE / PARKING HOUSING SERVICE

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Delivery of the statement by the tenant prevents (estops) the tenant from later claiming a different state of facts." (Black's Law Dict. (6th ed.1990) p. 551, col. 2.) By definition, an estoppel certificate is exactly the type of document to which application of section 622 would be appropriate.[9]

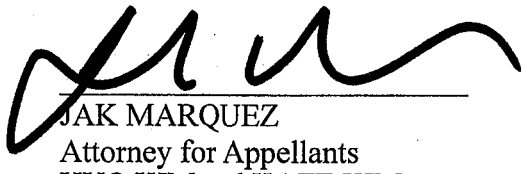
Plaza Freeway Ltd. P'ship v. First Mountain Bank, 81 Cal. App. 4th 616, 626, 96 Cal. Rptr. 2d 865, 872 (2000)

Having signed a tenant estoppel subject to California Evidence Code section 622, the tenant petitioner is bound by the statements in the estoppel. As the estoppel is silent as to her right to use any garage at the property, she cannot now counter the representations in the estoppel. Further, upon cross examination, she testified that she has parking at the property and has been parking in the same location since she moved into the subject premises.

The finding of a decrease is housing service for the alleged loss of use of the garage is in error. The hearing officer found the value of the alleged loss of use to be worth a monthly decrease of $100.00 from November 2015 through December 2018 and ongoing until restored. This finding should be reversed.

Date: February 4, 2019

DOWLING & MARQUEZ, LLP



JAK MARQUEZ
Attorney for Appellants
HYO KIM and KATE KIM

EXHIBIT 1

RESIDENTIAL LEASE OR MONTH-TO-MONTH RENTAL AGREEMENT

(C.A.R. Form LR, Revised 12/13)

CALIFORNIA ASSOCIATION OF REALTORS®

Date: 10/02/2015 Hwa Kim, Kate Kim ("Landlord") and Brandy Rogers ("Tenant") agree as follows:

1. **PROPERTY:**
   A. Landlord rents to Tenant and Tenant rents from Landlord the real property and improvements described as: 3442 E 10th Street, Oakland, CA 94601 ("Premises").
   B. The Premises is to be used as a personal residence by the Tenant(s) named in this Lease only. Brandy Rogers
   C. The Owner's personal property, maintained pursuant to paragraph 11 is included: ☐ yes or ☐ no (if checked, the personal property is the subject of a separate addendum).
   D. The Premises is: ☐ is subject to a government housing ordinance; ☐ is not subject to a government housing ordinance. (Contact Tenant Board, Check A or B)
2. **TERM:** The term begins on (date): September 1, 2015 ("Commencement Date"). Check A or B:
   ☐ A. Month-to-Month: and continues as a month-to-month tenancy. Tenant may terminate his tenancy by giving written notice at least 30 days prior to the intended termination date. Landlord may terminate the tenancy by giving written notice of at least 30 days prior to the intended termination date. Tenant may terminate the tenancy by giving written notice of at least 30 days prior to the intended termination date.
   ☐ B. Lease: and shall terminate on (date): _____ at _____ ("Termination Date"). If Landlord and Tenant have entered into a separate agreement for Tenant to vacate the Premises prior to the Termination Date of this Agreement ("Early Termination"), Tenant shall be liable for rent and other charges for the period of time Tenant occupies the Premises after the Early Termination Date, in accordance with the terms of that separate agreement. If Landlord accepts rent from Tenant after the Termination Date, or any extension thereof, or any Early Termination, a month-to-month tenancy shall be created which either party may terminate as specified in paragraph 2A. Rent shall be at a rate agreed to by Landlord and Tenant, or as allowed by law. All other terms and conditions of this Agreement shall remain in full force and effect.
3. **RENT:** Rent and method of monthly payment or other consideration under the terms of the Agreement except security deposit:
   A. Tenant agrees to pay $ 2,300.00 per month for the term of the Agreement.
   B. Rent is payable to Owner or Owner's Agent at: _____ ( ) day of each calendar month and is delinquent on the next day.
   C. ☐ Late Charge: Date falls on a day other than a business day. Rent is payable under paragraph 3B, and Tenant has not cured the 3 days's notice in writing or attempted to cure. Rent for the second calendar month shall be prorated and Tenant shall pay 1/30th of the monthly rent per day for each day remaining in the second month.
   D. PAYMENT: Rent shall be paid by: ☐ cash ☐ check ☐ money order ☐ cashier's check or ☐ other: _____ to (name): Hwa Kim, Kate Kim (address): 1335 Mariposa Ave #102 Oakland CA 94601 (location): 01/01/2016 (date) and every other month on the 1st day of each month. Rent shall be paid only during Tenant's normal business hours. Rent payment is required to be received within three days after the date it is due. Late Charge and returned check charges may be charged after the date Rent is due. Rent for any period for less than a full month shall be prorated based on a 30 day month.
4. **SECURITY DEPOSIT:**
   A. Tenant agrees to pay $ 1,000.00 as security deposit. Security deposit will be: ☐ held in Owner's account or ☐ held in Owner's trust account.
   B. All or portion of the security deposit may be used as reasonably necessary: (i) to cure Tenant's default in payment of Rent which begins after Tenant's 3 day notice to pay Rent or quit; (ii) repair damage, excluding ordinary wear and tear, caused by Tenant or by a guest or licensee of Tenant; (iii) clean Premises, if necessary, upon termination of the tenancy; and (iv) replace or return furniture, furnishings, or other personal property (collectively "Personal Property") of Owner, if any, in accordance with California Civil Code § 1950.5. **SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF LAST MONTH'S RENT.** If all or any portion of the security deposit is used during the tenancy, Tenant agrees to restore the security deposit within five days after written notice is delivered to Tenant. Within 21 days after Tenant vacates the Premises, Landlord shall: (i) furnish Tenant an itemized statement indicating the amount of any security deposit received and the basis for its disposition and supporting documentation as required by California Civil Code § 1950.5(g) and (ii) return any remaining portion of the security deposit to Tenant.
   C. Security deposit will not be returned until all Tenants have vacated the Premises and all keys returned. Any security deposit returned by check shall be made out to all Tenants named on this Agreement, more than one party notwithstanding.
   D. No interest will be paid on security deposit unless required by local law.
   E. If the security deposit is held by Owner, Tenant agrees not to hold Owner responsible for its return. If the security deposit is held in Owner's Broker's trust account, and Broker's authority is terminated before expiration of this Agreement, and security deposit is released to someone other than Tenant, then Broker shall notify Tenant in writing where and to whom security deposit has been released. Once Tenant has been provided with proof, Tenant agrees not to hold Broker responsible for the security deposit.
5. **MOVE IN COSTS RECEIVED/DUE:** Move-in funds shall be paid by:
   ☐ (a) Personal check ☐ money order or ☐ cashier's check

CATEGORY	Total Due	Payment Received	Balance Due	Due Date
Rent from 09/01/2015 to 09/30/2015				
Security Deposit				
Other				
Other				
Total				

The maximum amount Landlord may receive as security deposit, however designated, cannot exceed two months' Rent for unfurnished premises, or three months' Rent for furnished premises.

Tenant's Initials (KJ) ( ) Landlord's Initials (HK) (KK)

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6. **LATE CHARGE; RETURNED CHECKS:**

A. Tenant acknowledges either late payment of Rent or issuance of a returned check may cause Landlord to incur costs and expenses, the exact amounts of which are extremely difficult and impractical to determine. These costs may include, but are not limited to, processing, enforcement and accounting expenses, and late charges imposed on Landlord. If any installment of Rent due from Tenant is not received by Landlord within 5 (or ☐ ______) calendar days after the date due, or if a check is returned, Tenant shall pay to Landlord, respectively, an additional sum of $ ______ or 10.00% % of the Rent due as a Late Charge and $25.00 as a NSF fee for the first returned check and $35.00 as a NSF fee for each additional returned check, either or both of which shall be deemed additional Rent.

B. Landlord and Tenant agree that these charges represent a fair and reasonable estimate of the costs Landlord may incur by reason of Tenant's late or NSF payment. Any Late Charge or NSF fee due shall be paid with the current installment of Rent. Landlord's acceptance of any Late Charge or NSF fee shall not constitute a waiver as to any default of Tenant. Landlord's right to collect a Late Charge or NSF fee shall not be deemed an extension of the date Rent is due under paragraph 3 or prevent Landlord from exercising any other rights and remedies under this Agreement and as provided by law.

7. **PARKING:** (Check A or B)

☐ A. Parking is permitted as follows: ______

The right to parking ☐ is ☐ is not included in the Rent charged pursuant to paragraph 3. If not included in the Rent, the parking rental fee shall be an additional $ ______ per month. Parking space(s) are to be used for parking properly licensed and operable motor vehicles, except for trailers, boats, campers, buses or trucks (other than pick-up trucks). Tenant shall park in assigned space(s) only. Parking space(s) are to be kept clean. Vehicles leaking oil, gas or other motor vehicle fluids shall not be parked on the Premises. Mechanical work or storage of inoperable vehicles is not permitted in parking space(s) or elsewhere on the Premises.

OR ☐ B. Parking is not permitted on the Premises.

8. **STORAGE:** (Check A or B)

☐ A. Storage is permitted as follows: ______

The right to separate storage space ☐ is ☐ is not included in the Rent charged pursuant to paragraph 3. If not included in the Rent, storage space fee shall be an additional $ ______ per month. Tenant shall store only personal property Tenant owns, and shall not store property claimed by another or in which another has any right, title or interest. Tenant shall not store any improperly packaged food or perishable goods, flammable materials, explosives, hazardous waste or other inherently dangerous material, or illegal substances.

OR ☒ B. Except for Tenant's personal property, contained entirely within the Premises, storage is not permitted on the Premises.

9. **UTILITIES:** Tenant agrees to pay for all utilities and services, and the following charges: trash, water except: PG&E which shall be paid for by Landlord. If any utilities are not separately metered, Tenant shall pay Tenant's proportional share, as reasonably determined and directed by Landlord. If utilities are separately metered, Tenant shall place utilities in Tenant's name as of the Commencement Date. Landlord is only responsible for installing and maintaining one usable telephone jack and one telephone line to the Premises. Tenant shall pay any cost for conversion from existing utilities service provider.

10. **CONDITION OF PREMISES:** Tenant has examined Premises and, if any, all furniture, furnishings, appliances, landscaping and fixtures, including smoke detector(s).

(Check all that apply:)

☐ A. Tenant acknowledges these items are clean and in operable condition, with the following exceptions: ______

☐ B. Tenant's acknowledgment of the condition of these items is contained in an attached statement of condition (C.A.R. Form MIMO).

☐ C. (i) Landlord will Deliver to Tenant a statement of condition (C.A.R. Form MIMO) ☐ within 3 days after execution of this Agreement; ☐ prior to the Commencement Date; ☐ within 3 days after the Commencement Date.
(ii) Tenant shall complete and return the MIMO to Landlord within 3 (or ______) days after Delivery. Tenant's failure to return the MIMO within that time shall conclusively be deemed Tenant's Acknowledgement of the condition as stated in the MIMO.

☐ D. Tenant will provide Landlord a list of items that are damaged or not in operable condition within 3 (or ☐ ______) days after Commencement Date, not as a contingency of this Agreement but rather as an acknowledgment of the condition of the Premises.

☒ E. Other: See attached addendum.

11. **MAINTENANCE USE AND REPORTING:**

A. Tenant shall properly use, operate and safeguard Premises, including if applicable, any landscaping, furniture, furnishings and appliances, and all mechanical, electrical, gas and plumbing fixtures, carbon monoxide detector(s) and smoke alarms, and keep them and the Premises clean, sanitary and well ventilated. Tenant shall be responsible for checking and maintaining all carbon monoxide detectors and any additional phone lines beyond the one line and jack that Landlord shall provide and maintain. Tenant shall immediately notify Landlord, in writing, of any problem, malfunction or damage with any item including carbon monoxide devices and smoke alarms on the property. Tenant shall be charged for all repairs or replacements caused by Tenant, pets, guests or licensees of Tenant, excluding ordinary wear and tear. Tenant shall be charged for all damage to Premises as a result of failure to report a problem in a timely manner. Tenant shall be charged for repair of drain blockages or stoppages, unless caused by defective plumbing parts or tree roots invading sewer lines.

B. ☐ Landlord ☐ Tenant shall water the garden, landscaping, trees and shrubs, except: ______

C. ☐ Landlord ☐ Tenant shall maintain the garden, landscaping, trees and shrubs, except: ______

D. ☐ Landlord ☐ Tenant shall maintain ______

E. Tenant's failure to maintain any item for which Tenant is responsible shall give Landlord the right to hire someone to perform such maintenance and charge Tenant to cover the cost of such maintenance.

F. The following items of personal property are included in the Premises without warranty and Landlord will not maintain, repair or replace them: ______

Tenant's Initials (AR) (______) Landlord's Initials (HC) (______)

12. **NEIGHBORHOOD CONDITIONS:** Tenant is advised to satisfy him or herself as to neighborhood or area conditions, including schools, proximity and adequacy of law enforcement, crime statistics, proximity of registered felons or offenders, fire protection, other governmental services, availability, adequacy and cost of any wired, wireless internet connections or other telecommunications or other technology services and installations, proximity to commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, cemeteries, facilities and condition of common areas, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Tenant.

13. **PETS:** Unless otherwise provided in California Civil Code §54.2, no animal or pet shall be kept on or about the Premises without Landlord's prior written consent, except: _____

14. ☒ (If checked) **NO SMOKING:** No smoking of any substance is allowed on the Premises or common areas. If smoking does occur on the Premises or common areas, (i) Tenant is responsible for all damage caused by the smoking including, but not limited to stains, burns, odors and removal of debris; (ii) Tenant is in breach of this Agreement; (iii) Tenant, guests, and all others may be required to leave the Premises; and (iv) Tenant acknowledges that in order to remove odor caused by smoking, Landlord may need to replace carpet and drapes and paint the entire premises regardless of when these items were last cleaned, replaced, or repainted. Such actions and other necessary steps will impact the return of any security deposit. The Premises or common areas may be subject to a local non-smoking ordinance.

15. **RULES/REGULATIONS:**
   A. Tenant agrees to comply with all Landlord rules and regulations that are at any time posted on the Premises or delivered to Tenant. Tenant shall not, and shall ensure that guests and licensees of Tenant shall not, disturb, annoy, endanger or interfere with other tenants of the building or neighbors, or use the Premises for any unlawful purposes, including, but not limited to, using, manufacturing, selling, storing or transporting illicit drugs or other contraband, or violate any law or ordinance, or commit a waste or nuisance on or about the Premises.
   B. (If applicable, check one)
   ☐ 1. Landlord shall provide Tenant with a copy of the rules and regulations within _____ (date) or _____
   OR ☒ 2. Tenant has been provided with, and acknowledges receipt of a copy of the rules and regulations.

16. ☐ (If checked) **CONDOMINIUM; PLANNED UNIT DEVELOPMENT:**
   A. The Premises are a unit in a condominium, planned unit development, common interest subdivision or other development governed by a homeowners' association ("HOA"). The name of the HOA is _____
   Tenant agrees to comply with all HOA covenants, conditions and restrictions, bylaws, rules and regulations and decisions ("HOA Rules"). Landlord shall provide Tenant copies of HOA Rules, if any. Tenant shall reimburse Landlord for any fines or charges imposed by HOA or other authorities, due to any violation by Tenant, or the guests or licensees of Tenant.
   B. (Check one)
   ☐ 1. Landlord shall provide Tenant with a copy of the HOA Rules within _____ days or _____
   OR ☐ 2. Tenant has been provided with, and acknowledges receipt of a copy of the HOA Rules.

17. **ALTERATIONS; REPAIRS:** Unless otherwise specified by law or paragraph 28C, without Landlord's prior written consent, (i) Tenant shall not make any repairs, alterations or improvements in or about the Premises including painting, wallpapering, adding or changing locks, installing antenna or satellite dishes), placing signs, displays or exhibits, or using screws, fastening devices, large nails or adhesive materials; (ii) Landlord shall not be responsible for the costs of alterations or repairs made by Tenant; (iii) Tenant shall not deduct from Rent the costs of any repairs, alterations or improvements; and (iv) any deductions made by Tenant shall be considered unpaid Rent.

18. **KEYS; LOCKS:**
   A. Tenant acknowledges receipt of (or Tenant will receive ☐ prior to the Commencement Date, or ☐ _____) ☐ _____ key(s) to Premises. ☐ _____ remote control device(s) for garage/gate/gate opener(s). ☐ _____ key(s) to mailbox. ☐ _____ key(s) to common area(s).
   B. Tenant acknowledges that locks to the Premises ☐ have, ☐ have not been re-keyed.
   C. If Tenant re-keys existing locks or opening devices, Tenant shall immediately deliver copies of all keys to Landlord. Tenant shall pay all costs and charges related to loss of any keys or coding devices. Tenant may not remove locks, even if installed by Tenant.

19. **ENTRY:**
   A. Tenant shall make Premises available to Landlord or Landlord's representative for the purpose of entering to make necessary or agreed repairs (including, but not limited to, installing, repairing, testing, and maintaining smoke detectors and carbon monoxide devices, and bracing, anchoring, or strapping water heaters), decorations, alterations, or improvements, or to supply necessary or agreed services, or to show Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers, or contractors.
   B. Landlord and Tenant agree that 24 hour written notice shall be reasonable and sufficient notice, except as follows: (1) 48-hour written notice is required to conduct an inspection of the Premises prior to the Tenant moving out, unless the Tenant waives the right to such notice. (2) If Landlord has in writing informed Tenant that the Premises are for sale and that Tenant will be asked orally to show the premises (C.A.R. Form NSE), then, for the next 120 days following the delivery of the NSE, notice may be given orally to show the Premises to actual or prospective purchasers. (3) No written notice is required if Landlord and Tenant orally agree to an entry for agreed services or repairs if the date and time of entry are within one week of the oral agreement. (4) No notice is required: (i) to enter in case of an emergency; (ii) if the Tenant is present and consents at the time of entry; or (iii) if the Tenant has abandoned or surrendered the Premises.
   C. ☐ (If checked) Tenant authorizes the use of a key/safe/lockbox to allow entry into the Premises and agrees to sign a key/safe/lockbox addendum (C.A.R. Form KLA).

