

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
FULL BOARD SPECIAL MEETING
September 28, 2023
6:00 P.M.
CITY HALL, HEARING ROOM # 1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA 94612**

AGENDA

PUBLIC PARTICIPATION

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

OBSERVE:

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

• To observe the meeting by video conference, please click on the link below:

When: Sep 28, 2023 06:00 PM Pacific Time (US and Canada)

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85123985773>

Or One tap mobile: +16699009128,,85123985773# US (San Jose),
+16694449171,,85123985773# US

Or Telephone: Dial(for higher quality, dial a number based on your current location): +1 669 900 9128 US (San Jose), +1 669 444 9171 US, +1 719 359 4580 US, +1 253 205 0468 US, +1 253 215 8782 US (Tacoma), +1 346 248 7799 US (Houston), +1 646 931 3860 US, +1 689 278 1000 US, +1 301 715 8592 US (Washington DC), +1 305 224 1968 US, +1 309 205 3325 US, +1 312 626 6799 US (Chicago), +1 360 209 5623 US, +1 386 347 5053 US, +1 507 473 4847 US +1 564 217 2000 US, +1 646 558 8656 US (New York)

Webinar ID: 851 2398 5773

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The Zoom link is to view/listen to the meeting only, not for participation.

PARTICIPATION/COMMENT:

There is one way to submit public comments:

• To participate/comment during the meeting, you must attend in-person.

Comments on all agenda items will be taken during public comment at the beginning of the meeting. Comments for items not on the agenda will be taken during open forum towards the end of the meeting.

If you have any questions, please email hearingsunit@oaklandca.gov

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD MEETING

1. CALL TO ORDER
2. ROLL CALL
3. PUBLIC COMMENT
 - a. Comments on all agenda items will be taken at this time. Comments for items not on the agenda will be taken during open forum.
4. CONSENT ITEMS
 - a. Approval of Board Minutes, 8/24/2023 (pp. 3-10)
5. APPEALS*
 - a. T22-0113, Reyes Santiago et al. v. Hernandez (pp. 11-43)
6. SERVICE BY MAIL REQUIREMENT DISCUSSION
7. INFORMATION AND ANNOUNCEMENTS
8. SCHEDULING AND REPORTS
9. OPEN FORUM
10. ADJOURNMENT

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

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

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

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

需要殘障輔助設施, 手語, 西班牙語, 粵語或國語翻譯服務, 請在會議前五個工作天電郵 RAP@oaklandca.gov 或致電 (510) 238-3721 或711 California relay service.

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

August 24, 2023

6:00 P.M.

CITY HALL

1 FRANK H. OGAWA PLAZA, HEARING ROOM #1

OAKLAND, CA 94612

MINUTES

1. CALL TO ORDER

The Board meeting was administered in-person by B. Lawrence-McGowan from the Rent Adjustment Program (RAP), Housing and Community Development Department. B. Lawrence-McGowan explained the procedure for conducting the meeting. The HRRRB meeting was called to order by Chair Ingram at 6:03 p.m.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
Vacant	Tenant			
D. WILLIAMS	Tenant			X
J. DEBOER	Tenant Alt.	X		
M. GOOLSBY	Tenant Alt.	X		
D. INGRAM	Undesignated	X		
C. OSHINUGA	Undesignated	X		
M. ESCOBAR	Undesignated			X
Vacant	Undesignated Alt.			
Vacant	Undesignated Alt.			
D. TAYLOR	Landlord		X	
K. BRODFUEHRER	Landlord	X		
C. JACKSON	Landlord Alt.			X
Vacant	Landlord Alt.			

Staff Present

Kent Qian

Marguerita Fa-Kaji

Briana Lawrence-McGowan

Deputy City Attorney

Senior Hearing Officer (RAP)

Administrative Analyst II (RAP)

3. PUBLIC COMMENT

- a. No members of the public spoke during public comment.

4. CONSENT ITEMS

- a. Chair Ingram announced that agenda item 4b is being postponed until after the appeal case is heard.
- b. Approval of Board Minutes, 8/10/2023: Vice Chair Oshinuga moved to approve the Board Minutes from 8/10/2023. Member J. deBoer seconded the motion.

The Board voted as follows:

Aye: D. Ingram, C. Oshinuga, M. Goolsby, J. deBoer, K. Brodfuehrer
Nay: None
Abstain: None

The minutes were approved.

5. APPEALS*

- a. L19-0013 et al., Vulcan Lofts, LLC v. Tenants

Appearances:	Servando Sandoval	Owner Representative
	Leah Hess	Tenant Representative
	Hasmik Geghamyan	Tenant Representative

This case involved an appeal to tenant petitions and a property owner petition for a certificate of exemption. In August and October 2018, tenants from Vulcan Lofts filed petitions challenging rent increases and alleging decreased housing services. The tenants also contested the exemption on the basis of fraud or mistake—as a prior ruling from the Board determined that four units of the property were exempt from the Rent Adjustment Ordinance on the basis of new construction. This was appealed by one tenant and affirmed by the Superior Court and Court of Appeals.

In November 2018, the property owner filed a petition seeking an exemption on the basis of new construction for units located at 4401 San Leandro Street. Tenants filed responses to the petition, arguing that the ordinance does not grant exemptions to properties where there has been residential use prior to the issuance of a certificate of occupancy—and that there was evidence of residential use prior to issuance of the certificate in

1987. On April 30, 2023, the Hearing Officer issued a hearing decision, granting the property owner's petition and dismissing the tenant petitions. The Hearing Officer found that the evidence established that the property was newly constructed after the purchase of the property in December 1985—and that the property was not residential before the purchase. The Hearing Officer also found that the residential occupancy started after the purchase in 1985, and that the certificate of occupancy was finalized on October 20, 1987. Based on these findings, the hearing decision concluded that the owners had met their burden of proof to establish that the property received a certificate of occupancy after January 1, 1983—and therefore, the subject property is exempt from the Rent Adjustment Ordinance.

The tenants appealed the hearing decision, arguing that:

- 1.) The Hearing Officer failed to address the primary legal question of whether any residential use prior to the issuance of the certificate of occupancy counts as prior residential use for the purpose of exemption—or if only residential use before January 1, 1983, matters for exemption purposes and
- 2.) Because exemptions are narrowly construed, post 1983 residential use occurring before the issuance of the certificate of occupancy means that the units should not be exempt as new construction under the Rent Adjustment Ordinance. There is evidence in the record of residential use from at least June 1986—prior to the issuance of the certificate of occupancy in 1987 and
- 3.) The prior case, *Vidor v. City of Oakland*, does not control here because the decision only applied to 4 units in the property and exemption decisions can be overturned upon the showing of fraud or mistake.

The owner then submitted a response, contending that Oakland law does not expressly provide that any residential use before the issuance of the certificate of occupancy removes an exemption claim based on new construction—and that for the prior residential use standard, to preclude a new construction exemption, the residential use must have occurred prior to January 1, 1983. The owner also argued that prior cases holding that the Vulcan Lofts units were exempt should be given deference.

The following issues were presented to the Board:

- 1.) If a unit receives a certificate of occupancy on or after January 1, 1983, as a result of conversion from existing space, does the unit qualify for the new construction exemption, so long as the former unit was not used residentially prior to 1983 or prior to conversion?
- 2.) Did the Hearing Officer's decision adequately connect the finding to the

ultimate conclusion that the property was exempt by applying a clear legal rule?

The tenant representative contended that the tenants are requesting for the City Attorney's recommendation to be adopted—which is based on the *Amory v. Green Sage* case and held that there's no temporal limit on residential use prior to conversion. The tenant representative argued that residential use after January 1, 1983, can be used to preclude exemption and that the facts of this case and the *Amory v. Green Sage* case parallel. The tenant representative contended that in both cases, tenants moved into the property before final permits and certificates of occupancy were issued. The tenant representative argued that in the *Amory v. Green Sage* case, the property was built between 2003 and 2010, and tenants began to move-in throughout 2009—however, the certificate of occupancy wasn't issued until 2011. The tenant representative contended that the Board determined in the *Amory v. Green Sage* case that residential use before or after 1983 precludes exemption and that the tenants are requesting for this to be applied to the current case.