20. **SIGNS:** Tenant authorizes Landlord to place FOR SALE/LEASE signs on the Premises.

21. **ASSIGNMENT; SUBLETTING:** Tenant shall not sublet all or any part of Premises, or assign or transfer this Agreement or any interest in it, without Landlord's prior written consent. Unless such consent is obtained, any assignment, transfer or subletting of Premises or this Agreement or tenancy, by voluntary act of Tenant, operation of law or otherwise, shall, at the option of Landlord, terminate this Agreement. Any proposed assignee, transferee or sublessee shall submit to Landlord an application and credit information for Landlord's approval and, if approved, sign a separate written agreement with Landlord and Tenant. Landlord's consent to any one assignment, transfer or sublease, shall not be construed as consent to any subsequent assignment, transfer or sublease and does not release Tenant of Tenant's obligations under this Agreement.

Tenant's Initials (BH)(_____) Landlord's Initials (HB)(KM)

000046

CALIFORNIA ASSOCIATION OF REALTORS®

ADDENDUM

(C.A.R. Form ADM, Revised 4/12)

No. 1

The following terms and conditions are hereby incorporated in and made a part of the: ☐ Residential Purchase Agreement, ☐ Manufactured Home Purchase Agreement, ☐ Business Purchase Agreement, ☐ Residential Lease or Month-to-Month Rental Agreement, ☐ Vacant Land Purchase Agreement, ☐ Residential Income Property Purchase Agreement, ☐ Commercial Property Purchase Agreement, ☐ Other _____

dated _____, on property known as 3832 E 12th Street Oakland, CA 94601

in which Brenda Romero is referred to as ("Buyer/Tenant")

and Hye Kim, Kate Kim is referred to as ("Seller/Landlord")

1) Tenant agrees to rental amount proposed in Rental Agreement.

2) Landlord agrees to make the following repairs in an agreed upon, time manner: Replacement of carpet in unit, install window screens on all windows.

The foregoing terms and conditions are hereby agreed to, and the undersigned acknowledge receipt of a copy of this document.

Date 12-06-15 Date 01/1/2015

Buyer/Tenant Brenda Romero Seller/Landlord Hye Kim

Buyer/Tenant _____ Seller/Landlord Kate Kim

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a subsidiary of the California Association of REALTORS®
525 South Virgil Avenue, Los Angeles, California 90020

Reviewed by _____ Date _____

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22. **JOINT AND INDIVIDUAL OBLIGATIONS:** If there is more than one Tenant, each one shall be individually and completely responsible for the performance of all obligations of Tenant under this Agreement, jointly with every other Tenant, and individually, whether or not in possession.

23. [X] **LEAD-BASED PAINT** (If checked): Premises were constructed prior to 1978. In accordance with federal law, Landlord gives and Tenant acknowledges receipt of the disclosures on the attached form (C.A.R. Form FLD) and a lead-safe approved lead pamphlet.

24. [ ] **MILITARY ORDNANCE DISCLOSURE:** (If applicable and known to Landlord) Premises are located within one mile of an area once used for military training, and may contain potentially explosive munitions.

25. [ ] **PERIODIC PEST CONTROL:** Landlord has entered into a contract for periodic pest control treatment of the Premises and shall give Tenant a copy of the notice originally given to Landlord by the pest control company.

26. [ ] **METHAMPHETAMINE CONTAMINATION:** Prior to signing this Agreement, Landlord has given Tenant a notice that a health official has issued an order prohibiting occupancy of the property because of methamphetamine contamination. A copy of the notice and order are attached.

27. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 290.46 of the 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 ZIP Code in which he or she resides. (Neither Landlord nor Brokers, if any, are required to check this website. If Tenant wants further information, Tenant should obtain information directly from the website.)

28. **POSSESSION:**

A. Tenant is not in possession of the Premises. If Landlord is unable to deliver possession of Premises on Commencement Date, such Date shall be extended to the date on which possession is made available to Tenant. If Landlord is unable to deliver possession within 5 (or [ ] _____) calendar days after agreed Commencement Date, Tenant may terminate this Agreement by giving written notice to Landlord, and shall be refunded all Rent and security deposit paid. Possession is deemed terminated when Tenant has returned all keys to the Premises to Landlord.

B. [X] Tenant is already in possession of the Premises.

29. **TENANT'S OBLIGATIONS UPON VACATING PREMISES:**

A. Upon termination of this Agreement, Tenant shall: (i) give Landlord all copies of all keys or opening devices to Premises, including any common areas; (ii) vacate and surrender Premises to Landlord, empty of all persons; (iii) vacate any/all parking and/or storage space; (iv) clean and deliver Premises, as specified in paragraph C below, to Landlord in the same condition as referenced in paragraph 10; (v) remove all debris; (vi) give written notice to Landlord of Tenant's forwarding address; and (vii) _____

B. All alterations/improvements made by or caused to be made by Tenant, with or without Landlord's consent, become the property of Landlord upon termination. Landlord may charge Tenant for restoration of the Premises to the condition it was in prior to any alteration/improvements.

C. **Right to Pre-Move-Out Inspection and Repairs:** (i) After giving or receiving notice of termination of a tenancy (C.A.R. Form NTT), or before the end of a lease, Tenant has the right to request that an inspection of the Premises take place prior to termination of the lease or rental (C.A.R. Form WPI). If Tenant requests such an inspection, Tenant shall be given an opportunity to remedy identified deficiencies prior to termination, consistent with the terms of this Agreement. (ii) Any repairs or alterations made to the Premises as a result of this inspection (collectively, "Repairs") shall be made at Tenant's expense. Repairs may be performed by Tenant or through others, who have adequate insurance and licenses and are approved by Landlord. The work shall comply with applicable law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. (iii) Tenant shall: (a) obtain receipts for Repairs performed by others; (b) prepare a written statement indicating the Repairs performed by Tenant and the date of such Repairs; and (c) provide copies of receipts and statements to Landlord prior to termination. Paragraph 29C does not apply when the tenancy is terminated pursuant to California Code of Civil Procedure § 1161 (2), (3) or (4).

30. **BREACH OF CONTRACT; EARLY TERMINATION:** In addition to any obligations established by paragraph 29, in the event of termination by Tenant prior to completion of the original term of the Agreement, Tenant shall also be responsible for lost Rent, rental commissions, advertising expenses and painting costs necessary to ready Premises for re-rental. Landlord may withhold any such amounts from Tenant's security deposit.

31. **TEMPORARY RELOCATION:** Subject to local law, Tenant agrees, upon demand of Landlord, to temporarily vacate Premises for a reasonable period, to allow for fumigation (or other methods) to control wood destroying pests or organisms, or other repairs to Premises. Tenant agrees to comply with all instructions and requirements necessary to prepare Premises to accommodate pest control, fumigation or other work, including bagging or storage of food and medicine, and removal of perishables and valuables. Tenant shall only be entitled to a credit of Rent equal to the per diem Rent for the period of time Tenant is required to vacate Premises.

32. **DAMAGE TO PREMISES:** If, by no fault of Tenant, Premises are totally or partially damaged or destroyed by fire, earthquake, accident or other casualty that render Premises totally or partially uninhabitable, either Landlord or Tenant may terminate this Agreement by giving the other written notice. Rent shall be abated as of the date Premises become totally or partially uninhabitable. The abated amount shall be the current monthly Rent prorated on a 30-day period. If the Agreement is not terminated, Landlord shall promptly repair the damage, and Rent shall be reduced based on the extent to which the damage interferes with Tenant's reasonable use of Premises. If damage occurs as a result of an act of Tenant or Tenant's guests, only Landlord shall have the right of termination, and no reduction in Rent shall be made.

33. **INSURANCE:** Tenant's or guest's personal property and vehicles are not insured by Landlord, manager or, if applicable, HOA, against loss or damage due to fire, theft, vandalism, rain, water, criminal or negligent acts of others, or any other cause. **Tenant is advised to carry Tenant's own insurance (renter's insurance) to protect Tenant from any such loss or damage.** Tenant shall comply with any requirement imposed on Tenant by Landlord's insurer to avoid: (i) an increase in Landlord's insurance premium (or Tenant shall pay for the increase in premium); or (ii) loss of insurance.

34. **WATERBEDS:** Tenant shall not use or have waterbeds on the Premises unless: (i) Tenant obtains a valid waterbed insurance policy; (ii) Tenant increases the security deposit in an amount equal to one-half of one month's Rent; and (iii) the bed conforms to the floor load capacity of Premises.

35. **WAIVER:** The waiver of any breach shall not be construed as a continuing waiver of the same or any subsequent breach.

Tenant's Initials (RR)(_____) Landlord's Initials (HG)(EK)

MS/EL

Jackie Zaneri, SBN 318088
Centro Legal de la Raza
3022 International Blvd., Suite 410
Oakland, CA 94601
(510) 437-1554
jzaneri@centrolegal.org
Attorney for Tenants Brenda Romero and Rosalba Romero

Oakland Rent Adjustment Program

Romero v. Kim, Case No. T18-0156

Tenant Response to Appeal

I. Introduction

Tenants Brenda Romero and Rosalba Romero ("Tenants") submit their response to the appeal filed by Landlords Hyo Kim and Kate Kim ("Landlords") in Case No. T18-0156. Landlords appeal the decision of the Hearing Officer based on grounds that the parties executed a separate rental agreement following the tenants' original lease, and separately claiming that the tenants did not originally have access to garage space. Both arguments fail because the Landlord failed to create a legal novation of the original agreement and because the tenants demonstrated, through substantial evidence, that they did originally have access to garage space, which was later taken away from them by their landlord. Thus, the decision complies with state and local law and is supported by substantial evidence.

II. The Rent Increases and the New Lease Agreement were Invalid

A. All Past Rent Increases Were Invalid Because the Tenant Received No RAP Notice

The tenants met their initial burden of showing that the rent increases received throughout their tenancy were invalid because they never received a RAP notice. During the hearing, Brenda Romero testified that the original rent when she moved into the subject premises was $1,000. (Hearing Recording, at 9:33.) Despite receiving rent increases, she never received a RAP notice

from her landlord. (Hearing Recording, at 9:06.) She finally testified that in 2015 her landlord attempted to raise her rent to $1330 plus an additional $150 for parking, but laer agreed to change that amount to $1200, which she began paying in the Fall of 2015. (Hearing Recording, at 31:01). None of the increases were preceded or accompanied by RAP notices.

B. The Landlord Failed to Create a Novation of the Original Agreement

Although the Tenants established that they received invalid rent increases, the Landlords now argue that a lease agreement executed after the original agreement was nonetheless valid as a novation. However, the Landlords fail to carry their burden of proving a novation because the subsequent lease was void as a truncation of statutorily unwaivable rights.

A novation is an agreement that either replaces a party to an original agreement or creates a different obligation between parties instead of the obligation of an original agreement. (Civ. Code § 1532.) A party asserting that a novation exists has the burden of proving all required elements, including both parties' intent to extinguish the original agreement and create a new one, as well as all necessary elements of contract formation. (*Howard v. County of Amador* (1990) 220 Cal.App.3d 962, 977 (Howard); *Colley v. Chowchilla Nat. Bank* (1927) 200 Cal. 760, 769; *Klepper v. Hoover* (1971) 21 Cal.App.3d 460l; *O'Reilly v. Johnson* (1949) 91 Cal.App.2d 729.) However, an otherwise valid contract, including a novation, is void if its object directly contravenes a statute or public policy. (Civ. Code §§ 1667(1)-(2).) The 2015 lease purports to operate as a waiver of the tenants' rights under the Rent Stabilization Ordinance, and therefore cannot be relied on by the landlord as either a valid rent increase or a novation.

Despite the appearance of an agreement, no contract is created between two parties if the contract subject is void due to illegality, either under an express provision of law or a policy of express law. (Civ. Code §§ 1667(1)-(2).) Rather, '[m]ere words and ingenuity of contractual

expression, whatever their effect between the parties, cannot by description make permissible a course of conduct forbidden by law.' (*Porter v. Fiske* (1946) 74 Cal.App.2d 332, 336 [quoting *United States v. City and County of San Francisco* (194) 310 U.S. 16, 28]; *see also Industrial Indem. Co. v. Golden State Co.* (1953) 117 Cal.App.2d 519.) *In Porter v. Fiske*, the court found that a rent contract to pay a rent amount in excess of a statutorily provided maximum rent was void due to illegality, even though the tenant appeared to have entered into the agreement voluntarily. (74 Cal.App.2d at 336.) This is consistent with California landlord-tenant law, which provides countless examples of contractual provisions that are void because they contradict a statutory protection or are against public policy. For example, a lease provision is unenforceable if it is discriminatory, eliminates the tenant's right to have their landlord make repairs, or requires the tenants to pay unlawful late fees. (*See* Civ. Code § 53; *Green v. Superior Court* (1974) 10 Cal.3d 616, 626; *Del Monte Properties & Investments, Inc. v. Dolan*, 26 Cal.App.5th Supp. 20, 23 (2018) (a late fees provision in a residential lease was presumptively void and therefore unenforceable.) Such provisions are often unenforceable even if agreed to by tenants due to the unequal bargaining power between landlords and tenants. (*Green v. Superior Court* (1974) 10 Cal.3d at 626 fn. 9 [finding that "public policy requires that landlords generally not be permitted to use their superior bargaining power to negate the warranty of habitability rule"].)

A contract for a rent increase in excess of the annual CPI adjustment directly contradicts the Oakland Rent Adjustment Ordinance, which specifies the maximum amount that a landlord can raise the rent for a covered unit each year. (Oakland Mun. Code § 8.22.070.) The Ordinance also provides that a tenant cannot voluntarily waive such rights under the Ordinance, even in contract. Specifically, it states that "[a]ny provision, whether oral or written, in or pertaining to a rental agreement whereby any provision of this chapter is waived or modified, is against public policy and void." (Oakland Mun. Code § 8.22.180.)

The 2015 lease provided to Ms. Romero attempted to raise her rent beyond the allowable amount under the Ordinance. Both parties agree that Ms. Romero's home is a covered unit under the Ordinance. In this instance, the Landlord attempted to induce Ms. Romero to waive her right to rent control under the Ordinance by signing a new lease with a higher than permissible rent increase of forty percent. (Hearing Recording, at 1:23:50.) Ms. Romero testified that her original rent was $1,000 and that she later began paying $1050. (Hearing Recording, at 9:33, 9:47.) She also testified that her new landlord had her sign a lease for $1330, and informed her that she would have to pay an additional $150 in cash for parking. (Hearing Recording, at 12:33-13:01.) Neither party treated this subsequent written document, in a language that the tenant does not read, as enforceable. (Hearing Recording, at 1:42:39; 20:00-20:25.) Rather, Ms. Romero testified that she never paid $1330, but instead began paying $1200, which her landlord accepted. (Hearing Recording, at 20:00-20:25, 1:25:35; 1:25:50.) The $1200 increase was still greater than ten percent, and raised the Tenants' rent far beyond the bounds of an admissible rent increase under the Ordinance. Because such a contract was void due to illegality as a violation of both the Rent Ordinance and public policy regarding rent increases, no novation was effected through the 2015 lease, and Ms. Romero's original lease agreement for $1,000 controls.

III. Ms. Romero Provided Substantial Evidence to Support a Finding of a Reduction in Services for Access to Garage Space

During the hearing, the Ms. Romero testified that she had access to a garage on the premises at the start of her tenancy; the Landlords failed to contradict this point through admissible evidence. (Hearing Recording, at 21:12.) Rather, relying on an estoppel certificate in a language that the Ms. Romero cannot read, the Landlords argue that the tenant had no initial right to park in a garage and therefore cannot recover for this claim. However, since the tenant's hearing testimony demonstrated her Landlords' noncompliance with Civil Code Section 1632 and

because Ms. Romero cannot read the estoppel certificate, the Landlords cannot rely on the document as evidence of the tenant's original lease terms Instead, the tenant's hearing testimony was the controlling evidence presented of the garage space originally provided to the her.

A. The Tenant's Testimony Establishes her Right to Use the Garage and a Subsequent Change in Services by her Landlords

Ms. Brenda Romero testified that in her original verbal lease with her original landlord, she was given the right to park her car in the garage on the premises and store items in the unused garage space. (Hearing Recording, at 21:12.) She also testified that when the Landlords attempted to raise her rent to $1330, they told her that she would have to pay an additional $150 in rent for the parking, and removed her right to park on the premises after she told him that she could not pay. (Hearing Recording, at 20:40-21:00.) She now parks her car outside rather than in the garage; at the same time, she lost access to the storage space she previously used in the garage. (Hearing Recording, at 1:44:41-59; 1:46:45-53.) Based on this testimony, the Tenants were granted a reduction in services because the Landlords removed her access to the garage.