The tenant representative argued that in December 1985, the owners purchased the property, attained permits, and promptly began building 59 live-work units in three buildings—A, B, and C. The tenant representative contended that prior to receiving any finalized permits or certificates of occupancy, the owners began renting the live-work units to tenants, and that this practice continued for two years as construction continued. The tenant representative argued that this practice is unlawful under state and local building codes, which forbid occupancy without a certificate of occupancy. The tenant representative contended that these laws are not mere formalities, they are safeguards that protect tenants from unsafe and dangerous housing. The tenant representative argued that granting exemption when buildings lack final permit inspections rewards owners who engage in illegal construction practices.

The tenant representative contended that the owners obtained a certificate of occupancy in October 1987—but at that point, there were many tenants in the building. The tenant representative argued that the *Amory v. Green Sage* case provides a clear and bright line that can be easily applied and prevents owners from benefiting from unlawful construction. The tenant representative argued that the hearing decision is at odds with the intent and purpose of the Rent Adjustment Ordinance and argued that if the hearing decision is upheld, it will provide a precedent for landlords who violate the law to obtain exemptions, strip tenants who are covered by the ordinance of their protections and punish the tenants for the owners' wrongdoing.

The tenant representative argued that there is evidence on the record of pre 1983 occupancy and that it states in the registrar of voters record that the property was occupied in 1982. The tenant representative contended that people began moving into the Vulcan Lofts in June of 1986, more than two years before the owners received the final certificates of occupancy—and that building C never got a final certificate. The tenant representative argued that the owners had a series of temporary occupancy certificates for some of the units, but not all of them—and that newly constructed units include legal conversions of uninhabited spaces not used by tenants. The tenant representative contended that legal conversions is not a convergence that happens when construction is ongoing and there are no finalized documents—and that a legal conversion is when the building may be legally occupied. The tenant representative argued that the landlords put the tenants in a situation where they were living in a construction zone, that tenants of illegal buildings are still covered by the Rent Adjustment Ordinance, and that the tenants will lose these protections if the property is declared to be exempt—which it is not.

The owner representative contended that the appeal hearing is being held to address the issue of whether the property is exempt—and that the owners in this case met their burden of proof to show that this was new construction. The owner representative argued that the property was an iron foundry in operation in 1985 when it was purchased, and that there was testimony and evidence presented at the hearing, setting forth the fact that the foundry continued in operation after the purchase. The owner representative contended that the evidence shows that when the construction was started, permits were obtained. The owner representative argued that while permits were being finalized, the owners had temporary certificates of occupancy that were issued—and that the final certificate of occupancy was issued in 1987.

The owner representative argued that this case is unlike the *Amory v. Green Sage* case because in that case, the owner converted space without permits, then submitted an application to legalize the existing residential space—which did not occur in this case. The owner representative contended that the Board needs to uphold the hearing decision because this is a pure example of where landlords are incentivized to add new housing, which is necessary and needed in Oakland. The owner representative argued that the owners followed the rules and obtained permits and temporary certificates of occupancy—and that they ultimately got the finalized certificate of occupancy.

The owner representative contended that the tenants are now attempting to go back and recreate history and that they are trying to stop the property

from being exempt from the Rent Adjustment Ordinance. The owner representative argued that the ordinance states that units are exempt as new construction if they are created from a space that was formerly entirely non-residential. The owner representative contended that the tenants attempted to make it look like there was evidence of pre 1983 residency—however, there were a total of five hearings in this case and the Hearing Officer still decided that there was not one scintilla of evidence showing any prior residential use before 1983. The owner representative argued that there is no such evidence of residential history prior to 1983 and that the Board should uphold the hearing decision.

The owner representative argued that in the tenants' appeal, it states that the tenants do not dispute the essential facts stated in the decision—and the decision found that there was no residential use pre 1983 or pre-1985. The owner representative contended that the only evidence the tenants have is one voter registration from 1982, which was not credible—and the fact that the property was an iron foundry that was in operation in 1985 and continued after the purchase in 1985 is evidence in this case. The owner representative argued that this case is completely different than the Amory v. Green Sage case—and that there was no existing residential use or living units at this property prior to the construction to convert this into a residential property.

After parties' arguments, questions to the parties, and Board discussion, Chair Ingram moved to remand the case back to the Hearing Officer for a determination on the exemption based on the Amory v. Green Sage decision. For clarification, to qualify for an exemption, the property must have been entirely non-residential—i.e., no residential use, prior to the issuance of the final certificate of occupancy. The Hearing Officer is also to make a decision on the tenant petitions based on the merits. Member J. deBoer seconded the motion. Member J. deBoer withdrew his second.

Chair Ingram moved to remand the case back to the Hearing Officer for a determination on the exemption based on the Amory v. Green Sage decision. For clarification, to qualify for an exemption, the property must have been entirely non-residential—i.e., no residential use, prior to the issuance of the certificate of occupancy. If the Hearing Officer determines that the property is not exempt, the Hearing Officer is to conduct a hearing and make a decision on the tenant petitions based on the merits. Member K. Brodfuehrer seconded the motion.

The Board voted as follows:

Aye: D. Ingram, C. Oshinuga, M. Goolsby, J. deBoer, K. Brodfuehrer
Nay: None
Abstain: None

The motion was approved.

6. RESOLUTION TO RECOMMEND AMENDMENT OF THE RENT ADJUSTMENT PROGRAM REGULATIONS TO (1) EXTEND AMORTIZATION PERIOD FOR MANDATORY SEISMIC RETROFITS TO 25 YEARS; (2) REDUCE ARGUMENT TIME TO SIX (6) MINUTES PER PARTY; (3) REMOVE APPEARANCE REQUIREMENT FOR APPELLANT AT APPEAL HEARINGS; (4) ALLOW NON-VOTING ALTERNATES TO PARTICIPATE IN BOARD MEETINGS IN NON-VOTING CAPACITY; (5) ADD GOOD CAUSE HEARINGS FOR FAILURE TO APPEAR AT HEARINGS; (6) CHANGE MEETING TIME TO 6 PM; (7) CODIFY EXISTING PROCEDURAL PRACTICES IN REGULATIONS; AND (8) MAKE OTHER CLARIFYING AND REORGANIZATION CHANGES

- a. Chair Ingram and fellow Board members discussed the recent changes to the resolution to recommend amendments to Rent Adjustment Program Regulations. After Board discussion, Chair Ingram moved to adopt the resolution for forwarding to City Council. Vice Chair Oshinuga seconded the motion.

The Board voted as follows:

Aye: D. Ingram, C. Oshinuga, M. Goolsby, J. deBoer, K. Brodfuehrer
Nay: None
Abstain: None

The motion was approved.

7. SCHEDULING AND REPORTS

- a. None

8. INFORMATION AND ANNOUNCEMENTS

- a. None

9. OPEN FORUM

- a. No members of the public spoke during open forum.

10. ADJOURNMENT

- a. The meeting was adjourned at 7:49 p.m.