B. The Landlord's Use of the Estoppel Certificate Failed to Comply with Civil Code Section 1632

The Landlords' evidence purporting to contradict the tenants' right to the garage space is an estoppel certificate signed by one tenant in a language that she cannot read and of which she was not provided a copy in her own language. The California Translation Act, California Civil Code Section 1632 requires a landlord to provide a tenant with a lease agreement, and any subsequent agreement substantially changing their rights under the agreement, in the same language that the agreement was negotiated. (Civ. Code § 1632(b),(g); *see also Reyes v. Superior Court* (1981) 118 Cal.App.3d 159.; *ING Bank, fsb v. Ahn,* (N.D.Cal.2010) 717 F.Supp.2d 931.) During the hearing, the tenant testified, and the Landlords provided no contradicting evidence, that the

original lease agreement for the subject premises was negotiated in Spanish. This therefore created an obligation for the landlord to provide her with a translation to any subsequent documents modifying those rights, including an estoppel certification. The other party providing a translator is not enough to satisfy this requirement.

During the hearing, Brenda Romero testified that she is unable to read English. (Hearing Recording, at 1:42:39.) She also testified that she signed an estoppel certificate that was filled out for her by the landlord's agent, and read to her, translated into Spanish, by the Landlords' agent. (Hearing Recording at 1:32:17; 1:32:40-33:08, 1:33:28; 1:33:32). The estoppel certificate was therefore negotiated in Spanish by both parties; under Civil Code Section 1632, the landlord's agent could not act as Ms. Romero's translator. Because the Landlords failed to comply with Civil Code Section 1632, it cannot be used to substantially modify Ms. Romero's rights and obligations under her lease, such as removing her right to parking and storage that she originally was entitled to.

At the time of the estoppel certificate, Ms. Romero's Landlords were aware that she spoke Spanish. Nonetheless, they chose to require, translated by interpreter her to sign an estoppel certificate in English, rather than a language she understood. Had they wanted to create a legally enforceable document modifying her rights, her Landlords could have provided her an estoppel certificate in Spanish; their failure to do so makes the certificate unenforceable.

C. The Tenant Controverted Any Presumption of Validity Under Evidence Code Section 622 Because Established that she Cannot Read English

In reliance on the estoppel certificate to establish the original terms of Ms. Romero's testimony, the Landlord cites Evidence Code Section 622 to suggest that because of the certificate, Ms. Romero was not entitled to garage space at the inception of her tenancy. However, this Section 622 simply creates presumption of truth for written instruments; this

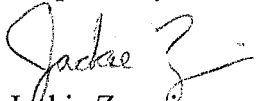
presumption which can be contradicted by evidence, such as circumstances suggesting that the instrument was not true. For example, the presumption of truthfulness can be overriden by evidence that a party who signed a form was not able to read the language on the form. (*Quintanilla v. Dunkelman* (2005) 133 Cal.App.4th 95, review denied.) Here, Ms. Romero testified that she is unable to read English. (Hearing Recording, at 1:42:39.) No employee of the Landlord's who translated the estoppel certificate appeared at the hearing to explain how it was translated. Therefore, the Landlord are entitled to no presumption of validity for the estoppel certificate.

IV. Conclusion

Tenants and landlords do not bargain from equal footing. Where a landlord attempts to induce a tenant to waive their statutorily protected rights, the Board must uphold the Ordinance and rule any resulting contracts unenforceable. Because the Tenants conclusively established, in the hearing, that all past rent increases were invalid and no valid new lease agreement was created, the Tenants are entitled to a refund. Further, a Landlord cannot modify a tenant's rights using an estoppel certificate that was created in a language that the Tenant does not read and never accurately reflected her lease—especially one who has already demonstrated their access to translation services. For these reasons, the Board should uphold the decision of the hearing officer as supported by substantial evidence.

Dated: February 25, 2019

Respectfully submitted,



Jackie Zaneri
Centro Legal de la Raza
Attorney for Tenants

PROOF OF SERVICE

I, the undersigned, state and declare as follows:

I am at least eighteen years of age, am not a party to this action, and am employed or reside in the county where the mailing took place.

My residence or business address is as follows:

Centro Legal de la Raza
3022 International Blvd., Suite 410
Oakland, CA 94601

I served a copy of the foregoing Tenant Response to Appeal on February 25, 2019, by depositing the sealed envelope with the United States Postal Service with the postage fully prepaid, addressed as follows:

Jak Marquez
Dowling & Marquez, LLP
625 Market Street, 4th Floor
San Francisco, CA 94105

Attorney for Landlords

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

Dated: February 25, 2019

Jackie Z

Jackie Zaneri

CHRONOLOGICAL CASE REPORT

Case No.:	T20-0037
Case Name:	Vega et al v. Wash
Property Address:	3115 East 27th Street Oakland, CA
Parties:	Monica Vega (Tenant) Benjamin Pena (Tenant) E Wash (Owner)

TENANT APPEAL:

Activity	Date
Tenant Petition filed	January 10, 2020
Owner Response filed	April 10, 2020
Administrative Decision Mailed	June 15, 2020
Tenant Appeal filed	July 9, 2020

T20-0037 AS|CC

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

CITY OF OAKLAND	**CITY OF OAKLAND** **RENT ADJUSTMENT PROGRAM** 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp. 2020 JAN 10 AM 11:22 **TENANT PETITION**

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

Tenant Requests Spanish interpreter for the hearing.

Please print legibly

Your Name	Rental Address (with zip code)	Telephone:
Monica Vega Benjamin Lepe Peña	3115 East 27th Street, Apt. D Oakland, California 94601	(510) 372-3373
		E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s)	Mailing Address (with zip code)	Telephone:
E. L. Wash	1250 Fairmont Drive, Unit 740 San Leandro, California 94578	510-305-9467
		Email: elwash58@aol.com
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 4.

Type of unit you rent (check one)	☐ House	☐ Condominium	☒ Apartment, Room, or Live-Work
Are you current on your rent? (check one)	☒ Yes	☐ 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:**

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

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

2020 JAN 10 AM 11:22

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

Date you moved into the Unit: around 2005 Initial Rent: $ 700 /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 From	To	Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		$	$	☐ Yes ☐ No	☐ Yes ☐ No
		$	$	☐ Yes ☐ No	☐ Yes ☐ No
		$	$	☐ Yes ☐ No	☐ Yes ☐ No
		$	$	☐ Yes ☐ No	☐ Yes ☐ No
		$	$	☐ Yes ☐ No	☐ Yes ☐ No
		$	$	☐ Yes ☐ No	☐ Yes ☐ No

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

Have you ever filed a petition for this rental unit?

- ☐ Yes
- ☒ No

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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

Benjamin Lopez Pena — 12-16 19

Tenant's Signature — **Date**

Jenner — 12/16/19

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

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

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

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

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

_____ _____

Tenant's Signature Date

VI. IMPORTANT INFORMATION:

Time to File

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit.** **Mail to:** Oakland Rent Adjustment Program, 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland; For more information, please call: (510) 238-3721.

File Review

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

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

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

Monica Vega and Benjamin Lepe Peña

Addendum A- Decrease in Services

Note: We calculated the estimated value of loss of service by weighing the cost and the convenience of finding parking in the neighborhood.

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
2 parking spots	January 1, 2020	Landlord notified Tenant of the loss of her two parking spots on a letter dated November 1, 2019	N/A	50%

CITY OF OAKLAND	**CITY OF OAKLAND** **RENT ADJUSTMENT PROGRAM** 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612-0243 (510) 238-3721	For date stamp. RECEIVED APR 10 2020 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 T 20 - 0037

Your Name	Complete Address (with zip code)	Telephone:
E. L. WASH	1250 FAIRMONT DRIVE STE. NO. 740 SAN LEANDRO, CA 94578	[redacted] Email: [redacted]
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
N/A		Email:
Tenant(s) Name(s)	Complete Address (with zip code)	
BENJAMIN LEPE PENA MONICA VEGA	3115 E. 27th STREET UNIT "D" OAKLAND, CA 94601	
Property Address (If the property has more than one address, list all addresses) 3115 E. 27th STREET APTS. A - D OAKLAND, CA 94601		Total number of units on property 4

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

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

Date on which you acquired the building: 12 / 11 / 18

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

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.

Date of Contested Increase	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Debt Service	Fair Return
_____	☐	☐	☐	☐	☐	☐
_____	☐	☐	☐	☐	☐	☐
_____	☐	☐	☐	☐	☐	☐

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.

Date Notice Given (mo./day/year)	Date Increase Effective	Rent Increased From	Rent Increased To	Did you provide the "RAP NOTICE" with the notice of rent increase?
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ No

V. VERIFICATION

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

Property Owner's Signature **Date** 03.28.2020

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

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.

PLEASE SEE attached documents

Case Number T20-0037
Monica Vega *et al* v. Wash
Property Owner Response

3115 E. 27th Street
Unit D
Oakland CA 94601

Regarding Tenant's claim of Decreased Housing Services:

A. Tenant is permitted one parking space per unit and not two as Tenant claims. See attached lease agreement, signed by tenant.
B. Tenant's agreement with previous owner states monthly parking fees are 50.00. See attached lease agreement, signed by tenant.
C. The parking/garage storage fees have not been increased since Tenant took occupancy; electricity costs have risen annually.
D. Tenant's automobile/s continually require that the parking space be professionally cleaned due to auto repairs/clean-up being performed by Tenant in parking space, causing excessive build-up of oil and grease, posing a safety hazard. See attached documents containing photos.
E. Tenant is not obligated to pay parking or garage storage fees, as there is ample street parking available to Tenant at no cost.

CALIFORNIA ASSOCIATION OF REALTORS®

TENANT ESTOPPEL CERTIFICATE

(C.A.R. Form TEC, Revised 4/11)

Tenant: BENJAMIN LEPE
Premises: 3115 E 27th Street, Oakland, CA, 94601

To whom it may concern: The undersigned is the Tenant of the above premises and makes the following representations:

1. **LEASE TERMS:**
   A. (☒ If checked) A copy of the Lease is attached hereto.
   B. Date of the Lease: 05/12/09
   C. Name of the current Landlord: ARNOLD ARIAS
   D Name of the current Tenant: BENJAMIN LEPE
   E. Current monthly base rent: $ 850.00, paid through: _____
   F. Security deposit: $ 700.00 Other deposits: $ NONE
   G. Expiration date of current term: 05-2018
   H. Number and Location of Parking Spaces: ONE
   I. Number and Location of Storage Spaces: ONE
   J. Who pays utilities services: **Water:** ☒ Landlord ☐ Tenant; **Electric:** ☐ Landlord ☒ Tenant; **Gas:** ☐ Landlord ☒ Tenant; **Waste Disposal:** ☐ Landlord ☒ Tenant; **Gardener:** ☐ Landlord ☒ Tenant; **Sewer:** ☒ Landlord ☐ Tenant; **Other:** WASTE MANAGE ☒ Landlord ☐ Tenant; **Other:** _____ ☐ Landlord ☐ Tenant.
   K. Who owns appliances: **Stove:** ☒ Landlord ☐ Tenant; **Refrigerator:** ☐ Landlord ☒ Tenant; **Washer/Dryer:** ☐ Landlord ☒ Tenant; **Microwave:** ☐ Landlord ☒ Tenant; **Other:** _____ ☐ Landlord ☐ Tenant.
2. The Tenant represents that the original Lease remains in full force and effect and constitutes the entire agreement between Tenant and Landlord, except for the following modifications, amendments, addendums, assignments, extensions, and/or preferential rights or options to purchase/lease: _____

   There are no verbal or written agreements or understandings between Landlord and Tenant with respect to the Premises, except as set forth above.
3. Tenant is the actual occupant and is in possession of the Leased Premises. Tenant has not assigned, transferred or hypothecated its interest under the Lease. Any construction, build-out, improvements, alterations, or additions to the Premises required under the Lease have been fully completed in accordance with the plans and specifications described in the Lease.
4. All obligations of Landlord under the Lease have been fully performed and Landlord is not in default under any term of the Lease. Tenant has no defenses, off-sets or counterclaims to the payment of rent or other amounts due from Tenant to Landlord under the Lease.
5. Tenant has not been given any free rent, partial rent, rebates, rent abatements, or rent concessions of any kind, except as follows: 0
6. Tenant has not filed and is not the subject of any filing for bankruptcy or reorganization under federal bankruptcy laws or similar state laws.
7. Tenant represents that Tenant: (a) is not in default of the performance of any obligations under the Lease; (b) has not committed any breach of the Lease; and (c) has not received any notice of default under the Lease, which has not been cured.
8. The correct address for notices to Tenant is the Premises above unless otherwise specified in writing.
9. The person signing below represents that he/she is duly authorized by Tenant to execute this Statement in Tenant's behalf.
10. Tenant understands that: (a) a lender may make a loan secured in whole or part by the Premises, and that if Lender does so, Lender's action will be in material reliance on this Estoppel Certificate; and/or (b) a buyer may acquire the Premises or the building in which the Premises is located, and if buyer completes the purchase, buyer will do so in material reliance on this Estoppel Certificate.

Date: 7-18-18 Benjamin Lepe Peña
Tenant

Tenant
Jorge Arias and Angelica Arias Owners
By DocuSigned by: Title DocuSigned by:
Landlord or Manager 0B3E82028329414... 0B3E82028329414...

Receipt Acknowledged
Date: _____
By Title

Published and Distributed by:
REAL ESTATE BUSINESS SERVICES, INC.
a subsidiary of the California Association of REALTORS®
525 South Virgil Avenue, Los Angeles, California 90020

Reviewed by _____ Date _____

EQUAL HOUSING OPPORTUNITY

APT D

Monthly Rental Agreement

THIS AGREEMENT, entered into on 5/06, 20 17, by and between ANGELICA ARIAS, hereinafter Lessor, and BENJAMIN LEPE, hereinafter Lessee.

WITNESSETH: That for and in consideration of the payment of the rents and the performance of the covenants contained on the part of Lessee, said Lessor does hereby demise and let unto Lessee, and Lessee hires from Lessor those premises described as: APT located at 315 E 27ST OAKLAD APT D. for a tenancy from month-to-month commencing on _____, 20____, and at a monthly rental of EIGHT HUNDRED AND FIFTY ONE 74 Dollars ($ 851 74) per month, payable monthly in advance on the _____ day of each and every month, on the following TERMS AND CONDITIONS:

1. **Form of Payment.** Lessee agrees to pay rent each month in the form of one personal check, OR one cashier's check, OR one money order made out to ANGELICA ARIAS.

2. **Delivery of Payment.** Rent will be paid:

   _____ in person, at DEPOSIT.

   _____ by mail, to P.O BOX 1648 TRACY CA 95376.

3. **Returned Checks.** If, for any reason, a check used by Lessee to pay Lessor is returned without having been paid, Lessee will pay a charge of 50 00/100 Dollars ($ 50 00/100.) as additional rent AND take whatever other consequences there might be in making a late payment. After the second time a Lessee's check is returned, Lessee must thereafter secure a cashier's check or money order for payment of rent.

4. **Late Payments.** For any rent payment not paid by the date due, Lessee shall pay a late fee in the amount of 50 00/100 Dollars ($ 50 00/100).

5. **Prorated First Month.** For the period from Lessee's move-in date, _____, 20_____, through the end of the month, Lessee will pay to Lessor a prorated monthly rent of EIGHT HUNDRED FIFTY ONE 74 Dollars ($ 851 74). This amount will be paid on or before the date the Lessee moves in.

6. **Occupants.** The said premises shall be occupied by no more than 2 adults and 2 children.

7. **Pets.** Pets shall not be allowed without the prior written consent of the Lessor. At the time of signing this lease, Lessee shall pay to Lessor, in trust, a deposit of NONE Dollars ($ 0), to be held and disbursed for pet damages to the Premises (if any) as provided by law. This deposit is in addition to any other security deposit stated in this lease. Any Lessee who wishes to keep a pet in the rented unit must sign a Pet Agreement Addendum.

8. **Parking.** Any parking that may be provided is strictly self-park and is at owner's risk. Parking fees are for a license to park only. No bailment or bailee custody is intended. Lessor is not responsible for, nor does Lessor assume any liability for damages caused by fire, theft, casualty or any other cause whatsoever with respect to any vehicle or its contents. Snow removal is the respon-sibility of the vehicle owner. Any tenant who wishes to

rent a parking space or garage must sign a Parking Space or Garage Rental Agreement. Lessee will pay a charge of 50.00/100 Dollars.

9. **Ordinances and Statutes.** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the use of the premises.

10. **Repairs or Alterations.** Lessee shall be responsible for damages caused by his or her negligence and that of his family or invitees and guests. Lessee shall not paint, paper or otherwise redecorate or make alterations to the premises without the prior written consent of Lessor. All alterations, additions, or improvements made to the premises with the consent of Lessor shall become the property of Lessor and shall remain upon and be surrendered with the premises.

11. **Painting.** Lessor reserves the right to determine when the dwelling will be painted unless there is any law to the contrary.

12. **Keys.** Lessee will be given 1 set key(s) to the premises and 1 mailbox key(s). If all keys are not returned to Lessor following termination of lease, Lessee shall be charged ONE HUNDRED Dollars ($ 100.00/100) per key.

13. **Locks.** Lessee agrees not to change locks on any door or mailbox without first obtaining Lessor's written permission. Having obtained written permission, Lessee agrees to pay for changing the locks and to provide Lessor with one duplicate key per lock.

14. **Upkeep of Premises.** Lessee shall keep and maintain the premises in a clean and sanitary condition at all times, and upon the termination of the tenancy shall surrender the premises to Lessor in as good condition as when received, ordinary wear and damage by the elements excepted.

15. **Assignment and Subletting.** Lessee shall not assign this Agreement or sublet any portion of the premises without prior written consent of Lessor.

16. **Utilities.** Lessee shall be responsible for the payment of all utilities and services, except BASURA which shall be paid by Lessor.

17. **Default.** If Lessee shall fail to pay rent when due, or perform any term hereof, after not less than three (3) days written notice of such default given in the manner required by law, Lessor, at his option, may terminate all rights of Lessee hereunder, unless Lessee, within said time, shall cure such default. If Lessee abandons or vacates the property, while in default of the payment of rent, Lessor may consider any property left on the premises to be abandoned and may dispose of the same in any manner allowed by law.