CHRONOLOGICAL CASE REPORT

Case No.: T22-0113

Case Name: Reyes Santiago et al. v. Hernandez

Property Address: 1129 Peralta Street, Oakland, CA 94607

Parties: Rafael Hernandez (Owner)
Laura Reyes Santiago (Tenant)
Hilario Velazquez (Tenant)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	June 30, 2022
Owner Response filed	September 5, 2022
Business Tax Certificate & RAP Fee Payment submitted	September 12, 2022
Hearing Date	January 17, 2023
Hearing Decision mailed	June 29, 2023
Owner Appeal filed	July 6, 2023

Property Owner Information		
Property Owner		
First Name	Rafael	Last Name
Company/LLC/LP (if applicable):		Hernandez
Mailing Address: 1512 5 th St. Oakland, California 94607		
Phone Number:	510-604-3983	Email:
Property Manager (if applicable)		
First Name	Last Name	Name of Management Company
Mailing Address:		
Phone Number:		Email:

GROUNDS FOR PETITION

Select the grounds for this petition from the list below. Check all that apply. You must check at least one box. To contest a rent increase, select item(s) from Category A. If you have experienced a decrease in housing services and/or have issues with the condition of your unit, or are being charged for utilities in violation of the law, select item(s) from Category B. For more information on each of the grounds, see Oakland Municipal Code (O.M.C.) Sections 8.22.070 and 8.22.090 (Rent Adjustment Ordinance) and the corresponding Regulations. A copy of the Ordinance and Regulations are available here: www.oaklandca.gov/resources/read-the-oakland-rent-adjustment-program-ordinance.

A.	Unlawful Rent Increase(s) <i>(Complete section A on page 3)</i>	<input checked="" type="checkbox"/> (A1) I received a rent increase above the allowable amount.
		<input checked="" type="checkbox"/> (A2) I received a rent increase that I believe is unlawful because I was not given proper notice, was not properly served, and/or was not provided with the required RAP Notice ("Notice to Tenants of the Residential Rent Adjustment Program").
		<input type="checkbox"/> (A3) I received a rent increase and do not believe I should be required to pay it because a government agency has cited my unit for serious health, safety, fire, or building code violations. (You must attach a copy of the citation to your petition.)
B.	Decreased Housing Services <i>(Complete section B on page 3)</i>	<input type="checkbox"/> (B1) The property owner is providing me with fewer housing services than I previously received and/or I am being charged for services originally paid for by the owner. (Check this box for petitions based on bad conditions/failure to repair.)
		<input type="checkbox"/> (B2) I am being unlawfully charged for utilities.
C.	Other	<input type="checkbox"/> (C1) My rent was not reduced after a prior rent increase period for capital improvements.
		<input type="checkbox"/> (C2) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake.
		<input type="checkbox"/> (C3) The initial rent amount when I first moved in was unlawful because the property owner was not permitted to set the initial rent without limitation. O.M.C. § 8.22.080 (C).

A. Unlawful Rent Increase(s)
 (Complete this section if any of the grounds for petition fall under category A, above)

List all rent increases you wish to contest. Begin with the most recent increase and work backwards. If you never received the RAP Notice, you can contest all past increases. See the "Important Information" page at the end of this petition packet for more information on time limits for contesting rent increases. If you need additional space, attach a separate sheet or an additional copy of this form.

- For petitions contesting a rent increase on the grounds that the unit has been cited by a government agency for serious health, safety, fire, or building code violations, **you must attach a copy of the citation** to your petition. Failure to attach a copy of the citation may result in your petition being dismissed.

Date received rent increase notice: (Month/Day/Year)	Date rent increase went into effect: (Month/Day/Year)	Amount of increase:		Received RAP Notice with notice of rent increase?	
		FROM	TO	YES	NO
03/01/2022	05/01/2022	\$ 1,620	\$ 1,753	<input type="checkbox"/>	<input checked="" type="checkbox"/>
02/26/2020	05/01/2020	\$ 1,514	\$ 1,620	<input type="checkbox"/>	<input checked="" type="checkbox"/>
03/01/2018	05/01/2018	\$ 1,480	\$ 1,514	<input type="checkbox"/>	<input checked="" type="checkbox"/>
04/01/2017	05/01/2017	\$ 1,450	\$ 1,480	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10/01/2015	12/01/2015	\$ 1,350	\$ 1,450	<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. Decreased Housing Services
 (Complete this section if any of the grounds for petition fall under category B, above)

List all the conditions that you believe entitle you to a rent decrease. If your petition is based on problems related to your unit, or because the owner has taken away service(s) or is charging for services originally provided by the owner, you must complete this section. If you need more space, attach a separate sheet or an additional copy of this form.

- You are strongly encouraged to submit documentary evidence** (photographs, inspection reports, correspondence with your landlord, etc.) together with your petition. Evidence may be submitted up to seven calendar days prior to your hearing.
- You may wish to have a City inspector come inspect your unit** for possible code violations in advance of your hearing. Copies of any inspection report(s) may be submitted in support of your petition. To schedule an inspection, contact the City of Oakland Code Enforcement Unit at (510) 238-3381, or file a complaint online at <https://www.oaklandca.gov/services/file-a-complaint-with-code-enforcement>. Note: if additional items are cited in an inspection report that were not included in your original petition (below), you must file an additional petition listing those items in order for RAP staff to consider them as a part of your claim.

	Description of problem or decreased housing service (list separately):	Date problem or decreased service started: (Month/Day/Year)	Date first notified owner or manager of problem: (Month/Day/Year)	Date problem or service was fixed, if ever: (Month/Day/Year)	What is the dollar value of your claimed loss?
1.					\$
2.					\$
3.					\$
4.					\$

TENANT VERIFICATION

(Required)

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

Laura Santiago
Tenant 1 Signature

06/29/22
Date

[Signature]
Tenant 2 Signature

06/29/22
Date

CONSENT TO ELECTRONIC SERVICE

(Highly Recommended)

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

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

MEDIATION PROGRAM

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

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

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

Tenant Signature

Date

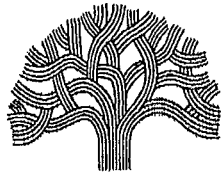
INTERPRETATION SERVICES

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

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

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

-END OF PETITION-



CITY OF OAKLAND

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-0243
(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

PROOF OF SERVICE

NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR PETITION (PLUS ANY ATTACHMENTS) ON THE PROPERTY OWNER PRIOR TO FILING YOUR PETITION WITH RAP. You must include a copy of the RAP form "NOTICE TO PROPERTY OWNER OF TENANT PETITION" (the preceding page of this petition packet) and a completed PROOF OF SERVICE form together with your Petition.

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

On the following date: 06 129 122 I served a copy of (check all that apply):

TENANT PETITION plus _____ attached pages (number of pages attached to Petition not counting the Petition form, NOTICE TO PROPERTY OWNER OF TENANT PETITION, or PROOF OF SERVICE)

NOTICE TO PROPERTY OWNER OF TENANT PETITION

Other: _____

by the following means (check one):

United States Mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

Personal Service. I personally delivered the document(s) to the person(s) at the address(es) listed below or I left the document(s) at the address(es) with some person not younger than 18 years of age.

///

///

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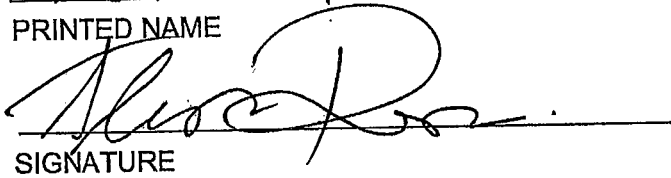
PERSON(S) SERVED:

Name	Rafael Hernandez
Address	1512 5 th St.
City, State, Zip	Oakland, CA, 94607

Name	
Address	
City, State, Zip	

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

Alexis Reyes
PRINTED NAME


SIGNATURE

06/09/22
DATE SIGNED



CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA
94612-0243
(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

NOTICE TO PROPERTY OWNER OF TENANT PETITION

ATTENTION: IMMEDIATE ACTION REQUIRED

If you are receiving this NOTICE together with a completed TENANT PETITION form, it means that a tenant has filed a case against you with the Oakland Rent Adjustment Program ("RAP") (commonly referred to as the "Rent Board").

- **YOU MUST FILE A RESPONSE WITHIN 35 CALENDAR DAYS AFTER THE PETITION WAS MAILED TO YOU (30 DAYS IF DELIVERED IN-PERSON).**

- **TO RESPOND:**

- 1) Complete a **PROPERTY OWNER RESPONSE** form found on the RAP website. (<https://www.oaklandca.gov/services/respond-to-a-tenant-petition-for-the-rent-adjustment-program>)
- 2) Serve a copy of your **PROPERTY OWNER RESPONSE** form on the tenant (or the tenant's representative listed on the petition) by mail or personal delivery.
- 3) Complete a **PROOF OF SERVICE** form (which is attached to the Response form and also available on the website) and provide a copy to the tenant (or tenant's representative) together with your **PROPERTY OWNER RESPONSE** form.
- 4) Submit your **PROPERTY OWNER RESPONSE** form and completed **PROOF OF SERVICE*** form to RAP through RAP's online portal, via email, or by mail.

**Note: The Response will not be considered complete until a PROOF OF SERVICE is filed indicating that the tenant has been served with a copy.*

DOCUMENT REVIEW: The tenant is required to serve on you all documents the tenant filed in this case in addition to the petition. Additionally, all documents are available for review at RAP.

FOR ASSISTANCE: Contact a RAP Housing Counselor at (510) 238-3721 or by email at RAP@oaklandca.gov. Additional information is also available on the RAP website and on the PROPERTY OWNER RESPONSE form.

IMPORTANT INFORMATION REGARDING FILING YOUR PETITION

TIME TO FILE YOUR PETITION

Your Tenant Petition form must be received by the Rent Adjustment Program within the required time limit for filing. RAP staff cannot grant an extension of time to file your Petition.

- For Petitions contesting a rent increase, you have 90 days from the date of notice of increase or from the first date you received the RAP Notice (whichever is later) to file a Petition. If you did not receive a RAP Notice with the rent increase you are contesting but have received one in the past, you have 120 days to file a Petition. If you have never received a RAP Notice, you may contest all rent increases.
- For Petitions claiming decreased housing services, you have 90 days from either the date you first became aware of the decreased service or the date you first received the RAP Notice (whichever is later) to file a Petition. If the decreased housing service is ongoing, you may file a Petition at any time. See O.M.C. §§ 8.22.090 (A)(2)-(3) for more information.

CONTACT A HOUSING COUNSELOR TO REVIEW YOUR PETITION BEFORE SUBMITTING

To make an appointment, email RAP@oaklandca.gov or call (510) 238-3721. Although the Housing Resource Center is temporarily closed for drop-in services, assistance is available by email or telephone.

DOCUMENTS SUBMITTED IN SUPPORT OF PETITION

All attachments submitted together with your Petition must be numbered sequentially. You may submit additional evidence in support of your Petition up to seven days before your hearing¹. You must serve a copy of any documents filed with RAP on the other party and submit a PROOF OF SERVICE form.

REMINDER: Once a petition and its attachments are submitted to the RAP they become public records. Please redact any private information (such as social security numbers, bank account numbers, credit card numbers and similar financial data) from the documents you submit as part of this petition. If you have any questions, you may contact RAP staff at (510) 238-3721 or by email at RAP@oaklandca.gov.

Additionally, all documents submitted to the RAP, including but not limited to emails, petitions, attachments, potential evidence, text messages, screenshots, etc., are a part of the file in your case and all parties to a case are entitled to have access to this information.

SERVICE ON PROPERTY OWNER

You are required to serve ALL the following documents on the property owner and/or the property owner's representative:

1. Copy of RAP form entitled "NOTICE TO PROPERTY OWNER OF TENANT PETITION" (*included in petition packet and available on RAP website*).
2. Copy of completed Petition form and attachments.
3. Completed PROOF OF SERVICE form (*included in petition packet and available on RAP website*).

You may serve the property owner and/or the owner's representative by mail or personal delivery. A copy of the completed PROOF OF SERVICE form must be submitted to RAP together with your Petition. Your Petition will not be considered complete until a PROOF OF SERVICE form is filed indicating that the owner has been served. Note that you cannot serve a Petition by email, even if you have an agreement to electronic service between the parties, because the Ordinance requires service by mail or in person.

¹ Note that certain documents are required to be submitted with the Petition. See petition for details.

FILING YOUR PETITION

Although RAP normally does not accept filings by email or fax, RAP is temporarily accepting Petitions via email during the COVID-19 local state of emergency. You may also fill out and submit your Petition online through the RAP website or deliver the Petition to the RAP office by mail. 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. If you send your Petition by mail, a postmark date does not count as the date it was received. Remember to file a PROOF OF SERVICE form together with your Petition.

Via email: hearingsunit@oaklandca.gov

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

File online: <https://www.oaklandca.gov/services/file-a-tenant-petition>

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

AGREEMENT TO ELECTRONIC SERVICE

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

AFTER PETITION IS FILED

The property owner has 30 days after service of the Petition to file a Response (35 days if served by mail). The property owner must serve you with a copy of their Response form and any attachments filed with the Response. In most cases, RAP will schedule a hearing. You will be mailed a Notice of Hearing indicating the hearing date. If you are unable to attend the hearing, contact RAP as soon as possible. The hearing will only be postponed for good cause.

FILE/DOCUMENT REVIEW

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

JURISDICTION

Please note that if your rent is controlled or subsidized by any other governmental agency, your unit is not covered by the Rent Adjustment Ordinance and the Oakland Rent Adjustment Program does not have jurisdiction over your claim. O.M.C. § 8.22.030 (A)(1).

FOR MORE INFORMATION

Additional information on the petition and hearing process is located on the RAP website and in the Residential Rent Adjustment Program Ordinance and Regulations (see Oakland Municipal Code 8.22.010 *et seq.*). For more

information on rent increases, including the list of the annual allowable CPI rates and calculators for certain justifications, see: <https://www.oaklandca.gov/resources/learn-more-about-allowable-rent-increases> or you can refer to the Guide on Oakland Rental Housing Law at <https://cao-94612.s3.amazonaws.com/documents/Guide-to-Oakland-Rental-Housing-Law-1.pdf>. You may also contact a RAP Housing Counselor with questions at any time by emailing RAP@oaklandca.gov or calling (510) 238-3721.



**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-0243
(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp:

CASE NUMBER T - _____

PROPERTY OWNER RESPONSE TO TENANT PETITION

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

Rental Unit Information

Street Number: 1129 Street Name: Peralta St. Unit Number: --- Oakland, CA 94607 Zip Code
 Is there more than one street address on the parcel? Yes No If yes, list all addresses: 1127 Peralta St.

Type of unit(s) (check one): Single family home Condominium Apartment, room, or live-work
 Number of units on property: 2
 Date acquired property: 12-30-1993

Case number(s) of any relevant prior Rent Adjustment case(s): P22-0113

Tenant Information

Name of Tenant Petitioner(s): Hilario Velasquez, Laura Reyes Santiago
 Date tenant(s) moved into rental unit: 5-12-06 Initial rent amount: \$1,200. Is/are tenant(s) current on rent? Yes No

Property Owner Information

First Name: Rafael Last Name: Hernandez
 Company/LLC/LP (if applicable): _____
 Mailing address: 333 HENRY ST Oakland Cal. 94607
 Primary Telephone: (510) 604-3983 Other Telephone: (510) 604-3983 Email: Rafael65855@ATT.net

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

First Name: _____ Last Name: _____ Firm/Organization (if any): _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

GENERAL FILING REQUIREMENTS

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

Requirement	Documentation
<input checked="" type="checkbox"/> Current Oakland business license	Attach proof of payment of your most recent Oakland business license.
<input checked="" type="checkbox"/> Payment of Rent Adjustment Program service fee ("RAP Fee")	Attach proof of payment of the current year's RAP Fee for the subject property.
<input checked="" type="checkbox"/> Service of the required City form entitled "NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") on all tenants	Attach a signed and dated copy of the <u>first</u> RAP Notice provided to the petitioning tenant(s) or check the appropriate box below. <input checked="" type="checkbox"/> I first provided tenant(s) with the RAP Notice on (date): <u>4-01-22</u> <input type="checkbox"/> I have never provided a RAP Notice. <input type="checkbox"/> I do not know if a RAP Notice was ever provided.