18. **Security.** The security deposit in the amount of SEVEN HUNDRED Dollars ($ 700.00), shall secure the performance of Lessee's obligations hereunder. Lessor may, but shall not be obligated to, apply all or portions of said deposit on account of Lessee's obligations hereunder. Any balance remaining upon termination shall be returned, without interest, to Lessee. Lessee shall not have the right to apply the security deposit in payment of the last month's rent.

19. **Right of Entry.** Lessor reserves the right to enter the demised premises at all reasonable hours for the purpose of inspection, and whenever necessary to make repairs and alterations to the demised premises. Lessee hereby grants permission to Lessor to show the demised premises to prospective purchasers, mortgagees, tenants, workmen, or contractors at reasonable hours of the day.

20. **Deposit Refunds.** The balance of all deposits shall be refunded within two (2) weeks (21 days in California and Wisconsin) from date possession is delivered to Lessor, together with a statement showing any charges made against such deposits by Lessor.

21. **Termination.** This Agreement and the tenancy hereby granted may be terminated at any time by either party hereto by giving to the other party not less than one full month's prior notice in writing.

22. **Attorney's Fees.** The prevailing party in an action brought for the recovery of rent or other moneys due or to become due under this lease or by reason of a breach of any covenant herein contained or for the recovery of the possession of said premises, or to compel the performance of anything agreed to be done herein, or to recover for damages to said property, or to enjoin any act contrary to the provision hereof, shall be awarded all of the costs in connection therewith, including, but not by way of limitation, reasonable attorney's fees.

23. **Rules and Regulations.** Lessor's existing rules and regulations, if any, shall be signed by Lessee, attached to this agreement and incorporated into it. Lessor may adopt other rules and regulations at a later time provided that they have a legitimate purpose, not modify Lessee's rights substantially and not become effective without notice of at least two (2) weeks.

24. **Radon Gas Disclosure.** As required by law, Lessor makes the following disclosure: "Radon Gas is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in every state. Additional information regarding radon and radon testing may be obtained from your county public health unit."

25. **Lead Paint Disclosure.** As required by law, Lessor makes the following disclosure: "Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention."

26. **Insurance.** Lessor has obtained insurance to cover fire damage to the building itself and liability insurance to cover certain personal injuries occurring as a result of property defects or Lessor's negligence. Lessor's insurance does not cover Lessee's possessions or Lessee's negligence. Unless the opt-out clause below is initialed by both Lessee and Lessor, Lessee must obtain a renter's insurance policy to cover damage or loss of personal possessions as well as losses resulting from Lessee's negligence.

Opt-Out Clause:

_____ Lessee and Lessor must both initial and date here if the requirement that Lessee obtain renter's insurance is waived. If the requirement is waived, Lessee will not be required to obtain renter's insurance. Lessor's insurance policy does not cover damages or loss of Lessee's personal possessions as well as losses resulting from Lessee's negligence.

27. **Additional Terms and Conditions.**

NO USO HIGIENICO RESPONSABLES DE REPARACION DE ESTUFAS Y REFRIGERADORES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate the day and year first written above.

Lessee Ben Semin Date: 05-06-17

Lessor [illegible] Date: _____

NOTICE: State law establishes rights and obligations for parties to rental agreements. This agreement is required to comply with the Truth in Renting Act or the applicable Landlord Tenant Statute or code of your state. If you have a question about the interpretation of legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person.

Producer Copy

Commercial Property Department
11000 Eucalyptus Street
Rancho Cucamonga, CA 91730

Mercury Casualty Company

INSPECTION RECOMMENDATIONS

March 19, 2019

7D150 CA *CALIFORNIA BESTSURANCE INS

RE: Insured: EL WASH
Policy Number: CCP0062784

Location:

Dear Madam or Sir:

The following recommendations are a result of a recent inspection of your premises and operations. These recommendations cover potentially hazardous conditions, which were observed but do not include every loss potential code violation, or exception to good practice, nor are they so intended.

Neither the Company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the named insured or others, to determine or warrant that such property, workplaces, operations, machinery or equipment are safe or healthful, or are in compliance with any law, rule or regulation, or will be upon correction of the conditions itemized in this form.

Please notify us no later than 30 days from date shown above, by signing and returning this letter, including a copy of receipt for work completed, or if you are doing the work yourself, a copy of the sales receipt for material purchased. Non-compliance of recommendations may result in cancellation of the policy.

We realize major contracting work cannot be completed within 30 days. If you are getting bids or scheduling work, please let us know. We can allow more time for completion of more serious recommendations.

RECOMMENDATIONS:

Locaiton: 3115 E 27th St, Oakland, CA 94601

1. Please have all balcony and/or stair railings with spacing more than 5 inches modified with additional metal bars or a strong, heavy duty mesh material (not chicken or pock wiring) so spacing is reduced to 5 inches or less. Color photos required.
2. Please have carbon monoxide and smoke detectors tested every 6 months and a log kept for your records. Signature required.
3. Please have at least one 5lb ABC type fire extinguishers installed in areas easily accessible to all tenants. They are to be serviced and tagged annually by a licensed contractor. Receipt required.
4. Please have the window bars removed or quick-release mechanisms installed for easier and safer exit of the building in case of an emergency. Receipt required.
5. Please have all excessive build-up of grease and oil removed from the pavement/concrete areas.

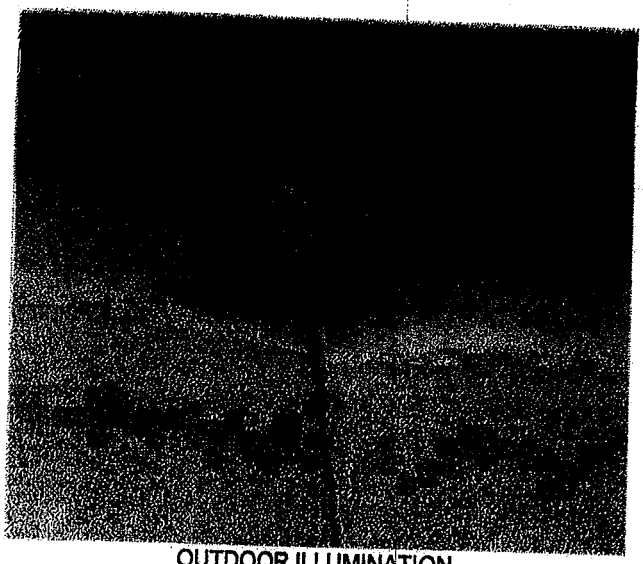
If the above recommendations are not completed within thirty ~~(30)~~ 60 days of the mailing date of this letter, a thirty (30) day notice of cancellation will be mailed out.

CCP0062784 ☐ **Work Completed** **Insured's Signature** _____ **Date** _____

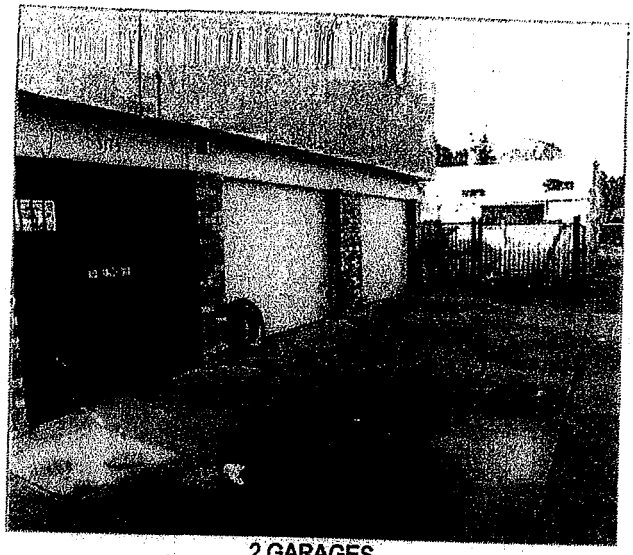
E&S INSPECTIONS

Name: EL WASH

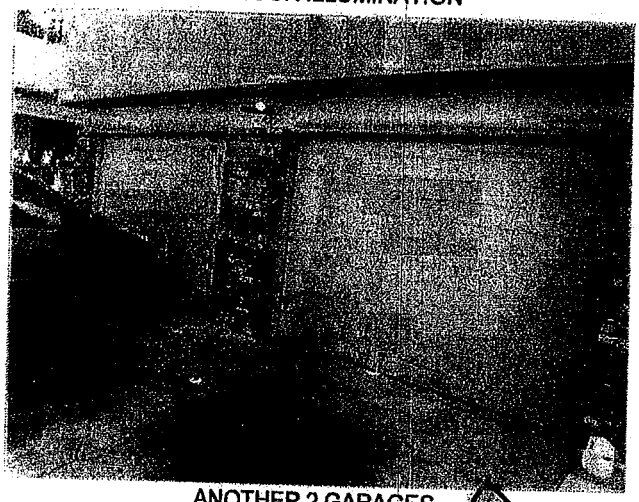
Policy Number: CCP0062784



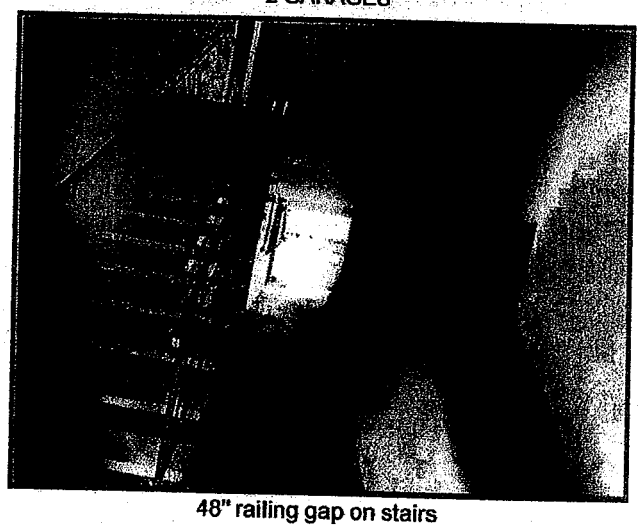
OUTDOOR ILLUMINATION



2 GARAGES



ANOTHER 2 GARAGES

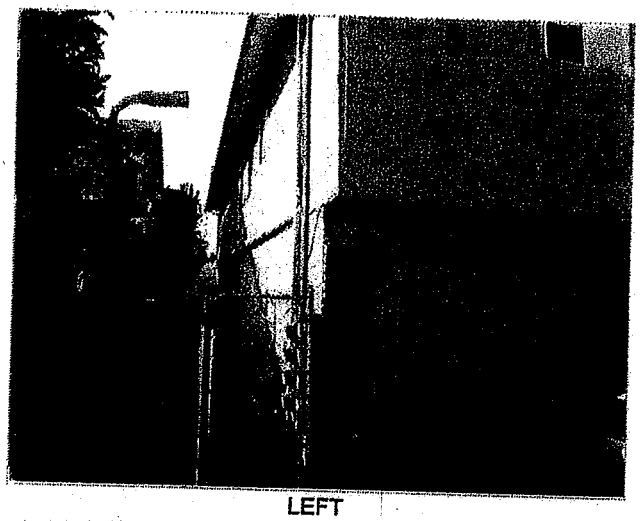


48" railing gap on stairs

Apt. "D"
Parking Space

E&S INSPECTIONS

Name: EL WASH	Policy Number: CCP0062784



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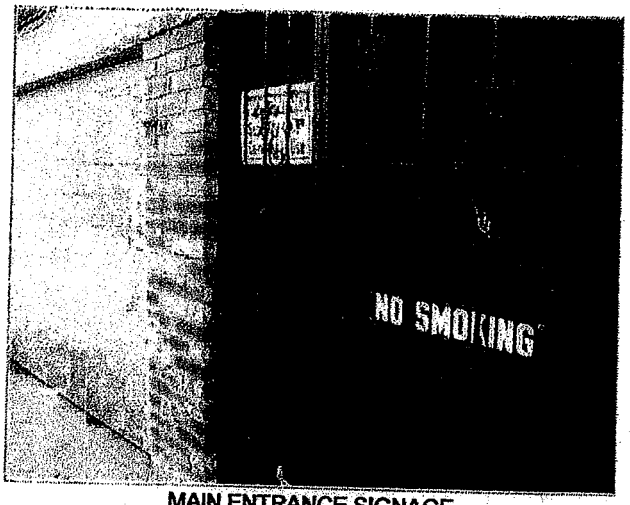
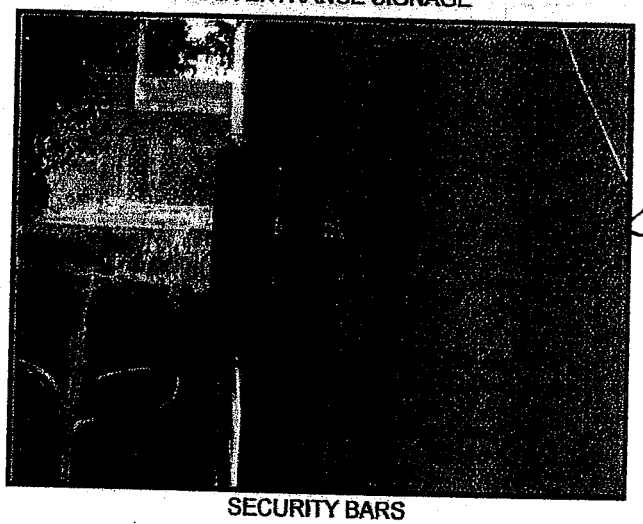


MAIN ENTRANCE SIGNAGE

ELECTRICAL AND GAS METERS



SECURITY BARS

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

ADMINISTRATIVE DECISION

CASE NUMBER: **T20-0037, Vega et al v. Wash**

PROPERTY ADDRESS: **3115 East 27th Street**
Oakland, CA

PARTIES: **Monica Vega, Tenant**
Benjamin Peña, Tenant
E Wash, Owner

SUMMARY OF DECISION

The Tenant's petition is dismissed.

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.

On January 10, 2020, the tenant filed a petition alleged decreased housing services. The tenant's petition states under penalty of perjury that their rent is subsidized or controlled by a government agency, including HUD.

//
//

Exemption from the Rent Ordinance: The Oakland Rent Ordinance[1] states:

A. . . The following dwelling units are not Covered Units[2] for the purposes of this Chapter 8.22: . . . 1. Dwelling units whose rents are controlled, regulated (other than by this Chapter), or subsidized by any governmental unit, agency, or authority.

The petition admits that the rent for the subject unit is controlled, regulated, or subsidized by a governmental unit, agency, or authority. Therefore, the subject unit is exempt from the Rent Adjustment Ordinance, and the Rent Adjustment Program has no jurisdiction over the subject unit. Therefore, the tenant's petition is dismissed.

ORDER

1. Petition T20-0037 is dismissed.

2. The hearing on June 23, 2020, 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 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: June 15, 2020

Cometria C. Cooper
Hearing Officer
Rent Adjustment Program

[1] O.M.C. Section 8.22.030
[2] A "Covered Unit" is a rental unit that is not exempt from the Rent Ordinance (O.M.C. Section 8.22.020).

PROOF OF SERVICE
Case Number T20-0037

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

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

Documents Included
Administrative Decision

Owner
E L Wash
1250 Fairmont Drive Unit 740
San Leandro, CA 94578

Tenant
Benjamin Pena
3115 East 27thStreet Unit D
Oakland, CA 94601

Tenant
Monica Vega
3115 East 27th Street Unit D
Oakland, CA 94601

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 **June 15, 2020** in Oakland, CA.

Cometria C. Cooper

Oakland Rent Adjustment Program

LR 15

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 MONICA Vega & BENJAMIN PENA	☐ Owner ☒ Tenant
Property Address (Include Unit Number) 3115 E-22nd St #D, Oakland CA, 94601	
Appellant's Mailing Address (For receipt of notices) SAME AS ABOVE	**Case Number** T-20-0037 **Date of Decision appealed** June 15, 2020
Name of Representative (if any)	**Representative's Mailing Address (For notices)**

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

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

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

a) ☐ **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.).*

b) ☐ **The decision is inconsistent with decisions issued by other Hearing Officers.** *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*

c) ☐ **The decision raises a new policy issue that has not been decided by the Board.** *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.).*

d) ☐ **The decision violates federal, state or local law.** *(In your explanation, you must provide a detailed statement as to what law is violated.)*

e) ☐ **The decision is not supported by substantial evidence.** *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

f) ☒ **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** (*In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.*)

g) ☐ **The decision denies the Owner a fair return on my investment.** (*You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.*)

h) ☐ **Other.** (*In your explanation, you must attach a detailed explanation of your grounds for appeal.*)

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

• **You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed.** •
I declare under penalty of perjury under the laws of the State of California that on July 3, 2020. I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	E.L. WASH
Address	1250 FAIRMONT DRIVE #740
City, State Zip	SAN LEANDRO, CA, 94578
Name	
Address	
City, State Zip	

[illegible]	July 3, 2020
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.

usa2099@fedex.com

From: [redacted]
Sent: Thursday, July 2, 2020 3:18 PM
To: usa2099@fedex.com
Subject: [EXTERNAL] Print 3 copies / [redacted]

Under section 'F' listed above, these are our justifications for appeal. The reason there were no material facts to contest, is because we were not allowed to present those fact. Had we been allowed to presente evidence to substantiate our claim of decreased housing services, the evidence listed below is what we would have presented.

Has capped off all the building's external water faucets, which we need for washing our hands or anything else we deem necessary before entering our unit, as per 'The Alameda County Covid-19 Rules for Hygiene.'

Has removed all of our chairs and tables from the patio and forbidden us to have anything at all on the patio, even a broom outside our door.