PROPERTY OWNER CLAIM OF EXEMPTION

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

- The unit is a single-family residence or condominium exempted by the Costa Hawkins Rental Housing Act (Civil Code 1954.50, et seq.). **If claiming this exemption, you must answer the following questions. Attach a separate sheet if necessary.**
1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
 2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?
 3. Was the prior tenant evicted for cause?
 4. At the time the prior tenant vacated were there any outstanding violations of building housing, fire or safety codes in the unit or building?
 5. Is the unit separately alienable, meaning it can be sold separately from any other unit on the parcel?
 6. Did the petitioning tenant have roommates when he/she moved in?
 7. If the unit is a condominium, did you purchase it? If so: 1) From whom? 2) Did you purchase the entire building?
- The rent for the unit is controlled, regulated, or subsidized by a governmental unit, agency, or authority other than the City of Oakland Rent Adjustment Ordinance. (Attach documentation.)
- The unit was newly constructed and issued a Certificate of Occupancy on or after January 1, 1983. (Attach copy of Certificate of Occupancy.)
- The unit is located in a motel, hotel, or rooming/boarding house, which the tenant petitioner has occupied for less than 30 days.
- The unit is in a building that was previously issued a certificate of exemption from RAP based on substantial rehabilitation. (Attach copy of Certificate of Exemption.)
- The unit is an accommodation in a hospital, convent, monastery, extended care facility, convalescent home, non-profit home for the aged, or dormitory owned and operated by an educational institution. (Attach documentation.)

RESPONSE TO TENANT PETITION

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

Unlawful Rent Increase(s)

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

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

Date tenant given notice of rent increase: (mm/dd/yy)	Date rent increase went into effect: (mm/dd/yy)	Amount of increase:		Did you provide a RAP Notice with the notice of rent increase?		Reason for increase (CPI, banking, or other):
		FROM	TO	YES	NO	
04-01-2021	05-01-22	\$ 1670.00	\$ 1702.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cost of living labor
03-01-21	05-01-21	\$ 1620.00	\$ 1670.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cost of Labor
02-26-20	05-01-20	\$ 1565.00	\$ 1620.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cost of Labor
03-01-19	05-01-19	\$ 1514.00	\$ 1565.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cost of Labor
03-01-18	05-01-18	\$ 1480.00	\$ 1514.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cost of Labor

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

Tenant Petition Grounds	Owner Response
(A2) Tenant did not receive proper notice, was not properly served, and/or was not provided with the required RAP form with rent increase(s).	
(A3) A government agency has cited the unit for serious health, safety, fire, or building code violations.	

Decreased Housing Services

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

Tenant Petition Grounds	Owner Response
(B1) The owner is providing tenant(s) with fewer housing services and/or charging for services originally paid for by the owner.	
(B2) Tenant(s) is/are being unlawfully charged for utilities.	

Other

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

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

OWNER VERIFICATION

(Required)

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

Rafael Hernandez
Property Owner 1 Signature

09-02-22
Date

Property Owner 2 Signature

Date

CONSENT TO ELECTRONIC SERVICE

(Highly Recommended)

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

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

MEDIATION PROGRAM

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

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

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

Rafael Hernandez
Property Owner Signature

09-02-22
Date

INTERPRETATION SERVICES

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

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

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

-END OF RESPONSE-

09/05/22

From: Rafael Hernandez

To: Hilario Velazquez Cruz and ETAL.

No había respondido a su petición hasta ahora porque no había recibido la queja que usted dijo que me había enviado del papeleo de Prueba de entrega con la fecha en que dijo que me lo había enviado por correo. La razón por la que le estoy respondiendo ahora es porque ahora tengo conocimiento de su queja, habiendo recibido una petición del Departamento de Desarrollo de Vivienda y Comunicaciones.

En la petición, usted se quejó de que el 1 de mayo de 2022, la renta se aumentó a \$1,753 cuando en realidad solo está pagando \$1,702 como consta en el cheque que me dio por la renta de este mes.

En respuesta al aumento de la renta, nunca he subido la renta más de lo que está permeado por el Programa de Ajuste de la Renta (RAP). La razón por la que aumenté el alquiler es por el aumento en el costo de la vida, la mano de obra y la basura, así como por el hecho de que, en numerosas ocasiones, he tenido que hacer trabajos en la casa debido al hecho de que usted no está manteniendo en un estado limpio o bueno. Ahora todo es más caro y estás pagando menos de lo que deberías estar pagando si hubiera aumentado el alquiler de acuerdo con el aumento del ~~CPI~~ cada año. Si hubiera aumentado el alquiler desde que le alquilé la casa por primera vez, habría estado pagando más por el alquiler de lo que está pagando en este momento. Usted se queja de que no sabía sobre el RAP. En varias ocasiones le he entregado una planilla de aumento de renta, la cual brinda información del RAP, para informarle del próximo aumento de renta, el cual ha mostrado su renuencia a pagar. Hablé con Hilario hace tres o cuatro años, diciéndole que si no estaba satisfecho o si creía que el aumento de la renta no era legal, podríamos programar una reunión con el RAP, pero ha rechazado la oferta de concertar una reunión. con el RAP, prefiriendo pagar el aumento de renta en su lugar. Debe entender que necesito aumentar el alquiler debido a la subida de precios que también ha afectado el costo de vida y los gastos de vivienda. Si no subo el alquiler, me veré obligado a vender la casa y, si la vendo, no podrá encontrar otro apartamento más barato que el que le alquilo.

Si tiene más preguntas o inquietudes, puede llamarme al (510)-604-3983.

000026

09/05/22

From: Rafael Hernandez

To: Hilario Velazquez Cruz and ETAL.

I had not responded to your petition until now because I had not received the complaint you said you had sent to me of the Proof of Service paperwork with the date you said you had mailed it to me. The reason I am responding to you now is because I now have knowledge of your complaint, having received a petition from the Housing and Communications Development Department.

In the petition, you complained that on May 1st, 2022, the rent was increased to \$1,753 when in fact you are only paying \$1,702 as is stated in the check you gave me for this month's rent.

In response to the rent increase, I have never raised the rent more than what is permeated by the Rent Adjustment Program (RAP). The reason I increased the rent is because of the increase in the cost of living, labor, and garbage as well as the fact that on numerous occasions, I have had to have work done on the house due to the fact that you are not keeping it in a clean or good condition. Now everything is more expensive and you are paying less than what you are supposed to be paying if I would have increased the rent in accordance with the increase of CPI each year. If I would have increased the rent since I had first rented the house to you, you would have been paying more for rent than you are at this moment in time. You are complaining that you did not know about the RAP. On various occasions, I have handed to you a rent increase worksheet, which provides information of the RAP, to inform you of the upcoming rent increase, which you have shown your reluctance to pay. I had talked to Hilario three or four years ago, telling him that if you were not satisfied or if you believed that the rent increase was not legal, we could schedule a meeting with RAP, but you have refused the offer to set up a meeting with the RAP, preferring to pay the rent increase instead. You must understand that I need to increase the rent because of the rise in prices which has also affected the cost of living and housing expenses. If I do not raise the rent then I would be forced to sell the house and if I sell it, you will not be able to find another apartment any cheaper than the one I am renting to you.

If you have any further questions or concerns, you can call me at (510)-604-3983.

HILARIO VELAZQUEZ CRUZ
1129 PERALTA ST. LOWR LEVEL
OAKLAND, CA 94607-1929

90-7162 40781
3222

210

DATE 9/01/22

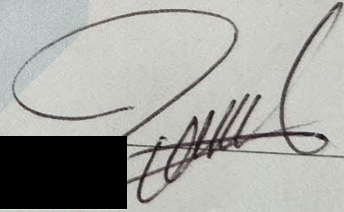
PAY TO THE ORDER OF Rafael Hernandez

\$ 1,702⁰⁰

one Thousand Seven hundred two

DOLLARS  Security Features Included. Details on Back.

CHASE 
JPMorgan Chase Bank, N.A.
www.Chase.com



MEMO

[Redacted]

[Redacted]

MP



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

Acknowledgement of Payment Received

Date: February 22, 2022

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

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

Account #: 00046579
 Account Name: RAFAEL HERNANDEZ SANCHEZ
 Account Address: 333 HENRY ST OAKLAND, CA 94607-1227
 Account Paid: M - RESIDENTIAL RENTAL PROPERTY
 Business Address: 1129 PERALTA ST OAKLAND, CA 94607-1929

Please keep this acknowledgement for your records. Thank you.

Payment received by: OS

2022	
Business Tax	\$688.57
Check (No. 000112)	
BT Recordation and Tech	\$4.50
Check (No. 000112)	
BT SB1186 (AB1379)	\$4.00
Check (No. 000112)	
RAP Rent Adjustment Program (M)	\$200.50
Check (No. 000112)	
Total	\$897.57

CITY OF OAKLAND BUSINESS TAX CERTIFICATE

ACCOUNT
 NUMBER
 00046579

DBA

RAFAEL HERNANDEZ SANCHEZ

BUSINESS LOCATION

1129 PERALTA ST
 OAKLAND, CA 94607-1929

BUSINESS TYPE

M Rental - Apartment



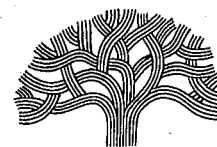
EXPIRATION DATE
 12/31/2022

Starting January 1, 2021, Assembly Bill 1607 requires the prevention of gender-based discrimination of business establishments. A full notice is available in English or other languages by going to: <https://www.dea.ca.gov/publications>



RAFAEL HERNANDEZ SANCHEZ
 333 HENRY ST
 OAKLAND, CA 94607-1227

CITY OF OAKLAND



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

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T22-0113

CASE NAME: Reyes Santiago et al. v. Hernandez

PROPERTY ADDRESS: 1129 Peralta Street, Oakland, CA

DATE OF HEARING: January 17, 2023

DATE OF DECISION: June 21, 2023

APPEARANCES: Hilario Velazquez, Tenant
Laura Reyes Santiago, Tenant
Yaquelin Velazquez, Tenant's Daughter
Alexis Hernandez Reyes, Tenant's Daughter
Rafael Hernandez, Owner
Clara Garzon, Spanish Interpreter

SUMMARY OF DECISION

The tenants' petition is granted.

CONTENTIONS OF THE PARTIES

The tenants filed a petition on June 30, 2022, contesting a rent increase from \$1,620.00, to \$1,753.00 effective May 1, 2022, as well as all prior rent increases. The tenants alleged a rent increase from \$1,514.00, to \$1,620.00 effective May 1, 2020, a rent increase from \$1,480.00, to \$1,514.00 effective May 1, 2018, a rent increase from \$1,450.00, to \$1,480.00 effective May 1, 2017, and a rent increase from \$1,350.00, to \$1,450.00 effective May 1, 2015. The bases for the tenants' petition include the following:

- The rent increase is above the allowable amount; and
- The rent increase is unlawful because the tenant was not given proper notice, was not properly served, and/or was not provided with the required *Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice)*.

000030

The tenants also marked the box which stated that they were never provided with the *RAP Notice*. The petition included a *Proof of Service* (POS) signed by Alexis Reyes that she served the *Tenant Petition* and *Notice to Property Owner of Tenant Petition* by United States mail to Rafael Hernandez on June 29, 2022.

The *Property Owner Response to Tenant Petition (Response)* was due to the Rent Adjustment Program office by August 3, 2022.¹ The owner filed an untimely late response on September 5, 2022, claiming that the reasons for the rent increases was due to “Cost of Living Labor” or “Cost of Labor.”

Both parties signed their respective *Tenant Petition* and *Response* under penalty of perjury.

THE ISSUES

- (1) Is there good cause for the Owner's failure to timely respond to the petition?
- (2) When, if ever, were the tenants served written notice of the *Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice)* prior to the petition being filed?
- (3) Are the contested rent increases valid?

EVIDENCE

All parties present at the Hearing, including both daughters of the tenants, were duly sworn in.

Rent History

Tenant Santiago testified that she moved into the unit in 2003 at a monthly rent of \$1,250.00; she testified that her current rent, as of January 2023, is \$1,702.00. Tenant Santiago testified that she received the most recent rent increase in March 2022, proposing to raise the rent from \$1,620.00 to \$1,753.00 monthly, effective May 1, 2022. In May of 2020, the rent was raised to \$1,620.00 monthly. In May of 2018, the rent was raised to \$1,514.00 monthly. In May of 2017, the rent was raised to \$1,480.00 monthly. And, in December of 2015, the rent was raised to \$1,450.00.

Tenant Santiago testified that she paid \$1,702.00 in monthly rent starting January 2023. The tenant testified that she has been paying the new rent increase, \$1,753.00, as of May 1, 2022, until January 2023, when the owner lowered the rent to \$1,702.00 as long as she kept the external stairs and plants areas clean. The tenant said she paid all of these rent increases on time,

¹ This date is calculated based on it being 30 days after the date the *Tenant Petition* was served on the owner, plus five (5) days for mailing.

and she will continue to pay \$1,702.00 in monthly rent until she receives the hearing decision in this case.

Finally, Tenant Santiago testified that the owner, when giving a rent increase or “anything,” will come to the residents’ unit and leave the notice in her physical mailbox.

The owner testified regarding the monthly rent that the tenants paid. According to the owner, the tenants have never paid \$1,753.00 in monthly rent, the tenants started paying \$1,702.00 monthly on May 1, 2022, and the tenants paid \$1,620.00 monthly in 2021.

The owner testified that he delivers the rent increases in-person directly to Hilario Velazquez and not by placing them in the mailbox.

The owner conducted a lengthy cross-examination of the witnesses. During cross examination of Tenant Hilario Velazquez, the owner asked the tenant, “Why would he say he is paying \$1,753.00, if he never paid more than \$1,702?” Tenant Hilario Velazquez answered that they have been paying \$1,702.00 in monthly rent since May 1, 2022. The tenant further testified that, if he was not present in his home, the owner would just drop-off notices in the mailbox or leave them on the premises. In 2020 and 2021, the owner “just leaves them in the box.”

Neither party submitted copies of the rent increase notices or returned rent checks as exhibits, therefore no documents regarding the rent history or amounts paid were entered into evidence.

Tenant Santiago’s daughter, Alexis Hernandez Reyes, testified that she personally mailed the *Tenant Petition* and *Notice of Property Owner of Tenant Petition* by Priority Mail to the property owner. The Hearing Officer did not permit Alexis Reyes to introduce the receipt and proof of mailing at the hearing, because these documents were not submitted to the RAP office nor served on the owner prior to the hearing.

The owner testified that he did not receive a copy of the petition. The owner testified that the address Alexis Reyes mailed the *Tenant Petition* and *Notice of Property Owner of Tenant Petition* was his son’s address and that that address is also the address where his tenants drop-off their monthly rent checks. The owner further testified that, in the past, he has left rent receipts for the tenants to pick-up but that is no longer his practice. The owner testified that Tenant Hilario Velazquez drops off his rent check every month in his son’s mailbox and that the owner personally checks the mailbox on the 1st, 2nd, and 3rd of the month. If there was “anything else” left in the box outside of those first three days of each month, then his son would call him and ask him to pick it up.