Has destroyed my vegetable garden in the backyard of the unit out of anyone's way, and has forbidden me to replant.

Has placed all 4 of the complex's large garbage bins and a recyclable bin in a communal space outside and locked up the actual garbage room. All of which increases the chances that bugs and vermin attracted to the two different restaurants on the other side of the fence only inches away, will now enter into the complex, attracted by the garbage which she placed outside.

Won't allow any tenant's friends or family to park any vehicle that she isn't familiar with in said tenant's driveway while visiting said tenant, unless said tenant pays her extra, or she will tow their vehicle. And she has, in fact, towed at least one tenant's vehicle out of their own driveway thus far.

Also, having to deal with someone who has obvious mental, emotional, and psychological issues is a loss of services in and of itself. I urge the court to look into the background of the owner, E.L. Wash, and I am sure that the court will uncover a past history of mental, emotional, and psychological breakdowns, which should make E.L. Wash psychologically unfit to own rental property, or at the least, it should make her psychologically unfit to manage rental property.

CHRONOLOGICAL CASE REPORT

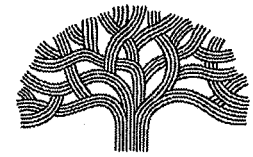
Case No.:	T19-0335
Case Name:	Reyes v. Olivolo
Property Address:	3273 Lynde Street, Unit 2, Oakland, CA
Parties:	Xavier Johnson (Tenant Representative) Sandra Reyes (Tenant) Adam Olivolo (Owner)

OWNER APPEAL:

Activity	Date
Tenant Petition filed	June 28, 2019
No Owner Response filed	----------
Hearing Decision Mailed	July 10, 2020
Owner Appeal filed	July 30, 2020

T19-0335 KM | MA

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2019 JUN 28 PM 4:30



CITY OF OAKLAND

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

For date stamp.

TENANT PETITION

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

Please print legibly

Your Name	Rental Address (with zip code)	Telephone:
Sandra Reyes	3273 Lynde Street #2 Oakland, CA 94601	[redacted] E-mail: [redacted]
Your Representative's Name	Mailing Address (with zip code)	Telephone: Email:
Property Owner(s) name(s) Adarna Olivolo	Mailing Address (with zip code) 436 Greenwood Dr. Santa Clara, CA 95054	Telephone: [redacted] Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: Email:

Number of units on the property: 6.

Type of unit you rent (check one)	☐ House	☐ Condominium	☒ Apartment, Room, or Live-Work
Are you current on your rent? (check one)	☒ Yes	☐ 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:**

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

Petitition prepared by Centro Legal de la Raza

Tenant is a monolingual Spanish speaker and requests a Spanish language interpreter

	rent increase.
X	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
X	(e) The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increase(s).
X	(f) The rent increase notice(s) was (were) not given to me in compliance with State law.
	(g) The increase I am contesting is the second increase in my rent in a 12-month period.
X	(h) There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance. (Complete Section III on following page)
X	(i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page)
	(j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.
	(k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
	(l) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake (OMC 8.22, Article I)
	(m) The owner did not give me a summary of the justification(s) for the increase despite my written request.
	(n) The rent was raised illegally 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: 12/1/2005 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 From	To	Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
6/4/2019	6/1/2019	$ 1250	$ 1350	☒ Yes ☐ No	☐ Yes ☒ No
3/26/2018	6/1/2018	$ 1135	$ 1250	☒ Yes ☐ No	☐ Yes ☒ No
4/2017	6/2017	$ 1085	$ 1135	☒ Yes ☐ No	☐ Yes ☒ No
Prior to 2017 rent was increased approximately $10 annually. Rent increases were all served without RAP notices. Tenant contests all rent increases since 2005.				☒ Yes ☐ No	☐ Yes ☒ No
				☒ Yes ☐ No	☐ Yes ☒ No
				☒ Yes ☐ No	☐ Yes ☒ No

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

Have you ever filed a petition for this rental unit?

☐ Yes
☒ No

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

_____

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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

_____ 6/25/19
Tenant's Signature **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): _____

Tenant Petitioner
Sandra Reyes
3273 Lynde Street #2
Oakland, CA 94601

000088

Addendum A-Decrease in Services

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

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
Windows are in disrepair, with deteriorated seals and are not securely fastened.	Window pane started dislodging in summer of 2013 and a window broke 12/2014	Summer 2013 via phone call when tenant noticed windowpane dislodging from frame. Again in 12/2014 via phone call.	N/A	8%
Leak beneath kitchen sink	Shortly after tenancy began/early 2006	Early 2006 via phone call after tenant noticed water beneath sink.	N/A	10%
Broken burner on stove needs to be replaced	Shortly after tenancy began/ early 2006	Early 2006 via phone call when tenant noticed burner was not working.	N/A	5%
Kitchen cabinets are deteriorating and crumbling	Cabinets were in poor condition since start of tenancy and have gotten progressively worse over time.	Mid 2012 tenant showed owner the cabinets in person and requested maintenance verbally.	N/A	10%

Mailed out

60-DAY NOTICE TO CHANGE THE TERMS OF YOUR RENTAL AGREEMENT

To: Sandra Reyes, Resident(s) and all others in possession of Apt. No. 2, located at (Street Address) 3273 Lyndale Street in the city of Oakland, 94601, California

PLEASE TAKE NOTICE that in accordance with the governing State and local laws and ordinances, that sixty (60) days after service upon you of this notice or beginning June 1, 2019, whichever is later, the terms of your rental agreement for the above described property are hereby changed as follows:

☐ **YOUR MONTHLY RENT** shall be increased from $ 1,250.00 per month to $ 1,350.00 per month, an increase of $ 100.00 per month.

☐ **YOUR SECURITY DEPOSIT** shall be increased from $ None to $_____, an increase of $_____.

☐ **TOTAL AMOUNT DUE** and payable by the above stated time period:

New Monthly Rent:	$ 1,350.00
Security Deposit Increase:	$ None
Other:	$
Total Due:	$ 1,350.00

☑ Rent Increase of the following reason — New repair dryer, plumbing expenses — New sewer pumps to prevent flooding, sewer lateral clean up plus inspection, roof leak repair, newly interior paint to the bldg, gutter repair, fixture lighting, car port repair and painted, electrical update, new landscaping, new grass lawn and flowers

Except for the above changes, all other terms of your Rental Agreement shall remain in full force and effect.

Dated: (Month/Day) March 5, 2019
3-5-2019

Adarna F. Olinolo, OWNER(S)

By: ES Espozo, AGENT

60-DAY NOTICE TO CHANGE THE TERMS OF YOUR RENTAL AGREEMENT

To: Sandra Reyes, Resident(s) and all others in possession of Apt. No. 2, located at (Street Address) 3273 Lynde Street in the city of Oakland, California 94061

PLEASE TAKE NOTICE that in accordance with the governing State and local laws and ordinances, that sixty (60) days after service upon you of this notice or beginning June First (1), 20 18, whichever is later, the terms of your rental agreement for the above described property are hereby changed as follows:

☑ **YOUR MONTHLY RENT** shall be increased from $ 1135.00 per month to $ 1,250.00 per month, an increase of $ 115.00 per month.

☐ **YOUR SECURITY DEPOSIT** shall be increased from $ ~~0~~ to $ ~~0~~, an increase of $_____.

☑ **TOTAL AMOUNT DUE** and payable by the above stated time period:

New Monthly Rent:	$ 1,250.00
Security Deposit Increase:	$ ~~0~~
Other:	$ ~~0~~
Total Due:	$

☐ **OTHER CHANGES:**

None

Except for the above changes, all other terms of your Rental Agreement shall remain in full force and effect.

Dated: (Month/Day) March 26, 20 18

Adarna F. Olivolo, OWNER(S)

By: Adarna F. Olivolo, AGENT

CITY OF OAKLAND

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

Housing and Community Development
Department Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T19-0335 Reyes v. Olivolo

PROPERTY ADDRESS: 3273 Lynde Street, Unit 2, Oakland, CA

DATE OF HEARING: January 15, 2020

DATE OF DECISION: July 6, 2020

APPEARANCES: Xavier Johnson, Tenant Representative
Sandra Reyes, Tenant
Marci Valdivieso, Interpreter

SUMMARY OF DECISION

The tenant's petition is partly granted.

CONTENTIONS OF THE PARTIES

On June 28, 2019, tenant Sandra Reyes filed a petition contesting all prior rent increases and claiming that her housing services have decreased. The basis for the tenant's petition includes the following:

- The CPI and/or banked rent increase notice I was given was calculated incorrectly;
- The increases exceed the CPI Adjustment and are unjustified or are greater than 10%;
- I received a rent increase notice before the property owner received approval from the Rent Adjustment Program for such an increase and the rent increase exceeds the CPI Adjustment and the available banked rent increase;
- No written notice of Rent Program was given to me together with the notice of increases I am contesting;
- 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 increases;
- The rent increase notices were not given to me in compliance with State law;

- There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance; and
- The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner.

The owner did not file a response and did not appear for the hearing.

THE ISSUES

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

EVIDENCE

Rent History

The subject property is a six-unit residential building. The tenant moved into the subject unit in December of 2005, at an initial monthly rent of $950.00. In her petition, the tenant stated that prior to 2017, her rent was increased by approximately $10.00 every year. In June of 2017, her rent was increased from $1,085.00 to $1,135.00 monthly. In June of 2018, her rent was increased to $1,250.00 monthly. In June of 2019, her rent was increased to $1,350.00 monthly. Copies of the 2018 and 2019 rent increase notices were received into evidence.[1] The tenant testified that she has been paying $1,250.00 in rent monthly since June of 2018. She confirmed that she has not paid the most recent rent increase amount of $1,350.00. Finally, the tenant submitted copies of rent receipts, verifying rent payments.[2]

RAP Notice

The tenant stated on her petition and testified at the hearing that she never received the RAP Notice. This testimony was undisputed because the owner did not appear for the hearing.

No Appearance by Owner at the Hearing

On September 20, 2019, a Notice of Hearing was mailed to the owner's address with a proof of service. No mail was returned as non-delivered.

The Notice of Hearing was properly served, and the Hearing came on regularly on January 15, 2020, at 10:00 a.m. as scheduled, without the appearance of the owner. The Hearing Officer waited until 10:15 a.m. for the owner to appear.

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[1] Exhibit 1
[2] Exhibit 2

Decreased Housing Services

With her petition, the tenant submitted the following list of decreased housing services.

Windows: The tenant testified that the windows are in disrepair and the seals are deteriorating. She complained to the owner about the windows in the summer of 2013, after one of the windowpanes became dislodged. In response, the owner glued the windowpane back into the frame but now that window no longer opens. She further testified that the windows in the kitchen and living room do not open. On December 4, 2019, the City of Oakland Code Enforcement Services issued a Notice of Violation, citing the living room and kitchen windows for failure to "open/close properly".[3] The tenant submitted photographs of the windows.[4]

Kitchen Sink Leak: The tenant testified that there is a leak under the kitchen sink. She notified the owner of the leak shortly after she moved into the unit, in 2006. In response, the owner replaced the kitchen faucet but did not repair the leak under the sink. Code Enforcement Services also cited the kitchen sink leak in the Notice of Violation dated December 4, 2019.[5] The tenant submitted photographs of the kitchen sink.[6]

Broken Stove Burner: The tenant testified that one of the stove burners is broken. She notified the owner of this issue shortly after she moved into the unit, in 2006. In response, the owner replaced the broken burner, but the new burner does not work properly either. The tenant submitted a photograph of the stove burner.[7]

Kitchen Cabinets: The tenant testified that the kitchen cabinets are old and deteriorating. There is sawdust falling off the cabinets. She complained about the cabinets in 2012 and was told that if the owner replaced the kitchen cabinets, he would have to increase her rent. To date, the cabinets have not been replaced. The tenant submitted photographs of the kitchen cabinets.[8]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

RAP Notice and Rent Increases

Notice and Filing Requirements: The Rent Adjustment Ordinance requires an

[3] Exhibit 4
[4] Exhibit 5
[5] Exhibit 4
[6] Exhibit 5
[7] Exhibit 5
[8] Exhibit 5

owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy[9] and together with any notice of rent increase.[10]

The tenant testified that she was never provided the RAP Notice. This testimony was undisputed. Therefore, the contested rent increases are invalid and the tenant's base rent remains $950.00. Since the tenant has been paying the rent increases, the tenant is entitled to restitution for rent overpayments, but the restitution is limited to 3 years prior to the hearing[11]. See chart below.

Decreased Housing Services

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent[12] and may be corrected by a rent adjustment.[13] However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy, or one that is required to be provided in a contract between the parties, or a violation of the housing or building code which seriously affects the habitability of the tenant's unit. Further, an owner must be given notice of a problem, and a reasonable opportunity to make repairs, before a claim of decreased housing services will be granted.

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

Windows: The tenant testified that the windows in the living room and kitchen are deteriorating and do not open and close properly. The windows were also cited in the Notice of Violation dated December 4, 2019. This claim affects the habitability of the unit and the tenant is entitled to a 2% rent reduction until the windows are repaired. The tenant is also entitled to past decreased housing services from February 2017 (3 years prior to hearing) to July 2020 (date of hearing decision). See Chart below.

Kitchen Sink Leak: The tenant testified that there is a leak under the kitchen sink. The kitchen sink leak was also cited in the Notice of Violation dated December 4, 2019. This claim affects the habitability of the unit and the tenant is entitled to a 2% rent reduction until the leak is repaired. The tenant is also entitled to past decreased housing services from February 2017 (3 years prior to hearing) to July 2020 (date of hearing decision). See Chart below.

Broken Stove Burner: The tenant testified that one of the stove burners is broken. The owner replaced the burner after she notified him of the problem, but the new burner does not work properly. However, the stove burner was not cited in the Notice of Violation dated December 4, 2019. Further, the tenant still has use of the other three stove burners. Compensation for this claim is denied.

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[9] O.M.C. Section 8.22.060(A)
[10] O.M.C. Section 8.22.070(H)(1)(A)
[11] HRRAB Appeal Decisions T06-0051 (*Barajas/Avalos v. Chu*) & T08-0139 (Jackson-Redick v. Burks)
[12] O.M.C. Section 8.22.070(F)
[13] O.M.C. Section 8.22.110(E)

Kitchen Cabinets: The tenant testified that the kitchen cabinets are old, deteriorating, and need to be replaced. However, the tenant did not raise any issues with the functionality of the cabinets. Further, the kitchen cabinets were not cited in the Notice of Violation dated December 4, 2019. Compensation for this claim is denied.

VALUE OF LOST SERVICES

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Windows	1-Aug-17	1-Jul-20	$950	2%	$19.00	36	$684.00
Kitchen Leak	1-Aug-17	1-Jul-20	$950	2%	$19.00	36	$684.00
						TOTAL LOST SERVICES	**$1,368.00**

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Aug-17	1-May-18	$1,135	$950	$185.00	10	$1,850.00
1-Jun-18	1-Jul-20	$1,250	$950	$300.00	26	$7,800.00
					TOTAL OVERPAID RENT	**$9,650.00**

RESTITUTION

		MONTHLY RENT	$950
		TOTAL TO BE REPAID TO TENANT	$11,018.00
		TOTAL AS PERCENT OF MONTHLY RENT	1160%
AMORTIZED OVER		MO. BY REG. IS	
OR OVER	24	MONTHS BY HRG. OFFICER IS	**$459.08**

ORDER

1. Petition T19-0335 is partly granted.

2. The rent increases are invalid. The tenant's base rent remains $950.00.

3. Due to ongoing decreases in housing services, the tenant's rent is reduced by 4% ($38.00). The tenant's current legal rent, before consideration of restitution, is $912.00 a month. The tenant may begin paying the reduced rent of $912.00 once this Hearing Decision is final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to all parties

4. Due to rent overpayments and past decreased services, the tenant is owed restitution in the amount of $11,018.00. This overpayment is adjusted by a rent decrease for 24 months in the amount of $459.08 a month.

5. The tenant is entitled to reduce the rent per the restitution order after the Hearing Decision becomes final.

6. If the owner wishes to, he can repay the restitution owed to the tenant at any time. If he does so, the monthly decrease for restitution ends at the time the tenant is provided restitution.

7. Once the owner repairs the windows, the owner may increase the tenant's rent by 2% ($19.00), once the owner repairs the kitchen sink leak, he may increase the tenant's rent by 2% (19.00), upon proper notice in accordance with Section 827 of the California Civil Code and the Rent Adjustment Program.

8. The remaining claims of decreased housing services are denied.

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

Dated: July 6, 2020

Maimoona Sahi Ahmad
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number T19-0335

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

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

Documents Included
Hearing Decision

Owner
Adama Olivolo
436 Greenwood Drive
Santa Clara, CA 95054

Tenant
Sandra Reyes
3273 Lynde Street Unit 2
Oakland, CA 94601

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 **July 10, 2020** in Oakland, CA.

Raven Smith

Oakland Rent Adjustment Program

Case Number: T19-0335 Reyes V. Olivolo
Property Addres:
3273 Lynde Street, Unit 2
Oakland, CA 94601
Appeal Date: July 24, 2020

To whom it may concern,

This is the letter regarding the above-mentioned case number. I would like to appeal the decision made on July 6, 2020.