RAP Notice

Tenant Santiago testified that she never received the written notice of the *RAP Notice* in English, Spanish, or Chinese prior to filing her petition. As of this Hearing’s date, the tenant still has not received the RAP Notice from the Owner.

The owner testified that, on February 14, 2016, Tenant Hilario Velazquez signed a notice and at the bottom of the notice it states that if the tenants had any questions they could contact the RAP office. The owner repeatedly emphasized during the Hearing that Tenant Hilario Velazquez had knowledge that the Rent Adjustment Program existed starting on February 14, 2016.

Upon being shown a copy of the written *Notice to Tenants of the Residential Rent Adjustment Program* in English, Spanish, and Chinese during the Hearing, Tenant Hilario Velazquez testified that he has never received a copy of the *RAP Notice* in any of the three languages from the owner.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

The Rent Ordinance requires respondents to file a response to a petition within 30 days after service of a notice by the Rent Adjustment Program that a petition was filed.² "If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . ." Failure to file a timely response limits the owner's participation in the Hearing to cross-examination and summation.³

The owner testified that he had access to the physical mailbox listed on the Proof of Service. This was the address provided to the tenants by the owner for them to use to make their monthly rent payments, therefore it was logical for them to use this address to serve their petition on the owner. In addition, the owner's son lived at that address and monitored the mailbox so that, if there was anything in the mailbox, the owner would be notified by his son and would retrieve it. Accordingly, the owner did not have good cause to warrant a delay for responding to the *Tenant Petition*, and therefore the Owner's Response cannot be considered in this case.

It should also be noted that, although required, the owner's participation in the Hearing was not limited to cross-examination and presenting a summation. The owner was allowed to testify to the monthly rent the tenants paid, where his tenants dropped-off their monthly rent payments, how he collects monthly rent payments and mail, how he serves his rent increase notices, and a February 14, 2016, notice signed by Tenant Hilario Velazquez.

RAP Notice and Rent Increases

Notice and Filing Requirements: The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (*RAP Notice*) at the start of a tenancy⁴ and together with any notice of rent increase.⁵

² Oakland Mun. Code (O.M.C.) § 8.22.090 (B).

³ *Santiago v. Vega*, Case No. T02-0404.

⁴ O.M.C. § 8.22.060 (A).

⁵ O.M.C. § 8.22.070 (H)(1)(A).

The testimony of both the tenants and the owner established that the owner did not serve the tenants with the *RAP Notice* when they first moved into the unit. Tenant Hilario Velazquez testimony was credible; and he confidently testified that he never received the *RAP Notice* and there was a hint of indignation that it was suggested otherwise. Furthermore, the testimony of the tenants established that the owner has never served the tenants with the *RAP Notice*. While the owner claimed to have served the tenants with some sort of notice on February 14, 2016, no written evidence of this notice was submitted by the parties and the owner is also prevented from introducing any evidence as the basis for this decision due to the late filing of his response. Because the owner never provided the *RAP Notice* to the tenants prior to the filing of the subject petition, the contested rent increases are not valid and the tenants' monthly rent remains \$1,350.00, the rent amount prior to the first contested rent increase.

During Tenant Santiago's testimony, she paused repeatedly and did not appear to be confident in her answer. Her testimony gave the Hearing Officer the impression that she was having difficulty remembering past rent payments. Tenant Hilario Velazquez testimony was credible. He seldom hesitated when answering questions by the Hearing Officer and the owner. He answered the questions as it was posed, and his responses indicated that he was testifying based on his memory and knowledge. Therefore, based on the testimony of Tenant Hilario Velazquez, the Hearing Officer finds that the tenants paid \$1,702.00 in monthly rent starting on May 1, 2022. Further, the Hearing Officer finds that the tenants paid \$1,620.00 in monthly rent starting on May 1, 2020, and paid \$1,514.00 in monthly rent starting on May 1, 2018.

Because the tenants paid the invalid rent increases, the tenants are entitled to restitution for overpayment of rent. However, restitution is limited to three (3) years prior to the hearing.⁶ The tenants will receive a credit for rent overpayments as shown on the table below:

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
17-Jan-23	1-Jun-23	\$1,702	\$1,350	\$352.00	6	\$2,112.00
1-May-22	1-Dec-22	\$1,702	\$1,350	\$352.00	8	\$2,816.00
1-May-20	1-Apr-22	\$1,620	\$1,350	\$270.00	24	\$6,480.00
1-Jan-20	1-Apr-20	\$1,514	\$1,350	\$164.00	4	\$656.00
TOTAL OVERPAID RENT						\$12,064.00

⁶ HRRRB Appeal Decisions T06-0051 (*Barajas/Avalos v. Chu*) & T08-0139 (*Jackson-Redick v. Burks*).

RESTITUTION

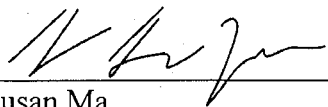
	MONTHLY RENT	\$1,350.00
	TOTAL TO BE REPAYED TO TENANT	\$12,064.00
	TOTAL AS PERCENT OF MONTHLY RENT	893.63%
AMORTIZED OVER	MO. BY REG. IS	
OR OVER	MONTHS BY HEARING OFFICER	
12	IS	\$1,005.33

ORDER

1. Petition T22-0113 is granted.
2. The contested rent increases are invalid and the tenants' monthly base rent is \$1,350.00.
3. The tenants are owed restitution in the amount of \$12,064.00 for overpaid rent. This overpayment is adjusted by a rent decrease for twelve (12) months in the amount of \$1,005.33 a month.⁷
4. The tenants are entitled to reduce the rent per the restitution order after the Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to all parties.
5. If the owner wishes to, he can repay the restitution owed to the tenants at any time. If he does so, the monthly decrease for restitution ends at the time the tenant is provided restitution.

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

Dated: June 21, 2023



Susan Ma
Hearing Officer
Rent Adjustment Program

⁷ Rent Adjustment Program Regulations § 8.22.110 (F)(4)(d).

PROOF OF SERVICE

Case Number: T22-0113

Case Name: Reyes Santiago et al v. Hernandez

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, Oakland, California, addressed to:

Documents Included

Hearing Decision

Owner

Rafael Hernandez
1512 5th Street
Oakland, CA 94607

Tenant

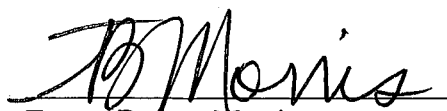
Hilario Velazquez
1129 Peralta Street
Oakland, CA 94607

Tenant

Laura Reyes Santiago
1129 Peralta Street
Oakland, CA 94607

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 29, 2023** in Oakland, California.



Teresa Brown-Morris
Oakland Rent Adjustment Program

000036



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

RECEIVED

JUL 06 2023

APPEAL

RENT ADJUSTMENT PROGRAM
OAKLAND

Appellant's Name Rafael Hernandez		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1129 Peralta St., Oakland, CA			
Appellant's Mailing Address (For receipt of notices) 1512 5th St., Oakland, CA		Case Number T22-0113	
		Date of Decision appealed June 21, 2023	
Name of Representative (if any) N/A		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.)*

- 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 the Owner's 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.)