First of all, I know I was not present at the hearing. I was out of the country from January 13 – January 31, 2020. So, it would have been impossible for me to attend the hearing. I was not aware of the hearing until I received this notice of judgement, on July 6, 2020. If I knew of the hearing, I would have made every effort to be present at the hearing and defend my rent increases. Sandra's English is not very good, and my Spanish is very limited. There was a language barrier between the two of us.
Since I took over the management after my husband's death in October, 2016. I was thrust into this new role of managing our properties. I worked for CVS and kept a home. After he passed, I was lost and relied heavily on my cousin (Esmeraldo Esposo) for guidance. He is also our realtor. He showed me the best he could with the limited time he had, because he also had to work and had a newborn at the time. I tried to learn as much as I could in a short time. And, I knew some things would fall through the cracks like not understanding the Rent Adjustment Program for rent increases. I blame my naivete that I should have provided a RAP Notice for the rent increases. I thought if I made capital improvements and repairs, I could pass on the cost to the tenant and just add my notes to the 60 Day Notices.
I do not agree with Sandra Reyes. I have made improvements and repairs to the property since I took over (See exhibit A below, with the before and after pictures of the property dating back 2016 to present time). There is a significant improvement in the appearance of the property. I also hired a Professional Property Management Company to continue maintaining the apartment complex. So, please review my response to her following complaints:

Rent History

2017: I provided her with a 60 Day Notice (See attachment A). I had observed that the walkway on the second floor was deteriorating. I felt I had to address it for the safety of all the tenants. I had the work started at the middle of May and was completed by the end of June. I paid Juan Barreta $5,800 to replace stair landing and walkway on the 2nd floor.
2018: I provided her with a 60 Day Notice for a rent increase from $1,135 to $1,250. Roof leak affected unit 2 (See attachment B). I had to repair the flashing and replace some roof shingles in between the roof and wall barrier for $1,350. Also repaired the affected drywall inside for $552. Sandra's faucet needed to be repaired along with the installation of a new garbage disposal, for $350. I also had the gutters cleaned and new leaf shields for the rainy season, for $1,050. Pest Control started to eradicate rodents and fridge/stove repaired.)

2019: I provided her with 60 Day Notice for a rent increase from $1,250 to $1,350. I spent almost $40,0000 in Capital Improvements and Repairs. I painted all the exterior buildings and repaired any dry rot. There was a flooding issue in the back of the building parking lot from all the rains that year, so I installed a sump pump. I had to get electricity to the sump pump so an electrician was hired. While he was there, he suggested I upgrade my electrical and so I did. I decided to do more repairs on the roof to prevent anymore water intrusion on the other side, along with new gutters throughout the property. I also decided to fix the landscaping and expand driveway. There was a rodent issue on the property, and I paid for a year's worth of treatment to address it. (Please see attachment C)

Notices

I received a notice from Sandra Reyes dated July 1, 2019, through an attorney with Centro Legal de la Raza, stating that she had several concerns (Please reference attachment D). This all happened when she asked for a copy of the 2018 rent increase. I emailed her a copy in June, 2019. I called her immediately because she said I never gave her notice which I did, in March (see attachment C). I tried calling her to talk about the rent increase and repairs, but never received a call back. I called her again to set up an appointment for repairs, I still never heard back. I also tried emailing her 2 more times assuming she was receiving my email because she referenced it in the attorney letter, saying she received the copy of her 60 Day Notice late June, this was when I emailed her a copy. I called several more times to follow up on my prior 2 emails suggesting to hire an interpreter to help with our communication, still no response.
There was no reference who to call from her attorney's letter. I am not very tech savvy, so I could not google the information like most younger people do. I did not have an email or phone number of her lawyer from her letter.
At this time, I was feeling overwhelmed and my cousin suggested I hire a property manager, so I took his advice. I hired Fresno Management Company. I let her know in November via email that I would not be managing the property anymore. All notices needed to be sent to them. I honestly do not know why I never received the Hearing Notice. If I did, I do not remember seeing it.

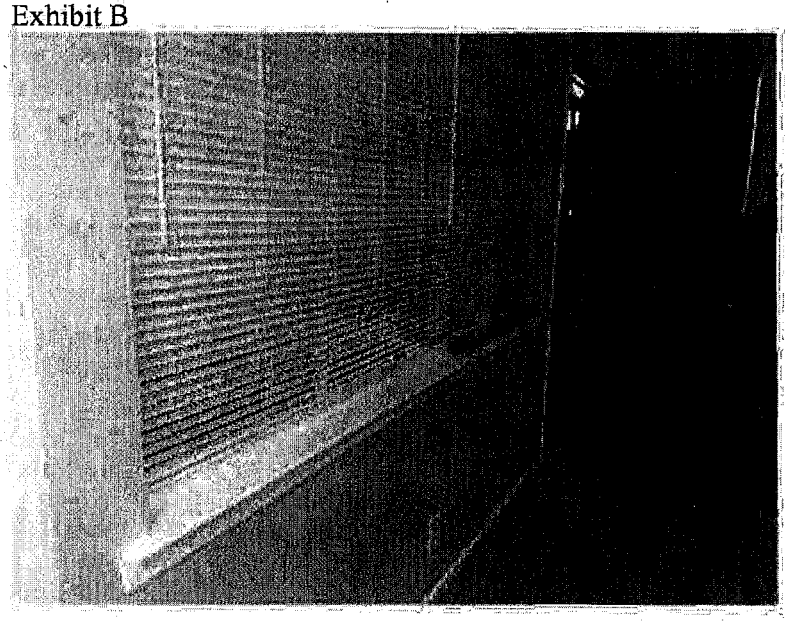
Decreased Housing Services

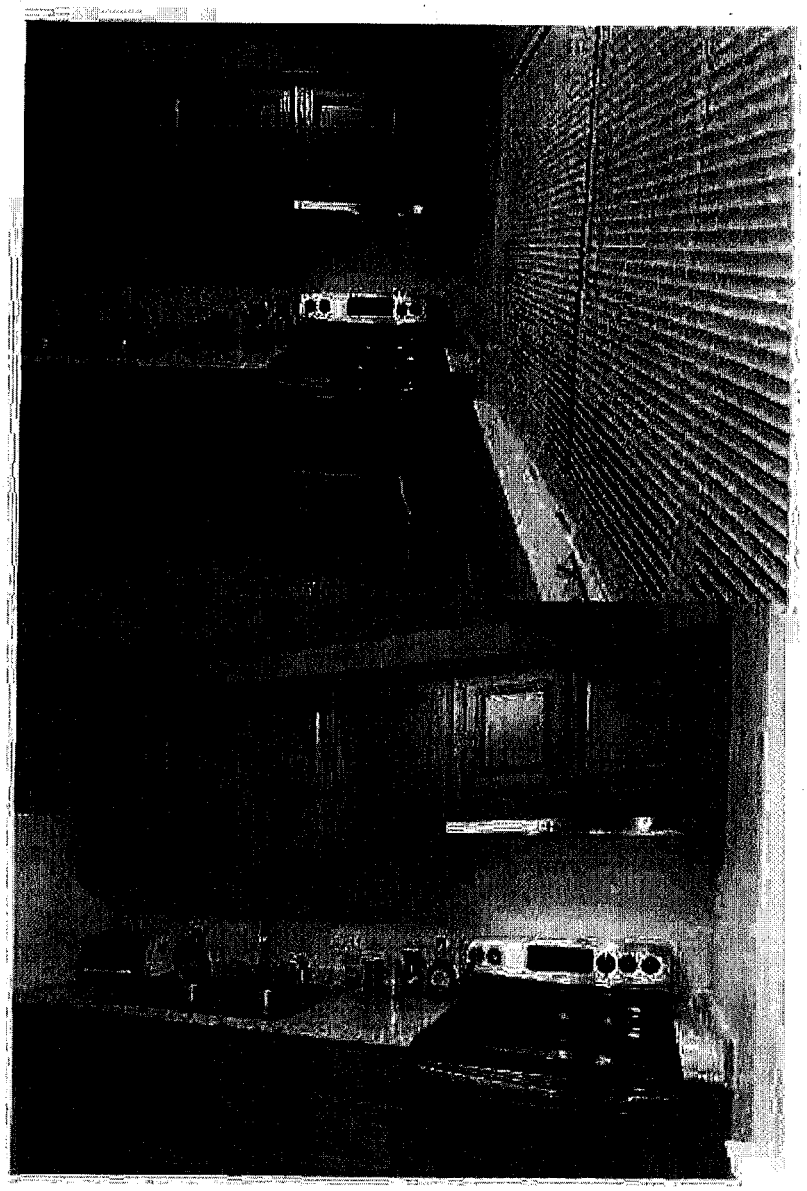
As I stated before, I reached out to Sandra Reyes numerous times, after receiving the letter from her attorney. I also do not recall any letter from the city stating any code violation from December 4, 2019. I had asked our property manager if they did as well. And they do not recall either and is looking to see if they did. I finally resorted to my former on-site manage Mike Hernandez. He lives in 3277 Lynde street (in one of the duplexes at the entrance of the building). He was able to schedule an appointment mid-December, to access the unit. Present were Donny Guerra (our maintenance person), Mike, my nephew JP Ocampo and myself. We finally agreed on a timeline, which she pushed back to the 2nd week of January, I think on the 13th, per the Invoice (see attachment E, copies of invoices, receipts and check payments). I also left the country that day to visit my family and told her Donny would be her point of contact.

So I was surprised that Sandra never mentioned in the hearing that I reached out to her numerous times to address her issues. And actual renovation to her unit was being done to address her concerns. I spent $20,109 to fix all the items she complained about, **New windows, New Kitchen, New Stove, New cabinets.** So, I have to admit I felt blind-sided by the Hearing Decision letter. I felt I made every effort to work with her and she was just not cooperating. I was disappointed that she did not work with me or the property management to resolve issues.

In closing, I feel I did my due diligence to make sure the property is maintained and the units updated. After the death of my husband there was a lot to do and learn. But from the end of 2016 to 2020 (present), I spent in capital improvement and her unit alone (not including other units I have renovated) a total of **$70,000.** See her unit pictures after Donny remodeled it. This is not a unit that is in disrepair. My only fault was I never really knew the Rent Adjustment Program (RAP). Looking back, I should have been more involved with my husband's business of maintaining these properties. But, at the time we needed health insurance, so I had to work a regular 9-5 job to have health insurance benefits for both of us. Again, please see the pictures (exhibit B), the receipts, the payments I made to contractors. And take into consideration, that I managed these units the best I could.

Exhibit B





Thank you for your time and consideration.

Adarna F Olivolo
Owner/Landlord
Cell #: [redacted]
Email: [redacted]

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 Adarna F Olivoto	☒ Owner ☐ Tenant
Property Address (Include Unit Number) 3273 Lynde Street, Unit 2, Oakland CA	
Appellant's Mailing Address (For receipt of notices) 436 Greenwood Dr. Santa Clara CA 95054	**Case Number** T-19-0335 Reyes vs. Olivoto **Date of Decision appealed** 7/24/20
Name of Representative (if any) Fresno Management Co.	**Representative's Mailing Address (For notices)** 7575 N. Del Mar Ave, Ste 100 Fresno, CA 93711

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

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

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

a) ☐ **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.).*

b) ☐ **The decision is inconsistent with decisions issued by other Hearing Officers.** *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*

c) ☐ **The decision raises a new policy issue that has not been decided by the Board.** *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.).*

d) ☐ **The decision violates federal, state or local law.** *(In your explanation, you must provide a detailed statement as to what law is violated.)*

e) ☐ **The decision is not supported by substantial evidence.** *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

Rev. 6/18/2018

Copy (A)

SIXTY-DAY NOTICE OF CHANGE OF MONTHLY RENT

TO: Alma Reyes
All Residents (tenants and subtenants) in possession (full name) and all others in possession

of the premises located at:

3273 Lyndi Street (Street Address), Unit # (if applicable) 2
Oakland (City), CA 94601 (Zip).

You are hereby notified, in accordance with Civil Code Section 827, that 60 days after service upon you of this Notice, or 6-1-17 (Date) whichever is later, your monthly rent which is payable in advance on or before the First day of each month, will be the sum of $1,085.00 instead of $1,135.00 the current monthly rent.

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

If you fail to fulfill the terms of your credit obligations, a negative credit report may be submitted to a credit reporting agency.

June 13, 2017 (Date)

Adarna F. Olivolo / Ez Caprio (Owner/Agent)

Proof of Service

To be filled out by Server AFTER service on Resident is complete

I, the undersigned, being at least 18 years of age, declare that I served this notice, of which this is a true copy, on the _____ day of _____ (month), _____ (year), on the above-mentioned resident(s) in possession, in the manner indicated below.

- ☐ BY DELIVERING a copy of the Notice to the following resident(s) PERSONALLY: _____
- ☐ BY LEAVING a copy for each of the above-named resident(s) with a person of suitable age and discretion at the residence or usual place of business of the resident(s), said resident(s) being absent thereof;
  AND MAILING by first class mail on said date a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to the above-named resident(s) at their place of residence.
- ☐ BY POSTING a copy for each of the above-named resident(s) in a conspicuous place on the property therein described, there being no person of suitable age or discretion to be found at any known place of residence or business of said resident(s).
  AND MAILING by first class mail on the same day as posted, a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope with postage fully prepaid, addressed to the resident(s) at the place where the property is situated
- ☑ BY MAILING by first class mail on said date a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to the above-named resident(s) at their place of residence. (NOTE: SERVICE BY MAIL IS AVAILABLE FOR NOTICE OF CHANGE OF MONTHLY RENT ONLY.)

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct and if called as a witness to testify thereto, I could do so competently.

Executed this 13th day of June (month), 2017 (year), in Oakland (city), CA (state).

ADARNA F. OLIVOLO (Name of Declarant (Print))

Adarna F. Olivolo (Signature of Declarant)

Unit #2 Renovation Total: $20,409

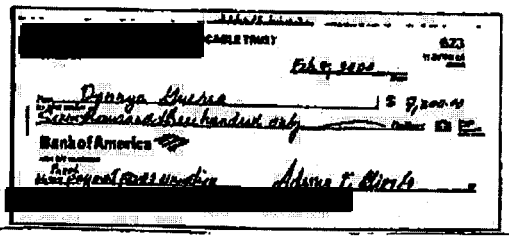
BANK OF AMERICA

THE ADARNA F. OLIVOLO REVOCABLE TRUST | Account # 1641 0248 5168 | December 27, 2019 to January 28, 2020

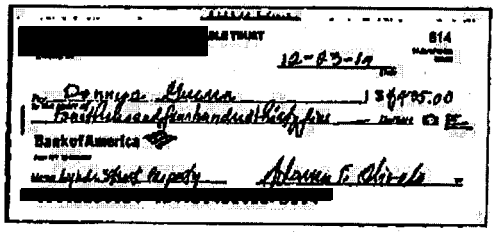
Check images

Account number: 1641 0248 5168

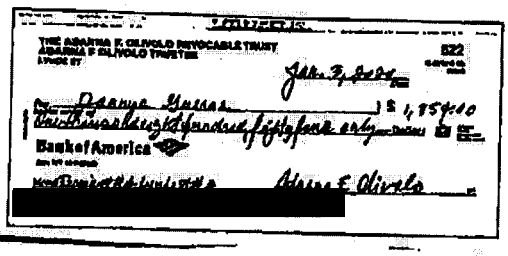
Check number: 623 | Amount: $7,300.00



Check number: 614 | Amount: $4,435.00



Check number: 622 | Amount: $1,854.00



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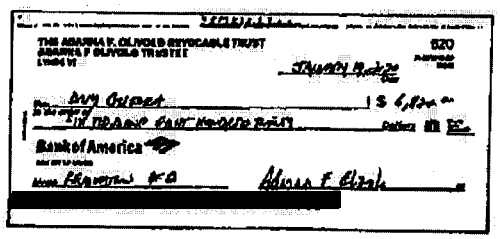


E

748 S 1st San Jose CA 95113
Email: agappliancestore@gmail.com
Customer Service : 408-990-680

3273 Lynhaff 2 NW
*Stove

AG APPLIANCE STORE

DATE	01/23/20	CUSTOMER NAME	Donys Guerra
ADDRESS	1010 RUCKER AVE	PHONE NUMBER	[redacted]
	GILROY CA 95020	EMAIL	
		Invoice	270934

RECEIPT

UNIT NAME	TOTAL COST
Kenmore stainless steel glass top electric stove	$ 300.00
0004860	
Sales Tax	$22.00
	$322.00

Warranty : 30 days

NOTES:

Signature of Customer

(By signing you accept terms & conditions)

ALL SALES ARE FINAL: NO RETURNS

We are not responsible for damages to floors, walls, etc when product is delivered.
We are not responsible for water damage when product is delivered
We are not responsible for spoiled food caused by refrigerator not working.

WWW.AGAPPLIANCESTORE.COM

Customer Receipt

Kitchen & Bathroom Remodel - (Slink - new)

Order #H6964-116292

6964 00097 04909 1/18/2020, 10:16:30 AM

000107

Sold to

JOHN OCAMPO

Business Address
436 GREENWOOD DR
SANTA CLARA, CA

Phone: (202) 528- 6604

Email: JP.OCAMPO@GMAIL.COM

Job Details

Job Description
Lynnde St. #2

Runner Name
Donnys

Sold by

TROY (TLL5268)

Store # 6964
5401 THORNTON AVE
NEWARK CA -

	Item Description	SKU #	Qty	Unit Price	Subtotal
01	15 Amp 3/4 in. Single-Pole Zinsco Type Q Replacement Circuit Breaker	659614	1	$52.78 / ea	$52.78
02	1/4 in. x 1/4 in. NPT Male Automotive Plug	661494	1	$2.50 / ea	$2.50
03	2 in. x 16-Gauge Finish Nail (1000 per Box)	549212	1	$14.98 / ea	$14.98
04	1/4 in. x 1/4 in. NPT Male Automotive Coupler	661558	1	$4.50 / ea	$4.50
05	Scotch 1.41 in. x 60.1 yds. Contractor Grade Masking Tape	151469	2	$3.20 / ea	$6.40
06	Decora 15 Amp 3-Way Illuminated Switch, White	255300	2	$11.48 / ea	$22.96
07	3/8 in. Compression x 1/2 in. FIP x 20 in. Braided Polymer Faucet Connector	405183	4	$5.98 / ea	$23.92
08	2-piece 1.1 GPF/1.6 GPF High Efficiency Dual Flush Complete Elongated Toilet in White, Seat Included	215583	2	$99.00 / ea	$198.00
09	75 ft. Drywall Joint Tape	586773	1	$1.96 / ea	$1.96
10	1/2 in. FIP Inlet x 3/8 in. O.D. Comp Outlet Multi Turn Angle Valve	235707	5	$8.26 / ea	$41.30
11	Reversible 3/8 in. x 2-1/4 in. MDF Base Moulding	886985	40	$.80 / ft	$32.00
12	ScotchBlue 1.41 in. x 60 yds. Original Multi-Surface Painter's Tape	303121	1	$6.23 / ea	$6.23
13	7 in. 90-Degree Round Adjustable Elbow	148741	3	$6.87 / ea	$20.61
14	3/4 in. x 4-1/2 in. Primed Pine Stool Moulding	537814	32	$3.50 / ft	$112.00

1-4
1-2

6964 97 04909 2020-01-18

D

Sandra Reyes
3273 Lynde Street #2
Oakland, CA 94601

Adarna Olivolo
436 Greenwood Dr.
Santa Clara, CA 95054
VIA U.S. Mail and Hand Delivery

* No email or phone # for lawyer

July 1, 2019

RE: Concerns regarding 3273 Lynde St #2

Dear Ms. Olivolo,

Someone who understands Spanish and English assisted me in writing this letter to you.

My name is Sandra Reyes. My family and I have been tenants at 3273 Lynde Street #2 for approximately 15 years. I write to address concerns regarding the property and my tenancy. I have previously notified you of these concerns verbally on numerous occasions. To date, my concerns have not been addressed.

Recently, I sought the assistance of an attorney at Centro Legal de la Raza and was advised of my rights and your obligations. Below I have spelled out my concerns.

Invalid Rent Increase

Oakland's Rent Adjustment Program specifies the manner and amount by which a tenant's rent can be increased. In the first week of June 2019, you left a voicemail saying I had failed to pay a rent increase of $100. You claimed that you sent me notice of the rent increase. I never received any written notice of a rent increase until the last week of June 2019. This increase is invalid and I have filed a petition with the Oakland Rent Adjustment Program contesting it. I will continue to pay my current monthly rent until the Rent Adjustment Program issues a decision regarding my lawful rental amount.

Habitability Violations

California law requires a landlord provide a tenant with habitable conditions. Specifically, California law states:

> A dwelling shall be deemed untenantable for purposes of Section 1941 if it substantially lacks any of the following affirmative standard characteristics or is a residential unit described in Section 17920.3 or 17920.10 of the Health and Safety Code:

(1) Effective waterproofing and weather protection of roof and exterior walls, including unbroken windows and doors.
(2) Plumbing or gas facilities that conformed to applicable law in effect at the time of installation, maintained in good working order.
(3) A water supply approved under applicable law that is under the control of the tenant, capable of producing hot and cold running water, or a system that is under the control of the landlord, that produces hot and cold running water, furnished to appropriate fixtures, and connected to a sewage disposal system approved under applicable law.

Cal. Civ. Cod. § 1941.

Furthermore, California Civil Code § 1714 clearly states that landlords have the duty to use "ordinary care or skill in the management" of their property. Moreover, where minor children are present, California landlords owe a "greater degree of care." *McDaniel v. Sunset Manor Co.* (1990) 220 Cal.App. 3d 1, 7.

When notified of the need for repairs, a landlord must take action to make the repairs within a reasonable time, generally 30 days. If the landlord fails to maintain adequate conditions, the landlord may be liable to a tenant for damages, including rent reductions, actual damages and special damages. Please refer to California Civil Code §1941 *et seq.* or consult an attorney if you have questions about your obligations under these laws.

There are a number of habitability violations at the above-referenced address. I have previously notified management of these violations via phone calls and in-person maintenance requests. Nonetheless, to date these violations have not been remedied. Specifically, the habitability violations include the following:

- The windows throughout the unit are deteriorated, are not securely fastened, and are not properly sealed.
- There is a leak beneath my kitchen sink
- One burner on my stove is broken and does not function
- My kitchen cabinets are deteriorated and crumbling. Pieces of the cabinets flake off and fall in the kitchen.

Moreover, under Oakland's Tenant Protection Ordinance (OMC § 8.22.600 *et seq.*), when notified of the need for repairs, a landlord must take action to make the repairs within 15 days. OMC § 8.22.650(B). If the landlord fails to maintain adequate conditions and/or make repairs once notified of their need, the landlord may be liable to a tenant for damages, including rent reductions, actual damages, special damages, and treble damages. Please refer to California Civil Code §1941 *et seq.* and O.M.C. § 8.22.600 *et seq.* or consult an attorney if you have questions about your obligations under these laws.

I respectfully ask that you complete repairs by no later than 30 days after receiving this letter. I will, of course, cooperate with you in scheduling times for the repairs to be completed. I ask, in return, that you comply with your legal obligations to notify me in writing, 24 hours in advance any time you, or your agent, intend to enter the apartment.

Conclusion

Please note that this letter is simply an attempt to exercise my rights under California and Oakland law. Accordingly, any attempt to evict me, raise my rent, or otherwise harass or intimidate me in retaliation for exercising my rights would violate California law. Indeed, any such actions may give rise to the legal presumption that you are illegally trying to evict me. Please further note that such behavior could result in landlord liability in terms of actual damages, punitive damages of no less than $100 per retaliatory act, attorney's fees, and all other remedies available by law. Please see California Civil Code § 1942.5 and relevant local statutes or consult with an attorney if you have questions about your rights and responsibilities in this regard.

Sincerely,

Sandra Reyes

CC: Centro Legal de la Raza

(C)

mailed out

60-DAY NOTICE TO CHANGE THE TERMS OF YOUR RENTAL AGREEMENT

To: Sandra Reyes, Resident(s) and all others in possession of Apt. No 7, located at (Street Address) 3273 Lynde Street in the city of Oakland, 94601, California

PLEASE TAKE NOTICE that in accordance with the governing State and local laws and ordinances, that sixty (60) days after service upon you of this notice or beginning June 1, 2019, whichever is later, the terms of your rental agreement for the above described property are hereby changed as follows.

☐ **YOUR MONTHLY RENT** shall be increased from $ 1,250.00 per month to $ 1,350.00 per month, an increase of $ 100.00 per month.

☐ **YOUR SECURITY DEPOSIT** shall be increased from $ None to $ _____, an increase of $ _____

☐ **TOTAL AMOUNT DUE** and payable by the above stated time period:

New Monthly Rent:	$ 1,350.00
Security Deposit Increase:	$ None
Other:	$ _____
Total Due:	$ 1,350.00

☑ Rent increase of the following reason — this is your owner's plumbing expenses — this sewer pump to prevent flooding, sewer hotline clean up plus inspection, traffick repair, trash interior paint to the bldg, exterior repair, fixture lighting, cosmetic repair and paint, street update, new landscaping, new new lawn and flower

Except for the above changes, all other terms of your Rental Agreement shall remain in full force and effect.

Dated: (Month/Day) March 5, 2019.
3 - 5 - 2019

Adriana F. Olivalo, OWNER(S)

By. Ed Espejo, AGENT

From [redacted]
To [redacted]
Subject: Fwd: Repair
Date: Mon, Jul 20, 2020 4:15 pm

Sent from my iPhone

Begin forwarded message:

July 16, 2019 - 12:35 PM
Reached out again. - No response

From: [redacted]
Date: July 16, 2019 at 12:35:44 PM PDT
To: [redacted]
Subject: Repair

Hi Sandra,

Please call me when you have time so we can take a look at what needs to be repaired.

Thank you

Adarna Olivolo

Sent from my iPhone

(C)

hand out

60-DAY NOTICE TO CHANGE THE TERMS OF YOUR RENTAL AGREEMENT

To: Sandra Reyes, Resident(s) and all others in possession of Apt. No 2, located at (Street Address) 3273 Lynde Street in the city of Oakland, 94601, California

PLEASE TAKE NOTICE that in accordance with the governing State and local laws and ordinances, that sixty (60) days after service upon you of this notice or beginning June 1, 2019, whichever is later, the terms of your rental agreement for the above described property are hereby changed as follows:

☐ **YOUR MONTHLY RENT** shall be increased from $ 1,250.00 per month to $ 1,350.00 per month, an increase of $ 100.00 per month.

☐ **YOUR SECURITY DEPOSIT** shall be increased from $ None to $ _____, an increase of $ _____

☐ **TOTAL AMOUNT DUE** and payable by the above stated time period:

New Monthly Rent:	$ 1,350.00
Security Deposit Increase:	$ None
Other:	$ _____
Total Due:	$ 1,350.00

☑ Rent Increase of the following reason — This is your owner's plumbing expense — New sewer pump to prevent flooding, sewer hotrent cleaning plus inspecting, roof leak repair, mainly involving point to the bldg, gutter repair, fixture lighting, car port repair and painting, replace update plus landscaping, overgrown lawn and flower

Except for the above changes, all other terms of your Rental Agreement shall remain in full force and effect.

Dated: (Month/Day) March 5, 2019
3-5-2019

Adanna F. Olinsto, OWNER(S)

By. Es Espada, AGENT

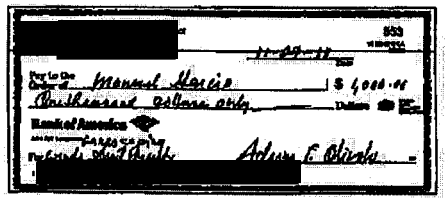
Bank of America Landscape Total: $5,000

THE ADARNA F. OLIVOLO REVOCABLE TRUST | Account # 1641 0248 5168 | November 28, 2018 to December 26, 2018

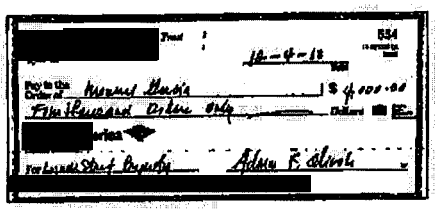
Check images

Account number: 1641 0248 5168

Check number: 553 | Amount: $1,000.00 → Land Scaping



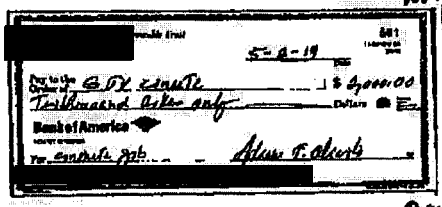
Check number: 554 | Amount: $4,000.00 – Landscaping



Drive Way Total: $4,000

Electrical Total: $1,644.09

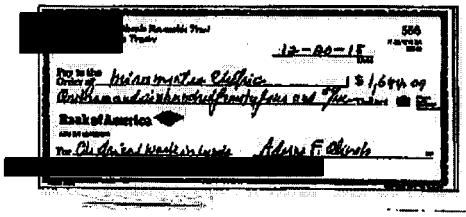
Check number: 581 | Amount: $2,000.00 → Drive Way



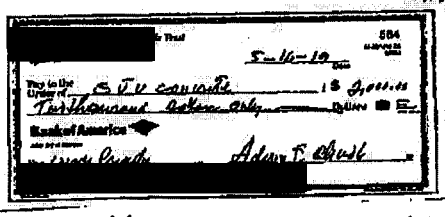
Check images

Account number: 1641 0248 5168

Check number: 556 | Amount: $1,644.09

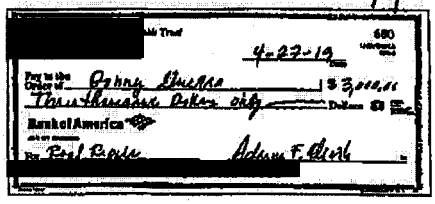


Check number: 584 | Amount: $2,000.00 → Drive Way



Roof Total: $3,000

Check number: 580 | Amount: $3,000.00 – Roof Repair

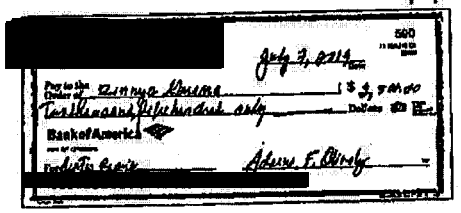


Gutter Total: $2,500

Check images

Account number: 1641 0248 5168

Check number: 590 | Amount: $2,500.00 → Gutter Repair



(B)

60-DAY NOTICE TO CHANGE THE TERMS OF YOUR RENTAL AGREEMENT

To: Sandra Reyes, Resident(s) and all others in possession of Apt. No. 2, located at (Street Address) 3273 Lynde Street in the city of Oakland, California

PLEASE TAKE NOTICE that in accordance with the governing State and local laws and ordinances, that sixty (60) days after service upon you of this notice or beginning Jan 1, 20 18, whichever is later, the terms of your rental agreement for the above described property are hereby changed as follows:

☐ **YOUR MONTHLY RENT** shall be increased from $ 1135.00 per month to $ 1250.00 per month, an increase of $ 115.00 per month.

☐ **YOUR SECURITY DEPOSIT** shall be increased from $ Y to $ Y, an increase of $_____.

☐ **TOTAL AMOUNT DUE** and payable by the above stated time period:

New Monthly Rent:	$ 1250.00
Security Deposit Increase:	$
Other:	$
Total Due:	$ 1250.00

☐ **OTHER CHANGES:**

See Attachment: Mazzoni Why Rent Increase

Except for the above changes, all other terms of your Rental Agreement shall remain in full force and effect.

Dated: (Month/Day) March 26, 20 18

Adriana F. Olivera, OWNER(S)

By: [illegible], AGENT

Withdrawals and other subtractions

Other subtractions

Date	Description	Amount
10/30/17	PGANDE DES:WEB ONLINE ID:82169934100917 INDN:ADARNA F OLIVOLO CO ID:5940742640 WEB	-232.24
11/01/17	NFCU DES:MORT DEBIT ID:8021085207 INDN:OLIVOLO CO ID: 932000000 WEB	-993.45
11/07/17	BANK OF INTERNET DES:LOAN DEPT ID: INDN:PATRICK OLIVOLO CO ID:XXXXXXXXX PPD	-5,271.42
11/10/17	EBMUD DES:WATER BILL ID:94286633599 INDN:Adarna Olivolo CO ID:1946000590 PPD	-1,553.85
11/13/17	WASTE MANAGEMENT DES:INTERNET ID:99540790 INDN:OLIVOLO ADARNA CO ID:9049038216 PPD	-644.70
Total other subtractions		**-$8,695.66**

Checks

Date	Check #	Amount
11/21/17	353	-1,350.00

Roof leak between walls from the roof.

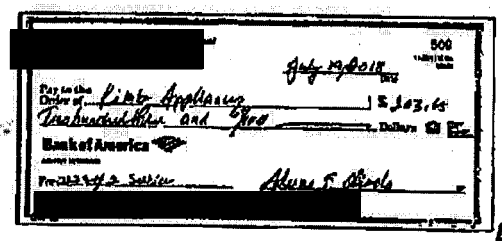
Date	Check #	Amount
11/27/17	354	-552.00
Total checks		**-$1,902.00**
Total # of checks		**2**

Repair Drywall from Leak + faucet

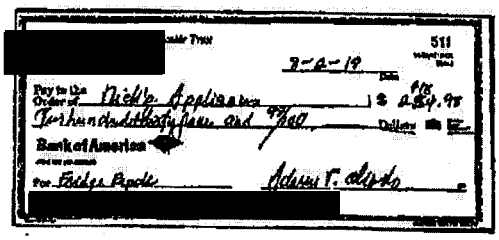
0248 5168 | July 27, 2018 to August 28, 2018

Kim's Appliance

Check number: 509 | Amount: $203.65 → stove service



Check number: 511 | Amount: $234.98 → Kim's Appliance



Withdrawals and other subtractions

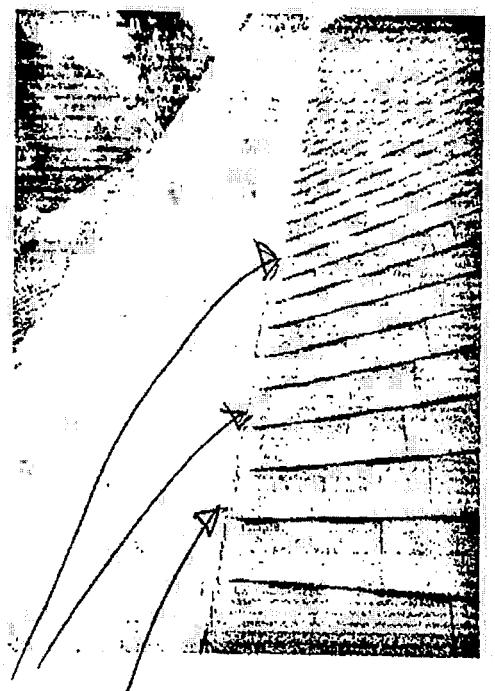
Other subtractions

Date	Description	Amount
08/29/17	PGANDE DES:WEB ONLINE ID:78192834080817 INDN:ADARNA F OLIVOLO CO ID:5940742640 WEB	-230.69
09/01/17	NFCU DES:MORT DEBIT ID:8021085207 INDN:OLIVOLO CO ID: 932000000 PPD	-849 74
09/07/17	BANK OF INTERNET DES:LOAN DEPT ID: INDN:PATRICK OLIVOLO CO ID:XXXXXXXXX PPD	-5,271 42
09/12/17	WASTE MANAGEMENT DES:INTERNET ID:99814810 INDN:OLIVOLO ADARNA CO ID:9049038216 PPD	-644.70
09/15/17	EBMUD DES:WATER BILL ID:94286633599 INDN:Adarna Olivolo CO ID:1946000590 PPD	-1,414.50
Total other subtractions		**-$8,411.05**

Checks

Date	Check #	Amount
09/01/17	347	-75.00
09/01/17	348	-350.00
09/13/17	349	-435.00
09/18/17	350	-1,625.00
Total checks		**-$2,485.00**
Total # of checks		**4**

Replace Garbage Disposal Paid Robert Chaney



Roof leaked in between walls that affected Unit #2. Drywall was also replaired inside the unit.