Supporting documents (in addition to this form) must not exceed 25 pages, and must be received by the Rent Adjustment Program, along with a proof of service on the opposing party, within 15 days of the filing of this document. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(4). 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 6-July, 2023, 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	NILANO Velosquez ET AL.
Address	1129 Peralta St.
City, State Zip	Dakota Co 94607
Name	Laura Reyes Santiago
Address	1129 Peralta St
City, State Zip	Dakota Co 94607

	7-6-23
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SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

Hearing Decision Appeal Response

Case Name: Reyes Santiago et al. v. Hernandez

Case Number: T22-0113

Date: 7/6/23

I want to appeal this case's decision as it is not supported by substantial evidence in order to reflect the truth of the circumstances of this case. The lack and inaccuracy of the evidence provided result in a partial, rather than full, representation of the case, unjustly affecting the outcome of the case as it favored the tenants from the beginning rather than resulting in a non-biased decision based on the issues of the case.

The decision made on the issue of my failure of a timely response to the petition was made unfairly in favor of the tenants and as a result of the decision made without consideration of my circumstances, it affected all the other decisions made in this case. As I have stated before in the hearing, I have never seen or been in contact with the petition that the tenants were supposed to send to me, because of this, I believe that the tenants never sent it to me and as there was no evidence presented that the tenants sent it by mail, there is a need to reconsider the decision made. During the hearing, the story the tenants gave of their role in sending the petition to me was inconsistent as they had first said that they had dropped off the petition directly to a mailbox and then later said that they had mailed it. When looking at the hearing decision, the inconsistency of the tenant's story was not taken into consideration and it was unfairly pointed out that the tenant wanted to present a receipt of sending it to first class mail which was denied. I believe that this acknowledgment in the decision shows that this knowledge of the potential existence of a receipt, which was not shown but spoken about only, may have affected the official's perspective and final decision. There was no evidence submitted by either party to prove that the petition that was supposed to be sent by the tenants to me, the Owner, was sent and as such raises a question of whether or not it was sent by the tenants in the first place. Because of the fact that evidence that was not in the case was considered as proof that the tenants sent the petition to me and the fact that no other evidence in the case proved that the tenants did their part in sending me the petition, it resulted in the unjust decision that I had sent my response late, resulting in the RAP's rejection of any evidence I could bring forth to be able to justly represent myself and respond to the tenant's claims.

The decisions made on the issues regarding the validity of the rent increases and the notification of the existence of the RAP were made by the evidence provided by the tenants, much of which was inaccurate. The dollar amounts of the rent increase and the dates of which they had been increased that were both stated on paper and verbally in the hearing had some inconsistencies with the documents and evidence that I have. Since the only numbers that were considered were those provided by the tenants, the

case decision is not reflective of the true circumstances of the issues being dealt with that could have been cleared up with the consideration of the evidence that I, the Owner, could provide so that RAP Staff can make decisions on this case that encompasses the full situation rather than one side of it which can result in bias.

Considering the lack of evidence in this first hearing decision and the uncertainty that the RAP Staff has about the inaccuracies of the numbers provided for the main issue of the validity of the rent increases, I would like to request that new evidence may be submitted and put forth for an appeal so that the results of the case can be less biased, more representative of my role in this case, and for the better understanding of the situation, not only for the RAP but also for both sides of the case.

Case Name/number - T22-0113, Reyes Santiago et al. Hernandez
SM/AS



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

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RENT ADJUSTMENT PROGRAM
OAKLAND

PROOF OF SERVICE

NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR PETITION OR RESPONSE (PLUS ANY ADDITIONAL DOCUMENTS) ON THE OPPOSING PARTIES.

- Use this PROOF OF SERVICE form to indicate the date and manner in which service took place, as well as the person(s) served.
- Provide a copy of this PROOF OF SERVICE form to the opposing parties together with the document(s) served.
- File the completed PROOF OF SERVICE form with the Rent Adjustment Program together with the document you are filing and any attachments you are serving.
- Please number sequentially all additional documents provided to the RAP.

PETITIONS FILED WITHOUT A PROOF OF SERVICE WILL BE CONSIDERED INCOMPLETE AND MAY BE DISMISSED.

I served a copy of:

Hearing Decision Appeal Response
(insert name of document served)
 And Additional Documents

and (write number of attached pages) 5 attached pages (not counting the Petition or Response served or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one):

- a. United States mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- b. 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 listed below.
- c. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.

PERSON(S) SERVED:

Name	<u>Hilario Velosquez and ET AL.</u>
Address	<u>1129 Petalita St.</u>
City, State, Zip	<u>Oakland Ca. 94607</u>

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and the documents were served on 7/6/23 (insert date served).

Rafael Hernandez
PRINT YOUR NAME

Rafael Hernandez
SIGNATURE

7-06-23
DATE



Certificate Of Mailing

To pay fee, affix stamps or meter postage here.

This Certificate of Mailing provides evidence that mail has been presented to USPS® for mailing. This form may be used for domestic and international mail.

From:

Rafael Hernandez
1512 5th St.
Oakland Ca. 94607

To:

Postmark Here

Hilario Velasquez + AKA
1129 Peralta St
Oakland Ca. 94607

PS Form 3817, April 2007 PSN 7530-02-000-9065



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Oakland Ca. 94607

To:

Postmark Here

Laura Reyes Santiago
1129 Peralta St.
Oakland Ca. 94607

PS Form 3817, April 2007 PSN 7530-02-000-9065



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Rafael Hernandez
1512 5th St.
Oakland Ca. 94607

To:

Postmark Here

CITY OF OAKLAND R.A.Po
250 Frank H. Ogawa Plaza Suite 5313.
Oakland Ca 94612-0243.

PS Form 3817, April 2007 PSN 7530-02-000-9065



MEMORANDUM

Date: September 25, 2023
To: Members of the Housing, Rent Residential & Relocation Board (HRRRB)
From: Kent Qian, Deputy City Attorney
Re: Appeal Recommendation in T22-0113 Reyes Santiago v. Hernandez
Appeal Hearing Date: September 28, 2023

Property Address: 1129 Peralta Street, Oakland, CA

BACKGROUND

The tenants filed a petition on June 30, 2022, contesting a series of rent increases from May 2015 to May 2022 on the basis that the rent increases exceed allowable amounts and that the tenants were not provided with a RAP notice.

The owner filed an untimely response on September 5, 2022, claiming the reasons for the rent increases were due to “Cost of Living Labor” or “Cost of Labor.”

RULING ON THE CASE

A hearing was held on January 17, 2023, and the hearing officer issued the decision on June 21, 2023. The hearing officer first ruled that the owner did not have good cause for the untimely response, and therefore was not allowed to introduce evidence at the hearing. However, the owner was allowed to testify at the hearing.

With regard to RAP notice, the hearing officer credited the tenant’s testimony of never receiving the RAP notice despite the owner’s claim to have served a notice in February 2016

Because the hearing officer determined that the RAP notice was never served, the hearing officer invalidated all prior rent increases and awarded restitution from January 2020 to June 2023 for a total amount of \$12,064.

GROUND FOR APPEAL

The owner appealed the hearing decision on the following grounds:

1. The owner had good cause for the late response because the tenant never served the petition
2. The hearing decision contained inaccuracies that could have been corrected if the owner was able to present evidence in the hearing.

ISSUES

1. Was there good cause for the owner to file a late response?
2. Does substantial evidence support the hearing officer's determination that no RAP notice was ever served?

APPLICABLE LAW AND PAST BOARD DECISIONS

- I. Failure to File Response/Late Response

T18-0310 *Alkebsi v. Noori*

Board Panel affirmed Amended Hearing Decision invalidating a rent increase based on lack of RAP Notice and granting rent reduction plus rent restitution over a period of up to three years for a number of decreased services where the owner appeared at the rescheduled Hearing but failed to submit a response and did not provide a reason for that failure.

T19-0007 *Cortez v. Qmacin*

Board upheld the hearing officer's determination that the owner's response was filed three days late without good cause, and the owner was limited to cross-examination and rebuttal.

RECOMMENDED OUTCOME

The Office of the City Attorney recommends that the Board affirm the hearing officer's decision based on substantial evidence.