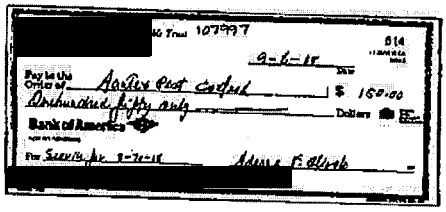
Pest Control Total: $1,525

Bank of America

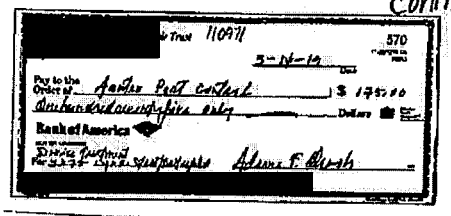
THE ADARNA F. OLIVOLO REVOCABLE TRUST | Account # [redacted] August 29, 2018 to September 25, 2018

Check images

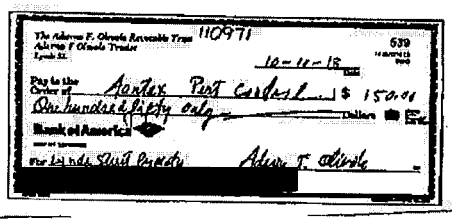
Account number: [redacted]
Check number: 514 | Amount: $150.00 → Pest Control



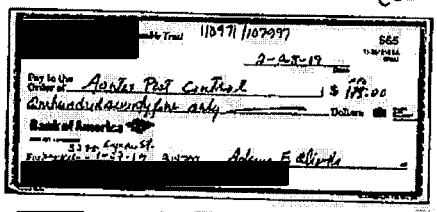
Check number: 570 | Amount: $175.00 → Pest Control



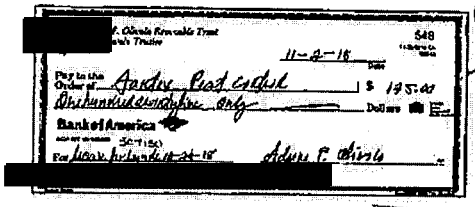
Account number: 1641 0248 5168
Check number: 539 | Amount: $150.00 → Pest Control



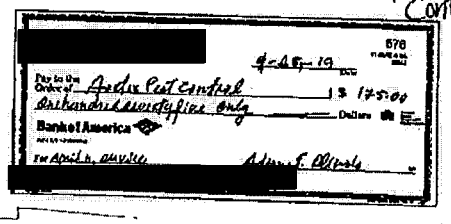
Check number: 565 | Amount: $175.00 → Pest Control



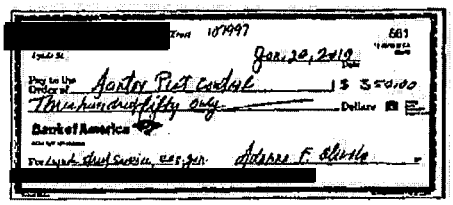
Check number: 548 | Amount: $175.00 → Pest Control



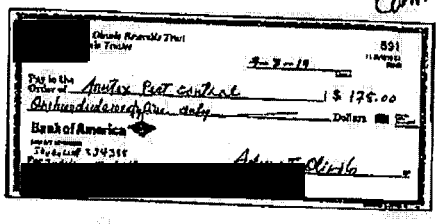
Check number: 576 | Amount: $175.00 → Pest Control



Check number: 561 | Amount: $350.00 → Pest Control

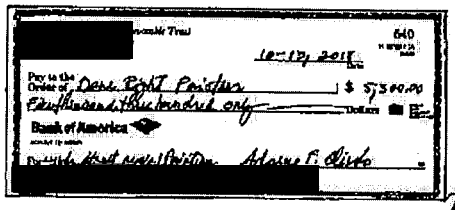


Check number: 591 | Amount: $175.00 → Pest Control

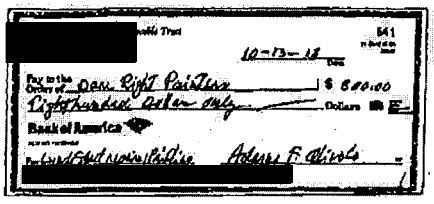


Paint Total: $13,750

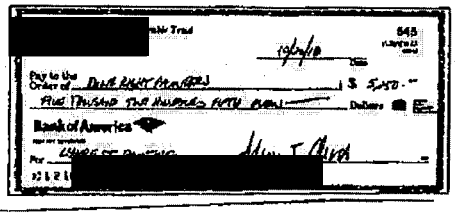
Check number: 540 | Amount: $5,300.00 → Paint



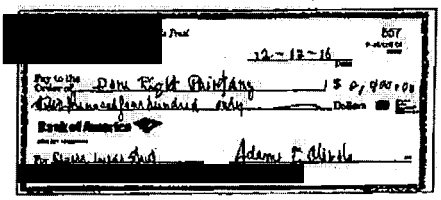
Check number: 541 | Amount: $800.00 → Paint



Check number: 545 | Amount: $5,250.00 → Paint



Check number: 557 | Amount: $2,400.00 → Paint

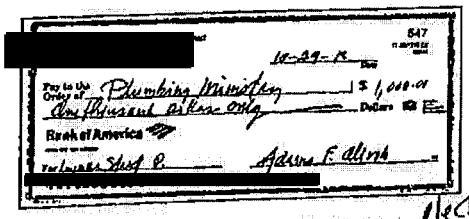


Sump Pump Total: $6,100

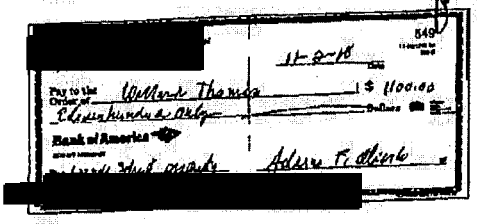
Check images

Account number [redacted]

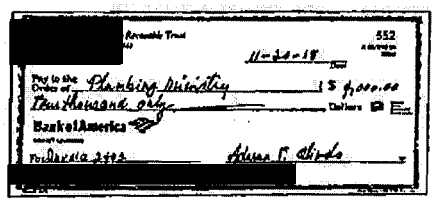
Check number: 547 | Amount: $1,000.00 → Sump Pump



Check number: 549 | Amount: $1,100.00 → Electrical for Sump Pump



Check number: 552 | Amount: $4,000.00 → Sump Pump



From: [redacted]
To: [redacted]
Subject: Fwd: Property changes management
Date: Mon, Jul 20, 2020 4:14 pm

Sent from my iPhone

Begin forwarded message:

Nov. 12, 2019
New management
hired.

From: Adarna Olivolo [redacted]
Date: November 12, 2019 at 7:21:43 PM PST
To: sandrareyes80@gmail.com
Subject: Property changes management

I will no longer involve collecting rent !, I hired a management company to take care of everything including Lynde Street.,they'll send notice in a few days to where you send you're rent for December rent!
Adarna Olivolo

Sent from my iPhone

From: [redacted]
To: [redacted]
Subject: Fwd: Repare
Date: Mon, Jul 20, 2020 4:15 pm

Sent from my iPhone

Begin forwarded message:

July 16, 2019 @ 11:57 AM, I suggested hiring an interpreter - No answer

From: [redacted]
Date: July 16, 2019 at 11:57:09 AM PDT
To: [redacted]
Subject: Repare

I have left you messages during the past few weeks to settle your claims but up to this point you never return all my messages!, so what do you expects me to do when you do not respond . As my attorney said you do not want to respond then your claim is not valid! , but if you are welling to cooperate then call me or email me when is the best time to see you so can bring my maintenance guy to see what are really need to be repair or fix at your unit! I know you do not speak inglish good but I can asked an interpreter so you can understand everything ok
!, call me tell you daugther to call me.
Adarna Olivolo

Sent from my iPhone

From: [redacted]
To: [redacted]
Subject: Fwd: 60 day notice
Date: Mon, Jul 20, 2020 4.15 pm
Attachments: sandrareyes60day[6753].pdf (1069K)

Sent from my iPhone

Begin forwarded message: June 11, 2019 email

From: Adarna [redacted]
Date: June 11, 2019 at 12:18:12 PM PDT
To: "[redacted]
Subject: 60 day notice

*A 60 Day Notice was attached to this email.
see next page.

Adarna Olivolo

Customer Receipt

New, Cabinet Replacements

Order #H6672-166556

6672 00097 27959 1/14/2020, 8:59:03 AM

Sold to

Purchaser
DONYS GUERRA
Phone: (408) 726- 8385
Email:
DONNYSGUERRA2014@GMAIL.COM

DONYS GUERRA
CALIFORNIA HOME SERVICES
Business Address
1010 RUCKER AME
GILROY, CA
Phone: (408) 726- 8385
Email: DONNYSGUERRA2014@GMAIL.COM

Job Details

Job Description
Lynde St , #2 Oakland

Runner Name
Donnys

Sold by

HA (HXD3K26)

Store # 6672
2855 STORY ROAD
SAN JOSE CA -

	Item Description	SKU #	Qty	Unit Price	Subtotal
01	Bulls Eye 1-2-3 5 Gal. White Water-Based Interior/Exterior Primer and Sealer ECO FEE - gl recy$	507224	2	$93.00 / ea $1.60 / ea	$189.20 $3.20
02	9 in. x 9/16 in. Microfiber Paint Roller Cover	717204	2	$5.77 / ea	$11.54
03	HANDy 16 oz. Red Plastic Paint Cup with Magnet	638752	2	$3.17 / ea	$6.34
04	5 gal. Ultra Pure White Eggshell Enamel Interior Paint and Primer in One ECO FEE - gl recy$	433381	6	$148.00 / ea $1.60 / ea	$897.60 $9.60
05	5 gal. Medium Base Eggshell Enamel Interior Paint and Primer in One ECO FEE - gl recy$	436060	1	$148.00 / ea $1.60 / ea	$149.60 $1.60
06	14 in. x 17 in. Multi-Purpose Terry Cloth (20-Pack)	390814	1	$9.97 / ea	$9.97
07	DuPont Tyvek XL Painters Coverall with Hood and Boots	692700	1	$13.87 / ea	$13.87
08	Semi-Rigid Flexible Aluminum Duct with Connector	1000052148	1	$18.56 / ea	$18.56
09	2 5 in. Trylon Angled Sash Paint Brush	1001287207	1	$11 47 / ea	$11.47
10	Sanding and Fiberglass Valved Respirator (15-Pack)	1001547441	1	$33.98 / ea	$33.98
11	1 in. x 12 ft. Ratchet Tie-Down (4-Pack)	1001755674	1	$9.97 / ea	$9.97
12	2-1/2 in. Pro Nylon/Polyester Angle Sash Brush	1001725050	1	$13.97 / ea	$13.97
13	PrimeCoat2 5 gal. White Water-Based Interior/Exterior Multi-Purpose Primer & Sealer	1002568772	1	$79.00 / ea	$79.00

6672 97 27959 2020-01-14

000126

"D+G Home Services"

Window install

INVOICE NO. 125209

Invoice

SOLD TO	SHIPPED TO	VIA
[illegible]	[illegible]	
ADDRESS 3273 [illegible] St #2	ADDRESS 3273 [illegible]	
CITY, STATE, ZIP [illegible] CA 95061	CITY, STATE, ZIP	

CUSTOMER ORDER NO.	SOLD BY	TERMS	F.O.B.	DATE
C24-2020	[illegible]	(408) 726-8585		1-30-20

1	[illegible] - APT unit [illegible]			
*	[illegible]			
	$1500 Deposit [illegible] 1/13/2020			
	[illegible] 1 7,300 2/1/20[illegible]			

adams scotch

000127

Withdrawals and other subtractions

Other subtractions

Date	Description	Amount
06/29/17	PGANDE DES:WEB ONLINE ID:74407771060917 INDN:ADARNA F OLIVOLO CO ID:5940742640 WEB	-363.69
07/03/17	NFCU DES:MORT DEBIT ID:8021085207 INDN:OLIVOLO CO ID: 932000000 PPD	-860.05
07/07/17	BANK OF INTERNET DES:LOAN DEPT ID: INDN:PATRICK OLIVOLO CO ID:XXXXXXXXX PPD	-5,271.42
07/11/17	WASTE MANAGEMENT DES:INTERNET ID:99632348 INDN:OLIVOLO ADARNA CO ID:9049038216 PPD	-644.70
07/14/17	EBMUD DES:WATER BILL ID:94286633599 INDN:Adarna Olivolo CO ID:1946000590 PPD	-1,431.27
Total other subtractions		**-$8,571.13**

Checks

Date	Check #	Amount
07/03/17	235	-128.84
07/03/17	341*	-5,800.00
07/24/17	342	-456.60
Total checks		**-$6,385.44**
Total # of checks		**3**

* *There is a gap in sequential check numbers*

2nd Floor Walk way Repair Paid Juan Barreta

f) ☒ **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** (*In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.*)

g) ☐ **The decision denies the Owner a fair return on my investment.** (*You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.*)

h) ☐ **Other.** (*In your explanation, you must attach a detailed explanation of your grounds for appeal.*)

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

• **You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed.** •
I declare under penalty of perjury under the laws of the State of California that on July 24, 20 20, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Sandra Reyes
Address	3273 Lynde St., Unit 2
City, State Zip	Oakland, CA
Name	
Address	
City, State Zip	

Adarna F. Olivolo	7/24/20
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

Rev. 6/18/2018

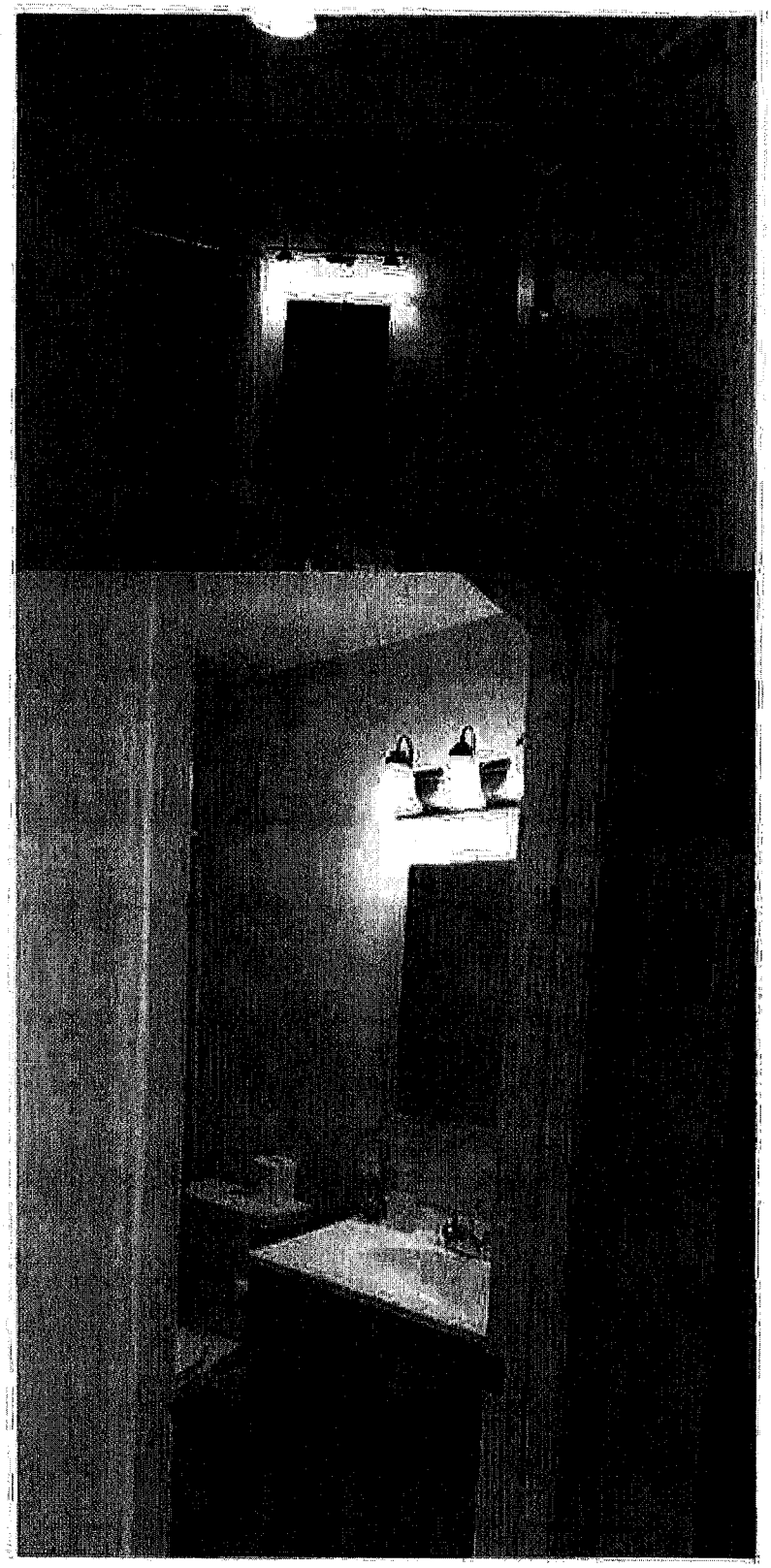


Exhibit A